

**CALIFORNIA COASTAL COMMISSION**

SAN DIEGO DISTRICT OFFICE  
7575 METROPOLITAN DRIVE, SUITE 103  
SAN DIEGO, CA 92108-4402  
VOICE (619) 767-2370  
FAX (619) 767-2384



# Th18a

Filed: 5/16/22  
180<sup>th</sup> Day: 11/12/22  
Staff: SL-SD  
Staff Report: 5/20/22  
Hearing Date: 6/9/22

## STAFF REPORT: REGULAR CALENDAR

**Application No.:** 6-22-0017

**Applicant:** Department of Parks and Recreation,  
County of San Diego

**Agent:** Chelsea Jander

**Location:** 1600 Pacific Highway, City of San Diego, San Diego  
County. (APN: 760-249-08)

**Project Description:** Removal of landscaping in the 52,181 sq. ft. northeast  
corner of existing Waterfront Park and installation of  
active recreational amenities, as well as new  
landscaping, storm drains and a biofiltration basin, on  
a 16.6-acre lot.

**Staff Recommendation:** Approval with conditions

---

## SUMMARY OF STAFF RECOMMENDATION

The proposed project is the removal of existing landscaping and the installation of recreational amenities in the northeast portion of the existing Waterfront Park, southeast of the intersection of Pacific Highway and Grape Street in the City of San Diego. The proposed amenities will provide new active recreation opportunities, including a fenced dog park, pickleball courts, a basketball court, a tee ball field, fitness equipment, table tennis, benches, new landscaping and lighting, and relocation of an existing art sculpture. New storm drains and a biofiltration basin will also be included in the project. The goal of these improvements is to increase active recreation opportunities for the

general public, including local residents, tourists, employees, and visitors from other areas of the county. All of the new facilities will be free of charge, open daily from 6:00 a.m.-10:00 p.m. and available on a first come, first served basis, with no reservation system. In addition, there will be loaner equipment such as pickleball rackets, basketballs, and tee ball sets available on site.

While the project will require the removal of an area currently developed with gardens that offer passive recreational enjoyment, the majority of the park currently consists of grassy open space, gardens, and plazas. Other existing amenities are public art features, water features, and a children's play area. While all of these different features have enthusiasts, the County determined that converting a portion of the gardens to no-cost active recreational uses that are not currently available on the site would best serve the current needs of the community. The large grassy fields, plazas, and gardens that comprise the rest of the Park will remain unchanged, allowing for continued active and passive uses of those areas.

In terms of impacts to visual resources, new fencing will be proposed around several of the amenities, such as the basketball court and dog park, and additional nighttime lighting is proposed for the safe use of recreational areas and new pathways. To address lighting concerns, **Special Condition #1** will require the submittal of final plans, which includes the specification that all fencing and lighting proposed on the site is the minimum necessary to ensure the safe enjoyment of the new amenities, while allowing for protection of biological species sensitive to night lighting as well as protecting public scenic views toward the San Diego Bay.

Additional conditions for the project include **Special Condition #2**, which requires the submittal of final landscaping plans to ensure that all plantings on site after construction are non-invasive and drought-tolerant, as well as **Special Condition #3**, which requires a nesting bird survey during appropriate times of the year, with noise attenuation measures in the event that noise levels at a nesting site become too high. Finally, **Special Condition #4** requires the County's agreement that a maximum of six public parking spaces will be used by construction crews along Pacific Highway during specific work hours as authorized by the City of San Diego.

Commission staff recommends that the Commission **APPROVE** coastal development permit application 6-22-0017, as conditioned. The motion is on page 4. The standard of review is Chapter 3 of the Coastal Act.

## TABLE OF CONTENTS

<b>I. MOTION AND RESOLUTION .....</b>	<b>4</b>
<b>II. STANDARD CONDITIONS .....</b>	<b>4</b>
<b>III. SPECIAL CONDITIONS .....</b>	<b>5</b>
<b>IV. FINDINGS AND DECLARATIONS .....</b>	<b>8</b>
A. Project Description and Background .....	8
B. Public Access and Recreation/Community Character .....	9
C. Biological Resources.....	11
D. Marine Resources and Water Quality .....	13
E. Visual Resources .....	14
F. Local Coastal Planning.....	15
G. California Environmental Quality Act.....	16

## EXHIBITS

[Exhibit 1 – Vicinity Map](#)

[Exhibit 2 - Location Maps](#)

[Exhibit 3 – Site Plan](#)

[Exhibit 4 – Landscaping Plan](#)

[Exhibit 5 – Tree Exhibit](#)

[Exhibit 6 – Additional Tree Plan](#)

[Exhibit 7 – Lighting Plan](#)

[Exhibit 8 – Visual Simulations](#)

[Exhibit 9 – Letters of Opposition](#)

## MOTION AND RESOLUTION

### Motion:

I move that the Commission approve Coastal Development Permit 6-22-0017 pursuant to the staff recommendation.

