

CALIFORNIA COASTAL COMMISSION

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

W21a

Filed: 11/17/2008
49th Day: Waived
180th Day: N/A
Staff: Charles Posner - LB
Staff Report: 12/18/2008
Hearing Date: January 7, 2009
Commission Action:

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

LOCAL GOVERNMENT: City of Manhattan Beach

LOCAL DECISION: Approval with Conditions

APPEAL NUMBER: A-5-MNB-08-306

APPLICANT: City of Manhattan Beach

APPELLANT: William Victor

PROJECT LOCATION: Parking meters on public streets and within public parking lots (including the pier lots) within the appealable area of the coastal zone, City of Manhattan Beach, Los Angeles County.

PROJECT DESCRIPTION: Substantial Issue hearing for an appeal of City of Manhattan Beach Local Coastal Development Permit No. CA-08-33, approved to increase the fee for public parking meters: by twenty-five cents per hour resulting in \$1.25 per hour for streets, and by fifty cents per hour resulting in \$1.50 per hour for pier and beach parking lots.

SUBSTANTIVE FILE DOCUMENTS:

1. Local Coastal Development Permit No. CA-08-033 and City Council Resolution No. 6161, 10/21/2008 (Exhibit #2).
2. City of Manhattan Beach Local Coastal Program (LCP), certified 5/12/1994.

SUMMARY OF STAFF RECOMMENDATION

The staff recommends that the Commission, after public hearing, determine that the appeal raises **no substantial issue** with respect to the grounds on which the appeal has been filed. The local coastal development permit approving the increase in the public parking meter fees conforms to the City of Manhattan Beach certified Local Coastal Program (LCP) and the public access policies of the Coastal Act. The City-approved increase in the hourly parking rates are not significant enough to merit a substantial issue finding, as the proposed 25-to-50 cent (per hour) increase will not have a significant adverse impact on public access and use of the public parking facilities. **The motion to carry out the staff recommendation is on Page Five.**

I. APPELLANT'S CONTENTIONS (EXHIBIT #3)

The appeal asserts generally that the City-approved increase in the hourly parking rates will adversely affect public access by making a visit to the beach unaffordable for lower income families and unemployed persons. Parking costs to use the pier lots for a five-hour beach visit will increase from five dollars (\$1 per hour) to \$7.50 (\$1.50 per hour). The appeal also claims that the City has approved several other changes to the operation of the public parking meters, including an increase in parking violation fines and a possible reduction to the amount of time that a vehicle may occupy a parking stall. Finally, the appellant asserts that the City did not give proper notice for the public hearing on the matter.

II. LOCAL GOVERNMENT ACTION

On October 21, 2008, the Manhattan Beach City Council held a public hearing during which it discussed a publicly-noticed agenda item referred to as the "Downtown Parking Management Plan." The public notice that was published in the October 9, 2008 issue of The Beach Reporter describes the "Downtown Parking Management Plan" as providing a comprehensive analysis of parking conditions in the downtown area and develops strategies for optimizing usage of on-street parking spaces and public parking lots. The City record shows that the Parking and Public Improvements Commission and City staff had held several public meetings that resulted in a number of recommendations, including the adjustment of parking meters, monthly parking permits, a residential override parking program, and improved signage.

The City Council, at its October 21, 2008 meeting, considered the recommendations that were put forth by the Parking and Public Improvements Commission. Many parking issues were discussed at the October 21, 2008 meeting, as described in the appellant's letter dated December 14, 2008 (Exhibit #3, ps. 3-7). Only a few changes were adopted.

The City Council on October 21, 2008 adopted three Resolutions:

Resolution No. 6160: Approves Local Coastal Development Permit No. CA-08-032 to increase the fees for public parking meters located inland of the appealable area of the coastal zone (by twenty-five cents per hour resulting in \$1.25 per hour).

Resolution No. 6161: Approves Local Coastal Development Permit No. CA-08-033 to increase the fees for public parking meters located within the appealable area of the coastal zone (by twenty-five cents per hour resulting in \$1.25 per hour for streets, and by fifty cents per hour resulting in \$1.50 per hour for pier and beach parking lots). [See Exhibit #2.] General Condition Two of the coastal development permit (Exhibit #2, p.3) states: "Parking quantities, locations, and permits in the appealable area of the coastal zone shall not be changed or affected by this project."

Resolution No. 6162: Increases fines (\$35 to \$40) for parking violations City-wide.

It should be noted that parking meter fee increase that the City Council approved was less (half) than the increase recommended by the Parking and Public Improvements Commission. Also, the City has confirmed that no changes were adopted that would result in a reduction to

the amount of time that a vehicle may occupy a public parking stall within the appealable area of the coastal zone, and that no changes were made to the City's parking permit program within the appealable area. The actions by the City Council were not appealable at the local level.

On November 3, 2008 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. CA-08-033. The Commission's ten working day appeal period was then established and noticed. The Commission's South Coast District office received the appeal from William Victor on November 17, 2008. No other appeals were received.

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 appealable areas, such as 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)].

The City of Manhattan Beach Local Coastal Program (LCP) was certified on May 12, 1994. In Manhattan Beach, the inland boundary of the appealable area of the City's coastal zone, located three hundred feet from the inland extent of the beach, has been mapped within the Manhattan Avenue right-of-way (Exhibit #1). The parking meter rate increase approved by Local Coastal Development Permit No. CA-08-033 is limited to the parking meters located within the geographic appealable area.

