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Christine Moseley Shiker
202 457 7167
cmshiker@hklaw.com

RECEIVED
D.C. OFFICE OF ZONING
2007 JUN 15 PM 12:00

June 15, 2007

VIA HAND DELIVERY
Board of Zoning Adjustment for the
District of Columbia
441 4th Street, N.W., Suite 210S
Washington, D.C. 20001

Re: Request for Modification to Previous Approval and Request for Waiver of Six Month Time Frame
Arena Stage – Board of Zoning Adjustment Case No. 17033

Dear Members of the Board:

This letter is submitted on behalf of the Washington Drama Society d/b/a Arena Stage (the "Applicant") to request a modification to the approved plans from the previous Board of Zoning Adjustment approval (the "Board" or "BZA") set forth in BZA Case No. 17033 pursuant to Section 3129 of the Zoning Regulations. The Applicant also seeks a waiver of the six month time frame set forth in 11 DCMR § 3129.3.

Background of Case

In July 2002, Arena Stage submitted an application (Application No. 16933) to the Board for variance relief from height, FAR, rear yard and lot occupancy requirements to permit the construction of an addition to the existing theater buildings on the subject property located at 1101 6th Street, SW, known as Lot 129 in Square 472 (the "Site"). The addition to the existing project was proposed to remedy several deficiencies, such as acoustic interference, inadequate space, and inefficient circulation and lobby space, while at the same time creating an important space within southwest. The project incorporated an innovative design by Bing Thom Architects which, in essence, encapsulated the historic Kreeger and Fichhandler theaters in a transparent structural glass building and, in the process, distinguished new construction from old. This design show-cased the two historic theaters through massive windows with a new structure cradling a third theater at the center.

BOARD OF ZONING ADJUSTMENT
District of Columbia
CASE NO. 17033
EXHIBIT NO. 34

Board of Zoning Adjustment
District of Columbia
CASE NO. 17033
EXHIBIT NO. 34

By the time Application No. 16933 reached hearing at the BZA, the project had also been reviewed and approved by a variety of agencies, including the Commission of Fine Art ("CFA"), the Historic Preservation Review Board ("HPRB") and the Mayor's Agent for Historic Preservation (the "Mayor's Agent"). Advisory Neighborhood Commission ("ANC") 2D, the impacted ANC at the time, also voted unanimously to support the project. The Board heard the case on October 29, 2002, approving the case by a bench decision. A copy of the Summary Order approving that case is attached as Tab A[1].

In May 2003, the Applicant filed a new application (Application No. 17033) to the BZA requesting additional variance relief to further increase the height of the project. The revisions included modifications to the cradle portion of the design, which contained the new theater and temporary accommodations for visiting performers, as well as revisions to the cantilevered element. Prior to the Board's hearing on that case, CFA and ANC 6D both voted to support the revised project. Staff for the Historic Preservation Review Board determined that the changes did not require review by HPRB or the Mayor's Agent. The Board heard the case on July 8, 2003, approving the case by a bench decision. A copy of the Summary Order approving the case is attached as Tab B.

Proposed Modification

Since the approval granted in Application No. 17033, the Applicant has continued to refine the project and, more recently, has made necessary revisions to bring the project within budget. The Applicant has been able to maintain the programmatic use elements, with the exception of the residential uses for artists, and has made relatively minor revisions to the architecture of the project. As is evidenced by the renderings attached as Tab C, the design of the approved project is significantly in keeping with the design of the proposed modification.

The proposed changes are minor and only result in the elimination or reduction of the previously approved variance relief. As a result of the removal of the residential uses, the project has no requirement for a rear yard and 100% lot occupancy is permitted; thus, no variance relief is needed from the rear yard provisions of 11 DCMR § 933 or the lot occupancy provisions of 11 DCMR § 932. Furthermore, the FAR of the proposed modified design is now within that permitted as a matter-of-right, eliminating the need for variance relief from 11 DCMR § 931. Finally, although variance relief from the height requirements set forth in 11 DCMR § 930.1 remains, the proposed height is now less than that approved in BZA Case No. 17033. The elimination or reduction of each area of relief is set forth below:

---

[1] The Board originally issued Order No. 16933 dated October 30, 2002. On November 7, 2002, the Board issued Order No. 16933-A, correcting an omission from the earlier order and indicating that the Applicant was granted flexibility to modify the design as may be approved by HPRB and CFA, provided that said changes do not increase any of the areas of relief granted by the BZA.

	Permitted in W-1 District	BZA Case No. 16933-A (11/7/02)	BZA Case No. 17033 (7/8/03)	Proposed Modification
Height	45 feet*	75 feet	89.77 feet	77.27 feet
FAR	Per 11 DCMR 2521.1(a) permits 2.0 FAR for commercial or nonresidential uses	2.8	2.5	2.0 ***No relief necessary***
Rear Yard	3 in/ft but not less than 12 feet for *residential use*	8 ft provided 4 ft variance approved	8 ft 2 in provided 3 ft 10 in variance approved	None required; no residential use ***No relief necessary***
Lot Occupancy	80% for building with residential use	99% 19% variance approved	99% 19% variance approved	100% permitted; no residential use ***No relief necessary***

*At the time of the previous BZA cases, only 40 feet was permitted by 11 DCMR § 930.

Review by CFA and HPRB

The Applicant has submitted applications to CFA and HPRB. CFA intends to consider this application at its upcoming meeting on June 21, 2007. HPRB intends to consider this application at its upcoming meeting on June 28, 2007. As soon as action is taken by these bodies, updated information will be provided to the Board.

Compliance with Section 3129 of the Zoning Regulations

The Applicant complies with the relevant subsections of Section 3129 as follows:

Section 3129.2	The request is in writing, states specifically the modifications requested and the reasons therefor and includes copies of the plans for which approval is requested. Twenty copies of the modified plans are attached as Tab D.
Section 3129.3	The request is filed with the Board no less than six months after the date of the final order approving the case. The Applicant requests a waiver from this provision.
Section 3129.4	The request is served on all parties to the original application as evidenced by the attached Proof of Service.
Section 3129.6	The Board members who originally considered Board of Zoning Adjustment Case No. 17033 included, among others, Ruthanne Miller, Curtis Etherly and John Parsons. Thus, three current members of the Board participated in and voted on that decision. Other Board members are permitted to read the record pursuant to this subsection.
Section 3129.7	The modification is a minor modification that does not change the material facts upon which the Board relied in approving the original application.

A filing fee of $160 is enclosed herewith. This fee represents twenty percent of the filing fee ($800) submitted with BZA Case No. 17033, in accordance with 11 DCMR § 3180.1(f).

We would appreciate your consideration of this matter at your July 3, 2007, regularly scheduled public meeting. We understand, however, that this meeting agenda is quite full and accordingly staff has indicated that consideration of this request may be moved to the special meeting scheduled for July 31, 2007.

Should you have any questions or need additional information, please do not hesitate to have Office of Zoning staff contact me.

