

**From:** [REDACTED]  
**To:** [Public Comment](#)  
**Subject:** Fwd: Opposition to Dog Park at Heritage Oak  
**Date:** Tuesday, November 10, 2020 9:20:30 AM  
**Attachments:** [image.png](#)  
[image.png](#)  
[image.png](#)

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**PUBLIC COMMENT AGENDA ITEM : 12 - 11/10/2020**

----- Forwarded message -----

**From:** Yoav Agmon [REDACTED]  
**Date:** Thu, Nov 5, 2020 at 5:27 PM  
**Subject:** Opposition to Dog Park at Heritage Oak  
**To:** <[council@losaltosca.gov](mailto:council@losaltosca.gov)>, Donna Legge <[dlegge@losaltosca.gov](mailto:dlegge@losaltosca.gov)>, <[crichardson@losaltosca.gov](mailto:crichardson@losaltosca.gov)>, <[heritage-oaks-dog-park@googlegroups.com](mailto:heritage-oaks-dog-park@googlegroups.com)>

The proposal to make our small neighborhood park a destination for off-leash dogs and their owners has been discussed and debated on multiple occasions and triggered huge outcry and objections by many residents.

I already voiced my objection in several meetings and via emails to the relevant city entities.

AS this issue will come up soon by the City Council I like to add my voice again without repeating many of the obvious objections raised before and contributing new perspectives. It is obvious that based on the evidence presented as well as the objective guidelines for an unleash dogs park designation, Heritage Oak Park just doesn't meet the required criteria. We were so disappointed and outraged that 4 out of the 7 commissioners were willing to disregard all these facts and move forward ignoring us in the process.

I have just learned that some other parks were proposed; however due to the neighborhood objection presented via petition they were removed from the list, we also collected signatures via a petition which currently in spite of the difficulty of Covid 19 has over 200 residents signatures, as far as I can tell much exceeding the other petitions. I'm guessing that due to the failure to engage our neighborhood in the "workshops" we were unfortunately late to the game. It's not our fault that these "workshops" were promoted to attract mainly dog-owners, the majority of us ignored it as such.

I try to understand it from the perspective of dog owners in the City that want to unleash their dogs in a save place; there are already few that have been doing it in at Heritage Oak responsibly, they understand that they are "outlaws" and as such they are very careful to pick the time when there are no other people and control their dogs as to not cause an incident, but even with this minimal exposure multiple incidents occurred.

Now, if our Neighborhood park becomes a whole city destination and people motor-in their dogs in their vehicles and release them, then the Park is no longer a Neighborhood park, the impact of that is much larger.

If people bother to bring their dogs in their cars, why come to the small limited Heritage Oak, there are so many bigger and better designated parks a very short distance away.

I have visited many of the other parks in the city, and honestly I don't understand why Heritage Oak park was chosen over the others. Most of them are small and limited like

Heritage Oak, however based on my observations Heritage Oak is much more busy with all types of activities many hours of the day than many of the others. This led me to suspect that there are politics involved, maybe some of the decision makers have biases, maybe in other neighborhoods the residents were more aware of the potential project and were more vocal against it. In anyevent if The City wants to provide an off-leash solution why not open up all the parks ? Why put all the burden on our park and create an environment that will create endless conflicts and animosity between city residents, neighbors and officials? this is not the Los Altos way.

Respectfully yours,

Yoav Agmon  
1359 McKenzie Ave  
Los Altos

Attached below some photos of the park I took recently.  
Would you want your child to play on a grass where many dogs pooped and peed ? BTY, these are "paying" activities ( the city get revenue)





Do you want your small child or leashed dog to be run over by an aggressive group of unleashed dogs?



**From:** [Donna Legge](#)  
**To:** [Public Comment](#)  
**Subject:** FW: Opposition to off leash hours at Heritage Oaks Park  
**Date:** Monday, November 9, 2020 4:50:43 PM

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**From:** Smadar Agmon [REDACTED]  
**Sent:** Monday, November 9, 2020 3:06 PM  
**To:** City Council <council@losaltosca.gov>; Donna Legge <dlegge@losaltosca.gov>  
**Subject:** Opposition to off leash hours at Heritage Oaks Park

Dear council,

I already sent a letter and mentioned that the streets around the park are on the recommended routes to school published by the City of Los Altos.

I am sending a second letter with the link from the city's website which I just found.

Safe routes to school maps published on the City of Los Altos website:

<https://www.losaltosca.gov/completestreets/page/safe-routes-school>

The routes include Miramonte and Portland while students who live on McKenzie Ave. need to ride or walk on McKenzie Ave. to get to Portland Ave on their way to school.

I also want to mention that Blach school has a late start on block days, MVHS students go to school at various times, and marching band kids practice before school starts. All that makes it impossible to predict when a young rider will be on a bike on the way to school.

Regards,  
Smadar Agmon

**From:** [REDACTED]  
**To:** [Public Comment](#)  
**Subject:** PUBLIC COMMENT November 10 item #12  
**Date:** Tuesday, November 10, 2020 10:30:56 AM

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We oppose OFF LEASH DOGS at Heritage Oaks Park.

We live in a young family neighborhood and would appreciate not having to be worried about dogs attacking, coming up to or stepping into dog poop while enjoying the outdoors at a park designed for children and families. There is a designated dog park off of San Antonio specifically for dogs. Also, due to Covid, our children's mental, emotional and social health has been jeopardized during these past 8 months unable to enjoy the outdoors and parks. Another reason why a family/children's park is not the best choice for OFF LEASH DOGS.