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 appeal 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 appellant's 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 will hold a public hearing at the same hearing or at 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 appeal 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-08-306 raises **NO SUBSTANTIAL ISSUE** with respect to the grounds on which the appeal has been filed."*

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

Resolution to Find No Substantial Issue for Appeal A-5-MNB-08-306

The Commission hereby finds that Appeal No. A-5-MNB-08-306 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

On October 21, 2008, after a public hearing, the Manhattan Beach City Council adopted City Council Resolution No. 6161 and approved with conditions Local Coastal Development Permit No. CA-08-033 to increase the fees for public parking meters: by twenty-five cents per hour resulting in \$1.25 per hour for streets, and by fifty cents per hour resulting in \$1.50 per hour for pier and beach parking lots (Exhibit #2). General Condition Two of the coastal development permit (Exhibit #2, p.3) states: "Parking quantities, locations, and permits in the appealable area of the coastal zone shall not be changed or affected by this project." The City staff has confirmed that, within the appealable area of the coastal zone, the City Council approved no changes to the City's parking permit program and no changes were approved that would result in a reduction to the amount of time that a vehicle may occupy a public parking stall. The City-approved changes to the public parking supplies located inland of the coastal zone appealable area are not included in Local Coastal Development Permit No. CA-08-033.

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 appellant asserts that the City-approved increases in the hourly parking rates will adversely affect public access by making a visit to the beach unaffordable for lower income families and unemployed persons. Parking costs to use the pier lots for a five-hour beach visit will increase from five dollars (\$1 per hour) to \$7.50 (\$1.50 per hour).

While recognizing that the City action does increase the cost of parking at the beach, the staff recommends that the fee increase, in this case up to fifty cents per hour, is not significant enough to merit a substantial issue finding because it will not have a significant adverse impact on public access and use of the public parking facilities. The City was correct in finding that the local coastal development permit conforms with the policies set forth by the certified Manhattan Beach Local Coastal Program (LCP). The relevant LCP policies are listed on pages two and three of City Resolution No. 6161 (Exhibit #2).

The City-approved parking meter fee increase also does not violate the public access provisions of Chapter 3 of the Coastal Act. The Manhattan Beach LCP and the public access policies of the Coastal Act (see below) do not specifically regulate the price of parking. Most of the free parking near the beach in Los Angeles County was phased out many years ago. Metered parking stalls and pay parking lots are the norm in the Los Angeles County coastal zone, and the Commission recognizes that pay parking generally does not violate the public access policies of the Coastal Act. The Commission-approved rate for public metered parking in the City of Long Beach coastal zone is two dollars per hour. Other cities, like Santa Monica, charge one dollar per hour for metered parking. Therefore, the new City of Manhattan Beach parking meter fees (\$1.25 to \$1.50 per hour) are within the current range of fees being charged in Los Angeles County. Thus, the fee increase in this case is not a substantial issue.

Chapter 3 of the Coastal Act contains the following public access policies:

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:

(a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where: (1) It is inconsistent with public safety, military security needs, or the protection of fragile coastal resources, (2) Adequate access exists nearby, or, (3) Agriculture would be adversely affected. Dedicated accessway shall not be required to be opened to public use until a public

agency or private association agrees to accept responsibility for maintenance and liability of the accessway.

(b) For purposes of this section, "new development" does not include:

(1) Replacement of any structure pursuant to the provisions of subdivision (g) of Section 30610.

(2) The demolition and reconstruction of a single-family residence; provided, that the reconstructed residence shall not exceed either the floor area, height or bulk of the former structure by more than 10 percent, and that the reconstructed residence shall be sited in the same location on the affected property as the former structure.

(3) Improvements to any structure which do not change the intensity of its use, which do not increase either the floor area, height, or bulk of the structure by more than 10 percent, which do not block or impede public access, and which do not result in a seaward encroachment by the structure.

(4) The reconstruction or repair of any seawall; provided, however, that the reconstructed or repaired seawall is not a seaward of the location of the former structure.

(5) Any repair or maintenance activity for which the commission has determined, pursuant to Section 30610, that a coastal development permit will be required unless the commission determines that the activity will have an adverse impact on lateral public access along the beach.

As used in this subdivision "bulk" means total interior cubic volume as measured from the exterior surface of the structure.

(c) Nothing in this division shall restrict public access nor shall it excuse the performance of duties and responsibilities of public agencies which are required by Sections 66478.1 to 66478.14, inclusive, of the Government Code and by Section 4 of Article X of the California Constitution.

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...

Section 30214 of the Coastal Act states:

(a) The public access policies of this article shall be implemented in a manner that takes into account the need to regulate the time, place, and manner of public access depending on the facts and circumstances in each case including, but not limited to, the following:

(1) Topographic and geologic site characteristics.

(2) The capacity of the site to sustain use and at what level of intensity.

(3) The appropriateness of limiting public access to the right to pass and repass depending on such factors as the fragility of the natural resources in the area and the proximity of the access area to adjacent residential uses.

(4) The need to provide for the management of access areas so as to protect the privacy of adjacent property owners and to protect the aesthetic values of the area by providing for the collection of litter.

(b) It is the intent of the Legislature that the public access policies of this article be carried out in a reasonable manner that considers the equities and that balances the rights of the individual property owner with the public's constitutional right of access pursuant to Section 4 of Article X of the California Constitution. Nothing in this section or any amendment thereto shall be construed as a limitation on the rights guaranteed to the public under Section 4 of Article X of the California Constitution.

