

CALIFORNIA COASTAL COMMISSION

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Filed: 2/21/03
 49th Day: 4/10/03
 180th Day: N/A
 Staff: CP-LB
 Staff Report: 3/20/03
 Hearing Date: April 8, 2003
 Commission Action:

**Tu8b**

STAFF REPORT: APPEAL
SUBSTANTIAL ISSUE

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

LOCAL DECISION: Approval with Conditions

APPEAL NUMBER: A-5-MNB-03-075

APPLICANT: Association of Volleyball Professionals (AVP)

AGENT: Matt Gage, AVP Tour Director

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

PROJECT DESCRIPTION: Appeal of City of Manhattan Beach local coastal development permit approving the 2003 Manhattan Beach Open Volleyball Tournament on August 7-10, 2003.

APPELLANTS: William Victor & Harry Ford

SUBSTANTIVE FILE DOCUMENTS:

1. Local Coastal Development Permit No. CA 03-1 (2003 Manhattan Beach Open), City Council Resolution No. 5811, 2/4/03 (Exhibit #4).
2. City of Manhattan Beach Local Coastal Program (LCP), certified 5/12/94.
3. City of Manhattan Beach LCP Amendment Request No. 1A-97, Rejected 5/13/97.
4. City of Manhattan Beach LCP Amendment Request No. 3-97, Not Certified.
5. Appeal/Permit No. A-5-MNB-97-84 (1997 Manhattan Beach Open), 5/13/97.
6. Appeal No. A-5-MNB-99-111 (1999 Manhattan Beach Open), NSI 6/11/99.
7. Appeal No. A-5-MNB-01-343 (2001 Manhattan Beach Open), NSI 10/8/01.

SUMMARY OF STAFF RECOMMENDATION

The staff recommends that the Commission, after public hearing, determine that the appeals raise a **substantial issue** in regards to the locally approved event's conformity with the City of Manhattan Beach Certified Local Coastal Program and the public access policies of the Coastal Act. 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 Page Six.**

I. APPELLANTS' CONTENTIONS

On February 4, 2003, after a public hearing, the Manhattan Beach City Council approved with conditions Local Coastal Development Permit No. 03-01 allowing the Association of Volleyball Professionals (AVP) to conduct the 2003 Manhattan Beach Open Volleyball Tournament on the public beach on August 7-10, 2003, with set-up starting on August 4th (Exhibits #4-6). The permit authorizes bleacher seating for 4,500 spectators, including the general public and VIPs. Spectators are not being required to pay an admission fee. While the general public may view the proposed event on a free first-come, first-served basis, purchasers of AVP's VIP packages would have access to the reserved seating areas closest to the center court (Exhibit #9).

On February 21, 2003, two appeals of the City's action were received in the Commission's South Coast District office in Long Beach: one appeal by William Victor (Exhibit #7) and one by Harry Ford (Exhibit #8).

The appeal submitted by **William Victor (Exhibit #7)** contends that the proposed event:¹

1. Violates provisions of the City of Manhattan Beach certified Local Coastal Program.
2. Violates California Coastal Act Sections 30251 through 30254.
3. Interferes with the scenic integrity of the coast (e.g. excessive commercialism and advertising on over 300 banners, signs, and inflatable beer cans over 30 feet high).
4. Is not exempt from the California Environmental Quality Act (CEQA).
5. Takes the beach from normal public use for more than two days.
6. Includes paid seating for VIP customers, even though the LCP and the local approval allow only "sporting events for which no admission is charged" on the beach (OS District).
7. Does not have an adequate traffic, parking and beach shuttle plan.
8. Does not have an adequate parking supply because the 155-space Metlox site (Parking Lot M) is currently closed for the construction of a parking structure, and the Civic Center parking lot is more restricted than before.
9. Excludes the public from the beach and turns the Manhattan Beach coastal zone into another commercial zone.
10. Includes unlimited bleacher seating on the pier that may restrict public access and be unsafe.
11. Includes no evidence that "the AVP alone was to apply for the coastal permit for the pier bleachers."
12. Causes littering and includes excessive advertising, unwholesome advertising (e.g. beer, adult magazines, birth control products), and blaring public address systems (noise) that negatively affects the beach experience for families and children.
13. Takes four public beach parking lots from beach goers.
14. Expands the seating for the event beyond that which has been previously permitted by the Coastal Commission.
15. Prevents the City from exercising independent judgment when reviewing the permit application because City officials benefit personally from the event.
16. (Mr. Victor intends to supplement this appeal at or before the scheduled hearing).

¹ The seventeen reasons listed for the appeal correspond numerically to the seventeen points enumerated by William Victor in his appeal, which is attached to this staff report as Exhibit #7.

17. Is actually a "permanent" event rather than a temporary event, and should be reviewed accordingly for its cumulative effects on coastal resources.

The appeal submitted by **Harry Ford (Exhibit #8)** contends that:²

1. **LCP.** The proposed event's lack of an adequate traffic, parking and beach shuttle plan violates the provisions of the City of Manhattan Beach certified Local Coastal Program (LCP), including LUP Policies I.A.2, I.B.1, I.C.2 & Program II.B.14.

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

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

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

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

2. **City Costs.** The City has not properly disclosed the City's costs for the event or the amount of fees waived for the applicant.
3. **Skydivers.** The proposed skydivers' landing on the beach has not been properly evaluated for safety and permitting issues.
4. **Exclusive Use.** The proposed event, with its segregated VIP areas, would exclude the general public from the beach and from public beach parking facilities. The event's paid seating areas for VIP customers violate the provision of the LCP that limits beach events to "sporting events for which no admission is charged" (OS District).
5. **Inflatables.** Excessive advertising is negatively affecting visual resources. The local coastal development permit should limit signage and inflatables to maintain views of the beach and surrounding areas.
6. **Agreement Issues.** The local coastal development permit should include enforcement and monitoring provisions in order to address lingering issues and unresolved violations from past years' events.
7. **Title 12.** The local coastal development permit should require the City to be in compliance with Title 12 of the Municipal Code, which regulates commercial and business activities on the beach.
8. **Pier Operating Agreement.** The proposed bleachers on the pier would restrict public access and may conflict with the City's Operating Agreement with the State.
9. **Lessons Learned.** City staff should be required to complete a follow-up report that analyzes the effects of this year's event on the City and proposes recommended changes for future events.

² The twelve reasons listed for the appeal correspond numerically to the twelve points enumerated in Harry Ford's appeal, which is attached to this staff report as Exhibit #8.

10. **Safety Issues**.^{oJ} The AVP should be required to implement specific safety procedures during set-up and take-down and during the event, including the provision of crossing guards on the bike path.
11. **LCP Amendment Request No. 3-97**. The local coastal development permit should require compliance with the temporary event provisions adopted by the Commission on February 3, 1998 pursuant to its approval of LCP Amendment Request No. 3-97.³
12. **Notice, Application & Public Hearing**. The public notice for the local coastal development permit was inadequate because some of the interested persons from prior years were not on the mailing list. The application was incomplete because of lack of detail, including the lack of identified beach access corridors, pier accessways, valet and VIP parking areas, and reserved VIP seating areas. Materials submitted to the City by the appellant were not included in the staff report.

II. LOCAL GOVERNMENT ACTION

The City's only public hearing regarding Local Coastal Development Permit No. 03-1 occurred on February 4, 2003 in front of the Manhattan Beach City Council. On February 4, 2003, the City Council adopted Resolution No. 5811 and thus approved Local Coastal Development Permit No. 03-1 for the 2003 Manhattan Beach Open Volleyball Tournament (Exhibit #4). The City Council also approved an agreement ("the Agreement") with the Association of Volleyball Professionals (AVP) to partner with the City of Manhattan Beach (CMB) to produce the event (Exhibit #6). The action by the City Council was not appealable at the local level.

On February 7, 2003, the City's Notice of Final Local Action for Local Coastal Development Permit No. 03-1 was received in the Commission's South Coast District office in Long Beach. The Commission's ten working day appeal period was then established and noticed. On February 21, 2003 the Commission received the two appeals of the City's approval.

III. APEAL 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 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)]. In Manhattan Beach, the inland boundary of the appealable area of the City's coastal zone, located three hundred feet from the inland extent of the beach, has been mapped within the

³ Local Coastal Program Amendment Request No. 3-97, although approved by the Commission with modifications, was never certified as part of the LCP because the City did not accept the Commission's suggested modifications.]

Manhattan Avenue right-of-way (Exhibit #1). The proposed event is located entirely within the mapped geographic appeals area.

The City of Manhattan Beach Local Coastal Program (LCP) was certified on May 12, 1994. Section 30603(a)(1) of the Coastal Act identifies the proposed project site as being in an appealable area by virtue of its location on the beach and between the sea and the first public road paralleling the sea.

Section 30603 of the Coastal Act states:

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

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

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

The action currently before the Commission is to 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 the grounds for the appeal raise no substantial issue. 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).

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

MOTION

*"I move that the Commission determine that Appeal No. A-5-MNB-03-075 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-03-075

The Commission hereby finds that Appeal No. A-5-MNB-03-075 presents a substantial issue with respect to the grounds on which the appeals have 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 and Event History

On February 4, 2003, the Manhattan Beach City Council approved with conditions Local Coastal Development Permit No. 03-1 permitting the AVP to conduct the 2003 Manhattan Beach Open Volleyball Tournament on the beach in August (Exhibits #3-6). The local coastal development permit includes the following provisions:

1. Conformance with the City-approved 2003 Manhattan Beach Open/AVP Agreement attached as Exhibit #6 (See Conditions: Exhibit #4, p.2).
2. No paid admission, but some reserved seating areas for AVP VIPs (Exhibit #6, p.2).
3. Limit the total number of bleacher seats to a maximum of 4,500.
4. Bleachers on the pier (Exhibit #3, p.1).
5. AVP use of both lower pier public parking lots (71 parking spaces), one upper pier parking lot (40 spaces), and all on-street parking along Manhattan Beach Boulevard below Ocean Drive (about 30 spaces).
6. No more than six inflatable advertising signs (Exhibit #3, p.1).
7. A free public beach shuttle service between a remote parking lot (TRW) and the downtown on Saturday and Sunday.
8. Sponsors' tents, a stage and portable toilets (Exhibit #3, p.1).

The tournament would be held on the public beach on August 7-10, 2003, with set-up starting on Monday, August 4th (Exhibits #4-6). The location of the annual event is a three-acre sandy beach area (450' x 300') located on the south side of the Manhattan Beach Pier (Exhibit #3, p.1). Approximately 24 volleyball courts currently occupy the event site. There will not be a fence installed around the perimeter of the event area, and public access to the pier and the shoreline may not be blocked at any time. The City Agreement requires that the AVP complete all take-down activities and remove all equipment from the beach before by 6 PM Tuesday, August 12, 2003 (Exhibit #6, p.4).

This year, the local coastal development permit authorizes bleacher seating for 4,500 spectators, including the general public's area and VIP areas. Spectators are not being required to pay an admission fee. While the general public may view the proposed event on a free first-come, first-served basis, purchasers of AVP's VIP packages would have access to the reserved seating areas closest to the center court (Exhibit #9). Several tents and interactive areas for event sponsors are included in the event plan (Exhibit #3, p.1).

Event History

The annual Manhattan Beach Open Volleyball Tournament has a long tradition that dates back to 1960. During all past events, the general public has been able to view the event on a first-come, first-served basis from the sand, the temporary bleachers, or from the pier. No admission fee has been required for spectators, and the bleachers have always been open to the general public. Even though the event area can get quite congested, the City maintains

public access to the pier and along the water, and the bicycle path is kept open (bikes must be walked).

The event has always been located on the south side of the Manhattan Beach Pier in a sandy area owned and operated by the Los Angeles County Department of Beaches and Harbors (Exhibit #2). The event area is occupied by several sets of sand volleyball courts used for public recreation. Although the beach is actually owned by Los Angeles County, it falls within the City limits of Manhattan Beach and the within the jurisdiction of the certified City of Manhattan Beach LCP. As property owners, the Los Angeles County Department of Beaches and Harbors regulates the many special events that occur on the beach. The Manhattan Beach Open is one of several annual volleyball tournaments and other special events that occur on the beach each summer with the permission of the Los Angeles County Department of Beaches and Harbors.

As previously stated, the annual Manhattan Beach Open volleyball tournament has a long tradition that dates back to 1960. Even though there are no provisions in the certified LCP that allow the City to exempt temporary events on the beach from permit requirements, the first local coastal development permit for the annual event was not approved until 1997 when the City approved Local Coastal Development Permit No. 10-97.⁴ Prior to 1997, the City asserted that the event did not fall under the definition of development as defined in the certified LCP.

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

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

In its action on Appeal A-5-MNB-97-84 the Commission found that, pursuant to the certified LCP, a coastal development permit was required for the annual volleyball tournament because it falls within the definition of development contained in Section A.96.030 of the certified LCP

⁴ The Commission certified the City of Manhattan Beach LCP on May 12, 1994.

and Section 30106 of the Coastal Act ("Development" means...the placement or erection of any solid material or structure;...change in the intensity of use of water, or of access thereto;...), and that the certified LCP contains no provision for the exclusion or exemption of the proposed event. Furthermore, admission fees for spectators may not be charged for sporting events on the beach because such a use is not permitted by the certified LCP.

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

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

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

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

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

In 2000, the Manhattan Beach Open Volleyball Tournament was conducted without the benefit of a local coastal development permit because the City determined that a coastal development permit is required only if bleachers are proposed as part of the event.

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

1. No authorization for any paid seating.
2. Maximum of 1,500 bleacher seats (increased to 3,000 by an amendment).
3. Use of 45 parking spaces in the lower pier public parking lots.
4. Four tournament days (August 23-26, 2001).
5. Set-up starts Wednesday, August 22 & takedown completed Monday, August 27.
6. Tents and stage.
7. Shuttle service on Saturday and Sunday.

City of Manhattan Beach Local Coastal Development Permit No. 01-20 was not appealed to the Coastal Commission. A subsequent permit amendment, however, was appealed to the Coastal Commission (See Appeal A-5-MNB-01-343). The subject of the appeal, Local Coastal Development Permit Amendment No. CA 01-31, amended the event layout that had been previously approved as part of Local Coastal Development Permit No. CA 01-20. The City deleted its 1,500-person limit on bleacher capacity and approved the permit amendment to increase the bleacher capacity to a total of 3,000 persons. On October 8, 2001, after the 2001 tournament was already over, the Commission found that no substantial issue existed with the City's approval of Local Coastal Development Permit Amendment No. CA 01-31.

The 2002 Manhattan Beach Open volleyball tournament, held August 6-13, was approved by Local Coastal Development Permit No. CA 02-09. The 2002 event included free public admission and 4,500 bleacher seats. Local Coastal Development Permit No. 02-09 was not appealed to the Coastal Commission.

