

CALIFORNIA COASTAL COMMISSION

South Coast Area Office
1000 Ocean Gate, Suite 1000
Long Beach, CA 90802-4302
(2) 590-5071

Filed: 8/22/01
49th Day: 10/10/01
180th Day: N/A
Staff: CP-LB
Staff Report: 9/24/01
Hearing Date: October 8, 2001
Commission Action:

**Item M7c****RECORD PACKET COPY****STAFF REPORT: APPEAL**
NO SUBSTANTIAL ISSUE

LOCAL GOVERNMENT: City of Manhattan Beach

LOCAL DECISION: Approval with Conditions

APPEAL NUMBER: A-5-MNB-01-343

APPLICANT: Association of Volleyball Professionals (AVP)

AGENT: Matt Gage, AVP Tour Director

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 amendment for expansion of temporary spectator bleacher seating capacity from previously approved 1,500 persons to 3,000 persons. Underlying local coastal development permit approved the 2001 Manhattan Beach Open volleyball tournament held August 23-26, 2001.

APPELLANTS: William Victor
Bill Eisen and Residents for a Quality City.

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 amendment approving the expansion of temporary spectator bleacher seating capacity from 1,500 persons to 3,000 persons conforms to the City of Manhattan Beach certified Local Coastal Program (LCP) and the public access policies of the Coastal Act.

The motion to carry out the staff recommendation is on Page 6.

SUBSTANTIVE FILE DOCUMENTS:

1. Local Coastal Development Permit No. CA 01-20 (2001 Manhattan Beach Open).
2. Local Coastal Development Permit Amendment No. CA 01-31 (2001 Manhattan Beach Open Bleacher Expansion).
3. City of Manhattan Beach Certified Local Coastal Program (LCP).
4. City of Manhattan Beach LCP Amendment Request No. 1-97.
5. City of Manhattan Beach LCP Amendment Request No. 3-97.
6. Appeal/Permit No. A-5-MNB-97-84 (1997 Manhattan Beach Open).
7. Appeal (NSI) No. A-5-MNB-99-111 (1999 Manhattan Beach Open).

I. APPELLANTS' CONTENTIONS

One of the main reasons that the appellants have appealed the City's permit amendment to increase the size of the temporary bleachers on the beach is the late timing of the City's action. The City's August 7, 2001 approval of the permit amendment sixteen days before the August 23, 2001 start of the annual volleyball tournament did not leave enough time for the appeal process to be completed before the event. The 3,000-person capacity bleachers were erected on the beach on or before August 23, 2001, even though the Commission's ten-working day appeal period for the City's permit amendment had not expired. In fact, because the City's permit amendment was appealed on August 22, 2001, the applicant did not have the necessary Coastal Act authorization to erect the 3,000-person capacity bleachers (Exhibit #6).

The appeal submitted by William Victor specifically contends that the revised bleacher plan obstructs public access and blocks public views (Exhibit #7). He also contends that the local approval excludes the public from the beach, fails to provide adequate parking, and fails to provide an adequate beach shuttle system.

The appeal submitted by Bill Eisen and Residents for a Quality City contends that "local residents were not notified until a few days before the August 7, 2001 hearing that the AVP applied to increase their bleacher seating from 1,500 to 3,000 and increase the height of the bleachers from 15 to 26 feet..." (Exhibit #8). The appeal also asserts that the revised bleacher plan interferes with beach access and public views, adds to local traffic problems, substantially reduces available beach parking for beach goers, and that the noise of the event interferes with enjoyment of the beach.

II. LOCAL GOVERNMENT ACTION

On April 17, 2001, the Manhattan Beach City Council approved the program for the 2001 Manhattan Beach Open (MBO) volleyball tournament and an agreement with the Association of Volleyball Professionals (AVP) to partner with the City of Manhattan Beach (CMB) to produce the event (Exhibit #4). The City's agreement with the AVP included the following provisions:

"The event may use bleachers, not to exceed capacity for 1,500 seats. In the event that the AVP decides to use the said bleachers, the AVP must notify the CMB by 5 p.m. Friday, April 13, 2001 in order to allow sufficient time to apply to the Coastal Commission for approval. If the CMB is not notified by said date and time, it is agreed that bleachers will not be used during the 2001 MBO." [See Exhibit #4, bottom of page one.]

"The CMB shall provide on-site parking spaces for television coverage equipment, AVP equipment trucks and personnel. The number of spaces shall be 45. All of the south parking lot, plus ten spaces in the north parking lot. Expenses incurred by the City for such on-site parking will be billed to the AVP by the City." [See Exhibit #4, middle of page two.]

"The AVP shall provide, at their expense, all staff, equipment and materials, to adequately advertise (including radio announcement) and run a shuttle bus service to and from the beach from either Mira Costa High School or TRW parking lots. This service shall provide for one bus running at estimated twenty-minute intervals to and from the beach. Starting time should be one hour prior to the event's starting time and ending one hour after completion of the last daily game. Service shall be for Saturday and Sunday only." [See Exhibit #4, page three.]

In accordance with its agreement with the City, the AVP applied in April for a local coastal development permit to erect temporary bleachers for the August 23-26, 2001 tournament. The applicants proposed to install two 19-foot tall temporary spectator bleachers on the public beach with a total capacity of 1,500 persons (Exhibit #3, ps.6-8).

On May 15, 2001, after a public hearing, the Manhattan Beach City Council approved with conditions Local Coastal Development Permit No. CA 01-20 for the spectator bleachers at the Manhattan Beach Open volleyball tournament to be held August 23-26, 2001 (Exhibit #3). The local coastal development permit authorized the installation of two 19-foot tall temporary spectator bleachers on the public beach with a total capacity of 1,500 persons (Exhibit #3, ps.6-8). City Council Resolution No. 5672, which was adopted as part of the local coastal development permit approval, specifically requires that the project shall conform to the City-approved 2001 Manhattan Beach/Association of Volleyball Professionals Agreement (Exhibit #3, p.5). The City's findings for the approval of Local Coastal Development Permit No. CA 01-20 state that the temporary bleachers shall not obstruct accessways and that access to the Strand, bike path and pier shall remain available (Exhibit #3, p.4). The City's findings also state that "any displacement of normal views or use of the space occupied by the bleachers shall be temporary for the four-day period allowed by the proposed permit." The Commission's mandatory ten-working day appeal period for the City's approval Local Coastal Development Permit No. CA 01-20 passed with no appeals being filed.

In a letter to the City dated July 12, 2001, Matt Gage of the AVP requested a change to the site plan for the 2001 Manhattan Beach Open. The requested change would increase the capacity of the previously approved bleachers from 1,500 to 3,000 persons. The AVP asserted that the proposed increase in seating capacity would provide more seating and a

better view of the competition for the public (which is admitted to view the tournament free of charge with no admission fee). The requested change to the site plan also included the installation of a tented VIP platform (with restricted admission) behind the South bleacher, and the relocation of the center court nearer to the pier.

The City directed the AVP to apply for an amendment to the previously approved Local Coastal Development Permit No. CA 01-20. A public notice for a public hearing on the requested permit amendment was published in the July 26, 2001 Beach Reporter.

On Tuesday, August 7, 2001, after a public hearing, the Manhattan Beach City Council approved with conditions Local Coastal Development Permit Amendment No. CA 01-31 for expansion of temporary spectator bleacher seating capacity from previously approved 1,500 persons to 3,000 persons (Exhibit #5). The revised bleacher plan included the installation of a tented VIP platform (with restricted admission) above the South bleacher, and the installation of five temporary spectator bleachers, 19 to 26 feet tall, on the public beach with a total capacity of 3,000 persons (Exhibit #5, p.5). The City Council's action of the coastal development permit amendment was not appealable at the local level.

On Friday, August 10, 2001, the City's Notice of Final Local Action for Local Coastal Development Permit Amendment No. CA 01-31 was received via First Class mail in the Commission's South Coast District office in Long Beach. The Commission's ten-working day appeal period was established and noticed on Monday, August 13, 2001. On August 22, 2001, the Commission received the appellants' two appeals of the City's approval (Exhibits #7&8).

The 2001 Manhattan Beach Open volleyball tournament commenced on Thursday, August 23, 2001. The AVP set-up the revised bleacher plan on the public beach using the VIP tent platform and five temporary spectator bleachers, 19 to 26 feet tall, with a total capacity of 3,000 persons (Exhibit #5, p.5). The last day of the appeal period was Friday, August 24, 2001.

III. APPEAL PROCEDURES

After certification of Local Coastal Programs, 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 the mapped appealable areas, such as those located 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. Furthermore, developments approved by counties may be appealed if they are not designated "principal permitted use" under the certified LCP. Developments which constitute major public works or major energy facilities may also be appealed, whether approved or denied by the city or county. [Coastal Act Section 30603(a)].

The City of Manhattan Beach Local Coastal Program (LCP) was certified on May 12, 1994. Section 30603(a)(1) of the Coastal Act identifies the proposed 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 determine whether there is a "substantial issue" or "no substantial issue" raised by the appeal of the local approval of the proposed project. Section 30625(b)(2) of the Coastal Act requires a de novo hearing of the appealed project unless the Commission determines that no substantial issue exists with respect to the grounds for the appeal.

If Commission staff recommends a finding of substantial issue, and there is no motion from the Commission to find no substantial issue, the Commission will be deemed to have determined that the appeal raises a substantial issue, and the Commission will proceed to the de novo public hearing on the merits of the project. The de novo hearing will be scheduled at the same hearing or a subsequent Commission hearing. A de novo public hearing on the merits of the project uses the certified LCP as the standard of review. In addition, for a permit to be issued for a project located between the first public road and the sea or other water body in the coastal zone, a specific finding must be made that any approved project is consistent with the public access and public recreation policies of the Coastal Act. Sections 13110-13120 of Title 14 of the California Code of Regulations further explain the appeal 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 applicants, 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 no substantial issue is raised by the local approval of the subject project.

IV. STAFF RECOMMENDATION ON SUBSTANTIAL ISSUE

The staff recommends that the Commission determine that **no substantial issue exists** with respect to the conformity of the project with the certified Manhattan Beach LCP or 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-01-343 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-01-343

The Commission hereby finds that Appeal No. A-5-MNB-01-343 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 and Event History

On May 15, 2001, the Manhattan Beach City Council approved with conditions Local Coastal Development Permit No. CA 01-20 to permit the installation of spectator bleachers for the Manhattan Beach Open volleyball tournament to be held on the beach August 23-26, 2001 (Exhibit #3). The local coastal development permit authorized the installation of two 19-foot tall temporary spectator bleachers on the public beach with a total capacity of 1,500 persons (Exhibit #3, ps.6-8).

It is the City's approval of an amendment to the local coastal development permit that is the subject of this appeal. On August 7, 2001, the Manhattan Beach City Council approved with conditions Local Coastal Development Permit Amendment No. CA 01-31 for expansion of temporary spectator bleacher seating capacity from previously approved 1,500 persons to 3,000 persons (Exhibit #5). The revised bleacher plan included the installation of a tented VIP platform (with restricted admission) above the South bleacher, and the installation of five temporary spectator bleachers, 19 to 26 feet tall, on the public beach with a total capacity of 3,000 persons (Exhibit #5, p.5).

The City's approval of Local Coastal Development Permit Amendment No. CA 01-31 for the expansion of the temporary bleachers did not change any of the conditions of the underlying local coastal development permit (except for the event layout and bleacher plan) that are contained in City Council Resolution No. 5672 (Exhibit #3, p.4). City Council Resolution No. 5672, which was adopted as part of the local coastal development permit approval, specifically requires that the project shall conform to the City-approved 2001 Manhattan Beach/AVP Agreement (Exhibit #4). City Council Resolution No. 5699, which was adopted as part of the permit amendment approval, includes the same condition (Exhibit #5, p.4).

