

**CALIFORNIA COASTAL COMMISSION**

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Staff: CP-LB  
Staff Report: 8/28/2002  
Hearing Date: September 9, 2002  
Commission Action:



**Item M15a**

**STAFF REPORT: APPEAL**  
**SUBSTANTIAL ISSUE**

**LOCAL GOVERNMENT:** City of Manhattan Beach **RECORD PACKET COPY**

**LOCAL DECISION:** Approval with Conditions

**APPEAL NUMBER:** A-5-MNB-02-257

**CO-APPLICANTS:** City of Manhattan Beach & Tolkin Group

**AGENT:** Richard Thompson, Director of Community Development

**PROJECT LOCATION:** 1200 Morningside Dr., City of Manhattan Beach, Los Angeles Co.

**PROJECT DESCRIPTION:** Appeal of the City of Manhattan Beach actions (Local Coastal Development Permit No. CA 02-21) approving the construction of a 430-space public subterranean parking structure, 63,850 square feet of new commercial development, and 40,000 square feet of public areas including a Town Square, and related improvements at the Metlox site.

**APPELLANTS:** William Victor, David Arias and Bill Eisen

**SUBSTANTIVE FILE DOCUMENTS:** City of Manhattan Beach Certified Local Coastal Program (LCP).  
Local Coastal Development Permit No. CA 02-21 (Metlox Dev.).  
Local Coastal Development Permit No. CA 02-01 (Public Safety).  
Local Coastal Development Permit No. CA 98-15 (Lot M Parking).

**SUMMARY OF STAFF RECOMMENDATION**

The locally approved project involves the construction of a new Town Square and commercial center over a two-level subterranean parking structure on the three-acre Metlox property, the former site of a pottery factory in Downtown Manhattan Beach. The proposed subterranean parking structure, which is proposed to provide both the parking supply for the proposed commercial uses and additional public parking for the Downtown, is a "major public works facility" that falls within the Commission's appeal jurisdiction pursuant to Section 30603 of the Coastal Act, even though the entire project site is outside of the Commission's geographic appeals area.

The scope of the appeals is a subject of controversy. Some appellants claim that the entire development, including the public and commercial development on top of the proposed

parking structure, and the road improvements that were approved as part of a separate local coastal development permit for the City's proposed public safety facility on the north side of the Metlox side (Local Coastal Development Permit No. CA 02-01), is one major public works facility that is appealable to the Commission in its entirety. Staff has determined that only the proposed subterranean parking structure constitutes a major public works facility, and that it is only by nature of being a major public works facility that the proposed subterranean parking structure falls within the Commission's appeal jurisdiction. Therefore, the City action approving the proposed subterranean parking structure, which was a separate and discrete local action, is the only action that can be appealed to the Commission. The other elements of the proposed development are not major public works facilities and do not fall within the Commission's appeal jurisdiction.

Still, excluding the road improvements approved as part of Local Coastal Development Permit No. CA 02-01, the three appeals involve one project, one coastal development permit application, and one coastal development permit. The local coastal development permit that approves the proposed subterranean parking structure (Local Coastal Development Permit No. CA 02-21) also approves the public area (Town Square) and commercial development that is proposed to be built atop the parking structure, even though the City approved the local coastal development permit in two parts by adopting two separate resolutions: City Council Resolution No. 5770 approving the commercial and public development on top of the parking structure, and City Council Resolution No. 5771 approving the public parking structure. The two parts of the proposed development, however, are inseparable because both parts occupy the same property (the parking structure is the foundation for the rest of the development) and the proposed parking structure provides all of the parking required for the proposed commercial uses.

Therefore, if the Commission finds that a substantial issue exists with the grounds of the appeals, the entire local coastal development permit for development of the Metlox site (Local Coastal Development Permit No. CA 02-21) will become null and void, and the Commission will review the entire project (commercial development, public areas and the subterranean parking structure) as one de novo permit at a future Commission hearing [Coastal Act Section 30621 and Sections 13112-13115 of Title 14 of the California Code of Regulations].

The appellants assert, among numerous other claims, that the proposed Metlox Development Project, and in particular the proposed subterranean parking structure, is inconsistent with the certified City of Manhattan Beach LCP in regards to the provision of adequate parking for the associated development and in regards to the protection of the proposed and existing public parking facilities for use by beach goers and the general public (See Exhibits #10-12).

The local coastal development permit approving the development of the Metlox site does not include a comprehensive parking program that will adequately protect the City's existing and proposed public parking facilities for use by beach goers and the general public as required by the certified LCP. Therefore, the staff recommends that the Commission, after public hearing, determine that the appeals raise a **substantial issue** in regards to the grounds of the appeals. If the Commission adopts the staff recommendation, a de novo hearing will be scheduled at a future Commission meeting.

**The motion to carry out the staff recommendation is on the bottom of Page Eight.**

## **I. APPELLANTS' CONTENTIONS**

On July 16, 2002, after a public hearing, the Manhattan Beach City Council approved Local Coastal Development Permit No. CA 02-21 with the adoption of City Council Resolution Nos. 5770 and 5771 (See Exhibits #7&8). City Council Resolution No. 5770 approved, with conditions, "a new approximate 63,850 square foot commercial development and approximately 40,000 square feet of public areas" (Exhibit #7, p.2 – Sections 1.J & 2). City Council Resolution No. 5771 approved, with conditions, "a new approximate 430 [space] subterranean public parking structure" (Exhibit #6, p.3 – Sections 1.K & 2). The proposed commercial development and public areas, including the proposed Town Square, would be built on top of (at ground level) the proposed subterranean parking structure (Exhibit #4).

The City Council's adoption of two separate resolutions (City Council Resolution Nos. 5770 & 5771) appears designed to divide the approval of Local Coastal Development Permit Application No. CA 02-21 into two distinct actions: one action (adoption of Resolution No. 5771) approving the proposed subterranean parking structure, which the City determined to be appealable to the Commission by merit of being a "major public works facility"; and another action (adoption of Resolution No. 5770) approving the above-ground portion of the proposed development consisting of the public area (Town Square) and the commercial component (Exhibit #3).

The City asserts that the proposed parking structure is physically separable from the rest of the proposed project, even though all components of the project share the same site (the proposed subterranean parking structure is the foundation for the rest of the proposed development) and the proposed parking structure provides all of the required on-site parking to serve the proposed commercial development (Exhibit #8, p.2). The City maintains that the development approved by City Council Resolution No. 5770, the above-ground commercial development and public areas, is outside of the Commission's appeal authority and is not subject to Commission review.

Prior to the City Council's hearing and action, the City Planning Commission held a public hearing on July 10, 2002 and approved the Metlox Development Project by adopting Planning Commission Resolution No. 02-18 for the proposed commercial and public development and Planning Commission Resolution No. 02-19 for the proposed subterranean parking structure. Prior to receiving any appeals of the Planning Commission's July 10, 2002 action, and even prior to the Planning Commission's July 10<sup>th</sup> action, the City had scheduled and noticed the City Council's July 16, 2002 public hearing on the matter. The appellants assert that the City's scheduling of the July 16, 2002 City Council meeting denied them the opportunity to appeal the Planning Commission's July 10, 2002 approval of the project. The City Council's July 16, 2002 action approving Local Coastal Development Permit No. CA 02-21 was not appealable at the local level.

On July 31, 2002, William Victor submitted an appeal of the City's approval of Local Coastal Development Permit No. CA 02-21 to the Commission's South Coast District office in Long Beach (Exhibit #10). On August 1, 2002, the South Coast District office received the appeal of David Arias, and on August 2, 2002, the appeal of Bill Eisen (Exhibits #11&12). All three appellants are challenging the City's claim that only the local approval of the proposed parking structure is appealable to the Commission. Each appellant asserts that the entire project (as each defines it), not just the parking structure, can be appealed to the Commission. One of

the appellants (Mr. Arias) claims that the entire development, including not only the public and commercial development on top of the proposed parking structure, but also the road improvements that were approved as part of a separate local coastal development permit for the City's proposed public safety facility (Local Coastal Development Permit No. CA 02-01), is one major public works facility that is appealable to the Commission in its entirety.

Mr. Victor's appeal contains twenty enumerated reasons for his appeal, which essentially claim the proposed development does not conform to the certified City of Manhattan Beach LCP and would violate the public access provisions of the Coastal Act due to adverse impacts on public parking supplies and traffic circulation (Exhibit #10: Reasons for Appeal Nos. 1, 2, 4, 5, 7, 11, 14, 15, 16, 17 & 18). His appeal also raises procedural issues, alleging that the City did not provide adequate public notice of its hearings for the project and would not provide adequate minutes of the local hearings (Exhibit #10: Reasons for Appeal Nos. 3 & 6). Furthermore, he asserts that his right to appeal the Planning Commission's July 10, 2002 approval of the proposed development was abrogated by the City Council's hearing of the matter on July 16, 2002, which did not allow the required 15-day local appeal period to run between the Planning Commission's action and the July 16<sup>th</sup> City Council meeting (Exhibit #10: Reason for Appeal No. 19). Mr. Victor's appeal also includes issues that are not related to the development of the Metlox property, but to prior unrelated City and Commission actions (Exhibit #10: Reasons for Appeal Nos. 8, 9, 10, 12, 13 & 20).

The appeal of Mr. Arias challenges the shared parking demand estimates used by the City to justify the approval of the project, and asserts that the proposed project does not provide an adequate parking supply to meet the demands of the proposed commercial development, thus violating the parking policies contained in the City's certified LCP, and Sections 30210, 30211, 30215.5 (sic), 30214, 30252(4), 30253(5) and 30254 of the Coastal Act (Exhibit #11). In support of this allegation, Mr. Arias notes that the project site is currently used to provide employee and merchant parking as well as peak beach use parking. He alleges that the development of the site as proposed will result in a net loss of public parking. Mr. Arias also asserts that a third story approved for the proposed inn (part of the commercial component) would violate the provisions of Coastal Act Section 30251 which protect visual resources of coastal areas.

Mr. Eisen's appeal also takes issue with the third story for the proposed inn, which is part of the commercial component of the project (Exhibit #12). He asserts that a third story on the inn would violate the provisions of the certified LCP that limit building height on the Metlox site to 22 feet with a two-story maximum (LCP Policy II.A.2 & Municipal Code Section A.16.030). Mr. Eisen's appeal also asserts that the proposed development will eliminate existing public parking supplies on the site and that the parking supply for the proposed commercial component of the project does not satisfy the specific parking requirements for the Metlox site as required by Policy II.B.5 and Municipal Code Section A.64 of the certified City of Manhattan Beach LCP.

In a letter received in the South Coast District office on August 9, 2002, one week after the close of the appeal period, Mr. Eisen raises additional issues regarding the City's splitting of its approval of the proposed development into separate actions (Exhibit #12, ps.4-8). Another letter from Mr. Eisen was received on August 27, 2002. These letters were received after the close of the appeal period, so staff did not assess whether the additional grounds raised for appeal raise a substantial issue. Since the letters also expand on his prior correspondence, they have been attached as exhibits (Exhibits #12&13).

## II. LOCAL GOVERNMENT ACTIONS

Three persons have appealed the City's actions approving Local Coastal Development Permit No. CA 02-21, which the Manhattan Beach City Council approved on July 16, 2002 by adopting City Council Resolution Nos. 5770 (commercial and public development) and 5771 (parking structure). The City Planning Commission had previously approved Local Coastal Development Permit No. CA 02-21 on July 10, 2002 when it had adopted Planning Commission Resolution Nos. 02-18 (commercial and public development) and 02-19 (parking structure). The City has provided a summary of the key actions that led up to the City Council's July 16, 2002 approval of the Metlox Development Project (Exhibit #8, p.3):

1927-1989	Metlox Potteries operates a pottery-manufacturing factory on the three-acre site.
1995-1996	City Council authorizes development of the Downtown Strategic Action Plan (DSAP) to provide a comprehensive approach and community vision for the Downtown, including the Metlox site.
1997-1998	The City purchases the Metlox property with the stated intent to plan and control the future development of the site.
1998	The City selects the Tolkin Group as a development partner.
1998-2002	Numerous public meetings and workshops conducted to solicit public input on the development of the site and the Downtown.
2000-2002	The City approves Local Coastal Development Permit No. 98-15 authorizing the paving of the Metlox site for use as a public parking lot with approximately 155 parking spaces. The City permitted the use of the Metlox site as a parking lot only as an interim use with an expiration date of April 22, 2002 (Exhibit #8, p.5).
April 2001	The City Council certifies the EIR for the Civic Center/Metlox Development Project (Exhibit #2). The City Council reduces the size of the commercial development from 141,000 square feet to 63,850 square feet, and reduces the height to 26 feet.
February 2002	The City Council approves Local Coastal Development Permit No. 02-01 for the Public Safety Facility on the Civic Center site which abuts the north side of the Metlox site (Exhibit #2). The road improvements around the perimeter of the Metlox site were also approved as part of Local Coastal Development Permit No. 02-01.
April 2002	The City Council approves a Disposition and Development Agreement (DDA)/Ground Lease with the Tolkin Group.

- May 2002 The City and Tolkin Group decide to redesign the proposed subterranean parking structure with two levels of parking, instead of the previously planned single level of parking.
- June 2002 A special municipal election results in the denial of a citizen-backed proposition to re-zone the Metlox site to allow only public improvements.
- June 13, 2002 The Tolkin Group submits the application (Master Use Permit and Local Coastal Development Permit) to the City for the proposed development of the Metlox site.
- June 26, 2002 The Planning Commission opens the public hearing for the local coastal development permit for the proposed Metlox Development Project.
- July 10, 2002 The Planning Commission continues the public hearing and approves the Master Use Permit and Local Coastal Development Permit for the proposed Metlox Development Project by adopting Planning Commission Resolution Nos. 02-18 (commercial and public development) and 02-19 (parking structure).
- July 16, 2002 The City Council holds a public hearing and approves the Master Use Permit and Local Coastal Development Permit for the proposed Metlox Development Project by adopting City Council Resolution Nos. 5770 (commercial and public development) and 5771 (parking structure).

The Commission's Long Beach office received the City's Notice of Final Local Action for Local Coastal Development Permit No. CA 02-21, the subject of this appeal, on Friday, July 13, 2002. The City's Notice of Final Local Action, however, included only City Council Resolution No. 5771 for the approval of the subterranean public parking structure (Exhibit #6). City Council Resolution No. 5770, the City's resolution approving the proposed commercial development and public areas, was forwarded separately on August 13, 2002 to the Commission's South Coast District office (Exhibit #7).

The Commission's ten working-day appeal period for Local Coastal Development Permit No. CA 02-21 was established on Monday, July 22, 2002, and a Notice of Appeal Period was published. Although Commission staff issued a Corrected Notice of Appeal Period on July 26, 2002, the Commission's ten working-day appeal period was not extended beyond the ten working-day period established on July 22, 2002. The Corrected Notice of Appeal clarified that the appeal period was being established for the local action approving the "construction of a new public subterranean parking structure and related improvements on the Metlox site."

The three appeals were received on July 31, August 1 and August 2, 2002. The Commission's ten working-day appeal period closed at 5 p.m. on August 2, 2002. On August 13, 2002, the Commission's South Coast District office received from the City a copy of the local permit file.

### III. APPEAL PROCEDURES

After certification of Local Coastal Programs (LCP), the Coastal Act provides for limited appeals to the Coastal Commission of certain local government actions on coastal development permits. Developments approved by cities or counties may be appealed if they are located within 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 [Coastal Act Section 30603(a)]. In Manhattan Beach, the inland boundary of the appealable area of the City's coastal zone, located 300 feet from the inland extent of the beach, has been mapped within the Manhattan Avenue right-of-way (Exhibit #1). The proposed Metlox Development Project is located entirely inland of the mapped geographic appeals area.

In addition, an action taken by a local government on a coastal development permit application may be appealed to the Commission if the development constitutes a "major public works project" or a "major energy facility" [Coastal Act Section 30603(a)(5)].

Section 30603(a)(5) 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:*

[....]

- (5) *Any development which constitutes a major public works project or a major energy facility.*

In this case, the subterranean parking structure approved by City of Manhattan Beach City Council Resolution No. 5771 and Local Coastal Development Permit No. CA 02-21 falls within the definition of "major public works project" as defined by Section 13012 of the Coastal Commission Regulations. The City asserts that it is investing approximately \$11.5 million dollars to provide the proposed public parking facility (Exhibit #8, p.1).

Section 13012 of Title 14 of the California Code of Regulations states:

- (a) *"Major public works" and "Major energy facilities" mean facilities that cost more than one hundred thousand dollars (\$100,000) with an automatic annual increase in accordance with the Engineering News Record Construction Cost Index, except for those governed by the provisions of Public Resources Code Sections 30610, 30610.5, 30611 or 30624.*

- (b) *Notwithstanding the criteria in (a), "major public works" also means publicly financed recreational facilities that serve, affect, or otherwise impact regional or statewide use of the coast by increasing or decreasing public recreational opportunities or facilities.*

Therefore, pursuant to Section 30603(a)(5) of the Coastal Act, the City Council's action approving the Metlox Development Project (Local Coastal Development Permit No. CA 02-21)

can be appealed to the Commission because it includes development that constitutes a major public works project. The grounds for an appeal of an approved local coastal development permit for a major public works facility are stated in Section 30603(b)(1), which states:

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

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

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

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

#### **IV. STAFF RECOMMENDATION ON SUBSTANTIAL ISSUE**

The staff recommends that the Commission determine that **a substantial issue exists** with respect to the grounds for the appeals regarding conformity of the project with the City of Manhattan Beach certified Local Coastal Program and the public access policies of the Coastal Act, pursuant to Public Resources Code Section 30625(b)(2).

**MOTION:** Staff recommends a **NO** vote on the following motion:

*"I move that the Commission determine that Appeal No. A-5-MNB-02-257 raises **No Substantial Issue** with respect to the grounds on which the appeal has been filed."*



Failure of this motion will result in a de novo hearing on the application and adoption of the following resolution and findings. A majority of the Commissioners present is required to pass the motion.

**Resolution to Find Substantial Issue for Appeal A-5-MNB-02-257**

The Commission hereby finds that Appeal No. A-5-MNB-02-257 presents a substantial issue with respect to the grounds on which the appeal has been filed under Section 30603 of the Coastal Act 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**

The Public Hearing Notice for the Planning Commission and City Council hearings for Local Coastal Development Permit No. CA 02-21, received in the Commission's South Coast District office on July 9, 2002, describes the Metlox Development Project as:

"Construction of a new commercial development (retail, restaurant, office, personal service and 35 to 40 room inn), approximately 64,000 square feet in area and approximately 400 subterranean parking spaces on two levels."

The Public Hearing Notice states that, "The decision on the commercial development is not appealable to the State Coastal Commission and the decision on public parking structure is appealable to the State Coastal Commission."

The site of the proposed development, the three-acre Metlox site, is located on the south side of the Civic Center in Downtown Manhattan Beach, four blocks inland of the pier and beach (Exhibit #1). The abutting Civic Center property is proposed to be redeveloped with a new public safety facility approved under a separate local coastal development permit (Local Coastal Development Permit No. CA 02-01). The Metlox site is currently paved and is being used as an interim surface parking lot, with approximately 155 public parking spaces.

The proposed development is known as the Metlox Development Project. The City has approved the construction of a three-story inn and three other detached two-story commercial buildings above a proposed two-level subterranean parking garage (Exhibit #4). The proposed commercial buildings would be constructed around an open public area and new Town Square (Exhibit #3). The site plan shows parts of the outdoor public area in and around the Town Square being used for outdoor patio dining.

On July 16, 2002, after a public hearing, the Manhattan Beach City Council approved Local Coastal Development Permit No. CA 02-21 with the adoption of City Council Resolution Nos. 5770 and 5771 (See Exhibits #7&8). City Council Resolution No. 5770 approved, with conditions, "a new approximate 63,850 square foot commercial development and approximately 40,000 square feet of public areas" (Exhibit #7, p.2 – Section 1.J & 2). City

Council Resolution No. 5771 approved, with conditions, "a new approximate 430 [space] subterranean public parking structure" (Exhibit #6, p.3 – Sections 1.K & 2). The proposed commercial development and public areas, including the proposed Town Square, would be built on top of (at ground level) the proposed subterranean parking structure (Exhibit #4).

The City Council's adoption of two separate resolutions (Resolution Nos. 5770 & 5771), like the Planning Commission's, appears designed to divide the approval of Local Coastal Development Permit No. CA 02-21 into two distinct actions: one action (adoption of Resolution No. 5771) approving the proposed subterranean parking structure, which the City determined to be appealable to the Commission by merit of being a "major public works facility"; and another action (adoption of Resolution No. 5770) approving the above-ground portion of the proposed development consisting of the Town Square and the commercial component.

The City asserts that the proposed parking structure is physically separable from the rest of the proposed project, even though it sits below the surface of the proposed public and commercial components and the proposed parking structure provides all of the parking required for the proposed commercial uses (Exhibit #8, p.2). The City maintains that the development approved by City Council Resolution No. 5770, the above-ground commercial development and public areas, is outside of the Commission's appeal authority and is not subject to Commission review.

#### **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 grounds for an appeal identified in Public Resources Code Section 30603 are limited to whether the development conforms to the standards in the certified LCP and to the public access policies of the Coastal Act.

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 appellant raises no significant questions". 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 certified LCP and with the public access policies of 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 **a substantial issue does exist** 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.

In this case, the appellants allege that the approval of the proposed project is inconsistent with both the certified LCP and the public access policies of the Coastal Act (Exhibits #6-8). The appellants' claims on appeal can be categorized into the three following issues: 1) What is appealable to the Commission, 2) parking issues, and 3) the third story of the proposed inn.

#### **What is Appealable to the Commission**

This is an issue in dispute. The City insists that only the subterranean parking structure can be appealed to the Commission, as it is a distinct and separate project that can stand alone from the commercial component and Public Town Square. The City's claim that the parking structure and the commercial development are wholly independent of each other, however, is incorrect as the proposed commercial development cannot be constructed without its required on-site parking being provided within the proposed subterranean parking structure. Because the entire parking supply for the proposed commercial component is located within the proposed subterranean parking structure, there is no way to separate the parking from the commercial component. The subterranean parking garage also provides the foundation for the proposed commercial development and public areas. Therefore, the subterranean and aboveground components comprise one inseparable project. Only by completely eliminating the commercial component from the project can the City actually separate the proposed parking facility from the commercial development.

In addition, the proposed subterranean parking structure and the proposed commercial development were included in the same coastal development permit application (and EIR). Nevertheless, Section 30603(a) of the Coastal Act refers to "an action taken on a coastal development permit application" being appealable to the Commission under specific circumstances. In this case, the City Council's adoption of the two resolutions (Resolution Nos. 5770 and 5771) were two actions on a single coastal development permit application (application for Local Coastal Development Permit No. CA 02-21). The entire Metlox Development Project, including the commercial development, public areas, and subterranean parking structure, was described in the coastal development permit application.

Therefore, it is the City's actions approving Local Coastal Development Permit No. CA 02-21 that are being appealed to the Commission. However, only the proposed subterranean parking is a major public works facility. The other elements of the proposed development are not major public works facilities and do not fall within the Commission's appeal jurisdiction. Therefore, it is the major public works component of the project that makes the City's action on the local coastal development permit appealable to the Commission. The local coastal development permit that approves the proposed subterranean parking structure also approves the public area and commercial development that is proposed to be built atop the parking structure, even though the City approved the local coastal development permit in two parts by adopting two separate resolutions. Although specific parts of the locally approved development are the reasons for the appeal, since the Commission finds the appeal raises a substantial issue, it will perform a de novo review of the entire City action as well as the individual components of the proposed project.

### **Parking**

The issue of parking and public access to the coast are the primary LCP and Coastal Act policy issues brought up by the three appeals. First, the appellants assert that the proposed parking supply in the subterranean parking structure is not adequate to serve the demands of the proposed 63,850 square feet of commercial uses. The appellants assert that the certified LCP (Section A.64 of the of Chapter 2 of the Municipal Code) requires that the proposed commercial development provide a minimum of 272 on-site parking spaces (Arias, Exhibit #11, p.9) or 1,000 on-site parking spaces (Eisen, Exhibit #12, p.2). The certified LCP, in regards to parking on the Metlox site, states:

**POLICY II.B.5:** Development of the former Metlox site shall provide the parking necessary to meet the standards set forth in Section A.64 of Chapter 2 of the Implementation Plan. All required parking shall be provided on the Metlox site.

The City has determined that Section A.64 of Chapter 2 of the Municipal Code requires that the proposed commercial development provide a minimum of 160 on-site parking spaces.

The figure of 160 parking spaces was determined by using a shared-parking analysis that estimated 160 parking spaces as being the maximum demand for the proposed commercial uses during any one-time period.

The appellants also point out that the proposed project will displace the existing public parking facilities that currently occupy the site: 155 temporary spaces in Lot M and 33 spaces in Lot 5 (Exhibit #9). The City responds that the 155 temporary parking spaces are an interim use for the property and do not need to be replaced, and that the proposed 460-space subterranean parking structure would provide enough parking to serve the proposed commercial uses, replace all existing non-interim parking that would be displaced by the project, and provide additional parking to serve the City Library, local merchants with parking permits, and the general public (Exhibit #6, p.4).

