

# City of Capitola Agenda

Mayor: Stephanie Harlan  
Vice Mayor: Michael Termini  
Council Members: Jacques Bertrand  
Ed Bottorff  
Kristen Petersen  
  
Treasurer: Peter Wilk



## **CAPITOLA CITY COUNCIL SPECIAL MEETING REVISED**

**MONDAY, SEPTEMBER 25, 2017**

**6:00 PM**

**CITY COUNCIL CHAMBERS  
420 CAPITOLA AVENUE, CAPITOLA, CA 95010**

**CLOSED SESSION - 12:30 PM  
CITY MANAGER'S OFFICE**

*An announcement regarding the items to be discussed in Closed Session will be made in the City Hall Council Chambers prior to the Closed Session. Members of the public may, at this time, address the City Council on closed session items only. There will be a report of any final decisions in City Council Chambers during the Open Session Meeting.*

**CONFERENCE WITH LEGAL COUNSEL  
EXISTING LITIGATION [Govt. Code § 54956.9(d)(1)]**

Friends of Monterey Park v. the City of Capitola  
Santa Cruz Superior Court Case No. CV 16CV01091

## **SPECIAL MEETING OF THE CAPITOLA CITY COUNCIL – 6 PM**

*All correspondences received prior to 5:00 p.m. on the Tuesday preceding a City Council Special Meeting will be distributed to the City Council to review prior to the meeting. Information submitted after 5 p.m. on that Tuesday may not have time to reach the City Council, nor be read by them prior to consideration of an item.*

*All matters listed on the Special Meeting of the City Council Agenda shall be considered as Public Hearings.*

### **1. ROLL CALL AND PLEDGE OF ALLEGIANCE**

Council Members Kristen Petersen, Michael Termini, Jacques Bertrand, Ed Bottorff and Mayor Stephanie Harlan

### **2. REPORT ON CLOSED SESSION**

### **3. ADDITIONAL MATERIALS**

*Additional information submitted to the City after distribution of the agenda packet.*

A. Item 4.A – 45 emailed comments

### **4. GENERAL GOVERNMENT / PUBLIC HEARINGS**

*All items listed in “General Government” are intended to provide an opportunity for public discussion of each item listed. The following procedure pertains to each General Government item: 1) Staff explanation; 2) Council questions; 3) Public comment; 4) Council deliberation; 5) Decision.*

A. Reconvene a Hearing for an Appeal of the Planning Commission’s Decision to Certify an Environmental Impact Report and Approve a Conditional Use Permit, Design Permit, and Coastal Development Permit for the Monterey Avenue Skate Park

RECOMMENDED ACTION: In light of the Court ruling regarding Capitola City Council’s June 23, 2016, meeting on the Monterey Park skate park appeal, consider the following actions:

1. a. Adopt the attached Resolution certifying the Environmental Impact Report (EIR) and adopting written findings and the Mitigation, Monitoring, and Reporting Program (MMRP).
- b. Alternatively, by Motion, affirm the Planning Commission’s certification of the Environmental Impact Report (EIR) and adopt the Mitigation, Monitoring and Reporting Program (MMRP).
2. By Motion, approve and adopt the attached findings to support issuance of a Conditional Use Permit, Design Permit, and Coastal Development Permit for a modified project as described as Alternative 1 of the EIR;
3. By Motion, authorize the City Manager to execute the attached right-of-entry agreement.

### **5. ADJOURNMENT**

CAPITOLA CITY COUNCIL SPECIAL MEETING AGENDA  
September 25, 2017

**Note:** Any person seeking to challenge a City Council decision made as a result of a proceeding in which, by law, a hearing is required to be given, evidence is required to be taken, and the discretion in the determination of facts is vested in the City Council, shall be required to commence that court action within ninety (90) days following the date on which the decision becomes final as provided in Code of Civil Procedure §1094.6. Please refer to code of Civil Procedure §1094.6 to determine how to calculate when a decision becomes “final.” Please be advised that in most instances the decision become “final” upon the City Council’s announcement of its decision at the completion of the public hearing. Failure to comply with this 90-day rule will preclude any person from challenging the City Council decision in court.

**Notice regarding City Council:** The City Council meets on the 2nd and 4th Thursday of each month at 7:00 p.m. (or in no event earlier than 6:00 p.m.), in the City Hall Council Chambers located at 420 Capitola Avenue, Capitola.

**Agenda and Agenda Packet Materials:** The City Council Agenda and the complete Agenda Packet are available for review on the City’s website at [www.cityofcapitola.org](http://www.cityofcapitola.org) and at Capitola City Hall and at the Capitola Branch Library, 2005 Wharf Road, Capitola, prior to the meeting. Agendas are also available at the Capitola Post Office located at 826 Bay Avenue, Capitola. Need more information? Contact the City Clerk’s office at 831-475-7300.

**Agenda Materials Distributed after Distribution of the Agenda Packet:** Pursuant to Government Code §54957.5, materials related to an agenda item submitted after distribution of the agenda packet are available for public inspection at the Reception Office at City Hall, 420 Capitola Avenue, Capitola, California, during normal business hours.

**Americans with Disabilities Act:** Disability-related aids or services are available to enable persons with a disability to participate in this meeting consistent with the Federal Americans with Disabilities Act of 1990. Assisted listening devices are available for individuals with hearing impairments at the meeting in the City Council Chambers. Should you require special accommodations to participate in the meeting due to a disability, please contact the City Clerk’s office at least 24-hours in advance of the meeting at 831-475-7300. In an effort to accommodate individuals with environmental sensitivities, attendees are requested to refrain from wearing perfumes and other scented products.

**Televised Meetings:** City Council meetings are cablecast “Live” on Charter Communications Cable TV Channel 8 and are recorded to be rebroadcasted at 8:00 a.m. on the Wednesday following the meetings and at 1:00 p.m. on Saturday following the first rebroadcast on Community Television of Santa Cruz County (Charter Channel 71 and Comcast Channel 25). Meetings are streamed “Live” on the City’s website at [www.cityofcapitola.org](http://www.cityofcapitola.org) by clicking on the Home Page link “**Meeting Video.**” Archived meetings can be viewed from the website at anytime.

**Fridy, Linda (lfridy@ci.capitola.ca.us)**

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**From:** William Parkin <wparkin@wittwerparkin.com>  
**Sent:** Friday, September 22, 2017 5:31 PM  
**To:** City Council  
**Cc:** Goldstein, Jamie (jgoldstein@ci.capitola.ca.us); Grunow, Rich (rgrunow@ci.capitola.ca.us); Tony Condotti (TCondotti@abc-law.com); Pearl Kan; Jonathan Wittwer  
**Subject:** Monterey Skatepark--Agenda for September 25, 2017  
**Attachments:** 2017 09 22 Letter to City Council.pdf  
**Importance:** High

Dear Mayor Harlan and Members of the Council:

Please see attached. Thank you.

WILLIAM P. PARKIN

wittwer / parkin

WITTWER PARKIN LLP  
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Communication: Additional Materials (ADDITIONAL MATERIALS)

WITTWER / PARKIN

September 22, 2017

**VIA EMAIL**

City Council  
 City of Capitola  
 420 Capitola Avenue  
 Capitola, CA 95010  
 Email: citycouncil@ci.capitola.ca.us

**Re: Reconsideration of Appeal of Application #15-068; Skate Park in Monterey Avenue Park; City Council Agenda for September 25, 2017**

Dear Mayor Harlan and Members of the Council:

This office represents the Friends of Monterey Park with respect to the above referenced appeal. Based on our review of the Staff Report just released today, the Staff Report is recommending a course of action that may result in a violation of a Superior Court Order, and would lead to distrust of City government and cynicism. The Superior Court stated in its Order that "As a matter of law, the Court finds that the [City] failed to approve the Project because the Resolution approving the Project failed to receive a majority vote of the total membership of the City Council as required by Government Code § 36936." (Order Re Petition for Writ of Mandamus, pg. 3). The City wholly misses the crux of the Court's Order which recognized Government Code § 36936 as a statutory mandate applicable to the City's actions to certify the Environmental Impact Report [EIR] and approve the Project.

The Staff Report on page 2, erroneously states that "the Order should not be interpreted as requiring that the Council may only take action on the Project approvals by resolution." This is either a gross misunderstanding or misstatement of the Court's Order.

The City and the applicants argued in the Superior Court that the City Council validly proceeded by an oral motion on June 23, 2016. This argument has already been litigated, and the Court found the argument unavailing. The Court stated unequivocally that a resolution was necessary to approve the Project, and ruled that if the City could approve the Project by an oral motion, it

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Communication: Additional Materials (ADDITIONAL MATERIALS)

Capitola City Council  
 Re: Application #15-068  
 September 22, 2017  
 Page 2

... would allow the [City] to circumvent the requirement of Government Code § 36936. The California Environmental Quality Act (CEQA) requires the City Council to *adopt written findings*. 14 Cal. Code Regs. § 15091 (emphasis added). Furthermore, the Respondent's Local Coastal Program approved by the California Coastal Commission requires "adoption of *specific written factual findings* supporting the conclusion that the proposed development conforms to the certified Local Coastal Program." Capitola Municipal Code § 17.46.090(D) (emphasis added). Because written findings are required, a resolution was necessary to certify the EIR and approve the Project.

(Order p. 3-4 (emphasis in original.) The Order is attached hereto for the Council's convenience. The Staff Report ignores the Court's Order that "because written findings are required, a resolution was necessary... ." The Staff Report's distortion of the Court's Order is troubling. If this matter is again considered approved on a 2-1 vote, the City will be in contempt of Court and will have violated the Petition for Writ of Mandamus.

Matters of import such as the certification of an EIR and approval of a Coastal Development Permit (CDP) require a resolution, particularly because these actions require written findings. As we stated to the Superior Court in this matter, to allow two Council members to decide the fate of City parkland would be wholly undemocratic and an affront to representative government. It also creates a mathematical conundrum. Indeed, if there were no conflicts of interest and the entire City Council could have voted, the two Council members who voted for the Project could not carry the day alone as approval would require three votes. And, if only one Council member had a conflict of interest, the two Council members who voted for the Project also could not carry the day alone because then the vote would have been deadlocked 2-2. To say in this single instance that two Council members have such extraordinary power to decide this matter solely is absurd. And, it renders the vote of the dissenting Council member meaningless when in other contexts it would matter.

Finally, the Staff Report's citation to other law is off the mark. In a continuing effort to evade the requirement under Government Code § 36936, the Staff Report argues that the Council can still approve the Project with a majority vote of a quorum: "a bare quorum of three members, may, in general, take action by a two-vote majority." (Agenda Report, pg. 6). The Staff Report's reliance on Code of Civil Procedure § 15 and Civil Code § 12 is misguided. Code of Civil Procedure § 15 and Civil Code § 12 support the general proposition that an entirety of the governing body need not be present and that a quorum is sufficient to conduct business. Here, three Councilmembers is a quorum. But, that does not mean that only a majority of a quorum is necessary to approve the Project. Instead, a majority of the entire Council is necessary to approve the Project. Thus, while a quorum is composed of three Councilmembers, the Project must receive unanimous approval of those three Councilmembers. Code of Civil Procedure § 15 and Civil Code § 12 stand for the principle that where a decision is rendered without the full composition of a governing body, due process is not necessarily violated. *Murray Co. v. Occupational Safety & Health Appeals Bd.* (2009) 180 Cal.App.4th 43, 50. The City unduly extends the principles set forth under Code of Civil Procedure § 15 and Civil Code § 12 to create

Capitola City Council  
 Re: Application #15-068  
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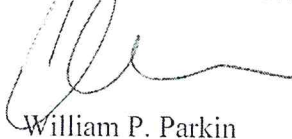
a rule that simply is not there: “a bare quorum of three members, may, in general, take action by a two-vote majority.” (Agenda Packet, pg. 6).

Desperately, the Staff Report also cites to one *lone case from 1883* where the court found that a majority vote of a quorum of the total board of supervisors was sufficient to terminate a practicing physician in a county hospital. *People ex rel. Flint v. Harrington* (1883) 63 Cal. 257, 259. *This case was decided in the 19th century*, well before Government Code § 36936 was enacted in 1949, and later amended in years 1965 and 2002. Similarly, this case was decided prior to the passage of the Coastal Act (1976) and CEQA (1970), for which findings are required. The City turns modern governance on its head to argue that despite the Superior Court’s Order, the City can continue to thwart the requirements of state law.

The Staff Report argues that “there is no threshold level of importance, or magnitude, or community interest, above which some decision that otherwise could be acted upon by oral motion must be ‘elevated’ to the level of a written resolution.” (Agenda Packet, pg. 7). As to this Project, which requires CEQA and Local Coastal Program findings, a resolution is required. In its Order, the Court unequivocally stated: “Because written findings are required, a resolution was necessary to certify the EIR and approve the Project.” (Order Re Petition for Writ of Mandamus, p. 4). The Staff Report again positions the City to contravene the letter and spirit of the law, and the specific terms of the Court’s Order and Judgment, by recommending approval through a series of motions, when a resolution is clearly required.

Thank you for your consideration of these comments.

Very truly yours,  
 WITWER PARKIN LLP



William P. Parkin

cc: Jamie Goldstein  
 Rich Grunow  
 Tony Condotti, Esq.

Communication: Additional Materials (ADDITIONAL MATERIALS)

SG

ELECTRONICALLY RECEIVED  
8/2/2017 8:34:12 AM

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9  
10 Attorneys for Petitioner,  
11 FRIENDS OF MONTEREY PARK

**FILED**  
AUG 04 2017  
ALEX CALVO, CLERK  
BY SANDRA GONZALEZ  
SANTA CRUZ

12 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
13 FOR THE COUNTY OF SANTA CRUZ

14 FRIENDS OF MONTEREY PARK, an  
15 unincorporated association,

16 Petitioner and Plaintiff,

17 vs.

18 CITY OF CAPITOLA and DOES 1  
19 THROUGH 15,

20 Respondents and Defendants,

21 MARIE MARTORELLA, TRICIA  
22 PROCTOR, and DOES 16 through 30,

23 Real Parties in Interest and Defendants.  
24  
25  
26  
27

Case No. 16CV01091

*C.P.A.*  
**[PROPOSED] ORDER RE PETITION  
FOR WRIT OF MANDAMUS**

**[CEQA CASE]**

Honorable Paul Burdick

Complaint filed: May 5, 2016

Communication: Additional Materials (ADDITIONAL MATERIALS)



1 This matter came on regularly for a hearing on July 31, 2017, in Department 5 of the  
 2 above-entitled court, the Honorable Paul P. Burdick presiding. William P. Parkin and Pearl Kan  
 3 appeared for Petitioner Friends of Monterey Park (Petitioner). Colin L. Pearce and Seth K.  
 4 Kugler appeared for Respondent City of Capitola (Respondent) and Real Parties in Interest Marie  
 5 Martorella and Tricia Proctor (Real Parties). Anthony Condotti also appeared on behalf of the  
 6 Respondent.

7 The Court has considered the evidence in the administrative record, the requests for  
 8 judicial notice, the pleadings, the briefs filed by the parties, and the oral arguments of counsel  
 9 presented at the hearing on July 31, 2017. For the reasons set forth below, the Court orders that a  
 10 writ of mandamus issue and that declaratory relief be granted, and that the Respondent and the  
 11 Real Parties be enjoined from construction of the skate park due to the Respondent's failure to  
 12 approve the skate park with the requisite majority vote of the total membership of the City  
 13 Council as required by the Government Code.

14 The skate park required multiple approvals including a Design Permit, Conditional Use  
 15 Permit, a Coastal Development Permit (CDP), and a Right-of-Entry Permit (hereinafter referred  
 16 to as the "Project"). (AR 2981). Only the City Council could approve the right-of-entry permit  
 17 for the use of City parkland for a private development project. (AR 3594). The Planning  
 18 Commission took action to certify the Environmental Impact Report (EIR) and to approve the  
 19 permits, except for the right-of-entry permit which only the City Council could approve. (AR (B.P.N.)  
 20 2775-2776). On April 14, 2016, Petitioner appealed the decision of the Planning Commission.  
 21 (AR 4077.) The Respondent's written response to the appeal stated that "It is agreed that the  
 22 City Council must certify the EIR because the project has been appealed and as a result, *the*  
 23 *Planning Commission's previous certification has been vacated.*" (AR 147 (emphasis added)).

24 After the Planning Commission hearing, and 10 days prior to the City Council hearing,  
 25 the Respondent released "Final EIR Additions," including an expert noise study with "expanded  
 26 discussion of the Draft EIR Alternative 1 impacts based on review of two site layout options  
 27  
 28

[Proposed] Order Re Petition for Writ of Mandamus

1 developed after the March 31, 2016 Planning Commission meeting..." (AR 1197 - 1232). The  
 2 additions to the EIR acknowledged that "The EIR will be considered for re-certification by the  
 3 City Council." (AR 1197).

4 The appeal was set for a City Council hearing on June 23, 2016, and the agenda for the  
 5 hearing referred to a recommendation to uphold the Planning Commission' decision by *adopting*  
 6 *the Resolution* attached to the agenda packet. (AR 2708 - 2709 (emphasis added)). The Staff  
 7 Report for the hearing stated that "Staff recommends the City Council uphold the Planning  
 8 Commission's decision by taking the follow actions: 1. *Adopt the attached Resolution*  
 9 *certifying the [EIR]... 2. Adopt the attached Resolution* approving a Conditional Use Permit...  
 10 3. Approve related agreements for access and indemnity..." (AR 16 (emphasis added)). The  
 11 Resolution prepared for the hearing, and attached to the Staff Report, included all three motions  
 12 in one Resolution and was titled:

13 Resolution of the City Council of the City of Capitola Certifying the Final Environmental  
 14 Impact Report, Adopting a Mitigation Monitoring and Reporting Program and Associated  
 15 Environmental Impact Findings, and Approving a Conditional Use Permit, Design  
 Permit, Coastal Development Permit, and Right-of-Entry Agreement for the Monterey  
 Avenue Skate Park Located at 700 Monterey Avenue. (AR 76).

16 The Staff's PowerPoint Presentation recommended that the Council "*Adopt the Resolution... .*"  
 17 certifying the EIR and approving the Project, and referenced the two other actions listed in the  
 18 Staff Report. (AR 2309). Two of the five Council members were required to recuse themselves  
 19 from the matter due to conflicts of interest. (AR 7, 10, 11, 3781, 3784).

20 At the close of deliberations, Council took action pursuant to the three-parts of the  
 21 resolution set forth in the Staff Report. The first motion was made "to uphold the planning  
 22 commission decision to certify the environmental impact report and adopt the Mitigation  
 23 Monitoring and Reporting Program." (AR 3940). That Motion passed 3-0. (AR 3940-3941).  
 24 As the City Council discussed Project approval, a motion was made to amend the Project to  
 25 reduce the height of the sound wall mitigation measure and replace it "[t]o allow alternative  
 26 equivalent measures to provide the necessary sound reduction." (AR 3945). Only two of the  
 27

28  


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 [Proposed] Order Re Petition for Writ of Mandamus

1 three Council Members voted in favor of Project approval. (AR 8-9, 13-14, 3949-3450).  
 2 However, the Mayor interpreted the action as having approved the Project: "The motion carries 2  
 3 to 1 with Norton, Bottorff aye and Harlan no." (AR 3949). The Respondent takes the position  
 4 that the Project was approved.

5 As a matter of law, the Court finds that the Respondent failed to approve the Project  
 6 because the Resolution approving the Project failed to receive a majority vote of the total  
 7 membership of the City Council as required by Government Code § 36936. The Court utilizes  
 8 its independent judgment to determine if the Respondent abused its discretion and failed to  
 9 proceed in a manner required by law under Section 36936 of the Government Code. "The  
 10 interpretation of both statutes and ordinances is ultimately a judicial function." *MHC Operating*  
 11 *Limited Partnership v. City of San Jose* (2003) 106 Cal.App.4th 204, 219. The Government  
 12 Code states: "Resolutions, orders for the payment of money, and all ordinances require a  
 13 recorded *majority vote of the total membership* of the city council." Government Code § 36936  
 14 (emphasis added). Two Council members could not participate in the Project's proceedings due  
 15 to conflicts of interest. (AR 3781, 3784). Only two Council members voted to approve the  
 16 Project. (AR 3949, 3950). The record indicates that the Respondent sought to approve the  
 17 Project by resolution. At no point did the Council state that it was not moving forward with a  
 18 resolution. (AR 3770). Moreover, the minutes state that the Council amended the "Noise  
 19 Condition." (AR 9, 14). The Noise Condition is found in the Resolution of the City Council  
 20 Agenda Packet. (AR 90).

21 The Respondent argues that it proceed by way of an oral motion. However, this would  
 22 allow the Respondent to circumvent the requirement of Government Code § 36936. The  
 23 California Environmental Quality Act (CEQA) requires the City Council to *adopt written*  
 24 *findings*. 14 Cal. Code Regs. § 15091 (emphasis added). Furthermore, the Respondent's Local  
 25 Coastal Program approved by the California Coastal Commission requires "adoption of *specific*  
 26 *written factual findings* supporting the conclusion that the proposed development conforms to  
 27  
 28

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[Proposed] Order Re Petition for Writ of Mandamus

1 the certified Local Coastal Program.” Capitola Municipal Code § 17.46.090(D) (emphasis  
 2 added). Because written findings are required, a resolution was necessary to certify the EIR and  
 3 approve the Project.

4 ~~Finally, the Court finds that amending the noise mitigation measure of the 12-foot sound~~ CPN  
 5 ~~wall without any analysis concerning the feasibility of an alternative mitigation measure.~~ After  
 6 the close of public hearing and during Council deliberations, the Council amended the 12-foot  
 7 soundwall mitigation measure: “I think it would be worthwhile to get an acoustics specialist in  
 8 there to find out the best way to do this thing. So we’ll leave that one open then. Right now it’s  
 9 written in as a 12-foot wall?” (AR 3945). The Community Development Director suggested:  
 10 “that we amend that condition to allow alternative equivalent measures to provide the necessary  
 11 sound reduction.” (AR 3945). To which the Council member who proposed the reduction of the  
 12 soundwall responded, “Okay. That’s the motion.” (AR 3945). The minutes state that the  
 13 Council amended the “Noise Condition.” (AR 9, 14). Because the alternative equivalent  
 14 measure has not been defined, identified, or analyzed, the decision to amend the noise mitigation  
 15 with an unidentified mitigation measure required recirculation under CEQA. *See, Gray v.*  
 16 *County of Madera* (2008) 167 Cal.App.4th 1099, 1120. While the Court finds that it is not  
 17 necessary to reach the issue of whether the change in the noise mitigation requires recirculation  
 18 of the EIR because the Project failed to receive approval pursuant to Government Code § 36936,  
 19 the Court finds that CEQA would require recirculation of the EIR to address the amendment to  
 20 the noise mitigation measure.

21 Based on the foregoing, the Court enters the following Order:

22 1. The petition for writ of mandamus and request for declaratory relief are hereby  
 23 granted. The Court finds that the Project was not approved because the Project failed to be  
 24 approved by a majority vote of the total membership of the City Council as required by  
 25 Government Code § 36936.

26 2. The Respondent may not consider the Project, including the Conditional Use Permit,  
 27  
 28

*[Proposed] Order Re Petition for Writ of Mandamus*

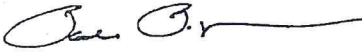
1 Design Permit, Coastal Development Permit, and Right-of-Entry Agreement for the Monterey  
2 Avenue Skate Park Located at 700 Monterey Avenue, to be approved, and the Respondent is  
3 enjoined from issuing any permits or allowing the Real Parties to enter Monterey Park to  
4 construct a skate park.

5 3. The Court further finds that the motion to certify the EIR complied with Government  
6 Code § 36936 because the Council voted in favor of certification on a 3-0 vote. However,  
7 because the Respondent has taken the position that a Resolution was not approved, the  
8 Respondent has not provided a separate Resolution certifying the EIR and adopting written  
9 findings. Because CEQA requires the City Council to adopt written findings (14 Cal. Code  
10 Regs. § 15091), the Respondent failed to proceed in a manner required by law. However, the  
11 City Council may cure this defect by readopting a resolution with written findings certifying the  
12 EIR. If the City Council ultimately decides to approve the Project by amending the noise  
13 condition to reduce the height of the soundwall below 12 feet and replace the mitigation measure  
14 with a measure “[t]o allow alternative equivalent measures to provide the necessary sound  
15 reduction,” then the EIR must be recirculated prior to recertification.

16 4. Petitioner’s First Request for Judicial Notice and Second Request for Judicial Notice  
17 is granted. Respondents’ and Real Parties’ Request for Judicial Notice is granted.

18  
19 **IT IS SO ORDERED.**

20  
21  
22 Dated: 8/4/17

  
23 THE HONORABLE PAUL P. BURDICK

24  
25  
26  
27  
28 *[Proposed] Order Re Petition for Writ of Mandamus*

Communication: Additional Materials (ADDITIONAL MATERIALS)

**Fridy, Linda (lfridy@ci.capitola.ca.us)**

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**From:** Pearce, Colin L. <CLPearce@duanemorris.com>  
**Sent:** Monday, September 25, 2017 9:19 AM  
**To:** City Council  
**Cc:** "jgoldstein@ci.capitola.ca.us"; Grunow, Rich (rgrunow@ci.capitola.ca.us); Tony Condotti (TCondotti@abc-law.com)  
**Subject:** RE: Monterey Skatepark--Agenda for September 25, 2017  
**Attachments:** SCN\_0062.pdf

Dear Mayor Harlan and Members of the City Council,  
Please see the attached letter responding to the September 22, 2017 letter to the City Council from William Parkin, counsel for FOMP.  
Thank you,  
Colin Pearce.

**Colin L. Pearce**  
Partner

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Communication: Additional Materials (ADDITIONAL MATERIALS)

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AND SRI LANKA

September 25, 2017

VIA E-MAIL

City Council of the City of Capitola  
City of Capitola  
420 Capitola Avenue  
Capitola CA 95010

**Re: City Council's Reconsideration of Appeal of Application No. 15-068; Skate Park in Monterey Avenue Park; City Council Agenda for September 25, 2017**

Dear Mayor Harlan and Members of the City Council:

I represent Tricia Proctor and Marie Martorella, the applicants for the Monterey Park Skate Park Project ("Project"), and the Real Parties in Interest in litigation filed by "Friends of Monterey Park" ("FOMP") against the City of Capitola ("City") to challenge the City's June 23, 2016 approval of the Project and the Environmental Impact Report ("EIR") for the Project. I also represent the City in that litigation, along with the Capitola City Attorney, Tony Condotti.

This letter responds to the September 22, 2017, letter from William Parkin, counsel for FOMP, to the Capitola City Council regarding the City Council's reconsideration of its June 23, 2016, approval of the Project and the EIR for the Project at a September 25, 2017 special meeting of the City Council.

The City Council should be aware that Mr. Parkin's letter is highly inaccurate, erroneous and misleading. Mr. Parkin does not accurately describe the judgment, orders and writ (hereinafter collectively "Judgment") issued by the Santa Cruz County Superior Court in the litigation filed by FOMP against the City. Mr. Parkin additionally does not accurately describe or characterize the legal authority applicable to the City's reconsideration of the Project. I therefore urge the City to disregard and reject Mr. Parkin's inappropriate, deceptive and inapplicable contentions, and his baseless, harmful and divisive threats to the City.

DUANE MORRIS LLP

SPEAR TOWER, ONE MARKET PLAZA, SUITE 2200  
SAN FRANCISCO, CA 94105-1127

PHONE: +1 415 957 3000 FAX: +1 415 957 3001

Communication: Additional Materials (ADDITIONAL MATERIALS)

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Contrary to Mr. Parkin's rambling and confusing contentions, and as accurately explained in the Staff Report, the Judgment does not state that the City Council can only reconsider and affirm its prior approvals of the Project and the EIR through a resolution, instead of through a motion. The Judgment therefore does not, as Mr. Parkin claims, require the City to only reapprove the Project and the EIR, or to confirm its prior approvals of the Project and the EIR, by a majority vote of the full City Council, or by three votes.

In the Judgment, the Court concluded that the City could not proceed with the Project at this time because on June 23, 2016, the City was presented with several "resolutions" for approval of the Project, related permits, and the EIR for the Project. Pursuant to Government Code Section 36936, approval of resolutions by the City Council requires the majority vote of the full membership of the City Council, or three votes. The Court found that the City did not properly approve the Project, or the permits for the Project, because two of the "resolutions" only received two votes, instead of three votes.

The Court did not, however, invalidate or reverse the City's prior approval of the EIR for the Project. The Court instead found that the "resolution" for the approval of the EIR did receive three votes, as required by Government Code Section 36936. The Court therefore did not order the City to rescind its prior approval and certification of the EIR. The Court only ruled that the City had not made or included written findings along with its approval of the EIR.

The Court stated that the City could "cure the defect" involving the lack of written findings "by readopting a resolution with written findings certifying the EIR." (Peremptory Writ of Mandamus, para. 2.) The reference to "resolution" in that sentence can only be taken to be a reference to the City's prior approval of the EIR by resolution. That statement, and the Judgment itself, do not and cannot require the City to adopt, certify, or reapprove the EIR, the Project, or related permits, by way of a resolution. Any interpretation of the Judgment otherwise is invalid, contrary to California law, and unenforceable.

The Judgment instead only requires the City, if it intends to proceed with the Project, to adopt written findings in connection with its prior approval of the Project and the EIR, and to otherwise comply with applicable California law, including Government Code Section 36936. Section 36936 authorizes the City to approve motions, including motions approving the Project and EIR, by a vote of the majority of councilmembers authorized to vote on the matter. That statute therefore expressly authorizes approval of the Project, and readoption of the EIR, by the affirmative vote of as little as two City Council members, through a vote of less than a majority of the full membership of the City Council. Contrary to Mr. Parkin's contentions, the Court did not hold to the contrary.

The Judgment therefore does not prevent or preclude the City from approving the Project and related permits by motion, instead of by resolution. The Judgment does not and cannot challenge or reverse Government Code Section 36936, or any other statute or regulation. Contrary to Mr. Parkin's contentions, the Court could not and did not impose requirements or



Duane Morris

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obligations on the City in excess of or in violation of Government Code Section 36936, or any other provision of law. Mr. Parkin's suggestion that the Court could impose some obligation on the City in excess of or contrary to California statutes is irresponsible and inaccurate.

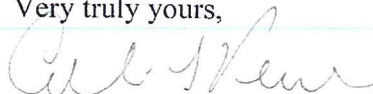
As the Staff Report explains, there is no requirement in California law that the City has to approve the Project, the permits for the Project, or the EIR, by resolution, instead of motion. There is specifically no requirement in the Capitola Municipal Code, in the Government Code, in the CEQA statutes and regulations, or in any other statute or regulation, that the City has to approve the Project through a resolution or ordinance. There is additionally no requirement in the Municipal Code, or anywhere else under California law, that the City Council can only approve or uphold a Planning Commission decision on appeal by way of a resolution or ordinance.

The Staff Report correctly states "there is no threshold level of importance, or magnitude, or community interest above which some decision that otherwise could be acted upon by oral motion must be 'elevated' to the level of a written resolution." The Staff Report also correctly states that "neither the Public Resources Code, nor CEQA Regulations, nor any reported appellate decision have stated that the only mechanism by which an EIR may be certified or written findings may be adopted is a resolution." In my experience, cities and other local agencies frequently and routinely take action, including certification of EIRs and other CEQA documents, by way of a motion, instead of a resolution or ordinance.

There is also no requirement in California law that written findings have to be adopted by resolution, instead of by motion. California law does not mandate a specific form or format for findings. Instead, an administrative agency's findings must be clear enough to be understandable and complete enough to enable the reviewing court to ascertain the basis for the agency's decision. (*Topanga Asso. for Scenic Community v. County of Los Angeles* (1974) 11 Cal.3d 506, 514.)

For all of these reasons, and as explained in the Staff Report, we urge you to disregard and reject Mr. Parkin's baseless allegations and threats, and in particular his claim that the action under consideration by the City at its September 25, 2017 meeting is improper or contrary to the Judgment. We also urge you to disregard Mr. Parkin's attempts to disrupt the democratic process and prevent the City Council from properly taking action as the elected representatives of the residents of the City. We assure you that we will continue to vigorously defend the Real Parties in Interest, and the City, against Mr. Parkin's, and FOMP's, baseless threats and attacks.

Very truly yours,



Colin L. Pearce

CLP:bah

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Duane Morris

cc: Jamie Goldstein  
Rich Grunow  
Tony Condotti, Esq.

Communication: Additional Materials (ADDITIONAL MATERIALS)

September 20,2017

Dear Council Members,

Wanted to add our voices, again in regards to The Monterey Skate Park in Capitola.

I have written to each of you in the past and want to update and make sure it is known of our strong support in absolute favor of moving forward with the Monterey Skate Park.

We are excited and completely support the creation and location of a new skate park at Monterey Park in Capitola.

We have lived in the neighborhood where this skate park will be built for over 32 years.

The skate park will be built in the middle of what is more than a residential neighborhood.

This has long been an area of mixed public uses for our community.

There is the New Brighton Middle school, Soquel District School offices, St Joseph's Catholic Church, Shoreline community Church, the Performing Arts Center, beach traffic and parking Noble Gulch park, and the Monterey Park area.

The skate park will be built in the middle area of the Monterey Park.

We value children's availability to places where they can play and explore their talents. Our parks, baseball fields, our ocean, soccer fields, running tracks, skate parks are places that our children can grow and develop. Eventually becoming contributing adults in our communities. It is our responsibility and joy to create, provide, and sustain resources that foster the health and well-being of the children and adolescents of our community for now and future generations.

The Monterey Park location for a skate park is a natural extension of the uses there now, the baseball field, the athletic course, the school. This area is easily accessible and already used by the children of our City.

Having the Monterey Skate Park will be a great addition to Capitola.

The wonderful skate park, dog park and bike track, at McGregor is a success.

Yes, I believe we can use another skate park in Capitola available for younger children or even older children. Capitola has placed laws limiting skateboarding in certain area within city limits. Consider giving people legal places to practice the sport of skateboarding, support creating a positive attitude within our city. I have recently read with sadness, comments saying "skateboarding is the devil".

With the extensive changes coming to New Brighton Middle School this is a perfect time to include the skate park.

Thank-you, Capitola City Council for the vision to approve this area for a skate park.

Cheryl Ban and Mark Ban

321 McCormick Ave.

Capitola

831 479-0250

Communication: Additional Materials (ADDITIONAL MATERIALS)

**Fridy, Linda (lfridy@ci.capitola.ca.us)**

**From:** Don Betterley <donbetterley@gmail.com>  
**Sent:** Tuesday, September 19, 2017 6:04 PM  
**To:** City Council  
**Subject:** NO second skate park needed !!

Capitola City Council,

This is a definite NO for another skate park in Capitola.

Although we have always supported and been heavily involved with youth sports & arts in this city and county, Monterey Park in Capitola as a location for a skate park makes no sense. The park is already extensively used for multiple activities, parking full, and this time of year and the spring there can be as many as 7 young soccer teams practicing in the open green space there. Other times of the year are New Brighton Middle School (NBMS) soccer games, softball games, etc., usually many walking dogs on the path, even occasional police K-9 training sessions !  
And many days the Monterey Park area is used extensively during the school year for many NBMS physical ed. activities, field sports, running the track, etc.

**Open Green Space:** There is little open green space left in this small community. Will a short-sighted city council vote yet again to lose this quiet grassy area with views of Loma Prieta to one side, great sunset views to the west ?! Can elected city officials justify loss of open space because private parties and private money buy off the open space even with substantial community opposition, and the fact that a skate park already exists a few blocks away ?!

**Neighborhood / Residential Proximity:**  
As pointed out in a number of previous communications over the last couple of years, there have been many cities with studies on skate parks and appropriate locations, various neighborhood / maintenance / enforcement challenges, etc., And yet there seems to have been little attention or recognition paid by Capitola officials? It seems that these need to be addressed and city council views made public.

It seems this skate park issue in Capitola has gone on for years . . . a number of proposed locations, etc., even prior to Monterey Park (all abandoned).  
And even for Monterey Park, an initial proposal a few years ago was for a small bowl, minimal impact, and for younger skateboarders (the small bowl in Santa Cruz on Frederick St. often compared). If that had been the case, likely could have been accepted is my guess?  
Yet newer multiple grander plans shortly thereafter emerged, with offers of private buyout of public open green space !!?

As a long time Capitola resident seeing this issue drag on for years . . . it seems a sad commentary on highly divisive and intimidating meetings, resulting in unfortunate resort to legal avenues and an unknown financial burden most of us cannot afford ! And yet there is already a new custom designed skate park at McGregor !!!

I suggest that Capitola City officials stop wasting our taxpayer money and **just please save our precious peaceful open green space !**

Thank you,

D. Betterley

Communication: Additional Materials (ADDITIONAL MATERIALS)

**Fridy, Linda (lfridy@ci.capitola.ca.us)**

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**From:** Deborah polverino-bredy <deborahpbredy@yahoo.com>  
**Sent:** Thursday, September 21, 2017 1:15 PM  
**To:** City Council  
**Subject:** Locals for Capitola Skate Park

Members of Council, Neighbors, Business owners and Friends,

We are long time residence of Santa Cruz and Long time business owners in Capitola and wanted to take a moment to express our support of our local skate park. Capitola specifically is a uniquely tight niche community that values its community members, local businesses, neighbors, elders and youth. We pride ourselves on the history of our city and the beauty that lies within it. Capitola's sense of "welcome" is pure and genuine and something that must be preserved.

The, (what I feel fair to say) hostile nature of the opposition of our community driven skate park is uncharacteristic and undeserving to our community as a whole. The idea of a skate park is to improve what we as a community have to offer. To give our youth more positive, safe, and constructive outlet opportunities. I'm sure many of you are familiar with the "skateboarding is not a crime" slogan? It's not when you build a safe and legal place to enjoy the sport of skateboarding, and have the community willingness to donate such a place. The notion that a skate board park would increase crime and cause danger to our youth and trouble for its neighbors is preposterous and is perpetuated by small minded thinking. That is not the thinking of our Capitola community on a whole. It saddens me that the idea of offering a refuge for our youth is apposed by anyone in our community. Now more than ever we need to work with one another, to support, to try and understand what our youth is up against and how we can preserve just that, their youth! By providing relatable outlets for them will only strengthen the youth we are trying to raise, giving them less opportunity to go wayward and find trouble.

I want to ask those who are in opposition to at least give our skate park a chance, go outside your comfort zone and trust the we are all on the same side. We want to continue the legacy of Capitola, a safe, beautiful, community of forward thinking individuals that welcome it's youth and supports the preservation of them. I thank you for your earnest consideration of the Capitola Skate Park.

Warmest Regards,

Deborah and Mike Bredy

Sent from Yahoo Mail for iPad

Communication: Additional Materials (ADDITIONAL MATERIALS)

**Fridy, Linda (lfridy@ci.capitola.ca.us)**

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**From:** Trevor Bryce <trevorbryce@gmail.com>  
**Sent:** Thursday, September 21, 2017 9:16 PM  
**To:** City Council  
**Subject:** Monterey Park

Hello city council members,

I am opposed to the idea of building a new skate park in Capitola. I live right behind Monterey park. I'm not opposed to skateboarding, or city improvement or skate parks. We already have a skate park. Instead of making a new park, the one we have and the street it's on should be improved. Add more sidewalks, cross walks, and traffic lights in the area as well as better facilities in the park.

Thank you

-T

Communication: Additional Materials (ADDITIONAL MATERIALS)

**Fridy, Linda (lfridy@ci.capitola.ca.us)**

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**From:** Andrew Cannon <andrewscottcannon@gmail.com>  
**Sent:** Thursday, September 21, 2017 2:08 PM  
**To:** City Council  
**Subject:** Support for the Capitola Skatepark.

Dear Capitola City Council,

My family and I moved to Capitola three years ago from Arizona and since we've been here we have been involved in the Capitola Skate Park project. We've attended meetings and spoke at meetings supporting the project process. We have 3 children under the age of 3 years who would benefit from the beginner skate park at Monterey Ave park. That park is within walking distance from our home and easily accessible to get to and a desired location to watch and participate in our children's play.

We understand the park was approved June 2016 but due to a clerical error of a word and litigation matters, the application needs to be re-approved. Please support the vote, families and especially the youth of Capitola.

Thank you,

The Cannon's

Capitola Residents.

Communication: Additional Materials (ADDITIONAL MATERIALS)



**Fridy, Linda (lfridy@ci.capitola.ca.us)**

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**From:** Jeanette Cisneros <drajlc@hotmail.com>  
**Sent:** Tuesday, September 19, 2017 9:47 PM  
**To:** City Council  
**Subject:** skate park proposal

I'm writing to express my opposition to building a skate park at Monterey Park. I would prefer to leave it with grass and trees rather than concrete. There is no need for another skate park in addition to that on McGregor. I live on El Salto Dr. in Capitola.

Communication: Additional Materials (ADDITIONAL MATERIALS)

**Fridy, Linda (lfridy@ci.capitola.ca.us)**

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**From:** Geraldine Cutshaw <cutshawg@sbcglobal.net>  
**Sent:** Wednesday, September 20, 2017 2:01 PM  
**To:** City Council  
**Subject:** NO SKATEPARK IN MONTEREY PARK

DEAR COUNCIL MEMBERS,

MONTEREY PARK IS AN INAPPROPRIATE PLACE FOR A SKATEPARK.

THERE ARE PLENTY OF PLACES FOR SKATEBOARDERS ALREADY.

AS A TAXPAYER OF CAPITOLA I DON'T WANT TO SUPPORT ANOTHER SKATEPARK.

GERRY CUTSHAW

Communication: Additional Materials (ADDITIONAL MATERIALS)

**Fridy, Linda (lfridy@ci.capitola.ca.us)**

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**From:** Dan <dbt33@hotmail.com>  
**Sent:** Tuesday, September 19, 2017 5:46 PM  
**To:** City Council  
**Subject:** Skate park

Please use common sense and stop this total waste of time and money. The judge has decided now how about moving on to some real issues before this city. Please make the right decision and stop siding with the special interest groups.

Sent from my iPhone

Communication: Additional Materials (ADDITIONAL MATERIALS)

**Fridy, Linda (lfridy@ci.capitola.ca.us)**

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**From:** Steve Duke <sduke575@gmail.com>  
**Sent:** Wednesday, September 20, 2017 8:57 AM  
**To:** City Council  
**Subject:** Support for Skatepark in Monterey Park

Hello City Council,  
My name is Steve Duke, I live in the Cliffwood Heights neighborhood and support the proposed skate park in Monterey Park. I grew up in the neighborhood and live there now. It will be a great addition for children in the city.  
thank you,  
Steve Duke  
916 Sir Francis Ave.  
Capitola, CA

Communication: Additional Materials (ADDITIONAL MATERIALS)

**Fridy, Linda (lfridy@ci.capitola.ca.us)**

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**From:** Shenna Duke <shennadk30@gmail.com>  
**Sent:** Sunday, September 24, 2017 2:38 PM  
**To:** City Council  
**Cc:** helen.s.bryce@gmail.com  
**Subject:** skate park @ Monterey Park

to all,

Just had to let my vote known, we live on Orchid Ave, as this is a residential area, I don't like or think we need another skate park here, I have visited other parks and they are loud make it offensive to hear constantly.

There are houses across the street, houses that line the park, and no matter how you try sound carries. We can hear from our house the band and waves down by the Esplanade for an example.

For the residents in the proximity I think should be able to have the vote of "no"

I hope you will listen

Shenna Duke

Communication: Additional Materials (ADDITIONAL MATERIALS)

**Fridy, Linda (lfridy@ci.capitola.ca.us)**

**From:** Bob Edgren <agren7@yahoo.com>  
**Sent:** Tuesday, September 19, 2017 9:25 PM  
**To:** City Council  
**Subject:** the nerve grater skateboarder

"When they come out of the skatepark, they use the corners to do jumps," said A., who has recorded decibel measurements of the noise levels using a smartphone app. According to her readings, the levels ranged from 64 dBA at ambient street noise to 84 dBA when a skateboarder passes by, both at around 1 a.m.

The San Francisco Department of Public Health has noise limits intended to prevent health problems that result from "persistent exposure to elevated levels of community noise." Within residences, these limits are 55 decibels during the day (7 a.m to 10 p.m.) and 45 decibels at night."

New Skate Park Grinds Neighbors' Nerves



**New Skate Park Grinds Neighbors' Nerves**

En Español. When the SoMa West Skate Park opened under the Central Freeway earlier this month, skateboarders gree...

Communication: Additional Materials (ADDITIONAL MATERIALS)

**Fridy, Linda (lfridy@ci.capitola.ca.us)**

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**From:** Bob Edgren <agren7@yahoo.com>  
**Sent:** Tuesday, September 19, 2017 9:49 PM  
**To:** City Council  
**Subject:** Skateboard noise

I can't imagine anyone wanting to live near this.

[The Sound Of Skateboarding \(2013\)](#)



**The Sound Of Skateboarding (2013)**

2013 Quesnel Skatepark Edit

Communication: Additional Materials (ADDITIONAL MATERIALS)

**Fridy, Linda (lfridy@ci.capitola.ca.us)**

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**From:** Pam F <pjfarren@aol.com>  
**Sent:** Wednesday, September 20, 2017 10:16 PM  
**To:** City Council  
**Subject:** Monterey Skate Park

Dear City Council,

We live on Sir Francis Avenue in Capitola and vote NO, once again, to the proposed skate park at Monterey Park.

Capitola has a skate park within a mile and it is doing just fine. Keep Monterey Park as it should be with various sports and family activity. Nobody should have to put up with a fenced skate park, with the noise and lights in their front yard or back yard. I'm sure if it were you, the council and the individuals proposing this, you would make sure this didn't happen in your front yard or back yard.

On another note, I have never understood why the City of Capitola has not put a bathroom in at Monterey Park.

Why would you put a bathroom in for the skate park but not for all those families enjoying the recreational activities that go on currently?

I imagine the shrubbery is being used when that child or adult really need to go. Now if you would consider building bathrooms in Monterey Park, there's a project I be happy to support.

Sincerely,

Pam Farren  
809 Sir Francis Avenue  
Capitola, CA 95010

24 year resident

Communication: Additional Materials (ADDITIONAL MATERIALS)



**Fridy, Linda (lfridy@ci.capitola.ca.us)**

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**From:** Sharon Fitzgerald <sfitzgerald@preferredstrategies.com>  
**Sent:** Friday, September 22, 2017 12:58 PM  
**To:** City Council  
**Subject:** Families supporting Monterey Skate Park / Capitola Skate Park

Hello there,

Just a quick note to tell you that I speak for many that support this skate park. My child and his friends are straight A students, in school sports, and like also to skate. They are good kids.

We really support this park.

Thank you,

**Sharon Fitzgerald**  
*Account Executive*

tel (888) 232-7337 x405 | mobile (408) 858-5962

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Communication: Additional Materials (ADDITIONAL MATERIALS)

**Fridy, Linda (lfridy@ci.capitola.ca.us)**

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**From:** Connie Gardner <connie.gardner\_sc@yahoo.com>  
**Sent:** Friday, September 22, 2017 2:13 PM  
**To:** City Council  
**Subject:** Fw: OBJECTING TO A SKATEPARK AT MONTEREY PARK

Sent from Yahoo Mail for iPhone

Begin forwarded message:

On Friday, September 22, 2017, 2:05 PM, Connie Gardner <connie.gardner\_sc@yahoo.com> wrote:

I am absolutely apposed to a skatepark at Capitola's Monterey Park. This is a duplication of services since there is already a new skatepark nearby. There are no restroom services at this park and it would be absurdly close to a middle school campus. This smells and looks like a special interest push to get what just a few want. Many others have expressed opposition; please consider this when making your decision.

Sent from my iPhone

Communication: Additional Materials (ADDITIONAL MATERIALS)

**Fridy, Linda (lfridy@ci.capitola.ca.us)**

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**From:** Nancy Goldstein <ncgneg@gmail.com>  
**Sent:** Thursday, September 21, 2017 4:00 PM  
**To:** City Council  
**Subject:** No Skatepark at Monterey Park, and a request

Dear City Council Member,

I oppose building a skatepark in Monterey Park. This is a neighborhood, and is simply the wrong location for such an activity.

The city's time and attention would be better spent interacting with local schools and the Capitola police to educate young skateboarders in the laws concerning their activity and their responsibilities to the rest of society.

Nancy Goldstein  
Rosedale Avenue  
Capitola

Communication: Additional Materials (ADDITIONAL MATERIALS)

**Fridy, Linda (lfridy@ci.capitola.ca.us)**

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**From:** Carin Hanna <carinhanna@aol.com>  
**Sent:** Friday, September 22, 2017 9:18 AM  
**To:** City Council  
**Subject:** Monterey Skate Park

Having made many visits to the pump track & skate park, it is obvious that it is an asset to the community. However, there are challenges due to its location. The council's intention to provide a recreational opportunity appropriate for our youngest residents was the right one. To see families walking to the park from their homes would be a joy.

Please uphold the intent of the council to approve the Monterey Skate Park.

Thank you.

Carin Hanna

Sent from AOL Mobile Mail

Communication: Additional Materials (ADDITIONAL MATERIALS)

**Fridy, Linda (lfridy@ci.capitola.ca.us)**

**From:** Bob Hickman <bobster1263@yahoo.com>  
**Sent:** Wednesday, September 20, 2017 6:19 PM  
**To:** City Council  
**Subject:** Skate Park at New Brighton Middle School.

To the Capitola City Council.

I understand that you are holding a meeting on Monday September 25th with regards to this skate park.

I would ask that you step back and ask yourselves,

1. Have we done a survey of all the neighbors surrounding the park to get their feelings on the park? The neighbors are the ones that will most be affected by the noise and traffic from the new park. Think of it this way, Would you want this new skate park right across the street from your house???? If you answer no to that question then you must vote no!
2. Have you gone to the park lately? have you looked at the trees and the wildlife that uses them and then considered that Your Decision to move forward with this park means those trees are gone forever.
3. Have you stopped and asked yourselves ok, the park is paid for but who bears the cost of maintenance, Capitola Police Patrols by the park graffiti removal? Is the funder of the park willing to put up a kitty fund that would offset these cost? i.e. put money into a fund that could be drawn on to pay for the maintenance graffiti removal trash removal and all other cost involved.
4. Why are we even considering putting 2 parks on the south side of Capitola within 1 mile of each other? Would not Jade Street park be a better location? Then we have skate parks on both sides of Capitola.

The Money that is being spent on the new skate park would be better spent building sidewalks to the McGregor Skate Park. This park is established and being used by all. It is in a location that the noise does not infringe on any of the neighbors.

I urge you to vote NO on the proposed skate Park. Listen to the residents of Cliffwood Heights and what they have to say!

Ask the supporters of the park where are they from? Are they from the neighborhood? If no, then how are their kids supposed to get here? Oh they will drive them, uh ok, negates unsafe walk to McGregor park.

I Urge you, stop and ask yourselves the questions then vote as a neighbor as someone who lives here, as your constituents are asking you to vote.

Thank you

Bob Hickman  
207 Washburn Ave

Communication: Additional Materials (ADDITIONAL MATERIALS)

**Fridy, Linda (lfridy@ci.capitola.ca.us)**

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**From:** Norm Lane <thenorm@sagatech.com>  
**Sent:** Thursday, September 21, 2017 3:19 PM  
**To:** City Council  
**Subject:** Skate Park

Dear council-people,

Please do not allow the construction of the Monterey Park skate park. In addition to the nuisance issues there is the matter of maintenance and security expense.

The strange notion of building a skate park within a mile of an existing one seems suggestive of some unstated motivation which is always troubling. The only actual argument I've heard in favor of this idea is that the construction costs are to be covered by a private party. One has to wonder if just any damn thing is thought desirable as long as it's free. The question that occurred to me was to wonder if the city would like a statue of Robert E. Lee if someone were willing to pay for it. Think of the security costs associated with that.

I really don't want this thing in my back yard.

Norm Lane

722 Orchid Ave.

Capitola 95010

Communication: Additional Materials (ADDITIONAL MATERIALS)

**Fridy, Linda (lfridy@ci.capitola.ca.us)**

---

**From:** Richard Lippi <richard@greatoptions.net>  
**Sent:** Saturday, September 23, 2017 10:46 AM  
**To:** City Council  
**Subject:** Skatepark---Unauthorized use of my name in Tricia Proctor's document sent September 20, 2017

Dear City Council Members,

I was recently made aware of a 2-page document attached to a cover email sent September 20, 2017 by Tricia Proctor. The document was entitled:

**Monterey Ave Skate Park -- Items asked by the following below and accommodated by the applicants:**

**Steingrube, Marilyn Warter, Tettters, Bowmans, Stow, Helen Bryce and Richard Lippi**

My name was used without authorization or permission. I had no personal input on the content of that document. Adding my name was deceptive and manipulative.

At this point, I do not support a skatepark of any design by the Applicants at Monterey Park.

If this project persists, I highly suggest that you ask for verifiable documentation for any claims made by the Applicants.

Sincerely,  
Richard Lippi  
Resident of Monterey Ave  
Capitola

Communication: Additional Materials (ADDITIONAL MATERIALS)

**Fridy, Linda (lfridy@ci.capitola.ca.us)**

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**From:** Mary Margulies <mv margulies@gmail.com>  
**Sent:** Saturday, September 23, 2017 2:16 PM  
**To:** City Council  
**Subject:** Skatepark at Monterey

Dear City Council Members,

I am writing this email to show my continued support for the skatepark at Monterey Park.  
Please correct the wording and reapprove this project.

Thank you,  
Mary Margulies

125 Wesley St  
Capitola

Communication: Additional Materials (ADDITIONAL MATERIALS)



**Fridy, Linda (lfridy@ci.capitola.ca.us)**

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**From:** shona mcdougall <shonamcdougall@outlook.com>  
**Sent:** Thursday, September 21, 2017 4:13 PM  
**To:** City Council; Harlan, Stephanie (sharlan@ci.capitola.ca.us)  
**Subject:** Skate Park

As a parent and foster parent in our community, I would like to ask that the City Council vote against the skatepark at the Monterey Park location, adjacent to New Brighton Middle School.

A proponent of the park has labeled neighbors in our community as “ridiculous narrow minded shrews” but the truth is, it’s an open-minded, community-centered, kid friendly person who chooses to live next to a school. There is traffic each day with morning drop-off and afternoon pick-up, there are bells and yells, and rows of cars on back-to-school-night, and open house night, and school dances and weekday and weekend sports events, etc, etc....! Monterey Park bustles with students during the school day, and more kids, parents and sports teams after school and on the weekends!

The issue at hand though is not any of these things, these are pleasant parts of life in our community; a skatepark that the developers already anticipate will attract vandalism is just not well-suited for a residential neighborhood or adjacent to a middle school.

If Mr Novak is genuinely concerned about having a skatepark Capitola kids can walk to, then why isn’t he looking elsewhere? We already have a skatepark, it sits exactly 0.7 mile down the road from the proposed location at Monterey Park, and .15 mile from the edge of Cliffwood Heights.

Please, when you vote, can you each ask yourselves.... would I want to live next to a skatepark?

Thank you for your time.  
Shona McDougall

Communication: Additional Materials (ADDITIONAL MATERIALS)

**Fridy, Linda (lfridy@ci.capitola.ca.us)**

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**From:** Walter and Penny Disbrow <wa2pen@pacbell.net>  
**Sent:** Thursday, September 21, 2017 1:53 PM  
**To:** City Council  
**Subject:** Capitola Skate Park

Dear Mayor Harlan and Council Members Termini, Bottorff, Bertrand and Petersen,

I continue to support the skate park project, and I hope you do the right thing and vote yes on Monday September 25, 2017. I ask the Capitola City Council and Mayor Harlan to please uphold the prior approval that was given June, 2016. I know once the park is completed, you won't be disappointed. I have been a resident of Capitola since 1945.

Sincerely,  
Cecilia Novak

Communication: Additional Materials (ADDITIONAL MATERIALS)

**Fridy, Linda (lfridy@ci.capitola.ca.us)**

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**From:** Molly Ording <mollyording@yahoo.com>  
**Sent:** Friday, September 22, 2017 9:04 AM  
**To:** City Council  
**Subject:** Monterey Avenue Skate Park!

Good Morning Valued Council Members!

I have respectfully kept my thoughts regarding this 2nd skate park in Capitola to myself as I have been keenly aware of all the dissension and disagreement and animosity that this issue has generated in our small community. However, after reading the letter in the Sentinel this morning from the two very earnest promoters of this park (and I do acknowledge their passion and commitment to this project), I would like to offer my perspectives, after listening and observing this struggle for the past years.

I am an active resident and an involved community member, a Grandmother of 12 kids under age 16, a good neighbor and friend (I hope!) and a true lover and user of our beaches and our beautiful outdoor spaces! I frequently take my grand-children to the McGregor skate and bike park and I am thrilled and proud every time I am there, or every time I drive by, to see how well loved and widely used these wonderful additions to our community are!

Please...let's put the Monterey Park Skate Park controversy and animosity AWAY...once and for all! Our Capitola kids and our local kids have PLENTY to do safely...the current parks and **all** their amenities, the beach, surfing, swimming, paddle boarding, the river, organized sports, cultural opportunities and on and on...they are hardly deprived of recreational opportunities and age-appropriate fun in *any* sense of the word! If Mr. Novak, with all his good intentions and substantial generosity, wishes to build a skate park and the Moms behind it, truly want to do something for children, why don't they transfer their very good intentions, hard work and their money to a community that is truly lacking in recreational spaces for children and one that would warmly welcome them? There are plenty of those within our Monterey and Bay Area communities!

Enough of this very local "push-me, pull-you..." the costly time and money, the litigation and the community-damaging animosity. Turn this into an opportunity to truly give and contribute and let's all set an example for our children of cooperation, conciliation and contribution! I would be very happy and proud to help in that endeavor!

Most sincerely,

Molly I. Ording

Communication: Additional Materials (ADDITIONAL MATERIALS)

**Fridy, Linda (lfridy@ci.capitola.ca.us)**

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**From:** Lisa Rupp <lisarupp79@hotmail.com>  
**Sent:** Sunday, September 24, 2017 6:57 PM  
**To:** City Council  
**Subject:** SUPPORT THE VOTE KRISTEN & STEPHANIE~ Capitola Skate Park

Capitola City Council~

I am writing you today to express my continued support of the Capitola Skate Park that will yet again be up for discussion in the council meeting tomorrow.

In this day and digital age it is increasingly more important to provide the youth with the opportunity and safe resources to be outdoors being physically active. I was thrilled to hear that the city voted correctly to approve the Capitola Skate Park last year which will be a great addition to the community and provide hours and years of positive entertainment and sport for the youth of our great community. It is such a shame that the wording used in the Agenda was incorrect and created a clerical error that now has lead to another vote to uphold and re-approve the original approval.

I ask you to please uphold the previous council's decision to approve this wonderful project. Hopefully there will be a quick fix at the meeting tomorrow which will enable the city to graciously accept such an generous and amazing gift for the community and generations to come.

Respectfully,  
Lisa Rupp

Communication: Additional Materials (ADDITIONAL MATERIALS)

**Fridy, Linda (lfridy@ci.capitola.ca.us)**

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**From:** Denise Ryan <denisearyan8@gmail.com>  
**Sent:** Thursday, September 21, 2017 1:43 PM  
**To:** City Council  
**Cc:** Christopher O'Connell  
**Subject:** Skate Park Support

Dear Capitola City Council,

Please accept this email as our hearty support for the proposed skate park near New Brighton. It would be a terrific asset to so many young people-- and also those young at heart.

We ask that you correct the wording and re-approve this project with written findings. Our community needs more recreational options for youngsters. It's a very safe location and how wonderful for area kids to NOT have to be driven to a park!.

Thank you for your dedication to our beautiful city!

Denise Ryan & Chris O'Connell

Denise Ryan  
[denisearyan8@gmail.com](mailto:denisearyan8@gmail.com)  
(831) 345-0279

Communication: Additional Materials (ADDITIONAL MATERIALS)

**Fridy, Linda (lfridy@ci.capitola.ca.us)**

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**From:** Cierra Ryczek <cierra@lumengal.com>  
**Sent:** Friday, September 22, 2017 12:28 PM  
**To:** City Council  
**Subject:** Monterey Ave Skate Park, residents in favor

Hello,

My husband owns 'The Foot Clinic of Santa Cruz' on Capitola Ave and I own 'Lumen Gallery' in Capitola Village. We have owned our home in the Jewel box for the last 4 years and have lived in Capitola a total of 10 years! We also have a 4 year old boy and grew up in the skateboarding generation. My experience with skate parks being built in residential areas in my home town (Morro Bay, Los Osos, San Luis Obispo) is that it gets all these kids off the street and in a safe environment where they can move, play and get out of the house. I have only experienced positive effects from skate parks being built. It forces the kids who skate to get along with each other, share a space, and feel like they belong in their community. If this gets voted down, it will send a strong message to the kids and their families that they are not welcome here. There are many families with young kids moving into this area and its very important to embrace them and create a sense of community and inclusion. Building the skate park would be a great message to send to our youth. I am in strong favor. I would prefer my son have a safe space to express himself physically and socially.

Thanks for taking the time to read this,

Cierra Ryczek  
cierra@lumengal.com  
831.295.6647

Communication: Additional Materials (ADDITIONAL MATERIALS)

**Fridy, Linda (lfridy@ci.capitola.ca.us)**

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**From:** Dolly Sadell <dollysadell@gmail.com>  
**Sent:** Wednesday, September 20, 2017 9:39 AM  
**To:** City Council  
**Subject:** Skateboarding Park

To whom it mat concern:

I am writing to express my disapproval of the Skateboarding Park.

We are fortunate to have a green spot in Capitola, let's keep it tht way.

Thank you,

Dolly Sadell  
300 Plum St. Spc. 26  
Capitola, CA 95101

Communication: Additional Materials (ADDITIONAL MATERIALS)

**Fridy, Linda (lfridy@ci.capitola.ca.us)**

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**From:** Marla Sanders <marlaann@pacbell.net>  
**Sent:** Wednesday, September 20, 2017 1:24 PM  
**To:** City Council  
**Subject:** I am opposed to the proposed skate park development at Monterey Park

Dear Capitola City Council Members,

I am opposed to the proposed skate park development at Monterey Park. I hope that the City will not reconsider. I was at the Council meeting on Nov 26 in 2014 when the McGregor Skate Park was approved and the Monterey Park was added back to the Agenda for reconsideration in 2015 for a second go around. Dennis Norton warned the City Council and the applicants that it would not go through without a fight and that it wasn't pretty the first time around.

I'm sure you've heard reasons for not putting in a skatepark at Monterey Park, my feeling is that skateparks do not belong in residential neighborhoods so close to family homes.

Marla Sanders

Communication: Additional Materials (ADDITIONAL MATERIALS)



**Fridy, Linda (lfridy@ci.capitola.ca.us)**

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**From:** Jacyn Siebert <jacynasiebert@gmail.com>  
**Sent:** Wednesday, September 20, 2017 6:21 PM  
**To:** City Council  
**Subject:** Request to Re-Approve Skate Park

Dear City Council Members,

I am writing to ask for your support on the vote and request that the error made by the City be corrected with the appropriate wording and written findings.

Thank you for your time and consideration.

Sincerely,

Jacyn Siebert

Sent from my iPhone

Communication: Additional Materials (ADDITIONAL MATERIALS)

**Fridy, Linda (lfridy@ci.capitola.ca.us)**

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**From:** Ann Stow <wrkn2bpink@aol.com>  
**Sent:** Friday, September 22, 2017 5:55 PM  
**To:** City Council  
**Subject:** Monterey Skatepark

My family and I strongly object to the proposed skatepark!

Not only is it utterly ridiculous to have a second skatepark, literally less than 1/4mi from Monte Skatepark, but it is planned for directly across the street from our home!!!

I've read people's comments who support this project, and NOT ONE OF THEM, will be impacted by the added traffic, and the noise that comes from a skatepark!

I believe the applicants of the skatepark have lied to people about the purpose of a new skatepark, saying it would be for younger children and/or beginner skaters! Hogwash! It's a all age skatepark!

Last year when the council approved the skatepark, you said it was for the greater community! WE ARE PART OF THE GREATER COMMUNITY! I plead with you, please don't approve this project!

ANN STOW

Sent from my iPad

Communication: Additional Materials (ADDITIONAL MATERIALS)

**Fridy, Linda (lfridy@ci.capitola.ca.us)**

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**From:** Terre Thomas <terra12@cruzio.com>  
**Sent:** Thursday, September 21, 2017 2:16 PM  
**To:** City Council  
**Subject:** No Skateboard Park

Dear Council Members,

I am writing to strenuously object to any reconsideration of a skateboard park next to New Brighton Middle School, where unsupervised young men are in close proximity to impressionable young girls all day. We, and many others, use the park regularly, and the constant noise would seriously disturb the peace. I just saw many parents sitting in the shade of the eucalyptus trees, watching their kids play soccer. Also, there is a perfectly good skateboard park not a mile away that is appropriately located and quite suitable for the needs of our community. Skateboarders are only a tiny fraction of our community. They don't need two parks. Please don't allow another skateboard park to be built.

Much appreciated,  
Terre Thomas

Sent from my iPhone

Communication: Additional Materials (ADDITIONAL MATERIALS)

**Fridy, Linda (lfridy@ci.capitola.ca.us)**

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**From:** Tessa Tuttman <tessatuttman@gmail.com>  
**Sent:** Saturday, September 23, 2017 9:52 PM  
**To:** City Council  
**Subject:** Capitola Skate Park

City Council Members,

Please support the vote for the Capitola Skate Park, correct the City error and re-approve the skate park with the correct wording and written findings.

Tessa Tuttman  
730 Orchid Ave  
Capitola

Communication: Additional Materials (ADDITIONAL MATERIALS)

**Fridy, Linda (lfridy@ci.capitola.ca.us)**

**From:** Marilyn Warter <mwarter@sbcglobal.net>  
**Sent:** Thursday, September 21, 2017 9:40 PM  
**To:** City Council  
**Subject:** Skatepark at Monterey Park  
**Attachments:** Settlement offer.pdf

Dear Council Members,

As part of Friends of Monterey Park (FOMP), I want to make it clear that from the beginning we wanted to avoid litigation with the City over this issue. Unfortunately we felt completely unheard until we notified the city that we were prepared to file a case. We had a meeting prior to filing the case (that included our attorney, Tricia Proctor and Marie Martorella and their attorney, and the City Manager) where we stated that we were open to the idea of a smaller skate park to avoid going to court and to minimize the controversy in the community. The skate park designer was brought into the meeting via skype to tell us that anything less than the proposal that was before the Council was not feasible. Based on our research, that was simply untrue. But, they believe that for what they have in mind, a smaller skate park is not feasible. Nothing was agree to at that meeting.

After the case was filed, at a settlement meeting in the City Attorney's office with Mr. Pearce, Tricia Proctor and Marie Martorella, we were promised a response if we made a formal proposal. Our attorney and the group worked hard to come up with deal points for a proposal (which was sent to Mr. Pearce and copied to the City Attorney), and we were surprised we never received anything in response, not even a counteroffer. The proposal is outlined in the email below that was sent last year from our attorney to the City Attorney and Mr. Pearce.

So we have met two times already, and made a specific proposal, without any progress. The only compromise that they have made was at the direction of the Council which was to reduce the entire foot print of the project back down to 6,000 square feet which is what it was supposed to be anyway. After that council meeting they sent letters accusing folks of copyright infringement because of the "No" stickers we wore at the meeting. We felt harassed and bullied by this action and it cost us valuable legal resources to respond to their baseless claim. They have refused to negotiate or compromise at all, and they never even responded to our proposal for a smaller skate park. We were forced to go to court over something that was very clear: 2 council members cannot make these decisions alone.

People feel passionate about not having a skate park in Monterey Park for various reasons (including the effect on the school and other recreational uses as well as the noise). So many people have thanked me for our efforts to save the open green space that is so cherished by our neighborhood and by people from all over the County who visit Monterey Park. We are pleased that the larger skate park at McGregor Park, which we always supported, is such a great success. Since McGregor was one of three options for a skate park, along with Monterey Park, and an option that had the least impact on the community was chosen, why do we now need a second skate park in Monterey Park right next to New Brighton Middle School? Shouldn't another skate park be located on the other side of town. Having two so close together is a duplication of services. It just doesn't make sense.

Marilyn Warter, SRA  
Certified General Appraiser

Communication: Additional Materials (ADDITIONAL MATERIALS)

**Subject:** FW: CONFIDENTIAL SETTLEMENT COMMUNICATION--EVIDENCE CODE SECTION 1152  
**From:** William Parkin (wparkin@wittwerparkin.com)  
**To:** mwarter@sbcglobal.net;  
**Date:** Friday, August 25, 2017 7:53 AM

Here is our proposal. They never responded. Both the City Attorney and Colin Pearce were sent this email.

**From:** William Parkin  
**Sent:** Wednesday, September 14, 2016 4:19 PM  
**To:** CLPearce@duanemorris.com  
**Cc:** Tony Condotti (TCondotti@abc-law.com) <TCondotti@abc-law.com>  
**Subject:** CONFIDENTIAL SETTLEMENT COMMUNICATION--EVIDENCE CODE SECTION 1152

CONFIDENTIAL SETTLEMENT COMMUNICATION—EVIDENCE CODE SECTION 1152

Colin:

After careful consideration, and as requested, Friends of Monterey Park makes the following proposal to settle this matter.

1. The complete footprint of the park, including all improvements and fencing, shall not exceed 3500 square feet.
2. The park is moved to the originally proposed location, as close as possible to the eucalyptus trees without harming them, and as far from Orchid Ave as possible.
3. Friends did some investigation of their own. They would like a park similar to one in Rancho Cucamonga, which is limited to a large oval or circle with only one feature in the center. The drop should be 3' or less.
4. Construction of a 6' sound wall close to Orchid with decorative shrubs to mitigate noise.
5. Payment of attorneys' fees.

Let me know if you wish to discuss further.

Bill

Communication: Additional Materials (ADDITIONAL MATERIALS)

Warter & Associates  
Cell: 831-345-4749  
Office: 831-476-1294  
email: mwarter@sbcglobal.net

Communication: Additional Materials (ADDITIONAL MATERIALS)

**Fridy, Linda (lfridy@ci.capitola.ca.us)**

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**From:** Wingnut <wingnutsworld@earthlink.net>  
**Sent:** Monday, September 25, 2017 7:29 AM  
**To:** City Council  
**Subject:** SkatePark support

Good Morning...

As a Neighbor I would like to lend my support to the Skatepark and understand that a quick fix to the issue is coming up for approval by the Council...

Please help make this new skatepark happen.

Thank You

Robert Weaver

Communication: Additional Materials (ADDITIONAL MATERIALS)



**Fridy, Linda (lfridy@ci.capitola.ca.us)**

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**From:** Jeff Yurek <jeff@jeffyurek.com>  
**Sent:** Thursday, September 21, 2017 4:39 PM  
**To:** City Council  
**Subject:** Objection to Monterey Ave Skate Park

Hi Capitola City Council,

I learned recently that the proposed skate park in Monterey Ave Park is still under consideration. As a homeowner who lives quite close to the park on Orchid Ave I wanted to make sure I voiced my opinion in this.

Monterey Ave is not a great location for a skate park. Please do not approve this project.

We are a young family and think skate boarding is great. However, we are already well served by another nearby skatepark and we love the green space in Monterey Park.

Best,  
Jeff Yurek

Communication: Additional Materials (ADDITIONAL MATERIALS)

**Fridy, Linda (lfridy@ci.capitola.ca.us)**

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**From:** panero.consulting <panero.consulting@gmail.com>  
**Sent:** Monday, September 25, 2017 9:09 AM  
**To:** City Council  
**Subject:** Capitola Skate park

Good Morning,

As a Capitola family from Cliffwood heights/ the knolls with children who attended New Brighton Middle School, we continue to support the skate park as the intent was to approve this project in June 2016.

This would have been a way for them to stay out of trouble, more physically fit and socially active near home during work hours.

We are disappointed that our children now in high school and College won't be able to use the park for its initial intent, but that opportunity shouldn't be taken away from others attending NBMS in the future or living in Capitola.

Please correct this error and let this park be built for the community of Capitola.

Thank you so much,  
The Panero's

Communication: Additional Materials (ADDITIONAL MATERIALS)

**Fridy, Linda (lfridy@ci.capitola.ca.us)**

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**From:** Lois Robin <lolotusi@cruzio.com>  
**Sent:** Monday, September 25, 2017 10:40 AM  
**To:** City Council  
**Subject:** Skatepark NO

Dear Council Members:

I spoke at the last meeting about the skatepark but cannot be in attendance tonight. Nevertheless, I would like to express some concerns I have about building the park at this location, and my vote for you to reject the plan.

My concerns are as follows:

- 1) It is un-ecological. We do not need 5,500 feet more of concrete. Concrete prevents absorption of water and eliminates carbon sequestering green materials such as grass and trees. Worldwide proliferation of concrete only adds to the planet's warming. It's time to be wary and reduce its use.
- 2) Concrete is a very hard surface and subjects children to particularly dangerous spills and falls. Look up accidents from skateboarding online. Why facilitate this sport?  
Children, like other people, benefit more from a natural environment than breakneck sports. To really benefit children, the same area could become an enhanced natural setting.
- 3) If the public demand for a skate park for younger children must be met, a better location would be near the McGregor skatepark. Then there could be two such parks; one for older and one for younger children. It would bother no one, there would be parking and other facilities.
- 4) A skateboard at this location disturbs multiple families with its noise and commotion. Why despoil a haven?
- 5) Why should an entrepreneur with a business stake in the creation of the park be allowed to use the park for his business advantage (selling skateboards) at the expense of homeowners who have opted for homes in a quiet serene place?

As a person in favor of a safe, peaceful and beneficent environment, I urge you to reject the proposal for a skatepark at this site.

Yours truly,  
*Lois Robin*  
4701 Nova Dr.  
Santa Cruz, CA  
831 464-3939  
[www.LoisRobin.com](http://www.LoisRobin.com)

Communication: Additional Materials (ADDITIONAL MATERIALS)

**Fridy, Linda (lfridy@ci.capitola.ca.us)**

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**From:** Eva McPike <emcpike@gmail.com>  
**Sent:** Monday, September 25, 2017 10:48 AM  
**To:** City Council  
**Subject:** In SUPPORT of the Capitola Skate Park project

Dear Capitola City Council,

I wanted to write in support of the proposed new Capitola Skate Park project along Monterey Ave in Capitola. As a long-time resident of Capitola, I would love to see more safe places for kids to be able to be active and skate in our community. I think most can agree that the street is not a safe place for kids to skate, with cars, bikes and other pedestrians traveling along. We build parks so that people are able to be active and play in a safe environment.

Skateboarding is now a recognized Olympic sport and if you've ever visited and spent some time at a skate park, you will notice that kids are either diligently practicing tricks or they're watching and studying their peers doing the same. Having a dedicated neighborhood skate park will ensure a safe place, away from traffic, that will allow our youth to be active and healthy, while bettering themselves at a skill set.

I urge you to pass the Capitola Skate Park project and ensure that Capitola continues to be a safe place for families and residents to be active. Thank you for your time and consideration.

Sincerely,

Eva McPike

Communication: Additional Materials (ADDITIONAL MATERIALS)

**Fridy, Linda (lfridy@ci.capitola.ca.us)**

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**From:** Bonnie Klein <bk1904@gmail.com>  
**Sent:** Monday, September 25, 2017 1:14 PM  
**To:** City Council  
**Subject:** Skate Park

I am in STRONG OPPOSITION to the skate park being proposed for Monterey Park next to New Brighton middle school. As a longtime resident of Capitola, I am stunned at the persistence and determination of those trying to build the park in a location that would so negatively impact those living nearby.

Please don't put a noisy skate park in a residential neighborhood. It's really just that simple.

Thank you.

Communication: Additional Materials (ADDITIONAL MATERIALS)

**Fridy, Linda (lfridy@ci.capitola.ca.us)**

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**From:** Cindy Valenzuela <cvalenzuela@martinellis.com>  
**Sent:** Monday, September 25, 2017 3:29 PM  
**To:** City Council  
**Subject:** OBJECTING TO A SKATE PARK AT MONTEREY PARK

Good Afternoon,

I realize you had requested all emails to be sent by 9/21, I am hoping that you take this email into consideration for your meeting tonight even though it is late.

I have lived across the street from New Brighton Middle school since I was in 2<sup>nd</sup> grade, this November it will be 40 (Forty) years. I went to Capitola Elementary School and was in the first graduating class of New Brighton Middle school, my brother was in the last graduating class of Capitola Junior High the year before. I am opposed to the skate park that NHS is trying to force upon this neighborhood. All of the neighbors that I have talked to are opposed to this park. I do not know why we need another skate park when a new park has just been built within the last year or so about a mile down the road next to the entrance of New Brighton State Beach.

I am appalled that we are even considering removing all the greenery and trees to replace it with a concrete jungle. There is not any green space left in my neighborhood except at the very end of Monterey Ave. as you go down to Capitola Village. I also feel that it will bring unwanted problems to my neighborhood with increased traffic and people. There is not sufficient parking to handle more activity at that park and there are no restrooms. If you install restrooms, then you entice more homeless people to come and use those facilities or camp out in them.

I remember when I was a kid that this area was truly an open space, no lawn, no softball fields, no soccer fields. It was a dirt lot with a lot of trees and when it rained, the lot filled up with water and created a large pond. There was wildlife that was abundant. I think the addition of the softball fields and soccer fields are great. If you go to the fields during a soccer game or NBMS softball game, you will see that there is hardly enough parking. This impacts our neighborhood and my family significantly since we live right across the street. Parking problems spill into the neighborhood. In addition, I believe there will be an increase in vandalism to our homes and property. As it is in the past couple of year, there has been a major increase in our neighborhood of crimes such as cars getting broken into and ransacked and theft of property or deliveries off of people's porches.

Why is this spot so important for them to have a skate park here. I do not believe anyone pushing for this park lives in this neighborhood. Most of these projects that I have seen are not built smack dab in the middle of a residential area. Has anyone thought of the land near the highway one overpass where the manufactured homes used to be sold from? I hope you will listen to the people who live in this neighborhood, the majority of which are opposed to this park as it will directly have a negative impact on us and not just try and shove it down our throats to appease a local skating business.

*Cindy Valenzuela*

Purchasing Supervisor I S. Martinelli & Company  
735 West Beach Street | Watsonville, CA 95076  
☎: 831.768-3953 | 831-235-0116 cell



Communication: Additional Materials (ADDITIONAL MATERIALS)

**Fridy, Linda (lfridy@ci.capitola.ca.us)**

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**From:** Bill <william.delaney@gmail.com>  
**Sent:** Monday, September 25, 2017 4:42 PM  
**To:** City Council  
**Subject:** skate park

I wish to re-state my support for the proposed skate park at Monterey Park. The journey to the McGregor Park facility is not safe for pre-teens who would benefit from this project.

Bill Delaney  
750 Bay Avenue  
Capitola

Communication: Additional Materials (ADDITIONAL MATERIALS)



## CAPITOLA CITY COUNCIL SPECIAL MEETING AGENDA REPORT

**MEETING OF SEPTEMBER 25, 2017**

FROM: Community Development

SUBJECT: Reconvene a Hearing for an Appeal of the Planning Commission's Decision to Certify an Environmental Impact Report and Approve a Conditional Use Permit, Design Permit, and Coastal Development Permit for the Monterey Avenue Skate Park

**RECOMMENDED ACTION:** In light of the Court ruling regarding Capitola City Council's June 23, 2016, meeting on the Monterey Park skate park appeal, consider the following actions:

1. a. Adopt the attached Resolution certifying the Environmental Impact Report (EIR) and adopting written findings and the Mitigation, Monitoring, and Reporting Program (MMRP).
- b. Alternatively, by Motion, affirm the Planning Commission's certification of the Environmental Impact Report (EIR) and adopt the Mitigation, Monitoring and Reporting Program (MMRP).
2. By Motion, approve and adopt the attached findings to support issuance of a Conditional Use Permit, Design Permit, and Coastal Development Permit for a modified project as described as Alternative 1 of the EIR;
3. By Motion, authorize the City Manager to execute the attached right-of-entry agreement.

**BACKGROUND:** On June 23, 2016, the City Council considered an appeal of the Planning Commission's decision to certify an EIR and approve permits for a privately initiated request to construct and operate an approximately 6,000 square-foot public skate park in Monterey Park. Consistent with the Planning Commission decision, the City Council vote would have allowed the proposed skate park to be constructed in a modified location closer to Monterey Avenue. The City Council's decision was subsequently challenged in court by the Friends of Monterey Park.

The Santa Cruz Superior Court considered the legal challenge on July 31, 2017. On August 4, 2017, the Court issued a peremptory writ of mandamus which enjoined the City and applicants from constructing the project and prohibited the parties from proceeding with the Design Permit, Conditional Use Permit, Coastal Development Permit, and Right-of-Entry agreement.

### June 23<sup>rd</sup> Actions

At the June 23, 2016, hearing, following the staff presentation, public comment and Council



Monterey Avenue Skate Park  
September 25, 2017

deliberations, three votes were taken, by motion. In its “ORDER RE PETITION FOR ADMINISTRATIVE MANDAMUS” (the “Order”), the Court described the Council’s actions as follows:

The first *motion* was made "to uphold the planning commission decision to certify the environmental impact report and adopt the Mitigation Monitoring and Reporting Program." (AR 3940). That Motion passed 3-0. As the City Council discussed Project approval, a motion was made to amend the Project to reduce the height of the sound wall mitigation, measure and replace it "[t]o allow alternative equivalent measures to provide the necessary sound reduction." Only two of the three Council Members voted in favor of Project approval. However, the Mayor interpreted the action as having approved the Project: "The *motion* carries 2 to 1 with Norton, Bottorff aye and Harlan no."<sup>1</sup>

Notwithstanding the lack of any mention of a *resolution* in the above statement of facts, the Order nevertheless interprets the three separate votes as seeking to adopt three separate resolutions. It noted:<sup>2</sup>

“[T]he agenda for the hearing referred to a recommendation to uphold the Planning Commission’ decision by adopting the Resolution attached to the agenda packet. The Staff Report for the hearing stated that "Staff recommends the City Council uphold the Planning Commission’s decision by taking the follow actions: 1. Adopt the attached Resolution certifying the [EIR]. 2. Adopt the attached Resolution approving a Conditional Use Permit. 3. Approve related agreements for access and indemnity.”<sup>3</sup>

The Court ruled that the City Council “failed to approve the Project because the *Resolution approving the Project failed to receive a majority vote of the total membership of the City Council* as required by Government Code § 36936 [italics added],”<sup>45</sup> based on its findings that:

“[t]he record indicates that the Respondent sought to approve the Project by resolution. At no point did the Council state that it was not moving forward with a resolution. Moreover, the minutes state that the Council amended the ‘Noise Condition.’ The Noise Condition is found in the Resolution of the City Council Agenda Packet.”<sup>6</sup>

Based on its determination that the Council action was to adopt a resolution, the Court ruled that the 2-1 vote did not result in approval of the Project because California Government Code Section 36936 states: "Resolutions, orders for the payment of money, and all ordinances require a recorded majority vote of the total membership of the city council."

### Project EIR

<sup>1</sup> Order, p. 2, l. 21 – p. 3, l. 3.

<sup>2</sup> All citations to the Administrative Record in the Order are omitted in this report.

<sup>3</sup> Order, p. 2, ll. 4-10

<sup>4</sup> Order, p. 3, ll. 5-7.

<sup>5</sup> The City and Applicants (Respondents and Real Parties In Interest, respectively) argued, unsuccessfully, that while a single resolution encompassing all three actions was included in the packet for Council consideration, the Council in fact did not adopt any resolutions, but instead took action by three separate motions.

<sup>6</sup> Order, p. 3, ll. 16-20.

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In issuing its Writ of Mandamus, the Court also ruled that the EIR must be recirculated for public review if the City retained the modified noise mitigation measure which would have allowed an alternative and equivalent noise mitigation measure (e.g., a combination earthen berm with a shorter noise wall) to provide necessary sound reduction.

DISCUSSION: This item is being presented to the City Council because the Court's decision to set aside the previous project approvals resulted in no action being taken. There have not been any changes to the project since it was considered on June 23<sup>rd</sup>, 2016. Copies of all previous staff reports, plans and studies are included as attachments to this report. All current Council members who will be considering this item were physically present at the prior hearing.<sup>7</sup> As this is a reconvening of the prior hearing, all prior written and oral comments made as part of the public hearing process will be part of the administrative record. In compliance with the Brown Act, however, members of the public will still have an opportunity to address the Council.