The 2001 Manhattan Beach Open volleyball tournament, held on August 23-26, 2001, was put on by the City and the AVP in a manner very similar to prior years. The annual Manhattan Beach Open volleyball tournament has a long tradition that dates back to 1960. As always, the general public could view the 2001 event on a first-come, first-served basis from the sand, the temporary bleachers, or from the pier. There was no admission fee required for spectators, and the bleachers were open to the general public. Public access to the pier and along the water was not blocked by the event, and the bicycle path was kept open.¹

As with prior events, the 2001 event was 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). The event area is usually occupied by several sets of sand volleyball courts. Although the beach is actually 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 LCP. As property owners, the Los Angeles County Department of Beaches and Harbors regulates the many special events that occur on the beach. The Manhattan Beach Open is one of several annual volleyball tournaments and other special events that occur on the beach each summer (with the permission of the Los Angeles County Department of Beaches and Harbors).

As previously stated, the annual Manhattan Beach Open volleyball tournament has a long tradition that dates back to 1960. Even though there are no provisions in the certified LCP that allow the City to exempt temporary events on the beach from permit requirements, the first local coastal development permit for the annual event was not approved until 1997 when the

¹ A Commission staff member was at the 2001 Manhattan Beach Open on the afternoon of Saturday, August 25, 2001.

City approved Local Coastal Development Permit No. 10-97.² Prior to 1997, the City asserted that the event did not fall under the definition of development as defined in the certified LCP.

In 1997, the City processed a local coastal development permit for the Manhattan Beach Open volleyball tournament after the AVP proposed to charge admission fees to spectators. On March 18, 1997, the City of Manhattan beach approved Local Coastal Development Permit No. 10-97 for the 1997 Miller Lite Manhattan Beach Open volleyball tournament. The City's approval would have allowed the AVP to sell tickets to all of the seating for the final matches of the tournament. Subsequent to the City's approval, three appeals of the local coastal development permit were submitted to the Coastal Commission. The primary ground of the appeal was that the proposed event, with admission fees for spectators, was inconsistent with the certified LCP's Open Space (OS) land use designation for the beach. The certified OS land use designation permits "sporting events for which no admission is charged", but does not permit sporting events for which admission is charged.

On May 13, 1997, the Commission found that a substantial issue existed with respect to the grounds of the appeals (See Appeal A-5-MNB-97-84). Also on May 13, 1997, the Commission held a public hearing on a City of Manhattan Beach LCP amendment request that would have added "sporting events for which admission is charged" to the OS permitted use list (See LCP Amendment Request No. 1A-97). That day, the Commission rejected Manhattan Beach LCP Amendment Request No. 1A-97 and approved the de novo permit for the proposed 1997 event on appeal (See Appeal A-5-MNB-97-84). The Commission's action on May 13, 1997 approved a coastal development permit for the proposed 1997 event, but denied the applicants' request to charge admission fees to spectators. Ultimately, Coastal Development Permit A-5-MNB-97-84 was never issued, and the 1997 Miller Lite Manhattan Beach Open was cancelled.

In its action on Appeal A-5-MNB-97-84 the Commission found that, pursuant to the certified LCP, a coastal development permit was required for the annual volleyball tournament because it falls within the definition of development contained in Section A.96.030 of the certified LCP and Section 30106 of the Coastal Act ("Development" means...the placement or erection of any solid material or structure;...change in the intensity of use of water, or of access thereto;...), and that the certified LCP contains no provision for the exclusion or exemption of the proposed event. Furthermore, admission fees for spectators may not be charged for sporting events on the beach because such a use is not permitted by the certified LCP.

In October of 1997, the City submitted LCP Amendment Request No. 3-97 to the Commission in an attempt to insert new provisions into the certified LCP to permit and exempt temporary events on the beach. As stated above, there currently are no provisions in the LCP that allow temporary events on the beach, regardless of size or type of event, to be exempted from permit requirements. On February 3, 1998, the Commission approved LCP Amendment Request No. 3-97 with suggested modifications that would have laid out specific LCP standards for the exempting and permitting of temporary events on the beach. The City, however, declined to accept the Commission's suggested modifications and the Commission's

² The Commission certified the City of Manhattan Beach LCP on May 12, 1994.

action on LCP Amendment Request No. 3-97 has lapsed. Therefore, there are still no provisions in the Manhattan Beach certified LCP to exempt temporary events on the beach.

There is no record of the Manhattan Beach Open volleyball tournament being held or permitted in 1998.

In 1999, however, the City and the AVP significantly scaled down from prior years the size and scale of the Manhattan Beach Open volleyball tournament. The spectator admission fees proposed and ultimately denied in 1997 were not proposed again. In order to enhance beach access for event visitors and other beach goers, the AVP provided a shuttle service to and from the proposed event on Saturday and Sunday. The August 28-29, 1999 event, approved by City of Manhattan Beach Local Coastal Development Permit No. 99-4, included:

1. No paid seating.
2. Reduction in the total number of bleacher seats to a maximum of 1,500.
3. Use of 45 parking spaces in the lower pier public parking lots.
4. Reduction in the number of tournament days from three to two.
5. Reduction in the number of days needed for set-up (3) and take-down (1).
6. Six tents less than the 1996 event.
7. An AVP agreement to pay the City's direct costs for the event.

City of Manhattan Beach Local Coastal Development Permit No. 99-4 was appealed to the Coastal Commission (See Appeal A-5-MNB-99-111). On June 11, 1999, the Commission found that no substantial issue existed with the City's approval of Local Coastal Development Permit No. 99-4 for the 1999 Manhattan Beach Open because it conformed entirely with the certified Manhattan Beach LCP and the public access polices of the Coastal Act. The 1999 Manhattan Beach Open volleyball tournament was held as scheduled.

In 2000, the Manhattan Beach Open volleyball tournament apparently occurred with no coastal development permit because the City determined that a coastal development permit is required only if development (i.e. bleachers) is proposed as part of the event.

The City's approval of the 2001 Manhattan Beach Open volleyball tournament is very similar to its 1999 approval with which the Commission found no substantial issue. The details of the City's 2001 approval are contained in the 2001 Manhattan Beach/AVP Agreement (Exhibit #4). The City/AVP agreement was adopted by reference in both the approved local coastal development permit (Resolution No. 5672, Exhibit #3, p.5) and the permit amendment (Resolution No. 5699, Exhibit #5, p.3) for the temporary bleachers on the beach.

The 2001 Manhattan Beach Open volleyball tournament (held August 23-26, 2001) approved by Local Coastal Development Permit No. CA 01-20 included:

1. No authorization for any paid seating.
2. Maximum of 1,500 bleacher seats (Exhibit #3, ps.6-8).
3. Use of 45 parking spaces in the lower pier public parking lots.
4. Four tournament days (August 23-26, 2001).

5. Set-up starts Wednesday, August 22 & takedown completed Monday, August 27.
6. Tents and stage (Exhibit #3, p.6).
7. Shuttle service on Saturday and Sunday (Exhibit #4, p.3).

The subject of this appeal, Local Coastal Development Permit Amendment No. CA 01-31 (Exhibit #5), amended the event layout that was previously approved as part of Local Coastal Development Permit No. CA 01-20 (Exhibit #3). The City deleted its 1,500-person limit on bleacher capacity and approved the permit amendment to increase the bleacher capacity to a total of 3,000 persons. The revised event layout and bleacher plan approved by the City's permit amendment included the installation of a tented VIP platform (with restricted admission) above the South bleacher, and the installation of five temporary spectator bleachers (19 to 26 feet tall) on the public beach (Exhibit #5, p.5). Except for the revisions to the event layout and bleacher capacity, the City-approved permit amendment did not change any conditions of the underlying local coastal development permit (Exhibit #3, p.4). City Council Resolution No. 5699, which was adopted as part of the permit amendment approval, specifically requires that the project shall conform to the City-approved 2001 Manhattan Beach/AVP Agreement (Exhibit #5, p.4).

B. Factors to be Considered in Substantial Issue Analysis

Section 30625 of the Coastal Act states that the Commission shall hear an appeal of a local government action unless it finds that no substantial issue exists with respect to the grounds on which the appeal has been filed. The term "*substantial issue*" is not defined in the Coastal Act or its implementing regulations. Section 13115(b) of the Commission's regulations simply indicates that the Commission will hear an appeal unless it finds that the appeal raises no significant question as to conformity with the certified LCP or there is no significant question with regard to the public access policies of Chapter 3 of the Coastal Act. In previous decisions on appeals, the Commission has been guided by the following factors.

1. The degree of factual and legal support for the local government's decision that the development is consistent or inconsistent with the Coastal Act;
2. The extent and scope of the development as approved or denied by the local government;
3. The significance of the coastal resources affected by the decision;
4. The precedential value of the local government's decision for future interpretations of its LCP; and,
5. Whether the appeal raises local issues, or those of regional or statewide significance.

Even when the Commission chooses not to hear an appeal, appellants nevertheless may obtain judicial review of the local government's coastal permit decision by filing petition for a

writ of mandate pursuant to Code of Civil Procedure, Section 1094.5. Staff is recommending that the Commission find that **no substantial issue** exists for the reasons set forth below.

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.

The subject of the appeal is the City's approval of a permit amendment (Local Coastal Development Permit Amendment No. CA 01-31) that revised the previously approved event layout and increased the bleacher capacity from 1,500 to 3,000 persons (Exhibit #5). Some of the appellants' contentions focus on whether the previously approved 2001 Manhattan Beach Open itself violates the certified Manhattan Beach LCP and the public access policies of the Coastal Act. The 2001 Manhattan Beach Open was approved by another City action (Local Coastal Development Permit No. CA 01-20) which was not appealed to the Commission. Therefore, the question of substantial issue involves only the changes to the event layout that the City approved pursuant to Local Coastal Development Permit Amendment No. CA 01-31 (Exhibit #5).

The issue of timing and the City's processing of the permit amendment in the final days prior to the start of the tournament is not a substantial issue. The permit amendment may be appealed to the Commission only on the grounds that it does not conform to the certified LCP or the public access policies of the Coastal Act. Therefore, the Commission will determine whether a substantial issue exists in regards to consistency of the proposed changes to the event layout with the certified LCP and the public access policies of the Coastal Act.

The timing issue is an enforcement issue because the applicant allegedly chose to proceed with the revised event layout and erect larger bleachers even though this appeal of the City's permit amendment is pending. In this case, the applicant only obtained a valid coastal development permit (Local Coastal Development Permit No. CA 01-20) for the event with bleacher seating for 1,500 persons (Exhibit #3). The applicant has not yet obtained a valid coastal development permit for the proposed revised event layout with bleachers for 3,000 persons (Exhibit #6). The ending of the appeal period on Friday, August 24, 2001 would have finalized the City's approval Local Coastal Development Permit Amendment No. CA 01-31, had there not been any appeals. The applicant had hoped to avoid an appeal and legally implement the revised event layout with the larger bleachers after the appeal period expired at 5 p.m. on Friday, August 24, 2001.

However, the Commission did receive two appeals of the permit amendment on August 22, 2001. The appeal of the City's approval of Local Coastal Development Permit Amendment No. CA 01-31 for the revised event layout has delayed the final action on the applicant's

request for the permit amendment. The Commission's final action on this appeal will be the final action on the applicant's requested permit amendment to increase the size of the bleachers. Therefore, the issue of timing is a question of when the applicant is legally permitted to implement the revised event layout, not whether the revised event layout is consistent with the certified LCP and the public access policies of the Coastal Act.

Therefore, the Commission must determine whether the City-approved changes to the event layout and bleacher capacity conform to the certified LCP and the public access policies of the Coastal Act. The appellants assert that the revised event layout and larger bleachers would obstruct public access, block public views, add to parking problems and traffic congestion, and create noise that would interfere with enjoyment of the beach (Exhibits #7&8).

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. 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 Civic Center parking for beach parking on weekend days.*

In addition, the proposed project must conform to the following public access policies of Chapter 3 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 30213 of the Coastal Act states:

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

The staff recommends that the Commission determine that the proposed project does comply with the City of Manhattan Beach certified LCP and the public access policies of the Coastal Act, and find that **no substantial issue** exists with respect to the grounds of the appeal.