Thank you,  
Marie and Stephen Dorcich

# LAW OFFICE OF DONALD B. MOONEY

417 Mace Boulevard, Suite J-334

Davis, CA 95618

530-758-2377

dbmooney@dcn.org

November 10, 2020

**VIA ELECTRONIC MAIL**

[council@losaltosca.gov](mailto:council@losaltosca.gov)

[administration@losaltosca.gov](mailto:administration@losaltosca.gov)

The Honorable Jan Pepper  
Members of the City Council  
Los Altos City Hall  
1 North San Antonio Road  
Los Altos, CA 94022

**Re: Item 12: Off leash hours Pilot Program at Hillview Baseball Field and Heritage Oaks Park**

Dear Mayor Pepper and Councilmembers:

This office represents Vladimir Rubashevsky regarding the Off leash hours Pilot Program at Hillview Baseball Field and Heritage Oaks Park (“Project”). Mr. Rubashevsky objects to the Project on the grounds previously set forth in his comments on to the City Council and the Park and Recreation Commission. Mr. Rubashevsky further objects to the Project on the grounds that the City has failed to comply with the requirements of the California Environmental Quality Act (“CEQA”), Public Resources Code section 21000 *et seq.* and the City has failed to comply with Government Code, section 36931 *et seq.*

## **A. APPROVAL OF THE OFF-LEASH HOURS PILOT PROJECT VIOLATES CEQA**

“CEQA is a comprehensive scheme designed to provide long-term protection to the environment. [Pub. Resources Code, §21001.] In enacting CEQA, the Legislature declared its intention that all public agencies responsible for regulating activities affecting the environment give prime consideration to preventing environmental damage when carrying out their duties. [Pub. Resources Code, § 21000(g).] CEQA is to be interpreted ‘to afford the fullest possible protection to the environment within the reasonable scope of the statutory language.’ [*Friends of Mammoth v. Board of Supervisors* (1972) 8 Cal.3d 247, 259]”. (*Mountain Lion Foundation v. Fish & Game Com.* (1997) 16 Cal.4th 105, 112.) “The environmental impact report, with all its specificity and complexity, is the mechanism prescribed by CEQA to force informed decision making and to expose the decision-making process to public scrutiny. (*Planning and Conservation League v. Department of Water Resources* (2000) 83 Cal.App.4th 892, 910; citing *No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal.3d 68, 86.) This interpretation remains the benchmark for judicial interpretation of CEQA. (*Laurel Heights Improvement Association v. Regents of the University of California* (“Laurel

*Heights I*) (1988) 47 Cal.3d 376, 390, quoting *Bozung v. Local Agency Formation Commission* (1975) 13 Cal.3d 263, 274.) As the *Laurel Heights I* court noted, “[i]t is, of course, too late to argue for a grudging, miserly reading of CEQA.” (*Laurel Heights I, supra*, 47 Cal.3d at p. 390.)

CEQA requires the preparation of an environmental document in order to identify the potentially significant effects on the environment of a project, so that measures to mitigate or avoid those effects, or alternatives that avoid those effects, can be devised. (Pub. Resources Code, §§ 21002.1(a), 21100; CEQA Guidelines, §§ 15070, 15081.) Compliance with the procedural requirements of CEQA sets the stage for development of mitigation measures and alternatives. Without a proper procedural foundation, an agency cannot comply with CEQA’s mandate that public agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen the significant environmental effects of such projects. (Pub. Resources Code, § 21002.)

CEQA requires a lead agency to adopt feasible alternatives or feasible mitigation measures that can substantially lessen the project’s significant environmental impacts. (Pub. Resources Code, § 21002; CEQA Guidelines, § 15002(a)(3); *Sierra Club v. Gilroy City Council* (1990) 222 Cal.App.3d 30, 41.) For that reason, “[t]he core of an EIR is the mitigation and alternatives sections.” (*Citizens of Goleta Valley v. Board of Supervisors, supra*, 52 Cal.3d at p. 564.)

“When a public agency proposes to undertake an activity potentially within CEQA’s scope, CEQA prescribes a three-step process. (Guidelines, § 15002(b) and (k).) First, the agency must decide if the activity is a ‘project’ i.e., an activity that “may cause either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment.” (§ 21065.) Second, if it is a project, the agency must decide whether the project is exempt from CEQA review. (*See* Pub. Resources Code, §§ 21080, 21084(a); CEQA Guidelines, § 15300 *et seq.*) Third, if no exemption applies and the project may have a significant environmental effect, the agency must prepare and approve an environmental document in the form of an environmental impact report, mitigated negative declaration or negative declaration before approving the project. (§§ 21100(a), 21151(a), 21080(d), 21082.2(d).)” (*Save Berkeley’s Neighborhood v. Regents of Univ. of California* (2020) 51 Cal.App.5th 226, 235; *California Building Industry Assn. v. Bay Area Air Quality Management District* (2015) 62 Cal.4th 369, 384.) “The agency has an affirmative duty to mitigate or avoid the project’s significant environmental impacts where feasible. (Pub. Resources Code, §§ 21002.1, 21061, 21081(a); Guidelines, § 15021(a).)” (*Save Berkeley’s Neighborhoods v. Regents of University of California, supra*, 51 Cal.App.5th at 235.)

The discretionary decision to establish an off-leash dog park at Heritage Oaks Park constitutes a project under CEQA. CEQA defines a “project” as “an activity that may cause either a direct physical change in the environment, or a reasonably foreseeable

indirect physical change in the environment, which constitutes an activity directly undertaken by any public agency.” (Pub. Resources Code, § 21065.) The CEQA Guidelines further define a “project” as “the whole of an action, which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment” and that is an activity directly undertaken by any public agency activity which is being approved. (CEQA Guidelines, § 15378(a)(1).) “The term project refers to the activity which is being approved and which may be subject to several discretionary approvals by governmental agencies. The term ‘project’ does not mean each separate governmental approval.” (*Id.*, § 15378(c).) The term “approval” refers to a public agency decision that commits the agency to a definite course of action in regard to a project. (*Id.*, § 15352(a).) The definition of “approval” applies to all projects including actions authorized or carried out by a public agency. (*Id.*)

In *Union of Medical Marijuana Patients, Inc. v. City of San Diego* (2019) 7 Cal.5th 1171, 1197-1198, the Court stated that the test for whether an action constitutes a “project” must take place in the abstract. The Court held that the “likely *actual* impact of an activity is not at issue in determining its status as a project.” (*Id.* at 1199.) Instead, “a proposed activity is a CEQA project if, by its general nature, the activity is capable of causing a direct or reasonably foreseeable indirect physical change in the environment. This determination is made without considering whether, under the specific circumstances in which the proposed activity will be carried out, these potential effects will actually occur.” (*Id.* at 1197.)

It is without a doubt that the discretionary decision to approve an off-leash dog parks, even as a pilot project, constitutes a project under CEQA. (Pub. Resources Code, § 21065; CEQA Guidelines, § 15378(a)(1).) As such, the City must comply with CEQA unless the project is exempt from CEQA review. (*See* Pub. Resources Code, §§ 21080, 21084(a); CEQA Guidelines, § 15300 *et seq.*) Upon a thorough review of the statutory and categorical exemptions under CEQA, it is clear that no such exemptions apply to this Project. As no exemptions apply, the City must prepare and circulate for public review an environmental document that addresses a number of issues such as noise, impacts to recreational facilities and public health and safety.

