



MEETING DATE: 12/03/12
ITEM NO: 4
DESK ITEM

COUNCIL AGENDA REPORT

DATE: December 3, 2012
TO: MAYOR AND TOWN COUNCIL
FROM: GREG LARSON, TOWN MANAGER

SUBJECT: ARCHITECTURE AND SITE APPLICATION S-12-023, CONDITIONAL USE PERMIT APPLICATION U-12-016. PROJECT LOCATION: 41 N. SANTA CRUZ AVENUE. PROPERTY OWNER: THREE SISTERS, LLC. APPLICANT: GARY KOHLSAAT, ARCHITECT. PROJECT PLANNER: SUZANNE AVILA.

- A. CONSIDER A REQUEST OF EXTERIOR MODIFICATIONS TO AN EXISTING COMMERCIAL BUILDING (LOS GATOS THEATER); AND
- B. TO MODIFY AN EXISTING CONDITIONAL USE PERMIT WHICH INCLUDES ALLOWING SPECIAL EVENTS WITH THE SERVICE OF ALCOHOL ON PROPERTY ZONED C-2. APN 510-44-031.

DISCUSSION:

The attached letters (Attachments 14 and 16) were received today.

The CUP conditions attached to the resolution for approval of this project (Exhibit B of Attachment 10) is an outdated version. The correct set of CUP conditions (Attachment 15) are attached to this Desk Item report. Conditions #3, #4 and #12 were modified as follows:

- 3. APPROVED USE. The approval is for a two screen movie theater and a limited number of special events with eateded food and service of alcoholic beverages **when requested**. The primary use of the building continues to be a movie theater showing new feature length films (excluding X-rated films) in the main theater for at least 75% of all actual operating hours and 300 days per year. Any use of the screening room or main theater for events such as theatrical musicals or plays will constitute a special event, with the exception of **public elementary and secondary** school theatrical and musical rehearsals and performances where alcoholic beverages are not served.

PREPARED BY: Todd Capurso, Acting Director of Community Development

Reviewed by: PS Assistant Town Manager CA Town Attorney _____ Finance

4. SPECIAL EVENTS. Special events may be held up to ten times per month, excluding ~~public~~ **elementary and secondary** school theatrical productions and rehearsals without alcoholic beverage service. Special events shall typically be less than ~~four~~ **six** hours in length and shall be counted as one event for every ~~four~~ **six** hours or increment thereof (for example an ~~six~~ **eight** hour special event will count as two special events for that month). Special events include movie screenings, streaming of television broadcasts such as the Kentucky Derby, non-profit or school fundraisers, private celebrations, corporate meetings and award ceremonies. Aside from plays and theatrical musicals, no other form of live or musical entertainment is permitted **including a DJ**. If the operator wishes to add other forms of live entertainment in the future, application may be made following adoption of an Entertainment Policy by the Town Council.
12. ONE YEAR REVIEW. ~~Town staff~~ The Planning Commission shall review the Conditional Use Permit within one year from final occupancy to ~~determine if there are any problems associated with the permit and report their findings to the Planning Commission~~ **evaluate the success of the conditions of approval, any compliance matters and to determine if modifications to the conditions are needed.** ~~The Planning Commission may direct that a public hearing be held to review the permit as specified in Section 29.20.310 of the Town Code.~~ **This review shall be noticed as a public hearing.**

ATTACHMENTS

- 1.-13. Previously received under separate cover
14. Letter from Gail Randolph (one page), received December 2, 2012
15. Revised CUP conditions of approval (two pages)
16. Letter from Lee Quintana (13 pages), received December 3, 2012

TC:SA:ct

Gail Randolph
42 Broadway
Los Gatos, CA
95030
Dec 2, 2012

Los Gatos Town Council
Los Gatos, CA
95030

Dear Council,

I can't be at the meeting to speak about development of the theater, but want to make a few points.

As a downtown resident since 1971, and homeowner on Los Gatos oldest street since 1975, I have of course seen many changes. I understand progress, the role of a vital business district, the rights and opportunities of individual ownership. I also strongly hold and support the obligations of living in a community, one where residences are back to back with the business district and public parking areas.

I would not like to see our theater become what has become of the Fox Theater in Redwood City. Check: <http://www.foxrwc.com/> and <http://www.foxrwc.com/venue-rental/> Note the picture gallery. I think **we need to carefully craft a CUP that will not allow this kind of use to unfold at a later time.** We already struggle with the nightclub atmosphere and parking lot and neighborhood spill-over of Los Gatos Bar and Grill. The CUP goes with the property. If there could be any interpretation made of the CUP for the theater that would allow it to someday become that kind of venue I would oppose.

Thank you so much.

Gail Randolph

*This Page
Intentionally
Left Blank*

TOWN COUNCIL – DECEMBER 3, 2012
CONDITIONS OF APPROVAL

41 N. Santa Cruz Avenue

Conditional Use Permit Application U-12-016

Requesting approval to modify an existing conditional use permit to allow special events with service of alcohol within an existing commercial building (Los Gatos Theater) on property zoned C-2. APN 510-44-031.