#### Number of Votes Required

Under state law, voting requirements can vary depending on the action that the Council proposes to take. A number of statutes impose voting rules requiring actions to be taken by ordinance; others must be taken by resolution; still others by the affirmative votes of more than a majority of the Council. In the absence of some specific statutory mandate to the contrary, the number of votes required to take action is a majority of a quorum—a bare quorum of three members may, in general, take action by a two-vote majority. This general rule is stated with identical language in California Civil Code Section 12 and California Code of Civil Procedure Section 15:

"Words giving a joint authority to three or more public officers or other persons are construed as giving such authority to a majority of them, unless it is otherwise expressed in the act giving the authority."

This rule has been followed in California since as long ago as 1883 when, in *People v. Harrington*, the State Supreme Court stated:

"We . . . regard the law as well settled that . . . the action of a quorum is the action of the board, and that a majority of the quorum present could do any act which a majority of the board if present might do."<sup>8</sup>

As noted by the Court in its Order, Government Code § 36936 sets forth one exception to the general rule that a motion will pass on a two to one (2-1) vote, stating:

"Resolutions, orders for the payment of money, and all ordinances require a recorded majority vote of the total membership of the city council."

This section requires three votes for the passage of all ordinances, resolutions, and orders for the payment of money. Consequently, if the vote on any ordinance, resolution, or order for the payment of money is two to one (2-1), the motion will not pass.

Notwithstanding the foregoing, the Order should not be interpreted as requiring that the Council may only take action on the Project approvals by resolution. Other than instances in which the

<sup>7</sup> Councilmember Petersen was present in the audience as a member of the public.

<sup>8</sup> (1883) 63 Cal. 257, 260.

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Legislature as specifically mandated action by resolution or ordinance, there is no threshold level of importance, or magnitude, or community interest, above which some decision that otherwise could be acted upon by oral motion must be "elevated" to the level of a written resolution. For example:

**General Plans.** Under Government Code Section 65356, adoption or amendment of the General Plan must be by a City Council resolution, no matter how minor or inconsequential the amendment. By contrast, Government Code Section 65354 merely requires that the Planning Commission's recommendations to the Council on the adoption or amendment of a general plan must be by the affirmative vote of not less than a majority of the entire commission. A resolution is not required, even for recommendations for major amendments to, or complete replacement of, a general plan.

**Initiation of Eminent Domain Proceedings.** A "determination of necessity," a prerequisite to initiating condemnation proceedings, must be made by adoption of a resolution and approved by 2/3 of the members of the legislative body. (Code of Civil Procedure §1245.220.)

**Sale of Surplus Land.** Prior to a hearing on sale of surplus property, the Council must adopt a resolution of intent to sell and setting the hearing. (Govt. Code §37421.) At the actual hearing, a four-fifths vote is needed to override any protests to sale but no resolution is required. (Gov. Code, § 37425.)

**CEQA.** Appeals within a lead agency under CEQA are governed both by statute (Pub. Resources Code, § 21151) and CEQA Regulations (See 14 Cal. Code Regs. § 15000, et seq.). When the Planning Commission certifies an environmental impact report (or EIR), that certification may be appealed to the City Council. (See Pub. Resources Code, § 21151, subd. (c).) In such a case, CEQA Regulations specify that the "decision-making body to which an appeal has been made" must consider the EIR and make certain written findings if appropriate. But neither the Public Resources Code, nor CEQA Regulations, nor any reported appellate decision have stated that the only mechanism by which an EIR may be certified or written findings may be adopted is a resolution.

### **Conclusion**

In accordance with the Court's order, staff has amended the decision documents and associated findings. If the City Council wishes to approve the project, staff's recommended actions are set forth above. Permit findings and conditions of approval are presented in Attachment 7.

**FISCAL IMPACT:** The applicant would fund construction of the project as conditioned, including all mitigation measures. The City would be responsible for ongoing maintenance costs of the facility, including costs associated with monitoring and enforcement. Staff estimates the skate park would require daily Public Works maintenance for trash removal, landscaping, and other issues could require four hours per week of the Public Works crew's time. Additionally, if the park requires one police call for service per week, this could account for approximately one additional hour of time for police work.

While these increases in workload would not necessarily require hiring additional staff, the combined staffing cost could be estimated at approximately \$15,000 annually. Finally, contracting with a private firm to lock the facility nightly would cost approximately \$3,500 a year.

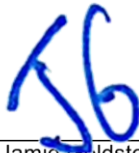
Monterey Avenue Skate Park  
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ATTACHMENTS:

1. June 23, 2016 City Council Staff Report and Resolution
2. Monterey Ave Skate Park Plans
3. Monterey Ave Skate Park 3D Model
4. Skate Park Location Options
5. EIR Additions
6. EIR Resolution
7. Findings and Conditions of Approval
8. Right of Entry Agreement
9. Crime Prevention through Environmental Design Study
10. March 31 2016 Planning Commission Staff Report
11. March 31 2016 Planning Commission Minutes
12. Responses to Witwer Parkin Appeal
13. Responses to Lippi Appeal
14. Public Communications
15. Additional Information from Applicant

Report Prepared By: Rich Grunow  
Community Development Director

**Reviewed and Forwarded by:**



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Jamie Goldstein, City Manager

9/21/2017



## CAPITOLA CITY COUNCIL AGENDA REPORT

MEETING OF JUNE 23, 2016

FROM: Community Development

SUBJECT: Appeal of the Planning Commission's Decision to Certify an Environmental Impact Report and Approve a Conditional Use Permit, Design Permit, and Coastal Development Permit for the Monterey Avenue Skate Park

**RECOMMENDED ACTION:** Staff recommends the City Council uphold the Planning Commission's decisions by taking the following actions:

1. Adopt the attached Resolution certifying the Environmental Impact Report (EIR) and adopting the Mitigation, Monitoring, and Reporting Program (MMRP);
2. Adopt the attached Resolution approving a Conditional Use Permit, Design Permit, and Coastal Development Permit for a modified project as described as Alternative 1 of the EIR;
3. Approve related agreements for access and indemnity and authorize the City Manager to execute said agreements.

**BACKGROUND:** This is a privately initiated request for a Design Permit, Conditional Use Permit (CUP), Coastal Development Permit, and Right-of-Entry Agreement to allow construction and operation of an approximately 6,000 square-foot public skateboard park in City-owned Monterey Park. Monterey Park is zoned PF-P (Public Facility – Park) and is designated as P/OS (Parks/Open Space) by the Capitola General Plan. The proposed skate park would be financed and constructed by the applicants. The project also requires approval of a right-of-entry agreement (Attachment 6) to allow the applicants to construct the skate park on City property.

The Planning Commission held a public hearing on March 31, 2016, to consider the project and the EIR. After considering extensive public testimony, the Planning Commission voted unanimously to certify the EIR and approve a modified project as described as Alternative 1 in the EIR. Two appeals of the Planning Commission decisions were subsequently filed which request that the City Council overturn the Commission's certification of the EIR and project approval (Attachments 11 and 12). In addition, on May 5, 2016, the "Friends of Monterey Park" filed a lawsuit in Superior court challenging the Planning Commission's certification of the EIR and approval of the project. A copy of the Planning Commission staff report which provides additional details about the project is included as Attachment 8.

**DISCUSSION:** The skate park proposed by the applicants would be located along the southwestern boundary of Monterey Park near the New Brighton Middle School property line. Monterey Park is designated as an active park by the Capitola General Plan and features a multi-use grass play area used for baseball, softball, soccer, and informal recreation; an

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approximately six- to eight-foot wide walking path; a 26-space surface parking lot, a drinking fountain, benches, and landscaping. The park is separated from adjacent residences to the east and south by trees, bushes, and an approximately six-foot high wood fence. Surrounding land uses include single-family residences to the north, south, and east, and a middle school to the west. Other nearby land uses include St. Joseph's Catholic Church approximately 600-feet to the west and the Shorelife Community Church approximately 800-feet to the east. Multi-family residences are also located in the general project vicinity.

The proposed skate park would be constructed with poured-in-place concrete with edges finished in a metal coping. The facility consists of a concrete bowl with undulating slopes and a variety of challenge elements, including a quarter-pipe, curbs, ramps, railings, jump features, and a concrete deck. The facility would be enclosed with a six-foot wrought iron fence. The total footprint of the facility within the enclosed fenced area would be approximately 6,811 square-feet and the skate park would be approximately 6,028 square-feet. Construction is anticipated to take six to eight weeks.

The skate park has been designed to serve beginner to intermediate riders generally in the 5-14 year age range, although it could be used by anyone over the age of five. It is estimated the facility could safely accommodate up to 25 skaters at any one time. No special events are included in this application and a condition of approval has been included to prohibit special events and competitions. The facility would be subject to existing Municipal Code rules and regulations pertaining to public parks, skate parks, and noise.

Monterey Park is classified as an active park and has a land use designation of P/OS (Parks/Open Space) by the Capitola General Plan. General Plan Policy LU-13.13 calls for the City to "Develop Monterey Park as an active park site with neighborhood-serving recreational facilities and amenities". Development of a skate park at an unspecified location is referenced in General Plan Policy LU-13.9 which states "Support and encourage the location of special use recreation facilities, such as organic community gardens, dog parks, and skate parks on available park or other public lands, where compatible with the existing and planned uses of surrounding properties". The proposed skate park would be an active recreation facility consistent with the P/OS land use designation.

Monterey Park is zoned PF-P (Public Facility – Park). The purpose of the PF-P zone is to set aside areas for public parks, scenic easements, riparian corridors, beach areas and similar public use areas. The PF-P zone does not establish development standards for height, setbacks, parking, floor area ratio, or other standards typically applied to residential and commercial zoning districts.

A draft EIR was prepared and circulated for a 52-day public review and comment period. The EIR found the project would result in significant environmental effects to/from noise, hazards/hazardous materials and biological resources. Mitigation measures have been incorporated into the EIR and project conditions which would reduce impacts to a less than significant level. A Final EIR was released to the public on March 21, 2016. Staff and the City Attorney reviewed all comments received and provided written responses which are included in the Final EIR. The EIR and supporting documents can be obtained on the City website at <http://www.cityofcapitola.org/communitydevelopment/page/proposed-monterey-avenue-skate-park>

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Additional analysis and information was provided in the Final EIR based on two optional site locations which would implement Alternative 1 of the EIR. The additional information and supporting documentation was released on June 13, 2016.

#### Skate Park Location Options

Consistent with staff's recommendation, the Planning Commission approved a modified project as described in Alternative 1 of the EIR, shifting the proposed skate park closer to Monterey Avenue to improve visibility and public safety. Following the Planning Commission hearing, staff worked with the applicants to refine the Alternative and developed two locations consistent with Alternative 1 (Attachment 3). Additional information was added to the EIR which confirms that the two optional locations would result in a reduced noise impact to Orchid Avenue residents without creating any new or more severe environmental effects. Descriptions of these two options are provided below:

**Option 1.** Under this option, the skate park location would be shifted approximately 100 feet to the north and reoriented so that it is sited adjacent to and parallel with the existing parking lot. This option would reorient the softball field approximately 10-feet to the south of its current location and would include an expanded backstop and dugout to minimize the potential for foul balls entering the skate park. The walking path from the parking lot would also be repositioned to the east of its current alignment. An approximate 3.5-foot tall block retaining wall would be installed along both sides of the realigned pathway for a distance of approximately 75 feet, although the wall on the east may be a foot shorter (2.5 feet) in height. Another 3.5-foot tall retaining wall is shown on the south side of the skate park for a distance of approximately 60 feet. An 8-foot high, approximately 115-foot long noise wall would be required along the school district property line to mitigate noise impacts. This option is not expected to require the removal of any mature trees; however, two immature seedlings would need to be relocated. It is also possible the relocated walking path could impact a mature alder tree. A condition of approval has been included to require a pre-construction inspection and construction monitoring by a certified arborist to prevent loss of this tree to the extent possible.

This option maximizes the views into the park, and includes the enhancement to the softball diamond to add dug outs and a better backstop. In addition, this option would avoid impacts to the mature eucalyptus mature trees. The size of left field would decrease by ten feet in this option.

**Option 2.** Under this option, the skate park would be shifted north from the proposed project and would be located immediately to the east of the existing school district office and private residence, approximately 5 feet from the property line. The facility would be slightly reconfigured from a rectangular shape to an inverted "L", or kidney shape. The walking path from the parking lot would also be repositioned to the east of its current alignment. Two approximately 3.5-foot tall retaining walls would be located for a short distance on both the northern and western sides of the property line. This option would require a 12-foot high noise attenuation wall for a distance of approximately 140-feet along the school district property line to mitigate noise impacts. This option would require the removal of two mature eucalyptus trees and a mature alder tree. The skate park would also be located at the outer edge of the dripline of a large redwood tree. A condition of approval has been included to require a pre-construction inspection and construction monitoring by a certified arborist to prevent loss of this tree to the extent possible.

This option leaves the softball diamond in its current configuration, but does not allow as much visibility into the skate park as recommended in the Crime Prevention through Environmental

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Design study prepared by MacAdam Protection Strategies (Attachment 7). This option is the furthest from privately owned property, though it is directly adjacent to the School District's offices and mobile home.

### **Project Issues**

Staff received numerous public comments which express a variety of concerns with the proposal. A summary of the issues with staff responses can be found in the Planning Commission staff report (Attachment 8).

### Defense and Indemnity Agreement

Staff and the City Attorney have been negotiating with the applicants to draft a defense and indemnity agreement to insulate the City from exposure to legal liability and associated litigation costs. To date, staff has been unable to reach an agreement with the applicants. Staff will continue to negotiate with the applicants; however, staff and the City Attorney would recommend the City Council deny the project if an agreement to fully indemnify the City is not reached prior to the hearing.

FISCAL IMPACT: The applicant would fund construction of the project as conditioned, including all mitigation measures. The City would be responsible for ongoing maintenance costs of the facility, including costs associated with monitoring and enforcement. Staff estimates the skate park would require daily Public Works maintenance for trash removal, landscaping, and other issues could require four hours per week of the Public Works crew's time. Additionally, if the park requires one police call for service per week, this could account for approximately one additional hour of time for police work.

While these increases in workload would not necessarily require hiring additional staff, the combined staffing cost could be estimated at approximately \$15,000 annually. Finally, contracting with a private firm to lock the facility nightly would cost approximately \$3,500 a year.

### ATTACHMENTS:

1. Monterey Avenue Skate Park Plans
2. Monterey Avenue Skate Park 3D Model
3. Skate Park Location Options
4. Monterey Ave Skatepark EIR Additions
5. Resolution to Certify EIR and Approve Project
6. Right-of-Entry Agreement
7. Crime Prevention through Environmental Design Study
8. March 31, 2016, Planning Commission Staff Report
9. March 31, 2016, Planning Commission Minutes
10. Architecture and Site Review Committee Minutes
11. Staff Responses to Witwer/Parkin Appeal
12. Staff Responses to Lippi Appeal

Report Prepared By: Rich Grunow  
Community Development Director

**Reviewed and Forwarded by:**

Jamie Goldstein, City Manager

6/17/2016



## RESOLUTION NO. \_\_\_\_\_

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CAPITOLA CERTIFYING THE FINAL ENVIRONMENTAL IMPACT REPORT, ADOPTING A MITIGATION MONITORING AND REPORTING PROGRAM AND ASSOCIATED ENVIRONMENTAL IMPACT FINDINGS, AND APPROVING A CONDITIONAL USE PERMIT, DESIGN PERMIT, COASTAL DEVELOPMENT PERMIT, AND RIGHT-OF-ENTRY AGREEMENT FOR THE MONTEREY AVENUE SKATE PARK LOCATED AT 700 MONTEREY AVENUE**

**WHEREAS**, an application for a Conditional Use Permit, Design Permit, Coastal Development Permit, and Right-of-Entry Agreement to construct and operate an approximately 6,028 square-foot public skate park in Monterey Park was submitted by applicants Marie Martorella and Tricia Proctor on April 17, 2015 (Project);

**WHEREAS**, a Notice of Preparation (NOP) of an Environmental Impact Report (EIR) for the Project was issued by the City of Capitola Community Development Department on June 22, 2015 (SCH# 2015062067); and

**WHEREAS**, a Public Scoping Meeting was held on June 30, 2015, to receive comments regarding the scope of issues to be addressed in the EIR; and

**WHEREAS**, a Draft EIR was prepared and issued for agency and public review and comment on November 18, 2015, for a 52-day review period that ended on January 8, 2016; and

**WHEREAS**, 53 comment letters were received on the Draft EIR from private individuals and public entities, and a written response was prepared for all comments, which response employed a good faith, reasoned analysis to describe and address the disposition of environmental issues raised by the comments; and

**WHEREAS**, a Final EIR incorporating all comments received on the Draft EIR and responses to comments was issued on March 17, 2016 and distributed to commenting agencies and made available to other agencies and to members of the public; and

**WHEREAS**, the Final EIR has been completed in accordance with the California Environmental Quality Act (CEQA), Public Resources Code Section 21000 et seq., the Guidelines for implementation of the California Environmental Quality Act (14 Cal. Code Regs. Section 15000 et seq.) (the "State CEQA Guidelines") and local procedures adopted pursuant thereto; and

**WHEREAS**, the Planning Commission conducted a duly noticed public hearing concerning the certification of the Final EIR and approval of the Project on March 31, 2016, heard evidence from all persons interested in testifying concerning the certification of the Final EIR and approval of the Project, and voted unanimously to certify the Final EIR and approve a modified Project as described in Alternative 1 of the EIR; and

**WHEREAS**, two appeals challenging the Planning Commission's decisions to certify the Final EIR and approve the Project as modified were subsequently filed; and

**WHEREAS**, Final EIR Additions to clarify information regarding Alternative 1, which was identified as the environmentally superior alternative in the EIR, were incorporated into the EIR and released for public review on June 13, 2016; and

**WHEREAS**, the Final EIR consists of the November 18, 2015, Draft EIR, comments received on the document, and responses to comments contained in the March 17, 2016 Final EIR, modifications made to the text of the Draft EIR that are also included in the Final EIR, Final EIR Additions released on June 13, 2016, appendices to the Draft and Final EIRs, items included in attachments to this Resolution, and all documents and resources referenced and incorporated by reference in the EIR; and

RESOLUTION NO. \_\_\_\_\_

**WHEREAS**, the Final EIR identified certain significant and potentially significant adverse environmental impacts that would be caused by implementation of the Project; and

**WHEREAS**, the Final EIR outlined various mitigation measures that would substantially lessen or avoid the Project's significant effects on the environment, as well as alternatives to the Project which would provide some environmental advantages; and

**WHEREAS**, the City of Capitola is required, pursuant to CEQA, to adopt all feasible mitigation measures or feasible project alternatives that can substantially lessen or avoid any significant environmental effects of a proposed project while simultaneously fulfilling project objectives; and

**WHEREAS**, Public Resource Code section 21081, subdivision (a), requires a public agency, before approving a project for which an EIR has been prepared and certified, to adopt findings specifying whether mitigation measures and, in some instances, alternatives discussed in the EIR, have been adopted or rejected as infeasible; and

**WHEREAS**, the Final EIR demonstrates that all of the identified significant and potentially significant environmental effects associated with the Project, as modified by the Planning Commission, can be either substantially reduced or avoided through the inclusion of mitigation measures proposed in the Final EIR; and

**WHEREAS**, the Final EIR demonstrates that some of the significant environmental effects of the Project, as modified by the Planning Commission, can be fully avoided (i.e., rendered less than significant by the adoption of feasible mitigation measures); and

**WHEREAS**, the City Council recognizes the City's obligation, pursuant to Public Resources Code section 21081.6, subdivision (a), to ensure the monitoring of all adopted mitigation measures necessary to substantially lessen or avoid the significant effects of the project; and

**WHEREAS**, on June 23, 2016, the City Council conducted a duly noticed public hearing concerning the certification of the Final EIR and approval of the Project, as modified by the Planning Commission, and heard evidence from all persons interested in testifying concerning the certification of the Final EIR and approval of the modified Project; and

**WHEREAS**, the City Council has determined based on the record that the Project, as modified by the Planning Commission to be consistent with Alternative 1 of the EIR, would substantially reduce the environmental effects of the Project while also fulfilling the Project objectives; and

**WHEREAS**, the City Council has reviewed and considered the Final EIR and has considered the oral and written comments on the EIR and the responses thereto.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Capitola that:

- The foregoing recitals are true and correct.
- The Final EIR has been completed in compliance with CEQA, the State CEQA Guidelines and local procedures adopted pursuant thereto.
- The Final EIR reflects the independent judgment and analysis of the City Council, as required by Public Resources Code Section 21082.1.
- The City Council has independently reviewed and analyzed the Final EIR and considered the information contained therein and all comments, written and oral, received prior to approving this Resolution.
- The City Council hereby certifies the Final Environmental Impact Report for the Monterey Avenue Skate Park.

RESOLUTION NO. \_\_\_\_\_

- The City Council hereby adopts the Mitigation Monitoring and Reporting Program, attached hereto as Exhibit A, in order to satisfy its obligations under Public Resources Code section 21081.6 subdivision (a).
- The City Council hereby further adopts the Findings and Conditions of Approval, attached hereto as Exhibit B and incorporated herein by reference.
- Based on the findings made in this resolution and Exhibit B, the City Council hereby approves the Project, as modified by the Planning Commission on March 31, 2016, subject to the mitigation measures described in the Final EIR and Mitigation Monitoring and Reporting Program and the conditions of approval described in Exhibit B.
- The City Council hereby directs City staff to file with the County Clerk and the Office of Planning and Research in Sacramento a Notice of Determination commencing a 30-day statute of limitations for any legal challenge to the Projects based on alleged non-compliance with CEQA.

**I HEREBY CERTIFY** that the above and foregoing Resolution was passed and adopted by the City Council of the City of Capitola at a meeting held on the 23<sup>rd</sup> day of June, 2016, by the following vote:

AYES:  
NOES:  
ABSENT/ABSTAIN:

\_\_\_\_\_  
Ed Botorff, Mayor

ATTEST: \_\_\_\_\_, CMC  
Susan Sneddon, City Clerk

Attachment: June 23, 2016 City Council Staff Report and Resolution (Monterey Avenue Skate Park)

## MITIGATION MONITORING AND REPORTING PROGRAM

**Application No:** 15-068  
**Address:** 700 Monterey Avenue, Capitola, CA  
**Applicant:** Tricia Proctor and Marie Martorella

This Mitigation Monitoring and Reporting Program (MMRP) for Application No. 15-068 located at Monterey Park at 700 Monterey Avenue, Capitola, CA, has been prepared pursuant to the California Environmental Quality Act (CEQA – Public Resources Code, Section 21000 *et seq.*) and the State CEQA Guidelines (Cal. Code Regs., Title 14, Chapter 3, Sections 15074 and 15097). A master copy of this MMRP shall be kept in the office of the Community Development Department and shall be available for viewing upon request.

**Project Description:** The project consists of a Conditional Use Permit, Coastal Development Permit, Design Permit, and a right-of-entry agreement for construction and use of an approximate 6,000 square foot skate park within the city-owned Monterey Park. The proposed skateboard facility consists of a concrete bowl-shaped center with ramps and jump features. The facility will be enclosed by a wrought iron fence. The park would be open to the public during daylight hours only as no lighting is proposed.

**Mitigation Monitoring and Reporting Program:** This MMRP includes mitigation measures in the Mitigation Monitoring and Reporting Matrix on the following pages that correspond to the Final EIR for the project. The matrix lists each mitigation measure or series of mitigation measures by environmental topic. For each mitigation measure, the frequency of monitoring and the responsible monitoring entity is identified. Mitigation measures may be shown in submittals and may be checked only once, or they may require monitoring periodically during and/or after construction. Once a mitigation measure is complete, the responsible monitoring entity shall date and initial the corresponding cell, and indicate how effective the mitigation measure was.

If any mitigation measures are not being implemented, the City may pursue corrective action. Penalties that may be applied include, but are not limited to, the following: (1) a written notification and request for compliance; (2) withholding of permits; (3) administrative fines; (4) a stop-work order; (5) forfeiture of security bonds or other guarantees; (6) revocation of permits or other entitlements.

Attachment: June 23, 2016 City Council Staff Report and Resolution (Monterey Avenue Skate Park)

# EXHIBIT A

Project: Monterey Skate Park

Mitigation Monitoring and Reporting Program

Mitigation Measure	Implementation Actions	Monitoring / Reporting Responsibility	Timing Requirements	Reporting Requirements & Verification of Compliance
<b>Noise</b>				
<p><b>NOISE-1:</b> Require construction of noise barriers to reduce maximum instantaneous and hourly average noise levels by a minimum of 5 dBA at the Soquel Union Elementary School District Offices and single-family residences at the west end of Orchid Avenue. Noise barriers shall be constructed from materials having a minimum surface weight of 3 lbs/sf, such as one-inch thick wood fence boards, masonry block, or concrete, and be constructed in a manner free of any cracks or gaps between barrier materials and between the barrier and the ground. Alternately, suitable barrier materials such as Acoustifence by Acoustiblok or ¼-in. plexiglass could be attached to the proposed metal fence surrounding the skate park to provide an equivalent noise level reduction.</p>	<ul style="list-style-type: none"> <li>▪ Include measure as Condition of Approval.</li> <li>▪ Implementation actions are outlined in the mitigation measure.</li> </ul>	<ul style="list-style-type: none"> <li>▪ The applicant is responsible for including measure on building plans.</li> <li>▪ The Community Development Department is responsible for plans to ensure the measure has been included on the final building plans.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Prior to issuance of building permit for including measure on plans to be installed during construction.</li> </ul>	
<p><b>NOISE-2:</b> Prior to issuance of building permits, require a detailed inspection by a qualified acoustician of wood fences on the rear property line of residences along Orchid Avenue that are within 165 feet of the skate park to ensure the fences are adequate to attenuate noise as predicted, and if not, implement repairs and /or replacement, as necessary and with permission of the property owner, to ensure an acoustically effective noise barrier for existing fences.</p>	<ul style="list-style-type: none"> <li>▪ Include measure as Condition of Approval.</li> <li>▪ Implementation actions are outlined in the mitigation measure.</li> </ul>	<ul style="list-style-type: none"> <li>▪ The applicant is responsible for obtaining property owner permission, performing inspections, and providing report on inspections and repairs to the Community Development.</li> </ul>	<p>Prior to opening of skate park.</p>	

Attachment- Resolution to Certify FIR and Approve Project (1466 - Monterey Avenue Skate Park)  
Attachment: June 23, 2016 City Council Staff Report and Resolution (Monterey Avenue Skate Park)

# EXHIBIT A

Project: Monterey Skate Park

Mitigation Monitoring and Reporting Program

Mitigation Measure	Implementation Actions	Monitoring / Reporting Responsibility	Timing Requirements	Reporting Requirements & Verification of Compliance
<b>Hazardous Materials</b>				
<p><b>HAZMAT-1:</b> Prepare and implement a Soil Management Report for <u>Require soil removal</u> with proper disposal and/or encapsulation of contaminated soils at the project site to prevent exposure to arsenic found in the soils, and require proof of final signoff from the County of Santa Cruz Environmental Health Services.</p>	<ul style="list-style-type: none"> <li>Prepare a Soil Management Plan for removal and disposal of contaminated soils.</li> <li>Submit to County of Santa Cruz for approval.</li> <li>Submit proof of final signoff to City of Capitola.</li> </ul>	<ul style="list-style-type: none"> <li>The City of Capitola or the applicant, in coordination with the City of Capitola, is responsible for having the soil management plans prepared.</li> <li>The City of Capitola is responsible for overseeing remediation program.</li> </ul>	Remediation to be completed prior to issuance of building permit.	
<p><b>HAZMAT-2:</b> Prepare and implement a Safety Plan to ensure that appropriate worker health and safety measures are in place during grading and construction activities.</p>	<ul style="list-style-type: none"> <li>Implementation actions are specified in the mitigation measure.</li> </ul>	<ul style="list-style-type: none"> <li>The City of Capitola or the applicant, in coordination with the City of Capitola, is responsible for preparing Plan.</li> <li>The City of Capitola is responsible for overseeing remediation program.</li> </ul>	Prior to issuance of grading permit.	
<b>Biological Resources</b>				
<p><b>IS BIO-1:</b> If construction or tree removal is scheduled to begin between February 1 and August 15, require that a pre-construction nesting survey be conducted by a qualified wildlife biologist to determine if migratory birds are nesting in the trees adjacent to the project site. If nesting birds are found, schedule construction to begin after fledging of young is completed (usually by August) or after a qualified biologist has determined that the nest is no longer in use or unless a suitable construction zone buffer can be identified by a qualified biologist.</p>	<ul style="list-style-type: none"> <li>Include measure as Condition of Approval.</li> <li>Implementation actions are outlined in the mitigation measure.</li> </ul>	<ul style="list-style-type: none"> <li>The applicant, in coordination with the City of Capitola, is responsible for having a pre-construction survey conducted by a qualified biologist if construction proceeds during the nesting season, and submitting the report to the Planning &amp; Community Development Department.</li> <li>The Community Development Department is responsible for review of the report to ensure compliance with the mitigation measure.</li> </ul>	<ul style="list-style-type: none"> <li>Prior to tree removal, grading and/or construction during the times specified in the mitigation measure.</li> </ul>	

Attachment: June 23, 2016 City Council Staff Report and Resolution (Monterey Avenue Skate Park)

## EXHIBIT B

### FINDINGS AND CONDITIONS OF APPROVAL FOR APPLICATION NO. 15-068, MONTEREY AVENUE SKATE PARK

FINDING: The proposed project design and improvements, as conditioned by the attached Conditions of Approval, are substantially in conformance with the City of Capitola's General Plan and Zoning Ordinance and other Municipal Code requirements.

- (a) The proposed project, including the design and improvements, is consistent with the City's General Plan goals to provide parks which cater to the diverse needs and interests of Capitola residents and visitors (Goal LU-13), encouraging special use recreation facilities including skate parks (Policy LU-13.9), and developing Monterey Park as an active park site with neighborhood-serving recreational facilities and amenities (Policy LU-13.13).
- (b) The proposed project, including the design and improvements, is consistent with the P/OS (Parks/Open Space) designation of the General Plan because it would provide an active recreational facility in a designated active public park.
- (c) The proposed project, including the design and improvements, is consistent with the PF-P (Public Facility – Park) zoning district because it would provide an active recreational facility in a designated active public park.

FINDING: That the site is physically suitable for the type and density of development proposed.

- (a) The developable area of the site is within an existing designated active park and the site is flat, located outside the floodplain, and adequate infrastructure already exists to serve the proposed use.
- (b) The proposed development of the site with a public skate park is consistent with General Plan goals and policies.
- (c) Monterey Park is approximately 4-acres in size and is large enough to accommodate the proposed skate park and necessary parking to serve the use.
- (d) No significant, unmitigated environmental impacts would result from construction and operation of the facility as documented by the EIR prepared for the project. Mitigation measures and conditions of approval have been incorporated to avoid, minimize, or mitigate all environmental impacts to a less than significant level.

FINDING: The establishment, maintenance and operation of the proposed skate park, as conditioned, will not be detrimental to health, safety, peace, morals, comfort and general welfare of the persons residing or working in the neighborhood of the proposed development, or to its future residents, or to the general welfare of the City. The project application, subject to the conditions imposed, will secure the

purposes of the Zoning Ordinance and General Plan, and will maintain the character and integrity of the neighborhood.

- (a) Community Development Department staff, the Architectural and Site Review Committee, Planning Commission, and City Council have reviewed the project and determined that the project, subject to the attached conditions and mitigation measures is consistent with the development standards of the PF-P (Public Facility-Park) zoning district. Conditions of approval have been included to carry out the objectives of the Zoning Ordinance and the General Plan.
- (b) This project has been or will be, reviewed by all responsible City, County, and Regional agencies, and conditions of approval have been applied as deemed necessary by the Community Development and Public Works Department staff to ensure the continuing public health, safety and orderly development of the surrounding area.
- (c) A determination has been made that the site can and will be served by nearby municipal services and utilities.

COASTAL FINDINGS: The California Coastal Act, at Public Resources Code Section 30106, defines the term “development” to include “change in the density or intensity of use of land, including but not limited to, subdivisions, and any other division of land.” Similarly, the City of Capitola’s Local Coastal Program, at Capitola Municipal Code Section 17.46.030.I.4 defines “development” to include “subdivisions, and any other division of land...”.

The California Coastal Act, at Public Resources Code Section 30600, provides that any person wishing to perform or undertake any development in the coastal zone shall obtain a coastal development permit. Public Resources Code Section 30600 further provides that after certification of a local coastal program by the California Coastal Commission, the local government for the jurisdiction covered by the certified local coastal program shall be responsible for the issuance or denial of coastal development permits within that jurisdiction. The City of Capitola has a certified local coastal program and, accordingly, it, rather than the California Coastal Commission, is legally responsible for processing and considering applications for coastal development permits relative to coastal zone development in the City of Capitola.

Pursuant to the City of Capitola’s Local Coastal Program, certified by the California Coastal Commission in December, 1981, the City must find, in accordance with Capitola Municipal Code Section 17.46.090.D “A coastal permit shall be granted only upon adoption of specific written factual findings supporting the conclusion that the proposed development conforms to the certified Local Coastal Program ...” before it can issue a Coastal Development Permit for that project.

The project entails an approximately 6,028 square-foot public skate park to be developed within Monterey Park, an existing designated active park, which is located in the coastal zone of the City of Capitola. Accordingly, the project constitutes “development” for purposes of the California Coastal Act and the City’s certified Local Coastal Program and, in turn, requires a coastal development permit from the City of Capitola. Findings can be made that the project conforms to all applicable polices of the City’s Local Coastal Program and associated implementing



ordinances, including all applicable provisions of Capitola Municipal Code Section 17.46.090 as noted below:

*D. Findings Required. A coastal permit shall be granted only upon adoption of specific written factual findings supporting the conclusion that the proposed development conforms to the certified Local Coastal Program, including, but not limited to:*

- The proposed development conforms to the City's certified Local Coastal Plan (LCP). The specific, factual findings, as per CMC Section 17.46.090 (D) are as follows:

*(D) (2) Require Project-Specific Findings. In determining any requirement for public access, including the type of access and character of use, the city shall evaluate and document in written findings the factors identified in subsections (D) (2) (a) through (e), to the extent applicable. The findings shall explain the basis for the conclusions and decisions of the city and shall be supported by substantial evidence in the record. If an access dedication is required as a condition of approval, the findings shall explain how the adverse effects which have been identified will be alleviated or mitigated by the dedication. As used in this section, "cumulative effect" means the effect of the individual project in combination with the effects of past projects, other current projects, and probable future projects, including development allowed under applicable planning and zoning.*

*(D) (2) (a) Project Effects on Demand for Access and Recreation. Identification of existing and open public access and coastal recreation areas and facilities in the regional and local vicinity of the development. Analysis of the project's effects upon existing public access and recreation opportunities. Analysis of the project's cumulative effects upon the use and capacity of the identified access and recreation opportunities, including public tidelands and beach resources, and upon the capacity of major coastal roads from subdivision, intensification or cumulative build-out. Projection for the anticipated demand and need for increased coastal access and recreation opportunities for the public. Analysis of the contribution of the project's cumulative effects to any such projected increase. Description of the physical characteristics of the site and its proximity to the sea, tideland viewing points, upland recreation areas, and trail linkages to tidelands or recreation areas. Analysis of the importance and potential of the site, because of its location or other characteristics, for creating, preserving or enhancing public access to tidelands or public recreation opportunities;*

- The proposed project is located in Monterey Park at 700 Monterey Avenue. Monterey Park is not located in an area with coastal access. The proposed skate park would not have an effect on public trails or beach access.

*(D) (2) (b) Shoreline Processes. Description of the existing shoreline conditions, including beach profile, accessibility and usability of the beach, history of erosion or accretion, character and sources of sand, wave and sand movement, presence of shoreline protective structures, location of the line of mean high tide during the season when the beach is at its narrowest (generally during the late winter) and the proximity of that line to existing structures, and any other factors which substantially characterize or affect the shoreline processes at the site. Identification of anticipated changes to shoreline processes at the site. Identification of anticipated changes to shoreline*

*processes and beach profile unrelated to the proposed development. Description and analysis of any reasonably likely changes, attributable to the primary and cumulative effects of the project, to: wave and sand movement affecting beaches in the vicinity of the project; the profile of the beach; the character, extent, accessibility and usability of the beach; and any other factors which characterize or affect beaches in the vicinity. Analysis of the effect of any identified changes of the project, alone or in combination with other anticipated changes, will have upon the ability of the public to use public tidelands and shoreline recreation areas;*

- The proposed project is located in Monterey Park at 700 Monterey Avenue. No portion of the project is located along the shoreline or beach.

*(D) (2) (c) Historic Public Use. Evidence of use of the site by members of the general public for a continuous five-year period (such use may be seasonal). Evidence of the type and character of use made by the public (vertical, lateral, blufftop, etc., and for passive and/or active recreational use, etc.). Identification of any agency (or person) who has maintained and/or improved the area subject to historic public use and the nature of the maintenance performed and improvements made. Identification of the record owner of the area historically used by the public and any attempts by the owner to prohibit public use of the area, including the success or failure of those attempts. Description of the potential for adverse impact on public use of the area from the proposed development (including but not limited to, creation of physical or psychological impediments to public use);*

- The project site is a City-owned active park which is open to the public. The City of Capitola is responsible for park maintenance. There is no history of the City to prohibit or restrict public access to the park.

*(D) (2) (d) Physical Obstructions. Description of any physical aspects of the development which block or impede the ability of the public to get to or along the tidelands, public recreation areas, or other public coastal resources or to see the shoreline;*

- The proposed project is located in Monterey Park at 700 Monterey Avenue. The project will not block or impede the ability of the public to get to or along the tidelands, public recreation areas, or views to the shoreline.

*(D) (2) (e) Other Adverse Impacts on Access and Recreation. Description of the development's physical proximity and relationship to the shoreline and any public recreation area. Analysis of the extent of which buildings, walls, signs, streets or other aspects of the development, individually or cumulatively, are likely to diminish the public's use of tidelands or lands committed to public recreation. Description of any alteration of the aesthetic, visual or recreational value of public use areas, and of any diminution of the quality or amount of recreational use of public lands which may be attributable to the individual or cumulative effects of the development.*

- The proposed project is located on public property which is approximately 1,400 feet north of the coast. There are no direct access paths (aside from public streets) between Monterey Park and the coast. The proposed skate park would not diminish public access to the coast or adversely alter the

aesthetic, visual or recreational value of public use areas.

*(D) (3) (a – c) Required Findings for Public Access Exceptions. Any determination that one of the exceptions of subsection (F) (2) applies to a development shall be supported by written findings of fact, analysis and conclusions which address all of the following:*

*a. The type of access potentially applicable to the site involved (vertical, lateral, bluff top, etc.) and its location in relation to the fragile coastal resource to be protected, the agricultural use, the public safety concern, or the military facility which is the basis for the exception, as applicable;*

*b. Unavailability of any mitigating measures to manage the type, character, intensity, hours, season or location of such use so that agricultural resources, fragile coastal resources, public safety, or military security, as applicable, are protected;*

*c. Ability of the public, through another reasonable means, to reach the same area of public tidelands as would be made accessible by an access way on the subject land.*

- The project is not requesting a Public Access Exception, therefore these findings do not apply

*(D) (4) (a – f) Findings for Management Plan Conditions. Written findings in support of a condition requiring a management plan for regulating the time and manner or character of public access use must address the following factors, as applicable:*

*a. Identification and protection of specific habitat values including the reasons supporting the conclusions that such values must be protected by limiting the hours, seasons, or character of public use;*

- The project is located in an existing public park. There are no sensitive habitat areas on the property.

*b. Topographic constraints of the development site;*

- Monterey Park is a generally flat lot with no steep slopes.

*c. Recreational needs of the public;*

- The project would increase the public's access to recreational opportunities by adding a new skate park to an existing public park.

*d. Rights of privacy of the landowner which could not be mitigated by setting the project back from the access way or otherwise conditioning the development;*

- The project is located in an existing public park. There are no sensitive habitat areas on the property.

e. *The requirements of the possible accepting agency, if an offer of dedication is the mechanism for securing public access;*

- The project is located in an existing public park. There are no sensitive habitat areas on the property.

f. *Feasibility of adequate setbacks, fencing, landscaping, and other methods as part of a management plan to regulate public use.*

- The project is located in an existing public park. There are no sensitive habitat areas on the property.

(D) (5) *Project complies with public access requirements, including submittal of appropriate legal documents to ensure the right of public access whenever, and as, required by the certified land use plan and Section 17.46.010 (coastal access requirements);*

- The project would be located in a public park which is accessible to any citizen. No legal documents to ensure public access rights are required for the proposed project.

(D) (6) *Project complies with visitor-serving and recreational use policies;*

- The project would be located in a public park which is accessible to any citizen, including visitors.

#### SEC. 30222

*The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry.*

- The project involves a recreational use on City-owned property used as an active public park.

#### SEC. 30223

*Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.*

- The project involves a recreational use in a developed City-owned park. The project would not adversely affect any coastal recreational uses.

c) *Visitor-serving facilities that cannot be feasibly located in existing developed areas shall be located in existing isolated developments or at selected points of attraction for visitors.*

- The project involves a recreational use in a developed City-owned park which would be available to visitors.

(D) (7) *Project complies with applicable standards and requirements for provision of public and private parking, pedestrian access, alternate means of transportation and/or traffic improvements;*

- The project would provide adequate on-site parking and would not result in any significant direct traffic impacts. The project is conditioned to make a fair share contribution to a future traffic signal at Kennedy Drive/Park Avenue as required by the General Plan Update EIR.

*(D) (8) Review of project design, site plan, signing, lighting, landscaping, etc., by the city's architectural and site review committee, and compliance with adopted design guidelines and standards, and review committee recommendations;*

- The project complies with standards established by the Municipal Code.

*(D) (9) Project complies with LCP policies regarding protection of public landmarks, protection or provision of public views; and shall not block or detract from public views to and along Capitola's shoreline;*

- The coastline is not visible from the project site.

*(D) (10) Demonstrated availability and adequacy of water and sewer services;*

- The project is located in a developed City-owned park which has water services and has access to wastewater infrastructure to service a future restroom.

*(D) (11) Provisions of minimum water flow rates and fire response times;*

- The project is located within close proximity of the Central Fire District. Water is available at the location.

*(D) (12) Project complies with water and energy conservation standards;*

- The project would require minimal water and energy.

*(D) (13) Provision of park dedication, school impact, and other fees as may be required;*

- The project would not impact the provision of park and recreation services and it does not involve new housing which would generate an increased demand for school facilities.

*(D) (14) Project complies with coastal housing policies, and applicable ordinances including condominium conversion and mobile home ordinances;*

- The project does not involve a condo conversion or mobile homes.

*(D) (15) Project complies with natural resource, habitat, and archaeological protection policies;*

- The project site is a developed City-owned park. No sensitive biological and archaeological resources exist on the project site.

*(D) (16) Project complies with Monarch butterfly habitat protection policies;*

- The project is outside of any identified sensitive habitats, specifically areas where Monarch Butterflies have been encountered, identified and documented.

*(D) (17) Project provides drainage and erosion and control measures to protect marine, stream, and wetland water quality from urban runoff and erosion;*

- The project meets federal, state, and local requirements for drainage, stormwater management, and erosion control.

*(D) (18) Geologic/engineering reports have been prepared by qualified professional for projects in seismic areas, geologically unstable areas, or coastal bluffs, and project complies with hazard protection policies including provision of appropriate setbacks and mitigation measures;*

- The project does not involve the development of new habitable structures and does not propose to locate facilities near a coastal bluff or other geologic hazard area.

*(D) (19) All other geological, flood and fire hazards are accounted for and mitigated in the project design;*

- The project is not located in a flood zone or a high fire risk area.

*(D) (20) Project complies with shoreline structure policies;*

- The proposed project is not located along a shoreline.

*(D) (21) The uses proposed are consistent with the permitted or conditional uses of the zoning district in which the project is located;*

- This use is an allowed use consistent with the Public Facility – Park (PF/P) zoning district.

*(D) (22) Conformance to requirements of all other city ordinances, zoning requirements, and project review procedures;*

- The project conforms to the requirements of all city ordinances, zoning requirements and project development review and development procedures.

*(D) (23) Project complies with the Capitola parking permit program as follows:*

- The project would not rely on the City's parking permit program.

### **CONDITIONS OF APPROVAL**

1. The project approval consists of an approximately 6,000 square-foot skate park located in Monterey Park in the PF-P (Public Facility – Park) zoning district. Improvements consist of a skate park facility, fencing, noise attenuation walls, ADA

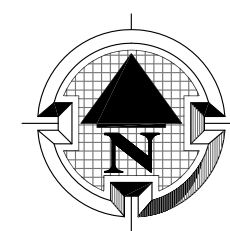
- improvements, and stormwater treatment. No special events or skateboarding competitions are authorized by this permit. The proposed project is approved as indicated on the plans reviewed and approved by the City Council on June 23, 2016, except as modified through conditions imposed by the City Council.
2. Consistent with EIR Alternative 1, the applicant shall submit revised plans which shift the skate park closer to the existing Monterey Park parking lot to improve visibility and public safety. The applicant shall be responsible for preparing and submitting revised plans for the relocated facility. The relocated facility should be designed to avoid impacts to trees to the maximum extent possible. If the ultimate location and orientation of the skate park presents any conflict with other existing park uses, the applicant shall prepare and submit plans which show how adjustments to the park layout could accommodate all uses to the satisfaction of the Community Development Director and Public Works Director. The applicant shall be responsible for any costs associated with design and construction of the skate park facility and any modifications to other park facilities which are necessary to accommodate the skate park.
  3. The modified design shall include noise attenuation walls as specified in the approved noise study prepared by Illingworth and Rodkin, Inc. to reduce maximum instantaneous and hourly average noise levels by a minimum of five dBA at the Soquel Union Elementary School District Offices and single-family residences. Noise barriers shall be constructed from materials having a minimum surface weight of 3 lbs/sf, such as one-inch thick wood fence boards, masonry block, or concrete, and be constructed in a manner free of any cracks or gaps between barrier materials and between the barrier and the ground. Alternately, suitable barrier materials such as Acoustifence by Acoustiblok or ¼-in. plexiglass could be attached to the proposed metal fence surrounding the skate park to provide an equivalent noise level reduction if approved by the City Council. Proposed noise attenuation walls shall be reviewed by a qualified acoustician and approved by the Community Development Director.
  4. The modified design shall include security lighting to softly illuminate the skate park and path leading to the facility. Security lighting shall be restricted to low pressure bulbs affixed to downward casting fixtures to prevent light trespass. Security lighting shall be reviewed and approved by the Community Development Director.
  5. The modified design shall include a minimum of two conspicuous rules and regulations signs to the satisfaction of the Public Works Director.
  6. The modified design shall include sufficient benches and/or cube style seating outside the facility for parents and spectator use. The number of benches/seating shall be determined based on best practices for public park facilities and to the satisfaction of the Community Development and Public Works Directors.
  7. The modified design shall include a skate board rack and a bicycle rack to the satisfaction of the Community Development and Public Works Directors.
  8. The modified design shall include an emergency phone to the satisfaction of the Police Chief and Public Works Director.

9. The modified design shall include a double pedestrian gated entrance to the satisfaction of the Police Chief and Community Development Director.
10. The modified design shall include wood bark chips, or other non-turf/hardscape materials between the skate park and the fence to the satisfaction of the Community Development Director.
11. The modified design shall include a wrought-iron fence with a curved top to deter unauthorized entry when the facility is closed.
12. The skate park shall be sited to avoid impacts to mature redwood trees.
13. Prior to issuance of a Right-of-Entry Permit, the applicant shall execute a defense and indemnity agreement with the City to the City Attorney's satisfaction.
14. Prior to issuance of a building and/or grading permits, the applicant shall obtain a right-of-entry permit or equivalent form of permission from the City to construct improvements on public property.
15. Prior to issuance of a building permit or grading permit, all planning fees shall be paid in full.
16. Prior to issuance of building or grading permits, the City shall contract with a certified arborist to perform a pre-construction inspection to evaluate the proposed skate park location to determine if construction could endanger the health and vitality of mature redwood and alder trees. The certified arborist shall present their findings in a written report with recommendations to prevent impacts to the redwood and alder trees. The skate park location shall be shifted as necessary to prevent impacts to mature redwood trees. The certified arborist shall be retained to perform construction monitoring, as necessary, to ensure grading and construction activities are carried out per the arborist's recommendations. The applicant shall be responsible for funding the arborist contract.
17. Prior issuance of building or grading permits, the applicant shall prepare and implement a Soil Management Report which requires all excavated soils to be removed with proper disposal and/or encapsulation to prevent exposure to contaminants found in the soil. The report shall be submitted to the Community Development Department and the County of Santa Cruz Department of Environmental Health. No grading shall occur until the report is approved by the County of Santa Cruz.
18. Prior to issuance of building or grading permits, the applicant shall prepare a Safety Plan to ensure that appropriate worker health and safety measures are in place during grading and construction activities. The plan shall be submitted to the Community Development Department and County of Santa Cruz Department of Environmental Health. No grading shall occur until the plan is approved by the County of Santa Cruz.
19. Prior to issuance of building or grading permits, the applicant shall post a bond, letter of credit, or other acceptable form of construction security with a minimum value of



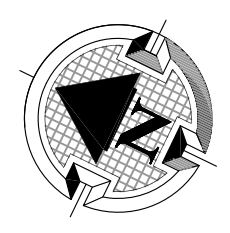
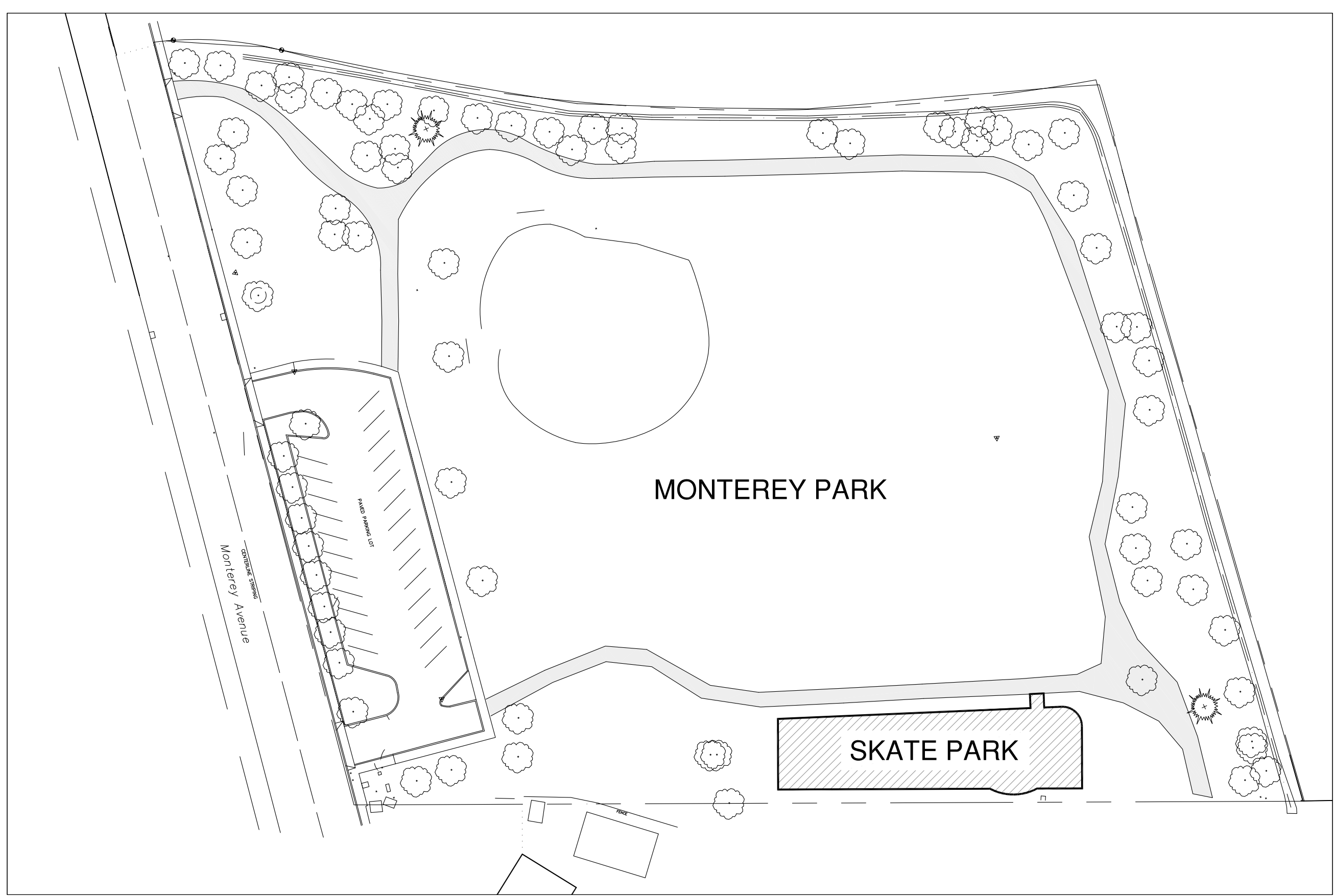
- 150% of the construction cost to the satisfaction of the City Attorney and Public Works Director.
20. Prior to issuance of building or grading permits, the applicants shall be responsible for funding a detailed inspection by a qualified acoustician of wood fences on the rear property line along Orchid Avenue within 165 feet of the skate park to ensure fences are adequate to attenuate noise as predicted. If the acoustician finds defects in fences, the applicant shall be responsible for funding necessary repairs and/or replacement, and with permission of the property owner, to ensure an acoustically effective six-foot noise barrier.
  21. Prior to issuance of building or grading permits, the applicant shall make a fair share contribution in the amount of \$1,507 for the installation of a future traffic signal at the Kennedy Drive/Park Avenue intersection. The City shall deposit the funds into an account designated solely for the installation of a future traffic signal.
  22. Prior issuance of a building or grading permits, final building plans shall be submitted consistent with the plans and conditions approved by the City Council. All construction and site improvements shall be completed according to the approved plans.
  23. Prior issuance of a building or grading permits, conditions of approval and mitigation measures shall be conspicuously shown on the title sheet of building and grading plans and construction contract specifications.
  24. Prior issuance of a building or grading permits, Public Works Standard Detail SMP STRM shall be printed in full and incorporated as a sheet into the construction plans. All construction shall be done in accordance with the Public Works Standard Detail BMP STRM.
  25. Prior issuance of a building or grading permits, the applicant shall submit a drainage plan, grading, sediment and erosion control plan to the City and approved by Public Works. The plans shall be in compliance with the requirements specified in Capitola Municipal Code Chapter 13.16 Storm Water Pollution Prevention and Protection.
  26. Prior issuance of a building or grading permits, the applicant shall submit a stormwater management plan to the satisfaction of the Director of Public Works which implements all applicable Post Construction Requirements (PCRs) and Public Works Standard Details, including all standards relating to low impact development (LID).
  27. Prior to any land disturbance, a pre-site inspection must be conducted by the grading official to verify compliance with the approved erosion and sediment control plan.
  28. Pursuant to the federal Migratory Bird Treaty Act, no construction shall occur between February 1 and August 15 unless the site is first surveyed by a qualified biologist who determines that no nesting birds are present.
  29. During construction, all worker safety measures identified in a Safety Plan approved by the County of Santa Cruz shall be implemented and followed at all times.

30. Construction activities shall be limited to 8:00 a.m. to 5:00 p.m. on weekdays and 9:00 a.m. to 4:00 p.m. on Saturdays. No Sunday construction is allowed. No grading or use of heavy equipment shall take place when school is in session.
31. Any trees removed or damaged by the project shall be replaced within Monterey Park at a 2:1 ratio. All replacement trees shall be irrigated until trees have become successfully established.
32. Prior to issuance of a certificate of occupancy, the applicant shall fund an inspection by a qualified acoustician to verify the six-foot noise walls have been appropriately constructed to ensure effective noise attenuation.
33. Prior to issuance of a Certificate of Occupancy, compliance with all conditions of approval shall be demonstrated to the satisfaction of the Community Development Director.
34. Prior to issuance of a certificate of occupancy, any and all damage to the parking lot or other park facilities caused by construction activities shall be repaired per the Public Works Standard Details and to the satisfaction of the Public Works Department. All replaced driveway approaches, curb, gutter or sidewalk shall comply with Accessibility Standards.
35. Prior to issuance of a certificate of occupancy, the applicant shall post a bond, letter of credit, or alternative form of financial security to the satisfaction of the Community Development Director to fund a post-operation noise study to be conducted approximately 6-months following the opening of the skate park and to pay for any remedial measures necessary to achieve acceptable noise attenuation. Noise attenuation shall be considered acceptable if post-operation noise is less than 5 dB(A) from pre-operation measurements.
36. This permit shall be reviewed by the Planning Commission approximately 6-months following the opening of the skate park to evaluate the effectiveness of conditions and to determine if any changes or new conditions are necessary to minimize impacts to neighboring properties.
37. No special events permits shall be issued to authorize competitions or other events at the facility.
38. The City Council, on recommendation from the Planning Commission, may revoke the Conditional Use Permit for evidence of repeated non-compliance with the conditions of approval.
39. This permit shall expire 24 months from the date of issuance. The applicant shall have an approved building permit and construction underway before this date to prevent permit expiration. Applications for extension may be submitted by the applicant prior to expiration pursuant to Municipal Code section 17.81.160



# LOCATION MAP

N.T.S.



# AREA OF WORK MAP

N.T.S.

## PROJECT TEAM

**OWNER'S REPRESENTATIVES**  
 STEVE JESBERG - PUBLIC WORKS DIRECTOR  
 CITY OF CAPITOLA  
 420 CAPITOLA AVENUE  
 CAPITOLA, CA 95010  
 (831) 475-7300  
 (831) 479-8979 FAX

**LANDSCAPE ARCHITECT**  
 TROY MEARS, RLA  
 MEARS DESIGN GROUP, LLC  
 PO BOX 23338  
 PORTLAND, OR 97281  
 (503) 601-4516  
 (503) 924-4688 FAX

**SKATE PARK CONTRACTOR**  
 MARK SCOTT  
 DREAMLAND SKATEPARKS, LLC  
 2150 SE HWY 101, PMB 384  
 LINCOLN CITY, OR 97367-2622  
 (503) 577-9277

## GENERAL NOTES

1. BLEND CUT AND FILL SLOPES TO CONFORM TO THE ADJACENT NATURAL GROUND.
2. DO NOT OBTAIN DIMENSIONS BY SCALING DRAWINGS. USE WRITTEN DIMENSIONS AND ANY DISCREPANCY SHALL BE BROUGHT TO THE ATTENTION OF THE OWNER'S REPRESENTATIVE PRIOR TO THE COMMENCEMENT OF WORK.
3. ADVISE THE OWNER'S REPRESENTATIVE OF ANY CONFLICTS OR DISCREPANCIES 5 (FIVE) WORKING DAYS PRIOR TO STARTING WORK.
4. VERIFY LOCATION OF ALL UTILITIES PRIOR TO COMMENCEMENT OF WORK FOR LOCATIONS CONTACT UTILITIES NOTIFICATION CENTER (811) AND CITY OF CAPITOLA PUBLIC WORKS (831) 475-7300 NOT LESS THAN 72 HOURS PRIOR TO BEGINNING WORK.
5. CONTRACTOR TO COORDINATE WITH CITY OF CAPITOLA REPRESENTATIVE REGARDING CONSTRUCTION COORDINATION, SCHEDULING, ETC. SEE SPECIAL PROVISIONS FOR ADDITIONAL INFORMATION.
6. NO LIGHTING IS PROPOSED.

## DRAWING INDEX

SHEET TITLE	SHEET NUMBER
COVER SHEET	SP1
EXISTING CONDITIONS/DEMOLITION/EROSION CONTROL PLAN	SP2
EROSION & SEDIMENT CONTROL DETAILS & NOTES	SP3
LAYOUT PLAN	SP4
GRADING & DRAINAGE PLAN	SP5
DRAINAGE DETAILS	SP6
REFERENCE PLAN	SP7
CONSTRUCTION DETAIL SHEET	SP8
CONSTRUCTION DETAIL SHEET	SP9
CONSTRUCTION DETAIL SHEET	SP10

**MEARS DESIGN GROUP**  
 LANDSCAPE ARCHITECTURE & PLANNING  
 PO BOX 23338 | PORTLAND, OREGON | 97281  
 PHONE: 503.601.4516 | FAX: 503.924.4688

LICENSED LANDSCAPE ARCHITECT  
 TROY MEARS, RLA  
 No. 10000  
 Issue Date 4/15/15  
 Date  
**PRELIMINARY**  
 STATE OF CALIFORNIA

**MONTEREY AVENUE SKATEPARK**  
 MONTEREY PARK  
 POURED-IN-PLACE CONCRETE  
 CAPITOLA, CALIFORNIA

REVISIONS

REV.	DATE	DESCRIPTION

SHEET NAME:  
**COVER SHEET**

DRAWN BY: TAM  
 CHECKED BY: TAM  
 ISSUE DATE: 04/15/2015  
 JOB NO.: 1522

SHEET:  
**SP1**  
 OF 10  
 PERMIT SET

ASSESSOR PARCEL NUMBER: 036-151-01 & 02

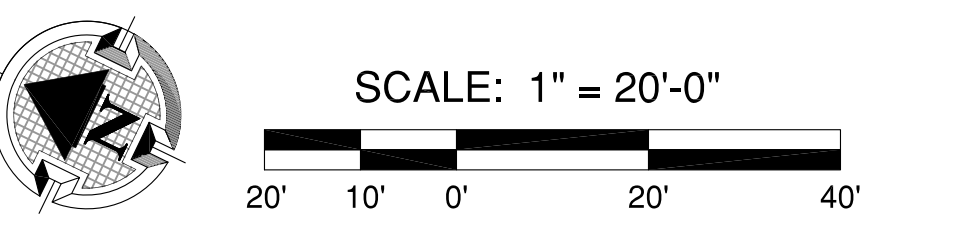


### GENERAL NOTES

1. CONTRACTOR TO FENCE CONSTRUCTION LIMITS
2. SEE SHEET L3 FOR LAYOUT INFORMATION
3. TREE PROTECTION REQUIRED FOR ALL EXISTING TREES THAT ARE DETERMINED BY CITY OF CAPITOLA REPRESENTATIVE TO REMAIN.
4. INSTALL EROSION CONTROL, TREE PROTECTION AND CONSTRUCTION FENCING PRIOR TO ANY SITE WORK. EROSION CONTROL FENCING MUST BE REVIEWED AND APPROVED BY CITY OF CAPITOLA INSPECTOR.
5. CONTRACTOR TO BE SENSITIVE TO ALL UNDERGROUND UTILITIES EXISTING IN CONSTRUCTION AREA. CONTRACTOR TO NOTIFY CITY OF CAPITOLA REPRESENTATIVE BEFORE START OF CONSTRUCTION.
6. CONTRACTOR TO NOTIFY CITY OF CAPITOLA PUBLIC WORKS DEPT. REP. OF ANY EXISTING IRRIGATION LINES UNCOVERED OR DAMAGED DURING CONSTRUCTION BEFORE COVERED SO IT CAN BE FIXED OR ABANDONED.
7. CONTRACTOR TO MAINTAIN CONSTRUCTION FENCING THROUGHOUT PROJECT UNTIL NOTIFIED TO REMOVE UPON COMPLETENESS.
8. ALL TREES IDENTIFIED ON DRAWINGS ARE TO REMAIN AS NOTED

### SURVEY PROVIDED BY:

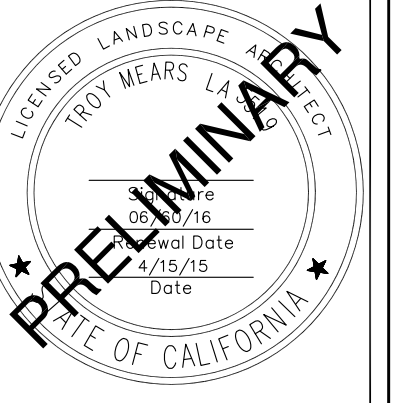
EDMUNDSON & ASSOCIATES LAND SURVEYING  
 1512 SEABRIGHT AVENUE SANTA CRUZ, CA 95062  
 PHONE (831) 425-1796 FAX (831) 425-1795



### LEGEND

SYM	DESCRIPTION
	SURVEY CONTROL POINT FOUND AS NOTED
	SURVEY CONTROL POINT SET AS NOTED
I.C.V.	DENOTES IRRIGATION CONTROL VALVE
	DENOTES EXISTING DECIDUOUS TREE
	DENOTES EXISTING CONIFER TREE
---	PROPERTY LINE, LANDS OF APN 036-151-02
---	EDGE OF RIGHT OF WAY
---	STRUCTURE LINE
	DENOTES EXISTING STORM GRATE INLET
—STM—	DENOTES EXISTING STORM LINE
---	DENOTES EXISTING FENCE
—105—	DENOTES EXISTING INDEX CONTOUR
---	DENOTES EXISTING INTERMEDIATE CONTOUR
4702.32	DENOTES EXISTING SPOT ELEVATION
	CONSTRUCTION FENCE LIMITS - 4 FT. ORANGE FENCE
—XX—	EROSION CONTROL FENCE - REFER TO DETAIL B/SP3
	DENOTES EXISTING CONCRETE SURFACE
	CONSTRUCTION ENTRANCE - REFER TO DETAIL A/SP3
	CONSTRUCTION STAGING AREA
	PROPOSED SKATE PARK LIMITS

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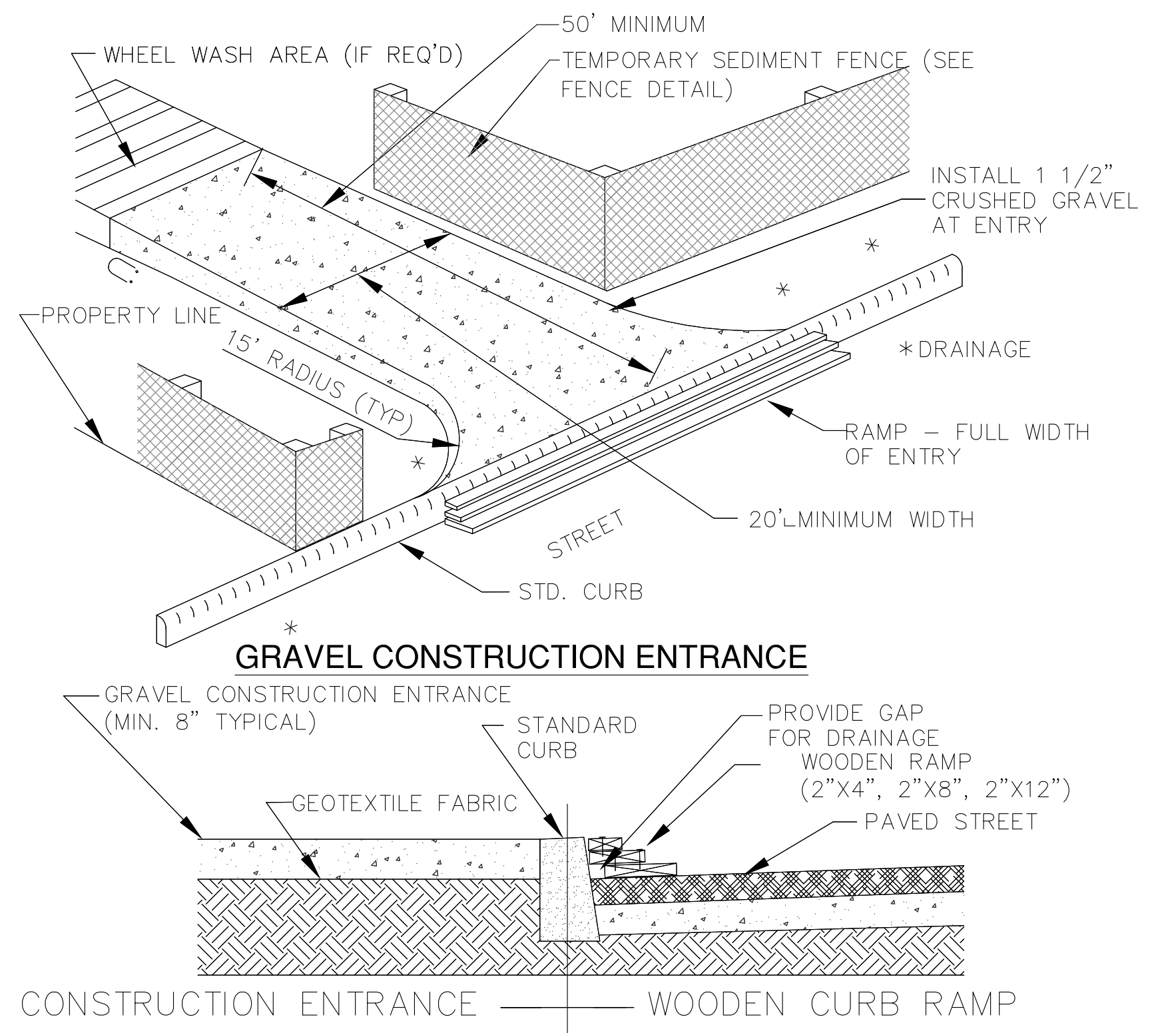
**MONTEREY AVENUE SKATEPARK**  
 MONTEREY PARK  
 POURED-IN-PLACE CONCRETE  
 CAPITOLA, CALIFORNIA

REV.	DATE	DESCRIPTION
5/5/2015		City Comments
2/18/2016		City Comments
2/23/2016		City Comments

SHEET NAME:  
**EXISTING CONDITION EROSION CONTROL**

DRAWN BY: TAM  
 CHECKED BY: TAM  
 ISSUE DATE: 04/15/2015  
 JOB NO.: 1522

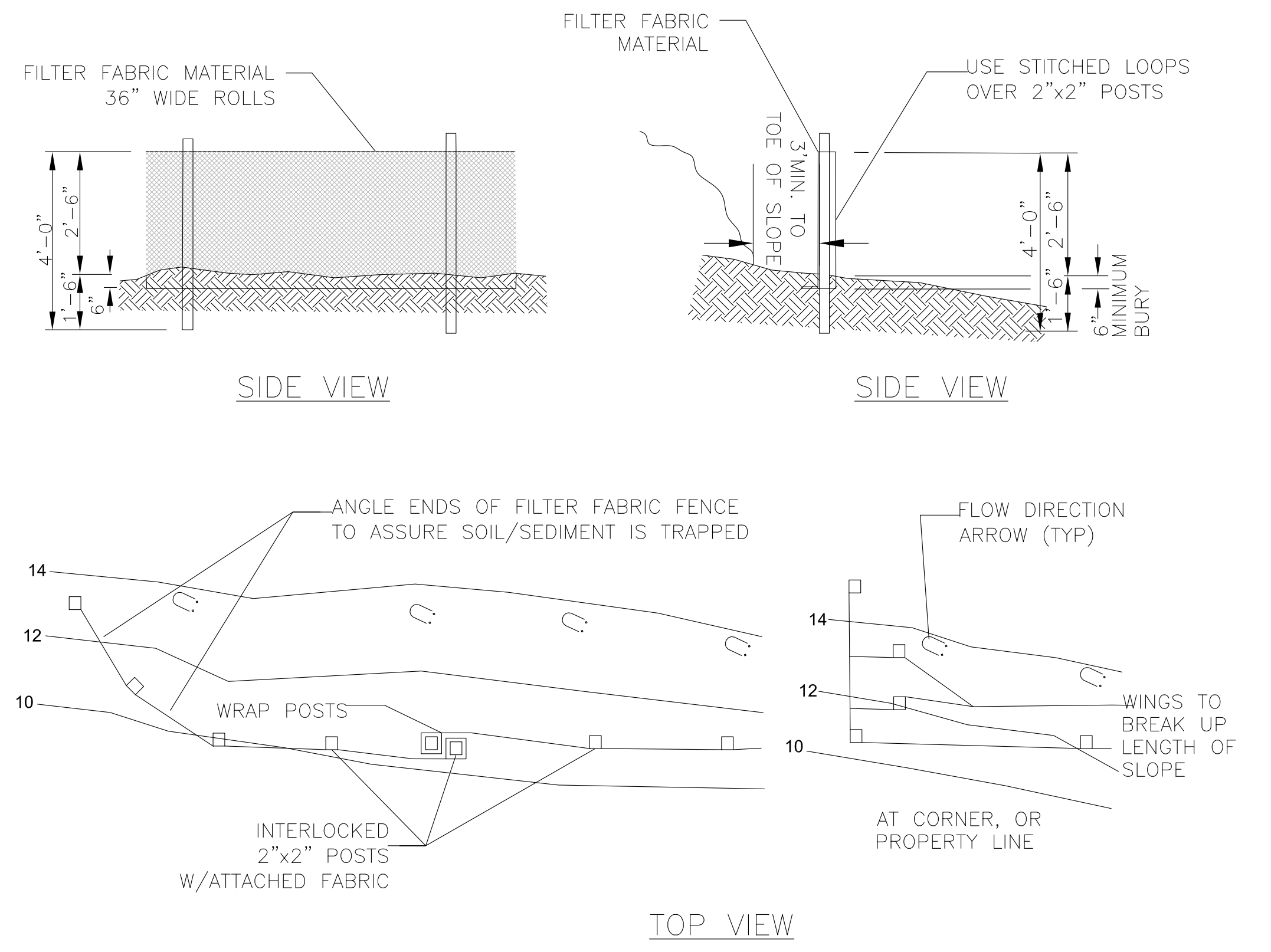
SHEET:  
**SP2**  
 OF 10 PERMIT SET



**A** GRAVEL CONSTRUCTION ENTRANCE  
SP3 N.T.S.

NOT USED

NOT USED

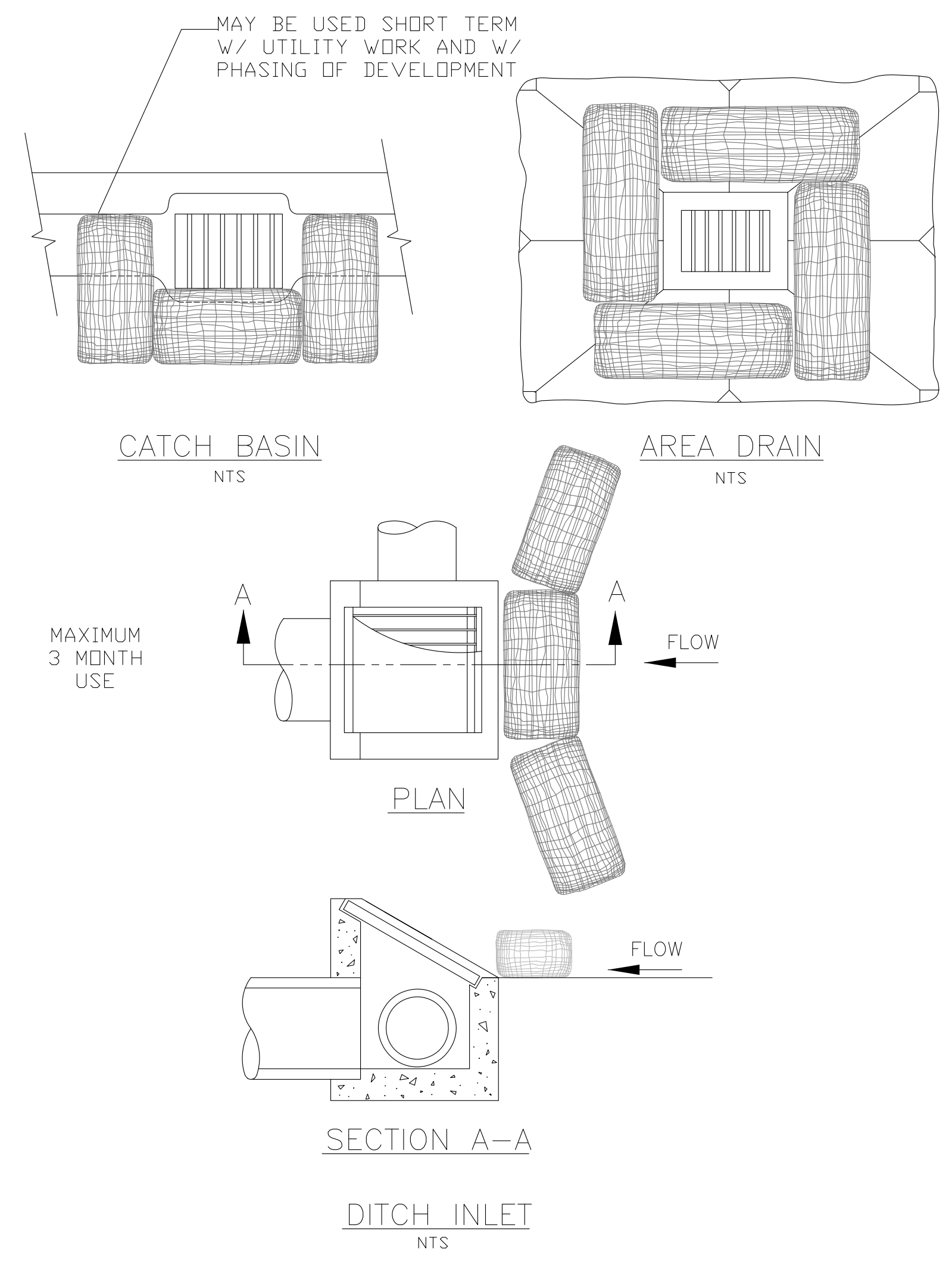


**B** TEMPORARY SEDIMENT FENCE  
SP3 N.T.S.

**SEDIMENT FENCE NOTES:**

1. The filter fabric shall be purchased in a continuous roll cut to the length of the barrier to avoid use of joints. When joints are necessary, filter cloth shall be spliced together only at a support post, with a minimum 6-inch overlap, and both ends securely fastened to the post, or overlap 2 inch x 2 inch posts and attach as shown on detail sheet SP3.
2. The filter fabric fence shall be installed to follow the contours where feasible. The fence posts shall be spaced a maximum of 6 feet apart and driven securely into the ground a minimum of 24 inches.
3. The filter fabric shall have a minimum vertical burial of 6 inches. All excavated material from filter fabric fence installation, shall be backfilled and compacted, along the entire disturbed area.
4. Standard or heavy duty filter fabric fence shall have manufactured stitched loops for 2 inch x 2 inch post installation. Stitched loops shall be installed on the up hill side of the sloped area.
5. Filter fabric fences shall be removed when they have served their useful purpose, but not before the upslope area has been permanently protected and stabilized.
6. Filter fabric fences shall be inspected by contractor immediately after each rainfall and at least daily during prolonged rainfall. Any required repairs shall be made immediately.

NOT USED



**C** BIO-FILTER BAGS FOR TEMPORARY INLET PROTECTION  
SP3 N.T.S.

**EROSION CONTROL NOTES:**

A. Approval of this erosion, sediment and pollution control plan (ESPCP) does not constitute an approval of permanent road or drainage design (e.g., size and location of roads, pipes, restrictors, channels, retention facilities, utilities, etc.)

B. The implementation of this ESPCP and the construction, maintenance, replacement, and upgrading of these ESPCP facilities is the responsibility of the contractor until all construction is completed and approved and vegetation/landscaping is established.

C. The boundaries of the clearing limits shown on this plan shall be clearly flagged in the field prior to construction. During the construction period, no disturbance beyond the flagged clearing limits shall be permitted. The flagging shall be maintained by the contractor for the duration of construction.

D. The ESPCP facilities shown on this plan must be constructed in conjunction with all clearing and grading activities, and in such a manner as to insure that sediment and sediment laden water do not enter the drainage system, roadways, or violate applicable water standards.

E. The ESPCP facilities shown on this plan are the minimum requirements for anticipated site conditions. During the construction period, these ESPCP facilities shall be upgraded as needed for unexpected storm events and to ensure that sediment and sediment-laden water do not leave the site.

F. The ESPCP facilities shall be inspected daily by the contractor and maintained as necessary to ensure their continued functioning.

G. The ESPCP facilities on inactive sites shall be inspected and maintained a minimum of once a month or within the 24 hours following a storm event.

H. Stabilized construction entrances shall be installed at the beginning of construction and maintained for the duration of the project. Additional measures may be required to insure that all paved areas are kept clean for the duration of the project.



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LICENSED LANDSCAPE ARCHITECT  
TROY MEARS, LICENSE NO. 16000  
DATE: 4/15/15  
**PRELIMINARY**  
STATE OF CALIFORNIA

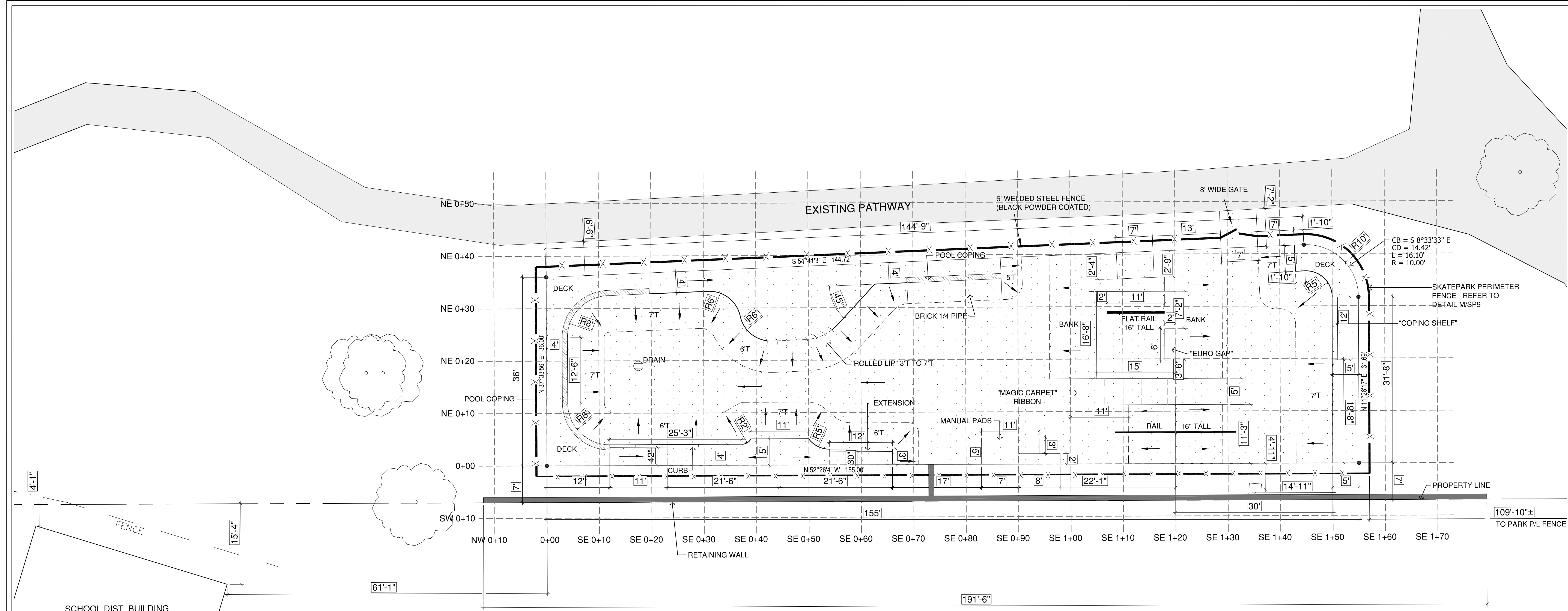
**MONTEREY AVENUE SKATEPARK**  
MONTEREY PARK  
POURED-IN-PLACE CONCRETE  
CAPITOLA, CALIFORNIA

REV.	DATE	DESCRIPTION

SHEET NAME:  
**EROSION CONTROL DETAILS & NOTES**

DRAWN BY:	TAM
CHECKED BY:	TAM
ISSUE DATE:	04/15/2015
JOB NO.:	1522

SHEET:  
**SP3**  
OF 10  
PERMIT SET



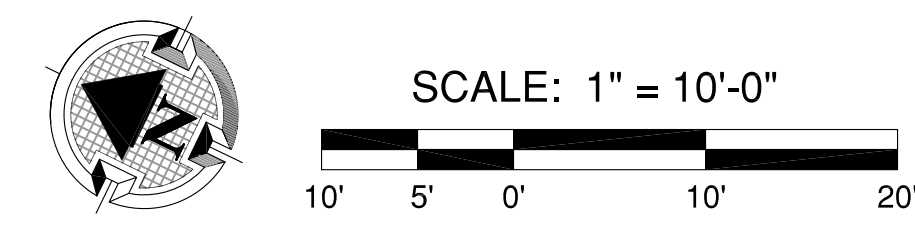
**SKATEPARK SQUARE FOOTAGE AREAS:**

DECK AREA:	1,181 SF
FLAT AREA:	2,224 SF
TRANSITION AREA:	1,560 SF
BANK AREA:	688 SF
LEDGE AREA:	375 SF
<b>TOTAL SKATEPARK AREA:</b>	<b>6,028 SF</b>
<b>BUFFER BETWEEN SKATEPARK FENCE &amp; CONCRETE SKATEPARK:</b>	<b>783 SF</b>
<b>TOTAL AREA (INSIDE SKATEPARK FENCE):</b>	<b>6,811 SF</b>

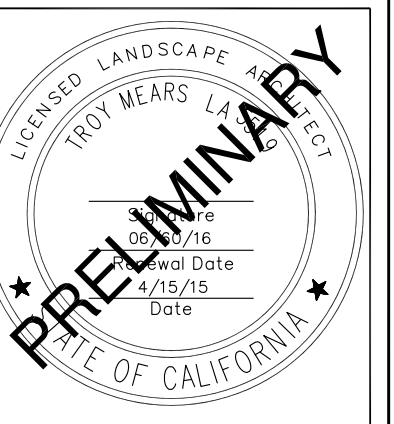
**LAYOUT LEGEND**

SYM	DESCRIPTION
	SKATEPARK LIMITS OF CONSTRUCTION
R	RADIUS AS INDICATED
T	TRANSITION AS INDICATED
L	LENGTH AS INDICATED
CB	CHORD BEARING AS INDICATED
CD	CHORD DISTANCE AS INDICATED
	STEEL FLAT RAIL / RAILING AS INDICATED
	PROPOSED FLOOR DRAIN
	BOTTOM OF TRANSITION RAMP
	STEEL COPING
	6 FT. BLACK POWDER COATED WELDED STEEL FENCE - REFER TO DETAIL M/SP9

- LAYOUT NOTES**
- ALL TRANSITIONS OF WALKS AND CURBS SHALL BE CONSTRUCTED TO A SMOOTH CURVE. ALL ADJUSTMENTS OF THE "LAYOUT" SHALL BE APPROVED BY CITY OF CAPITOLA PRIOR TO CONSTRUCTION.
  - SKATEPARK CONTRACTOR RESPONSIBLE FOR SKATEPARK LAYOUT. FINAL APPROVAL REQUIRED BY CITY OF CAPITOLA REPRESENTATIVE.
  - THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE VERIFICATION OF THE LOCATIONS OF ALL UTILITIES IN THE FIELD. LOCATIONS SHOWN ON THE PLAN ARE APPROXIMATE AND FOR GENERAL INFORMATION ONLY.
  - ALL "LAYOUT" WORK SHALL BE APPROVED BY CITY OF CAPITOLA PRIOR TO THE START OF ANY EXCAVATION.
  - DIMENSIONS FOR WALKS, CURB WALLS AND CURBS ARE AT CENTER LINE OR ON THE SIDE SHOWN ON THE PLAN.  
  
