

Z O N I N G
A D J U S T M E N T S
B O A R D
S T A F F R E P O R T

FOR BOARD ACTION
FEBRUARY 8, 2024

1730 Oregon Street Martin Luther King Jr. Youth Services Center / Young Adult Project

Variance #ZP2023-0018 to further exceed the nonconforming lot coverage by 1.7 percent, for a total of 60.5 percent, by constructing two additions that total 895 square feet in new gross floor area and an 80 square foot covered porch to an existing 10,655 square foot community center building within the front and rear setback.

I. Background

A. Land Use Designations:

- General Plan: Institutional
- Zoning: Restricted Two-Family Residential (R-2) and Restricted Multiple-Family Residential District (R2-A)

B. Zoning Permits Required:

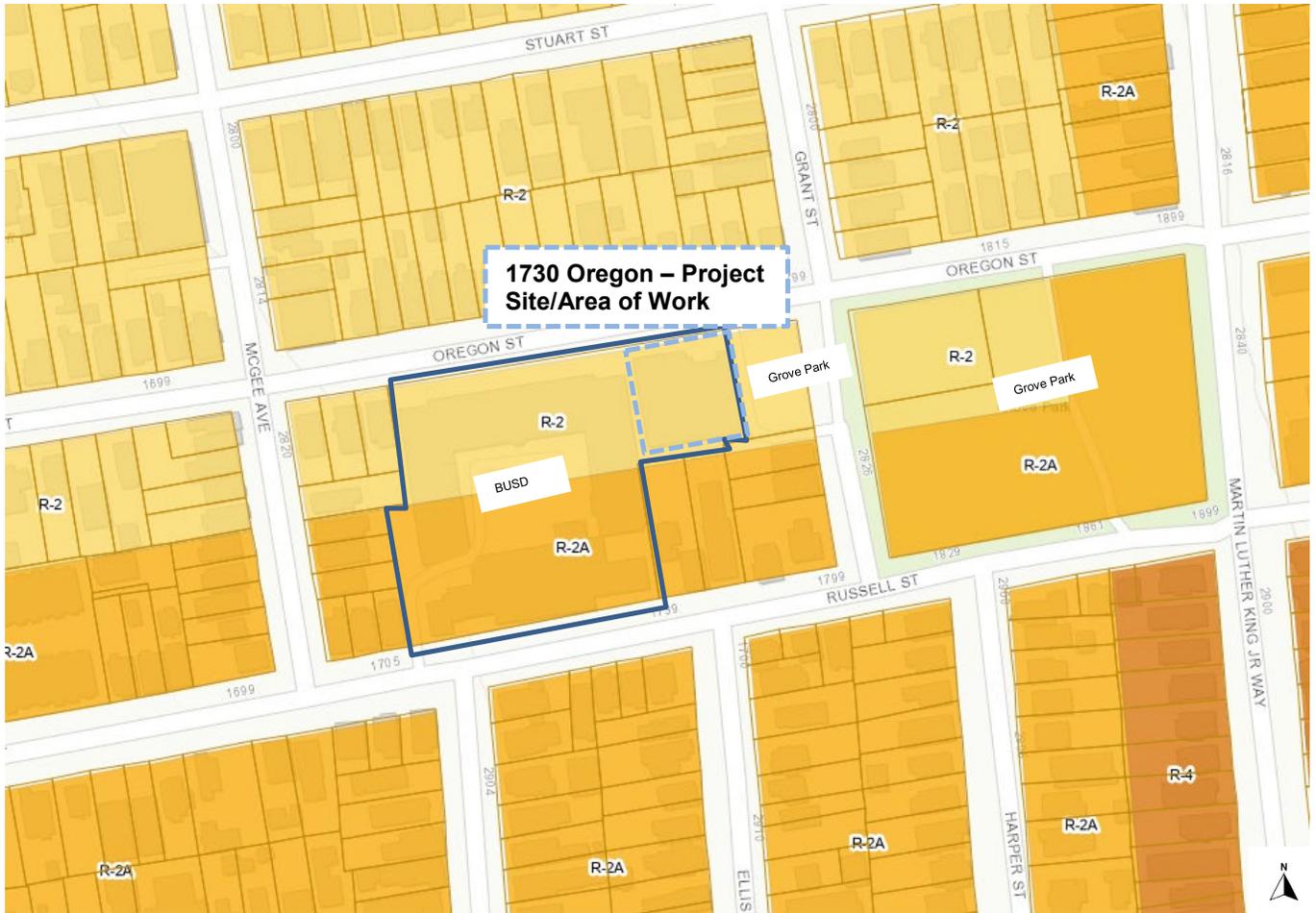
- **Variance** from Berkeley Municipal Code (BMC) Section 23.202.090(D), under BMC 23.406.050, to increase lot coverage on a lot that exceeds the maximum allowance
- **Administrative Use Permit**, under BMC Section 23.324.050(D)(2) to vertically and horizontally extend building walls projecting into the minimum front and rear setbacks

C. CEQA Recommendation: It is staff's recommendation that the project is categorically exempt pursuant to Section 15301 of the CEQA Guidelines ("Existing Facilities").

A. Parties Involved:

- Applicant Evelyn Chan, Parks, Recreation & Waterfront Department, City of Berkeley, Berkeley, CA 94704
- Property Owner Berkeley Unified School District, Berkeley, CA 94704

Figure 1: Vicinity Map – 1730 Oregon, MLK Jr. Youth Services Center / Young Adult Project

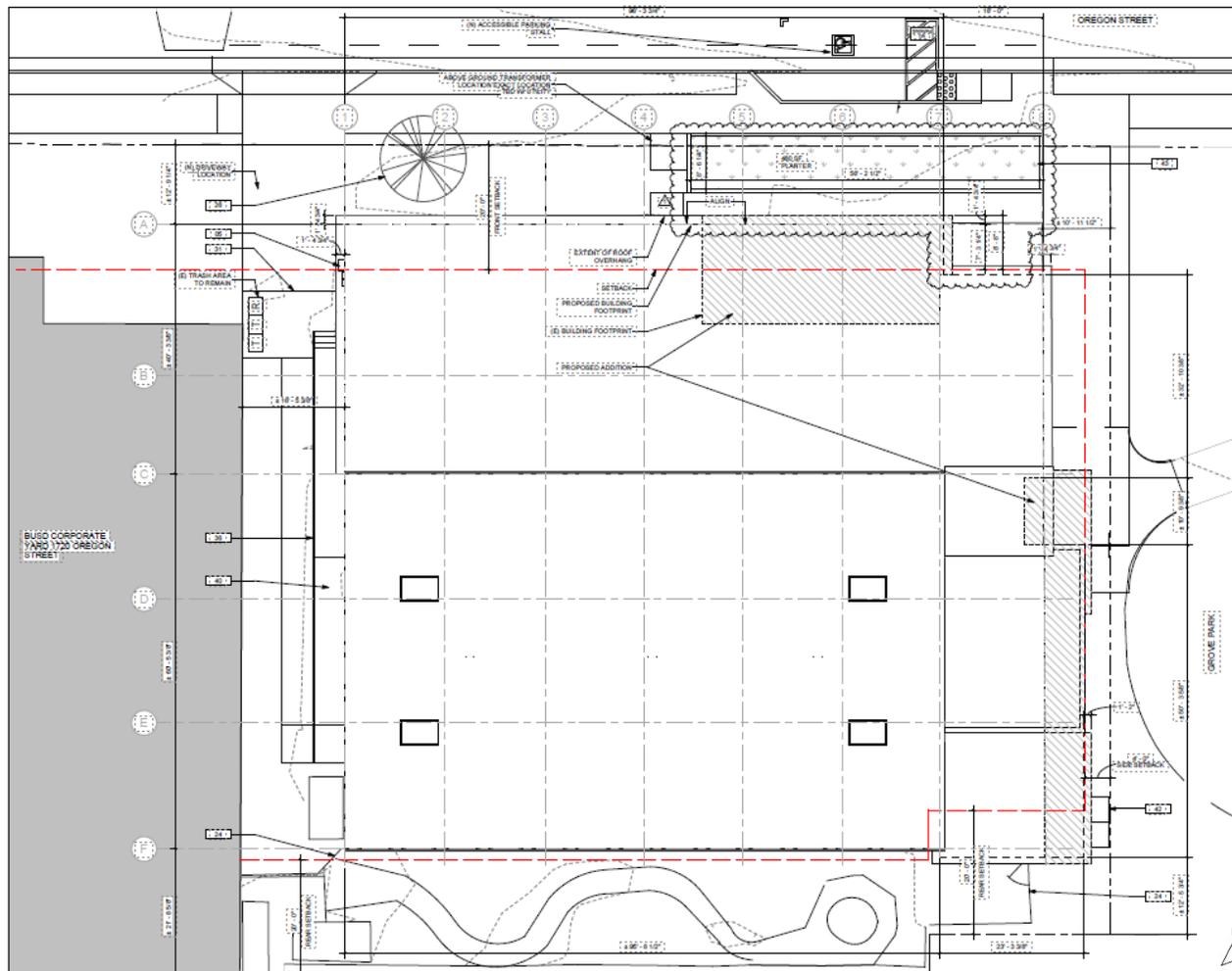


*Map not to scale.

Map Key

- Dashed blue line: Project Site / Area of Work
- Solid blue line: Project Lot
- R-2: Restricted Two-Family Residential District
- R-2A: Restricted Multiple-Family Residential
- R-4: Multi-Family Residential District

Figure 2: Site Plan



*Map not to scale



Figure 3: Proposed Floor Plan

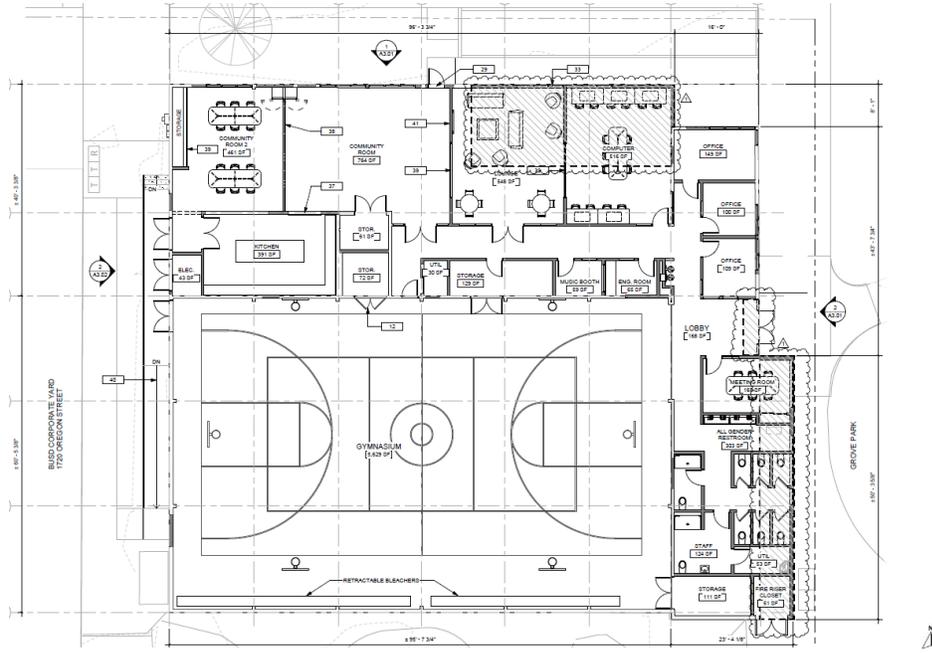


Figure 4: Existing Floor Plan

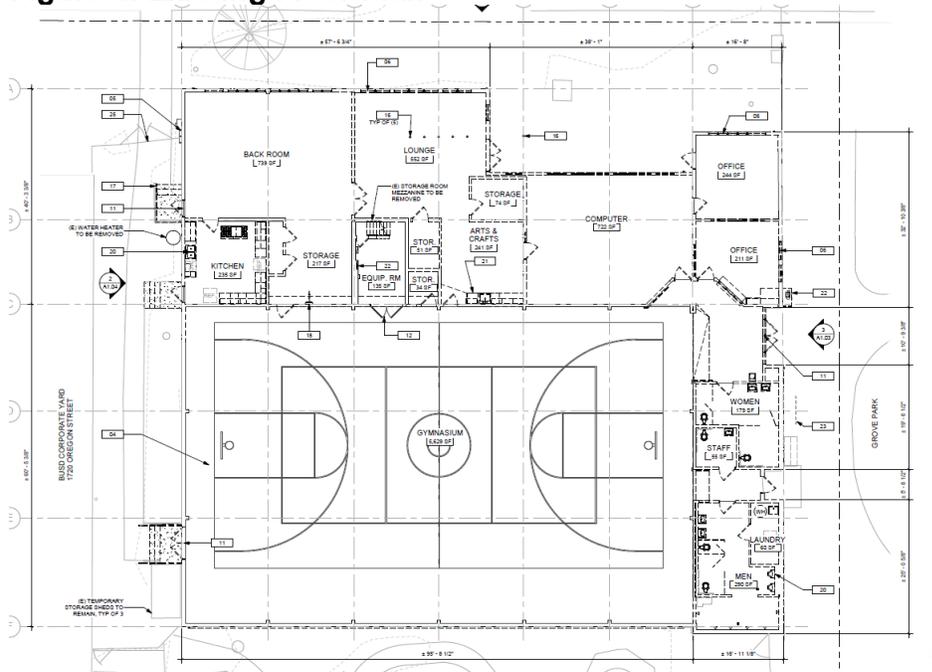


Figure 4: Proposed East Elevation

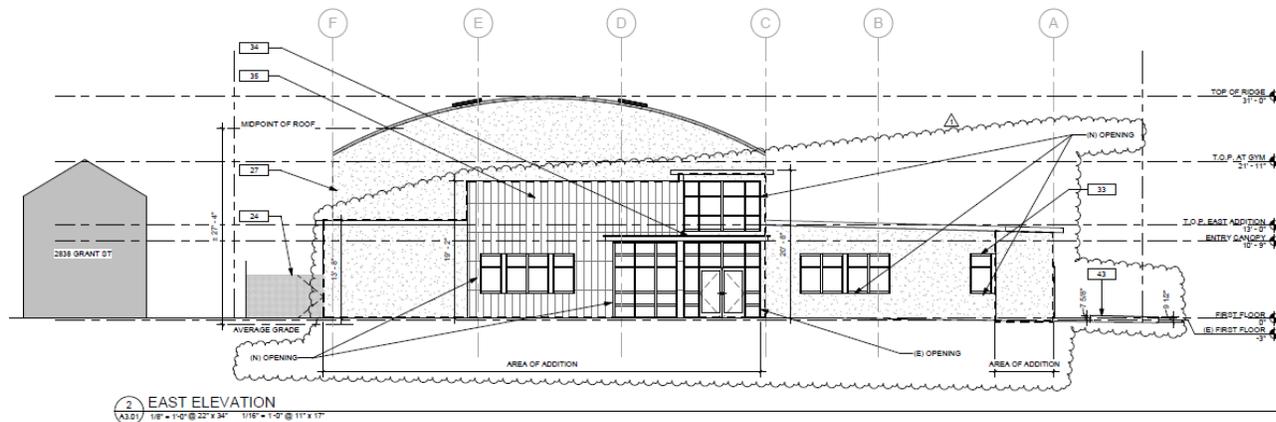


Figure 5: Proposed North Elevation

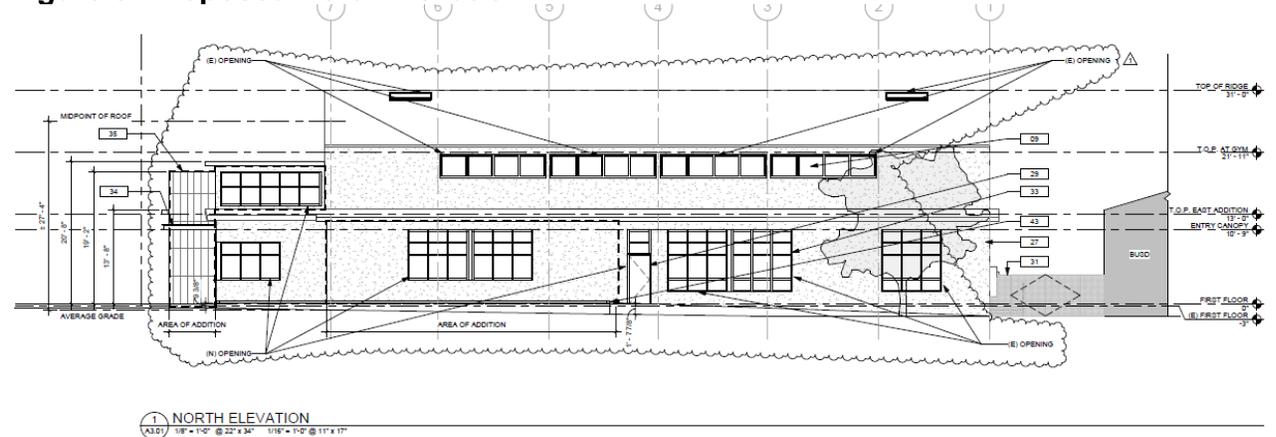


Table 1: Land Use Information

Location		Existing Use	Zoning District	General Plan Designation
Subject Property		Berkeley Unified School District Corporation Yard / MLK Jr. Services Center	R-2/R-2A	Institutional
Surrounding Properties	North	Single-Family Dwelling	R-2	Low – Medium Density Residential
	West	Two- Family Dwelling		
	East	Grove Park		
	South	Two and Multiple-Family Dwellings	R-2A	Medium Density Residential

Table 2: Special Characteristics

Characteristic	Applies to Project?	Explanation
Affordable Child Care Fee for qualifying non-residential projects (Per Resolution 66,618-N.S.)	No	N/A-This fee applies to net newly constructed nonresidential gross floor area over 7,500 square feet. The project would construct 895 square feet of net new floor area, therefore, the fee does not apply.
Affordable Housing Fee for qualifying non-residential projects (Per Resolution 66,617-N.S.)		
Affordable / Inclusionary Housing Requirements (BMC Chapter 23.328)	No	N/A-This project is nonresidential and not a housing development project per BMC 23.328.020, and is not subject to the inclusionary housing provisions
Alcohol Sales/Service	No	N/A-No alcohol sales or service is proposed on site.
Creeks	Yes	A culverted section of Derby Creek running through the subject parcel was abandoned and removed for construction of MLK Jr. Youth Services Center/Y.A.P., formerly named Grove Recreation Center, in 1950.
Density Bonus	No	N/A- The project is not a Density Bonus project.
Historic Resources	No	N/A- The project site is not designated as a Landmark by the City, nor is the application proposing to demolish existing structures on site. Per a Historic Resource Evaluation completed by Rincon Consultants on January 4, 2023, the existing building does not meet the criteria for the California Register or a City of Berkeley Landmark. See Section V.B. for additional discussion on the Landmarks review of this property.
Housing Accountability Act (Gov't Code Section 65589.5(j))	No	N/A-The project does not meet the definition of a "Housing Development Project" per Government Code Section 65589.5(h)(2) ¹ . The project establishes nonresidential additions to an existing nonresidential building, and thus section (j) of the

¹ Government Code Section 65589.5(h)(2) "Housing development project" means a use consisting of any of the following: (A) residential units only, (B) mixed-use developments consisting of residential and nonresidential uses in which at least two-thirds of the square footage is designated for residential use, and (C) transitional or supportive housing.

		Housing Accountability Act does not apply. applies.
Housing Crisis Act of 2019 (SB330)	No	N/A- The project does not meet the definition of a "Housing Development Project" per Government Code Section 65589.5(h)(2) ² .
Oak Trees	No	There are no oak trees impacted as part of the project.
Rent Controlled Units	No	N/A- There are no existing dwelling units on the site. No rent-controlled units would be demolished.
Residential Preferred Parking (RPP)	No	N/A- This project is a nonresidential project and would not establish new residential units.
Seismic Hazards (SHMA)	No	N/A- The site is not located within an area susceptible to liquefaction as shown on the State Seismic Hazard Zones ³ map.
Soil/Groundwater Contamination	No	N/A- The project site is not located within the City's Environmental Management Area.
Transit	Yes	The project site is located less than a block away from Alcatraz Avenue and Adeline Street, which are served by The Alameda-Contra Costa Transit District (AC) Transit Lines 688, 12 and F, respectively. The project site is located about 0.3 miles away from the Ashby Bay Area Rapid Transit (BART) Station. There are several designated bikeways within a half mile of the site.

Table 3: Project Chronology

Date	Action
March 6, 2023	Application submitted
April 5, 2023	Application deemed incomplete
May 3, 2023	Application resubmitted
June 1, 2023	Application deemed incomplete
August 18, 2023	Application resubmitted
September 14, 2023	Application deemed complete
January 25, 2024	Public hearing notices mailed/posted
February 8, 2024	ZAB hearing

² See footnote 1

³ California Department of Conservation. DOC Maps: Geologic Hazards. Available: <https://maps.conservation.ca.gov/geologic Hazards/>

Table 4: Development Standards for Subject Building⁴

R-2 Standards BMC Sections 23.202.080		Existing	Proposed Total	Permitted/ Required
Lot Area (sq. ft.)		103,240 (total lot) (54,445 R-2; 48,795 R2-A)	No change	5,000 min
Total Lot Gross Floor Area (sq. ft.)		32,960	33,855	N/A
Subject Building Gross Floor Area (sq. ft.)		10,655	11,550	N/A
Building Height	Average (ft.)	27.33	No change	28 max
	Stories	1	1	3 max
Building Setbacks (ft.)	Front	12'- 9 1/4"	No change	20 min
	Rear	16'-11 1/8"	No change	20 min
	Left Side	4	No change	4 min
	Right Side	10'- 11 1/2"	4'	4 min
Lot Coverage (%)	Total Lot	53.9	54.8	45 max (single-story buildings) 40 max (two-story buildings)
	R-2 Zoned Area (North)	58.8	60.5	45 max (single-story buildings R-2)
	R-2A Zoned Area (South)	48.6	No change	40 max (two-story buildings R-2A)
Usable Open Space* (sq. ft.)		N/A	N/A	N/A
Parking	Automobile	0	1 ADA	0 min
	Bicycle**	0	0	N/A
<p>■ Shading: Variance applied to development standard</p> <p>Abbreviations: sq. ft. = square feet; max. = maximum; min. = minimum; n/a = not applicable; % = percent, ADA = Americans with Disabilities Act compliant space</p> <p>*Useable open space is required of new dwelling units, not nonresidential structures.</p> <p>**Bicycle parking is not required for the expansion of a nonresidential building in the R-2/R-2A zoning districts.</p>				

⁴ The subject lot is split zoned as R-2 and R-2A. The project is located on the portion of the lot that is zoned as R-2. Unless otherwise indicated, Table 4 places the project in comparison with the development standards of the R-2 zoning district per BMC 23.104.050(B) Lots Containing Two or More Districts.

II. Project Setting

A. Neighborhood/Area Description: The project site is located along Oregon Street and Russel Street, between McGee Avenue (west) and Grant Street (east). The Martin Luther King (MLK) Jr. Youth Services Center / Young Adult Project (YAP)⁵ is located proximate to the intersection of Oregon Street and Grant Street. The site is located in a residential district in South Berkeley. The majority of the block is composed of the project site, which is developed with the Berkeley Unified School District (BUSD) Corporation Yard and the subject project building. The site abuts Grove Park along the eastern property line which is central to the neighborhood, amongst the mix of single- and multifamily residential buildings. Grove Park spans over several parcels for total of 134,600 square feet and includes several sports fields (e.g., softball field, tennis court, basketball court) picnic areas, play structures, and recreational lawn area. The neighborhood also includes Berkeley Public Library – Tarea Hall Pittman South Branch, South Berkeley Senior Center, Young Men’s Christian Association (YMCA) Head Start, and other local serving organizations and uses.

B. Site Conditions: The site is a large relatively flat, interior through lot, and has nonconforming lot coverage. There is 405 feet of frontage along Oregon Street and 208 feet of frontage on Russell Street. From east to west, the rear property line jogs inward, resulting in the shape of the lot and an interior corner that reduces the rear setback area. The subject lot is split zoned as R-2 and R-2A. The project is located on northern the portion of the lot that is zoned as R-2.

The lot consists of BUSD Corporation Yard structures and the subject building. The majority of the lot is occupied by the BUSD Corporation Yard (1720 Oregon and 1707 Russel Street), which includes two permanent structures around a central interior courtyard. In the R-2 portion of the lot, the BUSD Corporation Yard structures total 22,305 square feet and accounts for about 40 percent of the lot coverage.

Established in 1950, the MLK Jr. Youth Services Center, formerly known as the Grove Recreation Center, is a single-story, 10,655 square foot building located within the northeastern corner of the lot that was last renovated in the 1970s. The existing building accounts for about 19 percent of the lot coverage in the R-2 portion of the lot, and about 10 percent of the lot coverage on the entire lot. The subject building has non-conforming front and rear setbacks and is comprised of rooms for programming (i.e. tutoring, violence provision courses, leadership development, and community meetings) and a gymnasium. However, there are no corridors or hallways – the circulation to program spaces is through adjacent rooms. The building is partially accessible and requires upgrades to comply with Americans with Disabilities (ADA) standards and emergency egress requirements.

⁵ The subject community center is known as the MLK Jr. Youth Services Center and Young Adult Program. For brevity and clarity, the community center will be referred to as the MLK Jr. Youth Services Center throughout this report.

The building is one of the City of Berkeley's seven community and senior centers that are designated as care and shelter facilities in the event of a disaster.⁶ The City's Resilience Strategy⁷ identifies the need for critical upgrades in order for the buildings to function as disaster responsive facility. A 2015 seismic evaluation found that in the event of a major earthquake, none of these seven facilities would be able to serve its daily or disaster functions without significant and costly repairs.

The subject lot is owned by BUSD. As noted above, the majority of the lot is occupied and used by BUSD as their maintenance facility and yard, while small portion of the lot is developed with the subject community center. The 2020 Joint Facility Use Agreement (Attachment 4) with BUSD states that the City is responsible for all maintenance and capital costs associated with operating existing facilities through 2051.

