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STATE OF CALIFORNIA - THE RESOURCES AGENCY

CALIFORNIA COASTAL COMMISSION

WITH CENTRAL COAST AREA
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RECORD PACKET COPY

DATE: July 18, 2002

TO: Commissioners and Interested Persons

FROM: Charles Damm, Senior Deputy Director
Melanie Hale, Supervisor, Planning and Regulation
Shana Gray, Coastal Program Analyst

SUBJECT: City of San Buenaventura Local Coastal Program Major Amendment 1-02 (Four Points Sheraton) for Public Hearing and Commission Action at the August 6, 2002, Commission Meeting in San Luis Obispo.

SYNOPSIS

The City of San Buenaventura (Ventura) is requesting an amendment to the Land Use Plan (known locally as the Comprehensive Plan Update to the Year 2010) component of its certified Local Coastal Program (LCP) to increase the allowable boatel units in the Central Harbor from a maximum of 50 units to 70 boatel/hotel units. A **boatel** is defined as a facility that provides overnight and vacation accommodations primarily oriented to recreational boaters who have a need for hotel/motel type accommodations in conjunction with a boat slip.

The purpose of the proposed amendment is to allow the existing hotel to modify the interior layout of its existing building square footage, including lodging facilities, restaurant, meeting and conference room facilities. Specifically, the amendment would allow the re-designation of the existing 46 **boatel** units to **boatel/hotel** units and the addition of 24 **boatel/hotel** units in the Central Harbor area. As presently proposed, the Four Points Sheraton plans interior modification of its facilities that would result in the (1) relocation and reduction in size of existing restaurant facilities, (2) reduction in conference and meeting room facilities; and (3) the addition of 24 **boatel/hotel** units.

The revised LCP language resulting from the proposed amendment would allow the City to approve the request of the Four Points Sheraton to convert the ground floor of the existing boatel facility from restaurant, lounge, and meeting rooms into 24 guest rooms and meeting space. The Four Points Sheraton is proposing to remodel and reconfigure 15,500 square feet of the hotel's first floor to allow the construction of 24 additional hotel units for a total of 70 hotel units at 1080 Navigator Drive, Ventura.

The proposed amendment to the LCP to designate a maximum of 70 boatel/hotel units in the Central Harbor area of Ventura is necessary in order for the proposed remodel and reconfiguration of the Four Points Sheraton to be found consistent with the certified LCP.

SUMMARY OF STAFF RECOMMENDATION

The required items necessary to provide a complete LCP amendment application were received in the South Central Coast Office on February 14, 2002, and the notice was deemed filed on March 1, 2002. The 90-day time limit was extended for a period of up to one year at the Commission's May 7, 2002 hearing. Staff is recommending that the Commission, after public hearing, **deny** the amendment to the LUP component of the LCP as submitted; then **approve, only if modified**, the amendment to the LCP. The City-proposed LUP language allows an increase in the density of boatel/hotel guestrooms within the Central Harbor Area of the LUP. These overnight lodging accommodations are a coastal priority use which serves recreational boaters and the general public. The modifications are necessary because the LCP amendment as submitted is not adequate to ensure consistency with the Chapter 3 policies of the Coastal Act to guarantee protection of priority visitor-serving uses and access. The motions to accomplish this recommendation are found on **pages 3 and 4**. The suggested modifications are found on **pages 4 through 6**.

SUBSTANTIVE FILE DOCUMENTS: City of San Buenaventura, Municipal Code, Chapter 24 Zoning Regulations; City of San Buenaventura Comprehensive Plan Update To The Year 2010; Coastal Commission Appeal 4-81-415 (Ocean Resorts Development Company); City Council Resolution No. 2001-102, Approval of a Comprehensive Plan and Local Coastal Program Amendment and Related Negative Declaration, December 18, 2001; City of San Buenaventura Initial Study, October 29, 2001; City of San Buenaventura LCP Amendment 2-86; City of San Buenaventura LCP Amendment 2-96; Draft Parking Agreement Between the Ventura Port District and LYW Ventura Harborview Limited Partnership to Secure an Irrevocable Right to Use 50 Parking Spaces on Parcel 19A in Ventura Harbor, June 4, 2002; City of San Buenaventura, Hotel/Motel Operator's Handbook, For Collecting, Reporting and Paying Transient Occupancy Tax;

STANDARD OF REVIEW

The Coastal Act provides:

The commission shall certify a land use plan, or any amendments thereto, if it finds that a land use plan meets the requirements of, and is in conformity with, the policies of Chapter 3 (commencing with Section 30200)... (Section 30512(c))

The standard of review that the Commission uses in reviewing the adequacy of the land use plan is whether the land use plan is consistent with the policies of Chapter 3 of the Coastal Act.

PUBLIC PARTICIPATION

Section 30503 of the Coastal Act requires public input in preparation, approval, certification and amendment of any LCP. The City held a public hearing on November 20, 2001 to obtain comments from concerned parties and members of the public. The hearing was duly noticed to the public consistent with Sections 13552 and 13551 of the California Code of Regulations. Notice of the subject amendment has been distributed to all known interested parties.

PROCEDURAL REQUIREMENTS

Pursuant to Section 13551 (b) of the California Code of Regulations, the City resolution for submittal must indicate whether the Local Coastal Program Amendment will require formal local government adoption after the Commission approval, or is an amendment that will take effect automatically upon the Commission's approval pursuant to Public Resources Code Sections 30512, 30513, and 30519. In this case, because this approval is subject to suggested modifications by the Commission, if the Commission approves this Amendment, the City must act to accept the certified suggested modifications before the Amendment will be effective. Pursuant to Section 13544, the Executive Director shall determine whether the City's action is adequate to satisfy all requirements of the Commission's certification order and report on such adequacy to the Commission. If the Commission denies the LCP Amendment, as submitted, no further action is required by either the Commission or the City.

Additional Information: Please contact Shana Gray , California Coastal Commission, South Central Coast Area, 89 So. California St., Second Floor, Ventura, CA. (805) 585-1800.
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I. STAFF RECOMMENDATION

A. Denial as Submitted

MOTION I: *I move that the Commission certify Land Use Plan Amendment 1-02 as submitted by the City of San Buenaventura.*

STAFF RECOMMENDATION TO DENY:

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

RESOLUTION TO DENY:

The Commission hereby denies certification of the Land Use Plan Amendment 1-02 as submitted by the City of San Buenaventura and adopts the findings set forth below on the grounds that the amendment does not conform with the policies of Chapter 3 of the Coastal Act. Certification of the Land Use Plan amendment would not comply with the California Environmental Quality Act because there are feasible alternatives or mitigation measures which could substantially lessen any significant adverse impact which the Land Use Plan Amendment may have on the environment.

B. Approval with Suggested Modifications

MOTION:

I move that the Commission certify Land Use Plan Amendment 1-02 for the City of San Buenaventura if it is modified as suggested in this staff report.

STAFF RECOMMENDATION TO CERTIFY WITH SUGGESTED MODIFICATIONS:

Staff recommends a YES vote. Passage of the motion will result in the certification of the land use plan amendment with suggested modifications and adoption of the following resolution and findings. The motion to certify with suggested modifications passes only upon an affirmative vote of the majority of the appointed Commissioners.

RESOLUTION TO CERTIFY WITH SUGGESTED MODIFICATIONS:

The Commission hereby certifies the Land Use Plan Amendment 1-02 for the City of San Buenaventura if modified as suggested and adopts the findings set forth below on the grounds that the Land Use Plan amendment with suggested modifications will meet the requirements of and be in conformity with the policies of Chapter 3 of the Coastal Act. Certification of the land use plan amendment if modified as suggested complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the plan on the environment, or 2) there are no further feasible alternatives or mitigation measures that would substantially lessen any significant adverse impacts which the Land Use Plan Amendment may have on the environment.

II. SUGGESTED MODIFICATIONS

The staff recommends the Commission certify the following, with two modifications as shown below. Language presently contained within the certified LCP is shown in straight type. Language recommended by Commission staff to be deleted is shown in ~~strike-out text~~ and to be inserted is shown underlined. Language proposed to be

modified by the City, as submitted in LCP Amendment SBV-MAJ-1-02 is shown in double underlined for added text, and ~~double strikethrough~~ for deleted text.

1. Suggested LUP Modification #1

Modify Area Locational and Intensity Policies for the Central Harbor as follows:

2. Central Harbor: This area shall contain uses oriented toward or serving recreational boating. All other uses are prohibited, except that a ~~50~~ 70-unit boatel/hotel, and two full service restaurants may be permitted, provided that adequate on-site parking is provided. Where compatible, coastal dependent or coastal-related commercial fishing uses shall be permitted.

A. Land Use and Development

- 1) Boatel/hotel development and use shall not detract from or interfere with the harbor oriented coastal visitor-serving uses, tourist activity and public recreational boating uses. Boatel/hotel use shall preserve its visitor-serving function by limiting the visitor length of stay. Visitor occupancy of boatel/hotel guestrooms shall be limited to not more than 30 consecutive days and a total of 60 days during one calendar year. Boatel/hotel records shall be maintained in conjunction with the City's Transient Occupancy Tax (TOT/Hotel) collection. These records shall be available for inspection to Commission staff and shall include, at a minimum, the occupants' name, guestroom number, dates of occupancy, and calendar year total.

B. Parking and Circulation

- 2) All development shall preserve visitor-serving uses and coastal access by providing adequate offstreet parking areas in an amount determined pursuant to the offstreet parking regulations described in Chapter 24.415 of the Municipal Zoning Code or any modified parking requirements that are certified as an LCP amendment in the future. Every use of property hereafter initiated, reinitiated, expanded, intensified, or changed and every building hereafter erected, enlarged, or structurally altered to accommodate such uses shall be required to provide adequate offstreet parking spaces. In instances where it is not practicable to provide all required offstreet parking spaces on the subject site, private offsite parking shall be permitted, provided that: (a) The boundaries of the other site containing available parking are located within 500 feet of the boundaries of the site containing the subject land use; (b) The parking spaces available on the other site are not required for another use; and (c) The applicant's right to use the offsite parking spaces is guaranteed in a manner satisfactory to the director and the city attorney through a recorded instrument or executed agreement which is irrevocable throughout the lifetime of the development.

2. Suggested LUP Modification #2

Modify Area Locational and Intensity Policies for the Northeast Harbor Area as follows:

1. Northeast Harbor Area: This area shall be developed primarily with commercial visitor-serving uses and, for the portion designated HRMU [Harbor Related Mixed Use], with a master-planned residential/commercial mixed use development. Uses allowed in this area include the following: (1) commercial visitor-serving uses; (2) recreational boating; (3) non-priority uses limited to public facilities and general retail and offices; (4) non-water oriented commercial; (5) public park and recreation; (6) residential uses limited to a maximum of 300 units and limited to the upper story (stories) of any development; and (7) mobile homes for the Mobile Home Park area (MHP). Commercial fishing facilities are **not** intended uses in the Northeast Harbor Area. Coastal-dependent and coastal-related recreation and visitor-serving uses shall be developed adjacent to the harbor front and shall have priority over residential and general commercial development.

A. Parking and Circulation

- 1) All development shall preserve visitor-serving uses and coastal access by providing adequate offstreet parking areas in an amount determined pursuant to the offstreet parking regulations described in Chapter 24.415 of the Municipal Zoning Code or any modified parking requirements that are certified as an LCP amendment in the future. Every use of property hereafter initiated, reinitiated, expanded, intensified, or changed and every building hereafter erected, enlarged, or structurally altered to accommodate such uses shall be required to provide adequate offstreet parking spaces. In instances where it is not practicable to provide all required offstreet parking spaces on the subject site, private offsite parking shall be permitted, provided that: (a) The boundaries of the other site containing available parking are located within 500 feet of the boundaries of the site containing the subject land use; (b) The parking spaces available on the other site are not required for another use; and (c) The applicant's right to use the offsite parking spaces is guaranteed in a manner satisfactory to the director and the city attorney through a recorded instrument or executed agreement which is irrevocable throughout the lifetime of the development.

B. HRMU Parcel. Development on the HRMU designated parcel shall be subject to the preparation of the master plan. The master plan shall include, at a minimum, the following: [...]

