

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA
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VENTURA, CA 93001
(805) 585 - 1800

Th 7a



DATE: November 20, 2008

TO: Commissioners and Interested Parties

FROM: Jack Ainsworth, Deputy Director, South Central Coast District
Steve Hudson, District Manager
Barbara Carey, Supervisor, Planning and Regulation
Amber Tysor, Coastal Program Analyst

SUBJECT: **City of Carpinteria LCP Minor Amendment to Establish Zoning Regulations for Retail Uses Greater Than 20,000 Gross Square Feet in Size (CPN-MIN-2-08)** for Public Hearing and Commission Action at the California Coastal Commission hearing of December 11, 2008 in San Francisco.

I. AMENDMENT DESCRIPTION

On October 17, 2008 the City of Carpinteria submitted an amendment to its certified Local Coastal Program to amend the Implementation Program/Zoning Ordinance. The City proposes to amend the Implementation Program/Zoning Ordinance (IP) portion of its certified LCP to include a procedure for requiring a Conditional Use Permit with special findings for granting a permit to any retail use greater than 20,000 gross square feet in size. **(Exhibits 1-4)**

The regulations in Ordinance No. 632 require the City Council, upon the Planning Commission's recommendation, to approve a Conditional Use Permit in order for retail uses greater than 20,000 square feet in gross floor area to operate in the Central Business and Commercial Planned Development zones. The regulations require the applicant to obtain conceptual review of a retail store greater than 20,000 square feet. The regulations also require seven special findings specific to retail stores over 20,000 square feet be made, in addition to the findings required for all Conditional Use Permits. Generally, the special conditions focus on meeting retail demand, avoiding over-concentration of particular uses, encouraging amenities that enhance local character, minimizing traffic problems, providing sufficient parking, enhancing alternative transportation options, and avoiding local economic impacts.

The specific changes to Title 14, Zoning, of the Carpinteria Municipal Code include creation of the following new sections of the code: Section 14.62.070, Special Findings for Retail Stores over 20,000 Square Feet and Section 14.20.045, Regulation of size of retail stores. The changes also amend the following sections of the Carpinteria Municipal Code: Section 14.80.543, Retail Store and Section 14.22.030, Uses permitted subject to development plan approval and uses permitted by conditional use permit. **(Exhibit 3)**

II. DETERMINATION

Pursuant to Section 30514(c) of the Coastal Act and Section 13554 (a) of the Commission's regulations, the Executive Director has determined the proposed amendment is "minor" in nature. Sections 13554 and 13554 (a) of the Regulations provide that a minor amendment includes, but is not limited to, changes which: 1) make the use as designated in implementing actions more specific; 2) do not change the kind, intensity, or density of use; and 3) are consistent with the certified Land Use Plan (LUP).

The proposed IP amendment meets the criteria for a minor amendment above. First, the changes to the zoning code are designed to make the zoning code more specific. The code changes specify the definition of "retail store" (Section 14.80.543), explain when a conditional use permit is required (Section 14.22.030), explain what a retail use greater than 20,000 sq. ft. consists of (Section 14.20.045), and outline seven special findings the City Council must make to evaluate a CUP for a retail use with a total square footage greater than 20,000 sq. ft. (Section 14.62.070). These changes serve only to make implementing actions more specific and do not change any policies of the LCP or conflict with any other policies in the zoning code.

Additionally, the zoning changes do not change the kind, intensity, or density of use as provided for in the LCP. The new procedures outlined in zoning code do not supersede other necessary approvals, such as the need for a Coastal Development Permit, Conditional Use Permit, or Development Plan, as outlined in Chapter 14.61.070 of the Carpinteria Municipal Code. The new procedures merely provide an additional level of review for retail uses greater than 20,000 square feet.

Further, the zoning changes are consistent with the policies certified as part of the City of Carpinteria's recent Land Use Plan (LUP) update in 2003. The proposed changes and additions to the municipal code are intended to carry out the more general objectives and policies in the City's LUP. The City's LUP includes policies designed to preserve Carpinteria's small beach town character and scale. These policies address the nature, size, and location of commercial development, neighborhood compatibility, and traffic and circulation patterns. As discussed above, the proposed zoning code changes require an additional procedure to approve retail uses greater than 20,000 square feet, requiring the City Council to make specific factual findings relating to: meeting retail demand, avoiding over-concentration of particular uses, encouraging amenities that enhance local character, minimizing traffic problems, providing sufficient parking, enhancing alternative transportation options, and avoiding local economic impacts. These changes will not conflict with any of the City's LUP policies because the changes only add one additional level of discretionary review to the local approval process for approval of retail uses over 20,000 square feet.

As proposed, the addition procedures for retail uses greater than 20,000 procedures will not conflict with the policies of the LUP or render the IP inadequate to carry out the LUP. Therefore, the Commission finds that the proposed amendment, as submitted, is

consistent with the certified LUP, and considered "minor" as defined under Section 13554(a).

III. PROCEDURAL REQUIREMENTS

Pursuant to Section 13551(b) of Title 14 of the California Code of Regulations, a local government's resolution for submittal of a proposed LUP amendment must indicate whether the local coastal program amendment will require formal local government adoption after Commission approval, or is an amendment that will take effect automatically upon the Commission's approval pursuant to Public Resources Code Sections 30512, 30513 and 30519. In this case, the City has submitted the amendment as one that will take effect automatically upon approval by the Commission pursuant to Section 13551(b)(1) of Title 14 of the California Code of Regulations.

IV. PUBLIC NOTICE

Section 13555 of the Commission's Regulations requires the Executive Director to prepare a report describing the proposed amendment and providing notice of the Executive Director's determination the amendment is of a "minor" nature. Section 13555 also requires the Executive Director to report to the Commission at the next meeting, his or her determination and objections to the determination, if any, that have been received within 10 working days. If one third of the appointed members of the Commission requests, the determination of minor amendment shall not become effective and the amendment shall be processed in accordance with Section 13555(b).

Notification of the proposed amendment will be mailed on November 24, 2008. The ten-day objection period will therefore terminate on December 5, 2008. The Commission will be notified at the December 11, 2008 meeting of any objections.

Also, Section 30503 of the Coastal Act requires that maximum opportunities for public input be provided in preparation, approval, certification and amendment of any LCP. The City held public hearings on the proposed zoning ordinance changes on June 23, 2008, July 7, 2008, July 28, 2008, August 11, 2008, and October 13, 2008. The hearings were noticed to the public consistent with Section 13515 of Title 14 of the California Code of Regulations and the City provided evidence of the measures taken to provide notice of their hearings, consistent with Section 13552 of Title 14 of the California Code of Regulations. Notice of the subject amendment has been distributed to all known interested parties.

List of Exhibits:

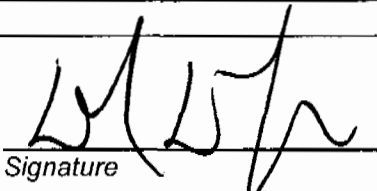
- 1) Carpinteria City Staff Reports dated, October 13, 2008, August 11, 2008, July 7, 2008, and July 28, 2008
- 2) City Resolution No. 5159, October 13, 2008
- 3) Ordinance No. 632
- 4) Notice of CEQA Exemption, August 11, 2008

STAFF REPORT
COUNCIL MEETING DATE
October 13, 2008

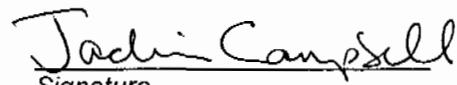
ITEM FOR COUNCIL CONSIDERATION

Adoption of City Council Resolution No. 5159 authorizing transmittal of a Local Coastal Program Amendment to the California Coastal Commission to establish zoning regulations for retail uses greater than 20,000 gross square feet in size (Project No. 08-1447-ORD/LCPA)

City Manager


Signature

Community Development Director


Signature

STAFF RECOMMENDATION

Staff recommends that the City Council:

1. Adopt Resolution No. 5159; and
2. Direct staff to submit the Local Coastal Program Amendment to the California Coastal Commission (Project No. 08-1447-ORD/LCPA).

