

CITY OF NEWPORT BEACH PLANNING COMMISSION STAFF REPORT

January 18, 2018 Agenda Item No. 5

SUBJECT: SITE LOCATION:	 Balboa Theater Renovation (PA2017-152) 707 East Balboa Boulevard Conditional Use Permit No. UP2017-021 Major Site Development Review No. SD2017-005 Coastal Development Permit No. CD2017-064 	
APPLICANT:	Balboa Theater Company, LLC	
OWNER:	Balboa Theater Company, LLC	
PLANNER:	Benjamin M. Zdeba, AICP, Associate Planner 949-644-3253, bzdeba@newportbeachca.gov	

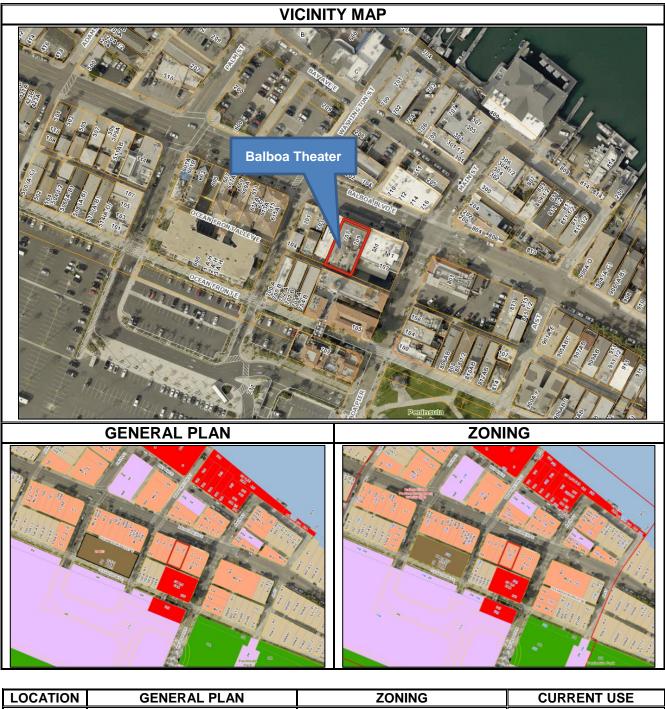
PROJECT SUMMARY

The Applicant proposes to renovate and operate the Balboa Theater as a performing arts and special event theater. The renovations include exterior façade restoration with new openable storefront windows, a recreated historical marquee, a small outdoor dining area on both sides of the main entry, and a rooftop deck. Although the principal use of the site will remain a theater, consistent with the Landmark Theater designation in the Zoning Code, an accessory café (eating and drinking establishment) is also proposed to serve theater patrons and the general public. As proposed, the café will operate from 8 a.m. to 12 a.m., daily, with a Type 47 (On-Sale General – Eating Place) Alcoholic Beverage Control (ABC) License. The Conditional Use Permit is required to allow the sale and service of alcohol. The Major Site Development Review is required for the requested increase in height to accommodate the rooftop deck. The Coastal Development Permit is required to permit the renovation and operation of the theater within the Coastal Zone.

RECOMMENDATION

- 1) Conduct a public hearing;
- 2) Find this project exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15302, Class 2 (Replacement or Reconstruction) of the CEQA Guidelines, because it has no potential to have a significant effect on the environment; and
- Adopt Resolution No. PC2018-004 approving Use Permit UP2017-021, Major Site Development No. SD2017-005, and Coastal Development Permit No. CD2017-064 (Attachment No. PC 1).

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LOCATION	GENERAL PLAN	ZONING	CURRENT USE
ON-SITE	Mixed-Use Vertical (MU-V)	Mixed-Use Vertical (MU-V)	Vacant theater
NORTH	MU-V	MU-V	Multi-tenant commercial
SOUTH	Visitor-Serving Commercial (CV) Two-Unit Residential (RT)	Commercial Visitor-Serving (CV) Two-Unit Residential (R-2)	Multi-tenant commercial Two-unit residences
EAST	MU-V	MU-V	Mixed-use development
WEST	MU-V	MU-V	Multi-tenant commercial

INTRODUCTION

Project Setting

The subject property is located on the southern side of East Balboa Boulevard, between Washington Street and Main Street in the core of Balboa Village. Commercial and mixed-use developments are along East Balboa Boulevard to the north, west, and east. To the south, across East Ocean Front Alley, is the Balboa Inn and other nonresidential uses, as well as three residentially zoned lots to the southwest. The property is 5,135 square feet in area and is developed with a 6,747-square-foot theater. There is no on-site parking; however, there is on-street parking and two municipal parking lots nearby (Palm Street lot and Balboa Pier lot).

Background

The Balboa Amusement Company constructed the Balboa Theater in 1928, and operated it as a motion picture theater until 1973. Between 1973 and 1975, the theater operated as an adult theater. By 1976, the theater was purchased by Landmark Theaters, which operated it as a movie theater until it closed its doors in 1992. Historically the theater maintained approximately 450 seats.

The building underwent a seismic retrofit and a complete interior demolition in 1994, and 1998, respectively. Later in 1998, the City purchased the property with Community Development Block Grant (CDBG) funds and leased it to the Balboa Performing Arts Theater Foundation ("Foundation"), which held the lease until 2015.

Approval was granted to the Foundation in 2004, to allow a complete renovation of the theater with a rooftop deck. The project also received a Coastal Development Permit from the California Coastal Commission. Ultimately, the Foundation could not obtain adequate funding to construct the project. All project approvals have since expired.

In 2014, the City contracted with Chambers Group, Inc. to prepare a historical resources report for the Balboa Theater, which documents the results of a historic architectural resources survey and assessment. The report concludes the structure has been altered such that it lacks the historical integrity necessary to be considered eligible to be listed on the California Register of Historic Resources or as a historical resource for CEQA purposes. However, it is listed as a locally recognized historic resource (i.e., "City Register") in the Historical Resources Element of the General Plan and subject to the policies therein.

In 2016, the property was sold by the City to the Balboa Theater Company, LLC ("Applicant"), for redevelopment as a theater. A deed restriction is recorded against the property to ensure the theater use and ancillary uses are continued in perpetuity.

Project Description

The Applicant proposes to renovate and operate the Balboa Theater as a performing arts and special event theater with an accessory café and rooftop deck similar to the previous proposal. The principal use of the property will remain a theater. The accessory use will serve both patrons of the theater and the general public.

Exterior renovations include:

- Complete façade restoration with new openable storefront windows on both sides of a new recessed entryway;
- Two 30-square-foot outdoor dining areas with a total of four seats;
- Recreated historical marquee that projects over the public sidewalk with a minimum 9-foot, 3-inch vertical clearance;
- Rooftop deck with a food and beverage service area covered by an approximately 560-square-foot steel and glass canopy set back approximately 27 feet from the building face;
- Rooftop mechanical equipment areas, which are screened from public view, and an enclosed stairway and elevator shaft;
- Recessed portion of the ground floor at the alley by approximately four feet, where the ground floor is currently built property line to property line; and
- Restored alleyway brick façade using original bricks from the building.

Interior renovations include:

- An entry lobby at the ground floor flanked by a service bar and a food and beverage area;
- New restrooms meeting accessibility standards;
- An open lower level area for flexible seating and four elevated seating areas with the restored stage at the front as the focal point; and
- A new walkway at the second floor with access to terraced balcony seating areas, a sound and lighting booth, a kitchen, and an office.

As proposed, the theater will operate from 10 a.m. to 12 a.m., daily, and will feature live musical performances, theatrical and film presentations, as well as private corporate events, community events and private celebrations. All use of sound amplification will be confined to the interior of the building with all windows and doors closed while a performance or event is in progress.

The accessory café and rooftop deck will primarily serve patrons of the theater and will operate from 8 a.m. to 12 a.m., daily. The earlier opening hour will allow patrons to engage in the historic setting by offering food and beverage service along with information about the theater and its offerings. Tickets for performances and events will also be sold during this time. The rooftop deck hours will match those of the café, so that it will be used for

additional seating when there is no event at the theater. There will be no amplified sound permitted on the rooftop deck, but the Applicant requests the ability to allow acoustic music (i.e., no sound amplification) until 10 p.m.

The café operation also includes a request for a Type 47 (On-Sale General – Eating Place) Alcoholic Beverage Control (ABC) License. Alcoholic beverages will be sold and served as a convenience accessory to the sales and service of food. Small outdoor dining areas are proposed on both sides of the marquee. These dining areas project into the public right-of-way, but will provide a clear pedestrian path of at least eight feet, consistent with Council Policy L-21 (Sidewalk Café Standards and Procedures).

DISCUSSION

Consistency with the General Plan

The subject property is designated Mixed-Use Vertical (MU-V) within the Land Use Element of the General Plan. This designation is intended to provide for the development of properties for mixed-use structures that vertically integrate housing with retail uses including retail, office, restaurant, and similar nonresidential uses. Sites may also be developed exclusively for nonresidential uses in accordance with the Neighborhood Commercial (CN), Corridor Commercial (CC), General Commercial (CG), or General Commercial Office (CO-G) designations. In this case, the renovated theater and its accessory use are consistent with the stated commercial designations, as it will serve citywide and regional needs while helping to activate and foster pedestrian activity within Balboa Village.

The General Plan Land Use Element touts Balboa Village as the historic center for recreational and social activities on the Peninsula. Several policies are included that support the proposed renovation and use:

General Plan Policy LU 6.8.2 (Component Districts)

Balboa Village should continue to serve as the primary activity center for the lower *Peninsula*. The proposed operation will resume an iconic land use in the Village and will help to reenergize the area as an activity center.

General Plan Policy LU 6.8.6 (Historic Character)

This policy indicates that historic character of Balboa Village should be preserved. The proposed renovation includes architectural treatments like plaster finish and restoration of the existing Spanish tile roof, as well as a recreated marquee sign, which will recreate the historic theater look. General Plan Policy LU 6.13.4 (Streetscapes)

This policy encourages enhancements to Balboa Village's streetscapes to enhance the area's visual quality and character as a pedestrian-oriented environment. The proposed renovation includes outdoor dining areas and openable windows at the storefront. The addition of outdoor dining will help to foster pedestrian activity throughout the core of Balboa Village, especially during the off-peak season.

General Plan Policy LU 6.13.5 (Rebuilding of Nonconforming Structures)

This policy encourages the renovation or reconstruction of nonconforming structures to their pre-existing intensity, at a minimum. The proposed renovation will reorganize the floor area to ensure an efficient use of space, but will not reduce the amount of gross floor area and will not increase the seating capacity of the theater.

The Balboa Theater is on the City Register as a locally recognized historic resource by the Historical Resources Element of the General Plan. Polices are included in this element that support the proposed renovation and use:

General Plan Policy HR 1.2 (Preservation or Re-Use of Historical Structures)

This policy encourages the preservation of structures listed on the Newport Beach Register of Historical Property. In this case, portions of the structure will be either maintained or preserved and incorporated into the design. The Spanish tile roof will be restored at the front façade, a historic marquee will be recreated, downspouts will be recreated, and all features will be complementary to the Spanish Colonial Revival architectural style. Existing bricks of the rear wall will be used as a brick veneer for the new rear wall to maintain the integrity of the landmark status of the theater.

General Plan Policy HR 1.4 (Adaptive Re-Use)

This policy encourages alternatives to demolition of historical sites or structures by promoting architecturally compatible rehabilitation or adaptive reuse. The proposed design continues the use of Spanish Colonial Revival elements from the original Balboa Theater. The project will reactivate the long-closed theater. The addition of the café and rooftop deck area will further enhance the use and will provide an additional offering to the public.

Consistency with the Zoning Code

The project site is located within the Mixed-Use Vertical (MU-V) Zoning District. This district is intended to provide for areas appropriate for the development of mixed-use structures that

vertically integrate residential dwelling units above the ground floor with retail uses including office, restaurant, retail, and similar nonresidential uses located on the ground floor or above. A theater is considered a "commercial recreation and entertainment" land use by NBMC Chapter 20.70 (Definitions), which is permitted in the MU-V District subject to the approval of a conditional use permit.

The Balboa Theater is a legal nonconforming use and structure, as it does not have a conditional use permit, encroaches into the required alley setback, exceeds the maximum allowable floor area ratio of 0.75 of the MU-V District, and lacks on-site parking. Typically, expansion of any nonconforming use or structure is subject to the approval of a use permit consistent with NBMC Chapter 20.38 (Nonconforming Uses and Structures). In this case, the proposed project is exempt from obtaining a use permit, as the building meets the definition of a "Landmark Theater" and the proposed changes meet the specific conditions of NBMC Section 20.38.070 (Landmark Structures).

A Landmark Theater is defined as a single screen or stage theater constructed before December 12, 1950, with a seating capacity above 300 seats. The Balboa Theater was constructed in 1928, as a single stage theater and it had approximately 450 seats. As such, it can be used, modified, maintained, altered, increased or intensified without the need to obtain a use permit. The exemptions are applicable provided that the project meets the following conditions.

- 1. A new use that is initiated and a use that is intensified by way of a change in operational characteristics shall be an accessory use and remain subordinate to the principal use of the landmark structure;
- 2. The principal use of the landmark structure shall occupy at least seventy (70) percent of the gross floor area of the structure;
- 3. Any permit required by other titles of the Municipal Code (other than this title) shall be obtained before the initiation or intensification of an accessory use of a landmark structure;
- 4. Accessory uses in any landmark theater shall be conducted only between the hours of 8 a.m. and 12 a.m.;
- 5. The required off-street parking of all uses after any additions, intensification, modification, or expansion (including credit for reductions in off-street parking resulting from the elimination of accessory uses existing on January 1, 2003) is less than the required off-street parking for the principal and accessory uses prior to any additions, intensification, modification or expansion; and
- 6. The facade and exterior architectural features of the landmark structure are restored to substantially their original condition as determined by the Director and the exterior walls remain in substantially the same location as they existed on January 1, 2003.

The theater, as proposed, will occupy in excess of 70 percent of the building in any given operational scenario, as discussed in the Applicant's project description (Attachment No. PC 2). At no time will the rooftop deck be allowed separate occupancy when the theater is in operation. The café and rooftop deck will serve as extensions of the theater use by promoting upcoming performances and events and will be used for pre- and post-performance gatherings and other events. A use permit is required to allow the sales and service of alcoholic beverages with a Type 47 ABC license.

The applications discussed in this report are the only applications required by Title 20 that are not specifically exempt by Section 20.38.070. The applicant is required to obtain any permits required by other titles of the Municipal Code (e.g., live entertainment permits, building permits, encroachment permits, etc.).

The proposed hours for the café and rooftop deck are 8 a.m. to 12 a.m.

The existing theater does not provide off-street parking and the number of seats will be reduced from 450 to 285, thereby reducing the amount of required parking. Although the café may service the public while an event is occurring, the rooftop deck will only be accessible to theater patrons attending an event. The total capacity for the project will not exceed 312 persons; therefore, parking for the accessory use will not increase parking requirements.

The proposed front elevation restores the theater through the use of plaster and Spanish Colonial Revival architectural features, water downspouts, and a recreated marquee sign. The existing Spanish tile roof will also be restored. The rear and portions of the side elevations that exceed the height of the adjacent buildings and visible from the street will reuse existing bricks as a new veneer to the new building walls.

For the reasons listed above, staff believes that the project meets all conditions for the proposed project to proceed pursuant to Section 20.38.070 (Landmark Buildings).

Alcohol Sales

In accordance with Section 20.48.030 (Alcohol Sales) of the Newport Beach Municipal Code, the Planning Commission must find that:

1. The use is consistent with the purpose and intent of Subsection 20.48.030 (Alcohol Sales) of the Municipal Code.

The purpose and intent of NBMC Section 20.48.030 is to maintain a healthy environment for residents and businesses by establishing a set of consistent standards for the safe operation of alcohol establishments. Alcohol sales are intended for the convenience of patrons of the theater and its café.

The commercial corridor through Balboa Village is intended to foster pedestrian activity by residents and visitors. Residential zoning districts are located in close proximity along East Balboa Boulevard to the east and west of the project site. The proposed location is an existing commercial tenant space that is oriented away from the residential and flanked on either side by a nonresidential development. Conditions of approval are included to ensure that the purpose and intent of NBMC Section 20.48.030 is maintained and that a healthy environment for residents and businesses is preserved.

The Police Department has reviewed the proposed use, provided operational conditions of approval relative to the sale of alcoholic beverages, including an Operator License, and has no objection to the Type 47 ABC license. The recommended conditions of approval will help to ensure compatibility with the surrounding uses and minimize alcohol-related impacts. The Police Department's memorandum is included as Attachment No. PC 3.

Conditional Use Permit Findings

In accordance with Section 20.52.020 (Conditional Use Permits and Minor Use Permits), the Planning Commission must also make the following findings for approval of a use permit:

- 1. The use is consistent with the General Plan and any applicable specific plan.
- 2. The use is allowed within the applicable zoning district and complies with all other applicable provisions of the Zoning Code and the Municipal Code.
- 3. The design, location, size, and operating characteristics of the use are compatible with the allowed uses in the vicinity.
- 4. The site is physically suitable in terms of design, location, shape, size, operating characteristics, and the provision of public and emergency vehicle (e.g., fire and medical) access and public services and utilities.
- 5. Operation of the use at the location proposed would not be detrimental to the harmonious and orderly growth of the City, or endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, safety, or general welfare of persons residing or working in the neighborhood of the proposed use.

Staff believes sufficient facts exist in support of each finding. The proposed hours of operation for the entire theater and its accessory uses are 8 a.m. to 12 a.m., which is compatible with other existing commercial operations in Balboa Village. The theater will comply with all requirements identified in NBMC Section 20.38.070 (Landmark Structures), thus, the subject Use Permit is only addressing the sales and service of alcoholic beverages with a Type 47 ABC license. As the proposed café and rooftop deck will remain accessory to the principal use of the property as a theater, it is expected the use will remain complementary to other uses in the Village.

Although the theater will be operating in close proximity to residential uses, all amplified sound will be confined to the interior of the building. Windows and doors are required to be closed when events or performances are in progress. There will be no amplified sound permitted on the rooftop deck, which has been set back from the front and rear property lines.

The café and rooftop deck will primarily serve patrons of the theater and will help to ensure the theater is successful by drawing in pedestrians from the corridor with architectural and visual interest, as well as outdoor dining areas.

A theater had operated at this location between 1928 and 1992. The building has since remained vacant. The proposed project will upgrade the entire building to meet current Building Code, safety, and accessibility requirements.

The building renovations are expected to have a positive impact on the overall economic health of the community and promote further revitalization of the other commercial properties within Balboa Village. Additionally, project approval will limit the theater's business hours and require an Operator License. Therefore, staff believes that the proposed ABC license and operational characteristics are appropriate for this location. Conditions of approval are included in the draft Resolution (Attachment No. PC 1) to help ensure any potential conflicts are minimized to the greatest extent possible.

Increased Height

Section 20.30.060(D)(9) (Exceptions to Height Limits) for landmark building allows structural alterations and additions to exceed the height of the existing building provided they do not exceed 55 feet with the approval of a major site development review. This provision was added in December 2003, and incorporated into the November 2010 Zoning Code Update to grant relief from the height limits for landmark buildings to encourage the reuse and redevelopment of properties such as the Balboa Theater. In this case, the base height limit is 26 feet for a flat roof and 31 feet for the ridge of a sloping roof. The Applicant requests to exceed the basic height limit with a glass guardrail for the rooftop deck at approximately 36 feet, a steel canopy cover at approximately 43 feet, 6 inches, and an elevator shaft at approximately 47 feet, 4 inches, all from established grade.

The Major Site Development Review may be approved only if the following findings are made:

- A. The proposed development is allowed within the subject zoning district.
- B. The proposed development is in compliance with all of the following applicable criteria:

- *i.* Compliance with this section, the General Plan, this Zoning Code, any applicable specific plan, and other applicable criteria and policies related to the use or structure;
- ii. The efficient arrangement of structures on the site and the harmonious relationship of the structures to one another and to other adjacent developments; and whether the relationship is based on standards of good design;
- *iii.* The compatibility in terms of bulk, scale, and aesthetic treatment of structures on the site and adjacent developments and public areas;
- *iv.* The adequacy, efficiency, and safety of pedestrian and vehicular access, including drive aisles, driveways, and parking and loading spaces;
- v. The adequacy and efficiency of landscaping and open space areas and the use of water efficient plant and irrigation materials; and
- vi. The protection of significant views from public right(s)-of-way and compliance with Section 20.30.100 (Public View Protection).
- C. The proposed development is not detrimental to the harmonious and orderly growth of the City, nor will it endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, safety, or general welfare of person residing or working in the neighborhood of the proposed development.
- D. The portion of the structural alteration or addition that exceeds the height of the existing structure does not significantly impact public views from public rights-of-way.
- E. The portion of the structural alteration or addition that exceeds the height of the existing structure will not be used in a manner that increases the intensity of the use of the landmark building.
- F. The allowed height of the landmark building will not be detrimental to the health, safety, peace, comfort, or general welfare of persons residing or working in the neighborhood of the landmark building.

The proposed project is consistent with the applicable zoning regulations discussed in the prior sections.

The design includes architectural treatments and elements to help improve the aesthetics of the site while reenergizing the pedestrian corridor along East Balboa Boulevard. These are discussed in detail in the *Balboa Village Design Guidelines* section that follows.

The site is located within the core of Balboa Village. The existing building is approximately 32 feet, 3 inches tall. The increased height to 36 feet for the rooftop deck railings, 43 feet, 6 inches to the top of the canopy cover and 47 feet, 4 inches to the top of the elevator shaft will not impact public views. There are currently no public views through or across the subject property due to the existing building height and the Balboa Inn to the south. Furthermore, the theater site is not located near or adjacent to a coastal view road or any coastal viewpoint, as designated in the Local Coastal Program.

The "intensity of use" for the Balboa Theater is measured by the seating capacity. Historically, the theater had approximately 450 seats. The additions and alterations will provide larger areas for cast and crew accommodations, a roof deck area for special events and pre/post event gatherings. Additionally, the increased floor area will provide accessible elevators, restrooms and access areas as required by the Building Code. To ensure that the intensity of use is not increased, there will be no concurrent assembly use of the rooftop deck and use of the main theater occur (Condition of Approval No. 8). With this condition and the reduction of theater seats, the intensity of the use will not be increased as compared to the historical use of the theater and this finding can be met.

The theater is located in an established commercial area with a variety of restaurant, retail, residential and visitor-serving businesses. The project site is flanked on both sides by two story commercial buildings that are approximately 22 feet (west) and 24 feet (east) high. Although the height of the remodeled theater will be higher than most surrounding buildings, it will be of similar height to the Balboa Inn, which is approximately 38 feet to the top of its parapet and 64 feet to the top of its cupola feature, and located immediately south of the theater site. The proposed theater height is lower than another landmark building located in Balboa Village, the Balboa Pavilion. The Pavilion, at approximately 65 feet tall, is higher than the proposed theater. The renovation of the theater will restore it as landmark for Balboa Village that will assist in the revitalization of the entire Village area.

Staff believes the findings to approve the Major Site Development Review can be made and recommended conditions of approval have been included in the draft resolution.

Balboa Village Design Guidelines

In October 2014, the City adopted the updated Balboa Village Design Guidelines. The guidelines establish the preferred design elements for the development and redevelopment of buildings.

The Guidelines are not regulatory standards and are subject to discretion and interpretation. This means that strict adherence to the letter of each guideline or principle is not necessary. However, the project must in total exhibit substantial conformance to the guidelines. The guidelines state that they are not a substitute for good design, and that an applicant should recognize the qualities and attributes that make up the unique architectural character of Balboa Village and retain and promote these qualities in existing

and new structures. Applicants are encouraged to design construction such that it is compatible with adjacent buildings and consistent with the village character. Landmarks are key focal points that should be preserved, and adjacent buildings should be more subdued so as not to compete with landmarks.

The Balboa Theater is one of the landmark buildings of the Village, used within the Guidelines as an example of several encouraged design elements.

The Guidelines stress the following principles, which are applicable to the project:

- Principle 1 Maintain and enhance the existing Balboa Village Character
- Principle 3 Human Scale
- Principle 4 Quality Architecture
- Principle 5 No Incompatible Architecture
- Principle 6 Inviting Streetfronts
- Principle 7 Landscape
- Principle 8 Landmarks and Context Buildings
- Principle 9 Views
- Principle 10 Special Features
- Principle 11 Sense of Enclosure
- Principle 13 Pedestrian Environment
- Principle 14 Storefront Design

Each of these principles are overarching in the Guidelines and are represented in each chapter, which are highlighted in *italics* below.

