

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA
89 SOUTH CALIFORNIA ST., SUITE 200
VENTURA, CA 93001
(805) 585 - 1800

Th 30a



DATE: September 25, 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 for Reasonable Accommodation Procedures (CPN-MIN-1-08) to the Implementation Plan** for Public Hearing and Commission Action at the California Coastal Commission hearing of October 16, 2008 in Ventura.

I. AMENDMENT DESCRIPTION

On August 14, 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 allowing a disabled person, or his or her representative, to apply for “reasonable accommodations” to zoning and building laws, rules, policies, practices, and/or procedures of the City in order to allow for physical building changes necessary to provide the disabled person equal access to publicly funded buildings, facilities or programs, or privately funded housing, including single and multiple-family dwelling units. A new chapter will be added to the existing Zoning Code, Chapter 14.61, “Reasonable Accommodation Procedures.” This new chapter defines new terms, states the City’s policy, and establishes an application and review process for consideration of requests. As explained in Chapter 14.61, reasonable accommodations may be granted when certain criteria are met and any conditions required to protect the public health, safety, and welfare will be included with an approval. Chapter 14.61 also specifies that a grant of reasonable accommodation may be issued to an individual, and does not necessarily run with the land. Finally, Chapter 14.61 includes procedures for public noticing and appeal of decisions made by the City of Carpinteria Community Development Director to the City of Carpinteria Planning Commission.

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 amendment is consistent with the policies certified as part of the City of Carpinteria's recent Land Use Plan (LUP) update in 2003. Land Use Objective One, LU-1, seeks to "[e]stablish the basis for orderly, well planned urban development while protecting coastal resources and providing greater access and recreational opportunities for the public." Policy LU-1a. incorporates the policies of the Coastal Act (Public Resources Code 30210 through 30263) by reference as the guiding policies of the land use plan, which includes Article 2, Public Access.

Section 30210 of the Coastal Act states that "...maximum access...and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse." The proposed amendment will carry out the public access goals of the LUP and the Coastal Act. The changes to the Zoning Code will facilitate maximum public access by providing procedures to allow a disabled person, or his or her representative, to request an accommodation from any of the city's land use, zoning, or building laws, rules, policies, practices, and/or procedures when accommodation is reasonable and necessary to afford such persons equal access to publicly funded buildings, facilities, and programs. The amendment also applies to privately funded housing, including single and multiple-family dwelling units.

These procedures outlined in this Ordinance 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, page 3 of **Exhibit 2**. Further, the requested accommodation must be found consistent with all other policies and provisions of the City's LCP, as outlined in Chapter 14.61.080, page 4 of **Exhibit 2**. Additionally, specific criteria must be met for granting reasonable accommodations, including, among other factors, a requirement to evaluate feasible alternatives, a requirement that the requested accommodation will not require a fundamental alteration of the city's land use, zoning, or building laws, rules, policies, and/or procedures, and a requirement to evaluate the potential impact on surrounding uses, as outlined in Chapter 14.61.080, page 4 of **Exhibit 2**.

As proposed, the addition of the reasonable accommodation 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.

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 was mailed September 26, 2008. The ten-day objection period will therefore terminate on October 10, 2008. The Commission will be notified at the October 16, 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 April 2, 2007, April 23, 2007, and May 14, 2007. 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.

RESOLUTION NO. 5060

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARPINTERIA, CALIFORNIA, APPROVING, FOR THE PURPOSES OF SUBMITTAL TO THE CALIFORNIA COASTAL COMMISSION, ORDINANCE NO. 624, A LOCAL COASTAL PROGRAM AMENDMENT TO PROVIDE REASONABLE ACCOMMODATION PROCEDURES 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 adding Chapter 14.61 to establish procedures for the consideration of reasonable accommodation requests ("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 project is categorically exempt from CEQA pursuant to §15061 of the CEQA Guidelines.

c. At a duly noticed public hearing on April 2, 2007, the Planning Commission considered Ordinance No. 624 and forwarded its recommendation to support the Local Coastal Program Amendment to the City Council.

d. On April 23, 2007 and May 14, 2007, after considering the Planning Commission's recommendation, receiving public comment, due consideration, and discussion among the Council and staff, a majority of the City Council approved the Amendment for submittal to the California Coastal Commission pursuant to Public Resources Code §30510 and the California Code of Regulations §13551(b)(1).

e. The Amendment approved for submittal to the California Coastal Commission by the City Council as set forth below 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 April 23, 2007 and May 14, 2007, 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 1

CPN-MIN-1-08

**City Resolution for Reasonable
Accommodation Procedures**

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 14th day of May 2007, by the following vote:


AYES: Councilmembers: Carty, Clark, Armendariz

NOES: Councilmember: None


ABSENT: Councilmember: Stein, Ledbetter


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 14th day of May 2007.


