

**CITY OF OAKLAND**  
**COUNCIL AGENDA REPORT**

FILED  
OFFICE OF THE CITY CLERK  
OAKLAND

2005 APR -7 PM 12:13

TO: Office of the City Manager  
ATTN: Deborah Edgerly  
FROM: Community and Economic Development Agency  
DATE: April 19, 2005

RE: A PUBLIC HEARING ON A RESOLUTION DENYING THE APPEAL AND UPHOLDING THE DECISION OF CITY PLANNING COMMISSION APPROVING A MAJOR CONDITIONAL USE PERMIT AND DESIGN REVIEW FOR THE CONSTRUCTION OF 2 PORTABLE BUILDINGS, A CONCRETE PATIO, 2 ARBORS, LANDSCAPING, AND THE ADDITION OF AFTER SCHOOL PROGRAMMING IN CONCORDIA PARK (3000 62<sup>ND</sup> AVENUE) BY GIRLS INCORPORATED OF ALAMEDA COUNTY.

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## SUMMARY

An appeal has been filed of the Planning Commission's February 16, 2005 major conditional use permit and design review approval to construct 2 portable buildings, a concrete patio, 2 arbors, new landscaping, and the addition of after-school programming for middle-school girls by Girls Incorporated of Alameda County (Girls Inc) within Concordia Park. The appellant, Nancy Sidebotham, who is representing the Burbank-Millsbrae Neighborhood Crime Prevention Council as well as other unspecified groups filed the appeal on February 28, 2005. Attachment A provides the grounds for the appeal and accompanying letters. The appeal includes the assertion that the project does not follow the Open Space Conservation and Recreation Element's (OSCAR) policies or conform to the zoning regulations; that the open space balance sheet used to support staff's conclusions is inaccurate and was not in compliance with Ordinance 12078; that staff's environmental determination was incorrect; and that there were errors in processing the application.

The purpose of policy statements in the OSCAR is to provide direction for the city and guide development related actions and decisions. The OSCAR, because of its flexibility in addressing the management of open land, natural resources, and parks, contains some competing policy statements. Every policy statement, however, is not required to be implemented. In fact, policies and actions in the OSCAR will only be implemented if they can be accomplished successfully given financial, environmental, legal, social and technological factors. It is the Planning Commission's and City Council's role to balance the various policies and decide whether the project is consistent with general purpose of the OSCAR. This weighing of policies is expressly discussed in the OSCAR: "the Element should be used comprehensively, with all objectives and policies viewed in the context provided by the others" (page 1-7 Implementation). In approving the Major Conditional Use Permit and Design Review application the Planning Commission interpreted and balanced these competing OSCAR objectives.

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The appellant also states that staff abused their discretion by not following the OSCAR Policy REC-1.3 regarding the siting of buildings in the park (See Attachment A, appeal discussion item 1). This policy states that the construction of new non-recreational buildings should be strongly discouraged and that 3 exceptions to this policy must be made before a new building is placed within a City park. The exceptions are 1) there are no feasible alternatives to placing buildings in parks; 2) the buildings are developed in accordance with an overall master plan for the impacted park; and 3) that replacement open space will be provided as specified in Policy REC-1.2 (No Net Loss of Open Space). The appellant argues the applicant failed to make a reasonable effort to find an alternative location for the program; that staff did not develop an overall master plan for the park; and that replacement open space was not provided. As discussed above, every policy statement in the OSCAR is not required to be implemented. Policies and actions in the OSCAR will only be implemented if they can be accomplished successfully given financial, environmental, legal, social and technological factors. Here, the City does not have the funds available now or in the foreseeable future to develop a master plan for Concordia Park. The City can, however, meet other OSCAR Policies and Actions. For example, OSCAR Policies REC-5.1, 6.2, 7.2 and 8.2 and OSCAR Action REC-5.1.2, encourage public-private partnerships, developing programs to maintain existing recreation centers and providing valuable programs to the community. While the City is not required to implement OSCAR Policy REC-1.3 verbatim, it did consider the intent of that policy in siting the new buildings in the park. After considerable public comment and discussion, the new buildings were placed in a manner that maintained all current activities and park programs.

Staff has outlined three options to consider in this appeal, and recommends that the Council take action to deny the appeal and uphold the Planning Commission's approval and environmental determination for the project.

## **FISCAL IMPACT**

The proposed project would provide social programs for young Oakland residents in the estimated amount of \$6,000 per month. The Real Estate Services Division of the Redevelopment Agency determined this dollar amount based on a conservative number of girls participating in the program over a 12 month period (30 to 35 girls at \$ 250 per month for a nine month school year divided by a 12 month calendar year is approximately \$ 6,000 per month).

The Office of Parks and Recreation (OPR) and Real Estate Services determined that the in-kind services provided by Girls Inc to the City of Oakland are in excess of the fair market rental rate. Therefore, they felt it to be in the City's best interest to enter into a one-year license agreement with 9, one-year options with Girls Inc for the property rent-free pursuant to Ordinance 11722 C.M.S. Girls Inc will be responsible for any and all costs to complete the necessary renovations and modifications to the recreation center to allow it to be used as a safe and sanitary location. They also will be responsible for the payment of all utilities, security costs, and maintenance costs. Staff does not anticipate an impact to the City's General Fund. In fact, staff believes that there will be a minor positive fiscal impact on the City by eliminating the utility and maintenance costs (estimated at \$460 per month) for the existing recreation center for the life of the license agreement.

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## PROPERTY DESCRIPTION

Concordia Park encompasses approximately 3.51 acres and is located between 62<sup>nd</sup> Avenue and 64<sup>th</sup> Avenue and between Camden Street and Brann Street. The site supports an existing recreation building which is currently serving as an office and meeting space for the Cal Ripken-Babe Ruth League of Metropolitan Oakland (Babe Ruth). Recreational amenities at the park also include children's play equipment, a baseball field, tennis courts, a BBQ-pit, scattered benches and picnic tables, and informal grassy areas.

The park is surrounded by a variety of residential and civic uses. These uses include single-family houses, an apartment complex, St. Cyril's Church and Academy, the Spectrum Center, and the Evergreen Cemetery. The nearest community park, Arroyo Viejo Recreation Center, is located  $\frac{3}{4}$  of a mile away near the intersection of 78<sup>th</sup> Avenue and Arthur Street behind the Webster Academy School. Concordia Park is the only neighborhood park in the immediate area.

## BACKGROUND

Approximately 20 years ago, the Office of Parks and Recreation (OPR) closed Concordia Park Recreation Center due to budget cuts and lack of funds. Before this, the recreation center was open to all members of the public and was staffed part-time during the summer. The recreation center offered after-school programs and playground programs through the OPR.

On November 4, 1993 the City of Oakland signed a "Frequent-Use Building Access" agreement. This agreement gave the Babe Ruth league the use of 1 room and 1 storage cabinet in the Concordia Park Recreation Building (See the Planning Commission staff report, Attachment B).

On May 27, 2004, Girls Inc submitted an application to construct 2 portables within Concordia Park; renovate the existing community recreation center; and provide after-school programming for girls within the portables and the existing recreation center. Staff presented the proposal before the Parks and Recreation Advisory Commission (PRAC) on June 9, 2004; the Planning Commission on June 16, 2004; the Special Projects Committee of the Planning Commission on September 8, 2004; and again at the Planning Commission on February 16, 2005. In addition to these public hearings, staff met with the Girls Inc applicant, representatives of Babe Ruth and the Jack London Youth Soccer League to discuss the location of the proposed buildings in relation to the baseball and soccer field. Furthermore, several community meetings were held to explain the proposal to the community and to hear concerns regarding the project.

## PROJECT DESCRIPTION

Girls Inc is a national non-profit organization that provides project-based learning for girls. The proposed project will expand Girls Inc services and programs to Central East Oakland. It is expected that up to 45 girls from the neighborhood will participate in the summer program 3 days a week in three groups of 15 girls each. Additionally, the program will offer open entry dates two days a week for "drop-in" participants with short activities to encourage a total of

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approximately 125 girls participating annually. The project is expected to employ 2 full-time and 1 part-time staff. During the school year, the program's hours will be from school dismissal to approximately 6 p.m., Monday through Friday, September through June. Evening and Saturday events will be held occasionally. The summer program will be held from mid-June through August, Monday through Friday from 10 a.m. to 6 p.m. beginning in the summer of 2005.

The existing community building will be used during the weekday afternoons for girl's leadership programs and homework assistance. Renovations to the existing community building will include new flooring, lighting, a kitchenette, and an arbor over the main door. The inside and outside will be repainted and the south entry will have a new roof. Construction associated with this program includes two portable buildings with an arbor, a new patio between the portables and the existing recreation center, benches on the patio, and additional landscaping. The 2 portables (960 S.F. each) will house the technology center and group meeting space and will be 1-story pre-fabricated buildings. Landscaping is proposed around the portable buildings.

### **KEY ISSUES PERTAINING TO THE APPEAL**

Seven grounds have been set forth as a basis for this appeal. These grounds are identified in the following section, along with staff findings and recommendations.

1. The OSCAR policies were not followed. The appellant asserts that the open space balance sheet that staff used to support their conclusions was not properly compiled according to OSCAR action REC1.2.1 and that staff abused their discretion by not addressing all three points of OSCAR Policy REC1.3 regarding the Siting of Buildings. The first exception to Policy REC1.3 is that there are no feasible alternatives to placing buildings within the park. The appellant has also stated that staff and Girls Inc failed to make a reasonable effort to find an alternative location for the program; that feasibility studies were not done; and that several schools have expressed interest in locating the program on school grounds.

*Staff findings:* Staff has addressed the comments pertaining to the Open Space Balance Sheet under appeal item #3.

Policy REC-1.3 addresses the siting of buildings within parks. The OSCAR states that three findings (exceptions) should be met if a building is to be located in a park: 1) that there are no feasible alternatives to placing the buildings within the park; 2) that the buildings are developed in accordance with an overall master plan for the park; and 3) that replacement open space must be provided as specified in Policy REC-1.2.. Policy REC-1.3 does not prohibit the siting of new buildings in parks. Nor is the policy mandatory as it expressly provides that it should be followed to the "maximum extent practical" and divergence from the policy is "strongly discouraged" but not prohibited. Nevertheless, staff fully addressed all three findings/exceptions to Policy REC-1.3 in the Planning Commission staff report.

First, staff believes that the applicant did make a reasonable effort to find a feasible alternative location for their program. The applicant discussed the possibility of locating the program at Frick Middle School. The applicant was unable to reach an agreement due to liability issues and

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funding issues. Students who did not attend Frick Middle School would not be allowed to participate in the after school programs on their campus for liability reasons. Although Girls Inc was intending that girls from Frick Middle School would make up the majority of the enrollment, students from the surrounding schools including Markham, Sherman, Horace Mann, and Ascend would also be possible candidates. The other issue pertained to type of federal funding needed to operate the program. If Girls Inc were to locate the program at Frick Middle School, the school would not be able to apply for the same funding if it chose to start its own after-school programs per the No Child Left Behind Act. The applicant also actively searched for an available and underutilized building per advice from the community. The applicant viewed properties along Foothill Boulevard, MacArthur Boulevard, and space within Eastmont Mall. The applicant realized that the amount of funds needed to buy, lease, or retrofit a building, would leave virtually none left for the actual programs they were trying to bring to the community. The applicant then abandoned this approach.

Second, as stated in the Planning Commission staff report, there is currently no overall Master Plan for Concordia Park and there are no plans in the foreseeable future to develop one. Although the portables are being placed in the park without approval of a master plan, given the City's current budget situation it is unlikely that a City-wide Park and Recreation Master Plan or a master plan for Concordia Park will be adopted in the near future. Concordia Park was identified for improvements in the OSCAR. However, only Bushrod, Golden Gate, DeFremery, Lakeside, Arroyo Viejo, Greenmen Field and Dimond were identified as parks that would benefit from master plans. If funds were to become available for master plan projects, those parks would be among the first to receive allocations. Moreover, the most important consideration for the implementation of a park master plan, the placement of the buildings in the park, was revised so as to minimize or eliminate conflicts with existing uses, as the proposed buildings are portable not permanent. If the City or the applicant were to choose not to renew the license agreement, the portables would be removed from the park. However the new patio, benches, landscaping, and renovations to the existing building would remain as important assets to the park. These park amenities and renovations would not be completed in the foreseeable future due to the City's current budget situation.

Third, replacement open space was provided per Policy REC-1.2, which states that there can be no net loss of open space within the City's park system as implemented through the creation of an open space balance sheet that tracks the additions and subtractions of park land. The OSCAR states that "because most park buildings are small, the balance sheet approach is more feasible than a 1:1 replacement since the latter could result in a burden of small unusable plots." Based on the Open Space Balance sheet and the "No Net Loss Tracking" provided to staff, the City of Oakland does not have a net loss of urban parkland beginning from the baseline date of July 28, 1998. The balance sheet clearly shows that the City of Oakland has added 31.65 acres (See appeal item 3 below) of open space, while only 20,035 sf has been lost. Therefore, the loss of 2,350 sf of open space, representing about 1.8% of the park, through construction of the portables would not result in a "net" loss of open space for the City per the Open Space Balance Sheet. Also, the OSCAR does not require replacing the 2,350 sf on a 1:1 replacement basis since it would result in a small unusable plot (OSCAR Policy REC-1.2).

2. The proposal does not conform to the Zoning Ordinance section 17.135.060 which states:  
 "Unless overriding considerations exist, approval of any increase in structure coverage within the OS zone shall be contingent on a finding that there has been no net loss of urban parkland from the time of the baseline date. If this finding cannot be made, approval shall be conditioned upon provision of replacement open space of comparable value and of an area equal to or greater than the space covered which shall be made available concurrently. Land within the jurisdiction of the Port of Oakland is exempt from this requirement and shall be excluded from this calculation."

*Staff findings:* Based on the Open Space Balance sheet and the "No Net Loss Tracking" provided to staff, the City of Oakland does not have a net loss of urban parkland beginning from the baseline date of July 28, 1998. The balance sheet clearly shows that the City of Oakland has added 31.65 acres (See appeal item 3 below) of open space, while only 20,035 sf has been lost. The balance sheet did not include any parks within the jurisdiction of the Port of Oakland. Therefore, staff did not write findings of overriding considerations and replacement open space is not required. Further discussion of the issues pertaining to the Open Space Balance Sheet is provided below.

3. The open space balance sheet was not compiled according to Section 17.135.060 of the Zoning Ordinance and is inaccurate since the OSCAR states that East Bay hills, East Bay regional parks , and port properties (including regional shoreline) shall not be included in the balance sheet accounting.

*Staff findings:* Zoning Ordinance Section 17.135.060 provides that the Oakland City Manager's Office shall establish an open space tracking system. The responsibility for creating this tracking system was designated to the staff of the Public Works Agency, which has been very effective and efficient in monitoring and providing the update as needed by project and community concerns. The City is working to improve this tracking system.

According to the Zoning Ordinance Section 17.135.060 "only land that is improved or intended for improvement to urban park standards may be counted as additions. Acquisition of Resource Conservation Area land is excluded along with land under the Port of Oakland's jurisdiction as stated above. Staff reviewed the Open Space Balance sheet that was compiled by the designee of the City Manager (OPR) and did find several errors in compliance with this regulation. Several of the acquisitions listed on the balance sheet including Redwood Creek, Lookout Point (Joaquin Miller), and Castle Canyon Open Space were zoned as Resource Conservation Areas. However, even with the subtraction of these areas, the City still has a positive balance of 31.65 acres.

Staff did acknowledge in the Planning Commission staff report that 1,700 sf of open space has been lost in District 6 due to a bathroom expansion at the Oakland City Stables and the construction of a modular building at the Arroyo Viejo Recreation Center for inclusive recreation programs. Staff also acknowledged that Central East Oakland is lacking in open space and deficient in acreage and facilities. However, the OSCAR does not require replacement of open space in a particular district or area. The OSCAR's "no net loss" policy is implemented by a

balance sheet that tallies annual additions and subtractions of open space Citywide – not on a district by district, area by area, or a park by park calculation.

4. The appellant asserts that staff made an error in the environmental determination and that the loss of open space is an environmental impact. Staff should have produced a negative declaration with findings of overriding consideration or mitigation measures.

*Staff findings:* Upon review of the proposed plans and program, staff found that the renovations to the existing recreation center (new flooring, lighting, a kitchenette, and an arbor over the main door and the addition of an arbor over the main entrance) met the CEQA criteria for minor alterations of existing public facilities (Section 15301) since the renovations wouldn't involve expansion of the recreation center. Staff also found that the proposed construction met all the criteria and findings under CEQA for Infill Development (Section 15332). These findings were described in the *Environmental Determination* of the Planning Commission staff report. The project is consistent with the General Plan as well as the applicable zoning regulations as determined by the Planning Commission. The development occurs within city limits and the project site is less than 5 acres. The project has no value as habitat for rare or endangered species. The project would not result in any significant effects related to traffic, noise, air quality, or water quality. The existing recreation center is currently served by utilities and public services.

In addition, section 15303 of the CEQA Guidelines (new construction of small structures) would also support an exemption here.

Since the project meets the requirements for the CEQA I exemptions, and there are no unusual circumstances or cumulative impacts, staff did not require an initial study for this project. Staff believes that exemption categories are appropriate for this project and no further review under CEQA is required.