(c) In carrying out the public access policies of this article, the commission and any other responsible public agency shall consider and encourage the utilization of innovative access management techniques, including, but not limited to, agreements with private organizations which would minimize management costs and encourage the use of volunteer programs.

The appeal also claims that the City has approved several other changes to the operation of the public parking, including an increase in parking violation fines and a possible reduction to the amount of time that a vehicle may occupy a parking stall. Local Coastal Development Permit No. CA-08-033, which is the subject of this appeal, does not approve any changes to the City's parking management other than the parking meter fee increase. General Condition Two of the coastal development permit makes that clear, stating: "Parking quantities, locations, and permits in the appealable area of the coastal zone shall not be changed or affected by this project." Therefore, the appellant's concerns about any other actual or potential changes to the City's parking management cannot be addressed through this appeal, since the permit that is being appealed approved only the parking meter fee increase in the appealable area of the coastal zone. The increase in parking violation fines, approved pursuant to City Resolution No. 6162, is not an action that requires a coastal development permit.

Finally, the appellant asserts that the City did not give proper notice for the public hearing on the matter. In fact, the City published a notice in the local paper (The Beach Reporter 10/9/2008) for the October 21, 2008 City Council hearing on the matter, and the appellant was aware of the hearing as evidenced by his participation in the matter (Wm. Victor e-mail correspondence dated October 10, 2008). The alleged lack of proper notice does not constitute a substantial issue in this case.

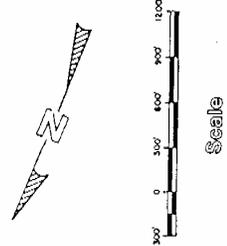
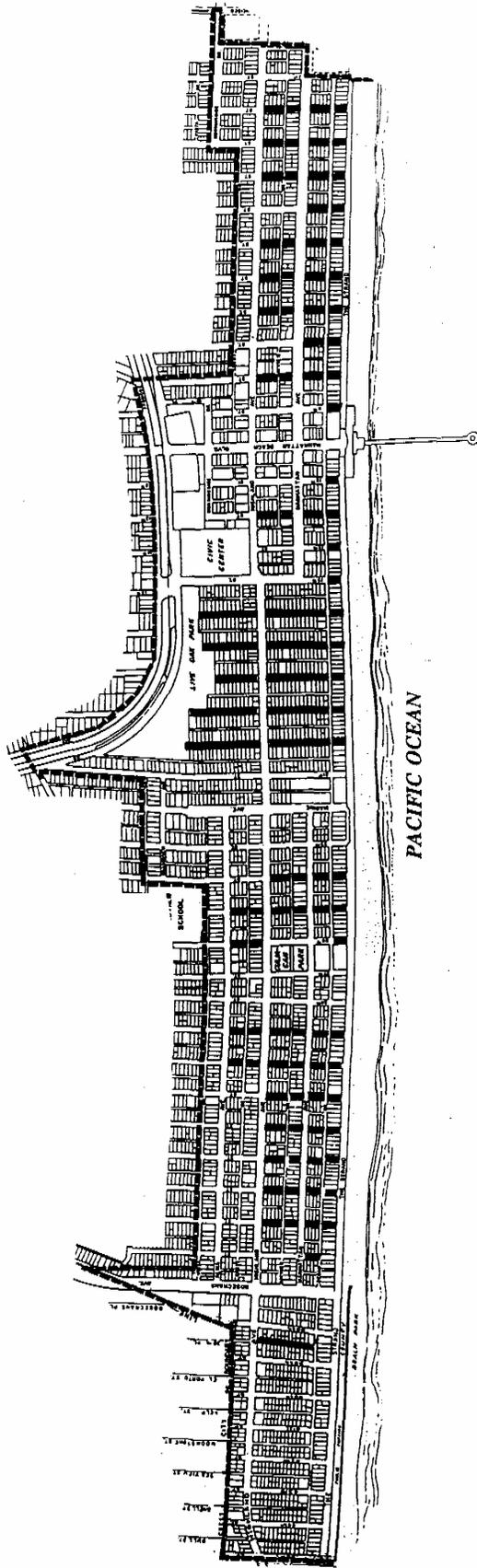
Conclusion

The appeal does not raise a substantial issue in regards to the public access policies of the Coastal Act or the policies of the certified LCP. Therefore, the Commission finds that no substantial issue exists with respect to the City's approval of Local Coastal Development Permit No. CA-08-033.

City of Manhattan Beach



Exhibits



Map III-2
Coastal Access
City of Manhattan Beach Local Coastal Plan
 Source: City of Manhattan Beach, 1994

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32

RESOLUTION NO. 6161

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MANHATTAN BEACH APPROVING A COASTAL DEVELOPMENT PERMIT TO ALLOW MODIFICATIONS TO PUBLIC PARKING METER RATES WITHIN THE APPEALABLE PORTION OF THE CITY'S COASTAL ZONE - CA 08-33 (City of Manhattan Beach)

