

**CALIFORNIA COASTAL COMMISSION**

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# W15a



Appeal Filed: 04/16/18  
 49th Working Day: Waived  
 Staff: M. Revell-LB  
 Staff Report: 06/21/18  
 Hearing Date: 07/11/18

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

**Appeal Number:** A-5-MNB-18-0023

**Applicant:** AOS GROUP, LV (AVP) & City of Manhattan Beach

**Local Government:** City of Manhattan Beach

**Local Decision:** Approval with Conditions

**Appellant:** William Victor

**Project Location:** On public beach south of pier, and adjacent public parking lots, City of Manhattan Beach, Los Angeles County

**Project Description:** Appeal of City of Manhattan Beach Local Coastal Development Permit No. CA18-04 approving the 2018 Manhattan Beach Open Volleyball Tournament (with temporary bleachers and related structures seating 4,500 people) to be held on the public beach during a thirteen-day period (including set-up and take-down). Tournament play is scheduled for August 16-19, 2018.

**Staff Recommendation:** No Substantial Issue

**SUMMARY OF STAFF RECOMMENDATION**

The staff recommends that the Commission, after public hearing, determine that **no substantial issue exists** with respect to the grounds on which the appeal has been filed for the following reasons: the annual volleyball tournament, as approved by the City of Manhattan Beach, 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 permittee 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.

**Important Hearing Procedure Note:** This is a substantial issue only hearing. Testimony will be taken **only** on the question of whether the appeal raises a substantial issue. Generally and at the discretion of the Chair, testimony is limited to 3 minutes total per side. Please plan your testimony accordingly. Only the applicant, persons who opposed the application before the local government (or their representatives), and the local government shall be qualified to testify. Others may submit comments in writing. If the Commission determines that the appeal does raise a substantial issue, the de novo phase of the hearing will occur at a future Commission meeting, during which it will take public testimony.

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## EXHIBITS

- Exhibit 1 – Project Location – Manhattan Beach
- Exhibit 2 – Vicinity Map with Land Use Designations
- Exhibit 3 – Manhattan Beach Open – Site Plan
- Exhibit 4 – Local Coastal Development Permit CA 18-04
- Exhibit 5 – City/Permittee “Agreement” dated March 8, 2017
- Exhibit 6 – City Response to Issues Raised by the Appeal
- Exhibit 7 – Proof of Notice
- Exhibit 8 – Appeal by William Victor
- Exhibit 9 – Letters from the Appellant, William Victor

## I. MOTION AND RESOLUTION - NO SUBSTANTIAL ISSUE

**Motion:** *I move that the Commission determine that Appeal No. A-5-MNB-18-0023 raises **NO SUBSTANTIAL ISSUE** with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act.*

Staff recommends a **YES** vote. Passage of this motion will result in a finding of No Substantial Issue and adoption of the following resolution and findings and the local action will become final and effective. The motion passes only by an affirmative vote of the majority of the Commissioners present.

**Resolution:**

*The Commission hereby finds that Appeal No. A-5-MNB-18-0023 presents **NO SUBSTANTIAL ISSUE** with respect to the grounds on which the appeal has been filed under §30603 of the Coastal Act regarding consistency with the certified Local Coastal Plan and/or the public Access policies of the Coastal Act.*

## II. APPELLANT'S CONTENTIONS

On April 2, 2018, the Commission received a valid Notice of Final Action for Local Coastal Development Permit (CDP) No. CA 18-04, which approved the 2018 Manhattan Beach Open Volleyball Tournament to be held on the public beach August 16-19, 2018 (**Exhibit 4**). On April 16, 2018, within ten working days of receipt of notice of final local decision, William Victor filed an appeal of the local coastal development permit (**Exhibit 8**). The appellant lists several reasons for the appeal, including:

1. The local coastal development permit does not protect coastal access.
2. The ticketed VIP area and Manhattan Beach Downtown Business and Professional Association's Community Event are inconsistent with the local coastal development permit.
3. The permitted development will block ADA accessible parking.
4. The City violated noticing requirements.