Chapter 2.1 (On-site Parking) – maintain limited visibility of parking from the street and have parking to the rear. No on-site parking has been provided historically and none is proposed. The project is exempt from off-street parking requirements pursuant to Section 20.38.070 (Landmark Buildings) of the Zoning Code because the parking required by the project is being made more conforming through the reduction of seating capacity.

Chapter 2.2 (Site Landscaping) – plants and hardscape elements are encouraged to enhance street frontages, creating a garden atmosphere and obscure unattractive elements. The existing and proposed buildings cover the entire property. Architectural elements such as floor to ceiling windows, a recessed entry, and outdoor dining areas have been incorporated into the design that soften the appearance of the building. The project is not required to provide landscaping pursuant to Section 20.38.070 (Landmark Buildings).

Chapter 2.3 (Building Form and Design) – the following design concepts are applicable to Balboa Village buildings.

Proportion – two- and three-story buildings should have a vertical proportion as opposed to a horizontal proportion and individual building elements should be in proper proportion to each other. The project retains the existing front façade and incorporates a rooftop deck and mechanical equipment enclosure above. The rooftop deck railing will be set back at least 11 feet from the front façade and the steel and glass canopy will be set back approximately 27 feet from the front façade, which will help to keep the building design in proportion both horizontally and vertically.

Scale – pedestrian scale is emphasized through awnings over the sidewalk, divided facades and compatible scale with adjacent buildings. The project has a recessed entry flanked by floor-to-ceiling, openable windows; small outdoor dining areas on either side of the entry; and a marquee sign with a vertical clearance of 9 feet, 3 inches above the sidewalk helps keep the building at a pedestrian scale. The increased setback of the proposed construction on the upper level of the project will also help to maintain appropriate scale. Two-story commercial buildings that are approximately 22 feet (west) and 24 feet (east) high flank the site. Although the theater is taller than the adjacent buildings, it is a landmark building which by definition is expected to be more prominent than adjacent buildings.

Massing – simple rectangular shapes are found throughout the village, and continued use of this shape is sought. The rectangular façade of the existing building will remain with the rectangular third floor and deck additions set back approximately 11 feet from the front property line. Staff does not believe the project deviates from this guideline nor does it represent a detrimental building mass.

Rhythm – a regular repetition of façade elements, spacing and size is encouraged. The building elevations exhibit this concept, as a balanced repetition of windows and ornamental architectural elements are shown on the proposed elevations.

Composition – the organization of façade elements. The organization of the facade elements mentioned above is balanced throughout the entire façade with adequate elements at the street level to ensure a pedestrian scale is achieved. Staff also believes that the proposed composition is consistent with a vintage theater from the 1920s.

Compatibility - the use of similar materials, colors and details to compliment the village. The intent of the project design is to continue design elements from the original Balboa Theater. The project proposes to restore the existing Spanish tile roof, water downspouts, and the original plaster surface. Additionally, the new architectural features will match the aforementioned restored features and the existing brick veneer will be salvaged and used on those portions of building sides that exceed the height of the adjacent buildings.

Chapter 2.5 (Roofs and Mechanical Screens) – the shape, material and color should be compatible with nearby landmarks. Non-traditional forms such as mansards should be avoided, and roof towers at prominent intersections on Palm and Main Streets should be considered. The project will retain the Spanish tile roof of the front façade and use matching roof material for the balance of the building and is not located at an intersection. All mechanical equipment will be situated toward the rear of the rooftop, away from East Balboa Boulevard and within an equipment enclosure.

Chapter 2.6 (Storefronts and Window Displays) – storefronts should be located in the plane of the front façade, entrances may be recessed, and should be attractive, pedestrian-oriented and engaging. The 0-foot setback on East Balboa Boulevard continues the historic lack of a front setback established along this portion of East Balboa Boulevard. However, portions of the building are set back, such as the middle double doors of the main entrance to provide an area for the doors to swing out for emergency egress while not allowing doors to swing into the sidewalk ensuring full use of the abutting public sidewalk. Staff believes the overall design of the project meets this guideline. The criteria above discussed under Chapter 2.3 regarding building form help to create an inviting pedestrian-oriented area.

Chapter 2.7 (Canopies and Awnings) – use of canopies or awning is encouraged to provide shade and shelter for pedestrians. The proposed project does not include typical awnings and/or canopies; however, the projecting marquee will serve as a focal point of the project and will serve to shade the entryway. Folding glass windows that transform into canopies are being explored as part of the project to provide weather protection for the two outdoor dining areas.

Chapter 3.1 (Architectural Styles) – existing architectural styles in Balboa Village should be considered in future additions and new construction. The proposed renovation as shown on the project plans is in the spirit of Spanish Colonial Revival architecture, which resonates throughout the Village.

Chapter 3.2 (Architectural Detailing) – simple ornament is encouraged. The project uses restored features and new features to match the restored features. All added ornamentation will be compatible with the Spanish Colonial Revival architectural style consistent with the existing theater and will not appear out of place or character.

Chapter 3.3 (Colors and Materials) – subdued earth tone colors should be used. Coordination of color, with adjacent buildings on a block, should be compatible and complementary with surrounding buildings, but not identical. The project description indicates that the original finishes will be replicated and the original brickwork at the rear and side walls will be restored or retained for use as a veneer. The façade will maintain one color and all other colors will be coordinated with the overall scheme. Chapter 3.4 (Building Lighting) – lighting should be based on designs typical of the period or style and should not emit unnecessary glare. The project, as conditioned, would comply with this recommendation. There are no specifics proposed on lighting at this time and will be review for compliance with zoning code standards (e.g., limit glare and spillage of light onto adjacent properties or right-of-way) prior to building permit issuance.

Chapter 3.5 (Sign Character) – signs should be selected or designed to capture the whimsical and traditional architectural character of the Village. The proposed renovation includes a recreation of a historic marquee, which helps to maintain continuity (i.e., tradition) between history and present day while creating visual interest along the East Balboa Boulevard corridor.

Chapter 4.1 (Site and Landscape Lighting) – see Chapter 3.4 above.

Chapter 4.2 (Screening) – screen walls should be of similar materials and fixtures to primary buildings. The existing and renovated buildings are constructed property line to property line with no screen walls at the ground level.

Chapter 4.3 (Mechanical Equipment) – all mechanical equipment should be screened from public view and architecturally integrated into the primary structure. The mechanical equipment enclosure in on the rooftop at the rear alley. All mechanical equipment will be screened from view consistent with the Zoning Code requirements for buffering and screening.

Chapter 4.4 (Trash) – trash and recycling should be located to the rear of a building and screened from public view. The proposed renovation includes an enclosed trash area at the rear of the building. Any solid waste or recycling will be stored within appropriate containers inside the enclosure and will not be visible from public view.

Chapter 4.5 (Service) – service and loading areas for commercial uses should be located away from residential units to the furthest extent possible. All service and loading will take place in the rear of the building in the alley and there are several residential units that back onto the alley. Loading and unloading on East Balboa Boulevard would be further away from the residential units to the southwest, but would obstruct the more heavily traveled right-of-way. Due to the location of the existing building and that it takes up the entire lot, there are no real opportunities to reposition it to provide a loading area further away from residential uses.

Chapter 4.6 (Alleys and Paseos) – enhancements and architectural improvements to the rear of properties is encouraged. The existing building and proposed revitalization is built to the rear property line. The rear elevation is brick and the project will reuse the existing bricks as a veneer to maintain the historical architectural integrity of the building. Portions of the renovated ground floor level will be set back an additional four feet from the rear property line, which should help with alley circulation and loading, especially given the building across the alley is also developed to its rear property line.

Chapter 4.7 (Outdoor Dining) – outdoor dining is encouraged in Balboa Village to enliven the pedestrian environment. The proposed renovation includes two small outdoor dining areas at either side of the main entrance, which project into the public right-of-way in compliance with Council Policy L-21. Openable window storefronts coupled with these projecting areas will help to activate additional pedestrian activity along East Balboa Boulevard.

Staff believes that the building design exhibits most, if not all, of the applicable principles and qualities suggested by the Balboa Village Design Guidelines.

Consistency with the Coastal Land Use Plan and Implementation Plan

The project site is designated Mixed-Uses Vertical (MU-V) by the Coastal Land Use Plan and is within the Mixed-Use Vertical (MU-V) Coastal Zoning District. These designations are intended to provide for the development of properties for (a) mixed-use structures that vertically integrate housing with retail uses, where the ground floor shall be restricted to retail and other pedestrian-active uses along the street frontage and/or the upper floors used for residential units, or (b) structures containing nonresidential uses including retail, office, restaurant, and similar uses. In this case, the renovated theater and its accessory use are consistent with the stated nonresidential uses, as it will serve citywide and regional needs while helping to activate and foster pedestrian activity the Village.

The Land Use and Development Chapter of the Coastal Land Use also notes Balboa Village as the historic center of recreation and entertainment for the Peninsula. Coastal Land Use Plan Policy 2.1.5-10 encourages Balboa Village core properties designated MU-V to be local- and visitor-serving retail commercial and mixed-use buildings that integrate residential with ground level retail or office uses that attract customer activity and improve pedestrian character. The proposed renovation will reactivate a resident-and visitor-serving destination, which is designed and will be operated to help improve pedestrian character.

As discussed above under *Consistency with the Zoning Code*, the Balboa Theater is a legal nonconforming use and structure, as it encroaches into the required alley setback, exceeds the allowable floor area ratio of 0.75, and lacks any on-site parking. NBMC Section 21.38.070 (Landmark Structures) incorporates the same Title 20 provisions into Title 21 (Local Coastal Program Implementation Plan). The proposed project is considered "development"₁ under this title and is therefore subject to the approval of a coastal development permit.

¹ "Development" means on land, in or under water, the placement or erection of solid material or a structure; discharge or disposal of dredged material or of gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of materials; change in the density or intensity of use of land, including, but not limited to, subdivision in compliance with the Subdivision Map Act (commencing with Government Code Section <u>66410</u>), and another division of land, including lot splits, except where the land division is brought about in connection with the purchase of the land by a public agency for public recreational use; change in the intensity of use of water, or of access thereto; construction, reconstruction, demolition, or alteration of the size of a structure, including a facility of a private, public, or municipal utility; and the removal or harvesting of major vegetation other than for agricultural purposes and kelp harvesting.

The Planning Commission may approve or conditionally approve a coastal development permit application, only after first finding that the proposed development:

- 1. Conforms to all applicable sections of the certified Local Coastal Program; and
- 2. Conforms with the public access and public recreation policies of Chapter 3 of the Coastal Act if the project is located between the nearest public road and the sea or shoreline of any body of water located within the coastal zone.

The proposed development complies with all applicable standards under the parameters established by NBMC Chapter 21.38 (Nonconforming Uses and Structures) and will be compatible with the surrounding existing and allowed development. The increase of height is permissible in NBMC Section 21.30.060(D)(9) (Exceptions to Height Limits – Landmark Buildings) when the following additional findings can be made:

- a. The portion of the structural alteration or addition that exceeds the height of the existing structure does not significantly impact public views from public rights-of-way.
- b. The portion of the structural alteration or addition that exceeds the height of the existing structure will not be used in a manner that increases the intensity of the use of the landmark building.
- c. The allowed height of the landmark building will not be detrimental to the health, safety, peace, comfort, or general welfare of persons residing or working in the neighborhood of the landmark building.

The aforementioned findings are duplicative of those required under NBMC Title 20 for the Major Site Development Review and are discussed in detail in the *Increased Height* section. Although the proposed structure will be taller than the adjacent buildings, the theater is a landmark structure, which by definition is expected to be more prominent than adjacent buildings.

As the building will be renovated, the new structure will be built such that all drainage is retained on-site or directed into the City's storm drain system. A water quality management plan (WQMP) has been reviewed and approved by the City's Engineer Geologist to help ensure there are not negative impacts to water quality as a result of the project.

The project site will have no further hindrance on public access to coastal resources, as it is not located between the nearest public road and the shoreline, does not currently provide access across the property, and will not impact adjacent vertical and lateral access points. As conditioned, the Applicant will be required to submit a construction management plan to help minimize any construction-related impacts to access.

<u>Summary</u>

Staff believes the findings to approve the Conditional Use Permit, Major Site Development Review, and Coastal Development Permit can all be made. As proposed, the rebuilt Balboa Theater will not significantly impact public views, will not increase the intensity of use since the number of seats will be less than the historical number and will not be detrimental to City or surrounding area. Additionally, the design conforms to the Balboa Village Design Guidelines. Activating the landmark theater use should help to revitalize the Balboa Village core and is in furtherance of the policies set forth in the General Plan Land Use Element and Historical Resources Element.

Correspondence

At the time of staff report printing, staff had received four correspondence letters in support of the proposed application. These letters are provided as Attachment No. PC 6.

Alternatives

- 1. The Planning Commission may suggest specific project modifications or operational changes that are necessary to alleviate concerns. If the changes are substantial, the item should be continued to a future meeting to allow redesign of the project; or
- 2. If the Planning Commission believes that there are insufficient facts to support the findings for approval, the Planning Commission should deny the application request (Attachment No. PC 4).

Environmental Review

This project is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15302 under Class 2 (Replacement or Reconstruction) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential to have a significant effect on the environment.

This exemption allows for the reconstruction or replacement of a commerical structure with a structure of approximatley same purpose and capacity. The nonconforming performing arts theater with an existing seating capacity of approximately 450 seats will be principally used as a performing arts theater with a reduced seating capacity of 312. The proposed café will function as an accessory use. At no time will the overall occupancy exceed that of the previously existing theater. Furthermore, an investigatory report was prepared by a qualified architectural historian finding the structure ineligible as a historic resource for CEQA purposes.

Public Notice

Notice of this hearing was published in the Daily Pilot, mailed to all owners and residential occupants of property within 300 feet of the boundaries of the site (excluding intervening rights-of-way and waterways) including the applicant and posted on the subject property at least 10 days before the scheduled meeting, consistent with the provisions of the Municipal Code. Additionally, the item appeared on the agenda for this meeting, which was posted at City Hall and on the City website.

Prepared by:

Behiamin M. Zdeba, AICP Associate Planner

ATTACHMENTS

PC 1 Draft Resolution for Approval

- PC 2 Applicant's Project Description and Justification
- PC 3 Police Department Memorandum
- PC 4 Draft Resolution for Denial
- PC 5 Project Plans
- PC 6 Public Correspondence Received

09/21/17

Submitted by:

WCampbell

Jim Campbell Deputy Community Development Director

WIEWHOWALLYBUMWARAGE

Attachment No. PC 1

Draft Resolution for Approval

MIEMIONALLYBLAWKPACE

RESOLUTION NO. PC2018-004

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH. CALIFORNIA APPROVING CONDITIONAL USE PERMIT NO. UP2017-021, MAJOR SITE DEVELOPMENT REVIEW NO. SD2017-005, AND COASTAL DEVELOPMENT PERMIT NO. CD2017-064 FOR THE **RENOVATION AND OPERATION OF THE BALBOA THEATER** LOCATED AT 707 EAST BALBOA BOULEVARD (PA2017-152)

THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH HEREBY FINDS AS FOLLOWS:

SECTION 1. STATEMENT OF FACTS.

- 1. An application was filed by Chris Bennett on behalf of the Balboa Theater Company, LLC ("Applicant"), with respect to property located at 707 East Balboa Boulevard, and legally described as Lots 4 and 5 in Block 10 of the Balboa Tract ("Property"), requesting approval of a conditional use permit, major site development review, and coastal development permit.
- 2. The existing theater is considered a "landmark theater" pursuant to Newport Beach Municipal Code ("NBMC") Sections 20.38.070 and 21.38.070 (Landmark Structures), as it was constructed in 1928, has a single stage, and was designed to seat more than three hundred (300) people.
- 3. The Applicant proposes to renovate and operate the Balboa Theater as a performing arts and special event theater. The renovations include exterior façade restoration with new openable storefront windows, a recreated historical marquee, a small outdoor dining area on either side of the main entry, and a rooftop deck. Although the principal use of the site will remain a theater, consistent with the Landmark Theater designation in the Zoning Code, an accessory café (eating and drinking establishment) is also proposed to serve theater patrons and the general public. As proposed, the café will operate from 8 a.m. to 12 a.m., daily, with a Type 47 (On-Sale General – Eating Place) Alcoholic Beverage Control (ABC) License. The Conditional Use Permit is required to allow the sale and service of alcohol. The Major Site Development Review is required for the requested increase in height to accommodate the rooftop deck. The Coastal Development Permit is required to permit the renovation and operation of the theater within the Coastal Zone.
- 4. The Property is designated Mixed-Use Vertical (MU-V) by the General Plan Land Use Element and is located within the Mixed-Use Vertical (MU-V) Zoning District.
- 5. The Property is located within the coastal zone. The Coastal Land Use Plan category is Mixed-Uses Vertical (MU-V) and it is located within the Mixed-Use Vertical (MU-V) Coastal Zone District.
- 6. A public hearing was held on January 18, 2018, in the Council Chambers at 100 Civic Center Drive, Newport Beach. A notice of time, place and purpose of the hearing was

given in accordance with the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by the Planning Commission at this hearing.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

- 1. This project is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15302 under Class 2 (Replacement or Reconstruction) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential to have a significant effect on the environment.
- 2. A Class 2 exemption allows for the reconstruction or replacement of a commerical structure with a structure of substantially the same size, purpose, and capacity. The nonconforming performing arts theater with an existing seating capacity of approximately 450 seats will be principally used as a performing arts theater with a reduced seating capacity of 318. The proposed café will function as an accessory use. At no time will the overall occupancy exceed that of the previously existing theater. Furthermore, an investigatory report was prepared by a qualified architectural historian finding the structure ineligible as a historic resource for CEQA purposes.

SECTION 3. REQUIRED FINDINGS.

Conditional Use Permit

In accordance with NBMC Subsection 20.48.030(C)(3) (Alcohol Sales) and NBMC Subsection 20.52.020(F) (Conditional Use Permits and Minor Use Permits), the following findings and facts in support of such findings are set forth:

Finding:

A. The use is consistent with the purpose and intent of Section 20.48.030 (Alcohol Sales of the Zoning Code.

Facts in Support of Finding:

In finding that the proposed use is consistent with NBMC Section 20.48.030, the following criteria must be considered:

- *i.* The crime rate in the reporting district and adjacent reporting districts as compared to other areas in the City.
- 1. The Property is located in Reporting District 12 (RD 12). The Part One Crimes (Part One Crimes are the eight most serious crimes defined by the FBI Uniform Crime Report homicide, rape, robbery, aggravated assault, burglary, larceny-theft, auto theft, and arson) crime rate in RD 12 is comparable to adjacent RD 11 and RD 13, which are predominantly residential, and lower than the Citywide average.

- 2. The Police Department has reviewed the proposal, provided operating conditions of approval, and has no objection to the introduction of the alcoholic beverage license subject to appropriate conditions of approval. An operator license will be required prior to commencing the operation, which provides the Police Department additional control over the establishment as necessary.
- *ii.* The number of alcohol-related calls for service, crimes, or arrests in the reporting district and in adjacent reporting districts.
- 1. The total number of alcohol-related calls for service, crimes, or arrests in RD 12 is higher than RD 11, but lower than adjacent RDs 13 and 15. RD 11 is comprised of residential properties, so the lower amount of alcohol-related incidents is expected. The Police Department has reviewed the proposal and has no objection.
- 2. In 2016, three calls for service representing less than one percent of all calls for service in the RD were reported at the Property. All calls for service were only listed for geographical purposes and were not specifically related to the Property.
- iii. The proximity of the establishment to residential zoning districts, day care centers, hospitals, park and recreation facilities, places of worship, schools, other similar uses, and any uses that attract minors.
- 1. The renovated theater fronts East Balboa Boulevard. There are six residential units on the second floor above Balboa Lily's restaurant in the adjacent building at 711 East Balboa Boulevard. The Property is not located within close proximity to any day care centers, hospitals, places of worship, schools, or similar uses that typically attract minors. The closest park is Peninsula Park, which is approximately 250 feet southeast of the Property.
- 2. The nature of Balboa Village is to provide goods, services, and entertainment, including eating and drinking establishments, designed to foster visitor and resident activity from travelers down the Peninsula and residents.
- 3. Eating and drinking establishments with incidental alcohol service are common in Balboa Village and the proposed ABC license is not anticipated to alter the operational characteristics of the theater use such that it becomes detrimental to the area.
- *iv.* The proximity to other establishments selling alcoholic beverages for either off-site or onsite consumption.
- 1. The closest establishments are Balboa Lily's and Cruisers Pizza immediately east. BJ's Pizza and Cabo Cantina are located approximately 200 feet southeast on Main Street, which are full service restaurants. Other establishments selling alcoholic beverages operate throughout Balboa Village, near the project site. There is no evidence suggesting these types of uses have been or will be detrimental to surrounding properties or the neighborhood.

- v. Whether or not the proposed amendment will resolve any current objectionable conditions.
- 1. Alcohol sales are currently not allowed on the site and no objectionable conditions are presently occurring.
- 2. The project has been reviewed and conditioned to help ensure that the purpose and intent of Section 20.48.030 (Alcohol Sales) of the Zoning Code is maintained and that a healthy environment for residents and businesses is preserved. The service of alcohol is intended for the convenience of customers of the establishment. Operational conditions of approval recommended by the Police Department relative to the sale of alcoholic beverages will ensure compatibility with the surrounding uses and minimize alcohol-related impacts.
- 3. The proposed hours of operation of the establishment will minimize the potential effects on land use. The establishment closes by midnight, daily, which will help to ensure the use does not become a late night bar, tavern, or nightclub.

Finding:

B. The use is consistent with the General Plan and any applicable specific plan.

Facts in Support of Finding:

- 1. The site is designated MU-V by the General Plan Land Use Element, which is intended to provide for the development of properties for mixed-use structures that vertically integrate housing with commercial uses, including retail, office, restaurant, and similar nonresidential uses. The Balboa Theater is an existing use that was originally constructed in 1928, and operated continuously until 1992. Prior land use entitlements were granted in 2004, to allow a similar operation to the proposal; however, they expired in 2013.
- 2. The Property is located within the core of Balboa Village along East Balboa Boulevard. The General Plan Land Use Element touts this area as the historic center for recreational and social activities on the Peninsula. Several policies exist that support the proposed renovation and use:
 - a. General Plan Policy LU 6.8.2 (Component Districts) states Balboa Village should continue to serve as the primary activity center for the lower Peninsula. The proposed operation will resume an iconic land use in the Village and will help to reenergize the area as an activity center.
 - b. General Plan Policy LU 6.8.6 (Historic Character) states that historic character should be preserved. The proposed renovation includes architectural treatments like plaster finish and restoration of the existing Spanish tile roof, as well as a recreated marquee sign, which will recreate the historic theater look.

- c. General Plan Policy LU 6.13.4 (Streetscapes) encourages enhancements to Balboa Village's streetscapes to enhance the area's visual quality and character as a pedestrian-oriented environment. The proposed renovation includes outdoor dining areas and openable windows at the storefront. The addition of outdoor dining will help to foster pedestrian activity throughout the core of Balboa Village, especially during the off-peak season.
- d. General Plan Policy LU 6.13.5 (Rebuilding of Nonconforming Structures) encourages the renovation or reconstruction of nonconforming structures to their pre-existing intensity, at a minimum. The proposed renovation will reorganize the floor area to ensure an efficient use of space, but will not reduce the amount of gross floor area.
- 3. The Balboa Theater is identified as a locally recognized historic resource by the Historical Resources Element of the General Plan. Polices are included in this element that support the proposed renovation and use:
 - a. General Plan Policy HR 1.2 (Preservation or Re-Use of Historical Structures) encourages the preservation of structures listed on the Newport Beach Register of Historical Property. In this case, portions of the structure will be either maintained or preserved and incorporated into the design. The Spanish tile roof will be restored at the front façade, a historic marquee will be recreated, downspouts will be recreated, and all features will be complementary to the Spanish Colonial Revival architectural style. Existing bricks of the rear wall will be used as a brick veneer for the new rear wall to maintain the integrity of the landmark status of the theater.
 - b. General Plan Policy HR 1.4 (Adaptive Re-use) encourages alternatives to demolition of historical sites or structures by promoting architecturally compatible rehabilitation or adaptive re-use. The proposed design continues the use of Spanish Colonial Revival elements from the original Balboa Theater. The project will reactivate the long-closed theater. The addition of the café and rooftop deck area will further enhance the use and will provide an additional offering to the public.
- 4. The Property is not a part of a specific plan area.

