

File No. 240350

Committee Item No. 1

Board Item No. _____

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Public Safety and Ngbh Services

Date: May 9,2024

Board of Supervisors Meeting:

Date: _____

Cmte Board

- Motion
- Resolution
- Ordinance
- Legislative Digest
- Budget and Legislative Analyst Report
- Youth Commission Report
- Introduction Form
- Department/Agency Cover Letter and/or Report
- MOU
- Grant Information Form
- Grant Budget
- Subcontract Budget
- Contract / DRAFT Mills Act Agreement
- Form 126 – Ethics Commission
- Award Letter
- Application
- Public Correspondence

OTHER

- Police Department Report – 050124
- Planning Department Review – 041524
- PC or N Referral to Planning and Police – 040524
- PC or N Request Letter – 040224
- _____
- _____
- _____
- _____
- _____

Prepared by: Monique Crayton

Date: May 3, 2024

Prepared by: _____

Date: _____

Prepared by: _____

Date: _____

From: [Crayton, Monique \(BOS\)](#)
To: [CPC.Referrals](#); [jemma@properpourco.com](#); [dserot@anotherplanetent.com](#); [Froines, Andrew \(POL\)](#)
Cc: [Analyn.Alabanza@abc.ca.gov](#); [amarjit.tamber@abc.ca.gov](#); [Wong, Joanne \(POL\)](#); [Jonas, Stephen \(POL\)](#); [Donovan, Dominica \(BOS\)](#); [DeRuff, Henry \(BOS\)](#); [Thongsavat, Adam \(BOS\)](#); [Ho, Calvin \(BOS\)](#); [Carroll, John \(BOS\)](#); [VanHouten, Ben \(ECN\)](#); [Logan, Sam \(BOS\)](#)
Subject: Liquor License Issuance - 429 Castro Street - The Castro Theatre - BOS File No. 240350
Date: Thursday, May 2, 2024 10:29:00 AM
Attachments: [image001.png](#)

Greetings,

The Police Department has completed their review of the subject public convenience or necessity request and has forwarded their recommendations. For your convenience, I have the review available from the link below:

[Police Department Response – May 1, 2024](#)

The Police Department's ALU is recommending approval with the following conditions:

1. Petitioner(s) shall actively monitor the area under their control in an effort to prevent the loitering of persons on any property adjacent to the licensed premises as depicted on the ABC-253.
2. The petitioner(s) shall be responsible for maintaining free of litter the area adjacent to the premises over which they have control, as depicted on ABC-253.
3. (1) Except as provided in Condition 2 below, no noise shall be audible beyond the area under the control of the licensee. (SF district office only).
(2) Any noise caused by entertainment or amplified sound that is subject to the provisions of an active Entertainment Permit issued by the San Francisco Entertainment Commission shall be authorized in accordance with the limits established by that Entertainment Permit, including any limitation on hours during which entertainment or amplified sound is permitted. A violation of the entertainment or amplified sound noise conditions of the Entertainment Permit, as determined by the San Francisco Entertainment Commission (or any successor agency), shall be deemed to be a violation of this Condition. Any noise that is not subject to, or is beyond the scope of, the Entertainment Permit shall be subject to Condition 1 above. "Entertainment Permit" means any of the following: a Just Add Music permit, a Limited Live Performance permit, a Place of Entertainment permit, a Fixed Place Amplified Sound permit, or any similar such permit issued by the San Francisco Entertainment Commission.

The Public Safety and Neighborhood Services Committee will hold this hearing at 10 am on Thursday, May 9th.

I invite you to review the entire matter on our [Legislative Research Center](#) by following the

link below:

Board of Supervisors [File No. 240350](#)

Thanks for the review.

Monique C. Crayton (she/her)

Assistant Clerk

Board of Supervisors - Clerk's Office

1 Dr. Carlton B. Goodlett Place, Room 244

San Francisco, CA 94102

(415) 554-7750 | Fax: (415) 554-5163

monique.crayton@sfgov.org | www.sfbos.org

(VIRTUAL APPOINTMENTS) To schedule a “virtual” meeting with me (on Microsoft Teams), please ask and I can answer your questions in real time.



San Francisco Police Department
ABC Liaison Unit



Alcoholic Beverage License -
*Public Convenience or
Necessity Recommendation*

To: The San Francisco Board of Supervisors' Committee on Public Safety
and Neighborhood Services

Supervisor Catherine Stefani
Supervisor Matt Dorsey
Supervisor Joel Engardio

From: Lt. Stephen Jonas #79 
Officer in Charge
ALU/Permits Unit 415-553-9550

Date: April 30, 2024

Subject: P.C.N. Investigation Regarding: APESF LLC
DBA: The Castro Theater.
429 Castro St
San Francisco CA. 94114

APESF LLC., operating as "The Castro Theater", has filed an application with the California Department of Alcoholic Beverage Control seeking a Type 90 (On Sale General Music Venue) license to be located at 429 Castro St. (located between 17th and 18th St.)

Hours of Operation:

10:00am to 02:00am each day of the week.

Digest:

"APESF LLC" would like to operate a Live Entertainment Venue to be located at 429 Castro St. If approved, this license will allow them to sell Beer, Wine, and Distilled Spirits.

Letters of Protest

0

Letters of Support

0

Police Calls for Service:

From March 2023 to March 2024

107 calls for service

Police Reports:

From March 2023 to March 2024

1 police report

San Francisco Plot Information:

This premise is located in Plot: **418a**

A High Crime area is defined as **103** or more police reports in a plot for the year of **2023**.

This plot had 107 police reports for **2023**, which is 4 **higher** than the **Citywide “High Crime”** average.

State Census Tract Information:

This premise is located in Census Tract: **206.01**
Population for this tract is: **2,906**

On-sale license authorized by census tract: **9**
Active on-sale licenses: 22 with 0 pending

Off-sale licenses authorized by census tract: **2**
Active off-sale licenses: 1 with 0 pending

Departmental Recommendation:

Points of consideration: **1**

No opposition from **Mission Station**.

Applicant premise **is** located in a “**High Crime**” area.

Applicant premise **is** located in a “**High Concentration**” area.

0 - Protest.

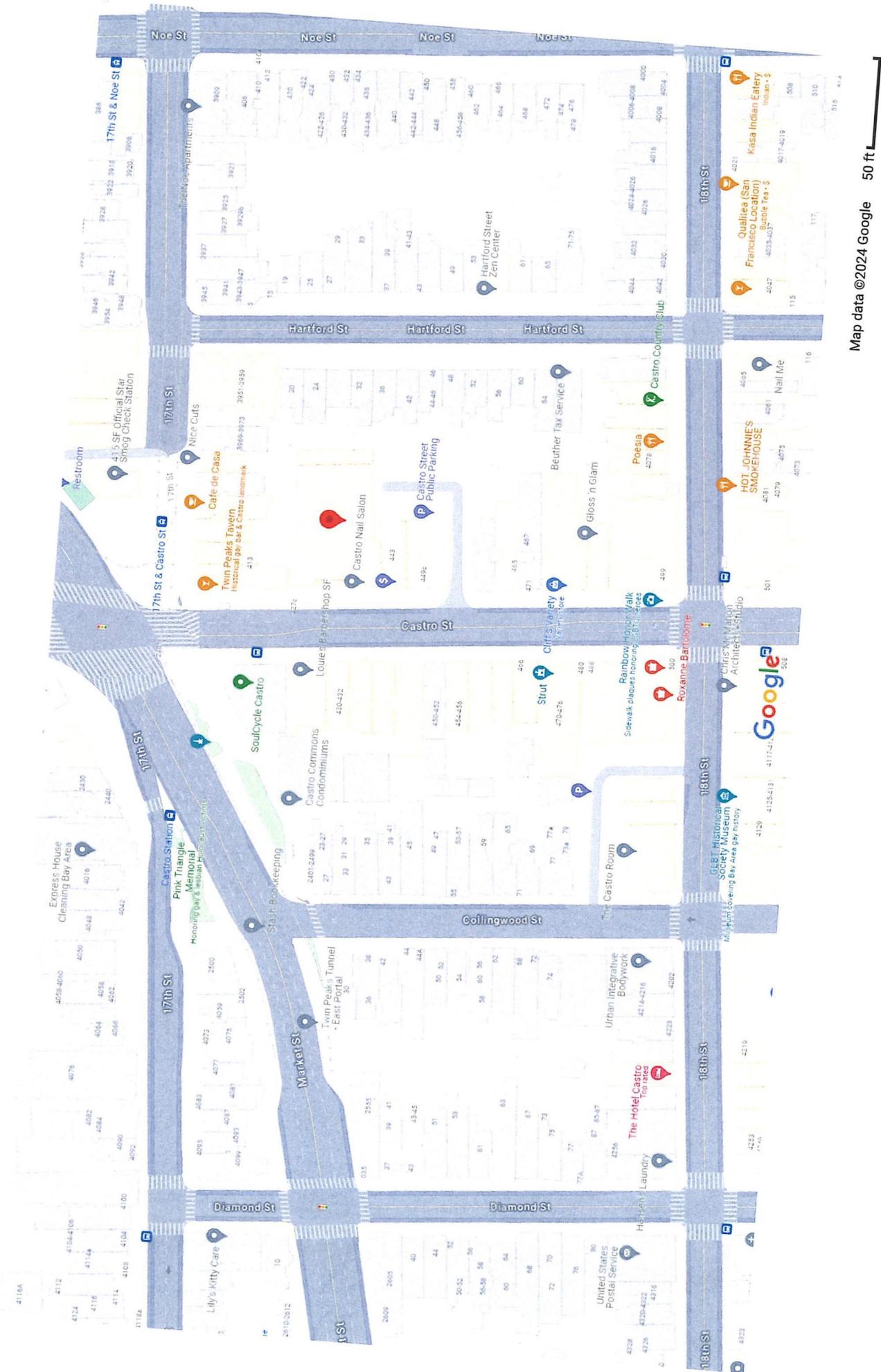
0 - Support

ALU Recommendation: **Approval with the condition:**

1. Petitioner(s) shall actively monitor the area under their control in an effort to prevent the loitering of persons on any property adjacent to the licensed premises as depicted on the ABC-253.
2. The petitioner(s) shall be responsible for maintaining free of litter the area adjacent to the premises over which they have control, as depicted on ABC-253.
3. (1) Except as provided in Condition 2 below, no noise shall be audible beyond the area under the control of the licensee. (SF district office only).

(2) Any noise caused by entertainment or amplified sound that is subject to the provisions of an active Entertainment Permit issued by the San Francisco Entertainment Commission shall be authorized in accordance with the limits established by that Entertainment Permit, including any limitation on hours during which entertainment or amplified sound is permitted. A violation of the entertainment or amplified sound noise conditions of the Entertainment Permit, as determined by the San Francisco Entertainment Commission (or any successor agency), shall be deemed to be a violation of this Condition. Any noise that is not subject to, or is beyond the scope of, the Entertainment Permit shall be subject to

Condition 1 above. "Entertainment Permit" means any of the following: a Just Add Music permit, a Limited Live Performance permit, a Place of Entertainment permit, a Fixed Place Amplified Sound permit, or any similar such permit issued by the San Francisco Entertainment Commission. (SF district office only)



BOARD of SUPERVISORS



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. (415) 554-5184
Fax No. (415) 554-5163
TDD/TTY No. (415) 554-5227

LIQUOR LICENSE PUBLIC CONVENIENCE OR NECESSITY REFERRAL

TO: Planning Department
Attn: _____
Phone No. _____

DATE: April 5, 2024

AP Block/Lot Nos.: 3582/085
Zoning: Castro NCD, 65 - B
Quad: _____
Record No.: _____

TO: Police Department
Joel Salmonson
Phone No. (415) 553-1115

Please submit your response within two weeks. The Public Safety and Neighborhood Services Committee will tentatively schedule the PC or N hearing for a regular meeting in May of 2024.

PLEASE EMAIL YOUR RESPONSE by April 19, 2024, to:
Monique Crayton, Public Safety and Neighborhood Services Committee Clerk.
monique.crayton@sfgov.org ~ (415) 554-7750

Applicant name: APESF LLC
Business name: The Castro Theater
Application address: 429 Castro Street
Applicant contact info: Jemma Jorel Lester
jemma@properpourco.com
845-389-3958

Gregg Perloff
dserot@anotherplanetent.com
510-548-3010

PLANNING REVIEW: Approval Denial

Planning Staff Contact: _____
(Please add comments on a trailing page.)

POLICE REVIEW: Approval Denial

(Please add comments in a trailing report.)



4/15/2024

Assistant Clerk of the Board of Supervisors
City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102

Re: 429 Castro Street - BOS Referral - Liquor License Public Convenience or Necessity Referral
Planning Department File No. 2024-002210MIS

To Whom It May Concern:

The Planning Department is recommending approval for ABC Type-68 and Type-90 license in conjunction with a conditionally permitted Nighttime Entertainment and Bar use alongside the existing Movie Theater use (d.b.a. The Castro Theater), at 429 Castro St within the Castro Street NCD (Neighborhood Commercial) Zoning District. Planning Commission Motion No. 21334 permitted the establishment of a Nighttime Entertainment and Bar use at the subject property. The subject property must adhere to the conditions outlined in PC Motion No. 21334 (enclosed) and the following conditions of Planning Code Section 202.2(a)(1):

1. The business operator shall maintain the main entrance to the building and all sidewalks abutting the subject property in a clean and sanitary condition in compliance with the Department of Public Works Street and Sidewalk Maintenance Standards. In addition, the operator shall be responsible for daily monitoring of the sidewalk within a one-block radius of the subject business to maintain the sidewalk free of paper or other litter associated with the business during business hours, in accordance with Article 1, Section 34 of the San Francisco Police Code.
2. When located within an enclosed space, the premises shall be adequately soundproofed or insulated for noise and operated so that incidental noise shall not be audible beyond the premises or in other sections of the building, and fixed-source equipment noise shall not exceed the decibel levels specified in the San Francisco Noise Control Ordinance.
3. While it is inevitable that some low level of odor may be detectable to nearby residents and passersby, appropriate odor control equipment shall be installed in conformance with the approved plans and maintained to prevent any significant noxious or offensive odors from escaping the premises.
4. Garbage, recycling, and compost containers shall be kept within the premises and hidden from public view and placed outside only when being serviced by the disposal company. Trash shall be contained and disposed of pursuant to garbage and recycling receptacles guidelines set forth by the Department of Public Works.

If you have any questions related to Planning's evaluation, please contact me at 628-652-7415.

Sincerely,



John Dacey, Planner

Districts 5 & 8 | Current Planning Division

San Francisco Planning Department

49 South Van Ness Avenue, Suite 1400, San Francisco, CA 94103

Direct: 628.652.7415 | www.sfplanning.org

[San Francisco Property Information Map](#)

APESF, LLC dba Castro Theatre
1815 Fourth Street, Suite C
Berkeley, CA 94710

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO

2024 APR -2 PH 4: 02

BY  _____

Angela Calvillo, Clerk of the Board
San Francisco Board of Supervisors
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102
415-554-4445

Re: Liquor License "PCN" Request
Original Type #90 - 657213

To the Clerk of the Board,

The purpose of this letter is to respectfully request to be placed on the Board's PSNS Subcommittee calendar for Public Convenience and Necessity review of our Type 90 ABC license.

Our business, the Castro Theatre, proves to be necessary in San Francisco, and has been an integral part of the live entertainment scene since 1922. The Castro Theatre is an iconic staple in San Francisco and a historic theatre, designated in 1976 as San Francisco Historic Landmark #100.

With the new Type 90 Music Venue license now available, we would like to pursue this new license as it better conforms with our operations and allows us to cater to all ages without requiring us to operate as a restaurant.

We seek the San Francisco Board of Supervisor's affirmative ruling that our application serves the public convenience and necessity of San Francisco.

Please include our ABC representative, Jemma Jorel Lester, on correspondence scheduling our hearing date. She can be reached via email at jemma@properpourco.com. Thank you for your kind consideration of this request.