B. Factors to be Considered in Substantial Issue Analysis

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

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

5. Whether the appeal raises local issues, or those of regional or statewide significance.

Even when the Commission chooses not to hear an appeal, appellants nevertheless may obtain judicial review of the local government's coastal permit decision by filing petition for a writ of mandate pursuant to Code of Civil Procedure, Section 1094.5. Staff is recommending that the Commission determine that the appeals raise a **substantial issue** in regards to the grounds of the appeals 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 contend that the City's approval of the proposed event does not conform to the certified LCP and that it is inconsistent with the public access policies of the Coastal Act. Even though both appellants have included in their grounds for appeal many assertions that go beyond the allowable grounds for appeal, the substantial issue determination is limited solely to the issue of whether the local approval conforms with the LCP and the public access policies of the Coastal Act.

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

Section 30210 of the Coastal Act states:

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

Section 30211 of the Coastal Act states:

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

Section 30212 of the Coastal Act states, in part:

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

Section 30212.5 of the Coastal Act states:

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

Section 30213 of the Coastal Act states, in part:

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

The certified Manhattan Beach LCP contains specific policies that apply to all development located within the City's coastal zone. All development approved within the City's coastal zone, including the proposed event, must comply with the policies of the certified Manhattan Beach LCP. First, the proposed project must qualify as a permitted use within the Open Space (OS) land use designation of the beach. Secondly, the proposed project must comply with the following relevant LCP policies:

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

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

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

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

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

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

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

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

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

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

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

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

Therefore, the Commission must determine whether the appeals raise a substantial issue with regard to the conformity of the proposed event with the above-stated LCP and Coastal Act policies. The staff recommends that the Commission determine that the appeals raise a **substantial issue** in regards to the locally approved event's conformity with the City of Manhattan Beach Certified Local Coastal Program and the public access policies of the Coastal Act.

The appellants assert that the proposed event would obstruct public access, block public views, add to parking problems and traffic congestion, create noise that would interfere with enjoyment of the beach, and involves a charge for admission (Exhibits #7&8). Although the proposed event will not physically block access to the water, it will impact the public's ability access and use the coast in two ways: 1) by increasing the demand for public parking in the area while reducing the supply of available public parking, and 2) by restricting the use of a portion of the sandy beach to a specific group of people.

Traffic and Parking

In regards to public beach parking, the crowds generated by the proposed event, in association with the event's reserved use of public parking areas, will negatively affect beach goers' ability to find a parking space near the beach. The Commission has consistently found that a direct relationship exists between the provision of adequate parking and availability of public access to the coast. On both Saturday and Sunday, the proposed event is expected to attract over 6,000 persons to an already crowded beach area. The additional visitors drawn by the proposed event will overburden the limited beach parking supply. There is simply not enough public parking available in the downtown area to accommodate all of the people who attempt to visit Manhattan Beach during summer weekends. Add to this the City's reservation for the AVP of 141 of the 161 parking spaces closest to the pier, and the ability to find public parking near the pier will be nearly impossible.

As required by Policies 1.A.2, 1.B.1, 1.C.2 and 1.C.17 (Program II.B.14) of the certified LCP, the City is required to implement safe and efficient traffic flows, encourage transportation service, maximize parking for weekend beach use, and provide signing and information to do

so. Although the local coastal development permit provides reserved parking for the AVP and its VIPs, it does not include a detailed parking and traffic management plan to provide parking for the general public (Exhibit #6, p.3). The City has required the AVP to pay for a beach shuttle service on Saturday and Sunday, but the local permit lacks adequate specificity and detail about how the shuttle service would be advertised and implemented (Exhibit #6, p.4). The City permit does not contain pertinent information regarding: whether the AVP would actually operate the shuttle system (the AVP must pay for the system), the amount of parking provided at TRW, restrictions on the use of the free parking and shuttle by non-ticket holders for coastal access, the shuttle schedule, methods for publicizing the shuttle, or other details that the Commission needs in order to determine if the proposed event's impacts on public access will be mitigated by the requirements of the City's local coastal development permit.

The required shuttle service is necessary to mitigate the increase in vehicle congestion, parking demand and vehicular pollution caused by the large numbers of persons who will drive to the area to attend the annual volleyball tournament. The event's impacts on the public parking supply have been made worse by increasing the number of parking spaces that the AVP may reserve for use by VIPs, equipment trucks, television equipment and event personnel. The City approval permits the reservation of all 71 parking spaces located in the lower south and lower north public beach parking lots, plus one of the two upper pier lots, and the on-street parking on Manhattan each Boulevard (below Ocean Drive) for use by the AVP (Exhibit #6, p.3). That is, the City has granted the AVP the right to use 141 of the 161 public parking spaces closest to the pier.

Therefore, the proposed event is not consistent with LCP Policy 1.C.2 which requires the City to maximize the opportunities for using available parking for beach use. Staff recommends that the City's parking and traffic plan does raise a substantial issue in regards to the consistency of the City's approval with LCP Policies 1.A.2, 1.B.1, 1.C.2 and 1.C.17, and the public access policies of the Coastal Act.

Exclusive Use of the Beach

The second way that public access will be affected by the proposed event is the exclusiveness of the proposed temporary use of the beach. For eight days, from set-up to take-down, the general public will be excluded from most of the sandy beach area and public volleyball courts on the event site. The proposed event will occupy a 300-foot wide portion of the approximately 350-foot wide beach area that exists between the bike path and mean high tide line (MHTL). Therefore, there will be a 50-foot wide-open area preserved along the shoreline for lateral public access (Exhibit #3, p.1). Vertical access to the water will be available on the north side of the pier and south of the event site (Exhibit #2).

The exclusive use of public beaches has always been an issue of prime importance to the Commission in terms of impacts on public access. Because of the importance of the public access issues involved with the proposed event, it is important that the Commission have the opportunity to review the City's approval. The Commission will have the opportunity to review the City's action on the proposed event at the subsequent de novo hearing.

Free Admission or Paid Admission

The City Agreement, adopted by reference as part of the local coastal development permit, states that, "No admission shall be charged" (Exhibit #6, p.2). The prohibition on charging admission is based on the certified LCP's Open Space (OS) land use designation for the beach. The certified OS land use designation permits "sporting events for which no admission is charged", but does not permit sporting events for which admission is charged. Therefore, both the LCP and the local coastal development permit prohibit admission to be charged for entry to the event.

Both appellants assert that the AVP is selling VIP packages for the event that include reserved seating areas around the center court, and that the VIP area would exclude the general public from the beach. The AVP's website includes information about its VIP packages (Exhibit #9). The City Agreement authorizes the AVP to reserve specific seating areas for VIPs (Exhibit #6, p.2). Both the AVP and the City, however, make a distinction between charging admission to the event and selling membership to restricted areas within the event. While admission to the event is free to the general public, the additional perks that come with VIP membership are not free.

Whether the proposed VIP reserved seating areas conflict or conform with the LCP prohibition on charging admission to sporting events is a substantial issue that should be reviewed and considered by the Commission. Part of the issue is how much of the available seating is reserved for VIPs and how much is available for free access by the general public. The local coastal development permit allows VIP seating on risers located along one sideline and both end zones of the center court, and one entire end zone bleacher (Exhibit #3, p.1). The City Agreement allows the City to approve additional VIP seating (Exhibit #6, p.2). Unlimited or expansive reserved seating areas may exclude the general public from the event and from the public beach. Section 30211 of the Coastal Act states, in part, that development shall not interfere with the public's right of access to the sea, including, but not limited to, the use of dry sand. Therefore, a substantial issue exists with respect to the grounds of the appeal.

Scale of Development and Visual Resources

The capacity and size of the bleachers and other temporary development is an important issue to be considered when reviewing a proposal for a temporary event on the sandy beach. In 1997, the applicant requested and received approval for bleacher seating for 6,800 persons, but that event was cancelled. In the years following 1997, the event was substantially down-sized in regards to the amount of bleacher seating, as shown below:

1998: No record
1999: 1,500 seats
2000: 0 seats?
2001: 1,500 increased to 3,000
2002: 4,500
2003: 4,500 proposed

This year, the proposed event is expected to attract over 6,000 persons to an already crowded beach area on both Saturday and Sunday. It cannot be proven that the number of persons

attracted to the event is directly related to the capacity of the bleachers. In fact, the majority of the crowd on the afternoon of Saturday, August 25, 2001 was not observing a match in the center court (from bleachers), but was watching a match on a side court with one small bleacher (Exhibit #11). Most of the crowd was standing and sitting on the sand to watch the match. The bleachers were filled to less than half of their capacity at that moment.

Any bleacher or other temporary development that obstructs access to and along the water or blocks access to the pier would not be consistent with the certified Manhattan Beach LCP and the public access policies of the Coastal Act. In this case, the proposed event layout ensures that public access to the shoreline will remain available. Additionally, the proposed 26-foot high bleachers will provide the public with a free recreational opportunity in the form of a professional sporting event with free public admission.

The proposed bleachers on the pier, however, could hinder public access by blocking an area that is usually open for pedestrian passage. Therefore, the proposed bleachers on the pier do raise a substantial issue in regards to the public access policies of the Coastal Act.

The temporary structures and advertising associated with temporary events like the Manhattan Beach Open are highly visible and block public views of the shoreline, but they do not conflict with the certified LCP or Coastal Act policies because they exist on a temporary basis for only a few days. After the event, the structures are quickly removed from the beach (within one day) and the public's view of the shoreline is restored. Therefore, the scenic resources of the coastal zone are protected from any long-term or permanent negative impacts.

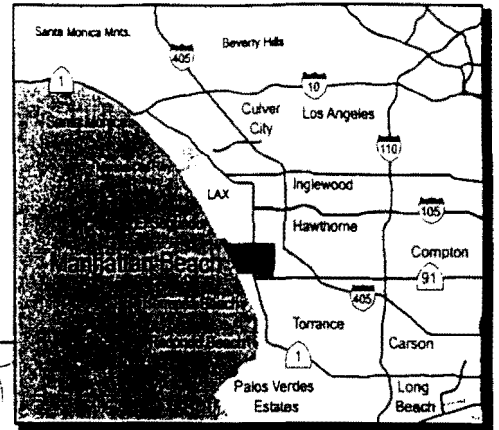
Noise

While noise control is not an issue addressed by certified LCP policies, the appellants have raised it as an issue. Specifically, the appellants assert that the local approval does not require adequate noise control. The City approval requires that "All amplified speakers will be placed facing to the west" (Exhibit #6, p.2). Therefore, the City has addressed noise-control as an issue.

Conclusion

The City's approval of the proposed event does not conform to the certified LCP and the public access policies of the Coastal Act. Therefore, the Commission finds that a substantial issue exists with respect to the City's approval of Local Coastal Development Permit No. 03-1.

