

COBB THEATRE 16 THE GROVE AT WESLEY CHAPEL

Analysis: The applicant previously applied for and received a waiver for this project; however, it was not possible to proceed with construction and the waiver will soon expire. During the interim, the scope of the project has been significantly revamped, resulting in two classes of seating within the theaters. In the six largest houses, traditional open seating is provided on the first level with a concierge level area accessed by an elevator. All seats on the second level are reserved and patrons may select the specific seats they wish to have. Food and beverage service is also provided on the concierge level and large, luxurious chairs will be installed to permit consumption of full course meals. Because of these changes, the numbers of seats in the theaters was reduced; however, the applicant maintained the same number of accessible seats that would have been required in the larger theaters. The applicant submitted estimates that it would cost an additional \$640,000 to provide access to all levels.

Project Progress:

The project is under design.

Items to be Waived:

Vertical accessibility to all rows of seats, as required by Section 553.509, Florida Statutes..

553.509 Vertical accessibility. Nothing in Sections 553.501-553.513 or the guidelines shall be construed to relieve the owner of any building, structure or facility governed by those sections from the duty to provide vertical accessibility to all levels above and below the occupiable grade level regardless of whether the guidelines require an elevator to be installed in such building, structure or facility, except for:

- (1) Elevator pits, elevator penthouses, mechanical rooms, piping or equipment catwalks and automobile lubrication and maintenance pits and platforms;
- (2) Unoccupiable spaces, such as rooms, enclosed spaces and storage spaces that are not designed for human occupancy, for public accommodations or for work areas; and
- (3) Occupiable spaces and rooms that are not open to the public and that house no more than five persons, including, but not limited to equipment control rooms and projection booths.

Waiver Criteria: There is no specific guidance for a waiver of this requirement in the code. The Commission's current rule, authorized in Section 553.512, Florida Statutes, provides criteria for granting waivers and allows consideration of unnecessary or extreme hardship to the applicant if the specific requirements were imposed.

**REQUEST FOR WAIVER FROM ACCESSIBILITY REQUIREMENTS
OF CHAPTER 553, PART V, FLORIDA STATUTES**

Your application will be reviewed by the Accessibility Advisory Council and its recommendations will be presented to the Florida Building Commission. You will have the opportunity to answer questions and/or make a short presentation, not to exceed 15 minutes, at each meeting. The Commission will consider all information presented and the Council's recommendation before voting on the waiver request.

1. Name and address of project for which the waiver is requested.

Name: Cobb Theatre 16 The Grove at Wesley Chapel

Address: Oakley Road near SR 54 and I-75

Pasco County, Florida

2. Name of Applicant. If other than the owner, please indicate relationship of applicant to owner and written authorization by owner in space provided:

Applicant's Name: Joseph L. Sweeney

Applicant's Address: 530 Beacon Parkway West Suite 900 Birmingham, AL 35209

Applicant's Telephone: (205) 443-3720 **FAX:** (205) 443-3790

Applicant's E-mail Address: jsweeney@ctsmarchitects.com

Relationship to Owner: Architect for Theatres

Owner's Name: Cobb Theatres LLC

Owner's Address: 2100 A South Bridge Parkway Suite 325; Birmingham, AL 35209

Owner's Telephone: (205) 802-7766 **FAX** (205) 802-7771

Owner's E-mail Address: _____

Signature of Owner:  as Agent and Architect for Cobb Theatres, LLC

Contact Person: Joe Sweeney or Lawrence L. Corley

Contact Person's Telephone: (205) 443-3720 **E-mail Address:** jsweeney@ctsmarchitects.com
lcorley@ctsmarchitects.com

This application is available in alternate formats upon request.
Form No. 2001-01

3. Please check one of the following:

- New construction.
- Addition to a building or facility.
- Alteration to an existing building or facility.
- Historical preservation (addition).
- Historical preservation (alteration).

4. Type of facility. Please describe the building (square footage, number of floors). Define the use of the building (i.e., restaurant, office, retail, recreation, hotel/motel, etc.)

Multi-Screen Movie Theatre One Story 74,000 +/- square feet
Group "A" Assembly

5. Project Construction Cost (Provide cost for new construction, the addition or the alteration):

\$ 7 million

6. Project Status: Please check the phase of construction that best describes your project at the time of this application. Describe status.

- Under Design Under Construction*
- In Plan Review Completed*

* Briefly explain why the request has now been referred to the Commission.

N/A

7. **Requirements requested to be waived.** Please reference the applicable section of Florida law. Only Florida-specific accessibility requirements may be waived.

Issue

1: See Attachment 'A'

Issue

2: _____

Issue

3: _____

8. **Reason(s) for Waiver Request:** The Florida Building Commission may grant waivers of Florida-specific accessibility requirements upon a determination of unnecessary, unreasonable or extreme hardship. Please describe how this project meets the following hardship criteria. Explain all that would apply for consideration of granting the waiver.

The hardship is caused by a condition or set of conditions affecting the owner which does not affect owners in general.

Substantial financial costs will be incurred by the owner if the waiver is denied.

See Attachment "A"

The owner has made a **diligent investigation** into the costs of compliance with the code, but cannot find an efficient mode of compliance. Provide detailed cost estimates and, where appropriate, photographs. Cost estimates must include bids and quotes.

9. **Provide documented cost estimates for each portion of the waiver request and identify any additional supporting data, which may affect the cost estimates.** For example, for vertical accessibility, the lowest documented cost of an elevator, ramp, lift or other method of providing vertical accessibility should be provided, documented by quotations or bids from at least two vendors or contractors.

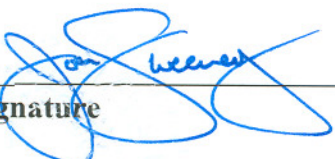
a. The following is the estimated cost impact for this theatre to comply with Section 553.509 of the Florida Statutes:

b. 16 lifts required (16 x \$40,000 each = \$640,000) See Attachment "B"

c. Also because 15% and 30% of seats (depending on house size) must be removed to accommodate the lifts. In addition, the seating platforms will be required to be wider to accommodate the wheelchairs at each tier of seating, further reducing the seat count by an estimated 15% to 30% per house

10. **Licensed Design Professional:** Where a licensed design professional has designed the project, his or her comments **MUST** be included and certified by signature and affixing of his or her professional seal. The comments must include the reason(s) why the waiver is necessary.

See Section 7


Signature

Joseph L. Sweeney
Printed Name

Phone number (205) 443-3720

(SEAL)

CERTIFICATION OF APPLICANT:

I hereby swear or affirm that the applicable documents in support of this Request for Waiver are attached for review by the Florida Building Commission and that all statements made in this application are to the best of my knowledge true and correct.

Dated this 22 day of January 2007



Signature

Joseph L. Sweeney

Printed Name

By signing this application, the applicant represents that the information in it is true, accurate and complete. If the applicant misrepresents or omits any material information, the Commission may revoke any order and will notify the building official of the permitting jurisdiction. Providing false information to the Commission is punishable as a misdemeanor under Section 775.083, Florida Statutes.

Attachment 'A'

The Florida State Statutes Section 553.509 VERTICAL ACCESSIBILITY states that “Nothing in Sections 553.501 – 553.513 or the guidelines shall be construed to relieve the owner of any building, structure or facility governed by those sections for the duty to provide vertical accessibility to all levels above and below the habitable grade level, regardless of whether the guidelines require an elevator to be installed in such building, structure or facility.” The stadium seating concept is one relatively new to the movie theater industry therefore it is commonly believed that this type of building construction was not anticipated during the drafting of legislation for vertical accessibility nor that it was meant to mean that every level or platform of stadium seating be made accessible. The design industry has relied on Section 4.33.3 Placement of Wheelchair Locations for direction during the design process. This section states:

“Wheelchair areas shall be an integral part of any fixed seating plan and shall be provided so as to provide people with physical disabilities a choice of admission prices and lines of sight comparable to those for members of the general public. They shall adjoin an accessible route that also serves as a means of egress in case of emergency. At least one companion fixed seat shall be provided next to each wheelchair seating area. When the seating capacity exceeds 300, wheelchair spaces shall be provided in more than one location. Readily removable seats may be installed in wheelchair spaces when the spaces are not required to accommodate wheelchair users. EXCEPTION: Accessible viewing positions may be clustered for bleachers, balconies and other areas having sight lines that require slopes of greater than 5 percent. Equivalent accessible viewing positions may be located on levels having accessible egress.”

