

June 23, 2015

Gay Luster, Administrator
Robert Zahn, Tree Reviewer
Oakland Tree Services Division
7101 Edgewater Drive
Oakland, CA 94621

PUBLIC COMMENT RE: Deny Tree Removal Permit Application T15-049 by Oakland Zoo President and CEO Joel Parrott affecting over 400 protected trees in the City of Oakland's Knowland Park

Dear Ms. Luster and Mr. Zahn:

Permit application T15-049 submitted to Oakland's Tree Services Division by Joel Parrott, President and CEO, Oakland Zoo, proposes to destroy 57 protected trees in the City of Oakland's Knowland Park, and conduct trenching and other heavy construction adjacent to over 400 additional trees.

An enormous number of protected California Live Oak trees could be destroyed or otherwise affected if this application is approved. Therefore, this application deserves a level of review and compliance in proportion to the magnitude of potential tree losses and damage.

Summary of Reasons to Deny Permit Application T15-049

1. Substantial discrepancies and errors in application
2. Critical information is missing
3. Failure to follow Protected Tree Ordinance requirements
4. Substantially out-of-character with the intent and findings of the City of Oakland's Protected Tree Ordinance

Permit Application T15-049 Documents and Scope of Protected Trees

A. The documents below were made available for review at the Tree Services Division office at 7101 Edgewater Drive:

Note: In response to the City's 5/27/15 letter to property owners, visits were made to the Tree Services office to review the permit application, since these documents relating to the application are not available to the public online.

- 1) One-page summary of tree removal permit application T15-049 submitted by Joel Parrott, Oakland Zoo President and CEO
- 2) 5/8/15 letter to Robert Zahn, Oakland Tree Services, from Nik Dehejia, Oakland Zoo CFO, "RE: OAKLAND ZOO TREE PERMITS" included with Zoo Tree Removal Permit Application T15-049
- 3) 5/7/15 memo to Darin Ranelletti, Oakland Planning Deputy Director, from Zoo consultant Jim Martin, Environmental Collaborative, "Updated Assessment of Potential Impacts on Tree Resources, Oakland Zoo California Exhibit Expansion Project, Oakland, California" included with Zoo Tree Removal Permit Application T15-049

- 4) "Oakland Zoo California Trails Project - Tree Protection and Tree Removal Plan, Oakland, CA" a 24"x36" set of 28 plan documents prepared by Noll and Tam Associates, Architects and Planners
- 5) A 2011 tree permit referred to by Mr. Dehejia in his 5/8/15 letter (*identified in Mr. Dehejia's letter as permit number T09-00010, which is for a private residence in Hiller Highlands; according to Tree Services staff, the correct permit number is T09-00019*)

B. Scope of Oakland protected trees considered in this letter

Trees affected by permit application T15-049 are identified in the application's "Tree Protection and Tree Removal Plan" in two tables:

- 1) "Tree Removal" on drawing TP-4.01
- 2) "Tree Preservation Legend" on drawing TP-4.02

Comments in this letter concern the **50** California Live Oaks and **6** California Bay Laurels in "Trees for Removal" (which additionally includes 1 pine for a **total of 57**), and the **416** California Live Oaks and California Bay Laurels in "Tree Preservation Legend" (which additionally includes 2 dead pines, 2 live pines, and 4 junipers for a **total of 424**).

Comments regarding Permit T15-049:

1. Substantial discrepancies and errors in application

In tree removal permit application T15-049, the Zoo is asking for two different and separate increases in the number of protected trees that would be significantly affected by construction. First, the Zoo consultant says it is necessary to increase the number of protected trees within 10 feet of construction from 110 to 161 (increase of 51 trees). Second, the Zoo's permit application lists the total number of trees within 10 feet of construction as 424. These increases are conflicting, unsupported and hard to understand. They are both higher than the number of trees previously approved by the City. Both of these numeric increases are discussed separately below:

- a) Permit application indicates potentially huge increase in protected trees affected by construction within 10 feet:

Zoo management's one-page official permit application requests the following:

Trees to be Removed: **57**

Trees within 10 feet of construction: **424**

Total Affected: **481**

Jim Martin, the Zoo's environmental consultant, states in his 5/17/15 memo to Darin Ranelletti that the city and regulatory agencies approved a total of 110 protected trees to be within 10 feet of construction (*2011 Zoo Master Plan Amendment - Supplemental Mitigated Negative Declaration/Addendum - SMND/A*).