Sincerely,



Gregg W. Perloff, CEO

dserot@anotherplanetent.com / (510) 548-3010

Department of Alcoholic Beverage Control
APPLICATION FOR ALCOHOLIC BEVERAGE LICENSE
 ABC 211 (6/99)

State of California

Jemma Lester

TO: Department of Alcoholic Beverage Control
 33 NEW MONTGOMERY STREET
 STE 1230
 SAN FRANCISCO, CA 94105
 (415) 356-6500

File Number: 657213
 Receipt Number: 2876160
 Geographical Code: 3800
 Copies Mailed Date: **March 12, 2024**
 Issued Date:

(845) 389-3958

DISTRICT SERVING LOCATION: **SAN FRANCISCO**
 First Owner: **APESF LLC**
 Name of Business: **CASTRO THEATER THE**
 Location of Business: **429 CASTRO ST
 SAN FRANCISCO, CA 94114-2019**

3582/085
 Dist - 8
 NCD
 2024-003084MIS

County **SAN FRANCISCO**

Is Premises inside city limits **Yes** Census Tract: **0206.01**

Mailing Address:(If different from premises address) **1815 FOURTH ST
 SUITE C
 BERKELEY, CA 94710**

Type of license(s): **68, 90** Dropping Partner: Yes No

Transferor's license/name:

License Type	Transaction Type	Master	Secondary LT And Count
90 - On-Sale General Music Venue	ORI	Y	68[2]
68 - Portable Bar	ORI	N	

License Type	Transaction Description	Fee Code	Dup	Date	Fee
Application Fee	ADD PRIMARY LICENSE TYPE	NA	0	03/12/24	\$18,635.00
90 - On-Sale General Music Ven	ANNUAL FEE	P40	0	03/12/24	\$1,450.00
68 - Portable Bar	ANNUAL FEE	P40	2	03/12/24	\$1,850.00
Total					\$21,935.00

Have you ever been convicted of a felony? **No**
 Have you ever violated any provisions of the Alcoholic Beverage Control Act, or regulations of the Department pertaining to the Act? **No**

STATE OF CALIFORNIA County of SAN FRANCISCO Date: March 12, 2024

Applicant Name(s)

APESF LLC

RECEIVED
 BOARD OF SUPERVISORS
 SAN FRANCISCO
 2024 MAR 14 AM 8:46
 BY *[Signature]*

TO: Department of Alcoholic Beverage Control
33 NEW MONTGOMERY STREET
STE 1230
SAN FRANCISCO, CA 94105
(415) 356-6500

File Number: **657213**
Receipt Number: **2876160**
Geographical Code: **3800**
Copies Mailed Date: **March 12, 2024**
Issued Date:

(845) 389-3958

DISTRICT SERVING LOCATION: **SAN FRANCISCO**

First Owner: **APESF LLC** 3582/085
Name of Business: **CASTRO THEATER THE** Dist 8
Location of Business: **429 CASTRO ST** NCD
SAN FRANCISCO, CA 94114-2019 2024-002210MIS

County **SAN FRANCISCO**

Is Premises inside city limits **Yes** Census Tract: **0206.01**

Mailing Address:(If different from premises address) **1815 FOURTH ST SUITE C BERKELEY, CA 94710**

Type of license(s): **68, 90** Dropping Partner: Yes No

Transferor's license/name:

<u>License Type</u>	<u>Transaction Type</u>	<u>Master</u>	<u>Secondary LT And Count</u>
90 - On-Sale General Music Venue	ORI	Y	68[2]
68 - Portable Bar	ORI	N	

<u>License Type</u>	<u>Transaction Description</u>	<u>Fee Code</u>	<u>Dup</u>	<u>Date</u>	<u>Fee</u>
Application Fee	ADD PRIMARY LICENSE TYPE	NA	0	03/12/24	\$18,635.00
90 - On-Sale General Music Ven	ANNUAL FEE	P40	0	03/12/24	\$1,450.00
68 - Portable Bar	ANNUAL FEE	P40	2	03/12/24	\$1,850.00
Total					\$21,935.00

Have you ever been convicted of a felony? **No**

Have you ever violated any provisions of the Alcoholic Beverage Control Act, or regulations of the Department pertaining to the Act? **No**

STATE OF CALIFORNIA County of **SAN FRANCISCO**

Date: **March 12, 2024**

Applicant Name(s)

APESF LLC

Recommend approval per CPC Motion No. 21334. Motion enclosed and Conditions of Approval included for alcohol use.

Matt Dito
Planning Department
3/18/2024

Matthew Dito Digitally signed by Matthew Dito
Date: 2024.03.18 14:59:47 -07'00'



PLANNING COMMISSION MOTION NO. 21334

HEARING DATE: JUNE 15, 2023

CORRECTED DATE: NOVEMBER 22, 2023

Record No.: 2022-005675CUA
Project Address: 429 CASTRO STREET
Zoning: CASTRO STREET NEIGHBORHOOD COMMERCIAL (NCD) ZONING DISTRICT
65-B Height and Bulk District
Cultural District: Castro LGBTQ Cultural District
Block/Lot: 3582/085
Project Sponsor: Andrew Junius
Reuben, Junius & Rose, LLP
San Francisco, CA 94104
Property Owner: Bay Properties Inc.
P.O. Box 330235
San Francisco, CA 94133
Staff Contact: Alex Westhoff - 628-652-7314
Alex.Westhoff@sfgov.org

ADOPTING FINDINGS RELATING TO A CONDITIONAL USE AUTHORIZATION PURSUANT TO PLANNING CODE SECTIONS 182(b), 303, and 715 TO ESTABLISH A NIGHTTIME ENTERTAINMENT AND A BAR USE ON THE FIRST AND SECOND STORIES ALONGSIDE THE EXISTING MOVIE THEATER USE WITHIN THE EXISTING MULTI-STORY MOVIE THEATER BUILDING LOCATED AT 429 CASTRO STREET (ALSO KNOWN AS THE CASTRO THEATRE), BLOCK 3582 LOT 085 WITHIN THE CASTRO STREET NCD (NEIGHBORHOOD COMMERCIAL) ZONING DISTRICT AND A 65-B HEIGHT AND BULK DISTRICT AND ADOPTING FINDINGS UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT.

PREAMBLE

On June 13, 2022, Andrew Junius of Reuben, Junius, and Rose (hereinafter "Project Sponsor") filed Application No. 2022-005675CUA (hereinafter "Application") with the Planning Department (hereinafter "Department") for a Conditional Use Authorization for Nighttime Entertainment and a Bar Use on the first and second stories, alongside the existing Movie Theater Use within the existing 57.5-ft tall movie theatre (hereinafter "Project") at 429 Castro Street, Block 3582 Lot 085 (hereinafter "Project Site").

The Project is exempt from the California Environmental Quality Act ("CEQA") as a Class 1 categorical exemption. The Planning Commission (hereinafter "Commission") has reviewed and concurs with said determination.

On October 6, 2022, the San Francisco Planning Commission (hereinafter “Commission”) conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Authorization Application No. 2022-005675CUA and continued the Project to the public hearings on March 16, 2023, April 13, 2023, May 18, 2023, June 8, 2023, and June 15, 2023. The public hearing on June 15, 2023 was jointly considered with the Planning Commission.

The Planning Department Commission Secretary is the Custodian of Records; the File for Record No. 2022-005675CUA is located at 49 South Van Ness Avenue, Suite 1400, San Francisco, California.

The Commission has heard and considered the testimony presented to it at the public hearing and has further considered written materials and oral testimony presented on behalf of the applicant, Department staff, and other interested parties.

MOVED, that the Commission hereby authorizes the Conditional Use Authorization as requested in Application No. 2022-005675CUA, subject to the conditions contained in “EXHIBIT A” of this motion, based on the following findings:

FINDINGS

Having reviewed the materials identified in the preamble above, and having heard all testimony and arguments, this Commission finds, concludes, and determines as follows:

- 1. The above recitals are accurate and constitute findings of this Commission.**
- 2. Project Description.** The Project includes the establishment of Nighttime Entertainment and a Bar Use on the first and second stories, alongside the existing Movie Theater Use within the historic Castro Theatre. Additionally, interior and exterior alterations are proposed, including rehabilitation of interior decorative features, removal of the auditorium seats, and installation of a tiered flooring system over the existing raked flooring. The Project also includes new construction of a 325-sf rear one-story addition to add a new dressing room, restroom, and storage platform above the existing basement boiler room which will be converted to an additional new dressing room and restroom.
- 3. Site Description and Present Use.** 429 Castro Street (The Castro Theatre) is located on the east side of Castro Street between 17th and 18th Streets (Assessor’s Block 3582; Lot 085). The subject property is individual landmark #100 under Article 10, Appendix A of the Planning Code. The theater occupies roughly 100 feet of frontage on Castro Street on a generally rectangular parcel approximately 15,550 square feet and is 57’6” tall. The theatre is one story over basement, plus mezzanine and upper balcony, totaling 23,488 square feet.

The property retains a high degree of architectural merit with ornately decorated interior and exterior spaces. The property has primarily operated as a movie theatre since it opened in 1922 and has been home to several of San Francisco’s longest running annual film festivals. A variety of other events have also taken place there including concerts, fundraisers, drag shows and more. Since the mid-1970s it has maintained a deep tradition of Lesbian, Gay, Bisexual, Transgender, and Queer (LGBTQ) themed programming, and has been an economic and cultural hub of the Castro neighborhood.

- 4. Surrounding Properties and Neighborhood.** The subject building is located in the Castro Street Neighborhood Commercial District, just south of a major intersection at Castro and Market Street. The immediate surrounding area includes one- to three-story buildings, with a heavy concentration of ground floor commercial below upper-story residential flats. While a range of building ages and architectural styles can be found, numerous wood-framed Victorian- and Edwardian-era buildings are in the nearby vicinity, largely constructed in the early 20th century. Other nearby architectural styles include Art Deco, Mediterranean Revival, 20th Century Commercial, and more. Most of the mixed-use residential structures are sited on 25-foot-wide lots, with minimal or no front and/or side yards along a rectangular street grid. Larger lots can also be found, especially at street intersections.

The property lies near the geographic center of the Castro Neighborhood, a landlocked neighborhood in the middle of San Francisco. Since the 1970s, the Castro has been a global epicenter for the LGBTQ community, serving as home to a countless number of people and events central to historical advancement of LGBTQ equality. Surrounding commercial establishments include restaurants, bars, nightclubs, shops, and more, largely catering to the local LGBTQ community, as well as to international tourists. A number of LGBTQ non-profit and community organizations are located in the neighborhood as well.

The Project is located within the boundaries of the Castro LGBTQ Cultural District, which was established in June 2019. The District's mission is to highlight the importance of LGBTQ people to the Castro's history and ensure they have a place in its future, and to help identify problems facing the LGBTQ community and collaborate with City Hall to create effective solutions.

5. Public Outreach and Comments.

- A. Letters of Support – As of May 10, 2023, the Department has received 1,513 letters in support of the proposed project. 1,491 of these utilized one of two form letter templates accessed and submitted via the Castro Theatre's website. Many of the signatories signed both letters. The letters support the renovation plans with upgraded seat configurations to allow flexibility of space to accommodate a variety of events. Benefits cited include increased economic activity, accessibility upgrades to allow for better accessibility for persons with disabilities, and physical improvements to the space, noting a trust with the project sponsor to restore the historic venue. The second, more recent form letter also supports the commitment of APE to host events that highlight LGBTQ+ performers, and APE's pledge to dedicate at least 1/3 of programming to movies and film festivals.
- B. Letters of Opposition – As of May 10, 2023, the Department has received 697 letters in opposition to the project. 643 of these utilized a form letter template from the Castro Theatre Conservancy's website – "Save the Castro Theatre". In addition to the form letter's content, many writers also added their personal experiences at the Castro Theatre, background as a San Francisco resident or visitor, or experience as a film professional. Specific objections contained in the form letter included the removal of the fixed seats and alteration of the sloped floor, alongside concerns on the proposed change of use from a movie theatre to an entertainment venue with only limited film screenings. Some submissions also included concerns with Another Planet Entertainment as

the operator.

- C. Other – The Department received submissions with comments that did not fit into a full support or opposition category of the proposed changes including:
- 61 submissions limiting their opposition to the removal of the seats and/or sloped floor.
 - 24 submissions limiting their comments to supporting the proposed changes to the landmark designation.
 - 1 submission requesting changes to the landmarking language.
 - 1 submission requesting a continuance of the previously scheduled April 13th hearing until the landmarking has passed.
 - 1 submission expressing concerns with Another Planet Entertainment as the operator, but supportive of renovating the theatre.
 - 1 submission expressing support for the Castro LGBTQ Cultural District’s efforts for community engagement regarding the Castro Theatre proposal.
- D. Castro LGBTQ Cultural District. On June 6, 2023, the Cultural District submitted a letter to Rafael Mandelman (District 8 Supervisor), Rich Hillis (Planning Director), Rachel Tanner (Planning Commission President), and Diane Matsuda (Historic Preservation Commission President). The letter included proposed edits and additions to the project’s Conditional Use Authorization conditions of approval. The letter was forwarded to the full Planning Commission and Historic Preservation Commission.
- E. Outreach: From January 2022 to present, the Project Sponsor has conducted outreach to hundreds of organizations and individuals, including neighborhood groups, local businesses, media outlets, film entities, LGBTQ interest groups and many others. Outreach methods have included in-person meetings, virtual meetings, emails and telephone calls. Additionally, the Sponsor hosted a community meeting at the Castro Theatre to showcase their plans on August 11, 2022.

6. Planning Code Compliance. The Commission finds that the Project is consistent with the relevant provisions of the Planning Code in the following manner:

- A. **Use.** Per Planning Code Section 715, Movie Theaters are principally permitted in the Castro Street NCD. Additionally, per Planning Code Section 715, bar uses are conditionally permitted on the first and second stories of buildings in the Castro Street NCD. Lastly, per Planning Code Section 715, nighttime entertainment is conditionally permitted on the first floor of buildings in the Castro Street NCD Zoning District, and pending Planning Code Amendment approval (Board File Number 220709), nighttime entertainment will be conditionally permitted on the second floor of buildings in the Castro Street NCD Zoning District.

The Project proposes to establish nighttime entertainment and bar uses on the first and second stories, alongside the existing movie theater use.

The Planning Code defines a nighttime entertainment use as:

“A Retail Entertainment, Arts and Recreation Use that includes dance halls, discotheques, nightclubs, private clubs, and other similar evening-oriented entertainment activities which require dance hall keeper police permits or Place of Entertainment police permits, as defined in Section 1060 of the Police Code, which are not limited to non-amplified live entertainment, including Restaurants and Bars which present such activities, but shall not include any Arts Activity, any theater performance space which does not serve alcoholic beverages during performances, or any temporary uses permitted pursuant to Sections 205 through 205.4 of this Code. This use is also subject to the controls in Section 202.11.”

The Project would require a Place of Entertainment authorization from the Entertainment Commission; therefore a Conditional Use Authorization is required from the Planning Commission.

Per Board of Supervisors File No. 220709, a Planning Code Text Amendment from the Board of Supervisors allow Nighttime Entertainment on the second story in the Castro NCD Zoning District.

- B. Floor Area Ratio.** Per Planning Code Section 124 the basic floor area ratio in a Castro NCD Zoning District is 3.0 to 1

With a floor area of 24,138 gross square feet and lot area of 15,489, the floor area ratio is approximately 1.56:1, thus complying with this section.

- C. Non-Residential Use Size.** Per Planning Code Section 715, non-residential use sizes of 4,000 square feet and above are not permitted in the Castro Street NCD.

The Castro Theatre’s current floor area of 24,488 gross square feet is in exceedance of the permitted maximum non-residential use size and is considered an existing non-conforming use. The proposed rear addition will add another 325 gross square footage, thus intensifying the existing non-conforming use. Approval of this addition is contingent upon a Planning Code Amendment which would remove non-residential use size limitations for Article 10 Landmark Buildings in the Castro Street NCD Zoning District, per Board File No. 220709.

- 7. Conditional Use Findings.** Planning Code Section 303 establishes criteria for the Planning Commission to consider when reviewing applications for Conditional Use authorization. On balance, the project complies with said criteria in that:

- A. The proposed new uses and building, at the size and intensity contemplated and at the proposed location, will provide a development that is necessary or desirable, and compatible with, the neighborhood or the community.

The Project at the Castro Theatre will establish new uses, which would expand the viability of the current theater use and also rehabilitate important historic features emblematic of the property. Ground floor auditorium seats will be removed for the installation of a motorized floor system to accommodate both sitting and standing events. Additional building improvements and betterments include the installation of an HVAC system, acoustical retrofits, and restroom alterations to address accessibility and maintenance. The Castro Theatre will continue to serve as a local venue for movie screenings and film

festivals, while also being adapted to accommodate live music, comedy shows, and other events. The added flexibility within the interior will assist the continued traditions of film festivals and associated events deeply embedded with the cultural identity and cinematic heritage of the theatre. The revenue from new uses, including from concessions and ticket sales, will go towards the restoration and rehabilitation of the landmark's historic features which are suffering from past mistreatments and deferred maintenance. This will help support the physical fabric of this architectural and cultural gem, ensuring it retains historic integrity for years to come. Allowing additional uses can also diversify the types of events which take place at the theatre, thus further supporting the venue's financial vitality in the face of ever evolving economic and cultural conditions. Particularly since the COVID-19 pandemic, the negative impacts to entertainment uses associated with vacancy and low attendance are abundantly clear. The addition of nighttime entertainment/bar uses will draw new patrons to the neighborhood, thus helping to support surrounding nightlife, restaurants, retailers, and other nearby businesses. Finally, the Project includes a small rear addition which will support the building's new uses. The addition is not street visible, and at the size proposed will have virtually no impact on the neighborhood's physical form. Ultimately, the Commission finds the rehabilitation and expanded uses at the Castro Theatre to be necessary, desirable, and compatible with the neighborhood.

- B. The proposed project will not be detrimental to the health, safety, convenience or general welfare of persons residing or working in the vicinity. There are no features of the project that could be detrimental to the health, safety or convenience of those residing or working the area, in that:

- (1) Nature of proposed site, including its size and shape, and the proposed size, shape and arrangement of structures;

The Project includes a small rear addition which will support the building's new uses, will not increase the building's overall height or bulk. The addition is not street visible, and at the size proposed will be physically compatible with the surrounding vicinity. The Project includes a full rehabilitation of the interior and exterior of the historic theater, which has been reviewed and approved by the Historic Preservation Commission (HPC) per HPC Motion No. 0463, along with HVAC system installation, accessibility improvements, and safety upgrades.