I. BACKGROUND

On August 11th the City Council approved Ordinance No. 632 on second reading to establish an expanded Conditional Use Permit process for retail uses greater than 20,000 square feet in size. As the new Ordinance required a more stringent review process and imposed additional restrictions on the otherwise permissible use of land, staff believed that the item had no potential to conflict with Coastal Act Resource Protection Policies and was therefore exempt from review by the Coastal Commission as it did not qualify as a Local Coastal Program Amendment. This interpretation was submitted to the Commission staff on August 15th with supporting documentation on the actions taken by the City to enact the subject regulations.

The Coastal Commission staff rejected City staff's interpretation in a letter dated September 11, 2008 (see Attachment A). Therefore, staff has prepared the attached Resolution (Attachment B) to authorize transmittal of the previously approved Ordinance to the Commission for certification

EXHIBIT 1

CPN-MIN-2-08

City Staff Reports

through the standard procedures for an LCP Amendment consistent with the direction provided by the Coastal Commission staff.

II. ANALYSIS

Proposed Ordinance No. 632

The Ordinance ensures that a heightened level of review is required when an application is made for a retail use over 20,000 square feet in area. This enhanced permit process ensures that policy considerations are met and special findings made before any development approval is granted. Existing Urgency Ordinance No. 631 will remain in full force and effect until the LCPA certification process for Ordinance No. 632 is complete.

General Plan/Coastal Plan Policy Analysis

The City's General Plan/Coastal Plan includes policies designed to preserve Carpinteria's small beach town character and scale. These policies address the nature, size and location of commercial development, neighborhood compatibility, traffic and circulation patterns. Ordinance No. 632 implements those policies by imposing a heightened level of review on retail stores over 20,000 square feet and requiring the decisionmaking body make a set of special findings. Those special findings are designed to specifically implement the General Plan/Coastal Plan as outlined in previous City Council staff reports for this project dated July 28 and August 11, 2008 and herein incorporated by reference.

III. ENVIRONMENTAL

As a legislative enactment that merely imposes an additional level of discretionary review over one type of development within the City, the proposed ordinance has no potential to create physical impacts to the environment. Accordingly, at the time of City Council approval, the proposed ordinance was exempt from CEQA pursuant to State CEQA Guidelines §15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment); §15060(c)(3) (the activity is not a project), §15168(c) (further environmental review is unnecessary because the ordinance is a subsequent activity covered by the General Plan's program EIR), §15183 (activity helps implement the General Plan which has undergone environmental review). The Notice of Exemption was filed with the County Clerk after it was adopted by the City Council on August 11, 2008. No new environmental review is required for adoption of the Resolution to transmit the LCPA to the Coastal Commission.

IV. LEGAL

Urgency Ordinance No. 631 became effective immediately upon its adoption on June 28, 2008. That Ordinance will remain in effect until such time as it is repealed. Per the Council's direction, Ordinance 632 is proposed as a replacement ordinance, which has been processed using the traditional two-reading procedure. As stated in the Background Section I of this staff report, staff originally believed that Ordinance 632 was exempt from review by the California Coastal Commission ("Commission"). If that were the case, Ordinance 632 would have become effective 30 days after approval by the Council on second reading. However, in light of correspondence from the Commission, the Amendment to the City's Zoning Code created by Ordinance No. 632 must be certified by the Commission. Pursuant to the Coastal Act, the Amendment will not become effective until the California Coastal Commission approves the change and that approval

is acknowledged by your Council. Until that time, Urgency Ordinance No. 631 will remain in full force and effect. Once Ordinance No. 632 is finally certified and in effect, Urgency Ordinance No. 631 will be automatically repealed.

V. FINANCIAL CONSIDERATIONS

Staff does not anticipate any fiscal impact to the City from adoption of the ordinance as all permit processing fees are recovered according to the City's adopted Master Fee Schedule.

VI. ATTACHMENTS

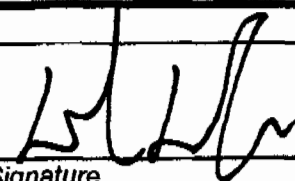
Attachment A: Coastal Commission Letter dated September 11, 2008
Attachment B: Resolution No. 5159

STAFF REPORT
COUNCIL MEETING DATE
August 11, 2008

ITEM FOR COUNCIL CONSIDERATION


Adoption of Ordinance No. 632, establishing regulations related to the permit process for retail uses greater than 20,000 gross square feet in size

City Manager



Signature

Community Development



Signature

STAFF RECOMMENDATION

Staff recommends that the City Council:

1. Approve Ordinance Number 632 (second reading); and
2. Direct staff to notify the California Coastal Commission that adoption of the Ordinance does not require an Amendment to the City's Local Coastal Program.

I. BACKGROUND

On July 28th, the City Council considered this item on first reading and continued to the item to August 11th for second reading of the Ordinance. No public comments were received at the prior hearing and no changes have been made to the proposed Ordinance. As stated previously, this item will serve to codify procedures into the Zoning Code that require an expanded Conditional Use Permit process for retail uses greater than 20,000 square feet in size.

The regulations included in proposed Ordinance No. 632 are identical to the regulations adopted by the Council in Urgency Ordinance No. 631. Those regulations require the City Council, upon Planning Commission's recommendation, to approve a Conditional Use Permit in order for retail uses greater than 20,000 square feet in gross floor area to operate in the Central Business and Commercial Planned Development zones. The regulations require the applicant to obtain conceptual review of a retail store greater than 20,000 square feet. The regulations also require seven special findings specific to retail stores over 20,000 square feet be made, in addition to the

findings required for all Conditional Use Permits. In general, the special findings focus on meeting local demand, avoiding over-concentration of particular uses, encouraging amenities that enhance local character, minimizing traffic problems, providing sufficient parking, enhancing alternative transportation options and avoiding local economic impacts. Once it becomes effective, Ordinance No. 632 will replace Urgency Ordinance No. 631.

II. ANALYSIS

Proposed Ordinance No. 632

The City's General Plan/Coastal Plan includes policies designed to preserve Carpinteria's small beach town character and scale. These policies address the nature, size and location of commercial development, neighborhood compatibility, traffic and circulation patterns. The proposed Ordinance is designed to ensure that when an application is made for an exception to the general prohibition of retail uses over 20,000 square feet in area, a heightened level of review is applied. This enhanced review is designed to ensure that the appropriate policy considerations are made and findings for exception met before any development approvals are granted. As previously presented to the City Council in Urgency Ordinance No. 631 adopted on June 23, 2008, the proposed regular Ordinance No. 632 addresses the same topics, which include:

- *Defining Retail*
- *Measuring Square Footage*
- *New vs. Existing Structures*
- *Special Findings*
- *Conceptual Review Required*
- *City Council as Final Decisionmaker*

Taken together, all of these components of the expanded CUP process preserve the City's discretion over large scale retailers, allowing each proposal to be evaluated on its merits, instead of imposing a blanket prohibition. This approach gives future decisionmakers the flexibility to accommodate the community's needs as they change over time while ensuring that the qualities that make Carpinteria such a unique place are not lost to oversized development that is incompatible with the character of this small beach town. A copy of the proposed Ordinance is included as Attachment A.

General Plan/Coastal Plan Policy Analysis

The City's General Plan/Coastal Plan includes policies designed to preserve Carpinteria's small beach town character and scale. These policies address the nature, size and location of commercial development, neighborhood compatibility, traffic and circulation patterns. The following discussion summarizes the particular objectives and policies of the General Plan and how the proposed ordinance implements those policies through a heightened level of review and a set of special findings that are designed to specifically implement the General Plan/Coastal Plan.