The creation of an off-leash dog-park at Heritage Oaks Park raises issues of public safety in terms of potential interaction between dogs and people using the park, noise from the dogs. While a February 19, 2019 Staff Report to the Parks and Recreation Committee referenced a noise study associated with a dog park in Beverly Hills, such reference an initial study prepared by the City of Beverly Hills for a dog park does not substitute for the City’s compliance with CEQA.

Appendix G of the CEQA Guidelines includes the question: “Would the Project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be



accelerated?” As many have commented, converting a portion of the park for an off-leash dog park may increase the use of the park and in such a way to lead to the deterioration of the facility. These are the type of issues that must be addressed in an Initial Study.

The City’s failure to comply with CEQA through the preparation of an initial study and an environmental document constitutes a prejudicial abuse of discretion and is contrary to law.

**B. THE CITY’S SUSPENSION OF LOS ALTOS MUNICIPAL CODE SECTION 5.08.010 CONSTITUTES AN UNLAWFUL REPEAL OF THE ORDINANCE**

The Staff Report recommends that the City Council suspend enforcement of Los Altos Municipal Code section 5.08.010. Staff’s recommendation to suspend enforcement of section 5.08.010 in effect constitutes an amendment or repeal of the ordinance. Government Code section 36931 *et seq.* sets forth the very specific procedures for enacting an ordinance. In considering the off-leash dog park, the City has failed to follow these required procedures.

Suspension of section 5.08.010 may lead to further impacts to the park. Section 5.08.010(B)(2) provides that “[n]o person owning or having the control of any animal shall permit such animal to . . . defecate or urinate on public property without immediately cleaning or removing the excrement to a proper receptacle.” By suspending section 5.08.010(B)(2), dog owners will no longer be required to immediately clean or remove the excrement to a proper receptacle. While such requirement may be part of the “rules” for the off-leash dog park, it will no longer be a legal requirement and will not be enforceable as a matter of law since the City would have suspended enforcement. Thus, the City would effectively exempt dog owners from being legally required to immediately clean or remove the excrement to a proper receptacle.

Approval of the off-leash dog park would violate the City’s obligations under CEQA and would unlawfully amend an ordinance without following the mandatory procedures. As such, the City Council should reject the staff recommendation.

Sincerely,



Donald B. Mooney  
Attorney for Vladimir Rubashevsky

cc: Client

**From:** [Chris Jordan](#)  
**To:** [Public Comment](#); [Donna Legge](#)  
**Subject:** FW: Opposition to Off Leash Hours at Heritage Oaks Park  
**Date:** Monday, November 9, 2020 3:08:24 PM

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**From:** Roth Family [REDACTED] >  
**Sent:** Monday, November 9, 2020 1:46 PM  
**To:** City Council <council@losaltosca.gov>  
**Subject:** Opposition to Off Leash Hours at Heritage Oaks Park

Please forward to the Parks and Recreation Commissioners.

Dear Commissioners,

I understand and respect the effort being put into providing dog owners a more convenient and local option for exercising their dogs off-leash, but the current proposal to allow for off-leash hours at Heritage Oaks Park does not provide a safe option for the dogs and local community.

As a McKenzie Ave resident, I can confidently say that Heritage Oaks Park does not have enough of a buffer or barrier in place to prevent off leash dogs from exiting the park's perimeter. In fact, I have had to abruptly stop my car on McKenzie Avenue previously to prevent injuring a dog that was off-leash and had run into the road. This poses a threat to the dogs, but also to the drivers/bikers who will have to be extremely cautious in this area.

Furthermore, Heritage Oaks Park is not sufficiently large to properly separate the dogs from non-dog park goers. Even the most well-behaved dogs can act unpredictably, so a park that is sufficiently large to have clearly defined regions would be much better suited for this goal (or one that has a fenced dog area).

I urge you to consider the opposition to this proposal, especially from the local neighbors who know the park best. With the petition that we have signed and the clear flaws with this pilot program, I do hope you will look into other solutions for the off-leash hours proposal.

Sincerely,  
Mrs. Roth

**From:** [REDACTED]  
**To:** [Public Comment](#)  
**Subject:** PUBLIC COMMENT AGENDA ITEM 12 - November 10, 2020  
**Date:** Tuesday, November 10, 2020 8:50:50 AM

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Dear Councilmembers:

I am writing to respectfully oppose the use of Heritage Oaks Park as a pilot dog off-leash area. I love dogs and recognize the more general need for off-leash areas. But I am also the father of four children--three of whom have significant dog allergies--who use the park on a daily basis. I am extremely concerned about the proposal and its impact on families.

As others have noted in their opposition, Heritage Oaks Park is not a large park. And it is not configured in a manner that would allow appropriate segregation of uses. Instead, parents like me would be forced to keep our children from the park during the off-leash hours. During the COVID-19 pandemic, with schools still largely closed, the park is one of the few safe spaces for our family to enjoy outdoor activities in the neighborhood. Losing this access is extremely concerning to us, and makes this proposed pilot extremely poorly timed.

A large park like Cuesta Park, which is accessible to Los Altos residents, is appropriate for off-leash activities. It is close by, has ample parking, and doesn't burden the City of Los Altos. This allows our community to wait until after the COVID-19 pandemic has ended to have further (and hopefully in-person) conversations about how to best proceed. I strongly urge you to reject or defer the proposal with respect to Heritage Oaks Park.

Sincerely yours,

James R. Williams

**From:** [Chris Jordan](#)  
**To:** [Public Comment](#); [Donna Legge](#)  
**Subject:** FW: Item #12: Not this, not now  
**Date:** Tuesday, November 10, 2020 1:10:19 PM

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**From:** Maria Bautista [REDACTED]  
**Sent:** Tuesday, November 10, 2020 12:22 PM  
**To:** City Council <council@losaltosca.gov>  
**Subject:** Item #12: Not this, not now

Dear City Council Members,

On the eve of opening the new Hillview Community Center, I think it is inappropriate that Council considers establishing off-leash hours at the Hillview Field.