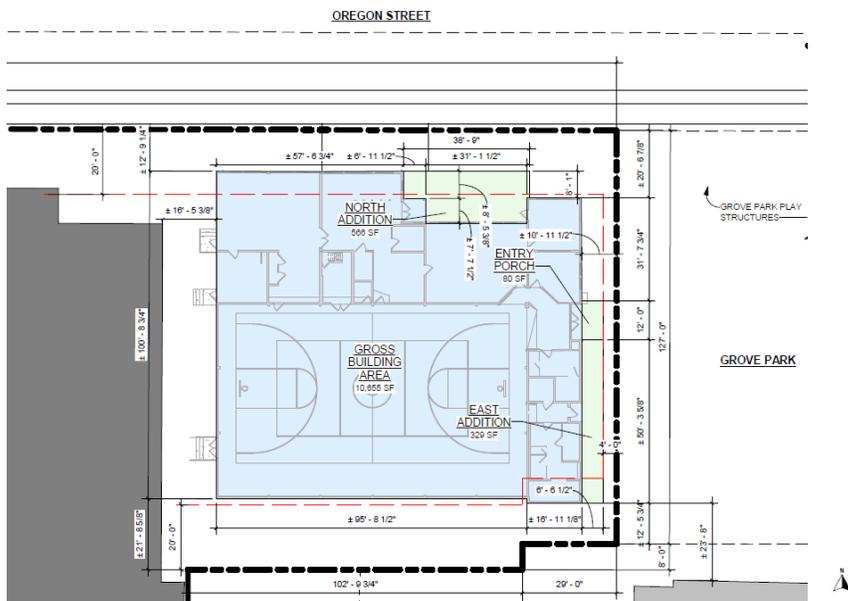
III. Project Description

In addition to the necessary seismic retrofit, the proposed project would construct three additions to the subject building: 566 square feet along the northern portion of the building, and 329 square feet along eastern portion, and an 80 square foot covered entry porch. The additions would result in 895 square feet of additional footprint that is included in lot coverage. The proposed addition would reconfigure the interior of the existing building to re-size program spaces in order to meet the existing programming needs of the community, allow for flexibility in future recreational opportunities, add interior corridors, and meet accessibility standards within and to the building. Below is a summary of the respective additions to the building.

⁶ A care and shelter facility could provide overnight sheltering, food distribution, and other services to those in need in the event of a disaster. These facilities are distributed throughout the city and, in addition to their care and shelter function, provide essential services on a daily basis to thousands of Berkeley residents, including seniors and youth, who use these facilities for hot meals, recreation, classes, and socializing (See footnote 6).

⁷ City of Berkeley Resilience Strategy
https://berkeleyca.gov/sites/default/files/2022-03/Berkeley_Resilience_Strategy.pdf

Figure 4: Proposed Additions



Legend

- Blue – existing building
- Green – proposed addition
- Red dashed line – required setbacks
- Black dashed line – property line

- **North Addition**
 - 566 square foot, single-story addition facing Oregon Street
 - Approximately 313 square feet of the addition would extend 8 feet, 1 inch into the front setback, aligning with the existing northern facade of the building which maintains a front setback of 12 feet, 9 inches, where the requirement is 20 feet. The addition does not exacerbate the existing nonconformity.
 - This addition would provide interior space to support teen programs, the school lunch program, and the City of Berkeley's care and shelter program.
- **East Addition(s)**
 - 329 square foot, single-story addition facing Grove Park
 - Approximately 50 square feet of addition would extend about 7 feet, 8 inches into the rear setback, aligning with the southern facade of the building which maintains a rear setback of about 12 feet, 2 inches, where the requirement is 20 feet. This addition does not exacerbate the existing nonconformity. The area in the setback is reserved for the new sprinkler system fire riser⁸.

⁸ A riser room is the room or designated space where the control center for the fire sprinkler system is kept, and plays a pivotal role in the overall fire protection of that facility.

- This addition would create a meeting room, all-gendered restrooms, and utility space.
- 80 square foot, single-story covered porch for the entryway facing Grove Park
 - Covered entry porch provides added weather protection. This area is not included in the proposed total gross floor area but does count toward lot coverage and is subject to setback requirements. This addition meets the 4-foot required side setback, aligns with the southern facade of the building which maintains a rear setback of about 12 feet, 2 inches, where the requirement is 20 feet. This addition does not does not exacerbate the existing nonconformity.

As shown in Table 2, a Variance is requested to increase the lot coverage from 58.8 percent to 60.5 percent where the requirement is 45 percent for a single-story building in the R-2 zoning district. Deviation from development standards may be allowed with a Variance if there are extenuating circumstances related to the property.

IV. Background: Measure T1 and City of Berkeley Strategic Plan

A. Measure T1: The proposed project is a City Council-approved Phase Two project of Measure T1.

Measure T1 is an infrastructure and facilities bond that was approved in November 2016 by 86.5 percent of Berkeley voters. Measure T1 provides \$100 million of funding from bond revenue to pay for improvements to City infrastructure and facilities including sidewalks, storm drains, parks, and community centers. Following approval, the City facilitated a community engagement process from January to April 2017 to develop a list of projects for the first phase implementation of the measure. Phase One⁹ of Measure T1 implementation included projects like the renovation of the South Berkeley Senior Center, Live Oak Center, as well as the Citywide Restroom Assessment Project. The Phase One project list was approved by the City Council on June 27, 2017.

To develop the Phase Two project list, the City engaged in an extensive community engagement process that included over 45 community meetings. The Phase Two project list, which includes improvements to care and shelter sites, was adopted by City Council on December 15, 2020, Resolution 69,657 N.S. (Attachment 5). As noted in the accompanying City Council Report¹⁰ (see page 23 of 41), the proposed project to renovate and improve the MLK Jr. Youth Services Center, a designated care and shelter site, received a large amount of public support. Consistent with City Council

⁹ Measure T1: Phase One Projects

<https://berkeleyca.gov/your-government/our-work/ballot-measures/measure-t1/measure-t1-funded-projects>

¹⁰ City Council Report – December 15, 2020: Recommendations for Implementing Phase Two of Measure T1 Infrastructure Bond Program

<https://records.cityofberkeley.info/PublicAccess/api/Document/ARJxNpwf%C3%81oqT61%C3%81gazg9xGmGQWluX2k%C3%8919agOjYsTy%C3%89RLYtUqKzGoC1qYN0YefNHe6Qoelj%C3%81g6zUVvuT60ZzNOQ%3D/>

directives, the subject project will allow for seismic retrofit of the existing building, accessibility upgrades, and the reconfiguration and additional program space to facilitate improving the community building.

B. City of Berkeley's Strategic Plan: The proposed project is consistent with Strategic Plan as it modernizes and provides more programming space to a care and shelter site and community center that will result in a more connected, resilient, safe, and prepared community.

Approved by the City council in January 2018, The Strategic Plan¹¹ identifies long-term goals and short-term priorities (i.e. projects that the City will focus on to benefit the community). Short-term priorities or are updated each budget cycle. The City's budget is produced every two years and includes a five-year capital improvement program budget.

The long-term Strategic Plan goals relevant to this project include:

- Champion and demonstrate social and racial equity
- Provide an efficient and financially-healthy City government
- Provide state-of-the-art, well-maintained infrastructure, amenities, and facilities
- Create a resilient, safe, connected, and prepared City

Aligned with the Strategic Plan, the City's budget is produced every two years and includes a five-year Capital Improvement Program (CIP) budget. On June 28, 2022, the City Council adopted the budget for Fiscal Years 2023 and 2024. Adopted in Fiscal Year 2023, the updated Five Year (Fiscal Year 2023-2027) CIP¹² includes the proposed project to modernize the facility and meet accessibility standards at the MLK Jr. Youth Services Center (see page 94 of the CIP). With the last major renovation to the facility in the 1970s, the proposed project would facilitate building accessibility safety upgrades, and create additional programmatic space for community building within budgetary requirements.

V. Community Discussion

A. Neighbor/Community Concerns: Prior to submitting this application to the City, the applicant invited interested neighborhood organizations and community members within 1,000 feet of the MLK Jr. Youth Services Center to two community meetings and two teen-focused workshops, for a total of four community engagements. The first community meeting was held virtually in March 2022 and the second was held in-person in May 2022. The teen workshops were both held in May 2022 during an afterschool teen program and a Friday night teen event. In addition, to these meetings, a survey was posted for the project and was made available to the public for four weeks. Below is a summary of the project feedback / goals received from the community:

¹¹ City of Berkeley Strategic Plan
<https://berkeleyca.gov/sites/default/files/2022-01/Berkeley-Strategic-Plan.pdf>

¹² Adopted in FY 2023 – FY 2027 Capital Improvement Program – Building a Better Berkeley
https://berkeleyca.gov/sites/default/files/documents/FY-23-27-Capital-Improvement-Program_0.pdf

- Modernize the building
- Create safe paths of travel and spaces
- Expand the building, not into the open space
- More opportunities for recreational programming
- More opportunities for community programming
- All-gender restroom
- Selection of conceptual plan, Option D (Figure 5)

Figure 5: Final Conceptual Plan Selected by Public (Option D)



A summary of project community engagement efforts and feedback received are included as Attachment 6.

A yellow pre-application poster was installed by the applicant in February 2023. On January 25, 2024 the City mailed public hearing notices to property owners and occupants within 300 feet of the project site, and to interested neighborhood organizations, and posted notices within the neighborhood in three locations. At the time of this writing, staff has not received any direct communications regarding the project.

B. Committee Review: This project is not subject to review by the Design Review Committee or the Landmarks Preservation Commission because it is not located in a residential district subject to design review, commercial or manufacturing district, and does not involve the demolition of a nonresidential building, respectively. The project would modify an existing nonresidential building that is over 40 years in age. Per the Historic Resource Evaluation prepared by Rincon Consultants on January 4, 2023, the building proposed for modification does not meet the criteria for the California Register or a City of Berkeley Landmark.

VI. Issues and Analysis

- A.** The lot is nonconforming with respect to lot coverage, with an overall total of about 54 percent, however, there is not a lot coverage standard that applies to the lot as a whole. Because the lot is split-zoned, the lot coverage allowances are applied to the lot area within each district per BMC 23.104.050(B) Lots Containing Two or More Districts. The MLK Jr. Youth Services Center is located in the R-2 portion, which includes around 54,445 square feet of lot area, is developed with single-story structures, and has a 45 percent lot coverage maximum per the development standards in BMC 23.202.080(D). The existing lot coverage in R-2 is nonconforming at 58.8 percent, with the subject building making up 19 percent of that coverage. The project requires a Variance to further exceed lot coverage by an additional 1.7 percent, resulting in a total of 60.5 percent. The proposed single-story additions would result in an increase of total lot coverage from 58.8 percent to 60.5 percent on the R-2 zoned portion of the lot.
- B. Variance Findings.** Pursuant to BMC Section 23.406.050 (F)(1), in order to approve a Variance, the ZAB must make all required Variance Findings (a-f). The applicant submitted their reasons for the variance request in support of the Findings. A summary of the Findings along with staff's recommendations follow.

(a): "There are exceptional circumstances applying to the property which do not apply generally in the same district."

Evidence: There are three exceptional circumstances that apply to the property which do not apply generally in the same district.

- **Site Conditions.** The lot was historically developed with nonresidential buildings, including two main buildings arranged in a U-shaped built around 1915 as Edison Junior High School and a double-height gymnasium, as well as the subject building which was constructed in 1950 as a recreation center. The types of buildings and uses that exist on the site, while generally compatible with residential zoning, utilize building forms that are not typically associated with residential uses. Nonresidential buildings are larger than the low-to medium density housing types typically found within the R-2 and R-2A zoning, as they are meant to handle assembly occupancy loads, serving many people at one time.
- **Ownership.** There are exceptional ownership limitations that restrict the ability to redevelop the lot and improve the subject building. The subject lot is owned by BUSD. The majority of the lot is occupied by the BUSD Corporation Yard structures and accounts for about 39 percent of the 58.8 percent lot coverage in the R-2 portion of the lot. Through a long-term lease agreement with BUSD, the City has the ability to maintain and improve the subject community center located at the northeast corner of the lot. However, the lease agreement limits the redevelopment of the site to the subject building both contractually and physically, due to the location of existing BUSD structures. Since the City is restricted from modifying other structures on

BUSD-owned property, the City cannot reduce the lot coverage of other on-site structures to create consistency with the R-2 requirement. Although other options to modify the community center’s building envelope were considered, all options would have increased the site’s nonconforming lot coverage. An option to expand vertically, by adding a second story, would have further increased the nonconformity because the allowable lot coverage on the R-2 zoned portion of the lot would decrease from 45 percent to 40 percent, resulting in further noncompliance. See the following table from BMC Section 23.202.090(D) where lot coverage standards are based on number of stories and lot type.

Table 23.202-7. R-2 Lot Coverage Standards

	STANDARD BASED ON BUILDING HEIGHT			SUPPLEMENTAL STANDARDS
	1 STORY	2 STORIES	3 STORIES	
Lot Coverage, Maximum				
Interior and Through Lots	45%	40%	35%	23.304.120
Corner Lots	50%	45%	40%	

Given the unique ownership limitations of the lot, strict application of the lot coverage would preclude the City from improving an existing recreational facility.

- **Public Benefit.** Unlike other residentially zoned lots in the district, the lot is used for general service and public use. The City is responsible for providing a safe and accessible recreational facility. With the last major renovation to the facility in the 1970s, the existing building is comprised of rooms for public programming and a gymnasium, however, there are no corridors or hallways – the circulation to program spaces is through adjacent rooms. The building is partially accessible and requires upgrades to comply with Americans with Disabilities (ADA) standards and emergency egress requirements. It would also provide a fire sprinkler riser room necessary to support a new fire sprinkler system that would reduce the spread of building fire to residential properties and Grove Park. With the additional floor area, the proposed project would facilitate building accessibility and safety for the public and staff, allowing for a safer path of travel in and around the building. The proposed additions would also create additional programmatic space to serve a greater proportion of for Berkeley youth and young adults. As designated care and shelter site, the project modifications would benefit the larger community in the event of an emergency activation. These improvements are aligned with the City’s General Plan, Strategic Plan, and Capital Improvement Plan.

As stated, the historic nonresidential development, unique lot ownership, and public use conditions impact the lot and limit the location and size of the proposed

additions on the subject lot and create exceptional circumstances not typical of other properties in the R-2 and R-2A districts.

(b): *“The Variance is necessary to preserve a substantial property right.”*

Evidence: There are several approved City-wide plans, policy directives, and programs that substantiate the proposed project to improve and update the MLK Jr. Youth Services Center. The City is required to maintain and modernize existing public facilities to meet identified community needs, safety, and accessibility requirements.

Adopted in January 2018, the Strategic Plan identifies long-term goals and short-term priorities to benefit the general public. The proposed project is consistent with several of the Strategic Plan’s goals, as it would feasibly improve an existing community center located in a historically underserved neighborhood by responding to the changing needs of the community through the provision of additional recreational and communal space necessary to offer meaningful experiences that include tutoring, violence prevention, and leadership development component for teens amongst other community services. Since the community center also serves as a care and shelter site during an emergency, these enhancements to building accessibility and safety would create a more prepared, safe, and resilient community.

The proposed project is an approved Measure T1, Phase Two project. Measure T1 is an infrastructure and facilities bond that was approved by the Berkeley voters in November 2016. The Phase Two project list was adopted by City Council on December 15, 2020 and funds improvements to several designated care and shelter sites, including the MLK Jr. Youth Services Center, amongst other city-wide infrastructure projects. An identified priority, the proposed project would administer community mandated funds by feasibly modernizing an existing public facility, allowing for continued use and expansion to meet community need.

The proposed project is supported by number of General Plan¹³ policies, including, but not limited to Policy Open Space (OS) -1 Preservation, Policy OS-2 Maintenance, Repair, and Enhancements, Policy OS-5 Community Participation, and Policy OS-7 Serving Disadvantage Communities, discussed further in Section VI.D. The proposed additions respond to the changing needs of the community by establishing more meeting space for community meetings, programming, and all-gendered bathrooms, to an existing community center facility. The design of the proposed additions to the north and eastern portions are based on community feedback received from program participants, neighbors, families, and community center staff. Strict application of the lot coverage would preclude the MLK Jr. Youth Service Center from modernizing and would therefore limit the ability of the public facility to serve the community as both youth services center and a care and shelter site. The proposed

¹³ City of Berkeley General Plan Open Space and Recreation Element
https://berkeleyca.gov/sites/default/files/documents/08_Open%20Space%20and%20Recreation%20Element-FINAL.pdf

modifications of this facility would allow the City to offer an improved level of service to historically underserved neighborhood and the general public.

(c): "The Variance will not adversely affect the health or safety of persons residing or working near the property."

A Variance to further exceed lot coverage will not adversely affect the health and safety of persons residing or working near the property. The site is already developed with nonresidential buildings, the community center use will not change, and the proposed additions are relatively small compared to the site as a whole. The proposed project would not increase setback nonconformities. The proposed 566 square foot, single-story addition along Oregon Street extends 8 feet and 1 inch into the front setback, maintaining the existing building front setback and does not exacerbate the existing non-conforming condition. Similarly, about 50 square feet of the 329 square foot eastern addition that abuts the lots developed with Grove Park to the east and the residential use to the south, projects about 7 feet and 8 inches into the rear setback, consistent with the existing building and does not exacerbate the existing nonconformity.

Additionally, the increased lot coverage would allow for additions that would increase fire and weather protection of persons using or working near the property. The portion of the eastern addition that projects into the rear setback is reserved for fire sprinkler system control and maintenance. Dedicated area for the new, fire sprinkler riser room would facilitate a safer environment for both building occupants and neighboring residential units by modernizing preventative fire measures. The riser room would provide an easily identified and accessible location for all of the facility's fire sprinkler and protection equipment. Increased lot coverage would allow for a new fire sprinkler system would reduce the spread of building fire to residential properties and Grove Park.

Increasing lot coverage to accommodate additions to the existing building would reduce impacts related to long-term construction associated with a total redevelopment of the site. Compared to a demolition and reconstruction of the entire structure to bring the site into zoning conformance, the proposed project would reduce the construction timeline to modernize the existing community center. The limited construction timeline would not be detrimental to those living and working near the site as it would curb common impacts associated with long-term construction to the immediate neighborhood and would result in the timely delivery of expanded services to the Berkeley youth and young adults.

(d): “The Variance will not be materially detrimental to the public welfare or injurious to nearby property or improvements.”

Evidence: The increase in lot coverage would not be materially detrimental to the public welfare or injurious to nearby property or improvements and would not result in the reduction of abutting public open space. Grove Park is east of the project site and offers a variety of recreational opportunities, including tennis courts, basketball courts, ball fields, and play structures. Additions along the eastern portion of the building would not expand into any of the play courts or fields, and would not impact the location of any playgrounds that are currently under construction. Ranging from 13 feet, 8 inches to 20 feet, 8 inches in average building height, the eastern additions would have minimal shade and air impacts to existing walkways, fields, play court, and structures, and would increase accessibility to and within the building. The proposed project would not be detrimental to the nearby park improvements as it preserves the quality and existing type of open space.

Similarly, the increased lot coverage would not be injurious to residential properties in the neighborhood. Apart from lot coverage, the proposed project would be consistent with underlying development standards and would not exacerbate nonconforming setbacks. Consistent with the existing nonconforming front setback, the proposed northern addition would maintain an average building height of 13 feet, 8 inches and would result in minimal shade and air impacts to existing residences along Oregon Street.

As noted above, the proposed project would not be detrimental to the public as it would increase fire protections. In the event of a building fire, the proposed fire sprinkler riser room would facilitate fire safety for nearby residences and Grove Park by modernizing preventative fire measures. The riser room would provide an easily identified and accessible location for all of the facility’s fire sprinkler and protection equipment. Increased lot coverage would allow for a new fire sprinkler system would reduce the spread of building fire to residential properties and Grove Park.

The additions and seismic upgrades would also allow the subject building to be used in an emergency as a shelter and care facility, which would increase the City’s ability to assist the public in the event of natural disaster.

(e): “The Variance will promote the municipal health, welfare, and safety and benefit the city as a whole.”

Evidence: The Variance allows for the expansion of an existing community center that would promote the municipal health, welfare, and safety and benefit the City as a whole. The proposed improvements are aligned with approved City-wide policies and Council approved programs, like the Strategic Plan and Measure T1, aimed to benefit the whole Berkeley community.

Adopted January 2018, The Strategic Plan identifies long-term goals and short-term priorities to benefit the general public. The proposed project is consistent with several of the Strategic Plan's goals as it would feasibly improve an existing community center located in a historically underserved neighborhood by responding to the changing needs of the community through the provision of additional recreational and communal space necessary to offer meaningful experiences that include tutoring, violence prevention, and leadership development component for teens amongst other community services. Since the community center also serves as a care and shelter site during an emergency, enhancements to building accessibility and safety would create a more functional, prepared, safe, and resilient community.

The proposed project is an approved Measure T1, Phase Two project. Measure T1 is an infrastructure and facilities bond that was approved by the Berkeley voters in November 2016. Development of the Phase Two project list involved an extensive city-wide community engagement process. The Phase Two project list was adopted by City Council on December 15, 2020 and includes improvements to several designated care and shelter sites, like the MLK Jr. Youth Services Center. The proposed project would benefit the community as whole because it would feasibility modernize an existing public facility by adding more communal space and making the building safer – a priority that was identified by the Berkeley community.

(f): *“Any other Variance findings required by Zoning Ordinance can be made.”*

Evidence: N/A. This Finding is not applicable to the Variance request.

C. Nonconforming Setbacks: As required by BMC Section 23.324.050(D), an addition that horizontally extends a building wall into a minimum required setback may be approved if the existing use is conforming, enlargement does not increase or exacerbate nonconforming setbacks, and if it does not exceed maximum or calculated height limits.

The existing community center is a conforming use in the R-2 and R-2A districts. The proposed additions that extend into the nonconforming setbacks would not exacerbate nonconforming setback conditions and would be below the maximum average building height limits. The northern addition would maintain the existing nonconforming setback at 12 feet, 9 inches, where the requirement is 20 feet. The addition along the southern portion of the building would maintain a nonconforming rear setback of 16 feet, 11 inches, where the requirement is 20 feet. Both additions that project into the required setback would be 13 feet, 8 inches in average height, consistent with and below the maximum height requirement of 28 feet for nonresidential additions.

D. General Non-detriment: As required by BMC Section 23.406.040(E), the ZAB must find that the proposed structure will not be detrimental to the health, safety, peace, morals, comfort, or general welfare of persons and adjacent properties for any Use Permit in the R-2.

1. The project site is located in South Berkeley, on a relatively flat lot. The northern and the rear portion of the eastern addition are under 14 feet in average height. The tallest portion of the eastern addition (entry way, eastern meeting room, and bathrooms) would have an average height of 20 feet, 8 inches. This is below the tallest portion of the existing building at the gymnasium, which is 27 feet and 4 inches. The project does not obstruct any significant view corridors as defined in BMC Section 23.502.020(V)(12)¹⁴ because there are no view corridors visible from the site. With minor bulk and massing modifications, distance from residential lots along Oregon Street, and the amount of existing tall foliage along the rear property line, staff believes that shadow impacts from the project would be reasonable and not detrimental. The project site abuts Grove Park to the east, and residential uses to the south and north. The northern addition will not result in any privacy impacts as the addition fronts Oregon Street and extends into the front setback, aligned with the existing building line and is over 80 linear feet from a residential unit along Oregon Street. The eastern addition that faces an accessory structure of a residential dwelling unit to the south does not propose any new windows. The eastern additions will result in minimal privacy impacts as they primarily face Grove Park and the rear of an existing residential unit. Further, existing foliage that extends greater than 35 feet in height and fencing along the property line shared with the southeast residential unit will mitigate privacy impacts.
2. The proposed project would feasibly improve an existing community center located in a historically underserved neighborhood by responding to the changing needs of the community through the provision of additional recreational and communal space necessary to offer meaningful experiences that include tutoring, violence prevention, and leadership development component for teens amongst other community services. Since the community center also serves as a care and shelter facility during an emergency, enhancements to building accessibility and safety would create a more functional prepared, safe, and resilient community.
3. The project is subject to the City's standard conditions of approval regarding construction noise and air quality, waste diversion, toxics, and stormwater requirements, thereby ensuring the project would not be detrimental to the health, safety, peace, morals, comfort or general welfare of persons residing or working in the area or neighborhood of such proposed use or be detrimental or injurious to property and improvements of the adjacent properties, the surrounding area or neighborhood or to the general welfare of the City.

¹⁴ View Corridor - A significant view of the Berkeley Hills, San Francisco Bay, Mt. Tamalpais, or a significant landmark such as the Campanile, Golden Gate Bridge, and Alcatraz Island or any other significant vista that substantially enhances the value and enjoyment of real property.

E. General Plan Consistency: The 2002 General Plan contains several policies applicable to the project, including the following:

1. Policy OS-1 Preservation: Existing open space and parks shall be maintained and preserved for public park and open space use.
2. Policy OS-2 Maintenance, Repair, and Enhancements: Within the context of open space resource allocations, give highest priority to maintaining and improving the City's existing network of open space and recreation facilities.
3. Policy OS-5 Community Participation: Encourage community involvement in every aspect of park and open space acquisition, design, and construction.
4. Policy OS-7 Serving Disadvantaged Populations: Within the context of open space resource allocations for new or expanded facilities, give high priority to providing additional facilities for populations that are disadvantaged or underserved. Encourage and maintain zoning that allows greater commercial and residential density and reduced residential parking requirements in areas with above-average transit service such as Downtown Berkeley.

Staff Analysis: The proposed project is consistent with the above General Plan policies as it responds to the changing needs of the community by enhancing an existing community center facility, the MLK Jr. Youth Services Center, including needed safety and accessibility improvements. The modest expansion of the community center is limited to the north and eastern portions of the exiting building in order to preserve abutting open space (Grove Park) and the area of the lot owned and occupied by BUSD. The proposed project is the result of several community outreach efforts in which youth program participants, families, community members, and MLK Jr. Youth Services Center provided feedback on program and safety needs that in turn informed project design. The proposed project is located in the formally red-lined and underserved community of South Berkeley, and investment in upgrading this facility would be one step toward social and racial equity by providing well-maintained infrastructure, amenities, and facilities.

VII. Recommendation

Because of the project's consistency with the Zoning Ordinance and General Plan, and minimal impact on surrounding properties, staff recommends that the Zoning Adjustments Board:

- A. **APPROVE** Variance #ZP2023-0018 pursuant to Section 23.406.050(F) and subject to the attached Findings and Conditions (see Attachment 1).

Attachments:

1. Findings and Conditions
2. Project Plans, received August 18, 2023
3. Notice of Public Hearing

4. City Council Resolution 69,656 BUSD Joint Facility Use Agreement
5. City Council Resolution 69,657 – Measure T1: Phase 2 Project List
6. MLK Jr. Youth Service Center / YAP Community Update – February 2023

Staff Planner: Katrina Lapira, klapira@berkeleyca.gov, (510) 981-7488

1730 Oregon Street Martin Luther King Jr. Youth Services Center / Young Adult Project

Variance #ZP2023-0018 to further exceed the nonconforming lot coverage by 1.7 percent, for a total of 60.5 percent, by constructing two additions that total 895 square feet in new gross floor area and an 80 square foot covered porch to an existing 10,655 square foot community center building within the front and rear setback.

PERMITS REQUIRED

- **Variance** from Berkeley Municipal Code (BMC) Section 23.202.090(D), under BMC 23.406.050, to increase lot coverage on a lot that exceeds the maximum allowance
- **Administrative Use Permit**, under BMC Section 23.324.050(D)(2) to vertically and horizontally extend building walls projecting into the minimum front and rear setbacks

I. CEQA FINDINGS

1. The project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA, Public Resources Code §21000, et seq. and California Code of Regulations, §15000, et seq.) pursuant to Section 15301 of the CEQA Guidelines (“Existing Facilities”).
2. Furthermore, none of the exceptions in CEQA Guidelines Section 15300.2 apply, as follows:
(a) the site is not located in an environmentally sensitive area, (b) there are no cumulative impacts, (c) there are no significant effects, (d) the project is not located near a scenic highway, (e) the project site is not located on a hazardous waste site pursuant to Government Code Section 65962.5, and (f) the project will not affect any historical resource.

