

**CALIFORNIA COASTAL COMMISSION**

South Coast Area Office  
200 Oceangate, Suite 1000  
Long Beach, CA 90802-4302  
(562) 590-5071

Filed: 3/17/2004  
49th Day: 5/5/2004  
180th Day: N/A  
Staff: CP-LB  
Staff Report: 3/25/2004  
Hearing Date: April 14, 2004  
Commission Action:

**W8a****STAFF REPORT: APPEAL-SUBSTANTIAL ISSUE**

**LOCAL GOVERNMENT:** City of Manhattan Beach

**LOCAL DECISION:** Approval with Conditions **RECORD PACKET COPY**

**APPEAL NUMBER:** A-5-MNB-04-108

**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 2004 Manhattan Beach Open Volleyball Tournament (with temporary bleachers and related structures seating 4,500 people) to be held on the public beach during the period of May 31, 2004 through June 8, 2004 or July 5 through July 13, 2004. [Now Scheduled for June 1-8, 2004].

**APPELLANTS:** William Victor & Bill Eisen, Residents for a Quality City

**SUBSTANTIVE FILE DOCUMENTS:**

1. Local Coastal Development Permit No. CA 03-42 (2004 Manhattan Beach Open), City Council Resolution No. 5890, 2/17/04 (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.
8. Appeal/Permit No. A-5-MNB-03-075 (2003 Manhattan Beach Open), 6/11/03.

**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 only Commission meeting scheduled between April 14, 2004 and the date of the proposed event (June 1-8, 2004) is the May 12-14, 2004 meeting in Santa Rosa. **The motion to carry out the staff recommendation is on Page Five.**

## **I. APPELLANTS' CONTENTIONS**

On February 17, 2004, after a public hearing, the Manhattan Beach City Council approved with conditions Local Coastal Development Permit No. 03-42 allowing the Association of Volleyball Professionals (AVP) to conduct the 2004 Manhattan Beach Open Volleyball Tournament (Exhibit #4). After rejecting the AVP's request to hold the event over Labor Day weekend 2004, the City approved the local coastal development permit with the following two options for event dates:

May 31, 2004 through June 8, 2004  
or  
July 5 through July 13, 2004

City staff and the AVP have told Commission staff that the event has since been scheduled for June 4-6, 2004, with set-up starting on Tuesday, June 1<sup>st</sup>, the day after Memorial Day 2004 (Exhibit #8). The City has authorized the annual event in its usual location on the public beach south of the Manhattan Beach State Pier (Exhibit #2). The local coastal development permit authorizes bleacher seating for 4,500 spectators, including the general public and VIPs (Exhibit #4, p.2). Spectators are not being required to pay an admission fee, but those who do pay the VIP fee gain access to the segregated seating areas closer to the center court.

On March 17, 2004, 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 Bill Eisen, Residents for a Quality City (Exhibit #6).

William Victor's appeal essentially raises the same issues that he raised during last year's appeal because the City approved the same type of event that the Commission found substantial issue with in 2003 (Exhibit #7). He states that the permit for the 2004 event violates provisions of the City of Manhattan Beach certified Local Coastal Program (LCP) and the Coastal Act. He contends that the proposed event interferes with public access and enjoyment of the beach by usurping four public beach/pier parking lots for VIP parking during a busy summer weekend, by increasing the demand for parking at other public beach parking facilities, and by occupying a large section of the public beach for more than a week. He says, "The beach is to be shared – They do not share!" Also, he asserts that the bleachers and video board approved to be erected on the State Pier and on the beach would obstruct scenic public vistas and compromise the safety of visitors.

The appeal submitted by Bill Eisen, Residents for a Quality City (Exhibit #6) also raises the same issues that the Commission determined in 2003 constituted a substantial issue in regards to the locally approved event's conformity with the City of Manhattan Beach certified LCP and the public access policies of the Coastal Act. Specifically, last year's de novo coastal development permit for the 2003 event was issued by the Coastal Commission with a condition that prohibited the placement of bleachers, tents, fences, vehicles or other barriers to access on the Manhattan Beach State Pier. The local coastal development permit for the 2004 event authorizes the placement of bleachers on the pier (Exhibit #5, p.2). Last year, the Commission imposed a special condition that protected the public's right to access the public beach/pier parking lots by permitting the AVP to use only the bottom two public beach/pier parking lots during the event, and only one of the lots during set up and take-down. Bill Eisen asserts that the City and the AVP have defied the Commission's 2003 restrictions by reserving

three of the four public beach/pier parking lots plus additional on-street parking during the entire event, eight days from set-up to take-down (Exhibit #5, p.3). The issue of paid admission is raised again by this appeal, because the AVP is apparently selling VIP/Club memberships to the 2004 event. The Commission approved the sale of VIP/Club memberships for the 2003 event with a requirement that at least 76% of the total seating capacity (including bleachers, sand areas and viewing platforms/risers) would be reserved for free general public seating on a first-come, first-served basis. Bill Eisen asserts that the City and the AVP disregarded the 76% restriction and allowed almost all of the seating in 2003 to be the paid seating variety, thus violating the City's certified LCP prohibition on sporting events on the beach for which admission is charged, and the Coastal Act's mandated policy of allowing free and equal access to the public beach (Exhibit #6, p.2).

## **II. LOCAL GOVERNMENT ACTION**

The City's held a public hearing for Local Coastal Development Permit No. 03-42 on February 17, 2004 in front of the Manhattan Beach City Council. On February 17, 2004, the City Council adopted Resolution No. 5890 and thus approved Local Coastal Development Permit No. 03-42 for the 2004 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 #5). The action by the City Council was not appealable at the local level.

On March 3, 2004, the City's Notice of Final Local Action for Local Coastal Development Permit No. 03-42 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 March 17, 2004, the final day of the appeal period, the Commission received the two appeals of the City's approval.

## **III. APPEAL PROCEDURES**

After certification of Local Coastal Programs (LCP), the Coastal Act provides for limited appeals to the Coastal Commission of certain local government actions on coastal development permits. Developments approved by cities or counties may be appealed if they are located within the mapped appealable areas, such as those located between the sea and the first public road paralleling the sea or within three hundred feet of the mean high tide line or inland extent of any beach or top of the seaward face of a coastal bluff [Coastal Act Section 30603(a)]. In 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 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-04-108 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-04-108**

The Commission hereby finds that Appeal No. A-5-MNB-04-108 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 17, 2004, the Manhattan Beach City Council approved with conditions Local Coastal Development Permit No. 03-42 permitting the AVP to conduct the 2004 Manhattan Beach Open Volleyball Tournament on the beach during the period of May 31, 2004 through June 8, 2004 or July 5 through July 13, 2004 (Exhibit #4). The event has since been scheduled for June 1-8, 2004 (Exhibit #8). The local coastal development permit includes the following provisions:

1. Conformance with the City-approved 2004 Manhattan Beach Open/AVP Agreement attached as Exhibit #5 (See Conditions: Exhibit #4, p.3).
2. No paid admission, but some reserved seating areas for AVP VIPs (Exhibit #5, p.2).
3. Limit the total number of bleacher seats to a maximum of 4,500 (Exhibit #5, p.1).
4. Bleachers on the pier (Exhibit #5, p.2).

5. AVP use of 71 public beach/pier parking spaces in the lower north, lower south and upper south public parking lots, and all on-street parking (about 30 spaces) along Manhattan Beach Boulevard below Ocean Drive (Exhibit #5, p.3).
6. No more than six inflatable advertising signs (Exhibit #5, p.3).
7. A free public beach shuttle service between a remote parking lot (TRW) and the downtown on Saturday and Sunday (Exhibit #5, p.4).
8. Sponsors' tents, a stage and portable toilets.

As now planned, the tournament would be held on the public beach on June 4-6, 2004, with set-up starting on Monday, June 1st (Exhibit #8). 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. The City Agreement requires that the AVP complete all take-down activities and remove all equipment from the beach before by 6 p.m. Tuesday, June 8, 2004 (Exhibit #5, p.7).

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 segregated reserved seating areas closest to the center court. Each year, 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.<sup>1</sup> 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 AVP 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 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.

---

<sup>1</sup> The Commission certified the City of Manhattan Beach LCP on May 12, 1994.

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.

The 2003 Manhattan Beach Open volleyball tournament, held August 7-10, was approved by Local Coastal Development Permit No. CA 03-01. The 2003 event included free public admission, 4,500 bleacher seats, and reserved seating areas for AVP VIPs. Local Coastal Development Permit No. 03-01 was appealed to the Coastal Commission (See Appeal A-5-MNB-03-075). On April 8, 2003, the Commission found that a substantial issue existed with regards to the locally approved event's conformity with the City of Manhattan Beach certified LCP and the public access policies of the Coastal Act. On June 11, 2003, the Commission conditionally approved the de novo permit for the 2003 event as a free event with limited VIP seating areas (See Appeal A-5-MNB-03-075). Also, the Commission denied the AVP's request to place bleachers on the State Pier.

#### **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. 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, interfere with enjoyment of the beach, and involves a charge for admission (Exhibits #6&7). 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 at least 71 of the 161 parking spaces closest to the pier for eight days, 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. Both years that the Commission has issued a de novo permit for the event (1997 and 2003) it has required the City and the AVP to develop a detailed Parking and Traffic Management Plan. No such plan has yet been developed or approved for the 2004 event.

The City has required the AVP to provide and run a beach shuttle service on Saturday and Sunday during the 2004 event. During the 2003 event, the Commission required the free shuttle service to be run during all four days of the event (Thursday through Sunday) when most of the public beach/pier parking would be occupied by VIPs, the AVP and its sponsors (Exhibit #9). 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 at least 71 parking spaces located in the public pier/beach parking lots, plus the on-street parking on Manhattan each Boulevard (below Ocean Drive) for use by the AVP (Exhibit #5, p.3).

