

CALIFORNIA COASTAL COMMISSION

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F8a

Filed: 6/1/2010
49th Day: 7/20/2010
180th Day: N/A
Staff: Charles Posner - LB
Staff Report: 6/16/2010
Hearing Date: July 9, 2010
Commission Action:

**STAFF REPORT: APPEAL - NO SUBSTANTIAL ISSUE**

LOCAL GOVERNMENT: City of Manhattan Beach

LOCAL DECISION: Approval with Conditions

APPEAL NUMBER: A-5-MNB-10-124

APPLICANT: Association of Volleyball Professionals (AVP)

AGENT: Justin Kamm, AVP Manager

PROJECT LOCATION: Beach area south of the Manhattan Beach Pier, City of Manhattan Beach, Los Angeles County.

PROJECT DESCRIPTION: Appeal of City of Manhattan Beach local coastal development permit approving the 2010 Manhattan Beach Open Volleyball Tournament (with temporary bleachers and related structures seating 3,500 people) to be held on the public beach during a thirteen-day period (including set-up and take-down). Tournament play is scheduled for August 19-22, 2010.

APPELLANT: William Victor

SUMMARY OF STAFF RECOMMENDATION

The staff recommends that the Commission, after public hearing, determine that the appeal raises **no substantial issue**. The local coastal development permit approving the annual volleyball tournament conforms to the City of Manhattan Beach certified Local Coastal Program (LCP) and the public access policies of the Coastal Act. The local coastal development permit requires that at least seventy-five percent (75%) of the total seating capacity at each court be reserved for the general public for free on a first-come, first-served basis. Also, the AVP is required to implement a traffic and parking management plan and provide a free shuttle bus (on Saturday and Sunday) for public transportation between a remote parking area and a drop-off point near the event site. Finally, the visual impact of the temporary development (i.e., bleachers) approved by the local coastal development permit constitutes **no substantial issue** with respect to the grounds on which the appeal has been filed. **The motion to carry out the staff recommendation is on Page Five.**

SUBSTANTIVE FILE DOCUMENTS:

1. Local Coastal Development Permit No. CA-10-04 (2010 Manhattan Beach Open) and City Council Resolution No. 6250 (Exhibit #4).
2. City of Manhattan Beach Local Coastal Program (LCP), certified 5/12/1994.
3. Appeal/Permit No. A-5-MNB-97-84 (1997 Manhattan Beach Open), 5/13/1997.
4. Appeal No. A-5-MNB-99-111 (1999 Manhattan Beach Open), NSI 6/11/1999.
5. Appeal No. A-5-MNB-01-343 (2001 Manhattan Beach Open), NSI 10/8/2001.
6. Appeal/Permit No. A-5-MNB-03-075 (2003 Manhattan Beach Open), 6/11/2003.
7. Appeal/Permit No. A-5-MNB-04-108 (2004 Manhattan Beach Open), 5/14/2004.
8. City of Manhattan Beach LCP Amendment No. 2-04, Certified 5/11/2005.
9. Appeal No. A-5-MNB-07-178 (2007 Manhattan Beach Open) NSI 6/14/2007.
10. Appeal No. A-5-MNB-08-111 (2008 Manhattan Beach Open) NSI 6/11/2008.

I. APPELLANT'S CONTENTION (EXHIBIT #5)

The appellant lists several reasons for the appeal (Exhibit #5), including:

1. The local coastal development permit does not protect coastal access.
2. The MBO/AVP Agreement fails to provide for public access as required by the certified Local Coastal Program.
3. The site plans does not clearly delineate the paid seating areas vs. the free seating.
4. The bleachers on the pier do not provide sufficient space for emergency vehicles to pass.
5. The shuttle bus schedule condition of the MBO/AVP Agreement should require buses to run at "no more than fifteen minute intervals".
6. The 41.5-foot height of the bleachers and inflatables interferes with access to views by the public.

II. LOCAL GOVERNMENT ACTION

On May 4, 2010, after a public hearing, the Manhattan Beach City Council adopted City Council Resolution No. 6250 and approved with conditions Local Coastal Development Permit No. 10-04 allowing the Association of Volleyball Professionals (AVP) to conduct the 2010 Manhattan Beach Open Volleyball Tournament (Exhibit #4). On May 4, 2010, the City Council also approved an agreement ("the Agreement") with the Association of Volleyball Professionals (AVP) to partner with the City of Manhattan Beach (CMB) to produce the event, as they have for many years. The appellant's letter objecting to the City Council's approvals is attached as Pages Three and Four of Exhibit #5. The actions by the City Council were not appealable at the local level.

This year's approved event is planned to occur on the weekend of August 19-22, 2010. As in prior years, the event site is the public beach area located immediately south of the Manhattan Beach Pier (Exhibit #3). Set-up for this year's event would commence on Friday, August 13, 2010, and take-down would be completed by Wednesday, August 25, 2010. Condition Ten of the local coastal development permit requires that at least seventy-five percent (75%) of the

total seating capacity at each court be reserved for the general public for free on a first-come, first-served basis (Exhibit #4, p.3). Also, the AVP is required to implement a traffic and parking management plan and provide a free shuttle bus (on Saturday and Sunday) for public transportation between a remote parking area and a drop-off point near the event site.

On May 17, 2010 the Commission's South Coast District office in Long Beach received the City's Notice of Final Local Action for Local Coastal Development Permit No. 10-04. The Commission's ten working day appeal period was then established and noticed. The Commission's South Coast District office received the appeal from William Victor on June 1, 2010, the last day of the appeal period.

III. APPEAL PROCEDURES

After certification of Local Coastal Programs (LCP), the Coastal Act provides for limited appeals to the Coastal Commission of certain local government actions on coastal development permits. Developments approved by cities or counties may be appealed if they are located within appealable areas, such as between the sea and the first public road paralleling the sea or within three hundred feet of the mean high tide line or inland extent of any beach or top of the seaward face of a coastal bluff [Coastal Act Section 30603(a)]. In addition, an action taken by a local government on a coastal development permit application may be appealed to the Commission if the development constitutes a "major public works project" or a "major energy facility" [Coastal Act Section 30603(a)(5)].

The City of Manhattan Beach LCP was certified on May 12, 1994. In Manhattan Beach, the inland boundary of the appealable area of the City's coastal zone, located three hundred feet from the inland extent of the beach, has been mapped within the Manhattan Avenue right-of-way (Exhibit #2). The proposed event is located entirely within the geographic appealable area. Section 30603(a)(1) of the Coastal Act identifies the project site as being in an appealable area by virtue of its location on the beach and between the sea and the first public road paralleling the sea.