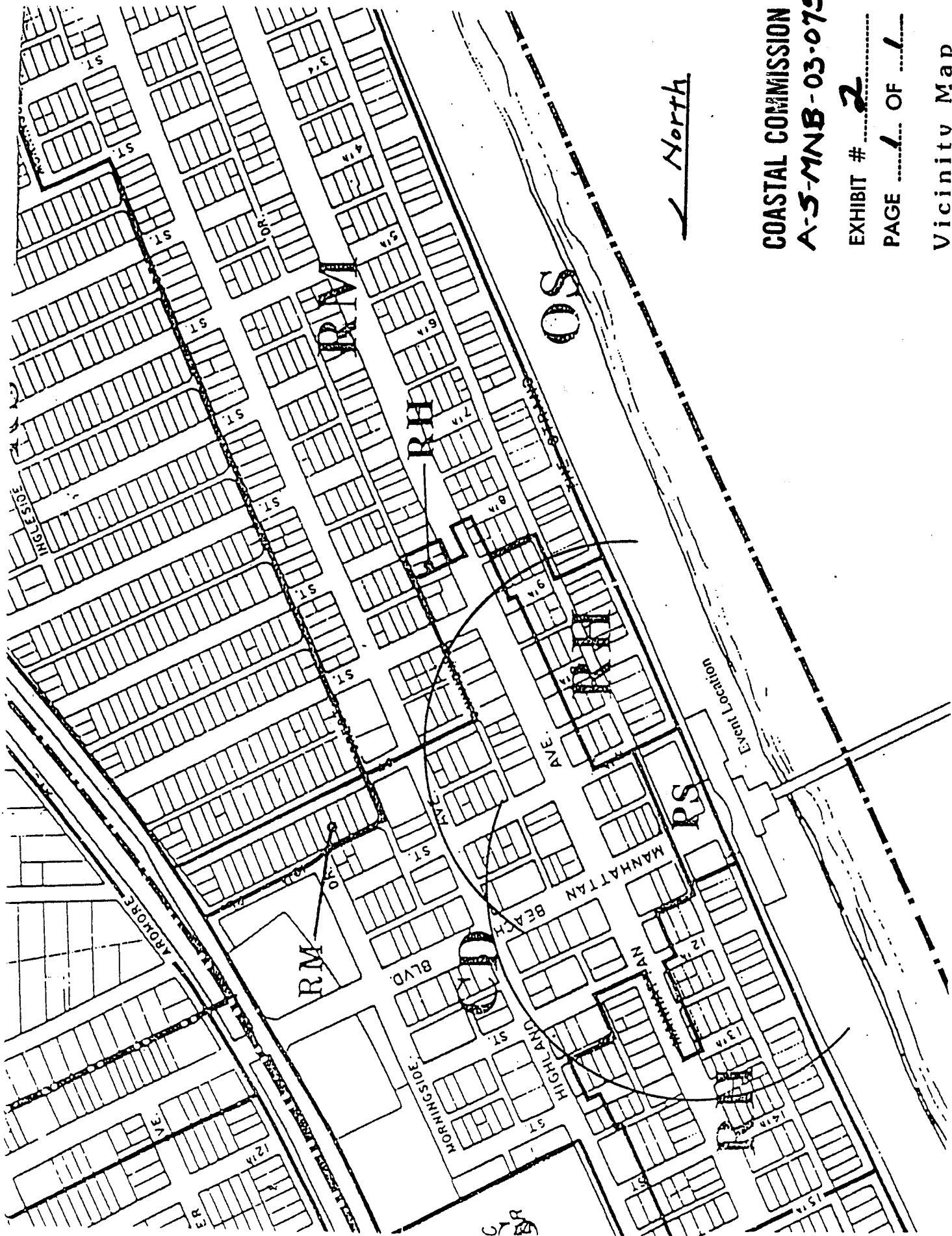
Regional Map



Manhattan Beach Open – 2003

COASTAL COMMISSION
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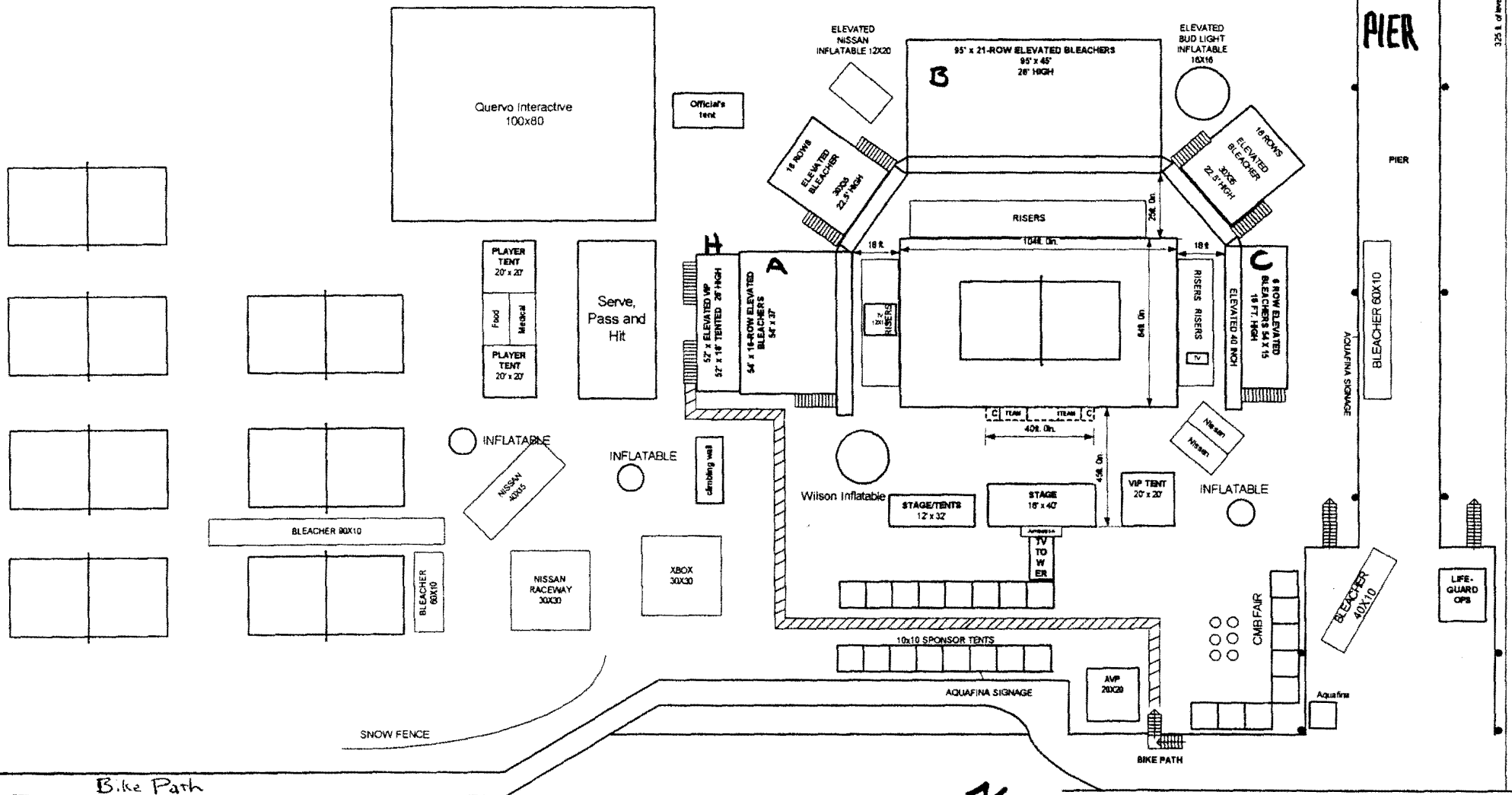
EXHIBIT # 2

PAGE 1 OF 1

Vicinity Map



2003 Manhattan Beach Open Site Plan



PIER

PIER

BLEACHER 60X10

AQUAFINA SIGNAGE

BLEACHER 60X10

BLEACHER 60X10

AQUAFINA

LIFE-GUARD OPS

3.25 mi. of Manhattan Beach

Bike Path



COASTAL COMMISSION
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A: South end of center court.

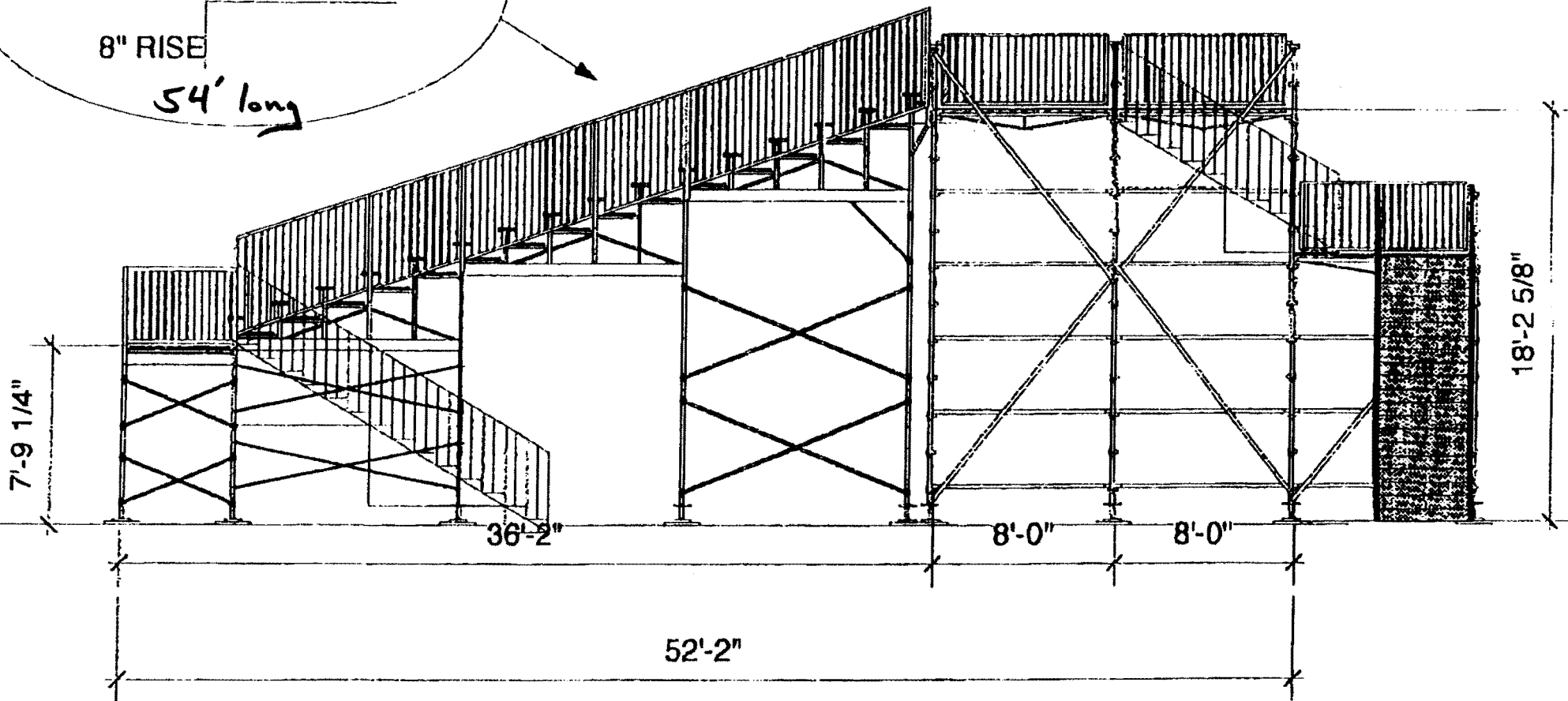
A = 55'X16ROW BLEACHER

24" RUN

8" RISE

54' long

H = VIP PLATFORM

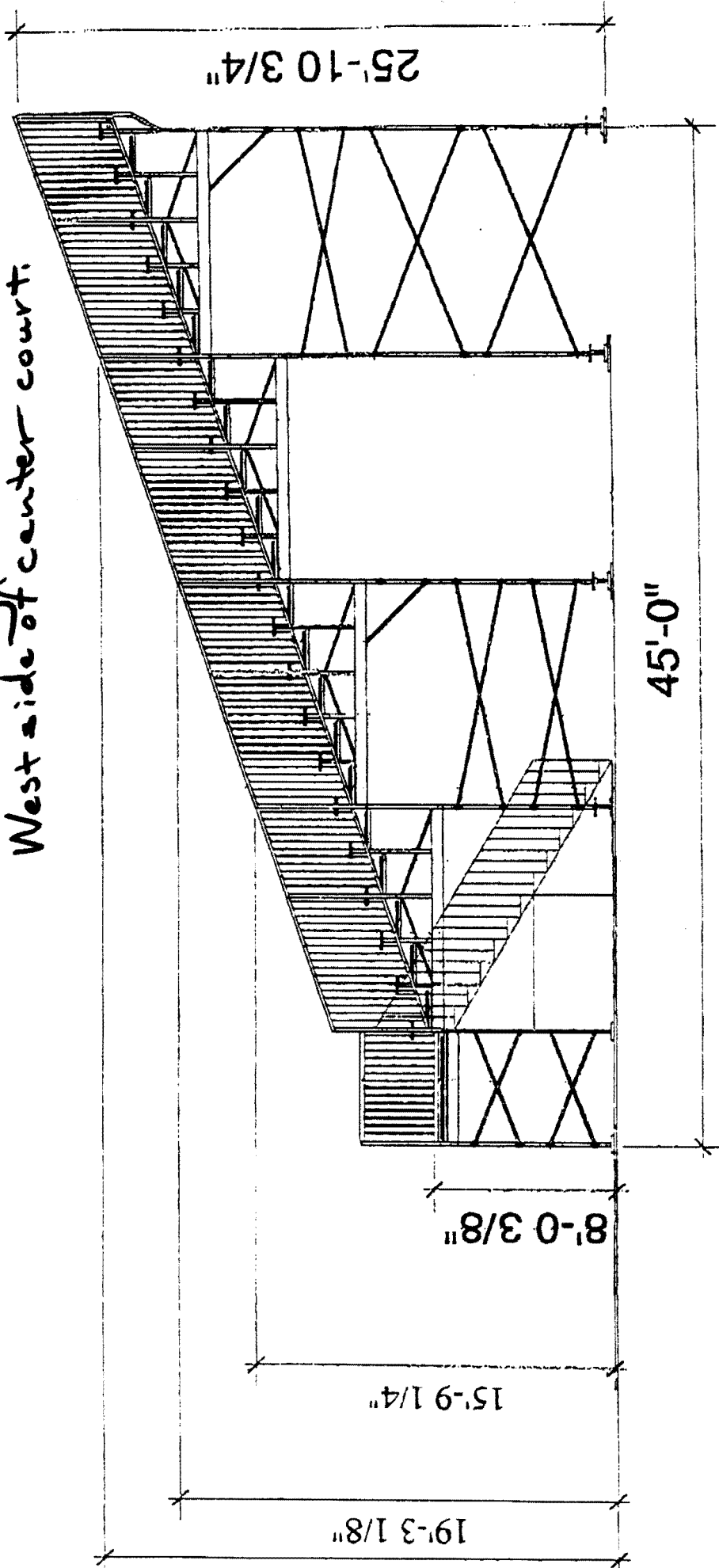


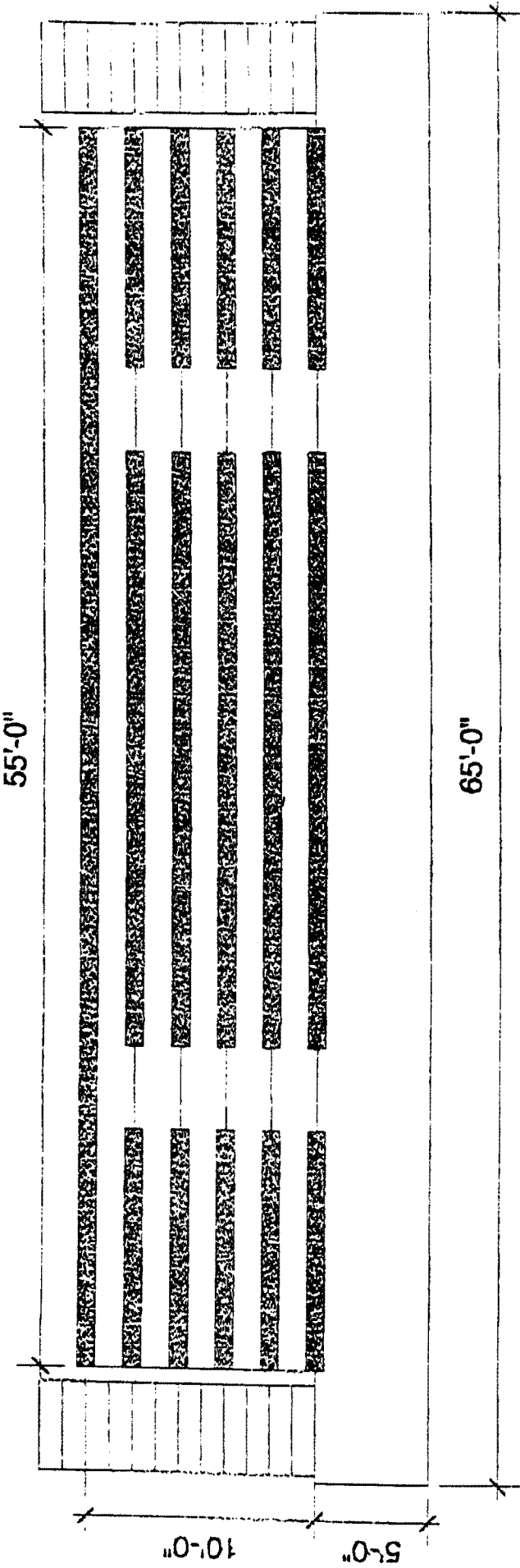
COASTAL COMMISSION
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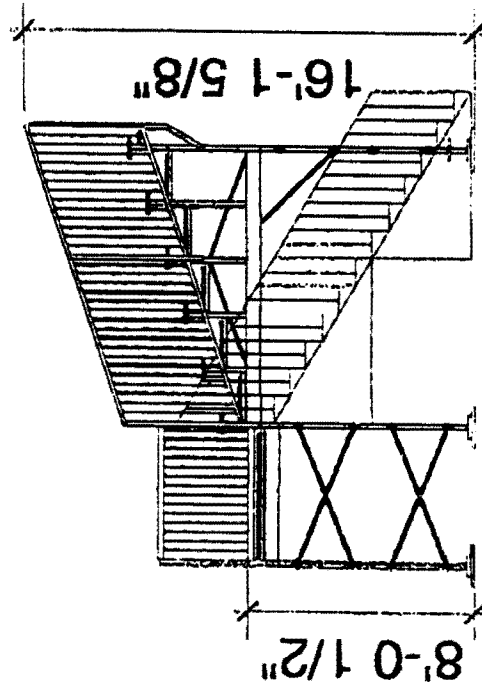
PAGE 2 OF 4

B: 95' long
West side of center court.