Finding:

C. The use is allowed within the applicable zoning district and complies with all other applicable provisions of this Zoning Code and the Municipal Code.

Facts in Support of Finding:

1. The site is located within the MU-V Zoning District consistent with the General Plan Land Use Element. See Fact in Support of Finding B1.

- 2. The existing theater is a legal nonconforming use and legal nonconforming structure as it does not operate pursuant to an approved use permit, the building exceeds the 26-foot basic height limit, the site provides no parking, and the building does not comply with the alley setback requirement.
- 3. The building is also nonconforming as the maximum floor area ratio is 0.75 (3,847.50 square feet). The existing building to be replaced has a gross floor area of approximately 6,747 square feet and the proposed gross floor area is approximately 8,302 square feet. As the structure is a landmark theater, additions are permissible if the parking requirement is not increased. The proposed project includes a reduction of capacity to 312 from approximately 450; thus, the intensity will not be increased.
- 4. NBMC Section 20.38.070(B)(1) defines "landmark theater" as a structure constructed for use as a cinema or theater that was constructed on or before December 12, 1950; has a single screen or stage; and was designed to seat more than 300 people. The Balboa Theater qualifies as a landmark theater as it was constructed in 1928, has a single stage, and approximately 450 seats.
- 5. NBMC Section 20.38.070(C) allows the use, alteration and expansion of a landmark theater under specific conditions without obtaining a Conditional Use Permit.
- 6. The theater, as proposed, will occupy in excess of 70 percent of the building. The only accessory use proposed is the ground floor café with a rooftop deck, which will be open to the general public.
- 7. The principal use will remain a performing arts theater. An accessory café (food service, eating and drinking establishment) is proposed to primarily support the theater operation. The café will also be open to the general public and will offer an additional dining option for residents and visitors in the Balboa Village area.
- 8. The Conditional Use Permit is required to allow alcohol sales and service from the café with a Type 47 ABC License. The sales and service of alcohol will provide a convenience for residents of the neighborhood and visitors to the area.
- 9. Accessory uses to a landmark theater are allowed to operate between the hours of 8 a.m. and 12 a.m. The Applicant proposes an opening hour of 8 a.m. to allow the opportunity to serve coffee and breakfast, which will provide a convenience for residents of the neighborhood and visitors to the area and will help to ensure a successful operation of the café component.

Finding:

D. The design, location, size, and operating characteristics of the use are compatible with the allowed uses in the vicinity.

Facts in Support of Finding:

- 1. The proposed hours of operation are 8 a.m. to 12 a.m., daily. These hours are compatible with existing commercial operations in the Balboa Village area. The Police Department has reviewed the proposed operation and has no objections to the project, as conditioned.
- 2. The existing theater does not provide off-street parking and the number of seats will be reduced thereby reducing the required parking. The introduction of the accessory theater-related social functions will not occur at the same time as assembly occupancy of the theater and the total capacity of the roof-top deck is below 312 people; therefore, parking for the accessory use will not increase parking requirements.
- 3. The proposed renovated front elevation restores the theater to be in tune with its original condition through the use of prominent window features, water downspouts, Spanish tile roof and a marquee sign.
- 4. The proposed use will remain complementary to the other uses in Balboa Village, which includes retail stores, restaurants, services, and other commercial uses. Success of the theater should help to reenergize the area with its prominent corner location at East Balboa Boulevard and Main Street, making it a viable commercial node for the neighborhood and visitors.
- 5. The proposed café will provide a convenience for residents of the neighborhood and visitors to the area.
- 6. A theater has historically been operated in this location without the benefit of a conditional use permit since the 1928.
- 7. The floor plan provides a new interior dining area with improved restroom facilities, small outdoor dining areas at the front, a kitchen area, additional storage, and a rooftop deck.
- 8. The project includes conditions of approval to ensure that potential conflicts are minimized to the greatest extent possible. Although the restaurant is adjacent to residential units at the second-floor level of the adjacent building (711 East Balboa Boulevard), the building is oriented toward East Balboa Boulevard away from the nearby mixed-use structures.
- 9. The operational conditions of approval recommended by the Police Department relative to the sale of alcoholic beverages, and the requirement to obtain and Operator License, will help ensure compatibility with the surrounding uses and minimize alcohol related impacts. The project has been conditioned to ensure the welfare of the surrounding community.
- 10. The Applicant is required to install a grease interceptor, provide a wash-out area that drains to the sewer line, obtain Orange County Health Care Agency approval prior to opening for

business, and comply with the California Building Code to ensure the safety and welfare of customers and employees within the establishment.

11. The Property is located in a relatively dense area with a mix of commercial and residential uses within a short distance of each other. The Balboa Village area is conducive to a significant amount of walk-in patrons. The area experiences parking shortages in the day time during the summer months, but parking is typically available during the rest of the year. The Palm Street and Balboa Pier municipal parking lots are located within a 300-foot radius of the theater and will accommodate the project in the off-season months. On-street parking is also available in the area.

Finding:

E. The site is physically suitable in terms of design, location, shape, size, operating characteristics, and the provision of public and emergency vehicle (e.g., fire and medical) access and public services and utilities.

Facts in Support of Finding:

- 1. The site is currently developed with the Balboa Theater. The proposed alterations and rehabilitation will not increase the floor area or footprint of the theater. The upgrades will comply with current building and safety codes including seismic upgrades, fire sprinklers and emergency ingress and egress.
- 2. Adequate public and emergency vehicle access, public services, and utilities are provided to the Property. Any additional utilities upgrades required for the proposed improvements will be required at plan check for the building permit.
- 3. The tenant improvements to the project site will comply with all State and local building, public works, and fire Codes. All City ordinances and all conditions of approval will be complied with.

Finding:

F. Operation of the use at the location proposed would not be detrimental to the harmonious and orderly growth of the City, nor endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, safety, or general welfare of persons residing or working in the neighborhood of the proposed use.

Facts in Support of Finding:

1. The project has been reviewed and includes conditions of approval to help ensure that potential conflicts with the surrounding land uses are minimized to the greatest extent possible. The operator is required to take reasonable steps to discourage and correct objectionable conditions that constitute a nuisance in parking areas, sidewalks and areas surrounding the subject Property and adjacent properties during business hours, if directly related to the patrons of the establishment.

- 2. The proposed café will provide dining services as a public convenience to the surrounding neighborhood as well as visitors. The service of alcohol will complement the principal use of the facility and provide an economic opportunity for the Property owner to maintain a successful business in a way that best serves the community.
- 3. As conditioned, the owners, managers and employees selling alcohol are required to undergo and successfully complete a certified training program in responsible methods and skills for selling alcohol.

Major Site Development Review – Landmark Structure Height Increase

In accordance with NBMC Subsection 20.52.080(F) (Findings and Decision) and NBMC Subsection 20.30.060(D)(9) (Height Limits and Exceptions – Landmark Buildings), the following findings and facts in support of such findings are set forth:

Finding:

G. The proposed development is allowed within the subject zoning district.

Fact in Support of Finding:

See Fact in Support of Finding C3 above.

Finding:

- *H.* The proposed development is in compliance with all of the following applicable criteria:
 - *i.* Compliance with this section, the General Plan, this Zoning Code, any applicable specific plan, and other applicable criteria and policies related to the use or structure;
 - *ii.* The efficient arrangement of structures on the site and the harmonious relationship of the structures to one another and to other adjacent developments; and whether the relationship is based on standards of good design;
 - *iii.* The compatibility in terms of bulk, scale, and aesthetic treatment of structures on the site and adjacent developments and public areas;
 - *iv.* The adequacy, efficiency, and safety of pedestrian and vehicular access, including drive aisles, driveways, and parking and loading spaces;
 - v. The adequacy and efficiency of landscaping and open space areas and the use of water efficient plant and irrigation materials; and
 - vi. The protection of significant views from public right(s)-of-way and compliance with Section 20.30.100 (Public View Protection).

Facts in Support of Finding:

- i. See all Facts in Support of Findings B and C above.
- ii-1. The project has been designed to improve the aesthetics of the site and improve the pedestrian corridor through Balboa Village along East Balboa Boulevard. The façade will be refreshed, but will maintain the historic character of the existing building. Restoration of the marquee sign and varying architectural treatments around the windows and doors will help to bring the building to a more pedestrian scale. The proposed outdoor dining areas will also help to energize the pedestrian corridor with additional activity.
- ii-2. All mechanical equipment for the theater and its accessory use would be screened within mechanical equipment enclosures at the lower levels or in designated equipment areas at the roof deck area.
- ii-3. The status of the theater as a landmark theater allows the height of the building to be increased up to 55 feet. The architecture and increased height result in a revitalized landmark structure in the Village. The design and architecture are compatible with the surrounding neighborhood and complementary to Balboa Village as a whole. Other iconic buildings, including the Balboa Pavilion and the Balboa Inn are in close proximity and are similar in height. Therefore, the height of the theater will not appear out of character with the immediate area.
- iii. The theater is designed to be consistent with the overarching principles of the Balboa Village Design Guidelines. This will help to ensure compatibility with not only adjacent structures, but with buildings throughout Balboa Village that are also subject to the same set of guidelines. The proposed renovation, including overall site design and architecture, are generally consistent with the guidelines for the following reasons:
 - a. The project design continues the use of Spanish Colonial Revival elements from the existing Balboa Theater. Specific highlights include plaster banding at the windows, heavy plaster walls with simple surfaces, and a tile roof.
 - b. The existing finish is planned to be restored with new areas to match existing in terms of texture. Existing bricks of the rear wall will be used as a brick veneer for the new rear wall to maintain the integrity of the landmark status of the theater.
 - c. The pedestrian scale of the project is maintained through divided facades and a compatible scale with adjacent buildings. The project has floor-to-ceiling, openable windows; which will convert into awnings and shelter from weather when in operation; and a marquee sign that keeps the building at a pedestrian scale at approximately 9 feet, 3 inches above the sidewalk. The increased setback of the proposed construction on the upper level and roof deck of the project reduces the mass in relation to the sidewalk. Although the theater height is taller than immediately adjacent buildings, the theater is a landmark building, which by definition is expected to be a more prominent than adjacent buildings.

- d. The project refreshes the existing front façade and incorporates a roof deck and mechanical equipment enclosure above creating a vertical expression of the architecture. The building elevations exhibit the concept of a regular repetition of façade elements with consistent spacing and size that is in proportion to each other. The front elevation also includes the use of simple rectangular shapes found throughout the Village.
- e. The lack of a front setback along East Balboa Boulevard will be continued with the proposed project consistent with the desire to maintain the historical zero-foot setback of many of the building in the Balboa Village. The front doors are slightly setback from the Property line to allow proper door swing off the sidewalk consistent with the existing façade, typical of vintage theaters.
- f. The project includes the approval of a marquee sign that is planned to be similar to the original sign, which is not in strict compliance with the current sign regulations. Landmark buildings allow for the restoration of landmark structures to their original condition, and therefore, compliance is not necessary.
- iv-1. There are no driveways to the project site. Vehicular access is provided along East Balboa Boulevard and at the rear along East Ocean Front Alley. The proposed structure will reduce the amount of encroachment into the 10-foot rear alley setback by four feet for nearly the entire width of the Property and should help to improve vehicular maneuverability.
- iv-2. There is no existing off-street parking to serve the theater. No off-street parking is required or proposed.
- iv-3. The outdoor dining areas that encroach into the public right-of-way will be reviewed as part of the building permit plan check process to ensure City Council Policy L-21 is adhered to (Condition of Approval No. 73). This will ensure adequate safe pedestrian access is provided all along the theater site.
- v-1. As the existing and proposed structures are located at the front Property line with no setback required, there is no landscaping existing or proposed. NBMC Chapter 14.17 (Water-Efficient Landscaping) does not apply.
- v-2. The façade includes a recessed entry and openable, floor-to-ceiling windows to provide an open frontage that should help to encourage pedestrian activity through the core of Balboa Village.
- vi-1. The project location is not located along a designated coastal view road or adjacent to a public viewpoint.
- vi-2. The existing structure covers the entire Property and is approximately 32 feet, 3 inches tall. The proposed structure will be approximately 36 feet from grade to the rooftop deck guardrail and 43 feet, 6 inches from grade to the top of the glass and steel canopy cover. The highest point will be the elevator shaft at approximately 47 feet, 4 inches from grade.

The increased height will not have a significant impact on public views from public rightsof-way, as there are currently no views through or across the Property.

Finding:

I. The proposed development is not detrimental to the harmonious and orderly growth of the City, nor will it endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, safety, or general welfare of person residing or working in the neighborhood of the proposed development.

Facts in Support of Finding:

- 1. The proposed height of the Balboa Theater will not, under the circumstances of the particular case, be detrimental to the health, safety, peace, comfort and general welfare of persons residing or working in the neighborhood. The performing arts theater is located within an established commercial district with a variety of restaurant, residential, retail and visitor-serving businesses. Although the height of the remodeled theater will be higher than most surrounding buildings, it will be of similar height to the Balboa Inn, which is located directly south of the subject site. The design incorporates architectural features to the keep the building at a pedestrian scale and the increased height reinforces the prominence of the theater as a landmark for the core of Balboa Village. The project substantially complies with the Balboa Village Design Guidelines as evidenced in Fact in Support of Finding iii-1 above.
- 2. Accessory uses on the roof deck are not permitted to occur simultaneously with any events in the lower levels. All activity on the roof deck is limited to the hours between 8 a.m. and 12 a.m.

Finding:

J. The portion of the structural alteration or addition that exceeds the height of the existing structure does not significantly impact public views from public rights-of-way.

Fact in Support of Finding:

The existing structure covers the entire Property and is approximately 31 feet, 3 inches tall. The increased height to approximately 47 feet, 4 inches at its tallest point will not have a significant impact on public views from public rights-of-way, as there are currently no views through or across the Property.

Finding:

K. The portion of the structural alteration or addition that exceeds the height of the existing structure will not be used in a manner that increases the intensity of the use of the landmark building.

Fact in Support of Finding:

The theater historically had 450 seats. The proposed renovation lowers the seat count to approximately 264 with an overall capacity to 312 persons. The increase in height to add a rooftop deck will not increase the intensity, as the rooftop deck will not be used simultaneously with the event space in the lower levels.

Finding:

L. The allowed height of the landmark building will not be detrimental to the health, safety, peace, comfort, or general welfare of persons residing or working in the neighborhood of the landmark building.

Fact in Support of Finding:

See Fact in Support of Finding I1 above.

Coastal Development Permit

In accordance with NBMC Subsection 21.52.015(F) (Findings and Decision) and NBMC Subsection 21.30.060(D)(9) (Height Limits and Exceptions – Landmark Buildings), the following findings and facts in support of such findings are set forth:

Finding:

M. Conforms to all applicable sections of the certified Local Coastal Program.

Facts in Support of Finding:

- 1. The proposed development complies with applicable development standards and under the parameters established by NBMC Chapter 21.38 (Nonconforming Uses and Structures).
 - a. The maximum floor area ratio is 0.75 (3,847.50 square feet). The existing building to be replaced has a gross floor area of approximately 6,747 square feet and the proposed gross floor area is approximately 8,302 square feet. As the structure is a landmark theater, additions are permissible if the parking requirement is not increased. The proposed project includes a reduction of capacity to 312 from approximately 450; thus, the intensity will not be increased.
 - b. The proposed development complies with the required front and side setbacks, which are each zero feet. The existing building encroaches into the 10-foot rear alley setback. The proposed structure will reduce the encroachment by four feet for most of the building on the alleyway and will help to improve alley circulation.
 - c. The highest portion of the structure is approximately 47 feet, 4 inches from the established grade elevation of 10.43 feet (NAVD88). NBMC Section

21.30.060(D)(9) allows a landmark theater to exceed the height limit up to a maximum of 55 feet, subject to the approval of a coastal development permit. The approval may only be granted if additional findings are made. See Findings O, P, and Q below.

- 2. The surrounding neighborhood is predominantly developed with one- and two-story nonresidential structures to the north, east, and west. To the south across East Ocean Front Alley is a three-story mixed use development and the Balboa Inn beyond, which is also three stories. The proposed design, bulk, and scale of the replacement structure is comparable to the existing structure and will be compatible with development in the immediate neighborhood. Although the theater height is taller than immediately adjacent buildings, the theater is a landmark building, which by definition is expected to be a more prominent than adjacent buildings.
- 3. The finished floor elevation of the proposed structure exceeds the 9.00-foot (NAVD88) minimum elevation standard.
- 4. The Property is located in an area known for the potential of seismic activity and liquefaction. All projects are required to comply with the California Building Code (CBC) and Building Division standards and policies. Geotechnical investigations specifically addressing liquefaction are required to be reviewed and approved prior to the issuance of building permits. Permit issuance is also contingent on the inclusion of design mitigation identified in the investigations. Construction plans are reviewed for compliance with approved investigations and CBC prior to building permit issuance.
- 5. Pursuant to NBMC Section 21.35.050 (Water Quality and Hydrology Plan), due to the proximity of the development to the shoreline and the development containing more than 75 percent of impervious surface area, a Water Quality and Hydrology Plan (WQHP) is required. To fulfill this requirement, a Water Quality Management Plan (WQMP) has been reviewed and approved by the City's Engineer Geologist. The WQMP includes a polluted runoff and hydrologic site characterization, a sizing standard for best management practices (BMPs), use of a low-impact development (LID) approach to retain the design storm runoff volume on site, and documentation of the expected effectiveness of the proposed BMPs. Construction plans will be reviewed for compliance with the approved WQMP prior to building permit issuance.
- 6. The project design addresses water quality with a construction erosion control plan and a post-construction drainage system that includes drainage and percolation features designed to retain dry weather and minor rain event run-off on-site. Any water not retained on-site is directed to the City's storm drain system.

Finding:

N. Conforms with the public access and public recreation policies of Chapter 3 of the Coastal Act if the project is located between the nearest public road and the sea or shoreline of any body of water located within the coastal zone.

Facts in Support of Finding:

- 1. The project site is not located between the nearest public road and the sea or shoreline; therefore, the project will not affect the public's ability to gain access to, use, and/or view the coast and nearby recreational facilities. Vertical access is available immediately adjacent to the project site by way of Washington Street and Main Street. Lateral access is provided by way of East Ocean Front. The Applicant is required to provide a construction management plan that helps to minimize any impacts to access during construction activities.
- 2. The project site is not located near any designated coastal viewpoints or coastal view roads, as designated in the Coastal Land Use Plan.

Finding:

O. The portion of the structural alteration or addition that exceeds the height of the existing structure does not significantly impact public views from public rights-of-way.

Fact in Support of Finding:

See all Facts in Support of Finding J above.

Finding:

P. The portion of the structural alteration or addition that exceeds the height of the existing structure will not be used in a manner that increases the intensity of the use of the landmark building.

Fact in Support of Finding:

See all Facts in Support of Finding K above.

Finding:

Q. The allowed height of the landmark building will not be detrimental to the health, safety, peace, comfort, or general welfare of persons residing or working in the neighborhood of the landmark building.

Fact in Support of Finding:

See all Facts in Support of Finding L above.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

- 1. The Planning Commission of the City of Newport Beach hereby approves Conditional Use Permit No. UP2017-021, Major Site Development Review No. SD2017-005, and Coastal Development Permit No. CD2017-064, subject to the conditions set forth in Exhibit "A," which is attached hereto and incorporated by reference.
- 2. The Conditional Use Permit and Major Site Development Review actions shall become final and effective fourteen (14) days following the date this Resolution was adopted unless within such time an appeal is filed with the City Clerk in accordance with the provisions of NBMC Title 20 Planning and Zoning. The Coastal Development Permit shall become final and effective fourteen (14) days following the date this Resolution was adopted unless within such time an appeal or call for review is filed with the Community Development Director in accordance with the provisions of Title 21 Local Coastal Implementation Plan, of the Newport Beach Municipal Code. Final action taken by the City may be appealed to the Coastal Commission in compliance with Section 21.64.035 of the City's certified LCP and Title 14 California Code of Regulations, Sections 13111 through 13120, and Section 30603 of the Coastal Act.

PASSED, APPROVED, AND ADOPTED THIS 18TH DAY OF JANUARY, 2018.

AYES:

NOES:

ABSTAIN:

ABSENT:

BY:

Peter Koetting, Chairman

BY:___

Erik Weigand, Secretary

EXHIBIT "A"

CONDITIONS OF APPROVAL

(Project-specific conditions are in italics)

Planning Division

- 1. The development shall be in substantial conformance with the approved site plan, floor plans and building elevations stamped and dated with the date of this approval. (Except as modified by applicable conditions of approval.)
- 2. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
- 3. The Applicant shall comply with all federal, state, and local laws. Material violation of any of those laws in connection with the use may be cause for revocation of this Use Permit.
- 4. This approval may be modified or revoked by the Planning Commission should they determine that the proposed uses or conditions under which it is being operated or maintained is detrimental to the public health, welfare or materially injurious to property or improvements in the vicinity or if the Property is operated or maintained so as to constitute a public nuisance.
- 5. The hours of operation for the café and rooftop deck shall be limited to between 8 a.m. and 12 a.m. All customers shall vacate the premises no later than 30 minutes after the designated closing time.
- 6. When any event with sound amplification is in progress in the main performance area, all doors and windows must remain closed except as required for ingress and egress.
- 7. There shall be no amplified sound on the rooftop deck.
- 8. At no point in time shall there be separate, concurrent occupancy of the rooftop deck and theater space when a performance or event is occurring.
- 9. Any change in operational characteristics, expansion in area, or other modification to the approved plans, shall require subsequent review and may require an amendment to this Conditional Use Permit or the processing of a new Conditional Use Permit.
- 10. A copy of the Resolution, including conditions of approval Exhibit "A" shall be incorporated into the Building Division and field sets of plans <u>prior to issuance of the building permits</u>.
- 11. <u>Prior to issuance of building permits</u>, the Applicant shall submit to the Planning Division an additional copy of the approved architectural plans for inclusion in the file. The plans

shall be identical to those approved by all City departments for building permit issuance. The approved copy shall include architectural sheets only and shall be reduced in size to 11 inches by 17 inches. The plans shall accurately depict the elements approved and shall highlight the approved elements such that they are readily discernible from other elements of the plans.

- 12. The site shall not be excessively illuminated based on the luminance recommendations of the Illuminating Engineering Society of North America, or, if in the opinion of the Director of Community Development, the illumination creates an unacceptable negative impact on surrounding land uses or environmental resources. The Director may order the dimming of light sources or other remediation upon finding that the site is excessively illuminated.
- 13. <u>Prior to the issuance of a building permits</u>, the Applicant shall prepare photometric study in conjunction with a final lighting plan for approval by the Planning Division. The survey shall show that lighting values are "1" or less at all Property lines.
- 14. All noise generated by the proposed use shall comply with the provisions of NBMC Chapter 10.26 and other applicable noise control requirements. The maximum noise shall be limited to no more than depicted below for the specified time periods unless the ambient noise level is higher:

	Between th and 10:00P	ne hours of 7:00AM M	Between the hours 10:00PM and 7:00AM		
Location	Interior	Exterior	Interior	Exterior	
Residential Property	45dBA	55dBA	40dBA	50dBA	
Residential Property located within 100 feet of a commercial property	45dBA	60dBA	45dBA	50dBA	
Mixed Use Property	45dBA	60dBA	45dBA	50dBA	
Commercial Property	N/A	65dBA	N/A	60dBA	

- 15. Should the Property be sold or otherwise come under different ownership, any future owners or assignees shall be notified of the conditions of this approval by either the current business owner, Property owner or the leasing agent.
- 16. Construction activities shall comply with NBMC Section 10.28.040, which restricts hours of noise-generating construction activities that produce noise to between the hours of 7:00 a.m. and 6:30 p.m., Monday through Friday and 8:00 a.m. and 6:00 p.m. on Saturday. Noise-generating construction activities are not allowed on Sundays or Holidays.
- 17. No outside paging system shall be utilized in conjunction with this establishment.
- 18. All trash shall be stored within the building or within dumpsters stored in the trash enclosure (three walls and a self-latching gate) or otherwise screened from view of neighboring properties, except when placed for pick-up by refuse collection agencies. The trash enclosure shall have a decorative solid roof for aesthetic and screening purposes.