Our community does not yet know the impact of the new community center on traffic and general movement of people in and around the Hillview area. The community deserves the opportunity to acclimate to this new hub of activity before introducing the complexities (and there are many unintended consequences) of off-leash use of the adjacent field.

Please postpone any further discussion of off-leash hours at Hillview Field- not this, not now.

Thank you,

Maria Bautista  
27 Sunkist Lane, Los Altos  
[REDACTED]

From: [redacted]  
To: [redacted]  
Subject: P1: Objections to Off Leash Dog Pilot program in Heritage Oaks Park  
Date: Tuesday, November 06, 2018 11:28:48 AM

From: Iona [redacted]  
Sent: Monday, November 5, 2018 11:21 AM  
To: City Council <ccouncil@losalamos.gov>  
Cc: Shira Legler <shiralegler@losalamos.gov>  
Subject: Objections to Off Leash Dog Pilot program in Heritage Oaks Park

- > My name is Iona.
- > I have lived in Los Altos for 20 years. I raised my daughter right across the street from this small intimate and cozy Heritage Oaks park. She grew up playing in this park, on the playgrounds with other kids, her friends. She still does. Her school takes trips to this park since it is walking distance.
- > I have a first hand knowledge of the current situation and my family, my child and future children are directly affected by this Proposal.
- >
- > This park has been a park for people, kids, families. If this Proposal gets passed, you're essentially taking this park away from children and families. You can't have both, dogs running around off leash and child playing in the same unguarded area. Why should children's rights be less important than dogs? Furthermore, children can't play in a park where there's dog poop on the grass. Coll and other fecal coliforms live in the intestines of dogs and other pets, and they can get into the human body and cause stomach cramps, nausea, vomiting, diarrhea, fever and E. Coli infection can result in death. (Go to Center for Disease Control, it has a huge list and detailed description for each disease that is spread from animals to humans). So a shared park with dogs and children means an increase in human sickness especially for children under 5, adults over 65, and pregnant women.
- > Which parent wants their children and families to undergo that? Sharing a park is great in theory, but it's not feasible. Currently, while the park is a kids park, there are dog owners who bring their dogs to the park, but do not clean up feces after their dogs. (Los Altos can't control or monitor this) Imagine increasing the percentage of dogs who patron this small intimate park. This would definitely increase the number of dog feces for people to step into and bring home to spread these diseases.
- > Heritage Oaks Park is a small intimate park that has a lot of children playing, families using it, schools bringing children for walking field trips to this park, and other children activities such as soccer. This park doesn't have enough space or parking for a dog park.
- > I highly request that you analyze other options for a dog park. Heritage Oaks Park is not a place for the Proposal to establish the Unleashed Dogs Pilot program.
- > Please do not take this park from our children and families. See the pictures attached of dog poop, families and kids playing.



People and Families using  
the park.



Dog does it's business, the owners  
do not care to clean it up.



# Dog poop



Parents facing holding their children's feet, and children are running, using their hands on the floor.

## **Off-Leash Hours: Why is Los Altos taking a dog-centric approach, when other cities take a people-centric approach?**

Upon review of many local cities, only two have unfenced, off-leash areas (OLAs) in addition to a Dog Park. Cupertino has 1 OLA; Mountain View has 8. I walked through each of these parks. It feels fairly safe to walk the paths, etc.—to continue to enjoy the parks.

- **None of these parks give dogs free run of the park, as Los Altos is proposing.**

### **Important characteristics of Mountain View/Cupertino Parks with OLAs:**

- **OLAs are in larger parks:**

Cooper Park (11.1 acres)	Eagle Park (5.17 acres)	Bubb Park (9.18 acres)
Whisman Park (8.6 acres)	Cuesta Park (32.56 acres)	Rengstorff Park (16.92 acres)
McKelvey Park (4.27 acres; OLA in fenced baseball field)	Jollyman Park (11.5 acres)	

- **Most green space (and grass) is allocated to people, not the OLA.**
- **Walking Paths, Playgrounds, and Picnic Tables are a substantial distance from the OLAs, enabling regular park users to feel reasonably safe.**
- **OLAs are located in areas on an edge or corner of the park.**

### **People-Centric vs Dog-Centric Approach**

Given these characteristics and designated hours, Mountain View/Cupertino continues to create/foster an environment where people can feel safe and enjoy the parks: people-centric.

### **In contrast, the Los Altos PARC proposal for off-leash hours is dog-centric.**

- Most/all grass is allocated to dogs.
- There is no buffer for walking paths, playgrounds and picnic tables, although there may be a 25' rule for picnic tables (not a lot), and they may add fencing to cage in the children while the dogs run free at HOP.
- The hours, especially in the evening, preclude dog-shy people from enjoying the parks after work or during cool hours on a hot summer day.
- There is no vision of how people and dogs will share the park; the only plan I've heard is, if you aren't comfortable with dogs, then don't go to the park during dog hours.
- The criteria for success seems dog-centric as well. How many incident reports will be filed when there is no injury? And, how many people won't feel safe to walk in the park, play with their toddlers, walk their leashed dog, gather with friends, jog in the park, etc...?
- **I believe people should *always* feel safe to use the parks!**

Hillview - The Hillview Baseball Field is a subset of Hillview Park (6.63 acres.) It is mostly fenced in, so segregated from walking paths, playgrounds, picnic tables and has a second field.

- **Hillview has a good chance for success with off-leash hours.**

Heritage Oaks Park is a larger park (5.33 acres). However, the plan for off-leash hours doesn't separate off-leash dogs from the general public. Other parks in Los Altos are smaller with similar layout problems.

- **I recommend that Los Altos NOT proceed with off-leash hours for HOP or for additional existing parks.**

Respectfully,  
Nancy Perkins, Los Altos



**My Notes: Parks with Off-Leash Areas (OLAs)**

- The pictures are from the signs in the parks, showing the OLAs. Most pictures do not show the entire park, but enough to make it clear where the OLA is. The paths aren't visible, but they are away from the OLAs.
- The hours noted are the Off-Leash Hours for the OLAs.
- Mountain View park acreage was obtained from the City of Mountain View Parks and Open Space Plan 2014. Cupertino park acreage was obtained from the City of Cupertino City Parks web page. Pictures, OLA areas and hours were obtained from signage in each park.

Observations:

4 of the 8 OLAs have only morning hours, until 10 or 10:30.

