

ATTACHMENT J

Further Revised Conditions of Approval/Mitigation Measures

Amendment to Oakland Zoo Master Plan

Further Revised Conditions of Approval/Mitigation Measures

City Council Meeting, June 21, 2011

Note: Changes made to the conditions of approval/mitigation measures from the April 27, 2011, Planning Commission meeting are indicated below. New language is underlined and deleted language is ~~struck-out~~.

Project-Specific Conditions of Approval

30. Snowdown Emergency Access Road

A. Prior to finalizing the first element of the California exhibit

The applicant shall construct the proposed improvements to the emergency access road off Snowdown Avenue prior to the finalization of the first element of the California exhibit, including the overnight camping area, aerial gondola, California Interpretive Center, or one or more California animal exhibits, but not including the Veterinary Medical Hospital, service road to the California exhibit, utilities to the California exhibit, or perimeter fence.

B. Prior to constructing improvements on the Snowdown Emergency Access Road

The proposed gravel surfacing of the Snowdown Emergency Access Road shall be dirt-like in color to minimize the effect of the roadway improvements on the visual character of Knowland Park. Prior to installing the access road improvements, the applicant shall submit for review and approval by the Planning and Zoning Division the proposed surfacing material.

31. Implementation Plan for Habitat Enhancement Plan; Financial Security

A. Prior to the issuance of a construction-related permit for the first element of the California exhibit and prior to conducting the first activities contained in the Habitat Enhancement Plan

The applicant shall submit an Implementation Plan for the Habitat Enhancement Plan for review and approval by the Planning Director prior to the issuance of a construction-related permit for the first element of the California exhibit or prior to conducting the first activities contained in the Habitat Enhancement Plan, whichever occurs first. For the purposes of this condition, an element of the California exhibit includes the overnight camping area, aerial gondola, California Interpretive Center, one or more California animal exhibits, service road to the California exhibit, utilities to the California exhibit, or improvements to the emergency access road off Snowdown Avenue, but not the Veterinary Medical Hospital. The Implementation Plan shall cover a five-year period and include at least the following itemized elements:

- Actions contained in the Habitat Enhancement Plan to be implemented within the five-year period that demonstrate reasonable progress towards implementation of the Habitat Enhancement Plan
- Identification of the party/parties who will implement each action
- Estimated cost of each action
- Source of cost estimation for each action
- Proposed funding mechanism for each action
- Status of funding for each action

The Implementation Plan must demonstrate to the satisfaction of the Planning Director that funding for the Habitat Enhancement Plan is a specified item incorporated into the Zoo's annual budget and reflected in the Zoo's annual accounting audit and that the applicant has reasonably demonstrated that it has the financial capacity to sufficiently complete the identified actions. If necessary to ensure financial capacity, the Planning Director may require the applicant to submit evidence of financial security in an amount and manner acceptable to the City, such as a cash deposit with the City, performance bond, instrument of credit, and/or other form of security deemed acceptable by the Planning Director.

B. Ongoing; Concurrent with the submittal of the Annual Progress Report and prior to the issuance of construction-related permits for the Zoo (as such permits are submitted)

On an ongoing basis for the life of the project, the applicant shall submit an updated Implementation Plan for the Habitat Enhancement Plan for review and approval by the Planning Director with the submittal of the Annual Progress Report required by the Habitat Enhancement Plan. The Implementation Plan shall be updated to reflect the Habitat Enhancement Plan actions planned for the next five-year period and shall include the items listed in section A above. The Implementation Plan must demonstrate to the satisfaction of the Planning Director that the applicant has reasonably demonstrated that it has the financial capacity to sufficiently complete the identified actions, as explained in section A above. No further construction-related permits shall be issued for the Zoo until the current required Implementation Plan is approved.

Standard Conditions of Approval

SCA-BIO-10: Regulatory Permits and Authorization

Prior to issuance of a demolition, grading, or building permit within vicinity of the creek

The project applicant shall obtain all necessary regulatory permits and authorizations from the U.S. Army Corps of Engineers (Corps), Regional Water Quality Control Board (RWQCB), California Department of Fish and Game, and the City of Oakland, and shall comply with all conditions issued by applicable agencies. Required permit approvals and certifications may include, but not be limited to the following:

- a) U.S. Army Corps of Engineers (Corps): Section 404. Permit approval from the Corps shall be obtained for the placement of dredge or till material in Waters of the U.S., if any, within the interior of the project site, pursuant to Section 404 of the federal Clean Water Act.
- b) Regional Water Quality Control Board (RWQCB): Section 401 Water Quality Certification. Certification that the project will not violate state water quality standards is required before the Corps can issue a 404 permit, above.
- c) California Department of Fish and Game (CDFG): Section 1602 Lake and Streambed Alteration Agreement. Work that will alter the bed or bank of a stream requires authorization from CDFG.

