

State opens door to apartment buildings over 30 feet in San Diego's coastal zone

By Jennifer Van Grove

A few blocks west of Interstate 5, in between Garnet Avenue and Rose Creek, an affordable housing developer is proposing to build the unthinkable — a mid-rise residential tower stretching well above the 30-foot height limit that's been enshrined in the city's municipal code for 50 years.

San Diego Community Housing Corporation is planning a 60-unit, 60-foot-high residential building, called Rose Creek Apartments, on a 0.4-acre site at 2662 Garnet Avenue in Pacific Beach. The units will be deed-restricted for low- and very low-income households, with some set aside for transitional aged youth and homeless veterans.

The proposed development will be a four-to-five story building that features an on-site manager's unit and ground floor common area spaces for meetings, social activities, leasing and offices for supportive case management services, said Marcela Escobar-Eck, who is the CEO of Atlantis Group Land Use Consultants and is advising the developer.

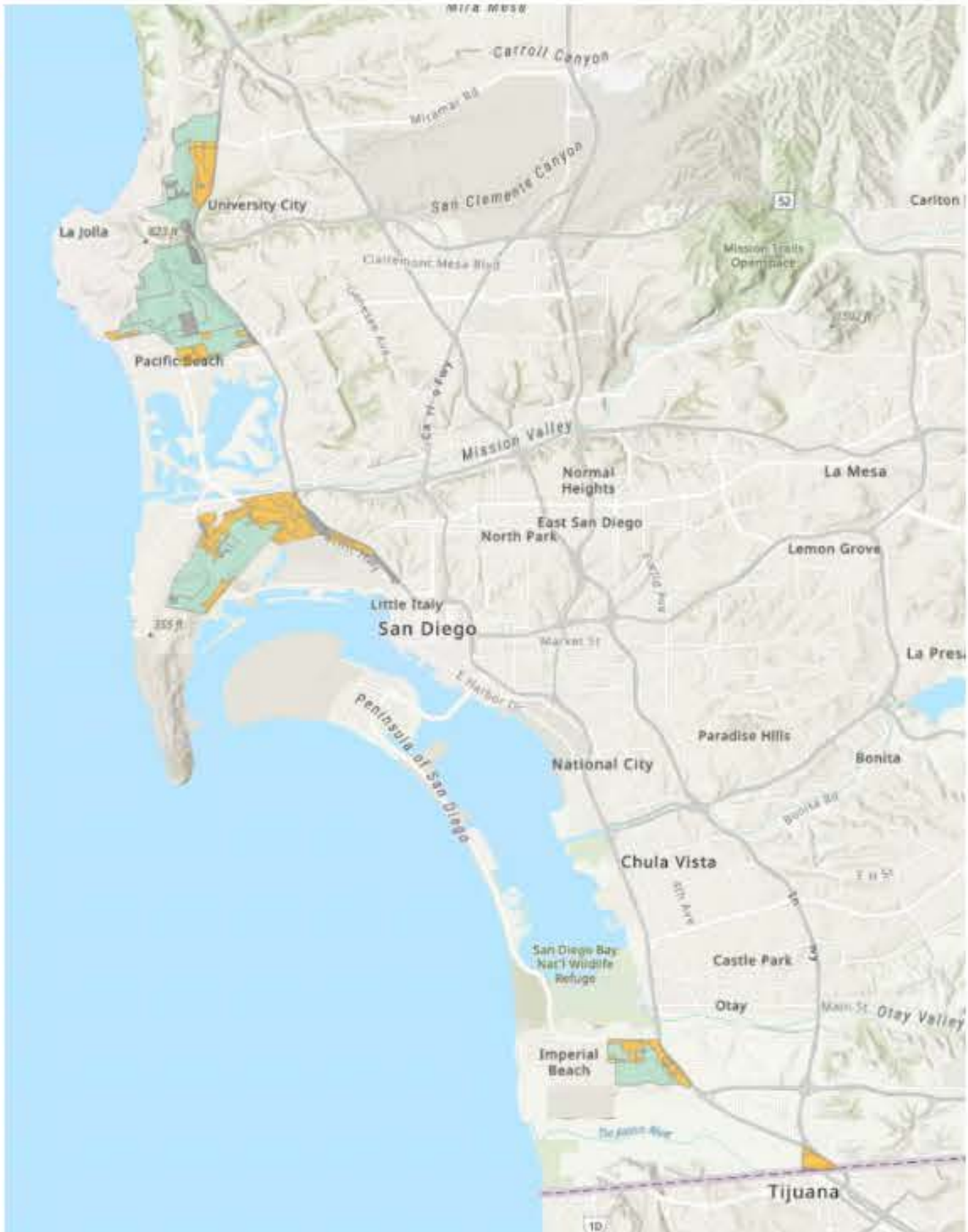
On June 10, the developer received the all-clear from California's Department of Housing and Community Development, or HCD, to bust the local building height barrier. Just a few weeks ago the project may have seemed impossible.