Staff recommends a **YES** vote on the foregoing motion. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of Commissioners present.

### Resolution:

The Commission hereby approves the Coastal Development Permit for the proposed project and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

## I. 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 applicant 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 of 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 applicant to bind all future owners and possessors of the subject property to the terms and conditions.

## II. SPECIAL CONDITIONS

### 1. Revised Final Plans.

PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the permittee shall submit for the review and written approval of the Executive Director, revised final plans that are in substantial conformance with the plans prepared by Michael Baker International and received by our office on January 3, 2022, except that they shall comply with the following:

- (a) **Lighting.** The plans shall illustrate that proposed sports lighting (Type “A1”, “A2”, “A3” lighting) shall be no greater than 3000K, and all pathway lighting (Types “B” lighting) shall be no greater than 2700K. All lighting shall be shielded and directed downward. All type “A” lighting shall be extinguished at 10 pm each night.
- (b) **Prohibition on Plastic Netting.** Use of temporary erosion and sediment control products (such as fiber rolls, erosion control blankets, and mulch control netting) that contain heavy duty plastic netting, including photodegradable plastic netting, shall be prohibited. Only products that contain loose-weave natural-fiber netting, or that do not contain netting, shall be allowed. Heavy-duty silt fences reinforced by plastic or metal netting shall also be prohibited. All temporary erosion and sediment control products shall be promptly removed when no longer required.
- (c) **Fencing.** The proposed fencing for both the pickleball courts as well as the basketball court shall be revised to be a height no greater than 8 feet.

The permittee shall undertake the development in conformance with the approved final plans. Any proposed changes to the approved plans shall be reported to the Executive Director. No changes to the plans shall occur without an amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

### 2. Revised Final Landscaping Plans.

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for review and written approval by the Executive Director, a full-size set of final landscaping plans that are in substantial conformance with the plans prepared by Michael Baker International and received by the Commission’s San Diego office on January 3, 2022. The consulting landscape architect or qualified landscape professional shall certify in writing that the final Landscaping plans are in conformance with the following requirements:

- a) Lantana “New Gold” shall be removed from the landscaping plan and replaced with a non-invasive, drought-tolerant species.

- b) It shall be updated to include the information as depicted in the Tree Exhibit submitted to staff on March 17, 2022 ([Exhibit 5](#)), including the number, species, and location of trees to be removed as well as planted.
- c) It shall be updated to include the information as depicted in the Waterfront Park Additional Tree Plan submitted to staff on April 21, 2022 ([Exhibit 6](#)), which depicts the general location of additional tree plantings outside of the project area.
- d) It shall include a planting schedule that indicates that the planting plan shall be implemented within sixty (60) days of completion of construction. Within ninety (90) days of completion of construction, the Permittee shall submit for the review and written approval of the Executive Director, a landscaping implementation report prepared by a licensed Landscape Architect or qualified resource specialist that certifies whether the on-site landscaping is in conformance with the landscape plan approved pursuant to this special condition. The implementation report shall include photographic documentation of plant species and plant coverage.
- e) All cut and fill slopes shall be stabilized with planting at the completion of final grading. Such planting shall be adequate to provide 90 percent coverage within two (2) years, and this requirement shall apply to all disturbed soils.
- f) All landscaping shall be drought tolerant, non-invasive (preferably native) plant species. No plant species listed as problematic or invasive by the California Native Plant Society, the California Exotic Pest Plant Council, or identified from time to time by the State of California shall be employed or allowed to naturalize or persist on the site. No plant species listed as “noxious weed” by the State of California or the U.S. Federal Government shall be utilized within the property. No cultivars of invasive species shall be utilized within the property. If using potable water for irrigation, the project shall use water-conserving emitters (e.g. microspray) and drip irrigation. Use of weather-based irrigation controllers and reclaimed water for irrigation is encouraged.
- g) All landscaped areas on the project site shall be maintained in a litter-free, weed-free, and healthy growing condition throughout the life of the project and, whenever necessary, shall be replaced with new plant materials to ensure continued compliance with applicable landscape requirements.
- h) Five years from the date of the issuance of the coastal development permit, the Permittee shall submit for the review and written approval of the Executive Director a landscaping monitoring report, prepared by a licensed Landscape Architect or qualified resource specialist, that certifies whether the on-site landscaping is in conformance with the landscape plan approved pursuant to this special condition. The monitoring report shall include photographic documentation of plant species and plant coverage.