- 19. The exterior of the business shall be maintained free of litter and graffiti at all times. The owner or operator shall provide for daily removal of trash, litter debris and graffiti from the premises and on all abutting sidewalks within 20 feet of the premises.
- 20. The Applicant shall ensure that the trash dumpsters and/or receptacles are maintained to control odors. This may include the provision of either fully self-contained dumpsters or periodic steam cleaning of the dumpsters, if deemed necessary by the Planning Division. Cleaning and maintenance of trash dumpsters shall be done in compliance with the provisions of NBMC Title 14, including all future amendments (including Water Quality related requirements).
- 21. Deliveries and refuse collection for the facility shall be prohibited between the hours of 10:00 p.m. and 7:00 a.m. on weekdays and Saturdays and between the hours of 10:00 p.m. and 9:00 a.m. on Sundays and Federal holidays, unless otherwise approved by the Director of Community Development, and may require an amendment to this Use Permit.
- 22. Storage outside of the building in the front or at the rear of the Property shall be prohibited, with the exception of the required trash container enclosure.
- 23. A Special Events Permit is required for any event or promotional activity outside the normal operational characteristics of the approved use, as conditioned, or that would attract large crowds, involve the sale of alcoholic beverages, include any form of on-site media broadcast, or any other activities as specified in the Newport Beach Municipal Code to require such permits.
- 24. This approval shall expire and become void unless exercised within 24 months from the actual date of review authority approval, except where an extension of time is approved in compliance with the provisions of NBMC Title 20 Planning and Zoning.
- 25. To the fullest extent permitted by law, Applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of the Balboa Theater Renovation including, but not limited to, Conditional Use Permit No. UP2017-021, Major Site Development Review No. SD2017-005, and Coastal Development Permit No. CD2017-064 (PA2017-152). This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by Applicant, City, and/or the parties initiating or bringing such proceeding. The Applicant shall indemnify the City for all of City's costs, attorneys' fees, and damages which City incurs in enforcing the indemnification provisions set forth in this condition. The Applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.

Police Department

- 26. The approval is for a theater with an accessory eating and drinking establishment with on-sale alcoholic beverage service. The type of alcoholic beverage license issued by the ABC shall be a Type 47 (On-Sale General Eating Establishment) license.
- 27. All owners, managers, and employees must abide by all conditions of the ABC license.
- 28. This approval does not permit the premises to operate as a bar, tavern, cocktail lounge or nightclub as defined by the NBMC.
- 29. No alcoholic beverages shall be consumed on any property adjacent to the licensed premises under the control of the licensee.
- 30. No games or contests requiring or involving the consumption of alcoholic beverages shall be allowed.
- 31. There shall be no reduced price alcoholic beverage promotions after 9 p.m.
- 32. No off-sales of alcohol shall be permitted.
- 33. The quarterly gross sales of alcoholic beverages shall not exceed the gross sales of food during the same period. The licensee shall at all times maintain records, which reflect separately the gross sales of food and the gross sales of alcoholic beverages of the licensed business. These records shall be kept no less frequently than on a quarterly basis and shall be made available to the Police Department on demand.
- 34. There shall be no exterior advertising or signs of any kind or type, including advertising directed to the exterior from within, promoting or indicating the availability of alcoholic beverages. Interior displays of alcoholic beverages or signs which are clearly visible to the exterior shall constitute a violation of this condition.
- 35. Applicant shall not collect money as a door charge, cover charge, or any other form of admission charge, including minimum drink orders. Ticket sales are permissible.
- 36. There shall be no on-site radio, television, video, film, or other electronic media broadcasts, including recordings to be broadcasted at a later time, which include the service of alcoholic beverages, without first obtaining an approved Special Event Permit issued by the City of Newport Beach.
- 37. All owners, managers and employees selling alcoholic beverages shall undergo and successfully complete a certified training program in responsible methods and skills for selling alcoholic beverages. The certified program must meet the standards of the California Coordinating Council on Responsible Beverage Service or other certifying/licensing body, which the State may designate. The establishment shall comply with the requirements of this section within 180 days of the issuance of the certificate of occupancy. Records of each owner's, manager's and employee's

successful completion of the required certified training program shall be maintained on the premises and shall be presented upon request by a representative of the City of Newport Beach.

- 38. Patrons shall be required to show valid identification to verify age at the point of sale for alcohol. Orders from patrons seated in theater seats must be made to the server using that area and the alcoholic beverages ordered must be personally delivered to the patron by the server who took the order.
- 39. Strict adherence to maximum occupancy limits is required.
- 40. The Applicant shall maintain a security recording system with a 30-day retention and make those recordings available to the Police Department upon request.
- 41. The operator shall be responsible for the control of noise generated by the subject facility. All noise generated by the proposed use shall comply with the provisions of Chapter 10.26 and other applicable noise control requirements of the NBMC.
- 42. Management shall maintain an operational log of daily activities related to the sale and service of alcoholic beverages, as well as any additional security actions. Management shall make this log available to the Police Department upon request.
- 43. A Special Event Permit is required for any event or promotional activity that involves more than 318 occupants or operates outside the normal operational characteristics of the approved use as conditioned, or that would attract large crowds, involve the sale of alcoholic beverages, include any form of on-site media broadcast, or any other activities as specified by the NBMC to require such permits.
- 44. The Café only: Food service from the regular menu must be made available to patrons until café closing.
- 45. Public Events only: Servers shall not carry a supply of unordered alcoholic beverages. "Hawkers" shall be prohibited.

Fire Department/Life Safety Services Division

- 46. Changes shall not be made in the use or occupancy of any structure that would place the structure in a different division of the same group or occupancy or in a different group of occupancies, unless such structure is made to comply with the requirements of the California Fire Code (CFC) and the California Building Code (CBC). CFC Section 102.3.
- 47. An automatic sprinkler system shall be provided throughout buildings used as Group A occupancies when the total building area exceeds 5,000 square feet. Amendment to CFC Section 903.2.
- 48. Class II standpipe systems shall be installed throughout at each floor. CFC Section 905.3.1.

- 49. A manual fire alarm system that activates the occupant notification system in accordance with CFC Section 907.5 shall be installed in the Group A occupancies where the occupant load due to the assembly occupancy is 300 or more. CFC Section 907.2.1.
- 50. All buildings and structures with one or more passenger service elevators shall be provided with not less than one medical emergency service elevator to all landings meeting provisions of Section 3002.4a. CBC Section 3002.4a.
- 51. The medical emergency service elevator shall accommodate the loading and transport of an ambulance gurney or stretcher with not less than 5-inch radius corners in the horizontal position. CBC Section 3002.4.1a.
- 52. The elevator designated the medical emergency service elevator shall be equipped with a key switch to recall the elevator nonstop to the main floor. CBC Section 3002.4.4a.
- 53. An approved fire safety and evacuation plan shall be prepared and maintained in accordance with CFC Section 404 for Group A occupancies. CFC Section 403.2.
- 54. In theaters, motion picture theaters, auditoriums and similar assembly occupancies in Group A used for noncontiguous programs, an audible announcement shall be made not more than 10 minutes prior to the start of each program to notify the occupants of the location of the exits to be used in the event of a fire or other emergency. CFC Section 403.2.2.
- 55. Dumpsters and containers with an individual capacity of 1.5 cubic yards or more shall not be stored in buildings or placed within 5 feet of combustible walls, openings or combustible roof eaves. If the 5 feet cannot be accommodated from the structure, then fire sprinklers can be installed above the dumpster. Number and type of heads will be determined by the fire department. CFC Section 304.3.3.
- 56. A building used for assembly purposes that has an occupant load of greater than 300 and is provided with a main exit, that main exit shall be of sufficient capacity to accommodate not less than one-half of the occupant load. Such capacity shall be not less than the total required capacity of all means of egress leading to the exit. Where the building is classified as a Group A occupancy, the main exit shall front on not less than 20 feet in width that adjoins a street or public way. CFC Section 1029.2.
- 57. Outdoor aisles (roof area) steeped aisles and ramped aisles and outdoor approaches to aisles, stepped aisles and ramped aisles shall be designed so that water will not accumulate on the walking surface. CFC Section 1029.11.2.
- 58. Outdoor stairways and outdoor approaches to stairways shall be designed so that water will not accumulate on walking surfaces. CFC Section 1011.7.2.
- 59. Where an occupied roof has an assembly occupancy with an occupant load exceeding 100 for Group A-2 and 300 for other Group A occupancies, all floors between the occupied roof and the level of exit discharge shall be equipped with an automatic sprinklers system in accordance with CFC Section 903.3.1.1 or 903.3.1.2.

- 60. Fire safety during construction shall be provided. Construction materials and equipment shall not be placed or stored so as to obstruct access to fire hydrants, standpipes, fire and police alarm boxes, catch basins or manholes, nor shall such material or equipment be located within 20 feet of a street intersection or placed so as to obstruct normal observations of traffic signals or to hinder the use of public transit loading platforms. CBC Section 1503.2.
- 61. All structures under construction, alteration, or demolition shall be provided with not less than one approved portable fire extinguisher in accordance with CFC Section 906 and sized for not less than ordinary hazard as follows:
 - a. At each stairway on all floor levels where combustible materials have accumulated.
 - b. In every storage and construction shed.
 - c. Additional portable fire extinguisher shall be provide where special hazards exit including, but not limited to, the storage and use of flammable and combustible liquids. CFC Section 1504.1
- 62. In buildings required to have standpipes, not less than one standpipe shall be provided for use during construction. Such standpipes shall be installed prior to construction exceeding 40 feet in height above the lowest level of fire department vehicle access. CBC Section 1506.1.
- 63. Adjoining public and private property shall be protected from damage during construction and demolition work. CBC Section 1502.1.
- 64. Stages and Platforms must meet requirements from CBC Section 410.
- 65. Buildings and structures exterior walls shall have a fire-resistance rating not less than that specified in Table 602.
- 66. Stage props cannot be stored in required aisle widths as per CFC 1029.9.6.

Building Division

- 67. The Applicant is required to obtain all applicable permits from the City's Building Division and Fire Department. The construction plans must comply with the most recent, Cityadopted version of the California Building Code. The construction plans must meet all applicable State Disabilities Access requirements. Approval from the Orange County Health Department is required prior to the issuance of a building permit.
- 68. The Applicant shall employ the following best available control measures ("BACMs") to reduce construction-related air quality impacts:

Dust Control

- Water all active construction areas at least twice daily.
- Cover all haul trucks or maintain at least two feet of freeboard.
- Pave or apply water four times daily to all unpaved parking or staging areas.

- Sweep or wash any site access points within two hours of any visible dirt deposits on any public roadway.
- Cover or water twice daily any on-site stockpiles of debris, dirt or other dusty material.
- Suspend all operations on any unpaved surface if winds exceed 25 mph.

Emissions

- Require 90-day low-NOx tune-ups for off road equipment.
- Limit allowable idling to 30 minutes for trucks and heavy equipment

Off-Site Impacts

- Encourage carpooling for construction workers.
- Limit lane closures to off-peak travel periods.
- Park construction vehicles off traveled roadways.
- Wet down or cover dirt hauled off-site.
- Sweep access points daily.
- Encourage receipt of materials during non-peak traffic hours.
- Sandbag construction sites for erosion control.

Fill Placement

- The number and type of equipment for dirt pushing will be limited on any day to ensure that SCAQMD significance thresholds are not exceeded.
- Maintain and utilize a continuous water application system during earth placement and compaction to achieve a 10 percent soil moisture content in the top six-inch surface layer, subject to review/discretion of the geotechnical engineer.
- 69. <u>Prior to issuance of grading permits</u>, the Applicant shall prepare and submit a final Water Quality Management Plan (WQMP) for the proposed project, subject to the approval of the Building Division and Code and Water Quality Enforcement Division. The WQMP shall provide appropriate Best Management Practices (BMPs) to ensure that no violations of water quality standards or waste discharge requirements occur.
- 70. A list of "good house-keeping" practices will be incorporated into the long-term postconstruction operation of the site to minimize the likelihood that pollutants will be used, stored or spilled on the site that could impair water quality. These may include frequent parking area vacuum truck sweeping, removal of wastes or spills, limited use of harmful fertilizers or pesticides, and the diversion of storm water away from potential sources of pollution (e.g., trash receptacles and parking structures). The Stage 2 WQMP shall list and describe all structural and non-structural BMPs. In addition, the WQMP must also identify the entity responsible for the long-term inspection, maintenance, and funding for all structural (and if applicable Treatment Control) BMPs.

Public Works Department

71. <u>Prior to commencement of demolition and grading of the project</u>, the Applicant shall submit a construction management and delivery plan to be reviewed and approved by the Public Works Department. The plan shall include discussion of project phasing; parking arrangements for both sites during construction; anticipated haul routes and

construction mitigation. Upon approval of the plan, the Applicant shall be responsible for implementing and complying with the stipulations set forth in the approved plan.

- 72. Traffic control and truck route plans shall be reviewed and approved by the Public Works Department before their implementation. Large construction vehicles shall not be permitted to travel narrow streets as determined by the Public Works Department. Disruption caused by construction work along roadways and by movement of construction vehicles shall be minimized by proper use of traffic control equipment and flagman.
- 73. The proposed outdoor dining area along the East Balboa Boulevard public sidewalk area shall provide a minimum 8-foot-wide, clear pedestrian path across the project frontage. A Sidewalk Café License shall be obtained, consistent with City Council Policy L-21. Barriers shall not be attached to the existing decorate pavement.
- 74. No encroachments within the alley right-of-way along the rear of the Property shall be permitted, including, but not limited to walls, foundations or door swing.
- 75. The proposed marquee and signage shall not project past the original marquee and signage. The marquee shall have a minimum vertical clearance of 9 feet, 3 inches.
- 76. All lithocrete sidewalk damaged by the construction shall be replaced in-kind. Full sections of sawcut, diamond-shaped lithocrete sidewalk panels shall be replaced to match existing adjoining sidewalk sections. No sectional replacement will be allowed. A preconstruction meeting with the Public Works Inspector shall be conducted prior to the start of work within the public right-of-way.
- 77. During construction, worker vehicles shall not be parked in the public right-of-way.
- 78. No portion of the public sidewalk shall be obstructed by construction activity from Memorial Day to Labor Day and from Thanksgiving Day to New Year's Day.
- 79. All improvements shall be constructed as required by Ordinance and the Public Works Department.
- 80. All on-site drainage shall comply with the latest City Water Quality requirements.
- 81. All temporary construction fencing and sandbags shall not be located within the public right-of-way.

WIEWHOWALLYBUMWARAGE

Attachment No. PC 2

Applicant's Project Description and Justification

WIEWHOWALLYBUMWARAGE

Project Description & Justification	Site Development Review No. SD2017-005
Balboa Theater	Coastal Development Permit No.
	CD2017-064
707 E. Balboa Blvd, Newport Beach,	Conditional Use Permit No. UP 2017-021
CA Oct. 5, 2017	(PA2017-152)

Introduction

This document starts with a project description and is followed by a justification for each requested review and permit.

Background

The Balboa Theater was constructed circa 1927 and operated continually through the 1990's. The theater contained approximately 450 seats and patrons utilized on-street and public parking lots. The interior of the theater has been gutted and a partial seismic upgrade has been completed. A project for the revitalization of the building was submitted in 2004 to remove and reconstruct three walls (party walls and alley wall) and to rehabilitate the front facade. The project added a third story and roof deck. That project received approval of CUP No. 20014-003 and subsequently received Coastal Development Permit approval No. 5-11-073.

Project Description

This Project is a full A/E rehabilitation of the 1927 Balboa Theater, a City Landmark Structure, including architectural, structural and MEP work to create an active theater with food and beverage service. The food and beverage service will complement the Theater uses as a concession stand was a supporting service to the historic theater. The food and beverage service is an important part of sustaining the business supporting this extensive rehabilitation. These services and the hours of operation requested extend the daily use for the Historic Landmark building as an entertainment venue and contributes to the activity of Balboa Village.

Exterior work includes a facade restoration at the Main Street facade, new openable storefront windows flanking center entry doors and a recreated historic marquee. The original plaster finish will be recreated and existing Spanish tile roof will be restored. Missing exterior downspouts will be recreated. The original rhythm of solid to void will be maintained at the street facade. A small outdoor seating area will extend into the sidewalk utilizing free-standing railing as the separation barrier. The building fills the entire property and an area is required for utilities on site. The design has the first floor of the alley elevation recessed into the building footprint ± 4 ft (south to north) to provide space for utilities. The upper portion of the building facade will remain at the rear property line. No doors will open across the property line. An attempt will be made to keep the existing original brick at the alley facade (salvage and replace at lower level & re-point at the upper level), but if structurally infeasible, the wall will be rebuilt and the original, salvaged brick applied as a veneer.

The interior will have two stories at the north, food and beverage service areas. The larger theater portion will have balconies at the side walls facing to the stage. Other interior elements are stair &

elevators, storage rooms, restrooms and office. A new roof deck will be constructed for food and beverage service as described in the Operations description below. Other roof elements include a metal and glass canopy over a portion of the seating area, mechanical screen, stairway enclosure, elevator shaft and glass guardrail.

The neighboring buildings are shown on sheet A-5 and below is a chart with a brief description.

Current	
Development:	Vacant, two story commercial building (Balboa Theater)
To the north:	Single story commercial building (across East Balboa Blvd.)
To the east:	Two story mixed use (ground floor commercial, second floor residential)
To the south:	Two story hotel (Balboa Inn)
To the west:	Two story commercial building

Existing/Proposed Balboa Theater

The chart below shows the Current/Original information and the proposed for this project..

Item	Current	Proposed	Comments
Lot Area	5,135 sf	5,135 sf	
Lot Width	54 ft	54 ft	
Lot Depth	ave-95.095	ave-95.095	
Setbacks	0 ft	0 ft	
Gross s.f.	5,135 sf ⁻¹	10,948 sf ²	¹ Orig Theater est. w/ balcony = $6,747$ sf ² Interior = $8,302$ Roof deck = $2,648$ sf
F.A.R.	1.0	1.62	Interior space
Bldg./Lot	100%	100%	
Coverage			
Item	Current	Proposed	Comments
Building Ht	32'-3"	48'-4"	48'-4" to top of elevator shaft. 37'-6" to top of guardrail
Landscaping	0%	0%	
Paving	0%	0%	
Parking	0	0	
No. of Emps.	0	7 max	
No. of Seats	450 Orig Theater	264	
Hours of	Unknown	8am to 12am	7-days/week
Operation			
Use	Theater	Theater	New use includes food & beverage service.

Box Office Bistro* @ Balboa Theater Operations Plan *name subject to revision

Based on lessons learned from our successful Casino San Clemente music and private event venue, we know that quality food and beverage services amplify the entertainment experience before, during and after an evening's performance. Currently at the Casino, Ellie's Table cafe services the local neighborhood with breakfast and coffee service as well as casual lunch between the hours of 6am-2pm. After that time, attention turns to preparing foods for the evening entertainment including catering private gatherings, with service from 6pm-12am.

The early morning and extended hours of the bistro/café allows patrons to enjoy the historic setting apart and in addition to attending specific entertainment events. As with the Casino, we would expect patrons to inquire about the venue, receive educational information as well as the practical amenity of purchasing tickets for future presentations during daytime visits. There could possibly be a convenience walk up coffee take out window also serving an afternoon Balboa Bar (ice cream).

A sample menu can be found at the back of this document. We'd intend to have a more curated offering than these samples and tailored to complement (not compete with) other local eateries. Per the LAB's core mission of supporting "Little American Business", an artisan operator (non-chain) would be engaged to offer the community a unique dining experience at this historic location.

To accommodate these daytime visitors to the Theater bistro, we are exploring design ideas of upfolding front doors to enable an indoor/outdoor pure California café feeling. We'd love to see café chairs spilling onto the front sidewalk to create views down the street and people watching opportunities.

Operational details:

- Café will operate from 8:00 am to 12:00am 7 days a week. With early morning breakfast/coffee service and transitioning to lunch and dinner service.

- Café will require a Type 47 license

- Seeking to add small sidewalk dining areas on each side of marquee to activate sidewalk here and get people onto the street.

-Café may operate independently of Balboa Theater during theater events.

- Café will have 3-4 employees

References: Thecasinosanclemente.com Elliestable.com (has menu link) Bellyup.com

Rooftop @ Balboa Theater Operations Plan

We are proposing a rooftop space above the theatre. This will be operated in two different capacities:

1- During events- This space will serve as a secondary breakout space during an event. For example a wedding ceremony could occur in theatre, the group would then transition to

rooftop for cocktail hour while theatre gets set up for reception dinner. This could also be a break area between presentations during a corporate event in the theatre. When an event is occurring, there will not be a secondary event occurring on the roof.

2- When events are not occurring- The rooftop will serve as an extension of the Box Office Bistro when there are no events occurring. For example, if there is not an event on a midweek afternoon, the roof could be accessed for additional seating with dumbwaiter from kitchen.

Operational details:

- Operating hours will match that of the Box Office Bistro.

- There may be acoustical music on the rooftop until 10pm (no amplification). The roof top has stairwells, elevator shaft and solid guardrail for a portion of the east & west and the south end is entirely block by structures and mechanical screens that will assist in sound attenuation.

- When in use, Rooftop will have 3 additional employees

Event Space @ Balboa Theater Operations Plan

The Balboa Theatre is being restored as a multi-purpose event/performance space. The original stage will be restored with an open main floor (for flexible seating/table arrangements) with a two level opera-type box seating flanking each sidewall of the theater and two private rooms on the upper floor. Intended uses may include live musical performances, theatrical and film presentations as well as private corporate events, community events and private celebrations.

Performances utilizing amplification shall be restricted to the interior of the building and the exterior noise levels shall adhere to the guidelines & requirements of Chapter 26 Community Noise Control of the Newport Beach Municipal Code. If an event with sound amplification is in progress while the Cafe is operating, either the storefront and door openings will be closed or sound attenuation will be implemented between the theater and the Café, to meet Chapter 26 requirements. Exterior paging sound equipment will not be utilized.

A food and beverage use will be built in the entry areas of the theatre again with multi-purpose; (1) a public serving cafe for daily visitors independent of theatre activity; (2) food and beverage service for patrons of the theatre performances; (3) catering service for private events using the theatre as a venue. See Box Office Bistro Operations plan above.

Operational details:

- We are seeking maximum flexibility on event timing. Our proposal is significantly smaller than the previous theatre proposal so we are asking that the summer day time restrictions be removed.

- Operational Hours will be 10am to 12am, daily.

- During events, there will be 3-4 employees and security on site.

Project Justification

Site Development Review

The subject property is located within General Plan Land Use Element Statistical Area D3 Central Balboa Area. The Central Balboa Area is designated for Retail and Service Commercial, pure residential uses and mixed commercial/residential uses with residential uses permitted on the second floor or above only. The Balboa Theater site is designated Retail and Service Commercial by the General Plan and Local Coastal Program. The proposed Theater and Events venue use is permitted within this designation.

Amendments to the General Plan and Local Coastal Program designate entitlements for the Balboa Theater based on total number of seats rather than square footage. The amendment limited the maximum number of seats to 350 which is below the 450 seats the theater had at the time. This project shows two potential seating layouts (theater & tables), with the maximum of the two having approximately 264 seats and, therefore, is compliant with the General Plan and Local Coastal Program. (See sheets A-2.1 & A-2.2).

The Project supports the LCP Policies for Balboa Village to provide local and visitor serving commercial with ground level uses that attract customer activity and improve pedestrian character. Per code Section 21.52.015(F), The Project conforms to applicable sections of the Local Coastal Program and with the public access and recreation policies of Chapter 3 of the Coastal Act.

Zoning Code

The project site is located within the Central Balboa Specific Plan (SP-8) and has a land use designation of Retail and Service Commercial (RSC). The Balboa Theater is nonconforming in terms of parking and the alley setback. The proposed expansion and alteration of the nonconforming structure is exempt from obtaining Use Permits required by Chapter 20.82 (Eating and Drinking Establishments), Section 20.62.040 (Non-Conforming Uses) and Section 20.62.050 (Non-Conforming Structures) if the building meets the definition of a Landmark Theater and the proposed changes meet the specific conditions of Section 20.62.065.

Two special provisions relating to Landmark Buildings are included within the Zoning Code. Section 20.62.065 (Landmark Buildings) of the Nonconforming Structures and Uses chapter was adopted to preserve historic structures, encourage their adaptive reuse, and revitalize the older commercial areas in which they are located by granting relief from restrictions on nonconforming uses and structures while maintaining the principal use and minimizing impacts on the surrounding area. These provisions allow for Landmark Buildings to be modified, maintained, altered, increased or intensified without obtaining a Use Permit subject to a specific list of development and operational conditions. Section 20.65.065. However, because the proposed Café will serve alcohol, a CUP for alcohol use is sought.