That's because the location falls squarely within San Diego's coastal zone, which was established by a 1972 voter initiative preventing buildings over 30 feet west of Interstate 5. The local law includes carve-outs for downtown, National City and parts of Mission Bay, but has otherwise successfully maintained the very low profile of San Diego's beach- and bay-adjacent neighborhoods. It is distinct from the California Coastal Act of 1976, which protects land up and down the coast of California.

Rose Creek Apartments appears to be the first project to test the limits of state authority in the voter-defined coastal zone.

"The State Legislature can and does preempt local initiatives," Shannan West, HCD's head of housing accountability, wrote in a technical assistance letter delivered to San Diego's development services department last week. West cited decades of case law and was firm in her decision. "The (30-foot height limit) development standard conflicts with State Density Bonus Law and is void."

The Rose Creek Apartments project is still in its infancy. The Pacific Beach property is currently home to Wasabi Sushi and its parking lot, and is still in escrow. The developer still needs to complete at least 18 months of permitting and pre-development work before the project can break ground, Escobar-Eck said.



A recent state determination renders the voter initiative-defined 30-foot coastal height limit void for qualifying housing projects with affordable units in some University City, Midway District, Pacific Beach and South Bay neighborhoods, as highlighted on the map.

Yellow color-coded areas are zoned for multi-family housing. Green color-coded areas are zoned for single-family housing. Gray color-coded areas are not zoned for residential use. (Courtesy, City of San Diego)

Of greater consequence, however, is language in West's letter that states that HCD's determination applies to any qualifying housing development that falls within San Diego's voter initiative-defined coastal zone but is outside the state's coastal boundaries. That means the determination extends to portions of University City, Pacific Beach, the Midway District and the South Bay.

"It appears that a substantial amount of land shares the same particular characteristics as the subject site," West wrote. "It is HCD's hope that the determinations made in this letter might serve to further facilitate the production of affordable housing in these areas."

In other words, San Diego's coastal height limit overlay zone is no match for the state — and taller apartment buildings are inevitable.

"This particular opinion from HCD is very clear that the local voter initiative cannot supersede the State Density Bonus Law, which requires the city to grant certain waivers and incentives for projects that include affordable homes, absent very specific findings that would warrant denial for public health, safety and welfare," said Heidi Vonblum, who is the director of San Diego's planning department.

The State Density Bonus Law, established in 1979, exists as an incentive for developers to build on-site affordable units.

Under the law, which has been expanded over the years, housing developments with at least five percent of units deed-restricted for very low-income households, or those making 50 percent or less of the area median income, are entitled to build 20 percent more units than what's normally allowed by local zoning laws. The bonus grows to as much as 50 percent for projects with 24 percent of units set aside for low-income families, or those making 80 percent or less of the area median income. The law includes additional privileges for projects that are 100 percent affordable and within walking distance of transit stations.

The median income for a family of four in San Diego is \$106,900, according to the state's 2022 list of income limits for affordable housing units.

The Pacific Beach parcel in question is zoned CC-3-8, meaning it's a mixed-use zone that supports high density. The zone allows for a maximum of one dwelling unit for each 600 square feet of lot area, as well as buildings as tall as 100 feet without the coastal height restriction, according to the city's base zone regulations. The site, however, is located within a half-mile of a major transit stop, making it exempt from maximum density controls, a city spokesperson said.

In the case of Rose Creek Apartments, which consists of 100 percent affordable units, the developer is entitled to erect three additional stories or build 33 feet higher than the 30-foot limit with the state bonus.

"This has the potential to be a real game-changer," said Matthew Boomhower, who is the president of Southern Cross Property Consultants and a local land-use attorney. "I think this is a

great example of HCD's new, very proactive approach saying, 'We're going to push this (pro-housing) agenda and usurp local control.'"

Building height limitations in San Diego's voter-defined coastal zone have been an impediment to catalytic redevelopment in areas like the run-down Midway District and overall housing production, he said.

"We know that real estate in San Diego is expensive. So for a developer to have a project and make it pencil, it becomes challenging when you've got cost inputs that are fixed, and you have a hard lid that limits your ability to take advantage of (development incentives)," Boomhower said. "It just became a lot easier for (developers) to line up money ... because they can actually do a sufficient number of units to make (their projects) work."

The State Density Bonus Law will be applied at the city staff level on a project-by-project basis, making it difficult to determine the immediate implications for San Diego's 48-acre sports arena site.

Three development teams are competing to lease and redo the site with thousands of apartments — many of which will be reserved for lower-income households — and a new arena alongside parks and a mix of commercial uses. The proposals are banking on a do-over ballot measure, slated for the November 2022 ballot, that if passed by a majority of city voters would lift the 30-foot height limit for the entire 1,324-acre Midway District.

The state law seemingly presents an alternative path forward for residential towers on the sports arena site, although it's not clear if a developer would be eligible for a sitewide bonus that applies to commercial development such as office towers or a sports entertainment venue.