III. FINDINGS FOR DENIAL AS SUBMITTED AND APPROVAL OF THE LOCAL COASTAL PROGRAM IF MODIFIED AS SUGGESTED

The following findings support the Commission's denial of the LCP amendment as submitted, and approval of the LCP amendment if modified as indicated in Section II (*Suggested Modifications*) above. The Commission hereby finds and declares as follows:

A. Amendment Description

The City of San Buenaventura (Ventura) is requesting an amendment to the Land Use Plan component of its certified Local Coastal Program (LCP) to increase the allowable boatel units in the Central Ventura Harbor from a maximum of 50 units to 70 boatel/hotel units (see Exhibit 1, City Resolution). A **boatel** is defined as a facility that provides overnight and vacation accommodations primarily oriented to recreational boaters who have a need for hotel/motel type accommodations in conjunction with a boat slip.

The City is requesting to amend the Land Use Plan Intent and Rationale Statement for the Ventura Harbor, Central Harbor area, changing the "Area Locational and Intensity Policies" as follows:

2. Central Harbor: This area shall contain uses oriented toward or serving recreational boating. All other uses are prohibited, except that a ~~50~~ 70-unit boatel/hotel, and two full service restaurants may be permitted, provided that adequate on-site parking is provided. Where compatible, coastal dependent or coastal-related commercial fishing uses shall be permitted.

The "boatel" language provided in the LCP was based on the assumption that the facility would provide overnight accommodations for boaters. It was estimated that boaters would not have the same parking needs as a typical hotel since they would arrive by boat. Though this facility is available to support recreational boaters, it is more practical that someone berthing in the harbor overnight would stay on their boat.

Although reference to "boatel" and not "hotel" is presently contained within the LCP, in practice the facility functions as a hotel. Further, hotel/lodging standards and regulations are being utilized by the City to evaluate modifications to the existing boatel facility since "boatel" regulations and reference to "boatel" is not contained within the City's Zoning Ordinance or other state codes that would be applied. Therefore, the City has chosen to insert reference to "boatel/hotel" instead of "boatel."

The revised language would allow the City to approve the request of the Four Points Sheraton to convert the ground floor of the existing boatel facility from restaurant, lounge, and meeting rooms into 24 guest rooms and meeting space. Floors two and three of the boatel facility are presently developed with guestrooms. The Four Points

Sheraton is proposing to remodel and reconfigure 15,500 square feet of the hotel's first floor to allow the construction of 24 additional guest units for a total of 70 hotel units at 1080 Navigator Drive (Parcel 1), Ventura. This project is considered a development under the certified LCP and would be subject to coastal permitting procedures described under Chapter 24.515 of the Zoning Code (a certified component of the LCP), upon approval of amendment of SBV-MAJ-1-02, and would be appealable to the Coastal Commission.

As outlined in the project description provided by the City and provided in the Initial Study prepared for the amendment, the modifications would be interior of the existing structures and would result in the conversion of the ground floor of the existing boatel facility from restaurant, lounge, meeting rooms, and service areas (e.g., closets and kitchen area) into 24 guest rooms, lounge, and approximately 3,000 sq. ft. of meeting space. The additional 24 boatel/hotel units would be approximately 525 to 600 sq. ft. and would include kitchenette, sleeping, sitting, and restroom facilities.

The existing 12,000 sq. ft. restaurant that occupies the first floor of the boatel facility would be relocated to the main hotel facilities on Parcel 19. However, the relocated restaurant and lounge would be 5,000 sq. ft. in size, and would convert a corresponding amount of meeting space at 1050 Schooner Drive (Parcel 19).

B. Ventura Harbor Background

The City of Ventura Local Coastal Program was certified by the Coastal Commission in two segments, a Harbor LCP on May 21, 1981 and the City LCP on February 23, 1984. The Ventura Harbor Development Plan, written in 1979 served as the LUP component of the 1981 LCP. The policies of the Development Plan were later incorporated into the LCP in 1984 when the Commission certified the entire LCP. The Ventura Harbor LCP segment was consolidated into the total City LCP as part of the Commission's approval of LCP Amendment No. 1-90 (Major), in 1990. The certified LUP component of the LCP states that the Harbor is intended to provide for recreational and commercial boating opportunities. Within the LUP, the harbor is divided into four areas: the *South Peninsula*, *Southwest*, *Central*, and *Northeast* Harbor areas (see Exhibit 4). The Harbor is currently developed with a variety of facilities that include, in part, a time-share hotel facility, a hotel (the subject of this amendment), commercial fishing and recreation boating slips, a yacht club, food services, Harbor Village shopping area, Channel Islands National Park Headquarters, and a pedestrian and bicycle path.

The Ventura Harbor was the subject of an LCP Amendment (2-86) in 1986. Under this amendment, the Commission approved the following: (1) modifications to the view corridor, change in restaurant requirements, addition of office use, and increased parking in the *South Peninsula Harbor Area*; (2) changes to height requirements in the *Northeast Harbor Area*, (3) addition of office use in the *Southwest Harbor Area*, and (4) changes to uses in the *Central Harbor Area*. Specifically, under LCPA 2-86, the Central Harbor Area Intent and Rationale Statement was amended to include a 50-unit boatel, and two full service restaurants, provided that adequate on-site parking is provided. The

LCP had previously required the area be limited to uses oriented toward or serving recreational boating with the exception of one full restaurant. The Central Harbor Area Intent and Rationale Statement was further modified in 1997 under LCP Amendment 2-96, wherein the Commission approved the addition of language to allow coastal-dependent and coastal-related commercial fishing uses, where compatible.

C. Amendment Purpose and Background

The purpose of the proposed amendment is to allow the existing Four Points Sheraton Hotel to modify the interior layout of its existing building square footage, including lodging facilities, restaurant, meeting and conference room facilities. According to the current owner, the restaurant is too large for the needs of the hotel and the general public. Specifically, the amendment would allow the re-designation of the existing 46 *boatel* units to *boatel/hotel* units and the addition of 24 *boatel/hotel* units in the Central Harbor area. As presently proposed, the Four Points Sheraton plans interior modification of its facilities that would result in the (1) relocation and reduction in size of existing restaurant facilities, (2) reduction in conference and meeting room facilities; and (3) the addition of 24 *boatel/hotel* units.

The project site is adjacent to Ventura Harbor, a man-made commercial and recreational harbor located in the southwest portion of the City of San Buenaventura, Ventura County (Exhibit 3). The existing Four Points Sheraton hotel facilities are located on two neighboring parcels, Parcel 1 and Parcel 19, separated by east-west trending Navigator Drive (Exhibit 5). Shortly after assuming permit-issuing authority for coastal development permitting in the Ventura Harbor area, the City approved the boatel facility in the *Central Harbor Area*, including a restaurant, banquet room and 44 lodging units. Under that same approval, the City permitted development of the main hotel building north of Navigator Drive, which is accessed by visitors from the boatel facility at ground level by crossing Navigator Drive or by walkway over Navigator Drive. Additional hotel and boatel guest units were approved by the City as amendments to the permit in 1982 and 1984.

The main lodging facility is located on a 7.98-acre parcel known as Parcel 19 in the Ventura Harbor, at 1050 Schooner Drive, in *Northwest Ventura Harbor* (Exhibit 5). Parcel 19 is adjacent to Harbor Boulevard, to the east, and situated between Navigator and Schooner Drive to the south and north, respectively. The main facility is a three-story complex that includes 106 guestrooms, conference and meeting facilities, and other amenities such as a gym, tennis courts, and swimming pool. There are 287 existing parking spaces on this site.

The existing 46-unit Boatel Facility is located on a 3.72-acre parcel known as Parcel 1 in the Ventura Harbor at 1080 Navigator Drive, in the *Central Harbor Area* (Exhibit 5). Parcel 1 is west of and adjacent to Navigator Drive, north of Spinnaker Drive, and adjacent to the water. The boatel facility is a three-story building comprised of a large restaurant, meeting and conference facilities, and storage space on the first floor, with boatel guestrooms on the upper two floors. There are 225 existing on-site parking

spaces on Parcel 1. Presently, the 46-unit boatel facility serves both boating and non-boating visitors, on a first-come-first-served basis. The hotel may arrange, or alternately the visitor may make personal arrangements, with the neighboring marinas to rent out a boat slip on a daily, weekly, or monthly basis. When a guest requests to rent a boat slip during their stay, they are referred to the Ventura West Marina adjacent to the hotel.

D. Priority Uses

Section 30222 of the Coastal Act states:

The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry.

Section 30255 of the Coastal Act states:

Coastal-dependent developments shall have priority over other developments on or near the shoreline. Except as provided elsewhere in this division, coastal-dependent developments shall not be sited in a wetland. When appropriate, coastal-related developments should be accommodated within reasonable proximity to the coastal-dependent uses they support.

Sections 30222 and 30255 of the Coastal Act provide for priority uses, such as visitor-serving and coastal dependent development relative to other uses. The subject site is developed with visitor-serving commercial developments including hotel and restaurant facilities. The proposed modification to the LCP language would allow for additional "boatel/hotel" lodging units, indicating an expansion of visitor-serving use. As currently proposed by the hotel, the additional guestrooms would displace other uses including an existing restaurant and meeting space.

1. "Boatel" vs. "Boatel/Hotel"

Under the provisions of the Ventura Harbor section of the LCP (Exhibit 2), the subject site was developed with uses oriented to and serving recreational boating and a full service restaurant. The boatel concept was found to meet this requirement and was designed to provide visitor-serving uses that would emphasize recreational boating. This included meeting rooms for boating organizations and provisions for the availability of boating slips. The City noted in its application that though the designation of *boatel* units would indicate that a boater docked in the Harbor required a guestroom, recreational boaters tend to utilize their boat for overnight accommodations rather than utilize hotel facilities. The original owner had initially made arrangements to reserve boat slips for hotel use, however, in the ensuing years it became apparent that the level of use did not warrant exclusive boat slips for the hotel (J. Wong, owner of Four Points Sheraton, pers. comm., 2/25/02).

As part of the modification of the LCP language, the City is proposing to modify the designation of "boatel" units to "boatel/hotel" units. Staff notes that the re-designation to "boatel/hotel" units is a more appropriate categorization of the function of the existing boatel facilities. Though the existing units are designated as "boatel" rooms, they are not specifically reserved for recreational boaters. The boatel guestrooms are rented to both boaters and the general public. If a boater requests to occupy a boatel room, the hotel accommodates them based on availability. Staff notes that the current "boatel" units are de facto hotel units with a location that is ideal to serve boaters who desire hotel accommodations.

Presently, when a guest requests to rent a boat slip during their stay, they are referred to the Ventura West Marina adjacent to the hotel (J. Wong, pers. comm., 2/25/02). Ventura West Marina is able to rent their boat slips on a daily, weekly, monthly, or yearly basis. As a result of the booking procedure, the hotel would not be aware, in most cases, if a guest was also a boater. Therefore, the hotel was unable to provide any current data on use of the hotel by boaters.

The requested amendment to re-designate the "boatel" units as "boatel/hotel" units would have no impact to the existing function of the "boatel" units. The facilities would continue to be booked based on availability, a system that would not preclude the continued use of the facilities by recreational boaters but would also serve the general public. Whether designated "boatel" or "boatel/hotel" units, the proposed overnight lodging facilities are coastal priority uses which serve visitors and provide service to recreational boaters.

2. Facility Conversion

The requested amendment will permit an increase from a maximum of 50 approved boatel units at the site to a maximum of 70 boatel units. The existing boatel facility includes 46 guestrooms. The revised language would allow the addition of 24 more boatel/hotel facilities within the Ventura Harbor, Central Harbor area.

As outlined in the project description provided by the City and provided in the Initial Study prepared for the amendment, the modifications proposed to allow the addition of the 24 boatel guestrooms would be interior of the existing structures. As presently proposed, the ground floor of the existing boatel facility would be converted from restaurant, lounge, meeting rooms, and service areas (e.g., closets and kitchen area) into 24 guest rooms, lounge, and approximately 3,000 sq. ft. of meeting space. The additional 24 boatel/hotel units would be approximately 525 to 600 sq. ft. and would include kitchenette, sleeping, sitting, and restroom facilities.

The existing 12,000 sq. ft. restaurant and lounge that occupies the first floor of the boatel facility would be relocated to the main facility (Parcel 19). However, the relocated restaurant would be downsized to 5,000 sq. ft. and would convert a corresponding amount of meeting space at 1050 Schooner Drive. According to the current owner, the restaurant is too large for the needs of the hotel and the general public. The change

proposed by Four Points Sheraton represents a reduction in restaurant square footage and meeting space and an increase in lodging units.

The hotel anticipates that the conversion to guestrooms will allow them to accommodate additional guests who typically stay more than three days and up to a few weeks (J. Wong, pers. comm., 3/21/02). The kitchenette facilities would allow guests to dine-in and potentially enable guests such as boaters or families to have a more affordable visit to Ventura. The hotel anticipates the potential customers to include leisure guests during the weekends and summer, and corporate travelers during the weekdays and non-summer season.