II. VARIANCE FINDINGS FOR APPROVAL

As required by BMC Section 23.406.050(F), the Zoning Adjustments Board finds that the Variance from BMC Section 23.202.090(D)(1) to further exceed lot coverage by an additional 1.7 percent, for a total of 60.5.8 percent, where the maximum lot coverage is 45 percent is allowed within the portion of the lot zoned R-2 District is permissible because:

- A. There are exceptional circumstances applying to the property which do not apply generally in the same district:

Evidence: There are three exceptional circumstances that apply to the property which do not apply generally in the same district.

Site conditions. The lot was historically developed with nonresidential buildings, including two main buildings arranged in a U-shaped built around 1915 as Edison Junior High School and a double-height gymnasium, as well as the subject building which was constructed in

1950 as a recreation center. The types of buildings and uses that exist on the site, while generally compatible with residential zoning, utilize building forms that are not typically associated with residential uses. Nonresidential buildings are larger than the low-to medium density housing types typically found within the R-2 and R-2A zoning, as they are meant to handle assembly occupancy loads, serving many people at one time.

Ownership. There are exceptional ownership limitations that restrict the ability to redevelop the lot and improve the subject building. The subject lot is owned by Berkeley Unified School District (BUSD). The majority of the lot is occupied by the BUSD Corporation Yard structures and accounts for about 39 percent of the 58.8 percent lot coverage in the R-2 portion of the lot. Through a long-term lease agreement with BUSD, the City has the ability to maintain and improve the subject community center located at the northeast corner of the lot. However, the lease agreement limits the redevelopment of the site to the subject building both contractually and physically, due to the location of existing BUSD structures. Since the City is restricted from modifying other structures on BUSD-owned property, the City cannot reduce the lot coverage of other on-site structures to create consistency with the R-2 requirement. Although other options to modify the community center’s building envelope were considered, all options will have increased the site’s nonconforming lot coverage. For example, an option to expand vertically by adding a second story would have further increased the nonconformity because the allowable lot coverage on the R-2 zoned portion of the lot will decrease from 45 percent to 40 percent. See the following table from BMC Section 23.202.090(D) where lot coverage standards are based on number of stories and lot type.

Table 23.202-7. R-2 Lot Coverage Standards

	STANDARD BASED ON BUILDING HEIGHT			SUPPLEMENTAL STANDARDS
	1 STORY	2 STORIES	3 STORIES	
Lot Coverage, Maximum				
Interior and Through Lots	45%	40%	35%	23.304.120
Corner Lots	50%	45%	40%	

Given the unique ownership limitations of the lot, strict application of the lot coverage will preclude the City from improving an existing recreational facility.

Public Benefit. Unlike other residentially zoned lots in the district, the lot is used for general service and public use. The City is responsible for providing a safe and accessible recreational facility. With the last major renovation to the facility in the 1970s, the existing building is comprised of rooms for public programming and a gymnasium, however, there are no corridors or hallways – the circulation to program spaces is through adjacent rooms. The building is partially accessible and requires upgrades to comply with Americans with Disabilities (ADA) standards and emergency egress requirements. It will also provide a fire sprinkler riser room necessary to support a new fire sprinkler system that will reduce the spread of building fire to residential properties and Grove Park. With the additional floor area, the proposed project will facilitate building accessibility and safety for the public and staff,

allowing for a safer path of travel in and around the building. The proposed additions will also create additional programmatic space to serve a greater proportion of for Berkeley youth and young adults. As designated care and shelter site, the project modifications will benefit the larger community in the event of an emergency activation. These improvements are aligned with the City's General Plan, Strategic Plan, and Capital Improvement Plan.

As stated, the historic nonresidential development, unique lot ownership, and public use conditions impact the lot and limit the location and size of the proposed additions on the subject lot and create exceptional circumstances not typical of other properties in the R-2 and R-2A districts.

B. The Variance is necessary to preserve a substantial property right:

Evidence: There are several approved City-wide plans, policy directives, and programs that substantiate the proposed project to improve and update the MLK Jr. Youth Services Center. The City is required to maintain and modernize existing public facilities to meet identified community needs, safety, and accessibility requirements.

Adopted in January 2018, the Strategic Plan identifies long-term goals and short-term priorities to benefit the general public. The proposed project is consistent with several of the Strategic Plan's goals, as it will feasibly improve an existing community center located in a historically underserved neighborhood by responding to the changing needs of the community through the provision of additional recreational and communal space necessary to offer meaningful experiences that include tutoring, violence prevention, and leadership development component for teens amongst other community services. Since the community center also serves as a care and shelter facility during an emergency, these enhancements to building accessibility and safety will create a more prepared, safe, and resilient community.

The proposed project is an approved Measure T1, Phase Two project. Measure T1 is an infrastructure and facilities bond that was approved by the Berkeley voters in November 2016. The Phase Two project list was adopted by City Council on December 15, 2020 and funds improvements to several designated care and shelter sites, including the MLK Jr. Youth Services Center, amongst other city-wide infrastructure projects. An identified priority, the proposed project will administer community mandated funds by feasibly modernizing an existing public facility, allowing for continued use and expansion to meet community need.

The proposed project is supported by number of General Plan¹ policies, including, but not limited to Policy Open Space (OS) -1 Preservation, Policy OS-2 Maintenance, Repair, and Enhancements, Policy OS-5 Community Participation, and Policy OS-7 Serving Disadvantage Communities, discussed further in Section VI.D. The proposed additions respond to the changing needs of the community by establishing more meeting space for community meetings, programming, and all-gendered bathrooms, as well as fire riser room for new fire sprinklers, to an existing community center facility. The design of the proposed additions to the north and eastern portions are based on community feedback received from program participants, neighbors, families, and community center staff. Strict application of the lot coverage will preclude the MLK Jr. Youth Service Center from modernizing and will

¹ City of Berkeley General Plan Open Space and Recreation Element

https://berkeleyca.gov/sites/default/files/documents/08_Open%20Space%20and%20Recreation%20Element-FINAL.pdf

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therefore limit the ability of the public facility to serve the community as both youth services center and a care and shelter facility in the event of a natural disaster. The proposed modifications of this facility will allow the City to offer an improved level of service to historically underserved neighborhood and the general public.

C. The Variance will not adversely affect the health or safety of persons residing or working near the property:

Evidence: A Variance to further exceed lot coverage will not adversely affect the health and safety of persons residing or working near the property. The site is already developed with nonresidential buildings, the community center use will not change, and the proposed additions are relatively small compared to the site as a whole. The proposed project will not increase setback nonconformities. The proposed 566 square foot, single-story addition along Oregon Street extends 8 feet, 1 inch into the front setback, maintaining the existing building front setback and does not exacerbate the existing nonconforming condition. Similarly, about 50 square feet of the 329 square foot eastern addition that abuts the lots developed with Grove Park to the east and the residential use to the south, projects about 7 feet, 8 inches into the rear setback, consistent with the existing building and does not exacerbate the existing nonconformity.

The increased lot coverage will allow for additions that will increase fire and weather protection of persons using or working near the property. The portion of the eastern addition that projects into the rear setback is reserved for fire sprinkler system control and maintenance. Dedicated area for the new fire sprinkler riser room will facilitate a safer environment for both building occupants and neighboring residential units by modernizing preventative fire measures. The riser room will provide an easily identified and accessible location for all of the facility's fire sprinkler and protection equipment. Increased lot coverage will allow for a new fire sprinkler system will reduce the spread of building fire to residential properties and Grove Park.

Increasing lot coverage to accommodate additions to the existing building will reduce impacts related to long-term construction associated with a total redevelopment of the site. Compared to a demolition and reconstruction of the entire structure to bring the site into zoning conformance, the proposed project will reduce the construction timeline to modernize the existing community center. The limited construction timeline will not be detrimental to those living and working near the site as it will curb common impacts associated with long-term construction to the immediate neighborhood and will result in the timely delivery of expanded services to the Berkeley youth and young adults.

D. The Variance will not be materially detrimental to the public welfare or injurious to nearby property or improvements:

Evidence: The increase in lot coverage will not be materially detrimental to the public welfare or injurious to nearby property or improvements and will not result in the reduction of abutting public open space. Grove Park is east of the project site and offers a variety of recreational opportunities, including tennis courts, basketball courts, ball fields, and play structures. Additions along the eastern portion of the building will not expand into any of the play courts or fields, and will not impact the location of any playgrounds that are currently under construction. Ranging from 13 feet, 8 inches to 20 feet, 8 inches in average building height, the eastern additions will have minimal shade and air impacts to existing walkways, fields, play court, and structures, and will increase accessibility to and within the building. The proposed project will not be detrimental to the nearby park improvements as it preserves the quality and existing type of open space.

Similarly, the increased lot coverage will not be injurious to residential properties in the neighborhood. Apart from lot coverage, the proposed project will be consistent with underlying development standards and will not exacerbate nonconforming setbacks. Consistent with the existing nonconforming front setback, the proposed northern addition will maintain an average building height of 13 feet, 8 inches and will result in minimal shade and air impacts to existing residences along Oregon Street.

The proposed project will not be detrimental to the public as it will increase fire protections. In the event of a building fire, the proposed fire sprinkler riser room will facilitate fire safety for nearby residences and Grove Park by modernizing preventative fire measures. The riser room will provide an easily identified and accessible location for all of the facility's fire sprinkler and protection equipment. Increased lot coverage will allow for a new fire sprinkler system will reduce the spread of building fire to residential properties and Grove Park.

The additions and seismic upgrades will also allow the subject building to be used in an emergency as a shelter and care facility, which will increase the City's ability to assist the public in the event of a natural disaster.

E. The Variance will promote the municipal health, welfare, and safety and benefit the city as a whole:

Evidence: The Variance allows for the expansion of an existing community center that will promote the municipal health, welfare, and safety and benefit the City as a whole. The proposed improvements are aligned with approved City-wide policies and Council-approved programs, like the Strategic Plan and Measure T1, aimed to benefit the whole Berkeley community.

Adopted January 2018, The Strategic Plan identifies long-term goals and short-term priorities to benefit the general public. The proposed project is consistent with several of the Strategic Plan's goals as it will feasibly improve an existing community center located in a historically underserved neighborhood by responding to the changing needs of the community through the provision of additional recreational and communal space necessary to offer meaningful experiences that include tutoring, violence prevention, and leadership development

component for teens amongst other community services. Since the community center also serves as a care and shelter facility during an emergency, enhancements to building accessibility and safety will create a more functional, prepared, safe, and resilient community.

The proposed project is an approved Measure T1, Phase Two project. Measure T1 is an infrastructure and facilities bond that was approved by the Berkeley voters in November 2016. Development of the Phase Two project list involved an extensive city-wide community engagement process. The Phase Two project list was adopted by City Council on December 15, 2020 and includes improvements to several designated care and shelter sites, like the MLK Jr. Youth Services Center. The proposed project will benefit the community as whole because it will feasibility modernize an existing public facility by adding more communal space and making the building safer – a priority that was identified by the Berkeley community.

F. Any other Variance findings required by Zoning Ordinance can be made:

Evidence: N/A – There are no additional Variance findings applicable to tis request.

III. NONCONFORMING SETBACKS FINDINGS FOR APPROVAL

1. As required by BMC Section 23.324.050(D), an addition that horizontally extends a building wall into a minimum required setback is allowed if the existing use is conforming, enlargement does not increase or exacerbate nonconforming setbacks, and if it does not exceed maximum or calculated height limits.

The existing community center is a conforming use in the R-2 and R-2A districts. The proposed additions that extend into the nonconforming setbacks will not exacerbate nonconforming setback conditions and will be below the maximum average building height limits. The northern addition will maintain the existing nonconforming setback at 12 feet, 9 inches, where the requirement is 20 feet. The addition along the southern portion of the building will maintain a nonconforming rear setback of 16 feet, 11 inches, where the requirement is 20 feet. Both additions that project into these required setbacks will be 13 feet, 8 inches in average height, below the maximum height requirement of 28 feet for nonresidential additions.

IV. NON-DETRIMENT FINDINGS FOR APPROVAL

1. As required by BMC Section 23.406.040(E)(1), the project, under the circumstances of this particular case existing at the time at which the application is granted, will not be detrimental to the health, safety, peace, morals, comfort, and general welfare of the persons residing or working in the neighborhood of such proposed use or be detrimental or injurious to property and improvements of the adjacent properties, the surrounding area or neighborhood, or to the general welfare of the City because:

A. The project site is located in South Berkeley, on a relatively flat lot. The northern and the rear portion of the eastern addition, which will be located in the required front and rear setbacks, are under 14 feet in average height. The tallest portion of the eastern addition (entry way, eastern meeting room, and bathrooms) is located outside of all required setbacks and will have an average height of 20 feet, 8 inches. This is below the tallest portion of the existing building at the gymnasium, which is 27 feet and 4 inches. The project does not obstruct any significant view corridors as defined in BMC Section

23.502.020(V)(12)² because there are no view corridors visible from the site. With minor bulk and massing modifications, distance from residential lots along Oregon Street, and the amount of existing tall foliage along the rear property line, the shadow impacts from the project will be reasonable and not detrimental. The project site abuts Grove Park to the east, and residential uses to the south and across the street to the north. The northern addition will not result in any privacy impacts as the addition fronts Oregon Street and extends into the front setback, aligned with the existing building line and is over 80 linear feet from the nearest residential building along Oregon Street. The eastern addition that faces an accessory structure of a residential dwelling unit to the south does not propose any new windows. The eastern additions will result in minimal privacy impacts as they primarily face Grove Park and the rear of an existing residential unit. Further, existing foliage that extends greater than 35 feet in height and fencing along the property line shared with the southeast residential unit will mitigate privacy impacts.

- B. The proposed project will feasibly improve an existing community center located in a historically underserved neighborhood by responding to the changing needs of the community through the provision of additional recreational and communal space necessary to offer meaningful experiences that include tutoring, violence prevention, and leadership development component for teens amongst other community services. Since the community center also serves as a care and shelter facility during an emergency, enhancements to building accessibility and safety will create a more functional prepared, safe, and resilient community.
- C. The project is subject to the City's standard conditions of approval regarding construction noise and air quality, waste diversion, toxics, and stormwater requirements, thereby ensuring the project will not be detrimental to the health, safety, peace, morals, comfort or general welfare of persons residing or working in the area or neighborhood of such proposed use or be detrimental or injurious to property and improvements of the adjacent properties, the surrounding area or neighborhood or to the general welfare of the City.

² View Corridor - A significant view of the Berkeley Hills, San Francisco Bay, Mt. Tamalpais, or a significant landmark such as the Campanile, Golden Gate Bridge, and Alcatraz Island or any other significant vista that substantially enhances the value and enjoyment of real property.

V. STANDARD CONDITIONS OF APPROVAL FOR ALL PROJECTS

The following conditions, as well as all other applicable provisions of the Zoning Ordinance, apply to this Permit:

1. Conditions Shall be Printed on Plans

The conditions of this Permit shall be printed on the *second* sheet of each plan set submitted for a building permit pursuant to this Use Permit, under the title 'Use Permit Conditions.' *Additional sheets* may also be used if the *second* sheet is not of sufficient size to list all of the conditions. The sheet(s) containing the conditions shall be of the same size as those sheets containing the construction drawings; 8-1/2" by 11" sheets are not acceptable.

2. Compliance Required (BMC Section 23.102.050)

All land uses and structures in Berkeley must comply with the Zoning Ordinance and all applicable City ordinances and regulations. Compliance with the Zoning Ordinance does not relieve an applicant from requirements to comply with other federal, state, and City regulations that also apply to the property.

3. Approval Limited to Proposed Project and Replacement of Existing Uses (BMC Sections 23.404.060.B.1 and 2)

- A. This Permit authorizes only the proposed project described in the application. In no way does an approval authorize other uses, structures or activities not included in the project description.
- B. When the City approves a new use that replaces an existing use, any prior approval of the existing use becomes null and void when permits for the new use are exercised (e.g., building permit or business license issued). To reestablish the previously existing use, an applicant must obtain all permits required by the Zoning Ordinance for the use.

4. Conformance to Approved Plans (BMC Section 23.404.060.B.4)

All work performed under an approved permit shall be in compliance with the approved plans and any conditions of approval.

5. Exercise and Expiration of Permits (BMC Section 23.404.060.C)

- A. A permit authorizing a land use is exercised when both a valid City business license is issued (if required) and the land use is established on the property.
- B. A permit authorizing construction is exercised when both a valid City building permit (if required) is issued and construction has lawfully begun.
- C. The Zoning Officer may declare a permit lapsed if it is not exercised within one year of its issuance, except if the applicant has applied for a building permit or has made a substantial good faith effort to obtain a building permit and begin construction. The Zoning Officer may declare a permit lapsed only after 14 days written notice to the applicant. A determination that a permit has lapsed may be appealed to the ZAB in accordance with Chapter 23.410 (Appeals and Certification).
- D. A permit declared lapsed shall be void and of no further force and effect. To establish the use or structure authorized by the lapsed permit, an applicant must apply for and receive City approval of a new permit.

6. Permit Remains Effective for Vacant Property (BMC Section 23.404.060.D)

Once a Permit for a use is exercised and the use is established, the permit authorizing the use remains effective even if the property becomes vacant. The same use as allowed by the original permit may be re-established without obtaining a new permit, except as set forth in Standard Condition #5 above.

7. Permit Modifications (BMC Section 23.404.070)

No change in the use or structure for which this Permit is issued is permitted unless the Permit is modified by the Board. The Zoning Officer may approve changes to plans approved by the Board, consistent with the Board's policy adopted on May 24, 1978, which reduce the size of the project.

8. Permit Revocation (BMC Section 23.404.080)

The City may revoke or modify a discretionary permit for completed projects due to: 1) violations of permit requirements; 2) Changes to the approved project; and/or 3) Vacancy for one year or more. However, no lawful residential use can lapse, regardless of the length of time of the vacancy. Proceedings to revoke or modify a permit may be initiated by the Zoning Officer, Zoning Adjustments Board (ZAB), or City Council referral.

9. Hold Harmless. The permittee agrees as a condition of approval of this application to indemnify, protect, defend with counsel selected by the City, and hold harmless, the City, and any agency or instrumentality thereof, and its elected and appointed officials, officers, employees and agents, from and against any and all liabilities, claims, actions, causes of action, proceedings, suits, damages, judgments, liens, levies, costs and expenses of whatever nature, including reasonable attorney's fees and disbursements (collectively, "Claims") arising out of or in any way relating to the approval of this application, any actions taken by the City related to this entitlement, or any environmental review conducted under the California Environmental Quality Act, Public Resources Code Section 210000 et seq., for this entitlement and related actions. The indemnification shall include any Claims that may be asserted by any person or entity, including the permittee, arising out of or in connection with the approval of this application, whether or not there is concurrent, passive or active negligence on the part of the City, and any agency or instrumentality thereof, and its elected and appointed officials, officers, employees and agents. The permittee's duty to defend the City shall not apply in those instances when the permittee has asserted the Claims, although the permittee shall still have a duty to indemnify, protect and hold harmless the City.

VI. ADDITIONAL CONDITIONS IMPOSED BY THE ZONING ADJUSTMENTS BOARD

Pursuant to BMC23.404.050(H), the Zoning Adjustments Board attaches the following additional conditions to this Permit:

Prior to Submittal of Any Building Permit:

10. Project Liaison. The applicant shall include in all building permit plans and post onsite the name and telephone number of an individual empowered to manage construction-related complaints generated from the project. The individual's name, telephone number, and responsibility for the project shall be posted at the project site for the duration of the project in a location easily visible to the public. The individual shall record all complaints received and actions taken in response, and submit written reports of such complaints and actions to the project planner on a weekly basis. **Please designate the name of this individual below:**

Project Liaison _____
Name Phone #

Prior to Issuance of Any Building & Safety Permit (Demolition or Construction)

11. Construction and Demolition Diversion. Applicant shall submit a [Construction Waste Management Plan](#) that meets the requirements of BMC Chapter 19.37 including 100% diversion of asphalt, concrete, excavated soil and land-clearing debris and a minimum of 65% diversion of other nonhazardous construction and demolition waste.

12. Toxics. The applicant shall contact the Toxics Management Division (TMD) at 1947 Center Street or (510) 981-7470 to determine which of the following documents are required and timing for their submittal:

- A. **Phase I and Phase II Environmental Site Assessment (ESA) (per ASTM 1527)**. A recent Phase I ESA (less than 2 years old) shall be submitted to the Toxics Management Division for developments for: all new commercial, industrial and mixed-use developments and all improvement projects that require work 5 or more feet below grade, and all new residential buildings with more than four dwelling units located in the Environmental Management Area (or EMA). The EMA can be viewed at: [City of Berkeley Community GIS Portal \(arcgis.com\)](#)
- B. Depending on the findings in the Phase I, a Phase II or additional investigation may be necessary. Any available soils and groundwater analytical data available for projects listed in this section must also be submitted to TMD.
- C. **Environmental Site Clearance**. The applicant shall provide environmental screening clearance from either the San Francisco Bay Regional Water Quality Control Board (RWQCB), Department of Toxic Substances Control (DTSC), or the Alameda County Department of Environmental Health's Local Oversight Program (LOP). Clearance from one of these regulatory agencies will ensure that the property meets development investigation and cleanup standards for the specific use proposed on the property. Environmental screening clearance shall be submitted to the City of Berkeley's Toxics Management Division prior to issuance of any building permits.

D. Soil and Groundwater Management Plan. A site-specific Soil and Groundwater Management Plan (SGMP) shall be submitted to Toxics Management Division (TMD) for all non-residential projects, and residential or mixed-use projects with more than four dwelling units, that: (1) are in the Environmental Management Area (EMA), as shown on the most recent City of Berkeley EMA map, and (2) propose any excavations deeper than 5 feet below grade or if significant soils removal is anticipated. The SGMP shall be submitted to the TMD with the project's building permit application and shall be approved by TMD prior to issuance of the building permit.

The SGMP shall comply with the hazardous materials and waste management standards required by BMC Section 15.12.100, the stormwater pollution prevention requirements of San Francisco Bay Regional Water Quality Control Board's Order No. R2-2009-0074, California hazardous waste generator regulations (Title 22 California Code of Regulations (CCR) 66260 et seq.), and the East Bay Municipal Utility District's Ordinance 311, and shall include the following:

- i. procedures for soil and groundwater management including identification of pollutants and disposal methods;
- ii. procedures to manage odors, dust and other potential nuisance conditions expected during development;
- iii. notification to TMD within 24 hours of the discovery of any previously undiscovered contamination; and
- iv. the name and phone number of the individual responsible for implementing the SGMP and who will respond to community questions or complaints.

TMD may require additional information or impose additional conditions as deemed necessary to protect human health and the environment. All requirements of the approved SGMP shall be deemed conditions of approval.

E. Demolitions & Renovations – Building Materials Survey. A hazardous materials survey for building materials and plans on hazardous materials and hazardous waste removal and disposal is required and must be prepared by qualified professionals, and submitted to the Toxics Management Division (TMD) prior to issuance of the building permit.

- v. The survey shall include the identification of all materials to be disturbed for lead-based paints, PCB containing equipment and caulking, hydraulic fluids, refrigerants, treated wood, and mercury containing devices (including fluorescent light bulbs and mercury switches), asbestos and other hazardous materials and chemicals.
- vi. If asbestos is identified, Bay Area Air Quality Management District Regulation 11-2-401.3 a notification must be made and the J number must be made available to the City of Berkeley Permit Service Center. Contractors must follow state regulations where there is asbestos-related work involving 100 square feet or more of asbestos containing material (8 Cal. Code Regs. §1529, §341.6 et seq.)
- vii. The report to the TMD shall include, in addition to the survey, plans on hazardous materials and hazardous waste removal and disposal that comply with State and Federal codes including California Code of Regulations (CCR) 66260 et seq.

- viii. Documentation evidencing disposal of hazardous waste in compliance with the survey shall be submitted to TMD within 30 days of the completion of the demolition.

Please note, the PCB Screening Form required by Public Works, Engineering, is a separate requirement and does not address the PCB identification requirement of the Toxics Management Division.

- F. **Hazardous Materials Business Plan.** A Hazardous Materials Business Plan (HMBP) in compliance with BMC Section 15.12.040 and California Health & Safety Code, Chapter 6.95 Div. 20, shall be submitted to the Toxics Management Division through the California Environmental Reporting System: <http://cers.calepa.ca.gov/> for chemicals used or stored on site during construction that exceed reporting thresholds. The reporting is required if your facility stores or handles hazardous materials in aggregate quantities equal to or greater than 55 gallons for liquids, 500 pounds for solids, or 200 cubic feet of compressed gases, or generates any quantity of hazardous waste. This includes welding gases, emergency generator fuel, paints, etc.

Additionally, the business occupant must submit an HMBP within 30 days of starting operations.

- G. **Petroleum Storage.** An (SPCC) Plan is required to be prepared and implemented for facilities with any one of the following:

- ix. aggregate aboveground petroleum storage capacities of 1,320 gallons or more stored in aboveground storage containers, tanks, oil-filled equipment, or
- x. one or more tank(s) in an underground area (TIUGA) with petroleum storage capacities of 55 gallons or greater. More information on TIUGAs can be found here: <https://osfm.fire.ca.gov/divisions/pipeline-safety-and-cupa/certified-unified-program-agency-cupa/aboveground-petroleum-storage-act/tank-in-an-underground-area-tiuga/>

The SPCC plan must be prepared prior to beginning operations and you must submit facility information to Toxics Management Division (TMD) through the California Environmental Reporting System: <http://cers.calepa.ca.gov/>. The SPCC plan will be reviewed during the site inspection and shall not be submitted in CERS or to the TMD.

Prior to Issuance of Any Building (Construction) Permit

13. **HVAC Noise Reduction.** Prior to the issuance of building permits, the project applicant shall submit plans that show the location, type, and design of proposed heating, ventilation, and cooling (HVAC) equipment. In addition, the applicant shall provide product specification sheets or a report from a qualified acoustical consultant showing that operation of the proposed HVAC equipment will meet the City's exterior noise requirements in BMC Section 13.40.050. The City's Planning and Development Department shall review the submitted plans, including the selected HVAC equipment, to verify compliance with exterior noise standards.
14. **Recycling and Organics Collection.** Applicant shall provide recycling and organics collection areas for occupants, clearly marked on site plans, which comply with the Alameda County Mandatory Recycling Ordinance (ACWMA Ordinance 2012-01).

15. Public Works ADA. Plans submitted for building permit shall include replacement of sidewalk, curb, gutter, and other streetscape improvements, as necessary to comply with current City of Berkeley standards for accessibility.
16. Required Parking Spaces for Persons with Disabilities. Per BMC Section 23.322.040.H of the Zoning Ordinance, "If the number of required off-street parking spaces in a non-residential district is reduced as allowed by this chapter, the number of required parking spaces for persons with disabilities shall be calculated as if there had been no reduction in required spaces."

