

## Planning Commission Staff Report

November 10, 2010  
Item 5.a.

**SUBJECT:** PCUP-280

**PROPERTY OWNER/  
APPLICANT:** Craig Ristow

**PURPOSE:** (1) Determination on whether a bicycle motocross (BMX) ramp shall be considered to be similar to and classified the same as a "skateboard ramp" as listed in the Pleasanton Municipal Code; and (2) Application for a Conditional Use Permit to construct a BMX ramp in the rear yard of the residence.

**GENERAL PLAN:** Medium Density Residential

**ZONING:** R-1-6,500 (One-Family Residential) District

**LOCATION:** 286 Kottinger Drive

**EXHIBITS:**

- A. Draft Conditions of Approval
- B. Site Plan, Elevations, and Written Narrative
- C. Letters from Neighbors
- D. Location Map
- E. Notification Map

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### BACKGROUND

Craig and Stacey Ristow started to construct a bicycle motocross (BMX) ramp in their rear yard. After receiving calls from concerned neighbors, staff investigated the situation and informed the Ristows that such a structure is not specifically allowed in a single family residential area pursuant to the Pleasanton Municipal Code.

Staff then advised the Ristows that, per Municipal Code § 18.32.050.A and Chapter 18.128 (Determination As to Uses Not Listed), the BMX ramp would require a Planning Commission determination as to whether it is sufficiently similar to other permitted or conditionally permitted uses in the R-1 zoning district, the zoning of the subject site. If the Planning Commission determines that the BMX ramp is similar to and can be classified the same as a skateboard ramp, then the required zoning approval would need to be obtained. A “skateboard ramp” is a conditionally permitted use in the R-1 zoning district and the applicant would need to obtain conditional use permit approval by the Planning Commission. Both the use determination and conditional use permit application are before the Planning Commission for review and action.

## **SITE DESCRIPTION**

The subject site is located on the north side of Kottinger Drive. The property abuts Kottinger Place, a City owned senior housing complex, and Kottinger Village Community Park on the north (rear) and single-family residential uses on the east, west, and south.

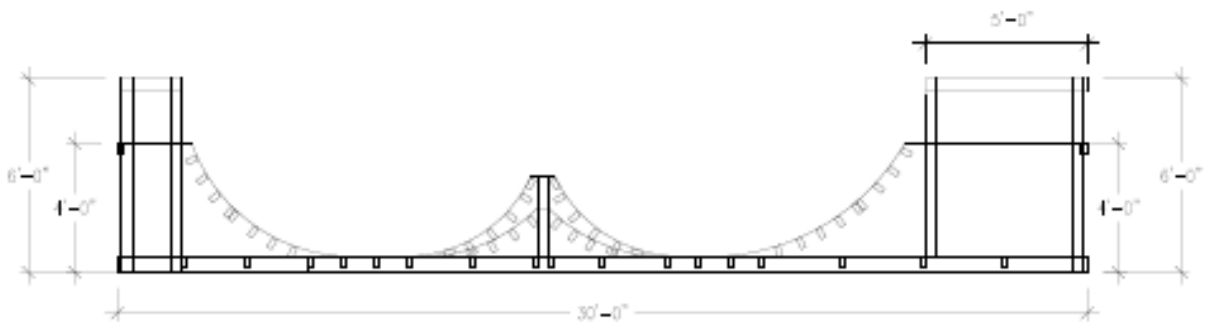


## **Project Location**

## PROJECT DESCRIPTION

The proposed partially constructed BMX ramp is located in the rear yard. The site plan shows that the proposed ramp would be located approximately 5'-0" from the rear (north) property line, approximately 6'-8" from the right (east) property line, and approximately 23'-4" from the left (west) property line. The ramp meets the Municipal Code's minimum side and rear setback requirements of three feet and five feet, respectively.

The ramp has an elongated "W" shape with two platforms. It is 30-feet long, 12-feet wide, and the platforms are four feet above the ground with a two-foot high railing.