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

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

- A. The City of Manhattan Beach has proposed citywide modifications to the public parking meter rates in the City of Manhattan Beach.
- B. The proposed project includes raising the fee for public parking meters by twenty-five cents per hour resulting in \$1.25 per hour for streets, and by \$.50 per hour resulting in \$1.50 per hour for pier and beach parking lots.
- C. The subject parking meter locations are located within the City of Manhattan Beach Coastal Zone, in the appealable area. In accordance with the Manhattan Beach Local Coastal Program (MBLCP), Coast Development Permit approval is required for this portion of the project, which is appealable to the California Coastal Commission.
- E. The applicant and property owner is the City of Manhattan Beach.
- F. The City Council of the City of Manhattan Beach conducted a noticed public hearing regarding the project at their regular scheduled meeting of October 21, 2008. The public hearing was advertised pursuant to applicable law and testimony was invited and received. All decisions set forth in this resolution are based upon substantial evidence received at said public meeting.
- G. The proposal is exempt from the requirements of the California Environmental Quality Act (CEQA) due to determination that it has no potential for having a significant effect on the environment, per CEQA Guidelines Section 15061(b)(3).
- H. The subject locations are located within Area Districts III & IV, and are zoned Downtown Commercial, Open Space, and Public and Semi-public. The surrounding properties are generally also zoned the same as the parking meter locations, or are residentially zoned. The General Plan designations for the subject locations all correspond to the zoning designations.
- I. 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.
- J. This Resolution, upon its effectiveness, constitutes the Coastal Development Permit for the subject parking meter rate changes
- K. Since the project is consistent with the following General Plan Goals and Policies, the project is also consistent with the Local Coastal Program (LCP), as discussed below, and since the LCP is consistent with the General Plan, the project is also consistent with the General Plan.

**GENERAL PLAN
POLICIES: LAND USE**

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

GOALS: CIRCULATION



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

TA

City Clerk of the City of Manhattan Beach

**COASTAL COMMISSION
A5-MNB-08-306**

EXHIBIT # 2
PAGE 1 OF

RECEIVED
South Coast Region

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

M. Based on the MBLCP Sections A.96.150 the following findings are made:
That the project, as described in the application and accompanying materials, conforms with the certified Manhattan Beach Local Coastal Program, since the project is consistent with the following applicable policies from Chapter 4 of the Local Coastal Program:

COASTAL ACCESS POLICIES

A. Access Policies

- Policy I.A.2: The City shall encourage, maintain, and implement safe and efficient traffic flow patterns to permit sufficient beach and parking access.
- Policy I.A.3: The City shall preserve pedestrian access systems including the Spider Web park concept (Spider Web park concept: a linear park system linking the Santa Fe railroad right-of-way jogging trail to the beach with a network of walkstreets and public open spaces. See Figure NR-1 of the General Plan).
- Policy I.A.4: The City shall maintain the use of commercial alleys as secondary pedestrian accessways.

B. Transit Policies

- Policy I.B.4: The City shall maintain the use of the Santa Fe right-of-way as a non-automobile transportation corridor between the northern city boundary and the intersection of Valley-Ardmore and Manhattan Beach Boulevard, as the closest link to the commercial business district and beach use.
- Policy I.B.5: The City shall maintain a pathway to facilitate jogging and pedestrian usage along the Santa Fe right-of-way.
- Policy I.B.7: The City shall provide adequate signing and directional aids so that beach goers can be directed toward available parking.

C. Parking Policies

- 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.10: Concentrate new parking in the Downtown Commercial District to facilitate joint use opportunities (office and weekend beach parking uses).
- Policy I.C.11: Maintain the existing public parking system in the vicinity of Valley/Ardmore/Manhattan Beach Boulevard to provide parking out of the downtown area.
- Policy I.C.15: Continue management of existing parking facilities through enforcement to improve efficiency by keeping on-street spaces available for short-term users and encouraging the long-term parkers to use off-street parking lots.

COASTAL COMMISSION

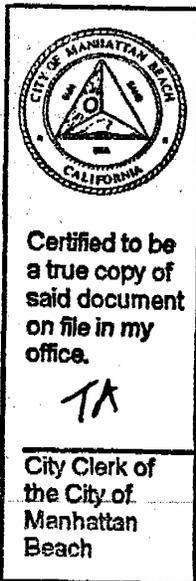


EXHIBIT # 2
PAGE 2 OF 4

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32

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

II. COASTAL LOCATING AND PLANNING NEW DEVELOPMENT POLICIES

A. Commercial Development

Policy II.A.6: Encourage development of adequate parking facilities for future development through ground level on-site parking or a requirement to pay the actual cost of constructing sufficient parking spaces. Maximize use of existing parking facilities to meet the needs of commercial uses and coastal access.

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

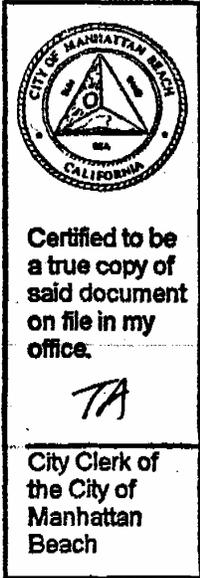
General Conditions

- 1. The proposed project shall be in substantial conformance with the project description, as approved by the City Council on October 21, 2008, subject to any special conditions set forth below. Any substantial deviation from the approved project description must be reviewed and approved by the City Council.
- 2. Parking quantities, locations, and permits in the appealable area of the coastal zone shall not be changed or affected by this project.

