STATE OF CALIFORNIA - THE RESOURCES AGENCY

PETE WILSON, *Governor*

CALIFORNIA COASTAL COMMISSION
CENTRAL COAST AREA OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060
(831) 427-4863

C.F.C. 12/16/99

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Filed:	10/22/99
49th day:	12/10/99
180th day:	4/19/00
Staff:	KColin
Staff Report:	12/16/99
Hearing Date:	
Commission Action:	

APPEAL STAFF REPORT
SUBSTANTIAL ISSUE DETERMINATION

Appeal Number:	**A-3-STC-99-081, Neary Lagoon Skate Park**
Applicant:	Department of Parks and Recreation, City of Santa Cruz
Appellant:	Carol Long
Local Government:	City of Santa Cruz
Local Decision:	Approval with conditions, October 15, 1999 (Coastal Development Permit), Amendment to Neary Lagoon Park Master Plan.
Project Location:	Neary Lagoon Park and Wildlife Refuge (near intersection of Bay and California Streets), Santa Cruz, Santa Cruz County, (APN 004-321-06).
Project Description:	Construction of 14,600 square-foot Skate Park with adjoining non-skateable pathways, landscaping, viewing areas, fencing, and the addition of three parking spaces to an existing parking area.
File Documents:	City of Santa Cruz Local Coastal Program; Neary Lagoon Management Plan; City of Santa Cruz Skate Park Project - Neary Lagoon Park Draft and Final EIR, Technical Memorandum, *"Prediction Methodology and Recent Noise Survey Results, Neary Lagoon Skate Track EIR,"* by *Wilson, Ihrig & Associates, Inc.*, December 1999, and Technical Memorandum, *"Skateboard Noise Characterization at Santa Rosa Skate Park,"* November 23, 1999.
Staff recommendation:	**No Substantial Issue**

EXECUTIVE SUMMARY

Staff recommends that the Commission, after public hearing, determine that **no substantial issue** exists with respect to the grounds on which the appeal has been filed, and as a result, that the Commission decline to take coastal development permit jurisdiction over this project. The City proposes to construct a 14,600 square foot Skate Park facility. The project includes viewing

areas, non-skateable walkways, fencing, landscaping, and the addition of three parking spaces to an existing parking area (project plans attached as Exhibit A). Additionally, the project as conditioned by the City includes a six-foot, solid wood, sound barrier fence with a ten-foot vegetative buffer between the project site and adjacent riparian corridor.

The project is located within Neary Lagoon Park and Wildlife Refuge in the City of Santa Cruz, Santa Cruz County. Neary Lagoon is a natural habitat island within a sea of urban development. The lagoon is located less than 1-mile southwest of downtown Santa Cruz and is approximately 0.25 mile north of the Municipal Pier at Cowell Beach. Urban development surrounding Neary Lagoon consists of single family residences, multiple-unit-housing complexes, while the largest and most prominent development adjacent to the lagoon is a wastewater treatment facility. The treatment facility extends most of the length of Neary Lagoon's southern border and also borders the proposed Skate Park site.

The appellant contends that the project allows development within the required setback from wetlands or stream courses; will adversely impact bird species adjacent to the project site and those inhabiting the remainder of the Neary Lagoon; allows a designated incompatible use; will have negative effects on the aesthetic values of the Neary Lagoon; and will create conflicts between different user groups. These contentions raise no substantial issue because the project, as conditioned by the City: does not include development within the required setback; will not impact bird species near the project site and includes measures to address impacts on the pathways of Neary Lagoon should there be a substantial increase over current impact levels; allows the designated incompatible use of skateboarding only within the confined foot-print of the Skate Park facility and does not change the continued prohibition of the use throughout the remainder of Neary Lagoon; does not adversely impact the aesthetic values of the Neary Lagoon; and has been conditioned to prevent user group conflicts within the vicinity of the project site and contains measures to address any increases in conflicts throughout the remainder of the Neary Lagoon.

APPEALABILITY TO THE COMMISSION

This project is appealable under Section 30603 (a)(1) of the Coastal Act because it is a major public works project within the coastal zone.

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I. APPELLANT'S CONTENTIONS

The Appellant alleges the project is inconsistent with both the City of Santa Cruz Local Coastal Program and the Commission certified Neary Lagoon Management Plan (a part of the City's LCP) because the project: (1) allows development within the required setback from wetlands or stream courses; (2) intensifies public use impacts upon wildlife species through increased traffic in the lagoon's lower terrace; (3) will have an adverse impact upon bird species inhabiting the adjacent riparian area along the upper terrace; (4) allows a designated incompatible use; (5) will have negative affects on the aesthetic values of Neary Lagoon; and (6) will create conflicts between different user groups, namely persons who are handicapped and children playing in the adjacent "tot lot." (See Exhibit B for full text of appeal)

II. LOCAL GOVERNMENT ACTION

On October 5, 1999 the Santa Cruz City Council adopted Resolution Numbers NS-24 (534,535,536,and 537) certifying the Final EIR, approving an amendment to the Neary Lagoon Park Master Plan and Coastal Development Permit (with conditions) for the Skate Park project (See Exhibit E for Conditions of Approval).

The Commission received the Final Local Action Notice for the project on October 7, 1999 and the appeal period commenced the next day. One valid appeal was received on 10/22/99 prior to the end of the appeal period. The appeal was filed on October 22, 1999.

Pursuant to Section 30621 of the Coastal Act, an appeal hearing must be set within 49 days from the date an appeal of a locally issued Coastal Development Permit is filed. In accordance with the California Code of Regulations, on October 25 staff requested all relevant documents and materials regarding the subject permit from the City to enable staff to analyze the appeal and prepare a recommendation as to whether a substantial issue exists. The administrative record for the project was received from the City on November 1, 1999.

After review of the public record, staff subsequently requested additional information beyond that which was provided in order to clarify issues raised in the appeal and perform a complete analysis. By December 3, 1999 the City submitted all additional materials requested by staff.

III. STANDARD OF REVIEW FOR APPEALS

Coastal Act section 30603 provides for the appeal of approved coastal development permits in jurisdictions with certified local coastal programs for development that is (1) between the sea and the first public road paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tideline of the sea where there is no beach, whichever is the greater distance; (2) on tidelands, submerged lands, public trust lands, within 100 feet of any wetland, estuary, or stream, or within 300 feet of the top of the seaward face of any coastal bluff; (3) in a sensitive coastal resource area; (4) for counties, not designated as the principal permitted use under the zoning ordinance or zoning district map; and (5) any action on a major public works project or energy facility. This project is appealable because it is a major public works facility in the coastal zone.

The grounds for appeal under section 30603 are limited to allegations that the development does not conform to the standards set forth in the certified local coastal program or the public access policies of the Coastal Act. Section 30625(b) of the Coastal Act requires the Commission to conduct a *de novo* coastal development permit hearing on an appealed project unless a majority of the Commission finds that "no substantial issue" is raised by such allegations. Under section 30604(b), if the Commission conducts a *de novo* hearing, the Commission must find that the proposed development is in conformity with the certified local coastal program. Section 30604(c) also requires an additional specific finding that the development is in conformity with the public access and recreation policies of Chapter Three of the Coastal Act, if the project is located between the nearest public road and the sea or the shoreline of any body of water located within the coastal zone. This project is not located between the nearest public road and the sea and thus, this additional finding need not be made in a *de novo* review in this case.

IV. STAFF RECOMMENDATION ON SUBSTANTIAL ISSUE

MOTION:

I move that the Commission determine that Appeal No. A-3-STC-99-081 raises NO substantial issue with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act.

STAFF RECOMMENDATION OF NO SUBSTANTIAL ISSUE:

Staff recommends a YES vote. Passage of this motion will result in a finding of No Substantial Issue and adoption of the following resolution and findings. If the Commission finds No Substantial Issue, the Commission will not hear the application de novo and the local action will become final and effective. The motion passes only by an affirmative vote by a majority of the Commissioners present.

RESOLUTION TO FIND NO SUBSTANTIAL ISSUE:

The Commission finds that Appeal No. A-3-STC-99-081 does not present a substantial issue with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act regarding consistency with the Certified Local Coastal Plan and/or the public access and recreation policies of the Coastal Act.

V. RECOMMENDED FINDINGS AND DECLARATIONS

The Commission finds and declares as follows:

1. PROJECT DESCRIPTION AND LOCATION

The City of Santa Cruz proposes to construct a 14,600 square foot Skate Park facility in Management Zone J of Neary Lagoon. The proposed Skate Park would include viewing areas, non-skateable walkways, fencing, landscaping, and the addition of three parking spaces to an existing parking area. The project is designed for use by skateboarders, roller bladers, and roller skaters. Landscaping and fencing would separate the Skate Park site from the immediately adjacent "tot lot" playground and enclose the skating area. Additionally, the project as conditioned by the City includes a six-foot, solid wood, sound barrier fence with a ten-foot vegetative buffer along the northern border of the project site in order to block Skate Park noise from entering into the adjacent Bay Creek/Neary Lagoon riparian area.

All skating surfaces within the Skate Park itself would be constructed of concrete below grade at an elevation of (±) 4.5 feet. No specific design plans for the skating surfaces have been developed at this time, beyond the locally approved site plan delineating the allowable foot print of the actual skating area. The three spaces added to the existing on-site parking area would

increase the total on-site amount to ten spaces. Together with four off-site parking spaces the total parking spaces provided to "tot lot" playground and Skate Park users would be fourteen spaces. A passenger drop-off zone and turn-around pullout would be constructed at the parking lot entrance. Use of the Skate Park will only be permissible during daylight hours.

Automotive as well as other pedestrian oriented modes of travel would be able to access the Skate Park from either Bay or California Streets at the southwestern border of Neary Lagoon. Pedestrian access to the Skate Park from the greater downtown area of Santa Cruz is possible from Blackburn and Chestnut Streets at the northwestern border of Neary Lagoon. Access to the Skate Park from Blackburn and Chestnut Streets requires travel through Neary Lagoon. (See Exhibit A for project plans)

The proposed project is located within Neary Lagoon Park and Wildlife Refuge in the City of Santa Cruz, Santa Cruz County (See Exhibit C for Vicinity Map). Neary Lagoon is less than 1-mile southwest of downtown Santa Cruz and within 0.25 mile north of the Municipal Pier at Cowell Beach. The lagoon is a natural habitat island within a sea of urban development. Urban development surrounding the lagoon consists of single family residences, multiple-unit-housing complexes, while the largest and most prominent development adjacent to the lagoon is a wastewater treatment facility. The treatment facility consists of several large, bulky structures and extends most the length of Neary Lagoon's southern border and also borders the proposed Skate Park site. A children's play area or "tot lot" is located opposite the treatment plan from the Skate Park project site. (See Exhibit D for Project Location Map)

Neary Lagoon covers approximately 44 acres and provides a variety of natural habitat areas that include fresh water marsh, open water, and riparian and mixed oak woodland types. These habitat types comprise approximately 75% of the lagoon. The Neary Lagoon Management Plan, a certified portion of the City's LCP, states that, of the lagoon's habitats "the riparian forest supports the greatest diversity of native wildlife, but the combination of habitats and their interconnections enhance the attractiveness of the lagoon for many species." The Plan further states, "the transitional areas between habitat types, ecotones, are as important as the defined biological communities because wildlife often are dependent on more than one community and frequently move between communities." The lagoon's natural resources serve as an important resource for both the community of Santa Cruz and visitors to the area. The lagoon has also been recognized as an important area for bird watching and attracts birders from outside the area.

The remaining approximate 25% of Neary Lagoon that does not function as habitat is currently developed with a limited number of recreation amenities. These amenities include the "tot lot" and interpretive signs, and can be found largely throughout Management Zones J and F. Explanation of the Neary Lagoon's Management Zones is provided below. Zones J and F extend most of the southern extent of the lagoon and also border the wastewater treatment facility. Additional recreation amenities include the pathways and boardwalks that provide access through the natural habitats of the lagoon.

The Neary Lagoon Management Plan separates the lagoon into ten management zones (A through J). The proposed Skate Park occurs within management zone J. Fifteen of the

management zones, or approximately 75% of the lagoon, are largely off limits to direct use and are designated as habitat, though pathways and boardwalks provide views to some of these areas. The five remaining management zones, including zone J, are designated as maintained, recreation, grassland, and ruderal. (See Exhibit F for Management Zone Map)

The lagoon management area consists of an upper and lower terrace, with the overwhelming majority of the management area in the later. Management Zone J comprises the entire upper terrace areas of the Neary Lagoon and overlooks the open water, riparian and oak woodland, and freshwater marsh habitats of the lagoon below. The land use designation of the project site is "Parks" which allows for development of neighborhood, community and regional parklands, as well as other active and passive recreational uses. The zoning designation for the project site is P-K Parks District. The purpose of the parks (PK) District is to designate sites for public parks, and to ensure that there is a compatible relationship between such parks and the surrounding area.

2. NEARY LAGOON MANAGEMENT PLAN AS STANDARD OF REVIEW

Purpose and Role in LCP

The Neary Lagoon Management Plan was approved by the Commission and incorporated into the City of Santa Cruz LCP on August 13, 1992. Excerpted policies of the Neary Lagoon Management Plan are included in the certified City of Santa Cruz LCP, while the management plan provides the full text background and resource inventory for the lagoon. The Plan guides management of the lagoon for its purposes of wildlife values, public use and safety, flood protection, water quality, and mosquito control. Approval of the management plan fulfilled a long standing Commission policy on Neary Lagoon, dating back to requirements to prepare a management plan in the lagoon, as specified in the 1975 coastal permit for constructing recreation improvements (P-1523). The LCP also contains policies directing the preparation of management plans for resources like Neary Lagoon. Section 24.14.080.4c of the LCP also required an approved management plan for Neary Lagoon to enable approval of projects in and adjacent to the lagoon that are found to be consistent with the plan.

The LCP, which contains the excepted policies of the Neary Lagoon Management Plan, is the standard of review in regards to the issues raised in this appeal.

Role of Neary Lagoon Park Master Plan

Section 24.10.1745 of the Zoning Ordinance requires the City to approve a Park Master Plan or special use permit at the inception of a use in order to establish use and design parameters within the specified park. This requirement has been fulfilled by previous approval of a Park Master Plan by the City that covers the project location in management zone J. The Park Master Plan provides graphic detail of specific recreation and access features, in the form of a site plan, which are to be constructed. In this sense, the Park Master Plan goes beyond that which is provided in

the policy language of the Neary Lagoon Management Plan by illustrating specific design features.

Local approval of the project required an amendment to the Neary Lagoon Park Master Plan to change the designated use of the project site from two and one-half tennis courts to a Skate Park. Although the Park Master Plan provides information, it is not part of the certified LCP, and thus an LCP amendment was not necessary to the amend this plan.

3. SUBSTANTIAL ISSUE DETERMINATION

A. REQUIRED SETBACK

The appellant alleges that the proposed development does not adhere to the required setback from wetlands and watercourses contained in the LCP policies.

First, policy EQ 4.2.2 states:

> *Minimize the impact of development upon riparian and wetland areas through setback requirements of at least 100 feet from the center of a watercourse for riparian areas and 100 feet from a wetland. Include all riparian vegetation within the setback requirements, even if it extends more than 100 feet from the watercourse or if there is no defined watercourse present.*

Policy EQ 4.2.2 requires a 100-foot setback from the centerline of a watercourse and 100 feet from a wetland, all riparian vegetation is to be included within the setback requirements, even if it extends more than 100 feet from the centerline of the watercourse. Contrary to the appellant's allegation, the intent of LCP Policy EQ 4.2.2 is to *include all* riparian vegetation into the protective buffer of the setback of riparian areas and wetlands from urban land uses, and not to use the extent or ending point of such vegetation as a starting point for measuring the setback requirement.

As illustrated in the Commission certified vegetation and land cover map of the Neary Lagoon Management Area (Exhibit G), the proposed project site is outside of the setback required under LCP policy EQ 4.2.2. The proposed Skate Park site is at least one hundred feet from the delineated wetland boundary and at least 275 feet from the open water of the lagoon. The proposed site is also at least 125 feet from the centerline of Bay Creek. The proposed Skate Park site is currently graded and all riparian vegetation has been included into the above setback measurements. Therefore, the Commission finds that the approved project conforms to the setback requirements of LCP policy EQ 4.2.2.

Second, policy EQ 4.2.2.1 states:

Require that all development within 100 feet of these areas be consistent with the applicable management plan provision under EQ 4.2.1 and L 3.4, if one has been established.

This policy is not relevant because there has been no violation of the setback. Nonetheless, there is a Management Plan that has been previously established. The Neary Lagoon Management Plan was approved by the Commission and incorporated into the City of Santa Cruz LCP on August 13, 1992. Therefore, the Commission finds that the proposed project is consistent with LCP policy EQ 4.2.2.1.

Third, policy EQ 4.2.2.2 states:

For Neary Lagoon, provide at least 100-foot buffer between non-recreational land uses (e.g., parking, housing) and the lagoon. Exceptions may be granted for the Secondary Wastewater Treatment Plant (to the limits shown in the Neary Lagoon Management Plan) project provided that mitigation measures as specified in the environmental impact report and management plan concurrently implemented.

There has been no violation of the setback requirements of this policy. As mentioned above, the project site is at least 275 feet from the open water of the lagoon. Therefore, the Commission finds that the proposed project is consistent with LCP policy EQ 4.2.2.2.

B. IMPACTS TO WILDLIFE

The Appellant alleges that the project will intensify public use impacts upon Neary Lagoon wildlife species through increased skateboard traffic in Neary Lagoon's lower terrace and will also have an adverse impact upon bird species inhabiting the riparian area along the upper terrace adjacent to the project site. The appeal asserts that the impacts at the above locations would occur through both increased incidents of contact between wildlife and people, and also increased noise levels. The appellant cites Neary Lagoon Management goals and policies that address public use impacts to wildlife inhabiting the lagoon, stated in full below:

"Management Goal WF: Protect and improve opportunities for maintaining and increasing populations of native wildlife at Neary Lagoon.