Section 30603 of the Coastal Act states:

- (a) After certification of its Local Coastal Program, an action taken by a local government on a coastal development permit application may be appealed to the Commission for only the following types of developments:
 - (1) Developments approved by the local government between the sea and the first public road paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tide line of the sea where there is no beach, whichever is the greater distance.
 - (2) Developments approved by the local government not included within paragraph (1) that are located on tidelands, submerged lands, public trust lands, within 100 feet of any wetland, estuary, stream, or within 300 feet of the top of the seaward face of any coastal bluff.

The grounds for appeal of an approved local coastal development permit in the appealable area are stated in Section 30603(b)(1), which states:

(b)(1) The grounds for an appeal pursuant to subdivision (a) shall be limited to an allegation that the development does not conform to the standards set forth in the certified Local Coastal Program or the public access policies set forth in this division.

The action currently before the Commission is to find whether there is a "substantial issue" or "no substantial issue" raised by the appeal of the local approval of the proposed project. Sections 30621 and 30625(b)(2) of the Coastal Act require a de novo hearing of the appealed project unless the Commission determines that no substantial issue exists with respect to the grounds for appeal.

Commission staff recommends a finding of no substantial issue. If the Commission decides that the appellant's contentions raise no substantial issue as to conformity with Chapter 3 of the Coastal Act, the action of the local government stands.

Alternatively, if the Commission finds that a substantial issue exists with respect to the conformity of the action of the local government with the standards set forth in the certified Local Coastal Program or the public access policies of the Coastal Act, the local coastal development permit is voided and the Commission typically continues the public hearing to a later date in order to review the coastal development permit as a de novo matter. [Cal. Pub. Res. Code §§ 30621 and 30625.] Section 13321 of the Coastal Commission regulations specifies that de novo actions will be heard according to the procedures outlined in Sections 13114 and 13057-13096 of the Commission's regulations.

If there is no motion from the Commission to find no substantial issue, it will be presumed that the appeal raises a substantial issue and the Commission will schedule the de novo phase of the public hearing on the merits of the application at a subsequent Commission hearing. A de novo public hearing on the merits of the application uses the certified LCP as the standard of review. In addition, for projects located between the first public road and the sea, findings must be made that an approved application is consistent with the public access and recreation policies of the Coastal Act. Sections 13110-13120 of Title 14 of the California Code of Regulations further explain the appeal hearing process.

If the Commission decides to hear arguments and vote on the substantial issue question, proponents and opponents will have three minutes per side to address whether the appeal raises a substantial issue. The only persons qualified to testify before the Commission at the substantial issue portion of the appeal process are the applicant, persons who opposed the application before the local government (or their representatives), and the local government. Testimony from other persons must be submitted in writing. The Commission will then vote on the substantial issue matter. It takes a majority of Commissioners present to find that the grounds for the appeal raise no substantial issue.

IV. STAFF RECOMMENDATION ON SUBSTANTIAL ISSUE

The staff recommends that the Commission determine that **no substantial issue exists** with respect to the grounds for the appeal regarding conformity of the project with the City of Manhattan Beach certified Local Coastal Program and the public access policies of the Coastal Act, pursuant to Public Resources Code Section 30625(b)(2).

Staff recommends a **YES** vote on the following motion:

MOTION: *"I move that the Commission determine that Appeal No. A-5-MNB-10-124 raises **NO SUBSTANTIAL ISSUE** with respect to the grounds on which the appeal has been filed."*

A majority of the Commissioners present is required to pass the motion.

Resolution to Find No Substantial Issue for Appeal A-5-MNB-10-124

The Commission hereby finds that Appeal No. A-5-MNB-10-124 raises no substantial issue regarding consistency with the Certified Local Coastal Plan and/or the public access policies of the Coastal Act.

V. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares:

A. Project Description

On May 4, 2010, after a public hearing, the Manhattan Beach City Council adopted City Council Resolution No. 6250 and approved with conditions Local Coastal Development Permit No. 10-04 allowing the Association of Volleyball Professionals (AVP) to conduct the 2010 Manhattan Beach Open Volleyball Tournament (Exhibit #4). This year's approved event is planned to occur on the weekend of August 19-22, 2010.

The event site is the public beach area located immediately south of the Manhattan Beach Pier (Exhibit #3). Most of the parking stalls in the public parking lots at the base of the pier will be reserved for the applicant's use during the event. Set-up for this year's event (e.g., 3,500 bleacher seats, stadium, tents, etc.) would commence on Friday, August 13, 2010, and take-down would be completed by 6:00 p.m. on Wednesday, August 25, 2010. Condition Nine limits the height of all structures associated with the event to 41.5 feet. Condition Ten of the local coastal development permit requires that at least seventy-five percent (75%) of the total seating capacity at each court be reserved for the general public for free on a first-come, first-served basis (Exhibit #4, p.3). Also, the AVP is required to implement a traffic and parking management plan and provide a free shuttle bus (on Saturday and Sunday) for public transportation between a remote parking area and a drop-off point near the event site.

B. Event History

The annual Manhattan Beach Open Volleyball Tournament has a long tradition that dates back to 1960. The event has always been located on the south side of the Manhattan Beach Pier in a sandy area owned and operated by the Los Angeles County Department of Beaches and Harbors (Exhibit #2).¹ The event area is occupied by several sets of sand volleyball courts used for public recreation. Even though the event area can get quite congested, the City has always maintained public access to the pier and along the water. The bicycle path is usually kept open, although bikes must be walked.

Until 2005, no admission fees had been charged to view the event, and the general public was able to view the event on a first-come, first-served basis from the sand, the temporary bleachers, or from the pier. In 2005 the City amended its LCP to include the following provision to allow up to twenty-five percent of the available seating areas to be reserved for VIPs and ticket-holders, while reserving at least seventy-five percent of the total seating area for free seating. The certified LCP states:

OS District's Allowable Temporary Use Schedule - LIP Section A.24.030

Sporting events where more than 75% of the total seating area is available free of charge, including admission fees and memberships, for general public use. The "seating area" includes areas clearly and visibly designated for spectators to use to view the event, including the spectator areas immediately adjacent to the court/field, and cannot include any areas from which the court/field cannot be seen at all.

The Commission has heard appeals of the City's local coastal development permits approving the annual event in 1997, 1999, 2001, 2003, 2007 and 2008. Although the permitting process has been contentious at times, the City and Commission have never denied a permit for the annual event. The issues that have been contentious primarily involve public access and recreation impacts, such as: the applicant's requests for exclusive use of the sandy beach and the City's public beach parking lots, the event's admission policies (free vs. fee admission), timing of the event set-up and take-down, visual impacts, and allegations of crass commercialization of public lands. Over the years, the City and Commission have worked together to develop a set of special conditions that mitigate the impacts of the annual temporary event. This set of special conditions has been applied to the local coastal development permit for the 2010 Manhattan Beach Open Volleyball Tournament (Exhibit #4).

