

CALIFORNIA COASTAL COMMISSION

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W6a

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Staff: Fernie Sy-LB
Staff Report: July 21, 2011
Hearing Date: August 10-12, 2011
Commission Action:

**STAFF REPORT: CONSENT CALENDAR**

APPLICATION NO.: 5-11-073

APPLICANT: Balboa Performing Arts Theater Foundation; Attn: Mary Lonich and The City of Newport Beach

AGENT: Government Solutions, Inc.; Attn: Carol McDermott

PROJECT LOCATION: 707 East Balboa Boulevard, City of Newport Beach (Orange County)

PROJECT DESCRIPTION: Remodel and addition to the existing Balboa Theater. The façade will be retained and restored, and a 2nd floor, plus roof deck with tower and rooftop mechanical equipment will be added to the building which will increase the existing height of the building to 45'-6" with roof top projections up to 55'. Also, the seating will be reduced from 450 to 325 seats. The proposal includes a prohibition of weekend matinee performances during the summer between Memorial Day and Labor Day to address parking issues. No landscaping is proposed.

SUMMARY OF STAFF RECOMMENDATION:

The proposed development involves the remodel and addition to the existing Balboa Theater, a locally designated historic building. The major issues before the Commission relate to adequate parking, public access, water quality and visual resources. Staff is recommending **APPROVAL** of the proposed project subject to **FIVE (5) SPECIAL CONDITIONS** requiring: **1)** additional approvals for any future development; **2)** that during the summer between and inclusive of Memorial Day and Labor Day, no weekend matinees will be provided and that evening events will not start before 7:30pm on weekdays and not before 8:00pm on weekends; **3)** conformance with the *Parking Monitoring and Enhancement Plan – Balboa Performing Arts Theater, Newport Beach, California* received on July 22, 2009; **4)** construction-phase best management practices; and **5)** conformance with the *Water Quality Management Plan (WQMP), Balboa Performing Arts Theater, 707 East Balboa Boulevard, Newport Beach, CA 92661* received on July 3, 2009 prepared by IEM.

Section 30600(c) of the Coastal Act provides for the issuance of coastal development permits directly by the Commission in regions where the local government having jurisdiction does not have a certified Local Coastal Program. The City of Newport Beach only has a certified Land Use Plan and has not exercised the options provided in 30600(b) or 30600.5 to issue its own permits. Therefore, the Coastal Commission is the permit issuing entity and the standard of review is Chapter 3 of the Coastal Act. The certified Land Use Plan may be used for guidance.

LOCAL APPROVALS RECEIVED: Approval-in-Concept (No. 0976-2005) dated April 19, 2005; and Use Permit No. 2004-003 (PA2004-032) from the City of Newport Beach Planning Department.

SUBSTANTIVE FILE DOCUMENTS: City of Newport Beach Certified Land Use Plan; Coastal Development Permit No. 5-05-235-(Balboa Performing Arts Theater Foundation & the City of Newport Beach); Coastal Development Permit No. 5-05-235-E1(Balboa Performing Arts Theater Foundation & the City of Newport Beach); Letter from Commission staff to Government Solutions, Inc. dated July 22, 2005; Letter from Government Solutions, Inc. to Commission staff dated April 5, 2006; Letter from City of Newport Beach, Office of the Mayor to Commission staff dated April 7, 2006; Letter from Commission staff to Government Solutions, Inc. dated May 11, 2006; Letter from Government Solutions, Inc. to Commission staff dated December 5, 2006; Water Quality Management Plan (WQMP) dated July 24, 2006 prepared by DMJM H&N, Inc.; Letter from Government Solutions, Inc. to Commission staff dated December 7, 2006; Letter from Commission staff to Government Solutions, Inc. dated January 4, 2007; Letter from City of Newport Beach to Commission staff dated March 5, 2007; Letter from Government Solutions, Inc. to Commission staff dated April 27, 2007; Letter from Commission staff to Government Solutions, Inc. dated April 22, 2011; Letter from City of Newport Beach to Commission staff dated My 3, 2011; Letter from Government Solutions, Inc. to Commission staff dated May 18, 2011; Letter from Government Solutions, Inc. to Commission staff dated July 20, 2011; *Parking Monitoring and Enhancement Plan – Balboa Performing Arts Theater, Newport Beach, California* received on July 22, 2009; and *Water Quality Management Plan (WQMP), Balboa Performing Arts Theater, 707 East Balboa Boulevard, Newport Beach, CA 92661* received on July 3, 2009 prepared by IEM.

LIST OF EXHIBITS

1. Vicinity Map
 2. Site Plan
 3. Demolition Plan/Floor Plans
 4. Elevation/Section Plan
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STAFF RECOMMENDATION:

Staff recommends that the Commission **APPROVE** the permit application with special conditions.

MOTION:

I move that the Commission approve the coastal development permit applications included on the consent calendar in accordance with the staff recommendations.

Staff recommends a **YES** vote. Passage of this motion will result in approval of all the permits included on the consent calendar. The motion passes only by affirmative vote of a majority of the Commissioners present.

RESOLUTION:

I. APPROVAL WITH CONDITIONS

The Commission hereby **APPROVES** a Coastal Development Permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

II. STANDARD CONDITIONS

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

III. SPECIAL CONDITIONS

1. FUTURE DEVELOPMENT

This permit is only for the development described in Coastal Development Permit No. 5-11-073. Pursuant to Title 14 California Code of Regulations Section 13253(b)(6), the exemptions otherwise provided in Public Resources Code Section 30610(b) shall not apply to the development governed by Coastal Development Permit No. 5-11-073. Accordingly, any future improvements to the Balboa Theater building authorized by this permit, including repair and maintenance identified as requiring a permit in Public Resources Section 30610(d) and Title 14 California Code of Regulations Sections 13252(a)-(b), shall require an amendment to Permit No. 5-11-073 from the Commission or shall require an additional coastal development permit from the Commission.

2. THEATER HOURS OF OPERATION & EVENT MANAGEMENT

By acceptance of this permit, as proposed, the applicant agrees to minimize adverse impacts to public access as required below:

- A. During the summer between and inclusive of the Memorial Day and Labor Day holidays, no weekend matinees will be provided and evening events will not start before 7:30pm on weekdays and not before 8:00pm on weekends; and
- B. At all times the theater operates, concurrent events in the auditorium and upon the roof deck, which have an independent parking demand, are prohibited.

