

## **THE MERCATO**

**Issue:** Vertical accessibility to all rows of seats in a multi-theater movie complex.

**Analysis:** The applicant is requesting a waiver from providing vertical accessibility to all rows of seats in a new \$4.5 million theater complex located on the second floor of the build out of a two story mixed use building. Plans submitted indicate that the appropriate number of wheelchair locations and companion seating are planned on the first level of the stadium style seating. No actual estimates of the cost to provide vertical accessibility were submitted; however, a contractor's letter indicated it would be cost prohibitive and likely eliminate the financial ability to fund the project. In addition to the theaters, the project will include concessions, kitchen, dining room/lounge, toilet rooms and administrative and employee facilities.

### **Project Progress:**

The project is under design.

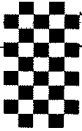
### **Items to be Waived:**

Vertical accessibility to all rows of seating, 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.



This application is available in alternate formats upon request.

**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: The Mercato - 11-Screen Movie Theater

Address: The Strada at Mercato Mixed-Use Planned Unit development.  
Ordinance number 2005-58, Building 8.  
Section 34, Township 48S, Range 25E, Collier 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: Gould Evans, PL Steve Carpenter, AIA, Principal

Applicant's Address: 5405 W. Cypress St., Suite 112 Tampa, FL 33607

Applicant's Telephone: (813)288-0729 FAX: (813)288-0231

Applicant's E-mail Address: Steve.Carpenter@gouldevans.com


Relationship to Owner: owner's architect

Owner's Name: Gonzalo Ulivi

Owner's Address: Cines Unidos, La Piramide, Planta Alta, Ofc. 1, entre Av. Rio Caura v Av. Paragua, URB. Prados del Este, Caracas, Venezuela

Owner's Telephone: +58(212) 907-6400 FAX: +58(212)907-7741

Owner's E-mail Address: gulivih@cinesunidos.com

Signature of Owner: 

Contact Person: Steve Carpenter

Contact Person's Telephone: (813)288-0729

E-mail Address: Steve.Carpenter@gouldevans.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.)

This 11-screen multi-plex movie theater is a tenant improvement of part of the second floor space of a new two storey retail/mixed-use building. The theater space will include 11 auditoriums, a concessions counter, kitchen, and a dining room/lounge with support spaces, and restrooms. A mezzanine space will be included for projection, support, administrative offices and employee breaks. Ticketing will be by automatic teller machines located before the entry, outside the lobby area.

**5. Project Construction Cost (Provide cost for new construction, the addition or the alteration):** 4.5 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.

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

**Issue**

1: Section 11.4.1.6.1.k.iii. The requirement to provide vertical access to all levels of the facility specifically to provide vertical access to each independent stadium seating level.

**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.

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

Strict interpretation of section 11.4.2.6.1.k.iii requires the owner to provide vertical accessibility to all levels above or below a habitable grade. However we do not believe that this type of building was contemplated by the legislation in the drafting and implementation of the law and that the statute itself would impose a hardship on the applicant that is unique to the situation and more specifically its use, nor that they meant every level of stadium seating. It is impossible to provide vertical accessibility to each level of stadium seating. This is due to the costs and the requirements of the FACBC and the ADA (They [the seating] shall adjoin an accessible route that also serves as a means of egress in case of emergency). This cannot be accomplished in a stadium seating environment.

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

\_\_\_\_\_  
\_\_\_\_\_

[ ] 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.

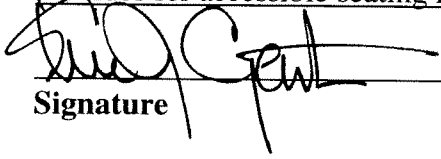
a. see attachment (A) : estimate and description of scope from HOAR Construction

b. \_\_\_\_\_

c. \_\_\_\_\_

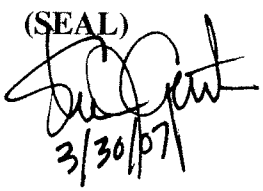
10. **Licensed Design Professional:** Where a licensed design professional has designed the project, his or her comments **MUST** be included and certified by signature and affixing of his or her professional seal. The comments must include the reason(s) why the waiver is necessary.

We believe that the seating plan, as designed, conforms with the intent of the Legislature to provide for dispersed seating option in stadium-type seating. The arrangement as designed provides for accessible seating locations with optimized viewing angles.