First, the annual volleyball tournament (and associated development such as bleachers, stage and tents) is a permitted use within the Open Space (OS) land use designation. The OS land use designation in the certified LCP specifically permits "sporting events for which no admission is charged". The proposed bleacher plan for up to 3,000 persons is part of the development normally associated with the annual volleyball tournament, which is a sporting event free and open to the public, with no admission for entry to the event. The Commission has previously found that temporary bleachers, tents and a stage, when associated with the Manhattan Beach Open volleyball tournament (no admission fee), are consistent with the certified Manhattan Beach LCP and the public access policies of the Coastal Act [See Appeal/Permit No. A-5-MNB-97-84 & Appeal (NSI) No. A-5-MNB-99-111].

The temporary structures 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 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. Therefore, the scenic resources of the coastal zone are protected from any long-term or permanent negative impacts.

Of course, the capacity and size of the bleachers and other temporary development is a relevant fact. In 1997, the applicant requested and received approval for bleacher seating for 6,800 persons. In 1999, the applicant requested and received approval for bleacher seating for 1,500 persons. In 2000, there were apparently no bleachers set up for the event. The applicant is currently requesting to increase the permitted bleacher capacity from 1,500 to 3,000 persons. It cannot be proven that the number of persons attracted to the event is directly related to the capacity of the bleachers. In fact, the majority of the crowd on the afternoon of Saturday, August 25, 2001 was not observing a match in the center court (from bleachers), but was watching a match on a side court with one small bleacher. Most of the crowd was standing and sitting on the sand to watch the match (Exhibit #10). The bleachers were filled to less than half of their capacity. Therefore, the contention that the increase in bleacher capacity to 3,000 seats would cause larger crowds and more traffic and parking impacts cannot be substantiated.

However, any bleacher or other temporary development that obstruct access to and along the water or block access to the pier are not consistent with the certified Manhattan Beach LCP and the public access policies of the Coastal Act. In this case, the proposed event layout (with bleachers for 3,000 persons) does comply with all of the policies of the certified LCP and the public access policies of the Coastal Act by ensuring that public access to the pier and shoreline will remain available (Exhibit #5, p.2). The City-approved revised layout for the event site plan does not permit any development in the public accessways that provide access to the pier, water and bike path (Exhibit #5, p.5). The proposed event will occupy a 300-foot wide portion of the approximately 450-foot wide beach area that exists between the bike path and

mean high tide line (MHTL). Therefore, there will be a 150-foot wide-open area preserved along the shoreline for lateral public access (Exhibit #9). The Commission's approval of Coastal Development Permit A-5-MHB-97-084 for the 1997 Miller Lite Manhattan Beach Open included similar conditions for the protection of public access to and along the shoreline.

Additionally, the proposed 26-foot high bleachers will provide the public with a free recreational opportunity in the form of a professional sporting event with free public admission. Although approximately 24 public volleyball courts will be occupied by the four-day event, the displacement will be temporary, and unrestricted public use of the public volleyball area will resume after one day of takedown activities (Exhibit #4, p.6). The Commission's approval of Coastal Development Permit A-5-MHB-97-084 for the 1997 Miller Lite Manhattan Beach Open also required that the event take-down be completed in one day.

As required by Policies 1.A.2, 1.B.1, 1.C.2, 1.C.3 and 1.C.9 of the certified LCP, the City approval of the revised event layout protects public parking and requires the applicant to provide a public shuttle service to and from the proposed event on Saturday and Sunday, August 25-26, 2001 (Exhibit #4, p.3). The required shuttle service is necessary to mitigate the increase in parking demand and vehicular pollution caused by the large numbers of persons who drive to the area to attend the annual volleyball tournament. The event's impacts on the public parking supply have been reduced by minimizing the number of parking spaces that can be reserved for use by AVP equipment trucks, television equipment and event personnel. The City approval permits the reservation of 45 of the 71 parking spaces located in the lower south and lower north public beach parking lots for use by AVP equipment trucks, television equipment and event personnel (Exhibit #4, p.2). The City's approval of the 1997 Manhattan Beach Open included the reservation of 55 public parking spaces. Although, the reservation of 45 public parking spaces will temporarily use public beach parking spaces, the City's approval has minimized the amount of reserved parking for the event. The fifty public parking spaces in the two upper pier lots and the on-street parking along Manhattan Beach Boulevard will be available for public use on a first-come, first-served basis. By minimizing the amount of reserved parking, the proposed event is consistent with the LCP Policy I.C.2 which requires the City to maximize the opportunities for using available parking for beach use.

The Commission's approval of Coastal Development Permit A-5-MHB-97-084 for the 1997 Miller Lite Manhattan Beach Open required the applicants to implement a very specific public transportation program. The proposed 1997 event, however, was proposed as a much larger and heavily promoted event with paid admission and over 6,800 bleacher seats. The heavy promotion and many pre-event advertisements in 1997 was part of the AVP's attempt to generate funds by selling tickets to the 1997 Manhattan Beach Open³. The anticipated impacts on public parking for the 1997 event were different than this year's scaled-down event with only 3,000 bleacher seats, although many people may attend because it is free. The shuttle service is required by the City to maximize the availability of parking for public access to the beach and the event. Therefore, the City's requirement for the AVP to provide a shuttle

³ The 1997 Miller Lite Manhattan Beach Open Volleyball Tournament was cancelled and relocated to Hermosa Beach after the Commission denied the request to charge admission at Manhattan Beach.

service to and from the proposed event on Saturday and Sunday is consistent with LCP Policy 1.B.1.

While noise control is not an issue addressed by certified LCP policies, the appellants have raised it as an issue. Specifically, the appellants assert that the local approval does not require adequate noise control. The City staff report dated August 7, 2001, states, "All amplified speakers will be placed facing to the west" (Exhibit #5, p.2). Therefore, the City has addressed noise-control as an issue. The Commission's approval of Coastal Development Permit A-5-MHB-97-084 for the 1997 Miller Lite Manhattan Beach Open did not contain any conditions that addressed the issue of noise control.

In conclusion, the City's coastal development permit amendment for the proposed revised event layout and bleachers for 3,000 persons is in compliance with the City of Manhattan Beach certified LCP and the public access policies of the Coastal Act. The proposed event, as approved and conditioned by City of Manhattan Beach Local Coastal Development Permit No. 01-20 and Amendment No. 01-31, will not have a significant effect on coastal access or coastal resources. Furthermore, the City's approvals are consistent with prior Commission actions. There are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment. Therefore, the Commission finds that the appeal raises **no substantial issue.**

End/cp





Manhattan Beach Open

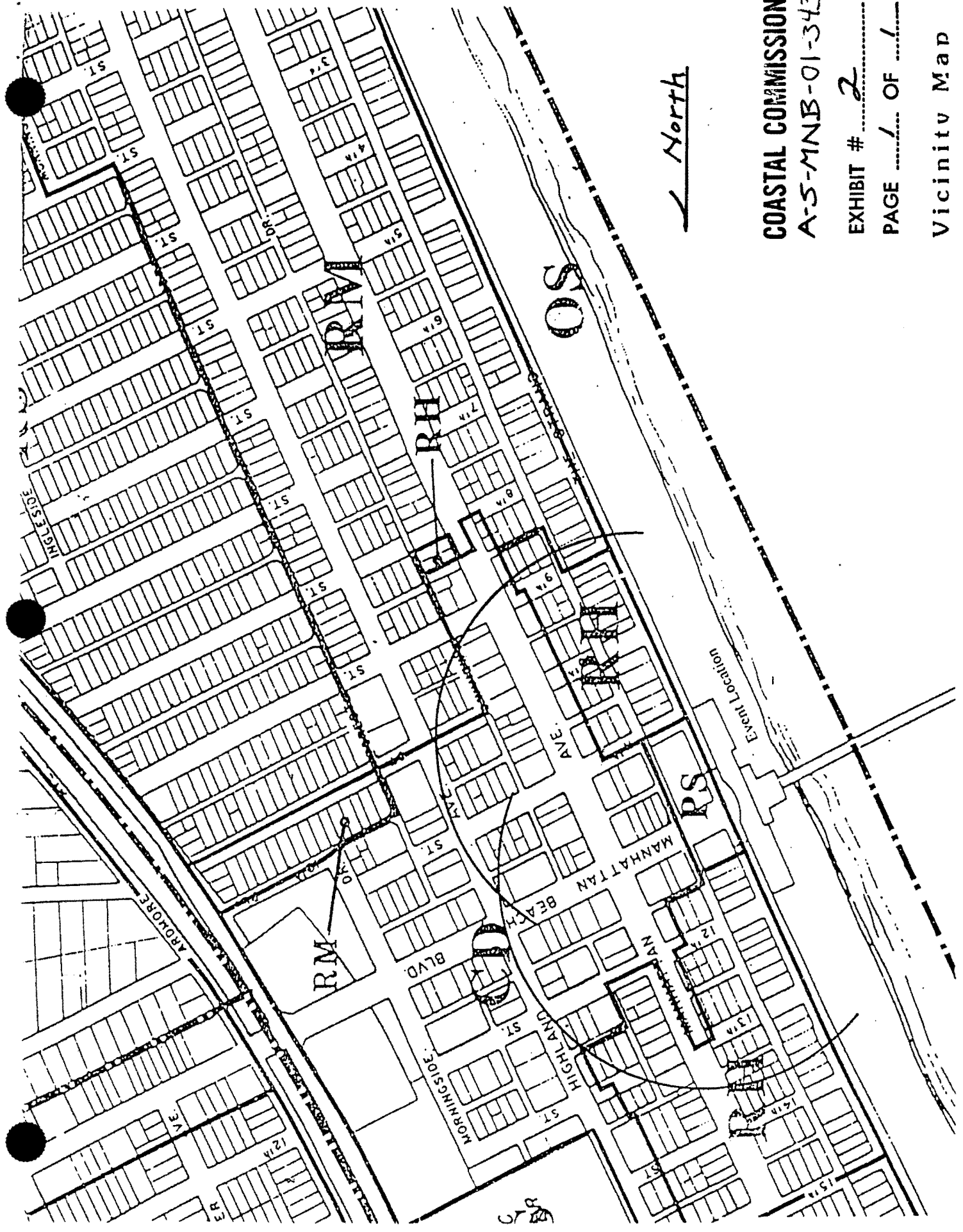
Remote Parking & Shuttle stop

EVENT SITE

COASTAL COMMISSION
A-5-MNB-01-343

EXHIBIT # /

PAGE / OF /



North

COASTAL COMMISSION
 A-5-MNB-01-343

EXHIBIT # 2

PAGE 1 OF 1

Vicinity Map

CITY OF MANHATTAN BEACH
COMMUNITY DEVELOPMENT DEPARTMENT

01/0515.21

TO: Honorable Mayor and Members of the City Council

THROUGH: Geoff Dolan, City Manager *GD*

FROM: Richard Thompson, Director of Community Development *RT*
Eric Haaland, AICP, Associate Planner *EH*

DATE: May 15, 2001

SUBJECT: Consideration of a request of a Coastal Development Permit for Spectator Bleachers for the Manhattan Beach Open Volleyball Tournament During the Period of August 23rd Through August 26th, 2001 (Association of Volleyball Professionals)

RECOMMENDATION

Staff recommends that the City Council **CONDUCT** the Public Hearing and **ADOPT** Resolution No. 5672 APPROVING the requested Coastal Development Permit for spectator bleachers at the Manhattan Beach Open Volleyball Tournament.

BACKGROUND

On April 17, 2001 the City Council approved plans for the 2001 Manhattan Beach Open Volleyball Tournament and co-sponsorship by the Association of Volleyball Professionals (AVP). The free-admission tournament will be held Friday through Sunday August 26-28 on the portion of the beach abutting the south side of the Manhattan Beach Pier. The tournament approval includes the option of installation of temporary spectator bleachers. Construction of these bleachers requires approval of a coastal development permit. The AVP is pursuing the option of installing bleachers by submitting the subject application.

