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July 31, 2014

Los Angeles City Council  
Room 395, City Hall  
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Attention: Arts, Parks, Health and Aging Committee

Honorable City Council:

**CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) APPEAL OF MITIGATED  
NEGATIVE DECLARATION CASE NO. NG-13-404-RP (COUNCIL FILE NO. 14-0589)**

On April 2, 2014, the Board of Recreation and Park Commissioners (Board) adopted a Mitigated Negative Declaration (MND) for the Griffith Park Performing Arts Center project in Council District 4 (Board Report 14-062). On May 2, 2014, the Office of the Clerk accepted an appeal to the City Council relative to the Board's action in adopting the MND. This CEQA Section 21151(c) appeal was filed by The Friends of Griffith Park, the Griffith P. Griffith Charitable Trust, and the Sierra Club Angeles Chapter, Griffith Park Task Force (Chatten-Brown & Carstens, LLP, Representative).


The CEQA appeal seeks to have an EIR prepared for the project, and alleges the project will result in the following unmitigated significant environmental effects: biological resources; noise; aesthetics, historic resources; and, recreational resources. The Department of Recreation and Parks staff has reviewed the appeal and the existing MND and believes that the appellants have not presented substantial evidence to fairly argue that the alleged impacts will be significant, including those impacts already subject to mitigation in the Final MND.

Therefore, it is the Department staff's recommendation that the Arts, Parks, Health and Aging Committee recommend that the City Council:

- 1) DENY the CEQA Section 21151(c) appeal, relative to the adoption of the Initial Study/Mitigated Negative Declaration for the Performing Arts Center Project;
- 2) ADOPT the April 2, 2014 action of the Board of Recreation and Park Commissioners of the City of Los Angeles;
- 3) CONCUR in the Board of Recreation and Park Commissioners of the City of Los Angeles' approval of the Performing Arts Center Project; and,
- 4) DIRECT staff to file a Notice of Determination with the Los Angeles City Clerk and the Los Angeles County Clerk.

The attached report by Department staff is hereby submitted for consideration of the response to each point raised in the appeal.

Sincerely,

  
RAMON BARAJAS  
Assistant General Manager  
Planning, Construction and Maintenance Branch



## Department of Recreation and Parks

### STAFF REPORT

#### **SUBJECT: Rebuttal to the Appeal of Adoption of Initial Study/Mitigated Negative Declaration and Conceptual Approval of the Griffith Park Performing Arts Center**

#### RECOMMENDED ACTION:

For the reasons stated herein as to all points raised in the appeal, and in light of the whole record of the project proceedings, the Staff of the Department of Recreation and Parks recommends that the City Council:

1. DENY the appeal filed by Friends of Griffith Park, the Griffith J. Griffith Charitable Trust, and Sierra Club Angeles Chapter Griffith Park Task Force, relative to the adoption of the initial study/mitigated negative declaration by the Board of Recreation and Park Commissioners of the City of Los Angeles for the Performing Arts Center Project.
2. ADOPT the April 2, 2014, action of the Board of Recreation and Park Commissioners of the City of Los Angeles to:
  - a. Review, consider, and adopt the Initial Study/Mitigated Negative Declaration (IS/MND), on file in the Board office and on the Department of Recreation and Parks (RAP) website, [www.laparks.org](http://www.laparks.org), for the proposed Griffith Park - Performing Arts Center (W.O.#E 170202A) project, finding that all potentially significant environmental effects of the project have been properly disclosed, evaluated and mitigated in compliance with the California Environmental Quality Act (CEQA) and the State and City CEQA Guidelines, and that the IS/MND reflects the RAP's independent judgment and analysis;
  - b. Review, consider, and adopt the Mitigation Monitoring Program in Chapter 5 of the IS/MND that specifies the mitigation measures to be implemented in accordance with the CEQA Guidelines (Section 15407(d));
3. CONCUR in the Board of Recreation and Park Commissioners of the City of Los Angeles' approval of the Performing Arts Center Project;
4. DIRECT staff to file a Notice of Determination with the Los Angeles City Clerk and the Los Angeles County Clerk.

#### RESPONSE TO THE APPEAL:

1. The appellant requests that the City Council deny approval of the Project until an environmental impact report (EIR)[sic] has been prepared that adequately discloses and mitigates the Project's significant adverse impacts.