3. PARKING MONITORING PLAN

The applicant shall conform to the Parking Monitoring Plan submitted by the applicant in compliance with the conditions of Coastal Development Permit No. 5-05-235 dated August 6, 2009 and received in the Commission's office on July 22, 2009 titled *Parking Monitoring and Enhancement Plan – Balboa Performing Arts Theater, Newport Beach, California*, which the applicant has proposed to conform to in conjunction with this Coastal Development Permit No. 5-11-073. Any proposed changes to the approved plan shall be reported to the Executive Director. No changes to the approved plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

4. CONSTRUCTION BEST MANAGEMENT PRACTICES

- A. The permittee shall comply with the following construction-related requirements:
 - (1) No construction materials, debris, or waste shall be placed or stored where it may be subject to wave, wind, rain, or tidal erosion and dispersion;
 - (2) Any and all debris resulting from construction activities shall be removed from the project site within 24 hours of completion of the project;
 - (3) Construction debris and sediment shall be removed from construction areas each day that construction occurs to prevent the accumulation of sediment and other debris which may be discharged into coastal waters;
 - (4) Erosion control/sedimentation Best Management Practices (BMP's) shall be used to control dust and sedimentation impacts to coastal waters during construction. BMPs shall include, but are not limited to: placement of sand bags around drainage inlets to prevent runoff/sediment transport into coastal waters; and
 - (5) All construction materials, excluding lumber, shall be covered and enclosed on all sides, and as far away from a storm drain inlet and receiving waters as possible.
- B. Best Management Practices (BMPs) designed to prevent spillage and/or runoff of construction-related materials, sediment, or contaminants associated with construction activity shall be implemented prior to the on-set of such activity.

Selected BMPs shall be maintained in a functional condition throughout the duration of the project. Such measures shall be used during construction:

- (1) The applicant shall ensure the proper handling, storage, and application of petroleum products and other construction materials. These shall include a designated fueling and vehicle maintenance area with appropriate berms and protection to prevent any spillage of gasoline or related petroleum products or contact with runoff. It shall be located as far away from the receiving waters and storm drain inlets as possible;
- (2) The applicant shall develop and implement spill prevention and control measures;
- (3) The applicant shall maintain and wash equipment and machinery in confined areas specifically designed to control runoff. Thinners or solvents shall not be discharged into sanitary or storm sewer systems. Washout from concrete trucks shall be disposed of at a location not subject to runoff and more than 50-feet away from a stormdrain, open ditch or surface water; and
- (4) The applicant shall provide adequate disposal facilities for solid waste, including excess concrete, produced during construction.

5. FINAL WATER QUALITY MANAGEMENT PLAN (WQMP)

The applicant shall conform to the Water Quality Management (WQMP) Plan submitted by the applicant in compliance with the conditions of Coastal Development Permit No. 5-05-235 dated August 9, 2009 and received in the Commission's office on July 3, 2009 titled *Water Quality Management Plan (WQMP), Balboa Performing Arts Theater, 707 East Balboa Boulevard, Newport Beach, CA 92661*, which the applicant has proposed to conform to in conjunction with this Coastal Development Permit No. 5-11-073. Any proposed changes to the approved plan shall be reported to the Executive Director. No changes to the approved plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

IV. FINDINGS AND DECLARATIONS:

The Commission hereby finds and declares:

A. PROJECT LOCATION AND DESCRIPTION, LOCAL APPROVAL AND PREVIOUS ACTION AT THE PROJECT SITE

1. Project Location and Description

The Balboa Theater is located at 707 East Balboa Boulevard in the City of Newport Beach, Orange County (Exhibit #1). The Balboa Theater, which is owned by the City of Newport Beach, was constructed circa 1927 and is one of the few remaining structures in Newport Beach from that era. The structure is listed on the City's Register of Historical Property in recognition of its local historical significance¹. During the course of its history it has been a number of public entertainment uses, ranging from vaudeville to cinema. The original theater had two (2) storefront retail lease spaces at street level, with the theater ticket window and entry located between these retail stores. The theater had a main floor with a shallow slope and a balcony. There were over 400 seats in the theater. The theater utilized nearby offsite public lots and street parking.

The theater has been closed since the early 1990's and only recently has been showing signs of decay. A fairly recent façade restoration undertaken by the applicant has cleaned up and repaired the exterior. Several years ago, a seismic retrofit and remediation was designed and partially completed. The interior has been currently completely gutted, the balcony has been removed, and portions of the slab were removed to accommodate a partial installation of the seismic retrofit elements.

The project site is 5,130 square feet in size and the City of Newport Beach Land Use Plan (LUP) designates use of the site for Visitor Serving Commercial (CV). The project site is also located in the Balboa Village area, which is bounded by Newport Bay, A Street, the oceanfront beach and Adams Street. This area is a unique mixture of visitor-oriented and neighborhood oriented retail and service uses, including coastal dependent visitor uses such as sport fishing establishments, day-boat rentals, ferry service, fishing docks, and the historic Balboa Pavilion.

To the north of the project site is East Balboa Boulevard and, on the opposite side of the street, a one-story commercial building. To the east is a two-story mixed use building with ground floor commercial and second floor residential. To the south of the site is a three-story hotel (The Balboa Inn), then the Balboa Pier Parking lot, and then the sandy public beach. To the west of the site is a two-story commercial building. The subject site is located between the first public road and the sea and is approximately 600-feet inland of the beach (Exhibit #1).

The applicant states that the purpose of the Balboa Theater renovation and rehabilitation project is to bring life back to the historic Balboa Theater, to serve as a catalyst for revitalization of Balboa Village and to restore the public serving activity to the heart of Newport Beach. The Balboa Performing Arts Theater Foundation hopes to develop the Balboa Theater as a multi-use facility that will serve: music, dance, theater and the spoken word, film and education. The restored theater will provide entertainment, educational and community functions.

¹ The structure IS NOT listed as a California Historical Landmark, nor on the National Register of Historic Places.

The proposed project will more specifically consist of the following components (Exhibits #2-4):

- a. The building façade located along East Balboa Boulevard will be retained and restored to its original condition to the extent existing evidence permits;
- b. The existing front and both side walls will be preserved, but the rear (south) wall will be completely removed. The applicant foresees the reuse of 60% of the brick materials from the south wall as veneering on the new south wall to meet a City condition of approval that the project retains the brick character of the existing building.
- c. A 2nd floor 'support level', plus roof deck with gathering space, an elevator/stairway enclosed in a decorative tower, and a rooftop mechanical equipment enclosure will be added to the building (described more fully below) which will increase the height of the existing 32'-10" building to 45'-6" for a majority of the building, and two higher projections, one to 54'-10" for the Tower/elevator shaft/stairs feature, and a second projection to 51' for the roof-top mechanical equipment enclosure;
- d. Complete renovation of the theater, including reducing the Auditorium seating capacity from 450 seats to 325 seats;

Upon completion, the renovated and expanded theater will have two (2) floors with tiered seating and a roof deck. The theater has four (4) main elements: 1) Lobby, 2) Auditorium, 3) Support Level, and 4) Roof.

The Auditorium level (1st Floor) will hold the bulk of the seating and projection, sound; and lighting facilities. The Support Level (2nd Floor) located above the Auditorium includes accessible restrooms for the public, dressing rooms and restrooms for the performers, storage areas and equipment rooms. The Roof is accessed by both stairs and elevator. At this roof level there is a screened enclosure for mechanical equipment and roof deck with gathering space which will be used to hold pre and post performance functions;

- e. The theater will be expanded from 7,695 square feet to approximately 11,014 square feet. Although the theater is being expanded, the expansion is entirely within the original theater footprint. The additional building square footage will provide for larger areas for cast and crew accommodations, accessible elevators and a roof deck.