DISCUSSION

The submitted plans show one center court, 4 feature courts, miscellaneous support areas, and 2 sets of spectator bleachers. The rectangular bleacher installations are to be located along the south and west sides of the center (primary) court with a combined capacity of 1,500 people. Each structure is approximately 38 feet wide and 19 feet tall. The south bleacher is 60 feet long and the west bleacher is 90 feet long. Previous tournaments have included fabric covering, decorations, and advertisements on the bleachers. In addition to the bleachers, spectators typically occupy the sand, pier, and bike path areas around center court.

COASTAL COMMISSION
A5-MNB-01-3

EXHIBIT # 3
PAGE 1 OF 3

Staff's review of the proposed coastal development permit finds the bleacher installation to be consistent with the city's coastal program as follows:

1. The OS (Open Space) district regulations applicable to the subject beach location permit temporary sporting events, but do not specify design standards such as height limits. The nearest adjacent district specifying a height limit should therefore be used to regulate bleacher height. The proposed 19-foot tall bleachers conform to the 26 and 30-foot height limits of the neighboring CD (Downtown Commercial) and RH (High Density Residential) districts.
2. The bleachers 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 shall remain available.
3. The proposed configuration of the bleachers at the south and west shall permit public view of the center court volleyball competition from the adjacent Strand, pier, and bike path areas, which are prominent pedestrian routes within the coastal zone.
4. Any displacement of normal views or use of the space occupied by the bleachers shall be temporary for the 4-day period allowed by the proposed permit.

The subject application is located within the "Appealable Jurisdiction" of the City's Coastal Zone. This location entails that final appeal jurisdiction is the authority of the Coastal Commission. Following City Council action on the subject permit, a "Notice of Local Action" will be submitted to the Coastal Commission. Upon receipt of this notice by the Coastal Commission, a 10 day appeal period is established during which time an appeal to the Coastal Commission may be filed.

Tournament Operation Restrictions

While the volleyball tournament activities and operation are not the subject of this coastal development permit application, the attached previously approved agreement for tournament operation includes important restrictions to prevent disruption to the surrounding area as follows:

1. All amplified speakers will be placed facing to the west.
2. City Police and Fire personnel shall monitor the event and reimbursement shall be paid by the AVP.
3. Shuttle bus service shall be provided by the AVP from Mira Costa or TRW parking lots to Downtown.
4. The city must approve all sponsors and products sold or distributed at the tournament.
5. The AVP shall be responsible for trash removal.

COASTAL COMMISSION

EXHIBIT # 3

PAGE 2 OF 8

ENVIRONMENTAL REVIEW

The proposal is exempt from the requirements of the California Environmental Quality Act pursuant to Sections 15304(e) "Minor Alterations to Land", 15311(c) "Accessory Structures", and 15323 "Normal Operations of Facilities for Public Gatherings"

CONCLUSION

Staff recommends that the City Council approve the proposed Coastal Development Permit by adopting Resolution No. 5672.

ALTERNATIVES

The alternatives available to the City Council include:

1. **CONDUCT** the public hearing, and subject to testimony received, **APPROVE** the attached Coastal Development Permit resolution.
2. **CONDUCT** the Public Hearing, and subject to testimony received, **REVISE** the proposed resolution as deemed appropriate, and **APPROVE** the attached Coastal Development Permit.
3. **CONDUCT** the Public Hearing, and subject to testimony received, **DENY** the subject Coastal Development Permit.

c: Matt Gage, AVP
Richard Gill, Recreation Director

Attachments:

- Draft Resolution No. 5672
- Plans
- Tournament agreement

44

COASTAL COMMISSION

EXHIBIT # 3

PAGE 3 OF 8

RESOLUTION NO. 5672

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MANHATTAN BEACH, CALIFORNIA, APPROVING A COASTAL DEVELOPMENT PERMIT FOR THE PROPERTY LOCATED AT THE NORTHWEST CORNER OF AVIATION PLACE AND 2ND STREET IN THE CITY OF MANHATTAN BEACH (Association of Volleyball Professionals)

THE CITY COUNCIL OF THE CITY OF MANHATTAN BEACH 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, testimony was invited and received, on May 15, 2001.
- B. The applicant for the Coastal Development Permit is the Association of Volleyball Professionals.
- C. The City Council, at its regular meeting of April 17, 2001, approved the program for the 2001 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.
- D. The purpose of the proposed permit is to allow the establishment of temporary bleachers for use by spectators to view center court competition at the 2001 Manhattan Beach Open during the period of August 23 to 26, 2001.
- E. 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".
- F. 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.
- G. The project 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 bleachers 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 shall remain available.
 - c) The proposed configuration of the bleachers at the south and west shall permit public view of the center court volleyball competition from the adjacent Strand, pier, and bike path areas, which are prominent pedestrian routes within the coastal zone.
 - d) Any displacement of normal views or use of the space occupied by the bleachers shall be temporary for the 4-day period allowed by the proposed permit.
- H. This Resolution upon its effectiveness constitutes the Coastal Development Permit for the subject project.

COASTAL COMMISSION

EXHIBIT # 3
PAGE 4 OF 8

SECTION 2. The City Council of the City of Manhattan Beach hereby approves the proposed Coastal Development Permit for spectator bleachers at the 2001 Manhattan Beach Open volleyball tournament for the period of August 23 to 26, 2001, subject to the following conditions:

- 1. The project shall be in substantial conformance with the plans submitted to, and approved by the City Council on May 15, 2001.
- > 2. The project shall conform to the city-approved 2001 Manhattan Beach Open/Association of Volleyball Professionals Agreement. *Exhibit #4*
- 2. *Interpretation.* Any questions of intent or interpretation of any condition will be resolved by the Planning Commission.
- 3. *Inspections.* The Community Development Department Staff shall be allowed to inspect the site and the development during construction subject to 24-hour advance notice.
- 4. *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.
- 5. 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.
- 6. 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.
- 7. 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.

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.

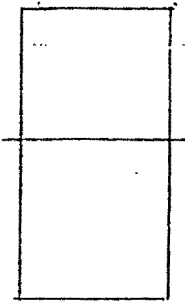
SECTION 4. This resolution shall take effect immediately. The City Clerk shall make this resolution readily available for public inspection within thirty (30) days of the date this resolution is adopted.

COASTAL COMMISSION

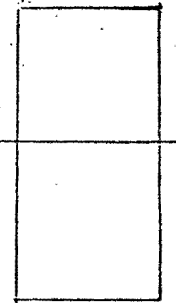
3001 AVP MANHATTAN BEACH OPEN
 (Approved 5-15-01, Reso. # 5672)



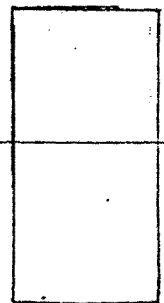
FEATURE COURT 4



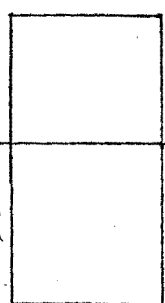
FEATURE COURT 3



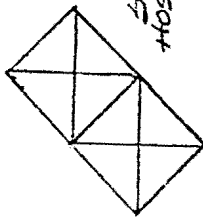
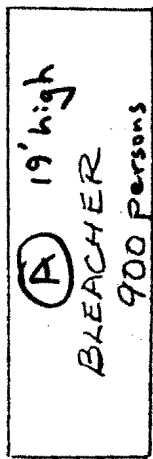
FEATURE COURT 2



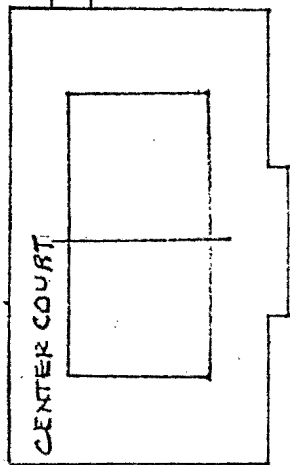
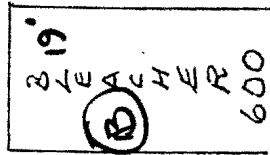
FEATURE COURT 1



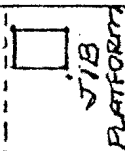
150'4" TO TIDE LINE



SPONSOR HOSPITALITY



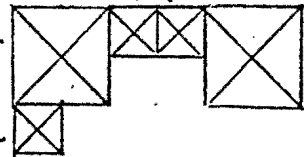
CENTER COURT



JTB PLATFORM

SIDELINE CAMERA

RCF PLAYER

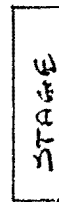


MEDICAL

FOOD



PIER



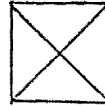
STAGE

T.V. TOWER

SPONSOR AREA



MERCH.



WILSON



Bike Path

- BIKE PATH -

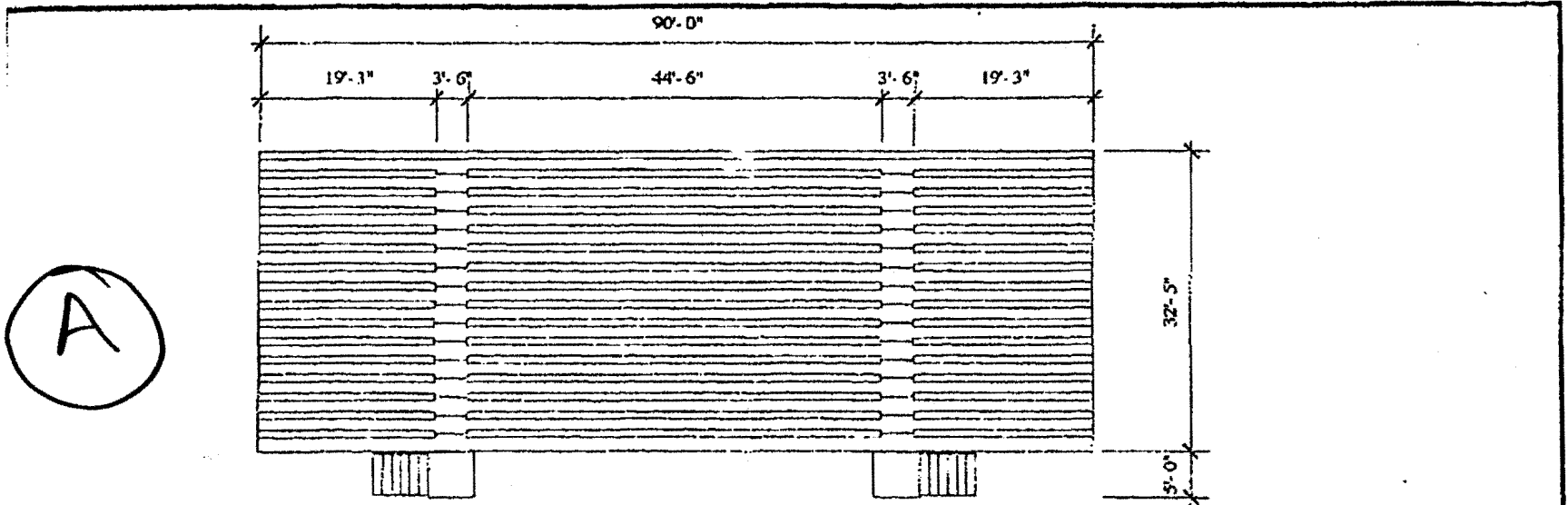
COASTAL COMMISSION

EXHIBIT # 3

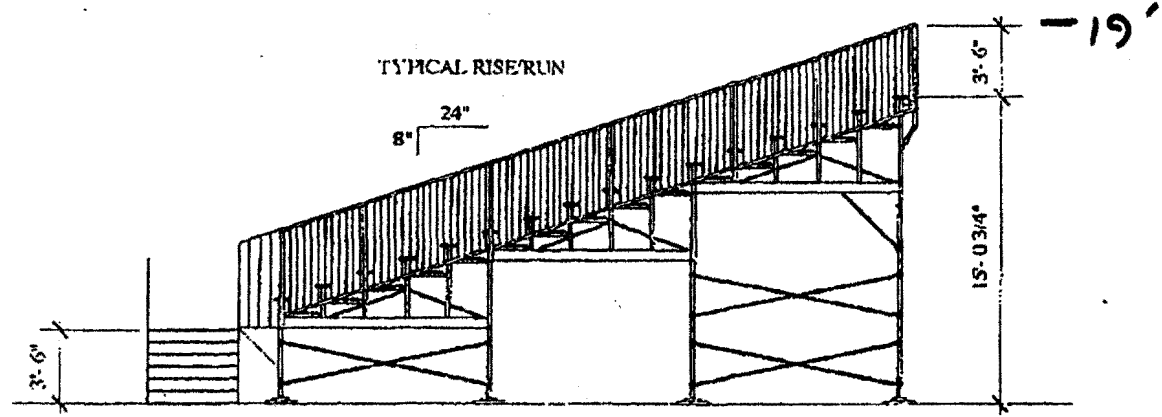
PAGE 6

- BIKE PATH -

8



PLAN VIEW
SCALE 1/8"=1'-0"