The conversion of the existing square footage of the boatel facility represents a trade-off from one visitor-serving use (restaurant and meeting space) to another visitor-serving use (lodging accommodations). The proposed "boatel/hotel" units are a coastal priority use which serve recreational boaters and the general public.

However, staff notes that there is a large demand for residential development in and around the Ventura Harbor. This extreme demand for housing, the attractive waterfront location proposed for the boatel/hotel guestrooms, the size of the guestrooms (comparable to a small studio apartment), and incorporation of kitchen facilities may result in the proposed units to be particularly susceptible to use by extended stay guests that would utilize them as de facto residential living space. This type of extended "residential" use would undermine the visitor-serving function associated with boatel/hotel accommodations on a key waterfront parcel along the coast.

Therefore, the Commission finds that the amendment, as proposed, could potentially result in the loss of visitor-serving uses which would be inconsistent with the policies of Coastal Act related to priority development. The Commission recognizes a visitor as a person that resides in a guestroom on a temporary basis. The City defines a visitor, or "transient guest," as "any person who occupies the hotel/motel for a period of 30 consecutive calendar days or for an entire particular calendar month, whichever is the lesser" (City of San Buenaventura, Hotel/Motel Operator's Handbook). Any such person shall be deemed to be "transient" until the period of 30 days or the entire calendar month has expired. Staff notes that the City's definition of transient guest embodies the typical visitor intended to be served by the by a visitor-serving priority development.

Therefore, to ensure that the boatel/hotel guestrooms are reserved for visitor-serving priority uses, the Commission finds that visitor occupancy of boatel/hotel guestrooms shall be limited to not more than 30 consecutive days and a total of 60 days during one calendar year as described in **Suggested Modification One (1)**. In addition, Suggested Modification One requires boatel/hotel records to be maintained, in conjunction with the City's Transient Occupancy Tax (TOT/Hotel) collection, which show that the 30- and 60-day requirements are being met. These records shall be available for inspection to Commission staff and shall include, at a minimum, the occupants' name, guestroom number, dates of occupancy, and calendar year total.

For the above reasons, the Commission finds that the proposed amendment to the LCP is consistent, only as modified, with coastal priority use policies of the Coastal Act.

E. Public Access and Recreation

Section 30210 of the Coastal Act states:

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.

Section 30211 of the Coastal Act 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.

Section 30213 of the Coastal Act states:

Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred.

The commission shall not: (1) require that overnight room rentals be fixed at an amount certain for any privately owned and operated hotel, motel, or other similar visitor-serving facility located on either public or private lands; or (2) establish or approve any method for the identification of low or moderate income persons for the purpose of determining eligibility for overnight room rentals in any such facilities.

Section 30224 of the Coastal Act states:

Increased recreational boating use of coastal waters shall be encouraged, in accordance with this division, by developing dry storage areas, increasing public launching facilities, providing additional berthing space in existing harbors, limiting non-water-dependent land uses that congest access corridors and preclude boating support facilities, providing harbors of refuge, and by providing for new boating facilities in natural harbors, new protected water areas, and in areas dredged from dry land.

Section 30234 of the Coastal Act states:

Facilities serving the commercial fishing and recreational boating industries shall be protected and, where feasible, upgraded. Existing commercial fishing and recreational boating harbor space shall not be reduced unless the demand for those facilities no longer exists or adequate substitute space has

been provided. Proposed recreational boating facilities shall, where feasible, be designed and located in such a fashion as not to interfere with the needs of the commercial fishing industry.

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. Sections 30213, 30224, and 30234 of the Coastal Act provide for the encouragement and protection of recreational boating, fishing, and support facilities.

The proposed LCP amendment would allow the re-designation of the existing 46 *boatel* units to *boatel/hotel* units and the addition of 24 *boatel/hotel* units in the Central Harbor area. The revised language will allow the City to approve the current request of the Four Points Sheraton Hotel to modify the interior layout of its existing building square footage, including lodging facilities, restaurant, meeting and conference room facilities. As presently proposed, the Four Points Sheraton plans an interior reconfiguration of its facilities to accommodate the additional lodging units. The proposed remodel and reconfiguration is interior, and therefore any impacts to access and recreation are an indirect outcome of the conversion of use rather than a direct physical impact. The conversion of facilities and their use would not be incompatible with commercial fishing; however, it would directly impact the requirement for parking and for boating slips which affect access to coastal resources. The conversion of use also has the potential to impact the support facilities available to recreationists.

1. Access

In 1981 the *Central Harbor Area Intent and Rationale Statement* established that "this area shall contain uses oriented toward or serving recreational boating." Furthermore, it stated that "all other uses are prohibited, except that one full-service restaurant may be permitted." Consistent with this policy a "boatel" rather than a hotel was approved with the idea that recreational boaters utilizing nearby marina slips would utilize larger sized hotel rooms. In 1986, the LCP was amended to allow a 50 unit boatel facility, provided that there was adequate parking. Without adequate parking, visitors and the general public could be prevented from having access to the water and coastal resources.

The primary intent in limiting the number of boatel units was to ensure that adequate parking facilities would always be available. The City code does not provide specific standards for "boatel" facilities. The City is proposing to re-designate the "boatel" units to "boatel/hotel" units and utilize the parking standards for hotel/lodging since the 70 "boatel/hotel" units would also be available to non-boaters.

The 50-unit "boatel" room limitation, added pursuant to LCP Amendment 2-86, was based largely upon the City parking standards. However, in 1995 the City amended the parking provisions contained in the City's Zoning Ordinance. As a consequence, the parking standard (lodging facility standard) pertaining to the project in 1982 was reduced. When construction began on the facility in approximately 1982, the parking standard was 1 1/8 parking space for each sleeping unit plus parking required for

ancillary uses such as offices, manager's units, lobbies, meeting facilities, restaurants, and service areas. In 1995, the Commission approved an LCP Amendment (3-94) to the Zoning Ordinance that resulted in a general decrease in the parking provisions in order to better reflect the City's parking demand and to institute parking standards comparable to the requirements of other California coastal communities. The revised standard is one parking space for each sleeping unit plus the required parking for other primary uses such as restaurants and meeting space. Service facilities, lobbies and administrative offices do not have an independent parking standard because they are incidental to the hotel operation.

Pursuant to the recent hotel use and parking study (June 4, 2002, see Exhibit 8), a total of 553 parking spaces are required by the City code for the Four Points Sheraton as a result of the approval of the 70 boatel/hotel units and planned facility conversions. A total of 512 existing parking spaces are located on both parcels, 225 spaces on Parcel 1 and 287 spaces on Parcel 19. Based on the current hotel parking standard, 177 parking spaces would be required on Parcel 1 (Boatel Facility) to accommodate the 70 boatel/hotel units (1 space per room) and 3,000 sq. ft. of meeting space (1 space per 28 sq. ft.). No parking spaces would be removed as a result of the proposed remodel/reconfiguration of the hotel. These results indicate that Parcel 1 would have a surplus of 48 parking spaces. However, the conversion of uses on Parcel 19 would result in the need for 376 parking spaces to accommodate 106 guestrooms (1 space per room), 6,860 sq. ft. of meeting space (1 space per 28 sq. ft.), and 5,000 sq. ft. of restaurant/lounge space (1 space per 200 sq. ft.). Based on this analysis, there would be a deficit of 89 parking spaces on Parcel 19.

Though the boatel parcel (Parcel 1) would meet its parking requirement, Parcel 19 and the Four Points Sheraton Complex overall would not meet its offstreet parking requirements as a result of the proposed amendment. As determined through the recent use and parking analysis, the Four Points Sheraton Complex would require an additional 41 offstreet parking spaces (512 existing parking spaces, 553 required under proposed project). The hotel operator asserts that the current available parking meets the operational needs of the facilities and that the 41 additional spaces are not warranted in this case. In addition, the City stated in the December 2001 staff report for the amendment, that a parking survey was conducted in approximately 1998 which determined that 70% of the parking spaces were used on a regular basis. However, the parking survey was not locatable for Commission staff to review and no other evidence was submitted to indicate that there is an exceptional surplus of parking at the site.

In recognition of the project's inability to meet the parking requirements, the hotel operator and Ventura Harbor District have prepared a draft parking agreement which secures an irrevocable right from the Harbor District to use 50 parking spaces on Parcel 19A (Exhibit 9). Parcel 19A is located south of Harbor Boulevard and north of Schooner Drive and is situated adjacent to, and west of, the main hotel facilities (Parcel 19). Parcel 19A is a developed parking lot, approved as part of the Planned Development in the area pursuant to the City's approval of Case No. PD-255, and is operated approximately 20 days per year by the Ventura Harbor District for special events. These

additional spaces on Parcel 19A would allow the Hotel Complex to provide the required parking.

The City and the Ventura Harbor District are in the process of developing an updated Master Plan for the Ventura Harbor. The City and Harbor District anticipate that the Master Plan, which would require LCP certification by the Commission, would reduce the parking requirements for hotel operations. Should a reduction in parking standard be proposed via a Harbor Master Plan LCP Amendment, Commission staff would anticipate detailed parking lot occupancy surveys for the Ventura Harbor area. The hotel and Harbor District parking agreement includes a provision that the Agreement will be terminated if the parking requirements are decreased in this manner. Should the anticipated parking requirements not be certified or lessened under any future Master Plan, the agreement calls for the hotel to contribute the necessary funds for the creation of fifty new parking spaces in any replacement or supplemental parking facilities.

The Four Points Sheraton Complex spans both Parcel 1 and Parcel 19, and is recognized as one unit. It also crosses into two distinct areas of the Ventura Harbor as identified in the certified LCP, Parcel 1 lies within the Central Harbor Area and Parcel 19 lies within the Northeast Harbor Area. The facilities were approved by the City under the same Planned Development Permit, PD-255, in 1981. In addition, as provided by the City's amendment submittal and the accompanying Initial Study, LCP Amendment SBV-MAJ-1-02 would allow the City to approve the request of the Four Points Sheraton to complete a comprehensive modification of the hotel facilities, including the main hotel facilities on Parcel 19. The overall conversion and modification of uses would result in a deficit of parking, as described above, for the Four Points Sheraton Complex.

The hotel operation must meet its parking obligation to ensure that parking and access are adequately accommodated at the site as a result of this amendment and the proposed hotel reconfiguration. Presently, the complex would not have enough onsite parking to meet zoning requirements. Staff notes that to alleviate the parking deficiency, the hotel operator has diligently pursued alternative means of meeting the parking obligation, resulting in a draft Parking Agreement which would require final approval by the Ventura Port District Board, as a result of Commission approval of this amendment.

To preserve visitor-serving uses and coastal access, the Commission finds that the Locational and Intensity Policies of the LUP must be modified to ensure adequate parking as provided in **Suggested Modification One (1)** and **Suggested Modification Two (2)** in order to be consistent with the access policies of the Coastal Act. Suggested Modification One and Two require all development in the Central and Northeast Harbor to provide offstreet parking areas in an amount determined pursuant to the offstreet parking regulations described in Chapter 24.415 of the Municipal Zoning Code (this is part of the certified LCP), or any modified parking requirements that are certified as an LCP amendment in the future. Furthermore, Suggested Modifications One and Two require the adequacy of offstreet parking to be re-evaluated for every use of property hereafter initiated, reinitiated, expanded, intensified, or changed and every building hereafter erected, enlarged, or structurally altered to accommodate such uses. In

instances where it is not practicable to provide all required offstreet parking spaces on the subject site, Suggested Modification One and Two allow private offsite parking to be permitted, provided that: (a) The boundaries of the other site containing available parking are located within 500 feet of the boundaries of the site containing the subject land use; (b) The parking spaces available on the other site are not required for another use; and (c) The applicant's right to use the offsite parking spaces is guaranteed in a manner satisfactory to the director and the city attorney through a recorded instrument or executed agreement which is irrevocable throughout the lifetime of the development.

With the suggested clarification of language to the LCP, and subject to the implementation of the parking agreement, adequate parking can be accommodated at the site pursuant to the proposed amendment and underlying reconfiguration of facilities consistent with the public access policies of the Coastal Act.

The "boatel/hotel" units are intended to support recreational boaters who require overnight accommodations. To ensure access to these visitor-serving support facilities by recreational boaters, boat slips must be available during their stay. Presently, when a guest requests to rent a boat slip during their stay, they are referred to the Ventura West Marina adjacent to the hotel (J. Wong, pers. comm., 2/25/02). Ventura West Marina is able to rent their boat slips on a daily, weekly, monthly, or yearly basis. As a result of the booking procedure, the hotel would not be aware, in most cases, if a guest was also a boater. Therefore, the hotel was unable to provide any current data on use of the hotel by boaters.