C: 54' long
 North end of
 center court



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RESOLUTION NO. 5811

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

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

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

- A. The City Council conducted a public hearing on the proposed coastal development permit, testimony was invited and received, on February 4, 2003.
- B. The applicant for the coastal development permit amendment is the Association of Volleyball Professionals.
- C. The City Council, at its regular meeting of February 4, 2003, approved the temporary use permit/program for the 2003 Manhattan Beach Open volleyball tournament and an agreement with the Association of Volleyball Professionals to partner with the City of Manhattan Beach to produce the event.
- D. A coastal development permit was also submitted by the Association of Volleyball Professionals to allow temporary spectator bleachers and related structures seating 4,500 people during the period of August 4 to 12, 2003.
- E. The Project is Categorically Exempt from the requirements of the California Environmental Quality Act (CEQA), pursuant to Section pursuant to Sections 15304(e) "Minor Alterations to Land", 15311(c) "Accessory Structures", and 15323 "Normal Operations of Facilities for Public Gatherings".
- F. The project will not individually nor cumulatively have an adverse effect on wildlife resources, as defined in Section 711.2 of the Fish and Game Code.
- G. The project, as conditioned herein, is in accordance with the objectives and policies of the Manhattan Beach Coastal Program, as follows:
 - a) The proposed temporary bleacher structures comply with the applicable standards of the Manhattan Beach Coastal Zone Zoning Code.
 - b) The structures shall not obstruct accessways within the coastal zone. While they will occupy some space on the beach, access from the Strand, bike path, and pier to the coastline and surrounding beach area shall remain available.
 - c) The proposed configuration shall permit public view of the center court volleyball competition from the adjacent Strand, pier, and bike path areas, which are prominent pedestrian routes within the coastal zone.
 - d) Any displacement of normal views or use of the space shall be temporary for the period allowed by the proposed permit.
 - e) Installation and use of the bleachers and related structures shall be subject to the restrictions (timing, shuttle, signs, trash, etc.) of the City's tournament agreement with the AVP.

COASTAL COMMISSION
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EXHIBIT # 4
PAGE 1 OF 3



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

TA
City Clerk of the City of Manhattan Beach

H. This Resolution upon its effectiveness constitutes the Coastal Development Permit for the subject project.

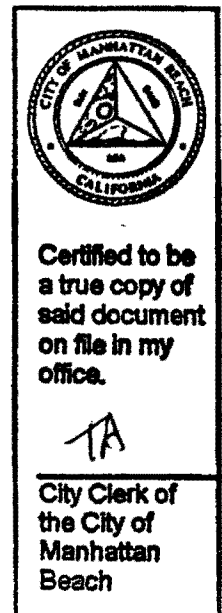
SECTION 2. The City Council of the City of Manhattan Beach hereby approves the proposed Coastal Development Permit Amendment for temporary bleachers and related structures for 4,500 spectators at the 2003 Manhattan Beach Open volleyball tournament for the period of August 4 to 12, 2003, subject to the following conditions:

1. The project shall be in substantial conformance with the plans submitted to, and approved by the City Council on February 4, 2003.
2. The project shall conform to the city-approved 2003 Manhattan Beach Open/Association of Volleyball Professionals Agreement. **Exhibit #6.**
3. *Interpretation.* Any questions of intent or interpretation of any condition will be resolved by the City Council.
4. *Inspections.* The Community Development Department Staff shall be allowed to inspect the site and the development during construction subject to 24-hour advance notice.
5. *Effective Date.* This Resolution shall become effective when all time limits for appeal as set forth in MBMC Section 10.100.030, and the City of Manhattan Beach Local Coastal Program - Implementation Program Section A.96.160 have expired; and, following the subsequent Coastal Commission appeal period (if applicable) which is 10 working days following notification of final local action.
6. The subject Coastal Development Permit will be implemented in conformance with all provisions and policies of the Certified Manhattan Beach Local Coastal Program (LCP) and all applicable development regulations of the LCP - Implementation Program.
7. Pursuant to Public Resources Code section 21089(b) and Fish and Game Code section 711.4(c), the project is not operative, vested or final until the required filing fees are paid.
8. The applicant agrees, as a condition of approval of this project, to pay for all reasonable legal and expert fees and expenses of the City of Manhattan Beach, in defending any legal actions associated with the approval of this project brought against the City. In the event such a legal action is filed against the project, the City shall estimate its expenses for the litigation. Applicant shall deposit said amount with the City or enter into an agreement with the City to pay such expenses as they become due.

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

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

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



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EXHIBIT # 4

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PASSED, APPROVED and ADOPTED this 4th day of February, 2003.

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

/s/ Steven A. Napolitano
Mayor, City of Manhattan Beach, California

ATTEST:

/s/ Liza Tamura
City Clerk



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

J. Lee, Deputy
City Clerk of the City of
Manhattan Beach, California

COASTAL COMMISSION
AS-MNB-03-075

EXHIBIT # 4
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Staff Report

City of Manhattan Beach

TO: Honorable Mayor Napolitano and Members of the City Council

THROUGH: Geoff Dolan, City Manager

FROM: Richard Gill, Director of Parks and Recreation

DATE: February 4, 2003

SUBJECT: Authorize the City Manager to Execute the Agreement with the Association of Volleyball Professionals (AVP) to Co-sponsor the 2003 Manhattan Beach Open to be Held on August 7-10, 2003, and Adopt Resolution No. 5811, Approving the Coastal Development Permit

RECOMMENDATION:

Staff recommends that the City Council authorize the City Manager to execute the attached agreement with the Association of Volleyball Professionals with the exception of the \$3,000 parking fee waiver (AVP) to co-sponsor the 2003 Manhattan Beach Open August 7-10, and adopt Resolution No. 5811 approving the Coastal Development Permit.

FISCAL IMPLICATION:

Under the terms of the attached contract, the AVP will reimburse the City for all of its direct costs associated with the event, except for \$3,000 in parking fees. The anticipated costs are estimated to be \$17,000. The AVP will retain all proceeds from the main draw. The agency that runs the qualifying round will keep the proceeds.

BACKGROUND:

The Manhattan Beach Open Volleyball Tournament was held August 8-11, 2002 in conjunction with the AVP. The event was considered a success in that staff received numerous compliments from the community, the AVP, the Parks and Recreation Commission, City Council and a committee of residents and AVP representatives who evaluated the event after its conclusion. The event consisted of free stadium style seating, areas for free courtside seating, food booths, live music and interactive game booths.

The AVP set up the main stage on the east side of the beach with all speakers facing west. This helps dramatically to cut down on the amplification that drifts into the surrounding neighborhoods. Before, during and after the event, staff evaluated and monitored the production of the tournament in regards to public concerns.

The Departments of Public Works, Police, Fire and Parks and Recreation evaluated the event regarding its impact on the community and city services. Overall, City staff felt the event was a success.

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the event had some problems that must be addressed for next year. The bleachers arrived late and a tractor got stuck in the sand, causing traffic congestion on Manhattan Beach Blvd. from Highland to the pier. When there was a rush to get everything installed, safety concerns needed to be addressed on site. There were complaints from the neighbors regarding the flyers posted on the Strand and large advertisement balloons were installed on top of local businesses against City ordinances.

The event itself ran beautifully and was a great success. Almost all the feedback from the community, the Parks and Recreation Commission and City staff was very positive. There were no incidents and the Police Department stated that everyone was orderly and enjoyed themselves. The Fire Department stated that they would require an extra staff person on site because the event had grown from prior years.

The post-event teardown caused some traffic problems which required extra community service officers (billed and paid by AVP) but the impact was not of the magnitude of the setup.

Overall, the event was a huge success and almost all feedback was very positive. It was only some of the logistics that need to be worked on. The event was televised live on NBC and received a feature article in Sports Illustrated.

DISCUSSION:

The attached agreement has the same provisions as the 2002 event except for the addition of:

- The City will allow the AVP to install five-row portable bleachers on the pier. The bleachers will be of similar size and arrangement as the City has for the International Surf Festival when we are the host city. Last year people lined the pier four to five deep, trying to watch the event. Staff believes providing bleachers would be a convenience for the spectators. Staff has agreed to provide whatever portable City bleachers are available at the time.
- The AVP is requesting to use an additional beach parking lot. Last year they used the two lower lots. This year, the agreement calls for the two lower lots and one of the upper beach lots. Last year the AVP petitioned the Council for a \$3,000 parking fee waiver. The AVP pointed out the millions of dollars the City receives in exposure from the event. The event was televised live on national television. Also, the event is an institution in the City and free for all our residents. Staff recommends that due to the current financial situation in the State, the Council should amend the agreement to deny the \$3,000 parking fee waiver.
- In the City's favor, the AVP has agreed to pay \$1,500 for the City's Tournament Director to oversee the event. Last year, the City Council waived this fee. The AVP reconsidered and agreed to pay for those services in the attached agreement. Last year, the City's Tournament Director was needed on site for the entire four-day setup and two-day teardown. He was instrumental in coordinating city departments and handling the problems that occurred during setup and teardown.
- Because of the public safety and Metlox projects and the loss of the Metlox parking

lot, the City will be running a shuttle from the TRW parking lots to downtown every 15 minutes. The AVP will pay for all costs associated with the shuttle and its promotion.

- The AVP will also be hanging street pole banners along Sepulveda and other approved streets in place of the recently departed women's professional tennis tournament.

Other than the aforementioned changes, the event will be run in the same manner as last year which was determined to be very successful.

Environmental Review

The proposed temporary event is exempt from the provisions of the California Environmental Quality Act (CEQA). Per the CEQA Guidelines, the event is exempt pursuant to the following provisions: Section 15304 (e), "Minor Alterations to Land"; Section 15311 (c), "Accessory Structures"; and Section 15323, "Normal Operations of Facilities for Public Gatherings".

The proposed event is a temporary activity being conducted on a public beach in which the event will not result in any degradation or alteration to the condition of land, water or vegetation. Based upon past events of this nature, no permanent environmental effects are anticipated.

Coastal Development Permit/Temporary Use Permit

The beach area is located within the "OS" (Open Space) district of the City's Zoning Code, and is regulated by the provisions of the City's certified Local Coastal Program (LCP). The Open Space District allows "Sporting events for which no admission is charged" as a permitted use subject to a temporary use permit.

The Community Development Department has reviewed the application for a Temporary Use Permit, and recommends approval by the City Council concurrent with the AVP request. Since bleachers are requested by the AVP, a Coastal Development Permit is required. The required notice was published in the Beach Reporter and mailed to properties within 100 feet of the tournament site. Staff's review of the coastal development permit finds the proposed installation to be consistent with the city's coastal program as follows:

1. The structures shall not obstruct access ways within the coastal zone. While they will occupy some space on the beach, access from the Strand, bike path, and pier to the coastline and surrounding beach shall remain available.
2. The proposed configuration shall permit public view of the center court volleyball competition from the adjacent Strand, pier, and bike path areas, which are prominent pedestrian routes within the coastal zone.
3. Any displacement of normal views or use of the space shall be temporary for the period allowed by the proposed permit.
4. Installation and use of the bleachers and related structures shall be subject to the restrictions (timing, shuttle, signs, trash, etc.) of the City's tournament agreement with the AVP.

ALTERNATIVES:

1. To authorize the City Manager to execute an agreement with the AVP for the 2003 Manhattan Beach Open August 7-10 with modifications to the agreement.
2. Deny the request.
3. Discuss and redirect staff.

Attachments: A. AVP Contract Agreement *Exhibit #6*
B. 2003 Site Plan (Attachment not available in electronic form) *Exhibit #3*
C. Resolution #5811 *Exhibit #4*

2003
MBO/AVP AGREEMENT

THIS AGREEMENT is made this 4th day of FEBRUARY 2003, by and between the City of Manhattan Beach ("CMB"), a municipal corporation organized under the laws of the State of California with its principal offices at 1400 Highland Avenue, Manhattan Beach, California 90266, and the Association of Volleyball Professional, Inc. ("AVP"), a Delaware Corporation with its principal office at 1600 Rosecrans Avenue, Building #7, Suite #310, Manhattan Beach, CA 90266.

WITNESSETH

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

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

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

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

I. THE EVENT. During the term of this agreement, CMB authorizes the AVP to conduct the annual MBO, the dates of which shall be selected by AVP in consultation with CMB. This year's event will be held August 8-10, 2003 with the Qualifier being held on Thursday, August 7, 2003.

A) The agreed upon tournament format shall be a Pro-Amateur format including both Men's and Women's Divisions with amateur qualifying rounds being played for entry into the professional rounds of the event. The playing rules for the event shall be AVP rules.

B) The title of the event is "The Manhattan Beach Open"; however, permission has been granted to the AVP (if it elects) to insert AVP into the title naming it "The AVP Manhattan Beach Open". All public identification of or reference to the MBO shall be made in the following manner: "The [Primary Sponsor Name] Manhattan Beach Open", or "The AVP [Primary Sponsor's Name] Manhattan Beach Open". AVP specifically acknowledges and agrees that it shall not release any information about the event to the public which refers to the event solely as "The [Primary Sponsor Name] Open." Notwithstanding the foregoing, AVP shall have the right to include one or more "Presented By" sponsors as part of the official title of the event so long as the "Presented By" title(s) appear after the words "Manhattan Beach Open" (i.e., The [Primary Sponsor] Manhattan Beach Open Presented by [Presented By Sponsor]).

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

COASTAL COMMISSION
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CMB AJR AVP ABR

EXHIBIT # 6
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D) The event may use bleachers for the center court, outside courts and seating on the pier and the pier head provided that the aggregate of bleachers in connection with the event shall not exceed a total of 4,500 seats, of which the center court bleachers shall not exceed 3,500 seats. In the event that the AVP decides to use said bleachers, the AVP must notify the CMB by 5 p.m., Friday, March 1, 2003 in order to allow sufficient time to apply to the Coastal Commission for approval. If the CMB is not notified by said date and time, it is agreed that bleachers will not be used during the 2003 MBO unless approved by CMB. Additional seating, not to exceed 1,000 seats, may be placed around the outside courts. In addition, AVP shall have the right to have additional bleacher seating (i) on the pier behind the center court endzone bleachers; and (ii) on the pier head adjacent to the lifeguard tower (provided that access ways to and from the pier and beach are not obstructed). In connection with the preceding two sentences and subject to the approval of the Department of Public Works (which the CMB shall use good faith efforts to obtain), CMB shall provide "softball" style bleachers at no charge for AVP's use in connection with the outside courts, the pier and the pier head.

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

F) No admission may be charged.

G) VIP tent and VIP seating shall be provided by the AVP as follows: (i) There shall be one (1) center court elevated VIP tent and one (1) sand VIP/"AVP Beach Club" tent; (ii) VIP/"AVP Beach Club" "riser" seating along one sideline and up to two (2) end zones; (iii) one (1) end zone bleacher reserved for VIP's, corporate sponsors, etc. All other seating shall be available to the public. Any additional center court VIP tents and/or seating will be subject to CMB approval.

H) AVP shall have the right to have on-site entertainment in connection with the event. Such entertainment may include musical acts provided such entertainment does not increase the sound level of the event or increase the support required by CMB (e.g., additional police, fire company coverage, etc.). In addition, AVP shall have the right (subject to any applicable federal and/or state laws) to have skydivers land on the beach as part of the on-site entertainment in connection with the event; provided, however, that the skydiving company that is used to provide such entertainment shall provide CMB and AVP with evidence of general liability insurance coverage of not less than two million dollars (\$2,000,000.00) per occurrence and shall name CMB and AVP as additional insureds by endorsement to such policy.

II. CMB RESPONSIBILITIES.

A) The CMB shall permit the AVP to conduct a Pro-Am Men's & Women's Two Person Volleyball Tournament and a Junior Two-Person Amateur Volleyball Tournament the weekend of August 8-10, 2003.

B) The CMB shall provide an event director to oversee and monitor the total operation of the event especially in all matters pertaining to event liability and public safety. All decisions of the event director shall be final with respect to any issues that involve compliance with the agreement as well as any issues that directly and/or adversely impact the community. Said director shall consult with a designated representative of the AVP and it shall be the goal of the parties to reach mutual

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agreement on matters of event operation. The CMB shall be entitled to a fee of \$1,500 for all of such event director's services in connection with the event.