Staff has reviewed the General Plan/Coastal Plan and the Municipal Code and determined that an ordinance creating additional discretionary review requirements for retail uses greater than 20,000 square feet in size is consistent with the City's policies and goals. A full policy consistency analysis was discussed in staff reports and presentations before the Council at its prior meetings on this topic, the most recent of which occurred on June 23, 2008. Those discussions are incorporated by this reference and the policies and goals of the City that the Ordinance is consistent with are briefly summarized below. They include, but are not limited to, the following:

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.*

Objective LU-2: *Protect the natural environment within and surrounding Carpinteria.*

Objective 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-3d. *Establish a commercial sector that balances the retail and service needs of citizens and tourists.*

LU-3e. *Direct commercial development toward the center of town and in established commercial nodes. Exceptions include visitor-serving commercial uses in the Bluffs II sub-area, and commercial uses of a character, size and location that are intended solely to serve a specific neighborhood and thereby reduce vehicle trips.*

LU-3f. *Encourage the remodeling and revitalization of neighborhoods and commercial areas in accordance with principles established in the Community Design Element.*

LU-3g. *Provide for a range of business activities that bring vitality, revenue, and employment to Carpinteria and are compatible with its small town character.*

LU-3h. *Develop land uses that encourage the thoughtful layout of transportation networks, minimize the impacts of vehicles in the community, and encourage alternative means of transportation.*

LU-3i. *Ensure the provision of adequate services and resources, including parking, public transit and recreational facilities, to serve proposed development.*

Objective CD-1. *The size, scale and form of building, and their placement on a parcel should be compatible with adjacent and nearby properties, and with the dominant neighborhood or district development pattern.*

Objective CD-7. *Enhance and maintain the Linden Avenue downtown core, the Carpinteria Avenue commercial core, the Eugenia Professional office area, the Casitas Village, Shepard's Place Shopping Center, and the Cindy Lane-Mark Avenue industrial park districts.*

Objective G-7: *Build demand for alternative transportation use by increasing ease, effectiveness, and social acceptability, and through foresighted planning.*

Policy C-9n. *Require new development plans to include significant attention to alternative modes of transportation.*

Policy C-9o. *Require well-designed walkways as a condition to new development approval.*

Each of the components of the proposed Ordinance, and in particular its Special Findings, is intended to carry out and implement these more general objectives and policies identified in the General Plan/Coastal Plan. Furthermore, each of the components of the proposed Ordinance is intended to implement the objectives for regulating retail store size in Carpinteria that were developed through Council deliberations from prior meetings (including January 14, February 25, March 24, April 28, May 27, June 23, and July 28, 2008).

III. ENVIRONMENTAL

As a legislative enactment that merely imposes an additional level of discretionary review over one type of development within the City, the proposed urgency ordinance has no potential to create physical impacts to the environment. Accordingly, the proposed ordinance is exempt from CEQA pursuant to State CEQA Guidelines §15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment); §15060(c)(3) (the activity is not a project), §15168(c) (further environmental review is unnecessary because the ordinance is a subsequent activity covered by the General Plan's program EIR), §15183 (activity helps implement the General Plan which has undergone environmental review). See Attachment B for more details.

IV. LEGAL

Urgency Ordinance No. 631 became effectively immediately upon its adoption on June 28, 2008. That Ordinance can remain in effect until such time as it is replaced by a regular ordinance. Per the Council's direction, Ordinance 632 is proposed as a "back up" ordinance, which has been processed using the traditional two-reading procedure. The proposed Ordinance would become effective 30 days after approval by the Council on second reading. At that same time, Ordinance No. 631 would be repealed such that only one Ordinance is in place.

The amendments to the City's Zoning Code created by this ordinance do not require certification from the California Coastal Commission ("Commission"). Commission certification is appropriate where an amendment to the Local Coastal Program (LCP) would authorize a use that is not otherwise permitted under the LCP. However, where, as here, the ordinance merely imposes an additional level of discretionary review over an otherwise permissible type of development, the Coastal Act does not require certification by the Commission. (See e.g., *Conway v. City of Imperial Beach* (1997) 52 Cal.App. 78.) In this case, the proposed Ordinance imposes additional restrictions on retail stores over a threshold size; it will not conflict with the Coastal Act because it does not enlarge the uses currently allowed in the Central Business and Commercial Planned Development zones, nor does the Ordinance alter the utilization or conservation of coastal zone resources, impede public access to and along the coastal zone, or interfere with the priorities established for coastal-dependent or coastal-related development. Upon passage, staff will notify Commission staff that the Ordinance is not subject to Commission approval in that it is not an amendment to the City's certified LCP.

Pursuant to Government Code §36936, adoption of the proposed Ordinance requires approval by three or more affirmative votes of the Council. Adopting this Ordinance includes the necessary action of repealing Ordinance No. 631.

V. FINANCIAL CONSIDERATIONS

Staff does not anticipate any fiscal impact to the City from adoption of the ordinance as all permit processing fees are recovered according to the City's adopted Master Fee Schedule.

VI. ATTACHMENTS

Attachment A: Ordinance No. 632
Attachment B: Notice of Exemption

STAFF REPORT
PLANNING COMMISSION MEETING DATE
July 7, 2008

ITEM FOR PLANNING COMMISSION CONSIDERATION

ORDINANCE NO. 632 AMENDING THE CARPINTERIA MUNICIPAL CODE ZONING CHAPTER TO PROVIDE CONDITIONAL USE PERMIT PROCEDURES FOR RETAIL USES GREATER THAN 20,000 SQUARE FEET IN SIZE

Report prepared by: Jackie Campbell, Director
Community Development Department

Jackie Campbell
Signature

Reviewed by: Alexandra Barnhill
Deputy City Attorney

JK for A. BARNHILL
Signature

STAFF RECOMMENDATION

After hearing public comment, recommend adoption of Ordinance No. 632 to the City Council.

I. BACKGROUND

Several months ago, the City received an application seeking to combine two existing retail spaces in Casitas Plaza to create a retail grocery store of approximately 40,000 square feet. Currently, nearly all the retail stores in Carpinteria are below 20,000 square feet. In response, the City received several letters and much public testimony at a Council meeting of January 14, 2008 expressing concern about potential impacts from a single, large grocery store including traffic and parking and the potential loss of competition, employment, local character and economic vitality.

Councilmembers echoed the public concern about the loss of one or both stores and also possible impacts of a single, large store including traffic and parking and the erosion of the City's small town image. Concerns were also expressed that a single, large store would result in more vehicle trips in the community and a corresponding loss of convenience and fewer trips by bike or foot. It was also noted that these concerns were not unique to a large grocers, but that all large-scale retailers would create similar concerns in Carpinteria. As a result, the community and Councilmembers indicated an interest in exploring regulations that would target all large-scale retail development.

At subsequent Council meetings, information was provided on how other cities regulate large-scale retail stores, often referred to as "Big Box" stores. The Council was informed that cities often impose a moratorium on development of large-scale retail stores while staff develops appropriate regulations. Thereafter, cities often regulate large-scale retail stores by either capping the development at certain size or by requiring large-scale retail stores to obtain additional discretionary approvals.

Based on the concerns raised by Councilmembers and the public, the Council adopted Urgency Ordinance No. 628 at its meeting of March 24, 2008 and established a 45-day moratorium on the issuance of entitlements for retail development over 20,000 square feet in size. On April 28th the moratorium was extended for another 10 months and 15 days to provide City staff time to draft regulations on retail store sizes. Also at the April 28 City Council meeting, Council directed staff to return with a report to facilitate discussion and consider repealing the existing moratorium and replacing it with an urgency ordinance. The City Council requested that the urgency ordinance propose several alternative methods of regulating large scale retail stores. That item was discussed at the May 26, 2008 City Council hearing wherein the Council voted unanimously to direct staff to return with regulations that would create a discretionary review process for such uses. Staff returned to the June 23, 2008 City Council hearing with such regulations. At that meeting, the Council repealed its earlier moratorium and adopted Urgency Ordinance No. 631 by unanimous vote.

