

CALIFORNIA COASTAL COMMISSION

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

Th15b



ADDENDUM

DATE: July 8, 2014 [Click here to go to original staff report](#)

TO: Commissioners and Interested Parties

FROM: South Central Coast District Staff

SUBJECT: Agenda Item 15b, Thursday, July 10, 2014, City of San Buenaventura Local Coastal Program Amendment No. SBV-MAJ-2-12

The purpose of this addendum is to make minor revisions to the text of Suggested Modifications One, Three, and Five through Eight in order to clarify the intent and correct an inadvertent error. Additionally, findings related to the above listed special conditions have been updated, documentation regarding Ex Parte Communications from Commissioner Cox and Commissioner Groom have been attached, one letter in opposition of the staff recommendation has been attached and responded to, and Exhibit 1, which was inadvertently omitted from the June 26, 2014 staff report, has also been attached.

Note: Language presently contained within the certified LCP is shown in straight type. Language proposed to be added by the City of Ventura in this amendment is shown underlined. Language recommended by Commission staff to be inserted is shown double underlined. Language proposed by the City of Ventura in this amendment to be deleted is shown in ~~striketrough~~. Language proposed to be added by the City of Ventura, but required to not be added by Commission is shown in ~~Underline with Double Strikethrough~~. Language proposed to be deleted by City, but required to be retained by Commission is shown in ~~Strike through with Double Underline~~. Other instructional suggested modifications to revise maps or figures are shown in *italics*.

1) In order to ensure that public parking is maintained along the 20 – 25 ft. wide public promenade within the required 25 ft. wide public easement area, subpart 5 of Suggested Modification One (1) on page 8 of the staff report shall be replaced by the following:

...

5. Bluff-top Setback: All development, except for the 20-25' wide public promenade (consisting of a pedestrian walkway/bicycle path, landscaping, and other public access/recreation amenities including, but not limited to, benches, picnic tables, and small trash receptacles for the purpose of public access) and public parking shall be 25' min. from the top of the bluff.

2) In order to implement the bicycle parking standards which currently exist within the Downtown Specific Plan (DTSP) and to ensure that adequate bicycle parking is provided along the subject public promenade, Part 3 of Suggested Modification Three (3) on page 10 of the staff report shall be replaced by the following. Additionally, in order to ensure that electrical vehicle charging stations are available at the subject site and constructed based upon demand, Part 4 of Suggested Modification Three (3) shall also be replaced by the following:

3. BICYCLE PARKING

a. On-Site Requirement:

1. All on-site bicycle parking shall be installed pursuant to DTSP Article VII, Section F, Bicycle Parking.

b. Promenade Requirement:

1. A minimum of three bicycle racks shall be placed at adequate intervals, adjacent to public access/recreational amenities, along the public promenade.

4. ELECTRICAL VEHICLE CHARGING STATIONS (EVCSs)

a. New multiple-family development shall provide a minimum of two fully operational EVCSs prior to issuance of the first Certificate of Occupancy for any residential unit. 10% of the total covered parking spaces as required pursuant to Zoning Regulation Chapter 24.415 shall be equipped with the necessary electrical infrastructure for the future installation of additional EVCSs. Once a parking space with an installed/operational EVCS is assigned to a unit or resident, another EVCS shall be installed and fully operational, until the full 10% of the total required covered parking spaces are equipped with fully operational EVCSs.

b. New commercial development over 10,000 square feet, shall provide EVCSs to serve 2% of the total parking spaces as required pursuant to Zoning Regulation Chapter 24.415.

c. EVCSs shall be provided in at least one disabled person parking space, both for residential and commercial development, in accordance with state and federal requirements.

3) To ensure that the City maintains the authority to regulate the manner in which corner stores and restaurants are operated (which is done through the issuance of a use permit), Suggested Modification Five (5) on page 11 of the staff report shall be replaced by the following:

Table III-1 on page III-8 of Article II Urban Standards, 2.10.010 of the Downtown Specific Plan shall also be replaced in its entirety with Table III that was approved by the Commission pursuant to LCPA 2-08 with the exception that the column designating the uses for T4.3.5 Urban General 3.5 zone may remain. Figure III-1 on page III-9 of Article II. Urban Standards, 2.10.010 of the Downtown Specific Plan shall be modified to remove the Triangle Site from the Eastside Workplace Overlay.

- 4) In order to ensure that public parking is maintained along the 20-25 ft. wide public promenade within the 25 ft. wide public easement, Suggested Modification Six (6) on pages 11 and 12 of the staff report shall be replaced by the following:

Urban Standards, 2.30.045 T4.3.5 Urban General 3.5- Promenade Parcels of the Downtown Specific Plan shall be modified as follows:

I. Public Promenade

1. ~~Provide~~ Construct a public Promenade along the south property line of the Site abutting the U.S. 101 right of way as shown in the below Public Realm Diagram and Section Diagrams 1 and 2 on the opposite page. Construction of the public Promenade shall occur concurrently with construction of any site development, and shall be completed prior to issuance of any certificate of occupancy. The Promenade shall be devoted to public, coastal access and shall consist of the following components:

a. Promenade: 20' min. between Ash St. and Ann Street.

25' min. between Ann Street and Sanjon Rd.

b. Street between Ash St. and Ann St.: 36' max., curb to curb. Parking along Ash Street, the promenade street, and Ann Street shall be made available to the public, and shall not be subject to permit parking restrictions ~~during daytime hours. On-street parking shall be regulated so as to facilitate parking availability for coastal visitors~~

c. Public access sidewalk and planter strip: 12' min., combined

d. A minimum of 2 Promenade Overlooks, generally in the areas shown below and as illustrated in the Promenade Overlook Diagrams on pages III-26 and III-27.

e. Other public access and recreational amenities including but not limited to benches/picnic tables, and bicycle racks.

- 5) To reflect the exact dollar amount of the in lieu fee, the first paragraph of Suggested Modification Seven (7) on page 12 of the staff report shall be replaced by the following:

K. ~~Optional~~ In Lieu Fee for Residential Development

To offset the effect of a zoning change to allow lower priority land uses at the Promenade Parcels Site, the Local Coastal Plan ("LCP") shall require payment of a mitigation fee by any project applicant proposing ~~non-visitor serving~~ residential uses. Such mitigation fee shall be used for the provision of lower cost overnight visitor serving accommodations within the coastal zone of the City of Ventura or Ventura County. The mitigation fee shall be in the amount of One Million, Seven Hundred and Ninety Four Thousand, and Nine Hundred and Sixteen Dollars (\$1,794,916.00) ~~Twenty-Five Thousand and No/100 Dollars (\$25,000.00) per acre of land that is devoted exclusively to non-visitor serving~~

~~use:~~

- 6) To correct an inadvertent typographical error, the first sentence of Suggested Modification Eight (8) on page 13 of the staff report shall be modified as follows:

Page ~~126~~-I-41 of the Downtown Specific Plan shall be modified as follows:

- 7) In order for the findings of the June 26, 2014 staff report to accurately describe the changes to the suggested modifications depicted within this addendum regarding the correct amount of the in-lieu mitigation fee of \$1,794,916.00, Paragraph One on page 22 of the staff report shall be replaced by the following. In addition, State Parks has clarified their intent that San Buenaventura State Beach is the most appropriate location for the construction of new low-cost overnight accommodations. As such, the findings below relating to the location of where low-cost overnight accommodations could be constructed have also been replaced by the following:

Therefore, consistent with recent past commission actions, an in-lieu fee requirement of \$30,000 per room has been proposed by the City to apply to 25% of the of the hotel rooms that could potentially be built onsite. The City has also estimated, based on the size/configuration of the site, that an approximately 210 room hotel would be the maximum size of a hotel at this location. However, the City's proposal did not take into account an added amount to compensate for inflation since 2010 (consumer Price Index). As such, Staff has calculated the added rate of inflation to \$30,000 since October 26, 2007, when the Hostelling International study was done, and according to the U.S. Bureau of Labor Statistics CPI Inflation Calculator, \$30,000 in 2007 has the buying power of \$34,188.88. Thus, **Suggested Modification Seven (7)** requires the City to modify the text of Section K of the T4.3.5 zone so as to reflect the current in-lieu fee. Furthermore, the full amount for a 210 unit hotel, which could potentially be built on the subject site equates to the following in-lieu mitigation fee: 210 rooms x 25% x \$34,188.88 = approximately \$1,794,916.00. Furthermore, suggested Modification Seven (7) requires that prior to the issuance of any building permits for the subject site, the above calculated fee shall be deposited into an account managed by the California Department of Parks and Recreation (State Parks) for the construction of low-cost visitor serving accommodations within the City of Ventura or Ventura County. State Parks has indicated that with the monies obtained through this LCP amendment, they can construct low-cost overnight facilities, including cabins and camp sites, at San Buenaventura State Beach, located within the City of Ventura.

- 8) In order for the findings of the June 26, 2014 staff report to accurately reflect the changes to the suggested modifications depicted within this addendum, including the clarification that public access parking would be allowed to encroach within the 25 ft. public easement in those areas of the site where the promenade is proposed to be only 20 ft. in width, Paragraph One on page 23 of the staff report shall be replaced by the following:

The project site provides an important linkage between the downtown area and the beach. As designated within the text of the 1989 Comprehensive Plan, any development on the

subject site is required to provide a minimum 25 ft. wide public easement, so as to facilitate access across the subject site. In addition, the proposed amendment includes the provision that a public promenade be provided on site along the edge of the bluff top. The promenade will function as a public area and will consist of a minimum 20 ft. wide path, landscaping, and other public access and recreational amenities. As depicted in Diagram 1 in Section J, on Page III-25 of Article II. Urban Standards, 2.30.045 T4.3.5 Urban General 3.5- Promenade Parcels of the Downtown Specific Plan, Promenade Street public access parking would be allowed to encroach within the 25 ft. public easement in those areas of the site where the promenade is proposed to be only 20 ft. in width. Moreover, the language within both the existing LCP, and that which is proposed by the City as a component of the subject amendment, does not specifically require that the public promenade shall be constructed within the above referenced subject easement area. As such, the Commission has required **Suggested Modifications Six (6) and Ten (10)** in order to ensure that the promenade improvements are constructed within the 25 ft. easement as part of any development on site, **Suggested Modification Six (6)** further requires that the public promenade will be a minimum of 20 ft. in width, consistent with the provision of the a 25 ft. public easement required by the City's certified Comprehensive Plan. These suggested modifications require that concurrent with development of the subject site, construction of the public promenade shall also occur, and shall include the development of other public access amenities such as benches and picnic tables.

9) Attached to this addendum is documentation of ex-parte communications received from Commissioner Cox dated July 7, 2014, and Commissioner Groom dated July 7, 2014.

10) One letter in opposition of the staff recommendation was received on July 8, 2014 from the Pacific Legal Foundation (PLF) and is attached hereto. The PLF maintains that the approximately 1.8 million dollar in-lieu mitigation fee included as a Local Coastal Program (LCP) Amendment Suggested Modification for the project-driven LCP Amendment to allow a mixed use/residential development on a site currently designated for visitor serving accommodations (Commercial Tourist Oriented CT-O zone) violates federal and state Constitutional law and state statutory law. The Commission respectfully disagrees.

The in-lieu mitigation fee does not violate the US and California Constitutions, nor does it violate California statutory law, because there exists an essential nexus between the mitigation fee and the effects of the proposed development. As discussed within the findings of the staff report, the proposed LCP Amendment changes the allowed use of the site from higher priority visitor –serving uses (Pub. Res. Code. Section 30222), a category of land uses which includes much needed lower cost visitor accommodations, to a mixed use development with a residential component, which is a lower priority use and which will preclude development of much needed lower cost visitor accommodations on the site. The mitigation fee has been carefully calibrated in light of substantial evidence in the record, and based on past Commission precedents, to mitigate the impact of the change in land use without placing an undue burden on the development of the site. Both the City and the developer have indicated agreement with the Commission's calculation of the fee.

The Commission is within its rights to deny the change in use sought in the LCP Amendment based on the loss of a site that would support a higher priority use under the current LCP, and could support lower cost accommodations as a subset of that higher priority use. The condition being substituted for the current prohibition on residential and mixed use development on the site- i.e., the payment into a fund to support development of lower costs accommodations elsewhere in the Ventura Coastal Zone- clearly advances the justification for the prohibition (i.e., the need for visitor serving accommodations in general, and the need for lower cost accommodations in particular). Thus, the essential nexus test is met. (See *Nollan v. California Coastal Commission*, (1987) 483 US 825, 837.)

Koontz v. St Johns River Water Management Dist. (2013) 133 S. Ct. 2586 and *Ehrlich v City of Culver City* (1996) 12 Cal. 4th 854 are the respective federal and state decisions extending the essential nexus requirement of *Nollan* to the imposition of purely monetary mitigation fees. For the reasons discussed above, the essential nexus test is met whether the in-lieu mitigation fee is characterized as a permit condition subject to *Nollan* or as an in-lieu fee subject to *Koontz* and *Ehrlich*.

In addition to the Constitutional requirements outlined above, California Government Code Section 66001(a) imposes additional requirements on government agencies proposing an in-lieu mitigation fee as mitigation for a project effect. Section 66001(a) requires 1) identification of the purpose of the fee; 2) identification of the use to which the fee will be put; 3) a determination how there is a reasonable relationship between the fee's use and the type of development on which the fee is imposed; and 4) a determination how there is a reasonable relationship between the need for the public facility and the type of development project on which the fee is imposed. These statutory requirements are all addressed in the staff report recommending approval of the LCP Amendment if several Suggested Modifications are included. The Commission refers the reader to Part B of Section V of the staff report, which outlines the purpose of the fee; the use to which it will be put; the relationship between fee and type of development on which fee is imposed; and the relationship between the need for the facility and the type of development on which the fee is imposed.

11) Attached to this addendum is Exhibit 1, which was inadvertently omitted from the June 26, 2014 staff report.

DISCLOSURE OF EX PARTE COMMUNICATIONS

Name or description of project:

City of San Buenaventura LCP Amendment No. MAJ-2-12 (Promenade Parcels). Public hearing and action on request by the City of San Buenaventura to amend its certified LCP to allow a mix of permitted uses, including residential, on approximately 11.43 acres of vacant land located east of Ash Street and west of San Jon Road, City of Ventura, Ventura County.

Date and time of receipt of communication:

July 1, 2014 at 2:00pm

Location of communication:

Phone

Type of communication:

Teleconference

Person(s) in attendance at time of communication:

Dave Ward, Jared Rosengren, Jane Wingfield, Heidi Mather, Susan McCabe, Anne Blemker

Person(s) receiving communication:

Greg Murphy for Greg Cox

Detailed substantive description of the content of communication:

(Attach a copy of the complete text of any written material received.)

My staff member, Greg Murphy, received a briefing from representatives of the City of Ventura and the property owner in which they went through a briefing booklet previously provided to staff. The representatives described the proposed LCPA and the City's effort to redesignate the "Triangle" site from commercial-tourist oriented to mixed use. As explained, the property has been family-owned for 75 and the owner has been actively marketing and trying to rezone Property for over 30 years. No developer (including hotels/motels/hostels) has come forward with viable plan for tourist-oriented commercial development. An independent analysis concluded that visitor-serving uses are not viable at the site, from a real estate market or financial feasibility perspective. The LCPA implements "smart growth principles" for efficient and compact use of land resources. As described by the representatives, the project allowed by the LCPA will create a catalyst for development of visitor-serving commercial uses and increased public access through private residential development. There are many public benefits being proposed, including a 25' promenade with a trail, benches, and public parking. An in-lieu fee of \$1.8 will be used to construct State Parks facilities in the City of Ventura. At the time of our call, City staff and CCC staff were continuing to discuss language revisions to suggested modifications related to electric vehicle charging stations, bicycle parking and the in-lieu fee.

The representatives stated that there is no known opposition and request approval of the LCPA pursuant to the suggested modifications as amended.

Date:

7/7/14

Signature of Commissioner:

A handwritten signature in black ink, appearing to read "Greg Cox", is written over a horizontal line.

DISCLOSURE OF EX PARTE COMMUNICATIONS

Date and time of receipt of communication:

July 2, 2014 at 10:15 a.m.

Location of communication:

Redwood City

Type of communication:

Teleconference

Person(s) in attendance at time of communication:

Susan McCabe, Anne Blemker, Dave Ward, Jared Rosengren, Jane Wingfield, Heidi Mather

Person(s) receiving communication:

Carole Groom

Name or description of project:

Item Th15b – City of Buenaventura LCP Amendment No. MAJ-2-12 (Promenade Parcels)

Detailed substantive description of the content of communication:

The representatives of the City of Ventura provided the background on this project in the context of the Downtown Specific Plan. They indicated that they conducted demand and financial feasibility studies are working with Coastal Commission staff on a mitigation fee for potential residential uses on the site. Representatives mentioned that they would like to see the formula that calculates the in-lieu fee included instead of the flat \$1.8 million in-lieu fee mentioned in the staff report. They indicated that the amount is currently based on a per-unit fee of \$34,000 applied to 25% of the total number of proposed residential units. Representatives mentioned they are working with Coastal Commission staff to include this.

They also indicated that the funds from in-lieu fees are intended to go toward a local State Parks project and that the City is asking Coastal Commission staff to include the City as a participant in the MOU.

Representatives indicated that they are continuing to work with Coastal Commission staff on suggested modifications regarding on-street parking, bicycle parking and electric vehicle charging stations.

A copy of briefing materials have been provided to Coastal Commission staff.

Date: July 7 2014

Signature of Commissioner: Carole Groom



PACIFIC LEGAL FOUNDATION

July 3, 2014

Dr. Charles Lester
Executive Director
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105-2219

**VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

Re: City of Ventura Local Coastal Program Amendment No. SBV-MAJ-2-12

Dear Executive Director Lester:

Pacific Legal Foundation submits these comments on the City of Ventura Local Coastal Program Amendment No. SBV-MAJ-2-12, scheduled to be heard at the Commission's July 10, 2014, meeting. The Foundation is concerned about your staff's Suggested Modification Number 7 to the City of Ventura's proposed amendments to the City's local coastal program. *See* Cal. Coastal Comm'n Staff Report Th15b, at 12-13 (June 26, 2014). The proposed modification requires that a developer who wishes to build residential housing at the Promenade Parcels site must pay an in-lieu fee of \$1.8 million. The Staff Report explains that this mitigation fee will be used to provide lower cost overnight visitor serving accommodations in the area. *Id.* at 12. The rationale for the mitigation fee is that the construction of residential housing prevents the construction of overnight accommodations on the same parcels. *Id.* at 20-21.

The proposed mitigation fee violates the United States and California Constitutions, as well as California statutory law. A mitigation fee, whether assessed by the Commission or by a local government, is illegal unless the fee bears an essential nexus to the effects of the proposed development. *See Koontz v. St. Johns River Water Management Dist.*, 133 S. Ct. 2586, 2596 (2013); *Nollan v. Cal. Coastal Comm'n*, 483 U.S. 825, 837 (1987); *Ehrlich v. City of Culver City*, 12 Cal. 4th 854, 860 (1996); Gov't Code § 66001(a)(3)-(4).

The proposed mitigation fee, however, bears no nexus to the effects of any proposed residential development on the site. The Promenade Parcels do not currently afford overnight accommodation, such that residential construction would end that use. *See* Staff Report at 20 ("[L]ow-cost overnight facilities are not currently developed on the subject site . . ."). Nor is there, as far as the Foundation

Dr. Charles Lester
July 3, 2014
Page 2

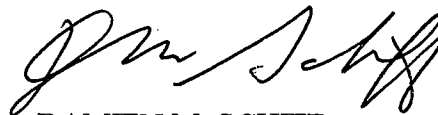
is aware, a pending proposal to develop overnight accommodation on the site that would compete with a residential housing proposal. Thus, the construction of residential housing does not create any need for overnight accommodation.

If the contrary were true, then the absurd result would follow that *every* development would be subject to a myriad of mitigation fees to account for the fact that one development necessarily precludes other development. For example, a permit for a community town hall would require a fee to help build playgrounds that otherwise could have been constructed on the site; a permit for public restroom facilities at the beach would require a fee to help provide public parking spaces that otherwise could have been provided on the site; and even a permit for lower cost overnight facilities would require a fee to provide for open space that otherwise could have been preserved on the site. The Commission does not require mitigation fees in these circumstances; it should not require them for residential home construction either.

If a real need for low cost overnight accommodation exists in the Ventura area, *cf.* Staff Report at 20, then that need is the result of local governments' zoning policies, independent market decisions that make other uses of land in the coastal zone more profitable, or a combination of these factors. But whatever the precise reason for that need, the decision to build family homes on the Promenade Parcels site neither creates nor contributes to it.