The Four Points Sheraton does not propose to acquire boat slips, or make other arrangements, in conjunction with the proposed addition of units as would be necessary for "boatel"-only units. The known history of hotel use by boaters does not warrant exclusive leasing of boat slips, or other permanent arrangement, by the Sheraton. Based on data obtained by the Sheraton from the Ventura Port District, the Ventura Harbor has approximately 1,600 boat slips with a typical occupancy rate of approximately 75%. Approximately 200 of these slips are managed by the Port District and located next to the Ventura Harbor Village. In general there is an availability of boat slips in the harbor to accommodate recreational boaters for all 70 designated "boatel/hotel" units. Staff also notes that if the Sheraton were to make arrangements to indefinitely hold open slips only for their customers, it could actually result in a reduction of boating slips for the typical recreational boater (who would stay overnight on the boat itself).

For the above reasons, the amendment, as modified, would be consistent with continued access to coastal resources.

2. Recreation

The existing hotel operation is a visitor-serving use that supports public recreational and boater needs, with lodging, restaurant, and meeting facilities. Under the provisions of the Ventura Harbor section of the LCP, the subject site was developed in the early 1980s with uses oriented to and serving recreational boating and a full service

restaurant. The boatel concept was found to meet this requirement and was designed to provide visitor-serving uses that would emphasize recreational boating.

The revised language to the LUP will allow the City to approve the current request of the Four Points Sheraton Hotel to modify the interior layout of its existing building square footage to convert restaurant and meeting space into 24 additional boatel/hotel units, and to relocate a downsized restaurant to its main facility on the neighboring parcel (Parcel 19). The change proposed by Four Points Sheraton represents an overall reduction in restaurant square footage and meeting space and an increase in lodging units.

Because of its location along the waterfront, the hotel facility is uniquely suited to provide boaters and other water-oriented recreationists with hotel and restaurant accommodations. The reconfiguration of the existing square footage of the facilities represents a trade-off among uses. All three existing uses (lodging, restaurant, and meeting facilities) would continue to be provided but at different levels of service (reduction in size of restaurant and meeting space) and in the case of the restaurant, in a different building location.

Staff notes that the existing types of visitor-serving uses would remain available within the hotel complex and would continue to be accessible to recreational boaters and the general public. Therefore, the amendment will encourage and protect public recreational and boaters needs.

For the above reasons, the Commission finds that the proposed LCP amendment, only as modified, is consistent with the public access and recreation policies of the Coastal Act.

F. California Environmental Quality Act

Pursuant to Section 21080.9 of the California Environmental Quality Act ("CEQA"), the Coastal Commission is the lead agency responsible for reviewing Local Coastal Programs for compliance with CEQA. The Secretary of Resources Agency has determined that the Commission's program of reviewing and certifying LCPs qualifies for certification under Section 21080.5 of CEQA. In addition to making the finding that the LCP amendment is in full compliance with CEQA, the Commission must make a finding that no less environmentally damaging feasible alternative exists. Section 21080.5(d)(2)(A) of CEQA and Section 13540(f) of the California Code of Regulations require that the Commission not approve or adopt a LCP, "...if there are feasible alternative or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment."

The proposed amendment, as submitted, has been found to be consistent with the resource protection policies of the Coastal Act. There are no feasible alternatives or mitigation measures available which would substantially lessen any significant adverse effects, which the activity may have on the environment. Therefore, the Commission

City of San Buenaventura
Local Coastal Program Amendment 1-02
Page 19

finds that the amendment is the least environmentally damaging feasible alternative and can be found consistent with the requirements of the Coastal Act and conform to CEQA.

CITY COUNCIL RESOLUTION NO. 2001-102

**APPROVAL OF A COMPREHENSIVE
PLAN AND LOCAL COASTAL PROGRAM
AMENDMENT AND RELATED NEGATIVE
DECLARATION**

CASE NOS. MP-140 AND EIR-2364

BE IT RESOLVED by the City Council of the City of San Buenaventura as follows:

SECTION 1: An application has been filed by Lyw Ventura Harborview L.P., pursuant to the San Buenaventura Municipal Code, for a Comprehensive Plan and Local Coastal Program Amendment to amend the Land Use Plan Intent and Rationale Statement for the Ventura Harbor, Central Harbor area, changing the provision restricting the maximum number of boatel/hotel units from 50 to allow a maximum of 70 boatel/hotel units for the property located at 1080 Navigator Drive currently identified as Assessor's Parcel Number 080-0-240-225.

SECTION 2: All proceedings having been duly taken as required by law, and upon review of the information provided in the administrative report, consideration of the testimony given at the public hearing, as well as other pertinent information, the City Council hereby finds and determines as follows:

1. The City Council hereby approves the Negative Declaration Case No. EIR-2364 for the project.
2. The proposed Comprehensive Plan/Local Coastal Program Amendment changing the provision restricting the maximum number of boatel/hotel units from 50 to allow a maximum of 70 boatel/hotel units meets the Intent and Rationale Statement contained within the Land Use Element of the Comprehensive Plan for the Central Harbor area, because adequate parking spaces will still be available, thereby enabling the public to have access to water and coastal resources while, at the same time, increasing the number of tourist-serving lodging facilities.
3. The City Council has considered the information provided in the Negative Declaration that was circulated for public comments. Based on the information provided in the Negative Declaration and the comments received the City Council has determined and supports the determination that the proposed project would not have a potentially significant impact on the environment as documented in the Negative Declaration Case No. EIR-2364 prepared for the project.

Case Nos. MP-1

1 of 3

EXHIBIT 1
SBV-MAJ-1-02
City Resolution

SECTION 3: Based on the above findings, the City Council HEREBY approves a Comprehensive Plan and Local Coastal Program Amendment, Case No. MP-140, as set forth herein:

Within the Intent and Rationale Statement of the Land Use Element for the Ventura Harbor, paragraph 2 of the section titled "Area Locational and Intensity Policies" relating to the Central Harbor area shall be amended to read as follows:

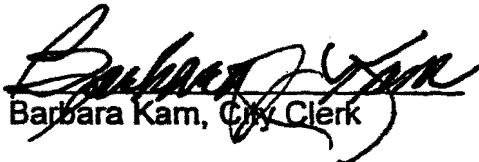
"2. Central Harbor:

This area shall contain uses oriented toward or serving recreational boating. All other uses are prohibited, except that a 70-unit boater/hotel, and two full service restaurants may be permitted, provided that adequate on-site parking is provided. Where compatible, coastal dependent or coastal-related commercial fishing uses shall be permitted."

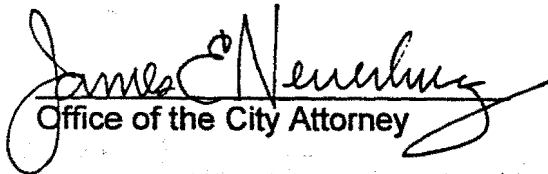
SECTION 4: It is intended that the City's Local Coastal Program will continue to be carried out in a manner fully consistent with the California Coastal Act.

SECTION 5: This Comprehensive Plan and Local Coastal Program Amendment shall become effective upon approval of the Coastal Commission certification thereof.

PASSED AND ADOPTED this 17 day of DEC. , 2001.


Barbara Kam, City Clerk

APPROVED AS TO FORM:


Office of the City Attorney

STATE OF CALIFORNIA)
COUNTY OF VENTURA)
CITY OF SAN BUENAVENTURA)

ss

I, BARBARA J. KAM, City Clerk of the City of San Buenaventura, California, do hereby certify that the foregoing Resolution was duly passed and adopted by the City Council of the City of San Buenaventura at a regular meeting thereof held on the 17th day of December, 2001 by the following vote:


AYES: Councilmembers Friedman, Smith, Morehouse, Andrews,
 and Di Guilio.

NOES: None.

ABSENT: Councilmember Monahan.

ABSTAIN: Deputy Mayor Brennan.

IN WITNESS WHEREOF, I have set my hand and affixed the official seal of the City of San Buenaventura this 18th day of December, 2001.


Barbara J. Kam, City Clerk

VENTURA HARBOR

The Ventura Harbor area of the Comprehensive Plan includes the waters of Ventura Harbor and the land immediately surrounding these waters. The Ventura Harbor area, as defined, is limited to the jurisdictional boundaries of the Ventura Port District. Within the Ventura Port District jurisdictional boundaries, the harbor has been divided into four subareas. These subareas are referred to as the South Peninsula, Southwest Harbor, Central Harbor, and Northeast Harbor.

Each of the subareas is subject to one or more of three land use designations which establish basic land use policy for the Harbor. This section of the Comprehensive Plan first describes the land use designations and general provisions which apply to all development within the harbor, followed by discussions of Harbor subareas and maps.

Intent and Rationale for Land Use Designations:

Land Use Designations: Harbor Commercial (HC), Harbor Related Mixed Use (HRMU), Mobile Home Park (MHP).

Harbor Commercial (HC)

The Harbor Commercial (HC) designation in the Ventura Harbor area is intended to cause any new development in that area to be compatible with existing and proposed uses in the Harbor complex (as described below). Development in this area, which is also designated as a Scenic Approach to the City, should be designed to complement the existing visual and structural character of the Harbor complex, and the development should be oriented toward recreation, visitor-serving, marina, and commercial fishing uses.

To facilitate the recreation, tourist and commercial fishing opportunities within the Harbor complex, the Harbor Commercial (HC) designation shall give priority to visitor-serving commercial recreational uses over general commercial development, but not over commercial fishing, and shall protect coastal recreational land suitable for such uses.

EXHIBIT 2
SBV-MAJ-1-02
Ventura Harbor LCP Language

Because of the specific function of the Harbor, private residential and general industrial uses are not appropriate in the HC designated area.

Uses within the Harbor Commercial area shall be designated as either priority or non-priority uses. Priority uses include those uses listed in the Harbor Commercial (HC) section of the City's Zoning Ordinance under the headings of: (1) commercial visitor-serving, (2) recreation, boating, fishing, (3) commercial fishing, and (4) public service facilities. Non-priority uses include general commercial retail and offices. To ensure that a minimum number of priority land uses and coastal facilities are provided in the Harbor complex: (1) non-priority residential uses consistent with the Local Coastal Program and the criteria of the Land Use Plan shall be allowed in the HRMU designated category; (2) non-priority general retail and office uses for the 111.39 acres land in the Harbor shall be limited to 5 acres (this is exclusive of streets (17.29 acres), and the existing mobile home park (41.66 acres); and (3) dependent and harbor-oriented facilities described later in this section shall be required.

As Planned Development Permits are approved, the City shall make findings as to the adequate provision of minimum numbers or types of coastal facilities described later in this section, in terms of their consistency with this Plan.

Harbor Related Mixed Use (HRMU)

The purpose of the Harbor Related Mixed Use (HRMU) designation category is to ensure that the City and Port District obtain the best suited mixed-use development for the last remaining large parcel in Ventura Harbor. To encourage continued coastal-dependent recreation and tourist opportunities within the water front areas of the harbor, the HRMU designation category shall require that public amenities, such as a public accessway, public parking, a public park and restrooms and harbor oriented recreational and visitor serving facilities are included on the site. Residential development, which is considered a non-priority use within the harbor, shall be limited to the HRMU designation on the upper story (or stories) and the existing Mobile Home Park (MHP) designation and all other references to non-priority uses elsewhere in the Harbor shall mean general commercial

and office uses only. Development of this property shall be subject to the preparation of a master plan. The master plan shall, at a minimum, meet the criteria set forth in the Area Location and Intensity policies for the Northeast Harbor, as well as any pertinent standard set forth in the Zoning Ordinance. All coastal-dependent and, visitor-serving development shall be integrated with the overall character of the harbor and continue to encourage tourist activity consistent with the goals of the City's Local Coastal Program.

Mobile Home Park (MHP)

The existing mobile home park provides affordable housing and is designated MHP for mobile home park use. It is intended that this use be allowed to continue as a mobile home park, and the site be rezoned accordingly. In the event that redevelopment of the mobile home park occurs, an amendment to this Comprehensive Plan and Local Coastal Program will be necessary. Unless adequate, affordable, low and moderate income housing exists nearby, redevelopment must include one-to-one ratio replacement housing and housing assistance for low and moderate income tenants. If redevelopment occurs, at least 90% of the land area shall be devoted to priority uses.