C) The MBO shall use AVP Tournament Rules in the conduct of the event. The AVP shall save the first 32 seeded spots for men & 24 seeded spots for women for AVP entries.

D) The CMB shall retain the right to conduct, if it desires, a pre-tournament qualifying round including non-AVP players and retain the proceeds. However, the CMB will grant the AVP permission to run these qualifying rounds if the AVP will open up the qualifiers and take sixteen (16) Men's teams and eight (8) Women's teams to play into the professional rounds of the MBO. If the AVP is in agreement, the AVP shall retain all the qualifying entry fees. As part of whatever these teams may win as prizes for winning in the qualifying rounds, an AVP membership will be provided to them by the AVP, it being acknowledged that all players must sign the standard agreement in order to compete in the main draw of the event.

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

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

G) The CMB shall provide on-site parking spaces for television coverage equipment, AVP equipment trucks and personnel. The number of spaces shall be 71, consisting of all of the south lower parking lot, 10 spaces in the north lower parking lot and all of the south upper parking lot (excluding the handicap spaces). The CMB will also provide street parking on both sides on Manhattan Beach Boulevard below Ocean Drive. All parking expenses will be paid by the AVP. In addition, The CMB shall close Manhattan Beach Boulevard west of Ocean Drive to bike traffic and CMB shall cause all bike riders to walk their bikes on Manhattan Beach Boulevard, west of Ocean Drive.

H) The CMB shall allow sponsors' display booths and shall allow distribution of samples of their products during the MBO as long as such sampling does not include alcoholic and tobacco products and as long as such sampling is not in conflict with the restrictions detailed under IV., Merchandising Rights. CMB will not prohibit display booths, sampling or sales of non-restricted products at the base of the pier and on the sand at the MBO.

I) The CMB shall grant their right to the AVP to set up a Food Court & Merchandise Fair (which shall include the right to sample or sell merchandise and/or other items or services) made up of CMB and other merchants.

J) Subject to the approval of the Department of Public Works (which the CMB shall use good faith efforts to obtain), the CMB shall provide bleacher seating to be used by AVP for the outside court seating and pier seating described in Section I.D. above.

III. AVP RESPONSIBILITIES.

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

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

C) The AVP will provide, at its own expense, all event production including nets, sound equipment, volleyballs, scoreboards, announcer's platform, court siding, court lines, tents, booths, possible bleacher seating for up to 4,500 (not to exceed 3,500 in bleacher seating on center court), and no more than six (6) inflatables. The AVP shall transport the equipment to the site, set up said equipment in cooperative and timely fashion, and at the close of the tournament take down and remove the equipment. Said equipment is to be totally removed from the site by 6 PM, Tuesday, August 12, 2003. CMB reserves the right to determine limit on the use of said equipment as it pertains to CMB ordinances and shall enforce all for the protection of public health and safety.

D) The AVP shall provide all necessary funds, staff, equipment, and materials necessary to adequately promote and seek sponsorship for the event at no expense to CMB. Also, the AVP shall provide a designated representative to consult as necessary with the CMB director regarding all facets of event operation. Final decisions will be made by the CMB Director regarding compliance with the agreement as well as any issues that directly and/or adversely impact the community.

E) The AVP shall provide for the television broadcast of the Manhattan Beach Open. Within the television broadcast, the AVP shall provide for the CMB to be highlighted and promoted.

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

G) The AVP shall reimburse the CMB for all its direct "in-house" services for the current year's event. An estimate of these costs equal to \$17,000 shall be paid to CMB 30 days in advance of the event. Actual City departmental costs shall be itemized and billed to the AVP upon completion of the event.

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

I) The AVP shall provide, at their expense, all staff, equipment and materials, to adequately advertise (including radio announcements) and run a shuttle bus service to and from the event from the TRW parking lots to the Von's market at Valley Drive and Manhattan Beach Boulevard. This service shall provide for a minimum of one bus running at no less than fifteen-minute intervals to and from the event. Starting time should be one hour prior to the event's starting time and ending one hour after the completion of the last daily game. Service shall be for Saturday and Sunday only. CMB shall have approval over such shuttle service, such approval to not be unreasonably withheld. In addition, CMB shall have the right to contract directly with such shuttle service and AVP shall reimburse CMB for the cost thereof provided such cost does not exceed the amount AVP would have incurred if AVP had contracted directly with such shuttle service.

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

K) Unless otherwise expressly specified herein, the foregoing responsibilities of the AVP shall be discharged at the expense of AVP.

IV. MERCHANDISING, SPONSORSHIP AND LICENSING RIGHTS.

A) CMB grants to AVP a temporary exclusive license to the MBO which shall include, without limitation, all merchandising of the event plus the right to obtain sponsors and advertisers, to produce and sell programs, to produce programming and sell radio, television, and filming opportunities and to merchandise and license concessions.

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

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

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

3) No sponsor shall be solicited or accepted who produces any form of tobacco products.

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

C) CMB shall allow sign exposure areas at the event for sponsors, including but not limited to customary court banners, booths, hospitality areas and bleacher banners. In addition, AVP shall have the right to have signage on the railings on the south side of the pier and on the railings along the bike path in the area of the event. Further, CMB shall allow vehicles (e.g., Nissan vehicles, Army Humvee, etc.) and watercraft on the sand in connection with the event and allow Nissan vehicles to be used in connection with the player introductions.

V. MBO PROMOTION.

A) AVP shall provide all funds, staff, equipment, and materials necessary to adequately promote and advertise the MBO. CMB shall assume no advertising obligation except as specifically provided herein; however, it will promote the MBO as in the past years by cooperating with

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the press and agreeing to place posters in city-approved locations and assisting in the placement of street and pole banners. AVP will provide all publicity and promotional materials.

B) The CMB shall permit the AVP to advertise and promote the event within the CMB for a minimum of four (4) weeks prior to the tournament. This commitment shall include the following:

1) AVP shall be entitled to have exclusive access to the following locations for street banners commencing 30 days prior to the event, it being agreed by the AVP that such street banners may not be placed at any one location for more than two (2) weeks: Sepulveda Boulevard/Marine Avenue (excluding the dates of July 21-August 4, 2003 which are reserved for the Surf Festival); Sepulveda Boulevard/Manhattan Beach Boulevard; Manhattan Avenue/12th Place; Manhattan Avenue/9th Street; Highland Avenue/13th Place; Highland Avenue/11th Street; Manhattan Beach Boulevard, east of Morningside Drive; and Manhattan Beach Boulevard, east of Manhattan Avenue (excluding the dates of July 21-August 4, 2003 which are reserved for the Surf Festival).

2) AVP shall have the exclusive right to hang pole banners at the following locations for a period not to exceed thirty (30) days prior to the event: 10 poles on Manhattan Beach Boulevard (in median from Sepulveda to Meadows); 4 poles on Marine Avenue (in median from Sepulveda to Cedar); 43 poles on Rosecrans Avenue. (in median from Sepulveda to Aviation); 59 poles on Pacific Coast Highway/Sepulveda Boulevard (from Artesia to Rosecrans) (subject to Caltrans approval); and additional mutually approved locations (which shall number approximately 50) in the downtown area on Manhattan Beach Boulevard, Highland Avenue and Manhattan Avenue.

3) All street and pole banner designs must be approved by the CMB. AVP shall be responsible for the costs of hanging and removing all such banners; provided, however, that CMB shall not charge any permit or other fees in connection with such banners.

4) AVP shall have the right to distribute store front posters and hand out fliers. In addition, AVP shall have the right to issue local newspaper releases.

C) All support and point-of-purchase materials will list the MBO and all event posters, counter cards and schedules will mention the CMB.

D) CMB will cause the Multiple Systems Operator/The Cable Company (MSO) to run an AVP promotional tape once per hour on the Public Service Announcement Channel. CMB will also cause the MSO to include a slide for the AVP, such slide to be included with the upcoming events. The AVP will provide all promotional tapes and material to the MSO.

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E) CMB will include AVP in any local television programming that highlights upcoming events.

F) CMB will give the AVP MBO preferred placement on its web site, if possible.

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

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

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

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

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

VII. CONCESSIONS.

A) CMB shall not prohibit the sale of AVP-related or event merchandise, AVP or AVP-Sponsor apparel, or Wilson Volleyballs at the base of the pier or on the sand.

B) Event-specific apparel and non-consumable souvenir merchandise will be developed by the AVP. The AVP shall have the exclusive right to create, market and license said event-specific merchandise. All event-specific merchandise shall comply with the title requirements set forth in section I. B. above.

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

VIII. MBO REVENUES.

A) Gross revenue from the seeded teams will be 100% retained by the AVP. The AVP will set the standard entry fee for the event consistent with similar AVP events.

B) Gross revenue from all other entries into the event, 100% retained by CMB unless the AVP agrees to conditions in II. D.

C) Gross revenue from (i) on-site sales of any AVP-related or event apparel and non-consumable souvenir merchandise; (ii) on-site revenue in connection with the Food Court and

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Merchandising Fair (net of third parties' share of such revenue); (iii) sponsorships; (iv) "AVP Beach Club" membership; and (v) any other revenue generated in connection with the event, shall be retained 100% by AVP.

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

X. TERM. This Agreement shall be effective for a period of one (1) year commencing with the 2003 Manhattan Beach Open. Set up for the event will begin on the Monday prior to the event. The event, including the qualifier, will be on Thursday, Friday, Saturday & Sunday of the agreed upon dates and breakdown will be completed by 6:00 P.M. on Tuesday, August 12, 2003.

XI. REPRESENTATIONS AND WARRANTIES.

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

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

XII. USE OF TRADEMARKS OR SERVICE MARKS. CMB hereby grants a limited license to AVP, for the 2003 Tournament only, to use of the name "Manhattan Beach Open." CMB expressly reserves to itself all other rights to use of the name "Manhattan Beach Open" which the parties hereto acknowledge is the sole property of CMB. Except as expressly provided herein, neither party shall have the right to use in any way the corporate or trade name, trademark(s), service mark(s), logo(s), or other identification of the other party without its prior written consent.

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

XIV. INSURANCE.

A) Commencement. AVP shall not commence activities under this Agreement until it has obtained CMB approved insurance. Before beginning any activities hereunder, during the entire period of this Agreement, for any extensions hereto, and for periods after the end of this Agreement as indicated below, AVP must have and maintain in place, all of the insurance coverages required by this Section XIV. AVP's insurance shall comply with all items specified by this Agreement.

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Any subcontractors of AVP shall be subject to all of the requirements of this section XIV. and AVP shall be responsible to obtain evidence of insurance from each subcontractor and provide it to CMB before the subcontractor commences work.

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

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

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

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

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3) WORKERS' COMPENSATION INSURANCE - a policy which meets all statutory benefit requirements of the Labor Code, or other applicable law, of the State of California. Employer's Liability Insurance with a minimum limit of not less than one million dollars (\$1,000,000) per claim. The policy shall contain, or be endorsed to include, a waiver of subrogation in favor of CMB.

C) Additional Requirements. The procuring of such required policies of insurance shall not be construed to limit AVP's liability hereunder, nor to fulfill the indemnification provisions and requirements of this Agreement. There shall be no recourse against CMB for payment of premiums or other amounts with respect thereto. CMB shall notify AVP in writing of changes in the insurance requirements. If AVP does not deposit copies of acceptable insurance policies with CMB incorporating such changes within sixty (60) days of receipt of such notice, AVP shall be deemed in default hereunder. Any deductibles or self-insured retentions must be declared to and approved by CMB. Any deductible exceeding an amount acceptable to CMB shall be subject to the following changes:

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

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

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

CMB agrees to indemnify, defend, and hold harmless AVP and its elective or appointive boards, officers, agents, attorneys and employees from any and all claims, liabilities, expenses, or damages of any nature, including attorneys' fees arising out of, or in any way connected with performance of, this Agreement by CMB, CMB's agents, officers, employees, subcontractors, or independent contractor(s) hired by CMB, including, but not limited to, any legal action challenging the

CMB A. J. AVP ASL

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validity of the event or the permits therefore. This indemnity shall apply to all claims and liability regardless of whether any insurance policies are applicable. The policy limits do not act as a limitation upon the amount of indemnification to be provided by CMB.

XVI. INDEPENDENT CONTRACTOR. CMB and AVP shall each be and act as independent contractors and under no circumstances shall this agreement be construed as one of agency or partnership between CMB and AVP. Each party acknowledges and agrees that it neither has nor will give the appearance or impression of having any legal authority to bind or commit the other party in any way other than as authorized by this Agreement. Nothing in this Agreement shall be construed to create a joint venture between the parties hereto or to obligate either party for debts or obligations incurred by the other party in the performance of this Agreement.

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

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

If to AVP: AVP
Attn: Chief Operating Officer
1600 Rosecrans Avenue, Building #7, Suite #310
Manhattan Beach, CA 90266

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

XIX. LIMITATION ON ASSIGNMENT.

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

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

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

XXI. COMPLIANCE WITH THE LAW. Should it be determined that this agreement or any provision hereof violates any federal, state, or local law or regulation, then the parties shall promptly modify this Agreement to the extent necessary to bring about compliance with such law and/or regulation; provided, however, that if such modification would cause this Agreement to fail in its

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essential purpose or purposes, it shall be deemed cancelled by mutual agreement of the parties and neither party shall have any further obligations or liabilities with respect to this Agreement.

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

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first written above.

CITY OF MANHATTAN BEACH

BY: [Signature]
DATE: _____
TITLE: _____

APPROVED AS TO FORM:

[Signature]
City Attorney

ASSOCIATION OF VOLLEYBALL PROFESSIONALS, INC.

BY: [Signature]
DATE: 2-7-03
TITLE: COO

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CMB [Signature] AVP [Signature]

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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



FEB 21 2003

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

CALIFORNIA COASTAL COMMISSION

SECTION I. Appellant(s) WILLIAM VICTOR

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

POST OFFICE BOX 24A72,
LOS ANGELES, CA, 90024
Messages: (310) 374-0086
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: Manhattan Beach Open Volleyball Tournament with increased bleachers and much less parking than last year or years before, less traffic management (see remainder of appeal please).

3. Development's location (street address, assessor's parcel no., cross street, etc.): Closing off of all parking lots for VIP and other AVP use at Manhattan Pier and making beach south and north of Manhattan Beach Pier virtually inaccessible to summer weekend beach goers, violates CLUP and LCP, CEQA etc.