Objective WF-7: *Reduce public use impacts of existing operations and conditions on wildlife and minimize public use impacts of future operations and conditions on wildlife.*

Objective PU-3: *Reduce public use impacts on wildlife and people from existing and new design elements in the management area.*

Action PU-3.2: *New trails will be surfaced with materials, such as decomposed granite and gapped wooden boards, that discourage use by roller skates and skateboards to reduce impacts from fast movement or recreation activities that are not compatible with*

the lagoon's goals of wildlife protection and passive human use. Surfaces will permit wheelchair use.

***Objective PU-4:** Establish, enforce, and explain reasons for restrictions on public access and activities to increase understanding and reduce impacts on wildlife and people.*

***Action PU-4.3:** Activities that will be discouraged with reasons explained on signs and as part of interpretive exhibits on signs and as part of interpretive exhibits in the management area will include feeding wildlife and making loud noises that may disturb wildlife and people in or near the management area."*

1.1 Upper Terrace

One issue presented by this allegation is that the intensification of use over that presented in the use of the previously approved tennis courts would have a negative affect on the bird species inhabiting the adjacent riparian corridor through increased contact and noise levels.

1.2 Existing Conditions at Upper Terrace

As discussed above, the proposed project site is located upon the upper terrace of Neary Lagoon, within Management Zone J. Recreational amenities that have been developed to date within Zone J include interpretive signs, concrete walkways, and a children's play area (tot lot). As mentioned, the wastewater treatment plant is also currently developed adjacent to the project site. The subject project site represents the last remaining undeveloped piece of land in Zone J. The City amended the Neary Lagoon Park Master Plan to replace the previously designated two and one-half tennis courts with the Skate Park. As described earlier, this action does not constitute an LCP amendment. There is an existing parking area within the vicinity of the project site to the west. Riparian and mixed oak woodland habitats extend along the northern border of Management Zone J and are approximately ten feet from the project sites entire northern border.

Table 2-7 (p.47) of the Neary Lagoon Management Plan estimates historic recreational use at the proposed Skate Park site. These figures provide an indication of the level of use that would occur if the proposed Skate Park was not constructed, and the tennis courts were installed. The use estimates of Table 2-7 are for three and one-half tennis courts and children's play area. The estimated number users are stated on a monthly basis. (See Exhibit H for Table 2-7) Estimates of Peak use of tennis courts was estimated at 3,000 persons per month, or approximately 300 per day, and peak play area use was estimated at 600 persons per month, or approximately 20 per day.

The technical memorandum by *Wilson, Ihrig & Associates, Inc.,* dated December 3, 1999, states that the existing noise levels within the riparian corridor averages between 44 and 55 dBA, with occasional maximum noise levels between 50 and 70 dBA (See Attached Exhibit I). Only the

hours between 9:00 a.m. to 9:00 p.m. are represented in the above existing noise levels. Existing noise level measurements during this time period is appropriate given that the Skate Park is to be a daytime use facility only.

1.3 Noise Impacts at Upper Terrace

Concerning the impacts upon breeding birds and riparian habitat, the Final EIR (FEIR) concludes in part:

> *Although the Skate Park will increase the noise level adjacent to the refuge* (Neary Lagoon), *the noise level generated by the skateboards is not expected to significantly affect breeding birds due to the existing urbanized setting of the project area.*

However, the FEIR did not include any acoustical analysis of the riparian corridor or natural areas of Neary Lagoon supporting this conclusion. In fact, previous acoustical analysis completed for the project only addressed the potential impacts of the Skate Park to nearby residential neighborhoods. The FEIR also did not provide any discussion of the methodology of sampling and data extrapolation used to estimate the expected noise levels.

The FEIR and adopted project did include a noise mitigation measure (NOISE-1 and City condition of approval No. 5) that requires the construction of a six-foot, solid sound fence along the northern project boundary. However, staff was not able to determine from the evidence presented how effective or to what level the sound fence would serve acoustically separate the project site from the riparian area and other natural areas of the lagoon. It is noted that landscaping will also be planted next to the fence in order to further dampen noise levels, enhance visual continuity, and provide additional substrate for birds.

The City has subsequently performed further noise measurements within the adjacent riparian corridor and detailed the methodology of extrapolating noise data at the Skate Park in Santa Rosa to the project site at Neary Lagoon in order to project expected noise levels. (See Exhibit J) Attached are technical memorandums from the project by *Wilson, Ihrig & Associates, Inc., Acoustical Consultants,* dated November 23, 1999 and December 3, 1999.

The December 3, 1999 memorandum by *Wilson, Ihrig & Associates, Inc* details acoustical analysis at three new locations not analyzed in the FEIR, two within the riparian corridor and one at the southern boardwalk entrance (See Exhibit I). These receiver locations are identified in Exhibit I as "Bay Creek," "Edge of plateau," and "Pathway" respectively. In addition, the memorandum illustrates existing and predicted noise levels at these locations and explains the methodology used making noise level determinations. The predicted noise levels at the above-mentioned locations, both with and without the sound fence, can be found in attached Exhibit I.

According to the technical memorandum, *"Skateboard Noise Characterization at Santa Rosa Skate Park,"* dated November 23, 1999, predicted noise levels were obtained by sampling at the Santa Rosa Skate Park on Monday, 1 September 1997, Labor Day Holiday (See Exhibit J). The memorandum provides a complete explanation of the sampling methodology and site

characteristics. The memorandum states that, "the number of users within the fenced perimeter of the skate track did not exceed approximately 15-20 at any time during the survey period." Furthermore, sound measurement sampling was done for a period of approximately sixty-three minutes.

The December 3, 1999 memorandum by *Wilson, Ihrig & Associates, Inc* states that the predicted noise levels within the riparian corridor, at the "Bay Creek" receiver location, from only the Skate Park itself, with the sound fence (FEIR mitigation measure NOISE-1, condition of approval No. 5), includes a range in typical maximum noise levels between 28 and 30 dBA. While predicted typical maximum levels at the edge of the riparian corridor, at the "Edge of Plateau" receiver location, directly adjacent to the proposed site, ranges between 41 and 43 dBA. Lastly, predicted noise levels at the boardwalk entrance, at the "Pathway" receiver location, with the sound fence includes a range in typical maximums between 28 and 30 dBA. The December 3, 1999 memorandum thoroughly explains how the predictions were estimated and addresses the effectiveness of the sound fence in reducing noise levels originating from the proposed site.

The December 3, 1999 memorandum by *Wilson, Ihrig & Associates* concludes, "that the predicted levels are for the skate track noise only (emphasis added) and do not represent the level of noise after construction of the Skate Park, which will remain the same as they are today." The memorandum further concludes, "that operation of the Skate Park will result in no noise impact to the present environment and virtually no audibility of skate noise will hold." Furthermore, a letter from *Wilson, Ihrig & Associates, Inc.* dated December 14, 1999, states that, "the new noise source, i.e. the Skate Park, introduced into this environment will be masked by the ambient noise such that skate activity will not affect the existing noise level" (See Exhibit K for 12/14/99 letter).

Overall, within respect to wildlife, City's biological consultant, Bryan M. Mori, concludes that, "the birds that do utilize the trees along the edge of the plateau are primarily common urban species, which are continually subjected to a variety of urban noises and are expected to adapt to noises from the Skate Park." In addition, the consultant's opinion is that, "no obligate or special status bird species are nesting along the thin, marginal habitat along the plateau, and the highest quality riparian habitat is along the bottom of the drainage (Bay Creek), where the predicted sound levels are below or within existing noise levels" (See Exhibit L for Bryan M. Mori letter).

1.4 Impacts from Increased Contact at Upper Terrace

In addition to the issue of increased noise levels, the appeal also asserts that the intensification of use at the project site will lead to increased incidents of contact between humans and wildlife species at the riparian corridor. The premise is that some wildlife species may perceive humans as a threat when in close proximity to one another, and that this contact will negatively disrupt their normal daily cycles.

Based upon the estimates of historic use within Management Zone J and the estimated number of skate park users it is clear that Skate Park would intensify the number of users at this location over what has historically occurred. During peak season, which is expected to occur on summer

weekends, 500 Skate Park users per day are expected, or approximately 15,000 skaters per month. In the low season, the estimated number of visitors per day is approximately 200 users, or about 6,000 per month. This represents a substantial increase over previously estimated of peak use of tennis courts of 3,000 persons per month, or approximately 300 per day, and peak play area use estimates of 600 persons per month, or approximately 20 per day. Nevertheless, the issue is whether or not there will be an impact from increased incidents of visual contact.

As mentioned above FEIR mitigation measure NOISE-1 and condition of approval No. 5 requires the construction of a 6-foot high sound fence along the northeast edge or the terrace (along the drainage corridor). The sound fence will be built out of solid wood, with no openings or gaps within it or between the fence and the ground. The wood fence will extend from the south-eastern point of the proposed Skate Park facility towards the northeast and should envelope the Skate Park facility in such a way that the line of sight form any point along the concrete Skate Park facility to the backyards of residences along California Street and at Shelter Lagoon area interrupted. Extension of the sound fence to the above-defined lines of sight would also be effective running the length of the riparian corridor adjacent to the proposed Skate Park site.

Based on a review of the existing topography of the site and proposed elevations of the project, it appears that the sound fence will be effective in blocking most of the visual contact between Skate Park users and the adjacent riparian area. As identified above, the sound fence runs the entire length of the riparian corridor adjacent to the proposed site. The proposed project sites northern border at the riparian corridor slopes steeply down to the lower terrace of Neary Lagoon (See Exhibit M for adjacent topography map). The effective of the slope is that it visually exposes only those trees within the top portion of the slope. Some tall trees at this location would be visible above the sound fence. In addition, the effectiveness of the visual blockage of the sound fence will be enhanced by the (–) 4.5 below grade elevation of the Skate Park, and also the adjoining native evergreen trees and shrubs within the ten-foot buffer zone adjacent to the sound fence required under condition of approval No. 20. Furthermore, this condition requires that a revegetation plan be prepared and monitored for the buffer zone and that installed plants be as mature as possible.

1.5 Analysis and Conclusion on Upper Terrace

Based upon the acoustical analysis and evidence presented in the technical memorandums by *Wilson, Ihrig & Associates, Inc.* the proposed Skate Park will not impact bird species inhabiting the adjacent riparian corridor. The December 3, 1999 memorandum illustrates that existing noise levels are above that which is predicted to originate from the Skate Park. Again, the December 14, 1999 further clarifies this issue by stating that, "the new noise source, i.e. the skate park, introduced into this environment will be masked by the ambient noise such that skate activity will not affect the existing noise levels." Therefore, the Commission finds that the appeal does not raise a substantial issue in terms of noise impact to bird species because the Skate Park will not increase noise levels within adjacent riparian corridor.

Because the sound fence will be effective in visually blocking views to the majority of the trees within the adjacent riparian corridor their will not be a significant impact to bird species

inhabiting the adjacent riparian corridor. In addition, as stated in the correspondence by the City's biological consultant, Bryan M. Mori, dated December 8, 1999, those "birds that do utilize the trees along the edge of the plateau are primarily common urban species, which are continually subjected to a variety of urban noises." Therefore, in light of this evidence, the Commission finds that appeal does not raise a substantial issue in terms of visual impacts to bird species inhabiting the adjacent riparian corridor.

2. Lower Terrace

As mentioned above, the appellant has also made the assertion that the construction of the Skate Park will increase the amount of adverse impacts to wildlife inhabiting the lower terrace of Neary Lagoon. This would occur as skater's travel from the lagoon's two lower terrace access points of Blackburn or Chestnut Streets to the Skate Park by skate board, roller skate, or roller blade through the various natural habitats of the lagoon. These adverse impacts would be accomplished through both increased incidents of contact and accompanying noise levels in the lagoon's lower terrace.

2.1 Existing Conditions

Providing access throughout Neary Lagoon is a clear priority of the management plan. This is further emphasized through the lagoon's potential to provide unique opportunities for people to experience a diverse natural area in an urban environment. However, the plan stresses the need for controlled access that is pedestrian oriented and that which will minimize impacts on wildlife and the overall character of the area for visitors. This is clearly illustrated through management plan policies WF-7, PU-3, 3.2, 4, 4.3 summarized above.

Within the lower terrace of Neary Lagoon there are various pathways, some of which are possible to ride a skateboard across. These pathways traverse directly through or adjacent to some of the open water, freshwater marsh, riparian and oak woodland habitats of the lagoon. As mentioned above, these habitats comprise approximately 75% of the lagoon. In terms of bird species that have the potential for being impacted, there are a number of special status birds that have been observed at Neary Lagoon. These specie types include waterbirds, raptors, and passerine birds. The only special status bird species with which Neary Lagoon provides suitable nesting and foraging habitat are the great blue heron, great egret, and black-crowned night heron. Currently, these species are not known to nest at the lagoon. Overall though, according to the Neary Lagoon Management Plan 66 species of birds were observed during the 1986 surveys, with 50 occurring in the riparian forest, 27 in the freshwater march, and 14 in the open water habitats. Other wildlife species inhabiting the lower terrace of the lagoon include amphibians, reptiles, and fish.

As mentioned, there are various pathways within the lower terrace of Neary Lagoon. The surfacing of these pathways can be separated into three different types: decomposed granite, asphalt-concrete, and wooden boardwalks. The ability to travel over these surfaces by skateboard is directly related to the relative roughness or construction type of the surface. The decomposed granite pathway, which starts at Neary Lagoon's Chestnut Street entrance and ends at the small boardwalk adjacent to the wastewater treatment plant, is not possible to skateboard on. This is

due to it's rough, non-compacted surfacing. Pathways constructed of asphalt-concrete traversing the southern portion of the lagoon are most the permissible to skateboarding. Travel by skateboard over the asphalt-concrete pathways is easiest due to their flat hard surface. The wooden boardwalks traversing the open water areas and grassland, although not the most desirable to skateboard across, are nonetheless permissible to a certain extent at facilitating skateboard travel. The horizontal wooden planks that constitute the surfacing of the boardwalks contain small gaps between one another, which makes for a non-continuous flat surface. In this case, the small gaps between planks can impede travel by skateboarders. However, in spite of each of the above surfaces potential for facilitating skateboarding, the use skateboarding, is currently and with the proposed project, would continue to be prohibited on all pathways throughout Neary Lagoon.

Pedestrian use is currently allowed by the management plan on all pathways within Neary Lagoon. According to the City's correspondence of November 23, 1999, "Bicycling is prohibited on all boardwalks. Bicycling is allowed on the decomposed granite and asphalt pathways connecting the Chestnut Street entrance to the California Street entrance."

In terms of public use impacts upon bird species within the lower terrace of Neary Lagoon, a substantial increase in traffic, particularly by skateboards, could have negative affects upon the wildlife species inhabiting Neary Lagoon. Preventing and reducing this impact upon all wildlife species of Neary Lagoon is clearly the intent of Neary Lagoon Management policies WF-7, PU-3, PU-3.2, PU-4, and PU-4.3 stated above.

2.2 Project Impacts within Lower Terrace

The Neary Lagoon Management Plan approved by the Commission provides guidance on the estimated numbers of park users during 1991. Table 2-7 (p.47) of the management plan estimates the number of floating walkway users on a monthly basis (See Exhibit F for table 2-7). At the most peak use on the floating boardwalks is 340/month, or approximately 11 users per day. Observation of actual boardwalk use by Commission staff during site visits suggests that this figure may be low. In any event, this is the only baseline estimate of the number of pathway users in the lower terrace, which have been taken to date.

The FEIR estimates that during peak season, which is expected to occur on summer weekends, 500 Skate Park users per day are expected, or approximately 15,000 skaters per month. It is estimated that 200 of the 500 users per day during peak season would arrive by foot, bicycle or bus, with the remainder arriving by car. For low season, the estimated number of visitors per day is approximately 200 users, or about 6,000 per month. In terms of this issue presented in the appeal it is the amount of increase in travel from or to Chestnut or Blackburn Streets through Neary Lagoon's lower terrace that is of concern. In particular the appeal addresses the issue of skateboarding on the pathways and boardwalks. There are no specific estimates in the FEIR addressing expected travel through Neary Lagoon's lower terrace. However, the FEIR states in section 3.9.4 "Effects to Wetland Habitat" that,

> *"The increase in the number of park users, however, would likely result in an increase in traffic on the boardwalk and walkways around the lagoon. This in turn is likely to increase the use of bicycles and skateboards on the boardwalks and walkways which occurs occasionally despite sign prohibiting their use. These disturbances could reduce the use of the lagoon by some waterbirds, such as night herons and diving ducks. The Operations and Enforcement Plan for the Skate Park would call for prohibition on the use of skateboard and bicycles on walkways within the park. This measure must be strictly enforced to be effective."*

Although the FEIR found this impact to be less that significant, mitigation measure K states, "design the boardwalks and walkways to impede the use of bicycles and skateboards, provide for more consistent monitoring by City personnel, and consider temporary closure of the Skate Park facility if continued violations occur," This is incorporated in the City permit approval as condition No. 23. In light of the ambiguity of the condition's language in when and by what means the mitigation was to take place Commission staff requested that the City further clarify the intent of this condition. The City's response to this request in a letter dated November 23, 1999 states that, "the existing boardwalk sections would not be re-designed as part of the Skate Park project construction. If repeated violations occurred despite enforcement efforts and Skate Park closures, the City would consider additional physical deterrent measures. These could include wider spacing of decking boards to provide a more resistant surface. And installation of barriers at the boardwalk entrances. Any physical measures would comply with ADA standards" (see Exhibit N for text of City's 11/23/99 letter).

In addition, the City's correspondence of November 23, 1999 addresses the issue of skateboarding throughout the pathways in Near Lagoon. The letter states in part, "the Skate Park is not expected to result in a significant increase in skateboarding, skating or bicycle violations for the following reasons:

- The existing boardwalk design and decomposed granite pathways have historically served as a deterrent to skateboarding and skating.
- For users arriving by skateboard, skates or bicycles, accessing the Skate Park through the lagoon area is not the most direct route for most City residents. The only exception would be those residents in the immediate vicinity of the Blackburn and Chestnut Street entrances. Bicycle access from Chestnut Street entrance is allowed.
- Skateboarders and skaters typically select routes that allow continuous skating or skateboarding on smooth surfaces rather than choosing routes with rough or unskateable surfaces which require multiple dismounts.
- Users arriving by vehicle or bus would not access the Skate Park through the lagoon area. They would utilize the Bay and California Street entrance."