Repeal of the moratorium and adoption of the Urgency Ordinance made retail uses over 20,000 square feet a use generally not allowed in the City's commercial zone districts and established an expanded Conditional Use Permit (CUP) process that allows the City to consider conditionally permitting such uses, as an exception, where certain special findings can be made. The Urgency Ordinance became effectively immediately and will remain in effect until such time as it is replaced by a Local Coastal Program Amendment (LCPA) that would be processed according to the procedures already in place in the Zone Code. This process includes review by the Planning Commission and City Council, and then, if necessary, certification by the Coastal Commission before the regulations become a permanent part of the Zone Code. The regulations included in proposed Ordinance No. 632 are identical to the language adopted by the Council in Urgency Ordinance No. 631. Ordinance No. 632 is ultimately intended to replace Urgency Ordinance No. 631 per the Council's direction.

II. DISCUSSION

A. Proposed Ordinance No. 632

The City's General Plan/Coastal Plan includes policies designed to preserve Carpinteria's small beach town character and scale. These policies address the nature, size and location of commercial development, neighborhood compatibility, traffic and circulation patterns. The following discussion summarizes the particular components of the proposed ordinance that are designed to ensure that when an application is made for an exception to the general prohibition of retail uses over 20,000 square feet in area, a heightened level of review is applied to ensure that the appropriate policy considerations are made and findings for exception met before any development approvals are granted. See Attachment A for the proposed Ordinance.

Defining Retail (Ordinance Section 14.80.543.): “Retail” is defined as any place where goods or commodities are sold directly to consumers. This broad definition includes commercial stores that carry merchandise for sale including furniture, clothing, groceries, sporting goods, hardware, etc. It also includes restaurants, bars and movie theaters. Large products typically displayed and sold outdoors such as plants and garden supplies, pottery/sculpture, outdoor furniture and vehicle sales already require a CUP for outdoor sales and would continue to be subject to the existing regulations. However, the new regulations included in the expanded CUP process would additionally apply to uses of this type that exceed the 20,000 square foot area. The City’s Zone Code excludes service shops, such as automobile repair shops, as examples of retail uses and these types of uses would not be subject to the expanded CUP regulations.

Measuring Square Footage (Ordinance Section 14.20.045.1.b.): “Floor area” is defined to include gross square footage inside the interior walls of a building used for retail space. This size measurement provides a simple calculation based on the fact that all of the various uses and activities that occur within a retail establishment occur in support of the retail sales area, are integral to one another, cannot function independently and do not require ongoing monitoring such as could occur if a net sales area were used instead. The definition also includes the aggregate square footage of all adjacent stores, establishments and shops which share common check stands, management, warehouses or distribution facilities. For retail uses that involve outdoor sales or outdoor displays and storage (e.g., nurseries, lumber, pottery/statuary), the total area dedicated to these functions would be included in calculating the square footage in order to determine whether the expanded CUP process is applicable.

New vs. Existing Structures (Ordinance Section 14.20.045.2.): The regulations have been crafted to address new development and existing development in the same manner. That is to say that the expanded Conditional Use Permit process is required for any use greater than 20,000 square feet in gross size proposed within an existing building/space or for a use that would require construction of a new building or reuse of an existing retail space dedicated to outdoor product sales, displays and storage.

Special Findings (Ordinance Section 14.62.070.): Pursuant to the proposed Ordinance, to approve a CUP for a retail development over 20,000 square feet, both the existing CUP findings and special findings must be made. The existing CUP findings are listed below.

- a. The site for the proposed use is adequate in size and shape to accommodate the use;
- b. The site for the proposed use is served by streets and highways that are properly designed to carry the type and quantity of traffic generated by the subject use;
- c. The granting of the permit will not materially adversely affect such necessary community services as sewage disposal, fire protection, water supply, and police protection;
- d. The granting of the permit will not be detrimental to the health, safety, and general welfare of the neighborhood;
- e. The proposed use is consistent with the coastal plan, general plans, and applicable specific plan(s);

- f. The proposed use will not cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat;
- g. The proposed development will not conflict with recorded easements acquired by the public-at-large for access through or use of the property within the proposed development or any easements granted to any public agency or required as a condition of approval;
- h. Any other conditions which are reasonably necessary to protect the public peace, health, safety, and general welfare.

Specific findings must also be made in order to approve a CUP for a large retail business beyond those findings already identified in the Zone Code for approval of all CUPs. These specific findings address traffic, parking, economics and community character to ensure that any development reviewed pursuant to this expanded CUP process is specifically evaluated against the basic objectives which are the foundation of these new regulations. The Special Findings for the expanded CUP process are listed below.

- a. The use and size of development at the proposed location, enhances the balance of retail and service needs of residents and visitors, and promotes the concentration of use in the Downtown area or an existing commercial node;
- b. The proposed use will not result in an over-concentration of that type of retail use in a particular area such as a shopping center or commercial district;
- c. The proposed use and development provides amenities, services and/or associated onsite or offsite improvements that enhance the unique small beach town character of the community;
- d. The proposed use minimizes adverse impacts to traffic such that no existing intersection volume to capacity ratio will decrease by more than five percent (5%), provided however, that no intersection level of service will degrade below level of service C as defined in the Circulation Element;
- e. Adequate parking is provided on site by meeting without exceeding the standards set forth in Section 14.54 of this Chapter and/or other allowed parking programs as provided in the Municipal Code;
- f. The proposed development encourages alternative transportation by providing pedestrian and access amenities such as walkways, bus stops and bicycle racks;
- g. The proposed use will not materially adversely affect the economic welfare of the City, its commercial districts, or existing local retail providers based on evidence provided by the applicant and reviewed and accepted by the City.

Conceptual Review (Ordinance Section 14.20.045.3.a.): Any CUP application submitted for retail sales greater than 20,000 square feet in gross floor area must be reviewed at a concept level prior to proceeding through the permit review process. This provides an opportunity for a public hearing before the Architectural Review Board, Planning Commission and/or City Council to give an early review of how a proposed development might be evaluated for consistency with the City's General Plan policies and objectives and whether or not the required findings for approval

could potentially be made. This would mirror the existing conceptual review process that is used when applications for controversial or important projects are received.

City Council as Final Decisionmaker (Ordinance Section 14.20.045.1): The permit process set forth in the proposed ordinance has been written to require that the City Council be the final decisionmaker for all of these types of CUPs, with the Planning Commission serving as a recommending body to the Council. This regulatory approach is similar to that which is used for Tentative Tract Maps and General Plan Amendments.

Taken together, all of these components of the expanded CUP process preserve the City's discretion over large scale retailers without outright prohibiting them. This approach gives future decisionmakers the flexibility to accommodate the community's changing needs over time while ensuring that the qualities that make Carpinteria such a unique place are not lost to oversized development incompatible with the character of this small beach town.

III. ENVIRONMENTAL

As a legislative enactment that merely imposes an additional level of discretionary review over one type of development within the City, proposed Ordinance No. 632 does not have the potential to create physical impacts on the environment. Accordingly, the proposed Ordinance is exempt from CEQA pursuant to State CEQA Guidelines §15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment); §15060(c)(3) (the activity is not a project), §15168(c) (further environmental review is unnecessary because the ordinance is a subsequent activity covered by the General Plan's program EIR), §15183 (activity helps implement the General Plan which has undergone environmental review). See Attachment B for more details.