It is the design industries desire and duty to incorporate the findings and wishes of the Council and Board with sound and practical construction methods. However, it is impossible to provide vertical accessibility to each level of stadium seating due 1) to the high cost and 2) to the requirements of the ADA Section 4.33.3 which states “they (stadium seating) shall adjoin an accessible route that also serves as a means of egress in case of emergency.” It is impractical to achieve this in a stadium seating movie theatre and accommodate the needs of all patrons. We have therefore established the goal of locating accessible seating to within 0% to 20% of the center of each house achieving a disbursed pattern and providing for companion seating as well as achieving comparable sight lines. Having complied with the remaining requirements of Section 4.33.3 it is our belief that this compromise is an acceptable solution to the concerns of all patrons.

4.33 ASSEMBLY AREAS STAFF WAIVER ANALYSIS

Name of Assembly: Cobb Theatres 16 The Grove at Wesley Chapel New Alteration Addition

Auditorium Category	Auditorium numbers in the category	Wheelchair spaces per auditorium			Companion seating provided? Y/N	Number of wheelchair spaces provided in:		
		Provided	FL requires	ADA requires		Front Zone A	Middle Zone B	Back Zone C
A. Fixed Seats 51 to 100	Houses 4, 5	4	4	4	Yes	0	4	0
B. Fixed Seats 101 – 200	Houses 3, 6, 13, 14	5	5	4	Yes	0	5	0
	Houses 2, 7, 12, 15	5	5	4		0	5	0
	Houses 8, 11	6	5	4		0	4	2
C. Fixed Seats 201 to 300	Houses 1, 16	8	6	4	Yes	0	6	2
D. Fixed Seats 301 to 400	Houses 9, 10	8	7	6	Yes	0	6	2
E. Fixed Seats 401 to 500	N/A	—	8	6	Yes	0	4	4
F. Fixed Seats 501 to 600	N/A	—	9	7	—	—	—	—
G. Fixed Seats 601 and up	N/A	—	—	—	—	—	—	—

Wheelchair spaces required: FL 51 to 100 -- 4 + 1 for every 100 fraction. ADAAG 51 to 300 -- 4; 301 to 500 -- 6 + 1 for every 100 or fraction. When the seating capacity exceeds 300, wheelchair spaces shall be provided in more than one location.

In theatres seating 150 or more, 50% of wheelchair spaces should be located in zone B (sweet spot) as per Charette 2-10-98.

ANY EXPLANATIONS:

Attachment 'B'

ELEVATORS, Etc.

ACCESSIBILITY EQUIPMENT SALES and SERVICE

1773 Blount Road, Suite 303
Pompano Beach, FL 33069
(954) 970-0767
Fax (954) 970-7227

September 30, 1998

Mr. Lawrence L. Corley
BAILEY-CORLEY & ASSOCIATES, Inc.
530 Beacon Parkway West, Suite 701
Birmingham, AL 35209

RE: Movie Theater - vertical accessibility

Dear Mr. Corley:

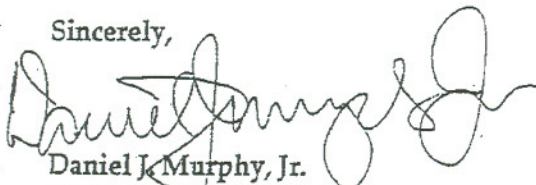
As discussed with members of your firm, there isn't any type of equipment on the market at this time that I am aware of that is designed to provide vertical access to every level of a movie theater such as the ones we've reviewed.

An incline platform lift complying with ADA and ANSI elevator codes could be utilized to provide access to up to seven levels per lift however. The cost of such a lift is estimated to be between \$40,000.00 and \$50,000.00. Therefore, in order to accommodate up to 14 levels, you can estimate a cost of \$80,000.00 to \$100,000.00.

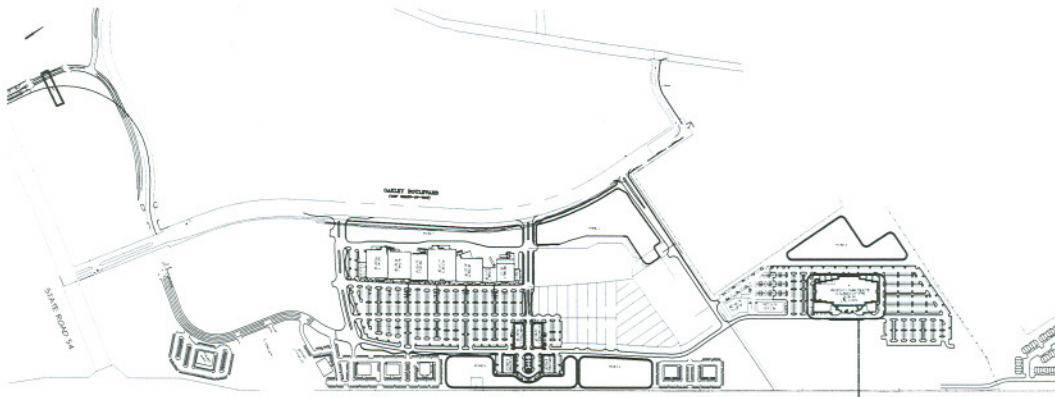
As you know, the equipment has clearance requirements that need to be met in order for it to fit in a given stairway. However, this should not pose a significant problem.

I'd be happy to review any other plans if you wish and get the manufacturers more involved with this issue if you feel it appropriate. Thank you for asking me to review this matter.

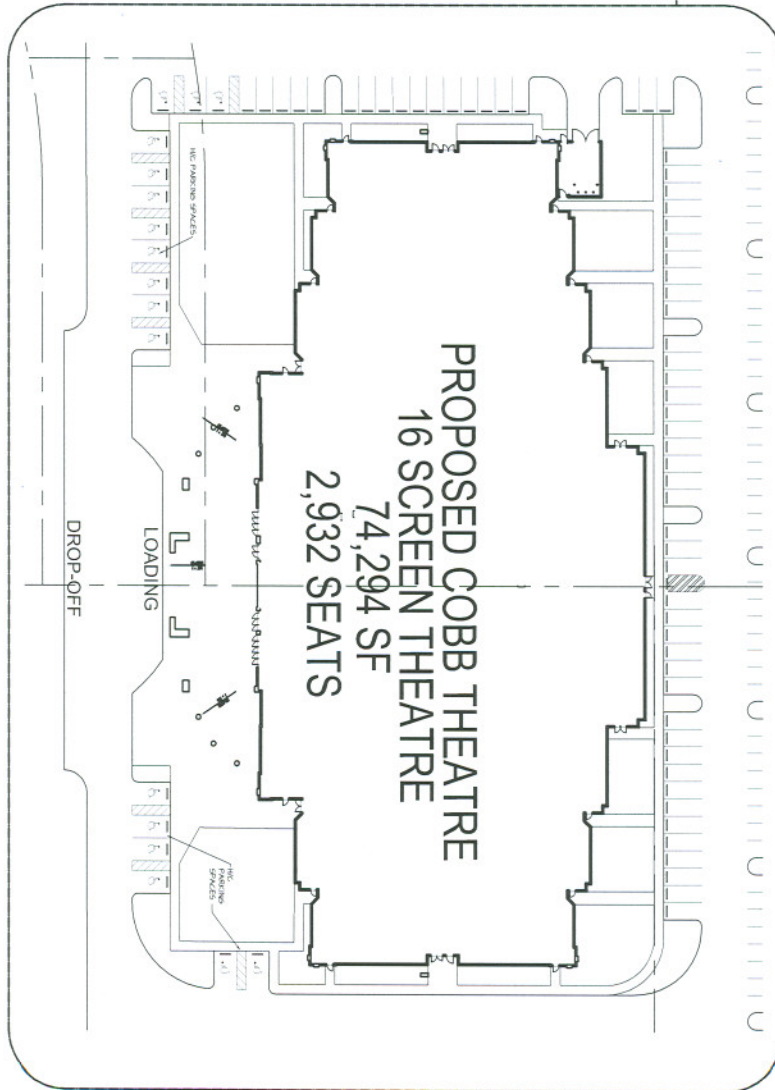
Sincerely,



Daniel J. Murphy, Jr.
South Florida Sales Manager



D1 OVERALL DEVELOPMENT SITE PLAN
SCALE: 1" = 400' 0"