Very truly yours,

Christine Moseley Shiker

Enclosures

cc: Jennifer Steingasser, Office of Planning (Via Hand Delivery; w/enc)
Joel Lawson, Office of Planning (Via Hand Delivery; w/enc)
Advisory Neighborhood Commission 6D (See attached Proof of Service)

PROOF OF SERVICE

I hereby certify that on June 15, 2007, a copy of the foregoing Request for Modification to Previous Approval and Request for Waiver of Six Month Time Frame was served on the following parties to the original proceeding:

Advisory Neighborhood Commission 6D (Via HAND DELIVERY)
25 M Street, S.W.
Washington, DC 20024
Attention: Roberta Weiner, Administrative Assistant

Christine Moseley Shiker, Esq.
Holland & Knight

bcc: Guy Bergquist, Arena Stage (Via UPS Overnight; w/enc)
Ted Kalreiss, KCM, Inc (Via UPS Overnight; w/enc)
James Brown, Bing Thom Architects (Via UPS Overnight; w/enc)
Norman M. Glasgow, Jr. (w/out enc)
Steven E. Sher, Director of Zoning and Land Use Services (w/out enc)

4605096_v2

A

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

★ ★ ★

Application No. 16933-A of Washington Drama Society, Inc. dba The Arena Stage, pursuant to 11 DCMR § 3103.2, for a variance from height limitations under section 930, a variance from the floor area ratio requirements under section 931, a variance from the lot occupancy requirements under section 932, and a variance from the rear yard requirements under section 933, to allow the construction of an addition to an existing theater in the W-1 District at premises 1101 6th Street, S.W. (Square 472, Lots 123 and 126).

HEARING DATE: October 29, 2002
DECISION DATE: October 29, 2002 (Bench Decision)

CORRECTED SUMMARY ORDER

This order corrects Order No. 16933, which was issued without indicating the Board's decision to grant flexibility in the design of the building as may be approved by the Historic Preservation Review Board and/or the Commission of Fine Arts.

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2.

The Board provided proper and timely notice of public hearing on this application, by publication in the D.C. Register, and by mail to Advisory Neighborhood Commission (ANC) 2D, the Office of Planning (OP) and to owners of property within 200 feet of the site. The site of the application is located within the jurisdiction of ANC 2D. ANC 2D submitted a letter in support of the application. The OP submitted a report in support of the application.

As directed by 11 DCMR § 3119.2, the Board required the applicant to satisfy the burden of proving the elements that are necessary to establish the case for a variance pursuant to 11 DCMR §§ 3103.2. No person or entity appearing as a party to this case testified in opposition to the application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board and having given great weight to the ANC and OP reports filed in this case, the Board concludes that the applicant has met the burden of proving under 11 DCMR §§ 3103.2, 930, 931, 932, and 933, that there exists an exceptional or extraordinary situation or condition related to the property that creates a practical difficulty for the owner in complying with the Zoning Regulations, and that the relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map. It is therefore **ORDERED** that this application be **GRANTED** with the following provision:

1. The Applicant may modify the design of the building as may be approved by the Historic Preservation Review Board and/or the Commission of Fine Arts, provided that those changes do not increase any of the areas of relief granted by the Board of Zoning Adjustment.

Pursuant to 11 DCMR § 3101.6, the Board has determined to waive the requirement of 11 DCMR § 3125.3 that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party, and is not prohibited by law.

VOTE: **5-0-0** (Geoffrey H. Griffis, John G. Parsons, David A. Zaidain, Anne M. Renshaw, and Curtis L. Etherly to Approve)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT
Each concurring Board member has approved the issuance of this order.

ATTESTED BY: Jerrily Kress
JERRILY R. KRESS, FAIA
Director, Office of Zoning

FINAL DATE OF ORDER: NOV - 7 2002

PURSUANT TO 11 DCMR § 3125.6, THIS ORDER WILL BECOME FINAL UPON ITS FILING IN THE RECORD AND SERVICE UPON THE PARTIES. UNDER 11 DCMR § 3125.9, THIS ORDER WILL BECOME EFFECTIVE TEN DAYS AFTER IT BECOMES FINAL.

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

BZA APPLICATION NO. 16933-A

As Director of the Office of Zoning, I hereby certify and attest that on NOV - 7 2002 a copy of the order entered on that date in this matter was mailed first class, postage prepaid or delivered via inter-agency mail, to each party and public agency who appeared and participated in the public hearing concerning the matter, and who is listed below:

Norman M. Glasgow, Jr., Esq
Holland & Knight LLP
2099 Pennsylvania Avenue, N.W.
Suite 100
Washington, D.C. 20006-6801

Andy Litsky, Chairperson
Advisory Neighborhood Commission 2D
400 I Street, S.W.
Washington, D.C. 20024

Richard B. Westbrook, Commissioner 2D01
Advisory Neighborhood Commission 2D
505 H Street, S.W.
Washington, D.C. 20024

Jack Evans, City Councilmember
Ward Two
1350 Pennsylvania Avenue, N.W.
Suite 106
Washington, D.C. 20004

Robert Kelly, Zoning Administrator
Building and Land Regulation Administration
Department of Consumer and Regulatory Affairs
941 N. Capitol Street, N.E.
Washington, D.C. 20002

Ellen McCarthy, Deputy Director
Office of Planning
801 North Capitol Street, N.E.
4th Floor
Washington, D.C. 20002

Alan Bergstein, Esq.
Office of Corporation Counsel
441 4th Street, N.W., 6th Floor
Washington, D.C. 20001

rsn

ATTESTED BY: Jerrily R. Kress

JERRILY R. KRESS, FAIA
Director, Office of Zoning



GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

★ ★ ★

Application No. 17033 of Washington Drama Society, Inc. dba The Arena Stage, pursuant to 11 DCMR § 3103.2, for a variance from the building height requirements under section 930, to permit the redevelopment of an existing theater in the W-1 District at premises 1101 6th Street, S.W. (The applicant requests a modification to the height variance approved in BZA Order No. 16933-A) (Square 472, Lots 123 and 126).

HEARING DATE: July 8, 2003
DECISION DATE: July 8, 2003 (Bench Decision)

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2.

The Board provided proper and timely notice of public hearing on this application, by publication in the D.C. Register, and by mail to Advisory Neighborhood Commission (ANC) 2D, the Office of Planning (OP) and to owners of property within 200 feet of the site. The site of the application is located within the jurisdiction of ANC 2D. ANC 2D submitted a letter in support of the application. The OP submitted a report in support of the application.

As directed by 11 DCMR § 3119.2, the Board required the applicant to satisfy the burden of proving the elements that are necessary to establish the case for a variance pursuant to 11 DCMR §§ 3103.2. No person or entity appearing as a party to this case testified in opposition to the application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board and having given great weight to the ANC and OP reports filed in this case, the Board concludes that the applicant has met the burden of proving under 11 DCMR §§ 3103.2 and, 930, that there exists an exceptional or extraordinary situation or condition related to the property that creates a practical difficulty for the owner in complying with the Zoning Regulations, and that the relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity

of the zone plan as embodied in the Zoning Regulations and Map. It is therefore **ORDERED** that this application be **GRANTED** with the following provision:

1. The Applicant may modify the design of the building as may be approved by the Historic Preservation Review Board and/or the Commission of Fine Arts, provided that those changes do not increase any of the areas of relief granted by the Board of Zoning Adjustment.

Pursuant to 11 DCMR § 3101.6, the Board has determined to waive the requirement of 11 DCMR § 3125.3, that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party, and is not prohibited by law.

VOTE: **5-0-0** (Geoffrey H. Griffis, Curtis L. Etherly, Ruthanne G. Miller, David A. Zaidain and John G. Parsons to Approve).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT
Each concurring Board member has approved the issuance of this order.

