

CALIFORNIA COASTAL COMMISSION

South Coast District Office
301 E Ocean Blvd., Suite 300
Long Beach, CA 90802-4830
(562) 590-5071



W9a

Filed: 02/26/2025
180th Day: 08/25/2025
Staff: K. Tomaier-LB
Staff Report: 05/30/2025
Hearing Date: 06/11/2025

STAFF REPORT: CONSENT CALENDAR

Application Number: 5-24-0064

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

Agent: Elena Maggioni

Project Location: Windward Plaza 1736-1800 Ocean Front Walk, Venice, City of Los Angeles, Los Angeles County (APN: 422-600-1900)

Project Description: Removal of unsafe playground and construction of an approximately 14,474 sq. ft. ADA-compliant playground ("Windward Plaza Playground") on a public sandy beach with new equipment (max. height of 25 ft.) over recycled synthetic rubber playground surfacing, 13 benches, 1 ADA-compliant picnic table, a 42 in.-48 in. perimeter fence, 4,782 sq. ft. of new ADA-compliant concrete walkways, and 18 ft.-high shade canopies.

Staff Recommendation: Approval with conditions.

SUMMARY OF STAFF RECOMMENDATION

Commission staff is recommending **APPROVAL** of the proposed playground replacement to provide safe, low-cost recreational opportunities for public access to Venice Beach by people with different abilities. The project site is bounded by a public turf area and a basketball court to the east, a public paddle ball court to the south, the Marvin Braude Bike Trail and shoreline to the west and the LAPD station and offices of the Department of Recreation and Parks to the north. The project site is owned by the City of Los Angeles. The proposed project is located on sandy beach within the Commission's permit jurisdiction. Thus, the standard of review for this development is Chapter 3 of the Coastal Act. The major issues raised by this proposed development concern consistency with the

hazards, marine resources, water quality, and public access and recreation policies of Chapter 3 of the Coastal Act.

The City stated that the demolition of the old playground was driven by the need to replace severely deteriorated playground equipment and to improve accessibility with a new playground in the same location. The City of Los Angeles Department of Recreation and Parks (RAP) kept the playground operational until it was no longer safe for public use. In September 2023, RAP determined that the rusted and corroded playground equipment needed to be removed. The old playground was demolished without the benefit of a Coastal Development Permit (CDP), and the applicant is now proposing to replace the demolished playground, which originally consisted of existing sand and concrete with a synthetic rubber playground surfacing product called GT Impax Poured-In-Place Rubber Playground Surfacing and concrete. Although the City has stated that this material is not made from recycled tires, the rubber surfacing still contains the synthetic rubber SBR (Styrene Butadiene Rubber) and a top surface layer of small synthetic rubber granules of recycled post-industrial EPDM (Ethylene Propylene Diene Monomer) held together with an aromatic or aliphatic urethane binder.

Commission water quality staff has determined that this material would adversely impact the environment and biological resources and, potentially, human health. Therefore, the applicant's proposed surfacing product raises significant concerns due to its potential adverse impacts to the environment, including water quality and biological resources. In order to avoid the adverse impacts to biologic resources raised by the use of the proposed synthetic rubber and waste tire playground surfacing materials, the Commission imposes the following special conditions: **Special Condition 1** prohibits the proposed Poured-in-Place rubber playground surfacing product and similar types of materials; **Special Condition 2** indicates the types of acceptable playground surfacing materials to minimize the discharge of hazardous chemicals and microplastic pollution into the environment; **Special Condition 3** requires submittal of Final Project Plans including an acceptable alternative playground surfacing material; and **Special Condition 4** requires maintenance of playground surfacing materials.

In addition, a violation of the Coastal Act has occurred at the site, consisting of, but not necessarily limited to, the unpermitted demolition of the original playground. All development within the coastal zone, including the demolition of an unsafe structure, requires a CDP unless the requested action is determined to be exempt from permit requirements, which is not the case here. Approval of this application pursuant to the staff recommendation and applicant's compliance with all terms and conditions of the permit would resolve the violation.

To ensure consistency with Chapter 3 of the Coastal Act, in addition to the above-described special conditions, staff is recommending the following special conditions: no future shoreline protective devices, assumption of risk, construction responsibilities and debris removal, timing of construction, and future development.

Staff recommends the Commission find that the project, as proposed and further conditioned, is consistent with the Chapter 3 policies of the Coastal Act. Approval of this application pursuant to the staff recommendation, issuance of the permit, and the applicant's subsequent compliance with all terms and conditions of the permit will resolve the violations described above.

Therefore, staff recommends that the Commission **APPROVE** CDP Application No. 5-24-0064 with **11** special conditions. The motion to carry out the staff recommendation is on Page **5**. The special conditions begin on Page **6**.