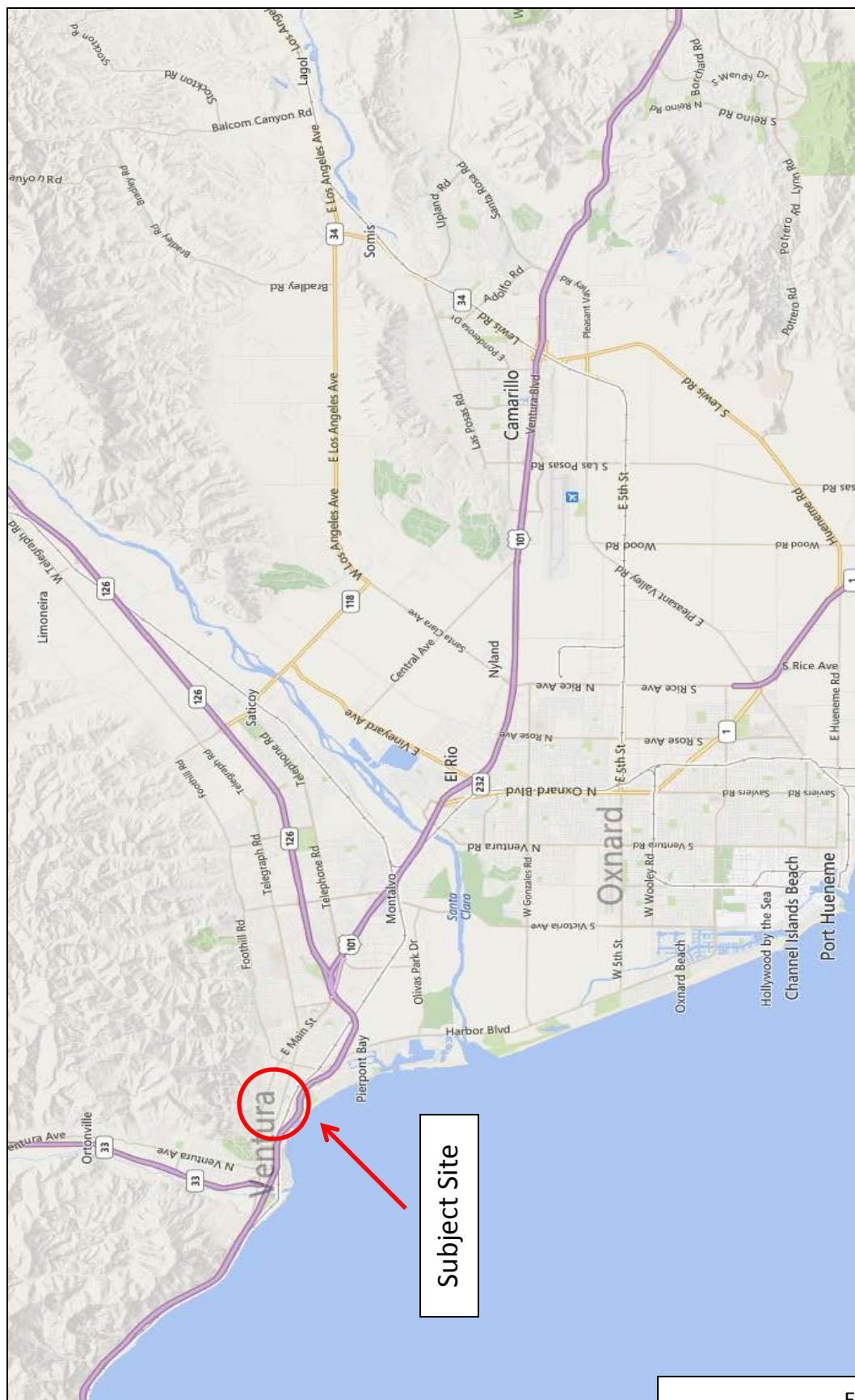
The Foundation therefore urges you to direct your staff to withdraw the Suggested Modification Number 7. The Foundation also respectfully requests that, once this letter has been added to the Commission's official record, you provide copies of the letter to the Commissioners prior to their consideration of the matter.

Yours sincerely,



DAMIEN M. SCHIFF
Principal Attorney

cc: Mr. Jack Ainsworth, Senior Deputy Director
Mr. Steve Hudson, District Manager
Ms. Barbara Carey, Supervisor, Planning and Regulation
Ms. Jacqueline Blaugrund, Coastal Program Analyst



Subject Site

Exhibit 1
SBV-MAJ-2-12
Vicinity Map

CALIFORNIA COASTAL COMMISSION

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



Th15b

DATE: June 26, 2014

TO: Commissioners and Interested Persons

FROM: Jack Ainsworth, Senior Deputy Director
Steve Hudson, District Manager
Barbara Carey, Supervisor, Planning and Regulation
Jacqueline Blaugrund, Coastal Program Analyst

SUBJECT: City of Ventura Local Coastal Program Amendment No. SBV-MAJ-2-12 for Public Hearing and Commission Action at the July 10, 2014 Commission Meeting at the City of Ventura City Hall.

DESCRIPTION OF THE SUBMITTAL

The City of Ventura ("City") is requesting an amendment to the Land Use Plan (LUP) and Implementation Plan (IP) components of its certified Local Coastal Program (LCP) to modify the land use and zoning designation of the Promenade Parcels (eight in total) from Planned Commercial Tourist Oriented (PC-T) to Downtown Specific Plan (DTSP), and from Commercial Tourist Oriented (CT-O) to T4.3.5 Urban General 3.5 Promenade, to allow a mix of permitted uses, including residential. The City is also requesting to modify the text of the 1989 Comprehensive Plan (LUP); amend text, figures, and tables of the Goals and Policies (LUP) and Development Code (IP) of the 2007 Downtown Specific Plan; and add a new zoning designation (T4.3.5 Urban General 3.5 Promenade) to the Development Code (IP) of the 2007 Downtown Specific Plan.

The City of Ventura submitted Local Coastal Program Amendment SBV-MAJ-2-12 to the Commission on October 4, 2012. After the submittal of additional information requested by Commission staff, the amendment proposal was deemed complete and filed on June 27, 2013. Pursuant to Section 30512 of the Coastal Act and California Code of Regulations, Title 14, Section 13522, an amendment to the certified LCP that combines changes to the LUP and IP must be scheduled for a public hearing and the Commission must take action within 90 days of a complete submittal. Pursuant to Section 30517 of the Coastal Act, the time limit for this amendment was extended for one year at the September 11, 2013 Commission hearing.

SUMMARY OF STAFF RECOMMENDATION

Commission staff recommends that the Commission **deny** the proposed City of Ventura LCP Amendment No. SBV-MAJ-2-12 as submitted, and **approve** the proposed amendment with eleven suggested modifications. The modifications are necessary because the proposed amendment, as submitted, is not adequate to ensure consistency with the Chapter Three policies of the Coastal Act. Further, the LIP amendment, as submitted, does not conform with and is inadequate to carry out the provisions of the Land Use Plan. The motions to accomplish this recommendation are found on **Page 4** of this staff report.

The major issue raised by this amendment request is the proposed change in land use and zoning designation of the Promenade Parcels, which are currently protected and preserved for commercial visitor-serving uses (“Commercial-Tourist Oriented”), to a transect-based code designation, including implementation measures allowing lower priority land uses, such as residential. Specifically, in this case, although low-cost overnight facilities are not currently developed on the subject site, the proposed change in both the land use and zoning designation would result in the loss of land that has been specifically designated for such use and which could be potentially developed with such facilities in the future. In order to address this issue, several suggested modifications have been required, including suggested modification seven (7), which requires that prior to the issuance of any building permits for the subject site, a fee shall be deposited into an account managed by the California Department of Parks and Recreation (State Parks) for the construction of low-cost visitor serving accommodations within the City of Ventura or Ventura County.

Additional Information: For further information, please contact Jacqueline Blaugrund at the South Central Coast District Office of the Coastal Commission at (805) 585-1800. The proposed amendment to the City of Ventura Local Coastal Program (LCP) is available for review at the Ventura Office of the Coastal Commission.

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EXHIBITS

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Exhibit 2.	City of Ventura City Council Resolution No. 2012-054
Exhibit 3.	City of Ventura City Ordinance No. 2012-019
Exhibit 4.	Proposed Modifications to Table III-1
Exhibit 5.	Proposed Modifications to Figure III-1
Exhibit 6.	Aerial Photograph

I. PROCEDURAL ISSUES

A. 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 Coastal Act further provides:

The local government shall submit to the Commission the zoning ordinances, zoning district maps, and, where necessary, other implementing actions that are required pursuant to this chapter.

...The Commission may only reject ordinances, zoning district maps, or other implementing action on the grounds that they do not conform with, or are inadequate to carry out, the provisions of the certified land use plan. If the Commission rejects the zoning ordinances, zoning district maps, or other implementing actions, it shall give written notice of the rejection, specifying the provisions of the land use plan with which

the rejected zoning ordinances do not conform, or which it finds will not be adequately carried out, together with its reasons for the action taken. (Section 30513)

The Commission may suggest modifications... (Section 30513)

The standard of review that the Commission uses in reviewing the adequacy of the Land Use Plan, as the City is proposing to amend it, is whether the Land Use Plan, as amended, would remain consistent with, and meet the requirements of, the policies of Chapter 3 of the Coastal Act. The standard of review for the proposed amendment to the Implementation Plan of the certified Local Coastal Program, pursuant to Section 30513 and 30514 of the Coastal Act, is whether the Implementation Plan, with the proposed amendment would be in conformance with, and adequate to carry out, the provisions of the Land Use Plan (LUP) portion of the City of Ventura's certified Local Coastal Program, as amended.

B. PUBLIC PARTICIPATION

Section 30503 of the Coastal Act requires public input in preparation, approval, certification and amendment of any LCP. The City held public hearings on the subject amendment request on February 29, 2012, July 18, 2012, and September 12, 2012. The hearings were noticed to the public consistent with Sections 13551 and 13552 of Title 14 of the California Code of Regulations. Notice of the subject amendment has been distributed to all known interested parties.

C. PROCEDURAL REQUIREMENTS

Pursuant to Section 13551 (b) of Title 14 of the California Code of Regulations, the City resolution for submittal may specify that a Local Coastal Program Amendment will either 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. The City Council Resolution for this amendment states that the amendment will take effect after Commission certification. However, in this case, because this approval is subject to suggested modifications by the Commission, if the Commission approves the proposed amendment pursuant to the staff recommendation, the City must act to accept the certified suggested modifications within six months from the date of Commission action in order for the amendment to become effective (California Code of Regulations, Title 14, Sections 13544 & 13544.5; and Sections 13542(b) and 13537(b)). Pursuant to Section 13544 of the Code of Regulations, 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. Should the Commission deny the LCP Amendment, as submitted, without suggested modifications, no further action is required by either the Commission or the City.

II. STAFF RECOMMENDATION, MOTIONS, & RESOLUTIONS ON THE LAND USE PLAN AMENDMENT

Following public hearing, staff recommends the Commission adopt the following resolutions and findings. The appropriate motion to introduce the resolution and a staff recommendation is provided prior to the resolution.

A. DENIAL OF THE LAND USE PLAN AMENDMENT AS SUBMITTED

Motion:

*I move that the Commission **certify** City of Ventura Land Use Plan Amendment SBV-MAJ-2-12 as submitted.*

Staff recommends a **NO** vote. Failure of this motion will result in denial of Land Use Plan Amendment SBV-MAJ-2-12 as submitted and the adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the Commissioners present.

Resolution:

The Commission hereby **denies** certification of Land Use Plan Amendment SBV-MAJ-2-12, as submitted by the City of Ventura, and adopts the findings set forth below on the grounds that the Land Use Plan, as submitted, does not meet the requirements of and is not in conformity with the policies of Chapter Three of the Coastal Act. Certification of the Land Use Plan amendment would not meet the requirements of the California Environmental Quality Act because there are feasible alternatives and/or mitigation measures that could substantially lessen any significant adverse impacts that the Land Use Plan amendment may have on the environment.

B. CERTIFICATION OF THE LAND USE PLAN AMENDMENT WITH SUGGESTED MODIFICATIONS

Motion:

*I move that the Commission **certify** City of Ventura Land Use Plan Amendment SBV-MAJ-2-12, if it is modified as suggested in this report.*

Staff recommends a **YES** vote. Passage of this motion will result in certification of Land Use Plan Amendment SBV-MAJ-2-12 with suggested modifications and the adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the Commissioners present.

Resolution:

The Commission hereby **certifies** Amendment SBV-MAJ-2-12 to the City of Ventura Land Use Plan 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 Land Use Plan amendment on the environment, or 2) there are no further feasible alternatives and mitigation measures that would substantially lessen any significant adverse impacts on the environment that will result from certification of the Land Use Plan if modified.

III. STAFF RECOMMENDATION, MOTIONS, & RESOLUTIONS ON THE IMPLEMENTATION PLAN AMENDMENT

Following public hearing, staff recommends the Commission adopt the following resolution and findings. The appropriate motion to introduce the resolution and a staff recommendation is provided prior to the resolution.

A. DENIAL OF THE IMPLEMENTATION PLAN AMENDMENT AS SUBMITTED

Motion:

*I move that the Commission **reject** City of Ventura Implementation Plan Amendment SBV-MAJ-2-12 as submitted.*

Staff recommends a **YES** vote. Passage of this motion will result in rejection of the Implementation Plan Amendment SBV-MAJ-2-12 and the adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the Commissioners present.

Resolution:

The Commission hereby **denies** certification of City of Ventura Implementation Plan Amendment SBV-MAJ-2-12, as submitted, and adopts the findings set forth below on grounds that the Implementation Plan amendment, as submitted, does not conform with and is inadequate to carry out, the provisions of the certified Land Use Plan, as amended. Certification of the Implementation Plan amendment would not meet the requirements of the California Environmental Quality Act as there are feasible alternatives and mitigation measures that would substantially lessen the significant adverse impacts on the environment that will result from certification of the Implementation Plan amendment as submitted.

B. CERTIFICATION OF THE IMPLEMENTATION PLAN AMENDMENT WITH SUGGESTED MODIFICATIONS

Motion:

*I move that the Commission **certify** City of Ventura Implementation Plan Amendment SBV-MAJ-2-12 if it is modified as suggested in this staff report.*

Staff recommends a **YES** vote. Passage of this motion will result in certification of the Implementation Plan amendment SBV-MAJ-2-12 with suggested modifications and the adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the Commissioners present.

Resolution:

The Commission hereby **certifies** the City of Ventura Implementation Plan Amendment SBV-MAJ-2-12, if modified as suggested, and adopts the findings set forth below on grounds that the Implementation Plan amendment with the suggested modifications conforms with, and is adequate to carry out, the provisions of the certified Land Use Plan, as amended. Certification of the Implementation 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 Implementation Plan Amendment on the environment, or 2) there are no further feasible alternatives and mitigation measures that would substantially lessen any significant adverse impacts on the environment.

IV. SUGGESTED MODIFICATIONS

The staff recommends the Commission certify the proposed LUP/IP amendment, with ten modifications as shown below. Language presently contained within the certified LCP is shown in straight type. Language proposed to be added by the City of Ventura in this amendment is shown underlined. Language recommended by Commission staff to be inserted is shown double underlined. Language proposed by the City of Ventura in this amendment to be deleted is shown in ~~striketrough~~. Language proposed to be added by the City of Ventura, but required to not be added by Commission is shown in Underline with Double Strikethrough. Language proposed to be deleted by City, but required to be retained by Commission is shown in ~~Strike through with Double Underline~~. Other instructional suggested modifications to revise maps or figures are shown in *italics*.

1. SUGGESTED MODIFICATION NUMBER ONE

Section A, on Page III-21 of Article II. Urban Standards, 2.30.045 T4.3.5 Urban General 3.5- Promenade Parcels of the Downtown Specific Plan shall be modified as follows:

1. SETBACKS

a. Primary buildings shall be placed within the shaded area as shown in the above Plan Diagram A (unless specified otherwise by a permitted Building Type)

1. Street Built-to line: 15'

2. Side Street Built-to line: 5'

3. Side Yard Setbacks: 5'

4. Rear Setback: 5' min. (with public alley)

25' min (without public alley)

5. Bluff-top Setback: All development, except for development of the 25' wide public promenade consisting of a pedestrian walkway/bicycle path, landscaping, and other public access/recreation amenities including, but not limited to, benches, picnic tables, and small trash receptacles for the purpose of public access, shall be 25' min. from the top of the bluff.

2. SUGGESTED MODIFICATION NUMBER TWO

Section B, on Page III-21 of Article II. Urban Standards, 2.30.045 T4.3.5 Urban General 3.5- Promenade Parcels of the Downtown Specific Plan shall be modified as follows:

B. Building Profile, Height, and Frontage

1. PROFILE

Intent: To avoid large, monolithic structures, as viewed from Highway 101 and from the beach, building massing should be varied both vertically and horizontally. The following massing and façade articulation techniques, employed in varied combinations, are required:

- a. Buildings shall be no more than 160' in length.
- b. Buildings over 90' long shall be organized into at least two clear masses, distinguished from one another by a height variation of at least one story. Offsets in plan are recommended in combination with such height variation.
- c. To reinforce the town scale of the buildings by introducing verticality to offset the generally horizontal proportions of these buildings, facades should be composed to express horizontal modules of 30 to 40'. This should be accomplished with combinations of window groupings, multi-story porches, plan offsets and roof articulation.

2. HEIGHT

- a. Maximum: ~~3~~ 4 stories for Primary Building (~~60%~~ at least 40% of building footprint shall be ~~4-story~~ 3 stories or less). No more than two (2) adjacent buildings (or major building masses up to 90 feet wide) may be 4 stories in height.
- b. Floor to Floor: 14' min. and 17' max. ground floor for the shopfront frontage type; 16' max. ground floor for all other frontage types; 12' max. second floor and above.
- c. Accessory buildings: 14' max. to eave or parapet line.

3. FRONTAGE TYPES

- a. Shopfront
- b. Forecourt
- c. Stoop
- d. Porch and Multi-Story Porch
- e. Dooryard

4. BIRD SAFE BUILDING STANDARDS

a. All new buildings, shall be required to comply with bird-safe building standards for façade treatments, landscaping, lighting and building interiors as follows:

1. Untreated glass or glazing shall not comprise more than thirty-five percent (35%) of a building facade.

2. Acceptable glazing treatments include: fritting, netting, permanent stencils, frosted, non-reflective or angled glass, exterior screens, decorative latticework or grills, physical grids placed on the exterior of glazing, UV patterns visible to birds or similar treatments as approved by the local jurisdiction.

i. Where applicable, vertical elements within the treatment pattern should be at least one-quarter inch (1/4") wide, at a maximum spacing of four inches (4");

ii. Where applicable, horizontal elements within the treatment pattern should be at least one-eighth inch (1/8") wide, at a maximum spacing of two inches (2"); and

iii. No glazing shall have a "Reflectivity Out" coefficient exceeding thirty percent (30%). That is, the fraction of radiant energy that is reflected from glass or glazed surfaces shall not exceed thirty percent (30%).

3. Building edges of exterior courtyards and recessed areas shall be clearly defined, using opaque materials and non-reflective glass.

4. Trees and other vegetation shall be sited so as to avoid or obscure reflection on building facades. Trees and other vegetation planted adjacent to a reflective wall or window shall be planted no further than three feet from the reflective surface.

5. Buildings shall be designed to minimize light spillage and maximize light shielding to the maximum feasible extent per the following standards:

i. Nighttime lighting shall be minimized to levels necessary to provide pedestrian security.

ii. Building lighting shall be shielded and directed downward.

iii. Up-lighting and use of event "searchlights" or spotlights is prohibited.

iv. Landscape lighting shall be limited to low-intensity and low-wattage lights.

v. Red lights shall be limited to only that necessary for security and safety warning purposes.

6. Artificial night light from interior lighting shall be minimized through the utilization of automated on/off systems and motion detectors in non-residential buildings.

7. Avoid the use of “bird traps” such as glass courtyards, interior atriums, windows installed opposite each other, clear glass walls, skywalks and transparent building corners.

3. SUGGESTED MODIFICATION NUMBER THREE

Section C2, on Page III-21 of Article II. Urban Standards, 2.30.045 T4.3.5 Urban General 3.5- Promenade Parcels of the Downtown Specific Plan shall be modified as follows:

2. OFF-STREET PARKING REQUIREMENTS

a. Residential:

1. Please refer to Zoning Regulation Chapter 24.415 (Off-Street Parking Regulations).

b. Non-Residential:

1. ~~2 parking spaces/1,000 s.f.~~ Please refer to Zoning Regulation Chapter 24.415 (Off-Street Parking Regulations).

2. Development may elect to provide less parking pursuant to a Transportation Demand Program (TDP) that would include but would not be limited to: transit passes, bicycle or vehicle sharing, car/van pool vehicles, or other alternative transportation incentives. The TDP shall be reviewed and approved prior to issuance of the coastal development permit.

3. BICYCLE PARKING

a. Covered, secure bicycle parking shall be provided as follows: one bicycle locker or adequate-sized storage area per residential unit; one public bicycle parking space per 1,000 square feet of commercial space; and one public bicycle parking space per coastal access parking space. Each non-residential bicycle parking space shall be at least 2 1/2 feet wide. At least five feet of space shall be allowed behind each space to allow room to maneuver. Bicycle parking shall be separated from vehicle parking for safety and ease of use. Bicycle racks shall be covered to protect bicycles from rain and sun. Covers shall be located at least seven feet above ground, and may include building awnings. Bicycle racks shall be located in well-lit areas visible from commercial storefronts and public areas. Prominent signage within the public right-of-way shall be installed to direct the public to bicycle parking spaces. Any bicycle parking provided in excess of this requirement need not be covered. No variance may be granted to obviate compliance with this requirement.

4. ELECTRICAL VEHICLE CHARGING STATIONS (EVCSs)

a. New multiple-family development shall provide EVCSs for a minimum of 5% of the

total covered parking spaces as required pursuant to Zoning Regulation Chapter 24.415. The remaining covered parking spaces shall be equipped with the appropriate electrical service capacity and conduits for the future installation of additional EVCSs. EVCSs shall be provided in disabled person parking spaces in accordance with state and federal requirements.

b. New commercial development over 10,000 square feet, shall provide EVCSs to serve 2% of the total parking spaces as required pursuant to Zoning Regulation Chapter 24.415. EVCSs shall be provided in disabled person parking spaces in accordance with state and federal requirements.

4. SUGGESTED MODIFICATION NUMBER FOUR

The Regulating Plan Diagram and Views Corridor Diagram on Page III-22 and the Public Realm Diagram on Page III-24 of Article II. Urban Standards, 2.30.045 T4.3.5 Urban General 3.5- Promenade Parcels of the Downtown Specific Plan shall be modified to designate the use of the triangular area of land located west of Ash Street solely for public parking for beach access. The key of the Regulating Plan and Public Realm Diagram shall also be modified to add text and a separate color designation for identification of this area.