\_\_\_\_\_  
Steven J. Carpenter, AIA  
Printed Name

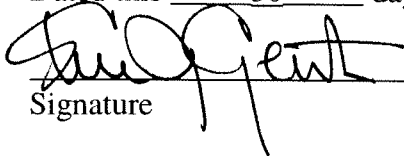
Phone number 813-288-0729

(SEAL)  
  
3/30/07

**CERTIFICATION OF APPLICANT:**

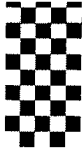
I hereby swear or affirm that the applicable documents in support of this Request for Waiver are attached for review by the Florida Building Commission and that all statements made in this application are to the best of my knowledge true and correct.

Dated this 30 day of March, 2007

  
\_\_\_\_\_  
Signature

Steven J. Carpenter, AIA  
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.



**HOAR**  
CONSTRUCTION

Two Metroplex Drive  
Suite 400  
Birmingham, AL 35209

205 . 803 . 2121 (T)  
205 . 423 . 2323 (F)

March 29, 2007

Terra Wood  
Gould Evans Associates  
5405 West Cypress Street  
Suite 112  
Tampa, FL 33607  
Fax: 813-288-0231

Dear Terra,

Confirming our conversation, the addition of lifts for vertical access to the stadium seatings would be cost prohibitive to this project. It would require either individual lifts in each auditorium house, or a additional structural mezzanine connecting all houses with central elevators. This additional cost would most likely prevent this project from being financially feasible in moving forward. If you have any questions, do not hesitate to call.

Sincerely,  
Hoar Construction, LLC

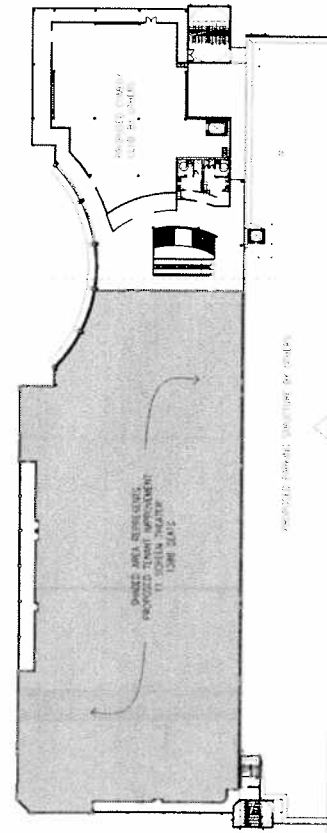
Bill Heath  
Senior Project Manager

CC: File

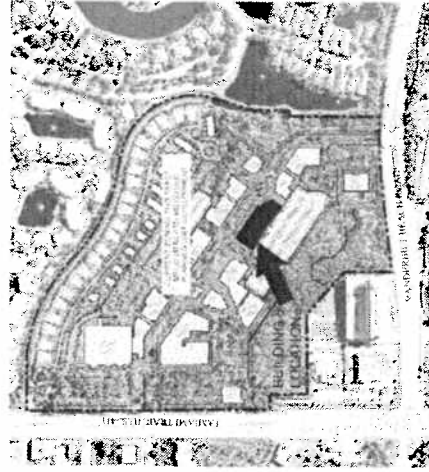
# 11 SCREEN THEATER AT THE MERCATO, NAPLES

The Strada at Mercato Mixed-Use Planned Unit development,  
Ordinance number 2005-58, Building 8,  
Section 34, Township 48S, Range 25E, Collier County, Florida

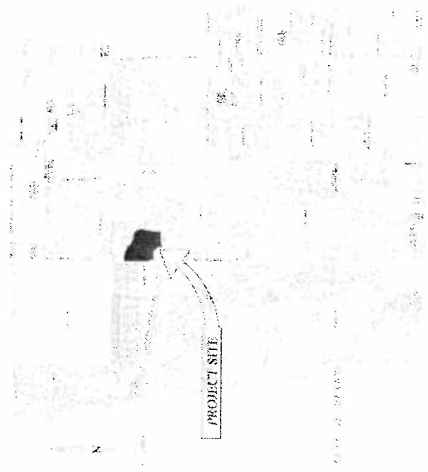
| INDEX OF DRAWINGS |                        |
|-------------------|------------------------|
| 001               | COVER                  |
| A101              | EMPTY LEVEL FLOOR PLAN |
| A102              | ALL SEATS FLOOR PLAN   |
| A103              | MEZZANINE FLOOR PLAN   |
| A1                | AUDITORIUM 1           |
| A2                | AUDITORIUM 2 & 10      |
| A3                | SEA 3, 4, 5, 9 & 11    |
| A4                | AUDITORIUM 5           |
| A5                | AUDITORIUM 7           |