The issue of whether an adequate parking supply is being provided for the proposed commercial uses raises a substantial issue with the following policies of the certified LCP and with the public access policies of the Coastal Act because the local coastal development

permit does not address the day-to-day management of the parking facility. Without a parking management plan, the Commission is unable to determine whether the proposed project conforms with the following policies:

- POLICY II.B.5:** Development of the former Metlox site shall provide the parking necessary to meet the standards set forth in Section A.64 of Chapter 2 of the Implementation Plan. All required parking shall be provided on the Metlox site.
- POLICY I.C.2:** The City shall maximize the opportunities for using available parking for weekend beach use.
- POLICY I.C.17:** Provide signing and distribution of information for use of the Civic Center parking for beach parking on weekends days.
- POLICY I.B.7:** The City shall provide adequate signing and directional aids so that beach goers can be directed toward available parking.
- POLICY I.C.8:** Use of the 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, shall be protected to provide public beach parking...
- POLICY I.C.10:** Concentrate new parking in the Downtown Commercial District to facilitate joint use opportunities (office and weekend beach parking uses).
- POLICY I.C.16:** Improve information management of the off-street parking system through improved signing, graphics and public information maps.
- POLICY I.A.2:** The City shall encourage, maintain, and implement safe and efficient traffic flow patterns to permit sufficient beach and parking access.

Section 30212.5 of the Coastal Act states:

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

Section 30213 of the Coastal Act states:

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

For example, the local coastal development permit does not indicate which parking spaces within the subterranean parking structure, if any, are reserved to serve the customers and employees of the proposed commercial uses, or the library, or the merchants with their permits. Also, valet parking is permitted within the structure, but the permit does not indicate

what measures would be in place to implement the parking policies of the LCP. The local approval also does not include a signage plan to direct beach goers to the parking, nor does it preclude a preferential parking management system from being implemented to discourage beach goers from using the parking.

Finally, by trying to separate the proposed parking structure from the commercial component of the proposed project, the local actions do not limit or restrict the displacement of public parking spaces that would occur with future intensification of uses on or off the site (e.g. the City may use the public parking supply as a reservoir to allow intensification of Downtown development). The central question remains: Is the proposed project truly a public parking facility, or will commercial interests monopolize it? Therefore, the staff recommends that the Commission determine that the City's actions approving of Local Coastal Development Permit No. CA 02-21 raises a substantial issue with respect to the grounds of the appeal.

### **Third Story of Inn**

The proposed third story on the inn is not consistent with the following provision of the certified LCP:

**POLICY II.A.2:** Preserve the predominant existing commercial building scale of one and two stories, by limiting any future development to a 2-story maximum with a 30' height limitation as required by Sections A.04.030, A.16.030 and A.60.050 of Chapter 2 of the Implementation Plan.

A third story on the inn would violate the provisions of the certified LCP that limit building height on the Metlox site to 22 feet with a two-story maximum (LCP Policy II.A.2 & Municipal Code Section A.16.030). The proposed inn, however, is not a major public works facility and its height is not appealable.

### **Conclusion**

In conclusion, the City's actions approving Local Coastal Development Permit No. CA 02-21 do not provide any guarantee that the approved development would provide an adequate parking supply or adequately protect public parking (existing and proposed facilities) and public access as required by the Manhattan Beach certified LCP and the public access policies of the Coastal Act. Therefore, the appeals do raise a substantial issue with respect to the grounds of the appeals.



City of Manhattan Beach – Metlox Development Project

A-5-02-MNB-257

BUILDING INFORMATION	
OWNER	CO. DEVELOPMENT COMMERCIAL AREA
TOTAL PROPERTY AREA	54,113 SQ. FT. (APPROX.)
TOTAL GROSS SPACE AREA	45,000 SQ. FT. (APPROX.)
BUILDING AREA INFORMATION	
BUILDING A AND C (CONCRETE FRAME) TOTAL GROSS SPACE: 10,000 SQ. FT.	
1ST FLOOR RESTAURANT	
2ND FLOOR OFFICE	5,000 SQ. FT.
3RD FLOOR OFFICE	5,000 SQ. FT.
4TH FLOOR OFFICE	5,000 SQ. FT.
5TH FLOOR OFFICE	5,000 SQ. FT.
6TH FLOOR OFFICE	5,000 SQ. FT.
7TH FLOOR OFFICE	5,000 SQ. FT.
8TH FLOOR OFFICE	5,000 SQ. FT.
9TH FLOOR OFFICE	5,000 SQ. FT.
10TH FLOOR OFFICE	5,000 SQ. FT.
11TH FLOOR OFFICE	5,000 SQ. FT.
12TH FLOOR OFFICE	5,000 SQ. FT.
13TH FLOOR OFFICE	5,000 SQ. FT.
14TH FLOOR OFFICE	5,000 SQ. FT.
15TH FLOOR OFFICE	5,000 SQ. FT.
16TH FLOOR OFFICE	5,000 SQ. FT.
17TH FLOOR OFFICE	5,000 SQ. FT.
18TH FLOOR OFFICE	5,000 SQ. FT.
19TH FLOOR OFFICE	5,000 SQ. FT.
20TH FLOOR OFFICE	5,000 SQ. FT.
21ST FLOOR OFFICE	5,000 SQ. FT.
22ND FLOOR OFFICE	5,000 SQ. FT.
23RD FLOOR OFFICE	5,000 SQ. FT.
24TH FLOOR OFFICE	5,000 SQ. FT.
25TH FLOOR OFFICE	5,000 SQ. FT.
26TH FLOOR OFFICE	5,000 SQ. FT.
27TH FLOOR OFFICE	5,000 SQ. FT.
28TH FLOOR OFFICE	5,000 SQ. FT.
29TH FLOOR OFFICE	5,000 SQ. FT.
30TH FLOOR OFFICE	5,000 SQ. FT.
31ST FLOOR OFFICE	5,000 SQ. FT.
32ND FLOOR OFFICE	5,000 SQ. FT.
33RD FLOOR OFFICE	5,000 SQ. FT.
34TH FLOOR OFFICE	5,000 SQ. FT.
35TH FLOOR OFFICE	5,000 SQ. FT.
36TH FLOOR OFFICE	5,000 SQ. FT.
37TH FLOOR OFFICE	5,000 SQ. FT.
38TH FLOOR OFFICE	5,000 SQ. FT.
39TH FLOOR OFFICE	5,000 SQ. FT.
40TH FLOOR OFFICE	5,000 SQ. FT.
41ST FLOOR OFFICE	5,000 SQ. FT.
42ND FLOOR OFFICE	5,000 SQ. FT.
43RD FLOOR OFFICE	5,000 SQ. FT.
44TH FLOOR OFFICE	5,000 SQ. FT.
45TH FLOOR OFFICE	5,000 SQ. FT.
46TH FLOOR OFFICE	5,000 SQ. FT.
47TH FLOOR OFFICE	5,000 SQ. FT.
48TH FLOOR OFFICE	5,000 SQ. FT.
49TH FLOOR OFFICE	5,000 SQ. FT.
50TH FLOOR OFFICE	5,000 SQ. FT.
51ST FLOOR OFFICE	5,000 SQ. FT.
52ND FLOOR OFFICE	5,000 SQ. FT.
53RD FLOOR OFFICE	5,000 SQ. FT.
54TH FLOOR OFFICE	5,000 SQ. FT.
55TH FLOOR OFFICE	5,000 SQ. FT.
56TH FLOOR OFFICE	5,000 SQ. FT.
57TH FLOOR OFFICE	5,000 SQ. FT.
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59TH FLOOR OFFICE	5,000 SQ. FT.
60TH FLOOR OFFICE	5,000 SQ. FT.
61ST FLOOR OFFICE	5,000 SQ. FT.
62ND FLOOR OFFICE	5,000 SQ. FT.
63RD FLOOR OFFICE	5,000 SQ. FT.
64TH FLOOR OFFICE	5,000 SQ. FT.
65TH FLOOR OFFICE	5,000 SQ. FT.
66TH FLOOR OFFICE	5,000 SQ. FT.
67TH FLOOR OFFICE	5,000 SQ. FT.
68TH FLOOR OFFICE	5,000 SQ. FT.
69TH FLOOR OFFICE	5,000 SQ. FT.
70TH FLOOR OFFICE	5,000 SQ. FT.
71ST FLOOR OFFICE	5,000 SQ. FT.
72ND FLOOR OFFICE	5,000 SQ. FT.
73RD FLOOR OFFICE	5,000 SQ. FT.
74TH FLOOR OFFICE	5,000 SQ. FT.
75TH FLOOR OFFICE	5,000 SQ. FT.
76TH FLOOR OFFICE	5,000 SQ. FT.
77TH FLOOR OFFICE	5,000 SQ. FT.
78TH FLOOR OFFICE	5,000 SQ. FT.
79TH FLOOR OFFICE	5,000 SQ. FT.
80TH FLOOR OFFICE	5,000 SQ. FT.
81ST FLOOR OFFICE	5,000 SQ. FT.
82ND FLOOR OFFICE	5,000 SQ. FT.
83RD FLOOR OFFICE	5,000 SQ. FT.
84TH FLOOR OFFICE	5,000 SQ. FT.
85TH FLOOR OFFICE	5,000 SQ. FT.
86TH FLOOR OFFICE	5,000 SQ. FT.
87TH FLOOR OFFICE	5,000 SQ. FT.
88TH FLOOR OFFICE	5,000 SQ. FT.
89TH FLOOR OFFICE	5,000 SQ. FT.
90TH FLOOR OFFICE	5,000 SQ. FT.
91ST FLOOR OFFICE	5,000 SQ. FT.
92ND FLOOR OFFICE	5,000 SQ. FT.
93RD FLOOR OFFICE	5,000 SQ. FT.
94TH FLOOR OFFICE	5,000 SQ. FT.
95TH FLOOR OFFICE	5,000 SQ. FT.
96TH FLOOR OFFICE	5,000 SQ. FT.
97TH FLOOR OFFICE	5,000 SQ. FT.
98TH FLOOR OFFICE	5,000 SQ. FT.
99TH FLOOR OFFICE	5,000 SQ. FT.
100TH FLOOR OFFICE	5,000 SQ. FT.

Metlox  
Site

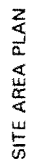
A5-MNB-02-257  
COASTAL COMMISSION

EXHIBIT # 1  
PAGE 1 OF 1



LOCATION PLAN





# METLOX

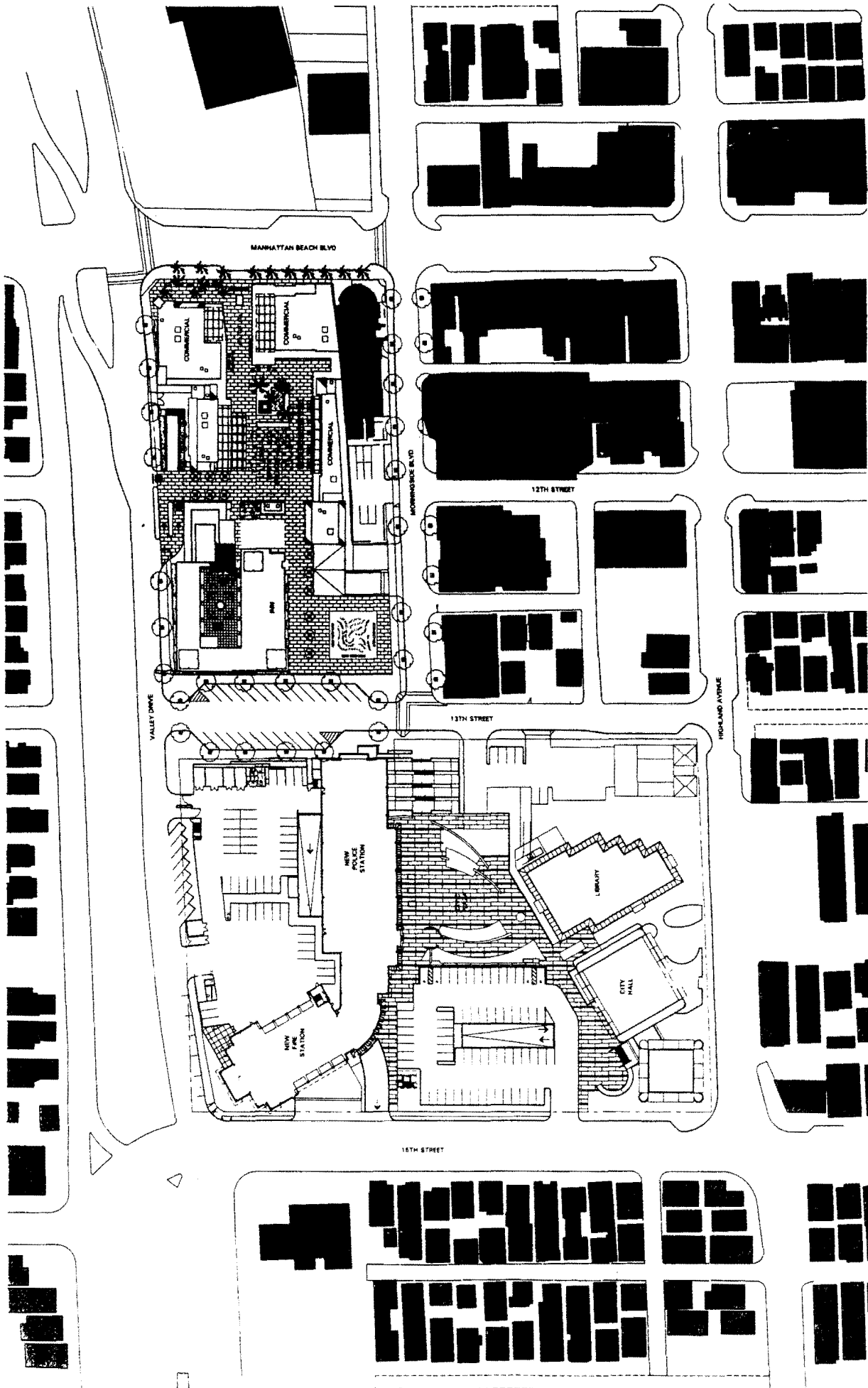
OWNER METLOX LLC	DEVELOPER TOEINGS
MANHATTAN BEACH, CALIFORNIA	

41 WEST BELLEVUE DRIVE  
TEL 020 3560443 FAX 020 35609

73 PASADENA CALIFORNIA 91105  
pol@architectre.com

DATE	07 03 02
PROJ#	2.0205

**EXHIBIT #**



ADJACENT POLICE & FIRE DEPT. FACILITY  
NOT A PART

13TH STREET

AA  
BB

CC  
DD

VALLEY DRIVE

EE FF

GG HH

180'-0"

180'-0"

EE FF

MORRISIDE DRIVE

GG HH

AA  
BB

CC  
DD

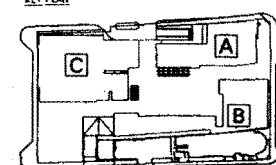
MANHATTAN BEACH BLVD.

GROUND FLOOR PLAN

PLANTING LEGEND

- |   |  |  |  |
|---|--|--|--|
| (1) METROPODUS EXCELSIOR (SEASIDE CHRISTMAS TREE TYPICAL STREET TREE) | (4) PHOENIX CANNABER (CANARY ISLAND DATE PALM) | (7) BIVUS MICROPHYLLA (JAPANESE BOXWOOD) | (8) MYRTUS COMBENS (SHRUB MYRTLE)      |
| (2) PROPOSED EXISTING ARCHISTORCHENDE CANNABER (PALM)                 | (5) PHOENIX REELMATA (SERIAL DATE PALM)        | (8) CYPRUS                               | (9) PANTHODICUS INCLINATA (BOSTON IVY) |
| (3) NEW AREAS ARCHISTORCHENDE CANNABER (PALM)                         | (6) PLATANUS RAEMOSA (CALIFORNIA ETC. MORE)    | (9) HYMENOSPORUM FLAVUM (SHRUB TERNARD)  | (10) DRAVE                             |

KEY PLAN



COASTAL COMMISSION

EXHIBIT # 3  
PAGE 1 OF 1

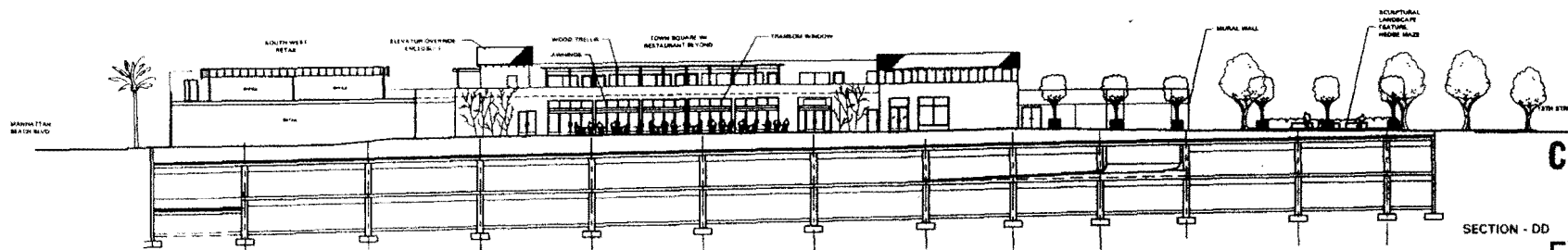
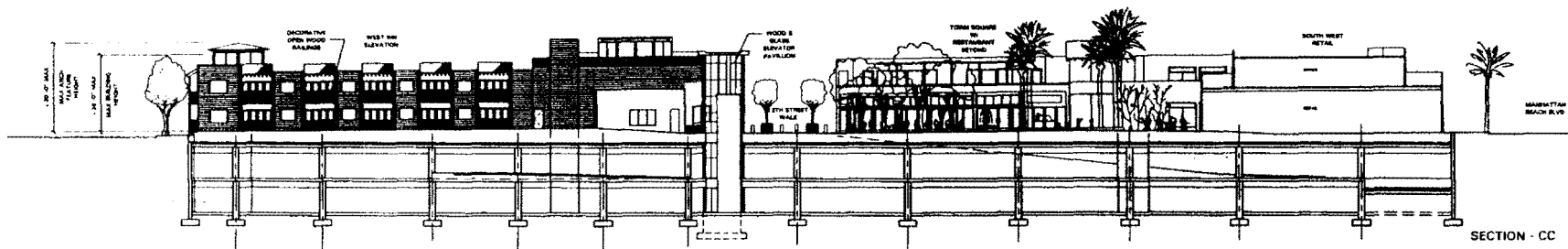
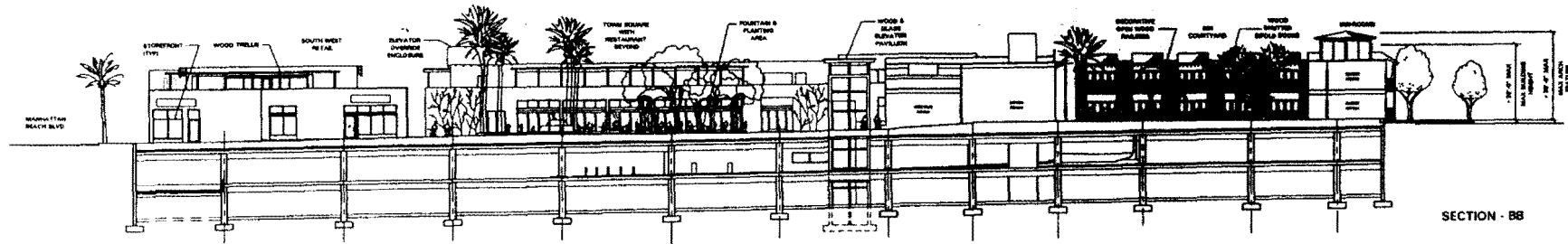
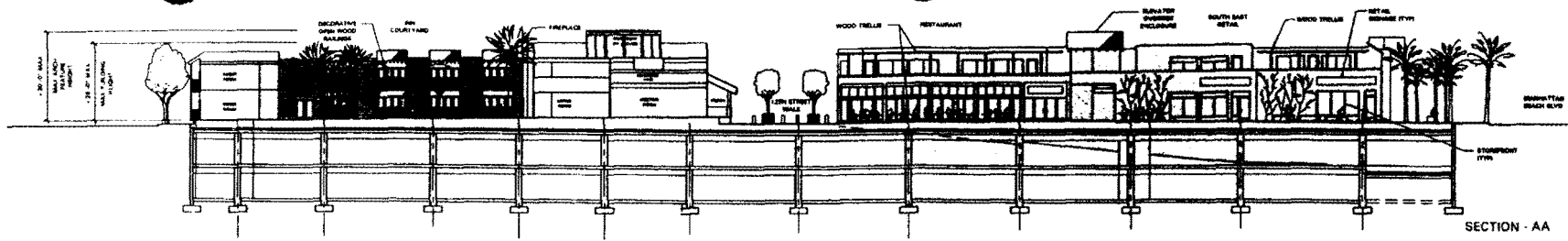
**A5-MNB-02-257**

**METLOX**

MANHATTAN BEACH, CALIFORNIA  
OWNER: METLOX LLC  
DEVELOPER: TOLKIN GROUP

TOLKIN & ASSOCIATES ARCHITECTURE  
41 WEST BELLEVUE DRIVE PASADENA CALIFORNIA 91105  
TEL 626 356 0442 FAX 626 356 0973 tollfree@tarkitecture.com

SCALE 1/16" = 1'-0"  
DATE 07.03.02  
PAGE 3.0205



SITE SECTIONS

COASTAL COMMISSION

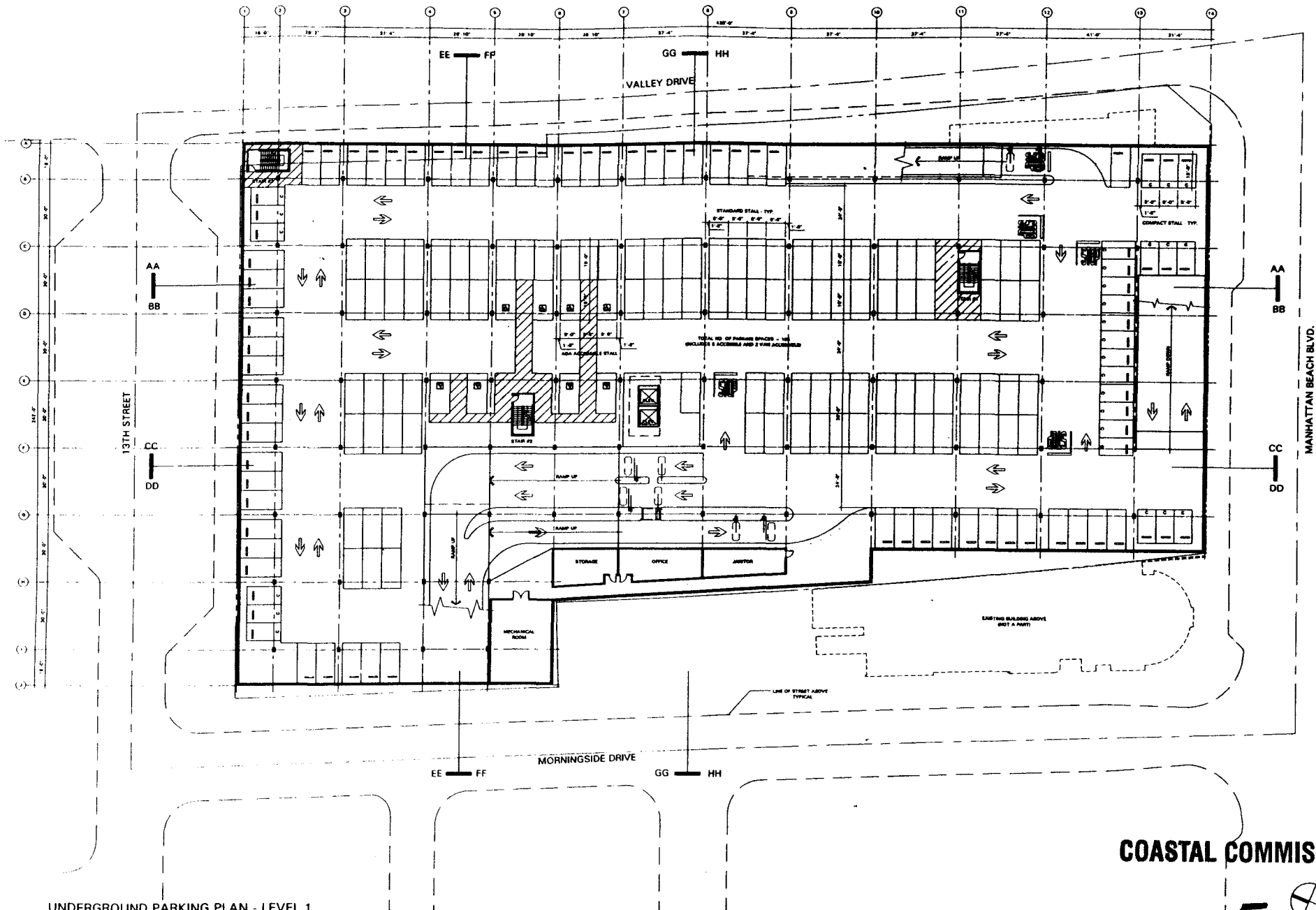
EXHIBIT # 4  
PAGE 1 OF 1

A5-MNB-02-257

SCALE 1/16" = 1'-0"  
DATE 07.02.02  
PROJECT 3-0205


MANHATTAN BEACH, CALIFORNIA  
OWNER: MFLDT LLC  
DEVELOPER: TOLKINGROUP

TOLKIN & ASSOCIATES ARCHITECTURE  
41 WEST BELLEVUE DRIVE PASADENA, CALIFORNIA 91105  
TEL 626 336 0442 FAX 626 336 0973 info@tolkinarchitect.com



UNDERGROUND PARKING PLAN - LEVEL 1

COASTAL COMMISSION

EXHIBIT # **5**   
 PAGE **1** OF **2**

**A5-MNB-02-257**

**METLOX**

MANHATTAN BEACH, CALIFORNIA

OWNER: METLOX, LLC

DEVELOPER: TOLKIN GROUP

TOLKIN & ASSOCIATES ARCHITECTURE  
 41 WEST BELLEVUE DRIVE PASADENA, CALIFORNIA 91105  
 TEL 626 356-0443 FAX 626 356-0973 tolkinarchitects.com

SCALE: 1/16" = 1'-0"  
 DATE: 07-02-02  
 PROJ: 0205

13TH STREET

AA  
BB

CC  
DD

VALLEY DRIVE

MORNINGSIDE DRIVE

MANHATTAN BEACH BLVD.