In his memo attached to the permit application, Mr. Martin asks for permit application T15-049 to allow increasing the number of affected trees from 110 to 161, but not 424 trees as stated on the Zoo's official permit application. (*See comment about this increase in section b below.*)

When we asked Tree Services staff about this huge increase in the number of protected trees to be affected by construction within 10 feet, they contacted Zoo management for clarification. Tree Services staff informed us that Mr. Dehejia had replied by phone that they had made an error on their application. However, the Zoo has apparently not indicated they would be withdrawing their permit application as submitted, so the number of protected trees that would be allowed to have construction within 10 feet remains in queue for approval at over 400 (mostly Oaks).

This significant change requires a CEQA review, due to the large increase in protected trees that may be affected by construction activity.

We request denial of permit application T15-049 that requests construction within 10 feet of 416 protected California Live Oak and Bay trees, based on an increase in the number of affected trees over what was previously approved by the City.

- b) Previous inaccurate reporting is the basis for the Zoo's request to increase the number of trees permitted near construction.

Mr. Martin, in his 5/7/15 memo to Darin Ranelletti, requests that the number of trees within 10 feet of construction stated on the Zoo's permit should be increased by 51 trees (for a total of 161), over the 110 trees approved in the 2011 environmental documents. He explains this increase of 51 trees is necessary because 20 trees were "inadvertently left off the previous mapping." He also states that 31 trees (mostly Oaks) have experienced growth in trunk diameter such that they are "now reaching between 4 to 8 inches" since they were reported in 2011.

To be clear, we do not favor construction within 10 feet of any drought-stressed and protected tree in Knowland Park. We specifically ask for denial of this permit with its conflicting and large increases in the number of trees that would be permitted within 10 feet of construction (i.e., total 161 trees in the Zoo consultant's memo; total 424 trees in the Zoo's application). Either total is significantly higher than the 110 total in the Zoo's approved environmental document.

Similarly, the primary 57 trees in this permit application proposed to be cut down are, in fact, an increase over the Zoo's approved 49 trees. The Zoo explains the addition of 8 trees as similarly necessary to adjust a previous oversight, account for trunk diameter growth, and to include trees now deemed unable to survive construction impacts.

We specifically ask for denial of the request to add 20 protected trees that would be subject to construction within 10 feet due to the Zoo's previous omission in already approved environmental documents. Two of these unreported trees are over 2 feet in diameter. The City's tree permit process should not be used as a means to add trees subject to construction within 10 feet over the 110 total already reported and approved in the environmental documents. The accuracy of the original inventory of protected trees subsequently approved by the City is the responsibility of the applicant.

(see also "2a. Locations of protected trees within 10 feet of construction not on permit maps")

- c) Applicant states that any protected tree impacts for the planned perimeter fence are currently covered under a previous permit used when the veterinary hospital was built.

Mr. Dehejia states in his 5/8/15 letter to Mr. Zahn that any affected trees connected with installing the planned perimeter fence are still covered under a previous 2011 permit for the veterinary hospital, maintenance road, and perimeter fence. He states that because they initiated work under 2011 permit T0900010, the same permit remains active and “we intend to install the perimeter fence under the existing permit.”

The 2011 permit was not included with the 2015 permit application for reference. When requesting to review the permit, we were informed by Tree Services staff at the 7101 Edgewater Drive office that referenced permit T0900010 was for a home in Hiller Highlands. Tree Services staff then pulled the correct permit T0900019 that clearly states: “**Expires: One year from date of issuance**” (*Tree Permit #T09-00019 – City of Oakland, approved April 28, 2011, p. 1*). Therefore, the permit expired on April 28, 2012.