END ELEVATION
SCALE 1/8"=1'-0"

COASTAL COMMISSION

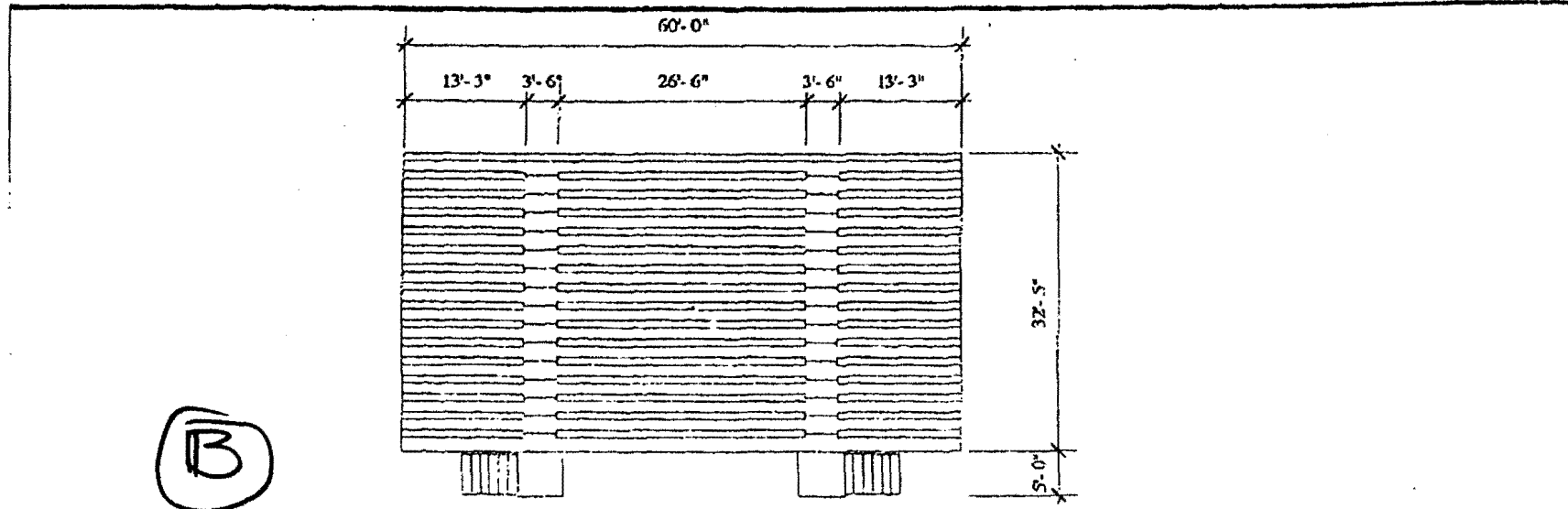
This drawing is the property of Brown-United, Inc. and can not be replicated, modified or used for any other purposes without written permission from Brown-United, Inc. Use of this drawing for trading is prohibited. Verify all dimensions, specifications and field notes before using this drawing for construction.



ph. (800) 44-BROWN
fax (800) 26-BROWN
e-mail: info@brownunited.com

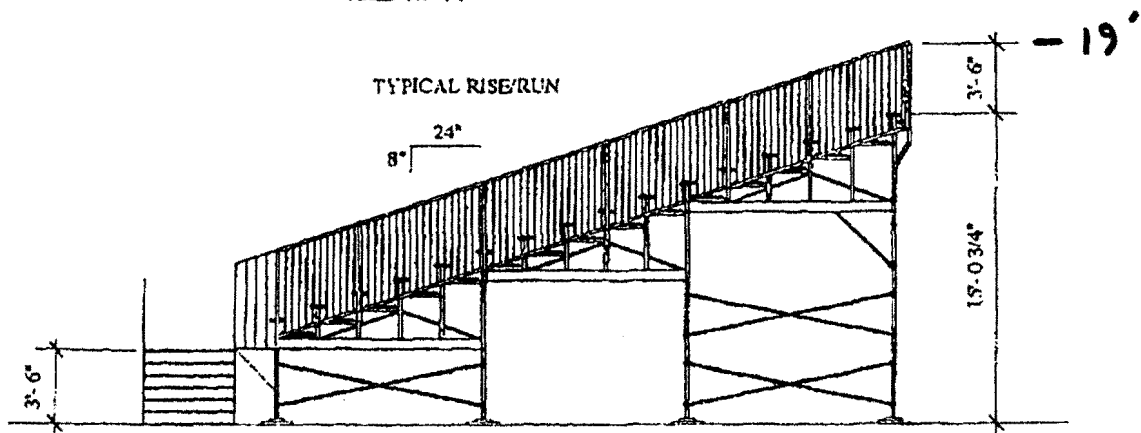
DATE: 4/16/01	APPROVED BY:	REVISED:
SCALE:	JOB NO.	DRAWN BY: DTO
90' X 16 ROW		DRAWING NO. 1

21



(B)

PLAN VIEW
 SCALE: 1/16"=1'-0"



END ELEVATION
 SCALE: 1/8"=1'-0"

COASTAL COMMISSION

This drawing is the property of Brown-United, Inc. and can not be duplicated, modified or used for any other purpose without written permission from Brown-United, Inc. Use of this drawing for bidding is strictly prohibited. Verify all dimensions, specifications and field conditions before using this drawing for construction.



ph (800) 44-BROWN
 fax (800) 26-BROWN
 e-mail: info@brownunited.com

DATE: 4/16/01	APPROVED BY:	REVISED:
SCALE:	JOB NO.	DRAWN BY: DJC
60' X 16 ROW		
		DRAWING NO. 1

(21)

21

2001
MBO/AVP AGREEMENT

THIS AGREEMENT is made this 10 day of APRIL 2001, by and between the City of Manhattan Beach ("CMB"), a municipal corporation organized under the laws of the State of California with its principal offices at 1400 Highland Avenue, Manhattan Beach, California 90266 ("CMB"), and the Intercollegiate Communications Inc. dba AVP ("AVP"), a Corporation with its principal office at 2520 Highway 35, Suite 301, Manasquan, NJ 08736.

WITNESSETH

WHEREAS, CMB has conducted an annual amateur and professional beach volleyball event entitled "The Manhattan Beach Open" ("MBO") sometimes also referred to in this agreement as the "event") and is the registered owner of the title "Manhattan Beach Open";

WHEREAS, AVP ^{MANAGES THE} top professional beach volleyball players in the United States and manages an annual schedule of events on behalf of said players; and

WHEREAS, CMB and AVP wish to work together on the MBO in accordance with the terms and conditions set forth below.

NOW, THEREFORE, in consideration of the premises and mutual covenants and conditions hereinafter set forth, and intending to be legally bound, the parties agree as follows:

I. THE EVENT. During the term of this agreement, CMB will conduct the annual MBO, the dates of which shall be selected by CMB in consultation with AVP. This year's event will be held August 25-26, 2001 with the Qualifier being held on August 24, 2001.

A) The agreed upon tournament format shall be a Pro-Amateur format with amateur qualifying rounds being played for entry into the professional rounds of the event. The playing rules for the event shall be AVP rules.

B) The title of the event is "The Manhattan Beach Open." However, the title of the event shall include the primary sponsor only in the event a fee above \$50,000.00 is paid by the primary sponsor. In such case, all public identification of or reference to the MBO shall be made in the following manner: "The [Primary Sponsor Name] Manhattan Beach Open."

C) The CMB will not sponsor any other men's volleyball event(s) paying more than \$15,000 in prize money (or other benefits equaling more than \$15,000 in value) within thirty (30) days before or after the MBO, unless approved in writing by AVP.

D) The event may use bleachers, not to exceed capacity for 1,500 seats. In the event that the AVP decides to use said bleachers, the AVP must notify the CMB by 5 p.m. Friday, April 13, 2001 in order to allow sufficient time to apply to the Coastal Commission for approval. If the CMB is not notified by said date and time, it is agreed that bleachers will not be used during the 2001 MBO.

E) All amplified sound speakers will be placed facing to the west.

COASTAL COMMISSION
A5-MNB-01-347

CMB

AVP

MAIS

EXHIBIT # 4

PAGE 1 OF 9

14 ~~14~~ 2

II. CMB RESPONSIBILITIES.

A) The CMB shall conduct a Pro-Am Men's Two Person Volleyball Tournament and a Junior Two-Person Amateur Volleyball Tournament the weekend of August 25-26, 2001.

B) The City shall provide an operations director/tournament director to direct the total operation of the event especially in all matters pertaining to event liability and public safety. All decisions of the operations director shall be final. Said director shall consult with a designated representative of the AVP and it shall be the goal of the parties to reach mutual agreement on matters of tournament operation. The fee for said director will be billed to the AVP by the City.

C) The CMB shall use AVP Tournament Rules in the conduct of the event. The CMB shall save the first 24 seeded spots for AVP entries. These entries are to be provided to the CMB no later than the Tuesday prior to the event. If seeding is not provided by AVP, the CMB shall provide the seeding.

D) The CMB shall conduct, if it desires, pre-tournament qualifying rounds including non-AVP members. Eight (8) teams from these qualifying rounds shall play into the professional rounds of the MBO. As part of whatever these teams may win as prizes for winning in the qualifying rounds, an AVP membership will be provided to them by the AVP.

E) The City shall provide to the AVP any City services required for the event such as police, fire, etc. Expenses incurred by the City for these services will be billed to the AVP by the City.

F) The CMB shall coordinate all necessary local permits, including but not limited to permits for merchandise sales, if any, as approved by city council, television cameras, and volleyball competition. No city fees shall be charged for said permits.

G) The CMB shall provide on-site parking spaces for television coverage equipment, AVP equipment trucks and personnel. The number of spaces shall be 45. All of the south parking lot, plus 10 spaces in the north parking lot. Expenses incurred by the City for such on-site parking will be billed to the AVP by the City.

H) The CMB will permit advertising and promotion of the event within the CMB for a minimum of three weeks prior to the tournament. This commitment shall include banners provided by AVP, placed on the two major arteries of the CMB (PCH and Manhattan Beach Boulevard), distribution of storefront posters, and local newspaper releases. Banners shall hang no longer than two (2) weeks prior to the event. All expenses incurred by the City for hanging banners will be reimbursed by the AVP.

I) The CMB shall provide designated areas for sponsors' display booths and shall allow distribution of CMB approved samples of their products during the MBO. No sales shall be allowed on the sand by these exhibitors unless previously approved by CMB. Distribution of samples of any alcoholic or tobacco products are not allowed.

J) The City shall have the right to sell event consumables (food and beverage) and retain the proceeds.

K) The City shall collect the entry fees of all teams in the qualifying division of the Manhattan Beach Open and retain the proceeds.

COASTAL COMMISSION

CMB

AVP *MP*

EXHIBIT # 4

PAGE 2 OF 9

21

III. AVP RESPONSIBILITIES.

A) AVP will not sanction any additional events to be played on the same dates as the MBO.