5. SUGGESTED MODIFICATION NUMBER FIVE

“Allowed Land Uses” in Section E, page III-21 of Article II Urban Standards, 2.10.010 of the Downtown Specific Plan shall be modified to show that “Corner Store” and “Restaurant” shall be allowed within the T4.3.5 Urban General 3.5 zone pursuant to an administrative permit (“P”) rather than requiring a Use Permit (“U”). Table III-1 on page III-8 of Article II Urban Standards, 2.10.010 of the Downtown Specific Plan shall also be replaced in its entirety with Table III (Exhibit 4) that was approved by the Commission pursuant to LCPA 2-08 with the exception that the column designating the uses for T4.3.5 Urban General 3.5 zone may remain. The T4.3.5 Urban General 3.5 zone shall reflect the “Corner Store” and “Restaurant” modifications described above. Figure III-1 on page III-9 of Article II. Urban Standards, 2.10.010 of the Downtown Specific Plan shall be modified to remove the Triangle Site from the Eastside Workplace Overlay.

6. SUGGESTED MODIFICATION NUMBER SIX

All references to the public promenade within the T4.3.5 Urban General 3.5- Promenade Parcels zone shall be modified to depict a minimum width of 25 feet, and Section I, on Page III-24 of Article II. Urban Standards, 2.30.045 T4.3.5 Urban General 3.5- Promenade Parcels of the Downtown Specific Plan shall be modified as follows:

I. Public Promenade

1. ~~Provide~~ Construct a public Promenade along the south property line of the Site abutting the U.S. 101 right of way as shown in the below Public Realm Diagram and Section Diagrams 1 and 2 on the opposite page. Construction of the public Promenade shall occur concurrently with construction of any site development, and shall be completed prior to issuance of any certificate of occupancy. The Promenade shall be devoted to public, coastal access and shall consist of the following components:
 - a. Promenade: ~~20'~~ 25' min. between Ash St. and ~~Ann St.~~ 25' min. between ~~Ann St.~~ and Sanjon Rd.
 - b. Street between Ash St. and Ann St.: 36' max., curb to curb. Parking along Ash Street, ~~the promenade street, and Ann Street~~ shall be made available to the public, and shall not be subject to permit parking restrictions ~~during daytime hours. On-street parking shall be regulated so as to facilitate parking availability for coastal visitors~~
 - c. Public access sidewalk and planter strip: 12' min., combined
 - d. A minimum of 2 Promenade Overlooks, generally in the areas shown below and as illustrated in the Promenade Overlook Diagrams on pages III-26 and III-27.
 - e. Other public access and recreational amenities including but not limited to benches/picnic tables.

7. SUGGESTED MODIFICATION NUMBER SEVEN

Section K, on Page III-28 of Article II. Urban Standards, 2.30.045 T4.3.5 Urban General 3.5- Promenade Parcels of the Downtown Specific Plan shall be modified as follows:

K. ~~Optional~~ In Lieu Fee for Residential Development

To offset the effect of a zoning change to allow lower priority land uses at the Promenade Parcels Site, the Local Coastal Plan ("LCP") shall require payment of a mitigation fee by any project applicant proposing ~~non-visitor serving~~ residential uses. Such mitigation fee shall be used for the provision of lower cost overnight visitor serving accommodations within the coastal zone of the City of Ventura or Ventura County. The mitigation fee shall be in the amount of One Million, Eight Hundred Thousand Dollars (\$1,800,000.00) ~~Twenty-Five Thousand and No/100 Dollars (\$25,000.00) per acre of land that is devoted exclusively to non-visitor serving use.~~

Prior to the issuance of any building permits to the project applicant by the City of Ventura, the project applicant shall deposit the entire mitigation fee in an interest-bearing account, to be established and managed by the ~~State Coastal Conservancy (the "Conservancy")~~ California Department of Parks and Recreation ("State Parks") pursuant to a memorandum of understanding entered into between ~~the Conservancy~~ State Parks and the Executive Director of the Coastal Commission (the "Executive Director"). ~~The MOU shall be prepared in consultation with the City of Ventura. The entire mitigation fee and any accrued interest shall be used to protect, enhance, or provide lower cost overnight visitor serving accommodations at another appropriate location within the Coastal Zone in the City of Ventura or Ventura County, as authorized by the Executive Director, in consultation with the City of Ventura, within five (5)~~

years of payment of such mitigation fee (unless this time limit is extended for good cause by the Executive Director for a period not to exceed an additional five (5) years). Without limiting the generality of the foregoing, the Executive Director may authorize such mitigation fee to be used to provide funding grants to public agencies or non-profit organizations for the provision of lower cost overnight visitor accommodations within ~~or in close proximity to~~ the coastal zone, including but not limited to hostel accommodations, campground accommodations, cabins, or low cost hotel or motel accommodations. Any portion of the mitigation fee that remains after the expiration of the aforementioned time period shall, within six (6) months of such date, at the election of the Executive Director, either (i) be donated to ~~the California Department of Parks and Recreation, the Mountains Recreation and Conservation Authority (MRCA), the State Coastal Conservancy, City of Ventura, or another organization acceptable to the Executive Director, for the purpose of protecting, enhancing, or providing lower cost overnight accommodations within the Coastal Zone of the City of Ventura, or (ii) be used for other public recreational benefits in the coastal zone, as jointly determined by the Conservancy and the Commission.~~

8. SUGGESTED MODIFICATION NUMBER EIGHT

Page I-26 of the Downtown Specific Plan shall be modified as follows:

Sanjon Street

Sanjon provides the eastern connection from Downtown to the beach and has existing visitor serving assets such as the Pierpont Inn and Racquet Club. Sanjon will be re-configured to make it pedestrian friendly, activating the street with pedestrian amenities, residential development, and visitor serving uses such as hotels, restaurants/cafes and retail. Development of the ~~Triangle~~ Triangle Site (Focus Area C) will play an important role ~~as well in that endeavor.~~

9. SUGGESTED MODIFICATION NUMBER NINE

Page I-42 of the Downtown Specific Plan shall be modified as follows:

Ash Street Pedestrian Bridge

Ash Street provides another opportunity to connect views of the mountains and the ocean. Public improvements and the design of private investment along Ash Street should enhance the visual and functional link between the neighborhood and the waterfront. ~~A small pocket park or other civic destination should could be established.~~ Public parking shall be maintained at the northern terminus of the Ash Street pedestrian bridge, provided that. A streetscape plan will be prepared and a funding source is identified to implement the plan.

Timeframe: Near- to mid-term (1-5 years)

10. SUGGESTED MODIFICATION NUMBER TEN

Page III-57 of the 1989 Comprehensive Plan shall be modified as follows:

The approximately ~~eight-eleven-acre vacant site~~ located west of Sanjon Road and south of the Railroad ~~is has a land use designation of designated DTSP (Downtown Specific Plan) Planned Commercial-Tourist-Oriented in order to protect this site for recreational and visitor-serving commercial uses. Any development of this site shall be Tourist Commercial in accordance with the Downtown Specific Plan Designation.~~ Any development on this site shall provide and construct at a minimum a twenty-five foot wide public ~~pedestrian easement and promenade for pedestrian and bicycle use~~ which extends from the existing pedestrian bridge at the northeast corner of the site to the edge of the bluffs above Sanjon Road, in accordance with the Downtown Specific Plan. Any local project approvals for development on this site shall be subject to a master plan which addresses be consistent with the certified LCP and Downtown Specific Plan requirements related to bluff stability and setbacks, ridgeline and coastal views, scenic qualities, building mass and scale, noise, safety and public access issues.

V. FINDINGS FOR DENIAL OF THE LUP/IP AMENDMENT AS SUBMITTED, AND APPROVAL OF THE LUP/IP AMENDMENT, IF MODIFIED AS SUGGESTED

The following findings support the Commission's denial of the proposed Land Use Plan and Implementation Plan Amendment as submitted, and approval of the Land Use Plan and Implementation Plan Amendment if modified as indicated in Section IV (Suggested Modifications) above. The Commission hereby finds and declares as follows:

A. AMENDMENT DESCRIPTION AND BACKGROUND

The proposed amendment involves changes to the City of Ventura's ("City") Land Use Plan (LUP) and Implementation Plan (IP) components of its certified Local Coastal Program (LCP). As described in further detail below, the City is requesting to modify the land use and zoning designation of eight parcels, which together comprise approximately 11 acres of land known as the Triangle Site, or Promenade Parcels ("subject site"). The City is also requesting to modify text within the 1989 Comprehensive Plan, as well as text, tables, and maps within the Downtown Specific Plan. Additionally, the City is requesting to add a new zoning designation to the Downtown Specific Plan, T4.3.5 Urban General 3.5 Promenade, which will apply solely to the subject site.

Specifically, the subject site is located on a blufftop, immediately north of Highway 101, between the terminus of Ash Street and Sanjon Road. Although higher in elevation, the subject site is located approximately 300 ft. from San Buenaventura State Beach, and approximately one mile from the Ventura River. The entire subject site is comprised of approximately 11 acres, and is predominately vacant land, except for a small portion which contains an existing Joe's Crab Shack restaurant, as depicted on Exhibit 6.

The City of San Buenaventura Local Coastal Program was first certified in two segments, a complete Ventura Harbor LCP, certified on May 21, 1981 and the City LCP, certified on February 23, 1984. The certified 1989 Comprehensive Plan is the current Land Use Plan (LUP) and the Municipal Code is the current Implementation Plan (IP) for areas of the City of Ventura within the Coastal Zone. Additionally, the Downtown Specific Plan, which was certified in 2010, is a specific plan for the City's downtown area and contains both LUP and IP components that are applicable only within the downtown area. Together, these documents function as the LCP for the subject site.

The City has prepared a 2005 General Plan which they have informed Commission staff was intended to function as a comprehensive update of the 1989 Comprehensive Plan. However, the City of Ventura has never submitted the 2005 General Plan to the Commission for review and certification; thus, the 2005 City of Ventura General Plan has not been certified by the Commission and is not a component of the City's LCP. As a result, the policies of the uncertified 2005 General Plan are only applicable in those areas of the City located outside of the Coastal Zone.

Proposed Land Use and Zoning Designation Modification

The City is requesting to modify both the land use and zoning designation of the eight parcels that comprise the subject site. The current land use designation is Planned Commercial Tourist Oriented (PC-T), and the current zoning designation is Commercial Tourist Oriented (C-T-O). The City has requested modification of the land use designation to Downtown Specific Plan (DTSP) and the zoning designation to T4.3.5 Urban General 3.5 Promenade.

Proposed Downtown Specific Plan Modifications

The City proposes to amend the implementation plan portion of the Downtown Specific Plan (DTSP) (Article II. Urban Standards), to include a new zoning designation, "*T4.3.5 Urban General 3.5 Promenade*", which would be applicable solely to the subject site. This zoning designation allows for a mix of permitted uses, including residential, as depicted on Exhibit 3. The City is also proposing to modify Table III-1, which depicts the Land Use and Permit Requirements for the DTSP zoning designations, to include a column for the proposed T4.3.5 zone, as well as Figure III-1, which depicts the various zoning designations of parcels within the DTSP area, to reflect the proposed zoning modification at the subject site. Additionally, the City is also requesting to modify the text of the DTSP relating to the subject site, as depicted on Exhibit 2.

Proposed Comprehensive Plan Modifications

On page III-57 of Downtown Community section of the Land Use Element in the Comprehensive Plan, the City proposes to modify the language which specifically relates to the subject site, including the zoning designation, as depicted on Exhibit 2.

B. PUBLIC ACCESS AND RECREATION

The proposed amendment raises issues with the following Coastal Act policies:

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 30213 of the Coastal Act states (in relevant part):

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

Section 30221 of the Coastal Act states:

Oceanfront land suitable for recreational use shall be protected for recreational use and development unless present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area.

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 30252 of the Coastal Act states:

The location and amount of new development should maintain and enhance public access to the coast by (1) facilitating the provision or extension of transit service, (2) providing commercial facilities within or adjoining residential development or in other areas that will minimize the use of coastal access roads, (3) providing non-automobile circulation within the development, (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation, (5) assuring the potential for public transit for high intensity uses such as high-rise office buildings, and by (6) assuring that the recreational needs of new residents will not overload nearby coastal recreation areas by correlating the amount of development with local park acquisition and development plans with the provision of onsite recreational facilities to serve the new development.

Section 30253 of the Coastal Act states, in relevant part:

New development shall:

... (4) *Minimize energy consumption and vehicle miles traveled.*

The protection, enhancement, and provision of public access and recreation is one of the strongest mandates of the Coastal Act. Further, Section 30213 of the Coastal Act provides for the protection and provision of lower cost visitor and recreational facilities. Visitor-serving commercial development is considered a priority use under the Coastal Act.

Additionally, the certified Land Use Plan for the City of Ventura outlines policies for the protection of visitor-serving uses.

Comprehensive Plan, Policy 15.10 Coastal Access Program states:

The City shall continue to ensure maximum public access consistent with public safety and fragile coastal resources. To carry out its intent, the City shall implement the policies of this Comprehensive Plan.

Comprehensive Plan Policy 7.4 states:

Work with the State Department of Parks and Recreation, State Coastal Conservancy, Ventura Port District and Ventura County Fair Board to ensure continued public access to and beautification of the City's beach areas which contribute toward meeting City park needs.

Comprehensive Plan Land Use Element Policy Regarding Vacation Condominiums and Lower Cost Visitor-Serving Facilities states (in relevant part):

Visitor-serving facilities, such as lower cost overnight accommodations and restaurants, provide an important coastal resource. In order to protect, encourage, and, where feasible, provide these facilities, the City shall:

- 1) Promote the continued operation of existing facilities (including lower-cost motels and restaurants) by not permitting incompatible uses to locate adjacent to such facilities. Specifically, the City shall not permit developments which, based on physical characteristics (e.g., height, open storage) or operational characteristics (e.g., noise, traffic, hours of operation, etc.) would have a deleterious effect on existing visitor-serving uses.*
- 2) Encourage and coordinate with the State Department of Parks and Recreation in its endeavor to establish a hostel facility in or near the San Buenaventura Coastal Zone.*

The City of Ventura is a favorable location to provide public amenities that will enhance access to the coast and recreational opportunities for the general public because it is adjacent to the coastline, including a public promenade along a section of its shoreline, popular beach areas, and a public pier. Pursuant to the public access policies of the Coastal Act and the LCP, the Commission has the responsibility to ensure the priority of visitor-serving uses and public access and to ensure that a range of affordable facilities be provided in new development along the coastline of the State. The proposed LCP amendment, as submitted by the City, includes changes that raise issues regarding public access and lower cost visitor and recreational policies within the City of Ventura. The primary change involves modifying the land use and zoning designation of the subject site to a lower priority designation, which does not ensure that public access and lower cost visitor and recreational uses are protected as priority uses. Specifically, the proposed amendment to the City's zoning code (pursuant to the 2007 Downtown Specific Plan) would allow for the future conversion of land currently designated for visitor-serving commercial development and visitor-serving overnight accommodations to lower-priority uses, such as residential development or limited overnight accommodations, which adversely impact the stock of overnight visitor accommodations.

Commercial-Tourist-Oriented Designation and Lower Cost Overnight Accommodations

This proposed amendment raises issues with regard to Coastal Act policies that prioritize visitor-serving commercial and recreational facilities over private residential, general industrial or general commercial development. It also raises issues with regard to the specific policies of the Land Use Plan that require protection of public access, visitor-serving commercial and recreational opportunities. The proposed amendment changes the zoning designation of all parcels within the Triangle Site area traditional zone designations, dependent upon use, to transect-based zone designations. As noted above, the transect-based zone standard allows a flexible development pattern by allowing certain building forms, rather than land-use requirements. The transect zones identify standards for density, height, setback requirements, and other specific implementation plan measures. While the transect-based "Urban Standards" are intended to allow flexibility in development in the downtown area, the Coastal Act prioritizes public access and visitor-serving uses in the Coastal Zone, thereby creating a conflict with the City's proposed flexible standards that would allow a mix of uses, including residential uses.

The Coastal Act, as well as the City's Land Use Plan standards, prioritize certain sites within the City for public access, visitor-serving commercial, and recreational opportunities. In particular, the City's current zoning code designates a handful of sites (including the subject site), both developed and undeveloped, within the downtown area as Commercial-Tourist-Oriented ("CTO"). The CTO designation emphasizes visitor-serving commercial and recreational facilities and does not allow residential use. The permitted uses include a variety of uses, such as administrative, business, and professional services; automotive businesses, food and beverage establishments and retail sales, government services, personal services, recreational services, recycling services, and shopping centers. (Municipal Code Section 24.240.020).

Currently, the certified LCP identifies the subject site and adjacent sites in particular, as important sites for visitor-serving commercial use. The historic Pierpont Hotel site, currently developed with a 77 room hotel, is located across Sanjon Road from the subject site and is

important because it is easily accessible from main thoroughfares, it is visible from the freeway, and it has views of the Pacific Ocean. The City has proposed to modify text within the 1989 Comprehensive Plan, which addresses commercial visitor serving development such as hotels, restaurants, and cafes at subject site as well as the Pierpont Inn site. Although it is anticipated that the subject site will be developed with predominately residential development, it is important to prioritize commercial visitor serving development on adjacent C-T-O sites, as well as on the subject site. The Commission has therefore required **Suggested Modification Five (5) and Eight (8)** in order to retain and promote language which prioritizes visitor serving uses within the certified LCP.

The site is also adjacent to an existing public access walkway connecting the site to the beach. The 1989 Comprehensive Plan portion of the LCP specifically points out the importance of this site for visitor-serving uses. However, although the Triangle Site is close to the beach, the location of the site between the rail road tracks and the 101 Freeway, and the existence of numerous other better located hotel and guest accommodation opportunities has made the site less attractive for hotel, motel or similar tourist serving accommodations. Moreover, when looked at on a two-dimensional map, the Triangle Site appears to provide complete connection between Sanjon Road and Ash Street. However, on the Sanjon Road boundary there is a 45 feet elevation shift between the portion of the site adjacent to Sanjon Road. Thus, while the lower portion of the site, directly adjacent to Sanjon Road lends itself to use for tourist serving commercial uses, unless the existing natural grade of the site is significantly altered, the upper portions of the site are not suitable for tourist serving uses because it is highly unlikely to generate the kind of pedestrian traffic that would render a use economically feasible.

The subject site is currently designated specifically for a commercial visitor-serving use, and the proposed modification of both the land use and zoning designation of the subject site would result in the conversion to a lower priority land use (mixed-use), which could result in potential impacts to visitor serving and recreational resource opportunities. As such, the City has submitted an Assessment of the Economic Viability of Visitor-Serving Uses at the Lloyd Prosperities Site, completed by HR&A advisors, and dated December 12, 2011, and June 18, 2012, which examines the feasibility of developing commercial and/or commercial visitor serving facilities on the subject site both currently and into the future. The submitted report finds that there is no market demand today, or projected into the future, that would be sufficient to support the construction of a hotel or other visitor serving commercial development at the subject site.

The Commission has been supportive of limited mixed-use proposals on parcels designated for visitor serving uses in urban areas provided the lower priority uses, such as office, residential, and general commercial uses, support the visitor serving commercial uses and there is an adequate amount or level of visitor serving uses, public amenities and public access elements. However, the major Coastal Act concern raised by the proposed amendment request is that it provides no means to maintain an adequate level of visitor-serving commercial uses, adequate parking, and public access on site consistent with the policies of both the certified LUP and the Coastal Act priorities.

Section 30213 of the Coastal Act provides for the protection and provision of lower cost visitor

and recreational facilities. Visitor-serving commercial development is considered a priority use under the Coastal act and, pursuant to public access policies of the Coastal Act, the Commission has the responsibility to ensure that a range of affordable facilities be provided in new development along the coast, including overnight accommodation options.

The certified Land Use Plan for the City of Ventura also contains policies for the protection of lower-cost overnight accommodations, outlined above. However, the City has not provided any specific land use plan policies or implementation measures in the present amendment to assure that lower-cost overnight accommodations are preserved or protected in the coastal zone.

Historically, the Commission has approved new hotel developments along the coastline. However, often this new development, particularly in recent years, has been exclusive, higher priced resort developments. In each of those actions, the Commission has secured offsetting public amenities, such as new public accessways, public parking or open space dedications, to address the Coastal Act priorities for public access and visitor support facilities. In addition, the Commission has required mitigation for the loss of land that was available for lower cost and visitor serving facilities (e.g. NPB-MAJ-1-06A). The expectation of the Commission, based upon several recent decisions, is that developers of sites suitable for overnight accommodations will provide facilities which serve the public with a range of incomes [HNB-MAJ-2-06- (Huntington Beach-Timeshares); San Diego Unified Port District Port District A-6-PSD-8-04/101 (Lane Field); A-5-RPV-2-324-(Long Point)]. If the development does not provide for a range of affordability on-site, the Commission has required off-site mitigation, such as payment of an in-lieu mitigation fee, to fund construction of lower cost overnight accommodations, e.g. youth hostels, campgrounds etc.

In light of current trends in the market place and along the coast, the Commission is increasingly concerned with the challenge of providing lower-cost overnight accommodations consistent with the Coastal Act. Recent research in support of a Commission workshop concerning hotel-condominiums showed that only 7.9% of the overnight accommodations in nine popular coastal counties were considered lower-cost. Although statewide demand for lower-cost accommodations in the coastal zone is difficult to quantify, there is no question that camping and hostel opportunities are in high demand, and that there is an on-going need to provide more lower-cost opportunities along California's coast. For example, the Santa Monica hostel occupancy rate was 96% in 2005, with the hostel being full more than half of the year. State Parks estimates that demand for camping has increased 13% between 2000 and 2005. Nine of the ten most popular campgrounds are along the coast (2006 Condominium-Hotel Workshop).