The City's letter dated November 23, 1999, further addresses this issue by stating that, "the boardwalks and pathways were specifically designed to be resistant to skateboarding while conforming to ADA (American Disability Act) standards. The boardwalk planks were constructed in a horizontal pattern with 1/8" spacing between planks to discourage skate

boarding and skating." However, according to limited instances of Commission staff's observations and public reporting to the City Parks and Recreation Department since the appeal, skateboarding on the asphalt and wooden boardwalks has occurred to an undetermined extent in the past, though in violation of park rules and proscriptive signage.

Other mitigation measures to be used in the remainder of the Neary Lagoon include the continued prohibition of skateboarding outside of the Skate Park facility, monitoring by Parks and Recreation Department staff, creation of a volunteer skate patrol, and a violation monitoring program. As mentioned previously, additional measures that may be used by the City include citations for violator's, and possible temporary closure of the facility if violations become excessive or cannot be controlled.

Lastly, condition of approval No. 31 requires the City to, "monitor the impact on bird populations adjacent to the Skate Park, expand the contract with consulting biologists to include new transects for bird observations around the bay, creek and bluff, and to prepare a separate annual report, for a three year period, on this area."

2.3 Analysis and Conclusion on Lower Terrace

Although the figures estimating public use of the lower terrace do not provide a clear indication of the numbers of historic use or the potential increase in travel along the pathways and boardwalks of the lower terrace there is indirect evidence indicating that there will not be a *significant* increase. The FEIR concludes that there will likely be an increase in the use of the boardwalk and pathways with construction of the Skate Park. Estimates of the FEIR indicate that that 200 of the 500 Skate Park users per day during peak season would arrive by foot, bicycle or bus, with the remainder arriving by car. An undetermined proportion of the users not arriving by car could potentially gain access to the Skate Park through the pathways and boardwalks of Neary Lagoon. Given the estimates of the FEIR, there could be an increase over the historic estimates of 11 users per day of the boardwalks. However, the estimates of historic use of the boardwalks do not include use of the other pathways within the lower lagoon. Therefore, it is reasonable to assume that over all path use in the lower lagoon exceeds previous estimates of boardwalk use. Additionally, access through the Blackburn and Chestnut Street entrances does not provide the most direct route to the Skate Park for most City residents, while the paths from these locations are not easily conductive to skateboard travel. In any event, in light of the absence of figures which might illustrate the estimated increases of both pathway and boardwalk use which might occur with the Skate Park's construction, the project has been conditioned to address skateboarding within the lower terrace of Neary Lagoon.

The proposed project includes appropriate mitigation measures to address any significant increases in skateboard travel through the pathways and boardwalks of the lower lagoon, should they occur. These measures include the continued prohibition of skateboarding outside of the Skate Park facility, monitoring by Parks and Recreation Department staff, creation of a volunteer skate patrol, and a violation monitoring program. As mentioned previously, additional measures that may be used by the City include citations for violator's, and possible temporary closure of the facility if violations become excessive or cannot be controlled. Furthermore, if violations

become excessive the City could modify the existing boardwalks to impede travel by skateboards while still allowing pedestrian access that conforms to ADA standards. The additional monitoring of bird populations within the lagoon, as required under condition of approval No. 31, will provide additional evidence of any impacts resulting from increased travel through the lower terrace of the Neary Lagoon should it occur. Therefore, because the proposed project is not expected to result in a significant increase in skateboard travel through the lower terrace, and has been conditioned to monitor for such and includes measures that adequately address significant increases, should they occur, the Commission finds that the proposed project does not raise a substantial issue in terms of impacts to wildlife species inhabiting Neary Lagoon's lower terrace.

C. INCOMPATIBLE USE

The appellant has made the contention that the proposed Skate Park would allow a designated incompatible use. More specifically, that the Neary Lagoon Management Plan prohibits the activity of skateboarding throughout the entire management area.

Neary Lagoon Management Plan Policies, Objective PU-4 and Action PU-4.2 state:

> *"**Objective PU-4:** Establish, enforce, and explain reasons for restrictions on public access and activities to increase understanding and reduce impacts on wildlife and people.*
>
> ***Action PU-4.1:** Activities prohibited throughout the management area will include roller-skating, skateboarding, littering, damaging vegetation, fishing, walking dogs, harassing wildlife, entering important wildlife areas except by trail or with permission of the City, camping, and other activities prohibited by laws and ordinances..."*

The first policy sets the framework for the second "action" policy. Together their intent and purpose is to reduce impacts from various public access activities upon wildlife and people, prohibit activities that would cause such conflict, and provide the public with information explaining reasons for such activities exclusion from the lagoon.

The City has provided indirect interpretation of Neary Lagoon Management Plan policy Action PU-4.1 in the form of a response to staff's comments on the Draft EIR, dated June 15, 1999, for the proposed project. In summary, the City's response states that since management zone J is designated for active recreation and the vicinity has historically be used for such, allowing skate boarding within this zone at the proposed site is consistent with the Management Plan.

Approval of the proposed project would effectively authorize skateboarding only within the proposed footprint of the project site. Prohibition of skateboarding throughout the remainder of Neary Lagoon will remain in effect. In addition, the use of skateboarding would be physically contained at the proposed site by fencing and landscaping enclosing the facility, and the replacement of concrete surrounding the project site with a non-skateable surface in order to further contain the proposed skating area.

Strictly read, the proposed project is inconsistent with Neary Lagoon Management Plan Policies, Objective PU-4 and Action PU-4.2. However, this inconsistency does not raise a substantial issue because the proposed project allows skateboarding only within the building footprint and includes measures that will address the intent and meaning of the policy. This is accomplished through the conditions of the proposed project, which physically contain the use of skateboarding to the Skate Park and also by the continued prohibition of skateboarding throughout the remainder of Neary Lagoon.

Therefore, because the project has been conditioned to address all substantive inconsistencies between the language of Neary Lagoon Management Plan Policies, Objective PU-4 and Action PU-4.2, the Commission finds that the appeal does not raise a substantial issue in terms of allowing a designated incompatible use.

D. USER GROUP CONFLICTS

The appellant has made the contention that the proposed Skate Park project will result in conflicts between different user groups of the Neary Lagoon. More specifically the appellant contends that conflicts will arise between skateboarders and persons who are disabled and also children playing in the adjacent "tot lot." The assertion is that this could occur as skate boarders travel through the paths in the lower lagoon to the project site and particularly on the narrow handicapped accessible ramp to the southeast. In addition, the appellant alleges that the construction of the Skate Park will preclude the use of the site as wildlife habitat and environmental education.

Coastal Act Section 30210 provides that:

> *In carrying out the standards of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.*

In addition to Coastal Act Section 30210, the Neary Lagoon Management Plan contains policies that address public access and safety in general. In summary, these policies call for improved high quality, and safe public access, recreation, and environmental education opportunities that are consistent with other purposes of the management area. As discussed, additional policies in the management plan prohibit the use of skateboarding and roller-skating throughout the management area and allow bicycle use only on the upper terrace.

1.1 Existing Pathways

As discussed, Neary Lagoon has various pathways, some of which are possible to ride a skateboard across. The decomposed granite pathway, which starts at lagoon's Chestnut Street entrance and ends at the small boardwalk adjacent to the wastewater treatment plant, is not possible to skateboard on. Pathways constructed of asphalt-concrete traversing the southern

portion of the lagoon are most accessible to skateboard on. There is currently a long, narrow concrete ramp connecting the upper terrace of the Neary Lagoon with the lower that provides access to disabled persons. The wooden boardwalks traversing the open water areas, although not the most desirable to skateboard across, are nonetheless permissible to a certain extent at facilitating skateboard travel.

1.2 Project Mitigation

First, Condition of approval No. 27 states, "replace concrete pathways in the vicinity of the Skate Park and the children's play with non-skateable surfacing." This surfacing will still permit access by persons who are disabled or use wheel chairs. This measure will most likely effectively eliminate the potential for user group conflicts within the immediate vicinity of the project site.

Second, in addition to conflicts within the immediate vicinity of the proposed Skate Park facility the appellant contends that conflicts will also occur on the long wheel chair ramp. The potential safety concerns are exacerbated by the fact that this path segment is confined and narrow. Since there was no mitigation measure or condition of approval specifically addressing the wheel chair ramp, Commission staff asked the City for clarification and intent on this issue. This was clarified in the form of correspondence from the City, dated November 24, 1999, which states, "the wheel chair accessible ramp connecting the upper bluff to the lower lagoon area would also be redesigned (completed as part of the Skate Park construction) with non-skateable surfacing to impede skateboarding and skating."

Third, as stated above it is currently possible to skate on the asphalt-concrete pathways, as well as the boardwalks in the lower terrace area of Neary Lagoon, though in violation of the park rules. Condition of approval No. 13 requires the City to install signs in the vicinity of the Skate Park facility stating that no skating is allowed on the pathways throughout Neary Lagoon. In addition, the Operations and Enforcement Plan provides for monitoring and enforcement of violations. Furthermore, Condition of approval No. 23 addresses skating on the boardwalks and walkways in the lagoons lower terrace and as mentioned above was clarified in the form of correspondence from the City in a letter dated November 23, 1999. Once more, the letter states, "if repeated violations occurred despite enforcement efforts and Skate Park closures, the City would consider additional physical deterrent measures. These could include wider spacing of decking boards to provide a more resistant surface. And installation of barriers at the boardwalk entrances. Any physical measures would comply with ADA standards." In terms of the asphalt-concrete pathways in the lower lagoon area no physical design measures have been identified to address conflicts beyond monitoring and enforcement efforts.

1.3 User Group Analysis and Conclusion

In terms of user group conflicts within the immediate vicinity of the project site the project includes appropriate mitigation to eliminate potential conflicts at this location. This is accomplished through condition of approval No. 27 requiring replacement of concrete pathways in the vicinity of the Skate Park with non-skateable surfacing. In addition, the City's intent to

replace the wheel chair ramp's surface with a non-skateable surface is also an effective mitigation measure that will eliminate potential conflicts.

In regards to the asphalt-concrete pathways and boardwalks, there is inconclusive evidence indicating that there will be a substantial increase in the amount of traffic along the pathways in the lower terrace that will contribute to conflicts between user groups of Neary Lagoon. In the past there have been an undetermined number of violations of the park rules that have contributed towards conflicts between user groups. Clearly, some users of the park will continue to violate the park rules. Although the FEIR concludes that there will likely be an increase in traffic in the lower terrace it does not indicate what level or amount of increase would occur. In any event, project mitigation measures include the monitoring of violations, citations for violators, possible temporary closure of the Skate Park in the event of excessive violations, and also the consideration of physical design features to block skateboard travel if all other measures fail. At this time the previously stated mitigation measures most appropriately address the issue of user group conflicts. Therefore, for the reasons stated above, the Commission finds that the appeal does not raise a substantial issue in regards to conflicts between user groups of Neary Lagoon.

1.4 Use of Site for Wildlife Habitat and Environmental Education

As mentioned above, the appellant alleges the proposed Skate Park would preclude the use of the site for wildlife habitat and environmental education. The site of the proposed Skate Park currently provides little, if any wildlife habitat values. The site is currently graded and devoid of vegetation. Furthermore, the management plan designates use of the site for active recreation and not specifically for wildlife habitat. Therefore, the Commission finds that there are no grounds upon which to base an allegation that the site would remove wildlife habitat since current and previous use of the site was for no such purpose.

E. AESTHETICS

The appellant has made the contention that the proposed Skate Park will have negative affects on the aesthetic values of Neary Lagoon. The allegation is centered upon the criterion that the Skate Park facility would serve as a visual detraction from the natural environment of the lagoon.

Currently the proposed project site is graded and devoid of vegetation. Amendment of the Neary Lagoon Park Master Plan changed the previously designated use for the project site for two and one-half tennis courts to that of a Skate Park. A line of tall vegetation at the adjacent riparian corridor screens public views of the site from the lower lagoon area. Accordingly, this line of vegetation also blocks important views and visual features of the lagoon environment below. Furthermore, the proposed Skate Park is located outside of areas of Neary Lagoon that could be termed as part of the natural environment. A majority of the skateboard facility will be below or at grade and landscaping will enclose the skating area. In addition, the proposed project site is located immediately adjacent to the City's secondary wastewater treatment facility. The wastewater treatment facility has an extremely prominent presence throughout much of the

southern border of Neary Lagoon (See Exhibit D for project location map). Buildings and developed structures at the treatment facility consist mostly of very large bulky structures.

Appropriate LCP and Neary Lagoon Management Plan policies that address the preservation of visual resources or guide aesthetic management include the following:

Neary Lagoon Management Plan goal (A) states:

> *"Maintain important views and visual features of the management area and enhance viewing opportunities."*

Neary Lagoon Management Plan objective (A-5) provides that:

> *"Design new recreation, interpretive, and other facilities to blend with the natural aesthetic character of the lagoon environment."*

In respect to management plan goal (A), the proposed project will not block any important views or visual features of the greater lagoon environs. As mentioned above, a tall line of vegetation at the adjacent riparian corridor screens public views of the site from the lower lagoon area and also blocks important views and visual features of the lagoon environment below from the project site. Furthermore, the project site is located outside of areas of the lagoon which have been identified as having "high visual quality" (See figure 2-7 of the Neary Lagoon Management Plan, which illustrates important visual resources of the lagoon (Exhibit O)). Furthermore, Commission staff's site visits have corroborated the accuracy of figure 2-7 of the management plan. Consequently, the Commission hereby finds that the proposed project will not block important views or visual features of Neary Lagoon.

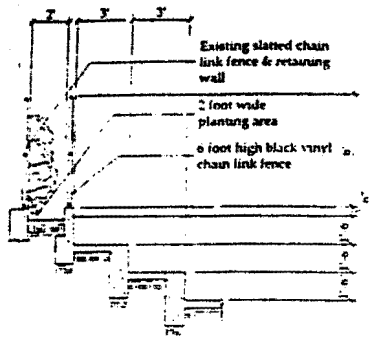
In regards to Plan objective (A-5), the proposed project blends with the natural environment to the greatest extent feasible. Previously designated use for the project site was for two and one-half tennis courts. The visual effect of the change in use of the site is to substitute a flat concrete surface with one that is irregular in elevation, but below grade. Furthermore, the proposed project includes landscaping which encloses all skating areas of the park. The effect of the proposed landscaping will facilitate the blending of the development with the natural aesthetic character of the lagoon's natural environs to the greatest extent feasible. In addition, taking into account the adjacent wastewater treatment facility, the proposed Skate Park is arguably compatible with surrounding structural development in terms of height and scale. Lastly, as mentioned above, the project site is located outside areas of Neary Lagoon that could be considered part of the natural lagoon environment. Therefore, for the reasons stated above, the Commission hereby finds that the proposed Skate Park would not impinge upon the natural aesthetic character of the lagoon environment.

In light of those reasons stated above, the Commission thereby concludes that in terms of aesthetic values, the use of the site as a Skate Park does not raise a substantial issue in regards to it's effect upon important views or visual features, nor would it have an adverse aesthetic impact on the natural environment of Neary Lagoon.

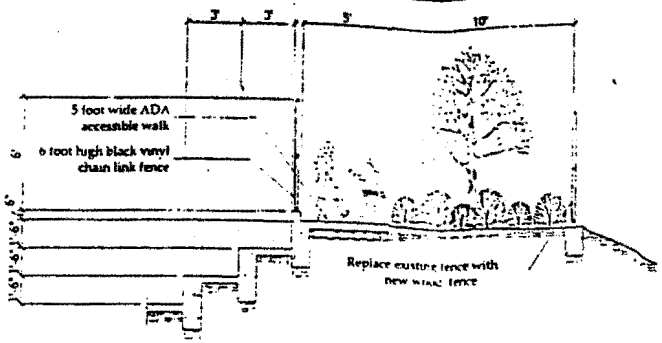
4. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

Section 13096 of the California Code of Regulations requires that a specific finding be made in conjunction with coastal development permit applications showing the application to be consistent with the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures that would substantially lessen any significant adverse effect that the project may have on the environment.

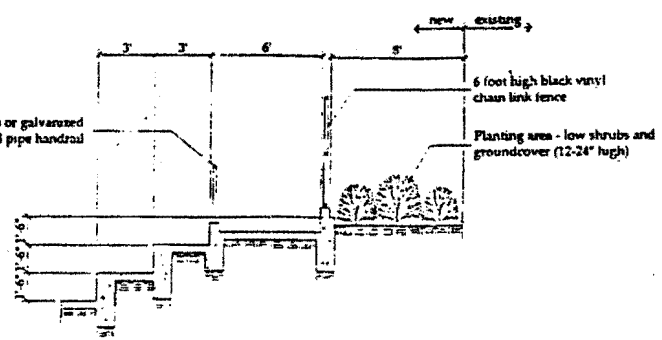
As detailed in the findings of this staff report, the Commission has not identified any substantial adverse environmental impacts of the project that were not effectively addressed by the certified EIR for the project. Accordingly, the Commission finds that as conditioned and approved by the City of Santa Cruz, the proposed project will not have any significant adverse impacts on the environment within the meaning of CEQA.