- Cooper Park (M-F), Eagle Park (M-F), McKelvey Park (M-F), & Cuesta Annex (M-Sun)

Cuesta Park, (32.56 acres) has two OLAs. One is the undeveloped Cuesta Annex. The other is a dedicated area by the tennis courts, surrounded by fencing and/or hills on 3 sides.

Two OLAs are fenced-in:

- Rengstorff Park previously had 3 fences, two bordering neighboring properties and one by the tennis courts. Mountain View recently added the fourth fence. So this OLA is now completely fenced-in.
- McKelvey Park has 2 separately fenced baseball fields. The OLA is the outfield of one of the fenced baseball fields.



**Cooper Park**  
Mountain View  
11.01 acres

M-F 6am-10am

	<p><b>Eagle Park</b> Mountain View 5.17 acres</p> <p>M-F 6am-10am</p> <p>The park extends behind the pool and is bordered by streets on all sides.</p> <p>Playground and swings are near the Eagle Park label. Picnic tables are scattered by the trees, and more are in the back behind the pool. The main walking path runs from the side parking lot, up near the pool area to the playground and picnic tables. You can walk around the entire park. Note the days/hours above.</p>
	<p><b>McKelvey Park</b> Mountain View 4.27 acres</p> <p>M-F 6am-10:30</p> <p>McKelvey Park has two completely fenced in baseball fields, plus a separate unfenced area with a playground, picnic tables, and a grass area. There is a walking path around the entire park.</p> <p>Just one field (totally fenced-in) is the OLA, excluding the infield.</p> <p>This park is unusual as it is also designed for flood control.</p>



**Bubb Park**

Mountain View  
9.18 acres

M-Sun 6am-10am  
5pm-Sunset



**Whisman Park**

Mountain View  
8.6 acres

M-Sun 6am-10am  
5pm-Sunset



**Cuesta Park**

Mountain View

32.56 acres

Cuesta Park extends to Grant Rd to the left. (includes Cuesta annex-the brown undeveloped area on the right; also see below)

M-Sun 6am-Sunset

Note: This OLA is nestled in a corner by the tennis courts. It has hills on three sides.



**Cuesta Park Annex**

Mountain View

32.56 acres

(includes Cuesta Park, pictured to the left; also pictured above)

M-Sun 6am-10am



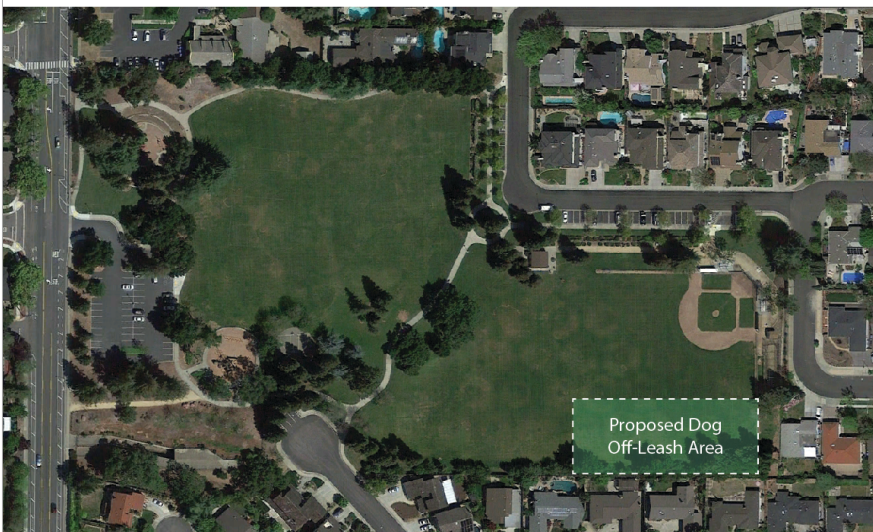
**Rengstorff Park**

Mountain View

16.92 acres

M-Sun 6am-Sunset

Note: The area noted is completely fenced.  
(Mountain View recently added the fourth fence.)



**Jollyman Park**

Cupertino

11.5 acres

One hour before Sunrise -  
One hour before Sunset

**From:** [Donna Legge](#)  
**To:** [Public Comment](#)  
**Subject:** FW: Opposition of Off-Leash Dog Hours Proposal  
**Date:** Sunday, November 8, 2020 10:13:40 PM  
**Attachments:** [City Council Letter.pdf](#)

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**From:** janeemilia@aol.com [REDACTED]  
**Sent:** Sunday, November 8, 2020 5:57 PM  
**To:** City Council <council@losaltosca.gov>  
**Cc:** Donna Legge <dlegge@losaltosca.gov>  
**Subject:** Opposition of Off-Leash Dog Hours Proposal

Dear Members of the City Council:

I am writing to express my opposition to the proposed Off-Leash Dog Hours Pilot Program at Heritage Oaks Park. There are many reasons why off-leash dog hours are not appropriate for this park, and I will summarize them below. My husband and I have lived across the street from Heritage Oaks Park for 22 years, and we have observed park activity throughout that time.

### **Displacement of Other Park Users**

My primary reason for opposing off-leash dog hours at Heritage Oaks Park is that it will displace lots of other people who now use the park. The public safety risk posed by off-leash dogs is real: even well-trained dogs can behave unpredictably at times.

Off-leash dogs can also be an annoying nuisance to other park users, as they use the two playgrounds or the picnic tables, relax or play in the large grassy area, or walk or jog through the park. Under the existing prohibition against off-leash dogs, if a dog is annoying someone, they can ask the dog owner to please put a leash on their dog and lead it away.

But, with official off-leash dog hours, could a park user ask the dog owner to put their dog on a leash and leave them in peace? The dog owner could say that they are legally allowed to let their dogs run off-leash and other park users can't stop them. Plus, most dog owners typically claim their dog is just being "friendly," even when a park user is clearly being disturbed or even intimidated by their dog. Some dog owners just make excuses for their dog's behavior, even when the dog is clearly annoying others.

Who would have priority to use the grassy area at Heritage Oaks Park during off-leash hours? If people are playing catch or volleyball, would off-leash dogs have to right to kick them out during off-leash hours? The staff recommendation is for the ENTIRE GRASSY AREA of the park to be used by off-leash dogs during some of the times that it is already highly used for other recreational activities. The lack of fencing or spatial buffer between the large grassy field where off-leash dogs would be allowed and the picnic and playground areas is also problematic and would result in fewer people choosing to use the entire park.