TABLE OF CONTENTS

I. MOTION AND RESOLUTION.....	5
II. STANDARD CONDITIONS	5
III. SPECIAL CONDITIONS	6
IV. FINDINGS AND DECLARATIONS.....	13
A. Project Description and Location	13
B. Public Access	18
C. Land, Biological, and Marine Resources	18
D. Hazards.....	19
E. Unpermitted Development.....	19
F. Local Coastal Program	19
G. California Environmental Quality Act.....	20

APPENDICES

Appendix A - Substantive File Documents

EXHIBITS

Exhibit 1 – Site Map and Project Location

Exhibit 2 –Site Plans and Visual Simulations

Exhibit 3 – GT Impax Pour-in-Place Rubber Surfacing Safety Data Sheet

Exhibit 4 – Memo prepared by Vanessa Metz, Ph.D., Senior Environmental Scientist,
dated June 17, 2024

Exhibit 5 – Perimeter fence conceptual design

I. MOTION AND RESOLUTION

Motion:

I move that the Commission approve coastal development permit applications included on the consent calendar in accordance with the staff recommendations.

Staff recommends a **YES** vote. Passage of this motion will result in approval of all permits included on the consent calendar. An affirmative vote of a majority of the Commissioners present is needed to pass the motion.

Resolution:

The Commission hereby approves a permit, subject to the conditions below, for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the provisions of Chapter 3 of the California Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a local coastal program conforming to the provisions of Chapter 3. 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 alternative that would substantially lessen any significant adverse impacts of the development on the environment.

II. STANDARD CONDITIONS

This permit is granted subject to the following 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 of the new playground 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.

III. SPECIAL CONDITIONS

This permit is granted subject to the following special conditions:

1. Prohibited Playground Surfacing Materials.

- a. **Playground Surfacing Materials Made from Waste Tires.** Playground surfacing products made from shredded or granulated waste vehicle tires shall be prohibited, including any poured-in-place (PIP) rubber playground surfacing product. Shredded waste tire material such as that used in the cushioning base layer in PIP rubber playground surfacing is typically labeled in product descriptions as rubber, recycled rubber, or recycled SBR (styrene-butadiene rubber). Synthetic rubber playground mats, pads, and tiles made from granules of waste tires held together with chemical binders are typically labeled as rubber or recycled rubber products. Granules of waste tires used as infill for synthetic grass are typically called “crumb rubber.”
- b. Prohibited types of playground surfaces made from waste tire materials include, but are not limited to, PIP rubber playground surfacing products made from shredded tires; loose-fill shreds or pieces of tires (i.e., “rubber mulch”); shredded tires held together with a resin binder (i.e., “bonded rubber mulch”); synthetic rubber mats, pads, and tiles manufactured from tire rubber; and synthetic grass (i.e., artificial turf) with tire crumb rubber infill.
- c. **Playground Surfacing Materials Made from Synthetic Rubber Granules.** Synthetic rubber granules commonly used in the top layer of PIP rubber surfacing products, including ethylene propylene diene monomer (EPDM), thermoplastic vulcanizate (TPV), and thermoplastic elastomer (TPE), shall be prohibited for use in playground surfacing products. EPDM may be labeled as “virgin rubber” if it is not derived from recycled materials; however, this is a synthetic rubber, not natural rubber.

2. Acceptable Playground Surfacing Materials.

By acceptance of this permit, the applicant agrees to use acceptable playground surfacing materials to minimize the discharge of hazardous chemicals and microplastic debris, which include, but are not limited to, the following:

- a. **Natural Materials.** Natural materials such as engineered wood fiber (EWF); cork PIP surfacing; loose-fill materials such as sand, pea gravel, wood chips, bark, or pieces of natural rubber; and mats, pads, or tiles made from natural

rubber (not waste tire rubber) shall be the preferable choice for playground surfacing materials, where feasible. Mats, pads, or tiles that do not contain waste tire material may be installed on top of EWF or loose-fill playground materials to create wheelchair-accessible pathways to playground equipment, and/or to prevent displacement of loose-fill materials in high-use areas such as under swings. EWF with a resin binder (“bonded EWF”) may also be used to create wheelchair-accessible pathways in the playground. Though the materials described in this section are preferable, the materials discussed in **Section B.** below may be used instead in the circumstances described therein.

- b. **Low-Toxicity Non-granular Plastics.** Playground surfacing products made from types of plastics that have documented low toxicity to humans and the environment shall be acceptable if use of natural surfacing materials is not feasible. Any plastic products used for the top surface of the playground shall contain only non-granular plastics, not resin-bonded granules, to minimize microplastic pollution. Acceptable low-toxicity non-granular plastic playground surfacing products include, but are not limited to:
 - i. Woven or non-woven roll-out polyester beach access mats that provide wheelchair-accessible pathways across sand.
 - ii. Injection-molded polyvinyl chloride (PVC) interlocking perforated tiles that integrate with loose-fill surfacing materials to provide wheelchair-accessible pathways and/or to prevent displacement of loose-fill surfacing materials under high-use playground equipment (such as swings and slides). These tiles may also be used throughout the playground when installed on top of a cushioning pad. The cushioning pad beneath these tiles shall not contain waste tire material.
 - iii. Cross-linked polyethylene foam (XPE) shock pads may be used as a cushioning material, such as under injection-molded interlocking perforated PVC tiles, to provide fall protection under playground equipment or throughout the playground.