**A** BMX RAMP SECTION - SIDE VIEW



A Picture of the Partially Constructed BMX Ramp

As stated in the written narrative, the proposed ramp is a BMX ramp that would be used for private recreational purpose by the applicant's two children and their friends. Recognizing potential noise impacts when using the ramp, the applicants state that they are willing to look into products that would dampen noise in the ramp's construction. Additionally, adult supervision would be provided when the ramp is in use.

## **ANALYSIS**

### Similarity Determination

In 1986, the City Council established the regulations, time of operation, and processing procedures for skateboard ramps. Section 18.32.040.N of the Pleasanton Municipal Code requires a conditional use permit for skateboard ramps located on one-family zoned properties. Like skateboard ramps, BMX ramps are popular among youth. A BMX ramp is designed in many ways which are similar to a skateboard ramp, commonly seen as having either a quarter or a half pipe platforms to gain height. It allows participants to do various movements with a bicycle, similar to what a skateboard ramp would allow for a skateboarder. Because of their similar characteristics and usage, staff recommends that the Planning Commission determine that a BMX ramp is substantially similar to a skateboard ramp and, therefore, subject to a conditional use permit approval in an R-1 District.

Should the Planning Commission determine that a BMX ramp is not similar to a skateboard ramp, then the applicant would be required to either remove the structure or apply for a Municipal Code Amendment to add it as a new use. The Municipal Code Amendment process would determine the zoning districts where BMX ramps would be allowed, whether they are permitted or conditionally permitted uses, and would determine any performance/operational standards such as hours of operation, size, location (setbacks), noise attenuation, etc. Depending on the outcome of the Municipal Code Amendment, the applicant may need to modify the BMX ramp or, potentially, remove it.

### Land Use

Conditional uses are uses which, by their nature, require special consideration so that they may be located properly with respect to the objectives of the Municipal Code and with respect to their effects on surrounding properties. In order to achieve these purposes, the Planning Commission is empowered to approve, conditionally approve, or deny applications for use permits.

One of the primary concerns in reviewing a conditional use permit application is the effect of a proposed use on surrounding uses. In this case, the proposal is a BMX ramp in the rear yard of a single-family residence for private recreational use.

Many homes have personal recreational/entertainment amenities in the rear yards. Amenities include play structures, swimming pools, and spas. Additionally, many homes have built-in BBQs, outdoor fire pits/fireplaces, and patios for family and friends gathering when weather permits. Recreational activities and noise are somewhat connected to each other; however, with respect to the adjoining neighbors, most of the rear yard entertainment features do not turn into a nuisance. The proposed BMX ramp is a recreational amenity for private use.

The applicant's narrative indicates that rules will be established for the use of the BMX ramp, including no riding without adult present, no riding without a signed parental consent waiver, helmet, and no profanity. Staff notes that these rules could be subject to interpretation (e.g., does an adult have to be in the rear yard watch the BMX riders or does an adult only need to be somewhere on the property?). In addition, it would be very difficult for the City to enforce such rules. Therefore, these rules would be subject to private party enforcement and there are no staff recommended conditions of approval addressing them.

As the application requires a conditional use permit approval, should problems arise in the future regarding noise and/or hours of use, the City would have the ability to bring the application back to the Planning Commission for mitigation, or possible revocation, if necessary. Staff has recommended a condition of approval (Condition No. 7 of Exhibit A) that will ensure that the surrounding residential uses are not impacted due to noise or other objectionable influences. Therefore, from a land use perspective, staff finds the use to be acceptable on the subject property, as conditioned.

### Noise

Section 9.04.074 of the Pleasanton Municipal Code requires noise dampening for a skateboard ramp. If the Planning Commission determines that the proposed BMX ramp is similar to a skateboard ramp, then the same requirement for noise dampening would be applied to the proposed BMX ramp. The applicant stated in the written narrative that they are willing to look into using noise dampening product(s) in the construction of the ramp to alleviate some noise from using the ramp. Through discussion with the applicant regarding noise dampening products, the applicant states that fiberglass insulation, or similar material, would be used in the construction of the ramp. Staff agrees that fiberglass insulation or a foam-type insulation installed within the frame of the ramp would provide acceptable noise dampening. Staff notes that R-11 fiberglass insulation has been a requirement for a skateboard ramp approved in 1990. A condition of approval has been added to make this sound insulation a requirement (Condition No. 3 of Exhibit A).

