

CALIFORNIA COASTAL COMMISSION

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



W19.1a

Filed: 9/17/2014
180th Day: N/A
Staff: Z. Rehm-LB
Staff Report: 9/25/2014
Hearing Date: 10/8/2014

STAFF REPORT: REQUEST FOR RECONSIDERATION

Application Number: 5-14-1479-R

Applicant: City of Los Angeles (Dept. of Rec. and Parks)

Project Location: 1800 Ocean Front Walk, Windward Plaza Park, Venice, City of Los Angeles, Los Angeles County

Project Description: Install seasonal ice skating venue in Windward Plaza Park between Ocean Front Walk and Venice Beach. Venue will be comprised of ice rink, boards, two equipment tents, two modular skate rental and office units, and two temporary 16-foot high light and sound towers, all atop a temporary subfloor and deck structure approximately three-feet above grade, 160-foot wide, and 68-foot deep. Venue is proposed to be installed, operated, and removed between November 17th and January 27th annually. Install permanent approximately seven-foot high electric switchboard rated at 1,200 amps in the vicinity of the seasonal ice skating venue. Install up to seventeen 26-foot high permanent security lighting poles throughout Windward Plaza Park.

Commission Action: On September 11, 2014, the Commission denied Coastal Development Permit Application 5-14-1479.

Staff Recommendation: Grant the request for reconsideration

SUMMARY OF STAFF RECOMMENDATION

On September 11, 2014, following the public hearing on the matter, the Commission denied Coastal Development Permit Application 5-14-1479, the City of Los Angeles's proposal to install a temporary ice skating venue and permanent security lighting in Windward Plaza Park in Venice, City of Los Angeles.

On September 17, 2014, the applicant submitted to the Commission's South Coast District office a letter requesting that the Commission reconsider its September 11, 2014 decision to deny Coastal Development Permit Application 5-14-1479. On September 22, 2014, the applicant submitted to the Commission's South Coast District office a letter providing supplemental information for the request for reconsideration. The applicant asserts that erroneous statements related to four issues were presented by a member of the public at the September 11, 2014 hearing and taken as fact by several Commissioners, which the applicant argues was the primary basis for denying the application.

Section 30627(b)(4) of the Coastal Act states that the Commission has the discretion to grant or deny a request for reconsideration of a coastal development permit application. Commission staff concludes that the applicant has provided relevant new evidence which, in the exercise of reasonable due diligence, could not have been presented at the hearing on the matter and that there were errors in fact presented at the September 11, 2014 hearing which have the potential of altering the Commission's initial decision. Therefore, staff recommends that the Commission **grant** the applicant's request for reconsideration.

Procedural Note:

The Commission's regulations provide that at any time within thirty (30) days following a final vote upon an application for a coastal development permit, the applicant of record may request that the Commission grant a reconsideration of the denial of the application, or of any term or condition of a coastal development permit which has been granted. [Title 14 Cal. Code of Regulations Section 13109.2.] The regulations also state (*id.* at § 13109.4) that the grounds for reconsideration of a permit action shall be as provided in Coastal Act Section 30627, which states, *inter alia*:

The basis of the request for reconsideration shall be either that there is relevant new evidence which, in the exercise of reasonable diligence, could not have been presented at the hearing on the matter or that an error of fact or law has occurred which has the potential of altering the Commission's initial decision.
[Cal. Pub. Res. Code § 30627(b)(3)]

Section 30627(b)(4) of the Coastal Act states that the Commission "shall have the discretion to grant or deny requests for reconsideration."

The applicant submitted a request for reconsideration of the Commission's September 11, 2014 decision on September 17, 2014, stating the alleged grounds within the 30-day period following the final vote, as required by Section 13109.2 of the regulations. If a majority of the Commissioners present vote to grant reconsideration, the permit application will be scheduled for a future public hearing, at which the Commission will consider it as a new application. [Title 14, Cal. Code of Regs., Section 13109.5(c).]

I. MOTION AND RESOLUTION

Motion:

"I move that the Commission grant reconsideration of Coastal Development Permit Application 5-14-1479."

Staff recommends a **YES** vote of the foregoing motion. Passage of this motion will result in a grant of the applicant's request for reconsideration and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

Resolution:

The Commission hereby grants the request for reconsideration of the Commission's decision on Coastal Development Permit Application 5-14-1479 on the grounds that were errors in fact which have the potential of altering the Commission's initial decision.

II. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares:

A. PROJECT LOCATION AND DESCRIPTION

The City of Los Angeles Department of Recreation and Parks proposed to install a seasonal ice skating venue, a permanent 1,200 amp electric switchboard, and permanent security lighting in Windward Plaza Park between Ocean Front Walk and Venice Beach (between the first public road and the sea). The subject area is a public park composed of grass, hundreds of palm trees, and concrete walkways and plazas atop the native sandy beach. Further seaward and north of the proposed development are a lighted graffiti wall and associated structures (approved by Coastal Development Permit 5-11-256), as well as the Venice Skate Park. To the south of the proposed development are Muscle Beach, four basketball courts, eleven tennis courts, and a 352-space parking lot (**Exhibit 1**). The applicant proposed to illuminate the entire grass and concrete park, approximately 1,200 feet wide and 300 feet deep, with up to 2.0 foot candles of light in Coastal Development Permit Application 5-14-1479. The seasonal 160-foot by 68-foot park seasonal ice skating venue was proposed to be sited in the center of the park (**Exhibit 2**).

The ice skating venue was proposed be comprised of a 50-foot by 100-foot ice rink, boards, two equipment tents, two modular skate rental and office units, and two temporary 16-foot high light and sound towers, all atop a temporary subfloor and deck structure approximately three-feet above grade. The ice surface was proposed to be maintained by a nearby chiller/refrigeration unit housed in a trailer (40-feet by 10-feet) that conveys propylene glycol through 70-foot long, 4-inch diameter supply and return lines, insulated and protected by a plywood box cover. A permanent seven-foot high 1,200 amp electric switchboard was proposed in the area of the ice skating venue, which would

be used to power other temporary events in the park not subject to Coastal Development Permit Application 5-14-1479 (**Exhibit 2**).

