



Office of the City Manager

INFORMATION CALENDAR
March 19, 2024

To: Honorable Mayor and Members of the City Council
From: Dee Williams-Ridley, City Manager
Submitted by: Jordan Klein, Director, Planning and Development Department
Subject: LPO NOD: 2144 Shattuck Avenue/#LMSAP2023-0007

INTRODUCTION

The attached Landmarks Preservation Commission Notice of Decision (NOD) is presented to the Mayor and City Council pursuant to Berkeley Municipal Code/Landmarks Preservation Ordinance (BMC/LPO) Section 3.24.240.A, which requires that “a copy of the Notice of Decision shall be filed with the City Clerk and the City Clerk shall present said copy to the City Council at its next regular meeting.”

CURRENT SITUATION AND ITS EFFECTS

The Landmark Preservation Commission (LPC/Commission) has approved a Structural Alteration Permit (SAP) for the subject City Landmark property. This action is subject to a 15-day appeal period, which began on March 5, 2024

BACKGROUND

BMC/LPO Section 3.24.300 allows City Council to review any action of the Landmarks Preservation Commission in granting or denying a Structural Alteration Permit. For Council to review the decision on its merits, Council must appeal the Notice of Decision. To do so, a Council member must move this Information Item to Action and then move to set the matter for hearing on its own. Such action must be taken within 15 days of the mailing of the Notice of Decision, or by March 19, 2024. Such certification to Council shall stay all proceedings in the same manner as the filing of an appeal.

If the Council chooses to appeal the action of the Commission, then a public hearing will be set. The Council must then rule on the designation within 30 days of closing the hearing, otherwise the decision of the Commission is automatically deemed affirmed.

Unless the Council wishes to review the determination of the Commission and make its own decision, the attached NOD is deemed received and filed.

ENVIRONMENTAL SUSTAINABILITY & CLIMATE IMPACTS

Landmark designation provides opportunities for the adaptive re-use and rehabilitation of historic resources within the City. The rehabilitation of these resources, rather than their removal, achieves construction and demolition waste diversion, and promotes investment in existing urban centers.

POSSIBLE FUTURE ACTION

The Council may choose to appeal the decision, in which case it would conduct a public hearing at a future date.

FISCAL IMPACTS OF POSSIBLE FUTURE ACTION

There are no known fiscal impacts associated with this action.

CONTACT PERSON

Fatema Crane, Principal Planner, Planning and Development, 510-981-7410

Attachments:

1: Notice of Decision – #LMSAP 2023-0007 at 2144 Shattuck Avenue



L A N D M A R K S
P R E S E R V A T I O N
C O M M I S S I O N

N o t i c e o f D e c i s i o n

DATE OF BOARD DECISION: December 7, 2023
DATE NOTICE MAILED: March 4, 2024
APPEAL PERIOD EXPIRATION: March 19, 2024
EFFECTIVE DATE OF PERMIT (Barring Appeal or Certification): March 20, 2024¹

2144 Shattuck Avenue – American Trust Building/Wells Fargo Building

**Structural Alteration Permit (#LMSAP2023-0007) to install security gates at
a City Landmark property.**

The Landmarks Preservation Commission of the City of Berkeley, after conducting a public hearing, **APPROVED** the Structural Alteration Permit request.

- **Property Owner:** Bollibokka Shattuck LLC, Pacific West Asset Management, P. O. Box 19068, Irvine, CA
- **Project Applicant & Architect:** Sean Kennedy, Architect, Studio Skagg, Kennedy, Berkeley, CA

ZONING DISTRICT: Downtown Mixed Use/Commercial (CD-MU)

ENVIRONMENTAL REVIEW STATUS: The project is categorically exempt from further environmental review in accordance with CEQA Guidelines Section 15331 for *Historical Resource Restoration/Rehabilitation*.

¹ Pursuant to BMC Chapter 3.24, the City Council may “certify” any decision of the LPC for review, which has the same effect as an appeal. In most cases, the Council must certify the LPC decision during the 14-day appeal period. However, pursuant to BMC Section 1.04.070, if any portion of the appeal period falls within a Council recess, the deadline for Council certification is suspended until the first Council meeting after the recess, plus the number of days of the appeal period that occurred during the recess, minus one day. If there is no appeal or certification, the Use Permit becomes effective the day after the certification deadline has passed.

LANDMARKS PRESERVATION COMMISSION
NOTICE OF DECISION
#LMSAP2023-0007
2144 Shattuck Avenue
Mailed: March 4, 2024
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The application materials for this project is available online at:

<https://berkeleyca.gov/construction-development/land-use-development/zoning-projects> or
<https://permits.cityofberkeley.info/CitizenAccess/Default.aspx>

FINDINGS AND CONDITIONS OF APPROVAL AND APPROVED PLANS ARE ATTACHED TO THIS NOTICE

COMMISSION VOTE: 7-0-0-1 (note: one vacancy)

YES: CRANDALL, ENCHILL, FINACOM, LEUSCHNER, LINVILL, MONTGOMERY, TWU

NO: NONE

ABSTAIN: NONE

ABSENT: SCHWARTZ

TO APPEAL THIS DECISION (see Section 3.24.300 of the Berkeley Municipal Code):

To appeal a decision of the Landmarks Preservation Commission to the City Council you must:

1. Submit a letter clearly and concisely setting forth the grounds for the appeal to the City Clerk, located at 2180 Milvia Street, 1st Floor, Berkeley. The City Clerk's telephone number is (510) 981-6900.
 - a. Pursuant to BMC Section 3.24.300.A, an appeal may be taken to the City Council by the application of the owners of the property or their authorized agents, or by the application of at least fifty residents of the City aggrieved or affected by any determination of the commission made under the provisions of Chapter 3.24.
2. Submit the required fee (checks and money orders must be payable to 'City of Berkeley'):
 - a. The basic fee for persons other than the applicant is \$1,500. This fee may be reduced to \$500 if the appeal is signed by persons who lease or own at least 50 percent of the parcels or dwelling units within 300 feet of the project site, or at least 25 such persons (not including dependent children), whichever is less. Signatures collected per the filing requirement in BMC Section 3.24.300.A may be counted towards qualifying for the reduced fee, so long as the signers are qualified. The individual filing the appeal must clearly denote which signatures are to be counted towards qualifying for the reduced fee.

LANDMARKS PRESERVATION COMMISSION
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- b. The fee for appeals of affordable housing projects (defined as projects which provide 50 percent or more affordable units for households earning 80% or less of Area Median Income) is \$500, which may not be reduced.
- c. The fee for all appeals by Applicants is \$5,520.
3. The appeal must be received prior to 5:00 p.m. on the "APPEAL PERIOD EXPIRATION" date shown above (if the close of the appeal period falls on a weekend or holiday, then the appeal period expires the following business day).

If no appeal is received, the Structural Alteration Permit will be final on the first business day following expiration of the appeal period.

NOTICE CONCERNING YOUR LEGAL RIGHTS:

If you object to this decision, the following requirements and restrictions apply:

1. If you challenge this decision in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Landmarks Preservation Commission at, or prior to, the public hearing.
2. You must appeal to the City Council within fifteen (15) days after the Notice of Decision of the action of the Landmarks Preservation Commission is mailed. It is your obligation to notify the Land Use Planning Division in writing of your desire to receive a Notice of Decision when it is completed.
3. Pursuant to Code of Civil Procedure Section 1094.6(b) and Government Code Section 65009(c)(1), no lawsuit challenging a City Council decision, as defined by Code of Civil Procedure Section 1094.6(e), regarding a use permit, variance or other permit may be filed more than ninety (90) days after the date the decision becomes final, as defined in Code of Civil Procedure Section 1094.6(b). Any lawsuit not filed within that ninety (90) day period will be barred.
4. Pursuant to Government Code Section 66020(d)(1), notice is hereby given to the applicant that the 90-day protest period for any fees, dedications, reservations, or other exactions included in any permit approval begins upon final action by the City, and that any challenge must be filed within this 90-day period.
5. If you believe that this decision or any condition attached to it denies you any reasonable economic use of the subject property, was not sufficiently related to a legitimate public purpose, was not sufficiently proportional to any impact of the project, or for any other reason constitutes a "taking" of property for public use without just compensation under the California or United States Constitutions, your appeal of this decision must include the following information:
 - A. That this belief is a basis of your appeal.
 - B. Why you believe that the decision or condition constitutes a "taking" of property as set forth above.

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C. All evidence and argument in support of your belief that the decision or condition constitutes a “taking” as set forth above.

If you do not do so, you will waive any legal right to claim that your property has been taken, both before the City Council and in court.

PUBLIC COMMENT:

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

FURTHER INFORMATION:

Questions about the project should be directed to the project planner, Fatema Crane, at (510) 981-7410 or fcrane@berkeleyca.gov. All project application materials may be viewed at the Permit Service Center (Zoning counter), 1947 Center Street, 3rd Fl., during regular business hours.