To ensure that lower cost recreational and visitor-serving facilities are available to all income groups, picnic tables, public rest rooms, pedestrian and bicycle access ways, pedestrian furniture, bicycle storage racks, small boat sailing, renting and berthing areas, and at least two lower cost eating establishments of at least 2,000 square feet each shall be provided. In addition, the Harbor beach area, which provides a lower cost recreational activity, shall be preserved for general public recreational use.

In order to encourage recreational boating, non-water dependent land uses shall be limited within the Harbor's water area complex so as to not congest access corridors and preclude recreational boating support facilities. In addition, a minimum number of recreational boating facilities available to the general public shall be provided and/or protected, including at least 1,500 recreational boat slips, public launch facilities, dry boat storage and fuel dock facilities.

Recreational boating and commercial fishing shall be located and designed so as to not interfere with one another. Potential impacts from commercial fishing or general boat repair and construction operations shall be mitigated. Mitigation measures shall include locating such facilities away from existing residential areas.

Conversion of existing commercial slips to recreation use shall not be permitted unless the Port District, in conjunction with the City of San Buenaventura, determine that all current and foreseeable future demand has been satisfied. Should any future conversion of commercial slips reduce the minimum berthing space that exists in the Harbor which is required by the City's Land Use Plan, an amendment to the Land Use Plan will be required. Any future determination of whether conversion of commercial slips to recreational slips will adversely impact the demand of the commercial fishing industry shall be based on the following: future evidentiary data regarding commercial fishing industry needs at the Ventura Harbor presented by the Ventura Port District in consultation with the Ventura County Fisherman's Association and reviewed and approved by the City of Ventura, demonstrating that a minimum number of boat slips are provided to serve the needs of the commercial fishing industry needs. All future determinations described in the preceding sentence shall take into consideration the cyclical changing conditions of the industry.

A minimum number of facilities serving the commercial fishing industry, adequate to meet the industry demand demonstrated in the Ventura Harbor, shall be provided within the Harbor complex. These include the existing 4,200 slip feet or berthing for at least 90 permanent and 15 transient commercial fishing boats, whichever is greater, a boat repair yard, ice facilities, fuel facilities (24 hours/day), laundry, shower and rest room facilities, two or more fish receiving facilities, a net repair area, hoists, wharfage of additional docking space and, cold storage facilities. In order to meet the changing technological needs of the commercial fishing industry, the following developments shall be given priority in the southwest harbor area and in other harbor areas compatible with commercial fishing as demand is demonstrated: the development of approximately 40 additional commercial boating slips (60-80 foot range and 45-55 foot range) while retaining the existing 4,200 slip feet which serves permanent and transient fishermen. Uses oriented toward commercial

fishing, such as fish processing facilities, additional ice and cold storage facilities and additional commercial fishing boat slips shall be given priority over redevelopment of existing visitor-serving commercial projects, consistent with the needs of the commercial fishing industry. Alternatively, such uses may be provided in close proximity to the commercial fishing facilities provided that they are in a location that is easily and readily accessible without adversely impacting other priority activities in the Harbor.

The location and intensity of all land and water uses must be specifically defined to ensure no significant adverse cumulative impacts on coastal resources or access by existing or permitted development.

To ensure that the visual character of the Harbor is maintained, structures located on the South Peninsula shall be limited to two stories, not exceeding 30 feet in height except for such structures as theme towers, observation decks and radio antennas. The South Peninsula is defined as that area located on either side of Spinnaker Drive and north of an imaginary line drawn 2,400 feet south of the terminus of Spinnaker Drive.

To enhance visual quality and ensure that new development does not impede views to the water area from the roadway or to and from the beach and inland harbor area, the policies listed below apply. A view corridor is defined, for purposes of enforcing these policies, as that area between the roadway and water which is not occupied by buildings or solid walls and fences that would impede the view of the water from the roadway. View corridors shall be measured from the linear distance paralleling the nearest public road. (See Maps following this section for delineation of Harbor areas.)

South Peninsula

For development on the South Peninsula, the following criteria shall be applied to each lot, except for the National Park Service site.

- 1. Buildings and other structures shall not occupy more than 25% of the lot area.*

2. ~~At least 50% of each lot shall~~ provide a view corridor as measured from Spinnaker Drive.
3. A view corridor shall provide a single unobstructed view, except that on Parcel 5 this requirement may be satisfied by the provision of two corridors, if one corridor has a minimum width of 375 feet and the other corridor a minimum width of 125 feet.
4. All structures shall be limited to two stories, not exceeding 30 feet in height, except for a possible aquarium/research center which shall be limited to 45 feet in height.

Southwest Harbor

For new development in the Southwest Harbor area, the following criteria shall be applied to the entire area taken as a single unit.

1. Buildings and other structures shall not occupy more than 25% of the total area.
2. At least 30% of the area shall provide view corridors to be measured from Spinnaker Drive.
3. All structures shall be limited to three stories, not exceeding 45 feet in height, except for theme towers and observation decks which shall not exceed 55 feet in height, and antennas and masts which shall not exceed 70 feet in height.

Central Harbor

For development in the Central Harbor area, the following criteria shall be applied to the entire area taken as a single unit.

1. *Buildings and other structures shall not occupy more than 25% of the total area.*
2. *At least 50% of the area shall provide view corridors to be measured from Spinnaker Drive or Navigator Drive as appropriate.*
3. *All structures shall be limited to three stories, not exceeding 45 feet in height.*

Northeast Harbor

For development in the Northeast Harbor area, the following criteria shall be applied except for the mobile home park.

1. *Buildings and other structures shall not occupy more than 25% of a given project.*
2. *Views corridors of the harbor from Anchors Way Drive shall begin at Schooner Drive and continue generally unobstructed for approximately 1,500 feet to the western terminus of the boat launch area. At least 50 percent of this portion of Anchors Way shall preserve views of harbor waters.*

Development of vacant properties south of the boat launch area shall provide public pedestrian access and a bicycle path adjacent to and along the entire length of the waterfront and from the terminus of Schooner Drive through the area designated HRMU to the waterfront path. These accessways to the water frontage and the development of a public park in concert with any residential land use shall offer additional enhanced views of the harbor.

3. *All structures shall be limited to three stories, not exceeding 45 feet in height, except theme towers and observation decks which shall not exceed*

58 feet, and antennas, masts and flagpoles which shall not exceed 85 feet in height.

Harbor activities shall be clustered into locations appropriate to their use to further Coastal Act policies. More intensive and higher density activities shall be concentrated on the inland side of the Harbor. The South Peninsula shall contain less intensive and dense uses, recognizing its unique character between two water bodies, its predominant water-oriented public recreational character, its effect on views to and from the beach, channels and towards the ocean and Channel Islands, and the need to ensure that development and parking do not impact the sandy beach area. The National Park Headquarters has increased the significance of the South Peninsula as a use of greater than local importance and a visitor destination.

To further define location and intensities, the following policies shall be followed in all permit decisions in the Harbor. (See Maps following this section for delineation of Harbor areas.)

Area Locational and Intensity Policies

1. Northeast Harbor Area: ~~This area~~ shall be developed primarily with commercial visitor-serving uses and, for the portion designated HRMU, with a master-planned residential/commercial mixed use development. Uses allowed in this area include the following: (1) commercial visitor-serving uses; (2) recreational boating; (3) non-priority uses limited to public facilities and general retail and offices; (4) non-water oriented commercial; (5) public park and recreation; (6) residential uses limited to a maximum of 300 units and limited to the upper story (stories) of any development; and (7) mobile homes for the Mobile Home Park area (MHP). Commercial fishing facilities are not intended uses in the Northeast Harbor Area. Coastal-dependent and coastal-related recreation and visitor-serving uses shall be developed adjacent to the harbor front and shall have priority over residential and general commercial development.

Development on the HRMU designated parcel shall be subject to the preparation of a master plan. The master plan shall include, at a minimum, the following:

1) *Land Use and Development Standards*

- a) Architectural criteria, landscaping criteria, circulation requirements, public view protection of the harbor.
- b) Any residential development proposed for the HRMU area shall not detract from or interfere with the harbor oriented coastal visitor-serving uses, tourist activity and public recreational boating uses. New residential development within the Ventura Harbor shall be limited to the HRMU designated area and a maximum of 300 dwelling units all be permitted providing such development is located on upper story (or stories) and is consistent with all other applicable policies. The water frontage area shall be reserved for tourist-serving and recreational uses. Residential units shall only be allowed on the upper story (or stories) of development located in the HRMU area. Should any residential units be developed on the HRMU designated site, the 2.44 acre waterfront area, identified as Parcel 16 shall be developed as a public park.
- c) In addition to the requirement of 1b above (development of the public park), the entire water frontage area, to include not less than 200 feet in width as measured from the landward extent of the 50 foot wide public access and recreation improvement, within the HRMU designated area shall provide any one or combination of the following uses: a) public amenities; b) commercial visitor-serving; and c) water-oriented recreational facilities.

2. **Land Use Buffer/Public Use Zone**

- a) In conjunction with any residential development that occurs within the HRMU designation, a public park shall be developed on the 2.44 acre parcel described as Parcel 16.
- b) Public access and public recreation improvements a minimum of 50 feet in width, shall be sited along the water front. The improvements shall include a pedestrian and bicycle accessway. In addition, such improvements shall include, but are not limited to the following: picnic tables, benches, public restrooms, landscaping, bicycle storage racks, fountains, public parking and improvements that would encourage use of this zone by the general public.
- c) To further Policy 8.24. of the Circulation Element, a pedestrian and bike path, that incorporates public use areas shall be located along the harbor water frontage. Connection of the pathway to the adjacent public areas shall be provided so that there is a continuous route around the Harbor water channel.
- d) Residential areas that abut the pedestrian and bike path shall incorporate design elements such as fencing, landscaping, ~~signage and elevation~~ changes, to prevent the public area from becoming used exclusively by such development.

3. **Recreation and Visitor Serving**

- a) Public access and recreation improvements described in Master Plan Policy 2, Land Use Buffer/Public Use Zone, shall be constructed concurrent with any development of the site and be available for public use prior to occupancy of any residential or commercial development.
- b) At a minimum, a 20 foot wide vertical public accessway from the approximate terminus of Schooner Drive through Parcel 18 and connecting to the harbor front accessway shall be provided. The public accessway shall be conspicuously

signed for public use and incorporate design elements such as those specified in 2d above, to buffer the path from site development. The existing walkways along the perimeter of this site shall not be used to satisfy this requirement.

- c) Adequate commercial facilities and dry boat storage facilities, necessary to support the needs of any proposed residential development shall be either within the portion of the site developed with residential use or within close and convenient proximity to the HRMU designated area.

4) **Parking and Circulation**

- a) Public parking ~~lot(s)~~ shall be provided in locations convenient to key visitor attractions, public access and public park area on the site. If parking fees are charged, parking fees shall be kept low so that the general public may use the Harbor facilities at nominal rates.
- b) All residential and commercial development shall provide adequate on-site resident, visitor and customer parking in addition to the required public parking lot(s).
- c) All development proposals shall submit for the appropriate planning and approving body, supplemental traffic analysis containing appropriate mitigation measures relative to project specific trip generation estimates. Said supplemental information shall demonstrate that the average daily trips (ADT) do not exceed those estimated for currently permitted Harbor Commercial shopping center development which are estimated at 9,505 ADT. All development proposals shall be designed to ensure that traffic generated by the project will not adversely impact the City's street system within the Pierpont/Ventura Keys and Ventura Harbor Community for area ~~residents and members of the~~ public accessing the Ventura Harbor and Surfer's Knoll Beach. Measures

~~necessary to mitigate traffic~~ impacts from development of the site shall be required and completed concurrent with site development. Restrictions limiting general public use of the street system shall not be permitted. If a reduction in traffic ADT is necessary, non-priority uses shall be removed from the development proposal.

- d) Site development shall provide an internal circulation system that does not rely on the public street system and insures a continuous flow of vehicle and pedestrian traffic throughout the HRMU designated area regardless of development patterns.
- e) Ingress and egress of the site shall not adversely impact the public's ability to access any public facilities, including, but not limited to the existing public boat launch facility that abuts the HRMU designated area.

2. Central Harbor. This area shall contain uses oriented toward or serving recreational boating. All other uses are prohibited, except that a 50-unit boatel, and two full service restaurants may be permitted, provided that adequate on-site parking is provided. Where compatible, coastal dependent or coastal-related commercial fishing uses shall be permitted.