- 3. **Final Project Plans.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the approval of the Executive Director, two (2) full size sets of final plans for the construction and maintenance of the playground that shall include:

- a. **Composition of Playground Surfacing Materials.** A description of all playground surfacing materials or products to be installed, detailing the composition of all materials, consistent with the surfacing requirements laid out in **Special Conditions 1 and 2.**

- b. **Construction Debris Discharge Prevention.** A silt fence or similar BMP shall be installed around the perimeter of the playground during construction if needed to prevent the discharge of sediment, plastic debris from playground surfacing materials, and other debris from the construction site via wind or runoff. Any plastic debris from playground surfacing materials generated during installation of the playground shall be promptly removed from the site.
 - c. **Removal of Synthetic Surfacing Materials at End of Service Life.** Measures shall be implemented to minimize the discharge of microplastic debris to the environment during the removal of any of the proposed synthetic playground surfacing materials at the end of their service life, prior to replacement, including:
 - i. Demolition and removal of any synthetic playground surfacing materials shall not be conducted when the wind is above 10 mph or when raining.
 - ii. A silt fence or similar BMP shall be installed around the perimeter of the playground during demolition and removal of any synthetic surfacing material if needed to prevent the discharge of sediment, microplastic debris, and other debris from the construction site via wind or runoff. Any microplastic debris generated during removal of the playground surfacing materials shall be promptly removed from the site.
 - iii. Removal of any proposed synthetic playground surfacing to address future seal level rise shall also be consistent with **Special Condition 4(B)**.
 - d. The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Coastal Commission-approved amendment to this permit or a new coastal development permit unless the Executive Director determines that no amendment is legally required.
4. **Maintenance of Playground Surfacing Materials.** Any synthetic playground surfacing materials shall be frequently inspected and promptly repaired or replaced if the material becomes damaged or deteriorated, to minimize the discharge of microplastic debris into the environment. Playground surfaces that contain synthetic surfacing materials shall be inspected before and after power-washing, and any dislodged microplastic pieces shall be promptly collected for proper disposal. Microplastic pieces dislodged from playground surfacing materials shall not be washed or swept off the playground surface into adjacent areas and instead shall be promptly collected for proper disposal.
5. **No Future Shoreline Protective Device.**

- a. By acceptance of this permit, the permittee agrees, on behalf of itself and any successors and assigns, that no shoreline protective device(s) shall ever be constructed to protect the development approved pursuant to Coastal Development Permit No. 5-24-0064 including, but not limited to, the playground equipment, fencing, benches, picnic tables, and playground surfacing in the event that the development is threatened with damage or destruction from waves, erosion, storm conditions, liquefaction, flooding, sea level rise, or any other natural hazards in the future. By acceptance of this permit, the permittee hereby waives, on behalf of itself and all successors and assigns, any rights to construct such devices that may exist under Public Resources Code Section 30235, any similar provision of a certified LCP, or any applicable law.
- b. By acceptance of this permit, the permittee further agrees, on behalf of itself and all successors and assigns, that it is required to remove all or a portion of the development authorized by this permit and restore the site, if:
 - i. The City of Los Angeles or any government agency with jurisdiction has issued a final order, not overturned through any appeal or writ proceedings, determining that the structures are currently and permanently unsafe for occupancy or use due to damage or destruction from waves, erosion, storm conditions, liquefaction, flooding, sea level rise, or other natural hazards related to coastal processes, and that there are no feasible measures that could make the structure suitable for habitation or use without the use of bluff or shoreline protective devices;
 - ii. Essential services to the site (e.g., utilities, roads) can no longer feasibly be maintained due to the coastal hazards listed above;
 - iii. Removal is required pursuant to LCP or Coastal Act policies for sea level rise adaptation planning; or
 - iv. The development requires new or augmented shoreline protective devices that conflict with applicable LCP or Coastal Act policies.

Approval of CDP No. 5-24-0064 does not allow encroachment onto public trust lands. Any future encroachment onto public trust lands shall be removed unless authorized by the Coastal Commission. Additionally, encroachment onto public trust lands is subject to approval by the State Lands Commission or other designated trustee agency.

- c. Prior to removal, the permittee shall submit two copies of a Removal/Relocation Plan to the Executive Director for review and written approval. The Removal Plan shall clearly describe the manner in which such development is to be removed/relocated and the affected area restored so as to best protect coastal resources, including the Pacific Ocean. In the event that portions of the development fall to the ocean before they are removed/relocated, the landowner shall remove all recoverable debris associated with the development from the ocean and lawfully dispose of the

material in an approved disposal site. Such removal shall require a coastal development permit.