D3 PROPOSED SITE PLAN
SCALE: 1" = 30' 0"

A001

THE GROVE
COBB THEATRE
Wesley Chapel

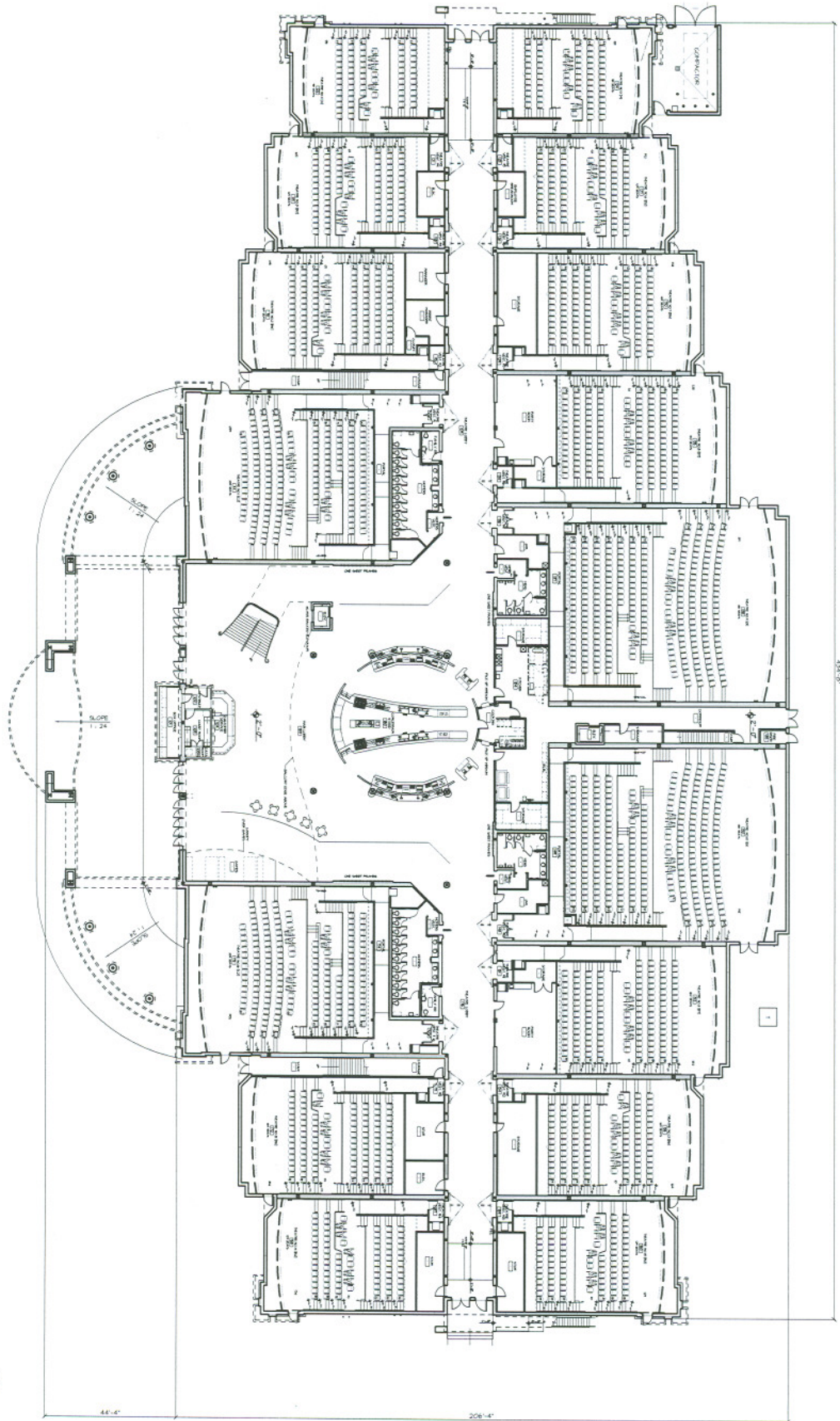
Pasco County, Florida

01-15-07
1787

PROPOSED SITE PLAN

CorleyTimothySweeneyMcCormac
CTSM ARCHITECTS, INC.
530 BEACON PARKWAY W. / SUITE 900 / BIRMINGHAM, ALABAMA 35209
T 205-443-3720 F 205-443-3790 W ctismarchitects.com FL Reg. # 9703





PROJECTED MAIN LEVEL FLOOR PLAN
 SCALE: 1/8" = 1'-0"
 CONCEPTUAL DATA 1-18-07
 SEATS: 8 23" EACH 2832 SEATS
 FOOTPRINT: 56 FT. 14,234 SQ.FT.