With no detailed Parking and Traffic Management Plan for the 2004 event, and the reservation of at least 71 parking spaces near the pier for eight days, the proposed event is not consistent with LCP Policy I.C.2 which requires the City to maximize the opportunities for using available parking for beach use. Staff recommends that the lack of a 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). The local coastal development permit does not state whether the event will preserve the minimal fifty-foot wide-open area along the shoreline for lateral public access that the Commission required in the 2003 de novo permit. Past event have also provided vertical access to the water on the north side of the pier and south of the event site, but the local coastal development permit for the 2004 event does not require the preservation of any specific vertical or horizontal accessways. 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 may be charged" (Exhibit #5, 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.

The issue of paid admission is raised again by this appeal, because the AVP is apparently selling VIP/Club memberships to the 2004 event. Both appellants object to the AVP 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 City Agreement authorizes the AVP to reserve specific seating areas for VIPs (Exhibit #5, 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.

The Commission approved the sale of VIP/Club memberships for the 2003 event with a requirement that at least 76% of the total seating capacity (including bleachers, sand areas and viewing platforms/risers) would be reserved for free general public seating on a first-come, first-served basis. Bill Eisen asserts that the City and the AVP disregarded the 76% restriction and allowed almost all of the seating in 2003 to be the paid seating variety in violation of the Commission's de novo coastal development permit.

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 Commission should revisit, especially in light of the AVP's alleged use of more than 24% of the seating capacity for paid VIP seating. Unlimited or expansive reserved seating areas do 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, size and location 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, especially one that is essentially a commercial enterprise. 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  
2004: 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. Last year, the AVP's request to place bleachers on the State Pier was denied by the Commission. This year, the City has approved the AVP's request to place bleachers on the State Pier. 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. 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.

### **Conclusion**

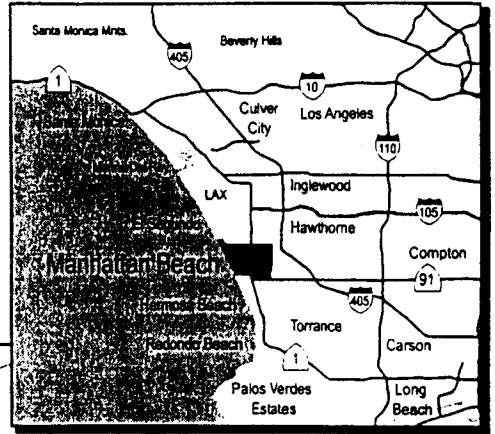
The City's approval of the proposed event does not conform to the certified LCP and the public access policies of the Coastal Act. Therefore, the Commission finds that a substantial issue exists with respect to the City's approval of Local Coastal Development Permit No. 03-42.

