

CALIFORNIA COASTAL COMMISSION

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

Th16a

Filed: 5/21/2007
49th Day: 7/9/2007
180th Day: N/A
Staff: Charles Posner - LB
Staff Report: 5/30/2007
Hearing Date: June 14, 2007
Commission Action:

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

LOCAL GOVERNMENT: City of Manhattan Beach

LOCAL DECISION: Approval with Conditions

APPEAL NUMBER: A-5-MNB-07-178

APPLICANT: Association of Volleyball Professionals (AVP)

AGENT: David Williams, AVP Manager

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

PROJECT DESCRIPTION: Appeal of City of Manhattan Beach local coastal development permit approving the 2007 Manhattan Beach Open Volleyball Tournament (with temporary bleachers and related structures seating 3,500 people) to be held on the public beach during a ten-day period (including set-up and take-down). The tournament is currently scheduled for August 9-12, 2007.

APPELLANTS: Dennis J. Noor, William Victor & Bill Eisen on behalf of himself and Residents for a Quality City

SUMMARY OF STAFF RECOMMENDATION

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

SUBSTANTIVE FILE DOCUMENTS:

1. Local Coastal Development Permit No. CA 07-09 (2007 Manhattan Beach Open) and City Council Resolution No. 6093, 5/1/2007 (Exhibit #4).
2. City of Manhattan Beach Local Coastal Program (LCP), certified 5/12/1994.
3. Appeal/Permit No. A-5-MNB-97-84 (1997 Manhattan Beach Open), 5/13/1997.
4. Appeal No. A-5-MNB-99-111 (1999 Manhattan Beach Open), NSI 6/11/1999.
5. Appeal No. A-5-MNB-01-343 (2001 Manhattan Beach Open), NSI 10/8/2001.
6. Appeal/Permit No. A-5-MNB-03-075 (2003 Manhattan Beach Open), 6/11/2003.
7. Appeal/Permit No. A-5-MNB-04-108 (2004 Manhattan Beach Open), 5/14/2004.
8. City of Manhattan Beach LCP Amendment No. 2-04, Certified 5/11/2005.

I. APPELLANTS' CONTENTIONS

On May 1, 2001, after a public hearing, the Manhattan Beach City Council approved with conditions Local Coastal Development Permit No. 07-09 allowing the Association of Volleyball Professionals (AVP) to conduct the 2007 Manhattan Beach Open Volleyball Tournament (Exhibit #4). City staff and the AVP have told Commission staff that the approved event is planned to occur on August 9-12, 2007 on the public beach area located immediately south of the Manhattan Beach Pier (Exhibit #3). Set-up for the event (e.g., 3,500 bleacher seats, stadium, tents, etc.) would commence on Monday, August 6, 2007, and take-down would be completed by Thursday, August 16, 2007. The local coastal development permit requires that at least seventy-five percent (75%) of the total seating capacity at each court be reserved for the general public for free on a first-come, first-served basis (Exhibit #4, p.3: Condition 10). Also, the AVP is required to implement a traffic and parking management plan and provide a free shuttle bus (on Saturday and Sunday) for public transportation between a remote parking area and a drop-off point near the event site.

On May 21, 2007 the appeal by Dennis J. Noor was received in the Commission's South Coast District office in Long Beach (Exhibit #6). Mr. Noor's appeal asserts that the local coastal development permit does not specifically state that the "VIP" attendees cannot be included in the seventy-five percent (75%) of the seating capacity that must be reserved for free public admission, and that the site plan for the proposed 2007 event was not provided for public review at the City's May 1, 2007 public hearing. Mr. Noor's appeal also objects to extreme commercialization of public lands, specifically the display of sponsors' merchandise (e.g. Toyota vehicles, Army Humvee, and watercraft) on the public beach. Finally, Mr. Noor's appeal highlights several typographical errors in the City's resolution and agreement ("the Agreement") with the AVP that relate to the dates of the event and the timing of certain required mitigation measures. The City's response to Mr. Noor's appeal is attached to this report as Exhibit #7.

On May 29, 2007 the appeals submitted by Bill Eisen and William Victor were received in the Commission's South Coast District office in Long Beach (Exhibits #8&9).

The appeal by Bill Eisen, submitted on behalf of himself and Residents for a Quality City, questions the enforcement of Condition Ten of the local coastal development permit which requires that at least seventy-five percent (75%) of the total seating capacity at each court be reserved for the general public for free on a first-come, first-served basis (Exhibit #4, p.3). Mr.

Eisen's appeal asserts that the permit should include effective provisions that enforce the limitation on paid seating and VIP areas (Exhibit #8).

The appeal by William Victor includes seventeen individually-numbered grounds for appeal (Exhibit #9). Mr. Victor's appeal asserts that the approved event will adversely affect public access by usurping two of the City's largest public beach parking lots for ten days during the height of the summer season, and that the banners and advertising approved by the City will adversely affect scenic resources. Like Mr. Noor's appeal, Mr. Victor's appeal takes issue with the site plan provided at the City's May 1st hearing and objects to the commercialization of public lands that occurs with the display of sponsors' merchandise on the public beach. Mr. Victor's appeal also asserts that the City has permitted the placement of tents on the beach and allowed structures that exceed the height limit in contradiction to the Municipal Code and the certified City of Manhattan Beach LCP. Like Mr. Eisen's appeal, Mr. Victor's appeal asserts that the permit should include effective provisions that enforce the limitation on paid seating and VIP areas. Finally, Mr. Victor's appeal points out typographical errors and inconsistencies between City Resolution No. 6093 and the City's contract with the AVP.

II. LOCAL GOVERNMENT ACTION

On May 1, 2007 the Manhattan Beach City Council held a public hearing, approved Local Coastal Development Permit No. 07-09, and adopted City Council Resolution No. 6093 authorizing the 2007 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 May 15, 2007 the Commission's South Coast District office in Long Beach received the City's Notice of Final Local Action for Local Coastal Development Permit No. 07-09. The Commission's ten working day appeal period was then established and noticed. On May 21, 2007 the Commission's South Coast District office received the appeal submitted by Dennis J. Noor. On May 29, 2007 the Commission's South Coast District office received the appeals by submitted by Bill Eisen and William Victor. The appeal period ended at 5 p.m. May 30, 2007.

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 #2). The proposed event is located entirely within the mapped geographic appealable 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 no substantial issue. If the Commission decides that the appellants' contentions raise no substantial issue as to conformity with Chapter 3 of the Coastal Act, the action of the local government stands. Alternatively, if the Commission finds that a substantial issue exists with respect to the conformity of the action of the local government with the standards set forth in the certified Local Coastal Program or the public access policies of the Coastal Act, the local coastal development permit is voided and the Commission typically continues the public hearing to a later date in order to review the coastal development permit as a de novo matter. [Cal. Pub. Res. Code §§ 30621 and 30625.] Section 13321 of the Coastal Commission regulations specifies that de novo actions will be

heard according to the procedures outlined in Sections 13114 and 13057-13096 of the Commission's regulations.

If there is no motion from the Commission to find no substantial issue, 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 **no 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 **YES** vote on the following motion:

MOTION: *"I move that the Commission determine that Appeal No. A-5-MNB-07-178 raises **NO SUBSTANTIAL ISSUE** with respect to the grounds on which the appeals have been filed."*

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

Resolution to Find No Substantial Issue for Appeal A-5-MNB-07-178

The Commission hereby finds that Appeal No. A-5-MNB-07-178 raises no substantial issue regarding consistency with the Certified Local Coastal Plan and/or the public access policies of the Coastal Act.

V. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares:

A. Project Description and Event History

On May 1, 2001, after a public hearing, the Manhattan Beach City Council approved with conditions Local Coastal Development Permit No. 07-09 allowing the Association of Volleyball Professionals (AVP) to conduct the 2007 Manhattan Beach Open Volleyball Tournament (Exhibit #4). City staff and the AVP have told Commission staff that the approved event is planned to occur on August 9-12, 2007 on the public beach area located immediately south of the Manhattan Beach Pier (Exhibit #3). Set-up for the event (e.g., 3,500 bleacher seats, stadium, tents, etc.) would commence on Monday, August 6, 2007, and take-down would be completed by Thursday, August 16, 2007. The local coastal development permit requires that at least seventy-five percent (75%) of the total seating capacity at each court be reserved for the general public for free on a first-come, first-served basis (Exhibit #4, p.3: Condition 10). Also, the AVP is required to implement a traffic and parking management plan and provide a free shuttle bus (on Saturday and Sunday) for public transportation between a remote parking area and a drop-off point near the event site.

Event History

The annual Manhattan Beach Open Volleyball Tournament has a long tradition that dates back to 1960. Until 2005, no admission fees had been charged to view the event, and the general public was able to view the event on a first-come, first-served basis from the sand, the temporary bleachers, or from the pier. In 2005 the City amended its LCP to include the following provision to allow up to twenty-five percent of the available seating areas to be reserved for VIPs and ticket-holders, while reserving at least seventy-five percent of the total seating area for free seating:

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

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

The 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.

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).

