

CALIFORNIA COASTAL COMMISSION

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Appeal Filed: 05/24/19
49th Working Day: 07/12/19
Staff: M. Revell-LB
Staff Report: 06/20/19
Hearing Date: 07/10/19

STAFF REPORT: APPEAL – NO SUBSTANTIAL ISSUE

Appeal Number: A-5-MNB-19-0030

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. CA19-02 approving the 2019 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 15-18, 2019.

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.

Although the appeal raises general concerns regarding the project's compliance with the certified LCP and public access policies of the Coastal Act, the Executive Director nevertheless determined that the appeal was patently frivolous and should not be filed because the action appealed, the Manhattan Beach Volleyball Tournament for 2019, was substantially similar to the volleyball tournaments held by the City in the past three years in terms of potential impacts to coastal access, views and parking issues. Furthermore, in at least six prior years, this annual event has been appealed to the Commission by the same appellant, and the Commission has found that the appeal did not raise a substantial issue as to

conformance with the certified LCP or the public access policies of the Coastal Act. Commission staff sent a letter dated May 16, 2019 (within five working days of receipt of the appeal pursuant to Public Resources Code Section 30620(d)) to the appellant explaining that the Executive Director determined the appeal to be patently frivolous pursuant to Public Resources Code Section 30620(d) ([Exhibit 9](#)). On May 24, 2019, and within five working days of the receipt of the Executive Director's frivolous appeal determination, the appellant submitted the \$300.00 filing fee for Commission filing of the frivolous appeal, as required pursuant to Public Resources Code Section 30620(d). Accordingly, the Commission is required to hold a Substantial Issue hearing to determine whether the frivolous appeal raises a substantial issue regarding the project's conformance with the City of Manhattan Beach's certified Local Coastal Plan or the public access policies of the Coastal Act.

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 – Vicinity Map
- Exhibit 2 – Manhattan Beach Open – Site Plan
- Exhibit 3 – Local Coastal Development Permit CA 19-02
- Exhibit 4 – City/Permittee “Agreement” dated March 8, 2017
- Exhibit 5 – City Response to Issues Raised by the Appeal
- Exhibit 6 – Proof of Notice
- Exhibit 7 – Appeal by William Victor
- Exhibit 8 – Correspondence from the Appellant, William Victor
- Exhibit 9 – Commission Staff Letter Rejecting Appeal as Patently Frivolous

MOTION AND RESOLUTION - NO SUBSTANTIAL ISSUE

Motion: *I move that the Commission determine that Appeal No. A-5-MNB-19-0030 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-19-0030 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.*

I. APPELLANT'S CONTENTIONS

On April 25, 2019, the Commission received a valid Notice of Final Action for Local Coastal Development Permit (CDP) No. CA 19-02, which approved the 2019 Manhattan Beach Open Volleyball Tournament to be held on the public beach August 15-18, 2019 ([Exhibit 3](#)). On May 9, 2019, within ten working days of receipt of notice of final local decision, William Victor filed an appeal of the local coastal development permit ([Exhibit 7](#)). The appellant lists several reasons for the appeal, including:

1. The local hearing was “rushed through” and no “non-employees of the City” spoke in favor of the event.
2. The current agreement between the City and the Permittee was not attached to the City’s staff report.
3. The proposed set-up and take-down schedule for this year’s event is inconsistent with the Agreement between the City and the Permittee.
4. Selling alcoholic beverages at the event exposes the City to potentially expensive liability.
5. The site plan schematic depicting the event provided at the local hearing was illegible.
6. The Operator violated Special Condition 7 of the CDP requiring the Operator to count and record the number of VIPs within the event area and provide that data to the City and the CCC within one month of the end of the tournament.
7. The price of the ticketed elements of the event planned to occur in association with the tournament have not been disclosed, and there is no way to determine if such prices are “reasonable” to accommodate access to the general public.
8. The ticketed VIP “Pier Ceremony” and 13 day event (including set-up and take-down) deprives the public’s access to the Pier, public beach, and public parking.
9. The permitted development will block ADA accessible parking.
10. The City violated noticing requirements.

No other appeals were received prior to the end of the appeal period on May 9, 2019.