End/cp



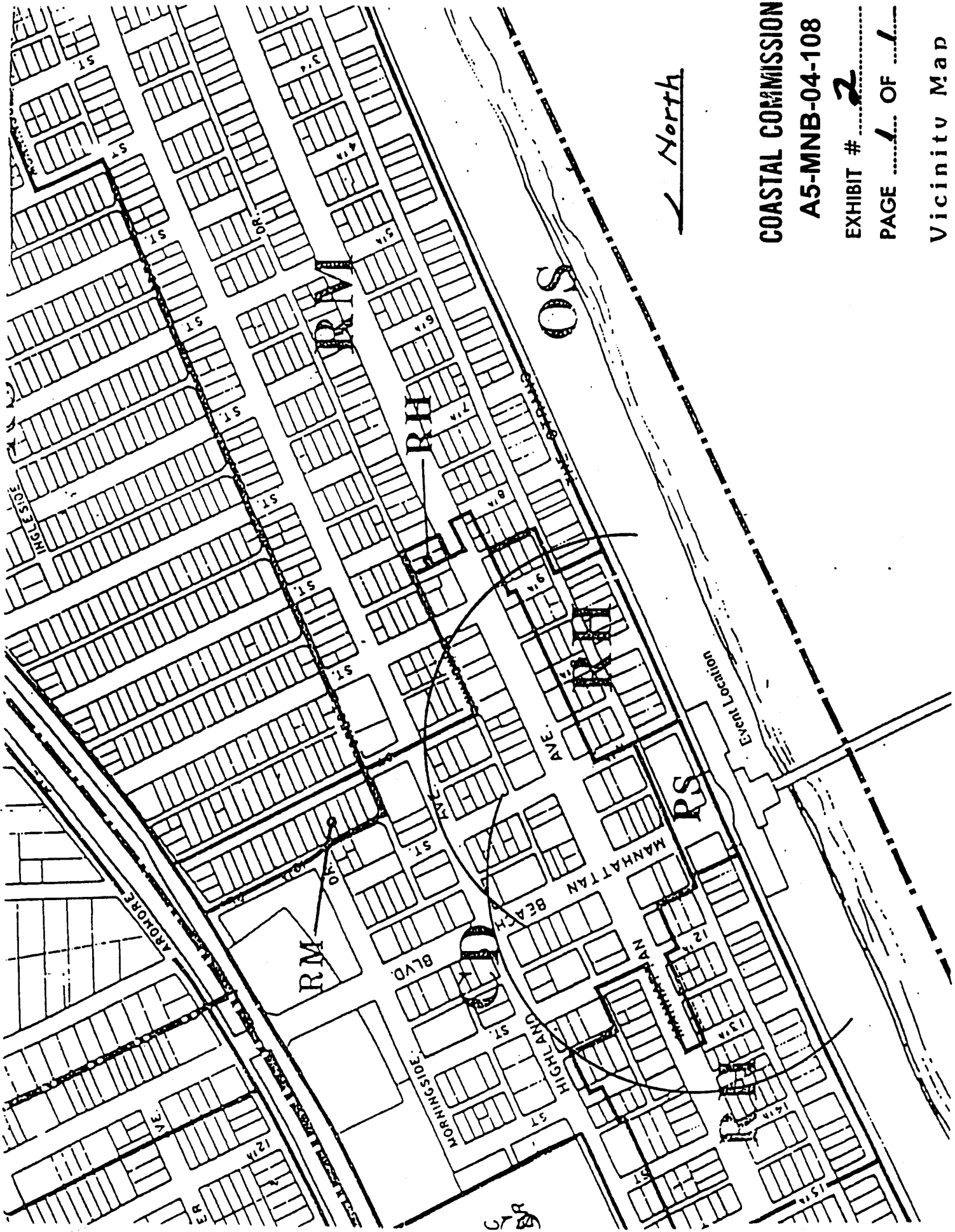


Regional Map



# Manhattan Beach Open - 2004

COASTAL COMMISSION  
A5-MNB-04-108  
EXHIBIT # 1  
PAGE 1 OF 1



North

COASTAL COMMISSION

A5-MNB-04-108

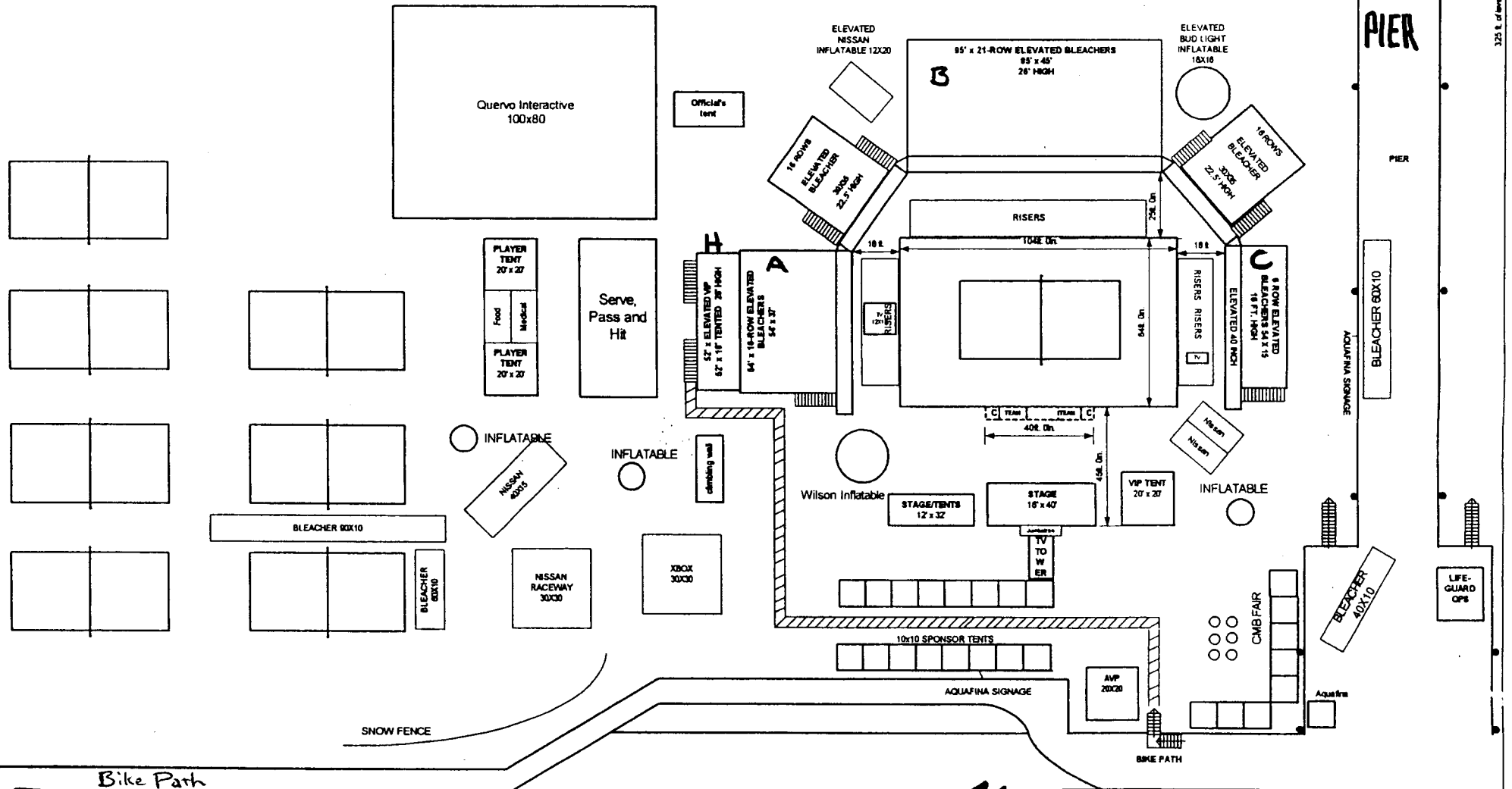
EXHIBIT # 2

PAGE 1 OF 1

Vicinity Map



2003 Manhattan Beach  
Open Site Plan



2003 Plan



COASTAL COMMISSION  
A5-MNB-03-075

EXHIBIT # 3  
PAGE 1 OF 4

3.25 ft. of level beach

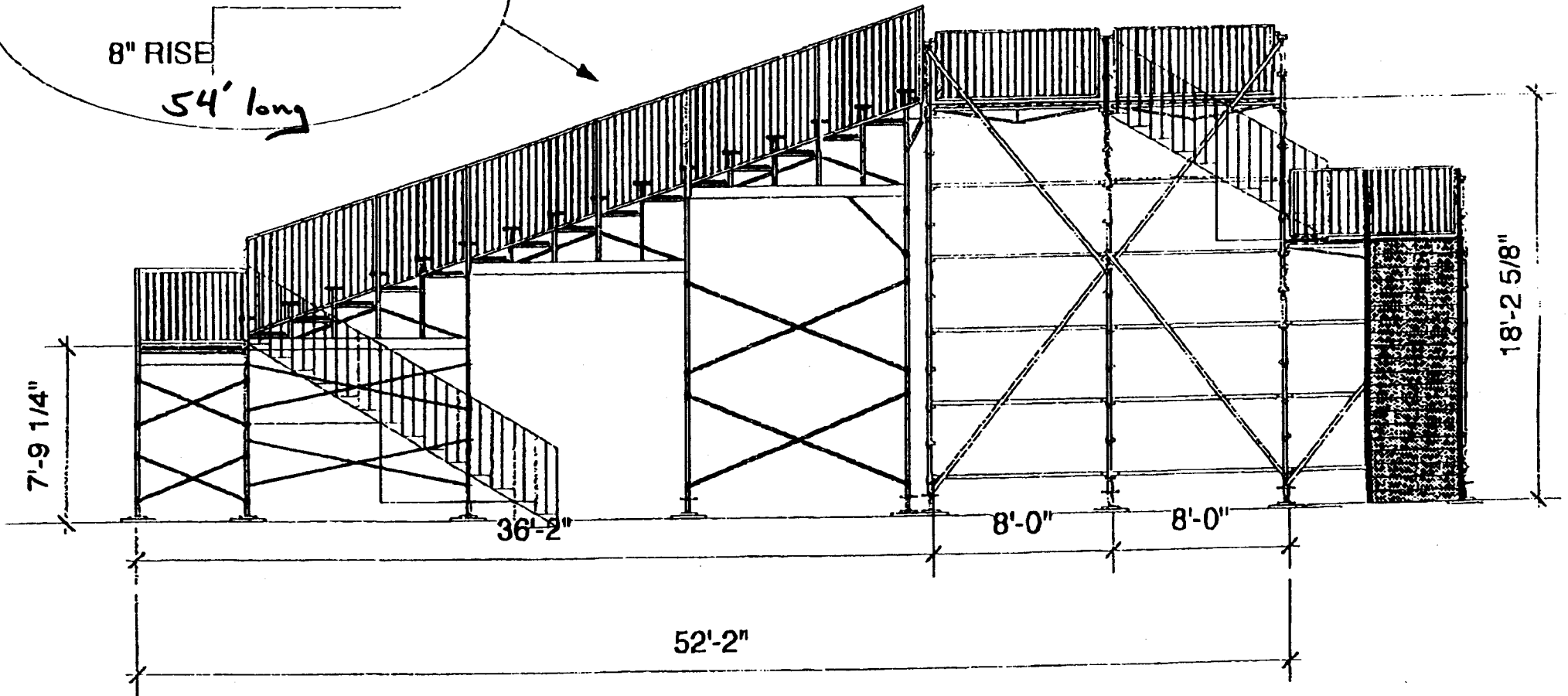
A: South end of center court.