City Clerk, City of Carpinteria

APPROVED AS TO FORM:


Peter N. Brown, City Attorney

ORDINANCE NO. 624

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CARPINTERIA,
CALIFORNIA, CREATING CHAPTER 14.61 OF THE CARPINTERIA MUNICIPAL
CODE, AS AMENDED**

WHEREAS, the City of Carpinteria ("City") pursuant to its police powers has the authority to enact laws which promote the public health, safety and general welfare of its residents;

WHEREAS, housing that is accessible to people with disabilities has been identified as a special housing need in the Housing Element of the City's current General Plan;

WHEREAS, California and federal laws guarantee individuals with disabilities the civil right to access publicly funded buildings, facilities and programs, or privately funded housing, including single and multiple-family dwelling units, and public accommodations on an equal basis with their fellow citizens who are not disabled;

WHEREAS, both the Federal Fair Housing Act (42 U.S.C. §§ 3601 *et seq.*) and the California Fair Employment and Housing Act (California Government Code §12955 *et seq.*) impose an affirmative duty on local governments to make reasonable accommodation, such as modifications or exceptions, in their land use regulations and practices when such accommodation may be necessary to afford disabled persons an equal opportunity to housing;

WHEREAS, the City has historically had an internal policy to allow such accommodations, if reasonable and necessary, when persons with special needs required exceptions from stated requirements of local regulations and practices; and

WHEREAS, codification of a formal procedure for persons with disabilities to request reasonable accommodation in the application of the City's land use, zoning and building regulations will facilitate compliance with fair housing laws and promote prompt, fair and efficient handling of such requests for residents of Carpinteria.

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

SECTION 1. INCORPORATION OF RECITALS

The City Council finds and determines that the above recitals are incorporated herein and are each relied upon independently by the City Council for its adoption of this Ordinance.

SECTION 2. AMENDMENT OF CHAPTER 14.08

Chapter 14.08 of the Carpinteria Municipal Code shall hereby be amended and shall read as follows:

EXHIBIT 2
CPN-MIN-1-08
City Ordinance for Reasonable Accommodation Procedures

14.08.017 Accommodation. "Accommodation" means any reasonable, necessary and/or feasible modification from the city's land use, zoning and building laws, rules, policies, practices and/or procedures to provide a disabled person an equal opportunity to access publicly funded buildings, facilities and programs, or privately funded housing, including single and multiple-family dwelling units, and public accommodations as those citizens who are not disabled.

14.08.173 Disabled Person. "Disabled person" means any person who has a medical, physical, or mental condition, disorder or disability as defined in California Government Code §12926, that substantially limits one or more major life activities.

SECTION 3. CREATION OF CHAPTER 14.61

Chapter 14.61 of the Carpinteria Municipal Code shall hereby be created and shall read as follows:

14.61.010 Title.

The title of this chapter shall be "Reasonable Accommodation Procedures."

14.61.020 Purpose and intent.

California and federal laws, including the Federal Fair Housing Act of 1988, the Americans with Disabilities Act of 1990, and the California Fair Employment and Housing Act, guarantee individuals with disabilities the civil right to access publicly funded buildings, facilities and programs, or privately funded housing, including single and multiple-family dwelling units, and public accommodations on an equal basis with their fellow citizens who are not disabled. The City has historically had an internal policy to allow such accommodations, if reasonable and necessary, when persons with special needs required exceptions from stated requirements of local regulations and practices. The purpose of this chapter is to codify this practice and provide a clear and defined process for individuals with disabilities to make requests for reasonable accommodation in regard to the various land use, zoning, or building laws, rules, policies, practices and/or procedures of the city.

14.61.030 Definitions.

As used in this chapter, the following words shall have the meanings set forth in this section:

1. "Applicant" means an individual making a request for a reasonable accommodation pursuant to this chapter.
2. "Department(s)" means the Community Development Department which is responsible for administering requests for reasonable accommodation pursuant to this chapter.

14.61.040 Reasonable accommodation policy.

Any disabled person, or his or her representative, may request an accommodation from any of the city's land use, zoning or building laws, rules, policies, practices and/or procedures when accommodation is reasonable and necessary to afford such persons equal opportunity to

access publicly funded buildings, facilities or programs, or privately funded housing, including single and multiple-family dwelling units, and public accommodations on an equal opportunity basis with citizens who are not disabled.

14.61.50 Public notice of policy.

The City shall take the following actions:

1. At all public counters in the Department where decisions are made regulating the siting, funding, development and use of housing, a notice shall be prominently displayed advising potential applicants that they may request an accommodation regarding any existing land use, zoning or building law, rule, policy, practice and/or procedure.
2. Forms for requesting an accommodation pursuant to this chapter shall be readily available in all such departments.

14.61.060 Application for accommodation.

1. A disabled person, or his or her representative, who desires to request an accommodation may do so by filing an application with the proper department having subject-matter jurisdiction over the decision. The application shall be accompanied by any applicable fees.
2. If an individual needs assistance in making the request for accommodation, each department will endeavor to provide the assistance necessary to ensure that the process is accessible to the applicant or representative.
3. A request for reasonable accommodation may be filed at any time that the accommodation may be necessary to ensure equal access to publicly funded buildings, facilities or programs, or privately funded housing, including single and multiple-family dwelling units, and public accommodations.