Also, the proposed project has not resulted in a net loss of open space, as discussed in the OSCAR. Replacement open space was provided per Policy REC-1.2, which states that there can be no net loss of open space within the City's park system. Based on the Open Space Balance sheet and the "No Net Loss Tracking" provided to staff, the City of Oakland does not have a net loss of urban parkland beginning from the baseline date of July 28, 1998. The balance sheet clearly shows that the City of Oakland has added 31.65 acres (See appeal item 3 above) of open space, while only 20,035 sf has been lost. Therefore, the loss of 2,350 sf of open space through construction of the portables would not result in a "net" loss of open space for the City per the Open Space Balance Sheet provided to staff and is not an environmental impact. The OSCAR does not require replacing the 2,350 sf on a 1:1 replacement basis since it would result in a small unusable plot (OSCAR Policy REC-1.2).

5. That staff committed process errors.

*Staff findings:* Staff's responses to each bullet point listed in the appeal documents are described in more detail below.

Bullet Point 1: Policy REC-1.4 regulates the procedures for any park improvement or change. These procedures are described in detail in the appellant's appeal documents. Staff acknowledges that a pre-development neighborhood meeting as discussed in Policy REC-1.4 was not held. However, four (4) other public hearings were held as well as a staff sponsored meeting and two community meetings. The proposed project was significantly changed as a result of these meetings. Also, the Planning Commission reviewed the proposal at its June 16, 2004 meeting and directed staff to work with the community on the proposed project before bringing it back to the Planning Commission for review. Staff spent six months working on the proposal and seeking public input before bringing it back to the Planning Commission on February 16, 2005. Accordingly, staff believes the intent of the predevelopment meeting required under the OSCAR was fully met and fully defends the public process for the entitlement of this project.

Bullet Point 2: According to Section 17.134.040, notice of a public hearing on a major conditional use permit shall be given to assessed property owners within 300' of the project site. Staff did provide the required notice and posted the public hearings around the project site. Staff has provided (Attachment B) the actual 300' radius map used to generate the notices.

Bullet Point 3: The PRAC hearing on June 9, 2004 was noticed and posted according to the OPR procedures. Staff did not receive any comment letters and no verbal comments were made from the public at the hearing.

Bullet Point 4: Staff was not present at the June 12, 2004 town hall meeting. Staff was not obligated to attend this meeting. Staff cannot speak to this action.

Bullet Point 5: *The meeting on August 24, 2004 was not a public meeting and therefore was not noticed to the community.*

Bullet Point 6: Staff attended the Burbank Millsbrae Neighborhood Crime Prevention Council meeting on September 27, 2004. Staff heard comments both for and against the proposed project.

Bullet Point 7: As per standard policy and practice, the Planning Commission Chair did announce that speaker's time would be limited at both the June 12, 2004 and the February 16, 2005 meeting, as a result of the length of the agenda and the number of speakers. The Planning Commission Chair is well within his authority to limit the amount of time for verbal comments at a hearing and speaker's comments are routinely limited when there are numerous speakers regarding a project.

Bullet Point 8: Staff has received numerous petitions that support and oppose the proposal from residents both within and outside the immediate project site area. Although the service area of a neighborhood park is defined as being within ¼ mile and within walking distance of its primary users, the park is public and open to all visitors during the operational hours. The OSCAR clearly states that Concordia Park would benefit from increased activity levels. The overall intent of the proposal is to provide more activities that would encourage additional girls and families to use the park.



6. The Memorandum of Understanding (MOU) was not signed and that no such lease agreement was given to Babe Ruth.

*Staff findings:* Girls Inc is willing to share use of the recreation center with Babe Ruth, although the two portables would be used exclusively for Girls Inc programs. To this end the applicant drafted a Memorandum of Understanding (MOU) between Girls Inc and Babe Ruth. This preliminary MOU was never signed. Staff required as condition of approval #13, that Girls Inc attempt in good faith to reach an agreement or Memorandum of Understanding with Babe Ruth regarding the shared use of the Concordia Park Recreation Center.

The OPR and the Real Estate Division is offering Girls Inc a 1 year license agreement with 9 one-year options. The agreement would stipulate that either the City or the applicant reserves the right to discontinue the program in the park. Babe Ruth already has a Frequent Use Agreement with the OPR. Although the league has been located in the recreation center for 10 years, the OPR reserved the right to terminate the agreement at any time. In summary, the agreements with Girls Inc and Babe Ruth can be terminated.

7. That the Councilperson representing District 6 never informed or involved the community in the decision to place the Girls Inc program within the park.

*Staff findings:* This point is not pertinent to the Planning Commission's actions on Conditional Use Permit and Design Review applications. Further this point does not pertain to a relevant physical condition or adopted City policy. As previously noted, there were several public meetings on this project.

## **SUSTAINABLE OPPORTUNITIES**

Economic: The project will employ 1 part-time and 2 full-time employees. Short-term construction jobs for Oakland-based firms will be provided.

Environmental: Currently, participants travel to San Leandro to attend the program. Locating the program in the park and encouraging girls in the surrounding community to participate would reduce vehicular trips. In addition the program would be required to participate in the Waste Reduction and Recycling Program per Condition of Approval #8.

Social Equity: Girls Inc provides project-based learning skills for girls, especially targeting those that are vulnerable and disadvantaged. These programs include health and fitness, mental and emotional counseling, academic achievement, and learning technology skills. Through participation in these programs, the girls will develop problem-solving abilities and learn ways to *form supportive relationships. The programs will also ensure that young women have the skills and confidence they need to succeed in school and apply for well paying employment. In turn, these programs will yield tangible results in young women building the skills they need to make positive life decisions that will in time benefit the health and welfare of the entire community.*

**RECOMMENDED COUNCIL ACTION:**

To affirm the Planning Commission's approval and environmental determination of the project.

**ALTERNATIVE CITY COUNCIL ACTION:**

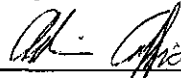
The City Council may consider at least three other options for action on this appeal:

OPTION # 1: To adopt the accompanying resolution denying the appeal and upholding the Planning Commission's environmental determination and project approval with additional conditions of approval.

OPTION # 2: Reverse the Planning Commission's approval, deny the major conditional use permit and design review application by referring the matter back to staff to develop appropriate findings, which would be presented to the City Council at a later date for adoption.

OPTION # 3: Continue action on the appeal pending further information or refer the project back to the Planning Commission for purposes of issue clarification and advice.

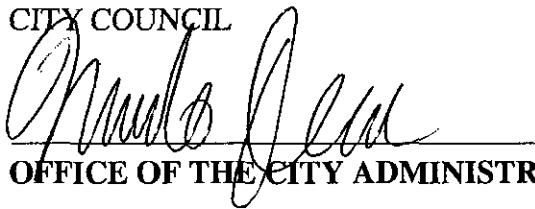
Respectfully submitted,



\_\_\_\_\_  
Claudia Cappio, Development Director

Prepared by:  
Heather Klein  
Planner II, Major Development Projects

APPROVED AND FORWARDED TO THE  
CITY COUNCIL

  
\_\_\_\_\_  
OFFICE OF THE CITY ADMINISTRATOR

Attachments:

- A. Appeal form and attachments
- B. The 300' radius map generated by Planning and Zoning staff required for noticing.
- C. Planning Commission staff report (2/16/05) and project plans
- D. Correspondence related to Planning Commission application (on file at the Planning Department and the City Clerk offices.)

OAKLAND CITY COUNCIL

2005 APR -7 PM 12: 14

RESOLUTION No. \_\_\_\_\_ C.M.S.

INTRODUCED BY COUNCILMEMBER \_\_\_\_\_

*Mark P. Wald*

**A RESOLUTION DENYING THE APPEAL AND UPHOLDING THE DECISION OF CITY PLANNING COMMISSION APPROVING A MAJOR CONDITIONAL USE PERMIT AND DESIGN REVIEW FOR THE CONSTRUCTION OF 2 PORTABLE BUILDINGS, A CONCRETE PATIO, 2 ARBORS, LANDSCAPING, AND THE ADDITION OF AFTER SCHOOL PROGRAMMING IN CONCORDIA PARK (3000 62<sup>ND</sup> AVENUE) BY GIRLS INCORPORATED OF ALAMEDA COUNTY.**

**WHEREAS**, on or about May 27, 2004, Girls Incorporated of Alameda County ("Applicant" ) filed an application for major conditional use permit and design review to construct to portable buildings, a concrete patio, 2 arbors, landscaping and provide after school programs for girls at 3000 62<sup>nd</sup> Avenue in Concordia Park ("Project"); and

**WHEREAS**, on June 9, 2004 the Parks and Recreation Advisory Committee, after a duly and properly noticed public hearing, reviewed and considered the design of the Project; and

**WHEREAS**, on June 16, 2004 the Planning Commission, after a duly and properly noticed public hearing, reviewed and considered the design of the Project and directed staff to work with the community to resolve outstanding issues regarding the Project; and

**WHEREAS**, on September 8, 2004 the Special Projects Committee of the Planning Commission, after a duly and properly noticed public hearing, reviewed and considered the design of the Project; and

**WHEREAS**, on February 16, 2005 the Planning Commission, after a duly and properly noticed public hearing, independently reviewed and considered staff's proposed environmental determination, and the proposed Design Review and Conditional Use Permit Applications for the Project. At the conclusion of the public hearing held for the matter, the Commission (1) determined that the Project was exempt from CEQA pursuant to CEQA Guidelines § 15332 (Infill Development) and § 15301 (Minor Alterations to Existing Facilities); (2) determined that none of the exceptions to any such exemption applied and that the Project would not have significant environmental effects; and (3) reviewed and considered the proposed Project, made certain findings, and based thereon, voted to approve the Project by a vote of 6-0, with 1 Commissioner absent; and

**WHEREAS**, on or about February 28, 2005 an appeal of the Project's approval by the Planning Commission ("Appeal") was lodged with the Nancy Sidebotham representing the

Burbank Millsbrae Neighborhood Crime Prevention Council and other unspecified groups (“Appellant”); and

**WHEREAS**, the public hearing on the appeal was duly and properly noticed for April 19, 2005; and

**WHEREAS**, the Appellant, the Applicant, and all other interested parties were given opportunity to participate in the public hearing appeal by submittal of oral and written comments; and

**WHEREAS**, the public hearing on the Appeal was closed by the City Council on April 19, 2005; and

**WHEREAS**, the City Council at their April 19, 2005 meeting, independently reviewed the proposed environmental determination for the project and determined that the project was exempt from CEQA pursuant to CEQA Guidelines § 15332 (Infill Development), § 15301 (Minor Alterations to Existing Facilities) and § 15303 (New Construction of Small Structures and that none of the exceptions to any such exemption applied and that the project would not have significant environmental effects; and

**WHEREAS**, the City Council at their April 19, 2005 meeting passed this resolution formally denying the appeal of the Project and adopted the findings and conclusions of the Planning Commission pertaining to the Conditional Use Permit and Design Review; and

**WHEREAS**, Girls Inc is providing in-kind services to the City of Oakland in excess of the fair market rental rate and therefore the City will enter into a one-year license agreement with 9, one-year options with Girls Inc for the property rent-free pursuant to Ordinance No. 11722 C.M.S. Girls Inc will be responsible for any and all costs to complete the necessary renovations and modifications to the recreation center and for the payment of all utilities, security costs, and maintenance costs.

**Now, Therefore, Be It:**

**RESOLVED:** The requirements of the California Environmental Quality Act (CEQA) of 1970, the CEQA Guidelines and the City of Oakland’s environmental review requirements, have been satisfied, and, in accordance the adoption of this resolution and City actions approving this project are exempt from CEQA under Section 15332 (Infill Development), Section 15301 (Minor Alterations to Existing Facilities) and Section 15303 (New Construction of Small Structures) of the State CEQA Guidelines.

**FURTHER RESOLVED:** That, the City Council, having heard, considered and weighed all the evidence in the record presented on behalf of all parties and being fully informed of the application, the City Planning Commission’s decision, and the Appeal, finds that the Appellant has **not** shown, by reliance on evidence in the record before the City Planning Commission that the City Planning Commission’s decision to approve the application for the

project was made in error or that there was an abuse of discretion by the Commission, or that the Commission's decision was not supported by substantial evidence. Both the Planning Commission's and Council's decision is supported by substantial evidence in the record based, in part, on the February 16, 2005 staff report to the City Planning Commission and the April 19, 2005 Agenda Report to the City Council, hereby incorporated by reference as if fully set forth herein. Accordingly, the appeal is denied, the Planning Commission's CEQA findings are upheld, and the Planning Commission's approval of the Project are upheld, subject to the conditions of approval attached to the February 16, 2005 Planning Commission Staff Report.

**FURTHER RESOLVED:** That, in support of the City Council's decision to approve the Project, the City Council affirms and adopts the February 16, 2005 Staff Report to the Planning Commission (including the findings contained therein) and the April 19, 2005 Agenda Report to the City Council, except where otherwise expressly stated in this Resolution.

**FURTHER RESOLVED:** That, the record before this Council relating to this application and appeal includes, without limitation, the following:

1. the application, including all accompanying maps and papers;
2. all plans submitted by the Applicant and his representatives;
3. the notice of appeal and all accompanying statements and materials;
4. all final staff reports, final decision letters and other final documentation and information produced by or on behalf of the City, including without limitation and all related/supporting final materials, and all final notices relating to the application and attendant hearings;
5. all oral and written evidence received by the City Planning Commission and City Council during the public hearings on the application and appeal; and all written evidence received by relevant City Staff before and during the public hearings on the application and appeal;
6. all matters of common knowledge and all official enactments and acts of the City, such as (a) the General Plan; (b) Oakland Municipal Code, including, without limitation, the Oakland real estate regulations, Oakland Fire Code; (c) Oakland Planning Code; (d) other applicable City policies and regulations; and, (e) all applicable state and federal laws, rules and regulations.

**FURTHER RESOLVED:** That, the custodians and locations of the documents or other materials which constitute the record of proceedings upon which the City Council's decision is based are respectively: (a) Community & Economic Development Agency, Planning & Zoning Division, 250 Frank H. Ogawa Plaza, 2nd floor, Oakland CA.; and (b) Office of the City Clerk, 1 Frank H. Ogawa Plaza, 1<sup>st</sup> floor, Oakland, CA.

**FURTHER RESOLVED:** That, the recitals contained in this resolution are true and correct and are an integral part of the City Council's decision.

**FURTHER RESOLVED:** That, a Notice of Exemption shall be prepared and cause to be filed with the County.

In Council, Oakland, California, \_\_\_\_\_, 2005

**PASSED BY THE FOLLOWING VOTE:**

AYES-

NOES-

ABSENT-

ABSTENTION-

ATTEST: \_\_\_\_\_  
LaTonda Simmons  
Interim City Clerk and Clerk of the  
Council of the City of Oakland,  
California



FILED  
OFFICE OF THE CITY CLERK  
CITY OF OAKLAND  
DEC 12 14

**CITY OF OAKLAND**  
**REQUEST FOR APPEAL OF DECISION TO**  
**PLANNING COMMISSION OR CITY COUNCIL**  
(REVISED 8/14/02)

**PROJECT INFORMATION**

Case No. of Appealed Project: CM04-264  
 Project Address of Appealed Project: 3000 62<sup>ND</sup> AVE - CONCORDIA PARK

**APPELLANT INFORMATION:**

Printed Name: NANCY SIDEBOTHAM Phone Number: 510 635 2678  
 Mailing Address: P.O. Box 9303 Alternate Contact Number: —  
 City/Zip Code OAKLAND 94613 Representing: BURBANK MILLS BRAR NCPC  
& OTHER GROUPS

An appeal is hereby submitted on:

**AN ADMINISTRATIVE DECISION (TO THE CITY PLANNING COMMISSION)**

**YOU MUST INDICATE ALL THAT APPLY:**

- Approving an application for an Administrative Project
- Denying an application for an Administrative Project
- Administrative Determination or Interpretation by the Zoning Administrator
- Other (please specify) \_\_\_\_\_

**Pursuant to the Oakland Municipal and Planning Codes listed below:**

- Administrative Determination or Interpretation (OPC Sec. 17.132.020)
- Determination of General Plan Conformity (OPC Sec. 17.01.080)
- Design Review (OPC Sec. 17.136.080)
- Small Project Design Review (OPC Sec. 17.136.130)
- Minor Conditional Use Permit (OPC Sec. 17.134.060)
- Minor Variance (OPC Sec. 17.148.060)
- Tentative Parcel Map (OMC Section 16.304.100)
- Certain Environmental Determinations (OPC Sec. 17.158.220)
- Creek Protection Permit (OMC Sec. 13.16.450)
- Creek Determination (OMC Sec. 13.16.460)
- Hearing Officer's revocation/impose or amend conditions (OPC Secs. 15.152.150 & 15.156.160)
- Other (please specify) \_\_\_\_\_

**A DECISION OF THE CITY PLANNING COMMISSION (TO THE CITY COUNCIL)**     Granting an application to:    OR     Denying an application

Girl's Incorporated of Alameda County

(continued on reverse)

(Continued)

A DECISION OF THE CITY PLANNING COMMISSION (TO THE CITY COUNCIL)

YOU MUST INDICATE ALL THAT APPLY:

Pursuant to the Oakland Municipal and Planning Codes listed below:

- Major Conditional Use Permit (OPC Sec. 17.134.070)
- Major Variance (OPC Sec. 17.148.070)
- Design Review (OPC Sec. 17.136.090)
- Tentative Map (OMC Sec. 16.32.090)
- Planned Unit Development (OPC Sec. 17.140.070)
- Environmental Impact Report Certification (OPC Sec. 17.158.220F)
- Rezoning, Landmark Designation, Development Control Map, Law Change (OPC Sec. 17.144.070)
- Revocation/impose or amend conditions (OPC Sec. 17.152.160)
- Revocation of Deemed Approved Status (OPC Sec. 17.156.170)
- Other (please specify) *MINOR VARIANCE FOR FRONT YARD SETBACK  
INSUFFICIENT ENVIRONMENTAL REVIEW  
OSCAR*

An appeal in accordance with the sections of the Oakland Municipal and Planning Codes listed above shall state specifically wherein it is claimed there was an error or abuse of discretion by the Zoning Administrator, other administrative decisionmaker or Commission (Advisory Agency) or wherein their/its decision is not supported by substantial evidence in the record, or in the case of Rezoning, Landmark Designation, Development Control Map, or Law Change by the Commission, shall state specifically wherein it is claimed the Commission erred in its decision.