A = 55' X 16 ROW BLEACHER  
24" RUN

8" RISE

54' long

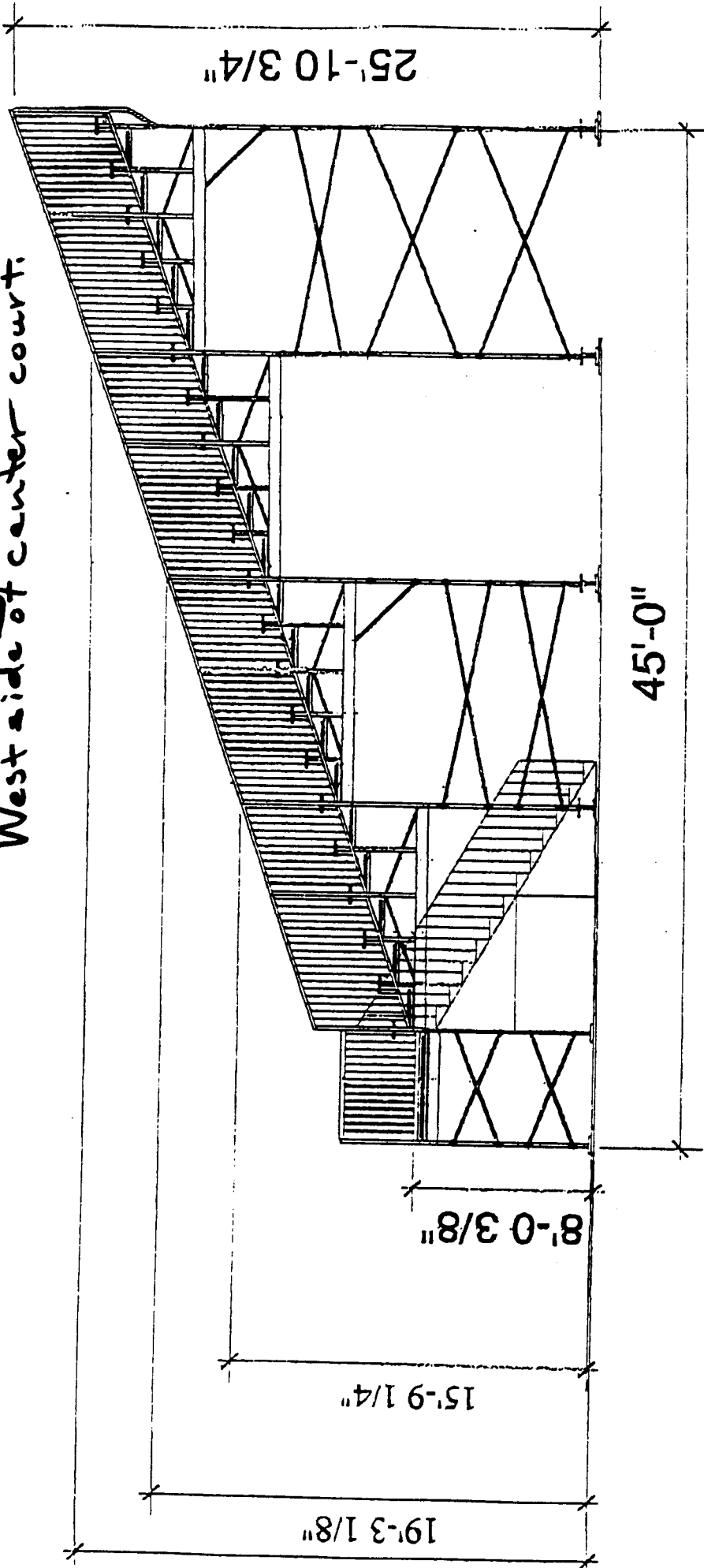
H = VIP PLATFORM

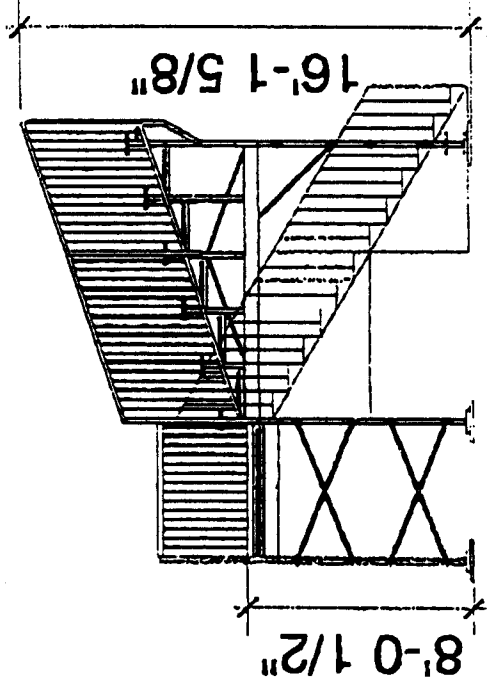
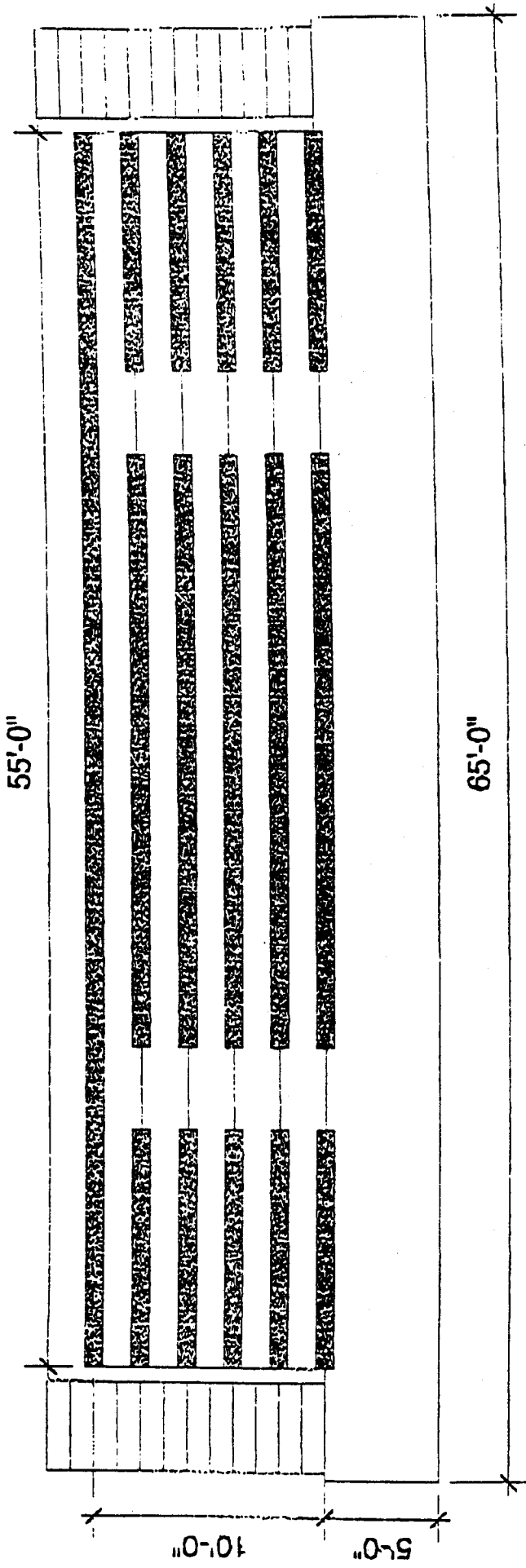


COASTAL COMMISSION  
AS-MNB-03-075

EXHIBIT # 3  
PAGE 2 OF 4

B: 95' long  
West side of center court.





C: 54' long  
 North end of  
 center court



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

**NOTICE OF FINAL GOVERNMENT ACTION**

**RECEIVED**  
South Coast Region

MAR 3 - 2004

CALIFORNIA  
COASTAL COMMISSION

February 25, 2004

California Coastal Commission  
South Coast District  
200 OceanGate, 10<sup>th</sup> Floor  
Long Beach, CA. 90802-4302

**RE: Coastal Development Permit for 2004 Manhattan Beach Open Spectator Bleachers South of Manhattan Beach Pier (CA 03-42, APN Nos. 4179-031-902 & -903)**

Pursuant to the procedures set forth in Chapter A.96 of the City of Manhattan Beach Local Coastal Program (LCP) the City Council of the City of Manhattan Beach conducted a duly noticed public hearing (February 17, 2004) on the above referenced project. At this hearing the Council voted 5-0 to approve the Coastal Development Permit. This approval is the City's final action for the project. Pursuant to Section A.96.100 (H) of the City's LCP, the City's action shall establish a ten (10) working day appeal period to the Coastal Commission commencing upon receipt of the Notice of Final Action by the Coastal Commission.

Attached is a copy of Resolution No. 5890 approving the Coastal Development Permit. This Resolution outlines the findings and conditions of approval. Should you have any questions, or need additional information, please feel free to contact me at (310) 802-5511.

Sincerely,

Eric Haaland, Associate Planner  
Department of Community Development

xc: Matt Gage AVP (Applicant)  
6080 Center Drive - 5<sup>th</sup> Floor  
Los Angeles, CA 90045

Att: Reso. 5890

**COASTAL COMMISSION**  
**A5-MNB-04-108**

EXHIBIT # 4  
PAGE 1 OF 4

MAR 3 - 2004


CALIFORNIA COASTAL COMMISSION

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 17, 2004.
- B. The applicant for the coastal development permit amendment is the <sup>sic</sup> Association of Volleyball Professionals.
- C. The City Council, at its regular meeting of February 17, 2004, approved the temporary use permit/program for the 2004 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 May 31, 2004 through June 8, 2004 or July 5, 2004 through July 13, 2004.
- E. The Project is Categorically Exempt from the requirements of the California Environmental Quality Act (CEQA), 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.



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

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

COASTAL COMMISSION AS-MNB-04-108

EXHIBIT # 4  
PAGE 2 OF 4



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 2004 Manhattan Beach Open volleyball tournament for the period of May 31, 2004 through June 8, 2004 or July 5, 2004 through July 13, 2004, 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 17, 2004.
2. The project shall conform to the city-approved 2004 Manhattan Beach Open/Association of Volleyball Professionals Agreement. **Exhibit #5.**
3. *Interpretation.* Any questions of intent or interpretation of any condition will be resolved by the City Council.
4. *Inspections.* The Community Development Department Staff shall be allowed to inspect the site and the development during construction subject to 24-hour advance notice.
5. *Effective Date.* This Resolution shall become effective when all time limits for appeal as set forth in MBMC Section 10.100.030, and the City of Manhattan Beach Local Coastal Program - Implementation Program Section A.96.160 have expired; and, following the subsequent Coastal Commission appeal period (if applicable) which is 10 working days following notification of final local action.
6. The subject Coastal Development Permit will be implemented in conformance with all provisions and policies of the Certified Manhattan Beach Local Coastal Program (LCP) and all applicable development regulations of the LCP - Implementation Program.
7. Pursuant to Public Resources Code section 21089(b) and Fish and Game Code section 711.4(c), the project is not operative, vested or final until the required filing fees are paid.
8. The applicant agrees, as a condition of approval of this project, to pay for all reasonable legal and expert fees and expenses of the City of Manhattan Beach, in defending any legal actions associated with the approval of this project brought against the City. In the event such a legal action is filed against the project, the City shall estimate its expenses for the litigation. Applicant shall deposit said amount with the City or enter into an agreement with the City to pay such expenses as they become due.
9. All structures associated with the project shall be limited to 26 feet in height.

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

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

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

**COASTAL COMMISSION**

EXHIBIT # 4  
PAGE 3 OF 4



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

*JH*

City Clerk of the City of Manhattan Beach

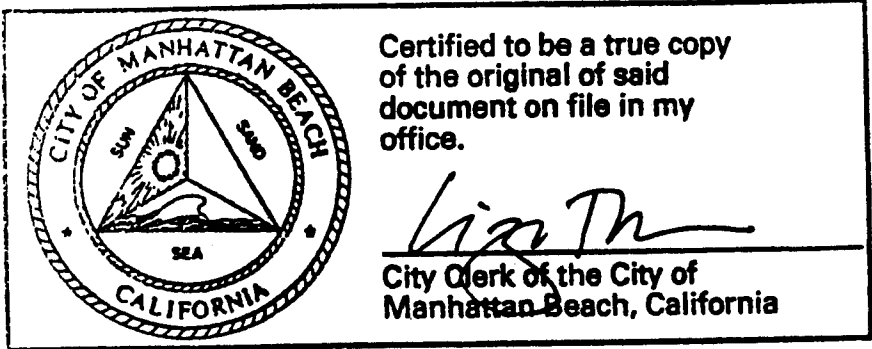
PASSED, APPROVED and ADOPTED this 17th day of February, 2004.

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

/s/ Jim Aldinger  
Mayor, City of Manhattan Beach, California

ATTEST:

/s/ Liza Tamura  
City Clerk



**COASTAL COMMISSION**

EXHIBIT # 4  
PAGE 4 OF 4

MAR 3 - 2004

2004  
MBO/AVP AGREEMENT

CALIFORNIA  
COASTAL COMMISSION

THIS AGREEMENT is made this 17<sup>th</sup> day of February 2004, 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 June 4-6, 2004 or July 9-11, 2004 with the Qualifier being held on Thursday, June 3, 2004 or Thursday, July 8, 2004.

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.

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 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

CMB AR AVP MAS EXHIBIT # 5  
PAGE 1 OF 13

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. The City shall supply 5 sets of bleachers, provided they are not being used by Manhattan Little League for an event.

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 five million dollars (\$5,000,000.00) per occurrence and shall name CMB and AVP as additional insured 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 June 4-6, 2004 or July 9-11, 2004.

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 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.

**COASTAL COMMISSION**

CMB R J L AVP MHB

EXHIBIT # 5  
PAGE 2 OF 13

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 AVP shall provide adequate access to the event for people with disabilities satisfactorily to the CMB. 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 and vehicular traffic as deemed necessary by public safety personnel, 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 in compliance with the Los Angeles County Health Department codes and obtain permits as required.

J) The CMB shall allow the use of portable bleachers and the placement of a video board on the pier.

K) The CMB shall allow a non-alcoholic evening corporate outing for AVP sponsors culminating by 8:30 p.m.