ATTESTED BY:

JERRILY R. KRESS, FAIA
Director, Office of Zoning

FINAL DATE OF ORDER: JUL 0 8 2003

PURSUANT TO 11 DCMR § 3125.6, THIS ORDER WILL BECOME FINAL UPON ITS FILING IN THE RECORD AND SERVICE UPON THE PARTIES. UNDER 11 DCMR § 3125.9, THIS ORDER WILL BECOME EFFECTIVE TEN DAYS AFTER IT BECOMES FINAL.

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSES OF SECURING A BUILDING PERMIT.

PURSUANT TO 11 DCMR § 3125 APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE, UNLESS THE BOARD ORDERS OTHERWISE. AN APPLICANT SHALL CARRY

OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD.

THE APPLICANT IS REQUIRED TO COMPLY FULLY WITH THE PROVISIONS OF THE HUMAN RIGHTS ACT OF 1977, D.C. LAW 2-38, AS AMENDED, AND THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THOSE PROVISIONS. IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 ET SEQ., (ACT) THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS ALSO PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS ALSO PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION. THE FAILURE OR REFUSAL OF THE APPLICANT TO COMPLY SHALL FURNISH GROUNDS FOR THE DENIAL OR, IF ISSUED, REVOCATION OF ANY BUILDING PERMITS OR CERTIFICATES OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.

RSN

C



WEST ELEVATION - MAINE AVENUE S.W.
Approved by BZA Case No. 17033



WEST ELEVATION - MAINE AVENUE S.W.
JUNE 2007



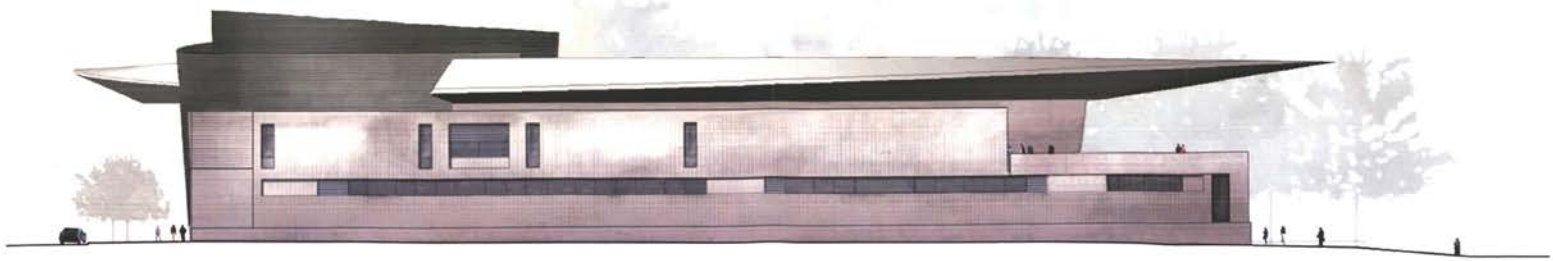
EAST ELEVATION - 6TH STREET S.W.
Approved by BZA Case No. 17033