### Hours of Usage

If the Planning Commission determines that the proposed BMX ramp is similar to a skateboard ramp, then the BMX ramp could be used during the following times that are

allowed in the Municipal Code for skateboard ramps:

- 10:00 a.m. – 4:00 p.m. and 7:00 p.m. – 8:00 p.m. Monday through Saturday;
- Ramp shall not be used between 4:00 p.m. and 7:00 p.m. Monday through Saturday; and
- Ramp shall not be used on Sunday.

Staff has reviewed the restrictions with the applicants and the applicant agrees to comply.

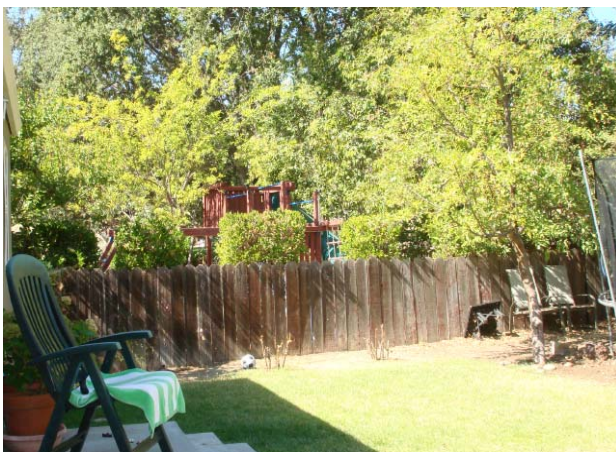
### Privacy and Screening

One purpose of the One-Family Residential District is to “protect one-family dwellings from the lack of privacy associated with multi-family dwellings.” The subject property and that of the adjoining sites are separated by an approximately five-foot high good neighbor fence on either side. Although the proposed location of the BMX ramp meets the minimum setback requirement the existing side yard fences alone would not block/shield all views of an individual standing on one of the ramp’s platforms.

The adjoining property on the east side (302 Kottinger Drive) has accessory structures located in the rear yard along the common fence. The structure closest to the common fence appears to be approximately eight to nine feet in height (see picture on the right). The existing structure would shield the view of the proposed BMX ramp from this neighbor.



While the neighbor on the east side has the existing accessory structure to shield the activities at the ramp, the neighbor on the west side (278 Kottinger Drive) would see the activities at the ramp through openings of existing vegetation (see picture below). As protecting privacy is one of the purposes of the zoning district, staff has discussed with



the applicant the possibility of planting some evergreen shrubs along the west property line to fill in the gap. The applicant indicated that the existing five-foot high fence would be replaced with a six-foot high fence. The new fence with an additional foot in height would help with screening; however, it may not be able to shield the activities on the platform which is four feet above the ground. As such, staff recommends that fast-growing ever-green shrubs, such as *Xylosma congestum*

(Shiny Xylosma), Prunus caroliniana (Carolina Cherry-laurel), etc. be planted along the west side of the property between the rear of the residence and the rear property line. These shrubs are suitable for a narrow planting area and would grow to approximately eight-to-ten feet in height to achieve the needed screening. The applicant does not object to planting the shrubs; however, he is asking that the planting be done after the fence is replaced. Staff finds that it is a reasonable request; but, believes that the planting should be installed prior to the completion of and using the ramp. A condition of approval has been added to address the planting (Condition No. 5 of Exhibit A).

### Neighbors' Comments

There are two letters included in the application in support of the proposed BMX ramp. Eric Larson, a resident at 302 Kottinger Drive (to the immediate east), stated that the proposed use is no worse than a swimming pool or a trampoline. He supports the use if the number of kids using the ramp is limited and that the ramp is used as described in the written narrative.

Helen Hatfield, a resident at 305 Kottinger Drive (across the street from the applicants) stated that the proposed BMX ramp would be a good use and that it would keep kids off streets.