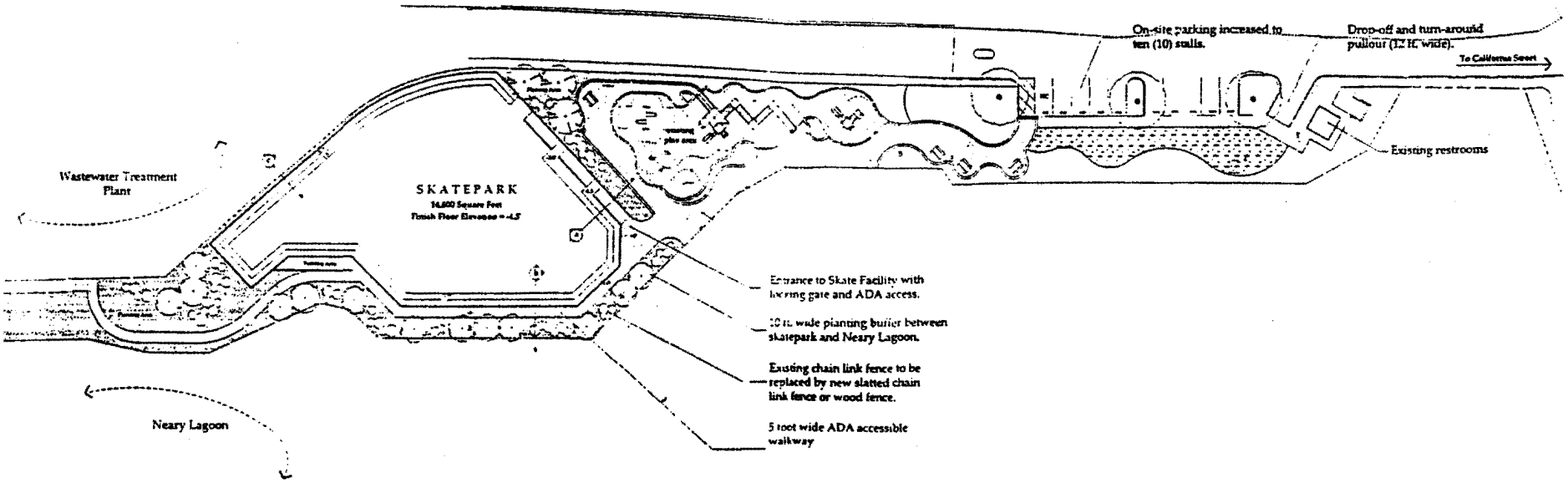
section at fence (c)
3/8" = 1'-0"



section at walkway (b)
3/8" = 1'-0"



section at landscape buffer (a)
3/8" = 1'-0"



NORTH

SCALE: 1" = 20' DATE: JUNE 1999

EXHIBIT NO. A
APPLICATION NO.
A-3-STC-99-081
PROJECT PLANS

Site Layout Plan for the Santa Cruz City Skatepark Facility

at Neary Lagoon Park

Wormhoudt
Landscape Architecture
540 Almar Avenue C-316
Santa Cruz, CA 95062
Tel. 831-466-9454
Fax 831-466-9411

STATE OF CALIFORNIA—THE RESOURCES AGENCY GRAY DAVIS, Governor

CALIFORNIA COASTAL COMMISSION
CENTRAL COAST AREA OFFICE
725 FRONT STREET, STE. 300
SANTA CRUZ, CA 95060
(831) 427-4863
HEARING IMPAIRED: (415) 904-5200

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)

Name, mailing address and telephone number of appellant(s):

Carol Long, 75 Chestnut #203, Santa Cruz CA 95060 (831) 4710737
Kerth + Alison Reason 212 California, Santa Cruz CA 95060 (831) 4235436
Nancy Walker, 105 Shelter Lagoon Dr, Santa Cruz 95060 (831) 4765373
Zip Area Code Phone No.

SECTION II. Decision Being Appealed

1. Name of local/port government: Santa Cruz (City)

2. Brief description of development being appealed: Skate Park Project in Neary Lagoon Park "Most of the Park acreage includes wetlands, riparian and woodland habitats." -PS-1 City of Santa Cruz Skate Park Project, Neary Lagoon Park, Draft Environmental Impact Report

3. Development's location (street address, assessor's parcel no., cross street, etc.): near the intersection of Bay and California Streets, adjacent to the Bay Creek riparian habitat

4. Description of decision being appealed:

a. Approval; no special conditions: _____

b. Approval with special conditions: approval with special conditions

c. Denial: _____

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-3-STC-99-081

DATE FILED: 10/22/99

DISTRICT: Central Coast

RECEIVED
OCT
CAL COASTAL COMMISSION

EXHIBIT NO. B
APPLICATION NO.
A-3-STC-99-081
APPEAL TEXT

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)

State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)

See attached sheets

Note: The above description need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.

Carol Long
Signature of Appellant(s) or
Authorized Agent

Date Oct. 22, 1999

NOTE: If signed by agent, appellant(s) must also sign below.

Section VI. Agent Authorization

I/We hereby authorize _____ to act as my/our representative and to bind me/us in all matters concerning this appeal.

_____
Signature of Appellant(s)

EXHIBIT NO. B
APPLICATION NO.
A-3-STC-99-081
APPEAL TEXT

2: COMMENTS AND RESPONSES

Comments on the Draft EIR

This chapter includes a copy of each letter received on the DEIR during the public review period and minutes from the public hearing held before the Parks and Recreation Commission on June 7, 1999. A total of three comment letters were received from agencies and twenty-six letters from the public. Fifteen members of the public and five Parks and Recreation Commissioners made comments at the public hearing.

Individual comments within each letter and verbal statement are numbered. Responses are provided for each of the numbered comments. A summary of the letter and speakers at the public hearing is provided in Table 1.

Table 1: Commentors and Comment Numbers

Agency Comment Letters	Comment Numbers
State Clearinghouse	A1
California Coastal Commission	A2 - A12
Association of Monterey Bay Area Governments	A13

Public Comment Letters	Comment Numbers
Don and Pauline Passerino	L1
William Smith	L2
Joan Benson	L3
Rita Winnings	L4 - L7
Mark Greenfeldt	L8
W. T.	L9 - L10
James Nichter	L11

FEIR has addresses

Table 1: Commentors and Comment Numbers (continued)

Public Comment Letters	Comment Numbers
Peter Crole	L12
E. Williams	L13
Luana Mullins	L14
Mark and Sara Schiffrin	L15 - L17
Alison Reason	L18 - L20
Allen Utterback	L21 - L24
Jeanne Sabankaya	L25
Kathleen Lord	L26 - 27
K. Isonio	L28 - L30
Ron Lederman	L31 - L32
Mary Kay and Joseph Del Bianco	L33 - L39
Carol Long	L40 - L60
David Gallalinao	L61 - L63
Ali Sabankaya	L64 - L66
Sylvia Ellefsen	L67 - L71
Sally Real	L72 - L88
Patricia Zonca	L89
Concerned Santa Cruz Citizens (62 signatures)	L90
Concerned Santa Cruz Citizens (29 signatures)	L91

Public Hearing on June 7, 1999

Verbal Comments	Comment Numbers
Sally Real	H1 - H6
Carol Long	H7 - H10
Kathleen Lord	H11
Julian Thompson	H12
Nate Curry	H13
Sarah Schiffrin	H14 - H17
Alison Reason	H18 - H20
Ed Davidson	H21 - H22
Jason Strubing	H23 - H24
Ralph Nyberg	H25
Michael Sharp	H26
Sylvia Ellefsen	H27 - H29
Mary Kay Del Bianco	H30 - H32
Joseph Del Bianco	H33 - H34
William Smith	H35
Carol Long	H36 - H37
Parks and Recreation Commissioner Debbie Malkin	H38
Parks and Recreation Commissioner Rachel O'Malley	H39 - H44
Parks and Recreation Commissioner Marty Wollensen	H45
Parks and Recreation Commissioner Robert Poen	H46
Parks and Recreation Commissioner Rachel O'Malley	H47
Parks and Recreation Commissioner Marty Wollensen	H48
Parks and Recreation Commissioner Rudy Hernandez	H49
Parks and Recreation Commissioner Rachel O'Malley	H50

EXHIBIT NO.
APPLICATION NO.

75 Chestnut #203
Santa Cruz, CA 95060
Oct. 21, 1999

California Coastal Commission
725 Front St., Ste. 300
Santa Cruz, CA 95060

To the California Coastal Commission and staff:

This letter is in support of the appeal of the City of Santa Cruz' approval of a skate park in the Neary Lagoon Wildlife Refuge. It fulfills Section IV of the appeal form, reasons for the appeal.

This project is appealable because it is a major public works project in the coastal zone.

First, the Management Plan clearly defines its objectives on page one as "managing the lagoon area to ensure its long-term viability as an ecosystem and its value as a unique resource for the community. *Goals, objectives, and actions described in the plan are designed with the purpose of preserving and enhancing the lagoon's environmental integrity and quality while satisfying other purposes for public use and safety." (p.1)* (emphasis added). Thoughout the Plan the goal of preserving and enhancing the lagoon's environmental integrity is emphasized, along with environmental education and recreation as other principal goals. When a small sector of the Management Area, Zone J, was designated for the active recreation of tennis courts, it was not intended that such a low-impact use be exchanged for a loud, hazardous recreational activity such as skateboarding, with its negative effects on aesthetic values and the useability of the area for wildlife habitat and environmental education and recreation.

In numerous places throughout the Plan, the importance of Neary Lagoon as a birding area and the necessity of preserving and enhancing habitat for birds and other wildlife and for enhancing the opportunities for observing wildlife is mentioned. See p. 3, p. 45, p. 61, and the entire sections on Vegetation Management and Habitat Restoration, pp. 61-73, Wildlife and Fishery Management, pp. 74-82, Public Use and Safety, pp. 85-92, and Aesthetic Management, pp. 85-92.

Three pages of management objectives and actions for the purpose of wildlife and habitat protection are listed in Wildlife and Fishery section, with Objective WF-7 being to "Reduce public use impacts of existing operations and conditions on wildlife and minimize public use impacts of future operations and conditions on wildlife." (p.81)

In line with this, the Public Use and Safety section emphasizes that Neary Lagoon "provides unique opportunities for people to experience such a natural area in an urban environment." In the paragraphs describing the wide range of activities that take place in all the management zones, both licit--tennis, bird watching etc.-- and illicit--camping, e.g.-- it states that "This has resulted in public use conflicts and impacts on the lagoon's environment, including its wildlife and vegetation, and the quality of people's recreational experiences." Therefore, in "Access Concerns," it states that "Because the lagoon is a public facility and unique local natural area, access should be improved...[and] should be carefully designed and controlled, however, to minimize impacts on wildlife and the overall character of the area for visitors." (p. 85) Several more paragraphs emphasize that "Neary Lagoon is intended to provide experiences that encourage environmental awareness and sensitivity..." and outline how parking, other access points and "Restrictions on activities

that may affect wildlife, vegetation, or people" are to be designed and implemented with that goal in mind. (p. 86)

These goals are spelled out in Management Objectives PU-3, PU-4, and PU-5.

"Objective PU-3: Reduce public use impacts on wildlife and people from existing and new design elements in the management area." (p. 88)

Under this objective is a management action to design new trails out of materials that will "discourage use by roller skates and skateboards to reduce impacts from fast movement or recreation activities that are not compatible with lagoon's goals of wildlife protection and passive human use." (p. 89) So it clearly states that skating and skateboarding are incompatible with the lagoon's goals.

"Objective PU-4: Establish, enforce, and explain reasons for restrictions on public access and activities to increase understanding and reduce impacts on wildlife and people." (p.89) Once again, the Management Plan mandates reducing impacts on wildlife and people; this time explicitly stating: "Action PU-4.2: Activities prohibited throughout the management area will include roller-skating, skateboarding..." and "Action PU-4.3: Activities that will be discouraged...will include...making loud noises that may disturb wildlife and people in or near the management area." p. 89

Installing a skate park in Neary Lagoon Wildlife Refuge would intensify public use impacts on the area both in substituting a relatively noisy sport for a relatively quiet one, and in increasing the number of active sports participants from an estimated 100/day peak use for the tennis courts (p.47, Management Plan), to 500/day (p. 22, Draft Environmental Impact Report, City of Santa Cruz, Skate Park Project, Neary Lagoon Park).

Neither the Draft Environmental Impact Report nor the Final EIR takes into account the very real impacts of hundreds of skaters and skateboarders travelling daily through the wildlife refuge to and from the skateboard park. I have measured the decibel level of a skateboarder on the wooden walkways at from 70+ to over 90 when the wheels hit the metal plates connecting the walkway sections. Contrary to what skate park proponents say, it is possible to skateboard on the wooden walkways; I've seen them and reported it to the Park Department several times.

The methods proposed for dealing with the increased skate, skateboard, and bicycle traffic in the EIR are increased signage and charging the maintenance worker with enforcing the prohibitions on skating and cycling. (pp. 1-2, Appendix B, Operations and Enforcement Plan, DEIR) Since the maintenance worker is now unable to enforce the prohibition on bicycling on the wooden boardwalks--99% of bicyclists ride instead of walking their bicycles on the boardwalks--she can't be expected to perform a miracle and stop the increased skate and cycle traffic which is sure to come.

The proposed Operations and Enforcement Plan includes no added personnel to enforce rules at the skate park, or to keep out after-hours users. The addition of recreational aid workers during peak hours is a "maybe" that may not be fulfilled. Meanwhile the skate park location is not visible from California Street and not completely visible from Bay Street, and therefore not readily policed by the local police force. These kind of problems--lack of visibility and lack of supervision-- have caused so many problems that city governments have closed skateparks in San Mateo and Milpitas. The Neary Lagoon Management Plan calls for park management and design that is responsive to local neighbors' concerns (p.90), and this possibility of violations has been a major concern of

neighbors who signed the petitions circulated by Friends of Neary Lagoon. It was also raised at the DEIR and FEIR hearings.

Objective PU-5, which mandates developing new recreation facilities in zone J, does not mention a skate park or even tennis courts, and does mention responding to "local neighborhood concerns." (p. 90) 266 neighbors and park users signed petitions asking that a skate park not be placed in Neary Lagoon and these petitions were submitted both to the Park Commission and to the City Council at the FEIR hearings.

Objective PU-7 mandates providing "opportunities for public use in the management area that minimize impacts on adjacent properties and residents." (p. 90) One of the major objections of neighbors in the adjacent housing complexes (Neary Lagoon Cooperative, Shelter Lagoon, Arbor Cove, and Cypress Point Apartments) has been that they will be negatively impacted by the noise of skaters and skateboarder on the wooden walkways over the water, which is very close to many of the homes. Residents already hear many after-hours illicit users (hours are sunrise to sunset), something that would be greatly increased by installing a skate park.

Not only would neighboring residents be affected by skateboarding in the park and on the paths, so would park users who are there to observe wildlife and simply to enjoy the peace and quiet. Many of those users signed the petition to keep a skate park from being put in Neary.

Putting a skate park in the management area would conflict with the use of the Lagoon for environmental education and recreation. Three other Management Objectives carefully spell out the ways in which environmental education and recreation and habitat protection are major objectives for the Management Plan:

Objective PU-8 mandates that the city "Improve opportunities for environmental education and research in the management area," and calls for the installation of interpretive trails and exhibits, and mandates that environmental education programs be initiated in cooperation with the school district, and that an intepretive program be developed, including a docent program.

Objective PU-9 requires that a refuge manager be hired "to manage and oversee the management area to ensure that the management area to ensure that the management plan is implemented and the area protected for wildlife and public use consistent with this plan. The employee will have sufficient biological training to conduct or oversee biological monitoring and studies required in this plan and coordinate and conduct environmental education activities."

Objective PU-10 mandates that the city "Determine the effects of public use on the environmental conditions of the management area to guide management direction and activities." Action PU-10.1 requires visitor use studies be developed and correlated with "wildlife, water quality, and other environmental resource studies to correlate trends in wildlife activity and vegetation growth with patterns of human use in the management area." (p. 92) Obviously, the concern is again to "reduce impacts on wildlife and people" as in PU Objectives PU-3 and -4.

Finally, the Management Plan itself projects that negative effects on wildlife could result simply from having the wooden boardwalks through the center of the water area of the wildlife refuge, when it says "The proposed trail [built in 1994, two years after the Management Plan was approved] through a portion of the lagoon's riparian habitat...would increase human disturbance to wildlife in this area ...[and] could prevent establishment of

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breeding territories or cause reproductive failure for some species using habitat near the trail." It mandates that "if monitoring indicates wildlife are adversely affected by trail use during sensitive periods of the breeding season, the trail would be closed." (p. 78) And in 1998 the consulting biologist wrote, in the 1997-1998 Fish and Wildlife Monitoring Study, under Management Recommendations: "Consider the closure of the section of the boardwalk which passes through the central portion of the lagoon to encourage use of that portion of the lagoon by sensitive diving ducks." (p.15) Earlier in the report. he notes that both night herons and diving ducks can be "sensitive to human presence" and that "their decline could be attributed to winter pedestrian use of the boardwalk section bisecting the lagoon..." He recommends "if the numbers of night herons continue to decline in subsequent years, future experiments with boardwalk closure during the winter should be considered." (p.7) He even recommends, in view of the sensitivity of night herons and their absence during the summer of 1998, that it might be necessary to close the central boardwalk during the spring/summer period. (p.10)

In view of all this, it is highly contradictory to the letter and spirit of the Management Plan to bring greater increased numbers of a noisy kind of traffic into the wildlife refuge itself. The FEIR writers' contention that all skate park users will prefer to use Bay and California Streets is unsupported. (p. 63, FEIR) The hundreds of children at Neary Lagoon Coop and in the Beach area and south of Laurel neighborhoods will probably go to the skate park through the lower part of the refuge, and many of them will use the central wooden boardwalks where the impact on birds can be quite negative.

Protection of riparian corridors and wetlands is a high priority in Santa Cruz General Plan and Local Coastal Program 1900-2005. Goal EQ 4.2: "Preserve and enhance the character and quality of riparian and wetland habitats.." (p. 63) is elaborated in 4.2.2: "Minimize the impact of development upon riparian and wetland areas through setback requirements of at least 100 feet from the center of a watercourse and 100 feet from a wetland. Include all riparian vegetation within the setback requirements, even if it extends more than 100 feet from the water course..." This may mean that all development needs be a minimum of 100 feet from the edge of riparian vegetation, which would automatically bar the skate park from the projected location.

Even if it does not invade the minimum setback, the skatepark would have unacceptable effects on the riparian habitat. At the City Council hearing on the FEIR, the effect of the skate park on the Bay Creek riparian corridor only 15 feet away from the skatepark site was admitted by an EIR biological consultant to be negative: some birds would be driven out of the area close to the skate park by the noise. The effect of noise and human presence on breeding birds is acknowledged by the Management Plan when it contemplated closing the central boardwalks in breeding season (p. 78). Riparian habitats and wetlands are crucial for breeding birds. Yet there was no estimation in the EIR noise impact section of the skate park's noise impact on the Bay Creek riparian habitat or on the wetland below, nor was there a noise impact assessment of the skate and skateboard traffic on the park trails and wooden walkways.