No other appeals were received prior to the end of the appeal period on April 7, 2017.

## III. LOCAL GOVERNMENT ACTION

On March 6, 2018, after a public hearing, the Manhattan Beach City Council adopted City Council Resolution No. 18-0001 and approved with conditions Local Coastal Development Permit No. CA 18-04 allowing the applicant AOS GROUP, LV (AVP) to conduct the 2018 Manhattan Beach Open Volleyball Tournament on the weekend of August 16-19, 2018 (**Exhibit 4**). As in prior years, the event site is the public beach area located immediately south of the Manhattan Beach Pier (**Exhibit 3**). Condition Two of the permit references a 2018 City Council agreement ("the Agreement") with the applicant to produce the event, as has been done with various entities for many years. The action by the City Council was not appealable at the local level. On April 2, 2018, the Commission's South Coast District office in Long Beach received the City's Notice of Final Action for Local Coastal Development Permit No. CA 18-04 (**Exhibit 4**). 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 April 16, 2018.

#### **IV. 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 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 2](#)). The proposed event is located entirely within the geographic appealable area. Section 30603(a)(1) of the Coastal Act identifies the 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.

After a final local action on a local coastal development permit application, the Coastal Commission must be noticed within five days of the decision. After receipt of such a notice which contains all the required information, a ten working-day appeal period begins during which any aggrieved person, or any two members of the Commission, may appeal the local decision to the Coastal Commission. [Cal. Pub. Res. Code § 30603.] As provided under section 13318 of Title 14 of the California Code of Regulations, the appellant must conform to the procedures for filing an appeal as

required under section 13111 of Title 14 of the California Code of Regulations, including the specific grounds for appeal and a summary of the significant question raised by the appeal.

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 the standards set forth in the certified Local Coastal Program or the public access policies of the Coastal Act, the action of the local government stands.

Alternatively, if the Commission finds that a substantial issue does exist 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, it will be presumed that the appeal raises a substantial issue and the Commission will schedule the de novo phase of the 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, those who are qualified to testify at the hearing, as provided by Section 13117 of Title 14 of the California Code of Regulation, 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 applicants, 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.

## V. FINDINGS AND DECLARATIONS

### A. PROJECT DESCRIPTION AND HISTORY

On March 6, 2018, after a public hearing, the Manhattan Beach City Council adopted City Council Resolution No. 18-0001 and approved with conditions Local Coastal Development Permit No. CA 18-04 allowing the applicant AOS GROUP, LV (AVP) to conduct the 2018 Manhattan Beach Open Volleyball Tournament ([Exhibit 4](#)). This year's approved event is planned to occur on the weekend of August 16-19, 2018. The event site is the public beach area located immediately south of the Manhattan Beach Pier ([Exhibit 3](#)), and inland of the beach over the beach bike path and into the lower pier parking lot ([Exhibit 3](#)) to accommodate a VIP platform for viewing and alcohol service. A bike path bypass must be provided in order to maintain public access through the event area. Most of the parking stalls in the public parking lots at the base of the pier will be reserved for the applicant's use during the event. Set-up for this year's event (e.g., bleacher seats, VIP platform, stadium, tents, etc.) would commence on Thursday, August 9, 2018, and take-down would be completed by Wednesday, August 22, 2018.

Condition Seven of 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](#)). Also, the permittee is required by Conditions Eight through Twelve 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. Condition Six limits the height of all structures associated with the event to 41.5 feet above the beach sand.

The annual Manhattan Beach Open Volleyball Tournament has a long tradition that dates back to 1960. 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](#)).<sup>1</sup> The event area is occupied by several sets of sand volleyball courts used for public recreation. Even though the event area can get quite congested, the City has always maintained public access to the pier and along the water. The bicycle path is kept open, although bikes must be walked.

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. The certified LCP states:

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

*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.*

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<sup>1</sup> Although the beach is 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 Local Coastal Program.

The Commission has heard appeals of the City's local coastal development permits approving the annual event in 1997, 1999, 2001, 2003, 2007, 2008, 2010, 2015 and 2017. 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, visual impacts, 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 2018 Manhattan Beach Open Volleyball Tournament ([Exhibit 4](#)).

