

City of Carpinteria
Special Joint City Council and Planning Commission
Meeting Agenda

Monday, December 4, 2023

Council Chamber, 5775 Carpinteria Avenue, Carpinteria, CA 93013

5:30 p.m. Special Meeting
In-Person and Virtual Participation Options

Attendance/Viewing Options:

- Attend the in-person meeting in City Council Chambers at City Hall (5775 Carpinteria Ave.).
- View the meeting live through the City's website (<https://carpinteria.ca.us/city-hall/agendas-meetings>) on your computer, tablet or smartphone.
- View the meeting on Government Access Television Channel 21 (broadcast live and rebroadcast on the Wednesday and the Saturday following the meeting at 8:00 p.m. and 5:00 p.m., respectively).
- Call 669-900-9128 (and enter Webinar ID 849 5178 9727) to listen to the meeting on your phone.
- Join the City's Zoom webinar from your computer, tablet, or smartphone by [CLICKING HERE](#). Alternatively, you can join the Zoom webinar by logging on to www.zoom.us, downloading the application, selecting "Join Meeting", and entering Webinar ID 849 5178 9727.

Public Comments

- Provide a live public comment during the in-person meeting in City Council Chambers at City Hall (5775 Carpinteria Ave.). Please note the City has the discretion to limit both the overall and individual speaker time for any meeting or agenda matter. Typically, the Council's practice has been to limit each speaker to three minutes.
- Provide a live comment through the City's Zoom webinar platform (through the link provided above). To make public comments through this platform please use the "raise your hand" feature to notify staff that you would like to make a public comment during designated public comment times. Once it is your turn to provide a public comment, staff will unmute your microphone and you will be given a designated amount of time to provide your comment (typically, the practice has been up to 3 minutes per speaker on each item). At the end of your comment, staff will once again mute your microphone.
- Submit a written comment (as either a general public comment or on a specific agenda item) to be distributed to Council Members by **12:00 P.M. on the day of the meeting** by either submitting your comment via (1) email to PublicComment@carpinteriaca.gov, or (2) the **eComment** link on the City's agenda website <https://carpinteriaca.gov/city-hall/agendas-meetings/>. Please reference the agenda item to which your comment pertains.

Please note that the City will make every effort to make the meeting accessible virtually; however, if one of the above virtual attendance/viewing or public comment options is unavailable due to technological issues, you are invited to take advantage of one of the other participation options outlined above (including attending and providing public comment in-person in the City Council Chambers). Additional options may be made available at the meeting.

CALL TO ORDER

ROLL CALL

PLEDGE OF ALLEGIANCE

CITY COUNCIL BUSINESS:

The City Council will meet to consider the following item:

1. Presentation on California Density Bonus Law, the Housing Accountability Act and the California Coastal Act.

Recommendation: Receive and file report on implementation of California Housing laws in the Coastal Zone.

PUBLIC COMMENT WILL BE HEARD CONCERNING ONLY THE AGENDIZED ITEM FOR THIS SPECIAL MEETING

ADJOURNMENT

The next regular City Council meeting will be held December 11, 2023 at 5:30 p.m.

In compliance with the Americans with Disabilities Act, if you need assistance to participate in this meeting, please contact the City Clerk's Office at (805) 755-4403 or the California Relay Service at (866) 735-2929. Notification two business days prior to the meeting will enable the City to make reasonable arrangements for accessibility to this meeting.

Materials related to an agenda item submitted to the City Council after distribution of the agenda packet are available for public review at the City Clerk's Office, located at 5775 Carpinteria Avenue, Carpinteria, CA 93013 or by going to the City's website at <https://carpinteriaca.gov/city-hall/agendas-meetings/>.

This agenda was posted on Thursday, November 30, 2023, in the City Clerk's Office, on the City Hall Public Notices Board, and on the Internet.



City of Carpinteria

JOINT CITY COUNCIL AND PLANNING COMMISSION MEETING AGENDA STAFF REPORT December 4, 2023

ITEM FOR COUNCIL CONSIDERATION

Presentation on California Density Bonus Law, the Housing Accountability Act and the California Coastal Act.

STAFF RECOMMENDATION

Action Item ____ ; Non-Action Item X

Receive and file report on implementation of California housing laws in the Coastal Zone.

Motion: I move to receive and file the report on California Density Bonus Law, the Housing Accountability Act and the California Coastal Act.