Plus, who would monitor that off-leash dogs are only present during the posted hours? Who would monitor that off-leash dogs do not enter the playground areas and picnic areas? The staff recommendation would result in essentially converting Heritage Oaks Park to a *de facto* dog park.

The Parks and Recreation Commission voted against the proposals for fenced-in dog parks at Lincoln Park and McKenzie Park, partly because open grassy space is so precious in Los Altos that they didn't want to sacrifice any. The staff proposal for the ENTIRE grassy field to be used by off-leash dogs would result in Heritage Oaks Park would sacrifice most of the park for all other park uses, simply by a different means. This would occur especially during off-leash dog hours, but also during other hours given the lack of any enforcement mechanism.

**The area used by off-leash dogs should be a separate dedicated space and should not overlap with the grassy area used by soccer, volleyball, families playing together, and people who simply enjoy the outdoor space to spread a picnic blanket and enjoy the sunshine.** Even Mountain View, which has many off-leash dog areas, has defined the space for off-leash dogs as only a portion of the available space and well away from playgrounds, picnic areas, and other highly used park facilities.

### **Parks Should be Welcoming to All Residents**

There is an issue of cultural sensitivity and cultural respect here. It is important to ensure that Los Altos's parks provide equitable access to people from ALL cultural backgrounds and ensure that our park environments are experienced as welcoming by EVERYONE. I have spoken with numerous residents from cultural backgrounds who are not at all comfortable with off-leash dogs. Establishing official off-leash dog hours throughout the grassy area and adjacent to the playgrounds would make such individuals likely to avoid Heritage Oaks Park at all times, frankly.

Others who are often uncomfortable with off-leash dogs include seniors, disabled persons, people who allergic to dogs, and those who have previously been charged or attacked by a dog. Establishing off-leash dog hours with no fencing or buffers is not consistent with goals of diversity and inclusion. In contrast, fenced dog parks provide safety for all park visitors and allow everyone to enjoy a park without fear.

**This is why MOST municipalities throughout the U.S. create fenced dog parks.**

I understand that dog owners will respond by saying parks should welcome them and their dogs, too. I agree, but only if an off-leash dog area can be implemented in a way that respects other park users. I think the off-leash dog area at Cuesta Park, for example, is great.

### **Mountain View's Off-Leash Dog Areas vs. Heritage Oaks Park**

One of the most commonly mentioned reasons given by members of the Parks and Recreation Commission (PARC) for creating an off-leash dog area at Heritage Oaks Park was that "Mountain View has parks with Off-Leash Dog Hours; Los Altos should have them, too."

Mountain View is lucky to have much larger parks than Los Altos. ALL of the parks in

other nearby cities that have off-leash dog hours are very different from Heritage Oaks Park in size and layout, as shown in the following table.

Numerous agencies recommend standards for dog parks/off leash areas. The most prominent recommendation is: **The location of a Dog Park/Off Leash Area should be in a non-viable area not to interfere with expected park usage.**

All Mountain View, Cupertino, Burlingame and Foster City off-leash dog areas meet this standard. Heritage Oaks Park does not. Notably, Heritage Oaks Park does include an undeveloped area that is not used for other park purposes, but it was eliminated from consideration.

Standards/Guidelines for Off Leash Dog Areas	<u>Mountain View Off Leash Areas:</u> Cooper, Eagle, Bubb, Cuesta, Whisman, McKelvey (fenced), Rengstorff (fenced). <u>Cupertino Off Leash Area:</u> Jollyman. <u>Burlingame:</u> 2 Off Leash Areas, <u>Foster City:</u> 4 Off Leash Areas.	Heritage Oaks Park, Los Altos.
No displacement of expected park usage.	Yes	No (People - especially families and seniors -will avoid park.)
More than 100 yards from a children's playground.	Yes	No
Children/adults play or sit on fecal-free grass.	Yes	No
No interference with sports/playing field.	Yes	No
Located away from picnic areas.	Yes	No (Less than 25 feet.)
Not located near watershed/creek.	Yes	No (Permanente Creek less than 50 feet.)
Minimal impact on nearby residents.	Yes	No (No buffer to residents. Less than 50 feet.)
Respect for nearby residents' quality of life.	Yes	No (Noise impact/loss of property value.)
Safety for bicyclists/pedestrians.	Yes	No (Portland/McKenzie Avenues – high use by cyclists & pedestrians.)
Safety for off leash dogs.	Yes	No (Nearby busy street.)
Adequate parking.	Yes	No



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### **Many Dog Owners Do NOT Support Off-Leash Dog Hours**

Another reason frequently cited by several PARC Commissioners for implementing off-leash dog hours at Heritage Oaks Park was their estimate that 38% of Los Altos households own dogs. They erroneously jumped to the conclusion that all dog-owning households would want off-leash dog hours. This is absolutely incorrect.

MANY dog owners do not want or support off-leash dog hours for a wide variety of reasons and MANY dog owners would not take their dog to an off-leash area, especially one crowded with lots of other dogs. Among the many reasons for their lack of support are: the increased potential for conflicts with other dogs, their understanding that even well-trained dogs can behave unpredictably, their preference for keeping their own dog on a leash, a previous bad experience with off-leash dogs (for themselves or their dog), their respect for other park users, the fact that their dog is not under voice control, etc.

### **Hours**

The staff recommendation to City Council would begin off-leash dog hours at **6:00 AM**, which is entirely disrespectful of the residents living adjacent to the park. The official time that the park opens is 7:00 AM – and I'm sure that was established partly out of respect for adjacent homeowners.

The Parks and Recreation Commission approved **7:00 AM** as the start time for off-leash dog hours when they approved the pilot program in May.

The Parks and Recreation Commission approved **8:30 AM** (weekdays only) as the start time for off-leash dog hours in September, based on the Dog Park Subcommittee's recommendation. That recommendation had been agreed to by dog owners who were advocating for off-leash hours. The current staff proposal for a 6:00 AM start time on weekdays has NEVER been submitted to or approved by the Parks and Recreation Commission.

As I write this at **5:00 PM on a Sunday afternoon**, the entire grassy field is in use by kids playing soccer and others. On most Sunday afternoons, a group of people also gathers for a volleyball game in the late afternoon. The proposal to allow off-leash dogs from 4:00 – Sunset on Sundays is probably the worst possible time during the weekend, based on current usage patterns.