This appeal raises the same allegations that the appellant brought to the Commission on appeal in 2008 (A-5-MNB-08-111) and in 2007 (A-5-MNB-07-178). In both prior instances, the Commission upheld the local government's approval of the permit for the annual volleyball tournament and found that the appeals raised no substantial issue. The City's local coastal development permit for this year's tournament is substantially the same in regards to coastal access, views and parking issues as the prior approvals were in 2007, 2008 and 2009.

¹ Although the beach is owned by Los Angeles County, it falls within the City limits of Manhattan Beach and the within the jurisdiction of the certified City of Manhattan Beach Local Coastal Program.

C. Substantial Issue Analysis

As stated in Section III of this report, the grounds for appeal of a coastal development permit issued by the local government after certification of its Local Coastal Program (LCP) are specific. In this case, the local coastal development permit may be appealed to the Commission on the grounds that it does not conform to the certified LCP or the public access policies of the Coastal Act. The Commission must then decide whether a substantial issue exists in order to hear the appeal.

In this case, the appellant asserts that public access is not being protected, and that public views will be adversely affected by the bleacher seats and inflatable advertisements that have been approved as part of the temporary event (Exhibit #5). Some of the appellants' contentions also center on the 2010 MBO/AVP Agreement rather than the conditions of the local coastal development permit. The substantial issue determination, however, is limited solely to the issue of whether the local approval of the coastal development permit conforms with the LCP and the public access policies of the Coastal Act.

In this regard, the Commission must determine if the City's approval of the proposed event raises a substantial issue in regards to the public access policies of the Coastal Act. The following are the relevant public access policies of the Coastal Act.

Section 30210 of the Coastal Act states:

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Section 30211 of the Coastal Act states:

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

Section 30212 of the Coastal Act states, in part:

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

Section 30212.5 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.

Section 30213 of the Coastal Act states, in part:

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

The certified Manhattan Beach LCP contains specific policies that apply to all development located within the City's coastal zone. All development approved within the City's coastal zone, including the proposed event, must comply with the policies of the certified Manhattan Beach LCP. First, the proposed project must qualify as a permitted use within the Open Space (OS) land use designation of the beach. The proposed event, with the permit condition that requires that at least seventy-five percent (75%) of the total seating capacity at each court be reserved for the general public for free, is consistent with the Open Space (OS) land use designation of the beach, which allows:

"Sporting events where more than 75% of the total seating area is available free of charge, including admission fees and memberships, for general public use. The "seating area" includes areas clearly and visibly designated for spectators to use to view the event, including the spectator areas immediately adjacent to the court/field, and cannot include any areas from which the court/field cannot be seen at all." [See Condition 10: Exhibit #4, p.3.]

Secondly, the proposed project must comply with the following relevant LCP policies:

POLICY 1.A.2: *The City shall encourage, maintain, and implement safe and efficient traffic flow patterns to permit sufficient beach and parking access.*

POLICY I.A.8: *The City shall maintain visible signage to El Porto accessways and beach parking, along Highland Avenue.*

POLICY I.B.1: *The City shall encourage public transportation service to mitigate excess parking demand and vehicular pollution. All transportation/congestion management plans and mitigation measures shall protect and encourage public beach access.*

POLICY I.B.3: *The City shall encourage pedestrian and bicycle modes as a transportation means to the beach.*

POLICY I.B.6: *The Strand shall be maintained for non-vehicular beach access.*

POLICY I.C.2: *The City shall maximize the opportunities for using available parking for weekend beach use.*

POLICY I.C.3: *The City shall encourage additional off-street parking to be concentrated for efficiency relative to the parking and traffic system.*

POLICY I.C.9: *Use of existing public parking, including, but not limited to, on-street parking, the El Porto beach parking lot, and those parking lots indicated on Exhibit #9 (in the certified LCP), shall be protected to provide public beach parking...*

POLICY: *The beach shall be preserved for public beach recreation. No permanent structures, with the exception of bikeways, walkways, and restrooms, shall be permitted on the beach.*

PROGRAM II.A.6: *Consider the establishment of alternative transportation systems and park-mall facilities, including a shuttle service to the El Porto beach area.*

PROGRAM II.B.13: *Improve information management of the off-street parking system through improved signing, graphics and public information and maps.*

PROGRAM II.B.14: *Provide signing and distribution of information for use of the*
POLICY 1.C.17 *Civic Center parking for beach parking on weekend days.*

The Commission must determine whether the appeals raise a substantial issue with regard to the conformity of the proposed event with the above-stated LCP and Coastal Act policies. The staff recommends that the Commission determine that the appeals raise **no substantial issue** because the local coastal development permit approving the annual volleyball tournament conforms to the City of Manhattan Beach certified Local Coastal Program (LCP) and the public access policies of the Coastal Act.

Public Access to the Shoreline

Even though a large part of the beach south of the pier will be occupied by the proposed event and its related structures, the beach, pier and bike path will remain open for public access and recreation. Condition Nineteen of the local coastal development permit preserves the minimal fifty-foot wide-open area along the shoreline for lateral public access. Condition Seventeen protects access to the Manhattan Beach Pier. Condition Eighteen protects access on the bike path and The Strand (Exhibit #4). Past years' events have demonstrated that people will be able to access the shoreline in the project area during the event. The proposed event is an annual tradition in the City of Manhattan Beach that draws thousands of visitors to the shoreline for lower cost recreation. Therefore, the local coastal development permit approving the 2010 volleyball tournament conforms to the City of Manhattan Beach certified Local Coastal Program (LCP) and the public access policies of the Coastal Act.

Traffic and Parking

In regards to public beach parking, the crowds generated by the proposed event, in association with the event's reserved use of public parking areas, can adversely affect beach goers' ability to find a parking space near the beach. The Commission has consistently found that a direct relationship exists between the provision of adequate parking and availability of public access to the coast. On both Saturday and Sunday, the proposed event is expected to

attract over 6,000 persons to an already crowded beach area. The additional visitors drawn by the proposed event can overburden the limited beach parking supply. There is simply not enough public parking available in the downtown area to accommodate all of the people who attempt to visit Manhattan Beach during summer weekends. Add to this the City's reservation for the AVP of at least 71 of the 161 parking spaces closest to the pier for ten days, and the ability to find public parking near the pier will be nearly impossible. This situation arises each year during the event. In order to mitigate the adverse impact the public beach parking supply, the applicant each year provides alternate remote parking facilities and free public transportation to the beach.

As required by Policies 1.A.2, 1.B.1, 1.C.2 and 1.C.17 (Program II.B.14) of the certified LCP, the City is required to implement safe and efficient traffic flows, encourage transportation service, maximize parking for weekend beach use, and provide signing and information to do so. The City meets these LCP obligations by imposing conditions (Conditions 13, 14 and 15) on the local coastal development permit that require the applicant to provide and implement a parking and traffic management plan that provides parking for the event spectators and the general public. The applicant is also required to provide a free shuttle bus (on Saturday and Sunday) for public transportation between a remote parking area and a drop-off point near the event site. Condition Fourteen of the City's permit states that, "The headway time between shuttle service pick-ups shall not be more than fifteen minutes". As conditioned, the City's approval is consistent with LCP Policies 1.A.2, 1.B.1, 1.C.2 and 1.C.17, and the public access policies of the Coastal Act.