- (2) The accessibility and traffic patterns for persons and vehicles, the type and volume of such traffic, and the adequacy of proposed off-street parking and loading;

The subject property is within close proximity to numerous MUNI lines including the M-Ocean View, K-Ingleside, T-Third Street and S (Shuttle), F-Market, 24, 33, 25, and 37. These lines are also connected to regional BART, Caltrain, and ferry services, thus ensuring the venue is transit accessible from other Bay Area communities. The subject property is also centrally located within San Francisco, and thus accessible by walking or cycling from nearby neighborhoods.

- (3) The safeguards afforded to prevent noxious or offensive emissions such as noise, glare, dust and odor;

Pursuant to building permit approval, the building is being retrofitted with noise abatement measures including gaskets and a rooftop soundwall to ensure noise increases associated with live entertainment and the new HVAC system have minimal impacts to neighbors. No exterior

lighting changes are proposed. Dust and odor emissions are not anticipated.

- (4) Treatment given, as appropriate, to such aspects as landscaping, screening, open spaces, parking and loading areas, service areas, lighting and signs;

The Project design does not alter or modify the landscaping, screening, open spaces, parking, or lighting of the Property. The character defining historic neon blade sign and marquee will remain.

- C. That the use as proposed will comply with the applicable provisions of the Planning Code and will not adversely affect the General Plan.

The Project complies with all relevant requirements and standards of the Planning Code and is consistent with objectives and policies of the General Plan as detailed below.

- D. That use or feature as proposed will provide development that is in conformity with the stated purpose of the applicable Use District.

The proposed new nighttime entertainment and bar uses are in conformity with the purpose of the Castro Street NCD which supports commercial uses including bars, open both during the day and evening.

8. Additional Findings for Nighttime Entertainment Use. In addition to the criteria of Section 303(c) of this Code, the Commission shall consider the extent to which the following criteria are met as outlined in Planning Code Section 303(p):

- (1) With respect to Conditional Use authorization applications for Adult Business, Adult Sex Venue, Nighttime Entertainment, General Entertainment and Other Entertainment uses, such use or feature shall:

- (A) If the use is an Adult Business, it shall not be located within 1,000 feet of another such use; and/or

Neither the existing or proposed use of the venue is an adult business.

- (B) Not be open between two a.m. and six a.m.; and

The venue will not be open between two a.m. and six a.m.

- (C) Not use electronic amplification between midnight and six a.m.; and

The Project does not propose electronic amplification between midnight and six a.m.

- (D) Be adequately soundproofed or insulated for noise and operated so that incidental noise shall not be audible beyond the premises or in other sections of the building and fixed-source equipment noise shall not exceed the decibel levels specified in the San Francisco Noise Control Ordinance, Police Code Article 29.

The project will be adequately soundproofed or insulated for noise and operated so that incidental noise shall not be audible beyond the premises or in other sections of the building and fixed-source equipment noise shall not exceed the decibel levels specified in the San Francisco Noise Control Ordinance, Police Code Article 29.

- (2) Notwithstanding the above, the Planning Commission may authorize a Conditional Use which does not satisfy the criteria set forth in subsections (p)(1)(B) and/or (p)(1)(C) above, if facts presented are such to establish that the use will be operated in such a way as to minimize disruption to residences in and around the district with respect to noise and crowd control.

The Project will satisfy the criteria set forth in subsections (p)(1)(B) and/or (p)(1)(C) above.

- (3) If the proposed use is located in a Cultural District established under Administrative Code Section 107, the Planning Commission shall consider the purpose and goals established in Section 107.2 as well as any recommendations set forth in the Cultural, History, Housing, and Economic Stability Strategy report for the district if one has been adopted pursuant to Section 107.4.

The Castro Theatre falls within the Castro Lesbian, Gay, Bisexual, Transgender, and Queer (LGBTQ) Cultural District. Originally formed in June 2019, this Cultural District is known as a center of LGBTQ life and is a global focal point for the development of gay culture, community and politics.

Pursuant to Administrative Code Section 107.2, the purpose and goals of creating Cultural Districts, are as follows:

- *Purpose. San Francisco's Cultural Districts program seeks to formalize a collaborative partnership between the City and communities and bring resources in order to stabilize vulnerable communities facing or at risk of displacement or gentrification, and to preserve, strengthen and promote our cultural assets and diverse communities, so that individuals, families, businesses that serve and employ them, nonprofit organizations, community arts, and educational institutions are able to live, work and prosper within the City.*
- *Goals. The City creates Cultural Districts to advance the following goals:*
 - (1) *Preserving, maintaining and developing unique cultural and historic assets;*
 - (2) *Preserving and promoting significant assets such as buildings, business, organizations, traditions, practices, events, including their venues or outdoor special events and their geographic footprints, works of art, and public facing physical elements or characteristics that have contributed to the history or cultural heritage of San Francisco and its people or are associated with the lives of persons important to San Francisco history;*
 - (3) *Stopping the displacement of residents of Cultural Districts who are members of ethnic or other vulnerable communities that define those Districts, and promoting affordable housing opportunities and home ownership within the Districts while also developing and strengthening new tools to prevent displacement;*

- (4) *Attracting and supporting artists, creative entrepreneurs, cultural enterprises and people that embody and promote the cultural heritage of the District, especially those that have been displaced;*
- (5) *Promoting tourism to stabilize and strengthen the identity of the district while contributing to the district's economy;*
- (6) *Celebrating, strengthening, and sharing the unique cultural and ethnic identity of vulnerable communities, and providing opportunities for community neighbors, supporters, and advocates to participate;*
- (7) *Creating appropriate City regulations, tools, and programs such as zoning and land use controls to promote and protect businesses and industries that advance the culture and history of Cultural Districts;*
- (8) *Promoting employment and economic opportunities for residents of Cultural Districts;*
- (9) *Promoting cultural competency and education by diversifying our historic narrative on the history of San Francisco's many diverse cultural and ethnic communities, with an emphasis on those who have been previously marginalized and misrepresented in dominant narratives;*
- (10) *Promoting culturally competent and culturally appropriate City services and policies that encourage the health and safety of the community, culture, or ethnic groups in Cultural Districts;*
- (11) *Slowing down gentrification and mitigating its effects on vulnerable, minority communities; and;*
- (12) *Promoting and strengthening collaboration between the City and communities to maximize cultural competency and pursue social equity within some of the City's most vulnerable communities.*

The Castro LGBTQ Cultural District has provided a letter to the District Supervisor, Planning Department Staff, Planning Commission and Historic Preservation Commission, outlining proposed Conditional Use Authorization conditions of approval.

The Castro LGBTQ Cultural District does not currently have an adopted Cultural, History, Housing, and Economic Stability Strategy (CHESS) report.

In consideration of the purpose and goals of Administrative Code Section 107.2, the Commission finds that the project with conditions of approval, can offer a number of socioeconomic benefits to Castro LGBTQ Cultural District residents and other associated vulnerable community members. The project will help to preserve one of the Castro neighborhood's most iconic buildings, a City landmark which has long served as a haven for the historically marginalized LGBTQ community. Conservation and restoration of historic features, plus an economically

viable use can ensure long-term stewardship of a deeply valued site. The project proposes to continue long traditions of film screenings, while diversifying its programming to include more live entertainment of interest to LGBTQ community members. The Project will maintain a space where artists can perform in an intimate historic setting, with the potential to attract both local residents and international tourists alike. Robust patronage can support nearby local businesses including bars, restaurants, nightclubs, and shops, thus contributing to the neighborhood's economic and cultural vitality.

- (4) The action of the Planning Commission approving a Conditional Use does not take effect until the appeal period is over or while the approval is under appeal.

- 9. Additional Findings for Bar Use.** With regard to a Conditional Use Authorization for a Restaurant, Limited-Restaurant and Bar uses, the Planning Commission shall consider, in addition to the criteria set forth in subsection (c) above, the existing concentration of eating and drinking uses in the area. Such concentration should not exceed 25% of the total commercial frontage as measured in linear feet within the immediate area of the subject site except as otherwise provided in this subsection (o). The concentration of eating and drinking uses in the Polk Street Neighborhood Commercial District shall not exceed 35% of the total commercial frontage as measured in linear feet within the immediate area of the subject site. For the purposes of this Section 303 of the Code, the immediate area shall be defined as all properties located within 300' of the subject property and also located within the same zoning district.

The existing concentration of eating and drinking uses for properties located within 300' of the subject property, and located within the Castro Neighborhood Commercial Zoning District is 39%, thus exceeding 25%. If bar use is authorized for the Castro Theatre, the concentration of such uses would become 45%.

- 10. General Plan Compliance.** The Project is, on balance, consistent with the following Objectives and Policies of the General Plan:

COMMERCE AND INDUSTRY ELEMENT

The *Commerce and Industry Element* sets forth objectives and policies that address the broad range of economic activities, facilities and support systems that constitute San Francisco's employment and service base.

OBJECTIVE 2:

MAINTAIN AND ENHANCE A SOUND AND DIVERSE ECONOMIC BASE AND FISCAL STRUCTURE FOR THE CITY.

Policy 2.1

Seek to retain existing commercial and industrial activity and to attract new such activity to the city.

OBJECTIVE 6:

MAINTAIN AND STRENGTHEN VIABLE NEIGHBORHOOD COMMERCIAL AREAS EASILY ACCESSIBLE TO CITY RESIDENTS.

POLICY 6.8

Preserve historically and/or architecturally important buildings or groups of buildings in neighborhood commercial districts.

URBAN DESIGN ELEMENT

THE URBAN DESIGN ELEMENT concerns the physical character and order of the city, and the relationship between people and their environment.

OBJECTIVE 1:

EMPHASIS OF THE CHARACTERISTIC PATTERN WHICH GIVES TO THE CITY AND ITS NEIGHBORHOODS AN IMAGE, A SENSE OF PURPOSE, AND A MEANS OF ORIENTATION.

Policy 1.3

Recognize that buildings, when seen together, produce a total effect that characterizes the city and its districts.

OBJECTIVE 2:

CONSERVATION OF RESOURCES WHICH PROVIDE A SENSE OF NATURE, CONTINUITY WITH THE PAST, AND FREEDOM FROM OVERCROWDING.

Policy 2.4

Preserve notable landmarks and areas of historic, architectural or aesthetic value, and promote the preservation of other buildings and features that provide continuity with past development.

Policy 2.5

Use care in remodeling of older buildings, in order to enhance rather than weaken the original character of such buildings.

Policy 2.7

Recognize and protect outstanding and unique areas that contribute in an extraordinary degree to San Francisco's visual form and character.

ARTS ELEMENT

THE ARTS ELEMENT is intended to strengthen the arts in San Francisco, as expressions of culture, creativity and beauty; while validating and increasing the role of the arts as a major economic force in the region.

OBJECTIVE I-2:

INCREASE THE CONTRIBUTION OF THE ARTS TO THE ECONOMY OF SAN FRANCISCO.

POLICY I-2.1

Encourage and promote opportunities for the arts and artists to contribute to the economic development of San Francisco.

POLICY I-2.2

Continue to support and increase the promotion of the arts and arts activities throughout the City for the benefit of visitors, tourists, and residents.

OBJECTIVE VI-1

SUPPORT THE CONTINUED DEVELOPMENT AND PRESERVATION OF ARTISTS' AND ARTS ORGANIZATIONS' SPACES.

POLICY VI-1.4

Preserve existing performing spaces in San Francisco.

The Project ensures continued use of a historic building with high architectural, cultural and historical significance. Restoration of several interior features is proposed which will greatly improve the historic character of the building. Allowing for nighttime entertainment and bar uses on both floors will ensure the project's economic viability. Expanded programming options can help encourage additional patronage which can in turn support both the subject property's business, as well as surrounding restaurants, bars, retailers, and other commercial establishments. Allowing for nighttime entertainment in addition to existing movie showings will help support a diversity of performance types, thus helping to reinforce San Francisco's cultural identity as an important hub for a variety of arts and entertainment industries.

11. Planning Code Section 101.1(b) establishes eight priority-planning policies and requires review of permits for consistency with said policies. On balance, the project complies with said policies in that:

- A. That existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses be enhanced.

The Project will preserve a celebrated historic building, which for over one-hundred years has served as a cultural and economic anchor for the surrounding commercial corridor. Its ongoing use as an entertainment venue will continue to draw both local Bay Area residents and out-of-town tourists alike to the neighborhood, who in turn will patronize nearby restaurants, bars, shops and other neighborhood businesses. In addition to privately-owned businesses, such patronage will contribute to local sales taxes, transient occupancy taxes, transit fees, and other public revenues.

- B. That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods.

The Project will conserve neighborhood character by preserving an iconic historic landmark with high architectural, cultural, and historical significance. The project proposes a number of improvements to aesthetically notable features which have suffered from past disrepair or neglect, thus improving the overall quality of the space. The landmark building has high significance particularly for the historic Castro neighborhood and LGBTQ community. Its continued preservation will help ensure a unique facet of San Francisco's diverse history remains economically viable for the foreseeable future.

- C. That the City's supply of affordable housing be preserved and enhanced.

The Project will not affect the City's affordable housing supply. No housing exists on the project site.

- D. That commuter traffic not impede MUNI transit service or overburden our streets or neighborhood parking.

The subject property is sited across the street from the Castro Street MUNI station which is served by several underground MUNI lines including the M-Ocean View, K-Ingleside, T-Third Street and S (Shuttle). These lines are also connected to regional BART, Caltrain, and ferry services, thus ensuring the venue is transit accessible by patrons from other Bay Area communities. Aboveground MUNI lines with nearby stops include the 24, 33, 25, 37 and F-Market. By drawing regular patrons to the venue, the project can increase ridership of these lines.

Centrally located in San Francisco, the Castro Theatre can also easily be accessed by pedestrians and cyclists from the Castro and other nearby neighborhoods including the Mission, Noe Valley, Haight Ashbury, Twin Peaks and more.

- E. That a diverse economic base be maintained by protecting our industrial and service sectors from displacement due to commercial office development, and that future opportunities for resident employment and ownership in these sectors be enhanced.

The Project does not include commercial office development. The Project proposes continued use for a popular performance venue, thus bolstering hospitality and entertainment-related employment opportunities at both the subject venue itself as well as at surrounding businesses who may benefit from increased patronage to the neighborhood.

- F. That the City achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake.

All construction will be executed in compliance with all applicable construction and safety measures.

- G. That landmarks and historic buildings be preserved.

The Project is in conformance with Article 10 of the Planning Code and the Secretary of the Interior's Standards. The project proposes a significant restoration of the interior and exterior, which will ensure continued viability for the historic theater.

- H. That our parks and open space and their access to sunlight and vistas be protected from development.

The Project will not impact the access to sunlight or vistas for the parks and open space.

- 12.** The Project is consistent with and would promote the general and specific purposes of the Code provided under Section 101.1(b) in that, as designed, the Project would contribute to the character and stability of the neighborhood and would constitute a beneficial development.
- 13.** The Commission hereby finds that approval of the Conditional Use Authorization would promote the health, safety and welfare of the City.

DECISION

That based upon the Record, the submissions by the Applicant, the staff of the Department and other interested parties, the oral testimony presented to this Commission at the public hearings, and all other written materials submitted by all parties, the Commission hereby **APPROVES Conditional Use Authorization Application No. 2022-005675CUA**~~2015-000123CUA~~ subject to the following conditions attached hereto as “EXHIBIT A” in general conformance with plans on file, dated **March 31, 2023**, and stamped “EXHIBIT B”, which is incorporated herein by reference as though fully set forth.

APPEAL AND EFFECTIVE DATE OF MOTION: Any aggrieved person may appeal this Conditional Use Authorization to the Board of Supervisors within thirty (30) days after the date of this Motion. The effective date of this Motion shall be the date of this Motion if not appealed (after the 30-day period has expired) OR the date of the decision of the Board of Supervisors if appealed to the Board of Supervisors. For further information, please contact the Board of Supervisors at (415) 554-5184, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

Protest of Fee or Exaction: You may protest any fee or exaction subject to Government Code Section 66000 that is imposed as a condition of approval by following the procedures set forth in Government Code Section 66020. The protest must satisfy the requirements of Government Code Section 66020(a) and must be filed within 90 days of the date of the first approval or conditional approval of the development referencing the challenged fee or exaction. For purposes of Government Code Section 66020, the date of imposition of the fee shall be the date of the earliest discretionary approval by the City of the subject development.

If the City has not previously given Notice of an earlier discretionary approval of the project, the Planning Commission’s adoption of this Motion, Resolution, Discretionary Review Action or the Zoning Administrator’s Variance Decision Letter constitutes the approval or conditional approval of the development and the City hereby gives **NOTICE** that the 90-day protest period under Government Code Section 66020 has begun. If the City has already given Notice that the 90-day approval period has begun for the subject development, then this document does not re-commence the 90-day approval period.

I hereby certify that the Planning Commission ADOPTED the foregoing Motion on June 15, 2023 and corrected on November 22, 2023.