You must raise each and every issue you wish to appeal on this Request for Appeal Form (or attached additional sheets). Failure to raise each and every issue you wish to challenge/appeal on this Request for Appeal Form (or attached additional sheets), and provide supporting documentation along with this Request for Appeal Form, may preclude you from raising such issues during your appeal and/or in court.

The appeal is based on the following: *(Attach additional sheets as needed.)*

*S/A 3 PAGES*

**Supporting Evidence or Documents Attached.** *(The appellant must submit all supporting evidence along with this Appeal Form.)*

*[Handwritten Signature]*  
\_\_\_\_\_  
Signature of Appellant or Representative of  
Appealing Organization

*2/28/05*  
\_\_\_\_\_  
Date

Date/Time Received Stamp Below:  
8/14/02

Below For Staff Use Only

Cashier's Receipt Stamp Below:



CMD4-264 BASIS FOR APPEAL STATEMENT

1. The OSCAR policies were not followed. The 'no net loss' policy REC 1.2.1 to maintain an open space balance sheet is not properly done according to OSCAR requirements. In addition Policy REC 1.3 Sitting of Buildings in parks specifically state that the City should strongly DISCOURAGE new buildings on open space. Taking of open space is not a public necessity and exceptions can be made ONLY if:
  - a. There are no feasible alternatives; AND
  - b. There is no overall master plan; AND
  - c. Replacement open space is provided.

Policy does not state either/or but that all 3 conditions must be made. We believe that by not addressing the 3 points that staff showed an abuse of discretion .On page 4-29 OSCAR discusses cases where the public value of a recreational development provides a compelling argument for construction on an open space. However, it goes on to state, "*In such cases, construction of a park building must be preceded by completion of a park master plan and assurance of replacement of open space.*" Neither one of these actions have been done.

Staff and Girls, Inc. failed to show that they made reasonable effort to find feasible alternative locations for their program. At a minimum of two meetings, the community pointed out available properties. Vacancy rates in the area are high so the claim that there are no feasible alternatives is an outrageous claim. Feasibility studies have not been done in good faith. Correspondence with Dr. Randolph Ward showed an expressed extreme interest in having Girls, Inc. at one of its schools including Frick Jr. High School.

2. There is an error in stating that the project conforms. This proposal is not in compliance with the zoning regulations Ordinance #12078, 1998, Section 17.135.060 "*unless overriding considerations exist, approval of any increase in structure coverage within the OS zone shall be contingent on a finding that there has been no net loss of urban parkland from the time of the baseline date. If this finding cannot be made, approval shall be conditioned upon provision of replacement open space of comparable value and of an area equal or greater than the space covered which shall be made available concurrently. Land within the jurisdiction of the Port of Oakland is exempt from this requirement and shall be excluded from this calculation.*" finding of overriding considerations exist and replacement open space must be provided. The report states that open space is not provided and will not be provided. This is in direct conflict with this regulation. Zoning is not policy-it is the law.
3. The balance sheet is inaccurate and is not compiled according to Ordinance 12078, section 17.135.060 which specifies that it should be made by '*Oakland City Manager's Office shall establish an open space tracking system. The tracking system shall be maintained in a publicly accessible format and shall be updated on a continuing basis as additions and subtractions are made to the city's park system.*' The intent of OSCAR has been to gain open space for the neighborhood areas (inner city). Section 4-10 of OSCAR especially mentions that the Fruitvale and Central East Oakland regions of Oakland are severely underserved with only 20% of the City standard (1.65 acres/1000 persons versus 4.0 acres/1000 persons). Specifically Central East Oakland has lost space in Arroyo Viejo and no additions have been made in this area. There was a shortage before and a shortage still exists. A loss for us. We believe that because of this shortage and recent losses, staff should be more diligent in the

underserved areas of Oakland. In addition according to OSCAR, East Bay hills, East Bay regional parks, and port properties (including regional shoreline) shall not be included in the balance sheet accounting.

4. We challenge the CEQA notice of exemption and believe there is an error in the environmental determination. We see no evidence of an initial study or an environmental checklist. Specifically a loss of open space is an environmental effect and is not covered in the Environmental Determination Section of the staff report. A negative declaration should minimally be provided for the loss of open space along with the overriding considerations and mitigations accordingly.

5. Process Errors (Inadequacies & Misrepresentations):

- No predevelopment neighborhood meeting was provided.
- The initial noticing was not adequate. Because of large public institutions surrounding the park, 300-foot notice did not reach park users. See attached map with approximate 300-foot radius outlined—approximately 15 households would have been included in the initial noticing. Most persons found out about the project through notices on telephone poles.
- June 9, 2004 Parks and Recreation—at this meeting, commissioners asked specifically about community input and support. Staff stated that the ‘community was indifferent to the project’. Since no public meeting had yet taken place, how could staff represent the community sentiment at the time? We believe if staff had been forthcoming and commissioners knew the true opinion of the community, an alternative ruling might have been made.
- At the June 12, 2004 monthly town-hall meeting, the project was presented to the community. The councilmember stopped neighbors from expressing dissenting views. No mention of the June 16 meeting before the Planning Commission was made.
- At the August 24, 2004 meeting, city staff (who failed to show up), the District 6 councilmember, Babe Ruth, and Girls, Inc. met to confirm proposed location of the portables. Neighbors found out about the meeting but were told to stand 50 feet away as they didn’t represent the community. This action violated the publics’ civil rights.
- September 27, 2004 NCPC meeting the summary makes no mention that the majority opinions of the people were against this project. There was virtually no support from the community for this project with more than 100 people against this proposal.
- Our speakers have been cut off and interrupted and not allowed to finish their remarks at the June 12 and the February 16, 2005 meetings.
- Under definition of a neighborhood park (OSCAR Table 8, Section 4-6), the defined service area is “*¼ mile radius and is located in a residential area within walking distance of its primary users.*” Most petitioners in favor of Girls, Inc. live well beyond the defined service area. In contrast, the vast majority of petitioners against the proposal live within Concordia Park’s service area. The opinion of those residents living within the service area should be weighed more heavily than those who live outside the area.

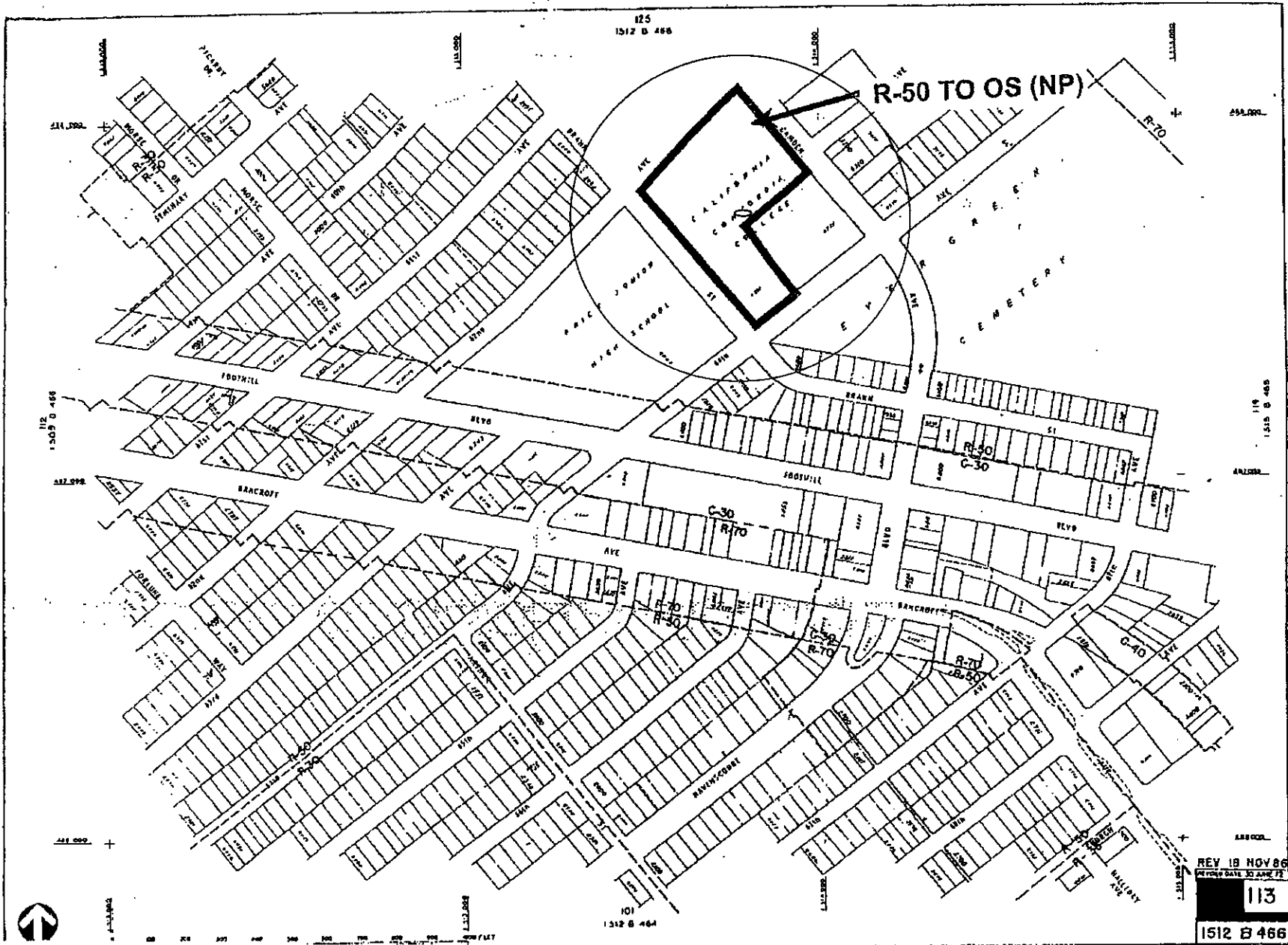
6. MOI not signed by either party, so what is the agreement? City provides for lease for Girls Inc. (1 year w/ option of 9 1-year extensions) but no such parity given to Babe Ruth. What guarantee does Babe Ruth have to retain use of Community Building?
7. The councilperson representing District 6 never came to the community and claims that she's been working on this over a year. Once the community came out strongly against privatizing a portion of privatizing a park, the councilmember started putting pressure on those who had something to lose and ignored the neighbors complete.

Condition # 4 allows the city to revoke this permit if the facility is in violation of zoning regulations. Please deny or revoke.

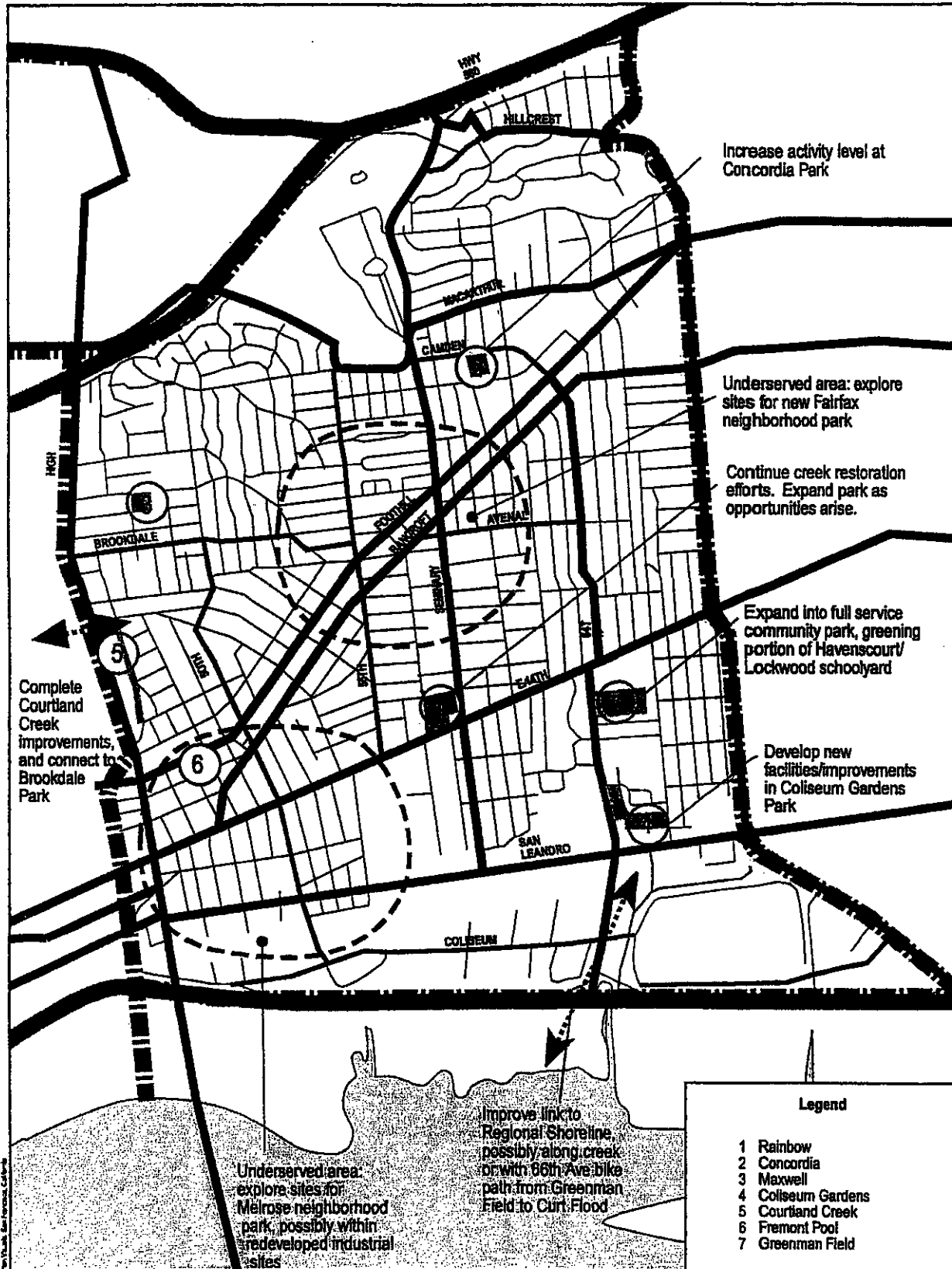
Conditions of Approval—must provide for replacement of open space.

Concordia Park with approximate 300 foot initial - noticing radius show. Note large public institutions on most sides (cemetery and three schools)

CM04-264



CM04-264



City of Oakland  
 Open Space, Conservation, & Recreation Element  
**Figure 25: Central East Oakland**  
**Major Recommendations**  
 Source: Oakland Office of Planning & Building, 1995



1/4 Mile

Park Land Use

If the City finds that it is covering open space at a faster rate than it is creating new open space, corrective actions should be taken before proceeding with new projects. This could include a requirement to include replacement open space funding within the budget for new projects, or even a moratorium on buildings within City parks until additional open space is added to the inventory. To avoid the need for such measures, the City should consider starting a land "banking" program. Under this approach, the City would designate a site as open space and receive "credit" that enabled future projects to be built without considering replacement open space needs. In the future, the City might also establish a fund for future open space acquisition or even a "replacement open space surcharge" similar to the 1.5 percent public arts surcharge now placed on capital improvement projects.

*(Note: this policy does not apply to projects that are consistent with park master plans approved prior to the date of the OSCAR Element's adoption, such as Chabot Observatory and the Knowland Park Zoo and Dunsmuir House and Gardens expansions.)*

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**ACTION REC-1.2.1: MAINTAIN OPEN SPACE  
"BALANCE SHEET"**

*Following the adoption of the OSCAR, develop and maintain a computer spreadsheet which tracks:*

- (1) additions of floor area to Oakland parks;*
- (2) additions of uncovered (pervious) open space; and*
- (3) the net difference between (1) and (2). Prepare an annual staff report to the Parks and Recreation Commission which summarizes the findings.*


**POLICY REC-1.3: SITING OF BUILDINGS IN PARKS**

To the maximum extent practical, accommodate new recreational buildings in City parks by expanding the park onto nearby vacant or underutilized land rather than covering open space within existing park boundaries. Strongly discourage new non-recreational buildings in City parks unless their construction is a matter of public necessity and the use cannot be reasonably accommodated in another location. Exceptions to this policy may be made in cases where there are (a) no feasible alternatives to placing buildings in parks; (b) the buildings are being developed in accordance with an overall Master Plan for the impacted park; and (c) replacement open space will be provided as specified in Policy REC-1.2.