Exclusive Use of the Beach

A second way that public access can be affected by the proposed event is the exclusiveness of the proposed temporary use of the beach. For thirteen days, from set-up to take-down, the general public will be excluded from most of the sandy beach area and public volleyball courts on the event site. The proposed event will occupy a 300-foot long portion of the approximately 350-foot wide beach area that exists between the bike path and mean high tide line (MHTL).

The exclusive use of public beaches has always been an issue of prime importance to the Commission in terms of impacts on public access. The annual event, however, is an event of limited duration (thirteen days), and as conditioned, does not conflict with the provisions of the certified LCP or the public access policies of the Coastal Act. Condition Nineteen of the local coastal development permit preserves the minimal fifty-foot wide-open area along the shoreline for lateral public access. Condition Seventeen protects access to the Manhattan Beach Pier. Condition Eighteen protects access on the bike path and The Strand (Exhibit #4). Therefore, the local coastal development permit approving the 2010 volleyball tournament conforms to the City of Manhattan Beach certified Local Coastal Program (LCP) and the public access policies of the Coastal Act.

Free Admission or Paid Admission

The issue of paid admission is raised again by this appeal, as it has been for several years since it first was raised in 1997. However, since 2005, the certified LCP allows admission to be charged for entry to the event (as long as at least seventy-five percent of the total seating capacity at each court is reserved for the general public for free). Condition Ten of the local

coastal development permit requires the free admission for at least seventy-five percent of the total seating capacity at each court, and includes a provision requiring that the applicant document compliance with the requirement (Condition 10: Exhibit #4, p.3). The condition states that Club/VIP seating cannot be included in the seventy-five percent (75%) of the seating capacity that must be reserved for free public admission. Also, the applicant must post signs that designate which areas are reserved for free public admission.

Scale of Development and Visual Resources

The capacity, size and location of the bleachers and other temporary development, such as inflatable advertisements, is an important issue to be considered when reviewing a proposal for a temporary event on the sandy beach, especially one that is essentially a commercial enterprise. The certified LCP sets forth the following policies that are relevant to the preservation of public views and visual resources at the site of the proposed event:

POLICY II.1: Control development within the Manhattan Beach coastal zone.

POLICY II.B.4: The beach shall be preserved for public beach recreation. No permanent structures, with the exception of bikeways, walkways, and restrooms shall be permitted on the beach.

The temporary structures and advertising associated with temporary events like the Manhattan Beach Open are highly visible and block public views of the shoreline, but they do not conflict with the certified LCP or Coastal Act policies because they are permitted to exist on a temporary basis for only a few days. After the event, the structures are quickly removed from the beach (within one day) and the public's view of the shoreline is restored.

Condition Nine of the local coastal development permit limits all structures associated with the event (e.g., bleacher seats) to a maximum height of 41.5 feet (Exhibit #4, p.3). Condition Nineteen prohibits the event and all associated development from encroaching any closer to the shoreline than fifty feet, measured from the highest water mark (Exhibit #4, p.5). The site plan submitted with the permit application shows that the event area will not extend further than 790 feet south of the pier (Exhibit #3). Therefore, the development is controlled and the scenic resources of the coastal zone are protected from any long-term or permanent negative impacts.

In addition, the proposed temporary event does not conflict with LCP Policy II.B.4 because no permanent structures are permitted, and the annual volleyball tournament has always been considered to be form of public beach recreation since it is on the beach and is open to the general public (primarily for free). The proposed event's impacts to public views or visual resources will be temporary, and the LCP does not prohibit temporary visual impacts, especially those foreseeable effects (e.g., bleachers seats) associated with an annual tournament that is almost fifty years old.

Conclusion

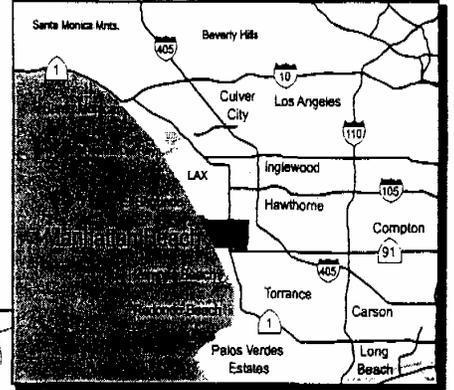
The City's approval of the proposed event conforms to the certified LCP and the public access policies of the Coastal Act. The local coastal development permit requires that at least

seventy-five percent (75%) of the total seating capacity at each court be reserved for the general public for free on a first-come, first-served basis. Also, the AVP is required to implement a traffic and parking management plan and provide a free shuttle bus (on Saturday and Sunday) for public transportation between a remote parking area and a drop-off point near the event site.

This appeal raises the same allegations that the appellant brought to the Commission on appeal in 2008 (A-5-MNB-08-111) and 2007 (A-5-MNB-07-178). No appeal was filed for the City's approval of the 2009 Manhattan Beach Open. In both prior instances, the Commission upheld the local government's approval of the permit for the annual volleyball tournament and found that the appeals raised no substantial issue. The City's local coastal development permit for this year's tournament is substantially the same in regards to coastal access, views and parking issues as the prior approvals in 2007, 2008 and 2009.

The City's action approving this year's event with conditions is consistent with the Commission's prior appeal actions approving permits for the annual event. The local coastal development permit approving the 2010 volleyball tournament conforms to the City of Manhattan Beach certified Local Coastal Program (LCP) and the public access policies of the Coastal Act. Therefore, the Commission finds that the appeal raises no substantial issue regarding consistency with the Certified Local Coastal Plan and/or the public access policies of the Coastal Act.