The Management Plan emphasizes the accessiblity of trails and entrances for all users, including "handicapped people, small children, and the elderly " (p.85). Trails are to be useable by wheelchairs (p. 89). The traffic to and from the skatepark would negatively impact wheelchair and other handicapped access, as well as the tot lot users. The tot lot for one to five-year-olds is immediately adjacent to the skate park site, and there is a long sloping asphalt wheelchair ramp leading from the skatepark site to the refuge below. Conflicts between skateboarders and wheelchair users or other handicapped, elderly, or small child users are inevitable. The Conditions for Approval of the Project stat[illegible] that the

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trails around the tot lot will be resurfaced from concrete to gravel to prevent accidents (condition 27, p. 5, Resolution # NS 24,537). But Condition 23, referring to all the other trails and boardwalks in the Management Area, says only to "Design the boardwalks and walkways to impede the use of bicycles and skateboards" but it doesn't say how. At the FEIR hearing, Park Director Jim Lang had a sample of material for resurfacing but no real estimate of the costs nor a definite plan to actually replace the other walkways. Nor was this vague plan listed as a mitigation measure for project. The Santa Cruz Parks has a poor track record in fulfilling Management Plan mandates, much less a vague directive in a City Council Resolution on a specific project. E.g. the Department waited four years after the approval of the Management Plan to hire the biological consultant and initiate the biological studies mandated in the Plan; consequently they have a very short baseline on which to project the environmental effects of any management actions, and they have missed the opportunity to assess the effects of those four years of development on the wildlife of the Management Area. They have also failed to develop a docent program so far or to hire a resources manager with biological training for Neary Lagoon.

EIR deficiencies:

As the certified regulatory agency, the Coastal Commission can review the EIR for the project as well as consider the project's compatibility with the Local Coastal Program. And since the certification of the EIR was the basis on which the Santa Cruz City Council made their decision to approve the skate park, the EIR's adequacy is essential to the soundness of that decision. Therefore, I'd like to point out that Park Commissioner Rachel O'Malley's vote against the skate park proposal and its EIR for Neary Lagoon was based on her knowledge--as a wetland biologist and college teacher on CEQA--that the EIR is inadequate. Commissioner O'Malley pointed out at the DEIR and FEIR hearings that no hydrological plan for drainage from and around the skate park was provided and that the alternative site at the Depot area was not evaluated adequately. (p. 132, FEIR) Also City Council member Keith Sugar, an environmental attorney, voted against certifying the FEIR, saying that it should be used "as a case study" in how not to write an EIR. He questioned both the biological consultant and the noise impact assessment consultant on why no assessment was made of the noise impact on the riparian corridor and the wetland.

Other deficiencies of the EIR are:

No geotechnical consultant is to monitor the plans or construction of the skatepark, as recommended in the geotechnical report by Sampson Engineering in the DEIR (p. 7, Appendix C, Geotechnical Investigation) and (Mitigation Measures GEO-1 and -2, p. 157, FEIR).

No detailed plan for skatepark itself was included, even though the Geotechnical Investigation stated that "Larger equipment or blasting may be required" in certain areas of the site in order to make the needed excavations just for the skate park itself. (p.4) This points out even more the need for a detailed hydrological plan, since the excavation for the drainage for the skate park will have to be even deeper than that for the skate park facility itself. (The drainage system for the skatepark, which is recessed 4.5 feet into the ground at its surface, will have to be under the skate park concrete.)

The EIR is also inadequate because it did not address key elements of the Management Plan as detailed above for Management Objectives and Actions WF-7 and PU--5, -7, -8, -9, and -10. It failed to explain away Objectives PU-3 and -4, which explicitly state that skateboarding and skating are incompatible activities with the lagoon's purposes, and that they are prohibited throughout the management area, not simply on the trails.

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The EIR did not address the cumulative impacts on the wildlife habitat from this project combined with the previous Wastewater Treatment expansion, the construction of the Neary Lagoon Cooperative Housing Project, and the construction of the park facilities, especially the central wooden boardwalk.

The EIR did not take into account the cumulative traffic impact of this project combined with the Mission Street widening now about to take place and deflect a huge traffic volume from Mission to California Street.

The DEIR said that 15 parking spaces would be needed to accomodate the skate park users (p. 24) and in the FEIR it provides only 3 more spaces and a passenger-drop-off space (p. 148). This is listed in the DEIR as a significant impact unless mitigated, and it is not mitigated by the FEIR.

On the basis of these deficiencies in the EIR and the proposal's incompatibility with Santa Cruz' Local Coastal Program, I ask you on behalf of our organization, Friends of Neary Lagoon, as well as many Santa Cruz citizens and Neary Lagoon Wildlife Refuge users, to deny this coastal permit. Thank you.

Sincerely,

Carol Long

Carol Long

EXHIBIT NO. B
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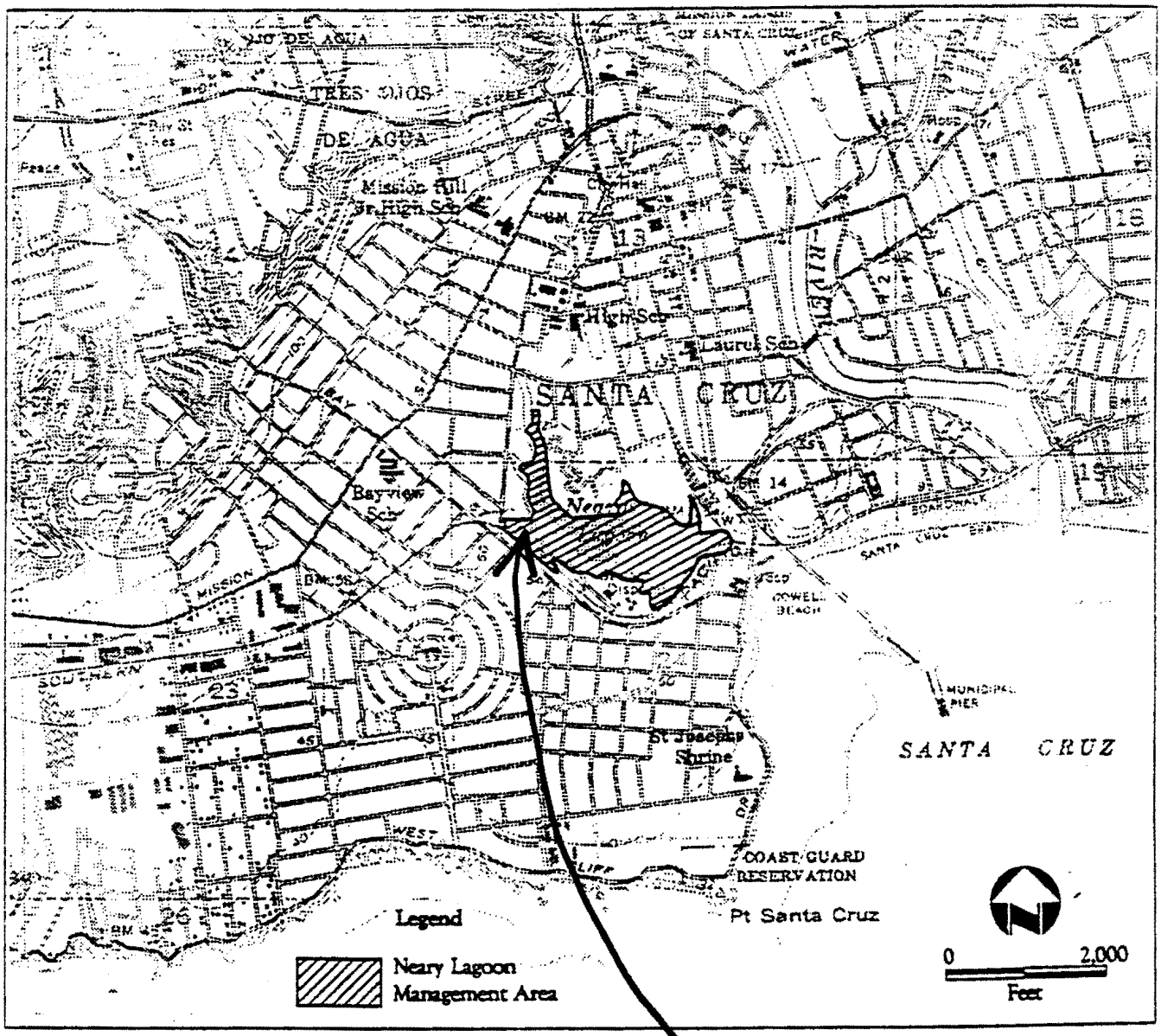
APPEAL TEXT

Figure 1: Project Vicinity



Neary Lagoon Vicinity

EXHIBIT NO. C
APPLICATION NO.
PROJECT VICINITY

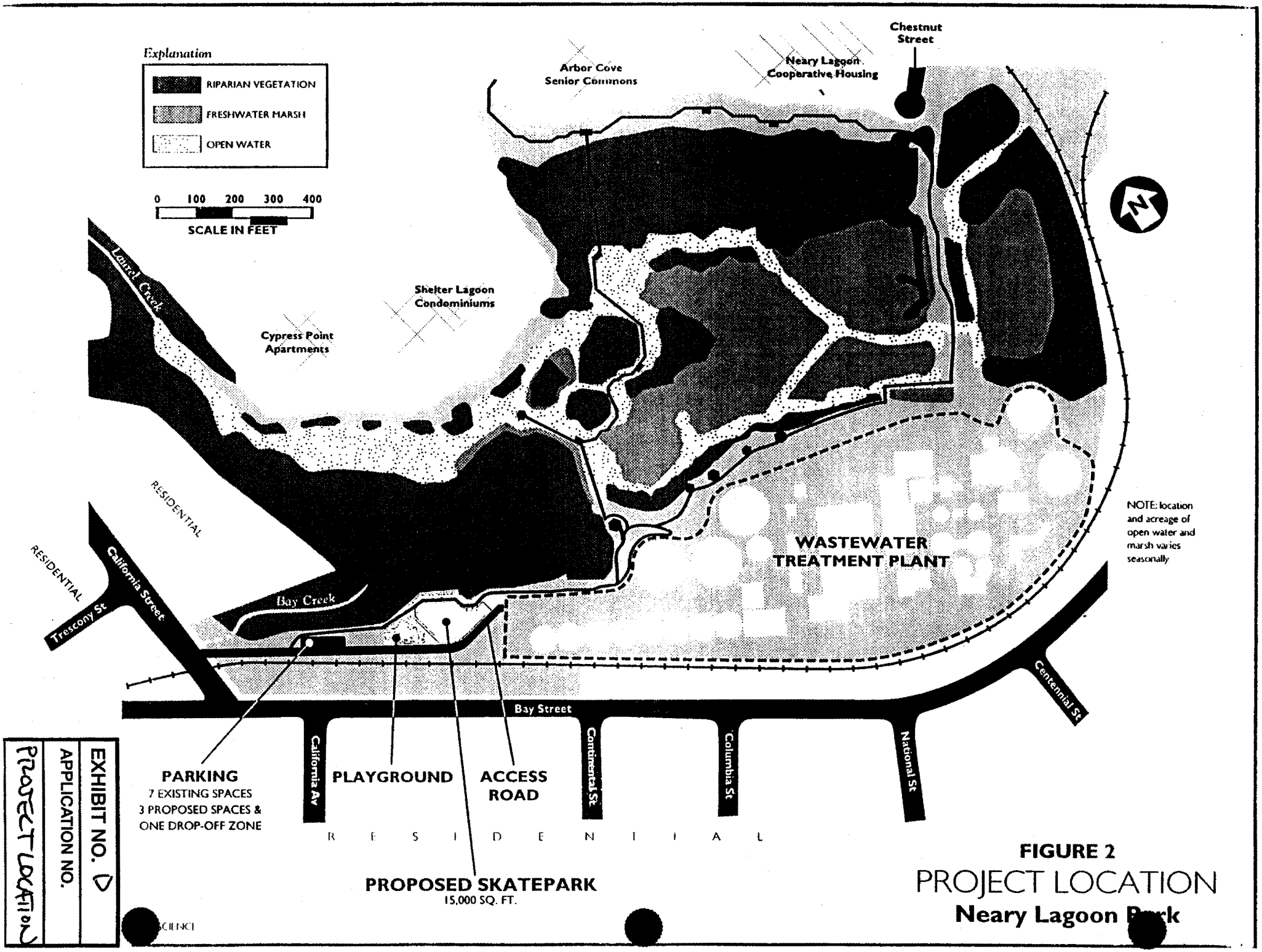


FIGURE 2

PROJECT LOCATION

Neary Lagoon Park

EXHIBIT A

CONDITIONS OF APPROVAL FOR THE PROJECT ON PROPERTY AT

Neary Lagoon Park - No. 95-195

Coastal and Design Permits

Skate Park at Neary Lagoon Park

1. If one or more of the following conditions is not met with respect to all its terms, then this approval may be revoked.

2. All plans for future construction which are not covered by this review shall be submitted to the City Planning and Community Development Department for review and approval.

3. This permit shall be exercised within three (3) years of the date of approval or it shall become null and void.

4. The applicant shall be responsible for the completeness and accuracy of all forms and supporting material submitted in connection with any application. Any errors or discrepancies found therein may result in the revocation or any approval or permits issued in connection therewith.

*5. Construct a 6-foot high sound fence along the northeast edge of the terrace (along the drainage corridor). This sound wall shall be built out of solid wood, but must have no openings or gaps within it or between the fence and the ground. Cyclone fences with wood slats in them are not adequate. The wood fence would extend from the south-eastern point of the proposed skate park facility towards the northeast and should envelope the skate park facility in such a way that the line of sight from any point along the concrete skate park facility to the backyards of residences along California Street and at Shelter Lagoon area interrupted. A qualified acoustical consultant should review the final design and location of the acoustic fence before it is constructed.

*6. Construct the skate park facility with as smooth a concrete surface as feasible, in a similar fashion the skate park in Santa Rosa.

*7. All expansion joints in the concrete surfaces open to skaters should be built as thin as feasible, with minimal elevation differences between adjacent concrete slab sections.

*8. Provide three additional parking spaces and one space designated as a passenger

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*Conditions 5 - 12 are EIR mitigation measures and shall be implemented and monitored in acc Mitigation Monitoring Program outlined in attached Exhibit B to the Resolution.

drop-off zone at the existing Neary Lagoon Park parking lot off of California Street. The passenger drop-off zone will also serve as a turnaround for the parking lot. Parking needs will be re-evaluated after one year of skate park operation. If additional parking is warranted, parking spaces will be provided along the east side of Bay Street, or in the vicinity, if a parking area is found that meets the requirements. Parking on Bay Street would be provided by realigning travel lanes to provide on-street parking on the east side or by constructing bay-type parking. Any new parking on Bay Street will be designed to have a minimal impact on the linear park.

*9. If ground-disturbing construction activities, such as grading and excavation, occur between November 1 and April 1, erosion control measures shall be implemented to prevent erosion and potential sedimentation in Bay Creek and Neary Lagoon, These measures shall include but not be limited to the measures listed below.

1. Excavated soils shall be carefully stockpiled and covered to prevent deposition of sediment or mud into adjacent storm drains.

2. Temporary silt fences, dikes, filter fabric, sand bags, and/or hay bales shall be installed to prevent sediments from entering adjacent catch basins and storm drains.

3. Disturbed soils shall be immediately revegetated once construction is complete.

4. If these measures are ineffective in controlling erosion during this period, grading shall be restricted during this period.

*10. The City of Santa Cruz shall require its contractors to establish a setback zone along the adjacent Bay Creek to prevent accidental deposition of materials into these water bodies during construction. This zone shall be fenced or otherwise protected from construction activities. No stockpiling or materials or any other activities shall be allowed in this setback zone.

*11. The City shall prepare a grading and drainage plan for the project in compliance with the City Grading Ordinance and subject to the approval of the City Department of Inspection Services. The plan shall determine the specific location and sizing of new storm drains to ensure that they are adequate to accommodate flows from the project. The plan shall determine appropriate surface drainage gradients to prevent ponding and to drain water towards storm drains or catch basins.

*12. The City shall consult with a qualified Erosion Control Specialist to review the drainage outfall location and to ensure appropriate erosion control measures are implemented.

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*Conditions 5 - 12 are EIR mitigation measures and shall be implemented and monitored in accordance with the Mitigation Monitoring Program outlined in attached Exhibit B to the Resolution.

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13. The City of Santa Cruz shall design and implement a signage program within the vicinity of the skate park. as planned. This program shall accomplish the objectives listed below:

    1. Signs shall be placed at all possible access points into the park in the vicinity of the skate park facility.

    2. Signs shall be oriented in various directions to maximize their visibility to park visitors both entering and existing the area.

    3. Signs in the vicinity of the facility shall relay park rules that no skating is allowed on pathways throughout Neary Lagoon. Signs at the skate park shall relay rules for skate park use.

    4. The signs shall be reviewed by the Parks and Recreation Commission for recommendations to City Council.

14. The City of Santa Cruz shall monitor the effectiveness of the signage program in the vicinity of the skate park. If bicycling and skating activities on pathways within Neary

    Lagoon Park increase with the project, additional measures would be identified and implemented.

    1. Such measures could include installation of barriers where appropriate that do not impact disabled visitor/wheelchair access.

    2. The development of an enforcement program that could include patrols, citations, and/or other enforcement mechanisms.

15. The Wastewater Treatment Facility will implement measures to ensure the treatment plant access gate is closed during the skate park hours of operation. These measures will also ensure that deliveries can be provided. These measures may include:

    1. Operation of the gate during daytime hours using vehicle mass sensors.

    2. Possible addition of another intercom site to a manned station. if feasible.

16. Project contractors shall be required to ensure noise-control measures are used during project construction. including but not limited to the measures identified below.

    1. Appropriate mufflers, silencers, and noise control features for equipment shall be required.

    2. Vehicles and other gas or diesel-powered equipment shall be prohibited from unnecessary warming up, idling, and engine revving.

    3. Construction activities that generate noise shall be limited to between the hours of 8:00 am and 6:00 p.m. on the weekdays. No weekend or holiday

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construction activities shall be allowed.