THE CONTRACTOR SHALL BE RESPONSIBLE TO CONSTRUCT ALL CONCRETE WORK USING FORM LUMBER AND STAKES STRONG ENOUGH AND AT INTERVALS FREQUENT ENOUGH TO ASSURE ACCURATE ANGLES & SMOOTH CONTINUOUS RADII.
  - CONTRACTOR IS REQUIRED TO RE-SEED ALL SCARRED AREAS DUE TO CONSTRUCTION WITH CITY APPROVED SEED MIX.
  - CONTRACTOR TO REPAIR AND ADJUST ALL EXISTING IRRIGATION DAMAGED OR REMOVED DUE TO SKATEPARK CONSTRUCTION. FINISHED IRRIGATION PRODUCT IS TO BE INSTALLED TO COVER ALL EXISTING AND NEWLY PLANTED/SEEDED AREAS WITH MINIMAL THROUGH ON HARD SURFACES. FINAL PRODUCT IS TO BE APPROVED BY OWNER'S REPRESENTATIVE. CONTRACTOR TO ABIDE BY CITY OF CAPITOLA STANDARDS.
  - NO LIGHTING IS PROPOSED.
  - ALL EXCAVATED MATERIAL(S) TO BE TRANSPORTED OFF-SITE TO AN ACCEPTABLE DISPOSAL SITE DUE TO ARSENIC CONTAMINATION.



**MEARS DESIGN+GROUP**  
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**MONTEREY AVENUE SKATEPARK**  
 MONTEREY PARK  
 POURED-IN-PLACE CONCRETE  
 CAPITOLA, CALIFORNIA

**REVISIONS**

REV.	DATE	DESCRIPTION
5/5/2015	City Comments	
2/18/2016	City Comments	
2/23/2016	City Comments	

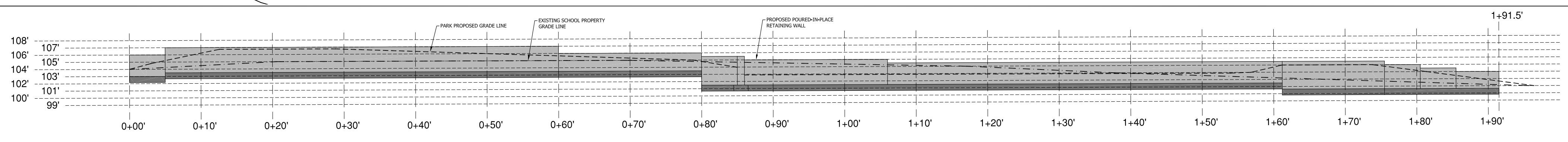
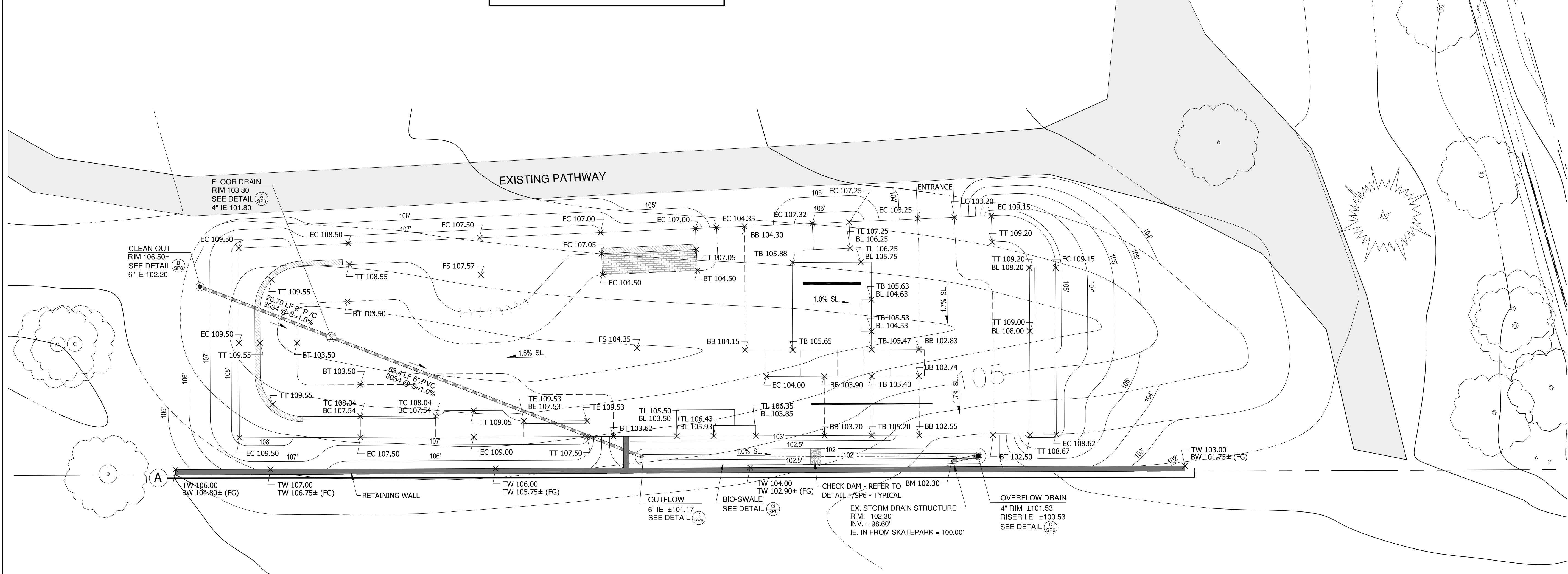
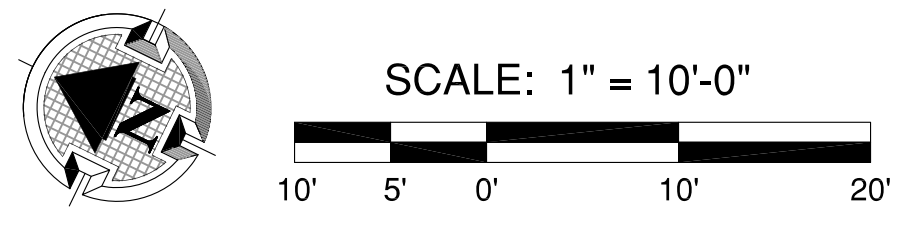
SHEET NAME:  
**SKATEPARK LAYOUT PLAN**

DRAWN BY: TAM  
 CHECKED BY: TAM  
 ISSUE DATE: 04/15/2015  
 JOB NO.: 1522

SHEET:  
**SP4**  
 OF 10  
 PERMIT SET

GRADING/DRAINAGE LEGEND			
SYM	DESCRIPTION	SYM	DESCRIPTION
FS 103.25	PROPOSED ELEVATION AT FINISH GRADE	RIM	RIM ELEVATION
	EXISTING CONTOURS	IE	INVERT ELEVATION
	PROPOSED CONTOURS	HP	HIGH POINT
FS	FINISH SURFACE ELEVATION	BM	BENCH MARK - AS NOTED
FG	FINISH GRADE	EC	EDGE OF CONCRETE
TB	TOP OF BANK AT FINISH GRADE	TW	TOP OF WALL
BB	BOTTOM OF BANK AT FINISH GRADE	BW	BOTTOM OF WALL
BL	BOTTOM OF LEDGE AT FINISH GRADE		SLOPE DIRECTION
TL	TOP OF LEDGE AT FINISH GRADE		6" CLEAN-OUT - SEE DETAIL B/SP6
TT	TOP OF TRANSITION AT FINISH GRADE		6" FLOOR DRAIN - SEE DETAIL A/SP6
BT	BOTTOM OF TRANSITION AT FINISH GRADE		EXISTING STORM DRAIN STRUCTURE
FG	FINISH GRADE		STORM DRAIN LINE - (3034) - SIZE AS NOTED

- ### GRADING/DRAINAGE NOTES
- THIS PLAN PROVIDES GENERAL GRADING INFORMATION. ALL SURVEYING SHALL BE THE RESPONSIBILITY OF THE CONTRACTOR.
  - EXPORTATION OF SOIL, WHICH MAY BE NECESSARY TO MEET THE GRADES SHOWN ON THIS PLAN, SHALL BE THE RESPONSIBILITY OF THE CONTRACTOR AND SHALL BE PART OF THIS CONTRACT.
  - CONTRACTOR SHALL BE RESPONSIBLE FOR VERIFICATION OF THE LOCATION OF ALL EXISTING UTILITIES IN THE FIELD. LOCATIONS SHOWN ON THE PLANS ARE APPROXIMATE AND FOR GENERAL INFORMATION ONLY.
  - ALL HIGH POINTS, LOW POINTS, OR GRADE BREAKS ON CONCRETE SURFACES SHALL HAVE A SMOOTH CURVE. CONCRETE SHALL NOT BE BUILT TO A POINT.
  - THE CONTRACTOR SHALL MATCH THE NEW GRADES WITHIN THE LIMITS OF WORK TO THE EXISTING GRADES.
  - CONTRACTOR SHALL PROVIDE SECURITY BARRIER DURING CONSTRUCTION & UNTIL ACCEPTED.
  - EROSION CONTROL FENCING REQUIRED TO BE IN PLACE PRIOR TO ANY SITE WORK.
  - ALL WORK SHALL BE COMPLETED IN CONFORMANCE WITH THE PHASE III ENVIRONMENTAL SITE ASSESSMENT (WEBER, HAYES, AND ASSOCIATES, 9/23/15).
  - ALL EXCAVATED MATERIAL SHALL EITHER BE HAULED OFF-SITE AND DISPOSED OF AT AN APPROPRIATE LOCATION OR ENCAPSULATED TO THE SATISFACTION OF THE COUNTY OF SANTA CRUZ DEPARTMENT OF ENVIRONMENTAL HEALTH.



**A** RETAINING WALL ELEVATION  
SCALE: 1" = 10'-0"

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LICENSED LANDSCAPE ARCHITECT  
TROY MEARS, L.A.S. No. 16  
Date: 4/15/15  
Date: 4/15/15  
Date: 4/15/15  
**PRELIMINARY**  
STATE OF CALIFORNIA

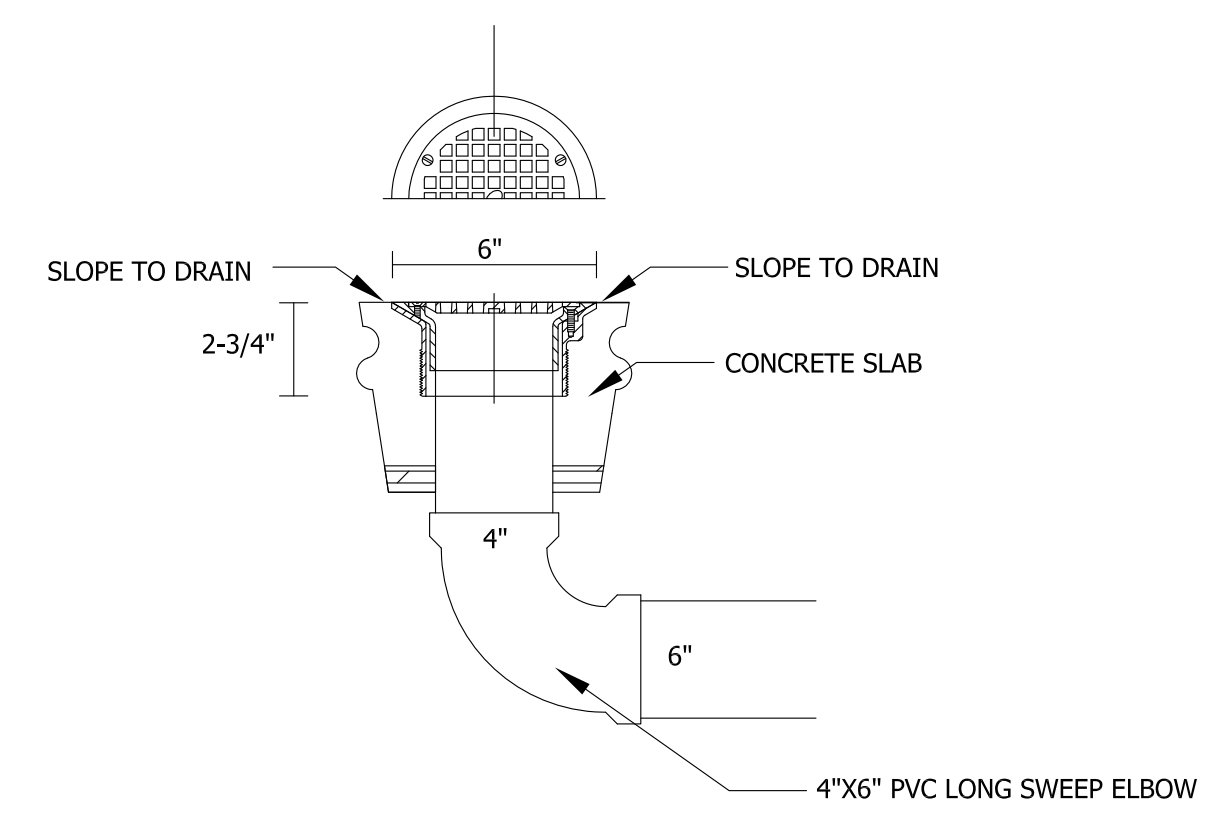
**MONTEREY AVENUE SKATEPARK**  
MONTEREY PARK  
POURED-IN-PLACE CONCRETE  
CAPITOLA, CALIFORNIA

REVISIONS		
REV.	DATE	DESCRIPTION

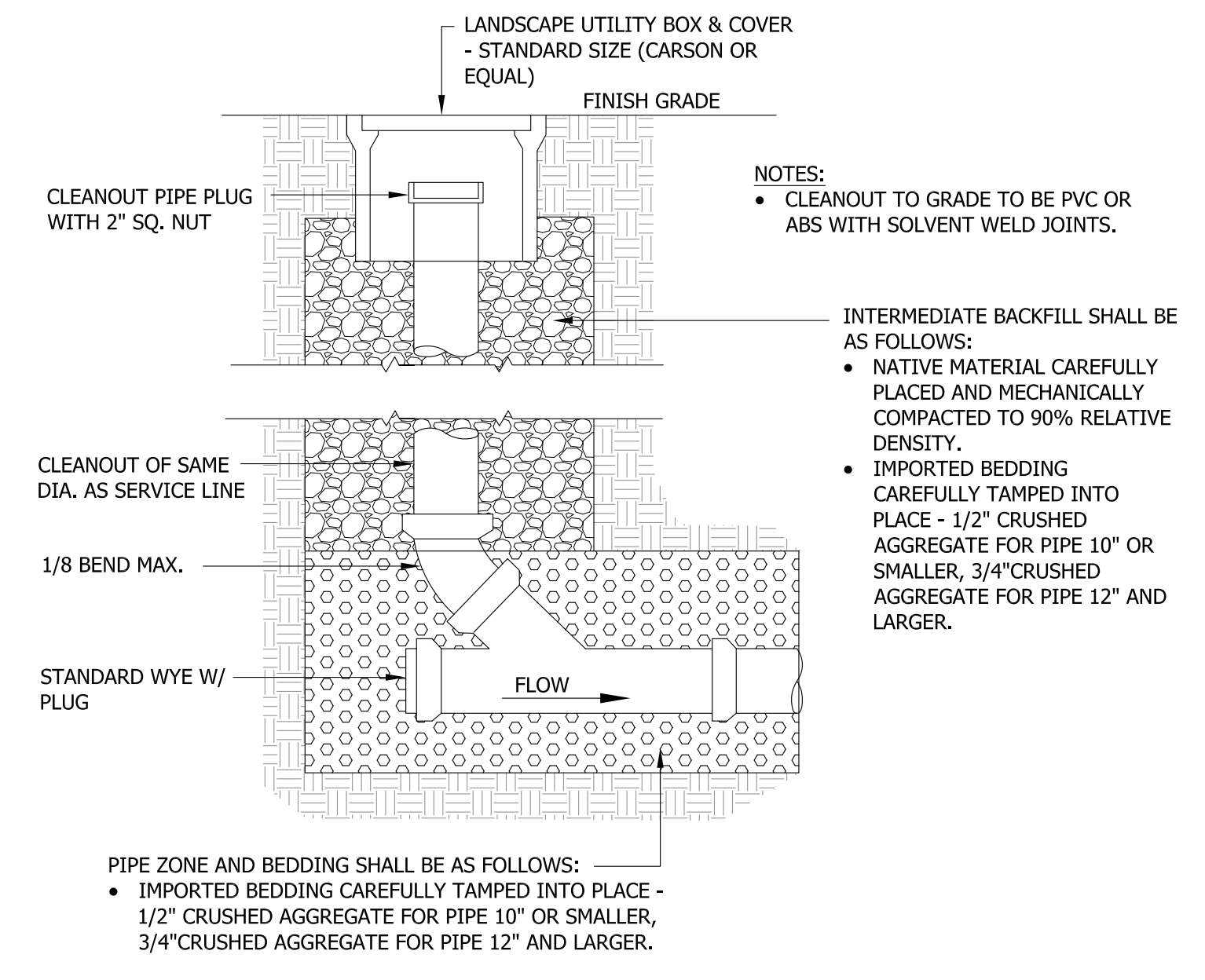
SHEET NAME:  
**SKATEPARK GRADING/DRAINAGE**

DRAWN BY: TAM  
CHECKED BY: TAM  
ISSUE DATE: 04/15/2015  
JOB NO.: 1522

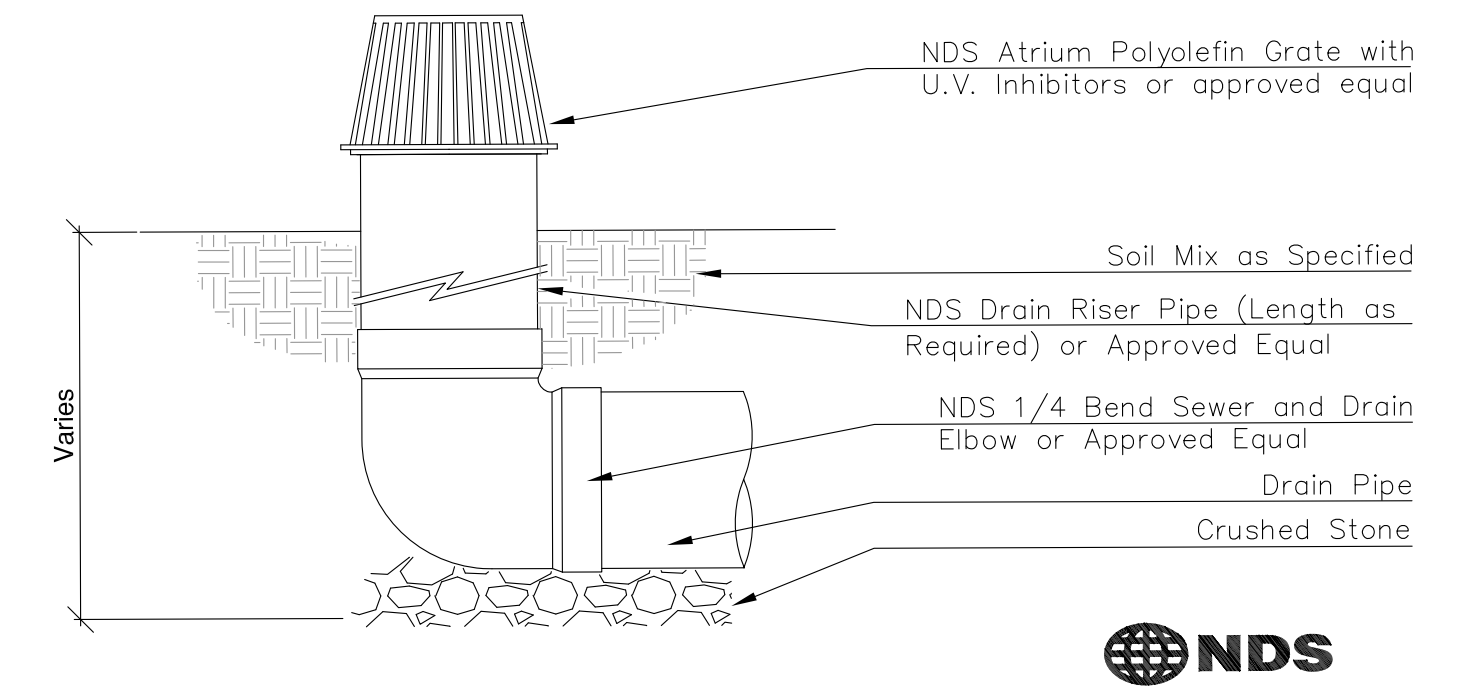
SHEET:  
**SP5**  
OF 10  
PERMIT SET



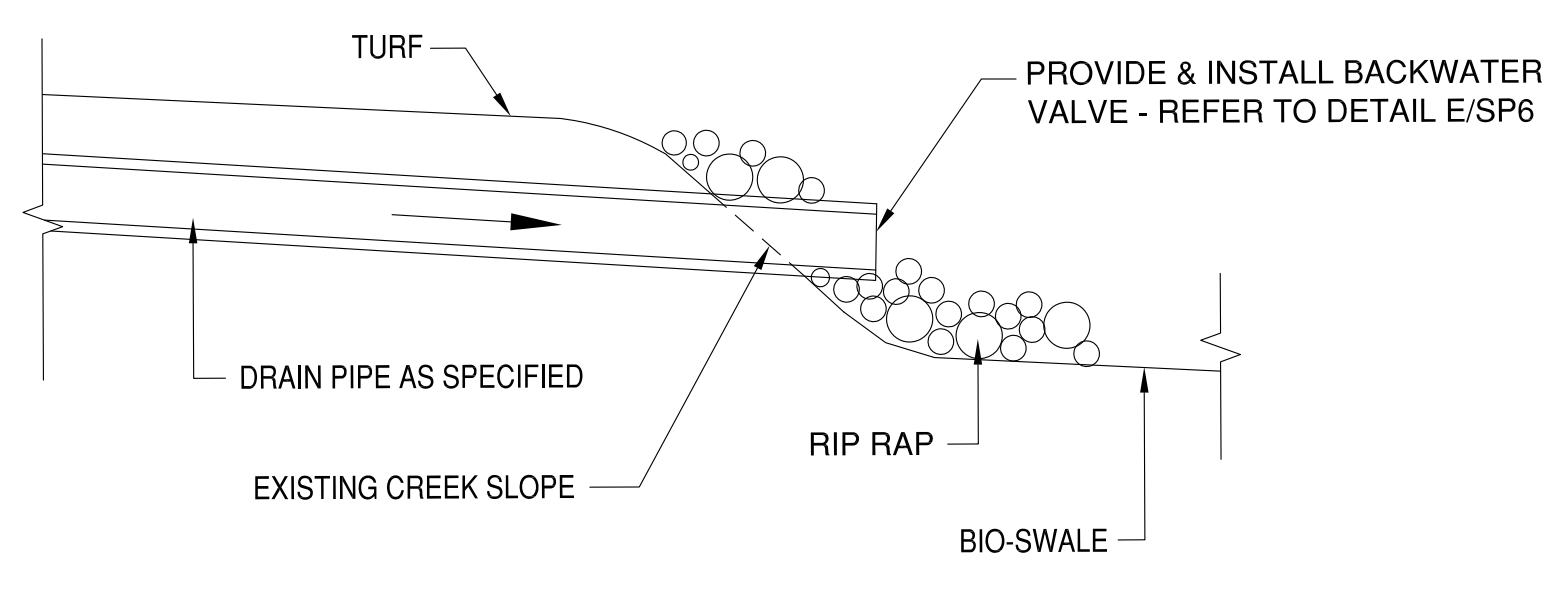
**A**  
**SP6** **JSC FLOOR DRAIN (D53072)**  
 JONES STEPHENS CORP. (OR EQUAL) N.T.S.



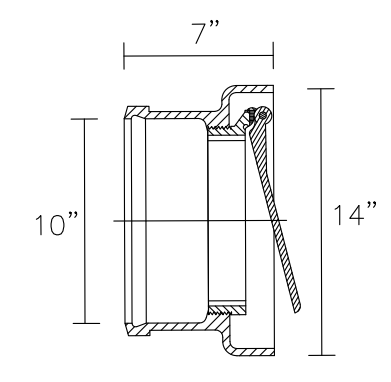
**B**  
**SP6** **CLEAN OUT DETAIL**  
 N.T.S.



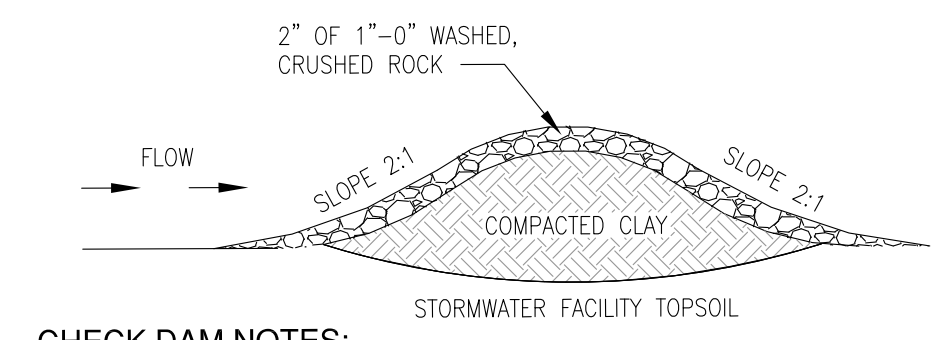
**C**  
**SP6** **NDS ATRIUM GRATE SWALE OUTLET**  
 (OR APPROVED EQUAL) N.T.S.



**D**  
**SP6** **INCOMING FLOW TO CREEK**  
 N.T.S.

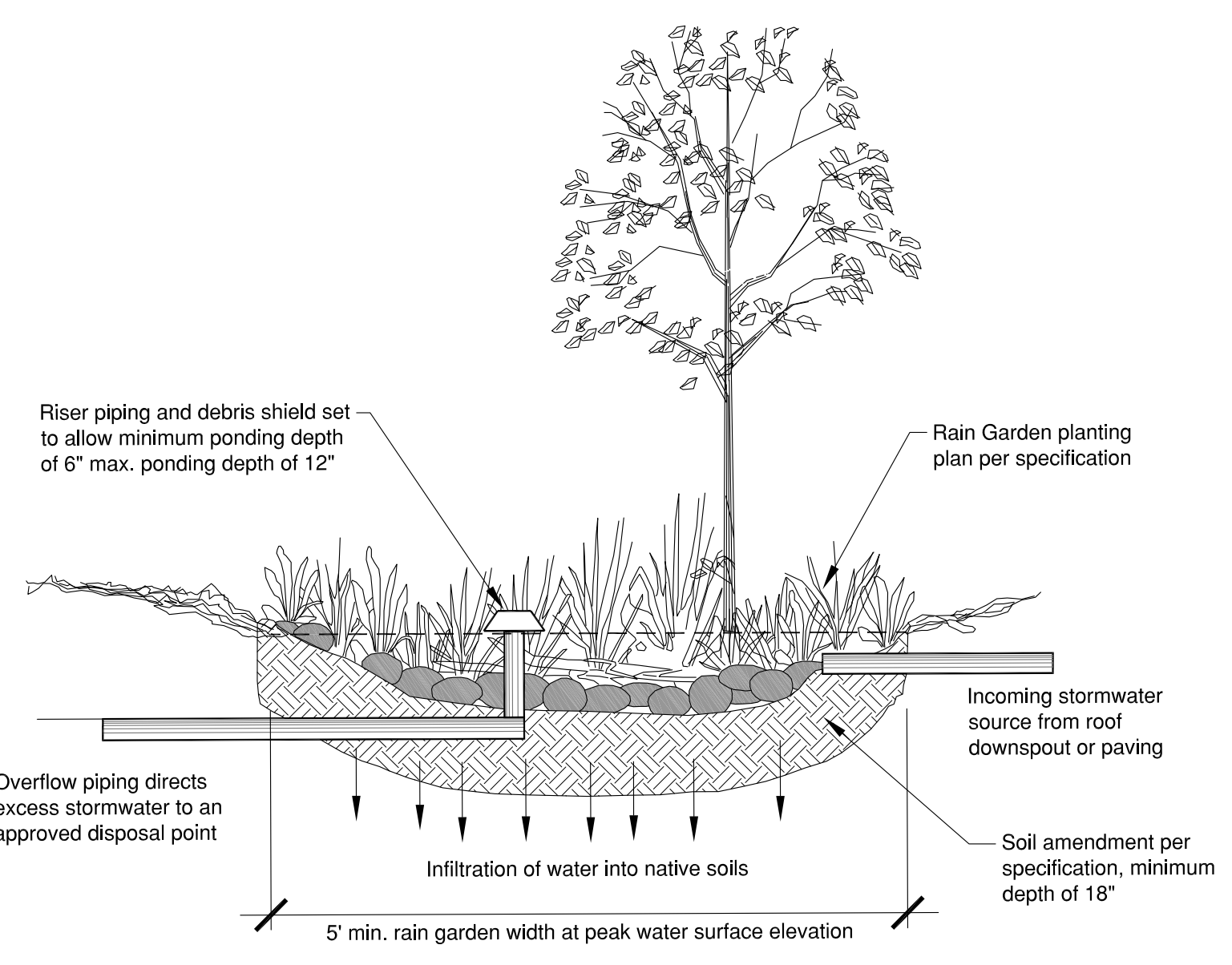


**E**  
**SP6** **ZURN BACKWATER VALVE**  
 FLAPPER TYPE (Z1091) N.T.S.



**F**  
**SP6** **SOIL & CHECK DAM DETAIL**  
 N.T.S.

- CHECK DAM NOTES:**
1. CHECK DAMS TO BE EVENLY SPACED BETWEEN INLET AND OUTLET. ADDITIONAL REQUIREMENTS MAYBE NECESSARY ON STEEP SLOPES.
  2. ADDITIONAL INLETS TO BE PLACED DOWNSTREAM OF CHECK DAMS.
  3. HEIGHT OF CHECK DAM 2" LESS THAN DEPTH OF FACILITY TYPICAL.



**G**  
**SP6** **BIO-SWALE DETAIL**  
 N.T.S.

**NOT USED**

**NOT USED**

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LICENSED LANDSCAPE ARCHITECT  
 TROY MEARS, L.A.S. No. 10000  
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**MONTEREY AVENUE SKATEPARK**  
 MONTEREY PARK  
 POURED-IN-PLACE CONCRETE  
 CAPITOLA, CALIFORNIA

REV.	DATE	DESCRIPTION

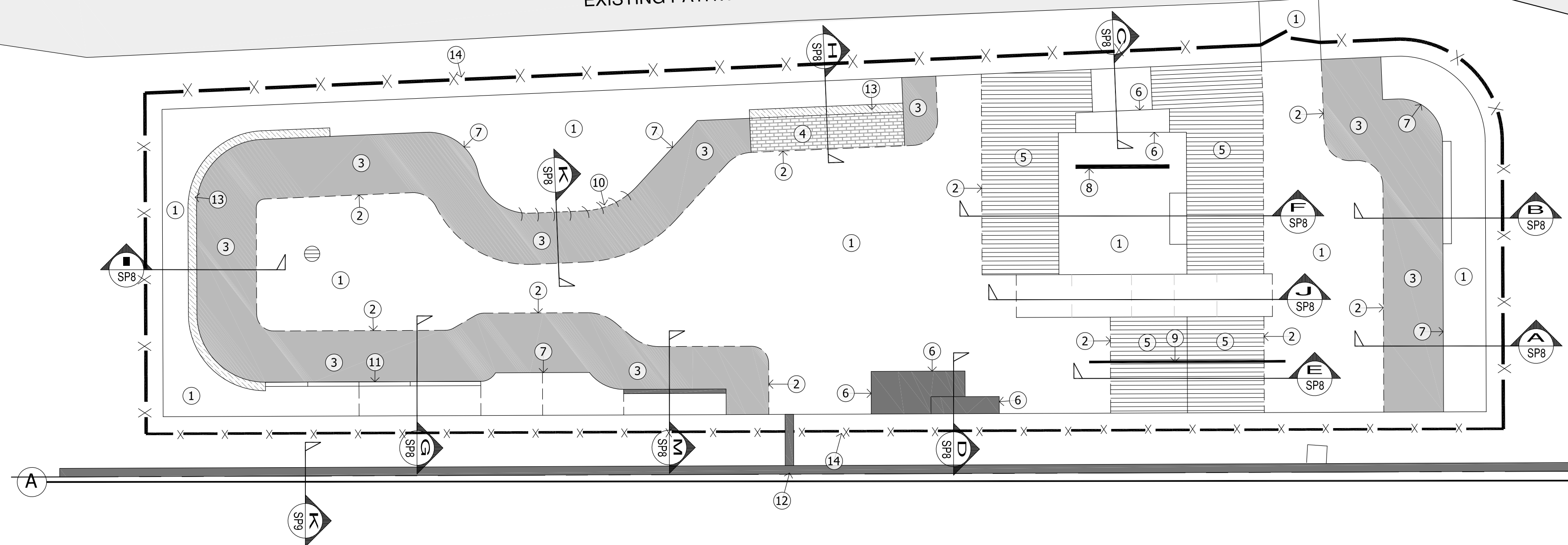
SHEET NAME:  
**DRAINAGE**  
**DETAILS & NOTES**

DRAWN BY: TAM  
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 ISSUE DATE: 04/15/2015  
 JOB NO.: 1522

SHEET:  
**SP6**  
 OF 10  
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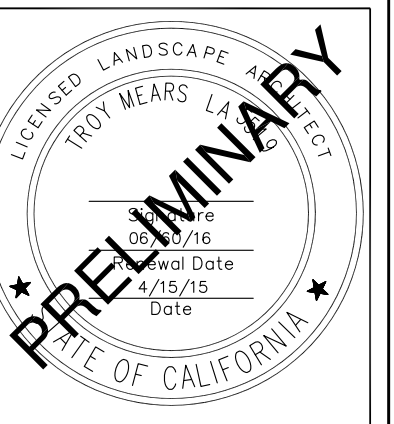
MATCH LINE - SEE LOWER RIGHT THIS SHEET



REFERENCE LEGEND	
SYM	DESCRIPTION
	INDICATES "BANK" INSTALLATION
	INDICATES "TRANSITIONAL" INSTALLATION
	INDICATES "LEDGE" INSTALLATION
	INDICATES EXISTING PARK WALKWAY TO REMAIN

- REFERENCE NOTES**
- 1 CONCRETE PAVING (POURED-IN-PLACE) - SEE DETAIL A/SP9
  - 2 TOE CONNECTION - SEE DETAIL D/SP9
  - 3 TRANSITION RAMP (SHOTCRETE) - SEE DETAIL A/SP8, B/SP8, G/SP8, H/SP8, I/SP8, K/SP8, M/SP8 & G/SP9
  - 4 BRICK BANK (STAMPED) - SEE DETAIL H/SP8
  - 5 CONCRETE BANK - SEE DETAILS E/SP8 & F/SP8
  - 6 STEEL EDGING - SEE DETAIL F/SP9
  - 7 STEEL COPING - SEE DETAIL E/SP9
  - 8 FLAT RAIL - SEE DETAIL H/SP9
  - 9 A-FRAME RAILING - SEE DETAIL E/SP8
  - 10 ROLL-IN TRANSITION - SEE DETAILS K/SP9
  - 11 "HELL" CURB - SEE DETAIL G/SP8
  - 12 POURED-IN-PLACE RETAINING WALL - SEE DETAIL K/SP9
  - 13 POOL COPING - SEE DETAIL I/SP9
  - 14 6'-0" HT. PERIMETER FENCE - SEE DETAIL M/SP9
- ALL SKATEPARK CONTROL JOINTS, EXPANSION JOINTS & CONSTRUCTION JOINTS WITHIN THE SKATE PARK ARE AT THE DISCRETION OF THE DESIGN/BUILD CONTRACTOR.

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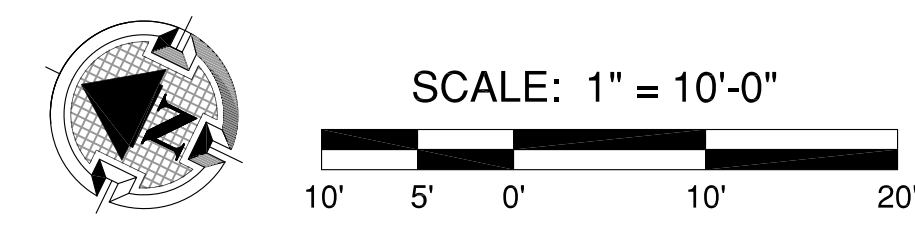
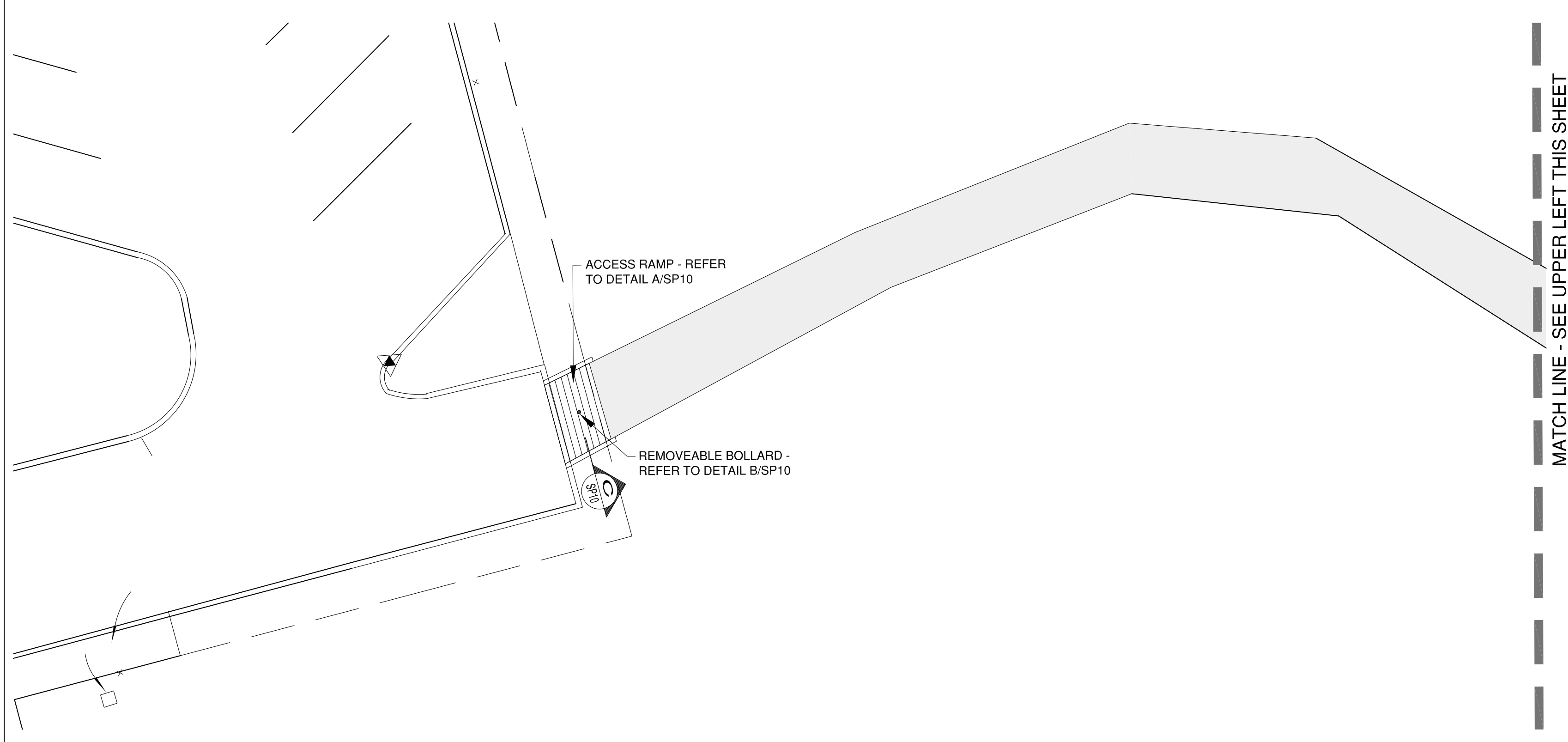
**MONTEREY AVENUE SKATEPARK**  
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 POURED-IN-PLACE CONCRETE  
 CAPITOLA, CALIFORNIA

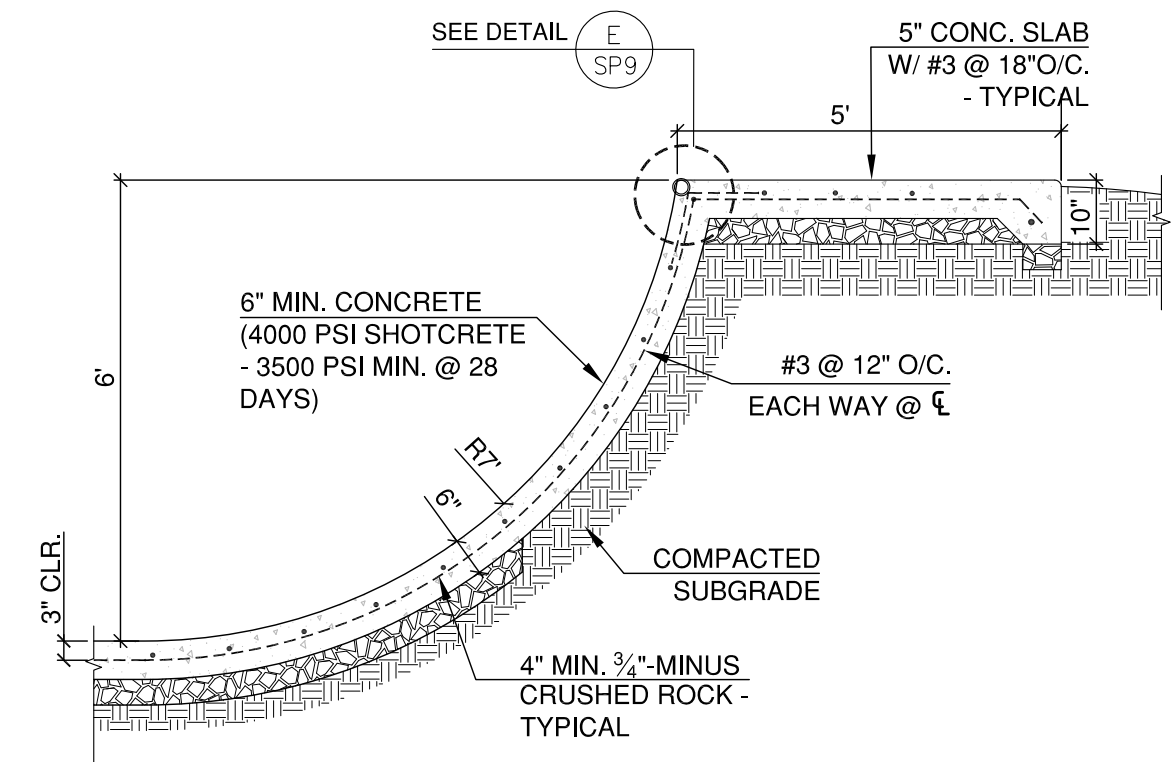
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REV.	DATE	DESCRIPTION

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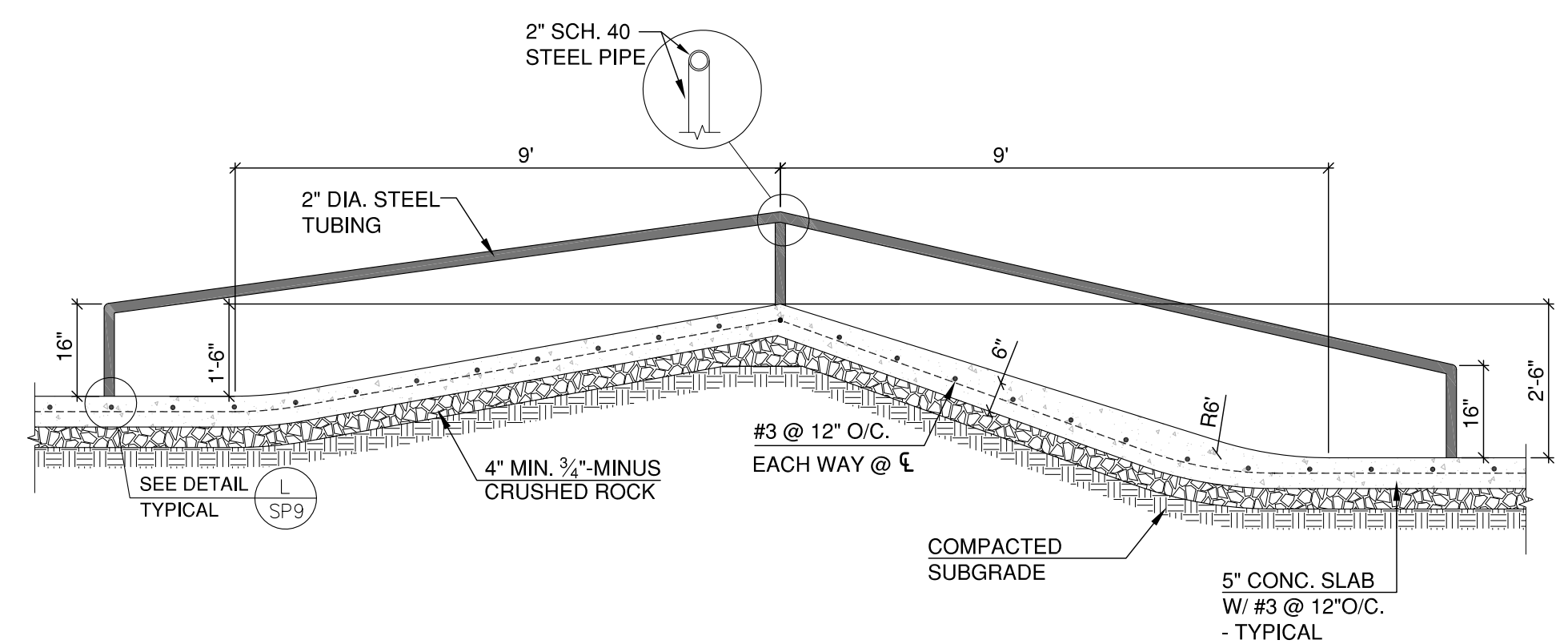
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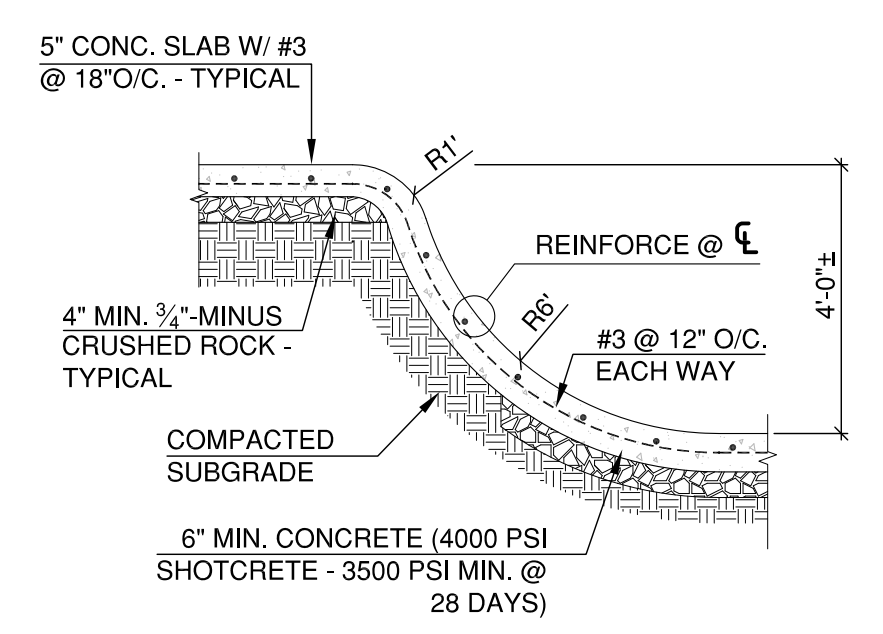




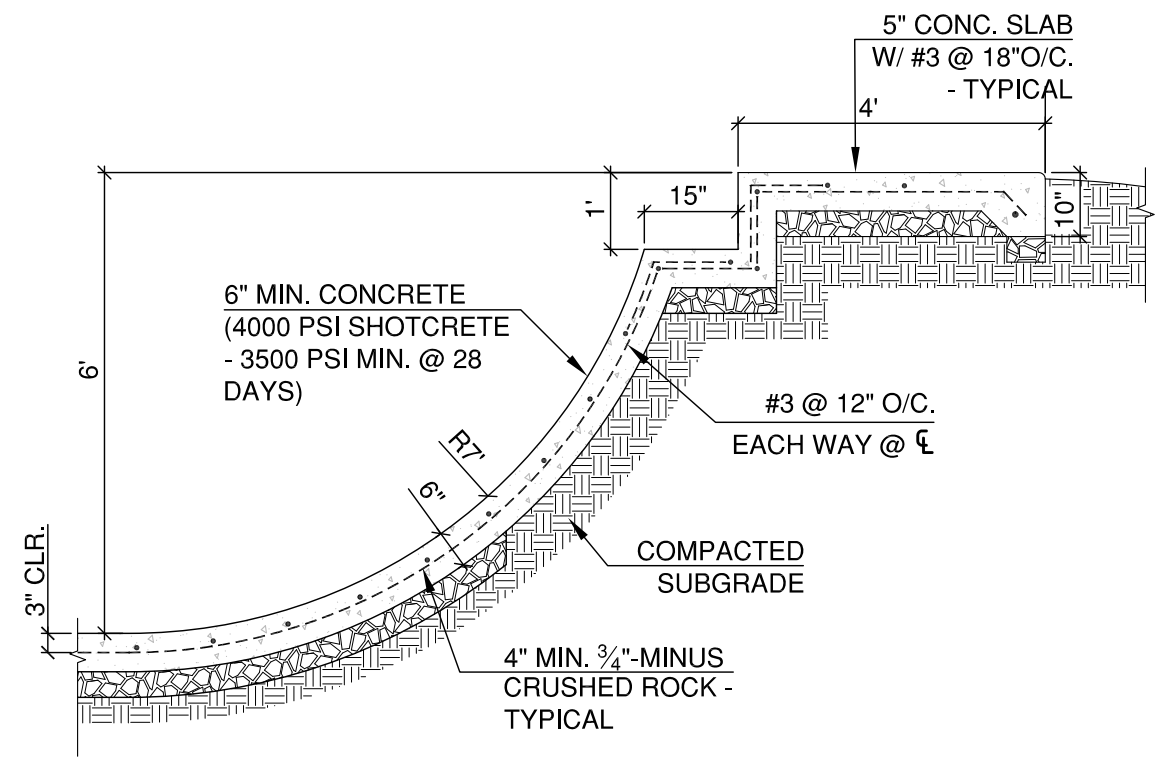
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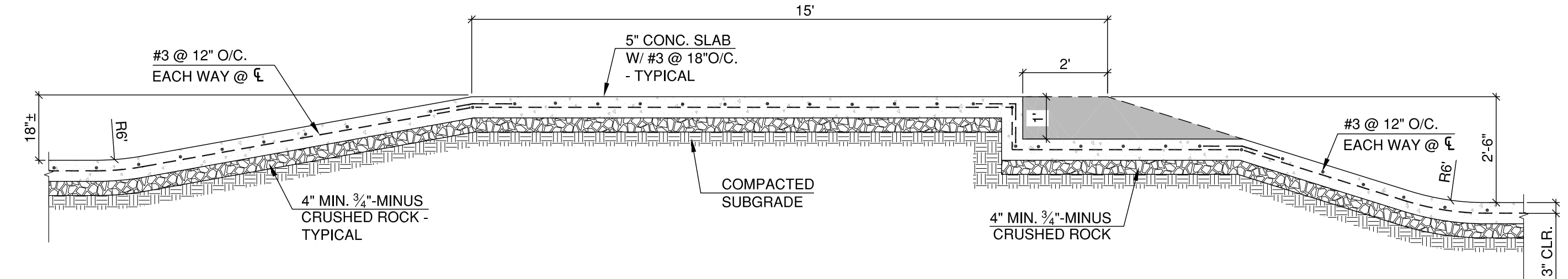
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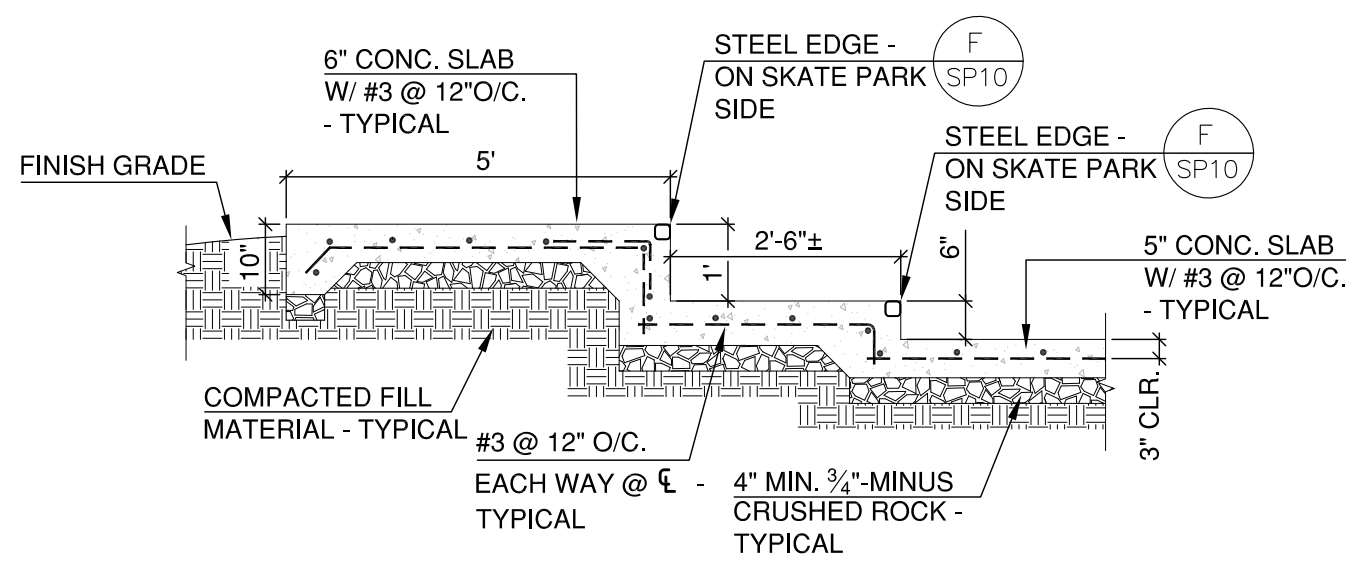


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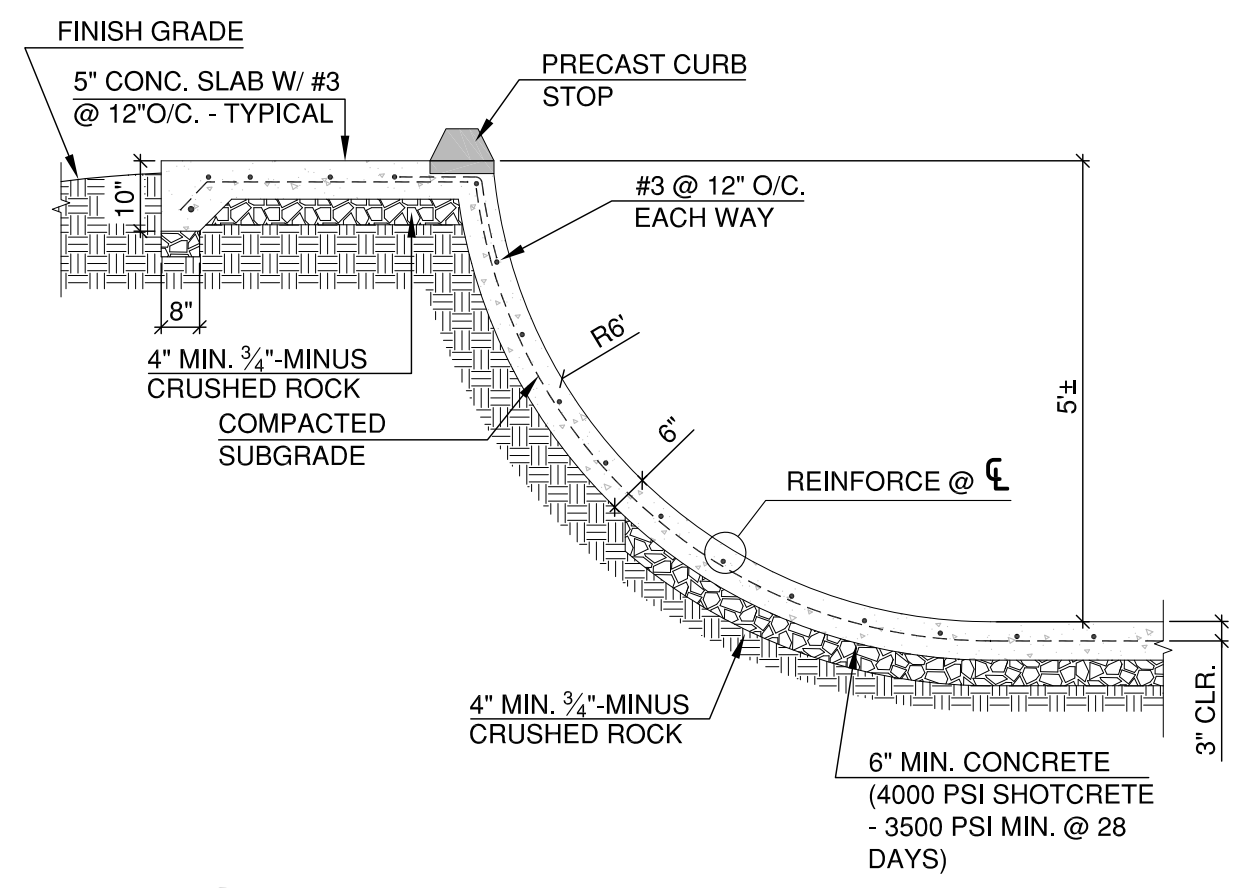


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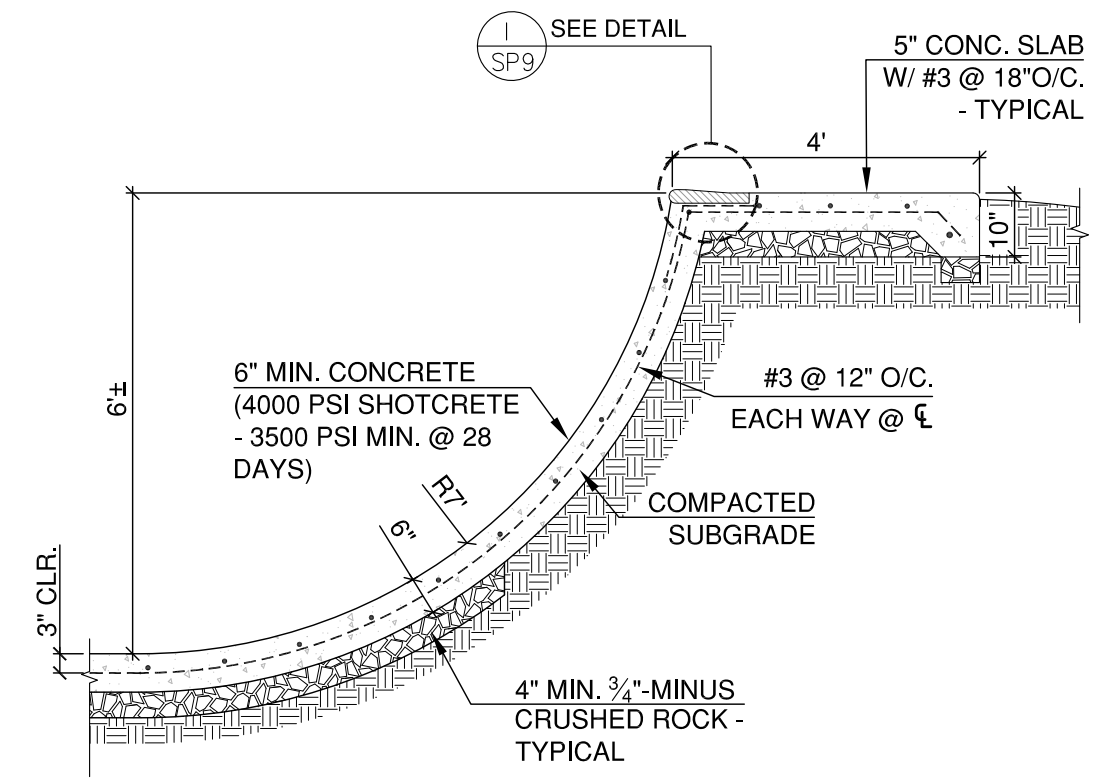
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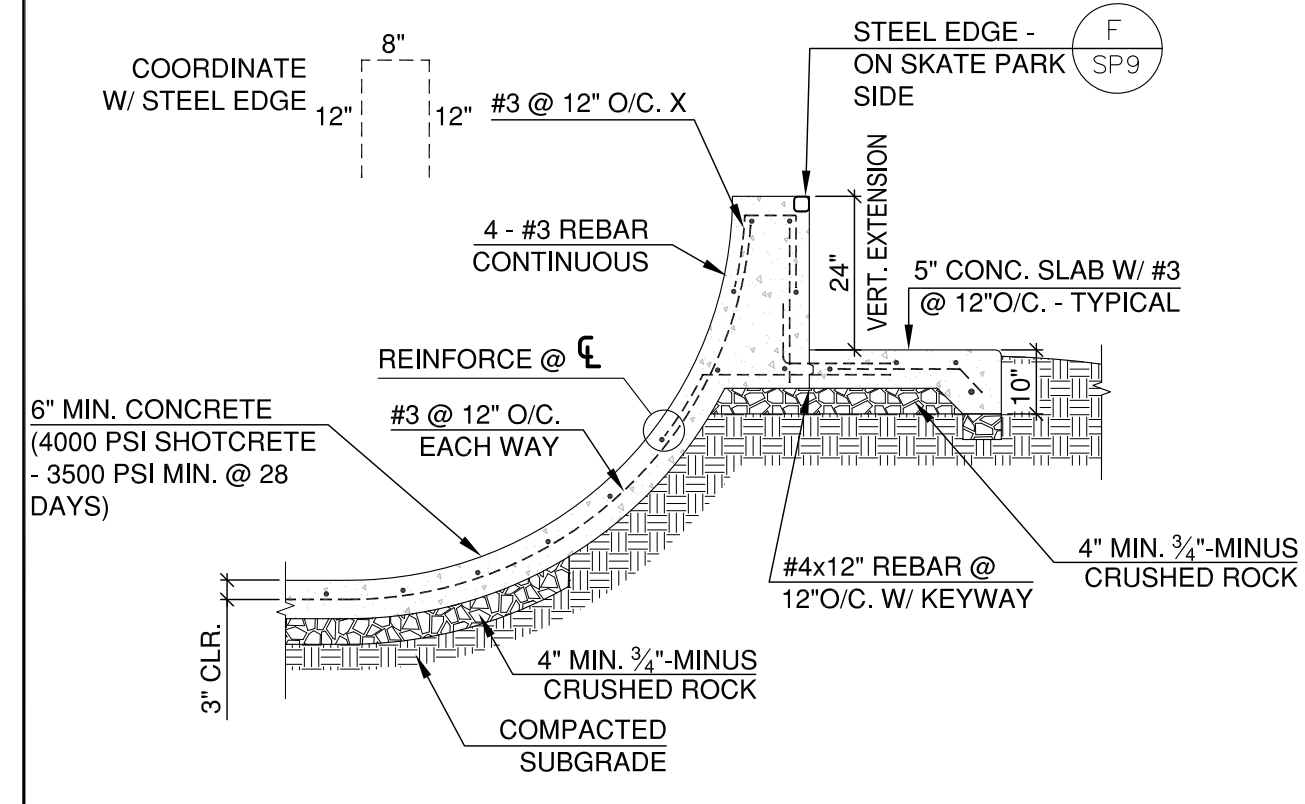
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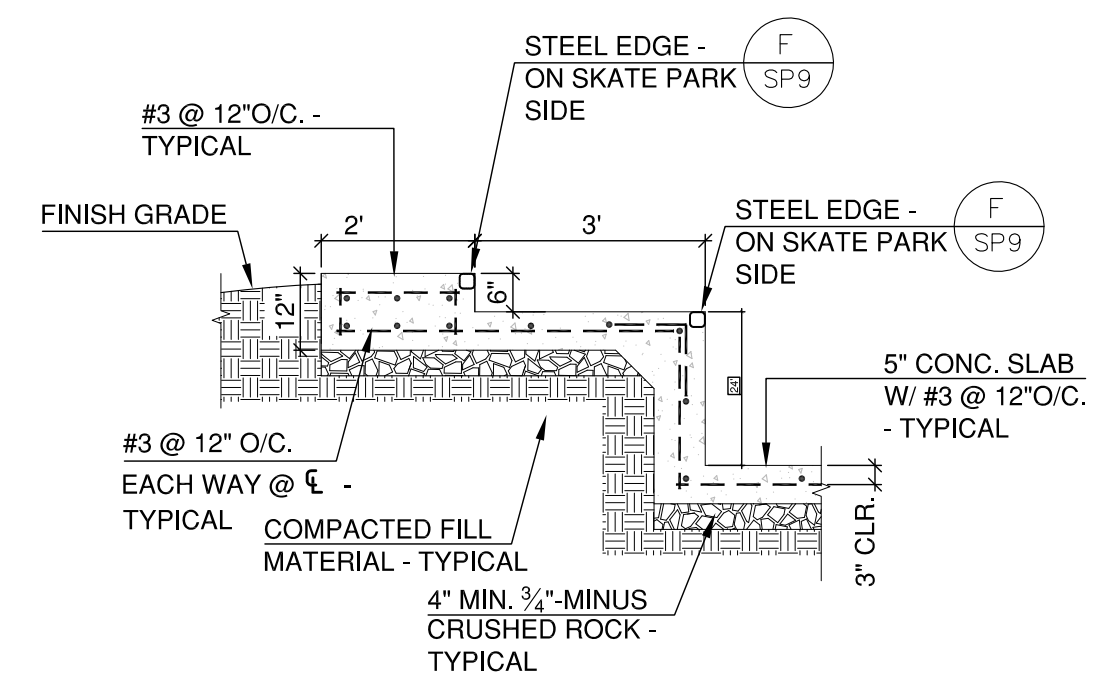
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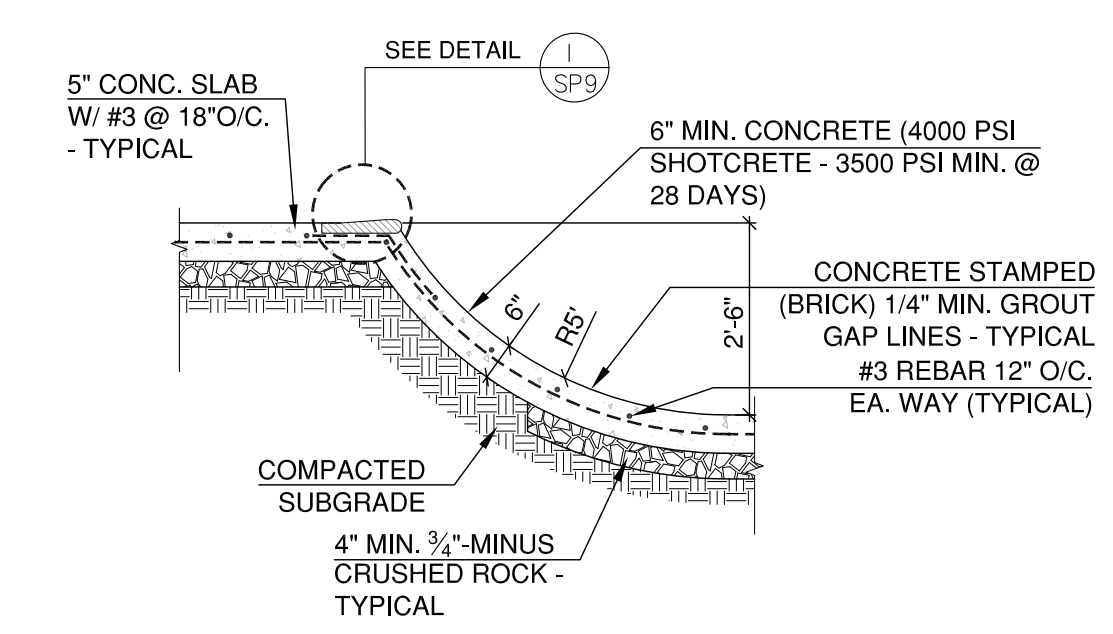
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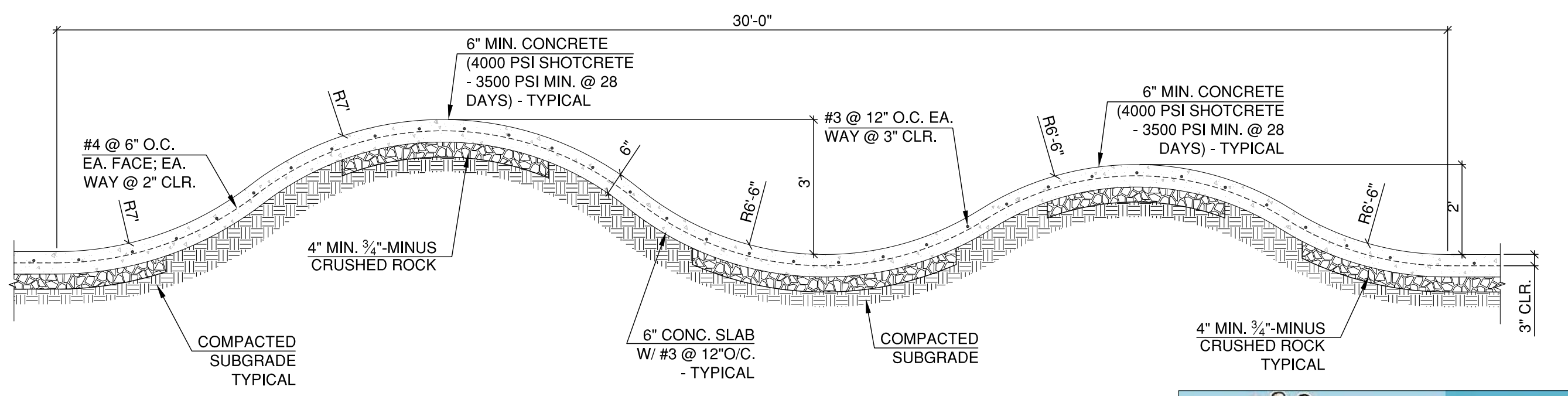
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D SECTION 'D' SP8 N.T.S.



H SECTION 'H' SP8 N.T.S.



J STAIR DETAIL 'J' SP8 N.T.S.