BACKGROUND

In 1978 and 1982, the California legislature adopted Density Bonus Law and the Housing Accountability Act, respectively. Density Bonus Law offers incentives for developers that provide a specified percentage of affordable units at certain income levels. The Housing Accountability Act establishes limitations on a local agency's ability to deny, reduce the density of, or make infeasible qualifying housing development projects. Historically, these two laws did not apply to projects within the California Coastal Zone (Coastal Zone) as the laws were explicitly superseded by the California Coastal Act. More recently, however, the Legislature has strengthened the Housing Accountability Act and Density Bonus Law and the State has required local jurisdictions within the Coastal Zone to harmonize Density Bonus Law and the Housing Accountability Act with the Coastal Act, including a local jurisdiction's certified Local Coastal Program (LCP).

DISCUSSION

The City of Carpinteria is located entirely within the Coastal Zone and thus must implement Density Bonus Law and the Housing Accountability Act in a manner consistent with the California Coastal Act and the City's certified LCP. The presentation will focus on current status of the law regarding implementing these laws in the Coastal Zone and the City's efforts to harmonize Density Bonus Law and the Housing Accountability Act with the Coastal Act. A copy of the presentation slides are included with this report as Attachment A.

POLICY CONSISTENCY

In addition to complying with State law, the City has the following Land Use policies associated with housing development:

- **General Plan Objective LU-1:** Establish the basis for orderly, well planned urban development while protecting coastal resources and providing for greater access and recreational opportunities for the public.
- **LU-2:** Protect the natural environment within and surrounding Carpinteria.
- **LU-3:** Preserve the small beach town character of the built environment of Carpinteria, encouraging compatible revitalization and avoiding sprawl development at the city's edge.
- **LU-4:** Influence land use decision making, use and development patterns in the unincorporated Carpinteria Valley to be supportive of the California Coastal Act and City objectives to preserve unique coastal resources by establishing open-field agricultural use as the predominant use in the unincorporated Valley.
- **LU-5:** Maintain availability of agriculture, coastal-dependent industry and visitor-serving commercial development including hotels/motels, restaurants and commercial recreation uses.
- **LU-6:** Create flexible land use and zoning standards for general commercial and industrial parcels that allow opportunities for residential use to expand, as determined appropriate by the City, in response to changing needs relative to the jobs/housing balance locally and in the region, and as incentive toward the development of affordable housing.
- **LU-7:** Adopt and amend as necessary a Sphere of Influence that serves to establish the basis for annexation of certain land contiguous to city limits

FINANCIAL CONSIDERATIONS

No additional funding requested. Minimal staff and City Attorney time to prepare this report is included in the Adopted FY 2023-24 General Fund Budget.

City actions to implement State housing laws may have financial impacts and would be approved by the City Council through separate actions.

LEGAL AND RISK MANAGEMENT CONSIDERATIONS

Implementation of the Housing Accountability Act, Density Bonus Law and other housing laws in the Coastal Zone generally requires the City to harmonize these laws with Coastal Act policies and the City's certified LCP. Decisions on housing projects pose legal risks to the City that the applicant or interested parties may challenge the City's decision on a housing project to the California Coastal Commission or through the courts.

PRINCIPAL PARTIES EXPECTED AT MEETING

General Public

ATTACHMENTS

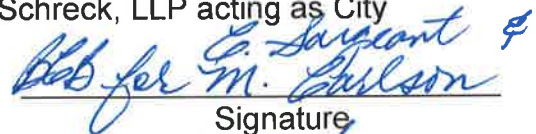
Attachment A. Presentation slides

Report Prepared by and Staff Contact:

Cody Sargeant & Mack Carlson,

Legal Counsel on behalf of Brownstein Hyatt Farber Schreck, LLP acting as City

Attorney of the City of Carpinteria


Signature

Reviewed by:

Nick Bobroff, Community Development Director

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Signature

Reviewed by:

Dave Durflinger, City Manager

daved@carpinteriaca.gov; (805) 755-4400


Signature

Attachment A

Copy of Presentation Slides Implementation of California Housing Laws in the Coastal Zone

Joint City Council and Planning Commission Meeting
December 4, 2023

Implementation of Affordable Housing Legislation in the Coastal Zone

City of Carpinteria

City Council & Planning Commission

December 4, 2023

Outline

- Density Bonus Law
- Housing Accountability Act
- Coastal Act
- Guidance on Harmonizing Coastal Act with Affordable Housing Laws

Purpose

Provide an update on implementing key State housing laws in the Coastal Zone and the City's efforts to harmonize Density Bonus Law and the Housing Accountability Act with the California Coastal Act and the City's certified Local Coastal Program.

Density Bonus Law

What is Density Bonus Law?