17. The City of Santa Cruz shall require its contractors to implement Best Management Practices during construction for the control of dust. Measures shall include but would not be limited to those listed below.

    1. All graded surfaces and materials, whether filled, excavated, transported or stockpiled, shall be wetted, protected, or contained in such a manner as to minimize the generation of dust or spillage upon adjoining property or streets.

    2. Revegetation shall be completed immediately upon completion of construction or sooner if necessary to stabilize exposed soils.

18. The City shall construct the proposed skate park facility in accordance with the requirements of the geotechnical report prepared for the project (Sampson Engineering, 1999).

19. Create and install signs prohibiting collection of turtles at the Neary Lagoon Refuge. The signs should include information on the protected status of pond turtles by the California Department of Fish and Game, the threat of spreading disease, and persons to contact when turtles are observed near the skate park facility. The signs, together with the daily presence of parks personnel, should help to prevent the collect of migrating pond turtles.

20. Plant native evergreen trees and shrubs within the buffer zone along the drainage corridor. This measure is intended to buffer visual disturbances from people and provide additional foraging substrates for birds. The buffer zone revegetation plan should be prepared and installed by a qualified revegetation specialist. The revegetation plan should include success criteria, monitoring and contingency measures in the event the success criteria are not being met. In order to accelerate the effectiveness of the buffer zone, install plants that are as mature as possible.

21. In the event the adjacent riparian corridor is purchased by the City for inclusion into the refuge, the understory vegetation should be restored through the removal of invasive exotics such as English and German ivies and Himalaya berry. This measure is intended to increase the habitat value for riparian birds by increasing nesting sites and food plants.

22. Conduct grading and earth-moving activities outside of the main nesting period of most breeding birds (March 15 to July 31).

23. Design the boardwalks and walkways to impede the use of bicycles and skateboards, provide for more consistent monitoring by City personnel, and consider temporary closure of the skate park facility if continued violations occur.

24. If, however, during any phase of project construction, archaeological resources or human remains are discovered, work shall be halted within 50 meters (150 feet) of the find. The Planning Department shall be notified, and work shall resume after

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APPLICATION NO.
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the find has been evaluated by a qualified professional archaeologist. If the find is determined to be significant, implement appropriate mitigation measures in accordance with CEQA Guidelines Appendix K as determined by the archaeologist.

25. The City shall strictly enforce the policy of prohibiting all forms of graffiti, tagging, or other means of defacing the skate track. Regular maintenance activities shall include inspection of the track and removal of any markings.

26. Install perimeter fencing around the skate park. Provide an entrance gate with a locking mechanism.

27. Replace concrete pathways in the vicinity of the skate park and the children's play area with non-skateable surfacing.

28. Require compliance with the Operations and Enforcement Plan (Exhibit C) which addresses regulations, enforcement and monitoring.

29. Establish hours of operation which ensure the gate to the skate park facility will be locked prior to sunset. Consider reducing the hours if problems arise during the facility's operation, to be determined at a review before the Parks and Recreation Commission and City Council six months after the facility opens for operation.

30. An erosion control specialist shall monitor the new drainage outfall on a periodic basis.

31. Monitor the impact on bird populations adjacent to the skate park, expand the contract with consulting biologists to include new transects for bird observations around the bay, creek and bluff, and to prepare a separate annual report, for a three year period, on this area.

32. Establish a monitoring program regarding skate boarding violations on the lagoon boardwalk and loop trail system and all other pathways within Neary Lagoon where skate boarding and skating is prohibited. Maintenance staff will submit a brief written report for each complaint and/or violation reported. A phone number will also be posted to call in complaints. Complaints and violations will be compiled and a report submitted to the Parks and Recreation Commission and City Council on a quarterly basis for the first year, and after the first year, reports will be submitted semi-annually.

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APPLICATION NO.
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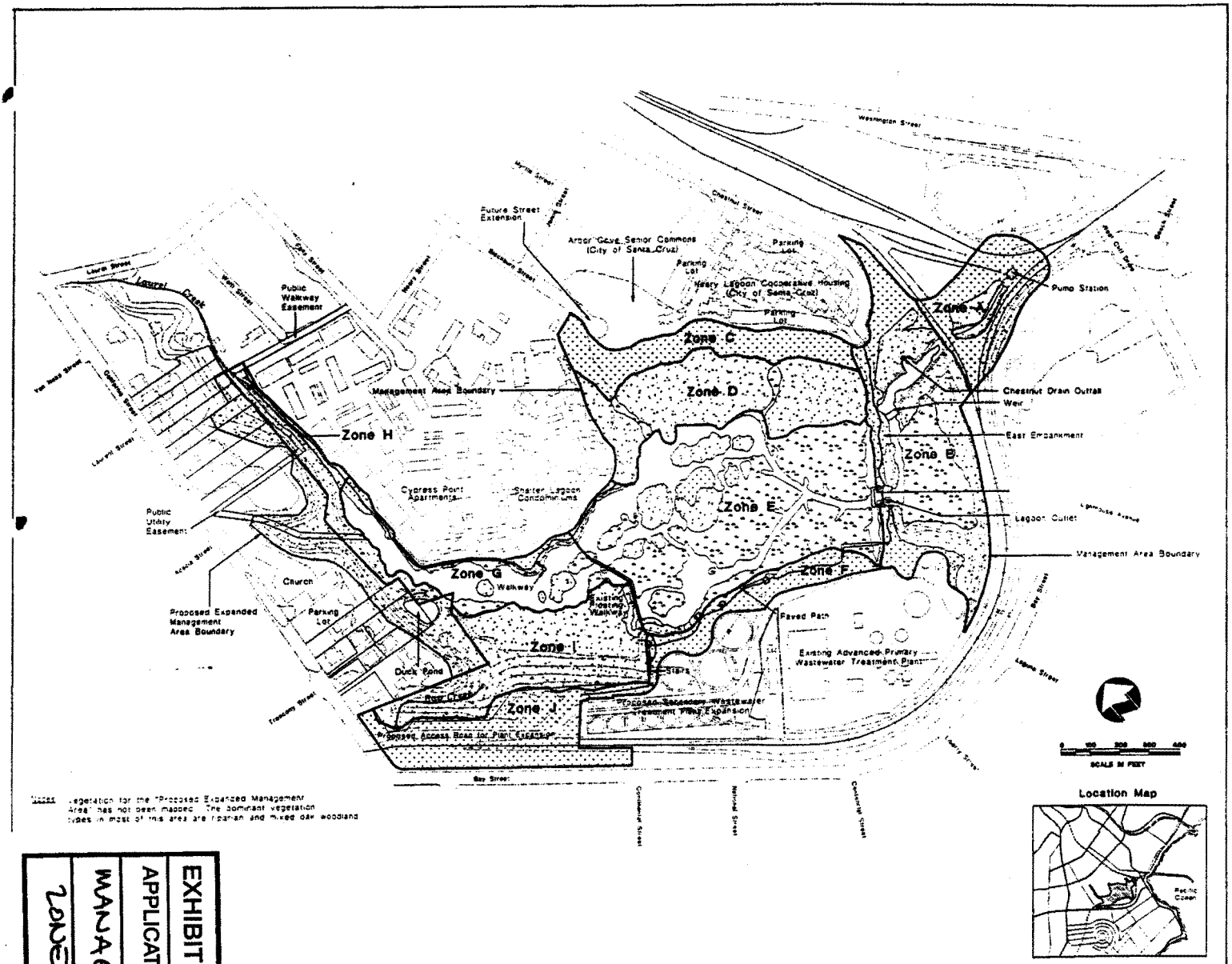
Neary Lagoon Management Area with Management Zones



Source: Jones & Stokes Associates 1991

NEARY LAGOON MANAGEMENT PLAN

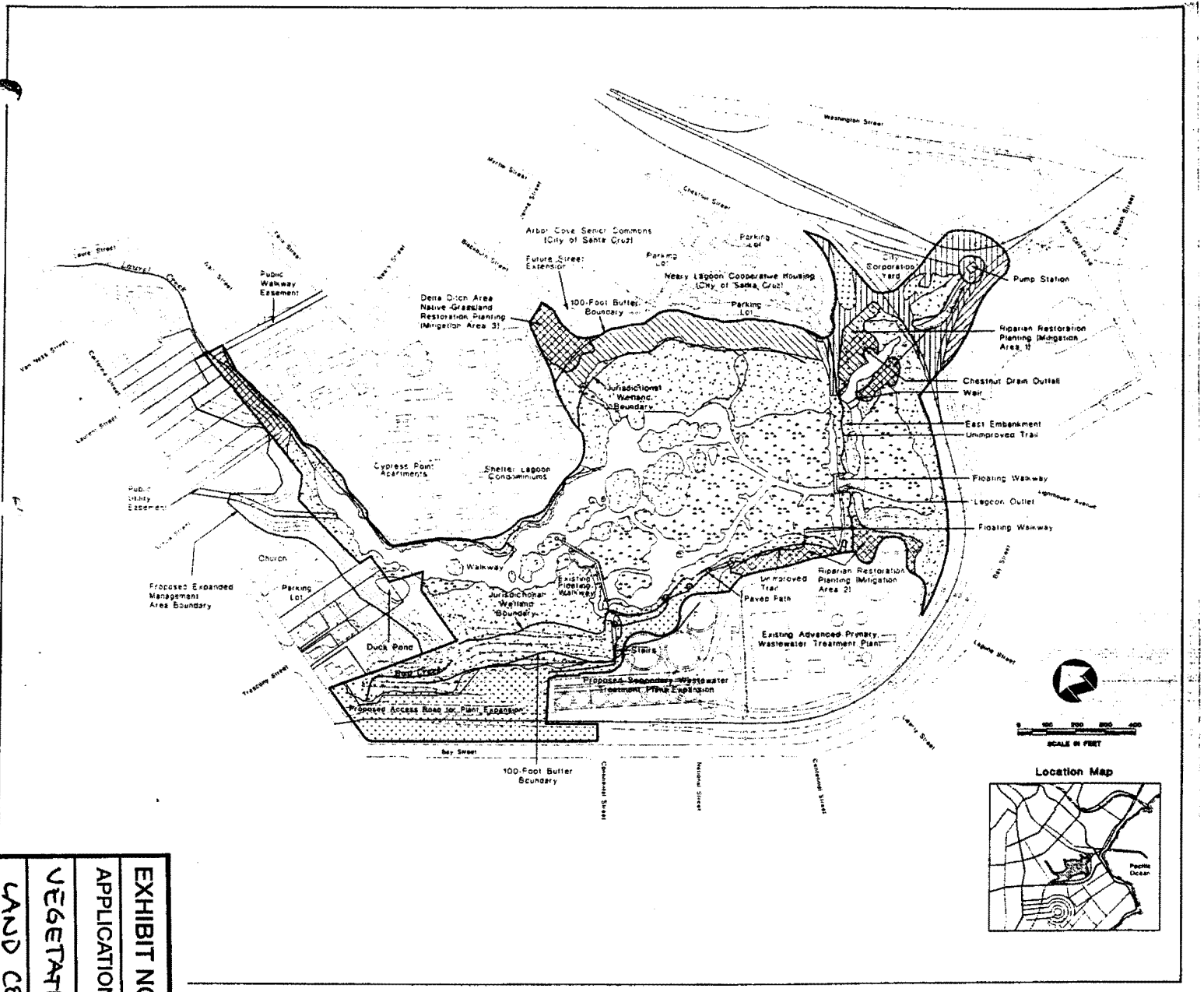
CITY OF SANTA CRUZ

Prepared by: Jones & Stokes Associates

Figure 1-4

EXHIBIT NO. F
APPLICATION NO.
MANAGEMENT ZONES

Vegetation and Land Cover



Source: Harvey and Stanley 1987 with modifications by Jones & Stokes Associates 1991

NEARY LAGOON MANAGEMENT PLAN

CITY OF SANTA CRUZ

Prepared by: Jones & Stokes Associates

Figure 2-5

EXHIBIT NO. 6
APPLICATION NO.
VEGETATION & LAND COVER

Table 2-7. Estimated Number of Park Users at Neary Lagoon

Month	Tennis Courts Users[a]	Play Area Users	Floating Walkway Users	Total Users[b]
January	800	100	80	980
February	825	100	80	1,005
March	2,000	250	100	2,350
April	2,200	450	180	2,830
May	2,500	450	260	3,210
June	3,000	450	100	3,550
July	3,000	600	100	3,700
August	3,000	600	100	3,700
September	2,500	500	100	3,100
October	2,500	450	260	3,210
November	750	250	340	1,340
December	750	100	260	1,110
Total	23,825	4,300	1,960	30,085

[a] Estimated from signup sheets.

[b] Includes special functions and daily observations.

Source: Lindquist pers. comm.

fire trucks draw their water from hydrants, which are located at the end of most streets in Santa Cruz. Fire truck hoses are approximately 1,600 feet long, an adequate length to convey water from hydrants to the riparian area. (Lopes pers. comm.)

Formal use of the lagoon for environmental education activities is not well documented. The Santa Cruz County Office of Education has published educational materials for use during programs conducted at the lagoon. School classes visit the lagoon to learn about the cultures of local Native Americans who lived in the area. Activities have included basket making and food grinding and preparation (Goldfrank pers. comm.). Because the lagoon is located close to Bay View Elementary School, many teachers from the school walk with students to the lagoon for educational fieldtrips (Helman pers. comm.). Other schools in the area also use the lagoon consistently (Iglesius pers. comm.). The Santa Cruz Bird Club conducts regular outings to the lagoon in the spring and fall.

WILSON, IHRIG & ASSOCIATES, INC.
ACOUSTICAL CONSULTANTS

5776 BROADWAY
OAKLAND, CA
U.S.A. 94618-1531
Tel: (510) 658-6719
Fax: (510) 652-4441
E-mail:info@wiai.com
Web: www.wiai.com

3 December 1999

Ms. Susan Harris
Associate Planner
Parks & Recreation Department
City of Santa Cruz
323 Church Street
Santa Cruz, CA 95060

Subject: Technical Memorandum
Prediction Methodology and Recent Noise Survey Results
Neary Lagoon Skate Park EIR

Dear Ms. Harris:

As requested in your letter of November 15, 1999, this memorandum presents additional information regarding the methodology used to predict the levels of noise to be created by the proposed skate park at the Neary Lagoon site. I have also included the results from the long-term noise surveys performed during November 1999 and a table comparing present noise levels with the level of noise predicted for the skate park.

Methodology used for predictions

As the noise produced by operation of the skate track consisted primarily of impact-type sounds arising from the interaction of skates and the concrete floor, for the purpose of modeling, those sources were considered point sources. The level of sound produced by point sources decays at a constant rate of 6 decibels per doubling of distance. Skate board noise was measured at the skate track facility at Youth Community Park.

Given an average distance from the measuring microphone to the center of the track of approximately 170 feet, the sound pressure level at the various locations studied at the Neary Lagoon site were calculated using the following equation:

$$L_{receiver} = L_{measured} - 20\log_{10}\left(\frac{d}{170}\right)$$

where:

$L_{receiver}$ = noise level calculated at receiver point
$L_{measured}$ = noise level measured at microphone location
d = distance between center of skate track to receiver point

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As mentioned in my Technical Memorandum to you dated 23 November 1999, the level of skate noise was measured by means of two microphones: one located at approximately 120 feet from the edge of the Santa Rosa skate track and another located approximately at a distance of 60 feet from the edge of the skate track.

Thus, if the sound data from the microphone located at 60 feet from the edge of the skate track would have been used, then the constant "170" in the above equation could have been substituted by the constant "110" (approximate distance from the *center* of the skate track to the microphone 60 feet from the *edge* of the track), thus yielding a similar, if not identical result.

The data from the microphone location at 120 feet was used for all predictions instead of that from the microphone at 60 feet in order to reduce the range of error due to acoustic proximity effects and to reduce variations in sound level due to skaters very close to the microphone. Due to the logarithmic nature of sound spreading with distance, the closer the microphone location is to the skate track, the larger the difference in noise levels between skaters on the near end of the track versus those on the far end of the track. On the other hand, due to the prevailing level of environmental noise at the Santa Rosa facility (noise other than that coming from the track), it was not possible to measure much further than 120 feet to reduce the error even more, as skateboard noise would have been substantially contaminated by other noises in the environment.

The excess attenuation introduced by the presence of the wooden fence proposed as a mitigation measure and/or by the edge of the plateau was calculated by means of the point-source barrier equation:

$$Att = 20\log_{10}\left(\frac{\sqrt{2\pi N}}{\tanh\sqrt{2\pi N}}\right) + 5\text{dB}$$

where:

Att = excess attenuation due to the presence of the barrier
N = Fresnel number (dimensionless)

The Fresnel number is defined as:

$$N = \frac{2}{\lambda}(A+B-d)$$

where:

λ = wavelength of sound
d = straight distance between source and receiver
A+B = shortest path length of wave travel over the sound wall between source and receiver

Thus, to arrive at the sound levels predicted, two corrections were made to the data measured at Santa Rosa: 1) a distance correction (spherical spreading loss correction) and 2) a barrier

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shielding correction (diffraction correction). As the diffraction excess attenuation is strongly dependent on the frequency of the sound, a different correction was calculated and thus applied for each 1/3 octave frequency band from 25 Hz to 10 Khz, covering most of the audible spectrum. The source spectrum obtained at Santa Rosa was used as the reference spectrum in order to arrive at the final A-weighted sound level.

The source height assumed for the skate boards for the purposes of modeling was 1 foot, and the distance to the edge of the plateau was assumed to be 40 feet on average.

Predicted Noise Levels

The levels of noise predicted at the various locations studied are shown in Table 1. The locations where measurements and predictions were made are shown in Figure 1.

Table 1 summarizes the measured levels of environmental noise at all locations studied and compares them with the typical maximum and occasional maximum noise levels predicted for the skate park with and without the 6' tall sound fence recommended as mitigation measure NOISE-1 in the DEIR. Please note that the predicted levels are for skate track noise *only* and do not represent the level of noise after construction of the skate park, which will remain the same as they are today.

Inspection of this table reveals that with only one exception, the predicted level of noise due to skate track operation is lower than the prevailing level of environmental noise. The exception being noise at the backyard of two homes on California St. where during quiet moments there is the possibility that occasionally loud skate noise will exceed the prevailing noise environment. Once mitigation is implemented, however, the conclusions reached in the EIR, namely that operation of the skate park will result in no noise impact to the present environment and virtually no audibility of skate noise will hold.