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**MONTEREY AVENUE SKATEPARK**  
 MONTEREY PARK  
 POURED-IN-PLACE CONCRETE  
 CAPITOLA, CALIFORNIA

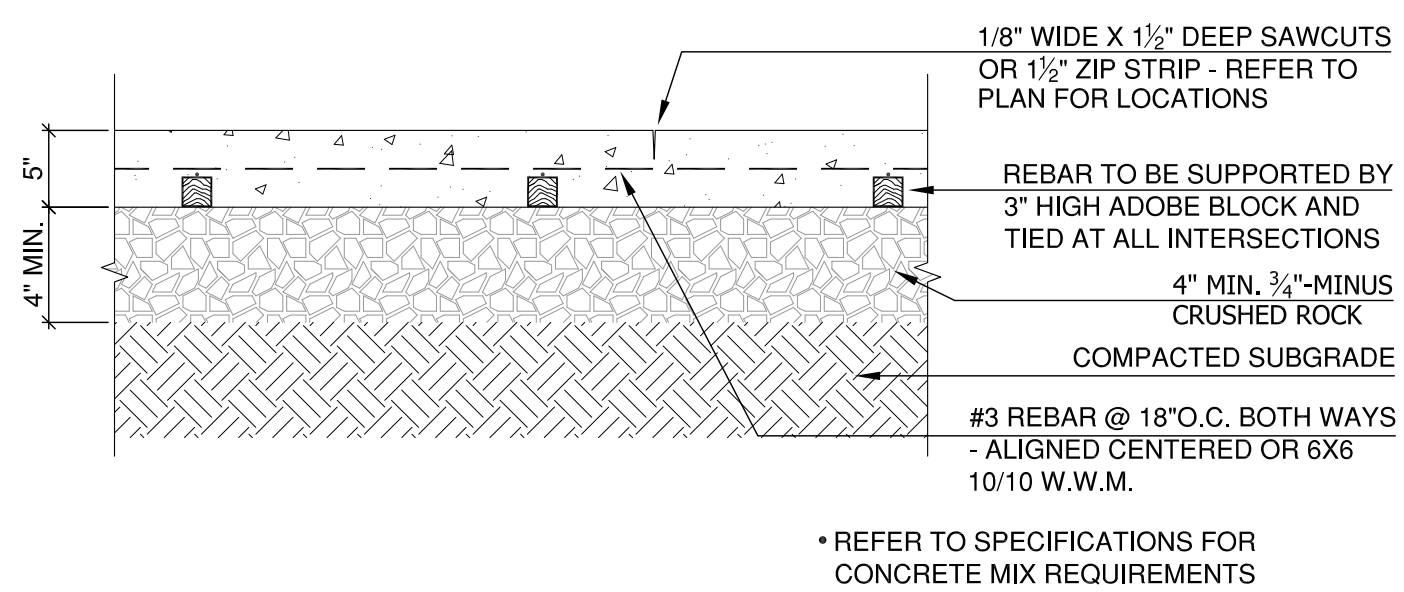
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2/18/2016	City Comments	
2/23/2016	City Comments	

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 DETAILS & NOTES**

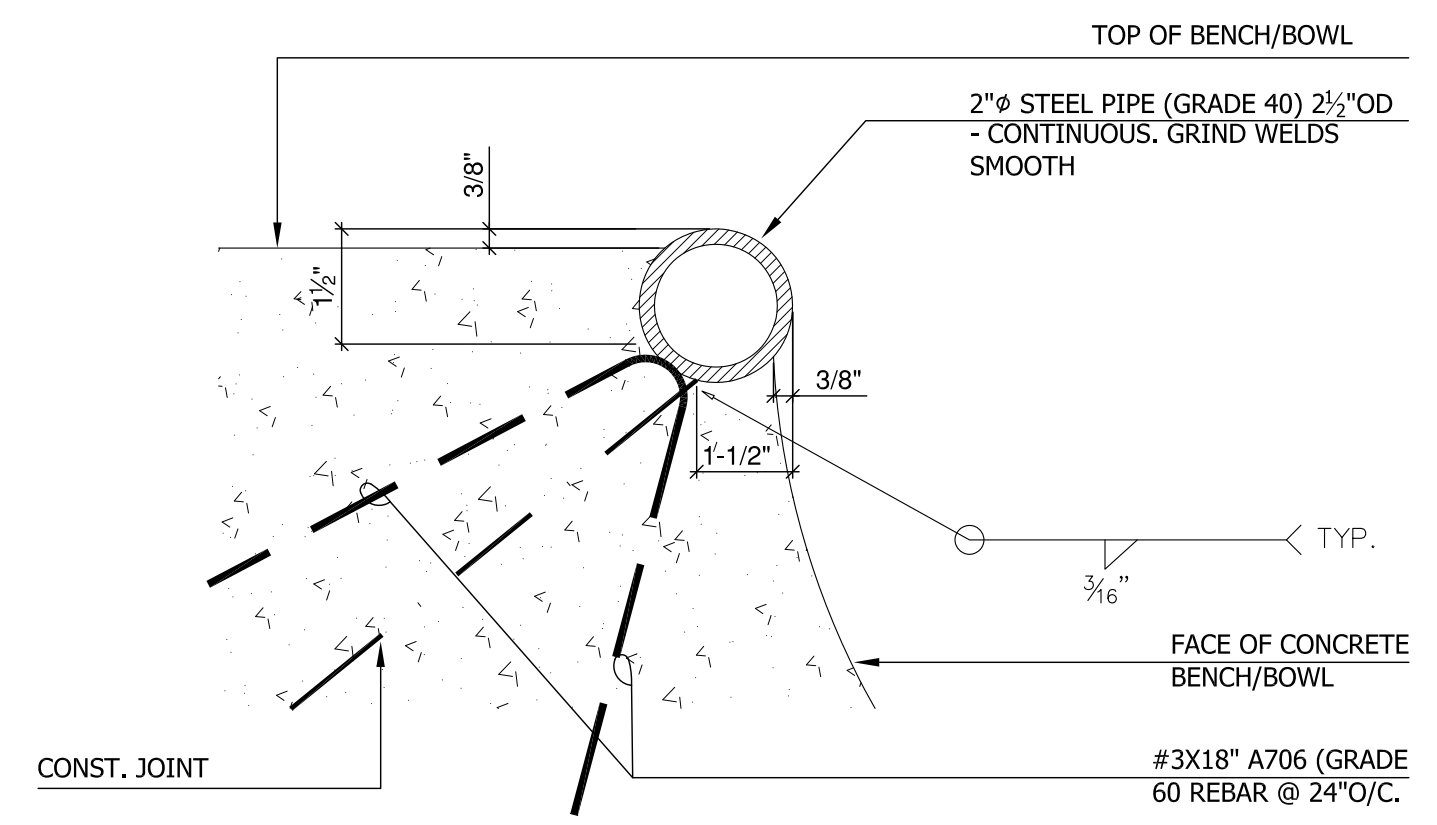
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 JOB NO.: 1522

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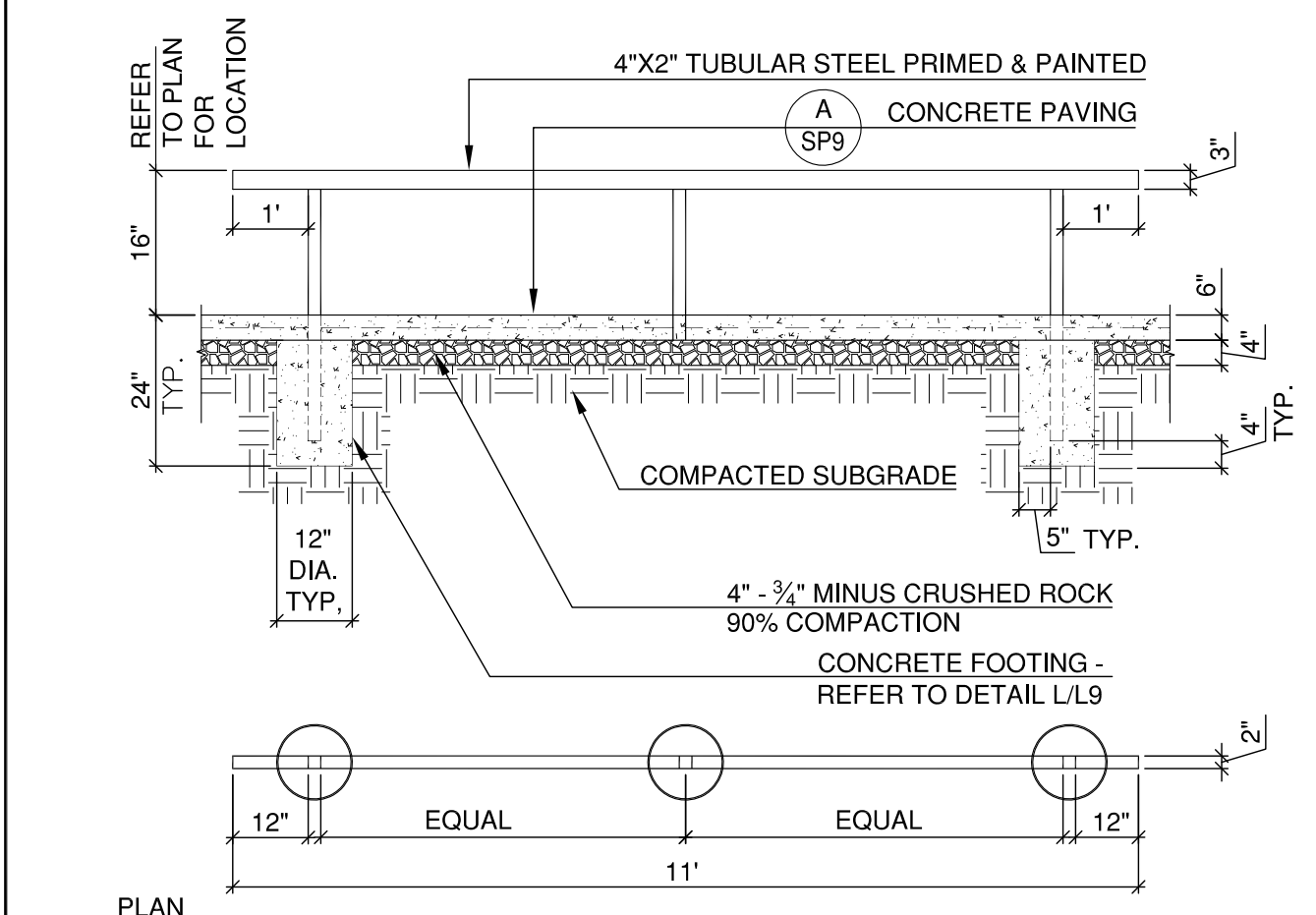




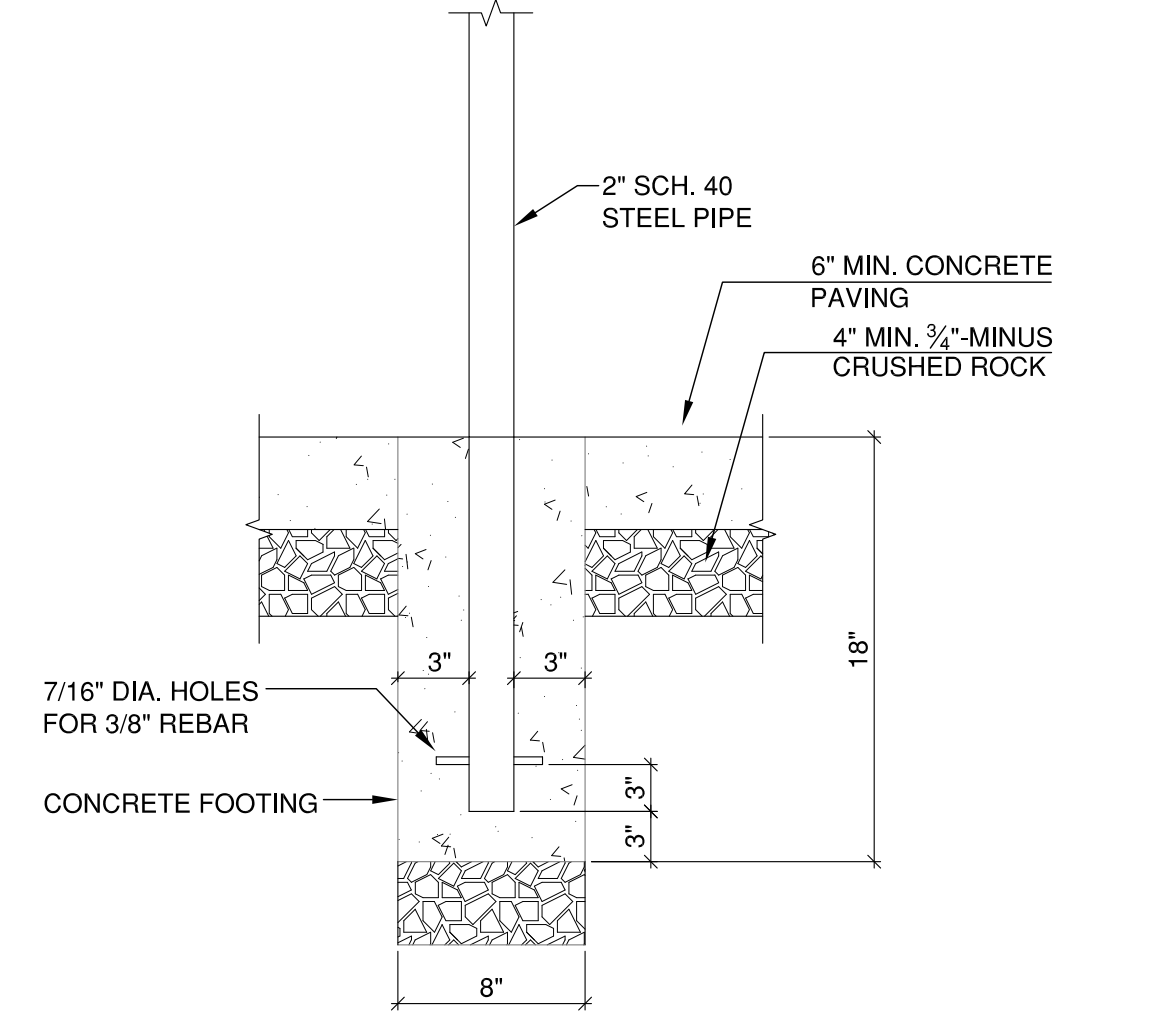
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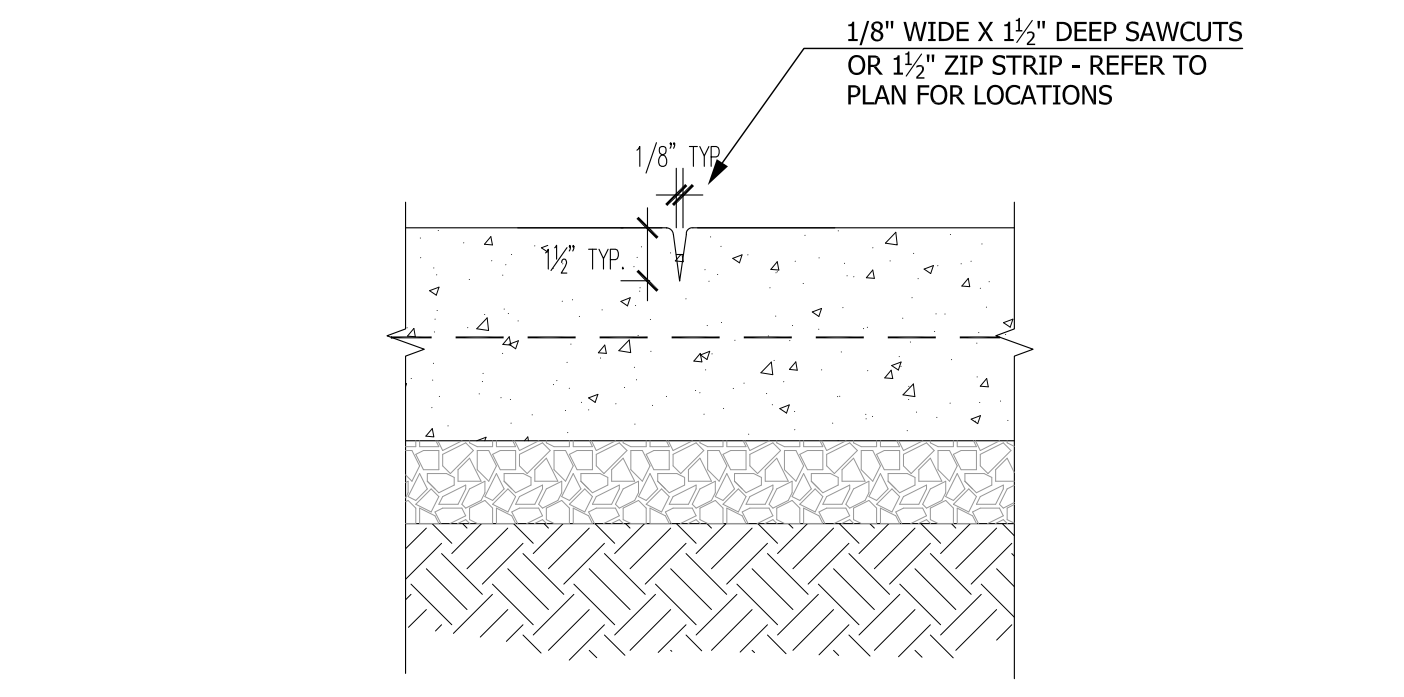
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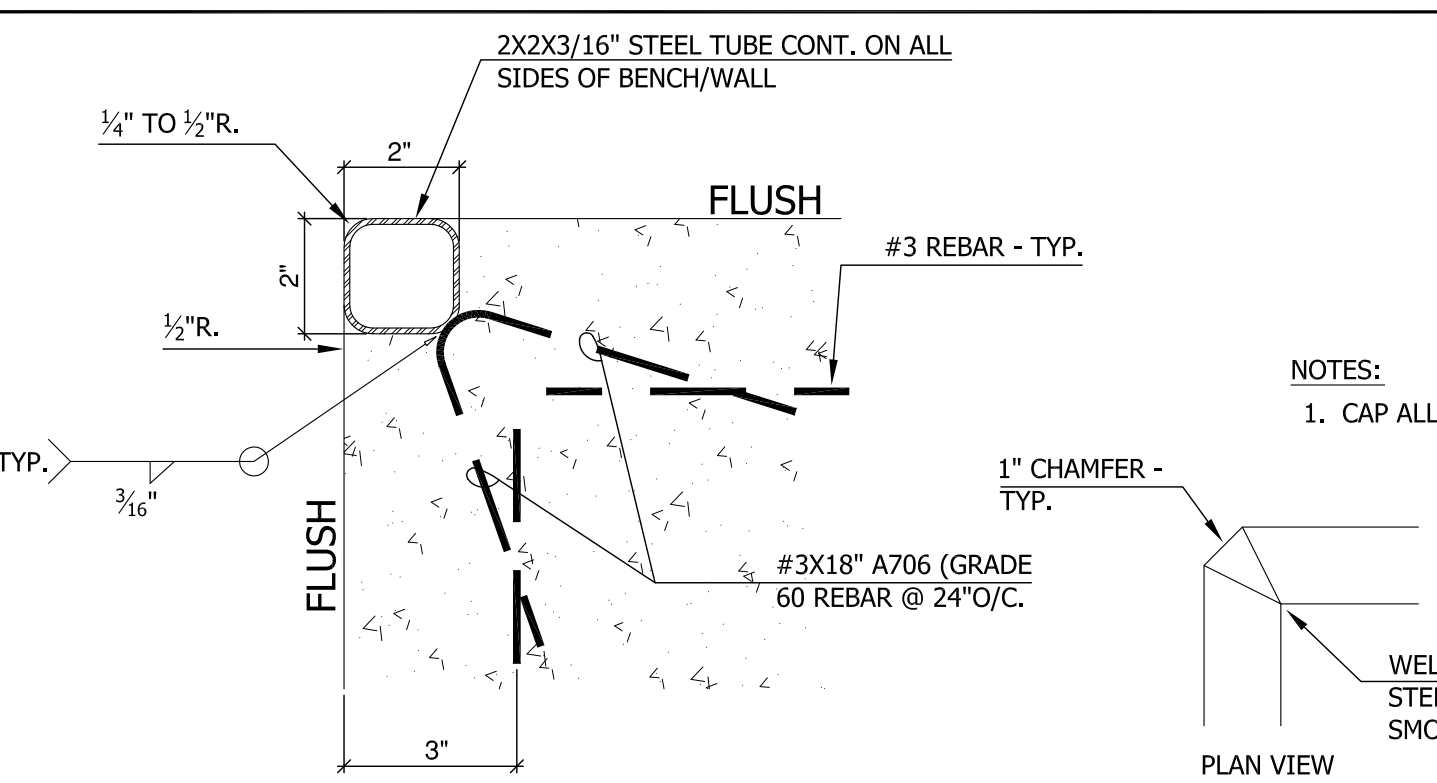
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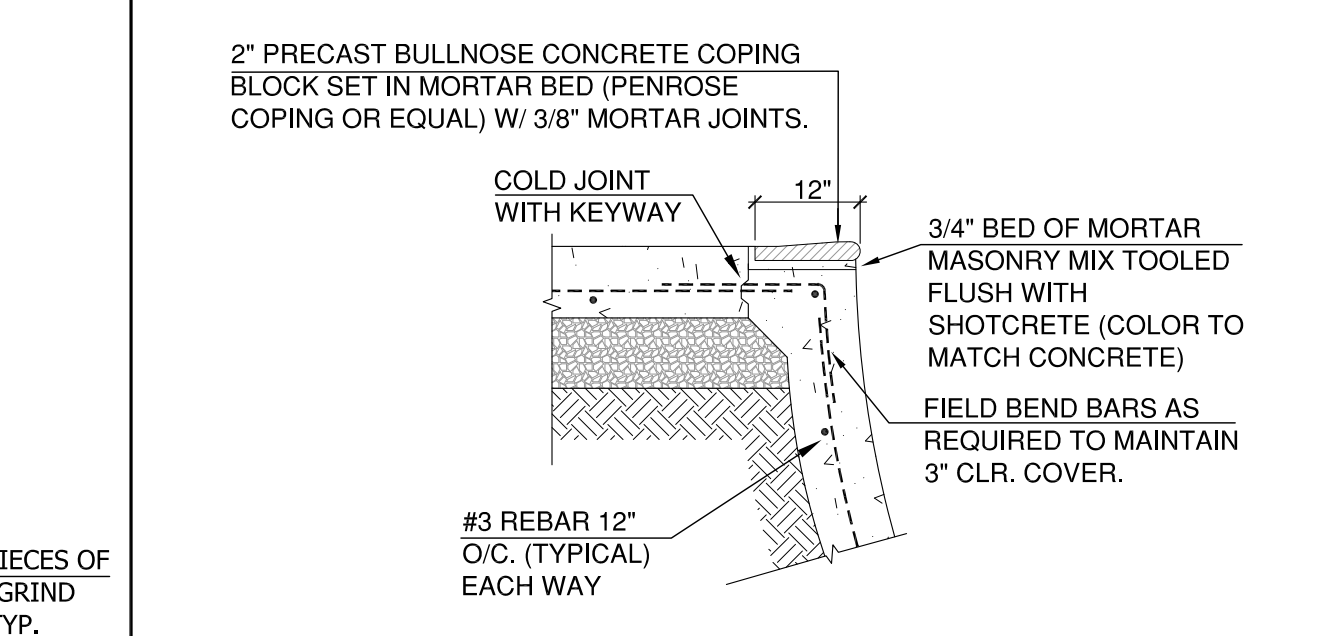
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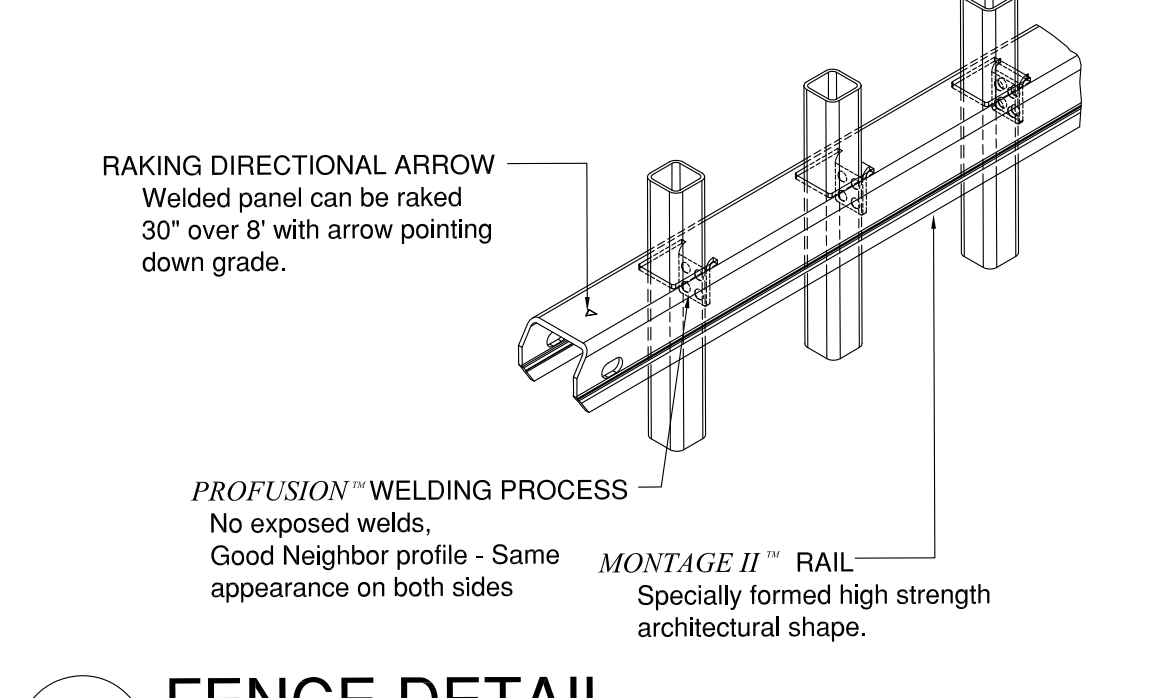
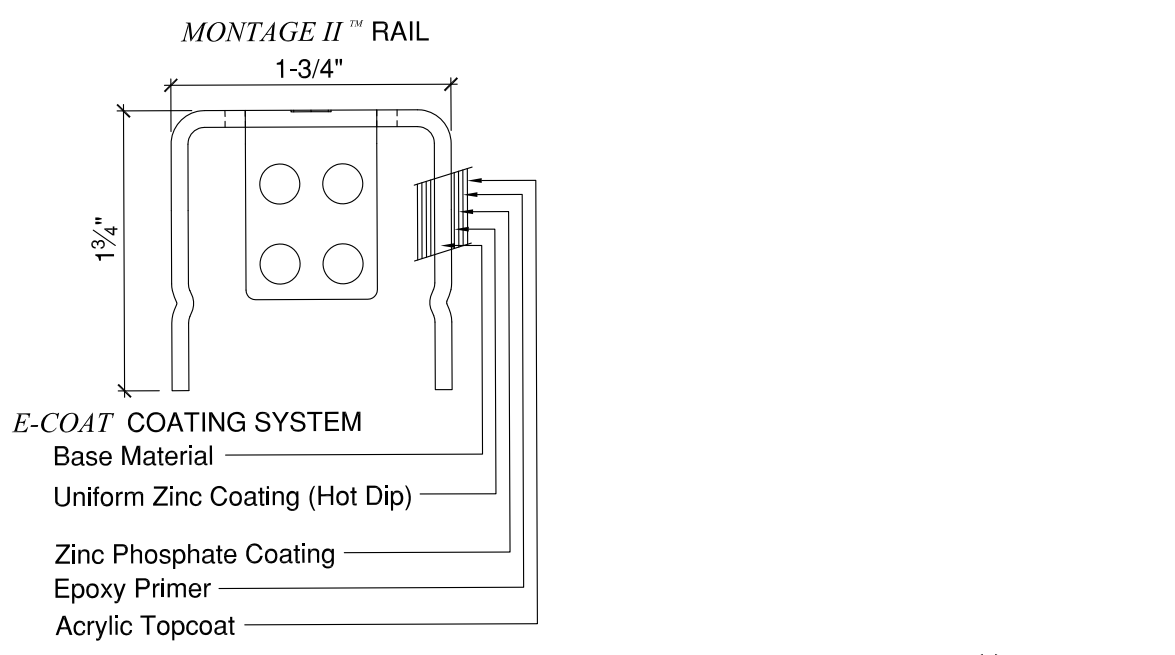
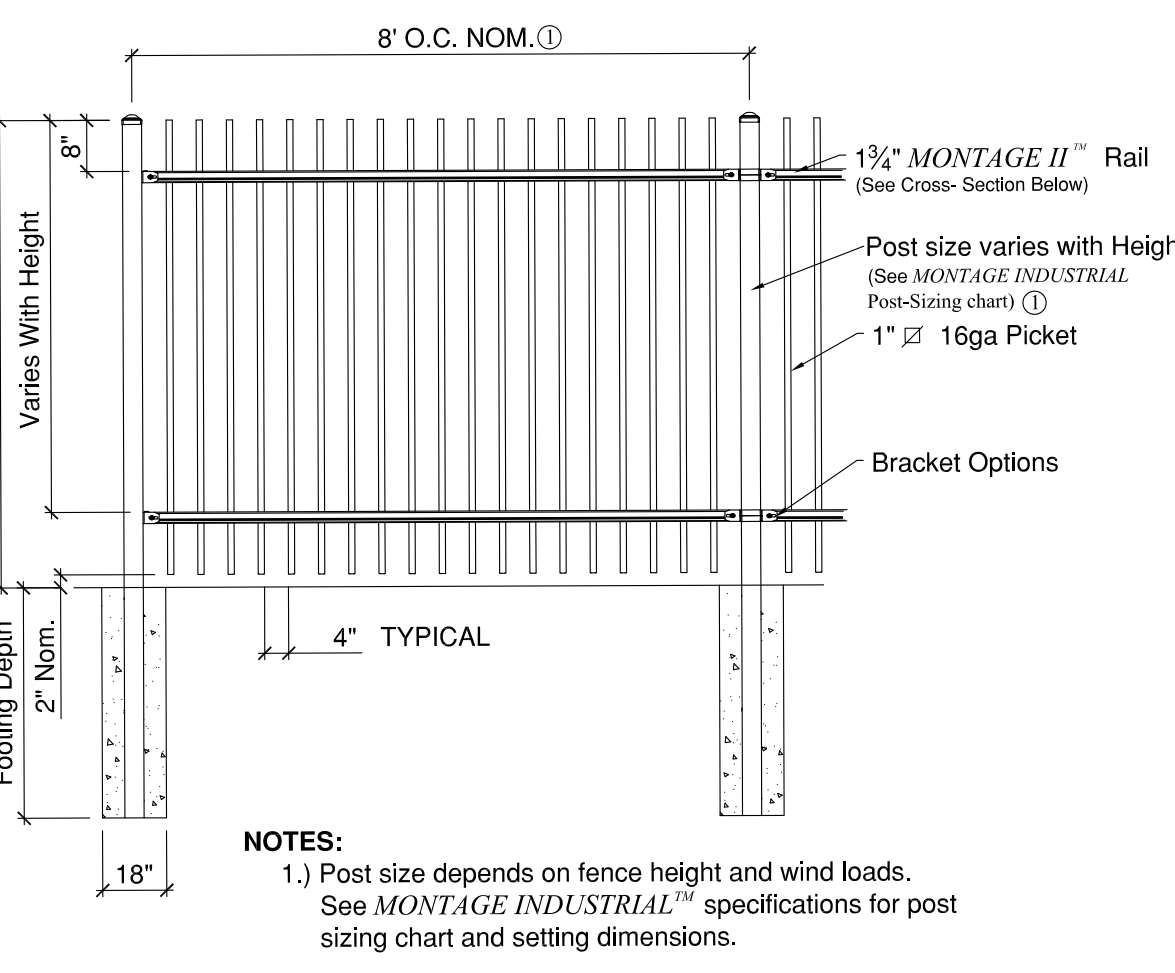
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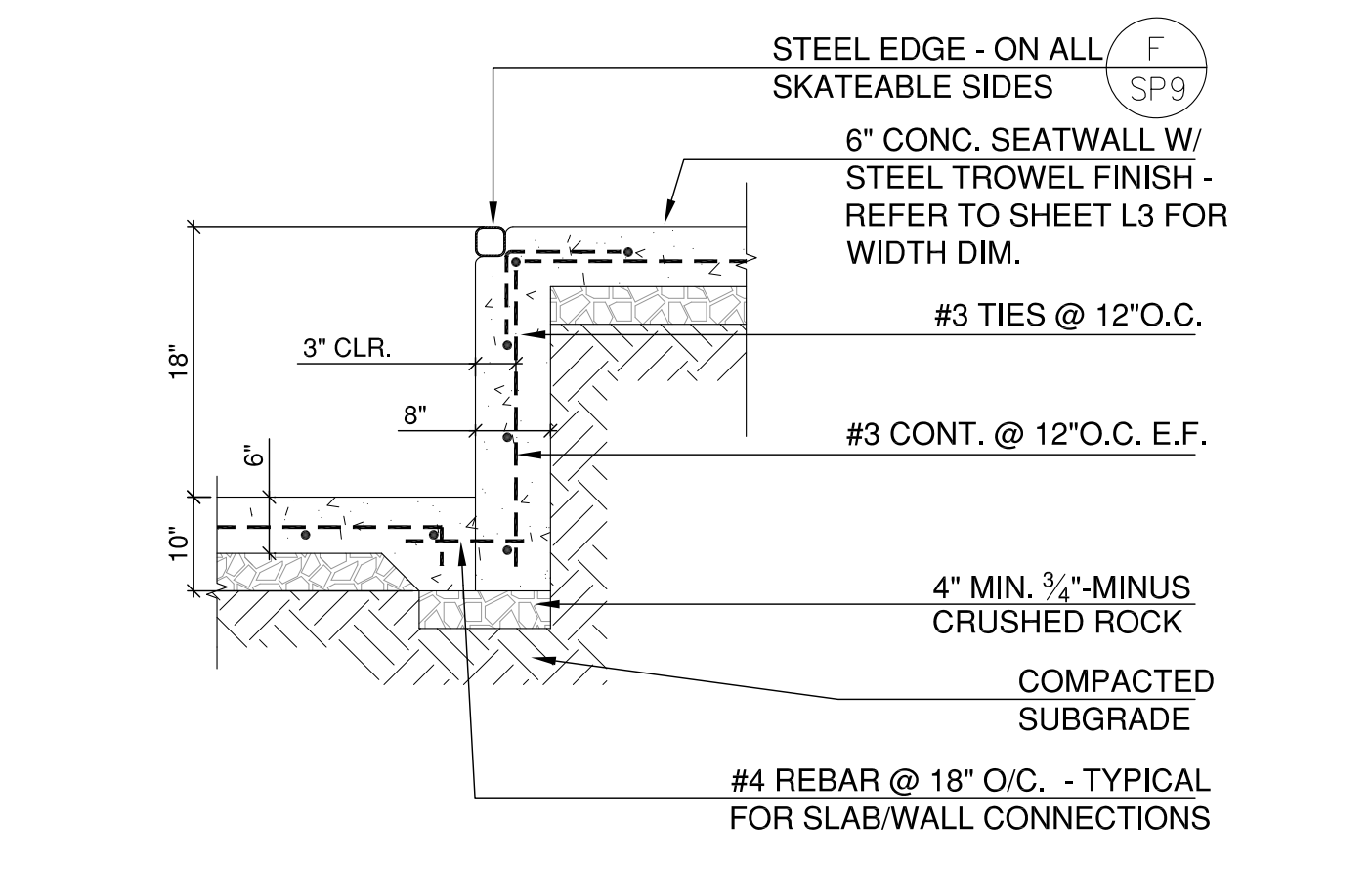
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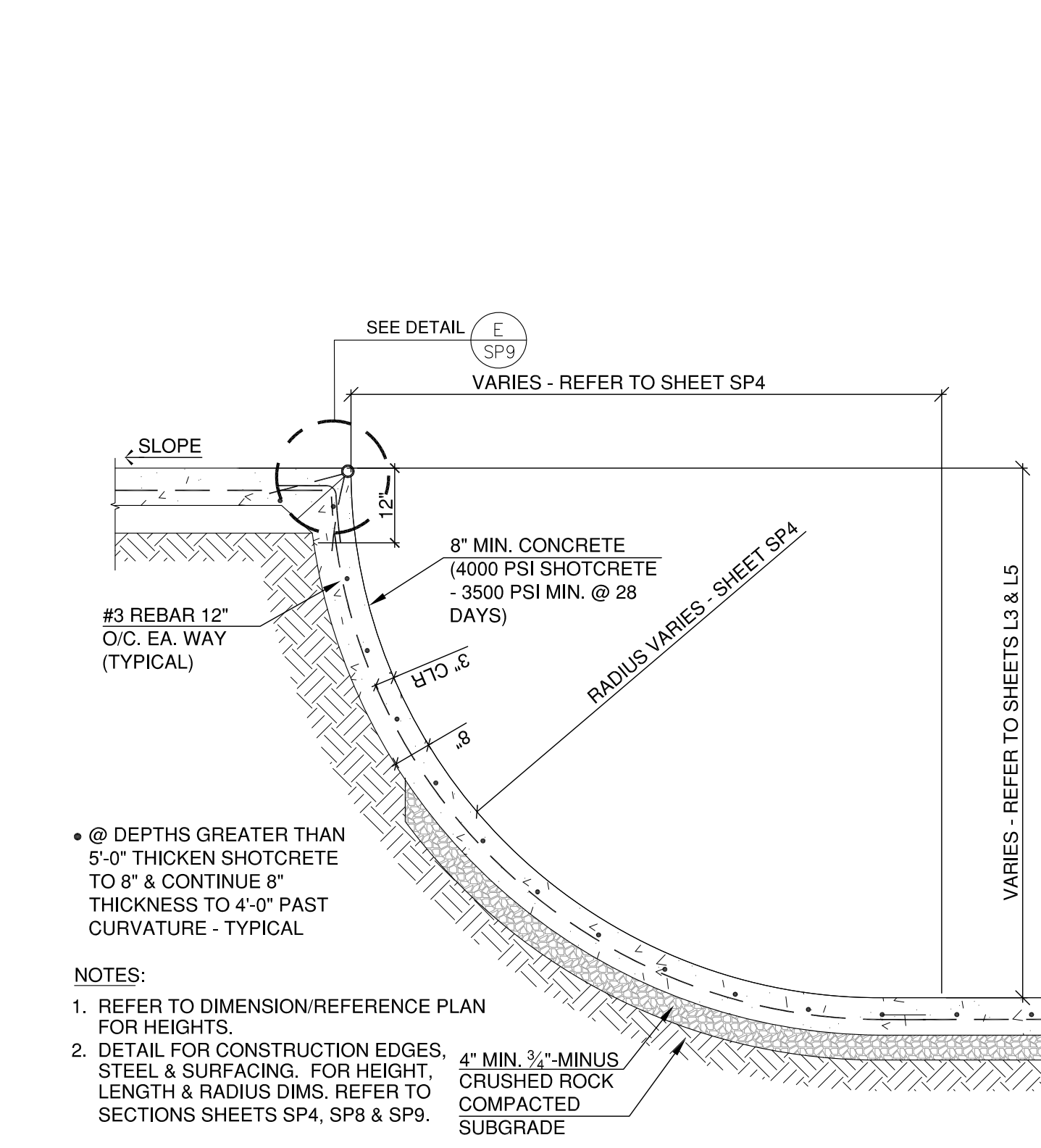
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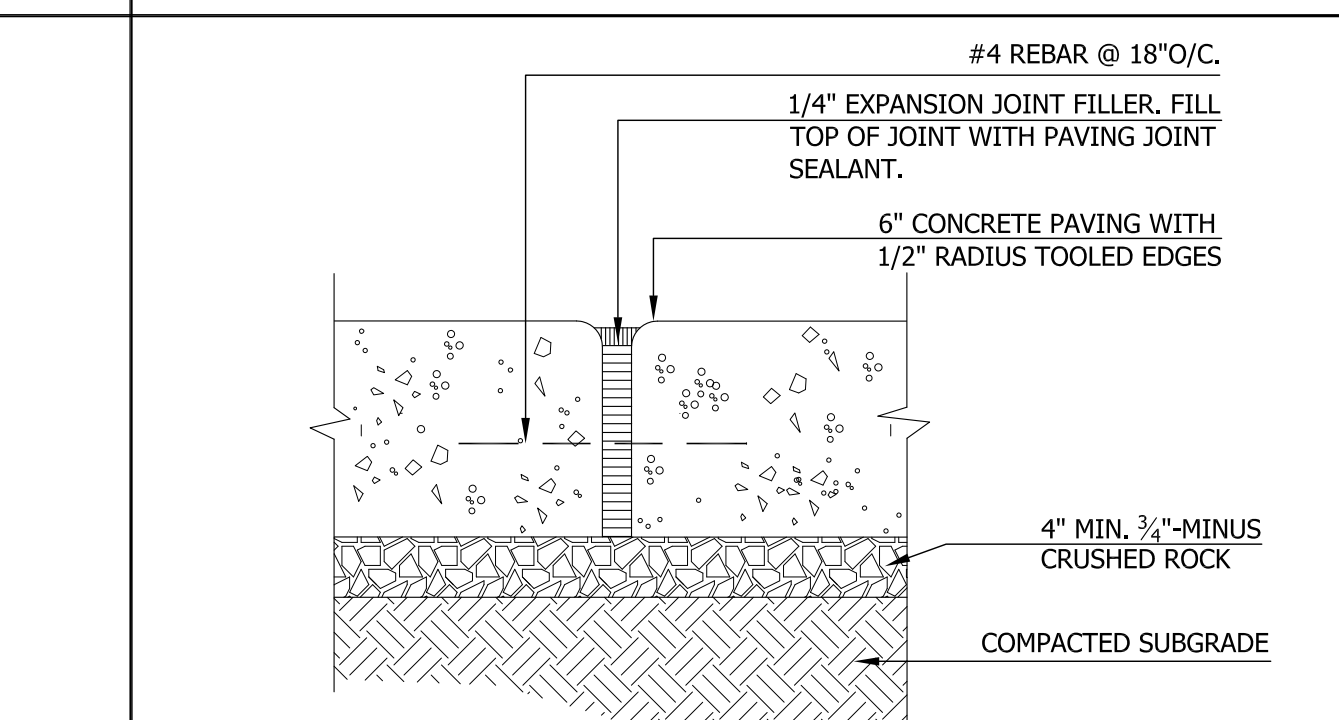
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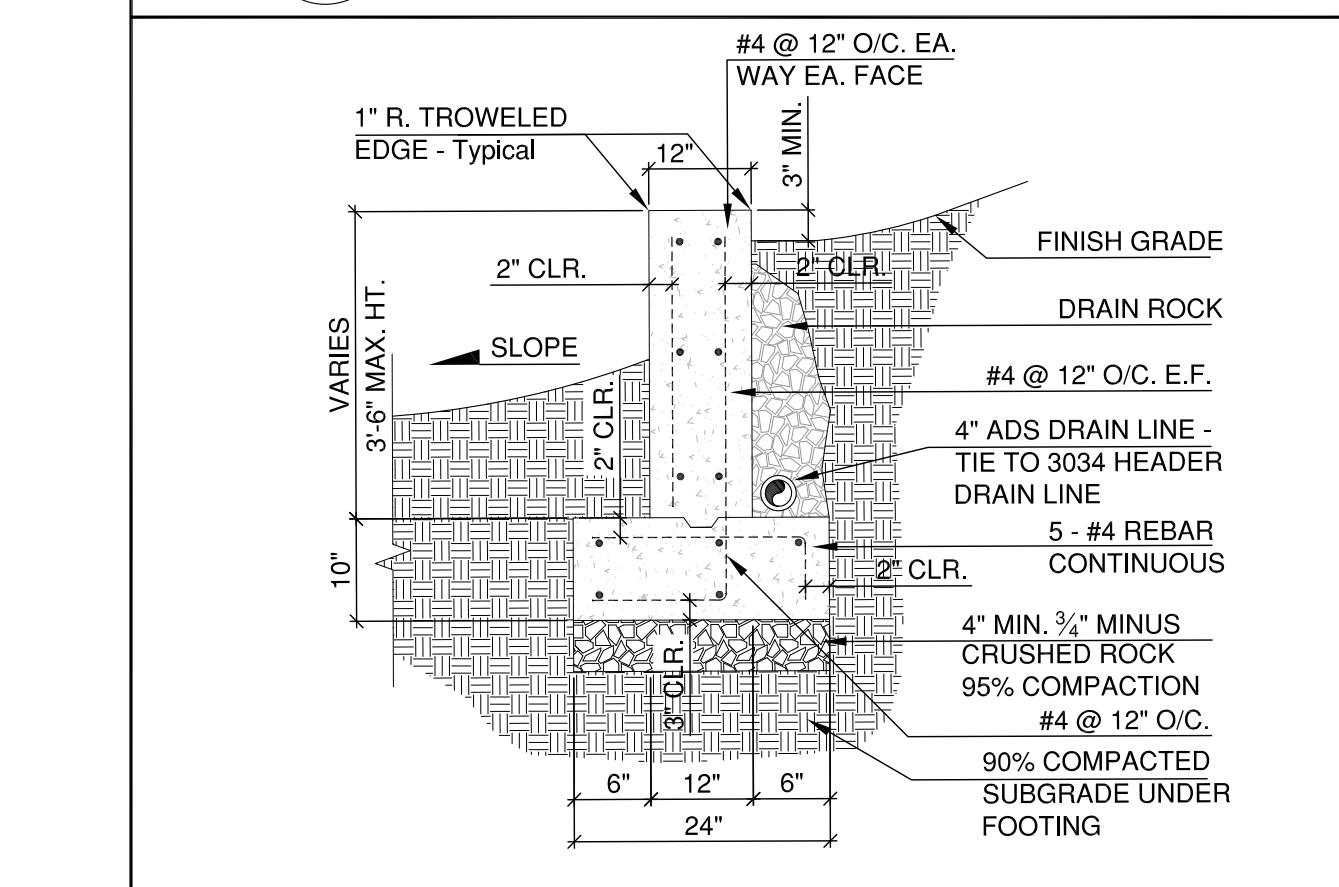
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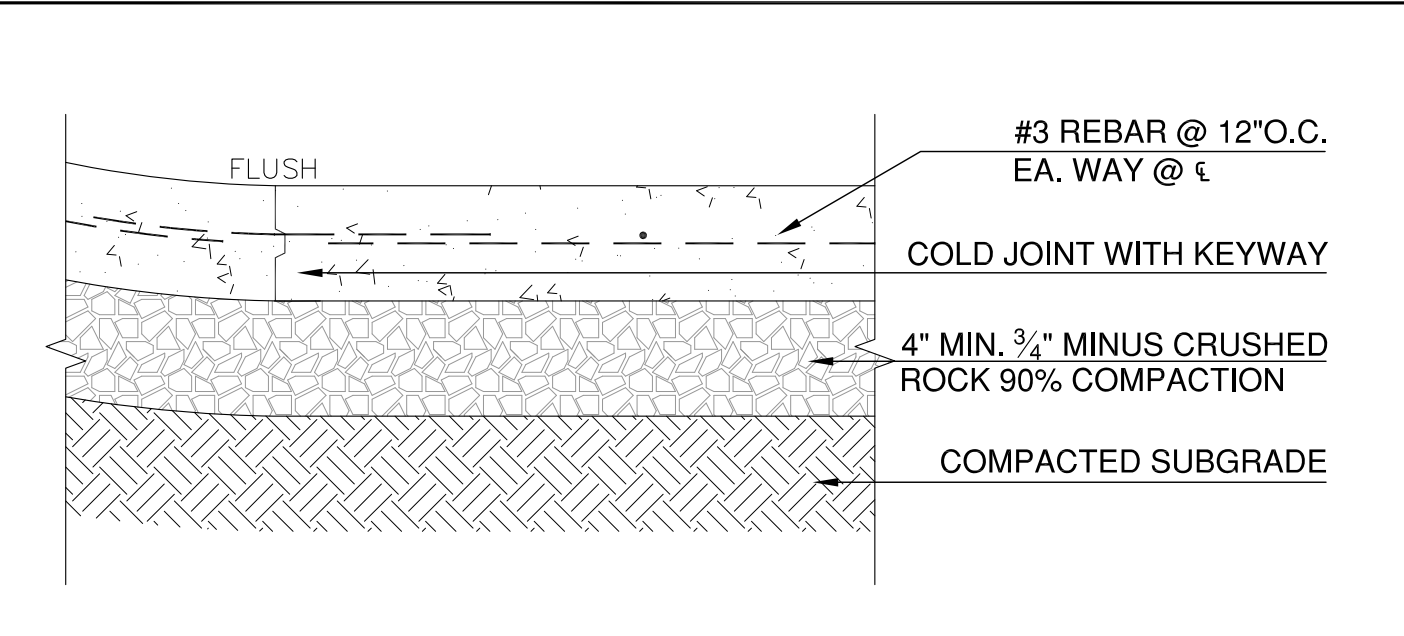
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SP9 N.T.S.



**K** SECTION 'K'  
SP9 N.T.S.



**D** TOE CONNECTION DETAIL  
SP9 N.T.S.

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TROY MEARS, L.A.S. No. 10000  
DATE: 4/15/15

**MONTEREY AVENUE SKATEPARK**  
MONTEREY PARK  
POURED-IN-PLACE CONCRETE  
CAPITOLA, CALIFORNIA

REVISIONS

REV.	DATE	DESCRIPTION
	5/5/2015	City Comments
	2/18/2016	City Comments
	2/23/2016	City Comments

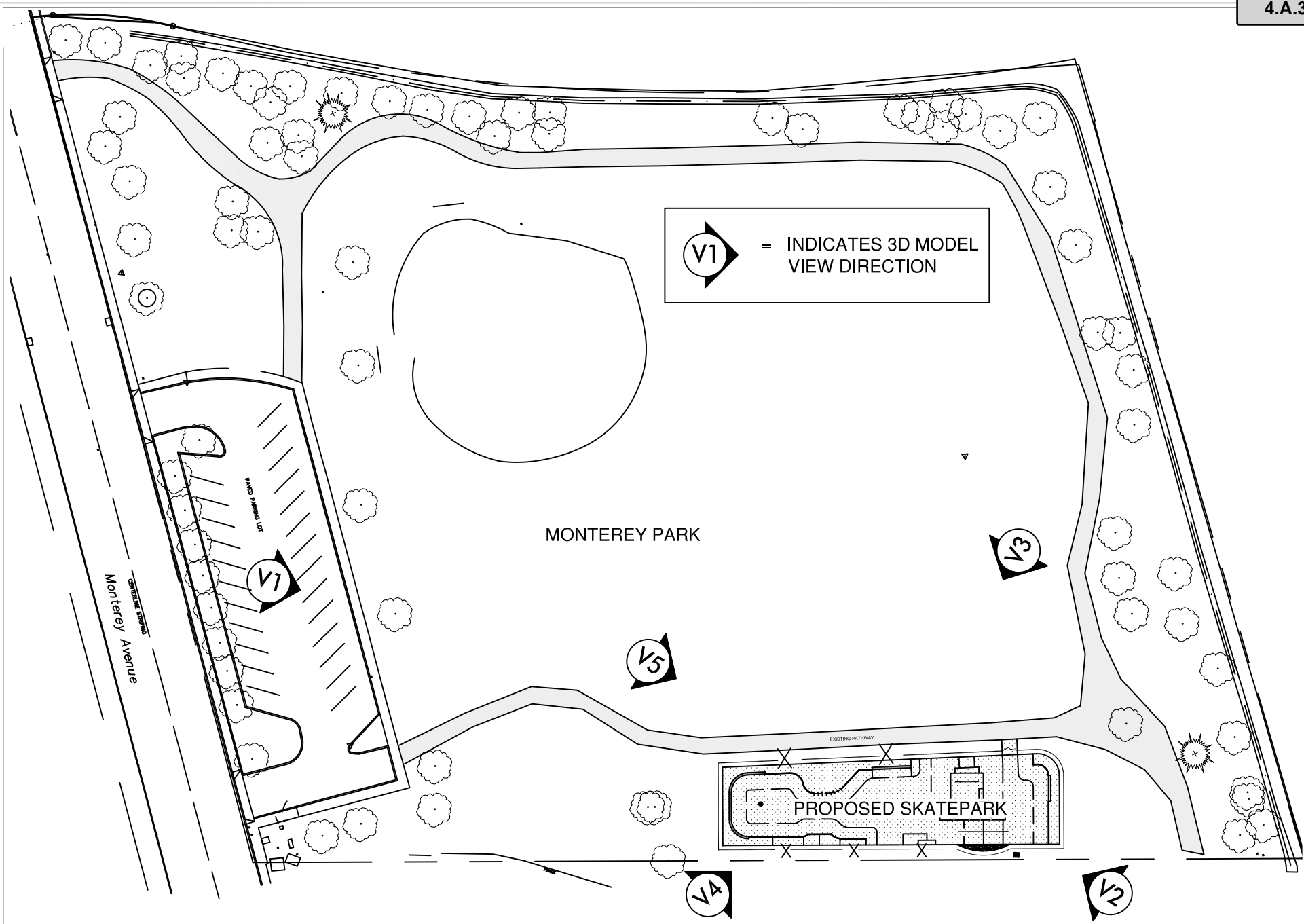
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**SKATEPARK DETAILS & NOTES**

DRAWN BY: TAM  
CHECKED BY: TAM  
ISSUE DATE: 04/15/2015  
JOB NO.: 1522

SHEET:  
**SP9**  
OF 10 PERMIT SET







Attachment: Monterey Ave Skate Park 3D Model (Monterey Avenue Skate Park)

SHEET:  
**A**

DRAWN:	TAM
CHECKED:	TAM
DATE:	6/2/2015
JOB NO.:	1522

**MONTEREY AVENUE SKATEPARK**  
**COVER SHEET**  
 MONTEREY PARK  
 CAPITOLA, CALIFORNIA

SCALE: 1" = 60'-0"

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**DESIGN+GROUP.**  
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Attachment: Monterey Ave Skate Park 3D Model (Monterey Avenue Skate Park)

SHEET:

**B**

DRAWN: TAM

CHECKED: TAM

DATE: 6/2/2015

JOB NO.: 1522

**MONTEREY AVENUE SKATEPARK**  
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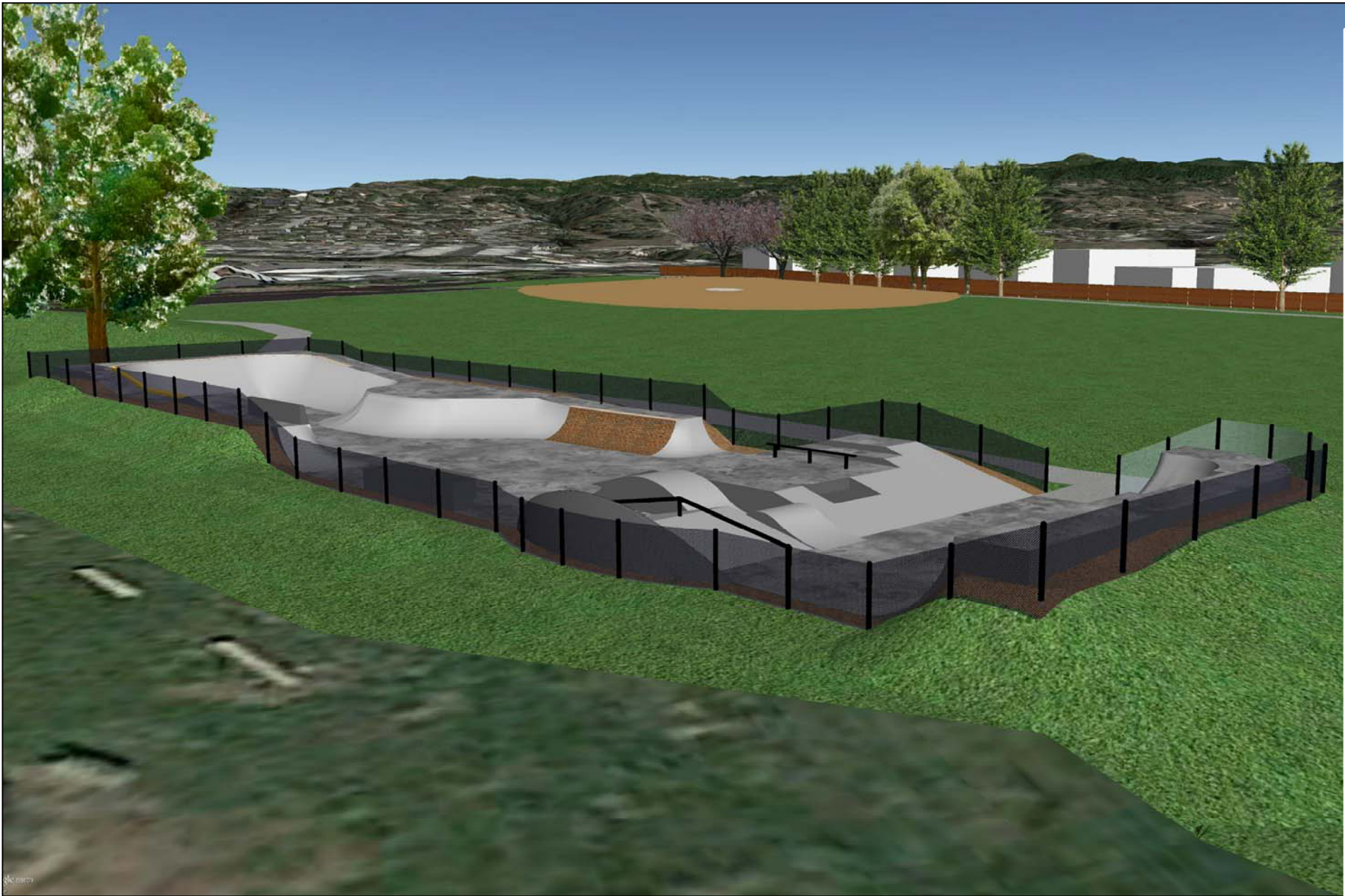
MONTEREY PARK  
 CAPITOLA, CALIFORNIA

V1: 3D VIEW #1

- VIEW LOOKING SOUTH FROM PARKING LOT TOWARD PROPOSED SKATE PARK.



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Attachment: Monterey Ave Skate Park 3D Model (Monterey Avenue Skate Park)

SHEET:

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DRAWN: TAM

CHECKED: TAM

DATE: 6/2/2015

JOB NO.: 1522

**MONTEREY AVENUE SKATEPARK**  
 3D MODEL VIEWS

MONTEREY PARK  
 CAPITOLA, CALIFORNIA

V2: 3D VIEW #2

- VIEW LOOKING NORTH TOWARD PROPOSED SKATE PARK.

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Attachment: Monterey Ave Skate Park 3D Model (Monterey Avenue Skate Park)

SHEET:

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DRAWN: TAM

CHECKED: TAM

DATE: 6/2/2015

JOB NO.: 1522

**MONTEREY AVENUE SKATEPARK**  
 3D MODEL VIEWS

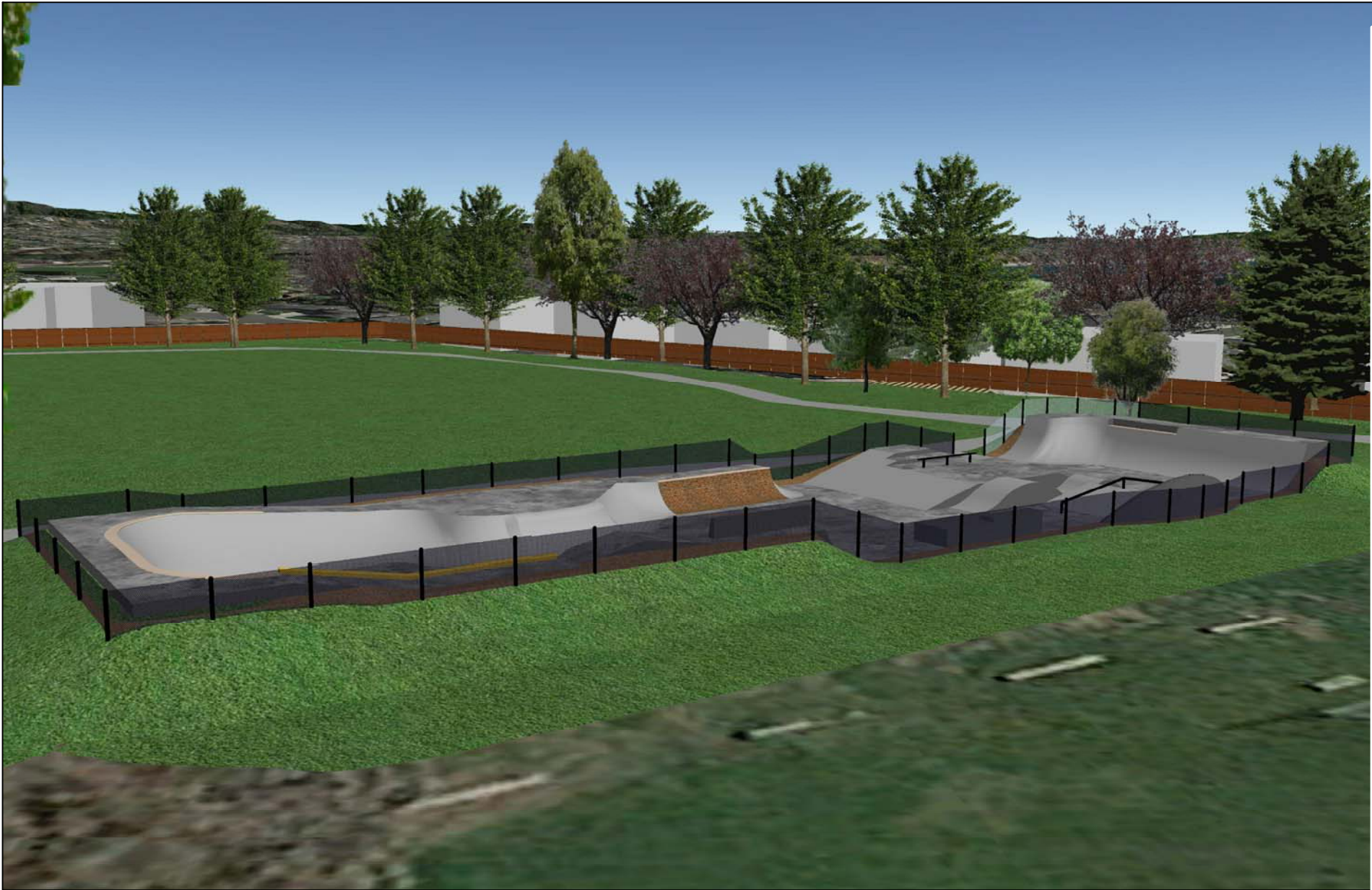
MONTEREY PARK  
 CAPITOLA, CALIFORNIA

V3: 3D VIEW #3

- VIEW LOOKING WEST TOWARD PROPOSED SKATE PARK.

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Attachment: Monterey Ave Skate Park 3D Model (Monterey Avenue Skate Park)

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DRAWN: TAM

CHECKED: TAM

DATE: 6/2/2015


JOB NO.: 1522

**MONTEREY AVENUE SKATEPARK**  
 3D MODEL VIEWS

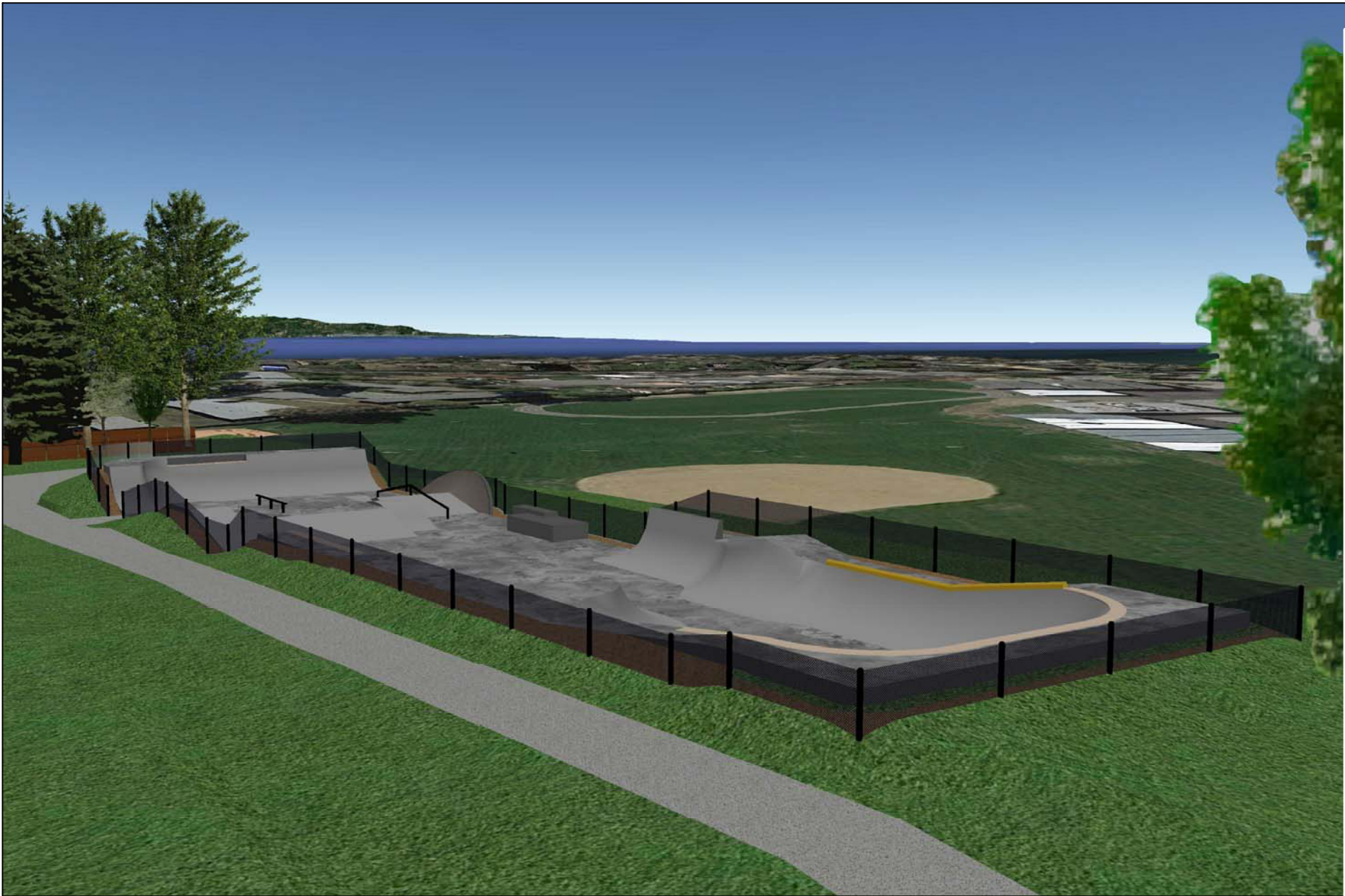
MONTEREY PARK  
 CAPITOLA, CALIFORNIA

V4: 3D VIEW #4

- VIEW LOOKING EAST TOWARD PROPOSED SKATE PARK.



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Attachment: Monterey Ave Skate Park 3D Model (Monterey Avenue Skate Park)

SHEET:

F

DRAWN: TAM

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DATE: 6/2/2015

JOB NO.: 1522

**MONTEREY AVENUE SKATEPARK**  
 3D MODEL VIEWS

MONTEREY PARK  
 CAPITOLA, CALIFORNIA

V5: 3D VIEW #5

- VIEW LOOKING SOUTH TOWARD PROPOSED SKATE PARK.



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### LEGEND

SYM	DESCRIPTION
	SKATEPARK LIMITS OF CONSTRUCTION
	STEEL FLAT RAIL / RAILING AS INDICATED
	8 FT. BLACK VINYL COATED CHAIN LINK FENCE - REFER TO DETAIL M/SP9
	INDICATES EXISTING TREE TO REMAIN
	INDICATES EXISTING PARK PATHWAY
	INDICATES PROPERTY LINE (LANDS OF 036-151-02)
	INDICATES EXISTING PARK FENCE

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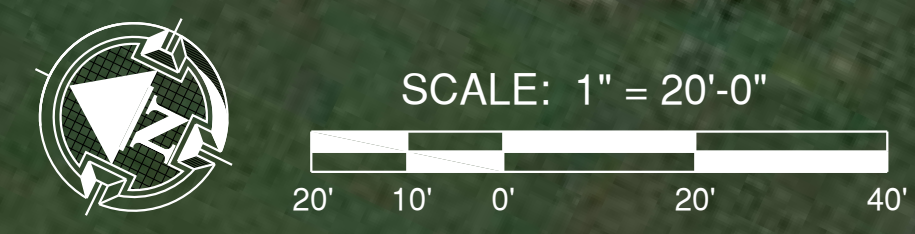
**MONTEREY AVENUE SKATEPARK**  
 MONTEREY PARK  
 POURED-IN-PLACE CONCRETE  
 CAPITOLA, CALIFORNIA

REVISIONS		
REV.	DATE	DESCRIPTION

SHEET NAME:  
**SKATEPARK SITE PLAN**

DRAWN BY: TAM  
 CHECKED BY: TAM  
 ISSUE DATE: 05/15/2016  
 JOB NO.: 1522

SHEET:  
**OPT1**  
 OF 3





### LEGEND

SYM	DESCRIPTION
	SKATEPARK LIMITS OF CONSTRUCTION
	STEEL FLAT RAIL / RAILING AS INDICATED
	6 FT. SKATEPARK PERIMETER WROUGHT IRON FENCE - REFER TO DETAIL M/SP9
	INDICATES EXISTING TREES
	INDICATES EXISTING PARK PATHWAY
	INDICATES PROPERTY LINE (LANDS OF 036-151-02)
	INDICATES EXISTING PARK FENCE

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**MONTEREY AVENUE SKATEPARK**  
MONTEREY PARK  
POURED-IN-PLACE CONCRETE  
CAPITOLA, CALIFORNIA

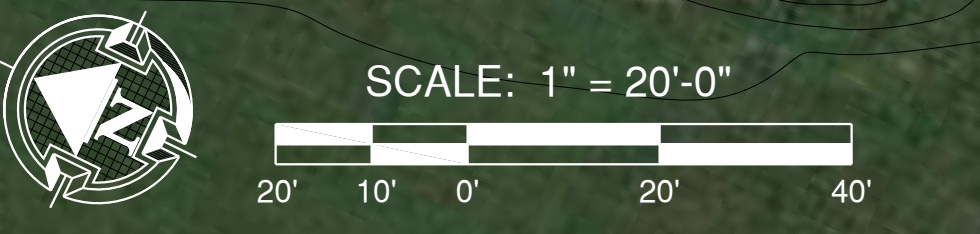
REVISIONS

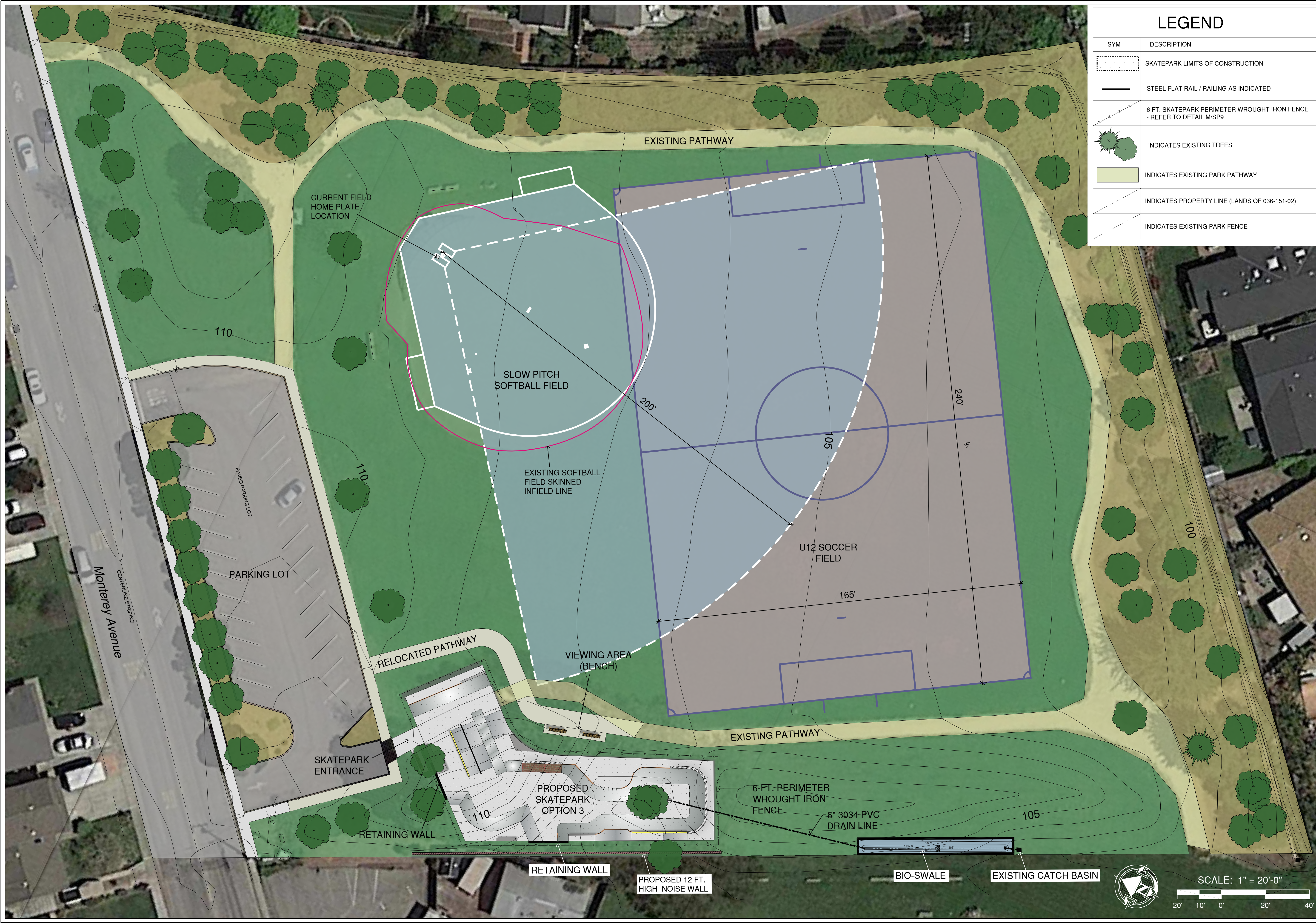
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DRAWN BY: TAM  
CHECKED BY: TAM  
ISSUE DATE: 06/10/2015  
JOB NO.: 1522

SHEET:  
**OPT2**  
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**MONTEREY AVENUE SKATEPARK**  
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 POURED-IN-PLACE CONCRETE  
 CAPITOLA, CALIFORNIA

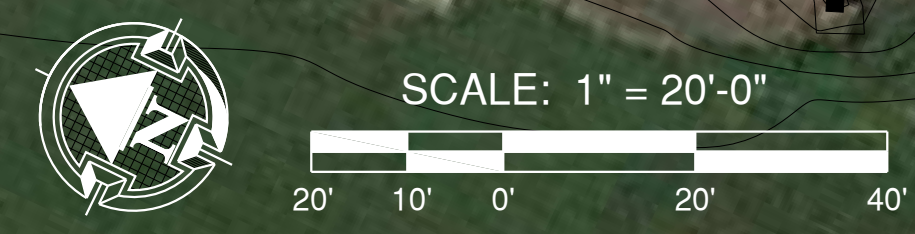
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DRAWN BY: TAM  
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 ISSUE DATE: 05/15/2016  
 JOB NO.: 1522

SHEET:  
**OPT3**  
 OF 3



# ADDITIONS TO EIR

## MONTEREY AVENUE SKATE PARK STATE CLEARINGHOUSE #2015062067

### IN THIS SECTION:

- Introduction
- Summary of Revisions
- EIR Alternative 1 Expanded Text
- New Figures
- ATTACHMENT 1 - Noise Study for Alternative 1 Site Options

### INTRODUCTION

A Draft Environmental Impact Report (DEIR) for the proposed Monterey Avenue Skate Park was completed in November 2015 and circulated for a 52-day public review and comment period. A Final EIR (FEIR) was completed in March 2016, which includes public comments on the DEIR, staff responses to comments, and changes to the DEIR analyses as result of the comments and responses. The EIR consists of both documents: the Draft EIR, dated November 2015 and the Final EIR document, dated March 2016.

On March 31, 2016, the Capitola Planning Commission certified the EIR for the proposed Monterey Avenue SkatePark project and approved a project based on a relocated skate park within Monterey Park as described and evaluated as Alternative 1 in the EIR. Two appeals to the Planning Commission’s decision were filed with the City, challenging the Planning Commission’s decision on the EIR and the project approval. The EIR will be considered for re-certification by the City Council.

In June 2016, two site concept plans were developed by the applicant to depict a skate park layout consistent with the Alternative 1 description included in the EIR in response to Planning Commission direction given with approval of the project. The two options shift the facility closer to the Monterey Avenue to improve visibility, public safety, and to reduce noise impacts. The first option would move the skate park immediately adjacent to the existing parking lot. The second would shift the facility north along the school district property line to an area presently occupied by eucalyptus trees. For purposes of clarification, these options are further described below, and the text on the following pages expands upon the discussion of Alternative 1 provided on pages 5-9 to 5-11 of the Draft EIR as corrected on page 3-7 of the Final EIR document (see FEIR page 3-7) by providing a more detailed review of impacts that could result from implementation of either of these options under Alternative 1.

Attachment: EIR Additions (Monterey Avenue Skate Park)

The State CEQA Guidelines section 15088.5 requires a lead agency to recirculate an EIR when “significant new information” is added to an EIR after public review but before certification. New information is not significant unless the “EIR is changed in a way that deprives the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of the project or a feasible way to mitigate or avoid such an effect.” “Significant new information” that would require circulation according to this section of the State CEQA Guidelines include:

- A new significant environmental effect resulting from the project or from a new mitigation measures.
- A substantial increase in the severity of an environmental impact unless mitigation measures are adopted to reduce the impact to a level of insignificance.
- A feasible project alternative or mitigation measure considerably different from others previously analyzed would clearly lessen the environmental impact of the project, but the project proponents decline to adopt it.
- The DEIR was so fundamentally inadequate that meaningful public review and comment were precluded.

The expanded text provided in this document does not result in any of the above conditions that would warrant recirculation. As demonstrated below, none of the additions to the DEIR text regarding Alternative 1 would result in or indicate a new significant impact or a substantial increase in the severity of an impact associated with the proposed project.<sup>1</sup> “There are also no feasible project alternatives or mitigation measures that are considerably different from others previously analyzed that would clearly lessen the environmental impact of the project that the applicant has declined to adopt.

## SUMMARY OF EIR ADDITIONS

This document provides the following revisions to the Monterey Avenue Skate Park EIR:

- Expanded discussion of the Draft EIR Alternative 1 impacts based on review of two site layout options developed after the March 31, 2016 Planning Commission meeting and review of a noise assessment;
- Noise Assessment of the two Alternative 1 options that was prepared for the City by Illingworth & Rodkin; and
- Additional graphics to illustrative the Alternative 1 options and resulting noise contours.

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<sup>1</sup> “Proposed project” as used in this document refers to the project proposed by the applicant that was evaluated in the EIR as shown on EIR revised Figure 2-1 and Figure 2-1A on pages 3-9 and 3-10 of the Final EIR.

## EIR ALTERNATIVE 1 EXPANDED TEXT

As indicated in the EIR, in accordance with CEQA and the State CEQA Guidelines (section 15126.6), an EIR shall describe a range of reasonable alternatives to the project or to the location of the project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project. As discussed in the EIR, under Alternative 1, the proposed project would be relocated in the existing Monterey Park to be sited closer to the existing parking lot and Monterey Avenue; the EIR estimated that the skate park would be moved approximately 60-140 feet northeast of the proposed location under this alternative. Two conceptual site layouts were developed by the applicant to illustrate this alternative after the March 31, 2016 Planning Commission meeting. The internal layout and elements of the skate park would essentially be the same as the proposed project design; the only difference would be the location and orientation of the skate park. Each option is described below and is consistent with what was described and reviewed as Alternative 1 in the EIR. The skate park would be enclosed by a six-foot tall perimeter wrought iron fence as reviewed in the EIR. For each option, storm drainage would be collected and conveyed to a bioswale in the location for the proposed project as shown on Figure 2-1A in the in the FEIR document (page 3-10). As indicated in the EIR, the use of the skate park would be limited to the hours of between 8:00 AM and dusk, per the allowable hours of operation specified in the City's Municipal Code.

### Description of Alternative 1 Options

- ❑ **Option 1.** Under this option, the skate park location would be shifted approximately 100 feet to the north and reoriented so that it is sited adjacent to and parallel with the existing parking lot as shown on Figure 5-3<sup>2</sup>. Storm drainage would be collected and conveyed to a bioswale in the general location for the proposed project as also shown on Figure 5-3. The skate park would be located north of the softball field with relocation of the softball field approximately 10 feet south of its current location. The walking path from the parking lot would also be repositioned. An approximate 3.5-foot tall block retaining wall would be installed along both sides of the realigned pathway for a distance of approximately 75 feet, although the wall on the east may be a foot shorter (2.5 feet) in height. Another 3.5-foot tall retaining wall is shown on the south side of the skate park for a distance of approximately 60 feet.
- ❑ **Option 2.** Under this option, the skate park location would be shifted north from the proposed project location so that the southern edge of the skate park would be at the northern edge of the proposed project location. The facility would be slightly reconfigured from a rectangular shape to an inverted "L" shape as shown on Figure 5-4. Under this option, the skate park would be located immediately to the east of the

<sup>2</sup> The figures are provided at the end of this chapter and follow the numerical order in the EIR.



existing school district office and private residence, approximately 5 feet from the property line. Two approximately 3.5-foot tall retaining walls would be located for a short distance on both the northern and western sides of the property line as shown on Figure 5-4.

**Assessment of Impacts**

The environmental effects of each option considered under Alternative 1 are discussed below. The focus is on discussion of whether and how the option could eliminate or substantially reduce significant impacts identified for the proposed project or result in new significant impacts.

**Noise.** A noise assessment, including modeling, was conducted for the City of Capitola by Illingworth & Rodkin (May 2016) to determine noise levels with operation of a skate park as sited under each option. For the purpose of modeling, the skate park layout and design would essentially be the same as the proposed project design for each option except for the change in location and orientation of the skate park. The number of skate park users and time of use would not change from what was described in the EIR, and project traffic volumes would not change under either option. Other noise-generating sources at the Monterey Park (e.g., baseball/softball fields, track) would remain unchanged. Noise generated from use of the play fields would not change since the slight reorientation of the field would not change the overall intensity of use or sounds from activities at the play field.

The nearest sensitive receptors include the Soquel Union Elementary School District office and private residence; nearby classrooms of the New Brighton Middle School; and single-family residences along Monterey Avenue, Junipero Court and Orchid Avenue. The table below compares the distance of the proposed skate park and the two Alternative 1 options to sensitive receptors.

Sensitive Receptor Location	Approximate Distance From Skate Park		
	Proposed Skate Park	Alternative 1- Option 1	Alternative 1 – Option 2
Residential-Nearest to Site <ul style="list-style-type: none"> <li>▪ Residence to northeast adjacent to School District Office</li> <li>▪ Residences to north on Monterey Avenue</li> <li>▪ Residences to east on Junipero Court</li> <li>▪ Residences to south on Orchid Avenue</li> </ul>	80 feet 250-300+ feet 300 feet 80-100+ feet	74 feet 155 feet 165 feet 380 feet	6 feet 160 feet 290 feet 265 feet
New Brighton Middle School <ul style="list-style-type: none"> <li>▪ Nearest Classrooms</li> <li>▪ School District Offices</li> </ul>	140 feet 60 feet	210 feet 90 feet	130 feet 32 feet

Attachment: EIR Additions (Monterey Avenue Skate Park)

As indicated in the EIR (Draft EIR, November 2015), noise generated by the skate park would be considered significant if levels would exceed 60 dBA Ldn/CNEL (the normally acceptable noise and land use compatibility standard for residential land uses) or substantially exceed existing ambient noise levels (in terms of hourly average noise level or maximum instantaneous noise level,  $L_{eq}$  or  $L_{max}$ , respectively). A substantial exceedance of existing ambient noise levels generally is considered an increase of 5 dBA or more because such an increase in noise level is clearly perceptible by most people. A substantial permanent noise increase would occur if: the noise level increase is 5 dBA Ldn/CNEL or greater where a future noise level is less than 60 dBA Ldn/CNEL or a noise level increase of 3 dBA CNEL or greater where a future noise level is 60 dBA Ldn/CNEL or greater. Increases of 3 dBA  $L_{dn}$  /CNEL or greater typically are considered significant where exterior noise levels would exceed the normally acceptable noise level standard (60 dBA  $L_{dn}$  /CNEL for residential land uses). Capitola's General Plan also indicates that a change of 3 dB is generally considered to be the threshold for a perceptible change in sound, although a specific noise measure descriptor is not given. Where noise levels would remain at or below the normally acceptable noise level standard with the project, noise level increases of 5 dBA  $L_{dn}$  /CNEL or greater would be considered significant because such an increase in noise level is clearly perceptible by most persons.

The noise modeling for the Alternative 1 options used the same methodology as used in the EIR. Noise measurement results from the Sunnyvale skate park, which were presented in the noise report in the DEIR and summarized in the Noise section of the DEIR, were utilized in the SoundPLAN noise modeling for the proposed skate park to represent a credible worst-case scenario. The noise assessment report is included as Attachment 1 of this document. The results of the noise modeling for the two Alternative 1 options are summarized on Table 5-0, and  $L_{eq}$  and  $L_{max}$  noise contours are shown on Figures 5-5 and 5-7 for Option 1 and Option 2, respectively.

Noise impacts resulting from the proposed skate park and the Alternative 1 options were evaluated using four acoustical descriptors:  $L_{max}$ ,  $L_{eq}$ ,  $L_{dn}$  and CNEL. The  $L_{max}$  is the maximum instantaneous noise level resulting from activities and would likely result from shouting, the slapping of the skateboard or "grinds." The  $L_{eq}$  is the average noise level resulting from skateboarding activities and is defined as the logarithmic average of all sounds measured during the period. This measurement would be highly influenced by maximum instantaneous noise events. The  $L_{dn}$  is the day-night average noise levels resulting from the use of the skate park on a daily basis. The CNEL is similar to the  $L_{dn}$  but applies an additional 5 dBA penalty to noises occurring during the evening. For both Alternative 1 options, two models were generated: 1) maximum instantaneous noise level calculations for point-sources and line-sources modeled throughout the skate park to represent shouting, slapping of the skateboard, or "grinds;" and 2) hourly average noise level calculations, assuming 25 to 30 skateboarders were present and approximately 5 to 12 skateboarders were actively skating at any given moment (Illingworth & Rodkin, May 2016).

As indicated in the EIR, the noise modeling and analysis represents a conservative, worst-case analysis in which the model used to calculate noise levels with the skate park assumes maximum use during the entire period of operation and is based on use at a larger facility. However, hourly and daily use will vary depending on the time of day and year. For example, it would be expected that there would be less use during school days during the school year since the targeted users would be in school. Additionally, the L<sub>max</sub> standard accounts for full use of the proposed skate park and includes the highest level of sounds that could occur as result of skateboard jumps and shouting.

**TABLE 5-0: Predicted Noise Levels with Proposed Skate Park and Alternative 1 Options (dBA)**

Location	Distance From Project Site (Feet)	Daytime Hourly Average L <sub>eq</sub>	Daytime Maximum Hourly L <sub>max</sub>	Average Day-Night Noise Level	
				L <sub>dn</sub>	CNEL
Soquel Union Elementary School District Office / Adjacent Residence					
▪ Proposed Project	60 / 80	50-55 dBA	65-70 dBA 50-55* dBA	47-52 dBA	48-53 dBA
▪ Alternative 1 – Option 1	90 / 74	55 dBA	70 dBA 55*	52 dBA	53 dBA
▪ Alternative 1 – Option 2	32 / 6	65 dBA	>70 dBA	62 dBA	63 dBA
New Brighton Middle School nearest Classrooms					
▪ Proposed Project	140	50 dBA	60-65 dBA 45-50*	47 dBA	48 dBA
▪ Alternative 1 – Option 1	210	<50 dBA	60-65 dBA	47 dBA	48 dBA
▪ Alternative 1 – Option 2	130	50 dBA	65 dBA	47 dBA	48 dBA
Monterey Avenue Residences					
▪ Proposed Project – east boundary near Junipero Court	300	50 dBA or less	60 dBA 45* dBA		48
▪ Alternative 1 – Option 1	155	<50 dBA	60-65 dBA	47 dBA	48 dBA
▪ Alternative 1 – Option 2	160	50 dBA	65 dBA	47 dBA	48 dBA
Junipero Court Residences					
▪ Proposed Project – east boundary near Junipero Court	300 feet	50 dBA or less	60 dBA 45* dBA		48
▪ Alternative 1 – Option 1	165	<50 dBA	<65 dBA	47 dBA	48 dBA
▪ Alternative 1 – Option 2	290	<50 dBA	<60 dBA	47 dBA	48 dBA
Orchid Avenue Residences					
▪ Proposed Project	80-100 feet		65-70 dBA 50-55* dBA	47 dBA	
▪ Alternative 1 – Option 1	380	<50 dBA	<60 dBA	47 dBA	48 dBA
▪ Alternative 1 – Option 2	265	<50 dBA	<60 dBA	47 dBA	48 dBA
Sound levels are exterior except as noted below.					
* Interior sound levels with windows partially open					

**SOURCE:** Illingworth & Rodkin, September 2015 and May 2016

Attachment: EIR Additions (Monterey Avenue Skate Park)

The EIR analyses concluded that operation of the proposed skate park would result in ambient noise levels below 60 dBA  $L_{dn}$  /CNEL and would not result in a substantial permanent increase in ambient noise levels as measured on a daily (24-hour) basis. The predicted  $L_{eq}$  and  $L_{max}$  noise levels resulting from the use of the skate park would fall within the existing range of  $L_{eq}$  and  $L_{max}$  noise levels currently generated by Monterey Avenue Park activities. However, noise levels would exceed the arithmetic average  $L_{eq}$  by up to 7 dBA  $L_{eq}$  and the arithmetic average  $L_{max}$  by up to 5 dBA  $L_{max}$  at the nearest Soquel Union Elementary School District Office and residence and at some residences on Orchid Avenue. Therefore, the EIR concluded that the impact was significant at these locations as the noise increases exceed the 3-5 decibel noise increase threshold.

Implementation of either Option 1 or Option 2 would not result in the significant impacts at the Orchid Avenue residences with regards to increases in  $L_{eq}$  and  $L_{max}$  noise levels that were identified in the EIR because under either option, the skate park will be located further away from these residences.

The potential significant impact identified in the EIR at the school district office and adjacent residence would remain significant, as the  $L_{eq}$  and  $L_{max}$  noise levels would be at the upper range reported in the EIR for the proposed project impacts. Both Options 1 and 2 would result in  $L_{max}$  and  $L_{eq}$  noise level increases of 5 dBA or more at the School District office and adjacent residence. Furthermore, under Option 2, the day-night average noise levels and the community noise equivalent levels attributable to skate park operations would be 62 dBA  $L_{dn}$  and 63 dBA CNEL at the school district office and adjacent residence, respectively. In the original noise report, the short-term measurement ST-1, which was made 45 feet from the centerline of Monterey Avenue, had a day-night average noise level of 60 dBA  $L_{dn}$ , and this was used to estimate existing ambient conditions at the Soquel Union Elementary School District Offices. Since the adjacent residence is set back further from Monterey Avenue than ST-1, the more conservative day-night average measured at LT-1 and LT-2 was used to represent existing ambient conditions. Therefore, the predicted  $L_{dn}$ /CNEL noise levels at the school district office and adjacent residence would exceed existing ambient conditions, which were measured to range from 50 to 55 dBA  $L_{dn}$  at LT-1 and LT-2, by more than 5 dBA and would exceed the 60 dBA  $L_{dn}$ /CNEL threshold.

The predicted noise level increases at the adjacent office and residence would exceed ambient conditions by more than 5 dBA for the  $L_{eq}$  and  $L_{max}$  noise levels under both options and also for the  $L_{dn}$ /CNEL level under Option 2, which also would exceed the 60 dBA  $L_{dn}$ /CNEL threshold. Thus, a significant impact would continue to occur at the School District office and adjacent residence with a slightly increased exposure under Option 2. Under Option 1, the skate park would be located slightly further from these structures than with the proposed project. This finding is consistent with the EIR conclusion, which reported that noise impacts to these sensitive receptors could increase, remain the same or be slightly reduced, but the significant impact would not be eliminated under Alternative 1, and as indicated in

the EIR, acoustical mitigation would be required. Assuming open windows, interior noise levels at the School District Office and adjacent residence would be greater than 55 dBA  $L_{max}$ .

The EIR found no significant impacts resulting from the proposed skate park at New Brighton Middle School classrooms or to residences along Junipero Court and Monterey Avenue. Both options would move the skate park closer to residences along Monterey Avenue and Junipero Court, but a minimum distance of 155 feet would be maintained. As a result,  $L_{eq}$  and  $L_{max}$  noise levels would increase at these locations compared to noise levels generated by the proposed project as discussed in the EIR. However, the noise levels generated under either Option 1 or Option 2 would be within the range of existing noise levels and would not result in a noise increase that would exceed 5 decibels, the threshold of significance at any location. There would be no change in the 24-hour  $L_{dn}$  or CNEL ambient noise levels under either Option 1 or Option 2 at these locations. Assuming open windows, interior noise levels at the surrounding single-family residences would be at or below 50 dBA  $L_{max}$ . Thus, neither Option 1 nor 2 would result in new significant impacts to residences along Junipero Court or Monterey Avenue. These findings are consistent with the EIR conclusion that no significant noise impacts would be expected at these locations, although the skate park facility would be closer to these residences than proposed by the project evaluated in the EIR.

Option 1 would move the skate park further from the New Brighton Middle School classrooms, and no new impacts would result. However, under Option 2, the skate park would be located approximately 10 feet closer to the nearest classroom. Under this option, the maximum  $L_{max}$  noise level would be between the 65 and 70 dBA, slightly higher than 65 dBA, the high level of the range reported in the EIR. While maximum levels may reach 68 dBA  $L_{max}$ , they are not expected to be 70 dBA  $L_{max}$  or more; therefore, Option 2 is not expected to increase ambient levels by 5 dBA or more, and noise exposure would be a less-than-significant impact. Assuming open windows, interior noise levels at the nearest New Brighton Middle School classrooms would be below 55 dBA  $L_{max}$ .