Jonas P. Ionin
Commission Secretary

Jonas P Ionin

Digitally signed by Jonas P Ionin
Date: 2023.11.22 11:26:50
-08'00'

AYES: Braun, Diamond, Koppel, Tanner

NAYS: Imperial, Moore

ABSENT: Ruiz

ADOPTED: June 15, 2023

CORRECTED: November 22, 2023

EXHIBIT A

Authorization

This authorization is for a conditional use to allow a nighttime entertainment and bar use in addition to an existing movie theater located at 429 Castro Street, Block 3582, Lot 085 pursuant to Planning Code Sections 182(b), 303, and 715, within the Castro Street Neighborhood Commercial District and a 65-B Height and Bulk District; in general conformance with plans, dated March 31, 2023, and stamped “EXHIBIT B” included in the docket for Record No. 2022-005675CUA and subject to conditions of approval reviewed and approved by the Commission on June 15, 2023 under Motion No. 21334. This authorization and the conditions contained herein run with the property and not with a particular Project Sponsor, business, or operator.

Recordation of Conditions of Approval

Prior to the issuance of the building permit or commencement of use for the Project the Zoning Administrator shall approve and order the recordation of a Notice in the Official Records of the Recorder of the City and County of San Francisco for the subject property. This Notice shall state that the project is subject to the conditions of approval contained herein and reviewed and approved by the Planning Commission on June 15, 2023 under Motion No. 21334.

Printing of Conditions of Approval on Plans

The conditions of approval under the 'Exhibit A' of this Planning Commission Motion No. 21334 shall be reproduced on the Index Sheet of construction plans submitted with the site or building permit application for the Project. The Index Sheet of the construction plans shall reference to the Conditional Use authorization and any subsequent amendments or modifications.

Severability

The Project shall comply with all applicable City codes and requirements. If any clause, sentence, section or any part of these conditions of approval is for any reason held to be invalid, such invalidity shall not affect or impair other remaining clauses, sentences, or sections of these conditions. This decision conveys no right to construct, or to receive a building permit. “Project Sponsor” shall include any subsequent responsible party.

Changes and Modifications

Changes to the approved plans may be approved administratively by the Zoning Administrator. Significant changes and modifications of conditions shall require Planning Commission approval of a new Conditional Use authorization.

CONDITIONS OF APPROVAL, COMPLIANCE, MONITORING, AND REPORTING

Performance

- 1. Validity.** The authorization and right vested by virtue of this action is valid for three (3) years from the effective date ~~that of~~ the Planning Code text amendment ~~become~~ effective. The Department of Building Inspection shall have issued a Building Permit or Site Permit to construct the project and/or commence the approved use within this three-year period.

For information about compliance, contact Code Enforcement, Planning Department at 628.652.7463, www.sfplanning.org

- 2. Expiration and Renewal.** Should a Building or Site Permit be sought after the three (3) year period has lapsed, the project sponsor must seek a renewal of this Authorization by filing an application for an amendment to the original Authorization or a new application for Authorization. Should the project sponsor decline to so file, and decline to withdraw the permit application, the Commission shall conduct a public hearing in order to consider the revocation of the Authorization. Should the Commission not revoke the Authorization following the closure of the public hearing, the Commission shall determine the extension of time for the continued validity of the Authorization.

For information about compliance, contact Code Enforcement, Planning Department at 628.652.7463, www.sfplanning.org

- 3. Diligent Pursuit.** Once a site or Building Permit has been issued, construction must commence within the timeframe required by the Department of Building Inspection and be continued diligently to completion. Failure to do so shall be grounds for the Commission to consider revoking the approval if more than three (3) years have passed since the date that the Planning Code text amendment(s) and/or Zoning Map amendment(s) became effective.

For information about compliance, contact Code Enforcement, Planning Department at 628.652.7463, www.sfplanning.org

- 4. Extension.** All time limits in the preceding three paragraphs may be extended at the discretion of the Zoning Administrator where implementation of the project is delayed by a public agency, an appeal or a legal challenge and only by the length of time for which such public agency, appeal or challenge has caused delay.

For information about compliance, contact Code Enforcement, Planning Department at 628.652.7463, www.sfplanning.org

- 5. Conformity with Current Law.** No application for Building Permit, Site Permit, or other entitlement shall be approved unless it complies with all applicable provisions of City Codes in effect at the time of such approval.

For information about compliance, contact Code Enforcement, Planning Department at 628.652.7463, www.sfplanning.org

- 6. Additional Project Authorization.** The Project Sponsor must obtain a Certificate of Appropriateness under Article 10 of the Planning Code for physical alterations to historically significant interior and exterior spaces and features. Additionally, the Project requires adoption of Planning Code Text Amendments to conditionally allow nighttime entertainment on second stories of buildings in the Castro Street NCD Zoning District and to exempt Article 10 Landmark properties from the non-residential use size limits in the Castro Street NCD Zoning District. A Place of Entertainment Permit is also required from the Entertainment Commission for proposed uses including live music and comedy acts. Additional permits, including from the Department of Public Health (DPH) and the State's Alcoholic Beverage Control (ABC), may be required.

The conditions set forth below are additional conditions required in connection with the Project. If these conditions overlap with any other requirement imposed on the Project, the more restrictive or protective condition or requirement, as determined by the Zoning Administrator, shall apply.

This approval is contingent on, and will be of no further force and effect until the date that the San Francisco Board of Supervisors has approved by resolution ~~approving~~ the Planning Code Text Amendments (See Board of Supervisors File No. 220709, 220862 and 221151).

For information about compliance, contact Code Enforcement, Planning Department at 628.652.7463, www.sfplanning.org

Design – Compliance at Plan Stage

- 7. Final Materials.** The Project Sponsor shall continue to work with the Planning Department on the building design. Final materials, glazing, color, texture, landscaping, and detailing shall be subject to Department staff review and approval. The architectural addenda shall be reviewed and approved by the Planning Department prior to issuance.

For information about compliance, contact the Case Planner, Planning Department at 628.652.7314, www.sfplanning.org

- 8. Garbage, Composting and Recycling Storage.** Space for the collection and storage of garbage, composting, and recycling shall be provided within enclosed areas on the property and clearly labeled and illustrated on the building permit plans. Space for the collection and storage of recyclable and compostable materials that meets the size, location, accessibility and other standards specified by the San Francisco Recycling Program shall be provided at the ground level of the buildings.

For information about compliance, contact the Case Planner, Planning Department at 628.652.7314, www.sfplanning.org

- 9. Rooftop Mechanical Equipment.** Pursuant to Planning Code 141, the Project Sponsor shall submit a roof plan to the Planning Department prior to Planning approval of the building permit application. Rooftop mechanical equipment, if any is proposed as part of the Project, is required to be screened so as not to be visible from any point at or below the roof level of the subject building.

For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sfplanning.org

- 10. Noise, Ambient.** Interior occupiable spaces shall be insulated from ambient noise levels. Specifically, in areas identified by the Environmental Protection Element, Map 1, “Background Noise Levels,” of the General Plan that exceed the thresholds of Article 29 in the Police Code, new developments shall install and maintain glazing rated to a level that insulates interior occupiable areas from Background Noise and complies with California Title 24 energy standards.

For information about compliance, contact the Environmental Health Section, Department of Public Health at 415.252.3800, www.sfdph.org

- 11. Noise.** Plans submitted with the building permit application for the approved project shall incorporate acoustical insulation and other sound proofing measures to control noise.

For information about compliance, contact the Case Planner, Planning Department at 628.652.7314, www.sfplanning.org

Parking and Traffic

- 12. Managing Traffic During Construction.** The Project Sponsor and construction contractor(s) shall coordinate with the Traffic Engineering and Transit Divisions of the San Francisco Municipal Transportation Agency (SFMTA), the Police Department, the Fire Department, the Planning Department, and other construction contractor(s) for any concurrent nearby Projects to manage traffic congestion and pedestrian circulation effects during construction of the Project.

For information about compliance, contact Code Enforcement, Planning Department at 628.652.7463, www.sfplanning.org

Monitoring - After Entitlement

- 13. Enforcement.** Violation of any of the Planning Department conditions of approval contained in this Motion or of any other provisions of Planning Code applicable to this Project shall be subject to the enforcement procedures and administrative penalties set forth under Planning Code Section 176 or Section 176.1. The Planning Department may also refer the violation complaints to other city departments and agencies for appropriate enforcement action under their jurisdiction.

For information about compliance, contact Code Enforcement, Planning Department at 628.652.7463, www.sfplanning.org

- 14. Monitoring.** The Project requires monitoring of the conditions of approval in this Motion. The Project Sponsor or the subsequent responsible parties for the Project shall pay fees as established under Planning Code Section 3501(e)(1) and work with the Planning Department for information about compliance.

For information about compliance, contact Code Enforcement, Planning Department at 628.652.7463, www.sfplanning.org

15. Revocation due to Violation of Conditions. Should implementation of this Project result in complaints from interested property owners, residents, or commercial lessees which are not resolved by the Project Sponsor and found to be in violation of the Planning Code and/or the specific conditions of approval for the Project as set forth in Exhibit A of this Motion, the Zoning Administrator shall refer such complaints to the Commission, after which it may hold a public hearing on the matter to consider revocation of this authorization.

For information about compliance, contact Code Enforcement, Planning Department at 628.652.7463, www.sfplanning.org

Operation

16. Use. The Project is subject to the following operating conditions:

- A. No fewer than 75 days of each calendar year must include the presentation of either a feature-length film or a series of short films with total combined length that is comparable to a feature-length film.

For information about compliance, contact Code Enforcement, Planning Department at 628.652.7463, www.sfplanning.org

- B. In order to ensure that the facility continues to contribute to the cultural richness of the neighborhood and the viability of surrounding small businesses, no fewer than 180 days of each calendar year must include events that are open to the general public or to private parties. No fewer than 90 of those days must include events that are open to the general public, including events for which tickets are available for purchase by the public. The required number of days in this Condition Number 16(B) includes the number of days listed in Condition Number 16(A) above.

For information about compliance, contact Code Enforcement, Planning Department at 628.652.7463, www.sfplanning.org

- C. On an ongoing basis, the operator of the facility shall seek guidance on the overall programming of the facility from one or more San Francisco-based LGBTQIA+ nonprofit organizations or nonprofit film exhibition organizations in order to meet its commitment as stated in the online community benefits package as of June 15, 2023 to have 25% of the programming be related to LGBTQIA art, artists, culture, and activities. At minimum, following the first three years of the certificate of occupancy, the operator of the facility will attend a meeting with the Castro LGBTQ Cultural District once per calendar year for guidance. The project sponsor shall include a record of meeting agendas, notes, attendees, and completed follow-up actions in its annual report to the Planning Commission per Condition Number 16(H).

For information about compliance, contact Code Enforcement, Planning Department at 628.652.7463, www.sfplanning.org

- D. In order to meet its commitment as stated in the online community benefits package as of June 15, 2023, to have 25% of the programming be related to LGBTQIA art, artists, culture, and activities, each calendar year following the certificate of occupancy, the operator of the facility shall host one meeting and invited representatives of interested organizations, such as the Castro LGBTQ Cultural District, the Castro Merchants Association, and others. The project sponsor shall include a record of meeting agendas, notes, attendees, and completed follow-up actions in its annual report to the Planning Commission per Condition Number 16(HE).

For information about compliance, contact Code Enforcement, Planning Department at 628.652.7463, www.sfplanning.org

- E. The operator of the facility shall make ongoing good faith efforts to source a portion of its food or beverage concessions from local businesses located within the Castro LGBTQ Cultural District or up to a quarter mile outside the district's boundaries, on a rotating basis and in collaboration with the Castro Merchants Association.

For information about compliance, contact Code Enforcement, Planning Department at 628.652.7463, www.sfplanning.org

- F. No later than March 31 of each calendar year, the operator of the facility shall provide to the Director of Planning a written report that (1) lists each event at the facility during the previous calendar year, and (2) describes compliance with all provisions of this Condition Number 16 during the previous calendar year. The director shall forward this report to the Historic Preservation Commission. For at least the first five calendar years after the issuance of the certificate of occupancy, the operator of the facility shall participate in a Planning Commission hearing—as scheduled by the Planning Commission—regarding compliance with provisions of this Condition Number 16. The Planning Commission may choose to extend this annual hearing requirement beyond five years at the Planning Commission's discretion. The report shall, at minimum, include an accounting of the uses at the theatre including accounting of the nature of the event and/or activity (such as title, whether the event was film, live performance, etc.); the dates of each activity; whether tickets were available for sale to the general public, if the activity was free or lower priced tickets were available, or if the activity was private; and a summary of the content of the activity.

For information about compliance, contact Code Enforcement, Planning Department at 628.652.7463, www.sfplanning.org

17. Eating and Drinking Uses. ~~As defined in~~ As required by Planning Code Section 202.2, Eating and Drinking Uses, as defined in Section 102, shall be subject to the following conditions:

- A. The business operator shall maintain the main entrance to the building and all sidewalks abutting the subject property in a clean and sanitary condition in compliance with the Department of Public Works Street and Sidewalk Maintenance Standards. In addition, the operator shall be responsible for daily monitoring of the sidewalk within a one-block radius of the subject business to maintain the sidewalk free of paper or other litter associated with the business during business hours, in accordance with Article 1, Section 34 of the San Francisco Police Code.

For information about compliance, contact the Bureau of Street Use and Mapping, Department of Public Works at 628.271.2000, www.sfpublicworks.org.

- B. When located within an enclosed space, the premises shall be adequately soundproofed or insulated for noise and operated so that incidental noise shall not be audible beyond the premises or in other sections of the building, and fixed-source equipment noise shall not exceed the decibel levels specified in the San Francisco Noise Control Ordinance.

For information about compliance of fixed mechanical objects such as rooftop air conditioning, restaurant ventilation systems, and motors and compressors with acceptable noise levels, contact the Environmental Health Section, Department of Public Health at 415.252.3800, www.sfdph.org.

For information about compliance with construction noise requirements, contact the Department of Building Inspection at 628.652.3200, www.sfdbi.org.

For information about compliance with the requirements for amplified sound, including music and television, contact the Police Department at 415.553.0123, www.sf-police.org

- C. While it is inevitable that some low level of odor may be detectable to nearby residents and passersby, appropriate odor control equipment shall be installed in conformance with the approved plans and maintained to prevent any significant noxious or offensive odors from escaping the premises.

For information about compliance with odor or other chemical air pollutants standards, contact the Bay Area Air Quality Management District, (BAAQMD), 1-800-334-ODOR (6367), www.baaqmd.gov and Code Enforcement, Planning Department at 628.652.7600, www.sfplanning.org

- D. Garbage, recycling, and compost containers shall be kept within the premises and hidden from public view, and placed outside only when being serviced by the disposal company. Trash shall be contained and disposed of pursuant to garbage and recycling receptacles guidelines set forth by the Department of Public Works.

For information about compliance, contact the Bureau of Street Use and Mapping, Department of Public Works at 628.271.2000, www.sfpublicworks.org

- 18. Sidewalk Maintenance.** The Project Sponsor shall maintain the main entrance to the building and all sidewalks abutting the subject property in a clean and sanitary condition in compliance with the Department of Public Works Streets and Sidewalk Maintenance Standards.

For information about compliance, contact Bureau of Street Use and Mapping, Department of Public Works, 628.271.2000, www.sfpublicworks.org

- 19. Community Liaison.** Prior to issuance of a building permit to construct the project and implement the approved use, the Project Sponsor shall appoint a community liaison officer to deal with the issues of concern to owners and occupants of nearby properties. The Project Sponsor shall provide the Zoning Administrator and all registered neighborhood groups for the area with written notice of the name, business address, and telephone number of the community liaison. Should the contact information change, the Zoning

Administrator and registered neighborhood groups shall be made aware of such change. The community liaison shall report to the Zoning Administrator what issues, if any, are of concern to the community and what issues have not been resolved by the Project Sponsor.

For information about compliance, contact Code Enforcement, Planning Department at 628.652.7463, www.sfplanning.org

- 20. Notices Posted at Bars and Entertainment Venues.** Notices urging patrons to leave the establishment and neighborhood in a quiet, peaceful, and orderly fashion and to not litter or block driveways in the neighborhood, shall be well-lit and prominently displayed at all entrances to and exits from the establishment.

For information about compliance, contact the Entertainment Commission, at 415 554-6678, www.sfgov.org/entertainment

- 21. Nighttime Entertainment.** The Nighttime Entertainment shall be performed within the enclosed building only. The building shall be adequately soundproofed or insulated for noise and operated so that incidental noise shall not be audible beyond the premises or in other sections of the building and fixed-source equipment noise shall not exceed the decibel levels specified in the San Francisco Noise Control Ordinance. Bass and vibrations shall also be contained within the enclosed structure. The Project Sponsor shall obtain all necessary approvals from the Entertainment Commission prior to operation. The authorized entertainment use shall also comply with all of the conditions imposed by the Entertainment Commission.