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Policy REC-1.3 is intended to protect heavily utilized parks from overdevelopment with buildings, recreational or otherwise. All three of the "exceptions" in this policy must be met before a building is placed in a park.

There are a few other cases where this policy may not be applicable. It would not apply to new buildings which are replacing existing buildings. It would not apply to parks which are being developed in accordance with an already adopted master plan, such as the Knowland Park Zoo.

There may also be cases where the public value of a recreational development provides a compelling argument for construction on an open space. This may be true in parks which are seriously underutilized, compromised by security problems, or in areas severely lacking in certain indoor recreation facilities. In such cases, construction of a park building must be preceded by completion of a park master plan and assurance of replacement open space. 

In no way should this policy be interpreted as a disincentive to pursue new indoor recreational facilities. Many Oakland neighborhoods urgently need more gymnasiums, swimming pools, cultural buildings, recreation centers, and other indoor facilities. However, Oaklanders should not sacrifice their limited urban open space to accommodate these facilities. Facilities should be placed adjacent to the parks, or should compensate for their impact on the park with replacement open space.

**Table 13: Proposed Procedure for Improvements or Change in Use Within Oakland Parks**

All improvements or changes in use within Oakland city parks would be subject to requirements outlined below. An "improvement" would be defined as any project which, if proposed by a private applicant, would require issuance of a building, grading, or demolition permit by the City of Oakland (routine maintenance would be excluded). A "change in use" would be defined as the establishment or authorization of any activity which is not already established in the particular park, or the expansion of any existing use (excluding recreational programming or one-time facility uses). Projects approved by the City Council in conjunction with the public art program, Measure AA or Measure K (Series A only) are exempt from these requirements.

The following procedure would be followed:

1. **Determination of Compliance with Zoning and Park Classification System.** The Office of Parks and Recreation (OPR) would make a determination as to the conformance of the proposed improvement or change in use with (a) the list of permitted or conditionally permitted uses in the new zoning ordinance, (b) the development standards listed in the new zoning ordinance, and (c) the intended function of the park based on its adopted classification (as a neighborhood park, community park, special use park, etc.).
2. **Predevelopment Neighborhood Meeting.** A neighborhood meeting would then be convened at a location in the vicinity of park or open space land affected by the proposed change in use or improvement. The purpose of the meeting would be to inform concerned citizens of the proposed project. The meeting would be noticed via public notice posting on the premises of the park or open space land and on all utility poles within 300' of the park border. Notices would also be mailed to all neighborhood organizations and schools within a one-mile radius of the park border.
3. **Administrative Project Review.** Once preliminary feedback has been obtained from the community and factored into the design of the project, the OPR would follow the requirements of Administrative Instruction 3002, including CEQA review of the project by the Office of Planning and Building.
4. **Public Posting and Notice of Public Hearing.** A public notice would then be posted on each utility pole within 300' of the impacted park's borders, on the premises of the park, and at all branches of the Oakland Public Library. In addition, notices would be mailed to neighborhood groups and affected Community Development District Boards. Public notices would be posted at least 10 days prior to the date of the public hearing and would contain: (a) a description of the project, including its location; (b) the date, time, and place of the public hearing; and (c) the City staff contact person.
5. **Public Hearing by the PRAC.** A public hearing would be required for any project which falls on the list of facilities requiring such a hearing by the PRAC. The purpose of the hearing would be to review the proposed change in use or improvement and hear all public comments and suggestions on the project. The PRAC would be required to make specific findings of fact on the project, namely that: (1) the project will be compatible with and will not adversely affect abutting properties or the surrounding neighborhood, with consideration given to scale, bulk, coverage, views, and density, neighborhood character, traffic, and any other relevant impacts; (2) the project is consistent with the development standards specified in the zoning ordinance; (3) the project will provide a convenient and functional public environment and will be as attractive as possible; (4) the project will enhance the public use or successful operation of the park or open space and that sufficient open space remains on the site to meet local needs; (5) the project will enhance or augment public open space lands in the surrounding area; (6) the project serves an identified need and will provide an essential service to the community. The PRAC would have the authority to require any modifications to the project which it deems necessary and appropriate.

Table 8 (Continued)

Where land is available and comparable facilities do not exist nearby, community parks should also have a swimming pool and gymnasium. Where land is not available, sites on the perimeter of the existing park should be considered for such facilities.

To accommodate all of these facilities while still allowing enough room for passive recreation requires a site of about 15 to 25 acres. Since all but one of the existing community parks in Oakland are smaller than that, care must be taken not to crowd in new facilities at the expense of natural areas or lawns. In most cases, new facilities should only be added when the existing park can be physically expanded.

Each of the city's populated planning areas should have at least one community park. Each park should be staffed by recreation personnel throughout the year.

#### Neighborhood Park

*Size Range:* 7-10 acres

*Service Area:* 1/4 mile radius in flatlands, 1/2 mile radius in hills

*Service Goal:* A neighborhood park of at least 3 acres for every 5,000 Oakland residents

A neighborhood park is essentially a scaled-down version of a community park. The typical Oakland neighborhood park is located in a residential area within walking distance of its primary users. Many are located adjacent to elementary schools, with facilities used by both the school and the neighborhood. Neighborhood parks should contain:

- ✓ landscaped picnic areas and lawn
- ✓ children's play areas/tot lot
- ✓ hard court area for basketball
- ✓ multi-purpose turf area (ballfield)
- ✓ rest rooms, where the park supports major athletic events and where there is community support
- ✓ picnic tables and sitting areas

For neighborhood parks that are located outside the service area of community parks, other facilities such as recreation centers and tennis courts may be appropriate. At least some off-street parking should be provided at the recreation centers and in other areas where street parking is limited.

Neighborhood parks should also include areas for imaginative play not found in the typical backyard. These might include groves of trees, creeks, or undeveloped grassy areas. There should also be benches and picnic tables for adults.

The decision to provide night lighting and restrooms should be made on a site-by-site basis depending on what the community determines to be most desirable. Generally, restrooms are appropriate in parks which accommodate activities that are long-term in nature, including baseball games. Restrooms would not ordinarily be appropriate in parks which accommodated a children's play area and basketball courts only.



fications to the project that it deems necessary to ensure that the historic value of the structure, site, or feature is not adversely impacted. If no action is taken by the Landmarks Preservation Advisory Board within thirty (30) days of its receipt of the application, the project will be forwarded to the Planning Commission (for major conditional use permits) or Director of City Planning (for minor conditional use permits). (Ord. 12078 § 4 (part), 1998)

**17.135.050 Special requirements for projects consistent with Park Master Plans.**

A. Projects in City-Owned Parks. Any improvement or change in use that is consistent with a Park Master Plan that has been adopted by the Oakland City Council shall be subject to these provisions. However, in accordance with Section 17.11.060, such projects shall be subject to the Minor Conditional Use Permit process only, even where they involve facilities or activities that would otherwise require Major Conditional Use Permits. Projects shall be eligible for this provision only if the Master Plan in question has been adopted within ten years of the date of the application, or has been amended or updated with Council approval within ten years of the date of the application. The determination that a project is consistent with a Park Master Plan shall be made by the Director of City Planning.

B. Projects in East Bay Regional Parks. Any improvement or change in use on land owned by the East Bay Regional Park District (EBRPD) shall be subject to the development standards contained in this chapter. However, in accordance with Section 17.11.060, such projects shall not require a conditional use permit if they are park, recreational, or civic uses that are consistent with a Park Land Use Plan or equivalent land use planning document adopted by the EBRPD Board. In the event a land use plan or equivalent document does not exist or must be amended to accommodate the facility, preparation/amendment of such a plan by the

EBRPD will be required prior to issuance of a building permit for future improvements. Such plans and plan amendments shall require public notice to abutting property owners and to the Oakland Parks and Recreation Advisory Commission, City Planning Commission, and City Council at least forty-five (45) days prior to adoption by the Park Board in order to ensure opportunity for public comment from Oakland residents. (Ord. 12078 § 4 (part), 1998)

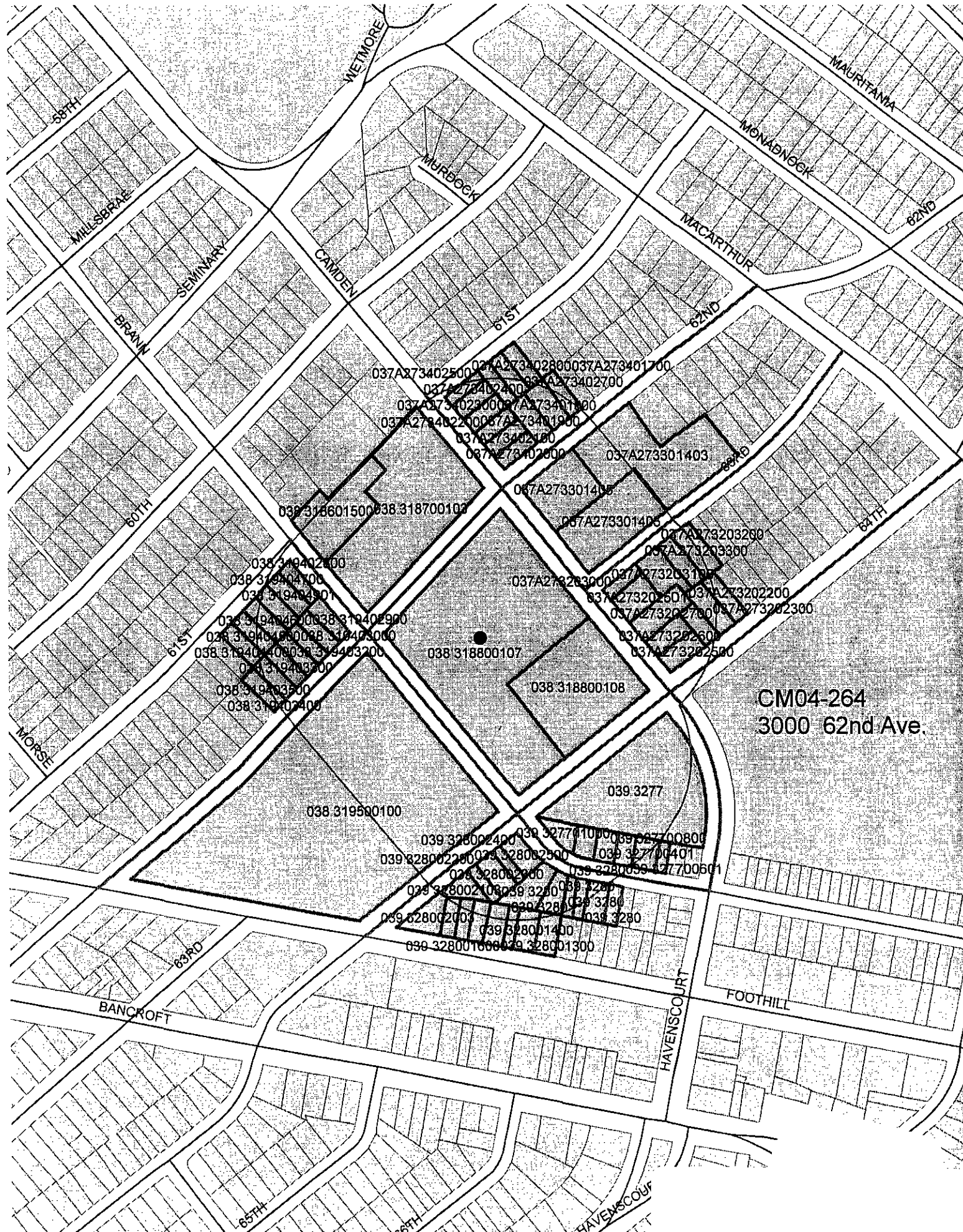
**17.135.060 No net loss tracking.**

A. Beginning on the effective date of the OS zone regulations, the Oakland City Manager's Office shall establish an open space tracking system. The tracking system shall be maintained in a publicly accessible format and shall be updated on a continuous basis as additions and subtractions are made to the city's park system. Beginning on the effective date of these regulations, all enclosed facilities in urban parks which exceed one hundred (100) square feet shall be tracked and recorded as "subtractions" from a baseline figure of zero. All acquisition of parkland or creation of new useable public open space shall be tracked and recorded as "additions." Only land which is improved or intended for improvement to urban park standards may be counted as "additions"; acquisition of Resource Conservation Area land is excluded. The city shall strongly encourage actions which result in a net gain of open space; in other words, a condition where the "additions" of open space in the tracking system exceed the "subtractions" resulting from new buildings and structure coverage.

B. Unless overriding considerations exist, approval of any increase in structure coverage within the OS zone shall be contingent on a finding that there has been no net loss of urban parkland from the time of the baseline date. If this finding cannot be made, approval shall be conditioned upon provision of replacement open space of comparable value and of an area equal to or greater than the space covered which shall be made available concurrently. Land within the jurisdiction of the

8888 (part) 7 § 8 12071 (part)

Port of Oakland is exempt from this requirement & shall be excluded from this calculation  
(Oakland Planning 5-02)



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**CM04-264**  
 3000 62nd Ave.

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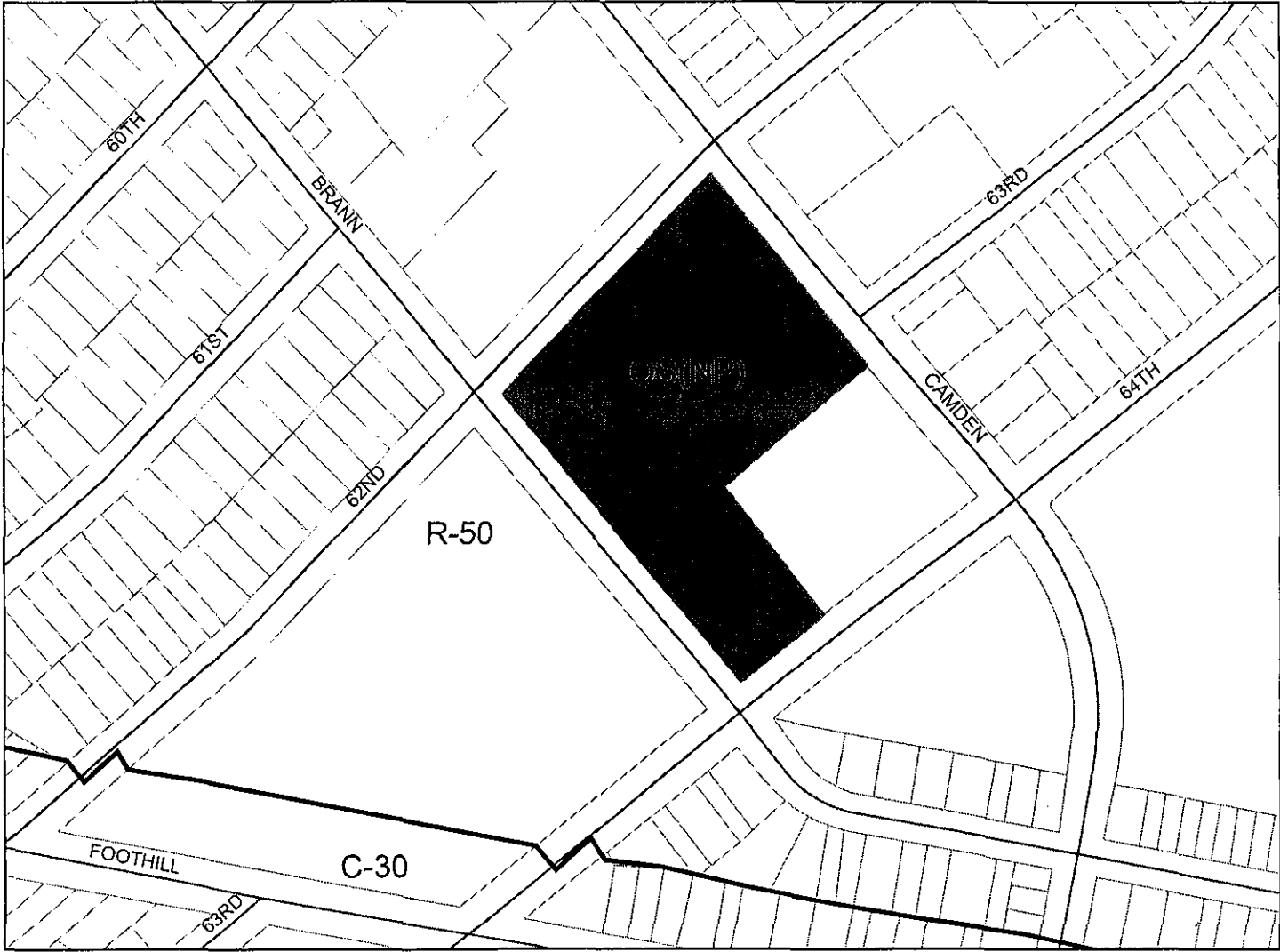
<b>Project Name:</b>	<b>Concordia Park; 3000 62<sup>nd</sup> Avenue</b> (APN 038 -3188-001-07) (See map on the reverse)
<b>Proposal:</b>	Renovation of the existing Concordia Park Recreation Center; construction of two portable buildings, a patio, 2 arbors and landscaping; and the addition of after-school programming by Girls Incorporated of Alameda County.
<b>Applicant:</b>	Girls Inc c/o Anne Phillips Architecture / (510) 841-7056
<b>Owner:</b>	City of Oakland
<b>Planning Permits Required:</b>	Major Conditional Use Permit for Community Assembly and a Minor Variance for front yard setback.
<b>General Plan:</b>	Urban Park and Open Space
<b>Zoning:</b>	Open Space (Neighborhood Park)
<b>Environmental Determination:</b>	CEQA Guidelines Section 15332, Infill Exemption and Section 15301, Minor Alterations of existing facilities.
<b>Historic Status:</b>	Non-historic Property
<b>Service Delivery District:</b>	V – Central East Oakland
<b>City Council District:</b>	6
<b>Date Filed:</b>	May 27, 2004
<b>Support/Opposition:</b>	Staff has received comments in support and in opposition to the proposed project.
<b>Status:</b>	The Parks and Recreation Advisory Committee reviewed the proposal on June 9, 2004. The Planning Commission reviewed the proposal on June 16, 2004. The Special Projects Committee held a public hearing on September 8, 2004.
<b>Staff Recommendation</b>	Decision based on staff report
<b>Finality of Decision:</b>	Appealable to City Council within 10 days
<b>For further information:</b>	Contact case planner <b>Heather Klein</b> at 510 238-3659 or by e-mail at <a href="mailto:hklein@oaklandnet.com">hklein@oaklandnet.com</a> .