As previously stated, the annual Manhattan Beach Open Volleyball Tournament has a long tradition that dates back to 1960. The Commission has heard appeals of the City's local coastal development permits approving the annual event in 1997, 1999, 2001 and 2003. Although the permitting process has been contentious at times, the City and Commission have never denied a permit for the annual event. The issues that have been contentious primarily involve public access and recreation impacts, such as: the applicant's requests for exclusive use of the sandy beach and the City's public beach parking lots, the event's admission policies (free vs. fee admission), timing of the event set-up and take-down, and allegations of crass commercialization of public lands. Over the years, the City and Commission have worked together to develop a set of special conditions that mitigate the impacts of the annual temporary event. This set of special conditions has been applied to the local coastal development permit for the 2007 Manhattan Beach Open Volleyball Tournament.

B. 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' contentions center more on typographical errors and concerns about process and enforcement than LCP consistency. The substantial issue determination, however, 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. The proposed event, with the permit condition that requires that at least seventy-five percent (75%) of the total seating capacity at each court be reserved for the general public for free, is consistent with the Open Space (OS) land use designation of the beach, which allows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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 ten days, and the ability to find public parking near the pier will be nearly impossible. This situation arises each year during the event.

As required by Policies 1.A.2, 1.B.1, 1.C.2 and 1.C.17 (Program II.B.14) of the certified LCP, the City is required to implement safe and efficient traffic flows, encourage transportation service, maximize parking for weekend beach use, and provide signing and information to do so. The City meets these LCP obligations by imposing conditions on the local coastal development permit that require the applicant to provide and implement a parking and traffic management plan that provides parking for the event spectators and the general public. The applicant is also required to provide a free shuttle bus (on Saturday and Sunday) for public transportation between a remote parking area and a drop-off point near the event site. As conditioned, the City's approval is consistent with LCP Policies 1.A.2, 1.B.1, 1.C.2 and 1.C.17, and the public access policies of the Coastal Act.

Exclusive Use of the Beach

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 ten days, from set-up to take-down, the general public will be excluded from most of the sandy beach area and public volleyball courts on the event site. The proposed event will occupy a 300-foot long portion of the approximately 350-foot wide beach area that exists between the bike path and mean high tide line (MHTL).

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

Free Admission or Paid Admission

The issue of paid admission is raised again by this appeal, as it has been for several years since it first was raised in 1997. However, since 2005, the certified LCP allows admission to be charged for entry to the event (as long as at least seventy-five percent of the total seating capacity at each court be reserved for the general public for free). Condition Ten of the local coastal development permit requires the free admission for at least seventy-five percent of the total seating capacity at each court, and includes a provision requiring that the applicant document compliance with the requirement (Condition 10: Exhibit #4, p.3). The condition states that Club/VIP seating cannot be included in the seventy-five percent (75%) of the seating capacity that must be reserved for free public admission.

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. 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.

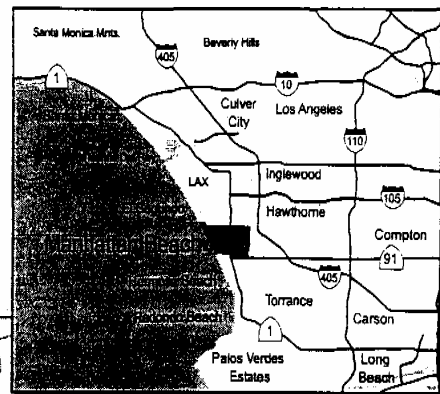
Typographical Errors

The City has issued a letter correcting the errors in the City's resolution and agreement (Exhibit #7). Therefore, since corrected, the City's errors do not constitute a substantial issue.

Conclusion

The City's approval of the proposed event conforms to the certified LCP and the public access policies of the Coastal Act. The local coastal development permit requires that at least seventy-five percent (75%) of the total seating capacity at each court be reserved for the general public for free on a first-come, first-served basis. Also, the AVP is required to implement a traffic and parking management plan and provide a free shuttle bus (on Saturday and Sunday) for public transportation between a remote parking area and a drop-off point near the event site. The City's action approving the event with conditions is also consistent with the Commission's prior appeal actions approving permits for the annual event. Therefore, the Commission finds that no substantial issue exists with respect to the City's approval of Local Coastal Development Permit No. 07-09.

Regional Map



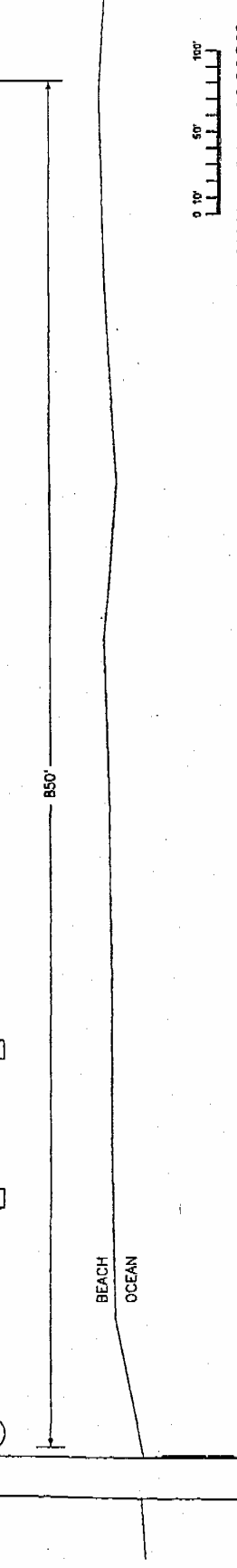
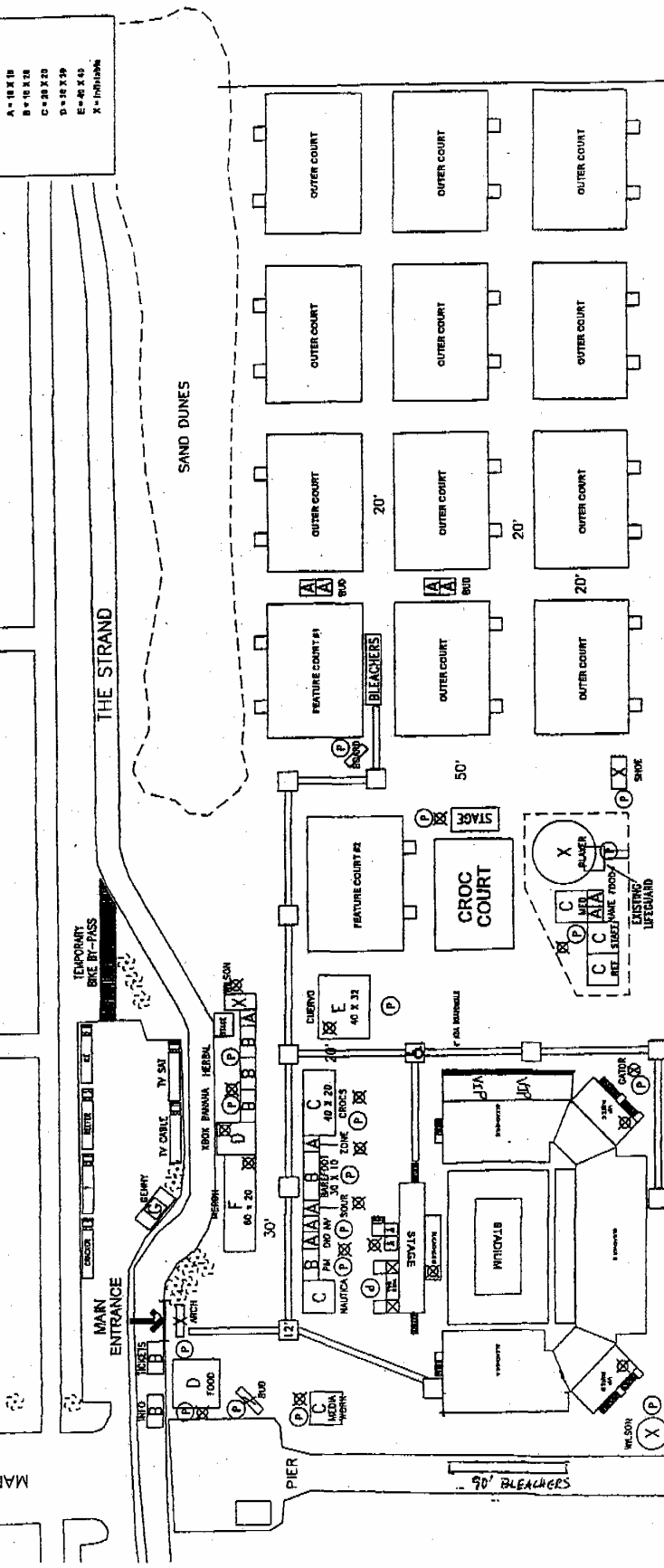
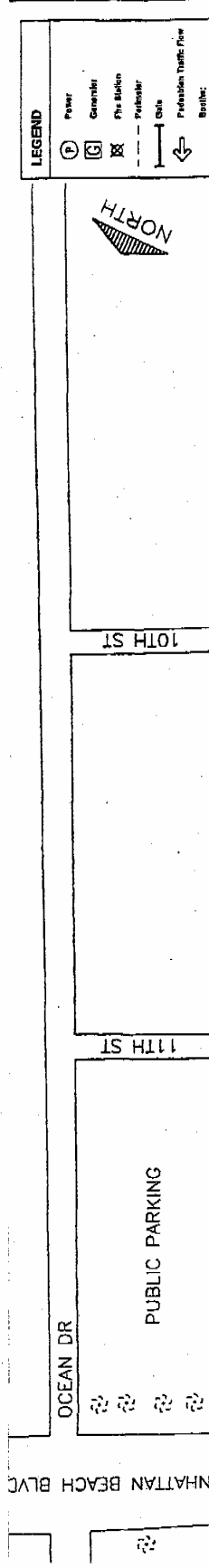
Manhattan Beach Open 2007