Procedural

- 3. **Effective Date.** The subject Coastal Development Permit shall become effective after expiration of the time limits established by Manhattan Beach Municipal Code and Local Coastal Program.
- 4. **Fish and Game.** Pursuant to Public Resources Code Section 21089 (b) and Fish and Game Code Section 711.4 (c), the project is not operative, vested, or final until the required filing fees are paid.
- 5. **Terms and Conditions are Perpetual.** These terms and conditions shall be perpetual, and it is the intention of the Director of Community Development and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.
- 6. **Review.** All provisions of the Coastal Development Permit are subject to review by the Community Development Department 6 months after occupancy and yearly thereafter. At any time in the future, the City Council may review the Coastal Development Permit for the purposes of revocation or modification. Modification may consist of conditions deemed reasonable to mitigate or alleviate impacts to adjacent land uses.
- 7. **Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the City Council.
- 8. **Inspections.** The Community Development Department staff shall be allowed to inspect the site and the development during construction at any time.
- 9. **Assignment.** Pursuant to Section A.96.220 of the City's certified Local Coastal Program (Implementation Program), the Coastal Development Permit may be assigned to any qualified persons subject to submittal of the following information to the Director of Community Development.

SECTION 3. Pursuant to Government Code Section 65009 and Code of Civil Procedure Section 1094.6, any action or proceeding to attack, review, set aside, void or annul this decision, or concerning any of the proceedings, acts, or determinations taken, done or made prior to such decision or to determine the reasonableness, legality or validity of any condition attached to this decision shall not be maintained by any person unless the action or proceeding is commenced within 90



COASTAL COMMISSION

EXHIBIT # 2
PAGE 3 OF 4

days of the date of this resolution and the City Council is served within 120 days of the date of this resolution.

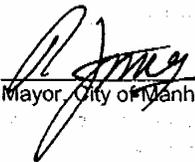
SECTION 4. This resolution shall take effect immediately upon completion of applicable California Coastal Commission appeal periods or procedures.

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

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

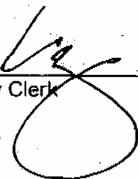
PASSED, APPROVED AND ADOPTED this 21st day of October 2008.

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



Mayor, City of Manhattan Beach, California

ATTEST:



City Clerk


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


City Clerk of the City of Manhattan Beach, California

COASTAL COMMISSION

EXHIBIT # 2
PAGE 4 OF 4

CALIFORNIA COASTAL COMMISSION

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

NOV 17 2008



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: WILLIAM VICTOR

Mailing Address: POST OFFICE BOX 241072

City: LOS ANGELES

Zip Code: 90024

Phone: 516-670-2590

SECTION II. Decision Being Appealed

1. Name of local/port government:

CITY OF MANHATTAN BEACH, CA. 90266

2. Brief description of development being appealed:

MODIFICATION OF PARKING METER RATES ADJACENT TO THE COAST AND OTHER UNDEFINED CHANGES IN THE COASTAL ZONE NEGATIVELY AFFECTING ACCESS AND IN VIOLATION OF THE LCP. THE LENGTH OF TIME FOR PARKING IN THIS AREA -e.g. 15 MINUTES, ONE HOUR, TWO HOURS, IS NOT INDICATED AS BEING CHANGED OR NOT CHANGED AND QUESTIONS ON THIS PARTICULAR ISSUE REMAIN OPEN AND UNANSWERED BY CITY PERSONNEL AND IN THE DOCUMENTS WHICH APPELLANT WAS PERMITTED TO VIEW ON THE INTERNET OR AT THE CITY OFFICES REGARDING THESE TWO COASTAL DEVELOPMENT PERMITS.. IT WAS DEMANDED BY CITY PLANNER ESTABAN DANA THAT APPELLANT FILE A REQUEST FOR PUBLIC RECORDS PURSUANT TO GOVERNMENT CODE SEC. 6253(b). IN ORDER TO SEE THE FILES ON NOVEMBER 7, 2008.THE CITY VIOLATED THAT CODE SECTION AND DID NOT SUPPLY THE FILES FOR INSPECTION WITHIN THE REQUIRED TEN DAYS FOR THE OBVIOUS PURPOSE TO DETER APPELLANT FROM SEEING THE COMPLETE FILES DURING THE APPEAL PERIOD.

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

CITY OF MANHATTAN BEACH "COASTAL ZONE" AS DESCRIBED IN RESOLUTIONS 6160 AND 6161 OSTENSIBLY EXECUTED BY MAYOR MONTGOMERY. THE RESOLUTIONS INDICATE THAT HE WAS "ABSENT" FOR THE COUNCIL MEETING WHERE THESE TWO COASTAL RESOLUTIONS WERE DISCUSSED , ALLEGEDLY PASSED AND WHEN THE RESOLUTIONS WERE SIGNED BY MAYOR MONTGOMERY.

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.

COASTAL COMMISSION
A5-MNB-08-306

EXHIBIT # 3

PAGE 1 OF 7

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

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.

MOST IMPORTANT -

THE NOTICE OF THE HEARING FOR THE CA -08-33 NEVER MENTIONED IT WAS A COASTAL DEVELOPMENT PERMIT APPLICATION / HEARING. ATTACHED IS A COPY OF THE PUBLIC NOTICE AS AN EXHIBIT TO THIS APPEAL

I ALSO WILL ATTACH A COPY OF MY LETTER TO THE CITY COUNCIL PRESENTED TO THE CITY COUNCIL BEFORE THE OCTOBER 21, 2008 HEARING IF I AM ABLE TO SEE THE FILE OR ACCESS THE LETTER SOMEHOW BEFORE THE FILING OF THIS APPEAL.