For information about compliance, contact the Entertainment Commission, at 628.652.6030, www.sfgov.org/entertainment

- 22. Lighting.** All Project lighting shall be directed onto the Project site and immediately surrounding sidewalk area only, and designed and managed so as not to be a nuisance to adjacent residents. Nighttime lighting shall be the minimum necessary to ensure safety, but shall in no case be directed so as to constitute a nuisance to any surrounding property.

For information about compliance, contact Code Enforcement, Planning Department at 628.652.7463, www.sfplanning.org

△ MILESTONE DATE

△ MILESTONE	DATE

PROJECT NAME

CASTRO THEATER
429 CASTRO ST
SAN FRANCISCO, CA 94114

SHEET TITLE

BASEMENT FLOOR PLAN - EXISTING

PROJECT NO. **21-008**

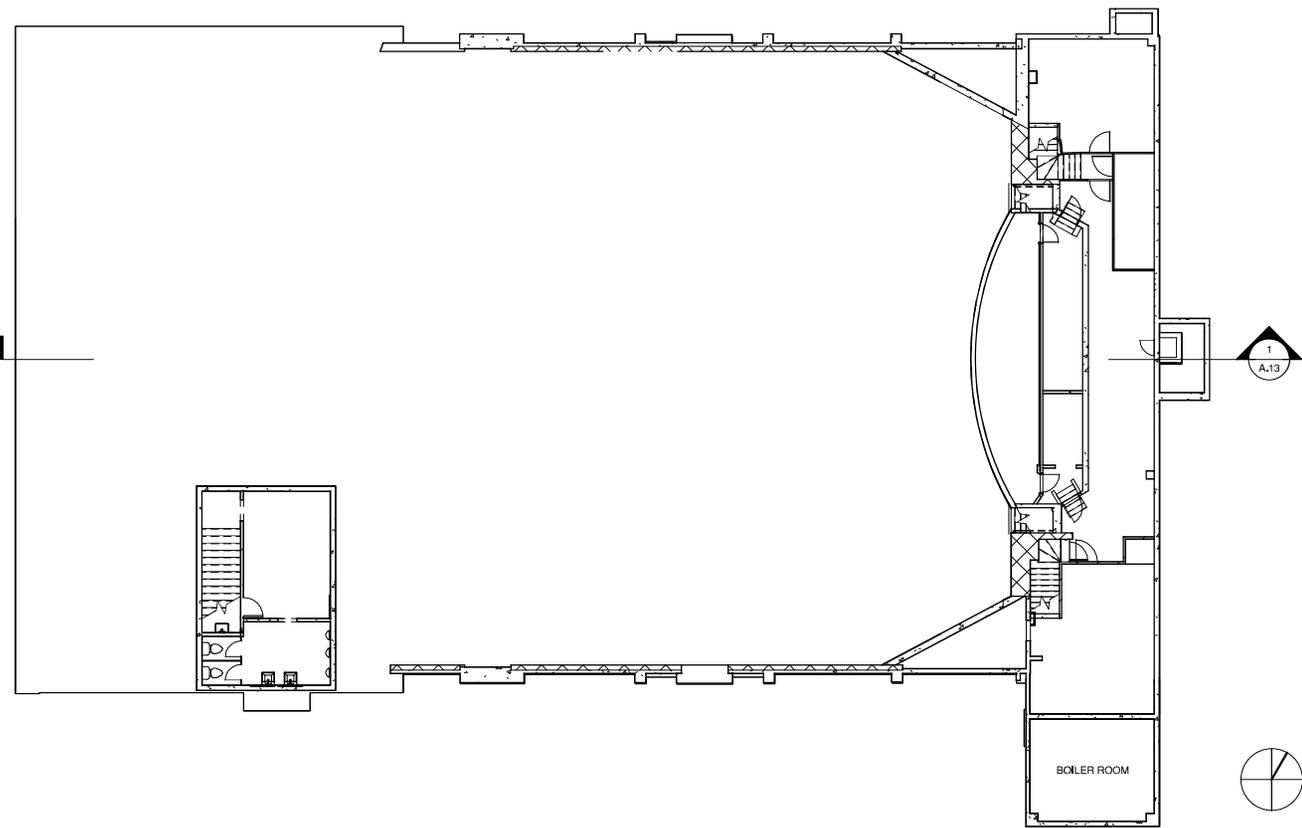
DRAWN BY **KS, PS**

CHECKED BY **KW, CW**

SHEET

A.1

CASTRO STREET



1 BASEMENT FLOOR PLAN - EXISTING
1/16" = 1'-0"

△ MILESTONE	DATE

PROJECT NAME

CASTRO THEATER
429 CASTRO ST
SAN FRANCISCO, CA 94114

SHEET TITLE

GROUND FLOOR PLAN - EXISTING

PROJECT NO. **21-008**

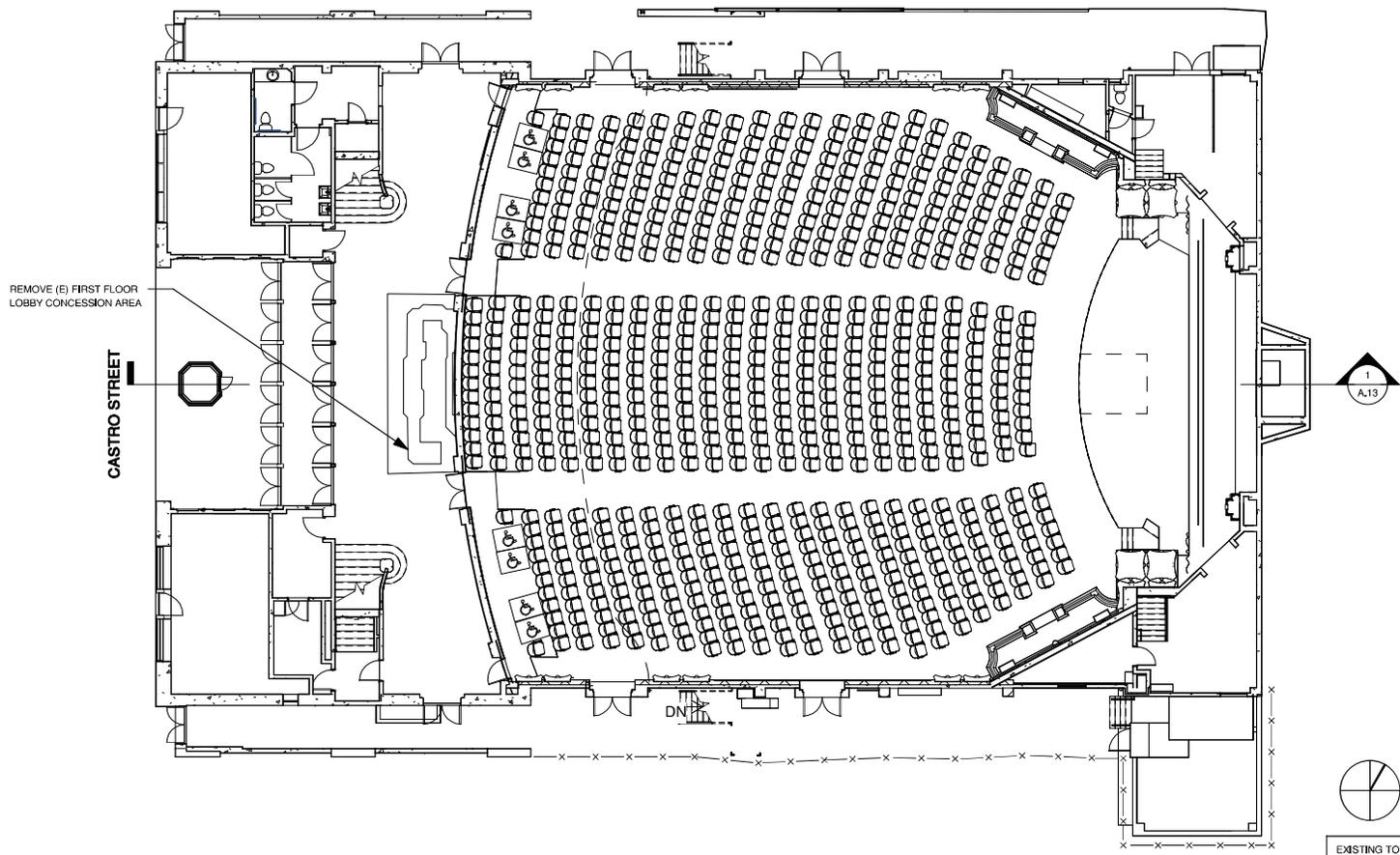
DRAWN BY **KS, PS**

CHECKED BY **KW, CW**

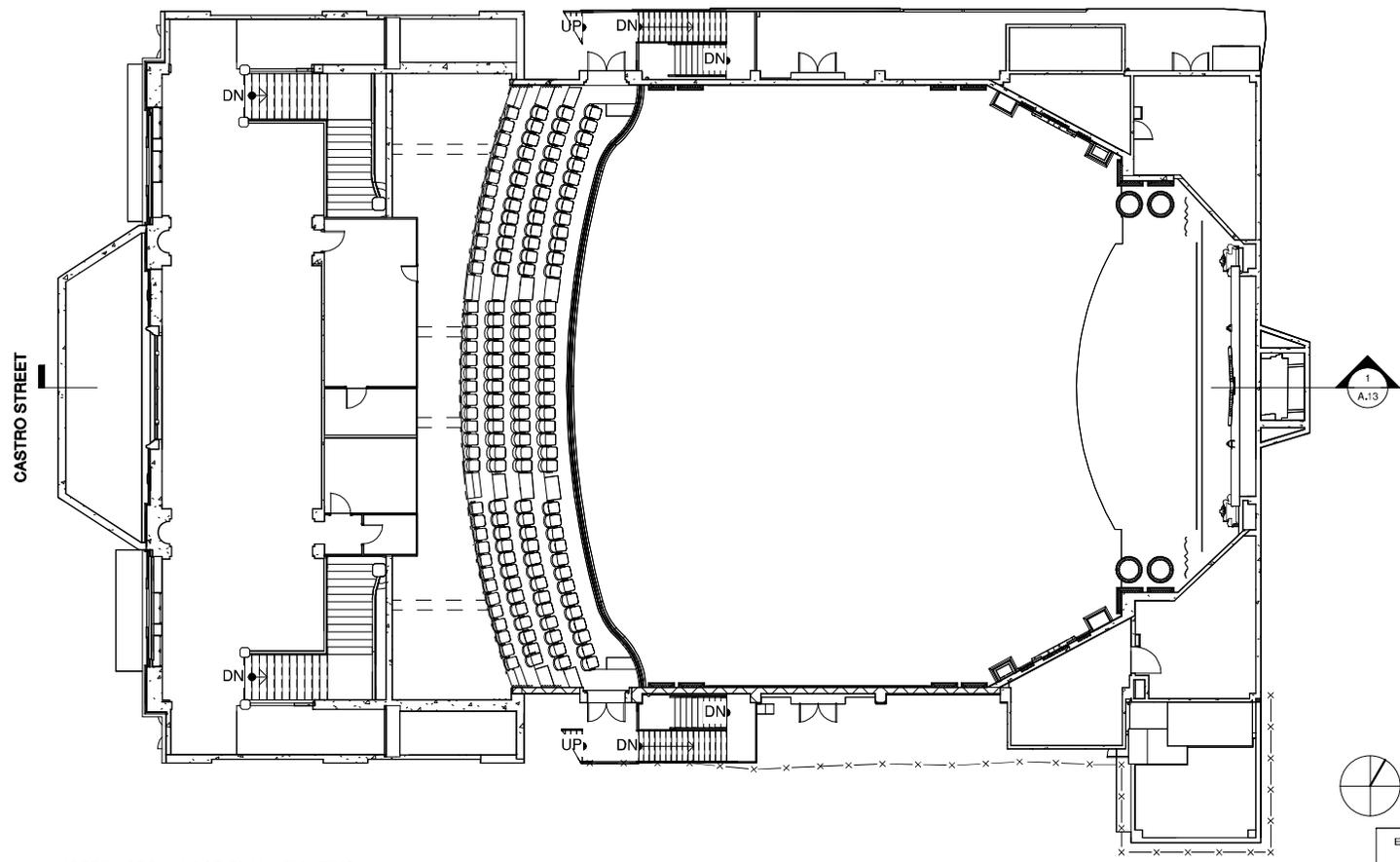
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A.2