II. LOCAL GOVERNMENT ACTION

On March 6, 2019, after a public hearing, the Manhattan Beach City Council adopted City Council Resolution No. 19-0015 and approved with conditions Local Coastal Development Permit No. CA 19-02 allowing the applicant AOS GROUP, LV (AVP) to conduct the 2019 Manhattan Beach Open Volleyball Tournament on the weekend of August 15-18, 2019 ([Exhibit 3](#)). As in prior years, the event site is the public beach area located immediately south of the Manhattan Beach Pier ([Exhibit 2](#)). Condition Two of the permit references a 2017 City Council agreement (“the Agreement”, which is valid for a term of three years, and expires in 2019) 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 25, 2019, 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 19-02 ([Exhibit 3](#)). 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 May 9, 2019.

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 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. 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 Commission takes jurisdiction over the permit application and 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.

IV. FINDINGS AND DECLARATIONS

A. PROJECT DESCRIPTION AND HISTORY

On March 6, 2019, after a public hearing, the Manhattan Beach City Council adopted City Council Resolution No. 19-0015 and approved with conditions Local Coastal Development Permit No. CA 19-02 allowing the applicant AOS GROUP, LV (AVP) to conduct the 2019 Manhattan Beach Open Volleyball Tournament ([Exhibit 3](#)). This year's approved event is planned to occur on the weekend of August 15-18, 2019. The event site is the public beach area located immediately south of the Manhattan Beach Pier ([Exhibit 2](#)), and inland of the beach over the beach bike path and into the lower pier parking lot ([Exhibit 2](#)) 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 8, 2019, and take-down would be completed by Wednesday, August 21, 2019.

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 3, 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 1](#)).¹ 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.

¹ 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, 2017, and 2018. 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 during peak beach season, 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 2019 Manhattan Beach Open Volleyball Tournament ([Exhibit 3](#)).

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), 2017 (A-5-MNB-17-0014), and 2018 (A-5-MNB-18-0023). In all six prior instances, the Commission found that the appeals raised no substantial issue and declined to review the local government's approval of the permit for the annual volleyball tournament. The City's local coastal development permit for this year's tournament is substantially the same with regard to coastal access, views and parking issues as the prior year's approvals. Pursuant to Public Resources Code Section 30620(d), within five working days of receiving the appeal, Commission staff sent a letter dated May 16, 2019 to the appellant explaining that the Executive Director determined the appeal to be patently frivolous. On May 24, 2019, and within five working days of the receipt of the Executive Director's frivolous appeal determination, the appellant submitted the \$300 filing fee for Commission filing of the frivolous appeal, as required pursuant to Public Resources Code Section 30620(d). Accordingly, the Commission is required to hold a substantial issue hearing to determine whether the frivolous appeal raises a substantial issue regarding the project's conformance with the City of Manhattan Beach's certified Local Coastal Plan.

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.

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 the local hearing was “rushed through” and that no “non-employees of the City” spoke in favor of the event; the current agreement between the City and the Permittee was not attached to the City’s staff report; the set-up and take-down schedule is inconsistent with the Agreement between the City and the Permittee; the site plan provided at the local hearing was illegible; the Operator violates Special Condition 7 of the CDP requiring the Operator to submit the number of VIP ticket sales and provide that data to the City and the CCC within one month of the end of the tournament; the ticketed VIP Pier Ceremony deprives the public access to the Pier; and the permitted development will block ADA accessible parking; and proper notice of the local hearing was not provided.

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. The first five reasons set forth by the appellant in support of his appeal (i.e. inadequacies of the City's local hearing and staff report, inconsistencies between the City's agreement with the Permittee and the proposed event, and alcohol sales) do not reference any specific Manhattan Beach LUP policy or LIP provision related to these concerns, nor do they raise any Chapter Three policies of the Coastal Act; nor can any potential inconsistencies with the certified LCP or Coastal Act public access policies be inferred from the arguments raised in the appeal. Therefore, the appellant's first five contentions do not raise a substantial issue. The last five allegations in the appeal do raise general concerns regarding the project's compliance with the certified LCP and public access policies of the Coastal Act, and are addressed below.