This appeal raises some of the same allegations that the appellant brought to the Commission on appeal in 2007 (A-5-MNB-07-178), 2008 (A-5-MNB-08-111), 2010 (A-5-MNB-10-124), 2015 (A-5-MNB-15-0032), and 2017 (A-5-MNB-17-0014). In all five prior instances, the Commission upheld the local government's approval of the permit for the annual volleyball tournament and found that the appeals raised no substantial issue. The City's local coastal development permit for this year's tournament is substantially the same in regards to coastal access, views and parking issues as the prior year's approvals.

#### **B. FACTORS TO BE CONSIDERED IN SUBSTANTIAL ISSUE ANALYSIS**

Section 30625(b)(1) of the Coastal Act states that the Commission shall hear an appeal of a local government action carried out pursuant to Section 30600(b) unless it finds that no substantial issue exists as to conformity with Chapter 3 of the Coastal Act. The term "substantial issue" is not defined in the Coastal Act or its implementing regulations. Section 13115(b) of the Commission's regulation simply indicates that the Commission will hear an appeal unless it "finds that the appeal raises no significant question." In previous decisions on appeals, the Commission had been guided by the following factors:

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

Even when the Commission chooses not to hear an appeal, appellants nevertheless may obtain judicial review of the local government's coastal permit decision by filing petition for a writ of mandate pursuant to Code of Civil Procedure, Section 1094.5.

Staff is recommending that the Commission find that no substantial issue exists with respect to whether the local government action conforms to the provisions of Chapter 3 of the Coastal Act for the reasons set forth below.

### C. SUBSTANTIAL ISSUE ANALYSIS

As stated in Section III of this report, the grounds for appeal of a coastal development permit issued by the local government after certification of its Local Coastal Program (LCP) are specific. In this case, the local coastal development permit may be appealed to the Commission on the grounds that it does not conform to the certified LCP or the public access policies of the Coastal Act. The Commission must then decide whether a substantial issue exists in order to hear the appeal.

In this case, the appellant asserts that public access is not being protected, the ticketed VIP area and the Manhattan Beach Downtown Business and Professional Association's Community Event are inconsistent with the local coastal development permit, the permitted development will block ADA accessible parking, and proper notice was not provided.

The substantial issue determination is limited solely to the issue of whether the local approval of the coastal development permit 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 Seven: Exhibit 4, p.3.]*

Secondly, the proposed project must comply with the following relevant LCP 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.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 II.B.4:*** *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 appeal raises 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.

**Public Access to the Shoreline**

The appellant argues that the volleyball tournament deprives recreational beach users' public access to the beach as a result of the City's exclusive use of the parking lots at the pier, and that extending the set up time by three more days in the middle of summer further excludes the public's right to use the portion of the public beach where the tournament is held. These arguments do not raise a substantial issue because in order to mitigate the adverse impact to the public beach parking supply, the applicant each year provides alternate remote parking facilities and free public transportation to the beach, which is addressed by Special Conditions Eleven, Twelve, and Thirteen, and discussed in more detail below. With regard to the increase in set-up time, although this year the City plans to utilize three more days to construct the bleachers than years past, this is to provide more time for a safer and more efficient process of constructing more rows of bleachers to accommodate more free seating, as well as to accommodate the necessary City and County inspections. The increase in rows of bleachers will still comply with the height restriction of 41.5 feet high as conditioned by Special Condition Six of the local coastal development permit, with no increase in the footprint of the bleachers. Commission staff has determined that the benefit to the public of more free seating at the tournament, which draws thousands of visitors to the shoreline for lower cost recreation, outweighs the burden of three more days of limited access to the section of public beach where the bleachers are located.