During Construction:

17. Construction Hours. Construction activity shall be limited to between the hours of 8:00 AM and 6:00 PM on Monday through Friday, and between 9:00 AM and Noon on Saturday. No construction-related activity shall occur on Sunday or any Federal Holiday.
18. Public Works - Implement Bay Area Air Quality Management District (BAAQMD)-Recommended Measures during Construction. For all proposed projects, BAAQMD recommends implementing all the Basic Construction Mitigation Measures, listed below to meet the best management practices threshold for fugitive dust:
 - H. All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.
 - I. All haul trucks transporting soil, sand, or other loose material off-site shall be covered.
 - J. All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
 - K. All vehicle speeds on unpaved roads shall be limited to 15 mph.
 - L. All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
 - M. Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.
 - N. All construction equipment shall be maintained and properly tuned in accordance with manufacturer specifications. All equipment shall be checked by a certified visible emissions evaluator.
 - O. Post a publicly visible sign with the telephone number and person to contact at the lead agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations.
19. Air Quality - Diesel Particulate Matter Controls during Construction. All off-road construction equipment used for projects with construction lasting more than 2 months shall comply with one of the following measures:

- P.** The project applicant shall prepare a health risk assessment that demonstrates the project's on-site emissions of diesel particulate matter during construction will not exceed health risk screening criteria after a screening-level health risk assessment is conducted in accordance with current guidance from BAAQMD and OEHHA. The health risk assessment shall be submitted to the Land Use Planning Division for review and approval prior to the issuance of building permits; or
- Q.** All construction equipment shall be equipped with Tier 2 or higher engines and the most effective Verified Diesel Emission Control Strategies (VDECS) available for the engine type (Tier 4 engines automatically meet this requirement) as certified by the California Air Resources Board (CARB). The equipment shall be properly maintained and tuned in accordance with manufacturer specifications.
- R.** In addition, a Construction Emissions Minimization Plan (Emissions Plan) shall be prepared that includes the following:
- i.** An equipment inventory summarizing the type of off-road equipment required for each phase of construction, including the equipment manufacturer, equipment identification number, engine model year, engine certification (tier rating), horsepower, and engine serial number. For all VDECS, the equipment inventory shall also include the technology type, serial number, make, model, manufacturer, CARB verification number level, and installation date.
 - ii.** A Certification Statement that the Contractor agrees to comply fully with the Emissions Plan and acknowledges that a significant violation of the Emissions Plan shall constitute a material breach of contract. The Emissions Plan shall be submitted to the Public Works Department for review and approval prior to the issuance of building permits.
- 20.** Construction and Demolition Diversion. Divert debris according to your plan and collect required documentation. Get construction debris receipts from sorting facilities in order to verify diversion requirements. Upload recycling and disposal receipts if using [Green Halo](#) and submit online for City review and approval prior to final inspection. Alternatively, complete the second page of the original [Construction Waste Management Plan](#) and present it, along with your construction debris receipts, to the Building Inspector by the final inspection to demonstrate diversion rate compliance. The Zoning Officer may request summary reports at more frequent intervals, as necessary to ensure compliance with this requirement.
- 21.** Low-Carbon Concrete. The project shall maintain compliance with the Berkeley Green Code (BMC Chapter 19.37) including use of concrete mix design with a cement reduction of at least 25%. Documentation on concrete mix design shall be available at all times at the construction site for review by City Staff.
- 22.** Transportation Construction Plan. The applicant and all persons associated with the project are hereby notified that a Transportation Construction Plan (TCP) is required for all phases of construction, particularly for the following activities:
- Alterations, closures, or blockages to sidewalks, pedestrian paths or vehicle travel lanes (including bicycle lanes);
 - Storage of building materials, dumpsters, debris anywhere in the public ROW;
 - Provision of exclusive contractor parking on-street; or

- Significant truck activity.

The applicant shall secure the City Traffic Engineer's approval of a TCP. Please contact the Office of Transportation at 981-7010, or 1947 Center Street, and ask to speak to a traffic engineer. In addition to other requirements of the Traffic Engineer, this plan shall include the locations of material and equipment storage, trailers, worker parking, a schedule of site operations that may block traffic, and provisions for traffic control. The TCP shall be consistent with any other requirements of the construction phase.

Contact the Permit Service Center (PSC) at 1947 Center Street or 981-7500 for details on obtaining Construction/No Parking Permits (and associated signs and accompanying dashboard permits). Please note that the Zoning Officer and/or Traffic Engineer may limit off-site parking of construction-related vehicles if necessary to protect the health, safety or convenience of the surrounding neighborhood. A current copy of this Plan shall be available at all times at the construction site for review by City Staff.

- 23.** Avoid Disturbance of Nesting Birds. Initial site disturbance activities, including vegetation and concrete removal, shall be prohibited during the general avian nesting season (February 1 to August 30), if feasible. If nesting season avoidance is not feasible, the applicant shall retain a qualified biologist to conduct a preconstruction nesting bird survey to determine the presence/absence, location, and activity status of any active nests on or adjacent to the project site. The extent of the survey buffer area surrounding the site shall be established by the qualified biologist to ensure that direct and indirect effects to nesting birds are avoided. To avoid the destruction of active nests and to protect the reproductive success of birds protected by the MBTA and CFGC, nesting bird surveys shall be performed not more than 14 days prior to scheduled vegetation and concrete removal. In the event that active nests are discovered, a suitable buffer (typically a minimum buffer of 50 feet for passerines and a minimum buffer of 250 feet for raptors) shall be established around such active nests and no construction shall be allowed inside the buffer areas until a qualified biologist has determined that the nest is no longer active (e.g., the nestlings have fledged and are no longer reliant on the nest). No ground-disturbing activities shall occur within this buffer until the qualified biologist has confirmed that breeding/nesting is completed and the young have fledged the nest. Nesting bird surveys are not required for construction activities occurring between August 31 and January 31.
- 24.** Archaeological Resources (Ongoing throughout demolition, grading, and/or construction). Pursuant to CEQA Guidelines section 15064.5(f), "provisions for historical or unique archaeological resources accidentally discovered during construction" should be instituted. Therefore:
- A. In the event that any prehistoric or historic subsurface cultural resources are discovered during ground disturbing activities, all work within 50 feet of the resources shall be halted and the project applicant and/or lead agency shall consult with a qualified archaeologist, historian or paleontologist to assess the significance of the find.
 - B. If any find is determined to be significant, representatives of the project proponent and/or lead agency and the qualified professional will meet to determine the appropriate avoidance measures or other appropriate measure, with the ultimate determination to be made by the City of Berkeley. All significant cultural materials recovered shall be subject to scientific analysis, professional museum curation, and/or a report prepared by the qualified professional according to current professional standards.

- C. In considering any suggested measure proposed by the qualified professional, the project applicant shall determine whether avoidance is necessary or feasible in light of factors such as the uniqueness of the find, project design, costs, and other considerations.
 - D. If avoidance is unnecessary or infeasible, other appropriate measures (e.g., data recovery) shall be instituted. Work may proceed on other parts of the project site while mitigation measures for cultural resources is carried out.
 - E. If significant materials are recovered, the qualified professional shall prepare a report on the findings for submittal to the Northwest Information Center.
- 25. Human Remains (Ongoing throughout demolition, grading, and/or construction).** In the event that human skeletal remains are uncovered at the project site during ground-disturbing activities, all work shall immediately halt and the Alameda County Coroner shall be contacted to evaluate the remains, and following the procedures and protocols pursuant to Section 15064.5 (e)(1) of the CEQA Guidelines. If the County Coroner determines that the remains are Native American, the City shall contact the California Native American Heritage Commission (NAHC), pursuant to subdivision (c) of Section 7050.5 of the Health and Safety Code, and all excavation and site preparation activities shall cease within a 50-foot radius of the find until appropriate arrangements are made. If the agencies determine that avoidance is not feasible, then an alternative plan shall be prepared with specific steps and timeframe required to resume construction activities. Monitoring, data recovery, determination of significance and avoidance measures (if applicable) shall be completed expeditiously.
- 26. Paleontological Resources (Ongoing throughout demolition, grading, and/or construction).** In the event of an unanticipated discovery of a paleontological resource during construction, excavations within 50 feet of the find shall be temporarily halted or diverted until the discovery is examined by a qualified paleontologist (per Society of Vertebrate Paleontology standards [SVP 1995,1996]). The qualified paleontologist shall document the discovery as needed, evaluate the potential resource, and assess the significance of the find. The paleontologist shall notify the appropriate agencies to determine procedures that will be followed before construction is allowed to resume at the location of the find. If the City determines that avoidance is not feasible, the paleontologist shall prepare an excavation plan for mitigating the effect of the project on the qualities that make the resource important, and such plan shall be implemented. The plan shall be submitted to the City for review and approval.
- 27. Halt Work/Unanticipated Discovery of Tribal Cultural Resources.** In the event that cultural resources of Native American origin are identified during construction, all work within 50 feet of the discovery shall be redirected. The project applicant and project construction contractor shall notify the City Planning Department within 24 hours. The City will again contact any tribes who have requested consultation under AB 52, as well as contact a qualified archaeologist, to evaluate the resources and situation and provide recommendations. If it is determined that the resource is a tribal cultural resource and thus significant under CEQA, a mitigation plan shall be prepared and implemented in accordance with State guidelines and in consultation with Native American groups. If the resource cannot be avoided, additional measures to avoid or reduce impacts to the resource and to address tribal concerns may be required.
- 28. Stormwater Requirements.** The applicant shall demonstrate compliance with the requirements of the City's National Pollution Discharge Elimination System (NPDES) permit as described in BMC Section 17.20. The following conditions apply:

- A. The project plans shall identify and show site-specific Best Management Practices (BMPs) appropriate to activities conducted on-site to limit to the maximum extent practicable the discharge of pollutants to the City's storm drainage system, regardless of season or weather conditions.
- B. Trash enclosures and/or recycling area(s) shall be covered; no other area shall drain onto this area. Drains in any wash or process area shall not discharge to the storm drain system; these drains should connect to the sanitary sewer. Applicant shall contact the City of Berkeley and EBMUD for specific connection and discharge requirements. Discharges to the sanitary sewer are subject to the review, approval and conditions of the City of Berkeley and EBMUD.
- C. Landscaping shall be designed with efficient irrigation to reduce runoff, promote surface infiltration and minimize the use of fertilizers and pesticides that contribute to stormwater pollution. Where feasible, landscaping should be designed and operated to treat runoff. When and where possible, xeriscape and drought tolerant plants shall be incorporated into new development plans.
- D. Design, location and maintenance requirements and schedules for any stormwater quality treatment structural controls shall be submitted to the Department of Public Works for review with respect to reasonable adequacy of the controls. The review does not relieve the property owner of the responsibility for complying with BMC Chapter 17.20 and future revisions to the City's overall stormwater quality ordinances. This review shall be conducted prior to the issuance of a Building Permit.
- E. All paved outdoor storage areas must be designed to reduce/limit the potential for runoff to contact pollutants.
- F. All on-site storm drain inlets/catch basins must be cleaned at least once a year immediately prior to the rainy season. The property owner shall be responsible for all costs associated with proper operation and maintenance of all storm drainage facilities (pipelines, inlets, catch basins, outlets, etc.) associated with the project, unless the City accepts such facilities by Council action. Additional cleaning may be required by City of Berkeley Public Works Engineering Dept.
- G. All private or public projects that create and/or replace 5,000 square feet or more of impervious surface must comply with Provision C.3 of the Alameda County NPDES permit and must incorporate stormwater controls to enhance water quality. Permit submittals shall include a Stormwater Requirement Checklist and detailed information showing how the proposed project will meet Provision C.3 stormwater requirements, including a) Site design measures to reduce impervious surfaces, promote infiltration, and reduce water quality impacts; b) Source Control Measures to keep pollutants out of stormwater runoff; c) Stormwater treatment measures that are hydraulically sized to remove pollutants from stormwater; d) an O & M (Operations and Maintenance) agreement for all stormwater treatment devices and installations; and e) Engineering calculations for all stormwater devices (both mechanical and biological).
- H. All on-site storm drain inlets must be labeled "No Dumping – Drains to Bay" or equivalent using methods approved by the City.
- I. Most washing and/or steam cleaning must be done at an appropriately equipped facility that drains to the sanitary sewer. Any outdoor washing or pressure washing must be managed in such a way that there is no discharge or soaps or other pollutants to the storm drain. Sanitary connections are subject to the review, approval and conditions of the sanitary district with jurisdiction for receiving the discharge.

- J. Sidewalks and parking lots shall be swept regularly to prevent the accumulation of litter and debris. If pressure washed, debris must be trapped and collected to prevent entry to the storm drain system. If any cleaning agent or degreaser is used, wash water shall not discharge to the storm drains; wash waters should be collected and discharged to the sanitary sewer. Discharges to the sanitary sewer are subject to the review, approval and conditions of the sanitary district with jurisdiction for receiving the discharge.
- K. The applicant is responsible for ensuring that all contractors and sub-contractors are aware of and implement all stormwater quality control measures. Failure to comply with the approved construction BMPs shall result in the issuance of correction notices, citations, or a project stop work order.
29. Public Works. All piles of debris, soil, sand, or other loose materials shall be covered at night and during rainy weather with plastic at least one-eighth millimeter thick and secured to the ground.
30. Public Works. The applicant shall ensure that all excavation takes into account surface and subsurface waters and underground streams so as not to adversely affect adjacent properties and rights-of-way.
31. Public Works. The project sponsor shall maintain sandbags or other devices around the site perimeter during the rainy season to prevent on-site soils from being washed off-site and into the storm drain system. The project sponsor shall comply with all City ordinances regarding construction and grading.
32. Public Works. Prior to any excavation, grading, clearing, or other activities involving soil disturbance during the rainy season the applicant shall obtain approval of an erosion prevention plan by the Building and Safety Division and the Public Works Department. The applicant shall be responsible for following these and any other measures required by the Building and Safety Division and the Public Works Department.
33. Public Works. The removal or obstruction of any fire hydrant shall require the submission of a plan to the City's Public Works Department for the relocation of the fire hydrant during construction.
34. Public Works / Building and Safety. If underground utilities leading to adjacent properties are uncovered and/or broken, the contractor involved shall immediately notify the Public Works Department and the Building & Safety Division, and carry out any necessary corrective action to their satisfaction.

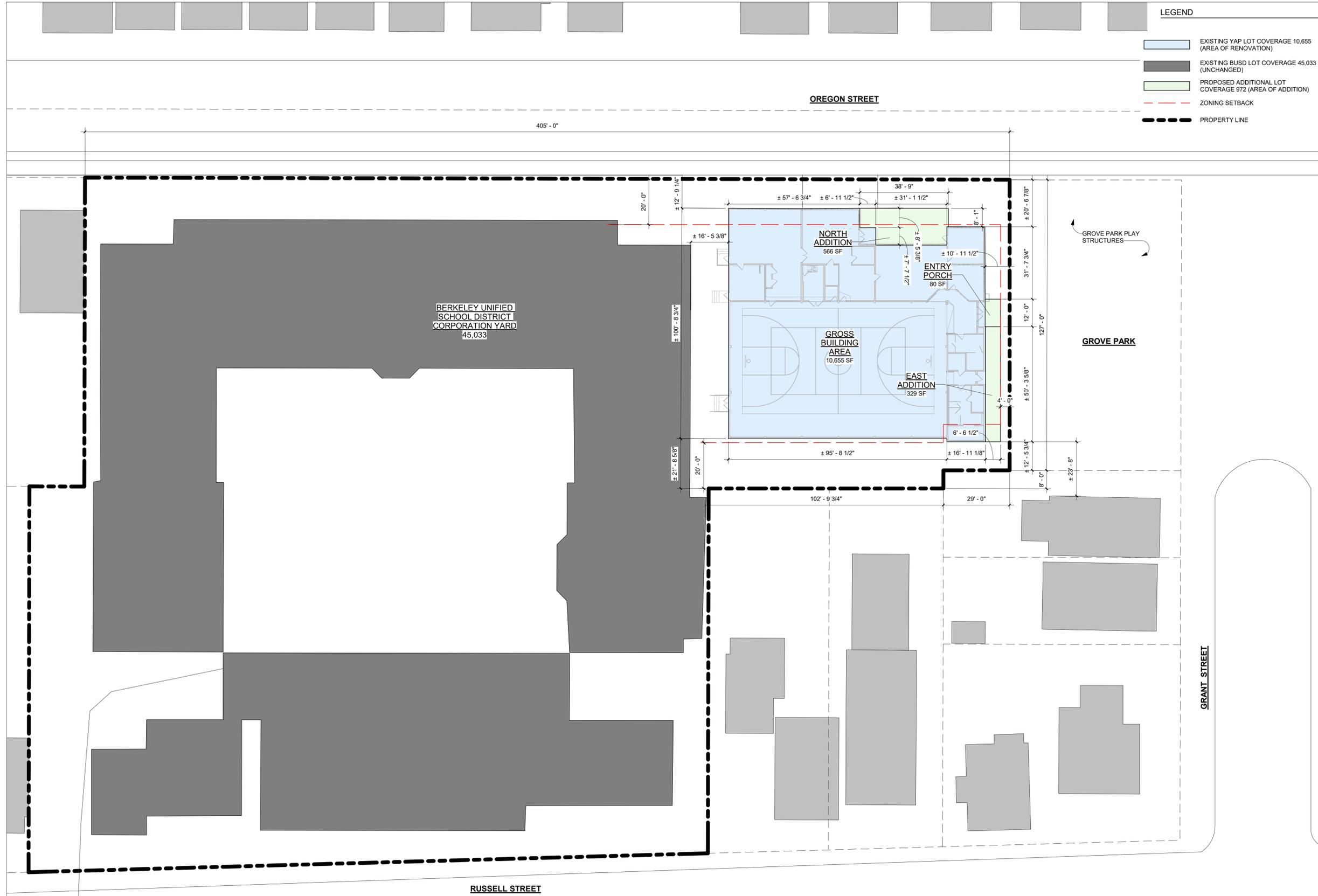
Prior to Final Inspection or Issuance of Occupancy Permit:

35. Compliance with Conditions. The project shall conform to the plans and statements in the Use Permit. The developer is responsible for providing sufficient evidence to demonstrate compliance with the requirements throughout the implementation of this Use Permit.
36. Compliance with Approved Plan. The project shall conform to the plans and statements in the Use Permit. All landscape, site and architectural improvements shall be completed per the

attached approved drawings dated August 18, 2023, except as modified by conditions of approval.

At All Times:

37. Exterior Lighting. All exterior lighting shall be energy efficient where feasible; and shielded and directed downward and away from property lines to prevent excessive glare beyond the subject property.
38. Drainage Patterns. The applicant shall establish and maintain drainage patterns that do not adversely affect adjacent properties and rights-of-way. Drainage plans shall be submitted for approval of the Building & Safety Division and Public Works Department, if required.
39. Loading. All loading/unloading activities associated with deliveries to all uses shall be restricted to the hours of 7:00 a.m. to 10:00 p.m. daily.



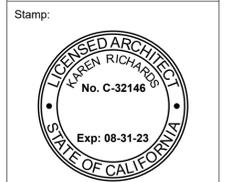
LEGEND

- EXISTING YAP LOT COVERAGE 10,655 (AREA OF RENOVATION)
- EXISTING BUSD LOT COVERAGE 45,033 (UNCHANGED)
- PROPOSED ADDITIONAL LOT COVERAGE 972 (AREA OF ADDITION)
- ZONING SETBACK
- PROPERTY LINE

Project Title:
**City of Berkeley PRW
 MLK Jr Youth Services / YAP**
 1730 Oregon Street
 Berkeley, CA 94703

Design Firm:
SIEGEL & STRAIN Architects
 6201 Doyle Street, Suite B
 Emeryville, CA 94608
 TEL 510 / 547-8092
 info@siegelstrain.com

Consultant:



No.	Description	Date

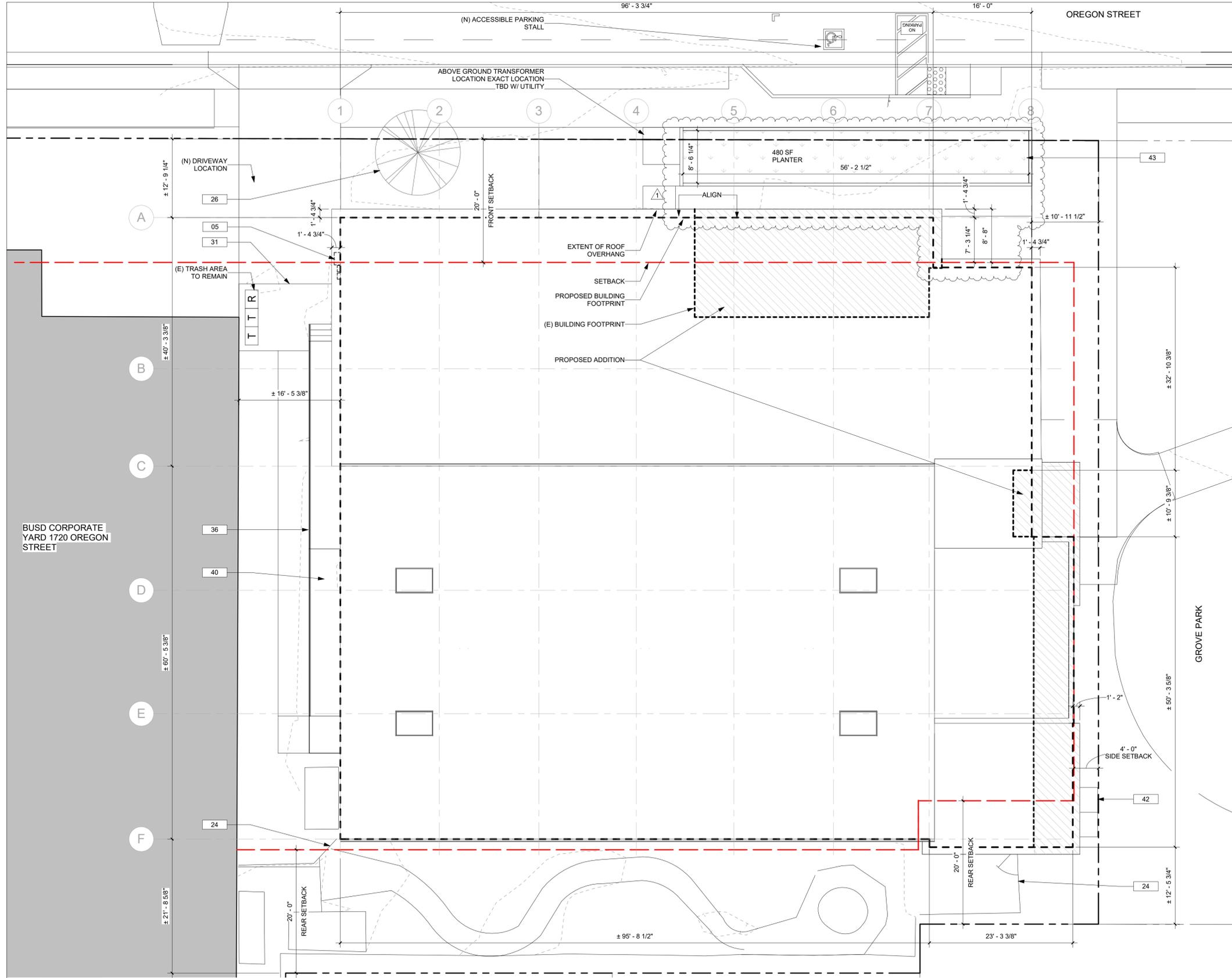
Issue Note:
**PLANNING SET
 1/9/23**

Project ID: YAP
 File Name:
 Drawn by: MJ
 Checked by: KR
 Plot Date: 1/9/23
 Scale: 1" = 20'-0"

Sheet Title:
**ZONING
 DIAGRAMS**

Sheet No.:
G0.02

1 LOT COVERAGE DIAGRAM
 G0.02 1" = 20'-0" @ 22" x 34" 1" = 40'-0" @ 11" x 17"



LEGEND

- AREA OF ADDITION
- PROPERTY LINE
- ZONING SETBACK

KEYNOTE LEGEND

Key Value	Keynote Text
05	(E) UTILITIES TO REPLACED
24	(E) FENCE TO REMAIN
26	(E) TREE TO REMAIN
31	(N) FENCE
36	METAL RAILING
40	CONCRETE RAMP
42	BIKE RACK
43	RAISED PLANTER FOR STORMWATER

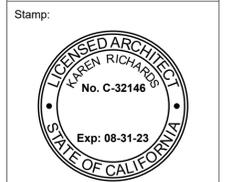
TREE PROTECTION NOTES

- INSTALL 6 FOOT CHAIN-LINK FENCING TO PROTECT THE AREA WITHIN THE DRIP-LINE OF ANY PROTECTED TREE IN THE DEVELOPMENT AREA.
- WHEN ANY APPROVED CONSTRUCTION ACTIVITY WILL OCCUR WITHIN THE DRIP LINE OF A PROTECTED TREE THAT IS NOT SURROUNDED BY PROTECTIVE FENCING, THE TRUNK SHALL BE PROTECTED BY WRAPPING IT WITH STRAW TUBES (WATTLE) OR VERTICAL WOOD SLATS (EX. 2X4), UP TO A MINIMUM OF 8 FEET FROM GRADE. LATERAL BRANCHES BELOW 8 FEET SHALL ALSO BE PROTECTED. IN ADDITION, THE AREA SHALL BE COVERED WITH A 6 INCH LAYER OF MULCH TOPPED WITH 3/4 INCH PLYWOOD THAT IS FASTENED TOGETHER.
- NO STORAGE OF BUILDING MATERIALS, REFUSE, EXCAVATED SPOILS, OR DUMPING OF POISONOUS MATERIALS, IS PERMITTED WITHIN THE DRIP LINE OF ANY PROTECTED TREE.