TOTAL NO. OF PARKING SPACES = 248

ELECTRICAL

SECURITY

MECHANICAL

UNDERGROUND PARKING PLAN - LEVEL 2

COASTAL COMMISSION

EXHIBIT #

5

PAGE

2

OF 2

A5-MNB-02-257

METLOX

MANHATTAN BEACH, CALIFORNIA

OWNER: METLOX, LLC

DEVELOPER: TOLKINGROUP

TOLKIN & ASSOCIATES ARCHITECTURE

41 WEST BELLEVUE DRIVE

TEL 626 356 0443

PASADENA, CALIFORNIA 91105

FAX 626 356 0973

tolkinarchitects.com

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

DATE: 07.03.02

PROJECT: 2.0205



City Hall 1400 Highland Avenue Manhattan Beach, CA 90266-4795  
Telephone (310) 545-5621 FAX (310) 545-5234 TDD (310) 546-3501

## NOTICE OF FINAL GOVERNMENT ACTION

July 17, 2002

Ms. Pam Emerson  
California Coastal Commission  
South Coast District  
200 Oceangate, #1000  
Long Beach, CA. 90802

**RECEIVED**  
South Coast Region

JUL 19 2002

CALIFORNIA  
COASTAL COMMISSION

**RE: Coastal Development Permit for 1200 and 1148 Morningside Drive- Metlox Public Subterranean Parking Structure #CA-02-21**

Pursuant to the procedures set forth in Chapter A.96 of the City of Manhattan Beach Local Coastal Program (LCP) the Planning Commission of the City of Manhattan Beach conducted duly noticed public hearings (June 26 and July 10, 2002) on the above referenced project. At the July 10<sup>th</sup> hearing the Commission voted 3:0:2 to approve the Coastal Development Permit. The City Council held a duly noticed public hearing on July 16, 2002 and affirmed the Commission's decision, voting 5:0. Pursuant to Section A.96.100 (H) of the City's LCP, the City's action shall establish a ten (10) working day appeal period to the Coastal Commission commencing upon receipt of the Notice of Final Action by the Coastal Commission.

Attached is a copy of Resolution No. 5771 approving the Coastal Development Permit. This Resolution outlines the findings and conditions of approval. A signed copy of the Resolution will be forwarded to you shortly. Should you have any questions, or need additional information, please feel free to contact me at (310) 802-5510, or [ljester@citymb.info](mailto:ljester@citymb.info).

Sincerely,

Laurie Jester, Senior Planner  
Department of Community Development

xc: (Property Owner): City of Manhattan Beach

(Applicant): Tolkin Group  
51 West Dayton Street  
Pasadena, CA. 91105

(Interested Parties): William Victor  
Box 24A72  
Los Angeles, CA 90024

Harry Ford  
54 Village Circle  
Manhattan Beach, CA. 90266

G:\Planning\Temporary (file sharing)\Bobby\Metlox\Master Use Permit-CDP\CCC Coastal Notice Final Action Letter 7-17-02.doc

COASTAL COMMISSION  
AS-MNB-02-257

Fire Department Address: 400 15<sup>th</sup> Street, Manhattan Beach, CA 90266 FAX (310) 545-8925  
Police Department Address: 420 15<sup>th</sup> Street, Manhattan Beach, CA 90266 FAX (310) 545-7707  
Public Works Department Address: 3621 Bell Avenue, Manhattan Beach, CA 90266 FAX (310) 546-1752

PAGE 1 OF 13

RESOLUTION NO. 5771

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MANHATTAN BEACH APPROVING A MASTER USE PERMIT AND COASTAL DEVELOPMENT PERMIT TO ALLOW THE CONSTRUCTION OF A NEW PUBLIC SUBTERRANEAN PARKING STRUCTURE, AND RELATED IMPROVEMENTS, AT THE METLOX SITE- 1200 MORNINGSIDE DRIVE (Metlox, LLC c/o Tolkin Group)

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. Metlox, LLC c/o Tolkin Group is seeking approval of a Master Use Permit and Coastal Development Permit, to allow the construction of a new public subterranean parking structure, and related improvements, at the Metlox site- 1200 Morningside Drive in the City of Manhattan Beach.
- B. In accordance with the Manhattan Beach Local Coastal Program (MBLCP) a Use Permit approval is required for the project in the Downtown Commercial Zone.
- C. The subject property is located within the City of Manhattan Beach Coastal Zone, in the non-appealable area, and is subject to a Coastal Development Permit. However, the project, as public parking, is a project that is identified in the State Coastal Act as a project that is appealable to the CCC, regardless of the location of the project within the Coastal Zone.
- D. The applicant is Metlox, LLC c/o Tolkin Group and the property owner is the City of Manhattan Beach.
- E. The following is a summary of some of the key milestones for the Metlox site:
- 1995- 96- The City Council authorized development of the Downtown Strategic Action Plan (DSAP) to provide a comprehensive approach and community vision for the Downtown including the Metlox site
  - 1997/98- The City purchased the Metlox property to control development and Master Plan the site
  - 1998- 2001 Numerous public meetings and workshops held to solicit public input on the site and Downtown.
  - December 1998- The City selected the Tolkin Group as a development partner based on a project consisting of 141,000 square feet - project size reduced several times over the years due to public concern and the project proposed is 63,850 square feet
  - April 2001- The City Council certified the EIR and directed Staff and the Tolkin Group to work together to revise the project to:
    - Reduce the size to 60-65,000 square feet
    - Reduce the height to 26 feet, and
    - Consider reducing the height or eliminating the Lookout Tower
  - April 2002- The City Council approved the Disposition and Development Agreement (DDA)/Ground Lease
  - May 2002- The City Council approved two levels of public parking on the Metlox site
  - June 2002- Application for a Master Use Permit and Coastal Development Permit for the Metlox site submitted
- F. The Planning Commission of the City of Manhattan Beach conducted a public hearing regarding the project at their regular scheduled meeting of June 26, 2002 and continued the public hearing to July 10, 2002. The public hearings were advertised pursuant to applicable law and testimony was invited and received. At the meeting of July 10, 2002, the Planning Commission adopted Resolution No. PC 02-17 determining compliance with the California Environmental Quality Act (CEQA) and a previously certified Environmental Impact Report which includes Mitigation Measures and a Mitigation Monitoring Program, and adopting a Statement of Overriding



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

*J.P.*  
City Clerk of the City of Manhattan Beach

A5-MNB-02-257  
COASTAL COMMISSION

101

EXHIBIT # 6  
PAGE 2 OF 13

Considerations, Resolution No. PC 02-18, approving the Master Use Permit and Coastal Development Permit for the commercial development and the public areas, and Resolution No. PC 02-19, approving the Master Use Permit and Coastal Development Permit for the subterranean public parking structure. All decisions set forth in those resolutions are based upon substantial evidence received at said public hearings.

- G. The City Council of the City of Manhattan Beach conducted a public hearing regarding the project at their regular scheduled meetings of July 16, 2002. The public hearing was advertised pursuant to applicable law and testimony was invited and received. All decisions set forth in this resolution are based upon substantial evidence received at said public hearing.
- H. An Environmental Impact Report for the Metlox/Civic Center project was certified by the City of Manhattan Beach City Council on April 17, 2001 (State Clearinghouse No. 99121090), which includes the environmental clearance for the Metlox project. The Environmental Impact Report is on file and available for public review at the City of Manhattan Beach Community Development Department, City Clerk's office, public Library and on the City's website. On June 26 and July 10, 2002 the Planning Commission held public hearings to discuss the proposed project, including the Master Use Permit, Coastal Development Permit, and compliance with the requirements of CEQA. On July 10, 2002 the Planning Commission adopted Resolution No. PC 02-17 determining the project is in compliance with CEQA, and adopting a Statement of Overriding Considerations with regard to unavoidable significant impacts.
- I. The property is located within Area District III and is zoned Downtown Commercial. The properties to the west and south are also zoned Downtown Commercial, the properties to the north are zoned Downtown Commercial and Public and Semipublic, and the properties to the east are zoned Open Space.
- J. The General Plan designation for the property is Downtown Commercial.
- K. The proposed project will provide a new approximate 430 subterranean public parking structure. A separate Master Use Permit and Coastal Development Permit for an approximate 63,850 square foot commercial development and approximately 40,000 square feet of public areas on the project site is proposed. Street improvements were approved with the Public Safety Facility Use Permit and Coastal Development Permit, including the extension of 13<sup>th</sup> Street as a two-way street from Morningside Drive east to Valley Drive, conversion of Valley Drive from one-way southbound traffic to two-way traffic between 13<sup>th</sup> and 15<sup>th</sup> Streets, and conversion of Morningside Drive to one-way northbound traffic between Manhattan Beach Boulevard and 13<sup>th</sup> Street.
- L. The existing surface parking lot at 1148 Morningside Drive, approximately 4000 square feet in area and located south of the Metlox loading area, may be added to the project site to provide a pedestrian and/or vehicular entryway into the project from Morningside Drive. The City is currently in the process of negotiating the purchase of the parking lot site. This may result in more than three buildings being included in the project however the total approved square footage (63,850 square feet) would not be exceeded. The total parking provided in the subterranean public parking structure would increase by approximately 28 spaces.
- M. The subterranean parking structure is scheduled to be constructed from January 2003 through October 2003. After completion of the parking structure construction of the commercial buildings and public areas are anticipated to take approximately 10 months beginning in October 2003, with completion in August 2004.
- N. 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.
- O. This Resolution, upon its effectiveness, constitutes the Master Use Permit and Coastal Development Permit for the subject property.
- P. Based upon State law, and MBLCP Section A.84.050, relating to the Master Use Permit application for the proposed project, the following findings are hereby made:

COASTAL COMMISSION

EXHIBIT # 6  
PAGE 3 OF 13



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

*[Signature]*  
City Clerk of  
the City of  
Manhattan  
Beach



- 1 The proposed location of the use is in accord with the objectives of this title and the  
 2 purposes of the district in which the site is located since, the proposed Metlox project is  
 3 consistent with the Downtown Commercial (CD) Zone purpose in that the appearance and  
 4 effect of the buildings are harmonious with the character of the area in which they are  
 5 located. The parking structure will be subterranean and not visible from surrounding areas  
 6 and will therefore be compatible with the existing Downtown environment, the Civic Center,  
 7 and the surrounding commercial and residential uses.

8 The parking and loading facilities are adequate in that they will expand the existing onsite  
 9 parking and will exceed the parking demand. The parking structure will maintain pedestrian  
 10 links within the site and to the Civic Center and other surrounding sites which then link to  
 11 parks, open space and the beaches. The public parking structure will provide parking within  
 12 the Downtown to serve merchants, the public, library employees and patrons, visitors, and  
 13 employees.

- 14 2. The proposed location of the use and the proposed conditions under which it would be  
 15 operated or maintained will be consistent with the General Plan; will not be detrimental to the  
 16 public health, safety or welfare of persons residing or working on the proposed project site  
 17 or in or adjacent to the neighborhood of such use; and will not be detrimental to properties or  
 18 improvements in the vicinity or to the general welfare of the City since, the Metlox project is  
 19 consistent with the following General Plan Goals and Policies. Additionally, since the project  
 20 is consistent with the Local Coastal Program (LCP), as discussed below, and since the LCP  
 21 is consistent with the General Plan, the project is also consistent with the General Plan.

#### 22 GOALS AND POLICIES: LAND USE

23 Policy 2.3: Protect public access to and enjoyment of the beach while respecting the  
 24 privacy of beach residents.

25 Policy 5.2: Require the separation or buffering of low-density residential areas from  
 26 businesses which produce noise, odors, high traffic volumes, light or glare, and parking  
 27 through the use of landscaping, setbacks, and other techniques.

28 GOAL 7: PROTECT EXISTING RESIDENTIAL NEIGHBORHOODS FROM THE  
 29 INTRUSION OF INAPPROPRIATE AND INCOMPATIBLE USES.

#### 30 GOALS: CIRCULATION

31 GOAL 3: PROTECT LOW DENSITY RESIDENTIAL NEIGHBORHOODS FROM THE  
 32 TRAFFIC AND PARKING IMPACTS OF ADJACENT COMMERCIAL AREAS.

- 33 3. The proposed use will comply with the provisions of this title, including any specific condition  
 34 required for the proposed use in the district in which it would be located since, the required  
 35 notice and public hearing requirements have been met, all of the required findings have  
 36 been addressed, and conditions will be required to be met prior to the issuance of a  
 37 certificate of occupancy.
- 38 4. The proposed use will not adversely impact nor be adversely impacted by nearby properties.  
 39 Potential impacts are related but not necessarily limited to: traffic, parking, noise, vibration,  
 40 odors, resident security and personal safety, and aesthetics, or create demands exceeding  
 41 the capacity of public services and facilities which cannot be mitigated. All of the potential  
 42 impacts related to the proposed project were evaluated and addressed in the Certified EIR.  
 43 The Mitigation Measures applicable to the public subterranean parking structure portion of  
 44 the EIR will all be complied with. Conditions to conform to applicable Code standards will  
 45 apply. A temporary construction plan will ensure that construction impacts will be minimized  
 46 to the extent feasible.

47 P. Based on the MBLCP Sections A.96.150 the following findings are made:  
 48 That the project, as described in the application and accompanying materials, as modified by any  
 49 conditions of approval, conforms with the certified Manhattan Beach Local Coastal Program, since



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a true copy of  
said document  
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office.

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the project is consistent with the following applicable policies from Chapter 4 of the Local Coastal Program:

### **COASTAL ACCESS POLICIES**

#### **A. Access Policies**

**Policy 1.A.1:** The City shall maintain the existing vertical and horizontal accessways in the Manhattan Beach Coastal Zone.

**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 1.A.3:** The City shall encourage pedestrian access systems including the spider web park concept (Spider web park concept: a linear park system linking the Santa FE railroad right-of-way jogging trail to the beach with a network of walk streets and public open spaces).

**Policy 1.A.4:** The City shall maintain use of commercial alleys as secondary pedestrian accessways.

#### **B. Transit Policies**

**Policy 1.B.3:** The City shall encourage pedestrian and bicycle modes as a transportation means to the beach.

**Policy 1.B.7:** The City shall provide adequate signing and directional aides so that beach goers can be directed toward available parking.

#### **C. Parking Policies**

**Policy 1.C.1:** The city shall maintain and encourage the expansion of commercial district parking facilities necessary to meet demand requirements.

> **Policy 1.C.2:** The City shall maximize the opportunities for using available parking for weekend beach use.

**Policy 1.C.3:** The City shall encourage additional off-street parking to be concentrated for efficiency relative to the parking and traffic system.

> **Policy 1.C.8:** 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, shall be protected to provide public beach parking.

**Policy 1.C.10:** Concentrate new parking in the Downtown Commercial District to facilitate joint use opportunities (office and weekend beach parking uses).

**Policy 1.C.16:** Improve information management of the off-street parking system through improved signing, graphics and public information maps.

**Policy 1.C.17:** Provide signing and distribution of information for use of the Civic Center parking for beach parking on weekend days.

### **II. COASTAL LOCATING AND PLANNING NEW DEVELOPMENT POLICIES**

**Policy II.1:** Control Development within the Manhattan Beach coastal zone.

#### **A. Commercial Development**

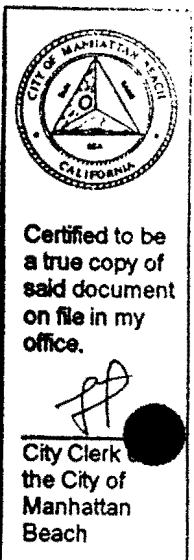
**Policy II.A.2:** Preserve the dominant existing commercial building scale of one and two stories, by limiting any future development to a 2-story maximum, with a 30' height limitation as required by Sections A.04.030, A.16.030, and A.60.050 of Chapter 2 of the Implementation Plan.

**Policy II.A.3:** Encourage the maintenance of commercial area orientation to the pedestrian.

**Policy II.A.7:** Permit mixed residential/commercial uses on available suitable commercial sites.

**COASTAL COMMISSION**

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**Policy II.B.5:** Development of the former Metlox site shall provide the parking necessary to meet the standards set forth in Section A.64 of Chapter 2 of the Implementation Plan. All required parking shall be provided on the Metlox site.

**Policy III.3:** The City should continue to maintain and enforce the City ordinances that prohibit unlawful discharges of pollutants into the sewer system or into the tidelands and ocean. (Title 5, Chapter 5, Article 2; Chapter 8).

**Policy III.14:** City Storm Water Pollution Abatement Program: The City of Manhattan Beach has initiated a storm water pollution abatement program that involves not only several of the City departments working together, but also the other cities in the Santa Monica Bay watershed. The initial action plan was to create a new ordinance regarding illegal dumping to catch basins and the storm drain systems. In the process it was found that a number of ordinances already exist on the books that cover most of the original concerns. It was determined that those significant codes contain strong enforcement capabilities and that the present city staff needs to be educated and made aware of those existing codes, some of which date back to the 1920's but are still enforceable. The program is to develop codes and building standards to implement the Good Housekeeping requirement and the Best Management Procedures of the Santa Monica Bay Restoration Project Action Plan, educate staff, eliminate potential loopholes within the existing code sections, and initiate supplemental ordinances regarding storm water pollution abatement giving the County the right to prosecute polluters to the County storm drain system (a requirement of the Santa Monica Bay storm way discharge permit).

The Final EIR for the Civic Center/Metlox project also provides a discussion on consistency with the policies of the LCP.

**SECTION 2.** The City Council of the City of Manhattan Beach hereby APPROVES the subject Master Use Permit and Coastal Development subject to the following conditions.

**General Conditions**

1. The proposed project shall be in substantial conformance with the plans submitted and the project description, as approved by the City Council on July 16, 2002, subject to any special conditions set forth below. Any substantial deviation from the approved plans and project description must be reviewed and approved by the Planning Commission.

**Site Preparation/Construction**

2. A Traffic Management and Construction Plan shall be submitted in conjunction with any construction and other building plans, to be approved by the Police and Public Works Departments prior to issuance of building permits. The plan shall provide for the management of all construction related traffic during all phases of construction, including but not limited to delivery of materials and parking of construction related vehicles.
3. During the demolition and construction phases of development, a daily clean-up program for all areas affected by the project shall occur, including the pickup of all debris (utilizing an approved trash dumpster or other trash control method) at day's end and the sweeping and continued watering down of the site to assist in mitigating the movement of dirt and dust upon adjoining properties.
4. All electrical, telephone, cable television system, and similar service wires and cables shall be installed underground to the appropriate utility connections in compliance with all applicable Building and Electrical Codes, safety regulations, and orders, rules of the Public Utilities Commission, the serving utility company, and specifications of the Public Works Department. Existing utility poles and lines on the project site and immediately adjacent to the project site, not including any across any street, must be placed underground pursuant to the requirements of Public Works.



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**Operational**

5. Operations shall comply with all South Coast Air Quality Management District Regulations and shall not transmit excessive emissions or odors across property lines.
6. Plans shall be submitted to the Director of Community Development for review and approval that shows all proposed rooftop mechanical equipment screened from the public right-of-way in accordance with the requirements of the MBMC. Equipment and screening may be incorporated into the architectural features allowed on the buildings. Equipment shall be installed per the approved plans prior the building permit final.
7. Post construction (operational) noise emanating from the site shall be in compliance with the Manhattan Beach Municipal Code Noise Ordinance, Chapter 5.48.
8. Delivery operations shall be conducted in such a manner so as not to be in violation of the city's noise ordinance. The term "delivery activities" shall include, vehicles or delivery equipment being started or idled, playing of radios, tape players or other devices, loud talking, and unloading of materials. Business delivery doors shall not be opened before hours of permitted deliveries as specified herein. Delivery vehicles shall park in designated commercial loading areas only and shall not obstruct designated fire lanes.
9. Landscaping and maintenance activities (including, but not limited to parking lot cleaning, grounds-keeping, and outdoor equipment cleaning) shall occur in accordance with a Landscape Maintenance Plan to be approved by the Director of Community Development. The Maintenance Plan shall establish permitted hours of operation for specific maintenance activities and areas of site, based on compatibility with nearby land uses, both on and adjacent to the center.
10. All landscaping materials shall be maintained to the satisfaction of the Director of Community Development.
11. All trash storage areas shall be screened, secured and maintained in a sanitary condition and all tenants/business owners shall take appropriate measures to prevent prohibited or undesirable activities as defined in the Municipal Code (Sec. 5.24.060) including but not limited to, scavenging, excessive accumulation of refuse, and allowing any portion of the property to become a breeding ground for flies, wild rodents or other pests. Trash storage areas shall be designated and bins shall be maintained within the designated areas.
12. Routine trash collection on the entire site shall be consistent with the hours that are specified in the City's trash contract (which is currently after 7:30 a.m. and before 6:00 p.m.), unless other hours are approved by the Public Works Director. Construction material trash collection activities (drop off and pick-up) shall be limited to hours of permitted construction as specified in the City's Noise Ordinance, which is between 7:30 and 6:00 p.m. Mondays through Fridays, and between 9:00 a.m. and 6:00 p.m. on Saturdays.
13. The facility operator shall prohibit employees from parking personal vehicles on the surrounding public streets. Employees must park on-site or be transported to the site from other off-street parking facilities subject to Community Development Department approval. The property owner shall include prohibitions against employee parking on local streets in any lease and/or rental agreements.
14. The public parking structure shall be available for use by the public, library employees and patrons, merchants, visitors and employees as soon as possible after completion, and during the construction of the buildings to be located on top of the parking structure, and during construction of the Public Safety Facility.
15. The operators of the parking structure (the City) shall police the property, and all areas immediately adjacent to the parking structure, during the hours of operation to keep it free of litter.

**COASTAL COMMISSION**
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16. The operators of the facility (the City) shall provide adequate management and supervisory techniques to prevent loitering and other security concerns within and outside the parking structure.

17. Safety and security features shall be incorporated into the design of the project, including the public parking structure. The Security Plan shall be submitted to the Police Chief and Director of Community Development for review and approval. The Security Plan shall include but not be limited to, security lighting, a light color on the interior "lid" or ceiling of the parking structure to reflect light, and an open level parking design.

#### Public Works

18. The plans shall be checked and stamped for approval by the Public Works Department before the building permit is issued. Project must comply with all Public Works requirements. All Public Works notes and corrections must be printed on the plan and all requirements must be completed per the approved plans prior to the issuance of a building final.

19. Any new trash enclosure(s) shall meet all Public Works requirements. Trash must be picked up by a refuse company as often as necessary to ensure that the trash enclosure has adequate space to accommodate the needs of the entire site. No trash storage/disposal shall be placed in the public right-of-way on Manhattan Beach Boulevard, Morningside Drive, 13<sup>th</sup> Street or Valley Drive.

20. There shall be no discharge of construction wastewater, building materials, debris, or sediment from the site.

#### Land Use

21. The hours of operation for the site shall be permitted as follows:

- Parking structure: Up to 24 hours

#### Design Review

22. A sign program in accordance with the requirements of the MBMC shall be submitted for review and approval of the Director of Community Development. Signage shall be consistent with the Downtown Design Guidelines and the conceptual plans submitted for Design Review. Signs shall be installed per the approved plans prior the building permit final.

23. An outdoor lighting program shall be submitted for review and approval of the Director of Community Development. Outdoor lighting shall be shielded and meet all other requirements of the MBMC and shall be consistent with the plans submitted for Design Review. Lighting shall be installed per the approved plans prior the building permit final.

#### Procedural

24. Expiration. Unless appealed to the City Council, the subject Use Permit and Coastal Development Permit shall become effective after expiration of the time limits established by Manhattan Beach Municipal Code and Local Coastal Program.

25. Fish and Game. 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.

26. Lapse of Approval. The Master Use Permit shall lapse three (3) years after its date of approval unless implemented or extended in accordance with Manhattan Beach Municipal Code (MBMC) Section 10.84.090.

27. Terms and Conditions are Perpetual. These terms and conditions shall be perpetual, and it is the intention of the Director of Community Development and the permittee to bind all future owners and possessors of the subject property to the terms and conditions. Further, the applicant shall record the conditions of approval of this Resolution with the Office of the County Clerk/Recorder of Los Angeles. The format of the recording instrument shall be reviewed and approved by the City Attorney.



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EXHIBIT # 6  
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28. Effective Date. Unless appealed to the City Council, the subject Master Use Permit and Coastal Development Permit shall become effective when all time limits for appeal as set forth in MBMC Section 10.100.030 have expired.

29. Review. All provisions of the Use Permit are subject to review by the Community Development Department 6 months after occupancy and yearly thereafter. At any time in the future, the Planning Commission or City Council may review the Use Permit for the purposes of revocation or modification. Modification may consist of conditions deemed reasonable to mitigate or alleviate impacts to adjacent land uses.

30. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Planning Commission.

31. Inspections. The Community Development Department staff shall be allowed to inspect the site and the development during construction at any time.

32. Assignment. Pursuant to Section A.96.220 of the City's certified Local Coastal Program (Implementation Program), the Coastal Development Permit may be assigned to any qualified persons subject to submittal of the following information to the Director of Community Development.

#### **Mitigation Measures (CEQA)**

The following Mitigation Measures as identified in the EIR, and as discussed within PC Resolution No. 02-17 adopted July 10, 2002, determining compliance with CEQA, are applicable to the Metlox project.