Section 20.30.060(D)(9) (Exceptions to Height Limits-Landmark Buildings) allows structural alterations and additions to exceed the height of the existing building provided they do not exceed

55 feet with the approval of a Use Permit. The new roof top elements include the following items:

- 1. Roof deck structure to span across the top of the existing roof structure.
- 2. Clear guardrails.
- 3. Stair and elevator enclosures.
- 4. Mechanical screens.

These roof top additions result in a highest average height on the four facades to be 39.37 feet and highest element of elevator shaft being at ± 47.39 feet above average grade. The project does not exceed the 55 ft limit. The site development review may be approved if the following findings are made (lettering of a, b, c, etc. below is to meet listing as found in Section 20.30.060(D)(9):

a. The portion of the structural alteration or addition that exceeds the height of the existing building does not significantly impact public views.

The site is located within the business area of Central Balboa. The existing building is approximately 32-feet 8-inches high. The increased height will not impact public views, as there are currently no public views through or across the subject property due to the existing building height and the Balboa Inn to the south.

b. The portion of the structural alteration or addition that exceeds the height of the existing building will not be used in a manner that increases the intensity of the use of the Landmark Building or the project site.

The "intensity of use" for the Balboa Theater is measured by the seating capacity. Historically, the theater had approximately 450 seats. The general plan allows a maximum of 350 seats at this site and the proposed plan indicates approximately 264 seats.

c. The allowed height of the Landmark Building will not be detrimental to the health, safety, peace, comfort, or general welfare of persons residing or working in the neighborhood of the Landmark Building.

This project is located within the commercial area of Balboa Village in an established commercial area with a variety of restaurant, retail, residential and visitor serving businesses. The project site is flanked on both sides by two story commercial buildings that are approximately 22 feet (west) and 24 feet (east) high. Although the height of the remodeled theater will be higher than most surrounding buildings, it will be of similar height to the Balboa Inn which is located directly south of the subject site. The proposed theater height is lower than another landmark building located in Balboa Village, the Balboa Pavilion. The Pavilion, at approximately 65 feet tall, is higher than the proposed theater. The renovation of the theater will reinvigorate the current empty shell into an active, street friendly commercial venture to enhance its Landmark status.

A Landmark Theater is defined as a single screen or stage theater constructed before December 12, 1950 with a seating capacity above 300 seats. The Balboa Theater was constructed in 1927 as a single stage theater and it had approximately 450 seats, meeting the definition of a Landmark Building. Therefore, the Balboa Theater can be used, modified, maintained, altered, increased or intensified without the need to obtain a Use Permit. The exemptions are applicable provided that the project meets the following conditions.

1. Any new use that is initiated and any use that is intensified by way of a change in operational characteristics, is accessory and remains subordinate to the then current and ongoing principal use of the Landmark Building. The principal use of the Landmark Building occupies, at all times, no less than seventy percent (70%) of the gross floor area of the Landmark Building. The proposed use has 3 configurations:

a. Event/Theater use, with front area of food & beverage service used for theater attendees only resulting in 93% theater use. Rooftop would be used as a secondary space for Event/Theater, not used when inside space is operating.

b. Event/Theater use, with front area being used separately for food and beverage service. This results in 80% theater use. Rooftop would be used as a secondary space for Event/Theater, not used when inside space is operating.

c. Front food and beverage service in operation at front, no Event/Theater. Inside space is 20% food and beverage service while the 80% Event/Theater space is vacant.

2. A use permit is issued pursuant to the provisions of Chapter 20.89 (Alcoholic Beverage Outlets) prior to the initiation of any accessory use that involves the sale or consumption of alcoholic beverages. This application is requesting the use of alcohol and Owner will secure a type 47 license.

3. Any permit required by any other titles (other than Title 20) of the Municipal Code has been issued prior to the initiation or intensification (by way of a change in operational characteristics) of any accessory use of the Landmark Building. This application includes request for Coastal Development Permit.

4. Any accessory use in any Landmark Theater is conducted between the hours of 8:00 a.m. and 12:00 a.m. Operational hours will be 8:00 am to 12:00am 7 days a week for the café and rooftop use. The food and beverage service is an important part of sustaining the business supporting this extensive rehabilitation. These hours extend the period of use for the building's entertainment venue and contributes to the activity of Balboa Village.

5. The required off-street parking of all uses after any additions, intensification, modification or expansion (including credit for reductions in off-street parking resulting from elimination of accessory uses existing on January 1, 2003) is less than the required off-street parking for the principal and accessory uses prior to any additions, intensification, modification or expansion. The original Theater did not provide off-street parking and the number of seats for this project is reduced, thereby reducing the required parking. The original Theater had 450 seat while the maximum of this project will be 285 (the rooftop deck will be used only by attendees of Events/Theater during Events/Theater). During non-theater events, the total seats for Rooftop & Café will have a maximum of 254 seats, also below the original theater's 450.

6. The façade and/or exterior architectural features of the Landmark Building are not substantially altered or are restored to original condition and the exterior walls of the Landmark Building remain in substantially the same location as they existed on January 1, 2003.

The significant historical facade is the street facade. The exterior work includes a facade restoration at Balboa Blvd facade including new openable storefront windows flanking center entry doors and a recreated historical marquee. The original plaster finish will be recreated and existing Spanish tile roof will be restored. Missing exterior downspouts will be recreated. The

original rhythm of solid to void will be maintained. The secondary facade is on the alley. The building fills the entire property and area is required for utilities on site. The design has the first floor of the alley elevation recessed into the building footprint ± 4 ft (south to north) to provide space for utilities. The upper portion of the building facade will remain at the rear property line. An attempt will be made to keep the existing original brick at the alley facade (salvage and replace at lower level & re-point at the upper level), but if structurally infeasible, the wall will be rebuilt and the original, salvaged brick applied as a veneer.

<u>The Balboa Village Design Guidelines Update</u> uses the Balboa theater as an example of the Spanish Colonial Style. Key elements of the style noted and found in this project are plaster banding at window, heavy plaster walls with simple surfaces and tile roofs.

Other aspects emphasized in the Guidelines found in this Project include:

Maintains and enhance existing Balboa Village Character: The restoration of the major components of the facade reinforces the Spanish Colonial style.

Human Scale/Pedestrian Scale: The first floor emphasizes the historic rhythm of solid to void found in Spanish Colonial commercial buildings of the era. The re-created historic marquee further provides human scale while entering the structure by reducing the height of the facade to its historic scale.

Quality Architecture: The rehabilitation of the historic face while implementing modern programs of indoor/sidewalk relationships will emphasize quality of both the historic style and the modern use.

Inviting Storefronts: it is anticipated the storefronts will be open most of the time providing the exciting interaction of café to pedestrian activity. When closed, the storefronts will be transparent allowing visitors a view of the interior.

Landmarks and Context Buildings: This rehabilitation will respect and restore the characteristics of the Spanish Colonial style.

Building Form & Design: The Project restores the proportion, scale, massing, rhythm and composition of this Landmark Structure.

Storefront Design: Storefront is in the plane of the street facade, is transparent when open or closed and is openable for the Café use to reinforce the interaction of outdoor dining and the pedestrian way. The pedestrian path is keep at the Guideline's recommended width by relocating existing trash bins to the east and west of tree wells.

Outdoor dining: Is encouraged in the Balboa Village and this project embraces it at street level and at the rooftop as encouraged in the Guidelines. The rooftop deck is set back to the top of the mansard roof (± 12 feet south of the main facade) and only has a metal and glass guardrails at the location. The side elevations are mostly blocked by the adjacent 2-story buildings and the first 'solid' walls occur ± 17 feet past the top of the mansard roof, ± 29 ft. south of the street facade.

Per the discussion above, the project is compliant with Section 20.52.020(F):

1. The use is consistent with the General Plan, Central Balboa Specific Plan and meets the standards of the Balboa Village Design Guidelines Update.

2. The use is allowed within the applicable zoning district and complies with applicable provisions of the Zoning Code and Municipal Code.

3. The design, location, size, and operating characteristics of the use are compliant with the allowed uses in the vicinity.

4. The site is physically suitable in terms of design, location, shape, size, operating characteristics, and provisions of emergency vehicle access, public services and utilities.

5. Operation of the Balboa theater at this existing location will not be detrimental to the harmonious and orderly growth of the City, and will not endanger, jeopardize or otherwise constitute a hazard to the public convenience, health, interest, safety, or general welfare of persons residing or working in the neighborhood of the project.

WIEWHOWALLYBUMWARAGE

Attachment No. PC 3

Police Department Memorandum

WIEMIONALLYBLAWKPACE



NEWPORT BEACH POLICE DEPARTMENT DETECTIVE DIVISION

MEMORANDUM

TO: Benjamin Zdeba, Associate Planner

FROM: Wendy Joe, Police Civilian Investigator

DATE: November 14, 2017

SUBJECT: Balboa Theater 707 East Balboa Blvd. Use Permit No. 2017-021 (PA2017-152)

At your request, the Police Department has reviewed the project application to renovate and revitalize the Balboa Theater, located at 707 East Balboa Boulevard, Newport Beach. Per the project description, the applicant is seeking a Conditional Use Permit to allow a food service restaurant and theater with late hours and a Type 47 (On-sale General Eating Establishment) Alcoholic Beverage Control License.

An Operator License will be required for this establishment.

Statistical Data and Public Convenience or Necessity

Business and Professions Code §23958.4 finds "undue concentration" for an applicant premises in two ways: 20% higher crime with an alcohol nexus in a Reporting District as compared to the city wide average, or an over saturation of alcohol licenses in a census tract compared to the county. When undue concentration is found to exist, a judgment on Public Convenience or Necessity (PCN) is required. However, there is no definitive or uniform guideline defining the application of PCN. While the final determination of PCN for a Type 47 license falls to the Department of Alcoholic Beverage Control (ABC), ABC encourages local authorities to address PCN in the Conditional Use Permit (CUP) process.

Attached is a summary report compiled by Newport Beach Police Department (NBPD) Crime Analyst Caroline Staub, which provides detailed statistical information related to alcohol establishments and calls for service in and around the applicant's current place of business at 707 East Balboa Blvd.

The summary indicates there were 3 calls for service to the project location in 2016. The calls were all requested checks of the vacant building.

Crime Statistics

The Police Department divides the City into areas referred to as Reporting Districts. This allows the Police Department to create statistical data, as well as better communicate officer locations while policing. The proposed applicant location is within Reporting District (RD) 12

Balboa Theater UP2017-021

which stretches from 9th Street to F Street. RD 12 is a low crime area, with 7% fewer crimes than the average of all reporting districts within the City. *This location does not meet the legal criteria for undue concentration (B&P* §23958.4).

Alcohol License Statistics

The applicant premise is located within census tract 0628. This census tract has an approximate population of 4,220 residents with 32 licensed establishments and 36 active licenses. That is a per capita ratio of 1 license for every 117 residents. Per the Business and Professions code, we compare this per capita ratio to Orange County's per capita ratio of 1 license for every 477 residents. *This location meets the legal criteria for undue concentration (B&P* §23958.4).

Discussion and Recommendations

The above statistical information is provided for educational reference and perspective. The Police Department has no objections to the application if the following conditions are imposed. An Operator's License will be required for this project. The applicant will be required to submit a security plan which will act as an extension of the Operator License.

RECOMMENDED CONDITIONS OF APPROVAL

Police Department has determined the following conditions would be appropriate for the business:

- 1. The establishment shall close no later than 12:00 midnight daily.
- 2. All customers must vacate the establishment 30 minutes after closing.
- 3. The approval is for an eating and drinking establishment with on-sale alcoholic beverage service. The type of alcoholic beverage license issued by the California Board of Alcoholic Beverage Control shall be a Type 47 (On-Sale General Eating Establishment) license in conjunction with the restaurant as the principal use of the facility.
- 4. All owners, managers and employees must abide by all conditions of the Alcoholic Beverage License.
- 5. Approval does not permit the premises to operate as a bar, tavern, cocktail lounge or nightclub as defined by the Newport Beach Municipal Code.
- 6. No alcoholic beverages shall be consumed on any property adjacent to the licensed premises under the control of the licensee.
- 7. No games or contests requiring or involving the consumption of alcoholic beverages shall be allowed.
- 8. There shall be no reduced price alcoholic beverage promotions after 9pm.
- 9. No off-sales of alcohol shall be permitted.

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- 10. The quarterly gross sales of alcoholic beverages shall not exceed the gross sales of food during the same period. The licensee shall at all times maintain records, which reflect separately the gross sales of food and the gross sales of alcoholic beverages of the licensed business. These records shall be kept no less frequently than on a quarterly basis and shall be made available to the Police Department on demand.
- 11. There shall be no exterior advertising or signs of any kind or type, including advertising directed to the exterior from within, promoting or indicating the availability of alcoholic beverages. Interior displays of alcoholic beverages or signs which are clearly visible to the exterior shall constitute a violation of this condition.
- 12. Petitioner shall not collect money as a door charge, cover charge, or any other form of admission charge, including minimum drink orders. Ticket sales are permissible.
- 13. There shall be no on-site radio, television, video, film, or other electronic media broadcasts, including recordings to be broadcasted at a later time, which include the service of alcoholic beverages, without first obtaining an approved Special Event Permit issued by the City of Newport Beach.
- 14. All owners, managers and employees selling alcoholic beverages shall undergo and successfully complete a certified training program in responsible methods and skills for selling alcoholic beverages. The certified program must meet the standards of the California Coordinating Council on Responsible Beverage Service or other certifying/licensing body, which the State may designate. The establishment shall comply with the requirements of this section within 180 days of the issuance of the certificate of occupancy. Records of each owner's, manager's and employee's successful completion of the required certified training program shall be maintained on the premises and shall be presented upon request by a representative of the City of Newport Beach.
- 15. Patrons shall be required to show valid identification to verify age at the point of sale for alcohol. Orders from patrons seated in theater seats must be made to the server serving that area and the alcoholic beverages ordered must be personally delivered to the patron by the server who took the order.
- 16. Strict adherence to maximum occupancy limits is required.
- 17. The applicant shall maintain a security recording system with a 30-day retention and make those recording available to police upon request.
- 18. The operator of the restaurant facility shall be responsible for the control of noise generated by the subject facility. All noise generated by the proposed use shall comply with the provisions of Chapter 10.26 and other applicable noise control requirements of the Newport Beach Municipal Code.
- 19. Management shall maintain an operational log of daily activities related to the sale and service of alcoholic beverages, as well as any additional security actions. Management shall make this log available to the Police Department upon request.
- 20. A Special Event Permit shall be required for any event or promotional activity that involves more than 318 occupants or operates outside the normal operational characteristics of the

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approved use, as conditioned, or that would attract large crowds, involve the sale of alcoholic beverages, include any form of on-site media broadcast, or any other activities as specified in the Newport Beach Municipal Code to require such permits.

- 21. The Café only: Food service from the regular menu must be made available to patrons until café closing.
- 22. Public Events only: Servers shall not carry a supply of unordered alcoholic beverages. "Hawkers" shall be prohibited.

If you have any questions as to the content of this memorandum, please contact Investigator Wendy Joe at (949)644-3705 or wjoe@nbpd.org.

Wendy Voe Police Civilian Investigator, Special Investigations Unit

Jeff Brouwer Deputy Chief

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NEWPORT BEACH POLICE DEPARTMENT 2016 CRIME AND ALCOHOL-RELATED STATISTICS

CHIEF JON T. LEWIS

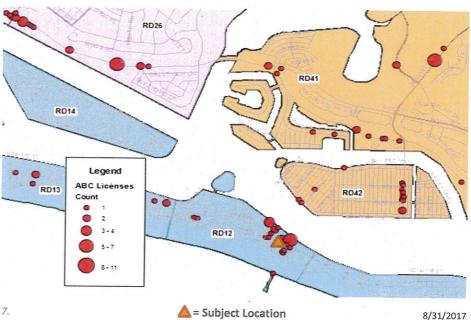
SUMMARY FOR BALBOA THEATER AT 707 E BALBOA BLVD (RD12)

	Calls For	Part I Crimes*				Arrests				Citations		
Subject:	<u>Service</u>	Crimes Reported	City-Wide RD Average	Difference From Avg	% Diff From Avg	Highest Volume	All Arrests	DUI Alcohol	Public Intoxication	Liquor Law	Highest Volume	Alcohol Related
707 E Balboa Blvd	3	0	not applicable	not applicable	not applicable	not applicable	0	0	0	0	not applicable	0
Subject RD: RD12	2,836	78	84	-6	-7%	Burg/Theft From Auto	74	7	19	0	Public Intoxication	48
Adjacent RD: RD11	1,515	44	84	-40	-48%	Burg/Theft From Auto & Vandalism	49	6	9	0	Public	25
Adjacent RD: RD13	3,829	93	84	+9	+11%	Vandalism	178	14	43	2	Public	142
Adjacent RD: RD15	8,668	288	84	+204	+243%	Simple Assault	591	41	259	7	Public	338
Newport Beach	93,685	3,177	not applicable	not applicable	not applicable	Burg/Theft From Auto	3,457	351	663	18	Drug-Related	1,068

*Part I Crimes are the 8 most serious crimes as defined by the FBI Uniform Crime Report - Homicide, Rape, Robbery, Aggravated Assault, Burglary, Larceny-Theft, Auto Theft, and Arson. This report reflects City of Newport Beach Part I crime data for 2016, as well as Simple Assault and Vandalism.

	ABC Info							
Subject:	Population	Active Licenses	License Per Capita	Licensed Establishments				
707 E Balboa Blvd	not applicable	0	not applicable	0				
Subject Census Tract: 628	4,220	36	117	32				
Adjacent Census Tract: 630.05	1,365	7	195	6				
Adjacent Census Tract: 630.06	2,756	12	230	11				
Adjacent Census Tract: 635	5,726	83	69	73				
Newport Beach	85,186	439	194	389				
Orange County	3,010,232	6,314	477	5,561				

Number of Active ABC Licenses is the total of all types of retail licenses known to the NBPD as of 02/16/2017. All Population figures taken from the 2010 US Census.



WIEMIONALLYBLAWKPACE

Attachment No. PC 4

Draft Resolution for Denial

WIEWHOWALLYBUMWAPAGE

RESOLUTION NO. PC2018-004

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH, CALIFORNIA DENYING CONDITIONAL USE PERMIT NO. UP2017-021, MAJOR SITE DEVELOPMENT REVIEW NO. SD2017-005, AND COASTAL DEVELOPMENT PERMIT NO. CD2017-064 FOR THE RENOVATION AND OPERATION OF THE BALBOA THEATER LOCATED AT 707 EAST BALBOA BOULEVARD (PA2017-152)

THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH HEREBY FINDS AS FOLLOWS:

SECTION 1. STATEMENT OF FACTS.

- 1. An application was filed by Chris Bennett on behalf of the Balboa Theater Company, LLC ("Applicant"), with respect to property located at 707 East Balboa Boulevard, and legally described as Lots 4 and 5 in Block 10 of the Balboa Tract ("Property"), requesting approval of a conditional use permit, major site development review, and coastal development permit.
- 2. The existing theater is considered a "landmark theater" pursuant to Newport Beach Municipal Code ("NBMC") Sections 20.38.070 and 21.38.070 (Landmark Structures), as it was constructed in 1928, has a single stage, and was designed to seat more than three hundred (300) people.
- 3. The Applicant proposes to renovate and operate the Balboa Theater as a performing arts and special event theater. The renovations include exterior façade restoration with new openable storefront windows, a recreated historical marquee, a small outdoor dining area on either side of the main entry, and a rooftop deck. Although the principal use of the site will remain a theater, consistent with the Landmark Theater designation in the Zoning Code, an accessory café (eating and drinking establishment) is also proposed to serve theater patrons and the general public. As proposed, the café will operate from 8 a.m. to 12 a.m., daily, with a Type 47 (On-Sale General Eating Place) Alcoholic Beverage Control (ABC) License. The Conditional Use Permit is required to allow the sale and service of alcohol. The Major Site Development Review is required for the requested increase in height to accommodate the rooftop deck. The Coastal Development Permit is required to permit the renovation and operation of the theater within the Coastal Zone.
- 4. The Property is designated Mixed-Use Vertical (MU-V) by the General Plan Land Use Element and is located within the Mixed-Use Vertical (MU-V) Zoning District.
- 5. The Property is located within the coastal zone. The Coastal Land Use Plan category is Mixed-Uses Vertical (MU-V) and it is located within the Mixed-Use Vertical (MU-V) Coastal Zone District.
- 6. A public hearing was held on January 18, 2018, in the Council Chambers at 100 Civic Center Drive, Newport Beach. A notice of time, place and purpose of the hearing was

given in accordance with the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by the Planning Commission at this hearing.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

This Pursuant to Section 15270 of the California Environmental Quality Act (CEQA) Guidelines, projects which a public agency rejects or disapproves are not subject to CEQA review.

SECTION 3. REQUIRED FINDINGS.

Conditional Use Permit

The Planning Commission may approve a use permit only after making each of the five required findings set forth in NBMC Subsection 20.52.020(F) (Findings and Decision). In this case, the Planning Commission was unable to make the required findings based upon the following:

1.

Major Site Development Review – Landmark Structure Height Increase

The Planning Commission may approve a site development review only after making each of the required findings set forth in NBMC Section 20.52.080(F) (Findings and Decision). In this case, the Planning Commission was unable to make the required findings based upon the following:

1.

Coastal Development Permit

The Planning Commission may approve a site development review only after making each of the required findings set forth in NBMC Section 21.52.015 (Findings and Decision). In this case, the Planning Commission was unable to make the required findings based upon the following:

1.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

- 1. The Planning Commission of the City of Newport Beach hereby denies Conditional Use Permit No. UP2017-021, Major Site Development Review No. SD2017-005, and Coastal Development Permit No. CD2017-064.
- 2. The Conditional Use Permit and Major Site Development Review actions shall become final and effective fourteen (14) days following the date this Resolution was adopted unless within such time an appeal is filed with the City Clerk in accordance with the provisions of NBMC Title 20 Planning and Zoning. The Coastal Development Permit shall become final

and effective fourteen (14) days following the date this Resolution was adopted unless within such time an appeal or call for review is filed with the Community Development Director in accordance with the provisions of Title 21 Local Coastal Implementation Plan, of the Newport Beach Municipal Code. Final action taken by the City may be appealed to the Coastal Commission in compliance with Section 21.64.035 of the City's certified LCP and Title 14 California Code of Regulations, Sections 13111 through 13120, and Section 30603 of the Coastal Act.

PASSED, APPROVED, AND ADOPTED THIS 18TH DAY OF JANUARY, 2018.

AYES:

NOES:

ABSTAIN:

ABSENT:

BY:_____ Peter Koetting, Chairman

BY:___

Erik Weigand, Secretary

WIENTIONALLYBUMWERAGE

Attachment No. PC 5

Project Plans

WIEWHOWALLYBUMWAPAGE

PROJECT SUMMARY

PROJECT ADDRESS: 707 Balboa Blvd., Newport Beach, CA 92663

ASSESSOR'S PARCEL NO.: 048-135-02

LEGAL DESCRIPTION:

Real property in the City of Newport Beach, County of Orange, State of California, described as follows:

LOTS 4 AND 5, BLOCK 10, BALBOA TRACT, IN THE CITY OF NEWPORT BEACH, COUNTY OF ORANGE, STATE OF CALIFORNIA, AS SHOWN ON A MAP RECORDED IN BOOK 4, PAGE 11 OF MISCELLANEOUS MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

EXCEPTING ALL OIL, GAS MINERALS AND OTHER HYDROCARBON SUBSTANCES LYING BELOW A DEPTH OF 500 FEET FROM THE SURFACE OF SAID LAND, BUT WITHOUT THE RIGHT OF ENTRY UPON ANY PORTION OF THE SURFACE ABOVE A DEPTH OF 500 FEET, TO TAKE, MARKET, MINE, EXPLORE OR DRILL FOR SAME, AS RESERVED IN DEED RECORDED APRIL 28, 1969 IN BOOK 8939, PAGE 653 OF OFFICIAL RECORDS.