### III. AVP RESPONSIBILITIES.

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. A designated AVP representative must remain on-site during the entire tear-down process of the event. Said equipment is to be totally removed from the site by 6 PM, Tuesday, June 8, 2004 or Tuesday, July 13, 2004. 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. To

**COASTAL COMMISSION**

CMB R. H. AVP MAID EXHIBIT # 5  
PAGE 3 OF 13

ensure compliance with this date and time of removal, the AVP shall provide the CMB a \$10,000 security/clean-up deposit which the AVP will forfeit if the tear-down deadline is not met.

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 \$25,000 shall be paid to CMB 30 days in advance of the event. In addition, a \$10,000 refundable security deposit will be required 30 days in advanced of the event, to ensure post-event clean-up 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.

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:

**COASTAL COMMISSION**

CMB AR, AVP MAD

EXHIBIT # 5  
PAGE 4 OF 13

- 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 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 19-August 1, 2004 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 19-August 1, 2004 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 (in median from Sepulveda to...

**COASTAL COMMISSION**

CMB            AVP           

EXHIBIT # 5

PAGE 5 OF 13

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 for the downtown businesses. The AVP shall be prohibited from placing any posters on any City property. In addition, the AVP shall be prohibited from handing out fliers, posters, index cards, and any other promotional material in the downtown area. In return, the City will make every effort to prohibit other non-event sponsors of the AVP from distributing product or promotional literature in the downtown area. 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.

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) The AVP shall have the right to conduct a modeling competition similar to the 2003 Sports Illustrated modeling competition as long as it is presented in a professional and tasteful manner, as determined by City staff.

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.

**COASTAL COMMISSION**

CMB AJ AVP MAD EXHIBIT # 5  
PAGE 6 OF 13



## 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 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 2004 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, June 8, 2004 or Tuesday, July 13, 2004.

## 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 2004 Tournament only, to use of the name "Manhattan Beach Open."

CMB R. J. AVP M.A.D.

COURTIAL COMMISSION

EXHIBIT # 5

PAGE 7 OF 13

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. 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-VII unless otherwise approved by CMB.

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

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

2) **COMMERCIAL AUTO LIABILITY INSURANCE** - a policy including all coverages provided by and to the extent afforded by Insurance Services Office form CA 0001, ed. 12/93, including Symbol 1 (any auto) with no special limitations affecting the CMB. The limit for bodily injury and property damage liability shall be no less than 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

CMB RDJ AVP MAD

**COASTAL COMMISSION**

EXHIBIT # 5  
PAGE A OF 13

prior written notice of any cancellation, non-renewal or material change in coverage. The policy shall contain no provision that would make this policy excess over, contributory with, or invalidated by the existence of any insurance, self-insurance or other risk financing program maintained by CMB. In the event the policy contains such an "other insurance" clause, the policy shall be modified by endorsement to show that it is primary for any claim arising out of the work performed under this Agreement. The City of Manhattan Beach Insurance Endorsement Form No. 2 (Auto) must be executed by the applicable insurance underwriters.

3) WORKERS' COMPENSATION INSURANCE - a policy which meets all statutory benefit requirements of the Labor Code, or other applicable law, of the State of California. 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

**CIVIL COMMISSION**

CMB RJA AVP MHB

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 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 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.

**COASTAL COMMISSION**

CMB AR AVP MA/D EXHIBIT # 5  
PAGE 10 OF 13

**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: *R. J. [Signature]*  
DATE: 2/27/04  
TITLE: CITY MANAGER

**ASSOCIATION OF VOLLEYBALL PROFESSIONALS, INC.**

BY: *[Signature]*  
DATE: 2/27/2004  
TITLE: TOUR DIRECTOR

**ATTEST**

*[Signature]*  
CITY CLERK

APPROVED AS TO FORM:

*[Signature]*  
Attorney

**COASTAL COMMISSION**

CMB *[Signature]* AVP *[Signature]*

EXHIBIT # 5  
PAGE 11 OF 13

## LETTER OF AGREEMENT – 2004 MBO/AVP AGREEMENT

This letter of agreement is made this 26<sup>th</sup> day of February 2004 by and between the City of Manhattan Beach and the Association of Volleyball Professional, Inc. ("AVP"). It is agreed to by the respective parties that the specific terms as detailed below will supersede those terms included in the "2004 MBO/AVP Agreement" and be binding to both parties.

### Opening Paragraph

The AVP address to read: 6080 Center Drive, Fifth Floor, Los Angeles, CA 90045

### Item IIC

Item to read: ....The AVP shall save the first 24 seeded spots for men & 24 seeded spots for women for AVP entries.

### Item IID

Item to read: ....However, the CMB will grant the AVP permission to run these qualifying rounds if the AVP will open up the qualifiers and take eight (8) Men's teams and eight (8) Women's teams to play into the professional rounds of the MBO. ....

### Item IIIC

Item to read: ....To ensure compliance with this date and time of removal, the AVP shall provide the CMB a \$10,000 security/clean-up deposit. The parties will meet "on site" Tuesday, June 8<sup>th</sup> at approximately 4:00 PM to determine if the site, to include the beach and parking lots, has been reinstated to its original condition. The parties agree that based on reasonable expectations, the AVP will henceforth rectify any outstanding "clean-up" deficiency. If such deficiency is not rectified by the timelines set forth below, the AVP will forfeit the amount shown.

Wednesday, June 9 @ 2:00 PM	\$3,000 plus city costs
Thursday, June 10 @ 2:00 PM	\$3,000 additional (\$6,000 total) plus city costs
Friday, June 11 @ 5:00 PM	Balance of \$10,000 (\$10,000 maximum)

CMB will return the \$10,000 security/clean-up deposit or remaining amount thereof by Friday, June 25, 2004.

### Item IX

Item to read: ....that AVP shall provide sixty-two thousand five hundred dollars (\$62,500) prize money for each of the Men's and Women's Open Division.

COASTAL COMMISSION

EXHIBIT # 5  
PAGE 12 OF 13

**XVIII. NOTICES.**

Item to read.... If to AVP:

Until 3/31/04

AVP

Attn: Chief Operating Officer  
6080 Center Drive, Fifth Floor  
Los Angeles, CA 90045

Commencing 4/1/04

AVP

Attn: Chief Operating Officer  
6100 Center Drive, Ninth Floor  
Los Angeles, CA 90045 ....

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

**CITY OF MANHATTAN BEACH**

BY: *R. J. [Signature]*  
DATE: 2/27/04  
TITLE: CITY MANAGER

**ASSOCIATION VOLLEYBALL PROFESSIONALS, INC.**

BY: *Matthew D. [Signature]*  
DATE: 2/27/2004  
TITLE: TOUR DIRECTOR

**COASTAL COMMISSION**

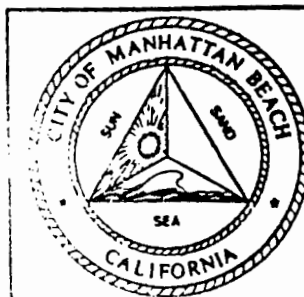
ATTEST

*[Signature]*  
CITY CLERK

EXHIBIT # 5  
PAGE 13 OF 13

APPROVED AS TO FORM:

By *[Signature]*  
City Attorney



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

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

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  
MAR 17 2004

CALIFORNIA  
COASTAL COMMISSION

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

SECTION I. Appellant(s)

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

Bill Eisen, Residents for a Quality City

P.O. Box 1882

Manhattan Beach, CA 90267 (310) 546-2085  
Zip Area Code Phone No.

SECTION II. Decision Being Appealed

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

2. Brief description of development being appealed: Coastal Development Permit for AVP volleyball event to be held on the beach, in the vicinity of the Manhattan Beach pier as early as the first week of June 2004.

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

4. Description of decision being appealed:

a. Approval; no special conditions: X

b. Approval with special conditions: \_\_\_\_\_

c. Denial: \_\_\_\_\_

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

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A5-MNB-04-108

DATE FILED: 3.17.04

DISTRICT: South Coast / Long Beach

H5: 4/88

COASTAL COMMISSION  
A5-MNB-04-108  
EXHIBIT # 6  
PAGE 1 OF 6



## Addendum to Appeal

We are, again, appealing the city's coastal development permit for the AVP's volleyball event for many of the same reasons that we appealed last year's event. Last year the Coastal Commission did, in fact, that our appeal raised substantial issues. (See attached portion of staff report discussing the Commission's finding of substantial issues and a copy of my letter, dated April 3, 2003.)

### Bleachers on the Pier

Last year the Commission denied the city's approval of bleachers on the pier for the event. Bleachers on the pier would not allow enough space for ambulances and other emergency vehicles to pass thus effectively denying emergency vehicle access to the pier. This presents a substantial safety concern which the city council has ignored, again, this year when it approved bleachers on the pier for the event.

### Use of the state-owned pier parking lots

The city's agreement with the state, allowing the city to manage the four state-owned pier parking lots, requires that the lots be reserved only for public use and bars commercial use of the lots. Yet the city is, again this year, allowing the AVP, which is a commercial event, to reserve these parking lots for its patrons.

We raised this issue with the Coastal Commission last year with the result that the Commission restricted the AVP to only two of the parking lots. Nevertheless, the city and AVP defied the Commission's restrictions last year and reserved three of the subject parking lots for the event.

### Paid Admission

Although the city's LCP does not permit sporting events for which admission is charged, the city is, again this year, allowing the AVP to sell tickets to the event (disguised as VIP/Beach Club memberships). Last year the Commission restricted such paid admission to only 25% of the seating but the city and AVP disregarded this restriction and allowed almost all of the seating last year to be of the paid seating variety. We believe that this not only violates the city's LCP but it violates the Coastal Act's mandated policy of allowing free and equal access to the public beach.