A101

THE GROVE
 COBB THEATRE
 Wesley Chapel

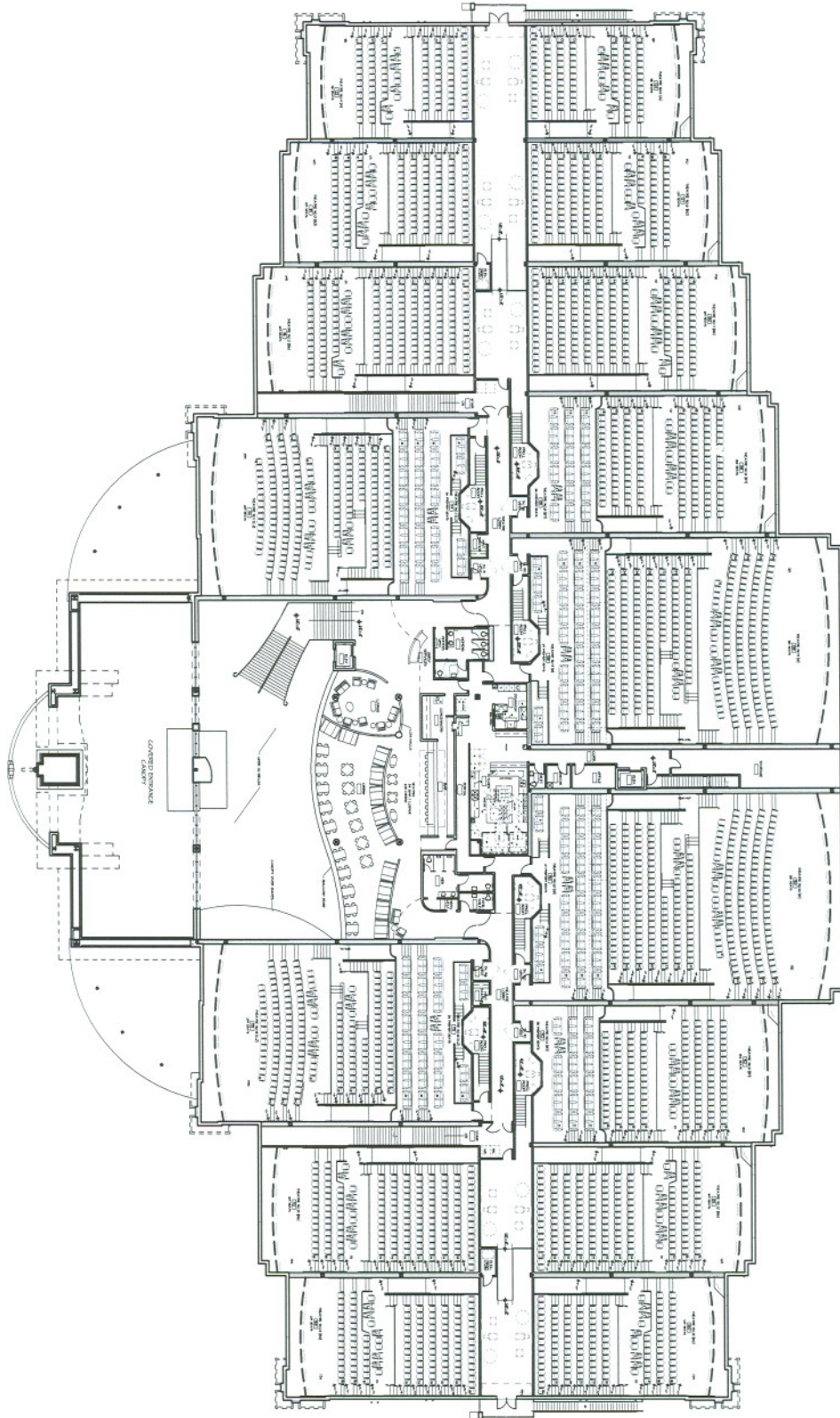
Pasco County, Florida

1-15-07
 1787

PROJECTED MAIN LEVEL
 FLOOR PLAN

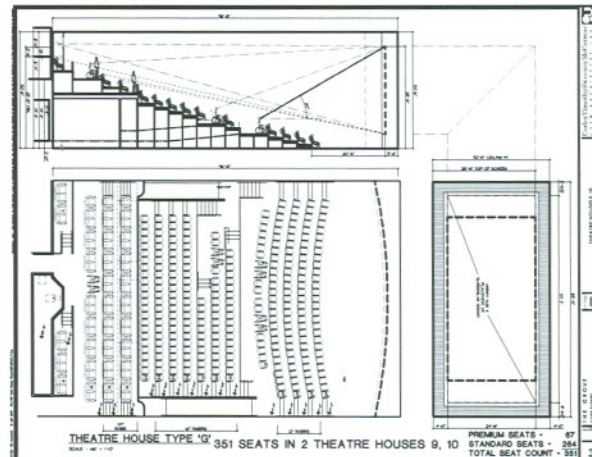
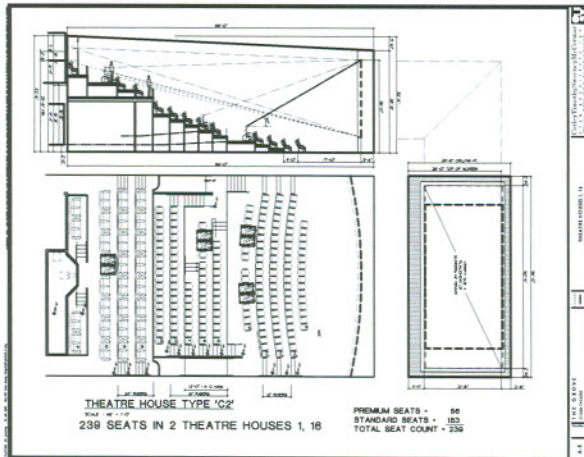
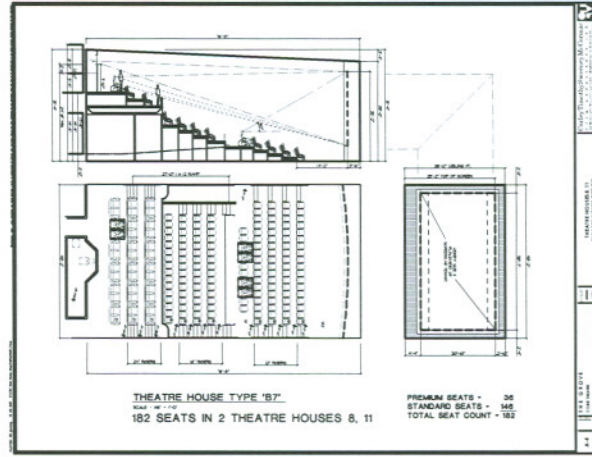
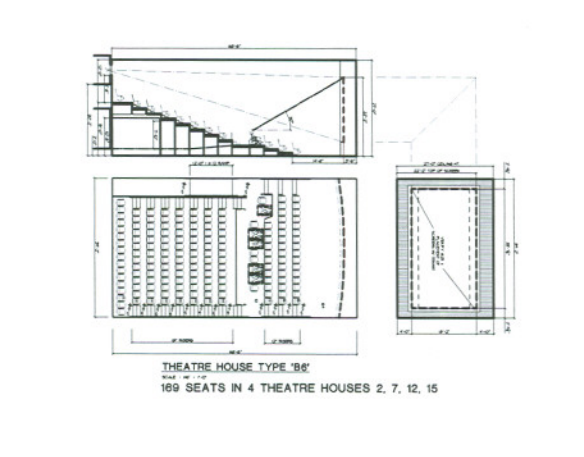
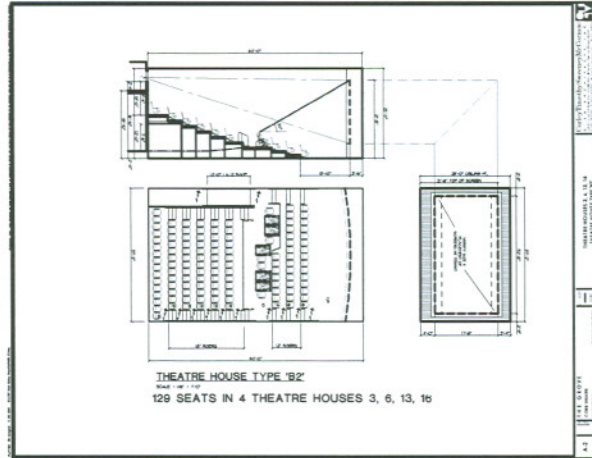
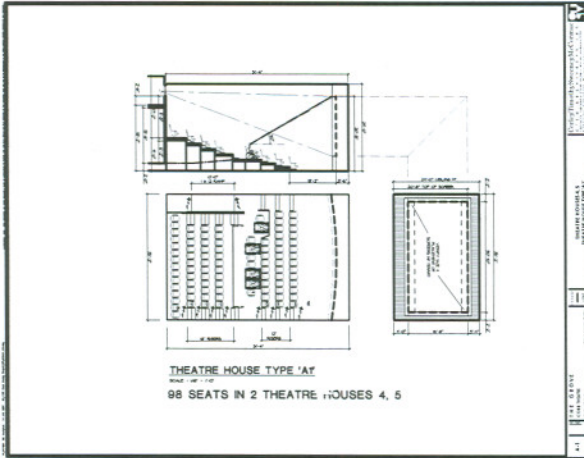
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 C T S M ARCHITECTS, INC.
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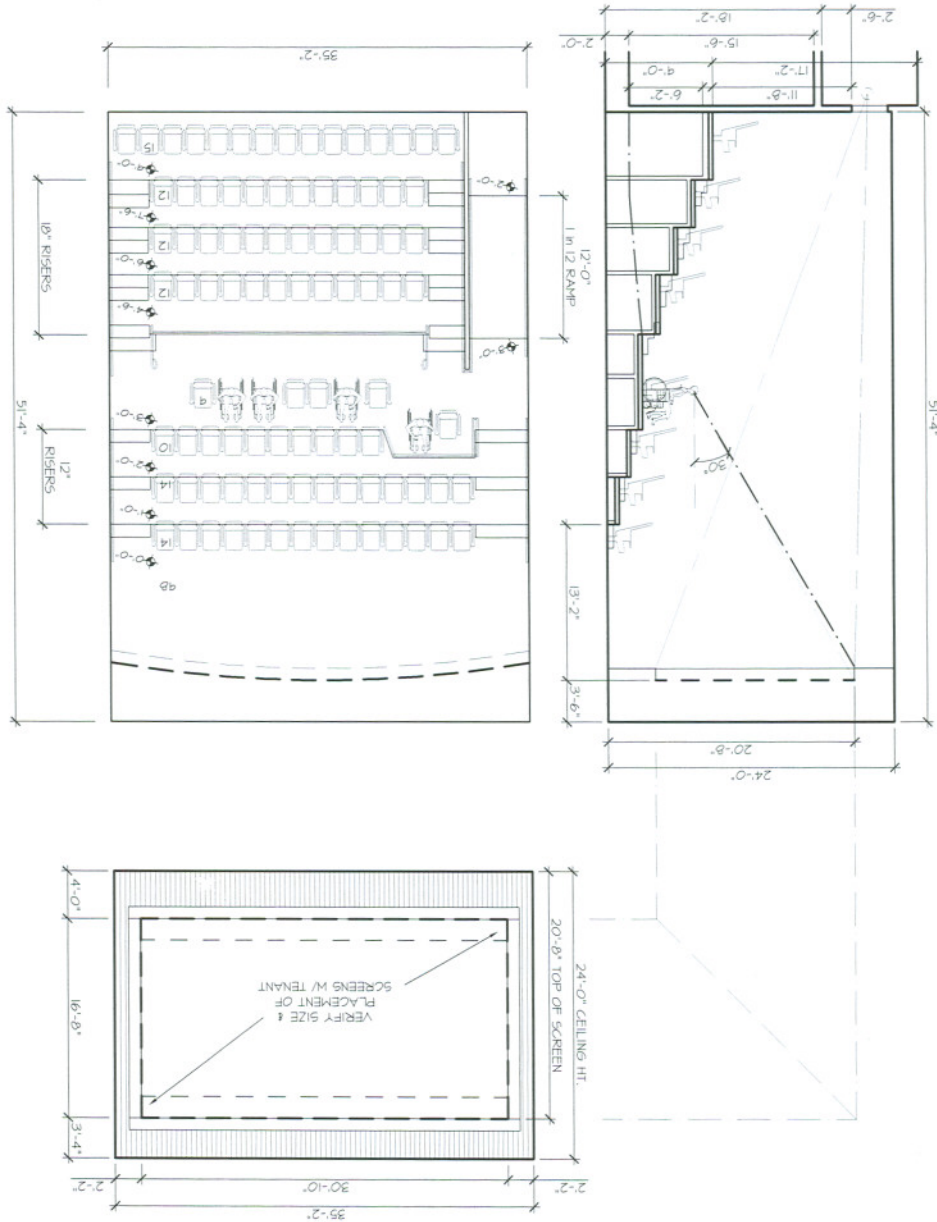