3/31/2023 4:45:48 PM

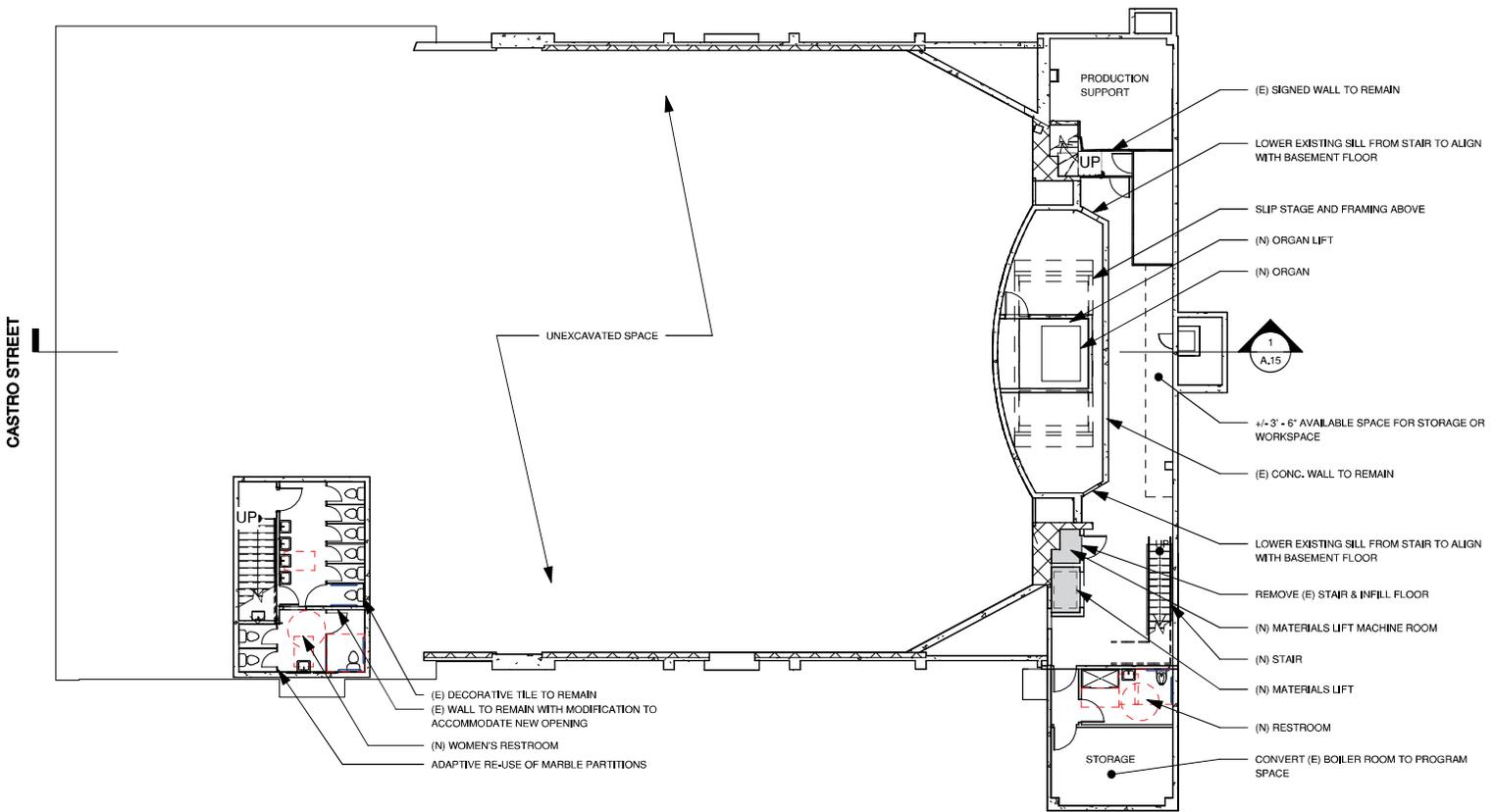


1 GROUND FLOOR PLAN - EXISTING
1/16" = 1'-0"

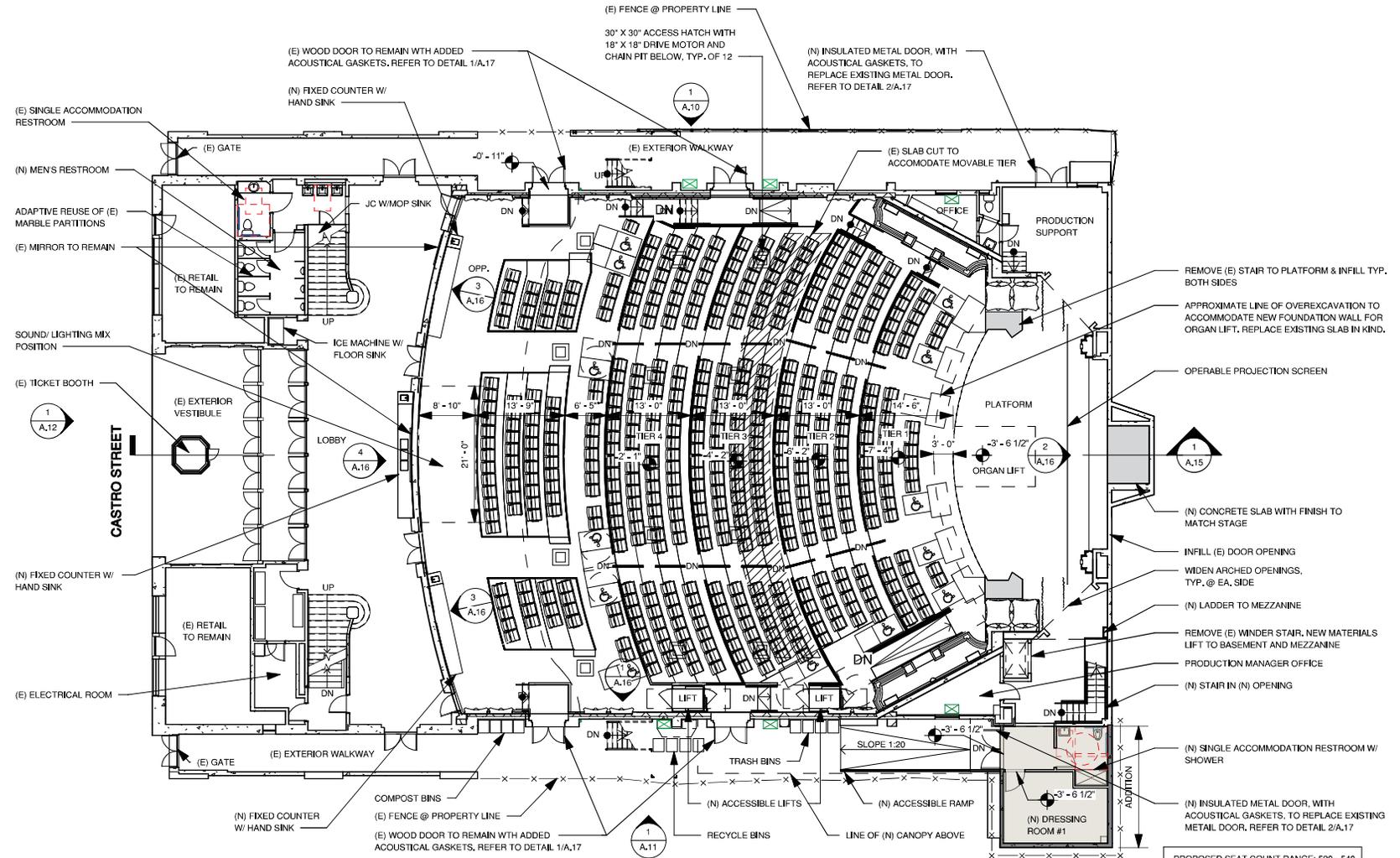


1 UPPER LOBBY / LOGE PLAN - EXISTING
1/16" = 1'-0"

EXISTING TOTAL SEAT COUNT
LOGE: 156 SEATS
BALCOY: 474 SEATS

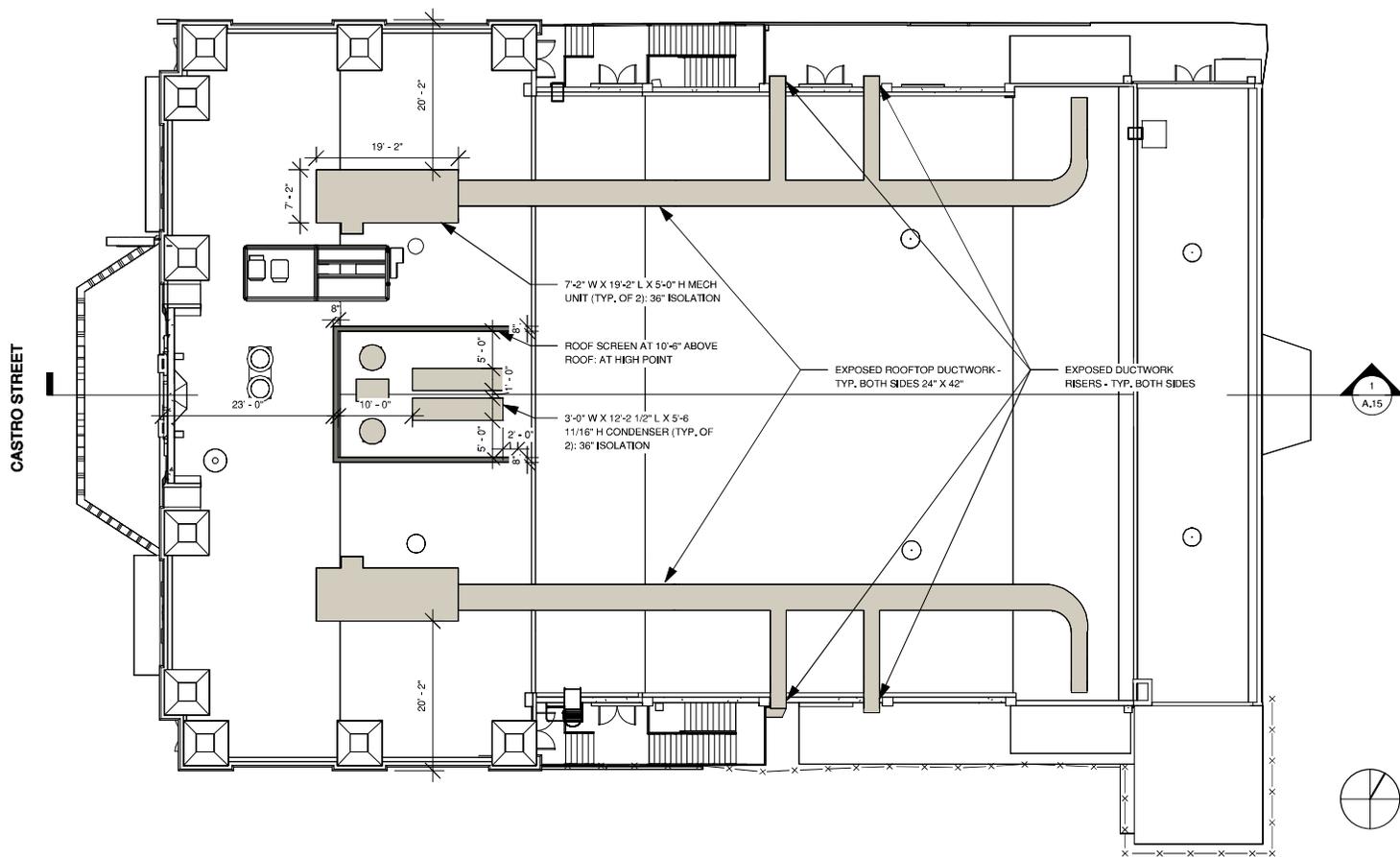


1 BASEMENT FLOOR PLAN - PROPOSED
1/16" = 1'-0"



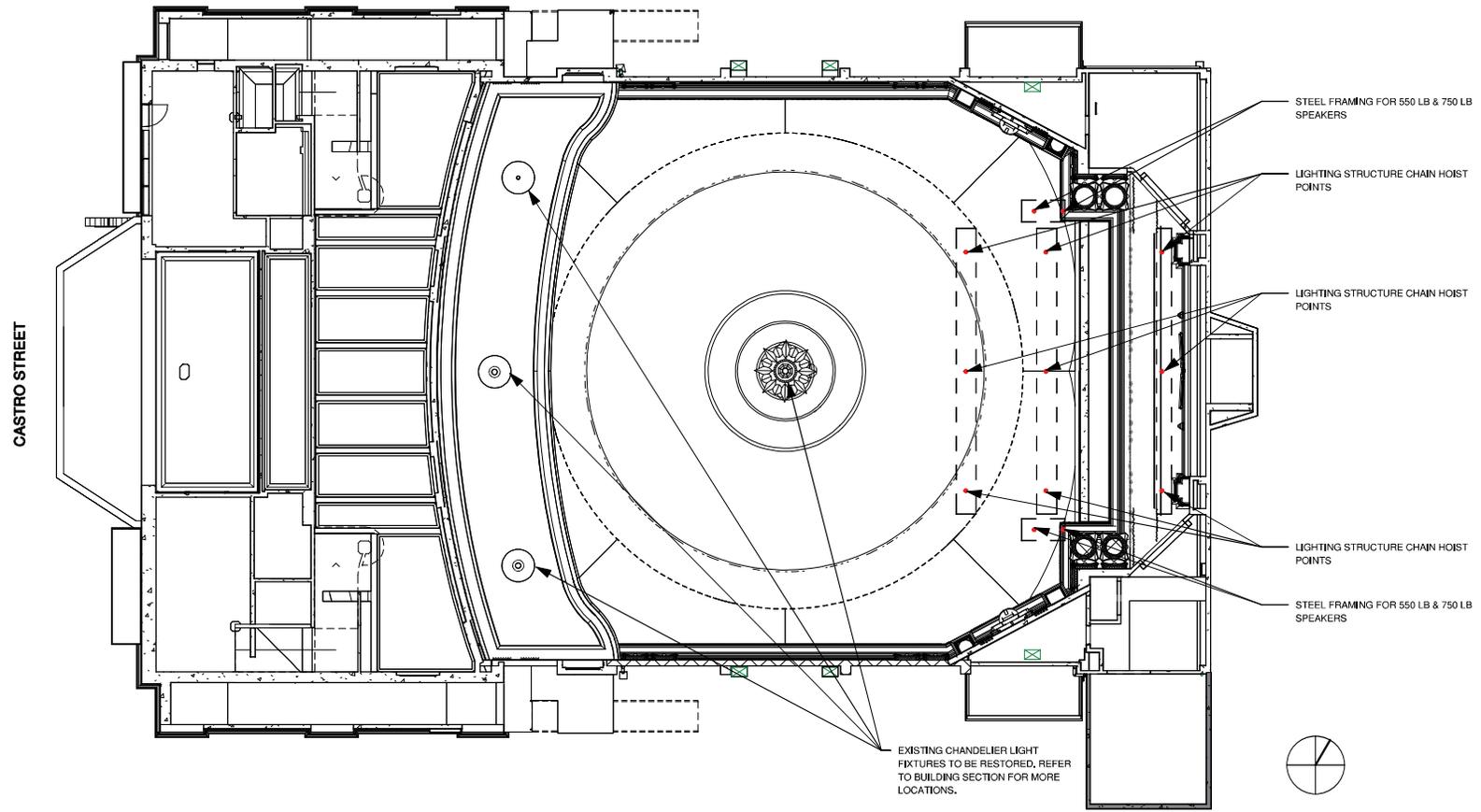
1 GROUND FLOOR PLAN - PROPOSED SEATED
1/16" = 1'-0"

PROPOSED SEAT COUNT RANGE: 520 - 540
(INCLUDES 14 ADA POSITIONS)



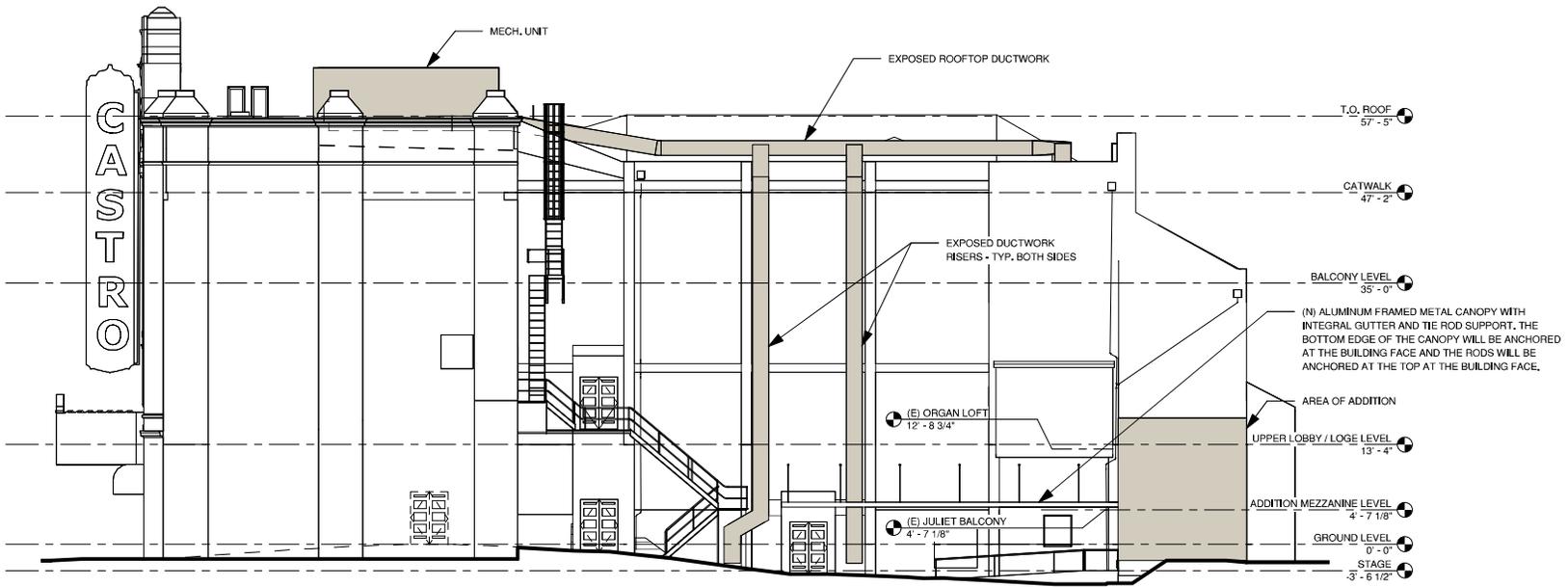
1 ROOF PLAN - PROPOSED

1/16" = 1'-0"



1 REFLECTED CEILING PLAN - PROPOSED

1/16" = 1'-0"



1

SOUTH EXTERIOR ELEVATION - PROPOSED

1/16" = 1'-0"

△ MILESTONE	DATE

PROJECT NAME

CASTRO THEATER
429 CASTRO ST
SAN FRANCISCO, CA 94114

SHEET TITLE

EXTERIOR ELEVATIONS - PROPOSED

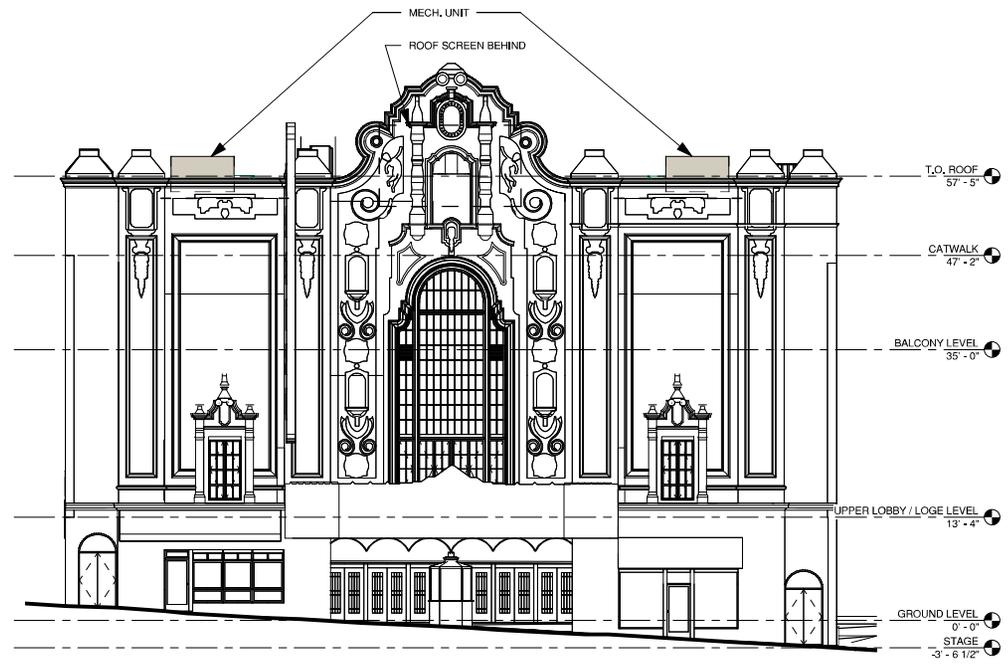
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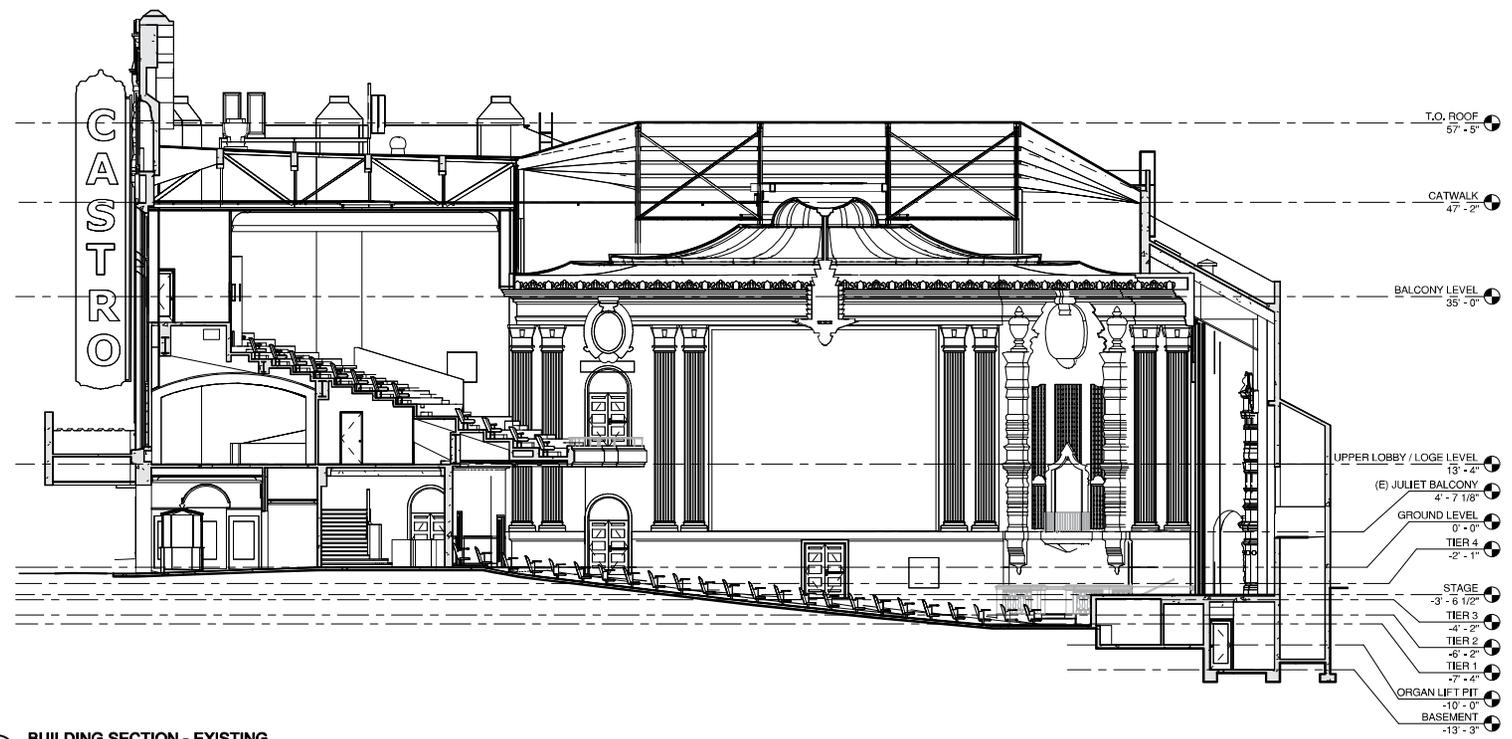
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SHEET