- 4. Description of decision being appealed:
a. Approval; no special conditions: X
b. Approval with special conditions: X
c. Denial:

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

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-5-MNB-03-075

DATE FILED: 2/21/03

DISTRICT: South Coast/Long Beach

H5: 4/88

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EXHIBIT # 7

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

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

PLEASE SEE ATTACHED SHEET-SHEET #1 also:

1. the CLUP and LCP are violated by this event more detail will be supplied in supplemental filing(s);
2. Coastal Act 30251 thru 30254 et al are violated; public access policies, violations of State Law (and Federal) including but not limited to State Constitution, Article 10, PRC 30251 thru 30254, 5002;
3. This event more than any prior event will interfere with the scenic integrity of the California Coast -as recently as the 2002 event, the Police, including a Sgt. Harrod, failed to enforce limitations on the banners, and while unable to count, the undersigned understands that 2002 was closer to the over 300 banners, inflated beer cans over thirty feet high, and signs than anyone concerned with the overcommercialization (other than City Council VIPs) would want!(Continued sheet#1)

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

SECTION V. Certification

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

W. Victor

Signature of Appellant(s) or
Authorized Agent

Date

2/16/03

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VICTOR SHEET #1 CONTINUATION SHEET

4. The event is not exempt from CEQA under the sections noted in the Staff report and it is not accurate to state there was no degradation or alteration to the condition of land; additionally, it can be proven and will be proven that there was substantial damage and interference with the bike path at different location throughout the bike path as a result of last years AVP joint venture with the City of MB; see memorandum dated 1/13/2003 from MB Maintenance personnel,

5. This event takes, according to the permit application from August 4 through 12, and is not just one or two days, as stated by the less than arms length joint-venturer-partner, the City of Manhattan Beach;

6. Although the draft agreement for 2003 available to the undersigned and approved February 4, 2003 (Par I (f)) states no admission shall be charged, the AVP sponsored internet site available on February 6, 2003 pages three and four feature "Reserved Sand Seating - 4 such seats for \$500 or \$125 per seat plus invitations to one or two parties etc. The public who have requested information are not being told how many VIP seats are being reserved.

This is exactly the type of commercialization and exclusion from the "sand" that numerous citizens have been and are concerned with. Many people who go to the beach in California do not want to PAY for the privilege of going to the beach or beaches. (See Exhibit A copy of page three of AVP internet AVP VOLLEYBALL TOUR which appears to have an incomplete instruction to the MB shuttle on the side and no map). The agreement and telephone calls to the City staff, and the staff reports do not reveal the number of VIP seats which will be used to exclude for pay others from use of the beach- See par I.G. of the "Agreement" between the co-venturers;

7. No adequate traffic or parking plans appears to be available-See Exhibits B and C which indicate that as of February 16, 2003 both the AVP MB open Tournament and the Grand Prix Bike Race will be held; that on top of the fact that the Metlox convention center broke ground already this month and parking is insufficient for the community without visitors; certainly there is no plan for visitors and there was no evidence that the shuttle attracted any use last year although the Coastal Commission requested and the co-venturers here had promised that such statistics would be kept along with good effective advertising for the shuttle; Banners in downtown once visitors get downtown are probably not sufficient; radio and ticket stubs have not been effective; Metlox lot of 155 spaces was closed this month and will be closed during the event as other spaces have been removed from

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VICTOR APPEAL SHEET CONTINUATION # 2

the Coastal Zone near the event in recent months (some in preparation for the Metlox convention project);

8. Construction equipment will fill much if not all other available parking for beach goers; there is no traffic plan showing how that will work; the civic center lots have become more limited and meters have been placed there without coastal commission applications where there were no meters before;

9. This plan, permit and agreement amount to turning this Manhattan Beach coastal zone into another commercial zone; the protection to avoid this cannot safely be left in the hands of the local officials, many of whom do not care about protecting the use of the beach for the California citizens, which is part of the goal of the California Coastal Act; they appear more interested in being invited to the exclusive use of VIP tents, dinners, photo opportunities with the star athletes; there are many beach goers including the undersigned who are enamored with playing and watching good volleyball but who do not wish to commercialize the beach or exclude its use or access from people who equally deserve to use it in California but who may not have \$125.00 per person to pay for that right.

10. The estimates of 4500 seats plus the unstated number of seats on the pier is just one more example of putting this into the hands of the local Manhattan Beach government/enforcement officials. The Coastal Commission must intercede-it is an access and safety issue for the pier to be used for unlimited sizes of bleachers and number of seats;

11. It was also stated that the AVP alone was to apply for the Coastal permit for the Pier bleachers and there is no evidence of that;

12. This event affects littering, excessive advertising, blaring PA systems, uncontrolled, unlimited, unenforced advertising of products such as beer, hustler magazines, sometimes condoms. This continues for more than 8 days which is a big portion of the summer days for some families at the beach as well as the residents, tenants, property owners who relied upon a wholesome environment for the beach, their families and children;

13. Four parking lots are taken away for advertising trailers and excluding use for the beach goers;

14. The 9/95 deed of Manhattan State Beach to LA County prohibits "expanded commercial development"-This 2003 event most likely expands the seating beyond what has been allowed by the Coastal Commission in the past; this combined with the less parking due to the Metlox fiasco will be an unfair hardship on those who have relied on the Coastal Commission for protection in use of the California Beach resources:

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15. THE CITY OFFICIALS AND COUNCIL MEMBERS BENEFIT PERSONALLY FROM THE EVENT. THIS PREVENTS THE CITY FROM EXERCISING THE REQUISITE INDEPENDENT JUDGEMENT IN REVIEWING THIS PERMIT APPLICATION. It is uncontroverted that The City Councilmembers and City Staff were the recipients of free tickets and passes to VIP seats, events, parties, and in some years past (although it is claimed that only Council members were recipients of such last year) 100s of free tickets/passes to events along with "photo opportunities". To make matters worse (or better for the city to overlook some of the important negative consequences of this event - as for example required under CEQA), free hospitality tents, now called VIP tents, with entertainment exclusively for these invitees at \$1000s of dollars of expense are used to exclude all other normal users from the beach and parking areas for days of gourmet breakfasts and gourmet luncheons CERTAINLY INVITING EACH AND EVERY COUNCIL MEMBER WHO DECIDES ON THE FINAL COUTCOME OF THE APPLICATION; one can only imagine that the police are not likely to enforce (or selectively enforce at best) advertising limitations, crowd limits or parking availability in this situation; the Coastal Commission's involvement is sorely needed here. While in the past the City made available the VIP list, it is understandable now why the City is keeping it a secret and refuses to supply it to those who ask under the public records act which it and its City Council and City Manager only use as and only partially as it suits the Council and Manager.

16. It is intended that this appeal will be supplemented at or before any scheduled hearing(s).

17. This event/ permit application represents a "permanent" rather than a temporary event in view of the fact that the City grants it with no attention given to mitigating impacts noise levels, safety, interference with emergency response, additional vehicular traffic, less parking than ever before, hazards to motor vehicles, bicyclists, pedestrians, cumulative impact on the area together with over 100 events in the normal summer calendar and two major events on the final day. No wonder the City Manager claims he has insufficient funds for minutes (and it appears that no one cares) and he makes records unavailable to those who ask. Therefore, as it affects all of the above, including but not limited to coastal access, scenic integrity of the coast, safety and this permit must be denied since a major portion of the beach-going recreational use of the Coast will not be protected as required and this will geometrically set a precedent which will impair the objectives of the California Coastal Act for many years to come. (continued onto next page)

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Governor Davis has recognized the wonderful and necessary job this Commission has done over the past thirty years. It would be tragic to let all this wonderful and difficult work go to waste. Thank you for your consideration. *W. Victor*

Respectfully, W. Victor

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Competition and show off your remote control car skills. Also sign up to win courtside seats in the Nissan trucks!

XBOX Competition

Visit the Xbox tent to win King of the Court seats for Saturday and Sunday's Finals Matches.

Stop by Beaches Bar and Grill (at MB Pier head) and compete to win an Xbox and other giveaways.

CuervoNation Interactive Zone

Visit the CuervoNation Interactive Zone and participate to win autographed volleyballs and a trip to CuervoNation with AVP stars. Trip winners will be announced Saturday and Sunday.

Activities include: Cuervo Twist, Liquid Volleyball, Cuervo Margarita Tank, CuervoNation Power Alley Relay, Volleyball Trivia Contests, and more.

AVP Fan Parties

Thursday, Friday, Saturday & Sunday

- Beaches Bar and Grill – AVP Headquarters

Local Sponsor Packages

Call AVP 310-426-8000 ask for Denise

Reserved Sand Seating Local Sponsor Package # 1
\$500 (Saturday and Sunday Includes):

- 4 Reserved Courtside Sand Seats
- 4 Clubhouse Passes (Free food & drink)
- 4 Guests to Saturday Night Player Party

Reserved Sand Seating Local Sponsor Package #2
\$500 (Saturday and Sunday Includes):

- 4 Reserved Courtside Sand Seats
- 4 Clubhouse Passes (Free food & drink)
- 4 Guests to Saturday Night Player Party
- 4 AVP logo Beach Chairs

**KMPC 1540am "The Switch
AVP Beach Volleyball Hour"**

Thursday 7:00 pm - 8:00 pm
(PST)
Beaches Bar and Grill (MB Pier head)

Weekly, one-hour, talk radio show focusing on the new AVP: its stars, its events, its future. Hosted by the greatest name in Beach Volleyball, Karch Kiraly, Sinjin Smith; ar

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runs approxin
20 minutes.

Map and Online Driving Directions:

Harry A. Ford, Jr.

54 Villia Circle, Manhattan Beach, California 90266-7222 USA

Phone: (310-546-5117)

E-mail: HarryFordManBch@aol.com

Wednesday, February 19, 2003 – Hand Deliver to Long Beach Coastal Commission Office on Friday, 2/21/03

Re: Appeal of City of Manhattan Beach Application No. 5-MNB-03-020; Local permit # CA-03-1, for the 2003 AVP Manhattan Beach Open Volley Ball tournament:

Appeal Form Section IV. Reasons supporting this appeal.

I think the Manhattan Beach Open is a great tradition for Manhattan Beach, and when the AVP came back in 1999 with a plan for only 1,500 bleachers, one parking lot used, 2 tournament days, 3 set up days, and one breakdown day many of the negative impacts on beach access were mitigated. However, this event and the many others during the summer take place in a small commercial area with limited parking, that is surrounded by thousands of residential units. Last year the event had grown significantly since 1999 and there were unmitigated issues with the event. This year the entertainment event is even larger than last year with bleachers on the Pier, more parking lots requested, no traffic plan, and an inadequate Coastal Development Permit to address the items in the LCP, LUP, etc. Where is the parking and traffic plan for this event and the Grand Prix bicycle race (10,000 people – CEQA analysis) that are again scheduled on the same weekend this year per the City calendar, but not mentioned in the staff report (That event, which is partially in the Coastal Zone, by itself in the past has caused traffic congestion, street closures, and parking impacts with no shuttle)? What is most concerning is that during the Metlox construction additional parking spaces will be lost (net 77 lost spaces), and that there is not a plan for the many temporary events and their cumulative impact on traffic, parking, and beach access during the 10 month Metlox parking structure construction through October 2003.

I would urge the Coastal Commission staff and the Coastal Commission to find that a substantial issues exists and provide changes to this Coastal Development permit, as well as for other events over 1,500 persons in the Coastal Zone during the Metlox construction to maximize beach access, and to minimize the negative impacts to the thousands of residents that surround the Pier area and those that use the beach in the summer. Thanks for your consideration of my comments and suggestions. Because of my limited time, I basically updated the letter I provided to Council on 2/4/03 for issues related to the LCP, LUP, CEQA, etc, and thus it is not in as organized format as I would have preferred.

- 1) 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.B.1. The City shall encourage public transportation service to mitigate excess parking demand and vehicular pollution. Policy 1.C.2. The City shall maximize the opportunities for using available parking for weekend beach use. Program II.B.14: Provide signing and distribution of information for use of the Civic Center parking for beach parking on weekend days.

Parking: The staff report of April 2, 2002 said "Also, the AVP will be providing a shuttle service to and from the event on both Saturday and Sunday and will advertise the shuttle availability through street banners."

- a) The street banners did not advertise the shuttle service (picture provided). The window signs did not advertise the shuttle service. The Easy Reader supplement indicated – Driving: From the South: Take the 405 North, exist at Artesia Blvd. and go West. Proceed to Sepulveda (PCH) and go right. Go to Manhattan Beach Blvd. and turn left. Go to end. Did the AVP web site contain the Shuttle service (ask AVP to provide; I already know)? The City did not have any statistics to show that the usage of the parking shuttle was successful. Where is the parking plan? The Coastal Development Permit should

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provide for a specific parking plan for the event which minimizes the use of beach lots which have grown from one in 1999, and provide more specifics for the shuttle including monitoring and reporting.

- i) This year's Agreement does not have any specific requirements for advertising, nor verification by City staff that the AVP have complied with the contract. Why isn't the contract specific as to the advertising for the shuttle for the event (Street Banners, window signs, City and AVP web sites, Easy Reader supplement, radio, etc.). Who is going to interpret "Adequately advertise (including radio advertisements)"? In general the contract provisions are very weak, especially considering the past issues. Where is the requirement to provide statistics on the usage of the Shuttle?
 - ii) The 2/4/03 staff report indicates – The City will be running a shuttle from the TRW parking lots to downtown every 15 minutes. The AVP will pay for all costs associated with the shuttle and it's promotion. The contract I) says the AVP shall provide...to run a shuttle bus service??? Which is correct? Who is going to monitor and enforce, and provide shuttle statistics? Who is going to make sure the effective advertising takes place?
- b) There was no parking and traffic plan for the event, although there are significant impacts.
- c) There was no CEQA analysis in the Community Development Dept. file so how was the determination there was no impact arrived at? There was no CEQA analysis of the traffic and parking impacts. The AVP event has seating for 4,500, the Grand Prix bicycle race has per newspaper reports 10,000 people (with Saturday registration), yet according to the 1997 Downtown Parking Plan there are only around 1,200 public parking spaces on the street and in lots. Don't you think this might have an impact on the primary residential area in and around Downtown? Isn't this a violation of CEQA?
- i) The amount of parking Downtown is even reduced during the Metlox Construction. On a net basis the City is losing 77 spaces (155 Metlox and 15 on H20, plus 100 spaces at Live Oak Park, less 7 spaces on Morningside Drive that are marked no parking) or about 6% of Downtown public parking.
 - ii) The City has no Downtown parking map or signs to guide the public to the new parking. Why isn't there a map on the City web site? As of 2/20/03 there was no signage to the new Live Oak parking on Manhattan Beach Blvd. which replaced the Metlox temporary parking that I saw.
 - iii) The new Live Oak parking is in an area that is blocked off by the closed Valley street for the Grand Prix bicycle race. Parking along Valley and Ardmore is closed off during the Grand Prix event.
 - iv) There is no provision disclosed about a shuttle being required for the Grand Prix bicycle race, which has 10,000 people, and 1000 cyclists (refer to press release). Also, pre-registration for this event is on Saturday.
 - v) There were no numbers that showed the actual usage of the regular and VIP shuttle, nor any requirement in the contract they be reported, nor where the VIP shuttle stopped. *PPKWC NOT ON STTC PLAN.*
 - vi) There was no provision for the electronic traffic signs even though they have been used in prior years (note: the 2002 billing did not show where the AVP was billed (waived) for the direct costs of setting up and taking down and operating these electronic traffic signs).
 - vii) An E-mail from Laurie Jester on 1/31/03 in response to my questions on the Traffic and Parking Management Plan for Metlox indicated it was not available, so it is impossible to tell whether it addresses traffic and parking during the many special events during the summer while the Metlox construction is going on. The CDP should require the Metlox parking plan to take into account any large events in order to maximize beach access and parking, and minimize traffic issues. An E-mail

to the Coastal Commission and City that indicated that there appeared to be issues with the City parking management plan not being followed. This will not maximize public parking during the Metlox parking construction. A CD-R of pictures was later provided to the Commission staff.