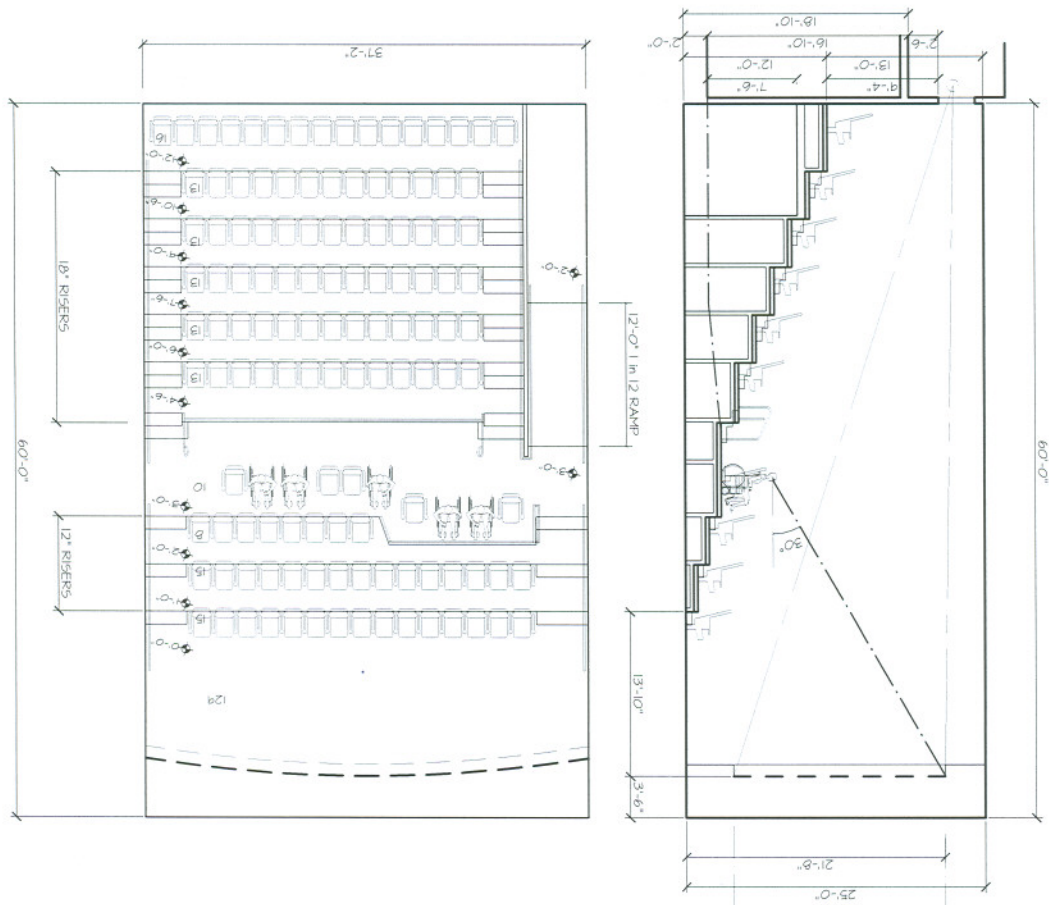
PROJECTION LEVEL FLOOR PLAN
SCALE - 1/8" = 1'-0"



