

ITEM TU 22j

STATE OF CALIFORNIA -- THE RESOURCES AGENCY

GRAY DAVIS, Governor

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA
89 SOUTH CALIFORNIA ST., SUITE 200
VENTURA, CA 93001
(805) 641 - 0142

Filed: 8/1/00
49th Day: 9/19/00
Staff: CAREY *BC*
Staff Report: 2/1/01
Hearing Date: 2/13/01



RECORD PACKET COPY

STAFF REPORT: APPEAL DE NOVO REVIEW

LOCAL GOVERNMENT: City of Oxnard
DECISION: Approval with Conditions
APPEAL NO.: A-4-OXN-00-172
APPLICANT: Suncal Companies
PROJECT LOCATION: South of Wooley Road and east of Reliant Energy Canal,
Oxnard, Ventura County

PROJECT DESCRIPTION: Development of the "Westport at Mandalay Bay" project on a 58.3-acre site, including: removal of prime agricultural soil, creation of channels and waterways; subdivision of three existing parcels (45.28-acres, 8.2-acres, and 5.02-acres) into 116 lots (95 single family lots, 17 duplex lots, 2 townhouse lots, and 2 "mixed use" lots); the construction of 95 single family residences (83 with private boat docks); 35 residential duplex units; 88 townhouse condominiums; mixed-use development with 140 multi-family residential units and 14,000 sq. ft. of visitor-serving commercial uses; and 7-acres of public park area with trail system.

SUBSTANTIVE FILE DOCUMENTS: Listed on Page 41

SUMMARY OF STAFF RECOMMENDATION:

The Commission has previously found that that this appeal raised substantial issue at its November 2000 hearing.

Staff recommends that the Commission **deny** the proposed project. The project is not consistent with policies and provisions of the three planning documents that comprise the certified Local Coastal Program for the project site: the Mandalay Bay Specific Plan; the Coastal Zoning Ordinances; and the Coastal Land Use Plan. The project is not consistent with the policies and provisions of the LCP with respect to the following: required lateral public access, linear park and pedestrian/bicycle path; public boat slips; public access dedications; single family residential use; mixed-use development; and mitigation of impacts to agricultural resources through a soil transfer program. Further, the proposed project is not consistent with the §30212 of the Coastal Act with regard to lateral public access. Conditions of approval could be required to achieve consistency with the policies regarding public boat slips, public access dedications, and the soil transfer program. However, the project cannot be redesigned through conditions of approval to meet the requirements regarding lateral access, linear park, single family use, or mixed use development.

I. STAFF RECOMMENDATION.

MOTION: *I move that the Commission approve Coastal Development Permit No.A-4-OXN-00-172 for the development proposed by the applicant.*

STAFF RECOMMENDATION OF DENIAL:

Staff recommends a **NO** vote. Failure of this motion will result in denial of the permit and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

RESOLUTION TO DENY THE PERMIT:

The Commission hereby denies a coastal development permit for the proposed development on the ground that the development is located between the sea and the first public road nearest the shoreline and will not conform with the policies of the certified Local Coastal Program for the City of Oxnard or the public access and public recreation policies of Chapter 3 of the Coastal Act. Approval of the permit would not comply with the California Environmental Quality Act because there are feasible mitigation measures or alternatives that would substantially lessen the significant adverse impacts of the development on the environment.

II. FINDINGS AND DECLARATIONS.

The Commission hereby finds and declares:

A. Project Description.

The applicant proposes the construction of the "Westport at Mandalay Bay" project, which consists of the development of a 58.3-acre site (the site plan is shown as Exhibit 2). This project includes:

- Removal of 132,390 cu. yds. of prime agricultural soil from the project site; transfer of this soil to an approved recipient site, and implementation of an Agricultural Monitoring Program for a period of ten years to monitor success of prime soil transfer;
- Creation of channels and waterways and construction of pads and roads , including the following quantities of grading:

Channel Excavation cut: wet 257,000 cu. yds., and dry 225,000 cu. yds.
Site fill (to replace agricultural soil transfer): 142,000 cu. yds

- Land division of three existing parcels (45.28-acres, 8.2-acres, and 5.02-acres) into 116 lots (95 single family lots, 17 duplex lots, 2 townhouse lots, and 2 "mixed use" lots);
- Construction of 95 single family residences (83 with private boat dock easements), 35 residential duplex units, 88 townhouses;
- Construction of a mixed-use development with 140 multi-family residential units and 14,000 sq. ft. of visitor-serving commercial uses; and
- Development of 7-acres of public park area with trail system.

The project site is located adjacent to and south of Wooley Road, inland of the Reliant Energy Canal (Exhibit 1 shows the vicinity). This canal extends from Channel Islands Harbor north to the Reliant Energy Mandalay power plant. The canal is used to provide water for cooling at the plant. The canal itself is subject to the original permit jurisdiction of the Commission. The applicant has submitted Permit Application No. 4-00-241 for canal improvements necessary to implement the subject development. To date, this application has not been deemed complete. This application will be scheduled for consideration by the Commission at a subsequent hearing. The applicant has applied for an U.S. Army Corps of Engineers permit for the proposed project. The Regional Water Quality Control Board and the California Department of Fish and Game are also considering the project.

In response to the issues raised by the appeal of the project as well as staff's concerns with regard to access, recreation, and the proposed mixed-use component of the project, the applicant has modified the proposed project. With regard to lateral access, the applicant has proposed to add a 952 ft. long stretch of lateral access between single family residences on the waterway in the vicinity of the public boat slip area (Exhibit 3). The portion of lateral access would connect a small park area adjacent to the apartment/commercial project and a small park adjacent to the boulevard traversing the center of the project. The addition of this lateral access path would allow for pedestrians to make a loop around a portion of the project.

Additionally, the applicant has proposed to add four commercial tenant spaces beneath residential units in the townhouse area of the project (Exhibit 3). The four spaces together would then total approximately 8,000 sq. ft. As part of the proposal, there would be a covered walkway in front of each space. Further, a new public plaza would be added inland from the public boating area (within the townhouse project area).

Finally, the applicant has amended the project description to propose that public boat docks be developed in two phases (Exhibit 4). The first phase would consist of a linear configuration with 40 side tie/end tie slips and 15 small craft side tie slips. The second phase would be the ultimate configuration incorporating up to 83 docks. The applicant now proposes to construct the first phase of 55 slips as part of the proposed project.

B. Background.

1. Local Government Action and Appeal.

The project site is located adjacent to the Reliant Energy Canal (formally the Edison Canal), a waterway that extends from Channel Islands Harbor northward to the Reliant Energy Plant at Mandalay Beach (Exhibit 1). The Post LCP Certification Permit and Appeal Jurisdiction map certified for the City of Oxnard (Adopted April 10, 1996) indicates that the appeal jurisdiction for this area is the first row of parcels or 300 feet from the mean high tide line, whichever is the greater distance. Additionally, the project site falls within the area between the sea (Reliant Energy Canal) and the first public road (Victoria Avenue). As such, any coastal development permit approved by the City for the subject project site is appealable to the Commission.

On July 18, 2000, the Oxnard City Council approved a coastal development permit (PZ 99-5-61) and an associated tentative subdivision map (PZ 99-5-62) for development of the Westport at Mandalay Bay project. Commission staff received the Notice of Final Action for the coastal development permit on July 19, 2000. A ten working day appeal period was set and notice provided beginning July 20, 2000 and extending to August 2, 2000.

Commissioners Wan and Estolano filed an appeal of the City's action, during the appeal period, on August 1, 2000. The appeal is attached as Exhibit 5. Commission staff notified the City and the applicant of the appeal and requested that the City provide its administrative record for the permit. The administrative record was received on August 8, 2000.

The appeal was scheduled for a substantial issue determination at the Commission's September 2000 hearing. This hearing was postponed at the request of the project applicant and rescheduled for the Commission's November 2000 hearing. On November 16, 2000, the Commission found that Appeal No. A-4-OXN-00-172 presents a substantial issue with respect to the grounds on which the appeal has been filed under §30603 of the Coastal Act regarding consistency with the Certified Local Coastal Plan and/or the public access and recreation policies of the Coastal Act

2. Past Commission Appeal on the Project Site.

The Commission has previously considered an appeal of a City of Oxnard coastal development permit for a project on the same 58-acre project site considered herein. In July 1992, the City approved a coastal development permit (City File No. 91-2) and tentative subdivision map (City File No. 4799) for the development of 156 single-family residential parcels with boat docks fronting five channels and a parcel for future commercial and recreation development, including a park site. The applicant of this project was Voss Construction.

In its 1992 actions, the City acknowledged that a project with single family residences, and private boat docks without continuous lateral public access was not consistent with

the provisions of the Mandalay Bay Specific Plan (MBSP). In order to accommodate the Voss Construction project, the City approved an amendment to the MBSP at the same time as the coastal development and subdivision permits were approved.

This amendment modified the Illustrative Plan, Land Use Plan, Park Plan, Height Zone Map, Circulation Plan, and Phasing Plan. The amendment modified these plans in order to reconfigure the waterways, increase the open water area, reduce the lateral public access required along the waterways, reconfigure the required park area, and modify the maximum building heights.

In approving the amendment, the City acknowledged that the existing specific plan required lateral access along all the waterways and that the specific plan did not provide for single family residences in the area of the approved project. The staff report to the City Council for the amendment and permits (6/16/92) states that:

Under the previous land use concept, which included attached dwellings with common open areas, public access to the water was to be principally provided by "lateral" access along the waterways on the edge of the peninsula, similar to the existing Harbour Island Plan. This concept has not worked as well as originally anticipated. With the proposed amendment public access will be aggregated to the public access areas including the park, which has been moved to a more prominent location, and by lateral access in the mixed-use commercial area.

While the City provided notice of its final approval of Coastal Development Permit No. 91-2, the amendment to the MBSP was never submitted to the Commission for certification as a modification to the City's certified LCP.

An appeal [A-4-OXN-92-11 (Voss Construction)] of this project was filed with the Commission. Staff recommended to the Commission that substantial issue existed with regard to the public access/recreation, recreational boating, and agricultural policies of the LCP. In particular, the staff report discusses the issue of lateral access and its link to the development of 156 single family residences where the specific plan only provided for a very limited number of single family homes. The report states that:

The Specific Plan allows exceptions to the requirements of continuous lateral access throughout the development for limited single family waterfront home development, where adequate access exists nearby. Since the exception to the access requirements applies only to single family development, it is obvious that an increase would likely reduce public access overall. The project more than doubles in a single phase the number of single-family units contemplated by the certified LCP/Specific Plan for the entire 220-acre project.

The staff report noted that while the City had approved an amendment to the Mandalay Bay Specific Plan that accommodated the Voss project, the City did not submit this amendment to the Commission for certification. The staff report states that the City had

a mistaken understanding that the specific plan was not part of the certified LCP and did not require certification by the Commission.

The appeal was scheduled for a substantial issue determination in August 1992. The Commission found that there was substantial issue raised by the appeal with regard to the Voss project's conformity with the City's certified Local Coastal Program (LCP). The project applicant requested that the Commission's de novo consideration of the project be continued until such time as the LCP amendment had been submitted and considered by the Commission. The City never submitted the LCP amendment to the Commission for certification. The Commission never considered the Voss project de novo. In October 1993, the project applicant requested that the permit be withdrawn.

3. Staff Comments.

Staff has met with the project applicant to discuss the project as it was being developed and considered by the City. Staff expressed concern with regard to the provision of public access as well as visitor-serving commercial recreation uses. Staff related to the applicant the 1992 Voss permit and appeal history on the site (as discussed above).

In November 1999, Commission staff reviewed the Draft Supplemental Environmental Impact Report for the subject project and provided comments to the City (11/30/99 letter attached as Exhibit 6). Comments provided include discussion of the permit and appeal history on the site. Additionally, staff noted that the project considered in the DEIR was not consistent with various provisions of the LCP/Specific Plan. The inconsistencies relate to land use, public access and single family residential uses. Staff noted that the townhouse/duplex uses proposed were located within the area designated by the specific plan for mixed-use development, that the single family project with private boat docks occupied much of the area designated for linear park, and that the provided park areas appeared smaller than those on the land use map. Additionally, staff stated that the public access required in the LCP/Specific Plan was not provided in the project. Finally, staff commented that single family residences were not permitted in this portion of the specific plan area.

The City's EIR consultant did respond to the staff's concerns (Exhibit 7). The response states that the City determined that the project is consistent with the MBSP as well as the LCP because the MBSP is "illustrative" in nature and intended to provide flexibility for creative and marketable solutions to individual projects.

C. City of Oxnard Local Coastal Program Structure.

The coastal development policies and standards that apply to the subject project site are found in the three documents that make up the City's LCP, namely the Land Use Plan, Coastal Zoning Ordinance, and the Mandalay Bay Specific Plan.

1. Land Use Plan.

The Commission certified with suggested modifications the City of Oxnard's Land Use Plan (LUP) in July 1981. The City accepted modifications and the Land Use Plan was effectively certified in May 1982.

There are several policies and discussions in the LUP that specifically address development on the 220-acre Mandalay Bay site. These policies generally relate to agriculture, development, public access, and visitor serving commercial recreation.

One of the key issues considered by the Commission in certifying the City's LUP was the protection of prime agriculture on the Oxnard Plain. The Mandalay Bay site was recognized as containing prime agricultural soils and as being continuously in agricultural production. The City made the case that there were urban conflicts (trespass, vandalism, theft, and neighbor's objections to pesticide spraying) that adversely affected the continuation of agricultural production on the site. The City also maintained that development of the Mandalay Bay site would complete a logical, viable neighborhood and serve to stabilize the urban/rural limit line (which is located along Wooley Road just to the north of the project site). Finally, the City proposed, through the LUP, to implement a program to transfer the prime soils from the Mandalay Bay site to agricultural sites with non-prime soils in order mitigate the loss of prime agricultural land by preserving its soils.

In approving urban use for the Mandalay Bay site, the Commission found that the Coastal Act: "strongly disfavors urbanization of agricultural land and that the arguments for allowing it in the instant case are far from compelling". However, the Commission found that the experimental technique of soil transfer, if proven, could potentially be utilized in other areas as mitigation for the loss of prime agricultural soils, and as such, its implementation could be considered to serve broader interests.

Further, the Commission agreed with the City's contention that the visitor serving and public recreational facilities to be included in the project area would help to offset the losses incurred through conversion of agricultural land. The Commission's findings for LUP certification (July 9, 1981) state that:

If the issue were merely whether the agricultural land could be converted for such recreational uses, the answer would be clear. PRC Section 30222 clearly assigns priority for use of private lands to agriculture over public opportunities or coastal resources (this includes agricultural lands). In finding that the 220-acre parcel may be converted and developed as proposed, the Commission does not find that the recreational benefits of the project have priority over agricultural uses. It does, however, count these benefits in its decision and accord them some weight commensurate with their value under the Coastal Act.

Thus, although the substantial public access and recreational opportunities provided by the LUP designations and other policies of the LUP did not have priority over

agricultural use of the Mandalay Bay site, the Commission did give great weight to the public benefit of such uses in certifying the LUP.

With regard to the subject Westport site, which is part of the overall Mandalay Bay site, the land use map shows three land use designations for the subject project site: "Planned Unit Development Residential"; "Mixed Use (Commercial/Residential)"; and "Recreation Area". The map is shown on Exhibit 8. As shown on this map, the LUP designates the area along all of the waterways for recreation. A large area adjacent to Wooley Road is designated for "mixed use" (commercial/residential), and the remainder of the site is designated for residential use.

In addition to the land use designations, there are several policies that specifically address the development of the Mandalay Bay site (Text of policies is attached as Exhibit 9).

Policy No. 4 addresses methods to provide a buffer between development south of the urban-rural boundary (Wooley Road) and agricultural uses north of the boundary. Policy No. 5 requires that, as a condition of approval for any development within the Mandalay Bay site, a "prime agricultural land maintenance program" (prime soils transfer) must be developed and implemented. Policy No. 45 requires the development of a specific plan for the Mandalay Bay site and details the provisions it must contain. The provisions include the public access and recreation requirements that must be included in the specific plan. Policy No. 72 of the LUP requires public access to and along the shoreline and the Inland Waterway for all new development, with limited exceptions. Finally, Policy No. 73 requires that adequate public parking be provided in new development with public access. A more detailed description of these policies is provided in Section D below.

2. Coastal Zoning Ordinances.

The City's implementation program (Coastal Zoning Ordinance) was approved with Suggested Modifications in January 1985. The City accepted modifications and the Coastal Zoning Ordinance was effectively certified in March 1985.

The coastal zoning map (Exhibit 10) shows one zone designation for the entire 220-acre Mandalay Bay site, which includes the subject project site. The designation is "Coastal Planned Community" Zone (CPC). The CPC zone applies only to the Mandalay Bay site. This zoning would allow only for agriculture/aquaculture uses or passive recreation uses on the property, unless a specific plan was developed and adopted prior to the approval of any coastal development permit for any other uses.

The CPC zone (The text of this zone is attached, beginning with Page 10 of Exhibit 11) details the components required to be included in the specific plan. Eight components are called out that must be included in the specific plan:

1. Access and recreation component which identifies the locations, standards, and quantification of the amount of land provided for lateral and vertical access, public recreation, and open space facilities;
2. Soil transfer program for relocation of the prime agricultural soils on the site;
3. Project and use map that shows the specific uses and densities for the land and water areas of the site;
4. Circulation plan which identifies streets, bike paths, and public parking areas;
5. Buffering and setback component that establishes building setbacks and agricultural buffers;
6. Urban design and landscape component to identify relationships between major design elements which establish the character of the development;
7. Utility and drainage facility component that shows sewer and storm water drainage facilities and street improvements;
8. Phasing component that indicates the phasing sequence for development and public access dedication and improvements.

In addition to the CPC zone, the Coastal Zoning Ordinances contain the development standards for the zones that may be permitted in the appropriately designated areas of the MBSP, which are as follows: R-W-1 [Single-Family Water Oriented (Sec. 37-2.2.0)]; R-W-2 [Townhouse, Water Oriented (Sec. 37-2.3.0)]; R-2-C [Coastal Low Density Multiple-Family (Sec. 37-2.4.0)]; R-3-C [Coastal Medium Density Multiple-Family (Sec. 37-2.5.0)]; CNC [Coastal Neighborhood Commercial (Sec. 37-2.8.0)]; CVC [Coastal Visitor-Serving Commercial (Sec. 37-2.9.0)]; and RC [Coastal Recreation (Sec. 37-2.13.0)].

Further, Sec. 37-3.9.0 of the Zoning Ordinance contains the Specific Coastal Development and Resource Standards for Coastal Access and Recreation (Text attached, beginning on Page 18 of Exhibit 18). These standards require the provision of public access opportunities consistent with the policies of the LUP. Finally, the Zoning Ordinance contains general provisions that apply to the Mandalay Bay site including coastal development permit requirements, and recordation of easements and dedications.

3. Mandalay Bay Specific Plan.

Both the LUP and the Coastal Zoning Ordinance call for a specific plan to be approved for the Mandalay Bay site prior to any approval for individual development or subdivision. As required by the policies of the LCP, the owners of the Mandalay Bay property developed a specific plan for the whole site. In 1984, the City considered and approved the Mandalay Bay Specific Plan for development of this property, finding it consistent with the provisions of the LCP. The staff report for the City's action approving the MBSP states that:

The Specific Plan document contains text and graphics that portray the result of the guidelines as established in the Specific Plan and Coastal Land Use Plan. Although the building site configurations shown are illustrative only, the waterway, park, open space,

accessway, and street patterns will be implemented very closely to what is described in the plan document. The final configuration and amount of these factors would be established through the approval of tract maps and development permits (Coastal Development and Development Review Permits).

The staff report further states that the City's intention was for the MBSP to be consistent with the provisions of the Coastal Zoning Ordinance and that new development would be regulated by the development standards of the ordinance. The City submitted the MBSP for consideration by the Commission concurrently with the Coastal Zoning Ordinance. The Commission considered the MBSP and approved it with suggested modifications as part of the implementation program along with the zoning ordinances in January 1985. Effective certification of the specific plan took place in March 1985.

As required by the LCP, the Mandalay Bay Specific Plan contains a land use map (Exhibit 12), park plan (Exhibit 13), circulation plan (Exhibit 14), urban/rural buffer provisions, phasing plan, utilities and drainage component, and soil transfer program. The MBSP designates the land within the 220-acre site for four different land uses: "Residential", "Visitor Serving Commercial", "Mixed Use (Commercial/Residential)", and "Park". The Park Plan shows a linear park along the waterways, and pocket parks of varying size throughout the area. The Circulation Plan shows public and private drives of varying width and a pedestrian/bicycle path throughout the linear park areas.

The land use map certified in the MBSP designates the Westport site for three uses: "Residential", "Mixed-Use", and "Park". As shown on this map, the MBSP designates the area along all of the waterways for "park". A large area adjacent to Wooley Road is designated for "mixed use" (commercial/residential), and the remainder of the site is designated for "residential" use. The park areas include a linear park along all the waterways that provides public access via a pedestrian/bike pathway within the park. This park area is also shown on the park plan certified in the MBSP, and the pedestrian/bicycle path is called out on the circulation plan.

4. Applicant's Interpretation.

The project applicant has provided staff with a paper detailing their interpretation of the provisions of the LCP with regard to three issues: 1) the hierarchy and chronology of the documents comprising the City of Oxnard Local Coastal Program; 2) whether single family residential use is a permitted use on the project site; and 3) whether the LCP contemplated less lateral public access than that shown in the MBSP. The five-page letter (without attachments) is appended as Exhibit 16. Following is a discussion of the hierarchy and chronology of the LCP. The issue regarding single family residential use is addressed in Section D2 below. The issue regarding lateral access is addressed in Section D1 below.

a. Applicant's Contention Regarding LCP Hierarchy and Chronology.

The applicant's letter states that:

The Coastal Commission staff contends that the Specific Plan implements the Mandalay Bay project in a regulatory sense. Staff resolves conflicts and ambiguities between the Specific Plan and the Zoning Ordinance by treating the Specific Plan as an implementation of the Zoning Ordinance. This view is incorrect for several reasons.

The letter states that the MBSP was adopted by the City prior to the CZO and that it was adopted by resolution, not ordinance. The applicant further quotes the City Council staff report for the adoption of the MBSP, and concludes that the City: "intended the Specific Plan as a policy document and placed the zoning ordinance as the regulation for the property". The letter states that:

It is clear that the City of Oxnard intended that the Mandalay Bay Specific Plan would provide for conceptual plans and policies for the site and deliberately chose to adopt the Specific Plan by resolution rather than by ordinance to ensure that Mandalay Bay Specific Plan provisions would not override the Coastal Zoning Ordinance.

The applicant concludes that the provisions of the CZO are controlling over the provisions of the MBSP and therefore the project need not be consistent with the MBSP.

Finally, the applicant states that:

It is clear that, even at the time of certification, the Commission knew lateral access may not be continuous. The Commission certified the LCP with Policy 72 (Attachment G), which allows for the interruption of lateral access between single family detached units and the water. Nothing in the suggested modifications calls for the elimination of this language, adopted by ordinance in 1985.

b. Staff's Response Regarding LCP Chronology.

The MBSP was certified by the Commission as an implementing action of the City's LCP. Staff confirms that the MBSP was adopted first by resolution of the City Council of Oxnard. The City did state the intent that the MBSP would not include its own ordinances or supercede the ordinances found in the (not yet certified) Coastal Zoning Ordinance. The Commission did not require the City to adopt the MBSP by ordinance. §30513 of the Coastal Act provides for an implementation program to be made up of zoning ordinances, zoning district maps, or other implementing actions.

For several reasons, staff does not agree with the applicant's contention that the zoning ordinance is controlling and that the project need not be consistent with the MBSP because the MBSP was adopted by resolution. In addition to the reasons enumerated

below, staff would note that in approving the coastal development permit for the Westport project, the City of Oxnard did not conclude that the provisions of its Coastal Zoning Ordinances override those found in the MBSP.

1. State Law Governing Specific Plans.

Government Code §65453 provides that a specific plan may be adopted by resolution or ordinance. Once adopted, new development within the area covered by a specific plan must be consistent with its provisions. For instance, §66473.5 of the Government Code (part of the Subdivision Map Act) requires that no local agency shall approve a subdivision unless it finds the proposed subdivision is consistent with the general plan or any specific plan adopted pursuant to the code governing such plans (Article 8 of Chapter 3 of Division 1). In other words, subdivisions must be consistent with the provisions of any applicable specific plan, whether it was adopted by ordinance or resolution.

2. Chronology.

As stated in the applicant's letter and demonstrated in the chronology provided as an attachment to this letter, the City adopted the MBSP (July 10, 1984) prior to the final adoption of the Coastal Zoning Ordinance (February 5, 1985). The applicant's statement suggests that this chronology indicates that the zoning ordinance is superior to the provisions of the MBSP. However, pursuant to the provisions of §65455 of the Government Code, this cannot be the case. §65455 states that:

No local public works project may be approved, no tentative map or parcel map for which a tentative map was not required may be approved, and no zoning ordinance may be adopted or amended within an area covered by a specific plan unless it is consistent with the adopted specific plan.

So, given that the City adopted the MBSP first, the City could not have adopted the Coastal Zoning Ordinance for the 220-acre Mandalay Bay property unless it was consistent with the provisions of the MBSP. §65455 of the Government Code also provides that the tentative map that the City approved for the subject site must be consistent with the MBSP.

3. Consistency between MBSP and Coastal Zoning Ordinance.

In staff's view, the provisions of the MBSP, including the maps and text, and the provisions of the Coastal Zoning Ordinance are in fact consistent with regard to the Mandalay Bay property. The CPC Zone District (Sec. 37-2.6.0) requires the preparation and adoption of a specific plan that provides various components. In accordance with these requirements, the City developed and adopted the MBSP. This specific plan contains each of the elements, including a land use map, park plan, circulation plan,

and agricultural soil transfer program, which are all required under the CPC Zone standards.

The location, amount, and density of the permitted uses are identified on the required land use map and text of the MBSP. The development standards (such as maximum height, minimum lot size, and required building setbacks) for each of these uses are provided in the zoning ordinance.

Finally, the Specific Coastal Development and Resource Standards for Coastal Access and Recreation (Sec. 37-3.9.0 of Coastal Zoning Ordinance) set forth the requirements for provision of public access in new development, including the requirement of lateral access on all waterfront land: "...to provide continuous and unimpeded lateral access along the entire reach of the sandy beach area or other usable recreational shoreline", with very limited exceptions for military installations or areas presenting hazards to public safety. The MBSP requires continuous lateral access along all waterways in the project area, with the exception of the area along Hemlock Street. As such, the provisions of the MBSP and the Coastal Zoning Ordinances are consistent in this regard.

4. Consistency between MBSP and Land Use Plan.

In staff's view, the provisions of the MBSP, including the maps and text, are also consistent with the provisions of the Land Use Plan with regard to the Mandalay Bay property. As described in detail below, the LUP has several specific policies pertaining to the ultimate development of the Mandalay Bay area. Policies No. 4 and 5 provide for the protection of agricultural resources. Policy No. 45 sets forth the parameters that must be planned for in the specific plan. Policy No. 72 of the LUP requires public access to and along the shoreline and the Inland Waterway for all new development, except in very limited circumstances, such as where it would be inconsistent with public safety, military security, or protection of sensitive resources. One exception is provided for the Mandalay Bay area:

For Mandalay Bay inland water development, exceptions to the requirement of continuous lateral public access may be made for single-family waterfront development, but in no case shall the total public lateral access be less than 50 percent of the total shoreline frontage of the project. All vertical access shall be located and designed to minimize impacts on surrounding residential areas (reference Policy No. 45)

The requirements of the MBSP, including maps and text, are consistent with these LUP policies. The MBSP includes standards for buffering agricultural lands and for the agricultural land transfer program, as set forth in Policies 4 and 5. The MBSP provides for the types, overall percentage and mix of uses, both public and private called for in Policy No. 45.

The applicant states that the application of Policy No. 72, (staff would note that although the applicant characterizes Policy No. 72 as a provision of the Coastal Zoning Ordinances, it is, in fact, an LUP policy) specifically with regard to the provision of lateral access adjacent to single family development, would override the provisions of the MBSP that require continuous lateral access along all waterways.

The MBSP requirement for continuous lateral access along all waterways (with the exception of Hemlock Street) does not conflict with Policy No 72, but is consistent with its provisions. Policy No. 72 is permissive in indicating that: "...exceptions to the requirement of continuous lateral access may be made for single-family waterfront development" (emphasis added), but does not require such an exception. Staff would note that the MBSP does provide for an exception to continuous lateral access along all the waterways in the area of Hemlock Street where 30 single family residences are allowed. Further, Policy No. 72 establishes that total public lateral access shall not be less than 50 percent of the total shoreline frontage, but it does not state that lateral access cannot be more than 50 percent, as required in the MBSP. As such, there is not conflict between the LUP policies and the MBSP on the provision of lateral access. In certifying the MBSP, the Commission determined that it conforms with and adequate to carry out the provisions of the LUP.

5. Conclusion.

For the reasons discussed above, the Commission finds that the City's certified LCP is made up of three documents: the Land Use Plan; Coastal Zoning Ordinances; and Mandalay Bay Specific Plan. The LUP and Coastal Zoning Ordinance require the preparation of a specific plan prior to development on the Mandalay Bay property. The MBSP was adopted by the City and certified by the Commission as an implementing action. The policies of the LUP, Coastal Zoning Ordinance, and MBSP that are relevant to the subject proposed project are consistent with each other. Therefore, the Commission finds that the provisions of the Coastal Zoning Ordinance do not "override" or control those found in the MBSP. Rather, the proposed project must comply with the provisions of all three parts of the City's LCP.

D. Consistency with Local Coastal Program and Coastal Act Policies.

After certification of a Local Coastal Program (LCP), Section 30603 of the Coastal Act provides for appeals to the Coastal Commission of a local government's actions on certain types of coastal development permits (including any new development which occurs between the first public road and the sea, such as the proposed project site). In this case, the proposed development has been previously appealed to the Commission. The Commission found, during a public hearing on November 16, 2000, that there is a substantial issue with respect to the grounds raised by the appellants relative to the project's conformity to the policies contained in the certified LCP and the public access policies of the Coastal Act.

As a "de novo" application, the standard of review for the proposed development is, in part, the policies, standards, and provisions of the City of Oxnard Local Coastal Program (LCP). In addition, pursuant to Section 30604(c) of the Coastal Act, all proposed development located between the first public road and the sea, including those areas where a certified LCP has been prepared, such as the project site, must also be reviewed for consistency with the Chapter 3 policies of the Coastal Act regarding public access and public recreation.

1. Public Access and Recreation.

There are many policies, standards, and other provisions of the City's certified LCP which pertain to the provision of public access and recreation opportunities.

a. Land Use Plan

The certified Land Use Plan contains the following access and recreation policies:

While actually a policy regarding New Development, Policy No. **45** (full text is included, starting on Page 4 of Exhibit 9) sets forth the public access requirements that must be included in the specific plan for the Mandalay Bay area. Policy No. **45** states that:

The lateral access requirement shall be a minimum of 50 percent of the total linear waterfront frontage and shall be dedicated and available for public access. Exceptions to continuous lateral public access shall be allowed only for limited single family waterfront home development where adequate alternative access exists nearby.

Additionally, the combined vertical access frontage on the water is required to be at least 10 percent of the development's total waterfront linear footage. Recreation areas are to be distributed throughout the project area and linked by pedestrian and bike paths. Policy No. **45** also requires common recreational areas for the residents of permitted residential projects. This policy also sets forth the land uses that may be permitted and the percentage of the overall Mandalay Bay acreage that each land use may occupy. Policy No. **45** further addresses the development of an open body of water as well as public and private boat dock facilities. Finally, this policy requires a program of signage for public access and recreation facilities, the dedication of such areas and the development of public improvements with each phase.

Policy No. **72** of the LUP requires public access to and along the shoreline and the Inland Waterway for all new development, except in very limited circumstances, such as where it would be inconsistent with public safety, military security, or protection of sensitive resources. One exception is provided for the Mandalay Bay area:

For Mandalay Bay inland water development, exceptions to the requirement of continuous lateral public access may be made for single-family waterfront development,

but in no case shall the total public lateral access be less than 50 percent of the total shoreline frontage of the project. All vertical access shall be located and designed to minimize impacts on surrounding residential areas (reference Policy No. 45)

Policy No. 72 also requires that offers to dedicate public accessways and public facilities be recorded prior to issuance of any permit and developed concurrently with the approved project.