Mitigation measures identified in the EIR would continue to be required to reduce noise impacts to a less-than-significant level at the School District office and adjacent residence for either Alternative 1 Option 1 or Option 2. The recommended mitigation also would reduce  $L_{eq}$  and  $L_{max}$  noise levels at the nearest classroom to below 60 decibels. No mitigation would be required for other surrounding residential uses as no significant impacts were found to result from either Option 1 or Option 2. With the reduction in the identified significant impact to less than significant at the nearest Orchid Avenue residences, no mitigation would be required.

With Option 1, an eight-foot noise barrier is recommended for a distance of about 115 feet that would be constructed along the western Monterey Park property line to reduce maximum instantaneous and average hourly noise levels by approximately 8 dBA at the adjacent residence and School District office. The height would be two feet higher than

recommended for the proposed project mitigation, but would be constructed of the same recommended materials as identified in the EIR, which would be from materials having a minimum surface weight of three lbs/ft<sup>2</sup>, such as one-inch thick wood fence boards, masonry block, or concrete and be constructed in a manner free of any cracks or gaps between barrier materials and between the barrier and the ground. Alternately, as indicated in the EIR, suitable barrier materials such as Acoustifence by Acoustiblok or ¼-in. plexiglass could be used to provide an equivalent noise level reduction. A 12-foot noise barrier is recommended in the same location for a distance of approximately 185 feet under Option 2 to reduce maximum instantaneous and average hourly noise levels by a minimum of 12 dBA. Figures 5-6 and 5-8 show the approximate location of the proposed noise barrier and resulting noise levels under Options 1 and 2, respectively.

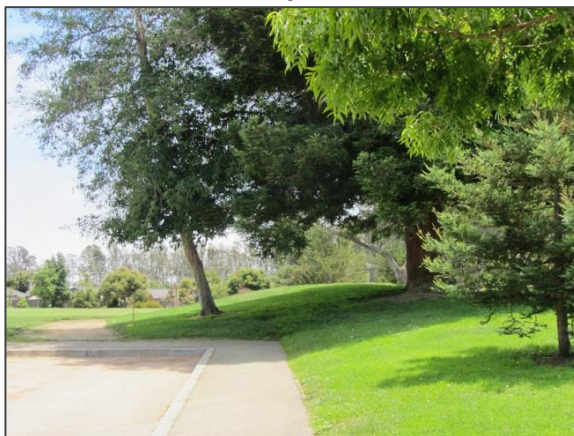
With the additional acoustical shielding provided by the eight-foot noise barrier for Option 1, predicted  $L_{max}$  noise levels resulting from the use of the skate park would be reduced to approximately 65 dBA  $L_{max}$ , and the hourly average  $L_{eq}$  would be reduced to 50 dBA  $L_{eq}$  or less at the nearest sensitive receptor, the school district office and residence. With the implementation of this mitigation measure, development of a skate park under Option 1 would not result in a substantial noise increase, in terms of  $L_{max}$  or  $L_{eq}$  at the adjacent land uses. With the additional acoustical shielding provided by the 12-foot noise barrier under Option 2, noise levels would be reduced to 65 dBA  $L_{max}$ , and the hourly average noise level would be reduced to 50 dBA  $L_{eq}$ . The day-night average noise level and the community noise equivalent level would be reduced to 47 dBA  $L_{dn}$  and 48 dBA CNEL, respectively. With the implementation of this mitigation measure, the a skate park project under Option 2 would not result in a substantial noise increase, in terms of  $L_{max}$ ,  $L_{eq}$ , and  $L_{dn}/CNEL$ , at the adjacent land uses, and the impact would be reduced to less-than-significant level.

**Aesthetics.** Under either Option 1 or Option 2, the skate park design generally would be the same as the proposed project, but the facility would be located closer to Monterey Avenue. The alternative site layout options do not show include creation of berms at the ends of the facility. The facility would be more visible from Monterey Avenue, but the bowl-shaped design with wrought iron fencing would have a low-profile appearance similar to other recreational facilities typically found at a park, i.e., play equipment, parking areas. Additionally, the existing Monterey Park site slopes gently to the south away from Monterey Avenue, and the visibility of the site under Option 1 would be partially screened by trees along Monterey Avenue. Under Option 2, the facility would be oriented in a mostly north-south configuration and partially screened by trees as viewed from Monterey Avenue. Photos of each site are shown on the next page.

Alternative 1 Option 1 Site



Alternative 1 Option 2 Site



As indicated in the EIR, Monterey Park is not located within or adjacent to a designated scenic vista, and therefore, the proposed skate park would not have a substantial adverse impact on any scenic vista. Monterey Park also does not support any designated scenic resources, such as trees, rock outcroppings, or historic structures and is not located within or near a state scenic highway. The addition of a new recreational facility in the form of a skate park would also not substantially degrade the existing visual character or quality of the site and its surroundings because Monterey Park is an existing active park which supports common park uses and structures. The skate park design would be a low-profile recreational feature, which is visually consistent with active park settings. Additionally, the City of Capitola’s adopted General Plan calls for Monterey Park to be developed with additional active park uses. The skate park as originally proposed or under either Alternative 1 option would, therefore, be consistent with the existing visual setting of Monterey Park and would fulfill General Plan goals to further develop the park with active recreational uses.

Based on recommendations from the City’s Architecture and Site Review Committee, the applicant has agreed to use a decorative, wrought-iron fence design. The fence would be approximately 6-feet tall and would not be of a solid material. The fence would be similar to other decorative fences throughout the City as discussed in the Final EIR. It is also noted that fencing at the school baseball diamond is adjacent to the proposed site and also is visible from various viewpoints, but it is not a prominent visual feature. In the same manner, a wrought-iron fence installed for either Option 1 or Option 2 would not be visually prominent within the surrounding area, which is developed and contains fences of different types and materials. This type of fencing and would not result in a substantial alteration of the visual quality of the surrounding area. Furthermore, neither the existing Monterey Park nor the proposed skate park site is visible from a wide area.

Proposed block retaining walls are of a low height of approximately 3.5 feet. The retaining wall would appear as a low-profile feature under Option 1. The height of the existing berm

Attachment: EIR Additions (Monterey Avenue Skate Park)

along the western property boundary would partially screen the wall under Option 2 and would be approximately 1.5 to 2 feet taller than the highest portion of the retaining wall. These elements would be installed for a short distance and would not be prominently visible due to the short height. Therefore, for these reasons, the added retaining wall features would not result in significant degradation of the visual character of the surrounding area or a significant impact under either option.

The project would not create a new source of substantial light or glare as no lighting has been proposed as part of the project. A condition of project approval required security lighting to illuminate the skate park and the path leading to the facility, which was discussed in the EIR (see Final EIR page 3-3). This type of lighting would be restricted to low pressure bulbs affixed to downward casting fixtures to prevent light trespass onto adjacent properties. This type of lighting would be similar to lighting commonly found on residential and commercial properties to softly illuminate a confined area for safety and security purposes, and thus, would not result in light trespass or create a new source of substantial light or glare which would adversely affect nighttime views in the area.

As discussed in the Draft EIR (page 4.3-22), installation of an acoustical barrier has been identified as a mitigation measure. The barrier could be constructed of wood, masonry block or concrete, all of which would have a limited thickness. This type of barrier would resemble fences and walls surrounding the park and in the surrounding area. Visually, the barrier would appear as typical fence section under Option 1. The barrier would be longer and slightly taller under Option 2 (about 12 feet tall), but the visual appearance would be similar to that of a side of a short building. Under either option, the visual appearance of the barrier would be similar to other fences and wall planes present in the area and also would not be visible to a larger area, but only from a short segment of Monterey Avenue and nearby properties.

Thus, there would be no new significant impact related to aesthetics or degradation of the visual character of the surrounding area as a result of development of a skate park under either Option 1 or Option 2.

**Biological Resources.** The EIR identified a potentially significant impact related to disturbance to nesting birds as a result of construction activities or removal of trees. As indicated in the EIR (both Draft and Final EIR documents), the project does not propose removal of trees. However, it was indicated that the City may require removal for the proposed project, and thus, potential removal of eight trees was evaluated in the Initial Study and applicable EIR analyses.

Under Option 1, the skate park siting and reconfiguration would not require removal of the existing eucalyptus and redwood trees along the western property line due to improved visibility with relocation of the facility closer to Monterey Avenue. Two small horticultural trees would be relocated or replaced if replanting is not viable. It is also possible that a mature alder tree could be impacted by the relocated pathway under Option 1. A condition



of project approval requires a pre-construction survey by a certified arborist to evaluate design options and tree protection strategies to avoid impacts to the alder tree. If impacts cannot be avoided, the alder tree may be removed per the City's Community Tree and Forest Management Ordinance, including the requirement for a 2:1 tree replacement within Monterey Park.

Under Option 2, two eucalyptus trees and an alder tree would be removed for the physical siting the skate park. The facility would be located at the outer edge of the dripline of an existing large redwood tree. To minimize the potential for the facility to significantly damage the redwood, a condition of approval has been incorporated to require a pre-construction inspection by a certified arborist to minimize impacts to the tree and its roots. If necessary, the facility could be slightly shifted to the east to prevent the loss of the redwood.

Therefore, no or fewer trees would be required for removal under either Option 1 and Option 2, respectively, than was considered in the EIR, which assumed a worst-case removal of eight trees as might have been required by the City. Thus, development under either Option 1 or Option 2 would substantially lessen potential significant impact to nesting birds due to potential tree removal. However, due to the skate park proximity to the trees, potential disturbance to nesting birds in retain trees during construction could occur. Thus, mitigation to protect nesting birds would continue to be required, consistent with the conclusions of the EIR.

Exposure to Hazards. Under either Option 1 or Option 2, it is expected that arsenic-contaminated soils are present given their presence on the proposed project site and at other nearby locations. Therefore, neither option would change the significant impact related to exposure to arsenic-contaminated soils. It is possible that this contaminant would also be found at the relocated site, which would require additional soil testing and potential implementation of remediation measures as with the proposed project.

Other Impacts. Due to the same project size, there would be no change to other identified less-than-significant impacts related to drainage, water quality, traffic or public services. There would be potentially less grading under Option 1 than the proposed project due to a more level location with the Option 1 site. Grading under Option 2 would likely be similar as the proposed project due to the existing berm in this location. City staff has indicated that relocation of the proposed skate park closer to Monterey Avenue could improve visibility and public safety.

Project Objectives. Either Option 1 or Option 2 would meet all the project objectives, and would better meet the City's objective of developing park improvements in areas that are safe and highly visible.

### Conclusions

Under either option, significant impacts identified in the EIR could be eliminated or substantially lessened under either Alternative 1 option as explained above and summarized below. These findings are consistent with the conclusions for Alternative 1 in the EIR. The significant noise impact identified in the EIR (Draft and Final documents together) would be reduced. Either of the two options would reduce a reported significant impact at Orchid Street residences to a less-than-significant level, although the significant impact identified at school district office and adjacent residence would still result, but could be mitigated to a less-than-significant level same as the proposed project. No new significant impacts would occur at the nearest classroom under Options 1 or 2. Although neither option would result in new significant impacts to residences along Monterey Avenue and Junipero Court, the overall sound level would be slightly higher than with the proposed project.

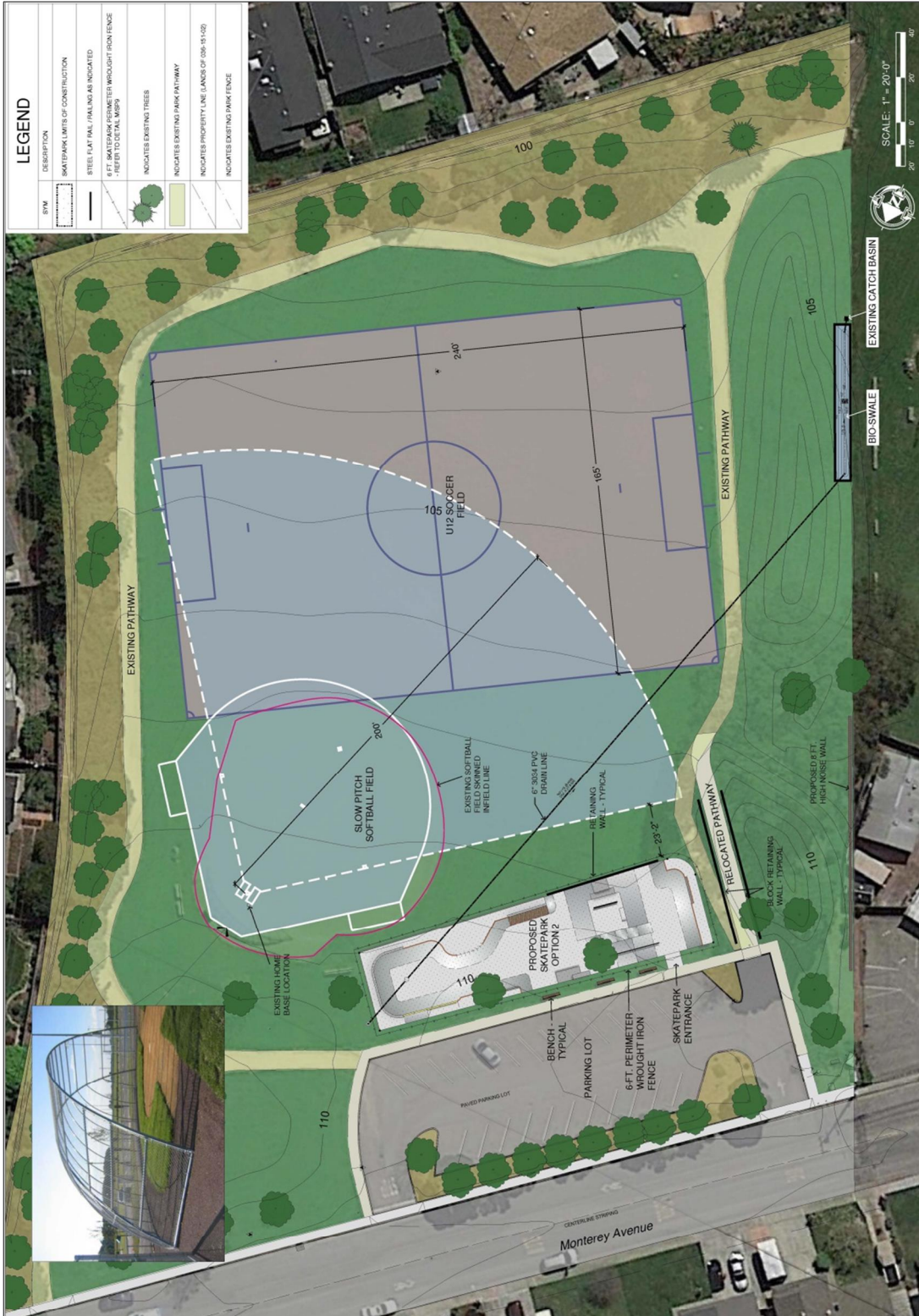
Under either option, the significant biological resource impact related to disturbance to nesting birds due to construction activities and potential tree removal would be lessened due to removal of fewer trees. Under Option 1, no mature trees would be removed, although two small recently planted trees would be relocated or replaced if re-planting is not viable. Under Option 2, three trees would be removed, which is less than up to eight trees addressed in the EIR. Required mitigation would reduce construction-related impacts to nesting birds to a less-than-significant level.

Potentially significant impacts related to exposure to contaminated soils would remain unchanged. No new significant impacts would occur as discussed above. Other identified less-than-significant impacts would remain less than significant.

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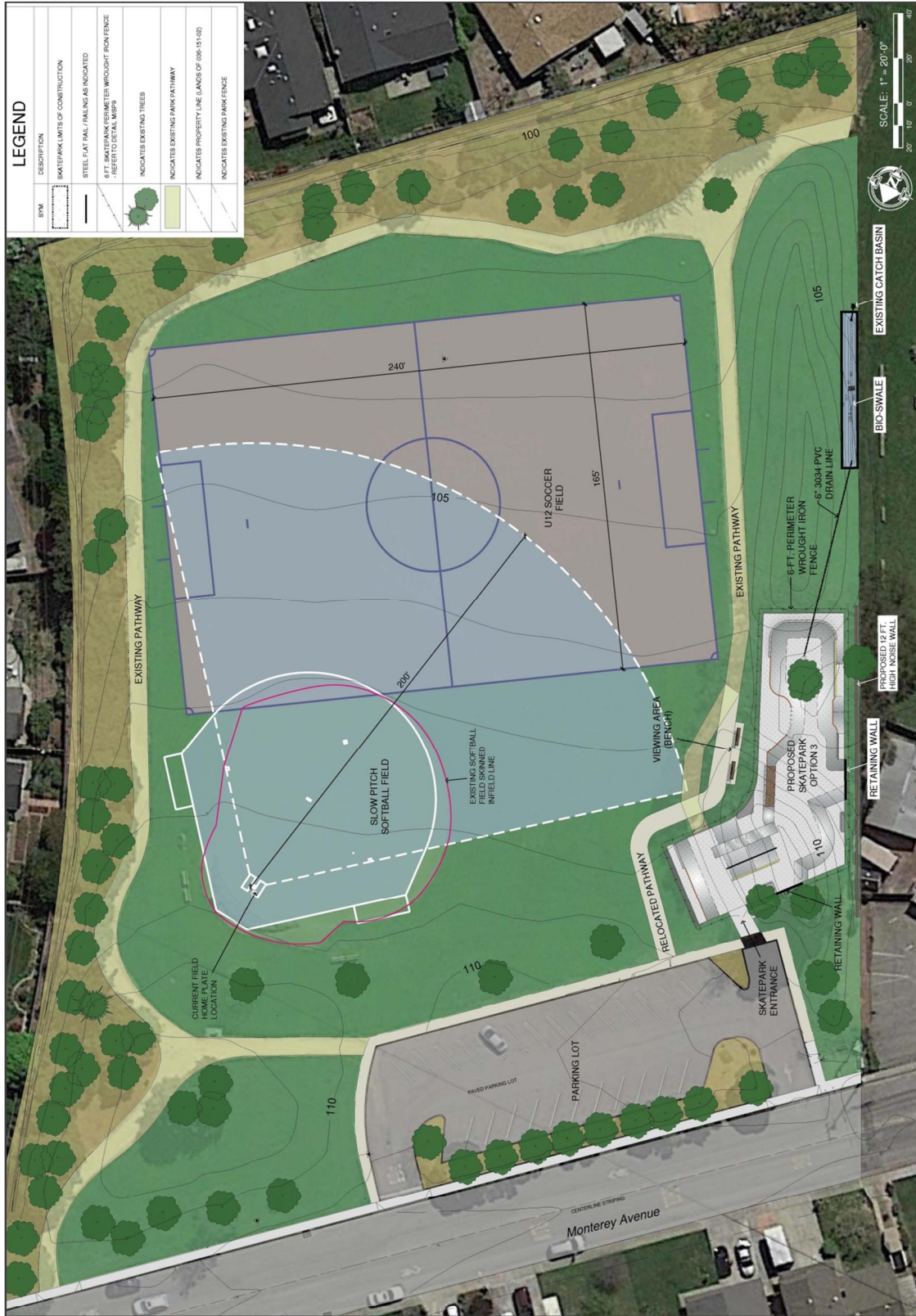
Attachment: EIR Additions (Monterey Avenue Skate Park)

FIGURE 5-3: Alternative 1, Option 1 Skate Park Layout



Attachment: EIR Additions (Monterey Avenue Skate Park)

**FIGURE 5-4: Alternative 1, Option 2 Skate Park Layout**



**Attachment: EIR Additions (Monterey Avenue Skate Park)**

**FIGURE 5-5: Noise Generated by Skate Park**

**Alternative 1, Option 1**



**Leq in dBA**  
**Average Hourly**

**Average Noise Generated Throughout Proposed Monterey Avenue Skate Park**  
Calculated at 5 feet above ground

Created: 5/26/2016  
Processed with SoundPLAN 7.4, Update 4/13/2016

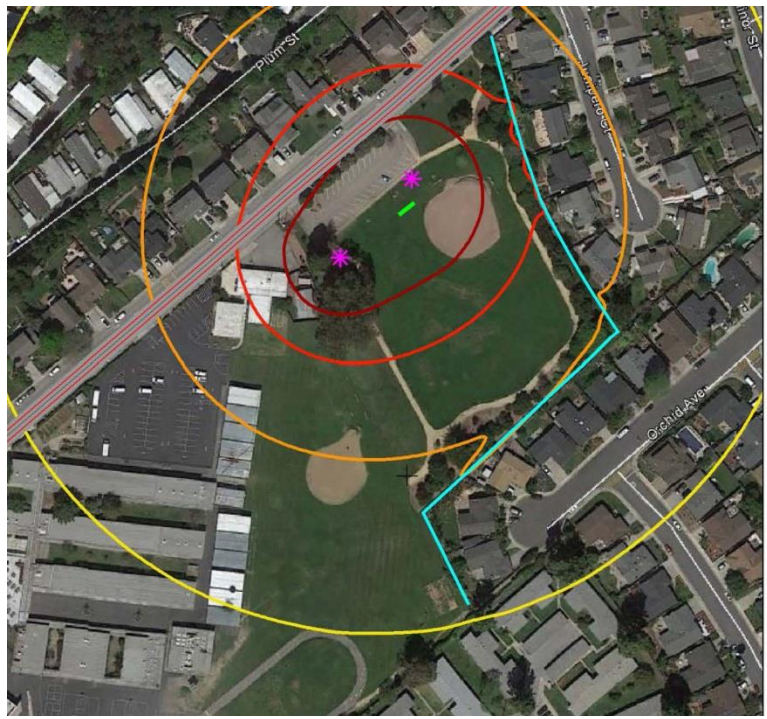
**Skate Park Noise**  
in dB(A) Leq

- = 70
- = 65
- = 60
- = 55
- = 50

Area Source

Barriers

0 35 70 140 210 feet



**Lmax in dBA**  
**Maximum Instantaneous**

**Maximum Noise Generated at Locations near Proposed Monterey Avenue Skate Park**  
Calculated at 5 feet above ground

Created: 5/26/2016  
Processed with SoundPLAN 7.4, Update 4/13/2016

**Skate Park Noise**  
in dB(A) Lmax:

- = 70
- = 65
- = 60
- = 55
- = 50

★ Point Source

— Line Source

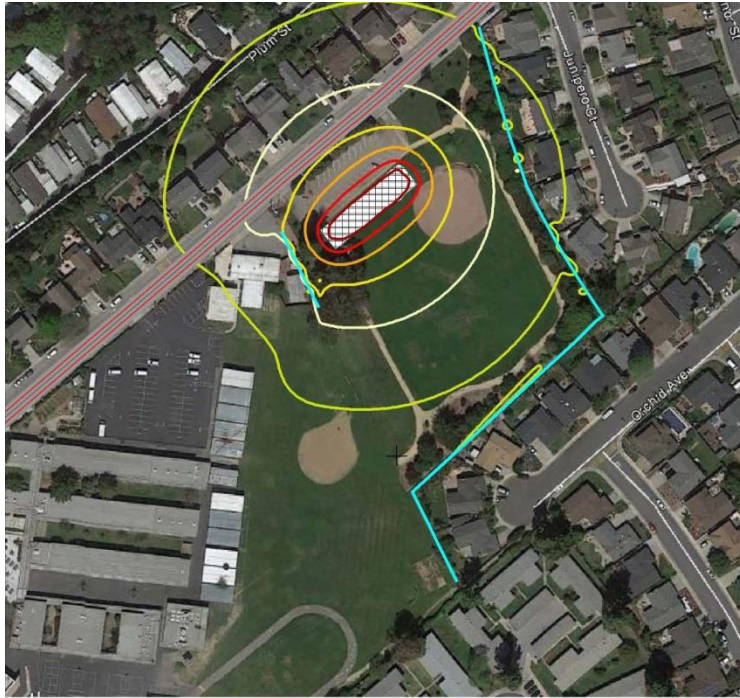
Barriers

0 35 70 140 210 feet

**SOURCE:** Illingworth & Rodkin

**FIGURE 5-6: Noise Generated by Skate Park**

**Alternative 1, Option 1 with Barrier**



**Leq in dBA**  
**Average Hourly**

**Average Noise Generated Throughout Proposed Monterey Avenue Skate Park**  
Calculated at 5 feet above ground

Created: 5/26/2016  
Processed with SoundPLAN 7.4, Update 4/13/2016

**Skate Park Noise in dB(A) Leq**

<span style="display:inline-block; width:10px; height:10px; background-color:red; border:1px solid black;"></span>	= 70		Area Source
<span style="display:inline-block; width:10px; height:10px; background-color:orange; border:1px solid black;"></span>	= 65		Barriers
<span style="display:inline-block; width:10px; height:10px; background-color:yellow; border:1px solid black;"></span>	= 60		
<span style="display:inline-block; width:10px; height:10px; background-color:lightyellow; border:1px solid black;"></span>	= 55		
<span style="display:inline-block; width:10px; height:10px; background-color:lightgreen; border:1px solid black;"></span>	= 50		
<span style="display:inline-block; width:10px; height:10px; background-color:lightblue; border:1px solid black;"></span>	= 45		



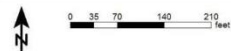
**Lmax in dBA**  
**Maximum Instantaneous**

**Maximum Noise Generated at Locations near Proposed Monterey Avenue Skate Park**  
Calculated at 5 feet above ground

Created: 5/26/2016  
Processed with SoundPLAN 7.4, Update 4/13/2016

**Skate Park Noise in dB(A) Lmax**

<span style="display:inline-block; width:10px; height:10px; background-color:red; border:1px solid black;"></span>	= 70		Point Source
<span style="display:inline-block; width:10px; height:10px; background-color:orange; border:1px solid black;"></span>	= 65		Line Source
<span style="display:inline-block; width:10px; height:10px; background-color:yellow; border:1px solid black;"></span>	= 60		Barriers
<span style="display:inline-block; width:10px; height:10px; background-color:lightyellow; border:1px solid black;"></span>	= 55		
<span style="display:inline-block; width:10px; height:10px; background-color:lightgreen; border:1px solid black;"></span>	= 50		

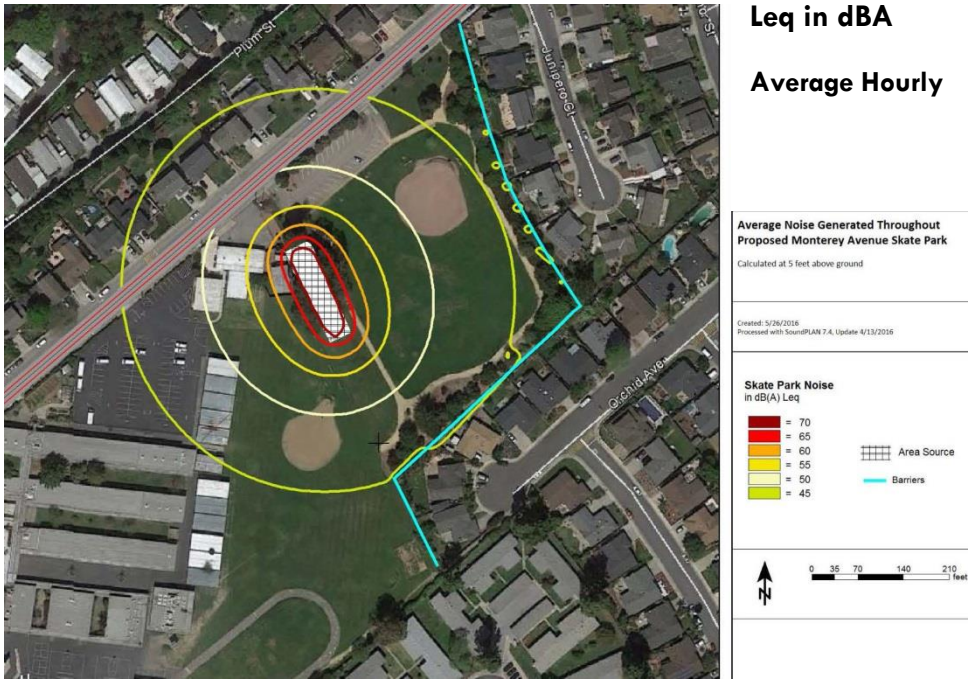


**SOURCE:** Illingworth & Rodkin

Attachment: EIR Additions (Monterey Avenue Skate Park)

**FIGURE 5-7: Noise Generated by Skate Park**

Alternative 1, Option 2



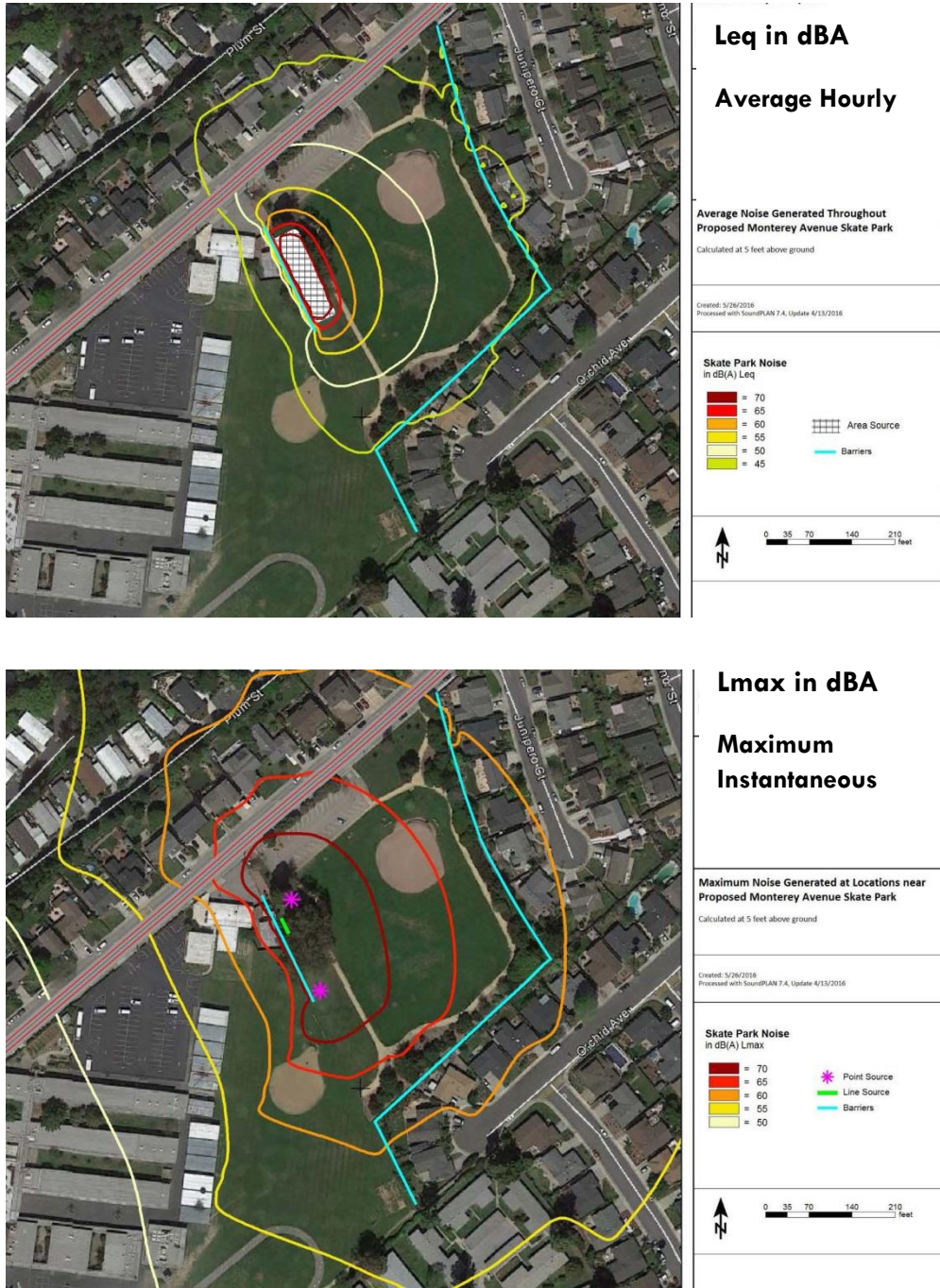
**SOURCE:** Illingworth & Rodkin

Attachment: EIR Additions (Monterey Avenue Skate Park)



**FIGURE 5-8: Noise Generated by Skate Park**

**Alternative 1, Option 2 with Barrier**



**SOURCE:** Illingworth & Rodkin

Attachment: EIR Additions (Monterey Avenue Skate Park)

**ILLINGWORTH & RODKIN, INC.**  
Acoustics • Air Quality

1 Willowbrook Court, Suite 120  
Petaluma, California 94954

Tel: 707-794-0400  
www.illingworthrodkin.com

Fax: 707-794-0405  
illro@illingworthrodkin.com

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June 9, 2016

Mr. Richard Grunow  
Community Development Director  
City of Capitola  
420 Capitola Avenue  
Capitola, California 95010

Dear Mr. Grunow:

The Monterey Avenue Skatepark Project proposed at the Monterey Avenue Park would include a 6,000 square foot skatepark designed to serve beginner to intermediate riders, typically aimed at children between the ages of five and 14; however, the facility would be available for use by anyone over the age of five. The use of the skatepark would occur between the hours of 8:00 a.m. and dusk, and it is estimated that approximately one to 25 skateboarders would potentially be using the facility at the same time.

In addition to the initial proposed skatepark location evaluated in the EIR, two optional locations have been evaluated, which are consistent with Alternative 1 in the EIR. Option 1 consists of the skatepark being adjacent to the Monterey Avenue Park parking lot, located north of the softball field. This option would include the relocation of the softball field approximately 10 feet south of its current location. The walking path from the parking lot would also be repositioned. For Option 2, the skatepark would be located east of the school offices and caretaker residence. For the purposes of these analyses, the project traffic volumes estimated for the original skatepark design would not vary under either Option 1 or 2. Therefore, the following addendum focuses solely on project-generated noise from skatepark activities.

For the purpose of modeling these two alternative scenarios, the layout of the skatepark would essentially be the same as the initial design; the only difference would be the location and orientation of the skatepark. This analysis assumes that the use of the skatepark would be limited to the hours of between 8:00 a.m. and dusk, per the allowable hours of operation specified in the City's Municipal Code. The noise measurement results from the Sunnyvale skatepark, which were presented in the initial noise report, were utilized in the SoundPLAN noise modeling for the proposed skatepark, to represent a credible worst-case scenario.

Skatepark use would vary, depending on the day (weekday versus weekend or school-year versus summer), the time of day, and the popularity of the park. As observed from similar existing parks, such as the park located near New Brighton Middle School, use of the skatepark would vary on a daily basis. Typically, there would be 5 to 12 skaters using the skatepark during busy periods; however, there are also periods where the skatepark would not be used by more than 1 to 2 skaters at a time. Additionally, there are periods of time where no activity occurs at the skatepark.

Under all design options, the skatepark would replace an existing grass-covered area in Monterey Avenue Park. Other noise-generating sources at the park (e.g., baseball/softball fields, track) would remain unchanged in terms of noise generation. The nearest sensitive receptors include the Soquel Union Elementary School District Offices and caretaker residence; single-family residences along Orchid Avenue, Junipero Court, and opposite Monterey Avenue; and the nearby classrooms of the New Brighton Middle School.

Skatepark-generated noise would be considered significant if levels would exceed 60 dBA  $L_{dn}/CNEL$  (the normally acceptable noise and land use compatibility standard for residential land uses) or substantially exceed existing ambient noise levels (in terms of hourly average noise level or maximum instantaneous noise level,  $L_{eq}$  or  $L_{max}$ ). A substantial exceedance of existing ambient noise levels is defined as 5 dBA or more because such an increase in noise level is clearly perceptible by most persons. A substantial permanent noise increase would occur if: a) the noise level increase is 5 dBA  $L_{dn}/CNEL$  or greater, with a future noise level of less than 60 dBA  $L_{dn}/CNEL$ , or b) the noise level increase is 3 dBA CNEL or greater, with a future noise level of 60 dBA  $L_{dn}/CNEL$  or greater.

Noise impacts resulting from the proposed skatepark are evaluated in this analysis using four separate acoustical descriptors:  $L_{max}$ ,  $L_{eq}$ ,  $L_{dn}$  and CNEL. The  $L_{max}$  is the maximum instantaneous noise level resulting from activities and would likely result from shouting, the slapping of the skateboard, or "grinds." The  $L_{eq}$  is the average noise level resulting from skateboarding activities and is defined as the logarithmic average of all sounds measured during the period. This measurement would be highly influenced by maximum instantaneous noise events. The  $L_{dn}$  is the day-night average noise levels resulting from the use of the skatepark on a daily basis. The CNEL is similar to the  $L_{dn}$  but applies an additional 5 dBA penalty to noises occurring during the evening. For both design options, two models were generated: 1) maximum instantaneous noise

level calculations for point-sources and line-sources modeled throughout the skatepark to represent shouting, slapping of the skateboard, or “grinds;” and 2) hourly average noise level calculations, assuming 25 to 30 skateboarders were present and approximately 5 to 12 skateboarders were actively skating at any given moment.

*Option 1: Adjacent to the Existing Monterey Park Parking Lot*

Figure 1 shows the results of the maximum instantaneous noise level model generated for Option 1, and the predicted maximum instantaneous noise levels calculated at the surrounding sensitive land uses are summarized in Table 1. As shown in the figure and the table, the surrounding single-family residences and the nearest New Brighton Middle School classrooms would have maximum instantaneous noise levels ranging from 60 to 65 dBA  $L_{max}$ , and the Soquel Union Elementary School District Offices and caretaker residence would have maximum instantaneous noise levels of 70 dBA  $L_{max}$ .

Noise levels attributable to exterior noise sources are approximately 15 dBA lower inside a building of standard construction, assuming the windows to be partially open for ventilation. With the windows closed, interior noise levels are approximately 20 to 25 dBA less than the noise levels received at the building’s façade. Assuming open windows, maximum instantaneous noise levels on the interior of the Soquel Union Elementary School District Offices and caretaker residence would be 55 dBA  $L_{max}$ , while the surrounding residences and classrooms would have interior levels ranging from 45 to 50 dBA  $L_{max}$ .

To determine whether these predicted levels would cause a significant permanent noise level increase at the surrounding land uses, these levels are compared to the measured ambient results collected at LT-1 and LT-2 between June 5 and June 9, 2015. This comparison is conservative because ambient noise levels are higher in areas near Monterey Avenue, as compared to the data collected in the quietest locations of the park. According to the measurements, maximum instantaneous noise levels at the quietest locations surrounding the proposed skatepark ranged from 53 to 87 dBA  $L_{max}$  between the hours of 8:00 a.m. and dusk, with an arithmetic average of 65 dBA  $L_{max}$ . Due to the existing six-foot wooden fence located at the rear yard property lines of residences bordering the site, the average maximum noise level would be reduced by approximately 5 dBA. Therefore, the average maximum measured at the backyards would be 60 dBA  $L_{max}$ . As shown in Table 1, Option 1 for the proposed skatepark would cause a permanent noise level increase of 5 dBA or more at the Soquel Union Elementary School District Offices and caretaker residence. This would be a significant impact.

School Offices & Caretaker Res.	70 dBA $L_{max}$	55 dBA $L_{eq}$	52 dBA $L_{dn}/$ 53 dBA CNEL	Yes	Yes	No
Orchid Ave. Res.	<60 dBA $L_{max}$	<50 dBA $L_{eq}$	47 dBA $L_{dn}/$ 48 dBA CNEL	No	No	No
Junipero Ct. Res.	<65 dBA $L_{max}$	<50 dBA $L_{eq}$	47 dBA $L_{dn}/$ 48 dBA CNEL	No	No	No
Monterey Ave. Res.	65 dBA $L_{max}$	50 dBA $L_{eq}$	47 dBA $L_{dn}/$ 48 dBA CNEL	No	No	No
Nearest Classrooms	60 to 65 dBA $L_{max}$	<50 dBA $L_{eq}$	47 dBA $L_{dn}/$ 48 dBA CNEL	No	No	No

<sup>a</sup> The average maximum instantaneous noise level measured at LT-1 and LT-2 was 65 dBA  $L_{max}$

<sup>b</sup> The hourly average noise level measured at LT-1 and LT-2 was 48 dBA  $L_{eq}$

<sup>c</sup> The day-night average noise level and community noise equivalent level measured at LT-1 and LT-2 ranged from 50 to 55 dBA  $L_{dn}/$ CNEL

In addition to maximum instantaneous noise level calculations, SoundPLAN was also used to model the hourly average noise levels generated by skatepark activities, under the assumptions discussed above. The predicted hourly average noise levels are summarized in Table 1 for Option 1, and the contours for this scenario are shown in Figure 2. While the predicted hourly average noise levels for the surrounding single-family residences and the nearest classrooms would be at or below 50 dBA  $L_{eq}$ , the hourly average noise levels at the Soquel Union Elementary School District Offices and caretaker residence would be 55 dBA  $L_{eq}$ .

Existing hourly average noise levels measured at LT-1 and LT-2 between the hours of 8:00 a.m. and dusk ranged from 43 to 65 dBA  $L_{eq}$ , with an arithmetic average of 48 dBA  $L_{eq}$ . As discussed above, the existing six-foot wooden fence located along the rear yard property lines of residences bordering the site would provide approximately 5 dBA reduction; therefore, the average hourly noise levels in the backyards of these residences would be 43 dBA  $L_{eq}$ . The predicted hourly average noise levels at the surrounding single-family residences and at the nearest classrooms would not exceed the ambient levels by 5 dBA or more; however, the predicted levels at the Soquel Union Elementary School District Offices and caretaker residence would exceed the ambient levels by more than 5 dBA. This would be a significant impact.

Assuming that the skatepark operated at full occupancy for the entire operational period between 8:00 a.m. and dusk, the day-night average noise level ( $L_{dn}$ ) and community noise equivalent level (CNEL) can be calculated by subtracting 3 dBA and 2 dBA, respectively, from the hourly

average noise level results. Day-night average noise levels and the community noise equivalent levels attributable to skatepark operations would be 47 dBA  $L_{dn}$  and 48 dBA CNEL, respectively, at the surrounding single-family residences and the nearest classrooms. At the Soquel Union Elementary School District Offices and caretaker residence, the day-night average noise level would be 52 dBA  $L_{dn}$ , and the community noise equivalent level would be 53 dBA CNEL. None of these levels would exceed ambient levels or exceed 60 dBA  $L_{dn}$ /CNEL, which is the City's land use compatibility threshold. This is a less-than-significant impact.

#### *Mitigation Measures for Option 1*

To reduce noise levels generated by the proposed skatepark at the Soquel Union Elementary School District Offices and caretaker residence, the following mitigation measures are recommended:

- An eight-foot noise barrier shall be constructed along the eastern property line of the Soquel Union Elementary School District Offices and caretaker residence to reduce maximum instantaneous and average hourly noise levels by approximately 8 dBA at these adjacent land uses. The noise barrier shall be constructed from materials having a minimum surface weight of three lbs/ft<sup>2</sup>, such as one-inch thick wood fence boards, masonry block, or concrete and be constructed in a manner free of any cracks or gaps between barrier materials and between the barrier and the ground. Alternately, suitable barrier materials such as Acoustifence by Acoustiblok or ¼-in. plexiglass could be used to provide an equivalent noise level reduction.

Figures 3 and 4 show the approximate location of the proposed noise barrier along the property line of the offices and caretaker residence and the resultant noise levels with the construction of the eight-foot barrier. With the additional acoustical shielding provided by the eight-foot noise barrier, predicted  $L_{max}$  noise levels resulting from the use of the skatepark located at the Option 1 location would be reduced to approximately 65 dBA  $L_{max}$ , and the hourly average  $L_{eq}$  would reduce to 50 dBA  $L_{eq}$  or less. With the implementation of this mitigation measure, the proposed project would not result in a substantial noise increase, in terms of  $L_{max}$  or  $L_{eq}$ , at the adjacent land uses. This impact would be reduced to less-than-significant with the implementation of mitigation.

#### *Option 2: Adjacent to the Soquel Union Elementary School District Offices and Caretaker Residence*

Similar to the analysis for Option 1, Figures 5 and 6 show the results of the maximum instantaneous and the hourly average noise level models, respectively, generated for Option 2, and Table 2 summarizes the predicted levels measured at the surrounding land uses. The maximum instantaneous noise levels would be greater than 70 dBA  $L_{max}$  at the Soquel Union Elementary School District Offices and caretaker residence. Since this would exceed ambient conditions by 5 dBA or more, this is a significant impact. At the surrounding single-family residences, the maximum instantaneous noise levels would be at or below 65 dBA  $L_{max}$ , which would not exceed ambient levels by 5 dBA or more. This would be a less-than-significant impact.

At the nearest New Brighton Middle School classrooms, the maximum instantaneous noise levels would fall between the 65 and 70 dBA  $L_{max}$  contours, as shown in Figure 5. While maximum levels may reach 68 dBA  $L_{max}$ , they are not expected to be 70 dBA  $L_{max}$  or more; therefore, Option 2 is not expected to increase ambient levels by 5 dBA or more. This would be a less-than-significant impact. Assuming open windows, interior noise levels at the Soquel Union Elementary School District Offices and caretaker residence would be greater than 55 dBA  $L_{max}$ , at the surrounding single-family residences would be at or below 50 dBA  $L_{max}$ , and at the nearest New Brighton Middle School classrooms would be below 55 dBA  $L_{max}$ .

Predicted hourly average noise levels generated by skatepark activities for Option 2 would be 65 dBA  $L_{eq}$  at the Soquel Union Elementary School District Offices and caretaker residence and would be at or below 50 dBA  $L_{eq}$  at the surrounding residences and at the nearest New Brighton Middle School classrooms. Since the predicted hourly average noise levels at the adjacent offices and caretaker residence would exceed ambient levels by more than 5 dBA, this is a significant impact.

School Offices & Caretaker Res.	>70 dBA $L_{max}$	65 dBA $L_{eq}$	62 dBA $L_{dn}$ / 63 dBA CNEL	Yes	Yes	Yes
Orchid Ave. Res.	<60 dBA $L_{max}$	<50 dBA $L_{eq}$	47 dBA $L_{dn}$ / 48 dBA CNEL	No	No	No
Junipero Ct. Res.	<60 dBA $L_{max}$	<50 dBA $L_{eq}$	47 dBA $L_{dn}$ / 48 dBA CNEL	No	No	No
Monterey Ave. Res.	65 dBA $L_{max}$	50 dBA $L_{eq}$	47 dBA $L_{dn}$ / 48 dBA CNEL	No	No	No
Nearest Classrooms	<70 dBA $L_{max}$	50 dBA $L_{eq}$	47 dBA $L_{dn}$ / 48 dBA CNEL	No	No	No

<sup>a</sup> The average maximum instantaneous noise level measured at LT-1 and LT-2 was 65 dBA  $L_{max}$   
<sup>b</sup> The hourly average noise level measured at LT-1 and LT-2 was 48 dBA  $L_{eq}$   
<sup>c</sup> The day-night average noise level and community noise equivalent level measured at LT-1 and LT-2 ranged from 50 to 55 dBA  $L_{dn}$ /CNEL

Under the same assumptions described above for calculating  $L_{dn}$  and CNEL, the day-night average noise levels and the community noise equivalent levels attributable to skatepark operations would be 62 dBA  $L_{dn}$  and 63 dBA CNEL, respectively, at the Soquel Union Elementary School District Offices and caretaker residence and would be at or below 47 dBA  $L_{dn}$  and at or below 48 dBA CNEL, respectively, at the surrounding residences and at the nearest

New Brighton Middle School classrooms. In the original noise report, the short-term measurement ST-1, which was made 45 feet from the centerline of Monterey Avenue, had a day-night average noise level of 60 dBA  $L_{dn}$ , and this was used to estimate existing ambient conditions at the Soquel Union Elementary School District Offices. Since the caretaker residence would be adjacent to the proposed Option 2 skatepark location and the residence is setback further from Monterey Avenue than ST-1, the more conservative day-night average measured at LT-1 and LT-2 was used to represent existing ambient conditions. Therefore, the predicted noise levels at the adjacent offices and caretaker residence would exceed ambient conditions, which were measured to range from 50 to 55 dBA  $L_{dn}$  at LT-1 and LT-2, by more than 5 dBA and would exceed the 60 dBA  $L_{dn}$ /CNEL threshold. This would result in a substantial permanent noise increase and would be a significant impact.

### *Mitigation Measures for Option 2*

To reduce noise levels generated by the proposed skatepark at the Soquel Union Elementary School District Offices and caretaker residence, the following mitigation measures are recommended:

- A 12-foot noise barrier shall be constructed along the eastern property line of the Soquel Union Elementary School District Offices and caretaker residence to reduce maximum instantaneous and average hourly noise levels by approximately 12 dBA at these adjacent land uses. The noise barrier shall be constructed from materials having a minimum surface weight of three lbs/ft<sup>2</sup>, such as one-inch thick wood fence boards, masonry block, or concrete and be constructed in a manner free of any cracks or gaps between barrier materials and between the barrier and the ground. Alternately, suitable barrier materials such as Acoustifence by Acoustiblok or ¼-in. plexiglass could be used to provide an equivalent noise level reduction.

Figures 7 and 8 show the approximate location of the proposed noise barrier and the resultant noise levels, assuming mitigation. With the additional acoustical shielding provided by the 12-foot noise barrier, predicted  $L_{max}$  noise levels resulting from the use of the skatepark located at the Option 2 location would be reduced to 65 dBA  $L_{max}$ , and the hourly average noise level would be reduced to 50 dBA  $L_{eq}$ . Therefore, the day-night average noise level and the community noise equivalent level would be reduced to 47 dBA  $L_{dn}$  and 48 dBA CNEL, respectively. With the implementation of this mitigation measure, the proposed project would not result in a substantial noise increase, in terms of  $L_{max}$ ,  $L_{eq}$ , and  $L_{dn}$ /CNEL, at the adjacent land uses. This impact would be reduced to less-than-significant with the implementation of mitigation.



Mr. Richard Grunow, City of Capitola  
Monterey Avenue Skatepark Project, Capitola, California  
June 9, 2016



This concludes our noise assessment. If you have any questions or comments regarding this analysis, please do not hesitate to call.

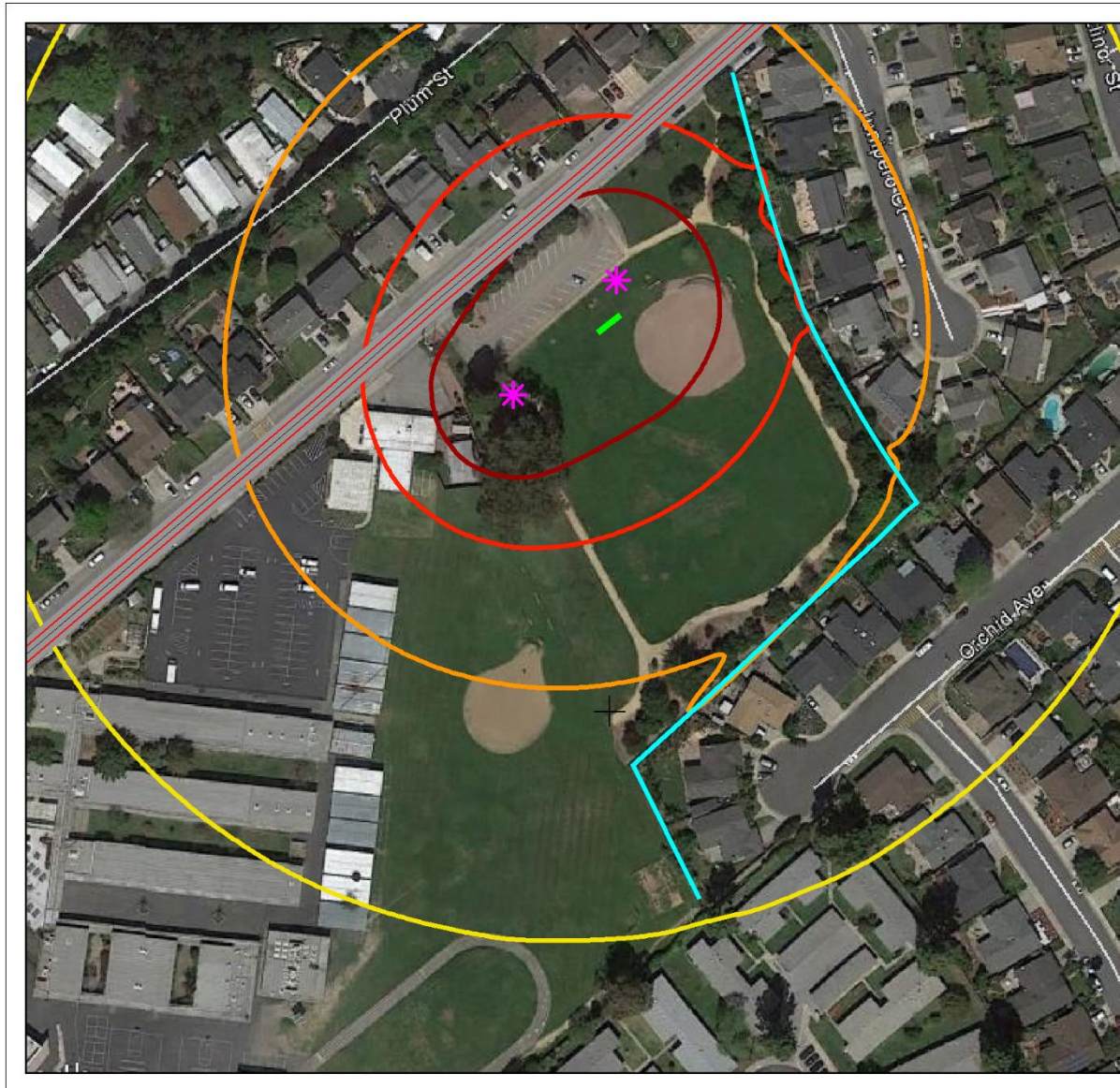
Sincerely,



Carrie J. Janello  
Consultant  
*Illingworth & Rodkin, Inc.*

(15-095)

Mr. Richard Grunow, City of Capitola  
Monterey Avenue Skatepark Project, Capitola, California  
June 9, 2016



Customer: City of Capitola

Project: Monterey Avenue Skatepark Project  
Project-No. 15-095

**Figure 1**

**Maximum Noise Generated at Locations near Proposed Monterey Avenue Skate Park**

Calculated at 5 feet above ground

Created: 5/26/2016  
Processed with SoundPLAN 7.4, Update 4/13/2016

**Skate Park Noise**  
in dB(A) Lmax

<span style="color: red;">■</span> = 70	<span style="color: magenta;">✱</span> Point Source
<span style="color: orange;">■</span> = 65	<span style="color: green;">—</span> Line Source
<span style="color: yellow;">■</span> = 60	<span style="color: cyan;">—</span> Barriers
<span style="color: lightyellow;">■</span> = 55	
<span style="color: white;">■</span> = 50	

0 35 70 140 210 feet

Attachment: EIR Additions (Monterey Avenue Skate Park)



Customer: City of Capitola  
 Project: Monterey Avenue Skatepark Project  
 Project-No. 15-095

Figure  
**2**

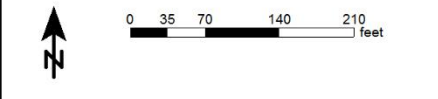
**Average Noise Generated Throughout  
 Proposed Monterey Avenue Skate Park**  
 Calculated at 5 feet above ground

Created: 5/26/2016  
 Processed with SoundPLAN 7.4, Update 4/13/2016

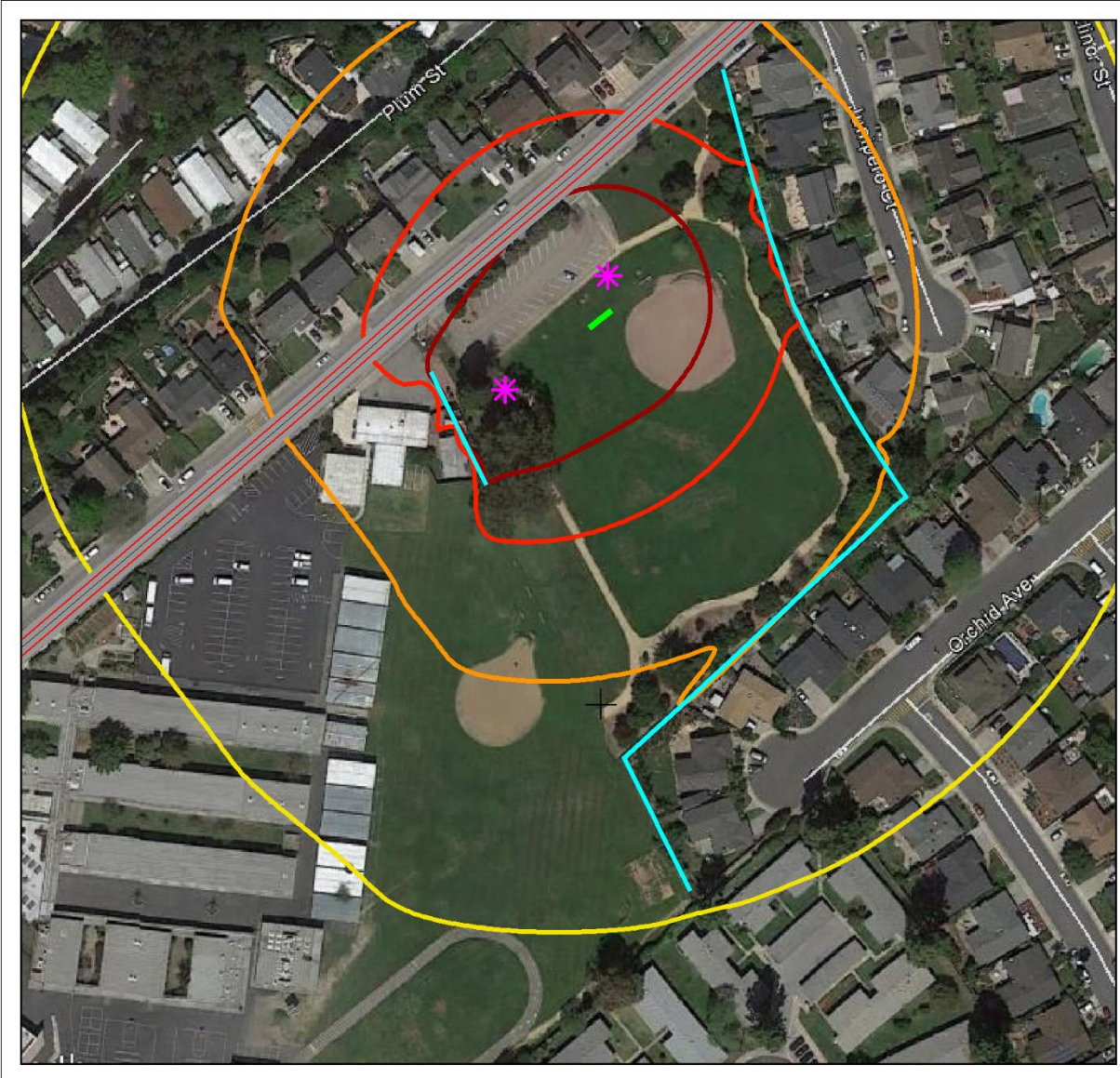
**Skate Park Noise  
 in dB(A) Leq**

	= 70	Area Source
	= 65	
	= 60	
	= 55	
	= 50	
	= 45	

Barriers



Attachment: EIR Additions (Monterey Avenue Skate Park)











Customer: City of Capitola  
 Project: Monterey Avenue Skatepark Project  
 Project-No. 15-095

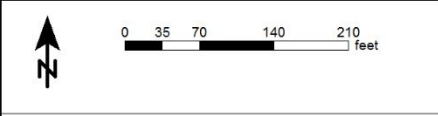
Figure  
**3**

**Maximum Noise Generated at Locations near  
 Proposed Monterey Avenue Skate Park**  
 Calculated at 5 feet above ground

Created: 5/26/2016  
 Processed with SoundPLAN 7.4, Update 4/13/2016

**Skate Park Noise**  
 in dB(A) Lmax

	= 70		Point Source
	= 65		Line Source
	= 60		Barriers
	= 55		
	= 50		



Attachment: EIR Additions (Monterey Avenue Skate Park)



Customer: City of Capitola

Project: Monterey Avenue Skatepark Project  
Project-No. 15-095

Figure

4

**Average Noise Generated Throughout  
Proposed Monterey Avenue Skate Park**

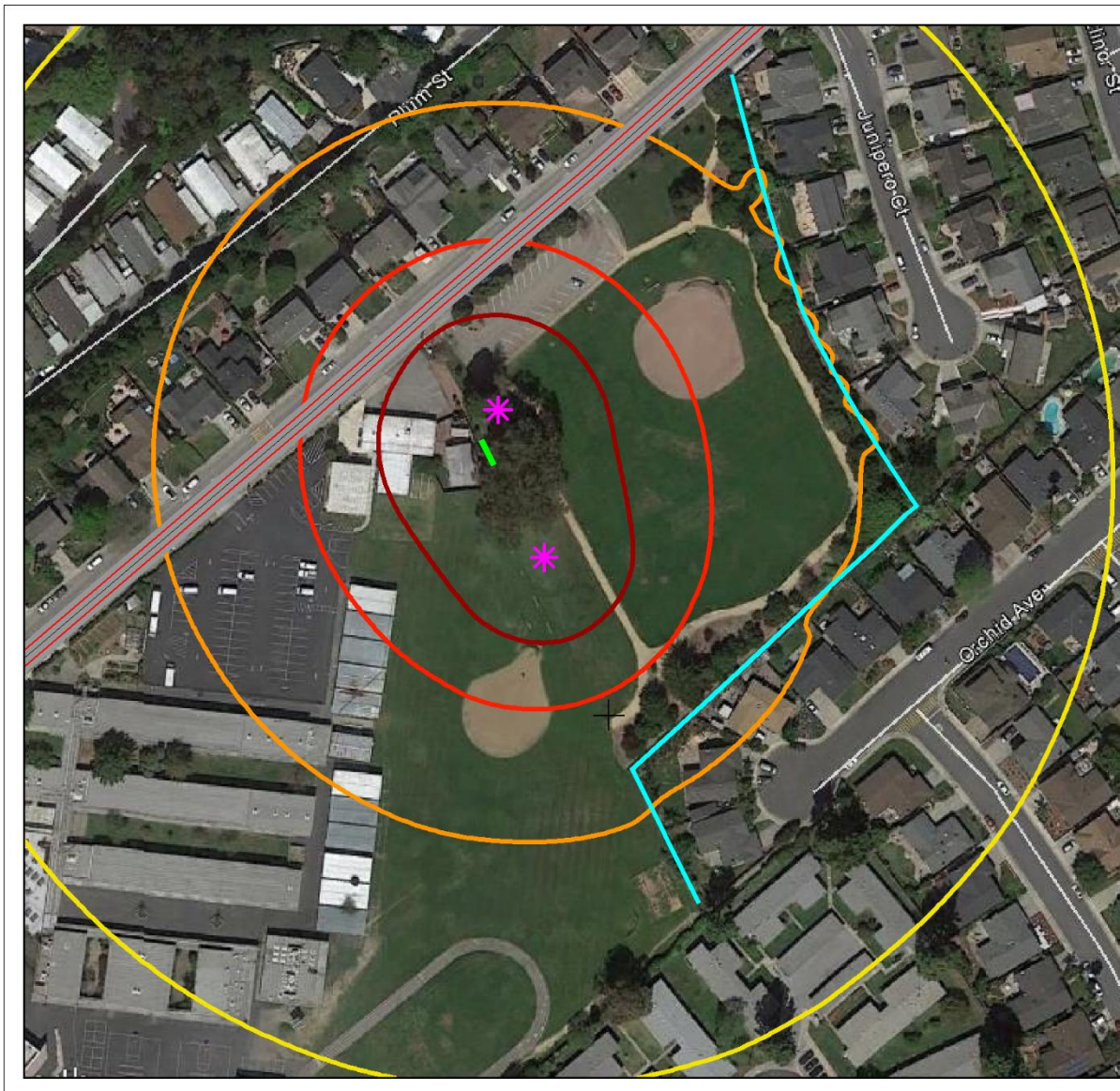
Calculated at 5 feet above ground

Created: 5/26/2016  
Processed with SoundPLAN 7.4, Update 4/13/2016

**Skate Park Noise  
in dB(A) Leq**

- = 70
  - = 65
  - = 60
  - = 55
  - = 50
  - = 45
- Area Source  
 Barriers





Customer: City of Capitola

Project: Monterey Avenue Skatepark Project  
Project-No. 15-095

Figure

5

Maximum Noise Generated at Locations near  
Proposed Monterey Avenue Skate Park

Calculated at 5 feet above ground

Created: 5/26/2016  
Processed with SoundPLAN 7.4, Update 4/13/2016

Skate Park Noise  
in dB(A) Lmax

- = 70
  - = 65
  - = 60
  - = 55
  - = 50
- Point Source
  - Line Source
  - Barriers



Attachment: EIR Additions (Monterey Avenue Skate Park)



Customer: City of Capitola  
 Project: Monterey Avenue Skatepark Project  
 Project-No. 15-095

Figure  
**6**

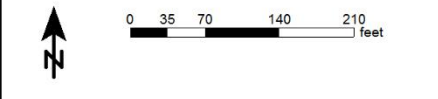
**Average Noise Generated Throughout Proposed Monterey Avenue Skate Park**  
 Calculated at 5 feet above ground

Created: 5/26/2016  
 Processed with SoundPLAN 7.4, Update 4/13/2016

**Skate Park Noise**  
 in dB(A) Leq

	= 70	Area Source
	= 65	
	= 60	
	= 55	
	= 50	
	= 45	

Barriers



Attachment: EIR Additions (Monterey Avenue Skate Park)

Mr. Richard Grunow, City of Capitola  
Monterey Avenue Skatepark Project, Capitola, California  
June 9, 2016



Customer: City of Capitola

Project: Monterey Avenue Skatepark Project  
Project-No. 15-095

Figure

7

Maximum Noise Generated at Locations near  
Proposed Monterey Avenue Skate Park

Calculated at 5 feet above ground

Created: 5/26/2016  
Processed with SoundPLAN 7.4, Update 4/13/2016

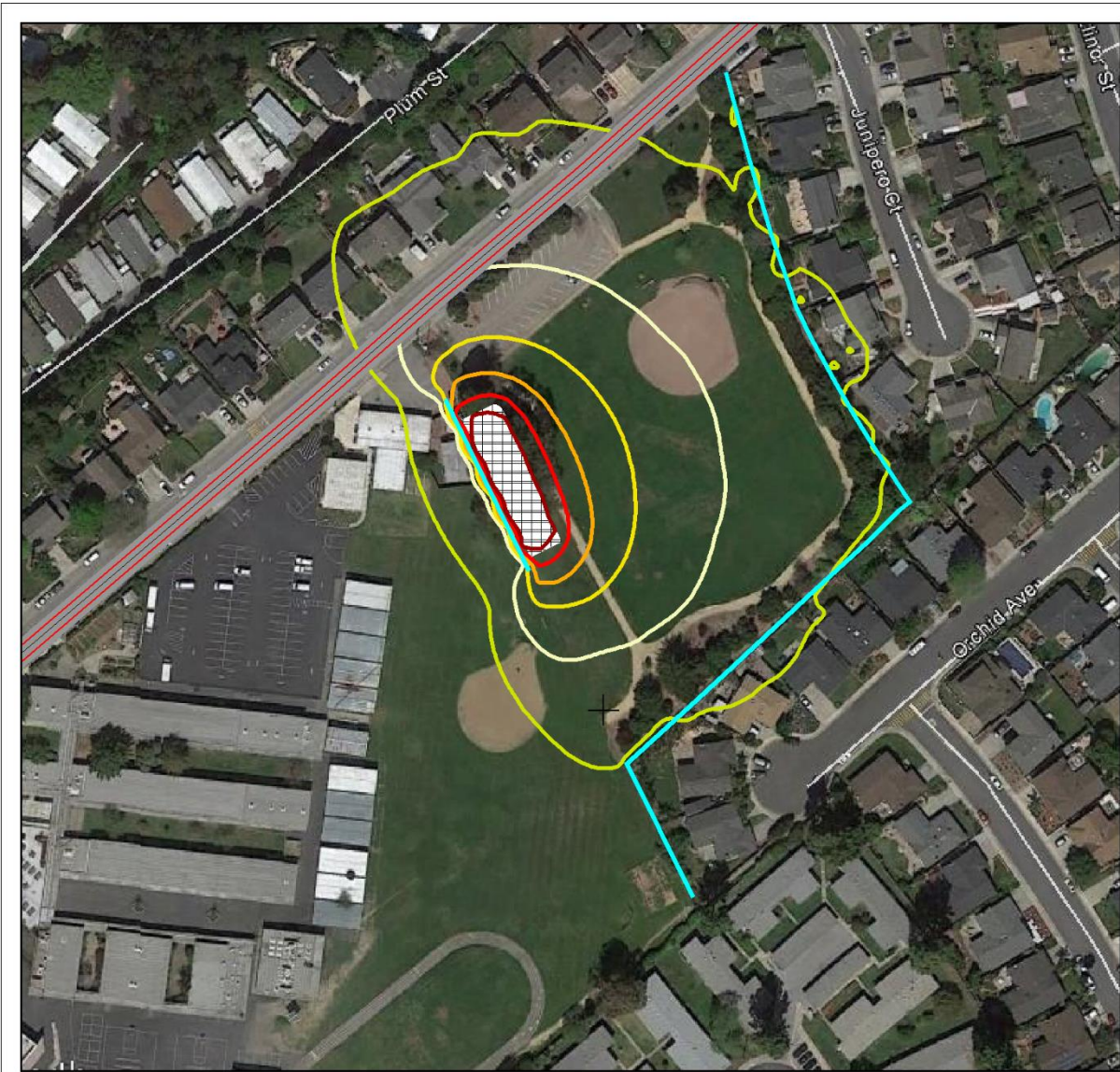
Skate Park Noise  
in dB(A) Lmax

- █ = 70
- █ = 65
- █ = 60
- █ = 55
- █ = 50
- ✱ Point Source
- █ Line Source
- █ Barriers



Attachment: EIR Additions (Monterey Avenue Skate Park)





Customer: City of Capitola  
 Project: Monterey Avenue Skatepark Project  
 Project-No. 15-095

Figure  
**8**

**Average Noise Generated Throughout Proposed Monterey Avenue Skate Park**  
 Calculated at 5 feet above ground

Created: 5/26/2016  
 Processed with SoundPLAN 7.4, Update 4/13/2016

**Skate Park Noise**  
 in dB(A) Leq

	= 70	Area Source
	= 65	
	= 60	
	= 55	
	= 50	
	= 45	

Barriers



Attachment: EIR Additions (Monterey Avenue Skate Park)

## RESOLUTION NO. \_\_\_\_\_

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CAPITOLA CERTIFYING THE FINAL ENVIRONMENTAL IMPACT REPORT, ADOPTING A MITIGATION MONITORING AND REPORTING PROGRAM AND ASSOCIATED ENVIRONMENTAL IMPACT FINDINGS FOR THE MONTEREY AVENUE SKATE PARK LOCATED AT 700 MONTEREY AVENUE**

**WHEREAS**, an application for a Conditional Use Permit, Design Permit, Coastal Development Permit, and Right-of-Entry Agreement to construct and operate an approximately 6,028 square-foot public skate park in Monterey Park was submitted by applicants Marie Martorella and Tricia Proctor on April 17, 2015 (Project);

**WHEREAS**, a Notice of Preparation (NOP) of an Environmental Impact Report (EIR) for the Project was issued by the City of Capitola Community Development Department on June 22, 2015 (SCH# 2015062067); and

**WHEREAS**, a Public Scoping Meeting was held on June 30, 2015, to receive comments regarding the scope of issues to be addressed in the EIR; and

**WHEREAS**, a Draft EIR was prepared and issued for agency and public review and comment on November 18, 2015, for a 52-day review period that ended on January 8, 2016; and

**WHEREAS**, 53 comment letters were received on the Draft EIR from private individuals and public entities, and a written response was prepared for all comments, which response employed a good faith, reasoned analysis to describe and address the disposition of environmental issues raised by the comments; and

**WHEREAS**, a Final EIR incorporating all comments received on the Draft EIR and responses to comments was issued on March 17, 2016 and distributed to commenting agencies and made available to other agencies and to members of the public; and

**WHEREAS**, the Final EIR has been completed in accordance with the California Environmental Quality Act (CEQA), Public Resources Code Section 21000 et seq., the Guidelines for implementation of the California Environmental Quality Act (14 Cal. Code Regs. Section 15000 et seq.) (the "State CEQA Guidelines") and local procedures adopted pursuant thereto; and

**WHEREAS**, the Planning Commission conducted a duly noticed public hearing concerning the certification of the Final EIR and approval of the Project on March 31, 2016, heard evidence from all persons interested in testifying concerning the certification of the Final EIR and approval of the Project, and voted unanimously to certify the Final EIR and approve a modified Project as described in Alternative 1 of the EIR; and

**WHEREAS**, two appeals challenging the Planning Commission's decisions to certify the Final EIR and approve the Project as modified were subsequently filed; and

**WHEREAS**, Final EIR Additions to clarify information regarding Alternative 1, which was identified as the environmentally superior alternative in the EIR, were incorporated into the EIR and released for public review on June 13, 2016; and

**WHEREAS**, the Final EIR consists of the November 18, 2015, Draft EIR, comments received on the document, and responses to comments contained in the March 17, 2016 Final EIR, modifications made to the text of the Draft EIR that are also included in the Final EIR, Final EIR Additions released on June 13, 2016, appendices to the Draft and Final EIRs, items included in attachments to this Resolution, and all documents and resources referenced and incorporated by reference in the EIR; and

RESOLUTION NO. \_\_\_\_\_

**WHEREAS**, the Final EIR identified certain significant and potentially significant adverse environmental impacts that would be caused by implementation of the Project; and

**WHEREAS**, the Final EIR outlined various mitigation measures that would substantially lessen or avoid the Project's significant effects on the environment, as well as alternatives to the Project which would provide some environmental advantages; and

**WHEREAS**, the City of Capitola is required, pursuant to CEQA, to adopt all feasible mitigation measures or feasible project alternatives that can substantially lessen or avoid any significant environmental effects of a proposed project while simultaneously fulfilling project objectives; and

**WHEREAS**, Public Resource Code section 21081, subdivision (a), requires a public agency, before approving a project for which an EIR has been prepared and certified, to adopt findings specifying whether mitigation measures and, in some instances, alternatives discussed in the EIR, have been adopted or rejected as infeasible; and

**WHEREAS**, the Final EIR demonstrates that all of the identified significant and potentially significant environmental effects associated with the Project, as modified by the Planning Commission, can be either substantially reduced or avoided through the inclusion of mitigation measures proposed in the Final EIR; and

**WHEREAS**, the Final EIR demonstrates that some of the significant environmental effects of the Project, as modified by the Planning Commission, can be fully avoided (i.e., rendered less than significant by the adoption of feasible mitigation measures); and

**WHEREAS**, the City Council recognizes the City's obligation, pursuant to Public Resources Code section 21081.6, subdivision (a), to ensure the monitoring of all adopted mitigation measures necessary to substantially lessen or avoid the significant effects of the project; and

**WHEREAS**, on September 25, 2017, the City Council conducted a duly noticed public hearing concerning the certification of the Final EIR and approval of the Project, as modified by the Planning Commission, and heard evidence from all persons interested in testifying concerning the certification of the Final EIR and approval of the modified Project; and

**WHEREAS**, the City Council has determined based on the record that the Project, as modified by the Planning Commission to be consistent with Alternative 1 of the EIR, would substantially reduce the environmental effects of the Project while also fulfilling the Project objectives; and

**WHEREAS**, the City Council has reviewed and considered the Final EIR and has considered the oral and written comments on the EIR and the responses thereto.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Capitola that:

- The foregoing recitals are true and correct.
- The Final EIR has been completed in compliance with CEQA, the State CEQA Guidelines and local procedures adopted pursuant thereto.
- The Final EIR reflects the independent judgment and analysis of the City Council, as required by Public Resources Code Section 21082.1.
- The City Council has independently reviewed and analyzed the Final EIR and considered the information contained therein and all comments, written and oral, received prior to approving this Resolution.
- The City Council hereby certifies the Final Environmental Impact Report for the Monterey Avenue Skate Park.

RESOLUTION NO. \_\_\_\_\_

- The City Council hereby adopts the Mitigation Monitoring and Reporting Program, attached hereto as Exhibit A, in order to satisfy its obligations under Public Resources Code section 21081.6 subdivision (a).
- The City Council hereby directs City staff to file with the County Clerk and the Office of Planning and Research in Sacramento a Notice of Determination commencing a 30-day statute of limitations for any legal challenge to the Projects based on alleged non-compliance with CEQA.

**I HEREBY CERTIFY** that the above and foregoing Resolution was passed and adopted by the City Council of the City of Capitola at a meeting held on the 25<sup>th</sup> day of September, 2017, by the following vote:

AYES:  
NOES:  
ABSENT/ABSTAIN:

\_\_\_\_\_  
Stephanie Harlan, Mayor

ATTEST: \_\_\_\_\_,  
Linda Fridy, City Clerk

DRAFT

Attachment: EIR Resolution (Monterey Avenue Skate Park)

## FINDINGS AND CONDITIONS OF APPROVAL FOR APPLICATION NO. 15-068, MONTEREY AVENUE SKATE PARK

### CEQA FINDINGS

Pursuant to the California Environmental Quality Act (CEQA), the City of Capitola (City), acting a lead agency, prepared an Environmental Impact Report (EIR) to document potential environmental effects of a proposed 6,000 square-foot public skate park located in Monterey Park. The project requires the following permits and approvals from the City of Capitola: Conditional Use Permit, Design Permit, Coastal Development Permit, and a Right-of-Entry Agreement

The City released a Notice of Preparation (NOP) of an Environmental Impact Report (EIR) for the Project on June 22, 2015 (SCH# 2015062067). A Public Scoping Meeting was subsequently held on June 30, 2015, to receive public comments regarding the scope of issues to be addressed in the EIR.

A Draft EIR was prepared and issued for agency and public review and comment on November 18, 2015, for a 52-day review period that ended on January 8, 2016. 53 comment letters were received on the Draft EIR from private individuals and public entities, and a written response was prepared for all comments, which response employed a good faith, reasoned analysis to describe and address the disposition of environmental issues raised by the comments.

A Final EIR incorporating all comments received on the Draft EIR and responses to comments was issued on March 17, 2016 and distributed to commenting agencies and made available to other agencies and to members of the public.

The Planning Commission conducted a duly noticed public hearing concerning the certification of the Final EIR and approval of the Project on March 31, 2016, heard evidence from all persons interested in testifying concerning the certification of the Final EIR and approval of the Project, and voted unanimously to certify the Final EIR and approve a modified Project as described in Alternative 1 of the EIR; and

Two appeals challenging the Planning Commission's decisions to certify the Final EIR and approve the Project as modified were subsequently filed. Final EIR Additions to clarify information regarding Alternative 1, which was identified as the environmentally superior alternative in the EIR, were incorporated into the EIR and released for public review on June 13, 2016; and

The Final EIR consists of the November 18, 2015, Draft EIR, comments received on the document, and responses to comments contained in the March 17, 2016 Final EIR, modifications made to the text of the Draft EIR that are also included in the Final EIR, Final EIR Additions released on June 13, 2016, appendices to the Draft and Final EIRs, items included in attachments to this Resolution, and all documents and resources referenced and incorporated by reference in the EIR.

The Final EIR identified certain significant and potentially significant adverse environmental impacts that would be caused by implementation of the Project. The Final EIR outlined various mitigation measures that would substantially lessen or avoid the Project's significant effects on the environment, as well as alternatives to the Project which would provide some environmental advantages.

On September 25, 2017, the City Council conducted a duly noticed public hearing concerning the certification of the Final EIR and approval of the Project, as modified by the Planning Commission, and heard evidence from all persons interested in testifying concerning the certification of the Final EIR and approval of the modified Project.

- FINDING:** The Final EIR has been completed in accordance with the California Environmental Quality Act (CEQA), Public Resources Code Section 21000 et seq., the Guidelines for implementation of the California Environmental Quality Act (14 Cal. Code Regs. Section 15000 et seq.) (the “State CEQA Guidelines”) and local procedures adopted pursuant thereto.
- FINDING:** The Final EIR demonstrates that all of the identified significant and potentially significant environmental effects associated with the Project, as modified by the City Council, can be either substantially reduced or avoided through the inclusion of mitigation measures proposed in the Final EIR
- FINDING:** The City of Capitola, in its capacity as lead agency under CEQA, has determined based on the record that the Project, as modified by the Planning Commission to be consistent with Alternative 1 of the EIR, would substantially reduce the environmental effects of the Project while also fulfilling the Project objectives. The City Council has accordingly required alterations to the project, including adoption of the environmentally superior alternative identified in the EIR and incorporation of mitigation measures, to avoid significant effects on the environment while still meeting project objectives.
- FINDING:** The City of Capitola City Council hereby adopts a Mitigation Monitoring and Reporting Program to ensure specified mitigation measures necessary to avoid significant environmental effects will be implemented. Mitigation measures have been incorporated into the project’s conditions of approval.
- FINDING:** The City Council recognizes the City’s obligation, pursuant to Public Resources Code section 21081.6, subdivision (a), to ensure the monitoring of all adopted mitigation measures necessary to substantially lessen or avoid the significant effects of the project.
- FINDING:** The City Council has reviewed and considered the Final EIR and has considered the oral and written comments on the EIR and the responses thereto.
- FINDING:** The City Council hereby finds that the EIR has been completed in compliance with CEQA, the State CEQA Guidelines and local procedures adopted pursuant thereto.
- FINDING:** The Final EIR reflects the independent judgment and analysis of the City Council, as required by Public Resources Code Section 21082.1.
- FINDING:** The City Council has independently reviewed and analyzed the Final EIR and considered the information contained therein and all comments, written and oral, received prior to approving the project.

The City Council hereby certifies the Final Environmental Impact Report for the Monterey Avenue Skate Park and adopts the Mitigation Monitoring and Reporting Program, attached hereto as Exhibit A, in order to satisfy its obligations under Public Resources Code section 21081.6 subdivision (a).

The City Council hereby directs City staff to file with the County Clerk and the Office of Planning and Research in Sacramento a Notice of Determination commencing a 30-day statute of limitations for any legal challenge to the Projects based on alleged non-compliance with CEQA.

## PERMIT FINDINGS

**FINDING:** The proposed project design and improvements, as conditioned by the attached Conditions of Approval, are substantially in conformance with the City of Capitola's General Plan and Zoning Ordinance and other Municipal Code requirements.

- (a) The proposed project, including the design and improvements, is consistent with the City's General Plan goals to provide parks which cater to the diverse needs and interests of Capitola residents and visitors (Goal LU-13), encouraging special use recreation facilities including skate parks (Policy LU-13.9), and developing Monterey Park as an active park site with neighborhood-serving recreational facilities and amenities (Policy LU-13.13).
- (b) The proposed project, including the design and improvements, is consistent with the P/OS (Parks/Open Space) designation of the General Plan because it would provide an active recreational facility in a designated active public park.
- (c) The proposed project, including the design and improvements, is consistent with the PF-P (Public Facility – Park) zoning district because it would provide an active recreational facility in a designated active public park.

**FINDING:** That the site is physically suitable for the type and density of development proposed.

- (a) The developable area of the site is within an existing designated active park and the site is flat, located outside the floodplain, and adequate infrastructure already exists to serve the proposed use.
- (b) The proposed development of the site with a public skate park is consistent with General Plan goals and policies.
- (c) Monterey Park is approximately 4-acres in size and is large enough to accommodate the proposed skate park and necessary parking to serve the use.
- (d) No significant, unmitigated environmental impacts would result from construction and operation of the facility as documented by the EIR prepared for the project. Mitigation measures and conditions of approval have been incorporated to avoid, minimize, or mitigate all environmental impacts to a less than significant level.

**FINDING:** The establishment, maintenance and operation of the proposed skate park, as conditioned, will not be detrimental to health, safety, peace, morals, comfort and general welfare of the persons residing or working in the neighborhood of the proposed development, or to its future residents, or to the general welfare of the City. The project application, subject to the conditions imposed, will secure the purposes of the Zoning Ordinance and General Plan, and will maintain the character and integrity of the neighborhood.

- (a) Community Development Department staff, the Architectural and Site Review Committee, Planning Commission, and City Council have reviewed the project and determined that the project, subject to the attached conditions and mitigation measures is consistent with the development standards of the PF-P (Public Facility-Park) zoning district. Conditions of approval have been included to carry out the objectives of the Zoning Ordinance and the General Plan.
- (b) This project has been or will be, reviewed by all responsible City, County, and Regional agencies, and conditions of approval have been applied as deemed necessary by the Community Development and Public Works Department staff to ensure the continuing public health, safety and orderly development of the surrounding area.
- (c) A determination has been made that the site can and will be served by nearby municipal services and utilities.