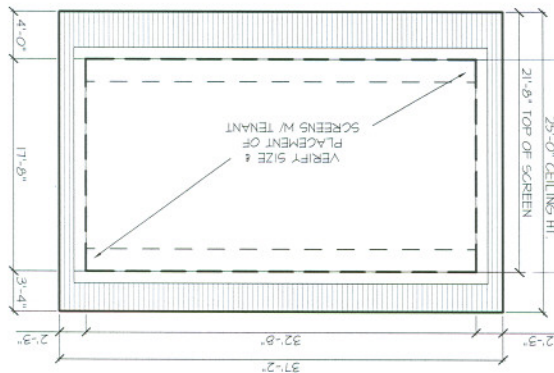




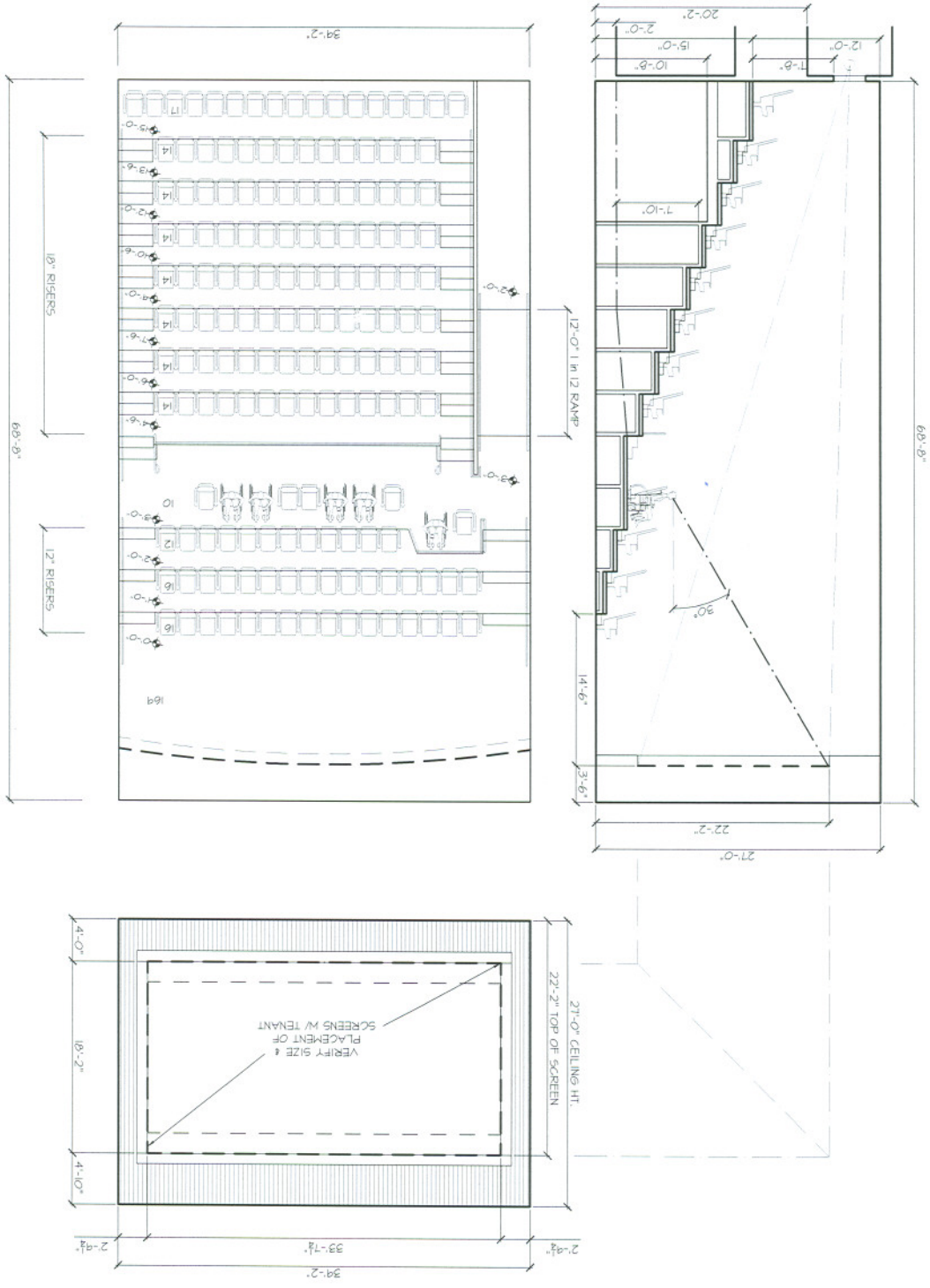
THEATRE HOUSE TYPE 'A1'
 SCALE = 1/8" = 1'-0"
98 SEATS IN 2 THEATRE HOUSES 4, 5