6. Assumption of Risk, Waiver of Liability and Indemnity.

By acceptance of this permit, the applicant acknowledges and agrees (i) that the site may be subject to hazards, including but not limited to waves, storms, flooding, and earth movement, many of which will worsen with future sea level rise; (ii) to assume the risks to the permittee 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; and (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), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.

7. Construction Responsibilities and Debris Removal. By acceptance of this permit, the permittee agrees to comply with the following construction related requirements:

- a. No demolition or construction materials, equipment, debris, or waste shall be placed or stored where it may enter sensitive habitat, receiving waters or a storm drain, or be subject to wave, wind, rain, or tidal erosion and dispersion;
- b. Any and all debris resulting from demolition or construction activities, and any remaining construction material, shall be removed from the project site within 24 hours of completion of the project;
- c. Demolition or construction debris and sediment shall be removed from work areas each day that demolition or construction occurs to prevent the accumulation of sediment and other debris that may be discharged into coastal waters;
- d. Machinery or construction materials not essential for project improvements will not be allowed at any time in the intertidal zone;
- e. If turbid conditions are generated during construction a silt curtain will be utilized to control turbidity;
- f. Floating booms will be used to contain debris discharged into coastal waters and any debris discharged will be removed as soon as possible but no later than the end of each day;
- g. Non buoyant debris discharged into coastal waters will be recovered by divers as soon as possible after loss;
- h. All trash and debris shall be disposed in the proper trash and recycling receptacles at the end of every construction day;
- i. The applicant shall provide adequate disposal facilities for solid waste, including excess concrete, produced during demolition or construction;
- j. Debris shall be disposed of at a legal disposal site or recycled at a recycling facility. If the disposal site is located in the coastal zone, a Coastal Development Permit or an amendment to this permit shall be required before

- disposal can take place unless the Executive Director determines that no amendment or new permit is legally required;
- k. All stockpiles and construction materials shall be covered, enclosed on all sides, shall be located as far away as possible from drain inlets and any waterway, and shall not be stored in contact with the soil;
 - l. Machinery and equipment shall be maintained and washed in confined areas specifically designed to control runoff. Thinners or solvents shall not be discharged into sanitary or storm drain systems;
 - m. The discharge of any hazardous materials into any receiving waters is prohibited;
 - n. Spill prevention and control measures shall be implemented to ensure the proper handling and storage of petroleum products and other construction materials. Measures shall include a designated fueling and vehicle maintenance area with appropriate berms and protection to prevent any spillage of gasoline or related petroleum products or contact with runoff. The area shall be located as far away from the receiving waters and storm drain inlets as possible;
 - o. Best Management Practices (BMPs) and Good Housekeeping Practices (GHPs) designed to prevent spillage and/or runoff of demolition or construction-related materials, and to contain sediment or contaminants associated with demolition or construction activity, shall be implemented prior to the onset of such activity; and
 - p. All BMPs shall be maintained in a functional condition throughout the duration of construction activity.
8. **Timing of Construction.** By acceptance of this permit, the permittee agrees to minimize adverse impacts to the beach adjacent to the project site as well as at the beach nourishment locations pursuant to Coastal Development Permit No. 5-24-0064, as required below:

No construction shall occur on the beach between February and the day after the Labor Day weekend, to include: 1) the "peak use" beach season, defined as the period starting the day before the Memorial Day weekend and ending the day after the Labor Day weekend of any year; 2) the bird nesting season, defined as February through August; and 3) the grunion spawning season, defined as March through August.

9. **Public Access Management Program.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the review and written approval of the Executive Director, a Public Access Management Program that includes, at a minimum, the following:
- a. The program shall include a construction staging and schedule plan that substantially conforms to the submittal provided to the Coastal Commission on January 27, 2025.

- b. The program shall include a plan for ensuring safe public access to and around construction areas and/or staging areas is maintained during all project operations. The plan shall include a description of the methods (such as signs, fencing, etc.) by which safe public access to and around construction areas and/or staging areas shall be maintained during all project operations. If the public bike trail must be rerouted during construction, flaggers must be present to allow access intermittently when safety is a concern. All public access signage shall be provided in multiple languages, including at a minimum, English and Spanish.
- c. The program shall include all necessary temporary access provisions to maintain public pedestrian access around the construction areas and/or staging areas and/or along the shoreline.
- d. Construction shall not occur from Memorial Day weekend to Labor Day unless, due to extenuating circumstances beyond the applicant's control (such as extensive delays due to severe weather, delivery of equipment, or other environmental concerns) the Executive Director provides written authorization for such work.
- e. Lateral access along the shoreline shall be maintained at all times throughout construction.
- f. All recreational use areas impacted by construction activities shall be restored to their pre-construction condition or better within three days of completion of construction.
- g. Sand from the beach, cobbles, or shoreline rocks shall not be used for construction material.
- h. The permittee shall undertake development in conformance with the approved final program unless the Commission amends this permit, or the Executive Director determines that no amendment is legally required for any proposed minor deviations.