**SUMMARY**

Girls Incorporated of Alameda County (Girls Inc) has submitted an application to develop a new Girls Inc recreation center within Concordia Park at the corner of 62nd Avenue and Brann Street. The proposal includes the renovation of the existing recreation building and the construction of two portable buildings (960 S.F. each) with a new patio, 2 arbors, and landscaping. The project will provide a clear presence for Girls Inc within Central East Oakland while providing after-school programs, services, and opportunities for girls that include strengthening academic and life skills and promoting healthy physical and emotional development. The overall intent of the project is to provide more activities that would encourage additional girls and families to use the park. Girls Inc is specifically targeting for participation girls from the immediate surrounding neighborhood and those who attend Frick Middle School, which is located directly across Brann Street from the park.

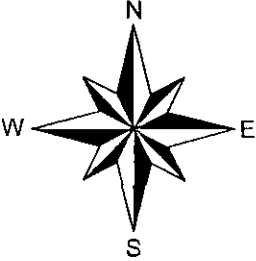
The proposal has been reviewed at several public hearings including the Parks and Recreation Advisory Committee on June 9, 2004, the Planning Commission on June 16, 2004, and the Special Projects Committee on September 8, 2004. In addition the project was reviewed at a community meeting on June

# CITY OF OAKLAND PLANNING COMMISSION



0 190 380 760 1,140 1,520 Feet

Case File: CM04-264  
Applicant: Girls Inc. c/o Anne Phillips Architecture  
Address: 3000 62nd Ave.  
Zone: OS(NP)



12, 2004, a staff sponsored meeting on August 3, 2004 and at the Burbank-Millsbrae Neighborhood Crime Prevention Council on September 13, 2004. The project has changed in response to concerns that were brought up at these meetings. Girls Inc agreed to share use of the recreation center with the Cal Ripken-Babe Ruth League of Metropolitan Oakland (Babe Ruth). In addition, the portables have been moved to the corner of 62<sup>nd</sup> Avenue and Brann Street instead of to the east of the recreation center. The newly proposed location of these portables will no longer impact the baseball or soccer fields. A new patio with benches will be constructed between the existing building and the new portables with an arbor built over the main door to the building.

**PROPERTY DESCRIPTION**

Concordia Park encompasses approximately 3.51 acres and is located between 62<sup>nd</sup> Avenue and 64<sup>th</sup> Avenue and between Camden Street and Brann Street. The site supports an existing recreation building, children’s play equipment, a baseball field, tennis courts, a BBQ-pit, scattered benches and picnic tables, and informal grassy areas. One-story single-family houses and St. Cyril’s Church and Academy are located across Camden Street and Frick Middle School is located across Brann Street. The Spectrum Center for Learning is located directly to the west, within the same block, and a 2-story multi building apartment complex is located across 62<sup>nd</sup> Avenue. Across 64<sup>th</sup> Avenue is the Evergreen Cemetery. The nearest community park, Arroyo Viejo Recreation Center, is located ¾ of a mile away near the intersection of 78<sup>th</sup> Avenue and Arthur Street behind the Webster Academy School. Concordia Park is the only neighborhood park in the immediate area.

The existing recreation center is currently serving as an office and meeting space for the Babe Ruth League.

**PROJECT DESCRIPTION**

Girls Inc is a national non-profit organization that provides project-based learning skills for girls, especially targeting those that are vulnerable and disadvantaged. Girls Inc is currently located in San Leandro, so the proposed project will expand Girls Inc services and programs to Central East Oakland. It is expected that up to 45 girls from around the neighborhood will participate in the summer program 3 days a week in three groups of 15 girls each. The program will focus on Girls Inc’s On-Track program service delivery model which includes three main areas: Multiple Opportunities through Project-based Technology, Health, Sports, and Fitness, and Academic Achievement (See Attachment A). Additionally, the program offers open entry dates two days a week for “drop-in” participants with short activities to encourage a total of approximately 125 girls participating annually. The project is expected to employ 2 full-time and 1 part-time staff. During the school year, the program’s hours are from school dismissal to approximately 6 p.m., Monday through Friday, September through June. Evening and Saturday events will be held occasionally. The summer program will be held from mid-June through August, Monday through Friday from 10 a.m. to 6 p.m. beginning in the summer of 2005.

The existing community building will be used for girl’s leadership programs and homework assistance. Renovation of the existing community building will include new flooring, lighting, a kitchenette, and an arbor over the main door. The inside and outside will be repainted and the south entry will have a new roof. Construction associated with this program includes two portable buildings with an arbor, a new patio between the portables and the existing recreation center, benches on the patio, and additional landscaping. The 2 portables (960 S.F. each) will house the technology center and group meeting space and will be 1-story pre-fabricated buildings. The exterior of the portables is shown as T-111 siding, painted red with cream trim, aluminum windows, and steel clad doors. Landscaping is proposed around the portable buildings. The proposed location for the new construction is to the west of the community

building along the corner of 62<sup>nd</sup> Avenue and Brann Street. Plans show the relocation of the park entry to the other side of the recreation center and the relocation of some picnic tables. These tables will be placed near the existing barbeque pits to better facilitate impromptu picnics, barbeques, and parties for families.

## PROJECT BACKGROUND

### *Overview of Use of the Recreation Center from 1980's to the Present*

Approximately 20 years ago, the Office of Parks and Recreation (OPR) closed Concordia Park Recreation Center due to budget cuts and lack of funds. Before this, the recreation center was open to all members of the public and was staffed during the summer part-time. The recreation center offered after-school programs and playground programs through the OPR.

On November 4, 1993 the City of Oakland signed a "Frequent-Use Building Access" agreement with the league president that gave Babe Ruth use of 1 room and 1 storage cabinet in the Concordia Park Recreation Building (See Attachment B).

### *Parks and Recreation Advisory Commission Review*

The Parks and Recreation Advisory Commission (PRAC) reviewed the proposed project on June 9, 2004. The Committee unanimously voted to endorse the project. However they raised three main concerns including: exclusivity to the Girls Inc group, long term maintenance, and the use of public buildings for private use. There were no public comments at the PRAC hearing.

### *Community Meeting*

A community meeting was held on June 12, 2004 to explain the proposal. Approximately 30 neighborhood residents attended the meeting. Numerous concerns were raised including the following:

- That it was unfair that Girls Inc would displace Babe Ruth after 10 years in the facility.
- That the location of the portables would infringe on the size of the baseball and soccer fields.
- That portables are unsightly buildings and should not be placed in the park,
- That the portables would cover up valuable open space and is inconsistent with the Open Space, Conservation and Recreation Element's (OSCAR) policy of "No net loss of open space".
- That the portables will obstruct views of the park.

### *Planning Commission Review*

The Planning Commission reviewed the proposal on June 16, 2004. There was extensive public comment and opposition to the project. The Commission asked that staff attempt to resolve issues with Babe Ruth and the community before bringing the project back to the full Planning Commission for a decision.

### *Staff Meeting*

On August 3, 2004, staff held a meeting with the Girls Inc applicant, representatives of Babe Ruth and the Jack London Youth Soccer League. At that meeting concerns were brought up about the location of the buildings in relation to the baseball and soccer field. Different locations for the buildings were reviewed and the group agreed that the best location would be on the other side of the community building along the corner of 62<sup>nd</sup> Avenue and Brann Street. This would enable baseball, soccer, and picnic activities to continue as is. The group met at the project site on August 24, 2004 and confirmed the building measurements and new location of the portables. At that meeting, the Planning Commission Chair asked that the project be brought to the Special Projects Committee for review by the community.

*Special Projects Review*

On September 8, 2004, the Special Projects Committee reviewed the proposal. Again there was extensive public comment and opposition to the project. The Committee agreed that the new design psychologically implied a private area that was not part of the overall park. The Committee requested that the plans be revised to reflect a more open public space. Recommended changes included keeping the entrance in the current location; removal of landscaping between the proposed patio and 62<sup>nd</sup> Avenue to provide an unobstructed sightline to the playground from that street; expansion of the patio area to tie in to the existing concrete walkway, and reselection of plant material with a lower height between the playground and the patio. The applicant has not revised the drawings to date to reflect the Committee's comments. They are in agreement with all of the issues and amenable to revising the drawings.

*Community Meeting*

On September 13, 2004, representatives of Girls Inc presented the proposal to the community at the Burbank-Millsbrae Neighborhood Crime Prevention Council. There were comments both for and against the proposal.

**GENERAL PLAN ANALYSIS**

The General Plan Land Use and Transportation Element (LUTE) designates the project site as Urban Park and Open Space (OS). According to the Guidelines for *Determining Project Conformity with the General Plan and Zoning Regulations* (as amended July 2003), the General Plan is silent in regards to Community Assembly activities in this designation. Pursuant to the guidelines, if the General Plan is silent and the project is conditionally permitted by zoning then there is no "express conflict" and the project is permitted with approval of the Conditional Use Permit.

The General Plan states the *intent* of the OS designation is to "identify, enhance, and maintain land for parks and open space." The General Plan states that the *desired character* "should include urban parks, schoolyards, cemeteries, and other active outdoor recreation spaces."

Project consistency with the General Plan is governed in more detail by objectives and policies in the *Open Space, Conservation, and Recreation (OSCAR) Element* and is discussed in more detail in the *Key Issues* section further in this report.

**ZONING COMPLIANCE**

The zoning of the site is Open Space - Neighborhood Parks (NP). The zoning requires a Major Conditional Use Permit for Community Assembly Activities such as recreations centers. The criteria for review and approval of this facility include the General Use Permit criteria in Section 17.134.050, Design Review in Section 17.136.070B, and Variance criteria in Section 17.148.050A. Except for the front setback, the proposed project is with consistent the zoning regulations as described in more detail below. The applicant is not requesting a Variance and will conform to this regulation as a Condition of Approval.

Zoning Regulation Comparison Table

Criteria		Requirement Open Space (NP)	Proposed	Comment
Yard – Front		15’*	10’	Does not meet zoning requirements.
Yard- Street Side		4’*	4-11’	Meets zoning requirements.
Yard – Rear		15’*	N/A	Meets zoning requirements.
Height		30’**	19’-9”	Meets zoning requirements.
Parking	Community Assembly	No Minimum***	0 spaces	Director of Development determined that 0 spaces are needed. ***
Impervious Surface		25% Maximum	22.6% total	Meets zoning requirements.

Table Notes:

\* The minimum front, side and rear yard setbacks shall be equal to the minimum yards required in the nearest adjacent zoning district which in this case is the R-50 Medium Density Residential Zone.

\*\* When the NP zone abuts a zone with a more restrictive height limit, the maximum height of buildings and other facilities shall not exceed the maximum height of the abutting zone which in this case is the R-50 Medium Density Residential Zone.

\*\*\* The number of parking spaces to be prescribed by the Director of City Planning pursuant to Section 17.116.040. The Development Director determined that no off-street spaces would be required due to the minimal number of employees, close proximity to the neighborhood being served, the availability of adequate on-street parking, and adjacency of Frick Middle School which could provide accessory overflow parking.

*Variances*

The project plans currently show one portable encroaching into the front yard setback. After discussions with the staff, the applicant has decided not to request a Variance for this setback and will modify the project to conform to the zoning regulations. Staff has included this as a condition of approval for this project.

**ENVIRONMENTAL DETERMINATION**

The project satisfies the minor change to an existing use, California Environmental Quality Act (CEQA), Section 15301 and in-fill exemption, Section 15332. The criteria for the infill exemption follow, with a brief summary of staff’s analysis in bold print:

- a) The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations; **The proposed project is consistent with the General Plan designation of Urban Parks and Open space, as well as the applicable zoning requirements, subject to the necessary CUP being granted. See also the General Plan Analysis, Zoning Analysis, and Findings for Approval sections of this report.**



- b) The proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses; **Concordia Park encompasses approximately 3.51 acres, however the area of work is approximately 7,700 S.F. and is substantially surrounded by urban uses.**
- c) The project site has no value as habitat for endangered, rare or threatened species; **The project is located in a highly urbanized neighborhood park that contains no known endangered, rare, or threatened species**
- d) Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality; **The client base for this program would be a maximum of 125 middle school girls from the surrounding neighborhood and the adjacent Frick Middle School. Since most participants would be within walking distance of the park, the project would not be expected to result in a significant traffic increase in an urban area with adequate road capacity. Any additional number of trips would not likely cause significant intersection impacts. The project would be expected to fall below the level that the Bay Area Air Quality Management District (BAAQMD) considers the normal minimum traffic volume that should require a detailed air quality analysis. There may be minimal localized impacts to air quality during construction, as well as temporary noise impacts. The applicant is required to comply with all applicable City regulation and operation procedures as part of the issuance of building or grading permits, including standard dust control measures. Recommended conditions (No. 16-20) specify the required construction period management procedures.**
- e) The site can be adequately served by all required utilities and public services. **The site is located in an urbanized area and the project is of such size that it can be served by utility and public services. In addition, the existing community building on the site is currently served by such services.**

## KEY ISSUES

Staff has received public comments both in support and in opposition to this project (See Attachment C). The reasons for opposition include:

1. Inconsistency with the *Open Space, Conservation and Recreation Element* (OSCAR)
  - a. Placement of portable buildings on non-programmed open space available in a public park.
  - b. Offering private social services in public spaces.
2. Value of the programs.
3. General unfairness that the Babe Ruth program will be removed from the building and another program installed.
4. Aesthetics of the portables.
5. Obstruction of park views from residential properties.

Staff has discussed each of these issues, along with several other concerns below.

### 1. *Consistency with the Open Space, Conservation and Recreation Element*

The OSCAR Element of the General Plan is the primary document that addresses the management of open land, natural resources, and parks in Oakland. One of the major deficiencies of the OSCAR is that there are no policies or other methods for balancing the competing goals of the Element. The OSCAR does state that "the Element should be used comprehensively, with all objectives and policies viewed in the context provided by the others" (page 1-7 Implementation). It is well within the Planning

Commission's discretion and authority to interpret the General Plan policies and make recommendations regarding proposals to ensure that Oakland will be a more attractive city and a better place to live. In addition the Commission can make recommendations that the Office of Parks and Recreation limit the use agreements, monitor performance, etc. within the context of the overall issue. This project presents a policy call between one goal that states that there should be no net loss of public open space in the city and another goal that encourages opportunities for youth and the non-recreational use of recreation centers. Staff has discussed these two opposing policies in the section below:

Argument for No Net Loss of Open Space

Most residents are very concerned that a group offering private social services will be placing portable buildings on non-programmed open space available in a public park and that there has been no proposal for replacement of open space within District 6. They also feel that although the Girls Inc program would provide needed services to the surrounding community, the services would only benefit one small segment of the population that uses the park. Since Concordia is the only neighborhood park in the immediate area, they feel that the non-programmed space should remain free of structures, especially portable buildings. They feel that the programs would be better located within Frick Elementary School and cite policies within the OSCAR. These policies are listed in italics below along with staff's response in regular type.

- *Policy REC-1.2: No Net Loss of Open Space: Unless overriding considerations exist, allow no net loss of open space within Oakland's urban park system. In other words, the area covered by park buildings or other recreational facilities in the future should be offset in the long-run by acquisition or improvement of an equivalent or larger area of open space. Replacement open space should be of comparable value to the space lost and should generally serve an area identified as having un-met needs and,*

- *Action REC-1.2.1: Maintain Open Space "Balance Sheet": Following the adoption of the OSCAR, develop and maintain a computer spreadsheet that tracks 1) additions to floor area to Oakland parks, 2) additions of uncovered open space, and 3) net difference between 1 and 2.*

The no net loss policy is implemented by maintaining a list of all the additions and subtractions to park land. The open space balance sheet shows that the City has gained a surplus of open space since the OSCAR was adopted (See Attachment D). The surplus is the result of several ballot measures within the last 10 years including Measure K which passed in 1990 and Measure I in 1996. These measures provided funds that acquired Lookout Point, Castle Canyon, King Estates, Union Point Park, and the expansion of Peralta Hacienda and Splash Pad Park for an approximate total of 69.65 acres. The recent passage of Measure DD in 2002 also provided funds for the linear Bay Trail and the expansion of Lake Merritt open space. Approximately 15 acres of new park land will be added in Oakland as a result of Measure DD. None of this open space has been added in District 6 however. Around 20,000 sf of open space has been lost in the City of Oakland, and 1,700 sf has been lost in District 6. This loss of open space was the result of a bathroom expansion at the Oakland City Stables and the construction of a modular building at the Arroyo Viejo Recreation Center for inclusive recreation programs.

