

**Montclair Property Owners Association
Board of Directors Meeting
June 13, 2018**

AGENDA ITEM SUMMARY

Agenda Item: Tab 16 Consider Contingent Approval of a Dog Park
Presenter: Rob Clemens

Board Motion: Move to approve a Dog Park, located behind the MPOA Building, per the LFMC FY19 proposal, in an amount not to exceed \$70,000, contingent upon approval of Capital Projects funds. Further authorize LFMC and Staff to begin limited site preparation within the current budget constraints.

BACKGROUND: A community survey from August 2016 asked what Members would like added to Montclair, and a Dog Park was number three of the top five choices. Based on our Member's input and the LFMC's commitment to improving our common spaces, a proposal was made to the Budget Committee and Board of Directors for a Dog Park in FY18 and FY19. The proposals were received favorably, but in each case were rejected because of the impending cost of the spillway project. As we see the spillway project's completion on the horizon, LFMC will again submit a Dog Park proposal through the FY20 budget process similar to that submitted in FY19; see attachment.

Now is a good time to revisit the issue to ensure an accurate estimate for LFMC's proposal for FY20. A limited amount of site work will allow the Committee to stake out the area, get accurate bids, and provide a more detailed design. The costs largely involve staff and volunteer time to perform limited preparation of the site. There will be no lasting or negative impact on the woodland behind the MPOA building should the Dog Park not be ultimately approved. The LFMC will submit subsequent motions if any funds are needed.

ISSUES: There is significant Community demand for this project. Spending a limited amount of staff time on the site will be "seed capital" in case the project is approved and will put us on a trajectory to be quickly successful.

Legal - Numerous questions have surfaced around the legal implications of this project. The MPOA President authorized our GM to seek legal opinion and a summary of that opinion from an email dated March 23, 2018 follows:

Q1. Is a vote of the Membership required or can the MPOA Board of Directors (BoD) approve this project?

Legal Opinion 1. "The dog park would cost less than 5% of the annual budget, therefore it could be approved solely by the Board of Directors."

Q2. Can the Association solicit donations to support this project through "Go Fund Me" or a similar crowd-funding site?

Legal Opinion 2. "Consequently, the Association could solicit contributions and apply those contributions to the Common Expenses incurred to add the dog park." "The Solicitation of Contributions statute requires that "charitable organizations" complete and file a registration statement with the Office of Charitable and Regulatory Programs within the Virginia Department

of Agriculture and Consumer Services before conducting any solicitation." "Additionally, there is a \$100 filing fee and a registration fee based on the applicant's gross contributions of up to \$325.00." [See additional information under BUDGET-FUNDING]

Legal Opinion 3. The Guidelines and governing documents should be reviewed if a decision is made to install and maintain a dog park. Section 6.6 of the Amended Declaration, for example, provides, "[n]o dogs shall be allowed to run free except within the confines of the Owner's Lot." ; Section 6.1 (e) of the Amended Declaration prohibits any unreasonably loud noise or any behavior that causes an annoyance or disturbance to others.; Section 6.1 (n) of the Amended Declaration requires that all fences comply with the established standards. Other provisions of the Guidelines (such as 4.1.8 dealing with pets and 4.1.10 dealing with noise)

LFMC Board Liaison Rebuttal to Legal Opinion 3:

Section 6.6 of the Amended Declaration - The goal of this section is to stop pets from running off-leash in the MPOA common areas, such as West and Dolphin Beaches. This still occurs occasionally, but the incidents have increased since the Board voted to allow pets on the beach (sandy area) during the off-season. The Dog Park keeps pets confined to a specific area while off-leash and thus accomplishing the same goal as Section 6.6.

Section 6.1 (e) of the Amended Declaration - This declaration is highly subjective. It is difficult to argue that a dog's bark will not cause an annoyance or disturbance to others. However, a dog's bark being "unreasonably loud" is up for debate. Under this section one could argue that children chasing each other and being loud in any common space violates 6.1 (e). The reasonable person would say children are just being children and dogs are just being dogs. If you ever visit a dog park, you will notice these dogs only bark on occasion and do not carry on for minutes, as to "cause an annoyance or disturbance," like some dogs left in the backyard of resident's homes do now. Proposed plans to plant a natural screen around the dog park will muffle any sounds coming from that area. The Dog Park will be open only during daylight hours.