PROPERTY OWNER: Three Sisters LLC

APPLICANT: Gary Kohlsaas, Architect

TO THE SATISFACTION OF THE DIRECTOR OF COMMUNITY DEVELOPMENT:

Planning Division

1. APPROVAL. This application shall be completed in accordance with all of the conditions of approval listed below and in substantial compliance with the approved plans. Any changes or modifications to the approved plans shall be approved by the Community Development Director, the Historic Preservation Committee, the Development Review Committee, the Planning Commission or Town Council, depending on the scope of the changes.
2. EXPIRATION. The Conditional Use Permit will expire two years from the approval date pursuant to Section 29.20.320 of the Town Code, unless the approval is used prior to expiration.
3. APPROVED USE. The approval is for a two screen movie theater and a limited number of special events with food and service of alcoholic beverages when requested. The primary use of the building continues to be a movie theater showing new feature length films (excluding X-rated films) in the main theater for at least 75% of all actual operating hours and 300 days per year. Any use of the screening room or main theater for events such as theatrical musicals or plays will constitute a special event, with the exception of elementary and secondary school theatrical and musical rehearsals and performances where alcoholic beverages are not served.
4. SPECIAL EVENTS. Special events may be held up to ten times per month, excluding elementary and secondary school theatrical productions and rehearsals without alcoholic beverage service. Special events shall typically be less than six hours in length and shall be counted as one event for every six hours or increment thereof (for example an eight hour special event will count as two special events for that month). Special events include movie screenings, streaming of television broadcasts such as the Kentucky Derby, non-profit or school fundraisers, private celebrations, corporate meetings and award ceremonies. Aside from plays and theatrical musicals, no other form of live or musical entertainment is permitted including a DJ. If the operator wishes to add other forms of live entertainment in the future, application may be made following adoption of an Entertainment Policy by the Town Council.
5. OPERATIONAL AGREEMENT. Prior to the issuance of any building permits or the initiation of any operational changes permitted under this approval, the applicant shall enter into an operations agreement with the Town guaranteeing the performance of the business per the representations of the application in observance of the conditions of approval. Said agreement shall be subject to approval of the Chief of Police, the Director of Community Development Department, and the Town Attorney.

6. SEATING. The maximum seating for patrons of the theater is 388 inclusive of the main theater, screening room, balcony and other public areas of the building. The 388 seats includes up to 94 seats on the second floor, inclusive of the screening room, lounge and balcony.
7. HOURS OF OPERATION. Maximum hours of operation shall be from 9:00 a.m. to 2:00 a.m., seven days per week. Alcoholic beverage service, when provided, is only allowed between the hours of 12:00 p.m. and 11:00 p.m., Sunday through Thursday; and from 12:00 p.m. to 12:00 a.m., Friday and Saturday, holidays, and evenings before holidays.
8. SPECIAL EVENTS. Special events may be held no more than 10 times per month during hours of operation specified above. Special events may be held in the screening room and balcony and/or the main theater.
9. ALCOLHOLIC BEVERAGE SERVICE. Alcoholic beverages may be served with food only during special events in the second floor screening room. Alcoholic beverages may not be sold or provided to the public or movie theater patrons who are not attending a special event. Special events in the main theater may not include service of alcoholic beverages unless approved in advance by the Police Department and service of alcohol is restricted to the hours stated above.
10. MOVIES AFTER 10:00 P.M. For movies shown after 10:00 p.m. the management must do the following which shall be incorporated in the Operational Agreement:
 - a. Prevent patrons from bringing alcoholic beverages and drugs into the theater and to prevent alcoholic beverages from being consumed outside the second floor screening room.
 - b. Patrol the inside of the theater during the show to keep order and prevent the use of drugs and alcohol.
 - c. Patrol the line of patrons waiting to enter the theater to keep order and prevent the use of drugs and alcohol.
11. PUBLIC NOTICE. A notice shall be visibly posted at the ticket booth notifying patrons that activities such as excessive noise, littering, and the use of drugs and alcohol will not be tolerated.
12. ONE YEAR REVIEW. The Planning Commission shall review the Conditional Use Permit within one year from final occupancy to evaluate the success of the conditions of approval, any compliance matters and to determine if modifications to the conditions are needed. This review shall be noticed as a public hearing.
13. MONITORING. A monthly schedule of special events shall be provided to Town staff upon request of the Town.
14. BALCONY. A bar shall not be set up on the balcony during special events.

TO THE SATISFACTION OF THE POLICE CHIEF:

15. UNIFORMED SECURITY. Private uniformed security guards may be required in or around the premises as directed by the Police Chief.
16. SPECIAL EVENTS. The operator shall provide notice to the Police Department at least 14 days in advance of a special event to ensure that adequate security measures and other related measures including traffic control are provided and implemented during the event. Details such as the type of event, maximum attendance, hours, and any information relative to public safety requested by the Police Department shall be provided when notice is given.

17. CONSULTATION AND TRAINING. The operator shall provide ABC LEAD training for all employees involved with special events on a yearly basis. Training that qualifies the employee for up to two years is acceptable. Within six months of the date of this approval the operator shall meet with the Los Gatos Police Department for the purpose of employee training on licensed service of alcoholic beverages to the public. If it is determined that there are problems connected with the service of alcoholic beverages, the problem(s) must be resolved in a time frame acceptable to the Police Chief.
18. TRAINING MANUAL. The operator shall use an employee training manual that addresses alcoholic beverage service consistent with the standards of the California Restaurant Association.
19. DESIGNATED DRIVER PROGRAM. The operator shall have and actively promote a designated driver program such as complementary non-alcoholic beverages for designated drivers.
20. POSTING OF TAXICAB TELEPHONE NUMBERS. Taxicab phone numbers shall be posted in a visible location.
21. SAFETY AND SECURITY. The Police Chief maintains the authority to modify the safety and security measures and conditions to address any impacts that result from, or are associated with special events. The operator is responsible for the cost of any required security measures including hiring of off-duty police officers or security guards, or sharing a proportional cost to offset the need for additional on-duty staffing.
22. VIDEO MONITORING. The operator shall work with the Police Department and shall install a video monitoring recording system in the screening room.