I HAVE INDICATED MY OPPOSITION TO THE TWO RESOLUTIONS SINCE (1) THE PERMIT(S) HAVE NOT BEEN MADE AVAILABLE (2) THE STATED PLANS NEGATIVELY AFFECT ACCESS TO THE COASTAL RESOURCE AND IN ADDITION VIOLATE THE LOCAL COASTAL PLAN (3) THE FAILURE TO GIVE PROPER NOTICE TO THE PUBLIC OF THE SECOND COASTAL DEVELOPMENT APPLICATION (CA 08-32) EVEN THOUGH IT IS IN THE COASTAL ZONE. APPLICANT ALSO DID NOT MAIL THE INFORMATION EVEN THOUGH IT WAS REQUESTED THAT THE UNDERSIGNED RECEIVE MAILED NOTICE OF SUCH COASTAL DEVELOPMENT APPLICATIONS FILED IN THE CITY OF MANHATTAN BEACH.

THE REDUCED TIME LIMITS FOR PARKING IN THE COASTAL ZONE (A POSSIBILITY WHICH HAS BEEN LEFT OPEN) WILL NEGATIVELY AFFECT ACCESS TO THE COASTAL RESOURCE AND CERTAINLY SHOULD HAVE BEEN THE SUBJECT OF A PUBLIC NOTICE.

FURTHERMORE, CONTRARY TO THE NOTICE WHICH WAS PUBLISHED THE INTERNET DID NOT HAVE AVAILABLE TO THIS PROPERTY OWNER THE STAFF REPORT AS STATED IN THE INCOMPLETE NOTICE.PRIOR TO THE HEARING ON OCTOBER 21, 2008.

THE APPELLANT RESPECTFULLY RESERVES ALL RIGHTS TO AMEND AND SUPPLEMENT THIS APPEAL .HOPEFULLY THE FILES WILL BE AVAILABLE BEFORE ANY HEARING.

IT IS MID MORNING ON NOVEMBER 17, 2008. IT IS OVER TEN DAYS FROM FILING THE REQUEST TO SEE PUBLIC RECORDS AND I HAVE NOT RECEIVED ANY CONFIRMATION AS TO WHEN I WILL BE ALLOWED TO VIEW THE FILE . MR. G. DOLAN IS THE CITY MANAGER. HIS OFFICE AND THE CITY CLERK'S OFFICE WERE GIVEN MY REQUEST ALSO ATTACHED AND I HAVE NOT BEEN ADVISED WHEN I CAN VIEW THE TWO FILES ALTHOUGH I HAVE REQUESTED THIS ON 11/3/08, 11/7/08 AND 11/17/08

COASTAL COMMISSION

EXHIBIT # 3
PAGE 2 OF 7

WILLIAM VICTOR

Post Office Box 241072
Los Angeles, CA 90024

Chuck Posner, Staff Analyst and the
CALIFORNIA COASTAL COMMISSION
200 Ocean Gate Ste. 1000
Long Beach, CA 90802-4302

c.posner@coastal.ca.gov
December 14, 2008

Re: A5-MNB-08-306
CA -08-33
CA-08-324

Dear Honorable Coastal Commissioners and Chuck Posner:

The Following will supplement the appeal by the undersigned regarding the above noted Coastal Permit Matters. The reference number above relates to a matter which is a Coastal Application and was not noticed as one to the public in the only published announcement a copy of which was attached to the appeal. This appeal is also directed to that application which appellant is informed was not made available to the Commission as of November 18, 2008 when appellant reviewed the file and discussed with CC Staff.

The appellant was not at the hearing but did respond to the notice after speaking with the Manhattan Beach (MB) City Planner, Ana. Stevenson. The appellant submitted objections that were attached to the October 21, 2008 hearing documents for consideration by the counsel at the hearing. The file was not available to appellant until after the appeal document for this appeal had to be delivered to the Commission office. The MB City Manager's secretary and the City Clerk's office received an official REQUEST FOR PUBLIC RECORDS Pursuant to the Public Records Act as demanded by the City Manager and the Planning Department and then failed to deliver the files at all until late November 17, when the file was delivered only in part, the minutes were not made available on the internet and in person when requested by applicant and all in an obvious effort to deter the appellant from seeing the complete files during the appeal period or during a reasonable period thereafter.

This supplement further was delayed in preparation because the video of the City Council meeting on October 21, 2008 not available on the internet and the appellant was only fortunate to locate a copy from a source which came available for use by appellant during the week of December 8, 2008.

The items which were discovered when reviewing the video of the October 21, 2008 meeting of the council showed that the minutes submitted to the Coastal Commission on or about December 1, 2008 were not complete, were inaccurate, unclear and misleading in many instances.

Although Ms. Stevenson, from the MB City Staff was available one afternoon during that week, and had a few moments to explain some of the questions, which was very helpful, it was her first hours back

COASTAL COMMISSION

EXHIBIT # 3
PAGE 3 OF 7

from a family/medical leave; it was only after appellant reviewed the video of the hearing, did the differences between the minutes and the actual hearing become much more obvious.