A-5-MNB-07-178
COASTAL COMMISSION

EXHIBIT # 1
PAGE 1 OF 1

Vicinity Map

✓ North





City Hall

1400 Highland Avenue

Manhattan Beach, CA 90266-4795

Telephone (310) 802-5000

FAX (310) 802-5001

TDD (310) 546-3501

NOTICE OF FINAL GOVERNMENT ACTION

RECEIVED
South Coast Region

May 11, 2007

MAY 15 2007

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

CALIFORNIA
COASTAL COMMISSION

RE: Coastal Development Permit for 2007 Manhattan Beach Open Spectator Bleachers South of Manhattan Beach Pier (CA 07-09, APN Nos. 4179-031-902 & -903)

Pursuant to the procedures set forth in Chapter A.96 of the City of Manhattan Beach Local Coastal Program (LCP) the City Council of the City of Manhattan Beach conducted a duly noticed public hearing (May 1, 2007) on the above referenced project. At this hearing the Council voted 4-1 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. 6093 approving the Coastal Development Permit. This Resolution outlines the findings and conditions of approval. Should you have any questions, or need additional information, please feel free to contact me at (310) 802-5511.

Sincerely,

Eric Haaland, Associate Planner
Department of Community Development

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

Att: Reso. 6093
MBO Agreement
Updated MBO Site Plan

COASTAL COMMISSION
A5-MNB-07-178
EXHIBIT # 4
PAGE 1 OF 5

RESOLUTION NO. 6093

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MANHATTAN BEACH, CALIFORNIA, APPROVING A COASTAL DEVELOPMENT PERMIT FOR THE 2007 MANHATTAN BEACH OPEN ON THE PROPERTY LOCATED AT THE SOUTH SIDE OF THE MANHATTAN BEACH PIER IN THE CITY OF MANHATTAN BEACH (Association of Volleyball Professionals)

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

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

- A. The City Council conducted a public hearing on the proposed coastal development permit, and testimony was invited and received, on May 1, 2007.
- B. The applicant for the coastal development permit is the Association of Volleyball Professionals.
- C. The City Council, at its regular meeting of May 1, 2007, approved a temporary use permit/program for the 2007 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 3,500 people for a single 10 day period (including setup and breakdown) for the 2007 Manhattan Beach Open.
- E. The City Council did not approve the proposed stadium plan with VIP areas at the west and north sides, and instead approved a stadium design matching the approved 2006 Manhattan Beach Open plan including a portion of bleacher seating located on the Manhattan Beach Pier.
- F. The Project is Categorically Exempt from the requirements of the California Environmental Quality Act (CEQA), pursuant to Section pursuant to Sections 15304(e) "Minor Alterations to Land", 15311(c) "Accessory Structures", and 15323 "Normal Operations of Facilities for Public Gatherings".
- G. The project will not individually nor cumulatively have an adverse effect on wildlife resources, as defined in Section 711.2 of the Fish and Game Code.
- H. The project, as conditioned herein, is in accordance with the objectives and policies of the Manhattan Beach Coastal Program, as follows:
 - a) The proposed temporary bleacher structures comply with the applicable standards of the Manhattan Beach Coastal Zone Zoning Code.
 - b) The structures shall not obstruct accessways within the coastal zone. While they will occupy some space on the beach, access from the Strand, bike path, and pier to the coastline and surrounding beach area shall remain available.
 - c) Any displacement of normal views or use of the space shall be temporary for the period allowed by the proposed permit.
 - d) Installation and use of the bleachers and related structures shall be subject to the restrictions (timing, shuttle, signs, trash, etc.) of the City's tournament agreement with the AVP.



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

EXHIBIT # 4
PAGE 2 OF 5

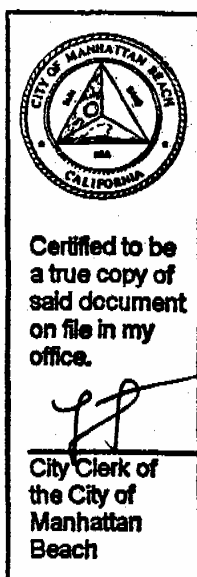
- I. This Resolution upon its effectiveness constitutes the Coastal Development Permit for the 2007 Manhattan Beach Open volleyball tournament, that conform to the description and conditions provided herein.

SECTION 2. The City Council of the City of Manhattan Beach hereby approves the proposed Coastal Development Permit for temporary bleachers and related structures for 3,500 spectators at the 2007 Manhattan Beach Open volleyball tournament, subject to the following conditions:

1. The project shall be in substantial conformance with the plans submitted to, and approved by the City Council for the previous year's 2006 Manhattan Beach Open, on July 18, 2006.
2. The project shall conform to the city-approved Agreement with the Association of Volleyball Professionals for the 2007 Manhattan Beach Open. **[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 41.5 feet in height.
10. The general public shall be provided with free public access to viewing and seating areas within the event area. The AVP shall post clearly legible signs to designate at least 75% of the total seating capacity at each court (including bleachers, sand areas and viewing platforms/risers surrounding each court) that is reserved for the general public for free on a first-come, first-served basis. The signs, at least two square feet in area, shall state "Free Admission Area". The remaining 25% (or less) of the total seating capacity at each court (including bleachers sand areas and viewing platforms/risers surrounding each court) may be paid seating, or reserved for preferred Beach Club/VIP seating and/or access. The applicant is permitted to collect fees to access to the preferred seating areas. On Saturday and Sunday of the tournament, the applicant shall count and record the number of Beach Club members and VIP's within the event area, and shall provide the City and the Coastal Commission with the data within 1 month of the end of the tournament.
11. The AVP shall implement a traffic and parking management plan and free beach shuttle bus plan. The traffic plan shall address Handicapped Parking including: All existing handicapped

COASTAL COMMISSION

EXHIBIT # 4
PAGE 3 OF 5



(HC) parking spaced in the upper and lower pier parking lot, and lower pier parking lots, and along Manhattan Beach Boulevard, are reserved for use by persons with vehicles displaying valid handicapped placards; and vehicles associated with the applicant or the event shall not reserve or occupy any handicapped parking spaces unless such vehicle displays a valid handicapped placard.

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

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

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

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

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

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

18. The event shall not interfere with the public's use of the bicycle path and The Strand, a public walkway that parallels the beach. The bicycle path and The Strand shall remain open and unobstructed. No fences, vehicles, materials or structures shall be parked or placed on the bicycle path or The Strand. The applicant shall monitor The Strand and bicycle path in order to prevent any encroachments by event sponsors and vendors.

COASTAL COMMISSION

EXHIBIT # 4
PAGE 4 OF 5



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

[Signature]
City Clerk of
the City of
Manhattan
Beach

19. The proposed event, and all associated development, shall not encroach any closer to the shoreline than fifty feet (50'), measured from the highest water mark.
20. By acceptance of this coastal development permit, the applicant agrees to remove and legally dispose of all trash, waste, oil, grease, and other materials that may be deposited on-site incidental to the volleyball tournament, associated activities, and the general public's use of the event site, pier and adjacent parking facilities. Such clean-up and disposal shall be completed at the end of each day's activities.

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

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

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

PASSED, APPROVED and ADOPTED this 1st day of May, 2007.

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

/s/ Nicholas W. Tell, Jr.
Mayor, City of Manhattan Beach, California

ATTEST:

/s/ Liza Tamura
City Clerk

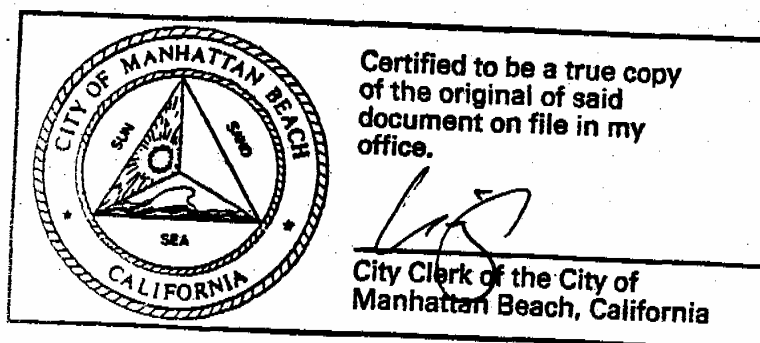


EXHIBIT # 4
PAGE 5 OF 5

2007
MBO/AVP AGREEMENT

THIS AGREEMENT is made this 19th day of April 2007, 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 6100 Center Drive, Suite 900, Los Angeles, CA 90045

WITNESSETH

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

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

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

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

I. THE EVENT. During the term of this agreement, CMB authorizes the AVP to conduct the annual MBO, the dates of which shall be selected by AVP in consultation with CMB. This year's event will be held August 10-12, 2007 with the Qualifier being held on Thursday, August 9, 2007; and the Manhattan Beach Open Dinner of Champions will be held on Thursday evening, August 9, 2007.

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 Manhattan Beach Open presented by the AVP". All public identification of or reference to the MBO shall be made in the following manner: "The Manhattan Beach Open" presented by the AVP [Primary Sponsor Name] 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 Manhattan Beach Open Presented by [Presented By Sponsor] and [Primary Sponsor]).