Measured Environmental Noise Levels

Another interesting conclusion which can be arrived at by inspection of Table 1 is that the level of noise at all three locations measured within the lagoon area (below the skate track plateau area) are very similar, particularly in terms of hourly averages.

The statistical noise level information gathered by the long-term noise monitoring units has been summarized in graphical form and is included in Appendices A and B. Appendix A shows the data obtained in January 1999 for the preparation of the DEIR, while Appendix B shows that obtained in November 1999 at the request of the California Coastal Commission. A graphical indication of the locations where those measurements took place is shown in Figure 1.

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The data presented in these Figures shows noise levels in decibels on the vertical scale versus time on the horizontal scale, starting at midnight on the left side of the graph, continuing throughout the day until reaching midnight on the right side of the graph.

In order to manage and summarize the vast amounts of noise information gathered by the sound meters, they were programmed to compute and store the sound level average (L_{eq}) for the previous hour, at the hour, for every hour of the day. So, for example, at exactly 6:00 p.m., the sound meter computes the average noise level for the previous hour (5:00 p.m to 6:00 p.m.) and permanently stores it in its internal memory.

The information gathered by the sound meter units was later transferred to WIA microcomputers for storage, analysis and graphing. The hourly Equivalent Noise Level (L_{eq}) provided by the meters were used in the calculation of the daily Day-Night Level (Ldn or DNL). The daily average level (L_{dn}) is used by most noise elements for zoning purposes as a basis for the determination of compatible land uses.

Due to the fact that the level of noise in a typical environment is continuously varying, four statistical descriptors also called *percentile sound levels,* are also calculated every hour on the hour. These four statistical descriptors (L_1, L_{10}, L_{50} and L_{90}) provide an indication on the degree of variability on noise over time and of the level of typical noise conditions. The numeric subscript of each indicator denotes the percentage of the time within each hour that the constantly fluctuating environmental noise exceeded the level that the indicator has reached for that hour. Their meaning is primarily as follows:

L_1, the noise level exceeded for 1% of the time is representative of the occasional, isolated maximum or peak level which occurs in an area. L_1 is usually strongly influenced by short-duration, high noise level events which occur during the measurement time period and are often determined by aircraft flyovers or large vehicle passbys. However, the L_1 is still lower than the *absolute maximum* noise level which could be reached during the hour.

L_{10} describes typical levels of noise reached by frequently occurring loud and intrusive events, for example, during nearby passbys of trains, trucks, buses and automobiles, when there is relatively steady traffic.

L_{50} represents the statistical median noise level over the hour and does reveal the long-term influence of local traffic. Half of the noise level measurements for the previous hour are higher than the value reached by the L_{50} while the other half are lower.

L_{90} describes the typical minimum or "residual" background noise levels observed during the quietest 10% of the hour. The background noise level is normally made up of the summation of a large number of sound sources distant from the measurement position and not usually recognizable as individual noise sources. Generally, the prevalent source of this residual noise is distant street traffic. The L_{90} is not influenced by occasional local motor vehicle

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passbys. However, it is usually strongly influenced by continuous stationary sources such as air conditioning equipment and/or pumps, fans and motors at the waste treatment plant.

Inspection of the noise data contained in these graphs shows that fairly high levels of noise exist occasionally in the lagoon area, reaching between 70 and 76 dBA (see Figures A-3C, A-3D, and A-3G for the January 1999 survey and Figures B-2B, B-2F and B-3B). These high noise levels were actually not reflected in Table 1 of this Technical Memorandum because they were not considered typical, as they do not repeat consistently from day to day. For the purpose of the impact analysis only those occasional maximum levels (L_1) repeating consistently from day to day were used, which are lower than the levels shown in the Figures mentioned above.

* * *

Please do not hesitate to contact me if you have any questions about the information in this Memorandum.

Very truly yours

WILSON, IHRIG & ASSOCIATES, INC.

Pablo A. Daroux
Senior Consultant
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12/3/99
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Receiver Location [1]	Distance to center of skatetrack	Existing Noise Levels [2]		Predicted Level [3] No Sound Fence		Predicted Level [3] w/6' Sound Fence	
		Average	Occasional Maximum	Typical Maximum	Occasional Maximum	Typical Maximum	Occasional Maximum
Bay Street home	300'	62-67	72-76	44-46	50-55	N/A	N/A
California St. home	500'	48-53	52-58	40-42	45-50	30-32	35-40
Shelter Lagoon condo	562'	44-46	47-54	33-35	37-42	26-28	30-35
Pathway (near gate)	313'	46-50	55-65	35-37	40-45	28-30	33-38
Bay Creek (high quality riparian)	351'	44-51	50-60	36-38	41-46	28-30	33-38
Edge of plateau (10' fr. SBW)	60'	45-55	60-70	58-60	63-68	41-43	46-51

NOTES: (1) See Figure 1 for a site map depicting locations
(2) As measured during multiple days as part of the long-term noise surveys. Only hours between 9:00 a.m. to 9:00 p.m.were considered. See Appendices A and B for actual noise data gathered.
(3) Sound levels predicted due to operation of skate park *only*. Predictions based on skate level measured at Santa Rosa.

ABLE 1: COMPARISON BETWEEN PRESENT NOISE LEVELS AND PREDICTED NOISE LEVELS DUE TO OPERATION OF THE PROPOSED SKATE PARK.

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FIGURE 1 NOISE MEASUREMENT LOCATIONS

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APPLICATION NO.
12/3/99
TECH. MEMO.

WILSON, IHRIG & ASSOCIATES, INC.
ACOUSTICAL CONSULTANTS

5776 BROADWAY
OAKLAND, CA
U.S.A. 94618-1531
Tel: (510) 658-6719
Fax: (510) 652-4441
E-mail:info@wiai.com
Web: www.wiai.com

23 November 1999

Ms. Susan Harris
Associate Planner
Parks & Recreation Department
City of Santa Cruz
323 Church Street
Santa Cruz, CA 95060

Subject: Technical Memorandum
Skateboard Noise Characterization at Santa Rosa Skate Park

Dear Ms. Harris:

As requested in your letter of November 15, 1999, this memorandum presents additional information regarding the characterization of skateboard noise I conducted at the skate track located at the Youth Community Park in the City of Santa Rosa.

Site description

The Santa Rosa Skate Track is located within the Youth Community Park, on the west side of Fulton Road, between Jenes Lane and Quail Hollow Drive, approximately 2 miles north of SR 12. Fulton Rd. is a 4 lane street. The Youth Community Park is approximately 1,000 feet wide by about 1/4 mile long on the Fulton Street side. The topography is mainly flat, primarily consisting of compacted soil with several areas having short grass and a few trees.

The skating area has a shape which is approximately circular with a diameter of about 80-100 feet. It is located on the east side of the park, near the southern entrance on Fulton Road. On the opposite side of Fulton Road there are mostly single-story, single family residences.

Date when measurements were taken

Measurements were taken on Monday, 1 September 1997, Labor Day Holiday.

Weather conditions during measurements

Sunny for most of the duration of measurements, with high clouds covering about 30%-50% of the sky (based on photographs taken during noise survey) and a light breeze.

Number or intensity of use at skate park

The number of skaters in the skate track and surrounding area varied during the slightly more than one hour of the measurement, ranging from a low count of approximately ten up to a high count of about 30 users. The number of users *within the fenced perimeter of the skate track* did not exceed approximately 15-20 at any time during the survey period. There are several benches on the south side of the skate track facility, outside of the fenced area. Several people spent time sitting in and standing around those benches, usually talking among themselves and observing other skaters inside the track.

Skaters within the track typically skated along the perimeter rim of the track, a flat path approximately 5 feet wide, continuously rolling while waiting for their turn to enter the bowls. The noise generated by skaters rolling along the perimeter rim was typically very low, consisting of a smooth, broadband rolling sound. The rolling sound was clearly perceptible only at close distances of 60 feet or less from the edge of the track given the contamination from other naturally occurring environmental sounds at the time of the measurements. It should be noted that at any particular time there is generally only one skater inside the bowls, as each waits for their turn to begin a run into the bowls, so as to avoid interfering with or running into another skater.

It is this self-regulating action by the skaters what limits the level and frequency of noise produced by the facility. Given that each skater spends several seconds traversing the bowls and other features of the track while other skaters are still on the perimeter rim and that the noise produced by the skates while inside the bowls is relatively low level rolling noise, increases in the number of users of the facility only resulted in minor increases in the overall level of noise, as impact noises are created by a single skate at a time and are therefore not additive. The frequency of impact-type noises, however, increased up to a maximum determined by the time each skater spends inside the bowls.

No skating activities were observed outside of the fenced area while the observer was at the site preparing for the measurements, conducting those measurements and disassembling the measurement setup used.

Duration of the measurements

Sound was recorded in digital magnetic tape for a period of approximately sixty three minutes. As these measurements were intended to characterize the noise produced by operation of the skate track and not to assess the level of environmental noise, measurement lengths in excess of a few minutes were not necessary due to the repetitive nature of the sound produced by skates. The observer was at the site for slightly over three hours, however.

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12/3/99 TECH MEMO

Distance of measurement from skate park

Simultaneous sound recordings were made at a point sixty feet west of the northeast corner of the skate track and at another point 120 feet west of the southwest corner of the track. The microphone at the 120 feet location was raised to a height of approximately 8 feet above the ground while the microphone at the 60 feet location was raised to a height of approximately 5 feet above the ground. All distances were measured from the perimeter fence by means of a wheel tape measure. The intervening ground between the microphones and the skate track was mostly compacted, barren earth with small patches of short grass. Locations were chosen so as to maximize the distance from Fulton Road, and therefore minimize the influence from vehicular noise while still being able to accurately capture noise from the skate track. Figure 1 shows the approximate locations where measurements were made.

Measurement Methodology/Acoustical equipment used

The noise sampling was carried out by continuously and simultaneously recording the sound captured by two laboratory-grade condenser microphones, Brüel & Kjær Type 4165 #1340577 and Brüel & Kjær Type 4133 #639692 onto a Digital Audio Tape (DAT). The data recorded on tape was later analyzed at our acoustical laboratory by a WIA technician using a General Radio Model 1926 1/3 octave analyzer interfaced to a computer. The laboratory analysis consisted of the creation of a acoustic strip chart of the contents of the digital tape by means of a Brüel & Kjær Model 2305 strip chart recorder and posterior sampling of loud events caused by skateboards in 1/3 octave bands to identify the distribution of sound energy over audible frequencies for the noise. The calibrated strip chart permitted a direct readout of the maximum noise levels produced by skates.

The tape recording setup was calibrated before and after the measurement by means of a portable acoustic calibrator brand Brüel & Kjær Model 4230 serial #543249. This portable calibrator was itself cross-calibrated at our laboratory against a reference pistonphone, Brüel & Kjær Model 4220 serial #159016, which is used solely for this purpose.

The reference pistonphone was calibrated by Odin Metrology on 25 August, 1996. This calibration is traceable to Test No. 822/256856 by the National Institute of Science and Technology (NIST) in Gaithersburg, MD. Flat frequency response from 20 Hz to 20 KHz and linearity of the Sony TCD-D10 digital DAT tape recorder #10683 was verified in the WIA laboratory on 1 March, 1994.

General Observations

The primary source of noise at the skate track was that produced by skaters as they exit the bowls and return to the flat rim in the perimeter of the track. During a brief moment, the skates lose contact with the concrete surface and impact noises resulted when the wheels

returned to it. This impact noise was of a very short duration and was quickly damped by the feet of the skater weighing on the skate immediately after.

A louder impact-like noise was produced whenever the skater lost control of the skate which then impacts the concrete surface from a higher point. In this case the noise produced by the skate is not dampened by the skater's feet, therefore lasting slightly longer and is generally being succeeded by multiple impact noises as the skate bounces its way to a rest. This type of event, however, was rare.

Please do not hesitate to contact me if you have any questions.

Very truly yours

WILSON, IHRIG & ASSOCIATES, INC.

Pablo A. Daroux
Senior Consultant
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EXHIBIT NO. 5
APPLICATION NO.
11/23/99 TECH. MEMO.

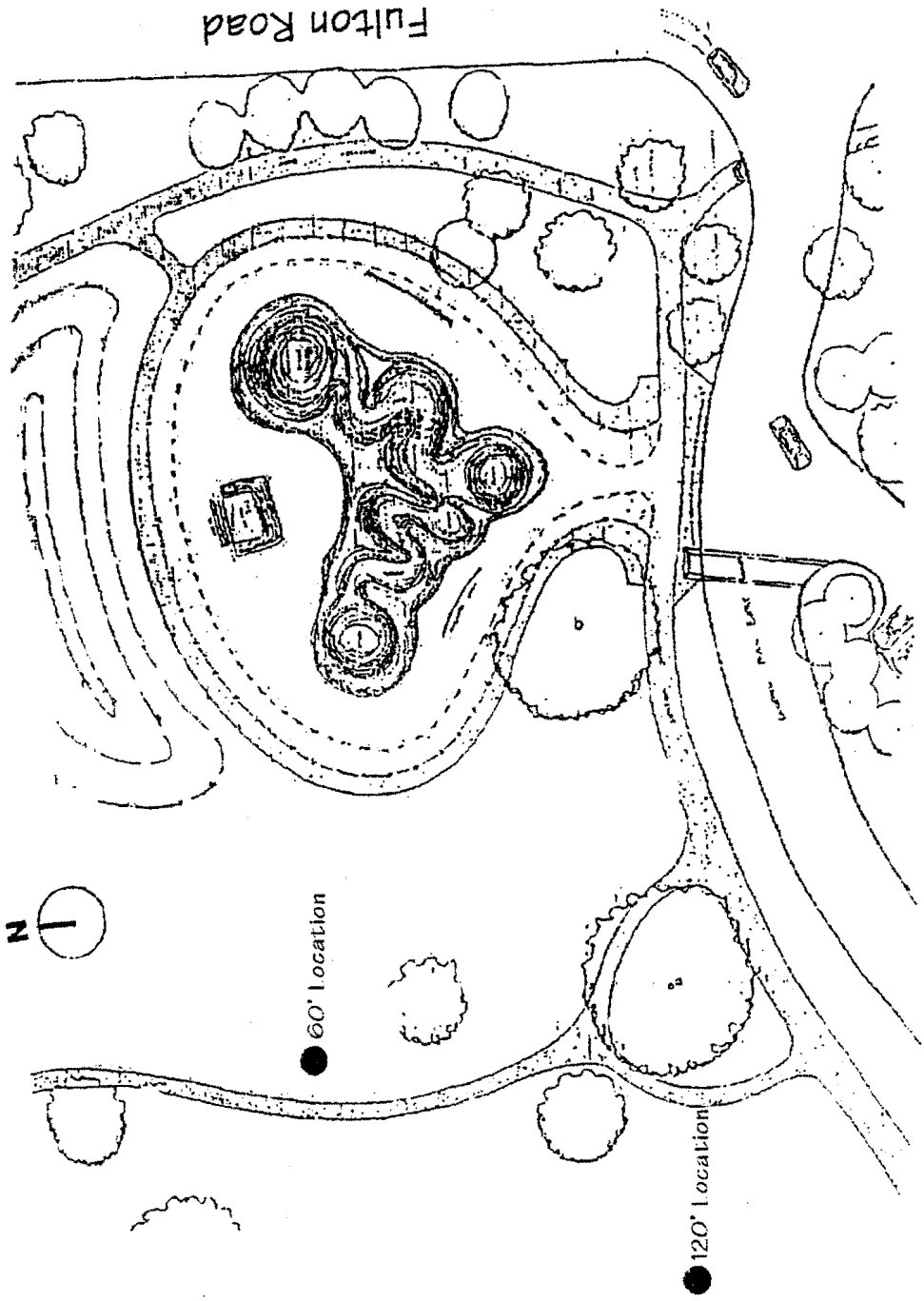


Figure 1: APPROXIMATE LOCATION WHERE NOISE MEASUREMENTS WERE MADE

EXHIBIT NO. 5
APPLICATION NO.
11/23/99
TECH. MEMO.

WILSON, IHRIG & ASSOCIATES, INC.
ACOUSTICAL CONSULTANTS

5776 BROADWAY
OAKLAND, CA
U.S.A. 94618-1531
Tel: (510) 658-6719
Fax: (510) 652-4441
E-mail:info@wiai.com
Web: www.wiai.com

14 December 1999

Ms. Susan Harris
Associate Planner
Parks & Recreation Department
City of Santa Cruz
323 Church Street
Santa Cruz, CA 95060

Subject: Interpretation of Tabulated Noise Levels re:
Neary Lagoon Skate Park

Dear Ms. Harris:

An interpretation of the noise data presented in Table 1 in our 3 December 1999 technical memorandum is provided herein, as requested. The table essentially includes a comparison of (1) existing environmental noise levels as measured at various receptor locations, and (2) predicted noise levels at the same receptor locations, due only to skate activity.

The "Existing Noise Levels" at each "Receiver Location" are produced by existing noise sources: traffic, wastewater treatment plant, etc. These sources will not be affected by the installation of the skate park, and ambient noise levels due to these sources will remain the same.

The "Predicted Level" of noise at the receiver locations produced only by skate activity is presented in subsequent columns in Table 1. Skate park noise is intermittent in nature such that only maximum noise levels, due primarily to skateboard impact on the pavement, are presented.

The comparison shows that the expected noise levels produced by the skate park are considerably lower than the noise levels currently produced by existing sources. Then, the new noise source, i.e. the skate park, introduced into this environment will be masked by the ambient noise such that skate activity will not affect the existing noise levels. In other words, if we were to perform an identical noise survey at the same measurement locations after the skate park was completed and in use, we would expect to see no change in the "Existing Noise Levels" included in Table 1.

Please call if you have any questions, or need further clarification.

Very truly yours,

WILSON, IHRIG & ASSOCIATES, INC.