Although low-cost overnight facilities are not currently developed on the subject site, the proposed change in both the land use and zoning designation would result in the loss of land that has been specifically designated for such use and which could be potentially developed with such facilities in the future. As the trend continues to build residential development on land that has been previously designated for hotel/motel development and to demolish existing low-cost hotels/motels, persons of low and moderate incomes will make up fewer of the guests staying in the City of Ventura's coastal zone. By forcing this economic group to lodge elsewhere, there will be a direct impact on public access to the beach and coastal recreational areas within the area. With the loss of low-cost lodging facilities, a large segment of the state's population will be

excluded from overnight stays within this coastal area. Therefore, by protecting and providing low-cost lodging for the price sensitive visitor, a larger segment of the population will have a greater opportunity to enjoy access to the beach area through overnight stays along or near the coast. Furthermore, access to coastal recreational facilities, such as the beaches, harbor, piers, and other coastal points of interest, are also enhanced when there are overnight lodging facilities that serve a broader segment of the population.

In an effort to protect lower cost visitor-serving facilities, the Commission has previously imposed in-lieu mitigation fees when development proposes residential or only high cost accommodations. As such, in past actions, the Commission has found that the loss of low cost hotel units should, under most circumstances, be mitigated at a 1:1 ratio lost to new units provided. For high cost overnight visitor accommodations or residential development where low cost alternatives are not included onsite, a mitigation fee of \$30,000 per room is required for 25% of the high cost rooms constructed. By requiring an in-lieu fee, a method is provided to assure that some degree of lower cost overnight accommodations will be protected. Commission staff has met with City staff several times and had advised City staff that the Commission has given the direction that mitigation fees or other mitigation options are necessary to protect low cost visitor serving overnight accommodations. The amendment request, as submitted by the City of Ventura, does provide for an in-lieu fee to offset the loss of low-cost overnight accommodations opportunities, should residential development be constructed on the subject site.

The \$30,000 per room in-lieu fee amount was established based on figures provided by Hostelling International in a letter dated October 26, 2007. The figures provided are based on two models for a 100-bed, 15,000 square foot hostel facility in the coastal zone, and utilize experience from the existing 153-bed Hostel International San Diego Downtown Hostel. Both models include construction costs for the rehabilitation of an existing structure and factor in both “hard” and “soft” construction and start-up costs, but do not include costs associated with ongoing operations. “Hard” costs include, among other things, the costs of purchasing the building and land and construction costs. “Soft” costs include closing costs, architectural and engineering contracts, construction management, permitting fees, legal fees, furniture and other equipment costs. Based on these figures, the total cost per bed ranged from \$18,300 for a leased facility to \$44,989 for a facility on purchased land. This model is not based on an actual project, and therefore the actual cost of the land/building could vary significantly, and therefore the higher cost scenario could represent an inflated estimate. In order to take this into account, the Commission finds that a cost per bed located between the two model results is most supportable and conservative. More recent conversations with representatives from the Hostelling International USA have also supported the idea that the 2007 estimated cost per room would be applicable to the Los Angeles region as well, with inflation taken into account.

Therefore, consistent with recent past commission actions, an in-lieu fee requirement of \$30,000 per room has been proposed by the City to apply to 25% of the of the hotel rooms that could potentially be built onsite. The City has also estimated, based on the size/configuration of the site, that an approximately 210 room hotel would be the maximum size of a hotel at this location. However, the City’s proposal did not take into account an added amount to compensate for inflation since 2010 (consumer Price Index). As such, Staff has calculated the added rate of

inflation to \$30,000 since October 26, 2007, when the Hostelling International study was done, and according to the U.S. Bureau of Labor Statistics CPI Inflation Calculator, \$30,000 in 2007 has the buying power of \$34,188.88. Thus, **Suggested Modification Seven (7)** requires the City to modify the text of Section K of the T4.3.5 zone so as to reflect the current in-lieu fee.

Furthermore, the full amount for a 210 unit hotel, which could potentially be built on the subject site equates to the following in-lieu mitigation fee: 210 rooms x 25% x \$34,188.88 = approximately \$1,800,000.00. Furthermore, suggested Modification Seven (7) requires that prior to the issuance of any building permits for the subject site, the above calculated fee shall be deposited into an account managed by the California Department of Parks and Recreation (State Parks) for the construction of low-cost visitor serving accommodations within the City of Ventura or Ventura County. State Parks has indicated that with the monies obtained through this LCP amendment, they can construct low-cost overnight facilities, including cabins and camp sites, at three potential locations, including Emma Wood State Beach and San Buenaventura State Beach, both located within the City of Ventura, or at McGrath State Beach, which is located in Ventura County.

As stated, it is a goal of the City's certified Land Use Plan (LUP) to preserve coastal access, including the provision of lower cost overnight accommodations within the City's Coastal Zone. In conclusion, the proposed amendment to the IP will not be fully adequate to carry out the certified land use plan, for the above-stated reasons and is denied as submitted. With the suggested modification, however, the proposed IP amendment can be approved as being consistent with and adequate to carry out the certified land use plan.

Public Access Easement and Parking

The Coastal Act policies cited above address transit and the need to prioritize provision of non-automobile circulation within development as well as the need to minimize energy consumption and vehicle miles traveled. As recognized within the 1989 Comprehensive Plan as well as the DTSP, streets, sidewalks, bicycle paths, and recreational trail networks should be designed and regulated to encourage walking, bicycling, and transit ridership. Commercial and retail developments should be required to design their facilities to encourage walking, bicycling, transit ridership, and ridesharing.

The subject site is located immediately adjacent to San Buenaventura State beach, which is highly used by both residents and visitors to the area. Sanjon Road, which is located immediately east of the subject site provides both on and off street public parking for beach users. Additionally, the public currently utilizes the small triangular portion of land located on the west side of Ash Street (also located within the designated Triangle Site area) for beach parking, as it is located immediately adjacent to a public pedestrian overpass that crosses Highway 101. In order to ensure that public parking remains available in this area **Suggested Modification Four (4)** requires modifications to the Regulating Plan Diagram and the Views Corridor Diagram within the DTSP in order to specifically designate this area solely for public parking for beach access.

The project site provides an important linkage between the downtown area and the beach. As designated within the text of the 1989 Comprehensive Plan, any development on the subject site is required to provide a minimum 25 ft. wide public easement, so as to facilitate access across the subject site. In addition, the proposed amendment includes the provision that a public promenade be provided on site along the edge of the bluff top. The promenade will function as a public area and will consist of a minimum 25 ft. wide path, landscaping, and other public access and recreational amenities. However, as proposed, the public promenade would only be required to be 20 ft. in width for the majority of the site. Further, Diagram 1 in Section J, on Page III-25 of Article II. Urban Standards, 2.30.045 T4.3.5 Urban General 3.5- Promenade Parcels of the Downtown Specific Plan, shows that Promenade Street would be allowed to encroach within the 25 ft. public easement in those areas of the site where the promenade is proposed to be only 20 ft. in width, inconsistent with the requirements of the certified LUP. Moreover, the language within both the existing LCP, and that which is proposed by the City as a component of the subject amendment, does not specifically require that the public promenade shall be constructed within the above referenced subject easement area. As such, the Commission has required **Suggested Modifications Six (6) and Ten (10)** in order to ensure that the promenade improvements are constructed within the 25 ft. easement as part of any development on site, **Suggested Modification Six (6)** further requires that the public promenade will be a minimum of 25 ft. in width, consistent with the provision of the a 25 ft. public easement required by the City's certified Comprehensive Plan. These suggested modifications require that concurrent with development of the subject site, construction of the public promenade shall also occur, and shall include the development of other public access amenities such as benches and picnic tables.

Furthermore, as proposed within the T4.3.5 zone, off-street parking requirements for non-residential development would not conform to the standards of the certified within the Municipal Code (IP). Inadequate parking at the subject site would adversely impact public parking in the surrounding area that is widely used by the public for beach access. Furthermore, as proposed, the T4.3.5 zone did not include any development standards for the inclusion of facilities for alternate modes of transportation. The certified LCP contains policies to specifically encourage the provision of alternative forms of transportation, particularly if and when new development creates demand for such service. The 2007 Downtown Specific Plan contains a Chapter on transportation and circulation- "Goal 6: Mobility" which is to "[c]reate an integrated transportation system that effectively serves the Downtown area, making Downtown a place where people prefer to walk, bike or ride public transit than drive a car." Supporting policies within the chapter relate to providing a multi-modal transit center, improving circulation through new projects and related facilities, supporting local bus services, and facilitating car-sharing programs and promoting alternative resident and transportation modes, as well as creating a Transportation Demand Management Fund (TDM) to be used to develop regional programs to offset air pollutant emissions associated with growth anticipated under the Downtown Specific Plan. The proposed LCP (LUP & IP) also contains a chapter related parking management, "Goal 7: Park Once." In order to effectively implement the existing policies and provisions of the certified LCP, the Commission has required **Suggested Modifications Three (3) and Nine (9)**, which prioritize adequate onsite parking for both residents and the public. Additionally, these suggested modifications required the development of both bicycle storage areas and vehicle charging stations, so as to promote alternative modes of transportation.

Lastly, the City has proposed modifications to Table III-1 and Figure III-1 of the T4.3.5 zone. However, in addition to the proposed changes in the subject amendment, the City also included language that has not been certified by the Commission that does not relate to the subject site. As such, the Commission has required **Suggested Modification Five (5)** in order to correct this error, and to ensure that the subject table and figure accurately depict the language of the certified LCP.

In conclusion, the LUP amendment as proposed will not be adequate to carry out the provisions of the Coastal Act. However, with the suggested modification, the LUP amendment can be approved as being adequate to carry out the provisions of the Coastal Act. Further, the proposed amendment to the CZO/IP will not be fully adequate to carry out the certified land use plan, and incorporated Coastal Act policies, for the above-stated reasons and is denied as submitted. With the suggested modification, however, the proposed CZO/IP amendment can be approved as being consistent with and adequate to carry out the certified land use plan.

C. BIOLOGICAL RESOURCES

Section **30230** of the Coastal Act states:

Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreation, scientific, and educational purposes.

Section **30240** of the Coastal Act states:

- (a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.*
- (b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.*

Comprehensive Plan Goal 4 states:

Require that development be sensitive to environmental conditions, including scenic qualities.

While the subject site is not considered an environmentally sensitive habitat area (ESHA), the site is located adjacent to San Buenaventura State Beach and the mouth of the Sanjon lagoon. Additionally, the development contemplated by the proposed LCP amendment would be located approximately 1 mile downcoast of the Ventura River mouth, an area used by a variety of coastal

birds. Development adjacent to public land and coastal waters must be designed to prevent impacts which would significantly degrade the area, so it is compatible with the continuance of the habitat, as required by Section 30240 of the Coastal Act. Section 30230 of the Coastal Act applies to the proposed LCP amendment because of the threat of day and night collisions with the proposed mixed use development for both migrating and non-migrating birds.

Urban sprawl and intensified urbanization have eliminated and/or degraded bird habitat around the globe; most development is concentrated along rivers, woodlands, coasts, and wetlands that birds depend on for food and shelter. Loss of habitat squeezes birds into urbanized areas where they encounter novel man-made structures. Modern urban buildings that have clear glass or reflect light during the day and are lit up at night, as well as suburban and rural buildings with windows and reflective surfaces, can present serious hazards for birds. Bird populations, which have declined from loss of habitat, are seriously threatened by the growing presence of man-made structures within their transit and migratory flight space.

Over three decades of research has documented that buildings and windows are the top killer of birds in North America^{1,2,3,4}. In the United States, an estimated 100 million to one billion birds perish each year from encounters with buildings^{5,6}. This level of bird mortality is believed to be significant enough to impact the viability of bird populations, leading to local, regional, and national declines. Bird injury or death is primarily due to two factors: 1) the apparent inability of birds to detect and avoid glass and reflective surfaces, during the day or night, and 2) the potential for artificial night lighting to attract and/or entrap foraging or migrating bird species.

Collisions resulting in injury or death occur anywhere that birds and windows and reflective surfaces coexist because birds do not perceive glass as an obstacle during flight or are attracted to reflections they perceive as sky or natural habitat. Daytime building collisions occur on windows and reflective surfaces of all sizes on all building types, from single-story buildings to sky scrapers; during all seasons and weather conditions; and in every type of environment, from rural and suburban settings to dense city centers. A building's threat to birds increases substantially when its windows or glass reflects nearby trees, bushes, or other potential bird habitat. Window and reflective surfaces in buildings are indiscriminate killers of birds regardless of species, size, age, sex, or migration characteristics and patterns. The amount of windows and reflective surfaces in a building is the strongest predictor of how dangerous it is to birds and most collisions end in the death of the bird, either immediately or soon after from brain injuries of predation.

¹ Banks, R. 1979. Human Related Mortality of Birds in the United States. USFWS. Special Scientific Report-Wildlife No. 215.

² Ogden, L. September, 1996. Collision Course: The Hazards of Lighted Structures and Windows to Migrating Birds. A Special Report for the World Wildlife Fund, Canada and the Fatal Light Awareness Program.

³ Hager, S.B., H. Trudell, K.J. McKay, S.M. Crandall & L. Mayer. 2008. Bird Density and Mortality at Windows. *The Wilson Journal of Ornithology*. Vol. 120 (3): 550-564.

⁴ Gelb, Y. & N. Delacretaz. 2009. Windows and Vegetation: Primary Factors in Manhattan Bird Collisions. *Northeastern Naturalist*, Vol. 16(3): 455-470.

⁵ USFWS. January 2002. Migratory Bird Mortality: Many Human-Caused Threats Afflict Our Bird Populations.

⁶ Klem, D. February 2009. Avian Mortality at Windows: The Second Largest Human Source of Bird Mortality on Earth. *Proceedings of the Fourth International Partners in Flight Conference: Tundra to Tropics*. 244-251.

Two characteristics of reflective or glazed surfaces and glass contribute to birds' inability to see them: reflection and transparency. Reflections of the sky and vegetation look no different to a bird than the real thing and lure in birds resulting in collisions. The reflective property of a surface material is referred to as reflectivity. Reflectivity is a measurement of how reflective a material is; it is a measure of the intrinsic reflectance of the surface of a material. A material's reflectivity can be reduced several ways including application of anti-reflective (AR) coatings or permanent stencils and fritting or frosting. Transparent glass is invisible to birds which collide with the glass as they attempt to fly through it toward potential perches, prey items, and other attractions inside and beyond the glass. Transparency is exacerbated in buildings with significant amounts of clear glass that have plant decorated lobbies, interior atriums, windows installed opposite each other, glass balconies, and glass corners because birds perceive such conditions as unobstructed flyways.

A number of factors contribute to a building being a hazard for birds. The factors that should be considered when determining whether to require bird safe building practices include: 1) location of the building in relation to recognized migration corridors or flyways; 2) proximity of the building to open terrestrial and aquatic foraging areas – parks, forests, rivers, streams, wetlands and ocean; 3) proximity of the building to documented stopover or roosting locations; and 4) regions prone to haze, fog, mist, or low-lying clouds. Researchers have found that combination of building characteristics, coined, “bird-hazards,” present the greatest threat to birds. These characteristics include buildings located within or immediately adjacent to open spaces with lush landscaping and with a façade of more than thirty-five percent (35%) glazing; buildings located adjacent to or near wetlands or open water and with a façade of more than thirty-five percent (35%) glazing; and buildings with ‘bird traps’ such as glass courtyards, transparent building corners, and glass balconies.

The project driving the proposed LCP amendment is characterized by several of the factors that contribute to buildings being collision hazards for birds. The site's proximity to the Santa Clara River mouth and open coastal waters, both areas that support numerous coastal bird species, is the main factor. The area is prone to fog and mist during summers and is also located within the Pacific Flyway, a primary migratory route for birds.

It is possible to design buildings so they are less hazardous to birds by implemented bird safe building practices. Several major cities including Toronto⁷, San Francisco⁸, Chicago⁹, and New York¹⁰, have developed bird safe building guidelines, and a number of buildings in these cities have employed bird safe building practices. Bird safe building practices include specific treatments and design considerations for windows and glazed surfaces, lighting, and landscaping. Employment of these practices is proving effective; for instance, Swarthmore College renovated

⁷ City of Toronto. March 2007. Bird Friendly Development Guidelines. City of Toronto Green Development Standard (www.toronto.ca/lightout/)

⁸ Ibid. October 2010. City of San Francisco

⁹ City of Chicago. Design Guide for Bird-Safe Buildings: New Construction and Renovation.

¹⁰ Brown, H., S. Caputo, E.J. McAdams, M. Fowle, G. Phillips, C. Dewitt, & Y. Gelb. May 2007. Bird Safe Building Guidelines. New York Audubon (www.nyc Audubon.org).

its Unified Science Center building using glass with a ceramic frit matrix and has measured a significant reduction in bird strikes¹¹.

In order to reduce potential for bird strikes, all new buildings, including windows and outdoor fencing, shall be required to provide bird-safe building treatments, and windows shall be comprised of non-glare glass and glazing treatments, as incorporated by **Suggested Modification Two (2)**. The Commission therefore finds that, if modified by the City, as suggested, the proposed LIP portion of the LCP amendment can be approved as being consistent with and adequate to carry out the certified land use plan.

D. COASTAL HAZARDS

Section **30253** of the Coastal Act states, in part, that new development shall:

- (1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.*
- (2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.*

Additionally, the certified LUP (the 1989 Comprehensive Plan and the Downtown Specific Plan) also contains policies related to coastal hazards.

Policy 15.3 of the 1989 Comprehensive Plan Resources Element states:

New development shall be sited and designed to minimize risks to life and property in areas of high geologic, flood and fire hazards. All new development will be evaluated in conjunction with the City's Safety Element of this Comprehensive Plan, and for its impacts to and from geologic hazards (including seismic safety, landslides, expansive soils, subsidence, etc.), flood hazards, and fire hazards. Feasible mitigation measures shall be required where necessary.

The Triangle site is located on a blufftop, bordered by Sanjon Road to the east, Highway 101 to the south, Ash Street to the West, and the Union Pacific Railroad to the north. The proposed zoning designation (T.4.3.5) project includes various accessory improvements close to the bluff edge, including construction of the public promenade within the designated 25' wide public easement area. The bluff edge which descends to Highway 101 and Sanjon Road, on the east and south of the site, is quite steep. However, a large portion of the site, where a large majority of development is anticipated to occur is flat.

¹¹ Grasso-Knight. G. & M. Waddington. Spring 2000 Report on Bird Collisions with Windows at Swarthmore College.

Section 24.315.050. of the Municipal Code addresses Blufftop setbacks within the Coastal Bluff Overlay Zone as follows:

The following setback requirements shall apply to any structure constructed on the top of the bluff in addition to the front and side setback standards for the underlying zone:

- 1. All buildings and other structures shall be set back a sufficient distance from the bluff edge to be protected from bluff erosion for a minimum of 75 years. The required setback shall be determined through the evaluation of a soils and geology report provided at the expense of the developer or property owner and independently verified by the City.*
- 2. In any case, the required setback shall be at least 25 feet from the bluff edge unless a major variance is obtained pursuant to chapter 24.535. Before any such variance may be approved, it must be found through the coastal development permit approval process and the variance approval procedures in chapter 24.535, in addition to all other findings required for the granting of such approvals, that a setback of less than 25 feet is necessary to provide or continue an otherwise permissible use of the property and that a setback of less than 25 feet will not have the potential to result in the substantial alteration of natural landforms, as distinct from fill, along the bluff nor adversely impact the Sensitive Habitat of the Alessandro Lagoon. In no instance will a setback of less than ten feet be allowed.*

.....

Because coastal bluffs are dynamic, evolving landforms, establishing appropriate development setbacks from coastal bluffs is necessary. Bluff retreat may occur suddenly and catastrophically through slope failure involving the entire bluff, or more gradually through grain-by-grain erosion by marine, subaerial, and/or ground water processes. For both processes, the setback must be adequate to assure safety. Development setbacks normally are measured from the upper edge of the bluff top. Accordingly, a great deal of effort often is focused on defining that “bluff edge.” The bluff edge is simply the line of intersection between the steeply sloping bluff face and the flat or more gently sloping bluff top.

The Commission has found on many occasions that siting new development away from eroding bluffs is the preferred means of assuring consistency with this Coastal Act Section 30253, and the establishment of bluff-top setbacks for new development is an integral part of most local coastal programs. However, the subject site is not located within the designated blufftop overlay zone, outlined above within Municipal Code Section 24.315.050, and is therefore not subject to the existing LCP development standards regarding blufftop setbacks. As such, in order to ensure that any development of the subject site, built pursuant to the proposed T4.3.5 zone, is adequate to carry out the policies of the certified LUP, the Commission has required **Suggested Modification One (1)**. This modification adds language to the proposed T4.3.5 zone for implementation of a 25 ft. blufftop setback at the subject site, while still allowing for the construction of the required public access pathway and other public access and recreational amenities within the designated 25 ft. wide easement area. The Commission therefore finds that, if modified by the City, as suggested, the proposed LIP portion of the LCP amendment can be approved as being consistent with and adequate to carry out the certified land use plan.

E. VISUAL RESOURCES

Section **30251** of the Coastal Act states that:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline reservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.

Policy 1C of the DTSP (LUP) states:

Preserve and enhance public views of the ocean, mountains and culturally significant buildings such as the San Buenaventura Mission and City Hall.

As required by both the Coastal Act and City of Ventura LUP, the visual qualities of coastal areas shall be protected by maintaining views to and along the ocean and scenic coastal areas. The proposed T4.3.5 Urban General zone includes a requirement to protect coastal views towards the ocean and mountains, as depicted in the view corridors diagram in Exhibit 3. The proposed zoning designation prohibits the construction of buildings within the extended Ash Street and Kalorama Street right-of-way. Within the extended Laurel Street and Ann Street Right-of-way, buildings may extend to a maximum height of 24 ft.