#### **33. AESTHETICS/VIEWS**

The project shall be developed in conformance with the following City of Manhattan Beach Downtown Design Guidelines:

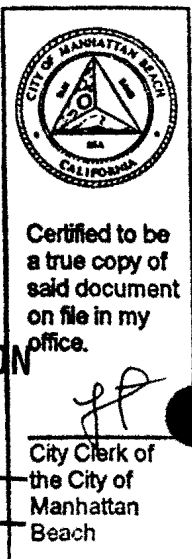
- A. Signs should be designed at a scale appropriate to the desired village character of downtown. The size and location of signs should be appropriate to the specific business. Pre-packaged "corporate" signs should be modified to a scale and location appropriate to the desired village character of downtown Manhattan Beach. Signs should not block, or obliterate, design details of the building upon which they are placed. Pedestrian oriented signage is encouraged. Such signs may be located on entry awnings, directly above business entrances, and "hanging signs" located adjacent to entrances.
- C. Low level ambient night lighting shall be incorporated into the site plans to minimize the effects of light and glare on adjacent properties.

#### **34. Air Quality**

- A. The construction area and vicinity (500-foot radius) shall be swept and watered at least twice daily.
- B. Site-wetting shall occur often enough to maintain a 10 percent surface soil moisture content throughout all site grading and excavation activity.
- C. All haul trucks shall either be covered or maintained with two feet of free board.
- D. All haul trucks shall have a capacity of no less than 14 cubic yards.
- E. All unpaved parking or staging areas shall be watered at least four times daily.
- F. Site access points shall be swept/washed within thirty minutes of visible dirt deposition.
- G. On-site stockpiles of debris, dirt, or rusty material shall be covered or watered at least twice daily.

**COASTAL COMMISSION**

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- H. Operations on any unpaved surfaces shall be suspended when winds exceed 25 mph.
- I. Car-pooling for construction workers shall be encouraged.

### 35. PUBLIC SAFETY

Although no significant impacts upon public safety (police services) have been identified, the following mitigation measures shall be implemented to further reduce the risk to public safety.

- A. Prior to the issuance of building permits, project site plans should be subject to review by the Manhattan Beach Police Department and Manhattan Beach Fire Department. All recommendations made by the Manhattan Beach Police Department and Manhattan Beach Fire Department relative to public safety (e.g. emergency access) should be incorporated into the project prior to project completion.
- B. Prior to the approval of the final site plan and issuance of each building permit, plans shall be submitted to the Manhattan Beach Police Department for review and approval for the purpose of incorporating safety measures in the project design, including the concept of crime prevention through environmental design (i.e., building design, circulation, site planning, and lighting of parking structure and parking areas). Design considerations should include an evaluation of electronic surveillance systems, emergency call boxes and lighting systems in addition to architectural elements that allow direct vertical and horizontal views outside of the structure.
- C. The provision of an on-site valet attendant and/or patrol by private security officers during operation of the project shall be considered at peak parking demand times, as needed. This mitigation measure shall be incorporated into the conditions of project approval (i.e., Master Land Use Permit or Development Agreement) at the discretion of the City Council.

### 36. RISK OF UPSET

Potential impacts associated with the release of potentially hazardous substances during demolition activities can be mitigated to a level of insignificance by the following mitigation measure:

- A. Comprehensive surveys for asbestos containing materials (ACMs), lead based paint, and Poly Chlorinated Biphenyls (PCBs) shall be conducted by a registered environmental assessor for each existing on-site structure to be demolished or renovated under the proposed project. ACMs, lead based paint, or PCBs found in any structures shall be stabilized and/or removed and disposed of in accordance with applicable laws and regulations including, but not limited to, SCAQMD Rule 1403 and Cal OSHA requirements.
- B. If during construction of the project, soil contamination is suspected, construction in the area should stop and appropriate Health and Safety procedures should be implemented. The Department of Toxic Substances Control (DTSC) Voluntary Cleanup Program (VCP) should be contacted at (818) 551-2866 to provide the appropriate regulatory oversight.

### 37. TRANSPORTATION AND CIRCULATION

#### REQUIRED MITIGATION MEASURES

The following traffic-related mitigation measures are required to mitigate potentially significant project-related traffic impacts:

- A. Prior to any construction activities, a Construction Plan, which shall include phasing of construction of the project, shall be submitted for review and approval to the City of Manhattan Beach Public Works Department and Community Development Department. Construction Plans shall address parking availability and minimize the loss of parking for existing on-site Civic Center operations that will continue to operate throughout the construction period, as well as provide parking for Civic Center visitors and construction workers. To minimize potential adverse impacts upon the Downtown Commercial District construction workers shall not be permitted to park within in the adjacent public parking structures or street parking spaces. The parking plans shall provide adequate on-site parking areas for construction workers and/or consider providing additional construction parking at off-site parking lot locations and providing bussing or car-pool services to the construction site. The proposed construction plan shall



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designate appropriate haul routes into and out of the project area. Truck staging areas shall not be permitted on residential roadways or adjacent to any school site.

- B. Manhattan Beach Blvd. & Sepulveda Blvd. -Contribute to the installation of dual left-turn lanes in the northbound and eastbound directions. A fair-share contribution will be required. The City is currently actively pursuing implementation of this Mitigation Measure. These projects are identified in the City's 2004-2005 Capital Improvement Program (CIP). The City is currently in the process of having engineering studies conducted for the design of the dual left-turn lanes. A Grant application will be submitted to the Metropolitan Transportation Authority (MTA) in their Call- for- Projects after completion of the engineering study.
- C. Highland Avenue & 13th Street -Install a two-phase signal at this intersection if warranted based on actual traffic counts taken after the project is developed. The implementation of peak-hour southbound left-turn restrictions at this intersection is another option to mitigate project impacts as this restriction would improve traffic flow through this intersection, as it would reduce northbound through and southbound left-turn conflicts, and allow for the free flow of southbound traffic. In addition, the conversion of 13th Street to a one-way eastbound scheme is another option.
- D. Manhattan Beach Blvd. & Valley Drive/Ardmore Ave. -Install a dual southbound left-turn lane at this intersection at such a time that two left turn lanes are warranted based on actual traffic counts.
- E. The City Traffic Engineer shall conduct secondary "post-project" traffic assessments at the intersections of Highland Avenue & 13th Street, and Manhattan Beach Boulevard & Valley Drive/Ardmore Avenue to determine the actual traffic impacts of the proposed project. Should the results of this assessment verify significant impacts are realized, the mitigation measures recommended in the Draft EIR, or measures of equivalent effectiveness shall be implemented.
- F. An employee parking program shall be required for the Metlox commercial establishments to alleviate the parking demands within the Downtown Commercial District. Potential mitigation options may include satellite parking programs and/or providing tandem parking stalls designated for employees only.

#### RECOMMENDED MITIGATION MEASURES

Although the proposed project will meet the shared parking demand anticipated for the planned development, the following parking mitigation measures are recommended to further increase parking availability on the project site, reduce traffic congestion, and to promote shared parking within the Downtown Commercial District:

- G. Valet parking operations should be considered during peak demand times, as needed. Valet parking operations should utilize tandem parking methods within the parking garage(s) to increase parking availability for the project site.

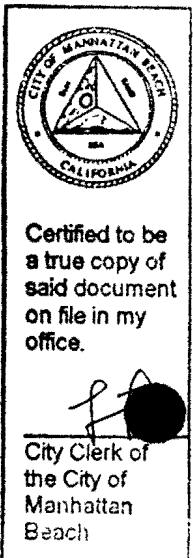
#### 38. HYDROLOGY/WATER QUALITY

The following mitigation measures would ensure water quality impacts would be less than significant:

- A. The project shall comply with the requirements of the National Pollution Discharge Elimination System (NPDES) General Permit for stormwater discharge. Such compliance shall include submittal of a drainage plan to the City of Manhattan Beach Department of Public Works in accordance with the minimum applicable requirements set forth in the Los Angeles County Standard Urban Stormwater Mitigation Plan (SUSMP).

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- 1 B. Design criteria for the project should, to the extent feasible, minimize direct runoff to the adjacent  
 2 streets and alleys by directing runoff from roofs and impervious surfaces to landscaped areas.  
 3 In addition to reducing runoff volumes, due to infiltration into the soil, landscaped areas may also  
 4 filter some pollutants from stormwater, such as particulate matter and sediment.
- 5 C. Commercial trash enclosures must be covered so that rainwater cannot enter the enclosure and  
 6 the trash enclosure must be connected to the sanitary sewer system.

### 39. NOISE

7 The following mitigation measures are recommended to reduce noise impacts during the construction  
 8 phases of the proposed project:

- 9 A. Use noise control devices, such as equipment mufflers, enclosures, and barriers.
- 10 B. Erect a temporary sound barrier of no less than six feet in height around the construction site  
 11 perimeter before commencement of construction activity. This barrier shall remain in place  
 12 throughout the construction period.
- 13 C. Stage construction operations as far from noise sensitive uses as possible.
- 14 D. Avoid residential areas when planning haul truck routes.
- 15 E. Maintain all sound-reducing devices and restrictions throughout the construction period.
- 16 F. When feasible, replace noisy equipment with quieter equipment (for example, a vibratory pile  
 17 driver instead of a conventional pile driver and rubber-tired equipment rather than track  
 18 equipment).
- 19 G. When feasible, change the timing and/or sequence of the noisiest construction operations to  
 20 avoid sensitive times of the day.
- 21 H. Adjacent residents shall be given regular notification of major construction activities and their  
 22 duration.
- 23 I. A sign, legible at a distance of 50 feet, shall be posted on the construction site identifying a  
 24 telephone number where residents can inquire about the construction process and register  
 25 complaints.
- 26 J. An annual City permit in accordance with Chapter 4.20 of the MBMC shall be required prior to  
 27 the installation/setup of any temporary, or permanent, PA or sound system.
- 28 K. The maximum allowable sound level shall be in conformance with Chapter 5.48 of the MBMC.

29 SECTION 3. Pursuant to Government Code Section 65009 and Code of Civil  
 30 Procedure Section 1094.6, any action or proceeding to attack, review, set aside, void or annul this  
 31 decision, or concerning any of the proceedings, acts, or determinations taken, done or made prior to  
 32 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.

SECTION 4. This resolution shall take effect immediately.

SECTION 5. The City Clerk shall certify to the adoption of this resolution; enter it into  
 the original records of the City and thenceforth and thereafter the same shall be in full force and effect.

SECTION 6. The City Clerk shall make this Resolution reasonably available for public  
 inspection within thirty (30) days of the date this Resolution is adopted.



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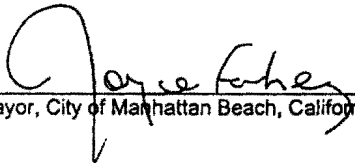
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City Clerk of  
the City of  
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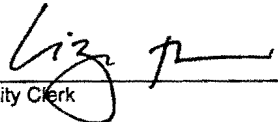
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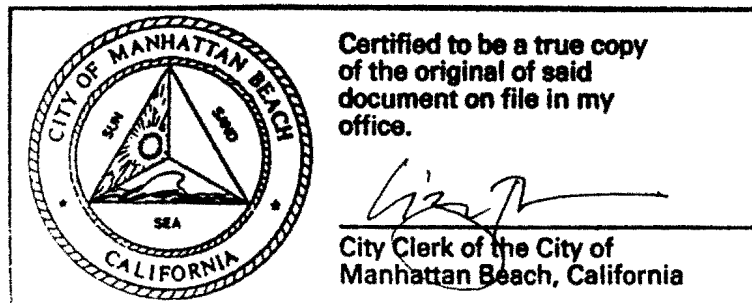
PASSED, APPROVED AND ADOPTED this 16<sup>th</sup> day of July 2002.

Ayes: Dougher, Napolitano, Aldinger, Wilson and Mayor Fahey.  
Noes: None.  
Absent: None.  
Abstain: None.

  
\_\_\_\_\_  
Mayor, City of Manhattan Beach, California

ATTEST:

  
\_\_\_\_\_  
City Clerk



RESOLUTION NO. 5770

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MANHATTAN BEACH APPROVING A MASTER USE PERMIT AND COASTAL DEVELOPMENT PERMIT TO ALLOW THE CONSTRUCTION OF A NEW COMMERCIAL DEVELOPMENT, PUBLIC AREAS, AND RELATED IMPROVEMENTS, AT THE METLOX SITE- 1200 MORNINGSID DRIVE (Metlox, LLC c/o Tolkin Group,

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. Metlox, LLC c/o Tolkin Group is seeking approval of a Master Use Permit and Coastal Development Permit, to allow the construction of a new commercial development, public areas, and related improvements, at the Metlox site- 1200 Morningside Drive in the City of Manhattan Beach.

B. In accordance with the Manhattan Beach Local Coastal Program (MBLCP) a Use Permit approval is required for the project in the Downtown Commercial Zone.

C. The subject property is located within the City of Manhattan Beach Coastal Zone, in the non-appealable area, and is subject to a Coastal Development Permit.

D. The applicant is Metlox, LLC c/o Tolkin Group and the property owner is the City of Manhattan Beach.

E. The following is a summary of some of the key milestones for the Metlox site:

1995- 96- The City Council authorized development of the Downtown Strategic Action Plan (DSAP) to provide a comprehensive approach and community vision for the Downtown including the Metlox site

1997/98- The City purchased the Metlox property to control development and Master Plan the site

1998- 2001 Numerous public meetings and workshops held to solicit public input on the site and Downtown.

December 1998- The City selected the Tolkin Group as a development partner based on a project consisting of 141,000 square feet - project size reduced several times over the years due to public concern and the project proposed is 63,850 square feet

April 2001- The City Council certified the EIR and directed Staff and the Tolkin Group to work together to revise the project to:

- Reduce the size to 60-65,000 square feet
- Reduce the height to 26 feet, and
- Consider reducing the height or eliminating the Lookout Tower

April 2002- The City Council approved the Disposition and Development Agreement (DDA)/Ground Lease

May 2002- The City Council approved two levels of public parking on the Metlox site

June 2002- Application for a Master Use Permit and Coastal Development Permit for the Metlox site submitted

F. The Planning Commission of the City of Manhattan Beach conducted a public hearing regarding the project at their regular scheduled meeting of June 26, 2002 and continued the public hearing to July 10, 2002. The public hearings were advertised pursuant to applicable law and testimony was invited and received. At the meeting of July 10, 2002, the Planning Commission adopted Resolution No. PC 02-17 determining compliance with the California Environmental Quality Act (CEQA) and a previously certified Environmental Impact Report which includes Mitigation Measures and a Mitigation Monitoring Program, and adopting a Statement of Overriding Considerations, Resolution No. PC 02-18, approving the Master Use Permit and Coastal Development Permit for the commercial development and the public areas, and Resolution No.



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City Clerk of the City of Manhattan Beach

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EXHIBIT #

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PC 02-19, approving the Master Use Permit and Coastal Development Permit for the subterranean public parking structure. All decisions set forth in those resolutions are based upon substantial evidence received at said public hearings.

- G. The City Council of the City of Manhattan Beach conducted a public hearing regarding the project at their regular scheduled meetings of July 16, 2002. The public hearing was advertised pursuant to applicable law and testimony was invited and received. All decisions set forth in this resolution are based upon substantial evidence received at said public hearing.
- H. An Environmental Impact Report for the Metlox/Civic Center project was certified by the City of Manhattan Beach City Council on April 17, 2001 (State Clearinghouse No. 99121090), which includes the environmental clearance for the Metlox project. The Environmental Impact Report is on file and available for public review at the City of Manhattan Beach Community Development Department, City Clerks office, public Library and on the City's website. On June 26 and July 10, 2002 the Planning Commission held public hearings to discuss the proposed project, including the Master Use Permit, Coastal Development Permit, and compliance with the requirements of CEQA. On July 10, 2002 the Planning Commission adopted Resolution No. PC 02-17 determining the project is in compliance with CEQA, and adopting a Statement of Overriding Considerations with regard to unavoidable significant impacts.
- H. The property is located within Area District III and is zoned Downtown Commercial. The properties to the west and south are also zoned Downtown Commercial, the properties to the north are zoned Downtown Commercial and Public and Semipublic, and the properties to the east are zoned Open Space.
- I. The General Plan designation for the property is Downtown Commercial.
- J. The proposed project will provide a new approximate 63,850 square foot commercial development and approximately 40,000 square feet of public areas. A separate Master Use Permit and Coastal Development Permit for approximately 430 subterranean public parking spaces on the project site is proposed. Street improvements were approved with the Public Safety Facility Use Permit and Coastal Development Permit, including the extension of 13<sup>th</sup> Street as a two-way street from Morningside Drive east to Valley Drive, conversion of Valley Drive from one-way southbound traffic to two-way traffic between 13<sup>th</sup> and 15<sup>th</sup> Streets, and conversion of Morningside Drive to one-way northbound traffic between Manhattan Beach Boulevard and 13<sup>th</sup> Street.
- K. The existing surface parking lot at 1148 Morningside Drive, approximately 400 square feet in area and located south of the Metlox loading area, may be added to the project site to provide a pedestrian and/or vehicular entryway into the project from Morningside Drive. The City is currently in the process of negotiating the purchase of the parking lot site. This may result in more than three buildings being included in the project however the total approved square footage (63,850 square feet) would not be exceeded. The total parking provided in the subterranean public parking structure would increase by approximately 28 spaces.
- L. Construction of the commercial buildings and public areas are anticipated to take approximately 10 months beginning in October 2003, with completion in August 2004. Prior to construction of the commercial building and the public areas, the subterranean parking structure will be constructed, with construction anticipated from January 2003 through October 2003.
- M. 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.
- N. This Resolution, upon its effectiveness, constitutes the Master Use Permit and Coastal Development Permit for the subject property.
- O. Based upon State law, and MBLCP Section A.84.050, relating to the Master Use Permit application for the proposed project, the following findings are hereby made:
  - 1. The proposed location of the use is in accord with the objectives of this title and the purposes of the district in which the site is located since, the proposed Metlox project is consistent with the Downtown Commercial (CD) Zone purpose in that the appearance and

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effect of the buildings are harmonious with the character of the area in which they are located. The building materials, scale, roof pitches, and details are compatible with the existing Downtown environment, the Civic Center, and the surrounding commercial and residential uses. The scale and articulation of the façade of the proposed structures is consistent with the surrounding residential and commercial area, which has 1 to 3 story buildings, approximately 30 feet in height. The Metlox project is primarily 2-story, 26 feet in height with limited architectural features up to 30 feet in height with the possibility of a limited third story for the Inn.

The parking and loading facilities are adequate in that they will expand the existing onsite parking and will exceed the parking demand. The buildings are also pedestrian oriented, providing doors and windows at the sidewalk and Plaza, and maintaining pedestrian links within the site and to the Civic Center and other surrounding sites which then link to parks, open space and the beaches.

The project provides a full range of office, retail commercial, and service commercial uses needed by residents of, and visitors to, the city and region. Metlox will strengthen the city's economic base, but also protect small businesses that serve city residents. The project is intended to create a suitable environment for various types of commercial uses, and protect surrounding residential uses from the potential adverse effects of inharmonious uses by minimizing the impact of commercial development on adjacent residential districts. Additionally the Metlox project is intended to accommodate a broad range of community businesses and serves beach visitors.

2. The proposed location of the use and the proposed conditions under which it would be operated or maintained will be consistent with the General Plan; will not be detrimental to the public health, safety or welfare of persons residing or working on the proposed project site or in or adjacent to the neighborhood of such use; and will not be detrimental to properties or improvements in the vicinity or to the general welfare of the City since, the Metlox project is consistent with the following General Plan Goals and Policies. Additionally, since the project is consistent with the Local Coastal Program (LCP), as discussed below, and since the LCP is consistent with the General Plan, the project is also consistent with the General Plan.

#### GOALS AND POLICIES: LAND USE

##### GOAL 1: MAINTAIN THE LOW PROFILE DEVELOPMENT AND SMALL TOWN ATMOSPHERE OF MANHATTAN BEACH.

Policy 1.1: Limit the height of new development to three stories where the height limit is 30 feet or to two stories where the height limit is 26 feet, in order to protect the privacy of adjacent properties, reduce shading, protect views of the ocean, and preserve the low profile image of the community.

Policy 1.2: Require the design of all new construction to utilize notches, or balconies, or other architectural details to reduce the size and bulk.

Policy 1.3: Require the use of landscaping and setbacks to reduce the bulk in new buildings and add visual interest to the streetscape.

Policy 2.3: Protect public access to and enjoyment of the beach while respecting the privacy of beach residents.

##### GOAL 3: ENCOURAGE THE PROVISION AND RETENTION OF PRIVATE LANDSCAPED OPEN SPACE.

Policy 3.1: Develop landscaping standards for the Downtown which serve as a unifying and humanizing theme for the area.



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Policy 3.3: Encourage the replacement of mature trees removed by new construction activity throughout the City with specimen trees.

Policy 4.1: Protect all small businesses throughout the City which serve City residents.

Policy 5.1: The City recognizes the need for a variety of commercial development types and has designated areas appropriate for each. The City shall encourage development proposals which meet the intent of these designations.

Policy 5.2: Require the separation or buffering of low-density residential areas from businesses which produce noise, odors, high traffic volumes, light or glare, and parking through the use of landscaping, setbacks, and other techniques.

GOAL 6: CONTINUE TO SUPPORT AND ENCOURAGE THE VIABILITY OF THE "DOWNTOWN" AREA OF MANHATTAN BEACH.

Policy 6.1: Encourage the upgrading and expansion of business in the Downtown area to serve as a center for the community and to meet the needs of beach area residents.

Policy 6.2: Develop and encourage the use of design standards for the Downtown area to improve its visual identification as a unique commercial area.

GOAL 7: PROTECT EXISTING RESIDENTIAL NEIGHBORHOODS FROM THE INTRUSION OF INAPPROPRIATE AND INCOMPATIBLE USES.

3. The proposed use will comply with the provisions of this title, including any specific condition required for the proposed use in the district in which it would be located since, the required notice and public hearing requirements have been met, all of the required findings have been addressed, and conditions will be required to be met prior to the issuance of a certificate of occupancy.
  4. The proposed use will not adversely impact nor be adversely impacted by nearby properties. Potential impacts are related but not necessarily limited to: traffic, parking, noise, vibration, odors, resident security and personal safety, and aesthetics, or create demands exceeding the capacity of public services and facilities which cannot be mitigated. All of the potential impacts related to the proposed project were evaluated and addressed in the Certified EIR. The Mitigation Measures applicable to the Mellox commercial development and public areas portion of the EIR will all be complied with. Conditions to conform to applicable Code standards will apply. A temporary construction plan will ensure that construction impacts will be minimized to the extent feasible.
- P. Based on the MBLCP Sections A.96.150 the following findings are made:  
That the project, as described in the application and accompanying materials, as modified by any conditions of approval, conforms with the certified Manhattan Beach Local Coastal Program, since the project is consistent with the following applicable policies from Chapter 4 of the Local Coastal Program:

#### COASTAL ACCESS POLICIES

##### A. Access Policies

Policy I.A.1: The City shall maintain the existing vertical and horizontal accessways in the Manhattan Beach Coastal Zone.

Policy I.A.3: The City shall preserve pedestrian access systems including the Spider Web park concept (Spider Web park concept: a linear park system linking the Santa Fe railroad right-of-way jogging trail to the beach with a network of walkstreets and public open spaces. See Figure NR-1 of the General Plan).

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**B. Transit Policies**

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

**II. COASTAL LOCATING AND PLANNING NEW DEVELOPMENT POLICIES**

Policy II.1: Control Development within the Manhattan Beach coastal zone.

**A. Commercial Development**

Policy II.A.2: Preserve the predominant existing commercial building scale of one and two stories, by limiting any future development to a 2-story maximum, with a 30' height limitation as required by Sections A.04.030, A.16.030, and A.60.050 of Chapter 2 of the Implementation Plan.

Policy II.A.3: Encourage the maintenance of commercial area orientation to the pedestrian.

Policy III.3: The City should continue to maintain and enforce the City ordinances that prohibit unlawful discharges of pollutants into the sewer system or into the tidelands and ocean. (Title 5, Chapter 5, Article 2; Chapter 8).

Policy III.14: City Storm Water Pollution Abatement Program: The City of Manhattan Beach has initiated a storm water pollution abatement program that involves not only several of the City departments working together, but also the other cities in the Santa Monica Bay watershed. The initial action plan was to create a new ordinance regarding illegal dumping to catch basins and the storm drain systems. In the process it was found that a number of ordinances already exist on the books that cover most of the original concerns. It was determined that those significant codes contain strong enforcement capabilities and that the present city staff needs to be educated and made aware of those existing codes, some of which date back to the 1920's but are still enforceable. The program is to develop codes and building standards to implement the Good Housekeeping requirement and the Best Management Procedures of the Santa Monica Bay Restoration Project Action Plan, educate staff, eliminate potential loopholes within the existing code sections, and initiate supplemental ordinances regarding storm water pollution abatement giving the County the right to prosecute polluters to the County storm drain system (a requirement of the Santa Monica Bay storm way discharge permit).

The Final EIR for the Civic Center/Metlox project also provides a discussion on consistency with the policies of the LCP.

**SECTION 2.** The City Council of the City of Manhattan Beach hereby APPROVES the subject Master Use Permit and Coastal Development subject to the following conditions.

**General Conditions**

1. The proposed project shall be in substantial conformance with the plans submitted and the project description, as approved by the City Council on July 16, 2002, subject to any special conditions set forth below. Any substantial deviation from the approved plans and project description must be reviewed and approved by the Planning Commission.