*This Page
Intentionally
Left Blank*

RECEIVED

Town Council Meeting December 3, 2012

2

DEC - 3 2012

December 3, 2012
Town of Los Gatos Planning Department
Civic Center
110 E. Main St.
Los Gatos, CA 95031

TOWN MANAGER

Re: Los Gatos Theater Architecture and Site Application
Conditional Use Permit

To: Mayor Rice and Members of the Town Council

A CUP is not a zoning and in some ways it is more permanent. If the zoning designation of a property is changed it does not affect the CUP. The uses allowed by the CUP is not permitted by right or with a CUP in the new zoning designation the uses permitted by the CUP remain legal uses.

1. CUP goes with the land: need for specificity of conditions
2. Clarify and more specifically define CUP request
3. Comments on CEQA and historic resources same as in previous letters of and
4. Comments on floor area, height of roof
5. Theater Signs - Zoning Code Section 29.10.125(11)

1. CUP GOES WITH THE LAND: NEED FOR SPECIFICITY OF CONDITIONS

I have recently done some reading on CUP's and based on case law and have concluded the following:

- CUP's can be an effective way to control land use they permit, but they can also be a little scary.
- Conditions may be placed a CUP, but both the use(s) and conditions of the CUP need to be clear and specific, not implied.
- There are some limitations on what conditions can be placed on a CUP. Probably the most important is that the *CUP runs with the land*, It is not a zoning and in some ways may be more permanent than a zoning designation. if the zoning on the land is changed the use will remain a legal use as long as the use is not discontinued. goes with the land. My understanding is that whether the applicant is the owner or an occupant the use that is granted transfers to new owners or occupants.*
- Enforcement of the CUP is based on the defined uses and specific conditions of the CUP. Because the conditional use permit goes with the land it is important that uses are clearly defined and conditions be specific, not implied.
- If a property changes hands (owner or occupant) and the use is consistent with the use and conditions of the CUP and its conditions then based on existing laws and Town Code the CUP for the property would require a modification of the CUP or a new CUP. - again the importance of specificity.

* I have previously incorrectly assumed you could place a time limit on the CUP, based on this it appears you can't.

2. CLARIFY AND MORE SPECIFICALLY DEFINE THE CUP REQUEST

I request that the applications for A&S and a modified (=new) CUP be continued:

- A. To allow the applicant the opportunity to refine, clarify, and provide more specificity description of the proposed uses, and
- B. To allow staff and the Police department the opportunity to develop specific CUP conditions reflecting that specificity. Just a few examples:

Primary use as a movie theater open to the public:

- o How the CUP will ensure the theater will retain its primary use as a movie theater open to the public and not become a special events venue?
- o Specific minimum hours and days as movie house open to the public (Main theater and secondary screen)
- o Will at least one of the screens be open to the public daily on a regular basis?)

Secondary use for special events - specify:

- Specific definition of what is included as a special events
- Specify location(s) where special events may occur
- Specify hours and days special events. Will this differ depending on special events location?
- Will special events be confined to certain days of the week or non continuous days?
- Will events start or end not start or end during peak traffic hours,
- How will parking for special events be handled
- How will special events function within the space?
- Define "food" required during special events with alcohol service.
- If catering services are allowed how will the function in the space and where will the trucks park.
- If no catering service how will the food be provided?

Other:

- Based on the most recent plan set, how will the balcony theatre (table seating) function? Is it part of the main theater or part of the "screening room" special events space?
- Will the theater be operated as a non-profit as indicated on the Los Gatos Theater web site?

3. CEQA and Historic:

My previous comments on CEQA and Historic remain essentially the same as my previous letters. I have attached the following to this letter in support of those statements:

- Attachment A: CEQA sections referenced in those letters (5 pages)
- Attachment B: The first two pages from the Town's History Resources Inventory (the written material of the inventory).

- Attachment C: Pictures of the theater from 19 and 1935

NOTE:

- The only difference between the 1920 and 1935 photos is the addition of the knife-blade sign and that the size of the marquee was considerably smaller than the current marquee
- The project file does not contain a picture of the theater in the period just prior to the 1989 earthquake.

4. FLOOR AREA, HEIGHT OF ROOF AND PARAPETS

- My original observations that the project was proposing an increase in square footage were based on the plan set that was available on the web for the Oct. 24 and Nov. 14 Planning Commission Meetings. The revised plan set (Attachment of the Staff Report show existing and proposed square feet approximately equal.
- However, my comments on the height of the new roof, the height of the front facade and the side parapets remain unchanged. See A-1 and A-4 to A-8 of Attachment 13 to the December 3, 2012 Staff Report.

5. SIGNAGE:

- Staff reported that Staff and the Consulting Architect determined that the LED signs are consistent with the Commercial Design Guidelines because they are on private property. However it is Section 29.10.125 Standards (11) *signs for theaters* that applies. Whatever is approved with the CUP is the sign program.
- Section 29.10.125 Standards (for signs) (11) states:
"The traditional methods of theater advertising require a unique type of sign program so the size, location, and number of signs, including attraction boards for a theater, are subject only to the limitations and provisions in the conditional use permit for the theater...."