As mentioned above, the T4.3.5 zone would maintain two designated view corridors, however, protection of public views from both the north and south of the project site, which include those from a landward orientation towards the ocean, and those from a seaward orientation towards the hills, have not been addressed within the LCP. In order to ensure that any development located on the subject site maintains coastal views, the Commission has worked with the City to create **Suggested Modification Two (2)**, which adds additional standards to the T4.3.5 zone to minimize the mass and height of development. This modification will protect views and ensure that the development is visually compatible with other development in the vicinity, consistent with the policies of the certified LCP. The Commission therefore finds that, if modified by the City, as suggested, the proposed LIP portion of the LCP amendment can be approved as being consistent with and adequate to carry out the certified land use plan.

F. CALIFORNIA ENVIRONMENTAL QUALITY ACT

Section 21080.9 of the California Public Resources Code (PRC) - within the California Environmental Quality Act (CEQA) - exempts local governments from the requirement of preparing an environmental impact report (EIR) in connection with their activities and approvals necessary for the preparation and adoption of a local coastal program (LCP). Instead, the CEQA responsibilities are assigned to the Coastal Commission. However, because the Natural

Resources Agency found the Commission's LCP review and approval program to be functionally equivalent to the EIR process, see 14 C.C.R. Section 15251(f), PRC Section 21080.5 relieves the Commission of the responsibility to prepare an EIR for each LCP. Nevertheless, some elements of CEQA continue to apply to this review process.

Specifically, pursuant to CEQA and the Commission's regulations (see 14 C.C.R. Sections 13540(f), 13542(a), and 13555(b)), the Commission's certification of this LCP amendment must be based in part on a finding that it meets the CEQA requirements listed in PRC Section 21080.5(d)(2)(A). That section requires that the Commission not approve or adopt an LCP:

...if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

The proposed amendment is to the City of Ventura's certified Local Coastal Program Land Use Plan and Implementation Plan. For the reasons discussed in this report, the LCP amendment, as submitted is inconsistent with the intent of the applicable policies of the Coastal Act and the certified Land Use Plan and feasible alternatives are available which would lessen any significant adverse effect which the approval would have on the environment. The Commission has, therefore, modified the proposed LCP amendment to include such feasible measures adequate to ensure that such environmental impacts of new development are minimized. As discussed in the preceding section, the Commission's suggested modifications bring the proposed amendment to the Land Use Plan and Implementation Plan components of the LCP into conformity with the Coastal Act and certified Land Use Plan. Therefore, the Commission finds that the LCP amendment, as modified, is consistent with CEQA.

RESOLUTION NO. 2012-054

**A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN
BUENAVENTURA APPROVING A COMPREHENSIVE PLAN
AMENDMENT TO THE CITY'S LOCAL COASTAL PLAN FOR
THE "TRIANGLE SITE," APN'S 073-0-280-140, 073-0-280-150,
073-0-262-040, 073-0-262-050, 073-0-280-100, 073-0-280-240,
073-0-261-020 AND 073-0-261-045**

WHEREAS, on July 18, 2012 the Planning Commission approved a Comprehensive Plan Amendment to the Local Coastal Plan for property located in the area just west of Ash Street, south of the Southern Pacific Railroad, west of Sanjon Road and north of US Hwy 101, which comprises the Assessor's Parcels described above.

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

SECTION 1: An application has been filed by Lloyd Properties, pursuant to the City of San Buenaventura Municipal Code, for a major amendment to the City's local coastal program (LCP) to allow a mix of permitted uses, including residential development on a 11.41-acre portion of the so-called "Triangle Site" and more specifically to include text and map change amendments to the City's 1989 Comprehensive Plan, which serves as the LCP for the Property, and the 2007 Downtown Specific Plan (DTSP) on a property comprised of three privately owned legal parcels totaling approximately 10.92 acres, together with approximately 0.51 acres of City-owned property and located in the area just west of Ash Street, south of the Southern Pacific Railroad, west of Sanjon Road and north of US Hwy 101 as shown in Exhibit "A" through "C", attached hereto.

SECTION 2: City staff provided adequate and timely public notice for all public hearings in the following manner, consistent with California Coastal Commission regulations Sections 13552 and 13515 and City Municipal Code regulations: publishing a notice in the Ventura County Star newspaper a minimum of ten days prior to each public hearing; mailed notice 10 days prior to each public hearing to all property owners within a 300-foot radius and all residents within a 100-foot radius of the subject property; posting one 4' by 8' sign 10 days prior to each public hearing on the subject property containing project description, case numbers, applicant and City contact information, and the date and location of public hearings; and, mailed notice a minimum of six weeks in advance of the Council hearing date to the cities of Oxnard and Port Hueneme, County of Ventura, affected public agencies, libraries, and the Ventura Star newspaper for publishing to duly notice the LCP Amendment:

SECTION 3: All proceedings having been duly taken as required by law, and upon review of the information contained within the case file and consideration of the testimony given at the public hearing, as well as other pertinent information, City Council hereby finds the following:

Local Coastal Plan Amendment Findings

1. **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 for overuse.

The proposed amendment would not accommodate development that would prevent public access to coastal resources or hinder access to the coast. The project would enhance coastal access by strengthening the connection to the beach because the amendment would require that future development provide a recreational visitor-serving promenade, including coastal access parking, from Ash Street to Ann Street.

2. **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.

The proposed amendment would not accommodate development that would prevent public access to coastal resources or hinder access to the coast. The project would enhance coastal access by strengthening the connection to the beach because the amendment would require that future development provide a recreational visitor-serving promenade, including coastal access parking, from Ash Street to Ann Street.

3. **Section 30212 of the Coastal Act states:**

Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects.

No aspect of the proposed amendment would affect public access from Sanjon Road to the shoreline. The proposed T4.3.5 Urban General 3.5 Promenade Parcels zone would require that future development provide a recreational visitor-serving promenade and public road that would add a connection to Sanjon Road, which currently does not exist, in order to increase public accessibility to the shoreline.

4. **Section 30251 of the Coastal Act states:**

Wherever appropriate and feasible, public facilities, including parking areas or facilities, shall be distributed throughout an area so as to mitigate against the impacts, social and otherwise, of overcrowding or overuse by the public of any single area.

The proposed T4.3.5 Urban General 3.5 Promenade Parcels zone would require that future development provide a recreational visitor-serving promenade and public road that would contain parallel parking available for coastal visitors. Creation of the publicly-accessible promenade creates the link between other existing coastal access points, thereby ensuring the public has multiple points of access from the Downtown area to the beach.

5. **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.

For the past two decades the owner of the project site has actively and aggressively marketed the site to developers for visitor serving uses to be consistent with the LCP goals. When the 2007 DTSP was deliberated at Coastal Commission in 2009, the Coastal Commission found the proposed DTSP transect zone at the project site conflicted with Coastal Act policies that prioritize visitor-serving uses over residential, industrial and other uses allowed in the DTSP.

The major Coastal Commission concerns were that the subject site did not provide a way to ensure an adequate level of visitor-serving commercial uses would be maintained in the Downtown area, and that a cumulative impact analysis had not been completed that articulates why a mix of allowed uses including residential as proposed by the City in the DTSP would be more appropriate for the site. Under this current LCP amendment, the City had an economic and financial viability study prepared by HR&A Advisors, Inc. dated December 12, 2011 and amended June 18, 2012 to analyze the economic and financial viability of developing "visitor-serving" commercial uses on the project site. The report's conclusion is that there is no demand for a hotel or other visitor-serving uses on the project site in the foreseeable future based upon market conditions and other approved hotel projects within both the Downtown and Harbor areas. Therefore in order to realize the public benefits envisioned under the LCP more flexibility in the allowed uses should be permitted.

The proposed amendment introduces a new policy to offset the effect of future development of the Promenade Parcels relative to provision of visitor-serving uses. The proposed policy would establish an "in lieu" visitor-serving mitigation fee for that portion of any development of the Promenade Parcels that is devoted exclusively to non-visitor serving use. It is intended that any such in-lieu fees would apply toward a project or program used to lower the cost of overnight

visitor serving accommodations elsewhere within the coastal zone of the City of Ventura.

6. **Section 30220 of the Coastal Act states:**

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

No aspect of the proposed amendment would affect access to recreational boating or other water-oriented recreational activities. The site could accommodate a range of visitor-serving uses including lodging and restaurants, either onsite or through in-lieu fee for low-cost accommodations within the City Coastal Zone. The proposed T4.3.5 Urban General 3.5 Promenade Parcels zone Regulating Plan designates areas of the Promenade Parcels where a park/public promenade and developable land would be required to be located. As proposed, park and open space area would be required along the entire length of the ocean-facing south edge of the Property, as well as for the area westerly of Ash Street.

7. **Section 30221 of the Coastal Act states:**

Oceanfront land suitable for recreational use shall be protected for recreational use and development unless present and foreseeable demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for the area.

The project site is not located on oceanfront property. The project would enhance coastal access by strengthening the connection to the beach because the amendment would require that future development provide a recreational visitor-serving promenade, including coastal access parking, from Ash Street to Ann Street.

8. **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.

The proposed amendment would not preclude the development of visitor-serving commercial recreational facilities, and in fact would achieve multi-faceted objectives intended to address coastal visitor access, public amenities and establishment of a mix of uses (including residential) that could be layered over the Property and that would apply in conjunction with other C-T-O land use goals for this Property.

The proposed amendment introduces a new policy to offset the effect of future development of the Promenade Parcels relative to provision of visitor-serving uses. The proposed policy would establish an "in lieu" visitor-serving mitigation

fee for that portion of any development of the Promenade Parcels that is devoted exclusively to non-visitor serving use. It is intended that any such in-lieu fees would apply toward a project or program used to lower the cost of overnight visitor-serving accommodations elsewhere within the coastal zone of the City of Ventura.

9. **Section 30240 of the Coastal Act states:**

(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.

(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.

The site is not located within a habitat or natural community conservation plan area.

10. **Section 30241 of the Coastal Act states:**

The maximum amount of prime agricultural land shall be maintained in agricultural production to assure the protection of the areas' agricultural economy, and conflicts shall be minimized between agricultural and urban land uses.

The proposed project would not impact any prime, unique or farmlands of Statewide importance. The site is mostly vacant, with one restaurant development on a portion of the property, and is not identified as having any agricultural resources.

11. **Section 30250 of the Coastal Act states:**

New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources.

The proposed amendment does not include project-specific proposals for new development; however, it does include development standards to which new development would be subject. Key objectives of these standards would be to ensure that lodging and other visitor-serving uses are fully accommodated.

12. **Section 30251 of the Coastal Act states:**

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal

areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.

Any future development on the site would require review by the City's Design Review Committee at a public hearing, which would ensure the project's compatibility with the existing neighborhood. Some of the key objectives to these standards would be to preserve and enhance the unique character of Downtown by strengthening the public realm and visual character of area with street improvements including landscaping and visitor amenities, parking, preserving public views of the ocean and mountains.

13. ***Section 30252 of the Coastal Act states:***

The location and amount of new development should maintain and enhance public access to the coast by (1) facilitating the provision or extension of transit service, (2) providing commercial facilities within or adjoining residential development or in other areas that will minimize the use of coastal access roads, (3) providing nonautomobile circulation within the development, (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation, (5) assuring the potential for public transit for high intensity uses such as high-rise office buildings, and by (6) assuring that the recreational needs of new residents will not overload nearby coastal recreation areas by correlating the amount of development with local park acquisition and development plans with the provision of onsite recreational facilities to serve the new development.

The proposed amendment would not accommodate development that would prevent public access to coastal resources or hinder access to the coast. The project would enhance coastal access by strengthening the connection to the beach because the amendment would require that future development provide a recreational visitor-serving promenade, including coastal access parking, from Ash Street to Ann Street.

14. ***Section 30255 of the Coastal Act states:***

Coastal-dependent developments shall have priority over other developments on or near the shoreline...

The proposed amendment would not preclude the development of visitor-serving commercial recreational facilities and in fact would achieve multi-faceted objectives intended to address coastal-visitor access, public amenities and establishment of a mix of uses (including residential) that could be layered over the Property and that would work in conjunction with other C-T-O land use goals for this Property.

The proposed amendment introduces a new policy to offset the effect of future development of the Promenade Parcels relative to provision of visitor-serving uses. The proposed policy would establish an "in lieu" visitor-serving mitigation fee for that portion of any development of the Promenade Parcels that is devoted exclusively to non-visitor serving use. It is intended that any such in-lieu fees would apply toward a project or program used to lower the cost of overnight visitor serving accommodations elsewhere within the coastal zone of the City of Ventura.

Comprehensive Plan Amendment Findings

15. The Comprehensive Plan Amendment is consistent with and reflective of the goals, policies, and intent to encourage orderly growth and development in a manner that preserves the public's health, safety, and welfare because the amendment would establish design and development standards that would be unique and appropriate to this Property, and that would achieve multi-faceted objectives intended to address coastal-visitor access, public amenities, view corridors and establishment of a mix of uses that would work in conjunction with land use goals for the Promenade Parcels without negatively affecting current DTSP requirements for pedestrian linkages, recreational features and public art/focal features. The amendment includes form-based development standards that are consistent with the other certified zones in the DTSP.
16. The proposed Comprehensive Plan Amendment to the Local Coastal Plan would ensure that future development would be compatible with the surrounding community and meet the Intent and Rationale Statement contained within the Land Use Element of the Comprehensive Plan for the Downtown Community because the proposed project is a request to change the Comprehensive Plan from Planned Commercial Tourist Oriented (PCT) to Downtown Specific Plan (DTSP), consistent with the City's original 2007 approved Downtown Specific Plan. Any future development of the site would have to address bluff stability and setbacks, views, scenic qualities, building mass and scale, noise, safety and public access issues and would be required to provide a promenade designed to serve both pedestrians and vehicles.

Environmental

17. The California Environmental Quality Act of 1970 (CEQA) Guidelines Section 15164 (Addendum to an EIR or Negative Declaration) allows an addendum to be prepared when only minor technical changes, or changes which do not create new significant impacts, would result. This Addendum is for changes to EIR-2462 (dated and certified March 19, 2007) for a Specific Plan for the Downtown Area (DTSP) of City of Ventura, which was prepared pursuant to CEQA Guidelines 15162.

CEQA requires analysis of environmental impacts which could occur as a result of the project. For the proposed revisions to the approved project, an Addendum to the previously certified FEIR (EIR-2462) for the approved 2007 DTSP can be prepared if the following applicable provisions of CEQA Guidelines Section 15164 can be met:

(a) *The lead agency or responsible agency shall prepare an addendum to a previously certified EIR if some changes or additions are necessary but none of the conditions described in Section 15162 calling for preparation of a subsequent EIR have occurred.*

and

(e) *a brief explanation of the decision not to prepare a subsequent EIR pursuant to Section 15162 should be included in an addendum to an EIR, the lead agency's findings on the project, or elsewhere in the record. The explanation must be supported by substantial evidence*

An Addendum has been prepared to reflect changes and additions to the approved and certified 2007 DTSP FEIR because none of the applicable conditions of Section 15162, calling for a subsequent EIR or negative declaration, have occurred, as has been documented in the City's analysis and determination provided below. Specifically, under Section 15162(a), Subsequent EIRs, of the CEQA Guidelines states:

(a) *When an EIR has been certified or a negative declaration adopted for the project, no subsequent EIR shall be prepared for that project unless the lead agency determines, on the basis of substantial evidence in the light of the whole record, one or more of the following:*

- (1) *Substantial changes are proposed in the project which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;*
- (2) *Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR or Negative Declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or*
- (3) *New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete or the Negative Declaration was adopted, shows any of the following:*

- (A) *The project will have one or more significant effects not discussed in the previous EIR or negative declaration;*
- (B) *Significant effects previously examined will be substantially more severe than shown in the previous EIR;*
- (C) *Mitigation measures or alternatives previously found not to be feasible would in fact be feasible, and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or*
- (D) *Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effect on the environment, but the project proponents decline to adopt the mitigation measure or alternative.*

Based upon the City's analysis, no substantial changes to the project or changed circumstances under which the proposed project is to be undertaken have been identified. No new significant environmental effects or substantial increase in the severity of previously identified significant effects under the certified EIR-2462 have been found with the proposed project, as analyzed and supported in the attached Initial Study. Further, no new information has surfaced that the proposed project would have one or more significant effects not previously discussed in the approved EIR-2462. Likewise, there are no known mitigation measures what would in fact be feasible or that would substantially reduce significant effects, that the project proponent has declined to adopt. Furthermore, there have been no other changes, evidence or new information which would require revisions to the previous EIR. Because none of the criterion in section 15162 has been met, an addendum is appropriate.

SECTION 4: Based on the above findings, the City Council hereby approves a major amendment to the LCP changing the Land Use Designation from Planned Commercial Tourist Oriented ("PC-T") to DTSP as shown in Exhibit "A" .

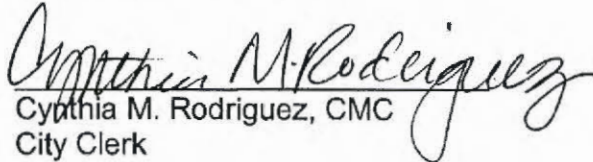
SECTION 5: Based on the above findings, the City Council hereby approves an amendment to the 1989 Comprehensive Plan and LCP to modify sections III-57, as illustrated in Exhibit "B".

SECTION 6: Based on the above findings, the City Council hereby approves an amendment to the DTSP to modify the sections illustrated in Exhibit "C".

SECTION 7: This LCP Amendment approved hereby shall be forwarded to the Coastal Commission for final action and shall become fully effective upon receipt of Coastal Commission certification. The existing approved Local Coastal Program shall

remain in full force and effect until such Coastal Commission certification is received. However, in no case will this Amendment be effective less than 31 days after final passage and adoption by the City Council.

PASSED AND ADOPTED this 17th day of September, 2012


Cynthia M. Rodriguez, CMC
City Clerk

APPROVED AS TO FORM:



By: _____
Ariel Pierre Calonne
City Attorney

Exhibit A
Land Use Change from
PCT to DTSP

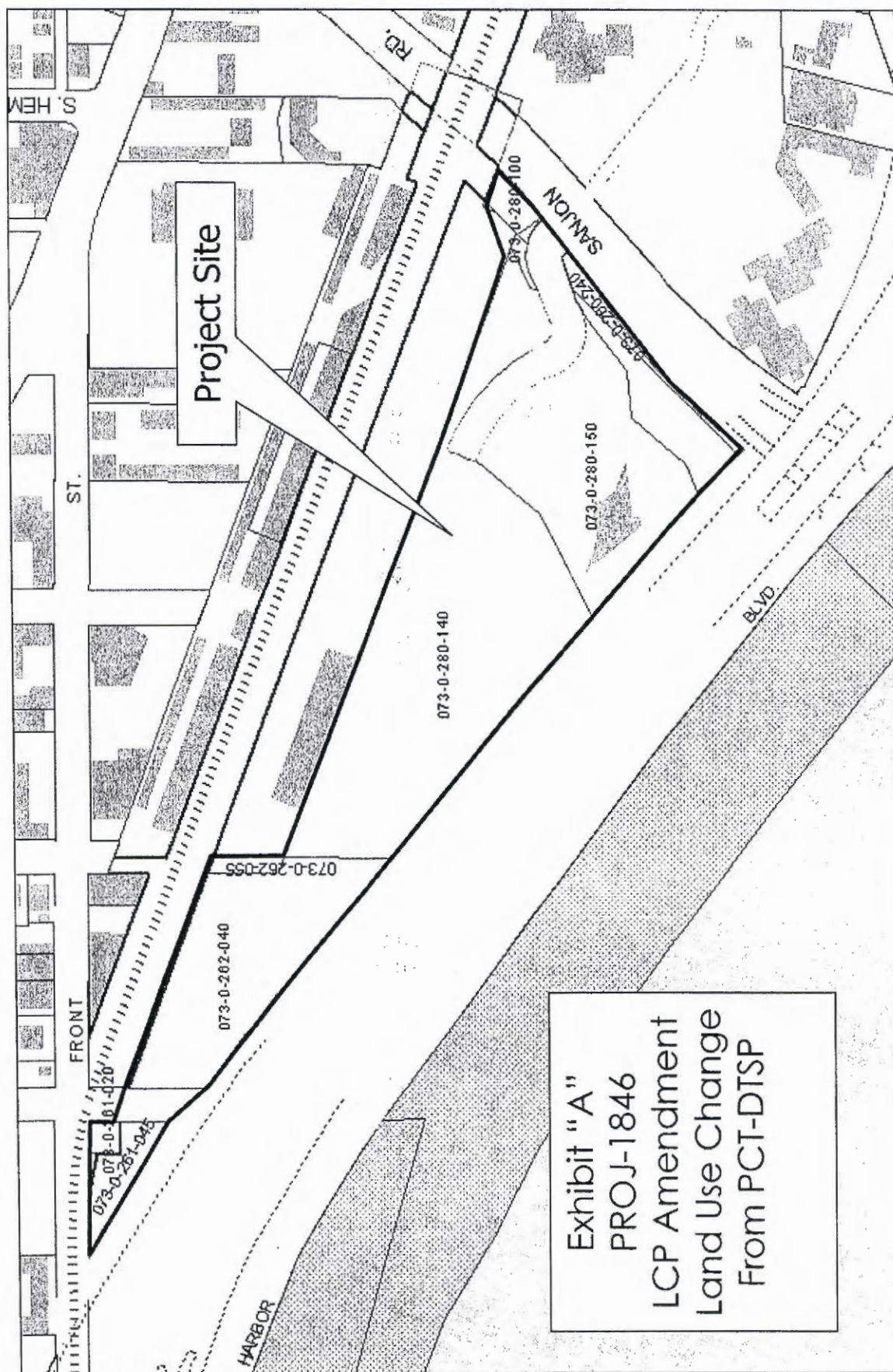


Exhibit "A"
PROJ-1846
LCP Amendment
Land Use Change
From PCT-DTSP

Exhibit B
Comprehensive Plan
LCP Text Amendment

Exhibit B

1. LCP Land Use Plan Amendment

All page references refer to the 1989 Comprehensive Plan. Deletions from original text shown in ~~striketthrough~~. Additions to original text are underlined.