ATTACHMENTS:

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1. Findings and Conditions
 2. Project Plans and Materials Information



ATTEST: _____
Fatema Crane, Secretary
Landmarks Preservation Commission

cc: City Clerk
Property Owner: Bollibokka Shattuck LLC, Pacific West Asset Management, P. O. Box 19068, Irvine, CA
Project Applicant & Architect: Sean Kennedy, Architect, Studio Skagg, Kennedy, Berkeley, CA

Attachment 1, Part 2

Findings and Conditions

2144 Shattuck Avenue – The American Trust Building/Wells Fargo Bank

Structural Alteration Permit #LMSAP2023-0007 to install security gates at a City Landmark property.

FINDINGS REQUIRED UNDER CEQA

1. The project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA, Public Resources Code §21000, et seq. and California Code of Regulations, §15000, et seq.) pursuant to Section 15331 of the CEQA Guidelines (“Historic Resource Restoration/Rehabilitation”). Furthermore, none of the exceptions in CEQA Guidelines Section 15300.2 apply, as follows: (a) the site is not located in an environmentally sensitive area, (b) there are no cumulative impacts, (c) there are no significant effects, (d) the project is not located near a scenic highway, and (e) the project site is not located on a hazardous waste site pursuant to Government Code Section 65962.5.

FINDINGS RELATED TO THE SECRETARY OF THE INTERIOR’S STANDARDS

Regarding the Secretary of the Interior’s Standards (SOI) for Rehabilitation, the Landmarks Preservation Commission of the City of Berkeley makes the following findings:

1. The proposed project does not require a change of use. The property will retain its historic commercial use.
2. The project will retain the historic character of the property-and will not require removal of distinctive materials and the alteration of features that characterize the property.
3. The new gates will not resemble or replicate designs from the property’s historic period. These new features are contemporary and, for this reason, cannot result in a false sense of historical development.
4. Changes to the property that may have acquired significance in their own right are not affected by this project.
5. Distinctive materials, features, finishes, and construction techniques, or examples of craftsmanship that characterize this property, such as stone base and neoclassical

decorative building details, will be substantially retained and preserved with this limited-scope project.

6. As conditioned herein, if deteriorated historic features will be affected by this request, then they would be repaired or replaced to match the materials, design, and finishes of the original items.
7. The applicant does not propose chemical or physical treatments. However, standard conditions of Structural Alteration Permit approval would require any chemical or physical treatments to be undertaken using the gentlest means possible.
8. The project does not have the potential to affect any archaeological resources because the applicant proposes no excavation.
9. The proposed new work is designed with complimentary, high-quality materials in simplified, contemporary style employing colors and finishes that harmonize with the historic design elements of the building. Owing to these aspects, new work will be sufficiently differentiated from the historic design.
10. If the proposed improvements were removed in the future, they would not permanently impair the integrity or essential form of the subject building.

FINDINGS REQUIRED UNDER LANDMARKS PRESERVATION ORDINANCE

1. As required by Section 3.24.260 of the Landmarks Preservation Ordinance, the Commission finds that the proposed work is appropriate for and consistent with the purposes of the Ordinance, and will preserve the characteristics and features specified in the designation for this property. Specifically:
 - A. The proposed project will not adversely affect the architectural design of the City LM American Trust/Wells Fargo building. The limited scope of work will not destroy any the building's character-defining features and materials. The gate installations are limited to only certain areas of the building façade and would feature high-quality yet compatible bronze or brass metal work. The features are designed to be distinct from the Neoclassical building yet are limited sufficiently so as to void competing with or drawing attention from the architectural building design.
 - B. The special character of the subject property may lie in its Neoclassical design and 12-story scale. This project would not adversely affect these qualities because they would be retained with the proposed gate installation.

STANDARD CONDITIONS

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

1. Conditions Shall be Printed on Plans

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

2. Plans and Representations Become Conditions

Except as specified herein, the site plan, floor plans, building elevations and/or any additional information or representations, whether oral or written, indicating the proposed structure or manner of operation submitted with an application or during the approval process are deemed conditions of approval.

3. Subject to All Applicable Laws and Regulations

The approved use and/or construction is subject to, and shall comply with, all applicable City Ordinances and laws and regulations of other governmental agencies. Prior to construction, the applicant shall identify and secure all applicable permits from the Zoning Adjustments Board or Zoning Officer, Building and Safety Division, Public Works Department and other affected City divisions and departments.

4. Exercise and Lapse of Permits

- A. A permit for the construction of a building or structure is deemed exercised when a valid City building permit, if required, is issued, and construction has lawfully commenced.
- B. A permit may be declared lapsed and of no further force and effect if it is not exercised within one year of its issuance, except that permits for construction or alteration of structures or buildings may not be declared lapsed if the permittee has: (1) applied for a building permit; or, (2) made substantial good faith efforts to obtain a building permit and begin construction, even if a building permit has not been issued and/or construction has not begun.

5. Indemnification Agreement

The applicant shall hold harmless, defend, and indemnify the City of Berkeley and its officers, agents, and employees against any and all liability, damages, claims, demands, judgments or other losses (including without limitation, attorney's fees, expert witness and consultant fees and other litigation expenses), referendum or initiative relating to, resulting from or caused by, or alleged to have resulted from, or caused by, any action or approval associated with the project. The indemnity includes without limitation, any

legal or administrative challenge, referendum or initiative filed or prosecuted to overturn, set aside, stay or otherwise rescind any or all approvals granted in connection with the Project, any environmental determination made for the project and granting any permit issued in accordance with the project. This indemnity includes, without limitation, payment of all direct and indirect costs associated with any action specified herein. Direct and indirect costs shall include, without limitation, any attorney's fees, expert witness and consultant fees, court costs, and other litigation fees. City shall have the right to select counsel to represent the City at Applicant's expense in the defense of any action specified in this condition of approval. City shall take reasonable steps to promptly notify the Applicant of any claim, demand, or legal actions that may create a claim for indemnification under these conditions of approval.

ADDITIONAL CONDITIONS

The following additional conditions are attached to this Permit:

6. No changes can be made to these approved plans without prior approval.
7. **CITY PERMITS.** This Structural Alteration Permit (SAP) approval is contingent upon approval of the requisite Use Permit and Public Work Permit for the project scope.
8. **PLANS COMPLIANCE.** Construction and building permit plans shall substantially conform to the Structural Alteration Permit (SAP) project plans dated/received November 27, 2023.
9. **REPAIR AND REPLACEMENT OF CHARACTER-DEFINING FEATURES.** Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old or historic feature in design, color, texture, and, where possible, materials. Replacement of missing features shall be substantiated by documentary and physical evidence.
10. Chemical or physical treatments, if appropriate, shall be undertaken using the gentlest means possible. Treatments that cause damage to historic materials shall not be used.
11. **COLORS.** Prior to Landmarks plan checker sign-off of the Building Permit set of drawings, the applicant shall submit color and materials information for review and approval by Landmarks staff, in coordination with the LPC Chair as needed.
12. **DETAILS.** Prior to Landmarks plan checker sign-off of the Building Permit set of drawings, the applicant shall submit gate design and details for review and approval by the Landmarks plan checker.
13. The applicant shall be responsible for identifying and securing all applicable permits from the Building and Safety Division and all other affected City divisions/departments prior to the start of work.

14. The applicant is responsible for complying with all the above conditions. Failure to comply with any condition could result in construction work being stopped, issuance of citations, as well as further review by the Landmarks staff, which may modify or impose additional conditions, or revoke approval.
15. All building permit drawings and subsequent construction shall substantially conform to the approved plans as outlined in Condition #1. Any modifications must be reviewed by the Landmarks plan checker to determine whether the modification requires approval.
16. The applicant shall hold harmless, defend, and indemnify the City of Berkeley and its officers, agents, and employees against any and all liability, damages, claims, demands, judgments or other losses (including without limitation, attorney's fees, expert witness and consultant fees and other litigation expenses), referendum or initiative relating to, resulting from or caused by, or alleged to have resulted from, or caused by, any action or approval associated with the project. The indemnity includes without limitation, any legal or administrative challenge, referendum or initiative filed or prosecuted to overturn, set aside, stay or otherwise rescind any or all approvals granted in connection with the Project, any environmental determination made for the project and granting any permit issued in accordance with the project. This indemnity includes, without limitation, payment of all direct and indirect costs associated with any action specified herein. Direct and indirect costs shall include, without limitation, any attorney's fees, expert witness and consultant fees, court costs, and other litigation fees. City shall have the right to select counsel to represent the City at Applicant's expense in the defense of any action specified in this condition of approval. City shall take reasonable steps to promptly notify the Applicant of any claim, demand, or legal actions that may create a claim for indemnification under these conditions of approval.