EAST ELEVATION - 6TH STREET S.W.
JUNE 2007

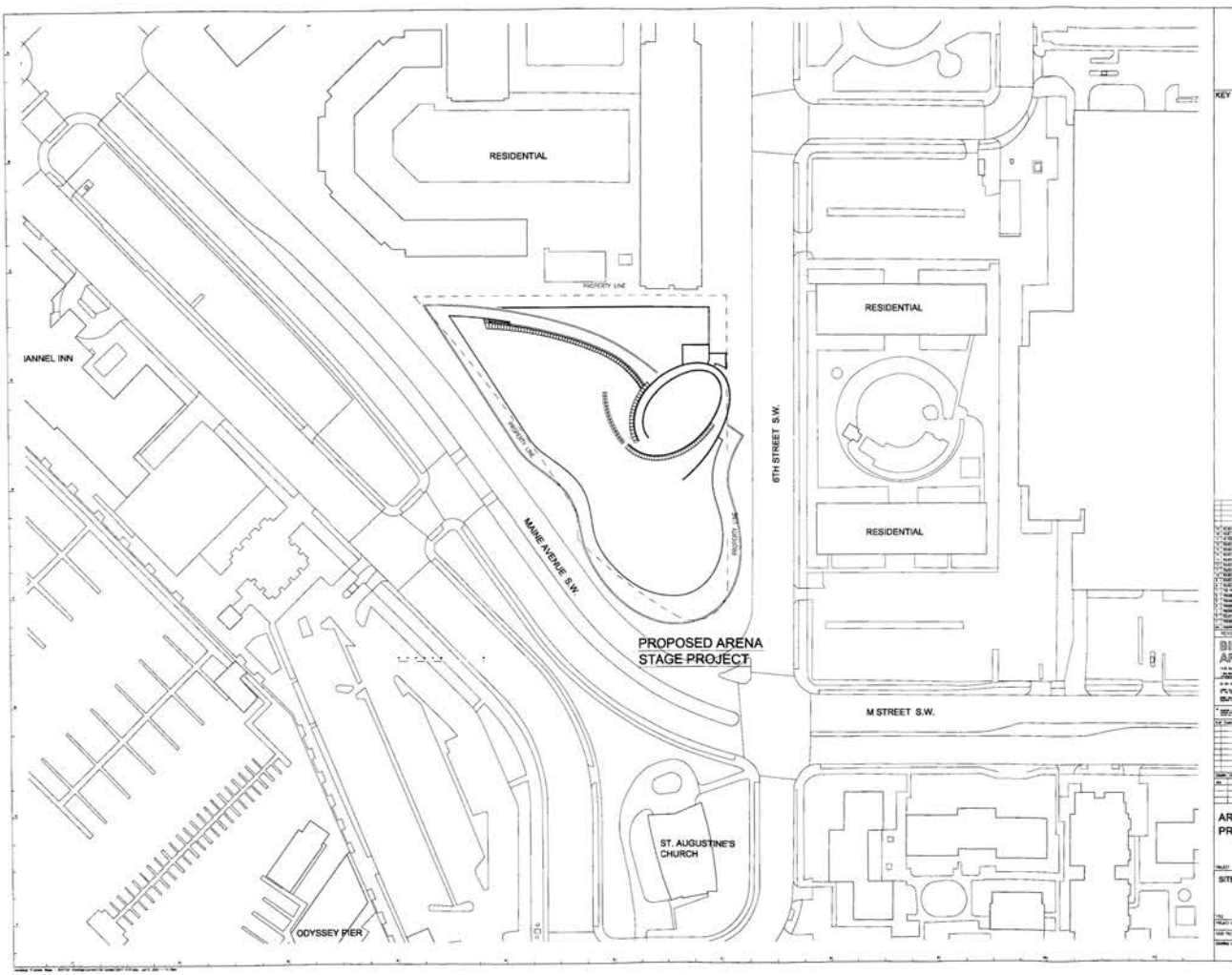


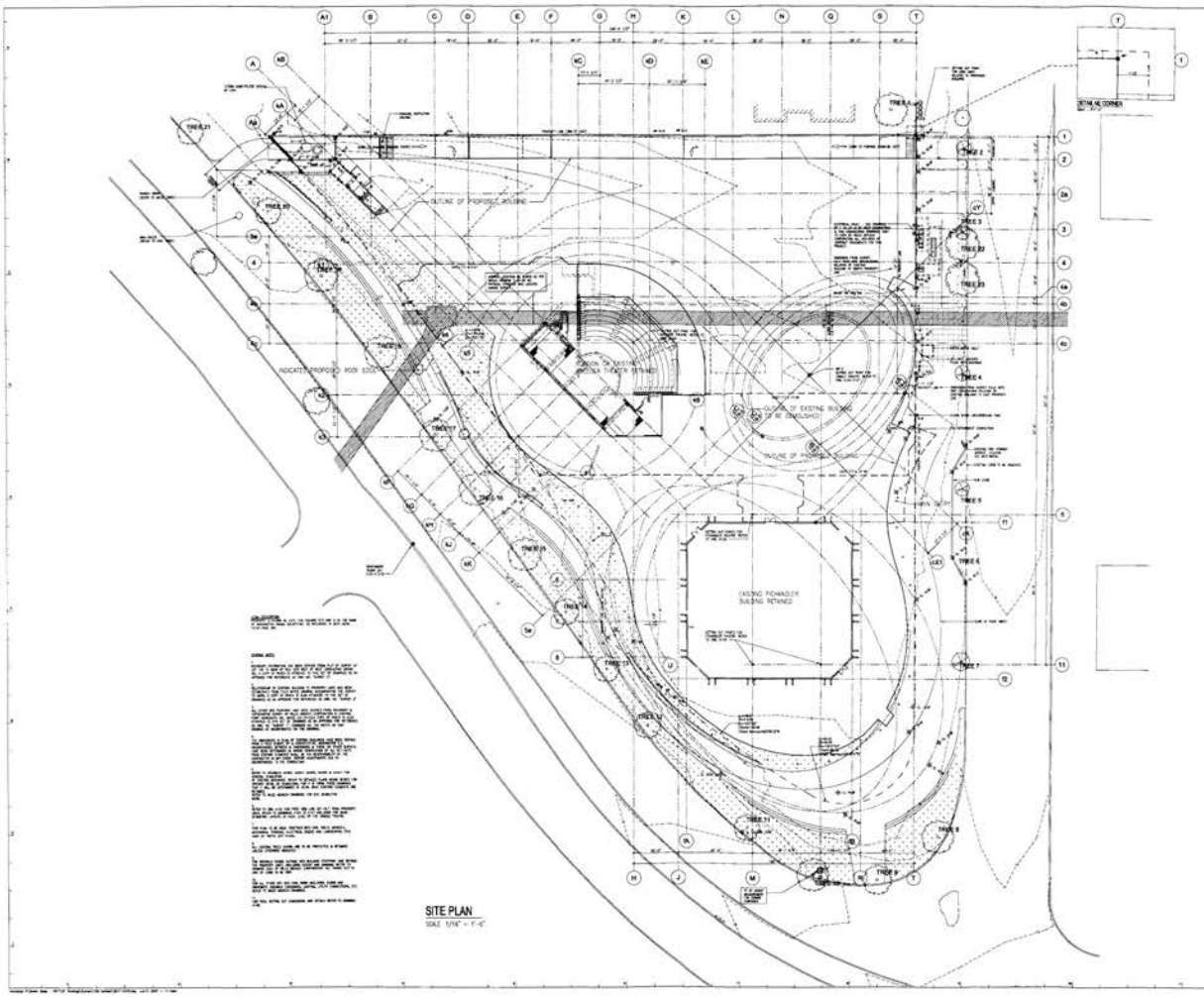
NORTH ELEVATION @ BUILDING GRADE
Approved by BZA Case No. 17033



NORTH ELEVATION @ BUILDING GRADE
JUNE 2007




RESIDENTIAL
PROPERTY LINE
IANNEL INN
PROPERTY LINE
MAINE AVENUE S.W.
PROPOSED ARENA
STAGE PROJECT
6TH STREET S.W.
RESIDENTIAL
RESIDENTIAL
M STREET S.W.
ST. AUGUSTINE'S
CHURCH
ODYSSEY PIER
KEY
BING THOM
ARCHITECTS
ARENA STAGE
PROJECT
SITE PLAN
19
A101



SITE PLAN

SCALE: 1/16" = 1'-0"