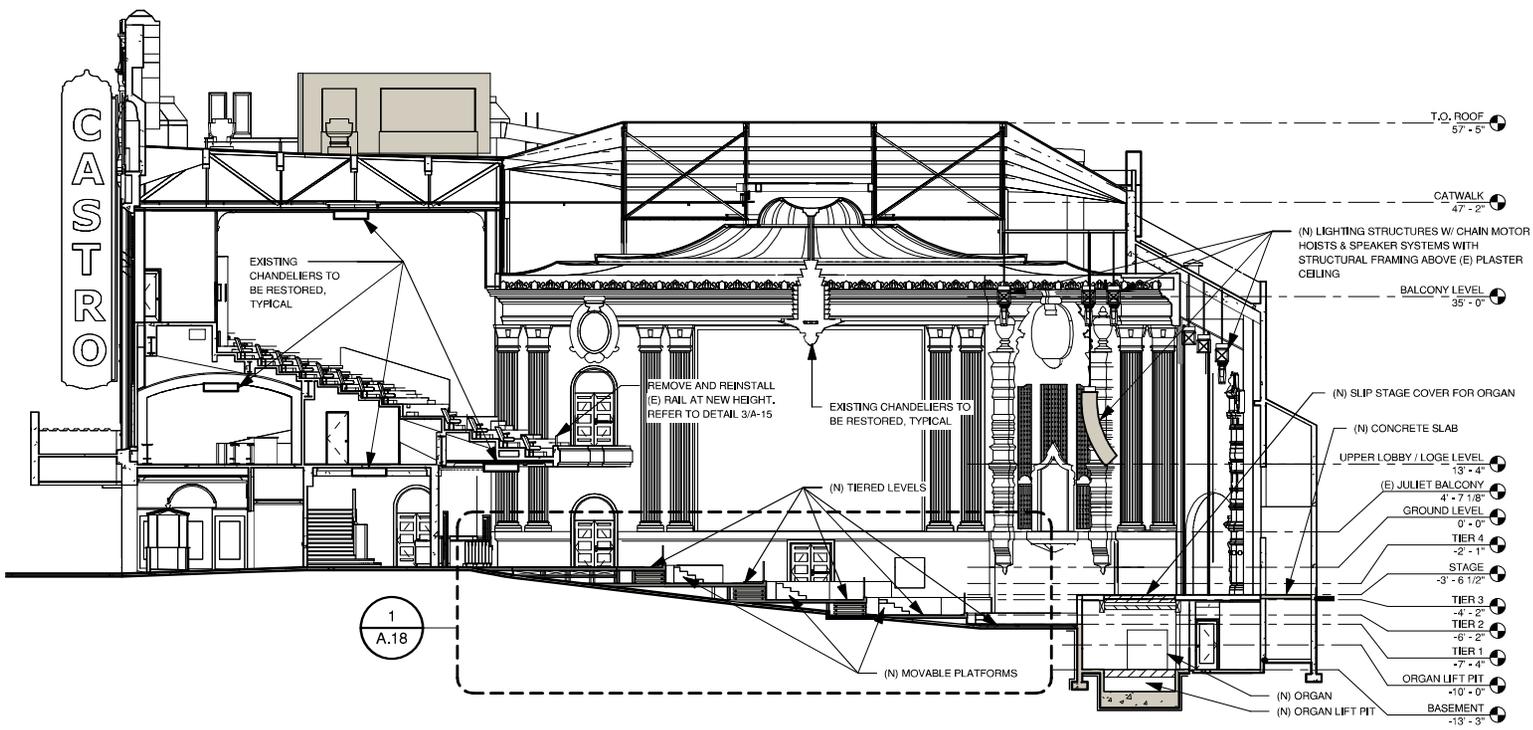
A.12



1 EAST EXTERIOR ELEVATION - PROPOSED
1/16" = 1'-0"

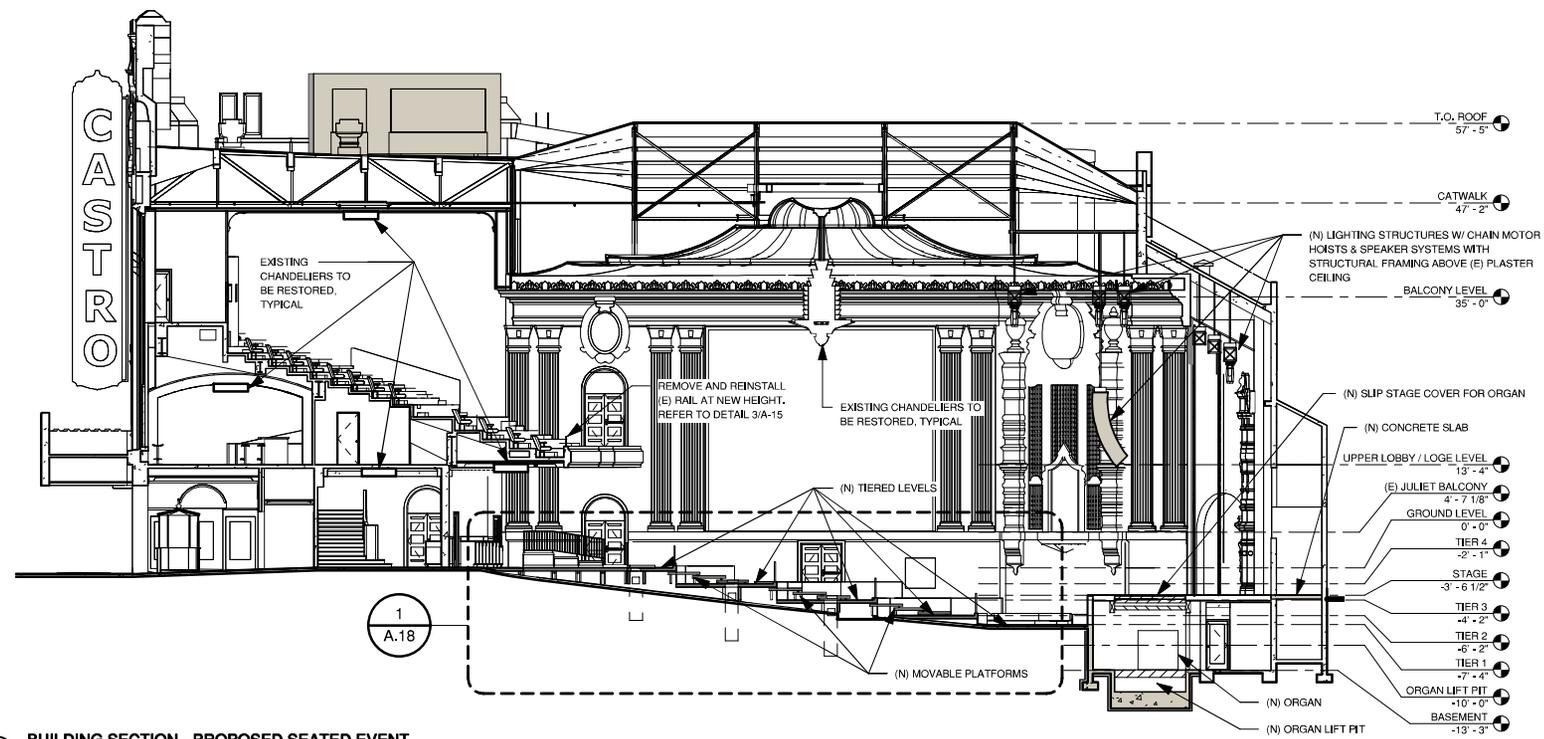


1 BUILDING SECTION - EXISTING
1/16" = 1'-0"

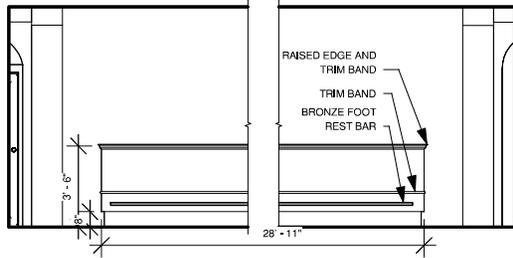


1 BUILDING SECTION - PROPOSED STANDING EVENT
1/16" = 1'-0"

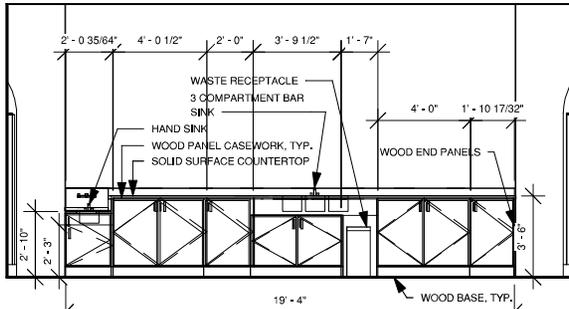
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A.18



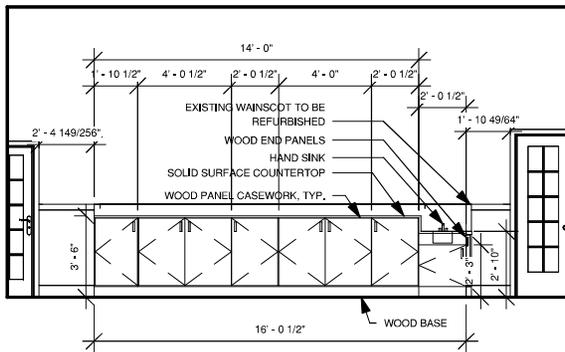
1 BUILDING SECTION - PROPOSED SEATED EVENT
1/16" = 1'-0"



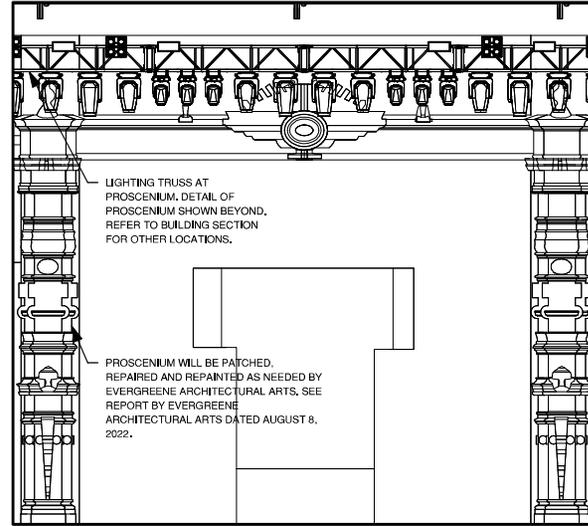
5 **FIXED CONCESSION ELEVATION - UPPER LOBBY**
3/16" = 1'-0"



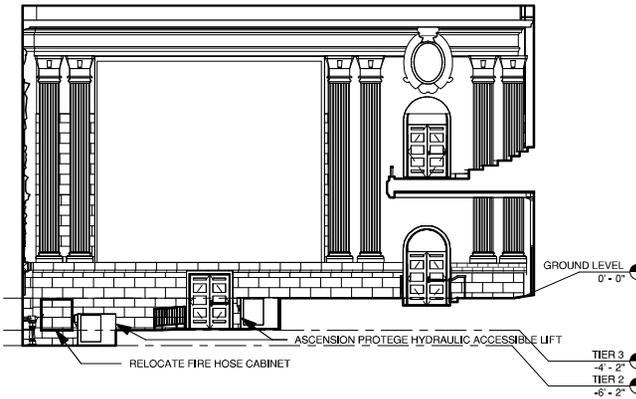
4 **FIXED CONCESSION ELEVATION - LOBBY**
3/16" = 1'-0"



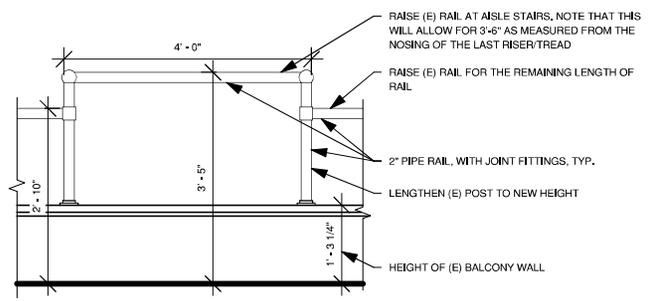
3 **FIXED CONCESSION ELEVATION - HOUSE**
3/16" = 1'-0"



2 **PROPOSED PROSCENIUM ELEVATION**
1/8" = 1'-0"

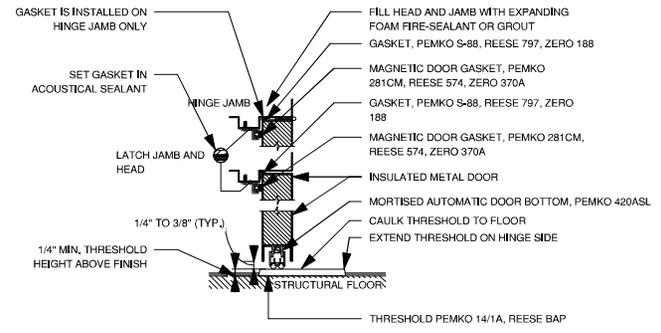


1 **PROPOSED ELEVATION ALONG ACCESSIBLE AISLE**
1/16" = 1'-0"



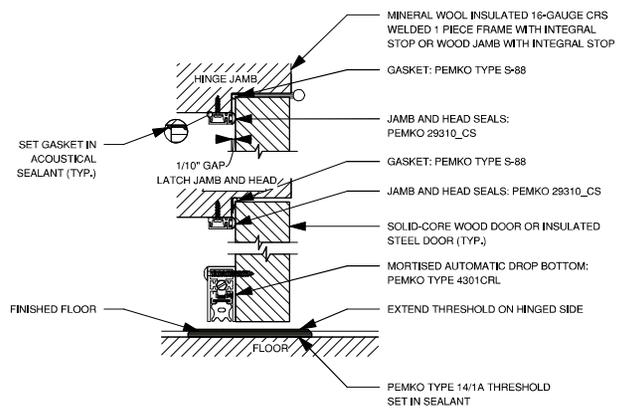
3 BALCONY RAIL ELEVATION DETAIL

1/2" = 1'-0"