ATTACHMENT 1, PART 3

SHATTUCK AVE. SECURITY GATE

**Landmark Preservation Committee Review
2140 SHATTUCK AVENUE
11.27.23**

Project Tabulations

Project Address: 2140 Shattuck Ave
Berkeley CA, 94704

Assessor's Parcel No: 57-202300400

Zoning: C-DMU Core

Existing Occupancy: B

Proposed Occupancy: No Change

Building Area Allowed: Unlimited

Building Area Proposed: No Change

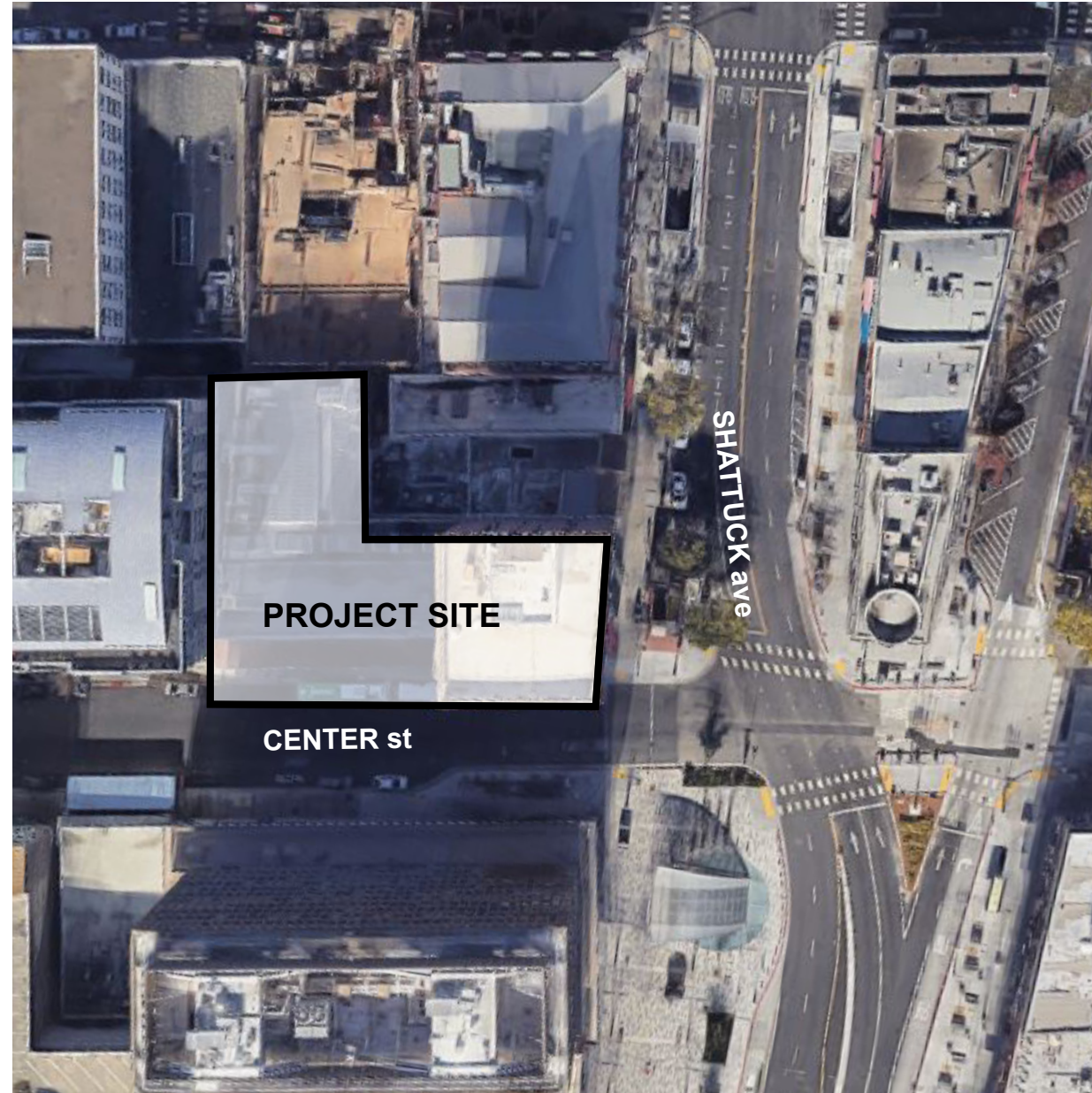
Area of Work: 146sf

Special Designation:

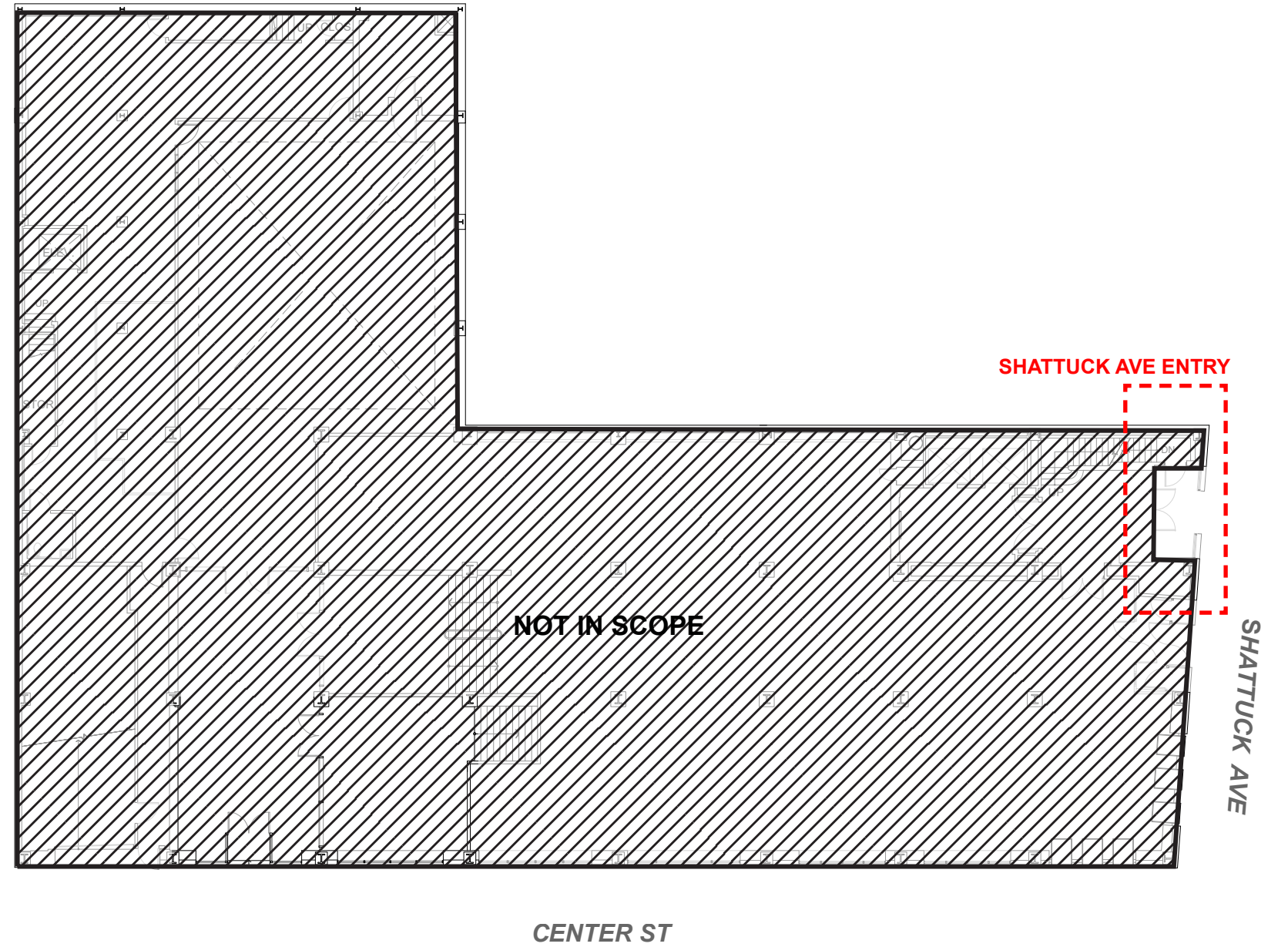
City of Berkeley Designated Landmark; Listed in National Register

Project Description:

This project proposes to add an "after-hours" security gate to protect the vestibule of 2140 Shattuck from vandalism. The proposed gate takes its design language from the existing material palette of the historic banking hall as well as the entry gate design for the recently approved Center Street entry around the corner of the building.