Regional Map

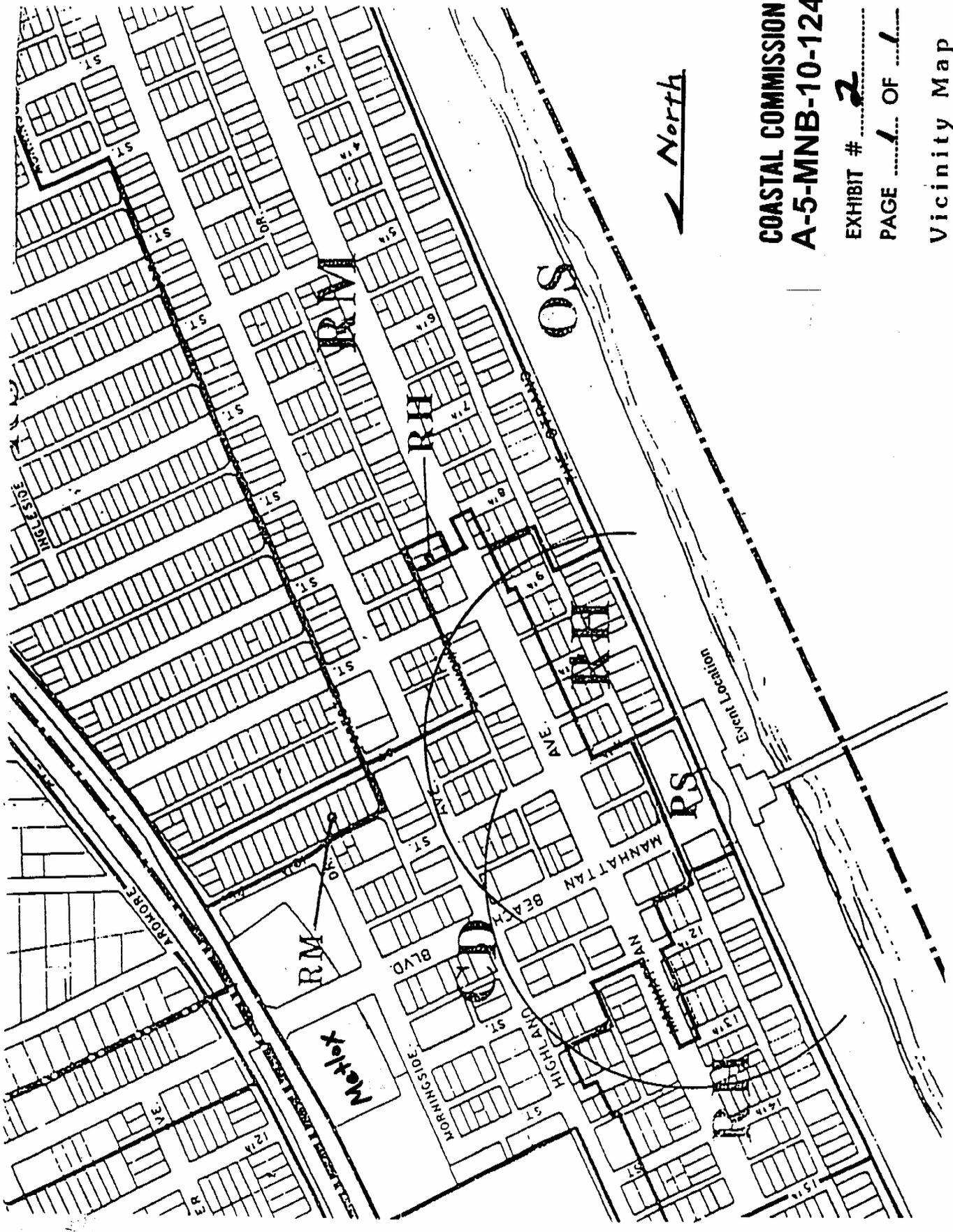


Manhattan Beach Open

A-5-MNB-10-124

COASTAL COMMISSION

EXHIBIT # 1
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North

COASTAL COMMISSION
A-5-MNB-10-124

EXHIBIT # 2

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Vicinity Map



1000 Gateway Blvd
 Los Angeles, CA 90015
 310.426.7123

2010 MANHATTAN BEACH OPEN

Site Plan
 100 Manhattan Beach Blvd, Manhattan Beach, CA 90266

Event Dates:
 August 19-22, 2010

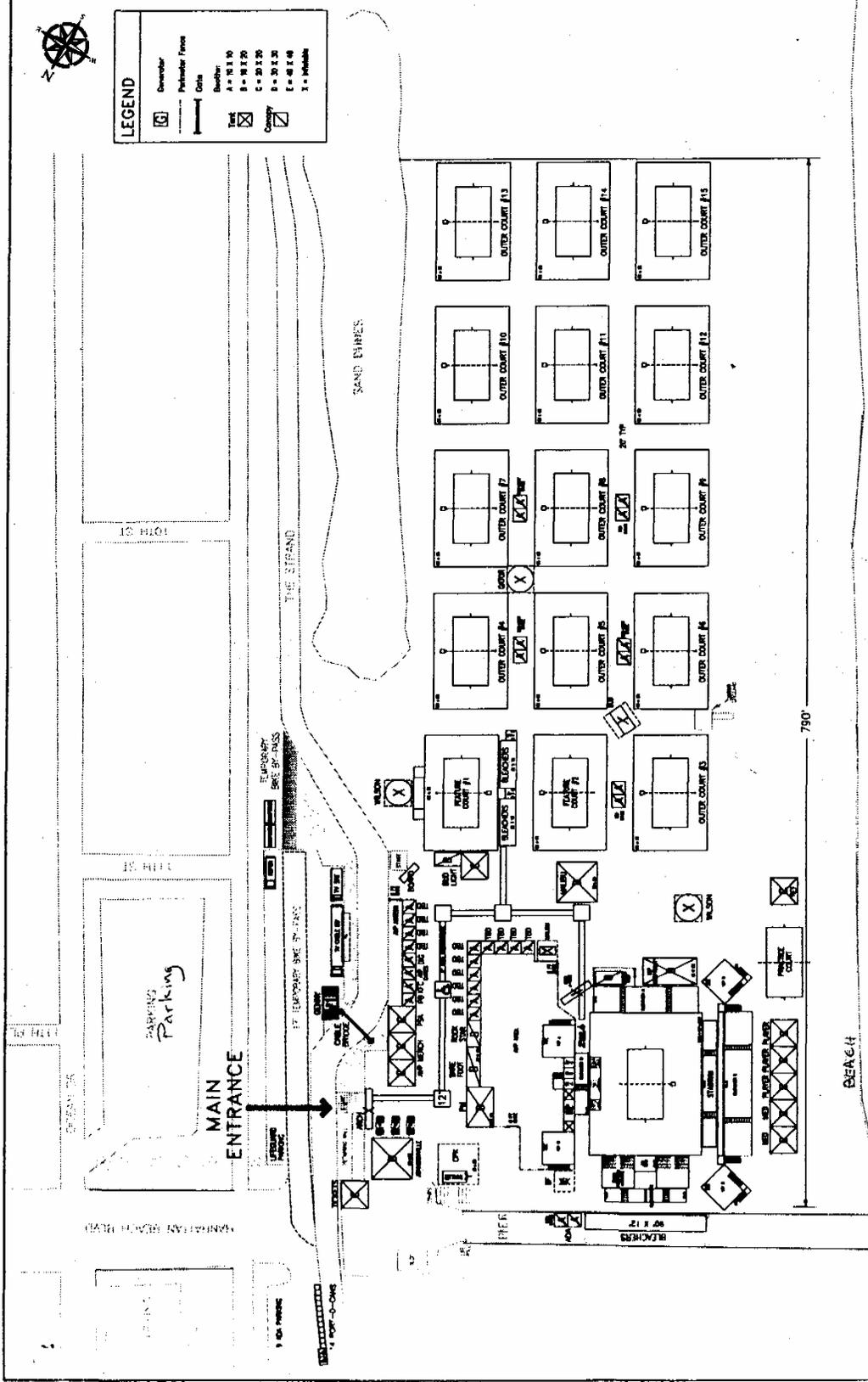
Scale:
 1" = 100'