Page III-57, Paragraph 3:

The approximately ~~eight~~eleven-acre ~~vacant~~ site located west of Sanjon Road and south of the Railroad has been designated DTSP Planned Commercial Tourist-Oriented ~~in order to protect the site for recreational and visitor-serving commercial uses. Any development of this site shall be Tourist Commercial in accordance with the Downtown Specific Plan Designation.~~ Any development on this site shall provide at a minimum a twenty-five foot wide public pedestrian easement which extends from the existing pedestrian bridge at the northeast corner of the site to the edge of the bluffs above Sanjon Road, in accordance with the Downtown Specific Plan. Any local project approvals for development on this site shall

~~be subject to a master plan which addresses~~ be consistent with Downtown Specific Plan requirements related to bluff stability and setbacks, views, scenic qualities, building mass and scale, noise, safety and public access issues.

Exhibit C
DTSP Text Amendment

Exhibit C
DTSP Text Amendment

1. DTSP Amendment

All page references refer to the 2007 Downtown Specific Plan. Deletions from original text shown in ~~striketrough~~. Additions to original text are underlined.

Page I-26:

The largest infill site is approximately 11 ~~vacant~~-acres commonly known as the "Triangle Site" in the southeastern corner of downtown. Due to its unique size and location, the site presents opportunities for certain uses not otherwise available in Downtown. In addition, any development project at the site must ~~emphasize~~ provide visitor-serving uses. Therefore, future development and uses must be carefully considered for this site, see Focus Area C on pg. I-47 for a more detailed discussion.

Page I-41:

Sanjon Street

Sanjon provides the eastern connection from Downtown to the beach and has existing visitor-serving assets such as the Pierpont Inn and Racquet Club. Sanjon will be re-configured to make it pedestrian friendly, activating the street with pedestrian amenities. ~~and visitor-serving uses such as hotels, restaurants/cafes and retail.~~ Development of the ~~Triange~~Triangle Site (Focus Area C) will play an important role ~~as well in that endeavor.~~

Page I-42:

Ash Street Pedestrian Bridge

Ash Street provides another opportunity to connect views of the mountains and the ocean. Public improvements and the design of private investment along Ash Street should enhance the visual and functional link between the neighborhood and the waterfront. A small pocket park or other civic destination ~~should~~could be established at the northern terminus of the Ash Street pedestrian bridge, provided that. ~~A streetscape plan will be prepared and a funding source is identified to implement the plan.~~

Timeframe: Near- to mid-term (1-5 years)

Page I-45:

FOCUS AREA C – THE TRIANGLE SITE

At approximately 11 acres, the Triangle Site represents the largest undeveloped area in Downtown and its ultimate buildout provides an important opportunity to achieve the goals of this plan. The site has incredible ocean views, but constraints include adjacency to Highway 101 and the railroad and limited access from major roads. Development of the site must include provision of public access, ~~visitor-serving uses and/or public recreational uses such as a bluff-top park~~ pedestrian promenade and parking for coastal visitors ~~and improved public amenities at the northern terminus of Ash Street pedestrian bridge, which provides coastal access over Hwy 101.~~ Key issues to be addressed during development of this area are:

- Extending the street grid to the North ~~across the railroad~~;
- Facilitating pedestrian, bike and vehicular connections between the Downtown core and the beach;
- Addressing noise impacts associated with Hwy 101 and the railroad;
- Establishing a mix of uses;
- Provision of public recreational or open space; and
- Public corridor view protection.

Timeframe: Near-term (1-3 years)

Page III-8:

Revise Table III-1 to add column for "T4.3.5," consistent with Allowed Land Uses table shown on new page III-21 (Section E).

Page III-9:

Revise Figure III-1 to add "T.4.3.5 – Urban General 3.5," and shade Triangle Site appropriately.

Page III-13:

Revise second paragraph to add "T.4.3.5 – Urban General 3.5" to list of zone designations.

Pages III-20 through 27:

New zoning designation T4.3.5 ("Urban General 3.5 – The Triangle Site") added as shown on attached Exhibit A. Subsequent pages in Article II to be renumbered accordingly.

3. Mitigation Fee Language to be added to T-Zone Sheets

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

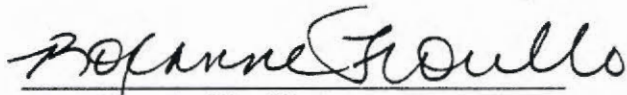
I, Roxanne Fiorillo, Deputy City Clerk of the City of San Buenaventura, California, certify that the foregoing Resolution was passed and adopted by the City Council of the City of San Buenaventura at a regular meeting on September 17, 2012, by the following vote:

AYES: Councilmembers Morehouse, Andrews, Deputy Mayor
 Heitmann, and Mayor Tracy.

NOES: Councilmembers Weir and Monahan.

ABSENT: Councilmember Brennan.

IN WITNESS WHEREOF, I have set my hand and affixed the seal of the City of San Buenaventura on September 18, 2012.



Deputy City Clerk



ORDINANCE NO. 2012- 019 _____

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SAN BUENAVENTURA APPROVING A CHANGE OF ZONE FROM COMMERCIAL TOURIST ORIENTED ("C-T-O") TO T4.3.5 URBAN GENERAL 3.5 PROMENADE PARCELS PERTAINING TO THE LOCAL COASTAL PROGRAM FOR PROPERTY LOCATED IN THE AREA JUST WEST OF ASH STREET, SOUTH OF THE SOUTHERN PACIFIC RAILROAD, WEST OF SANJON ROAD AND NORTH OF US HWY 101

The Council of the City of San Buenaventura does ordain as follows:

WHEREAS, on July 18, 2012 the Planning Commission approved a Comprehensive Plan Amendment to the Local Coastal Plan including an amendment to the 2007 DTSP designation from Commercial Tourist Oriented ("C-T-O") to T4.3.5 Urban General 3.5 Promenade Parcels for property located in the area just west of Ash Street, south of the Southern Pacific Railroad, west of Sanjon Road and north of US Hwy 101.

SECTION 1. An application has been filed by Lloyd Properties, pursuant to the City of San Buenaventura Municipal Code, for an amendment to the 2007 Downtown Specific Plan (DTSP) zoning designation from Commercial Tourist Oriented ("C-T-O") to T4.3.5 Urban General 3.5 Promenade, including residential development on a 11.41-acre portion of the so-called "Triangle Site" on a property comprised of three privately owned legal parcels totaling approximately 10.92 acres, together with approximately 0.51 acres of City-owned property and located in the area just west of Ash Street, south of the Southern Pacific Railroad, west of Sanjon Road and north of US Hwy 101 as shown in Exhibit "A", attached hereto.

SECTION 2. All proceedings have been duly taken as required by law, with adequate and timely public notice for this public hearing provided consistent with 14 California Code of Regulations sections 13552 and 13515, Government Code Section 65352 and City Municipal Code regulations, the City Council further finds as follows:

1. The proposed Change of Zone from Commercial Tourist Oriented ("C-T-O") to T4.3.5 Urban General 3.5 Promenade conforms to the Comprehensive Plan's DTSP land use designation, and is consistent with the Intent and Rationale Statement for the Downtown Community to ensure the best suited development for the last remaining large parcel in Downtown.

2. No aspect of the proposed amendment would affect public access from Sanjon Road to the shoreline. The proposed T4.3.5 Urban General 3.5 Promenade Parcels zone would require that future development provide a recreational visitor-serving promenade and public road that would add a connection to Sanjon Road, which currently does not exist, in order to increase public accessibility to the shoreline.
3. The proposed T4.3.5 Urban General 3.5 Promenade Parcels zone regulations, as attached in Exhibit "B" would require that future development provide a recreational visitor-serving promenade and public road that would contain parallel parking available for coastal visitors. Creation of the publicly-accessible promenade creates the link between other existing coastal access points, thereby ensuring the public has multiple points of access from the Downtown area to the beach.

SECTION 5. CEQA Findings.

The City Council further finds that the California Environmental Quality Act of 1970 (CEQA) Guidelines Section 15164 (Addendum to an EIR or Negative Declaration) allows an addendum to be prepared when only minor technical changes, or changes which do not create new significant impacts, would result. This Addendum is for changes to EIR-2462 (dated and certified March 19, 2007) for a Specific Plan for the Downtown Area (DTSP) of City of Ventura, which was prepared pursuant to CEQA Guidelines 15162.

CEQA requires analysis of environmental impacts which could occur as a result of the project. For the proposed revisions to the approved project, an Addendum to the previously certified FEIR (EIR-2462) for the approved 2007 DTSP can be prepared if the following applicable provisions of CEQA Guidelines Section 15164 can be met:

- (a) *The lead agency or responsible agency shall prepare an addendum to a previously certified EIR if some changes or additions are necessary but none of the conditions described in Section 15162 calling for preparation of a subsequent EIR have occurred.*

and

- (e) *a brief explanation of the decision not to prepare a subsequent EIR pursuant to Section 15162 should be included in an addendum to an EIR, the lead agency's findings on the project, or elsewhere in the record. The explanation must be supported by substantial evidence.*

An Addendum has been prepared to reflect changes and additions to the approved and certified 2007 DTSP FEIR because none of the applicable conditions of Section 15162, calling for a subsequent EIR or negative declaration, have occurred, as has been documented in the City's analysis and determination provided below. Specifically, under Section 15162(a), Subsequent EIRs, of the CEQA Guidelines states:

(a) When an EIR has been certified or a negative declaration adopted for the project, no subsequent EIR shall be prepared for that project unless the lead agency determines, on the basis of substantial evidence in the light of the whole record, one or more of the following:

- (1) Substantial changes are proposed in the project which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;*
- (2) Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR or Negative Declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or*
- (3) New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete or the Negative Declaration was adopted, shows any of the following:*
 - (A) The project will have one or more significant effects not discussed in the previous EIR or negative declaration;*
 - (B) Significant effects previously examined will be substantially more severe than shown in the previous EIR;*
 - (C) Mitigation measures or alternatives previously found not to be feasible would in fact be feasible, and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or*

(D) Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effect on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

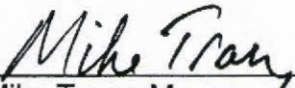
Based upon the City's analysis, no substantial changes to the project or changed circumstances under which the proposed project is to be undertaken have been identified. No new significant environmental effects or substantial increase in the severity of previously identified significant effects under the certified EIR-2462 have been found with the proposed project, as analyzed and supported in the attached Initial Study. Further, no new information has surfaced that the proposed project would have one or more significant effects not previously discussed in the approved EIR-2462. Likewise, there are no known mitigation measures what would in fact be feasible or that would substantially reduce significant effects, that the project proponent has declined to adopt. Furthermore, there have been no other changes, evidence or new information which would require revisions to the previous EIR. Because none of the criterion in section 15162 has been met, an addendum is appropriate.

SECTION 4. Based on the foregoing, the City Council HEREBY APPROVES the Change of Zone described in section one above and as graphically illustrated on attached Exhibit "A" and as described in Exhibit "B" In approving this Ordinance, the City Council further certifies it's intent that the City's LCP will continue to be carried out in a manner fully consistent with the Coastal Act.

SECTION 5: This Zone Change approved hereby shall be forwarded to the Coastal Commission for final action and shall become fully effective upon receipt of Coastal Commission certification. The existing approved Local Coastal Program shall remain in full force and effect until such Coastal Commission

certification is received. However, in no case will this Amendment be effective less than 31 days after final passage and adoption by the City Council.

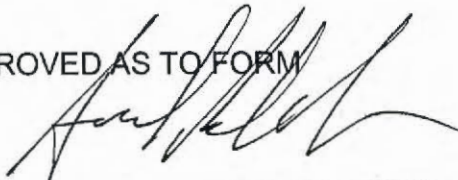
PASSED AND ADOPTED this 24th day of September, 2012.


Mike Tracy, Mayor

ATTEST:


Cynthia M. Rodriguez, CMC
City Clerk

APPROVED AS TO FORM

By: 
Ariel Pierre Calonne
City Attorney

ATTACHMENT

EXHIBIT A Zoning Map

EXHIBIT B T4.3.5 Urban General 3.5 Promenade Parcels Zone Section

Exhibit A
Change of Zone Map

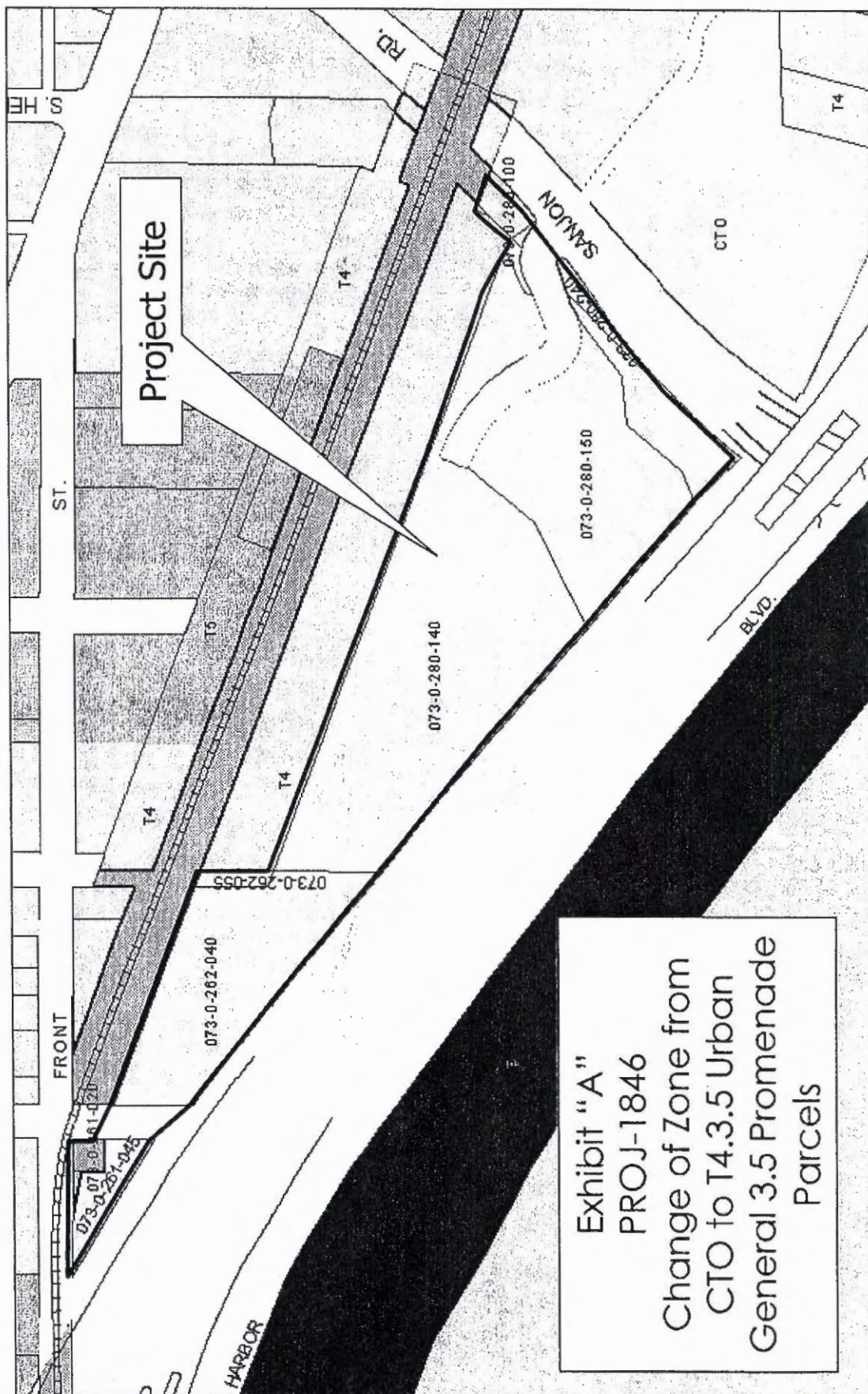
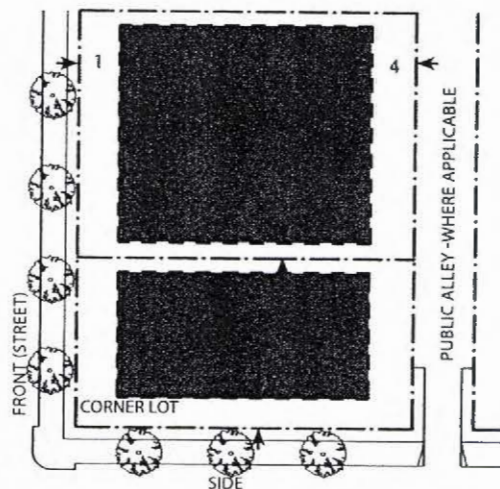


Exhibit B
T4.3.5 Urban General 3.5
Promenade Parcels Zone Section

ARTICLE II . URBAN STANDARDS

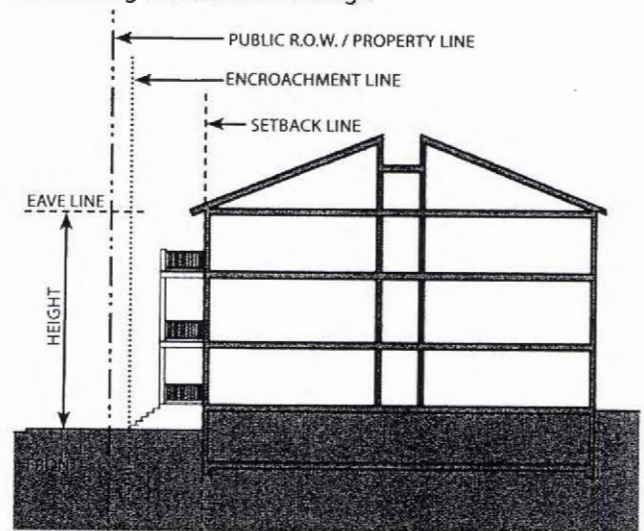
2.30.045 T4.3.5 URBAN GENERAL 3.5 - PROMENADE PARCELS

A. Building Placement



Plan Diagram A

B. Building Profile and Frontage



Section Diagram B

1. SETBACKS

- a. Primary Buildings shall be placed within the shaded area as shown in above Plan Diagram A (unless specified otherwise by a permitted Building Type).
 1. Street Build-to Line: 15'
 2. Side Street Build-to Line: 5'
 3. Side Yard Setback: 5' min.
 4. Rear Setback : 5' min. (with public alley)
25' min. (without public alley)

2. ACCESSORY BUILDINGS

- a. Accessory Buildings shall be placed in the shaded area shown in Plan Diagram C.
 1. Street Setback: Rear 50% of lot depth.
 2. Side Street Setback: 5' min.
 3. Side Yard Setback: 5' min.
 4. Rear Setback: 5' min.

3. ARCHITECTURAL ENCROACHMENTS

- a. Balconies, bay windows, chimneys, cantilevered rooms, and eaves may encroach into required setbacks as identified below and as may be further limited by the California Building Code (CBC).
 1. Balconies: 6' max. into Street Build-to Line, Side Street Build-to Line, and Rear Setback.
 2. Bay windows, chimneys, cantilevered rooms, and eaves: 3' max. into all Setback areas identified in above Plan Diagram A.

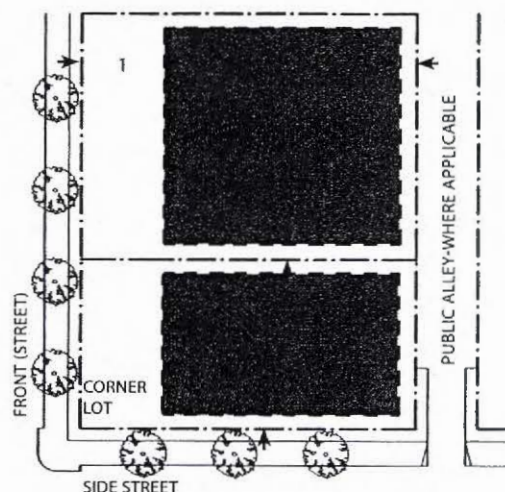
1. HEIGHT

- a. Maximum: 3 stories for Primary Building (60% of building footprint may be 4 story).
- b. Floor to Floor: 14' min. and 17' max. ground floor for the shopfront frontage type; 16' max. ground floor for all other frontage types; 12' max. second floor and above.
- c. Accessory buildings: 14' max. to eave or parapet line.

2. FRONTAGE TYPES

- a. Shopfront
- b. Forecourt
- c. Stoop
- d. Porch and Multi-Story Porch
- e. Dooryard

C. Parking



Plan Diagram C

1. PARKING

- Off-street parking and services shall be placed in the shaded area shown in above Plan Diagram C, unless subterranean.
 - Street Setback: 35' min.*
 - Side Street Setback: 5' min.
 - Side Yard Setback: 5' min.
 - Rear Setback: 5' min.
- Required parking may be at-grade or subterranean.
- At-grade, off-street parking spaces may be tuck-under, within a garage or carport, or uncovered, provided they are within the areas shown in the above Plan Diagram C and are not visible from the street.
- Subterranean parking may extend to a height of 5' max. above finished grade, provided the garage perimeter wall aligns with the face of building as shown in Section Diagram B.

* 20' min. deep "liner" building required between parking and street.