Sincerely,



Lee Quintana

Attachments A, B and C

*This Page
Intentionally
Left Blank*

15285. TRANSIT AGENCY RESPONSES TO REVENUE SHORTFALLS

- (a) CEQA does not apply to actions taken on or after July 1, 1995 to implement budget reductions made by a publicly owned transit agency as a result of a fiscal emergency caused by the failure of agency revenues to adequately fund agency programs and facilities. Actions shall be limited to those directly undertaken by or financially supported in whole or in part by the transit agency pursuant to Section 15378(a)(1) or (2), including actions which reduce or eliminate the availability of an existing publicly owned transit service, facility, program, or activity.
- (b) When invoking this exemption, the transit agency shall make a specific finding that there is a fiscal emergency. Before taking its proposed budgetary actions and making the finding of fiscal emergency, the transit agency shall hold a public hearing. After this public hearing, the transit agency shall respond within 30 days at a regular public meeting to suggestions made by the public at that initial hearing. The transit agency may make the finding of fiscal emergency only after it has responded to public suggestions.
- (c) For purposes of this subdivision, "fiscal emergency" means that the transit agency is projected to have negative working capital within one year from the date that the agency finds that a fiscal emergency exists. "Working capital" is defined as the sum of all unrestricted cash, unrestricted short-term investments, and unrestricted short-term accounts receivable, minus unrestricted accounts payable. Employee retirements funds, including deferred compensation plans and Section 401(k) plans, health insurance reserves, bond payment reserves, workers' compensation reserves, and insurance reserves shall not be included as working capital.
- (d) This exemption does not apply to the action of any publicly owned transit agency to reduce or eliminate a transit service, facility, program, or activity that was approved or adopted as a mitigation measure in any environmental document certified or adopted by any public agency under either CEQA or NEPA. Further, it does not apply to actions of the Los Angeles County Metropolitan Transportation Authority.

Note: Authority cited: Sections Section 21083, Public Resources Code; References: Sections 21080 and 21080.32, Public Resources Code.

Article 19. Categorical Exemptions

SECTIONS 15300 TO 15332

15300. CATEGORICAL EXEMPTIONS

Section 21084 of the Public Resources Code requires these Guidelines to include a list of classes of projects which have been determined not to have a significant effect on the environment and which shall, therefore, be exempt from the provisions of CEQA.

In response to that mandate, the Secretary for Resources has found that the following classes of projects listed in this article do not have a significant effect on the environment, and they are declared to be categorically exempt from the requirement for the preparation of environmental documents.

Note: Authority cited: Section 21083, Public Resources Code; Reference: Section 21084, Public Resources Code.

15300.1. RELATION TO MINISTERIAL PROJECTS

Section 21080 of the Public Resources Code exempts from the application of CEQA those projects over which public agencies exercise only ministerial authority. Since ministerial projects are already exempt, categorical exemptions should be applied only where a project is not ministerial under a public agency's statutes and ordinances. The inclusion of activities which may be

15300.1

ministerial within the classes and examples contained in this article shall not be construed as a finding by the Secretary for Resources that such an activity is discretionary.

Note: Authority cited: Section 21083, Public Resources Code; Reference: Section 21084, Public Resources Code.

15300.2. EXCEPTIONS

- (a) **Location.** Classes 3, 4, 5, 6, and 11 are qualified by consideration of where the project is to be located – a project that is ordinarily insignificant in its impact on the environment may in a particularly sensitive environment be significant. Therefore, these classes are considered to apply all instances, except where the project may impact on an environmental resource of hazardous or critical concern where designated, precisely mapped, and officially adopted pursuant to law by federal, state, or local agencies.
- (b) **Cumulative Impact.** All exemptions for these classes are inapplicable when the cumulative impact of successive projects of the same type in the same place, over time is significant.
- (c) **Significant Effect.** A categorical exemption shall not be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances.
- (d) **Scenic Highways.** A categorical exemption shall not be used for a project which may result in damage to scenic resources, including but not limited to, trees, historic buildings, rock outcroppings, or similar resources, within a highway officially designated as a state scenic highway. This does not apply to improvements which are required as mitigation by an adopted negative declaration or certified EIR.
- (e) **Hazardous Waste Sites.** A categorical exemption shall not be used for a project located on a site which is included on any list compiled pursuant to Section 65962.5 of the Government Code.
- (f) **Historical Resources.** A categorical exemption shall not be used for a project which may cause a substantial adverse change in the significance of a historical resource.

Note: Authority cited: Section 21083, Public Resources Code; References: Sections 21084 and 21084.1, Public Resources Code; *Wildlife Alive v. Chickering* (1977) 18 Cal.3d 190; *League for Protection of Oakland's Architectural and Historic Resources v. City of Oakland* (1997) 52 Cal.App.4th 896; *Citizens for Responsible Development in West Hollywood v. City of West Hollywood* (1995) 39 Cal.App.4th 925; *City of Pasadena v. State of California* (1993) 14 Cal.App.4th 810; *Association for the Protection etc. Values v. City of Ukiah* (1991) 2 Cal.App.4th 720; and *Baird v. County of Contra Costa* (1995) 32 Cal.App.4th 1464

15300.3. REVISIONS TO LIST OF CATEGORICAL EXEMPTIONS

A public agency may, at any time, request that a new class of categorical exemptions be added, or an existing one amended or deleted. This request must be made in writing to the Office of Planning and Research and shall contain detailed information to support the request. The granting of such request shall be by amendment to these Guidelines.

Note: Authority cited: Section 21083, Public Resources Code; Reference: Section 21084, Public Resources Code.

15300.4. APPLICATION BY PUBLIC AGENCIES

Each public agency shall, in the course of establishing its own procedures, list those specific activities which fall within each of the exempt classes, subject to the qualification that these lists must be consistent with both the letter and the intent expressed in the classes. Public agencies may omit from their implementing procedures classes and examples that do not apply to their activities, but they may not require EIRs for projects described in the classes and examples in this article except under the provisions of Section 15300.2.

Note: Authority cited: Section 21083, Public Resources Code; Reference: Section 21084, Public Resources Code.