.As noted in the original appeal, page 3, the Published Notice and mailed notice never mentioned that the hearing on October 21, 2008 related to a Coastal Development Hearing or in any way related to the Coastal Zone. At the hearing, for those who attended, or saw it on video, it was only incidentally mentioned that this hearing involved actions that involved the Coastal Commission /;coastal zone. The most significant violations of the LCP and Coastal access policies in appellant's view are briefly noted below:

1. The MB City Council for the alleged express purpose of "congestion pricing" and to give incentives for employers and employees of the businesses in the Manhattan Beach downtown area raised the parking rates for the third time in less than one year (the last time was in June, 2008 just before the summer and beach heaviest use); at the October 21, 2008 meeting despite appellant's comments before the meeting and the concerns of many other business owners, and at least one Council member, was raised from \$1.00 per hour to \$1.25 per hour. Although the Finance director corrected the information from the City Manager that there was no operation deficit, the increase, a third one in the City in a year, was viewed as a hardship to business and customers by one Council member who was sensitive to the economic realities. It should be obvious to the Commission, as it was to the lone Council member, that the people who will be mostly using the California Coastal resources during the 2009-2010 time period will be those who are most likely out of work and least able to pay higher meter rates. It clearly reduces access and from the fact that the increase is not needed for operations and it is a higher rate than neighboring Hermosa Beach, and free parking in downtown El Segundo, it appears that the increases UNNECESSARILY NEGATIVELY AFFECTS ACCESS to the MB coastal resource
2. Implementation measure 2B raised the 126 5 hour meters and more than 48 2 hour meters in the Pier Lots from \$1.00 to \$1.50 per hour. This translates into the normal beach visit of 5 hours costing \$7.50 instead of an already high priced \$5.00 from the same families who most likely will be suffering the most in the current economic crisis. I object to the increase since it reduces access. The Pier lots are owned by the State. There was no evidence of need for the additional funds or permission from the State of California that there was permission to amend the agreement and no amendment of the State or any County agreement has not been made available though requested.
3. Implementation Measure No.3 which is to "Authorize administrative modification of street parking time limits upon the request of nearby businesses.." gives an authorization to increase or decrease the **parking time** limits permitting access to become even more difficult for the formerly large number of metered and un metered spaces in the downtown area. The council in its discussion did not consider beach access in this item. This appellant discussed concerns about time limits being changed with the Coastal Commission Staff Analyst, and he and appellant believed that there was no such change authorized by the Council. The video of the meeting clearly approved the authorization of administrative changes to street parking time limits. The Traffic Engineer also indicated that where there currently exists parking allowed by the City for an entire day or more, he was planning to consider adjusting time limits to two hours or less and, in fact install permit parking for residents which would preclude parking in the coastal zone in

those areas by all (including many beach goers) who do not have residential permits.. While the plan will "take time" until after January 1, 2009, the City administration has approved this permit which violates the letter and spirit of the LCP Access, Transit and Parking Policies including but not limited to Policy IA.2, I.A.3;I.I.B.7 I.C.2., I.C.10; I.C.11, I.C.15; I.C.16 and LUP Policy 2.3.

4. The MB City Manager should be made aware that the restrictive changes contemplated at the hearing on October 21, 2008 may require an effective date after January 1, 2009 until this appeal is heard and decided.
5. The signage for accessing the Metlox Parking is not resolved by any specific aspect of the parking plan, only mentioned generally, and the new rules are so complicated that even the Staff is having difficulty in explaining it-The visiting beach goers will find it almost impossible or completely impossible to locate parking that would permit enjoyment of the wonderful coastal resources and it will discourage the use of the coastal resource by the confusion existing now or worsened by the changes effected and not effected by the Parking Plan. The employers, employees, property owners and residents of Manhattan Beach will find it difficult to comply with the program without proper signage, clear explanation and proper notice-Appellant informally questioned a number of downtown employees, residents, and property owners and it appears only one out of 26 (informal study, it is agreed) even knew about the hearing, that it was a coastal permit application nor the issues which were discussed. Only one saw the publication and/or mailed notice (he did not recall which) and did not realize it was a coastal permit matter. The reason may be that the improperly addressed mailed postcard notice appellant found was referenced as relating only to "Downtown Parking" and referred to a "residential override parking program" but nowhere did the notice refer to the Coastal Commission, the Coastal Act, nor did the word "coastal" appear anywhere on either side of this postcard for the October 21, 2008 Council Meeting.
6. The City Manager, Mr. Geoff Dolan was asked by the Mayor Pro Tem at the close of the hearing and he assured the Council at the October 21, 2008 hearing that he would prepare a summary of what was decided within "a week or two" or no more than 14 days from the hearing-It was sought and was nowhere available in the file as recently as December 11, 2008.
7. A reduced cost parking program including the meters and parking spaces in the coastal zone was agreed to by the Council which by its terms, according to the Council discussion, would only be economically feasible to employees and employers of business in the area- The allowing reduced parking to an elite few further reduces the availability of parking for the beach goers who wish to use this coastal resource; This appellant believes that a better way to encourage the business employers and employees to use other parking than Street and lots, and meters is to permit the employees to have free parking at the Metlox parking facility which is under utilized according to the testimony of the Traffic Engineer and acknowledged by the Council.
8. The Council members later in the hearing appeared to acknowledge that the permit program for employees, and employers and the now authorized parking permit program for residences among other items in the Plan had to be approved by the Coastal Commission, although in fact they were approved at this Council meeting without sufficient detail as to how the permit system would operate nor how the required access to the beach would be protected.