VICINITY MAP



SCOPE DIAGRAM
FLOOR PLAN LEVEL 1



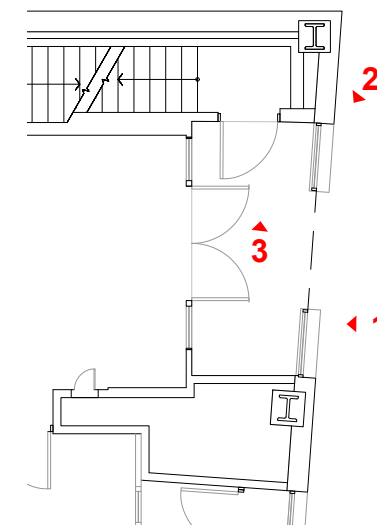
PROJECT



PROJECT 3



2



KEY PLAN



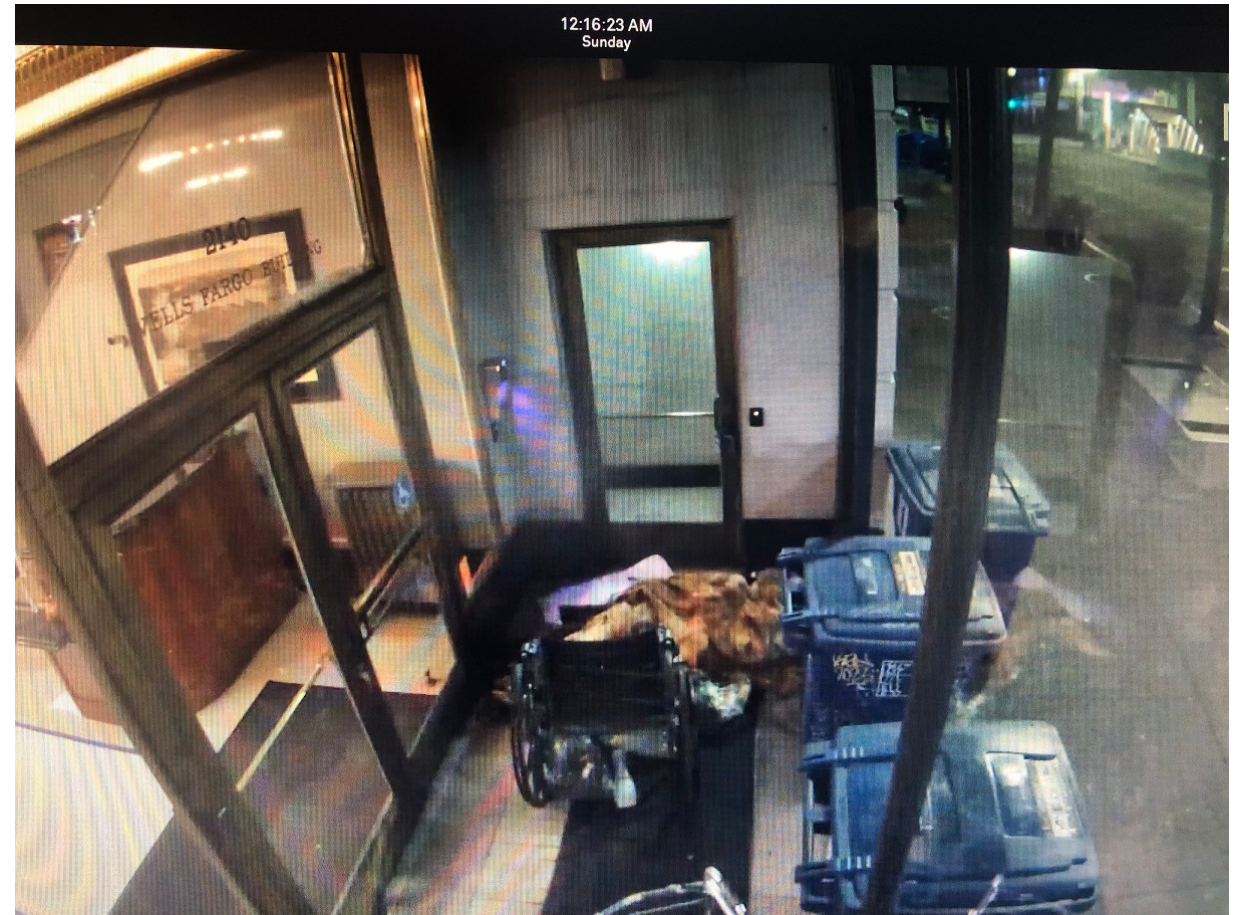
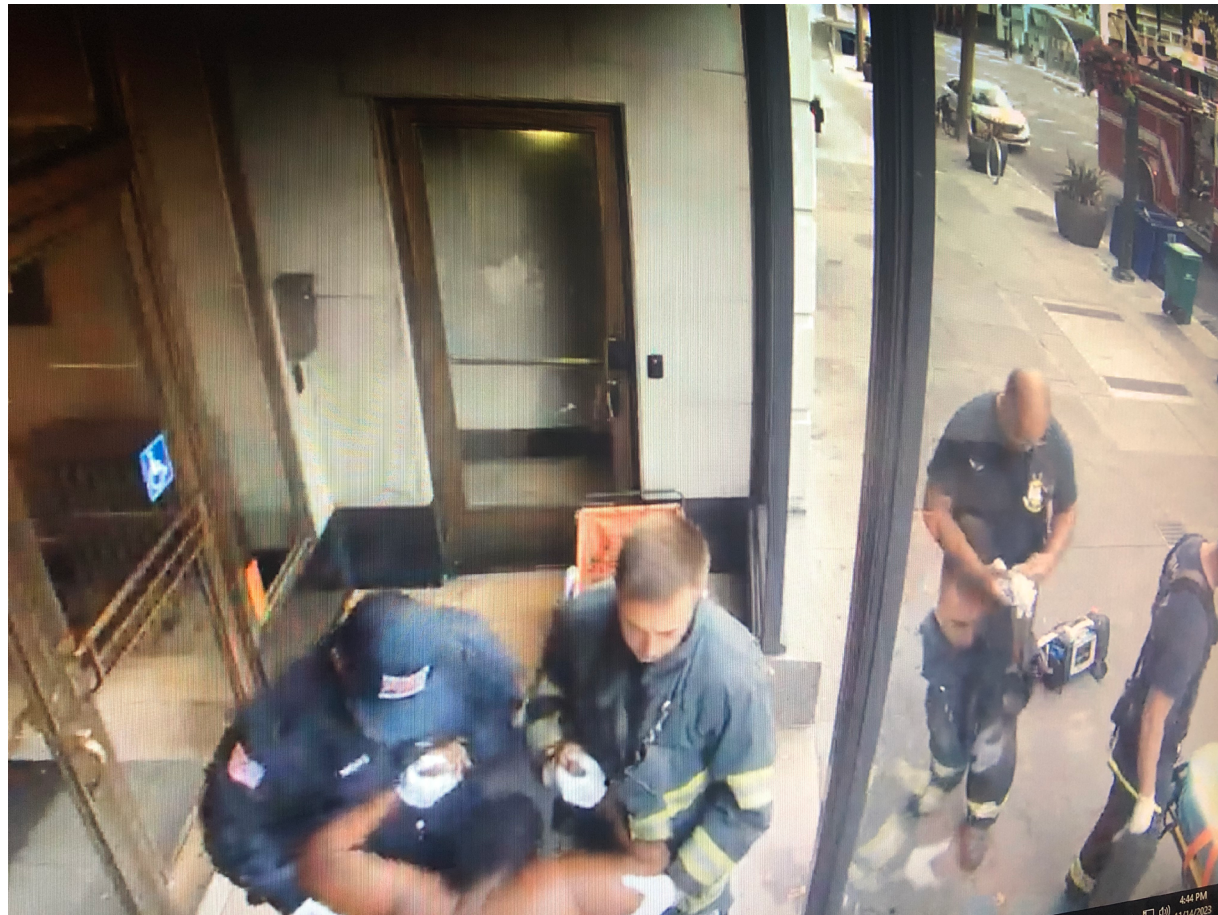
(E) BANING HALL ENTRY TO REMAIN