The appellant's contention that the Manhattan Beach Downtown Business and Professional Association's Community Event (Pier Ceremony Reception) being held on the Pier Platform, and the ticketed VIP Area during the tournament (for approximately 600 to 800 ticket holders) excludes others and does not provide for 75 percent free participation at the event—as is required by the City's certified Local Coastal Program (LCP) and the local coastal development permit—also does not raise a substantial issue. The Pier Ceremony Reception, hosted by the Manhattan Beach Downtown Business and Professional Association in partnership with the City of Manhattan Beach is being held on the Pier Platform south of the pier (not on the pier) during the qualifying rounds, which is limited to VIPs and attendees who pay an admission fee (part of the 25 percent), leaving the remaining 75 percent of the event area (the center court, featured courts, and outside courts) and the rest of the beach open for free public access. Therefore, the local coastal development permit approving the 2018 volleyball tournament conforms to the City of Manhattan Beach certified Local Coastal Program (LCP) and the public access policies of the Coastal Act. Therefore, the appellant's contention in this regard does not constitute a substantial issue.

### **ADA Accessible Parking**

The crowds generated by the proposed event, in association with the event's reserved use of public parking areas, can adversely 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 can 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 AVP of at least 71 of the 161 parking spaces closest to the pier for eleven days, and the ability to find public parking near the pier will be nearly impossible. This situation arises each year during the event. In order to mitigate the adverse impact to the public beach parking supply, the applicant each year provides alternate remote parking facilities and free public transportation to the beach.

With regard to ADA accessible parking, the City contends that while they will allow the applicant exclusive use of three ADA accessible parking spaces, they will provide five additional ADA accessible parking spaces in adjacent lots to mitigate for the loss of the three ADA spaces. Therefore, with the City's provision of five ADA accessible spaces, the proposed event will not reduce the amount of accessible parking or adversely affect coastal access, and the appellant's contention regarding this element of the project does not constitute a substantial issue.

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 (Conditions Eight through Twelve) 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. Condition Twelve of the City's permit states that, "The headway time between shuttle service pick-ups shall not be more than fifteen minutes". 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.

### **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. This time the issue is raised again in regards to the Pier Ceremony Reception on the VIP platform. 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 is reserved for the general public for free). Condition Seven 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 Seven: [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. Also, the applicant must post signs that designate which areas are reserved for free public admission.

In addition, the proposed temporary event does not conflict with LCP Policy II.B.4 because no permanent structures are permitted, and the annual volleyball tournament has always been considered to be a form of public beach recreation since it is on the beach and is open to the general public (primarily for free). The proposed event's impacts to public views or visual resources will be temporary, and the LCP does not prohibit temporary visual impacts, especially those foreseeable effects (e.g., bleachers seats) associated with an annual tournament that is over fifty years old.

### **Public Hearing Notice**

The appellant alleges that the City failed to provide adequate public notice for the City Council hearing where the local coastal development permit was approved. The certified LCP sets forth the noticing procedure for local coastal development permits, as follows:

#### ***A.96.100. Notice and Procedures for appealable development.***

*Notice of development appealable to the Coastal Commission shall be provided as follows:*

##### *A. Contents of Notice.*

- 1. A statement that the development is within the Coastal Zone and is appealable to the Coastal Commission;*
- 2. The date of filing of the application and the name of the applicant;*
- 3. The file number assigned to the application;*
- 4. A description of the development and its proposed location;*
- 5. The date, time, and place at which the application will be heard;*
- 6. A brief description of the general procedure concerning the conduct of hearing and local actions; and*
- 7. The system for local and Coastal Commission appeals, including any local fees required.*

##### *B. Provision of Notice Prior to Public Hearing. Notice shall be mailed at least 10 days before the first public hearing on the project to the following:*

- 1. Applicant;*
- 2. Owner of the property;*
- 3. All property owners and residents within 100 feet from the perimeter of the subject parcel;*
- 4. All persons who have, within the past calendar year, submitted a written request for notice of all Coastal Permit applications and all persons who at any time have requested to be on the mailing list for that development project; [13565]*
- 5. The Coastal Commission;*

6. *Public agencies which, in the judgment of the Director of Community Development, have an interest in the project; and*
7. *A newspaper of general circulation in the Coastal Zone. The notice is to be published once.*

The certified LCP requires mailed notice. The City states that, in this case, public notice was provided by mail and newspaper publication as evidenced in [Exhibit 7](#), which demonstrates its compliance with the LCP noticing provisions. Therefore, this allegation does not constitute a substantial issue in regards to consistency with the certified LCP or the public access policies of the Coastal Act.