- Density Bonus Law (Gov. Code §§ 65915–65918) offers incentives for developers that provide a specified percentage of affordable units at certain income levels.
- For housing developments that offer a specified percentage of affordable units, Density Bonus Law offers four categories of benefits:
 - (1) Bonus to base density
 - (2) Concessions/Incentives
 - (3) Waivers or Reductions in Development Standards
 - (4) Reduced Parking Ratios

Density Bonus: What Projects Apply?

- Housing developments are defined as projects for **five or more residential units, including mixed-use developments.**
- The development must meet one of the following:
 - At least 5% -- very low income
 - At least 10% -- lower income
 - At least 10% -- for-sale moderate income condominium
 - At least 20% -- for low-income college students
 - At least 20% -- for low-income transitional foster youth, disabled veterans or homeless persons
 - Senior citizen housing development (no affordable units required)

Density Bonus: Income Limits

- Santa Barbara County Area Median Income (AMI) = \$107,300 for family of four in 2023. Income categories for a family of four:
 - Very Low Income (up to 50% AMI) = \$73,950*
 - Low Income (up to 80% AMI) = \$118,500*
 - Moderate Income (up to 120% AMI) = \$128,750
- Income limits adjusted based on household size.
- Affordable Monthly Rent: $(30\% \times \text{Income}) / 12$ [with utility allowance]

(* Adjusted by HUD)

Density Bonus: Bonus to Base Density

Restricted Affordable Units or Category	Minimum Percentage of Restricted Affordable Units	Percentage of Density Bonus Granted	Maximum Percentage of Restricted Affordable Units	Percentage of Density Bonus Granted	Additional Bonus for each 1% increase in restricted units
Very Low Income	5%	20%	15%	50%	~2.5%
Lower Income	10%	20%	24%	50%	~1.5%
Moderate Income For-Sale*	10%	5%	44%	50%	~1%
Senior Housing	100%	20%	-	-	-
Transitional Foster Youth, Disabled Veterans, Homeless	10%	20%	-	-	-
Lower Income Student	20%	35%	-	-	-
100% Affordable (80% Lower / up to 20% Moderate)	100%	80%	-	* No Maximum for certain projects	-

Density Bonus: Concessions/Incentives

- The City is also required to provide one or more “incentives” or “concessions”, which are defined as
 - A reduction in site development standards (e.g., reduction in setback or sf requirement, parking requirements, height increase)
 - Approval of mixed-use zoning; or
 - Other regulatory incentives or concessions

No. of Incentives/Concessions	Very Low Income %	Lower Income %	Moderate Income %
1	5%	10%	10%
2	10%	17%	20%
3	15%	24%	30%
4*	16%		45%
5*	100% Low/Very Low/Mod (20% Moderate allowed)* (additional benefits for projects near major transit stop or in low vehicle miles traveled area)		

Density Bonus: Concessions/Incentives

- The City is **required** to grant concessions/incentives requested by the developer unless it “makes a written finding, based upon **substantial evidence**” if it:
 - Does not result in identifiable and actual cost reduction;
 - Has a specific, adverse impact upon public health and safety or a historical resource that cannot be feasibly mitigated; or
 - Is contrary to state or federal law.

Density Bonus: Waivers/Reductions of Development Standards

- The City cannot apply any development standard that would *physically preclude* construction of the qualifying housing development with the density bonus or requested concession/incentive, unless it makes certain findings.
- “Development Standard” means a site or construction condition (e.g., height limit, setback, floor area ratio, open space requirement, min. lot area, or parking ratio) that applies to residential development.

Density Bonus: Waivers/Reductions of Development Standards

- City can refuse to grant the requested waiver or reduction of a development standard if it:
 - Creates a specific, adverse impact upon public health and safety or a historical resource that cannot be feasibly mitigated; or
 - Has an adverse impact on real property in the California Register of Historical Resources
 - Is contrary to state or federal law.

Density Bonus: Parking Reductions

Upon the developer's request, the City may not require more than the following parking ratios:

Studio	1 space
1 Bedroom	1 space
2 Bedroom	1.5 spaces
3 Bedroom	1.5 spaces
4 Bedroom	2.5 spaces

No parking standards for certain projects near “major transit stops”

Density Bonus and the Coastal Act

“ This section does not supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code). Any density bonus, concessions, incentives, waivers or reductions of development standards, and parking ratios to which the applicant is entitled under this section shall be permitted in a manner that is consistent with this section and [the California Coastal Act of 1976]”.

Housing Accountability Act (HAA)

What is the Housing Accountability Act?