Finally, LUP Policy No. 73 requires the following:

Adequate public parking shall be provided in all new development with dedicated public access areas, and shall be in addition to the parking required for new development, unless adequate facilities are provided nearby. All facilities shall be located and designed to avoid impacts on surrounding residential areas.

b. Zoning Ordinances

As described above, the certified Zoning Ordinances designates the Mandalay Bay property "Coastal Planned Community". This zone (full text begins on Page 10 of Exhibit 11), found in Sec. 37-2.6.0 of the Zoning Ordinance, requires the preparation of a specific plan for the entire 220-acre site comprising at least eight required components. Three of these components relate to the provision of public access and recreation:

Component No. 1 --Access and recreation component which identifies the locations, standards, and quantification of the amount of land provided for lateral and vertical access;
Component No. 3 --Project and use map that shows the specific uses and densities for the land and water areas of the site; and
Component No. 4 --Circulation plan which identifies streets, bike paths, and public parking areas;

Additionally, Sec. 37-1.4.14 of the Zoning Ordinance states that:

Offers for or the execution of dedications or easements for coastal access, recreation, or open space purposes shall be recorded prior to or simultaneously with the recordation of the related land division. Where no land division is involved or required, such easements and dedications shall be recorded prior to the issuance of building permits or initiation of use, whichever comes first. (Sec. 37-1.4.14)

Further, Sec. 37-3.9.0 of the Zoning Ordinance contains the Specific Coastal Development and Resource Standards for Coastal Access and Recreation (Text attached starting on Page 18 of Exhibit 11). These standards require the provision of public access opportunities consistent with the policies of the LUP. With regard to lateral access, this section states that:

Lateral accessways shall be located on all waterfront land to provide continuous and unimpeded lateral access along the entire reach of the sandy beach area or other usable recreational shoreline. Exceptions to this standard may include military installations

where public access would compromise military security, industrial developments and operations that would be hazardous to the public safety and developments where topographic features, such as river mouths, could be hazardous to public safety.

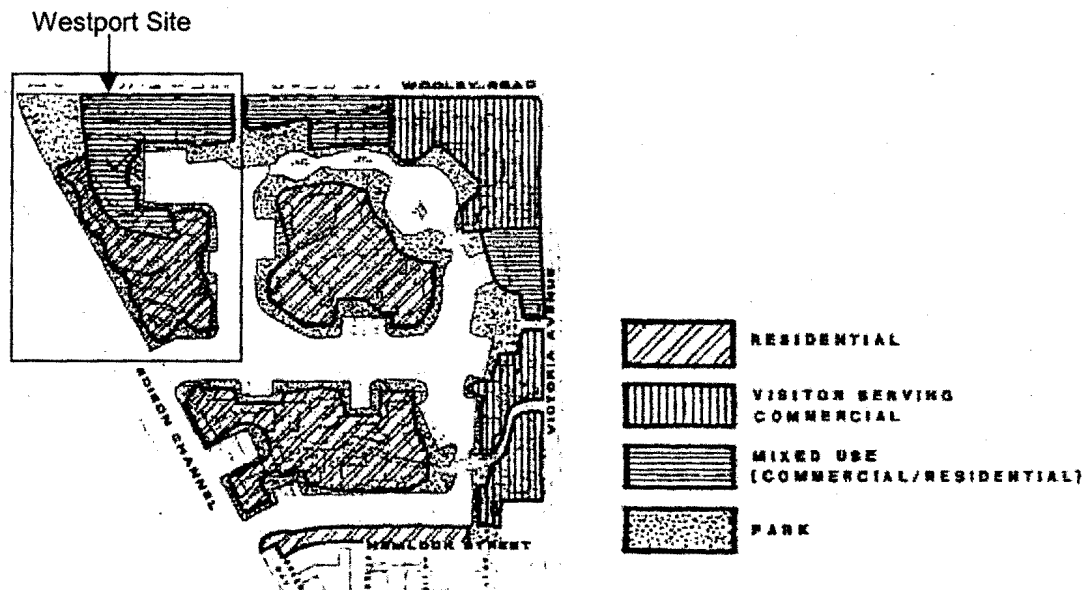
Additionally, these access standards state that:

Pursuant to Section 30214 of the Coastal Act with respect to regulating the time, place and manner of public access, the requirements for vertical access may be waived for specific development applications only when the reviewing body vested with the authority to approve the request finds that adequate vertical access is provided offsite but within the immediate area. Such waiver may be granted subject to the specific finding that the presence of public beach with adequate access facilities nearby (within 500 feet), reduces the needed frequency of vertical accessways in coastal residential areas.

A granting of a waiver for lateral access is deemed inconsistent with the policies of the Oxnard Coastal Land Use Plan and therefore shall be prohibited.

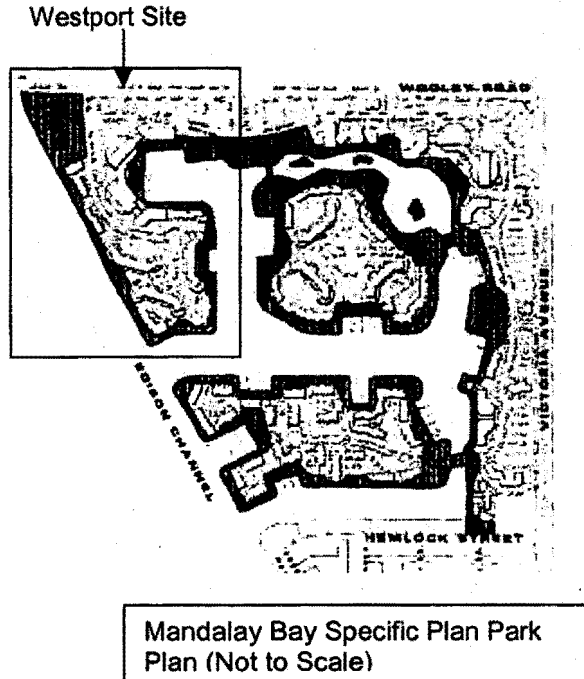
c. Mandalay Bay Specific Plan

As set forth in the LCP, the Mandalay Bay Specific Plan (MBSP) addresses the required components, policies and development standards. Several provisions of the MBSP relate to the provision of public access and recreation. First, the Land Use Map (Exhibit 12) shows the relationship between the residential, mixed use, and visitor serving commercial uses and the required park areas, including a linear park located along all of the waterways (with the exception of the area along Hemlock Street) and several larger park areas linked by the linear park.

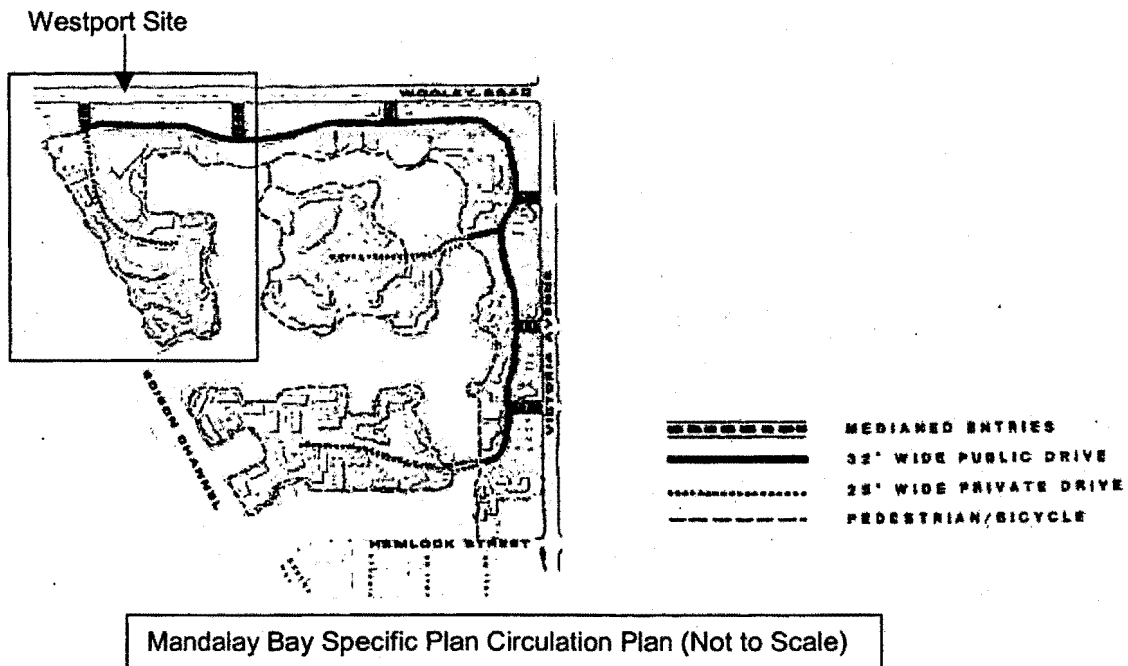


Mandalay Bay Specific Plan Land Use Map (Not to Scale)

Additionally, the Park Plan (Exhibit 13) shows the same required linear park along all of the waterways connecting several larger parks.



The Circulation Plan (Exhibit 14) shows a pedestrian/bicycle path (located within the linear park areas shown on the Land Use Map and Park Plan) extending along all of the waterways (with the exception of the area along Hemlock Street.)



In addition to these maps, the MBSP contains discussions of the access and recreation requirements of the plan. This text is shown in the full MBSP text attached as Exhibit 15. The MBSP (Page 4) states that:

The primary public access to the waterfront of this project is satisfied by a linear park which extends throughout the entire project, except where single-family residences are proposed along Hemlock Street. This waterfront park will provide approximately 21,000 linear feet of lateral access for the public. Interspersed along this linear waterfront park are several "pocket parks" ranging from approximately one-third acre to three acres in size.

With regard to vertical access, the MBSP states on Page 4 that:

Vertical public access for vehicular, pedestrian and bicycle access text and maps shall not be less than 10% of total linear waterfront access as depicted in the specific plan and use map (page 5). If the access is not a public thoroughfare it shall be permanently legally restricted as such (by appropriate legal instrument such as a deed restriction or easement) and shall be held and maintained by the developer, subsequent land owner(s) or appropriate third party.

With regard to recreational boating, the text of the MBSP (Page 5) states that:

The Specific Plan incorporates a minimum of 795 boat slips in the Specific Plan area. Thirty are allocated to the 30 single-family residential lots. One-half of the remaining will be available to the public.

The MBSP also states (Page 7) that:

Public parking lots shall be provided and located immediately adjacent to public water and public park areas including but not limited to public docks, wharfs, public boating facilities and launching ramps in order to maximize public access to these recreational areas. Public parking lots, public dock and public boating facilities shall be permanently legally restricted as public property through the appropriate legal mechanism and shall be maintained by the developer, property owner(s), or appropriate third party.

Further, the MBSP (Page 7) requires that:

The necessary public facilities for public park and shoreline recreation use shall be listed in this plan including but limited to restrooms, picnic tables, fire pits, playing fields, playground equipment, showers and landside support equipment for recreational boaters (water faucets/washdown areas etc.).

d. Coastal Act

As previously noted, in addition to any applicable policies of the LCP, all projects located between the first public road and the sea requiring a coastal development

permit, such as the proposed project, must be reviewed for compliance with the public access and recreation provisions of Chapter 3 of the Coastal Act. Coastal Act Sections **30210** and **30211** mandate that maximum public access and recreational opportunities be provided and that development not interfere with the public's right to access the coast. Likewise, Section **30212** of the Coastal Act requires that adequate public access to the sea be provided to allow use of dry sand and rocky coastal beaches. Based on the access and recreation policies of the Coastal Act, the Commission has required public access to and along the shoreline in new development projects and has required design changes in other projects to reduce interference with access to and along the shoreline.

Coastal Act Section **30210** states that:

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, 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.

Coastal Act Section **30211** states:

Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

Coastal Act Section **30212(a)** provides that in new shoreline development projects, access to the shoreline and along the coast shall be provided except in specified circumstances, where:

- (1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources.
- (2) adequate access exists nearby, or,
- (3) agriculture would be adversely affected. Dedicated access shall not be required to be opened to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the accessway.

Section **30220** of the Coastal Act states that:

Coastal areas suited for water-oriented recreational activities that cannot readily be provided at inland water areas shall be protected for such use.

d. Analysis.

The policies, standards, and other provisions of the certified LCP, as well as the access and recreation policies of the Coastal Act, set the parameters of the type and location of

public access and recreation opportunities planned for the Mandalay Bay area. The proposed project is not consistent with the lateral public access provisions of the LCP in that it does not provide lateral access along all of the waterways. In the same way, the proposed project is not consistent with the LUP or MBSP land use maps in that it does not provide the designated linear park along all the waterways. The linear park land use issue is discussed in this section as the findings are the same as for lateral access. The proposed project provides vertical access opportunities, as required by the LCP. The project includes public boating opportunities, although not at the same number as private boat facilities, as required by the LCP. Finally, dedication of the proposed access and recreation facilities is not assured by the proposed project. As discussed in this section, the Commission could condition the approval of the project to assure consistency with the LCP with regard to vertical access, public access dedications, and boating facilities. However, the project cannot be redesigned or modified through conditions of approval to meet the requirements of the LCP with regard to lateral public access.

1. Lateral Public Access.

Coastal Act §30212 provides for access to the shoreline in new development projects, except in limited instances where it is inconsistent with public safety, military security, protection of coastal resources, adequate access exists nearby, or agriculture would be adversely affected. Further, §30220 of the Coastal Act requires that coastal areas suited for water-oriented recreational activities that cannot readily be provided at inland water areas shall be protected for such use.

As shown on land use map, the LUP designates the area along all of the waterways for recreation. Policy No. 45 sets forth the parameters that must be planned for in the specific plan. Policy No. 72 of the LUP requires public access to and along the shoreline and the Inland Waterway for all new development, except in very limited circumstances, such as where it would be inconsistent with public safety, military security, or protection of sensitive resources. One exception is provided for the Mandalay Bay area:

For Mandalay Bay inland water development, exceptions to the requirement of continuous lateral public access may be made for single-family waterfront development, but in no case shall the total public lateral access be less than 50 percent of the total shoreline frontage of the project...

The CZO sets forth the requirements of the specific plan for the Mandalay Bay property, including an access and recreation component, land use map, and circulation plan. Additionally, the ordinance requires access dedications or easements to be prior to recordation of subdivision maps. Further, the CZO requires that: "Lateral accessways shall be located on all waterfront land to provide continuous and unimpeded lateral access along the entire reach of the sandy beach area or other usable recreational shoreline" (Sec.37-3.9.0). Very limited exceptions to this requirement are allowed for military installations, industrial developments, and areas hazardous to the public safety.

The MBSP requires, as shown on the land use, park, and circulation maps, the provision of a linear park with a bike/pedestrian public access path along all of the waterways (except for Hemlock Street). The text of the Specific Plan states that:

The primary public access to the waterfront of this project is satisfied by a linear park which extends throughout the entire project, except where single family residences are proposed along Hemlock Street. This waterfront park will provide approximately 21,000 linear feet of lateral access for the public.

Staff has measured the maps contained in the MBSP and found that the linear distance around the whole waterfront of the specific plan area (with the exception of Hemlock Street) is approximately 21,000 feet. So, it is clear, given the depiction of continuous lateral access on the land use, park, and circulation maps, this statement of the MBSP, and the measurement of the 21,000 linear feet of lateral access, that the intent of the MBSP was for access to extend along the entire waterway.

The proposed project is not consistent with the policies and standards of the certified LCP or the access policies of the Coastal Act. Lateral access is not provided along the entire proposed waterway. The applicant's revised access proposal does provide lateral access in a portion of the project as shown on Exhibit 2. Beginning at a proposed public park adjacent to the Reliant Energy Canal at the NW corner of the property, an access trail would extend within a linear park along the canal to a small park area. At this point, the waterfront access would end. From there, the public could transverse the center of the peninsula along a boulevard to a small waterfront park on the eastern side of the property. Waterfront lateral access would be provided from there to the north, along single family residences, across a small park, and along the proposed public boat dock area, ending at the main entrance to the project from Wooley Road. In this way, the proposed project would allow the public to complete a pedestrian/bicycle loop around the northern portion of the peninsula, although less than the whole length would be located on the water.

However, lateral access is not proposed on the southern portion of the peninsula. Rather, this area would provide private boat dock access to 64 proposed single family residences. However, this would not be consistent with §30212 of the Coastal Act which requires access to the shoreline in new development, except in very limited instances. In this case, the provision of lateral access in this area of the project would present no issue with public safety, military security, coastal resources, or agriculture. The proposed project would not be consistent with Sec. 37-3.9.0 of the CZO either. These standards require lateral access on all waterfront land to provide continuous and unimpeded access with very limited exceptions. In this case, the proposed project would not meet the exceptions, which include military security, industrial development, operations hazardous to public safety, or developments where topographic feature would be hazardous to public safety. Finally, the proposed project is not consistent with the provisions of the MBSP, including the land use, park and circulation maps, as well

as the text requiring access along all of the waterways with the limited exception of the single family development along Hemlock Street. The proposed project is not located along Hemlock Street. Therefore, the Commission finds that the proposed project is not consistent with the public access policies, standards, or provisions of the Coastal Act or certified LCP.

The applicant has stated that, based on their interpretation of the LCP, the proposed project meets the requirements of the LCP and no lateral access is required on the southern portion of the peninsula. The applicant has also stated that given the City's requirements for street width and parcel size, it would not be possible to incorporate lateral public access around the southern portion of the peninsula. Staff would agree that the applicant's current proposal for the addition of another waterway in the center of the peninsula, coupled with the proposal of single family residences does leave little room for the provision of the required linear park with lateral access path. The issue of single family residential development is addressed below.

Staff would note that in a recent meeting with the owners of the 135-acre Toscana Bay project located just to the east of the Westport site, the applicants showed staff a proposed plan that provided access along 75 percent of the waterways. While this does not fully meet the MBSP provisions, it indicates that it is possible to provide lateral access (especially considering that the concept plan for the Toscana Bay project includes single family development). (Staff did comment to the project proponents that lateral access should be provided along all of the waterways to assure consistency with the MBSP).

The applicant further asserts, in their letter of December 11, 2000, that the MBSP and the CZO clearly contemplate that: "the linear or lateral access will be interrupted in yet unknown ways by future development". The letter cites Policy No. 45 and Policy No. 72 of the Implementing Action Plan (staff would note that although the applicant characterizes these policies as provisions of the Coastal Zoning Ordinances, they are, in fact, LUP policies) as requiring a minimum of 50% of the total linear waterfront footage for lateral access. The letter states that:

Finally, Policy No. 72 of the IAP echoes the Specific Plan and Policy No. 45 by specifically allowing lateral access to be interrupted so long as total lateral access is not less than 50% of the total shoreline frontage of the project or less than 21,000 linear feet.

In this way, the applicant is combining the minimum requirements of LUP Policy No. 72 with the provisions of the MBSP for 21,000 feet of lateral access. Staff does not agree with this conclusion for several reasons. For one, the MBSP requires access along all of the waterways. This requirement for continuous lateral access along all waterways (with the exception of Hemlock Street) does not conflict with Policy No 72, but is consistent with its provisions. Policy No. 72 is permissive in indicating that: "...exceptions to the requirement of continuous lateral access may be made for single-family waterfront

development" (emphasis added), but does not require such an exception. Additionally, Policy No. 72 establishes that total public lateral access shall not be less than 50 percent of the total shoreline frontage, but it does not state that a larger extent of lateral access cannot be required, as continuous access is required in the MBSP.

Further, as noted above, the linear distance around the whole waterfront of the specific plan area (with the exception of Hemlock Street), as measured from the specific plan maps, is approximately 21,000 feet. So, it is clear, that the intent of the MBSP, in specifying the required 21,000 linear feet of lateral access, was to assure that access extended along the entire waterway. The applicant's assertion that lateral access must be provided along 50% of the waterway or a minimum of 21,000 linear feet misses the point that the MBSP's requirement is for continuous access along the whole waterway.

Staff cannot redesign the project through conditions of approval to be consistent with the provisions of the LCP with regard to the provision of lateral public access. Especially given the applicant's assertion that continuous lateral access could not physically be provided with the current lot configuration, staff cannot just recommend that the project, through of a condition of approval, be redesigned to add a lateral access trail along the waterway in this area of the project. However, there are project alternatives that could achieve consistency. For instance, the project could be redesigned such that 95 multi-family units are provided instead of single family units (single family residential use is discussed below) with the linear park provided all along the waterway. The additional channel proposed to extend up from the south end of the peninsula could be deleted from the project leaving more land area on the peninsula to provide for the residential units as well as public access, and allowing lateral access to extend all the way around the peninsula. Additionally, another alternative that staff suggested to the applicant is to provide access along both sides of the peninsula, ending at a small park on each side. Although such an alternative would not provide continuous access around the peninsula (unless a bridge were provided) because of the intervening waterway, it would provide access along most all of the waterways. The applicant declined to provide such access. The applicant did propose to add a lateral public accessway from the public boating area along the waterway to the proposed central boulevard that crosses the center of the peninsula from west to east. While this does add approximately 952 feet of lateral access, it does not provide access along all of the waterways as required under the MBSP.

2. Vertical Public Access.

The LUP requires access both to and along the waterways, with limited exceptions. The CZO requires the provision of vertical accessways, unless adequate access exists nearby (within 500 feet). The CZO provides development standards for the construction of such accessways. The text of the Specific Plan states that: "Vertical public access for vehicular, pedestrian, and bicycle access text and maps shall not be less than 10% of total linear waterfront access as depicted in the specific plan and use map (page 5)". Vertical accessways are important to allow the public to reach lateral access paths.

Vertical access is provided to the waterways in four areas of the proposed project site. Access is provided from the project entry at Wooley Road to the lateral access proposed around the public boat dock area. Access is provided from the secondary entry street across the public park to the lateral access proposed along the Reliant Energy Canal. Vertical access is also provided from the central boulevard to the lateral access along the Reliant Energy Canal to the west and to the lateral access along the channel to the east of the peninsula. These four proposed accessways represent an adequate amount of vertical access, which would allow the public to reach the lateral public accessways proposed in the upper portion of the peninsula.

In addition to these vertical accessways, the proposed project includes access to the two street ends at the southern tip of the peninsula. Here, several parking spaces and a water viewing opportunity would be provided. However, no lateral access trail is proposed in this area.

If the proposed project were otherwise consistent with the policies of the certified LCP and the access policies of the Coastal Act, the Commission could condition the approval of the permit to require that the required vertical accessways be constructed in accordance with the CZO development standards and that they be dedicated for public use, in order to assure consistency with the provisions of the LCP. However, as described herein, the project is not consistent with the access or land use policies of the LCP.

3. Access Dedications or Easements.

The Coastal Zoning Ordinance requires that offers to dedicate public access be recorded prior to the recordation of subdivisions. The MBSP specifies that if the vertical access is not a public thoroughfare it must be legally restricted (by deed restriction or easement) for public use.

Although the proposed project does not meet the public access requirements of the MBSP, as discussed above, the project does include approximately 7-acres of public park, including a trail system. There were conditions of the City's CDP approval which required that certain equipment and amenities be provided at various areas of the parkland. However, there were no conditions that require easements or dedication of the property to a public agency.

The applicant has stated that a development agreement between the developer and the City provides for such public dedications. The development agreement does state that the monetary value of the 7.62-acres of public recreation areas included in the Westport project shall be credited towards any park fee obligation required by the City under the Quimby Act. The development agreement does not address the timing or method by which this land will be dedicated for public use. Further, staff would note that the development agreement could be revised in the future by agreement between the City

and the applicant. As such, even if the development agreement required the dedication of public access and recreation, it does not assure public availability of the approved access/recreation areas as required by the LCP.

As previously described, staff cannot redesign the proposed project to assure compliance with the public access requirements of the Coastal Act and the LCP. If the project were redesigned to be otherwise consistent with the policies of the certified LCP and the access policies of the Coastal Act, the Commission could condition the approval of the permit upon the applicant providing evidence that offers to dedicate the lateral and vertical public accessways, as well as the other public park and recreation amenities had been recorded. However, the project is not consistent with the access or land use provisions of the LCP or the access policies of the Coastal Act.

4. Public Recreation.

§30220 of the Coastal Act requires the coastal areas suited for water-oriented recreation be protected for such use. The LUP and CZO provide for both private and public boating facilities to be developed on an equal basis within the Mandalay Bay area. Policy No. 45 of the LUP provides for boat docks throughout the specific plan area. This policy states that:

...Fifty percent of the docking facilities provided in the project other than those provided with single-family residences shall be available for use by people not residing within the project. Full and unimpaired public access to and use of all open water areas, consistent with security and safety requirements, shall be assured. The location of and design of all development shall provide for public access and use of the project's water and immediate shore area.

The MBSP provides for a minimum of 795 boat docks throughout the project area. Consistent with LUP Policy No. 45, thirty of these boat docks are allocated to the thirty permitted single family residences along Hemlock Street. Of the remaining 765 docks, 50% must be made available to the public.

The Westport project, as approved by the City, does not address the number or public/private status of any boat slips to be provided by the project, with the exception of the 83 proposed private boat docks associated with the proposed single-family residences. The site plan approved for the project shows a boat dock easement area in the channel adjacent to the "mixed-use" development. After the Commission appeal of the permit, the applicant provided a more detailed boat dock plan that shows 68 docks contained within this public marina area, with the potential of up to 20 additional docks (although no information is provided regarding how the docks will be made available to the public). In discussions with the applicant's representatives, it became clear that the applicant did not actually propose to construct any of the docks, public or private. Rather, eventual owners of the proposed single family residences would each construct their own individual dock. The approved project did not include the construction of any

public docks, although the area for such use would be created under the project. Further, there was no provision to assure that such docks, if ever built, would be made available to the general public. As such, the proposed project did not provide 50 percent of boat docks for public use, as required by the LCP.

The applicant has subsequently amended the project description to propose that public boat docks be developed, in the water area adjacent to the proposed mixed use project, in two phases (Exhibit 4). The first phase would consist of a linear configuration with 40 side tie/end tie slips and 15 small craft side tie slips, for a total of 55 public docks. The second phase would be the ultimate configuration incorporating up to 83 docks. The applicant now proposes to construct the first phase of 55 slips as part of the proposed project.

With the construction of the proposed 55 public boat slips, up to 55 private boat docks could be constructed, consistent with the provisions of the LCP. Only after construction of the second phase of 83 public docks could the full 83 proposed private docks be constructed. If the proposed project were otherwise consistent with the policies of the certified LCP and the access policies of the Coastal Act, the Commission could condition the approval of the permit to require that no private boat docks may be constructed until and unless a commensurate number of public boat docks have been constructed and are available to the general public. Additionally, the permit would be conditioned to require a program for assuring the system by which boat slips would be managed, made available for the use by people not residing within the project, leased, etc. in order to assure consistency with the provisions of the LCP. However, as described herein, the project is not consistent with the access or land use policies of the LCP.

2. Land Use.

There are many policies, standards, and other provisions of the City's certified LCP which pertain to the allowable land uses within the Coastal Zone.

a. Land Use Plan.

With regard to the subject Westport site, which is part of the overall Mandalay Bay site, the land use map shows three land use designations for the subject project site: "Planned Unit Development Residential"; "Mixed Use (Commercial/Residential)"; and "Recreation Area". The map is shown on Exhibit 8. As shown on this map, the LUP designates the area along all of the waterways for recreation. A large area adjacent to Wooley Road is designated for "mixed use" (commercial/residential), and the remainder of the site is designated for residential use.

In addition to the LUP map, Policy No. 45 calls for the Mandalay Bay property to be planned as a unit, through the development of a specific plan. Policy No. 45 sets forth

the land uses that may be permitted and the percentage of the overall Mandalay Bay acreage that each land use may occupy.

b. Zoning Ordinances.

The coastal zoning map (Exhibit 10) shows one zone designation for the entire 220-acre Mandalay Bay site, which includes the subject project site. The designation is "Coastal Planned Community" Zone (CPC). The CPC zone applies only to the Mandalay Bay site. This zoning would allow only for agriculture/aquaculture uses or passive recreation uses on the property, unless a specific plan was developed and adopted prior to the approval of any coastal development permit for any other uses. As discussed above, the standards of this zone district include the components that must be provided in the required specific plan. The primary component related to land use is Component No. 3, which requires a project and use map that shows the specific uses and densities for the land and water areas of the site. Additionally, Component No. 1 requires that the locations, standards, and quantification of the amount of land provided for lateral and vertical access, public recreation, and open space facilities be shown in the specific plan.

c. Mandalay Bay Specific Plan.

As required by the LCP, the MBSP contains a land use map as well as other provisions that govern the location, intensity and density of land use permitted within the specific plan area. The land use map certified in the MBSP designates the Westport site for three uses: "Residential", "Mixed-Use", and "Park". As shown on this map, the MBSP designates the area along all of the waterways for "park". A large area adjacent to Wooley Road is designated for "mixed use" (commercial/residential), and the remainder of the site is designated for "residential" use.

In addition to the Land Use Map, the text of the MBSP (Page 1) states that:

...This plan provides an orderly transition from the existing single-family residential and townhouse water-oriented development to the south to a more intense and dynamic mixed-use land use pattern, including island cluster residential, recreational, and public oriented waterfront commercial development.

Page 4 of the MBSP states that:

Residences, both detached and attached, will be oriented to the waterway, with provisions for some private boat slips adjacent or nearby. Approximately 30 single-family waterfront homes will be provided along the existing Hemlock Street to provide a comfortable transition between the existing single-family development to the south and the more intense uses contained within this plan. Two residential islands and a peninsula will accommodate higher density residential clusters with heights possibly varying from two or three stories to as much as ten stories.

A-4-OXN-00-172 (Westport at Mandalay Bay)
De Novo Review
February 2001
Page 29

Further, the MBSP sets forth the total number of residential units (not including any mixed-use residential units) that can be approved within the plan area (960 total). It also provides a breakdown of the maximum number of units, unit type, acreage, and density for each potential phase (area) of the overall project. This information is shown on the following table (Page 4):

<u>PHASES</u>		<u>UNITS</u>	<u>ACRES</u>	<u>DU/AC</u>
Western section of south island and western section of south shore phase, and eastern section of south island, eastern section of south shore and east shore phase	Detached	30		
	Attached	320	32.25	9-12
*South peninsula phase and north peninsula phase and northwest shore phase	Attached	218	18.75	11-13
North island phase	Attached	392	28.00	13-15

* This phase comprises the proposed project site.

With regard to mixed use, the MBSP contains several statements that describe the concept. On Page 3, the MBSP states that:

In addition, in communications with the proponents of the Mandalay Bay Phase IV, the City has encouraged the inclusion of mixed-use development (i.e. residential above commercial in the same structure or complex).

Additionally, in describing the mixed-use category, the MBSP (Page 4) states that:

Mixed-use will be considered as an appropriate land use, containing Neighborhood or Visitor Serving support commercial uses within the same complex or structure with residential uses.

Finally, with regard to residential density increase as an incentive to provide mixed use development, the MBSP states that:

The maximum number of residential units within the Specific Plan area shall be 960. A General Plan and LUP amendment would be required to increase the authorized residential density for this neighborhood. Dwelling units which may be incorporated into commercial development to create a mixed-use development may exceed this limitation.

d. Analysis.

The policies, standards, and other provisions of the certified LCP set the parameters of the type, location, density, and intensity of new development planned for the Mandalay Bay area. As described above, the proposed project is not consistent with the lateral public access provisions of the MBSP in that it does not provide lateral access along all of the waterways. In the same way, the proposed project is not consistent with the LUP or MBSP land use maps in that it does not provide the designated linear park along all the waterways. The linear park land use issue is not discussed again in this section as the findings are the same as for lateral access addressed above. In addition to park use, the proposed project is not consistent with the provisions of the MBSP with regard to single family residential use or with regard to mixed use development. As discussed in this section, the project cannot be redesigned through conditions of approval to assure consistency with the provision of the LCP with regard to either single family residential use or mixed use development. These two issues are analyzed below.