The Commission's standard of review for determining whether to hear the appeal is whether the appeal raises a substantial issue as to conformity with the City's Certified LCP or the Chapter 3 Public Access policies of the Coastal Act. Cal. Pub. Res. Code § 30603(b)(1); 14 C.C.R. § 13321. The Commission's decision will be guided by the factors listed in the previous section of this report (B. Factors to be Considered in Substantial Issue Analysis).

The first factor is the degree of factual and legal support for the local government's decision that the development is consistent or inconsistent with the relevant provisions of its LCP and the Coastal Act. The City approved a project that is consistent with the provisions of the City's certified LCP, and the Chapter 3 public access policies of the Coastal Act. The City has provided sufficient evidence to demonstrate that adequate public notice was provided for the City Council Hearing for the 2018 tournament, and does not raise any issue regarding conformity with Chapter 3 public access policies of the Coastal Act. Therefore, the Commission finds that the City provided an adequate degree of factual and legal support for its decision.

The second factor is the extent and scope of the development as approved or denied by the local government. While the City-approved event and related structures will occupy a large part of the beach south of the pier, the event is temporary, and the local CDP as conditioned maintains public access to the shoreline. In addition, the proposed event is an annual tradition in the City of Manhattan Beach that draws thousands of visitors to the shoreline for lower cost recreation. Therefore, the Commission finds that the extent and scope of the City-approved development is consistent with the LCP and with Chapter 3 public access policies of the Coastal Act.

The third factor is the significance of the coastal resources affected by the decision. Coastal views and the public sandy beach are significant coastal resources. The City and Commission have worked together over the past twenty years to develop special conditions of the local coastal development permit to mitigate adverse impacts to these coastal resources, such as limiting the height of the temporary structures to 41.5 feet high, and requiring that 75% of the event area and the rest of the beach remain open for the public to enjoy the sandy beach. Therefore, the Commission finds that the City-approved development will not have a significant impact on coastal resources.

The fourth factor is the precedential value of the local government's decision for future interpretations of its LCP. The project is consistent with previous Commission-approved Volleyball Tournaments in the same location over the years. Thus, the project, as approved with conditions, does not raise a substantial issue with regard to the project's conformity with its certified LCP.

The final factor is whether the appeal raises local issues, or those of regional or statewide significance. Impacts to coastal resources, including coastal views and access to public sandy beaches are important statewide issues. However, the City-approved temporary development is consistent with its certified LCP and with Chapter 3 public access policies of the Coastal Act. Therefore, the Commission finds that the City-approved CDP does not raise any issues of statewide significance.

### **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 permittee 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 this year's event with conditions is consistent with the Commission's prior appeal actions approving permits for the annual event. The local coastal development permit approving the 2018 volleyball tournament conforms to the City of Manhattan Beach certified Local Coastal Program (LCP) and the public access policies of the Coastal Act.

The appellant's allegations regarding public access to the beach and pier, ADA accessible parking spaces, and public notice do not constitute substantial issues in regards to consistency with the certified LCP or the public access policies of the Coastal Act. The local government's decision is supported by facts and legal findings consistent with the relevant provisions of the certified LCP and the Coastal Act. The extent and scope of the development as approved by the local government is limited in area and duration, and thus will have no permanent effect on coastal resources. Adequate mitigation measures are required for the event's temporary impacts to coastal access and recreation. The local government's decision is consistent with the Commission's past actions approving the annual event, and the decision does not constitute an adverse precedent for future interpretations of the certified LCP. While the appeal does raise issues of statewide significance in regards to public access, the local government's decision is sound in that the development, as conditioned by the coastal development permit, complies with all applicable LCP and Coastal Act policies, and will have no adverse impacts on coastal access or other coastal resources. Therefore, the Commission finds that the appeal raises no substantial issue regarding consistency with the certified LCP or the public access policies of the Coastal Act.