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 BergAD Services
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LEGEND	
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	I-10170



A-S-MNB-10-124
 COASTAL COMMISSION

Proposed Site Plan

EXHIBIT # 3
 PAGE 1 OF 1



City Hall 1400 Highland Avenue Manhattan Beach, CA 90266-4795
Telephone (310) 802-5000 FAX (310) 802-5001 TDD (310) 546-3501

NOTICE OF FINAL GOVERNMENT ACTION RECEIVED
South Coast Region

May 11, 2010

California Coastal Commission
South Coast District
200 Oceangate, 10th Floor
Long Beach, CA. 90802-4302

MAY 17 2010

CALIFORNIA
COASTAL COMMISSION

RE: Coastal Development Permit for 2010 Manhattan Beach Open Spectator Bleachers South of Manhattan Beach Pier (CA 10-04, APN Nos. 4179-031-902 & -903)

Pursuant to the procedures set forth in Chapter A.96 of the City of Manhattan Beach Local Coastal Program (LCP) the City Council of the City of Manhattan Beach conducted a duly noticed public hearing (May 4, 2010) on the above referenced project located in the appealable portion of the Manhattan Beach Coastal Zone. At this hearing the Council voted 5-0 to approve the Coastal Development Permit. This approval is the City's final action for the project. Pursuant to Section A.96.100 (H) of the City's LCP, the City's action shall establish a ten (10) working day appeal period to the Coastal Commission commencing upon receipt of the Notice of Final Action by the Coastal Commission.

Attached is a copy of Resolution No. 6250 approving the Coastal Development Permit. This Resolution outlines the findings and conditions of approval. Should you have any questions, or need additional information, please feel free to contact me at (310) 802-5511.

Sincerely,

Eric Haaland, Associate Planner
Department of Community Development

xc: David Williams/AVP (*Applicant*)
6100 Center Drive #900
Los Angeles, CA 90045

Att: Reso. 6250
MBO Agreement
Updated MBO Site Plan

Fire Department Address: 400 15th Street, Manhattan Beach, CA 90266 FAX (310) 802-5101
Police Department Address: 420 15th Street, Manhattan Beach, CA 90266 FAX (310) 802-5101
Public Works Department Address: 3621 Bell Avenue, Manhattan Beach, CA 90266 FAX (310) 802-5301
City of Manhattan Beach Web Site: <http://www.ci.manhattan-beach.ca.us>

A-5-MNB-10-124
COASTAL COMMISSION

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RESOLUTION NO. 6250

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MANHATTAN BEACH, CALIFORNIA, APPROVING A COASTAL DEVELOPMENT PERMIT FOR THE 2010 MANHATTAN BEACH OPEN ON THE PROPERTY LOCATED AT THE SOUTH SIDE OF THE MANHATTAN BEACH PIER IN THE CITY OF MANHATTAN BEACH (Association of Volleyball Professionals)

THE CITY COUNCIL OF THE CITY OF MANHATTAN BEACH, CALIFORNIA, DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1. The City Council of the City of Manhattan Beach hereby makes the following findings:

- A. The City Council conducted a public hearing on the proposed coastal development permit, and testimony was invited and received, on May 4, 2010.
- B. The applicant for the coastal development permit is the Association of Volleyball Professionals.
- C. The City Council, at its regular meeting of May 4, 2010, approved a temporary use permit/program for the 2010 Manhattan Beach Open volleyball tournament and an agreement with the Association of Volleyball Professionals to partner with the City of Manhattan Beach to produce the event during the period of August 19 - 22, 2010.
- D. A coastal development permit application (CA 10-04) was also submitted by the Association of Volleyball Professionals to allow temporary spectator bleachers and related structures seating 3,500 people for a single 11-day period (including setup and breakdown) for the 2010 Manhattan Beach Open.
- E. The proposal includes a stadium with VIP areas at the west and south sides, and bleacher seating located on a portion of the Manhattan Beach Pier. A maximum of 25% paid seating is proposed for the stadium.
- F. The Project is Categorically Exempt from the requirements of the California Environmental Quality Act (CEQA), pursuant to Section pursuant to Sections 15304(e) "Minor Alterations to Land", 15311(c) "Accessory Structures", and 15323 "Normal Operations of Facilities for Public Gatherings".
- G. The project will not individually nor cumulatively have an adverse effect on wildlife resources, as defined in Section 711.2 of the Fish and Game Code.
- H. The project, as conditioned herein, is in accordance with the objectives and policies of the Manhattan Beach Coastal Program, as follows:
 - a) The proposed temporary bleacher structures comply with the applicable standards of the Manhattan Beach Coastal Zone Zoning Code.
 - b) The structures shall not obstruct accessways within the coastal zone. While they will occupy some space on the beach, access from the Strand, bike path, and pier to the coastline and surrounding beach area shall remain available.
 - c) Any displacement of normal views or use of the space shall be temporary for the period allowed by the proposed permit.



Certified to be a true copy of said document on file in my office.

TA

City Clerk of the City of Manhattan Beach

COASTAL COMMISSION

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d) Installation and use of the bleachers and related structures shall be subject to the restrictions (timing, shuttle, signs, trash, etc.) of the City's tournament agreement with the AVP.

1. This Resolution upon its effectiveness constitutes the Coastal Development Permit for the 2010 Manhattan Beach Open volleyball tournament, that conforms to the description and conditions provided herein.

SECTION 2. The City Council of the City of Manhattan Beach hereby approves the proposed Coastal Development Permit for temporary bleachers and related structures for 3,500 spectators at the 2010 Manhattan Beach Open volleyball tournament during the period of August 19-22, 2010, subject to the following conditions:

1. The project shall be in substantial conformance with the plans submitted to, and approved by the City Council for the 2010 Manhattan Beach Open, on May 4, 2010.
2. The project shall conform to the city-approved Agreement with the Association of Volleyball Professionals for the 2010 Manhattan Beach Open.
3. *Interpretation.* Any questions of intent or interpretation of any condition will be resolved by the City Council.
4. *Inspections.* The Community Development Department Staff shall be allowed to inspect the site and the development during construction subject to 24-hour advance notice.
5. *Effective Date.* This Resolution shall become effective when all time limits for appeal as set forth in MBMC Section 10.100.030, and the City of Manhattan Beach Local Coastal Program - Implementation Program Section A.96.160 have expired; and, following the subsequent Coastal Commission appeal period (if applicable) which is 10 working days following notification of final local action.
6. The subject Coastal Development Permit will be implemented in conformance with all provisions and policies of the Certified Manhattan Beach Local Coastal Program (LCP) and all applicable development regulations of the LCP - Implementation Program.
7. Pursuant to Public Resources Code section 21089(b) and Fish and Game Code section 711.4(c), the project is not operative, vested or final until the required filing fees are paid.
8. The applicant agrees, as a condition of approval of this project, to pay for all reasonable legal and expert fees and expenses of the City of Manhattan Beach, in defending any legal actions associated with the approval of this project brought against the City. In the event such a legal action is filed against the project, the City shall estimate its expenses for the litigation. Applicant shall deposit said amount with the City or enter into an agreement with the City to pay such expenses as they become due.
9. All structures associated with the project shall be limited to 41.5 feet in height.
10. The general public shall be provided with free public access to viewing and seating areas within the event area. The AVP shall post clearly legible signs to designate at least 75% of the total seating capacity at each court (including bleachers, sand areas and viewing platforms/risers surrounding each court) that is reserved for the general public for free on a first-come, first-served basis. The signs, at least two square feet in area, shall state "Free Admission Area". The remaining 25% (or less) of the total seating capacity at each court (including bleachers sand areas and viewing platforms/risers surrounding each court) may be paid seating, or reserved for preferred Beach Club/VIP seating and/or access. The applicant is permitted to collect fees to access the preferred seating areas. On Saturday and Sunday of the tournament, the applicant

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shall count and record the number of Beach Club members and VIP's within the event area, and shall provide the City and the Coastal Commission with the data within 1 month of the end of the tournament.

11. The AVP shall implement a traffic and parking management plan and free beach shuttle bus plan. The traffic plan shall address Handicapped Parking including: All existing handicapped (HC) parking spaced in the upper and lower pier parking lots, and lower pier parking lots, and along Manhattan Beach Boulevard, are reserved for use by persons with vehicles displaying valid handicapped placards; and vehicles associated with the applicant or the event shall not reserve or occupy any handicapped parking spaces unless such vehicle displays a valid handicapped placard.

12. Commencing on the Monday prior to the tournament, and continuing through the Wednesday following the tournament, the AVP shall be permitted exclusive use of only the two lower pier parking lots located at the base of the Manhattan Beach State Pier (71) stalls not including HC stalls). All public parking spaces within the upper pier parking lots shall be reserved for the general public on a first-come, first served basis (54 stalls including HC stalls)

13. On Saturday and Sunday of the tournament, the AVP shall provide the free remote parking supply at the Northrop Grumman parking lot for the general public (i.e., beachgoers, event spectators and AVP guests). The AVP shall monitor and record the number of persons and cars using the remote parking lot on each day and provide the City and the Commission with the data within 1 month of the tournament end.

14. On Saturday and Sunday of the tournament, the AVP shall provide a free shuttle bus service to transport people (i.e., beachgoers, event spectators and AVP guests) between the remote parking lot (Northrop Grumman parking lot) and the downtown drop-off point (Von's Supermarket). At least two shuttle buses, each holding at least fifty persons, shall run continuously between the drop-off point and the remote parking lot each day between the hours of 7 a.m. to 7 p.m. One or both of the shuttle buses shall accommodate wheelchairs and handicapped persons. The "headway" time between shuttle service pick-ups shall be not more than fifteen (15) minutes.

15. Commencing on Tuesday prior to the tournament, the AVP shall provide conspicuously posted on-street informational signs and banners to direct visitors to the free remote parking lot and inform them of the free beach shuttle bus stops. The signs and banners shall also inform the public of the availability of a free bus shuttle for both event spectators and the general public. No fewer than ten informational signs shall be placed along major intersections leading into the City (i.e. I-405 Inglewood exit, Manhattan Beach Boulevard, Highland Avenue, Manhattan Avenue, Valley Drive, Ardmore Avenue, and Aviation Boulevard). The signs and banners shall be no smaller than 2'X3'. All signage shall be retrieved and properly removed on Monday following the tournament.

16. Commencing on Tuesday prior to the tournament, the AVP shall provide no fewer than eight radio announcements and three newspaper advertisements within the Los Angeles County area informing the public of the service. These stations shall represent all diverse ethnic and cultural Los Angeles radio markets and shall include Spanish language, youth and news stations. The applicant shall provide copies of each print advertisement to the City and the Coastal Commission within one month of the tournament end.

17. The event shall not interfere with the public's access to and use of the Manhattan Beach Pier. Pedestrian access to and from the pier shall remain open and unobstructed at all times. A safe level pathway with a minimum clear width of 4 feet shall be maintained between the pier and any bleacher or other obstructions. No tents, vehicles (except for emergency vehicles), fences, barriers or other similar structures shall be placed in the pier. If authorized by the City of Manhattan Beach Fire Department and the California Department of Parks and Recreation, the applicant may erect one set of bleachers on the pier, with a seating capacity not to exceed 250 persons. The applicant shall monitor the pier in order to prevent any unpermitted



certified to be true copy of document file in my files.

TA

City Clerk of City of Manhattan Beach

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encroachments by event sponsors and vendors.

- 18. The event shall not interfere with the public's use of the bicycle path and The Strand, a public walkway that parallels the beach. The bicycle path and The Strand shall remain open and unobstructed. No fences, vehicles, materials or structures shall be parked or placed on the bicycle path or The Strand. The applicant shall monitor The Strand and bicycle path in order to prevent any encroachments by event sponsors and vendors.
- 19. The proposed event, and all associated development, shall not encroach any closer to the shoreline than fifty feet (50'), measured from the highest water mark.
- 20. By acceptance of this coastal development permit, the applicant agrees to remove and legally dispose of all trash, waste, oil, grease, and other materials that may be deposited on-site incidental to the volleyball tournament, associated activities, and the general public's use of the event site, pier and adjacent parking facilities. Such clean-up and disposal shall be completed at the end of each day's activities.

SECTION 3. Pursuant to Government Code Section 65907 and Code of Civil Procedure Section 1094.6, any action or proceeding to attack, review, set aside, void or annul this decision, or concerning any of the proceedings, acts, or determinations taken, done or made prior to such decision or to determine the reasonableness, legality or validity of any condition attached to this decision shall not be maintained by any person unless the action or proceeding is commenced within 90 days of the date of this resolution and the City Council is served within 120 days of the date of this resolution. The City Clerk shall send a certified copy of this resolution to the applicant, and if any, the appellant at the address of said person set forth in the record of the proceedings and such mailing shall constitute the notice required by Code of Civil Procedure Section 1094.6.

SECTION 4. This resolution shall take effect immediately. The City Clerk shall make this resolution readily available for public inspection within thirty (30) days of the date this resolution is adopted.