Section 6.1 (n) of the Amended Declaration - The proposed material and style of the Dog Park fence complies with established standards as expressed in our covenants.

Guideline 4.1.8 Pets - "Pets are not allowed at any MPOA recreation facility..." The Dog Park would be an MPOA recreation facility built specifically for pets. This guideline can be amended to state "Pets are not allowed at any MPOA recreation facility except for the Victory Dog Park" or something along those line.

Guideline 4.1.10 Noise Control - This guideline recognizes "that recreational areas are naturally noisy" and was written to curtail noise from people not animals. It continues to discuss all the ways we should limit excessive noise and implies this guideline was written for the safety of those using the beaches. "Talking, laughing, and good time sounds are expected. Yelling and screaming should be curtailed in the interest of being able to hear valid calls for "help." Radios, tapes, etc., should be set at reasonable volume levels. The use of whistles and horns at the beaches is prohibited except by lifeguards, recreation guards, and MPOA Security."

Legal Opinion 4. The Board will want to investigate all applicable state and county regulations applicable to the installation and operation of a dog park and any costs associated with complying with those regulations.

LFMC Board Liaison Rebuttal to Legal Opinion 4:

Neither the State nor Prince William County (PWC) have any regulations or associated cost for the installation and operation of a dog park. The only "construction" is the installation of a perimeter fence, which does not require a PWC builder's permit. The K-9 Gunner Dog Park is a community partnership project that adopted their own rules for using the park, but the rules were not codified in PWC regulation.

Liability Insurance - The GM contacted our insurance agent, Brown's Insurance Agency, to ask if a dog park could be covered under our policy and at what additional cost. Mr. Brown responded "...as long as you have appropriate signage (English, with an option to consider Spanish), I would anticipate only a very small liability premium to be considered (approx. \$200/year). If there are obstacles/devices/benches/fences, etc. that have a property value that you would want to insure, then that would have a cost as well." - email from GM dated April 4, 2018

COMMITTEE RECOMMENDATION: LFMC recommends approval

MANAGEMENT RECOMMENDATION: Managements understanding of the expectation of "limited site preparation" includes clearing of brush and saplings in the proposed footprint of the dog park. The expectation of staff use/time should be more clearly defined. Management does not feel that we have the proper equipment at our disposal to efficiently and effectively complete this task. Without additional cost, this would be largely accomplished with hand tools which would require an exorbitant amount of staff time. If approved, it is the opinion of management that this effort should be secondary to the normal maintenance operations. There is currently no approved budget for this project.

BUDGET-FUNDING: None at this time. Staff hours only.

The question of "crowd funding" or collecting donations from Members for the Dog Park project has been a discussion item within the LFMC and the Community, so the GM looked into the feasibility of raising funds in this manner. It is possible; however, "to comply with Virginia Solicitation of Contributions laws, we would have to register with the Office of Charitable and Regulatory Programs, which comes with a filing fee and registrations costs" (no cost data at this time). He also consulted an auditor, "who from an accounting perspective, advised that such an effort could be undertaken, and the income accounted for as membership income without any tax issues, so long as there is a record maintained of which owners contribute, and the date and amount of their contribution." -email from GM dated March 26, 2018

ATTACHMENTS: LFMC FY19 Dog Park Proposal.



Victory Dog Park, Montclair (Proposal)



Mission Statement: “To establish a fenced-in, off-leash dog park where well-behaved canine citizens can exercise in a clean, safe environment without endangering or annoying people, property or wildlife. To develop a beautiful, well-maintained space open to the dog lovers of the Montclair community who are willing to uphold the park’s rules and restrictions. To view this park as a community project, in partnership with the Community of Montclair, designed to satisfy the needs of dog-owners and non-dog owners alike.”

Background: In 2016, the Landscaping and Facilities Management Committee (LFMC) researched possible capital improvements for our community, with a Dog Park being one of the top priorities. The 2016 Community Survey listed 15 possible improvements, to include a “write in” response. A Dog Park came in as one of the top four improvements requested by residents.