**Site Preparation/Construction**

2. A Traffic Management and Construction Plan shall be submitted in conjunction with any construction and other building plans, to be approved by the Police and Public Works Departments prior to issuance of building permits. The plan shall provide for the management of all construction related traffic during all phases of construction, including but not limited to delivery of materials and parking of construction related vehicles.



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3. During the demolition and construction phases of development, a daily clean-up program for all areas affected by the project shall occur, including the pickup of all debris (utilizing an approved trash dumpster or other trash control method) at day's end and the sweeping and continued watering down of the site to assist in mitigating the movement of dirt and dust upon adjoining properties.
4. All electrical, telephone, cable television system, and similar service wires and cables shall be installed underground to the appropriate utility connections in compliance with all applicable Building and Electrical Codes, safety regulations, and orders, rules of the Public Utilities Commission, the serving utility company, and specifications of the Public Works Department. Existing utility poles and lines on the project site and immediately adjacent to the project site, not including any across any street, must be placed underground pursuant to the requirements of Public Works.

**Operational**

5. Operations shall comply with all South Coast Air Quality Management District Regulations and shall not transmit excessive emissions or odors across property lines.
6. Plans shall be submitted to the Director of Community Development for review and approval that shows all proposed rooftop mechanical equipment screened from the public right-of-way in accordance with the requirements of the MBMC. Equipment and screening may be incorporated into the architectural features allowed on the buildings. Equipment shall be installed per the approved plans prior the building permit final.
7. Post construction (operational) noise emanating from the site shall be in compliance with the Manhattan Beach Municipal Code Noise Ordinance, Chapter 5.48.
8. Delivery operations shall be conducted in such a manner so as not to be in violation of the city's noise ordinance. The term "delivery activities" shall include, vehicles or delivery equipment being started or idled, playing of radios, tape players or other devices, loud talking, and unloading of materials. Business delivery doors shall not be opened before hours of permitted deliveries as specified herein. Delivery vehicles shall park in designated commercial loading areas only and shall not obstruct designated fire lanes.
9. Landscaping and maintenance activities (including, but not limited to parking lot cleaning, grounds-keeping, and outdoor equipment cleaning) shall occur in accordance with a Landscape Maintenance Plan to be approved by the Director of Community Development. The Maintenance Plan shall establish permitted hours of operation for specific maintenance activities and areas of site, based on compatibility with nearby land uses, both on and adjacent to the center.
10. All landscaping materials shall be maintained to the satisfaction of the Director of Community Development.
11. Routine trash collection on the entire site shall be consistent with the hours that are specified in the City's trash contract (which is currently after 7:30 a.m. and before 6:00 p.m.), unless other hours are approved by the Public Works Director. Construction material trash collection activities (drop off and pick-up) shall be limited to hours of permitted construction as specified in the City's Noise Ordinance, which is between 7:30 and 6:00 p.m. Mondays through Fridays, and between 9:00 a.m. and 6:00 p.m. on Saturdays.
12. All trash storage areas shall be screened, secured and maintained in a sanitary condition and all tenants/business owners shall take appropriate measures to prevent prohibited or undesirable activities as defined in the Municipal Code (Sec. 5.24.060) including but not limited to, scavenging, excessive accumulation of refuse, and allowing any portion of the property to become a breeding ground for flies, wild rodents or other pests. Trash storage areas shall be designated and bins shall be maintained within the designated areas.
13. The facility operator shall prohibit employees from parking personal vehicles on the surrounding public streets. Employees must park on-site or be transported to the site from other off-street parking facilities subject to Community Development Department approval. The property owner shall include prohibitions against employee parking on local streets in any lease and/or rental agreements.



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14. The operators of the facility shall police the property, and all areas immediately adjacent to the businesses, during the hours of operation to keep it free of litter.
15. The operators of the facility shall provide adequate management and supervisory techniques to prevent loitering and other security concerns outside the subject businesses.
16. Public bicycle parking shall be incorporated into the design of the project. Plans shall be submitted to the Director of Community Development for review and approval showing the bicycle parking.
17. Safety and security features shall be incorporated into the design of the project. The Security Plan shall be submitted to the Police Chief and Director of Community Development for review and approval. The Security Plan shall include but not be limited to, security lighting.
18. The applicant shall make every effort to provide shower facilities for use by the office tenants. The facilities shall be shown on the plans and installed prior to the issuance of a Certificate of Occupancy.
19. The applicant is required to eliminate any Congestion Management Plan (CMP) debts created by the project prior to the issuance of a Building Permit for the Commercial buildings.
20. All tenants in the project are encouraged to join the Downtown Business Association.

#### Public Works

21. The plans shall be checked and stamped for approval by the Public Works Department before the building permit is issued. Project must comply with all Public Works requirements. All Public Works notes and corrections must be printed on the plan and all requirements must be completed per the approved plans prior to the issuance of a building final.
22. The new trash enclosure(s) shall meet all Public Works requirements. Trash must be picked up by a refuse company as often as necessary to ensure that the trash enclosure has adequate space to accommodate the needs of the entire site. No trash storage/disposal shall be placed in the public right-of-way on Manhattan Beach Boulevard, Morningside Drive, 13<sup>th</sup> Street or Valley Drive.
23. No outside cleaning of kitchen floor mats or other items will be permitted on the site. All kitchen floor mats and other items shall be cleaned in such a manner that the run-off wastewater drains only to a private sewer drain on the premises.
24. There shall be no discharge of construction wastewater, building materials, debris, or sediment from the site.

#### Land Use

25. The following land uses and maximum square footages, as defined and approved by the DDA/Ground Lease, and shall allowed:
  - A) Retail Sales and services, including food service uses, 20,000 square feet total maximum, including:
    - a) Retail sales;
    - b) Personal Services;
    - c) Retail/specialty food service uses that are non-destination type establishments such as a bakery, tea salon, coffee house, ice cream shop, yogurt, candy, cookies, juices, and other similar limited specialty food items. Each business is limited to a maximum of 300 square feet of outdoor seating area, including table, chairs and benches, within the Town Square and Public Areas; and,
    - d) Similar uses identified as permitted (by right) in the underlying zoning district (CD) which are not included in this Master Use Permit shall be left to the discretion of the Director of Community Development.
  - B) Eating and Drinking Establishments (restaurants), two (2) total maximum, 8,000 square feet total maximum, (including 6,400 square feet maximum dining/seating area regardless of whether located indoors or outdoors).



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- C) Offices, however no offices shall be permitted on the first floor, and Personal Services, 17,500 square feet total maximum, including;
- Offices, Business and Professional;
  - Personal Services; and,
  - Similar uses identified as permitted (by right) in the underlying zoning district (CD) which are not included in this Master Use Permit shall be left to the discretion of the Director of Community Development.
- D) Visitor Accommodations (Bed and Breakfast Inn), 35 to 40 rooms, 26,000 square feet total maximum.
26. Uses identified as conditionally permitted (use permit required) in the underlying zoning district (CD) shall require an amendment to the Master Use Permit at a duly noticed public hearing, unless otherwise permitted in this Resolution.
27. There shall be no drive-through service allowed in conjunction with any Eating and Drinking Establishment (restaurant) or any other use.
28. The Inn may provide wedding, party, and other special event services in their Courtyard, Meeting Room, and Living Room, as a secondary service to the primary Inn use. These types of events are limited to 6:00 am to 11:00 p.m. Sunday through Thursday, and 6:00 am to 12:00 am (mid-night) Friday and Saturday. Events are limited to a maximum of 60 people, or whatever the maximum occupancy is as determined by the Building or Fire Code limits, whichever is less. The Director of Community Development may approve Temporary Use Permits for events which exceed 60 people, not to exceed the maximum occupancy as allowed by the Building or Fire Code limits. Events may not use the Town Square or other Public Open Areas unless prior approval is granted by the City. The availability of the Inn for special events shall not be marketed as the primary use.
29. The hours of operation for the site shall be permitted as follows:
- Restaurant, food service, retail and personal service: Up to 6:00 am to 11:00 p.m. Sunday through Thursday, and 6:00 am to 12:00 am (mid-night) Friday and Saturday.
  - Offices: Up to 24 hours
  - Town Square and Public Areas: Up to 6:00 am to 11:00 p.m. Sunday through Thursday, and 6:00 am to 12:00 am (mid-night) Friday and Saturday, seasonal, depending on weather.
30. The second floor roof deck with the jacuzzi at the Inn shall be redesigned. The floor level of the roof deck may not exceed 21 feet in height, and the deck area must be properly screened. The deck area may only be open for use from 6:00 a.m. to 10 p.m., seven days a week.
31. Any outdoor uses in the Town Square and Public Areas shall meet all access and safety requirements of the Uniform Building and Fire Codes and any other similar safety regulations. Retail and food service carts or kiosks may be allowed subject to review and approval of the City Manager. Standard liability insurance naming the City as additionally insured shall be provided and subject to approval of the Director of Community Development. Insurance shall meet approval of the City's Risk Manager and shall be as set forth in the DDA/Ground Lease (currently a minimum \$3 million insurance endorsement). Tenants with said outdoor uses shall be responsible for maintaining the area clean and free of trash and debris.
32. A restroom shall be available to the public at all times when the non-office uses are open to the public. Adequate signage to direct the public to the restroom(s) shall be provided throughout the Town Square and public areas, subject to review and approval of the Director of Community Development. The tenant or building owner, not the City, shall be responsible for maintaining and securing the restroom(s).

#### Design Review

33. The applicant shall submit plans, material boards, color samples, renderings, and other visual displays for Design Review to the Planning Commission at a noticed public hearing prior to issuance of building permits for the commercial buildings. The general location of the building footprints, as shown on the plans approved by the Planning Commission on July 10, 2002, are approved with this



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Master Use Permit and Coastal Development Permit and are not subject to Design Review. The plans shall address the following design issues and details:

- Facades/elevations
- Colors, textures, and materials
- Landscaping, lighting, signage, and public art
- Gateway treatment
- Town Square, 13<sup>th</sup> Street Garden and Public areas
- Civic Center linkage, relationship and compatibility
- Streetscape design- pavement treatment, sidewalks, pedestrian crosswalks, street furniture
- Pedestrian orientation
- Incorporation of the Metlox sign

The plans and details shall address linkage to the Downtown and the Civic Center, pedestrian orientation, the Downtown Design Guidelines, the City's vision for the site, access from Morningside Drive near 12<sup>th</sup> Street (12<sup>th</sup> Walk), and other design details of the project. The possibility of limited third story rooms for the Inn will be considered.

34. A sign program in accordance with the requirements of the MBMC shall be submitted for review and approval of the Director of Community Development. Signage shall be consistent with the Downtown Design Guidelines and the conceptual plans submitted for Design Review. Signs shall be installed per the approved plans prior the building permit final.

35. An outdoor lighting program shall be submitted for review and approval of the Director of Community Development. Outdoor lighting shall be shielded and meet all other requirements of the MBMC and shall be consistent with the plans submitted for Design Review. Lighting shall be installed per the approved plans prior the building permit final.

36. A site landscaping plan, utilizing drought tolerant plants to the extent feasible, shall be submitted for review and approval. The landscaping shall be in compliance with the Downtown Design Guidelines and the requirements of the MBMC. All plants shall be identified on the plan by the Latin and common names. The current edition of the Sunset Western Garden Book contains a list and description of drought tolerant plants suitable for this area. This plan shall be reviewed and approved by the Public Works and Community Development Departments. Landscaping shall be installed per the approved plans prior to the building permit final.

37. A low pressure or drip irrigation system shall be installed in landscaped areas. Details of the irrigation system shall be noted on the landscape plans. The type and design shall be subject to the approval of the Public Works and Community Development Departments. Irrigation shall be installed per the approved plans prior to the building permit final.

#### Alcohol

38. The two restaurants may provide full liquor service, which is incidental to, and in conjunction with, the service of food. Service of alcohol at the restaurants shall be in conjunction with the service of food at all times during all hours of operation. The Inn may provide beer and wine service for its guests only, and may also provide full liquor self-service in room "mini-bars". Sale of alcoholic beverages for consumption off-premise is not approved with this Master Use Permit. This approval shall operate within all applicable State, County and City regulations governing the sale of alcohol prior to the start of business operations. Any violation of the regulations of the Department of Alcohol and Beverage Control as they pertain to the subject location, or of the City of Manhattan Beach, as they relate to the sale of alcohol, may result in the revocation and/or modification of the subject Master Use Permit.

39. Restaurant uses, including the service of alcoholic beverages, shall be limited in their operation to the hours between 6:00 a.m. to 11:00 pm, Sunday through Thursday, and 6:00 am to 12:00 am (mid-night) Friday and Saturday.



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**Entertainment**

40. Dancing and amplified live music is prohibited within the business establishments. Non-amplified live music or entertainment, limited to background-type music, with a maximum of 2 entertainers is permitted. Any live entertainment proposed in conjunction with any use (with exception of background music, television and no more than 3 games or amusements per business establishment) shall require a Class I annual Entertainment Permit consistent with the provision of Section 4.20.050 of the Manhattan Beach Municipal Code. The Entertainment Permit shall be submitted to the Director of Community Development for review and approval, with input from the Police and Fire Departments. Appropriate conditions shall be placed on the Permit to minimize potential negative impacts. These conditions shall include, but not be limited to, hours, size and location of performance or dance area, size of band and number of performers, numbers of performance days per week, type and location of amplification, speakers and soundproofing, and volume of amplification. The Permit will be reviewed annually to determine if it is appropriate to renew the permit, deny the permit, or modify the conditions of approval.

**Procedural**

41. Expiration. Unless appealed to the City Council, the subject Use Permit and Coastal Development Permit shall become effective after expiration of the time limits established by Manhattan Beach Municipal Code and Local Coastal Program.
42. Fish and Game. 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.
43. Lapse of Approval. The Master Use Permit shall lapse three (3) years after its date of approval unless implemented or extended in accordance with Manhattan Beach Municipal Code (MBMC) Section 10.84.090.
44. Terms and Conditions are Perpetual. These terms and conditions shall be perpetual, and it is the intention of the Director of Community Development and the permittee to bind all future owners and possessors of the subject property to the terms and conditions. Further, the applicant shall record the conditions of approval of this Resolution with the Office of the County Clerk/Recorder of Los Angeles. The format of the recording instrument shall be reviewed and approved by the City Attorney.
45. Effective Date. Unless appealed to the City Council, the subject Master Use Permit and Coastal Development Permit shall become effective when all time limits for appeal as set forth in MBMC Section 10.100.030 have expired.
46. Review. All provisions of the Use Permit are subject to review by the Community Development Department 6 months after occupancy and yearly thereafter. At any time in the future, the Planning Commission or City Council may review the Use Permit for the purposes of revocation or modification. Modification may consist of conditions deemed reasonable to mitigate or alleviate impacts to adjacent land uses.
47. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Planning Commission.
48. Inspections. The Community Development Department staff shall be allowed to inspect the site and the development during construction at any time.
49. Assignment. Pursuant to Section A.96.220 of the City's certified Local Coastal Program (Implementation Program), the Coastal Development Permit may be assigned to any qualified persons subject to submittal of the following information to the Director of Community Development.
50. Legal Fees. The applicant agrees, as a condition of approval of this project, to pay all reasonable legal and expert fees and expenses of the City of Manhattan Beach, in defending any legal action 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.



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**Mitigation Measures (CEQA)**

The following Mitigation Measures as identified in the EIR, and as discussed within Resolution No. 5769 adopted July 16, 2002, determining compliance with CEQA, are applicable to the Metlox project.

**51. AESTHETICS/VIEWS**

The project shall be developed in conformance with the following City of Manhattan Beach Downtown Design Guidelines:

- A. Where feasible, incorporate landscaped areas into new development and existing development. Such landscaped areas could utilize window boxes and similar landscape amenities. Landscaping should be designed to enhance and accentuate the architecture of the development.
- B. Signs should be designed at a scale appropriate to the desired village character of downtown. The size and location of signs should be appropriate to the specific business. Pre-packaged "corporate" signs should be modified to a scale and location appropriate to the desired village character of downtown Manhattan Beach. Signs should not block, or obliterate, design details of the building upon which they are placed. Pedestrian oriented signage is encouraged. Such signs may be located on entry awnings, directly above business entrances, and "hanging signs" located adjacent to entrances.
- C. Low level ambient night lighting shall be incorporated into the site plans to minimize the effects of light and glare on adjacent properties.

**52. Air Quality**

- A. The construction area and vicinity (500-foot radius) shall be swept and watered at least twice daily.
- B. Site-wetting shall occur often enough to maintain a 10 percent surface soil moisture content throughout all site grading and excavation activity.
- C. All haul trucks shall either be covered or maintained with two feet of free board.
- D. All haul trucks shall have a capacity of no less than 14 cubic yards.
- E. All unpaved parking or staging areas shall be watered at least four times daily.
- F. Site access points shall be swept/washed within thirty minutes of visible dirt deposition.
- G. On-site stockpiles of debris, dirt, or rusty material shall be covered or watered at least twice daily.
- H. Operations on any unpaved surfaces shall be suspended when winds exceed 25 mph.
- I. Car-pooling for construction workers shall be encouraged.

**53. PUBLIC SAFETY**

Although no significant impacts upon public safety (police services) have been identified, the following mitigation measures shall be implemented to further reduce the risk to public safety.

- A. Prior to the issuance of building permits, project site plans should be subject to review by the Manhattan Beach Police Department and Manhattan Beach Fire Department. All recommendations made by the Manhattan Beach Police Department and Manhattan Beach Fire Department relative to public safety (e.g. emergency access) should be incorporated into the project prior to project completion.
- B. Prior to the approval of the final site plan and issuance of each building permit, plans shall be submitted to the Manhattan Beach Police Department for review and approval for the purpose of incorporating safety measures in the project design, including the concept of crime prevention through environmental design (i.e., building design, circulation, site planning, and lighting of



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parking structure and parking areas). Design considerations should include an evaluation of electronic surveillance systems, emergency call boxes and lighting systems in addition to architectural elements that allow direct vertical and horizontal views outside of the structure.

- C. The provision of an on-site valet attendant and/or patrol by private security officers during operation of the project shall be considered at peak parking demand times, as needed. This mitigation measure shall be incorporated into the conditions of project approval (i.e., Master Land Use Permit or Development Agreement) at the discretion of the City Council.

#### 54. RISK OF UPSET

Potential impacts associated with the release of potentially hazardous substances during demolition activities can be mitigated to a level of insignificance by the following mitigation measure:

- A. Comprehensive surveys for asbestos containing materials (ACMs), lead based paint, and Poly Chlorinated Biphenyls (PCBs) shall be conducted by a registered environmental assessor for each existing on-site structure to be demolished or renovated under the proposed project. ACMs, lead based paint, or PCBs found in any structures shall be stabilized and/or removed and disposed of in accordance with applicable laws and regulations including, but not limited to, SCAQMD Rule 1403 and Cal OSHA requirements.
- B. If during construction of the project, soil contamination is suspected, construction in the area should stop and appropriate Health and Safety procedures should be implemented. The Department of Toxic Substances Control (DTSC) Voluntary Cleanup Program (VCP) should be contacted at (818) 551-2866 to provide the appropriate regulatory oversight.

#### 55. TRANSPORTATION AND CIRCULATION

##### REQUIRED MITIGATION MEASURES

The following traffic-related mitigation measures are required to mitigate potentially significant project-related traffic impacts:

- A. Prior to any construction activities, a Construction Plan, which shall include phasing of construction of the project, shall be submitted for review and approval to the City of Manhattan Beach Public Works Department and Community Development Department. Construction Plans shall address parking availability and minimize the loss of parking for existing on-site Civic Center operations that will continue to operate throughout the construction period, as well as provide parking for Civic Center visitors and construction workers. To minimize potential adverse impacts upon the Downtown Commercial District construction workers shall not be permitted to park within the adjacent public parking structures or street parking spaces. The parking plans shall provide adequate on-site parking areas for construction workers and/or consider providing additional construction parking at off-site parking lot locations and providing bussing or car-pool services to the construction site. The proposed construction plan shall designate appropriate haul routes into and out of the project area. Truck staging areas shall not be permitted on residential roadways or adjacent to any school site.
- B. Manhattan Beach Blvd. & Sepulveda Blvd. -Contribute to the installation of dual left-turn lanes in the northbound and eastbound directions. A fair-share contribution will be required. The City is currently actively pursuing implementation of this Mitigation Measure. These projects are identified in the City's 2004-2005 Capital Improvement Program (CIP). The City is currently in the process of having engineering studies conducted for the design of the dual left-turn lanes. A Grant application will be submitted to the Metropolitan Transportation Authority (MTA) in their Call-for-Projects after completion of the engineering study.
- C. Highland Avenue & 13th Street -Install a two-phase signal at this intersection if warranted based on actual traffic counts taken after the project is developed. The implementation of peak-hour southbound left-turn restrictions at this intersection is another option to mitigate project impacts as this restriction would improve traffic flow through this intersection, as it would reduce northbound through and southbound left-turn conflicts, and allow for the free flow of southbound

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1 traffic. In addition, the conversion of 13th Street to a one-way eastbound scheme is another  
2 option.

3 D. Manhattan Beach Blvd. & Valley Drive/Ardmore Ave. -Install a dual southbound left-turn lane at  
4 this intersection at such a time that two left turn lanes are warranted based on actual traffic  
5 counts.

6 E. The City Traffic Engineer shall conduct secondary "post-project" traffic assessments at the  
7 intersections of Highland Avenue & 13th Street, and Manhattan Beach Boulevard & Valley  
8 Drive/Ardmore Avenue to determine the actual traffic impacts of the proposed project. Should  
9 the results of this assessment verify significant impacts are realized, the mitigation measures  
10 recommended in the Draft EIR, or measures of equivalent effectiveness shall be implemented.

11 F. An employee parking program shall be required for the Metlox commercial establishments to  
12 alleviate the parking demands within the Downtown Commercial District. Potential mitigation  
13 options may include satellite parking programs and/or providing tandem parking stalls  
14 designated for employees only.

#### 15 RECOMMENDED MITIGATION MEASURES

16 Although the proposed project will meet the shared parking demand anticipated for the planned  
17 development, the following parking mitigation measures are recommended to further increase parking  
18 availability on the project site, reduce traffic congestion, and to promote shared parking within the  
19 Downtown Commercial District:

20 G. Valet parking operations should be considered during peak demand times, as needed. Valet  
21 parking operations should utilize tandem parking methods within the parking garage(s) to  
22 increase parking availability for the project site.

#### 23 56. HYDROLOGY/WATER QUALITY

24 The following mitigation measures would ensure water quality impacts would be less than significant:

25 A. The project shall comply with the requirements of the National Pollution Discharge Elimination  
26 System (NPDES) General Permit for stormwater discharge. Such compliance shall include  
27 submittal of a drainage plan to the City of Manhattan Beach Department of Public Works in  
28 accordance with the minimum applicable requirements set forth in the Los Angeles County  
29 Standard Urban Stormwater Mitigation Plan (SUSMP).

30 B. Design criteria for the project should, to the extent feasible, minimize direct runoff to the  
31 adjacent streets and alleys by directing runoff from roofs and impervious surfaces to landscaped  
32 areas. In addition to reducing runoff volumes, due to infiltration into the soil, landscaped areas  
may also filter some pollutants from stormwater, such as particulate matter and sediment.

C. Commercial trash enclosures must be covered so that rainwater cannot enter the enclosure and  
the trash enclosure must be connected to the sanitary sewer system.

#### 33 57. NOISE

34 The following mitigation measures are recommended to reduce noise impacts during the construction  
35 phases of the proposed project:

36 A. Use noise control devices, such as equipment mufflers, enclosures, and barriers.

37 B. Erect a temporary sound barrier of no less than six feet in height around the construction site  
38 perimeter before commencement of construction activity. This barrier shall remain in place  
39 throughout the construction period.

40 C. Stage construction operations as far from noise sensitive uses as possible.



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- D. Avoid residential areas when planning haul truck routes.
- E. Maintain all sound-reducing devices and restrictions throughout the construction period.
- F. When feasible, replace noisy equipment with quieter equipment (for example, a vibratory pile driver instead of a conventional pile driver and rubber-tired equipment rather than track equipment).
- G. When feasible, change the timing and/or sequence of the noisiest construction operations to avoid sensitive times of the day.
- H. Adjacent residents shall be given regular notification of major construction activities and their duration.
- I. A sign, legible at a distance of 50 feet, shall be posted on the construction site identifying a telephone number where residents can inquire about the construction process and register complaints.
- J. An annual City permit in accordance with Chapter 4.20 of the MBMC shall be required prior to the installation/setup of any temporary, or permanent, PA or sound system.
- K. The maximum allowable sound level shall be in conformance with Chapter 5.48 of the MBMC.

SECTION 3. Pursuant to Government Code Section 65009 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.

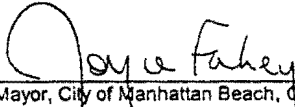
SECTION 4. This resolution shall take effect immediately.

SECTION 5. The City Clerk shall certify to the adoption of this resolution; enter it into the original records of the City and thenceforth and thereafter the same shall be in full force and effect.

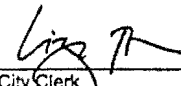
SECTION 6. The City Clerk shall make this Resolution reasonably available for public inspection within thirty (30) days of the date this Resolution is adopted.