To implement SCA-BIO-10, the applicant shall submit any application for a regulatory permit for review and approval by the Planning Director prior to submitting the application to the regulatory agency. The applicant shall provide the Planning Director the opportunity to participate in any communications/negotiations that take place during the permitting process. The City of Oakland reserves the right to, at any time, object to the applicant's application for a regulatory permit if the permit would be inconsistent with the amended Master Plan, as conditioned, and/or the purposes and intent of the approval of the amended Master Plan.

Mitigation Measures

- 14c) ***Prior to issuance of construction-related permits in the affected area:*** Obtain appropriate authorizations from resource agencies to address possible incidental take and a Permit for Management of a rare or threatened species pursuant to Fish and Game Code Section 2081 and Section 7 of the Endangered Species Act, as called for under SCA-BIO-10. The project applicant shall provide compensatory mitigation for impacts to Alameda whipsnake habitat. Such mitigation shall be provided at a ratio of no less than 1:1 (at least one acre for every acre of impact), subject to any increase in this ratio that may be required by the resource agencies. There is adequate area within Knowland Park to achieve this mitigation ratio. Subject to the approval of the resource agencies, mitigation shall be achieved through habitat restoration and enhancement within the California Exhibit boundaries, the Ecological Recovery Zone, and other locations within Knowland Park, at another restoration location with an Alameda whipsnake habitat restoration plan area approved by the U.S. Fish and Wildlife Service and the California Department of Fish and Game, through the purchase of mitigation credits at a mitigation bank within the East Bay region, or some combination of these options. The project applicant shall retain a qualified biologist to prepare an Alameda whipsnake Mitigation and Monitoring Plan in connection with the application for an incidental take authorization and Management Permit. The Mitigation and Monitoring Plan will be subject to approval by the California Department of Fish and Game and the U.S. Fish and Wildlife Service. The Mitigation and Monitoring Plan shall include (a) a habitat restoration/creation performance standard of no net loss of habitat functions and values; (a) location of the mitigation site(s); (c) a detailed habitat restoration/creation plan for the mitigation site(s); (d) provisions for timing and methods for invasive species removal, controls on herbicide application, and worker training programs that, at a minimum and subject to the requirements of the resource agencies, meet the applicable requirements of the Invasive Species Control Element of the HEP; (f) provisions that include cover requirements, methods of installation and maintenance, a tracking system, a record of source and species of plant materials used in revegetation; and (h) success criteria to be used to evaluate whether the restoration/creation efforts have achieved the identified goals of the Mitigation and Monitoring Plan.

The proposed California Exhibit shall be modified to incorporate recommendations from the 2011 Status Report (Swaim Biological, Inc. 2011), which include removing the amphitheater from the stand of chamise-chaparral; restricting the California Interpretive Center ten feet to the east and limiting grading to within ten feet of the edge of the building; modifying and establishing controls to the bison/tule elk extension exhibit, and ensuring that the perimeter fence is permeable to allow for unrestricted movement of Alameda whipsnake through the area. Controls associated with the bison/tule elk exhibit shall include limiting the number of animals housed to 20 bison and 20 tule elk, maintaining protective cover by creating irrigated pasture outside woodland habitat, and placing rock outcrops and logs to serve as refugia for dispersing snakes. The location of the California Interpretive Center shall be adjusted to the northeast away from the stand of chamise-chaparral, if required by the California Department of Fish and Game and/or the U.S. Fish and Wildlife Service, to provide for appropriate defensible space for fire fuel management as required by the Oakland Fire Department. Fire fuel management activities required by the Oakland Fire Department to provide defensible space around buildings shall be done in a manner to limit the potential impact to Alameda whipsnake habitat and performed under the supervision of a qualified biological monitor, including without limitation (a) shrub maintenance shall be done manually using chain saws and clippers; (b) no shrub slumps shall be removed; (c) shrub cuttings shall be removed

from the area; (d) thinning shall not result in shrub cover of less than 25 percent; and (e) thinning shall not be performed more frequently than on an annual basis.

- Implementation Responsibility: Project Sponsor
- Initial Approval Responsibility: Planning and Zoning Division; California Department of Fish and Game; U.S. Fish and Wildlife Service
- Ongoing Monitoring Responsibility: Building Services Division, Zoning Inspection