**COASTAL FINDINGS:** The California Coastal Act, at Public Resources Code Section 30106, defines the term “development” to include “change in the density or intensity of use of land, including but not limited to, subdivisions, and any other division of land.” Similarly, the City of Capitola’s Local Coastal Program, at Capitola Municipal Code Section 17.46.030.I.4 defines “development” to include “subdivisions, and any other division of land...”.

The California Coastal Act, at Public Resources Code Section 30600, provides that any person wishing to perform or undertake any development in the coastal zone shall obtain a coastal development permit. Public Resources Code Section 30600 further provides that after certification of a local coastal program by the California Coastal Commission, the local government for the jurisdiction covered by the certified local coastal program shall be responsible for the issuance or denial of coastal development permits within that jurisdiction. The City of Capitola has a certified local coastal program and, accordingly, it, rather than the California Coastal Commission, is legally responsible for processing and considering applications for coastal development permits relative to coastal zone development in the City of Capitola.

Pursuant to the City of Capitola’s Local Coastal Program, certified by the California Coastal Commission in December, 1981, the City must find, in accordance with Capitola Municipal Code Section 17.46.090.D “A coastal permit shall be granted only upon adoption of specific written factual findings supporting the conclusion that the proposed development conforms to the certified Local Coastal Program ...” before it can issue a Coastal Development Permit for that project.

The project entails an approximately 6,028 square-foot public skate park to be developed within Monterey Park, an existing designated active park, which is located in the coastal zone of the City of Capitola. Accordingly, the project constitutes “development” for purposes of the California Coastal Act and the City’s certified Local Coastal Program and, in turn, requires a coastal development permit from the City of Capitola. Findings can be made that the project conforms to all applicable polices of the City’s Local Coastal Program and associated implementing ordinances, including all applicable provisions of Capitola Municipal Code Section 17.46.090 as noted below:

*D. Findings Required. A coastal permit shall be granted only upon adoption of specific written factual findings supporting the conclusion that the proposed development*



conforms to the certified Local Coastal Program, including, but not limited to:

- The proposed development conforms to the City's certified Local Coastal Plan (LCP). The specific, factual findings, as per CMC Section 17.46.090 (D) are as follows:

*(D) (2) Require Project-Specific Findings. In determining any requirement for public access, including the type of access and character of use, the city shall evaluate and document in written findings the factors identified in subsections (D) (2) (a) through (e), to the extent applicable. The findings shall explain the basis for the conclusions and decisions of the city and shall be supported by substantial evidence in the record. If an access dedication is required as a condition of approval, the findings shall explain how the adverse effects which have been identified will be alleviated or mitigated by the dedication. As used in this section, "cumulative effect" means the effect of the individual project in combination with the effects of past projects, other current projects, and probable future projects, including development allowed under applicable planning and zoning.*

*(D) (2) (a) Project Effects on Demand for Access and Recreation. Identification of existing and open public access and coastal recreation areas and facilities in the regional and local vicinity of the development. Analysis of the project's effects upon existing public access and recreation opportunities. Analysis of the project's cumulative effects upon the use and capacity of the identified access and recreation opportunities, including public tidelands and beach resources, and upon the capacity of major coastal roads from subdivision, intensification or cumulative build-out. Projection for the anticipated demand and need for increased coastal access and recreation opportunities for the public. Analysis of the contribution of the project's cumulative effects to any such projected increase. Description of the physical characteristics of the site and its proximity to the sea, tideland viewing points, upland recreation areas, and trail linkages to tidelands or recreation areas. Analysis of the importance and potential of the site, because of its location or other characteristics, for creating, preserving or enhancing public access to tidelands or public recreation opportunities;*

- The proposed project is located in Monterey Park at 700 Monterey Avenue. Monterey Park is not located in an area with coastal access. The proposed skate park would not have an effect on public trails or beach access.

*(D) (2) (b) Shoreline Processes. Description of the existing shoreline conditions, including beach profile, accessibility and usability of the beach, history of erosion or accretion, character and sources of sand, wave and sand movement, presence of shoreline protective structures, location of the line of mean high tide during the season when the beach is at its narrowest (generally during the late winter) and the proximity of that line to existing structures, and any other factors which substantially characterize or affect the shoreline processes at the site. Identification of anticipated changes to shoreline processes at the site. Identification of anticipated changes to shoreline processes and beach profile unrelated to the proposed development. Description and analysis of any reasonably likely changes, attributable to the primary and cumulative effects of the project, to: wave and sand movement affecting beaches in the vicinity of the project; the profile of the beach; the character, extent, accessibility and usability of the beach; and any other factors which characterize or affect beaches in the vicinity.*

*Analysis of the effect of any identified changes of the project, alone or in combination with other anticipated changes, will have upon the ability of the public to use public tidelands and shoreline recreation areas;*

- The proposed project is located in Monterey Park at 700 Monterey Avenue. No portion of the project is located along the shoreline or beach.

*(D) (2) (c) Historic Public Use. Evidence of use of the site by members of the general public for a continuous five-year period (such use may be seasonal). Evidence of the type and character of use made by the public (vertical, lateral, blufftop, etc., and for passive and/or active recreational use, etc.). Identification of any agency (or person) who has maintained and/or improved the area subject to historic public use and the nature of the maintenance performed and improvements made. Identification of the record owner of the area historically used by the public and any attempts by the owner to prohibit public use of the area, including the success or failure of those attempts. Description of the potential for adverse impact on public use of the area from the proposed development (including but not limited to, creation of physical or psychological impediments to public use);*

- The project site is a City-owned active park which is open to the public. The City of Capitola is responsible for park maintenance. There is no history of the City to prohibit or restrict public access to the park.

*(D) (2) (d) Physical Obstructions. Description of any physical aspects of the development which block or impede the ability of the public to get to or along the tidelands, public recreation areas, or other public coastal resources or to see the shoreline;*

- The proposed project is located in Monterey Park at 700 Monterey Avenue. The project will not block or impede the ability of the public to get to or along the tidelands, public recreation areas, or views to the shoreline.

*(D) (2) (e) Other Adverse Impacts on Access and Recreation. Description of the development's physical proximity and relationship to the shoreline and any public recreation area. Analysis of the extent of which buildings, walls, signs, streets or other aspects of the development, individually or cumulatively, are likely to diminish the public's use of tidelands or lands committed to public recreation. Description of any alteration of the aesthetic, visual or recreational value of public use areas, and of any diminution of the quality or amount of recreational use of public lands which may be attributable to the individual or cumulative effects of the development.*

- The proposed project is located on public property which is approximately 1,400 feet north of the coast. There are no direct access paths (aside from public streets) between Monterey Park and the coast. The proposed skate park would not diminish public access to the coast or adversely alter the aesthetic, visual or recreational value of public use areas.

*(D) (3) (a – c) Required Findings for Public Access Exceptions. Any determination that one of the exceptions of subsection (F) (2) applies to a development shall be supported by written findings of fact, analysis and conclusions which address all of the*

following:

a. *The type of access potentially applicable to the site involved (vertical, lateral, bluff top, etc.) and its location in relation to the fragile coastal resource to be protected, the agricultural use, the public safety concern, or the military facility which is the basis for the exception, as applicable;*

b. *Unavailability of any mitigating measures to manage the type, character, intensity, hours, season or location of such use so that agricultural resources, fragile coastal resources, public safety, or military security, as applicable, are protected;*

c. *Ability of the public, through another reasonable means, to reach the same area of public tidelands as would be made accessible by an access way on the subject land.*

- The project is not requesting a Public Access Exception, therefore these findings do not apply

*(D) (4) (a – f) Findings for Management Plan Conditions. Written findings in support of a condition requiring a management plan for regulating the time and manner or character of public access use must address the following factors, as applicable:*

a. *Identification and protection of specific habitat values including the reasons supporting the conclusions that such values must be protected by limiting the hours, seasons, or character of public use;*

- The project is located in an existing public park. There are no sensitive habitat areas on the property.

b. *Topographic constraints of the development site;*

- Monterey Park is a generally flat lot with no steep slopes.

c. *Recreational needs of the public;*

- The project would increase the public's access to recreational opportunities by adding a new skate park to an existing public park.

d. *Rights of privacy of the landowner which could not be mitigated by setting the project back from the access way or otherwise conditioning the development;*

- The project is located in an existing public park. There are no sensitive habitat areas on the property.

e. *The requirements of the possible accepting agency, if an offer of dedication is the mechanism for securing public access;*

- The project is located in an existing public park. There are no sensitive habitat areas on the property.

f. *Feasibility of adequate setbacks, fencing, landscaping, and other methods as part of a management plan to regulate public use.*

- The project is located in an existing public park. There are no sensitive habitat areas on the property.

(D) (5) *Project complies with public access requirements, including submittal of appropriate legal documents to ensure the right of public access whenever, and as, required by the certified land use plan and Section 17.46.010 (coastal access requirements);*

- The project would be located in a public park which is accessible to any citizen. No legal documents to ensure public access rights are required for the proposed project.

(D) (6) *Project complies with visitor-serving and recreational use policies;*

- The project would be located in a public park which is accessible to any citizen, including visitors.

SEC. 30222

*The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry.*

- The project involves a recreational use on City-owned property used as an active public park.

SEC. 30223

*Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.*

- The project involves a recreational use in a developed City-owned park. The project would not adversely affect any coastal recreational uses.

c) *Visitor-serving facilities that cannot be feasibly located in existing developed areas shall be located in existing isolated developments or at selected points of attraction for visitors.*

- The project involves a recreational use in a developed City-owned park which would be available to visitors.

(D) (7) *Project complies with applicable standards and requirements for provision of public and private parking, pedestrian access, alternate means of transportation and/or traffic improvements;*

- The project would provide adequate on-site parking and would not result in any significant direct traffic impacts. The project is conditioned to make a fair share contribution to a future traffic signal at Kennedy Drive/Park Avenue as required by the General Plan Update EIR.

*(D) (8) Review of project design, site plan, signing, lighting, landscaping, etc., by the city's architectural and site review committee, and compliance with adopted design guidelines and standards, and review committee recommendations;*

- The project complies with standards established by the Municipal Code.

*(D) (9) Project complies with LCP policies regarding protection of public landmarks, protection or provision of public views; and shall not block or detract from public views to and along Capitola's shoreline;*

- The coastline is not visible from the project site.

*(D) (10) Demonstrated availability and adequacy of water and sewer services;*

- The project is located in a developed City-owned park which has water services and has access to wastewater infrastructure to service a future restroom.

*(D) (11) Provisions of minimum water flow rates and fire response times;*

- The project is located within close proximity of the Central Fire District. Water is available at the location.

*(D) (12) Project complies with water and energy conservation standards;*

- The project would require minimal water and energy.

*(D) (13) Provision of park dedication, school impact, and other fees as may be required;*

- The project would not impact the provision of park and recreation services and it does not involve new housing which would generate an increased demand for school facilities.

*(D) (14) Project complies with coastal housing policies, and applicable ordinances including condominium conversion and mobile home ordinances;*

- The project does not involve a condo conversion or mobile homes.

*(D) (15) Project complies with natural resource, habitat, and archaeological protection policies;*

- The project site is a developed City-owned park. No sensitive biological and archaeological resources exist on the project site.

*(D) (16) Project complies with Monarch butterfly habitat protection policies;*

- The project is outside of any identified sensitive habitats, specifically areas where Monarch Butterflies have been encountered, identified and documented.

*(D) (17) Project provides drainage and erosion and control measures to protect marine, stream, and wetland water quality from urban runoff and erosion;*

- The project meets federal, state, and local requirements for drainage, stormwater management, and erosion control.

*(D) (18) Geologic/engineering reports have been prepared by qualified professional for projects in seismic areas, geologically unstable areas, or coastal bluffs, and project complies with hazard protection policies including provision of appropriate setbacks and mitigation measures;*

- The project does not involve the development of new habitable structures and does not propose to locate facilities near a coastal bluff or other geologic hazard area.

*(D) (19) All other geological, flood and fire hazards are accounted for and mitigated in the project design;*

- The project is not located in a flood zone or a high fire risk area.

*(D) (20) Project complies with shoreline structure policies;*

- The proposed project is not located along a shoreline.

*(D) (21) The uses proposed are consistent with the permitted or conditional uses of the zoning district in which the project is located;*

- This use is an allowed use consistent with the Public Facility – Park (PF/P) zoning district.

*(D) (22) Conformance to requirements of all other city ordinances, zoning requirements, and project review procedures;*

- The project conforms to the requirements of all city ordinances, zoning requirements and project development review and development procedures.

*(D) (23) Project complies with the Capitola parking permit program as follows:*

- The project would not rely on the City's parking permit program.

## CONDITIONS OF APPROVAL

1. The project approval consists of an approximately 6,000 square-foot skate park located in Monterey Park in the PF-P (Public Facility – Park) zoning district. Improvements consist of a skate park facility, fencing, noise attenuation walls, ADA improvements, and stormwater treatment. No special events or skateboarding competitions are authorized by this permit. The proposed project is approved as indicated on the plans reviewed and approved by the City Council on June 23, 2016, except as modified through conditions imposed by the City Council.
2. Consistent with EIR Alternative 1 and as illustrated in the Option 3 figure presented to the City Council, the applicant shall submit revised plans which shift the skate park closer to the existing Monterey Park parking lot to improve visibility and public safety. The applicant shall be responsible for preparing and submitting revised plans for the relocated facility. The relocated facility should be designed to avoid impacts to trees to the maximum extent possible. If the ultimate location and orientation of the skate park presents any conflict with other existing park uses, the applicant shall prepare and submit plans which show how adjustments to the park layout could accommodate all uses to the satisfaction of the Community Development Director and Public Works Director. The applicant shall be responsible for any costs associated with design and construction of the skate park facility and any modifications to other park facilities which are necessary to accommodate the skate park.
3. The skate park design shall be modified to 1) reduce the footprint of the facility, including all improvements within the fence to an area no larger than 6,000 square-feet; 2) eliminate all metal skating and brick stamped features within the facility; 3) reduce the depth of the maximum drop within the skate park to 4-feet; and 4) incorporate any available and feasible noise insulation features into the skate park design.
4. The modified design shall include noise attenuation walls as specified in the approved noise study prepared by Illingworth and Rodkin, Inc. to reduce maximum instantaneous and hourly average noise levels by a minimum of five dBA at the Soquel Union Elementary School District Offices and single-family residences. Noise barriers shall be constructed from materials having a minimum surface weight of 3 lbs/sf, such as one-inch thick wood fence boards, masonry block, or concrete, and be constructed in a manner free of any cracks or gaps between barrier materials and between the barrier and the ground. Alternately, suitable barrier materials such as Acoustifence by Acoustiblok or ¼-in. plexiglass could be attached to the proposed metal fence surrounding the skate park to provide an equivalent noise level reduction if approved by the City Council. ~~Other noise attenuation measures which provide an equivalent and effective noise reduction may be used upon recommendation from a qualified acoustician.~~ Proposed noise attenuation walls or other equivalent substitute measures shall be reviewed by a qualified acoustician and approved by the Community Development Director.
5. The modified design shall include security lighting to softly illuminate the skate park and path leading to the facility. Security lighting shall be restricted to low pressure bulbs affixed to downward casting fixtures to prevent light trespass. Security lighting shall be reviewed and approved by the Community Development Director.

6. The modified design shall include a minimum of two conspicuous rules and regulations signs to the satisfaction of the Public Works Director.
7. The modified design shall include sufficient benches and/or cube style seating outside the facility for parents and spectator use. The number of benches/seating shall be determined based on best practices for public park facilities and to the satisfaction of the Community Development and Public Works Directors.
8. The modified design shall include a skate board rack and a bicycle rack to the satisfaction of the Community Development and Public Works Directors.
9. The modified design shall include an emergency phone to the satisfaction of the Police Chief and Public Works Director.
10. The modified design shall include a double pedestrian gated entrance to the satisfaction of the Police Chief and Community Development Director.
11. The modified design shall include wood bark chips, or other non-turf/hardscape materials between the skate park and the fence to the satisfaction of the Community Development Director.
12. The modified design shall include a wrought-iron fence with a curved top to deter unauthorized entry when the facility is closed.
13. The skate park shall be sited to avoid impacts to mature redwood trees.
14. Prior to issuance of a Right-of-Entry Permit, the applicant shall execute a defense and indemnity agreement with the City to the City Attorney's satisfaction.
15. Prior to issuance of a building and/or grading permits, the applicant shall obtain a right-of-entry permit or equivalent form of permission from the City to construct improvements on public property.
16. Prior to issuance of a building permit or grading permit, all planning fees shall be paid in full.
17. Prior to issuance of building or grading permits, the City shall contract with a certified arborist to perform a pre-construction inspection to evaluate the proposed skate park location to determine if construction could endanger the health and vitality of mature redwood and alder trees. The certified arborist shall present their findings in a written report with recommendations to prevent impacts to the redwood and alder trees. The skate park location shall be shifted as necessary to prevent impacts to mature redwood trees. The certified arborist shall be retained to perform construction monitoring, as necessary, to ensure grading and construction activities are carried out per the arborist's recommendations. The applicant shall be responsible for funding the arborist contract.
18. Prior issuance of building or grading permits, the applicant shall prepare and implement a Soil Management Report which requires all excavated soils to be removed with proper disposal and/or encapsulation to prevent exposure to



- contaminants found in the soil. The report shall be submitted to the Community Development Department and the County of Santa Cruz Department of Environmental Health. No grading shall occur until the report is approved by the County of Santa Cruz.
19. Prior to issuance of building or grading permits, the applicant shall prepare a Safety Plan to ensure that appropriate worker health and safety measures are in place during grading and construction activities. The plan shall be submitted to the Community Development Department and County of Santa Cruz Department of Environmental Health. No grading shall occur until the plan is approved by the County of Santa Cruz.
  20. Prior to issuance of building or grading permits, the applicant shall post a bond, letter of credit, or other acceptable form of construction security with a minimum value of 150% of the construction cost to the satisfaction of the City Attorney and Public Works Director.
  21. Prior to issuance of building or grading permits, the applicants shall be responsible for funding a detailed inspection by a qualified acoustician of wood fences on the rear property line along Orchid Avenue within 165 feet of the skate park to ensure fences are adequate to attenuate noise as predicted. If the acoustician finds defects in fences, the applicant shall be responsible for funding necessary repairs and/or replacement, and with permission of the property owner, to ensure an acoustically effective six-foot noise barrier.
  22. Prior to issuance of building or grading permits, the applicant shall make a fair share contribution in the amount of \$1,507 for the installation of a future traffic signal at the Kennedy Drive/Park Avenue intersection. The City shall deposit the funds into an account designated solely for the installation of a future traffic signal.
  23. Prior issuance of a building or grading permits, final building plans shall be submitted consistent with the plans and conditions approved by the City Council. All construction and site improvements shall be completed according to the approved plans.
  24. Prior issuance of a building or grading permits, conditions of approval and mitigation measures shall be conspicuously shown on the title sheet of building and grading plans and construction contract specifications.
  25. Prior issuance of a building or grading permits, Public Works Standard Detail SMP STRM shall be printed in full and incorporated as a sheet into the construction plans. All construction shall be done in accordance with the Public Works Standard Detail BMP STRM.
  26. Prior issuance of a building or grading permits, the applicant shall submit a drainage plan, grading, sediment and erosion control plan to the City and approved by Public Works. The plans shall be in compliance with the requirements specified in Capitola Municipal Code Chapter 13.16 Storm Water Pollution Prevention and Protection.
  27. Prior issuance of a building or grading permits, the applicant shall submit a stormwater management plan to the satisfaction of the Director of Public Works

- which implements all applicable Post Construction Requirements (PCRs) and Public Works Standard Details, including all standards relating to low impact development (LID).
28. Prior to any land disturbance, a pre-site inspection must be conducted by the grading official to verify compliance with the approved erosion and sediment control plan.
  29. Pursuant to the federal Migratory Bird Treaty Act, no construction shall occur between February 1 and August 15 unless the site is first surveyed by a qualified biologist who determines that no nesting birds are present.
  30. During construction, all worker safety measures identified in a Safety Plan approved by the County of Santa Cruz shall be implemented and followed at all times.
  31. Construction activities shall be limited to 8:00 a.m. to 5:00 p.m. on weekdays and 9:00 a.m. to 4:00 p.m. on Saturdays. No Sunday construction is allowed. No grading or use of heavy equipment shall take place when school is in session.
  32. Any trees removed or damaged by the project shall be replaced within Monterey Park at a 2:1 ratio. All replacement trees shall be irrigated until trees have become successfully established.
  33. Prior to issuance of a certificate of occupancy, the applicant shall fund an inspection by a qualified acoustician to verify the ~~six-foot~~ noise walls have been appropriately constructed to ensure effective noise attenuation.
  34. Prior to issuance of a Certificate of Occupancy, compliance with all conditions of approval shall be demonstrated to the satisfaction of the Community Development Director.
  35. Prior to issuance of a certificate of occupancy, any and all damage to the parking lot or other park facilities caused by construction activities shall be repaired per the Public Works Standard Details and to the satisfaction of the Public Works Department. All replaced driveway approaches, curb, gutter or sidewalk shall comply with Accessibility Standards.
  36. Prior to issuance of a certificate of occupancy, the applicant shall post a bond, letter of credit, or alternative form of financial security to the satisfaction of the Community Development Director to fund a post-operation noise study to be conducted approximately 6-months following the opening of the skate park and to pay for any remedial measures necessary to achieve acceptable noise attenuation. Noise attenuation shall be considered acceptable if post-operation noise is less than 5 dB(A) from pre-operation measurements.
  37. This permit shall be reviewed by the Planning Commission approximately 6-months following the opening of the skate park to evaluate the effectiveness of conditions and to determine if any changes or new conditions are necessary to minimize impacts to neighboring properties.
  38. No special events permits shall be issued to authorize competitions or other events at the facility.

39. Hours of operation for the skate park shall be from 9:00 AM to sunset.
40. The City Council, on recommendation from the Planning Commission, may revoke the Conditional Use Permit for evidence of repeated non-compliance with the conditions of approval.
41. This permit shall expire 24 months from the date of issuance. The applicant shall have an approved building permit and construction underway before this date to prevent permit expiration. Applications for extension may be submitted by the applicant prior to expiration pursuant to Municipal Code section 17.81.160

**MITIGATION MONITORING AND REPORTING PROGRAM**

**Application No:** 15-068  
**Address:** 700 Monterey Avenue, Capitola, CA  
**Applicant:** Tricia Proctor and Marie Martorella

This Mitigation Monitoring and Reporting Program (MMRP) for Application No. 15-068 located at Monterey Park at 700 Monterey Avenue, Capitola, CA, has been prepared pursuant to the California Environmental Quality Act (CEQA – Public Resources Code, Section 21000 *et seq.*) and the State CEQA Guidelines (Cal. Code Regs., Title 14, Chapter 3, Sections 15074 and 15097). A master copy of this MMRP shall be kept in the office of the Community Development Department and shall be available for viewing upon request.

**Project Description:** The project consists of a Conditional Use Permit, Coastal Development Permit, Design Permit, and a right-of-entry agreement for construction and use of an approximate 6,000 square foot skate park within the city-owned Monterey Park. The proposed skateboard facility consists of a concrete bowl-shaped center with ramps and jump features. The facility will be enclosed by a wrought iron fence. The park would be open to the public during daylight hours only as no lighting is proposed.

**Mitigation Monitoring and Reporting Program:** This MMRP includes mitigation measures in the Mitigation Monitoring and Reporting Matrix on the following pages that correspond to the Final EIR for the project. The matrix lists each mitigation measure or series of mitigation measures by environmental topic. For each mitigation measure, the frequency of monitoring and the responsible monitoring entity is identified. Mitigation measures may be shown in submittals and may be checked only once, or they may require monitoring periodically during and/or after construction. Once a mitigation measure is complete, the responsible monitoring entity shall date and initial the corresponding cell, and indicate how effective the mitigation measure was.

If any mitigation measures are not being implemented, the City may pursue corrective action. Penalties that may be applied include, but are not limited to, the following: (1) a written notification and request for compliance; (2) withholding of permits; (3) administrative fines; (4) a stop-work order; (5) forfeiture of security bonds or other guarantees; (6) revocation of permits or other entitlements.

Attachment: Findings and Conditions of Approval (Monterey Avenue Skate Park)

**Project:** Monterey Skate Park

**Mitigation Monitoring and Reporting Program**

Mitigation Measure	Implementation Actions	Monitoring / Reporting Responsibility	Timing Requirements	Reporting Requirements & Verification of Compliance
<b>Noise</b>				
<p><b>NOISE-1:</b> Require construction of noise barriers as described in the Monterey Avenue Skate Park Project Noise and Vibration Study (Illingworth and Rodkin, Inc., September 2, 2015 and addendum dated June 9, 2016) to reduce maximum instantaneous and hourly average noise levels by a minimum of 5 dBA at the Soquel Union Elementary School District Offices and single-family residences at the west end of Orchid Avenue. Noise barriers shall be constructed from materials having a minimum surface weight of 3 lbs/sf, such as one-inch thick wood fence boards, masonry block, or concrete, and be constructed in a manner free of any cracks or gaps between barrier materials and between the barrier and the ground. Alternately, suitable barrier materials such as Acoustifence by Acoustiblok or ¼-in. plexiglass could be attached to the proposed metal fence surrounding the skate park to provide an equivalent noise level reduction.</p>	<ul style="list-style-type: none"> <li>▪ Include measure as Condition of Approval.</li> <li>▪ Implementation actions are outlined in the mitigation measure.</li> </ul>	<ul style="list-style-type: none"> <li>▪ The applicant is responsible for including measure on building plans.</li> <li>▪ The Community Development Department is responsible for plans to ensure the measure has been included on the final building plans.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Prior to issuance of building permit for including measure on plans to be installed during construction.</li> </ul>	
<p><b>NOISE-2:</b> Prior to issuance of building permits, require a detailed inspection by a qualified acoustician of wood fences on the rear property line of residences along Orchid Avenue that are within 165 feet of the skate park to ensure the fences are adequate to attenuate noise as predicted, and if not, implement repairs and /or replacement, as necessary and with permission of the property owner, to ensure an acoustically effective noise barrier for existing fences.</p>	<ul style="list-style-type: none"> <li>▪ Include measure as Condition of Approval.</li> <li>▪ Implementation actions are outlined in the mitigation measure.</li> </ul>	<ul style="list-style-type: none"> <li>▪ The applicant is responsible for obtaining property owner permission, performing inspections, and providing report on inspections and repairs to the Community Development.</li> </ul>	<p>Prior to opening of skate park.</p>	

**Attachment: Findings and Conditions of Approval (Monterey Avenue Skate Park)**

Mitigation Measure	Implementation Actions	Monitoring / Reporting Responsibility	Timing Requirements	Reporting Requirements & Verification of Compliance
<b>Hazardous Materials</b>				
<p><b>HAZMAT-1:</b> Prepare and implement a Soil Management Report for <u>Require soil removal</u> with proper disposal and/or encapsulation of contaminated soils at the project site to prevent exposure to arsenic found in the soils, and require proof of final signoff from the County of Santa Cruz Environmental Health Services.</p>	<ul style="list-style-type: none"> <li>Prepare a Soil Management Plan for removal and disposal of contaminated soils.</li> <li>Submit to County of Santa Cruz for approval.</li> <li>Submit proof of final signoff to City of Capitola.</li> </ul>	<ul style="list-style-type: none"> <li>The City of Capitola or the applicant, in coordination with the City of Capitola, is responsible for having the soil management plans prepared.</li> <li>The City of Capitola is responsible for overseeing remediation program.</li> </ul>	Remediation to be completed prior to issuance of building permit.	
<p><b>HAZMAT-2:</b> Prepare and implement a Safety Plan to ensure that appropriate worker health and safety measures are in place during grading and construction activities.</p>	<ul style="list-style-type: none"> <li>Implementation actions are specified in the mitigation measure.</li> </ul>	<ul style="list-style-type: none"> <li>The City of Capitola or the applicant, in coordination with the City of Capitola, is responsible for preparing Plan.</li> <li>The City of Capitola is responsible for overseeing remediation program.</li> </ul>	Prior to issuance of grading permit.	
<b>Biological Resources</b>				
<p><b>IS BIO-1:</b> If construction or tree removal is scheduled to begin between February 1 and August 15, require that a pre-construction nesting survey be conducted by a qualified wildlife biologist to determine if migratory birds are nesting in the trees adjacent to the project site. If nesting birds are found, schedule construction to begin after fledging of young is completed (usually by August) or after a qualified biologist has determined that the nest is no longer in use or unless a suitable construction zone buffer can be identified by a qualified biologist.</p>	<ul style="list-style-type: none"> <li>Include measure as Condition of Approval.</li> <li>Implementation actions are outlined in the mitigation measure.</li> </ul>	<ul style="list-style-type: none"> <li>The applicant, in coordination with the City of Capitola, is responsible for having a pre-construction survey conducted by a qualified biologist if construction proceeds during the nesting season, and submitting the report to the Planning &amp; Community Development Department.</li> <li>The Community Development Department is responsible for review of the report to ensure compliance with the mitigation measure.</li> </ul>	<ul style="list-style-type: none"> <li>Prior to tree removal, grading and/or construction during the times specified in the mitigation measure.</li> </ul>	

Attachment: Findings and Conditions of Approval (Monterey Avenue Skate Park)

**RIGHT OF ENTRY AGREEMENT FOR  
SKATEPARK PROJECT BETWEEN THE CITY OF CAPITOLA  
AND NHS, INC.**

THIS RIGHT OF ENTRY AGREEMENT FOR SKATEPARK PROJECT (“Agreement”) is entered into this \_\_\_ day of \_\_\_\_\_, 2016 (the “Effective Date”), by and between the City of Capitola (“City”) and NHS, Inc. a California Corporation (“Applicant”).

**RECITALS**

WHEREAS, Applicant wishes develop a skate park at the Monterey Avenue Park (the “Project”), as shown in Exhibit A, attached hereto and incorporated herein by reference (“Project Area”); and

WHEREAS, Applicant is providing funding for the Project and has applied for and received funds and offers of volunteer assistance from various individuals, organizations and contractors for the Project; and

WHEREAS, portions of the skatepark will be fabricated and/or constructed by other contractors and individuals both paid and volunteer.

NOW, THEREFORE, it is agreed between the parties hereto that:

**1. DEFINITION OF APPLICANT.**

For purposes of this Agreement, all references in this Agreement to the Applicant shall include Applicant's contractors, subcontractors, officers, agents, employees, volunteers, and others acting under its or their authority.

**2. RIGHT GRANTED; PURPOSE.**

The City hereby grants to the Applicant the right, during the term hereinafter stated and upon and subject to each and all of the terms, provisions, and conditions herein, to enter upon and have ingress to and egress from Monterey Avenue Park, located at 700 Monterey Avenue, Capitola, California 95010 ("Premises"), to build a new skatepark, and for such other incidental purposes as may be required to perform such work (the “Work”). Upon final completion of the Work and acceptance of the improvements by the City, ownership of all improvements made by Applicant on the Premises shall unconditionally vest in the City, and Applicant shall have no further ownership interest in, or liability or maintenance obligation with respect to, such improvements.

A. As security for and proof of the Applicant's ability to complete the Work, Applicant shall also provide bonds for faithful performance and labor and materials (or assign Applicant’s rights to the City under such bonds for the Project) to the City for the full cost of the Project prior to any work being performed on the Project site. Furthermore, Applicant will provide the City written weekly progress reports on the status of the project.

3. NO INTERFERENCE.

Except as is necessary to carry out the Work, (i) no work performed by Applicant shall cause any interference with the constant, continuous and uninterrupted use of the Premises by City, its officers, agents, contractors, lessees, Applicants or others, including the public use of the park and school district use of the facility for school purposes, interference with any existing City improvements or utility infrastructure, including sewer, water, telephone, or other telecommunications or network facilities; and (ii) nothing shall be done or suffered to be done by Applicant at any time that would cause damage or destruction of the facilities, equipment, utility infrastructure or other property or appurtenances of City, its lessees or licensees. Applicant agrees to reimburse City for any such damage or destruction, or upon mutual agreement, to replace or restore said facilities, equipment, or other property, to City's satisfaction.

4. PRIOR NOTIFICATION.

Applicant shall notify the following Department of Public Works representative a minimum of 7 calendar days in advance of the entry and commencement of work in order to coordinate the best point-of-entry and path of travel to and through the Premises and any other pertinent coordination requirements

5. ALL EXPENSES TO BE BORNE BY APPLICANT.

Applicant shall bear any and all costs and expenses associated with any work performed by the Applicant, including the cost of relocating any utility infrastructure necessitated by the Project. Any such relocation shall be subject to the requirements of Paragraph 3. All work performed by Applicant on the Premises shall be performed in a manner consistent with plans and specifications approved by the City as set forth in Exhibit B of this Agreement and as conditioned or modified as part of the project approval by the City, attached hereto and incorporated herein by reference.

6. RECORDS.

Applicant shall maintain inventory records which clearly identify materials purchased or received as donations as well as records of all expenditures, including contract and subcontract costs, expenses, etc., during the Agreement period and three (3) years after the termination. All Applicant records with respect to any matters covered by this Agreement shall be made available to the City, at any time during normal business hours, as often as the City deems necessary, to audit, examine, and make excerpts or transcripts of all relevant data. Applicant shall be responsible for record compliance with the terms and conditions of state law governing the use and provision of voluntary labor to cities and the payment of prevailing wages.

Attachment: Right of Entry Agreement (Monterey Avenue Skate Park)



## 7. HOURS OF OPERATION.

The hours of operation that Applicant shall be permitted to conduct work in the Premises shall be between 8 am and 5 pm, Monday through Friday, and between 9 am and 5 pm on Saturday. No grading or use of heavy equipment shall take place while school is in session.

## 8. TERM; TERMINATION.

- a. The grant of rights herein made to Applicant shall be effective from the Effective Date and shall continue until August 11, 2017, unless sooner terminated as herein provided, or at such time as Applicant has completed its work, whichever is earlier. Applicant agrees to notify the City Representative in writing when it has completed its work. The City Manager may grant a 12-month extension if the project is delayed due to circumstances outside the Applicant's control.
- b. This Agreement may be terminated by the City for cause on thirty (30) days written notice to the Applicant. In the event of termination, the City shall refund any unexpended funds in full within thirty (30) days of the effective date of termination.

## 9. RESTORATION.

Applicant agrees to restore the Premises to the condition it was in prior to Applicant entry onto the Premises, except for the work of improvements as referenced herein.

## 10. LIABILITY; INDEMNIFICATION.

- a. No City Liability for Loss or Damage. In the event of damage to any equipment or materials installed or stored by Applicant on the Premises, irrespective of the cause, City shall not be liable therefore and Applicant shall have no claim or right against City for the costs of repair or replacement. This clause is intended as a complete release of liability in favor of City, including without limitation all claims whether known or unknown, liquidated or unliquidated, contingent or absolute. Applicant has knowledge of and understands the term and effect of California Civil Code Section 1542, and voluntarily waives the benefit of the terms of that statute.
- b. Indemnification and Defense of City. Applicant shall indemnify, defend and hold harmless City and its officers, employees and agents, from and against any and all claims, losses, liabilities, judgments, penalties, costs and expenses of every type and description, including, but not limited to, payment of attorney's fees, whether

for personal injury or property damage, to the extent arising out of or in any way directly or indirectly related to or resulting from any act or omission of Applicant during the term of this Agreement, its contractors, subcontractors, officers, agents, employees, volunteers, and others acting under its or their authority on the Premises or relating to the performance of the terms of this Agreement, irrespective of whether or not caused in part by City, its officers, agents, or employees. The provisions of this paragraph 11(b) shall survive the expiration or earlier termination of this Agreement.

- c. **Liability for Skatepark Operation.** After final completion of the Work and acceptance of the improvements by the City, the parties hereby agree and acknowledge that the City shall be the owner or operator of the skatepark for purposes of Health and Safety Code § 115800.
- d. **Design and Defect Warranties:** The Applicant hereby warrants and guarantees to the City that the materials and equipment used for the Project will be new and of good quality unless otherwise required, that the Work will be performed in a workmanlike manner, that the Work and Project will be free from design and construction defects, and that the Work and Project will be free of patent and latent defects. Applicant shall repair any such defects to the satisfaction of the City. This warranty shall terminate five years from the completion of the Work and acceptance of the improvements by the City.

## 11. INSURANCE.

During the term of this Agreement, and until Applicant vacates from and restores the Premises and the improvements are accepted by City, Applicant shall maintain in full force and effect at its own cost and expense the following insurance coverage described below. It is understood and agreed by Applicant that its liability to the City shall not in any way be limited to or affected by the amount of insurance coverage required or carried by Applicant in connection with this Agreement.

- a. Minimum Scope & Limits of Insurance Coverage
  - i. Commercial General Liability Insurance, providing coverage at least as broad as ISO CGL Form 00 01 on an occurrence basis for bodily injury, including death, of one or more persons, property damage and personal injury, with limits of not less than one million dollars (\$1,000,000) per occurrence. The policy shall provide contractual liability and products and completed operations coverage for the term of the policy.

- ii. Workers' Compensation Insurance within statutory limits, and Employers' Liability Insurance with limits of not less than one million dollars (\$1,000,000). The Worker's Compensation policy shall include a waiver of subrogation for contracts if required by the City by selecting the option below:
- iii. Automobile Liability Insurance providing coverage at least as broad as ISO Form CA 00 01 on an occurrence basis for bodily injury, including death, of one or more persons, property damage and personal injury, with limits of not less than one million dollars (\$1,000,000) per occurrence. The policy shall provide coverage for owned, non-owned and/or hired autos as appropriate to the operations of Applicant.

b. Additional Insured Coverage

- i. Commercial General Liability Insurance: The City and its officials, employees and volunteers shall be covered by policy terms or endorsement as additional insured as respects to general liability related to, or arising from, this Agreement.
- ii. If the policy includes a blanket additional insured endorsement or contractual additional insured coverage, the above signature requirement may be fulfilled by submitting that document with a signed declaration page referencing the blanket endorsement or policy form.

c. Other Insurance Provisions

The policies are to contain, or be endorsed to contain, the following provisions:

- i. Applicant's insurance coverage shall be primary insurance as respects the City and its officials, employees and volunteers. Any insurance or self-insurance maintained by the City or its officials, employees or volunteers, shall be in excess of Applicant's insurance and shall not contribute with it.
- ii. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the City or its officials, employees or volunteers.
- iii. Coverage shall state that Applicant's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

- iv. The City will be provided with thirty (30) days written notice of cancellation or material change in the policy language or terms.

d. Acceptability of Insurance

Insurance shall be placed with insurers with an AM Best's rating of not less than A:V. Self-insured retentions, policy terms or other variations that do not comply with the requirements of this Section 10 must be declared to and approved by the City's Risk Management Division in writing prior to execution of this Agreement.

e. Verification of Coverage

- i. Applicant shall provide initial insurance documents to the City Representative upon request, prior to execution of the final Agreement.
- ii. Failure to provide insurance certificates and endorsements and keep such certificates and endorsements current will be considered a material breach by Applicant of this Agreement. The City may cancel the Agreement if the insurance is canceled or Applicant otherwise ceases to be insured as required herein.

f. Subcontractors.

Applicant shall request and verify that its contractors, and all subcontractors, maintain insurance coverage that meets the minimum scope and limits of insurance coverage specified in subsection A, above.

12. PERMITS.

Prior to beginning any work, the Applicant, at its sole expense, shall obtain all necessary permits to perform any work contemplated by this Agreement.

13. MECHANICS' LIENS.

The Applicant shall pay in full all persons who perform labor or provide materials for the work to be performed by Applicant. The Applicant shall not permit or suffer any mechanics' or materialmen's liens of any kind or nature to be enforced against any property of the City for such work performed. The Applicant shall indemnify and hold harmless the City from and against any and all liens, claims, demands, costs or expenses of whatsoever nature in any way connected with or growing out of such work done, labor performed, or materials furnished.

14. PREVAILING WAGES; OVERTIME

- a. Prevailing Wages. Applicant shall require any contractor or subcontractor performing any portion of the work under this Agreement to fully comply with the prevailing wage requirements of Article 2, Chapter 1, Part 7, Division 2, commencing with Section 1770 of the Labor Code and particularly Section 1775 thereof.
  - i. No contractor or subcontractor may work on a public works project unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5.
  - ii. This project is subject to compliance monitoring and enforcement by the Department of Industrial Relations.
  
- b. Hours of Labor: Applicant shall not require or permit any worker employed in the construction of the Project by Applicant or by any contractor or subcontractor, for each calendar day during which any worker is required or permitted to labor more than eight (8) hours in any one calendar day or more than forty (40) hours in any one calendar week, in violation of the provisions of Article 3, Chapter 1, Part 7, Division 2, commencing with Section 1810 of the Labor Code of the State of California, except that work may be performed by employees of Applicant or any contractor or subcontractor in excess of eight (8) hours in one day, or 40 hours during any one week, without penalty or forfeiture upon compensation of said employees for hours worked in excess of 8 hours per day or 40 hours per week at not less than 1 and 1/2 times the basic rate of pay.

15. COMPLIANCE WITH LAWS.

Applicant shall comply with all applicable federal, state, and local laws, regulations, and enactments affecting the work to be performed on the Premises. Applicant (without limiting the generality of the foregoing) shall comply with all applicable state and federal occupational safety and health acts and regulations. Applicant shall require any contractor or subcontractor performing any portion of the work to comply with all of the requirements of this paragraph. If any failure by Applicant to comply with any such laws, regulations, and enactments, or otherwise to require the same of any contractor or subcontractor, shall result in any fine, penalty, cost or charge being assessed, imposed or charged against the City, Applicant shall reimburse and indemnify the City for any such fine, penalty, cost or charge, including without limitation, attorney’s fees, court costs and expenses.

16. VOLUNTEERS—WAIVER.

Prior to entering the Project area, all volunteers shall be required to execute either the Volunteer Waiver and Release Agreement for Adult Volunteers, attached hereto as Exhibit C, or the Volunteer Waiver and Release Agreement for Minor Volunteers attached hereto as Exhibit D, as applicable.

#### 17. WAIVER OF BREACH.

The waiver by the City of the breach of any condition, covenant or agreement herein contained to be kept, observed and performed by the Applicant shall not be considered a waiver of any other breach or default.

#### 18. ASSIGNMENT — SUBCONTRACTING.

Except as provided in this paragraph, the Applicant shall not assign, sublet or subcontract this Agreement, or any interest therein, without the written consent of City and any attempt to so assign, sublet or subcontract without the written consent of City shall be void. Such consent shall not be unreasonably withheld or delayed. If City gives the Applicant permission to subcontract all or any portion of the work herein described, the Applicant is and shall remain responsible for all work of subcontractors and all work of subcontractors shall be governed by the terms of this Agreement. This Agreement shall bind the successors of either party in the same manner as if they were expressly named.

#### 19. HAZARDOUS MATERIALS.

Applicant shall not use, store, release or otherwise introduce on the Premises any substance, chemical, waste or other material that is identified as hazardous, toxic or dangerous on any Federal, State or local law or regulation (“Hazardous Material”), nor shall Applicant damage, alter or otherwise affect any Hazardous Material containment system, cap or other facility present on the Premises, if any. Applicant shall be solely responsible for the complete cost of removal and/or remediation of any Hazardous Material so used, stored, released or otherwise introduced on the Premises, and shall defend and indemnify City, its officers and employees from and against all claims or other liabilities therefore to the extent allowed by law.

#### 20. ENFORCEABILITY: CHOICE OF LAW: CHOICE OF FORUM.

This Agreement shall be governed, construed, and enforced in accordance with the laws of the State of California. Litigation arising out of or connected with this Agreement may be instituted and maintained in state or federal courts located in the State of California only, and the venue for any such litigation shall be in Santa Cruz County. The parties consent to jurisdiction over their person and over the subject matter of any such litigation, in those courts, and consent to service of process issued by such courts.

#### 21. NOTICES.

Any and all notices or demands by or from either party shall be in writing, and shall be served either personally or by mail. If served personally, service shall be conclusively deemed made' at the time of service. If served by mail, service of notices or demands shall be conclusively deemed made as of the time of deposit in the United States mail, postage paid.

Any notice or demand may be given to:

CITY:

APPLICANT:

City of Capitola  
420 Capitola Avenue  
Capitola, CA 95010  
Attn.: Jamie Goldstein, City Manager

NHS, INC.  
C/O Benjamin | Leibrock  
340 Soquel Ave. # 205  
Santa Cruz, CA 95062

22. ATTORNEY'S FEES AND COSTS.

Any party may bring a suit or proceeding to enforce or require performance of the terms of this Agreement, and the prevailing party in such suit or proceeding shall be entitled to recover from the other parties reasonable costs and expenses, including attorney's fees.

23. COUNTERPARTS.

This Agreement may be executed in any number of counterparts and by different parties hereto on separate counterparts; each of which, when so executed and delivered, shall be an original, but all such counterparts shall together constitute but one and the same instrument.

IN WITNESS WHEREOF, City and Applicant have executed this Agreement on the date herein above first written.

APPLICANT

CITY OF CAPITOLA

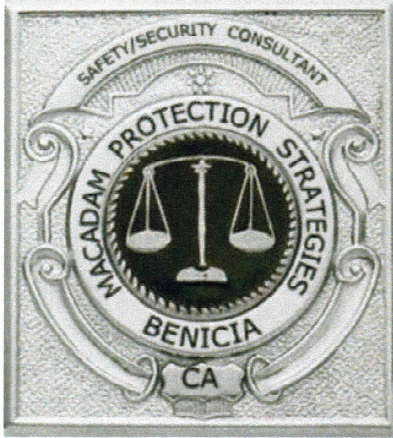
By: \_\_\_\_\_  
NHS, INC.  
By Robert A. Denike, President

By: \_\_\_\_\_  
JAMIE GOLDSTEIN  
City Manager

APPROVED AS TO FORM:  
City of Capitola

\_\_\_\_\_  
Tony Condotti, City Attorney

Attachment: Right of Entry Agreement (Monterey Avenue Skate Park)



**Report Number:** 09032015-3  
**Report Date:** 11-05-15  
**Report Location:** Monterey Avenue (proposed) Skate Park  
 Capitola, CA  
**Reported To:** Richard Grunow  
 Community Development Director  
 City of Capitola  
**Performed By:** Wade MacAdam, CPD  
 Advanced CPTED Consultant  
 MacAdam Protection Strategies

**PURPOSE:**

This architectural plan review was initiated by the City of Capitola as part of the public review process for a proposed skate park within the Monterey Avenue Park of the City of Capitola. The purpose of this architectural plan review is to examine the proposal drawings for the skate park and provide MacAdam Protection Strategies (MPS) considerations, as well as other options to consider, to hopefully reduce the risk of criminal crimes/incidents and potentially enhance the safety at the Monterey Avenue Skate Park.

The considerations are based on three types of countermeasure approaches:

- **Natural Security:** consisting of CPTED (Crime Prevention Through Environmental Design) approaches relating to natural surveillance (allowing authorized users to see out and deterring suspects because they feel that they will be seen), natural access control (define private from public spaces), territorial reinforcement (showing that the property is not up for grabs), and maintenance (addressing overgrown vegetation, fence repairs, and graffiti removal).
- **Mechanical Security:** consisting of physical security systems (such as metal keys and hardware) and physical security technologies (such as access control systems, intrusion alarms, video systems, and emergency phones).
- **Organized Security:** consisting of a human presence and response (such as trusted allies nearby, authorized staff, and first responders).

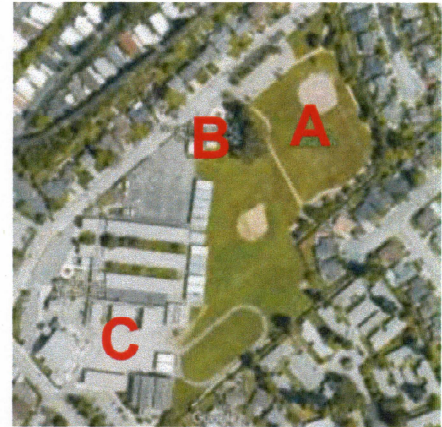
Below is an overview of the options to consider that are identified within this report:

- Provide access to Law Enforcement
- Provide access to Fire Department(s)
- Redesign of the celebrated entrance (or main entrance into the skate park)
- Redesign of the orientation of the skate park (increasing the visibility to the sunken portions)
- Redesign of the skate park fencing (replacing chain-link with ornamental iron)
- Design a transparent sound wall or noise barrier (inside and outside the skate park)
- Design and creating signage (depending on procedures/rules approved by the City)
- Redesign the set-back of the park (from Monterey Avenue)
- Design activity generators (shade devices, water fountain, benches, cube seating)
- Design infrastructure for future lighting
- Design or installing an emergency phone
- Design infrastructure for future video cameras
- Design a trash receptacle
- Design vegetation
- Design traffic calming devices

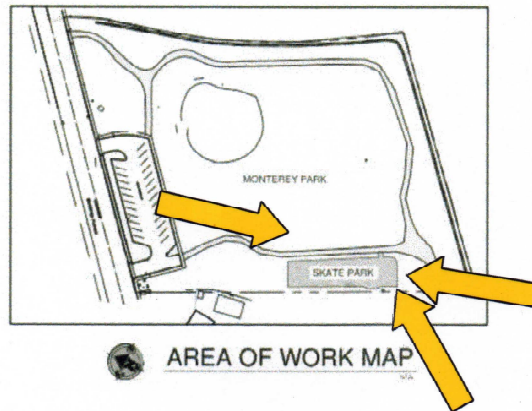


**NARRATIVE:**

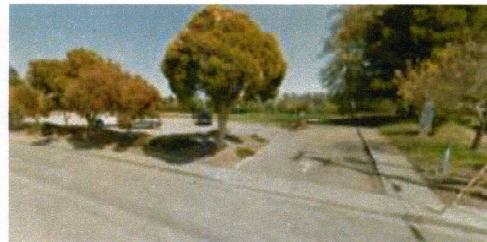
The Monterey Avenue Park (identified via a red "A") is located adjacent to the Soquel Elementary School District Office (identified via a red "B"), in Capitola, California. The Soquel Elementary School District Office has an address of 620 Monterey Avenue, Capitola. The park contains one parking lot, one softball field, and pathways. The park is adjacent to private residences and the New Brighton Middle School (identified via a red "C").



The proposed site for the Skate Park is shown below. Access to the Skate Park is anticipated to be from the Monterey Park Parking Lot, pedestrian pathways from the Middle School, or a pathway from the nearby residences (as shown via the yellow arrows).



From the west, Monterey Park is relatively flat and possesses good natural surveillance across the park. From Monterey Avenue, the proposed Skate Park site can be seen.

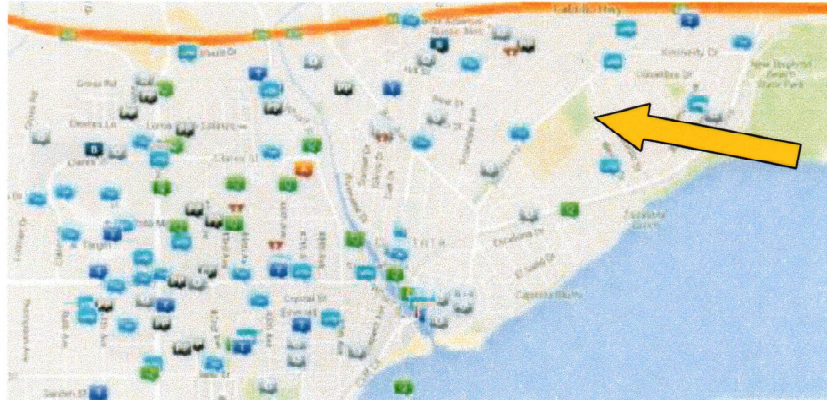


From the east, trees, a small hill, and school district buildings/fence largely obstruct views of the proposed skate park location from eastbound traffic on Monterey Ave.



Fire services fall under the jurisdiction of two entities: the Central Fire Protection District and the Aptos La Selva Fire District. I conversed with Central Fire Chief Jeff Maxwell and the office of Central Fire Marshal Sandy French. We discussed fire and medical response to the park.

Law Enforcement services fall under the jurisdiction of the Capitola Police Department. I conversed with Police Chief Rudy Escalante and Sergeant Mark Gonzalez. We discussed police response and crime trends. Via the Police Department website, I obtained the below reported crime analysis for the past six months around the park:



I did not see any crime trend concerns that pose an active threat or disruption to Monterey Park.

I talked to Rich Grunow. He asked me for a CPTED (Crime Prevention Through Environmental Design) analysis on the proposed skate park. He also emailed me drawings for the proposed skate park. I told him that I would provide him with options to consider for natural security, mechanical security, and organized security. The options are outlined in the Considerations portions on the following pages. Below is a list of the resulting considerations, based on priority:

- Provide access to Law Enforcement
- Provide access to Fire Department(s)
- Redesign of the celebrated entrance (or main entrance into the skate park)
- Redesign of the orientation of the skate park (increasing the visibility to the sunken portions)
- Redesign of the skate park fencing (replacing chain-link with ornamental iron)
- Design a transparent sound wall or noise barrier (inside and outside the skate park)
- Design and creating signage (depending on procedures/rules approved by the City)
- Redesign the set-back of the park (from Monterey Avenue)
- Design activity generators (shade devices, water fountain, benches, cube seating)
- Design infrastructure for future lighting
- Design or installing an emergency phone
- Design infrastructure for future video cameras
- Design a trash receptacle
- Design vegetation
- Design traffic calming devices

I viewed the documents that Rich Grunow shared with me: proposed Monterey Avenue Skate Park Plans, Proposed Monterey Avenue Skate Park 3D Model, and a Skate Park Noise Study.

I also visited and viewed a community Facebook page for skate parks in the City of Capitola.

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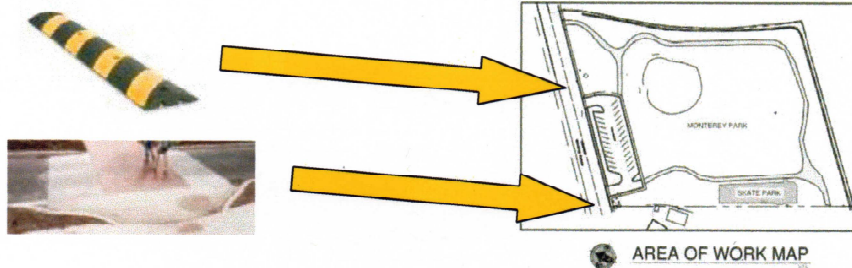
Attachment: Crime Prevention through Environmental Design Study (Monterey Avenue Skate Park)

**CONSIDERATIONS:**

I utilized standard CPTED (Crime Prevention Through Environmental Design) strategies and identified the below possible concerns. I suggest that you consider the following for Natural Security:

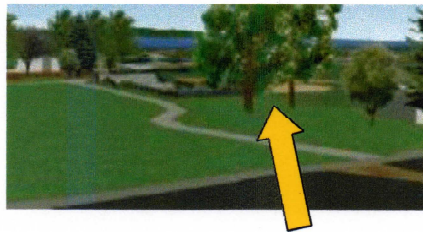
1. Traffic Calming:

- Due to an increase in pedestrian activity at the park, **install speed bumps or a speed table** on Monterey Avenue, near the two entrances into the parking lot. This can aid in pedestrian safety and promote reduced vehicle speeds.



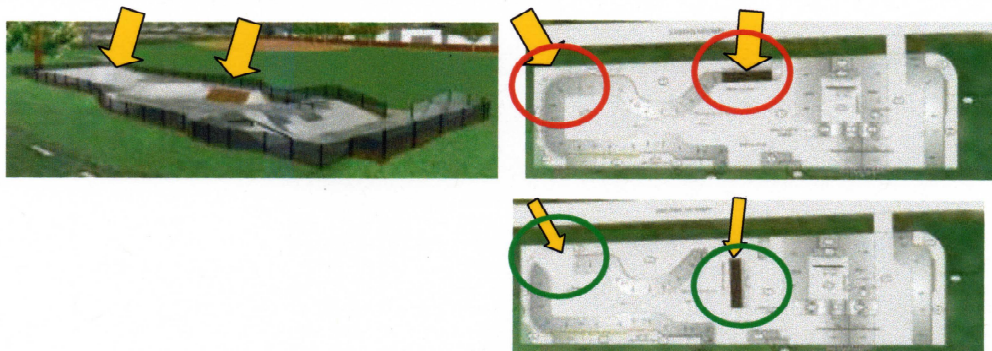
2. Setback:

- The proposed site is far from the parking lot and from Monterey Avenue. It lacks ideal natural surveillance from law enforcement and trusted allies. It also allows for suspects to see law enforcement at a distance and have time to conceal their activities. **Consider moving the site closer to the parking lot.**



3. Orientation:

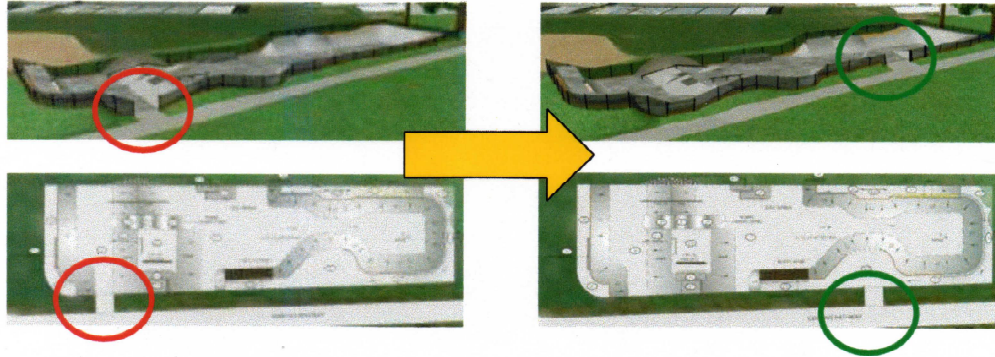
- The proposed design contains a sunken portion that can conceal unlawful activities, as well as a high wall. To maximize natural surveillance (as shown from a view point of the yellow arrows) to aid law enforcement and to deter suspects, consider **redesigning the bowl** with an opening that is at ground level and **change the orientation of the wall.**



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## 4. Celebrated Entrance:

- Based on the proposed design, the celebrated entrance (or main entrance that is advertised for entry) should be a **double pedestrian gate** along the existing pathway, but it should be **closer to the parking lot**. This will allow first responders quicker access into the site.






## 5. Signage:

- Create a parking stall with associated signage** in the parking lot for first responders. Erect a sign that advertises the stall for emergency vehicles only. This will aid in first responder access to the site.











- Assign a city address to the Skate Park**, such as 700 Monterey Avenue. This will aid in cellular phone callers that are not aware of their surroundings while they are looking at park signage and talking to emergency dispatchers. This will also aid in court stay-away orders assigned to suspects, where an address "to stay away from" is needed. Monterey Avenue Skate Park could be renamed at any time due to donor influence or due to a celebratory figure, but the address will remain the same.
- Create skate park rules/regulations signage** for the exterior and interior of the skate park. The signage should utilize color and pictograms that appeal to the youth users of the space. It should be at both sides of the celebrated entrance. It should be positioned frequently, every 50-feet, inside the fence. The next page contains an example of language and pictograms. The final operational procedures/rules shall be dependant on City approval.

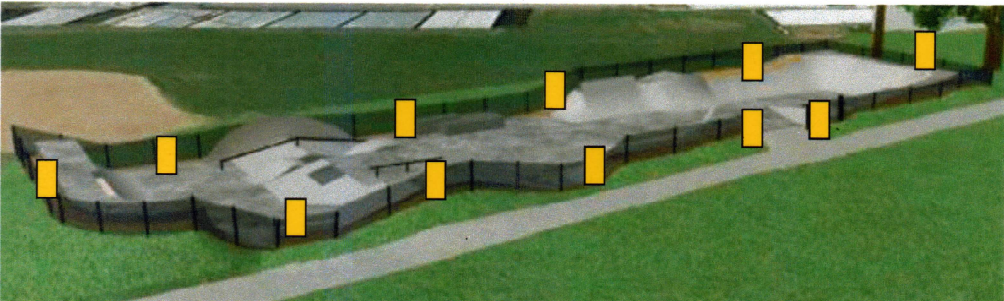




## Monterey Avenue Skate Park

City of Capitola Property  
790 Monterey Avenue, Capitola, California

**Private Property – No Trespassing per California Penal Code 602  
Rules and Regulations Enforceable per Capitola Municipal Chapter 12.40**

	<b>WARNING</b>	<b>Skate at your own risk</b>
	<b>Park Hours</b>	<b>Closed Sunset to 6am</b>
	<b>Yes</b>	<b>Skateboards and rollerblades <u>ONLY</u></b>
	<b>No</b>	<b><u>NO</u> bikes, scooters, motorized vehicles</b>
	<b>SAFETY</b>	Helmets, gloves, and pads are strongly recommended. Skating has inherent danger of injury or death. The City is not responsible for these dangers. ** Make sure surface is dry before skating. **
	<b>RULES</b>	No Food or Drink (water is permitted) No Animals (except Service Animals and Police Canine) No Glass objects, Alcohol, Smoking, or Tobacco products No additional obstacles or materials allowed No loud music or offensive language No organized events without written approval from City
	<b>RESPECT</b>	<i>"The fence is necessary for closing the park if things get out of hand." "The fence is needed to prevent after-hours skating." "The fence will allow us to close the park for cleaning and maintenance." "The fence will keep toddlers from accidentally stumbling into the space." "The fence is necessary to keep prohibited users, like BMX, out." "The fence will prevent skateboards from flying out of the area."</i>
	<b>EMERGENCY</b>	For police-fire-medical assistance, call 9-1-1 or from a cellular phone: 831-471-1141 City of Capitola Police Department



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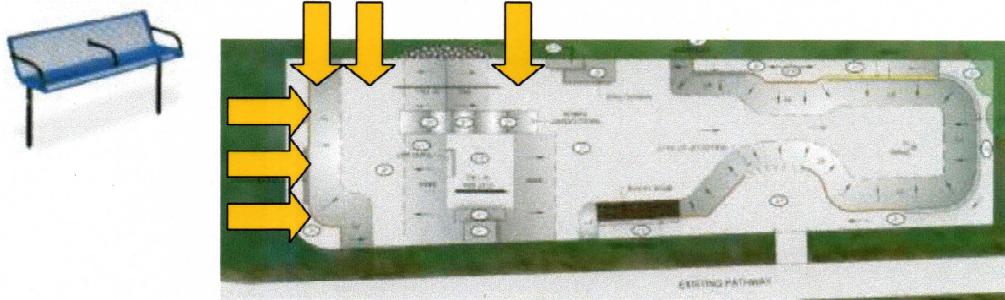
Attachment: Crime Prevention through Environmental Design Study (Monterey Avenue Skate Park)

## 6. Vegetation:

- For the non-skating areas within the fence, consider an alternative to grass, such as **bark**. This can deter abnormal users from lying on the ground and unlawfully watching children, and it will aid in animal waste removal, if the rules are violated.
- Any bushes shall follow CPTED guidelines and not exceed a mature height of 2-feet above grade.
- Tree canopies shall also follow CPTED guidelines and not fall below 6-feet above grade. If the east tree canopies cannot be raised, consider removing the trees.

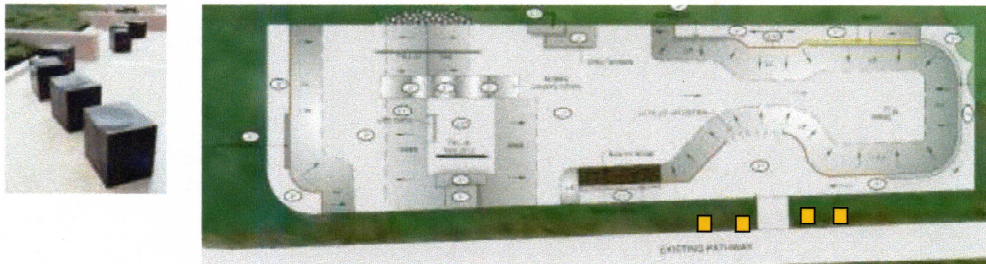
## 7. Benches:

- Consider **benches with a center arm-rest**. The benches can be an activity generator for authorized users that can aid in the enforcement of the rules. Having a center arm-rest can deter abnormal users from sleeping on the benches. Benches should be positioned in such a manner to maximize natural surveillance into the park and beyond to the parking lot. Authorized users should not have their backs to the parking lot so that they can assist in auto burglary deterrence.



## 8. Cube Seating:

- Consider **cube seating outside of the celebrated entrance**. This can aid in allowing parents or spectators to be near the park, at a safe distance (especially with a stroller). Cube seating allows authorized guests to sit and look toward a variety of directions, or allow them to maneuver a stroller away from the sun.



## 9. Shade / Activity Generator Support:

- Consider multiple **shading devices**, similar to sun sails, over authorized sitting locations (over benches and cube seating). The device should be high enough to not obstruct natural surveillance and should be inviting to promote positive activity in and around the space.



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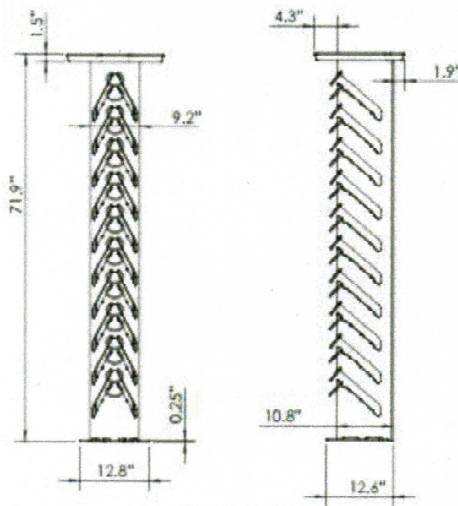
## 10. Bicycle Racks:

- **Install bicycle racks** outside of the celebrated entrance so that bicycles are ridden to the park and then left outside the fence. The ideal bike rack is the inverted-U design.



## 11. Skate Board Racks:

- To combat the theft of unattended skateboards, **install a skateboard locking device**, similar to the Park-A-Bike Surface Mounted Skatedeck. I further suggest that two 10-skateboard racks should be installed outside of the fenced celebrated entrance. A skateboarder would need to bring their own padlock.



SM10X



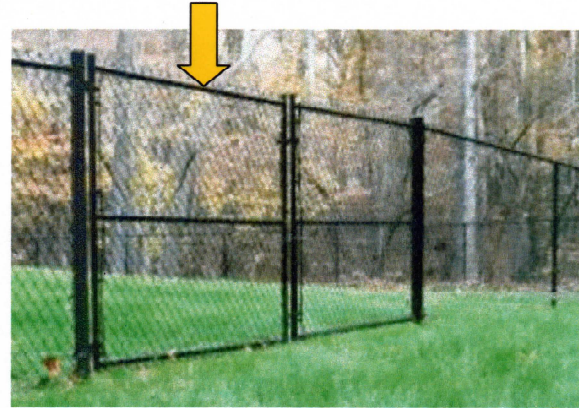
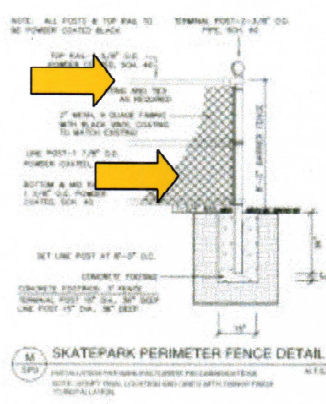
## 12. Trash Receptacles:

- **Provide a trash receptacle** that possesses natural surveillance, without a transcan insert. This can aid in detecting contraband or in locating personal property that was unattended, stolen, ransacked, and then discarded in the trash. Authorized users typically carry backpacks to the park and then place them on the ground while skating. Suspects can covertly take the backpacks away from the owner, rummage through them for valuables, and then discard the backpack in the trash. Below is an example of a semi-transparent/mesh receptacle which allows a view of its contents.



13. Fencing:

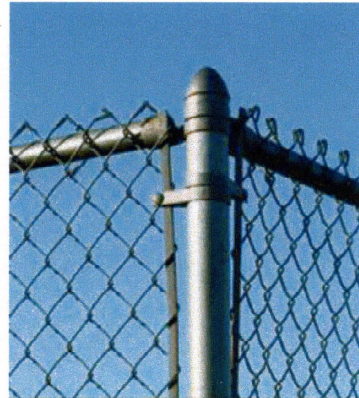
- Consider redesigning the proposed perimeter fencing. **Replace the chain-link with ornamental iron.** If a redesign is not approved, replace the top horizontal member with a cable; this can aid in deterring or delaying unauthorized climbing of the fence. Consider replacing the 2-inch mesh with a 1-inch mesh to further aid in unauthorized climbing.



An ornamental iron fence is shown below as an example. The top horizontal bar should not be flat, to accommodate unauthorized climbing. The top should have protrusions.



A chain-link fence with a top cable is shown below (preferred), versus a chain-link with horizontal tubular members (not recommended).



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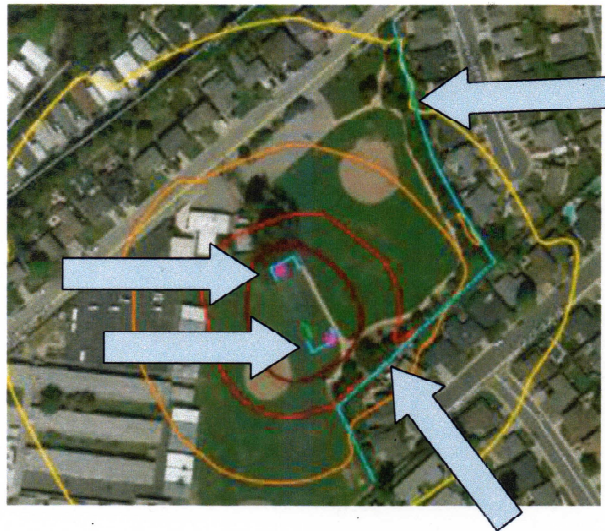


14. Lighting:

- Eventhough no lighting is proposed for this design, I suggest pathways and conduit be installed for future lighting needs.
- Lighting shall comply with CPTED guidelines: pedestrian sale, white light source, full cut-off design.

15. Sound Wall:

- For the proposed 6-foot noise barriers identified via light-blue colored lines on the drawing below (and highlighted with light-blue arrows), investigate into a transparent material in order to maintain natural surveilance and to not create any areas of concealment. For continuous walls exceeding 25-feet, create a break in the wall for a path of egress or escape.



Transparency example



Fence Opening example

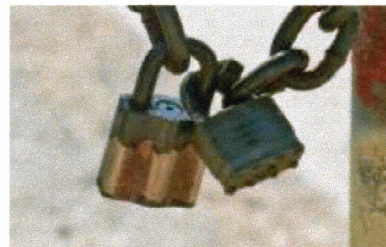


If a transparent noise wall is not selected due to necessary noise attenuation or design considerations, noise walls should be designed and located in such a manner that they do not obstruct visibility into the facility.

Based on my training and experience, I suggest you consider the following for Mechanical Security:

1. Access Control along the Skate Park fence:

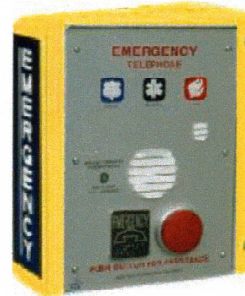
- To provide access to the facility for police-fire-medical calls for service, as well as for City Maintenance related incidents. I suggest two chains and two padlocks (one City and one Fire, as further described below in the Organized Security section) be used as the means for access control.
- The chains should be permanently affixed to the fence gates so that they are not misplaced.



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## 2. E911 Concerns:

- Although the intended users of the skate park will most likely possess cellular phones, law enforcement dispatchers have a difficult time obtaining the precise location of a cellular 911 call. **Consider an emergency phone**, without a dial pad, but with an emergency button that directly dials to the Capitola Police Department. The landline for the emergency phone will have a programmed location that will be shared with first responders. Consider an emergency phone similar to a Ramtel 926 RR733, that is distinctive in color (in safety yellow), and that is clearly marked (with side vertical script: Emergency).



## 3. Video Systems:

- Talk to City of Capitola employee Larry Laurent regarding the logistics for a city-managed video system around or near the skate park. Video systems should comply with chain-of-custody and District Attorney requirements. Even if a video system is not funded or decided upon, consider running any infrastructure (such as cat-5 cabling) during the construction, versus after construction.
- Remember that video systems are a recall tool and can only be monitored live if staffing is available.
- Dummy cameras should be avoided since they advertise a false sense of security.



## 4. Video Signage:

- If video cameras are installed, **post signage** that advertises: "Video Systems In Use." This will aid in deterring criminal behavior.

A handwritten signature in blue ink, consisting of several loops and a long tail, positioned to the right of the 'Consultant Initials' text.

Based on my training and experience, I suggest you consider the following for Organized Security:

1. Capitola Police Response:

- The fence shall be secured via **metal chain and daisy-locked padlocks**. Since the City of Capitola Public Works Department and the City of Capitola Police Department possess a common key (#007), I suggest a padlock for this keyway be obtained for the skate park. Contact Sergeant Gonzalez for coordination.

2. Fire/Medical Response:

- Connecting to the chain and City padlock described above, I further suggest that a Fire padlock be daisy-chained to the pedestrian opening of the fence. According to Fire Marshal French, both fire districts possess a key to a **fire padlock** for the area. Contact Fire Marshal French for coordination.

3. Community Recruitment/Presence:

- As an activity generator, **install a water fountain** outside the celebrated entrance of the skate park. Consider a fountain that provides water for **both a human and canine**. Dog Walkers and trusted adults might visit the fountain and potentially aid in deterring criminal activity or assist in medical aid requests. An example is shown to the right:
- Consider limiting the Skate Park population by **prohibiting the use of bicycles**. Although skaters might collide with one another, the collision between a skater and bicyclist can be more severe.



**CLOSING COMMENTS:**

I hope this report has been helpful in addressing potential safety issues and has given you some direction for possibly improving the safety of this proposed skate park. I cannot guarantee that I can address all safety concerns that might occur. It is the intent of this architectural plan review to identify possible security deficiencies and make positive and viable suggestions to reduce the opportunity of criminal activities.

Importantly, although the suggestions made in this architectural plan review have been carefully evaluated and have been proven effective in the past, MacAdam Protection Strategies wishes to emphasize that these measures in no way guarantee that you will never become a victim of a crime. If implemented, these suggestions are intended to deter, delay, detect, or deny the potential criminal by making the effort and risk of victimizing the skate park greater than he/she is willing to accept. There is no guarantee, however, that someone will not take such risk.

If you have any questions about this report, please call me at 510-306-4218. You may also contact me via e-mail at: [wade@macadam-protection-strategies.com](mailto:wade@macadam-protection-strategies.com). I will be happy to assist you however I can.

Wade MacAdam, CPD  
Consultant / Advanced CPTED-Specialist  
MacAdam Protection Strategies  
[www.macadam-protection-strategies.com](http://www.macadam-protection-strategies.com)

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## STAFF REPORT

TO: PLANNING COMMISSION

FROM: COMMUNITY DEVELOPMENT

DATE: MARCH 31, 2016

SUBJECT: **Monterey Avenue Skate Park #15-068 APN: 036-151-01**

Design Permit, Conditional Use Permit, and consideration of an Environmental Impact Report for an approximately 6,000 square-foot skate park at Monterey Park.

The project is within the Coastal Zone and requires a Coastal Development Permit which is not appealable to the Coastal Commission.

Environmental Determination: Environmental Impact Report

Property Owner: City of Capitola

Applicants: Marie Martorella and Tricia Proctor

### **APPLICANT PROPOSAL**

This is a privately initiated request for a Design Permit, Conditional Use Permit (CUP), and a Coastal Development Permit to allow construction and operation of an approximately 6,000 square-foot skateboard park at Monterey Park. Monterey Park is zoned PF-P (Public Facility – Park) and is designated as P/OS (Parks/Open Space) by the Capitola General Plan. The proposed skate park would be financed and constructed by the applicants pursuant to a right-of-entry agreement, which will be considered by the City Council at a future hearing.

### **BACKGROUND**

Development of a public skate park in Capitola has been considered by City officials and residents on multiple occasions over the past several years. Many sites throughout the City have been considered for a skate park, but were rejected largely due to noise, traffic, parking, and community character concerns.

In 2011, the City Council held public hearings to discuss the possibility of developing a privately-funded 9,000 square-foot skate park in Monterey Park. The Council ultimately declined to proceed with the proposal, but indicated an interest in developing a smaller facility if the applicants would agree to fund the project. The applicants did not pursue a reduced project at that time.

In 2013, the City Council approved plans for a multi-use public park on McGregor Drive which includes a dog park, bike pump track, and an approximately 9,000 square-foot skate park. Construction of the park commenced in 2014, but was later delayed due to soil contamination issues which have since been resolved. Construction resumed in March 2016 and the park is expected to open by summer 2016.

During public hearings on the McGregor Park project, some residents expressed concerns that the proposed location was too remote and lacked adequate access for pedestrians, cyclists, and skateboarders. These concerns prompted the applicants to reinstate discussions of a more centrally located facility in Monterey Park.

On February 11, 2015, the City Council authorized a request by the applicants to allow submission of an application for an approximately 6,000 square-foot skate park in Monterey Park. Their application was subsequently submitted on April 17, 2015.

Following review of the application, the staff determined an Environmental Impact Report (EIR) was required pursuant to the California Environmental Quality Act (CEQA). A public scoping meeting was held on June 30, 2015 to solicit input from residents on the potential environmental effects of the project. A summary of comments received during the scoping meeting can be found in Appendix B of the EIR. The Draft EIR was circulated for public review and comment between November 18, 2015 and January 8, 2016. A copy of all public comments and staff responses is included in Section 4.0 of the Final EIR.

On July 22, 2015 the Architectural and Site Review Committee reviewed the application and provided recommendations for plan revisions and design considerations (Attachment 6).

## **DISCUSSION**

The proposed skate park would be located along the southwestern boundary of Monterey Park near the New Brighton Middle School property line. Monterey Park is designated as an active park by the Capitola General Plan and features a multi-use grass play area used for baseball, softball, soccer, and informal recreation; an approximately six- to eight-foot wide walking path; a 26-space surface parking lot, a water fountain, benches, and landscaping. The park is separated from adjacent residences to the east and south by trees, bushes, and an approximately six-foot high wood fence. Surrounding land uses include single-family residences to the north, south, and east, and a middle school to the west. Other nearby land uses include St. Joseph's Catholic Church approximately 600-feet to the west and the Shorelife Community Church approximately 800-feet to the east. Multi-family residences are also located in the general project vicinity.

The proposed skate park would be constructed with poured-in-place concrete with edges finished in a metal coping. The facility consists of a concrete bowl with undulating slopes and a variety of challenge elements, including a quarter-pipe, curbs, ramps, railings, jump features, and a concrete deck. The facility would be enclosed with a six-foot wrought iron fence. The total footprint of the facility within the enclosed fenced area would be approximately 6,811 square-feet and the skate park would be approximately 6,028 square-feet. Construction is anticipated to take 6-8 weeks.

The skate park has been designed to serve beginner to intermediate riders generally in the 5-14 year age range, although it could be used by anyone over the age of five. It is estimated the facility could safely accommodate up to 25 skaters at any one time. No special events or competitions are included in this application. The facility would be subject to existing Municipal Code rules and regulations pertaining to public parks, skate parks, and noise.

## **General Plan and Zoning**

Monterey Park is classified as an active park and has a land use designation of P/OS (Parks/Open Space) by the Capitola General Plan. General Plan Policy LU-13.13 calls for the City to "Develop Monterey Park as an active park site with neighborhood-serving recreational

facilities and amenities”. Development of a skate park is referenced in General Plan Policy LU-13.9 which states “Support and encourage the location of special use recreation facilities, such as organic community gardens, dog parks, and skate parks on available park or other public lands, where compatible with the existing and planned uses of surrounding properties”. The proposed skate park would be an active recreation facility consistent with the P/OS land use designation.

Monterey Park is zoned PF-P (Public Facility – Park). The purpose of the PF-P zone is to set aside areas for public parks, scenic easements, riparian corridors, beach areas and similar public use areas. The PF-P zone does not establish development standards for height, setbacks, parking, floor area ratio, or other standards typically applied to residential and commercial zoning districts.

### CEQA

A draft EIR was prepared and circulated for a 52-day public review and comment period. The EIR found the project would result in significant environmental effects to/from noise, hazards/hazardous materials and biological resources. Mitigation measures have been incorporated into the EIR and project conditions which would reduce impacts to a less than significant level. Staff and the City Attorney reviewed all comments received and provided written responses which are included in the Final EIR.

### **Project Issues**

Staff received numerous public comments which express a variety of concerns with the proposal. The following sections outline the primary topics of concern with a staff analysis of the issues.

### Noise

The proposed skate park would introduce a new source of noise to the adjacent middle school campus and neighboring residents. Noise would be generated by skaters arriving and departing the skate park along neighboring streets, skateboards slapping and grinding on hard surfaces, and skate park users talking and occasionally shouting. Noise is reviewed for consistency with the City’s General Plan Safety and Noise Element (Noise Element), Noise Ordinance, and CEQA. Noise can also be an important consideration when evaluating community character issues.

The City contracted with Illingworth and Rodkin, Inc. to assess noise generated by the skate park and to evaluate the project for consistency with the Noise Element, Noise Ordinance, and CEQA. Their analysis, findings, and recommendations are documented in the *Monterey Avenue Skate Park Project Noise and Vibration Assessment* (September 2, 2015) and is included as Appendix C of the EIR. The noise assessment included measurements of existing ambient noise levels in and around the project site, a review and analysis of actual noise generated by other skate parks, and modeling predicted changes in noise levels resulting from the project.

The noise consultant applied a conservative approach to their analysis to ensure predicted project noise would not be understated. For example, the noise model used a worst-case scenario which assumed the skate park would be used at full capacity throughout an entire day, a scenario which is unlikely to occur with any regularity. The modeling also relied on actual noise measurements from larger skate parks which would be expected to produce higher noise levels than the proposed facility.

In addition, the study also includes an  $L_{max}$  analysis to account for maximum instantaneous noise events created by momentary grinding and slapping of skateboards and shouting. Noise

generation for common land uses is typically evaluated through daily and/or hourly average noise measurements, such as CNEL,  $L_{dn}$ , and/or  $L_{eq}$  standards. Although the  $L_{max}$  standard is generally only applied to uses which involve more impulsive, penetrating noise events such as a shooting range, it was used for this project to account for peak noise events and to provide a conservative evaluation. A brief description of noise standards evaluated in the study is provided below:

NOISE MEASUREMENT STANDARD	DESCRIPTION
CNEL (Community Noise Equivalent Level)	Average noise level during a 24-hour day, including a 5 decibel addition for evening hours (7-10 pm) and 10 decibel addition for night hours (10 pm – 7 am)
$L_{dn}$ (Day/Night Noise Level)	Same as CNEL, except evening hour decibel addition not applied. Includes night addition of 10 decibels
$L_{eq}$ (Equivalent Noise Level)	Average noise levels during a measurement period
$L_{max}$ (Maximum Noise Level)	Maximum noise levels during a measurement period

*Safety and Noise Element Consistency*

The City’s Noise Element establishes compatibility guidelines for common land uses based on criteria developed by the State of California and published by the Office of Planning and Research. The guidelines set a “normally acceptable” noise level of 60 dBA CNEL/ $L_{dn}$  for low density residential areas and 70 dBA CNEL/ $L_{dn}$  for schools and neighborhood parks.

Assuming a worst-case scenario in which the proposed skate park operates at full capacity for the entire daily operation period, the  $L_{dn}$  noise level with the proposed skate park would be approximately 47 to 52 dBA  $L_{dn}$  at the School District offices and 47 dBA  $L_{dn}$  or less at nearby single-family residences on Orchid Avenue and the New Brighton Middle School classrooms. This is below the most-restrictive threshold used to evaluate noise impacts (60 dBA  $L_{dn}$ ). CNEL noise levels attributable to skate park operations would be approximately 48 to 53 dBA CNEL at School District offices and 48 dBA CNEL or less at nearby single-family residences and classrooms, which are also substantially below the 60 dBA CNEL standard. Accordingly, noise generated by the proposed skate park would not exceed the most restrictive Noise Element standard of 60 dBA CNEL/ $L_{dn}$ .

