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OAKLAND

# AGENDA REPORT

2012 DEC 13 PM 3:50

TO: DEANNA J. SANTANA  
CITY ADMINISTRATOR

FROM: Fred Blackwell

SUBJECT: Lakeview Dog Play Area Appeal  
Supplemental Report

DATE: December 10, 2012

City Administrator  
Approval

*Deanna J. Santana*

Date

*12/13/12*

COUNCIL DISTRICT: #3

## RECOMMENDATION

Planning Staff recommends that the City Council adopt:

**A Resolution Upholding The Appeal (A12-062), Of The Decision Of The Oakland Planning Commission, And Granting Approval Of An Application For A Minor Conditional Use Permit For The Creation Of A New Dog Play Area At Lakeview Park (Planning Case File No. CU11-208)**

Alternatively, should the Council wish to deny the Appeal and approve the creation of a New Dog Play Area at Lakeview Park, the City Council may adopt:

**A Resolution Denying The Appeal (A12-062), Of The Decision Of The Oakland Planning Commission And Denying The Application For A Minor Conditional Use Permit For The Creation Of A New Dog Play Area At Lakeview Park (Planning Case File No. CU11-208)**

In addition, Planning Staff recommends that the Council reopen the public hearing for the limited purposes of receiving the information and for City Council and public comment on the information contained in this Supplemental Report.

## REASON FOR SUPPLEMENTAL REPORT

This Supplemental Report provides further explanation and support for the CEQA findings contained in the Agenda Report and in the public record, of the May 2, 2012 Planning Commission report, which was cited in and incorporated by reference into the previously published 10-day Agenda Report for this item. As noted in the City Council Agenda Report for the December 4, 2012 public hearing on this item, the project qualifies for numerous exemptions from CEQA. The December 4, 2012 report discusses those exemptions and also explains why none of the exceptions

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to any of those exemptions applies. No evidence has been presented at the public hearing or elsewhere in the record that undermines the CEQA determinations previously described by staff. However, Planning Staff has prepared this report in effort to respond to questions, unsubstantiated opinions and speculation about environmental considerations that were presented at the public hearing.

These topics are addressed below:

**Transportation:** Planning Staff has included herein as *Supplemental Attachment A* a memorandum from the City Traffic Services Division with further supporting analysis regarding the City's traffic and trip generation assumptions for the project, which indicate that the project will not trigger the basic threshold for a separate traffic study as it can be seen with probability that it will not cause a significant traffic impact.

**Other Topics:**

In addition to transportation impacts, members commented on a number of environmental topics, including potential noise, odors, aesthetics and water quality impacts. Extensive comments also were received on the perceived inadequacy of the proposed Memorandum of Understanding (MOU) between the City of Oakland and the Oakland Dog Owners Group (ODOG) to ensure that the dog park is operated and maintained in a manner that would avoid potential adverse impacts. Under the MOU, ODOG will agree to undertake specified maintenance obligations for the dog play area on behalf of the City. It should be noted, however, that the City of Oakland, as applicant, will retain responsibility for ensuring that all project plans, specifications and conditions of approval (including Standard Conditions of Approval, which are incorporated into projects, including this project, on a Citywide basis, as applicable) are implemented and enforced and, accordingly, that significant impacts are avoided.

**Noise:** There is no evidence that the project will generate noise in violation of the City's Noise Ordinance or in excess of any of the City's thresholds of significance for CEQA review. The project does not involve intensive or extensive construction activities that would generate excessive noise. Project construction includes replacement of existing grass with wood chips, installation of a 4' perimeter fence and 6' fence at the entry, minor digging for an in-ground installation of the Magic Can Waste Disposal System and some sprinkler and landscape installation. These activities are not expected to generate noise in violation of the City's noise ordinance (Oakland Planning Code section 17.120.050) or nuisance standards (Oakland Municipal Code section 8.18.020) during construction, and to the extent that any construction noise would occur, it will be less than significant.

With respect to operational noise, there is no evidence that any of the City's thresholds of significance for noise would be exceeded. The only expected operational noise would be through

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periodic service of the Magic Can Waste Disposal System, which is not expected to generate significant noise. Noise associated with dogs and park users would be comparable to that currently experienced in the vicinity, and Dog Park rules requiring dog owners to be responsible for their dogs' behavior would be posted at the park and enforceable at all times. Further, Item H in the proposed MOU outlines a complaint procedure including providing a complaint telephone number that will be incorporated on dog park signage, and a procedure for receiving, logging and investigating complaints. Dog Park hours, which will also be posted on the signage, will be the same as existing, regular park hours. Moreover, Standard Condition of Approval #11, Operational Noise – General, states that noise levels from any activity shall comply with the performance standards of Section 17.120 of the Oakland Planning Code and Section 8.18 of the Oakland Municipal Code. These conditions would continue to apply to the City, as applicant, throughout the life of the project.

Maintenance requirements are identified in the Standard Conditions, Project-Specific Conditions, and in the MOU. The maintenance related activities include the emptying of the Magic Can Waste System. This activity is expected to be conducted for brief periods on a periodic basis. Landscape and sprinkler maintenance would be of a minor nature and would not result in any significant noise levels.