To maintain compatibility with the character of the area and to be respectful of the original Landmark building heritage, the new elements will use materials and architectural elements that are similar to the original façade. Using similar "re-created" surface texture, color, and architectural detail the new construction will match the original historic façade;

- f. Grading will consist of 178 cubic yards of recompaction, 64 cubic yards of fill, and 107 cubic yards of export;
- g. The Theater will agree to restrict theater operations such that during the summer between and inclusive of Memorial Day and Labor Day, no weekend matinees will

be provided and evening events will not start before 7:30pm on weekdays and not before 8:00pm on weekends; and

- h. No landscaping is proposed.

Since it was built in approximately 1927, the existing theater has never provided any off-street parking; however, parking for the Balboa Theater has always been served through the years by on-street parking and more so the public Balboa Pier Parking Lot located within a block of the facility that serves visitors to the beach and pier. Projects consisting of re-development of a site would be required to provide adequate parking on site or with dedicated, non-public, off-site parking. Typically, use of a public parking lot to satisfy parking for a proposed project would not be allowed due to its potential impact to public access. However, the proposed project will preserve the existing front and both side walls and only demolish the rear (south) (i.e. less than 50% of the exterior walls of the building are being demolished). The existing building covers the entire parcel. Adding on-site parking could only be accomplished with an at-grade or subterranean parking lot, which would require complete demolition of the existing building, and significant re-design, which would likely impact the historic character of the building. Such demolition is not proposed in this case. In addition, there are no significant private reservoirs of parking nearby that the applicant could tap into. Furthermore, as discussed more fully below, with the proposed restrictions on daytime performances during the summer, there appears to be sufficient parking within the Balboa Pier Parking Lot, which has historically served as the parking reservoir for the theater.

The parking demand on the Balboa Pier Parking Lot generated by the rehabilitated theater will be reduced compared with pre-project conditions because of the proposed reduction in seating from the original 450 to 325 seats. According to the parking standards/requirements in the certified Land Use Plan (LUP), the project requires 1 parking space for every three (3) seats ($325/3 = 108$ spaces). In a letter dated December 5, 2006, the applicant submitted information regarding the availability of parking at the Balboa Pier Parking Lot (control booth lot, large metered lot and small metered lot). This information was obtained from the City and it states that there were 588 parking spaces in the control booth lot, 79 parking spaces in the large metered lot and 16 parking spaces in the small metered lot for a total of 683 parking spaces in the Balboa Pier Parking lot. In addition, the submitted information states that approximately 80% of the lot (546 parking spaces) was used during the summer weekdays. Based on the City's observed demand for parking in the Balboa Pier Parking Lot, and including the demand calculated to be generated by the theater, the City estimates that there would still be an excess of 29 parking spaces available ($683-546-108 = 29$ parking spaces). Therefore, based on information provided by the applicant, there is sufficient parking available in the Balboa Pier Parking Lot for the proposed project. Additionally, Coastal Development Permit No. 5-01-029-(City of Newport Beach) was approved in 2001 for the Balboa Village Rehabilitation Project, which included expanding the Balboa Pier Parking Lot to 718 spaces (97 metered parking spaces and 621 parking fee parking spaces). Therefore, more parking has been provided. As the Balboa Pier Parking Lot has historically provided parking for the theater with its 683 parking space capacity, it appears that the revised Balboa Pier Parking Lot with its' increased parking capacity to 718 parking spaces and the reduced seating capacity within the theater (which translates to lower parking demand), that the Balboa Pier Parking Lot will adequately provide parking for the theater use, based on known use at the present time.

However, there still remains a concern with the theater using the Balboa Pier Parking Lot during the summer, since use of that parking lot by the theater would conflict with the public coming to enjoy the low cost visitor recreational uses in the area. In order to make sure that visitors to the beach and pier using the parking lot during the summer do not find themselves without parking due

to patrons of the theater using the parking lot, the applicant has proposed that the theater will agree to restrict theater operations such that during the summer between and inclusive of Memorial Day and Labor Day, no weekend matinees will be provided and evening events will not start before 7:30pm on weekdays and not before 8:00pm on weekends. Thus, peak day use of the beach during the peak season will not be adversely impacted. In addition to the applicant's proposed restriction on the hours of operation, the applicant states that accessory theater-related social functions that will take place on the new roof deck will not occur at the same time as assembly occupancy of the theater and that the total capacity of the roof-top deck is below 325 people. Thus, parking for the theater use will be adequately provided and parking for the public to access the beach and pier during the peak summer season will not be adversely impacted.

In addition, recently a shuttle service called the OC Cruiser has begun operations in the Balboa Peninsula area that would provide alternative public access to the theater as well as the beach and pier and reduce the number of cars on the road and help alleviate parking for these uses in the area.

Thus, with the proposed project, there is no significant potential for adverse impacts to public beach access as a result of any parking deficiency. However, to assure that future development is consistent with the Chapter 3 policies of the Coastal Act, the Commission imposes **SPECIAL CONDITION NO. 1**, which is a future improvements special condition. Also, to ensure that the applicant adheres to the hours of operation that they have proposed, the Commission imposes, **SPECIAL CONDITION NO. 2**, which states that during the summer between and inclusive of Memorial Day and Labor Day, that no weekend matinees will be provided and that evening events will not start before 7:30pm on weekdays and not before 8:00pm on weekends. In addition, to make sure that the proposed parking plan works accordingly, the applicant has submitted a *Parking Monitoring and Enhancement Plan – Balboa Performing Arts Theater, Newport Beach, California* received on July 22, 2009 that details how the plan will work. Additionally, this plan states that if parking monitoring shows that the parking identified by the permittee is not adequate to support the theater or the monitoring shows that theater patron's use of the Balboa Pier Parking Lot is adversely impacting the public's ability to use the Balboa Pier Parking Lot to access the pier, beach and other public access available in the area, the permittee shall seek to remedy the parking inadequacy and shall obtain an amendment to this coastal development permit or a new coastal development permit to implement the remedy unless the Executive Director determines that no amendment or new permit is legally required. Furthermore, if there is a parking inadequacy caused by the theater patron's use of the Balboa Pier Parking Lot, a potential remedy would not be to require closure of the theater or change of its operation. In order to make sure that the Parking Monitoring Plan is adhered to, the Commission imposes **SPECIAL CONDITION NO. 3**, which conformance with the Parking Monitoring Plan.

Storage or placement of construction materials, debris, or waste in a location subject to erosion and dispersion or which may be discharged into coastal water via rain or wind would result in adverse impacts upon the marine environment that would reduce the biological productivity of coastal waters. For instance, construction debris entering coastal waters may cover and displace soft bottom habitat. Sediment discharged into coastal waters may cause turbidity, which can shade and reduce the productivity of foraging avian and marine species' ability to see food in the water column. In order to avoid adverse construction-related impacts upon marine resources, **SPECIAL CONDITION NO. 4** outlines construction-related requirements to provide for the safe storage of construction materials and the safe disposal of construction debris. This condition requires the applicant to remove any and all debris resulting from construction activities within 24 hours of completion of the project. In addition, all construction materials, excluding lumber, shall

be covered and enclosed on all sides, and as far away from a storm drain inlet and receiving waters as possible.