10. Nesting Bird Survey. BY ACCEPTANCE OF THIS PERMIT, the permittee agrees that if project activities must occur during bird nesting season (February 1 through August 31), a qualified biologist, with experience conducting bird surveys, shall survey for active nests within 7 days prior to commencement of project activities, and once a week thereafter during construction, to detect any such activity within 500 feet of the project area. If an active songbird nest(s) is located within 300 feet of construction activities (500 feet for raptors), the qualified biologist shall halt construction activities to enable the permittee to employ best management practices (BMPs) to ensure that construction activities do not disturb or disrupt nesting activities. Noise levels at active nest sites must not exceed 65 dB unless a noise study has determined that ambient noise in the immediate area exceeds that level. If this is the case, noise levels at the nest site must not exceed the ambient noise

level measured. Noise reducing BMPs may include using alternative equipment, equipment noise buffering, sound blankets, etc. Alternatively, construction activities and schedules shall be adjusted to avoid active nest areas until the respective young birds have fledged. Unrestricted construction activities may resume when no active nests remain in the construction area. Results of nesting bird surveys, ambient noise surveys, and any follow-up construction avoidance measures shall be documented in monthly reports by the qualified biologist and submitted to the Coastal Commission Executive Director throughout the bird nesting season.

11. **Future Permit Requirement.** This permit is only for the development described in coastal development permit (CDP) 5-24-0064. Pursuant to Title 14 California Code of Regulations (CCR) Section 13253(b)(6), the exemptions otherwise provided in Public Resources Code (PRC) Section 30610(b) shall not apply to the development governed by the CDP 5-24-0064. Accordingly, any future improvements to this structure authorized by this permit shall require an amendment to CDP 5-24-0064 from the Commission or shall require an additional CDP from the Commission or from the applicable certified local government. In addition thereto, an amendment to CDP 5-24-0064 from the Commission or an additional CDP from the Commission or from the applicable certified local government shall be required for any repair or maintenance identified as requiring a permit in PRC Section 30610(d) and Title 14 CCR Sections 13252(a)-(b).

IV. FINDINGS AND DECLARATIONS

A. Project Description and Location

The project site is approximately 9,000 sq. ft. and is located on the beach at Windward Plaza, 1736-1800 Ocean Front Walk. The project site is bounded by a turf area and a basketball court to the east, a paddle ball court to the south, the Marvin Braude Bike Trail to the west and the LAPD station and offices of the Department of Recreation and Parks to the north. The proposed playground would be located seaward of the first public road, landward of the Marvin Braude public bike trail, and adjacent to a public restroom ([Exhibit 1](#)) The property is owned and managed by the City of Los Angeles ("City" or "applicant").

The City seeks authorization for after-the-fact demolition of an existing rusted and corroded playground, including the removal of all associated rubber padding and cement, and construction of a new approximately 14,474 sq. ft. playground ("Windward Plaza Playground") on a public sandy beach ([Exhibit 2](#)). The proposed project would consist of two distinct play areas: an area for younger children (ages 2-5) and another for older children (ages 5-12). The proposed project covers the same footprint as the previous playground and would include a play area to the north and a swing area to the south. Both play sets are accessible and include slides, bridges, stationary balancing pods and climbing equipment. The east side of the play area for younger children is surrounded by a low seating wall. There is also a separate accessible area, with a lifeguard boat, an octopus climbing structure, and a tactile rock. The 2-5 and the accessible play equipment

are protected by 18 ft. tall shade structures. The 5-12 equipment includes bridges, slides, a climbing structure, balancing pods and some climbing elements. The maximum height of the tallest slide structure is 25 ft. The swing set proposed on the south side of the play area includes seats for babies, children and one accessible seat. The proposed playground equipment would be placed over rubber surfacing and would be surrounded by a 42 in. to 48 in. high perimeter fence made of hot dipped galvanized and powder coated posts, aluminum panels, and stainless steel hardware. The fence will include four gates, and the color pallet will match the blue and gray design of the playground. The fence will be designed to keep sand from migrating into the playground and designed with visually permeable coastal motifs ([Exhibit 5](#)). The proposed project also includes 13 benches, one ADA picnic table, and 4,782 sq. ft. of new Americans with Disabilities Act (ADA) concrete walkways ([Exhibit 2](#)). The proposed playground would ultimately have fewer sand-areas than the previously demolished playground. The project proposes to use ADA compliant surfacing in place of sand, improving accessibility to all users. ADA compliant accessibility to the play area would be provided throughout the site and would allow users with physical limitations easier and safer access to the playground and to the coast as compared to the demolished structures.