*Noise Ordinance Consistency*

The City’s Noise Ordinance provides standards for types of noise (leaf blowers, amplified music, etc.) and allowable hours of construction, but does not establish any quantitative noise thresholds. The skate park proposal does not include the use of amplified music, loudspeakers, or public address systems and construction activities would be limited in accordance with the Noise Ordinance. The project would therefore be consistent with the City Noise Ordinance.

*CEQA Consistency*

CEQA requires potential noise impacts be identified and avoided or mitigated, but does not establish any quantitative standards or thresholds. Consequently, the EIR applied the following thresholds of significance to determine if the project would result in a significant noise impact: 1) if the project would conflict with the Noise Element; 2) if the project would conflict with the Noise Ordinance; and 3) if the project would result in a 5 dBA increase in noise, as such an increase would be clearly perceptible by most persons.

As previously noted, the project would not conflict with the Noise Element or Noise Ordinance. However, the noise study concluded that skate park noise levels would exceed the arithmetic average  $L_{eq}$  by up to 7 dBA and the arithmetic average  $L_{max}$  by up to 5 dBA at the school district

offices and residences on Orchid Avenue; therefore, the project would result in a significant noise impact.

To reduce noise impacts to a less-than-significant level, mitigation in the form of six-foot high noise barriers at the north and south boundaries of the skate park would be required to reduce maximum instantaneous and hourly average noise levels by a minimum of 5 dBA at the school district offices and single-family residences at the west end of Orchid Avenue. Noise barriers would be constructed from materials such as one-inch thick wood fence boards, masonry block, concrete, or a transparent plexiglass material. Through the incorporation of noise barriers, noise impacts from the project would be reduced to a less-than-significant level as defined by CEQA.

#### Traffic and Parking

The City commissioned Kimley-Horn and Associates to evaluate traffic and parking impacts from the proposed skate park. Their analysis and findings are presented in a *Traffic Impact Study for Monterey Avenue Skate Park* (August 28, 2015) and can be found as Appendix D of the EIR. The study evaluated current traffic conditions along Monterey Avenue and the surrounding road network and developed trip generation rates based on available information from similar skate parks and professional judgment of the traffic engineer.

The traffic study concluded the project would result in eight new weekday PM peak hour trips and 11 new weekend peak hour trips. This additional traffic would not result in a noticeable change to traffic volumes along Monterey Avenue and would have no effect on existing Levels of Service (LOS). Accordingly, the project would not result in a significant direct traffic impact as defined by CEQA.

The project would, however, contribute four cumulative trips to a failing intersection at Kennedy Drive and Park Avenue which currently operates at an unacceptable LOS "E" during the weekday PM peak period. The Kennedy Drive/Park Avenue intersection was identified as a failing intersection in the General Plan Update EIR which includes a mitigation measure to install a future traffic signal to improve traffic flow to LOS "C". Therefore, a condition of approval is included to require the applicant to make a fair share contribution to fund the future installation of a traffic signal at this intersection.

#### *Parking*

Parking for Monterey Park users is provided by an existing 26-space public parking lot and on-street spaces along either side of Monterey Avenue. Based on the Kimley-Horn's parking analysis, six parking spaces would be needed to accommodate skate park users during peak use periods. The remaining 20 spaces would be available to serve baseball players, which would provide adequate capacity for 20 individual players if they each drove a separate vehicle to the park.

#### Community Character/Land Use Compatibility

Many residents have expressed concerns about the effect the proposed skate park would have on existing community character, citing issues with noise, traffic, parking, and aesthetics. Although the project would not result in any significant unmitigated CEQA impacts, it would introduce new sources of noise and traffic, an increased parking demand, and a new visual feature to Monterey Park which some may consider to be undesirable changes to existing community character.

As a designated active park site, Monterey Park accommodates existing recreational activities which produce noise, traffic, and parking demand. It is expected that any new or expanded



active park uses would likewise involve some additional nuisance impacts which may be objectionable to neighboring residents. Notwithstanding, it is staff's opinion that the proposed skate park would not result in a substantial degradation of the existing visual character of the area nor would it generate significant volumes of new traffic which would adversely affect safety of traffic flow along Monterey Avenue. The additional parking demand generated by the project is also not expected to substantially affect the availability of on-street parking along Monterey Avenue.

The expected increase in nuisance noise from skateboarding, however, could be considered a substantial community character issue. Although noise barriers would reduce noise below a level of CEQA significance, it is recognized that skateboarding activity will create audible noise which may be disturbing to neighboring residents and faculty and students at the school campus.

Active park uses often present land use compatibility issues with surrounding residential areas. Skate parks, basketball courts, tennis courts, swim clubs, and similar uses can all produce nuisance impacts which may be objectionable to neighbors. Conversely, there are also people who appreciate living near parks for ease of accessing recreational opportunities for themselves and their children.

The General Plan includes high level guidance on community character and land use compatibility issues, including policies to ensure new development is compatible with neighboring land uses and protects neighborhood character. The General Plan also includes policies which promote increased recreational opportunities in City parks and development of active park uses in Monterey Park. The community character issues are therefore highly subjective and reasonable people may have very different views on the project's compatibility. In this regard, the Planning Commission has broad discretion to determine whether the proposed skate park would be consistent with competing General Plan policies relating to community character, land use compatibility, and the provision of expanded recreational opportunities.

#### Design and Public Safety

Concerns have been raised that the proposed skate park location would not provide adequate visibility for neighbors and law enforcement officials which could lead to increased vandalism, unlawful activities, and skaters using the facility at night when the park is closed. In addition, some residents have expressed concern that errant softballs could be hit into the skate park creating a hazard for skaters.

To help evaluate the proposed design in light of public safety issues, the City contracted with MacAdam Protection Strategies to review the skate park plans and develop design and operational recommendations to enhance public safety. Their analysis and recommendations are documented in a Crime Prevention through Environmental Design (CPTED) report (Attachment 5). Community Development staff also worked closely with the Police Department to review the proposed design and the CPTED recommendations and suggest the following modifications **if the Planning Commission moves to approve the project:**

- **Modified Skate Park Location:** It is recommended that the skate park be moved closer to the existing parking lot to improve visibility and public safety. The proposed skate park location is substantially hidden behind a knoll, trees and school district buildings. Moving the facility closer to the parking lot would allow people using Monterey Avenue, neighboring residents, and the police to better observe activities within and around the skate park and improved visibility would deter users from committing unlawful activities.

Staff additionally recommends the skate park be sited in a manner which avoids trees impacts to the extent possible, particularly the two redwood trees. It should be noted that this option was evaluated by the EIR as Alternative 1 which was found to be the environmentally superior alternative because it would reduce significant noise impacts to residents along Orchid Avenue.

- **Security lighting:** It is recommended that security lighting be added to illuminate the skate park and the path leading to the facility. Security lighting should be restricted to low pressure bulbs affixed to downward casting fixtures to prevent light trespass onto adjacent properties.
- **Netting:** It is recommended that netting, or an equivalent design measure, be added to prevent errant softballs from entering the skate park and creating a hazard to skaters.
- **Noise Wall Design:** The noises study and EIR found that noise attenuation walls are necessary to reduce noise impacts to a less than significant level. It should be noted that the incorporation of noise barriers has the potential to increase non-CEQA management issues at the proposed skate park. Noise walls may increase the City's long term maintenance liability through the need to maintain the walls and potentially remove graffiti. Although a plexiglass material may improve visibility into the skate park, it would likely require additional maintenance. Therefore, staff suggests noise walls be constructed of wood or masonry materials.

In addition, and as noted in the CPTED study, best practice for skate parks is to site them in locations which maximize opportunities to view the facility from public vantage points. Accordingly, noise walls must be sited in a manner which achieves necessary sound attenuation while also preserving views into the skate park.

- **Double Pedestrian Gate:** It is recommended that the entrance to the facility be modified to a double pedestrian gate to facilitate emergency and medical access.
- **Benches:** It is recommended that benches and/or cube style seating be added to allow parents and spectators to comfortably sit outside the facility. This would encourage additional parental and resident monitoring to deter unauthorized activities.
- **Emergency Phone:** An emergency phone should be added near the facility to allow quick communication access in the event of an emergency.
- **Other Features:** Additional recommended design features include the addition of rules/regulations signage, skate board and bicycle racks, bark/wood ground cover in-lieu of turf, and trash receptacles.

#### Soil Contamination

A Phase I/Phase II Environmental Site Assessment (ESA) was performed by Weber, Hayes, & Associates to review the historical uses of Monterey Park and potential sources of contamination. Their assessment included soil testing which found the project site, like many areas in Santa Cruz County, has elevated levels of naturally occurring arsenic in the soil. Additionally, trace amounts of Dieldrin, a pesticide commonly used between 1950 and the early 1970's was discovered which slightly exceeds the leachable screening level, but does not exceed human health (ingestion) screening levels.

To mitigate potential impacts to/from hazardous materials, mitigation measures have been incorporated which requires preparation and implementation of a soil management plan approved by the County of Santa Cruz Department of Environmental Health and excavated soils to be capped or transported to an appropriate off-site disposal facility. The County of Santa Cruz has reviewed the ESA and has determined these mitigation measures are appropriate to address contaminated soils.

### Biology

Some members of the public have expressed concerns regarding the loss of grassy open space at Monterey Park and resultant impacts to wildlife. Monterey Park supports non-native, ornamental turf grass and a variety of native and non-native tree species. The proposed skate park would displace approximately 6,800 square-feet of non-native turf, and depending on its chosen location, could result in the removal of up to six mature trees.

There are no documented records of federal, state, or locally listed sensitive plant or animal species in Monterey Park. The City does not have any regulations or policies which protect non-native vegetation, unless it provides habitat or wind protection for Monarch butterflies or other sensitive wildlife. Similarly, CEQA only protects non-native vegetation if it provides habitat or foraging areas for designated rare, threatened, or endangered species.

Although a variety of urban wildlife can be found in Monterey Park and surrounding neighborhoods, none of these species are considered rare or have any special protections. Moreover, these species are highly adaptive to urban settings and are unlikely to be significantly impacted by increased daytime park activity or the displacement of non-native turf. Raptors (hawks, falcons, and other birds of prey) use Monterey Park for foraging; however, the loss of approximately 6,800 square-feet of non-native turf would not represent a significant loss of feeding area for raptors which use large expanses of territory for foraging.

The skate park location proposed by the applicants would not impact any trees; however, the Planning Commission could require the facility to be shifted closer to the parking lot to improve visibility and public safety. Depending on the chosen location, it is possible that up to six mature trees could be affected, comprised of four non-native eucalyptus and two native California redwoods, neither of which is listed as a threatened or endangered species. If the skate park is approved and shifted to a location which requires tree removal, the project would be required to comply with the City's Community Tree and Forest Management Ordinance, including requirements for tree replacement.

Pursuant with the federal Migratory Bird Treaty Act, a mitigation measure has been incorporated to prohibit construction during the migratory bird nesting season between February 1 and August 15, unless a qualified biologist surveys the area and determines that no nesting birds are present.

### Operating Rules and Regulations

The proposed skate park would be subject to existing City regulations, including Municipal Code section 12.54 which establishes rules and regulations for skate parks on public property. Notable rules and regulations include:

- Skaters must wear a properly fitted helmet;
- Skaters under the age of ten must be accompanied by a parent or adult guardian;
- The use of devices other than a skateboard or skates is prohibited;
- No food, beverages, glass, or other breakable items are allowed in the skate park;

- No additional obstacles may be placed in the skate park;
- Reckless behavior which could endanger other users is prohibited;
- Signage containing rules and regulations must be posted and maintained;
- Violators may be issued an infraction and fined;
- The City may immediately close the skate park for up to 72 hours in response to vandalism or graffiti.

In addition, the skate park would be subject to Municipal Code section 9.12 (Noise) and 12.40 (Park Regulations). Section 9.12 prohibits the use of loudspeakers, amplified music, and public address systems unless a special events permit is issued by the City. It also prohibits any loud, boisterous, irritating, or unusual noise between 8:00 am and 10:00 pm. Section 12.40 establishes that public parks shall be closed from sunset until 6:00 am. Because the skate park would involve noise generating activities, its hours of operation would be limited from 8:00 am to dusk under current code provisions. The Planning Commission may adopt additional rules, regulations, or restrictions as necessary to minimize impacts to neighboring land uses.

#### Park and Recreation Facility Issues

Several issues have been raised related to park facilities, including whether the City needs two skate parks located less than a mile apart; the lack of restrooms at Monterey Park; the desire for a comprehensive park and recreation master plan; increased maintenance costs; and the loss of open space area necessary to support a soccer field.

If the Planning Commission approves the project, staff's recommended project modification to shift the skate park location closer to the street will preserve the potential for a future soccer field. Nevertheless, the other park facility issues are primarily City policy and/or budget related issues which are not addressed by the City's General Plan, Zoning Code, or CEQA. The types of recreational facilities and amenities provided in City parks is a policy issue generally considered by the City Council.

The Planning Commission may consider these policy issues as part of their decision on the project, but they may also choose to base their decision solely on the project's consistency with the General Plan, Zoning Code, and CEQA as park facility policy issues will ultimately be decided by the City Council when they consider the request for a right-of-entry agreement.

#### CEQA

An Environmental Impact Report (EIR) has been prepared pursuant to the California Environmental Quality Act (CEQA). The Planning Commission must consider the EIR prior to making a decision, make CEQA findings, and adopt the Mitigation, Monitoring, and Reporting Program (MMRP) if they choose to approve the project.

#### RECOMMENDATION

Staff finds that the proposed skate park use would be consistent with the PF-P zoning district, the P/OS land use designation, applicable General Plan goals and policies, and that all environmental impacts can be mitigated below a level of significance pursuant to CEQA. Therefore, staff recommends the Planning Commission:

1. Adopt the attached Resolution Certifying the Environmental Impact Report and Adopting the Mitigation, Monitoring, and Reporting Program; and

2. Approve a Conditional Use Permit, Design Permit, and Coastal Development Permit to allow construction and operation of a modified project as described as Alternative 1 in the EIR subject to the following conditions and based upon the following findings:

### **CONDITIONS OF APPROVAL**

1. The project approval consists of an approximately 6,000 square-foot skate park located in Monterey Park in the PF-P (Public Facility – Park) zoning district. Improvements consist of a skate park facility, fencing, noise attenuation walls, ADA improvements, and stormwater treatment. No special events or skateboarding competitions are authorized by this permit. The proposed project is approved as indicated on the plans reviewed and approved by the Planning Commission on March 31, 2016, except as modified through conditions imposed by the Planning Commission.
2. Consistent with EIR Alternative 1, the applicant shall submit revised plans which shift the skate park closer to the existing Monterey Park parking lot to improve visibility and public safety. The applicant shall be responsible for preparing and submitting revised plans for the relocated facility. The relocated facility should be designed to avoid impacts to trees to the maximum extent possible. If the ultimate location and orientation of the skate park presents any conflict with other existing park uses, the applicant shall prepare and submit plans which show how adjustments to the park layout could accommodate all uses to the satisfaction of the Community Development Director and Public Works Director. The applicant shall be responsible for any costs associated with design and construction of the skate park facility and any modifications to other park facilities which are necessary to accommodate the skate park.
3. The modified design shall include minimum six-foot high noise attenuation walls along the north and south boundaries of the skate park along the proposed fence line to reduce maximum instantaneous and hourly average noise levels by a minimum of five dBA at the Soquel Union Elementary School District Offices and single-family residences at the west end of Orchid Avenue. Noise barriers shall be constructed from materials having a minimum surface weight of 3 lbs/sf, such as one-inch thick wood fence boards, masonry block, or concrete, and be constructed in a manner free of any cracks or gaps between barrier materials and between the barrier and the ground. Alternately, suitable barrier materials such as Acoustifence by Acoustiblok or ¼-in. plexiglass could be attached to the proposed metal fence surrounding the skate park to provide an equivalent noise level reduction if approved by the Planning Commission or City Council. Proposed noise attenuation walls shall be reviewed by a qualified acoustician and approved by the Community Development Director.
4. The modified design shall include security lighting to softly illuminate the skate park and path leading to the facility. Security lighting shall be restricted to low pressure bulbs affixed to downward casting fixtures to prevent light trespass. Security lighting shall be reviewed and approved by the Community Development Director.
5. The modified design shall include two conspicuous rules and regulations signs to the satisfaction of the Public Works Director.
6. The modified design shall include a minimum of two benches and/or cube style seating outside the facility for parents and spectator use to the satisfaction of the Community Development and Public Works Directors.

7. The modified design shall include a skate board rack and a bicycle rack to the satisfaction of the Community Development and Public Works Directors.
8. The modified design shall include an emergency phone to the satisfaction of the Police Chief and Public Works Director.
9. The modified design shall include a double pedestrian gated entrance to the satisfaction of the Police Chief and Community Development Director.
10. The modified design shall include wood bark chips, or other non-turf/hardscape materials between the skate park and the fence to the satisfaction of the Community Development Director.
11. Prior to issuance of a building and/or grading permits, the applicant shall obtain a right-of-entry permit or equivalent form of permission from the City to construct improvements on public property.
12. Prior to issuance of a building permit or grading permit, all planning fees shall be paid in full.
13. Prior issuance of a building or grading permits, the applicant shall prepare and implement a Soil Management Report which requires all excavated soils to be removed with proper disposal and/or encapsulation to prevent exposure to contaminants found in the soil. The report shall be submitted to the Community Development Department and the County of Santa Cruz Department of Environmental Health. No grading shall occur until the report is approved by the County of Santa Cruz.
14. Prior to issuance of building or grading permits, the applicant shall prepare a Safety Plan to ensure that appropriate worker health and safety measures are in place during grading and construction activities. The plan shall be submitted to the Community Development Department and County of Santa Cruz Department of Environmental Health. No grading shall occur until the plan is approved by the County of Santa Cruz.
15. Prior to issuance of building or grading permits, the applicant shall post a bond, letter of credit, or other acceptable form of construction security to the satisfaction of the City Attorney and Public Works Director.
16. Prior to issuance of building or grading permits, the applicants shall be responsible for funding a detailed inspection by a qualified acoustician of wood fences on the rear property line along Orchid Avenue within 165 feet of the skate park to ensure fences are adequate to attenuate noise as predicted. If the acoustician finds defects in fences, the applicant shall be responsible for funding necessary repairs and/or replacement, and with permission of the property owner, to ensure an acoustically effective six-foot noise barrier.
17. Prior to issuance of building or grading permits, the applicant shall make a fair share contribution in the amount of \$1,507 for the installation of a future traffic signal at the Kennedy Drive/Park Avenue intersection. The City shall deposit the funds into an account designated solely for the installation of a future traffic signal.

18. Prior issuance of a building or grading permits, final building plans shall be submitted consistent with the plans and conditions approved by the Planning Commission. All construction and site improvements shall be completed according to the approved plans.
19. Prior issuance of a building or grading permits, conditions of approval and mitigation measures shall be conspicuously shown on the title sheet of building and grading plans and construction contract specifications.
20. Prior issuance of a building or grading permits, Public Works Standard Detail SMP STRM shall be printed in full and incorporated as a sheet into the construction plans. All construction shall be done in accordance with the Public Works Standard Detail BMP STRM.
21. Prior issuance of a building or grading permits, the applicant shall submit a drainage plan, grading, sediment and erosion control plan to the City and approved by Public Works. The plans shall be in compliance with the requirements specified in Capitola Municipal Code Chapter 13.16 Storm Water Pollution Prevention and Protection.
22. Prior issuance of a building or grading permits, the applicant shall submit a stormwater management plan to the satisfaction of the Director of Public Works which implements all applicable Post Construction Requirements (PCRs) and Public Works Standard Details, including all standards relating to low impact development (LID).
23. Prior to any land disturbance, a pre-site inspection must be conducted by the grading official to verify compliance with the approved erosion and sediment control plan.
24. Pursuant to the federal Migratory Bird Treaty Act, no construction shall occur between February 1 and August 15 unless the site is first surveyed by a qualified biologist who determines that no nesting birds are present.
25. During construction, all worker safety measures identified in a Safety Plan approved by the County of Santa Cruz shall be implemented and followed at all times.
26. Construction activities shall be limited to 8:00 a.m. to 5:00 p.m. on weekdays and 9:00 a.m. to 4:00 p.m. on Saturdays. No Sunday construction is allowed. No grading or use of heavy equipment shall take place when school is in session.
27. Any trees removed or damaged by the project shall be replaced within Monterey Park at a 2:1 ratio. If replacement trees cannot be accommodated within Monterey Park, as determined by the Community Development and Public Works Directors, the applicants may pay in-lieu fees in accordance with the City's Community Tree and Forest Management Ordinance.
28. Prior to issuance of a certificate of occupancy, the applicant shall fund an inspection by a qualified acoustician to verify the six-foot noise walls have been appropriately constructed to ensure effective noise attenuation.
29. Prior to issuance of a Certificate of Occupancy, compliance with all conditions of approval shall be demonstrated to the satisfaction of the Community Development Director.

30. Prior to issuance of a certificate of occupancy, any and all damage to the parking lot or other park facilities caused by construction activities shall be repaired per the Public Works Standard Details and to the satisfaction of the Public Works Department. All replaced driveway approaches, curb, gutter or sidewalk shall comply with Accessibility Standards.
31. This permit shall expire 24 months from the date of issuance. The applicant shall have an approved building permit and construction underway before this date to prevent permit expiration. Applications for extension may be submitted by the applicant prior to expiration pursuant to Municipal Code section 17.81.160

### **FINDINGS**

- A. The proposed public skate park, subject to the conditions imposed, is consistent with the P/OS (Parks/Open Space) designation of the General Plan and the PF-P (Public Facility – Park) zoning district.
- B. The proposed public skate park would be consistent with the active park designation of Monterey Park and through incorporation of mitigation measures and conditions of approval, would maintain the character and integrity of the neighborhood.
- C. An Environmental Impact Report (EIR) has been prepared for the project in accordance with the California Environmental Quality Act (CEQA). CEQA findings are included in the Resolution Certifying the EIR and Adopting a Mitigation, Monitoring, and Reporting Program (Attachment 3).

### **ATTACHMENTS:**

1. Monterey Avenue Skate Park Plans
2. Monterey Avenue Skate Park 3D Model
3. Resolution to Certify the EIR and Adopt the MMRP
4. Coastal Development Permit Findings
5. Crime Prevention through Environmental Design (CPTED) Study
6. Arch and Site Minutes 7.22.2015
7. Public Comments

Prepared By: Rich Grunow  
Community Development Director





**FINAL MINUTES  
CAPITOLA PLANNING COMMISSION MEETING  
THURSDAY, MARCH 31, 2016  
6 P.M. – CAPITOLA CITY COUNCIL CHAMBERS**

**1. ROLL CALL  
AND PLEDGE OF ALLEGIANCE**

**2. ORAL COMMUNICATIONS**

**A. Additions and Deletions to Agenda**

There are no changes to the agenda, but staff noted the commission received numerous public comment correspondence items after packet distribution that are available for review.

**B. Public Comments**

None

**C. Commission Comments**

Commissioner Smith requested that parent supporters of the application indicate, if they wish, whether they would accompany their children to the park.

**D. Staff Comments**

None

**3. PUBLIC HEARINGS**

**A. Monterey Avenue Skate Park #15-068 APN: 036-151-01**

Design Permit, Conditional Use Permit, and consideration of an Environmental Impact Report for an approximately 6,000 square-foot skate park at Monterey Park.

The project is within the Coastal Zone and requires a Coastal Development Permit which is not appealable to the Coastal Commission.

Environmental Determination: Environmental Impact Report

Property Owner: City of Capitola

Applicants: Marie Martorella and Tricia Proctor

Chairperson Welch opened with a statement thanking the community for its participation and asked for respect of all speakers.

Commissioner Westman acknowledged that she lives next door to the applicants and based on a discussion with the city attorney she will participate in the decision.

Community Development Director Rich Grunow presented the staff report. He gave an overview of current uses by sports leagues and the adjacent middle school, and of neighboring land uses. He outlined the location and size of the proposed skate park, and noted it is designed to accommodate up to 25 beginner to intermediate skaters. He offered images from a request to recommend a different style of fencing to further deter access when the skate park is not open.

He walked through the EIR process, which identified potentially significant impacts of noise, of hazardous materials, and to biological resources. A noise study was conducted, including Lmax levels, which is not standard for most land use proposals. It concluded noise could be 5

to 7 decibels above recommended levels, so a mitigation condition of a six-foot noise wall was included in the EIR. Based on a traffic study which identified a failing intersection at Kennedy and Monterey, a condition requiring a fair-share contribution toward a future signal at that location is recommended. The parking study shows it is adequate for the additional use.

Director Grunow acknowledged the potential conflict with this application between General Plan goals of maintaining residential neighborhoods and expanding recreational opportunities. The policy question will be whether the use is compatible with the surrounding residences and middle school. The review process did not support concerns about visual degradation or increases in traffic and parking. Noise concerns are challenging and somewhat subjective. The other issue raised by the community is public safety. A crime prevention study resulted in suggested changes including moving the location closer to the street to improve visibility, security lighting, netting to catch softballs, solid noise barriers and earthen berms, better emergency access, an emergency phone and more spectator seating. These suggestions have been incorporated in the conditions.

There are elevated arsenic levels and a formerly used pesticide in the soil, so any disturbed soil will be capped and/or hauled off-site. Although comments expressed biological concerns, no threatened or endangered species are identified. Any removed trees will be replaced two to one according to code, and the City has regulations guiding skate parks.

Other concerns raised fall under City Council purview. These include whether there is a need for two skate parks, whether the City can afford ongoing maintenance costs, lack of restroom facilities, lack of comprehensive parks master plan, and loss of the chance to expand the soccer field. The adjacent school has concerns about impacts on its bathrooms, PE classes, and loss of shade.

Staff recommends approval of a modified project as identified as Alternative 1 in the EIR, which would place the skate park closer to the existing parking lot.

Commissioners deferred their questions until after public comments, and Chairperson Welch opened the public hearing.

Applicants Tricia Proctor and Marie Martorella spoke on behalf of the project. They noted they had previously submitted 240 letters of support and it is privately funded project. It incorporates changes from the draft EIR. They believe it will be a benefit to the community and a successful addition to the park. In response to public comments, the project does stay within the 6000K skateable area, and concerns about restrooms, boom box noise, and patrols are not issues for the EIR or included in the application. Representative from the design firm Dreamland and the Tony Hawk Foundation are also available to answer questions.

Commissioner Newman asked about whether the applicants would support the alternative location and was told they would move the feature but are not open to reducing the size.

Commissioner Smith confirmed that the project includes a stamped bank and asked about the netting. It is supported by used power poles and can be raised and lowered by a pulley system. They are common in multi-field ballparks.

Henry Castenada, superintendent of the Soquel Union Elementary School District, addressed concerns regarding student safety. He explained the school board did not wish to take action because the land is public property, but the district does not know what the noise impact will be on the middle school and the project's effect on programs. Harley Robertson, district facilities, expressed concern about lack of bathrooms that can result in park users coming onto the campus to use its facilities. He acknowledged these are not CEQA issues. He noted the district is responsible for student safety until a student returns home.

Lisa Steingrube, Friends of Monterey Park, opposed the application. She and her group do not believe it is appropriate because surrounding property owners are opposed to the size and do not feel their concerns regarding noise, traffic, and parking have been addressed. She also said the City has invested in a nearby skate park and ongoing maintenance costs fall to the City.

Richard Lippi, Protecting Our Public Parks, spoke on behalf of 60 households that oppose the project. He said the original concept of a skate park at Monterey Park, as expressed in 2010 by Councilman Dennis Norton, was a skate facility for young, beginner skaters of 2,000 to 4,000 square feet like the Fredrick Street Park in Santa Cruz. Mr. Lippi does not believe this application meets the directive of the 2012 City Council in size and softening of features. He also wants to preserve the trees that could be lost in the alternative location.

Brittney Barrios, local native and avid skater, spoke in support. She has found skating is a sport she can enjoy in spite of a heart condition and has personally experienced a supportive community in contrast to negative stereotypes.

Marilyn Warter, resident, did not oppose a small, beginner park but does not support the application as currently proposed. The impact on immediate neighbors should be considered.

Danielle Scott, Dreamland designer, has spent six years on the project. It complements a multi-use park. The bowl is open and visible, and the opportunity to have a park like this privately funded is unprecedented. In response to a question about the “age” level, she noted it is more appropriately described by skill, which is beginner to intermediate.

Jim Curly spoke in support of project. He built Monterey Park with Granite Construction and acknowledged it should have included bathrooms when built. He added that skateboards are often louder on sidewalks because they cause the click while most of a skate feature is smooth.

Dylan Williams and Jake spoke in support of the project, noting many other skate parks have homes nearby and a good walking location.

Karla Villareal, adjacent neighbor, parent, and teacher, spoke in opposition. It is too close to her home and she does not want it moved close to others. She has safety concerns about loitering.

Cynthia Rothmeier, parent and teacher, spoke in support. She feels the location is safe, and as a parent who accompanies children to skate parks, she noted it creates less traffic to have a local resource.

Penny Novak Disbrow spoke in support. She feels the studies support the project.

Micky Bocavich, Tony Hawk Foundation, said the nonprofit has helped create 500 skateboard parks across country. This project is fairly small and in a typical location. Its features complement the style of the McGregor skate park.

Brad Oaks, neighbor, spoke in support. He said skating is a growing sport and the City would be fortunate to have a world-class facility.

Terre Thomas, neighbor, opposes the application. She often walks dogs at Monterey and worries they will be frightened. She feels the McGregor park is adequate or the application should compromise with a smaller and softer proposal.

Joey Miller and Benjamin, Depot Hill residents, spoke in support. He is a parent who will skate with his child and says such parks build a positive community. As a probation officer, he does not feel it attracts a dangerous element.

Jessica Krause supports the project.

Sarah Fitzgerald said as a parent she does accompany kids and supports the park.

Noah Fox, adjacent neighbor and parent, spoke in support.

Shona McDongall, neighbor, spoke in opposition based on concern about negative outside influences.

Gabriel Garcia, neighbor, echoed his wife's concerns about outside influences and noise near the school.

Tim Piumarta, Cabrillo Host Lions Club, supports the project. He noted the group is currently working to get bathrooms built at Polo Grounds Park in Aptos and he will ask it to support bathrooms at Monterey.

Terry Champion, resident, spoke in support of local skateboarders' character and noted that as someone living next to another local park, parks are inherently noisy.

Neil P., resident, spoke in support of the project and noted when he lived near the Felt Street skate park he did not experience increased noise.

Kim Novak, resident and Tony Hawk Foundation, spoke to the benefits communities see when adding a skate park.

Cecelia Hall Novak spoke in support.

John Hunter spoke in support, saying skate parks are preferable to kids roaming neighborhoods to look for a place to skate.

David Stow, neighbor, opposes the project for noise and safety reasons.

Katherine Sweet, Soquel, supports the project.

Dan Steingrube, neighbor, opposes the project for noise concerns.

Helen Bryce, resident, opposes the project. She would like to see other active uses that emphasize nature and expressed concern that this use does not support opportunities for the disabled.

Elizabeth Russell, resident, challenged the EIR noise findings because she believes the park will be used during prohibited hours. She distributed information about a park in Vancouver, Canada, that had such a problem.

Cooper Wiens, student, spoke in support, saying he believes younger people will be aware of and avoid those who wish to cause problems.

Rich Novak, resident and donor of the project's costs, said he is pleased to support positive opportunities for kids, citing the example of the ball field Harry Hooper built when Novak was growing up in Capitola.

Andrew Collin spoke in support of the application. He countered earlier comments about the park not serving disabled populations, noting he personally knows a deaf skater, and both the blind and wheelchair users also use skate parks.

Chairperson Welch closed public comment and asked for the commission's questions.

Commissioner Ortiz asked about wiring for security cameras, which was suggested by not incorporated. Police Chief Rudy Escalante explained that the city currently has no cameras on public property. The cost, storage of video, and public records requests are concerns that need to be addressed and a policy established before implementing. Commissioner Smith asked the chief about safety concerns. He said visibility is key. When asked about how to address concerns about outside influences, he said the department would continue to partner with the community and respond to calls. Commissioner Westman noted that other communities have closed their skate parks temporarily when there has been an increase in loitering or vandalism and asked if that would be an option. Chief Escalante agreed it would be. He also supports the alternative fence design as a better deterrent to after-hours access. Chairperson Welch asked about balancing levels of security lighting but not enough to encourage night skating. Chief Escalante said directional security lighting is used in all City parks.

Commissioner Westman confirmed the alternative fence design would need to be added to the conditions.

Commissioner Ortiz asked if there was a different noise impact for second stories. Director Grunow said it is the same. Michael Well, consultant for the noise study, said it did review homes surrounding the park but outside the impact zone. He explained that indoors, noise is 15 decibels lower than what is heard outdoors with the windows open and 20 decibels lower when closed.

Commissioner Smith confirmed the proposed additional benches are outside the fence and asked what is required to hold an event. There is a permit process through the Police Department. She also asked whether the applicant has considered the recommended alternate location. Ms. Proctor said they have started a tentative drawing for the other location.

Commissioner Smith gave an overview of her approach and research ahead of this hearing, including reading all comments and visiting area skate parks. She praised ongoing community interest. She believes that skating, like surfing, is outgrowing a "bad" reputation and believes a strong community must support youth. She sees a need to define neighborhood and community parks in the zoning update. She does not want to put staff in the position of approving the changed location. She favors continuing the hearing and further discussion of security lighting and construction timing for biological resources. She would like to require a noise study after open hours, supports the alternative fence, and favors all smooth surfaces, requiring replacement trees in the park rather than in-lieu fees, and closing the skate park during school hours.

Commissioner Westman thanked participants for civility. She suspects the final decision will go to City Council, and the Planning Commission's task is to focus on land use decisions. She sees the need for a skate park and likes a younger, beginner option. She agrees there's a need for bathrooms, but that is a decision for City Council. She supports moving the application forward and would sacrifice the eucalyptus trees and replace them. She supports a follow up noise study and recommends changing the condition timing for one until the park is truly in use and add a condition for further sound mitigation as promised.

Commissioner Ortiz agrees with previous comments. She has always been an advocate for preserving neighborhood character, but said the middle school and churches on Monterey Avenue create a more active mix of uses. She also noted that Noble Gulch Park just down

the street also offers open space. As part of her research she looked at 2014 census figures and realized that 15 percent of the community population is age 14 and under. She would recommend that the City Council add bathrooms and garbage cans, and supports additional conditions including a revised review period and money for noise abatement, prohibit special events, closed during school hours, preserve redwood trees, establish a specific a number of benches and size, and assure irrigation of replacement trees.

Commissioner Newman complemented staff and the applicants on the reports and application. As chair of the recent General Plan advisory committee, he feels very comfortable that this project is consistent with the new General Plan. He would favor certifying the EIR independent of project approval but also supports the previously suggested additional conditions that would allow the project to move forward.

Chairperson Welch also thanked staff and the community. He is sensitive to the noise concerns, but research, visits to area parks, and his personal experience as a firefighter working and sleeping by a skate park led him to conclude that it is not likely to be an issue. He noted the Cliffwood Heights neighborhood has three parks with different characteristics: Monterey, Noble Gulch, and Cortez (Hidden). The neighborhood has long been popular with families with children. He also added the neighborhood around the park in Vancouver referenced by a speaker rallied to preserve the skate park.

Commissioners discussed the pros and cons of closing the park during school hours. While it may help with noise and concerns about loitering, it does not address differing school schedules or allow the youngest park users time without older skaters. They compromised by establishing a condition to review the use six months after the park has opened and reevaluate the impact and hours. They added this item to a list of additional conditions.

Commissioners also supported communicating to the City Council that they feel bathrooms should be constructed at the park and adequate garbage receptacles provided.

Motion: Certify the Environmental Impact Report and Mitigation Monitoring Reporting Program

<b>RESULT:</b>	<b>CERTIFIED [UNANIMOUS]</b>
<b>MOVER:</b>	Edward Newman, Commissioner
<b>SECONDER:</b>	Susan Westman, Commissioner
<b>AYES:</b>	Smith, Ortiz, Newman, Welch, Westman

Motion: Approve a Design Permit, Conditional Use Permit, and Coastal Development Permit with the following conditions and findings:

**CONDITIONS OF APPROVAL**

1. The project approval consists of an approximately 6,000 square-foot skate park located in Monterey Park in the PF-P (Public Facility – Park) zoning district. Improvements consist of a skate park facility, fencing, noise attenuation walls, ADA improvements, and stormwater treatment. No special events or skateboarding competitions are authorized by this permit. The proposed project is approved as indicated on the plans reviewed and approved by the Planning Commission on March 31, 2016, except as modified through conditions imposed by the Planning Commission.
2. Consistent with EIR Alternative 1, the applicant shall submit revised plans which shift the skate park closer to the existing Monterey Park parking lot to improve visibility and public safety. The applicant shall be responsible for preparing and submitting revised plans for

the relocated facility. The relocated facility should be designed to avoid impacts to trees to the maximum extent possible. If the ultimate location and orientation of the skate park presents any conflict with other existing park uses, the applicant shall prepare and submit plans which show how adjustments to the park layout could accommodate all uses to the satisfaction of the Community Development Director and Public Works Director. The applicant shall be responsible for any costs associated with design and construction of the skate park facility and any modifications to other park facilities which are necessary to accommodate the skate park.

3. The modified design shall include minimum six-foot high noise attenuation walls along the north and south boundaries of the skate park along the proposed fence line to reduce maximum instantaneous and hourly average noise levels by a minimum of five dBA at the Soquel Union Elementary School District Offices and single-family residences at the west end of Orchid Avenue. Noise barriers shall be constructed from materials having a minimum surface weight of 3 lbs/sf, such as one-inch thick wood fence boards, masonry block, or concrete, and be constructed in a manner free of any cracks or gaps between barrier materials and between the barrier and the ground. Alternately, suitable barrier materials such as Acoustifence by Acoustiblok or ¼-in. plexiglass could be attached to the proposed metal fence surrounding the skate park to provide an equivalent noise level reduction if approved by the Planning Commission or City Council. Proposed noise attenuation walls shall be reviewed by a qualified acoustician and approved by the Community Development Director.
4. The modified design shall include security lighting to softly illuminate the skate park and path leading to the facility. Security lighting shall be restricted to low pressure bulbs affixed to downward casting fixtures to prevent light trespass. Security lighting shall be reviewed and approved by the Community Development Director.
5. The modified design shall include two conspicuous rules and regulations signs to the satisfaction of the Public Works Director.
6. The modified design shall include ~~a minimum of two~~ sufficient benches and/or cube style seating outside the facility for parents and spectator use. The number of benches/seating shall be determined based on best practices for public park facilities and to the satisfaction of the Community Development and Public Works Directors.
7. The modified design shall include a skate board rack and a bicycle rack to the satisfaction of the Community Development and Public Works Directors.
8. The modified design shall include an emergency phone to the satisfaction of the Police Chief and Public Works Director.
9. The modified design shall include a double pedestrian gated entrance to the satisfaction of the Police Chief and Community Development Director.
10. The modified design shall include wood bark chips, or other non-turf/hardscape materials between the skate park and the fence to the satisfaction of the Community Development Director.
11. The modified design shall include a wrought-iron fence with a curved top to deter unauthorized entry when the facility is closed.
12. The skate park shall be sited to avoid impacts to mature redwood trees.

13. Prior to issuance of a Right-of-Entry Permit, the applicant shall execute a defense and indemnity agreement with the City to the City Attorney's satisfaction.
14. Prior to issuance of a building and/or grading permits, the applicant shall obtain a right-of-entry permit or equivalent form of permission from the City to construct improvements on public property.
15. Prior to issuance of a building permit or grading permit, all planning fees shall be paid in full.
16. Prior issuance of a building or grading permits, the applicant shall prepare and implement a Soil Management Report which requires all excavated soils to be removed with proper disposal and/or encapsulation to prevent exposure to contaminants found in the soil. The report shall be submitted to the Community Development Department and the County of Santa Cruz Department of Environmental Health. No grading shall occur until the report is approved by the County of Santa Cruz.
17. Prior to issuance of building or grading permits, the applicant shall prepare a Safety Plan to ensure that appropriate worker health and safety measures are in place during grading and construction activities. The plan shall be submitted to the Community Development Department and County of Santa Cruz Department of Environmental Health. No grading shall occur until the plan is approved by the County of Santa Cruz.
18. Prior to issuance of building or grading permits, the applicant shall post a bond, letter of credit, or other acceptable form of construction security to the satisfaction of the City Attorney and Public Works Director.
19. Prior to issuance of building or grading permits, the applicants shall be responsible for funding a detailed inspection by a qualified acoustician of wood fences on the rear property line along Orchid Avenue within 165 feet of the skate park to ensure fences are adequate to attenuate noise as predicted. If the acoustician finds defects in fences, the applicant shall be responsible for funding necessary repairs and/or replacement, and with permission of the property owner, to ensure an acoustically effective six-foot noise barrier.
20. Prior to issuance of building or grading permits, the applicant shall make a fair share contribution in the amount of \$1,507 for the installation of a future traffic signal at the Kennedy Drive/Park Avenue intersection. The City shall deposit the funds into an account designated solely for the installation of a future traffic signal.
21. Prior issuance of a building or grading permits, final building plans shall be submitted consistent with the plans and conditions approved by the Planning Commission. All construction and site improvements shall be completed according to the approved plans.
22. Prior issuance of a building or grading permits, conditions of approval and mitigation measures shall be conspicuously shown on the title sheet of building and grading plans and construction contract specifications.
23. Prior issuance of a building or grading permits, Public Works Standard Detail SMP STRM shall be printed in full and incorporated as a sheet into the construction plans. All construction shall be done in accordance with the Public Works Standard Detail BMP STRM.



24. Prior issuance of a building or grading permits, the applicant shall submit a drainage plan, grading, sediment and erosion control plan to the City and approved by Public Works. The plans shall be in compliance with the requirements specified in Capitola Municipal Code Chapter 13.16 Storm Water Pollution Prevention and Protection.
25. Prior issuance of a building or grading permits, the applicant shall submit a stormwater management plan to the satisfaction of the Director of Public Works which implements all applicable Post Construction Requirements (PCRs) and Public Works Standard Details, including all standards relating to low impact development (LID).
26. Prior to any land disturbance, a pre-site inspection must be conducted by the grading official to verify compliance with the approved erosion and sediment control plan.
27. Pursuant to the federal Migratory Bird Treaty Act, no construction shall occur between February 1 and August 15 unless the site is first surveyed by a qualified biologist who determines that no nesting birds are present.
28. During construction, all worker safety measures identified in a Safety Plan approved by the County of Santa Cruz shall be implemented and followed at all times.
29. Construction activities shall be limited to 8:00 a.m. to 5:00 p.m. on weekdays and 9:00 a.m. to 4:00 p.m. on Saturdays. No Sunday construction is allowed. No grading or use of heavy equipment shall take place when school is in session.
30. Any trees removed or damaged by the project shall be replaced within Monterey Park at a 2:1 ratio. All replacement trees shall be irrigated until trees have become successfully established. ~~If replacement trees cannot be accommodated within Monterey Park, as determined by the Community Development and Public Works Directors, the applicants may pay in-lieu fees in accordance with the City's Community Tree and Forest Management Ordinance.~~
31. Prior to issuance of a certificate of occupancy, the applicant shall fund an inspection by a qualified acoustician to verify the six-foot noise walls have been appropriately constructed to ensure effective noise attenuation.
32. Prior to issuance of a Certificate of Occupancy, compliance with all conditions of approval shall be demonstrated to the satisfaction of the Community Development Director.
33. Prior to issuance of a certificate of occupancy, any and all damage to the parking lot or other park facilities caused by construction activities shall be repaired per the Public Works Standard Details and to the satisfaction of the Public Works Department. All replaced driveway approaches, curb, gutter or sidewalk shall comply with Accessibility Standards.
34. Prior to issuance of a certificate of occupancy, the applicant shall post a bond, letter of credit, or alternative form of financial security to the satisfaction of the Community Development Director to fund a post-operation noise study to be conducted approximately six months following the opening of the skate park and to pay for any remedial measures necessary to achieve acceptable noise attenuation. Noise attenuation shall be considered acceptable if post-operation noise is less than 5 dB(A) from pre-operation measurements.

35. This permit shall be reviewed by the Planning Commission approximately six months following the opening of the skate park to evaluate the effectiveness of conditions and to determine if any changes or new conditions are necessary to minimize impacts to neighboring properties.
36. No special events permits shall be issued to authorize competitions or other events at the facility.
37. The City Council, on recommendation from the Planning Commission, may revoke the Conditional Use Permit for evidence of repeated non-compliance with the conditions of approval.
38. This permit shall expire 24 months from the date of issuance. The applicant shall have an approved building permit and construction underway before this date to prevent permit expiration. Applications for extension may be submitted by the applicant prior to expiration pursuant to Municipal Code section 17.81.160

### **FINDINGS**

- A. The proposed public skate park, subject to the conditions imposed, is consistent with the P/OS (Parks/Open Space) designation of the General Plan and the PF-P (Public Facility – Park) zoning district.
- B. The proposed public skate park would be consistent with the active park designation of Monterey Park and through incorporation of mitigation measures and conditions of approval, would maintain the character and integrity of the neighborhood.
- C. An Environmental Impact Report (EIR) has been prepared for the project in accordance with the California Environmental Quality Act (CEQA). CEQA findings are included in the Resolution Certifying the EIR and Adopting a Mitigation, Monitoring, and Reporting Program.

### **COASTAL FINDINGS**

***D. Findings Required. A coastal permit shall be granted only upon adoption of specific written factual findings supporting the conclusion that the proposed development conforms to the certified Local Coastal Program, including, but not limited to:***

- The proposed development conforms to the City's certified Local Coastal Plan (LCP). The specific, factual findings, as per CMC Section 17.46.090 (D) are as follows:

***(D) (2) Require Project-Specific Findings. In determining any requirement for public access, including the type of access and character of use, the city shall evaluate and document in written findings the factors identified in subsections (D) (2) (a) through (e), to the extent applicable. The findings shall explain the basis for the conclusions and decisions of the city and shall be supported by substantial evidence in the record. If an access dedication is required as a condition of approval, the findings shall explain how the adverse effects which have been identified will be alleviated or mitigated by the dedication. As used in this section, "cumulative effect" means the effect of the individual project in combination with***

*the effects of past projects, other current projects, and probable future projects, including development allowed under applicable planning and zoning.*

**(D) (2) (a) Project Effects on Demand for Access and Recreation.** *Identification of existing and open public access and coastal recreation areas and facilities in the regional and local vicinity of the development. Analysis of the project's effects upon existing public access and recreation opportunities. Analysis of the project's cumulative effects upon the use and capacity of the identified access and recreation opportunities, including public tidelands and beach resources, and upon the capacity of major coastal roads from subdivision, intensification or cumulative build-out. Projection for the anticipated demand and need for increased coastal access and recreation opportunities for the public. Analysis of the contribution of the project's cumulative effects to any such projected increase. Description of the physical characteristics of the site and its proximity to the sea, tideland viewing points, upland recreation areas, and trail linkages to tidelands or recreation areas. Analysis of the importance and potential of the site, because of its location or other characteristics, for creating, preserving or enhancing public access to tidelands or public recreation opportunities;*

- The proposed project is located in Monterey Park at 700 Monterey Avenue. Monterey Park is not located in an area with coastal access. The proposed skate park would not have an effect on public trails or beach access.

**(D) (2) (b) Shoreline Processes.** *Description of the existing shoreline conditions, including beach profile, accessibility and usability of the beach, history of erosion or accretion, character and sources of sand, wave and sand movement, presence of shoreline protective structures, location of the line of mean high tide during the season when the beach is at its narrowest (generally during the late winter) and the proximity of that line to existing structures, and any other factors which substantially characterize or affect the shoreline processes at the site. Identification of anticipated changes to shoreline processes at the site. Identification of anticipated changes to shoreline processes and beach profile unrelated to the proposed development. Description and analysis of any reasonably likely changes, attributable to the primary and cumulative effects of the project, to: wave and sand movement affecting beaches in the vicinity of the project; the profile of the beach; the character, extent, accessibility and usability of the beach; and any other factors which characterize or affect beaches in the vicinity. Analysis of the effect of any identified changes of the project, alone or in combination with other anticipated changes, will have upon the ability of the public to use public tidelands and shoreline recreation areas;*

- The proposed project is located in Monterey Park at 700 Monterey Avenue. No portion of the project is located along the shoreline or beach.

**(D) (2) (c) Historic Public Use.** *Evidence of use of the site by members of the general public for a continuous five-year period (such use may be seasonal). Evidence of the type and character of use made by the public (vertical, lateral, blufftop, etc., and for passive and/or active recreational use, etc.). Identification of any agency (or person) who has maintained and/or improved the area subject to historic public use and the nature of the maintenance performed and improvements made. Identification of the record owner of the area historically used by the public and any attempts by the owner to prohibit public use of the area, including the success or failure of those attempts. Description of the*

***potential for adverse impact on public use of the area from the proposed development (including but not limited to, creation of physical or psychological impediments to public use);***

- The project site is a City-owned active park which is open to the public. The City of Capitola is responsible for park maintenance. There is no history of the City to prohibit or restrict public access to the park.

***(D) (2) (d) Physical Obstructions. Description of any physical aspects of the development which block or impede the ability of the public to get to or along the tidelands, public recreation areas, or other public coastal resources or to see the shoreline;***

- The proposed project is located in Monterey Park at 700 Monterey Avenue. The project will not block or impede the ability of the public to get to or along the tidelands, public recreation areas, or views to the shoreline.

***(D) (2) (e) Other Adverse Impacts on Access and Recreation. Description of the development's physical proximity and relationship to the shoreline and any public recreation area. Analysis of the extent of which buildings, walls, signs, streets or other aspects of the development, individually or cumulatively, are likely to diminish the public's use of tidelands or lands committed to public recreation. Description of any alteration of the aesthetic, visual or recreational value of public use areas, and of any diminution of the quality or amount of recreational use of public lands which may be attributable to the individual or cumulative effects of the development.***

- The proposed project is located on public property which is approximately 1,400 feet north of the coast. There are no direct access paths (aside from public streets) between Monterey Park and the coast. The proposed skate park would not diminish public access to the coast or adversely alter the aesthetic, visual or recreational value of public use areas.

***(D) (3) (a – c) Required Findings for Public Access Exceptions. Any determination that one of the exceptions of subsection (F) (2) applies to a development shall be supported by written findings of fact, analysis and conclusions which address all of the following:***

***a. The type of access potentially applicable to the site involved (vertical, lateral, bluff top, etc.) and its location in relation to the fragile coastal resource to be protected, the agricultural use, the public safety concern, or the military facility which is the basis for the exception, as applicable;***

***b. Unavailability of any mitigating measures to manage the type, character, intensity, hours, season or location of such use so that agricultural resources, fragile coastal resources, public safety, or military security, as applicable, are protected;***

***c. Ability of the public, through another reasonable means, to reach the same area of public tidelands as would be made accessible by an access way on the subject land.***

- The project is not requesting a Public Access Exception, therefore these findings do not apply

***(D) (4) (a – f) Findings for Management Plan Conditions. Written findings in support of a condition requiring a management plan for regulating the time and manner or character of public access use must address the following factors, as applicable:***

***a. Identification and protection of specific habitat values including the reasons supporting the conclusions that such values must be protected by limiting the hours, seasons, or character of public use;***

- The project is located in an existing public park. There are no sensitive habitat areas on the property.

***b. Topographic constraints of the development site;***

- Monterey Park is a generally flat lot with no steep slopes.

***c. Recreational needs of the public;***

- The project would increase the public's access to recreational opportunities by adding a new skate park to an existing public park.

***d. Rights of privacy of the landowner which could not be mitigated by setting the project back from the access way or otherwise conditioning the development;***

***e. The requirements of the possible accepting agency, if an offer of dedication is the mechanism for securing public access;***

***f. Feasibility of adequate setbacks, fencing, landscaping, and other methods as part of a management plan to regulate public use.***

***(D) (5) Project complies with public access requirements, including submittal of appropriate legal documents to ensure the right of public access whenever, and as, required by the certified land use plan and Section 17.46.010 (coastal access requirements);***

- No legal documents to ensure public access rights are required for the proposed project

***(D) (6) Project complies with visitor-serving and recreational use policies;***

**SEC. 30222**

***The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry.***

- The project involves a recreational use on City-owned property used as an active public park.

**SEC. 30223**

***Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.***

- The project involves a recreational use in a developed City-owned park. The project would not adversely affect any coastal recreational uses.

***c) Visitor-serving facilities that cannot be feasibly located in existing developed areas shall be located in existing isolated developments or at selected points of attraction for visitors.***

- The project involves a recreational use in a developed City-owned park which would be available to visitors.

***(D) (7) Project complies with applicable standards and requirements for provision of public and private parking, pedestrian access, alternate means of transportation and/or traffic improvements;***

- The project would provide adequate on-site parking and would not result in any significant direct traffic impacts. The project is conditioned to make a fair share contribution to a future traffic signal at Kennedy Drive/Park Avenue as required by the General Plan Update EIR.

***(D) (8) Review of project design, site plan, signing, lighting, landscaping, etc., by the city's architectural and site review committee, and compliance with adopted design guidelines and standards, and review committee recommendations;***

- The project complies with standards established by the Municipal Code.

***(D) (9) Project complies with LCP policies regarding protection of public landmarks, protection or provision of public views; and shall not block or detract from public views to and along Capitola's shoreline;***

- The coastline is not visible from the project site.

***(D) (10) Demonstrated availability and adequacy of water and sewer services;***

- The project is located in a developed City-owned park which has water services and has access to wastewater infrastructure to service a future restroom.

***(D) (11) Provisions of minimum water flow rates and fire response times;***

- The project is located within close proximity of the Central Fire District. Water is available at the location.

***(D) (12) Project complies with water and energy conservation standards;***

- The project would require minimal water and energy.

***(D) (13) Provision of park dedication, school impact, and other fees as may be required;***

- The project would not impact the provision of park and recreation services and it does not involve new housing which would generate an increased demand for school facilities.

***(D) (14) Project complies with coastal housing policies, and applicable ordinances including condominium conversion and mobile home ordinances;***

- The project does not involve a condo conversion or mobile homes.

***(D) (15) Project complies with natural resource, habitat, and archaeological protection policies;***

- The project site is a developed City-owned park. No sensitive biological and archaeological resources exist on the project site.

***(D) (16) Project complies with Monarch butterfly habitat protection policies;***

- The project is outside of any identified sensitive habitats, specifically areas where Monarch Butterflies have been encountered, identified and documented.

***(D) (17) Project provides drainage and erosion and control measures to protect marine, stream, and wetland water quality from urban runoff and erosion;***

- The project meets federal, state, and local requirements for drainage, stormwater management, and erosion control.

***(D) (18) Geologic/engineering reports have been prepared by qualified professional for projects in seismic areas, geologically unstable areas, or coastal bluffs, and project complies with hazard protection policies including provision of appropriate setbacks and mitigation measures;***

- The project does not involve the development of new habitable structures and does not propose to locate facilities near a coastal bluff or other geologic hazard area.

***(D) (19) All other geological, flood and fire hazards are accounted for and mitigated in the project design;***

- The project is not located in a flood zone or a high fire risk area.

***(D) (20) Project complies with shoreline structure policies;***

- The proposed project is not located along a shoreline.

***(D) (21) The uses proposed are consistent with the permitted or conditional uses of the zoning district in which the project is located;***

- This use is an allowed use consistent with the Public Facility – Park (PF/P) zoning district.

***(D) (22) Conformance to requirements of all other city ordinances, zoning requirements, and project review procedures;***

- The project conforms to the requirements of all city ordinances, zoning requirements and project development review and development procedures.

***(D) (23) Project complies with the Capitola parking permit program as follows:***

- The project would not rely on the City's parking permit program.

<b>RESULT:</b>	<b>APPROVED AS AMENDED [UNANIMOUS]</b>
<b>MOVER:</b>	Edward Newman, Commissioner
<b>SECONDER:</b>	Susan Westman, Commissioner
<b>AYES:</b>	Smith, Ortiz, Newman, Welch, Westman

**5. DIRECTOR'S REPORT**

None

**6. COMMISSION COMMUNICATIONS**

None

**7. ADJOURNMENT**

Approved by the Planning Commission at the May 5, 2016, meeting.

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 Linda Fridy, Minutes Clerk



**Staff Responses to Wittwer/Parkin Appeal Letter**

**1. City Council must independently certify the EIR regardless of the appeal because the City Council must approve a right-of-entry agreement**

RESPONSE: It is agreed that the City Council must certify the EIR because the project has been appealed and as a result, the Planning Commission's previous certification has been suspended.

**2. The City Council should deny the project because the EIR objectives are fulfilled by a larger skate park (McGregor) which is located less than a mile away.**

RESPONSE: The City Council has the policy discretion to approve or deny the project for a variety of reasons; however, staff disagrees that the City Council is obligated to deny the project merely because another skate park facility is located within a mile.

Furthermore, one of the applicant's project objectives in the EIR is to "develop an approximate 6,000 square-foot public skate park in Capitola that is *centrally located and easily accessible to children, teens, and young adults*" (emphasis added). The McGregor skate park is located at the easternmost edge of the City and therefore does not satisfy the applicant's objective to develop a centrally located facility.

**3. The EIR lacks reasonable range of feasible project alternatives**

RESPONSE: The EIR included four project alternatives, including the "no project" alternative. Pursuant to CEQA, the lead agency must consider a reasonable range of alternatives applying the rule of reason:

*An EIR need not consider every conceivable alternative to a project. Rather it must consider a reasonable range of potentially feasible alternatives that will foster informed decision making and public participation. An EIR is not required to consider alternatives which are infeasible. The lead agency is responsible for selecting a range of project alternatives for examination and must publicly disclose its reasoning for selecting those alternatives. There is no ironclad rule governing the nature or scope of the alternatives to be discussed other than the rule of reason. (Citizens of Goleta Valley v. Board of Supervisors (1990) 52 Cal.3d 553 and Laurel Heights Improvement Association v. Regents of the University of California (1988) 47 Cal.3d 376).*

As described in the EIR, the City considered the "no project" alternative, a modified location alternative, a reduced project alternative, and an off-site alternative at another City-owned park in the Cliffwood Heights neighborhood. City staff believes these four selected alternatives provides a reasonable range of alternatives as required by CEQA.

**3(a) Alternative 1 is not an environmentally superior alternative because the EIR concluded that the alternative could potentially reduce significant noise and biological impacts.**

RESPONSE: The Draft EIR (pages 2-2 and 5-13) states that Alternative 1 would reduce in severity noise impacts and potential biological impacts to nesting birds and would best meet project objectives.

Analysis of the revised project, which implements Alternative 1, shows that the project would in fact avoid significant noise impacts to residences along Orchid Avenue and depending on its ultimate location, may not require the removal of trees. As shown on the revised site layouts, both options 1 and 2 would avoid significant noise impacts to residents along Orchid Avenue, consistent with the analysis in the draft EIR. Option 2 would also not require the removal of any mature trees used by nesting birds. Although option 1 would require removal of mature trees, it would require removal of less than the 8 trees evaluated for removal in the draft EIR. Accordingly, Alternative 1 reduces a previously identified significant noise impact and is therefore correctly characterized as the environmentally superior alternative.

**3(b) Additional privately-owned sites should have been evaluated under the EIR alternatives, including the Capitola Mall or other commercially zoned properties because lack of development rights does not preclude site consideration and Community Commercial zone allows commercial entertainment establishments such as theaters, bowling alleys, billiard and pool parlors, dancehalls and skating rinks, and amusement centers”**

RESPONSE: The commenter is incorrect that a skate park facility fits within the Community Commercial zone district. The proposed skate park would be open to the public free of charge and therefore would not be a commercial entertainment establishment. Moreover, the listed types of commercial entertainment establishments are all indoor facilities, unlike the skate park which would be an open air, outdoor facility. Indoor commercial entertainment uses are conditionally compatible in commercially zoned properties. Outdoor park and recreation facilities are not listed as either a principally or conditionally permitted use in the Community Commercial zone.

Additionally, CEQA § 15126.6(f) provides for a rule of reason:

*The range of alternatives required in an EIR is governed by a “rule of reason” that requires the EIR to set forth only those alternatives necessary to permit a reasoned choice. The alternatives shall be limited to ones that would avoid or substantially lessen an of the significant effects of the project. Of those alternatives, the EIR need examine in detail only the ones that the lead agency determines could feasibly attain most of the basin objectives of the project.*

CEQA §15126.6(f)(1) outlines the factors that may be considered to determine the feasibility of alternatives, including whether a project proponent can reasonably acquire, control or otherwise have access to an alternative site:

*Feasibility. Among the factors that may be taken into account when addressing the feasibility of alternatives are site suitability, economic viability, availability of infrastructure, general plan consistency, other plans or regulatory limitations, jurisdictional boundaries (projects with a regionally significant impact should consider the regional context), and whether the proponent can reasonably acquire, control or otherwise have access to the alternative site (or the site is already owned by the proponent). No one of these factors establishes a fixed limit on the scope of reasonable alternatives. (Citizens of Goleta Valley v. Board of Supervisors (1990) 52 Cal.3d 553; see Save Our Residential Environment v. City of West Hollywood (1992) 9 Cal.App.4th 1745, 1753, fn. 1).*

CEQA is concerned with concrete alternatives that will actually provide an alternative means of carrying out the project; it is not concerned with unrealistic, hypothetical alternatives. An EIR need not consider an alternative whose implementation is remote and speculative because unrealistic alternatives do not contribute to a useful analysis. § 15126.6(f)(3).

In this case, the project proponents do not own and cannot reasonably acquire, control, or access the Capitola Mall property as suggested by the commenter. The property is also not zoned to permit recreational uses; therefore, this alternative was considered infeasible and unreasonable and not evaluated in the EIR. Alternative sites owned by the City and zoned for recreational uses were considered because the City Council could authorize development of a public skate park on City-owned properties zoned for active park uses.

#### **4. EIR should have been recirculated because significant new information was added**

RESPONSE: A lead agency is required to recirculate an EIR when significant new information is added to the EIR after the draft EIR is circulated. CEQA § 15088.5(a) provides that new information added to an EIR is not “significant” unless the EIR is changed in a way that deprives the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of the project or a feasible way to mitigate or avoid such an effect that the project’s proponents have declined to implement. Staff disagrees that significant new information was added to the EIR. New information added to the Final EIR (as outlined in chapter 3.0) merely clarified details included in the public review Draft EIR and did not identify any substantial adverse environmental effect of the project. Specifically:

- The addition of a 2-foot retaining wall along the southern site boundary is a minor modification to previously described grading. The retaining wall would be a low-profile feature and would not create any new or more severe environmental impacts.
- The draft EIR noted the inclusion of a bioswale to treat stormwater. The Final EIR clarified the exact location and design of the bioswale. The bioswale would be located in an existing developed park which is landscaped with non-native turf grass. The bioswale would not result in any new or more severe environmental impacts.
- The inclusion of square-footage breakdowns of various skate park components simply clarified information that was shown on the plans circulated with the draft EIR. The size and features of the proposed skate park facility did not change; the information was merely presented in a simplified, more user-friendly format.
- Removal of the rock slant bank feature did not alter the size or nature of the facility. The rock slant bank was not a mitigation measure or a feature intended or needed to reduce any environmental effect. Removal of this feature therefore does not result in any new or more severe impacts.

These changes do not present a “shifting description of the project,” but instead clarify details of the project consistent with the information presented for public review in the draft EIR.

#### **5. Improper deferral of analysis of environmental impacts through an unstable project description including imprecise project boundaries, uncertain tree removal, and unspecified replacement tree locations**

RESPONSE: Staff disagrees that the environmental analysis has been improperly deferred. Alternative 1 provided a modified on-site location which would reduce significant noise impacts to residents on Orchid Avenue. As described in the EIR, the proposed skate park under Alternative 1 would be the same

size, include the same features, and be located on the same existing active recreational park property as the proposed project. As described in the EIR, Alternative 1 is considered the environmentally superior alternative and would not result in any new or more severe impacts than the proposed project. CEQA does not prevent a lead agency from modifying a proposed project in a manner which reduces impacts.

The EIR also evaluated biological impacts resulting from tree removal and concluded that no significant impacts would occur because 1) the trees are not designated as rare, threatened, or endangered tree species; 2) the trees are not a constituent of a protected native habitat; and 3) the trees and its non-native turf grass habitat do not support any designated rare, threatened, or endangered animals.

The EIR identified a potential environmental impact from tree removal would be to nesting birds protected under the federal Migratory Bird Treaty Act. The EIR appropriately includes a mitigation measure to ensure tree removal and/or construction activities to avoid impacts to nesting birds.

The EIR also evaluated visual impacts resulting from tree removal and found that impacts would be less than significant because the trees are not designated as Heritage Trees under the City's Community Tree and Forest Protection Ordinance, are not located in a designated visual corridor, and are not visually distinctive from other mature tree specimens in the City.

The location of replacement trees would similarly not result in any significant environmental impacts. As noted in the EIR, the property does not support any protected habitat which would be displaced by planting replacement trees and the introduction of replacement trees within an existing park would not create a significant visual impact. There are no other reasonable foreseeable environmental effects which could be created by planting replacement trees in Monterey Park.

**6. City failed to adequately respond to comments on the EIR because the EIR includes responses that illegal nighttime use of the skate park is not an environmental issue and because impacts from temporary special events was not evaluated.**

RESPONSE: Staff disagrees that the EIR failed to adequately respond to comments submitted on the draft EIR. CEQA requires an analysis of the reasonable foreseeable environmental effects caused by a proposed project. It does not require an analysis of speculative impacts. In this case, comments were received from individuals who speculated that the proposed skate park would be illegally used at night when the skate park is closed. As noted in the responses to comments, the skate park would be secured by a 6-foot wrought iron fence and a locked gate and would be monitored and patrolled. It is speculative to assume that the skate park would be subject to regular, recurring illegal use by multiple violators when the facility is closed, locked, and monitored by police, passers-by, and neighbors. Accordingly, staff does not believe it is reasonably foreseeable that illegal trespassing and nighttime use would become a common, ongoing circumstance resulting in a significant noise impact.

As noted in the EIR project description, the project does not propose any special events or competitions. The environmental effects of speculative special events with an unknown scope or duration which could occur in Monterey Park with or without the skate park were therefore not evaluated in the EIR. In addition, the Planning Commission added a permit condition to prohibit any special events or skating competitions in the proposed skate park. Therefore, it would be inappropriate to evaluate the environmental effects of prohibited special events.

Staff Responses to POPP (Richard Lippi) Appeal Letter

1. **The revised proximity of the skatepark to my residence was NOT discussed at the meeting. I should have been given advanced notice of anything that would bring the proposed skatepark closer than 63 feet from my sleeping quarters as was the advertised design layout. Worse yet, no one knew after the March 31, 2016 meeting where the relocated skatepark would end up.**

RESPONSE: Staff disagrees that there was no advance notice of where the relocated skate park could be located. The EIR included an analysis of a Revised Onsite Location Alternative (Alternative 1). Alternative 1 would relocate the proposed skate park north of the currently proposed location to reduce identified significant noise impacts to residents on Orchid Avenue and to improve visibility and public safety. Additionally, page 5-10, second paragraph of the EIR describes the revised onsite location and states *"If the facility were moved north to the edge of the existing parking lot in its current configuration, the skate park would be closer to the school district office and residence than currently proposed"*.

The ultimate location of the skate park would be determined by the City Council, and as described in the EIR, could be located closer, further, or at the same distance from the school district property.

2. **The revised location of the proposed skatepark was NOT laid out prior to the PC meeting so the general public could not offer feedback on that location. In fact, the layout for the proposed skatepark was staked out on-or-about November 20, 2015 at the south end of Monterey Park and that staking remained in place until April 5, 2016. I request that a staked layout be provided the general public for at least 30 days prior to a public meeting. I also request that open netting be installed indicating the location and finished height of the wrought iron fencing. Where the sound barriers will be there should be solid material so the general public can assess sound attenuation and visual access. This netting and solid material is also critical for the users of the park so they can "feel" the loss of space in Monterey Park.**

RESPONSE: The commenter is correct that the alternative location was not staked prior to the Planning Commission hearing. Possible alternative locations shall be marked in advance of the City Council meeting to allow interested members of the public to see the sites. As a matter of practice, the City does not require installation of story poles or netting for low profile structures, fences, or walls. Accordingly, staff does not intend to install netting as requested.

3. **The 80 foot wide x 100 foot long x 115 high eucalyptus grove of shade trees was to be protected and preserved. The sudden and unexpected relocation of the skatepark gave rise to the complete elimination of the eucalyptus trees which was NOT submitted by the applicant in their drawings or specifications. Here's what is very wrong about that:**
- a. **Staff is supposed to be impartial about this project. Why are they recommending a relocation of the project that would cause the removal of the**

- only usable shade trees at Monterey Park when the applicant did not request that in their drawings or specifications?
- b. The EIR certainly did not address the environmental impact of removing the eucalyptus trees as noted in items # 14 and # 15 of the Wittwer/Parkin letter of January 8, 2016.
  - c. The EIR did not address the environmental impact of removing the large grove of eucalyptus trees with respect to:
    - i. Increased watering needs for the lawn area left unprotected from the sun;
    - ii. Loss of hunting perches for the birds of prey;
    - iii. Loss of the visual beauty,
    - iv. Loss of life-giving oxygen offered by the large canopy
  - d. There was NO landscape drawing offered for the relocated skatepark. How many trees would be planted in the place of the eucalyptus grove and how will new trees ever replace the shade that was provided for the majority of the baseball field?

RESPONSE: As described in the Planning Commission staff report and during the Planning Commission hearing, staff recommended the skate park be relocated closer to the existing parking lot to improve visibility and public safety. Staff disagrees that the EIR did not address the environmental impacts of removing eucalyptus trees. Pages 21-23 of the Initial Study includes an analysis of the project's effects on biological resources including impacts resulting from tree removal. As indicated in the Initial Study, removal of up to 8 mature trees is not considered significant from a CEQA perspective because 1) Monterey Park is a fully developed active park site located in an urban setting; 2) Monterey Park does not support any known special status species or sensitive habitats; 3) Monterey Park is not mapped as being located within or adjacent to a riparian habitat, monarch butterfly habitat, or other Environmentally Sensitive Habitat Area; 4) the trees are not designated as Heritage Trees under the City's Community Tree and Forest Protection Ordinance; and 5) removal of any trees would require replacement trees at a 2:1 ratio in accordance with the City's Community Tree and Forest Protection Ordinance.

The EIR also evaluated potential impacts to nesting birds protected under the federal Migratory Bird Treaty Act and included the following mitigation measure:

*IS-BIO-1: Disturbance to Nesting Birds. If construction or tree removal is scheduled to begin between February and August, require that a pre-construction nesting survey be conducted by a qualified wildlife biologist to determine if migratory birds are nesting in the trees adjacent to the project site. If nesting birds are found, schedule construction to begin after fledging of young is completed (usually by August) or after a qualified biologist has determined that the nest is no longer in use or unless a suitable construction zone buffer can be identified by a qualified biologist.*

The Final EIR (page 4-9) also considers impacts to raptors and other birds of prey who could use trees for foraging. As described in the EIR, the loss of non-native turf grass and trees in Monterey Park would not have a significant effect for raptors because these species forage over wide expanses of territory. The displacement of non-native turf and trees would therefore not substantially reduce habitat or cause bird populations to drop below self-sustaining levels.

The Initial Study (pages 14-16) also evaluated the potential aesthetic/visual impacts resulting from tree removal. The EIR concludes that tree removal would not result in a significant visual impact because: 1) Monterey Park is located in an existing developed neighborhood; 2)

Monterey Park is not located within an officially designated scenic vista or view corridor; 3) Monterey Park is not visible from an officially designated scenic highway; 4) is not designated as a significant scenic resource by the Capitola General Plan; and 5) trees which could potentially be removed are not visually distinctive, unusual, or prominent from designated public viewpoints.

The project's impacts on groundwater supplies was also evaluated in the Initial Study (page 29) which concludes that the project would not have a significant effect because the limited area of development within an existing 4-acre park in a developed residential area will not use or deplete groundwater supplies and would not substantially interfere with groundwater recharge due to the limited area of construction. Furthermore, the proposed skate park would displace approximately 6,000 square-feet of existing turf grass which would no longer require irrigation, thereby reducing the amount of water currently needed to maintain the turf at Monterey Park.

The EIR did not evaluate the loss of oxygen provided by trees which could be removed if the skate park were relocated because this is a speculative impact and therefore not a CEQA issue. Although it is acknowledged that trees produce oxygen, the amount provided by 4-5 trees would be indistinguishable.

The commenter is correct that a landscape plan was not provided for Alternative 1. Staff also acknowledges that replacement trees would not immediately provide an equal amount of shade; however, it is expected that replacement trees provided at a 2:1 ratio would provide an equivalent or greater amount of shade at maturity.

- 4. The skatepark project that was represented to the City Council (and to the general public) on February 11, 2015 was for a skatepark of 6,000 square feet. The project submitted, and subsequently approved by the PC was for a 6,811 square foot enclosure.**

RESPONSE: The staff report and EIR all correctly identified the size of the proposed skate park as approximately 6,000 square feet. The project plans considered by the Planning Commission also correctly noted the skate park as being 6,028 square-feet. The skate park as proposed would include fencing for security purposes which must be installed on the exterior of the skate park. Fencing is shown on the project plans, is included in the EIR project description, and was considered within the environmental analysis documented in the EIR.

The total area within the fencing would be approximately 6,811 square-feet, which would include the 6,028 square-foot skate park plus approximately 783 square-feet between the skate park and fence line (generally a 1-3 foot area of separation).

- 5. The skatepark project that was represented to the City Council (and to the general public) on February 11, 2015 was for a skatepark that had softened features (from the 9,000 square foot 2012 design) to make it less noisy. The project submitted, and subsequently approved by the PC, was a simple scaled down" version of the potentially noisy, multifeatured skatepark that was rejected in 2012.**

RESPONSE: During their 2012 hearing, the City Council indicated they would consider a redesigned, approximately 6,000 square-foot skate park. The Council also expressed their desire to protect the eucalyptus grove if a redesigned project were submitted; however, the Council action did not include direction to redesign the project with softened features.

The City Council subsequently considered a redesigned, approximately 6,000 square-foot skate park in 2015 and voted to allow the applicants to submit an application for the redesigned project. The current City Council has the discretion to make its own decisions regarding the skate park, including whether or not it should be built, and if so, where it should be located. The current City Council is not bound by the direction of the former, 2012 City Council. It's also worth noting that a skate park as contemplated by Alternative 1 in the EIR could be sited in a manner which avoids the eucalyptus grove.

The current skate park proposal has been reduced in size from approximately 9,000 square-feet as shown in the 2012 design to 6,028 square-feet. The reduced size of the proposed facility has also necessitated the elimination of some of the interior challenge elements and features previously proposed in 2012. In addition, a smaller skate park can accommodate fewer skaters at any one time, thereby reducing the noise generation potential of the facility. The City Council will review the application and determine if the proposed features are appropriate.

- 6. The skatepark project that was represented to the City Council (and to the general public) on February 11, 2015 was for a skatepark that would be safer for younger, beginner skaters. The project submitted, and subsequently approved by the PC was for a skatepark that would be MORE hazardous for younger, beginner skateboarders as there was no separation provided between beginner and more advanced skaters in the project drawings.**

RESPONSE: The currently proposed skate park has been reduced in size and has smaller challenge elements and features than the 2012 proposal. The commenter's opinion that the current proposal is more hazardous than the 2012 design is noted; however, no evidence has been provided to support the opinion. While it is correct that the current proposal does not provide separation between beginner and more advanced skaters, the 2012 proposal also did not include any features to separate beginner from advanced skaters.

- 7. There was NO public notice given that the skatepark that would be discussed by the PC would be relocated 60-140 feet to the north, and the eucalyptus trees would be removed.**

RESPONSE: As noted in response to comment number one above, the EIR included a revised onsite location alternative which evaluated a design option to shift the location of the skate park closer to the existing parking lot. The EIR noted that this alternative could require removal of the eucalyptus trees. The draft EIR was circulated for a 52-day public review period. This alternative was also described in the Planning Commission staff report which was available to the public 10 days prior to the Planning Commission hearing.

- 8. Monterey Park is surrounded by a noise-sensitive residential neighborhood, the noise sensitive offices of the Soquel Union Elementary School District, the noise-sensitive school at New Brighton Middle School and the noise-sensitive St. Joseph's Catholic Church. To permanently increase the noise level 5-7sdB in this area is unthinkable.**
- a. The PC considered reducing the hours of operation so as not to conflict with the activities at the SUESD or New Brighton Middle School. The PC opted to do nothing. I submit that there should be a reduction of hours until**



**it can be shown that extended hours from 8AM to Sunset will not be a significant impact to all sensitive receptors.**

- b. The PC voted to have the noise output of the skatepark checked 6 months after being put in operation and make any necessary modifications to the noise barriers, if needed. I submit that sound studies should be conducted immediately as sensitive receptors will be impacted immediately. It's not the PC can un-ring a bell. Once the damage is done, it cannot be undone.**
- c. The PC never discussed removing noise-producing features of the skatepark, as was requested back in 2012, to lessen the impact on the neighborhood.**

RESPONSE: As described in section 4.3-1 of the EIR, noise generated by the proposed skate park would be less than a 5 dB(A) increase at the nearest residences, on school district property and along Orchid Avenue through incorporation of mitigation in the form of a noise attenuation wall. Because noise dissipates the farther away it travels from its source, the noise impact on other residential areas, school classrooms, and the church would be further reduced and substantially less than 5 dB(A).

The commenter's request for more restrictive hours of operation and an earlier noise monitoring inspection is acknowledged. The City Council has the discretion to set the allowable hours of operation and to change the timing of noise monitoring. Similarly, the City Council may require modification of the challenge elements and features inside the skate park.

- 9. The PC did not address my concern that skateboard noise can be heard 700 feet from the Performing Arts Center to Monterey Park. The reverse is likely to be true affecting the educational environment of New Brighton Middle School.**

RESPONSE: There was considerable discussion and debate regarding noise at the Planning Commission hearing. Staff acknowledged in their staff report and presentation that the proposed skate park, while not producing a significant unmitigated noise impact from a CEQA perspective, would generate noise which could be objectionable to some neighbors. It is recognized that most active recreational activities, including skateboarding, softball, tennis, basketball, football, swimming, and tot lot use produce audible noise which can often be heard by neighbors.

As discussed at the Planning Commission hearing and described on page 4.3-19, interior noise levels are approximately 15 dBA lower inside a building of standard construction with windows partially open. Therefore, noise inside classrooms would be significantly lower than outside the structure.

Interior noise levels in classrooms are also evaluated in noise study and presented in table 4.3-6 of the EIR (page 4.3-18) which shows noise levels with partially open windows ranging from 45-50 dBA  $L_{max}$ . The EIR also explains on page 4.3-20 that interior noise in classrooms with the proposed skate park would fall within the existing range of  $L_{max}$  noise level and the arithmetic average  $L_{max}$  generated by existing Monterey Avenue Park activities, and thus, is a less-than-significant impact.

Communications regarding the skate park from the following were received by 5 p.m. on September 19, 2017. Comments received after that time will be distributed as additional materials on September 25.

Full printed copies are available at the City Hall Reception Lobby and in the online agenda packet.

Support:

Amsden  
 Apolskis  
 Aquilina  
 Ban  
 B Burruel  
 E Burruel  
 Champion  
 Conley  
 Del Favero  
 Disbrow  
 Dueck  
 Graessle  
 Hadland  
 Harmount  
 Haut  
 Held  
 Henson  
 Hunter  
 Jenks  
 K Johnson  
 A Johnson  
 Major  
 D Martin  
 R&E Martin  
 Munn  
 Oates  
 Ouse  
 Parish  
 Pearlman  
 Peters  
 Max Proctor  
 Marty Proctor  
 Rothmeier  
 Scott  
 Siegfried  
 Turner  
 Vienna  
 Vuckovich  
 Wallbridge  
 Westman  
 Wickman  
 Wiens  
 Williams

Oppose:

Abbott  
 Bentley  
 Bortz  
 Bowman  
 Brookshire  
 Bryce  
 Coulston  
 Daniels  
 Davis  
 DeSpelder  
 DiLeonardo  
 D Steingrube  
 L Steingrube  
 Foster  
 Gaither  
 Globus  
 Goldstein  
 Hart  
 House  
 Isaacson  
 Lieberum  
 Lippe (2)  
 MacEwen  
 McCollough  
 Montonye  
 N Lippi  
 Nunn  
 Raay  
 Radcliff  
 Shaw  
 Simari  
 Simon  
 T Tetter  
 S Tetter  
 Kathy  
 Viguerie  
 White  
 Xlgot  
 Yurek

**Fridy, Linda (lfridy@ci.capitola.ca.us)**

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**From:** Deb Abbott <debabbott.lmft@gmail.com>  
**Sent:** Sunday, September 17, 2017 2:30 PM  
**To:** City Council  
**Subject:** OBJECT TO A SKATEPARK AT MONTEREY PARK

Dear City Council Members,

Why would the city want to fund a SECOND un-monitored skatepark in Capitola? The other skatepark is 5 minutes away (via skateboard) and is located in an area that does not impact neighbors as one in Monterey Park would. I drive by the other skatepark on a regular basis. It is popular but not overcrowded.

If the city has park funding to spare, why not use it to make city parks more accessible to kids and adults with disabilities?

Sincerely,

Deb Abbott

--

*"Give light and people will find the way." ~ Ella Baker*

Deb Abbott, M.A., L.M.F.T.  
Licensed psychotherapist in private practice

300 Plum St. Spc 14, Capitola, CA 95010

Attachment: Public Communications (Monterey Avenue Skate Park)

**Fridy, Linda (lfridy@ci.capitola.ca.us)**

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**From:** Chris Amsden <chris@gslhomeloans.com>  
**Sent:** Wednesday, August 30, 2017 8:22 PM  
**To:** City Council  
**Subject:** Capitola Skate Park Vote 9/25

Dear Council Members Bottorff, Peterson and Mayon Harlan,

I am writing to you regarding the Capitola Skate Park that was approved by our City Council last year. I was disappointed to hear this project has been further delayed by litigation brought by a small number of opponents, and that simply due to the wording of the previous agenda, must be re-approved once again in order to proceed.

I am asking you to please support the vote to re-approve this project that was already passed by our City Council, and to allow the completion of this wonderful gift to our community.

As a resident of Cliffwood Heights (we live 2 blocks from Monterey Park), I have seen the overwhelming support from our community for this skate park. I have heard the arguments from both sides, and truly believe that the community has spoken, and our elected leaders casted their votes accordingly.

It is disappointing to know that a project that applied under the required rules, followed all permit processes and protocols and was approved by the City Council, can be jeopardized by a small number of individuals that attempt to use the courts to overrule the will of the community.

I would kindly ask that you re-approve the Capitola Skate Park on Sept. 25th.

Thank you in advance for your consideration.

Sincerely,

Chris Amsden  
office: (831) 431-6192  
fax: (408) 384-5204  
[chris@gslhomeloans.com](mailto:chris@gslhomeloans.com)

 Virus-free. [www.avast.com](http://www.avast.com)

Attachment: Public Communications (Monterey Avenue Skate Park)

**Fridy, Linda (lfridy@ci.capitola.ca.us)**

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**From:** Ray Apolskis <ray@surfshack.com>  
**Sent:** Monday, September 18, 2017 5:01 PM  
**To:** City Council  
**Cc:** Martorella, John (jmarto@pacbell.net); t.proctor@nhs-inc.com  
**Subject:** Skate Park

Council Members

My name is Ray Apolskis - business owner in Capitola for 12 years.... Surf n Shack on Capitola Ave.

I'm writing the City Council to voice my support once again for a Capitola skatepark. Our kids need a park that is not only near a school but safer to get to as well. Besides since Rich Novak is willing to pay for the park its a FREE benefit for our community. Its long overdue to get this done!

Please vote YES for our kids.

Ray Apolskis  
Surf n Shack

Attachment: Public Communications (Monterey Avenue Skate Park)

**Fridy, Linda (lfridy@ci.capitola.ca.us)**

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**From:** Dennis Aquilina <buzgrg@sbcglobal.net>  
**Sent:** Tuesday, September 19, 2017 8:15 AM  
**To:** City Council  
**Subject:** Capitola SkatePark

City Council,

I am writing to simply ask that you please support the vote, please correct the City error and reapprove the skate park with correct wording and written findings. Thank for your time.