Finally, as noted in the attached transportation memorandum, the project would not be expected to generate any significant new traffic trips; therefore, traffic generated noise associated with the project would be expected to be minimal, if perceptible.

**Odors:** The project is not anticipated to generate objectionable odors. The City's thresholds of significance state that a project will have a significant impact associated with odors if it will "frequently and for a substantial duration, create or expose sensitive receptors to substantial objectionable odors affecting a substantial number of people." There is no evidence that the dog park will create substantial objectionable odors, nor that it would expose sensitive receptors to such odors. As stated in the May 2, 2012, Planning Commission Staff Report, the Dog play area will involve conversion of existing grass to wood chips. As the applicant, the City would be responsible for ensuring that the dog play area, including the wood chip surface, is maintained in a clean and nuisance-free condition. As noted above, under the proposed MOU, ODOG will undertake specified maintenance obligations on behalf of the City. The wood chip surface would be donated by a local tree care company, and would be replaced approximately 3 times per year. Per the MOU, the Magic Can Underground Waste Management System will be used, which is an underground container used at other Oakland Dog Parks and is designed with features that keep waste cool and odor free between removals. Oakland Public Works would perform the removals as needed. Further, ODOG will monitor, educate and provide dog waste bags for dog owners using the Dog Park. Notwithstanding the MOU, the City, as applicant, will be required to comply with all Standard Conditions of Approval, (which are incorporated into all projects on as Citywide basis, as applicable). Further, Item H in the MOU outlines a complaint procedure

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including providing a complaint telephone number that will be incorporated on dog park signage, and a procedure for receiving, logging and investigating complaints. Dog Park hours, which will also be posted on the signage, will be the same as regular park hours. Therefore, the project would not be expected to generate objectionable odors.

**Aesthetics:** CEQA thresholds of significance relating to aesthetics state that a project would have a significant impact on the environment if it would have a substantial adverse effect on a public scenic vista, substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings, located within a state or locally designated scenic highway; or Substantially degrade the existing visual character or quality of the site and its surroundings.

This project would include a 4-foot high iron fence (6' high at the entry) and will be planted with landscaping (flowering vines) at the outside perimeter, and wood chips for the interior surface. The fence would be set back a minimum of 10 feet from the sidewalk along MacArthur Boulevard, 25 feet from the edge of the sidewalk at Lakeshore Avenue, and 25 feet from the closest edge of the Astro Park Children's Play Area. Trees would be added as part of the second phase of the project once funding is available.

Operational Project Conditions require that landscaping shall be maintained in a healthy and thriving condition at all times, on an ongoing basis, including regular watering, weeding pruning and replacement of dead or dying plants. Also, a permanent location shall be provided for the trash enclosure prior to the use and subject to Planning Department approval (COA #15). The overall siting, low profile fence, and perimeter landscaping, along with maintenance requirements contained in the Standard Conditions, Project-Specific Conditions, and the MOU, ensure that the visual quality of the site and its surroundings is preserved.

**Water Quality:** The project would not violate any water quality standards or waste discharge requirements, deplete groundwater supplies, or result in substantial erosion or siltation on- or off-site, or result in substantial flooding on- or off-site. The wood chips would be a permeable surface, and the perimeter fence and landscaping would contain the site such that erosion and run-off is not likely to occur at any substantial level.

The site has no value as habitat for any category of protected species, is not close to a wildlife refuge, and given its would therefore not have a substantial impact on CEQA thresholds of significance. With regular, ongoing maintenance in accordance with the Standard Conditions of Approval and the proposed MOU, specifically daily policing of the site to ensure proper disposal of dog waste, and replacement as needed of the wood chips groundcover, and regular servicing of the underground dog waste receptacles, the site would be maintained in a manner that would not result in adverse impacts on water quality.

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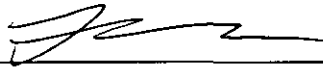
To further ensure ongoing conformance with the requirements and no impacts that would exceed CEQA thresholds of significance, Project-Specific Condition of Approval #16 requires a 12-month Compliance Review for the purpose of re-evaluating the project for compliance with conditions of approval and impacts by the Planning Commission, to occur within 12 months of commencement of operations.

Standard Conditions of Approval #5 and #8 require conformance with approved plans and Conditions of Approval, with penalties for noncompliance including revocation;

Finally, Project-Specific Condition of Approval #17 states that the applicant shall obtain authorization to add Lakeview Park to the list of "Permitted Off-Leash Areas" in accordance with the Oakland Municipal Code, which requires authorization in a writing or resolution by the Parks and Recreation Advisory Commission for dogs to be allowed off-leash.

For questions regarding this report, please contact Ann Clevenger, Planner III, at (510) 238-6980.