The existing structure is built to the property lines and will remain the same with the proposed project, so all storm drainage was and will continue to be generated from the roof. Therefore, the primary post-construction water quality concerns associated with the proposed project include roof particulates and trash. As such, appropriate measures must be taken to assure that adverse effects on water quality are minimized. In order to deal with these post construction water quality impacts, the applicant has submitted a *Water Quality Management Plan (WQMP), Balboa Performing Arts Theater, 707 East Balboa Boulevard, Newport Beach, CA 92661* dated July 3, 2009 prepared by IEM. The existing structure drains the roof to the alley at the rear and pumped the water onto the alley surface where it drains to adjacent drop inlet storm drain structures. The applicant proposes that downspout filters will be installed into the building roof. Directing roof drainage to a permeable area (i.e. detention basin) was also considered, but raised concerns due to the high water table and small available area for installation of a detention basin. In order to make sure that the Water Quality Management Plan (WQMP) is adhered to, the Commission imposes **SPECIAL CONDITION NO. 5**, which conformance with the Water Quality Management Plan (WQMP)

The proposed project will increase the height of the existing 32'-10" building to 45'-6" for a majority of the building, and 54'-10" for a Tower/elevator shaft/stairs feature and to 51' for a roof-top mechanical equipment enclosure. The highest point of the proposed Balboa Theater is the top of the Tower/elevator shaft/stairs feature. The additions will provide larger areas for cast and crew accommodations, a roof deck area for special events and pre/post event gatherings, accessible elevators, stairs, restrooms and access areas. Although the proposed height of the Theater exceeds the maximum 35-foot height restriction established in the City's certified Land Use Plan (see discussion below under 'Local Coastal Program'), the Landmark Building status of the Theater allows buildings up to 55-feet in height with the approval of a use permit (Section 20.65.070 (H) Exceptions to Height Limits, of the City of Newport Beach Zoning Code).

The most historically significant aspect of the building, the Balboa Boulevard Facade, will be retained and restored to its original condition to the extent existing evidence permits with the proposed project. The majority of the tile mansard roof will be retained, maintained and protected. Tiles removed in the Tower area will be reused on the Tower roof. New gutters and downspouts will be installed based on the original design. The classical architraves of the upper windows will be repaired, and iron grillwork will be installed in the openings per the original design. A new rectangular marquee sign will be designed and detailed to re-create the original. Discreet metal standards for the attachment of performance related banners and pennants will be provided. The street level will maintain the original organization of the plan, with a transparent entry element in the entry bay. This design of this entry is intended to make reference to the original scheme with its recessed doors. Additions to the building such as the Tower, which contains the vertical circulation elements (stair and elevator), and the Support Level over the auditorium will be set back from the original façade to avoid dominating the sidewalk. To maintain compatibility with the character of the area and to be respectful of the original Landmark Building heritage, the new elements will use materials and architectural elements that are similar to the original façade. Using similar "re-created" surface texture, color, and architectural detail the new construction will match the original historic facade.

Currently, no public views of the ocean or beach are provided on site and this will not change with the proposed project. In addition, the proposed project is not located within any public view

corridor identified for protection in the certified Land Use Plan. The project site is flanked on both sides by two story commercial buildings, to the west and east that are approximately 22-feet and 24-feet high, respectively. There are no setbacks between these buildings (i.e. they are built with zero side yard setbacks). Although the height of the remodeled theater will be higher than the two adjacent buildings, it will be of similar height to the Balboa Inn (a historic three-story structure listed on the *National Register of Historic Places*), which is located directly south (seaward) of the subject site. The building will also be of similar height to the Balboa Pavilion, another nearby historic building. Thus, the proposed building would be consistent with the character of the area.

Even if the Balboa Theater were to be maintained at the existing height (33-feet), reduced in height or the building was demolished and the site left vacant, the Balboa Inn, located seaward of the site, would prevent any public views of the ocean from East Balboa Boulevard. In addition, along this stretch of East Balboa Boulevard, no views of the ocean are available as existing development prevents it. However, views of the ocean and beach are available from the Balboa Pier Parking Lot, Peninsula Park, the Balboa Pier and the beach. Thus, the increased height will not impact public views as there are currently no public views through or across the subject property. However, public views are available near the project site.

2. Local Approval

The applicant has obtained a Use Permit (No. 2004-003 (PA2004-032)) from the City of Newport Beach Planning Department to alter and increase the height of the existing Balboa Theater building up to a maximum height of 55-feet.

The existing theater is non-conforming use and non-conforming structure as it does not operate pursuant to an approved Use Permit, the building exceeds the 26-foot basic height limit (35-foot maximum height limit), the site provides no parking, and the building does not comply with the alley setback requirement.

The Balboa Theater qualifies as a “Landmark Theater (Building).” The City’s Zoning Code defines a ‘Landmark Theater’ as any building constructed for use as a cinema or theater that (a) was constructed on or before December 12, 1950; (b) has a single screen or stage; and (c) was designed to seat more than 300 people. Since the Balboa Theater was constructed in 1927, has a single stage and currently has approximately 450 seats, it qualifies as a ‘Landmark Theater.’

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 by the City in March 2003 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 20.65.070(H) (Exceptions to Height Limits) for 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. This provision was added by the City to their zoning code in December 1993 to grant relief from the height limits for Landmark Buildings to encourage the reuse and redevelopment of properties such as the Balboa Theater.

Thus as discussed previously, since it qualifies as a “Landmark Theater” pursuant to City provisions, the expansion and alteration of the non-conforming structure is exempt from obtaining Use Permits as long as it meets the specific conditions under Section 20.62.065 (Landmark Buildings).

3. Previous Action at the Project Site

- A) Coastal Development Permit No. 5-05-235-[Balboa Performing Arts Theater Foundation and the City of Newport Beach]

On September 5, 2007, the California Coastal Commission approved **Coastal Development Permit No. 5-05-235-[Balboa Performing Arts Theater Foundation and the City of Newport Beach]** for the remodel and addition to the existing Balboa Theater. The façade will be retained and restored, and a 2nd floor, plus roof deck with tower and rooftop mechanical equipment will be added to the building which will increase the existing height of the building to 45'-6" with roof top projections up to 55'. Also, the seating will be reduced from 450 to 325 seats. The proposal includes a prohibition of weekend matinee performances during the summer between Memorial Day and Labor Day to address parking issues. No landscaping is proposed. The project was approved with **FIVE (5) SPECIAL CONDITIONS** regarding: **1)** additional approvals for any future development; **2)** that during the summer between and inclusive of Memorial Day and Labor Day, no weekend matinees will be provided and that evening events will not start before 7:30pm on weekdays and not before 8:00pm on weekends; **3)** a Parking Monitoring Plan; **4)** construction-phase best management practices; and **5)** a Final Water Quality Management Plan (WQMP). The permit was issued on August 6, 2009.

- B) Coastal Development Permit No. 5-05-235-[Balboa Performing Arts Theater Foundation and the City of Newport Beach]-E1

On August 18, 2009, the California Coastal Commission approved an Extension for Coastal Development Permit No. 5-05-235-[Balboa Performing Arts Theater Foundation and the City of Newport Beach]. **CDP No. 5-05-235-E1** extended the permit from its original permit expiration date of September 5, 2007 to September 5, 2010. Construction never started and the permit expired. Thus, the applicants have resubmitted the identical application proposal for approval (Coastal Development Permit No. 5-11-073).