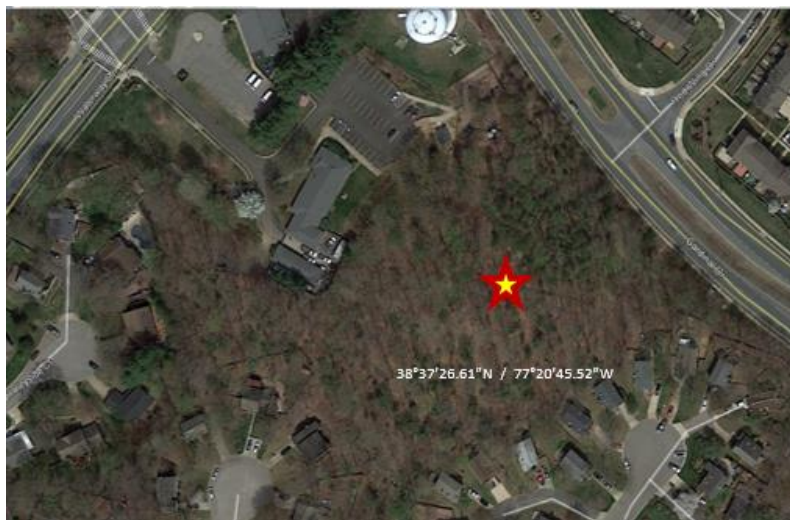
Site Location: Approximately 0.80 acres (35,032 sqft.) of a 1.3-acre section of MPOA owned land located directly behind the MPOA Headquarters building, SE from Kids Dominion, specifically at the below listed address.

GPIN: 8191-22-6249

Parcel Address: 3561 WATERWAY DR., DUMFRIES, VA 22025

Owner: MONTCLAIR PROPERTY OWNERS ASSOC INC

Total Acreage: 5.8135



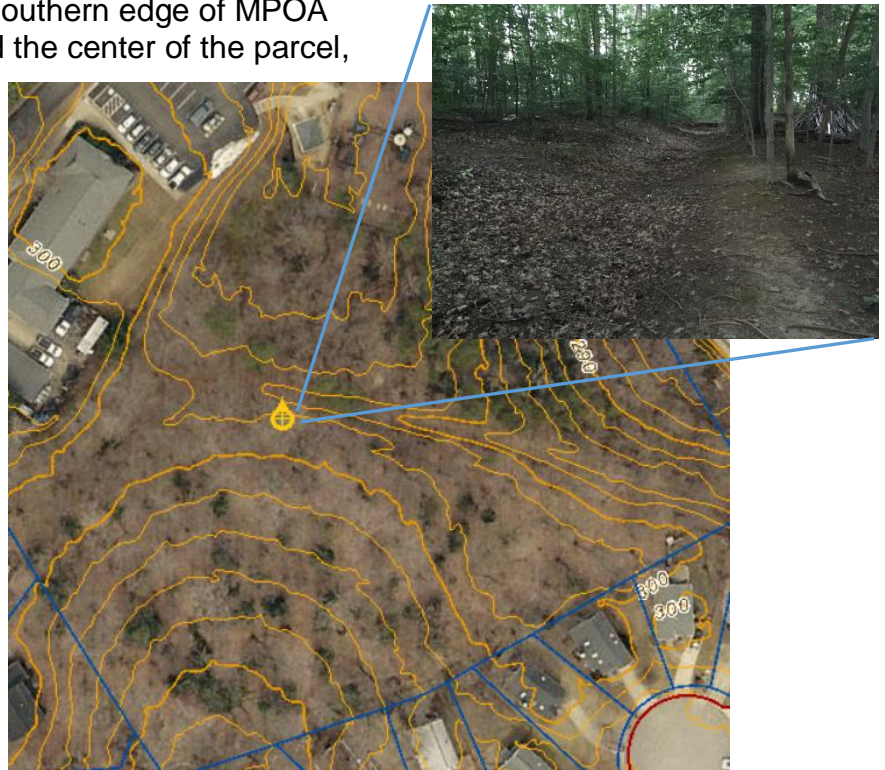
Budget: The LFMC proposes a capital expenditure during the next budget cycle for a Dog Park of \$70,000 total. Out of four initial sites considered, our proposal site is the most practical location when considering cost, availability of space, existing infrastructure, security, synergy with Kids Dominion and exercise station, and **good buffer distances (>70 ft.)** between roads, existing homes and other structures.