15301. EXISTING FACILITIES

Class 1 consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination. The types of "existing facilities" itemized below are not intended to be all-inclusive of the types of projects which might fall within Class 1. The key consideration is whether the project involves negligible or no expansion of an existing use. Examples include but are not limited to:

- (a) Interior or exterior alterations involving such things as interior partitions, plumbing, and electrical conveyances;
- (b) Existing facilities of both investor and publicly owned utilities used to provide electric power, natural gas, sewerage, or other public utility services;
- (c) Existing highways and streets, sidewalks, gutters, bicycle and pedestrian trails, and similar facilities (this includes road grading for the purpose of public safety).
- (d) Restoration or rehabilitation of deteriorated or damaged structures, facilities, or mechanical equipment to meet current standards of public health and safety, unless it is determined that the damage was substantial and resulted from an environmental hazard such as earthquake, landslide, or flood;
- (e) Additions to existing structures provided that the addition will not result in an increase of more than:
 - (1) 50 percent of the floor area of the structures before the addition, or 2,500 square feet, whichever is less; or
 - (2) 10,000 square feet if:
 - (A) The project is in an area where all public services and facilities are available to allow for maximum development permissible in the General Plan and
 - (B) The area in which the project is located is not environmentally sensitive.
- (f) Addition of safety or health protection devices for use during construction of or in conjunction with existing structures, facilities, or mechanical equipment, or topographical features including navigational devices;
- (g) New copy on existing on and off-premise signs;
- (h) Maintenance of existing landscaping, native growth, and water supply reservoirs (excluding the use of pesticides, as defined in Section 12753, Division 7, Chapter 2, Food and Agricultural Code);
- (i) Maintenance of fish screens, fish ladders, wildlife habitat areas, artificial wildlife waterway devices, streamflows, springs and waterholes, and stream channels (clearing of debris) to protect fish and wildlife resources;
- (j) Fish stocking by the California Department of Fish and Game;
- (k) Division of existing multiple family or single-family residences into common-interest ownership and subdivision of existing commercial or industrial buildings, where no physical changes occur which are not otherwise exempt;
- (l) Demolition and removal of individual small structures listed in this subdivision:
 - (1) One single-family residence. In urbanized areas, up to three single-family residences may be demolished under this exemption.

15373. NOTICE OF DETERMINATION

“Notice of Determination” means a brief notice to be filed by a public agency after it approves or determines to carry out a project which is subject to the requirements of CEQA. The contents of this notice are explained in Sections 15075 and 15094.

Note: Authority cited: Section 21083, Public Resources Code; Reference: Sections 21108(a) and 21152, Public Resources Code.

15374. NOTICE OF EXEMPTION

“Notice of Exemption” means a brief notice which may be filed by a public agency after it has decided to carry out or approve a project and has determined that the project is exempt from CEQA as being ministerial, categorically exempt, an emergency, or subject to another exemption from CEQA. Such a notice may also be filed by an applicant where such a determination has been made by a public agency which must approve the project. The contents of this notice are explained in Section 15062.

Note: Authority cited: Section 21083, Public Resources Code; Reference: Sections 21108(b) and 21152(b), Public Resources Code.

15375. NOTICE OF PREPARATION

“Notice of Preparation” means a brief notice sent by a Lead Agency to notify the Responsible Agencies, Trustee Agencies, the Office of Planning and Research, and involved federal agencies that the Lead Agency plans to prepare an EIR for the project. The purpose of the notice is to solicit guidance from those agencies as to the scope and content of the environmental information to be included in the EIR. Public agencies are free to develop their own formats for this notice. The contents of this notice are described in Section 15082.

Note: Authority cited: Section 21083, Public Resources Code; Reference: Section 21080.4, Public Resources Code.

15376. PERSON

“Person” includes any person, firm, association, organization, partnership, business, trust, corporation, limited liability company, company, district, city, county, city and county, town, the state, and any of the agencies and political subdivisions of such entities, and to the extent permitted by federal law, the United States, or any of its agencies or political subdivisions.

Note: Authority cited: Section 21083, Public Resources Code; Reference: Section 21066, Public Resources Code.

15377. PRIVATE PROJECT

A “private project” means a project which will be carried out by a person other than a governmental agency, but the project will need a discretionary approval from one or more governmental agencies for:

- (a) A contract or financial assistance, or
- (b) A lease, permit, license, certificate, or other entitlement for use.

Note: Authority cited: Section 21083, Public Resources Code; Reference: Section 21065, Public Resources Code.

15378. PROJECT

(a) “Project” means the whole of an action, which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment, and that is any of the following:



Handwritten mark or signature.

- (1) An activity directly undertaken by any public agency including but not limited to public works construction and related activities clearing or grading of land, improvements to existing public structures, enactment and amendment of zoning ordinances, and the adoption and amendment of local General Plans or elements thereof pursuant to Government Code Sections 65100–65700.
- (2) An activity undertaken by a person which is supported in whole or in part through public agency contacts, grants, subsidies, loans, or other forms of assistance from one or more public agencies.
- (3) An activity involving the issuance to a person of a lease, permit, license, certificate, or other entitlement for use by one or more public agencies.
- (b) Project does not include:
 - (1) Proposals for legislation to be enacted by the State Legislature;
 - (2) Continuing administrative or maintenance activities, such as purchases for supplies, personnel-related actions, general policy and procedure making (except as they are applied to specific instances covered above);
 - (3) The submittal of proposals to a vote of the people of the state or of a particular community that does not involve a public agency sponsored initiative. (*Stein v. City of Santa Monica* (1980) 110 Cal.App.3d 458; *Friends of Sierra Madre v. City of Sierra Madre* (2001) 25 Cal.4th 165);
 - (4) The creation of government funding mechanisms or other government fiscal activities which do not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment.
 - (5) Organizational or administrative activities of governments that will not result in direct or indirect physical changes in the environment.
- (c) The term “project” refers to the activity which is being approved and which may be subject to several discretionary approvals by governmental agencies. The term “project” does not mean each separate governmental approval.
- (d) Where the Lead Agency could describe the project as either the adoption of a particular regulation under subdivision (a)(1) or as a development proposal which will be subject to several governmental approvals under subdivision (a)(2) or (a)(3), the Lead Agency shall describe the project as the development proposal for the purpose of environmental analysis. This approach will implement the Lead Agency principle as described in Article 4.