Additionally, Municipal Code 12.36.040 “PROTECTED TREES – Permit Required” states: “All tree removal permits shall remain valid for one year from the date of permit issuance. An additional one-year extension shall be granted upon receipt of a written request from the permit applicant by the Tree Reviewer. **No tree removal permit shall remain valid for a period in excess of two years from the date of permit issuance.**”

There is no current permit that would allow any work that might impact protected trees in the path of the Zoo’s proposed project perimeter fence.

Mr. Dehejia’s statement asserting that the Zoo’s 2011 tree removal permit T0900019 is still active is incorrect. This claim should be rejected by the City, since the 2011 permit has expired.

- d) The “Tree Removal” table appearing on drawing TP-4.01 contains several specific errors and inconsistencies:
- Two trees listed on drawing TP-4.01’s Tree Removal table are not tagged for removal in the field. Furthermore, these 2 trees are also not marked for “Remove” on drawing TP-2.06 “Tree Removal and Protection Plan”; rather, they are marked with a square box symbol that indicates “Preserve and Protect.”
 - Two trees are incorrectly identified on drawing TP-4.01’s Tree Removal table. One was identified in the field as an Oak, but is incorrectly listed on the table as a Bay. Another was identified in the field as a Bay, but is incorrectly listed on the table as an Oak.
 - One tree is listed on drawing TP-4.01’s Tree Removal table but does not appear in the field or on drawing TP-2.06 “Tree Removal and Protection Plan.” One tree is shown on drawing TP-2.06 for “Remove,” but the tree in the field has a different appearance. If listings apply to the same tree, then the trunk sizing is in error.

We request denial of permit application T15-049 based on errors and inconsistencies in the Tree Removal table as it relates to the Tree Removal and Tree Protection Plan, and as it relates to actual field observations.

2. Critical information is missing

- a) Locations of protected trees within 10 feet of construction are missing.

As discussed above in 1a and 1b, trees affected by construction within 10 feet are discussed extensively, but the applicant provides conflicting numbers of affected trees in the permit application and supporting materials that are part of the application. Of the 424 trees represented in the Tree Protection and Tree Removal Plan maps, the 161 protected trees referred to by Mr. Martin are not identified. Without specific mapping, the public cannot know the location of these at-risk trees. Providing specific tree locations is also essential to allow proper precautions, as well as monitoring by the permit applicant, the contractor, the Tree Reviewer, and the public.

We request denial of permit application T15-049 because it is incomplete, without indicating locations of trees noted in the environmental documents as being within 10 feet of construction.

- b) Sufficient information is missing on measures to prevent the spread of Sudden Oak Death (SOD) resulting from tree removal, ground disturbance and construction:

There is only one vague notation about dealing with SOD on the plan pages. It simply states: *"The Sudden Oak Death Report may require the removal of existing Bay trees in this area of the project to protect existing Live Oaks from the sudden Oak disease"* and can be found in General Note number 5, which appears on Tree Removal and Protection Plan drawings TP-2.01 through TP-2.06 and TP-2.08 through TP-2.20.

The referenced "Sudden Oak Death Report" is not included in the permit application materials. No description of SOD precaution measures appears in the "Tree Protection Notes" section of drawing TP-4.01.

If lack of due diligence and public information results in the spread of Sudden Oak Death within the substantial Oak population in Knowland Park, it would be a travesty and a liability to the City of Oakland. Clearly-defined measures need to be in place to protect the Oaks and prevent the spread of SOD, including a Sudden Oak Death Report with these measures incorporated or referenced in the "Tree Protection Notes" section of drawing TP-4.01, and made available to the public during the comment period.

We request that permit application T15-049 be denied based on the lack of both the referenced "Sudden Oak Death Report" and any specifically-defined measures and instructions regarding SOD for public review.