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

COASTAL COMMISSION
A5-MNB-07-178

CMB

AVP

EXHIBIT # 5

PAGE 1 OF 12

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 (which will not be included in the 4,500 seats on the beach) (i) on the pier behind the center court endzone bleachers up to 90'; 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 for more than 25% of the center court bleachers or such other limit as set by the California Coastal Commission.

G) VIP tent and VIP seating shall be provided by the AVP as follows: (i) There shall be four (4) center court elevated VIP tents [(2) 20' x 80' tents and (2) 20' x 40' tents] and four (4) sand VIP tents [(4) 10' x 10' tents]; (ii) VIP "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.

II. CMB RESPONSIBILITIES.

A) The CMB shall permit the AVP to conduct a Pro-Am Men's & Women's Two Person Volleyball Tournament; and the MBO Dinner of Champions on the evening of Thursday, August 9, 2007. The MBO Dinner of Champions will be permitted by CMB upon County approval.

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 \$2,000 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 have the right to save at least the first 24 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

CMB

AVP

COASTAL COMMISSION

EXHIBIT # 5
PAGE 2 OF 12

AVP permission to run these qualifying rounds if the AVP will open up the qualifiers and take a minimum of eight (8) Men's teams and eight (8) Women's teams to play into the professional rounds of the MBO. If the AVP is in agreement, the AVP shall retain all the qualifying entry fees. As part of whatever these teams may win as prizes for winning in the qualifying rounds, an AVP membership will be provided to them by the AVP, it being acknowledged that all players must sign the standard agreement in order to compete in the main draw of the event.

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

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 north and south lower parking lot, except for 10 spaces in the north lower 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 water (subject to agreement between CMB and LA County regarding approval of sales and sampling on the beach at the MBO), 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 base of the pier.

K) The CMB shall allow a non-alcohol evening corporate outing on Thursday, August 9, 2007 in the main court area for AVP sponsors and fans culminating by 9:30 p.m. with County approval.

III. AVP RESPONSIBILITIES.

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

COASTAL COMMISSION

CMB

AVP

EXHIBIT # 5

PAGE 3 OF 12

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. Bleacher set-up must adhere to the 41.5 ft. limit set by the Coastal Development Permit. 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, Wednesday, August 16, 2007. 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 ensure compliance with this date and time of removal, the AVP shall provide the CMB a \$10,000 security/clean-up deposit described in subsection G below. The parties will meet "on site" Wednesday, August 16, 2007 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. Site clean-up must include sifting, cleaning and leveling of beach sand to remove debris beneath the surface. If such deficiency is not rectified by the timelines set forth below, the AVP will forfeit the amount shown.

Thursday, August 15, @ 2:00 PM	\$3,000 plus City costs
Friday, August 16 @ 2:00 PM	\$3,000 additional (\$6,000 total) plus City costs
Saturday, August 17 @ 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 Monday, September 10, 2007.

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, which are currently projected to be \$60,000 shall be paid to CMB 30 days in advance of the event. Actual City departmental costs shall be itemized and billed to the AVP upon completion of the event. An additional \$10,000 cleaning deposit is required (section III C) and is fully refundable upon event clean-up.

COASTAL COMMISSION

CMB

AVP

EXHIBIT #

5

PAGE

4

OF 12

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 Northrop Grumman 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) The AVP shall allow the City to display a 3X8ft. banner on the bike path railing and 2 10X10 pop-up tents with City department signage on the base of the Pier. The AVP shall also provide 10 public service announcements on Saturday and Sunday (August 10th and 11th) for Police Department recruitment. The AVP shall provide a professional volleyball player to give at least two hours of instruction for a youth volleyball class sponsored by the CMB from 9:30-11:30 a.m. on one of the following days: August 6,7,8 or 9.

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

IV. MERCHANDISING, SPONSORSHIP AND LICENSING RIGHTS.

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

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

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

COASTAL COMMISSION

CMB

AVP

EXHIBIT # 5
PAGE 5 OF 12

- 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., Toyota vehicles, Army Humvee, etc.) and watercraft on the sand in connection with the event and allow Toyota 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 be placed at the following locations from July 16, 2007 – August 13, 2007: Manhattan Avenue/12th 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 23-August 5, 2007 which are reserved for the International Surf Festival).
- 2) AVP shall have the exclusive right to hang pole banners at the following locations for the following period from July 16, 2007 – August 13, 2007: 8 poles on Manhattan Beach Boulevard (in median from Sepulveda to Meadows); 7 poles on Marine Avenue (in median from Sepulveda to Cedar); 34 poles on Rosecrans Avenue. (in median from Sepulveda to Aviation); 10 poles on Manhattan Beach Boulevard (from Valley to the Pier); 19 poles on Highland Avenue (from 10th Street to 15th Street); 6 poles on Manhattan Avenue (from 8th Street to 12th Place); 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) 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.

B) 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.

C) 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.

CMB

AVP

EXHIBIT # 5

PAGE 7 OF 12

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 minimum of sixty-two thousand five hundred dollars (\$62,500) prize money 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 2007 Manhattan Beach Open. Bleacher load in only will begin on Thursday, August 2, 2007. Bleachers and bleacher materials will be stored and secured adjacent to the north side of the Pier. Set up for the event will begin on Monday, August 6, 2007. 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 Wednesday, August 15 2007.

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.

COASTAL COMMISSION

CMB

AVP

EXHIBIT # 5
PAGE 8 OF 12

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 2007 Tournament only, to use of the name "Manhattan Beach Open." CMB expressly reserves to itself all other rights to use of the name "Manhattan Beach Open" which the parties hereto acknowledge is the sole property of CMB. Except as expressly provided herein, neither party shall have the right to use in any way the corporate or trade name, trademark(s), service mark(s), logo(s), or other identification of the other party without its prior written consent.

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

XIV. INSURANCE.

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

CMB

AVP

EXHIBIT # 5

PAGE 9 OF 12

with, or invalidated by the existence of any insurance, self-insurance or other risk financing program maintained by CMB. In the event the policy contains such an "other insurance" clause, the policy shall be modified by endorsement to show that it is primary for any claim arising out of the work performed under this Agreement. The City of Manhattan Beach Insurance Endorsement Form No. 1 (General Liability) must be executed by the applicable insurance underwriters.

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

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

COASTAL COMMISSION

CMB

AVP

EXHIBIT #

5

PAGE 10 OF 12

2) AVP shall provide satisfactory financial guarantee for payment of losses and related investigations, claim administration, and defense expenses.

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

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

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

CMB

AVP

EXHIBIT # 5
PAGE 11 OF 12

If to AVP: AVP
6100 Center Drive, Suite 900
Los Angeles, CA 90045
Attn: Chief Operating Officer

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.

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: _____

COASTAL COMMISSION

CMB

AVP

EXHIBIT # 5
PAGE 12 OF 12

RECEIVED
South Coast Region

STATE OF CALIFORNIA - THE RESOURCES AGENCY

MAY 21 2007

ARNOLD SCHWARZENEGGER, Governor

CALIFORNIA COASTAL COMMISSION

SOUTH COAST DISTRICT OFFICE

200 OCEANGATE, 10TH FLOOR

LONG BEACH, CA 90802-4416

VOICE (562) 590-5071 FAX (562) 590-5084

CALIFORNIA
COASTAL COMMISSION



APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

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

SECTION I. Appellant(s)

Name: DENNIS J. NOOR
Mailing Address: 250-35th STREET
City: HERNOSA BEACH, CA Zip Code: 90254 Phone: 310-318-5425

SECTION II. Decision Being Appealed

1. Name of local/port government:
CITY OF MANHATTAN BEACH, CA
2. Brief description of development being appealed:
COASTAL DEVELOPMENT PERMIT FOR 2007
MANHATTAN BEACH OPEN, MBO AGREEMENT AND MBO
3. Development's location (street address, assessor's parcel no., cross street, etc.):
MANHATTAN BEACH, SOUTH SIDE
OF THE PIER
4. Description of decision being appealed (check one.):
☐ Approval; no special conditions
☒ Approval with special conditions:
☐ Denial

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

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A5-MNB-07-178
DATE FILED: MAY 21, 2007
DISTRICT: SOUTH COAST

COASTAL COMMISSION
A5-MNB-07-178

EXHIBIT # 6
PAGE 1 OF 2

- **Resolution # 6093**

Page 2 # 10: Item does not specifically state that "VIP" attendees are "included" in the allotted 25% paid admission, since they surely paid in some way to be in these "exclusive" tents.

Page 3 #'s 15, 16: "Commencing on Tuesday following the tournament" makes NO sense because these items (signs, banners and radio spots) all happened before the event.

- **MBO/AVP Agreement:**

Page 4 - C: the date Wednesday August 16, 2007 is incorrect. The correct date should be Wednesday, August 15, 2007.

Also, the dates Thursday, Friday and Saturday 8/15, 8/16 and 8/17 are all incorrect. The correct dates should be Thursday, Friday and Sat. 8/16, 8/17 and 8/18.

Page 6 - C: "CMB" shall allow vehicles (e.g. Toyota Vehicles, Army Humvee, etc.) and a watercraft on the sand. These vehicles will be parked on the L.A. County's Beach! This is extreme commercialization of public lands. Please refer to State of California Public Resources Code 5002.6 where it states "No new or expanded commercial development shall be allowed on the granted real property".