PROJECT

1

EXISTING PHOTOGRAPHS

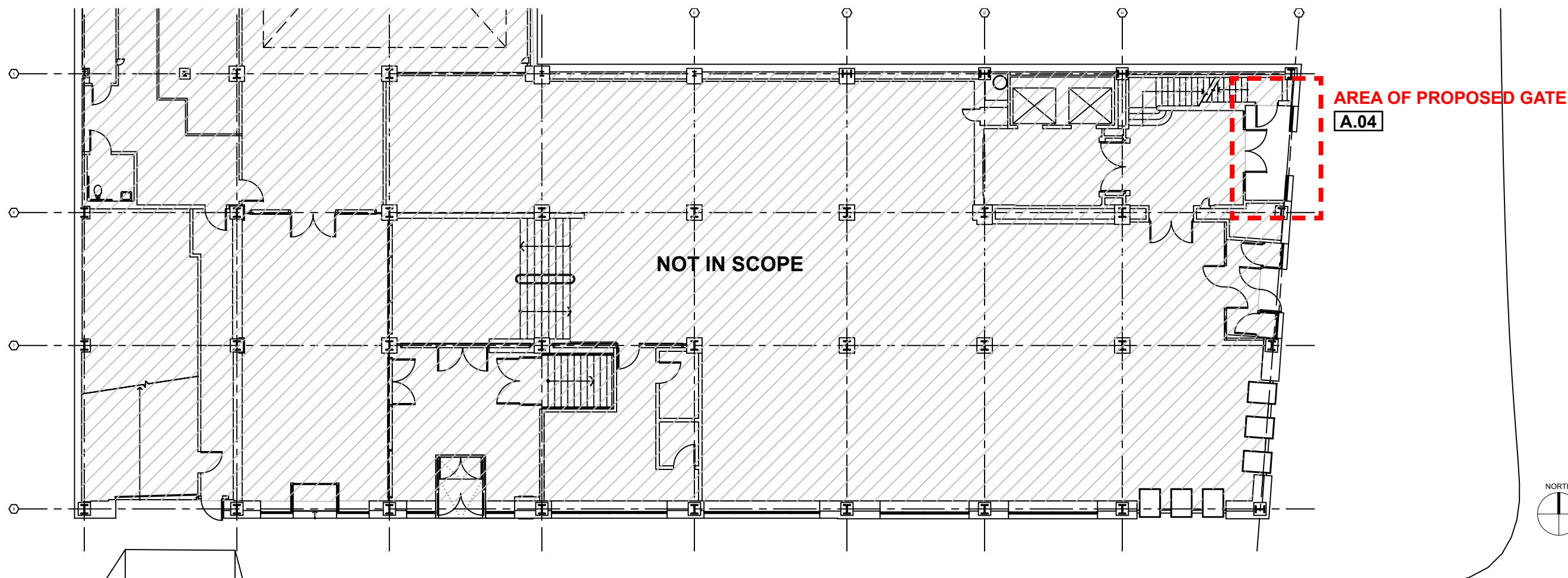
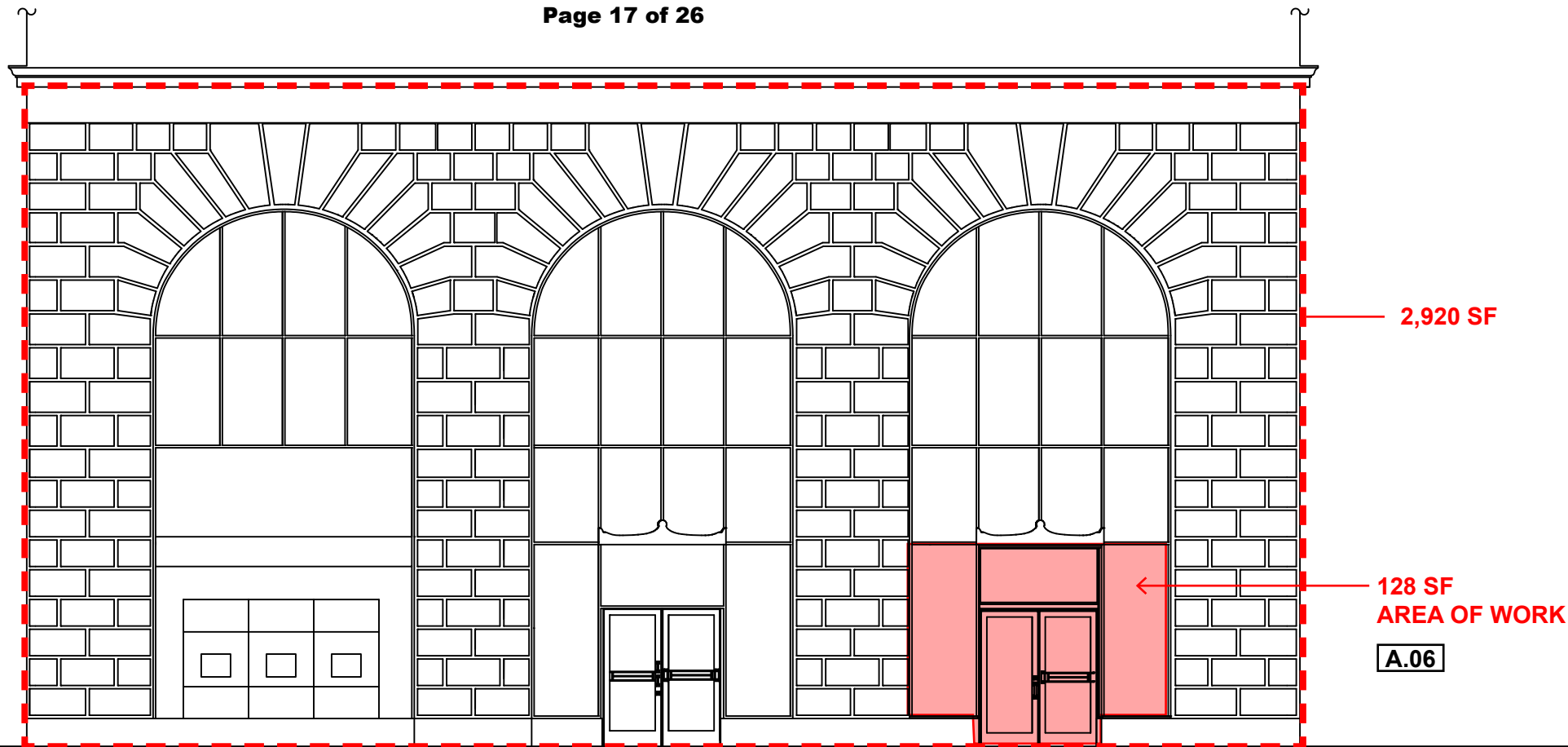
All photos taken by on 9.19.23