One of the basic goals stated in the Coastal Act is to maximize public access and recreation along the coast. The purpose of the proposed project is to continue providing low-cost recreational opportunities along the coast for the public and to improve accessibility closer to the coast for all children with a universally accessible design. The project site is landward of the public bike trail and a section of beach that is approximately 500 ft. wide. Since the existing playground's demolition in 2023, the site has returned to sand, but because of the wide beach and distance from the water, the City has found that beachgoers have not heavily used the project site for beach activities. Beachgoers generally use the area that is seaward of the bike trail and closer to the water. While the new playground would increase impervious and non-sand surfaces on the beach, the new playground provides recreational opportunities for kids with a range of abilities and their caretakers. In addition, the site is the location of the previous playground, is immediately bounded by other non-sand areas, and is inland of the paved bike path. Therefore, the proposed development offers recreation along the coast while being sited in a location that minimizes adverse impacts to other forms of coastal public access (i.e. sand access).

Regarding temporary construction impacts, construction activities during the "peak beach use" (as the period starting the day before the Memorial Day weekend and ending the day after the Labor Day weekend of any year) may adversely impact public access to this location. Thus, Commission imposes **Special Condition 8**, which prohibits construction on the beach during the "peak use" beach season, defined as the period starting the day before the Memorial Day weekend and ending the day after the Labor Day weekend of any year. Outside of this season, there are still potential impacts to public access due to construction staging and activities. Thus, in order to ensure access to the beach is protected and public access is not hindered during construction, the Commission imposes **Special Condition 9**, which requires the applicant to submit a Public Access Management

Plan that includes temporary signage that ensures safe public access to and around construction areas and/or staging areas. Additionally, **Special Condition 9** requires that, should the public bike trail be rerouted, flaggers be present to allow access intermittently if there are safety concerns. Finally, **Special Condition 9** also requires construction to occur outside of the summer season (Memorial Day weekend to Labor Day) to minimize potential impacts on public access during the summer months.

The proposed construction activities would occur in a location where there is a potential for discharge of polluted runoff from the project site into coastal waters. The storage or placement of construction material, or debris, in a location where it could be carried into coastal waters could impact water quality. The applicant is requiring that the contractors implement Best Management Practices (BMPs) during construction, including placement of straw wattles or sand bags for erosion control. To ensure that BMPs are incorporated to reduce the potential for construction and postconstruction related impacts on water quality, the Commission imposes **Special Condition 7**, which, in part, requires the appropriate storage and handling of construction equipment and materials to minimize the potential of pollutants to enter coastal waters and for the use of ongoing BMPs following construction.

The proposed playground is larger than the demolished playground with taller elements, including 18 ft. tall shade structures and a 25' tall slide, and, thus, could impact public views to and along the ocean. The shade canopies will provide shade for those using the playground as well as for their caretakers. The previous play equipment was a maximum of approximately 13'6", over ten feet shorter than the tallest structure in the proposed project. However, a project rendering provided by the applicant demonstrates that the playground equipment height is the same as the adjacent public restrooms. Additionally, as seen from Ocean Front Walk, views of the ocean are already partially obstructed by the existing landscaping and the public restroom. As such, the coastline and the ocean horizon will still be visible from the first public road and will only be partially obstructed by the proposed development. As designed, view obstruction of the beach and ocean due to the proposed project will be minimal, and the project is designed to be visually compatible with the recreational character of the surrounding areas, using ocean designs in both the structures themselves and the fencing. The 42 in. to 48 in. high fencing will be blue and gray and will feature marine motifs ([Exhibit 5](#)). However, to ensure that future development will not have an adverse visual impact, a future improvement condition (**Special Condition 11**) requires that any additional development is reviewed for consistency with coastal resource protection policies, including visual resource protection policies.

The applicant has applied for the after-the-fact removal of a playground, which was constructed on existing sand and concrete, and construction of a new playground with a synthetic rubber playground surfacing product called GT Impax Poured -In-Place Rubber Playground Surfacing. The proposed rubber surfacing contains the synthetic rubber SBR (Styrene Butadiene Rubber) and a top surface layer consisting of small synthetic rubber granules of recycled post-industrial EPDM (Ethylene Propylene Diene Monomer) or TPV (Thermoplastic Vulcanizates) held together with an aromatic or aliphatic urethane binder.

The applicant indicates that this surface material meets or exceeds guidelines as set by the ADA, and the material has the required critical fall height in compliance with the American Society for Testing and Materials (ASTM) F1292.

The Commission's staff water quality specialist reviewed the proposed playground surfacing material in a previous playground project¹ and determined that this material would adversely impact the environment and biological resources and, potentially, human health ([Exhibit 4](#)). The provided Safety Data Sheet ([Exhibit 3](#)) does not indicate what the recycled rubber is made up of, only that the specific materials are EPDM, SBR (high quality virgin industrial polymers), and pre-consumer post-industrial reclaimed scrap rubber. The "Potential adverse environmental effects of proposed Poured-in-Place rubber playground surfacing product and recommendations for alternative materials" memo from 2024 states that:

Product descriptions of PIP rubber playground surfacing products often do not clearly identify that the product is made from waste tires and synthetic rubber. The shredded tire material used in the cushioning layer is typically called rubber, recycled rubber, or recycled SBR (styrene-butadiene rubber). The synthetic rubber granules in the top wear layer are typically called rubber, recycled rubber, or virgin rubber (indicating a synthetic rubber not derived from recycled materials). Labeling the materials used in PIP playgrounds simply as "rubber" may lead to the misconception that this is a natural rubber product and therefore non-toxic.