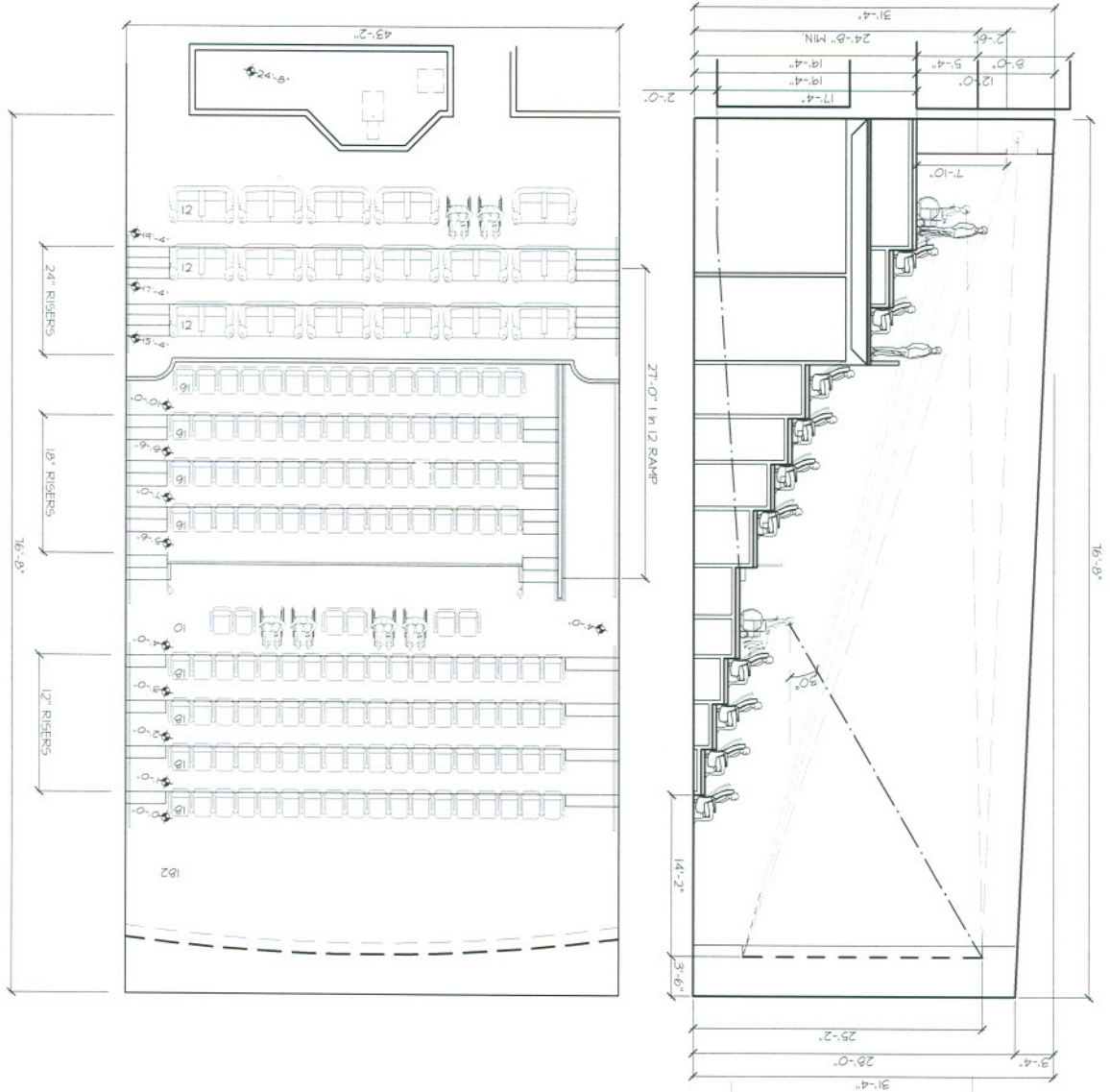


THEATRE HOUSE TYPE 'B2'
 SCALE: 1/8" = 1'-0"
 129 SEATS IN 4 THEATRE HOUSES 3, 6, 13, 16

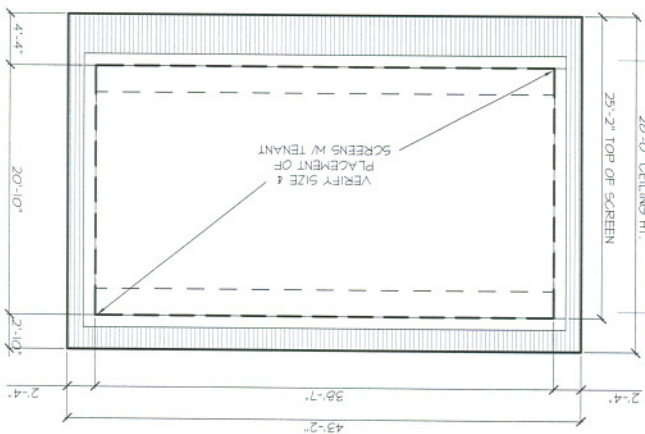


THEATRE HOUSE TYPE 'B6'
SCALE: 1/16" = 1'-0"
169 SEATS IN 4 THEATRE HOUSES 2, 7, 12, 15





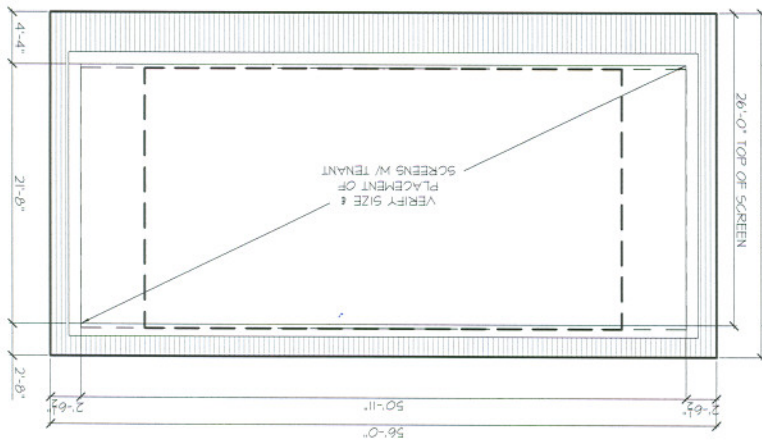
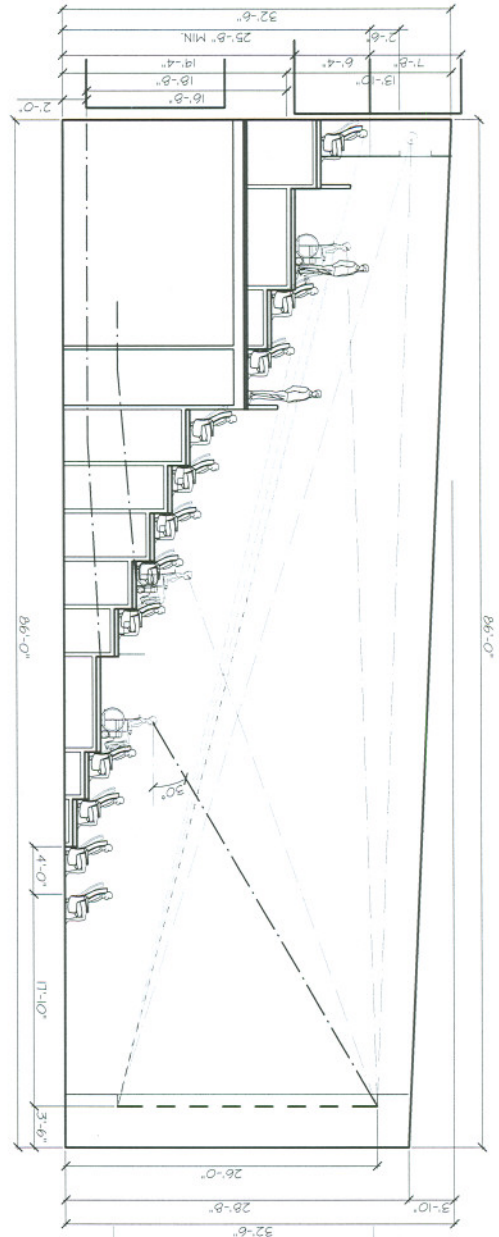
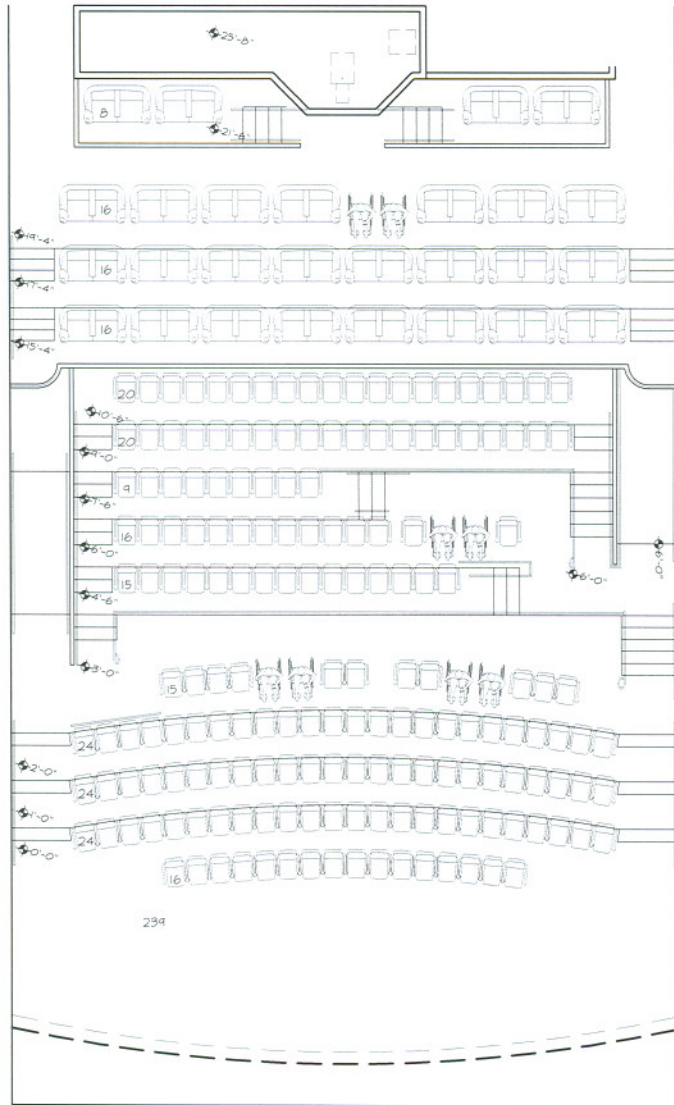
THEATRE HOUSE TYPE 'B7'
 SCALE: 1/16" = 1'-0"
182 SEATS IN 2 THEATRE HOUSES 8, 11