The applicant initially proposed seventeen 26-foot high light poles each featuring four aluminum dome-shaped LED fixtures rated at 135 watts each, producing an average light intensity of 2.0 foot candles at ground level. (**Exhibits 2 and 3**). The furthest seaward light poles were proposed approximately 350 feet inland of the mean high tide line, slightly further away than the most seaward light poles approved by Coastal Development Permit No. 5-11-256. The five light poles approved by that permit are each approximately 20-feet high and produce a light intensity no greater than 0.6 foot candles, and less light intensity in the majority of the area around the graffiti wall. Comparatively, the existing light poles on Ocean Front Walk, a wide pedestrian-oriented commercial street landward of the proposed development, are 22-feet high and produce a light intensity of up to 4.0 foot candles and an average light intensity of approximately 2.0 foot candles¹. After consultation with Commission staff, the applicant proposed to reduce the number of light poles, the number of fixtures on each pole, and the intensity of each fixture in order to produce an average light intensity no greater than 1.0 foot candles within the park. The purpose of the proposed security lighting was to increase public safety by lighting the park. The City of Los Angeles Police Department submitted a letter in support of the proposed security lighting (**Exhibit 4**).

Following a local appeal, the City of Los Angeles Department of Public Works approved Coastal Development Permit No. 14-02 for the proposed development. Although the City issued CDP was appealable to the Coastal Commission no appeal to the Commission was filed.

B. PROJECT HISTORY

Prior to the public hearing on Coastal Development Permit Application 5-14-1479, Commission staff was not aware of any public opposition to the project and the City was in agreement with staff's suggested conditions of approval.

At the September 11, 2014 public hearing on Coastal Development Permit Application 5-14-1479, three members of the public submitted paper requests to speak, but only one member of the public was present when the item was called. That member of the public declared that the public restrooms within Windward Plaza Park (**Exhibit 1**) "should be declared a health hazard" and that the City "does not purchase any cleaning equipment or resources or materials" and does not adequately clean the restrooms. The member of the public asserted that the zipline approved by the Commission (CDP 5-12-176; **Exhibit 6**) in the vicinity of the project and operational in Spring/Summer 2013 "was \$17 for a 30 second ride and it didn't really generate anything for the City." Finally, the public speaker argued that the Commission should deny the proposal because of the drought in California, and proclaimed it "a ridiculous idea" to site "an ice skating rink by the park, by the beach, especially when Santa Monica already has one."

Several Commissioners directed questions towards Commission staff (the applicant was not present at the hearing), most substantially related to the City's maintenance of the public restrooms in Windward Plaza Park adjacent to the proposed site of the ice skating venue. Senior

¹ Measurements by City of Los Angeles engineer during Commission staff site visit 8/19/2014

Deputy Director Jack Ainsworth stated that it was the City’s intent to use funds generated from the zipline project to pay for restroom and trash maintenance at the park and that the City had the same intent for funds generated from the proposed ice skating venue. Mr. Ainsworth stated, “I don’t know how much money was raised [from the zipline project], but I can find out.”

The most declarative statement made by a Commissioner before the Commission voted to deny the permit was: “I am not going to support this motion primarily because of what I would probably consider a violation of the permit from the zipline – when they didn’t come in and clean up the bathrooms.” Three Commissioners mentioned the public restrooms in their comments. Additionally, one Commissioner raised concerns about the water and electricity resources which would be devoted to the project (as well as the lack of electric vehicle chargers in the area of the project) and one Commissioner raised concerns about the appropriateness of a non-coastal recreational facility in a coastal area.

Following Commission deliberation, the Commission voted 6-3 to deny Coastal Development Permit Application 5-14-1479. The applicant requests that the Commission reconsider its decision (**Exhibit 5**).

C. APPLICANT’S GROUNDS FOR REQUEST FOR RECONSIDERATION

The applicant’s letters (**Exhibit 5**) focus on four issues which the applicant asserts were subject to “erroneous statements and misperceptions presented by one public speaker and a few Commissioners at the hearing – particularly with regards to the City’s servicing of the restrooms at Venice Beach and last year’s zipline pilot project – that clearly were the primary basis for denying the application.”

1. “How much water and electricity would operation of the ice skating rink require?”

“Response: The ice skating rink would be a winter (seasonal) venue, a period when the City’s peak demand for water and electricity is generally at its lowest. For the approximate 56 days of the rink’s operation, it is estimated that 39,000 gallons of water and 616 kilowatt (kW) of electricity will be consumed. The use of these resources is short term and not excessive and is consistent with the resource conservation principles expressed in the California Coastal Act.”

2. “The City does not adequately maintain the restrooms at Venice Beach nor allocates sufficient funding for their maintenance as well as other facilities at Venice Beach.”

“Response: There are 6 restroom buildings at Venice Beach, stretching from Rose Avenue to Washington Blvd., with a total of 55 stalls. RAP maintenance staff services all the restrooms up to 6 times a day, 7 days a week during a 6 a.m. to 11 p.m. work shift. In comparison, most restrooms at other City recreational facilities are generally serviced once a day. In addition, during the peak visitation periods, a supplemental contract for cleaning services is utilized to augment the efforts of the maintenance staff. Because of the enormous recreational popularity of Venice Beach, coupled with the significantly large and seemingly intractable homeless

population, RAP and the Office of Councilman Bonin (Council District 11) are continually working to identify partnerships and other creative approaches-like the ice skating rink- to generate critically needed revenues to meet the overwhelming maintenance demands. In the last five years, approximately \$99,150 has been expended to refurbish 5 restroom buildings. The annual operations and maintenance budget for Venice Beach is an estimated \$1.7 million. RAP, based on its experience with the seasonal ice skating rink at Pershing Square, anticipates the Venice Beach venue to generate upwards of \$100,000 annually after a few years of operation.”