If the City Council sees fit to implement off-leash dog hours, I would encourage you to implement the hours approved by the Parks and Recreation Commission in September.

### **Enforcement – and the Lack Thereof**

A key issue in implementing off-leash dog hours would be enforcement of the posted hours and rules for dog owners. As a long-time observer of the park, I'm sure that if off-leash dog hours are implemented, many dog owners will disregard the posted hours and exercise their dogs off-leash during other (non-posted) hours. Who would stop them?

The need for enforcement was noted in the Dog Park Subcommittee's report, but the cost of any enforcement or maintenance related to off-leash hours has NOT been included. The staff cost estimate of \$6,275 to implement the pilot program at both Hillview and Heritage Oaks Parks clearly does not include any money for enforcement. To enforce the posted off-leash hours and prevent Heritage Oaks Park from becoming an "all-hours" off-leash area, there would need to be frequent visits by the Los Altos Police and/or Animal Control officers. Actually, officers should enforce all the rules suggested by the Dog Park Subcommittee, not just hours. Any accurate estimate of the cost of the program to the City should include the cost of enforcement.

However, the Los Altos Police do not have the time to respond constantly to non-emergency phone calls regarding off-leash dogs. Even if they are able to respond, they typically arrive long after the offending dog owner has left the park. And, when police cars are noticed in the vicinity of the park, dog owners suddenly pay attention to their dogs and put them back on a leash. It's similar to drivers slowing down when they see a police or CHP vehicle. So, even frequent spot checks by the police would not capture all the violations, unfortunately.

The other enforcement option is Palo Alto Animal Control, with which the City currently has a contract. Palo Alto Animal Control is currently short-staffed, since one officer retired and Palo Alto decided not to fill that position, due to budget constraints. An Animal Control officer spoke with a group of Heritage Oaks Park neighbors and noted that calls from Palo Alto have priority and that they were already short-staffed, even before the pandemic-related budget crisis led to elimination of one position.

Expecting dog owners to police themselves is unrealistic, given that the current rule that dogs must be on a leash at all times was flaunted on a daily basis, prior to COVID and a few neighbors calling the police to report off-leash dogs after the May PARC meeting.

### **Potential for MANY More Dog Owners to Use Heritage Oaks Park**

One of the major problems with the City's approach of proposing only two locations for off-leash hours is that once it becomes known that off-leash dogs are officially allowed at Heritage Oaks Park, it will become a magnet for dog owners from a large area. It is reasonable to expect that MANY more Los Altos residents, including those who now unofficially exercise their dogs off-leash at Marymeade Park, McKenzie Park, and Grant Park, will bring their dogs to Heritage Oaks Park.

Greatly increased park usage by off-leash dogs (compared to the pre-COVID status quo) would completely change the character of Heritage Oaks Park. Over the past 22 years, we have observed park usage increase substantially, by dog owners and everyone else. However, most people know that if they come to the park to play volleyball, picnic, use the playground equipment, gather with friends, or any other of the multitude of reasons why people visit the park, THEY WILL HAVE THE SPACE AND FREEDOM TO DO SO. Allowing dog owners to "take over" the park for many hours a day, every day of the week, will completely change the character of the park.

As proposed in the staff recommendation, off-leash dogs would interfere with ALL the existing park uses.

### **Dog Waste and Park Users, including Soccer Programs**

I cannot imagine letting very young children play in a grassy area that is visited every day by lots of dogs who have peed and pooped in that exact same area! There are many studies showing that pet waste contains bacteria and parasites that are harmful to health.

Clearly, this conflict between dog waste and soccer use already exists, since there were off-leash dogs using the soccer area every day for years. But, it is fair to assume that when word gets out about a location where dogs are officially allowed to run off-leash, many more dog owners will show up with their dogs. This will increase the contamination of the grassy area now used by young children who play and roll in the grass all the time. Kids will pick up a soccer ball that just ran through the residue of dog feces, even after an owner picked up most of the waste. The grassy area is also used by children from birthday parties (a frequent use of the park), by youth organizations who hold large picnics there, and by countless families.

Very few dog owners would intentionally leave dog poop behind, but dog owners frequently chat with each other or look at their phones, rather than watching their dogs every minute. Plus, even when an owner picks up their dog's waste, some residue is always left behind on the grass. The City's recommendation to use the entire grassy area for off-leash dogs is tantamount to saying that it doesn't care if park users step in dog waste on a regular basis, or that children are playing in grass that has been contaminated by dog waste residue from many dogs every day.

### **Noise**

A dog's bark can be extremely loud (90 decibels) and carry a long distance. Having multiple dogs barking at once creates a real din. Dog owners' voices are also loud, as they try to maintain voice control over their dogs or shout to each other from opposite sides of the field. Whistles are even louder. Especially during warmer months, when windows are open, the noise generated by off-leash dogs was already an occasional nuisance (prior to COVID lockdown of the parks) for those of us directly adjacent to it. However, given the current prohibition against off-leash dogs, a resident can respectfully request dog owners to silence their off-leash dogs and the dog owners would generally do so, even if grudgingly.

As someone who has lived across the street from the park, I can attest that dog owners frequently ignore their barking dogs because they are utterly oblivious to the fact that there are residences nearby. Many times, dog owners are chatting with one another or on their phones and totally ignore their dogs.

I love the sounds of children playing in the park and of people having a good time in the park, but the sounds of incessantly barking dogs are another matter. Especially early in the morning! If more dog owners bring their dogs to Heritage Oaks Park, the noise issue will be greatly exacerbated, due to more dog owners shouting and whistling and more conflicts among dogs.

### **Bicycle and Pedestrian Safety**

Portland Avenue is an official bike-to-school route and is well-used by students heading to several nearby schools every weekday morning. Since it is the City's official policy to encourage kids to bike to school, rather than be dropped off by parents, it makes no sense to permit dogs to run without a leash during the times that kids are typically biking to and from school on a street right next to the park. The Dog Park Subcommittee's recommendation to allow off-leash dogs in the park beginning at 8:30 AM was intended to mitigate the noise impact on adjacent residences and to allow children to bike to school safely without off-leash dogs approaching or chasing them.