Plans show that approximately 2,320 S.F. or 1.8% of open space would be lost in Concordia Park due to the construction of the project. The minor loss of open space would be offset by the net surplus of open space within the City of Oakland. Moreover, the new buildings will not infringe on the baseball and soccer fields, the playground, or the picnic areas. Furthermore, the facilities being constructed fulfill many other General Plan recreational objectives.

- Policy REC-1.3: Siting of Buildings in Parks: To the maximum extent practical, accommodate new recreational buildings in city parks by expanding the park onto nearby vacant land or underutilized land rather than covering open space within existing park boundaries. There is no vacant or underutilized adjacent land to expand these facilities onto. Per the policy, if a building is to be placed within park boundaries three exceptions must be met before the building is placed in the park: These are discussed below.

a. No feasible alternatives to placing the buildings within the park: The community made comments about possibly locating the program within Frick Middle School or in an underutilized building in the area. The applicant did discuss this possibility with representatives of Frick Middle School, but the applicant was unable to reach to an agreement as a result of funding and liability issues. The applicant, with help from the City of Oakland's Redevelopment Agency, actively searched for an available building along Foothill Boulevard, Macarthur Boulevard and space within Eastmont Mall. The applicant realized that the amount of funds needed to buy, lease, or retrofit a building, would leave virtually none left for the actual programs they were trying to bring to the community. The applicant then rejected this approach.

Staff believes that the applicant has pursued and exhausted all feasible options other than locating the program within the park and that the park would be the best location for the programs. Although the proposed use would occur on park lands, it is a community oriented activity with direct connection to the Frick Middle School where a major client base is located for this program. It would bring people and activity to the park as a revitalization action per OSCAR recommendations.

b. The buildings are being developed in accordance with an overall Master Plan for the impacted park: There is currently no overall Master Plan for Concordia Park and there are no plans in the foreseeable future to develop one. The applicant will be entering into a one year license agreement with the City with nine year options; however the buildings are portable not permanent. If the City or the applicant were to choose not to exercise the option to renew the license agreement, the portables would be removed from the park. However the new patio, benches, landscaping, and renovations to the existing building would remain as important assets to the park.

c. Replacement open space must be provided as specified in Policy REC-1.2: The policy states "that there may be cases where the public value of a recreational development provides a compelling argument for construction on an open space. In such cases construction of a park building must be preceded by completion of a park master plan and assurance of replacement open space." As stated above the project is not providing any replacement open space. Funds are not available within the City's current budget situation for completion of a park master plan. Staff believes that in order to maintain a functioning recreation center and provide valuable programs to the community the City must partner with private groups to provide these services. The OSCAR encourages this type of use within park land in other policies and this mitigates the effect of new buildings within the park. Moreover, the placement of the new buildings will not disrupt any existing activity areas or major access ways and therefore, the park can continue to function without disruption by these two small buildings.

The residents have stated that they would like a staffed recreation center at Concordia Park and programs similar to those available at other recreation centers. They believe that these programs should not be offered by private groups or entail construction within the park. Unfortunately the City cannot provide these types of programs at this time nor is it likely that these types of programs and staffing levels will be reinstated given the tight state and local budgets during the next 3-5 years. Several OSCAR policies support partnering with private groups to provide services including:

- Policy REC-5.1 Increased Range of Activities: *Promote an increased range of activities within Oakland's parks as a means of introducing new users to the parks and improving safety through numbers.* Although the OSCAR does not specifically state that Concordia Park has a problem with crime, it does specifically recommend increased activity at the park. The proposed Girls Inc program will bring new users and their families to the park and therefore increase activity not only during school sessions but throughout the entire year.
- Action REC-5.1.2: Non-recreational Use of Recreation Centers: *Allow the City's 22 recreation centers to be used for a range of non-recreational activities where appropriate, including the delivery of social services provided by other agencies. Develop rules specifying conditions and criteria for non-creational use of recreation centers and*

Policy REC-7.2: Coordination with Other Service Providers: *Coordinate with other service providers, including the Oakland Unified School District, to maximize the effectiveness of service delivery and minimize the duplication of efforts. This policy states that the OPR should work with other groups and facilitate partnerships to provide recreational opportunities.*

The Girls Inc program would be a specific example of implementing these policies. Furthermore, this is not the only example of private uses in public parks. There are several private day cares within existing recreation centers including Family Bridges in Lincoln Park, Sequoyah Nursery School in Sequoyah Lodge Park, and Peter Pan at Maxwell House. There is also a Head Start program located within Arroyo Viejo Park. City Council has adopted rules specifying conditions for these types of proposals, including Ordinance No. 11722 C.M.S. that establishes a policy for the rental and leasing of City-owned real property for fair market rent with recognition in kind. "In kind services" include but are not limited to property security, maintenance, social/cultural benefits or other appropriate services. It also includes renovation, additions or anything that adds value to the property. This is further discussed in the *Value of Use* section below.

- Action REC-5.3: Opportunities for Youth: *Expand recreational opportunities for young people to provide viable, positive, alternatives to anti-social behavior. Consider extended hours of operation at certain recreation centers, evening sports events, and other after-hours activities oriented toward Oakland youth.* The Girls Inc program provides valuable opportunities for girls and typically those who are vulnerable and disadvantaged. These factors can lead to bad behavior that puts them at risk and lessens the chance that they will excel in academics, personal relationships, and in life in general. Girls Inc addresses each of these areas through their program (See Attachment A).
- Policy REC-8.2 Teens: *Use recreational programming to promote self-esteem, responsibility, leaderships, development, and employability among Oakland teens.* The Girls Inc program "inspires girls to be strong smart and bold and to reach their full potential." The program builds confidence and self esteem through positive experiences and decision making, excelling in academics, sports leadership, personal responsibility, and better peer relationships. This is further discussed in Attachment A.

OSCAR Implementation

The OSCAR Element outlines an implementation matrix that identifies the impact on achieving the OSCAR goals and how critical the action is to the 7 main goals of the OSCAR Element. The following table represents that matrix in regards to the policies mentioned above:

Implementation Matrix

Action	Title	Impact on achieving OSCAR goals
REC-1.2.1	Open Space Balance Sheet	High
REC-1.3.1	Impervious Surface Coverage Limits	Very High
REC-5.1.2	Non-recreational Use of Recreation Centers	High
REC-5.3.	Opportunities for Youth	Very High

As demonstrated in the table all of the policies and actions listed above are a high priority for the implementation of the OSCAR Element and the Planning Commission must use its authority in balancing the Element's conflicting goals.

**2. Value of Use**

Babe Ruth has occupied the existing recreation building since November 1993. Although the Master Fee Schedule does include fees for facility use, the OPR has never charged Babe Ruth for the use of the recreation building. At the present time the fee is about \$60 per day. That the OPR has not charged for use of the facility is a statement that the City of Oakland recognizes the benefit that the league plays in the community.

Girls Inc provides programs and services that focus on a middle school population of girls. In addition to providing in-kind services, Girls Inc will be responsible for any and all costs to complete the necessary renovations and modifications to the recreation center to allow it to be used as a decent safe and sanitary location. This is estimated at approximately \$45,000 or \$375/month over the life of the proposed lease including option terms. They also will be responsible for the payment of all utilities -estimated at \$300 per month, security costs - estimated at \$100 per month, and maintenance costs of approximately \$60 per month. In addition, they provide social programs for young Oakland residents in the amount of \$6,000 per month, a fair market rental rate of approximately \$800 per month or an annual cost of \$9,600 for this space. The in-kind services provided by Girls Inc to the City of Oakland are in excess of the fair market rental rate and justify the rent-free use of City space, pursuant to Ordinance 11722 C.M.S. Therefore, it is felt to be in the City's best interest to enter into one-year license with nine one-year options with Girls Inc for the City-owned property located at Concordia Park to provide in-kind social programs to the residents of the City of Oakland (City) in-lieu of fair market rent. In summary, the Girls Inc proposal will provide an approximate half a million dollar investment to the park and immediate neighborhood, including renovation and maintenance of the existing recreation center and social services that would not otherwise be available from the City.

**3. Unfairness to the Oakland Babe Ruth League**

Staff has received several comments that it is unfair that Babe Ruth will no longer be able to use the Concordia Park Recreation Center and instead a license agreement will be signed with Girls Inc

Basically, that one program will be replaced with another program. Although the league signed an agreement with the Office of Parks and Recreation (OPR) and has had use of the building for ten years, OPR reserved the right to terminate the agreement at any time.

The applicant is willing to share use of the recreation center with Babe Ruth, although the two portables would be used exclusively for Girls Inc programs. To this end the applicant drafted a Memorandum of Understanding (MOU) (Attachment E) between Girls Inc and the Oakland Babe Ruth League however this was never signed. Staff believes that sharing the recreation center is a reasonable solution that ensures that both groups are able to provide valuable after-school programs to the youth in the area. To this effect, staff has included that an agreement or MOU be signed between Girls Inc and Babe Ruth as a condition of approval.

The OPR has indicated that their office will not be issuing any other license agreements for the use of Concordia Park Recreation Center to other programs. They have also stated that they believe that a shared agreement between Girls Inc and Babe Ruth will succeed and therefore that office has no immediate plans to look for another facility for Babe Ruth.

#### **4. Design**

Staff has heard comments from the public stating that the portable buildings will be unsightly and aesthetically inappropriate for the park. Although the portable buildings are pre-fabricated, they are simple functional structures that are fairly unobtrusive. The additional amenities including a patio, arbors, and landscaping, along with the bright paint colors will contribute to an attractive recreational center. To improve the visual quality of the portables, staff is requesting additional details of the following construction or design elements as recommended conditions of approval:

- Additional planting such as ornamental vines along the back of the arbor.
- The addition of a gate in front of the arbor for security and details of the screened fence along the back.
- Removal of the chain-link fence along the back side of the community building.
- Covering of the T-111 siding with stucco to match the existing community building.

Staff believes that the entrance to the park should remain where it is currently located and that the addition of a patio would create a better entrance to the park. Although relocating the entry would be helpful for residents using the barbeque pits and picnic tables, users would have to cross the neglected asphalt surface to reach the paved walkway. If this surface were to be restored back to the original use as a volleyball court then this would present an awkward park entrance. In addition staff believes that the landscaping in front of the patio should be kept low so as to not impose on views across the patio to the playground. These changes were recommended by the Special Projects Committee. However, the drawings were not revised. Staff has required that these changes be made as conditions of approval.

#### **5. Views**

Staff has heard comments from the public stating that the portable buildings will block residential views of the park. The portables would be mainly visible from 62<sup>nd</sup> Avenue and Brann Street, with limited views from Camden Street and 64<sup>th</sup> Avenue. The views most affected by the proposed project would be those from the 2-story multi building apartment complex. This existing view includes mature trees, picnic areas, the playing fields, the children's playground, and recreation center. Although construction of the proposal would limit the view from this street, staff believes that the extensive renovations to the

recreation center and the hardscape and landscape improvements would actually provide an improved aesthetic.

**CONCLUSION**

Girls Inc would be offering after school programming services within the park. The proposal will target middle school girls, at an age when they are most self-conscious and vulnerable. These factors can lead to bad behavior that puts them at risk and lessens the chance that they will make positive decisions in their life. Girls Inc programs provide girls the confidence and tools they need to succeed. These programs would be available with no cost to the girls or their families.

The proposal will also renovate the existing community including exterior building repairs, additional landscaping, and a patio area at the entrance to the park. The applicant will also pay utility and maintenance costs associated with these improvements. Given the City's current budget situation, it is unlikely that the City would provide any of these improvements nor will the City be able to provide staffed recreation programs for the community in the near future. It is in the community's and the City's best interest to partner with private groups willing to provide these important renovations and services that are much needed in the Central East Oakland area.

Although Girls Inc and Babe Ruth have agreed in theory to share use of the recreation center and coordinate schedules, staff was directed to resolve community concerns before bringing the proposal back before the Planning Commission. Staff has tried to resolve issues with Babe Ruth at a working staff meeting when the project was relocated and with the surrounding residents at the Special Projects Hearing. It is evident that staff will not be able to work out an agreeable solution to all parties. The applicant has exhausted every option to placing the program within the park and found this to be the best overall location to serve the intended community. Staff is bringing the proposal back for a final decision.

This project presents a difficult judgment call between one policy that states that there should be no net loss of public open space in the city unless it is replaced and another goal that encourages opportunities for youth and the non recreational use of recreation centers. The OSCAR does not provide methods for balancing conflicting goals of the element. Therefore, it is well within the Planning Commission's discretion and authority to interpret the General Plan policies and make recommendations regarding proposals. Staff is recommending approval of the project.

**RECOMMENDATIONS:**

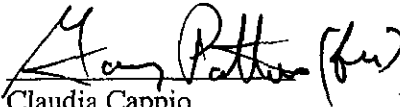
1. Affirm staff's environmental determination for a minor change to an existing use, CEQA Section 15301 and an Infill Exemption, under Section 15332;
2. Approve the Major Conditional Use Permit and the Design Review for the project, subject to the attached findings and conditions of approval.

Prepared by:



Heather Klein

Planner II, Major Development Projects

  
Claudia Cappio  
Director of Development

Attachments:

- A: Girls Inc written proposal
- B: Frequent-Use Lease Agreement with Oakland Babe Ruth League
- C. Public Comment Letters
- D. City of Oakland's Open Space Balance Sheet
- E. Memo of Understanding
- F Project plans



This proposal meets the required findings under Section 17.134.050, (General Use Permit Criteria) as set forth below. Required findings are shown in **bold** type; explanations as to why these findings can be made are in normal type.

**Section 17.134.050 (General Use Permit Criteria):**

- A. That the location, size, design, and operating characteristics of the proposed development will be compatible with and will not adversely affect the livability or appropriate development of abutting properties and the surrounding neighborhood, with consideration to be given to harmony in scale, bulk, coverage, and density; to the availability of civic facilities and utilities; to harmful effect, if any, upon desirable neighborhood character; to the generation of traffic and the capacity of surrounding streets; and to any other relevant impact of the development.**

A Major Conditional Use Permit is requested to locate Community Assembly activities associated with a Girls Inc recreation center in Concordia Park. This would include the construction of two portable structures. According to Policy REC1-3 (Siting of Buildings in Parks), the Open Space Conservation and Recreation (OSCAR) Element of the General Plan strongly discourages new recreation buildings in city parks unless three findings can be met. These findings are 1) that there are no feasible alternatives to placing the buildings in the park, 2) that the buildings be developed in accordance with an overall master plan for the impacted park, and 3) that replacement open space will be provided per Policy REC-1.2. The applicant has exhausted all feasible alternatives other than locating the buildings within the park. They discussed the possibility of locating the program at Frick Middle School and actively searched for an appropriate location along Foothill Boulevard, Macarthur Boulevard, and within Eastmont Mall. None of these options were feasible alternatives. Although the portables are being placed in the park without approval of a master plan, given the City's current budget situation it is unlikely that a City-wide Park and Recreation Master Plan or a master plan for Concordia Park will be adopted in the near future. Concordia Park was identified for improvements however only Bushrod, Golden Gate, DeFremery, Lakeside, Arroyo Viejo, Greenmen Field and Diamond were identified as parks that would benefit from master plans. If funds were to become available for master plan projects, those parks would be among the first to receive allocations. The applicant is also not providing replacement open space. Policy REC-1.2 states that there should be no net loss of open space and this should be implemented through the creation of an open space balance sheet that tracks the additions and subtractions of park land. The OSCAR states that "because most park buildings are small, the balance sheet approach is more feasible than a 1:1 replacement since the latter could result in a burden of small unusable plots." The city currently has a balance of open space of approximately 70 acres as shown in Attachment D. Therefore the 2,350 sf loss of open space by the portables is insignificant and would not result in a "net" loss of open space for the City.

The existing recreation center is located along Brann Street but toward the middle of the block. The location of the proposal at the corner of Brann Street and 62<sup>nd</sup> Avenue helps to "fill in" that space adjacent to the existing building. The OSCAR states that "although the park has good visibility signage is inadequate and its function as park unclear." The proposed landscaping and concrete patio will create a well-defined and improved park entrance that is currently lacking. The location of the portables will not interfere with either the baseball or the soccer fields.

The project will contribute to the neighborhood character by improving and expanding the existing community building and encouraging increased activity levels within the park. The proposed project will not affect the usability of the park since the existing picnic tables within the project site will be

replaced and two additional tables will be added. Although the portables will block views of the playground from some sections of the street, safety is not expected to be a concern. In fact the overall goal of the proposal is to encourage new families to use the park, thereby decreasing disinvestment and crime.

The portables at approximately 20' tall are compatible in bulk, scale, and size with the surrounding development with heights that range from 1 to 3-stories. The portable buildings are small, simple, and unobtrusive. They can be constructed and removed quickly and allow the applicant to spend most of their funding on the programs and services offered. Although the portables will be pre-fabricated with T-111 siding, staff has requested that the buildings be stucco-ed as a condition of approval. The addition of stucco along with bright colors and trim will result in attractive structures suitable for a park setting. The addition of landscaping will "soften" the look of the buildings and contribute to a visually appealing aesthetic.