- c) Review needed to assure conformance with specific best practices for preserving Oaks.

In the Tree Protection Notes of the Tree Protection and Tree Removal Plan, the following three points are stated:

Application Note 4: "Tree Protective Zone (TPZ) fencing shall be installed along all clearing limits to protect the critical root zones (CRZ) of trees that are to be preserved. CRZ should be the greater of the drip line or calculated at 9" radius for every 1" of tree diameter."

Application Note 25: “Supplemental irrigation for all protected trees is required during the summer months or prolonged periods of dry weather in the absence of adequate rainfall. Apply at least 1 inch of water per week by deep soaking methods. This is most essential for successful tree retention.”

Application Note 26: “Fertilize trees as necessary with phosphorus, potassium, calcium, magnesium and other macro and micro nutrients as indicated by a soil nutrient analysis test...”

First, the California Oak Foundation “Care of California’s Native Oaks” (available at <http://www.californiaoaks.org/ExtAssets/CareOfCAsNativeOaks.pdf>) states on p. 1 that “A good rule of thumb is to leave the tree’s root protection zone (RPZ) undisturbed. This area, *which is half again as large as the area from the trunk to the dripline*, is the most critical to the Oak. Many problems with Oaks are initiated by disturbing the roots within this zone.”

With already drought-stressed trees, the critical root zone should be specified in note 4 of the Zoo’s Tree Protection Notes, drawing TP-4.01 as “**the greater of the RPZ** or calculated at 9” radius for every 1” of tree diameter,” **not just the dripline**. This would help assure greater probability of preservation of over 400 protected trees.

Second, the public has been advised by landscape professionals to generally not apply irrigation to California Live Oaks during the summer, except during drought conditions using very specific timing and methods, and kept well clear of the root crown. Also, applying one inch of water per week appears contradictory to the prescribed deep, infrequent soaking method.

Third, the public has been advised by landscape professionals to generally not fertilize mature California Live Oaks, except, again, within specific timing and methods. “Care of California’s Native Oaks,” referenced above (p.4), states that “Mature oaks usually need little or no supplemental fertilization.”

Any work within a drought-stressed Oak wildland should be at least outside the root protection zone (RPZ), as noted by the California Oak Foundation. We request review of permit application T15-049 by Oakland Tree Services to determine if the Zoo’s summer irrigation and fertilization measures, as described, conform to specific best practices for preserving Knowland Park’s wildland Oaks.

3. Failure to follow Protected Tree Ordinance requirements

- a) Failure to fully notice trees proposed for removal

Municipal Code 12.36.090.A states: “A tree tag shall be affixed to each tree proposed for removal in plain view of the street.”

Repeated field checks indicate that not all of the trees proposed for removal appear to be tagged. Therefore, the public has not been notified of all trees included in the Zoo’s permit application for tree removal.

b) Failure to properly notice streets

Municipal Code 12.36.070.F requires “summary notices to be posted and maintained by the applicant in clear public view from all street frontages of the subject property.”

The applicant’s posting of summary notices of their tree removal permit application has been insufficient. Only one street of the several streets connecting directly to Knowland Park was noticed. Therefore, the general public and the majority of park visitors have not been properly notified of the Zoo’s permit application for tree removal.

Municipal Code 12.36.070.F “Failure of the applicant to properly post any tree tag or summary notice shall result in the extension of all time limits established for a permit application until such time as the applicant has provided proper tree and/or site posting.”

Due to failure to follow these Protected Tree Ordinance requirements, we request extension of all time limits established for a permit application, as required by the Municipal Code.

4. Substantially out-of-character with intent and findings of the City of Oakland’s Protected Tree Ordinance

The Protected Tree Ordinance (*Municipal Code 12.36.010 – Intent and Findings*) states that trees contribute to the attractiveness and livability of the City, and have significant psychological and tangible benefits for both residents and visitors to the City. They contribute to the protection of other resources by providing erosion control, oxygen, replenishment of groundwater, and habitat for wildlife. They contribute to the economy of a city by sustaining property values, and are a critical element of nature in the midst of urban settlement. It is in the interest of the public health, safety and welfare of the Oakland community to protect and preserve trees by regulating their removal.

