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Via E-Mail and U.S. Mail

Kevin Fabino
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City of Fresno
2600 Fresno Street
Fresno, CA 93721-3604

Re: Additional Comments re Fresno Chaffee Zoo Corporation and Rotary Storyland & Playland Final Environmental Report (EIR) No. SCH 2008031002)

Dear Mr. Fabino:

This firm represents Friends of Roeding Park (“Friends”) relating to the proposed expansion of the Fresno Chaffee Zoo at Roeding Park (“Zoo Expansion”) and the Park Facility Master Plan and Fresno Chaffee Zoo Facility Master Plan Project (“Master Plans Project”). We write today to discuss issues that arose during the public hearing for the Final EIR for the Master Plans Project, and to address new information that was not available prior to that hearing, which we believe highlights errors in the City’s analysis under CEQA. As this letter is submitted prior to the Certification of the Final EIR, we trust that it will be put before the City Council and included in the administrative record for the Master Plans Project. *Galante Vineyards v. Monterey Peninsula Water Management Dist.* (1997) 60 Cal.App.4th 1109, 1119-1121 . In addition, our clients would like to propose an alternative to the Zoo Expansion as it is currently proposed, which they believe would satisfy the goals of the project while minimizing its impacts to open space and low-income communities. We sincerely believe that the parties can come together and create a plan that meets the needs of the surrounding community and supports the Zoo’s interests.

First, Friends has recently received documents through a Public Records Act request that demonstrate that the Zoo failed to include information regarding its

consultation with the California Department of Parks and Recreation (“State Parks”) in the RDEIR and the FEIR. Despite the FEIR’s assertions that State Parks is not a Responsible Agency, the Zoo has recently begun its consultation with the Office of Grants and Local Assistance at the California Department of Parks and Recreation (“OGALS”), seeking advice regarding the proposed new Sea Lion Cove Exhibit.¹ See Attachment A, Letter from Barbara Baker, Manager at OGALS, to Scott Barton, Executive Director of Chaffee Zoo (June 21, 2011). The letter is a manifestation of State Parks’ discretionary authority under the LWCF statute to decide whether to request conversion approval from the National Park Service. It clearly states that the City, in order to fulfill its obligations under the Land and Water Conservation Act, is required to submit an application for “approval of ... expansions proposed at the Chaffee Zoo.” *Id.* at 1. (It is important to note that this requirement applies equally to any conversions resulting from the proposed changes to Storyland/Playland, such as the proposed “indoor party facility.”)

This statement from OGALS clearly demonstrates that State Parks is a Responsible Agency under CEQA, and should be designated as such in the RDEIR and FEIR. Furthermore, in recent communications with OGALS regarding the Sea Lion Exhibit, the Zoo itself has recognized that “NPS (and OGALS) may require approval for new construction by the Zoo into areas that are currently used for parkland as a result of the LWCF contracts.” See Attachment B, Letter from Scott Barton, Executive Director at Chaffee Zoo, to Barbara Baker, Manager at OGALS (May 26, 2011). As the California Department of Parks and Recreation is a public agency with discretionary authority over the Master Plans Project, it should be designated as a Responsible Agency, with all of the attendant authorities and obligations under CEQA, including the opportunity for public participation and comment on the process. Certification of the FEIR as it is currently drafted would be a violation of CEQA, as it fails to identify all of the Responsible Agencies.

Furthermore, it is apparent that the Statement of Overriding Considerations for the Master Plans Project fails to consider potential consequences of the Land and

¹ As the Sea Lion Cove is scheduled to be constructed and completed prior to other portions of the Master Plans Project, we urge the City to ensure that the mitigation measures identified in the EIR that mitigate impacts from the Sea Lion Cove are implemented prior to the opening of this exhibit. Friends is particularly concerned that the new exhibit may have significant traffic and parking impacts that will need to be mitigated prior to the completion of other phases of the Zoo Expansion.

Water Conservation Act approval process. Specifically, the Statement of Overriding Considerations finds that the economic benefits of the project outweigh the risks, relying upon the Staff Report's assertion that the project will have no fiscal impact to the City (See Findings of Fact and Statement of Overriding Considerations, at F-114); this finding self-evidently depends upon the expanded Zoo generating sufficient streams of revenue to operate without additional expense to the City. The City's findings must be supported by substantial evidence. *Topanga Assn. for a Scenic Community v. County of Los Angeles* (1974) 11 Cal.3d 506, 514 (a reviewing court "must scrutinize the record and determine whether substantial evidence supports the administrative agency's findings and whether these findings support the agency's decision."). Since neither OGALS nor NPS's approval is assured for all portions of the Master Plans Project, the revenue streams could be significantly reduced and the Staff Report's conclusion that there will be no fiscal impact to the City would be in error. If OGALS or NPS refuses to approve the Zoo's indoor restaurant with seating for 250-300, 8000 square foot event and education center, indoor exhibit pavilion, retail gift shops, offices, etc., than the economic viability of an expanded Zoo would be suspect. The Statement of Overriding Considerations concerning economic risks and benefits of the Zoo Expansion is not supported by substantial information contained in the record, as the City fails to present any evidence that NPS or OGALS will approve these proposed conversions under the provisions of the Land and Water Conservation Fund Act or that the expanded Zoo will be economically viable without these proposed new revenue generating facilities.

Friends would like to propose a compromise alternative that would preserve the character of the park while still allowing the Chaffee Zoo to grow into a world class facility. While the Chaffee Zoo has expanded modestly over its history, this is the first time that a proposed expansion encroaches significantly on the portion of Roeding Park that was originally donated by the Roeding family in 1903 and 1908, and Friends believes that such a dramatic expansion would not be supported by the original grantors who donated that acreage for use as open space. (See Attachment C, Deeds from 1903 and 1908 Depicting Donations of Roeding Family). Friends believes that a smaller scale expansion, along the lines of 10 additional acres, could allow the Zoo to bring back the large animal exhibits without swallowing up nearly 25 acres of public open space that is in great demand in the community. In addition, our client would suggest that parking could be relocated either to the large field located just north of Storyland or to lots across from the park, which would allow the Zoo to expand into the existing parking lot and minimize impacts to open space. If the Zoo chose to relocate the parking lot to the field adjacent to Storyland, it could create a new shared entrance with Storyland similar to that envisioned in the current proposal, and could extend the Playland/Storyland train to pick

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up visitors from the new parking lot and bring them to the new entrance to the Chaffee Zoo.

Our clients also believe that it would benefit the park to remove maintenance facilities to a location outside the boundary of the park, to one of the many properties adjacent to the park that are currently in need of healthy development. This would benefit the Park and the surrounding community, and allow Zoo expansion into the area currently occupied by the maintenance facility. Finally, Friends proposes that the entirety of Roeding Park be placed in a permanent Conservation Easement or similar use restriction, overseen by a Trustee, and its trees and landscaping protected and maintained for the benefit of all the citizens of Fresno in perpetuity. A small on-site greenhouse could provide replacement trees cultivated from the original stock to replace trees as they near the end of their natural lifespans. We would welcome the opportunity to discuss alternatives to the current proposal with officials from the City and from Chaffee Zoo, so that a new proposal can be created that serves the needs of the entire community of Fresno.

Very truly yours,

SHUTE, MIHALY & WEINBERGER LLP



Gabriel M.B. Ross