Note: Authority cited: Section 21083, Public Resources Code; Reference: Section 21065, Public Resources Code; *Kaufman and Broad-South Bay, Inc. v. Morgan Hill Unified School District* (1992) 9 Cal.App.4th 464; *Fullerton Joint Union High School District v. State Board of Education* (1982) 32 Cal.3d 779; *Simi Valley Recreation and Park District v. Local Agency Formation Commission of Ventura County* (1975) 51 Cal.App.3d 648; and *Communities for a Better Environment v. California Resources Agency* (2002) 103 Cal.App.4th 98.

15379. PUBLIC AGENCY

“Public agency” includes any state agency, board, or commission and any local or regional agency, as defined in these Guidelines. It does not include the courts of the state. This term does not include agencies of the federal government.

Note: Authority cited: Section 21083, Public Resources Code; Reference: Section 21063, Public Resources Code.

5

*This Page
Intentionally
Left Blank*

Attachment B
 Letter from
 Lee Quintana
 Dec 3, 2012
 3 pages

Town Council
 Agenda Item 1
 Dec 3, 2012

IDENTIFICATION AND LOCATION

1. Historic Name Strand/Premier/Los Gatos Theatre
2. Common or Current Name Los Gatos Theatre
3. Number & Street 41 North Santa Cruz Avenue Cross-Corridor Bean Ave.
 City Los Gatos, CA Vicinity Only ZIP 95030 County (3-Letter Designator) 085
4. UTM Zone 10A 590290/4120000 B C D
5. Quad Map No. LosGatosParcel No. 510-44-031 Other

Ser. No. _____
 National Register Status 5S
 Local Designation _____

DESCRIPTION

6. Property Category Building If District, Number of Documented Resources _____
7. Briefly describe the present physical appearance of the property, including condition, boundaries, surroundings, and (if appropriate) architectural style.

This is a one- and two-story, 28 ft. high wood frame building that fills the front of its lot on the west side of North Santa Cruz Ave. between West Main and Bean. Constructed and always used as a movie theater, its most prominent exterior feature is a metal marquee and vertical knife blade sign in Art Deco style. Typically the knife blade raises 10-15 ft. above the parapet and has a contrasting flat molding along its curved edge. Historic neon decorates canted marquee corners with multicolored vertical stripes, and spells out "LOS GATOS" on the knife blade and the marquee ends, and "LOS GATOS theatre" on the marquee front. The building facade is flat, with a flat parapet and no visible roof; the edges are outlined in a contrasting color. Originally a store occupied the front 30 ft. of each side; only the left (south) store survives, and the other side's wall has posters. The center is recessed for the cinema entrance, and pavement there is patterned terrazzo. The second floor has four arched windows with T-bar aluminum sash, and a row of small windows above the marquee. The lower part of the building is clad in 1-in. yellow ceramic tile, under which the 1989 earthquake revealed 3-4-in. royal blue glossy ceramic tile. The outstanding feature of the interior is a pair of Art Deco murals on the proscenium sides. The building has been closed since the earthquake.

8. Alterations & Date 1948 tiles. Windows re-opened 1982. New doors. Earthquake repair 1991.
9. Related Features on Property _____



10. Planning Agency Town of Los Gatos Planning Department
11. Owner & Address _____
12. Type of Ownership Private
13. Present Use Vacant
14. Zoning _____
15. Threats _____

HISTORICAL INFORMATION

- 16. Construction Date(s) 1916/1929-30/1948 Original Location Yes Date Moved _____
- 17. Architect Unknown Builder Unknown
- 18. Historic Attributes (with Number from List) 10-theater

SIGNIFICANCE AND EVALUATION

- 19. Context for Evaluation: Theme Institutional development Area Los Gatos
 Period 1866-1941 Property Type Entertainment Context Formally Developed? See Inv. Form for 238 East Main

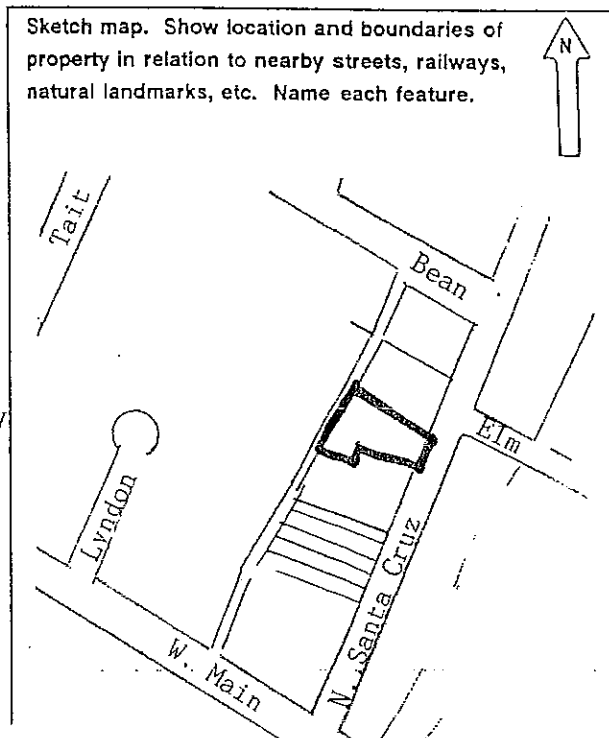
20. Briefly discuss the property's importance within the context. Use historical and architectural analysis as appropriate. Compare with similar properties.