IV. POLICY ANALYSIS

Staff has reviewed the General Plan/Coastal Plan and the Municipal Code and determined that an ordinance creating additional discretionary review requirements for retail uses greater than 20,000 square feet in size is consistent with the City's policies and goals, including but not limited to the following:

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.*

Objective LU-2: *Protect the natural environment within and surrounding Carpinteria.*

Objective 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-3d. *Establish a commercial sector that balances the retail and service needs of citizens and tourists.*

LU-3e. *Direct commercial development toward the center of town and in established commercial nodes. Exceptions include visitor-serving commercial uses in the Bluffs II sub-area, and commercial uses of a character, size and location that are intended solely to serve a specific neighborhood and thereby reduce vehicle trips.*

LU-3f. *Encourage the remodeling and revitalization of neighborhoods and commercial areas in accordance with principles established in the Community Design Element.*

LU-3g. *Provide for a range of business activities that bring vitality, revenue, and employment to Carpinteria and are compatible with its small town character.*

LU-3h. *Develop land uses that encourage the thoughtful layout of transportation networks, minimize the impacts of vehicles in the community, and encourage alternative means of transportation.*

LU-3i. *Ensure the provision of adequate services and resources, including parking, public transit and recreational facilities, to serve proposed development.*

Objective CD-1. *The size, scale and form of building, and their placement on a parcel should be compatible with adjacent and nearby properties, and with the dominant neighborhood or district development pattern.*

Objective CD-7. *Enhance and maintain the Linden Avenue downtown core, the Carpinteria Avenue commercial core, the Eugenia Professional office area, the Casitas Village, Shepard's Place Shopping Center, and the Cindy Lane-Mark Avenue industrial park districts.*

Objective G-7: *Build demand for alternative transportation use by increasing ease, effectiveness, and social acceptability, and through foresighted planning.*

Policy C-9n. *Require new development plans to include significant attention to alternative modes of transportation.*

Policy C-9o. *Require well-designed walkways as a condition to new development approval.*

Each of the Special Findings required by Ordinance No. 632 is intended to carry out and implement these more general objectives and policies identified in the General Plan/Coastal Plan.

V. ATTACHMENTS

- Exhibit A – Ordinance No. 632
- Exhibit B – CEQA Notice of Exemption

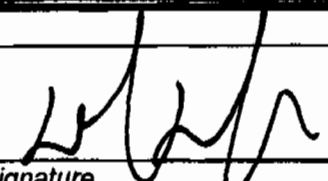
STAFF REPORT
COUNCIL MEETING DATE
July 28, 2008

JUL 12 2008

ITEM FOR COUNCIL CONSIDERATION

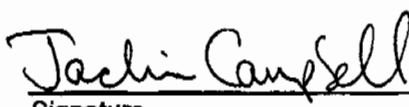
Adoption of Ordinance No. 632, establishing regulations related to the permit process for retail uses greater than 20,000 gross square feet in size

City Manager



Signature

Community Development



Signature

STAFF RECOMMENDATION

Staff recommends that the City Council:

1. Approve Ordinance No. 632 (first reading);
2. Continue this item to the City Council meeting of August 11, 2008 for final adoption of the Ordinance (second reading).

I. BACKGROUND

The City Council has been discussing the matter of regulations to address retail uses greater than 20,000 square feet for several months. In its most recent hearing on this matter, the Council adopted Urgency Ordinance No. 631 creating an expanded Conditional Use Permit process for these types of uses. At that meeting, the Council directed staff to return with a "back up" ordinance to be processed using the traditional two reading procedure.

In support of that direction, staff presented the subject Ordinance No. 632 to the Planning Commission at the July 7th Planning Commission hearing, pursuant to Government Code Section 65854. The Ordinance considered by the Planning Commission was identical to the Urgency Ordinance adopted by the City Council on June 23, 2008. The Planning Commission voted 3 – 1 to recommend approval of Ordinance No. 632 to the City Council. This report summarizes the Planning Commission deliberations and provides an analysis of the proposed Ordinance and how it relates to the City's General Plan/Coastal Plan.

The regulations included in proposed Ordinance No. 632 are identical to the regulations adopted by the Council in Urgency Ordinance No. 631. Those regulations require the City Council, upon Planning Commission's recommendation, to approve a Conditional Use Permit in order for retail uses greater than 20,000 square feet in gross floor area to operate in the Central Business and Commercial Planned Development zones. The regulations require the applicant to obtain conceptual review of a retail store greater than 20,000 square feet. The regulations also require seven special findings specific to retail stores over 20,000 square feet be made, in addition to the findings required for all Conditional Use Permits. In general, the special findings focus on meeting demand, avoiding over-concentration of particular uses, encouraging amenities that enhance local character, minimizing traffic problems, providing sufficient parking, enhancing alternative transportation options, and avoiding local economic impacts. Ordinance No. 632 is ultimately intended to replace Urgency Ordinance No. 631, per the Council's direction.

Planning Commission Review

The Planning Commission reviewed proposed Ordinance No. 632 at its meeting of July 7, 2008. After hearing the staff presentation and comments from Pat Kistler representing the Carpinteria Valley Chamber of Commerce, the Commission discussed the ordinance as summarized below.

Commissioner Benefield was in support of the Ordinance as written and indicated she would not support a maximum cap on building size because it is too restrictive and doesn't allow flexibility for future decisionmakers. She expressed concern about including the requirement for an economic report under the Special Findings and asked how the economic welfare of the city would be determined. She asked that the ordinance be re-worked to more closely align with requirements under the California Environmental Quality Act (CEQA).

Commissioner Callender also supported the Ordinance. He noted one attribute of our small beach town character is that we have not had a need for this type of ordinance in the past, but that given recent activity regarding grocery stores and retail spaces, this type of regulation was needed now.

Chair La Fevers stated that his primary objection was the 20,000 square foot threshold, noting that it triggers an overly burdensome requirement on existing and proposed businesses. He said the analysis given to the Planning Commission was not adequate and felt that he needed more information before supporting the new ordinance. Specifically, Chair La Fevers expressed concern about the effect of the Ordinance on existing businesses that would become legal nonconforming as a result of adoption of the Ordinance. He suggested the satisfying the Special Findings may make it difficult to attract new businesses that wish to develop or move into retail spaces over 20,000 square feet and/or retain existing businesses that wish to expand. He said additional analysis was needed in order for him to support the 20,000 square foot threshold, as opposed to some other threshold. He expressed concern that it would be difficult to apply a finding regarding economic impacts (Special Findings, Requirement G). He also suggested that the terms under Section 14.20.045 (definitions) could be more clearly defined.

Commissioner Reddington said she was in agreement with Commissioner Benefield and that the Ordinance is what is necessary at this time. She said she agreed with some of Commissioner La Fevers' comments and concerns about the restrictions, but overall thought that the expanded Conditional Use Permit process was a good tool to address the issue of large retail uses. Commissioner Allen was absent.

Commissioner La Fevers summarized the consensus of the Commission to recommend approval of the Ordinance but stated that he was not in support. Thus, the Commission voted 3 – 1 (La Fevers – no) to recommend that the Council approve Ordinance No. 632.

II. ANALYSIS

Proposed Ordinance No. 632

The City's General Plan/Coastal Plan includes policies designed to preserve Carpinteria's small beach town character and scale. These policies address the nature, size and location of commercial development, neighborhood compatibility, traffic and circulation patterns. The proposed Ordinance is designed to ensure that when an application is made for an exception to the general prohibition of retail uses over 20,000 square feet in area, a heightened level of review is applied. This enhanced review is designed to ensure that the appropriate policy considerations are made and findings for exception met before any development approvals are granted. As previously presented to the City Council in Urgency Ordinance No. 631 adopted on June 23, 2008, the proposed regular Ordinance No. 632 addresses the same topics, which include:

- *Defining Retail*
- *Measuring Square Footage*
- *New vs. Existing Structures*
- *Special Findings*
- *Conceptual Review Required*
- *City Council as Final Decisionmaker*

Taken together, all of these components of the expanded CUP process preserve the City's discretion over large scale retailers, allowing each proposal to be evaluated on its merits, instead of imposing a blanket prohibition. This approach gives future decisionmakers the flexibility to accommodate the community's needs as they change over time while ensuring that the qualities that make Carpinteria such a unique place are not lost to oversized development that is incompatible with the character of this small beach town.

A copy of the proposed Ordinance is included as Attachment A.

General Plan/Coastal Plan Policy Analysis

The City's General Plan/Coastal Plan includes policies designed to preserve Carpinteria's small beach town character and scale. These policies address the nature, size and location of commercial development, neighborhood compatibility, traffic and circulation patterns. The following discussion summarizes the particular objectives and policies of the General Plan and how the proposed ordinance implements those policies through a heightened level of review and a set of special findings that are designed to specifically implement the General Plan/Coastal Plan.