Site preparation funds are already available in the common area enhancement fund. This dollar amount is not known at this time, pending a specific site design, but we believe it will be less than \$5,000. Site preparation will include limited tree and brush removal, and a 125ft mulched trail from the parking lot to the entrance. A minimum number of trees will be cleared and reduced to wood chips in order to make room and provide the initial ground cover. A 125ft pathway offset from the entrance to Kids Dominion will eventually lead pet owners and their four-legged companions to a 100% fenced-in park with a double-gated entry, park benches and trash receptacles.

Site Survey: (292ft-304ft ASL) Southern edge of MPOA land slopes up, northward toward the center of the parcel, 1ft for every 24ft in distance.

The northern edge has a much more significant drop in slope towards Cardinal Drive, 1ft for every 6ft in distance.

An existing swale appears approximately 115 ft. from Kids Dominion and 153 ft. from southeast corner of MPOA parking lot and travels northeast, making a natural boundary for northern edge of the dog park.



Seven (7) red stakes were placed to mark the proposed perimeter and park corners and are annotated as red dots in the photos below.



(Looking South)



(Looking Northeast)

Montclair Homes Adjacent to proposed location:

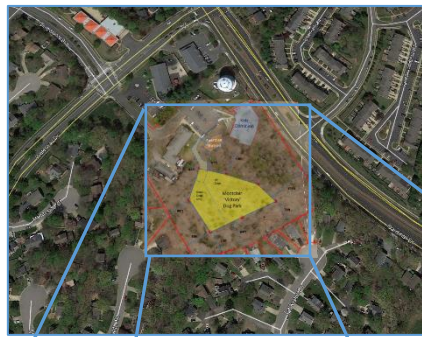
Address	
1	15220 LARKSPUR LN
2	15224 LARKSPUR LN
3	15526 LARKSPUR LN
4	15228 LARKSPUR LN
5	15230 LARKSPUR LN
6	15232 LARKSPUR LN
7	15234 LARKSPUR LN
8	15241 HYACINTH PL
9	15240 HYACINTH PL

Standoff from Kids Dominion: 118ft.

Standoff from Cardinal Drive: 175ft.

Standoff from Adjacent property lines: 73-89ft.

Standoff from Exercise Station: 67ft.



(Full-size Picture on pg. 6)