Both Portland Avenue and McKenzie Avenue are well-used by bicyclists and pedestrians of all ages. The path through the park next to the creek is highly used by walkers and joggers. Off-leash dogs are a safety risk to all of them. One mother has told me of an off-leash dog who charged her as she was walking her baby in a stroller. A neighbor has told me of being charged as she walked her dog next to the park on a leash. Such stories are not uncommon.

### **Traffic and Parking**

Some dog owners now walk their dogs to the park and some drive to the park. Prior to the COVID closure of the park, I saw lots of people throughout the day pull into a parking space and let their dog out to run. The City's idea that all current dog owners walk to the park and that new users would also walk to the park is simply incorrect. It is fair to assume that many of the "new users" of the park who would come to run their dogs would drive, since they will likely come from further away. This raises traffic and parking concerns.

The parking spaces available next to the park are already filled to capacity during the afternoon/evening hours and weekend hours proposed by staff for off-leash dog hours.

### **Conflicts Between Dogs**

When fenced-in dog parks are created, there are often separate areas for large and small dogs. Such a separation is clearly not possible in an unfenced off-leash program. Conflicts between dogs have happened for years, with the pre-COVID number of dogs that were being exercised off-leash in the park. The greater the number of dogs and dog owners, the harder it is for owners to maintain voice control of their dogs. And, the more instances of dogs fighting each other, as the area becomes more crowded. Again, it is fair to assume that the park would become a magnet for many more dog owners if it becomes an official off-leash site, and far more instances of dogs attacking other dogs will occur. This would make the park far less enjoyable and safe for ALL park users.

### **Heritage Oaks Park Fails to Meet the City's Own Criteria**

At the public workshops regarding dog parks in February, the materials presented on poster boards included a list of criteria for potential locations for off-leash dog hours. Heritage Oaks Park fails to meet FOUR of the criteria presented at the February workshop.

**1. Sufficient buffer between the area used by off-leash dogs and playground areas.** There is no such butter. Prior to the COVID closure of the park, I frequently observed off-leash dogs disturbing and intimidating children in the playground areas and people at the picnic tables. Dog owners were often oblivious to their dog's intrusion into the playground and picnic areas or would brush off parents' concerns, sometimes quite rudely.

**2. Sufficient buffer between the park and residences to mitigate impact.** No other park in Los Altos has as many homes directly adjacent to it as Heritage Oaks, and there is NO buffer. A neighbor of mine has actually had an off-leash dog run into her home and her living room, muddy paws and all. Noise from barking dogs and dog owners shouting and whistling at their dogs is an additional issue, especially in the early morning hours.

**3. Sufficient parking.** Parking spaces at the park are frequently already filled to capacity during the weekday afternoons/evenings and on weekends. Unlike many other Los Altos parks, Heritage Oaks Park does not have a parking lot

**4. The area used by off-leash dogs should not be used as a sports field.** The off-leash dog area IS a sports field for children's soccer, and the fact that the City is proposing that this field serve "double duty" as an off-leash dog area contravenes public health and hygiene principles. Dog owners do not always notice their dog's waste on the grassy area where young children play soccer and where families spread picnic blankets. Even when owners pick up their dog's feces, some residue is always left behind. Kids in the City's Coach Ken soccer program frequently fall and roll on the grass in the exact same location where many dogs leave their waste. So, if Heritage Oaks Park fails to meet four of the City's own criteria for an off-leash dog area, why is it still being considered? It would make much more sense for the City to simply state that there is no park that fully meets its criteria for off-leash dogs and, therefore, it is unable to responsibly implement off-leash dog hours.

### **Widespread Neighborhood Opposition to Off-Leash Hours**

The City held workshops regarding the proposals for dog parks and off-leash dog hours in February 2020. With the exception of just two households, residents who live near Heritage Oaks Park DID NOT KNOW about the workshops in February. (City staff say postcards were sent to all houses within 1000 feet of the park. The postcards were clearly designed to appeal to dog owners and featured a photo of a dog, with the text announcing workshops at Shoup Park and Grant Park. The fact that the workshops were intended to discuss a proposal for off-leash hours at Heritage Oaks Park was in much smaller print on the reverse side of the postcard, as the third bullet point after a paragraph of text. Most Heritage Oaks neighbors who got the postcard apparently recycled it without ever realizing it concerned Heritage Oaks Park.)

Therefore, the surveys conducted at those workshops do NOT include responses from the Heritage Oaks Park neighborhood. Because the workshops were attended by many residents from the neighborhoods around Lincoln Park and McKenzie Park, the survey captures their opposition to dog parks at those locations, but simply does not capture feedback from Heritage Oaks Park neighbors to the off-leash dog hours proposal. If folks from the Heritage Oaks neighborhood had attended the workshops, the City's survey would show a MAJORITY of respondents opposed to off-leash dog

hours at Heritage Oaks specifically and/or at all parks.

In addition, two community-generated petitions, one from Lincoln Park neighbors with about 100 signatures and one from McKenzie Park neighbors with about 50 signatures, were submitted to the Parks and Recreation Department prior to the May PARC meeting when a decision about dog parks and off-leash dog hours was on the agenda. Thus, the staff report included the fact that there was community opposition to both dog park proposals.

Heritage Oaks Park neighbors only learned about the May meeting of the Parks and Recreation Commission TWO DAYS before the meeting took place. Thus, there was no time to gather signatures on a petition prior to the May PARC meeting, when a vote was taken. However, many letters were written to the Commission expressing opposition to off-leash dog hours prior to the meeting. Since May, over 240 signatures have been gathered from neighbors and park users, registering opposition to off-leash dog hours at Heritage Oaks Park. We request that the Council accept these petitions with the same level of respect for residents' concerns as the petitions from the Lincoln and McKenzie Park neighborhoods.

It is worth noting that 100% of residents on McKenzie Avenue, adjacent to Heritage Oaks Park are opposed to the proposal for off-leash dog hours at Heritage Oaks Park.

### **In Conclusion**

I believe Off-Leash Dog Hours should NOT be approved at Heritage Oaks Park, for all the reasons listed above. However, if the City feels compelled to undertake the off-leash dog hours pilot program in light of its decision not to pursue fenced-in dog parks, I believe it should allow off-leash dogs ONLY during the hours approved by the Parks and Recreation Commission in September. Further, the area where off-leash dogs are allowed should be much smaller and farther away from the other park facilities. There should be some days when off-leash dogs are not permitted at all so that others may enjoy the park in peace.

Respectfully submitted,  
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