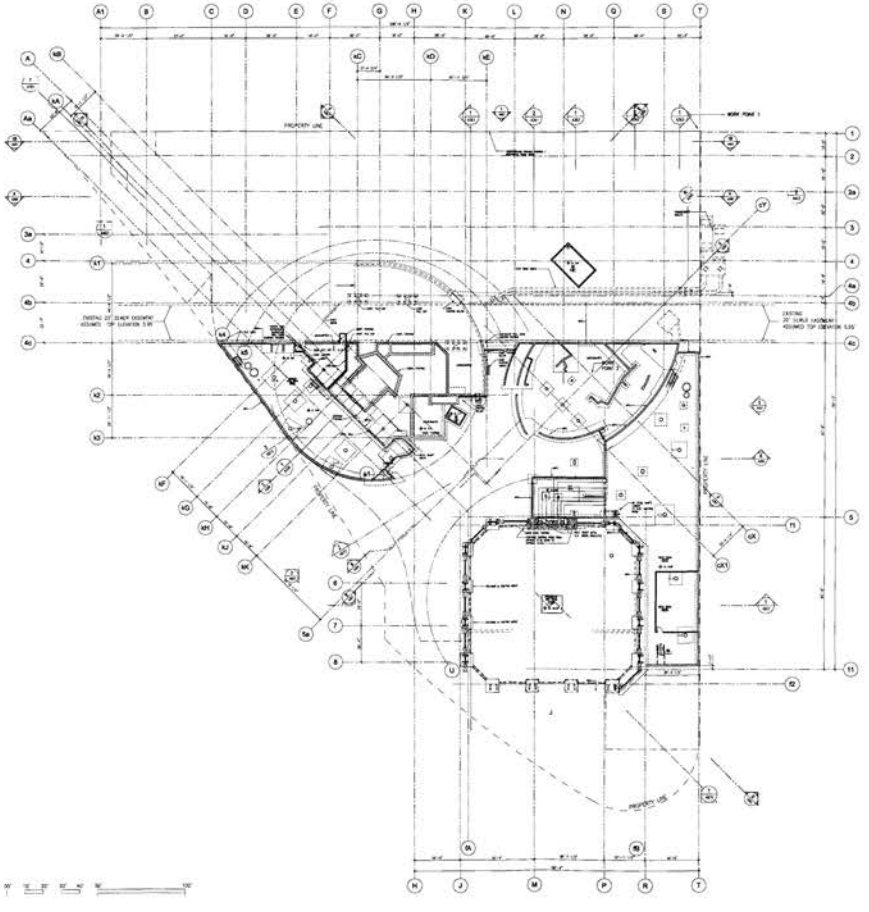
BING THOM ARCHITECTS

ARENA STAGE PROJECT

SITE PLAN

14

A102



KEY

LEGEND

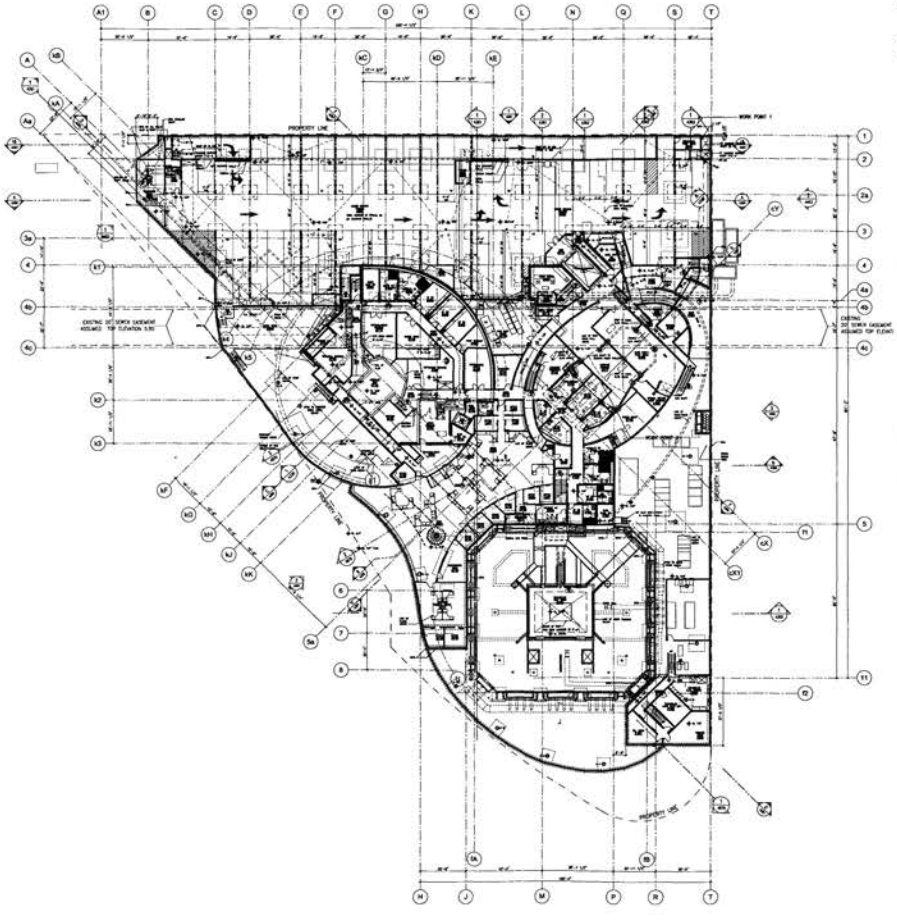
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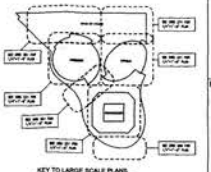
ARENA STAGE PROJECT

BASEMENT LEVEL PLAN
P2 / MECHANICAL LEVEL (EL. 0.00')

25

A200





KEY TO LARGE SCALE PLANS

LEVEL 1 (P1)	
PARKING SPACES SUMMARY:	
TOTAL REQUIRED	0
TOTAL PROVIDED	71
STANDARD SPACES	20
COMPACT SPACES	17
VAN SPACES	7
HC SPACES	3
STACKED STANDARD SPACES	6
STACKED COMPACT SPACES	18

KEY

LEGEND

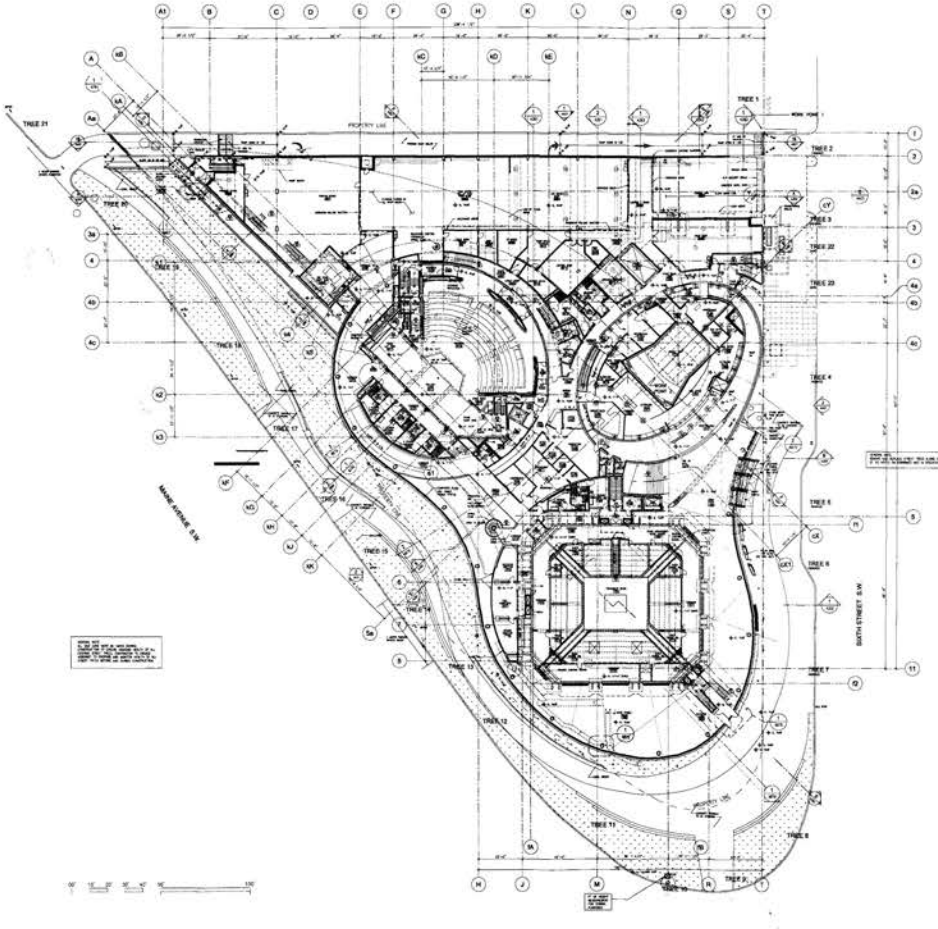
BING THOM ARCHITECTS

ARENA STAGE PROJECT

LEVEL 1 PLAN DRESSING ROOMS / P1 (ELS. 6.41' TO 10.9')

29

A201



KEY

LEGEND

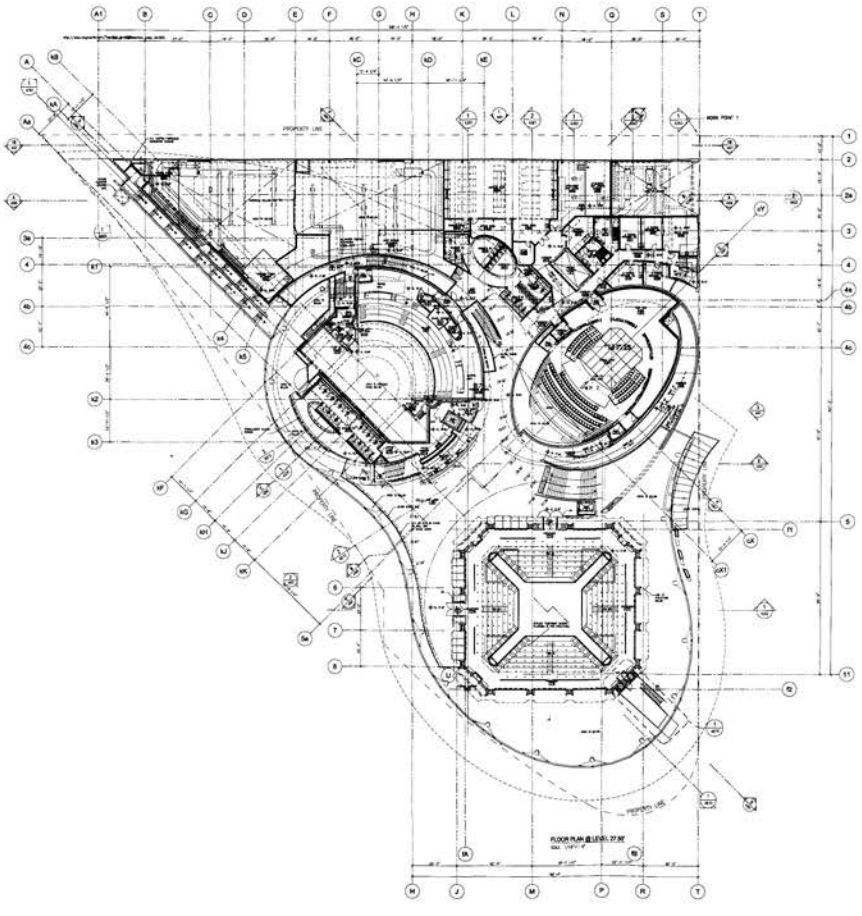
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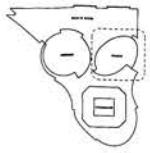
ARENA STAGE PROJECT