The appeal to the City Council raises a single issue: whether or not the adoption of the Mitigated Negative Declaration (MND) by the Board of Recreation and Parks Commissioners (Board) was proper based on the requirements of the California Environmental Quality Act (CEQA). The approval of the project by the Board is not subject to appeal to the City Council. The City Council can either: (1) find that the adoption of the MND by the Board was proper, deny the appeal, adopt the findings of the Board, and concur in the approval of the project; or (2) find that the adoption of the MND by the Board was in error, grant the appeal, and send the matter back to the Board with instructions to reconsider the MND.

2. The appellant states that the project authorizes the construction of a permanent stage to serve audiences of up to 5,000.

The project description and impact analysis did not assume an attendance number of up to 5,000 for performances. Past use of the Old Zoo area for performance have only reached approximately 2,500 (pg. 1-13, Final MND). An audience of 5,000 to which the appellant is referring is a statement by David Melville, Director of the Independent Shakespeare Co. in an August 15, 2013, "LA Stage" article regarding the potential capacity of the Old Zoo area of Griffith Park "that could easily hold up to 5,000 people." However, this statement is not supported by any facts about actual attendance. The quote appears to be an enthusiastic and overly optimistic speculation made in a casual interview during a performance in a publication dedicated to the promotion of the performing arts. The statement has been taken out of context and treated as fact. As stated in the Response to Comments in the Final MND, the use of the proposed project was analyzed by the most conservative attendance numbers (2,500) at the Griffith Park Free Shakespeare Festival (p. 4-7, Comment/Response 6-6). The Independent Shakespeare Co. has stated for the record that attendance at a performance can be as high as 2,500, but this level of attendance is only reached on a few nights during the season, and average nightly attendance is approximately 1,100 (Chapter 3, Comment Letter 4, Comment 4-2) based on the four years of performances in Griffith Park.

Furthermore, if attendance numbers started to approach 2,500 on a consistent basis, the permits for these events would most likely shift from one issued administratively to one requiring Board approval; similar to the permit issued to the Haunted Hayride, which is one of the events also using the Old Zoo area. An event requiring a Board approved permit would require its own CEQA determination, and conditions could be imposed to mitigate the anticipated impacts.

3. The appellant states that portions of the Project have not yet undergone environmental review or are mischaracterized in the Initial Study and MND, and cites the January 22, 2013 comment letter from the Friends of Griffith Park.

This is an overly broad and ambiguous statement. By only citing the appellant's January 22, 2013 comment letter by reference on the Initial Study and MND by reference (Chapter 3, Comment Letter 6, Final MND), it is not clear what portions of the Project have not yet undergone environmental review or "mischaracterized." All project components, including the stage, bridge, and ADA improvements, were fully analyzed in the MND according to the level of design detail available at the time of the analysis (pg. 1-6, Project Description). And, as stated in the Response to Comments in the Final MND, the Project description is the same project concept that was presented and approved at the third and final meeting of the Local Volunteer Neighborhood Oversight Committee (LVNOC) required for all Proposition K projects (p. 4-6, Comment/Response 6-2). All of the comments in the January 22, 2013 letter have been addressed in the Final MND, Chapter 4-Response to Comments.

4. The appellant states that the Old Zoo Picnic Area, dating from 1913 and later a center for Works Progress Administration (WPA) projects, is an integral part of Griffith Park's designation as a City Historical Cultural Monument (HCM #942). The construction of a permanent stage would have a significant impact on historic resources by "dramatically alter[ing] the visual character of the Old Zoo by overshadowing the aesthetic features for which is known."

The MND fully recognized and considered the potential impacts of the Project on the Old Zoo as a contributing element of HCM #942, and a good faith effort was made to incorporate all available sources of information in the cultural resource analysis (pg. 4-18, Comment/Response 6-31, and Appendix C, Phase I Cultural Resources Study). It was concluded that the Old Zoo buildings are located south of the Project Area and would not be directly or indirectly impacted by the Project. In fact, the MND has been reviewed and the project fully vetted for potential impacts to historic resources by the Cultural Heritage Commission (CHC), which is the City's final arbiter on

impacts and mitigation to HCMs. The CHC did not provide any written comments on the adequacy of the analysis of historic resources in the MND. And, even though the approval of the Project is not the subject of the appeal, CHC had no comments on the final design and the CHC staff in the Office of Historic Resources of the Department of City Planning signed off on the issuance of the building permit (Permit No. 14010-10000-00455, Building and Safety Permit and Inspection Report, 6/11/14).