COASTAL COMMISSION

EXHIBIT # 6

PAGE 2 OF 6

**B. Substantial Issues**

This de novo coastal development permit application is before the Commission as the result of two appeals of the local coastal development permit (No. CA 03-1) that the City had approved for the proposed 2003 Manhattan Beach Open Volleyball Tournament. The appellants asserted that the proposed event would obstruct public access to the beach, block public views, add to parking problems and traffic congestion, and create noise that would interfere with enjoyment of the beach. The appellants also asserted that the AVP's preferred Beach Club/VIP seating areas, proposed around the center court, are a type of admission fee which is prohibited by the certified Local Coastal Program's (LCP) Open Space (OS) land use designation for the beach. The LCP's 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 April 8, 2003, the Commission found that the appeals did raise a substantial issue in regards to the locally approved event's conformity with the City of Manhattan Beach certified LCP and the public access policies of the Coastal Act. The substantial issues identified by the Commission on April 8, 2003, are: the public access impacts associated with proposed event's exclusive use of the beach area, the question of whether the AVP's restricted Beach Club/VIP seating area constitutes a charge for admission or not, the public access impacts associated with the proposed bleachers on the pier, and the traffic and parking issues as they relate to public access to the shoreline area. Each of these substantial issues is addressed below in relation to the standards of the City of Manhattan Beach certified LCP and the public access and recreation policies of the Coastal Act. The certified LCP and the public access and recreation policies of the Coastal Act are the standard of review for this coastal development permit application.

**C. Exclusive Use of the Beach**

The exclusive use of public beaches by special events, and the associated limitations on public access and recreation, has always been an issue of prime importance to the Commission. The following Coastal Act and City of Manhattan Beach LCP policies protect the public's right to public access and recreation opportunities:

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:

**COASTAL COMMISSION**

EXHIBIT # 6  
PAGE 3 OF 6



# RESIDENTS FOR A QUALITY CITY

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

Sent by First  
Class Mail to  
Staff and to  
Commissioners

April 3, 2003

**RECEIVED**  
South Coast Region

APR 7 2003

CALIFORNIA  
COASTAL COMMISSION

Honorable Mike Reilly, Chairman  
Honorable Members and Alternate  
Members of the California  
Coastal Commission  
Peter Douglas, Executive Director  
Charles Posner, Staff Analyst  
California Coastal Commission  
200 Oceangate, Suite 1000  
Long Beach, CA 90802-4302

Re: Appeal No. A-5-MNB-03-075  
Item Tu8b, Hearing Date: April 8, 2003  
Appeal of Manhattan Beach Coastal  
Development Permit approving August 7-10  
AVP Volleyball Tournament

Dear Commissioners:

Since 1997 our local group of Manhattan Beach residents has actively opposed large-scale commercial events on the public beach. Such events, especially those that entail paid seating and are organized by for-profit corporations such as the Association of Volleyball Professionals (AVP), effectively deny, in our view, free and equal access to the coast.

~~Manhattan Beach State Beach~~ is not a private beach. In fact, it, along with the pier and four pier parking lots, are owned by the state and managed by the City of Manhattan Beach under the condition that they shall be available only for public use. Neither the city's agreement with the state nor the Coastal Act contemplates that these precious coastal resources should be made available for commercial use at the expense of public use. Obviously, a relatively small private gathering on the beach will have little, if any, effect, on the public's ability to access the beach but, on the other hand, a large commercial event clearly restricts public access by displacing beach goers with commercial customers.

We agree with the staff report for the above referenced appeal that the appeal does raise a substantial issue regarding conformity of the project with the city's certified LCP and the public access policies of the Coastal Act. I, as well as a number of other local residents, objected to the city's approval of the local coastal development permit for the project

EXHIBIT # 6  
PAGE 4 OF 6

at the city's February 4, 2003 city council meeting. Of particular concern are the following:

Paid Admission is Improperly Allowed.

Although, as discussed in the staff report (at p. 15), both the LCP and local coastal development permit prohibit paid admission, the AVP is, nevertheless, selling tickets to the event. The tickets, available on the web, include (1) for \$100 a seat, advertised as among the "best seats on the beach" (Staff Report, Exb. 9) and located in the bleachers (Staff Report, Exb. 6. p. 2) and (2) for \$500 "4 reserved courtside sand seats" (Staff Report, Exb. 7, p. 7).

The AVP's attempt at evading the prohibition on paid admission by characterizing the paid seating as "local sponsor packages" and membership in the "AVP Beach Club" is ridiculous. Further, the agreement between the city and AVP does not limit the number of sponsorship packages and Beach Club memberships that may be sold (see agreement at Exb. 6 of the Staff Report). Even if Beach Club Membership is limited to 638 seats, (as the AVP contends on page 2 of its letter, dated March 19, 2003, to the Coastal Commission) the sale of such memberships can hardly constitute anything but the sale of seating. And packaging a seat with a t-shirt (Staff Report, Exb. 9) hardly means that the seat is not, in fact, being sold.

The Proposed Bleachers on the Pier Clearly Hinder Public Access.

Even if the proposed bleacher seating on the pier extends only to the median of the pier as the AVP contends in its March 19, 2003 letter (at p. 1), such seating, proposed on a summer weekend when the pier is normally crowded, can, logically, have no effect other than to hinder access to the pier.

Contrary to the AVP's assertions (at p. 1 of its 3-19 letter) that the city has approved such pier seating at previous "events", the only such event occurred at last year's surf festival where perhaps a dozen or so seats were placed on the pier - not the 400 some seats contemplated for this year's AVP event. Also, a local coastal development permit was not issued for the surf festival event.

The City's Reservation of 141 of the 161 Parking Spaces Closest to the Pier for the Event will Unduly Restrict Public Access to the Beach.

Obviously, the event, which is expected to draw over .....

6000 people on a mid-summer weekend, will overburden the limited beach parking supply (Staff Report, p. 13). Although a shuttle service to a remote parking area is being provided, the courts, as well as the Coastal Commission, have consistently held that a shuttle service cannot entirely remedy a lack of beach parking.

The February 3, 1998 Coastal Commission approved LCP Amendment Request (Staff Report, p. 9) required the city to find, with respect to any temporary event on the beach, that,

"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 only for those vehicles deemed essential to the operation of the event."

Although, the city declined to accept the Coastal Commission's suggested modifications to the Amendment Request and the Commission's action on the Amendment Request has lapsed (Staff Report, p. 9), the city has, nevertheless, heretofore limited to 45 the number of reserved public parking spaces closest to the pier. This year, however, the city has approved the reservation of 141 of such spaces - far in excess of those spaces deemed essential to the operation of the event. In fact, the AVP acknowledges needing only 71 such spaces for event operations (Staff Report, Exb. 6, p. 3) Obviously, the remaining 70 plus spaces are intended for paying customers - not beach goers.

In summary, the proposed event clearly raises a substantial issue with respect to the city's certified LCP and the public access policies of the Coastal Act. The Manhattan Beach State Beach, as well as the pier and pier parking lots, are intended for public use on an equal access basis - not for crass commercialization. We urge the Commission to appropriately limit the proposed event in line with the purpose and intent of the Coastal Act.

Sincerely yours,



Bill Eisen

**COASTAL COMMISSION**

EXHIBIT # 6  
PAGE 6 OF 6

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

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

MAR 17 2004

SECTION I. Appellant(s)

CALIFORNIA COASTAL COMMISSION

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

WILLIAM VICTOR
POST OFFICE BOX 24A72
LOS ANGELES, CA. 90024 Messages ( 310 ) 318-5000
Zip Area Code Phone No.

SECTION II. Decision Being Appealed

1. Name of local/port government: Manhattan Beach, (City of) co-sponsor, co-applicant

2. Brief description of development being appealed: AVP Profit making tournament on open beach closing access to beachgoers for over 7 days, closing off four parking lots, including safety hazard with 4500 bleachers plus bleacher on Pier, Large Video Board on Pier AND bleachers over 41 feet high

3. Development's location (street address, assessor's parcel no., cross street, etc.): Manhattan Beach Pier and 4 Parking lots North, South and East of Pier

4. Description of decision being appealed:

- a. Approval; no special conditions attached hereto and incorporated herein-the only items not approved by the City is the alcohol on beach but the date is between two days
b. Approval with special conditions: both of which are Memorial Day weekend and /or Labor Day-where set up AND take down will interfere with access during the most sought after days for beachgoers.
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: A5-MNB-04-108

DATE FILED: 3.17.04

DISTRICT: South Coast/Long Beach

H5: 4/88

COASTAL COMMISSION

EXHIBIT # 7
PAGE 1 OF 8

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.)

The Permit violates the Local Coastal Plan and the California Coastal Act in the , inter alia, it interferes with access removing four parking lots during a major beach weekend, further deters available parking, interferes with scenic vistas and impacts safety with allowance of bleachers on the pier despite disallowance by the Commission last year.

MORE IMPORTANT DETAILS ARE INCLUDED IN THE ATTACHED LETTER dated February 13, 2004. The City has permitted the bleachers, I have been told because it knows that the Coastal Commission will disallow it and the City apparently does not want to be the "bad guys".

It is true the City has a conflict since it is a "co-sponsor"  
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.

\*PLEASE SEE ATTACHED August 2003 picture of bleachers blocking vistas, SECTION V. Certification at about half the height being sought in in this application.