3. Southwest Harbor Area: This area shall contain uses oriented toward or serving commercial fishing, recreational boating, and visitor-serving commercial uses and may include general office uses above the first floor. Water dependent uses shall include at least 4,200 lineal feet of slip and wharf space for commercial vessels such as fishing boats and oil crew boats, and may include fish receiving facilities, ice facilities, fuel facilities, a boat lift, a full service boat yard and a self service boat yard. No additional, new, visitor-serving, commercial use projects may be developed in this area. Uses supportive of commercial fishing, such as fish processing facilities,

additional ice and cold storage facilities and additional commercial fishing boat slips shall be given priority over re-development of existing visitor-serving commercial projects, consistent with the needs of the commercial fishing industry. Within the existing, visitor-serving, commercial projects, a maximum of 33,000 square feet may be devoted to restaurant space. Restaurant space includes, but is not limited to, dining, bar and lounge areas, kitchen and related areas, and outdoor seating. At least 2,000 square feet of the authorized restaurant area shall be devoted to lower-cost eating establishments.

4. South Peninsula Area: This area shall be oriented toward water-oriented recreational activities, including recreational and public beach use. General office uses may be permitted above the first floor. An aquarium/research center, the Channel Islands National Park Service Headquarters, tour boat services, recreational marinas and a yacht club are permitted uses. The water area shall also include berthing space for transient as well as permanent commercial fishing vessels. Two full service restaurants may be permitted and at least one lower-cost eating establishment shall be provided (minimum 2,000 square feet). A lower-cost restaurant is defined as a high or medium turnover sit-down or take-out restaurant with a turnover rate of less than an hour. Examples include delicatessens, fast-service food restaurants, coffee shops or cafeterias. Total restaurant space includes, but is not limited to, dining, bar and lounge areas, kitchens, and related areas and outdoor dining areas. Visitor parking and public restrooms are the only permitted uses on the ocean side of Spinnaker Drive.

General Location Policies

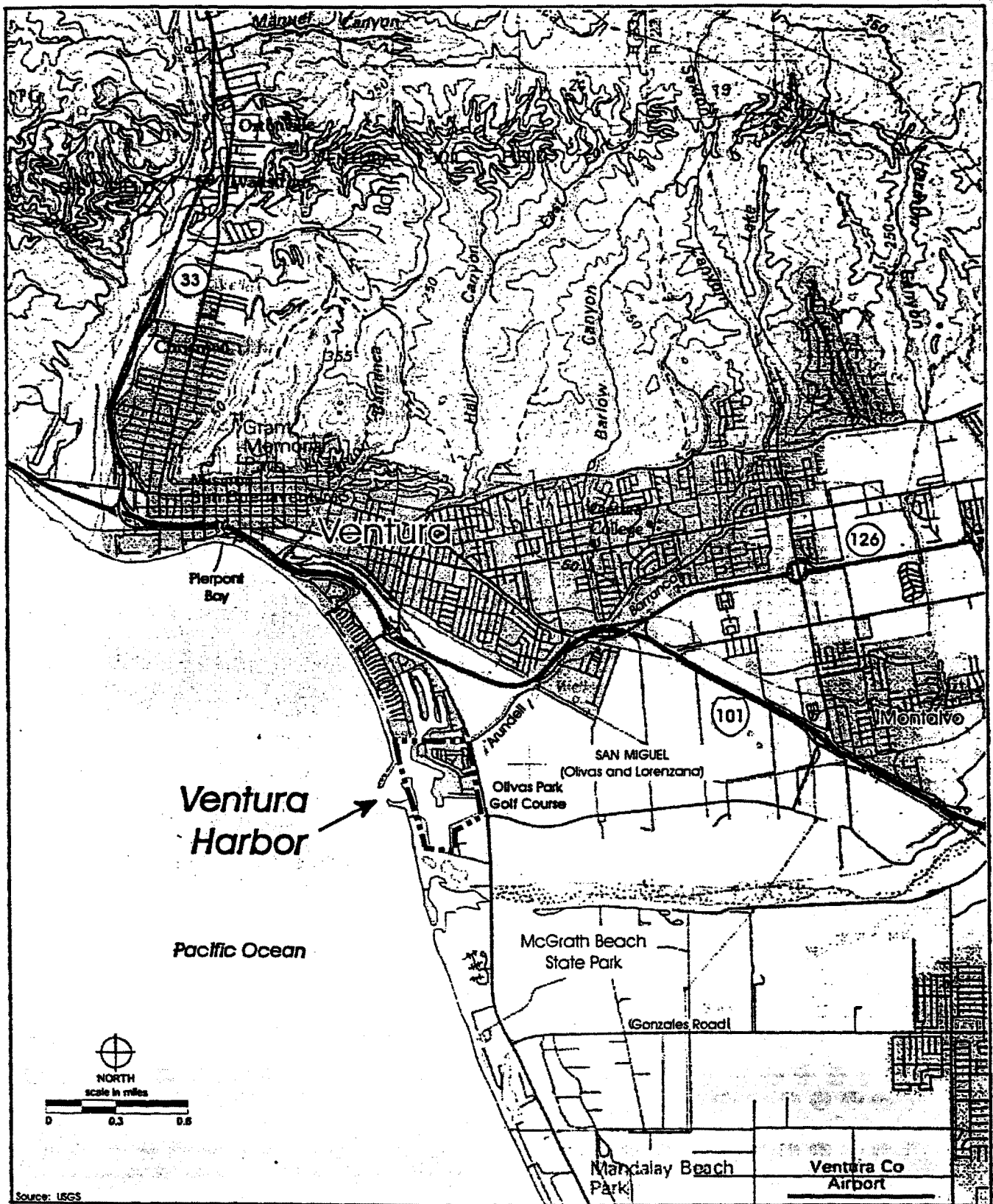
1. Ancillary buildings such as ~~maintenance buildings and restrooms~~, serving the general public and Harbor users, may be permitted throughout the

Harbor. ~~More intensive public service buildings, such as police and fire stations and utility stations,~~ shall be confined to the Northeast Harbor Area.

2. Existing facilities serving recreational boaters and commercial fishermen shall be retained, unless documentation, consistent with that described under the Intent and Rationale Statement demonstrates that there is no longer a demand for facilities is provided or equivalent facilities are constructed elsewhere in the Harbor in conjunction with the redevelopment of existing facilities.
3. Non-conforming uses may be permitted to continue in their present locations in conformance with present lease arrangements. Expansion of a non-conforming use shall be subject to the regulations set forth in the City's Ordinance Code; however, in no case shall expansion be permitted where such expansion has the potential to displace harbor-dependent commercial fishing or recreational-boating uses.
4. Dry boat storage areas shall be located inland of the first public road from the water's edge, because an oceanfront site is not essential for such uses.

Any development proposals for Ventura Harbor shall be designed to ensure that future water development near the north end of the South Peninsula (i.e., Parcels 7 and 9) not interfere with boats that require tacking maneuvers when entering and leaving the Harbor's interior channels. However, such limitations shall not interfere with berthing for visitor-serving uses, such as the Channel Islands National Park Headquarters and commercial tour boats, unless equivalent berthing is provided nearby.

All new development in the Ventura Harbor shall include measures consistent with the policies contained herein, to reduce contaminated runoff into the Harbor waters, including filtration of low flows, control and filtration of runoff from parking lots and roofs, reduction of impervious surfaces, and provision of pump out facilities, and other necessary measures to reduce harmful pollutants from storm drain waters.



VENTURA HARBOR MASTER PLAN

Figure 2.1

LSA

EXHIBIT 3
SBV-MAJ-1-02
Vicinity Map

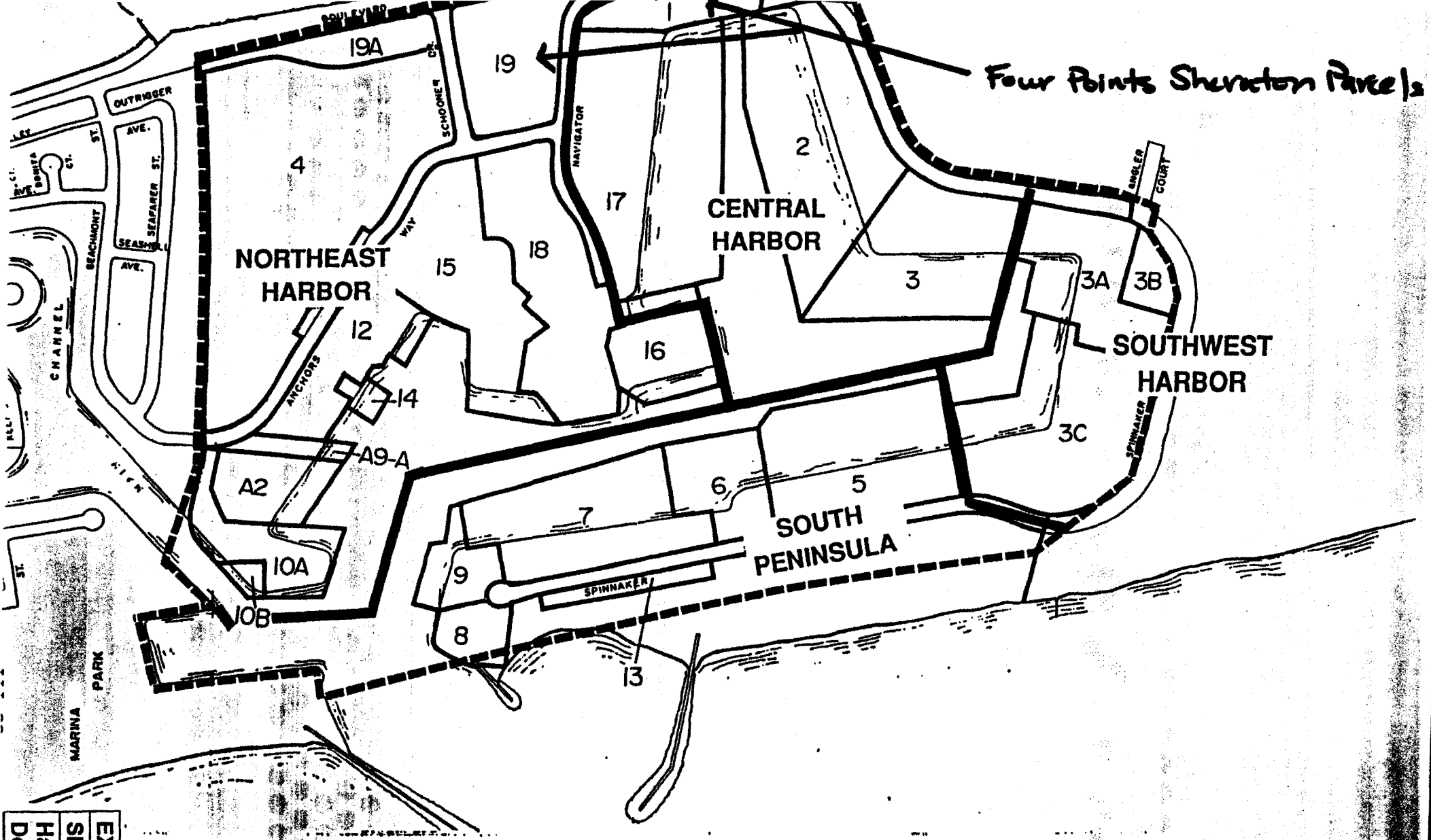


EXHIBIT 4
SBV-MAJ-1-02
Harbor Areas
Described in LUP

Map 1

VENTURA HARBOR AREAS

--- Ventura Port District Boundary

— Area Boundaries
— Parcel Boundaries
5 Parcel Numbers



Scale:
None

FLOOR PLAN (CHANGES ONLY ON GROUND FLOOR)