1. Single Family Detached Residences.

The LUP designates a large area of the proposed project site for "Planned Unit Development Residential" use. The MBSP land use map designates a large portion of the interior of the peninsula on the Westport site for "residential" use. The proposed project includes 95 single family residences and 35 duplex units in the same general area as that designated for residential use.

The text of the MBSP also contains several provisions with regard to the type and density of residential use that may be allowed within the designated residential areas. The Illustrative Plan provided on Page 2 (Exhibit 15), which shows the "intended character of the ultimate development", depicts several larger multi-family structures in the residential area on the Westport site. By contrast, the only area showing single family lots is that area along Hemlock Street.

Additionally, the MBSP asserts that the plan provides for a transition from the existing single family and townhouse residential development to the south (earlier phases of Mandalay Bay development) to a more intense mixed-use land use pattern. More specifically, the MBSP states that: "Approximately 30 single family waterfront homes will be provided along the existing Hemlock Street to provide a comfortable transition between the existing single family development to the south and the more intense uses contained within this plan".

Additionally, the MBSP breakdown of the residential net density, shown on the table on Page 29 above, notes the maximum number of units permitted in the South Peninsula/North Peninsula Phase (which comprises the entire Westport site) is 218 **attached** units. As noted in the City's staff report for the project, the Westport development provides for 218 units (not counting the apartment units), consistent with

the maximum unit limit. However, 95 of the proposed units are **detached** single family residences.

Further, the urban design component (Page 6) of the MBSP provides for three height zones for residential development: 3 stories; 5 stories; and 10 stories. In the area of the Westport site, the MBSP allows for a maximum height of 10 stories in the interior of the peninsula and 3 stories to the north and south of this area. These height limits provide further evidence of the MBSP's intention that multi-family attached residential uses be provided throughout most of the specific plan area.

Clearly, based on these statements, the MBSP provides only for a very limited number (30 units) of single family residential dwellings in only one area of the specific plan area (along Hemlock Street). Residential development on the two islands and the peninsula is intended to consist of higher density, attached products, with heights ranging from 3 stories to 10 stories. As such, the specific plan does not provide for single family detached residences in the North/South Peninsula areas where the Westport project site is located. The project does not conform to this provision of the specific plan as it includes 95 single-family residential parcels (83 with private boat docks).

In their letter of December 11, 2000 (Exhibit 16), the applicant states that the MBSP does in fact allow for single family residences anywhere in the specific plan area where there is a designation of "residential" use. The applicant states that the inclusion of the R-W-1 (Single-family Water Oriented) subzone in the list of zone district standards to be applied to development in the MBSP is evidence that the MBSP provides for single family use in all the residential areas of the plan. The letter states that:

Importantly, the Specific Plan identifies where Single Family Residential must occur (Hemlock Street) not where it may occur. This is why, no doubt, the zoning of R-W-1 "Single Family Detached-Waterfront" was specifically allowed in the Specific Plan. Had there been no contemplation that Single Family uses would one day be built in these areas, there would be no need for this statement to exist.

Staff confirms that the R-W-1 zone development standards are among the list of seven zone district standards that the MBSP cites to be used to regulate development within the specific plan area. However, staff does not agree that this fact demonstrates that single family residential development is allowed in every area designated for residential use. The inclusion of the R-W-1 standards must be read in conjunction with the other MBSP provisions regarding residential development. As discussed above, the plan provides only for limited single family detached development (30 units). The remainder of the residential areas are intended to be higher density residential clusters with attached products only. The MBSP does contemplate that there will be single family use (30 units total) along Hemlock Street at the south edge of the specific plan area. It is for the eventual development of these 30 detached units that the R-W-1 development standards are called out in the MBSP.

The applicant has additionally stated that the MBSP provides for a maximum density and that since the approved Westport project is less dense than the maximum allowed, it is therefore consistent. Staff acknowledges that typically implementation ordinances (or LUPs) establish a maximum allowable density or range of density and development may be approved which is less than the maximum. (Reduced levels of density in certain situations may even be presumed to have fewer impacts.) However, in this case, the allowable density must be considered in concert with the level and pattern of development intended by the MBSP, including the policy objective of providing public access and recreational opportunities.

In this case, the residential development type (multi-family versus single-family) is not critical with regard to land use density because the density of the proposed project is consistent with the maximum number of units allowed under the MBSP. However, it is important when considered in light of the MBSP requirements for public access and recreation. It is clear from the concept plan, urban design plan and other provisions that the residential development concept of the MBSP was for several larger multi-family buildings that would be clustered on the peninsula (and on the two islands also found in the plan). In conjunction with the residential clusters, the specific plan provides for a linear park system along the water, water oriented recreation, as well as commercial uses.

Single family residential development, even with the development of nearby private boat docks, need not be incompatible with the provision of public access. There are single family developments that provide both waterfront public access and private boat docks. For instance, the Naples area of the City of Long Beach provides an extensive network of public accessways in conjunction with single family residences on one side and private boat dock facilities on the other. The proposed project could have been designed in a different manner to include lateral public access along the whole waterfront.

However, staff would note that detached single family residences, developed to provide a minimum lot size, setbacks, street access, etc. will occupy more land area than the same number of units provided in a multi-family development. Single family residential use, as proposed in the Westport project, occupies a larger land area for the same number of units allowed under the MBSP. In this way, development of single family residences instead of multi-family at the same density leaves much less area for the provision of required public access and recreation. This is exactly the case with the proposed project. The area of the proposed single family residences occupies a large portion of the peninsula. The public boat slip area shown in the project has been reduced in area from the planned marina space in the MBSP. There is an enlarged land area occupied by single family residences in its place. An additional waterway not shown on the MBSP maps extends from the southern edge of the peninsula, providing for private boat docks. No lateral public access has been provided in the southern area of the peninsula along most of the single family residential parcels.

Therefore, while there may be circumstances where single family development can be approved in areas designated for higher density residential development, the Commission finds in this case that single family residential use is not consistent with the intent of the LCP. It is clear from text and plans that the MBSP intended multi-family residential use only to be permitted on the Westport site. Such use would be compatible with the required public access and recreation. In this case, the substitution of single family residential use at the same density results in the substantial reduction of the access and recreational amenities called for by the MBSP.

Staff cannot redesign the proposed project through conditions of approval to be consistent with the provisions of the LCP with regard to single family residential development. However, there are project alternatives that could achieve consistency. For instance, the project could be redesigned such that 95 multi-family units are provided instead of single family units with the linear park provided along the waterway. The additional channel proposed to extend up from the south end of the peninsula could be deleted from the project, or fewer residential units could be provided, leaving more land area on the peninsula to provide for the residential units as well as public access. The Commission could find such development consistent with the provisions of the LCP.

2. Mixed Use Development.

The MBSP land use map designates an area on the Westport site along Wooley and along the waterway for "mixed use". Within this area, the proposed project includes 6.11-acres of townhouse development including 88 units, and 7.41-acres of development composed of 140 apartment units and 14,000 sq. ft. of commercial space (restaurant, retail, and office) that is located within the apartment buildings.

The applicant stated that the townhouse development could be considered part of the "mixed-use" development since residents of the townhouses would also be able to utilize the commercial uses. However, the MBSP requires that: "Mixed-use will be considered as an appropriate land use, containing Neighborhood or Visitor Serving support commercial uses within the same complex or structure with residential uses". The townhouse development, as approved by the City, could not be considered "within the same complex or structure", as it was approved as a separate locked-gate community. As described in the project description above, the applicant has proposed to modify the townhouse development to incorporate four commercial spaces tucked under four of the townhouse structures (total of 8,000 sq. ft.), incorporate a public plaza within this area that faces the waterway, and delete the locked-gate aspect of the complex. The applicant's representative states that this modification better integrates residential and commercial uses with the same building or complex as set forth in the MBSP.

Neither the LUP nor the CZO address mixed-use development. The MBSP does not give a specific ratio of commercial to residential use. However, statements in the MBSP

give insight into the intent of the mixed use concept. The MBSP (Page 3) describes mixed use development to be that which includes residential **above** commercial in the same complex or structure. In another area of the specific plan (Page 4), mixed use is characterized as containing neighborhood or visitor serving commercial uses **within the same complex or structure** with residential uses. Finally, the MBSP (Page 4) sets a maximum number of residential units that may be allowed within the plan area. However, bonus units may be approved if the residential development is **incorporated into** commercial development. So, clearly the possibility of additional residential units was offered in the specific plan as an incentive to create mixed commercial/residential development.

In the absence of a specific ratio of commercial to residential development, staff analyzed what would represent a reasonable split between the two uses to meet the intent of the mixed use concept. The mixed use area on the proposed project site is located adjacent to Wooley Road, which is a less well-traveled street in this area of Oxnard. In this area, Victoria Avenue is the busier road and more of a commercial corridor (Staff would note that it is along Victoria Avenue that all of the visitor serving areas are designated). Given the proposed project location, staff would not recommend that any ratio greater than 50% commercial to 50% residential would be appropriate.

However, it is clear that the intent of the mixed use concept in the MBSP was not to give a limitless residential density bonus in exchange for a very small or token amount of commercial space. In similar past projects, the Commission has examined the potential for providing commercial uses on the ground floor of multi-story structures/complexes as the preferable means of integrating commercial and residential uses in mixed projects. For instance, in approving City of Ventura Local Coastal Program Amendment 2-96 for the Ventura Harbor, the Commission found that mixed commercial/residential use on a waterfront parcel was only appropriate if the residential use was restricted to only the upper stories of any development. In other words, the Commission found that the appropriate integration of commercial and residential uses was vertical, whereby residential was **incorporated into and above** commercial uses (as also contemplated by the MBSP).

In the case of the proposed project, the apartment portion of the project is located on the waterfront; adjacent to the proposed public boat slip area. The townhouse area of the mixed use designation is located to the interior of the peninsula. As such, it does appear that the apartment area would be the most appropriate location for commercial uses. Here, uses to both support residents of the area as well as general visitors and boaters could most easily and successfully be provided. Dedication of the entire ground floor of the two apartment structures to commercial use would represent approximately 1/3 or 33% commercial to 2/3 or 67% residential of these two 3-story buildings. The actual percentage of commercial space would be much lower when considered in conjunction with the townhouse (88 units) area of the mixed use designation. In staff's view, provision of neighborhood and visitor serving commercial uses on the entire ground floor of the proposed 3-story apartment structures would provide for a

reasonable mix of commercial/residential uses for the mixed use area of the site. Even though this would provide a relatively small amount of commercial space compared to the amount of residential units allowed in the entire mixed use area, it would provide for the commercial uses in the most logical, accessible location.

In this case, the proposed project only provides for 14,000-sq. ft. of commercial space, which is a small percentage of the ground floor area of the 3-story apartment structures. This represents less than 10% of the space within these structures. Even with the applicant's proposed addition of four commercial tenant spaces (8,000 sq. ft.) beneath residential units in the townhouse area, a very small percentage of the area designated for mixed use would be commercial. As such, the proposed project does not achieve the intent of the mixed use concept. With such a small amount of commercial space, the residential units cannot be considered to be **incorporated into** a commercial project, quite the opposite. As such, the Commission finds that the proposed project is not consistent with the MBSP's provisions regarding mixed use development.

The applicant has stated that they received direction from the City of Oxnard to not include any additional commercial space within the mixed use area of the project site. In fact staff has received a letter from City staff that confirms this understanding. The letter (Exhibit 17) states that:

By way of information, please note that in approving the project, the City reviewed the following issues related to the visitor-serving portion of the project

- The intent of the Specific Plan and LCP requirement.
- The fact that retail/commercial centers in the immediate area, and in fact, immediately adjacent to the project are in decline with significant vacancies.
- The visitor-serving uses in the Channel Islands Harbor have experienced declining economic viability during the last decade, despite a recovering economy.
- Additional visitor-serving uses would further diminish the viability of businesses in Channel Islands Harbor.
- The amount and type of visitor-serving uses suggested by the developer, coupled with the public parks and trail systems, appear likely to bring visitors into the area.

While the City's intent may have been to significantly limit the amount of commercial space within the mixed use area of the project site, this is not consistent with the intent of the MBSP. If circumstances have changed significantly since the adoption and certification of the MBSP, the proper procedure for evaluating modifications to the requirements of the plan would be an LCP amendment (subject to consistency with the policies of the Coastal Act), not through the consideration of a coastal development permit. Staff would note that the provision of commercial uses, particularly visitor-serving commercial uses, within the specific plan area is especially important in light of the fact that a permit is pending before the City for the Toscana Bay project. This project includes development of the approximately 135-acre parcel directly to the east of the Westport site. The Toscana Bay site contains a significant area designated for mixed use, as well as all of the 27.5-acres of visitor serving commercial use required by the

MBSP. If the City requires less commercial development in that project based on the same criteria used in approving the Westport project, it would represent a very significant reduction in the public and visitor-serving use required by the MBSP.

Staff cannot redesign the proposed project through conditions of approval to be consistent with the MBSP. But, there is an alternative that could achieve consistency with the mixed use provisions of the MBSP. As described above, the applicant could redesign the project to incorporate neighborhood commercial uses (as allowed in the "Coastal Neighborhood Commercial" zone) and visitor serving commercial uses (as allowed in the "Coastal Visitor Serving" zone) on the entire ground floor of the proposed 3-story apartment structures. The Commission could find such development consistent with the mixed use provisions of the LCP with special conditions to restrict the uses in this commercial space to those allowed under the CNC and CVC zones.

3. Preservation of Prime Agriculture.

There are several provisions contained in the certified LCP that call for a program to mitigate the loss of the prime agricultural soils existing on the Mandalay Bay property by transferring the soils to a recipient agricultural site(s) containing non-prime soils and thereby improving the productivity of the recipient site.

a. Land Use Plan.

Policy No. 4 (Page 2 of Exhibit 9) of the certified Land Use Plan provides requirements for buffer measures for agricultural lands bordering the urban-rural boundary, including along Wooley Road. Policy No. 5 (full text of this condition is shown on Page 2 of Exhibit 9) requires that any development approved within the 220-acre Mandalay Bay property must include a "prime agricultural land maintenance program". This program involves the transfer of the prime agricultural soils from the Mandalay site to a non-prime agricultural recipient site. Policy No. 5 sets forth the standards to be required for the size, location, and soil conditions of the recipient site(s), as well as the methods to be utilized for placing the soil. Further, this policy requires the recipient site to be restricted to exclusively agricultural use for a minimum of 25 years from receipt of the prime soil (agricultural easement or deed restriction). Finally, Policy No. 5 requires the preparation and implementation of a 10-year monitoring program to assess the success of the soil transfer.

b. Zoning Ordinances.

The "Coastal Planned Community" zone standards (Page 10 of Exhibit 11) of the certified Zoning Ordinances require the development of a specific plan for the development of the Mandalay Bay property. Of the eight components required to be included in the specific plan, the following two pertain to preserving agricultural resources:

Component No. 2 --Soil transfer program for relocation of the prime agricultural soils on the site; and

Component No. 5 --Buffering and setback component that establishes building setbacks and agricultural buffers

c. Mandalay Bay Specific Plan.

The text of the MBSP requires a soil transfer program that implements Policy 5 of the Coastal Land Use Plan. The plan is required to address several parameters, including the acreage, soils characteristics, and location of the site(s) to receive the prime soil, as well as the method and timing of soil placement. Finally, the plan is required to provide a program for monitoring agricultural production on the recipient site.

Additionally, the text of the MBSP requires the provision of an urban-rural boundary along Wooley Road. This includes a grade difference between the road and the agricultural fields to the north. Further, all street widening must occur on the south side of the road. Further, no turn-out areas or on-street parking and only minimal shoulders or curbing may be provided on the north (agricultural) side of the road.

d. Analysis.

Under the provisions of the LCP, the applicant is required to mitigate the impact of the project on agricultural production resulting from the development of a site with prime agricultural soils that is currently in production. The mitigation required by the LCP involves the preservation of the prime soil by transferring it to a recipient site.

The proposed project includes the transfer of 135,520 cu. yds. of prime agricultural soil from the subject project site. The applicant proposes to place this soil on a site located inland of Harbor Boulevard and south of the Santa Clara River (known as the Coastal Berry Ranch). This proposed recipient site is located within the Coastal Zone and is under the jurisdiction of the County of Ventura. The applicant has applied for a coastal development permit (File No. PD-1815) from the County of Ventura. The coastal development permit under consideration by the County is for the transfer of soil (340,000 cu. yds. total) from both the Westport site as well as the adjacent parcel to the east (Oly/Mandalay Partners), which together comprise the whole remainder of the MBSP area. The County permit application also includes the transfer of 340,000 cu. yds. of soil from the Coastal Berry site to an approved golf course project site within the City of Oxnard. This soil must be removed from the Coastal Berry site in order to ensure that the final elevation of the site remains the same as it currently exists due to the proximity of the site to the river. Exhibit 18 shows the relative locations of the sites that would be involved in this proposed transport of soil.

The findings and conditions for the City's CDP approval addressed the requirements of the LCP with regard to the mitigation of the loss of prime agricultural soil. Condition # 97 of the City's CDP stated that:

Consistent with Policy #5 of the Coastal Land Use Plan, this permit is granted subject to approval of a coastal development permit by the County of Ventura for the recipient site for the agricultural soil transfer program.

However, the staff report did not address whether the recipient site meets the requirements of the LUP. Additionally, there is no discussion or condition regarding the required monitoring program.

In response to staff's concerns, the applicant developed a Proposed Agricultural Monitoring Program (attached as Exhibit 19) and now propose this program as part of the project description. This proposed program sets out the parameters that the applicant proposes to monitor for a period of ten years from the transfer of the prime soils.

If the proposed project were otherwise consistent with the policies of the certified LCP and the access policies of the Coastal Act, the Commission could condition the approval of the permit upon the applicant providing evidence that the proposed recipient site meets all the standards of Policy No. 5, that all necessary permits have been issued for the transfer to the recipient site(s), that the site has been restricted through a deed restriction or other instrument to agricultural use for at least 25 years, and that the success of the transfer would be monitored for ten years. However, as described above, the project is not consistent with the access or land use policies of the LCP.

4. Water Quality.

a. Land Use Plan.

Policy No. 10 of the certified LUP requires the protection of water quality. This policy states that:

The water quality of the City's coastal waters shall be maintained, and where feasible, restored by the following:

- a. The effects of wastewater discharges which release toxic substances into coastal waters, streams, wetlands, estuaries and lakes shall be minimized, and where feasible, toxic substances should be removed. Wastewater discharges which do not contain toxic substance and which are necessary to sustain the functional capacity of streams, wetlands, estuaries and lakes shall be maintained.
- b. The entrainment of organisms (induction by subsurface cooling pipes and similar apparatus) shall be minimized.
- c. The effects of increased amounts of runoff into coastal waters, streams, wetlands, estuaries and lakes due to development shall minimize (sic), through among other means, grading and other site development controls, and buffer zones.

- d. Surface water discharge from streams and rivers shall be maintained at levels necessary to sustain the functional capacity of coastal waters, streams, wetlands, estuaries and lakes.
- e. Naturally occurring vegetation that protects riparian habitats shall be maintained, and, where feasible, restored.
- f. Alterations to natural streams shall be minimized to sustain the functional capacity of such areas.
- g. Wastewater reclamation shall be encouraged, through, among other means, using treated effluent to replenish groundwater supplies, and providing freshwater for the restoration of streams, wetlands, estuaries, and lakes.

b. Analysis.

The proposed project has the potential to adversely impact water quality, both during and after construction. The project includes the construction of new waterways, as well as the construction of new development with impermeable surfaces. The project proposes to direct storm runoff to the existing and proposed waterways, through storm drains with stormfilter vaults.

The City approval of the project did include requirements for final drainage plans, compliance with all requirements of the National Pollution Discharge Elimination System (NPDES) including the incorporation of best management practices (BMPs) to minimize water quality impacts, submittal of a Stormwater Pollution Prevention Plan (SWPPP), etc. Staff would note that these requirements were imposed as conditions of the City's Tentative Subdivision Map approval, not of the coastal development permit.

The applicant has prepared a Preliminary Storm Water Mitigation Plan for the project, although final grading, drainage, or erosion control plans have not yet been developed. If the proposed project were otherwise consistent with the policies of the certified LCP and the access policies of the Coastal Act, the Commission could condition the approval of the permit to require the applicant to submit full drainage, erosion control plan, and water quality protection plans, both for construction and post-construction phases of the project. Additionally, the Commission could require evidence of approval of such plans by the Regional Water Quality Control Board. These conditions would be imposed to ensure conformity to the water quality policies of the LCP. However, as described above, the project is not consistent with the access policies of the Coastal Act or the access and land use policies, standards, or provisions of the certified LCP.

H. CEQA

Section 13096(a) of the Commission's administrative regulations requires Commission approval of Coastal Development Permit application to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available

which would substantially lessen any significant adverse effect which the activity may have on the environment.

The Commission finds that proposed project would result in significant adverse effects on the environment, within the meaning of the California Environmental Quality Act of 1970. As described above, there are alternatives to the proposed project which assure consistency with the Coastal Act and minimize adverse effects. Therefore, the proposed project is determined to be inconsistent with CEQA and the policies of the Coastal Act.

SUBSTANTIVE FILE DOCUMENTS

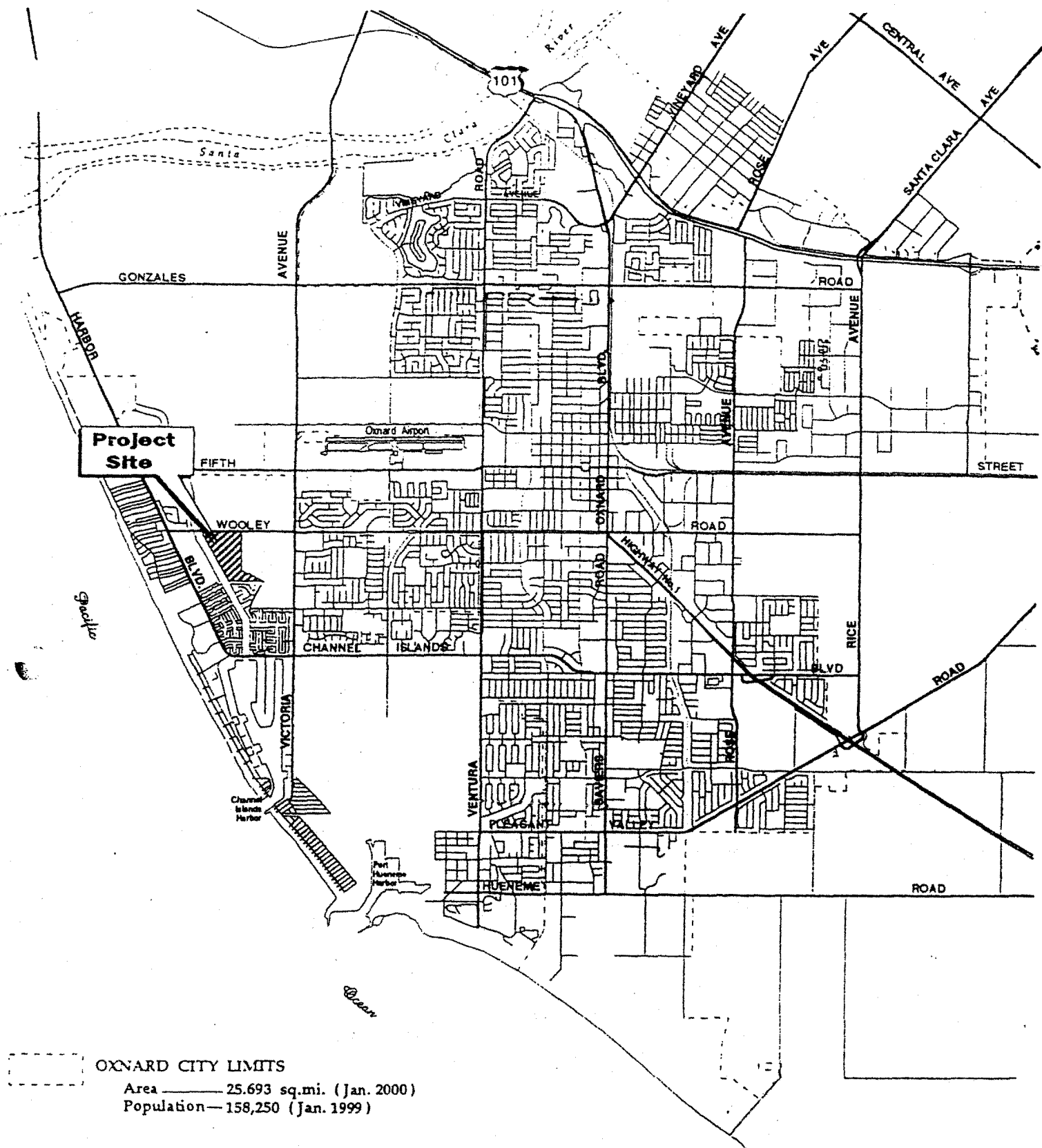
City of Oxnard Local Coastal Program

City of Oxnard Coastal Development Permit PZ 99-5-61 and Tentative Subdivision Map
PZ 99-5-62

City of Oxnard Staff Report, Mandalay Bay Specific Plan Amendment/Tentative
Subdivision Map No. 4799, dated June 10, 1992

Appeal No. A-4-OXN-92-11 (Voss Construction) Staff Report dated July 30, 1992

City of San Buenaventura Local Coastal Program Amendment 2-96 (Ventura Harbor)
Revised Findings Staff Report dated October 16, 1997



City of
Oxnard

PLANNING AND
ENVIRONMENTAL
SERVICES

File No.

PZ 99-05-61

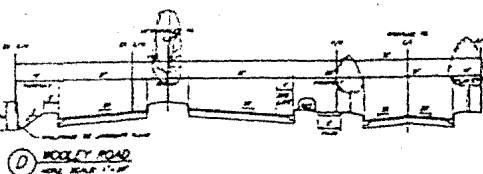
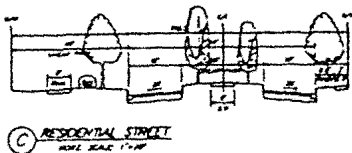
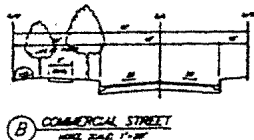
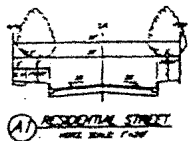
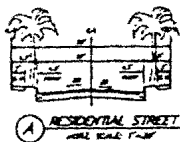
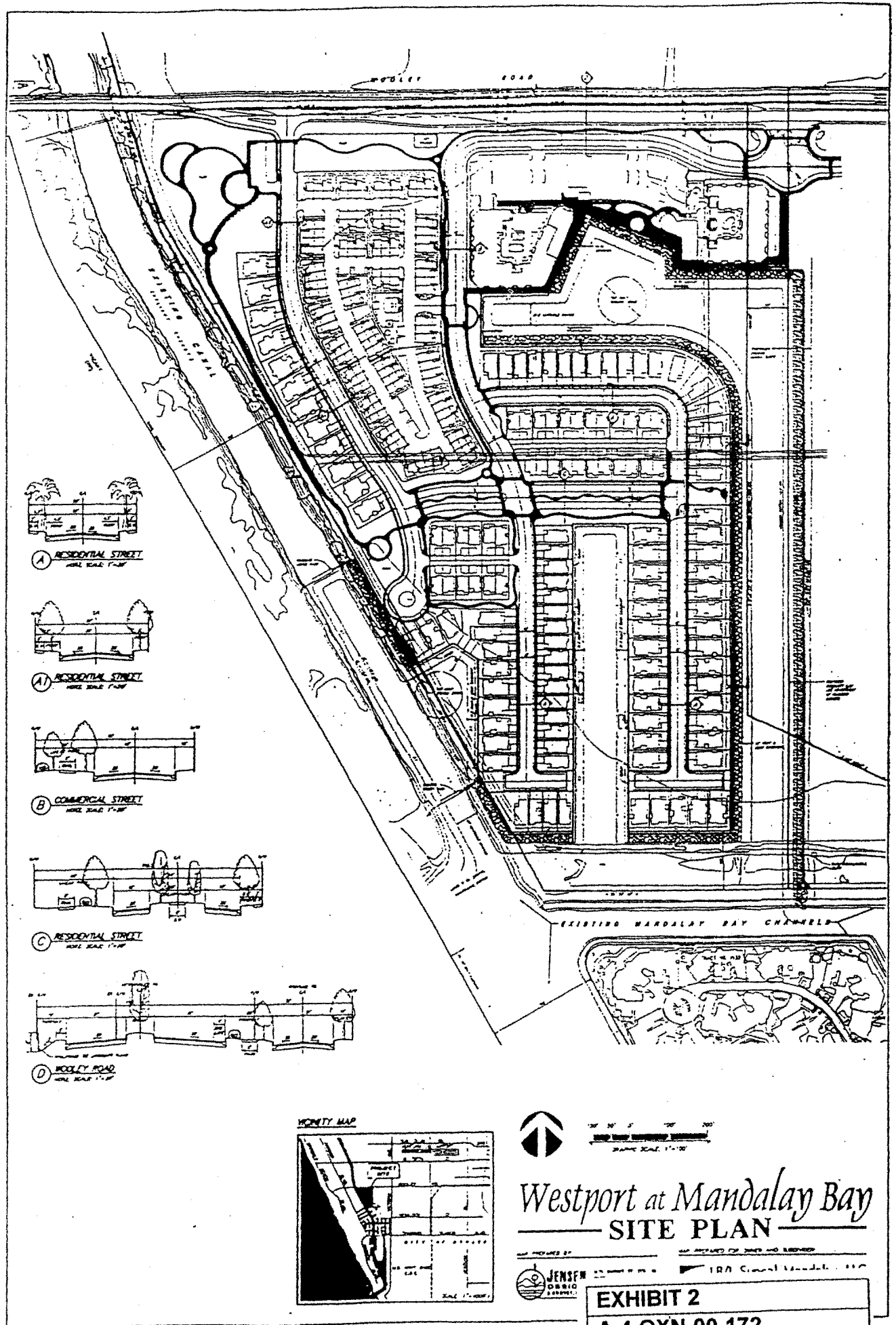
Date: 05-27-99

Prepared By: E. Carrillo

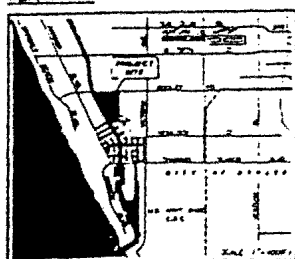
EXHIBIT 1

A-4-oxn-00-172

Vicinity Map



LOCITY MAP



GRAPHIC SCALE: 1" = 100'

Westport at Mandalay Bay

SITE PLAN

DESIGNED BY JENSEN ORSICO ARCHITECTS
PREPARED FOR JENSEN ORSICO ARCHITECTS
180 Canal Boulevard, Suite 100, Las Vegas, NV 89101