- The Housing Accountability Act (HAA) (Gov. Code § 65589.5) establishes limitations on a City's ability to deny, reduce the density of, or make infeasible qualifying housing development projects.
- The HAA applies to any “**housing development project**” provided the project is consistent with the City's **objective** general plan and zoning standards.
- “**Objective**” means involving no personal or subjective judgment by a public official and being uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official.

HAA: Limits on City Discretion

- For all Housing Development Projects:
- If a project meets the HAA's criteria, the City **cannot deny or reduce the density of the project** unless it makes written findings supported by a **preponderance of the evidence** that:
 - It would have a specific, adverse impact upon the public health or safety; and
 - There is no feasible method to mitigate or avoid these impacts other than by disapproval or approval of a lower density project.

HAA Limits on City Discretion Affordable Projects

The HAA further limits the City's discretion to deny a housing development project for “housing for very low, low-, or moderate-income households,” defined to include:

- 20% of the total units sold or rented to lower income households;
- 100% of the units sold or rented to moderate- or middle-income households.

Similar protections for farmworker housing and emergency shelters.

HAA: Limits on City Discretion Affordable Projects Cont.

The City **cannot deny or render infeasible** a housing development project for very low, low-, or moderate-income households, farmworker housing, or an emergency shelter (collectively an “Affordable Project”), unless it makes written findings, based on **substantial evidence** of one of the five findings:

1. A local agency has a “substantially compliant” Housing Element and has “met or exceeded” its share of RHNA for the income category proposed by the project
2. The Affordable Project would have “a significant, quantifiable, direct, and unavoidable impact” on public health or safety that cannot feasibly be mitigated

HAA: Limits on City Discretion

Affordable Projects Cont.

3. The Affordable Project violates a “specific state or federal law” and there is “no feasible method” to comply without rendering the project “unaffordable to low- and moderate-income households” or financially infeasible
4. The Affordable Project site is zoned for agricultural or resource preservation that is surrounded on at least two sides by land being used for agricultural or resources preservation purposes, or it lacks adequate water or wastewater service.
5. The Affordable Project is inconsistent with the local agency’s zoning and the land use designation of its general plan, and the local agency has adopted a substantially compliant Housing Element.

HAA and the Coastal Act

“Nothing in this section shall be construed *to relieve the local agency from complying with . . . the California Coastal Act of 1976* (Division 20 (commencing with Section 30000) of the Public Resources Code).”

State Housing Laws and Coastal Act

- Historically, many affordable housing laws, including density bonus, were explicitly not applicable in the Coastal Zone.
- *Kalnel Gardens* affirmed this position with regards to Density Bonus.
- AB 2797 overruled *Kalnel Gardens* and required that the two laws be harmonized.
- The courts and legislature have **not** weighed in on how to interpret the HAA's coastal savings clause or how to “harmonize”.
- Case law supports “harmonization” of two statutory schemes in a manner that gives effect, when possible, to all the provisions of both schemes.

Coastal Act

Coastal Act Policies

New residential development in the coastal zone must be consistent with all Chapter 3 policies of the Coastal Act, including

- Protecting public access and recreational opportunities (Pub. Res. Code §§ 30210-30224);
- Protecting marine habitats and water quality (Pub. Res. Code §§ 30230 and 30231);
- Requiring adequate public services (Pub. Res. Code § 30250); and
- Protecting visual resources (Pub. Res. Code, § 30251).

Coastal Act Policies Cont.

Additional Coastal Act and coastal zone policies related to affordable housing:

- “Nothing in [the Coastal Act] shall exempt local governments from meeting the requirements of state and federal law with respect to providing low- and moderate-income housing, replacement housing, relocation benefits, or any other obligation related to housing imposed by existing law or any law hereafter enacted.” (Pub. Res. Code, § 30007.)
- The Legislature finds and declares that it is important for the commission to encourage the protection of existing and the provision of new affordable housing opportunities for persons of low and moderate income in the coastal zone. (Pub. Res. Code, § 30604(g).)

Coastal Act Policies Cont.

- “The commission shall encourage housing opportunities for persons of low and moderate income. In reviewing residential development applications for low- and moderate-income housing, as defined in [the HAA], the issuing agency, or the commission on appeal, **may not require measures that reduce residential densities below the density sought by an applicant if the density sought is within the permitted density or range of density established by local zoning plus the additional density permitted under [Density Bonus Law], unless** the issuing agency or the commission on appeal makes a finding, based on **substantial evidence** in the record, that the density sought by the applicant **cannot feasibly be accommodated on the site in a manner that is in conformity with [the Coastal Act] or the certified local coastal program.**” (Pub. Res. Code, § 30604(f).)