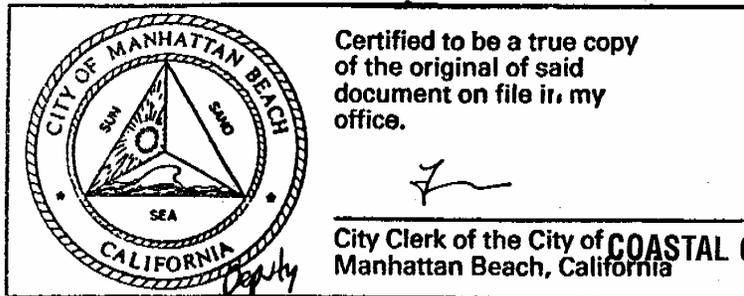
SECTION 5. The City Clerk shall certify to the adoption of this resolution and thenceforth and thereafter the same shall be in full force and effect.

Ayes: Tell, Powell, Cohen, Montgomery and Mayor Ward.
 Noes: None.
 Abstain: None.
 Absent: None.

/s/ Mitch Ward
 Mayor, City of Manhattan Beach, California

ATTEST:

/s/ Liza Tamura
 City Clerk



City Clerk of the City of **COASTAL COMMISSION**
 Manhattan Beach, California

CALIFORNIA COASTAL COMMISSION

JTH COAST DISTRICT OFFICE
OCEANGATE, 10TH FLOOR
LONG BEACH, CA 90802-4416
TELEPHONE (562) 590-5071 FAX (562) 590-5084



APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

RECEIVED
South Coast Region

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

JUN 1 - 2010

SECTION I. Appellant(s)

Name: *William Victor*
Mailing Address: *POB 241072*
City: *Los Angeles Ca* Zip Code: *90024* Phone: *516-670-2590*

CALIFORNIA
COASTAL COMMISSION

SECTION II. Decision Being Appealed

- Name of local/port government:
City of Manhattan Beach
- Brief description of development being appealed:
Coastal Development Permit of the "Manhattan Beach Open Volleyball Tournament" for seating of the MB Pier and a 4500 seats or least plus seats in accordance with the attached staff report and agreement
- Development's location (street address, assessor's parcel no., cross street, etc.):
On The Manhattan Beach in Stadium Beach on the South Side of Manhattan Pier in the City of Manhattan Beach
- Description of decision being appealed (check one.):
 Approval; no special conditions
 Approval with special conditions:
 Denial

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

TO BE COMPLETED BY COMMISSION:	
APPEAL NO:	<i>A-5-MNB-10-124</i>
DATE FILED:	<i>6/1/10</i>
DISTRICT:	<i>South Coast / Long Beach</i>

COASTAL COMMISSION
A-5-MNB-10-124

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APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

SECTION IV. Reasons Supporting This Appeal

PLEASE NOTE:

- Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section.
- State briefly **your reasons for this appeal**. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)
- This need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

- ① The permit does not protect access as required by the MB LCP, Coastal Act and prior Coastal Commission rulings over the tumultuous history of try cap to have the AVP comply with the Coastal Commission guidelines and prior rulings over the past decades
- ② Please see memorandum/email presented to the City Council on the morning ~~of~~ ^{the} day of before the hearing concerning this permit - May 4, 2010 - please note items in the email attached and numbered 1 through 11 on pages 1 and two -
- ③ The City of Manhattan Beach and its interim Director of Community Development and the Recreation Services Manager shows a lack of care in protecting access, health and safety as required by the Coastal Act, Commission rulings and Guidelines, and the MB LCP.
- ④ Appellant reserves the right to supplement the above - although requested of Mark Segner, and the City of MB - no response was received to my emails.



RECEIVED
CITY CLERK'S OFFICE

william victor <vic.law1@gmail.com>

2010 MAY -3 AM 11:58

Re:Item 18, May 4, 2010 Agenda AVP

vic.law1@gmail.com <vic.law1@gmail.com>

Mon, May 3, 2010 at 4:36 AM

To: citycouncil@citymb.info

Cc: vic <vic.law1@gmail.com>, Liza Tamura <ltamura@citymb.info>

May 3, 2010

Hon. Members of the MB City Council

The 2010 MBO/AVP Agreement in the opinion of the undersigned fails to provide access as required by the MB LCP , the Coastal Act and prior Coastal Commission rulings for reasons including the following:

1. Section I D provides a maximum of 25% paid seating only for the center court bleachers which does not appear to comply with the rulings of the Coastal Commission and its guidelines for temporary events during this date in the summer months;
2. The difficult to read site plan does not show where the paid seating is nor does the agreement require that there be clear signage as to where the paid seating is limited to;
3. There is no requirement I could locate in the agreement for sufficient space for emergency vehicles to pass the bleachers on the pier. The site plan does not indicate the space on the north or south side of those bleachers.
4. III H provides for a minimum of one shuttle bus " running at no less than fifteen-minute intervals " to and from the event. It would provide better access and parking relief and be a better plan to have the wording state "at no more than fifteen minute intervals".
5. Section I , paragraph D it does not indicate what government entity the "Department of Public Works" belongs to. Certainly it does not make sense for the City to use its best efforts to obtain approval of its own Department
6. The agreement at Section II G excludes parking for numerous spaces in parking lots and on Manhattan Beach Blvd interfering with access despite that some if not all of these spaces were eliminated for the public in the past;
7. The 41.5 foot height limit for bleachers and inflatables interferes with access to views by the public;
8. Although Section IIIC specified a time for removal of bleachers there does not appear to be in this section any requirement limiting the earliest time that the bleachers are set up, creating an interference with access for an unlimited period of time during the summer peak use period ;
9. It is not clear what "All Parking expenses will be paid for by the AVP" in IIG means. The City of Manhattan Beach claims it has a shortfall in parking revenue but it is not clear as to whether the full use of those meters is being charged or not for each of the parking lot and Manhattan Beach Blvd spaces. It also affects access since perhaps if a value were charged to the AVP, it would be an incentive to the AVP to free these spaces up for use by non VIPs who merely wish to use the coastal resource!!!
10. There is no requirement of any signage about the remote parking as there has been in the past;
11. There is no requirement that there be clear signage of where the paid seating and free seating is

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5/3/2010 4:37 AM

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although there had been such a written requirement in prior agreements with the AVP;

Additionally , with the economic problems that the City continuously claims, it is difficult to understand how the Staff drafted and participated in such an agreement that does not permit the City to share in the profits of the event-as a tax payer and property owner I object to this agreement for this reason as well as reasons including the above;

It is difficult to understand that the agreement is dated May 4 , 2010 but the term is for a period of one year commencing with the 2009 Manhattan Beach Open.I respectfully please request and would appreciate a response as to these above issues and thank you in advance.

The City Clerk is respectfully requested to please attach these comments/concerns/questions and requests to this agenda for the public and each of the Council Members.

William Victor, MB property owner and tax payer

COASTAL COMMISSION

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