



2720 Hillegass Avenue ZAB Appeal

USE PERMIT AND VARIANCE APPLICATION (ZP#2022-0095)

LAND USE PLANNING DIVISION

JULY 24, 2023



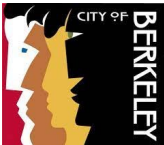
Outline

- Use Permit Application
- Project Timeline
- Revised Findings and Conditions
- Council Appeal Points
- Staff Recommendation





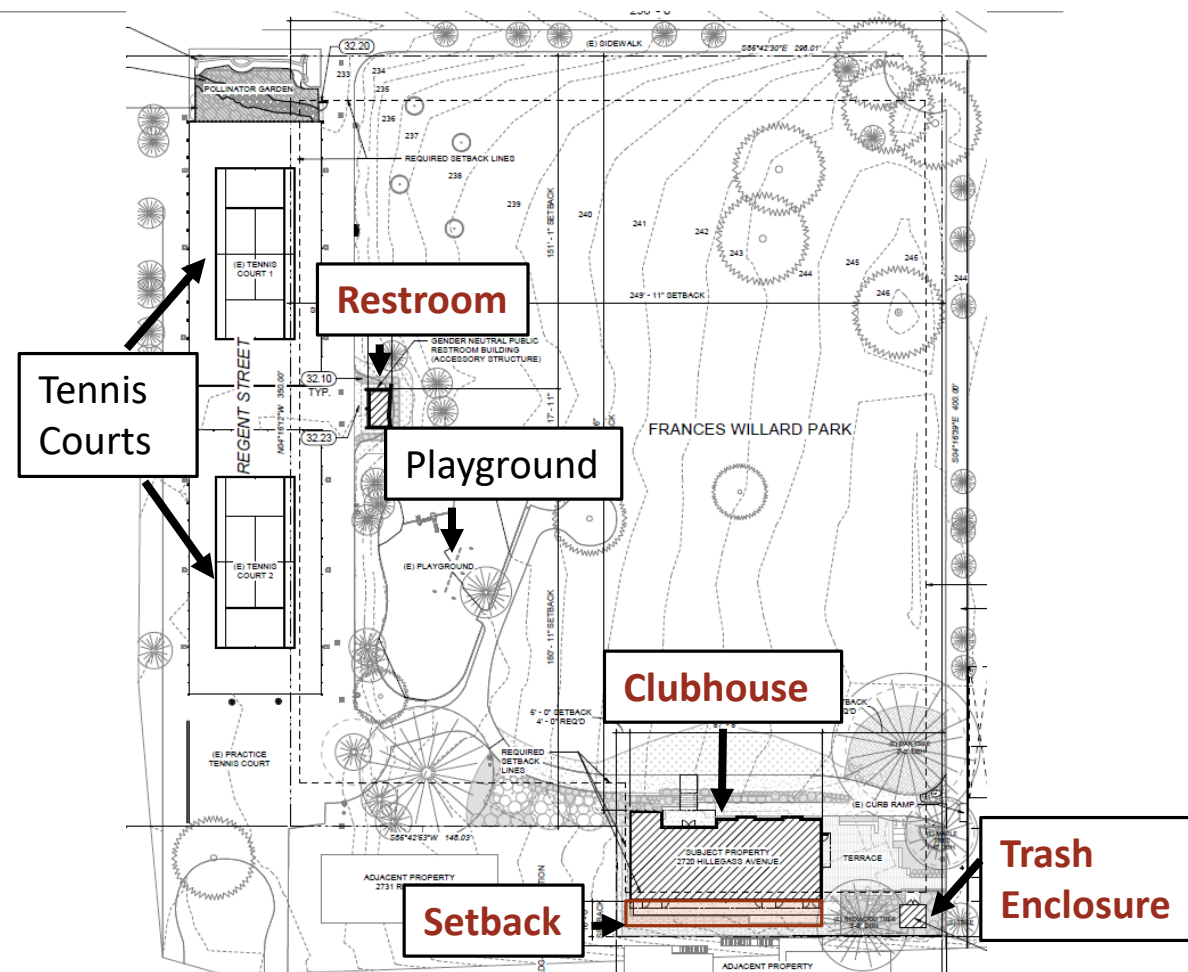
Use Permit Application



Use Permit Application

Berkeley Parks, Recreation, and Waterfront Department Use Permit request to:

- Demolish existing recreation building/restroom
- Construct a community center
- AUP for a new restroom
- AUP for a new trash enclosure
- Variance for a 16-foot where 20 feet is required reduction in the rear setback (4-foot reduction)





Project Timeline



Project Timeline

- June 9, 2022 – Use Permit Application Submitted
- November 3, 2022 – Landmarks Preservation Committee
- March 28, 2023 – Application Deemed Complete
- April 27, 2023 – ZAB **Approved Use Permit and Variance 8-1-0-0 Vote** (Yes: Duffy, Hauser, Yung, Lunaparra, Sanderson, Thompson, Gaffney, Tregub; No: O’Keefe; Abstain: None; Absent: None)
- May 9, 2023 – Notice of Decision Issued
- May 23, 2023 – Appeal Filed
- July 24, 2023 – City Council Hearing





Revised Findings and Conditions



Landmarks Preservation Commission - Demolition Referral

- The project implementation would result in the demolition of a building that is over 40 years in age (BMC 23.326.070)
- On November 3, 2022, the Landmarks Preservation Commission **took no action** to initiate the property for local register consideration (Landmark or Structure of Merit designation)
- A motion was made regarding **recommendations** to implement certain design features celebrating the history of the site
 - **Motion failed 3-6-0-0 Vote** (Yes: Adams, Finacom, Linvill; No: Crandall, Enchill, Leuschner, Montgomery, Schwartz, Twu; Abstain: none; Absent: none)