B. PUBLIC ACCESS

The proposed development will not affect the public's ability to gain access to, and/or to use the coast and nearby recreational facilities. Therefore, as proposed the development, as conditioned, conforms with Sections 30210 through 30214, Sections 30220 through 30224, and 30252 of the Coastal Act.

C. WATER QUALITY

The proposed development has a potential for a discharge of polluted run-off from the project site into coastal waters. The development, as proposed and as conditioned, incorporates design features to minimize the effect of construction and post-construction activities on the marine environment. These design features include, but are not limited to, the appropriate management of equipment and construction materials, reducing run-off through the use of permeable surfaces, the use of non-invasive drought tolerant vegetation to reduce and treat the run-off discharged from the site, and for the use of post-construction best management practices to minimize the project's adverse impact on coastal waters. Therefore, the Commission finds that the proposed development, as conditioned, conforms with Sections 30230 and 30231 of the Coastal Act regarding the protection of water quality to promote the biological productivity of coastal waters and to protect human health.

D. DEVELOPMENT

The development is located within an existing developed area and is compatible with the character and scale of the surrounding area. However, the proposed project raises concerns that future development of the project site potentially may result in a development which is not consistent with the Chapter 3 policies of the Coastal Act. To assure that future development is consistent with the Chapter 3 policies of the Coastal Act, the Commission finds that a future improvements special condition be imposed. As conditioned the development conforms with the Chapter 3 policies of the Coastal Act.

E. LOCAL COASTAL PROGRAM

The LUP for the City of Newport Beach was effectively certified on May 19, 1982. The certified LUP was updated on October 8, 2009. As conditioned, the proposed development is consistent with Chapter 3 of the Coastal Act and with the certified Land Use Plan for the area. Approval of the project, as conditioned, will not prejudice the ability of the local government to prepare a Local Coastal Program that is in conformity with the provisions of Chapter 3.

F. CALIFORNIA ENVIRONMENTAL QUALITY ACT

The City of Newport Beach is the lead agency responsible for certifying that the proposed project is in conformance with the California Environmentally Quality Act (CEQA). The City determined that in accordance with CEQA, the project is ministerial or categorically exempt. Section 13096(a) of the Commission's administrative regulations requires Commission approval of Coastal Development Permit applications to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA).

Although the proposed development is categorically exempt from CEQA, the Commission has imposed conditions to ensure conformity with Coastal Act requirements. As conditioned, there are no feasible alternatives or additional feasible mitigation measures available that would substantially lessen any significant adverse effect that the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, is the least environmentally damaging feasible alternative and consistent with the requirements of the Coastal Act and CEQA.

GENERAL INFORMATION

| | | | | | |
|---|-------------------------|----------------------|----------------------|----------------------|----------------------------|
| PROJECT CONTACT: ARMY LONICH / EXEC. DIRECTOR / BALBOA PERFORMING ARTS THEATER FOUNDATION / 705 E. BALBOA BLVD., SUITE C / (949) 573-0885 | ZONING CODE REQUIREMENT | PROPOSED DEVELOPMENT | EXISTING DEVELOPMENT | PROPOSED DEVELOPMENT | ZONING CODE REQUIREMENT |
| LOT AREA (SQ FT) | 2090 SF | 5130 SF | 7895 SF | 11014 SF | N/A |
| LOT WIDTH (FT) | 54 FT | 54 FT | N/A | N/A | N/A |
| LOT DEPTH (FT) | 95 FT | 95 FT | N/A | N/A | N/A |
| SETBACK - FRONT | 0 FT | 0 FT | 0 FT | 0 FT | 35 FT, 55 FT W/ USE PERM. |
| SETBACK - REAR | 0 FT | 0 FT | 0 FT | 0 FT | 8 FT |
| SETBACK - SIDE | 0 FT | 0 FT | 0 FT | 0 FT | 1 FOR 3 SEATS MORE THEATRE |
| FRONT DOOR SETBACK | 2 FT | 2 FT | 0 FT | 0 FT | 350 MAXIMUM |
| WORKSPACE 3 FT. FOR 40% OF BUILDING FACE | 0 FT | 0 FT | 0 FT | 0 FT | |
| PROF. (FT) | 0 FT | 0 FT | 0 FT | 0 FT | |
| SITE (FT) | 0 FT | 0 FT | 0 FT | 0 FT | |
| REAR (FT) | 0 FT | 0 FT | 0 FT | 0 FT | |

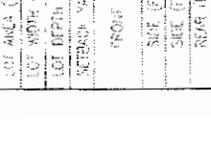
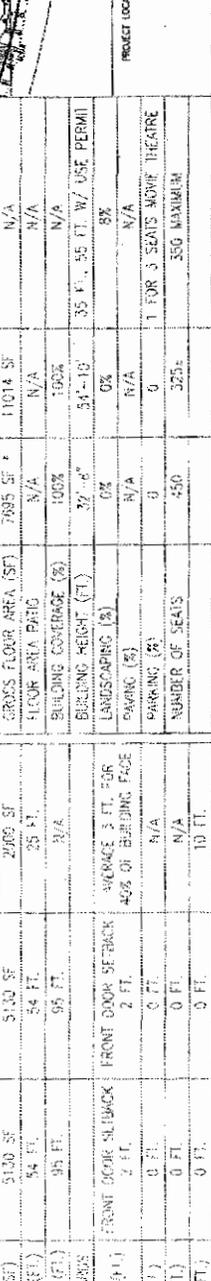
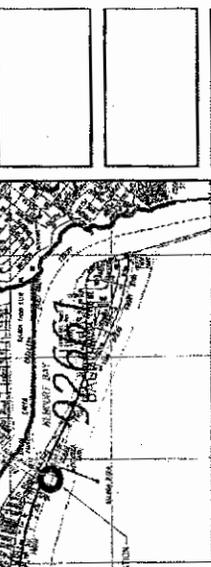
EXISTING DEVELOPMENT

| | |
|-----------------------------|----------------------------|
| EXISTING TWO-STORY BUILDING | EXISTING CONCRETE SIDEWALK |
| EXISTING TWO-STORY BUILDING | EXISTING TREE |

PROPOSED DEVELOPMENT

| |
|------------------------------------|
| EXISTING + PROPOSED BALBOA THEATER |
|------------------------------------|

SCALE 1/8" = 1'-0"



SHEET INDEX

| | |
|------|--|
| 5102 | PLAT PLAN |
| 4011 | CDP PLAN |
| 4013 | ACCESSIBILITY PLAN |
| 4015 | FOUNDATION PLAN |
| 4017 | FOUNDATION PLAN |
| 4021 | LIGHT, STAGE AND PARTIAL AUDITORIUM FLOOR PLAN |
| 4022 | SUPPORT LEVEL |
| 4023 | MECHANICAL |
| 4024 | MECHANICAL |
| 4025 | MECHANICAL |
| 4026 | MECHANICAL |
| 4027 | MECHANICAL |
| 4028 | MECHANICAL |
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| 4049 | MECHANICAL |
| 4050 | MECHANICAL |