LEVEL 2 PLAN GROUND FLOOR (EL. 19.00')

29

A202





KEY

LEGEND

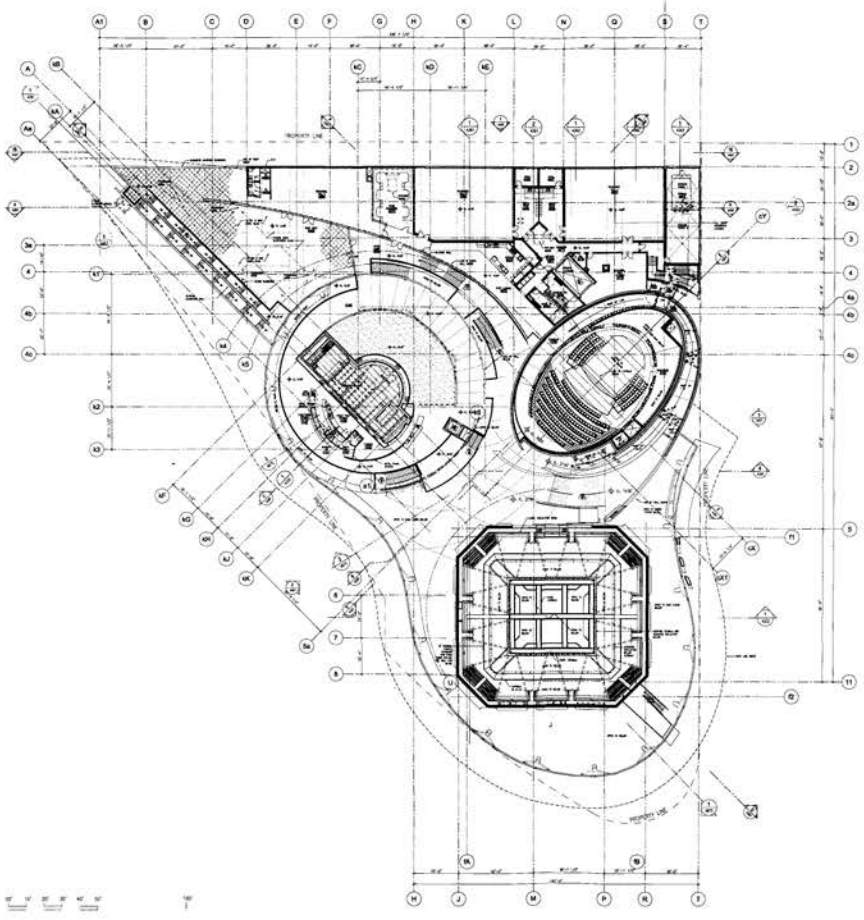
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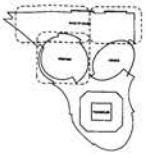
ARENA STAGE PROJECT

LEVEL 3 PLAN
MAIN LOBBY LEVEL
(ELS. 27.50 & 30.99')

28

A203





KEY

LEGEND

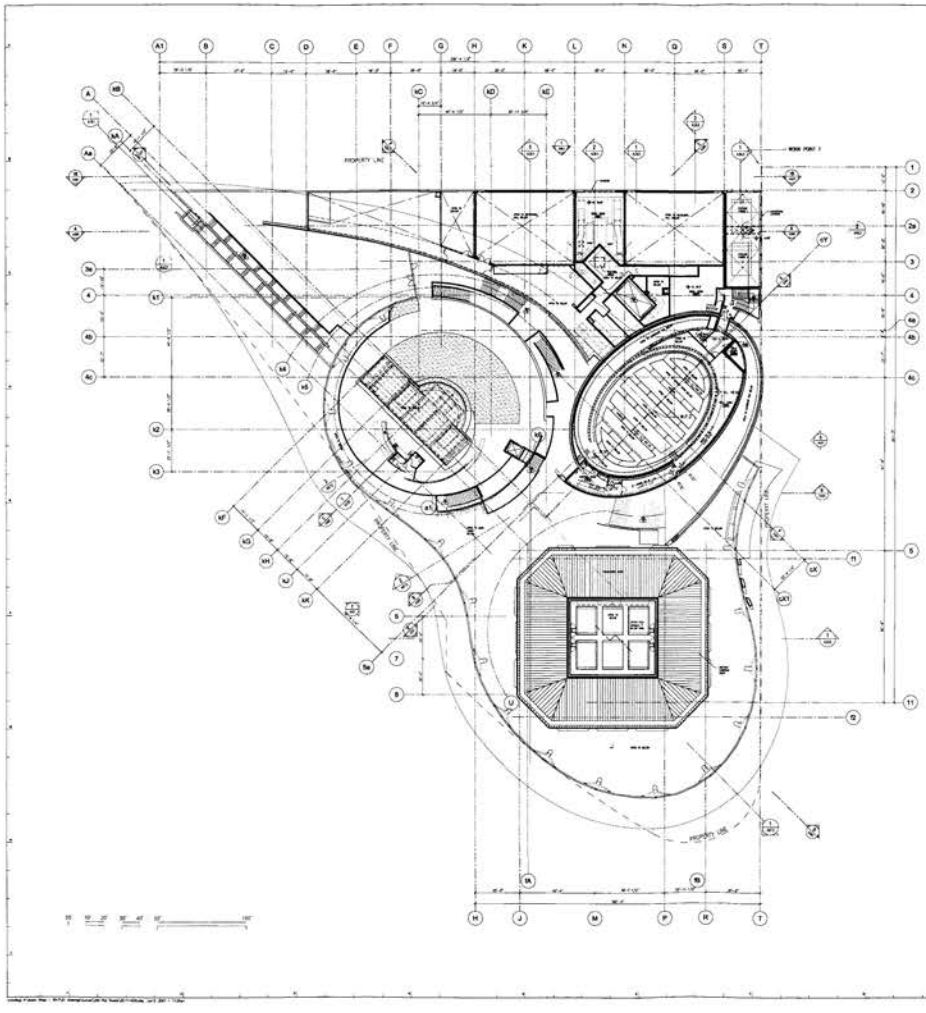
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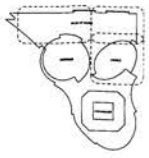
ARENA STAGE PROJECT

LEVEL 4 PLAN
KITCHEN LEVEL
(EL. 43.00')