B) The AVP shall guarantee the appearance of 15 of the top 20 AVP rated teams (to include 3 of the top 5 AVP rated teams, barring injury) for this event.

C) The AVP will provide all event production including nets, sound equipment, volleyballs, scoreboards, announcer's platform, court siding, court lines, tents, booths, possible bleacher seating for up to 1,500, and no more than two inflatables. The AVP shall transport the equipment to the site, set up said equipment in cooperative and timely fashion, and at the close of the tournament take down and remove the equipment. Said equipment is to be totally removed from the site within 24 hours of the close of the tournament. CMB reserves the right to determine limit on the use of said equipment as it pertains to City ordinances and shall enforce all for the protection of public health and safety.

D) The AVP shall provide all necessary funds, staff, equipment, and materials necessary to adequately promote, and seek sponsorship for the event. Also, the AVP shall provide a designated representative to consult with the CMB director regarding all facets of event operation. Final decisions will be made by the CMB Director.

E) The AVP shall provide for the television broadcast of the Manhattan Beach Open. Within the television broadcast, the AVP shall provide for the City of Manhattan Beach to be highlighted and promoted in a special three minute feature.

F) The AVP shall provide on-site tournament staff to handle sponsor relations, television liaison, and player mediations.

G) The AVP shall reimburse the City of Manhattan Beach for all its direct "in-house" services for the current year's event. An estimate of these costs equal to \$15,000 shall be paid to City 30 days in advance of the event. Actual City departmental costs shall be itemized and billed to the AVP upon completion of the event.

H) The AVP shall secure and pay for any permits required from the County of Los Angeles.

I) The AVP shall provide, at their expense, all staff, equipment and materials, to adequately advertise (including radio announcement) and run a shuttle bus service to and from the beach from either Mira Costa High School or TRW parking lots. This service shall provide for one bus running at estimated twenty-minute intervals to and from the beach. Starting time should be one hour prior to the event's starting time and ending one hour after the completion of the last daily game. Service shall be for Saturday and Sunday only.

J) The AVP, at their expense, shall provide for adequate trash removal. They shall be responsible for making arrangements with the proper City of Manhattan Beach waste contractor for trash containers to be placed at the proper beach location at least one day prior to the event and removed by the next morning following the completion of the event.

K) The AVP will sell AVP and event merchandise on the pier and retain the proceeds.

K) Unless otherwise expressly specified herein, the foregoing responsibilities of the AVP shall be discharged at the expense of AVP and shall not be charged to the event budget.

COASTAL COMMISSION

EXHIBIT # 4

PAGE 3 OF 9

CMB

AVP

[Handwritten Signature]

21 14

IV. MERCHANDISING RIGHTS.

A) CMB grants to AVP the exclusive right to represent the MBO in all merchandising of the event including, but not limited to, the right to obtain sponsors and advertisers, to produce and sell programs, to produce programming and sell radio, television, and filming opportunities and to merchandise and license concessions (with the exception of consumables at the event.) All merchandising and licensing arrangements by AVP shall require prior approval of the CMB. Approval or disapproval shall be provided to AVP within five (5) working days (which shall exclude Saturdays, Sundays, and Holidays) of submission of a complete proposal to the CMB.

B) AVP shall be allowed to solicit potential sponsors and contract with sponsors for sponsor exposure at the event so long as the following guidelines are observed:

1. No sponsor will be solicited or accepted who manufactures, markets or are identified in any way with a feminine hygiene product, women's undergarment, any disease or birth control products or any product or service considered illegal under the laws of the United States or the State of California.

2. No sponsor shall be solicited or accepted who produces any form of sexually related film or product or any and all products not deemed by the CMB to be acceptable to public sensibilities or morals.

3. No sponsorship arrangement shall be agreed to by AVP or their agents that involves the sale of any product on the beach other than "official tournament day" apparel items.

4. These guidelines are not intended to exclude as sponsors those that are manufacturers of or distributors of distilled spirits, wines, wine products, beer or fast foods.

5. Displays and booths for display of products may be permitted with the prior approval of CMB.

6. All sponsor agreements made between AVP or its agents and a sponsor shall contain a 7-day right to rescind on the part of the AVP, for the sole purpose of permitting the CMB through it's City Manager, to exercise its right to approve or disapprove the agreement within 5 working days. A sponsor's agreement shall include a concise list of benefits granted to the sponsor and the fees being charged for said benefits. If the CMB has had 5 working days excluding Saturday, Sundays and Holidays to review the sponsor agreement, and no CMB objection has been raised, the sponsorship shall be deemed acceptable to the CMB.

7. The AVP may not proceed contractually with any sponsorship rejected or questioned by the City Manager of the CMB (or his designee) within the 5 working days, until and unless the areas of the agreement objected to are corrected to the satisfaction of the CMB. Said acceptance by the CMB shall be in writing.

C) CMB shall provide designated sign exposure areas at the event for sponsors, including but not limited to customary court banners, booths, hospitality areas and bleacher banners.

V. MBO PROMOTION.

A) AVP shall provide all funds, staff, equipment, and materials necessary to adequately promote and advertise the MBO. CMB shall assume no advertising obligation; however, it will promote the MBO as in the past years by cooperating with the press and agreeing to place posters in city-approved locations and assisting in the placement of street banners. AVP will provide all publicity and promotional materials. CMB will hang street banners at least two (2) weeks prior to the MBO and will remove them after the MBO. The AVP will reimburse the City for this expense.

COASTAL COMMISSION

CMB AVP *MBO* EXHIBIT # 4
PAGE 4 OF 9

14

B) All support and point-of-purchase materials will list the MBO and all event posters, counter cards and schedules will mention the competition site. CMB shall have prior approval on all AVP promotion and advertising matter pertaining to the event, which shall not be unreasonably withheld. Material shall be submitted to the Director of Parks and Recreation and will be considered approved if no response is received within five (5) working days (Saturdays, Sundays and Holidays excluded).

VI. BROADCAST. AVP shall have the exclusive right to solicit and negotiate all radio, film, and television broadcast agreement proposals.

A) A "bathing beauty" competition shall NOT be part of the MBO in any shape or form nor shall it be a part of any post-produced television show using footage from the MBO.

B) A live broadcast by the sponsor radio station/filming shall be allowed at the MBO. All broadcast and/or filming set-ups are to be approved and licensed by the proper city representatives who shall be available and on hand at the time of set up. Approval shall take into account the desire of the parties to allow a first quality broadcast and the technical needs of the broadcasters.

C) AVP shall provide one 3/4" video finished copy of the MBO, if filmed, to CMB within one (1) month (or as soon as available) of such MBO.

D) AVP shall own all rights to all radio, film, and television productions of the MBO. CMB shall be afforded the right to use said radio, film, and television productions as long as they are used for non-commercial purposes such as historical documentation and promotion of the event.

E) All media contracts shall afford the CMB the same right to approve or reject as referred to in paragraph #4 items A & B of this Agreement.

VII. CONCESSIONS.

A) AVP wearing apparel and non-consumable souvenir merchandise may be sold on the pier at the event by the AVP.

B) Event specific wearing apparel and non-consumable souvenir merchandise will be developed by the AVP. The AVP shall have the exclusive right to create, market and license said event specific merchandise. The CMB shall retain the right to approve all event specific merchandise prior to the start of production.

C) No other non-consumables shall be sold or given away at the site except as specified in this Agreement and as approved by the CMB.

VIII. MBO REVENUES.

A) Collection of sponsor revenue is the responsibility of the AVP. CMB and AVP shall jointly agree upon a standard entry fee for the event.

B) Gross revenue from entries for the first 24 seeded teams, 100% retained by AVP. (Note - there will be a standard agreed upon entry fee for the event.)

C) Gross revenue from all other entries into the event, 100% retained by CMB.

D) Gross revenue from on-site sales of consumables and Arts/Crafts Fair, 100% retained by CMB.

COASTAL COMMISSION

CMB

AVP *msb*

EXHIBIT # 4

PAGE 5 OF 9

14



E) Gross revenue from on-site sales of any AVP wearing apparel and non-consumable souvenir merchandise shall be retained 100% by AVP.

IX. EVENT BUDGET.

A) It is understood by both parties that AVP shall provide for a seventy-five thousand dollars (\$75,000) prize purse for the Men's Open Division.

X. TERM.

A) This Agreement shall be effective for the 2001 Manhattan Beach Open only and shall not apply to or be effective for any future Manhattan Beach Open or any other City sponsored volleyball tournament. This Agreement shall terminate twenty-four hours after termination of the 2001 Manhattan Beach Open. Set up for the event will be August 22-23. The event, including the qualifier, will be August 24-26 and break down will be completed within twenty-four (24) hours of the completion of the tournament.

B) Either party may, without cause terminate this Agreement early by giving thirty (30) days written notice to the other party.

XI. REPRESENTATIONS AND WARRANTIES.

A) CMB represents and warrants to AVP that: (i) CMB has the full right and authority to enter into and perform its obligations under this Agreement; (ii) the rights granted to AVP hereunder will not violate the rights of any third party and the full right to exercise the same have in no way been limited, diminished, or impaired; and (iii) the execution, delivery and performance of this agreement will not violate the provision of any agreement to which CMB is a party or by which it is bound.

B) AVP represent and warrant to CMB that: (i) AVP has the full right and authority to enter into and perform its obligations under this agreement; (ii) the rights granted to CMB hereunder will not violate the rights of any third party and the full right to exercise the same have in no way been limited, diminished, or impaired; and (iii) the execution, delivery and performance of this agreement will not violate the provision of any agreement to which it is a party or by which it is bound.

XII. USE OF TRADEMARKS OR SERVICE MARKS. CMB hereby grants a limited license to AVP, for the 2001 Tournament only, to use of the name "Manhattan Beach Open." CMB expressly reserves to itself all other rights to use of the name "Manhattan Beach Open" which the parties hereto acknowledge is the sole property of CMB. Except as expressly provided herein, neither party shall have the right to use in any way the corporate or trade name, trademark(s), service mark(s), logo(s), or other identification of the other party without its prior written consent.

XIII. CONTINGENCIES. This Agreement is contingent upon issuance by CMB of all necessary governmental approvals, including but not limited to, all required City of Manhattan Beach and Los Angeles County, or Coastal Commission (if any) approvals and environmental review (if any) required under the California Environmental Quality Act ("CEQA").

XIV. INSURANCE.

A. Commencement. AVP shall not commence activities under this Agreement until it has obtained CMB approved insurance. Before beginning any activities hereunder, during the entire period of this Agreement, for any extensions hereto, and for periods after the end of this Agreement as indicated below, AVP must have and maintain in place, all of the insurance coverages required by this Section XIII. AVP's insurance shall comply with all items specified by this Agreement. Any subcontractors of AVP shall be subject to all of the requirements of this Section 7 and AVP shall be responsible to obtain evidence of insurance from each subcontractor and provide it to CMB before the subcontractor commences work.

COASTAL COMMISSION

CMB

AVP

matz

EXHIBIT #

4

PAGE

6 OF 9

All insurance policies used to satisfy the requirements imposed hereunder shall be issued by insurers authorized to do business in the State of California. Insurers shall have a current A.M. Best's rating of not less than A-VII unless otherwise approved by CMB.

B. Coverages, Limits and Policy Requirements. AVP shall maintain the types of coverages and limits indicated below:

(1) COMMERCIAL GENERAL LIABILITY INSURANCE - a policy for occurrence coverage, including all coverages provided by and to the extent afforded by Insurance Services Office Form CG 0001 ed. 11/88 or 11/85, with no special limitations affecting CMB. The limit for all coverages under this policy shall be no less than two million dollars (\$2,000,000.00) per occurrence. CMB, its employees, officials and agents, shall be added as additional insureds by endorsement to the policy. The insurer shall agree to provide the CMB with thirty (30) days prior written notice of any cancellation, non-renewal or material change in coverage. The policy shall contain no provision that would make this policy excess over, contributory with, or invalidated by the existence of any insurance, self-insurance or other risk financing program maintained by CMB. In the event the policy contains such an "other insurance" clause, the policy shall be modified by endorsement to show that it is primary for any claim arising out of the work performed under this Agreement. The City of Manhattan Beach Insurance Endorsement Form No. 1 (General Liability) must be executed by the applicable insurance underwriters.