These City-enacted values and benefits aptly describe the over 50 protected trees proposed for removal and over 400 trees affected by construction within 10 feet—all thriving now in Knowland Park.

We request denial of permit application T15-049 because it does not respect the intent and findings of the City of Oakland’s Protected Tree Ordinance.

a) Opportunity exists for Zoo management to reasonably redesign the California Trail exhibit.

Protected Tree Ordinance section 12.36.050 states the criteria for tree removal permit review. Grounds for denying a permit application include when removal of a healthy tree of a protected species could be avoided by reasonable redesign of the site plan prior to construction.

This permit application is not about removal of just one healthy tree. It’s about removal of 56 protected Oak and Bay trees, plus heavy construction impacts that will result in various levels of damage, stress and/or decline for over 400 additional protected trees.

Redesigning the site plan is reasonable, in light of the tremendous loss and damage that would result from approval of this permit. It only takes a view onto Google Earth to see the amount of land immediately surrounding the existing Zoo that is available for exhibit

expansion. Destroying “protected trees” on this level of magnitude should only proceed after the City considers a professionally-conducted review of alternatives adjacent to the existing Zoo to avoid this depth of damage to the natural resources of the City of Oakland.

We request denial of permit application T15-049 until an analysis of reasonable project design alternatives is available for City and public review, and a less destructive alternative is considered.

On a policy note, the existing incentive for preservation of the City’s heritage trees during construction, especially in the magnitude of this permit application, is wholly inadequate.

Zoo consultant Martin (*in 5/7/15 memo to Darin Ranelletti*) notes that if replacement trees cannot be accommodated, the Zoo is allowed the option of making an in-lieu fee payment.

A best regulatory practice that provides clear incentives for maximum preservation requires that the cost of tree replacement is greater and more burdensome than the cost of removing a tree or thoroughly following all measures so as not to disturb them.

The listed in-lieu fee for replacing a protected California Live Oak is **\$475** (*City of Oakland Master Fee Schedule, FY 2014-2015*). That is not only a serious underestimation of the value of these magnificent trees, it also fails to account for the value of a woodland ecosystem in Knowland Park and its associated native bunchgrasses and wildflowers, bird life, and pollinators that would not be replaced.

The replacement tree in-lieu fee of \$475 does not provide adequate incentive to establish tree preservation as the utmost priority in this construction project.

Conclusion

There are major issues with tree removal permit application T15-049. The permit application contains critical discrepancies and errors, and is missing key information. The permit applicant appears to have failed to follow Protected Tree Ordinance site posting requirements. Importantly, this permit application is substantially out of character with intent and findings of the City of Oakland Protected Tree Ordinance. Alternative reasonable design opportunities exist that can prevent the loss of 57 protected trees as well as damage to or long-term decline of over 400 protected trees.

Based on the comments above, 2015 permit application T15-049 should be denied. Additionally, expired 2011 permit T09-00019 should be confirmed as such, in compliance with provisions of the Oakland Municipal Code.

Thank you,
Oakland residents (and members of Save Knowland Park Coalition):
Karen Asbelle (Dist 7), Beth Wurzburg (Dist 4), Stefanie Yellis (Dist 4), Barbara Kluger (Dist 7), Maryam Shansab (Dist 6), Nancy Taylor (Dist 6), Elise Bernstein (Dist 6), Darlene McCray (Dist 6)

Copies to: cc: Mayor Libby Schaaf; City Councilmembers Dan Kalb, Abel Guillén, Lynette McElhaney, Annie Campbell-Washington, Noel Gallo, Desley Brooks, Larry Reid, Rebecca Kaplan, Parks and Recreation Advisory Commission