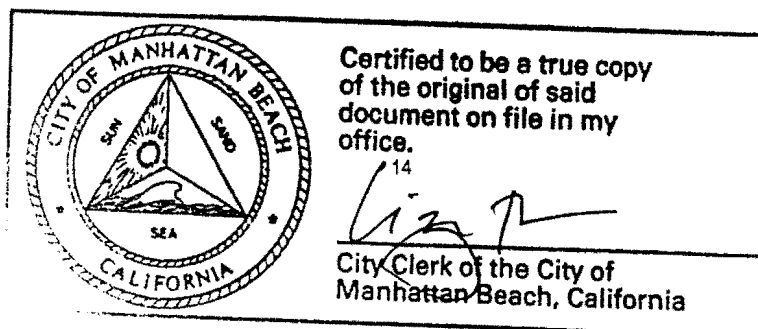
PASSED, APPROVED AND ADOPTED this 16<sup>th</sup> day of July 2002.

Ayes: Dougher, Napolitano, Aldinger, Wilson and Mayor Fahey.  
 Noes: None.  
 Absent: None.  
 Abstain: None.

  
 Mayor, City of Manhattan Beach, California

ATTEST:

  
 City Clerk



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

August 13, 2002

**RECEIVED**  
South Coast Region

AUG 13 2002

Mr. Chuck Posner  
California Coastal Commission  
South Coast Area  
200 Oceangate, 10<sup>th</sup> Floor  
Long Beach, CA. 90802-4416

CALIFORNIA  
COASTAL COMMISSION

**RE: Coastal Development Permit for 1200 and 1148 Morningside Drive- Metlox Public  
Subterranean Parking Facility- Commission Appeal Number A-5-MNB-02-257**

Dear Mr. Posner,

Enclosed is the material requested in your "Commission Notification of Appeal" dated August 2, 2002 (received on August 6, 2002, with a "Corrected Copy" dated August 9, 2002, as you discussed on the telephone on August 8, 2002 with Laurie Jester, Senior Planner. A list of the material provided is also enclosed. The following information is provided in response to the appeals as well as to clarify information that was discussed on the telephone.

**Substantial Issue**

The City of Manhattan Beach believes that there are no substantial issues associated with the appeals received. The project is a public parking facility, providing approximately 460 public parking spaces for use by everyone - visitors, employees, merchants, and beachgoers. This is a public parking facility and it is critically important to not lose sight of this fact. Only approximately 160 of these 460 spaces are required for the commercial Metlox development in accordance with a parking demand study that was prepared and included with the Certified Environmental Impact Report (EIR), which leaves a surplus of approximately 300 public parking spaces. Ironically, if only the required parking for the Metlox commercial development is constructed then the subterranean parking facility would not be appealable to the California Coastal Commission (CCC). However, since the City determined that it is in the best interest of the public to provide additional parking, it is appealable.

After much public input the City Council felt that it was imperative to not pass up this unique and important opportunity to provide additional public parking. This may be the last opportunity in the Downtown area, or maybe the entire City, for the City to provide public parking only four blocks from the beach. The City is investing approximately \$11.5 million dollars in order to provide this public parking. It is crucial that the construction schedule of this public parking facility not be delayed in order to minimize impact to the Downtown as well as coordinate the construction schedules of the Metlox site and the adjacent Public Safety Facility, which will minimize parking and traffic impacts.

Fire Department Address: 400 15<sup>th</sup> Street, Manhattan Beach, CA 90266 FAX (310) 802-5201  
Police Department Address: 420 15<sup>th</sup> Street, Manhattan Beach, CA 90266 FAX (310) 802-5102  
Public Works Department Address: 3621 Bell Avenue, Manhattan Beach, CA 90266 FAX (310) 802-5301  
City of Manhattan Beach Web Site: <http://www.citymb.info>

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When the CCC responded to the Draft EIR (correspondence dated November 16, 2000 attached) the Commission indicated that the issuance of a local coastal development permit for the project "...will ensure that coastal resources, including public parking facilities, are protected." Additionally the Commission stated in the same letter that "The 'Increased Parking Alternative' discussed in the DEIR would provide greater consistency with the above-stated LCP policies that encourage the expansion and concentration of parking in the Downtown Commercial District". Not only does the smaller commercial project, 63,850 SF versus the 90,000 SF certified with the EIR, reduce the parking demand but the second level of parking increases the parking evaluated by the EIR by approximately 35 more spaces (460 total) than evaluated under the increased parking alternative. Clearly this project not only protects public parking facilities but also greatly expands them.

### **The Commission's Jurisdiction over the Project**

Some of the appellants purport to appeal the City's approval of a commercial development to be built by a private developer on the top deck of the public parking. However, the City does not believe that the Commission has jurisdiction to consider the private development. The City of Manhattan Beach has a Local Coastal Program ("LCP") which is certified by the Coastal Commission. Therefore, the authority to issue Coastal Development Permits has been delegated by the Commission to the City (Public Resources Code section 30600.5). Permits issued under the authority of the LCP may only be appealed to the Coastal Commission if they are specified in Public Resources Code section 30603. These exceptions include, among others, developments located between the sea and the first public road (the so called "appealable zone") and "...any development which constitutes a major public works project". (Public Resources Code section 30603). Because the private commercial development is located outside the appealable zone and does not fall within any of the exceptions in section 30603 the Coastal Development approvals issued by the City to the developer for the commercial development are final and the Commission lacks legal authority to review them. Any attempt by the Commission to abrogate these development rights without proper legal authority could violate the permit rights of the developer and result in potential liability to the Commission. The appellants' arguments that the private commercial development is inextricably pooled with the public parking facility is simply not supported by facts. The developments are physically severable with ownership and control being in two different entities. Either project would conceivably be built without the other, their coexistence on the site being more of a convenience than a necessity, although approximately one level of parking is required for the commercial development.

While the Coastal Act defines the term "public works project" quite narrowly excluding many projects normally considered to be public works projects, (e.g., public safety facilities) public parking facilities are clearly and explicitly included in the definition (Public Resources Code section 30114). Thus there is no question that the proposed parking facility approved by the City, which is intended to serve general parking needs, is subject to appeal to the Commission. However, there is nothing in the statute anywhere which would allow the Commission to bootstrap projects adjacent to an appealable project but not otherwise appealable. The public parking that is located on the public safety facility site is the parking that is largely required to meet the needs of the Civic Center complex. The street improvements that were approved with the public safety facility project are an integral part of the overall public safety project and not a separate major public works project.

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### **The Appellants**

The appeals of this project have much less to do with the merits of the project (which provides badly needed additional public parking for a heavily used coastal area) than with the nuances of local politics as evidenced by the identity of the appellants.

Appellant Bill Eisen is a local activist who has unsuccessfully run for City Council on several occasions and routinely opposes most actions taken by the City. He has been a long-term and outspoken opponent of development of the Metlox site as well as many other City projects (including conversion of a TRW parking lot to a public park). Appellant "Residents for A Quality City" ("RFQC") is an unincorporated group with no apparent members other than petitioner Eisen who is its sole spokesperson. RFQC sponsored an initiative intended to alter the zoning on the Metlox property to allow only public improvements (e.g., parks, civic buildings, public parking lots, etc.) which was not passed by the voters at a special municipal election in June 2000. RFQC also promoted an initiative to impose stringent restrictions on beach events, which was voted on in a March 2001 election. It received only 14.6% of the votes cast. Both Eisen and RFQC filed a lawsuit in May of 2001 against the City challenging the adequacy of the Environmental Impact Report on this project. Judgement was rendered in favor of the City in that suit in November 2001.

Appellant William Victor is also a local activist (although he is coy about where he actually resides and his address of record is a Post Office box in Los Angeles) who has run for City Council on several occasions and sued the City of Manhattan Beach at least three times in the last few years for various reasons (including imposition of the City's landscaping and lighting district assessment) and has never prevailed. Like Eisen, Victor records his opposition to virtually all City projects and is well known to the Coastal Commission for his many frivolous appeals.

David Arias is a local businessman and the owner of office buildings west of Morningside Drive directly adjacent to the project site. Arias and his tenants actually stand to benefit from the proximity of ample public parking. However, Arias had once been the owner of the northern portion and the southwestern corner of the property on which the project is to be built. Arias unsuccessfully attempted to develop this property with his application for a condominium project being denied by the City. Arias sued the City claiming he was being discriminated against for political reasons. The suit was ultimately dismissed. Arias ultimately lost the property through foreclosure. His animus towards the City based on this history would appear to be the real reason for his opposition to a project, which should increase the value of his remaining property.

### **Background and Schedule**

The proposed project is the culmination of many years of community participation and input through workshops, meetings, and public hearings. The following is a summary of some of the key milestones for the Metlox site:

1995- 96- The City Council authorized development of the Downtown Strategic Action Plan (DSAP) to provide a comprehensive approach and community vision for the Downtown including the Metlox site

1997/98- The City purchase d the Metlox property to limit development and Master Plan the site

1998- 2001- Numerous public meetings and workshops were conducted to solicit public input on the development of the site and Downtown

40'

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**June 2002-** Special Municipal election held to re-zone the Metlox site to allow only public improvements which was denied by the voters

**April 2001-** The City Council certified the EIR

**April 2002-** The City Council approved the Disposition and Development Agreement (DDA)/Ground Lease with the Tolkin Group

**May 2002-** The City Council approved two levels of public parking on the Metlox site

**June 2002-** Application for a Master Use Permit and Coastal Development Permit for the Metlox site submitted.

**June and July-** Planning Commission public hearings held on the Metlox project

**July-** City Council public hearing held and Metlox project approved.

Construction of the Metlox parking facility, the Metlox commercial development and the Public Safety Facility projects are scheduled as follows:

- **January 2003 to October 2003-** Public parking facility constructed and parking becomes available for use by the public, library employees and patrons, merchants, visitors, beachgoers, and employees during the construction of the Metlox commercial project and the Public Safety Facility. Parking will be free until the commercial portion of the Metlox project and the Public Safety Facility is completed.
- **October 2003 to August 2004-** Metlox commercial project constructed
- **October 2003 to May 2005-** Public Safety Facility constructed

This schedule not only minimizes traffic and parking impacts in the Downtown but is also provides the opportunity to provide a temporary Police Facility off-site at a vacant school site. This site is only available for a limited period of time and in order to maintain the best possible Police protection for the City of Manhattan Beach it is important that this schedule be maintained to take advantage of this off-site temporary facility. Although these are separate projects that may be constructed independently of each other, or one may be constructed and not the others, the City owns both of the project sites and has the responsibility to coordinate the construction to minimize parking, traffic and other impacts.

### **Noticing**

Noticing, in accordance with the requirement of the Certified Local Coastal Program, was provided to all property owners within 500 feet of the site and to all residents within 100 feet of the site. One notice with one Coastal Development Permit number was provided in order to provide a clear, concise, and easy to understand notification to the public. Both the public parking portion of the project, as well as the commercial portion of the project, were scheduled for public hearings at the same dates and times. It is unnecessary and confusing to provide two separate notices and two separate public hearings for the public parking and the commercial portion of the Project. The public is provided the best opportunity to comment on the project with a combined notice and public hearing. The notice as well as the written staff reports and verbal presentations to the Planning Commission and City Council clearly identified that the public parking facility was appealable to the California Coastal Commission and the commercial portion of the project was not appealable. Separate Resolutions with findings and conditions that relate specifically to each project were provided for public review. Separate Notices of Determination in accordance with the requirements of the California Environmental Quality Act were filed for the two separate project approvals. The noticing and public records provided are clearly in conformance with

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the provision of the Certified Local Coastal Program, and it was easy for the public to understand that the public parking was appealable and the commercial development is not.

### **Parking Lot M**

Parking Lot M is the temporary 155 space public parking lot that the City installed on the Metlox site in 1998. A Coastal Development Permit for the parking lot was approved on April 22, 1998 (Planning Commission Resolution No. 98-13 attached). The findings in the Resolution (Section E-page 1) state that "During the operation of the temporary lot the City shall evaluate the utilization of the parking lot and consider long range development proposals for the subject property". One of the purposes of the temporary parking lot was to serve as a gauge for the parking demand within the area and determine if it may be appropriate to replace the temporary parking with a permanent public parking facility in the Downtown. The Coastal Development Permit clearly states that the approval expired on April 22, 2002 and that no further extensions may be granted. Additionally the Certified EIR also clearly states on pages 44, 90, and 124 that the parking lot is temporary and the approval expired on April 22, 2002.

This lot is clearly temporary, the permit expired in April 2002, and there is no requirement to provide replacement of this parking during construction as stated by the appellant David Arias. The City has allowed the public to continue to use the lot until the construction begins on the Metlox site. Although technically the Coastal Permit for the lot has expired, closing this temporary parking lot at this time would not benefit anyone and would harm many, and the City felt it would best to leave it open until construction on the site begins.

### **Parking Lot 5**

Lot 5 is a permanent 33 space metered public parking lot on the north side of 13<sup>th</sup> Street. The public parking provided within this lot will be incorporated into the Metlox public parking facility of 460 public spaces. All requirements of the Certified Local Coastal Program that apply to this lot will continue to be complied with, including but not limited to Section A.64.230 which allows for the provision of Hang Tag parking permits.

### **Shared Parking Demand**

The Certified Environmental Impact Report provides a very detailed shared parking demand analysis prepared by a licensed traffic engineer, and reviewed by the City's traffic engineer, the public, and public agencies. Section A.64.020 E of the LCP allows "joint facility" parking where uses have different hours of operation and the same parking spaces can serve both uses without conflict and Section A.64.050 of the LCP also allows reduced parking, with no limit on the percentage of the parking reduction.

One of the appellants, David Arias, inaccurately states in his appeal that the parking demand study provided in the EIR is inaccurate and is not allowed by the LCP. The "corrected" shared parking analysis (appellants Attachment 6) uses incorrect parking rates for the individual uses, inaccurate square footages of individual uses, no internal use factor, no walk-in factor, and no monthly use factor- in short it is inaccurate and inconsistent with the Certified EIR shared parking analysis (pages 131-138 DEIR). Additionally, the "corrected" shared parking analysis prepared by the appellant assumed that the parking

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demand created by the Town Square and patio dining was not included in the EIR parking demand analysis, however these uses are clearly identified as part of the project (pages 36-38 DEIR) and were included in the parking analysis. The "attachment 5" included in the appellant's packet is not a "true and correct copy" of Table 33 from the EIR (page 213) as stated. The appellant also discusses the parking provided on the surface parking lot at 1148 Morningside Drive, which is being incorporated into the project site. This site currently has 15 tandem parking spaces, which will be replaced within the public parking facility with approximately 32 standard parking spaces. In exchange the current tenants will be provided the opportunity to have 15 parking spaces (non-exclusive) within the Downtown. After completion of the public parking facility at the Metlox site the current tenants at 1148 Morningside will have the opportunity to park in the public parking facility just as anyone else will have that same opportunity.

In summary the assumptions that the appellant's used for their "corrected shared parking" are inaccurate and inconsistent with the Certified EIR and therefore the conclusions are misleading and inaccurate. Additionally, the exercise is irrelevant as additional public parking is being provided on the site, far beyond the requirements of the EIR or the LCP if shared parking is not provided.

The City Council Resolution of approval (Resolution No. 5771), also provides conditions and mitigation measures that address maximizing public parking including: the requirement for public parking during construction (condition No. 14), carpooling for construction workers (condition No. 34 I.), a temporary construction parking plan (condition No. 37 A.), an employee parking program (condition No. 37 B.), and consideration of valet parking (condition No. 37 G).

### **Parking Management Plan**

The City will manage the public parking facility during and after construction to maximize the number of parking spaces available to the public, to ensure their availability to the maximum number of users, groups, and to ensure consistency with the LCP. During phases 3 and 4, as described below, parking at the Metlox public parking facility will be free. Also during these phases the Fire and Police functions will be located off-site and they will provide parking to accommodate their needs and their customers needs separate from the Metlox site and other Civic Center parking, which will substantially decrease Civic Center parking demands. Parking Lot 8, in the median of Valley/Ardmore south of 15<sup>th</sup> Street could temporarily be expanded during construction if needed which would increase public parking by approximately 50 parking spaces. The Metlox public parking facility is being constructed prior to the public safety facility to maximize the amount of available public parking in the area and minimize construction time and impacts.

Basically the parking can be described in phases as follows. The charts show the parking that is impacted by construction, and the parking provided on surrounding City streets which will remain or increase during and after construction is not shown in order to simplify the analysis.

1. Current parking
2. During construction of the Metlox public parking facility- January 2003 to October 2003
3. After completion of the Metlox public parking facility and during construction of the Metlox commercial project and the Public Safety Facility-October 2003 to August 2004
4. After completion of the Metlox commercial development and during construction of the Public Safety Facility-August 2004 to May 2005
5. After completion of the Public Safety Facility-May 2005

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## Parking phases

### **1-Current parking**

Location	Number of Spaces
Civic Center	208
Parking Lot 5	33
1148 Morningside	15(Tandem)
*Metlox	155 (Temporary)
<b>Total Approximate</b>	<b>411</b>

\* The approval for the temporary Metlox parking lot expired on April 22, 2002. This temporary lot has only been fully utilized during limited portions of the summer months.

### **2-During Metlox Parking Construction**

Location	Number of Spaces
Civic Center	208
Parking Lot 5	33
<b>Total Approximate</b>	<b>241</b>

### **3-After Metlox Parking Completion and During construction of Metlox Commercial and Public Safety Facility**

Location	Number of Spaces
Metlox	460
<b>Total Approximate</b>	<b>460</b>

### **4- After Metlox Parking and Commercial Completion and During Construction of Public Safety Facility**

Location	Number of Spaces
Metlox	460
<b>Total Approximate</b>	<b>460</b>

### **5- After Metlox Parking and Commercial Completion and Public Safety Facility Completion**

Location	Number of Spaces
Metlox	460
Civic Center	311-337
<b>Total Approximate</b>	<b>771-797</b>

Additional public parking, approximately 37 spaces above and beyond what is currently existing, will be provided on the surrounding public streets (15<sup>th</sup> Street, Morningside Drive, Valley Drive, and 13<sup>th</sup> Street extension) after completion of the project. In summary, considering all of the parking for the Civic

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Center and Metlox sites currently and after completion there is a net increase of 397 to 423 parking spaces. There is no increase in parking demand with the Public Safety Facility and the parking demand for the Metlox commercial development is only 160 additional spaces in accordance with the Certified EIR. This leaves a net surplus of approximately 237 to 263 permanent parking spaces above and beyond what is currently provided.

The parking for the Metlox site will be managed in conformance with Section A.64.230 of the LCP, and the operations will be comparable to existing City coastal public parking facilities. The rates will be comparable to existing lots, although during construction of the Metlox commercial development and the Public Safety Facility the parking will be free. Valet parking may be provided as it was evaluated and recommended as a mitigation measure in the EIR and conditions of approval of the Resolution No. 5771 (condition No. 37 G) to increase parking availability on the site. The parking lot is anticipated to be open 24 hours a day, although overnight parking may be limited, and long-term parking will not be allowed. The City Council resolution of approval (Resolution No. 5771), also provides conditions and mitigation measures that address maximizing public parking including: the requirement for public parking during construction (condition No. 14), carpooling for construction workers (condition No. 34 I.), a temporary construction parking plan (condition No. 37 A.), an employee parking program (condition No. 37 F.), and consideration of valet parking (condition No. 37 G).

#### **Storm Water Pollution Abatement Program**

The City of Manhattan Beach prides itself on having a comprehensive storm water pollution abatement program for the entire City that is in compliance with National Pollution Discharge Elimination Systems (NPDES) and Regional Water Quality Control Board (RWQCB) requirements. Chapter 5.84 (attached) of the Manhattan Beach Municipal Code establishes the standards for storm water pollution abatement and the project will need to comply with these standards. During construction Best Management Practices will be adhered to, to ensure that no discharge of any kind goes off-site. A clarifier (oil/water separator) will be installed as part of the project so that all parking facility drainage will go through the clarifier before it goes into the sanitary sewer system. Also, a Continuous Deflection Separator (CDS) Unit will be installed and all of the parking ramp drainage, (as well as the drainage from the commercial portion of the project) will be drained to the CDS unit before it is tied into the storm water system. The drainage will be designed to ensure that no storm water from the ramp enters the parking facility so that storm water is not mixed with the parking lot drainage. The following conditions of approval of City Council Resolution No. 5771 will ensure storm water pollution abatement conformance; condition No. 3-page 5, condition Nos. 19 and 20-page 7, condition 34-pages 8 and 9, and condition No. 38, A, B and C-pages 10 and 11.

#### **Consistency with the Local Coastal Program**

Another issue discussed by the appellants is the consistency with the LCP. This issue is covered in great detail in the Draft and Final EIR, as well as the conditions of approval of Resolution No. 5771 for the public parking facility as follows: Draft EIR- pages 92, 94, and 96-100, Final EIR pages IV-8 through IV-11 and City Council Resolution No. 5771, Section P pages 3-5.

**COASTAL COMMISSION**

EXHIBIT # 8  
PAGE 8 OF 9



### **Public Hearing**

Public hearings were held on the Master Use and Coastal Development project for all aspects of the project. Public hearings by the Manhattan Beach Planning Commission were held on June 26 and July 10, 2002. Thereafter the matter was reviewed at a public hearing before the Manhattan Beach City Council on July 16, 2002. Several appellants have objected to the prompt review by the City Council arguing that since section 96-160 of the City's LCP specifies an appeal period of ten days after the initial decision of the Planning Commission that no hearing may be held during the ten day period. This makes little sense in that section 96-160 merely specifies the period in which an appeal must be filed for a public hearing to be held. In no way does this section function as a notice requirement. In fact, because of the importance of this project review by the City Council was considered essential, the City Council public hearing was noticed at the same time as the Planning Commission's July 10, 2002 hearing. This made the appeal period irrelevant since the public was on notice even before the Planning Commission's decision that there would be an appeal hearing. In fact interested parties received more notice of the appeal hearing in this case than they would have if the appeal had been filed in the ten-day period.

### **Building Height**

Although this subject is not relevant to the parking facility, since it is totally subterranean, the appellants brought it up as an issue. The LCP as well as the EIR allows the building to be up to 30 feet in height with no limit on the number of stories as discussed on pages 95 and 96 of the Draft EIR, and in Figure 23, and in Section A.16.030 G of the LCP, and a comprehensive view analysis was completed as part of the Certified EIR.

I hope that this clarifies the issues that were previously discussed and the substantive items raised by the appellants. Should you have any questions, or need additional information, please feel free to contact Laurie Jester, Senior Planner at (310) 802-5510, or [ljester@citymb.info](mailto:ljester@citymb.info).

Sincerely,



Richard Thompson  
Director of Community Development

Attachments: Attachments referenced within text of letter  
Public Files related to the appeal

xc: City of Manhattan Beach City Council  
Robert Wadden, City Attorney  
Jonathan Tolkin, Tolkin Group

G:\Planning\Temporary (file sharing)\Bobby\Metlox\Master Use Permit-CDP\CCC transmittal of material and discussion of issues 8-12-02.doc

1012

COASTAL COMMISSION

EXHIBIT # 8  
PAGE 9 OF 9

**Estimated Civic Center and Metlox Parking After Completion**  
**August 5, 2002**

<i>Location</i>	<i>Existing</i>	<i>Proposed- Civic Center and Metlox</i>
Civic Center	208	311-337
Lot M- Metlox Site	155*	430
Morningside Extension (existing surface parking lot 1148 Morningside)	15	28
Parking Lot 5	33	N/A
Valley Drive	8	9
Parking Lot 8	50	50
15 <sup>th</sup> Street (South Side)	5	16
Morningside Drive- MBB to 13th	16	18
13 <sup>th</sup> Street- Morningside to Highland	11	11
13 <sup>th</sup> Street Extension (Angled parking both sides)	0	25
<b>Total Approximate Parking</b>	<b>501</b>	<b>898-924</b>

\* The approval for Temporary Parking Lot M expired April 2002.