3. “Recreation and Parks violated its permit for the zipline pilot project by not using the revenues generated for needed maintenance of the restrooms and other facilities at Venice Beach.”

“Response: This erroneous assertion made during a discussion among the Commissioners was taken as fact and undoubtedly was the primary reason the application was denied on a 6-3 vote. This pilot program was implemented for a three month period, from July through September, 2013, under COP No. 5-12-176-A 1. There were no conditions stipulated in this permit that required the project revenues to be committed to maintenance of the rest rooms or other facilities. Nonetheless, the zip line generated \$50,036 in revenue for RAP (based on 15% of the total gross revenue), \$45,536 of which was placed directly into the Venice Beach Maintenance account to be used for maintaining the facilities at Venice Beach, including the restrooms (see the enclosed table for more details on revenue breakdown). The thing to remember is that the zip line was a pilot project for the purpose of determining whether the seasonal event would be economically feasible for the vendor. RAP feels that connecting the fate of the permit approval for the ice skating rink to the zip line project was not a fair and equitable approach, and that Application No. 5-14-1479 should have been evaluated on its own merits with respect to the California Coastal Act.”

4. “An ice skating rink is a coastal zone anomaly and, therefore, would not be appropriate for the Venice Beach area.”

“Response: The placement of ice skating rinks within the southern California coastal zone is certainly not without precedent. Currently, there are rinks in San Diego (Coronado Hotel) and Long Beach (Queen Mary). There is no better place to site an ice skating rink than an eclectic area like Venice Beach with its great diversity of recreational resources and cultural vibrancy. Venice Beach has long been a major attraction in the City. It is one of the most popular tourist destinations in the area. What makes Venice Beach so interesting and attractive to visitors is the beauty of Venice Beach as the back drop for unique recreational (and cultural) experiences that exist at Windward Plaza and along the Boardwalk. Windward Plaza has historically provided access to the coast in a way that few other places do. The mix of recreational opportunities-from Muscle Beach to game courts and street performers-provide an opportunity for experiences that are

uniquely southern Californian and attract people to the beach and the coastal areas for a larger number of reasons that might otherwise bring someone to the coast. The ice skating rink will create yet another opportunity for visitors and residents to experience Venice Beach and the surrounding coastal area.”

D. ANALYSIS OF RECONSIDERATION REQUEST

As stated on page two of this report, the Commission’s decision whether to accept or deny the applicant’s reconsideration request hinges on whether it determines that there is relevant new evidence which, in the exercise of reasonable due diligence, could not have been presented at the hearing on the matter, or an error of fact or law has occurred which has the potential of altering the Commission’s initial decision. [Cal. Pub. Res. Code § 30627(b)(3)].

The following analysis addresses separately each of the four issues which the applicant asserts were subject to erroneous statements, as a basis for reconsideration, as set forth in the previous section and the applicant’s letters dated September 17, 2014 and September 22, 2014 (**Exhibit 5**).

Issue 1

The applicant does not prove definitively whether or not the proposed resource usage is consistent with the resource preservation principles of the Coastal Act, specifically those regarding water quality and energy consumption [30231 and 30253(d)]. The applicant provides new estimations for water and electricity usage of the proposed ice skating venue, but this is not new evidence which in the exercise of reasonable due diligence, could not have been presented at the hearing on the matter. Because this information is directly related to the development proposed by the permit application, the applicant could have presented staff with this information prior to the hearing or the applicant could have attended the hearing and presented this information. Finally, this information does not prove that statements made at the hearing by members of the public or members of the Commission were erroneous. No member of the public or the Commission made a claim regarding a specific amount of water or electricity usage which was judged to be wasteful or excessive; statements made at the hearing were focused on the fundamental issue of the potentially negative messages and perceptions associated with an outdoor ice skating venue on a Southern California beach.

Issue 2

The applicant does not prove definitively that the City adequately maintains the restrooms at Venice Beach nor does it prove that the City allocates sufficient funding for their maintenance. These are judgments based on individual experiences and perceptions.

However, the detailed Venice Beach restroom maintenance schedule and budget information provided in the applicant’s letter in request of reconsideration dated September 22, 2014 provides relevant new evidence which, in the exercise of reasonable due diligence, could not have been presented at the hearing on the matter. Because Coastal Development Permit Application 5-14-1479 proposed development consisting of a temporary ice skating venue and permanent security lighting, and because neither Commission staff nor any member of the public raised any questions related to the maintenance of the nearby public restrooms, the applicant could not have presented the

information at the hearing on the matter. Even if the applicant had attended the hearing on the ice skating venue and security lighting proposal, the applicant could not have been expected to be prepared to present detailed information on its maintenance or funding of the restrooms.

The evidence presented by the City proves that errors of fact occurred at the hearing which has the potential of altering the Commission's initial decision. A member of the public and several members of the Commission alleged that the City was not cleaning the restrooms because it did not have funding to do so; however, the evidence provided in the request for reconsideration clearly demonstrates that the City funds regular maintenance and cleaning of the restrooms. According to the Department of Recreation and Parks, maintenance staff services the restrooms at Venice Beach six times per day between 6 a.m. and 11 p.m. seven days per week, while most restrooms at other City facilities are serviced just once per day. Additionally, the City augments the level of restroom maintenance through supplemental contract cleaning services during peak use periods. In its letter, the City provided additional evidence that it has spent \$99,150 over the last five years refurbishing five restroom buildings.

Issue 3

The applicant proves definitively that Recreation and Parks did not violate its permit for the zipline pilot project. Coastal Development Permit No. 5-12-176, as amended (**Exhibit 6**), did not require revenues from the zipline project to be allocated to maintenance of the restrooms in Windward Plaza Park or to any specific operation or fund. Neither the staff report nor the coastal development permit conditions contain the word "restroom" or "bathroom."

Thus, an error of fact occurred at the hearing on September 11, 2014 which has the potential of altering the Commission's initial decision. The Commission based its decision, at least in part, on erroneous assertions regarding the zipline permit by a member of the public which were accepted as fact by several Commissioners. The statement that the zipline project "didn't really generate anything for the City" is proven to be erroneous by the evidence presented by the applicant with its supporting information for request for reconsideration. The evidence includes a table displaying the zipline revenue over three months, totaling \$50,036, of which \$45,536 went directly to the Venice Beach maintenance account.