The Cultural Resources Study (Appendix C, Final MND, pg. 12) clearly discusses the role of the WPA in the development of the [Old] Griffith Park Zoo. In addition, historic plans of the Zoo were appended to the MND, some of which were also presented at the initial LVNOC (pg. 4-18, Comment/Response 6-30; and Cultural Resources Study Appendix B). The appellant provides no substantial evidence of any new significant adverse effects on the historic Old Zoo that have not already been addressed in the MND.

5. The appellant also states that the entire Old Zoo has been delineated as a wilderness zone, and that the additional nighttime activities and human presence, as well as new sources of light and noise, would discourage use of the area by wildlife, and adversely impact the behavior and foraging of nocturnal species such as bats, mountain lions and bobcats. Furthermore, the appellant states that although the site is currently unlit, the MND contains no analysis or mitigation of the Project's lighting impacts [on wildlife]. And, the introduction of amplified sound could have a significant adverse impact on wildlife that have not been adequately considered or mitigated.

It is not clear what appellant means by the "delineated wilderness zone," but based on comments in the referenced January 22, 2013 letter, it is presumed the appellant is referring to the delineation in HCM #942. While the Old Zoo Picnic Area is located within this delineated "wilderness zone," the Old Zoo Picnic Area is located at the edge of the "wilderness zone," and has been designated as a contributing element in the Built Recreation and Amenities descriptions of the historic-cultural monument designation. However, the Old Zoo buildings are located south of the Project Area and would not be directly or indirectly impacted by the Project (Appendix C, Phase I Cultural Resources Study, pg., 18 and 21). As noted in the HCM designation, the original 1938 Ralph Cornell Master Plan stipulated that the central interior portion of Griffith Park was to remain a wilderness, with built amenities and recreation present along the flatlands areas at various perimeters. The Cornell Master Plan was never ratified, yet through time this principle has largely been followed (Section 2: Griffith Park Wilderness Area, Griffith Park Historical Cultural Monument Application, pg. 99, April 2008). However, the more recent Vision for Griffith Park plan that was adopted in 2013 specifies that "the completion of a permanent stage, funded by Prop K, located in the grass area of the Old Zoo, to accommodate the Independent Shakespeare Company for their yearly Shakespeare in the Park Festival, The Symphony in the Glen and other appropriate out-door stage productions, which are free to the public" should be initiated immediately. Therefore, the Project not only will not impact the Old Zoo buildings, but is consistent with the intent of both the HCM "wilderness zone" and the Vision for Griffith Park's "Urban Wilderness Identity."

Nevertheless, a comprehensive biological assessment was conducted for the proposed Project (Appendix B, Biological Technical Report) for potential impacts to the surrounding "wilderness zone" (Final MND, Section 3, Biological Resources). A review of the California Department of Fish and Wildlife's California Natural Diversity Data Base (CNDDB) did not identify either mountain lions or bobcats as Special-Status wildlife species in the vicinity of the Project site. However, there were five species of bats that were likely to occur in the general area of the Project site, but no roosting sites were identified during a field reconnaissance (Appendix B, Biological Technical Report, pg. 30-31). One of the bat species was added to the impact analysis by reference, even though none were actually observed (pg., 4-32, Errata 4). As stated in the MND, the current level of disturbance in the region of the proposed project from urban development and performances that currently occur at the project site are substantial. Therefore, the Project site was determined not to be an important foraging area for bats (no standing water or perennially wet riparian

habitats). And, the operational phase of the Project would not be expected to significantly increase the noise levels at the site, and would be nominal compared to the noise levels that are currently generated. Thus, the impact on bats that forage in the vicinity was deemed less than significant with mitigation incorporated. In addition, there are many habitats throughout the "wilderness zone" of Griffith Park that are much more sheltered from human uses that are expected to provide shelter and foraging opportunities to wildlife, and these more isolated areas are expected to continue to be preferred by bats for nighttime foraging, movement and roosting (Section 3, Biological Resources, pgs. 2-27 and 2-28; Chapter 4 Response to Comments and Errata, pg. 4-31, Errata 3; and Appendix B, Biological Technical Report, page 44-45). In addition, local wildlife is expected to move throughout Griffith Park and some terrestrial species may focus their movement within the stream corridor north of the project site in Spring Canyon. While these species could be deterred from their movement corridors near the proposed project site by lighting used during construction and operation of the proposed project, the ornamental landscaping and developed areas do not provide a corridor for terrestrial wildlife movement due to the current disturbance of the area and overall presence of humans (Section 3, Biological Resources, pgs. 2-32).