Variance for Reduced Setback

- The City of Berkeley has a substantial property right to maintain and upgrade its park facilities in order to meet demand. The design was based on community feedback:
 - Larger indoor space for programming
 - Upgraded facilities
 - ADA accessibility
- Variance findings for the setback reduction allows for the retention of:
 - Large on-site trees
 - Recreational open space
 - Circulation pathways



Council Appeal Points



Council Appeal Points

Appeal Point 1	Staff Analysis
Measure L Violation	<ul style="list-style-type: none">▪ The parcels that make up Willard Park were purchased by the City of Berkeley in 1957, 1964, and 1968. The park was formally dedicated in 1971 and has been in use as a public park ever since. Therefore, Willard Park is a “public park” and not “public open space” for the purposes of Measure L.▪ The renovation and expansion of the Clubhouse (and its renaming as the Community Center) does not constitute a change in purpose for Willard Park; the park will still be used for recreation.▪ Voter approval is not required for the proposed improvements to Willard Park because no new or altered land uses would be introduced to the park.



Council Appeal Points

Appeal Point 2	Staff Analysis
California Environmental Quality Act (CEQA)	<ul style="list-style-type: none">▪ Community Center is similar to the non-exclusive examples of small facilities listed under Section 15303 of the CEQA Guidelines Class 3 (New Construction or Conversion of Small Structures). None of the exceptions under CEQA Guidelines Section 15300.2 apply.▪ The Project’s size, location, and purported impacts on traffic do not amount to an “unusual circumstance” creating a reasonable possibility of a significant effect on the environment.▪ Traffic impact analysis is not required for projects located within a quarter mile of a “high-quality transit corridor” or a half mile from a “major transit stop.”



Council Appeal Points

Appeal Point 3	Staff Analysis
Intensification of Use	<ul style="list-style-type: none"><li data-bbox="825 458 2295 672">▪ The existing and proposed new buildings both function as a community center because of their noncommercial recreational use. The use would continue to be a park, with related uses and structures, including a field, playground, tennis courts and restrooms.<li data-bbox="825 686 2206 786">▪ The increased size of the facility would help to better accommodate existing demand.<li data-bbox="825 801 2308 1008">▪ Noise disturbance is governed by the Community Noise Ordinance, BMC Section 13.40. The park is currently and would continue to be subject to the Community Noise Ordinance if City Council upholds the ZAB decision to approve the project.



Council Appeal Points

Appeal Point 4	Staff Analysis
Variance Findings	<ul style="list-style-type: none"><li data-bbox="825 458 2313 672">▪ The existing clubhouse building has a rear setback of 11 feet 8 inches, the proposed 16-foot setback will increase the separation compared to existing conditions, less land behind the building will be unnecessarily left unused, and the impacts to the open lawn area will be minimized.<li data-bbox="825 686 2175 843">▪ The need for public open space limits the location of the proposed community center, and the variance is proposed to add a new community center while limiting impacts to open space<li data-bbox="825 858 2262 1129">▪ There are many different types of takings pursuant to the Fifth Amendment (physical invasions of property, regulatory takings that restrict the use of property, or land use exactions such as easements), none of which are applicable to the effect of this project upon neighboring parcels.



Council Appeal Points

Appeal Points 5 through 8	Staff Analysis
<p>Detriment Findings</p> <ul style="list-style-type: none">▪ Interior Yard▪ Building Height▪ Rainwater Drainage▪ Restroom (size, placement, safety)	<ul style="list-style-type: none">▪ A setback is defined as the distance between a lot line and a building or other site improvement (BMC Section 23.502.020). Setbacks are not based on the historical use or condition of a property.▪ The number of stories of a building is not based on the height of the building. The proposed building would feature a single floor level and, therefore, would be a single-story building.▪ Sightlines of the park from nearby vantage points are not protected view corridors under the Zoning ordinance.▪ The ZAB-approved Use Permit includes standard Conditions of Approval that address drainage at the site during construction and at all times.▪ Location of restroom was based on feedback received from the public and discussions with Berkeley Police. The alternate location provided by the appellant is outside of the project site, on an abandoned right-of-way. Restroom type (modular or new construction that matches the new community center) is not under the purview of ZAB.



Council Appeal Points

Appeal Points 9 and 10	Staff Analysis
Participation	<ul style="list-style-type: none">▪ The project plans presented at the ZAB hearing were more refined than the conceptual drawings presented at public meetings before the application was submitted, and also showed a 16-foot rear setback. The plans were made available online in advance of the ZAB hearing, and forwarded to members of the public who had previously requested to be notified.
Application Materials	<ul style="list-style-type: none">▪ The installation of story poles is not required for low-rise development projects like the subject single-story building nor for projects outside of the Hillside Overlay district



Staff Recommendation



Staff Recommendation

- Conduct a public hearing
- Adopt a Resolution
 - **Affirming the Zoning Adjustments Board decision to approve a Use Permit and Variance to demolish and replace/expand the existing recreation building and public restroom (community center), with a reduced rear setback, and to construct a stand-alone public restroom building and a trash enclosure, with revised Findings and Conditions, and dismiss the appeal.**
- **Alternative Actions Considered**
 - Continue the Public Hearing
 - Reverse or Modify ZAB's Decision
 - Remand the Matter to the ZAB