- **MBO Site Plan:**

The site plan provided here is NOT the one presented at the public hearing of the Manhattan Beach City Council on May 1, 2007. The AVP provided the old 2006 site plan at that meeting!

To accept this new (mostly un-readable) site plan is absurd because the public did not have a fair chance to even see it.

Also, the most important area of the site plan (the Stadium) is un-readable and very vague because the font of the type is too small.

Dennis J. Noor
250-35th Street
Hermosa Beach, CA 90254

DJN
5/17/07

COASTAL COMMISSION
A5-MNB-07-178

EXHIBIT # 6
PAGE 2 OF 2

RECEIVED
South Coast Region

MAY 30 2007

**City of Manhattan Beach Responses to Reasons
Supporting Appeal No. A-5-MNB-07-178**

CALIFORNIA
COASTAL COMMISSION

In response to Dennis J. Noor's appeal of the approved Coastal Development Permit for the 2007 Manhattan Beach Open, the City of Manhattan Beach is providing the following comments:

Resolution #6093

- Condition 10 specifically states "The remaining 25% (or less) of the total seating capacity at each court (including bleachers, sand areas, and viewing platforms/risers surrounding each court) may be paid seating, or reserved for preferred Beach Club/VIP seating and/or access." The VIP/tent areas are included in the up to 25% paid seating area and constitute a primary component of the paid seating allotment.
- Conditions 15 & 16 contain typographical errors where the intended phrase "prior to" was replaced with the word "following". The purpose of these conditions is to provide advance information to the public regarding the event pursuant to the Coastal Commission's direction for previous Manhattan Beach Open events. The requirements for signage and advertising shall be imposed "prior to" the event regardless of the wording errors, which is consistent with past practices.

MBO/AVP Agreement

- There was a clerical error in listing the site clean-up dates on Page 4-C. The correct dates should be: Thursday, August 16, Friday, August 17, and Saturday, August 18 instead of the dates August 15, 16, & 17, which are inconsistent with the calendar.
- In addressing Page 5-C, there are no new or expanded commercial developments that were approved for this year's event. The display of vehicles and watercraft on the sand in this year's event is consistent with previous year's agreements which have been approved by the City Council and L.A. County. These vehicles will be for display purposes only.

MBO Site Plan

- The site plan presented at the City Council Meeting (included in 5/1/07 staff report) was not approved. City Council approved a new site plan which eliminated VIP booths on the west and north side of the bleachers which increased free public seating, and allowed spectators to view the stadium court from the Pier. The revised site plan has been labeled to specifically highlight the stadium seating changes. The revised site plan is also consistent with last year's event site plan which was approved by City Council and L.A. County.

COASTAL COMMISSION
A5-MNB-07-178

EXHIBIT # 7
PAGE 1 OF 1

RECEIVED

South Coast Region ARNOLD SCHWARZENEGGER, Governor

CALIFORNIA COASTAL COMMISSION

SOUTH COAST DISTRICT OFFICE

200 OCEANGATE, 10TH FLOOR

LONG BEACH, CA 90802-4416

VOICE (562) 590-5071 FAX (562) 590-5084

MAY 29 2007

CALIFORNIA
COASTAL COMMISSION**APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT****Please Review Attached Appeal Information Sheet Prior To Completing This Form.****SECTION I. Appellant(s)**

Name: Bill Eisen on behalf of himself and Residents for a Quality City

Mailing Address: P.O. Box 1882

City: Manhattan Beach

Zip Code: 90267

Phone: 310 546-2085

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 2007 Manhattan Beach Open beach volleyball tournament

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

Areas of the public beach adjacent to the Manhattan Beach pier and portions of the state owned pier parking lots to be used as private parking for the development. APN Nos. include 4179-031-902 & 903

4. Description of decision being appealed (check one.):

- ☐ Approval; no special conditions
- ☒ Approval with special conditions:
- ☐ Denial

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

TO BE COMPLETED BY COMMISSION:

APPEAL NO:

A5-MNB-07-178

DATE FILED:

May 29, 2007

DISTRICT:

South Coast

COASTAL COMMISSION

A5-MNB-07-178

EXHIBIT #

8

PAGE 1 OF 4

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

SECTION IV. Reasons Supporting This Appeal

PLEASE NOTE:

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

Although the city's LCP and Coastal Development Permit for the event limits paid seating to not more than 25% of total seating the permit fails to provide for enforcement of this limitation. Without effective enforcement the AVP cannot be expected to comply with this limitation because the AVP has repeatedly and consistently ignored limitations on paid seating for its events. For example, the Coastal Development Permit recently issued for the AVP's Hermosa Beach Open, held on May 19-20, 2007, also limited paid seating to 25% of total seating yet the event nevertheless provided paid seating to the tune of approximately 60% of total seating (see attached photos of this event taken by Bill Eisen).

Although the Coastal Development Permit for the Manhattan Beach Open (see Sec. 2, Item 10 of Res. 6093) provides that the applicant shall count and record the number of paid admissions (by counting the number of Beach Club members and VIP's within the event area) and shall provide the city and Coastal Commission with this data within 1 month of the end of the tournament, this requirement has proven ineffectual in limiting paid seating at the AVP's prior events.

Thus the Coastal Development Permit for the Manhattan Beach Open does not contemplate that the 25% paid seating limitation will be complied with. In that respect the Coastal Development Permit fails to comply with the city's LCP which does, in fact, limit paid seating to 25%. In view of the fact that the Coastal Act was enacted by popular initiative for the purpose of preserving our state's precious coastal resources, including our beaches, and for providing the general public with free and equal access to our beaches, the city's Coastal Development Permit is inconsistent with this policy to the extent that the permit is ineffective in restricting the event's paid seating to the allowed 25% limitation. Also, the permit's ineffectiveness in limiting paid seating only encourages other entities, such as the EVP Tour, to commercialize our state's beaches. The EVP Tour, www.evptour.com, is currently selling tickets for volleyball events it intends to hold this summer on beaches located in Hermosa Beach, Huntington Beach, Santa Barbara Beach and Santa Cruz Beach.

At a minimum, the city's Coastal Development Permit should include effective provisions enforcing the 25% limitation such as, for example, a provision providing for a neutral third party to monitor the event during the weekend, when admission is charged, and to require the AVP to comply with the 25% limitation by reducing the restricted seating areas if the neutral party determines that admission is being charged for more than the allowed 25% of total admission.

COASTAL COMMISSION

EXHIBIT # 8
PAGE 2 OF 4

HERMOSA BEACH OPEN
May 19-20, 2007



Photos taken before 10:00 a.m. on May 19-20 showing 6 rows of paid seating in the sand area. Photos were taken early in the day, before the stands filled up, so as to more clearly show the amount of paid seating.

HERMOSA BEACH OPEN
May 19-20, 2007



Photo taken before 10:00 a.m. Only the middle level of the stands (between the railing banners) are free to the public.

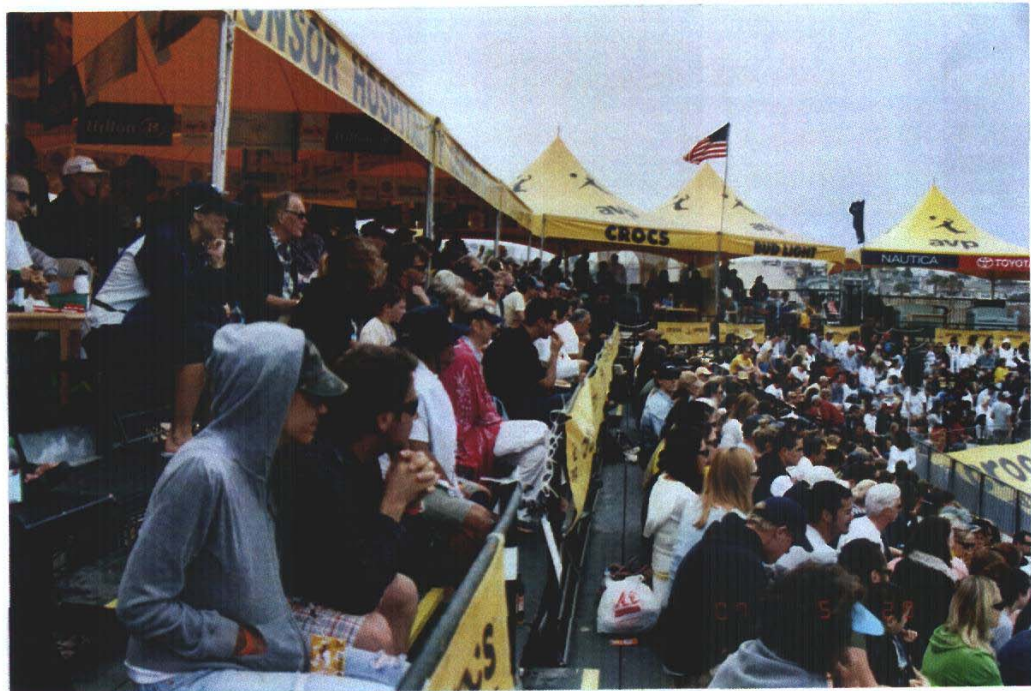
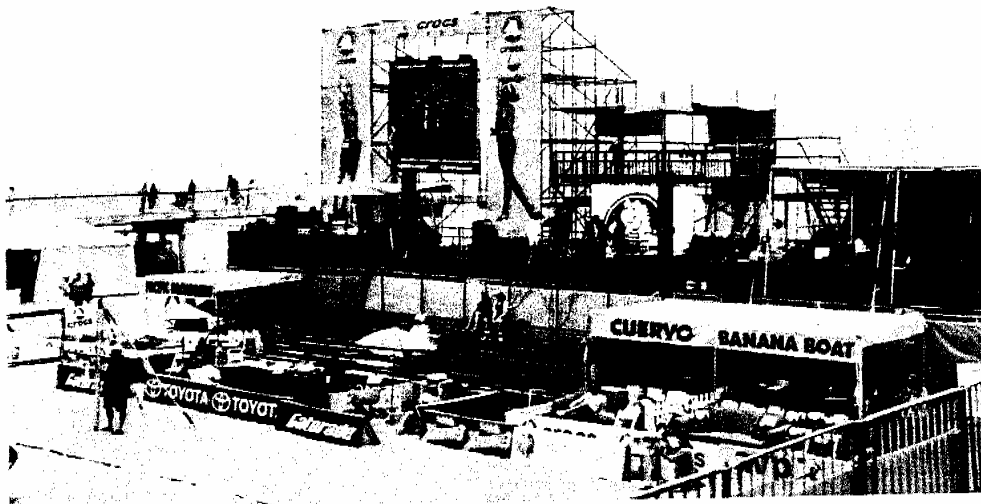