Respectfully submitted,



Fred Blackwell  
Assistant City Administrator

Reviewed by:  
Scott Miller, Interim Director  
Department of Planning and Building

Robert Merkamp, Acting Zoning Manager

Prepared by:  
Ann Clevenger, Planner III  
Zoning Division

Supplemental Attachment A, Transportation Services Memo

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## INTER OFFICE MEMORANDUM

TO: Ann Clevenger

FROM: Wlad Wlassowsky

SUBJECT: Lakeview Dog Park

DATE: December 11, 2012

### City of Oakland Transportation Services Division Analysis:

This memorandum provides a conservative estimate of the trip generation potential of the proposed Lakeview Dog Park (LDP), based on readily available data. The results of the analysis show a less than significant trip generation potential, despite the conservative nature of the analysis assumptions. As such, we conclude that traffic impacts associated with the LDP will be less than significant, and that no further traffic study is warranted. The remainder of the memorandum provides the detailed justification for this conclusion.

#### Base Trip Generation

The *ITE Trip Generation Manual*, the most widely-recognized source of trip generation data, does not provide a land use category similar to dog parks. As such, City staff estimated the LDP trip generation potential using those facts at our disposal. In particular, the National Recreation and Park Planning Guidelines, 3rd Edition, suggest a maximum dog park capacity of 450-700 square feet per dog; beyond that level of crowding additional users typically seek alternatives. The proposed LDP is 20,778 sq. ft., rounded up for purposes of this analysis to 21,000 sq. ft., which yields a maximum capacity of 30-46 dogs at any given time using these guidelines.

$$21,000 \text{ s.f. (Lakeview Dog Park area)} / 450 \text{ to } 700 \text{ s.f. per dog} = 30\text{-}46 \text{ dogs}$$

Assuming an average stay is 1 hour in length (some users will stay longer and other shorter, but few people would likely make the effort to drive to a dog park only to stay for a few minutes), the LDP could accommodate a maximum of 46 dogs during the peak hour.

Moreover, many dog park users will arrive with more than one dog. Per the Humane Society of the United States, 60 percent of dog owners own more than one dog. Therefore, using the conservative assumption that the remaining 40 percent own no more than two dogs, we estimate a maximum potential of 37 trips during the peak hour.

$$46 \text{ dogs} \times 60\% \text{ single dog owners} / 1 \text{ dog per owner} = 28 \text{ single dog trips}$$

$$46 \text{ dogs} \times 40\% \text{ multiple dog owners} / 2 \text{ dogs per owner} = 9 \text{ multiple dog trips}$$

$$28 + 9 = 37 \text{ person trips during peak hour}$$

#### Mode Share Reduction

Anecdotal evidence suggests that a very low proportion of Lake Merritt visitors drive to the park, given the walkable nature of the area and high-density residential neighborhoods abutting the park. Data on park

user mode share is limited, but a recent study of Golden Gate Park found that 35 percent to 45 percent of users drive to access that park. Given that Golden Gate Park is a significantly larger regional draw (and thus more likely to attract vehicle trips) than Lake Merritt or the proposed LDP, we use a 35 percent auto mode share for our analysis yielding 13 peak-hour trips generated.

*37 person trips x 35% auto mode share = 13 vehicle trips generated*

For traffic analysis purposes, the trips both arrive and depart suggesting the potential for 13 inbound trips and 13 outbound trips during the peak hour, or 26 total vehicle trips.

*13 entering trips + 13 exiting trips = 26 total trips.*

#### Assessment of Potential Traffic Impacts


Because of the many major streets surrounding the park and the distributed nature of parking availability in the area, vehicle trips to the LDP would use several different access routes. The 26 peak hour trips would be spread across Grand Avenue, Lakeshore Avenue, Lake Park Avenue, and MacArthur Boulevard, with considerably fewer than 10 new vehicle trips at any individual signalized intersection during the peak hour. Note that the threshold of 10 peak hour trips is used commonly by City staff to assess the potential for significant impacts (and the need for further study), as the City's CEQA Thresholds of Significance for auto Level of Service generally cannot be triggered by projects adding fewer than 10 peak hour trips.

It should further be noted that the above analysis is even more conservative due to the fact that it does not factor in the trips associated with existing play area uses, which will be reduced with the implementation of the dog park. Rather, this analysis assumes a baseline of *no existing park* uses, which means that the actual number of new trips associated with the conversion of existing uses to a dog park would be expected to be even less than the above analysis discusses.

Finally, in summary we believe that the above estimate is conservative in several ways, and represents a worst-case scenario, as is appropriate for screening the potential for significant impacts. In particular, the above estimate:

- does not account for any trips to the existing park facility that may be displaced by the LDP;
- assumes that the LDP operates at full capacity during the peak period of traffic flow, even though peak use of the LDP may occur during non-peak periods; and
- uses an auto mode share percentage from a facility with a much higher regional draw and potential to attract vehicle trips from long distances.

As a result of the above considerations, we see no reason that the proposed LDP would have a significant impact on traffic in the surrounding area, and therefore do not require further traffic analysis.

  
Wlad Wlassowsky  
Transportation Manager  
Public Works Agency

For questions please contact Wlad Wlassowsky, ext. 6383.