If the landscape monitoring report indicates the landscaping is not in conformance with or has failed to meet the performance standards specified in the landscaping plan approved pursuant to this permit, the Permittee shall submit a revised or supplemental landscape plan for the review and written approval of the Executive Director. The revised landscaping plan must be prepared by a licensed Landscape Architect or qualified resource specialist and shall specify measures to remediate those portions of the approved landscaping plan that have failed or are not in conformance with the original approved plan.

- i) The use of rodenticides containing any anticoagulant compounds is prohibited, and the use of fertilizer shall be minimized to the greatest extent feasible.
- j) All irrigation systems shall limit water use to the maximum extent feasible. Use of reclaimed water for irrigation is encouraged. If permanent irrigation systems using potable water are included in the landscape plan, they may only use water conserving emitters (e.g., microspray) or drip irrigation. Use of reclaimed water ("gray water" systems) and rainwater catchment systems is encouraged. Other water conservation measures shall be considered, including use of weather-based irrigation controllers.

The permittee shall undertake development in accordance with the approved plan. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director provides a written determination that no amendment is required.

**3. Timing of Construction and Bird Nesting Surveys.** By acceptance of this permit, the applicant agrees to avoid, to the maximum extent feasible, construction activities that generate noise greater than 65 dB(A) on the project site during bird nesting season, from February 15<sup>th</sup> through September 15<sup>th</sup>. If project construction is necessary during bird nesting season, a qualified biologist with experience in conducting bird nesting surveys shall conduct a minimum of one survey within 72 hours of initiating construction activities. If during preconstruction surveys, active nests of any passerine species or raptor species are identified within 300 feet and 500 feet respectively, noise monitoring shall be conducted and construction activities shall not occur until a qualified biologist determines that the young have fledged, the nest has been abandoned, or noise monitoring indicates that noise levels remain below a 65 dB(A) equivalent continuous noise level at the location of the nest.

If this level is exceeded, feasible noise attenuation measures shall be implemented to reduce noise levels at active nests to at or below 65 dB(A). The monitoring biologist shall halt construction activities if he or she determines that the construction activities may be disturbing or disrupting the nesting activities. The monitoring biologist shall make practicable recommendations to reduce the noise or disturbance in the vicinity of the active nests or birds. This may include recommendations such as (1) turning off vehicle engines and other equipment whenever possible to reduce noise, (2) installation

of temporary sound barriers or sound blankets, and (3) utilizing alternative construction methods and technologies to reduce the noise of construction machinery. The monitoring biologist shall review and verify compliance with these avoidance boundaries and shall verify that the nesting effort has finished in a written report. Unrestricted construction activities may resume when the biologist confirms no active nests are found. Bird nesting surveys shall be provided to the Executive Director of the Commission and to the California Department of Fish and Wildlife and U.S. Fish and Wildlife offices within 72 hours of locating any nests.

**4. Public Access.** By acceptance of this permit, the applicant agrees that impacts to public access will be minimized to the greatest extent feasible, including that no more than six public spaces adjacent to Pacific Highway will be utilized by construction crews and solely on a temporary basis, as processed by the City of San Diego. The parking spaces shall only be utilized during time of construction, except holidays. The use of these public spaces would occur Monday through Saturday between 7:00 am and 7:00 pm. No staging of materials is permissible on any public parking spaces regardless of whether the spaces are used by or available to crew members.