PREMIUM SEATS - 36
STANDARD SEATS - 146
TOTAL SEAT COUNT - 182

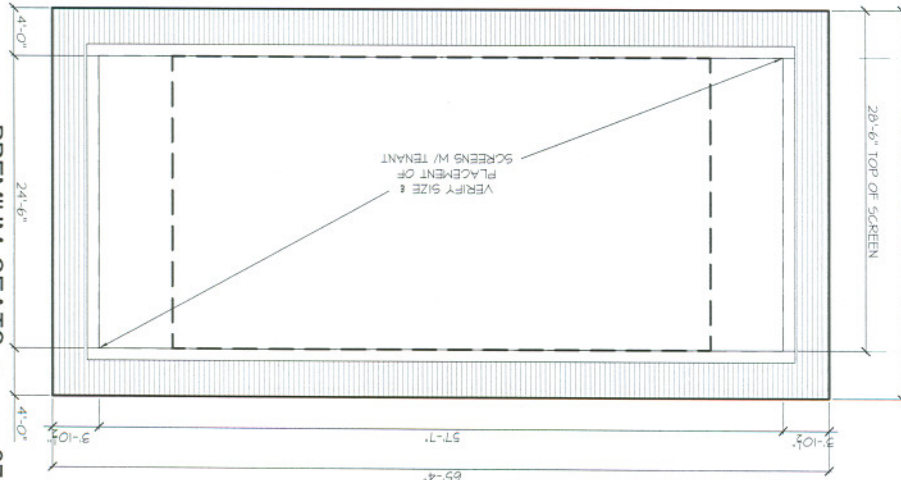
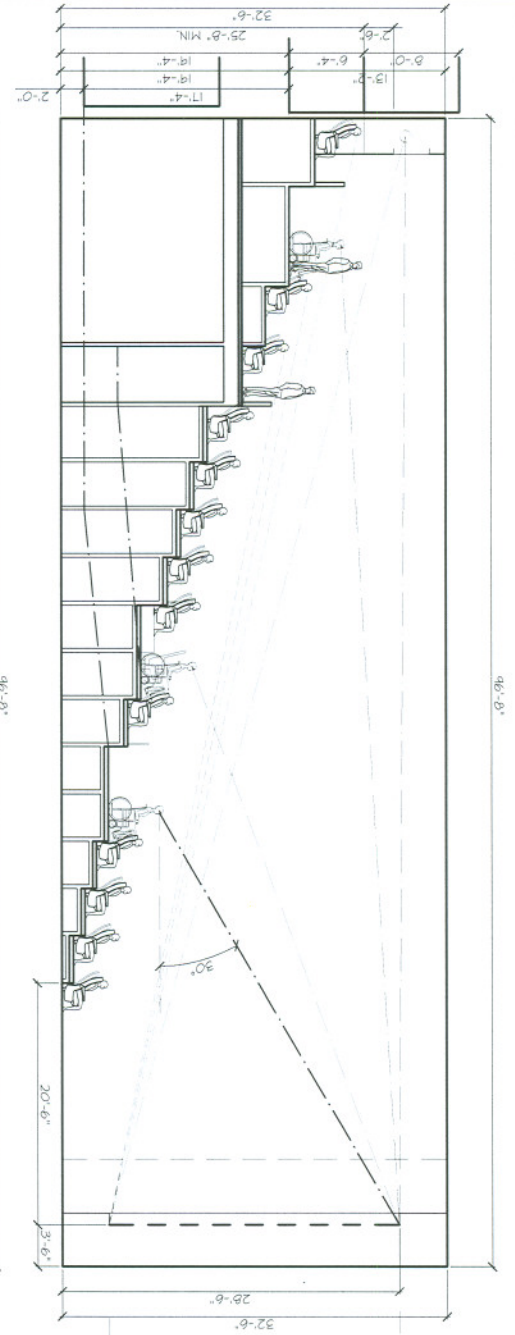
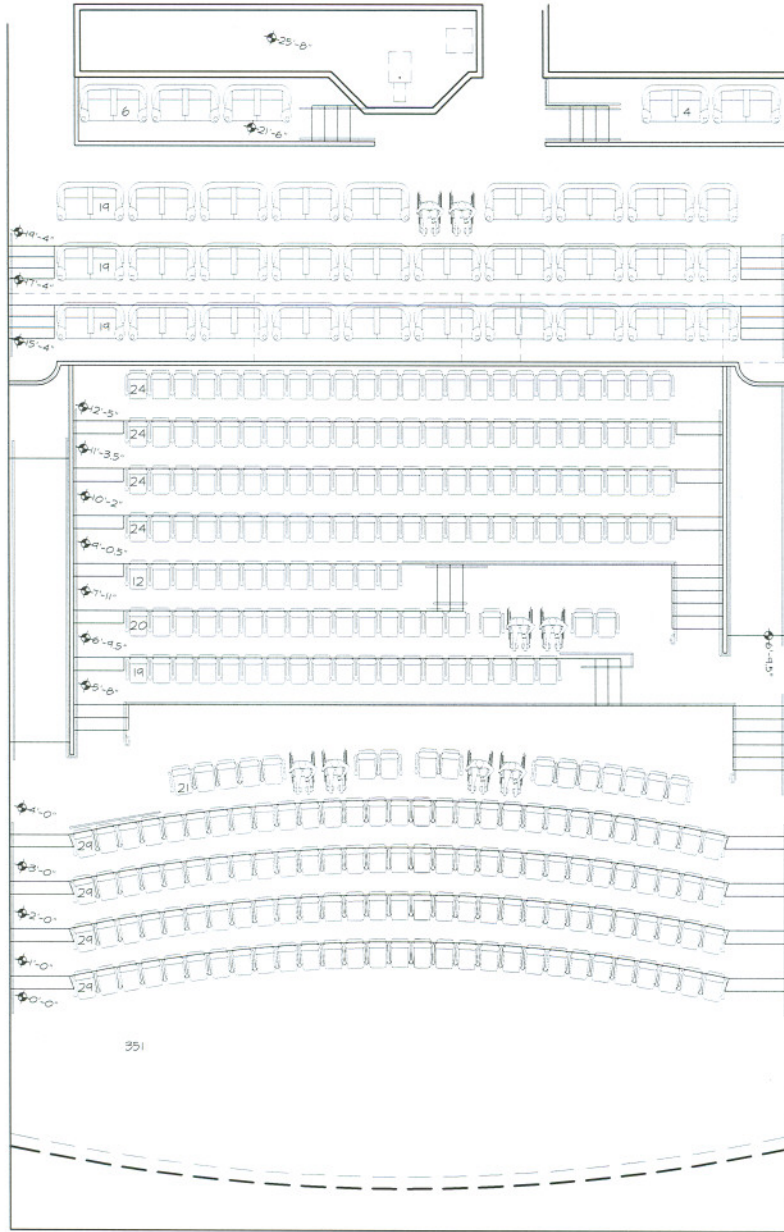


THEATRE HOUSE TYPE 'C2'
SCALE: 1/8" = 1'-0"
239 SEATS IN 2 THEATRE HOUSES 1, 16



PREMIUM SEATS - 56
STANDARD SEATS - 183
TOTAL SEAT COUNT - 239

THEATRE HOUSE TYPE 'G'
 SCALE: 1/8" = 1'-0"
351 SEATS IN 2 THEATRE HOUSES 9, 10



PREMIUM SEATS = 67
STANDARD SEATS = 284
TOTAL SEAT COUNT = 351



5/28/06

STATE OF FLORIDA
BUILDING COMMISSION

In the Matter of)
COBB THEATER 18)
THE GROVE AT WESLEY CHAPEL:)
JOSEPH L. SWEENEY,)
)
Petitioner.)
_____)

No. DCA06-HC-081

FINAL ORDER

The Application for Waiver by Petitioner, JOSEPH L. SWEENEY, came for consideration before the State of Florida Building Commission (“the Commission”) in accordance with Section 553.512(1), Florida Statutes, and Chapter 9B-7, Florida Administrative Code, at the meeting of the Commission on February 7, 2006, upon a recommendation by the Accessibility Advisory Council (“the Council”). At that meeting, the Commission made the following findings of fact:

1. Lawrence L. Corely, AIA, appeared before the Council on Petitioner’s behalf.
2. The project for which the Petitioner seeks a waiver is the construction of an eighteen-theater movie complex.
3. The project is located at Oakley Road near SR-54 and I-75, Pasco County, Florida.
4. The requirements from which the Petitioner seeks a waiver are those in the Florida Americans with Disabilities Accessibility Implementation Act (“the Act”), Section 553.509, Florida Statutes, which require the Petitioner to provide vertical accessibility to all levels above and below the occupiable grade level of a building, structure, or facility.
5. Petitioner presented construction plans demonstrating appropriate seating facilitation within each of the theaters.

6. Based on its consideration of the foregoing information, the description of the construction, the representations by the Petitioner, and the applicable legal requirements, the Council has recommended that the Application for Waiver be approved under the provisions of Section 553.512, Florida Statutes, on the grounds that the literal requirements of the Act would cause unnecessary hardship.

Having considered the foregoing information, together with the recommendation of the Council, the Commission hereby agrees with the Council's recommendations, and concludes that action on the Application for Waiver be, and hereby is, GRANTED.

This Final Order is intended for the enforcement of the Florida Americans With Disabilities Accessibility Implementation Act, as amended, Section 553.501 et seq., Florida Statutes, and, other than as modified by this Final Order, any construction or post-construction activities which deviate from the requirements of that Act will be deemed to be a violation of this Final Order.

Responsibility for the enforcement of this Final Order and for enforcement of the Americans with Disabilities Accessibility Implementation Act shall rest with the Building Official of the local government with permitted authority for the project. §553.513, Fla. Stat. Nothing in this final Order shall be construed to relieve the Owner of any duties it may have under the Americans With Disabilities Act of 1990, Pub. L. No. 101-336, § 42 U.S.C. 12101 et seq., or other applicable regulations. Any waiver granted in this Final Order shall expire one (1) year from the date of the Order unless the construction has commenced within that time.

Petitioner and all other interested parties are hereby advised of their right to seek judicial review of this Order in accordance with Section 120.68(2)(a), Florida Statutes, and Florida Rules of Appellate Procedure 9.110(a) and 9.030(b)(1)(C). To initiate an appeal, a Notice of Appeal must be

Chairman, Accessibility Advisory Council
City of West Palm Beach
P.O. Box 3366
West Palm Beach, Florida 33402-3366

Lawrence L. Corely, AIA
530 Beacon Parkway West
Suite 701
Birmingham, Alabama 35209