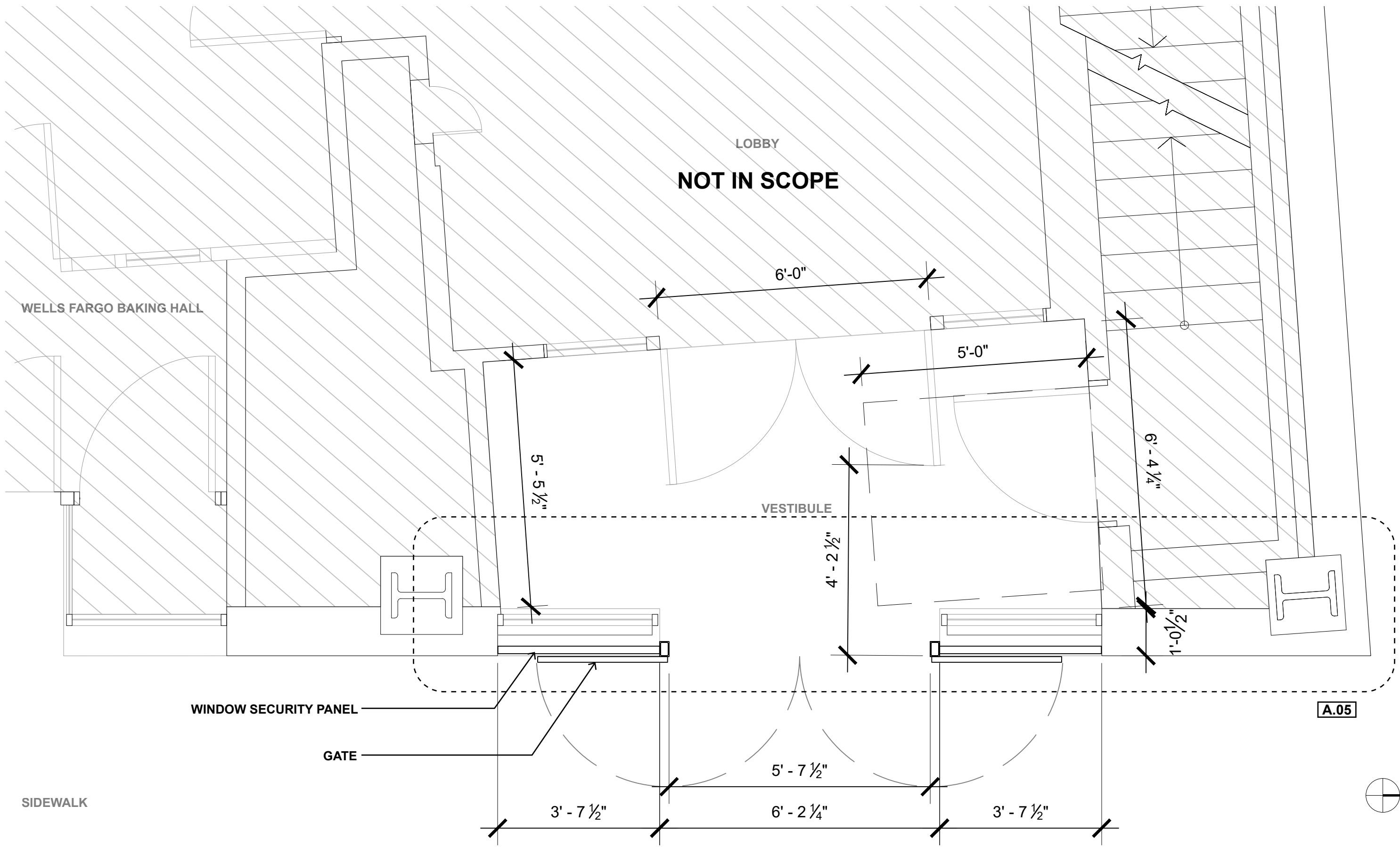


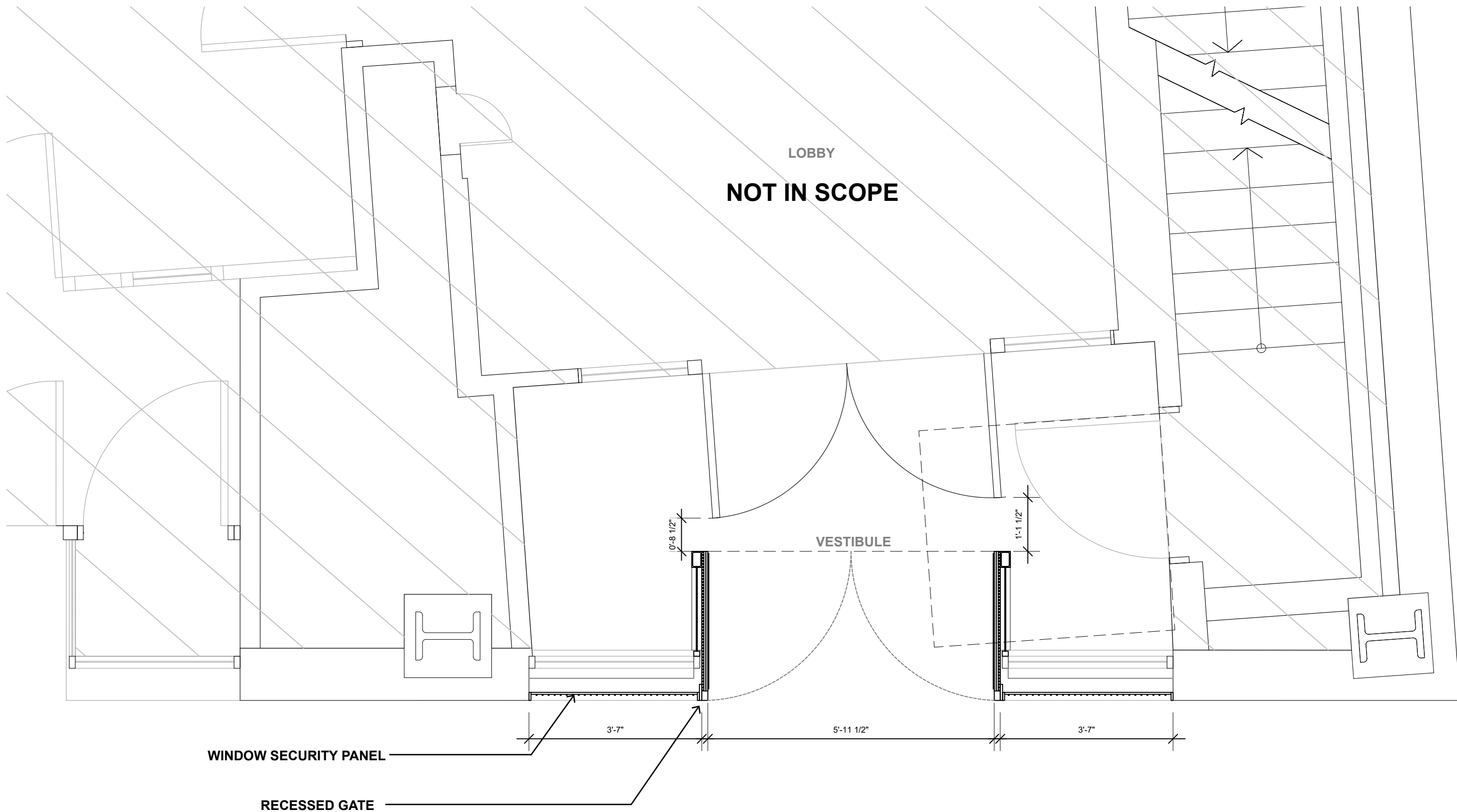
CCTV STILLS

Recent unsafe behavior in the vestibule as captured on the security cameras.

4.4% of Facade Altered

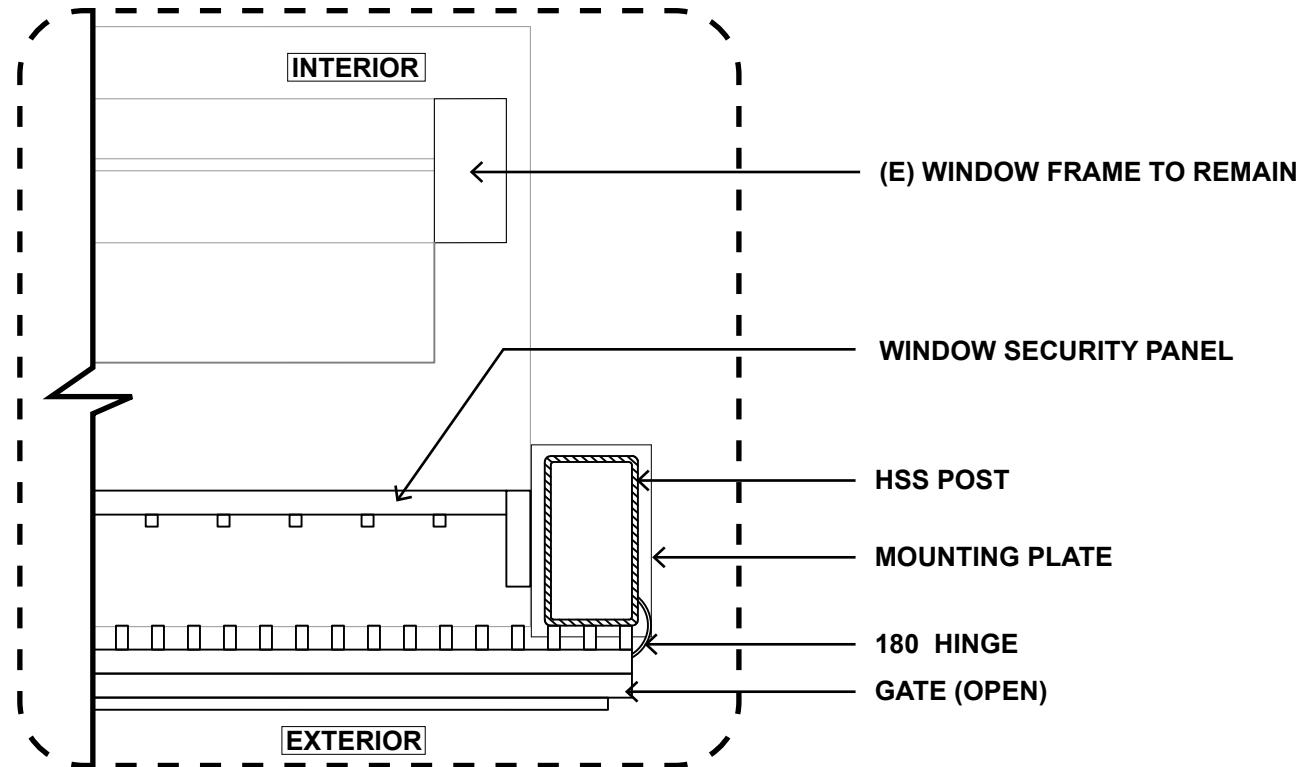




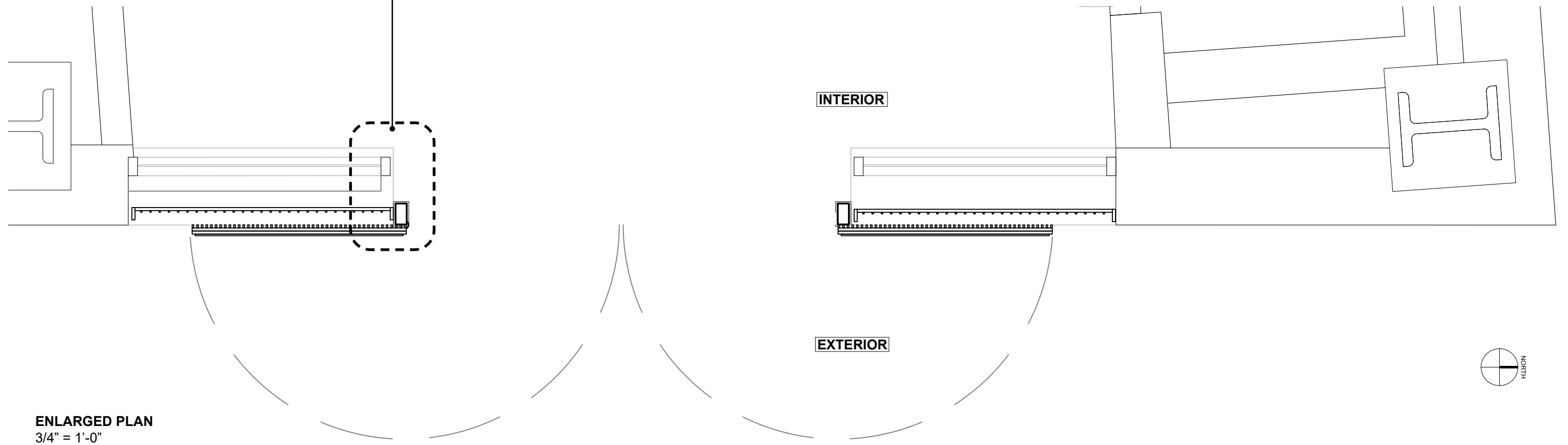
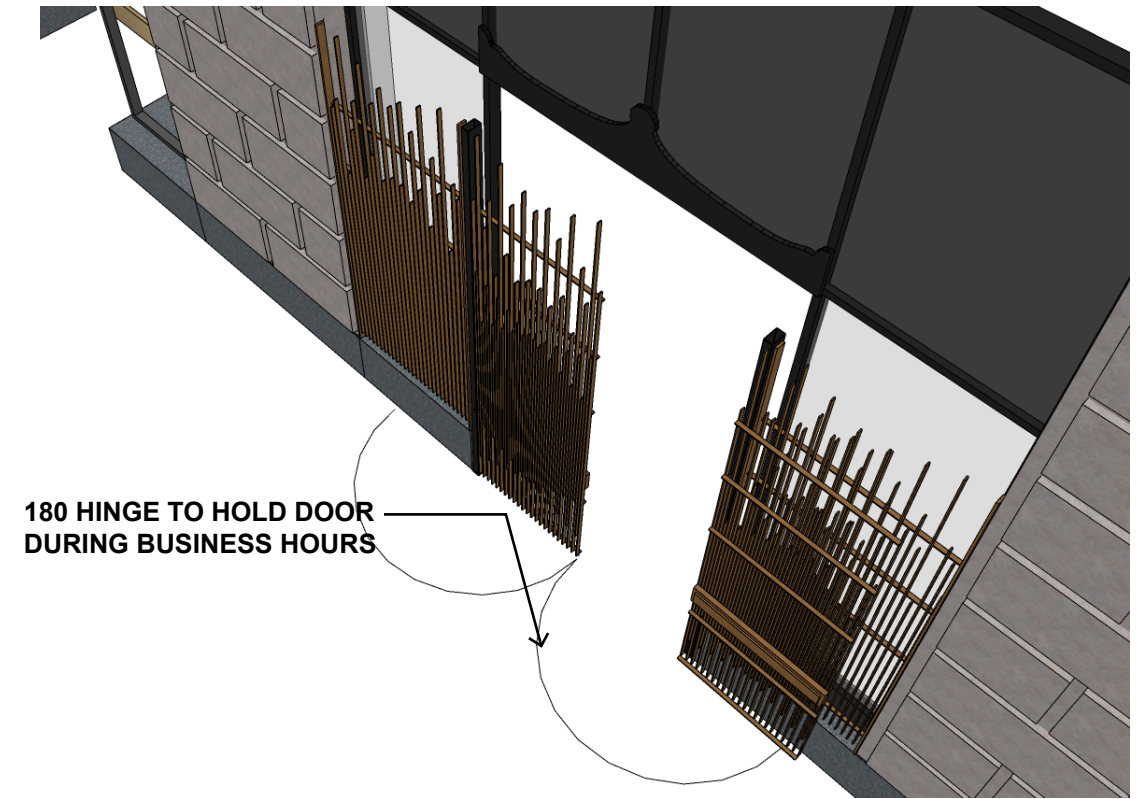