Area

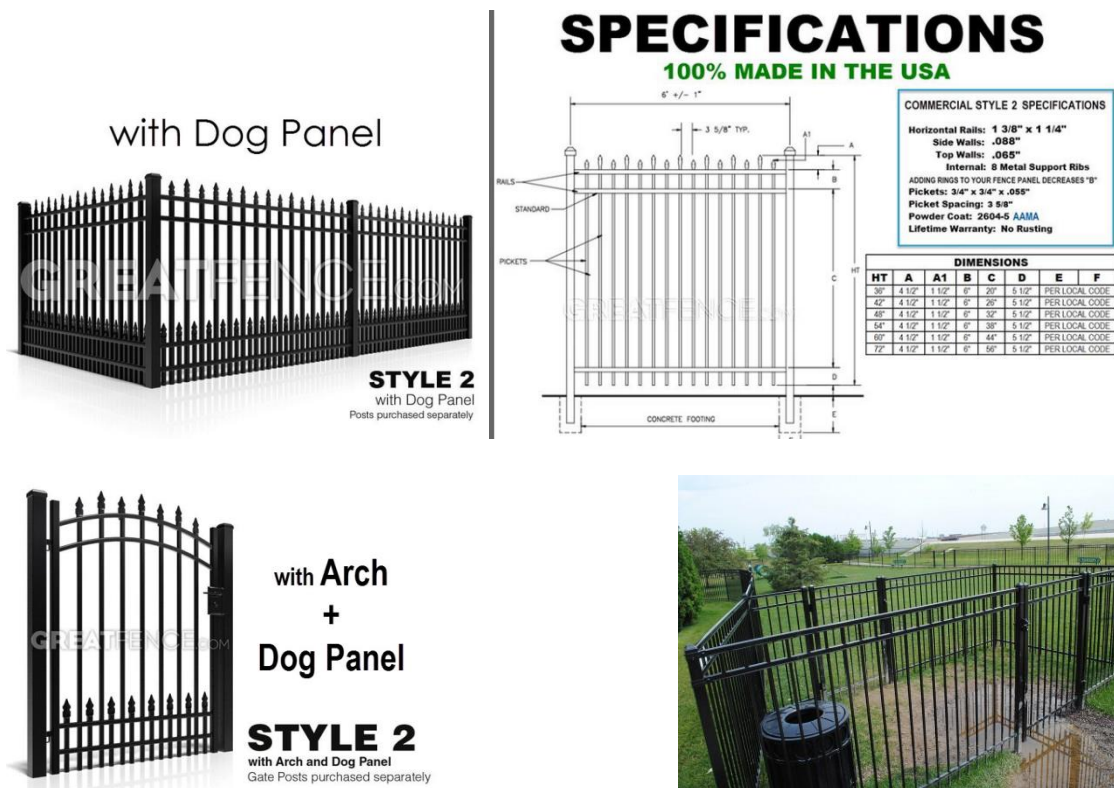
All Dogs: 23,678 sq ft

Small Dogs: 10,265 sq ft

Entrance: 1,089 sq ft

Total: 35,032 sq ft

Fencing the park and designing an entrance: Park Includes four basic structures: fencing around the perimeter, a staged entrance area, a separation fence, and at least one maintenance entrance for vehicle access. Fence should be five feet or higher to prevent dogs from jumping over it. Entrances should serve as an effective buffer to the park. Entrance Area should consist of a double gate system. This area will give everyone some much appreciated breathing room as they enter and exit with their dog. It also serves as an assimilation and introduction area, and helps to keep dogs from escaping. Commercial aluminum has been chosen as the fence material because it is lightweight and doesn't rust or become brittle when exposed to extreme low or high temperatures. It is esthetically pleasing and is more durable than steel or wrought iron, ideal for weathering resistance and longevity.



Dog park surface: Wood Chips or Decomposed granite, for instance, is extremely durable, requires minimal upkeep and is more environmentally friendly. Decomposed granite is made up of very small pieces of granite and can range in size from 1/4\"/>

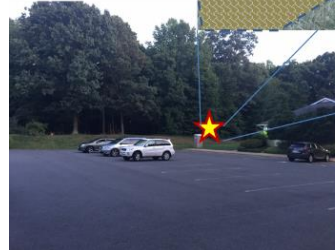
Small dogs and Large dogs: Two separate sections of the park. One side is for small dogs (less than 35 pounds) and other side for ALL dogs. These areas are completely separate enclosures so the dogs cannot mix unless their owner allows them to. The double entry gate will be used to enter either section of the dog park.

Park seating: Benches, Chairs, Picnic Tables. A dog park can be a great place to meet fellow residents and socialize; Seating material: Aluminum is less affected by weather and will not absorb odor like wood.

Signage: Set rules and regulations, as well as contact information for authorities and management clearly posted on a permanent sign on the entry gate to the park.

Access: To ensure, to the maximum extent possible, that the dog park remains exclusive to Montclair residents, the existing requirement to provide proof of recreation tags in order to gain access will be extended from Kids Dominion.

Parking: MPOA Parking lot current capacity is 40 spaces (36 general and 4 handicap). Additional parking can be found across from MPOA Bldg. on Spring Branch Blvd.