### **III. FINDINGS AND DECLARATIONS**

#### **A. Project Description and Background**

The proposed project is the construction and operation of a new active recreation area on a 2.1-acre portion of the existing County of San Diego Waterfront Park, located at 1600 Pacific Highway in downtown San Diego ([Exhibit 1](#)). The project site is located in the northeast portion of the existing Waterfront Park southeast of the intersection of Pacific Highway and W. Grape Street in the City of San Diego ([Exhibit 2](#)). The project site is currently developed with the existing Grass Garden, Mediterranean Garden, and Diversity Garden areas, which would be demolished as part of the project. The proposed new amenities will be separated into various components associated with different recreational activities, and will provide new active recreation opportunities, including a fenced dog park with agility equipment, pickleball courts, a basketball court, a tee ball field, fitness equipment, table tennis, as well as benches, new landscaping and lighting ([Exhibit 3](#)). The existing garden located along the eastern boundary of the project site will remain. The goal of these improvements is to increase active recreation opportunities for the general public, including local residents, tourists, employees, and visitors from other areas of the county.

The on-site parking and access to the San Diego Bay will not be altered by the project. There are three existing structures on the property that will be unaffected by the project, including two small restroom buildings and the historic County Administrative Center, where County business is conducted.

The Waterfront Park project was originally approved by the Commission at its June 12, 2003 hearing, with a revised findings hearing taking place in September 2014. The work approved included the construction of a 14-acre public park on the site of what was



formerly a 1,100-space parking lot associated with the County Administrative Center as well as the construction of two single-level underground parking structures on site and a new 650-space off-site parking structure outside of the Coastal Zone. This permit approval was extended seven times. The park opened for public use in May 2014.

Other permit history on the site includes an amendment approved in March 2012 to allow the underground parking structures to be combined into one 250-space lot on the southern portion of the site and reduce the off-site parking requirements to 600 spaces (6-03-007-A1). In September 2021, the Commission concurred with the issuance of 6-21-0552-W for the demolition of three generators and one fuel tank the capping of fuel lines the installation of a new generator and fuel tank, and the construction of an 8-foot tall concrete enclosure and driveway.

The site is located in the City of San Diego's Centre City Community Planning Area, but was excluded from the City's Local Coastal Program at the time it was certified, and remains within the coastal permit jurisdiction of the Commission. Thus, the standard of review is the Chapter 3 policies of the Coastal Act.

## **B. Public Access and Recreation/Community Character**

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 30213 of the Coastal Act states, in relevant part:

Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred.

Section 30253(5) of the Coastal Act states:

New development shall where appropriate, protect special communities and neighborhoods which, because of their unique characteristics, are popular visitor destination points for recreational uses.

As originally approved, the project provided what the County described as three tiers of public use areas: 1) a series of "garden rooms" along Pacific Highway on either side of the County Administration Center Building; 2) a fountain, promenade and terrace area forming a strip to the west of the County Administration Center Building and extending from Grape Street on the north to Ash Street on the south, respectively; and, 3) a civic greenspace (lawn area) between the promenade and Harbor Drive, along the western

portion of the project site. The proposed amenities would convert a portion of the existing garden rooms from passive recreation—landscaping, trails, and benches—to active recreation uses.

The proposed amenities will provide new active recreation opportunities for San Diego residents. These amenities will be free of charge, open daily from 6:00 a.m.-10:00 p.m. and available on a first come, first served basis, with no reservation system. In addition, there will be loaner equipment such as pickleball rackets, basketballs, and tee ball sets available on site. The proposed project would include lockable, gated pedestrian entrances to the dog zone, and pickleball courts to restrict entry after hours of operation. County staff would be on site daily to open and close the facility and perform daily park maintenance to ensure that all recreational amenities are safe and usable for the public. The addition of new free public recreation facilities is expected to have a positive impact on public access and recreation.

Two letters of opposition from the public have suggested that the proposed recreational amenities are not in keeping with the character of the area, and that the proposed removal of trees on site is not acceptable ([Exhibit 9](#)). In regard to community character, one letter states that the existing gardens are more appropriate for the location, specifically the area next to the existing San Diego County Administration Center, a historic structure from 1938 that has been listed on the National Register of Historic Places since April 1988. The letters also note interrelated concerns about disruption of views towards the bay, a loss of trees onsite, potentially inadequate size of the dog park, accessibility that favors younger and more physically active members of the public, and the inherent value of the existing garden setting in an urban environment.