The project is not expected to adversely affect traffic since only 2 full-time and 1 part-time staff will be employed. Most of the participants are expected to come from Frick Middle School, across the street, or from the surrounding neighborhood within walking distance of the park.

For these reasons the proposed project meets this finding.

- B. That the location, design, and site planning of the proposed development will provide a convenient and functional living, working, shopping, or civic environment, and will be as attractive as the nature of the use and its location and setting warrant.**

The siting of the proposed project would result in increased park activity, while providing essential programs and services to middle school girls. By placing the new structures adjacent to the existing community building and tying the buildings together through the construction of a concrete patio, arbors, and landscaping a more substantial recreation center will be established in the park and more contiguous open space will be available for community use.

Currently, the existing community building is in need of renovation. Interior remodeling, a paint job and a new landing, stairs, and roof will provide much needed physical improvements to this building. The addition of amenities such as landscaping, a patio, and arbors will increase the attractiveness of the recreation center within the park while providing a clear presence for Girls Inc within Central East Oakland. These improvements would increase the visibility of the park and therefore increase activity within the park. These improvements will provide a functional park environment that would not likely be available in the near future given the City's budget situation.

For these reasons the proposed project meets this finding.

- C. That the proposed development will enhance the successful operation of the surrounding area in its basic community functions, or will provide an essential service to the community or region.**

The primary goal for any neighborhood park is to provide recreational opportunities and community serving amenities that promote a sense of community within the immediate surroundings. A successful park is maintained, cared-for and well-used by the surrounding residents. The project will first accomplish this goal by providing a well-defined entrance to the park from Brann Street. The Girls Inc programs along with the proposed renovations to the existing community building,

landscaping, and more picnic tables will encourage more young people and families to use the park. The result will be a revitalized neighborhood and promotion of an overall sense of community.

The project will provide an essential service to the community by offering after-school and summer programs that encourage girls to be smart, strong, and bold. The programs will teach middle school girls, who are typically self-conscious and vulnerable at this age, physical, academic, career, and leadership skills, as well as personal responsibility. The programs will also offer mental and emotional counseling. In turn, the girls will develop problem-solving abilities and learn ways to form supportive relationships. Participation in the program will yield tangible results in young women that have the skills they need to make positive life decisions that will in time benefit the health and welfare of the entire community.

For these reasons the proposed project meets this finding.

**D. That the proposal conforms to all applicable design review criteria set forth in the design review procedure at Section 17.136.070.**

The project conforms to the applicable design review criteria of Section 17.136.070B (Non-Residential Facilities Design Review Criteria). See design review findings, below.

**E. That the proposal conforms in all significant respects with the Oakland Comprehensive Plan and with any other applicable plan or development control map which has been adopted by the City Council.**

The General Plan Land Use and Transportation Element (LUTE) designates the project site as Urban Park and Open Space (OS). The LUTE is silent in regards to Community Assembly activities in this designation. However, pursuant to the guidelines, if the General Plan is silent and the project is conditionally permitted by zoning then there is no "express conflict" and the project is permitted with approval of the Conditional Use Permit.

The OSCAR Element of the General Plan states policies, goals, and objectives that should be used to initiate and respond to decisions about the City's parks. The project is consistent with the OSCAR and will support the objectives and policies including REC-2.2 minimizing conflicts between park uses; REC-5.1 encouraging an increased range of activities to draw new users to the park, REC-5.1.2 the non-recreation use of recreation centers to provide social service programs; REC-5.1.3 expanding opportunities for youth; REC-4.3 prioritize renovation and rehabilitation of recreation facilities; REC-7.2 coordination with other service providers; and REC-8.2 use recreational programming to promote self-esteem, responsibility, among Oakland teens.

In addition, the project is consistent with the zoning regulations with the approval of a Major Conditional Use Permit for Community Assembly activities and facilities by the Planning Commission.

**Section 17.148.050(A) Minor Variance Findings**

**1. That strict compliance with the specified regulation would result in practical difficulty or unnecessary hardship inconsistent with the purposes of the zoning regulations, due to unique physical or topographic circumstances or conditions of design; or as an alternative in the case of a minor**

**variance, that such strict compliance would preclude an effective design solution improving livability, operational efficiency, or appearance.**

The applicant will revise their drawings to conform to the front yard setback and all other zoning requirements. Staff has included this as a condition of approval.

**2. That strict compliance with the regulations would deprive the applicant of privileges enjoyed by owners of similarly zoned property; or, as an alternative in the case of a minor variance, that such strict compliance would preclude an effective design solution fulfilling the basic intent of the applicable regulation.**

The applicant will revise their drawings to conform to the front yard setback and all other zoning requirements. Staff has included this as a condition of approval.

**3. That the variance, if granted, will not adversely affect the character, livability, or appropriate development of abutting properties or the surrounding area, and will not be detrimental to the public welfare or contrary to adopted plans or development policy.**

The applicant will revise their drawings to conform to the front yard setback and all other zoning requirements. Staff has included this as a condition of approval.

**4. That the variance will not constitute a grant of special privilege inconsistent with limitations imposed on similarly zoned properties or inconsistent with the purposes of the zoning regulations.**

The applicant will revise their drawings to conform to the front yard setback and all other zoning requirements. Staff has included this as a condition of approval.

**Section 17.136.070B (Non-Residential Facilities Design Review Findings)**

**1. That the proposal will help achieve or maintain a group of facilities, which are well related to one another and which, when taken together, will result in a well-composed design, with consideration given to site, landscape, bulk, height, arrangement, texture, materials, colors, and appurtenances; the relation of these factors to the other facilities in the vicinity; and the relation of the proposal to the total setting as seen from key points in the surrounding area. Only elements of the design which will have some significant relationship to outside appearance shall be considered, except as otherwise provided in Section 17.102.030.**

The proposed buildings, arbors and hardscape connections to the existing building are successfully integrated and will achieve a more substantial and visible recreation center within the park. The scale, bulk, and height of the new buildings are typical of the existing community building and park structures in general. Although the new portables are pre-fabricated and not necessarily indicative of the character of the neighborhood, they are simple functional structures that are unobtrusive. The bright colors, window trim, and stucco as required as a condition of approval will make the portable buildings more suitable for the park setting. The proposal will renovate a vacant community building, providing essential services to girls within the neighborhood, and increase the number of users at the park.

**2. That the proposed design will be of a quality and character which harmonizes with, and serves to protect the value of private and public investments in the area.**

The proposed project will renovate the existing building providing much needed physical improvements while adding two portable buildings to further establish a visible center within the park. New amenities such as a patio, more picnic tables, arbors and new landscaping will increase the attractiveness of the recreation center and establish a well-defined park entrance. Siting Girls Inc programs within the park will yield tangible results in young women that have the skills they need to make positive life decisions that will in time benefit the entire community. The proposal will also activate the park during the entire year and encourage more young people and families to use the park. The number of increased park users will decrease disinvestment in the park and increase the perception that the park is a valuable community resource.

3. **That the proposed design conforms in all significant respects with the Oakland Comprehensive Plan and with any applicable district plan or development control map which has been adopted by City Council.**

The proposed project is consistent with both the LUTE and the OSCAR elements of the General Plan. Many OSCAR policies encourage this sort of programming within city parks including policies REC-2.2, 5.1, 5.1.2, 5.1.3, 4.3, 7.2, and 8.2.

**CONDITIONS OF APPROVAL**

**STANDARD CONDITIONS:**

**1. Approved Use.**

***a. Ongoing.***

The project shall be constructed and operated in accordance with the authorized use as described in this staff report and the plans submitted September 1, 2004 and supplementary and as amended by the following conditions. Any additional uses or facilities other than those approved with this permit, as described in the project description and approved plans, will require a separate application and approval.

**2. Effective Date, Expiration, and Extensions**

***a. Ongoing.***

This permit shall become effective upon satisfactory compliance with these conditions. This permit shall expire on February 16, 2007, unless actual construction or alteration, or actual commencement of the authorized activities in the case of a permit not involving construction or alteration, has begun under necessary permits by this date. Upon written request and payment of appropriate fees submitted no later than the expiration date, the Zoning Administrator may grant a one-year extension of this date, with additional extensions subject to approval by the City Planning Commission.

**3. Scope of This Approval; Major and Minor Changes**

***a. Ongoing.***

The project is approved pursuant to the Planning Code only and shall comply with all other applicable codes, requirements, regulations, and guidelines imposed by other affected departments, including but not limited to the Building Services Division and the Fire Marshal. Minor changes to approved plans may be approved administratively by the Zoning Administrator; major changes shall be subject to review and approval by the City Planning Commission.

**4. Modification of Conditions or Revocation**

***a. Ongoing.***

The City Planning Commission reserves the right, after notice and public hearing, to alter Conditions of Approval or revoke this conditional use permit if it is found that the approved use or facility is violating any of the Conditions of Approval, any applicable codes, requirements, regulation, guideline or causing a public nuisance.

**5. Recording of Conditions of Approval**

***a. Prior to issuance of building permit or commencement of activity.***

The applicant shall execute and record with the Alameda County Recorder's Office a copy of these conditions of approval on a form approved by the Zoning Administrator. Proof of recordation shall be provided to the Zoning Administrator.

**6. Reproduction of Conditions on Building Plans**

***a. Prior to issuance of building permit.***

These conditions of approval shall be reproduced on page one of any plans submitted for a building permit for this project.

**7. Indemnification**

***a. Ongoing.***

The applicant shall defend, indemnify, and hold harmless the City of Oakland, its agents, officers, and employees from any claim, action, or proceeding (including legal costs and attorney's fees) against the City of Oakland, its agents, officers or employees to attack, set aside, void or annul, an approval by the City of Oakland, the Office of Planning and Zoning Division, Planning Commission, or City Council relating to this project. The City shall promptly notify the applicant of any claim, action or proceeding and the City shall cooperate fully in such defense. The City may elect, in its sole discretion, to participate in the defense of said claim, action, or proceeding.

**8. Waste Reduction and Recycling**

***a. Prior to issuance of a building or demolition permit.***

Prior to issuance of any building permits including the grading and/or demolition permit the project applicant will submit a demolition/construction waste diversion plan and operational waste reduction plan for review and approval by the Public Works Agency. The plan will specify the methods by which the development will make a good faith effort to divert 50% of the demolition/construction waste generated by the proposed project from landfill disposal. After approval of the plan, the project applicant will implement the plan. The operational diversion plan will specify the methods by which the development will make a good faith effort to divert 50% of the solid waste generated by operation of the proposed project from landfill disposal. After approval of the plan, the project applicant will implement the plan.

**PROJECT CONDITIONS**

**9. Enrollment and Hours of Operation**

***a. Ongoing***

Participation in the Girls Inc program within Concordia Park will be limited to 125 girls annually. A new Conditional Permit shall be required to exceed this maximum enrollment number.

As indicated on the application for the approved project, the hours of operation for the proposed activity shall be limited to between the time of school dismissal to approximately 6 p.m., Monday through Friday, during the school year. During the summer from June through August, the activity shall be limited to 10 a.m. to 6 p.m. Monday through Friday/ Evening and Saturday events may be held periodically, however these events will be limited to the normal park hours of operation.

**10. Project Signage**

***a. Ongoing***

The project applicant is not permitted to install any advertising signs on the existing recreation center, on the new portables, or on the park grounds.

**11. On-site Clean-up.**

***a. Ongoing.***

As part of the license agreement signed and entered into with the City of Oakland. The applicant is responsible for building and site maintenance. This would include removal of any graffiti or replacement of vandalized structures. Graffiti shall be removed within 72 hours of application. Removal can involve resurfacing of a material and/or color that matches the remaining surface.

**12. Final Design Review**

**a. Prior to issuance of building permit.**

As the design of the buildings and other structures are further detailed, the design elements listed below shall be revised and shall be submitted along with the final plans for review and approval by the Director of Parks and Recreation and Planning Director prior to issuance of the building permit.

- a. Additional planting such as ornamental vines along the walkway and the back of the arbor along the screened fence, as well as tree plantings.
- b. Details of the screened fence.
- c. Removal of the chain-link fence along the back side of the community building.
- d. T-111 to stucco.
- e. That the entrance to the park remains in the same location.
- f. That landscaping along the patio shall be of a low-growing variety to preserve views to the children's playground.
- g. The portable buildings shall conform to the required front and side setbacks.

**13. Agreement with the Cal Ripken-Babe Ruth League of Metropolitan Oakland (Babe Ruth).**

**a. Prior to issuance of building permit**

The applicant shall attempt in good faith to reach an agreement or Memorandum of Understanding with Babe Ruth regarding the shared use of the Concordia Park Recreation Center. This agreement shall be submitted to and approved by the Director of Planning and Zoning. The agreement shall include but is not limited to the following items:

- a) Indicate the dates and times of the proposed use
- b) Amount of storage space allocated to each group
- c) If or how materials and supplies shall be shared between groups
- d) How maintenance and other expenses (i.e. utilities, security costs) will be distributed among each group

If the applicant and Babe Ruth are unable to come to an agreement regarding conditions on the shared use of the space, the Director of Parks and Recreation shall determine the conditions of use after review of both groups programming needs.

**14. Lighting Plan**

**a. Prior to issuance of building permit**

A lighting plan for the project shall be submitted to and approved by the Director of Planning and Zoning and the Director of Parks and Recreation, with referral to other departments or divisions as appropriate, and shall include the design and location of all lighting fixtures or standards; and said lighting shall be installed such that it is adequately shielded and does not cast glare onto adjacent properties, while providing sufficient lighting for safety and security purposes.

**15. Irrigation Plan and landscape maintenance**

**a. Prior to issuance of building permit**

An irrigation plan shall be prepared by a licensed landscape architect or other qualified person and submitted in conjunction with the building permit submittal. All landscape and irrigation shall be installed prior to final building permit inspection.



*b. Ongoing*

All project landscaping shall be permanently maintained in a neat, safe, and healthy condition.

**CONSTRUCTION PERIOD MANAGEMENT**

**16. Construction Hours**

*a. During all construction activities.*

Construction hours will be limited to be between 7:30AM to 6:00PM, Monday through Friday. Subject to prior authorization of the Building Services Division and the Planning and Zoning Division, no construction activities shall be allowed on Saturdays until after the building is enclosed, and then only within the interior of the building with the doors and windows closed. Saturday construction activity prior to the building being enclosed shall be evaluated on a case by case basis, with criteria including the proximity of residential uses and a survey of resident's preferences for whether Saturday activity is acceptable if the overall duration of construction is shortened. No construction activity shall take place on Sundays or Federal holidays

**17. Construction Staging and Phasing Plan (General).**

*a. Prior to issuance of demolition, grading or building permit.*

The applicant shall submit a Construction Staging and Phasing Plan for review and approval by the Building Services Division. The following information as well as any additional detailed information or conditions required by the Building Services Division shall be included in the plan and be consistent with all related conditions attached to this project:

1. Identification of construction staging areas.
2. Designation of main access routes to the site for construction equipment and materials, including truck routes that will be used for delivery or hauling away of materials.
3. Designation of construction worker parking areas and designation of specific on-street parking areas, if required.
4. Description of how construction equipment and materials will be protected against vandalism and theft.
5. Designation that no construction vehicles, materials, and other related equipment shall block the road or pedestrian access-ways to ensure vehicular and pedestrian access to neighboring homes or businesses.

**18. Site Maintenance.**

*a. During all construction activities.*

The applicant shall ensure that debris and garbage is collected and removed from the site daily.

**19. Dust Control Measures.**

*a. During all construction activities.*

Dust control measures shall be instituted and maintained during construction to minimize air quality impacts. The measures shall include:

1. Watering all active construction areas as necessary to control dust;
2. Covering stockpiles of debris, soils or other material if blown by the wind;
3. Sweeping adjacent public rights of way and streets daily if visible soil material or debris is carried onto these areas.

- 4. Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least two feet of freeboard;
- 5. Hydroseed or apply non-toxic soil stabilizers to inactive construction areas;
- 6. Enclose, cover, water twice daily or apply non-toxic soil binders to exposed stockpiles (dirt, sand, etc.);
- 7. Install sandbags or other erosion control measures to prevent silt runoff onto public roadways; and
- 8. Replant vegetation in disturbed areas as quickly as possible.

**20. Construction-Related Noise Control.**

*a. During construction*

The applicant shall ensure that all construction equipment shall utilize the best available noise control techniques (improved mufflers, equipment redesign, use of intake silencers, ducts, engine enclosures and acoustically-attenuating shields or shrouds) in order to minimize construction noise impacts. All stationary noise sources, to the greatest extent practical, shall be located as far away as possible from sensitive receptors, (i.e., residential or schools uses). All noise-generating construction activities shall conform to the Construction Management Plan or all construction-related conditions attached to this project.

**APPROVED BY:** City Planning Commission: \_\_\_\_\_(date)\_\_\_\_\_ (vote)  
City Council: \_\_\_\_\_(date)\_\_\_\_\_ (vote)

# Attachment 1

## Girls Incorporated of Alameda County Concordia Park Program Background and Description

### ***Girls Inc. Brings Services to Concordia Park in East Oakland***

To expand Girls Inc.'s ability to serve girls and families residing in East Oakland, a new Girls Inc. center is proposed to open at Concordia Park in Fall 2004. Initially, programs and services will focus on a middle school population of girls, with incremental services being added for younger and older populations of girls in the near future. Highlights of the new middle school program and services include:

Service Delivery and Target Population: Beginning in Fall 2004, 3 day a week after school programming will serve a total of 30 girls, in two groups of 15 girls each. Girls will be targeted from the neighborhood and from Frick Middle School.