2. OFF-STREET PARKING REQUIREMENTS

- Residential:
 - Please refer to Zoning Regulation Chapter 24.415 (Offstreet Parking Regulations).
- Non-Residential:
 - 2 parking spaces / 1,000 s.f.

D. Building Types

Building Type	Allowed Lot Width								
	25'	35'	50'	75'	100'	125'	150'	175'	200'
Mansion									
Row House									
Live/Work									
Side Court Housing									
Courtyard Housing									
Commercial Block									
Stacked Dwellings									

The building types allowed within the T4.3.5 Urban General 3.5 zone shall be limited to those in the table above, and placed only on lots with the lot width shown. See Article III (Building Type Standards) for performance standards and Article V (Design Guidelines) for architectural expression guidance.

E. Allowed Land Uses

The following land uses may occur within the T4.3.5 Urban General 3.5 zone, subject to the noted permit requirements:

Allowed Use ¹	Permit
Bed & Breakfast	P
Civic	P
Community Meeting	P
Corner Store	U
Farmers Market	U
Home Occupations ²	P
Lodging	P
Multi-Family ²	P
Parks & Recreation	P
Retail	P
Recycling	U
Restaurant	U
Special Residential ²	U

P = Permitted by Right

U = Use Permit

¹ Alcoholic beverage establishments are subject to a Use Permit under the provisions of Section 24.460.210 of the Municipal Code.

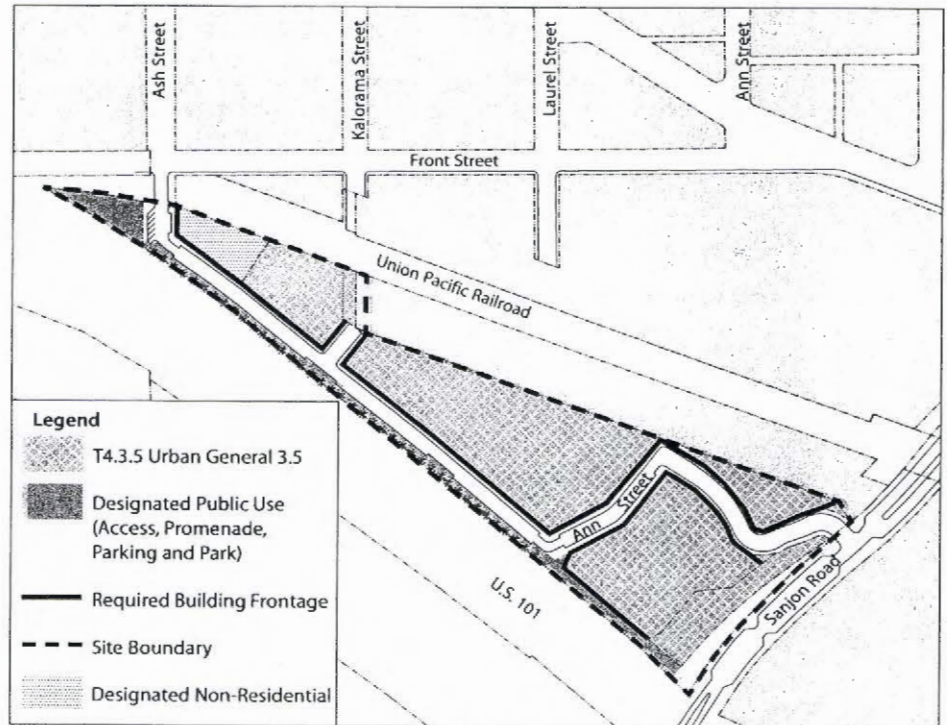
² Use is not permitted within the Designated Non-Residential area of Regulating Plan (see Section F.1.c).

ARTICLE II . URBAN STANDARDS

2.30.045 T4.3.5 URBAN GENERAL 3.5 - PROMENADE PARCELS

F. Regulating Plan

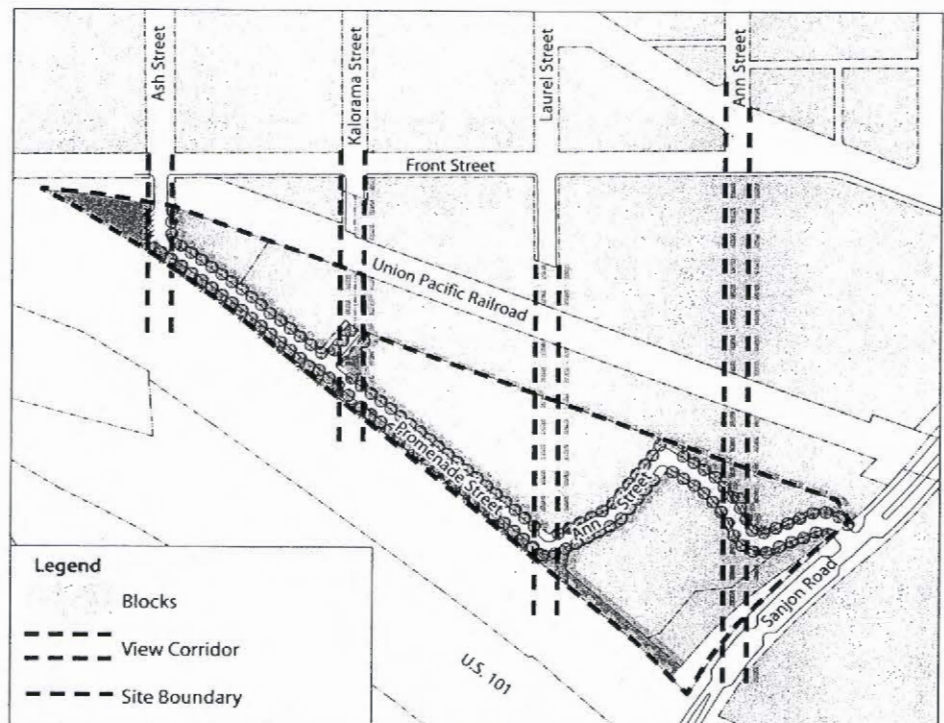
1. The Regulating Plan defines the following Downtown Specific Plan zones within the Promenade Parcels Site:
 - a. T4.3.5 Urban General 3.5
 - b. Parks and Open Space
2. All buildings that face the "Required Building Frontage" line, as indicated in the adjacent Regulating Plan, shall:
 - a. Be built to the Street Build-to Line per Section 2.30.045.A.1.a.1.
 - b. Provide Frontage Types per Section 2.30.045.B.2.



Regulating Plan

G. View Corridors

1. Protect views towards the ocean and the mountains as shown in the View Corridors Diagram at right.
 - a. Preserve the existing Ash Street right-of-way, street, and at-grade rail crossing.
 - b. Prohibit the construction of buildings within the extended Kalorama Street right-of-way.
 - c. Limit the height of new buildings within the extended Laurel Street right-of-way to 24 feet in height to top of ridge line or parapet.
 - d. Limit the height of new buildings within the extended Ann Street right-of-way to 24 feet in height to top of ridge line or parapet.



View Corridors Diagram

H. Frontage Types

In addition to the frontage types listed in Section 2.30.045.B.2, the following frontage types are allowed within the T4.3.5 Urban General 3.5 Zone:

1. Multi-Level Porch

A multi-level porch is comprised of a porch at the ground level with balconies supported by columns on the upper floors. The top balcony can be open to the sky or covered by a roof. The multi-level porch can be applied to a variety of building types and sizes, ranging from single family houses, to mixed-use commercial block buildings, to stacked dwellings. Like the standard single-level porch, the multi-level porch is applied to buildings where the building facade is set back from the right of way with a front yard.

- a. **Configuration.** A wide variety of multi-level porch designs are possible, but the following guidelines apply:
 - i. Depth: 6 feet min. deep (clear).
 - ii. Width: 12 feet min. wide (clear) for centered entry; 10 feet for asymmetrical entry.
 - iii. Height: 3 stories tall (clear).
 - iv. Porches may be at grade or raised to transition into the building.
 - v. Balconies must be supported by columns.
- b. **Elements**
 - i. Fences or walls defining and/or retaining the front yard may not exceed 4 feet in height from the adjacent sidewalk.

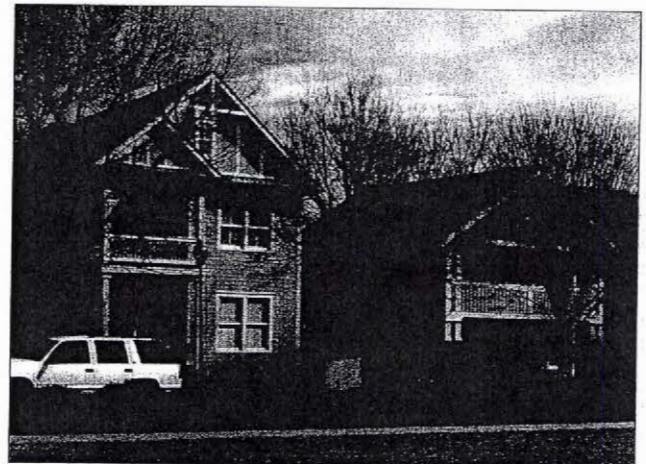
2. Supported Balcony over Stoop or Forecourt

A supported balcony is a projecting balcony that is visually supported by architectural elements such as brackets, groins, braces, or cantilevered beams. Supported balconies may be open to the sky or covered by a roof, may be stacked one above the other, and must be used in conjunction with either the Stoop or Forecourt frontage types. Railings are made of wood, metal, or wrought-iron. Balconies lacking elements that visually appear to support the balcony and/or that utilize solid, plaster railings are prohibited.

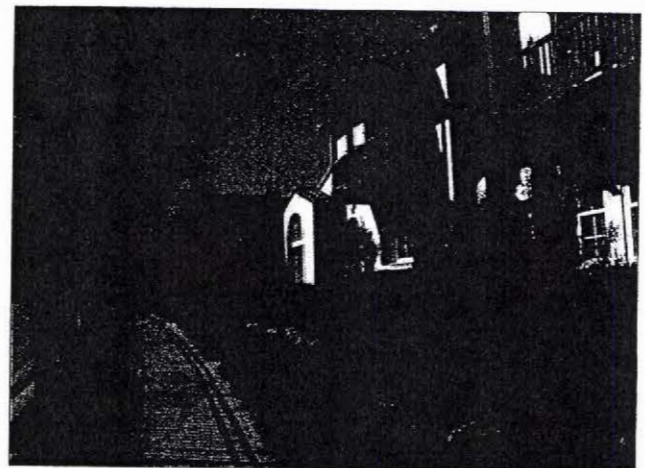
- a. **Configuration.** A wide variety of supported balcony designs are possible, but the following guidelines apply:
 - i. Depth: 6 feet min. deep (clear).
 - ii. Width: 10 feet min. wide (clear).
 - iii. Balconies and their supporting elements must be designed in a manner that is consistent with the architectural language of the rest of the building.



Illustrative Photo: multi-story porch



Illustrative Photo: multi-story porch



Illustrative Photo: balcony supported by cantilevered beams

ARTICLE II . URBAN STANDARDS

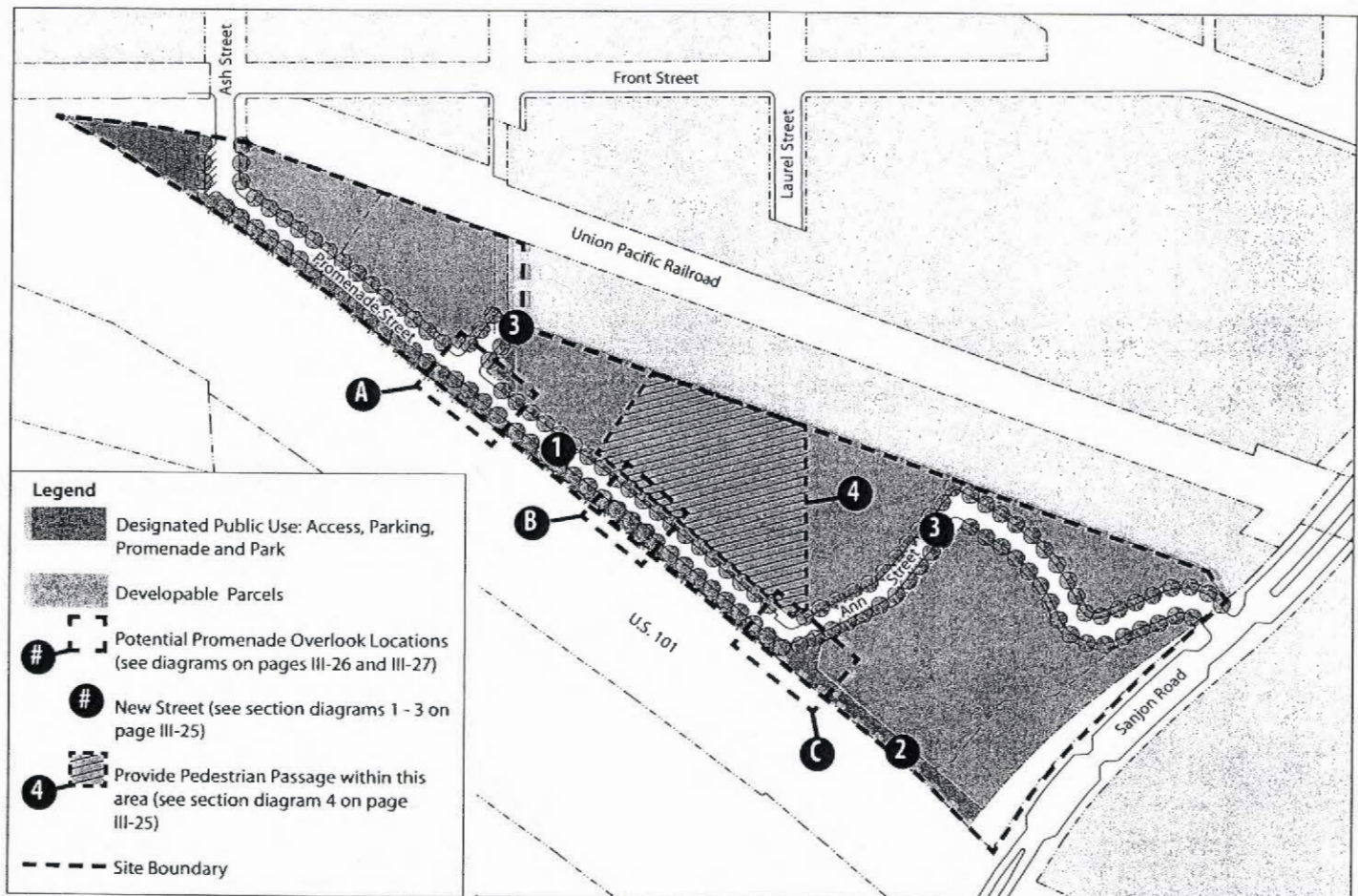
2.30.045 T4.3.5 URBAN GENERAL 3.5 - PROMENADE PARCELS

I. Public Promenade

1. Provide a Promenade along the south property line of the Site abutting the U.S. 101 right of way as shown in the below Public Realm Diagram and Section Diagrams 1 and 2 on the opposite page. The Promenade shall be devoted to public, coastal access and shall consist of the following components:
 - a. Promenade: 20' min. between Ash St. and Ann St.
25' min. between Ann St. and Sanjon Rd.
 - b. Street between Ash St. and Ann St.: 36' max., curb to curb. Parking along the promenade street shall be made available to the public, and shall not be subject to permit parking restrictions during daytime hours. On-street parking shall be regulated so as to facilitate parking availability for coastal visitors
 - c. Public access sidewalk and planter strip: 12' min., combined
 - d. A minimum of 2 Promenade Overlooks, generally in the areas shown below and as illustrated in the Promenade Overlook Diagrams on pages III-26 and III-27.

J. Block Structure

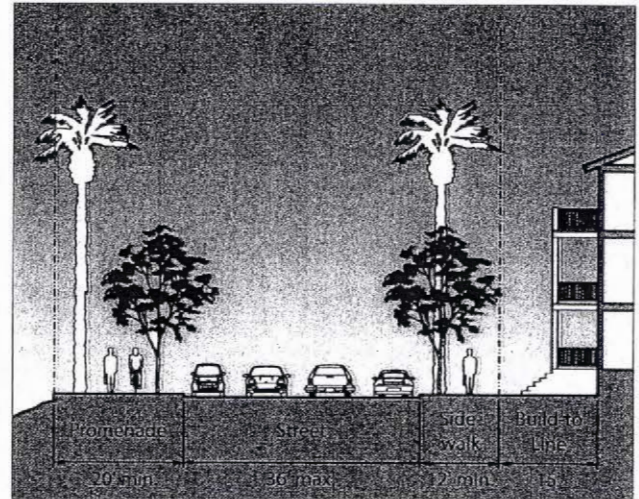
1. Reflect the block structure that currently exists north of the Union Pacific Railroad right-of-way south into the Promenade Parcels Site. This will be accomplished through a combination of public and/or private streets, access ways, pedestrian passages, and building massing.
 - a. Introduce streets, at the following locations, that provide on-street parallel parking, sidewalks, and planter strips on both sides of the street in accordance with the minimum and maximum dimensions indicated in Section Diagram 3 on the opposite page:
 - i. A vehicular street that generally aligns with the Kalorama Street right-of-way.
 - ii. A vehicular street that generally aligns with the Ann Street right-of-way, illustrated below as aligning with an existing leasehold. The precise alignment may vary, subject to development review and approval.



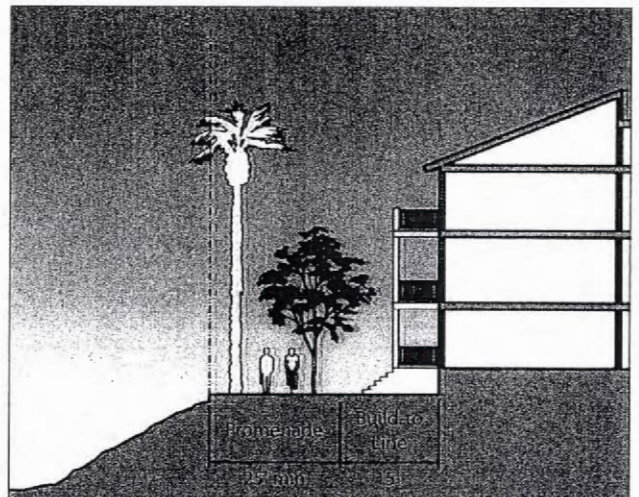
Public Realm Diagram

b. Provide a Pedestrian Passage that generally aligns with the Laurel Street right-of-way as indicated in the Public Realm Diagram (below left) and Section Diagram 4 (below right). The Pedestrian Passage shall be designed according to the following requirements:

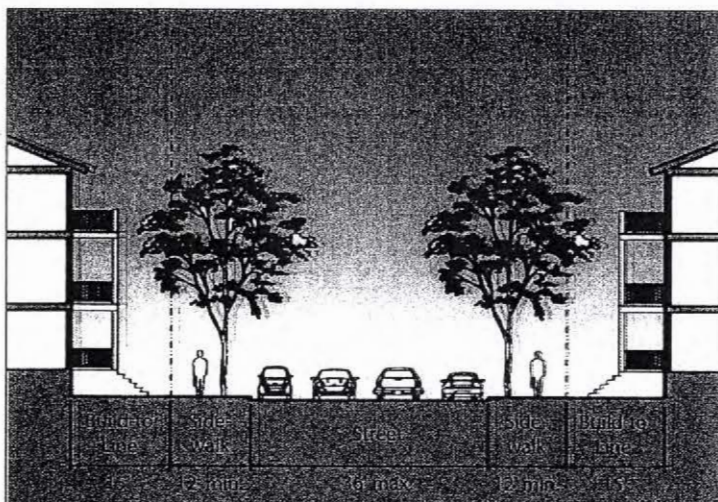
1. Adjacent buildings shall face the Pedestrian Passage with appropriate Frontage Types.
 2. The space between buildings facing the Pedestrian Passage shall be a minimum of 40' wide from frontage face to frontage face.
 3. A vehicular street lined by sidewalks, planter strips, and parallel parking may be provided in lieu of the Pedestrian Passage.
 4. The Pedestrian Passage may be private and enclosed with a fence and gate that is consistent in design and use of materials with the architecture of the adjacent buildings.
2. The precise alignment of the existing drive connecting Ann Street to Sanjon Road may vary, subject to development review and approval, from what is shown in the Public Realm Diagram.



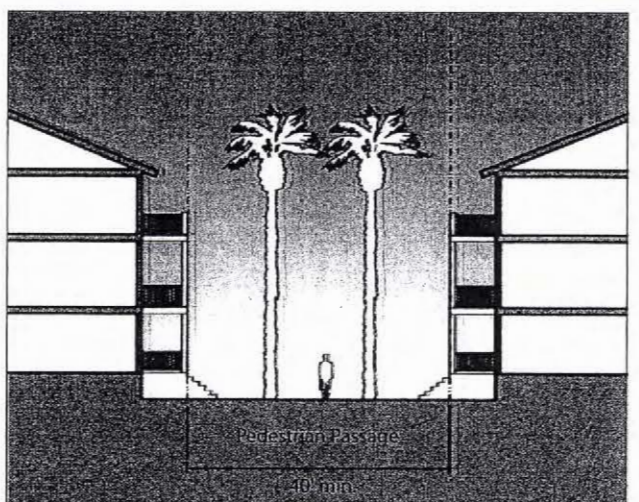
1 Section Diagram 1: Promenade - Ash St. to Ann St.