Staff has reviewed the General Plan/Coastal Plan and the Municipal Code and determined that an ordinance creating additional discretionary review requirements for retail uses greater than 20,000 square feet in size is consistent with the City's policies and goals. A full policy consistency analysis was discussed in staff reports and presentations before the Council at its prior meetings on this topic, the most recent of which occurred on June 23, 2008. Those discussions are incorporated by this reference and the policies and goals of the City that the Ordinance is consistent with are briefly summarized below. They include, but are not limited to, the following:

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.*

Objective LU-2: *Protect the natural environment within and surrounding Carpinteria.*

Objective 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-3d. *Establish a commercial sector that balances the retail and service needs of citizens and tourists.*

LU-3e. *Direct commercial development toward the center of town and in established commercial nodes. Exceptions include visitor-serving commercial uses in the Bluffs II sub-area, and commercial uses of a character, size and location that are intended solely to serve a specific neighborhood and thereby reduce vehicle trips.*

LU-3f. *Encourage the remodeling and revitalization of neighborhoods and commercial areas in accordance with principles established in the Community Design Element.*

LU-3g. *Provide for a range of business activities that bring vitality, revenue, and employment to Carpinteria and are compatible with its small town character.*

LU-3h. *Develop land uses that encourage the thoughtful layout of transportation networks, minimize the impacts of vehicles in the community, and encourage alternative means of transportation.*

LU-3i. *Ensure the provision of adequate services and resources, including parking, public transit and recreational facilities, to serve proposed development.*

Objective CD-1. *The size, scale and form of building, and their placement on a parcel should be compatible with adjacent and nearby properties, and with the dominant neighborhood or district development pattern.*

Objective CD-7. *Enhance and maintain the Linden Avenue downtown core, the Carpinteria Avenue commercial core, the Eugenia Professional office area, the Casitas Village, Shepard's Place Shopping Center, and the Cindy Lane-Mark Avenue industrial park districts.*

Objective G-7: *Build demand for alternative transportation use by increasing ease, effectiveness, and social acceptability, and through foresighted planning.*

Policy C-9n. *Require new development plans to include significant attention to alternative modes of transportation.*

Policy C-9o. *Require well-designed walkways as a condition to new development approval.*

Each of the components of the proposed Ordinance, and in particular its Special Findings, is intended to carry out and implement these more general objectives and policies identified in the General Plan/Coastal Plan. Furthermore, each of the components of the proposed Ordinance is intended to implement the objectives for regulating retail store size in Carpinteria that were developed through Council deliberations from prior meetings (including January 14, February 25, March 24, April 28, May 27, and June 23, 2008).

III. ENVIRONMENTAL

As a legislative enactment that merely imposes an additional level of discretionary review over one type of development within the City, the proposed urgency ordinance has no potential to create physical impacts to the environment. Accordingly, the proposed ordinance is exempt from CEQA pursuant to State CEQA Guidelines §15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment); §15060(c)(3) (the activity is not a project), §15168(c) (further environmental review is unnecessary because the ordinance is a subsequent activity covered by the General Plan's program EIR), §15183 (activity helps implement the General Plan which has undergone environmental review). See Attachment B for more details.

IV. LEGAL

Urgency Ordinance No. 631 became effectively immediately upon its adoption on June 28, 2008. That Ordinance can remain in effect until such time as it is replaced by a regular ordinance. Per the Council's direction, Ordinance 632 is proposed as a "back up" ordinance, which will be processed using the traditional two-reading procedure. The proposed Ordinance would become effective 30 days after approval by the Council on second reading.

The amendments to the City's Local Coastal Plan ("LCP") and zoning code created by this proposed ordinance do not require certification from the California Coastal Commission ("Commission"). Commission certification is appropriate where an amendment to the LCP would authorize a use that is not otherwise permitted under the LCP. However, where, as here, the ordinance amending an LCP merely imposes an additional level of discretionary review over an otherwise permissible type of development, the Coastal Act does not require prior review and approval by the Commission. (See e.g., *Conway v. City of Imperial Beach* (1997) 52 Cal.App. 78.) In this case, the proposed Ordinance imposes additional restrictions on retail stores over a threshold size; it will not conflict with the Coastal Act because it does not enlarge the uses currently allowed in the Central Business and Commercial Planned Development zones, nor does the Ordinance alter the utilization or conservation of coastal zone resources, impede public access to and along the coastal zone, or interfere with the priorities established for coastal-dependent or coastal-related development. Upon passage, staff will confirm with Coastal Commission staff that the proposed Ordinance does not need Commission approval.

Pursuant to Government Code §36936, adoption of the proposed Ordinance requires approval by three or more affirmative votes of the Council.

V. FINANCIAL CONSIDERATIONS

Staff does not anticipate any fiscal impact to the City from adoption of the ordinance as all permit processing fees are recovered according to the City's adopted Master Fee Schedule.

VI. ATTACHMENTS

Attachment A: Ordinance No. 632
Attachment B: Notice of Exemption

RESOLUTION NO. 5159

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARPINTERIA, CALIFORNIA FOR THE PURPOSES OF TRANSMITTING TO THE CALIFORNIA COASTAL COMMISSION ORDINANCE NO. 632, A LOCAL COASTAL PROGRAM AMENDMENT TO IMPOSE A CONDITIONAL USE PERMIT AND OTHER REQUIREMENTS ON RETAIL USES OVER 20,000 SQUARE FEET IN TITLE 14, ZONING, OF THE CITY'S MUNICIPAL CODE

THE CITY COUNCIL OF THE CITY OF CARPINTERIA, CALIFORNIA RESOLVES AS FOLLOWS:

Section 1. The City Council of the City of Carpinteria finds, determines and declares:

a. A full and complete copy of the amendment to Chapter 14.80 and Chapter 14.22 to establish definitions and procedures for the consideration of retail uses greater than 20,000 square feet in size ("Amendment") is on file with the City's Community Development Department, located at 5775 Carpinteria Avenue, Carpinteria, California.

b. Pursuant to the California Environmental Quality Act (Public Resources Code §21000 et seq., "CEQA"), the California Code of Regulations, Title 14, §15000 et seq. ("CEQA Guidelines") and the City of Carpinteria's Environmental Review Guidelines as applicable, the City has determined that the adoption of Ordinance No. 632 is categorically exempt from CEQA pursuant to §15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment), §15060(c)(3) (the activity is not a project), §15168(c) (further environmental review is unnecessary because the ordinance is a subsequent activity covered by the General Plan's Program Environmental Impact Report [EIR]) and §15183 (activity helps implement the General Plan) of the CEQA Guidelines.

c. At a duly noticed public hearing on July 7, 2008, the Planning Commission considered Ordinance No. 632 and forwarded its recommendation to support the Local Coastal Program Amendment to the City Council.

d. On July 28, 2008 and August 11, 2008, after considering the Planning Commission's recommendation, holding a duly noticed public hearing, giving due consideration and discussing the item among the Council and staff, a majority of the City Council approved the Ordinance.

e. The Ordinance reflects the recommendations of the Planning Commission and the City Council and will become effective after final certification by the California Coastal Commission.

f. On October 13, 2008, a majority of the City Council considered and approved this Resolution to submit for California Coastal Commission review the proposed Amendment, which is intended to carry out the policies of the City's Local Coastal Program consistent with the California Coastal Act and directing that the Amendment be transmitted to the California Coastal Commission for filing in accordance with §13551(b)(1) of Title 14 of the California Code of Regulations for final certification.

EXHIBIT 2

CPN-MIN-2-08

City Resolution 5159

g. Documents constituting the record of proceedings on the Amendment are located and under the custody of the City of Carpinteria, Community Development Director, 5775 Carpinteria Avenue, Carpinteria, California.

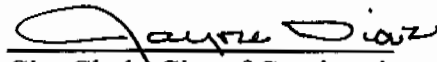
Section 2. NOW, THEREFORE, BE IT RESOLVED that pursuant to Public Resources Code §30510 and California Code of Regulations §13551(b)(1), the City Council held a public hearing on the Amendment to the LCP and is transmitting this Amendment to the California Coastal Commission for submittal and filing pursuant to California Code of Regulations, Title 14 §13551(b)(1).