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. The appellant raises this issue again with regard to the Pier Ceremony Reception on the VIP platform, and the Club/VIP tickets for the tournament, and the concern that the ticket prices for these events were not disclosed at the time of the local hearing. The appellant contends that the City's failure to disclose the price of the tickets prevents the public from knowing if the prices are "reasonable" which may affect whether "access is protected" (Exhibit 8). 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), and the LCP does not establish a specific price range for admission tickets.

Instead, Condition Seven of the local coastal development permit requires free admission for at least seventy-five percent of the total seating capacity at each court, and that Club/VIP seating cannot be included in the seventy-five percent (75%) of seating capacity that must be reserved for free public admission. At Commission staff's request, the City submitted the daily attendance totals for the 2018 Manhattan Beach Open, and on average, the event hosted around 6,000 people in total, including 4,500 spectators to sit in the stands free of charge, and another 1,000 or so to attend within the public areas surrounding the stadium seating. Club/VIP totals for each day of the three-day event, on average, accounted for only approximately 243 tickets ([Exhibit 5](#)). Since the total seating in the Stadium Court accommodates 4,500 spectators to sit in the stands free of charge, and paid seating accounts for only about 243 tickets, the event clearly meets the 75% requirement of free seating. Furthermore, approximately 1,000 more participants attend free of charge within the public areas surrounding the stadium seating. Therefore, the event is consistent with the Certified LCP by maintaining seventy-five percent (75%) free public admission in this regard. The City informed Commission staff that the cost of Club/VIP tickets range from \$100-\$165. However,

since there is no stipulated or required price range in the Certified LCP for Club/VIP ticket sales, the “reasonableness” of the price of the tickets does not raise a substantial issue.

Special Condition Seven includes a provision requiring that the applicant document compliance with the seventy-five percent (75%) free requirement (Condition Seven: [Exhibit 3, p.3](#)). The appellant requested to “inspect a copy of this report for each of the years it has been required”. While Commission staff does not have record of receiving any reports documenting 75% free admission for previous volleyball tournaments as required by Special Condition Seven, and the City has not provided this information as required by the permit, as discussed above, the City has now provided the daily attendance totals from the 2018 tournament to Commission staff (Exhibit 6) , and attendance of the annual volleyball tournament consistently far exceeded the 75% free requirement (daily average of 243 paid tickets vs. 6,000 attendees), therefore this contention does not raise a substantial issue. In addition, Commission staff has discussed this reporting requirement with the City, and the City has assured staff that they will be complying with this reporting requirement for future tournaments.

Public Access to the Shoreline

The appellant argues that the volleyball tournament and associated events deprives recreational beach users’ public access to the beach and pier as a result of the City’s exclusive use of the parking lots at the pier, and that extending the set up time by two 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, it is the same set-up and take-down time as last year, and the City utilizes this time to ensure they are constructing the bleachers safely to accommodate a sufficient amount of free seating, as well as to accommodate the necessary City and County inspections. 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 ticketed Pier Ceremony Reception being held on the Pier Platform for approximately 200 people deprives public access to the pier—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 from 5:00 pm to 9:00 pm *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 2019 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.

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 6](#), 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 first five allegations of the appeal do not purport to raise any issues of conformance with the certified LCP or public access policies of the Coastal Act. As discussed above, the remaining allegations in the appeal do purport to identify inconsistencies with the LCP and Coastal Act public access policies; however, as discussed above, the City-approved project complies with the LCP

requirements relating to maintaining 75% of the event as open to the general public for free; adequate public parking has been provided during the event, including ADA parking spaces; and evidence provided by the City demonstrates that adequate public notice was provided for the City Council Hearing for the 2018 tournament. Therefore, the Commission finds that the City provided a high degree of factual and legal support for its decision, and this factor weighs in favor of finding no substantial issue.

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, will last the same amount of days as the event last year, 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 event held in prior years and, hence, the LCP and with Chapter 3 public access policies of the Coastal Act, and this factor weighs in favor of finding no substantial issue.

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, and this factor weighs in favor of finding no substantial issue.

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 in prior 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 2019 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.