EXHIBIT 2
A-4-OXN-00-172
Site Plan

WOOLEY ROAD

WOOLEY ROAD

Westport at Mandalay Bay



EXHIBIT 3
A-4-oxn-00-172
Lateral Access/Mixed Use

(B) MIXED USED SECTION
NOT TO SCALE

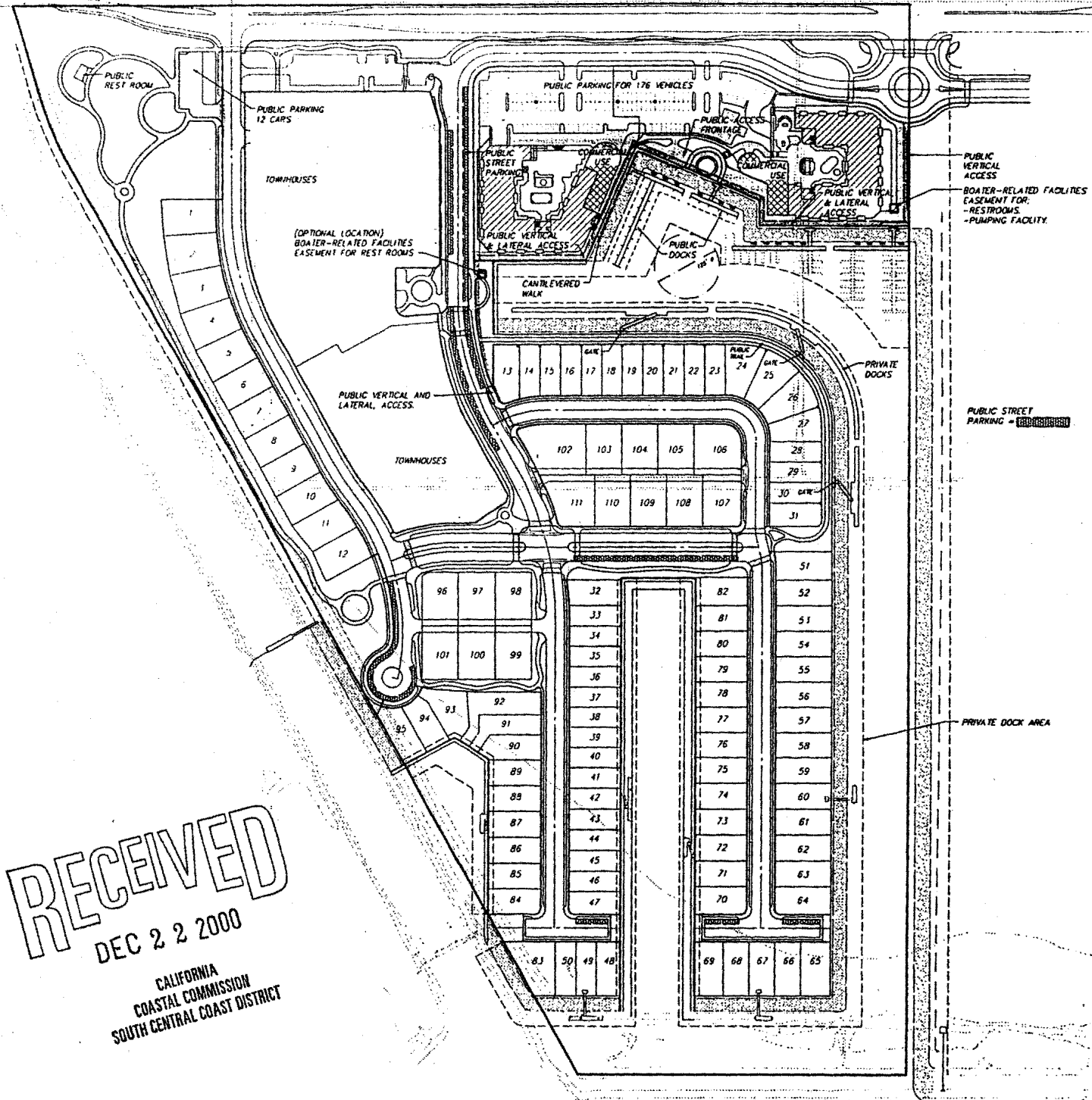
DATE: 08-22-2017
PROJECT: WESTPORT AT MANDALAY BAY
SHEET: 172 OF 172
DESIGNED BY: JENSEN DESIGN
CHECKED BY: JENSEN DESIGN
APPROVED BY: JENSEN DESIGN
SCALE: 1"=30'
PROJECT LOCATION: 1000 S. MANDALAY AVENUE, LAS VEGAS, NV 89109
PROJECT NO.: A-4-oxn-00-172
SHEET NO.: 172 OF 172
DATE: 08-22-2017
BY: JENSEN DESIGN
FOR: LB/L Suncal Mandalay, LLC
PROJECT LOCATION: 1000 S. MANDALAY AVENUE, LAS VEGAS, NV 89109
PROJECT NO.: A-4-oxn-00-172
SHEET NO.: 172 OF 172
DATE: 08-22-2017
BY: JENSEN DESIGN
FOR: LB/L Suncal Mandalay, LLC



DOCKS

PHASE 1: LINEAR CONFIGURATION = 40 SIDE TIE/END TIE SLIPS
15 SMALL CRAFT SLIPS (SIDE TIE)

PHASE 2: ULTIMATE CONFIGURATION = 83 DOCKS



RECEIVED
DEC 22 2000
CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

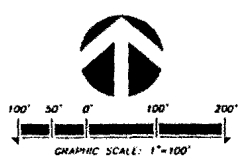


EXHIBIT 4
A-4-oxn-00-172
Boat Dock Plan

MAP PREPARED BY
JENSEN DESIGN & SURVEY, INC.
4171 MARBLE ST. STE. 46
VENTURA, CALIF. 93003
PHONE 805/654-0873
FAX 805/654-0878

MAP PREPARED FOR OWNER AND SUBDIVIDER
LB/L Suncal Mandalay, LLC
3700 DUNDON BLVD., SU. 100
CHANDLER, CA 91311
Phone (916) 773-3073
Fax (916) 771-3067

Westport at Mandalay B
DOCK & PUBLIC ACCESS EXHIBIT

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA
89 SOUTH CALIFORNIA ST., SUITE 200
VENTURA, CA 93001
(805) 641-0142

**APPEAL FROM COASTAL PERMIT DECISION
OF LOCAL GOVERNMENT****SECTION I. Appellant(s)****Name, mailing address and telephone number of appellant(s):**

Chair Sara Wan and Commissioner Cecilia Estolano
California Coastal Commission
45 Fremont Street, #2000
San Francisco, CA 94105
(415) 904-5200

SECTION II. Decision being appealed.

1. **Name of local government/port:** City of Oxnard
2. **Brief Description of development being appealed:** Westport at Mandalay Bay project for the development of 58.3-acre site including removal of prime agricultural soil, creation of channels and waterways, subdivision, and construction of 95 single family residences (83 with private boat docks), 35 residential duplex units, 88 townhouses, mixed-use development with 140 multi-family residential units and 14,000 sq. ft. of visitor-serving commercial uses, and 7-acres of public park area with trail system.
3. **Development's location (street address, assessor's parcel no., cross street, etc.):** South of Wooley Road and east of Reliant Energy Canal, Oxnard [APN No. 188-110-405, 188-110-415, and 188-110-425]
4. **Description of decision being appealed:**
 - a. Approval with no special conditions: _____
 - b. Approval with special conditions: X
 - c. Denial: _____

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

EXHIBIT 5
A-4-OXN-00-172
Commission Appeal

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 2)

5. Decision being appealed was made by:

- a. ☐ Planning Director/Zoning Administrator
- b. ☒ City Council/Board of Supervisors
- c. ☐ Planning Commission
- d. ☐ Other _____

6. Date of Local Government's decision: 7/18/00

7. Local Government's file number (if any): PZ 99-5-61

SECTION III. Identification of Other Interested Persons

Give the names and address of the following parties (Use additional paper if necessary):

a. Name and mailing address of permit applicant:

Suncal Companies, Attn: Mr. Bill Rattazzi
21601 Devonshire Blvd., #116
Chatsworth, CA 91311

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

- (1) _____
- (2) _____
- (3) _____

SECTION IV. Reasons supporting this appeal

Note: Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section, which continues on the next page.

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Page 3

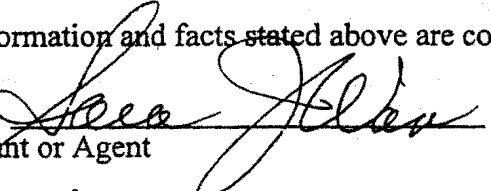
State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)

See Attached.

Note: The above description need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.

Signed: 

Appellant or Agent

Date: 8/1/00

Agent Authorization: I designate the above identified person(s) to act as my agent in all matters pertaining to this appeal.

Signed: _____

Date: _____

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)

State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)

See Attached.

Note: The above description need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.



Signature of Appellant(s) or
Authorized Agent

Date 8/1/00

NOTE: If signed by agent, appellant(s)
must also sign below.

Section VI. Agent Authorization

I/We hereby authorize _____ to act as my/our representative and to bind me/us in all matters concerning this appeal.

Signature of Appellant(s)

Date _____

Section IV. Reasons Supporting this Appeal:

Coastal Development Permit PZ 99-5-61 does not conform to policies and standards set forth in the City's certified Local Coastal Program. Following is a discussion of the non-conforming aspects of the development.

Mandalay Bay Specific Plan:

1. **Land Use Map.** The land use map included in the Mandalay Bay Specific Plan (attached) depicts "park", "mixed use", and "residential" uses for the project site. It would be necessary to map the Specific Plan land uses on the site plan to definitively determine the areas where the project is not consistent with the permitted land uses. However, it is clear that the area of single family residences with private boat docks does not conform to the designation of park shown on the land use map along all waterways. Further, it appears from a comparison of the land use map and the project map that at least some of the townhouse and duplex residential areas are located within the area designated for mixed-use residential/ visitor-serving commercial uses.
2. **Park Plan and Circulation Plan Maps.** The park plan map provided in the Mandalay Bay Specific Plan (attached) depicts public park areas of varying sizes as well as a linear park along all of the waterways, with the exception of the far southern portion of the specific plan area (Hemlock Street). The circulation plan map provided in the plan (attached) indicates a pedestrian/bicycle path along all of the waterways. The portion of the project approved for single family residences with private boat docks does not conform to the designation of park contained in the park plan map nor does it provide the pedestrian/bicycle path shown in the circulation plan.
3. **Lateral Access.** The text of the Specific Plan states that:

The primary public access to the waterfront of this project is satisfied by a linear park which extends throughout the entire project, except where single family residences are proposed along Hemlock Street. This waterfront park will provide approximately 21,000 linear feet of lateral access for the public.

As described above, the portion of the project approved for single family residences with private boat docks does not provide this linear park. As such, the approved project does not conform to the lateral access requirement of the specific plan.
4. **Vertical Access.** The text of the Specific Plan states that: "Vertical public access for vehicular, pedestrian, and bicycle access text and maps shall not be less than 10% of total linear waterfront access as depicted in the specific plan and use map (page 5)". The findings and conditions for the City's CDP approval do not address the provision of vertical access. It is unclear from the project plans whether this requirement is met. Further, the plan specifies that if the vertical access is not a public thoroughfare it must be legally restricted (by deed restriction or easement) for

public use. The City's CDP approval contains no conditions that require easements or dedication of any vertical access to a public agency.

5. **Single Family Residential Use.** The text of the Mandalay Bay Specific Plan states that:

Approximately 30 single-family waterfront homes will be provided along the existing Hemlock Street to provide a comfortable transition between the existing single-family development to the south and the more intense uses contained within this plan. Two residential islands and a peninsula will accommodate higher density residential clusters with heights possibly varying from two or three stories to as much as ten stories.

As such, the specific plan does not provide for single family detached residences in the North/South Peninsula areas. The project does not conform to this provision of the specific plan as it includes 95 single family residential parcels (83 with private boat docks).

6. **Residential Net Density.** The specific plan sets forth the total number of residential units (not including any mixed-use residential units) that can be approved within the plan area (960 total). Additionally, it provides a breakdown of the maximum number of units, unit type, acreage, and density for each potential phase (area) of the overall project. For the phase containing the proposed project site (South Peninsula, North Peninsula, and Northeast Shore Phase), the plan specifies a maximum of 218 **attached** dwelling units. The approved project includes 218 residential units (excepting the apartment units included in the mixed-use component of the project). However, as discussed above, the plan does not provide for detached single family residential units in this area of the specific plan. As such, the inclusion of 95 single family residences does not conform to this requirement of the specific plan.

7. **Public Boat Slips.** The plan states that:

The Specific Plan incorporates a minimum of 795 boat slips in the Specific Plan area. Thirty are allocated to the 30 single-family residential lots. One-half of the remaining will be available to the public.

The findings and conditions for the City's CDP approval do not address the number or public/private status of any boat slips to be provided by the project, with the exception of the 83 private boat docks associated with single-family residences. It is unclear from the project plans whether this requirement is met.

8. **Building Height.** The Mandalay Bay Specific Plan establishes a design concept for the islands and peninsulas of the plan area whereby views to and across the site would be accentuated. The plan states that:

Height zones have been established above grade as a part of the urban design concept to assure that project scale and massing conform to and accentuate the waterscape and island concepts. Buildings on the perimeter of the islands and peninsula will be restricted to three stories in height

(45') while buildings on the interior may increase in height from five stories (75') to as much as ten stories (130').

There is also a "Height Zone" Map within the plan that shows the heights allowed for each area. In the area of the project site, residential along the edges of the peninsula are allowed up to 3 stories and residential at the center of the peninsula would be allowed to extend up to 10 stories. Finally, there is a height zone applied to the mixed use (residential/commercial) area which is called "mixed height commercial". Unfortunately, the plan does not denote the range of heights that are allowed in the mixed height commercial area.

The single-family, duplex, and townhome residential uses would all be below 3 stories and 35 feet in height. Therefore, these uses are consistent with the heights allowed in the specific plan. However, the mixed use portion of the project located at the northern edge of the peninsula was permitted at 4 stories (44', 10"). While the plan does not provide a range of heights permitted in the mixed height commercial zone, it does envision a gradient of heights with lower heights on the outer areas of the peninsula and greater heights allowed in the center. As the mixed use area is at the outer portion of the peninsula adjacent to the 3 story residential area, it is not consistent with the intent of the height zone contained in the specific plan to permit the mixed use development to be higher than 3 stories.

9. **Soil Transfer.** The specific plan requires a soil transfer program which implements Policy 5 of the Coastal Land Use Plan (discussed further below). The plan is required to address several parameters, including the acreage, soils characteristics, and location of the site(s) to receive the prime soil, as well as the method and timing of soil placement. Finally, the plan is required to provide a program for monitoring agricultural production on the recipient site. The findings and conditions for the City's CDP approval address the requirement soil transfer. A site has been identified to receive the transferred soil and the applicant has applied for permits from the County of Ventura. However, there is no discussion of the applicant's development of a soil transfer program, especially with regard to any monitoring program. As such, the project does not conform to this requirement of the specific plan.

Coastal Zoning Regulations

10. **Coastal Development Permit Requirement.** The Coastal Zoning Ordinance states that:

A coastal development permit is required for all conditionally permitted uses, lot splits, and subdivisions within the individual coastal zones requiring a discretionary decision by the city as well as all projects meeting the definition of appealable developments...(Sec. 37-5.3.2)

The City concurrently considered a coastal development permit (PZ 99-5-61) and a tentative subdivision map (PZ 99-5-62) for the subject project. The two permit actions were addressed in one staff report to the Planning Commission. However, a separate resolution was adopted for the coastal development permit (CDP) and the tentative

subdivision map. The project description, findings, and conditions of the City's CDP approval do not include the subdivision, dredging or construction of waterways, or construction of seawalls and rip-rap slope protection. This development would require the approval of a coastal development permit.

11. Recordation of Easements and Dedications. The Coastal Zoning Ordinance states that:

Offers for or the execution of dedications or easements for coastal access, recreation, or open space purposes shall be recorded prior to or simultaneously with the recordation of the related land division. Where no land division is involved or required, such easements and dedications shall be recorded prior to the issuance of building permits or initiation of use, whichever comes first.

The approved project includes approximately 7-acres of public park, including a trail system. There are conditions of the City's CDP approval which require the certain equipment and amenities be provided at various areas of the parkland. However, there are no conditions that require easements or dedication of the property to a public agency. As such, the project does not assure public availability of the approved access/recreation areas as required by the zoning ordinance.

12. Visitor-Serving Commercial Uses. As detailed in the Coastal Zoning Regulations (and the Mandalay Bay Specific Plan), mixed use development may be approved on the project site which includes the commercial uses provided for in the "Coastal Neighborhood Commercial Zone" (CNC) and/or the "Coastal Visitor-serving Commercial Zone" (CVC) in combination with residential use.

The principal permitted uses allowed in the CNC zone include neighborhood services such as financial (banks), personal (barber, beauty shop, health spa, etc.), professional (real estate, medical), and public uses (park, library, etc.) as well as neighborhood sales such as eating drinking (restaurant, café), retail (market, pharmacy, florist, etc.). Secondary uses in the CNC zone include commercial recreation, entertainment, service station, and restaurant.

The principal permitted uses allowed in the CVC zone include visitor-serving services such as commercial recreation (skating rink, campground, boat rentals, etc.), entertainment (theater, night club), service station, and tourist (hotels, convention facilities, vacation timeshares) as well as visitor-serving sales such as restaurants, and marina facilities (boat launching, yacht and boat sales, bait and tackle sales, etc.). Secondary uses allowed in the CVC zone include financial, personal, and professional services, public uses, drive-through restaurants, specialty shops and general retail.

The findings and conditions for the City's CDP approval characterize the 14,000 sq. ft. of commercial space contained in the mixed-use component of the project as "visitor-serving" uses. The findings provide a break-down of the commercial space into three categories: restaurant (3,000 sq. ft.); retail (2,000 sq. ft.); and office (9,000

sq. ft.). However, there is no discussion of the specific uses approved. General office use is not permissible under the CNC or CVC zones. It is unclear whether the approved commercial project would conform to the uses allowed in these zone categories. Finally, the City's CDP approval does not include any condition limiting the uses to be provided in the commercial portion of the mixed-use project.

Coastal Land Use Plan

13. Prime Agricultural Land Maintenance Program. Policy 5 of the Land Use Plan (LUP) requires that development on the Mandalay Bay property mitigate the loss of prime agriculture on the site by transferring the prime soils from the site to a site on the Oxnard plain which does not contain prime soils. This policy requires conditions of approval for development of the Mandalay site that address, at a minimum, five parameters. These parameters include the acreage, soils characteristics, and location of the site(s) to receive the prime soil, as well as the method and timing of soil placement. Finally, this policy requires that the applicant establish and implement a monitoring program in order to track the success of the soil transfer.

The findings and conditions for the City's CDP approval address the requirements of Policy 5 of the LUP. A site has been identified to receive the transferred soil and the applicant has applied for permits from the County of Ventura. Condition # 97 of the City's CDP states that:

Consistent with Policy #5 of the Coastal Land Use Plan, this permit is granted subject to approval of a coastal development permit by the County of Ventura for the recipient site for the agricultural soil transfer program.

However, there is no discussion or condition regarding the required monitoring program. As such, the project does not conform to the requirements of Policy 5 of the LUP.

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA
89 SOUTH CALIFORNIA ST., SUITE 200
VENTURA, CA 93001
(805) 641-0142



November 30, 1999

Susan Martin, Associate Planner
Planning and Environmental Services
City of Oxnard
305 West Third Street
Oxnard, CA 93030

Subject: Draft Supplemental Environmental Impact Report for Tentative Subdivision
Map No. 5196 (State Clearinghouse No. 99041067)

Dear Ms. Martin:

Commission staff has reviewed the subject environmental document for the development of a 58.3-acre parcel bounded by Wooley Road and the existing Reliant Energy Canal. This project would apparently consist of 95 single family residences, 35 duplex units, 88 townhouse units, mixed use development containing 14,000 sq. ft of visitor serving commercial uses and 140 multi-family residential units; park, construction of waterways and 151 boat slips. Based on our review of the Draft Supplemental EIR (SEIR), we would like to offer the following comments at this time.

Introduction

Section 1.0 of the SEIR provides background on earlier environmental documentation prepared for the subject project site, including an EIR certified for the entire Specific Plan in 1982, as well as a Supplemental EIR certified in 1990 for the Voss Harbour Pointe project proposed for the same 58-acre parcel now being considered. The City approved a coastal development permit (CDP 91-2) and certified a SEIR for the Voss project, as well as approving an amendment to the Mandalay Bay Specific Plan, a component of the City of Oxnard Local Coastal Program (LCP). The amendment included modifications to the linear public access required along all waterfront areas, increasing the total water area, and the relocation of a public park site.

However, the permit for this development was never final. It should be noted that the City's decision on the CDP for this project was appealed to the Coastal Commission (Appeal No. A-4-OXN-92-11). The Coastal Commission found that there was substantial issue raised by the appeal with regard to the Voss project's conformity with the City's certified Local Coastal Program (LCP). The applicant (Voss Construction) requested that the Commission's "De Novo" consideration of the project be continued until such time as the Commission had considered the City-approved amendment to the LCP. However, the City never submitted the LCP amendment to the Commission for certification. The applicant subsequently withdrew the "De Novo" permit from

EXHIBIT 6
A-4-OXN-00-172
Comment Letter

consideration by the Commission. As such, while the City may have certified a SEIR for the Voss project, final permit approval was never obtained for this development.

Project Description.

As described in Section 2.0, the title of the project considered in the subject environmental review references Tentative Subdivision Map 5196 only. The project description includes residential, commercial, recreation, roads and waterway components. It is unclear whether the City intends the subject document to serve as the environmental review for the actual construction of these uses (e.g. for coastal development permits and other necessary permits) or whether subsequent environmental review is contemplated for the physical development of the site. This should be clarified.

Additionally, as noted in the SEIR, development within the Mandalay Bay Specific Plan area is subject to the requirement of a "soil transfer program" whereby prime soils from the site are removed and transported to recipient sites subject to various criteria. This required soil transfer should be included as part of the description of the project considered in the SEIR. There may well be impacts to the environment from such a program, including but not limited to pesticide contamination, and increased truck traffic.

Further, this section reaches the conclusion that the proposed project is consistent with the: "overall residential buildout and structural intensity identified in the Specific Plan for (sic) and falls within the range of the uses permitted in the Plan". However, for the reasons discussed in detail in the Land Use comments below, the proposed project does not appear to be consistent with all criteria contained in the Specific Plan.

Finally, under Section 2.5, there is a description of the discretionary actions required for the proposed project to proceed. This list should be expanded to include approval of a Local Coastal Program/Specific Plan Amendment.

Land Use

The City's Initial Study for the proposed project concluded that the proposal would have no impacts on Land Use or Planning. This study states that:

The Coastal Plan contemplates urban development at the project site of the same land use types (residential, commercial, and public open space) as are part of the proposed project. These uses are further defined by the 1985 Mandalay Bay Specific Plan. The proposed project is consistent with the 1985 illustrative Specific Plan, and reflects the same ratios of land uses as those identified in the 1985 illustrative Specific Plan. Therefore, the proposed project is consistent with the Mandalay Bay Specific Plan and the Coastal Plan.

Based on this determination that the project would be consistent with the existing plans, the Draft SEIR does not include any supplemental analysis of Land Use or Planning Issues.

However, staff has identified inconsistencies between the proposed project and criteria contained within the Local Coastal Program/Specific Plan. The noted inconsistencies include, but are not limited to, the following:

Land Uses. The land use map included in the Mandalay Bay Specific Plan and also included in the Coastal Land Use Plan shows park, mixed use, and residential uses for the proposed project site. It would be necessary to map the LCP/Specific Plan land uses on the proposed site plan to definitively determine the areas where the project is not consistent with the permitted land uses. However, it appears from a comparison of the land use map and the project map that at least some of the townhouse and duplex residential areas are located within the area designated for mixed-use residential/commercial uses. Additionally, the proposed project shows the area designated for park along the waterway in the LCP/Specific Plan as single family residences with private boat docks. Finally, other park areas in the proposed project shown appear to be smaller in size than the park areas shown on the land use map.

Public Access. The LCP/Specific Plan specifies requirements for the provision of public access, both lateral (along the water) and vertical (from roadways to the water). The plan states that:

The primary public access to the waterfront of this project is satisfied by a linear park which extends throughout the entire project, except where single-family residences are proposed along Hemlock Street.

In addition to the linear park, other park areas ranging from 1/3-acre to 3-acres were required to be provided. Finally, vertical public access was required to be provided for not less than 10% of the total linear waterfront access. The Park Plan in the Specific Plan shows these park areas. The proposed project does not include the provision of the linear park along all of the waterways. Rather, most of this area is proposed to be developed with single family residences with private boat docks.

Single Family Residences. The LCP/Specific Plan provides for only approximately 30 detached single-family residences along Hemlock Street in order to provide a transition between the pre-existing uses developed south of the Specific Plan area and the higher-density residential uses allowed in the rest of the area. The LCP/Specific Plan does not provide for single family detached residences in the North/South Peninsula areas where the proposed project would include 95 single family residential parcels with private boat docks.

The SEIR should address the potential impacts resulting from these conflicts with the certified Local Coastal Program/Specific Plan.

Ms. Susan Martin
November 30, 1999
Page 4

Thank you for the opportunity to review the subject Draft Supplemental Environmental Impact Report. If you have any questions, please feel free to contact me.

Very Truly Yours,

A handwritten signature in black ink, appearing to read 'B. Carey', with a stylized, cursive script.

Barbara J. Carey
Coastal Program Analyst

Letter 1

COMMENTOR: Barbara J. Carey, Coastal Program Analyst, California Coastal Commission

DATE: November 30, 1999

RESPONSE:

Response 1A

The commentor presents additional background information about the history of the Voss Harbour Pointe Project. This information is now incorporated into the Final EIR and is a part of the public record. As stated in the comment the City did certify the Final EIR for the Voss Harbour Pointe Project and approved a coastal development permit for that project.

Response 1B

The commentor requests clarification as to whether the environmental document prepared for the project, Tentative Subdivision Map No. 5196, commonly known as Westport at Mandalay Bay, is for approval of the tentative subdivision map only or for the physical development of the site. The environmental document has analyzed the impacts associated with the physical development of the site including the construction phase and operation of the proposed project. Therefore, the intent of this document is to serve as the environmental documentation not only for the approval of the tentative subdivision map but also for other necessary approvals, allowing physical development onsite.

Response 1C

The commentor requests that the details of the soil transfer program be added to the project description. In response a description of the soil transfer program has been added as part of Section 2.5.b. Project Construction as noted in the Addenda/Errata Section above. It should be noted that the impacts of the soil transfer program with regards to air quality were considered in the Draft SEIR.

Response 1D

The commentor states the opinion that the proposed project does not appear to be consistent with all of the criteria contained within the Specific Plan, but does not give any specific examples where this occurs. The opinion is noted. Also, please see Response 1F below.

Response 1E

The City of Oxnard has determined that the proposed project is consistent with the adopted Mandalay Bay Phase IV Specific Plan, and subsequently the Local Coastal Plan (LCP). Therefore, a LCP/Specific Plan amendment would not be discretionary actions required for the proposed project.

Response 1F

The commentor states the opinion that the land use map included in the Mandalay Bay Specific Plan and the proposed project are not consistent with each other, specifically citing the location of townhouse and duplex residences in areas planned for mixed use development. However, as stated throughout the adopted Specific Plan document, the Specific Plan is intended to be illustrative in nature and is intended to provide flexibility for creative and marketable solutions to individual projects.

The land use plan graphic on Page 2 of the Specific Plan is entitled "Illustrative Plan." On the same page, the second Objective, Section II.B., states that that intent is *"to provide a plan which assures quality and the flexibility necessary to meet varying market demands, thus assuring more timely implementation."*

The Specific Plan goes on to state that:

"the Specific Plan utilizes conceptual graphics and illustrations to describe the intended character of the ultimate development. It should be emphasized that these illustrations are conceptual in nature and are not intended to fix dimensions or locations of buildings or features other than general land uses and water areas, unless otherwise noted."

A review of the currently proposed Tentative Subdivision Map indicates that it corresponds generally to the illustrative plan. The commentor is correct in noting that some multi-family housing is located in the mixed-use residential/commercial areas. These uses are not inconsistent, since residential uses are allowed within the mixed use residential/commercial area.

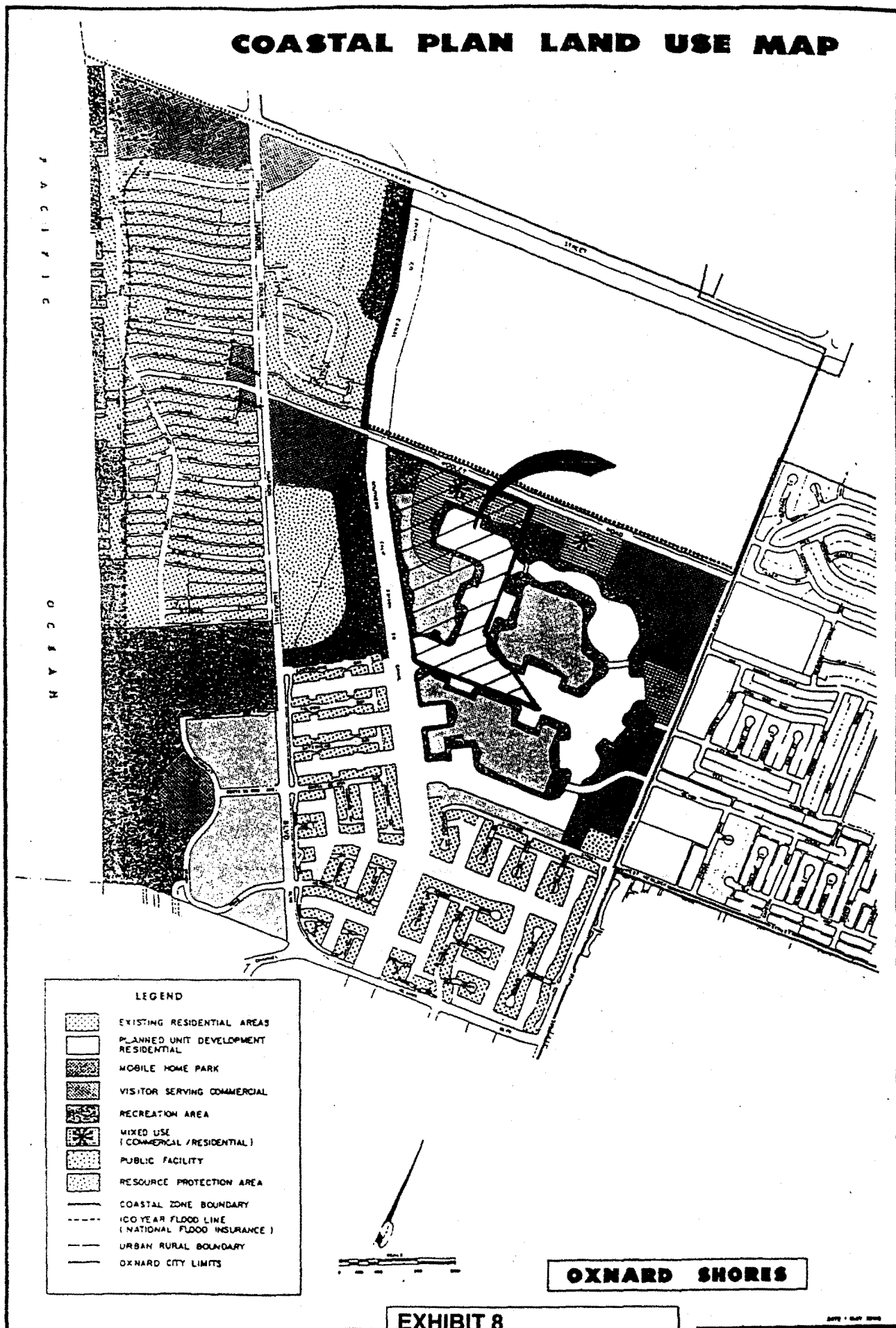
Public park uses appear to meet the general intent of the Specific Plan, through the provision of 7.28 acres of parks in linear and recreational formats. Public access would be provided at planned parking lots at both the large park and in the mixed-use commercial component. Total park acreage needs have been met. The public has access to approximately 70% of the existing Reliant Energy Channel. New waterway access is limited to locations within the subdivision at the end of stub-out roads and at the mixed-use commercial area. The lack of access along each linear foot of the waterways results from the introduction of a housing type that plans single-family houses with private docks.

The Specific Plan calls for 27.5 acres of public recreation and access area, including public parking. This represents 12.5% of the total Specific Plan land area of 220 acres. The proposed project represents 26.5% of the overall Specific Plan area. Therefore, 7.28 acres would suffice to meet the requirement. Additional public access is provided through the mixed-use area waterfront walkways and through any parking in the mixed-use area used by coastal access visitors.

The question regarding the single-family use goes to the interpretation of flexibility allowed in the Specific Plan. Since the higher-density housing types developed as part of earlier phases of the Specific Plan were considered economically unsuccessful and since their building intensity was considered less desirable by many in the community, the applicants have developed a lower intensity plan. This change is consistent with the intent of the Specific Plan, as cited

above. This lower density and lower profile development will be environmentally superior in areas of public services aesthetics, public infrastructure, and traffic.