- viii) These same issues apply to other large events at the Beach during the summer while the Metlox construction is going on like the Surf Festival in the previous week. Why shouldn't the CDP require shuttle parking for all events over 1,500 persons like the proposed 3/97 LCP amendment? According to Exhibit I provided for the Metlox EIR the LA County lifeguards statistics for 2000 show 508,500 visitors at the Manhattan Beach Pier (16,950 per day, with weighting to the weekends that is 50,000 per day in an area with 1,200 public parking spaces before the 6% reduction during the Metlox construction). That is why it is critical that CDP for all beach events in the summer be maximized, and shuttle usage maximized to minimize the impact on the 1000's of residential users that surround Downtown. I did my own survey of parking on the Friday before Metlox construction started at lunchtime, and using the same methodology as the 1997 Downtown parking study, parking was over 100% utilized. This is the middle of the winter, albeit was a nice day.
- d) The proposed LCP amendment the City went through in 1997 included a common sense provision for a traffic and parking plan for events over 1,500 people (copy attached to materials provided for public hearing). This is in other cities LCP's and temporary event regulations. Why hasn't the City included that in their CDP analysis, and contract and staff report especially considering the conflict with the Grand Prix bicycle race on the same day? I notified the City of a conflict & didn't hear back from them.
- i) A.96.155 C.4. If the expected attendance at the event exceeds 1,500 persons on any day, measures to effectively serve beach access are provided, including, but not limited to the provision of alternative parking and a beach shuttle service, and an interim traffic control plan. Such measures shall be adequately publicized by ticket sales, incentives, signs, radio, and other measures required by the Department of Parks and Recreation or the Community Development Director. A specific description of the measures to be used are included in the Coastal Development Permit as conditions of approval.
- ii) There are other application requirements (A.96.075) and findings (A.96.155) that were included in that City LCP amendment. Why doesn't the City adopt those common sense requirements, and the Coastal Commission require them during the Metlox and Safety facility construction? The application and findings for this event are clearly not in compliance with the LCP amendments which the Coastal Commission applies to other cities. That LCP amendment also required a sunset review in three years. The time has passed this year. This is especially important as the City did not, and was not required, to update their out of date 1997 Downtown Parking Management Study.
- iii) A.96.155.C.1. indicates - A specific requirement for a minimum fifteen (15) foot wide access way to the Pier is included in the Coastal Development Permit as a condition of approval. It is difficult to tell from the site plan whether there is a 15 foot pathway on the Pier and beach. This year with the bleachers on the Pier will there be a 15-foot opening? Does the City really need to crowd the Pier plaza with Nissan Beach Cars and tents and ARROWFM sound system that are not on the site plan?
- iv) Last year there was a Mervyn's set up on the SW Pier parking lot that was not on the site plan. It had a sound system right next to the bike path. It covered over a handicap parking space. Is there a written policy and procedure for handling handicap spaces? I didn't see anything in the site plan, or where a handicap viewing space was provided for on the Pier (issue in prior years).

- 2/13/03
- 2) Disclosure of direct and indirect costs, and fees waived per Code and Agreement. It was only yesterday that I received from Parks and Rec. the schedule of AVP; August 8-11, 2002 Department Charges. There are a number of questions that arise as a result of the detail.
- a) The Feb. 4, 2003 staff report that the anticipated City costs are \$17,000 and that the AVP will reimburse the City for all of it's direct costs associated with the event, except for \$3,000 in parking fees. The 2002 schedule (attached) indicates that there was \$24,642.51 of costs, less \$6,500.00 of waived fees, for a net balance due of \$18,142.51. What is the difference? There is no disclosure in the staff report that the AVP paid all fees, as in the 2002 staff report of \$17,366.50. CDP fees not shown on 2002 schedule?
 - b) I had previously sent an E-mail dated 2/1/03 questioning why the June 4, 1996 City staff report from James Wolfe indicated "The Council has allocated a total of \$50,000 for in-kind services and direct expenses for the 1996 Manhattan Beach Open." "Negotiations with the AVP have resulted in an allocation of \$33,546 for City related expenses with the balance of \$16,544 applied to AVP costs for the Tournament." The City has not explained why there is such a large difference? Is the AVP and the disclosures in the staff report, a for profit company, being handled consistently as all the non-profit organizations that ask for waived fees from the City? If not, why not? Why not prioritize all at once?
 - c) The 4/2/2002 staff report indicated "The AVP will be responsible for securing all County and City permits." The contract this year only indicates that the AVP is responsible (H) for County permits. Why is there a change and why isn't it disclosed? The contract indicates - The CMB shall coordinate all necessary city permits, including but not limited to permits for merchandise sales, if any, as approved by the city council, television cameras and volleyball competition. No city fees shall be charged for said permits unless there is a direct cost. Of course last year the 30 items I asked about were not permitted, and thus not paid for. Why shouldn't the City disclose all fees that have been waived, like other non-profit events? Who is responsible for this list? If no one has a list how do the Police know whether a permit was issued or not? Based on the response to my request for public records this was not done last year. Who is responsible this year?
 - d) Overtime compensation and other fees from City Resolution of Fees: Even though the City security (Police ?) and Parking (CSO?) staff are shown working up to 13 hours on Saturday, and 10 hours on Sunday based on the resolution of fees (copied below) it does not appear that any overtime was billed to the AVP. Why not? Isn't this a direct cost to the City? Why isn't the City billing the rates at the time the event is in effect (8/2003)? See below for rates in resolution of fees.
 - i) Thursday and Friday Security, compliance, and parking: The event schedule (included with materials) has events from 7 am on Thursday to 7 pm. Friday events are from 8 am to 3 pm. The police dept. charges for last year don't include any charges for these days.
 - ii) Reimbursement of Parking for Manhattan Beach Blvd. Normally MBB is closed at Manhattan Ave. on Sunday. For example last year there was a car parked in the 24-minute meter by Skechers with no money paid and an NBC sign in the window. Are the CSO's enforcing parking in this area for public access and the two hour, or 24-minute limit. If this is being used all day for event parking then why isn't it part of the contract and fee schedule? This area is not in the CDP, but is regularly closed off for traffic control. Isn't this enforcement needed to maximize public parking for the Beach, thus why not in the CDP?
- 3) Skydivers provided for in Contract: Is this something new? Not disclosed in staff report. Any security or safety concerns or extra costs? Is this permitted by County on their beach and FAA on public beaches? What is the Coastal Commissions position?

4) Exclusive Use of the Beach versus Free Public access: Copied from Contract - G) *VIP tent and VIP seating shall be provided by the AVP as follows: (i) There shall be one (1) center court elevated VIP tent and one (1) sand VIP/"AVP Beach Club" tent; (ii) VIP/"AVP Beach Club" "riser" seating along one sideline and up to two (2) end zones; (iii) one (1) end zone bleacher reserved for VIP's, corporate sponsors, etc. All other seating shall be available to the public. Any additional center court VIP tents and/or seating will be subject to CMB approval.*

a) The City's proposed LCP amendment as approved by the Coastal Commission includes a common sense requirement that is in other Cities LCP's related to temporary events to maximize public access. Why doesn't the City include this in the Contract with the AVP with enforcement provisions?

i) A.96.155 C.2. The event includes a parking plan which minimizes exclusive use of public parking spaces in the area located between the beach and Manhattan Avenue by allowing the exclusive use of public parking spaces to only those vehicles deemed essential to the operation of the event. A specific description of the parking plan is included in the Coastal Development Permit is a condition of approval.

b) Are any City council members, City employees, agents, etc. getting last year or this year VIP usage for the event? If so, why not disclose like the 1996 list (attached before). I have asked and not gotten any list.

c) At last years event there was a yellow plastic sign on the police barrier by Beaches that indicated AVP VIP parking with a person with a list. Are any City employees getting VIP parking, and if so why not disclosed? Where is the AVP list of those vehicles parking in this space? I have provided a new picture I took that shows what look like a number of private vehicles parked in the area, as well as some I observed in the NW parking lot. If all these vehicles are not essential to the event and people cannot be shuttled in, then why isn't the CDP more specific as far as controlling these vehicles with documentation of the usage of all beach spots, including handicap spots west of Manhattan Ave.?

d) Is there a VIP shuttle service and parking and if so are there any City employees who are part of the program? Why isn't there full disclosure of City employees that may be getting VIP privileges. On the 1996 list Bob Wadden, the City Attorney, returned his tickets. Why isn't the VIP shuttle (by Beaches) on the event site plan and parking and traffic plan? It appeared like there was a Valet at this location.

e) Are there any other exclusive uses that are not shown or disclosed?

f) What is the seating capacity for each of the various VIP areas? Bleachers? VIP Tent? Why doesn't the Site plan show the VIP seating on the sand? What percentage of total seating? Why no seating count?

g) The AVP web site included a section for Local Sponsor Packages. The contract does not address who is getting the revenue from selling the sand. Isn't the charging of admission a violation of the LCP? Does the AVP or the City have details of who was using the reserved courtside sand seats that are not available to the general public? What does the event video I have not been able to get from City staff show, as well as the publicity photographs? Is this in accordance with the LCP and MBMC? LCP Policy – The Beach shall be preserved for public beach recreation. Here is the information from the AVP web site (copy provided in materials):

i) Local Sponsor Packages

Call AVP 310-426-8000 ask for Denise

Reserved Sand Seating Local Sponsor Package # 1
\$500 (Saturday and Sunday Includes):

- 4 Reserved Courtside Sand Seats
- 4 Clubhouse Passes (Free food & drink)
- 4 Guests to Saturday Night Player Party

Reserved Sand Seating Local Sponsor Package #2
\$500 (Saturday and Sunday Includes):

- 4 Reserved Courtside Sand Seats
- 4 Clubhouse Passes (Free food & drink)
- 4 Guests to Saturday Night Player Party
- 4 AVP logo Beach Chairs

- 5) Inflatable(s): The 4/2/02 staff report indicated - three inflatable advertisements placed at the southwest and northwest locations of the event. The contract this year provides for up to 6 inflatables. There is no discussion in the staff report in an increase in the number of inflatable. Why not? Since these signs are specifically prohibited by Code, shouldn't they be noted on the site plan? The 2003 site plan only shows 3 inflatable, so where are the others? On top of Beaches and Shellback, but not shown? The inflatables also partially block the view of the event, etc. from the Pier. Make the contract consistent with the site plan. The views of the Coast are not enhance with prohibited inflatable signs and redundant signage. Section 10.72.050 A. Temporary Signs. 5. Temporary signs shall be prohibited on building roofs and shall not cause unnecessary repetition, redundancy or proliferation of Signage. The CDP should include this wording to maintain the views of the Beach and surrounding areas.
- 6) Agreement Issues: Normally when you have an agreement where you have issues in the past you tighten up the wording and enforcement provisions so that any issues are resolved. That is certainly not the case in this contract. There is not even an enforcement provision. The CDP should have enforceable provisions, with monitoring, that demonstrate that the Coastal Act is being followed so the AVP, and other event issues like the 6 man volleyball (refer to City event application and articles in the local papers) are addressed and resolved. What happens if the AVP does not comply with the Agreement, like last year with signs, etc.? Who at the City is responsible for compliance with each section of the Agreement and for putting documentation in the City file that the AVP responsibilities are abided by? Has the City attorney recently reviewed the contract to insure it is in the City's best interest in light of issues that have been raised in the past? There should be a clause the prohibits changes from the site plan without written approval of the Director of Parks and Recreation (include in one file with all the permits, etc.).
- a) For example if the AVP doesn't advertise the shuttle on the street banner, what happens? What happens if all the trash and signs are not removed from the event by the deadline and who is responsible for signing off that it is? The comments on last year's event in the City file did not include any of the comments I made to Code enforcement or Parks and Recreation. Who is responsible for gathering and organizing the complaints (see lessons learned section) in order to improve the event each year? The contract doesn't mention anything about the AVP VIP parking that was on the yellow sign on the police barrier? Why not written policies and procedures after all these years (6 man volleyball similar issues)?
- b) The contract doesn't require any reporting of shuttle usage. The contract doesn't require any listing of vehicles to insure only the minimal public parking space at the Pier is restricted. The contract doesn't provide that the City is required to make a list of all waived fees that would normally be charged.

- c) The contract doesn't provide for one person to be on site with all relevant documentation (no hours specified as to when event director is to be on site – this is part of the issue during set up and take down. According to the charges schedule no security or parking was billed for any days other than Sat. and Sun. but there items schedule from 7 am to 7 pm on Thursday, and 8 am to 3 pm of Friday). The agreement doesn't require the Director to provide a list of issues relating to compliance with the Agreement (use for lessons learned to improve the tournament).
- d) The contract doesn't specify how many amplified sound systems are allowed. The plans don't show where they are located. If the Mervyn's sound system is right next to the Strand it is going to be noisy even if facing west (not on plan). Was the ARROW93 FM sound system on the Pier Plaza facing west?

7) Compliance with Title 12; Beach activities. Why doesn't the staff report indicate that the Agreement and operation of the event are in compliance with Title 12, or say where it is not in compliance and get a waiver from the Council and include it in the Agreement? The CDP should require the City to be in compliance with Title 12. No business licenses were mentioned in the Agreement or summary of fees paid by the AVP.

a) Section 12.08.130 Guy wires.

No person shall fasten or maintain any guy wire, guy rope or exterior bracing or support of any tent, lodge, shelter or structure between it or any portion thereof, and any structure, stake, rock or thing outside of such tent, lodge, shelter or structure unless otherwise first approved by the City of Manhattan Beach.

(Ord. 1253 eff 9/2/71; Ord. 1930 eff 7/20/95)

b) Section 12.08.260 Solicitation or peddling.

A. No person shall solicit, peddle, sell, or offer for sale any goods, wares or merchandise in any portion of the City lying westerly of the easterly line of The Strand except upon the pier or wharf and in the pavilion building thereon.

B. No person shall solicit, peddle, sell or offer for sale any goods, wares or merchandise on the pier at the foot of Manhattan Beach Boulevard in the City without first having obtained a permit therefor from the Council.

C. During major volleyball tournaments on the beach at the Manhattan Beach pier, when recommended by the Department of Recreation of the City, food sales will be allowed with Council permit, but subject to the following conditions:

1. Sales will be allowed on sand only from established booths located within one hundred (100) yards of the south edge of the pier, and only on the south side. No vendor shall conduct any sales or dispense merchandise from a location outside of a booth.

2. Liability insurance must be provided with the City named as also insured and to the limits recommended by the City Risk Manager.

3. The City's hold harmless and contract endorsement forms must be signed by the seller.

4. Any booth shall consist of a ten foot by ten foot (10' x 10') structure (approved by the Fire Department). Any booth shall be dismantled and completely removed from the beach within two (2) hours of the conclusion of the event.