ZONING DESIGNATION: Central Balboa Specific Plan (SP-8) Retail and Service Commercial (RSC) Designated as a Landmark Theater

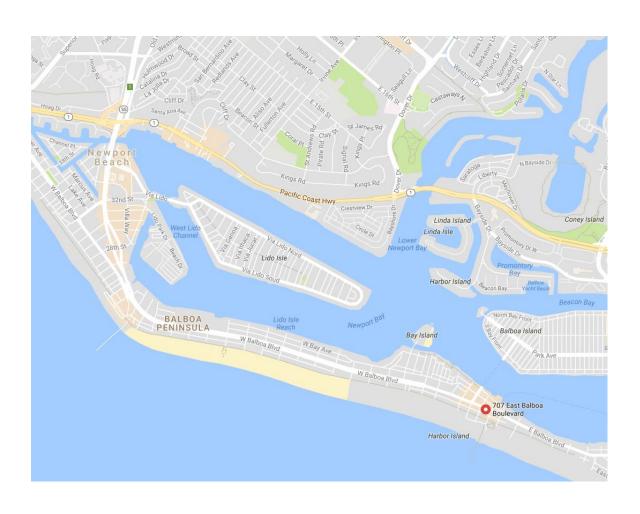
SCOPE OF WORK:

Complete A/E rehabilitation including architectural, structural and MEP work to create an active theater with food and beverage service. Interior will have two stories with balconies to the stage. Other interior elements are storage rooms, restrooms and food & beverage service facilities. Exterior work includes a facade restoration at main street facade, new openable storefront windows flanking center entry doors and a recreated historical marquee. A small outdoor seating area will extend into the sidewalk. A new roof deck will constructed for food and beverage service. Other roof elements include mechanical screen, stairway enclosure, elevator shaft and glass guardrail.

LOT SIZE :	5,130 S.F.
TYPE OF CONSTRUCTION:	VA
OCCUPANCY:	A-2
HEIGHT:	50'-0" MAX.
STORIES:	2 with ROOF DECK

Item	Current	Proposed	Comments					
Lot Area	5,135 sf	5,135 sf						
Lot Width	54 ft	54 ft						
Lot Depth	ave-95.095	ave-95.095						
Setbacks	0 ft	0 ft						
Gross s.f.	5,135 sf ¹	10,948 sf ²	¹ Orig Theater est. w/ balcony = $6,747$ sf ² Interior = $8,302$ Roof deck = $2,648$ sf					
F.A.R.	1	1.62	Interior space					
Bldg./Lot Coverage	100%	100%						
Building Ht	32'-3"	48'-4"	48'-4" to top of elevator shaft.37'-6" to top of guardrail					
Landscaping	0%	0%						
Paving	0%	0%						
Parking	0	0						
No. of Emps.	0	7 max						
No. of Seats	450 Orig Theater	318						
Hours of Operation	Unknown	6am to 12am	7-days/week					
Use	Theater	Theater	New use includes food & beverage service.					

VICINITY MAP



SHEET INDEX

- A-1 COVER SHEET/PLOT PLAN
- 1 of 1 SURVEY
- C1 PRELIMINARY GRADING AND DRAINAGE PLAN
- C2 PRELIMINARY EROSION CONTROL PLAN
- A1.1 DEMOLITION PLAN
- A-2.1 PROPOSED FLOOR PLANS (EVENT SEATING W/ TABLES) & AREA PLANS
- A-2.2 PROPOSED FLOOR PLANS (EVENT SEATING) & AREA PLANS
- A-3 PROPOSED DESIGN EXTERIOR ELEVATIONS
- A-3.1 PROPOSED DESIGN BUILDING SECTIONS
- A-4 PROPOSED MATERIALS & SIGNAGE DESIGN

PROJECT TEAM

OWNER: Balboa Theater Company, L.L.C. 709 Randolph Ave. Costa Mesa, CA 92626

Ph: (714) 966-1177 Contact: Chris Bennett

ARCHITECT: Thirtieth Street Architects, Inc. 2821 Newport Blvd. Newport Beach, CA 92663

Ph: (949) 673-2643 Contact: James C. Wilson Email: jw@tsainc.us

CIVIL ENGINEER: Civil Works Engineers 3151 Airway Ave., Ste T-1 Costa Mesa, CA 92626

Ph: (714) 966-9060 Contact: Marie Marston Email: mmarston@civilworksengineers.com



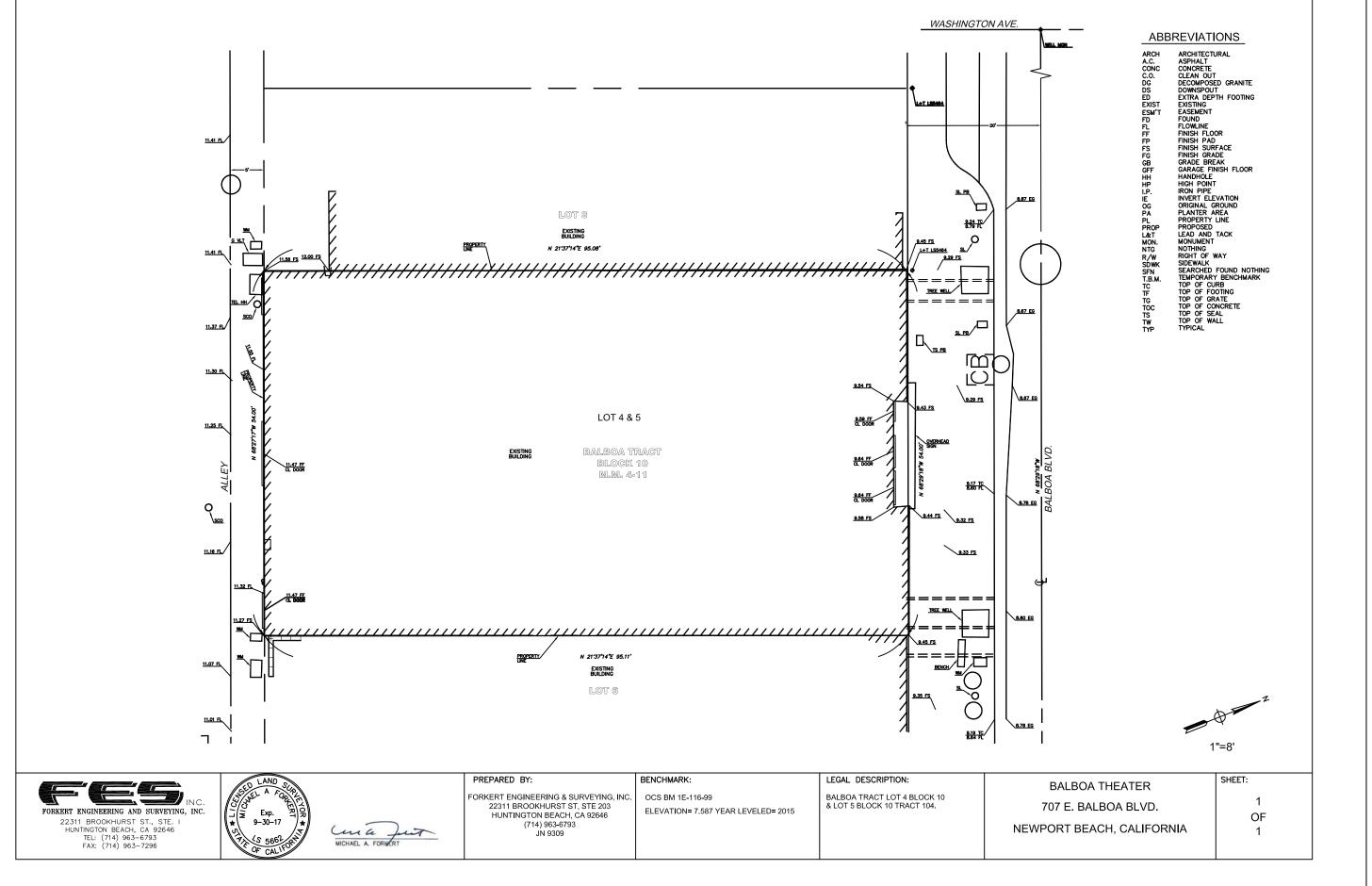
A-3a PROPOSED DESIGN EXTERIOR ELEVATIONS- HEIGHTS

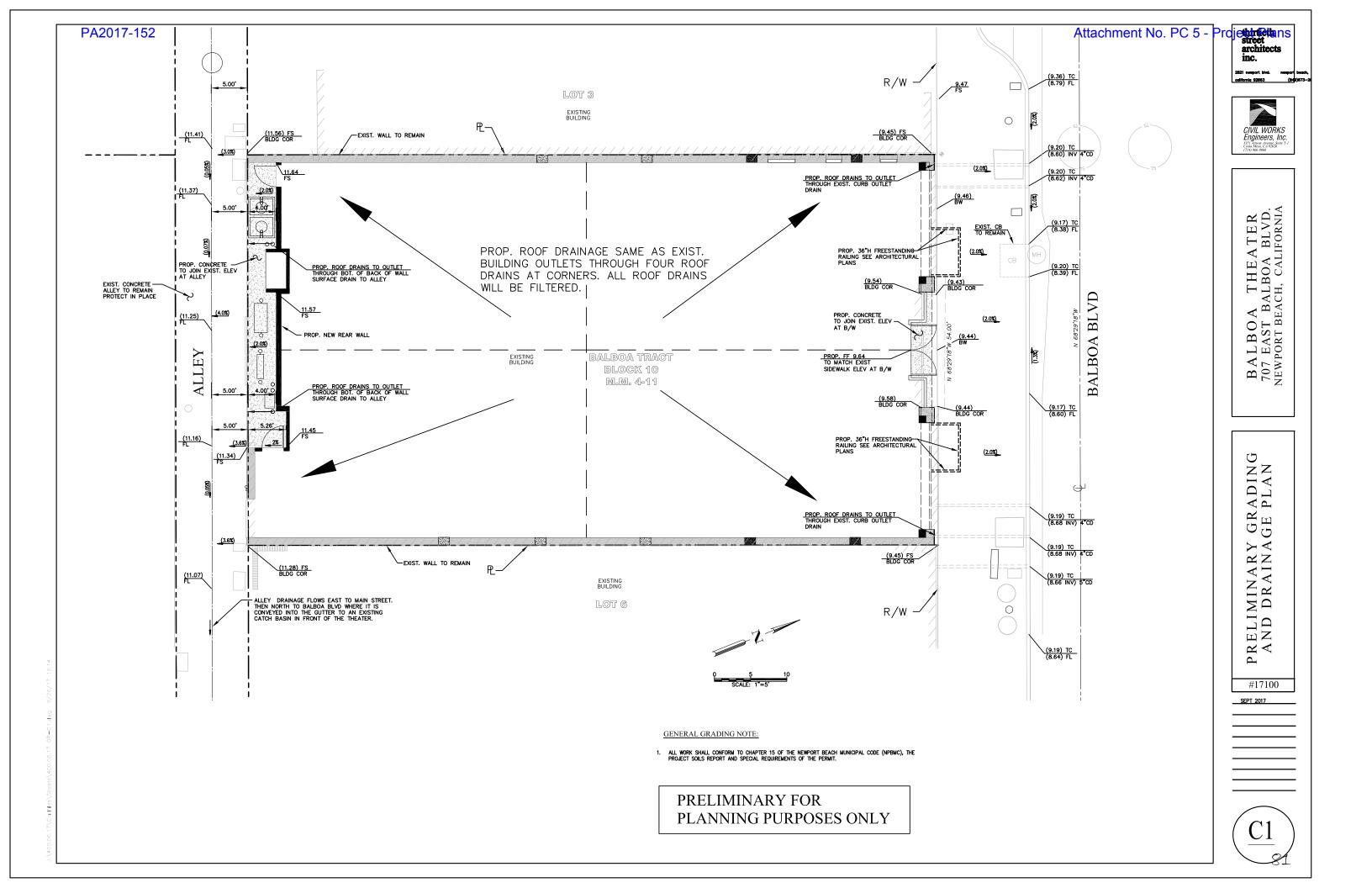
A-5 PHOTOGRAPHS OF SURROUNDING BUILDINGS

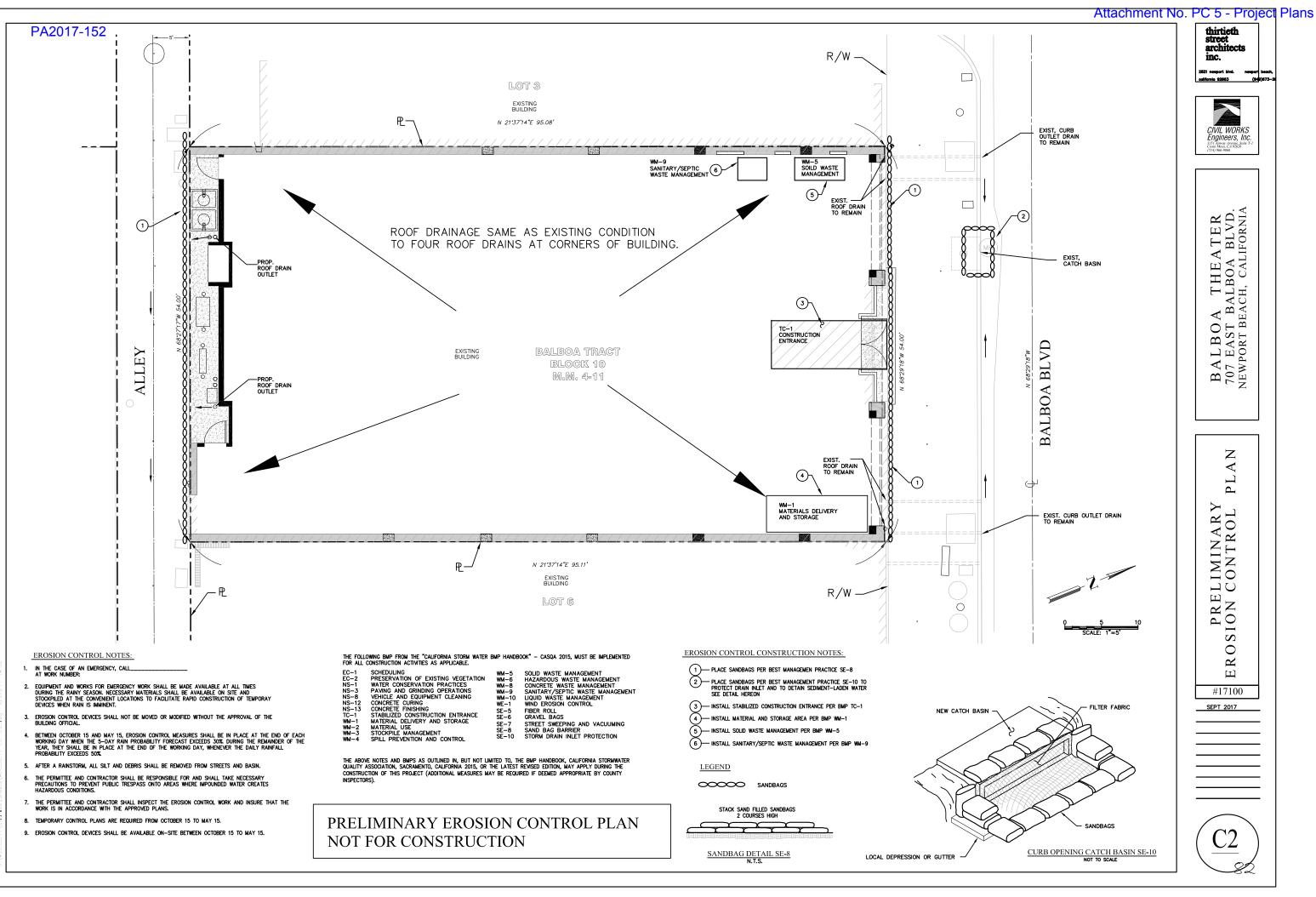


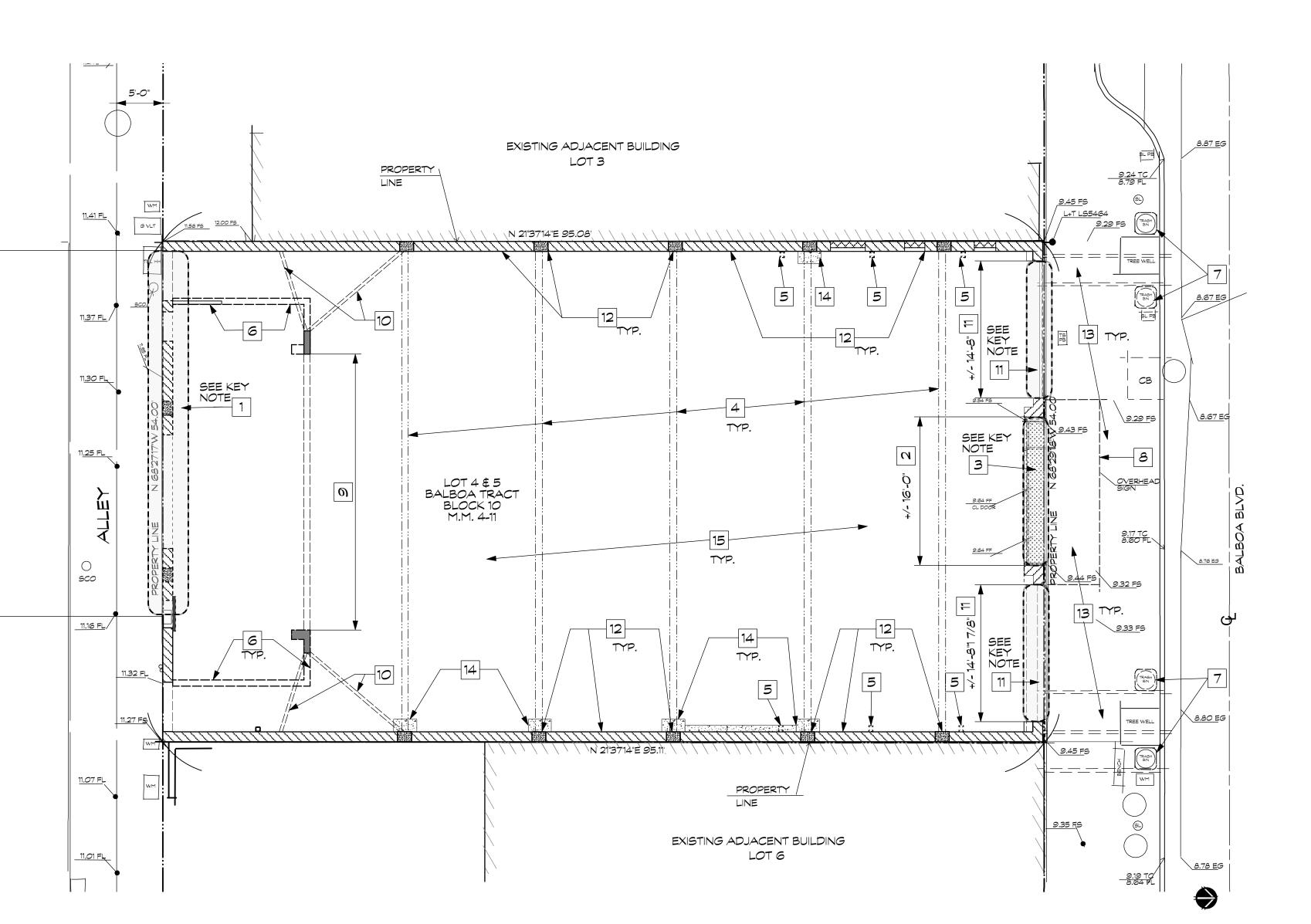
thirtieth

PA2017-152









+/-39'-6" SEE KEY NOTE 1

	thirtieth street architects inc. 2821 newport blvd. newport beach, california 92663 (949)673-2643
	B A L B O A T H E A T E R 707 EAST BALBOA BLVD. NEWPORT BEACH, CALIFORNIA
CONCRETE COLUMNS TO BE IRY WALL ABOVE, TYP.	
E REMOVED, PREP FOR NEW EPPED FOR NEW CONCRETE Y REQUIREMENTS, TYP.	
ACE, TYP. PREPPED FOR NEW	
D, PREP FOR NEW FINISHES, TYP.	
:D, TYP.	
PENING SIZE AND FINISHES, TYP.	Z
EQUIRED FOR NEW STRUCTURAL	LA
VED, WALL OPENING TO REMAIN, D DOORS, TYP.	DEMOLITION PLAN
COLUMNS TO REMAIN,	
ROTECT-IN-PLACE, TYP.	IOI
EMAIN, PROTECT-IN PLACE, TYP.)EN
NEW CONCRETE FOUNDATION	
	#17100
	9/28/17 C.U.P. RESUBMITTAL
	/

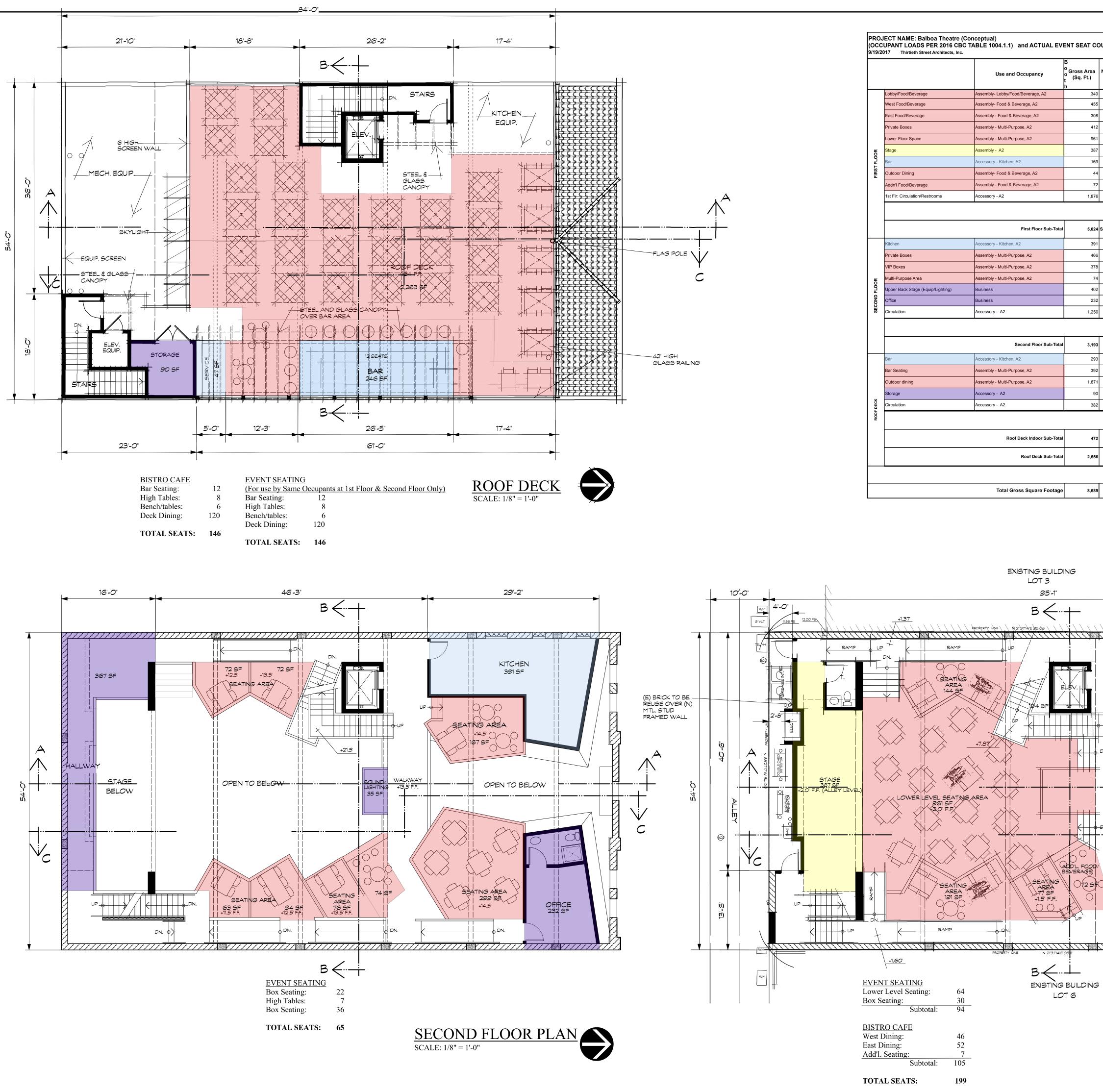
REF. NO.	DEMO KEY NOTES
1	9'-6" HIGH OF EXISTING MASONRY WALL AND CONCRETE COLUMNS TO BE REMOVE, PROTECT IN PLACE EXISTING MASONRY WALL ABOVE, TYP.
2	EXISTING DOORS AND WINDOW SYSTEM TO BE REMOVED, PREP FOR NEW DOOR AND WINDOW SYSTEM.
з	EXISTING CONCRETE TO BE REMOVED AND PREPPED FOR NEW CONCRETE FINISH; NEW FINISH SHALL MEET ACCESSIBILITY REQUIREMENTS, TYP.
4	EXISTING TRUSSES TO REMAIN PROTECT-IN PLACE, TYP.
5	EXISTING WOOD POSTS TO BE REMOVED AND PREPPED FOR NEW STRUCTURAL SUPPORT, TYP.
6	EXISTING BROKEN CONCRETE TO BE REMOVED, PREP FOR NEW FINISHES, TYP.
7	EXISTING TRASH BINS TO BE RELOCATED, PATCH AND REPAIR CONCRETE, TYP.
8	EXISTING OVERHEAD SIGNAGE TO BE REMOVED, TYP.
9	EXISTING WALLS TO BE MODIFIED FOR NEW OPENING SIZE AND FINISHES, TYP.
10	EXISTING WALL BRACES TO BE MODIFIED AS REQUIRED FOR NEW STRUCTURAL SUPPORT, TYP.
11	EXISTING PLYWOOD AT OPENING TO BE REMOVED, WALL OPENING TO REMAIN, PROTECT-IN-PLACE, PREP FOR NEW OVERHEAD DOORS, TYP.
12	EXISTING MASONRY WALLS AND CONCRETE COLUMNS TO REMAIN, PROTECT-IN-PLACE, TYP.
13	EXISTING CONCRETE SIDEWALK TO REMAIN, PROTECT-IN-PLACE, TYP.
14	EXISTING EXPOSED CONCRETE FOOTING TO REMAIN, PROTECT-IN PLACE, TYP.
15	EXISTING SAND/GRADE TO BE MODIFIED FOR NEW CONCRETE FOUNDATION \pounds FLOOR

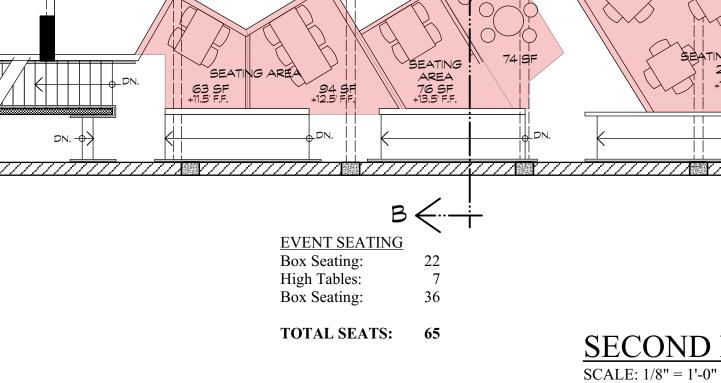
LEGEND

	EXISTING DOUBLE WYTHE BRICK WALL TO REMAIN
[]]]]]]]]]]]]]]]]]]]]]]]]]]]]]]]]]]]]]]	EXISTING DOUBLE WYTHE BRICK WALL TO BE REMOVED PER KEY NOTE
	EXISTING CONCRETE COLUMN TO REMAIN
	EXISTING CURVED TRUSSES TO REMAIN
	EXISTING TO BE REMOVED, SEE KEY NOTE FOR CLARIFICATIONS, TYP.