Project Title:
City of Berkeley PRW
MLK Jr Youth Services / YAP
 1730 Oregon Street
 Berkeley, CA 94703

Design Firm:
SIEGEL & STRAIN Architects
 6201 Doyle Street, Suite B
 Emeryville, CA 94608
 TEL 510 / 547-8092
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Consultant:



No.	Description	Date
1	PLANNING RESUBMITTAL	4/28/23

Issue Note:

PLANNING SET
1/9/23

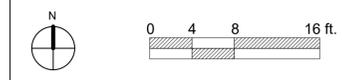
Project ID: YAP
 File Name:
 Drawn by: MJ
 Checked by: KR
 Plot Date: 1/9/23
 Scale: As indicated

Sheet Title:
SITE PLAN

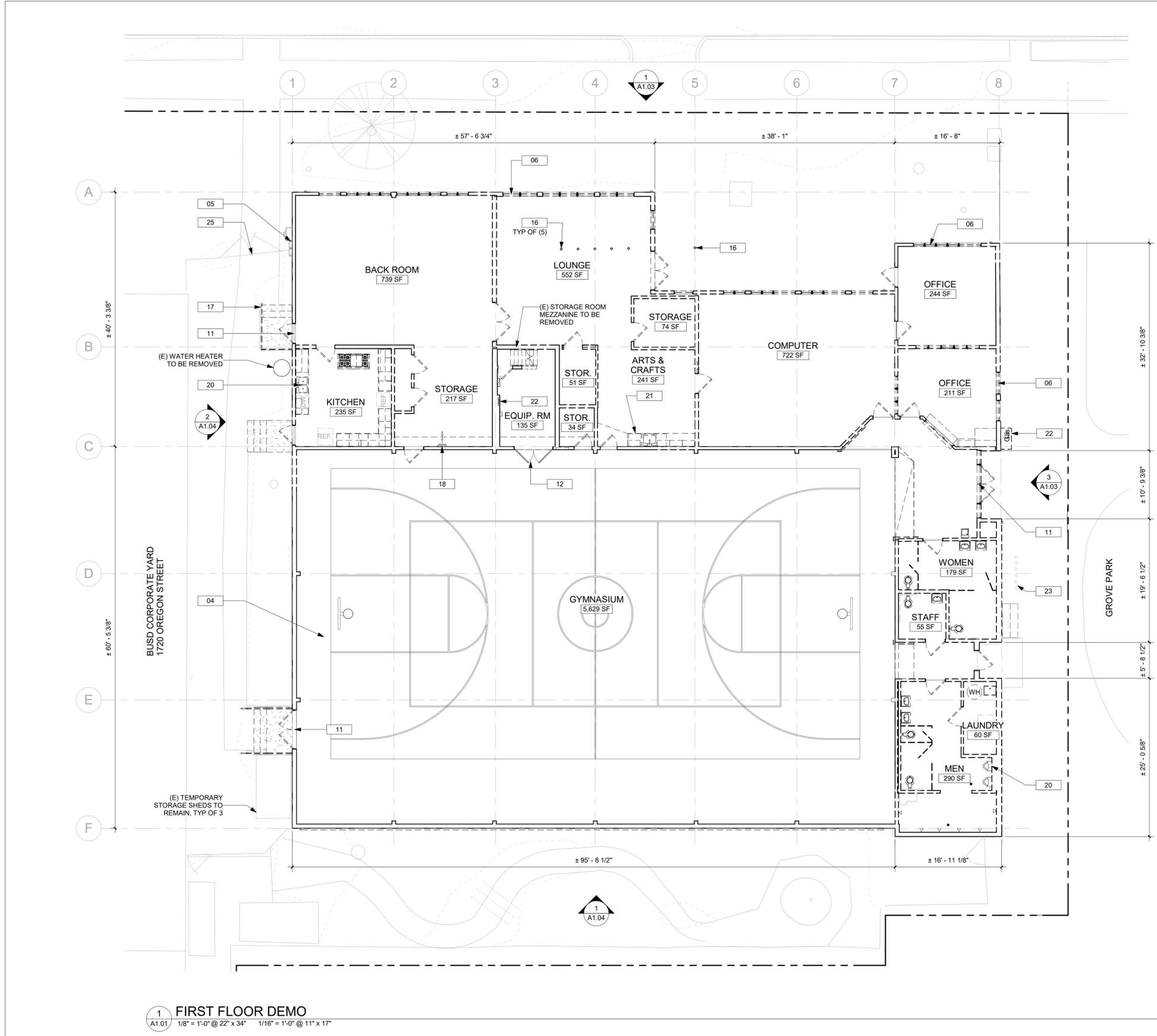
Sheet No.:

A1.00

1 SITE PLAN
 A1.00 1/8" = 1'-0" @ 22" x 34" 1/16" = 1'-0" @ 11" x 17"



4/28/2023 10:21:32 AM



1 FIRST FLOOR DEMO
 A1.01 1/8" = 1'-0" @ 22" x 34" 1/16" = 1'-0" @ 11" x 17"

LEGEND

(E) WALL TO REMAIN

(E) BUILDING ELEMENT TO BE REMOVED

KEYNOTE LEGEND

Key Value	Keynote Text
04	(E) GYM FLOOR TO REMAIN
05	(E) UTILITIES TO BE REPLACED
06	(E) WINDOW TO BE REMOVED TYP
11	(E) DOOR TO BE REMOVED TYP UON
12	(E) DOOR TO REMAIN
16	(E) COLUMN TO BE REMOVED
17	(E) STAIR TO BE REMOVED TYP
18	(E) MECHANICAL TO BE REMOVED TYP
20	(E) PLUMBING TO BE REMOVED TYP
21	(E) CASEWORK TO BE REMOVED TYP
22	(E) UTILITIES TO BE REMOVED
23	(E) BIKE RACK TO BE REMOVED TYP
25	(E) FENCE AND GATE TO BE REMOVED

Project Title:

**City of Berkeley PRW
 MLK Jr Youth Services / YAP**
 1730 Oregon Street
 Berkeley, CA 94703

Design Firm:
SIEGEL & STRAIN Architects
 6201 Doyle Street, Suite B
 Emeryville, CA 94608
 TEL 510 / 547-8092
 info@siegelstrain.com

Consultant:



No.	Description	Date

Issue Note:

**PLANNING SET
 1/9/23**

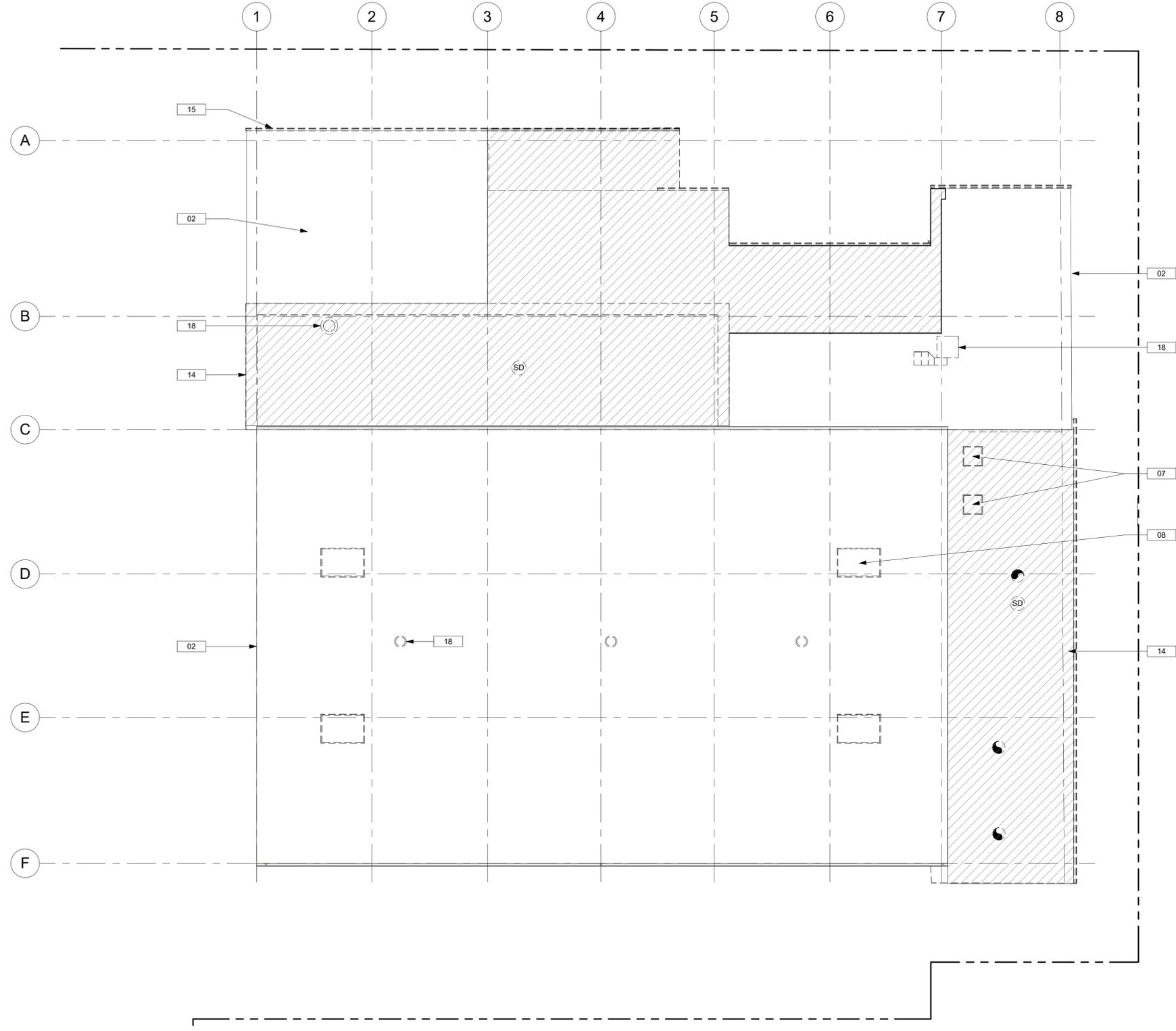
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 File Name:
 Drawn by: MJ
 Checked by: KR
 Plot Date: 1/9/23
 Scale: As indicated

Sheet Title:
DEMO FLOOR PLAN

Sheet No.:
A1.01

DEMO LEGEND
 12" = 1'-0"

4/28/2023 10:21:32 AM



LEGEND

- (E) WALL TO REMAIN
- (E) BUILDING ELEMENT TO BE REMOVED
- AREA OF DEMO FOR STRUCTURAL WORK, SSD

KEYNOTE LEGEND

Key Value	Keynote Text
02	(E) ROOF STRUCTURE TO REMAIN
07	(E) SKYLIGHT TO BE REMOVED
08	(E) SKYLIGHT TO BE REPLACED TYP UON
14	(E) ROOF TO BE REMOVED
15	(E) GUTTER TO BE REMOVED TYP
18	(E) MECHANICAL TO BE REMOVED TYP

Project Title:

**City of Berkeley PRW
 MLK Jr Youth Services / YAP**

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No.	Description	Date

Issue Note:

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Project ID: YAP
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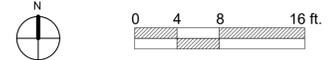
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 PLAN**

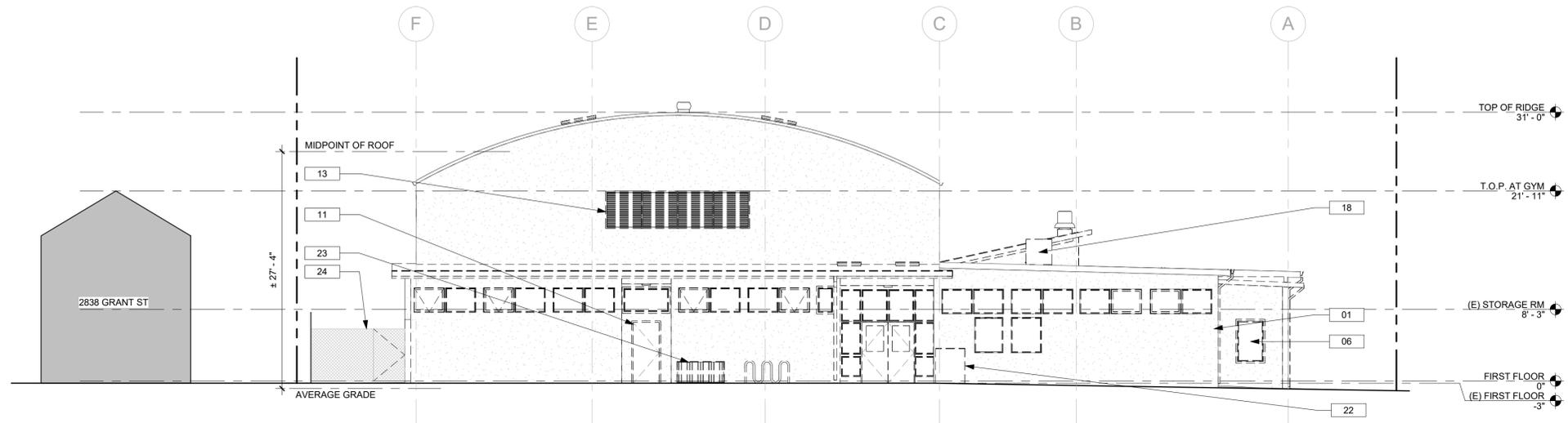
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A1.02

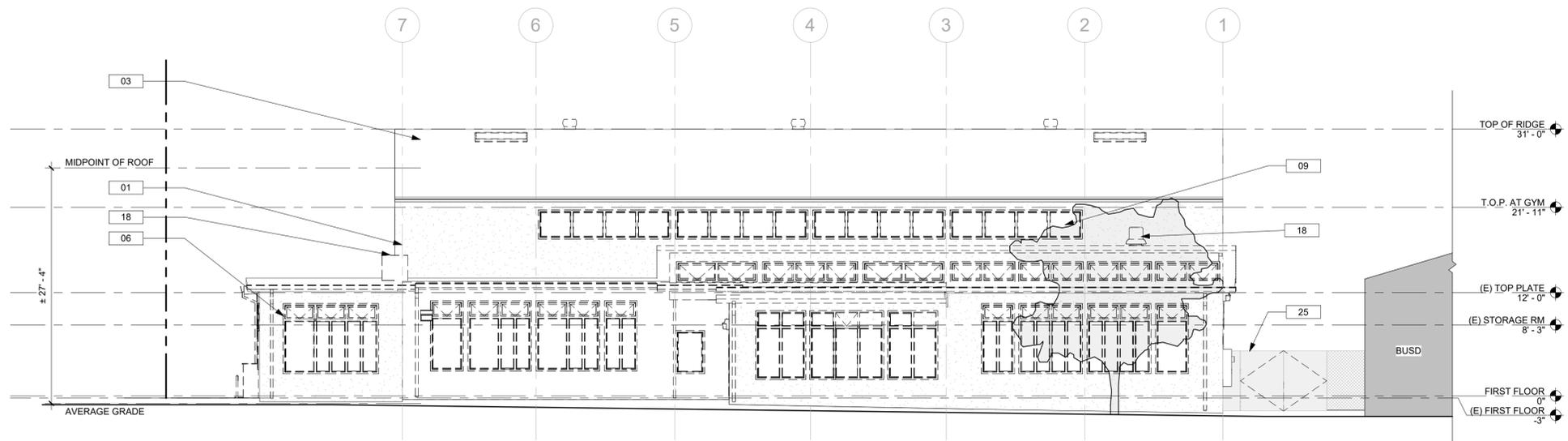
1 ROOF PLAN DEMO
 A1.02 1/8" = 1'-0" @ 22" x 34" 1/16" = 1'-0" @ 11" x 17"



4/28/2023 10:21:33 AM



3 EAST ELEVATION DEMO
 A1.03 1/8" = 1'-0" @ 22" x 34" 1/16" = 1'-0" @ 11" x 17"



1 NORTH ELEVATION DEMO
 A1.03 1/8" = 1'-0" @ 22" x 34" 1/16" = 1'-0" @ 11" x 17"

LEGEND

(E) WALL TO REMAIN

(E) BUILDING ELEMENT TO BE REMOVED

KEYNOTE LEGEND

Key Value	Keynote Text
01	(E) PTD CEMENT PLASTER FINISH TO BE REMOVED TYP
03	(E) MEMBRANE ROOFING TO BE REMOVED, TYP UON
06	(E) WINDOW TO BE REMOVED TYP
09	(E) CLERESTORY WINDOWS TO BE REPLACED TYP UON
11	(E) DOOR TO BE REMOVED TYP UON
13	(E) LOUVERS TO BE REMOVED TYP
18	(E) MECHANICAL TO BE REMOVED TYP
22	(E) UTILITIES TO BE REMOVED
23	(E) BIKE RACK TO BE REMOVED TYP
24	(E) FENCE TO REMAIN
25	(E) FENCE AND GATE TO BE REMOVED

Project Title:

**City of Berkeley PRW
 MLK Jr Youth Services / YAP**
 1730 Oregon Street
 Berkeley, CA 94703

Design Firm:
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Consultant:

Stamp:

No.	Description	Date

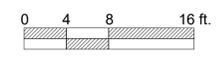
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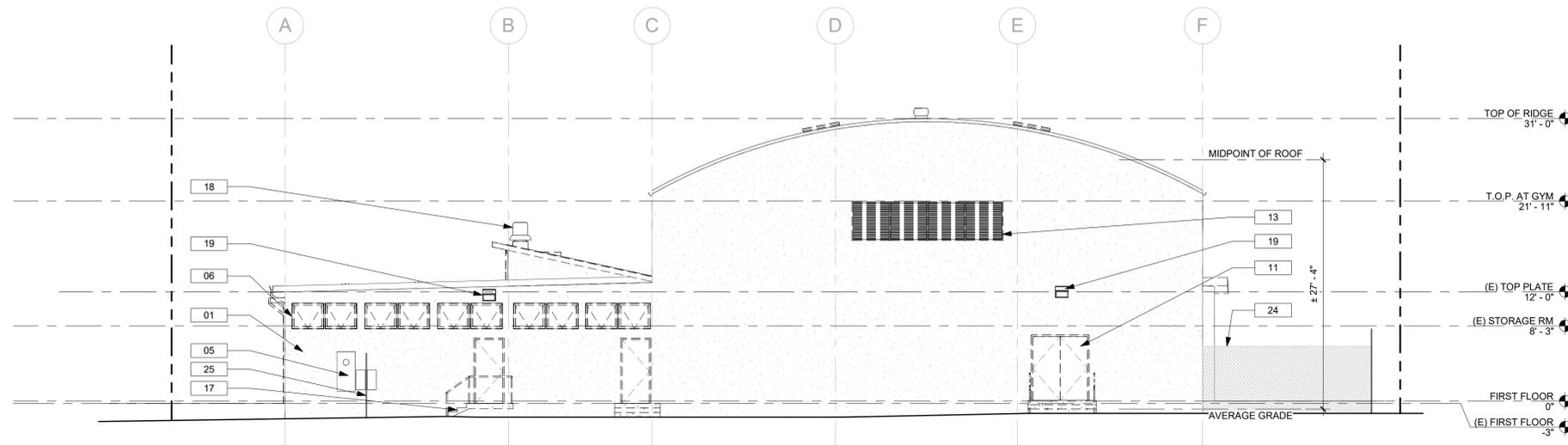
**PLANNING SET
 1/9/23**

Project ID: YAP
 File Name:
 Drawn by: MJ
 Checked by: KR
 Plot Date: 1/9/23
 Scale: As indicated

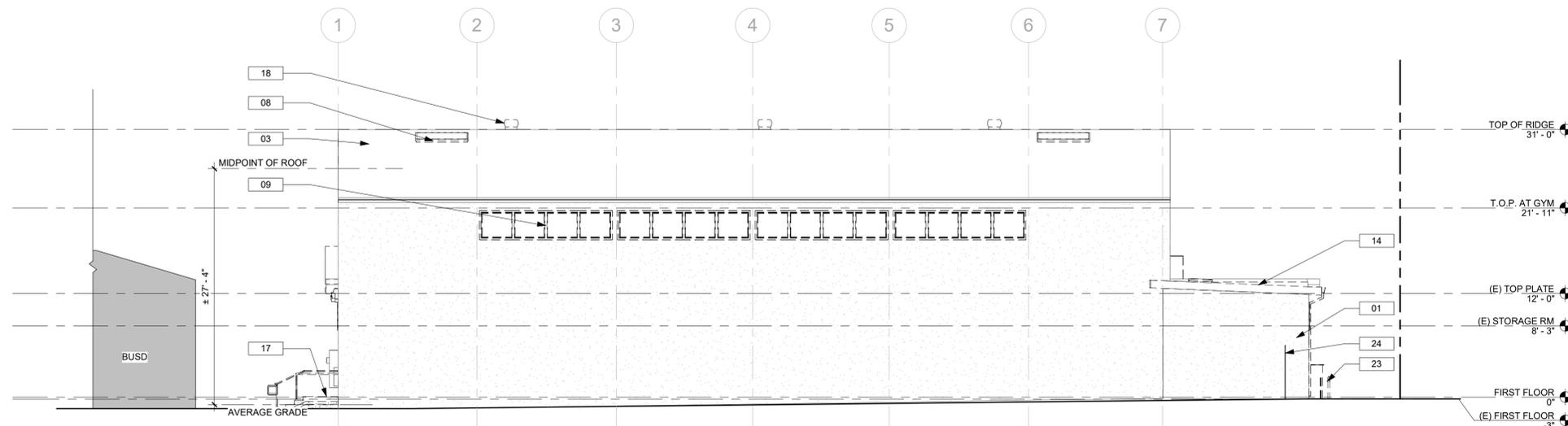
Sheet Title:
**DEMO
 ELEVATIONS**

Sheet No.:
A1.03





2 WEST ELEVATION DEMO
 A1.04 1/8" = 1'-0" @ 22" x 34" 1/16" = 1'-0" @ 11" x 17"



1 SOUTH ELEVATION DEMO
 A1.04 1/8" = 1'-0" @ 22" x 34" 1/16" = 1'-0" @ 11" x 17"

LEGEND

[Solid Line] (E) WALL TO REMAIN

[Dashed Line] (E) BUILDING ELEMENT TO BE REMOVED

KEYNOTE LEGEND

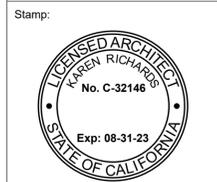
Key Value	Keynote Text
01	(E) PTD CEMENT PLASTER FINISH TO BE REMOVED TYP
03	(E) MEMBRANE ROOFING TO BE REMOVED, TYP UON
05	(E) UTILITIES TO BE REPLACED
06	(E) WINDOW TO BE REMOVED TYP
08	(E) SKYLIGHT TO BE REPLACED TYP UON
09	(E) CLERESTORY WINDOWS TO BE REPLACED TYP UON
11	(E) DOOR TO BE REMOVED TYP UON
13	(E) LOUVERS TO BE REMOVED TYP
14	(E) ROOF TO BE REMOVED
17	(E) STAIR TO BE REMOVED TYP
18	(E) MECHANICAL TO BE REMOVED TYP
19	(E) LIGHT TO BE REMOVED TYP
23	(E) BIKE RACK TO BE REMOVED TYP
24	(E) FENCE TO REMAIN
25	(E) FENCE AND GATE TO BE REMOVED

Project Title:

**City of Berkeley PRW
 MLK Jr Youth Services / YAP**
 1730 Oregon Street
 Berkeley, CA 94703

Design Firm:
SIEGEL & STRAIN Architects
 6201 Doyle Street, Suite B
 Emeryville, CA 94608
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 info@siegelstrain.com

Consultant:



No.	Description	Date

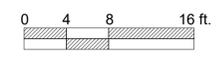
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**PLANNING SET
 1/9/23**

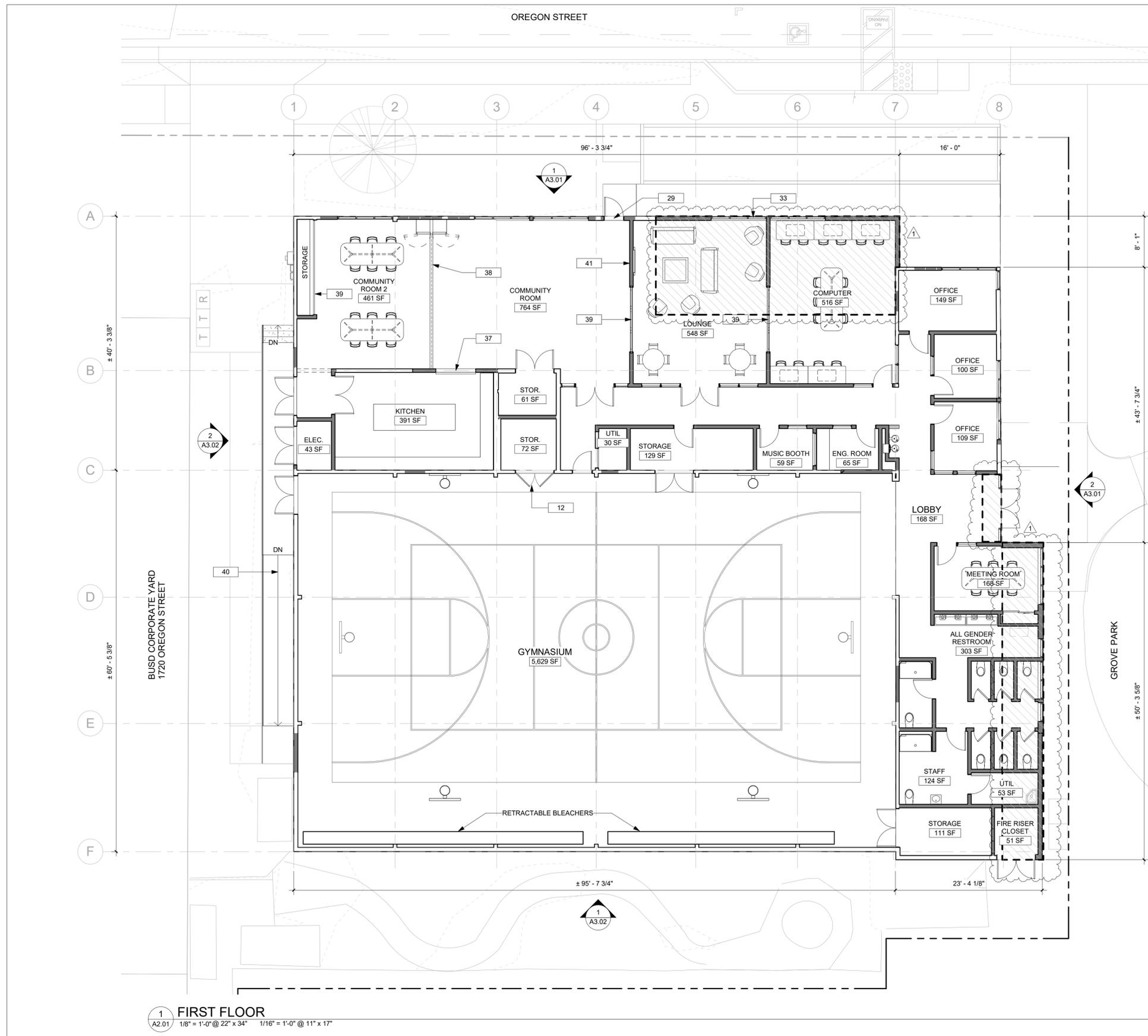
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 File Name:
 Drawn by: MJ
 Checked by: KR
 Plot Date: 1/9/23
 Scale: As indicated

Sheet Title:
**DEMO
 ELEVATIONS**

Sheet No.:



A1.04



LEGEND

- (E) WALL TO REMAIN
- (N) WALL
- (N) HALF HEIGHT WALL
- AREA OF ADDITION

KEYNOTE LEGEND

Key Value	Keynote Text
12	(E) DOOR TO REMAIN
29	(N) DOOR TYP UON
33	ALUM STOREFRONT SYSTEM TYP
37	PASS THROUGH WINDOW
38	OPERABLE PARTITION WALL
39	SLIDING DOORS
40	CONCRETE RAMP
41	MIRRORED WALL

GENERAL NOTES

1. (N) FLOOR IN (E) AREAS TO BE BUILT OVER (E) FLOOR AND MATCH FFE OF GYMNASIUM
2. DIMENSIONS ARE TAKEN FROM FACE OF FINISH UON

Project Title:
**City of Berkeley PRW
 MLK Jr Youth Services / YAP**
 1730 Oregon Street
 Berkeley, CA 94703

Design Firm:
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Consultant:

Stamp:

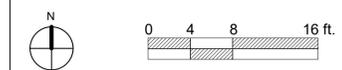
No.	Description	Date
1	PLANNING RESUBMITTAL	4/28/23