(2) COMMERCIAL AUTO LIABILITY INSURANCE - a policy including all coverages provided by and to the extent afforded by Insurance Services Office form CA 0001, ed. 12/93, including Symbol 1 (any auto) with no special limitations affecting the CMB. The limit for bodily injury and property damage liability shall be no less than two million dollars (\$2,000,000) per accident. CMB, its employees, officials and agents, shall be added as additional insureds by endorsement to the policy. The insurer shall agree to provide the CMB with thirty (30) days prior written notice of any cancellation, non-renewal or material change in coverage. The policy shall contain no provision that would make this policy excess over, contributory with, or invalidated by the existence of any insurance, self-insurance or other risk financing program maintained by CMB. In the event the policy contains such an "other insurance" clause, the policy shall be modified by endorsement to show that it is primary for any claim arising out of the work performed under this Agreement. The City of Manhattan Beach Insurance Endorsement Form No. 2 (Auto) must be executed by the applicable insurance underwriters.

(3) WORKERS' COMPENSATION INSURANCE - a policy which meets all statutory benefit requirements of the Labor Code, or other applicable law, of the State of California. The minimum coverage limits for said insurance shall be no less than one million dollars (\$1,000,000) per claim. The policy shall contain, or be endorsed to include, a waiver of subrogation in favor of CMB.

C. Additional Requirements. The procuring of such required policies of insurance shall not be construed to limit AVP's liability hereunder, nor to fulfill the indemnification provisions and requirements of this Agreement. There shall be no recourse against the City of Manhattan Beach.

COASTAL COMMISSION

premiums or other amounts with respect thereto. CMB shall notify AVP in writing of changes in the insurance requirements. If AVP does not deposit copies of acceptable insurance policies with CMB incorporating such changes within sixty (60) days of receipt of such notice, AVP shall be deemed in default hereunder.

Any deductibles or self-insured retentions must be declared to and approved by CMB. Any deductible exceeding an amount acceptable to CMB shall be subject to the following changes:

- (1) either the insurer shall eliminate, or reduce, such deductibles or self-insured retentions with respect to CMB and its officials, employees and agents (with additional premium, if any, to be paid by AVP); or
- (2) AVP shall provide satisfactory financial guarantee for payment of losses and related investigations, claim administration, and defense expenses.

D. Verification of Compliance. AVP shall furnish CMB with original endorsements effecting coverage required by this Agreement. The endorsements are to be signed by a person authorized by the insurer to bind coverage on its behalf. All endorsements are to be received and approved by CMB before activity commences. Not less than fifteen (15) days prior to the expiration date of any policy of insurance required by this Agreement, AVP shall deliver to CMB a binder or certificate of insurance with respect to each renewal policy, bearing a notation evidencing payment of the premium therefor, or accompanied by other proof of payment satisfactory to CMB.

XV. INDEMNIFICATION. AVP agrees to indemnify, defend, and hold harmless CMB and its elective or appointive boards, officers, agents, attorneys and employees from any and all claims, liabilities, expenses, or damages of any nature, including attorneys' fees arising out of, or in any way connected with performance of, the Agreement by AVP, AVP's agents, officers, employees, subcontractors, or independent contractor(s) hired by AVP, including, but not limited to, any legal action challenging the validity of the Event or the permits therefore. This indemnity shall apply to all claims and liability regardless of whether any insurance policies are applicable. The policy limits do not act as a limitation upon the amount of indemnification to be provided by AVP.

XVI. INDEPENDENT CONTRACTOR. CMB and AVP shall each be and act as independent contractors and under no circumstances shall this agreement be construed as one of agency or partnership between CMB and AVP. Each party acknowledges and agrees that it neither has nor will give the appearance or impression of having any legal authority to bind or commit the other party in any way other than as authorized by this Agreement.

XVII. FAILURE TO OBJECT NOT A WAIVER. The failure of either party to this agreement to object to or to take affirmative action with respect to any conduct of the other party which is in violation of the terms hereof shall not be construed as a waiver thereof, nor of any future breach of subsequent wrongful conduct.

XVIII. NOTICES. All notices required or permitted hereunder shall be deemed duly given on the date sent by certified mail, postage prepaid, addressed to the parties as follows:

COASTAL COMMISSION

CMB _____ AVP *mas* EXHIBIT # 4
PAGE 8 OF 9

14 (2X)

If to AVP: AVP
Attn: Mathew H. Gage
44 - 16th Street
Hermosa Beach, CA 90254

If to CMB: City of Manhattan Beach
1400 Highland Avenue
Manhattan Beach, CA 90266
ATTN: Richard Gill

XIX. LIMITATION ON ASSIGNMENT.

A) The rights and obligation under this agreement may be assigned or delegated by the parties hereto only with the prior written consent of the other party. Any attempted assignment or delegation, without the prior written consent of the other party shall be voidable at the discretion of the non-assigning party.

B) This agreement and all of the terms and provisions hereof will be binding upon and will insure to the benefit of the parties hereto and their respective successors and assigns.

XX. APPROVAL. Whenever approval, consent, information, or data is herein required of either or both parties, the same shall not be unreasonably or arbitrarily delayed or withheld.

XXI. COMPLIANCE WITH THE LAW. Should it be determined that this agreement or any provision hereof violates any federal, state, or local law or regulation, then the parties shall promptly modify this agreement to the extent necessary to bring about compliance with such law and/or regulation provided, however, that if such modification would cause this agreement to fail in its essential purpose or purposes, it shall be deemed cancelled by mutual agreement or the parties and neither party shall have any further obligations or liabilities with respect to this agreement.

XXII. ENTIRE AGREEMENT. This agreement constitutes the entire understanding between the parties with respect to the subject matter hereof and supersedes any and all prior understandings or agreements in regard hereto. This agreement cannot be altered or modified except by an agreement in writing signed by both parties.

CITY OF MANHATTAN BEACH

BY: _____

DATE: _____

TITLE: _____

APPROVED AS TO FORM:
By: *[Signature]*
City Attorney

AVP

BY: *Mathew H. Gage*

DATE: *4/10/2001*

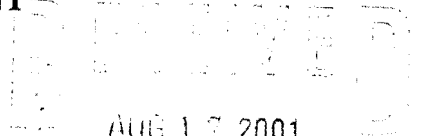
TITLE: *Zone Director*

COASTAL COMMISSION

EXHIBIT # 4

CITY OF MANHATTAN BEACH
COMMUNITY DEVELOPMENT DEPARTMENT

01/0807.14



TO: Honorable Mayor and Members of the City Council

AUG 17 2001

THROUGH: Geoff Dolan, City Manager *GD*

CALIFORNIA
COASTAL COMMISSION

FROM: Richard Thompson, Director of Community Development *RT*
Eric Haaland, AICP, Associate Planner *EH*

DATE: August 7, 2001

SUBJECT: Consideration of Spectator Bleachers with 3,000 Seats for the Manhattan Beach Open Volleyball Tournament During the Period of August 23rd Through August 26th, 2001 (Association of Volleyball Professionals)

RECOMMENDATION

Staff recommends that the City Council **CONDUCT** the Public Hearing and **ADOPT** Resolution No. 5699 **APPROVING** the requested Coastal Development Permit Amendment for revised spectator bleachers at the Manhattan Beach Open Volleyball Tournament.

BACKGROUND

On April 17, 2001 the City Council approved plans for the 2001 Manhattan Beach Open Volleyball Tournament and co-sponsorship by the Association of Volleyball Professionals (AVP). The free-admission tournament will be held Friday through Sunday August 26-28 on the portion of the beach abutting the south side of the Manhattan Beach Pier. The tournament is approved to provide temporary spectator bleachers. The AVP received a coastal development permit for a bleacher plan with 1,500 seats on May 15, 2001.

DISCUSSION

The AVP has requested a modification to the approved permit. This modification includes a revised center court plan with a U-shaped set of bleachers positioned around all but the east side of the court, and relocated inflatables and support tents. The modification includes 5 main bleacher structures and a VIP area above the south end of the stadium, to result in a capacity of 3,000 people.

Staff's review of the proposed revised coastal development permit finds the bleacher installation to be consistent with the city's coastal program as follows:

1. The OS (Open Space) district regulations applicable to the subject beach development for temporary sporting events without an admission fee. **COASTAL COMMISSION**

EXHIBIT # 5
PAGE 1 OF 5

- 2. The bleachers 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 shall remain available.
- 3. The proposed configuration of the bleachers shall permit public view of the center court volleyball competition from the adjacent Strand, pier, and bike path areas, which are prominent pedestrian routes within the coastal zone.
- 4. Any displacement of normal views or use of the space occupied by the bleachers shall be temporary for the 4-day period allowed by the proposed permit.

Tournament Operation Restrictions

While the volleyball tournament activities and operation are not the subject of this coastal development permit application, the attached previously approved agreement for tournament operation includes important restrictions to prevent disruption to the surrounding area as follows:

- 1. All amplified speakers will be placed facing to the west.
- 2. City Police and Fire personnel shall monitor the event and reimbursement shall be paid by the AVP.
- 3. Shuttle bus service shall be provided by the AVP from Mira Costa or TRW parking lots to Downtown.
- 4. The city must approve all sponsors and products sold or distributed at the tournament.
- 5. The AVP shall be responsible for trash removal.

ENVIRONMENTAL REVIEW

The proposal is exempt from the requirements of the California Environmental Quality Act pursuant to Sections 15304(e) "Minor Alterations to Land", 15311(c) "Accessory Structures", and 15323 "Normal Operations of Facilities for Public Gatherings"

CONCLUSION

Staff recommends that the City Council approve the proposed Coastal Development Permit by adopting Resolution No. 5699.

c: Matt Gage, AVP
Richard Gill, Recreation Director

- Attachments:
- Draft Resolution No. 5699
 - Revised proposal
 - Previously approved plans
 - Tournament agreement

COASTAL COMMISSION

EXHIBIT # 5
PAGE 2 OF 5

RESOLUTION NO. 5699

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MANHATTAN BEACH, CALIFORNIA, APPROVING A COASTAL DEVELOPMENT PERMIT AMENDMENT FOR 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, California, hereby makes the following findings:

- A. The City Council conducted a public hearing on the proposed coastal development permit amendment, testimony was invited and received, on August 7, 2001.
- B. The applicant for the coastal development permit amendment is the Association of Volleyball Professionals.
- C. The City Council, at its regular meeting of April 17, 2001, approved the program for the 2001 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. A coastal development permit was approved on May 15, 2001, allowing temporary spectator bleachers seating 1,500 people during the period of August 23 to 26, 2001.
- D. The purpose of the proposed project revision is to allow: the expansion of bleacher capacity to 3,000 spectators.
- E. 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".
- F. 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.
- G. 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 bleachers 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 shall remain available.
 - c) The proposed configuration of the bleachers shall permit public view of the center court volleyball competition from the adjacent Strand, pier, and bike path areas, which are prominent pedestrian routes within the coastal zone.
 - d) Any displacement of normal views or use of the space occupied by the bleachers shall be temporary for the 4-day period allowed by the proposed permit.
- H. This Resolution upon its effectiveness constitutes the Coastal Development Permit for the subject project, and supersedes any previous resolutions.

COASTAL COMMISSION

SECTION 2. The City Council of the City of Manhattan Beach, California, hereby approves the proposed Coastal Development Permit Amendment for temporary bleachers for 3,000 spectators at the 2001 Manhattan Beach Open volleyball tournament for the period of August 23 to 26, 2001, subject to the following conditions:

1. The project shall be in substantial conformance with the plans submitted to, and approved by the City Council on August 7, 2001.
2. The project shall conform to the city-approved 2001 Manhattan Beach Open/Association of Volleyball Professionals Agreement. See Exhibit #4.
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.