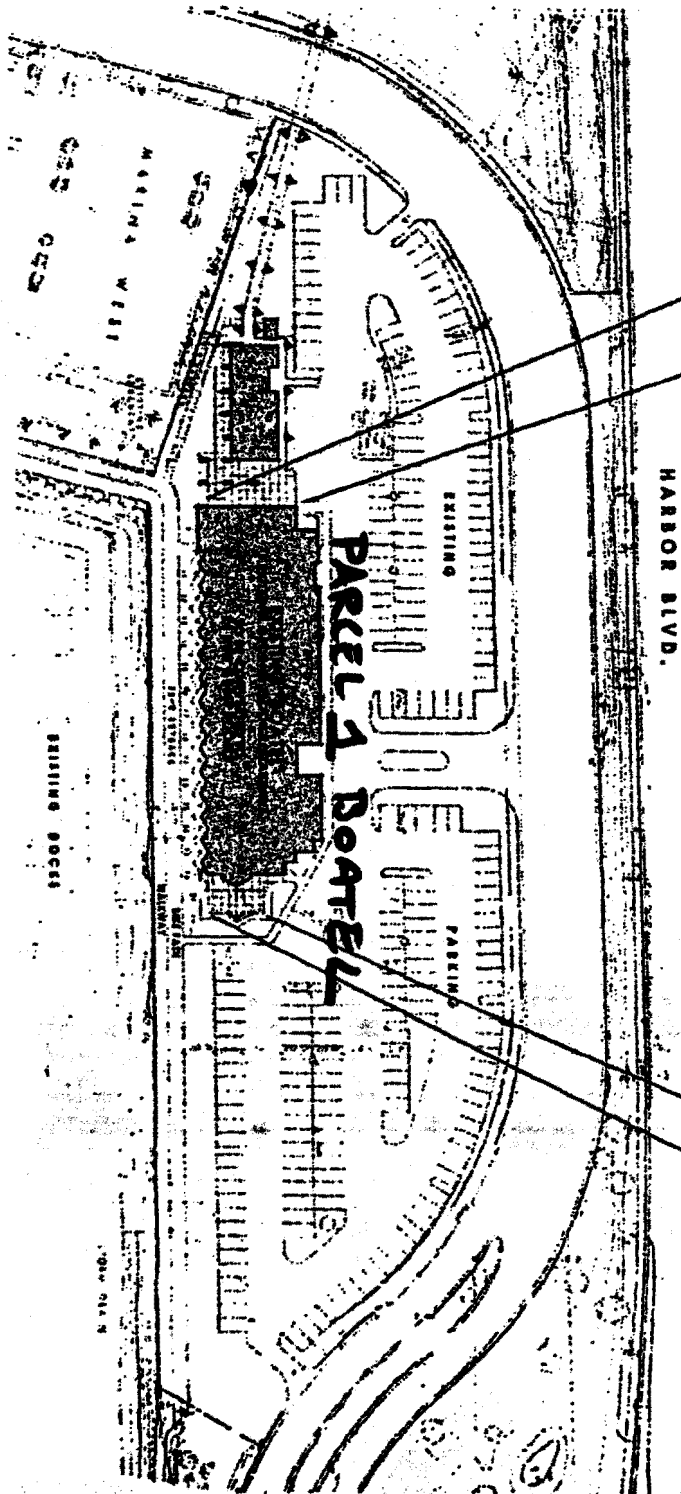
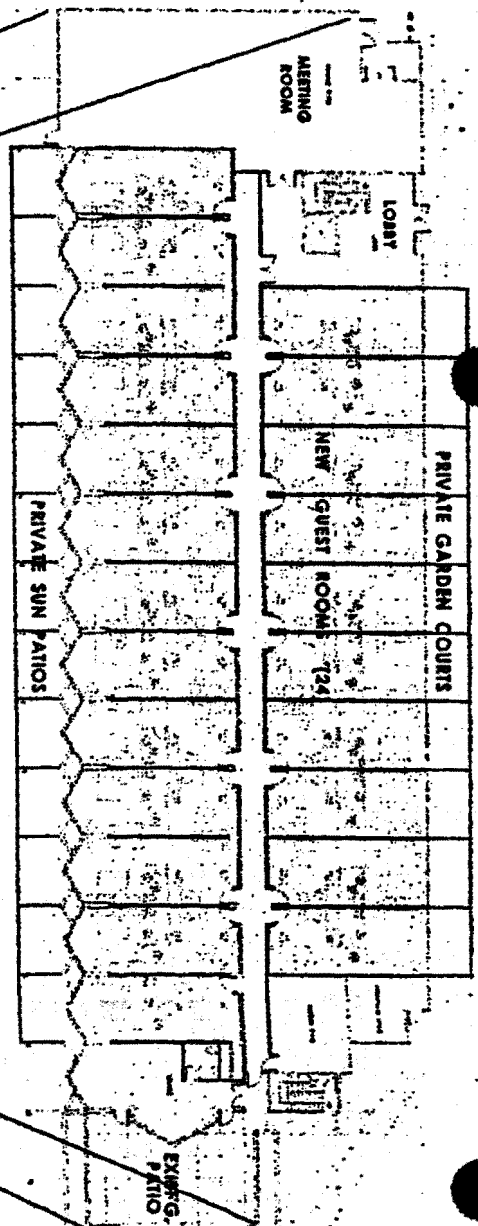
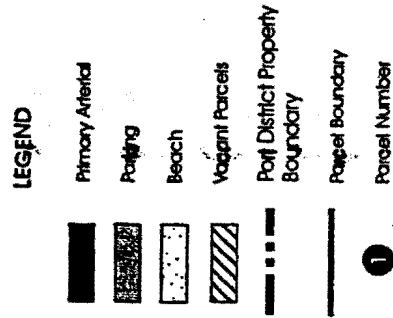


Figure 2.2
Existing Land Use



VENTURA HARBOR
MASTER PLAN

LSA

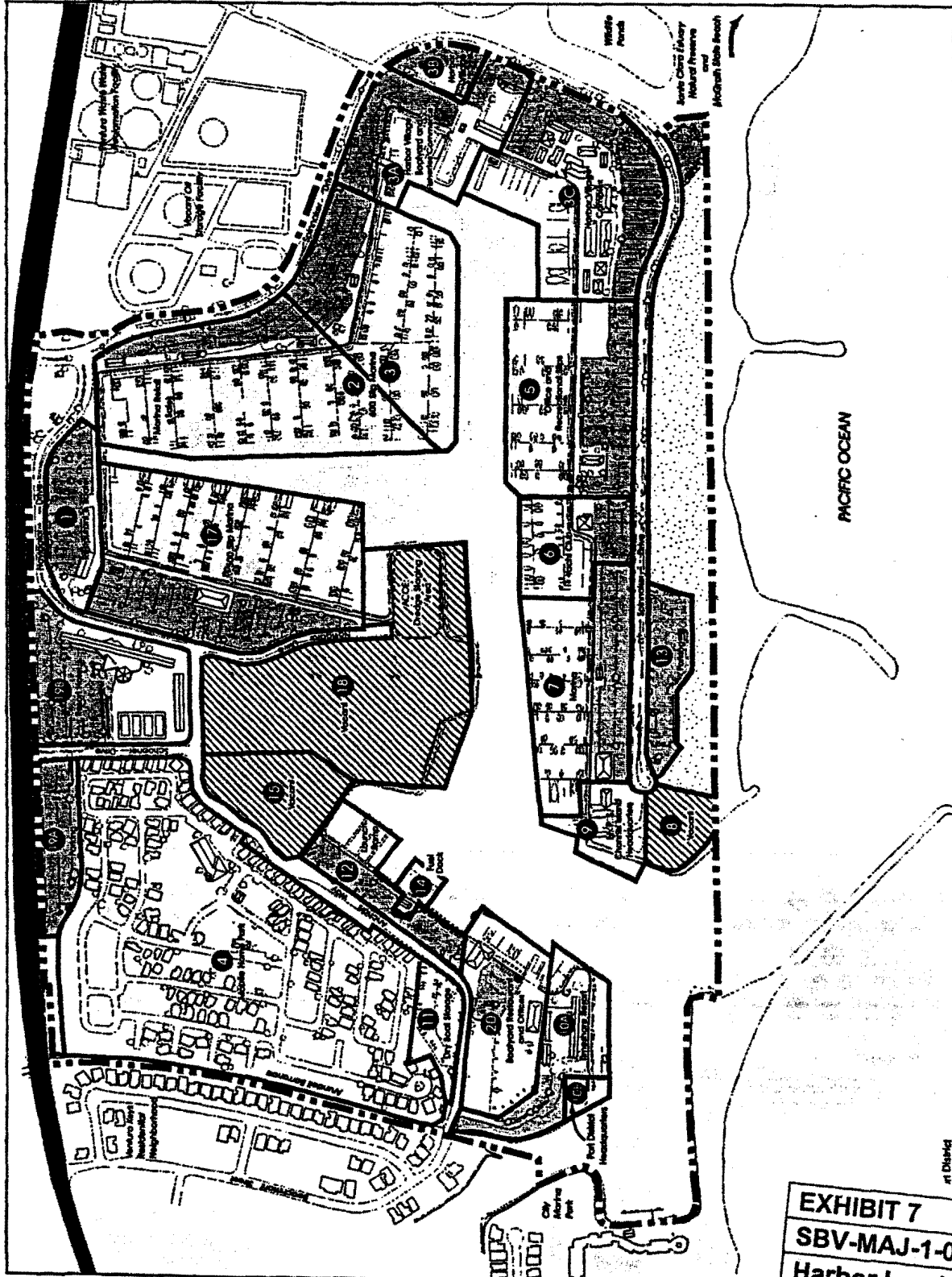


EXHIBIT 7
SBV-MAJ-1-02
Harbor Land Use

at District
for Study/visit only

Parking Requirements For Four Points By Sheraton- Ventura

CURRENT COASTAL COMMISSION CALCULATIONS						
	Existing		Proposed		Requirement	
	Description	Parking	Description	Parking		
1050 Schooner Drive						
Guestrooms	106	106	106	106	1 per guestroom	
Meeting Space (sf)	8,860	316	6,860	245	1 per 28 s.f.	
Restaurant / Lounge (sf)	0	0	5,000	25	1 per 200 s.f.	
1080 Navigator Drive						
Guestrooms	46	46	70	70	1 per guestroom	
Meeting Space	3,160	113	3,000	107	1 per 28 s.f.	
Restaurant / Lounge	12,000	60	0	0	1 per 200 s.f.	
Parking Summary						
	Existing	Required	Existing	Required		
1050 Schooner Drive (Parcel 19)	287	422	287	376	89 Parking Spaces Short	
1080 Navigator Drive (Parcel 1)	225	219	225	177	48 Parking Spaces Over	
Total	512	641	512	553	41 Parking Spaces Short	

We will be having a Parking Agreement with the Ventura Port District for 50 Parking Spaces on Parcel 19A.

EXHIBIT 8

SBV-MAJ-1-02

REVI:

**Parking
Requirements**

PARKING AGREEMENT

1. **IDENTIFICATION.** This Parking Agreement, hereafter "Agreement," is made, entered into and effective as of the _____ day of May, 2002, between VENTURA PORT DISTRICT, a California port district, hereafter "District," and the LYW VENTURA HARBORVIEW LIMITED PARTNERSHIP, a California limited partnership, hereafter "LYW."

2. **RECITALS.**

(a) District and LYW previously entered into a Ground Lease, hereafter "the Lease," relating to certain land and improvements located on Parcels 1 and 19 within Ventura Harbor, on which LYW has been operating a destination resort hotel.

(b) District is the owner of Parcel 19A, a parcel adjacent to Parcels 1 and 19, the legal description of which is attached hereto as Exhibit "A."

(c) Parcel 19A is currently improved with facilities enabling it to be used as a parking lot.

(d) The parties are informed that, from a practical and operational standpoint, adequate parking to support the hotel operation exists on Parcels 1 and 19; however, the parties also understand that the current parking requirements of the City of San Buenaventura, hereafter "City," in the coastal zone necessitate an additional fifty (50) spaces being available in excess of those spaces on Parcels 1 and 19 in order to satisfy said requirements.

(e) The parties are also informed that the City and District are working together on a Master Plan for Ventura Harbor which, among other things, expected to reduce the parking requirements for hotel operations and which would then be incorporated in the Local Coastal Plan.

(f) LYW desires to secure an irrevocable right from District to use Parcel 19A for parking purposes, but only to the extent necessary to comply with the parking requirements of City, taking into account LYW's use of Parcels 1 and 19 under the Lease.

(g) The parties are entering into this Agreement to set forth the terms, conditions and provisions under which District is willing to make Parcel 19A available to LYW for parking purposes.

(h) The parties also agree that this Agreement will terminate when the parking requirements of the City as embodied in its Specific Plan for the Harbor and Local Coastal Plan are revised to decrease the parking requirements for LYW's hotel or those plans are otherwise changed to reduce LYW's need for the fifty (50) spaces contemplated by their Agreement or to provide for new alternative sources of parking for LYW's use in its replacing the fifty (50) parking spaces on Parcel 19A.