Staff also spoke with another resident who wishes to remain anonymous at this time. This resident expressed concern regarding potential noise impacts to the neighborhood when the ramp was in use. This resident also raised safety concerns. Staff explained what is stated in the written narrative regarding adult supervision, etc. Staff also explained the time restrictions and recommended conditions regarding one-person at a time use of the ramp. The resident appears to be satisfied with the proposed operations and recommended conditions.

### **PUBLIC NOTICE**

Notice of this application was sent to all property owners and occupants within a 1,000-foot radius of the subject property.

At the time this report was written, Terry McClintorck, emailed staff in support of the BMX ramp. Neal McClintock, a resident at 318 Del Sol Avenue, is also in support of the proposed ramp.

### **FINDINGS**

The Planning Commission needs to make the following findings prior to granting the conditional use permit for the proposed tutorial facility:

**1. The proposed location of the conditional use is in accordance with the objectives of the zoning ordinance and the purpose of the district in which the site is located.**

Objectives of the zoning ordinance include: fostering a harmonious, convenient, workable relationship among land uses; protecting existing land use from inharmonious influences and harmful intrusions; and insuring that public and private lands ultimately are used for the purposes which are most appropriate and beneficial to the City as a whole.

The subject site is zoned One-Family residential district. One purpose of the One-Family Residential District is “to protect residential properties from noise, illumination, unsightliness, odors, dust, dirt, smoke, vibration, heat, glare, and other objectionable influences.” As proposed, the BMX ramp would meet the setback requirement for an accessory structure. As stated by the applicant during a discussion with staff, products that would dampen noise would be used in the construction of the ramp to reduce the noise level when the ramp is in use. Staff has included a condition of approval addressing the same. Furthermore, time restrictions have been placed on the use of the BMX ramp consistent with City requirements for skateboard ramps, which excludes the use of the ramp Sunday and certain hours on other days during the week. Staff believes that with proper design/construction of the ramp, and time restrictions on using the ramp, the noise would be minimized and in conformance to the purposes of the One-Family Residential District. Therefore, staff recommends that this first finding be made.

**2. The proposed location of the conditional use and the conditions under which it would be operated or maintained will not be detrimental to the public health, safety, or welfare, or materially injurious to the properties or improvements in the vicinity.**

Staff believes that the use, as conditioned, would not be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity. The proposed BMX ramp is intended for private use. The location of the ramp would be in conformance to the setback requirements of the subject zoning district. Additionally, with the proposed conditions restricting the hours of use and requiring products that would dampen noise be used, the proposed BMX ramp would not be detrimental to the public health, safety, or welfare. Furthermore, staff has recommended as a condition of approval that fast-growing evergreen shrubs be installed along the west-side good-neighbor fence so as to protect privacy and to provide screening. Therefore staff recommends that this second finding be made.



**3. The proposed conditional use will comply with each of the applicable provisions of the Zoning Ordinance.**

Chapter 18.124 of the Municipal Code (Conditional Uses) states that, because of their unusual characteristics, conditional uses require special consideration so that they may be located properly with respect to their effects on surrounding properties. Granting a conditional use permit would be consistent with the City's ability to regulate related zoning requirements. The proposed BMX ramp, as conditioned, would not be detrimental to the surrounding properties or the City in general. Therefore staff recommends that this third finding be made.

**ENVIRONMENTAL ASSESSMENT**

Projects of this nature are categorically exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15303 Class 3 – New Construction or Conversion of Small Structures. Therefore, no environmental document accompanies this report.

**CONCLUSION**

Staff recommends that the Planning Commission determine that a BMX ramp is a use that is substantially similar to a skateboard ramp and, therefore, subject to a conditional use permit at the subject site. As conditioned, staff believes that the required conditional use permit findings for the proposed BMX ramp can be met. These conditions of approval have been included to ensure that the safety and general welfare of the surrounding area is maintained.

**STAFF RECOMMENDATION**

Staff recommends that the Planning Commission find that a BMX ramp is similar to and classified the same as a skateboard ramp.

Staff further recommends that the Planning Commission approve Case PCUP-280 by taking the following actions:

1. Make the required conditional use permit findings as listed in the staff report; and,
2. Approve Case PCUP-280 subject to the conditions listed in Exhibit A.

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