Photo taken before 10:00 a.m. showing paid seating to the left of the railing banners and free seating to the right.

HERMOSA BEACH OPEN
May 19-20, 2007



Photos taken before 10:00 a.m. on May 19-20 showing 6 rows of paid seating in the sand area. Photos were taken early in the day, before the stands filled up, so as to more clearly show the amount of paid seating.

HERMOSA BEACH OPEN
May 19-20, 2007



Photo taken before 10:00 a.m. Only the middle level of the stands (between the railing banners) are free to the public.



Photo taken before 10:00 a.m. showing paid seating to the left of the railing banners and free seating to the right.

CALIFORNIA COASTAL COMMISSION

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



RECEIVED

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT ^{SOUTH COAST REGION}

Please Review Attached Appeal Information Sheet Prior To Completing This Form ^{MAY 29 2007}

SECTION I. Appellant(s)

CALIFORNIA
COASTAL COMMISSION

Name:

William Victor

Mailing Address:

P.O. B. 241072

City:

Los Angeles

Zip Code:

Ca. 90024

Phone:

310-318-5000

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 The
"2007 Manhattan Beach OPEN" ON Property owned
by the County of Los Angeles Formerly known As
Manhattan State Beach - South of Manhattan Beach Pier

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

PLEASE See 2 above

4. Description of decision being appealed (check one.):

- ☐ Approval; no special conditions
☒ Approval with special conditions:
☐ Denial

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

TO BE COMPLETED BY COMMISSION:

APPEAL NO:

A5-MNB-07-178

DATE FILED:

MAY 29 2007

DISTRICT:

South Coast

COASTAL COMMISSION
A5-MNB-07-178

EXHIBIT # 9

PAGE 1 OF 11

1. The proposed event interferes with public access and enjoyment of the beach by usurping the two closest and largest public beach parking lots (71 parking stalls) for "VIP" Parking during the height of the busy summer weekends and by occupying a large section of the public beach to the exclusion of other beach goers for a period for ten days or more depending on which dates in the attachments are accurate and intended and which are not, but it is clear it cannot be less than ten (10) days from the permit language; these VIP persons we understand are not handicapped but are able bodies and perfectly able (financially and physically) to walk from the valet parking places to the beach while other tax payers and visitors entitled to expect a first come parking right should be allowed to park at these convenient for THE PEOPLE parking spaces;
2. The City of Manhattan Beach customarily has not complied with the public records act regarding this event and there are no adequate minutes made available at this time to illustrate more clearly how the CLUP and LCP are violated by this event- The CLUP and LCP are violated by this proposed event and more detail will be supplied in supplemental filing(s);
3. Coastal Act Sections 30251 thru 30254 et al are violated ; including but not limited to public access policies, violations of State Law (and Federal) including but not limited to State Constitution, Article 10, PRC 30251 thru 30254, and also 5002
4. This event much more than any other event in the history of Manhattan State Beach and Manhattan Beach will interfere with the scenic integrity of the California Coast- the City of Manhattan Beach, who is a partner / co-venturer in the event has had a consistent history in allowing hundreds of banners and inflated beer cans over thirty feet high and failing to enforce any limitations even if they were set forth in the permit;
5. This particular permit allows (Please see the unsigned agreement Section IV C) for the first time in this appellant's recollection an unlimited number of Humvee and Toyota Vehicles "in connection with the event" which amounts to an increased commercialization in violation of Section 5002 of the Public Resource Code;
6. The Resolution 6093 (The Resolution) is not consistent with the unsigned "MBO Agreement" which suggests a lack of care for this permit and event already in violation of the LCP; for example it refers to 10 day period in "Finding C" of the Resolution but The Agreement provides for storage on the beach to begin on August 2 and set up to begin on August 6, 2007b(Par X)and tentatively end (Par III C of the Agreement) on August 16 (11 to 14 days later for the termination and allowing for relatively small penalties if the removal runs to August 17, 2007 - A total of 15 days from August 2 through August 17.
7. A MB City ordinance which appellant is informed is still in effect ,MB Ordinance 320 , prohibits tents on the beach west of the Strand"
8. The "Updated site plan" attached to the Notice of Final Government Action received by the Coastal Commission on May 15, 2007 was not the same site Plan as included with the Staff Report placed before the community and the City Council on May 1, 2007. Accordingly it is a violation of the Coastal Act , the LCP and it is simply unfair to use another site Plan for the Permit which was not discussed. Further both site plans are not readable because of the small print and lack of clarity.
9. The testimony when and if it becomes available will show that there was a valid concern that the tents being allowed to reach 41.5 feet high and surrounding the stadium blocked off from the public reduced access and view of the California Coastal Resource during a substantial period of time at the height of the summer use by the beach going public. It is admitted in the resolution that there is a "displacement of normal views or use" and this amounts to a significant interference with the protected scenic integrity of the California Coast. The 41.5 feet height exceeds the 26 feet and 30 feet height limits of the neighboring properties and there is no provision permitting this excessive height in the LCP.
10. Section 2, subdivision 10 of the Resolution provides for a review of the compliance with the 25 percent seating one month after the event. This is absurd since it should be done at the time of the event to make enforcement possible and meaningful. Also the current LCP provides for less than 25 per cent not 25 per cent and this should be corrected and enforced hourly if necessary at the event not one month later.

11. Paragraph 14 of the Resolution provides for "at least two shuttle buses" in a parking plan whereas the Agreement, Page 5 Paragraph I provides for one such bus being acceptable. Certainly, there is testimony indicating that one would not be sufficient and there is question as to whether two will be in view of the increased traffic since last year from the parking area to the Vons drop off point.
12. Paragraphs 15 and 16 of the Resolution do not make sense since they provide for remote parking signs and announcements "commencing on the Tuesday following the tournament" which shows the little care used in planning the parking plan and the compliance with the Coastal Act. Again, the provision that it be reviewed a month or more after the event does not encourage or facilitate enforcement;
13. There is no indication on any of the site plans, the one at the hearing or the one attached to the Notice showing where the Free seats are to be, or where the Preferred seating will be or defining it as required. There is no indication that the free areas will be "more than 75 per cent" and as further required by the Coastal Commission and the Amendment No 2-04 and suggested modification and proposed changes for the OS land use district, relating to the Temporary Use Schedule set forth in LIP{ Section A 24.03) Please see the attached letter from the Coastal Commission dated January 24, 2005 concerning this. Exhibit A.
14. The testimony will indicate that there was an assertion that the event violated MB Ordinance No 320 which appellant is informed is still in effect (has not been repealed) and prohibits use of tents on the beach west of the Strand ; Appellant objects to the use of the tents on the beach west of the Strand if it is in violation of that ordinance; Please see Exhibit B.
15. There has been discussion that although it is uncontroverted that this subject event is an expansion of commercialization on the former Manhattan State Beach, and would be a basis for the reversion of the title of this Manhattan Beach from the County of Los Angeles, back to the State of California, in accordance with PRC Section 5002, there has been the argument that this expansion is somehow justified now because the AVP is or was in financial difficulty. Appellant attaches to this appeal a copy of the his submission to the MB City Council at its meeting on February 16, 2007 on the subject of the AVP and its apparent lack of candor regarding representation concerning its financial standing. Accordingly, it is respectfully submitted that this set of facts be considered by the Coastal Commission and the representative sitting on the Commission that represents that California State Department of Parks and Recreation and made available to that Agency , its legal Counsel and all others who have this Section as part of their areas of responsibility. Please See Exhibit (six pages)
16. There does not appear to be any explanation as to whether the VIPs (who are certainly those who paid more than for a seat) are counted in the 76 per cent or the 24 per cent. This is important for compliance with the LCP.
17. There may be more to supplement the above when the file has been completed by the City of Manhattan Beach, for example, when the minutes and a readable site plan have been submitted.