G:\Planning\Temporary (file sharing)\Bobby\Metlox\Master Use Permit-CDP\Parking Civic Center and Metlox after completion-8-5-02.doc

COASTAL COMMISS  
**AS-MNB-02-237**  
 EXHIBIT # 9  
 PAGE 1 OF 2

← Ardmore

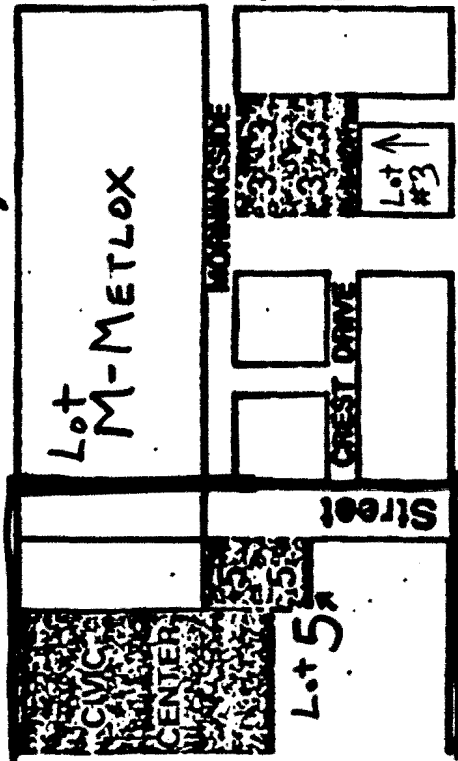
→ Valley

Avenue ↔

Drive ↔

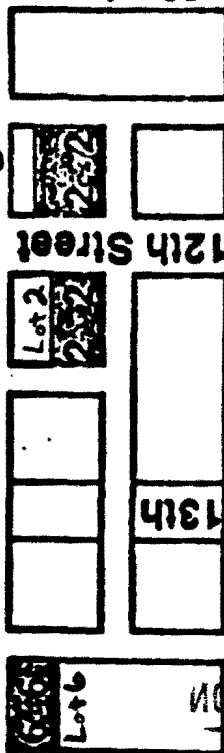
8

7

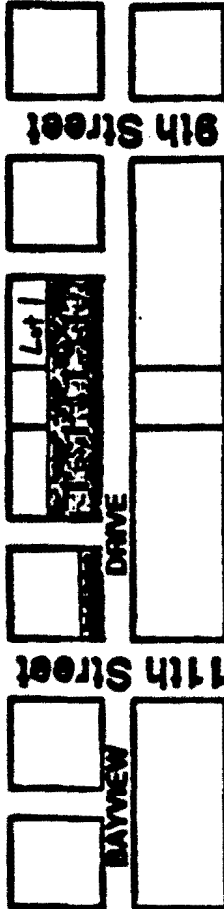


Manhattan Beach Boulevard

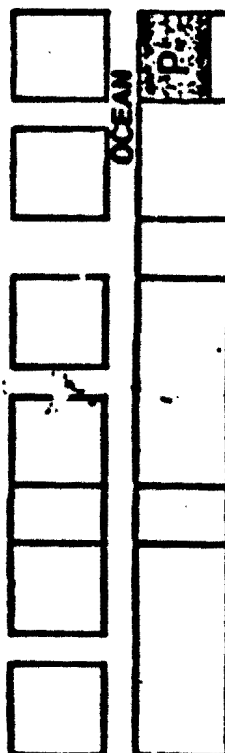
Highland



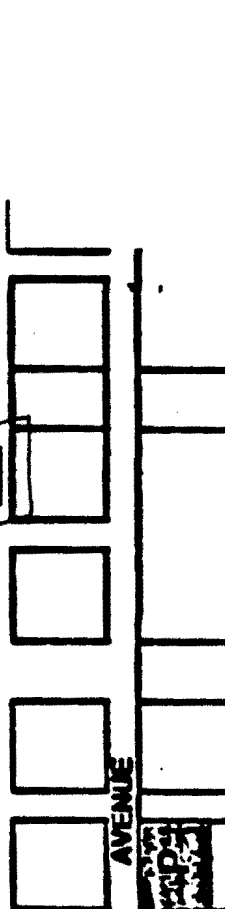
Avenue



Manhattan



Avenue



OCEAN

AVENUE

THE

STRAND

PIER



\* VALET Drop off / Pickup station

LCP Parking - Public Lots  
(Exhibit #9)

Ocean

COASTAL COMMISSION

A-5-MNB-02-257

EXHIBIT # 9

p. 2 of 2

**CALIFORNIA COASTAL COMMISSION**

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 5 2002 \*

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):

WILLIAM VICTOR, P.O. BOX 24A72, LOS ANGELES, CA. 90024

Zip

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

**SECTION II. Decision Being Appealed**

1. Name of local/port government: and also the apoplicant!: City of Manhattan Beach

2. Brief description of development being appealed: CA-02-21  
Construction of new commercial development project  
including but not limited to 40 plus room hotel, retail, office,  
numerous restaurants, kiosks, insufficient parking, etc.

3. Development's location (street address, assessor's parcel no., cross street, etc.): 1200 Morningside Drive, Manhattan Beach Blvd., changing flows of traffic and parking to Ocean Drive

and a major public works/development project impacting coastal access.

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: A5MNB-02-257

DATE FILED: 7/31/02 \*

DISTRICT: South Coast

H5: 4/88

\* Appeal received by FAX 7/31/02.

COASTAL COMMISSION  
A5-MNB-02-257

EXHIBIT # 10

PAGE 1 OF 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.)

Only a partial list of reasons for this appeal: Hopefully more will be presented if given the opportunity at or before hearing:

1. The development does not conform to the standards set forth in the Certified LCP;
2. The development violates the public policy for access set forth in the California Coastal Act;
3. Public hearings were not sufficiently advertised (See attached letter dated 7/16/02 received by City Council before its 7/16/02 Council meeting and apparently ignored.
4. The project simply reduces access in a monumental manner and dec
5. The project negatively impacts parking;
6. The City Manager and Council refuse to prepare adequate minutes to give your Commission claiming that it does not have sufficient City funds although it pays its City Manager over \$200,000 per annum , excessive for a city with approximate 30,000 population;
7. There is no parking plan as required by the LCP, General Plan,

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. (continued)

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

7/31/02

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

7/31/02

**COASTAL COMMISSION**

EXHIBIT #

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PAGE 2 OF 3

Reasons for appeal (Continued) Appellant William Victor

8. The Coastal Commission and its Chairperson Wann were misinformed by the applicant City in an earlier hearing when the Commission was told it would not use public parking spaces for storing the valet cars; it was false and the valet, according to my information continues to use public spaces taking space from beach goers who do not want to pay \$12.50 plus tip for parking their car when visiting the beach coastal resource;
9. Cumulative failures by the City Officials, planning commission and Council to enforce requirements for parking for fast food projects prior to this makes this project cause a geometric interference with beach access!
10. The 1997 Downtown parking study was inadequate when generated; it has not been updated, with the result that this project will only make the problem of access a more difficult one.
11. The project eliminates parking for merchants (e.g. lots M and Lot 5) with no place for them to park provided thus reducing access more for the coast;
12. The land use plan had lots available for beach use; these are no longer available;
13. Just within the last two months: 1100 Manhattan Avenue was permitted even though the new use would require 34 spaces but was permitted with only six (6) spaces! This reason is only set forth as an example of the problem that this very applicant has caused to make its project even a greater violation of the Coastal Act;
14. In this project, there is a minimum of 165 employees according to the minimal projections in the newer additions to the project have not been accounted for but even if there were only 165 employees for the hotel, offices, retail and restaurants; there is no provision for parking their vehicles; one can predict that their vehicles will also take spaces from others who deserve to use the Coastal resource.
15. Chapter A.64 of the LCP Although brought to the attention to Applicant's staff before, during the April 22, 2002 hearings, was not addressed in the EIR or in any way mitigated in this project;
16. Chapter A.64 230 of the LCP appears to be violated by the project;
17. The EIR which does not include recent additions to the project, (the additions require more parking than the additions include parking) show parking requirements of 628 spaces before the additions of more uses, restaurants, kiosks, etc; where are those parking spaces provided for in this project?
18. Resolution 5770 which is a companion resolution does not appear to have been sent to you. I understand why you have not been shown it by the applicant. At sections 24 AND 31, the City applicant provides for an unlimited number of offd kiosks each having up to 300 square feet of outdoor seating with absolutely no provision for additional parking; it has been estimated by others more expert than this appellant, that the probable uses under resolution 5770 which was also signed on the short notice meeting of July 16, could require up to 1700 parking spaces if the current code requirements were enforced! This would certainly further impact access and parking.
19. To heap violation upon violation, the meeting at which these resolutions were approved on July 10 at the City Planning Commission were heard on July 16 2002, less than the code required 15 day appeal period. People did not even have time to read the resolutions - forget about appeal.
20. The City of Manhattan Beach, the applicant herein, has developed a history and reputation for ignoring the rights of California citizens and taxpayers failure of notice, violations of notice periods, violations of its own codes and LCP are a small part of this history. There are numerous other reasons hopefully they will be able to be presented in September and this Honorable commission will hear them.

## CALIFORNIA COASTAL COMMISSION

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

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

AUG 1 2002

## SECTION I. Appellant(s)

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

CALIFORNIA  
COASTAL COMMISSION

DAVID ARIAS, INDIVIDUALLY AND AS TRUSTEE OF THE DAVID JOSEPH 2000 TRUST; and as  
manager of MARQUESA & CO., a California limited liability company. C/O SULLIVAN, WORKMA  
& DEE, LLP, Attn. Joseph S. Dzida, Esq. (213) 624-5544  
800 S. Figueroa St. Zip Area Code Phone No.  
#1200, L.A., CA 90017-2521

## SECTION II. Decision Being Appealed

1. Name of local/port  
government: CITY OF MANHATTAN BEACH

2. Brief description of development being  
appealed: Metlox Project at corner of Manhattan Beach Boulevard and Valley and Ardmore  
consisting of the following improvements to be constructed on public land: the eliminat  
two existing public surface parking lots (Lots M&S); the construction of a new street; a two lev  
ground, public parking facility beneath a public square; and beneath commercial building's ground  
leased by the City to a private developer.

3. Development's location (street address, assessor's parcel  
no., cross street, etc.): 1200 Morningside Drive (Metlox Project) just  
south of City Hall in Manhattan Beach, California.

4. Description of decision being appealed:

- a. Approval; no special conditions: \_\_\_\_\_
- b. Approval with special conditions: Coastal development permit.
- 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-02-257

DATE FILED: 8/1/02

DISTRICT: South Coast/Long Beach

H5: 4/88

COASTAL COMMISSION

EXHIBIT # 11  
PAGE 1 OF 9

## ATTACHMENT 3

### Grounds for Appeal

This is an appeal under Public Resources Code section 30603(a)(5). The grounds for the appeal are that the proposed development does not conform to the public access policies of the California Coastal Act, and does not conform to the standards set forth in the certified local coastal program for the City of Manhattan Beach. The specific statutes embodying the policies are described below.

#### What is and can be Appealed?

A threshold question is: what is and can be appealed? The proposed project involves the elimination of two existing surface parking lots, the creation of a new public street segment, the construction of a new underground parking facility beneath the proposed development, the purchase of adjacent private land by the City for the construction of a pedestrian entryway on Morningside Drive and additional underground spaces in the public parking facility, the construction by a private developer of an inn, retail stores and restaurants and commercial office buildings all surrounding a public "town square" where public activities will be conducted, with associated walkways, pathways, landscaping, restrooms and other amenities accessible to the public. All of this is being constructed on public land, which will only be ground leased in part to the private developer for the commercial component of the project to be constructed on public land. According to the City, all of this is being done so that the City can "control" the development on this land.

Nevertheless, the City contends that only the parking facility component of the project is appealable to the Coastal Commission. With respect, appellants disagree. Public Resources Code section 30603(a)(5) specifically provides for appeal of: "Any development which constitutes a major public works project." Public Resources Code section 30114 defines "public works" to include "public parking lots," "streets," "and other related facilities." It also defines "public works" to include "all publicly financed recreational facilities." Appellant respectfully suggests that the City's approval of the **entire** project, and not just the parking facility component, is appealable to the Commission, under these statutory provisions. Apparently, the City wishes to fragment the review of this important project between reviewing bodies, isolating the public parking facility from the remainder of the project that will be constructed on top of and around it. However, if the policies and goals of the Coastal Act are to be fostered and preserved, the Commission should reject the City's efforts to artificially segment this project into components. It should be noted, for example, that the EIR prepared by the City covered **all** of the components and did not separate out the public parking facility for isolated review. The City's effort to avoid Commission scrutiny of the project as a whole should be rejected. This is **one, major public works project**.

Therefore, this is an appeal of the coastal development permit issued for the **entire** project, which includes the proposed public parking facility underneath.



The notice of stay issued by the executive director of the Commission pursuant to Public Resources Code section 30622 and 14 CCR 13112 should specify that the stay extends to the entire project approval, and the coastal development permits for the entire project, not just the parking facility.

### **Reasons and Background for this Appeal**

#### **Parking**

The City of Manhattan Beach has had a chronic and desperate parking problem for decades. As a result, the City established a Business Improvement District ("BID") and assessed charges against local business owners to pay for new parking facilities. The subject project will be constructed on the largest existing surface parking lot in the area (Lot M)--an existing, metered parking lot, with 155 spaces, which was placed in service in part with BID funds to help alleviate that problem. Permits have been issued to local businesses to use these spaces. The subject project will also eliminate another existing metered lot (Lot 5), with 34 spaces, acquired and placed in service, in part, with BID funds. Lot 5 has been overbooked. More than 34 permits have been issued to local businesses to use these spaces. Both of these existing lots are in the heart of downtown Manhattan Beach and are heavily utilized. However, even **with** these existing lots that will be eliminated by this project, the chronic parking problem was not solved. There is a merchant waiting list of over 100 for permits to use downtown parking spaces.

The subject project is located within walking distance from the beach. Many beachgoers park in the existing lots. Furthermore, many local businesses have permits to use the lots and need the lots in order to meet their parking needs. When the lots are eliminated, these businesses will have to find parking elsewhere and will compete for parking used by beachgoers. There **already** is insufficient parking. That situation will be worsened when the subject project gets under way. As a result, the ability of the public to access the beach in the area will be decreased.

The City answers these concerns by pointing to its plan to construct a two level underground parking facility as part of the subject project. There are several reasons why this answer is inadequate.

First, the subject project is a **major** commercial development, which will include the construction of a large inn, retail stores, commercial office buildings, and a public square, as well as the subject parking facility. In addition, there is a related project. The City is renovating its entire city hall/police/fire complex located on adjacent land. The construction of both projects will take several years. The City's staff reports project that construction of both projects will span the period from January 2003 through January 2005. Resolution No. 5769, passed by the City, states that construction of the subject project alone, without the city hall renovation which is to begin after the subject project, "is anticipated to take approximately 20 months beginning approximately January 2003 with completion in August 2004." During the renovation of the city hall complex, the City intends to park its staff, which presently uses a parking lot on the site of the renovation, in the new

NO!

underground complex constructed for the subject project. **No plans have been made to provide interim replacement parking during the construction period for the existing parking that will be eliminated during the construction. Furthermore, no plans have been made to provide interim replacement parking while city staff is using the new underground facility.** Everybody who presently uses the existing lots will simply have to fend for themselves and will compete for the remaining parking spaces. Those remaining spaces are clearly inadequate to meet the demand, since, even with the existing lots that will be eliminated, the available parking was inadequate. Therefore, for several years, while these two companion projects are being constructed, the already grossly inadequate parking situation in Manhattan Beach, already desperate, will become a disaster that will severely impact the ability of the beachgoing public to find parking at or near the beach. The City has made no plans and taken no measures to deal with this. It simply describes this situation, which will last several years, as "temporary." We respectfully submit that damage of this type to the public's ability to access the beach in the area, lasting for several years, even though "temporary," violates the policies of the Coastal Act. The project should be conditioned upon acquisition of land (by purchase or lease) for sufficient replacement parking during the construction period of these two companion projects. Resolution No. 5771 adopted by the City which approves the Master Use Permit and Coastal Development Permit for this project plainly does **not** contain any findings or impose any conditions regarding the parking disaster that will inevitably occur **during** construction of this project.

Second, the City itself has recognized the need for replacement parking in a backhanded way. It is purchasing land from a restaurant adjacent to the subject project to be used as a pedestrian entryway to the subject project. The land being purchased is part of the restaurant parking lot. City staff, in its analysis of the proposed acquisition of the property at 1148 Morningside Drive from Dana Ireland, et al., stated:

"Due to the sale of the property, the seller's ability to meet his parking requirements will be diminished. As a result, the City will provide fifteen merchant parking permits . . . once the existing lot is needed for our construction."

It is arbitrary, discriminatory and irrational for the city to provide replacement parking to one owner, just because the city wants his land for this project, while, at the same time, leaving all other affected businesses and owners, and the general beachgoing public, to fend for themselves.

Third, even when the new underground facility is completed for the subject project it will be inadequate, because:

(a) Under the governing code, a project of this size with the uses approved by the City would require approximately 320 parking spaces for use by the subject project alone. The code allows a fifteen percent (15%) reduction if there is a reasonable basis for assuming that there will be shared parking, at different times but using the same spaces, by various uses in a given project. Attachment 4 is a summary/table which shows the code requirements for the uses approved by the Planning Commission in the subject project. It sets forth the type of uses approved, the square

footage of each, the code requirement for each, and the number of spaces required by the code. As Attachment 4 shows, a minimum of 272 spaces, just for this project alone, would be necessary to meet code requirements. And that is just for the business, retail and commercial aspect of the project. The analysis does not include at all the public aspect of the project. This project will include a public square of approximately 40,000 square feet which will have programmed public events, attracting additional patrons who will park in the underground facility. Despite the fact that the minimum code requirement is 272 spaces, the subject project, as proposed for approval, assumes that the project will need only 144 spaces.

(b) The City evaded its own code requirements by changing the underlying assumption as to how many parking spaces would be shared. The City's EIR assumed that more spaces would be shared than the code assumes. Attachment 5 is a true and correct copy of the summary/table set forth in the EIR containing the shared parking analysis. It shows that the project will generate a need for only 144 parking spaces at any given time. This analysis was completed using the hourly parking accumulation percentages provided in the Urban Land Institute (ULI) Shared Parking Publication. However, the EIR was completed in a vacuum, before the uses and occupants of the subject project were in place and approved by the Planning Commission. As approved, the project involves much more intensive uses than were originally assumed. While the original EIR assumed a larger project, and building size, it also assumed less intensive uses. Attachment 6 shows what the shared parking situation will be when these changes have been taken into account. Attachment 6 uses the same percentages approved by the ULI, but modifies them to reflect the more intensive uses approved by the City. With the more intensive uses, the project is in a deficit situation from 10:00am to 11:00 pm every day.

(c) The City originally planned to build only a single level underground parking structure for this project, which would only serve the new development. After protest by the affected business owners and public, the City decided to add a second level to serve demand displaced by the new development. However, during the hearing on July 16, 2002, when the City Council approved this project, the developer represented that valet parking from the new development would use the second level. The City has not studied at all the impact of such use.

(d) The City has also **deferred** resolution of the issue of where employees of businesses at the new project will park. The City's EIR states that these employees "may" be required to park off-site with shuttle service. With respect, the Coastal Act requires that this situation be resolved, not deferred. Parking employees on-site will only further aggravate the impending parking disaster.

Therefore, the project violates the access policies of the California Coastal Act, including, but not limited to, those set forth in Public Resources Code sections 30210, 30211, 30215.5, 30214, 30252(4), 30253(5), and 30254.

The project also violates the following policies and goals of the Local Coastal Plan, among others:

Parking Policy 1.C.1: "The city shall maintain and encourage the expansion of commercial district parking facilities necessary to meet demand requirements."

Parking Policy 1.C.8: "Use of **existing** public parking . . . **shall be protected to provide public beach parking.**" (Emphasis added.)

Commercial Development Policy II.B.5: "Development of the former Metlox site (i.e. the subject site) shall provide the parking necessary to meet the standards set forth in Section A.64 of Chapter 2 of the Implementation Plan. All required parking shall be provided on the Metlox site." Section A.64.040 of the Implementation Plan requires certain findings that were not made by the City and requires that, in shared joint use situations: "The maximum allowable reduction in the number of spaces to be provided shall not exceed 15 percent of the sum of the number required for each use served." As discussed above, the City has permitted a greater reduction than the maximum allowable under its own Implementation Plan.

### **View**

The environmental study for the subject project assumed that it would consist of two stories, no more than 26 feet high, with protrusions on the roof up to thirty feet. The City has agreed to consider "the possibility of a limited third story for the Inn," to be built at the project, with the second **floor** at the 26 foot high level. (See Resolution 5769 at Section 4.) The City has not studied the impact of the additional height on coastal views. This violates the policies of the California Coastal Act embodied in Public Resources section 30251.

S:\USERS\WP51\TINA arias\parking attachment 3.wpd

**METLOX**  
**CORRECTED SHARED PARKING ANALYSIS**

Time Day	General Retail 13,600 SF @ 1.0 Sp/200 SF Spaces 68		Personal Services 7,500 SF @ 1.0 Sp/300 SF Spaces 25		Restaurant (Dine in) 8,000 SF @ 1.0 Sp/50 SF Dining Spaces 80		Restaurant (Patio) 2,400 SF @ 1.0 Sp/50 SF Dining Spaces 48		General Office 7,500 SF @ 1.0 Sp/300 SF Spaces 25		Inn 26,000 SF @ 1.1 Sp/Room + Other Spaces 70		Total 65,000 SF Spaces 316		
	Percent of Peak Demand (1)	No. Of Parking Spaces	Percent of Peak Demand (1)	No. Of Parking Spaces	Percent of Peak Demand (1)	No. Of Parking Spaces	Percent of Peak Demand (1)	No. Of Parking Spaces	Percent of Peak Demand (1)	No. Of Parking Spaces	Percent of Peak Demand (1)	No. Of Parking Spaces	Total Shared Parking Demand	Total Hourly Parking Supply	Surplus/ (Deficit)
7 AM	0%	0	0%	0	0%	0	0%	0	3%	1	90%	63	63	144	81
7:00 AM	8%	5	8%	2	2%	2	2%	1	20%	5	70%	49	64	144	80
8:00 AM	17%	12	17%	4	5%	4	5%	2	63%	16	60%	42	80	144	64
9:00 AM	40%	27	40%	10	10%	8	10%	5	93%	23	50%	35	108	144	36
10:00 AM	65%	44	65%	16	20%	16	20%	10	100%	25	40%	28	139	144	5
11:00 AM	83%	56	83%	21	30%	24	30%	14	100%	25	35%	24	165	144	(21)
NOON	92%	63	92%	23	50%	40	50%	24	90%	23	30%	21	193	144	(49)
1:00 PM	95%	65	95%	24	70%	56	70%	34	90%	23	30%	21	221	144	(77)
2:00 PM	92%	63	92%	23	60%	48	60%	29	97%	24	35%	24	211	144	(67)
3:00 PM	90%	61	90%	23	60%	48	60%	29	93%	23	40%	28	212	144	(68)
4:00 PM	83%	56	83%	21	50%	40	50%	24	77%	19	50%	35	195	144	(51)
5:00 PM	75%	51	75%	19	70%	56	70%	34	47%	12	60%	42	213	144	(69)
6:00 PM	78%	53	78%	20	90%	72	90%	43	23%	6	70%	49	242	144	(98)
7:00 PM	85%	58	85%	21	100%	80	100%	48	7%	2	80%	56	265	144	(121)
7:00 PM	83%	56	83%	21	100%	80	100%	48	7%	2	90%	63	270	144	(126)
8:00 PM	58%	39	58%	15	100%	80	100%	48	3%	1	95%	66	249	144	(105)
9:00 PM	30%	20	30%	8	90%	72	90%	43	3%	1	100%	70	214	144	(70)
11:00 PM	12%	8	12%	3	70%	56	70%	34	0%	0	100%	70	170	144	(26)
MIDNIGHT	0	0	0	0	50%	40	50%	24	0%	0	100%	70	134	144	10

(1) Hourly Parking Accumulation Percentages Provided in the Urban Land Institute (ULI) Shared Parking Publication

**METLOX  
SHARED PARKING  
Table 33 from EIR**

Time of Day	General Retail 7,300 SF @ 1.0 Sp/200 SF		Personal Services 3,000 SF @ 1.0 Sp/300 SF		Restaurant (Dine in) 6,400 SF @ 1.0 Sp/50 SF Dining		Restaurant (Patio) - SF @ 1.0 Sp/50 SF Dining		General Office 7,500 SF @ 1.0 Sp/300 SF		Inn 26,000 SF @ 1.1 Sp/Room + Other		Total Shared Parking Demand	Total Hourly Parking Supply	Surplus/ (Deficit)
	Spaces	No. Of Parking Spaces	Spaces	No. Of Parking Spaces	Spaces	No. Of Parking Spaces	Spaces	No. Of Parking Spaces	Spaces	No. Of Parking Spaces	Spaces	No. Of Parking Spaces			
12:00 AM	0%	0	0%	0	0%	0	0%	0	3%	1	90%	40	40	144	104
1:00 AM	8%	3	8%	1	2%	1	2%	0	20%	5	70%	31	41	144	103
2:00 AM	17%	6	17%	2	5%	3	5%	0	63%	16	60%	26	53	144	91
3:00 AM	40%	15	40%	4	10%	6	10%	0	93%	23	50%	22	70	144	74
4:00 AM	65%	24	65%	7	20%	13	20%	0	100%	25	40%	18	86	144	58
5:00 AM	83%	31	83%	8	30%	19	30%	0	100%	25	35%	15	99	144	45
6:00 AM	92%	34	92%	9	50%	32	50%	0	90%	23	30%	13	111	144	33
7:00 AM	95%	35	95%	10	70%	45	70%	0	90%	23	30%	13	125	144	19
8:00 AM	92%	34	92%	9	60%	38	60%	0	97%	24	35%	15	121	144	23
9:00 AM	90%	33	90%	9	60%	38	60%	0	93%	23	40%	18	122	144	22
10:00 AM	83%	31	83%	8	50%	32	50%	0	77%	19	50%	22	112	144	32
11:00 AM	75%	28	75%	8	70%	45	70%	0	47%	12	60%	26	118	144	26
NOON	78%	29	78%	8	90%	58	90%	0	23%	6	70%	31	131	144	13
1:00 PM	85%	31	85%	9	100%	64	100%	0	7%	2	80%	35	141	144	3
2:00 PM	83%	31	83%	8	100%	64	100%	0	7%	2	90%	40	144	144	(0)
3:00 PM	58%	21	58%	6	100%	64	100%	0	3%	1	95%	42	134	144	10
4:00 PM	30%	11	30%	3	90%	58	90%	0	3%	1	100%	44	116	144	28
5:00 PM	12%	4	12%	1	70%	45	70%	0	0%	0	100%	44	94	144	50
MIDNIGHT	0	0	0	0	50%	32	50%	0	0%	0	100%	44	76	144	68

# **METLOX DEVELOPMENT PARKING REQUIREMENTS**

	Sq Ft	Code Requirement	Spaces Required
<b>Retail</b>	13,600	1 space per 200 sq ft of Floor Area	68
<b>Restaurant</b>	8,000	1 space per 50 sq. ft of Dining Area Dining Area - 6,400 sf	128
<b>Personal Services</b>	7,500	1 space per 250 sq. ft of Floor Area	30
<b>Office</b>	7,500	1 space per 300 sq. ft of Floor Area	25
<b>Inn: 40 Rooms</b>	26,000	1.1 space per Room plus other uses	44
	1,250	Conference Room - 450 sq. ft Library	25
<b>Totals</b>	<b>63,850</b>		<b>320</b>
		<b>Less Permitted Reduction</b>	<b>(48) 15%</b>
		<b>Net Spaces Required</b>	<b>272</b>

MC

**COASTAL COMMISSION**

## CALIFORNIA COASTAL COMMISSION

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 2 2002

Please Review Attached Appeal Information Sheet Prior To Completion of This Form.