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.

COASTAL COMMISSION

EXHIBIT # 5
PAGE 4 OF 5

Chuck Posner

8-8-01

Aug. 8, 2001 CP

To: Eric Haaland (E-mail)
Subject: AVP Manhattan Open

Eric- Please send a copy of the entire cdp file and amendment file with the Notice of Final Action for the permit amendment. We need all of the file materials in order to schedule an appeal hearing before the Commission in September. We have not yet received an appeal, but Wm. Victor has stated his intention to appeal (at today's Commission hearing in Redondo). Of course, the next Commission hearing is after the proposed event. Please keep in mind that the permit amendment is not final until the appeal period ends and the Commission has acted on any appeals. Therefore, there is not a valid Coastal Act authorization for the larger bleachers until this occurs. The event itself (with original bleacher plan) has a valid local cdp. The Commission is very interested in: a) is the event free to all spectators, including access to the bleachers, and b) what does the local cdp require in regards to a parking plan and beach shuttle.

Thanks,

Charles R. Posner

Coastal Program Analyst

California Coastal Commission
South Coast District Office
200 Oceangate, 10th Floor
Long Beach, CA 90802-4416

Phone: (562) 590-5071
Fax: (562) 590-5084
E-mail: cposner@coastal.ca.gov

COASTAL COMMISSION
A5-MNB-01-343

EXHIBIT # 6

PAGE 1 OF 1

FILE COPY

12 VAMM *Coyne*

CALIFORNIA COASTAL COMMISSION

South Coast Area Office
200 Ocean Gate, 10th Floor
Long Beach, CA 90802-4302
(562) 590-5071

APPEAL FROM COASTAL PERMIT
DECISION OF LOCAL GOVERNMENT
(Commission Form D)

RECEIVED
South Coast Region 

AUG 22 2001

CALIFORNIA
COASTAL COMMISSION

Please Review Attached Appeal Information Sheet Prior To
This Form.

SECTION I. Appellant(s)

Name, mailing address and telephone number of appellant(s):

WILLIAM VICTOR and those similarly situated
POB 24A72

LOS ANGELES, CA. 90024

Zip

(310) 374-0086 (messages)
Area Code Phone No.

SECTION II. Decision Being Appealed

1. Name of local/port government: City of Manhattan Beach

2. Brief description of development being appealed: Expansion of bleachers to 3000 seats for specators of AVP MB Open Volleyball Tournament August 23 through 27

3. Development's location (street address, assessor's parcel no., cross street, etc.): Manhattan Beach Sand

4. Description of decision being appealed:

a. Approval; no special conditions: x

b. Approval with special conditions: X

c. Denial: _____

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

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-5-MNB-01-343

DATE FILED: 8.22.01

DISTRICT: South Coast

H5: 4/88

COASTAL COMMISSION
A5-MNB-01-343

EXHIBIT # 7

PAGE 1 OF 2

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

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

At and before the hearing Appellant will expand on the following and facts which include but are not limited to:

The replution is a violation of the Coastal Act, fails to provide parking (in fact removes at least 55 parking spaces), the plan (see agreement) provides for one shuttle bus every twenty minutes, and only one bus, which was unsatisfactory for even 1500 spectators, the plan excludes beachgoers from the beach by reducing access; it violates the City's General Plan, LCP, LUP, the bleachers obstruct access, displace normal views (26ft hight) and for a longer period than orig. permit

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

SECTION V. Certification

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

W. Victor

Signature of Appellant(s) or Authorized Agent

Date 8/20/01

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

Section VI. Agent Authorization

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

Signature of Appellant(s) **COASTAL COMMISSION**

Date _____

EXHIBIT # 7
PAGE 2 OF 2

IC access
15 to 11
15 (15)

CALIFORNIA COASTAL COMMISSION

FILE COPY

South Coast Area Office
200 Oceangate, 10th Floor
Long Beach, CA 90802-4302
(562) 590-5071

APPEAL FROM COASTAL PERMIT
DECISION OF LOCAL GOVERNMENT
(Commission Form D)

RECEIVED
South Coast Region

AUG 22 2001

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

CALIFORNIA
COASTAL COMMISSION

SECTION I. Appellant(s)

Name, mailing address and telephone number of appellant(s):

Bill Eisen and Residents for a Quality City
P.O. Box 1882, Manhattan Beach, CA 90267
(310) 546-2085
Zip Area Code Phone No.

SECTION II. Decision Being Appealed

1. Name of local/port government: City of Manhattan Beach

2. Brief description of development being appealed: City Resolution No. 5699 expanding bleachers from 1500 to 3000 and increasing bleacher height from 15 feet to 26 feet for AVP beach volleyball event to be held from 8-23 to 8-26-01/

3. Development's location (street address, assessor's parcel no., cross street, etc.): Manhattan Beach on the beach adjacent to Manhattan Beach pier

4. Description of decision being appealed:

- a. Approval; no special conditions: X
- b. Approval with special conditions: _____
- c. Denial: _____

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

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-5-MNB-01-343

DATE FILED: 8.22.01

DISTRICT: South Coast

H5: 4/88


COASTAL COMMISSION
A5-MNB-01-343

EXHIBIT # 8

PAGE 1 OF 2

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.)

Local residents were not notified until a few days before the August 7, 2001 hearing that the AVP had applied to increase their bleacher seating from 1500 to 3000 and increase the height of the bleachers from 15 feet to 26 feet for the AVP Volleyball tournament starting August 23, 2001. This modification will interfere with beach access, add to local traffic problems and will substantially reduce available parking for beachgoers. Also, the increased height of the bleachers will displace normal views of the beach. Also, the increased noise from the event will interfere with beachgoers' and local residents' quiet enjoyment of the beach. The event modification, therefore, does not conform to the city's LCP, general plan and California Coastal Act. A copy of the city's staff report for the August 7, 2001 council meeting (showing the before and after bleacher plans) and minutes of the meeting are attached hereto.

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

SECTION V. Certification

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


Signature of Appellant(s) or
Authorized Agent

Date August 22, 2001

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

Section VI. Agent Authorization

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

Signature of Appellant(s)

Date _____

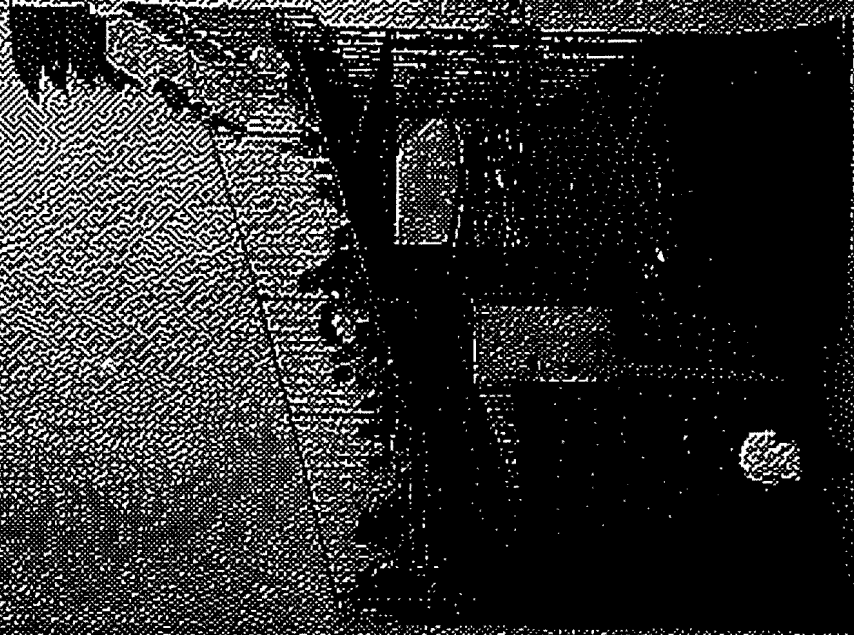
COASTAL COMMISSION

EXHIBIT # 8

PAGE 2 OF 2

Manhattan Bench Open 2001 - Bleacher Seating

8-25-01 CF

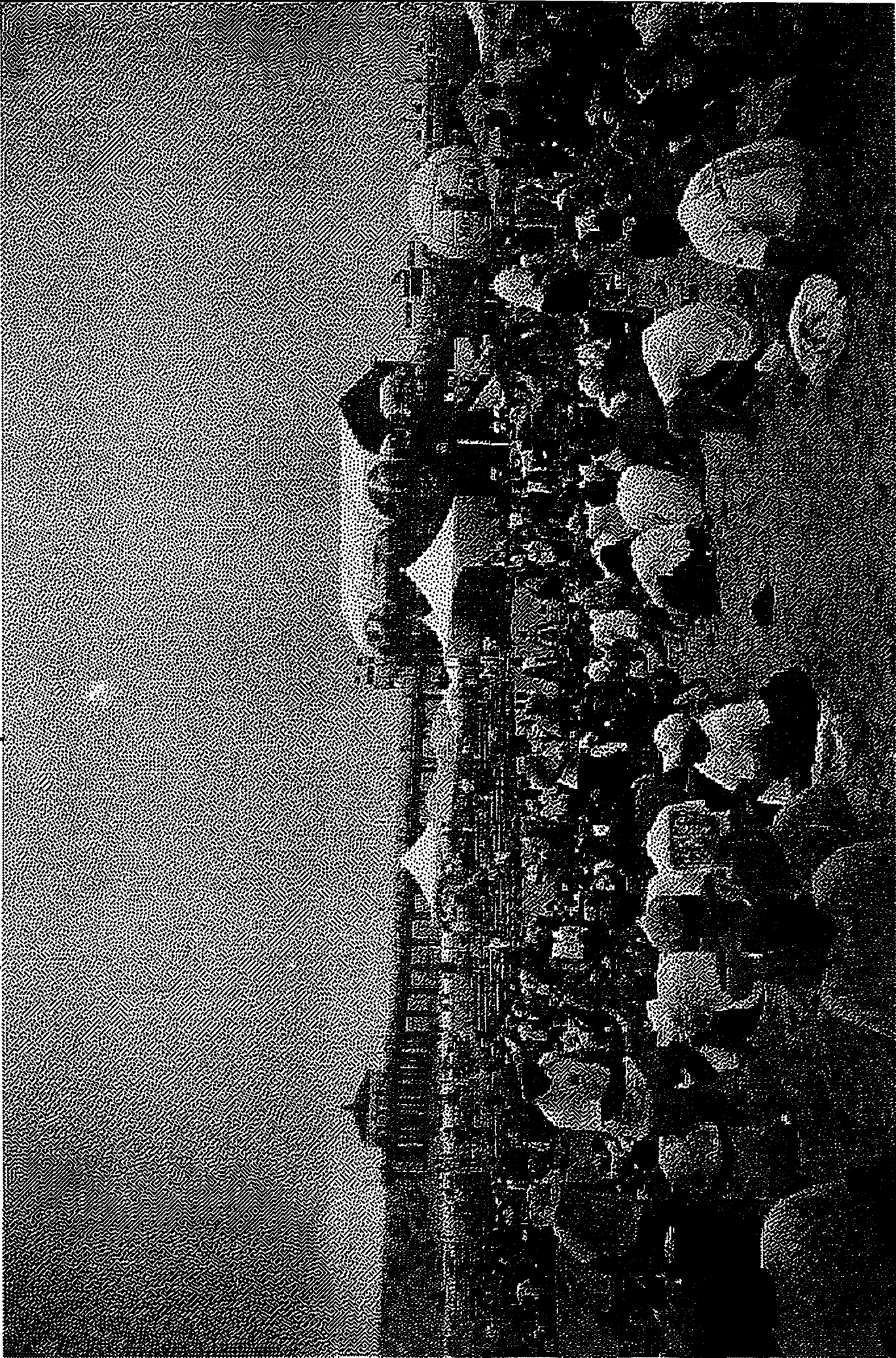


A5-MNB-01-343

Exhibit #9

2001 Manhattan Beach Open

8-25-01 CP



A5-MNB-01-343

Exhibit 10