City Coastal Land Use Plan/Local Coast Program Policies

- **Objective LU-1:** Establish the basis for orderly, well planned urban development while protecting coastal resources and providing for greater access and recreational opportunities for the public.
- **LU-2:** Protect the natural environment within and surrounding Carpinteria.
- **LU-3:** Preserve the small beach town character of the built environment of Carpinteria, encouraging compatible revitalization and avoiding sprawl development at the city's edge.
- **LU-4:** Influence land use decision making, use and development patterns in the unincorporated Carpinteria Valley to be supportive of the California Coastal Act and City objectives to preserve unique coastal resources by establishing open-field agricultural use as the predominant use in the unincorporated Valley.

City Coastal Land Use Plan/Local Coast Program Policies Cont.

- **LU-5:** Maintain availability of agriculture, coastal-dependent industry and visitor-serving commercial development including hotels/motels, restaurants and commercial recreation uses.
- **LU-6:** Create flexible land use and zoning standards for general commercial and industrial parcels that allow opportunities for residential use to expand, as determined appropriate by the City, in response to changing needs relative to the jobs/housing balance locally and in the region, and as incentive toward the development of affordable housing.
- **LU-7:** Adopt and amend as necessary a Sphere of Influence that serves to establish the basis for annexation of certain land contiguous to city limits

Guidance on Harmonizing Legislation

Guidance on Harmonizing Legislation

190 West Cliff Drive Mixed-Use (July 12, 2023)

- The Project approved based on state density bonus law and allowed for some deviation from LCP requirements
- Strive to “appropriately protect coastal resources while accommodating both housing and affordable housing in developed areas”
- Coastal Commission blesses the inclusion of certain density bonus projects in the Coastal Zone **so long as doing so does not lead to *significant coastal resource impacts*.**

Guidance on Harmonizing Legislation

SB 9 Coastal Commission Guidance (January 21, 2022)

- Projects that “cause **significant adverse impacts to coastal resources** such as public access, sensitive habitats, and recreation areas” are inconsistent with the Coastal Act.
- Example: New residential development projects adjacent to environmentally sensitive areas (ESHA) and sited in a way that would significantly degrade those areas.
- Projects should not conflict with immediate shoreline, between the first public road and the sea, near designated scenic areas, and near sensitive habitat areas.
- Similar to Coastal Commission’s ADU Guidance

Guidance on Harmonizing Legislation

SB 423

- Extends SB 35 affordable housing streamlining into portions of the Coastal Zone
- Extended into all areas **except**:
 - Portions of the Coastal Zone closest to the beach;
 - Tidelands, submerged lands, & public trust lands within 100 feet of any wetland, estuary or stream;
 - Coastal areas vulnerable to up to 5 ft. of sea level rise;
 - Parcels within the coastal zone not zoned for multi-family housing.

Considerations When Reviewing Applicable Projects

- If there is **no conflict** with Coastal Act and the City's LCP policies, City should review the project as required under Density Bonus Law and the HAA.
- If there is **a conflict**, the City should attempt to **harmonize** the conflicting laws to the extent possible.
- If not possible to harmonize, City should make specific findings supported by a **substantial evidence connected to objective standards**.

Considerations When Reviewing Applicable Projects

- Factors that the State has indicated may be critical in harmonizing laws with the Coastal Act:
 - Significant impact to a coastal resource that cannot be mitigated?
 - Between the first public road and the sea?
 - Within 100 feet of any wetland, estuary, or stream?
 - Vulnerable to up to 5 ft. of sea level rise?
 - Located on the periphery of developed areas or in/adjacent to ESHA?
 - Conflict with protected scenic areas?

What the City Cannot Do

- Ignore HAA, Density Bonus Law, and other applicable state housing laws in the Coastal Zone
- Through 2034, downzone or reduce the intensity of residential land uses unless necessary to implement/amend the City's Local Coastal Program or the City up-zones other areas (Gov. Code, § 66300(b).)
- Choose not to update its Housing Element and Zone Code/Local Coastal Program

What the City is Doing

- Housing Element Update
- Housing Element Zone Code Update
- Downtown Objective Design Standards
- City's Density Bonus Ordinance Updates (CMC Chap. 14.77)
- Anti-Displacement Measures
- General Plan and Coastal Land Use Plan Update

Summary

- Density Bonus Law, the HAA and other applicable state housing laws in the Coastal Zone limit the City's discretion over housing projects.
- The City still retains limited discretion over housing projects when specific circumstances apply or the City can make certain findings
- In effect, the City has less control over project outcomes for housing projects

QUESTIONS & COMMENTS