Issue 4

With regard to whether an ice skating rink is an appropriate use in a coastal area, the applicant does not present relevant new evidence which, in the exercise of reasonable due diligence, could not have been presented at the hearing on the matter, nor does the applicant specify an error of fact or law has occurred which has the potential of altering the Commission's initial decision. In fact, the appropriateness of a non-coastal recreational facility in a coastal area was discussed during the Commission's deliberation. One Commissioner questioned staff over potential concerns about a focus on non-coastal recreation, to which Senior Deputy Director Jack Ainsworth responded that the issue is context specific and that an ice skating venue might be appropriate in the winter months in an urbanized area, but might not be appropriate in other contexts. The member of the public who spoke in opposition to the proposed project noted that

an ice skating venue already exists in Santa Monica, without stating whether or how that would affect a potential ice skating venue in Venice.

As with Issue 1, the applicant has provided additional information with its reconsideration request submittal letters, but because this information is directly related to the development proposed by the permit application, the applicant could have exercised due diligence and presented staff with this information prior to the hearing or the applicant could have attended the hearing and presented this information. Finally, this information does not prove that statements made at the hearing by members of the public or members of the Commission were erroneous.

E. CONCLUSION

In its request for reconsideration, the applicant has provided relevant new evidence which, in the exercise of reasonable due diligence, could not have been presented at the hearing on the matter – that being the information on the maintenance schedule and budgeted funds for maintaining the public restrooms in Venice Beach, one of which is the public restroom in Windward Plaza Park. Additionally, the applicant has proven that an error of fact has occurred which has the potential of altering the Commission’s initial decision – that being the erroneous statements that funds from the zip line were not used toward the maintenance the public beach restrooms made by a member of the public which were accepted as fact by several Commissioners. Consequently, there is a basis for reconsideration, and the Commission grants applicant’s request for reconsideration pursuant to Section 30627(b)(4) of the Coastal Act.

EXHIBITS

Exhibit 1 – Vicinity Map

Exhibit 2 – Ice Skating Venue Site Plan

Exhibit 3 – Proposed Lighting Spec Sheets

Exhibit 4 – Letter of Support from the Los Angeles Police Department

Exhibit 5 – Letters Requesting Reconsideration of Denial of Coastal Development Permit Application 5-14-1479

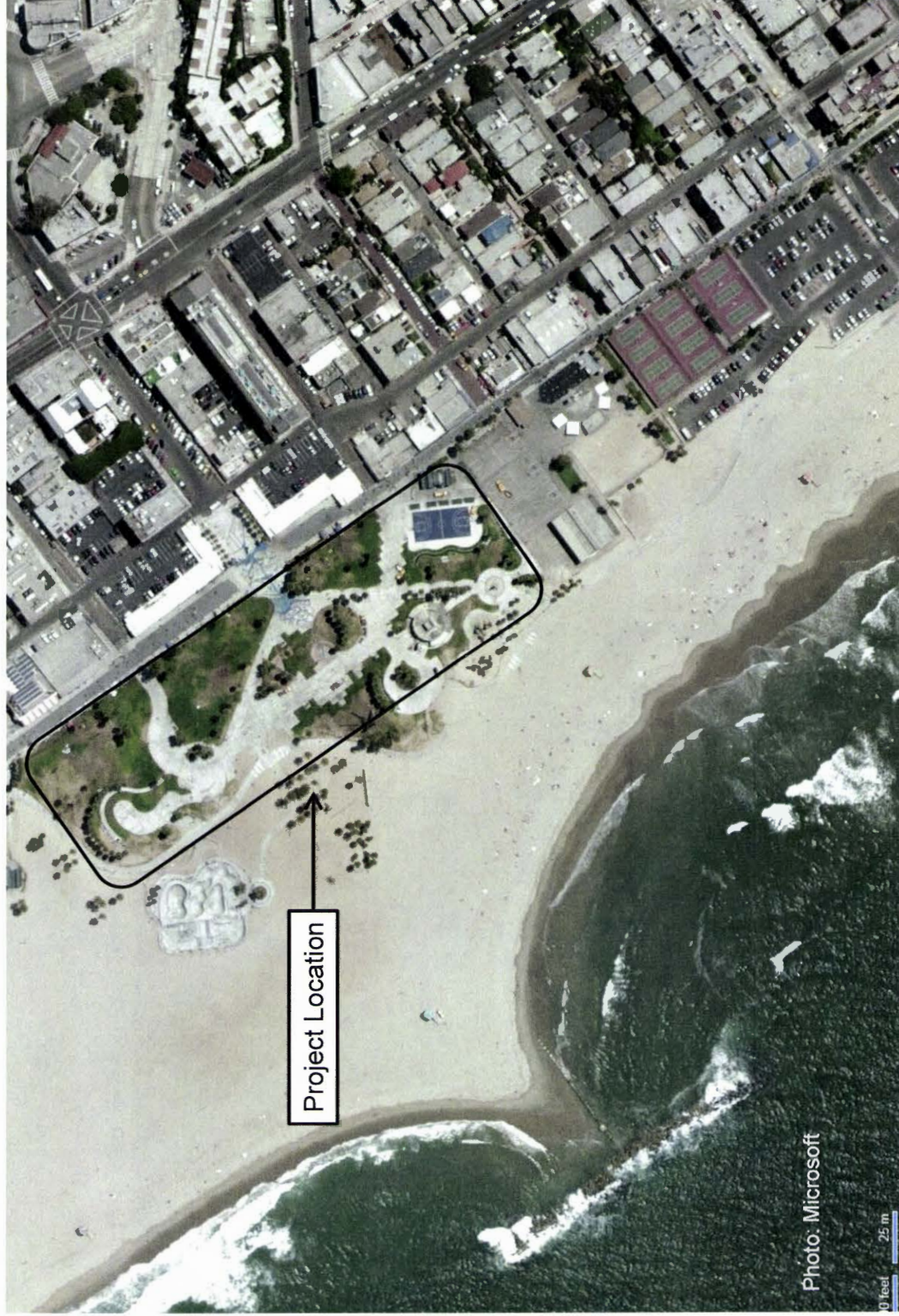
Exhibit 6 – Coastal Development Permit 5-12-176, as Amended (City of Los Angeles)