COASTAL PLAN LAND USE MAP



**Excerpted Policies
From
The City of Oxnard Land Use Plan
Certified May, 1982**

EXHIBIT 9

A-4-oxn-00-172

LUP Policies (7 Pages)

Local Coastal Policies

3. All urban development shall be restricted to the area within the urban-rural boundary, as defined by Map 1 and the Land Use Map.
4. The agricultural lands bordering the urban-rural boundary will require buffer measures in addition to the designated adjacent buffer land uses in order to adequately protect their viability. Design features for the improvements required on Wooley Road as a result of urbanization to the south of Wooley Road shall include mitigation measures to buffer the urban uses from the agricultural lands. Possible design techniques which will provide the necessary mitigation measures include the following:
 - a. All widening shall occur on the south side of Wooley Road;
 - b. A grade difference shall be created between the road and the agricultural fields, with a drainage ditch located along the north side of the road;
 - c. There shall be no provision of turn-out areas or on-street parking, minimal shoulders and construction of a curb along the northern edge of the roadbed;
 - d. All sidewalks and bicycle paths shall be located only on the south side of Wooley Road; and
 - e. A hedge or tree row, combined with an eight-foot fence, shall be located on the crop side, on the north side of Wooley Road.
5. This policy shall apply only to that single specific 220-acre property located north of Hemlock Street, south of Wooley Road, east of the Edison Canal, and west of Victoria Avenue, commonly known as the Mandalay Bay project. The purpose of this condition is, in part, to assure that the long-term agricultural productivity in the Oxnard area is not reduced. As a condition of development of prime agricultural soils, a "prime agricultural land maintenance program" shall be undertaken to assure that the overall amount of prime agricultural land is not reduced by urbanization. Therefore, prior to issuing any authorization for a planned unit development ("PUD") on the subject parcel, the City shall make written findings that the applicant for the PUD has obtained rights to deposit on a like amount of nonprime agricultural land, the prime soils to be taken from the subject site. The conversion of the prime agricultural soil on the Mandalay Bay site to urban uses is conditioned upon the approval of a planned unit development which satisfies all requirements of Policy 45 of this land use plan.

Conditions of project approval shall, at a minimum, consist of the following actions and restrictions:

- a. The acreage of the recipient area shall equal or exceed the converted prime agricultural lands. If the recipient area consists of two or more parcels, each site shall contain a minimum of 40 contiguous acres to which the soil shall be applied. All acreage within the recipient sites shall consist of nonprime agricultural soils at the time of the approval and actual application of the soil transfer program.

- b. The recipient areas must be west of State Route 1 within that agricultural area directly influenced by coastal climatic conditions on the Oxnard Plain. Land to be upgraded located within the coastal zone must be identified for agricultural use within the Land Use Element of the applicable LCP. Land identified for upgrade status which is outside the coastal zone must be designated for agriculture in the applicable General Plan. The recipient area shall be restricted to exclusively agricultural use for a minimum of 25 years from the date of receipt of the transferred soil. This shall be accomplished by an agricultural easement in favor of the State of California or a deed restriction.
- c. The City shall require that the following procedures be used on all recipient sites of the prime agriculture soil transferred from the Mandalay Bay project donor site.
 - 1) Clear recipient site of all debris
 - 2) Level land to desired farming and irrigation grade which shall be the final elevation
 - 3) Uniformly overlay site with 12 inches below projected new surface
 - 4) Slip plow or deep disc to 28 inches below projected new surface
 - 5) Uniformly overlay site with 12 inches of imported soil
 - 6) Farmer to subsoil and landplane as desired for intended crop
 - 7) There shall be no stockpiling of transferred prime soils which shall be moved directly from the donor site to the recipient sites. Procedures shall be undertaken in such a way as to prohibit compacting of the newly deposited soils by heavy equipment and to otherwise protect their capabilities.
- d. Concurrent with the commencement of construction of each phase, the prime soils shall have been transferred to suitable recipient sites and returned to cultivation. As an alternative, a performance bond shall be posted to assure the transfer of soils and the restoration of the recipient sites.
- e. The applicant for the PUD permit shall establish a program for monitoring agricultural production on the recipient sites and reporting resulting data to the Coastal Commission and the U.S. Soil Conservation Service (SCS). The SCS shall be consulted in the design of the monitoring and reporting program. The program shall continue for at least 10 years from the date of transfer of the soils and shall be fully funded by the applicant. The program shall develop and monitor data on all soil characteristics, crop types and yields, irrigation requirements, and the agricultural productivity of each donor site.

Local Coastal Policies

45. The Mandalay Bay project site, a 220-acre property located north of Hemlock Street, south of Wooley Road, and between the Edison Canal and Victoria Avenue, has been designated Planned Development. The purpose of the designation is to ensure the well-planned development of this large area which is proposed for water-oriented development. The following policies apply specifically to this development area:

- a. The entire site shall be planned as a unit. A specific plan showing the ultimate development of the site shall be required prior to any project or subdivision approval.
- b. Overall densities shall not exceed those established in the land use plan. The site design shall include expansions of the existing Inland Water/Edison Canal system. Residences, both single-family or multiple units, shall be oriented to the waterway, and private docking facilities may be provided. Public vertical access to the waterway shall be required; the combined public vertical access frontage on the water shall not be less than 10 percent of the development's total linear waterfront footage, unless adequate access is provided nearby and shall be included in the specific plan. The lateral access requirement shall be a minimum of 50 percent of the total linear frontage and shall be dedicated and available for public access. Exceptions to continuous lateral public access shall be allowed only for limited single-family waterfront home development where adequate alternative access exists nearby. All public accessways and facilities shall be provided in accordance with Policy 72. Recreational areas shall be distributed throughout the project with pedestrian and bicycle linkages between pocket parks, play areas, overlooks and other small-scale public areas offering the public and residents of the project recreational opportunities. No project on this site shall be approved without concurrent approval of all components of the "prime agricultural land maintenance program."

(Please refer to Policy 5 of this Plan)

- c. Common (nonpublic) open space shall be required for all multiple-family or attached units and shall include, but is not limited to, recreational facilities intended for the residents' use, including swimming pools, tennis courts, playgrounds, community gardens, or common landscaped areas. Streets, driveways and parking lots shall not be considered as a common open space.
- d. Public open space shall include, but is not limited to, public parks other than identified neighborhood and community parks, beaches, parking lots for public use and access corridors, including pedestrian paths and bikeways. Streets, property for private use, sensitive habitat areas and other nonusable areas shall not be considered as public open space.
- e. At least 20 percent of the net area of the site shall be designated for common open space for multiple-family or attached-unit developments unless adequate facilities are provided nearby. Not less than 20 percent of the net area of the site for all areas designated Planned Development on the land use map shall be public open space, unless adequate open space is provided nearby. Areas designated by the LCP as neighborhood or community parks shall

not be included in the site area and may not be counted towards the required percentage of public open space. The area of the waterway may be included in the tabulations.

- f. Land uses shall consist of a mix of visitor-serving commercial, residential and public recreational areas oriented to an expansion of the existing Inland Waterway. The visitor-serving commercial, public recreation and open water shall comprise at least 50 percent of the overall project area. At least 12.5 percent of the total project area shall be public recreation areas and at least 12.5 percent of the total project area shall be visitor-serving commercial. Water area shall comprise the remaining 50 percent of the visitor-serving commercial and public recreation area.
- Total Project Site: 220 acres (100 percent)
- Area required for visitor-serving commercial, public recreation and open water: 110 acres (50 percent)
- Area for residential development: 110 acres (50 percent)

BREAKDOWN OF PUBLIC AND VISITOR SERVING AREAS

<u>Element</u>	<u>Minimum Acreage</u>	<u>Percent Of Public Area</u>	<u>Percent of Total Project</u>
Visitor-serving Commercial Public Recreation and Open Water	110.0	100	50.0
a. Visitor-serving Commercial	27.5	25	12.5
b. Public Recreation	27.5*	25	12.5
c. Open Water**	55.0	50	25.0

- g. The development of an open body of water shall be an integral part of this land use designation. The development of this water area, however, may only proceed consistent with the other policies of this plan. A public launching ramp and boat docks for day use will also be provided. Fifty percent of the docking facilities provided in the project other than those provided with single-family residences shall be available for use by people not residing within the project. Full and unimpaired public access to and use of all open water areas, consistent with security and safety requirements, shall be assured. The location of and design of all development shall provide for public access and use of the project's water and immediate shore area.

*Must all be on land

** Up to 10 percent of open water may be devoted to public marinas or boat slips available to the public

h. The project design shall also provide for significant buffer areas within the project, not including active public or visitor-serving uses, which will effectively protect all adjacent agricultural land uses from conflicts with urban uses and activities.

i. For all PUD project, the following requirements are imposed:

- 1) A program of signing shall be developed and implemented to inform and direct the public as to the access and recreational opportunities, and the public obligations and constraints. Public recreational areas shall be located and designed to provide for ready access and identification by the public.
- 2) All public areas shall be offered for dedication for public use prior to issuance of a permit for development.
- 3) Public improvements required of a development shall be developed concurrently and shall be completed prior to completion of the final project phase.

46. Areas designated for visitor-serving commercial uses shall be planned and designed to maximize aesthetics, have a common theme and blend with surrounding uses. Permitted uses include motels, hotels, restaurants and visitor-oriented retail commercial. Where designated, neighborhood convenience commercial may also be permitted, provided that the commercial uses remain predominantly visitor-oriented.

47. The Ventura County Air Quality Management Plan (AQMP) is incorporated into the LCP by reference. All new development located within the coastal zone shall occur in a manner consistent with the AQMP.

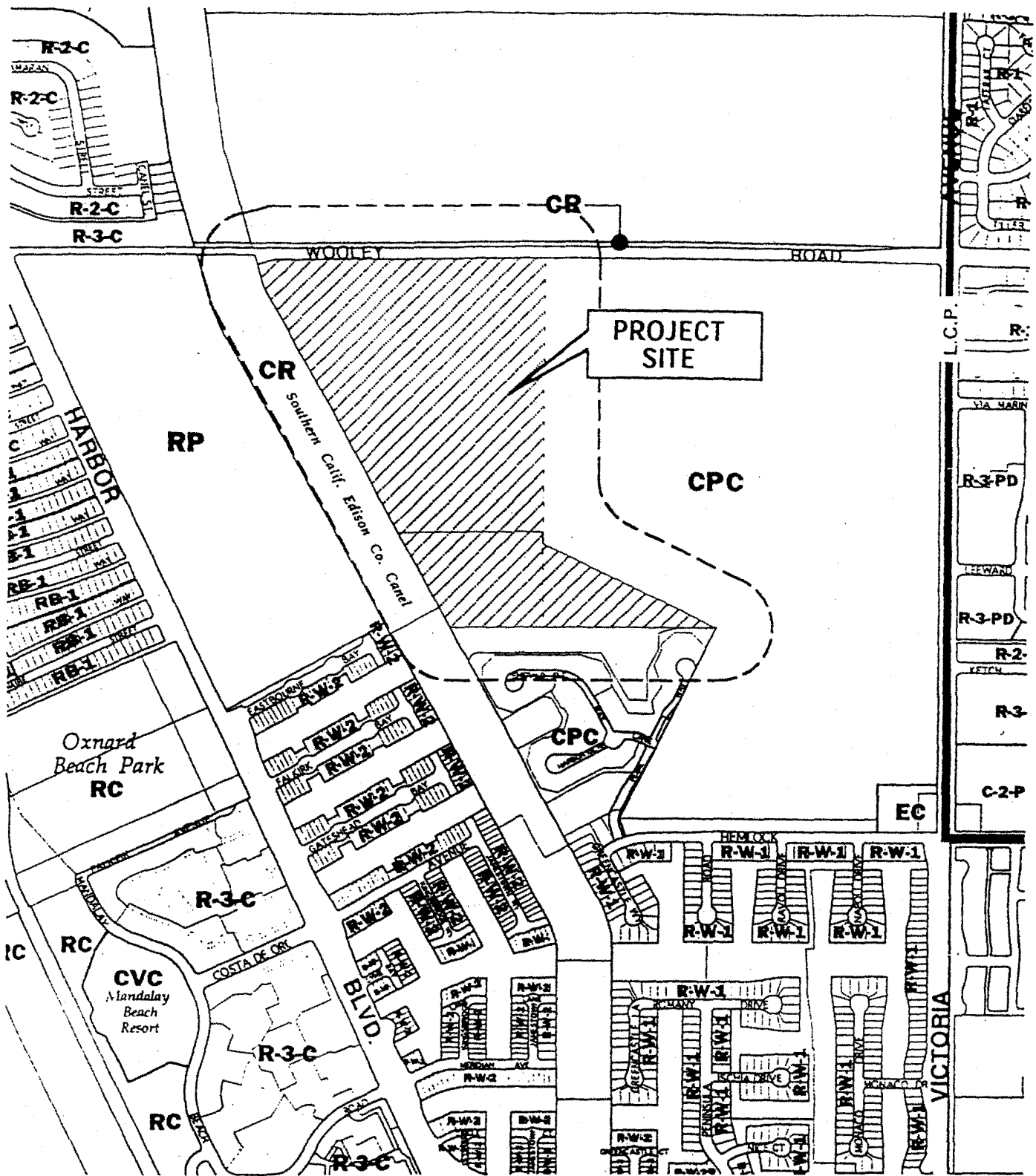
48. Avoidance is the preferred mitigation in all cases where a proposed project would intrude on the known location of a cultural resource. Therefore, proposed project areas should be surveyed by a qualified archaeologist and resulting findings taken into account prior to issuing discretionary entitlements.

Should any object of potential cultural significance be encountered during construction, a qualified cultural resources consultant shall be contacted to evaluate the find and recommend any further mitigation needed. All potential impacts shall be mitigated to the maximum extent feasible.

Any unavoidable buried sites discovered during construction shall be excavated by a qualified archaeologist with an acceptable research design. During such site excavation, a qualified representative of the local descendants of the Chumash Indians shall be employed to assist in the study, to ensure the proper handling of cultural materials and the proper curation or reburial of finds of religious importance or sacred meaning.

49. The Colony, a 115-acre planned development site located between Harbor Boulevard and the Pacific Ocean, north of Channel Islands Boulevard and south of Falkirk Avenue, is a recognizable residential and resort facility. Public access to the beach is provided by means of a promenade and bike path which extends along the entire length of the overall development.

71. On vacant oceanfront lots in the Oxnard Shores Neighborhood, the City shall, in its permit process, ensure that evidence of public use is protected according to PRC 30211. In the event prescriptive rights are not fully established by a court of law, funds shall be sought for acquisition of these lots through the Transfer of Development Rights program. As funds designated for beach acquisition become available, the City shall attempt to acquire these vacant lots for public beach purposes. Once acquisition of the vacant lots is complete, the city may complete the linear park by acquiring the developed lots and removing the structures.
72. Public access to and along the shoreline and the Inland Waterway shall be required as a condition of permit approval for all new developments between the shoreline and the first public roadway inland from the shore, except as provided below:
 1. Exceptions may be made when access would be inconsistent with public safety, military security, the protection of fragile coastal resources, or when agriculture would be adversely affected.
 2. Exceptions for vertical accessways may be made when adequate vertical access exists nearby (500 feet).
 3. For Mandalay Bay inland water development, exceptions to the requirement of continuous lateral public access may be made for single-family waterfront development, but in no case shall the total public lateral access be less than 50 percent of the total shoreline frontage of the project. All vertical access shall be located and designed to minimize impacts on surrounding residential areas (reference Policy No. 45).
 4. Offers to dedicate public accessways and public facilities shall be recorded prior to the issuance of the permit and they shall be developed concurrently with the project. However, public access facilities need not be open to the public until a public agency or private association agrees to accept the responsibility for maintenance and liability of the access. Recorded offers of dedication shall not be revocable for 20 years.
73. Adequate public parking shall be provided in all new development with dedicated public access areas, and shall be in addition to the parking required for the new development, unless adequate facilities are provided nearby. All facilities shall be located and designed to avoid impacts on surrounding residential areas.
74. Bicycle routes shall be required in new developments wherever appropriate.
75. A bus route from the downtown area out Fifth Street past the airport to the new City/County Park at Fifth and Harbor, and on to McGrath State Beach Park, would provide excellent low-cost access to a more remote section of the coast. Although not possible under SCAT's current funding structure, it would be possible if it were to be jointly subsidized by State Parks, Oxnard Airport, the City and the County, and run by SCAT. Unlike other SCAT routes, this recreational route would run most frequently on summer weekends. This option should be explored further by the City.



City of
Oxnard

PLANNING
AND
ENVIRONMENTAL SERVICES

File No.:

PZ 99-05-61

Date:

5-24-99

Prepared By:

g. o. illo

EXHIBIT 10

A-4-OXN-00-172

Zoning Map

**Excerpted Standards and Provisions
From
The City of Oxnard Coastal Zoning Ordinance
Certified March, 1985**

EXHIBIT 11
A-4-oxN-00-172
Zoning Ordinances (23 Pages)

Sec. 37-2.2.0 R-W-1 (Single-family Water-oriented) Zone

Sec. 37-2.2.1 Purpose

The purpose of the R-W-1 zone is to provide areas of low-density, single-family dwellings on parcels located in an established neighborhood with close proximity to dedicated inland coastal waterways. It is the intent of this zone to protect established single-family, water-oriented neighborhoods from land uses of higher density and intensity consistent with the policies of the Oxnard Coastal Land Use Plan.

Sec. 37-2.2.2 Permitted Uses

1. Single-family dwelling placed on a permanent foundation.
2. Accessory buildings and structures located on the same lot.
3. Residential care facilities operating 24 hours per day, serving no more than six persons.
4. Children's day-care facilities operating 12 hours per day or less, serving no more than six children.
5. Adult day-care facilities, serving no more than six adults.
6. Home occupations

Sec. 37-2.2.3 Property Development Standards

Maximum building height:	Two stories, not to exceed 28 feet.
Minimum lot area:	4,000 square feet for lots which directly abut a waterway; 6,000 square feet for lots which do not abut a waterway.
Minimum lot width:	40 feet
Interior yard space:	15 percent of the lot area. May include interior side yard. Need not exceed 600 square feet. Minimum dimension of eight feet.
Front yard setback:	15 feet; minimum of 20 feet to center of garage door for back-out driveways.
Rear yard setback:	12 feet for lots abutting a waterway; 20 feet for lots which do not abut a waterway.
Side yard setback:	Interior side yard: four feet. No side yard shall be required on one side of a lot where an eight foot side yard is provided on the other side.

Street side yard: five feet

Reverse corner side yard: One-half of front yard of abutting lot.

Sec. 37-2.2.4 Special Requirements

1. Mezzanine for attics may be constructed within roof areas, provided that there are no window openings above the attic or mezzanine floor except for openings facing the front property line and within 10 feet of the front setbacks.
2. No exterior decks are permitted above height of second floor.

Sec. 37-2.2.5 Applicable Regulations

All uses shall be subject to the applicable regulations of Chapter 37, including standards which are located in the following sections:

1. Sec. 37-1.4.0 General requirements
2. Article 3 Specific coastal development and resource standards
3. Article 4 General coastal development and resource standards
4. Article 5 Administration

Sec. 37-2.3.0 R-W-2 (Townhouse Water-oriented) Zone

Sec. 37-2.3.1 Purpose

The purpose of the R-W-2 zone is to provide areas of moderate density townhouse dwellings on parcels located in neighborhoods with close proximity to dedicated inland coastal waterways. It is the intent of this zone to protect established townhouse water-oriented neighborhoods from land uses of higher density and intensity consistent with the policies of the Oxnard Coastal Land Use Plan.

Sec. 37-2.3.2 Permitted Uses

1. Single-family dwelling placed on a permanent foundation.
2. Accessory buildings and structures located on the same lot.
3. Residential care facilities operating 24 hours per day, serving no more than six persons.
4. Children's day-care facilities operating 12 hours per day or less, serving no more than six children.
5. Adult day-care facilities serving no more than six adults.
6. Home occupations

Sec. 37-2.3.3 Conditionally Permitted Uses

The following uses are permitted subject to the approval of a coastal development permit pursuant to the provisions of Article 5 (Administration):

Townhouses, condominiums, and attached and semi-attached dwellings on a permanent foundation.

Sec. 37-2.3.4 Property Development Standards

- | | |
|--------------------------|--|
| Maximum building height: | Two stories, not to exceed 30 feet. |
| Minimum lot area: | 2,800 square feet |
| Minimum lot width: | 28 feet |
| Interior yard space: | 15 percent of the lot area. Minimum dimension of 10 feet. |
| Front yard setback: | 15 feet; minimum of 20 feet to center of garage door for back-out driveways. |
| Rear yard setback: | 12 feet for lots abutting a waterway; 20 feet for lots which do not abut a waterway. |

Side yard setback:

Interior side yard: None required.

Street side yard: Five feet

Reverse corner side yard: One-half of front yard of abutting lot.

Sec. 37-2.3.5 Special Requirements

Townhouse building cluster, separation and parking: There shall be no more than six attached dwelling units in any building cluster. Building clusters shall have a 20-foot minimum separation. One off-street guest parking space shall be provided for every three dwelling units unless on-street parking is provided at the ratio of one space for each unit.

Sec. 37-2.3.6 Applicable Regulations

All uses shall be subject to the applicable regulations of Chapter 37, including standards which are located in the following sections:

1. Sec. 37-1.4.0 General requirements
2. Article 3 Specific coastal development and resource standards
3. Article 4 General coastal development and resource standards
4. Article 5 Administration

Sec. 37-2.4.0 R-2-C (Coastal Multiple-family) Zone

Sec. 37-2.4.1 Purpose

The purpose of the R-2-C zone is to provide areas of moderate density multiple-family dwellings of a residential character suitable for legally existing and new subdivisions located in areas adjacent to significant coastal resources both urban and natural in character. Development within the R-2-C zone shall be consistent with the policies of the Oxnard Coastal Land Use Plan.

Sec. 37-2.4.2 Permitted Uses

1. Single-family dwelling placed on a permanent foundation.
2. Accessory buildings and structures located on the same lot.
3. Residential care facilities operating 24 hours per day, serving no more than six persons.
4. Children's day-care facilities operating 12 hours per day or less, serving no more than six children.
5. Adult day-care facilities, serving no more than six adults.
6. Home occupations

Sec. 37-2.4.3 Conditionally Permitted Uses

The following uses are permitted subject to the approval of a coastal development permit pursuant to the provisions of Article 5 (Administration):

1. Duplex of multiple-family dwelling units either in separate buildings or combined in one or more main buildings to a maximum of six units per building.
2. Residential care facility serving more than six, but no more than 15, persons.
3. Children's day-care facilities serving more than six, but no more than 15, children.
4. Adult day-care facilities serving more than six, but no more than 15, persons.
5. Townhouses, condominiums, and attached and semi-attached dwellings on a permanent foundation.
6. Residential stock cooperatives and community apartments.

Sec. 37-2.4.4 Property Development Standards

Maximum building height: Two stories, not to exceed 25 feet.

Minimum lot area: 3,500 square feet per dwelling unit. One unit only permitted on lots of less than 7,000 square feet or whose average width is less than 50 feet. Lots of record prior to May 21, 1981, which have a minimum of 6,000 square feet may contain two dwelling units provided minimum width is met.

Minimum lot width: 50 feet

Interior yard space: 25 percent of the lot area. Minimum dimension of 15 feet.

Front yard setback: 20 feet

Rear yard setback: 25 feet

Side yard setback: Interior side yard: five feet
Street side yard: five feet
Reverse corner side yard: One-half of front yard of abutting lot.

Accessory buildings: May occupy any portion of rear yard provided such is located at least six feet from main structure, is not more than one story in height, and is set back a minimum of 15 feet from any alley or way.

Sec. 37-2.4.5 Special Requirements

Building Clusters: There shall be no more than six attached dwelling units attached in any building cluster.

Sec. 37-2.4.6 Applicable Regulations

All uses shall be subject to the applicable regulations of Chapter 37 including standards which are located in the following sections:

1. Sec. 37-1.4.0 General requirements
2. Article 3 Specific coastal development and resource standards
3. Article 4 General coastal development and resource standards
4. Article 5 Administration

Sec. 37-2.5.0 R-3-C (Coastal Medium Multiple-family) Zone

Sec. 37-2.5.1 Purpose

The purpose of the R-3-C zone is to provide an area of medium density multiple-family dwellings and new development for existing multiple-family residential neighborhoods, particularly with the respect to the preservation of existing lot to moderate income housing within the City's coastal zone. Development within the R-3-C zone shall be consistent with the policies of the Oxnard Coastal Land Use Plan.

Sec. 37-2.5.2 Permitted Uses

1. Single-family dwelling placed on a permanent foundation.
2. Accessory buildings and structures located on the same lot.
3. Residential care facilities operating 24 hours per day, serving no more than six persons.
4. Children's day-care facilities operating 12 hours per day or less, serving no more than six children.
5. Adult day-care facilities, serving no more than six adults.
6. Home occupations
7. Timeshare, subject to participation in the TDR program.

Sec. 37-2.5.3 Conditionally Permitted Uses

The following uses are permitted subject to the approval of a coastal development permit pursuant to the provisions of Article 5 (Administration):

1. Multiple-family dwellings
2. Residential care facility, serving more than six persons
3. Children's day-care facilities, serving more than six children
4. Adult day-care facilities, serving more than six adults
5. Townhouses, condominiums, community ownership projects, and attached and semi-attached dwellings on a permanent foundation
6. Residential stock cooperatives and community apartments
7. Vacation timeshare developments, subject to participation in the transfer of development rights program

Sec. 37-2.5.4 Property Development Standards

- Maximum building height: Three stories, not to exceed 35 feet.
- Minimum lot area: 2,400 square feet per dwelling unit. No more than two units on lots having an average width of less than 60 feet. No more than one unit on lots having an average width of less than 40 feet. Lots of record prior to May 21, 1981, which have a minimum of 4,800 square feet may contain three dwelling units provided minimum width is met.
- Minimum lot width: 60 feet
- Interior yard space: 25 percent of the lot area. Minimum dimension of 15 feet.
- Front yard setback: 20 feet; 15 feet if all vehicle access is off alley
- Rear yard setback: 25 feet
- Side yard setback: Interior and street side yard: five feet for one- and two-story structures; 10 feet for three-story structures
- Reverse corner side yard: One-half of front yard of abutting lot not to be less than 10 feet.
- Accessory buildings: May occupy any portion of rear yard provided such is located at least six feet from main structure, is not more than one story in height, and is set back a minimum of 15 feet from any alley or way.

Sec. 37-2.5.5 Special Requirements

Twenty-five percent of required interior yard space may be on building decks having minimum dimension of ten feet and minimum area of 200 square feet.

Sec. 37-2.5.6 Applicable Regulations

All uses shall be subject to the applicable regulations of Chapter 37 including standards which are located in the following sections:

1. Sec. 37-1.4.0 General requirements
2. Article 3 Specific coastal development and resource standards
3. Article 4 General coastal development and resource standards
4. Article 5 Administration

Sec. 37-2.6.0 CPC (Coastal Planned Community) Zone

Sec. 37-2.6.1 Purpose

The purpose of the CPC zone is to provide a method which will ensure the orderly development of a large-scale mixed-use planned development on property located in an area bounded by Wooley Road on the north, Edison Canal on the west, Hemlock Street on the south, and Victoria Avenue on the east in accordance with the provisions of the Oxnard Coastal Land Use Plan. The provisions of this zone shall apply exclusively to the property zoned CPC as designated on the official Oxnard Shores Land Use Map of the certified Oxnard Coastal Land Use Plan.

The CPC zone is further intended to provide for the integration of residential, and visitor-serving commercial, and public recreational and open space uses consistent with the certified Oxnard Coastal Land Use Plan and provide for appropriate public access to the extensions of the Inland Waterway; and to provide a development which will optimize the utilization of property to conserve energy and promote the efficient use of limited resources.

Sec. 37-2.6.2 Permitted Uses

1. Agriculture and aquaculture
2. Passive recreation uses both on land and water

Sec. 37-2.6.3 Other Uses - Coastal Development Permit or Development Permit Review Required

Residential, visitor-serving commercial, public passive and active recreation uses may be permitted subject to the adoption of a specific plan for the planned unit development which shall establish the development pattern for the project site. Permitted and conditionally permitted uses shall then be allowed subject to the provisions of the Oxnard Coastal Land Use Plan and the general provisions of this chapter. Permitted and conditionally permitted uses shall be only those allowed in the R-W-1, R-W-2, R-2-C, R-3-C, CNC, CVC, and RC zones.

Sec. 37-2.6.4 Specific Plan Required

Pursuant to the policies of the Oxnard Coastal Land Use Plan, a specific plan for the entire property designated PUD-C shall be prepared and adopted prior to the issuance of any development permits and land divisions for development on the project site. The specific plan shall provide for development of the property in accordance with Policies 4, 5, and 24 of the Oxnard Coastal Land Use Plan specifically and with other general policies of the LUP.

Sec. 37-2.6.5 Specific Plan Contents

A. The specific plan shall contain the following components:

1. Access and recreation component

The specific plan shall contain a component which identifies the location of standards for improvements, and quantification of the amount of land area provided for lateral and vertical access, and public recreation, and open space facilities and areas, including parks, beaches, public marinas, and bikeways. All access shall be in accordance with the certified Oxnard Coastal Land Use Plan.

2. Soil transfer program

The specific plan shall require the provision of a soil transfer program upon submittal of the tentative map for each phase as required by Policy 5 of the Oxnard Coastal Land Use Plan.

3. Project and use map

The specific plan shall contain a map of the location and amount of specific uses and densities for land and water areas as for the entire CPC designated property required by the Oxnard Coastal Land Use Plan. Uses within water areas shall also be quantified.

4. Circulation component

The specific plan shall contain a circulation plan which identifies all public streets which will support the proposed project. The circulation plan shall also identify the location of bike paths and other alternative circulation improvements including those related to public transportation. An accompanying text shall identify the types of street and intersection improvements that are necessary. Street cross sections shall be provided, and the location of all required or proposed public parking areas serving public accessways shall be shown.

5. Buffering and setback component

The specific plan shall contain illustrations and text establishing the nature and location of building setbacks from thoroughfare and collector streets and from the waterway. In addition, the plan shall include descriptions and cross sections of urban use buffers as required for the project by the Oxnard Coastal Land Use Plan in accordance with Policy 4.

6. Urban design and landscape component

The specific plan shall contain illustrations and text as necessary to identify the relationships between major design elements which shall establish the character of the development. Elements to be identified shall include but not be limited to: view corridors; access and circulation corridors; public recreation use area and facilities (including beaches, plaza, boardwalks, etc.); overall project landscaping character; overall project architectural character; preliminary streetscape plan; project entries; and gateways.

7. Master utility and drainage facility component

The specific plan shall contain illustrations and text indicating the preliminary proposals and phasing for interim and ultimate sewer and stormwater drainage facilities, and street improvements.

8. Phasing component

The specific plan shall contain illustrations and text indicating the phasing sequence for development and public access dedication and improvements.

- B. The specific plan for the planned unit development shall consist of text and illustrations providing adequate data and criteria to fully express the proposed standard and character of development.

Sec. 37-2.6.6 Land Use and Access

The specific plan for the planned unit development shall provide for the amounts of visitor-serving commercial, public recreation and water use areas as required by Policy 24 of the Oxnard Coastal Land Use Plan. The specific plan shall also provide for the amount of vertical and lateral access in accordance with Policy 24 of the Coastal Land Use Plan and consistent with the access provisions of this chapter.

Sec. 37-2.6.7 Findings

In addition to those findings contained in Sec. 37-5.3.0, the specific plan for the planned unit development may be approved only if the following findings of fact can be made:

1. The specific plan for the planned unit development provides the appropriate percentage of visitor-serving commercial, public recreation and water area as required by the Oxnard Coastal Land Use Plan.
2. The specific plan for the planned unit development provides the appropriate amount area of vertical and lateral access as required by the Oxnard Coastal Land Use Plan.
3. The specific plan for the planned unit development contains a soil transfer program consistent with the policies of the Oxnard Coastal Land Use Plan.
4. The specific plan for the planned unit development is consistent with all other applicable and general policies of the Oxnard Coastal Land Use Plan.

Sec. 37-2.6.8 Permits Required

No new development or initiation of any conditionally permitted use shall be allowed on any area covered by the planned unit development until the following actions have occurred:

1. The property proposed for development has been zoned CPC.
2. A specific plan in accordance with the provisions of this article and the policies of the Oxnard Coastal Land Use Plan has been prepared and adopted for the entire property designated CPC.
3. A coastal development or development permit review has been granted by the City in accordance with the provisions of this article.