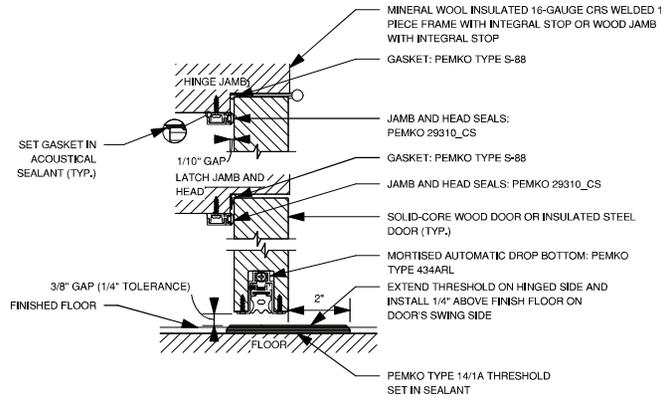


2 SOUND-GASKETED METAL DOOR

3" = 1'-0"



B. SURFACE MOUNTED BOTTOM (OPTION IF MORTISED BOTTOM IS INFEASIBLE)



A. MORTISED BOTTOM

NOTE: THE EXACT TYPE OF ACOUSTICAL IMPROVEMENTS TO BE DETERMINED BASED ON EXISTING CONDITIONS AND ACOUSTIC TESTING WITH INTENT FOR GASKETS TO BE INCORPORATED IN A REVERSIBLE MANNER

1 SOUND-GASKETED WOOD DOOR

3" = 1'-0"

PROJECT NAME

CASTRO THEATER

429 CASTRO ST

SAN FRANCISCO, CA 94114

SHEET TITLE

**ENLARGED SECTION -
PROPOSED SEATED
EVENT**

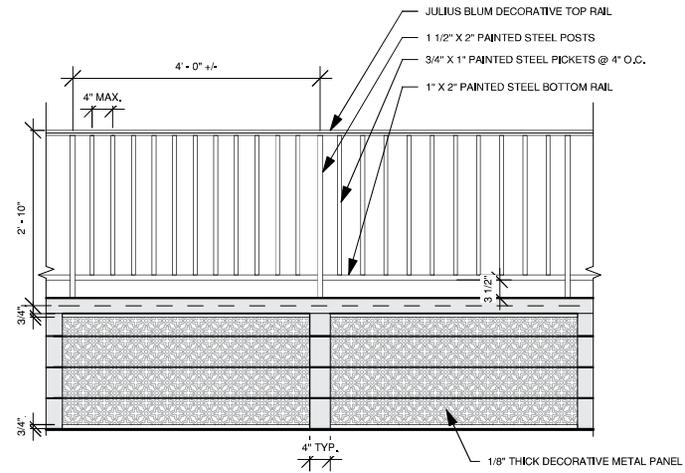
PROJECT NO. **21-008**

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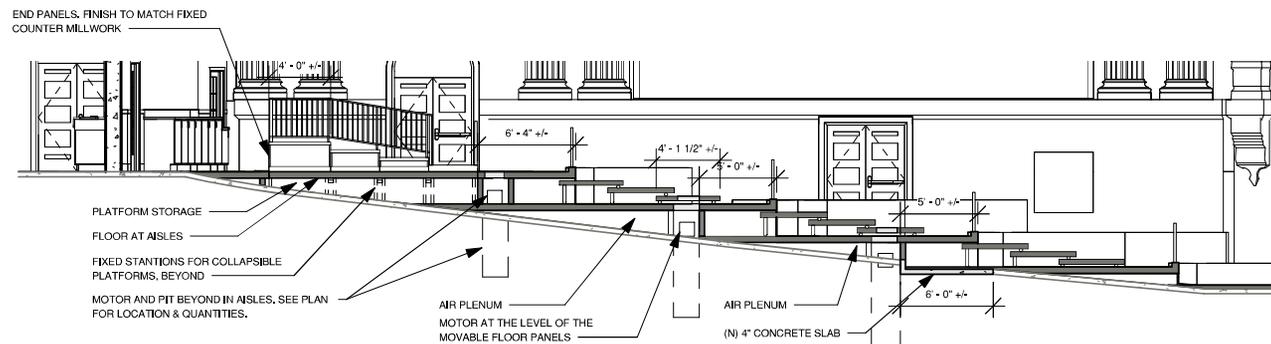
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SHEET

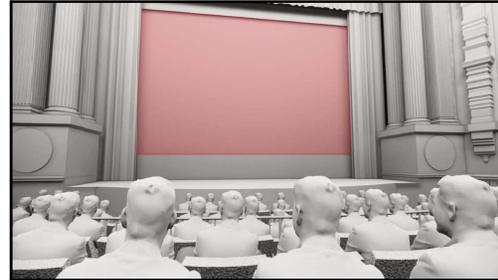
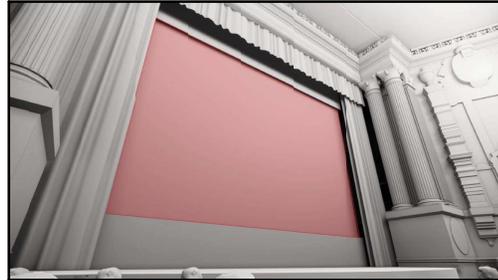
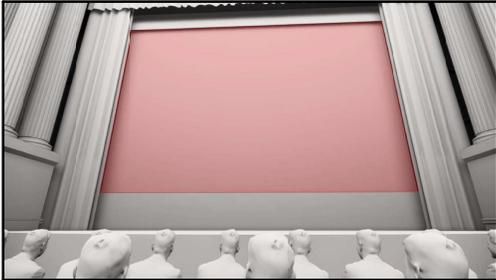
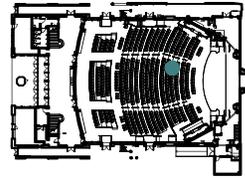
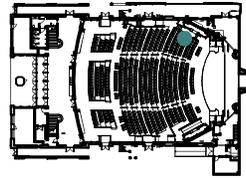
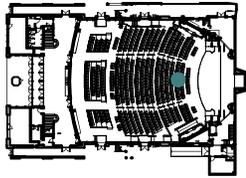
A.18



2 ELEVATION - RAILING
1/2" = 1'-0"



1 SECTION - PROPOSED SEATING PLATFORMS
1/8" = 1'-0"

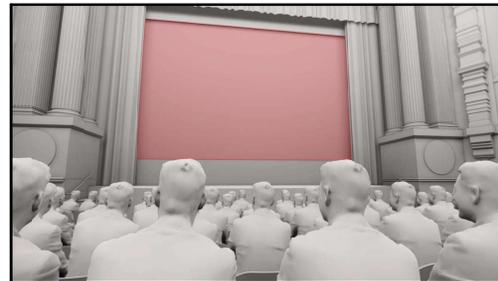
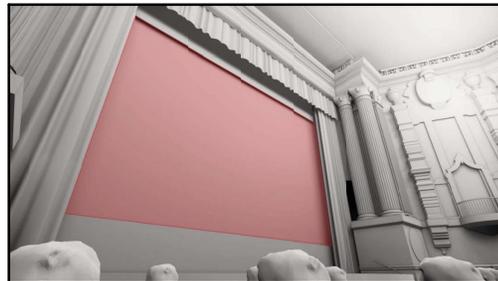
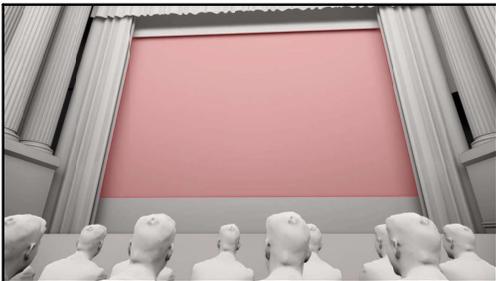


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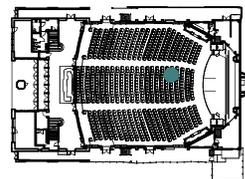
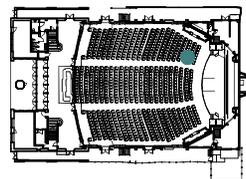
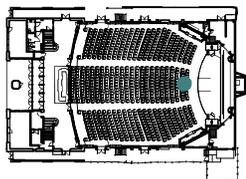
2 PROPOSED



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C



1 EXISTING

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ARCHITECTS

455 LAMBERT AVENUE PALO ALTO, CA 94306
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△ MILESTONE DATE

PROJECT NAME

CASTRO THEATER

429 CASTRO ST

SAN FRANCISCO, CA 94114

SHEET TITLE

SIGHT LINES - VIEWS

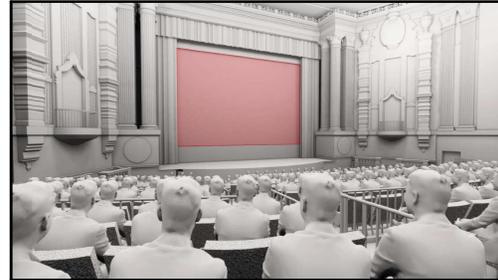
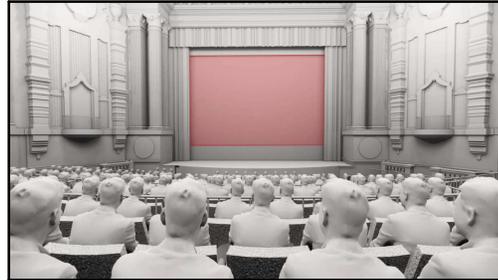
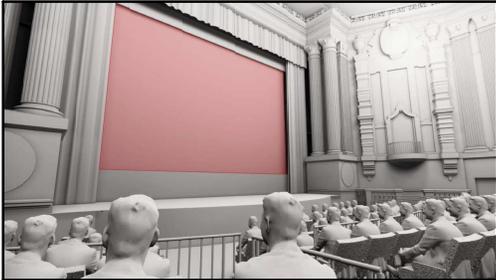
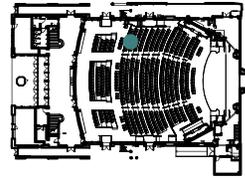
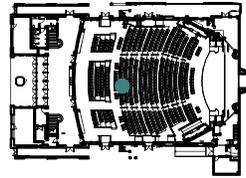
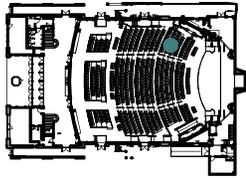
PROJECT NO. **21-008**

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CHECKED BY **KW, CW**

SHEET

A.24

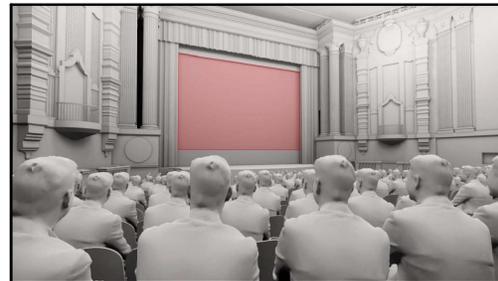
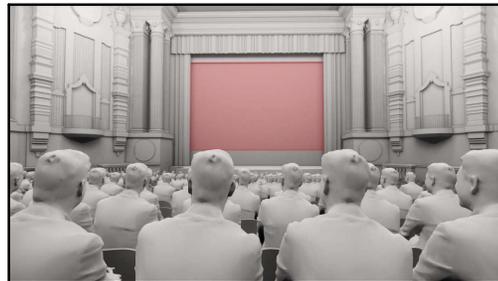
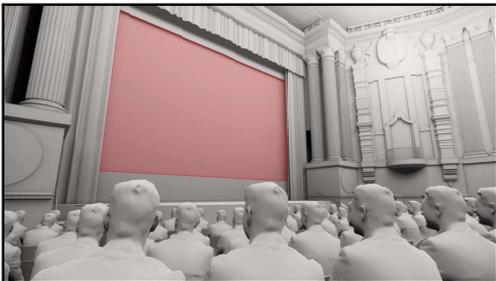


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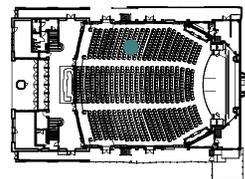
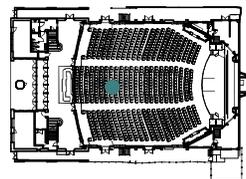
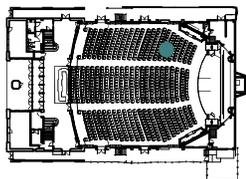
2 PROPOSED



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F



1 EXISTING

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△ MILESTONE DATE

PROJECT NAME

CASTRO THEATER
429 CASTRO ST
SAN FRANCISCO, CA 94114

SHEET TITLE

SIGHT LINES - VIEWS

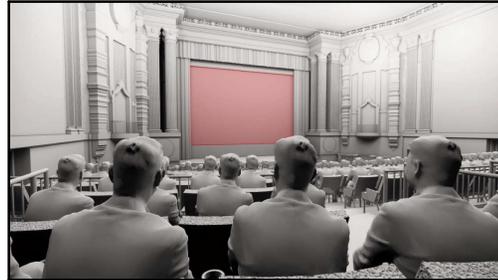
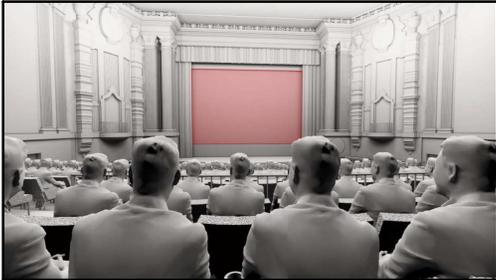
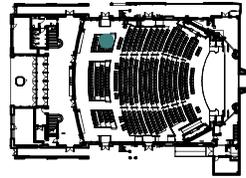
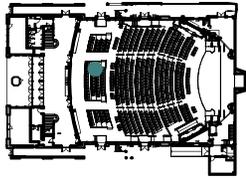
PROJECT NO. **21-008**

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CHECKED BY **KW, CW**

SHEET

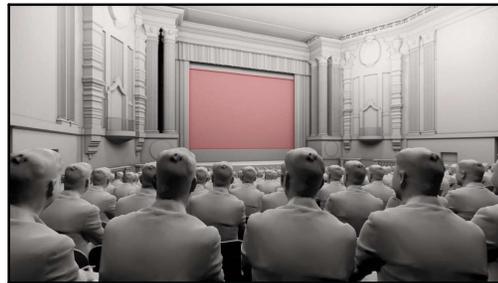
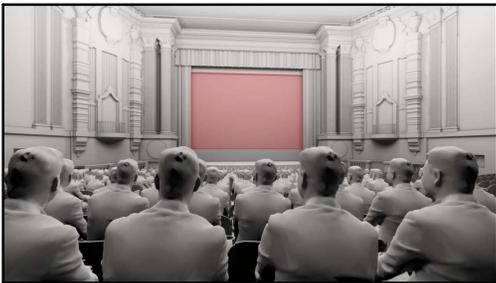
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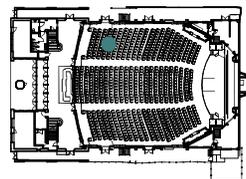
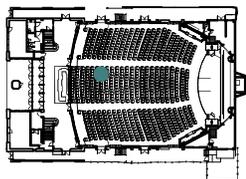
H

2 PROPOSED



G

H



1 EXISTING

CAW ARCHITECTS

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△ MILESTONE	DATE

PROJECT NAME
CASTRO THEATER
429 CASTRO ST
SAN FRANCISCO, CA 94114

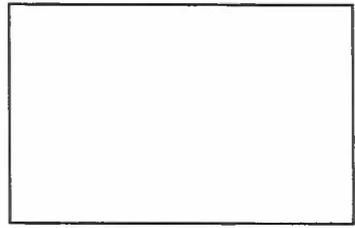
SHEET TITLE
SIGHT LINES - VIEWS

PROJECT NO. **21-008**
DRAWN BY **KS, PS**
CHECKED BY **KW, CW**

SHEET
A.26

Introduction Form

(by a Member of the Board of Supervisors or the Mayor)



I hereby submit the following item for introduction (select only one):

- 1. For reference to Committee (Ordinance, Resolution, Motion or Charter Amendment)
- 2. Request for next printed agenda (For Adoption Without Committee Reference)
(Routine, non-controversial and/or commendatory matters only)
- 3. Request for Hearing on a subject matter at Committee
- 4. Request for Letter beginning with "Supervisor _____ inquiries..."
- 5. City Attorney Request
- 6. Call File No. _____ from Committee.
- 7. Budget and Legislative Analyst Request (attached written Motion)
- 8. Substitute Legislation File No. _____
- 9. Reactivate File No. _____
- 10. Topic submitted for Mayoral Appearance before the Board on _____

The proposed legislation should be forwarded to the following (please check all appropriate boxes):

- Small Business Commission Youth Commission Ethics Commission
- Planning Commission Building Inspection Commission Human Resources Department

General Plan Referral sent to the Planning Department (proposed legislation subject to Charter 4.105 & Admin 2A.53):

- Yes No

(Note: For Imperative Agenda items (a Resolution not on the printed agenda), use the Imperative Agenda Form.)

Sponsor(s):

Clerk of the Board

Subject:

Liquor License Issuance - 429 Castro Street - The Castro Theatre

Long Title or text listed:

Hearing to consider that the issuance of a Type-90 on-sale general music venue liquor license to APESF LLC, to do business as The Castro Theatre, located at 429 Castro Street (District 8), will serve the public convenience or necessity of the City and County of San Francisco.

240350

Signature of Sponsoring Supervisor: 