VICINITY MAP: WINDWARD PLAZA PARK VENICE, LOS ANGELES

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EXHIBIT # 1

PAGE 1 OF 2



Project Location

Photo: Microsoft

0 feet 25 m

VICINITY MAP: WINDWARD PLAZA PARK DETAIL

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EXHIBIT # 1
PAGE 2 OF 2



Photo: Microsoft

ICE SKATING VENUE SITE PLAN

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EXHIBIT # 2 OF 1
PAGE 1 OF 1



INSTALLATION: NOVEMBER 17 - 26, 2014 OPERATION: NOVEMBER 25, 2014 - JANUARY 19, 2015 REMOVAL: JANUARY 20 - 27, 2015

VENICE BEACH WINDWARD PLAZA
SITE PLAN - FIGURE 1

CITY OF LOS ANGELES
DEPT. OF RECREATION AND PARKS

5-14-1479

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AUG 6 2014

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4 Domus on 26' pole using PC arms

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EXHIBIT # 3
PAGE 1 OF 2



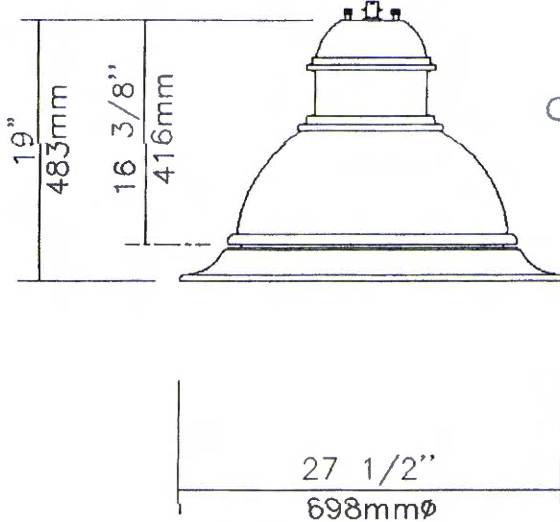
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5-14, 1479

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Luminaire [DMS50-006]-110W64LED4K-R-LE5F-480-CHR-NP

PHILIPS
LUMEC

Description of Components:

Hood: A die cast A360.1 aluminum dome complete with a cast-in technical ring with latch and hinge. The mechanism shall offer tool-free access to the inside of the luminaire. An embedded memory-retentive gasket shall ensure weatherproofing.

Housing: In a round shape, this housing is made of cast 356 aluminum, c/w a watertight grommet, mechanically assembled to the bracket with four bolts 3/8-16 UNC. This suspension system permits for a full rotation of the luminaire in 90 degree increments.

Access-Mechanism: A die cast A380 aluminum technical ring with latch and hinge. The mechanism shall offer tool-free access to the inside of the luminaire. An embedded memory-retentive gasket shall ensure weatherproofing. **Complete with a 1/16" stainless steel security cable keeping the door at an angle between 80° and 90° when open.**

Light Engine: LEDgine composed of 5 main components: **Lens / LED lamp / Optical System / Heat Sink / Driver**
Electrical components are RoHS compliant.

Lens: Made of soda-lime clear tempered glass lens, mechanically assembled and sealed onto the lower part of the heat sink.

Lamp: LED Module (Included), LED type Philips Lumileds LUXEON R. Composed of 64 high-performance white LEDs, 110w lamp wattage. Color temperature of 4000 Kelvin nominal, 70 CRI. Operating lifespan based on TM-21 extrapolation to get results after which 50% of LEDs still emits over 70% (L70) of its original lumen output. Use of metal core board insures greater heat transfer and longer lifespan of the light engine. The LED circuit board is included with a quick disconnect wiring connection for ease of replacement.

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EXHIBIT # 3
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5-14-1479

LOS ANGELES POLICE DEPARTMENT



CHARLIE BECK
Chief of Police

ERIC GARCETTI
Mayor

P. O. Box 30158
Los Angeles, Calif. 90030
Telephone: (213) 482-6310
TDD: (877) 275-5273
Ref #: 6.2

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May 20, 2014

Cathie Santo Domingo
Superintendent
Planning, Construction, and Maintenance
Department of Recreation and Parks

Ms. Santo Domingo:

The Los Angeles Police Department, Pacific Division has primary law enforcement jurisdiction along Ocean Front Walk (OFW) at Venice Beach. Currently, Part I crime statistics for the Basic Car for this area is up 24% YTD. More importantly, a review of all Part I crimes along OFW for the last eight weeks determined that of the 94 crimes reported, 44 occurred between the hours of 6:00 pm and 6:00 am. We attribute part of this increase in crime along OFW to be the poor lighting conditions and increased transient population. Accordingly, we have approximately 45 police officers and supervisors assigned exclusively to Venice Beach as part of our law enforcement efforts. However, this robust deployment of law enforcement resources needs to be augmented with other proven law enforcement strategies to reduce the fear and incidence of crime.

One of the proven crime prevention strategies is crime prevention through environmental design. It is the position of Pacific Division that the lighting project must be approved as part of the Ice Rink proposal. The lighting proposal will mitigate safety concerns while the Ice Rink is operational and it will add to the safety and security within the park. It will be a crime deterrent during hours of darkness and enhance overall public safety in the park. Similar lighting strategies have proven to be an effective deterrent to crime and effective low-cost tool for law enforcement.

We respectfully request that the lighting project be approved for the safety and security for all visitors to Ocean Front Walk and the surrounding local community and business owners.