PROPOSED SECOND FLOOR PLAN - BUILDING 8  
REV. 11-08



LOCATION MAP  
NO. 105346



VICINITY MAP  
NO. 105346

**GouldEvans**

4900A Grand Fern Avenue, N.  
4025 West Cypress Street  
Naples Florida 34107  
Voice 813 288 0779  
Fax 813 288 0731  
www.gould-evans.com

license city - florida - florida - florida  
all state city - all florida - florida

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11 SCREEN  
THEATER  
MERCATO

Naples, FL

| REVISION | DATE |
|----------|------|
|          |      |

Project No. 1008-1696  
Date 2007-03-29  
Sheet

Location  
Site Plan

**A-001**



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**11 SCREEN THEATER MERCATO**  
 Naples, FL

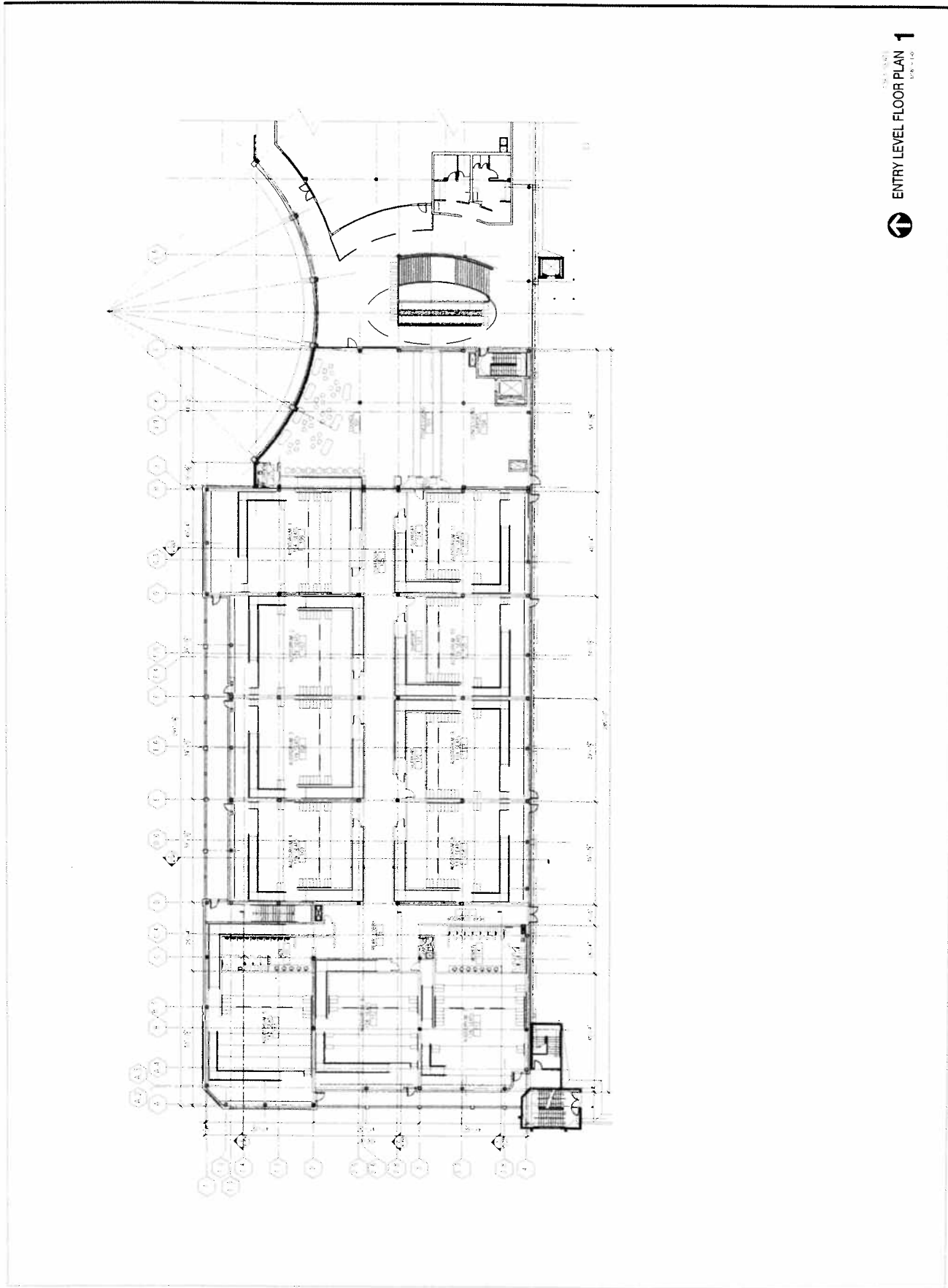
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| DATE        | 2007-03-29 |
| SHEET       |            |