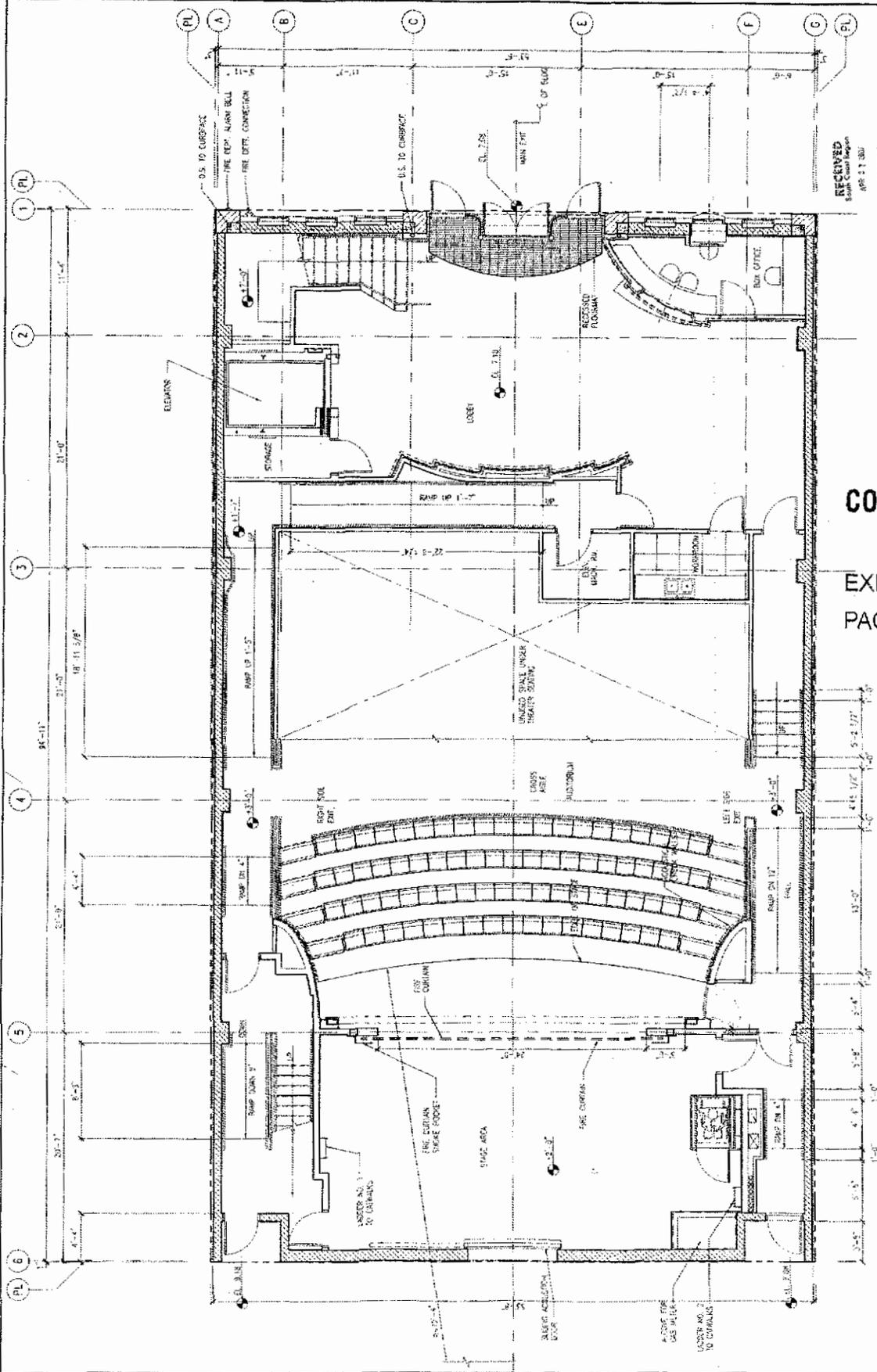
LEGEND

| | |
|----|-----------------------------|
| 1 | EXISTING TWO-STORY BUILDING |
| 2 | CONCRETE CURB |
| 3 | CONCRETE SIDEWALK |
| 4 | STREET CURB |
| 5 | STREET BENCH |
| 6 | STREET LIGHT |
| 7 | EXISTING TREE |
| 8 | PROPOSED TREE |
| 9 | PROPOSED PLANTING |
| 10 | PROPOSED FENCE |
| 11 | PROPOSED SIGN |
| 12 | PROPOSED LIGHT FIXTURE |
| 13 | PROPOSED LIGHT FIXTURE |
| 14 | PROPOSED LIGHT FIXTURE |
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| 49 | PROPOSED LIGHT FIXTURE |
| 50 | PROPOSED LIGHT FIXTURE |

RECEIVED
 South Coast Region
 MAY 20 2011
 CALIFORNIA COASTAL COMMISSION

EXHIBIT # 2
 PAGE 1 OF 1

| NO. | DATE | BY | REVISIONS |
|-----|----------|------|------------------------------------|
| 1 | 11/16/00 | DMJM | ISSUE FOR PERMITS |
| 2 | 02/28/01 | DMJM | REVISED TO REFLECT PERMIT COMMENTS |
| 3 | 04/18/01 | DMJM | REVISED TO REFLECT PERMIT COMMENTS |