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

JN Victor  
Signature of Appellant(s) or  
Authorized Agent

Date March 16, 2004

COASTAL COMMISSION

EXHIBIT # 7  
PAGE 2 OF 8

February 13, 2004

Mayor and Members of the City Council

City of Manhattan Beach

1400 Highland Avenue

Manhattan Beach, CA 90255

BY HAND

Dear Mayor and City Council Members:

Re: Request of Association of Volleyball Professionals (AVP) for Coastal Development Permit

The undersigned Manhattan Beach Property owner makes the following limited comments with respect to the above on behalf of all similarly situated persons with the reservation to supplement the same and make more detailed presentations at the City Council and should further proceedings become necessary before the City Council or other tribunals or hearings. This letter is intended merely as an outline of SOME of the primary objections and is not intended to be a complete list. I appreciate the cooperation of the City Staff in making available certain of the information I have requested, but suspect that due to the Presidents Day holiday on February 16, where the library and City Hall are to be closed, it will be difficult for most interested parties to gather information or sufficiently address the issues in the short time remaining. Therefore, I request that a date for this hearing be set so that all parties interested may meaningfully participate in their government. The Coastal Act and the LCP are violated by this proposed event, and the reduction of participation is also inconsistent with the Manhattan Beach LCP and the Coastal Act.

:

1. Labor Day weekend is not an appropriate date for the event even if smaller attendance is anticipated. In view of the fact that this is one of two weekends of the entire year drawing beachgoers in greatest numbers, the event would interfere with access and parking for those beachgoers. The continued demand of the CEO, Leonard Armato, is to put it simply, selfish and extremely greedy.
2. The request for additional seats should be denied in view of the fact that the AVP failed to control the situation with fewer seats this past year, and too frequently compromised the safety and access of attendees and others who wished to have use and access to the beach.
3. I have witnessed the set up for the event and personally was endangered. I witnessed others being endangered during the set up in 2003. The set up should not be made earlier nor the take down later. This event already takes too much time and interferes excessively with access to the beach.

**COASTAL COMMISSION**



4. The arrogance of Mr. Amato is displayed again when he unilaterally provides for his event 41 foot 6 inch height permits stating that "Los Angeles County ...has no height limit for temporary structures on the beach." The Coastal Act certainly provides for the protection of scenic vistas; CEO Armato provided no citations excepting him from the Coastal Act, especially on this most visited weekend of the year of the California Beach resources.
5. The request for VIP Hospitality is absurd and exposes beachgoers and the City itself to tremendous liability. Perhaps, Mr. Armato is not aware, but the only "VIP's" are the recreational visitors to the beach who are to be protected by the Local Coastal Plan and the Coastal Act which Mr. Armato's proposal does not appear to care about .. Mr. Armato and this AVP event appears to be more concerned about protecting the FIVE MILLION DOLLAR INVESTMENT (or donation) into his corporation from NBC and Fox Broadcasting. Please see this self serving press release attached to this letter as Exhibit "A." Mr. Armato's proposal is not in the interest of the City of Manhattan Beach, its residents or taxpayers, and is merely one more negotiation for his own pocket book-- simply and sadly. The undersigned and almost everyone that I have spoken with are very much in favor of the tradition of the Manhattan Open, but through the apparent greed of Mr. Armato, it has become an out of control, ugly phenomenon interfering with the peace and quality of life for the same people. The beach lovers are told that they are NOT VIP's, but the persons who pay to exclude others from the beach are VIPs. If Mr. Armato wants to have VIP Hospitality in the "same fashion as at a Dodger game, Lakers game," then that is where he should have his venue. There are open dates at Dodger Stadium and at Staples Center, and he does not have to pay for bleachers. It is true, though, that Mr. Armato will have to have to PAY RENT, like the Dodgers and the Lakers.

Another possibility to avoid having alcohol on the pier and the beach which are prohibited, as was pointed out to him, is to invite all the VIPs to his home on the Strand or at a home on the Strand, which AVP could rent for this period. Then the City would not have the same liability for the accidents or other alcohol related situations normally anticipated in such drinking parties or drunken bashes.

6. The bleachers were not permitted by the Coastal Commission last year. It was a sound decision in view of the safety hazards (which will be expanded upon in later presentations if it becomes necessary). The Beer garden and bleachers on the pier must be denied. The City should not permit the bleachers or the beer garden and will expose the City to financial risk, due to the limited space on the pier and in view of the fact that such a plan is prohibited by the State that owns the pier.
7. The parking for perfectly ambulatory VIPs was more than adequate as permitted last year by The Coastal Commission and should not be changed unless it is to reduce the parking spaces which take away parking from for beach goers., especially on this weekend. The employees and VIPs should be required to take a shuttle from parking facilities, which were underutilized last year.
8. A video board on the pier is unnecessary and appears to violate the Coastal Act's requirement to protect scenic vistas. The video board would be available at Staples Center or Dodger Stadium, and make those venues more appropriate for that reason as well.

**COASTAL COMMISSION**

EXHIBIT # 7  
PAGE 4 OF 8

9. The "evening corporate outing" could be accomplished by Mr. Armato inviting this group of VIP friends to his home on the Strand (after obtaining the necessary permits from the City), or the home donated by one his many VIP friends, or rented by the AVP for this time period. It is appropriate for the City Staff to have denied this and it is a violation of the LCP and therefore the Coastal Act. With the Five Million Dollars, certainly he could manage the lease payment or even a down payment on such a venue.
10. The City Departments should be applauded for their concern for safety. It is hoped that the City Council will encourage this concern and support the safety concerns in its decision.
11. For the record, it is noted that the Notice of this hearing with respect to the Coastal Appeal is not complete and appears defective. This would also be a reason for setting a later date for the hearing after proper notice, in addition to the reason that the review of the Staff report and files by interested parties was not as available due to Presidents' Day on February 16 (the City and Library where the Staff report and attachments would be available for review are closed). Mondays before a Council Meeting are normally a day available to the public to go to the library or City Hall to review the Staff report. Furthermore, it is difficult for the 30,000 residents in the City of Manhattan Beach to crowd around the one copy at the Police Station should they be lucky enough to learn to where the M.B. Police Station has been moved.
12. It is also noted that the City has refused to permit use of the City power point projector by a party who it knows will object to his this application. It is a form of censorship, since the City does permit use of the projector by other speakers before the Council. This objection by the undersigned was presented to the Council on January 20, and it appears that the Council will perpetuate this "uneven playing field" and censorship. The undersigned reserves his right to formalize a complaint for this failure to conduct the hearing fairly should the refusal be continued or reversed with too little advance notice for the interested party to use the power point projector.
13. As noted above, the height of 41.5 feet should be denied. The Local Coastal Plan prohibits it. If the AVP could ever come up with an argument around that, it is a permit application which the City has discretion. Additionally, consideration must be given to those residents in Manhattan Beach who believe that they did not purchase expensive property in the City to be adjacent to, instead of the ocean, a stadium which blocks the anticipated views, vistas and sounds of being at the ocean during the peak summer holiday. If the height is so important to the applicant, it is one more reason for the AVP and NBC to negotiate a stadium venue that will have those heights in place.
14. Of great importance is the necessity of denying requests for alcohol consumption in VIP areas on the public beach or pier, denial of height waivers, and having any curfew extended to after sunset for any of the events, or having any event larger than the Cal Cup-CBVA tournament already scheduled for this date.
15. Furthermore, should any date be permitted for this event, the City of Manhattan Beach has a duty to maximize its use of its name and should not waive permit fees for this for-profit event. This is the City that charges its resident's and property owners even if

they park in front of their own garage. What right does the City have to waive these fees to a mega-million dollar corporation who is also getting free rent for its all too lengthy profit making event at the expense to jump on the back of the tax payers, residents and property owners? There are recent decisions in the California Courts which criticize these inappropriate give-aways and commercial joint ventures taken on by municipalities. At least one of which involves a Los Angeles County municipality. Accordingly, it is requested that the AVP be charged for each and every permit and staff personnel time that any other profit-making applicant would have to be responsible for. Some of the tax payers are tired of having to be on the wrong side of Mr. Armato's infamous negotiations. The Manhattan Beach Open can survive and not be so out of control as to invade the small town's fine quality of life or finances. Manhattan Beach, its citizens and those who are entitled to have access to the Beach are the real VIPs-let us all try to keep that in mind.

Respectfully,  
*original signed*  
 William Victor  
 Property Owner and Tax payer

Enclosure: as stated  
 NBC Press release concerning \$5,000,000 investment by NBC in Mr. Armato's AVP

**COASTAL COMMISSION**

EXHIBIT # 7  
 PAGE 6 OF 8

## NBC, FSN team to invest \$5M in pro volleyball league

By Jennifer Lee, Staff writer

*Street & Smith's Sports Business Journal*  
(August 11-17, 2003)

NBC and Fox Sports Net last week became minority investors in the Association of Volleyball Professionals thanks to a combined investment of about \$5 million over the next three years.

"This is a really innovative partnership between a sports property and media companies," said Leonard Armato, AVP founder and commissioner.

The deal gives NBC and Fox Sports Net one seat each on the AVP's board of directors, while guaranteeing the AVP significant promotion and programming on the networks through 2006.

"There were multiple reasons why we did this," said Randy Freer, chief operating officer for Fox Sports Net. "One is the success Leonard has had in putting together a business model that makes sense for the AVP. He's secured an A List of sponsors that includes involvement from all of them beyond a straight media buy." Another driving force for FSN was the belief that there's a growth opportunity with the AVP as a television vehicle, Freer said.

Armato founded the AVP in 1983, left in 1990, then rejoined the league as commissioner in 2001, with the vision of turning around a league that was plagued with disagreements among players and financial woes that ultimately led it to file for bankruptcy protection in 1998.

In the two years since he's regained charge of operations, Armato has landed the AVP back on television and back on the radar screens of blue-chip sponsors such as Nissan, Anheuser-Busch, Gatorade and McDonald's.

Fox Sports Net, which will air seven AVP events on a tape-delay basis this season, also plans to run a lifestyle show called "Dig" on some of its regional networks later this month. Network officials have begun discussing opportunities for additional AVP-related programming, Freer said, including reality, magazine and lifestyle-based programming, he said.