* { The Los Gatos Theatre appears eligible for local historic designation in the context of Los Gatos' institutional development under Criterion A-events/patterns, because it is the sole functioning historic representative of Los Gatos' entertainment history. Its dates of significance are 1916 for the original construction, and 1929-1930 for a fire and subsequent remodeling which established the Art Deco styling.

In considering integrity one must deal with the building's history. It was constructed in 1916 by developer J.A. Marshall, who had done the heavy construction of Highway 17 through the Santa Cruz Mountains, as part of a 152 front ft. building for six stores and a movie theater. Originally it was Renaissance Revival style with a widely overhanging cornice, false balconies below the windows, and a glass fringed metal canopy supported on chains. In September 1929 a fire damaged the theater \$10,000 worth. It is presumed that the Art Deco remodeling followed thereupon. The windows were closed up either at this time or in 1948, when Building Permits 695 and 800 permitted \$22,300 worth of remodeling, including replastering the outside walls. The one-in. tiles surely date from 1948. The arched windows were re-opened about 1982. Thus the building can best be considered a mixture of its 1916 and 1930 appearances, with the latter predominating, and some later changes (e.g. window sash, doors).

(See Continuation page 3.)

- 21. Sources
 Hamsher Scrapbooks 6A (12 May 1916) & 84; 10A (1917); 5A, 17; and unknown (12 June 1975 Building Permits.
 Sanborn Maps.
 City Directories of San Jose & Los Gatos.
- 22. Applicable National Register Criteria A-events/patterns
- 23. Other Recognition _____
 State Landmark No. (if applicable) _____
- 24. Evaluator Anne Bloomfield
 Date of Evaluation 9 Nov. 1990
- 25. Survey Type Local
- 26. Survey Name Los Gatos Historic Resources Inventory
- 27. Year Form Prepared 1991
 By (Name) Anne Bloomfield
 Organization Bloomfield Architectural History
 Address 2229 Webster St.
 City & ZIP San Francisco, CA 94115
 Phone (415) 922-1063



20. Significance (cont.)

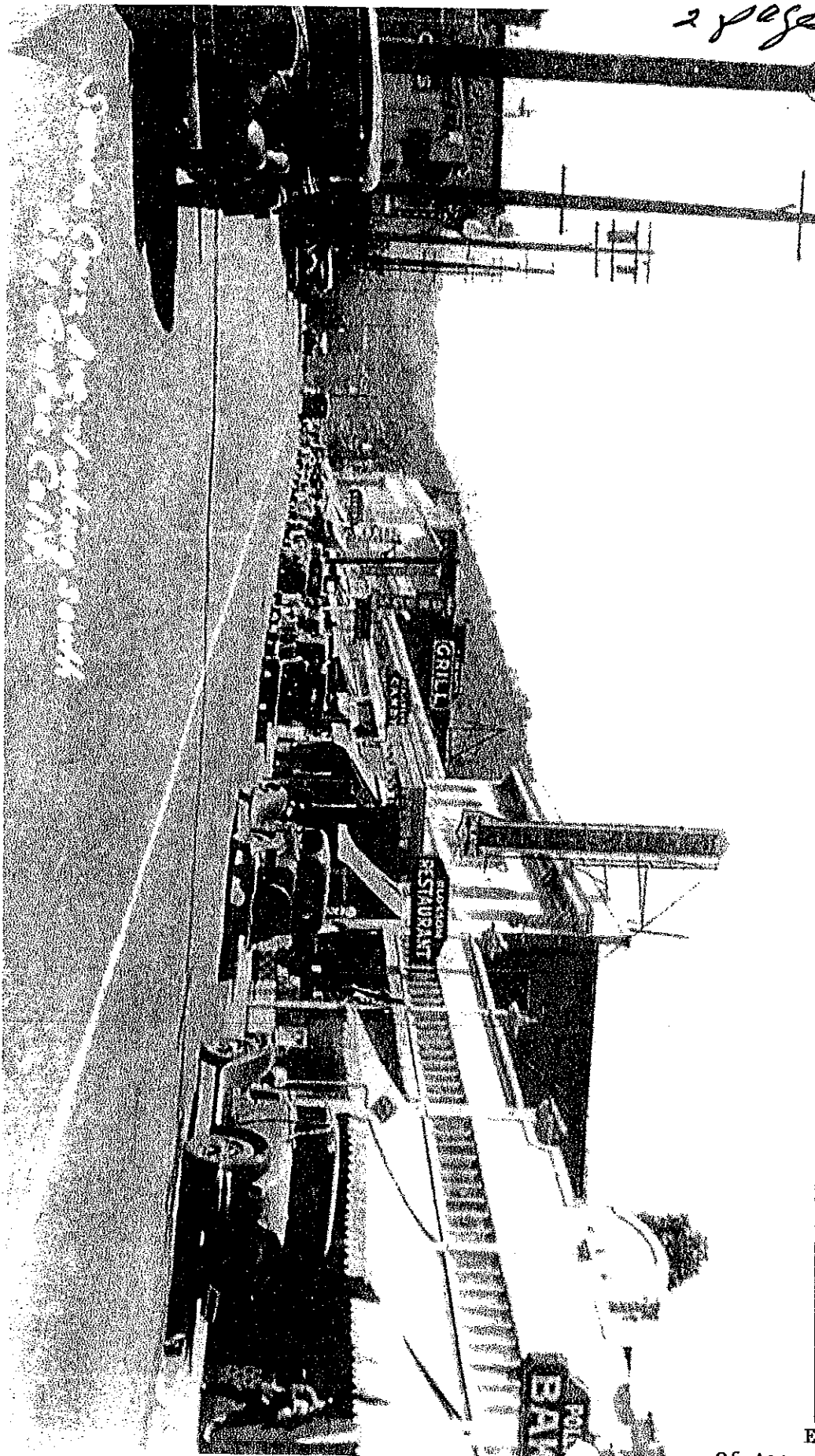
Additional changes are to be expected with earthquake repair and seismic strengthening, now under way.