Issue Note:
**PLANNING SET
 1/9/23**

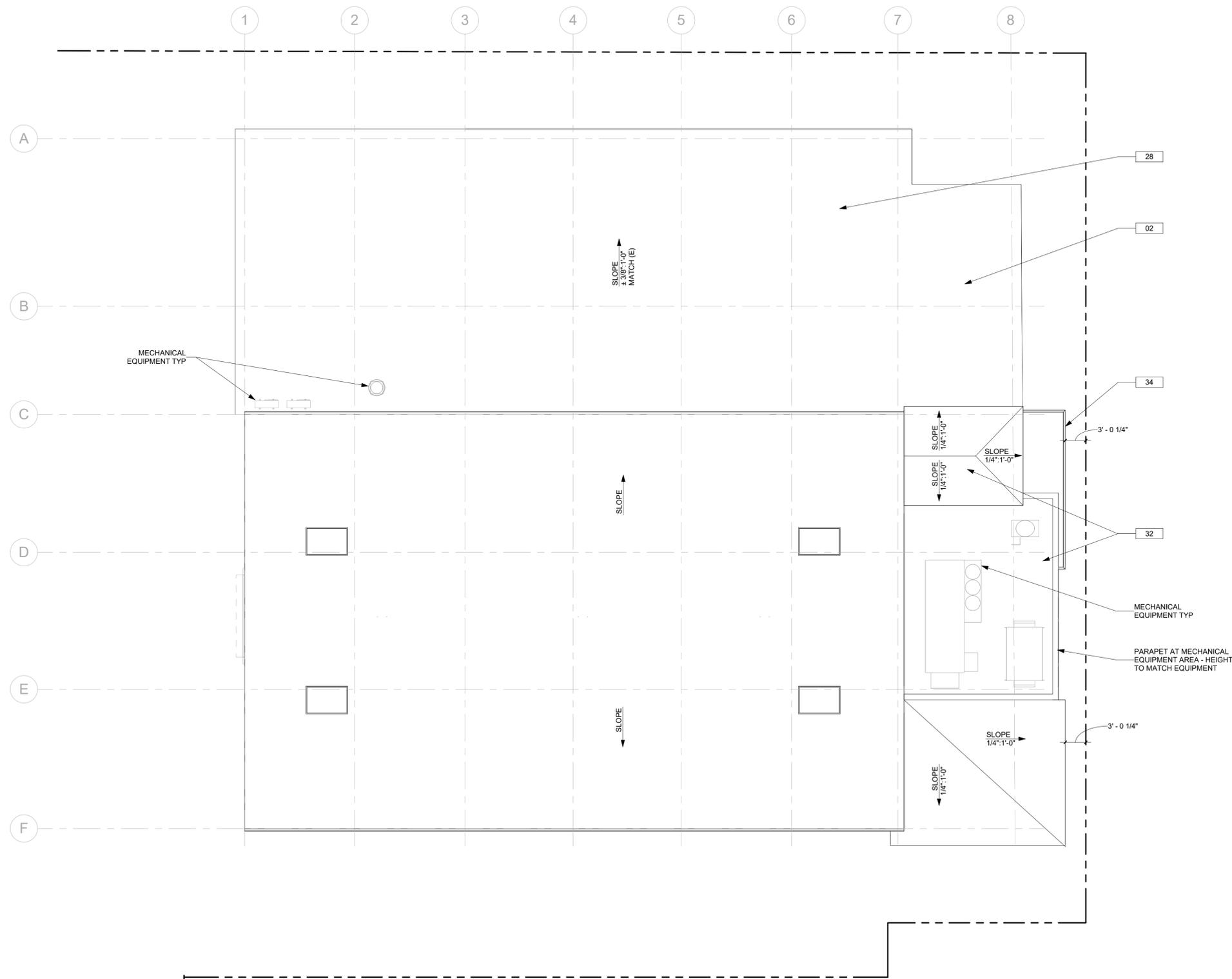
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 File Name:
 Drawn by: MJ
 Checked by: KR
 Plot Date: 1/9/23
 Scale: As indicated
 Sheet Title:
FLOOR PLAN

Sheet No.:
A2.01

1 FIRST FLOOR
 A2.01 1/8" = 1'-0" @ 22" x 34" 1/16" = 1'-0" @ 11" x 17"



4/28/2023 10:21:36 AM



GENERAL NOTES

- NEW STRUCTURAL PLYWOOD, INSULATION, AND ROOFING MEMBRANE TO BE ADDED TO (E) ROOF
- DIMENSIONS ARE TAKEN FROM FACE OF FINISH UON

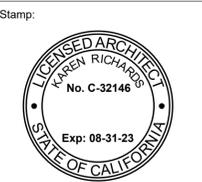
KEYNOTE LEGEND

Key Value	Keynote Text
02	(E) ROOF STRUCTURE TO REMAIN
28	(N) ROOF TO MATCH SLOPE AND HEIGHT OF (E)
32	(N) ROOF
34	METAL ENTRANCE CANOPY

Project Title:
**City of Berkeley PRW
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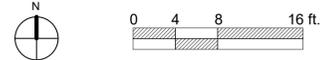
Issue Note:
**PLANNING SET
 1/9/23**

Project ID: YAP
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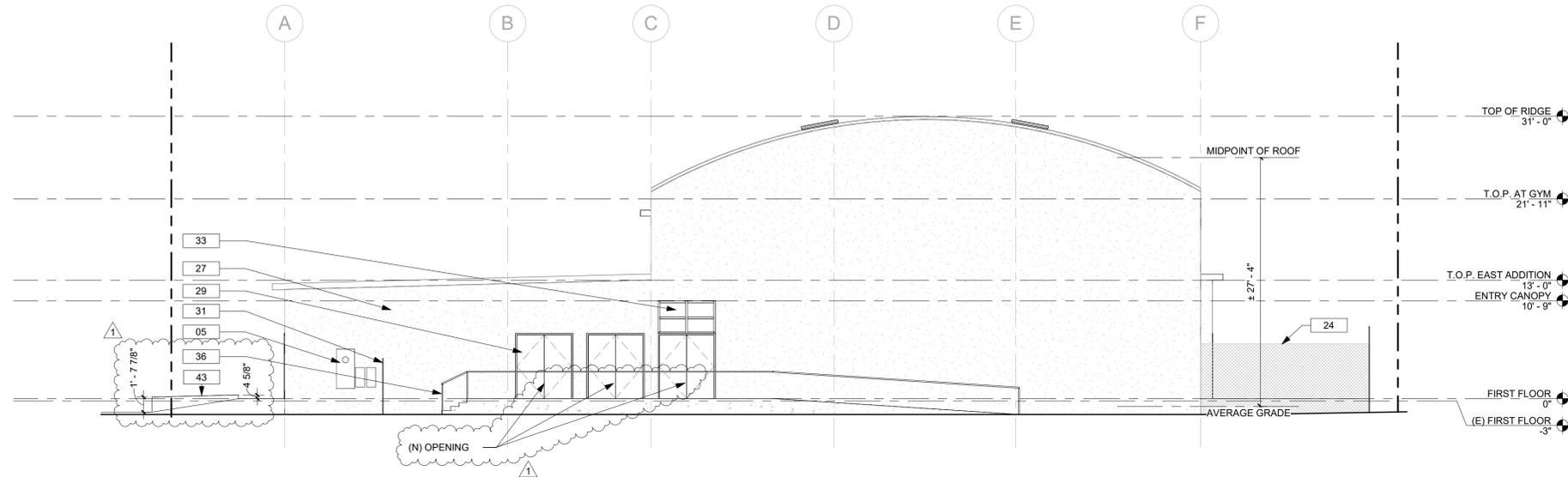
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ROOF PLAN

Sheet No.:
A2.02

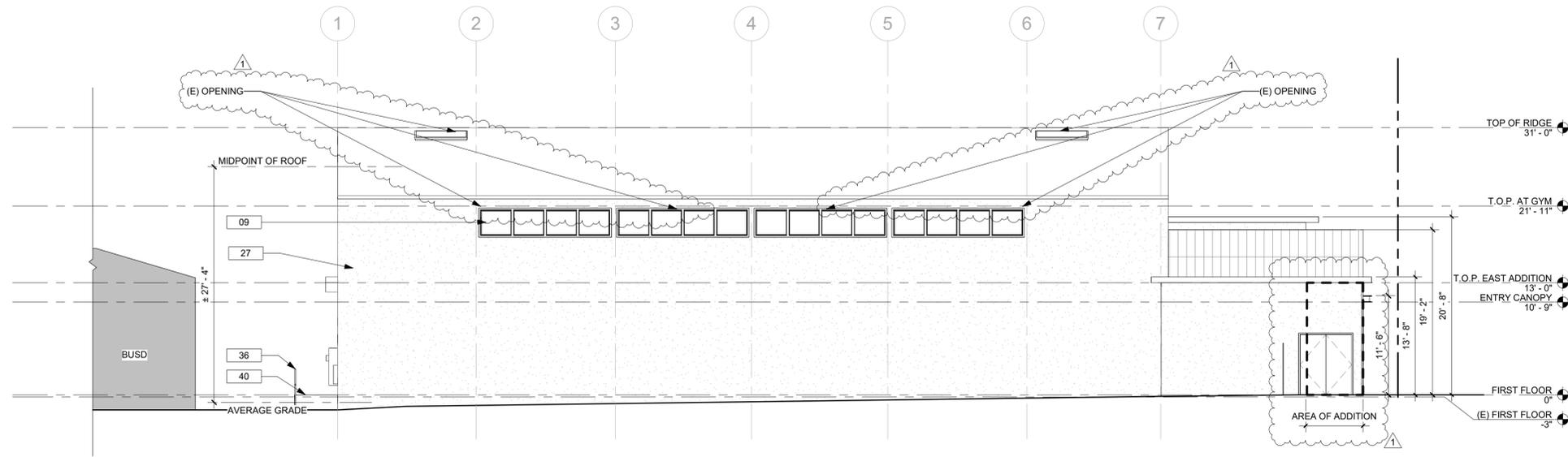
1 ROOF PLAN
 A2.02 1/8" = 1'-0" @ 22" x 34" 1/16" = 1'-0" @ 11" x 17"



4/28/2023 10:21:37 AM



2 WEST ELEVATION
 A3.02 1/8" = 1'-0" @ 22" x 34" 1/16" = 1'-0" @ 11" x 17"



1 SOUTH ELEVATION
 A3.02 1/8" = 1'-0" @ 22" x 34" 1/16" = 1'-0" @ 11" x 17"

LEGEND
 [Dashed Box] AREA OF ADDITION

KEYNOTE LEGEND

Key Value	Keynote Text
05	(E) UTILITIES TO BE REPLACED
09	(E) CLERESTORY WINDOWS TO BE REPLACED TYP UON
24	(E) FENCE TO REMAIN
27	(N) PTD CEMENT PLASTER TYP
29	(N) DOOR TYP UON
31	(N) FENCE
33	ALUM STOREFRONT SYSTEM TYP
36	METAL RAILING
40	CONCRETE RAMP
43	RAISED PLANTER FOR STORMWATER

Project Title:
**City of Berkeley PRW
 MLK Jr Youth Services / YAP**
 1730 Oregon Street
 Berkeley, CA 94703

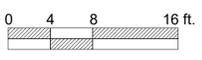
Design Firm:
SIEGEL & STRAIN Architects
 6201 Doyle Street, Suite B
 Emeryville, CA 94608
 TEL 510 / 547-8092
 info@siegelstrain.com

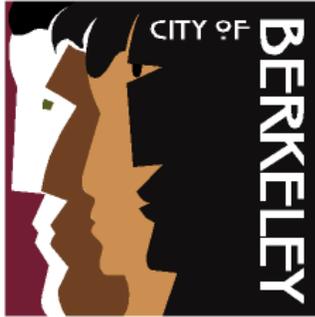
Consultant:
 Stamp:

No.	Description	Date
1	PLANNING RESUBMITTAL	4/28/23

Issue Note:
**PLANNING SET
 1/9/23**
 Project ID: YAP
 File Name:
 Drawn by: MJ
 Checked by: KR
 Plot Date: 1/9/23
 Scale: As indicated

Sheet Title:
ELEVATIONS
 Sheet No.:
A3.02





Z O N I N G
A D J U S T M E N T S
B O A R D

NOTICE OF PUBLIC HEARING

**1730 Oregon Street
Martin Luther King (MLK) Jr. Youth
Services Center / Young Adult Project**

Variance #ZP2023-0018 to further exceed the nonconforming lot coverage by 1.7 percent for a total of 60.5 percent by constructing two additions for a total of 895 square feet in new gross floor area and an 80 square foot covered porch to an existing 10,655 square foot community center building within the front and rear setback.

The Zoning Adjustments Board of the City of Berkeley will hold a public hearing on the above matter, pursuant to Zoning Ordinance Section 23.404.

When: Thursday, February 8, 2024, 7:00 PM.

Where: Berkeley Unified School District meeting room, 1231 Addison Street, (wheelchair accessible) with remote/hybrid option (via Zoom).

Please visit: <https://berkeleyca.gov/your-government/boards-commissions/zoning-adjustments-board> and click on the hearing date to access the most up-to-date meeting information, or call the Land Use Planning division (510) 981-7410.

PUBLIC ADVISORY: THIS MEETING WILL BE CONDUCTED IN A HYBRID MODEL WITH BOTH IN-PERSON ATTENDANCE AND VIRTUAL PARTICIPATION AVAILABLE FOR MEMBERS OF THE PUBLIC.

For in-person attendees, face coverings or masks that cover both the nose and mouth are encouraged. If you're feeling sick, please do not attend the meeting in-person as a public health precaution.

Currently, there are no physical distancing requirements in place by the State of California or the Local Health Officer for an indoor event similar to a Commission meeting. However, all attendees are requested to be respectful of the personal space of other attendees. An area of the public seating area will be designated as "distanced seating" to accommodate persons that need to distance for personal health reasons.

A. Land Use Designations:

- General Plan: Institutional
- Zoning: Restricted Two-Family Residential (R-2) and Restricted Multiple-Family Residential District (R2-A)

B. Zoning Permits Required:

- **Variance** from Berkeley Municipal Code (BMC) Section 23.202.090(D), under BMC 23.406.050, to increase lot coverage on a lot that exceeds the maximum allowance
- **Administrative Use Permit**, under BMC Section 23.324.050(D)(2) to vertically and horizontally extend building walls projecting into the minimum front and rear setbacks

D. CEQA Recommendation: Categorically exempt pursuant to Section 15301 of the CEQA Guidelines (“Existing Facilities”).

E. Parties Involved:

- Applicant Evelyn Chan, City of Berkeley, Berkeley, CA 94704
- Property Owner Berkeley Unified School District, Berkeley, CA 94704

Further Information:

All application materials are available online at:

<https://aca.cityofberkeley.info/CitizenAccess/Welcome.aspx>.

The Zoning Adjustments Board final agenda and staff reports will be available online 6 days prior to this meeting at: <https://berkeleyca.gov/your-government/boards-commissions/zoning-adjustments-board>.

Questions about the project should be directed to the project planner, Katrina Lapira, at (510) 981-7488 or klapira@berkeleyca.gov.

Written comments or a request for a Notice of Decision should be directed to the Zoning Adjustments Board Secretary at zab@berkeleyca.gov.

Communication Disclaimer:

Communications to Berkeley boards, commissions or committees are public record and will become part of the City’s electronic records, which are accessible through the City’s website. **Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to a City board, commission or committee, will become part of the public record.** If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service or in person to the secretary of the relevant board, commission or committee. If you do not want your contact information included in the public record, please do not include that information in your communication. Please contact the secretary to the relevant board, commission or committee for further information.

Written Comments, Communications, and Reports:

Written comments must be directed to the ZAB Secretary at the Land Use Planning Division (Attn: ZAB Secretary), or via e-mail to: zab@cityofberkeley.info. All materials will be made available via the Zoning Adjustments Board Agenda page online at this address: <https://berkeleyca.gov/your-government/boards-commissions/zoning-adjustments-board>

All persons are welcome to attend the hearing and will be given an opportunity to address the Board. Comments may be made verbally at the public hearing and/or in writing before the hearing. The Board may limit the time granted to each speaker.

Correspondence received by 5:00 PM, eight days before this public hearing, will be provided with the agenda materials provided to the Board. Note that if you submit a hard copy document of more than 10 pages, or in color, or with photos, you must provide 15 copies. Correspondence received after this deadline will be conveyed to the Board in the following manner:

- **Correspondence received by 5:00 PM two days before** this public hearing, will be conveyed to the Board in a Supplemental Communications and Reports, which is released around noon one day before the public hearing; or
- **Correspondence received after 5:00 PM two days before** this public hearing will be saved in the project administrative record.



Accessibility Information / ADA Disclaimer:

To request a disability-related accommodation(s) to participate in the meeting, including auxiliary aids or services, please contact the Disability Services specialist at 981-6342 (V) or 981-6345 (TDD) at least three business days before the meeting date.

SB 343 Disclaimer:

Any writings or documents provided to a majority of the Commission regarding any item on this agenda will be made available to the public. Please contact the Land Use Planning Division (zab@berkeleyca.gov) to request hard-copies or electronic copies.

Notice Concerning Your Legal Rights:

If you object to a decision by the Zoning Adjustments Board regarding a land use permit project, the following requirements and restrictions apply:

1. If you challenge the decision of the City in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice.
2. You must appeal to the City Council within fourteen (14) days after the Notice of Decision of the action of the Zoning Adjustments Board is mailed. It is your obligation to notify the Land Use Planning Division in writing of your desire to receive a Notice of Decision when it is completed.
3. Pursuant to Code of Civil Procedure Section 1094.6(b) and Government Code Section 65009(c)(1), no lawsuit challenging a City Council decision, as defined by Code of Civil Procedure Section 1094.6(e), regarding a use permit, variance or other permit may be filed more than ninety (90) days after the date the decision becomes final, as defined in Code of Civil Procedure Section 1094.6(b). Any lawsuit not filed within that ninety (90) day period will be barred.
4. Pursuant to Government Code Section 66020(d)(1), notice is hereby given to the applicant that the 90-day protest period for any fees, dedications, reservations, or other exactions included in any permit approval begins upon final action by the City, and that any challenge must be filed within this 90-day period.
5. If you believe that this decision or any condition attached to it denies you any reasonable economic use of the subject property, was not sufficiently related to a legitimate public purpose, was not sufficiently proportional to any impact of the project, or for any other reason constitutes a "taking" of property for public use without just compensation under the California or United States Constitutions, the following requirements apply:
 - A. That this belief is a basis of your appeal.
 - B. Why you believe that the decision or condition constitutes a "taking" of property as set forth above.
 - C. All evidence and argument in support of your belief that the decision or condition constitutes a "taking" as set forth above. If you do not do so, you will waive any legal right to claim that your property has been taken, both before the City Council and in court.

RESOLUTION NO. 69,656-N.S.

AUTHORIZING AN AGREEMENT WITH THE BERKELEY UNIFIED SCHOOL DISTRICT FOR JOINT FACILITY USE, SITE DEVELOPMENT, SERVICES

WHEREAS, the City and the Districted entered in an agreement dated May 14, 1991 governing the joint use of certain District property and facilities by the City ("1991 Agreement"); and

WHEREAS, certain provisions of the 1991 Agreement expire on December 31, 2020; and

WHEREAS, the City and District mutually desire to continue to allow the joint use of certain District property so that the City can continue to provide recreational and other services to its residents; to allow the joint use of certain City property for the benefit of the District and its students; and to replace the 1991 Agreement with an updated joint use agreement that accomplishes these goals.

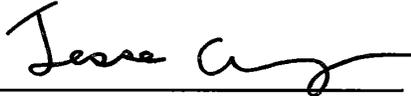
NOW, THEREFORE BE IT RESOLVED that the City Council of the City of Berkeley hereby authorizes the City Manager to execute the Joint Facility Use Agreement with BUSD in substantially the same form as the agreement attached hereto as Exhibit A.

The foregoing Resolution was adopted by the Berkeley City Council on December 15, 2020 by the following vote:

Ayes: Bartlett, Droste, Hahn, Harrison, Kesarwani, Robinson, Taplin, Wengraf, and Arreguin.

Noes: None.

Absent: None.



Jesse Arreguin, Mayor

Attest: 

Mark Numainville, City Clerk

Exhibit A

**JOINT USE AGREEMENT BETWEEN THE CITY OF BERKELEY AND BERKELEY
UNIFIED SCHOOL DISTRICT**

THIS AGREEMENT is made and entered into this ___ day of December 2020, by and between the CITY OF BERKELEY, a municipal corporation ("City"), and the BERKELEY UNIFIED SCHOOL DISTRICT ("District").

RECITALS

WHEREAS, the City and the District entered in an agreement dated May 14, 1991 governing the joint use of certain District property and facilities by the City ("1991 Agreement");

WHEREAS, certain provisions of the 1991 Agreement expire on December 31, 2020;

WHEREAS, the City and District mutually desire to continue to allow the joint use of certain District property so that the City can continue to provide recreational and other services to its residents; to allow the joint use of certain City property for the benefit of the District and its students; and to replace the 1991 Agreement with an updated joint use agreement that accomplishes these goals.

NOW, THEREFORE, in consideration of the mutual promises herein contained, the parties hereto agree as follows.

AGREEMENT

1. **Effective Date.** This Agreement shall be effective on January 1, 2021.
2. **City Use of District Pools and Other Facilities.**

a. The District hereby agrees to grant the City exclusive use of the following District facilities for the following terms:

- i. King Junior High School pool and associated facilities located at 1700 Hopkins Street, Berkeley, California, until January 1, 2051.
- ii. Martin Luther King Jr. Youth Services Facility (YAP) located at 1730 Oregon Street, Berkeley, California, until January 1, 2051.
- iii. West Campus pool and associated facilities located at 2100 Browning Street, Berkeley, California, until January 1, 2026.

iv. Willard Junior High School pool (former) locker room and shower building, located at 2425 Stuart Street, Berkeley, California, until July 1, 2021.

The City agrees to assume full responsibility for operating each of these facilities for the terms listed in Section 2.a, and will be responsible for all maintenance and capital costs during the above-listed terms. The District grants the City an option to extend its term of exclusive use of the West Campus pool and associated facilities at its sole discretion for an additional five (5) years, until January 1, 2031. The City shall provide the District notice of its intent to exercise the option by no later than July 1, 2025.

b. Any capital improvement at the above-listed facilities exceeding \$25,000 in expenditures or any construction (regardless of dollar value) that will impact structural, accessibility, or fire or life safety systems must be approved in advance by the District. Approval of any capital improvement shall not be unreasonably withheld.

c. Upon the termination of the City's exclusive use rights, each facility and all improvements constructed thereon shall revert to the District. The District shall not assert any claim for breach of this agreement, waste, or any other claim for property damages based on the condition of any facility upon its return to the District at the termination of the City's rights under this Section.

3. Public Use of District Elementary School Sites.

a. This Section applies to the following elementary schools operated by the District: Berkeley Arts Magnet; Cragmont; Emerson; Jefferson; John Muir; Malcolm X; Rosa Parks (except for the playground area); Sylvia Mendez; Thousand Oaks; Washington; and West Campus (temporary Oxford site); and, should it reopen as a school, the former Oxford Elementary School site.

b. The District agrees that the playgrounds and fields of each site listed in Section 3.a will be open and accessible to the general public on weekends and non-school days (including all holidays and school vacations or breaks) until January 1, 2046.

c. The District shall post signage in a form reasonably acceptable to the City at each site listed in Section 3.a that provides adequate notice about restrictions on accessibility of the site to the general public.

d. No fee will be charged to the City for the use of District property; provided, however, the City will reimburse the District for direct staffing costs required to keep each of these sites open to the public on weekends and non-school days. The City may elect to waive its right to keep any site open to the public in lieu of paying direct staffing costs for that site.

e. The public use of District facilities is subject to the jurisdiction of the City of Berkeley Health Officer. The District shall comply with all applicable orders of the Health Officer in allowing public access under this Section.

f. The City agrees to construct fencing, subject to the review and approval of the District (which shall not be unreasonably withheld), between school buildings and playground and field areas at the West Campus and Oxford sites. The District will otherwise remain responsible for operation and maintenance costs for the sites listed above.

4. Maintenance of King and Thousand Oaks Sites as City Parks.

a. The City will operate and maintain the following District-owned property as a City park as delineated in Exhibit A:

- i. King Park
- ii. Thousand Oaks Park

b. The sites listed in Section 4.a shall remain open and accessible to the general public until January 1, 2046, except as set forth in City Park Rules; provided, however, that playing fields at Thousands Oak Park shall be reserved for District use during school hours, when school is in session.

c. No fee will be charged to the City for the use of District property. The City will pay for all maintenance and capital expenditures at the sites described in Section 4.a during the term of this Agreement.

d. Upon the termination of this Agreement, each site and all improvements constructed thereon shall revert to the District. The District shall not assert any claim for breach of this agreement, waste, or any other claim for property damages based on the condition of any site upon its return to the District at the termination of the City's rights under this Section.

5. District Use of City Parks and Park Facilities.

a. The City hereby agrees that the District will have access to City parks, park buildings, and sports fields at no cost, except as provided in this Agreement, until January 1, 2046.

b. The City agrees the District will have the right to reserve the San Pablo Park tennis courts for Berkeley High School interscholastic tennis matches during the boys and girls high school tennis seasons. The District will have priority access to the courts for those purposes after providing reasonable notice to the City.

c. The City agrees that the District will have the right to reserve the King Junior High School pool for use by the District's Middle School aquatic programs, and that priority considerations will be given to the District's request to reserve the pool for this purpose.

d. The District is responsible for paying any costs incurred to staff City facilities used by the District during the term of this Agreement and for any other services requested by and agreed to by the District. The City will not assess a facility rental charge for use of facilities by the District under this Agreement.

6. Indemnification.

a. The City shall indemnify, defend, and hold harmless the District and its officers, employees, agents, and volunteers against any and all liability for injury or damage caused or willful act or omission of the City or its officers, employees, agents, or volunteers arising from the City's use of District facilities under this Agreement or the District's use of City facilities under this Agreement; provided, however, that the City shall not be required to indemnify the District for any such claims, demands, or actions to the extent they result from the negligence or intentional acts on the part of the District or its officers, agents, employees, or volunteers.

b. The District shall indemnify, defend, and hold harmless the City and its officers, employees, agents, and volunteers against any and all liability for injury or damage caused by any negligent or willful act or omission of the District or its officers, employees, agents, or volunteers arising from the District's use of City facilities under this Agreement or the City's use of District facilities under this Agreement; provided, however, that the District shall not be required to indemnify the City for any such claims, demands, or actions to the extent they result from the negligence or intentional acts on the part of the City or its officers, agents, employees, or volunteers.

c. The provisions of this Section shall survive the termination of this Agreement.

7. Termination. Upon termination of this Agreement, all improvements, facilities, and fixtures on the properties referenced herein shall revert to the ownership District. Nothing herein shall prejudice the rights of the City and the District to extend the term of this Agreement or otherwise extend the term of the City's right to exclusive use of the properties referenced herein.

8. Authorization to Execute. Each party represents that the individual signing this Agreement is authorized to bind the party on whose behalf he, she, or they signs.