RECEIVED
 South Coast Region
 APR 27 2001

CALIFORNIA
 COASTAL COMMISSION

California Coastal Commission
 1001 F STREET, N.W.
 WASHINGTON, D.C. 20004

1/4" = 1' SCALE

PLANE NORTH

COASTAL COMMISSIC

EXHIBIT # **3**
 PAGE **2** OF **5**

LOBBY, STAGE AND PARTIAL AUDITORIUM FLOOR PLAN
 SCALE 1/4" = 1"
 LOBBY, STAGE &

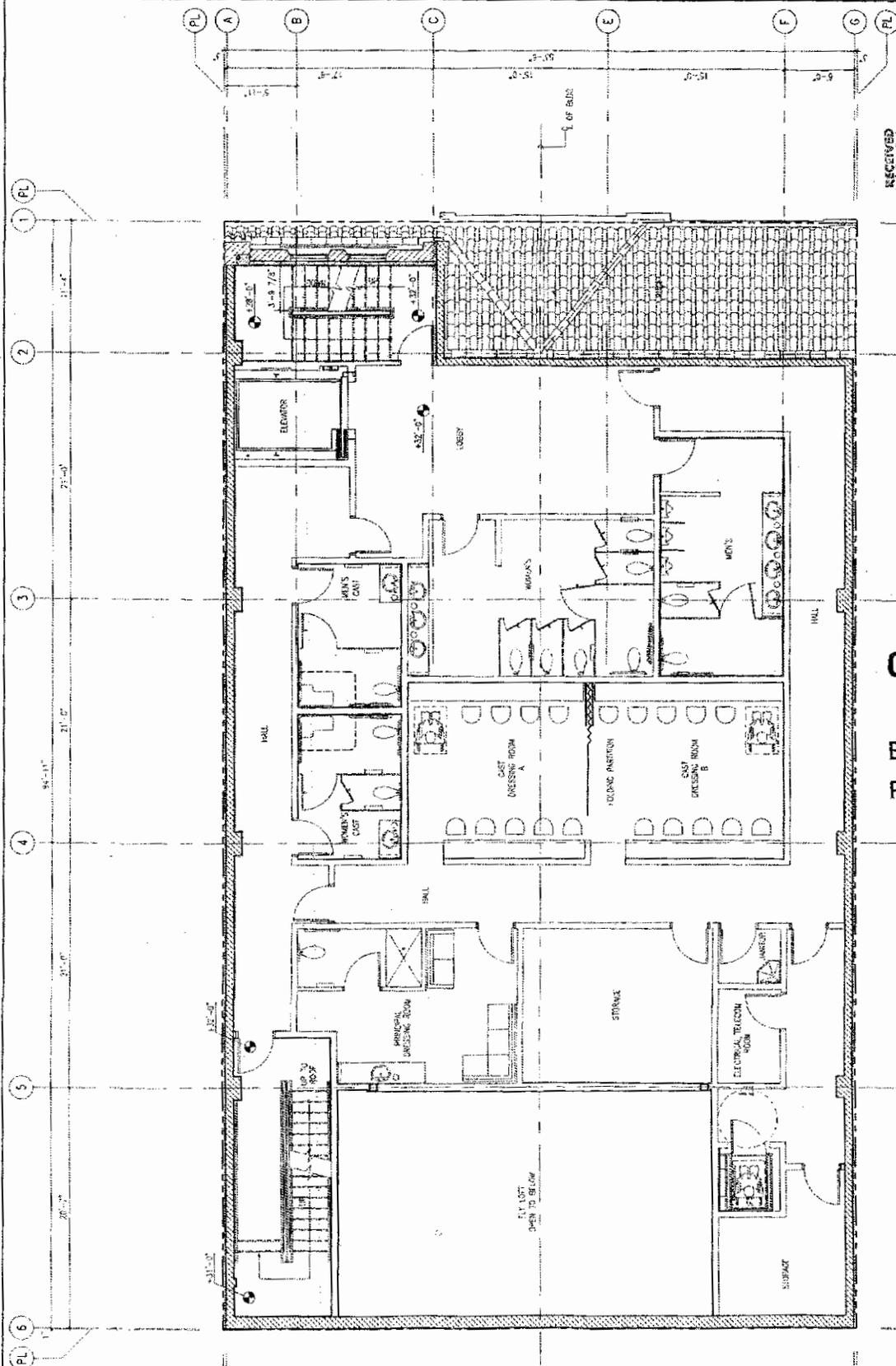
DMJMHN
ARCHITECTURAL FIRM

THE BALBOA PERFORMING ARTS THEATER FOUNDATION
THE BALBOA THEATER
RENOVATION AND REHABILITATION
707 EAST BALBOA BOULEVARD
BALBOA, CALIFORNIA 92661

| NO. | DATE | DESCRIPTION |
|-----|---------|---------------|
| 1 | 7/20/00 | CCG SUBMITTAL |
| 2 | 7/20/00 | CCG SUBMITTAL |
| 3 | 7/20/00 | CCG SUBMITTAL |
| 4 | 7/20/00 | CCG SUBMITTAL |
| 5 | 7/20/00 | CCG SUBMITTAL |

SUPPORT LEVEL

A203



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APR 17 2001
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COASTAL COMMISSION

PLAN NORTH

Scale: 1/4" = 1' SCALE

1" = 1' SCALE

COASTAL COMMISSION

EXHIBIT # 3
PAGE 4 OF 5

SUPPORT LEVEL FLOOR PLAN
SCALE 1/4" = 1'
SUPPORT LEVEL 304 SF

THE BALBOA PERFORMING ARTS THEATER FOUNDATION
RENOVATION AND REHABILITATION
 THE BALBOA THEATER
 707 EAST BALBOA BOULEVARD
 BALBOA, CALIFORNIA 92661

| NO. | DATE | DESCRIPTION |
|-----|---------|---------------|
| 1 | 2/20/01 | CCS SUBMITTAL |
| 2 | 1/16/01 | CCS SUBMITTAL |
| 3 | 1/16/01 | CCS SUBMITTAL |
| 4 | 1/16/01 | CCS SUBMITTAL |
| 5 | 1/16/01 | CCS SUBMITTAL |