2 Section Diagram 2: Promenade - Ann St. to Sanjon Rd



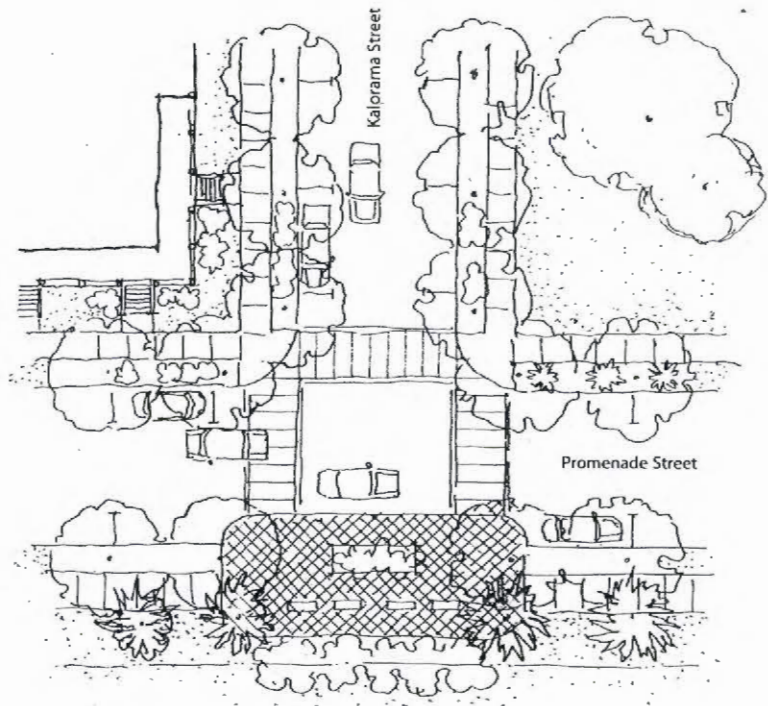
3 Section Diagram 3: Kalorama St. and Ann St.



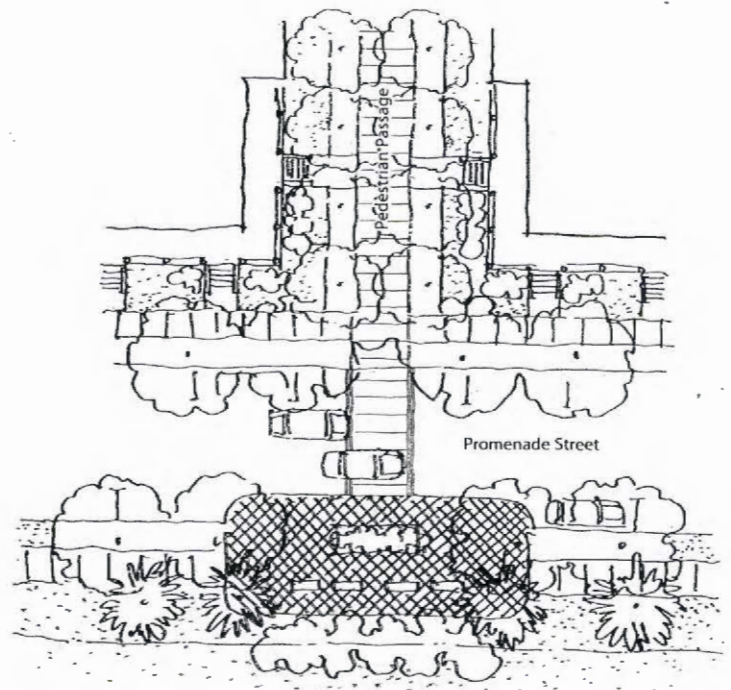
4 Section Diagram 4: Pedestrian Passage

ARTICLE II . URBAN STANDARDS

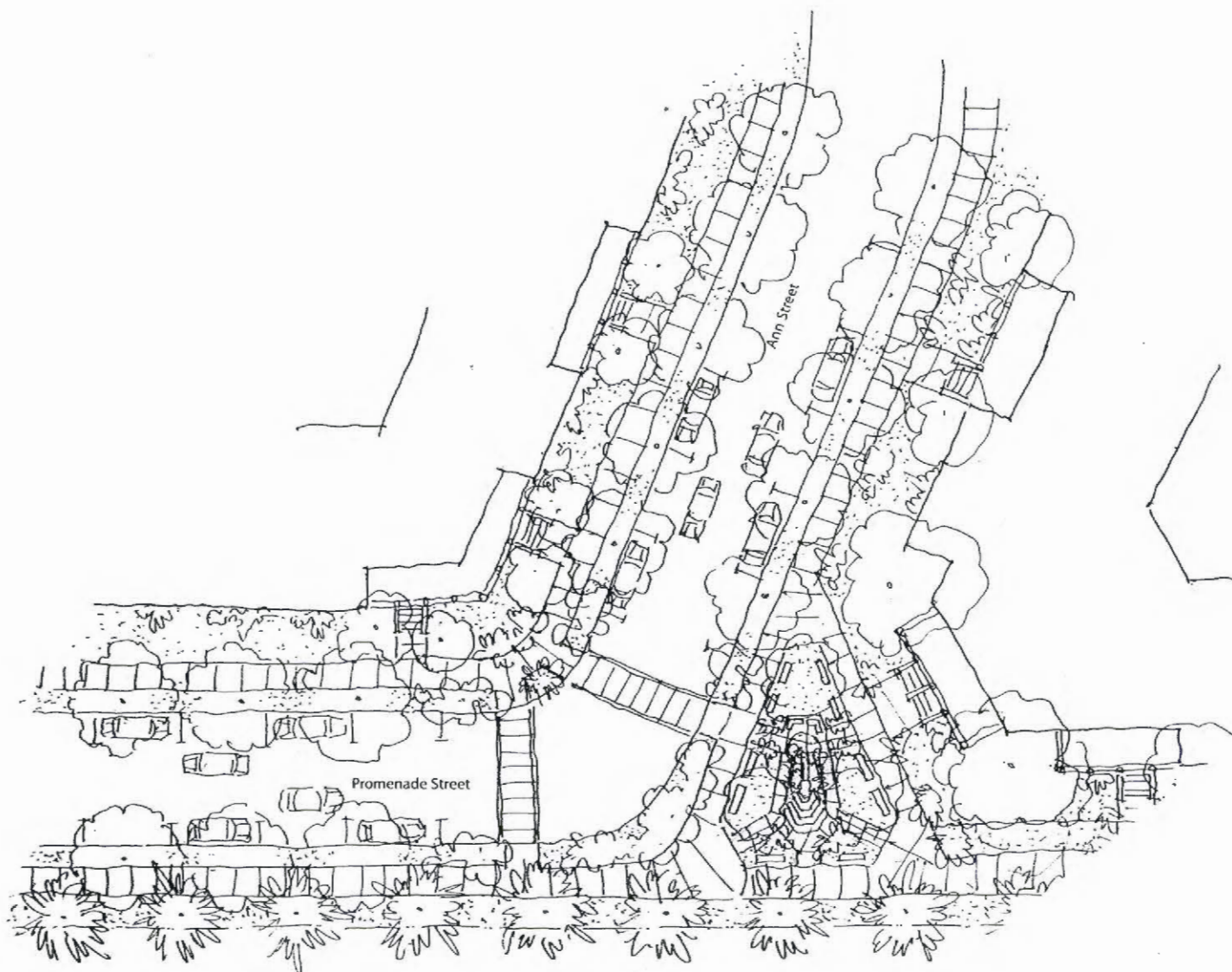
2.30.045 T4.3.5 URBAN GENERAL 3.5 - PROMENADE PARCELS




A Promenade Overlook Diagram at Kalorama Street



B Promenade Overlook Diagram at Pedestrian Passage



 Promenade Overlook Diagram at Ann Street

ARTICLE II . URBAN STANDARDS

2.30.045 T4.3.5 URBAN GENERAL 3.5 - PROMENADE PARCELS

K. Optional In Lieu Fee

To offset the effect of a zoning change to allow lower priority land uses at the Promenade Parcels Site, the Local Coastal Plan ("LCP") shall require payment of a mitigation fee by any project applicant proposing non-visitor serving uses. Such mitigation fee shall be used for the provision of lower cost overnight visitor serving accommodations within the coastal zone of the City of Ventura. The mitigation fee shall be in the amount of Twenty-Five Thousand and No/100 Dollars (\$25,000.00) per acre of land that is devoted exclusively to non-visitor serving use.

Prior to the issuance of any building permits to the project applicant by the City of Ventura, the project applicant shall deposit the entire mitigation fee in an interest-bearing account, to be established and managed by the State Coastal Conservancy (the "Conservancy") pursuant to a memorandum of understanding entered into between the Conservancy and the Executive Director of the Coastal Commission (the "Executive Director"). The entire mitigation fee and any accrued interest shall be used to protect, enhance, or provide lower cost overnight visitor serving accommodations at another appropriate location within the Coastal Zone in the City of Ventura, as authorized by the Executive Director, within five (5) years of payment of such mitigation fee (unless this time limit is extended for good cause by the Executive Director for a period not to exceed an additional five (5) years). Without limiting the generality of the foregoing, the Executive Director may authorize such mitigation fee to be used to provide funding grants to public agencies or non-profit organizations for the provision of lower cost overnight visitor accommodations within or in close proximity to the coastal zone, including but not limited to hostel accommodations, campground accommodations, cabins, or low cost hotel or motel accommodations. Any portion of the mitigation fee that remains after the expiration of the aforementioned time period shall, within six (6) months of such date, at the election of the Executive Director, either (i) be donated to the California Department of Parks and Recreation, the Mountains Recreation and Conservation Authority (MRCA), or another organization acceptable to the Executive Director, for the purpose of protecting, enhancing, or providing lower cost overnight accommodations within the Coastal Zone of the City of Ventura, or (ii) be used for other public recreational benefits in the coastal zone, as jointly determined by the Conservancy and the Commission.

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

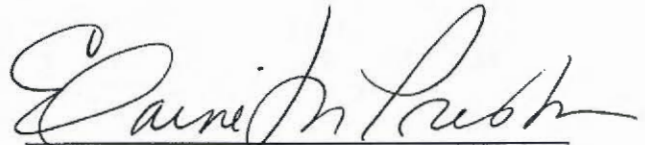
I, ELAINE M. PRESTON, Deputy City Clerk of the City of San Buenaventura, California, certify that the foregoing Ordinance was passed and adopted by the City Council of the City of San Buenaventura at a regular meeting on September 24, 2012, by the following vote:

AYES: Councilmembers Brennan, Morehouse, Andrews, Monahan,
 Deputy Mayor Heitmann, and Mayor Tracy.

NOES: Councilmember Weir.

ABSENT: None.

IN WITNESS WHEREOF, I have set my hand and affixed the seal of the City of San Buenaventura on September 25, 2012.


Deputy City Clerk



ARTICLE II. URBAN STANDARDS

2.10.010 LAND USE AND PERMIT REQUIREMENTS

Table III-1

ALLOWED USE		PERMIT REQUIRED BY ZONE										CTO
		T4.1	T4.1 Main	T4.2	T4.3	T4.4	T5.1	T5.1 Figueroa	T6.1	POS	T4.3.5	
1	Auto Repair	-	-	U ¹	U ¹	U	U	-	-	-	-	P
2	Bar / Nightclub	-	-	-	-	-	U	U	U	-	-	P
3	Bed & Breakfast	P	P	P	P	P	-	-	P	-	P	P
4	Civic	P	P	P	P	P	P	P	P	P	P	P
5	Community Meeting	U	U	-	U	U	U	U	U	-	P	P
6	Corner Store	U	P	U	U	-	-	-	-	-	U	-
7	Daycare	U	U	-	U ²	U	U	-	-	-	-	P
8	Farmers Market	-	U	-	U	U	U	U	U	-	U	U
9	Gas Station	-	-	-	-	U	-	-	-	-	-	U
10	Health / Fitness	-	P	-	-	P	P	P	P	-	-	P
11	Home Occupation	P	P	P	P	P	P	P	P	-	P	P
12	Lodging	-	-	-	U	P	P	P	P	-	P	U
13	Medical / Dental	-	-	U ¹	U ¹	-	P	P	P	-	-	P
14	Multi-Family	P	P	P	P	P	P	P	P	-	P	-
15	Office	-	P	U ¹	U ^{1,2}	P	P	P	P	-	-	P
16	Parks & Recreation	P	P	P	P	P	P	P	P	P	P	U
17	Personal Services	-	P	-	-	P	P	P	P	-	-	P
18	Recycling	-	U	-	U	U	U	-	-	-	U	P
19	Restaurant	-	P	-	U ²	P	P	P	P	-	U	P
20	Retail	-	P	-	U ²	P	P	P	P	-	P	-
21	Single Family / Carriage House	P	P	-	-	-	-	-	-	-	-	-
22	Special Residential	U	U	U	U	U	U	U	U	-	U	-
23	Timeshare	-	-	-	U ²	-	-	U*	U*	-	-	-
24	Thrift Stores	-	DP	-	-	DP	DP	DP	DP	-	-	U
25	Trade School	-	-	U	U	U	U	U	U	-	-	-
26	Light Industrial	-	-	U	U	-	-	-	-	-	-	-
27	Wholesale / Distribution	-	-	U	U	-	-	-	-	-	-	-

Permit Requirements:
P = Permitted by Right U = Use Permit - = Not an allowed use DP = Director's Permit

* Alcohol beverage establishments are subject to a Use Permit under the provisions of Section 24.460.210 of the Municipal Code. For example, a restaurant in the T6.1 zone, while by itself is permitted by right, would not be permitted to sell alcoholic beverages unless a separate Use Permit is obtained.

* New bars and nightclubs are restricted to the areas shown in Figure III-3 Bar and Nightclub Siting.
* Exclusive to the area south of U.S. Highway 101.
* Exclusive to the Westside Workplace Overlay Zone.
* Exclusive to the Eastside Workplace Overlay Zone.

Key to Zone Names

T4.1	Urban General 1	T4.3	Urban General 2	T5.1 Figueroa	Figueroa Street Frontage
T4.1 Main	Main Street Frontage	T4.4	Thompson Corridor	T6.1	Urban Core
T4.2	Urban General 2	T5.1	Neighborhood Center	POS	Parks and Open Space
CTO	Refer to OTSP zoning map (Figure III-1) and Municipal Zoning Code Section 24.240 for sites in the coastal zone subject to C-T-O provisions. Building Development Codes in the respective transect-based code will apply to C-T-O zoned sites.				

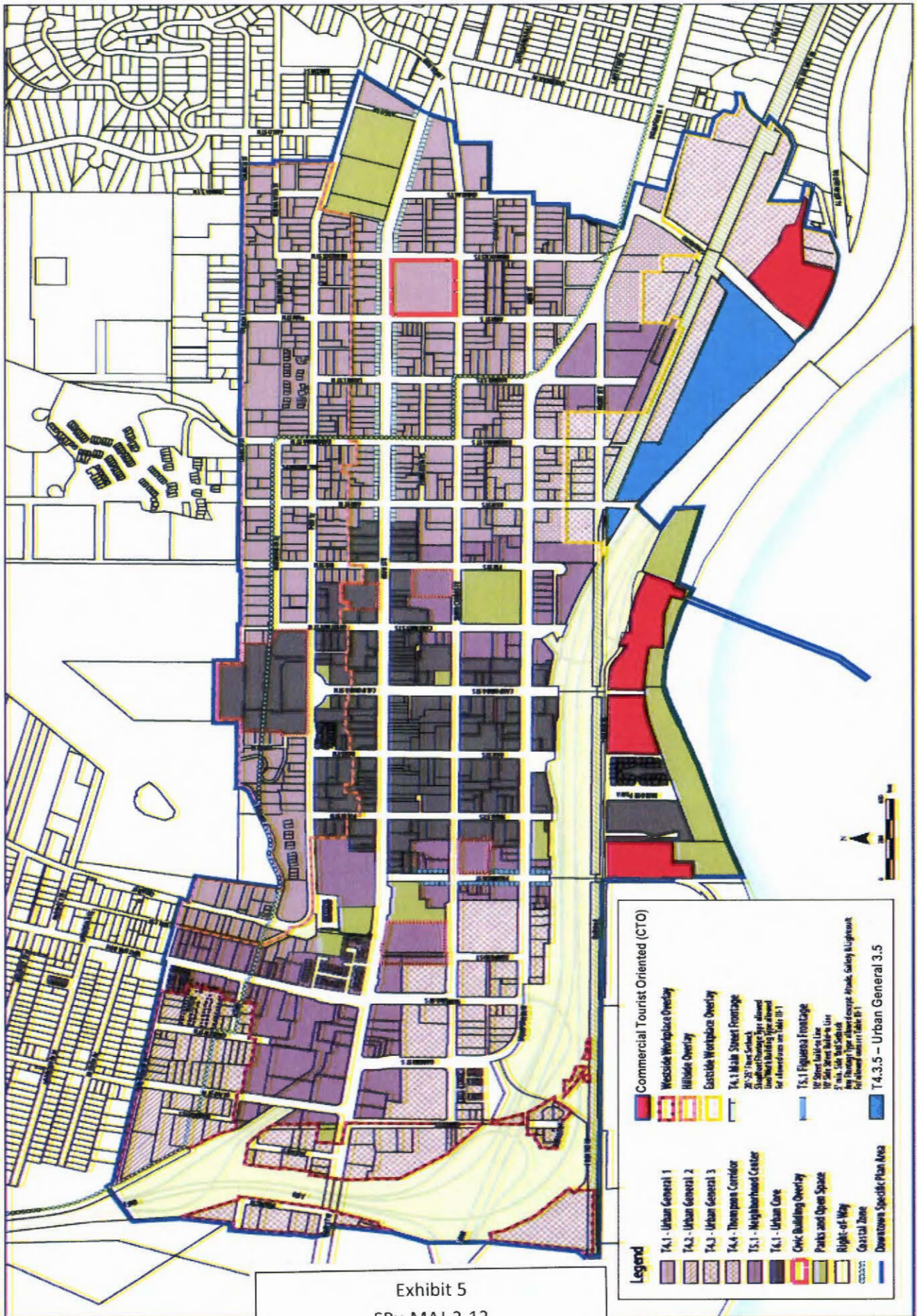


Exhibit 5
SBv-MAJ-2-12
Proposed Modifications to Figure III-1

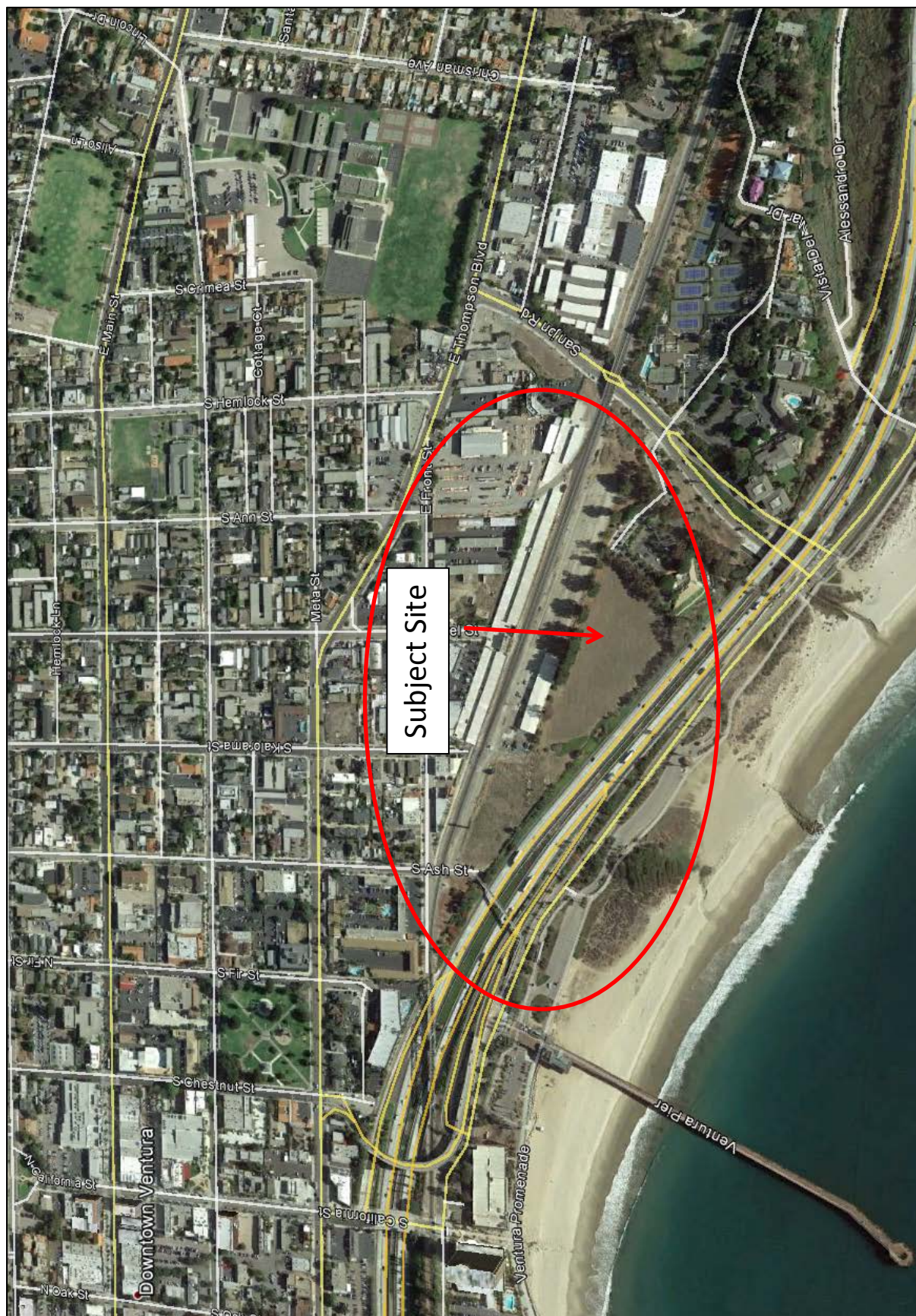


Exhibit 6
SBV-MAJ-2-12
Aerial Photograph