The removal of trees and public views are discussed in the Biological and Visual Resources sections below. With regard to the conversion of passive recreation space to active recreation, both active and passive recreation facilities serve the public in different ways. The existing Waterfront Park is a very popular destination for residents and tourists alike. Currently, the majority of the park consists of grassy open space, gardens, or plazas. Other existing amenities are public art features, water features, and a children's play area. While all of these different features have enthusiasts, the County determined that converting a portion of the gardens to free active recreational uses would best serve the current needs of the community. The proposed project is designed to balance passive and active uses by providing various public recreational facilities that are not currently available and providing them at no cost. The large grassy fields, plazas, and gardens that comprise the rest of the Park will remain unchanged, allowing for continued passive uses of those areas.

Construction of the project is anticipated to occur over an 8-month period, beginning in summer of 2022. Construction activities would occur Monday through Friday, with occasional weekend work. There will be no public access to the northeast corner of the park during construction for the health and safety of the workers and the public. Staging and storage will occur on site, with possible equipment left on site overnight as well. All equipment would be locked behind a construction fence to reduce visual impacts and the contractor will be required to provide temporary construction fencing around the

project site. Construction crews will utilize some public parking during the day; however public transit and ridesharing is encouraged. There will be no change to parking, including the location or number of spaces. In order to minimize potential impacts to public access, **Special Condition #4** requires the applicant's agreement that construction crews will utilize no more than six public spaces adjacent to Pacific Highway. The use of these public spaces would be permitted Monday through Saturday between 7:00 am and 7:00 pm, with occasional weekend work in accordance with San Diego County Code Section 36.408. Under **Special Condition #4**, no staging of materials would be allowable on public parking spaces. **Special Condition #1** requires the submittal of final plans to ensure that the proposed recreational amenities are built accordingly.

Thus, as conditioned, the project is consistent with the coastal access, recreation, and community character policies of Chapter 3 of the Coastal Act.

## C. Biological Resources

Section 30231 of the Coastal Act states:

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface waterflow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

Section 30240 of the Coastal Act states, in relevant part:

(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.

The project site is located in the northwest corner of Waterfront Park and is mostly comprised of existing decomposed granite walking pathways and landscaping. The County is proposing to remove up to eleven trees from the project site, which include two flame trees, four sapphire dragon trees, and three Torrey pines. All of these trees were planted originally by the County when the project was originally constructed in 2014. All trees removed will be replaced at a 1:1 ratio, and the species to be planted in their place include two New Zealand Christmas trees, three Torrey pines, and four Catalina cherry trees. Additionally, two camphor trees on site will be transplanted within the project boundaries and 18 trees will be planted outside of the project boundary, creating a 3:1 ratio of new trees planted for every tree removed ([Exhibits 5 and 6](#)). With the incorporation of **Special Condition #2**, the applicant will be required to submit final

landscaping plans that conforms with the tree planting information submitted for Commission staff review and that ensures all species included are non-invasive and drought tolerant ([Exhibit 4](#)). Thus, no significant impact to biological resources associated with the tree removal will occur.

For the protection of bird species on the project site, **Special Condition #3** will require the applicant to avoid construction activities that generate noise greater than 65 decibels, from the project edge during the bird nesting season (February 15<sup>th</sup> to September 15<sup>th</sup>). If project construction occurs during the bird nesting season, a qualified biologist will be required to conduct at least one survey within 72 hours of initiating construction. If active nests of either passerine species or raptor species are found within 300 feet or 500 feet, respectively, noise monitoring is required until the qualified biologist has determined that the young have fledged, the nest has been abandoned, or that noise levels remain below 65 decibels at the nest. If this acceptable noise level is exceeded, noise attenuation measures are required, unless approval has otherwise been granted by the Executive Director. Additionally, the biologist can halt construction activities if he or she determines the activities is disturbing nesting activities, as well as recommend measures that reduce the noise or disturbance in the vicinity of the active nests or birds. Bird nesting surveys shall be provided to the Executive Director within 72 hours of locating any nests.