As stated in the MND, the proposed project would not introduce any permanent lighting impacts. Pathway lighting fixtures would be installed solely for safety purposes, and would be activated when permitted users were present. They would be located along the western edge of the manicured lawn area, as well as along resurfaced pathways and ADA pedestrian facilities. These lights would be scheduled to be turned off at the end of any permitted use event and would not generally impact scenic nighttime views. Night hikers would not be affected by the pathway lights, as they are meant to illuminate the immediate pathway area for safety, and views of the site from elevated trails are distant and obscured by vegetation. Light emitting diode (LED) lights would be used for low power consumption and longer life within dark sky light fixtures. Any additional lighting introduced to the proposed project site would be event-specific and temporary. Therefore, the proposed project would not create a new source of substantial light or glare that would adversely affect daytime or nighttime views (Section 1 – Aesthetics, Final MND, pg. 2-9).

The appellant does not provide substantial evidence supporting a fair argument in either their appeal or the referenced documents that there are potentially significant impacts to biological resources that have not already been analyzed in the Final MND or mitigated as necessary.

6. The appellant states that there is a fair argument that the Project may have adverse impacts on historic and biological resources, and an Environmental Impact Report (EIR) is required.

The appellant does not provide substantial evidence in either their appeal or the referenced documents that fairly argues that there are potentially significant impacts to cultural and biological resources that have not already been analyzed, and mitigated to the extent necessary, in the Final MND, including the response to the appellant's comments in the January 22, 2013 letter. As stated in Items #4 and #5 above, the MND discloses and demonstrates that all potential impacts of the Project to cultural and biological resources are less than significant both with and without mitigation measures. The decision by the Board of Recreation and Parks to adopt the MND was both informed and balanced, and no new information on potential cultural and biological impacts or mitigation measures has been presented that would alter this decision. Therefore, an EIR would simply become an instrument to delay the proposed recreational development in Griffith Park, which is not the policy of CEQA. (*Laurel Heights Improvement Assoc. v. Regents of U.C.* (1993) 6 Cal 4<sup>th</sup> 1112 and *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553).

7. The appellant states that the detrimental impact of the Project on recreational resources has not been adequately considered. The increase in attendance or frequency of performances would reduce the Old Zoo Area's tranquility, especially for picnickers and passing hikers. Furthermore,

events requiring an admission fee would restrict the site's availability for free recreation, while violating the restriction of the Project's Proposition K funding.

It is not clear from this comment how the attendance or frequency of performances would impact the tranquility of Old Zoo Area. However, based on comments in the referenced January 22, 2013 letter, it is presumed the appellant is referring to noise effects. Under the proposed project, the three existing annual events would continue to operate as they have traditionally, and would not increase the frequency or audience capacity of these existing events (see #2 of this report). In addition, picnickers and hikers generally use the Project Area during daylight hours when the nighttime activities would not occur. While construction of a permanent stage would result in new temporary sources of noise, implementation of the proposed project would not introduce new operational noise sources at the site. As a result, the MND concluded that the noise levels that are normally generated at the project site by these annual events would not be increased as a result of the Project (pg. 2-65, Section 12, Noise and pg. 4-20, Comment/Response 6-37).

The Project requirements with regard to Proposition K funding were approved as part the Project, which is not the basis of this appeal. (See #1 above). However, Proposition K has never restricted the collection of a reasonable fee to cover expenses for activities conducted at a Proposition K funded facility.

8. The appellant states that the MND improperly piecemealed the Project's environmental review because the bridge and accessibility improvements, and their likely environmental impacts, have been omitted from the analysis.

The appellant does not provide substantial evidence that the MND has piecemealed the Project by omitting project components from the environmental analysis. To the contrary, the MND has considered the whole of the Project in accordance with CEQA policy (Section 15003, CCR). As stated throughout the MND, the various analyses of the potential environmental impacts of construction and operations considered all phases of the Project (Final MND, Chapter 2 Environmental Checklist, pg. 2-4 et seq.). Phase 1 of the Project includes development of the stage, undergrounding of existing utility lines, the renovation of existing restrooms, the installation of security lighting, and creation of ADA picnic and viewing areas. Phase 2 of the Project includes installation of an ADA pedestrian bridge, improved ADA paths, path lighting, refurbishment of existing stairs, and ADA parking improvements (pg. 1-6, Section 1.3 Project Description, Final MND).