Although the applicant has stated that the recycled rubber used in the proposed surface material is not comprised of shredded waste tires, the composition of the proposed material is the same as the material proposed in the project for which the previously mentioned memo was written. As such, the base layer of the proposed material could contain numerous hazardous chemicals and compounds including heavy metals (e.g., lead, zinc, mercury, and arsenic), polyaromatic hydrocarbons (PAHs), volatile organic compounds (VOCs), 6-phenylenediamine (6-PPD), phthalates, organophosphate esters (OPEs), and per- and polyfluoroalkyl substances (PFAS), among others, that potentially pose risks for human and environmental health. Some of the additives found in pour-in-place rubber (including stabilizers, vulcanization agents, and antiozonants) are considered toxic to a wide range of aquatic life and have long-lasting adverse effects. Also, EPDM synthetic rubber granules are microplastics that can be dislodged from the playground and distributed into the environment (including the soil, air, waterways, and the ocean) where both the microplastic particles and their leachates can have potential adverse ecological effects.

The top layer of the playground surface (also known as the "wear layer") that consists of small granules of synthetic rubber ("post-industrial EPDM rubber" or TPV) with a urethane binder is also problematic. One significant concern is that, due to both layers of the

¹ [5-23-0345 \(NMUSD\)](#)

playground surface being porous, rainwater (or wash water used for cleaning) passes through the top layer of EPDM and also through the base layer, potentially leaching toxic chemicals from these materials into the environment. Another proposed option for the top layer is TPV (Thermoplastic Vulcanizates) synthetic rubber granules that are made from polypropylene and EPDM synthetic rubber, which is also of concern. Both EPDM and TPV synthetic rubber granules contain several of the same hazardous chemicals as waste tire rubber does, including lead, PAHs, VOCs, and OPEs. TPV is also more susceptible to shedding or breaking away small granules of rubber, as the playground surface wears, compared to EPDM.

Therefore, the applicant's proposed surfacing product raises significant concerns due to its potential adverse impacts to the environment and biological, including marine, resources. In order to avoid the adverse impacts to biologic resources raised by the use of the proposed synthetic rubber and waste tire playground surfacing materials, the Commission imposes the following special conditions: **Special Condition 1**, which prohibits the proposed Poured-in-Place rubber playground surfacing product and similar types of materials; **Special Condition 2**, which indicates the types of acceptable playground surfacing materials to minimize the discharge of hazardous chemicals and microplastic pollution into the environment; **Special Condition 3**, which requires submittal of Final Project Plans including an acceptable alternative playground surfacing material; and **Special Condition 4**, which requires maintenance of playground surfacing materials.

There are seven palm trees located within the project site. As such, although a nesting bird survey has yet to be conducted, there remains potential for protected migratory birds to nest in the surrounding area. To address potential impacts to nesting birds, Commission imposes **Special Condition 10**, which requires Nesting Bird surveys. If nesting birds are found in the project site, **Special Condition 10** also requires the City to implement bird-safe construction measures throughout the project site.

The applicant has provided a preliminary sea level rise analysis for the proposed project. The analysis concludes that the proposed site will be reasonably safe from coastal hazards including shoreline movement, waves and wave runup, and flooding with future sea level rise, based on the assumption that the useful life of this project will be about 15 years and on the projections of the State of California Sea Level Rise Guidance. However, development adjacent to the ocean is inherently hazardous. Given that the applicant has chosen to implement the project on the beach despite potential risks, the Commission is imposing **Special Condition 6** to ensure that the applicant is aware of and acknowledges the hazards and restrictions on the subject property; is aware that the project site is in an area that is potentially subject to wave action, sea level rise, erosion, and flooding, all of which could damage the proposed structures; and is aware that the Commission is not liable for such damage as a result of approving the permit for development.

To further ensure that the proposed project does not result in future adverse effects to coastal processes, the Commission imposes **Special Condition 5**, which requires the applicant to acknowledge and agree that no shoreline protective device will be constructed

for the purpose of protecting any of the development proposed as part of this application. The Coastal Act limits construction of these devices because they have a variety of negative impacts on coastal resources including adverse effects on sand supply, public access, coastal views, natural landforms, and overall shoreline beach dynamics on and off site, ultimately resulting in the loss of beach. The Coastal Act prohibits new development that would require a protective device in the future due to the adverse impacts such devices have upon, among other things, public access, visual resources, landform alteration and shoreline processes. **Special Condition 5** also establishes requirements related to response to future coastal hazards, including relocation and/or removal of structures due to the threat of or actual damage or destruction to the premises resulting from waves, erosion, storm conditions, sea level rise, or other natural hazards in the future, and in the event that portions of the development fall to the beach before they are removed, requiring the applicant or successor(s) to remove all recoverable debris associated with the development from the beach and ocean and lawfully dispose of the material in an approved disposal site. Such removal shall require a coastal development permit.