Sec. 37-2.6.9 Application of Planned Unit Development

Concurrent with any application for a land division, or as required above, a coastal development permit shall be approved which shall serve as the application for a Planned Unit Development (PUD). Development standards and regulations which differ or vary from the standards of the coastal zones to be applied may be proposed and adopted as provisions of the coastal development permit.

Sec. 37-2.6.10 Applicable Regulations

All uses shall be subject to the applicable regulations of Chapter 37, including standards which are located in the following sections:

1. Sec. 37-1.4.0 General requirements
2. Article 3 Specific coastal development and resource standards
3. Article 4 General coastal development and resource standards
4. Article 5 Administration

Sec. 37-2.8.0 CNC (Coastal Neighborhood Commercial) Zone

Sec. 37-2.8.1 Purpose

The purpose of the CNC zone is to protect an area of established convenience shopping and personal services to serve the existing coastal residential community of Oxnard Shores and the public who visits the area. Development within the CNC zone shall be compatible with the adjoining residential neighborhood and consistent with Policy 61 of the certified Oxnard Coastal Land Use Plan.

Sec. 37-2.8.2 Principally Permitted Uses

Uses within the following categories are subject to the approval of a development review permit, pursuant to the provisions of Section 37-5.3.0 of this chapter.

A. Neighborhood Commercial Services

Financial, Banks, Savings and Loans

Personal, Barber, Beauty Shop, Health Spa, Laundry

Professional, Real Estates, Medical

Public, Parking, Parks, Library

B. Neighborhood Commercial Sales

Eating/Drinking (nonalcoholic), Restaurant, Cafe

Neighborhood Retail, Market, Liquor, Pharmacy, Stationery, Florist, Baker, Book Stores

Sec. 37-2.8.3 Secondary Permitted Uses

The following categories are subject to the approval of a coastal development permit, pursuant to the provisions of Section 37.5.3.0 of this chapter.

A. Services

Commercial Recreation, Skating Rink, Amusement Center

Entertainment, Theater, Night Club

Motor Vehicle Service Station

B. Sales

Eating/Drinking (serving alcoholic beverages), Restaurant, Cocktail lounge

Sec. 37-2.8.4 Property Development Standards

Maximum building height: Two stories or 35 feet; additional stories or height may be permitted subject to the granting of a coastal development permit.

Minimum lot area: 15,000 square feet

Front yard setback: 10 feet

Rear yard setback: For lots abutting a public way or alley: 10 feet.
No setback is otherwise required.

Side yard setback: Interior side yard: none required.
Street side yard: 10 feet.

Sec. 37-2.8.5 Applicable Regulations

All uses shall be subject to the applicable regulations of Chapter 37, including standards which are located in the following sections:

1. Sec. 37-1.4.0 General requirements
2. Article 3 Specific coastal development and resource standards
3. Article 4 General coastal development and resource standards
4. Article 5 Administration

Sec. 37-2.9.0 CVC (Coastal Visitor-serving Commercial) Zone

Sec. 37-2.9.1 Purpose

The purpose of the CVC zone is to provide coastal-dependent visitor-serving commercial/recreational opportunities for both the visiting public and the residents of the city. This zone is designed to assure an orderly and balanced utilization of Oxnard's coastal resources and provide maximum access enjoyment, and use of these resources by all segments of the public, while protecting scenic resources in environmentally sensitive habitat areas. Development within the CVC zone shall be consistent with the policies of the Oxnard Coastal Land Use Plan, including Policy 61.

Sec. 37-2.9.2 Principally Permitted Uses

The principally permitted uses are visitor-serving services and visitor-serving sales. The following categories are subject to the approval of a coastal development permit, pursuant to the provision of Section 37-5.3.0 of this chapter.

A. Visitor-serving Services

Commercial recreation, Skating Rink, Amusement Center, Campgrounds, Swim Club, Boat Rentals, Bike Rentals

Entertainment, Theater, Night Club

Motor Vehicle Service Station

Tourist, Hotels, Motels, Convention and Conference Facilities, and Vacation Timeshare Developments

B. Visitor-serving Sales

Eating/Drinking (serving alcoholic beverages), Restaurant, Cocktail Lounge

Marina Facilities, Sport Fishing, Boat Launching, Yacht and Boat Sales, Bait and Tackle Sales, Marina Supply Store

Eating/Drinking (nonalcoholic), Restaurant, Cafe

Sec. 37-2.9.3 Secondary Permitted Uses

The following categories are subject to the approval of a development review permit, pursuant to the provisions of Section 37.5.3.0 of this chapter.

A. Services

Financial, Banks, Savings and Loans

Personal, Barber, Beauty Shop, Health Spa, Laundry

Professional, Real Estate, Medical, Travel Agency

Public, Parking, Parks, Library

B. Sales

Drive-through Businesses and Facilities, Restaurant, Cafe

Specialty Shops, Antiques, Sporting Goods, Art, Cameras, Souvenirs

General Retail, Off-sale Liquor, Florist, Stationery Gifts, Automobile Rental Agency

Sec. 37-2.9.4 Property Development Standards

Maximum building height:	Three stories or 35 feet; additional stories or height may be permitted subject to the granting of a coastal development permit.
Minimum lot area:	15,000 square feet
Front yard setback:	10 feet
Rear yard setback:	For lots abutting a public way or alley: 10 feet. No setback is otherwise required.
Side yard setback:	Interior side yard: none required. Street side yard: 10 feet.

Sec. 37-2.9.5 Applicable Regulations

All uses shall be subject to the applicable regulations of Chapter 37, including standards which are located in the following sections:

1. Sec. 37-1.4.0 General requirements
2. Article 3 Specific coastal development and resource standards
3. Article 4 General coastal development and resource standards
4. Article 5 Administration

Sec. 37-3.9.0 Coastal Access and Recreation

Sec. 37-3.9.1 Purpose

The coastal zone includes substantial opportunities for public access to the ocean and related recreational uses. The purpose of this section is to guide the acquisition and development of access facilities and vertical and lateral easements for public use within the coastal zone as part of a comprehensive program for implementing the Oxnard Coastal Land Use Plan.

Sec. 37-3.9.2 Applicability and Specific Standards

All development within the Oxnard coastal zone which would have an affect on public access to and enjoyment of the coastline shall comply with the provisions of this section.

1. Specific standards are contained in Policy Nos. 51, 52, and 55 and appendices Policy Nos. 22 and 23 of the Oxnard Coastal Land Use Plan. In addition, the provisions in Paragraphs B, C, D, and all other applicable LUP policies shall apply.
2. Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development except where:
 - a. It is inconsistent with public safety, military security needs, or the protection of fragile coastal resources.
 - b. Adequate access exists nearby consistent with applicable policies of the certified Oxnard Coastal Land Use Plan.
 - c. Agriculture would be adversely affected.
3. Dedicated accessways shall not be required to be open to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the accessways.
4. For the purposes of this section, new development as defined by Section 30212(b) of the Coastal Act does not include the following:
 - a. Structures destroyed by natural disaster

Replacement of any structure pursuant to the provisions of subsection (g) of Section 30610 of the Coastal Act.

- b. Demolition and reconstruction

The demolition and reconstruction of a single-family residence, provided that the reconstructed residence shall not exceed either the floor area, height or bulk of the former structure by more than 10 percent and that the reconstructed residence shall be sited in the same location on the affected property as the former structure.

c. Improvements

Improvements to any structure which do not change the intensity of its use, which do not increase either the floor area, height or bulk of the structure by more than 10 percent, which do not block or impede access, and which do not result in a seaward encroachment by the structure.

d. Repair and maintenance

Any repair or maintenance activity for which the City has determined pursuant to Section 30610 of the Coastal Act that a coastal development permit will not be required unless the Land Use Advisors determine that such activity will have an adverse impact on lateral public access along the beach.

Sec. 37-3.9.3 Waiver of Access Requirements

Pursuant to Section 30214 of the Coastal Act with respect to regulating the time, place and manner of public access, the requirements for vertical access may be waived for specific development applications only when the reviewing body vested with the authority to approve the request finds that adequate vertical access is provided offsite but within the immediate area. Such waiver may be granted subject to the specific finding that the presence of public beach with adequate access facilities nearby (within 500 feet), reduces the needed frequency of vertical accessways in coastal residential areas.

A granting of a waiver for lateral access is deemed inconsistent with the policies of the Oxnard Coastal Land Use Plan and therefore shall be prohibited.

Sec. 37-3.9.4 General Coastal Access Standards

The following standards apply to all new development subject to Policy Nos. 1-34 (Appendix III-Access) of the certified Oxnard Coastal Land Use Plan, the provisions of Chapter 34 and are intended to provide for the establishment of access right-of-way designations dedications and easements on both public and private lands:

1. Coastal access facilities shall be located where they safely accommodate public use and should be distributed throughout an area to prevent crowding, parking congestion, and misuse of coastal resources. Accessways shall be sited and designated:
 - a. To minimize alteration of natural land forms conforming to the existing contours of the land and be subordinate to the character of their setting;
 - b. To prevent unwarranted hazards to the land and public safety;
 - c. To provide for the privacy of adjoining residences and to minimize conflicts with adjacent or nearby established uses;
 - d. To be consistent with military security needs;

- e. To prevent misuse of environmentally sensitive ~~habitat~~ areas; and
 - f. To ensure that agriculture will not be adversely affected.
2. Public access to the environmentally sensitive habitat areas such as wetlands, sand dunes, tidelands or riparian areas, shall be evaluated on a case-by-case basis. Such accessways shall be designed and constructed so as to avoid adverse affects on the resources consistent with Policy Nos. 1, 2, 4, 6, 12, 13, 16, 20, and 21 of the certified Coastal Land Use Plan.
 3. Coastal accessways located in areas of erosion hazard shall be constructed and managed in a manner that does not increase the hazard potential. Access facilities on productive agricultural land can be temporarily closed during harvest or pesticide times. Where appropriate coastal accessways shall be designed to correct abuses resulting from existing use.
 4. Access facilities constructed on access easements should be no wider than necessary to accommodate the numbers and types of users that can be reasonably expected.
 5. The design and placement of accessways shall provide for the privacy of adjoining residences. Each vertical access easement in a residential area shall be sufficiently wide to permit the placement of an appropriate accessway facility, such as a stairway, ramp, walkway and fencing, and/or landscape buffer as necessary to ensure privacy and security. Depending on local considerations in a single-family residential neighborhood, vertical accessways may be fenced on the property line and use restricted to daylight hours.
 6. Unless otherwise authorized in a specific zone, use of lateral accessways shall be limited to the right of public pass and repass, active and passive recreational use, or as otherwise designated by the certified Oxnard Coastal Land Use Plan.

Sec. 37-3.9.5 Establishing Access Areas

The establishment of required vertical and lateral accessways shall be accomplished in one of the following methods:

1. Deed restriction. This method may be used only where an owner, association, or corporation agrees to assume responsibility for the maintenance and liability of the public accessway. City approval is first required of the person or entity assuming responsibility.
2. Grant of fee interest. This method may be used when a public agency or private organization approved by the City is willing to assume responsibility for ownership, maintenance and liability for the public accessway.
3. Grant of easement. This method may be used in the same instances as those identified above.
4. Offer of dedication. This method is to be used when no public agency, private organization or individual is available to accept the granting of fee interest or easement and the owner is not

willing to accept responsibility for the accessway. Any offer of dedication shall not be accepted until responsibility for maintenance and liability is provided.

Sec. 37-3.9.6 Specific Coastal Access Standards

The standards for the location and distribution of both vertical and lateral accessways involving public and private lands contained in this section shall apply to all new development within the City's coastal zone.

Sec. 37-3.9.7 Lateral Access

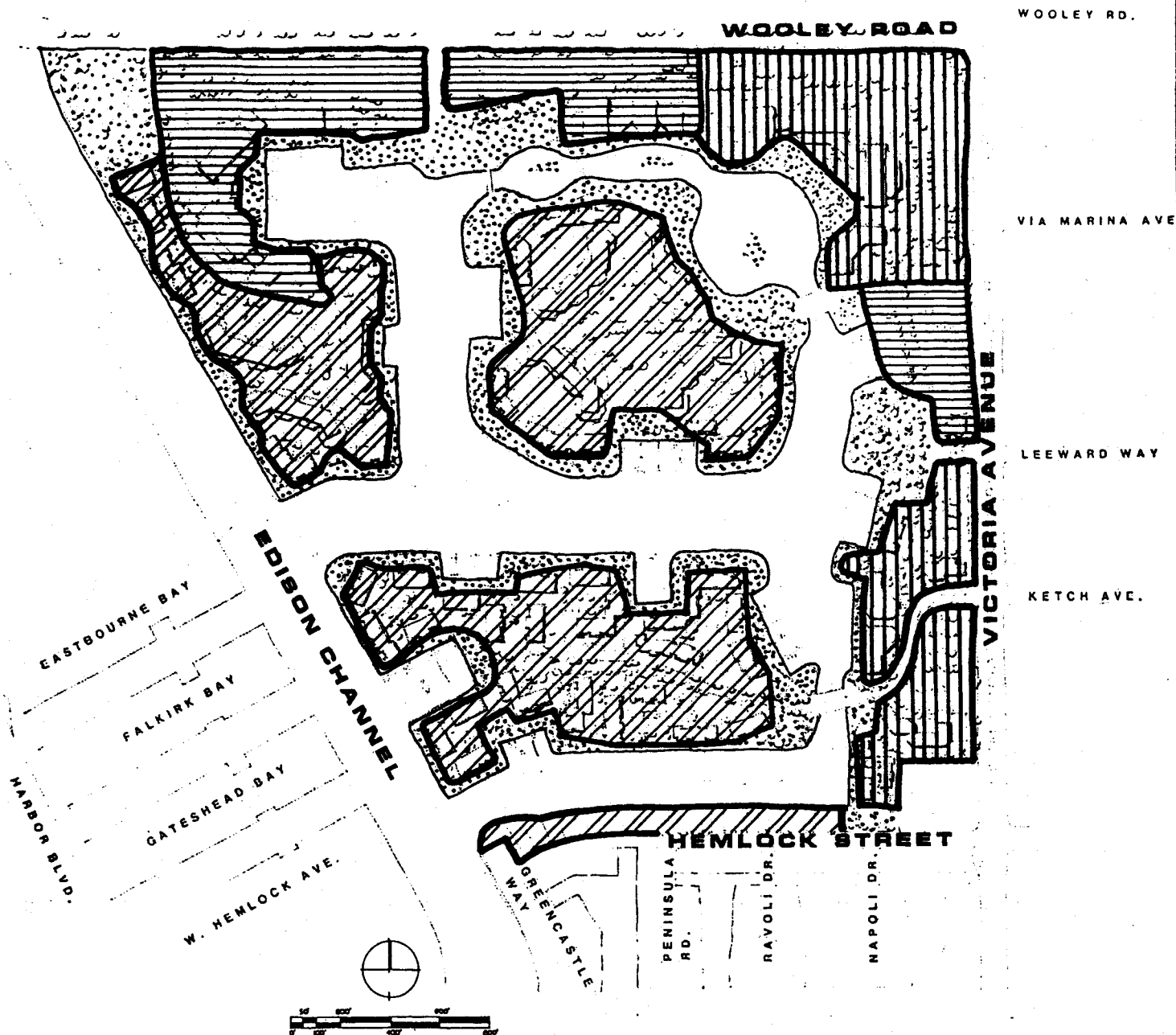
1. Lateral accessways shall include a minimum width of 25 feet of dry sandy beach to the extent feasible, given periodic climatic conditions, or should include the entire sandy beach area if the width of said beach is less than 25 feet. Said accessways should not extend further landward than the foot of an existing shoreline protective device or be closer than 10 feet to an existing single-family residence unless another distance is specified by the Oxnard Coastal Land Use Plan. Where development poses a greater burden on public access, a larger accessway shall be provided.
2. Lateral accessways shall be located on all waterfront land to provide continuous and unimpeded lateral access along the entire reach of the sandy beach area or other usable recreational shoreline. Exceptions to this standard may include military installations where public access would compromise military security, industrial developments and operations that would be hazardous to the public safety and developments where topographic features, such as river mouths, could be hazardous to public safety.
3. The proximity of the Pacific Ocean periodically precludes any development on these narrow accessways other than portable support facilities, such as trash receptacles, picnic tables and benches, or retractable ramps or boardwalks designed for use by persons with disabilities.

Sec. 37-3.9.8 Vertical Access

1. Vertical accessways shall be a minimum of 10 feet wide.
2. Accessway surface materials shall be as follows:
 - a. Where the nature soil is sand, no other surfacing material is required unless accessway is in a dune habitat, then wooden planking shall be required.
 - b. Where accessways are to be constructed in areas where sand does not exist, or where conditions required an improved accessway one of the following materials shall be used:
 - 1) Asphalt or concrete
 - 2) Masonry paving units including flat stone, concrete blocks, bominite, stamped concrete or other similar materials which provide a smooth, even surface

- 3) Smooth, rounded gravel, which is approximately one-half inch in diameter or less, laid to a minimum depth of five inches within an area contained by wood or concrete headers. Gravel shall be underlaid with plastic which is at least four mil thick.
 - 4) Wood platform or walkways, provided that the wood shall be treated and waterproofed
 - 5) Other materials or systems may be approved by the Land Use Advisors.
- c. All accessways in designated wetlands or resource protection areas shall be subject to the granting of a coastal development permit.
3. Vertical accessways shall be established in all beachfront areas and should be evenly distributed and carefully located throughout such area to the maximum extent feasible. They should be located where they provide access to onshore or offshore recreational areas.
 4. Where single-family development exists or is planned, vertical accessways should be located where streets end at the shoreline, once every six residential parcels or not less than once every 500 feet. New multiple-family residential projects of five dwelling units or more should provide sufficient open space within the project for a vertical accessway public parking area and for construction of the access facility.
 5. Visitor-serving commercial or recreational developments on shoreline parcels shall enhance the shoreline experience by providing (or preserving) view of the ocean, vertical access through the project, and accessway facilities and maintenance as part of the project. Industrial development near beachfront parcels shall provide vertical access and parking improvements appropriate to safe public shoreline use and equal to the potential public use of the shoreline displaced by the industrial facility.
 6. Subdivision of beachfront parcels shall provide a vertical accessway to the beach area either as a separate parcel or as an easement over the parcels to be created.
 7. Vertical accessways may be developed with a range of facilities including stairways, ramps, trails, right-of-way overpasses and underpasses or any combination thereof. Vertical accessways shall include design features which minimize bluff and shoreline erosion. This may include, but not be limited to, drainage systems, planting of native cover, fencing, and elevation of stairways away from bluff area. Vertical accessways shall include appropriate support facilities, such as signs and fencing.
 8. In determining the specific siting of an accessway the protection of the right-of-privacy of the adjacent residence shall be considered. Where a residential structure is located on the beach with no physical barrier such as a seawall separating the residential structure from the accessway, said accessway shall not extend any closer than 10 feet to the occupied residential structure. In such cases, the area from 10 to 20 feet from the residential structure may be used for pass and repass with all areas seaward of the 20-foot line available for passive recreational use. In determining an appropriate access buffer, the need for privacy should be considered in light of the public's right to obtain access and use along the shoreline. The buffered area should not act to preclude the public's right of access to and use of publicly owned tidelands.

Where a vertical accessway for pedestrian use is sited on a parcel where a residential structure exists or is anticipated for construction in the proposed project, the access shall not be sited any closer than five feet from the residential structure. This five-foot buffer shall be provided to protect the privacy rights of the residents of the site. In some instances, re-siting of the proposed project may be required to provide the needed access corridor and still allow for a buffer between the accessway and the residential structure.



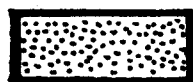
RESIDENTIAL



VISITOR SERVING
COMMERCIAL



MIXED USE
(COMMERCIAL/RESIDENTIAL)



PARK

EXHIBIT 12

A-4-oxN-00-172

MBSP Land Use Map

LAND USE

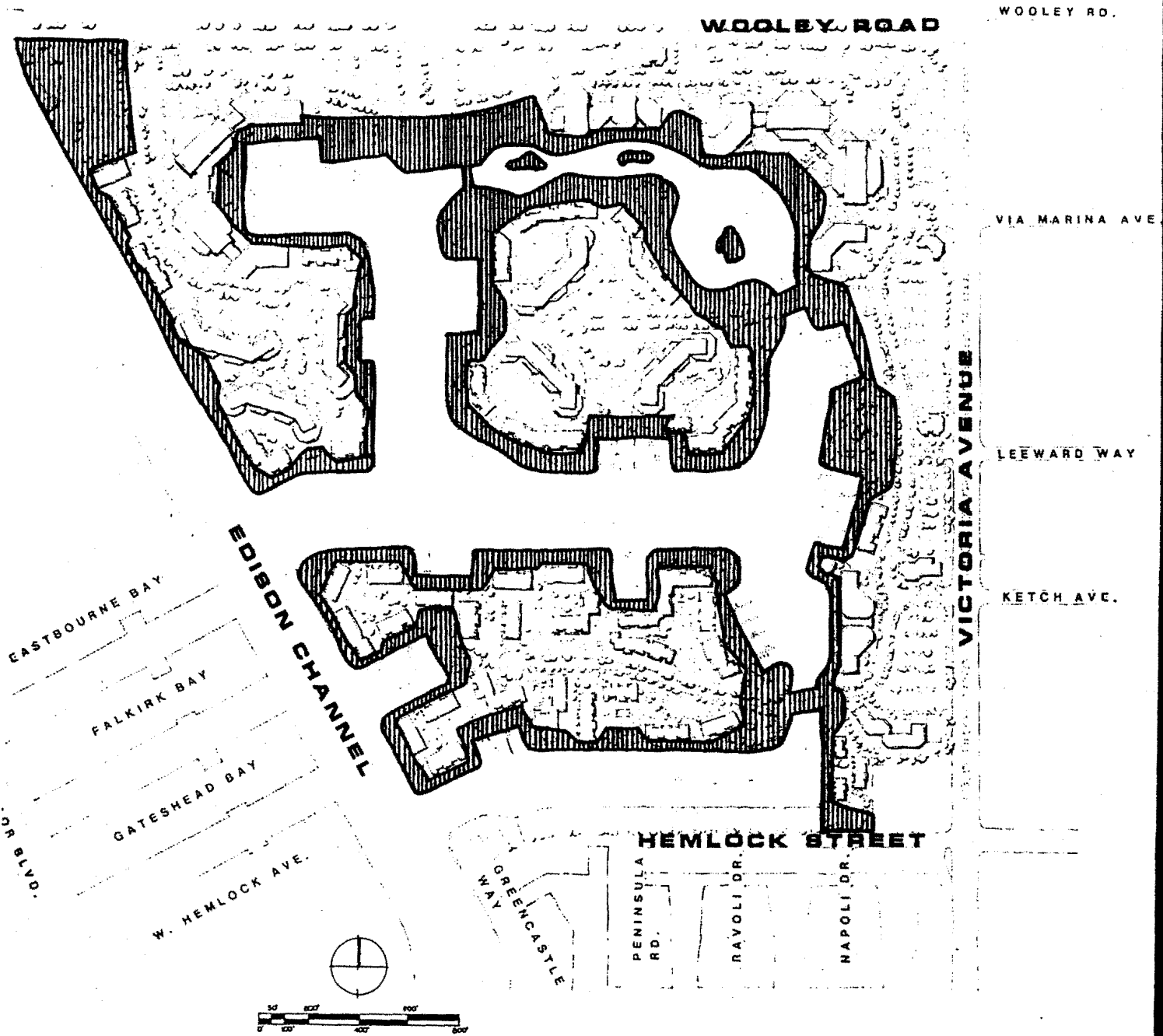
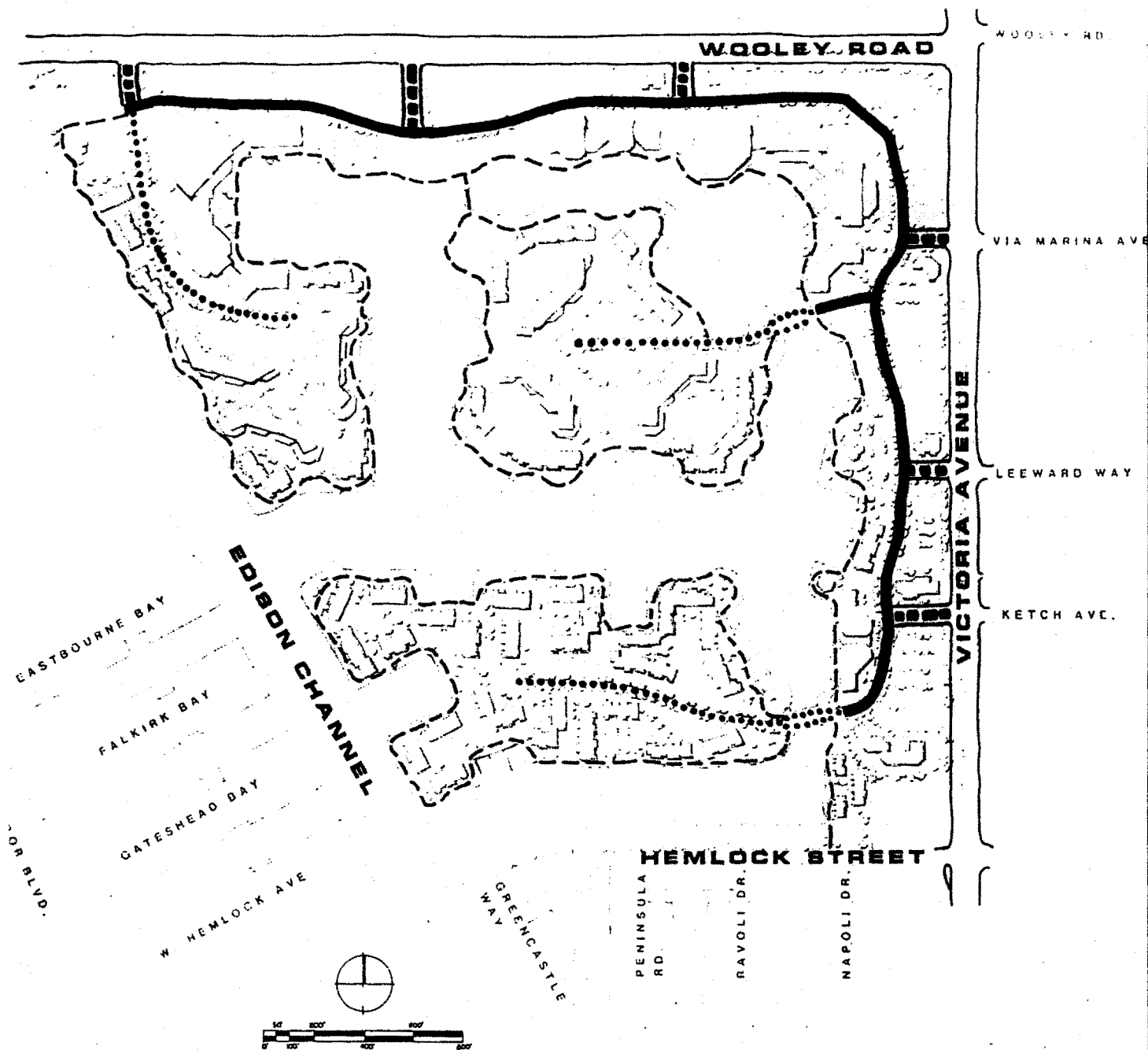


EXHIBIT 13
A-4-OXN-00-172
MBSP Park Plan

PARK PLAN







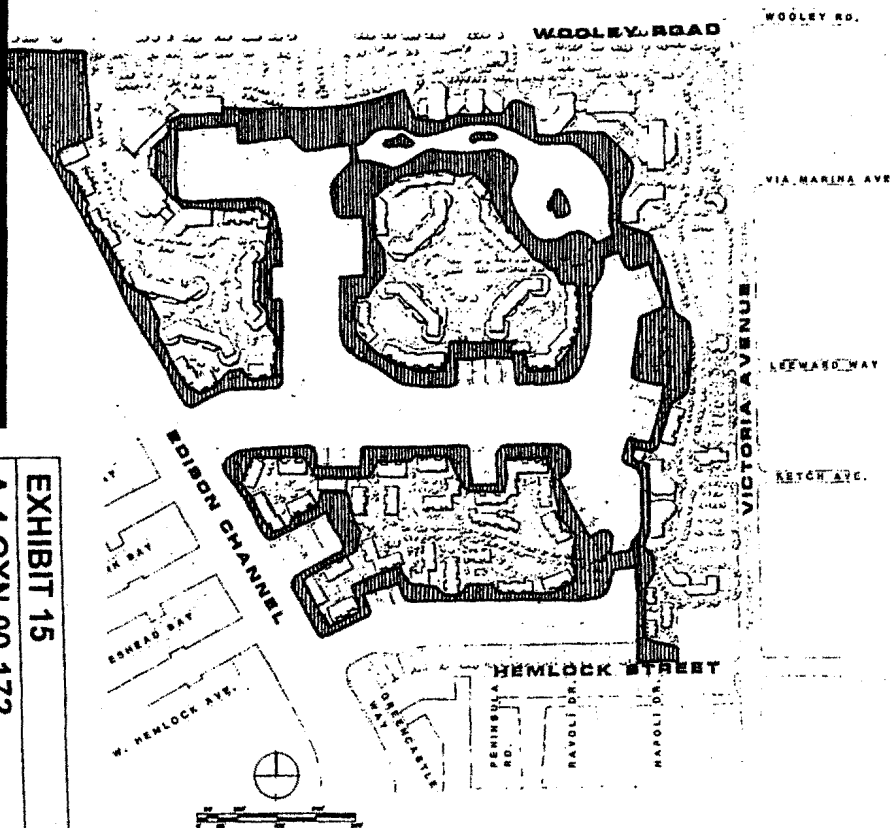
-  MEDIANED ENTRIES
-  32' WIDE PUBLIC DRIVE
-  25' WIDE PRIVATE DRIVE
-  PEDESTRIAN/BICYCLE

EXHIBIT 14
A-4-OXN-00-172
MBSP Circulation Plan

CIRCULATION

EXHIBIT 15
A-4-OXN-00-172
MBSP (12 Pages)



VOSS CONSTRUCTION
COMPANY, INC.