Very truly yours,

CHARLIE BECK
Chief of Police

BRIAN P. JOHNSON, *Captain*
Commanding Officer
Pacific Community Police Station

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EXHIBIT # 4
PAGE 1 OF 1

BOARD OF RECREATION AND
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LATONYA D. DEAN
Commission Executive Assistant II

CITY OF LOS ANGELES
CALIFORNIA



ERIC GARCETTI
MAYOR

DEPARTMENT OF
RECREATION AND PARKS

221 N. FIGUEROA STREET
15th FLOOR, SUITE 1550
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TEL: (213) 202-2633

FAX: (213) 202-2614

MICHAEL A. SHULL
GENERAL MANAGER

COASTAL COMMISSION

September 17, 2014

EXHIBIT # 5

PAGE 1 OF 6

California Coastal Commission
Charles Lester, Executive Director
South Coast District Office
200 Oceangate, 10th Floor
Long Beach, CA 90802-4416

Dear Mr. Lester:

**REQUEST FOR RECONSIDERATION OF COASTAL DEVELOPMENT PERMIT NO.
5-14-1479 FOR A SEASONAL ICE SKATING RINK AND SECURITY LIGHTING AT
THE VENICE BEACH WINDWARD PLAZA AREA**

The Department of Recreation and Parks (RAP) received notice on September 12, 2014, that our Coastal Development Permit Application No. 5-14-1479 for a seasonal ice skating rink and permanent security lighting at Venice Beach was denied by the California Coastal Commission (CCC) at its hearing in Smith River on September 11th.

This was an unexpected outcome given that we had worked closely and responsively with the CCC staff to address all information requirements and concerns related to this application. In addition, RAP agreed to all the special conditions recommended in the Staff Report for permit approval.

It appears there were a couple of issues raised by the Commission not covered in the Staff Report—and not immediately addressed at the hearing—that were detrimental to the approval of the permit application. One was the utility demands of the ice skating rink, particularly water and electricity, and the other was the zip line venue implemented last year by RAP as a pilot program with CCC approval (CDP No 5-12-176). This project, like the proposed ice skating rink, was intended to provide an appealing recreational opportunity at the beach while raising revenue to help bolster maintenance of the public restrooms and other facilities. Based on the discussions of the Commissioners, there was a misperception that the zip line was a recreational failure and that revenues were not committed to restroom maintenance and other critical needs at Venice Beach as promised. This, of course, was not the case.

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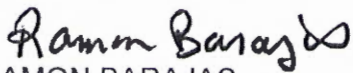
Mr. Charles Lester, Executive Director
September 17, 2014
Page 2

EXHIBIT # 5
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Therefore, given that this is a project of great importance to the City of Los Angeles, and timing is critical to getting it implemented before the Thanksgiving holiday, we request, in accordance with Article 2, Section 30627 of the California Public Resources Code, that reconsideration of Permit Application No. 5-14-1479 be placed on the October 8-10, 2014, hearing in Newport Beach so that any misperceptions on the zip line project can be properly resolved and information on the electrical and water requirements of the ice skating rink can be presented.

We greatly appreciate your immediate attention to this matter and hope for a favorable outcome. If you have any questions, please contact Cathie Santo Domingo, Superintendent, at (213) 202-2668 or cathie.santodomingo@lacity.org.

Sincerely,



RAMON BARAJAS
Assistant General Manager
Planning, Construction, and Maintenance Branch

MAS/RB:ar

cc: David Attaway, Environmental Supervisor II

BOARD OF RECREATION AND
PARK COMMISSIONERS

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Commission Executive Assistant II

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ERIC GARCETTI
MAYOR

DEPARTMENT OF
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TEL: (213) 202-2633

FAX: (213) 202-2614

MICHAEL A. SHULL
GENERAL MANAGER

September 22, 2014

COASTAL COMMISSION

Charles Lester, Executive Director
California Coastal Commission
South Coast District Office
200 Oceangate, 10th Floor
Long Beach, CA 90802-4416

EXHIBIT # 5
PAGE 3 OF 6

Dear Mr. Lester:

VENICE BEACH RECREATION AREA (WINDWARD PLAZA) - PROVISION OF SUPPORTING INFORMATION FOR THE REQUEST FOR RECONSIDERATION OF COASTAL DEVELOPMENT PERMIT APPLICATION NO. 5-14-1479

The Department of Recreation and Parks (RAP), as the applicant for Application No. 5-14-1479 concerning a seasonal ice skating rink and permanent security lighting at Venice Beach, submitted a Request for Reconsideration letter to the California Coastal Commission (CCC), dated September 17, 2014, in response to the CCC's denial of the application at the September 11th hearing. Since it appears the denial was based on erroneous statements and assertions made at the hearing, RAP is requesting that the application be reconsidered for approval at the October 8-10 hearing pursuant to Article 2, Section 30627 of the California Public Resources Code.

In conjunction with the Request for Reconsideration, RAP is providing the following responses to satisfy information requests and to counteract the erroneous statements and misperceptions presented by the one public speaker and a few of the Commissioners at the hearing—particularly with regards to the City's servicing of the restrooms at Venice Beach and last year's zip line pilot project—that clearly were the primary basis for denying the application.

1. How much water and electricity would operation of the ice skating rink require?

Response: The ice skating rink would be a winter (seasonal) venue, a period when the City's peak demand for water and electricity is generally at its lowest. For the approximate 56 days of the rink's operation, it is estimated that 39,000 gallons of water and 616 kilowatt (kW) of electricity will be consumed. The use of these resources is short term and not excessive and is consistent with the resource conservation principles expressed in the California Coastal Act.

2. The City does not adequately maintain the restrooms at Venice Beach nor allocates sufficient funding for their maintenance as well as other facilities at Venice Beach.