5. All vendors shall have a valid City of Manhattan Beach business license. *? NOT ON SCHEDULE OF FEES COLLECTED?*
 (Ord. 1822 eff 7/19/90)

8) Manhattan Beach Pier Operating Agreement, October 25, 1988: Neither the staff report or the contract provide that all required approvals from the State of California per the Operating Agreement have to be obtained. Why isn't this mentioned in the staff report or contract? This seems especially applicable this year with the addition of bleachers to the Pier. In my opinion, adding the bleachers to the Pier will restrict coastal access. The Pier is often very crowded on the weekend, and putting up these bleachers will restrict the already busy flow of people. There is no indication on the site plan how wide the space is that is left. Most

of the time the bleachers won't be used, so why install? Refer to - Use of Premises section of the agreement. The CDP should include provisions to insure that the Pier is accessible to the public. Often there are booths that are not on the site plan (refer to pictures), cars parked, etc. *also missing beach signs north of pier*

- a) Resolution 5811 indicates a Coastal Development permit was also submitted by the Association of Volleyball Professionals to allow temporary spectator bleachers and related structures seating 4,500 people during the period of August 4 to 12, 2002. That permit was not part of the public hearing on the Coastal Development Permit on 2/4/03 and was not in the City file. Thus it would appear the application was incomplete. Nowhere in the site plan is there a count of the bleachers spaces, and sand reserved paid seating, that adds up to the 4,500 thus the application is incomplete.
 - b) Has the City obtained permission from the State of California to waive parking lot fees for their lots for a commercial event, and to have bleachers on the Pier? I did not see any provision for waiver of fees in the Agreement. *why aren't parking lots, valet parking, traffic barrier on Manhattan Ave, etc. shown on site, traffic and parking plan?*
 - c) The Fees section of the Agreement indicates...and that commercialization for profit shall not be engaged in by the City. Isn't the AVP selling T-shirts, etc. on the Pier and keeping the profits a violation of the agreement? This had come up in the past when the City closed the Pier to film a Cadillac commercial. There is a very detailed section on Concessions in the Agreement. *concessions on site plan?*
 - d) Audit of State Pier fund - In my materials for the public hearing I provided a findings and recommendations from the 1/6/98 State of California audit of the Pier fund; Findings and Recommendations. The City should clarify that they have responded to the audit, and indicate that the waive fees, special event invoices not invoiced, and special event and permit fees due the Pier account are being properly handled under the Agreement and that all necessary approvals have been obtained.
- 9) Lessons Learned: Considering the history of issues with this event, the CDP should have strict provisions to control the event and mitigate violations of the LCP, LUP and Coastal Act. The City Council should require that the City staff to report back to them in writing with a detailed lessons learned analysis from this years event in a regular staff report on the City Council agenda package within 60 days of the end of the event with specific issues and recommendations for the following year's tournament, and other Downtown and Beach events, as well as any recommended changes in the City Municipal Code and internal procedures. Why should the public have to deal with the same issues, year after year after year? Where are the City written procedures for handling temporary events after 40 years? The staff report indicates - Almost all the feedback from the community, the Parks and Recreation commission, and City staff was very positive. There wasn't any E-mails, letters or faxes in the file. Exactly how many positive comments did the City get?
- 10) Safety Issues: Last year and in the past there have sometimes not been crossing guards on the bike path during set up and take down of the event. In addition, there was materials piled on the Bike Path last year during take down (refer to pictures provided). The staff report should include a safety plan for the event that addresses any issues from prior years, including those raised by Juan Price in his letter in the City file (attached). The contract should specifically indicate that there has to be safety procedures for the event, including crossing guards, etc. during all periods at the cost of the AVP.
- 11) California Coastal Commission; January 15, 1998, staff report on the Major Amendment Request No. 3-97 to the City of Manhattan Beach Certified Local Coastal Program (For Public Hearing and Commission Action on February, 3, 1998 meeting in San Diego). This document is incorporated by reference into my comments. The City staff report should contain an analysis that the proposed Coastal Development Permit for this project is in accordance with all the terms and conditions of the LCP amendment passed by the Coastal Commission on February 3, 1998. Otherwise this may be the basis, along with the other items noted

above, for an appeal to the California Coastal Commission, of this permit. There was not documentation in the file with the application submitted that it is in compliance with among other things Section A.96.075 (Application Requirements – Temporary Events), Section A.96.076. Temporary Events – procedures for issuance of a Coastal Development Permit, and Section A.96.155 (Findings – Temporary Events), etc. In fact, many of the most basic provisions were ignored, like the “parking plan.” Refer to City Ordinance 1960.

12) Notice, Application and Public Hearing requirements:

- a) The materials I provided per the public hearing notice on 1/28/03 were not included in the public hearing package as they should have been (not even referenced in staff report) per the notice (Anyone wishing to provide written comments for inclusion in the Staff report, must do so by January 28, 2003). The comments were also not included in the City council package for the 2/4/03 Public Hearing. Thus there appears to be an improper hearing. I then hand delivered more materials for the public hearing to the Deputy City Clerk on 2/3/03. I did not see those materials in the Council package for the 2/4/03 public hearing but the Deputy City Clerk had indicated that several pages were copied and placed in the package, but I did not see them. They were not in the Community Development File.
- b) The application was incomplete in many respects as noted in the details. There was also not a Parks and Recreation special events application as was used in the past that provides additional pertinent information.
 - i) The location of the amplified sound systems and their speakers facing west was not shown. The location of the Valet parking and VIP parking was not shown. The size of the aisles to include beach access was not shown. The size of the aisles on the Pier were not shown. The handicap parking and viewing access location on the Pier was not shown. The paid reserved sand seating was not shown including how many spaces were reserved.
- c) Even though a number of people have been involved in this issue in prior years including appeals to the Coastal Commission, they were not added to the mailing list. On issues of this sort I would hope the City would be more pro-active in getting public involvement.

I could provide more details, but the City staff has comments from lots of residents over the last few years in their files on the temporary events in Manhattan Beach, including this one. Why doesn't the City staff summarize the prior issues, with responses? If the staff can't provide a comprehensive staff report with supporting documentation in a file for public viewing, why doesn't the City Council just continue the Public Hearing to a date when they can? I hope the Coastal Commission will provide more attention to this matter than the City of Manhattan Beach and conclude a substantial issue exists and modify the CDP to be more consistent with the LCP, LUP, 3/97 LCP amendment, and protect the residential areas surrounding the event.

Sincerely, Harry Ford

Attachments (previously provided for public hearing on 1/28/03 with attachments and 2/3/03 with attachments and 2/4/03 with attachments, and several new attachments for the Chevron Grand Prix, Picture of VIP parking and signs, 2/19/03 E-mail from Richard Gill after I had done my comments, issues with the 6 man Beach Volleyball tournament, 2/3/03 E-mail from Laurie Jester that the Parking and Traffic Management Plan for the Metlox CDP was not yet available, 11/8/2002 E-mail to Coastal Commission and City on issues with the City parking management plan that are not maximizing beach parking access as a follow-up to the Metlox CDP).

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- Mike Whitmarsh and Canyon Ceman
- Eduardo Bacil and Frederico Souza
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Event Dates

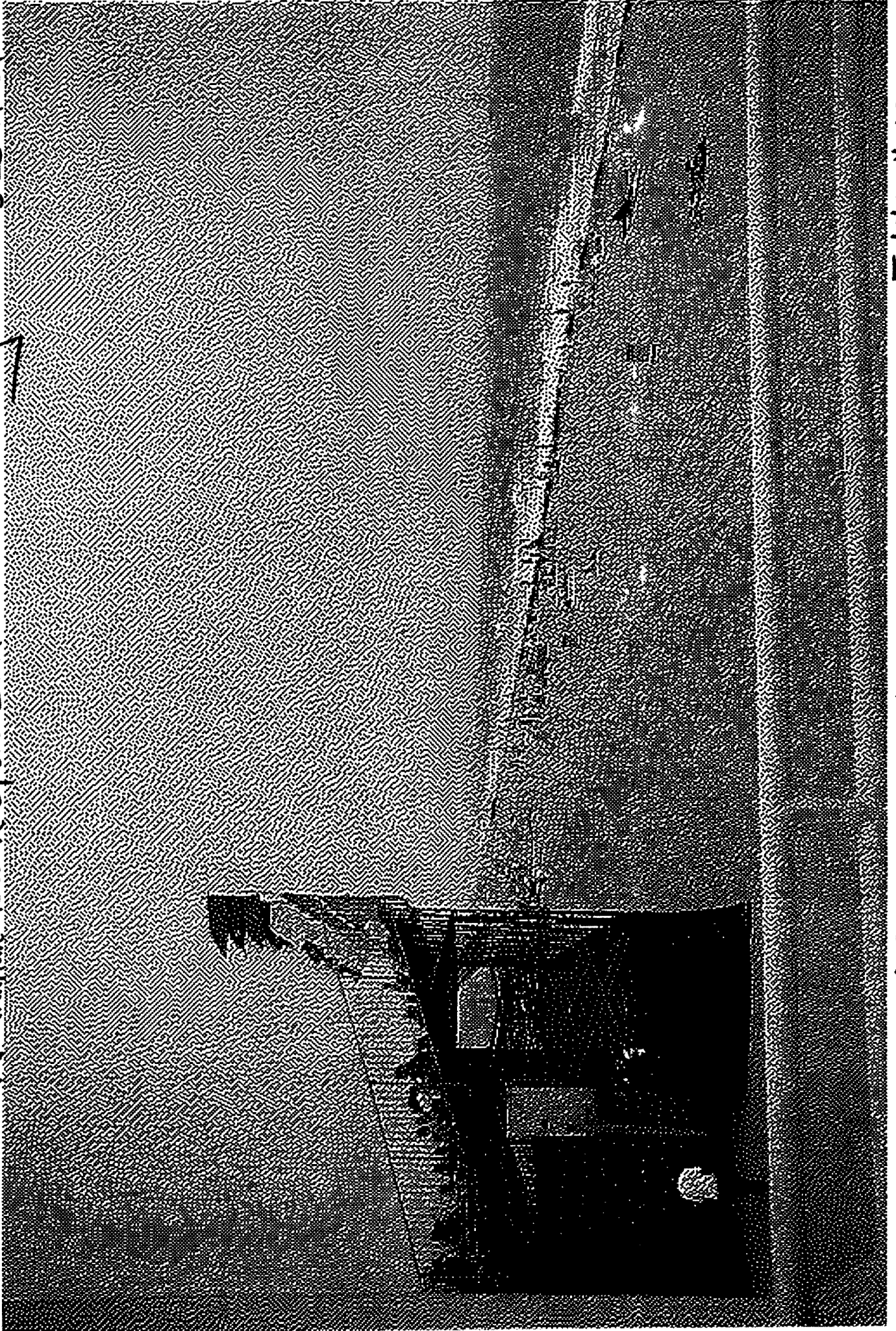
- Paul Mitchell Ft Lauderdale Open - April 4th-6th
- Tempe Open - April 25th-27th
- Hermosa Beach Open presented by Bud Light - June 6th-8th
- San Diego Open presented by Bud Light - June 13-15th
- Belmar Open - July 25th-27th
- Manhattan Beach Open presented by Bud Light - August 7th-10th
- Huntington Beach Open presented by Bud Light - August 14th-17th

COASTAL COMMISSION
AS-MNB-03-075

EXHIBIT # 9
PAGE 1 OF 1

Manhattan Beach Open 2001 - Bleacher Seating

8-25-01 CP

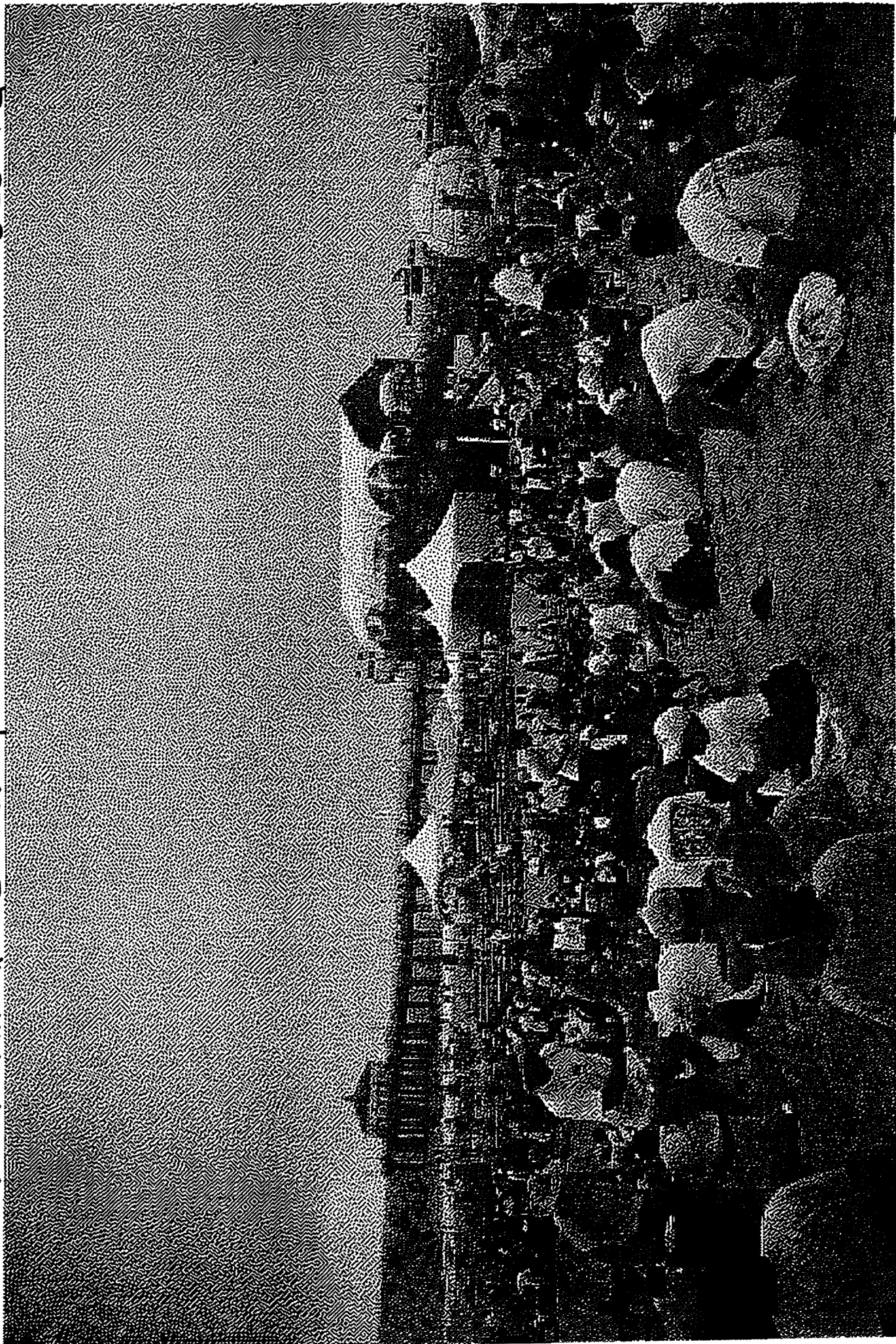


A5-MNB-01-343

Exhibit # 10

2001 Manhattan Beach Open

8-25-01 CP



A5-MNB-01-343

Exhibit #