REVISION: \_\_\_\_\_ DATE: \_\_\_\_\_

Project No. 0306-1800  
 Date 2007-03-29  
 Sheet

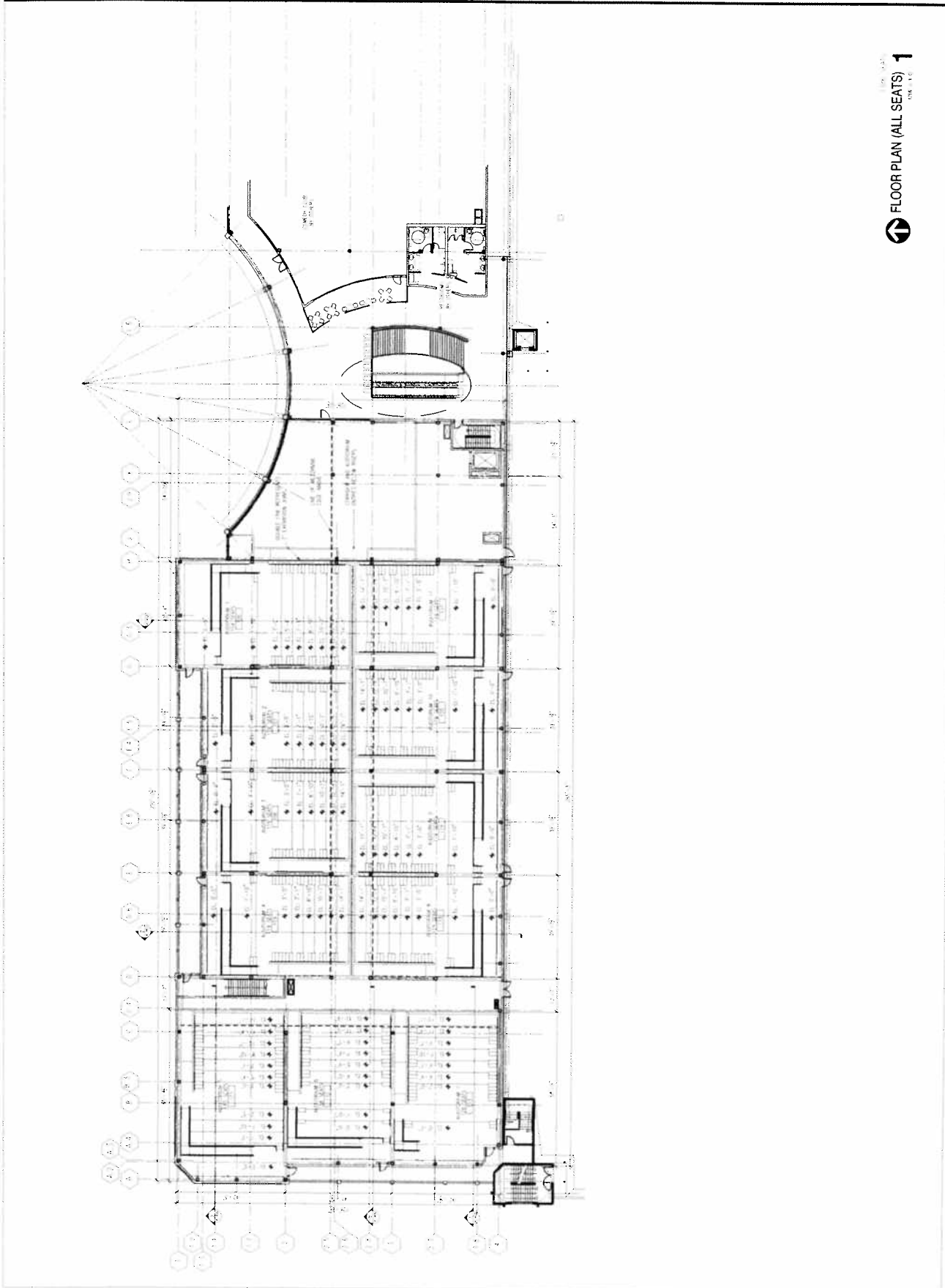
Floor Plan  
 Entry Level

**A-101**



ENTRY LEVEL FLOOR PLAN 1

| REVISION | DATE |
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|          |      |