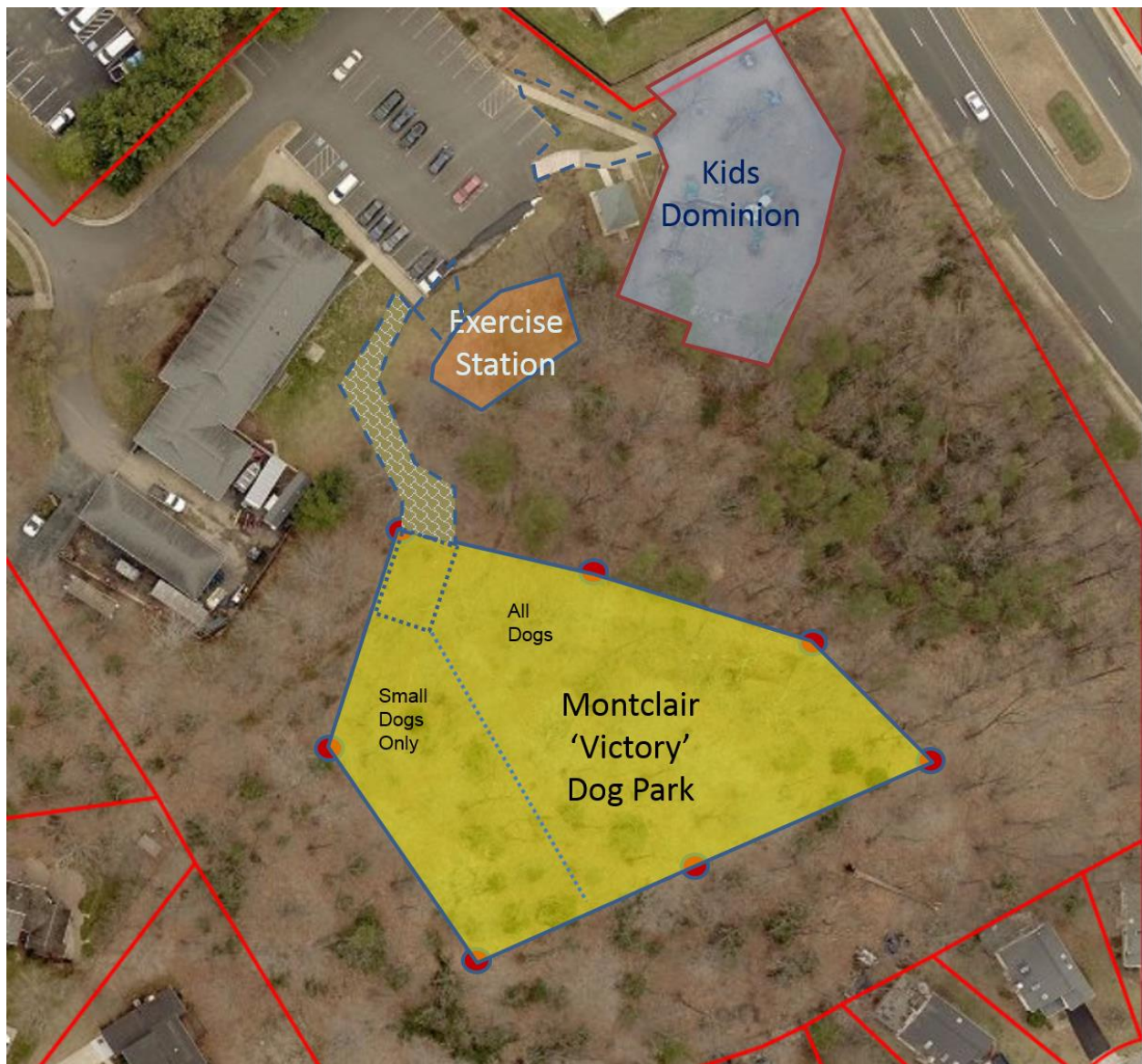
Initial Privacy Screening / Landscaping:

TBD

(DISCLAIMER: Ultimately, the Board will decide whether or not to install special plant screening, for how much of the perimeter, and if so, what species. LFMC generally advocates the use of native species, or if it is not practical, other plants that are well-adapted and non-invasive. and LFMC will work with the Board on the specifics if this is approved. Our estimate for privacy screening is just that, an estimate for budget purposes, and it is scalable.)

Initial Cost:

Fencing (6' High – Commercial Aluminum; 758 ft. Perimeter)	\$ 30,500.00
Separation Fence (All Dog / Small Dog areas; 157 ft.)	
Double Gate Entrance 70 ft. Perimeter)	
Entry Gate (36" x 3) (1-Main / 1-All Dog / 1-Small Dog)	
Installation Costs (per Home Advisor \$10+/linear ft. [budgeted \$15]):	\$ 15,000.00
Ground Cover (Initial: Wood Chips from cleared trees plus 200 cu. yds):	\$ 10,000.00
Trash Receptacles (6x \$500/ea)	\$ 3,000.00
Privacy Screening	\$ 4,500.00
Seating (6x Benches \$200/ea / 4x Picnic Tables \$1,000/ea):	\$ 5,200.00
Signage: (Brown/White Signs) \$300 per x 6	\$ 1,800.00
TOTAL:	\$ 70,000.00



Establishment of a Dog Park for Montclair's 4-legged residents will be a Victory for all...

Thank you!