COASTAL COMMISSION

EXHIBIT # 9
PAGE 3 OF 11

CALIFORNIA COASTAL COMMISSION

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



January 24, 2005

Richard Thompson, Director
Community Development Department
City of Manhattan Beach
1400 Highland Avenue
Manhattan Beach, CA 90266-4795

Re: Manhattan Beach Local Coastal Program Amendment Request No. 2-04 (MNB-MAJ-2-04).

Dear Mr. Thompson:

You are hereby notified that the California Coastal Commission, at its January 13, 2005 meeting in Long Beach, approved City of Manhattan Beach Local Coastal Program (LCP) Amendment No. 2-04 with a suggested modification. The LCP amendment request, contained in City Council Ordinance No. 2064 and submitted by City Council Resolution No. 5936, amends the City's zoning regulations (LIP Section A.24.030) that apply to the OS (Open Space) land use district. The approved LCP amendment, which affects only the Implementing Ordinances (LIP) portion of the certified LCP, would allow sporting events for which some limited paid admission is charged (more than 75% of the total seating area shall be available free of charge).

Since the Commission approved the LCP amendment with a suggested modification, LCP Amendment No. 2-04 will not be effective for implementation in the City's coastal zone until: 1) the Manhattan Beach City Council adopts the Commission's suggested modification, 2) the City Council forwards the adopted suggested modification to the Commission by resolution, and, 3) the Executive Director certifies that the City has complied with the Commission's January 13, 2005 action. The Coastal Act requires that the City's adoption of the suggested modification be completed within six months of the Commission's January 13, 2005 action.


Pursuant to the Commission's action on January 13, 2005, certification of City of Manhattan Beach LCP Amendment No. 2-04 is subject to the following suggested modification to the OS District's Temporary Use Schedule set forth in LIP Section A.24.030:

Sporting events for which no admission is charged for more than 75% of seating capacity where more than 75% of the total seating area is available free of charge, including admission fees and memberships, for general public use. The "seating area" includes areas clearly and visibly designated for spectators to use to view the event, including the spectator areas immediately adjacent to the court/field, and cannot include any areas from which the court/field cannot be seen at all.

[Note: The currently certified LCP language is shown in italics, the City's proposed change is identified with bold text, and the Commission's suggested modification (new language) is underlined. The text suggested to be deleted is crossed-out.]

Thank you for your cooperation and we look forward to working with you and your staff in the future. Please call Charles Posner or myself at (562) 590-5071 if you have any questions regarding the modification required for effective certification of City of Manhattan Beach LCP Amendment No. 2-04.

Sincerely,


Teresa Henry
District Manager

COASTAL COMMISSION

EXHIBIT # 9
PAGE 4 OF 11

cc: Eric Haaland, Planner

ORDINANCES BOOK 4 — ORDINANCES 276 – 400

283	Opening and extending Manhattan Avenue	11/6/1924
284	Regulating electrical and plumbing	Not Adopted
285	Prohibiting any home for feeble minded or mentally defective	Not Adopted
286	Special election for indebtedness for acquiring public works	1/2/1925
287	Re plumbing, electrical & gas fitting work, issue permit & fees & punishment for violation	3/5/1925
288	Special election for indebtedness for revenue-producing public work & municipal improvement	3/19/1925
289	Opening and extending Manhattan Avenue	3/19/1925
290	Granted to Associated Oil: a franchise to construct, operate and maintain system of pipe lines	11/19/1925
291	No record of adoption (no description)	
292	No record of adoption (no description)	
293	General municipal election whether each of the trustees shall receive compensation	3/11/1926
294	Amending Ord 113 re fire protection and building	4/15/1926
295	Special election levying a tax of 10 cents per each \$100 for advertising purposes	5/6/1926
296	Amending Ord 113 regulating moving of buildings and providing permit fee for moving	5/20/1926
297	Amending Ord 250 regulating oil wells and oil well derricks	6/3/1926
298	Amending Ord 250 as amended by Ord 297 prohibiting drilling in certain territory	7/15/1926
299	Establishing boulevard stops, prohibiting crossing without stopping and penalties	9/2/1926
300	Abandon all proceedings under Ords 283 and 289 for opening/extending Manhattan Avenue	11/4/1926
301	Amending Ord 113 by changing boundaries of fire district # 3	10/21/1926
302	Authorizing the Fire Chief to inspect premises for fire hazards and to order cleaning; regulating control and disposal of shavings, hay, litter and all combustible waste and rubbish; and providing penalty for violation thereof.	11/4/1926
303	Creating office of purchasing agent for the city and defining duties	12/10/1926
304	Special election whether to recall all or any of the 5 trustees, districting into 3 election precincts	1/6/1927
305	Granting Shell Company a franchise to lay 2 pipe lines for transportation of oil and gasoline	3/3/1927
306	Introduced April 21, 1927 with No record of adoption	
307	Rules and regulations for cutting or breaking curbs and sidewalks and providing penalty	5/19/1927
308	Amending Ord 249 establishing districts for residential versus commercial	5/5/1927
309	Prohibiting anyone swimming more than 400 feet from mean high tide line and penalty	6/2/1927
310	Regulating parking for cars and other vehicles on a portion of Center Street and Pacific Avenue	6/17/1927
311	Regulating parking on various streets	6/17/1927
312	Closing and abandoning 2 streets as contemplated by Resolution 562A	7/7/1927
313	Amending Ord 311 re parking in Peck's tract	Not Adopted
314	Repealing Ord 311 re parking on various streets	9/1/1927
315	Amending Ord 243 re licensing professions & adding a new Section 7 1/2	Not Adopted
316	Amending Ord 113 regulating building and fire protection	Not Adopted
317	Regulating use of public and house connection sewers [first mention of City Council]	5/28/1928
318	General election re compensation of trustees	3/15/1928
319	Fixing salary of city treasurer and city clerk	4/5/1928
320	Prohibiting use of tents on beach west of the Strand and providing penalty	5/3/1928
321	Amending Ord 113 re building and fire protections (gas water heaters, sewer, drain, permits)	1/5/1928
322	Prohibiting building or lighting bonfires on the beach (except in city maintained containers)	7/19/1928
323	Prohibiting parking in front of any drive or alley from any garage on various streets	10/28/1928
324	Creating a city planning commission, defining its powers, duties and conduct	10/18/1928
325	Amending Ord 97 re water rates and repealing Ord 247	10/18/1928
326	No record in minutes	
327	Changing name of Neptune Ave to First Street. Repealing Ord 192	12/6/1928
328	Special election annexing the El Porto territory	12/20/1928

W Victor Ashe B

MAILING ADDRESS:
POST OFFICE BOX 241072
LOS ANGELES, CA. 90024

WILLIAM VICTOR
Attorney and Counsellor at Law

February 16, 2007

DELIVERED BY HAND

HON. MEMBERS OF THE MANHATTAN BEACH CITY COUNCIL
CITY HALL
1400 HIGHLAND AVE.
MANHATTAN BEACH, CA. 90266

RE: AGENDA ITEM NO: 16
CITY COUNCIL MEETING , FEBRUARY 20, 2007

DEAR HON. MEMBER S OF THE MANHATTAN BEACH CITY COUNCIL:

By copy of this letter to the City Clerk, Lisa Tamura, I am requesting that this letter please be attached to the packet of Agenda Item 16 relating to a proposed amendment of the Local Coastal and /or Implementation Plan. While I understand that no citizen has yet seen your staff report relating to this item at the time that I am preparing this letter, I would like to strongly urge that this Council not attempt to amend the Manhattan Beach Local Coastal Plan to reduce the authority of the Coastal Commission regarding temporary events at the public beach adjacent to this City.

If one reads the legislative history of the formation of the Coastal Commission and the resulting legislation, one must respect the fact that the basic idea for its formation is to protect the Coastal Resources from political, other selfishness and/or misuse.

Part of the anticipated proceeding next Tuesday will be to consider the plea of a current temporary event applicant, The AVP, Inc. who has claimed it has been "economically disadvantaged" and has suffered an "economic hardship" because of temporary guidelines that have been incorporated in the Manhattan Beach Local Coastal Program which was prepared with a great amount of public input and thought when it was promulgated and approved by the Coastal Commission. In connection with all of this hardship claimed by the AVP and its Chief Executive Officer Leonard Armato, incidentally a resident of our Manhattan Beach Strand, I attach copies of the financial reports generated by Mr. Armato claiming "record revenue of \$13.8 Million dollars for the third quarter of 2006," an increase of 41 per cent "year over year," and a "net income of \$2.57 Million" (after salaries, costs, etc.) including tremendous revenue from sponsors who we know to be among others, Budweiser Lite Beer. I believe that this should be factored into your evaluation of how much "hardship" should be considered here.

What probably is more important, and what I have learned as a practicing attorney, admitted to practice in a number of states including California for over forty years, is that once the City extends the EXCLUSIVE right for an temporary event permit applicant to close off a part of the beach, as is the case with the AVP at this time, charge for a greater per cent of paid seating, it can be anticipated that there will follow an array of even less desirable applicants than the current applicant who will request similar amendments and treatment. (Continued on Page 2)

COASTAL COMMISSION

W. VICTOR EXHIBIT C p1

EXHIBIT # 9
PAGE 6 OF 11

It can be anticipated that , for example, an occasional Brittany Spears concert or Special surfing events can also be foreseen as " exclusive " events at this new open venue! Coastal Commissioner Burk appears generous with all venues, even free MTA tickets at tax payer cost according to today's new reports . Manhattan Beach chose to insert the present 25% limit on paid seating in its local coastal program with a special amendment requiring a great deal more participation than what is anticipated on Tuesday, February 20, 2007. This should not be rushed through without more clear notice and time for the public and the Council to review the facts, as suggested by the Planning Commission last week and to allow the public to participate based upon more notice and facts. There is/are some environmentally conscious council member(s), they have told me- now is the time for you to act to protect your most precious resource!