In conclusion, with Special Conditions addressing adverse impacts to public access and recreation and coastal resources, including visual and biological resources, impacts to the public and environment will be minimized to the greatest extent feasible. Therefore, the proposed project, as conditioned, is consistent with Chapter 3 policies of the Coastal Act and previous Commission approvals and will not prejudice the City's ability to prepare an LCP.

B. Public Access

The proposed development will not affect the public's ability to gain access to, and/or to use the coast and nearby recreational facilities. Therefore, the proposed development, as conditioned, conforms to Sections 30210 through 30214, Sections 30220 through 30224, and 30252 of the Coastal Act.

C. Land, Biological, and Marine Resources

The proposed development has a potential for a discharge of polluted runoff from the project site into coastal waters. The storage or placement of construction material, debris, or waste in a location where it could be carried into coastal waters would result in an adverse effect on the marine environment. To reduce the potential for construction and postconstruction related impacts on water quality, the Commission imposes special conditions requiring, but not limited to, the appropriate storage and handling of construction equipment and materials to minimize the potential of pollutants to enter coastal waters and for the use of ongoing best management practices following construction. As conditioned, the Commission finds that the development conforms with Sections 30230 and 30231 of the Coastal Act. The proposed development will have no significant adverse impact on adjacent habitat, recreation areas, or beaches. Therefore, the Commission finds that the project conforms with Section 30240(b) of the Coastal Act.

D. Hazards

Development adjacent to the ocean is inherently hazardous. Development which may require a protective device in the future cannot be allowed due to the adverse impacts such devices have upon, among other things, public access, visual resources and shoreline processes. To minimize the project's impact on shoreline processes, and to minimize risks to life and property, the development has been conditioned to: prohibit construction of protective devices (such as a seawall) in the future; and to require that the landowner and any successor-in-interest assume the risk of undertaking the development. As conditioned, the Commission finds that the development conforms to the requirements of Sections 30235 and 30253 of the Coastal Act regarding the siting of development in hazardous locations.

E. Unpermitted Development

A violation of the Coastal Act has occurred on the subject site, consisting of, but not necessarily limited to, the unpermitted demolition of a children's playground at Windward Plaza. All development within the coastal zone, including the demolition of unsafe structures, requires a CDP unless the requested action is determined to be exempt from permit requirements, which is not the case here.

The subject playground was originally built in the 1990s, but its proximity to the ocean and coastal climate subsequently eroded and rusted metal joints and bolts of the playground equipment. In September 2023, the City of Los Angeles Department of Recreation and Parks deemed the then current state of the playground unsafe and removed the playground equipment with a backhoe and dump truck without a requisite coastal development permit. The concrete patches and the rubber mats were removed in October 2023, and Commission enforcement staff was notified of the removal shortly thereafter. If approved, the current project will authorize the demolition of the previous playground.

Approval of this application pursuant to the staff recommendation, issuance of the permit, and the applicant's subsequent compliance with all terms and conditions of the permit will result in resolution of the violations described above. Although development has taken place prior to submission of this permit application, consideration of this application by the Commission has been based solely upon the Chapter 3 policies of the Coastal Act. Commission review and action on this permit does not constitute a waiver of any legal action with regard to the alleged violations, nor does it constitute an implied statement of the Commission's position regarding the legality of development, other than the development addressed herein, undertaken on the subject site without a coastal development permit.

F. Local Coastal Program

("LCP"), a coastal development permit can only be issued upon a finding that the proposed development is in conformity with Chapter 3 of the Coastal Act and that the permitted development will not prejudice the ability of the local government to prepare an LCP that is in conformity with Chapter 3.

The City of Los Angeles does not have a certified Local Coastal Program for the Venice area. The City of Los Angeles LUP for Venice was effectively certified on June 14, 2001. In addition, the Commission and City staffs are in the process of updating the LUP, which will require Commission approval in the near future. The Commission's standard of review for the proposed development is the Chapter 3 policies of the Coastal Act. .

As conditioned, the proposed development is consistent with Chapter 3 of the Coastal Act.. Approval of the project, as conditioned, will not prejudice the ability of the local government to prepare an LCP that is in conformity with the provisions of Chapter 3 of the Coastal Act.

G. California Environmental Quality Act

As conditioned, there are no feasible alternatives or additional feasible mitigation measures available that would substantially lessen any significant adverse effect that the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, is the least environmentally damaging feasible alternative and can be found consistent with the requirements of the Coastal Act to conform to CEQA.

Appendix A- Substantive File Documents

Coastal Development Permit Application No. 5-24-0064 and associated file documents