28

A204





KEY

LEGEND

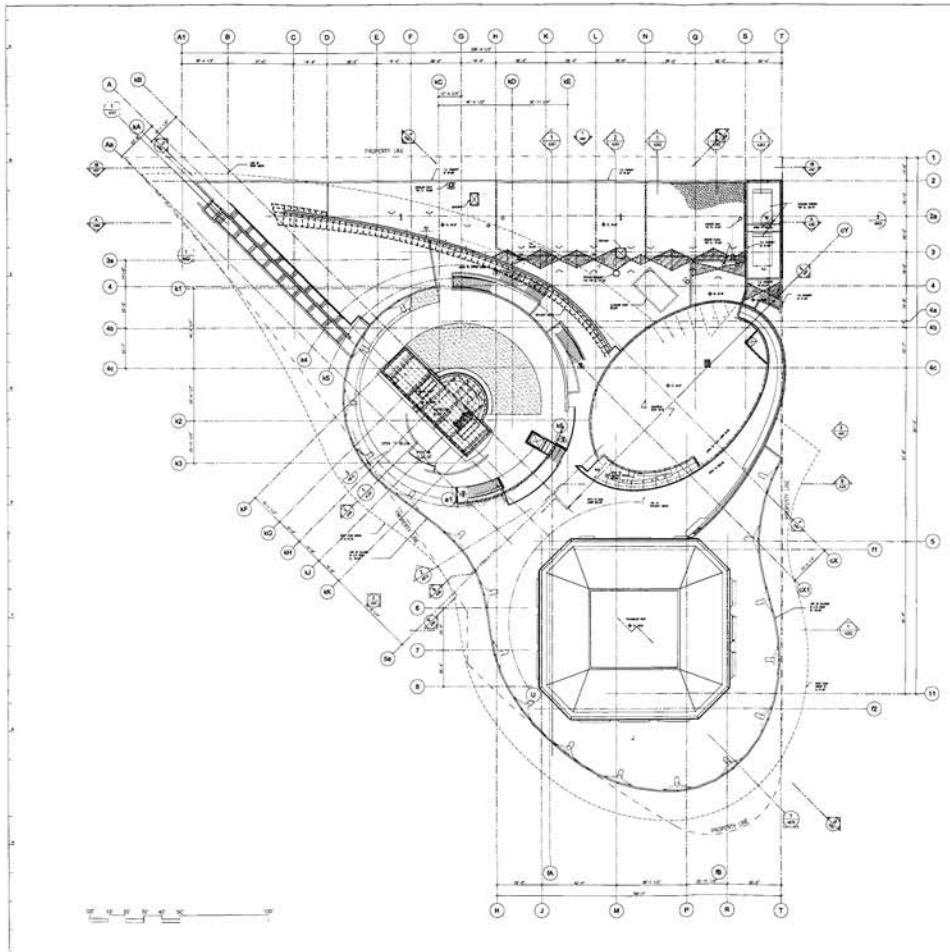
BING THOM ARCHITECTS

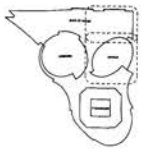
ARENA STAGE PROJECT

LEVEL 5 PLAN
CRADLE CONTROL BOOTH
(EL. 49.25')

28

A205





KEY

LEGEND

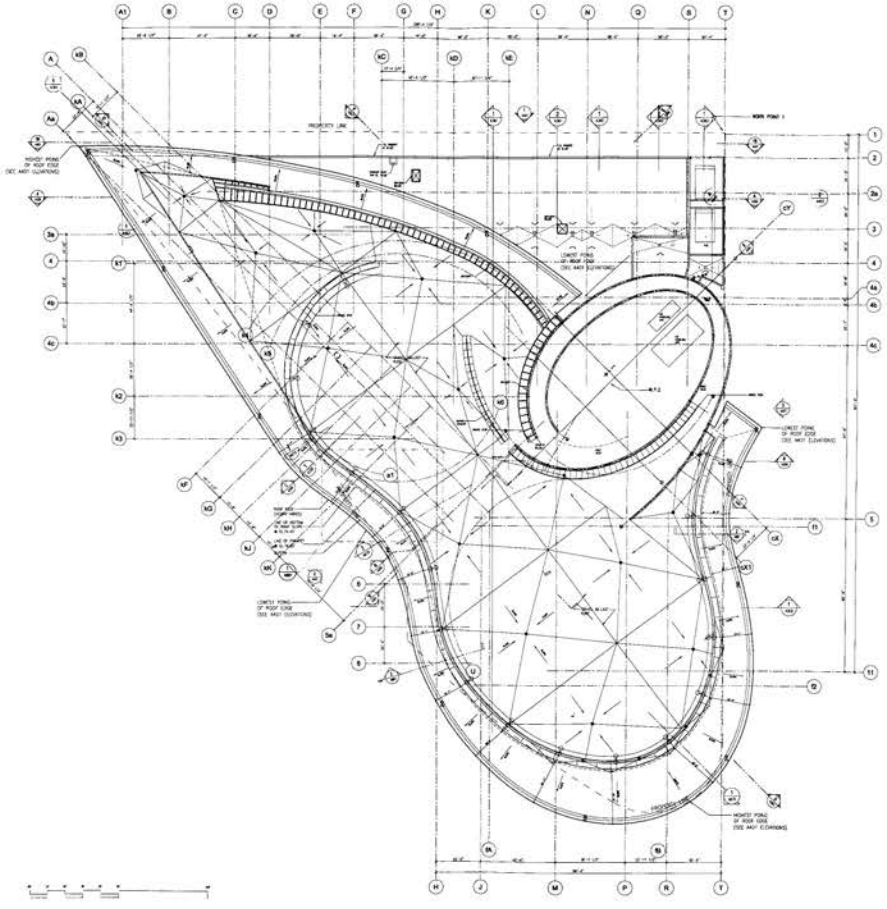
BING THOM ARCHITECTS

ARENA STAGE PROJECT

INTERNAL CRADLE ROOF PLAN (EL. 65.00')

29

A206



KEY

LEGEND

BING THOM ARCHITECTS

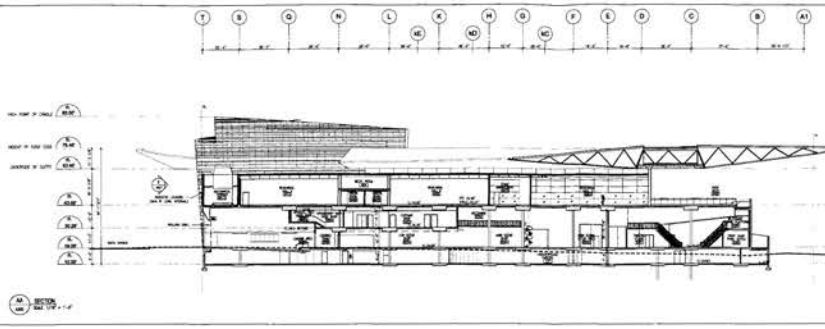
ARENA STAGE PROJECT

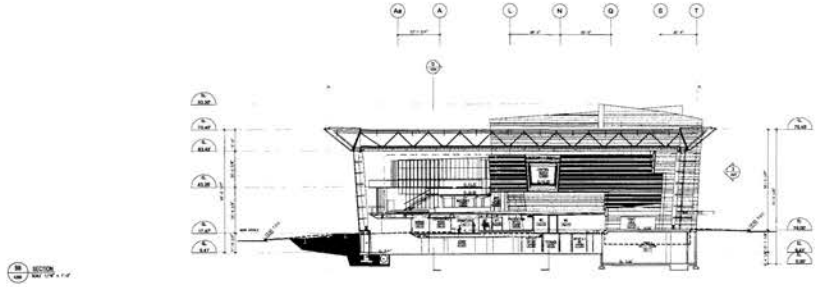
ROOF PLAN

(EL. 90.65')