PASSED, APPROVED AND ADOPTED this 13th day of October 2008, by the following vote:

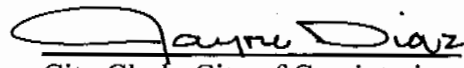
AYES:	Councilmembers:	Carty, Armendariz, Stein, Clark, Ledbetter
NOES:	Councilmember(s):	None
ABSENT:	Councilmember(s):	None


Mayor, City of Carpinteria

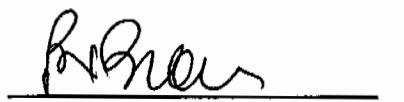
ATTEST:


City Clerk, City of Carpinteria

I hereby certify that the foregoing resolution was duly and regularly introduced and adopted at a regular meeting of the City Council of the City of Carpinteria held the 13th day of October 2008.


City Clerk, City of Carpinteria

APPROVED AS TO FORM:


Peter N. Brown, City Attorney

ORDINANCE NO. 632

AN ORDINANCE OF THE CITY OF CARPINTERIA AMENDING THE ZONING CODE TO IMPOSE A CONDITIONAL USE PERMIT AND OTHER REQUIREMENTS ON RETAIL USES OVER 20,000 GROSS SQUARE FEET

WHEREAS, the City of Carpinteria's ("City") General Plan/Coastal Plan establishes a comprehensive plan for the development of the City;

WHEREAS, a primary purpose of the General Plan/Coastal Plan is to preserve the existing character and scale of the City as a "small beach town" that is currently enjoyed by residents and visitors;

WHEREAS, the General Plan/Coastal Plan establishes numerous policies to preserve the City's small beach town character and scale, including: (a) regulations related to the nature, size and location of commercial development to ensure it serves the community, is compatible with the neighborhood, and reduces traffic trips, (b) requirements that ensure new development are of a size and scale that is consistent with existing development patterns, (c) prohibitions on redevelopment and intensification of existing development that would interfere with the City's small beach town image, and (d) limitations on retail development that is out of balance with residents' and visitors' needs;

WHEREAS, the vast majority of the retail construction in the City occurred decades ago. The small size, bulk, and scale of and limited parking for those developments contributes to the City's small beach town image. Since the City's policies seek to maintain that image by requiring new and intensified development to be consistent in terms of size and scale with existing development, the policies naturally limit opportunities to establish certain retail uses within the City. However, the City's local policies clearly provide, on balance, that such a tradeoff is necessary in order for the City's commercial districts to continue to attract residents, tourists, and other visitors and thereby preserve the City's character and economic vitality;

WHEREAS, currently, retail stores in the City are no larger than approximately 20,000 square feet, with very few exceptions. However, over the years the City has received increasing inquiries about and mounting pressure to allow retail development that is much larger in size and scale than most of the existing retail stores. Recently several local retailers applied for or expressed interest in developing a 40,000 square foot store. These proposals threatened public health, safety and welfare because that size of development could upset the small beach town character of the community, negatively impact the economic vitality of the City's commercial districts, create traffic and parking problems, overburden public facilities, threaten neighborhood compatibility, and/or cause aesthetic impacts;

EXHIBIT 3

CPN-MIN-2-08

City Ordinance No. 632

WHEREAS, the City Council considered the impacts of large scale retail uses at meetings held on January 14, February 25, March 24, April 28, May 27, June 23, and July 28, 2008. The staff reports from those meetings are herein incorporated by this reference. A complete copy of each of the staff reports from said seven city council meetings is on file with the City Clerk and are available for public inspection and copying in that office in accordance with the California Public Records Act. In light of the threats that type of development could cause on the City, the City Council adopted a moratorium on the issuance of entitlements for retail development over 20,000 square feet and directed staff to develop amendments to the Zone Code to eventually replace the moratorium;

WHEREAS, on June 23, 2008 the City considered and adopted regulations to replace the moratorium. The staff report from the meeting is incorporated by this reference. At that meeting the City Council repealed the moratorium and adopted an Urgency Ordinance No. 631 amending the City's Zone Code to require: that development over 20,000 square feet obtain a Conditional Use Permit, that the Conditional Use Permit application go through a conceptual review process, that special findings be made prior to issuance of such a permit, and that the decision making authority for permit issuance be vested in the City Council, with the Planning Commission's recommendation;

WHEREAS, as a backup measure, when the City adopts an urgency ordinance it also adopts a traditional ordinance. Staff has prepared a traditional ordinance amending the City's Zone Code to impose discretionary approvals on retail development over 20,000 square feet. Per the requirements of the Planning and Zoning law, the Planning Commission has reviewed and recommended approval of the aforementioned discretionary review process for retail development over 20,000 square feet at its meeting of July 7, 2008;

WHEREAS, the proposed Zone Code amendment is consistent with and furthers the policies in the City's General Plan / Coastal Plan, because it will, among other things, foster a competitive and diverse mix of retail establishments, promote a more efficient use of land, and facilitate a safe and comfortable pedestrian scale environment;

WHEREAS, the proposed Zone Code amendment maintains and enhances the overall quality of the environment by avoiding the threats noted herein related to public health, safety and welfare;

WHEREAS, the proposed Zone Code amendment is consistent with the provisions of the Coastal Act and the City's certified Local Coastal Plan since imposing additional discretionary review on certain uses will not enlarge the uses currently authorized thereunder, nor will it alter the utilization or conservation of coastal zone resources, impede public access to and along the coastal zone, or interfere with the priorities established for coastal-dependent or coastal-related development; and

WHEREAS, the City desires to amend Chapters 14.80, 14.22, 14.20 and 14.62 in its Municipal Code in order to impose a process that ensures retail development is consistent with the goals, objectives and policies contained in the General Plan/Coastal Plan.

NOW, THEREFORE, THE CITY COUNCIL HEREBY ORDAINS AS FOLLOWS:

SECTION 1. Recitals Incorporated.

The above recitals are true and correct and are hereby incorporated in this Ordinance. Each of the above recitals is relied upon independently by the City Council for its adoption of this Ordinance.

SECTION 2. Amendment of Carpinteria Municipal Code.

Section 14.80.543 of the Carpinteria Municipal Code shall hereby be created and shall read as follows:

14.80.543 Retail store.

“Retail store” means any place where goods or commodities are sold directly to consumers by retail or wholesale, whether such goods or commodities are taxable or non-taxable. Retail store shall include restaurants, theaters, arcades, service stations and places selling large goods or commodities that are typically displayed outdoors, including but not limited to: nurseries, pottery/sculpture, outdoor furniture and vehicle sales.

Section 14.22.030 of the Carpinteria Municipal Code shall hereby be amended in its entirety to read as follows:

14.22.030. Uses permitted subject to development plan approval and uses permitted by conditional use permit.

Permitted uses subject to development plan approval and uses permitted by Conditional Use Permit in the Central Business district are as provided in the Commercial Planned Development district, Sections 14.20.030, 14.20.040 and 14.20.045.

Section 14.20.045 of the Carpinteria Municipal Code shall hereby be created and shall read as follows:

14.20.045 Regulation of size of retail stores.

1. A single retail store, as defined in CMC 14.80.543, with a total square footage greater than twenty thousand (20,000) square feet may be permitted in the CPD/CB zones if a conditional use permit is obtained in the manner provided in Chapters 14.62 and such use conforms to the conditions of the permit, provided however, that the Planning Commission shall recommend approval, conditional approval or denial to the City

Council, who shall hold final decisionmaking authority.

a. For the purposes of this section, "total square footage" means all interior building space or retail use area whether devoted to the sale of merchandise or not, including restrooms, office space, storage space, automobile service areas or open air garden sales spaces.

b. For the purpose of determining whether the total square footage of a single retail store exceeds twenty thousand (20,000) square feet, the aggregate square footage of all adjacent stores, establishments and shops which share common check stands, management, warehouses or distribution facilities shall be considered a single retail store.