3. DISTRICT AGREEMENTS. Subject to the terms and provisions of this Agreement and LYW's full and complete performance under the Lease, District shall:

(a) Control access to and use of Parcel 19A;

(b) Maintain and operate Parcel 19A as a parking lot and other District approved uses; and submit to LYW quarterly billings for its share of the maintenance and operating costs for Parcel 19A as provided in Article 5, which costs are estimated not to exceed Five Thousand Dollars (\$5,000.00) per year;

(c) Provide LYW with the irrevocable right to utilize Parcel 19A for parking purposes connected with its hotel operations under the Lease so that LYW may comply with the current parking requirements of the City, subject to the further provisions of this Agreement; and

(d) Retain the right to designate which parking spaces on Parcel 19A shall be for LYW's use in complying with City parking requirements, pursuant to this Agreement, which spaces

may be relocated within Ventura Harbor from time to time by District in its sole discretion. Such spaces are initially designated on the diagram attached hereto as Exhibit "B," but shall not be identified by signs or marking on the actual parking pavement, or segregated by barricades, posts, or other physical means.

4. **LYW AGREEMENTS.** Subject to the terms and provisions of this Agreement and so long as this Agreement remains in effect, LYW:

(a) Shall promptly pay when due the calendar quarterly billings for its proportionate share of the maintenance, operating, and repair costs for Parcel 19A as provided in Article 5;

(b) If the District Master Plan is not adopted solely or in part because the parking requirements of the Master Plan are not acceptable to the California Coastal Commission, commencing nine (9) months after District gives LYW written notice of such unacceptability pursuant to Article 10(a) of this Agreement, shall pay to District a parking fee of Five Hundred Dollars (\$500.00) per month for a period of six (6) months. At the expiration of said six (6) month period, the parking fee shall be increased to One Thousand Dollars (\$1,000.00) per month. Said parking fee payments shall be made each month contemporaneously with the payment of the minimum monthly rent under the Lease. Further, said parking fee shall be increased every sixty (60) months effective on and after the date LYW first begins paying the parking fee as above provided, by an amount equal to ten percent (10%) of the parking fee payable during the prior twelve (12) months;

(c) Contribute the necessary funds for the creation of fifty (50) new parking spaces (or such greater number of parking spaces as required by City for the operation of LYW's hotel and related businesses under the Lease) in any replacement or supplemental parking facilities under the new Specific Plan for the Harbor adopted by the City, or the District's Master Plan, in parking structures or surface parking lots on purchased or leased property, including the periodic rent or other charges for the use of such spaces; and then obtain the written consent of the City so that this Agreement may be terminated as no longer being necessary to meet its parking

requirements. In the event LYW is required to contribute funds pursuant to this Article 4(a), the parking fees otherwise payable under this Agreement shall be equitably adjusted by written agreement of the parties to take into account LYW'S actual contribution of funds under this Article 4(a);

(d) Shall not place any barriers or posts (temporary or permanent), markings, or signs on Parcel 19A for the purpose of designating any of the parking spaces for the use of LYW without prior approval by the District General Manager;

(e) Contemporaneously with the execution of this Agreement, shall sign, have acknowledged and deliver to District the form of quitclaim deed attached hereto as Exhibit "C";

(f) Shall not assign, transfer or encumber its rights and interests under this Agreement without the prior written consent of District;

(g) Shall defend, protect, indemnify and save harmless District, its officers, agents and employees, from and against any and all claims, demands, loss or liability of any kind or nature which District, its officers, agents and employees, may sustain or incur or which may be imposed on them or any of them for injury to or death of persons, or damage to property as a result of or arising out of any claims directly related to LYW's rights under this Agreement or its use of Parcel 19A or by LYW's officers, agents, employees, sublicensees, patrons, or visitors, at LYW's sole expense with counsel reasonably satisfactory to District;

(h) So long as this Agreement is in effect, shall maintain insurance on Parcel 19A naming District as an additional insured, in the same amounts and with the same insurance as required of LYW under the Lease and covering any and all claims directly connected with LYW's use of Parcel 19A under this Agreement; and

(i) Acknowledges and agrees that the rights of LYW under this Agreement are personal only to LYW and do not and are not intended to create any interest in Parcel 19A by way of easement, profit, license or otherwise.

5. **MAINTENANCE AND OPERATING COSTS.** LYW shall pay District during the term hereof, in addition to any rent which may be due under Article 4(b) of the Lease, amounts equal to a proportionate part of the costs of operating, maintaining, and repairing Parcel 19A as a parking lot in accordance with the following provisions:

(a) The costs shall include: (i) water and electricity charges; (ii) trash disposal; (iii) sweeping; (iv) landscaping and gardening; (v) repairs; and (vi) wages, payroll taxes and other benefits for employees of District directly utilized in connection with maintenance, operation, and repair of Parcel 19A as a parking lot;

(b) LYW's share of these costs shall be determined by the proportion which its fifty (50) parking spaces bear to the whole number of parking spaces on Parcel 19A; and

(c) LYW's proportionate share shall be payable by it within thirty (30) days after a reasonably detailed statement of actual expense incurred in the particular calendar quarter is presented to it by the District.

6. **TERM.** The term of this Agreement shall commence on June 1, 2002, and shall continue and be in effect during the term of the Lease, or until such ~~earlier termination~~, cancellation or nullification of the Lease in accordance with the terms and provisions thereof, or upon any change in the parking requirements of City such that any right to use Parcel 19A for parking purposes is no longer required for LYW to comply with said parking requirements for the hotel operation and related businesses under the Lease, or upon the revocation of this Agreement pursuant to Article 8, below.

7. **DEFAULT BY LYW.**

(a) Definition. Not by way of limitation, any of the following acts or omissions by LYW shall be deemed a default by LYW and a material breach of this Agreement:

(i) Failure to pay maintenance, operating, and parking fees when due as required by Articles 4(a) and 4(b);

(ii) Failure to contribute the necessary funds for that creation of new parking spaces as required by Article 4(c);

(iii) Designating any parking spaces for LYW's use in violation of Article 4(d);

(iv) Assigning , transferring, or encumbering its rights under this Agreement without the advance written consent of District as prohibited by Article 4(f);

(v) Failure to protect, indemnify, and save District and its officers, agents, and employees harmless from claims as required by Article 4(g);

(vi) Failure to maintain proper insurance under Article 4(h);

(vii) Permitting the parking spaces to be used for any purposes other than vehicle parking;

(viii) Failure to observe, keep, or perform any of the other conditions and agreements to be kept or performed by LYW under this Agreement;

(ix) Any involuntary assignment or transfer of LYW's interest under this Agreement without the advance written consent of District;

(x) Filing of a voluntary or involuntary petition in bankruptcy, or for reorganization, or for any arrangement by LYW, or by a member or partner of LYW if it as a general partnership or joint venture, or by a general partner of LYW if it is a limited partnership;

(xi) Appointment of a receiver for the business or assets of LYW, or of a member or partner of LYW if it is a general partnership or joint venture, or of a general partner if it is a limited partnership; or

(xii) Making a general assignment or an assignment for the benefit of creditors, whether voluntary or involuntary, by LYW, or by a member or partner of LYW if it is a general partnership or joint venture, or by a general partner if it is a limited partnership.

(b) Notice of Default. District shall provide LYW with written notice of any default or breach by it in accordance with Article 10(a).

(c) Cure of Default:

(i) As to any default identified in Article 7(a) which can be cured by the payment of money to District, LYW may cure such default by making the required payment within ten (10) calendar days after receiving written notice from District pursuant to Article 10(a) to remedy or cure such default.

(ii) As to any default identified in Article 7(a) which cannot be cured by the payment of money, and excluding the events of default identified in paragraphs (x) and (xi) of Article 7(a), LYW may cure such a default by taking such action and doing such things as may be necessary to cure such default within thirty (30) calendar days after receipt of written notice from District pursuant to Article 10(a).

(iii) As to any default identified in paragraph (x) of Article 7(a), LYW may cure such default by obtaining and delivering to District a dismissal of the petition in bankruptcy upon which the event of default is based within sixty (60) calendar days after filing of the bankruptcy petition.

(iv) As to any default identified in paragraph (xi) of Article 7(a), LYW may cure such default by obtaining and delivering to District a dismissal of the legal proceedings upon which the event of default is based within sixty (60) calendar days after receipt of written notice from District pursuant to Article 10(a) to remedy or cure such default.

(d) District's Remedies. In the event LYW fails, refuses, or neglects to cure a default within the time specified in Article 7(c), then, in addition to any other remedy District may have by operation of law, District shall have the right and option, without further demand or notice, to:

(i) Revoke this Agreement pursuant to Article 8.

(ii) Record the Quitclaim Deed executed by LYW, a copy of which is attached hereto as Exhibit "C."

(iii) Take control of the parking spaces designated for LYW's use, which shall be allowed by LYW without hindrance or delay; and District shall not be liable in damages to LYW for such entry on the parking spaces or be guilty of trespass or forcible entry.

8. **REVOCABILITY.** This Agreement is revocable by District upon LYW's failure to cure a material default or breach of this Agreement pursuant to Article 7(c), or upon LYW's failure to contribute the necessary funds for the creation of new parking spaces under City's new Specific Plan for the Harbor or the District's Master Plan, so as to enable it to obtain the written consent of City permitting the termination of this Agreement as no longer being necessary to meet City requirements as required by Article 4(c), or upon any change in the parking requirements of City such that the use of Parcel 19A is no longer required for the hotel operation as conducted under the Lease to comply with City parking requirements. A revocation of this Agreement as above provided shall be effective upon District giving LYW written notice of revocation pursuant to Article 10(a), below.

9. **WAIVER OF CLAIMS.** LYW hereby waives all claims against District for damages to any persons or property in, upon, or about Parcel 19A and, for injuries to LYW, its agents or employees, or third persons in or about said parcel for any cause arising from LYW's use of Parcel 19A under this Agreement, except claims for damages or injuries arising out of the sole active negligence of District; and LYW will defend, protect, indemnify and hold District exempt and harmless from any damages or injury to any persons or property of any persons arising from the use of Parcel 19A by LYW, its agents, officers, employees, subtenants, licensees, patrons or visitors, or from the failure of LYW to perform its commitments as required in this Agreement, when such damage or injury shall be caused in part or in whole by the negligence or fault, or omission of any duty with respect to the same by LYW, or its agents, officers, employees, sublicensees, patrons or visitors. If any such action is brought against District or its agents, employees or attorneys, LYW shall, upon notice from District, defend the claims at LYW's sole expense with counsel reasonably satisfactory to District.

10. **MISCELLANEOUS PROVISIONS.**

(a) Any and all notices or demands by or from District to LYW, or LYW to District, shall be in writing. They shall be served either personally or by certified mail. If personally served, service shall be conclusively deemed made at the time of service. If served by certified mail, service shall be conclusively deemed made seventy-two (72) hours after the deposit thereof in the United States mail, postage prepaid, addressed to the party to whom such notice or demand is to be given, as hereinafter provided. Any notice or demand to District may be given in care of the General Manager of District, 1603 Anchors Way Drive, Ventura, California 93001. Any notice or demand to LYW may be given to it at 808 North Spring Street, Suite 808, Los Angeles, California 90012, Attention: John W. Wong, Jr., Vice President, with a copy to Roger Yuen, Vice President and Associate Legal Counsel. The addresses set forth herein may be changed by written notice given in the manner provided herein.

(b) Each and all of the terms, conditions, and agreements herein contained shall be binding upon and inure to the benefit of the heirs, executors, administrators, successors and assigns of any and all of the parties hereto; and all of the parties hereto shall be jointly and severally liable hereunder.

(c) No waiver by District of the default or breach of any term or provision of the Agreement by LYW shall be deemed a waiver of any other term or provision or any subsequent default or breach by LYW of the same or any other term or provision.

(d) This Agreement shall be governed by the laws of the State of California, except the provisions of that law governing conflicts of law.

(e) If a party brings an action or proceeding to enforce the terms of this Agreement or declare rights thereunder, the prevailing party in any such proceeding, action, or appeal, shall be entitled to reasonable attorneys' fees. Such fees may be awarded in the same suit or recovered in a separate suit, whether or not such action or proceeding is pursued to decision or judgment. The "prevailing party" shall include, without limitation, a party who substantially obtains or defeats the relief sought, whether by compromise, judgment, or the abandonment by the other party of its claim or defense.

(f) LYW acknowledges that the payments due by it under this Agreement do not include the costs of guard service or other security measures, and District shall have no obligation whatsoever to provide the same.

(g) This Agreement may be modified only in writings signed by the parties.

(h) This Agreement may be executed in two or more counterparts, each of which shall be an original and all of which shall constitute one and the same instrument.

VENTURA PORT DISTRICT,
a California port district

By _____
Chairman

ATTEST:

By _____
Secretary

LYW VENTURA HARBORVIEW
LIMITED PARTNERSHIP, a California
limited partnership

By: JWW HOTEL INVESTMENT, INC.,
a California corporation

By: _____
John W. Wong, Jr.,
President
General Partner