9. **Entire Agreement.** As to the matters set forth herein, this Agreement is the entire, integrated agreement and understanding of the Parties. This Agreement supersedes any prior Agreement between the parties regarding the subject matter of the Agreement, including but not limited to the 1991 Agreement.

10. **Modification.** This Agreement may be modified only by a writing signed by the parties.

11. **Severability.** If any part of this Agreement is found to be void, invalid or unenforceable, the remainder shall remain in full force and effect and shall be interpreted to carry out the parties' intent with respect to their obligations and rights.

12. **Drafting of Agreement.** The parties and their respective counsel have participated in the drafting and negotiation of this Agreement. For all purposes, this Agreement shall be deemed to have been drafted jointly by all parties.

13. **Applicable Law.** This Agreement shall be interpreted in accordance with California law, without reference to its choice of law provisions.

14. Execution in Counterparts. This Agreement may be executed in counterparts, and fax copies shall constitute good evidence of such execution.

CITY OF BERKELEY

Dated: _____, 2020

By: _____
City Manager

Registered on behalf of the City Auditor by:

By: _____
City Clerk

By: _____
Finance Department

APPROVED AS TO FORM:

By: _____
City Attorney

BERKELEY UNIFIED SCHOOL DISTRICT

Dated: _____, 2020

By: _____

APPROVED AS TO FORM:

By: _____

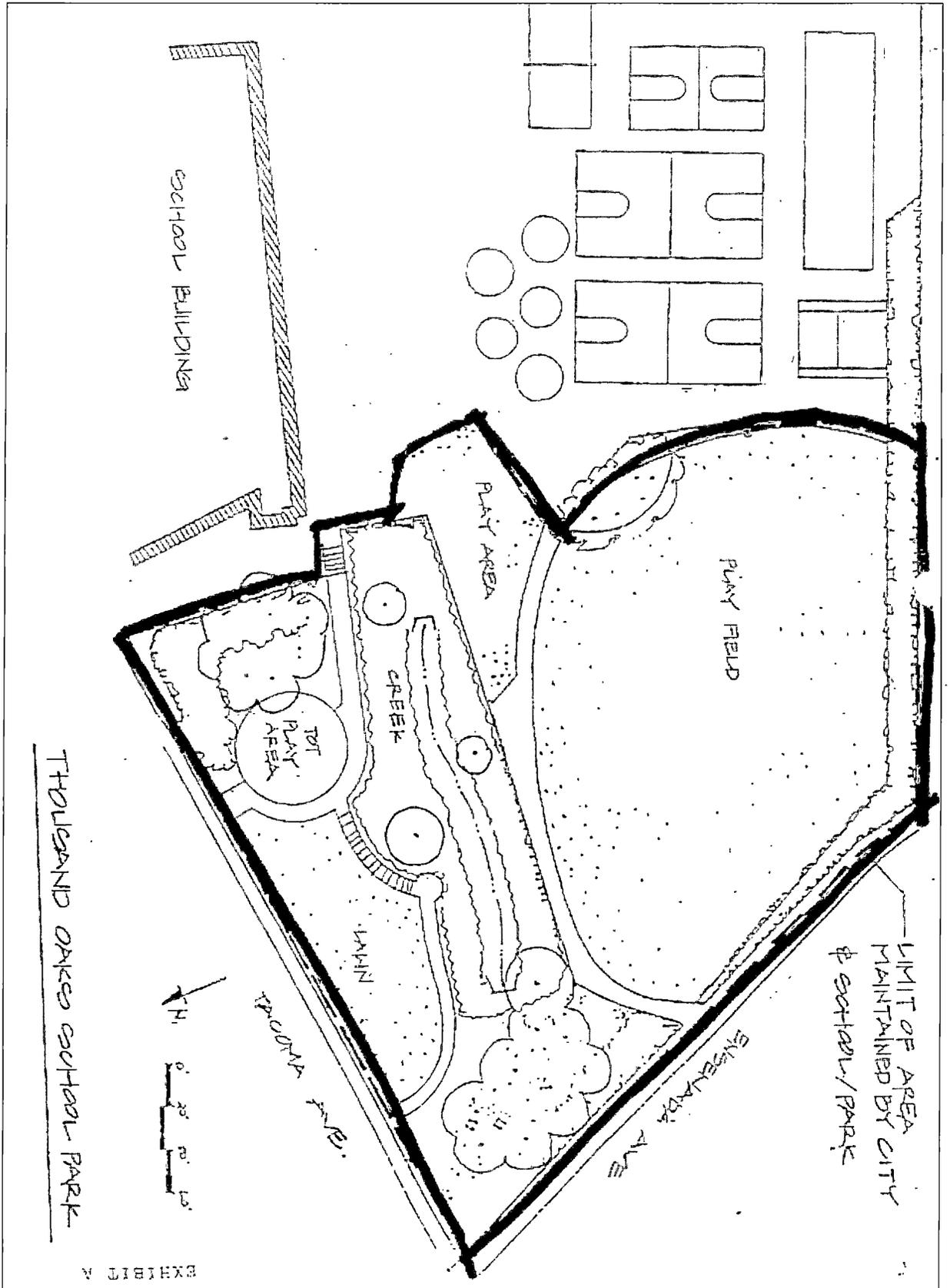


EXHIBIT 2

RESOLUTION NO. 69,657-N.S.

ADOPT THE FINAL LIST OF PROJECTS FOR IMPLEMENTATION IN PHASE 2 OF
THE MEASURE T1 INFRASTRUCTURE BOND PROGRAM

WHEREAS, on November 8, 2016, Berkeley voters approved ballot Measure T1, the general obligation bond program to fix existing City infrastructure in need of improvement; and

WHEREAS, after the passage of Measure T1, the City Manager proposed a three phase implementation plan (https://www.cityofberkeley.info/uploadedFiles/Parks_Rec_Waterfront/Level_3__General/Measure%20T1%20GO%20Bonds%20Recommendations.pdf) for the Measure T1 program. The \$100 million of bond proceeds is anticipated to be spent within 12 years, with each phase expected to last four years; and

WHEREAS, from December 2016 through June 2017, the City undertook a robust public process to gather input on the proposed projects for Phase 1, which resulted in a joint report to Council in June 2017 (https://www.cityofberkeley.info/uploadedFiles/Parks_Rec_Waterfront/Level_3__General/Measure%20T1%20-%20Joint%20Commission%20Report%20-%20June%202017%20w%20attachments.pdf) from the two Primary Commissions (Public Works and Parks and Waterfront) detailing their recommendations. The City Manager incorporated this input and submitted a final recommended list of projects (https://www.cityofberkeley.info/Clerk/City_Council/2017/06_June/Documents/2017-06-%2027_Item_49_Implementing_Phase_1.aspx). Council adopted this list and proposed plan for implementing Phase 1 of the T1 bond program on June 27, 2017 (Resolution No. 68,076); and

WHEREAS, as of December 2020, Staff are in the final stages of completing 45 Phase 1 (July 2017 - June 2021) projects; and

WHEREAS, from July 2019 through November 2020, Staff and the Primary Commissions have conducted a comprehensive Phase 2 public process to identify projects for Phase 2; and

WHEREAS, on November 19, 2020, the Public Works Commissions passed a motion to send a list of recommended Phase 2 projects to Council and to endorse the list of recommended projects from the Parks and Waterfront Commission (Attachment 3): (M/S/C: Krpata/Schueler/U): Brennan; Constantine; Erbe; Freiberg; Hitchens; Humbert; Krpata; Nesbitt; Schueler; Noes: None; Abstain: None; Absent: None; and

WHEREAS, on November 19, 2020, the Parks and Waterfront Commission passed a motion to send a list of recommended Phase 2 projects to Council and to endorse the list of recommended projects from the Public Works Commission (Attachment 2): (M/S/C:

Kamen/Kawczynska/U): Cox; Diehm; Kamen; Kawczynska; Landoni; McGrath; Skjerping; Srioudom; Wozniak; Noes: None; Abstain: None; Absent: None.

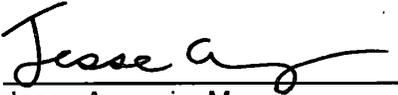
NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Council adopts the Final List of Projects for implementation in Phase 2 of the Measure T1 infrastructure bond program as shown in Exhibit A.

The foregoing Resolution was adopted by the Berkeley City Council on December 15, 2020 by the following vote:

Ayes: Bartlett, Droste, Hahn, Harrison, Kesarwani, Robinson, Taplin, Wengraf, and Arreguin.

Noes: None.

Absent: None.



Jesse Arreguin, Mayor

Attest: 

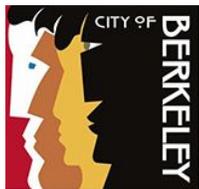
Mark Numainville, City Clerk

Exhibit A to the Resolution

Measure T1 Phase 2 Final List of Projects (December 15, 2020)

Project Area	Site Description
Care and Shelter and Non-Departmental Citywide Projects	MLK Jr. Youth Services Center
	South Berkeley Senior Center
	African American Holistic Resource Center
	Restrooms in the Right-of-Way (ROW) (2-3)
Camps	Cazadero Dining Hall & ADA Improvements
Parks Buildings	Willard Clubhouse/Restroom Replacement
	Tom Bates Restroom/ Community Space
	Restrooms in Parks:
	Harrison Park Restroom Renovation Ohlone Park - New Restroom
Parks - Play Structures	Ohlone Park (Milvia) - Ages 2-5, 5-12, Garden Mural, Exercise
	John Hinkel Park Lower - Ages 2-12, picnic, parking
	Grove Park - Ages 2-5, 5-12
Parks	Aquatic Park Tide Tubes Clean Out, Soil Removal
	Ohlone Park Lighting
	Civic Center Park – Turtle Garden
Pools	King Pool Tile and Plaster Replacement
Waterfront	Piling Replacements
	D and E Dock Replacement
	K Dock Restroom Renovation
	Cesar Chavez Park - New Restroom (on Spinnaker Way)
Streets	T1 Streets Contribution to Annual Street Paving: Street Reconstruction of Arterials/Collectors and Vision Zero, Bus Network, and Bike/Ped Plan Improvements
	Bollard Conversion to Landscaping
Sidewalks	Sidewalks Maintenance & Safety Repairs
Pathways	Pathway Repairs/Improvements
Storm	Stormwater Infrastructure Repairs/ Replacement
Facilities	1947 Center Street Improvements:
	Seismic Upgrade Design
	HVAC/Electrical, Control Upgrades
	Fire Stations
	FS2 - HVAC, Electrical, Bedrooms, Security, Solar, Roof
	FS6 - Windows, Energy Efficiency
	PW Corp Yard:
	Facility Assessment
	Gate, Paving, Parking, Fuel Island
	Wash Station Compliance
	Green Room (B) Lockers, Bathroom, Training Room, Floor, Cabinets
	Storage Room (H) - Roof Repair
	Generator Upgrades
	Oxford & Telegraph Channing Garage Restrooms
	Emergency Power Supply Solar Batteries

Martin Luther King Jr. Youth Service Center | Young Adult Project Community Update | February 2023



Parks
Make
Life
Better!

SIEGEL & STRAIN Architects

Project Introduction

The Martin Luther King Jr. Youth Services Center / Y.A.P. is a well-used 10,600 square foot building sited adjacent Grove Park at 1730 Oregon Street in the City of Berkeley. The project limit is bounded by Oregon Street to the north, Grove Park playground to the east, rear property line / fence line to the south, and adjacent Berkeley Unified School District brick building at 1720 Oregon Street to the west. The building is one of the City's 4 community centers operated by the City's Parks, Recreation & Waterfront (PRW) Department, and one of the City's designated care and shelter facilities identified in the City's Resilience Strategy, Emergency Operations Plan, and Local Hazard Mitigation Plan. As a community center, the PRW Department provides recreational programming and services for residents of all ages here, but this is the only community center with a particular focus on young adults and teens. The primary objective of this project is to create a more modern and flexible recreation center that is safe and accessible to the local teens and community it serves. The project shall meet CalGreen requirements, strive for Zero Net Energy, and incorporate Universal Design and Deep Green initiatives, including total electrification, wherever practicable.

FUNDING SOURCE

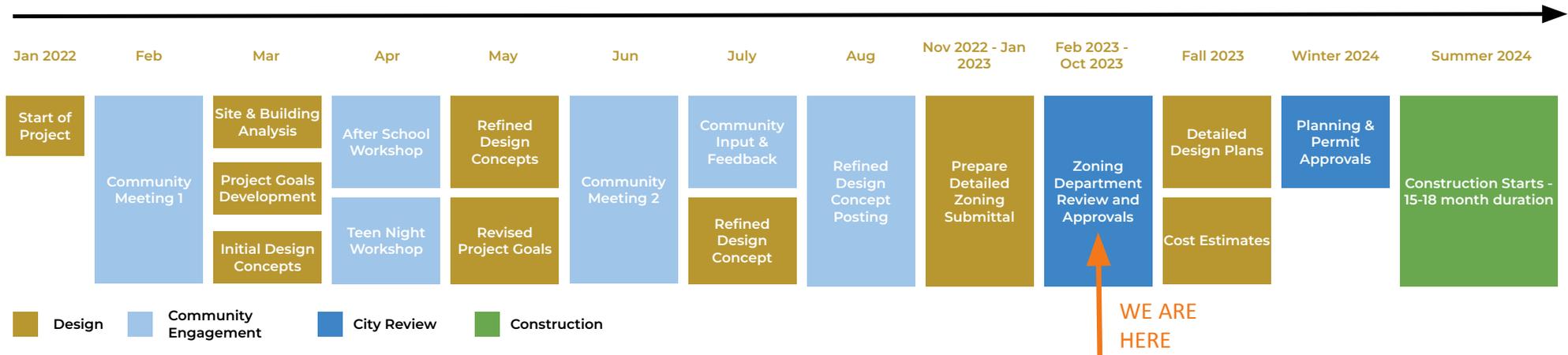
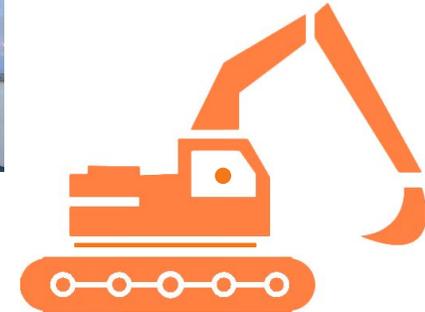
In 2016, Berkeley voters approved Measure T1, which authorized the City to sell \$100 million of general obligation bonds to repair, renovate, replace, or reconstruct the City's aging infrastructure and facilities, including important City facilities and buildings. In 2017, as part of the City's Measure T1 Bond program, the MLK Jr Youth Services Center / Y.A.P. received funding for design and construction.

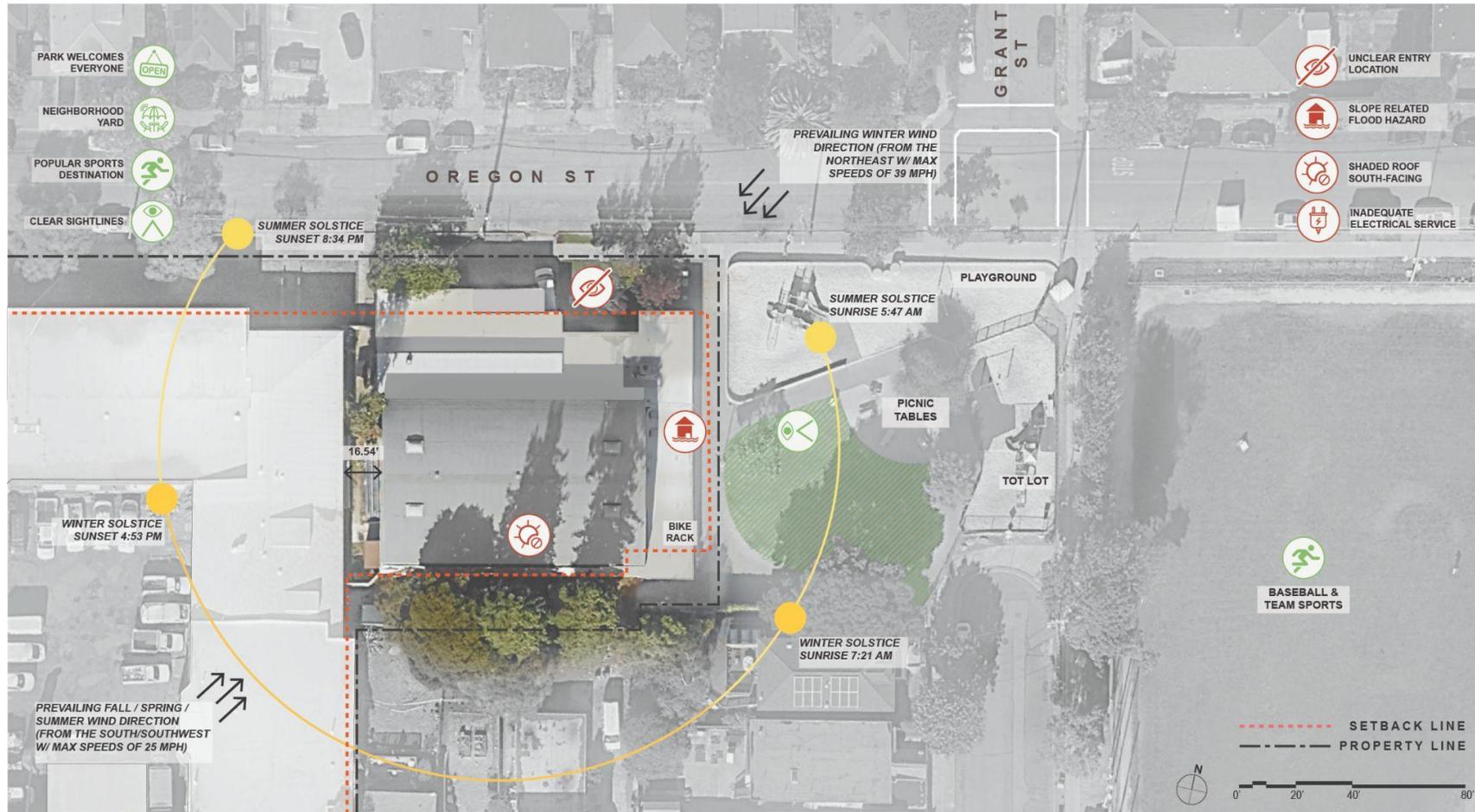
T1 (includes city match for FEMA HMGP Grant)	\$7,000,000
FEMA HMGP Grant Federal Share	\$1,237,500
TOTAL	\$8,237,500

* City will be using current existing funding to seek additional grant funding opportunities.



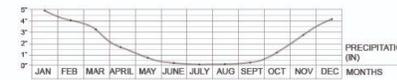
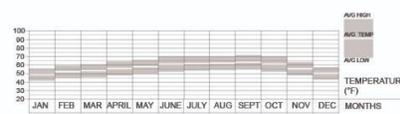
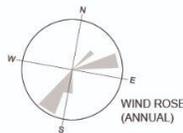
Project Timeline

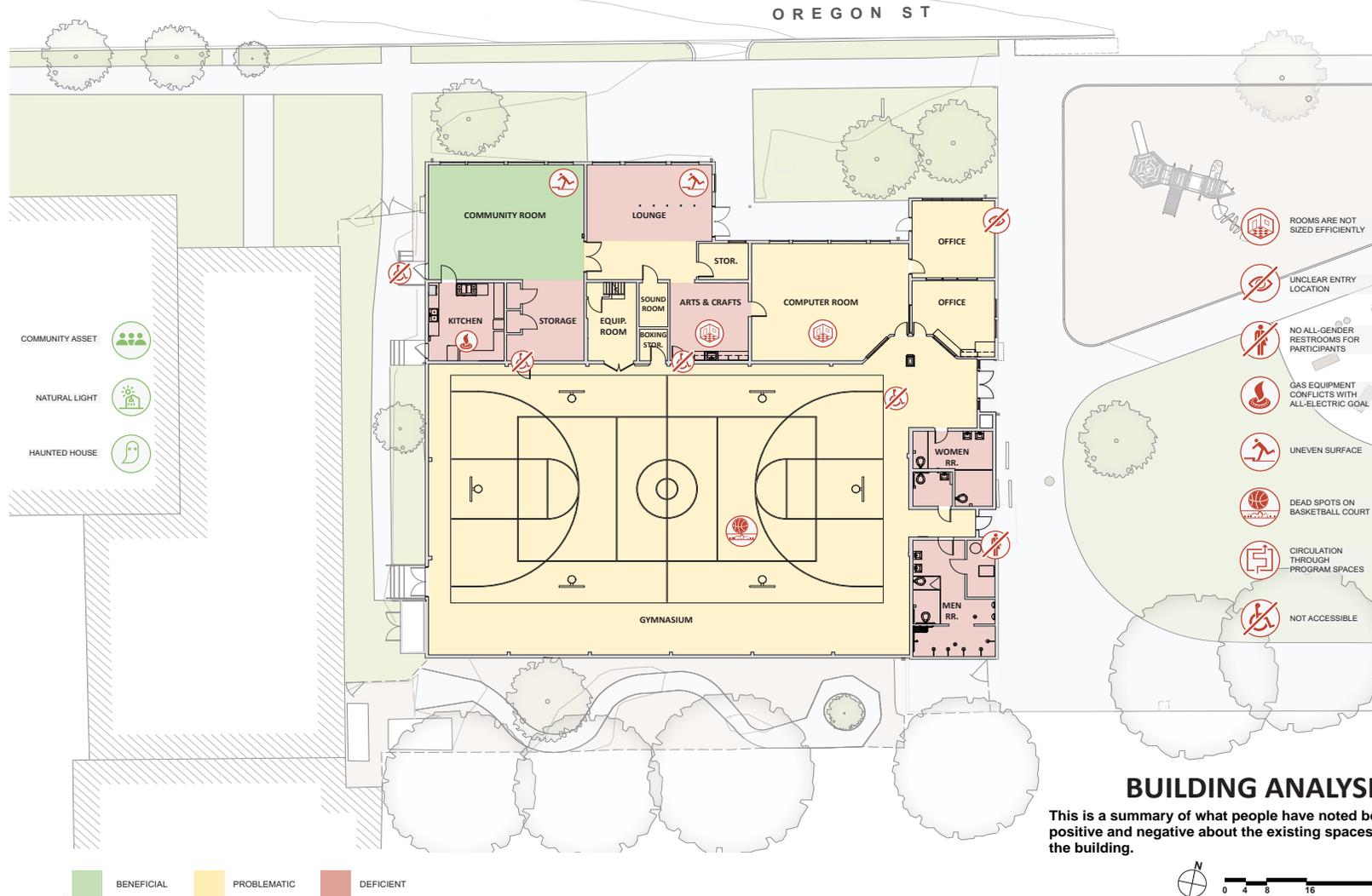




SITE ANALYSIS

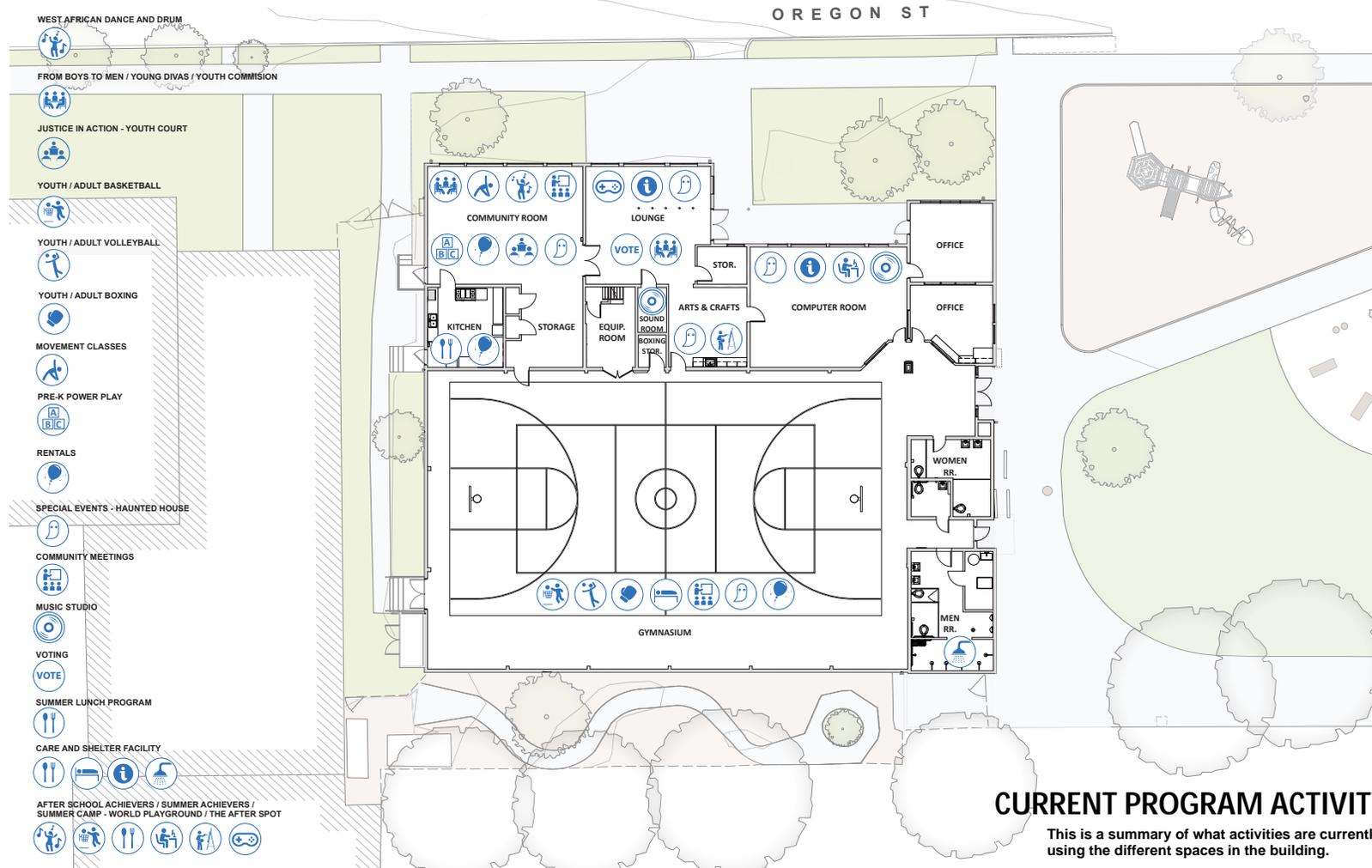
MLK JR. YOUTH SERVICES CENTER / Y.A.P.
 1730 OREGON ST, BERKELEY, CA. 94703