Response: There are 6 restroom buildings at Venice Beach, stretching from Rose Avenue to Washington Blvd., with a total of 55 stalls. RAP maintenance staff services all the restroom up to 6 times a day, 7 days a week during a 6 a.m. to 11 p.m. work shift. In comparison, most restrooms at other City recreational facilities are generally serviced once a

day. In addition, during the peak visitation periods, a supplemental contract for cleaning services is utilized to augment the efforts of the maintenance staff. Because of the enormous recreational popularity of Venice Beach, coupled with the significantly large and seemingly intractable homeless population, RAP and the Office of Councilman Bonin (Council District 11) are continually working to identify partnerships and other creative approaches-like the ice skating rink- to generate critically needed revenues to meet the overwhelming maintenance demands. In the last five years, approximately \$99,150 has been expended to refurbish 5 restroom buildings. The annual operations and maintenance budget for Venice Beach is an estimated \$1.7 million. RAP, based on its experience with the seasonal ice skating rink at Pershing Square, anticipates the Venice Beach venue to generate upwards of \$100,000 annually after a few years of operation.

3. RAP violated its permit for the zip line pilot project by not using the revenues generated for needed maintenance of the restrooms and other facilities at Venice Beach.

Response: This erroneous assertion made during a discussion among the Commissioners was taken as fact and undoubtedly was the primary reason the application was denied on a 6-3 vote. This pilot program was implemented for a three month period, from July through September, 2013, under CDP No. 5-12-176-A1. There were no conditions stipulated in this permit that required the project revenues to be committed to maintenance of the restrooms or other facilities. Nonetheless, the zip line generated \$50,036 in revenue for RAP (based on 15% of the total gross revenue), \$45,536 of which was placed directly into the Venice Beach Maintenance account to be used for maintaining the facilities at Venice Beach, including the restrooms (see the enclosed table for more details on revenue breakdown). The thing to remember is that the zip line was a pilot project for the purpose of determining whether the seasonal event would be economically feasible for the vendor. RAP feels that connecting the fate of the permit approval for the ice skating rink to the zip line project was not a fair and equitable approach, and that Application No. 5-14-1479 should have been evaluated on its own merits with respect to the California Coastal Act.

4. An ice skating rink is a coastal zone anomaly and, therefore, would not be appropriate for the Venice Beach area.

Response: The placement of ice skating rinks within the southern California coastal zone is certainly not without precedent. Currently, there are rinks in San Diego (Coronado Hotel) and Long Beach (Queen Mary). There is no better place to site an ice skating rink than an eclectic area like Venice Beach with its great diversity of recreational resources and cultural vibrancy. Venice Beach has long been a major attraction in the City. It is one of the most popular tourist destinations in the area. What makes Venice Beach so interesting and attractive to visitors is the beauty of Venice Beach as the back drop for unique recreational (and cultural) experiences that exist at Windward Plaza and along the Boardwalk. Windward Plaza has historically provided access to the coast in a way that few other places do. The mix of recreational opportunities—from Muscle Beach to game courts and street performers—provide an opportunity for experiences that are uniquely southern Californian and attract people to the beach and the coastal areas for a larger number of reasons that might otherwise bring someone to the coast. The ice skating rink will create yet another opportunity for visitors and residents to experience Venice Beach and the surrounding coastal area.

COASTAL COMMISSION

Charles Lester, Executive Director
September 22, 2014
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EXHIBIT # 5
PAGE 5 OF 6

We hope that this information will help dispel the misperceptions of this project application that were detrimental to its passage at the September 11th hearing and look forward to a favorable outcome at the October hearing. If you have any questions, please contact Cathie Santo Domingo, Superintendent, at (213) 202-2668 or cathie.santodomingo@lacity.org.

Sincerely,

C. Santo Domingo
for RAMON BARAJAS
Assistant General Manager
Planning, Construction, and Maintenance Branch

MAS/RB:ar

Attachment

cc: David Attaway, Environmental Supervisor II

VENICE BEACH ZIPLINE REVENUE (JULY-SEPTEMBER 2013)			
Month	Zipline Gross Income	15% Revenue to Rec and Parks	Comment
DEPOSIT	\$0	\$4,500	Deposit paid with permit in RAP Fund 302, Account SP89X405
July	\$187,347	\$28,102	Zipline operated 9 days includes estimated payment for 22 days
August	\$112,907	\$16,936	
September	\$33,321	\$498	15 days of operation yielded \$4998. \$4500 deducted from payment by FlightLinez as refund of original deposit.
Totals	\$333,574	\$50,036	NOTE: Balance in RAP Venice Maintenance Account is \$45,536 because original \$4500 was placed in a separate account

Source: City of Los Angeles, Department of Recreation and Parks

CALIFORNIA COASTAL COMMISSION

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

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South Coast Region

OCT 7 2013

Page 1 of 4
September 20, 2013
Permit No. 5-12-176-A1



CALIFORNIA
COASTAL COMMISSION

COASTAL DEVELOPMENT PERMIT AMENDMENT 5-12-176-A1

On **February 7, 2013**, the California Coastal Commission granted to **City of Los Angeles** Coastal Development Permit **5-12-176**, subject to the attached Standard and Special Conditions, for development consisting of:

Installation of a zip line attraction in the Venice Beach Recreation area (seaward of the boardwalk, between Horizon Avenue and 17th Avenue) for a three-month pilot program for spring/summer 2013. The 750-foot long zip lines (up to 4 multiple lines) would run above the park between a fifty-foot high launch tower and a thirty-foot high landing tower. Rides would cost approximately \$20.

Coastal Development Permit 5-12-176 has been amended, subject to the attached Special Conditions, to: **Revise Special Condition 1.A.** to authorize a later date of zip line removal (October 31st instead of October 1st) upon completion of the approved three-month pilot program, as follows:

1.A. Approved Development – Removal of Development. Coastal Development Permit 5-12-176 approves the installation of a zip line attraction in the Venice Beach Recreation area (seaward of the boardwalk, between Horizon Avenue and 17th Avenue) for a three-month pilot program for the spring/summer of 2013. The development (the launch and landing towers) shall be removed from the Venice Beach Recreation area upon completion of the approved three-month pilot program and prior to October 31, 2013. The applicant shall obtain an approved Local Coastal Development Permit from the City of Los Angeles prior to applying to the Commission to approve the operation of the zip line attraction beyond the initial three-month pilot program approved by Coastal Development Permit 5-12-176.