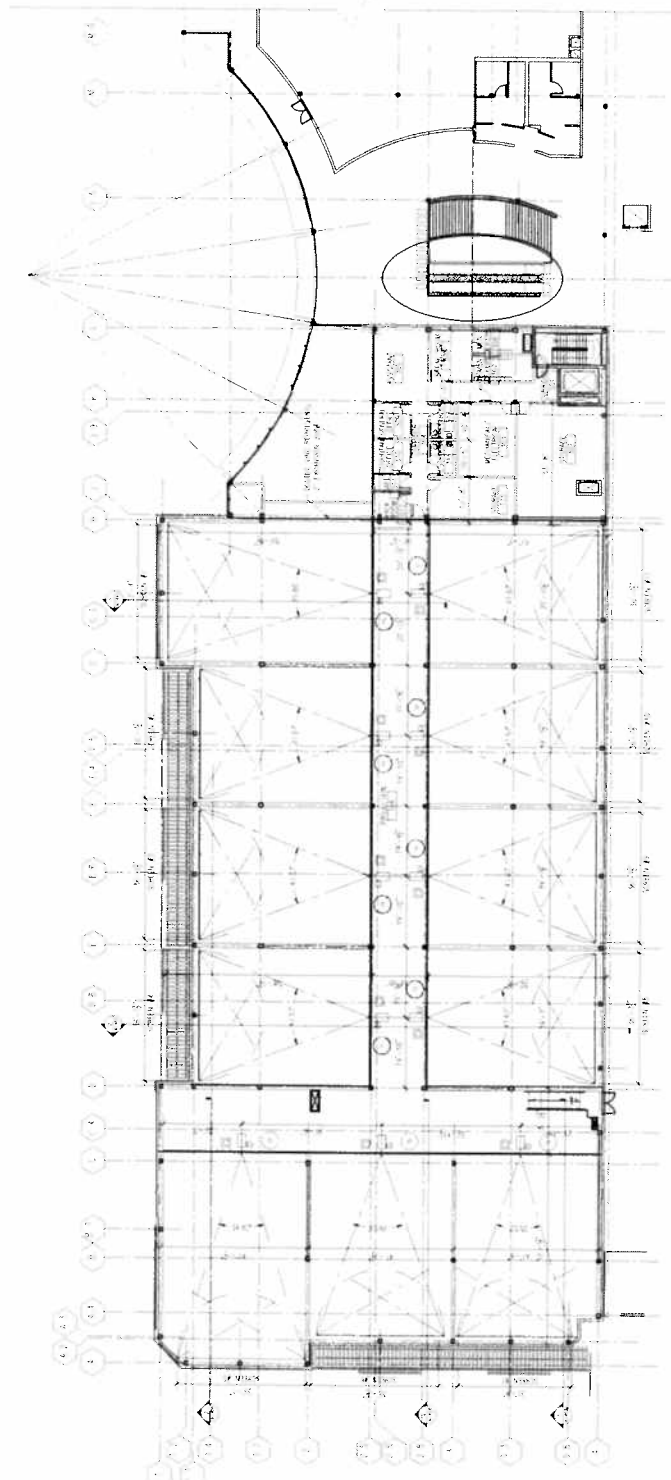
**FLOOR PLAN (ALL SEATS) 1**

**11 SCREEN  
 THEATER  
 MERCATO  
 NAPLES, FL**

| REVISION | DATE |
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Project No: 0304-1630  
 Date: 2007.03.29  
 Sheet: 1