28

A207





KEY

LEGEND

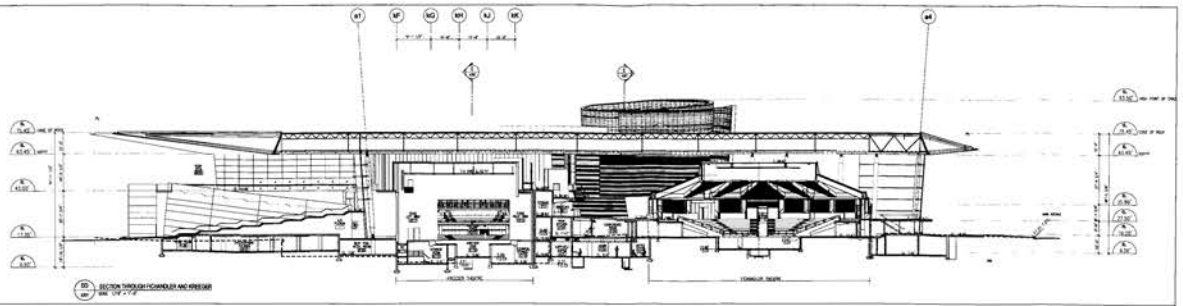
BING THOM ARCHITECTS

ARENA STAGE PROJECT

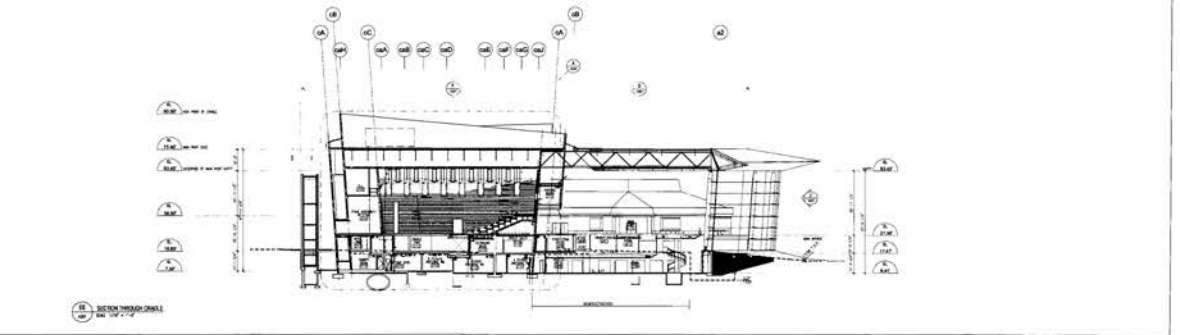
SECTION A-A
SECTION B-B
SECTION C-C

22

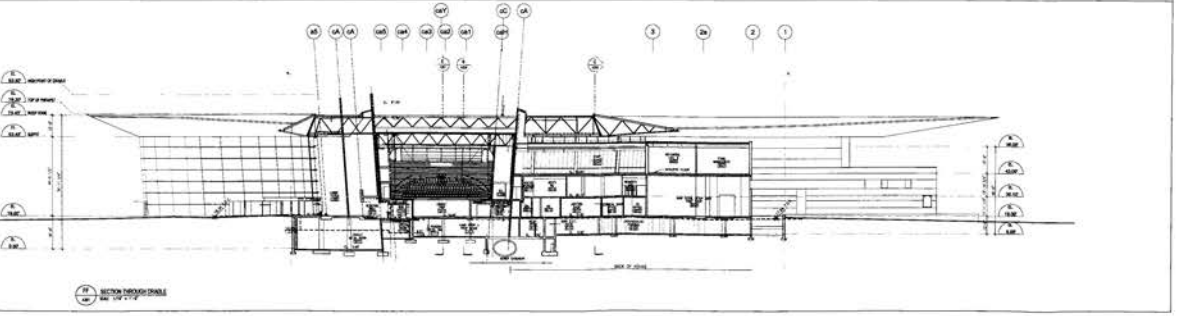
A300



SD SECTION THROUGH FOUNDRY AND KRESGE



SE SECTION THROUGH CRADLE



SF SECTION THROUGH CRADLE

KEY

LEGEND

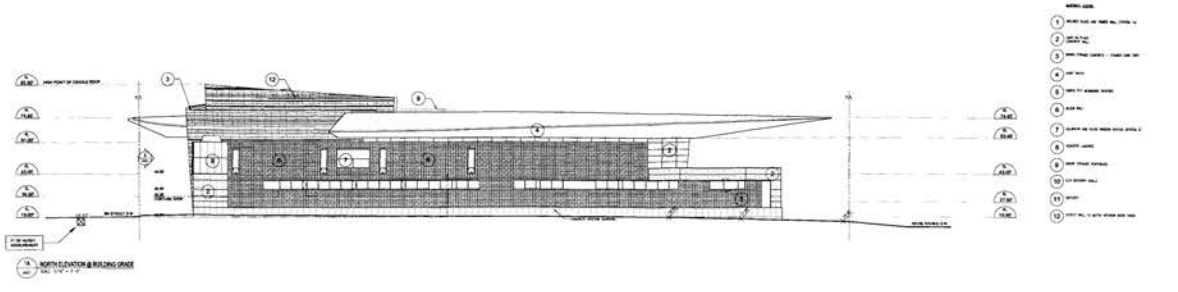
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ARENA STAGE PROJECT

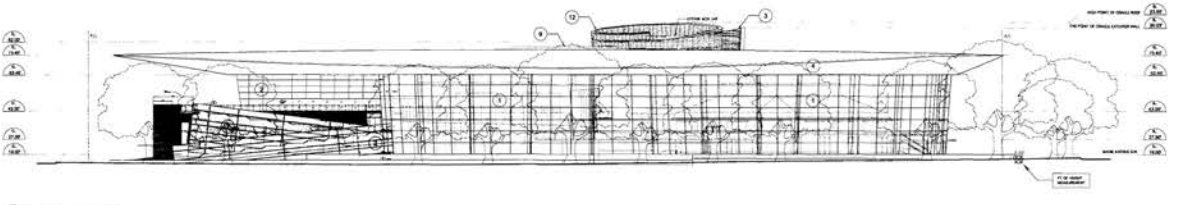
SECTION D-D
SECTION E-E
SECTION F-F

22

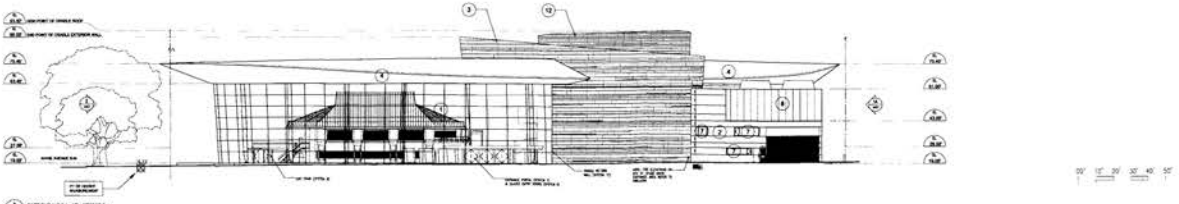
A301



1 NORTH ELEVATION @ BUILDING GRADE



2 WEST ELEVATION - MAINE AVENUE S.W.



3 EAST ELEVATION - 6TH STREET S.W.

KEY

BING THOM ARCHITECTS

ARENA STAGE PROJECT

BUILDING ELEVATIONS

21

A401