1136 PATTERSON ROAD
OXNARD, CA 93030

D.I.B.L. SERVICES
ARCHITECTS & ENGINEERS

300 MONTGOMERY AVENUE
OXNARD, CA 93030

THE McGAELIC GROUP

1810 LOCKWOOD STREET
OXNARD, CA 93030

MAINSTREET
ARCHITECTS & PLANNERS

410 EAST MAIN STREET
VENTURA, CA 93001

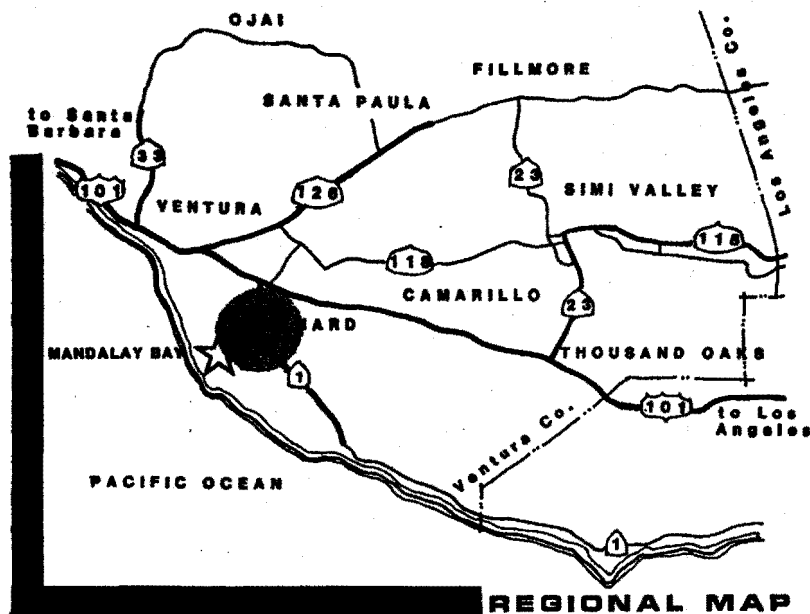
SPECIFIC PLAN - MANDALAY BAY

OXNARD CALIFORNIA

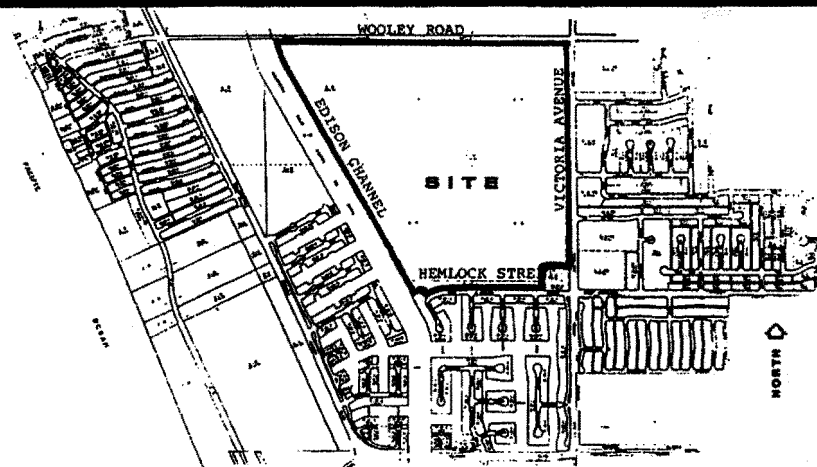
SECTION I: INTRODUCTION

A. Mandalay Bay Phase IV

Mandalay Bay Phase IV, located in Oxnard, California, is a proposed mixed-use development on approximately 220 acres that would extend the Channel Islands Mandalay Bay Waterway northerly with a variety of water oriented commercial, residential and recreational uses. After several years of analysis and planning, this specific plan represents the culmination of the cooperative efforts of individuals from both the public and private sectors. This specific plan addresses the entire 220 acres comprehensively, with emphasis on those components identified in the City of Oxnard's Certified Coastal Land Use Plan. This specific plan is an implementation device of the City of Oxnard's General Plan and Coastal Land Use Plan. It is intended to describe the ultimate character, scale, and quality of the entire development while allowing flexibility for creative and marketable solutions to individual projects within its boundaries as they occur over time.



REGIONAL MAP



VICINITY MAP

B. Compliance

The submission of this specific plan complies with the Oxnard Coastal Land Use Plan, which designates the property as a Planned Unit Development; Residential and Commercial, Visitor-Serving/ Recreation Land Use. It is intended to provide for a large scale mixed-use planned development in accordance with the provisions of the Oxnard Local Coastal Program (LCP). This Specific Plan has been prepared pursuant to and in compliance with the analysis and mitigation measures identified in the approved Final Environmental Impact Report 81-2, Mandalay Bay, Phase IV Development, Oxnard, California, September, 1982 (prepared by Ecumene Associates Environmental Research for the City of Oxnard).

This Specific Plan is presented in a flexible form due to the complex, varied and diverse market that the project must respond to over the many years it will take to develop to its full potential. This plan provides an orderly transition from the existing single-family residential and townhome water-oriented development to the south to a more intense and dynamic mixed-use land use pattern, including island cluster residential, recreational, and public oriented waterfront commercial development.

C. Authority and Scope

The adoption of the Mandalay Bay Phase IV Specific Plan by the City of Oxnard is authorized by California Government Code Sections 65450 through 65507.

D. Project Location

Mandalay Bay Phase IV is located in the Channel Islands Neighborhood on an approximately 220-acre site bounded by the Edison Canal to the west, Hemlock Street to the south, Victoria Avenue to the East, and Wooley Road to the north.

SECTION II: PURPOSE AND INTENT

A. Goal

The goal of this specific plan is to implement the City of Oxnard's General Plan and Coastal Land Use Plan through the physical development of Mandalay Bay Phase IV. Through its Coastal Land Use Plan (LCP), the City of Oxnard has established several policies which apply specifically to this 220-acre site. These policies establish standards by which the development is to occur, and in particular address; allowable land use and land use percentages; development densities; open space provisions (public and private); public access to the waterway; an agricultural soils transfer program; and urban-rural separations. The policies of the City of Oxnard's Coastal Land Use Plan are therefore an integral part of the development criteria of this site and are hereby incorporated into this specific plan.

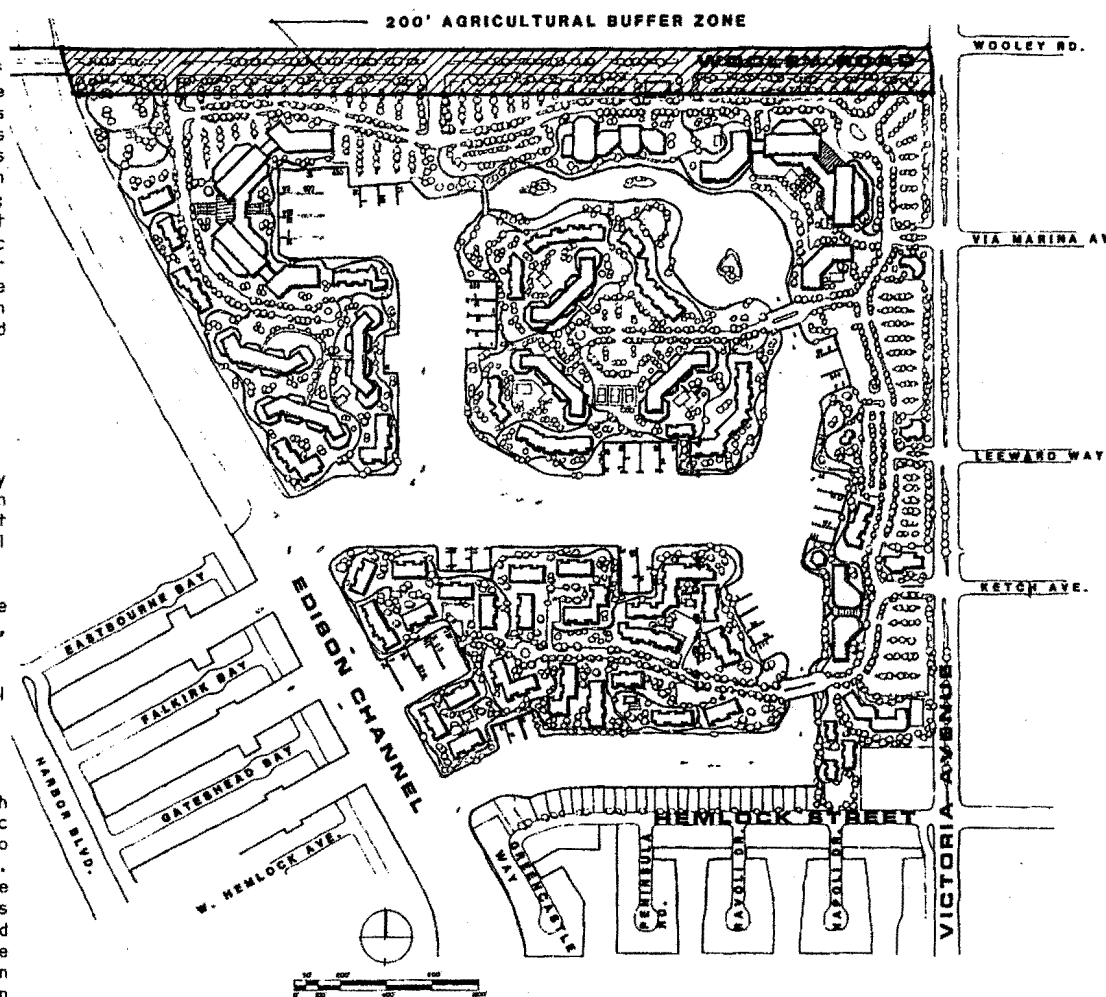
B. Objectives

The objectives of this Specific Plan are as follows:

- Provide a plan which satisfies the intent of the City of Oxnard's General Plan and Coastal Land Use Plan in establishing a community and regional focal point for tourism and recreation, available to the general public.
- Provide a plan which assures quality and the flexibility necessary to meet varying market demands, thus assuring more timely implementation.
- Provide a plan which can be implemented in practical phases.

C. Features

In addition to identifying provisions of compliance with Oxnard's General Plan and Coastal Land Use Plan, the Specific Plan utilizes conceptual graphics and illustrations to describe the intended character of the ultimate development. It should be emphasized that these illustrations are conceptual in nature and are not intended to fix dimensions or locations of buildings or features other than general land uses and water areas, unless otherwise noted. These illustrations identify the land use relationships, urban design concepts, pedestrian and vehicular circulation concepts, and various development standards as they relate to the overall Specific Plan concept. These illustrations are intended to assist in assessing the quality and integrity of the overall concept, with particular emphasis on the relationships of the various internal features to each other and to surrounding off-site conditions.



ILLUSTRATIVE PLAN

SECTION III: LAND USE PROGRAM

A. Coastal Plan Requirements

This specific Plan incorporates the land use parameters established in the City of Oxnard's Certified Coastal Land Use Plan. This document specifies the type of land uses that will be permitted, and in addition establishes minimum percentages of certain land uses to be required in the specific plan. Policy 24 of the Coastal Land Use Plan establishes minimum quantities of land use, expressed in acres and as a percentage of the total project (220 acres) for the following land uses:

Land Use	Minimum Acres	% of Total Project	% of Public Area
Visitor Serving Commercial	27.5	12.5	25
Public Recreation	27.5 ¹	12.5	25
Open Water	55.0 ²	25.0	50

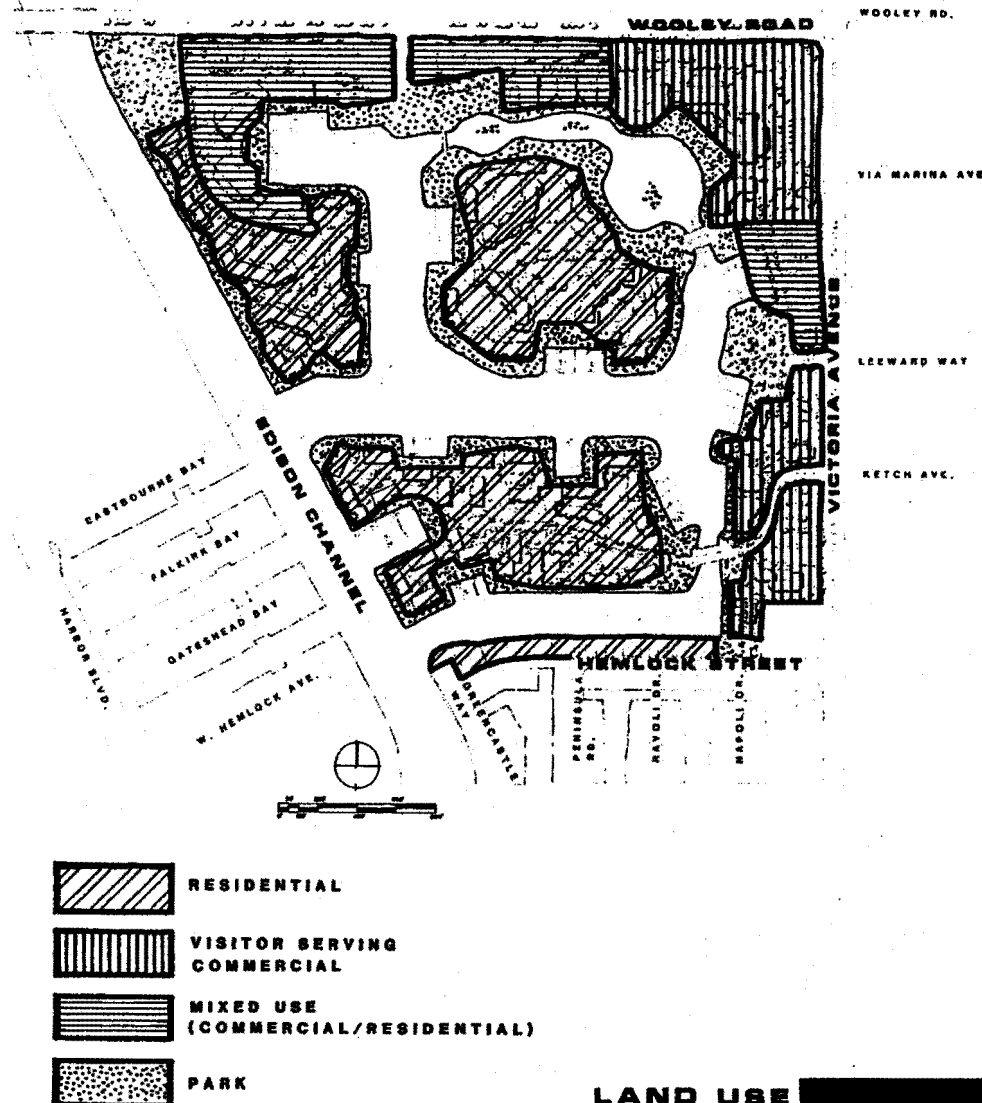
¹Must all be on land.

²Up to 10% of open water may be devoted to public marinas, or boat slips available to the public.

These required minimums are provided for within the accompanying conceptual illustrations and supporting tables. It is noted here that no minimum acreages have been established for residential land uses. In addition, in communications with the proponents of the Mandalay Bay Phase IV, the City has encouraged the inclusion of mixed-use development (i.e., residential above commercial in the same structure or complex). This proposed plan contemplates this possibility in its conceptual illustrations.

B. Description of Uses

The Local Coastal Program Phase III Zoning Regulations establishes on this project site the CPC, "Coastal Planned Community," sub-zone "to assure orderly development of a large scale mixed-use planned development...". Under the CPC sub-zone numerous permitted and conditionally permitted uses will be allowed subject to the adoption of a specific plan for the entire 220-acre site. This zoning regulation further states that these uses shall be only those allowed in the R-W-1, R-W-2, R-2-C, R-3-C, CNC, CVC and RC coastal subzones established in the Coastal Zoning Ordinance. This Specific Plan assumes that these coastal zoning regulations will be adopted in their current general form, and therefore meet these general land use requirements (with the inclusion of mixed-use as previously stated).



Visitor Serving Commercial:

For the purposes of this specific plan, this category includes all uses permitted in the CNC, CVC and PC zones. The conceptual land use plan incorporated into this specific plan establishes three primary focal points for commercial activities. Each of these focal points has a strong orientation to the water and waterfront development. The intent is to create commercial focal points whose activities complement and support each other, rather than directly compete.

Mixed-Use (Residential and Commercial):

Mixed-use will be considered as an appropriate land use, containing Neighborhood or Visitor Serving support commercial uses within the same complex or structure with residential uses.

Public Access and Recreation:

The primary public access to the waterfront of this project is satisfied by a linear park which extends throughout the entire project, except where single-family residences are proposed along Hemlock Street. This waterfront park will provide approximately 21,000 linear feet of lateral access for the public. Interspersed along this linear waterfront park are several "pocket parks" ranging from approximately one-third acre to three acres in size. These pocket parks will offer visitors and residents a variety of recreational amenities, from vista points and look-outs to picnic facilities, gardens, and open space for "free play." Though auto access to the island will be private and secured (i.e., key operated gate), this linear park system will allow free access for bicyclists and pedestrians alike, and in addition will carry throughout the development a consistent landscape theme unique to this project in the Channel Islands Marina. Approximately 8 acres of open water will be designed as a special water recreation area or "water park." This area will not be accessible to larger boating craft (length in excess of 8 feet), but rather will be set aside for activities such as wading, swimming, wind-surfing, and paddle boating, which otherwise would pose a hazard to and be endangered by normal boating activities. This public water park will be unlike any other recreational amenity in the region and will be available to the general public as well as guests and residents of the marina.

Vertical public access for vehicular, pedestrian, and bicycle access text and maps shall not be less than 10% of total linear waterfront access as depicted in the specific plan and use map (page 5). If the access is not a public thoroughfare it shall be permanently legally restricted as such (by appropriate legal instrument such as a deed restriction or easement) and shall be held and maintained by the developer, subsequent land owner(s) or appropriate third party. This equals approximately 2,100 feet of public vertical access to the water, vertical access to the water, which can be satisfied by public roads, walkways and bikeways, docks and launching ramps.

RESIDENTIAL NET DENSITY

PHASES	UNITS	ACRES	DU/AC
Western section of south island and western section of south shore phase, and eastern section of south island, eastern section of south shore and east shore phase			
Detached	30		
Attached	320	32.25	9-12
South peninsula phase and north peninsula phase and northwest shore phase			
Attached	218	18.75	11-13
North island phase			
Attached	392	28.00	13-15

RESIDENTIAL NET DENSITY

Residential:

Residences, both detached and attached, will be oriented to the waterway, with provisions for some private boat slips adjacent or nearby. Approximately 30 single-family waterfront homes will be provided along the existing Hemlock Street to provide a comfortable transition between the existing single-family development to the south and the more intense uses contained within this plan. Two residential islands and a peninsula will accommodate higher density residential clusters with heights possibly varying from two or three stories to as much as ten stories. The urban design component of this plan establishes maximum height zones for the various commercial and residential sites within the development. Common non-public open space is to be provided for in all multiple-family and attached units in accordance with the Coastal Land Use Plan, and will include amenities such as swimming pools, tennis courts, playgrounds, gardens, or common landscaped areas.

The maximum number of residential units within the Specific Plan area shall be 960. A General Plan and LUP amendment would be required to increase the authorized residential density for this neighborhood. Dwelling units which may be incorporated into commercial development to create a mixed-use development may exceed this limitation.

The linear parks and open water which surround the islands and peninsula will create a resort-like setting while also serving to separate and buffer the residential uses from the more intense commercial uses and vehicular traffic.

Open Water

The development of an open body of water is an integral part of this plan. Mandalay Bay Phase IV will provide a minimum of 55 acres of open water for a variety of recreation and boating activities available to the general public. A minimum of 50% of the docking facilities provided in the project, other than those provided for single-family residential, will be available for use by people not residing within the project. A public boat launch ramp and docks for day use will also be provided, in addition to the unique "water park" previously mentioned.

Boat Slips:

The Specific Plan incorporates a minimum of 795 boat slips in the Specific Plan area. Thirty are allocated to the 30 single-family residential lots. One-half of the remaining will be available to the public.

Land Use Areas:

The illustrative plan is conceptual in nature and reflects the approximate location and areas of various land uses as specified in the Local Coastal Plan.

Water Areas: Include all of the channels, lagoons and some public marina.

56.0 Acres

Public Recreation: Includes the parks, linear park system, vertical access to the waterfront and public parking.

27.5 Acres

Visitor Serving: Includes hotels, motels, restaurants, support commercial, mixed use commercial/residential, public parking, waterfront access (vistas and promenades) and beach.

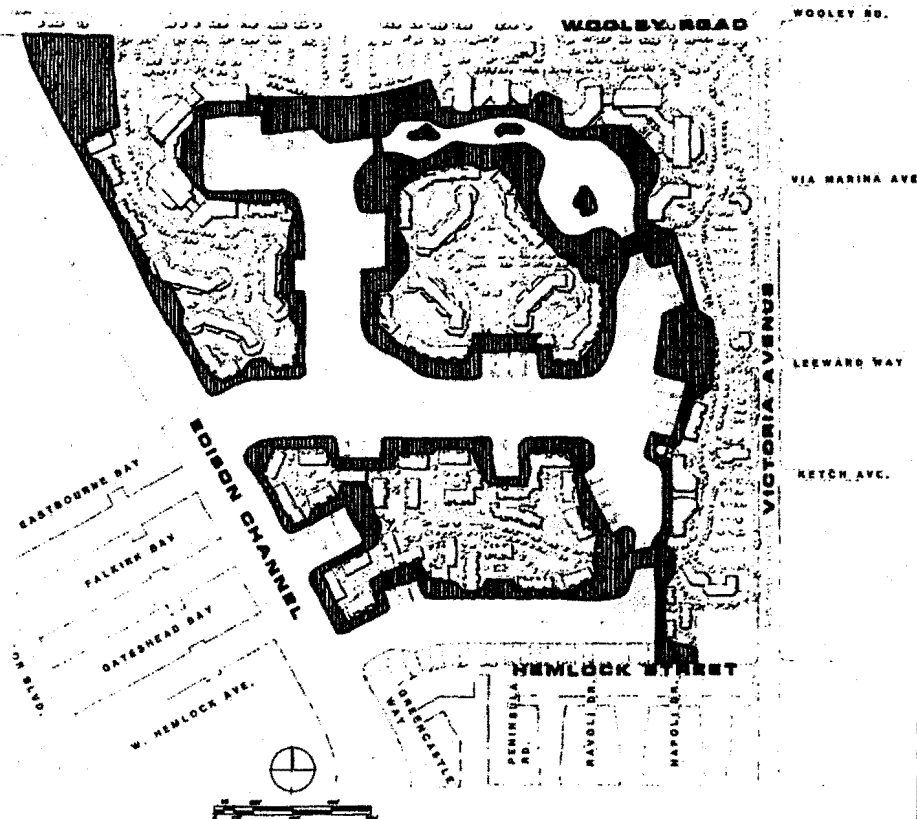
48.5 Acres

Residential: Includes a variety of dwellings from single unit detached to multi-unit residential buildings.

79.0 Acres

Dedications: As required by City of Oxnard for public improvements.

9.0 Acres



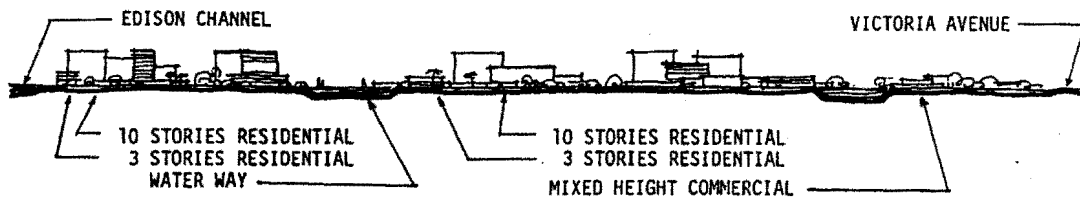
PARK PLAN

SECTION IV: URBAN DESIGN

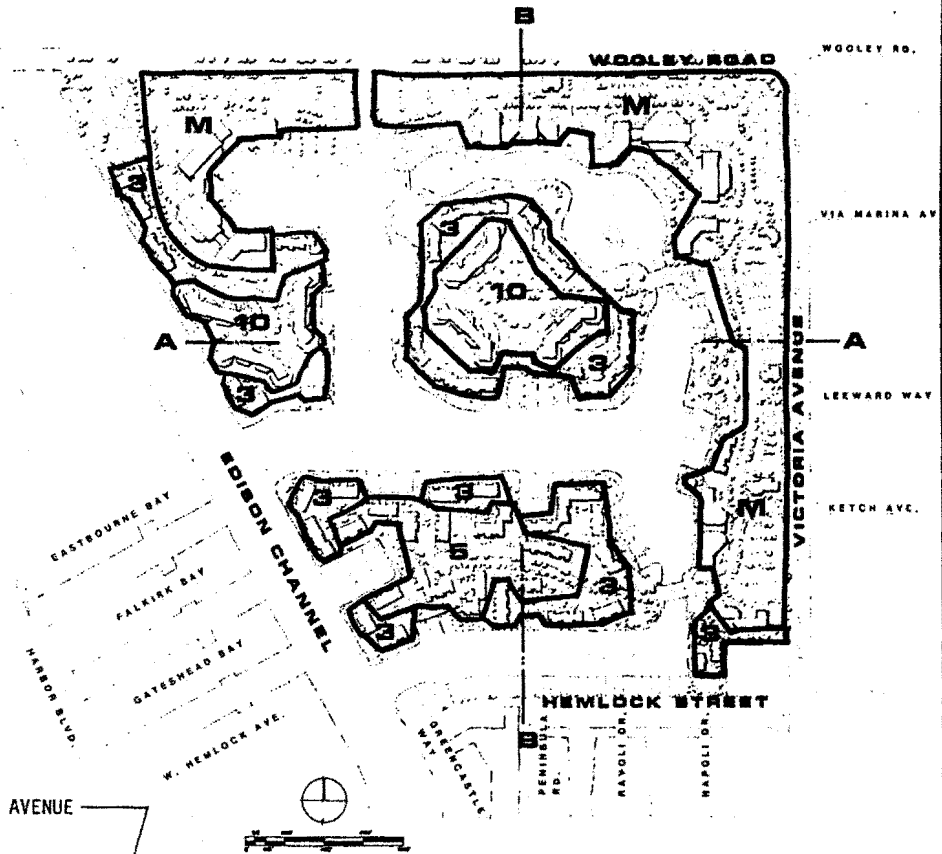
This plan's overall urban design concept establishes several clusters or concentrations of development which serve to emphasize the various projects which might otherwise be lost anonymously in the overall development. These development clusters are linked visually through view corridors and vistas, and physically through the highly articulated "linear park." This park will offer a consistent landscape theme, indicative of the coastal resort setting, in combination with park amenities, lighting, and graphics to provide an exciting and integral link between the varying styles and themes of individual projects.

The commercial developments, with waterfront promenades, terraces, and plazas, will offer an intimate and exciting urban setting not found in Ventura County today. The architecture, though of contemporary materials and flavor, may draw from a variety of historical influences appropriate to the grandness and celebration of a public urban waterfront.

View corridors through and between development clusters will offer passersby glimpses of the waterway and visitors will enjoy vistas of the channels, lagoons and islands from the many vantage points throughout the development.



SECTION A-A



- 3-3 STORIES RESIDENTIAL
- 5-5 STORIES RESIDENTIAL
- 10-10 STORIES RESIDENTIAL
- M-MIXED HEIGHT COMMERCIAL

HEIGHT ZONES

The islands and peninsula will be the setting for residential cluster in a variety of styles, materials, and textures, offering contemporary interpretations of intimate island towns or villages, possibly in a Mediterranean or European flavor.

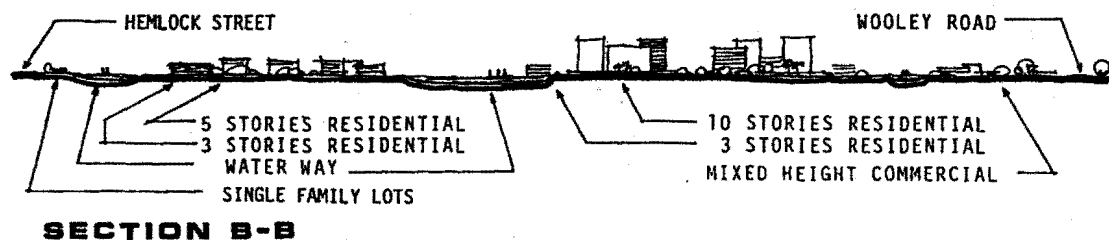
Height zones have been established above grade as a part of the urban design concept to assure that project scale and massing conform to and accentuate the waterscape and island concepts. Buildings on the perimeter of the islands and peninsula will be restricted to three stories in height (45') while buildings on the interior may increase in height from five stories (75') to as much as ten stories (130'). This "architectural topography" will visually contrast and emphasize the island and water concept, and will ensure an interesting and varied skyline as viewed both from within the development and from a distance.

In combination with the "architectural topography," the land form may be sculptured to create vistas and accents to a possible maximum grade height of 35 feet above mean high tide.

Public parking lots, shall be provided and located immediately adjacent to public water and public park areas including but not limited to public docks, wharfs, public boating facilities and launching ramps in order to maximize public access to these recreational areas. Public parking lots, public dock and public boating facilities shall be permanently legally restricted as public property through the appropriate legal mechanism and shall be maintained by the developer, property owner(s), or appropriate third party.

Private common open space shall be clearly identified in all residential developments and shall be properly located so as to not result in predominant private use of adjacent public shoreline park, pedestrian and bicycle areas. On each island no less than 20% of the area designated as "residential" shall be common private open space.

The necessary public facilities for public park and shoreline recreation use shall be listed in this plan including but limited to restrooms, picnic tables, fire pits, playing fields, playground equipment, showers and landside support equipment for recreational boaters (water faucets/washdown areas etc.).



SECTION V: CIRCULATION

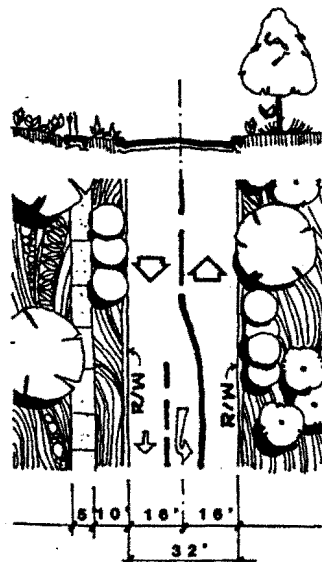
The circulation plan consists of two basic elements; major off-site circulation, including site ingress and egress; and internal circulation serving the various uses of the project.

Off-site Wooley Road to the north of the site will be improved to 110 feet of right-of-way, with three major access drives for left turns into the project site. The center access will be signalized.

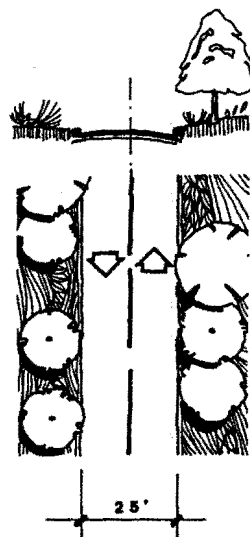
Victoria Avenue would provide three left-turn pockets as well, for access into the site. A signal would be provided at Leeward Avenue.

Internal circulation will be accommodated by public drives accessible to the public, which will terminate at the bridge to the islands and at the entrances to the residential on the peninsula. Private drives will allow vehicle circulation in the residential areas. Access would be controlled at the bridges allowing resident and guest vehicles to enter and pedestrian and bicycle traffic to access to the linear park system. Pedestrian and bicycle paths will be located in the lateral access linear park areas in the visitor serving and public recreation areas.

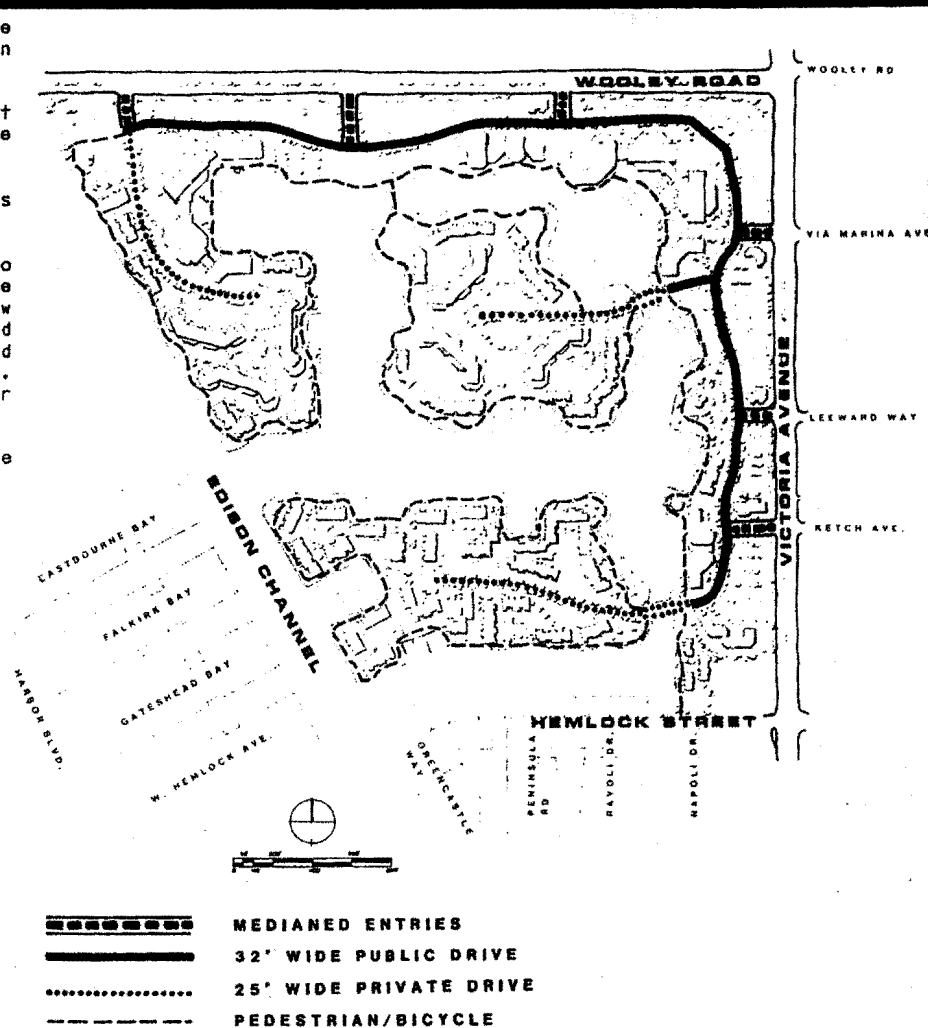
There is be a possible future option to create a pedestrian/bicycle linkage across the Edison Canal at the southern tip of the peninsula.