SIDEWALK

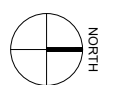
ALTERNATE OPTION

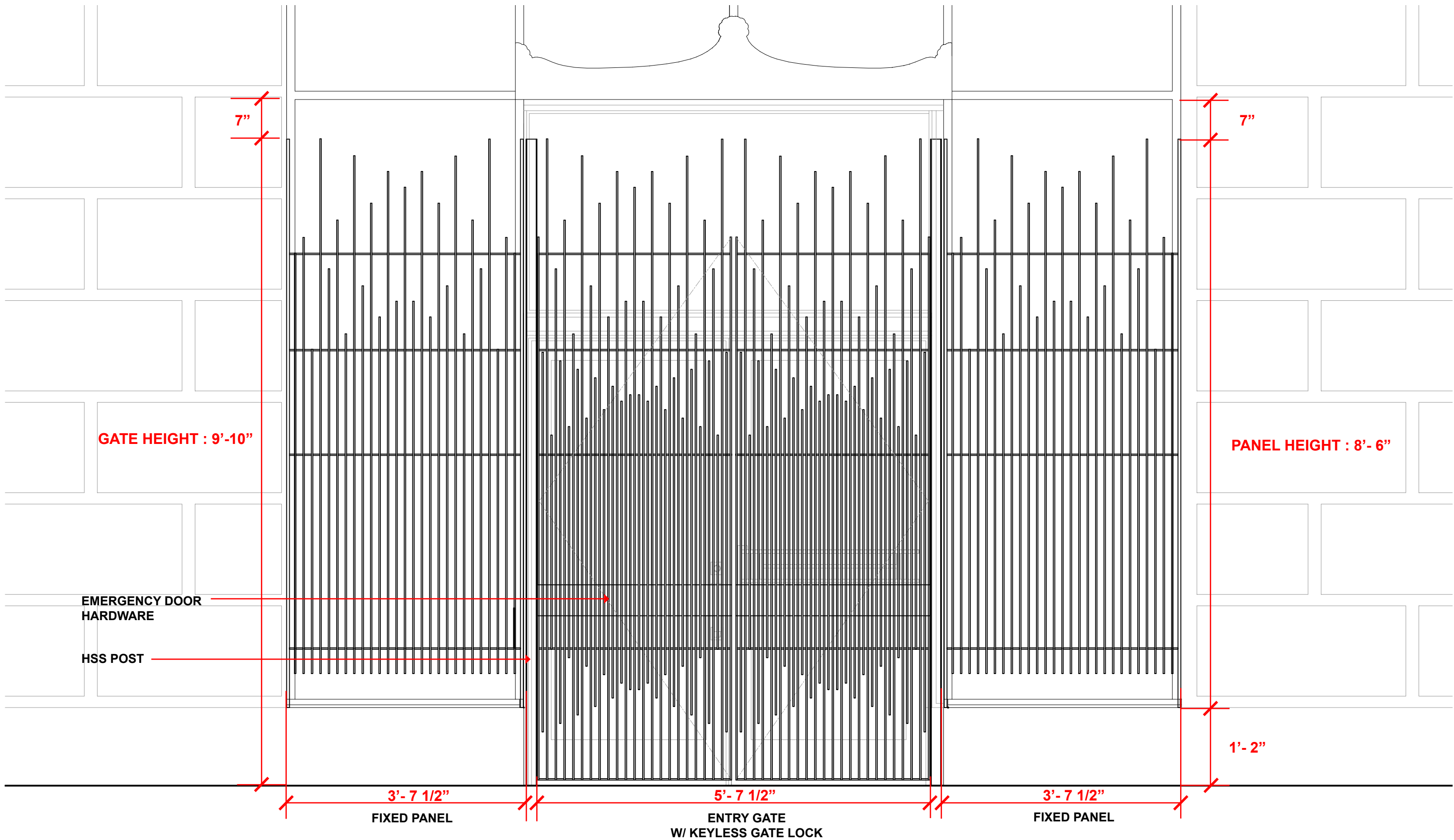


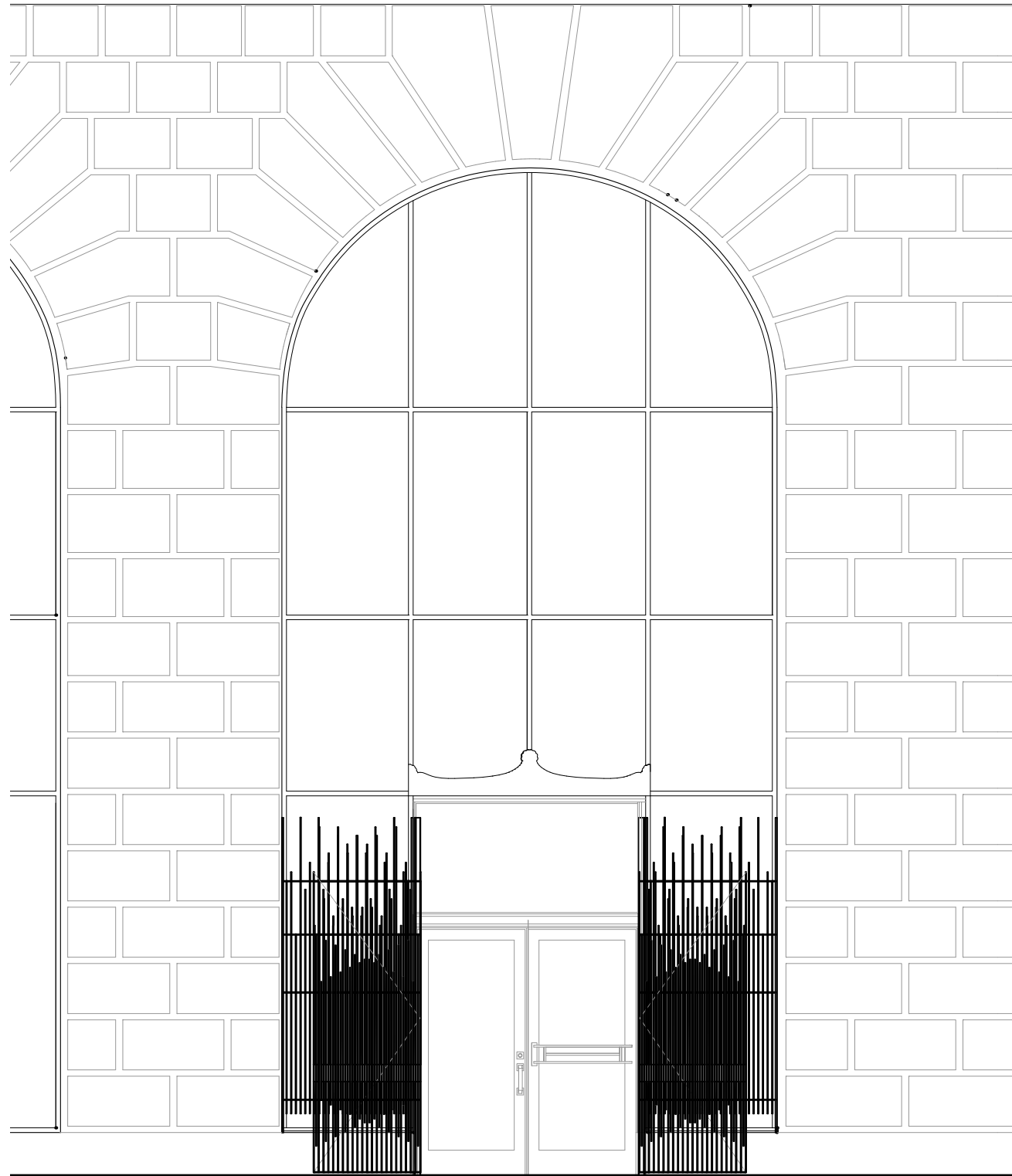
GATE JAMB DETAIL
3" = 1'-0"