14.61.070 Review of requests for reasonable accommodation.

1. The Department Director, or his or her designee, shall investigate the facts bearing on the application, and compile the information necessary for a decision on the application. If the project for which the application is being made also requires some other approval, such as a Coastal Development Permit, Conditional Use Permit, or a Development Plan, then the application shall be considered by the applicable review authority concurrently with review of the companion application.
2. The applicable review authority shall issue a written notice of decision within thirty (30) days of the date of the submittal of a complete application and may grant the accommodation request, deny the request, offer approval of an alternate accommodation, or approve the request with conditions. The written decision is to be based on the contents of the application and a consideration of the factors set forth in this chapter. The notice of decision shall:
 - a. Contain the factual findings, conclusions and reasons for the decision;
 - b. Give notice of the right to appeal pursuant to this chapter;
 - c. Be sent to the applicant by certified mail.

14.61.080 Criteria for granting accommodations.

1. Among other considerations, the following findings shall be analyzed, made, and adopted before any action is taken to approve or approve with conditions a request for accommodation, and shall be incorporated into the record of the proceeding relating to such decision:
 - a. The request for accommodation is reasonable and necessary to afford the applicant with an equal opportunity to access publicly funded buildings, facilities and programs, or privately funded housing, including single and multiple-family dwelling units, and public accommodations on an equal basis with others who are not disabled;
 - b. There are no preferable and/or feasible alternatives to the requested accommodation that may provide an equivalent level of benefit;
 - c. The physical attributes of, and any proposed changes to, property and structures are compatible with surrounding development;
 - d. The requested accommodation will not impose an undue financial or administrative burden on the city;
 - e. The requested accommodation will not require a fundamental alteration of the city's land use, zoning or building laws, rules, policies, practices and/or procedures, and is consistent with the City's Local Coastal Program;
 - f. The potential impact on surrounding uses has been considered; and
 - g. Any other factor(s) that may have a bearing on the request have also been considered.

14.61.090 Conditions of Approval.

1. The conditions of approval may, where deemed appropriate, provide for any or all of the following:
 - a. Inspection of the affected premises periodically, as specified in the conditions, to verify compliance with this section and with any applicable conditions of approval;
 - b. Prior to any transfer of interest in the premises, notice to the transferee of the existence of the modification, that the modification is granted to an individual and does not run with the land, and the requirement that the transferee apply for a new modification if necessary. Once such transfer takes effect, the modification shall have no further validity;
 - c. Removal of the improvements, where removal would not constitute an unreasonable and unfair financial burden, if the need for which the accommodation was granted no longer exists;
 - d. Time limits and/or expiration of the approval if the need for which the accommodation was granted no longer exists;
 - e. Other conditions deemed necessary to protect the public health, safety and welfare.
2. Any grant of accommodation for an individual with a disability may, at the discretion of the decision maker, be considered as a personal accommodation for the individual applicant and may, at the determination of the decision maker, not run with the land. Accordingly, any approval may be conditioned to provide for its rescission or automatic expiration under appropriate circumstances.
3. The violation of a required condition shall constitute a violation of this Chapter and may constitute grounds for revocation of the grant of accommodation.

14.61.100 Appeal.

1. Any aggrieved person may appeal the decision provided under this chapter pursuant to the procedures set forth in Chapter 14.78.
2. Nothing in this Chapter shall preclude an aggrieved individual from seeking any other state or federal remedy.

SECTION 4: EFFECTIVE DATE.

This Ordinance shall be in full force and effect thirty (30) days following certification as an amendment to the City's Local Coastal Program by the California Coastal Commission; and before the expiration of fifteen (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.

SECTION 5: 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.

SECTION 6: CEQA EXEMPTION.

The City Council finds that this Ordinance is exempt from the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines §15061 (Title 14, of the California Code of Regulations) because there is no potential for causing a significant effect on the environment.

PASSED, APPROVED, AND ADOPTED this 14th day of May 2007, by the following called vote:

AYES: COUNCILMEMBERS: Carty, Clark, Armendariz

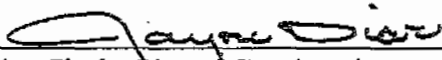
NOES: COUNCILMEMBER: None

ABSENT: COUNCILMEMBER: Stein, Ledbetter



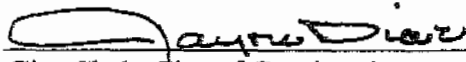
Mayor of the City of Carpinteria

ATTEST:



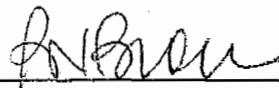
City Clerk, City of Carpinteria

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 14th day of May 2007.



City Clerk, City of Carpinteria

APPROVED AS TO FORM:



Peter N. Brown, City Attorney
City of Carpinteria