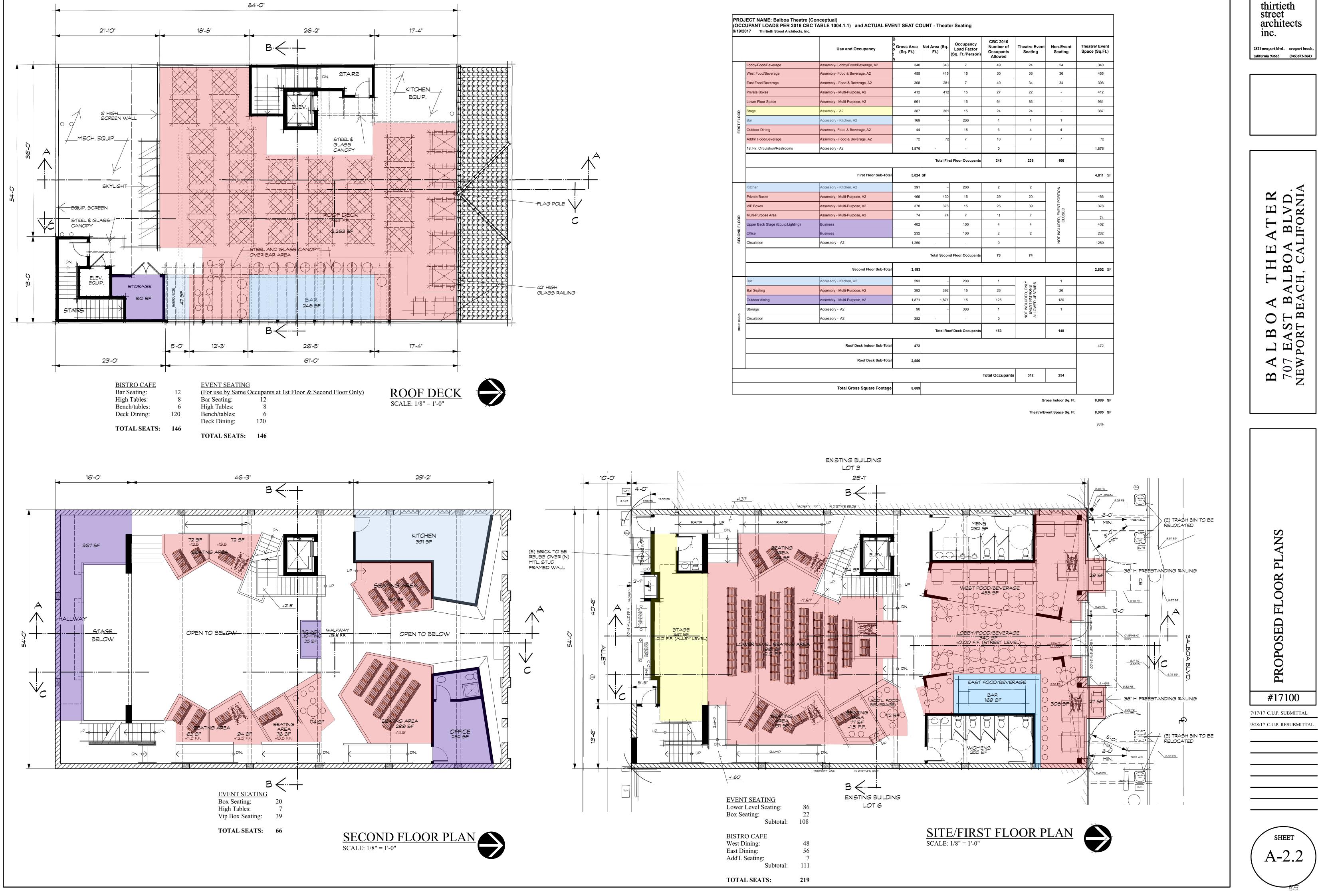
1/8" = 1'-0"

A-1.1



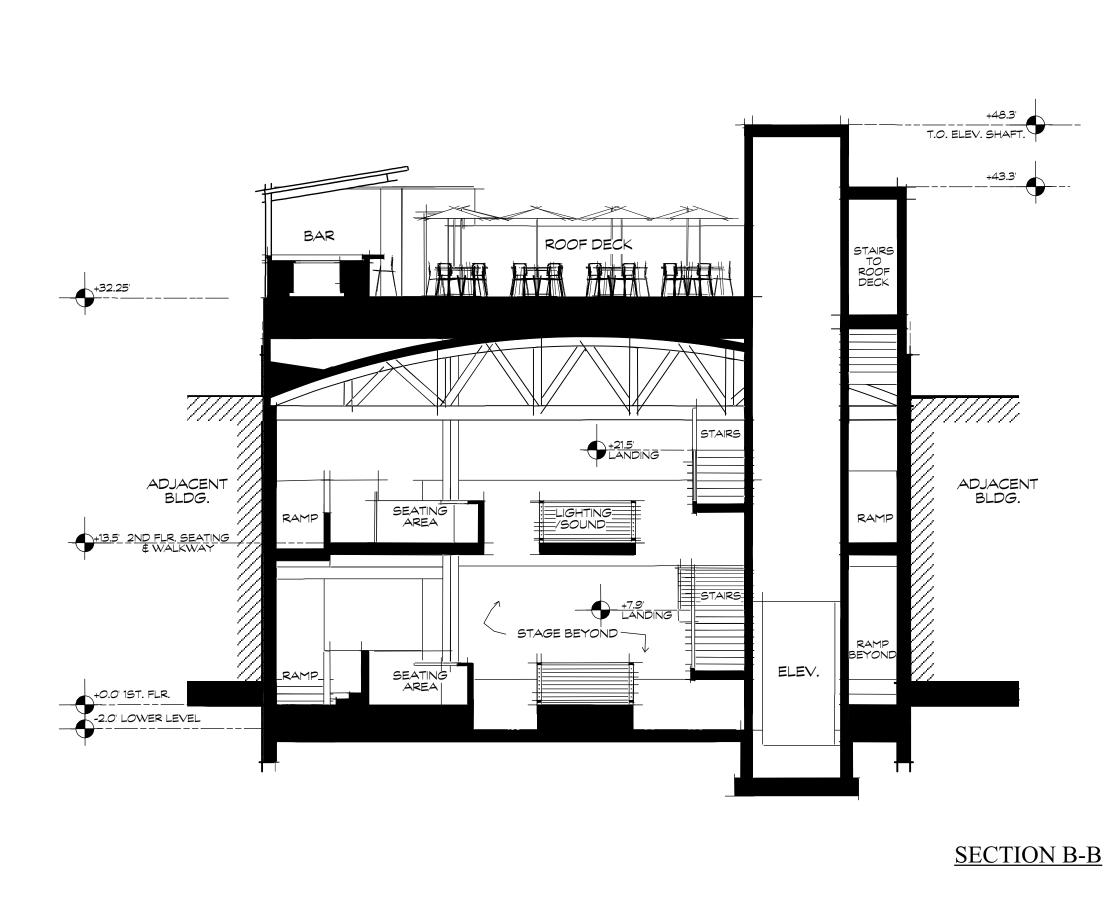


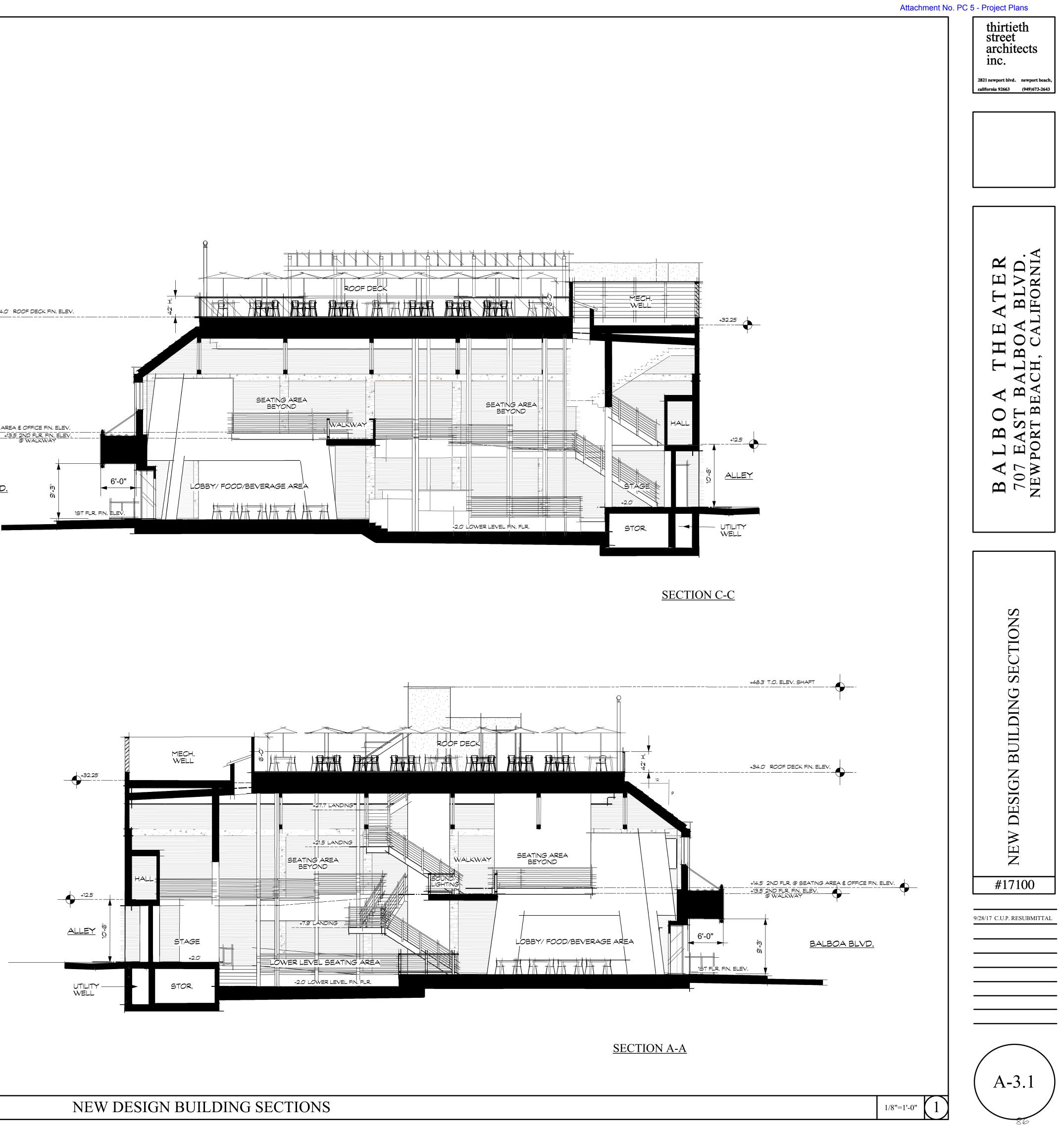
4"	PROJECT NAME: Balboa Theatre (Cor (OCCUPANT LOADS PER 2016 CBC T	nceptual) ABLE 1004.1.1) and ACTUAL	EVENT SEAT COUNT - 1	Theater Seating					thirtieth street architects
	9/19/2017 Thirtieth Street Architects, Inc.	Use and Occupancy	B ^o Gross Area Net Are o (Sq. Ft.) Ft.	a (Sq. Occupancy Load Factor (Sq. Ft./Person)	Occupants	eatre Event Non-Ever Seating Seating	t Theatre/ Event Space (Sq.Ft.)		2821 newport blvd. newport beach,
	Hobby/Food/Beverage West Food/Beverage East Food/Beverage Private Boxes Lower Floor Space Stage Bar Outdoor Dining Addn'l Food/Beverage 1st FIr: Circulation/Restrooms	Assembly- Lobby/Food/Beverage, A2Assembly- Food & Beverage, A2Assembly - Food & Beverage, A2Assembly - Multi-Purpose, A2Assembly - Multi-Purpose, A2Assembly - A2Accessory - Kitchen, A2Assembly- Food & Beverage, A2Assembly - Food & Beverage, A2Assembly - Food & Beverage, A2Accessory - Kitchen, A2Assembly - Food & Beverage, A2Assembly - Food & Beverage, A2Accessory - A2	h 340 455 308 412 961 387 169 44 72 1,876	340 7 415 15 281 7 412 15 - 15 361 15 - 200 15 15 72 7 - -	Allowed 49 30 40 27 64 24 1 3 10 0	24 24 36 36 34 34 22 - 86 - 24 - 1 1 4 4 7 7	340 455 308 412 961 387 72 1,876		california 92663 (949)673-2643
	Kitchen Private Boxes VIP Boxes Multi-Purpose Area Upper Back Stage (Equip/Lighting) Office Circulation Bar	First Floor Sub-T Accessory - Kitchen, A2 Assembly - Multi-Purpose, A2 Assembly - Multi-Purpose, A2 Assembly - Multi-Purpose, A2 Business Business Accessory - A2 Second Floor Sub-T	otal 5,024 SF 391 391 466 378 74 402 402 232 1,250 -	Detail First Floor Occupants 200 430 15 378 15 74 7 100 - 100 - Secord Floor Occupants		238 106 2 NO 20 39 7 4 2 106 NO 20 39 7 4 2 NO 1 NO 1 2 106 106	4,811 SF 466 378 74 402 232 1250 2,802 SF		T H E A T E R LBOA BLVD. H, CALIFORNIA
GLASS RAILING	Bar Seating Outdoor dining Storage Circulation	Assembly - Multi-Purpose, A2 Assembly - Multi-Purpose, A2 Accessory - A2 Accessory - A2 Roof Deck Indoor Sub-T Roof Deck Sub-T Total Gross Square Foot	otal 472 otal 2,556	392 15 1,871 15 - 300 - - otal Roof Deck Occupants	125	312 26 312 254			B A L B O A 707 EAST BA NEWPORT BEAC
							93%		
29'-2"		EXISTING BUIL LOT 3 95'-1					s du		
ICHEN ICHEN ISPISE ICHEN I	RAMP RAMP	ROPERT LIVE N213714E B5.00			MENS 232 SF 232 SF 255 SF 255 SF 260 F.F. (STREET 2455 SF 255 SF 255 SF 255 SF			BATE DETERMINE DETER	SNPT OF
DOR PLAN	BISTRO CAFEWest Dining:46East Dining:52Add'l. Seating:7Subtotal:105TOTAL SEATS:199			SITE/F SCALE: 1/8" =	<u>IRST F</u> = 1'-0"	LOOR P			SHEET A-2.1

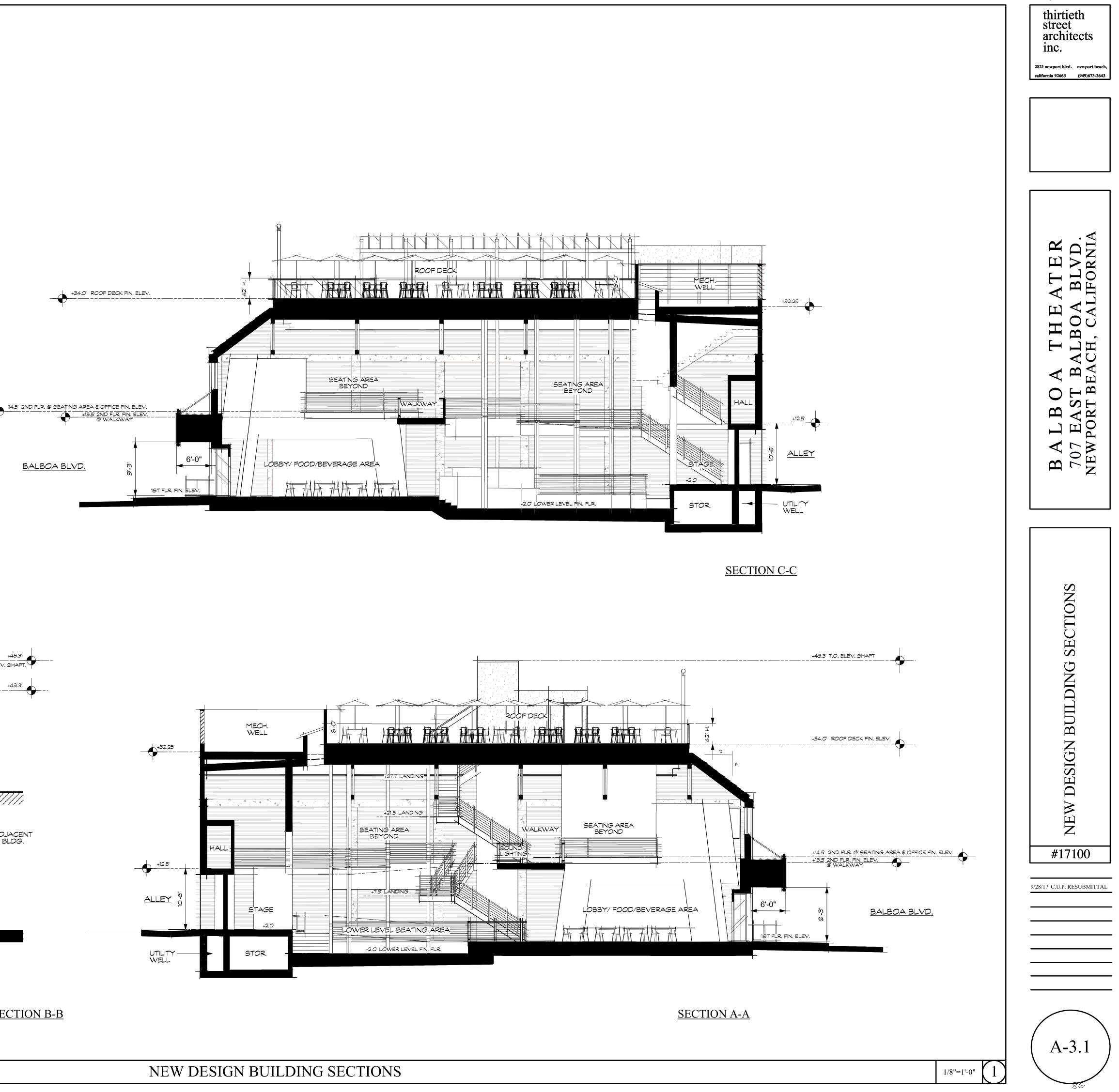


Lobby/Food/Beverage West Food/Beverage East Food/Beverage Private Boxes Lower Floor Space Stage Bar Dutdoor Dining Addn'l Food/Beverage 1st FIr: Circulation/Restrooms Kitchen Private Boxes	Assembly- Lobby/Food/Beverage, A2 Image: Assembly- Food & Beverage, A2 Image: Assembly - Food & Beverage, A2 Image: Assembly - Multi-Purpose, A2 Image: Assembly - Multi-P	30 41 96 38 16 4 7 1,87 5,02 39					
East Food/Beverage Private Boxes Lower Floor Space Stage Bar Dutdoor Dining Addn'l Food/Beverage 1st Flr: Circulation/Restrooms Kitchen Private Boxes	Assembly - Food & Beverage, A2 Assembly - Multi-Purpose, A2 Assembly - Multi-Purpose, A2 Assembly - Multi-Purpose, A2 Assembly - Multi-Purpose, A2 Assembly - A2 Assembly - A2 Accessory - Kitchen, A2 Assembly - Food & Beverage, A2 Assembly - Food & Beverage, A2 Accessory - A2	41 96 38 16 4 7 1,87 5,02 39					
Private Boxes Lower Floor Space Stage Bar Dutdoor Dining Addn'l Food/Beverage 1st Flr: Circulation/Restrooms Kitchen Private Boxes	Assembly - Multi-Purpose, A2 Assembly - Multi-Purpose, A2 Assembly - Multi-Purpose, A2 Assembly - A2 Assembly - A2 Accessory - Kitchen, A2 Assembly - Food & Beverage, A2 Assembly - Food & Beverage, A2 Accessory - A2	38 16 4 7 1,87 5,02 39					
Lower Floor Space Stage Bar Dutdoor Dining Addn'l Food/Beverage 1st FIr: Circulation/Restrooms Kitchen Private Boxes	Assembly - Multi-Purpose, A2 Assembly - A2 Assembly - A2 Accessory - Kitchen, A2 Assembly- Food & Beverage, A2 Assembly - Food & Beverage, A2 Accessory - A2 First Floor Sub-Total Accessory - Kitchen, A2	96 38 16 4 7 1,87 5,02 39					
Stage Bar Dutdoor Dining Addn'l Food/Beverage 1st FIr: Circulation/Restrooms Kitchen Private Boxes	Assembly - A2 Assembly - A2 Accessory - Kitchen, A2 Assembly- Food & Beverage, A2 Assembly - Food & Beverage, A2 Assembly - A2 Accessory - A2 Accessory - A2 First Floor Sub-Total Accessory - Kitchen, A2	4 7 1,87 5,02 39					
Bar Dutdoor Dining Addn'l Food/Beverage Ist FIr: Circulation/Restrooms Kitchen Private Boxes	Accessory - Kitchen, A2 Assembly- Food & Beverage, A2 Assembly - Food & Beverage, A2 Accessory - A2	16 4 7 1,87 5,02 39					
Outdoor Dining Addn'I Food/Beverage 1st FIr: Circulation/Restrooms Kitchen Private Boxes	Assembly- Food & Beverage, A2 Assembly - Food & Beverage, A2 Accessory - A2 First Floor Sub-Total Accessory - Kitchen, A2	7 1,87 5,02 39					
Addn'l Food/Beverage Ist FIr: Circulation/Restrooms Kitchen Private Boxes	Assembly - Food & Beverage, A2 Accessory - A2 First Floor Sub-Total Accessory - Kitchen, A2	4 7 1,87 5,02 39					
1st FIr: Circulation/Restrooms Kitchen Private Boxes	Accessory - A2 First Floor Sub-Total Accessory - Kitchen, A2	1,87 5,02 39					
Kitchen Private Boxes	First Floor Sub-Total	5,02 39					
Private Boxes	Accessory - Kitchen, A2	39					
Private Boxes							
	Assembly - Multi-Purpose, A2						
		46					
VIP Boxes	Assembly - Multi-Purpose, A2	37					
Multi-Purpose Area	Assembly - Multi-Purpose, A2	7					
Upper Back Stage (Equip/Lighting)	Business	40					
Office	Business	23					
Circulation	Accessory - A2	1,25					
	Second Floor Sub Total	3,19					
_							
		29					
-		39					
-		9					
Circulation	Accessory - A2	38					
Roof Deck Indoor Sub-Total							
	Roof Deck Sub-Total	2,55					
	Jpper Back Stage (Equip/Lighting) Diffice Dirculation Bar Bar Bar Dutdoor dining Storage	Jpper Back Stage (Equip/Lighting) Business Diffice Business Dirculation Accessory - A2 Second Floor Sub-Total Second Floor Sub-Total Bar Accessory - Kitchen, A2 Bar Seating Assembly - Multi-Purpose, A2 Dutdoor dining Assembly - Multi-Purpose, A2 Storage Accessory - A2 Circulation Accessory - A2					