The project includes the addition of new lighting. Because the project is near San Diego Bay, it is important to evaluate potential impacts on birds. The existing lighting on site includes pathway light fixtures that are set on a timer to turn on and off according to sunrise and sunset. The project would preserve some of the existing light on site but would construct additional lighting fixtures for safety purposes within the off-leash dog zone and the active recreation areas ([Exhibit 7](#)). The proposed project would construct 12-foot high top-mounted light emitting diode (LED) light poles along the walkways and throughout the vicinity of the site. The pathway light fixtures are considered security lighting and will therefore be on all night and turn on and off automatically at sunset and sunrise just as the existing lighting does. The pathway lights will also have a motion control sensor that dims the fixture to 50% output when the area is unoccupied. In addition, the project would install 20-foot tall, top-mounted LED fixture “sports lighting” within the dog zone, pickleball courts, and basketball courts. This sports lighting would turn off at 10 pm. The table tennis area, tee ball field, and outdoor fitness area would be available only during the daylight hours and would not include security lighting. All light fixtures will be shielded and directed downward.

Lighting that is 3000 Kelvins (K) in color temperature is typically the highest color temperature recommended by Commission staff. Lighting with lower color temperatures has less blue in its spectrum and is referred to as being “warm.” In recent projects near San Diego Bay and other sensitive water bodies, the Commission’s ecologist has recommended a correlated color temperature (CCT) of no higher than 3,000K, a range that contains less blue light (see PMP-6-PSD-18-0001-1 (Bayside Performance Park), 6-19-0191 (City of San Diego) and 6-18-0723 (The LOT)).

The proposed pathway lights will be set at a 2700 Kelvin color temperature. The sports lighting has a 3000 Kelvin color temperature in order to provide suitable lighting conditions for recreational play. While a lower color temperature would be preferable, the County has stated that sports lights less than 3000K would not meet the needs of providing adequate and safe lighting for recreational play. In the case of the proposed project, because the sports lighting will turn off at 10 pm, and the lights are located in an urban part of the City in the northeastern corner of the park, where lighting from the existing roadways and residences nearby will persist, 3000K lighting is expected to have minimal impacts on birds.

**Special Condition #1** will require the applicant to submit final plans that depict the location of all lighting and limits all sports lighting to 3000K and pathway lighting to 2700K, as well as require that all sports lighting be shielded, directed downward, and turned off by 10 pm ([Exhibit 7](#)).

Thus, as conditioned, the project is consistent with the biological resource protection policies of Chapter 3 of the Coastal Act.

## **D. Marine Resources and Water Quality**

Section 30231 of the Coastal Act states:

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface waterflow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

The project proposes development of an active recreational park on a previously mass graded passive recreational project site. The site is located just east of the San Diego Bay, which has several listed water quality impairments, including polychlorinated biphenyls, mercury and polycyclic aromatic hydrocarbons. The project's Final EIR (certified by the County of San Diego Board of Supervisors on May 6, 2003) notes that the original project included excavation to a maximum of 10 feet, and the possibility of coming into contact with groundwater, which is found at a depth of approximately 6 to 20 feet below ground. Groundwater beneath the site has been found to contain levels of arsenic, copper, lead, nickel, and zinc above allowable concentrations for discharge into the San Diego Bay.

At present, all stormwater conveyance is not treated before being piped to the storm drain system. The project proposes minor grading modifications. No alterations to the site sheet flow pattern are anticipated as a result of the project. The run-off on site will flow from west towards east, similar to existing conditions.

An approximately 900 square foot bio-swale would be constructed within the preserved existing garden area located north of the proposed tee ball field. A drainage flow line would be constructed from the proposed bio-swale to an existing onsite stormwater system located to the northwest of the proposed off-leash dog zone. After completion of construction, the proposed bio-swale and drainage flow line would treat water runoff from the park prior to any runoff entering the San Diego Bay through the existing stormwater system. The sizing and the location of the bioswale has been reviewed by Commission water quality staff and found appropriate for the development.

The proposed construction of the recreational amenities would result in grading to a depth of approximately five feet. A geotechnical report for the project dated September 3, 2021 states that groundwater was not encountered in experimental borings made in July 2021; however, it does note that groundwater was encountered during a geotechnical investigation from 2012 at elevations ranging from 0.5 to -1 feet. It goes on to state that groundwater seepage should be anticipated in excavations. In the event groundwater is encountered during construction of the proposed improvements, the applicant is required to adhere to all requirements and mitigation measures contained in the November 2021 EIR addendum. Specifically, any dewatering during construction must be completed in accordance with the requirements of the Regional Water Quality Control Board, and the project-specific SWPPP required under the National Pollution Discharge Elimination System (NPDES) Permit. Any effluent derived from dewatering activities from the site excavations must be discharged into the San Diego sewer system, in accordance with City procedures and regulations for such discharges. To ensure hazardous materials are detected and properly disposed of, sampling of excavated and imported soil to determine the presence of contamination will be completed prior to the disposal of such materials, and should excavated or imported materials be found to be contaminated, measures will be undertaken to ensure the proper disposal of such materials. For protection of wildlife, **Special Condition #1** also specifies that heavy duty plastic netting is prohibited for the purposes of sediment and erosion control in order to avoid or reduce the threat of wildlife entanglement.