The building opened as the Strand Theatre and kept that name through 1927. It was listed as the Los Gatos Theatre in 1930, the Premier 1934-1941, and the Los Gatos Theatre since 1944.

The institutional context of Los Gatos is outlined in the Survey Form for ~~238 West~~^{east} Main. The entertainment part of this context began in 1885 when George Seanor built an Opera House, which burned down in 1890. Next a local corporation built the Johnson Opera House in 1892-1893, but it also burned down, in 1894. For the next decade entertainments such as concerts and lectures were given in the pavilion of the Los Gatos Cannery. When that space was required by the Company in 1904, E.L. Ford devoted the upper space in his 1902 building to what was called the Ford Opera House. Its hall, decorated all over in pressed tin, survives at 140 West Main Street in the Los Gatos Historic Commercial District, but it has not been used as a hall for many years. The entertainment function passed next to a movie theater, built in 1916 as the Strand, subsequently known as the Premier, and then the Los Gatos Theatre. The movie house was remodeled about 1930 and again in 1948, and some of its original arched windows were found and reopened about 1980. It has been closed since the 1989 earthquake, but is expected to reopen in the not too distant future. Outdoor pageants were given annually in a no longer surviving amphitheater, 1918-1940. They were written and performed by local talent and now fondly, if dimly, remembered. The Town helped purchase the Pageant grounds, where are now about to be used for a new public library.

*This Page
Intentionally
Left Blank*

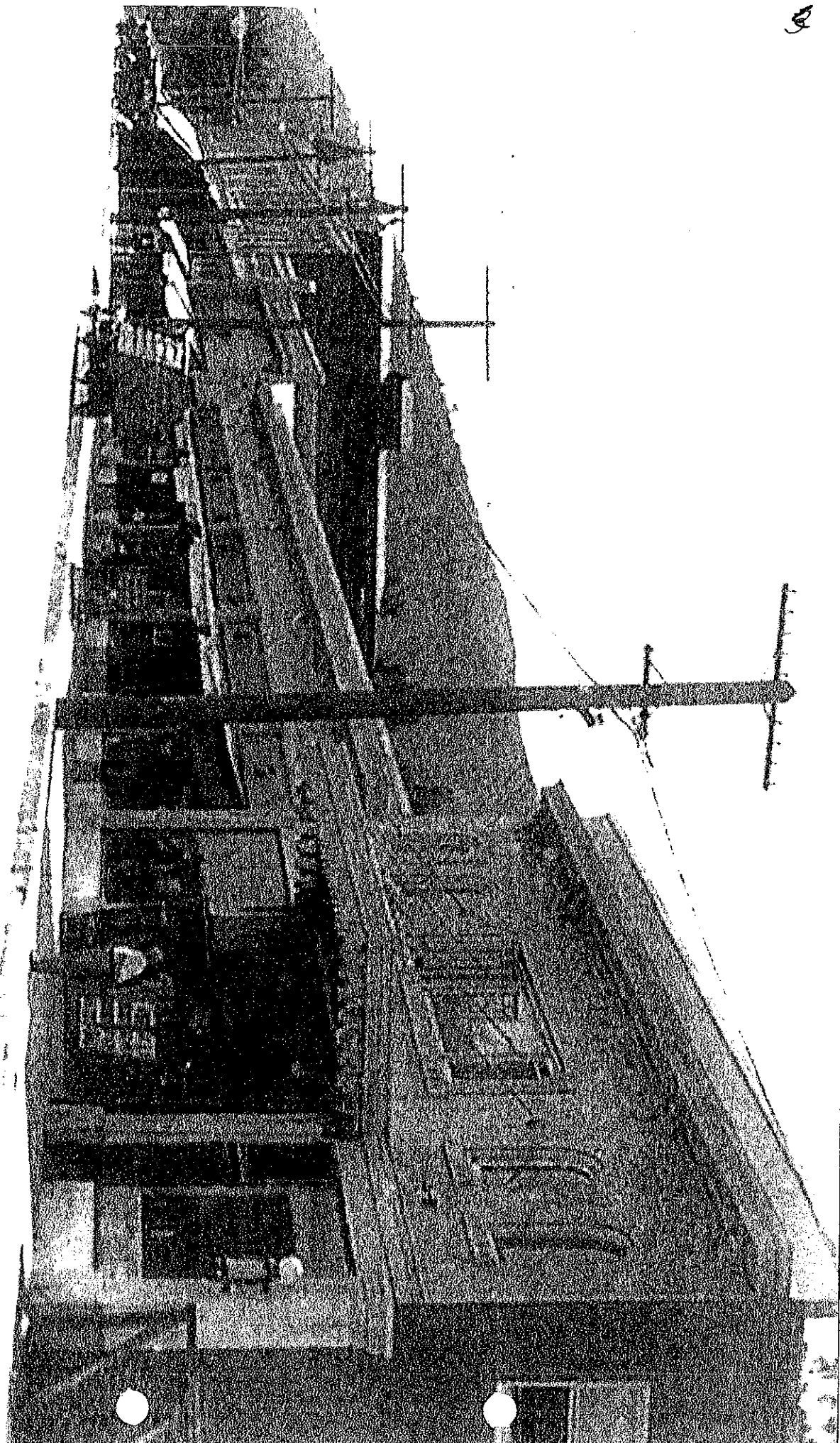
Attachment C
2 pages



1935 "THE PREMIERE"

Attachment

1920 "THE STRAND"



1920