The development is within the coastal zone at: **1500-1600 Ocean Front Walk (on the beach), Venice, City of Los Angeles, Los Angeles County.**

Issued on behalf of the California Coastal Commission on September 20, 2013.

COASTAL COMMISSION

CHARLES LESTER
Executive Director

EXHIBIT # 6
PAGE 1 OF 4

By: 
Title: Coastal Program Analyst

COASTAL DEVELOPMENT PERMIT
AMENDMENT 5-12-176-A1
Page 2 of 4

ACKNOWLEDGMENT

The undersigned permittee acknowledges receipt of this permit amendment and agrees to abide by all terms and conditions thereof. The undersigned permittee acknowledges that Government Code Section 818.4 which states in pertinent part, that: "A public entity is not liable for injury caused by the issuance . . . of any permit . . ." applies to the issuance of this permit.

10/1/13 *Fred J. Davis*
Date Signature of Permittee

Please sign and return one copy of this form to the Commission office at the above address.

IMPORTANT: THIS PERMIT IS NOT VALID UNLESS AND UNTIL A COPY OF THE PERMIT WITH THE SIGNED ACKNOWLEDGMENT HAS BEEN RETURNED TO THE COMMISSION OFFICE. 14 CAL. ADMIN. CODE SECTION 13158(a).

STANDARD CONDITIONS

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. **Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. **Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

COASTAL COMMISSION

EXHIBIT # 6
PAGE 2 OF 4

SPECIAL CONDITIONS

1. **A. Approved Development – Removal of Development.** Coastal Development Permit 5-12-176 approves the installation of a zip line attraction in the Venice Beach Recreation area (seaward of the boardwalk, between Horizon Avenue and 17th Avenue) for a three-month pilot program for the spring/summer of 2013. The development (the launch and landing towers) shall be removed from the Venice Beach Recreation area upon completion of the approved three-month pilot program and prior to October 31, 2013. The applicant shall obtain an approved Local Coastal Development Permit from the City of Los Angeles prior to applying to the Commission to approve the operation of the zip line attraction beyond the initial three-month pilot program approved by Coastal Development Permit 5-12-176.

B. Pilot Period Monitoring and Survey Requirements. The permittee shall monitor the project area and survey visitors throughout the three-month pilot period in order to evaluate the impacts of the attraction, including parking impacts. The permittee shall provide metrics for the evaluation, including daily counts of users, measurements of the park area occupied by spectators and customers, results of user surveys (e.g., did the users come to Venice just to ride zip line, what form of transportation was used, where did they park, etc.). The permittee shall also provide a visual assessment of the towers and zip line from boardwalk, beach, and bike path.
2. **Permit Compliance.** All development must occur in strict compliance with the proposal as set forth in the application for the permit, subject to the special conditions of this permit. Any proposed change or deviation from the approved plans shall be submitted to the Executive Director to determine whether a permit amendment is necessary pursuant to the requirements of the Coastal Act and the California Code of Regulations. No changes to the approved plans shall occur without a permit amendment unless the Executive Director determines that no permit amendment is required.
3. **View Protection.** The visual impact of the launch and landing towers shall be reduced by minimizing the amount of solid materials that could obstruct views through the park toward the shoreline. Artwork may be attached to the tower. No advertising is permitted on the towers or the tower guywires.
4. **Assumption of Risk, Waiver of Liability and Indemnity Agreement.** By acceptance of this permit, the permittee, on behalf of a) itself; b) its successors and assigns and c) any other holder of the possessory interest in the development authorized by this permit, acknowledges and agrees: i) that the site may be subject to hazards from waves, storm waves, flooding and erosion; ii) to assume the risks to the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims),

COASTAL DEVELOPMENT PERMIT
AMENDMENT 5-12-176-A1
Page 4 of 4

expenses, and amounts paid in settlement arising from any injury or damage due to such hazards; and v) to agree to include a provision in any subsequent sublease or assignment of the development authorized by this permit requiring the sub lessee or assignee to submit a written agreement to the Commission, for the review and approval of the Executive Director, incorporating all of the foregoing restrictions identified in i through v.

5. **Liability for Costs and Attorneys Fees.** By acceptance of this coastal development permit, the applicant agrees to reimburse the Coastal Commission in full for all Coastal Commission costs and attorneys fees -- including (1) those charged by the Office of the Attorney General, and (2) any court costs and attorneys fees that the Coastal Commission may be required by a court to pay -- that the Coastal Commission incurs in connection with the defense of any action brought by a party other than the applicant against the Coastal Commission, its officers, employees, agents, successors and assigns challenging the approval or issuance of this permit. The Coastal Commission retains complete authority to conduct and direct the defense of any such action against the Coastal Commission.

6. **Bird Monitoring Plan.** By acceptance of this coastal development permit, the permittee agrees to implement a bird monitoring plan in the project area throughout the three-month pilot period in order to collect data to evaluate the impacts of the attraction on birds. The bird monitoring plan shall be prepared by a qualified ornithologist or biologist and shall include, at a minimum, the following provisions:

Visual, on-the-ground monitoring for dead or injured birds in the vicinity of the zip line by an ornithologist or biologist qualified to identify bird species. The on-the-ground survey shall be conducted, at a minimum, twice a week at dawn and dusk. The twice-a-week daily walk-throughs shall include the documentation of the weather conditions and bird casualty counts.

- Any dead birds shall be collected and identified.
- The survey data should include an analysis of the weather for the time leading up to any bird casualties.
- Any injury or mortality to any bird species shall be immediately reported to the Executive Director.

Prior to the construction of the zip line, the permittee shall submit the bird monitoring plan for approval by the Executive Director. At the end of the three-month pilot period, data collected pursuant to the approved bird monitoring plan shall be submitted to the Executive Director.

PLANNING & ENVIRONMENTAL SERVICES
DEPT. OF RECREATION & CONSERVATION
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