Program services on these three days will focus on Girls Inc.'s *On-Track* program service delivery model, which emphasizes opportunities for girls and their families to maintain extended years of Girls Inc. participation through programs that stimulate a love of learning, the increase of personal development skills and the building of supportive relationships with peers and adults.

Additionally, two days per week will offer open-entry, short session activities to encourage the participation of an additional 125 girls annually.

**In total, it is anticipated that 155 unduplicated middle school age girls will be served at Concordia Park in Year 1.**

### ***Space Usage***

Two portable spaces, each 960 sq. ft., (one to be furnished as a technology center) will be added to the current, and soon to-be newly refurbished recreation center, plus the adjoining sports areas (tennis courts, softball field and large playing field), will allow anticipated weekly usage.

### ***A Preview of School Year Components***

By embracing the middle school component within a framework of community, the goal of school year and summer programs is to continue to expose girls to positive experiences, settings and people as well as abundant opportunities to gain and refine a range of academic competencies and life skills. Intentional learning environments will promote a combination of strategies that influence girls' healthy development: strong, positive, social identity formation, cultural and multi-cultural competencies, leadership and responsibility opportunities, as well as opportunities to demonstrate and celebrate girls' accomplishments. Project-based learning in multiple program areas will include: math, science and technology, plus health, sports and fitness, while continuing to support academic achievement through daily homework assistance.

Participation in these program activities are designed as one-year commitments in order to foster the more positive outcomes that are associated with long-term involvement, as noted in youth development research, including: better peer relations, school attendance, positive achievement on standardized tests and emotional adjustment.

Multiple Opportunities through Project-based Technology:

- *Build Your Own Computer (BYO)*: As a vehicle towards technology education, offering girls the opportunity and incentive to build their own computers, not only gives girls critical life skills, but advances their understanding and knowledge of girls' access to this traditionally male field. It is anticipated that *BYO* will be a "cool" factor for bringing girls into the program. *BYO* lends itself to technology-based community connections including field trips to technology refurbishing organizations, women-owned technology firms and community mapping to identify available community access. The program also offers family strengthening through family workshop days, offering time for girls and families to work together gaining new skills, resulting in a tangible benefit for the entire family.
- *Digital storytelling*: Using technology to explore and document the meaningful stories of girls' lives as members of family communities, communities of girls and school, as well as the history of women in their families. Integrates girls' written and visual language, including photography, poetry and personal narrative writing.
- *Youth media*: Using technology to promote the next generation of girls' voices and opinions and the often inaccessible girl culture, a youth media program offers girls a sense of contributing to and broadening girls' knowledge of their community.

#### Health, Sports and Fitness:

- *Will Power, Won't Power* – teaches girls sexual decision-making strategies and the power of a positive-sister support system as they enter the most pressure-sensitive adolescent years.
- *Action for Safety* – self-defense and violence prevention, as well as strategies for taking action on the violence issues in their lives.
- *Sporting Chance* – a Girls Inc. national guide to providing opportunities for girls to participate in and maintain an interest in athletic participation and fitness training. Adventure opportunities will promote independence and personal responsibility. Special emphasis will be on encouraging continued involvement in sports/fitness for those girls who choose not to compete at high levels of achievement.

#### Academic Achievement:

- *T-SMART* – By looking at ecology from a community-wide perspective, *T-SMART*'s goal is to integrate aspects of girls' relationships to the urban environment through project-based math, science, arts, technology and career focused activities.
- Homework assistance – With an emphasis on improvement and high expectations for all girls, homework assistance is designed to foster girls' growth in their academic performance and interest in school improvement.

#### **Open Entry**

As stated above, two days weekly of Open Entry programs will allow middle school age girls who are not registered in the more structured, intensive, minimum one-year commitment programs, to also participate in Girls Inc. activities. Open Entry mini-session programs, clinics, samplers and workshops might include, but are not limited to: technology, sports and girls leadership programs.

#### **The following agreement elements outline Girls Inc.'s need in utilizing the space:**

- Girls Inc. will employ 2 full time and 1 part time staff to be housed at Concordia Park from 9 a.m. to 6 p.m., Monday through Friday.
- Program hours for girls during the school year will take place from school dismissal time to 6 p.m., Monday through Friday. In addition, evening and Saturday events will be held periodically.
- Girls Inc. summer program will be held from mid-June through August, Monday through Friday, from 10 a.m. to 6 p.m. to begin summer 2005.

CITY OF OAKLAND

Councilmember  
Brooks 6910  
(RABE FAX)

LAKE MERRITT • 1520 LAKESIDE DRIVE • OAKLAND, CA Jim Ryugo

Office of Parks and Recreation

### FREQUENT-USE BUILDING ACCESS AGREEMENT

This Building Access and Use Agreement between the City of Oakland, Office of Parks and Recreation (OPR) and the Oakland Babe Ruth League allows the Oakland Babe Ruth League to use one (1) room at Concordia Park Recreation Building containing restrooms and one (1) storage cabinet at OPR's Concordia Building, located at 62nd Avenue/Brann Street.

OPR will grant the Oakland Babe Ruth League use of five (5) keys C14A in order to enter and use the aforementioned facility with the following restrictions:

1. Oakland Babe Ruth League agrees to enter and use facility only during days and hours granted. No use of the facility shall hinder or impede OPR's recreation programs.
2. Oakland Babe Ruth League agrees to use the assigned room and the one assigned storage cabinet at the facility exclusively for office administration and for storage of baseball equipment and routine restroom use.
3. Oakland Babe Ruth League agrees to maintain restrooms and assigned areas to OPR's satisfaction.
4. Oakland Babe Ruth League agrees that only current executive board members may possess aforementioned keys to Concordia building.
5. Oakland Babe Ruth League agrees to return keys within five (5) days upon completion or cancellation of facility room use.
6. Oakland Babe Ruth League agrees to not duplicate key C14A.
7. If and when an alarm is installed, Oakland Babe Ruth League shall give the OPR General Supervisor and alarm code and/or key within five (5) days.

The OPR reserves the right to terminate this agreement at any time.

Benny Weisk 11/14/93  
Benny Weisk Date  
OPR General Supervisor

Ted Sanders 11/4/93  
Ted Sanders Date  
Oakland Babe Ruth League President

:dep:10/14/93 to: wpl@comcast.net (babe.ruth@com)

*Memorandum of Understanding*

Girls Incorporated of Alameda County  
And  
Babe Ruth League of Metropolitan Oakland

This Memorandum of Understanding is entered into between Girls Incorporated of Alameda County (Girls Inc.) and the Babe Ruth League of Metropolitan Oakland.

This MOU between Girls Inc. and Babe Ruth confirms a mutual goal of providing enrichment programs and academic assistance for underserved youth in East Oakland at the Concordia Park Recreation Center, located at 2901 64<sup>th</sup> Avenue. To this end, both parties agree to the following:

*Girls Incorporated will:*

1. Provide after school programs and services, Monday, Tuesday, Thursday and Friday, 3:00-5:30 pm, and Wednesdays from 1:00 to 5:30 p.m. between September and the close of school in June. Summer program dates to be determined later.
2. Provide trained staff to implement all programs.
3. Provide materials and supplies for all programs.
4. Share storage space with Babe Ruth.
5. Provide periodic Saturday programs for girls. Dates will not conflict with Babe Ruth's Saturday use and Girls Inc. will clear these dates with Babe Ruth in advance.
6. Work collaboratively with Babe Ruth to ensure mutual respect for facilities and the goals of each organization.

*Babe Ruth will:*

1. Provide after school programs and services, Monday through Friday, 6:30-8:30 pm, between September and the close of school in June.
2. Conduct Saturday registrations during Babe Ruth's League season between January and August each year.
3. Use the space for periodic evening meetings for Babe Ruth membership and volunteers. Provide Girls Inc. with the dates for these meetings in advance.
4. Provide materials and supplies for all programs.
5. Work collaboratively with Girls Inc. to ensure mutual respect for facilities and the goals of each organization.

Girls Inc. and Babe Ruth agree to conduct their business in a safe and responsible manner in compliance with the City of Oakland standards.

Terms of Agreement:

The terms of this agreement are from this date and will continue for the duration of Girls Inc. and Babe Ruth's service delivery at Concordia Park. The agreement can be renegotiated by either party's initiation, agreed upon and amended in writing.

---

Pat Loomes, Executive Director  
Girls Incorporated of Alameda County

Date

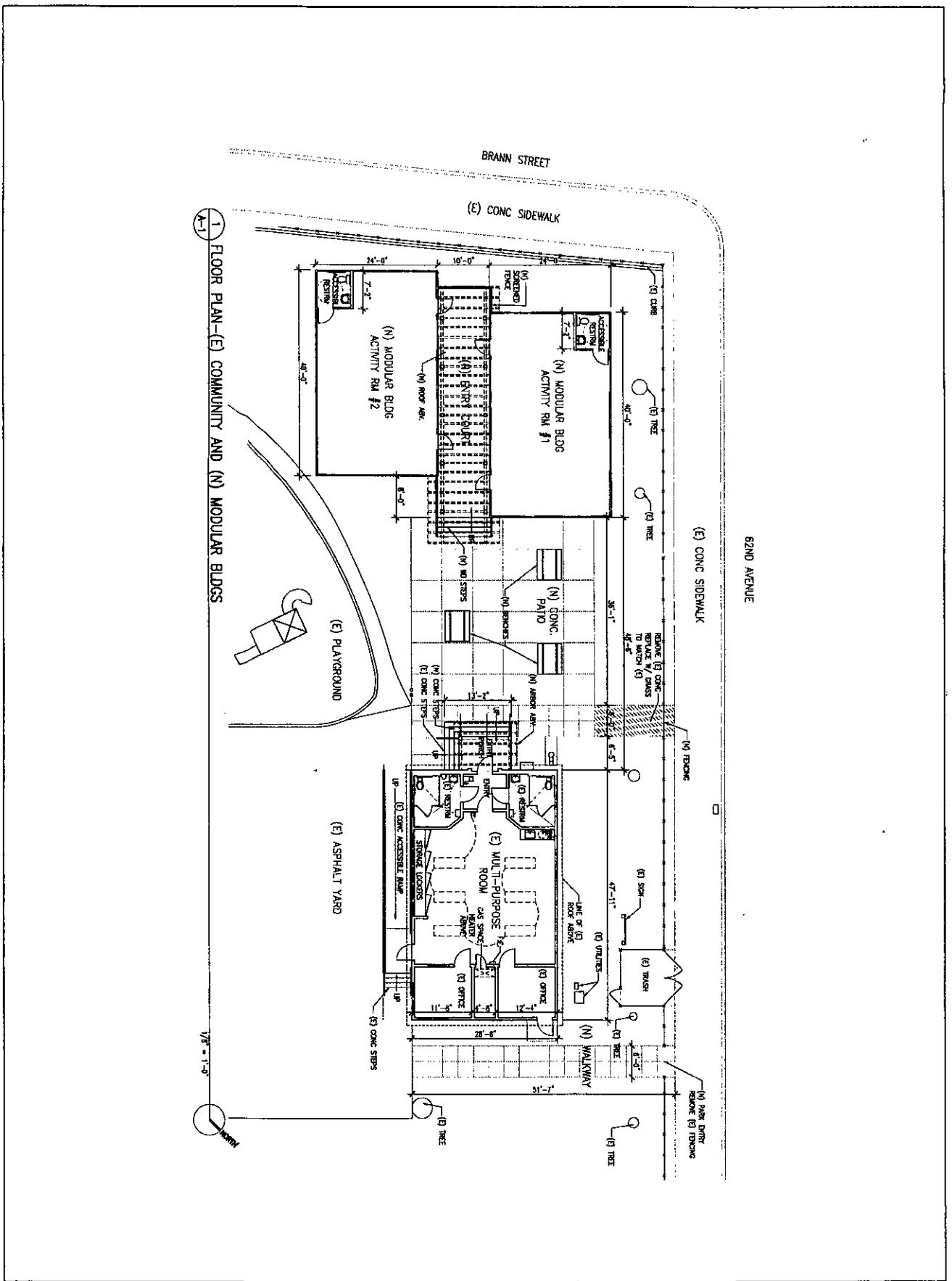
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Herman L. Scott, Jr., President  
Babe Ruth League of Metropolitan Oakland

Date

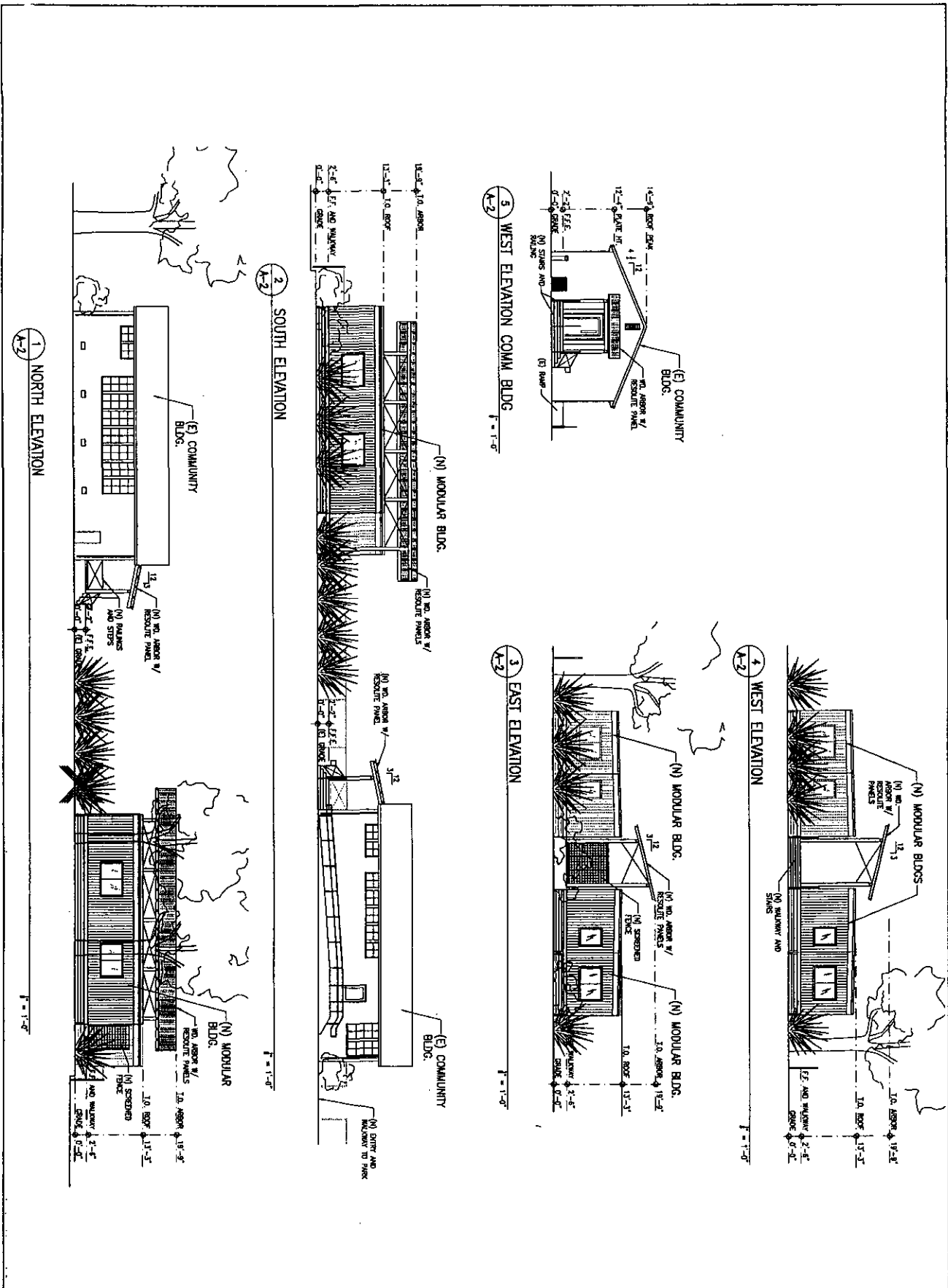






1 FLOOR PLAN - (E) COMMUNITY AND (N) MODULAR BLDGS

<p><b>A-1</b></p>	<p><b>GIRLS INC CONCORDIA PARK CENTER</b> 3000 62nd Avenue Oakland, CA 94605</p>	<p><b>ANNE PHILLIPS ARCHITECTURE</b> 2225 BROADWAY OAKLAND, CA 94612 TEL 415 761 1855 FAX 415 761 1877</p>	<p>FLOOR PLAN</p>
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<p><b>ANNE PHILLIPS</b> ARCHITECTURE</p> <p>2124 17th Avenue Oakland, CA 94612 Tel: 510.881.7155</p>	<p><b>GIRLS INC</b> <b>CONCORDIA PARK CENTER</b></p> <p>3000 62nd Avenue Oakland, CA 94605</p>	<p>DATE: 05/01/02 DRAWN BY: JRM JOB: 02-02</p> <p style="font-size: 2em; font-weight: bold;">A-2</p>	<p>ELEVATIONS</p>
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