Thomas F. Bergen

Thomas F. Bergen
Associate Consultant

EXHIBIT NO. K
APPLICATION NO.
12/14/99
ACOUSTIC LETTER

BRYAN M. MORI
BIOLOGICAL CONSULTING SERVICES
1016 Brewington Avenue, Watsonville, CA 95076; Tel/Fax (831) 728-1043

December 8, 1999

Susan Harris
Associate Planner
Parks and Recreation Department
City of Santa Cruz
323 Church Street
Santa Cruz, CA 95060

RE: NEARY SKATE PARK NOISE STUDY

Dear Ms. Harris:

This letter is in response to the Technical Memorandum of the noise study performed at Neary Lagoon by Wilson, Ihrig & Associates, Inc. (WI&A) for the Neary Lagoon Skate Park EIR (letter dated 3 December 1999) and relates to wildlife issues.

After reviewing the Technical Memorandum, I believe the report supports my conclusions that noise will not likely have a significant impact on the wildlife at Neary Lagoon. For example, the predicted typical maximum noise levels from the skate park at three sound monitoring stations within the lagoon area below the plateau (Shelter Lagoon Condo, Pathway and Bay Creek) are below the existing average noise levels for each of the stations, while the predicted occasional maximum noise levels are within the existing average noise levels, even without the 6-foot sound fence (Table 1; WI&A letter dated 3, December 1999). With the sound fence, which is proposed as a mitigation measure, both the typical and occasional maximum predicted sound levels are below the existing averages at each of the three sound monitoring stations. Given these findings, I do not expect significant adverse changes in wildlife use of the lagoon, such as diving ducks using the central part of the lagoon during winter, as a result of noise from skateboarding activities.

The exception to the above results is the findings from the plateau monitoring station, with no sound fence installed, where the typical maximum predicted sound levels are slightly higher than the existing average at that station, and the predicted occasional maximum is within the present noise level range. Since the plateau station was only 10 feet from the edge of the proposed skateboard park, this finding is not surprising. However, with the sound fence installed, both the typical and occasional predicted maximum sound levels are within the existing average for this station. Therefore, with the implementation of the sound fence, no significant adverse impacts to birds using the trees along the edge of the plateau are expected. In fact, even without the sound fence, while the increase in noise levels may disturb birds using habitat along the edge of the plateau immediately adjacent to the skate park, the impact is not expected to be significant, since, presently, no riparian-obligate or special status bird species are nesting along the thin, marginal habitat along the plateau, and the highest quality riparian habitat is along the bottom of the drainage, where the predicted sound levels are below or within existing noise levels. Additionally, the birds that do utilize the trees along the edge of the plateau are primarily common urban species, which are continually subjected to a variety of urban noises and are expected to adapt to noises from the skate park. Literature review suggests that a variety of bird species adapt

to non-threatening sounds, including jet noises up to 100 dBA, without negative effects on productivity (Noise Impacts on Wildlife and Recreation: Literature Review and Management Recommendations K. Brandt and M.T. Brown 1988). Of course the effects of noise depend on the species and location; but with regards to Neary Skate Park, we are dealing with mostly urban wildlife in an urban setting.

If you have any comments or questions regarding this letter, please call me.

Sincerely,

Bryan Mori
Wildlife Consultant

EXHIBIT NO. L
APPLICATION NO.
BIOLOGIST
LETTER

(Souce: City of Santa Cruz, Wastewater Treatment Plant Modification Program: Addition to Secondary Treatment Facilities. Draft Environmental Impact Report, Nov. 1990)

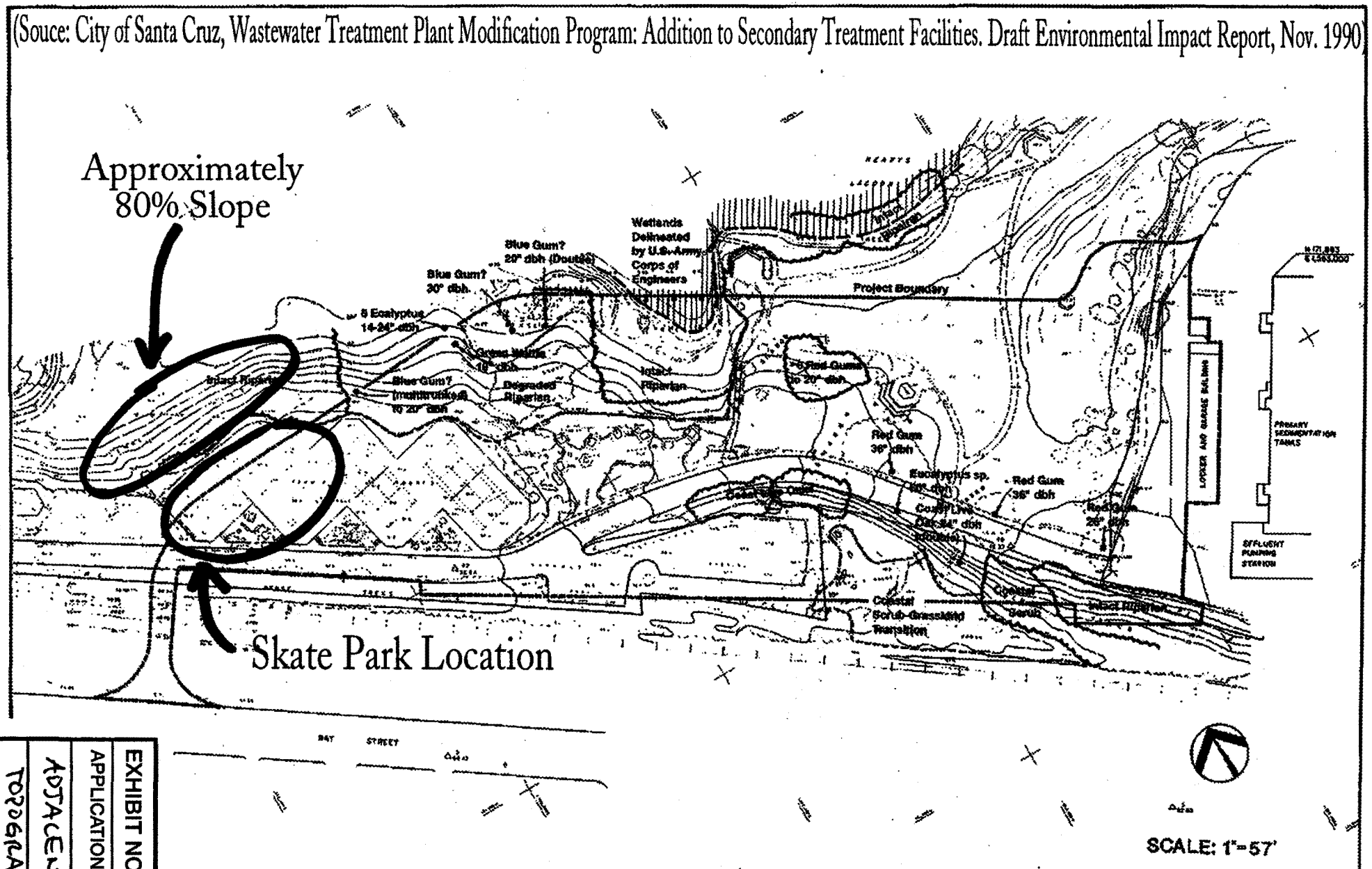


EXHIBIT NO. M
APPLICATION NO.
ADJACENT TOPOGRAPHY

CITY OF
SANTA CRUZ

PARKS & RECREATION DEPARTMENT

323 CHURCH STREET, SANTA CRUZ, CA 95060

RECEIVED

NOV 24 1999

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

November 23, 1999

Kevin Colin
California Coastal Commission
Central Coast Area Office
725 Front Street, Suite 300
Santa Cruz, CA 95060

Subj: Commission Appeal No. A-3-STC-081

Dear Mr. Colin,

This letter is in response to your correspondence dated November 8, 1999 requesting further information regarding the Neary Lagoon Skate Park project. In addition to this submittal, the City of Santa Cruz will provide technical analyses from the acoustical consultant, Pablo Daroux of Wilson Ihrig & Associates, and the consulting wildlife biologist, Byran Mori.

This letter provides further clarification regarding the conditions of approval for the project that would prevent skateboard use on the boardwalks and pathways within the Neary Lagoon Management Area. Existing pathway and boardwalk use policies are also discussed.

Existing Pathway and Policies

In accordance with the Neary Lagoon Management Plan, the City of Santa Cruz has developed a pathway system that provides public access throughout the Neary Lagoon Management Area. This pathway system includes sections of floating boardwalk, decomposed granite pathways and asphalt pathways.

Pedestrian use is allowed on all pathways. Bicycling is prohibited on all boardwalks. Bicycling is allowed on the decomposed granite and asphalt pathways connecting the Chestnut Street entrance to the California Street entrance (please see attached figure). Bicycle use is allowed because this route is considered an important transportation corridor connecting the western side of the City to the central downtown core. It also provides a safe route for school children to access Bayview Elementary School.

Skateboarding and skating is prohibited on all pathways and boardwalks. The boardwalks and pathways were specifically designed to be resistant to skateboarding

EXHIBIT NO. N
APPLICATION NO.
CITY LETTER

while still conforming to ADA standards. The boardwalk planks were constructed in a horizontal pattern with 1/8" spacing between planks to discourage skate boarding and skating. Other pathways are surfaced with decomposed granite that is not conducive to skateboarding or skating.

The design of the boardwalk system has been effective in deterring skateboarding and roller-skating. Prior to the public hearings for the proposed skate park, the Parks and Recreation Department has not received a single complaint about skating or skateboarding at Neary Lagoon. Parks and Recreation Department maintenance staff also reported no incidents of witnessing skateboarding. A maintenance worker did observe one incident in which a young child, accompanied by an adult, was attempting to roller-skate on the boardwalk. Since the skate park proposal hearings, the Parks and Recreation Department has received three complaints regarding skateboarding. Carol Long, the appellant, made all three complaints.

Incidents of bicycle use on the boardwalks are more frequent. Although the trails are clearly signed "No Bicycles," violations by adults and children do occur. Violators may be ticketed and fined if a Ranger is present. Also, maintenance staff inform park users that bicycle riding is not allowed.

Conditions of Approval and Enforcement Policies

With implementation of the skate park project, skateboarding and skating will continue to be prohibited on all pathways within the Neary Lagoon Management Area. Bicycle use will also continued to be prohibited on the boardwalks.

The skate park is not expected to result in a significant increase in skateboarding, skating or bicycle violations for the following reasons:

- The existing boardwalk design and decomposed granite pathways have historically served as a deterrent to skateboarding and skating.
- For users arriving by skateboard, skates or bicycles, accessing the skate park through the lagoon area is not the most direct route for most City residents. The only exception would be those residents in the immediate vicinity of the Blackburn and Chestnut Street entrances. Bicycle access from the Chestnut Street entrance is allowed.
- Skateboarders and skaters typically select routes that allow continuous skating or skateboarding on smooth surfaces rather than choosing routes with rough or unskateable surfaces which require multiple dismounts.
- Users arriving by vehicle or bus would not access the skate park through the lagoon area. They would utilize the Bay and California Street entrance.

Although it is not expected that there will be a significant increase in skate board and bicycle violations in the lagoon area, suggested measures were included in the EIR to

further minimize any impact. These measures have been incorporated into the Conditions of Approval for the project. They include:

- installation of signs informing users of regulations;
- installation of barriers;
- increased staff presence, including recreational aides and Ranger staff; and
- education and outreach regarding the rules and regulations through the volunteer skate patrols.

In addition to these measures, the Parks and Recreation Department would coordinate with skate shops, websites, etc. to eliminate access routes through the lagoon from any skate park location maps.

If problems do occur, the City would temporarily close the skate park. The reason for the closure would be well publicized at skate shops, the skate park, through the Parks and Recreation Department and local media. If the first skate park closure was not effective, the skate park would then be closed for a longer period of time.

Physical measures which will be completed as part of the skate park construction to deter skating on pathways include replacement of the existing concrete pathways adjacent to the existing playground and the proposed skate park with non-skateable surfacing, such as decomposed granite. As an alternative to decomposed granite surfacing, brick pavers with a truncated cone texture could be installed at problem areas. These pavers are used as a warning for visually impaired persons at (at grade) street crossings and therefore comply with ADA standards. They have been successfully used at a skate park site to deter skating on adjacent pathways. The wheelchair accessible ramp connecting the upper bluff to the lower lagoon area would also be redesigned with non-skateable surfacing to impede skateboarding and skating.

The existing boardwalk sections would not be re-designed as part of the skate park project construction. If repeated violations occurred despite enforcement efforts and skate park closures, the City would consider additional physical deterrent measures. These could include wider spacing of decking boards to provide a more resistant surface. And installation of barriers at the boardwalk entrances. Any physical measures undertaken would comply with ADA standards.

In summary, skateboarding and skating would continue to be prohibited on all pathways within the Neary Lagoon Management Area. Based on Park and Recreation Department staff observations and public reports to the Department, there are very few incidents of skateboarding on the boardwalks. The boardwalk design and decomposed granite have been effective in deterring skating since the park opened.

The certified EIR states that there is not expected to be a significant increase in skateboarding, skating on bicycling on prohibited pathways. For most users, access to the skate park through the lower lagoon is not the most direct or convenient route. To further minimize any potential impact, the City will provide increased enforcement through Park staff and volunteer patrols. If repeated violations occur, the skate park would be temporarily closed. The City could also implement additional physical measures if necessary.

If there are any further questions, please contact Susan Harris at 420-6217 or Dena Robertson at 420-6218.

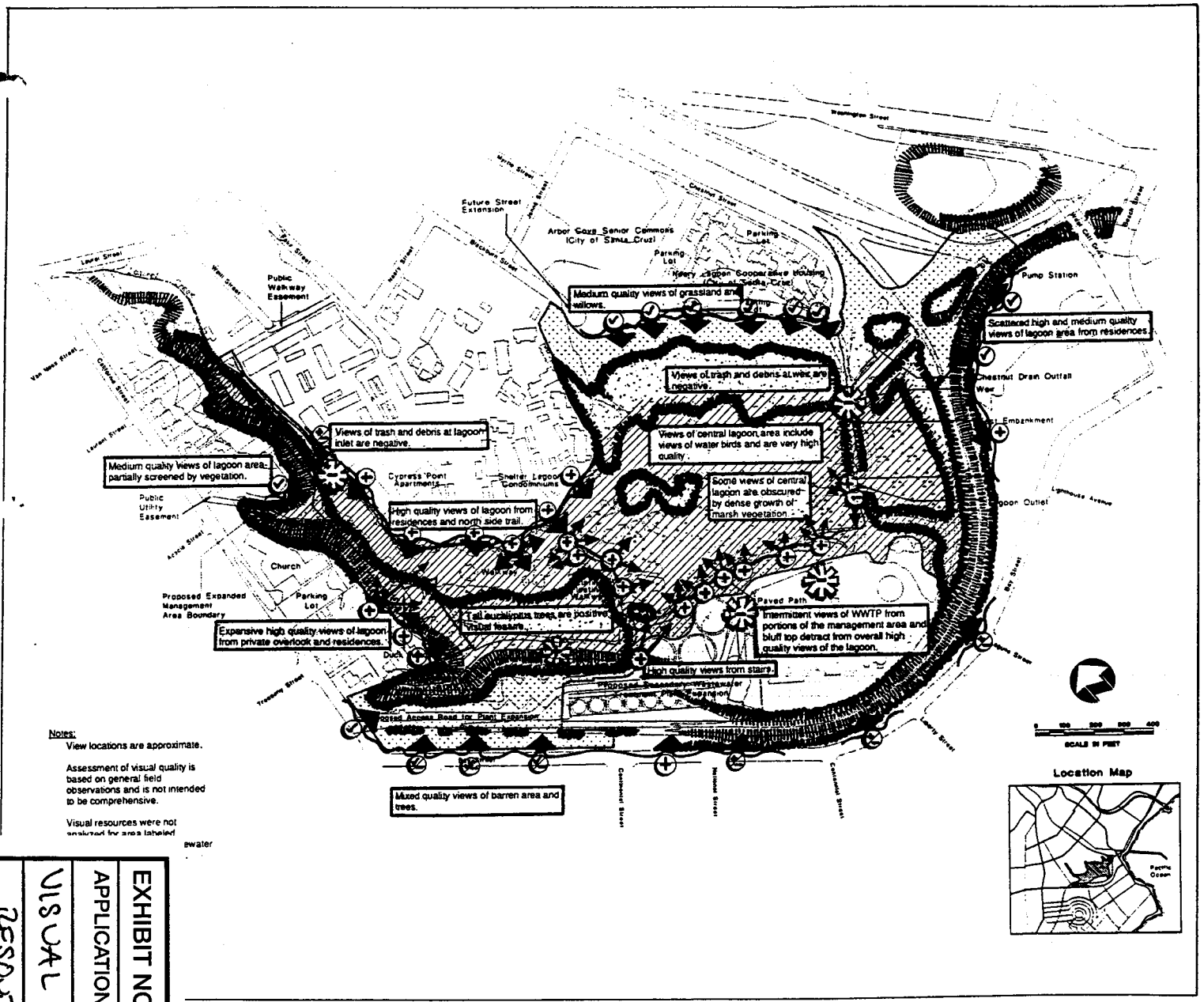
Sincerely,

Jim Lang

Jim Lang
Director
Parks and Recreation Department

Attachment
Neary Lagoon Map

EXHIBIT NO. N
APPLICATION NO.
CITY
LETTER



Notes:

View locations are approximate.

Assessment of visual quality is based on general field observations and is not intended to be comprehensive.

Visual resources were not analyzed for area labeled ewater

Visual Resources

Legend

- Riparian and Mixed Oak Woodland
- Freshwater Marsh
- Other Areas (maintained, recreation, grassland, ruderal)
- Open Water
- Area of High Visual Quality
- Bluff Edge
- Tall Vegetation Edge
- ⊕ High Quality Views
- ✓ Medium Quality Views
- ⊖ Low Quality Views
- Mixed Quality Views
- Positive Visual Feature

Source: Jones & Stokes Associates 1991

NEARY LAGOON MANAGEMENT PLAN

CITY OF SANTA CRUZ

Prepared by: Jones & Stokes Associates

Figure 2-7

EXHIBIT NO. 6
APPLICATION NO.
VISUAL RESOURCES