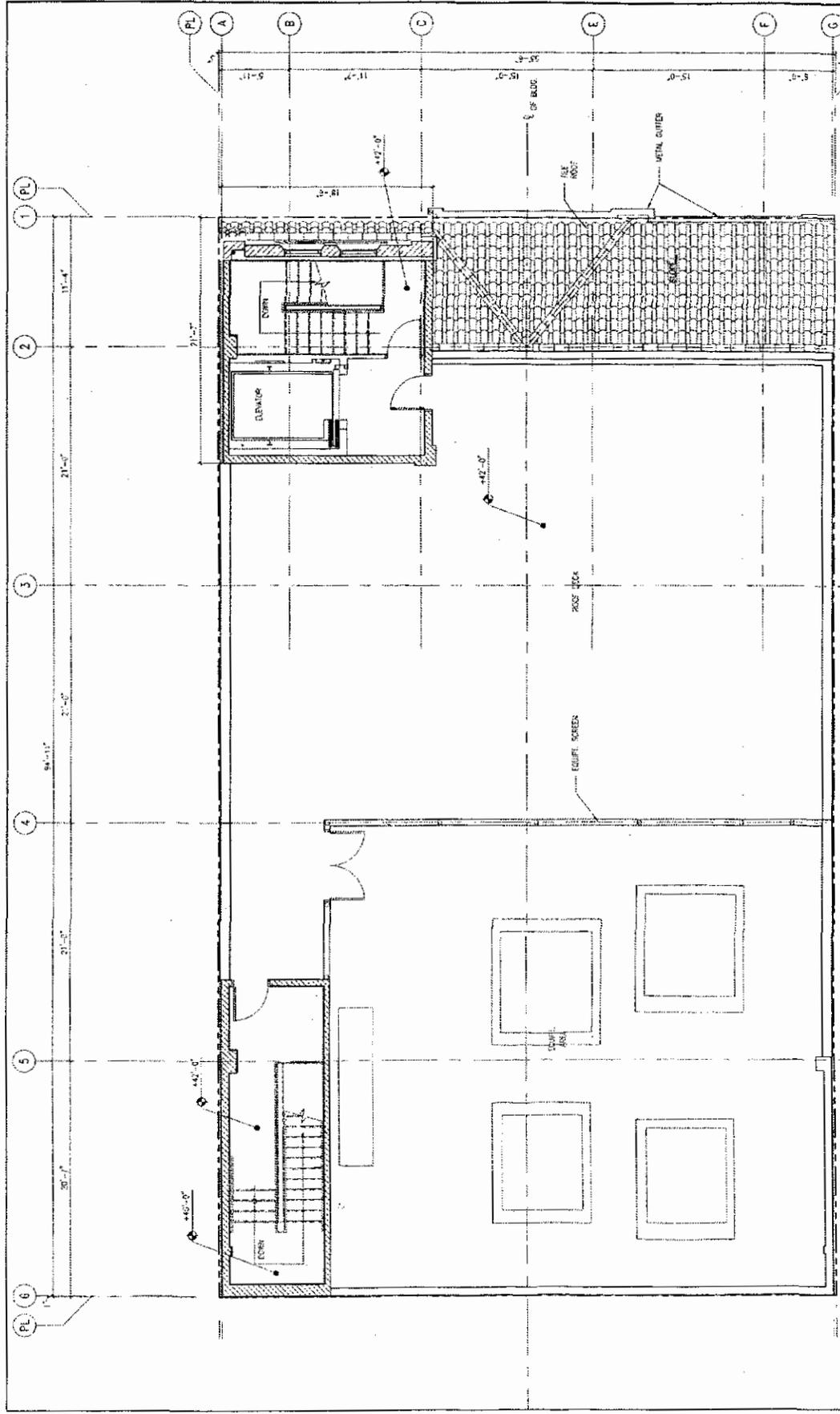
ROOF PLAN

RECEIVED
 SOUTH COUNTY HEALTH
 APR 27 2002

CALIFORNIA
 COASTAL COMMISSION

1/4" = 1' SCALE

A204



PLAN NORTH

1/4" = 1' SCALE

0 2 4 6 8 10
 FEET

COASTAL COMMISSION

EXHIBIT # 3
 PAGE 5 OF 5

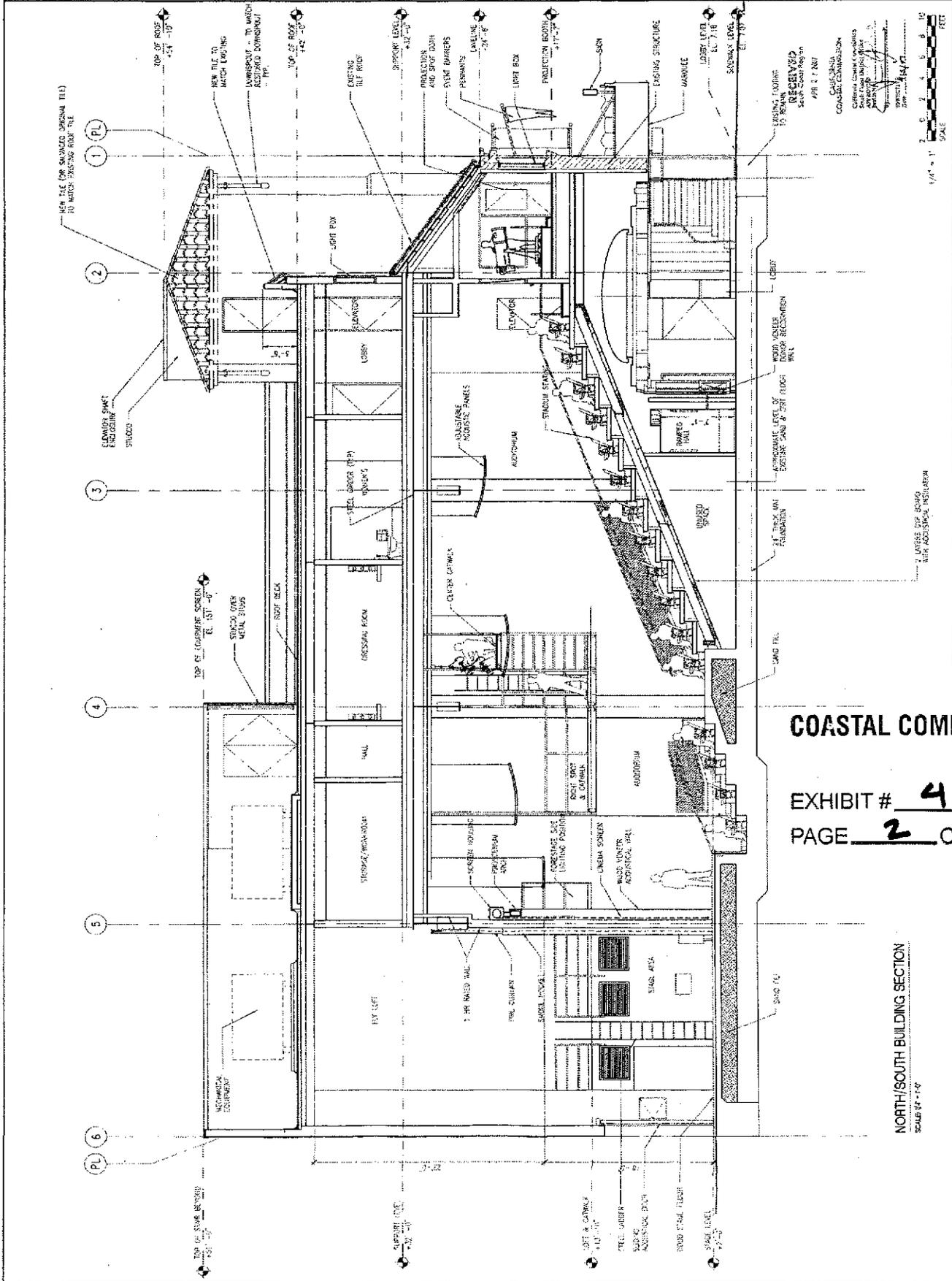
ROOF PLAN
 SCALE 1/4" = 1'-0"
 ROOF LEVEL, ROOF DECK OR ELEVATOR ELEVATIONS

**THE BALBOA THEATER
RENOVATION AND REHABILITATION**
THE BALBOA THEATER
707 EAST BALBOA BOULEVARD
BALBOA, CALIFORNIA 92661

| NO. | DATE | DESCRIPTION |
|-----|---------|---------------|
| 1 | 7/20/04 | ZOP SUBMITTAL |
| 2 | 9/18/07 | CCO SUBMITTAL |

**NORTH/SOUTH
BUILDING SECTION**

A311



COASTAL COMMISSION

EXHIBIT # 4
PAGE 2 OF 2

NORTH/SOUTH BUILDING SECTION
SCALE 1/4" = 1'-0"

W6a



CITY OF NEWPORT BEACH

COMMUNITY DEVELOPMENT DEPARTMENT
Planning Division

July 29, 2011

RECEIVED
South Coast Region

AUG 1 2011

Mr. Fernie Sy
Coastal Analyst II
California Coastal Commission
200 Oceangate, Suite 1000
Long Beach, CA 92802

CALIFORNIA
COASTAL COMMISSION

Re: Application 5-11-073 (Balboa Performing Arts Theater)

Dear Mr. Sy:

As Co-Applicant for the Balboa Performing Arts Theater CDP, we wish to be on record in support of the Staff recommendation and the five Special Conditions as noted in the Staff Report dated July 21, 2011, for the August 10, 2011, hearing. We appreciate that the item is on the Consent Calendar and we emphasize that there has never been any opposition to this proposed use and in contrast, the community is anxiously awaiting the construction and operation of this valuable community and visitor serving use to add to the vitality of the Balboa Peninsula.

While there will be no City representation at the hearing, the application has our full support and we thank the Staff for their cooperation and fine work in bringing this project closer to fruition. If you have any questions, you may reach me at (949) 644-3210.

Sincerely,

James. Campbell
Principal Planner

Cc: Carol McDermott, Agent
Craig Smith, Balboa Performing Arts Theater Foundation