COASTAL COMMISSION

EXHIBIT # 3
PAGE 5 OF 7

9. During the same hearing it was decided to increase parking meter fines from \$30. To \$40. Not only does this hurt the businesses already suffering from the competition of free parking at the Manhattan and El Segundo Malls, and the economic realities at this time, but will reduce the services for beach goers, when these businesses fail. Some have already failed as evidenced by vacancies and "for lease signs" and by letters sent to the City which are in the MB File. There are letters from stressed business owners in addition to this appellant's letter in the Staff report speaking of difficulty caused by the City raising parking expenses and fees. Since many of these businesses serve the coastal city and the coastal visitors, it would be better if they were able to stay in business to serve these visitors who also contribute to the bottom line of these enterprises.
10. Implementation Measure 10 needs to be spelled out more clearly and should then be reviewed by the Commission. There was no concurrence of how it was to be implemented from viewing the Council discussion after the public participation of the hearing was closed-The reduced cost per month (\$500) did not appear feasible for normal users of the beach; the spirit of the Coastal Act is to give such visitors equal access to the coastal resource. At a Coastal Commission hearing once the plan is better detailed, perhaps this plan could be compared with the requirements of the Coastal Act, the LCR and LUP. Appellant is aware of no provision that allows any individual to have a reduced parking rate so that the result would be that access to the beach would be more costly to those who wish to utilize the coastal recreational resources. A better solution suggested by many speakers was for employers to be required to pay for parking of employees at the Metlox facility or at parking facilities more remote from the coastal zone. Appellant recalls that one of the reasons to justify the original coastal application for the Metlox project was that there would be free parking and that all parking for the merchants would be available within the project- Appellant does not recall that the plans included parking meters .Appellant respectfully requests the Coastal Commission to refer to the application for Metlox development permit(s) to confirm that the free parking for employees..
11. .Implementation Measure 11, according to the minutes and the video of the hearing proposes that **posted parking restrictions** of "one to two hours" limited parking will be placed on both sides of streets at the requests of residents. This portion of the parking plan, if not the plan entirely, means to deal with the unfortunate parking by downtown employees on the residential streets. When most of these residents bought their homes, the business district was already there .these new restrictions, time limits and permit requirements and the confusing signs would also discourage parking for people who wish to use the beach-The ocean was probably where it was when those people bought their residences-The Coastal Act and the Coastal Commission was created to *inter alia* to protect those users from such acts-Appellant respectfully requests the Coastal Commission to do just that.
12. Re: Implementation Measure 17- Both Lots 1 and 2 should be available to anyone-first come, first served with no preference to Merchants since they can first utilize Metlox facilities and Lots 3, 7 and 8. There are spaces for the merchants to unload, although if reviewed, it will most likely show that of the deliveries are most often by delivery vehicles other than those operated by the merchants. .
13. Implementation Measure 18: Should be denied by the Coastal Commission in that the \$30 fine is stiff enough for violators in the present economy. The beach may be the only refuge for the growing number of victims of the deteriorated economy. It is respectfully requested that the

Resolution 6162 be denied with a recommendation that it be reapplied for upon the recovery of the economy, and no earlier than 2010.

This should not be the time for greed by the MB City. The economy is hurting many people who are likely to use the coastal resources in Manhattan Beach. Manhattan Beach does not own the beach and should show the same concern for the neighboring people as they do for those who suffer from the impacts of plastic bags, pollution, etc. where MB has tried to become a leader.

It is important for the City of Manhattan Beach to abide by its LCP, LUP , and the California Coastal Act-It does NOT appear that the parking plan as noted above from (a) the Notices to (b) the passage by the city- complies with the LCP, LUP , Implementation Plan all of which were carefully reviewed, considered and passed by MB City Councils before this one and intended to properly protect the coastal resource .and those who use it including the Manhattan Beach residents, property and business owners and visitors..

It is respectfully requested that the Commission deny the application or please apply reasonable conditions so that the resulting parking plan will comply with the LCP,LUP and the Implementation Plan which was approved by this Commission with much more care than that exhibited by MB on October 21, 2008. It will be helpful to all if the Commission obtains the specific list of actions passed by the Council regarding the Parking Plan as The City Manager promised on October 21, 2008 at the close of the hearing. It might also be helpful if the City supplied a copy of the video of the meeting and the Commission with its usual due diligence reviewed the portions of the video relating to this hearing and the above issues. The minutes are less than adequate and omit reference to important portions of the decision making discussions and process.

It is further respectfully requested that in fairness to the residents, property owners, businesses, and those expecting access to the coastal recreational resource, that a hearing be scheduled when the list is made available to all and the plan is clarified especially relating to the issues noted above. This is not an innocuous parking plan! The clear fact is that it does not comply with the access policies of the LCP, LUP and Implementation Plan for MB nor as a result, the California Coastal Act. This sets in place a plan which will be installed for decades and victimizes many of those who rely on the Commission for protection to be able to make use of the Coastal resources more easily and within the normal users' means especially taking into account the economic environment of this time. To permit this plan is tantamount to limiting the beach use to a few lucky beach goers able to find a less available space for their vehicle and/or being charged an admission fee to a California beach to pay for a valet parking, the minimum cost of which will probably be out of the economic means in 2009 and 2010 especially for a shorter stay at the beach This Plan also overlooks the plight of the residents and the business owners and employees by not providing free parking and accommodations for them so that they can properly compete with the free parking in competing nearby MB Village Mall and El Segundo new Mall at the edge of MB.

Respectfully requested,

William Victor, Downtown Manhattan Beach property owner

COASTAL COMMISSION

EXHIBIT # 3
PAGE 7 OF 7