CALIFORNIA  
COASTAL COMMISSION

SECTION I. Appellant(s)

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

Bill Eisen, 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: Metlox Commercial Development, New commercial building located at 1100 Manhattan Ave., Manhattan Beach

3. Development's location (street address, assessor's parcel no., cross street, etc.): 1200 Morningside Drive, 1100 Manhattan Avenue, Manhattan Beach

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-02-257

DATE FILED: 8/2/02

DISTRICT: South Coast / Long Beach

HS: 4/88

COASTAL COMMISSION

EXHIBIT # 12  
PAGE 1 OF 8



Bill Eisen  
3514 Crest Drive  
Manhattan Beach, CA 90266

David Arias  
1219 Morningside Drive  
Manhattan Beach, CA 90266

Roger Kohn  
524 11th Street  
Manhattan Beach, CA 90266

Patrick McBride  
1457 5th Street  
Manhattan Beach, CA 90266

#### Sec. IV. Reasons supporting the appeal

The proposed commercial developments do not conform to the standards set forth in the certified LCP and Land Use Plan and the public access policies set forth in the Coastal Act. More specifically, the Coastal Development Permit, as amended by the City council on July 16, 2002, provides for a 30 foot high 3 story hotel on the site. This violates the 22 foot height limit for the CD Downtown Commercial District included in Sec. A.16.030 of Phase III of the LCP Implementation Program. It also violates Policy II.A.2 of the LCP Implementation Program which limits commercial development in the downtown commercial district to a 2 story maximum.

Additionally, the proposed parking garage for the Metlox commercial development violates Policy II.B.5 of the LCP Implementation Program which states, "Development of the former Metlox site shall provide the parking necessary to meet the standards set forth in Section A.64 of Chapter 2 of the Implementation Plan. All required parking shall be provided on the Metlox site." The proposed commercial development will require in excess of 1,000 off-street parking spaces if required parking is provided according to the requirements of Manhattan Beach Municipal Code Section 10.64, Off-Street Parking and Loading Regulations. But the proposed parking garage provides for only 460 spaces. The proposed development also eliminates 155 off-street parking spaces in Lot M, 35 spaces in Lot 5 and 15 spaces in the adjacent 3,000 square foot parking lot which the City has agreed to purchase. The net result is a substantial reduction in beach parking in violation of the Coastal Act and the City's LCP. Additionally, Phase II of the LCP, the Land Use Plan Amendment, shows the Metlox site as providing 140 off-street parking spaces available to the general public for beach parking on weekends, evenings and holidays. But the proposed commercial development eliminates any parking surplus to the needs of the commercial development.

NO

COASTAL COMMISSION

The Coastal Development Permit for 1100 Manhattan Avenue is being appealed because it adds over 5,000 square feet of commercial development to the site without providing any additional off-street parking spaces to the 6 such spaces already on the site. As Commissioner Simon stated, at the July 10, 2002 Planning Commission hearing at which the permit was approved, as summarized in the Planning Commission's minutes, "Commissioner Simon stated that he agrees that the project would increase the downtown parking demand; however, he recognizes that it does meet the requirements of the Code. He commented that the Code presumes that sufficient centralized parking would be provided for the downtown area. He indicated that he did not believe that sufficient parking for the downtown area is being provided, even with consideration of the proposed Metlox parking structure. He said that the downtown parking demand continues to increase, particularly with the continuing trend of structures being rebuilt with more square footage and with no additional on-site parking being provided." Hence, this project increases parking demand near the beach and, therefore, reduces available beach parking in violation of the City's LCP and the California Coastal Act.

Further information to supplement this appeal will be provided on Monday, August 5, 2002.

COASTAL COMMISSION

EXHIBIT # 12  
PAGE 3 OF 8



## RESIDENTS FOR A QUALITY CITY

P.O. Box 1882  
Manhattan Beach, CA 90267  
Phone 310-546-2085  
Fax 310-546-4965

August 9, 2002

**RECEIVED**  
South Coast Region

AUG 9 2002

CALIFORNIA  
COASTAL COMMISSION

California Coastal Commission  
South Coast Area Office  
200 Oceangate, 10th Floor  
Long Beach, CA 90802-4302  
Attn: Chuck Posner  
(Hand Delivery)

Re: Appeal No. A-5-MNB-02-257

Gentlemen:

Please consider the following additional grounds and documents, copies of which are provided herewith, in support of the above referenced appeal. Appealed are Manhattan Beach City Council Resolution Nos. 5769 (CEQA compliance), 5771 (Coastal Development Permit for the Parking Garage) and 5770 (Coastal Development Permit for the commercial space and public areas adjacent to the commercial space. Each of these resolutions concerns the Metlox commercial development, located at 1200 Morningside Drive, Manhattan Beach, and each such resolution, in connection with this appeal, may be reviewed by the Coastal Commission under PRC § 30625.

The City's approval of Resolution Nos. 5769, 5770 and 5771 are Ultra Vires Acts.

The proposed commercial development is, in fact, one commercial building comprising 2 levels of underground parking and various levels (up to 3 stories in height) of commercial and plaza space above the underground parking. The parking garage, plaza and commercial space is a single structure and, as such, is a single commercial development. The plaza space is surrounded by the commercial space - most of which is intended for restaurant useage with all or part of the plaza to be used as an outdoor dining area for restaurant customers. Persons parking their cars in the parking garage may exit the garage by foot using only stairwells leading from the garage to the plaza. It is difficult to imagine any portion of the proposed commercial development as having any benefit to anyone other than customers of the development. Further, the City expects to lose upward of \$500,000 per year, on a cash basis (rental income less rental expenses), in operating the development. Its often stated reason for purchasing

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the subject property and building the commercial building is to acquire City "control" of the property and to keep the property from being put to a more intensive commercial use.

Since the proposed commercial development will entail an expenditure of public funds with no benefit to the community the City's approval of the development constitutes an ultra vires act (one which is beyond the City's powers conferred upon it by law). The City's commercial development is analogous to the circumstances described by the court in Rathbun v. City of Salinas (1973), 20 CA3d 199, where the city of Salinas proposed to lease a city-owned downtown commercial parking lot to a bank for the purpose of constructing a 2-story bank building. The court, in Rathbun, supra, held that the taxpayer's suit (challenging the propriety of the city's proposed commercial development) "states a cause of action when [it alleges a] waste of public funds or property or a manifest use of such funds or property chiefly for long-term commercial use with substantial benefit to a lessee accompanied by diminution of active present use of the property for a municipal purpose."

Likewise, the City of Manhattan Beach's proposed Metlox commercial development will benefit the lessee (a limited liability corporation formed by the Tolkin Group) who, according to what Jonathon Tolkin recently told the City Council at council meeting, stands to realize at least a million dollar profit on the deal. And in that the 155 public parking spaces on the site will be eliminated there will be a diminution of active present use of the property for a municipal purpose. Therefore, as in the Rathbun case, the City of Manhattan Beach is without jurisdiction to approve the Metlox commercial development. And, of course, acts or approvals without jurisdiction are illegal and may not be ratified by an appellate body such as the Coastal Commission.

Under CEQA, the Coastal Commission is without jurisdiction to approve a project where there are feasible alternatives to the project's significant negative environmental impacts.

The Coastal Commission is required, under both the Coastal Act and CEQA, to consider the environmental impact of all of its decisions. Bolsa Chica Land Trust v. Superior Court (1999), 71 CA4th 493, 506. And, as stated by the court in City of San Diego v. California Coastal Commission (1981), 119 CA3d 228, 233, "A coastal development permit shall not be approved by the Commission on appeal if the proposed development is not in conformity with the provisions of the Act." In City of San Diego, supra, p. 238, the court approved a Coastal Commission finding that the proposed project "would have a significant adverse

COASTAL COMMISSION

impact on the environment within the meaning of the California Environmental Quality Act and feasible alternatives exist which would substantially reduce these adverse impacts."

Likewise, Manhattan Beach City Council Resolution No. 5769 identifies a number of significant unavoidable adverse impacts, including summertime traffic impacts, as evaluated in the EIR, and endeavors to adopt a statement of overriding considerations.<sup>1</sup> However, Resolution No. 5769 neglects to discuss the existence of a number of feasible alternatives to the proposed project. One such alternative, which was advanced by many members of the community, including myself, was to retain the site's existing 155 space parking lot and develop the remaining vacant portion of the site as a park, new public library or other public use.<sup>2</sup> If, for example, the remaining vacant portion of the site (approx. 1 1/4 acres) were developed as a park it would cost the city significantly less to maintain than the \$500,000 per year that the city estimates that the commercial development will cost to maintain. And, of course, such an alternative use of the site will cause none of the unavoidable adverse environmental impacts, identified in the EIR, for the proposed project.

Thus, the proposed project is not in conformity with CEQA and the Coastal Act and, under the authority of Bolsa Chica Land Trust, supra, and City of San Diego, supra, should not be approved on appeal.

---

1. PRC § 21081(b) requires a statement of overriding considerations to identify specific "benefits" of the project and such benefits must be supported by substantial evidence in the record. Sierra Club v. Contra Costa County (1992), 10 CA4th 1212. However, the record for the Metlox project contains no such evidence

2. The site comprises 2 parcels which were purchased by the city in 1997 and 1998. Thereafter, in June of 1998, city staff prepared a Request for Proposal (RFP) to be sent to commercial developers. The RFP, which included a "vision statement" limiting development to "retail commercial, restaurants and professional offices", was approved by the City Council on July 7, 1998. However, a number of residents were unhappy with the city council's "vision" and qualified a ballot measure to rezone the site to non-commercial public use. The city council opposed the measure contending that it would limit its flexibility to incorporate a minimal amount of commercial (such as a snack shop for library users) on the site. The measure was subsequently defeated 60-40% at the June 6, 2000 special election for the measure.

COASTAL COMMISSION

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The project may not be segmented so that only the parking garage component is appealable and reviewable by the Coastal Commission.

The City has segmented its proposed project into two components - one for the underground parking garage, which the City contends is appealable to the Coastal Commission and two, for the rest of the project which the City contends is not appealable. Taken alone, without consideration for the rest of the project, including the commercial space for which the parking garage is designed to serve, the subterranean parking garage would appear to be a fairly innocuous project. In fact, it would even appear to benefit the community by providing additional parking in an area where there is currently a parking shortage.

The City relies on PRC § 30603, which allows, in pertinent part, an appeal of a coastal development for "any development which constitutes a major public works project" and PRC § 30114 which does not specifically include a commercial development in defining "public works" but does include "all public transportation facilities, including streets, roads, highways, public parking lots....and other related facilities" in its definition.

However, a public works project is, by its very nature, a project of a public agency. As discussed above, public agencies other than redevelopment agencies and agencies legally formed expressly for a particular purpose, are not authorized to undertake commercial development. Had the term "commercial development" been included in the definition of public works it could, perhaps, be construed as authorizing a public agency to act contrary to existing law.

But, assuming that the City can legally undertake a commercial development served by a public parking garage, such a development would, then, obviously fall within the term "other related facilities" included in the PRC § 30114 definition of public works. Black's Law Dictionary, 6th ed., defines the term "related" as "standing in relation; connected; allied; akin". Since the parking component of the proposed structure is connected to the commercial spaces and is obviously intended to be used by the customers of the commercial space it is obviously related to the commercial space. The City's contention that the parking component of the subject structure is somehow unrelated to its commercial space is untenable.

Moreover, PRC § 30621, which requires a de novo hearing on an appeal to the Coastal Commission, requires the Commission to, according to the court in Coronado Yacht Club v. Coastal

COASTAL COMMISSION

EXHIBIT # 12  
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Commission (1993), 13 CA4th 860, 872, "hold an entirely new hearing evaluating all aspects of the permit application as if no decision had been previously rendered". (emphasis added) An evaluation of the parking garage component of the subject structure absent an evaluation of the commercial space component, for which the parking garage was designed to serve, would be meaningless.

Further, as noted above, PRC § 30603 allows an appeal to the Coastal Commission of any development which constitutes a major public works "project". In discussing the term "project" for purposes of compliance with CEQA, the court, in Citizens Assn. for Sensible Development of Bishop Area v. County of Inyo (1985), 172 CA3d 151, 165, stated:

"CEQA mandates '...that environmental considerations do not become submerged by chopping a large project into many little ones...' (citations) In part, CEQA avoids such a result by defining the term 'project' broadly. (citation) 'Project' means the whole of an action which has a potential for resulting in a physical change in the environment, directly or ultimately,...' 'The term 'project' refers to the activity which is being approved and which may be subject to several discretionary approvals by governmental agencies. The term 'project' does not mean each separate governmental approval...(citations)' In the instant case...the project before the lead agency should have been described as [one project instead of two projects]."

And in Plan for Arcadia, Inc. v. City Council of Arcadia (1974), 42 CA3d 712, 726, the court held that proposed shopping center and parking lot projects together with the widening of an adjacent street "are related to each other...and should be regarded as a single project." The Arcadia court further stated that the requirements of CEQA "cannot be avoided by chopping up proposed projects into bite-sized pieces." Arcadia, supra.

Likewise, the City of Manhattan Beach may not avoid the requirements of CEQA and the Coastal Act by chopping up its Coastal Development approval of the subject project into two pieces - one appealable and one non-appealable. Clearly, the entire project, taken as whole, is appealable.

In that I did not receive the Commission Notification of Appeal until Monday, August 5, 2002, I will be filing the remaining additional grounds and documents supporting the appeal on Monday, August 12, 2002 - within the 5 working day requirement.

Sincerely Yours,

*Bill Eisen*  
Bill Eisen

COASTAL COMMISSION

EXHIBIT # 12  
PAGE 8 OF 8



## RESIDENTS FOR A QUALITY CITY

P.O. Box 1882  
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August 27, 2002

California Coastal Commission  
South Coast Area Office  
200 Oceangate, 10th Floor  
Long Beach, CA 90802-4302  
Attn: Chuck Posner  
(Via Hand Delivery)

Re: Appeal No. A-5-MNB-02-0257

*Sept. 9, 2002*

Gentlemen:

When I delivered my letter, dated August 26, 2002, and supplemental material yesterday afternoon I also picked up a copy of the city's initial response, dated August 13, to our appeal. However, the city's response contains a number of blatant misstatements which I would like to refute.

The Metlox Commercial Development, as it is presently proposed, will eliminate beach parking within walking distance of the pier.

During the past six or seven years there has been a very substantial intensification of commercial use in the downtown business district along Highland, Manhattan Avenue and Manhattan Beach Blvd. within five or six blocks of the pier. A number of single story buildings have been replaced with two story buildings and a number of retail shops have been converted to eating and drinking establishments resulting in a tripling of restaurant/bar square footage in the downtown area.

During this period, with the exception of Lot M (the 156 space parking lot which the city placed on the Metlox site in 1998 in order to alleviate the severe parking shortage that existed at that time), no new off-street parking was added to the downtown area. Consequently, with the exception of Lot M, beach parking within easy walking distance of the pier has virtually disappeared. The parking shortage will soon worsen when the city eliminates the public parking behind city hall and replaces its police and fire facilities with larger facilities. It doesn't take a rocket scientist to figure this out.

Although the city proposes to build a 460 space underground parking garage on the Metlox site it also proposes to eliminate the 156 parking spaces on Lot M, the 15 parking spaces on the adjoining private parking lot and the 34 spaces in Lot 5 (as

COASTAL COMMISSION  
A-5-MNB-02-257

EXHIBIT # 13  
PAGE 1 OF 6



well as the approximately six spaces in Lot 5 that are currently used for driveway access to the city hall parking). The result is a net gain of 255 spaces which would be great for the downtown area were it not for the obvious fact that the proposed Metlox commercial development will use every one of these spaces and more.

The city's conclusion, in its August 13 letter, that it can somehow calculate the parking demand of its proposed Metlox development based upon the EIR's shared parking analysis is ridiculous. Common sense tells us that a shared parking analysis would be nothing more than a wild guess without ascertaining the names of the tenants, their hours of operation, number of employees, type of business and other factors that determine parking demand. Classifying space as, for example, "restaurant" useage is entirely inadequate for a shared parking demand analysis since the parking demand of restaurant space can vary tremendously depending upon the type of restaurant. Again, it doesn't take a rocket scientist to figure this out.

In that City Council Resolution No. 5770, Section 31, allows food service carts or kiosks in the 40,000 square foot "town square" and public areas and in that live entertainment is allowed (see p. 4 of the July 16, 2002 staff report) the public areas could become a sort of outdoor food court or night club thus subject to the one parking space per 35 square foot requirement of § 10.64.030. The 8,000 square foot restaurant space with a maximum 6,400 square feet of restaurant seating would require 183 parkins spaces (one space per 35 square feet of seating area). And since the 20,000 square feet of retail space allows food service it would, if the entire space were used for food service, require one parking space per 35 square feet of seating area. Additionally, the 26,000 square feet of the 40 room hotel requires 44 parking spaces for the rooms (40 x 1.1) plus 2 spaces for passenger transport plus 70 spaces for bank-quet seating (2,800 sq. ft. courtyard + 700 sq. ft. meeting room =

1. Although the adequacy of the city's EIR was challenged in court, as the city's letter correctly notes, it was done solely for the purpose of seeking supplementary information in the form of a supplementary EIR. The court expressly declined to make any finding as to the accuracy of the information contained in the city's EIR. Case law holds that an EIR is an informational document only and is not intended to be relied upon as the exclusive basis for decisions on the subject project.

With respect to the city's contention that Municipal Code § 10.64.050 allows an unlimited parking reduction based upon a shared parking analysis, the city has, to my knowledge, never allowed more than the 15% maximum parking reduction allowed under § 10.64.040 for lots over 5,000 sqare feet. Currently before the City Council is an application for a 15% parking reduction for a 12,000 square foot commercial development at 2nd Street and Aviation based upon § 10.64.40.

**COASTAL COMMISSION**

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3,500 sq. ft. ÷ 50 = 70 spaces). But since the hotel is also allowed to provide live entertainment the banquet seating area would probably require 100 parking spaces (3,500 sq. ft. ÷ 35). The office and personal service space would require just 70 parking spaces (17,500 sq. ft. ÷ 250).

Moreover, if the entire 63,500 sq. ft. of commercial space were limited to only offices and personal services, with no commercial use whatsoever permitted in the public areas, the development would still require 255 parking spaces (63,500 ÷ 250) which exactly equals, as discussed above, the 255 net parking spaces available.

The 156 parking spaces on Lot M are not temporary.

Section 10.64.050, subdivision A, allows building sites of 10,000 square feet or less in the downtown CD District to completely cover the site with a single story building without providing any off-street parking. Many of the commercial buildings are still single story and do not cover their entire sites. However, the current trend is to expand these buildings to a Floor Area Ratio of 1:1, as permitted by § 10.65.050, subdivision A, without providing additional off-street parking and which effectively reduces available off-street parking in the downtown area. A case in point is the 5,000 square foot expansion of a commercial building located at 1100 Manhattan Avenue. This expansion was approved by the City Council on August 6, 2002 without requiring any additional off-street parking (see city's staff report for the project included as item no. 3 accompanying my letter of August 27, 2002).

The downtown merchants contribute toward a Business Improvement District (BID) parking fund for the purpose of enabling the city to acquire and build additional parking in the downtown area as needed. Thus, although § 10.64.050-A allows commercial buildings in the downtown area to be constructed without off-street parking the merchants are required to financially support the city's acquisition of additional parking in the downtown area. These funds were used by the city to construct what it terms "temporary" parking on the Metlox site. However, during the past several years the city has allowed a substantial intensification of the downtown commercial area based upon the availability of the Metlox parking.

For example, Uncle Bill's Pancake House on Highland Avenue indicated at the hearing at which its expansion was approved that the availability of the nearby Metlox parking was a critical factor in support of its decision to expand. Thus, the city has an obligation to maintain the 156 Lot M parking spaces for the downtown merchants. The city's argument that it has no

COASTAL COMMISSION

such "legal" obligation and can do whatever it wants with its property is unavailing. Regardless of whether or not the city wishes to comply with CEQA and the Coastal Act, the Coastal Commission, as discussed in my August 9, 2002 letter, is required to comply. Elimination of 156 downtown parking spaces would clearly have a significant negative environmental effect on the downtown merchants, their customers and the people who visit the downtown area whether to shop or to go to the beach. As the court, in Liberty v. California Coastal Commission (1980), 113 CA3d 491, 498-499, noted, "parking for the area is a matter for proper concern". (See, also, Coastal Southwest Development Corporation v. California Coastal Zone Conservation Commission (1976), 55 CA3d 525, holding that the Coastal Commission properly considered the cumulative effect of other projects in the area.)

A three story inn is in violation of the city's LCP.

The proposal brought to the city council on July 16, 2002 was for a 2 story inn with architectural features that could allow a 30 foot height limit. However, the city's zoning code (see attachment no. 13 to my August 26 letter) only allows a 26 foot height limit. The inn should be restricted to a 26 foot height limit in order to preserve views and to minimize the size and bulk of the building in keeping with the surrounding neighborhood.

Further, Miss Susan Zola, the prospective operator of the inn, proposed the addition of a third story in order to provide rooms with ocean views (see pp. 53-55 of the transcript of the July 16 hearing attached as item no. 1 to my August 26 letter). Since the city council left the prospect of a third story open some discussion is warranted here.

In the first place, a third story violates Policy II.A.2 of the city's LCP which provides that commercial development should "preserve the predominant existing commercial building scale of one and two stories, by limiting any future development to a 2-story maximum." In the second place, a third story will impair the ocean views of those persons living behind the project. These persons were not notified prior to the hearing that a third story would be considered so were not afforded an opportunity to comment. Presumably, they would object to any impairment of their views.

Residents were not afforded adequate due process.

The procedures establishing hearings on Coastal Permit applications require due process of law. Frisco Land and Mining Co. v. State of California (1977), 73 CA3d 736, 755.

COASTAL COMMISSION

EXHIBIT # 13  
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Section A.96.160 of the city's LCP requires an appeal of a Planning Commission decision to be initiated within 15 days from the date of the decision. The city's contention that it can somehow initiate an appeal of a Planning Commission decision prior to the decision is plainly wrong for obvious reasons. If this were an appeal of a court order or judgment the court rule prescribing the time to file a notice of appeal would not come into operation until there is an appealable judgment or order. People v. Gordon (1951), 105 CA2d 711. Likewise, a notice of appeal of a Planning Commission decision before that decision has actually been rendered is no notice at all and deprives an interested person of an adequate time to prepare for an appeal of that order if the appeal is set to be heard less than the statutory 15 day time period from the date of the Planning Commission's decision. A number of local residents were, in fact, confused and misled by the city's premature notice of appeal. At a minimum, the City Council should be required to reschedule a properly noticed appeal of the Planning Commission's decision.

The city's development agreement with the Tolkin Group does not validate its ultra vires approval of the subject development.

A city's ultra vires acts in developing a property may not be subsequently validated by a sale or lease of the property. Lane v. City of Redondo Beach (1975), 49 CA3d 251. The subject commercial development is entirely commercial in that no public use is provided. Open space around the buildings and on top of the parking garage is not public use and does not provide any public benefit other than what is ordinarily required with any commercial development.

Moreover, the parking garage and buildings on top of it are one structure and must be built together in order to maintain proper structural integrity and plumbing and electrical connections. The parking garage thus acts as a foundation for the portion of the structure on top of it. This commercial development is clearly one integral project over which the Coastal Commission has appellate jurisdiction. It would serve no useful purpose to allow an appeal of only a portion of a structure.

The city's denigration of appellants' character is uncalled for.

The city characterizes me as a local activist spokesman for a group (Residents for a Quality City) with no members. Our group does, in fact, have members in that it circulated and qualified a ballot initiative to rezone the Metlox site and obtained the signatures of over 8,000 Manhattan Beach residents in the process. I did not do this alone and the city knows it. This was an all volunteer effort on the part of members of our group.

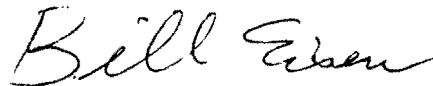
COASTAL COMMISSION

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August 27, 2002  
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Although I did run for city council four years ago this appeal is hardly political posturing as the city suggests. Further, I did not sponsor, nor was I ever a member of the committee sponsoring, the recent ballot initiative imposing conditions on beach events. I was, however, one of the signors of the ballot argument against the city's \$15 million bond measure which was defeated at last November's election. The purpose of the bond was to provide partial funding for the city's new police and fire facilities and the parking garage which is the subject of this appeal. After the bond measure's defeat at the polls the city opted to secure funding through certificates of participation which do not require a vote of the people.

Sincerely yours,



Bill Eisen

MC

COASTAL COMMISSION

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532-2nd St.

Manhattan Beach, Ca 90266

Aug. 16, 2002  
Coastal Commission

AUG 19 2002

Coastal Commission

200 Ocean Gate - 10th Floor

CALIFORNIA  
COASTAL COMMISSION

Long Beach, Ca. 90802

Re: Appeal No. A-5-MNB-02-<sup>257</sup>~~275~~

Dear Commissioners:

I have had my home here in Manhattan Beach for nearly 40 years and have been happy until recently.

I am a senior very concerned about the traffic that will be increased if the City Council develops the <sup>Metlox</sup>~~Metlock~~ Property.

It is a nightmare to drive, or walk, near the proposed development.

Please review this traffic problem.

Loretta Ann Stassi

COASTAL COMMISSION  
A5-MNB-02-257

EXHIBIT # 14

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