It may be argued at the hearing that a different situation has been approved in Hermosa Beach. Hermosa Beach has never been the template for Manhattan Beach and its governing policies. There is no reason for it to become the template now. Furthermore, I have been informed that the recent decision by the Coastal Commission involving Hermosa Beach is being considered for a court appeal regarding inter alia a violation of the Brown Act. Furthermore, there will be at least one replacement of a Coastal Commissioner probably before the next hearing .

As an individual who has been passionately involved with Manhattan Beach for over thirty years, I strongly urge this present council to reject the AVP's request and the result of being in the position of having to exclusively close off the beach to deserving beach goers for numerous events every summer season because of greedy public corporations or commercial ventures that can well afford to pay its way as it has very adequately shown here. Manhattan Beach does not have to sell its beach, close it off or give free rent to any applicant, needy or otherwise . That includes the AVP. . Your own Planning Commission that you have selected and sent this issue to for review has rejected it. At least one Commissioner indicates that there was not enough information to make a decision. If there is more information supporting the concept it was not made public in time for this City Council hearing. I am informed that using public beach venues for such commercial ventures has been tried in one or more California Beach areas but has never been permitted before during the period between Memorial and Labor days . I am informed that it merely tended to cheapen the respective town, and real estate values, increased the cost of police, fire services , waste removal, and the related pensions, did not benefit the local businesses and seriously detracted from the ambience originally and normally relied upon by visitors and residents from the natural coastal resource.. Using the beach for such venues does and will interfere with the enjoyment by residents and visitors who are entitled to utilize this sensational natural resource without the unnatural interferences resulting from use of this venue by a commercial venture during the heart of and sweetest , most desirable season of each year.

Let us not forget, " Beach" is part of the Name of Manhattan Beach. The Beach is important to all who have come to Manhattan Beach, but it is not owned by Manhattan Beach. It should be open to all who live or come to California. It would be an irrevocable wrong to reduce the authority of the Coastal Commission. The amendment sought with this hearing would be an irrevocable wedge in this protection.

Respectfully yours,

William Victor
Attorney

Cc: Manhattan Beach City Clerk

Enclosures: as stated (4, pages)
WV

COASTAL COMMISSION

EXHIBIT # 9
PAGE 7 OF 11

AVP Pro Beach Volleyball Tour, Inc.

To: Richard Gill
CC:
From: David C. Williams AVP
Date: 1/18/2007
Re: Request to amend the current Local Coastal Plan

As reported in the Los Angeles Times on August 11th, 2006, the AVP Pro Beach Volleyball Tour is economically disadvantaged by the California Coastal Commission guidelines limiting paid seating to 24.9% of the stadium capacity. The City of Manhattan Beach's current LCP also limits paid seating to less than 25%. As the popularity of our sport increases, and the demand for seating grows, it creates a further economic hardship on the AVP to increase seating to meet the demand from the community.

The AVP is requesting that the City of Manhattan Beach amend the current Local Coastal Plan to permit 100% paid attendance for the annual Manhattan Beach Open beach volleyball event. With this amendment this City of Manhattan Beach will have all of the control it needs to manage the paid seating issue locally. The AVP will have an opportunity to sell tickets and recover some of the significant costs associated with producing the annual Manhattan Beach Open, and the public can be better served by providing sufficient seating to meet the demand of the community.

Please contact me directly if you have any questions or need clarification with this request: 310-426-7123.

COASTAL COMMISSION

EXHIBIT # 9
PAGE 8 OF 11

**RECORD THIRD QUARTER REVENUE UP 41%; RECORD THIRD QUARTER GAAP
NET INCOME OF \$2.57 MILLION, OR \$0.09 PER FULLY DILUTED SHARE**

Third Quarter Gross Profit Up 193% Year-Over-Year

LOS ANGELES, Calif., □ November 14, 2006 □ AVP, Inc. (OTC Bulletin Board: AVPI), a lifestyle sports entertainment company focused on professional beach volleyball, today announced record financial results for its 2006 third quarter and nine-months ended September 30, 2006. AVP generated record revenue of \$13.8 million for the third quarter of 2006, an increase of 41% year-over-year, and record net income of \$2.57 million, or \$0.09 per fully diluted share, for the third quarter.

□ As we close a very successful 2006 season, we are excited to report our first profitable quarter, reflecting record revenue, gross profit and net income, □ said Leonard Armato, Chief Executive Officer of AVP, Inc. □ We accomplished a number of key objectives this quarter. Year over year, we generated a 34% increase in advertising and sponsorship revenue, as well as increased attendance, tickets sales and media coverage. We continue to grow our fan base, which has now increased 53% over the past two years, enhancing our ability to attract new sponsorship and advertising agreements and renew and extend our existing agreements with nationally recognized brands that include Crocs, Sony, Hilton, Cuervo, Nautica, and Bud Light.

□ In addition, we continue to successfully transition to a promoter based operating model and engaged promoters for seven events in the third quarter, compared to only one in the third quarter of last year. As a result, we reduced third quarter average event cost by 10% compared to third quarter 2005. The transition to a promoter model is both reducing our expenses and enabling us to focus more on further building our relationships with current and prospective advertisers and sponsors.

□ Looking ahead, we remain focused on growing our advertising and sponsorship base, as well as expanding our marketing programs to further grow attendance in 2007. At the same time, we are also focused on managing expenses and achieving consistent profitability. We had a very successful 2006 tour, as is reflected in our strong financial results and upwardly revised annual guidance, and we are now laying the groundwork to achieve even greater success in 2007, □ Mr. Armato concluded.

Notable Milestones In The Third Quarter Of 2006:

- Record revenue of \$13.8 million in the third quarter, a 41% increase from \$9.8 million in the third quarter of 2005.
- Sponsorship/advertising revenues up 34% year-over year.
- Gross profit margin increased to 33% compared to 16% in the third quarter of 2005.
- Record GAAP net income of \$2.57 million, or \$0.09 per fully diluted share.
- [Delete Bullet]
- Fan base increased 53% over the past two years, higher than any other organized sport.

I'm on the Web!

COASTAL COMMISSION

C P Y

EXHIBIT # 9
PAGE 9 OF 11

**AVP REPORTS RECORD THIRD
QUARTER REVENUE UP 41%;
RECORD THIRD QUARTER GAAP NET
INCOME OF \$2.57 MILLION, OR \$0.09
PER FULLY DILUTED SHARE**

***Third Quarter Gross Profit Up 193% Year-
Over-Year***

LOS ANGELES, Calif., – November 14, 2006 – AVP, Inc. (OTC Bulletin Board: AVPI), a lifestyle sports entertainment company focused on professional beach volleyball, today announced record financial results for its 2006 third quarter and nine-months ended September 30, 2006. AVP generated record revenue of \$13.8 million for the third quarter of 2006, an increase of 41% year-over-year, and record net income of \$2.57 million, or \$0.09 per fully diluted share, for the third quarter.

"As we close a very successful 2006 season, we are excited to report our first profitable quarter, reflecting record revenue, gross profit and net income," said Leonard Armato, Chief Executive Officer of AVP, Inc. "We accomplished a number of key objectives this quarter. Year over year, we generated a 34% increase in advertising and sponsorship revenue, as well as increased attendance, tickets sales and media coverage. We continue to grow our fan base, which has now increased 53% over the past two years, enhancing our ability to attract new sponsorship and advertising agreements and renew and extend our existing agreements with nationally recognized brands that include Crocs, Sony, Hilton, Cuervo, Nautica, and Bud Light.

"In addition, we continue to successfully transition to a promoter based operating model and engaged promoters for seven events in the third quarter, compared to only one in the third quarter of last year. As a result, we reduced third quarter average event cost by 10% compared to third quarter 2005. The transition to a promoter model is both reducing our expenses and enabling us to focus more on further building our relationships with current and prospective advertisers and sponsors.

"Looking ahead, we remain focused on growing

COASTAL COMMISSION

EXHIBIT # 9
PAGE 10 OF 11

Cp5

our advertising and sponsorship base, as well as expanding our marketing programs to further grow attendance in 2007. At the same time, we are also focused on managing expenses and achieving consistent profitability. We had a very successful 2006 tour, as is reflected in our strong financial results and upwardly revised annual guidance, and we are now laying the groundwork to achieve even greater success in 2007," Mr. Armato concluded.

Notable Milestones In The Third Quarter Of 2006:

- Record revenue of \$13.8 million in the third quarter, a 41% increase from \$9.8 million in the third quarter of 2005.
- Sponsorship/advertising revenues up 34% year-over year.
- Gross profit margin increased to 33% compared to 16% in the third quarter of 2005.
- Record GAAP net income of \$2.57 million, or \$0.09 per fully diluted share.
- [Delete Bullet]
- Fan base increased 53% over the past two years, higher than any other organized sport.

COASTAL COMMISSION
A5-MNB-07-178

EXHIBIT # 9
PAGE 11 OF 11

CP 6