Thus, as conditioned, the project is consistent with the water quality protection policies of Chapter 3 of the Coastal Act.

## **E. Visual Resources**

Section 30251 of the Coastal Act states:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas...

The project site is located in a visually sensitive area due to its proximity to the San Diego Bay; accordingly, the project was evaluated to determine if public views towards the Bay would be potentially disrupted by the project.

New fencing is proposed that will encircle the tee ball field, basketball court, pickleball court, and dog park. The County has stated that the fence heights chosen for the selected recreational activities are as low as possible while still serving their intended purpose. For example, the proposed fence height for the tee ball field is only four feet in order to contain rolling balls, while the proposed height for the dog park is six feet in order to prevent dogs of all sizes from jumping out of the dog park area. The fences surrounding the pickleball and basketball courts were originally proposed to be ten feet tall, but in working with County staff, that height has been lowered to eight feet in accordance with USA Pickleball and American Sports Builders Association recommendations. The proposed fencing material itself is a welded wire mesh, which will be partially transparent and reduce visual impact to the park. The fencing would not impact public views from either Pacific Highway or W. Grape Street, as the existing perimeter trees would remain and the overall urban environment in which the project is located would persist ([Exhibit 8](#)).

**Special Condition #1** of the permit will require the applicant to revise their final plans in order to reflect the County's recent decision to lower the proposed fencing for the basketball and pickleball courts to eight feet rather than ten.

Thus, as conditioned, the project is consistent with the visual resource policies of Chapter 3 of the Coastal Act.

## **F. Local Coastal Planning**

Section 30604(a) also requires that a coastal development permit shall be issued only if the Commission finds that the permitted development will not prejudice the ability of the local government to prepare a Local Coastal Program (LCP) in conformity with the provisions of Chapter 3 of the Coastal Act. In this case, such a finding can be made.

The County Administration Center is located in the City of San Diego, which has a certified Local Coastal Program. However, when the Commission certified the Centre City/Pacific Highway Corridor segment of the City's Land Use Plan in January 1988, the Commission deferred certification of the County Administration Center area, finding that the zoning proposed for the area at the time (Central Business District), was not consistent with the certified Land Use Plan. The Commission also noted that there are jurisdictional questions raised about the City and County planning and regulatory roles on this site that is within the City but operated by the County, that supported deferred action and further study.

Thus, the area was excluded from the certified LCP, and remains in the Commission's jurisdiction. The standard of review for coastal development permits issued for development are the Chapter 3 policies of the Coastal Act. As discussed above, the

proposed development, as conditioned, can be found consistent with all applicable Chapter 3 policies of the Coastal Act. Therefore, the project, as conditioned, is not expected to have any adverse impacts on coastal resources and will not prejudice the ability of the City of San Diego or the County of San Diego to administer and/or prepare a certifiable Local Coastal Program for the area.

## **G. California Environmental Quality Act**

Section 13096 of the Commission's Code of Regulations requires Commission approval of Coastal Development Permits to be supported by a finding showing the permit, as conditioned, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment. The County of San Diego Board of Supervisors certified the Final EIR for the Waterfront Park Master Plan in 2003, with two addendums to the FEIR in January and May of 2011 for revised components of the plan. An addendum to the EIR for the proposed development of an active recreational park was adopted in January 2022.

The proposed project has been conditioned in order to be found consistent with the Chapter 3 policies of the Coastal Act. Mitigation measures, including conditions addressing nesting bird protections, disposal of hazardous materials, and dewatering will minimize all adverse environmental impacts. As conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. Therefore, the Commission finds that the proposed project is the least environmentally-damaging feasible alternative and can be found consistent with the requirements of the Coastal Act to conform to CEQA.