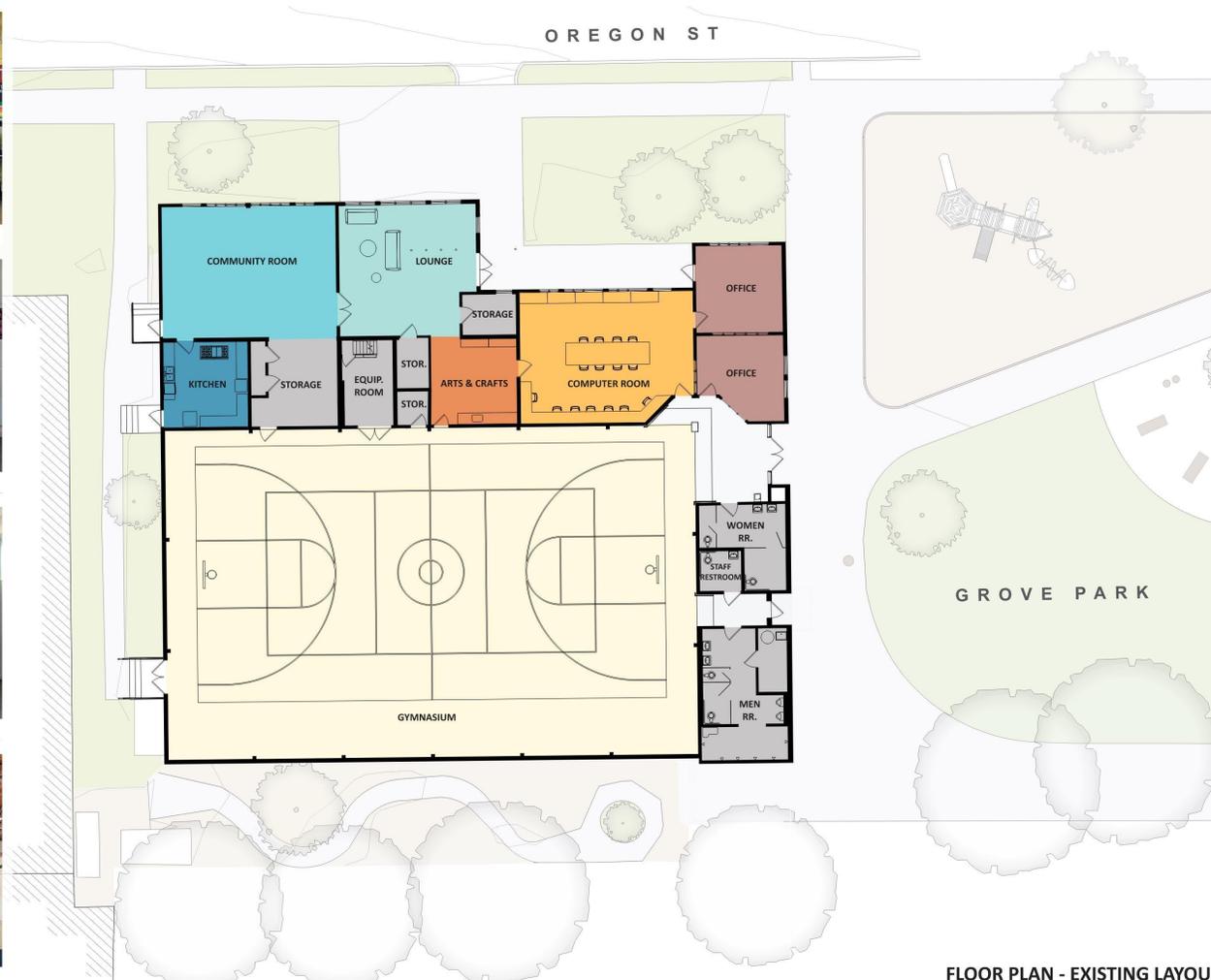




PROJECT GOALS

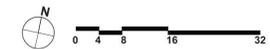
<h3>Integral to the Community</h3>	<h3>Safe Space for Community</h3>	<h3>Inviting Place for Teens</h3>	<h3>Sustainability/ Resiliency</h3>
			
<ul style="list-style-type: none">•Flexibility to continue serving future generations in Young Adult Project.•Honor the Past•Support the Community	<ul style="list-style-type: none">•Retrofit the building to current seismic safety standards•Improve life safety systems including sprinklers and alarms•Modernize kitchen to support teen instruction•Secure program spaces	<ul style="list-style-type: none">•A building that is welcoming in appearance and that teens can be proud of•Improve existing program spaces to better accommodate programs•Technologically advanced	<ul style="list-style-type: none">•Integrate City's principles and goals for sustainable design and operation•Consider passive, net-zero, and all electric strategies•Consider YAP as a community hub in emergencies





LOUNGE KITCHEN COMMUNITY ROOM ARTS & CRAFTS COMPUTER ROOM OFFICE STORAGE AND RESTROOMS

FLOOR PLAN - EXISTING LAYOUT



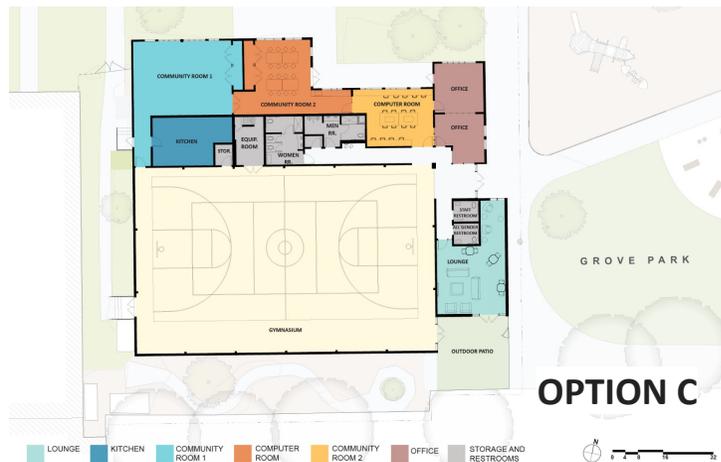
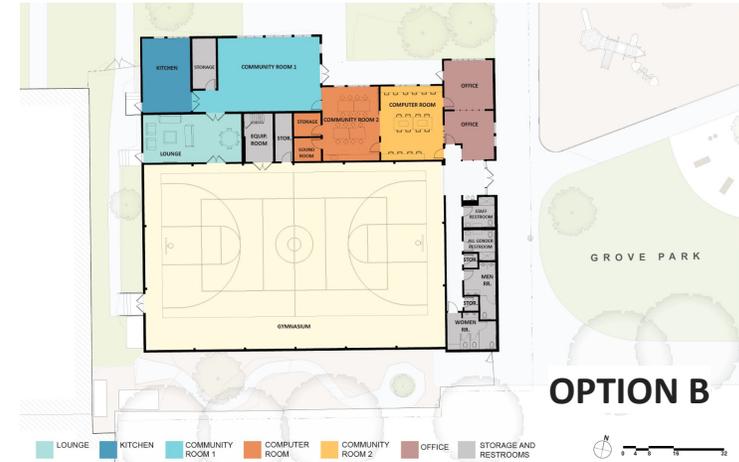
Plan Options & Community Feedback

Summary of Community Outreach in 2022

- 980+ Mailers
- 300+ Fliers posted at site, citywide at community centers, and distributed
- Project Website
- City events announcements
- Events posted online
- Email announcement to project email list
- Measure T1 Website and Newsletters
- Park canvassing and at Public Events
- In-Person and Virtual Community Meetings
- Online Survey
- Focus Group Meetings
- Teen Outreach - Afterschool Achievers
- Teen Outreach - Friday Night After Spot



Layout Options Presented Previously

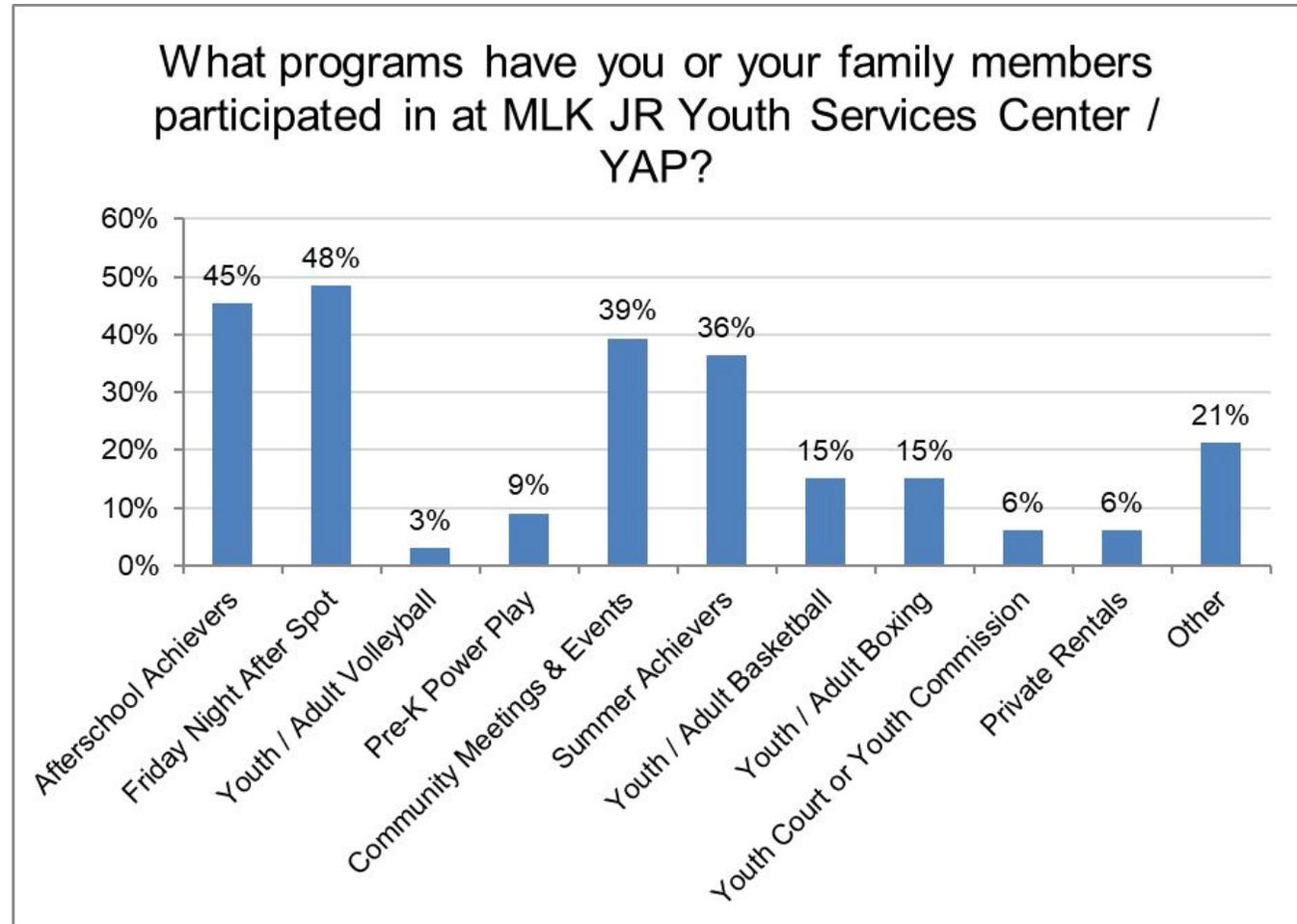


Summary of Feedback from Survey Follows



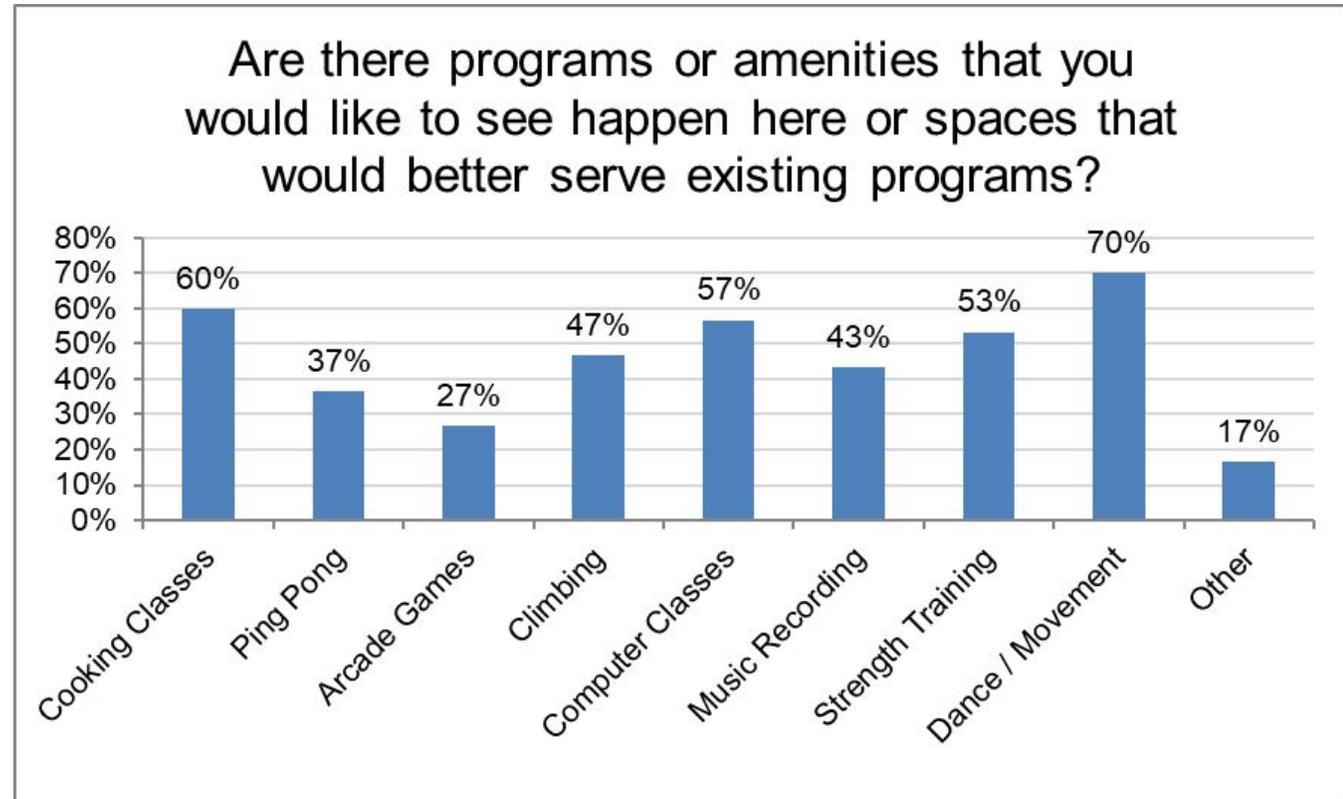
Survey Results

- In-person participants were predominantly students and staff (e.g. Achievers program, Friday Night After Spot), and included a few neighbors.
- Online participants included all stakeholders.



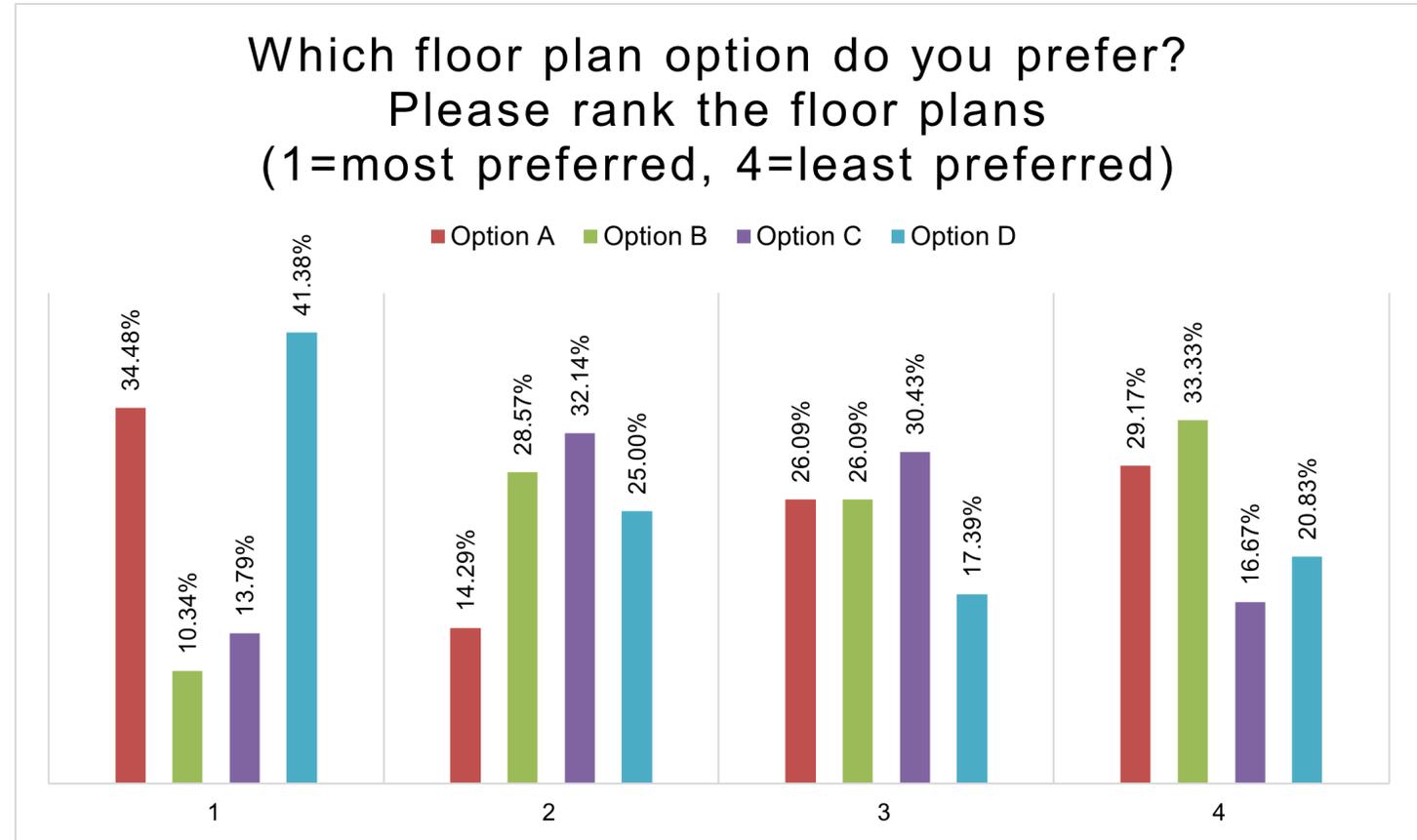
Survey Results

- Other activities of interest were:
 - Basketball
 - Art
 - Indoor Soccer
 - More Rec Programs



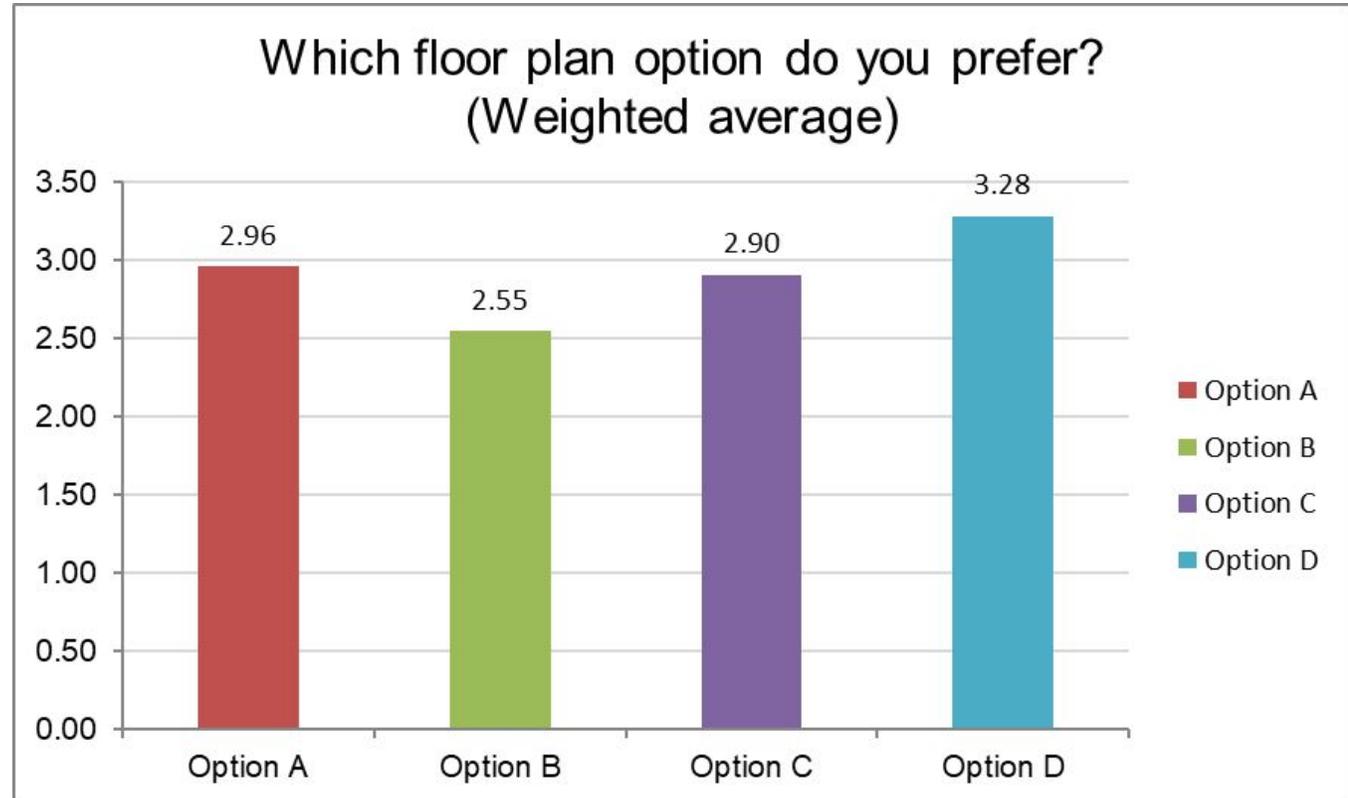
Survey Results

- In-person participants preferred Option D. Participants were excited by more space, flexibility, outdoor space associated with lounge, and difference
- Online participants were split between those who preferred Option A and D. Participants preferring Option A were interested in keeping the project on budget and time



Survey Results

- Based on rankings for second, third and fourth places, Option D comes in higher Options A and C.
- 1 being least preferred and 4 being most preferred.



Survey Results - What Excites You Most About the Project?



Survey Results - What Concerns You Most About the Project?

Why have gendered restrooms at all?

Closing YAP during demolition for length of time - what will happen to the current programs during renovation

Any way to have more windows & visibility?

Don't infringe on park access during the construction

I feel like only good can come from it. YAP needs this

Nothing

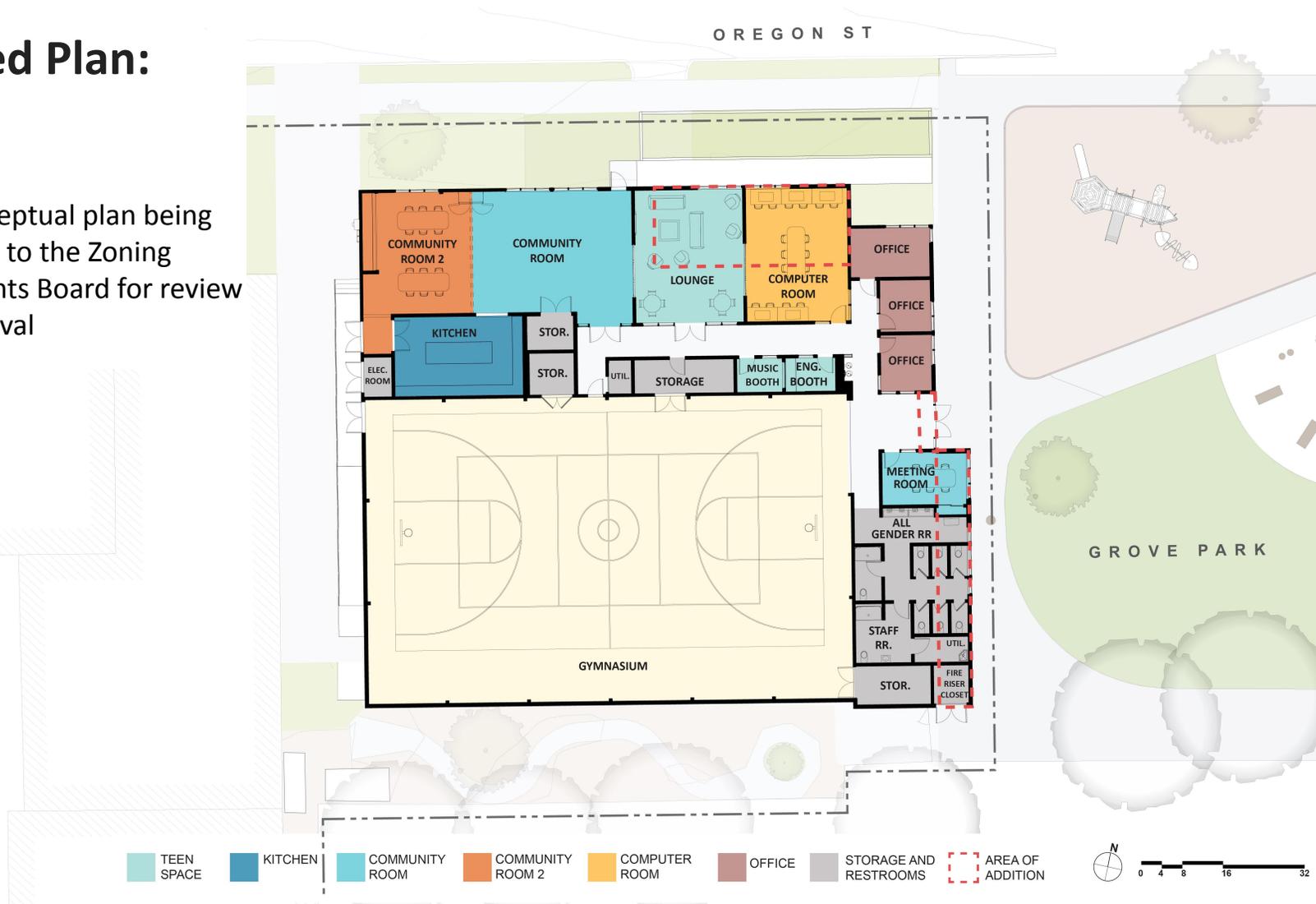
Cost and how soon the project ends

Summary of Feedback from Survey:

- Modernize the building
- Create safe paths of travel and spaces
- Expand the building, not into the usable open space
- More opportunities for recreational programming
- More opportunities for community programming
- All-Gender Restrooms

Proposed Plan:

Final conceptual plan being submitted to the Zoning Adjustments Board for review and approval



Next Steps:

2023

- Prepare drawings and documents for Zoning Permit approvals
- Prepare detailed design documents

2024

- Submit plans for Building Permits
- Bid and Contract for Construction
- Begin Construction

2025

- Construction Completion



Thank you.

Project Team:

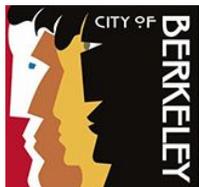
Parks, Recreation & Waterfront Department

- Scott Ferris, PRW Director
- Evelyn Chan, PRW Supervising Civil Engineer

Siegel & Strain Architects

- Susi Marzuola, Principal
- Karen Richards, Principal
- Madison Jackson, Architect

Please direct any questions or comments to Evelyn Chan at echan@berkeleyca.gov



SIEGEL & STRAIN Architects