32' PUBLIC DRIVE



25' PRIVATE DRIVE



CIRCULATION

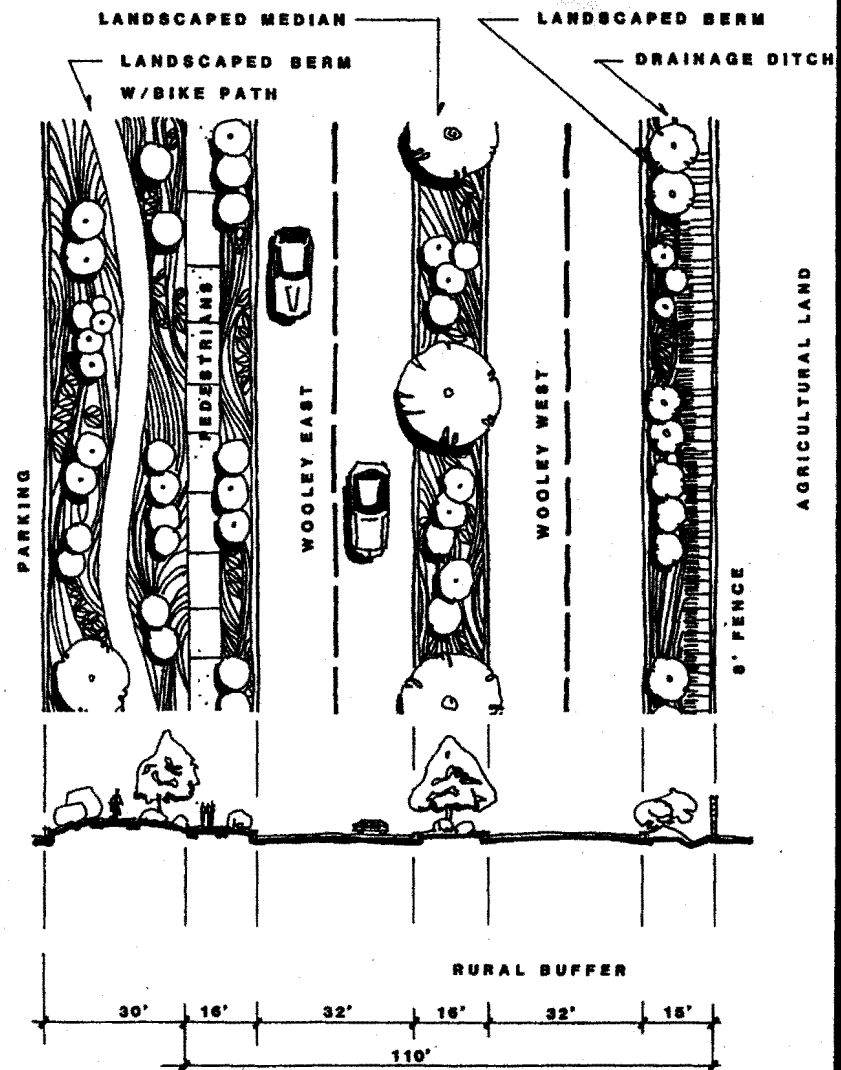
SECTION VI: URBAN/RURAL BUFFER

As required by the Coastal Land Use Plan, this Specific Plan includes a significant buffer zone along the entire northern most property line and the extension of Wooley Road, to protect and to separate the adjacent farmland to the north from the proposed urban uses and to protect the future Mandalay Bay development from the activities associated with agricultural production. This buffer zone has been designed to meet these functional requirements while also providing an attractive parkway link to this development and to Harbor Boulevard and the beach beyond.

This buffer zone includes the following design features:

- o A grade difference shall be created between the road and the agricultural fields with drainage accommodations along the north side of the road.
- o A hedgerow combined with an eight-foot fence shall be located on the crop side (along the north side of Wooley Road).
- o All street widening shall occur on the south side of the northerly Mandalay Bay property line.
- o There shall be no provision for turn-out areas or on-street parking and there will be minimal shoulders and construction of a curb along the northern edge of the road bed.
- o Wooley Road will become a divided two-way road with 110-foot right-of-way including a 15-foot buffer of landscaping on each side of the road.

The agricultural buffer for the northern portion of the Mandalay development shall include at least 200 ft. in width (north to south) of parking lot along the length of the development as depicted in Specific Plan Map (page 2). The parking buffer area shall be legally restricted in perpetuity by the appropriate legal instrument (i.e., deed restriction, easement, dedication, etc.) and shall be held and maintained as such by the developer, land owner(s), or appropriate third party.



WOOLEY ROAD PLAN

SECTION VII: PHASING

The development of this project will occur in a series of phases. The first phase to be developed will be the western section of the south island and the western section of the south shore. After the development of the western section of the south island and the western section of the south shore, the remaining phases may develop in any order, including concurrent development of phases, as long as the canals shown in the Specific Plan are extended to each new phase of development, each new phase of development is served by adequate vehicular and pedestrian circulation ways, as shown in this Specific Plan, and each new phase is provided with all required utility services.

The following is a description of the geographic sections of the property which are identified as phases. The improvements associated with each of the phases shall be set forth in a circulation and utilities plan and further specified in the tentative maps of the respective phases.

WESTERN SECTION OF SOUTH ISLAND AND WESTERN SECTION OF SOUTH SHORE PHASE (SOUTHWEST SECTION)

EASTERN SECTION OF SOUTH ISLAND, EASTERN SECTION OF SOUTH SHORE AND EAST SHORE PHASE (SOUTHEAST SECTION)

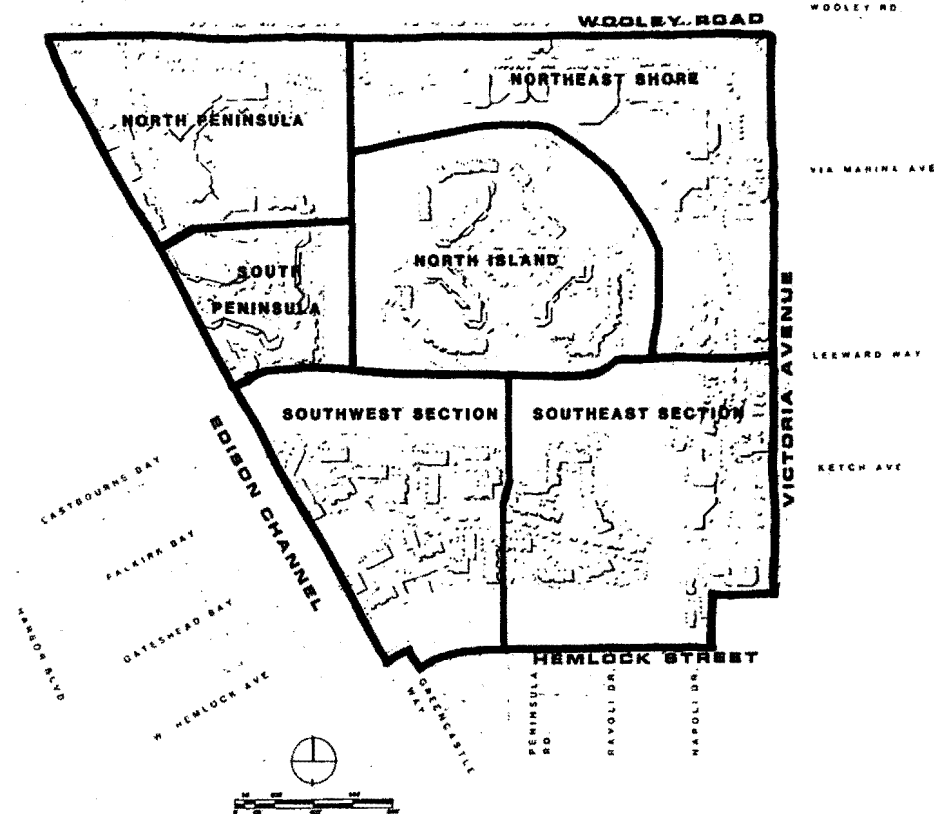
SOUTH PENINSULA PHASE

NORTH PENINSULA AND NORTHWEST SHORE PHASE

NORTH ISLAND PHASE

NORTHEAST SHORE PHASE

Public improvements required of each phase shall be developed concurrently with private development of that phase and all public improvements required by the specific plan shall be completed before completion of the final phase.



SECTION VIII: UTILITIES AND DRAINAGE

There are existing City sewer lines to be connected in Hemlock and Victoria Avenue. Wooley Road has a force main, but a parallel gravity flow line to connect at Victoria will have to be built. Sewer lines will generally be located in the proposed streets on the island and peninsula and will cross the channels at the bridges. Preliminary calculations indicate that all sewer lines will gravity flow.

There are water mains in Hemlock and Victoria Avenue, but a new main must be constructed in Wooley Road. A looped water line will be constructed for each of the islands and the peninsula.

The site will drain storm water into the island waterways by either sheet flow drainage swales or by underground drainage devices. The land form and topography will vary in shape to help accommodate this.

SECTION IX: MAINTENANCE DISTRICT

In conformance with the financial arrangements which exist for the earlier development phases of Mandalay Bay, the maintenance of all park and open space areas, public landscape area and waterways, including maintenance and repair of bulkheads or rip rap, will be funded by means of a maintenance district. Because of the mix of housing types and other land uses that will be contained in the project, the benefit will not be spread on the basis of linear footage adjacent to the canals and waterways, but rather on the basis of the area of the lots to be contained within the project. Some weighting may be appropriate to reflect the fact that lots taking access from one or more of the boundary streets and which have no direct access to or do not abut any of the waterways receive a lessor, or perhaps no benefit, from the waterways. The district will be formed in phases which will coincide with the actual development of the land and water areas within the Specific Plan area, but at the conclusion of development, all of the waterways within the area of the Specific Plan will be supported by one maintenance district.

SECTION X: EDISON CHANNEL

The Edison Canal will be widened to 300 feet with bulkheads or rip rap on the easterly bank to the intersection of the northerly east-west canal to be contained in the project. The City will seek direction and confirmation from Southern California Edison regarding their recommended treatment of the waterway and banks north of the northern east-west canal to Wooley Road. A final determination of the treatment will be made at the tentative map stage (or any earlier application for land use entitlement) for the peninsula. The City would like to stabilize the existing bank on Edison property by creating a linear park and will evaluate in the future methods for funding and the extend of the City's participation.

SECTION XI: SOIL TRANSFER

A soil transfer program to implement Policy 5 of the local coastal policies in the Coastal Land Use Plan will be required at the submittal of a tentative subdivision map.

The plan shall consist of:

- a) Identified (i.e. mapped) recipient sites consisting of non-prime soils; and
- b) Sites west of Route 1 in the Oxnard Plan and identified as agriculture in the applicable land use plan; and
- c) Standards for applying the agricultural soil to the site (set forth in LUP policy 5(c); and
- d) A program for monitoring agricultural production on these recipient sites; and
- e) Transfer of soils prior to commencement of construction of each place or alternatively posting of a performance bond for cost of soil transfer; and
- f) Written agreements from recipient site owners for deposit of agricultural soils.

SECTION XII: IMPLEMENTATION

Implementation will be subject to the regulations of the Coastal Land Use Plan and coastal zoning regulations and zone maps as adopted.

RECEIVED
DEC 15 2000

CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

COASTAL ACT ANALYSIS:

WESTPORT AT MANDALAY BAY APPEAL

Coastal Commission Appeal A-4-OXN-00-172
(Coastal Development Permit PZ 99-5-61)

Appellee Response Regarding Governing Documents

Submitted by: SunCal Companies
21601 Devonshire Blvd., Suite 116
Chatsworth, CA 91311

December 11, 2000

EXHIBIT 16
A-4-OXN-00-172
Applicant's Letter (7 Pages)

TABLE OF CONTENTS

I.	INTRODUCTION AND PROJECT DESCRIPTION	1
II.	LOCAL COASTAL PROGRAM	1
III.	DISCUSSION OF APPEAL ISSUES	2

Attachment A	Project Location Map and Site Plan
Attachment B	City of Oxnard Implementation Ordinances Coastal Commission Staff Report dated December 21, 1984
Attachment C	City of Oxnard City Council Resolution & Staff Report for Mandalay Bay Specific Plan
Attachment D	City of Oxnard Ordinance No. 2034 establishing the Local Coastal Zoning Ordinance
Attachment E	Coastal Commission letter dated April 18, 1985 regarding Local Coastal Program Final Certification
Attachment F	Local Coastal Program Chronology
Attachment G	Local Coastal Program Policy No. 72
Attachment H	Mandalay Bay Specific Plan
Attachment I	Local Coastal Program Policy No. 45
Attachment J	Lateral Access Exhibit
Attachment K	Oly/Mandalay Bay Partners letter dated November 8, 2000

I. INTRODUCTION AND PROJECT DESCRIPTION

On July 18, 2000, the Oxnard City Council approved a coastal development permit (PZ 99-5-61) and associated tentative subdivision map (PZ 99-5-62) for development at the Westport at Mandalay Bay project. The "Westport at Mandalay Bay" (hereafter "Westport") project proposes development on a 58.2-acre site, including previously approved removal of prime agricultural soil, creation of channels and waterways, subdivision, and the construction of 95 single-family residences (83 with private boat docks), 35 residential duplex units, 88 townhouse condominiums, mixed-use development with 140 multi-family residential units and 14,000 square feet of visitor-serving commercial uses, and 7 acres of public park with a trail system. Attachment A provides a location map and site plan for the project.

An appeal of the City's action was filed by Coastal Commissioners Wan and Estolano on August 1, 2000 during the appeal period.

II. LOCAL COASTAL PROGRAM

The City of Oxnard Local Coastal Program is comprised of the three following documents which are discussed further below. Most important is the order of adoption, and the manner of adoption, of these documents:

- Local Coastal Program, Land Use Plan (LUP)
- Mandalay Bay Specific Plan
- Coastal Zoning Regulations and Zone Maps (Implementation Action Plan)

Coastal Land Use Plan

The Coastal Commission initially considered the City of Oxnard's Land Use Plan (LUP) in July 1981 subject to suggested modifications. The City accepted the suggested modifications, approved them, and the Land Use Plan was effectively certified in May 1982. As part of the LUP, local coastal policy No. 45 contained in the LUP required portion of the Local Coastal Program preparation of a Specific Plan for the Mandalay Bay 220-acre project site and outlines the required contents of the Specific Plan (the subject 58-acre site is part of the overall 220-acre Mandalay Bay site).

III. DISCUSSION OF APPEAL ISSUES

Issue Analysis

Argument by the appellee in this matter is presented via issue statements.

Issue: What is the hierarchy and chronology of the applicable governing documents?

The Coastal Commission staff contends that the Specific Plan implements the Mandalay Bay project in a regulatory sense. Staff resolves conflicts and ambiguities between the Specific Plan and the Zoning Ordinance by treating the Specific Plan as an implementation of the Zoning Ordinance. This view is incorrect for several reasons.

First, the chronology of the Local Coastal Program actions and the Coastal Commission staff report of December 21, 1984 (Attachment B) do not support this view. The Specific Plan was adopted by resolution of the City Council on July 10, 1984. It has never been adopted by ordinance. The City Council staff report accompanying the resolution adopting the Specific Plan states:

It is the intent of the State law authorizing specific plans that such plan be used as a "bridge" between general (and coastal) plans and individual development proposals and regulations. Specific plans may be adopted by ordinance or resolutions. Plans which propose regulations which would supersede a zoning ordinance must be adopted by ordinance. Plans which proposed development which would conform to general zoning regulation: may be adopted by resolution. The development within the Mandalay Bay project would be regulated by the provisions of the Coastal Zoning Ordinance. The Specific Plan does not seek to override those provisions. It is recommended that the Specific Plan be adopted by resolution. (emphasis added)

It is clear from the context that the Council intended the Specific Plan as a policy document, and placed the zoning ordinance as the regulation for the property. Note the Council's deliberate action not to adopt the Specific Plan by ordinance and thereby introduce a conflict. City of Oxnard Resolution No. 8685 and accompanying staff report for the adoption of the Specific Plan is provided as Attachment C.

It is clear that the City of Oxnard intended that the Mandalay Bay Specific Plan would provide for conceptual plans and policies for the site and deliberately chose to adopt the Specific Plan by resolution rather than by ordinance to ensure that Mandalay Bay Specific Plan provisions would not override the Coastal Zoning Ordinance.

As noted below, the City submitted the Mandalay Bay Specific Plan for consideration concurrently with the Implementation Ordinances. The Mandalay Bay Specific Plan was approved with suggested modifications by the Coastal Commission as part of the Implementation Ordinances in January 1985. The City of Oxnard adopted Ordinance

No. 2034 establishing the Coastal Zoning Regulations on February 12, 1985 (Attachment D). The Specific Plan was not part of this action. The Coastal Commission reviewed this action as noted in their letter of April 18, 1985 (Attachment E) forwarding LCP final certification and made the determination that the City's action was legally adequate. Effective April 18, 1985, the City of Oxnard had coastal development permit authority over developments governed by the LCP.

Nothing in the LCP certification report dated December 21, 1984 even remotely suggests that the Specific Plan "overrides" the zoning ordinance. In fact, just the opposite is the case.

The December 21, 1984 Coastal Commission staff report treats the zoning ordinances as the enforceable regulatory tool. While the report acknowledges that the Specific Plan is considered implementation under State law,¹ the report and suggested modifications do not require the Specific Plan to be adopted by ordinance - only the zoning was to be adopted by ordinance. Therefore, the form of the certification is directly relevant to the finding of substantial issue in this case. For ease of reference, a chronology of the City of Oxnard Local Coastal Program is provided as Attachment F.

Finally, the December 21, 1984 certification report provides a historical insight to the Commission's intent with respect to the central issue in this appeal, access. At page 9, the 1984 Commission report states (in discussing public access):

The Commission went on to state that "a reasonable expectation" considering the intensity of development proposed would be for complete or nearly complete lateral access.

It is clear that, even at the time of certification, the Commission knew lateral access may not be continuous. The Commission certified the LCP with Policy 72 (Attachment G), which allows for the interruption of lateral access between single family detached units and the water. Nothing in the suggested modifications calls for the elimination of this language, adopted by ordinance in 1985.

cc:ic

Taken in this context, the reliance on the Specific Plan as the controlling regulatory document is not only misplaced by virtue of the hierarchy and chronology of the documents, it is contradictory with the unequivocal statement in the Council staff report which was reviewed and not suggested for modification. Therefore, the Zoning Ordinance is controlling in this case.

¹ Actually, this is legally only the case if it is adopted by ordinance.

Issue: Was single family use on the Westport property authorized?

Yes. The staff contends that single family residences were never contemplated on the Westport property. Staff relies on a selective reading of the Specific Plan, without considering the document as a whole.

For example, while the Specific Plan refers to the Hemlock Street single family residential, more as a requirement for transition to existing single family uses, the Specific Plan also allows single family uses in the residential designation on the Westport property. While staff has appended many Specific Plan materials to the staff report, it does not append this policy (see Attachment H to this report). The Specific Plan not only contemplates single family uses in all areas designated residential, it specifically identifies the exact residential zoning which has been applied here.² If staff is to take the position that the Specific Plan has a regulatory status equal to the ordinance, staff must use all sections of the Specific Plan.

Issue: Did the LCP contemplate interruptions in the lateral access beyond those shown in the Land Use Plan of the Specific Plan?

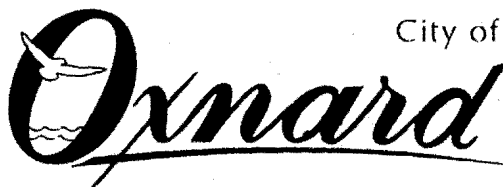
Yes. Both the Specific Plan and the ordinance certified as the Implementing Action Plan clearly contemplate that the linear or lateral access will be interrupted in yet unknown ways by future development. Policy 45 of the certified LCP (Attachment I), cited in the appeal staff report at page 9, speaks of lateral access in terms of "a minimum of 50% of the total linear waterfront footage." The policy goes on to address exceptions where continuous lateral access may be interrupted for limited single family development. The Specific Plan calls for a minimum of 21,000 lineal feet of lateral access.

Finally, Policy No. 72 of the IAP echoes the Specific Plan and Policy No. 45 by specifically allowing lateral access to be interrupted so long as total lateral access is not less than 50% of the total shoreline frontage of the project or less than 21,000 linear feet. Staff opines that Policy 72 was applied in the Specific Plan and may only be applied one time (something the policy itself does not say!), and the applicant contends that the record, context of the documents, and the wording of the documents themselves support a finding of no substantial issue with respect to the provision of lateral access. The project provides lateral, waterfront access for over 50% of its waterfront frontage, a distance of 5,036 lineal feet. Lateral access for the project is illustrated on the project site plan in Attachment J to this report. A total of 5,565 feet would be required, and when the 5,056 feet and the excess 526 lineal feet from the Harbor Island excess lineal

² Importantly, the Specific Plan identifies where Single Family Residential must occur (Hemlock Street) not where it may occur. This is why, no doubt, the zoning of R-W-1 "Single Family Detached - Waterfront" was specifically allowed in the Specific Plan. Had there been no contemplation that Single Family uses would one day be built in these areas, there would be no need for this statement to exist.

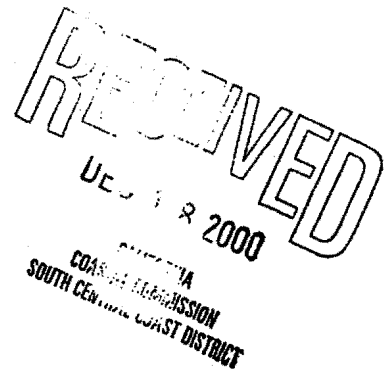
footage is allocated,³ a total of 5,562 lineal feet would be provided, or 3 feet less than required. Further, please see to the attached letter (Attachment K) from Oly/Mandalay Bay General Partnership, dated November 8, 2000, assuring that the overall required lateral access will be provided. The City found, however, that only 556 lineal feet of vertical access is required, but the Westport plan provides almost twice that amount. Most importantly, a comparison of the total waterfront in Westport (7,600 lineal feet) to the amount of waterfront lateral access in the project (5,036 lineal feet) shows that the Westport project alone provides over 66% of its frontage in lateral access in spite of the single family detached residential uses. This is in exact conformity with Policy 45. The City concluded on this basis that the plan met the requirements.

³ In its approval, the City of Oxnard explains that Harbor Island exceeded its 50% share of lineal footage, resulting in an excess of 1127 feet. This excess was allocated proportionately to the Westport and Toscana Bay projects.



City of

December 14, 2000



Mr. Gary Timm
Assistant District Director
California Coastal Commission
South Central Coast Area Office
89 S. California Street, Suite 200
Ventura, CA 93001

Dear Mr. Timm:

EXHIBIT 17

A-4-OXN-00-172

City Letter (2 Pages)

Subject: **Westport @ Mandalay Bay**
Mixed Use/Visitor Serving Commercial

In a recent conversation with Bill Ratazzi, the developer of the proposed Westport development within the City of Oxnard, he indicated that Coastal Commission staff had expressed concerns regarding the location and amount of visitor-serving/mixed use within the project. You may recall that prior to the filing of the Westport project we met and discussed the Mandalay Bay Specific Plan and LCP requirements for visitor-serving commercial uses.

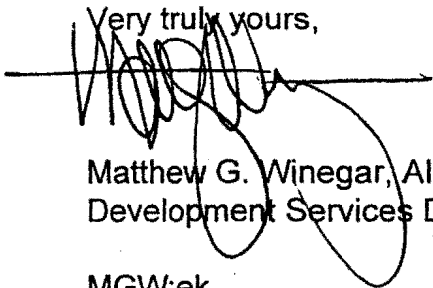
By way of information, please note that in approving the project, the City reviewed the following issues related to the visitor-serving portion of the project

- ◆ The intent of the Specific Plan and LCP requirement.
- ◆ The fact that retail/commercial centers in the immediate area, and in fact, immediately adjacent to the project are in decline with significant vacancies.
- ◆ The visitor-serving uses in the Channel Islands Harbor area have experienced declining economic viability during the last decade, despite a recovering economy.
- ◆ Additional visitor-serving uses would further diminish the viability of businesses in Channel Islands Harbor.
- ◆ The amount and type of visitor-serving uses suggested by the developer, coupled with the public parks and trail systems, appear likely to bring visitors into the area.

Mr. Gary Timm, Assistant District Director
California Coastal Commission
December 14, 2000
Page 2

Should you have any additional questions with respect to the Westport project, please feel free to contact me at your convenience.

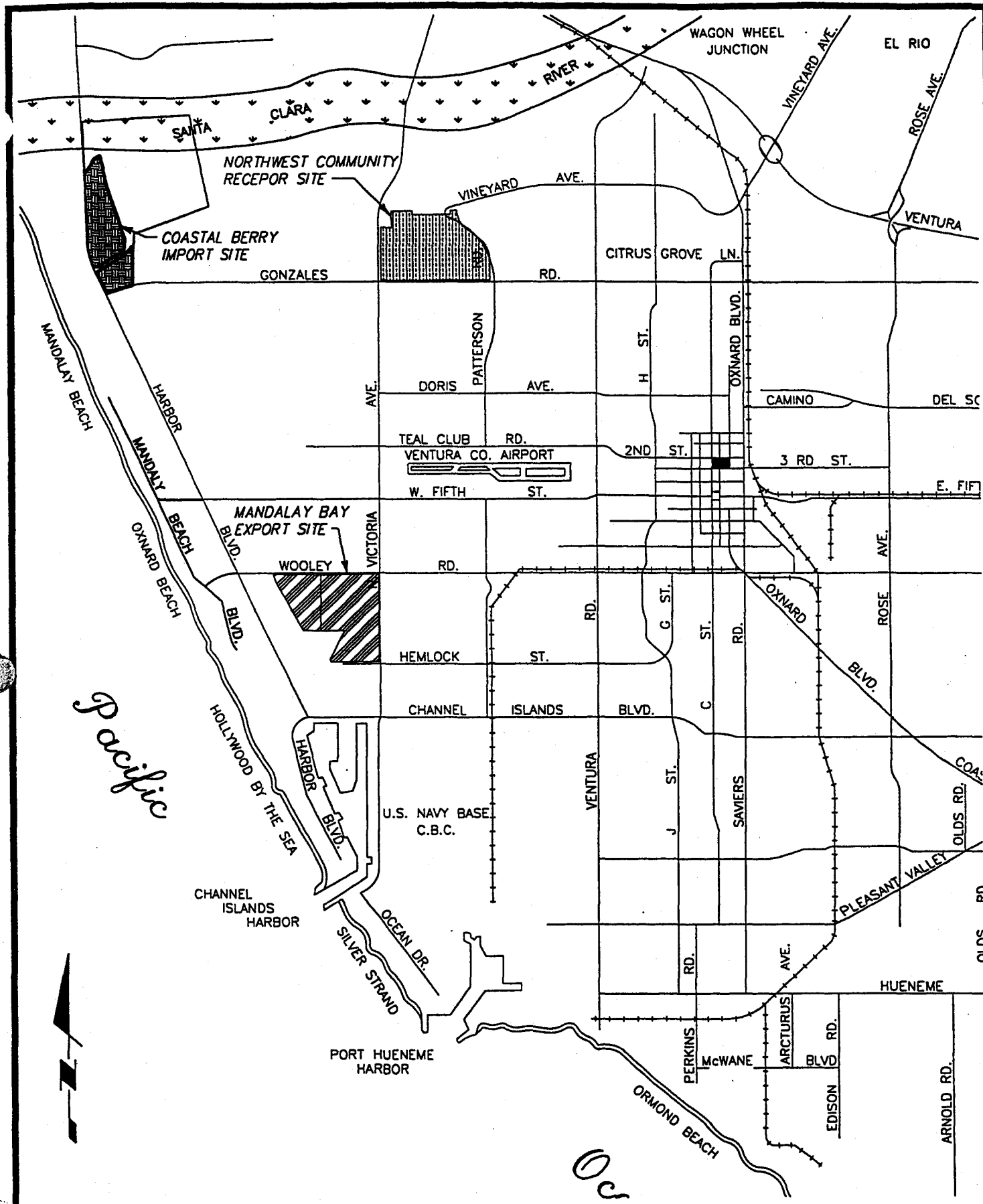
Very truly yours,

A handwritten signature in black ink, appearing to read 'Matthew G. Winegar', is written over a horizontal line. The signature is stylized with loops and a long horizontal stroke extending to the right.

Matthew G. Winegar, AICP
Development Services Director

MGW:ek

cc: Edmund F. Sotelo, City Manager
Marilyn Miller, Planning & Environmental Services Manager
Lyn Krieger, Harbor Department Director



4171 MARKET ST. STE. 4A
 VENTURA, CALIF. 93003
 PHONE 805/654-8977
 FAX 805/654-6979

SOIL TRANSFER VICINITY MAP

EXHIBIT 18

A-4-oxn-00-172

Soil Transfer Sites

AGRICULTURAL PRODUCTION MONITORING PROGRAM COASTAL BERRY RANCH RECIPIENT SITE

INTRODUCTION

This project consists of the first phase of a larger agricultural soil transfer project at the Coastal Berry Ranch. Work for this project involves the excavation of 2 feet of non-prime soil evenly over the entire area, with the immediate replacement of the excavated material with 2 feet of prime agricultural soil. The prime soil will be placed in one-foot layers and slip plowed after the layer is placed to provide a gradual interface between the soils. There will be no stockpiling of transferred prime soils, and the excavated soil will be moved directly from the donor (Mandalay Bay) site to the recipient (Coastal Berry Ranch) site. Soil excavation, loading, unloading and spreading will follow procedures designed to minimize compacting of the newly deposited soil by heavy equipment, and to protect the agricultural capability of the soil. During soil transfer operations, the other areas of the Coastal Berry Ranch will remain in production. The Coastal Berry site has previously been in agricultural production, and will be returned to agricultural production immediately upon completion of the soil transfer. The area is expected to be replanted entirely in strawberries, replacing the previous crops (celery, cabbage, grasses).

PROPOSED AGRICULTURAL MONITORING PROGRAM

The developer proposes to fund and implement the following agricultural monitoring program for the Coastal Berry Ranch recipient site, as outlined in Policy 5 (e) of the Coastal Land Use Plan. The monitoring and reporting program will be conducted for 10 years from the date of transfer of the soils. Funding for the program will be provided by the developer or their successor(s). The program will monitor and report the following characteristics:

- Soil Characteristics. Following soil transfer and prior to the first crop planting, representative soil samples from the improved area (a minimum of 5 discrete samples) will be obtained and analyzed for agricultural suitability (grain size distribution, moisture content, saturation index, nitrate-nitrogen, limestone, phosphorus, potassium, pH, and salinity). Following the initial sampling, soil samples for agricultural suitability testing will be obtained once per year during crop rotation.
- Irrigation Requirements. Irrigation water at the Coastal Berry Ranch is obtained primarily from a water well located on the property. An initial water meter reading at the well will be taken immediately following the soil transfer. Subsequent readings will be taken semi-annually (every 6 months) to assess irrigation water requirements. Additional qualitative information from the producer will also be used to evaluate the irrigation water demand following soil transfer.
- Crop Types and Yields. Production records regarding crop types and yields will be collected on a semi-annual basis from the producer. The producer will be interviewed to assess the quality and marketability of the produce.
- Agricultural Productivity. A report will be generated annually and provided to the Coastal Commission and Natural Resource Conservation Service (formerly the U.S. Soil Conservation Service) that summarizes the data collected through this monitoring program. Reports will be generated annually over the 10-year monitoring period.