Thank you,  
Buzz, Georgette, Nico, and Matteo Aquilina

Attachment: Public Communications (Monterey Avenue Skate Park)

**Fridy, Linda (lfridy@ci.capitola.ca.us)**

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**From:** Paul Ban <captainpaulban@yahoo.com>  
**Sent:** Friday, September 01, 2017 2:06 PM  
**To:** City Council  
**Subject:** Skate park

Hi all,

I am and have been a member of the community my whole life. I am now raising my child in Capitola.

I have a child who is attending New Brighton.

The park out on the frontage road is great however it is very dangerous for kids to access with out a vehicle.

Being there is a Base ball park a gym and a performing arts center and a school I agree with the pervious decision that it will be a great addition to build a skate park at Monterey park to complement our beach surf culture in Capitola.

Please vote in favor of this protect. Skate parks are not that big and require little maintenance compared to other recreational parks.

The opponents of this project are a small aggressive group that are wasting time and money that do not represent the community.

Skateboarding has come a long way. There are talented athletes that make good money.

It is sad to see the old stereotype being held in closed minds living in the past.

There is a base ball park a school and a church it is a great place for a skate park as well!!

Paul

831-332-4508

Sent from my iPhone

Attachment: Public Communications (Monterey Avenue Skate Park)

**Fridy, Linda (lfridy@ci.capitola.ca.us)**

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**From:** WhatGetsYouExcited <whatgetsyouexcited@gmail.com>  
**Sent:** Sunday, September 17, 2017 8:03 PM  
**To:** City Council  
**Subject:** Skate park

>>  
>> City council ,  
>> Please support the vote, correct the City error and reapprove the skate park with correct wording and written findings.  
>> Brad Burruel  
>>

Attachment: Public Communications (Monterey Avenue Skate Park)



**Fridy, Linda (lfridy@ci.capitola.ca.us)**

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**From:** JB <jenniferbentley831@yahoo.com>  
**Sent:** Thursday, September 14, 2017 1:40 PM  
**To:** PLANNING COMMISSION; Herlihy, Katie (kherlihy@ci.capitola.ca.us); Grunow, Rich (rgrunow@ci.capitola.ca.us); Goldstein, Jamie (jgoldstein@ci.capitola.ca.us)  
**Subject:** Monterey Park

Please, dont let Capitola attract more of the riff raft that is at McGregor park! I see people drinking beer, 14-20 year olds with terrible language, disrespect, and just some trashy people! I do see some nice families more on the pump track and some parents with their kids at the skate park. But nights and weekends after the kids are gone it is a place for juvenile delinquents to hang out.

Maybe, just Maybe something SMALL like at Felt street. Something meant for 4-8 year olds. something in the 500-1000 sq range. Anything bigger than that WILL bring in the wrong crowd! The Wild Crowd at McGregor!

I am not part of the last lawsuit, but will join in any new ones as a Skate park will Totally Lower or property values, increase crime, traffic problems and is not needed with the other skate park half a mile away. I will help Sue the City, the Board and City Manager!

Hear the peoples voice that live here!!

**Fridy, Linda (lfridy@ci.capitola.ca.us)**

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**From:** Paula Bortz <pgbortz@gmail.com>  
**Sent:** Monday, September 18, 2017 8:24 AM  
**To:** City Council  
**Subject:** OPPOSE SKATEPARK

Dear Captola City Council,

My name is Paula Bortz. I continue to oppose the construction of the skateboard park at Monterey Park. The quiet peacefulness of this park is a sanctuary for myself and my family which includes our rescue dog Frankie who walks there twice a day because it is quiet. I cherish having a park with a pastoral setting that is not only quiet and serene for my dog and myself, but for many, many other Monterey park lovers whom I have spoken with, and who also continue to oppose the cacophonous noise and the ugliness of wire fencing a skatepark would bring. Please consider the residents and all of us who do not want a skateboard park to mar the serenity of Monterey Park.

Thank you,  
Paula Bortz  
Santa Cruz

Attachment: Public Communications (Monterey Avenue Skate Park)

**Fridy, Linda (lfridy@ci.capitola.ca.us)**

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**From:** The Bowmans <dbow-man@pacbell.net>  
**Sent:** Sunday, September 17, 2017 2:24 PM  
**To:** City Council  
**Subject:** Opposed to Monterey Park skatepark development

Dear Capitola City Council Members,

I am opposed to the proposed skate park development at Monterey Park. I appreciate your taking the time consider my reasons for opposition which are based on my experience as the lead custodian and co-leader of the Campus Supervisors at the school next to Derby Skate Park.

Even though Derby Skate Park is 25% smaller than the proposed design here and about 10 times farther away from the school than the proposal here - about 900 feet away, on the other side of the adjacent park and play structure, on the other side of a hill, and basically down in a hole - the skatepark had a daily impact on the school and activities during and after school. I worked there into the night and there was a lot going on. I also worked outside with security guards and parent supervisors during dances. I love kids, don't hate skaters (like my son) and worked very hard to keep my interactions with skaters positive. Not all interactions were positive and none of it was easy. There were challenges - ubiquitous graffiti, noise, distractions, skating on campus, activity on the roof, finding the picnic benches stacked for skateboard jumps most mornings, and more. All of my 'management' interactions, where I had to step in, were with older teen boys and men. There were some serious issues, including a lockdown at the school when some men met up at the skatepark after committing an armed robbery. The police officer told me he tackled one of the men within about 100 feet of a classroom that had students inside! It is also worth noting I found that skaters come from all over the Bay Area and beyond to skate in Santa Cruz.

My biggest issue with the current design offered by the proposers is that it will attract older teens and adults to the campus of the middle school. But the proposed design also invades into the sports and P.E. activities at the park. The New Brighton P.E. department is against this proposal as it is designed (all locations) for very good reasons. A small skate spot that does not attract older teens and adults to the middle school and the middle of the neighborhood, and one that allows the current team sports and school activities to continue, and does not cause the removal of the trees could be a better fit.

You can easily get to Monte Skate Park in a short walk from Monterey Park without ever going on McGregor. Parents, kids, and skaters look like they are having a great time at Monte Skate Park. It is a fabulous park! It is politics, created by a divisive group, that is keeping some families away and dividing our neighborhood. I would love to see a continued focus on better access to Monte Park (the green bike lanes are great!), and park improvements and maintenance, instead of a wasting resources on a second contentious skatepark within walking distance of the first. True, parents can't just send their small children Monte Skate Park, but sending a young kid to a skatepark is a very bad idea. I know from experience that parent presence at skateparks is absolutely imperative. Aside from the potential benefits for the skateboard company proposing this (Capitola Skate Park TM), the notion of sending small kids to a skatepark unaccompanied by an adult seems to be the biggest motivating factor to put a skatepark at Monterey Park. Everyone should feel a sense of urgency in preventing that! The current design is attractive to adult and older teen skaters. That is a bad mix for the yard of a middle school and unaccompanied kids. Neighbors won't be able to "steward" this park (as Dennis Norton suggested), especially after hours. We can't even steward our cars at our homes and keep them from being broken into, even with our excellent police department and response time. And I implore you to believe me that dealing with older teens and young men at a skatepark is not for amateurs. It can go very badly very quickly with the wrong approach.

I worked with kids in education settings for more than 20 years. Safety of kids and protecting the school from unnecessary problems is very much a priority to me, and to the teachers, and coaches, and scout leaders, and many others, who range in age from 20 something up, who are against this proposal. But I have found many who want this proposal do not seem to care how it impacts anyone - the school, the neighbors, the neighborhood. Again, a small skate spot that does not attract adults, and fits in the space could be fine. The current design is not okay.

The thing is, I am not trying to take anything away from the folks with younger kids that I had when my kids were young. We drove our kids to the skateparks. Now there is one I would have walked to with my kid. That is a gain! And we had lots of activities that were also not team sports related. We used Monterey Park all the time. We flew kites and played games and did rockets, had birthday parties. It is an awesome and rare expanse where kids can spread out and run and play, do BIG things! It was great when Capitola Elementary School was there because there were play structures. I would love to see a play structure added to Monterey park.

This proposal was handled badly. It has created a horrible and unnecessary rift in our neighborhood with the cruel tactics. I am appalled and very worried by what I witnessed in this process with the city council and representatives of this business. The experience and understanding and earnest objections of neighbors opposed to this development, many of whom have decades of experience working directly with and caring for children, have not been considered. The design has not been tempered by a good will exchange of information by neighbors who want to make the neighborhood better. Instead we continue to be subjected to a foot stomping assault and fixation on this location and this design and proposers that have a business interest in this development - a corporation that literally trademarked the words Capitola Skate Park TM. From the very beginning we witnessed a disingenuous, dehumanizing campaign of hate against neighbors who were opposed to this, with bizarre accusations and characterizing of the neighbors as old, unstable, selfish, child-hating, NIMBY and on and on. One person even said, at a city council meeting, that neighbors shouldn't oppose it because they will be dead in 10 years anyway. And the children of those who are opposed suffer at school too where the campaign has become active again. This is not the way an important issue should be decided. This has not been good leadership, or good citizenship. It is very concerning that the very words Capitola Skate Park TM were trademarked by this company. I worry it reflects a proprietary attitude and indication of actions yet to come in our town.

Please help us save Monterey Park and New Brighton Middle School and our neighborhood from what many of us see as an unwise and wastefully redundant development which could truly do harm to the school and neighborhood, and what many feel has been a hostile endeavor for what appears to be a self serving commercial interest.

Sincerely,  
Christine Bowman  
714 Orchid Ave  
Capitola, CA 95010  
831-462-9764

**Fridy, Linda (lfridy@ci.capitola.ca.us)**

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**From:** Tracey Brookshier <tracey.brookshier@gmail.com>  
**Sent:** Tuesday, September 19, 2017 5:01 PM  
**To:** City Council  
**Subject:** Proposed skateboard park next to New Brighton Middle School

I oppose the skatepark. I'm concerned about the increased traffic on Kennedy/Monterey and the older skaters near the middle school students, among other things.

Tracey Brookshier  
848 Balboa Avenue Capitola CA

Attachment: Public Communications (Monterey Avenue Skate Park)

**Fridy, Linda (lfridy@ci.capitola.ca.us)**

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**From:** Helen Bryce <helen.s.bryce@gmail.com>  
**Sent:** Tuesday, September 19, 2017 2:57 PM  
**To:** City Council; helen.s.bryce  
**Subject:** Regarding skatepark proposal in Monterey Park

Dear City of Capitola Council Members,

I am writing once again to voice my very strong opposition to a skate park in Monterey Park. A skatepark at this location is a very bad fit for the neighborhood. It would cause no end of headaches, not only for the area immediately surrounding Monterey Park, but for the entire city.

As you know, I do support skating and I'm very grateful to the Monte Foundation and the city for building the lovely skatepark on McGregor Avenue. Skaters just do not need a second skatepark in the same area, especially when Capitola has so many children who are under-served in recreation. Not all kids skate. Capitola needs more way for kids to interact with nature in safe settings.

I was very happy to receive the postcard from the city offering trees to Capitola residents. Good job, Capitola!

The card listed many the things I've been saying for years about the importance of the Large Eucalyptus Trees in Monterey Park. I feel we must preserve our large trees for the reasons listed, in addition to planting smaller trees.

In conclusion, I shall reiterate: Please finally put an end to this most unfortunate notion of putting a skatepark in Monterey Park. Let's concentrate on making Capitola a greener and healthier place for Everyone.

Thank you very much,

Your truly,

Helen Bryce

Attachment: Public Communications (Monterey Avenue Skate Park)

**Fridy, Linda (lfridy@ci.capitola.ca.us)**

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**From:** Tola gal <tolagal@aol.com>  
**Sent:** Sunday, September 17, 2017 7:09 PM  
**To:** City Council  
**Subject:** Skate park

City council ,  
Please support the vote, correct the City error and reapprove the skate park with correct wording and written findings.

Elizabeth Burruel

Attachment: Public Communications (Monterey Avenue Skate Park)

**Fridy, Linda (lfridy@ci.capitola.ca.us)**

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**From:** Lorna Campion <campionlampion@gmail.com>  
**Sent:** Monday, September 18, 2017 12:41 PM  
**To:** City Council  
**Subject:** Capitola Skate Park

Hello,

I am hoping you continue to support the skate park proposed for the area behind New Brighton Middle School.

What an amazing gift to the City of Capitola and a safe place for our children to practice skateboarding for generations to come.

Please support the vote, correct the City error and re-approve the skate park with the correct wording and written findings.

Thank you on behalf of all the future children who will use this park.

Terry Campion  
4501 Nova Dr  
Santa Cruz, Ca 95062

Attachment: Public Communications (Monterey Avenue Skate Park)



**Fridy, Linda (lfridy@ci.capitola.ca.us)**

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**From:** Nicole Conley <nicole.conley@taniscomm.com>  
**Sent:** Monday, September 18, 2017 7:07 PM  
**To:** City Council  
**Cc:** Mark Conley  
**Subject:** Skate Park approval

Dear Council Members Bottorff and Peterson, and Mayor Harlan

We understand there was a city error on behalf of the Skate Park approval vote. We also understand this is coming back for a re-approval on September 25th with the correct wording and written findings.

We're asking that you please support the vote, correct the error and support the applicant to build this park.

We have been big supporters of this skate park from the beginning. Our 15-year-old skates Monte (that's what the kids call it) all the time, and it is dangerous when the little skaters are out there with the big skaters. We need a park dedicated to beginners, and Monte is not the solution. We are very sad and frustrated by the Friends of Monterey Park's NIMBY stance. This is a park for everyone including the kids of Capitola.

Thank you for your time and consideration,

Nicole and Mark Conley  
900 Kennedy Drive, Capitola  
831-713-9076

Attachment: Public Communications (Monterey Avenue Skate Park)

**Fridy, Linda (lfridy@ci.capitola.ca.us)**

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**From:** Sheryl Coulston <sheryl.coulston@gmail.com>  
**Sent:** Sunday, September 17, 2017 2:43 PM  
**To:** City Council  
**Subject:** No Skatepark at Monterey Park

Dear City Council,

I have heard it is again on the agenda for consideration at a public hearing for consideration of a Skatepark at Monterey Park.

I do not support a skatepark in Monterey Park.

1. Protect Green Space: This is one of our few green spaces for neighbors/local residents to walk to walk their dogs, take their children to play, and just be a buffer from the craziness of our visitor packed village. We need to protect these lovely green spaces in residential neighborhoods..
2. We have a lovely skatepark & pump course just down the street at New Brighton. The skate park is well used by all ages and is so sweet to see families out with their children, teens enjoying the area, etc. in a lovely wooded setting. This location is perfect isolated from residential areas. I doubt there have been any complaints of noise.
3. It seems not appropriate to have a skateboard in the backyard of a school. Won't the noise be a distraction? The district offices are there also.

Please vote no on this skate park in Monterey Park.

Sheryl and Patrick Coulston  
300 Plum St. #25  
Capitola, CA 95010

**Fridy, Linda (lfridy@ci.capitola.ca.us)**

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**From:** howlin@baymoon.com  
**Sent:** Tuesday, September 19, 2017 2:26 PM  
**To:** City Council  
**Subject:** Monterey Skate Park

PLEASE!!! Do not allow a skateboard park to be built in Monterey park. It is, in so many ways, not the appropriate place. That park is heavily utilized now by many different types of community members. Besides being in use by the adjacent school both during and after school hours, it is very family and dog friendly. The park has become somewhat of a neighborhood gathering place allowing many of us to meet people we would otherwise never encounter. In an age when so many of us are connected only electronically, having the opportunity to meet and enjoy the company of others in conversation, exercise, or any other leisure activity, is priceless. The park is rarely ever empty.

If a skatepark goes into that space. All of that will be lost. If you have to build in that part of Capitola, use the area adjacent to Nobel Creek Park.

Beth Davis

300 Plum St #21

Attachment: Public Communications (Monterey Avenue Skate Park)

**Fridy, Linda (lfridy@ci.capitola.ca.us)**

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**From:** Tory Delfavero <tory.delfavero@sbcglobal.net>  
**Sent:** Thursday, September 07, 2017 7:49 PM  
**To:** City Council  
**Subject:** September 25th Re-Approval of the Skate Park at Monterey

Dear Mayor Harlan and Council,

I understand the Skate Park at Monterey is coming back to Council on September 25th to be re-approved with corrected wording. An oversight made by city staff has stalled this project and it has ended up in litigation. I was present at the meeting when it was approved and it was clear what the spirit of the vote was that night. It was to proceed with the skate park at Monterey Park.

In my opinion this is not a vote on whether you are for or against the skate park at Monterey. It is to simply clean up the language of the vote and protect the work of the city. If all of the city's projects were scrutinized as much as this one was I am sure errors could be found. Please do not set the precedent that if you don't like the council's vote just hire a lawyer and look for errors. That would put way too much pressure on city staff and your attorney.

I understand this is a contentious issue. But again this is not a vote on your opinion of the approved skate park. This is simply cleaning up an unfortunate clerical error.

Kindly,  
Tory Del Favero  
512 Riverview Dr.  
Capitola

Attachment: Public Communications (Monterey Avenue Skate Park)

**Fridy, Linda (lfridy@ci.capitola.ca.us)**

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**From:** Lynne Ann DeSpelder <pacpubs@attglobal.net>  
**Sent:** Sunday, September 17, 2017 12:55 PM  
**To:** City Council  
**Subject:** Strong opposition to second skate park in Capitola

Hello all,

I am writing to strongly oppose another skate park in Capitola at Monterey Park. Specifically, one within a short walk from there to the new park built with a generous donation from the Monte Foundation.

Please vote against this appeal. Listen to the opposition's points including the fact that this proposal is ill advised and smacks of a commercial pursuit with a trade mark – Capitola Skate Park.

The proposed location is too close to the school and neighboring houses. Kids can get to the existing skate board park without setting a foot on the frontage road.

Please stop this project now.

Thank you, Lynne

*Lynne Ann DeSpelder*

post office box 1150

Capitola, CA 95010

831-476-8284 [PST]

[pacpubs@attglobal.net](mailto:pacpubs@attglobal.net)

[Last Dance Website](#)

Attachment: Public Communications (Monterey Avenue Skate Park)

**Fridy, Linda (lfridy@ci.capitola.ca.us)**

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**From:** Pat DILEONARDO <pedadd64@hotmail.com>  
**Sent:** Monday, September 18, 2017 5:11 PM  
**To:** City Council  
**Subject:** Re: Monterey Park skate park

Dear City Council Members:

As a resident of the area by New Brighton Middle School and Monterey Park I was dismayed to hear that it was being proposed to turn the park area next to the school into a skate park. This is a residential and school area; we like our green space. We have a more than adequate skate park around the corner on the frontage road by New Brighton State Park, an excellent location that does not disrupt our homes or school.

Sincerely,  
Pat DiLeonardo

Attachment: Public Communications (Monterey Avenue Skate Park)

**Fridy, Linda (lfridy@ci.capitola.ca.us)**

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**From:** Walter and Penny Disbrow <wa2pen@pacbell.net>  
**Sent:** Thursday, August 31, 2017 11:15 AM  
**To:** City Council  
**Subject:** Capitola Skate Park on Monterey Ave - Capitola, CA

August 31, 2017

Dear Council Members Bottorff and Peterson, and Mayor Harlan

I understand there was a **CITY ERROR** on behalf of the Skate Park approval vote. I also understand this is coming back for a **RE-APPROVAL ON SEPTEMBER 25, 2017 with the CORRECT WORDING AND WRITTEN FINDINGS.**

I'm asking that you please support the vote, correct the error and support the applicant to build the park.

This is a wonderful opportunity for the kids of Capitola.

Thank you for your time and consideration,

Penny Sue Disbrow

Attachment: Public Communications (Monterey Avenue Skate Park)

**Fridy, Linda (lfridy@ci.capitola.ca.us)**

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**From:** Brian Dueck <briandueck@gmail.com>  
**Sent:** Tuesday, September 05, 2017 10:35 AM  
**To:** City Council  
**Subject:** Capitola Skate Park

Dear Council Members Bottorff and Peterson, and Mayor Harlan,

We would like to let you know that we are in support of the Skate Park in Capitola. Our kids need more after school recreational options within the community. It is our understanding that this is coming back for a re-approval on September 25th and hope that the Council considers a "yes" vote.

Thank you for your time.

Brian Dueck

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Attachment: Public Communications (Monterey Avenue Skate Park)



**Fridy, Linda (lfridy@ci.capitola.ca.us)**

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**From:** michael foster <mikefo@sbcglobal.net>  
**Sent:** Monday, September 18, 2017 2:32 PM  
**To:** City Council  
**Cc:** Michael Foster  
**Subject:** Please, No Skate Park in Monterey Park

Hi City Council Members, I hear you may be looking into the skate park idea again in Monterey Park. I, like many neighbors and citizens of Capitola just don't see the need for it, or understand how such a small minority group can push this forward again.

If it's coming up again, I'd like my concerns noted:

I just don't believe it's really needed -- I see plenty of small kids at the new skate park, and they love it. But if that's hard to access, put some sidewalks in along the route. What's already been created is really great!

I don't think it's a good fit for the neighborhood, or the school, and I've heard indirectly that the school board folks think it's a horrible idea but can't register their opinions about it (so I guess that's just conjecture).

There was no maintenance plan, no bathroom plan (so they'll be peeing along the fences), no required security patrol or security camera plan, no noise abatement plan during school hours, and losing those trees is simply not worth the price.

Also, the noise, those things are loud. And aren't there houses all around that park? Have you seen/looked into the comments about what happened in Santa Cruz at the Derby Park. All started fine, now the little kids have been pushed out, there's graffiti all over it, and some bad-elements have moved in (check out the comments on next door).

One last point... I get that Santa Cruz county is all about Surfing and Skating and that we should embrace it, but our community also purports to be about the Arts as well. So why can't we direct some of the funds to more local Art programs, for music, painting, dance, etc... don't we already have enough support of skating and surfing?

Thanks for listening city council members. Appreciate your ear on this matter.

**Mike Foster (Capitola Resident)**

Attachment: Public Communications (Monterey Avenue Skate Park)

**Fridy, Linda (lfridy@ci.capitola.ca.us)**

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**From:** Robin Gaither <hrgaither@yahoo.com>  
**Sent:** Monday, September 18, 2017 12:19 PM  
**To:** City Council  
**Subject:** Public Hearing - Sept 25

Dear City of Capitola Council Members:

I just received notice of a September 25 meeting during which the proposal to build a 6,000 sq ft skate park at Monterey Park will once again be "reconsidered". A recent legal judgment stopped this proposal, yet an apparent 'appeal' is now in process? This feels a bit like "Groundhog Day" to me!

I have written to the Council in the past to express my strong opposition to the building of a skate park at Monterey Park, and I continue to be opposed to building a skate park at this location. There are many City issues which need the Council's attention, research and careful consideration. I urge the Council to vote 'no' on this proposal and move onto other business. It seems far too much of the City's time and resources have been spent on this one project.

Monterey Park is the wrong location for a skate park of this size, given the proximity to the school and residences. Parking and rest room facilities are not available, and this is a service duplication given the proximity to McGregor Skate Park. We do not need two skate parks so close to one another. The proposed skate park will impinge on the soccer/baseball playing field and walking track, and will increase area noise and traffic.

McGregor Skate Park seems to be getting steady use, including younger skaters. Many, but not all, skaters at that park wear helmets and protective paddling. I thought wearing such gear was a requirement. Hopefully, the City is not liable for injuries if skaters don't wear helmets/pads.

The City Council provided Capitola residents with a skate park at McGregor. You responded to that community request, and it is a lovely facility. I suggest the Council encourage those supporting the skate park at Monterey Park to use their resources to help make McGregor Skate Park even better, and perhaps pursue renaming that skate park if it serves their purpose.

Thank you.

Robin Gaither  
 223 Junipero Court  
 Capitola, CA  
 20 yr resident

Attachment: Public Communications (Monterey Avenue Skate Park)

**Fridy, Linda (lfridy@ci.capitola.ca.us)**

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**From:** Al Globus <alglobus@gmail.com>  
**Sent:** Thursday, September 14, 2017 9:25 PM  
**To:** Termini, Mike (michael@triadelectric.com); City Council; Dennis Norton; Bertrand, Jacques; Harlan, Stephanie (sharlan@ci.capitola.ca.us)  
**Subject:** Monterey Skate Park

Is still 10 minutes safe walk from an excellent skate park (McGreggor).

Will still be noisy

Will still pave over beautiful land

Is still a really bad idea rejected by those who live closest to it.

If you think two skateparks in Capitola would be nice, I suggest the second one go on the other side of the creek so all the kids in Capitola can get to park rather than have two right next to each other.

Attachment: Public Communications (Monterey Avenue Skate Park)

**Fridy, Linda (lfridy@ci.capitola.ca.us)**

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**From:** Neil Goldstein <negncg@gmail.com>  
**Sent:** Sunday, September 17, 2017 3:54 PM  
**To:** City Council  
**Subject:** No skatepark at Monterey Park

Dear City Council Member,

The planned skatepark at Monterey Park is redundant, unnecessary, divisive, in the wrong location and absolutely not in the best interests of Capitola residents.

The legal, and not-so-legal shenanigans surrounding this sleazy deal have been disgusting and disheartening to watch.

This noisy concrete monstrosity will interfere with the education and safety of our city's children and will be disruptive to the most vulnerable of us, our special-needs children. It will destroy the park and the surrounding neighborhood, creating noise, traffic, disruption, vandalism and the need for greatly increased police presence.

The idea of placing this park within 160 feet of Bryan Stow's bedroom is overt corporate bullying and it is a disgraceful action on the part of the city council to be part of it..

Thank you for your attention, and for your "NO" vote on this very bad idea.

Neil Goldstein

Rosedale Ave, Capitola.

Attachment: Public Communications (Monterey Avenue Skate Park)

**Fridy, Linda (lfridy@ci.capitola.ca.us)**

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**From:** Brett Graessle <graessles@gmail.com>  
**Sent:** Thursday, August 31, 2017 9:31 AM  
**To:** City Council  
**Subject:** Skate park

Dear Council Members Bottorff and Peterson, and Mayor Harlan,

We have been residents of Capitola for 20 years. My husband Brett and I moved here in the fall of 1997 and have since raised a family including five children in this lovely, lively beach resort town. Our oldest daughter heads to UCLA in three weeks and our youngest daughter is seven years old. We have three boys in between. They are all active in Capitola Junior Guards - Ellie was an instructor this year- as well as other community sports and activities. They volunteer for the art and wine festival through Soquel High School water polo each year and we have participated in the Begonia Festival since arriving here. Capitola is dear to us and we are honored to give back to it in any way possible.

I understand there was a city error on behalf of the Skate Park approval vote. I also understand this is coming back for a re-approval on September 25th with the correct wording and written findings.

I'm asking that you please support the vote, correct the error and support the applicant to build this park. We have long supported this project as an example of another healthy outdoor activity available in our own town. We have seen how critically important it is to have accessible sports outlets available to young people of all ages.

Thank you for your time and consideration.

Sincerely,

Molly Graessle

Attachment: Public Communications (Monterey Avenue Skate Park)

**Fridy, Linda (lfridy@ci.capitola.ca.us)**

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**From:** Christy Hadland <chadland@davidlyng.com>  
**Sent:** Monday, September 18, 2017 6:35 AM  
**To:** City Council  
**Subject:** Skate Park

Dear City Council,

Please support the vote, correct the City error and reapprove the skate park with correct wording and written findings.

Kindly,  
Christy Hadland

Attachment: Public Communications (Monterey Avenue Skate Park)

**Fridy, Linda (lfridy@ci.capitola.ca.us)**

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**From:** Chris Harmount <904medic@gmail.com>  
**Sent:** Thursday, August 31, 2017 10:40 AM  
**To:** City Council  
**Subject:** Skate park vote.

Dear Council Members Bottorff and Peterson, and Mayor Harlan

I understand there was a city error on behalf of the Skate Park approval vote. I also understand this is coming back for a re-approval on September 25th with the correct wording and written findings.

Please Reaffirm your vote to go through with this park. Everything has already been approved and now we're having a clerical error stand in the way of fun for our kids. Thank you again for supporting all the kids of Capitola your yes vote is greatly appreciated

-Chris Harmount  
Capitola CA.

Thank you for your time and consideration

Attachment: Public Communications (Monterey Avenue Skate Park)

**Fridy, Linda (lfridy@ci.capitola.ca.us)**

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**From:** Sue Hart <sue.hart09@gmail.com>  
**Sent:** Sunday, September 17, 2017 10:28 AM  
**To:** City Council  
**Subject:** Skateboard park in Monterey Park, Capitola

This is a terrible idea. Please DO NOT allow it!

Sent from my iPad

Attachment: Public Communications (Monterey Avenue Skate Park)



**Fridy, Linda (lfridy@ci.capitola.ca.us)**

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**From:** Tascha Haut <taschahaut@gmail.com>  
**Sent:** Tuesday, September 19, 2017 11:11 AM  
**To:** City Council  
**Subject:** Skate park

Dear City Council Members;

My family is in support of the skate park at Monterey Avenue Community Park. Please support the prior council vote and re-approve the skate park. We need to support our children and this is a ideal way for Capitola to support youth. The current skate park at McGregor is not ideal for younger children.

Thank you,

Tascha Haut

Attachment: Public Communications (Monterey Avenue Skate Park)

**Fridy, Linda (lfridy@ci.capitola.ca.us)**

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**From:** Karen Held <kbbears@hotmail.com>  
**Sent:** Tuesday, September 12, 2017 7:27 AM  
**To:** City Council  
**Subject:** Skatepark Reapproval Support

Dear Council Members Bottorff, Peterson and Mayor Harlan

It is my understanding that the skatepark will be back for a reapproval vote on Sept. 25th and I'm emailing you to say I support the skatepark. Please approve this project and let the younger kids have a safe place to skate.

Thank you,  
Karen Held

Attachment: Public Communications (Monterey Avenue Skate Park)

**Fridy, Linda (lfridy@ci.capitola.ca.us)**

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**From:** Brinnan Henson <brinnanhenson@gmail.com>  
**Sent:** Monday, September 18, 2017 1:46 PM  
**To:** City Council  
**Subject:** Skate park

Please support the vote, correct the city error and reprove the skate park with correct wording and written findings.

Thank You,

Brinnan Henson  
Capitola Resident

Attachment: Public Communications (Monterey Avenue Skate Park)

**Fridy, Linda (lfridy@ci.capitola.ca.us)**

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**From:** Kennneth House <khouse13@att.net>  
**Sent:** Saturday, September 16, 2017 10:24 AM  
**To:** City Council  
**Subject:** No for skate park

Dear Capitola City Council, I had to write to let you know that I'm not in favor of the Monterey Skate Park proposal. We have a Skate Park on McGregor that is being used and seems popular enough. Redundancy is not needed in this instance. The green space and relaxing tranquil nature of the Monterey park is something we need in todays stress filled days. Just my opinion as someone who's been living in Cliffwood Heights and will be impacted by this decision. Thanks for your consideration,

Kenneth House  
223 Elinor St.  
Capitola

Attachment: Public Communications (Monterey Avenue Skate Park)

**Fridy, Linda (lfridy@ci.capitola.ca.us)**

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**From:** John Hunter <jhunter@oneillwetsuits.com>  
**Sent:** Monday, September 11, 2017 2:09 PM  
**To:** City Council  
**Subject:** Capitola Skatepark

Dear Council Members Bottorff and Peterson, and Mayor Harlan

I understand there was a city error on behalf of the Skate Park approval vote. I heard this is coming back for a re-approval on September 25th with the correct wording and written findings.

I have two children who skate and we have been to all of the meetings held on this project. My children are anxiously awaiting the new Skate park and don't understand what is going on.

I'm asking that you please support the vote, correct the error and support the applicant to build this park.

Thank you for your time and consideration,

John Hunter

Product Designer

O'Neill Wetsuits, LLC



**Fridy, Linda (lfridy@ci.capitola.ca.us)**

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**From:** Marsha Isaacson <davaacson@sbcglobal.net>  
**Sent:** Sunday, September 17, 2017 8:34 AM  
**To:** City Council  
**Subject:** No skateboard park

I live in the neighborhood of the proposed skateboard park and hope the board will say no to this idea. We walk our dogs in this serene place regularly and dogs and skateboards don't mix well. As a teacher I also don't see school grounds as an ideal place for a skate park. Having older teens hanging out during school hours doesn't bode well! And who is supervising the students and the skaters? Traffic too is a concern. I think the location on mcgregor street is ideal and a fight to keep that park permanent is a better battle!!

Marsha isaacson

Sent from my iPhone

Attachment: Public Communications (Monterey Avenue Skate Park)

**Fridy, Linda (lfridy@ci.capitola.ca.us)**

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**From:** Sally Jenks <sally\_jenks@sbcglobal.net>  
**Sent:** Monday, September 18, 2017 4:47 PM  
**To:** City Council  
**Subject:** Skate Board Park

Regarding your last action regarding the skate board park we would urge you to support your vote approving the park, correct the city's error and reapprove the skate park with correct wording and written findings.

Thank you for your consideration

Sent from my iPad

Attachment: Public Communications (Monterey Avenue Skate Park)

**Fridy, Linda (lfridy@ci.capitola.ca.us)**

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**From:** Kay Johnson <capitolakay@gmail.com>  
**Sent:** Sunday, September 17, 2017 6:37 PM  
**To:** City Council  
**Subject:** Skate park capitola

Please support the skate park. We need this.

Sent from my iPad

Attachment: Public Communications (Monterey Avenue Skate Park)



**Fridy, Linda (lfridy@ci.capitola.ca.us)**

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**From:** Alex Johnson <surfer@got.net>  
**Sent:** Monday, September 18, 2017 3:06 PM  
**To:** City Council  
**Subject:** Skate Park

09/18/2017

Dear City Council Members,

I am a small business owner at David Lyng Real Estate in Capitola. Please approve the new Skatepark, we want to see the current well designed park built for the children to enjoy.

I would encourage you to please uphold the previous council's decision to approve this project. My kids and I voice our support and we continue to stand strongly behind the project as member of the neighborhood and involved community members.

I understand the reason this is back up for discussion is due to a clerical error which I hope you can quickly work through. It's been a long time coming for Capitola to have a skate park in a place where parents and children can walk to and enjoy together! Thank you for your consideration.

Sincerely,

Alex Johnson  
301 Capitola Ave.  
Capitola CA 95010

Attachment: Public Communications (Monterey Avenue Skate Park)

**Fridy, Linda (lfridy@ci.capitola.ca.us)**

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**From:** jlieberum@cruzio.com  
**Sent:** Sunday, September 17, 2017 12:46 PM  
**To:** City Council  
**Subject:** I oppose skatepark at Monterey Park

Re: Skatepark at Monterey Park

Dear City Council,

I think that a skatepark so close to a residential area is a bad idea.

My primary concern is the noise factor.

John Lieberum

300 Plum St. #12

Capitola, CA 95010

Attachment: Public Communications (Monterey Avenue Skate Park)

**Fridy, Linda (lfridy@ci.capitola.ca.us)**

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**From:** Richard Lippi <richard@greatoptions.net>  
**Sent:** Thursday, September 14, 2017 6:48 PM  
**To:** City Council  
**Subject:** NO SKATEPARK AT MONTEREY PARK

Dear Council Members,

I hope you will all support the wishes of hundreds of neighbors and Monterey Park users that any form of a skatepark at Monterey Park is a bad idea. This controversial issue has plagued the neighbors and users of Monterey Park for years. Let's bring a final close to this issue on September 25th and vote to cancel all plans for any skatepark at Monterey Park.

Thank you for your consideration.

Richard Lippi

Attachment: Public Communications (Monterey Avenue Skate Park)

RECEIVED

SEP 15 2017

SEP 15 2017  
CITY OF CAPITOLA  
CITY OF CAPITOLA

# P.O.P.P. is Protecting Our Public Parks

Capitola City Council Members  
Attn: Linda Fridy, City Clerk  
420 Capitola Avenue  
Capitola, CA 95010

September 15, 2017

Reference: Public Hearing of 09-25-17 for the Skate Park at Monterey Avenue Park  
Subject: Problems with the Proposed Skatepark at Monterey Park

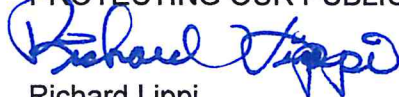
Dear City Council Members,

It's good that Friends of Monterey Park (FoMP) and Protecting Our Public Parks (POPP) are helping the general public realize the future impacts of a public skatepark at Monterey Park. The proponents have said that Monterey Park is an "active park" and "the noise is already there" and the school kids make noise on a daily basis. Here's what's wrong with that thinking:

- **Monterey Park was originally formed circa 1990 as a "passive" park but the activity has intensified way beyond what the neighbors ever anticipated. Even at peak times of Park use, the skatepark will be noisier than any other activity.**
- NBMS teachers only sometimes use the Park. It's not every day 8am to sunset. NBMS students take breaks from 10-10:30am and 12-1pm and they leave after 2:30pm. They don't play at the Park 8am to sunset.
- There is no NBMS use during the spring, winter or summer breaks. A skatepark would be 365 days a year, 9am to sunset. The neighbors and Park users would never get a break from the noise.
- The kids using Monterey Park are middle school students, ages 12 to 14, not random adults from the general public.
- The kids are SUPERVISED by PE teachers. Obscene language is mitigated. The skatepark would not be supervised.
- The athletic equipment used by the NBMS PE department is not noisy like wooden skateboards flipping and crashing on concrete and steel rails.
- **The PE department will have to discontinue use of Monterey Park and deprive 740 students of "nature play".**

These are important points to remember when weighing the pros and cons of a public skatepark at Monterey Park.

Respectfully submitted,  
PROTECTING OUR PUBLIC PARKS



Richard Lippi  
Founder and Program Director



**Fridy, Linda (lfridy@ci.capitola.ca.us)**

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**From:** Carol MacEwen <cemacewen@hotmail.com>  
**Sent:** Monday, September 18, 2017 6:35 PM  
**To:** City Council  
**Subject:** September 25, 2017 Public Hearing

City Council Members,

As homeowners on Monterey Avenue, we are among those that will be most impacted by a skate park in Monterey Park. We urge the City Council to reject any further proposals for a 6000 square-foot skate park on that site.

We feel that it is an inappropriate site for a skate park that size due to many factors, including increased noise and traffic, loss of green space, as well as its proximity to New Brighton Middle School. A park that size would be used by older teens and adults as evidenced by a previous city council meeting where many older men (18+) spoke in favor of the park for their own recreational use. It raises many safety concerns and issues if a middle school campus is attractive to older teens and adults.

We received two postcards today from the City of Capitola that seemed at odds with one another. The first was regarding the skate park public hearing and the second was about the free tree program. To quote one of the bullet points on the second card: "Studies have shown that children and youth living in greener neighborhoods are calmer and healthier." Voting in favor of a large skate park would reduce our green space and contradict the benefits of the tree program.

Along with the vast majority of our neighbors who are most impacted by this proposal, we urge the City Council Members to vote no on the proposed 6000 square-foot skate park in Monterey Park.

Thank you for your time.

Scott & Carol MacEwen

613 Monterey Ave.

Capitola

Attachment: Public Communications (Monterey Avenue Skate Park)

**Fridy, Linda (lfridy@ci.capitola.ca.us)**

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**From:** Jennifer Major <jennylisap@gmail.com>  
**Sent:** Sunday, September 17, 2017 7:33 PM  
**To:** City Council  
**Subject:** Reapprove the skate park

Dear City Council,

Please support the vote, correct the City error and reapprove the skate park with the correct wording and written findings.

Thank you,  
Jennifer Major

Attachment: Public Communications (Monterey Avenue Skate Park)

**Fridy, Linda (lfridy@ci.capitola.ca.us)**

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**From:** Debra Martin <debradoodle46@yahoo.com>  
**Sent:** Sunday, September 17, 2017 6:40 PM  
**To:** City Council  
**Subject:** Please support the vote

Please support the vote, correct the city error and reapprove the skate park with correct wording and written findings.

Debra Martin  
Sent from Yahoo Mail for iPhone

Attachment: Public Communications (Monterey Avenue Skate Park)

**Fridy, Linda (lfridy@ci.capitola.ca.us)**

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**From:** Emily Martin <emilymartin.oils@gmail.com>  
**Sent:** Monday, September 18, 2017 9:05 AM  
**To:** City Council  
**Subject:** Skatepark

Dear Capitola Council,

Our family is highly in favor of the skatepark being proposed at Monterey Park. This is an extremely safe place for our skateboarding children to have a skatepark.

Thank you.  
Sincerely  
Rick and Emily Martin  
2213 42nd Ave  
Capitola CA 95010

Sent from my iPhone

Attachment: Public Communications (Monterey Avenue Skate Park)



SEP 18 2017

CITY OF CAPITOLA  
CITY CLERK

September 16, 2017

Capitola City Council Members:

I am deeply concerned and dismayed that once again consideration is being given to a large skate park at Monterey Park. I struggle to see the value of placement of the proposed project in this residential area given the many valid concerns that have been expressed over the years.

The concerns I had in the past continue to be even more pertinent. The skate park presents concerns for those living near it and should also be a concern for any city resident. The City of Capitola will need to oversee and finance it for years to come. It does not appear to be part of any coordinated city plan. My concerns specifically:

- Setting and enforcing rules to avoid impact on residents living nearby as well as city liability.  
Hours, ages intended for, type of use (bikes, skateboards, etc), potential noise, trash cleanup and avoidance of creating an “attractive nuisance” are all considerations. It is repeatedly mentioned in the pro skate park reports that mitigation of these factors is possible but involves effective and ongoing policing and enforcement. I have observed what appear to be ongoing enforcement issues at the skate park at Macgregor and have no confidence that the City of Capitola would have the ability to address the same issues on a consistent and ongoing basis for years to come.
- Oversight for maintenance and general upkeep with ongoing and consistent funding (cost?) seems without a plan.  
Maintenance is extensive and daily according to proskate park literature and also involves concerns re: graffiti and bathrooms.
- Altering of the landscape with unknown effect.  
Drainage is already a problem in Monterey Park and affects the residents living “downhill”. The drainage culvert already requires regular maintenance and cannot handle large amounts of water. I never did see any evidence that this had been addressed?
- Parking?
- The skate park plans seem to be everchanging and lack transparency. A skate park will be a permanent and short sighted change that ignores the input of many Capitola residents. It would make me sad to see such a drastic change to this little gem of Capitola green and quiet space.

In closing it seems shortsighted to consider a skate park in Monterey Park in the context of the uniqueness of Monterey Park, poorly addressed future concerns and an already existing skate park at the Mcgregor site.

Thanks for the opportunity to share my concerns.

Peg McCollough  
726 Orchid Ave,  
Capitola , CA 95010

[mccollough.peg@gmail.com](mailto:mccollough.peg@gmail.com)

**Fridy, Linda (lfridy@ci.capitola.ca.us)**

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**From:** Robert Montonye <montonye@pacbell.net>  
**Sent:** Tuesday, September 19, 2017 9:59 AM  
**To:** City Council  
**Subject:** skatepark

I was disappointed to hear the skatepark is again being considered by the City of Capitola. Is someone paying the city or the Council to do this project?

We enjoy our green space and the peace and quiet of the green space, that is why we enjoy living in Capitola. By bringing more of the public in to use our parks and green space all you do is pollute the area with noise and the trash they generate.

Capitola already has a skate park, why do we need two??

Please reconsider and vote NO on the skatepark.

thank you.

Mary and Bob Montonye

Attachment: Public Communications (Monterey Avenue Skate Park)

**Fridy, Linda (lfridy@ci.capitola.ca.us)**

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**From:** Renie Munn <renie@progressivebenefit.com>  
**Sent:** Monday, September 11, 2017 8:41 PM  
**To:** City Council  
**Subject:** Skate Park Re-Approval Support

Dear Council members Bottorff, Peterson and Mayor Harlan,

I understand the Skate Park is back for a re-approval on Sept 25th. The intent June 2016 was to approve the project and build the skate park. Please support the vote, community, children, applicant, donor and most importantly support your City.

My family and I have been proponents of this project from the beginning and have shown our support at numerous City Council meetings as well as written submissions.

The park would provide a much needed recreational outlet aimed at serving the beginner skaters in our community, a community that is steeped in skating and surfing culture. It would provide a positive outlet not tied to any socio-economic, or cultural demographic...simply just a safe, fun, rad place for the kids who call this wonderful city of Capitola home.

Thank you for considering my position on this matter.

Narina Munn

Capitola Resident

Attachment: Public Communications (Monterey Avenue Skate Park)

**Fridy, Linda (lfridy@ci.capitola.ca.us)**

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**From:** Nancy Lippi <nancylippi@sbcglobal.net>  
**Sent:** Friday, September 15, 2017 6:13 PM  
**To:** City Council  
**Subject:** Skate parks

Dear Council members,

It is my belief that we do NOT need more skate parks in Capitola. The proposed skate park at Monterey Park is too close to houses, our neighbors and friends. The children have a lovely park on McGregor. Another park so close is not necessary.

Nancy Lippi  
825 Balboa Ave  
Capitola

Attachment: Public Communications (Monterey Avenue Skate Park)

**Fridy, Linda (lfridy@ci.capitola.ca.us)**

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**From:** Bob Nunn <blackbird2@pacbell.net>  
**Sent:** Sunday, September 17, 2017 4:13 PM  
**To:** City Council  
**Subject:** Please oppose building a skatepark at Monterey Park

Dear City Council Member,  
Please stand in opposition to the skatepark at Monterey Park. This is not an appropriate location for this activity.  
Thank you,  
Robert Nunn  
Nova Drive, Capitola

Attachment: Public Communications (Monterey Avenue Skate Park)

**Fridy, Linda (lfridy@ci.capitola.ca.us)**

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**From:** Brad Oates <b.oates@nhs-inc.com>  
**Sent:** Tuesday, September 12, 2017 9:40 AM  
**To:** City Council  
**Subject:** September 25th Re-Approval of the Skate Park at Monterey

Dear Mayor Harlan and Council,

Excited that the Skate Park at Monterey Avenue is coming back to Council on September 25th to be re-approved with corrected wording. Unfortunate that an oversight made by city staff has stalled this project and it has ended up in litigation. I was present at the meeting when it was approved and given the go ahead and it was clear what the spirit of the vote was that night. It was to proceed with the skate park at Monterey Park which will be a wonderful addition to our awesome community.

We have already had numerous meetings to discuss voting for or against the skate park at Monterey Avenue and the skatepark was indeed approved. Please do not set the precedent that if you don't like the council's vote just hire a lawyer and look for errors. This would set a horrible precedent for future cases.

I understand this is a contentious issue. This is not a vote on your opinion of the approved skate park. This is simply cleaning up an unfortunate clerical error.

Thanks,  
Brad Oates  
816 Balboa Ave  
Capitola

Attachment: Public Communications (Monterey Avenue Skate Park)

**Fridy, Linda (lfridy@ci.capitola.ca.us)**

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**From:** Michelle <mdaveyouse@aol.com>  
**Sent:** Monday, September 18, 2017 2:20 PM  
**To:** City Council  
**Subject:** Capitola Skate Park

Hi City Council,

Thanks for your time and effort serving Capitola. Your efforts have not gone unnoticed.

I was more than surprised to find that the council needed to re-approve the skate park based on a small change. My family supports the skate park and we are asking that you, as the City Counsel, correct the error and re-approve the skate park. The funds for the skate park is such a generous gift to the community and to see these funds sit unused due to the resistance and unrealistic expectations of a few neighbors to the park is unacceptable.

Please support the vote, correct the error and re-approve the skate park.

Thank you,  
Michelle Ouse

Attachment: Public Communications (Monterey Avenue Skate Park)

**Fridy, Linda (lfridy@ci.capitola.ca.us)**

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**From:** Jeri Parish <jeriparish@yahoo.com>  
**Sent:** Tuesday, September 05, 2017 11:30 AM  
**To:** City Council  
**Subject:** Capitola Skatepark

Dear Council Members Bottorff, Peterson, and Mayor Harlan,

It is my understanding there was an error, by the city, on behalf of the Skate Park approval vote. I understand this is coming back for a re-approval on September 25th with the correct wording and written findings.

Please support the vote, make a correction to the error, and approve of the applicant building this park.

Thank you for your time and consideration,  
Jeri Parish  
Capitola Resident

Attachment: Public Communications (Monterey Avenue Skate Park)



**Fridy, Linda (lfridy@ci.capitola.ca.us)**

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**From:** Shane Pearlman <shane@tri.be>  
**Sent:** Wednesday, August 30, 2017 9:41 PM  
**To:** Julie Pearlman; City Council; Petersen, Kristen  
**Subject:** Skate park

Dear city council,

My family owns our home at 211 Washburn ave facing the park. I showed up at the first vote for the skate part to lend my support and encourage you to work towards a higher and better use for the park than lawn and bushes. I'm sad to hear that some technicality allowed an approval to get bypassed. We were so excited to have a fun skate park they could walk across the street and use. My children are now 3 and 8. The skate park addition is exactly what I would love to see and I would ask you to please hold up the commitment you made to us as a community and do the project before our charitable benefactor goes away.

Most of us who would actually use the park simply don't have the space to get super involved. We have kids and jobs and volunteer! This is probably the only email I will send to the city council despite living here for years. While I will try to come, finding a sitter to attend a council meeting is prohibitive. So I would like to remind you that the reality of the constituency will make the small highly vocal minority against the park seem more representative than they are at the meeting.

I encourage the council members who are interested to come walk the neighborhood and talk to us. I coach soccer for 12 girls between 8-9 yrs at new Brighton every mon and wed from 5-6pm (except this coming monday). The park is for them. Come join us after and lets chat.

- shane pearlman

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Shane Pearlman  
 831.345.7033  
 Modern Tribe Inc

Attachment: Public Communications (Monterey Avenue Skate Park)

**Fridy, Linda (lfridy@ci.capitola.ca.us)**

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**From:** Diana Peters <djp3122@yahoo.com>  
**Sent:** Wednesday, August 30, 2017 8:30 PM  
**To:** City Council  
**Subject:** Capitola Skatepark

Dear Council Members Bottorff, Peterson and Mayor Harlan,

It has come to my attention that because of a technicality in the wording used in the Agenda for the Capitola skatepark project, a vote must be re-taken and re-approved.

On behalf of the younger children in the community needing a safe place to learn and skate, I sincerely ask that you uphold the decision of the previous Council to approve this project.

Thank you very much for your consideration.

Diana J Peters  
831.462.4142

Sent from my iPhone

Attachment: Public Communications (Monterey Avenue Skate Park)

**Fridy, Linda (lfridy@ci.capitola.ca.us)**

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**From:** Marty Proctor <m.proctor@nhs-inc.com>  
**Sent:** Friday, September 01, 2017 5:12 PM  
**To:** City Council  
**Subject:** Skatepark Reapproval

Dear Council members Bottorff, Peterson and Mayor Harlan.

It's been brought to my attention that a reapproval of the skate park is needed. I'm emailing you to say that I support this skatepark as always. This is a perfect way to give younger kids in Capitola a close and safe place to be outdoors. The park features are perfect for young beginners and intermediate skateboarders.

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Marty Proctor  
Capitola Resident

Attachment: Public Communications (Monterey Avenue Skate Park)

**Fridy, Linda (lfridy@ci.capitola.ca.us)**

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**From:** Max Proctor <maxproctor02@gmail.com>  
**Sent:** Monday, September 18, 2017 8:28 AM  
**To:** City Council  
**Subject:** Capitola Skate Park Support

Dear Capitola City Council,

My name is Max Proctor and my Mom and Aunt have been working on building a beginner skate park in Capitola since 2011 (I was 9 years old when they started). I'm now 15 and have been involved with the entire process. Actually, all of my friends and I have been involved with the process. We've been at every meeting, spoke at the meetings, walked the neighborhood to get support signatures and helped with the beginner design. Please don't let a few neighbors take this away from us. They just don't understand. We worked really hard to get this park approved June 2016. My Mom and Aunt have worked many hours to see they followed the rules and application process. The error that happened wasn't because we didn't do our part. I'll see you on the 25th and thank you for all your support and time.

Max Proctor  
Capitola Resident

Attachment: Public Communications (Monterey Avenue Skate Park)

**Fridy, Linda (lfridy@ci.capitola.ca.us)**

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**From:** susan raay <riverraay@sbcglobal.net>  
**Sent:** Tuesday, September 19, 2017 8:52 AM  
**To:** City Council  
**Subject:** MONTEREY PARK

PLEASE PLEASE help us locals SAVE our precious MONTEREY PARK ... the greedy developers that just want to promote their selfish skateboard interests need to be denied ... we ALL benefit from green space, and there is really so little left here in our precious Capitola / Santa Cruz ... the (taxpaying!) neighbors of Monterey Park need YOUR HELP ... Now mind you, I am ALL for Play Areas for kids ... however this particular project is TOTALLY UNNECESSARY AND WASTEFUL ... There is already a very successful, recently built SKATEBOARD PARK within MINUTES of this PREPOSTEROUS PROPOSED PROJECT!!! HOW MANY SKATEBOARD PARKS DO WE NEED — especially WITHIN A TWO MILE RADIUS????!!!! This will bring unwanted NOISE and potential crowds to this precious QUIET, NECESSARY, IMPORTANT, SMALL AND RARE GREEN SPACE .....

PLEASE PLEASE we need your HELP ... I originally moved to Santa Cruz 40 years ago because of the beautiful combination of trees, green, mountains and oceans ... we still have our oceans, while our OPEN GREEN SPACES continue to die and disappear to CEMENT and development in the name of “progress” while the developers are bound to make BIG GREEDY PROFITS at the expense of those of us who suffer and are forced to endure the consequences .....

CHILDREN of ALL ages visit and enjoy this precious, RARE free space of GREEN ... The Neighbors of Monterey Park NEED our few remaining PARKS AND WE ALL NEED YOUR HELP ... and we VOTE!!!!

GRATEFULLY

Susan Raay

20 Year-Capitola-Resident

PLEASE SAVE MONTEREY PARK

Attachment: Public Communications (Monterey Avenue Skate Park)

**Fridy, Linda (lfridy@ci.capitola.ca.us)**

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**From:** Judy Radcliffe <judyradcliffe@yahoo.com>  
**Sent:** Thursday, September 14, 2017 9:50 PM  
**To:** City Council  
**Subject:** Continued opposition to a skate park on Monterey Ave

Dear city council members:

Rumor has it that the city council will yet again consider a proposal for a skate park on Monterey Ave.

The city council is well aware of the neighborhood residents opposition to a skate park on Monterey avenue and the reasons behind that opposition.

I personally am opposed to this proposed skate park because of the increased traffic congestion that will result I live at 617 monterey Ave.

It is already almost impossible to get in and out of my driveway during school pickup and delivery During commute hours, Monterey avenue is often bumper to bumper traffic.

Increased parking needs will also be a problem.

Parking space in front of my house is often filled evenings and weekends by sports activities and school district meetings and events.

Noise will be increased. Skate boarding is not a quiet sport.

I have heard claims that the park is underutilized.

I believe the park is already adequately utilized by residents.

I often see people walking, exercising dogs, and playing sports.

New Brighton gym classes use the track.

I, myself, use the space for tai chi practice.

If it is felt the space is underutilized, I propose that a toddler park would be a better use of the space. A play area for that age group would more likely bring people to the park during hours when the park is not being used by sports teams.

Thank you for your time and consideration

Sincerely,  
 Judy Radcliffe

Attachment: Public Communications (Monterey Avenue Skate Park)



**Fridy, Linda (lfridy@ci.capitola.ca.us)**

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**From:** Dieter Rothmeier <dieter@gmail.com>  
**Sent:** Wednesday, August 30, 2017 8:36 PM  
**To:** City Council  
**Subject:** Capitola skate park

Dear Council Members Bottorff and Peterson, and Mayor Harlan

I understand there was a city error on behalf of the Skate Park approval vote. I also understand this is coming back for a re-approval on September 25th with the correct wording and written findings.

I'm asking that you please support the vote, correct the error and support the applicant to build this park.

Thank you for your time and consideration,  
Dieter Rothmeier

Attachment: Public Communications (Monterey Avenue Skate Park)



**Fridy, Linda (lfridy@ci.capitola.ca.us)**

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**From:** Mad Scott <madmanrocks34@gmail.com>  
**Sent:** Monday, September 11, 2017 9:22 AM  
**To:** City Council  
**Subject:** Monterey Park - Capitola

Dear Mayor Harlon and Council,

I have heard that the Monterey Skatepark is going back to council September 25th to be re-approved for the correct wording. The oversight made by the city has put a hold on the project and now has ended up in this litigation.

I did go to the meeting when the park was approved, and there was a tremendous positive community response and it was obvious what the vote was at the meeting. We were all very excited.

I don't believe this is about not wanting the skatepark at Monterey. I believe the wording is just needing to be cleaned up to protect the city and skatepark work. This park has been something we have all dreamed up and really look forward to seeing this happen and get started.

I know this has been time consuming, costly and strenuous for everyone but we look forward to getting the simple wording cleared up to move forward with the approval that has already happened.

Thank you for your time,  
Madison

Attachment: Public Communications (Monterey Avenue Skate Park)

**Fridy, Linda (lfridy@ci.capitola.ca.us)**

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**From:** Jennifer Shaw <495shaw@gmail.com>  
**Sent:** Monday, September 18, 2017 6:59 PM  
**To:** City Council  
**Subject:** As I wrote you before I ABSOLUTELY do NOT want the Monterrey skatepark!

How could you vote to destroy this precious green sanctuary where we can sit and enjoy the beauty, let our dogs play ball, watch the kids (quieter) games. How grossly unfair this is to the residents across the street and the hundreds of us in the neighborhood who walk this street daily. I will not feel safe with dozens of teens (mostly boys) coming and going on their skate boards. My dog and I have been nearly missed and terrorized a number of times by careless kids.

Jennifer Shaw  
495shaw@gmail.com  
300 Plum. #76  
Capitola

Attachment: Public Communications (Monterey Avenue Skate Park)

**Fridy, Linda (lfridy@ci.capitola.ca.us)**

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**From:** Sheri Siegfried <sherimsiegfried@gmail.com>  
**Sent:** Thursday, August 31, 2017 9:09 AM  
**To:** City Council  
**Subject:** Fwd: Proposed and previously approved Capitola Skatepark

Dear Council Members Bottorff and Peterson and Mayor Harlan:

It has come to my attention there was an error made by the city regarding the Capitola Skate Park approval vote and that a re-approval vote will be necessary at the September 25th meeting in order for this project to move forward.

Please support the project by voting for the applicant to build the proposed skate park for the children of Capitola.

Thank you for your time and consideration.

Sincerely,

Sheri  
Sheri Siegfried  
502 Riverview Dr.  
Capitola, CA 95010

Attachment: Public Communications (Monterey Avenue Skate Park)

**Fridy, Linda (lfridy@ci.capitola.ca.us)**

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**From:** jeanne simari <jeannes@cruzio.com>  
**Sent:** Friday, September 15, 2017 4:06 PM  
**To:** City Council  
**Subject:** Monterey skate park

I know you have a meeting coming up to consider the skate park again.

I'd like it to be known that we highly disapprove of a skate park in Monterey park because slowly all green space is being paved over and Monterey park is a wonderful green space for people to enjoy. The reduced size of the skate park will not encourage use because kids don't want to be looked at as babies and won't use the "baby skate park". The skate park in Scott's Valley is designed for all levels and works great for all levels. It's great for the little kids to see the better kids and maybe get tips from them and the older ones also seem to look out for the younger ones and it seems to work really well. I know we don't have an area for such a big park but since we have a skate park on the frontage road, maybe some beginner areas could be attached to it to make it a skate park mecca rather than a teenage hangout.

We count on the city council to think through decisions to benefit all of the residents, not just a few. I was at the city council meeting originally and it seems the people against the skate park far out weighed the proponents of it. Please consider this decision carefully so that we can conserve green space.

Jeanne Simari  
Glenn MacPherson  
157 Cabrillo St.

Attachment: Public Communications (Monterey Avenue Skate Park)

**Fridy, Linda (lfridy@ci.capitola.ca.us)**

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**From:** Jen Simon <tamje1@gmail.com>  
**Sent:** Monday, September 18, 2017 9:09 AM  
**To:** City Council  
**Subject:** I object to a skatepark at Monterey Park

City Council members,

Please accept this email for your review and record to respectfully voice my opposition to the "reconsideration" of the skatepark project at Monterey Park. It was a bad idea when initially proposed and I still believe it to be a bad idea. The park is one of the few left where one can go for some peaceful enjoyment, watch kids play ball, walk our dogs. Have you ever spent time near a skatepark? It is not peaceful nor quiet. I drive by the new skatepark on McGregor regularly. I am glad the kids have a great spot for them to skateboard. It is filled with kids of ALL ages (little ones too), enjoying themselves and no one is bothered by the noise. Why would you want to bring that to our quiet neighborhood park? If I were one of those with a house within the boundaries of the park, I would be very upset and angry that this potential proposal keeps coming up. Please do what is right and do not consider this skatepark project for Monterey Park. Thank you for your time.

Jen

--

Jen Simon  
9  
25 Sir Francis Ave.

[tamje1@gmail.com](mailto:tamje1@gmail.com) | 831-332-2642

Attachment: Public Communications (Monterey Avenue Skate Park)

September 18, 2017

SEP 19 2017  
CITY OF CAPITOLA  
CITY CLERK

Dear Members of Capitola City Council,

I strongly oppose a second skate park 3 1/2 blocks from McGregor at Monterey Park. I share many of the concerns that our neighbors have voiced. Unlike many other sports, skateboarding is a noisy activity, which in a non-residential neighborhood poses no adverse repercussions. But, in a neighborhood, it can greatly impact and disrupt the serenity of people who live in the nearby vicinity and decrease the quality of people's lives.

A skate park on Monterey Ave. will most assuredly increase traffic and congestion in an already very busy street. We currently have the congestion of the school children coming and leaving every day, sports practices and games at Monterey Park and a church on either end of the street.

Taking the last green space owned by Capitola and turning it into a paved and fenced site would be very heartbreaking.

I believe the surrounding neighborhood would lose much of the available street parking in near their homes if a skate park goes in at Monterey Ave. It would be a Destination Park for many tourists and locals who come to Capitola during the week and on the weekends. We already share the street with New Brighton teachers, District Office employees and people who use Monterey Park.

A skate park also creates an opportunity for graffiti and vandalism by kids hanging out while skating and long after the park is officially locked. It would create an increase in maintenance and law enforcement costs—with another skate park so close; it doubles those costs and consumes a lot of the city's valuable time and resources.

It would also create an "attractive nuisance" for New Brighton Middle school as older skaters and those teens who are in Alternative Ed programs and don't attend daily classes could be coming and going to the park during school h

Lastly, I would like you to note that the city council under the Capitola General Plan, "Has a duty to preserve the character of residential neighborhoods." A skate park in our front and back yards would not do that. Also under the General Plan in

Attachment: Public Communications (Monterey Avenue Skate Park)

the section concerning Noise Sensitive Use it states, "The city has a duty to keep a location free from the unwanted sounds that could adversely affect the use of land such as residences, schools, or hospitals."

**Dan Steingrube**  
**701 Monterey Ave**  
**Capitola, CA. 99010**

9-18-2017

SEP 19 2017  
CITY OF CAPITOLA  
CITY CLERK

Mayor Harlan and council members my name is Lisa Steingrube and I'm opposed to the proposed skate park at Monterey Park. I've spoke many times at many meetings for the past several years, so I will keep this letter short.

The proposed skate park at Monterey Park is NOT a beginner park as the proponents claim. The EIR pointed out the truth: It is a MULTI-LEVEL, MULTI AGE skate park.

Richard Novak may be building the skate park, BUT the city is responsible for maintaining it, policing it and providing emergency services. There are several hundreds of Capitola residents who view this SECOND skate park 7/10 of a mile from McGregor Skate Park as totally unnecessary and a waste of city money. Of course the surrounding neighbors are affected the most and 95% of those neighbors are against this location. We are NOT opposed to skaters getting exercise or fighting childhood obesity as Dennis Norton suggested months ago; we are opposed to the constant noise that a skate park would bring. It is too close to residential homes. Even skate park designers say a skate park should be at least 500 ft from any homes. This skate park would be 140 ft. from our upstairs bedrooms.

If the proponents truly had the best interests of children at heart why doesn't Richard Novak build a skate park on the other side of the river. The kids on that side of town deserve the same level of concern and interest for their activities.

Monterey Ave is already a very busy street. We have a school, Soquel Elementary Distinct Office, two churches, AND we are a thoroughfare



for traffic heading to and from Capitola Village. A former Capitola police officer told me they have clocked car after exceeding 50 MPH frequently on our street. With the exception of 41<sup>st</sup> Ave, he said “there isn’t a busier street in Capitola”!

Our homes and yards are our little piece of paradise and we deserve to have that respected just like other areas in Capitola who didn’t want a skate park built in their neighborhood. Lastly, I would like you to note that the city council under the Capitola General Plan, “Has a duty to preserve the character of residential neighborhoods.” A skate park in our front and back yards would not do that. Also under the General Plan in the section concerning Noise Sensitive Use it states, “The city has a duty to keep a location free from the unwanted sounds that could adversely affect the use of land such as residences, schools, or hospitals.”

Sincerely,

Lisa B. Steingrube

**Fridy, Linda (lfridy@ci.capitola.ca.us)**

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**From:** Terry Tetter <raoulrt@gmail.com>  
**Sent:** Saturday, September 16, 2017 11:28 AM  
**To:** City Council  
**Subject:** 2nd skatepark in Capitola

Dear Capitola Council Members,

Unlike many who come to you advocating for a 2<sup>nd</sup> skatepark in Capitola (in Monterey park) I am a Capitola resident, and I vote here!

Like so many of my neighbors, I am completely opposed to a 2<sup>nd</sup> skatepark in Capitola. Last month, a judge ruled against the plan for this park;

it's time to let it die.

Thanks,

Terry Tetter  
222 Junipero Ct  
Capitola, CA 95010.

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Terry Tetter  
[raoulrt@gmail.com](mailto:raoulrt@gmail.com)

Attachment: Public Communications (Monterey Avenue Skate Park)

**Fridy, Linda (lfridy@ci.capitola.ca.us)**

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**From:** Stephanie Tetter <stephanie.tetter@gmail.com>  
**Sent:** Friday, September 15, 2017 3:28 PM  
**To:** City Council  
**Subject:** We already have a great skatepark!  
**Attachments:** Council letter 91517.pdf

Friday, September 15, 2017

TO: Capitola City Council

Dear Council Members,

Thanks once again to the City and the Monte Family for Capitola's skatepark at McGregor Park. I am writing you in regard to the proposed SECOND skatepark at Monterey Park.

The legal action related to the proposal for a second skatepark that was brought by the Friends of Monterey Park recently resulted in **a judgment in favor of the Friends of Monterey Park**. Although many of the members of the Friends of Monterey Park considered that with this ruling the matter was finally settled, it seems the City is once again going to consider this ill-advised proposal at a hearing on September 25.

Please take the opportunity to carefully consider the **positive impact that has been achieved with the City's Skatepark at McGregor!** Then look at the serious division the proposed additional skatepark at Monterey Park has already brought to our community, and the repercussions that would result if this project were to go forward.

Many people who speak or write in favor of this proposed project are NOT Capitola residents. In addition, faculty at the Middle School have spoken out against the proposal. People who live close to the park and the many people who use the park for activities including picnics, softball, soccer, walking, tai chi and other activities have spoken about the negative impact it would have.

Please do the right thing. We love the skatepark at McGregor, which we always supported. But **we don't need a second skatepark** and, if we did, it would make more sense to have it at a location that is not in the middle of a quiet residential neighborhood such as Cliffwood Heights.

Thank you.

Stephanie Tetter

222 Junipero Ct., Capitola

[stephanie.tetter@gmail.com](mailto:stephanie.tetter@gmail.com)

**Fridy, Linda (lfridy@ci.capitola.ca.us)**

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**From:** kathy@thenormandins.com  
**Sent:** Friday, September 15, 2017 7:17 PM  
**To:** City Council  
**Subject:** Skateboarding

Capitola City Council members; I am in complete agreement with many of your citizens that a skateboard park at Monterey Park would be a great mistake. Very appealing to many of the parents with youngsters who love to skateboard, and two of my sons did, it would, nevertheless, be a great distraction to the children who attend New Brighton Middle School, as well as to the church members across the street at St. Joseph's Church. I worked as a librarian and as a substitute teacher at NBMS while, and after, my sons attended the school and I know very well that the noise that would come from the skateboard park would make it impossible for the staff and the students to attend to the business at hand....teaching and learning!

Please do not allow what would become a serious detriment to the entire neighborhood. It's passage would be a decision that would have simply too many adverse consequences.

Thank you.

Attachment: Public Communications (Monterey Avenue Skate Park)

**Fridy, Linda (lfridy@ci.capitola.ca.us)**

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**From:** MOLLY/JASON <turner1035@comcast.net>  
**Sent:** Wednesday, September 06, 2017 9:04 PM  
**To:** City Council  
**Subject:** Capitola Skate Park

Dear Council

I am writing to express our continued support to the construction of the Capitola Skate Park. I have been to several past meetings, have spoken to the council, our daughter has written letters, and she and a group of her girlfriends together went up in front of the council to express themselves in favor of this beginning level skate park.

Additionally, as an Occupational Therapist working with school aged children with physical, developmental, emotional, and learning disabilities. I have no doubt that the skate park will afford all of our children the opportunity to have access to this type of recreational activity.

The skate park can provide children with social engagement opportunities, self-awareness and confidence. This level park can provide families (of children with special needs) an outlet in the community where their child with sensory needs can get the movement, vibration, and social learning experiences.

The Turner family is hopeful.

Thank you  
Molly Turner

Sent from XFINITY Connect Mobile App

Attachment: Public Communications (Monterey Avenue Skate Park)

**Fridy, Linda (lfridy@ci.capitola.ca.us)**

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**From:** Lori Vienna <lvienna@hotmail.com>  
**Sent:** Sunday, September 17, 2017 8:11 PM  
**To:** City Council  
**Subject:** Skate Park

Please support the vote, correct the City error and reapprove the skate park with correct wording and written findings.

Thank you for your time

Lori Vienna

Attachment: Public Communications (Monterey Avenue Skate Park)

**Fridy, Linda (lfridy@ci.capitola.ca.us)**

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**From:** Mike Viguerie <mvigs@sbcglobal.net>  
**Sent:** Monday, September 18, 2017 4:48 PM  
**To:** City Council  
**Subject:** Proposed Monterey Skate park

We are opposed to the proposed skate park at this location.

Mike Viguerie  
C | 408.891.4593

Attachment: Public Communications (Monterey Avenue Skate Park)



**Fridy, Linda (lfridy@ci.capitola.ca.us)**

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**From:** Miki Vuckovich <miki@tonyhawkfoundation.org>  
**Sent:** Friday, September 08, 2017 2:41 PM  
**To:** City Council  
**Subject:** Capitola Skatepark

Dear Mayor Harlan and Councilmembers Bottoroff and Peterson,

Growing up in the South Bay Area, my family frequented the beaches in Santa Cruz and Capitola. As a teen, we lived on 37th Avenue, and with my skateboard I explored every street, parking, lot, and sidewalk West to Derby Park, and East to Capitola Village, where I was witness to some of the great races and skate contests on the Monterey Avenue hill.

The area's history has been well documented in magazine articles, videos, and the oral folklore that has helped skateboarding become such a positive driving force in the lives of youth, myself included. Through college and into my professional life, skateboarding has remained not just the focus of my work, but an important part of my health and well being. But it all began with access to a rich and inspiring landscape where I could practice and explore the sport.

Today, in my work with the Tony Hawk Foundation, I help communities plan and develop their own skateboarding landscapes—the modern-day skatepark. Much like Derby Park served me and perhaps dozens of users 35 years ago, the approximately 3,000 public skateparks across the U.S. today are serving millions more (including the more than 500 skateparks that our organization was involved in planning).

When executed properly, a comprehensively planned public skatepark attracts a range of users and provides a safe, yet challenging environment for young people to enjoy their sport of choice. With Capitola's deep history in skateboarding, it's a wonder that it doesn't already have such a park. Our staff have reviewed the hastily created skatepark on McGregor Drive, and it unfortunately fails several of our tests for longterm success or community serviceability. We would have loved to weigh in on that project, but were not given the chance to comment on the site, it's relative inaccessibility by non-driving youth, and other unfavorable conditions at that location.

The members of the Locals For A Capitola Skate Park group, however, did reach out, and we've enjoyed working with them throughout their planning process. Members of our staff have also visited Capitola, toured the site at Monterey Avenue Park, and attended meetings at City Hall. What we've experienced is a group that is dedicated to creating a suitable solution to local youth's need for a safe, accessible skatepark, as well as strong community support from parents, and the generosity of a patron who will fund the project. In the fifteen years that I've been in my position as Executive Director of the Tony Hawk Foundation, and having worked directly with hundreds of community skatepark projects myself, I have never seen this degree of tangible local support for a project.

I have also rarely seen the degree of compromise extended by Locals For A Capitola Skate Park. From the original design I reviewed over two years ago, to the many modifications made before arriving at the current 6,000-square-foot plan, there have been more accommodations made with this project (many of them reasonable and beneficial to the integrity of the skatepark) than with any other project I can recall. Ultimately, a skatepark needs to reflect the needs and tastes of the community it serves. This is why we advocate for the interactive-workshop model of skatepark design, whereby a professional skatepark designer meets with local

skaters, and within the constraints of the location, compiles the desired terrain features the skaters will be excited to ride into a safe and sensible design that is truly unique. This is the process that the world-renowned Dreamland Skateparks firm used to produce the Monterey Avenue Skatepark design.

Recently, I understand that a further design modification has been negotiated, and the relatively small skatepark will now be shortened to beginner-to-intermediate-height features. As these are the primary user groups for the park, such changes can still produce a compelling design that will welcome new skaters, and still challenge the more experienced skaters. At 6,000 square feet, however, the footprint of the Monterey Avenue Skatepark is already well below the national average of nearly 9,000 square feet. With two distinct sections of the skatepark (the transitioned bowl area and the more feature-rich street area), any further reduction in overall area would either eliminate the safety margins between the current skatepark elements, or force the designer to eliminate either the beginner elements or intermediate features.

Either option would greatly reduce the range of skaters the park will serve. An important characteristic of a successful skatepark, we have found, is its ability to host a range of abilities, allow room for each group to practice without encroaching on each others' space, and offer elements or combinations of elements that progressing skaters can aspire to master. It also engenders the natural mentoring that occurs at skateparks, where more advanced skaters share the space and offer tips and guidance to newer skaters (who are then more likely to do the same when they themselves mature into experienced athletes).

Already, a generation of young skaters have missed their opportunity to enjoy a world-class skatepark in their own community. While community dialogue and the range of interests is important to balance, the Monterey Avenue Skatepark is on the verge of compromising its ability to properly and fully serve the youth of Capitola. A further reduced footprint would compress the space skaters must share, and increase the likelihood of collisions or conflicts when the inevitably popular park is at capacity. Additional square footage, in the form of open space between skatepark features, doesn't result in more users, but it does foster safer use by the athletes who will certainly frequent this long-overdue destination.

Capitola isn't just a surfing community, it's been a skateboarding community from the very origins of the sport. The youth of Capitola are ready for a compelling and accessible skatepark, and their parents—my generation—are also ready to see their kids practice the sport in a safe, sanctioned location rather than the way we did, wandering the streets and sidewalks looking for curbs and hills to ride. Which was fine when there were a few dozen of us doing it. But today, the skaters in Capitola surely outnumber some of the other sports that occupy the fields at Monterey Avenue Park. Proceeding with the revised plan Locals For A Capitola Skatepark have proposed is the best way to fulfill a need that is decades overdue.

Best Regards,

Miki Vuckovich  
Executive Director  
Tony Hawk Foundation  
[miki@tonyhawkfoundation.org](mailto:miki@tonyhawkfoundation.org)

**Fridy, Linda (lfridy@ci.capitola.ca.us)**

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**From:** Annelies Walbridge <annelies5@icloud.com>  
**Sent:** Sunday, September 17, 2017 8:38 PM  
**To:** City Council  
**Subject:** Purposes Future Capitola Skate Park

Dear Capitola City Council,

In regards to the proposed Capitola skate park, please support the vote, correct the City error and reapprove the skate park with correct wording and written findings.

Sincerely,  
John and Annelies Walbridge

Attachment: Public Communications (Monterey Avenue Skate Park)

**Fridy, Linda (lfridy@ci.capitola.ca.us)**

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**From:** Nels Westman <nels@bestwestman.com>  
**Sent:** Thursday, September 07, 2017 4:39 PM  
**To:** City Council  
**Subject:** Monterey Park Skate Park

Dear City Council,

It is my understanding that there will be a special Council meeting on Sept 25th regarding the Monterey Park Skate Park. I will be out of the country and would appreciate having these comments included in the record once the meeting agenda is set.

It is a sad situation that the Monterey Skate Park project finds itself having to revisit the approval process as the result of a minor procedural error by the City that should have been noted and corrected during the approval vote all those months ago. Clearly somebody with the City who should have known better dropped the ball. All that planning and design work, all the community involvement, hours and hours of young and adult citizens attending hearings and communicating their hopes to their elected officials - now it is all at risk because of a careless error. Very sad. And the lawyers get rich.

It is my strong hope that the Council will re-affirm its earlier clear approval by correcting the City's error and restarting the progress towards the construction of a safe and smartly located skate park for our young skaters. It is a very generous gift to the City and a needed amenity for the community as a whole.

Thank you.

Nels Westman

Attachment: Public Communications (Monterey Avenue Skate Park)

**Fridy, Linda (lfridy@ci.capitola.ca.us)**

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**From:** Claudia White <rosecloud7@sbcglobal.net>  
**Sent:** Sunday, September 17, 2017 8:28 AM  
**To:** City Council  
**Subject:** Objecting skate park at Monterey park!

Dear City Council,

I have lived by this park for many years. I love kids and think they need lots of positive activities to keep them healthy. I also feel this park as it is, is a quiet green space for neighbors that would be overrun if a skate park was there. It is currently a perfect site for the school to use as well as games played on the baseball field. Families sit on the little hill that separates the two and watch their kids play.

It would just be too crowded to have a skate park at Monterey park. There just isn't enough room.

Thank you,  
Claudia White

Sent from my iPad

Attachment: Public Communications (Monterey Avenue Skate Park)

**Fridy, Linda (lfridy@ci.capitola.ca.us)**

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**From:** Ken & Laura Wickman <klwickman@comcast.net>  
**Sent:** Sunday, September 10, 2017 12:57 PM  
**To:** City Council  
**Subject:** Capitola Skate Park

Dear Council Members Bottorff and Peterson, and Mayor Harlan,

I understand there was a city error on behalf of the Skate Park approval vote. I also understand this is coming back for a re-approval on September 25th with the correct wording and written findings (we will be attending).

I'm asking that you please support the vote, correct the error and support the applicant to build this park.

Thank you for your time and consideration,

Ken and Laura Wickman

Attachment: Public Communications (Monterey Avenue Skate Park)

**Fridy, Linda (lfridy@ci.capitola.ca.us)**

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**From:** Jennifer Wiens <jen\_wiens@yahoo.com>  
**Sent:** Monday, September 18, 2017 6:28 AM  
**To:** City Council  
**Subject:** Please Uphold the Capitola Skate Park Approval

Dear City Council Members,

I am a resident and a Cliffwood Heights home owner. I write to you in hopes that we can once and for all see a beautiful skate park built in our local park for the children to enjoy.

I won't spend too much of your time with a long note with all of the reasons why we support the skate park. I would just implore you to please uphold the previous council's decision to approve this project. My kids, my husband and I have been to multiple council meetings to voice our support and we continue to stand strongly behind the project as member of the neighborhood and involved community members.

I understand the reason this is back up for discussion is due to a clerical error which I hope you can quickly work through. It's been a long time coming for Capitola to have a skate park in a place where parents and children can walk to and enjoy together! Thank you for your consideration.

Best,

Jen Wiens

Attachment: Public Communications (Monterey Avenue Skate Park)

**Fridy, Linda (lfridy@ci.capitola.ca.us)**

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**From:** Linda Williams <lawathome1@sbcglobal.net>  
**Sent:** Thursday, September 07, 2017 4:09 PM  
**To:** City Council  
**Subject:** Capitola Skatepark Matter

Dear Council Members Bottorff and Peterson, and Mayor Harlan

I understand there was a city error on behalf of the Skate Park approval vote. I also understand this is coming back for a re-approval on September 25th with the correct wording and written findings. I'm asking that you please support the vote, correct the error and support the applicant to build this park.

I also want it noted that I **strongly support** this cause for the younger generation who take the sport and fun of skateboarding seriously. This project and grounds not only provide a safe and nearby arena for the younger skaters, since the other unit is about a mile away and can be hazardous to their safety in skating there on their own, but it also is surrounded by many many people/families who love children and who have moved there in recent years just for their children to be in a safe community.

Thank you for your time and consideration in upholding the vote that was already *approved* last June.

Very truly yours,

Linda A. Williams  
a Capitola resident

Attachment: Public Communications (Monterey Avenue Skate Park)



**Fridy, Linda (lfridy@ci.capitola.ca.us)**

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**From:** xlgot@aol.com  
**Sent:** Tuesday, September 19, 2017 9:11 AM  
**To:** City Council  
**Subject:** Location of Monterrey Park for Skate Park

The location is absolutely in the wrong spot for Capitola.

How about we put one down in the village next to the police department. Or better yet how about somewhere near the Capitola Mall.

Jade street would be a great spot as well.

Having two in less than a mile is over kill.

Regards,

Concerned Capitola Resident

Attachment: Public Communications (Monterey Avenue Skate Park)

**Fridy, Linda (lfridy@ci.capitola.ca.us)**

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**From:** Leah <ezbsmt.14@gmail.com>  
**Sent:** Tuesday, September 19, 2017 5:06 AM  
**To:** City Council  
**Subject:** OBJECTING TO A SKATEPARK AT MONTEREY PARK

Capitola City Council:

As a Capitola resident living in Cliffwood Heights neighborhood, I object to the a skatepark at Monterey Park.

Sincerely,  
Leah Yurek

Attachment: Public Communications (Monterey Avenue Skate Park)

**Fridy, Linda (lfridy@ci.capitola.ca.us)**

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**From:** Tricia Proctor <t.proctor@nhs-inc.com>  
**Sent:** Wednesday, September 20, 2017 3:06 PM  
**To:** City Council  
**Cc:** Martorella, John (jmarto@pacbell.net)  
**Subject:** Skate Park (items removed/added as requested by some neighbors)  
**Attachments:** Sbhcopier117092014550.pdf

Dear Council Members Bottorff, Peterson and Mayor Harlan,

Please review the attached list of items we removed/added from/to the skate park overall design as requested by a few neighbors. We listed them in bullet form for easy reading.

Please let us know if you have any questions and we'll see you Monday at 6pm.

Thank you,  
Tricia Proctor  
Marie Martorella

Attachment: Additional Information from Applicant (Monterey Avenue Skate Park)

**Monterey Ave Skate Park – Items asked by the following below and accommodated by the applicants:**

**FOMP :** Steingrubes, Marilyn Warter, Tettters, Bowmans, Stow, Helen Bryce and Richard Lippi:

- We Reduced skate park size from 9000sf to 6800sf to 6000sf to 5500sf skate able surface. The remaining 500sf will be the decking and fencing. Going any smaller results in overall safety for the skateboarders. Flow and transition are key when it comes to size and safety.
- All metal was removed
- Skate bowl was reduced from 6' to 4'.
- Eliminated all advanced features
- River rock decorative feature was removed
- Chain link fence replaced with wrought iron fence
- No lights
- No contests
- No amplified music/sounds
- Repositioned the skate park so it is out of the way of the baseball diamond
- Repositioned the skate park so it is visible from the street for EMS/Police
- Add seating/ benches for observation
- Repositioned the skate park away from portable classrooms
- Keep walking track
- Keep as much green space as possible
- Add emergency phone
- Add water fountain
- Add additional park trashcans
- Add Rules/Regulation signs
- Lockable gate

- Repositioned the skate park to add a full-size soccer field
- Garnered immediate/majority neighborhood support- 250 Signatures from Cliffwood Heights and all additional support are residents of Capitola. FOMP's signatures extended to Santa Cruz, Soquel, Aptos & a very small percentage from Capitola.
- School Board support- They have made it very clear City can do what City wants on their own property. "We don't want the City telling the School what we can and can't do". School Board President Judy McGooden voiced her support at the June 23<sup>rd</sup> 2016 City Council Hearing.
- 100% fully funded
- Garnered Staff, Planning and Council approval
- Reduce 12' noise wall- We suggested to reduce to 6' but FOMP and Parkin fought this option. We are back to the 12' Noise wall. Maybe we can decorate the wall with an art project from the school/community? (like the tiles in the village)?