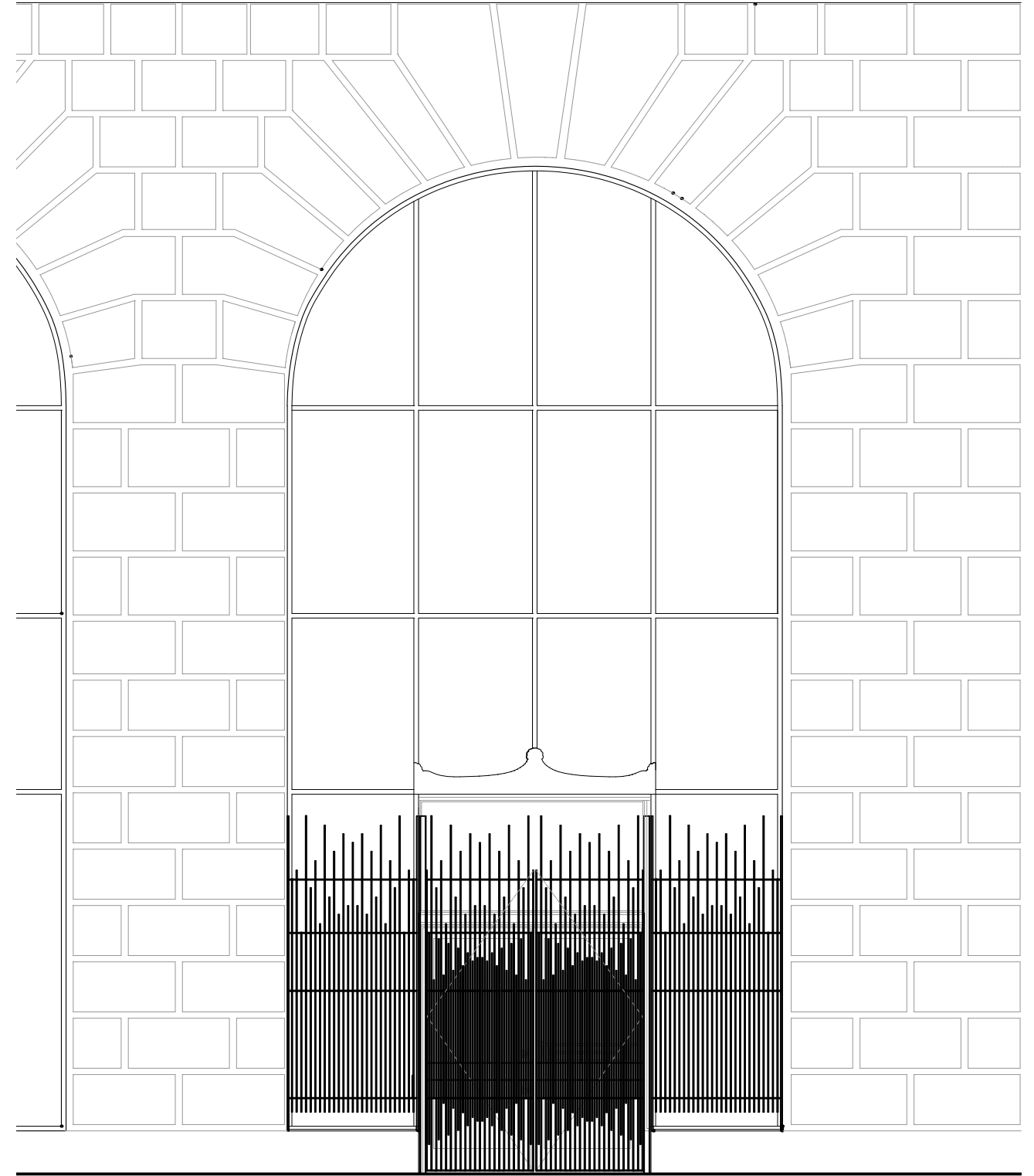
ENLARGED PLAN
3/4" = 1'-0"







GATE OPEN
DURING BUSINESS HOURS



GATE CLOSED
AFTER BUSINESS HOURS



EMERGENCY DOOR
HARDWARE



GATE OPEN
DURING BUSINESS HOURS



EMERGENCY DOOR
HARDWARE

GATE CLOSED
AFTER BUSINESS HOURS



**EMERGENCY DOOR
HARDWARE**

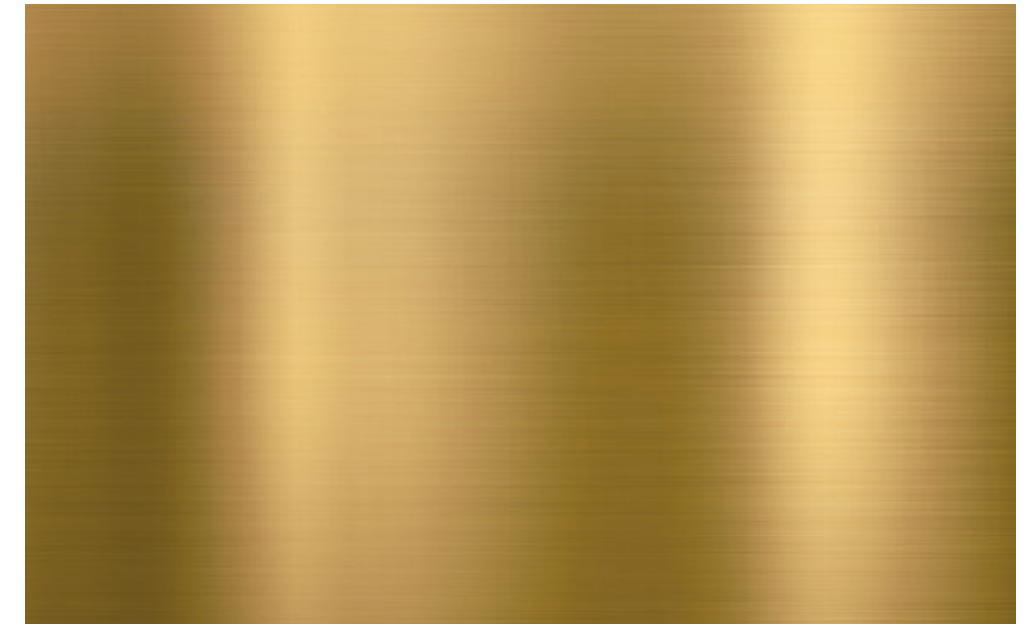
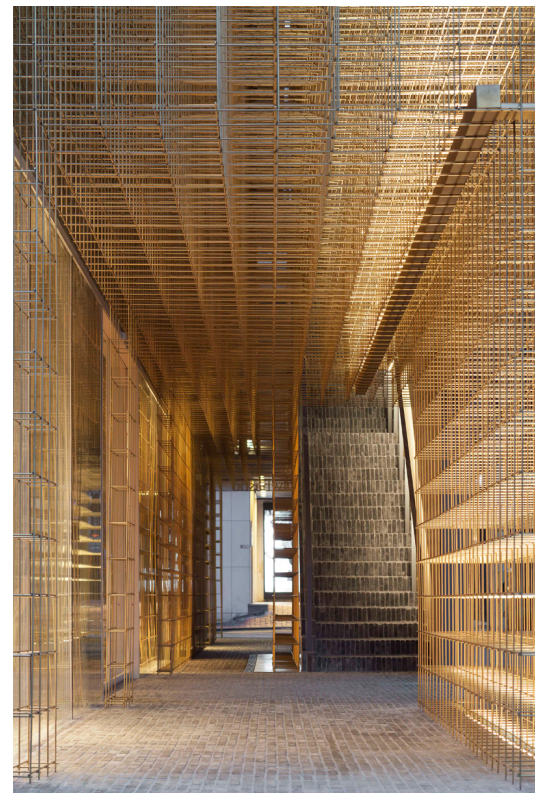


**GATE OPEN
DURING BUSINESS HOURS**



**EMERGENCY DOOR
HARDWARE**

**GATE CLOSED
AFTER BUSINESS HOURS**



EXAMPLES OF CONTEMPORARY BRASS AND BRONZE WORK



2081 CENTER ST ENTRY DESIGN



GATE OPEN
DURING BUSINESS HOURS



GATE CLOSE
AFTER BUSINESS HOURS