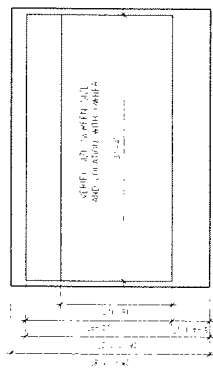
**Floor Plan  
 Mezzanine  
 A-103**



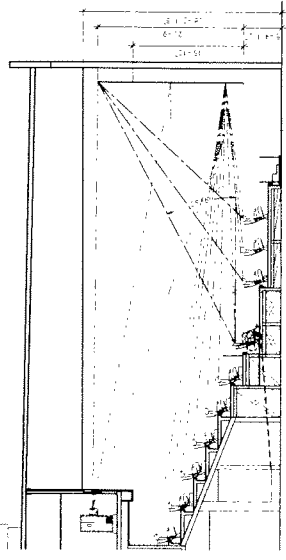
**MEZZANINE FLOOR PLAN 1**

| REVISION | DATE |
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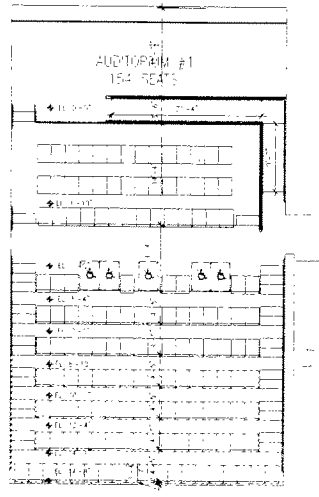
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 Date: 2007-06-29  
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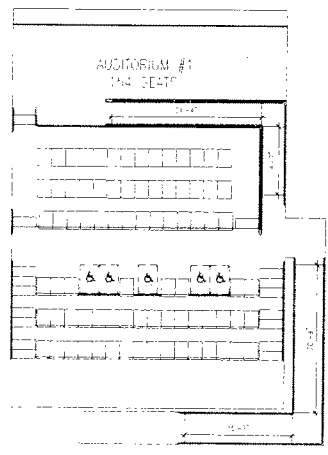
AUDITORIUM 1 ELEVATION  
 1/8" = 1'-0"



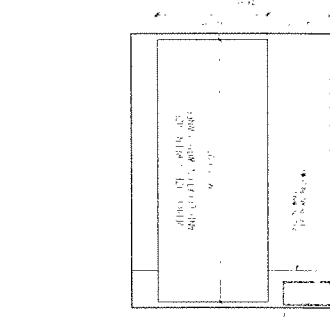
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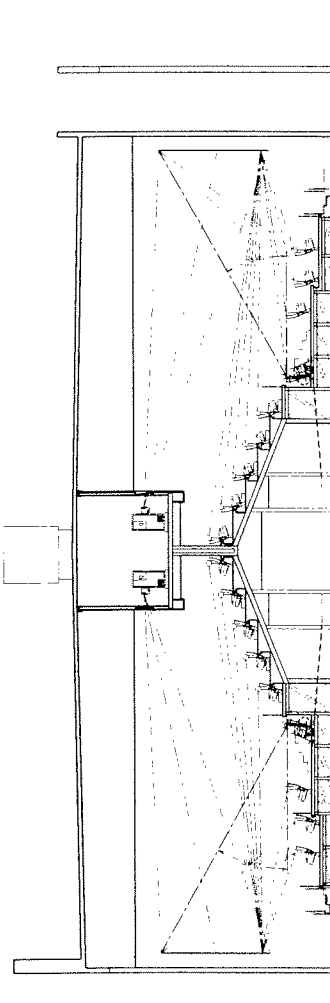
AUDITORIUM 1 ALL SEATS FLOOR PLAN  
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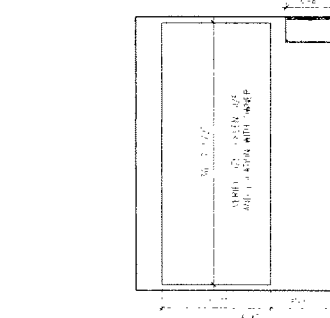
AUDITORIUM 1 FIRST FLOOR PLAN  
 1/8" = 1'-0"