2. The provisions of this section shall be applicable to the construction or use of any building(s) or structure(s) or area that is proposed to include a total square footage greater than twenty thousand (20,000) square feet of total retail floor area and/or additions, expansions, structural alterations of an existing building(s), or expansions of the uses occupying such building(s), that result in a total square footage greater than twenty thousand (20,000) square feet, including but not limited to, internal tenant improvements to such building(s) or structure(s).

3. An applicant seeking approval of a retail use greater than twenty thousand (20,000) square feet shall obtain conceptual review in the following manner.

a. Preliminary plans for a retail use shall be submitted to the Architectural Review Board for conceptual review prior to completing the environmental review process. Said preliminary plans shall be reviewed and advisory recommendations made for the use of the applicant and planning commission. Said advisory recommendations shall constitute a conceptual review only, with final review and recommendation by the board to be taken after the planning commission conceptual review.

b. Concurrent with or following the conceptual review and recommendation by the Architectural Review Board, the Planning Commission and/or City Council shall review the project in concept and make advisory recommendations. Any such review or recommendations shall not be binding upon the City as to any further determinations to be made with respect to the project and the review authorities shall be wholly free to render a different recommendation and/or decision following the formal procedures thereafter followed pursuant to subsection A of this section.

4. Nonconforming retail stores shall comply with the provisions of Chapter 14.82.

Section 14.20.045 of the Carpinteria Municipal Code shall hereby be created and shall read as follows:

14.62.070 Special Findings for Retail Stores over 20,000 Square Feet

1. In addition to the findings required by 14.62.040, the City Council shall

approve, conditionally approve or deny a Conditional Use Permit, as it was applied for or in modified form, to allow a retail use with a total square footage greater than twenty thousand (20,000) square feet if the following criteria have been met:

- a. The use and size of the development at the proposed location, enhances the balance of retail and service needs of residents and visitors, and promotes the concentration of use in the Downtown area or an existing commercial node;
- b. The proposed use will not result in an over-concentration of that type of retail use in a particular area such as a shopping center or commercial district;
- c. The proposed use and development provides amenities, services and/or associated onsite or offsite improvements that enhance the unique small beach town character of the community;
- d. The proposed use minimizes adverse impacts to traffic such that no existing intersection volume to capacity ration will decrease by more than five percent (5%), provided however, that no intersection level of service will degrade below a level of service C as defined in the Circulation Element;
- e. Adequate parking is provided onsite by meeting without exceeding the standards set forth in Section 14.54 of this Chapter and/or other allowed parking programs as provided in the Municipal Code;
- f. The proposed development encourages alternative transportation by providing pedestrian and access amenities such as walkways, bus stops and bicycle racks;
- g. The proposed use will not materially adversely affect the economic welfare of the City, its commercial districts, or existing local retail providers based on evidence provided by the applicant and reviewed and accepted by the City.

SECTION 3. CEQA Exemption.

The City Council hereby finds and determines that this Ordinance merely imposes an additional level of discretionary review on one type of development within the City and is not subject to the California Environmental Quality Act ("CEQA") either because adoption this ordinance is not a project or it is categorically exempt from CEQA pursuant to CEQA Guidelines §15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment); §15060(c)(3) (the activity is not a project), §15168(c) (further environmental review is unnecessary because the ordinance is a subsequent activity covered by the General Plan's program EIR) and §15183 (activity helps implement the General Plan which has undergone environmental review).

SECTION 4. Coastal Act

The amendments to the City's LCP and zoning ordinance created by this Ordinance do not require certification from the California Coastal Commission. The Coastal Act does not deprive local governments from exercising their statutory power to enforce urgency ordinances, nor require prior review and approval of such ordinances by the Coastal Commission, provided that the ordinances are not in conflict with the Coastal

Act. Certification by the Coastal Commission is required only for amendments that authorize a use other than that designated as a permitted use in the LCP. (*Conway v. City of Imperial Beach* (1997) 52 Cal.App.4th 78.)

The Council hereby finds that this Ordinance is consistent with the provisions of the Coastal Act and the City's certified LCP. The City further finds that imposing an additional level of discretionary review on retail stores over 20,000 square feet as provided in the ordinance will not enlarge the uses currently allowed in the CB and CPD zoning districts, nor will it permit uses not otherwise authorized by the City's LCP. The Council further finds and determines that this Ordinance does not alter the utilization or conservation of coastal zone resources, impede public access to and along the coastal zone, or interfere with the priorities established for coastal-dependent or coastal-related development. The Council also finds and determines that imposing the aforementioned discretionary review process maintains, and enhances the overall quality of the environment by avoiding the threats noted herein related to public health, safety and welfare.

SECTION 5. Effective Date and Term.

This Ordinance shall be in full force and effect 30 days following its enactment in accordance with California law, or as otherwise provided by law; and before the expiration of 15 days following passage, this Ordinance shall be published once with the names of the members of the City Council voting for and against the same in *The Coastal View*, a newspaper of general circulation, published in the City of Carpinteria. Upon the effective date of this Ordinance, Ordinance 631 shall become null and void and of no further legal effect.

SECTION 6. Severability.

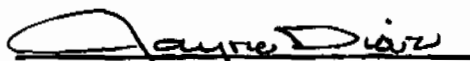
If any section, subsection, sentence, clause, phrase or word of this Ordinance is for any reason held to be invalid by a court of competent jurisdiction, such decisions shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed and adopted this Ordinance, and each and all provisions hereof, irrespective of the fact that one or more provisions may be declared invalid.

PASSED, APPROVED AND ADOPTED this 11th day of August 2008, by the following called vote:

AYES:	COUNCILMEMBERS:	Carty, Armendariz, Clark, Stein
NOES:	COUNCILMEMBER:	None
ABSENT:	COUNCILMEMBER:	Ledbetter


Gregg Carty, Vice Mayor

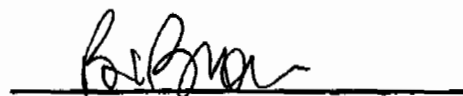
ATTEST:


Jayne Diaz, City Clerk

I hereby certify that the foregoing Ordinance was duly and regularly introduced and adopted at a regular meeting of the City Council of the City of Carpinteria held the 11th day of August 2008.


Jayne Diaz, City Clerk

APPROVED AS TO FORM:


Peter N. Brown, City Attorney

NOTICE OF EXEMPTION

August 11, 2008

TO: Office of Planning and Research
1400 Tenth Street
Sacramento, CA 95814
 X Clerk of the Board
County of Santa Barbara
105 E Anapamu Street, Rm. 407
Santa Barbara, CA 93101

FROM: City of Carpinteria
5775 Carpinteria Avenue
Carpinteria, CA 93013

Project Title: Ordinance No. 632 regulating retail stores greater than 20,000 square feet in gross floor area

Project Location: City of Carpinteria

Description of Nature, Purpose and Beneficiaries of Project: This project will benefit the City of Carpinteria by providing clear regulations for processing permits for retail uses greater than 20,000 square feet in gross floor area to avoid potentially significant adverse environmental impacts and potential harm to public health, safety and welfare. Such impacts could result unless said retail uses: a) are reviewed for compatibility with adjacent uses; b) are economically beneficial; c) provide adequate pedestrian access and, d) are consistent with the community character.

Name of Agency Approving Project: City of Carpinteria

Name of Person or Agency Carrying Out Project: City of Carpinteria

Exemption Status:

- Statutory [Article 18]
 Declared Emergency §15269(a)]
 Emergency Project [§15269 (b) and (c)]
 X Categorical [§15060(c)(3), 15060(c)(2), 15168 and 15183]

Reasons why project is exempt: The City finds the proposed ordinance to be exempt from CEQA pursuant to State CEQA Guidelines §15060(c)(3) (the activity is not a project as defined in §15378), §15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment), §15168 (the activity is within the scope of the Program EIR prepared for the City's General Plan) and §15183 (the Ordinance implements the City's General Plan for which there is an adopted EIR).

Jackie Campbell, Community Development Director
(805) 684-5405 ext. 451

Date

EXHIBIT 4
CPN-MIN-2-08
CEQA Categorical Exemption