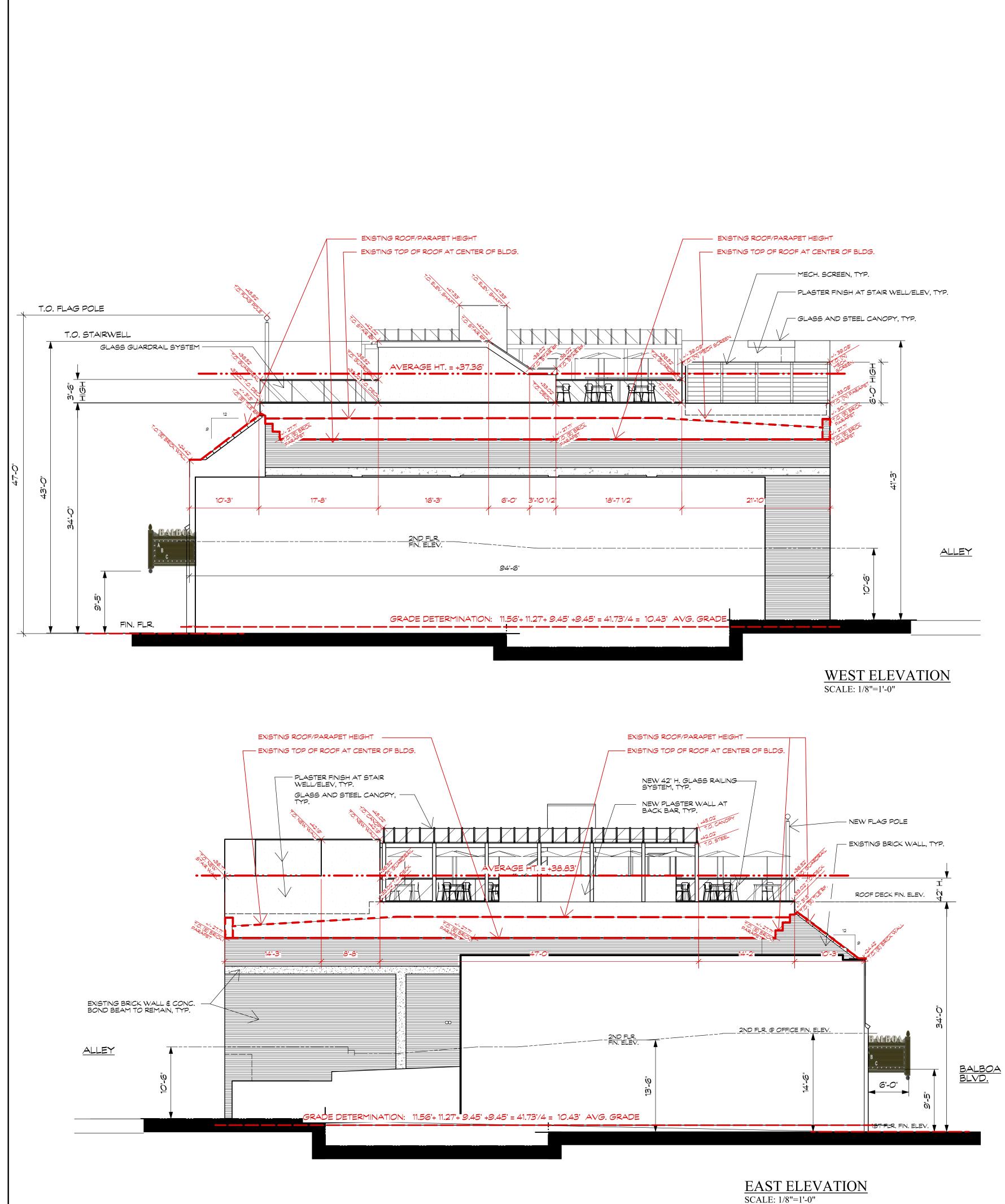


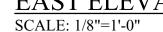


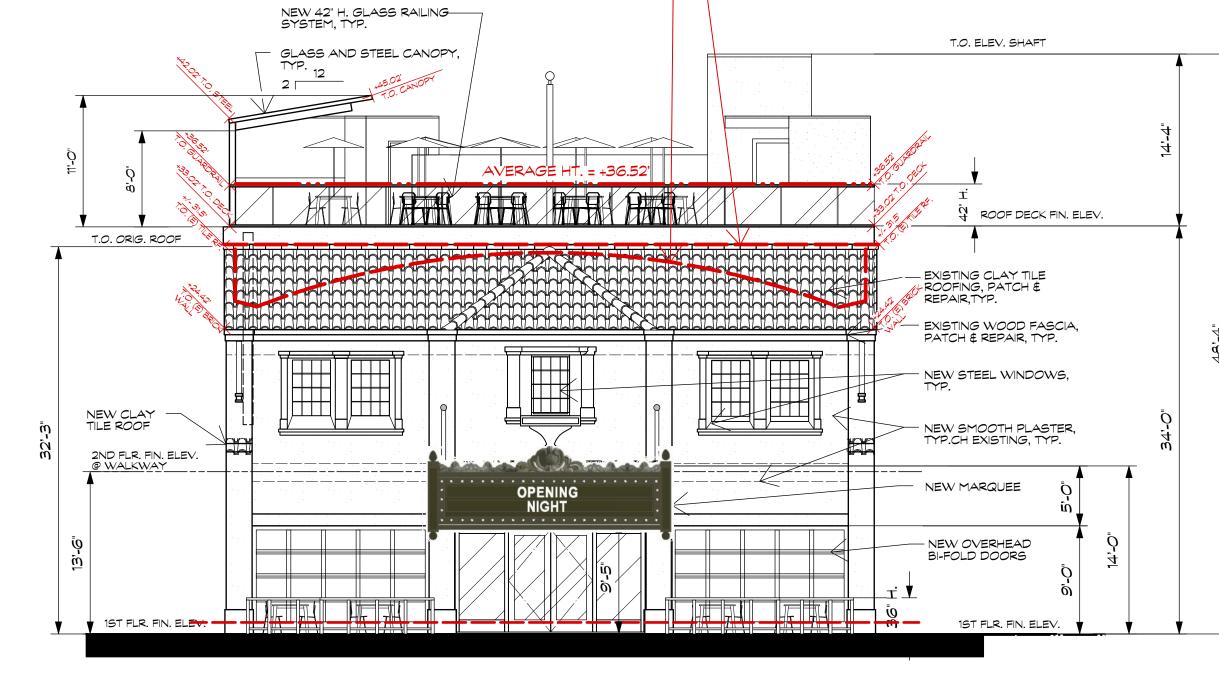




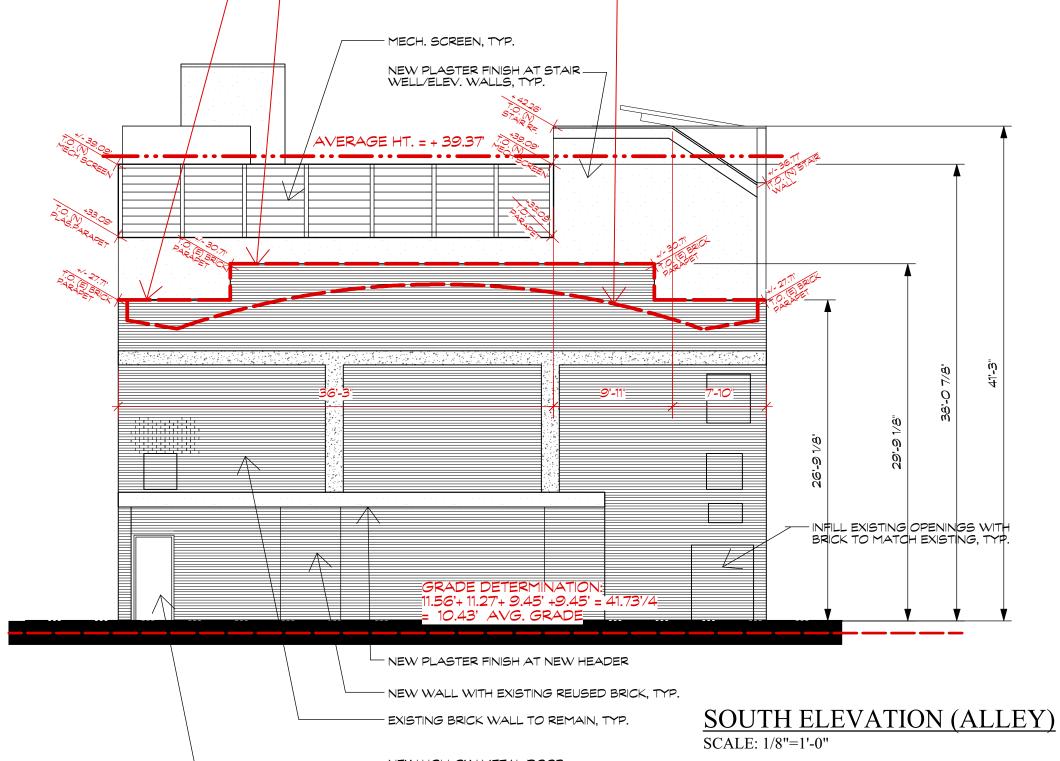








EXISTING ROOF HEIGHT



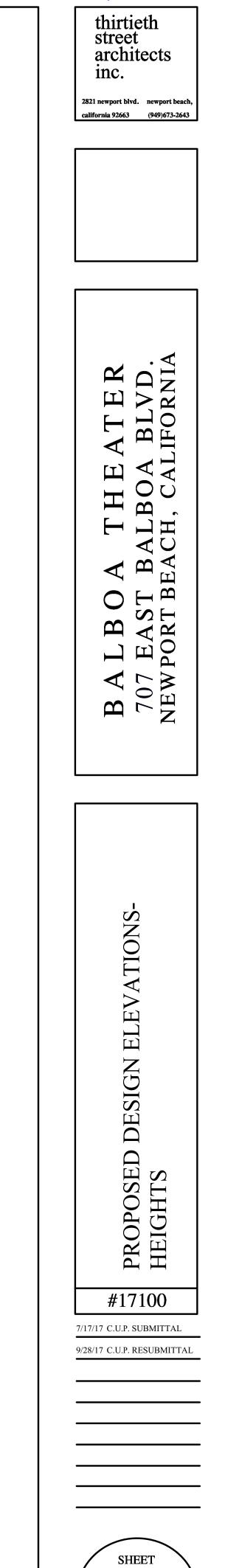
- EXISTING PARAPET HEIGHT

EXISTING TOP OF RADIUS ROOF -----

SCALE: 1/8"=1'-0"

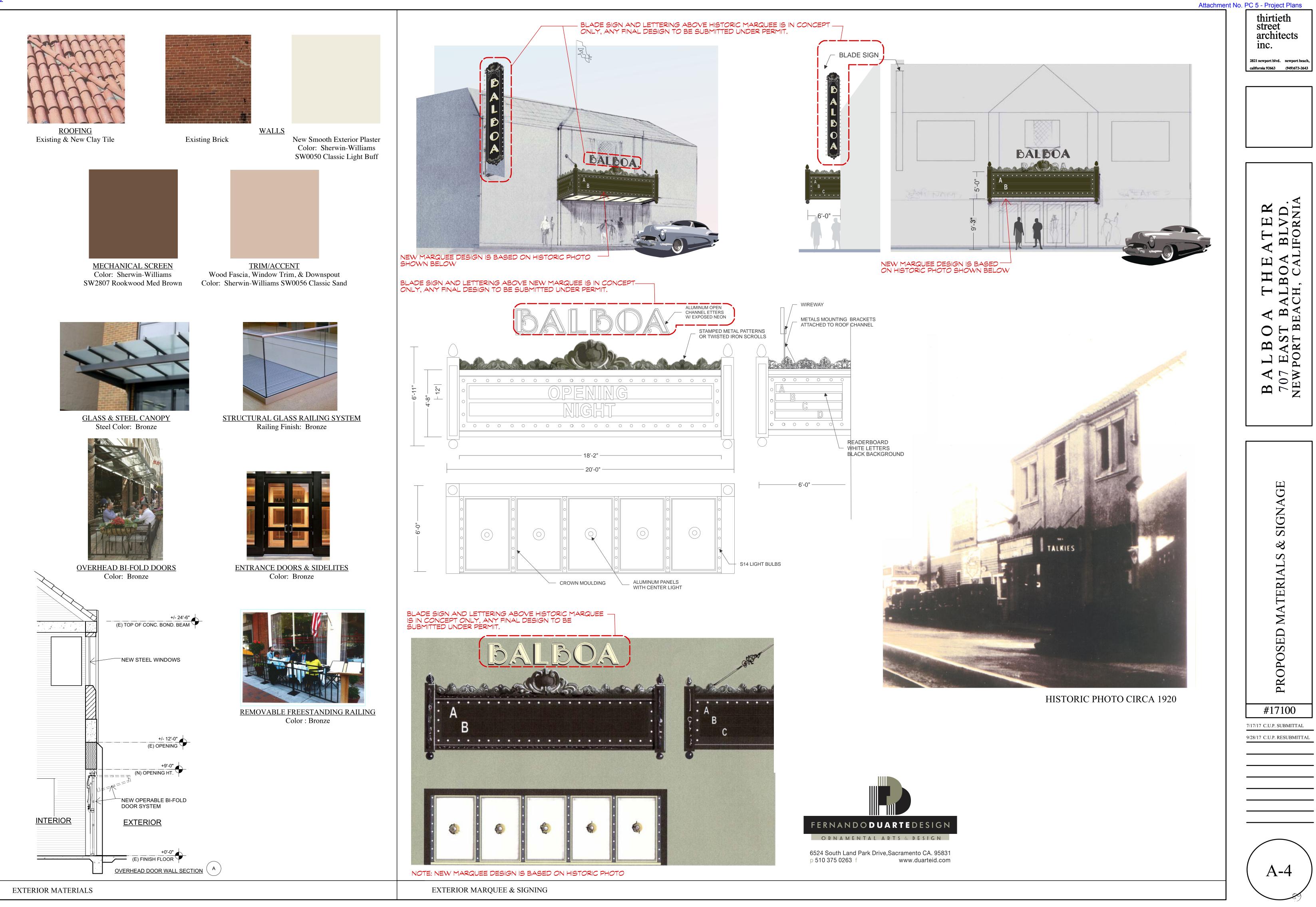
NORTH ELEVATION (BALBOA BLVD)

- NEW HOLLOW METAL DOOR

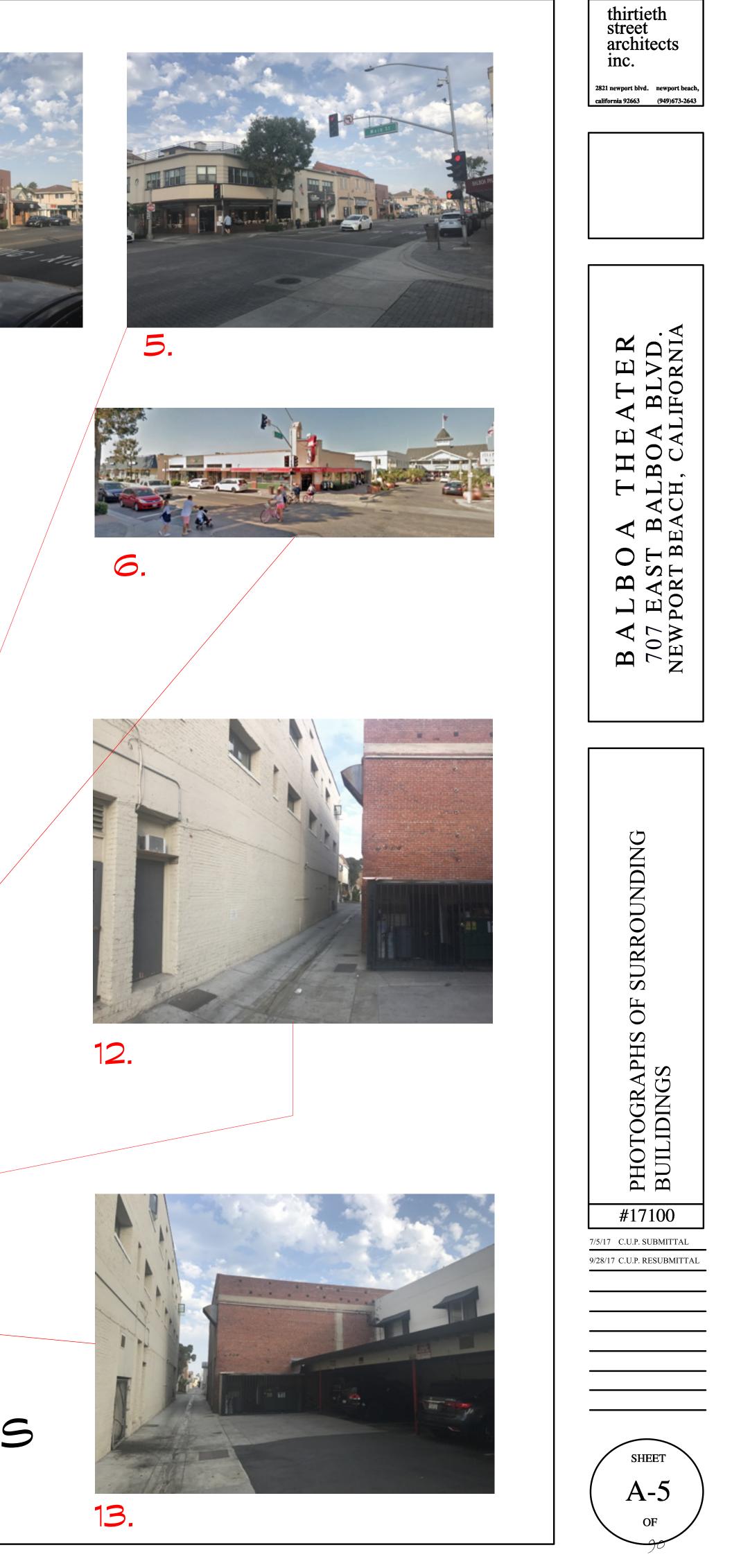


A-3a

OF







Attachment No. PC 6

Public Correspondence Received

WIEWHOWALLYBUMWAPAGE

Zdeba, Benjamin

From:	Jon Halperin <jon@musictastesgood.com></jon@musictastesgood.com>
Sent:	Friday, January 05, 2018 11:04 AM
То:	Zdeba, Benjamin
Subject:	Support for the Balboa Theater!

Mr. Zdeba, I would like to offer my support for The Lab's takeover of the Balboa Theater. As an Orange County native (my Bar Mitzvah reception was at the Balboa Bay Club in the very early 80's), this theater reopening with The Lab's vision would be an amazing addition to the arts community in Newport Beach. My understanding is that they are looking towards booking adult contemporary and jazz, not exactly the crowds that would cause a ruckus.

Myself, I have booked 10,000+ bands over the last 20 years. I currently book one 800 cap music venue and three music festivals (with talent budgets upwards to \$1.5m).

I am looking forward to working alongside The Lab with this project should it come to fruition.

Thank you.



Jon Halperin - Talent Buyer September 29 & September 30, 2018 / Long Beach, CA jon@musictastesgood.com

Zdeba, Benjamin

From:Joey SellersSent:Friday, JanuTo:Zdeba, BenjSubject:Balboa Theat

Joey Sellers <jsellers@saddleback.edu> Friday, January 05, 2018 1:39 PM Zdeba, Benjamin Balboa Theater

Dear Mr. Zdeba: I am writing in support of the repurposing and restoration of the Balboa Theater. Lord knows we need more creative venues that create a sense of community in Orange County, and particularly South Orange County. With the Theater's rich history and location it can become a vital part of creative activity in South County. We do hope that you will act in support of this civically important cultural project.

Yours Sincerely,

Joey Sellers Director, Jazz Studies Saddleback College 28000 Marguerite Pkwy Mission Viejo, CA 92692 (949) 582-4629 FAX (949) 347-0580 jsellers@saddleback.edu http://www.saddleback.edu/fa/jazz-studies Pete Jacobs 16 Crockett St. Irvine, CA 92620

January 5, 2018

Newport Beach Planning Commission Newport Beach, CA

I have been a part of the Orange County music scene for several decades. We provide entertainment for several Fundraising Galas and other Corporate Events. So I was very glad to hear that Linda Sadeghi and her team of people from The Lab were planning on renovating the Historic Balboa Theater.

I believe that this could be a fantastic gathering-place for events and concerts. This building has always been about fun, entertainment, and night-life. I have seen first-hand what Linda and her team have done with places like the historic Casino San Clemente, and the Anaheim Packing House. These places went transformed from neglected structures into vibrant gathering-places. (My own daughter had her wedding reception last year at the Anaheim Packing House just last year).

I also believe that this proposed renovation of the Balboa Theater will bring a very classy type of entertainment and concert goer which will be a great asset to the City of Newport Beach and all of the surrounding business.

Sincerely,

Pete Jacobs



17620 Fitch Avenue, Suite 255, Irvine, CA 92614-6081 714.556.5160 | FAX 714.556.5099 www.ArtsOC.org | www.SparkOC.com

January 9, 2018

Mr. Benjamin M. Zdeba, AICP Associate Planner Community Development Department City of Newport Beach City Hall 100 Civic Center Dr. Newport Beach, CA 92660

RE: BALBOA THEATER Project Proposal - SUPPORT

Dear Mr. Zdeba:

For the past twenty-three years, Arts Orange County has been the nonprofit arts council serving our community and is officially designated by the Orange County Board of Supervisors as its local arts agency and State-Local Partner. Additionally, Arts Orange County has been the City of Newport Beach's contractor for the management of the Sculpture Exhibition in Civic Center Park since its inception in 2014, and for the development of the City's Master Arts & Culture Plan in 2015.

Arts Orange County is quite familiar with the Balboa Theater's history, having served as consultants in 2012-13 to the nonprofit Balboa Performing Arts Theatre Foundation.

We have also had a collegial relationship since 2009 with The LAB Holding, new owners of the Balboa Theater, and are familiar with their plans for the project. As you know, their other projects in Costa Mesa (The LAB and The CAMP) and in Anaheim (The Packinghouse and Center Street Promenade) are tremendously successful and reflect an imaginative approach in the adaptive re-use of older properties. Their creativity and innovation have attracted international attention, admiration and respect.

The LAB Holiding's vision for the Balboa Theater as a flexible theater space presenting a variety of performing arts events and accommodating about 300 meets a vital need in Newport Beach that was validated by our community input-gathering when we conducted the City's Master Arts & Culture Plan process. There are few such venues countywide for world-class visiting performing ensembles, high quality local performing organizations, and independent performing arts presenters, so it will be in high demand. Further, its potential to energize an area in need of revitalization, for local residents and visitors alike, makes this an exceptionally worthy project to greenlight.

We are very excited about the prospect of this addition to the arts & cultural landscape of the Balboa Peninsula, Newport Beach and Orange County, and encourage you to support it through the approval process.

Richard Stein President & CEO