Freer wouldn't say how much Fox Sports Net will invest in the AVP. The investment, however, will come in the form of covering production costs, time and promotion, he said.

For NBC, the AVP investment represents an opportunity to complement its Olympic coverage by helping to grow the sport of beach volleyball, one of the most popular Olympic sports. "We've always liked the sport of beach volleyball and we felt that when properly managed and promoted it had the opportunity to be a great sport," said NBC Sports President Ken Schanzer. "When Leonard got involved, we felt the sport was getting into the right hands."

Schanzer wouldn't give specifics of NBC's deal, but sources said it provides on-air promotional support and discounted time buys, but no cash.

COASTAL COMMISSION

EXHIBIT # 7  
PAGE 7 OF 8



*bleachers*

This is how one scenic view was blocked from the bike path at a maximum of 30 feet in the 2003 Manhattan Beach event. The AVP now wants to raise this height to 41.5 feet or more!

COASTAL COMMISSION  
AS-MNB-04-10

EXHIBIT # 7  
PAGE 8 OF 8

**Association Volleyball Professionals, Inc.**

Matthew H. Gage  
6080 Center Drive - 5<sup>th</sup> Floor  
Los Angeles, CA 90045  
(310) 426-8000  
Fax (310) 426-8010

March 24, 2004

Charles Posner  
California Coastal Commission  
PO Box 1450  
Long Beach, CA 90802-4416

**RECEIVED**  
South Coast Region

MAR 24 2004

CALIFORNIA  
COASTAL COMMISSION

RE: Commission Appeal No. A-5-MNB-04-108

**INTRODUCTION**

I am in receipt of your correspondence dated March 18, 2004 related to the coastal development permit appeal of the 2004 Manhattan Beach Open Volleyball Tournament on June 4-6, 2004. Thank you for forwarding it to my attention.

It does not surprise us that Mr. Victor and Mr. Eisen have appealed the City of Manhattan Beach's approval of the AVP Manhattan Beach Open. They have appealed every Manhattan Beach Open that we have been involved with and also are continually battling the City of Manhattan Beach on numerous issues. However, we think it is very important to point out that out of almost 34,000 citizens in Manhattan Beach, only a very few individuals are unhappy with the event. The Manhattan Beach Open has been in existence for over 40 years and is cherished by the citizens of Manhattan Beach. The Manhattan Beach Open is recognized as the "Wimbledon" of beach volleyball and the citizens of Manhattan Beach are proud of the prestige of this tournament. It is important to note that the City of Manhattan Beach owns this event - we produce the event on their behalf and it is our role to maintain the quality of the event while meeting all of the needs of the City and the public. We believe that we have done that every year.

With respect to the 2003 Manhattan Beach Open, the event was a big success and was warmly received by the City and its citizens. The event included the following as mandated by the California Coastal Commission: a traffic plan also approved by the Manhattan Beach Police Department; a parking plan also approved by the Manhattan Beach Police Department; and a well coordinated free satellite parking / shuttle bus plan also approved by the City of Manhattan Beach. For the 2004 Manhattan Beach Open, we will coordinate and operate a tournament that is in compliance with the California Coastal Commission and that also meets the approval of the City of Manhattan Beach.

With respect to the appeals that were sent to my attention, I will address the concerns of the appellants below.

## PARKING LOT USAGE

In 2003, per California Coastal Commission guidelines, the AVP planned to use only the lower south pier parking lot from Monday thru Wednesday, the two lower pier parking lots from Thursday thru Sunday and again only the lower south lot on the following Monday and Tuesday. However, the lower south lot proved to be insufficient to accommodate the number of production and delivery vehicles that make deliveries (and pick-ups) during the set up of the event. There ended up being considerable traffic back-up and the City of Manhattan Beach Police Department reviewed the situation and decided that the best way to avoid a potential hazardous situation was to allow the tournament to use the lower north lot as well. By allowing the tournament to use both the north and south lower lots, traffic congestion was eliminated and the area was made much safer. The appellants assertions are not only unfounded but false as well -- despite the assertion by one of the appellants that the AVP was given and had exclusive use of one of the upper lots at the pier, this is not true.

Based upon the recommendations of the City of Manhattan Beach Police Department as a result of their experience in dealing with the safety circumstances noted above, for 2004 the City of Manhattan Beach has approved usage of the two lower pier parking lots from the Tuesday before the event thru the Tuesday after the event which includes the set-up and breakdown of the event. It is essential that both lots be available for usage from the start of set-up to the end of breakdown to assure public safety and to prevent severe traffic congestion.

In addition, the City approved usage of the upper south lot during the three days of the event only. This is again an issue of safety. During the three days of the event, there are a significant number of deliveries that take place during the day. In order to avoid double parking and traffic congestion (and possible impediment of pedestrians and bicyclists), the City of Manhattan Beach Police Department recommended and the City of Manhattan Beach approved the use of the upper south lot during this three-day period. The appellants argument that there is insufficient parking available for beachgoers if the parking lots are reserved for the event is simply false. In fact, in 2004 there are an additional 460 parking spaces available to the public in the immediate area due to the completion of the "Merlox project". As a result, in actuality there is much more parking available to the beach-going public than ever before.

## BLEACHERS ON THE PIER

One of the appellants states as the basis for his appeal, "Bleachers on the pier would not allow enough space for ambulances and other emergency vehicles to pass thus effectively denying emergency vehicle access to the pier." The appellant has no knowledge or expertise on this matter and is in error. The AVP will provide the Coastal Commission with written confirmation from the City of Manhattan Beach Fire Department (charged with the responsibility of public safety in usage of the pier) supporting that a bleacher on the pier will NOT deny emergency access to the pier nor compromise public safety.

Based on the AVP's contention that this is a safe concept, the AVP again asked the City of Manhattan Beach to approve the use of a bleacher on the pier despite the disapproval of such usage by the Coastal Commission last year. The AVP is not attempting to question the authority or wisdom of the Coastal Commission. Last year, we did not provide you with the information necessary for the Coastal Commission to determine that such bleachers would not cause a safety hazard. This year we will be supplying you with written confirmation from the City of Manhattan Beach that having bleachers on the pier is safe.

### **BEACH CLUB MEMBERSHIPS**

The California Coastal Commission approved the sale of Beach Club memberships (AVP fan club program) in 2003 as long as at least 75% of the seating remained free and available to the public. One of the appellants states as the basis for his appeal, "...and AVP disregarded this restriction and allowed almost all of the seating last year to be of the paid seating variety." This statement is patently false and outrageous to say the very least. The AVP spent over \$75,000 to provide free bleacher seating to the public. Total seating capacity of the event was approximately 3,100. The AVP sold 138 Beach Club memberships for the Manhattan Beach Open which represents less than 5% of the seating set aside for Beach Club members. The AVP feels there is absolutely no basis for appeal based on Beach Club Membership sales and will again provide at its substantial cost and expense free seating for the public that constitutes at least 75% of the available seating.

### **CONCLUSION**

The AVP holds itself to tremendously high standards. The City of Manhattan Beach certainly holds the AVP to high standards as well. As a result, the 2003 Manhattan Beach Open was an excellent, well-organized event that addressed concerns specific to dealing with public safety, traffic congestion, and parking. In addressing such concerns, the event complied with all conditions set forth by the California Coastal Commission. The AVP pledges to implement the same programs again at the 2004 Manhattan Beach Open and to again be in full compliance with the California Coastal Commission in this regard.

The AVP asks California Coastal Commission staff to recommend approval of the 2004 Manhattan Beach Open and deny the appellants unfounded appeals, including regarding (i) usage of parking described above in order to address public safety concerns; and (ii) bleacher on the pier subject to the City of Manhattan Beach Fire Department submitting a letter that states such a bleacher will not unduly impact public safety or deny emergency access to the pier.

Thank you and please feel free to contact me with the need for any additional information.



**Associated Volleyball professionals**

Matthew H. Gage  
Howard Hughes Center  
6080 Center Drive - 5<sup>th</sup> Floor  
Los Angeles, CA 90045

**RECEIVED**  
South Coast Region

OCT 06 2003

CALIFORNIA  
COASTAL COMMISSION

October 1, 2003

Charles Posner  
California Coastal Commission  
South Coast Area Office  
200 Oceangate, Suite 1000  
Long Beach, CA 90802-4302

Dear Charles,

Thank you for your August 29, 2003 request for the free remote parking supply provided at the Manhattan Beach Open Volleyball Tournament as required in permit A-5-MNB-03-075. I apologize for this late feedback, but the AVP Tour has been non-stop and the final event of our season was only a little over a week ago.


Free shuttle service was supplied at Northrop Grumman from August 7 thru August 10, 2003. The shuttle system was used as follows by the public:

	<b>Vehicles</b>	<b>Individuals</b>
<b>August 7</b>	<b>2</b>	<b>5</b>
<b>August 8</b>	<b>10</b>	<b>27</b>
<b>August 9</b>	<b>89</b>	<b>268</b>
<b>August 10</b>	<b>108</b>	<b>343</b>

The AVP provided free valet parking for "AVP guests" at American Martyrs in an area not accessible to public parking. The valet service was used as follows:

	<b>Vehicles</b>
<b>August 9</b>	<b>200</b>
<b>August 10</b>	<b>217</b>

Charles, I hope the information provided above fulfills your request related to free remote parking supply provided at the 2003 Manhattan Beach Open Volleyball Tournament. Please let me know if you need more information and again, I apologize for the late receipt of the above information.

Sincerely,  
  
Matt Gage  
Tour Director/AVP

**COASTAL COMMISSION**

EXHIBIT # 9  
PAGE 1 OF 1