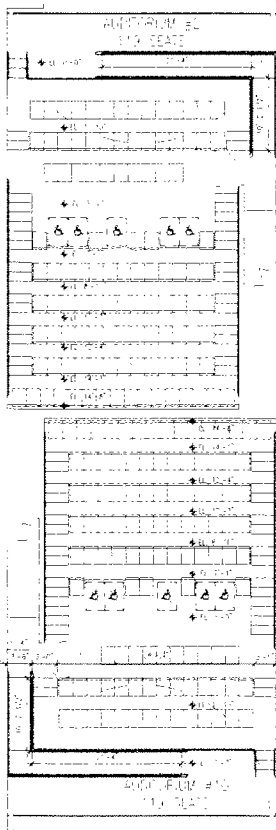
AUDITORIUM 2 ELEVATION  
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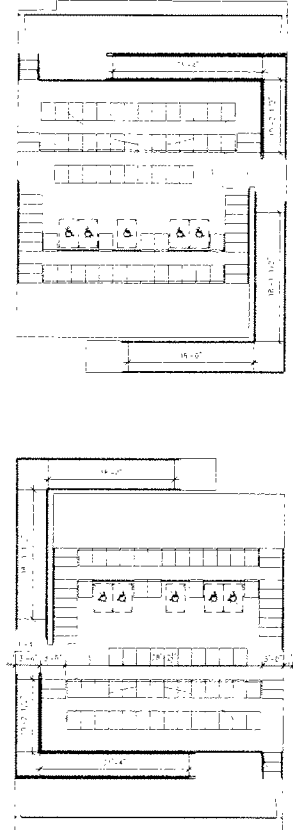
AUDITORIUMS 8 & 2 SECTION  
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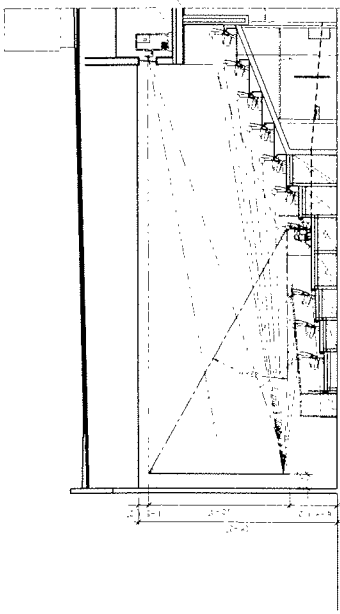
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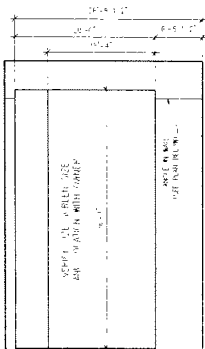
AUDITORIUMS 8 & 2 ALL SEATS FLOOR PLAN  
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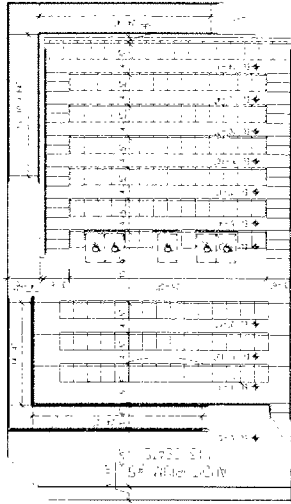
AUDITORIUMS 8 & 2 FIRST FLOOR PLAN  
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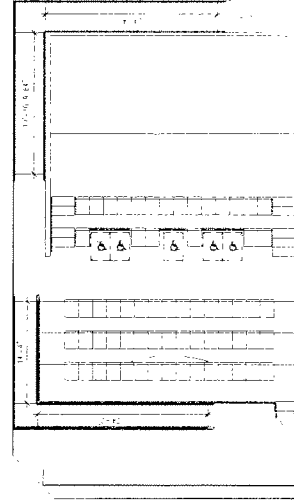
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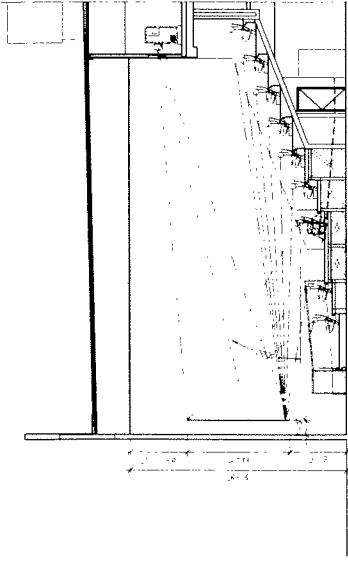
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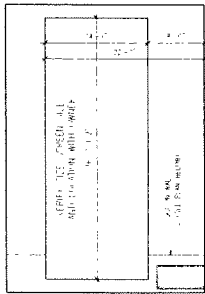
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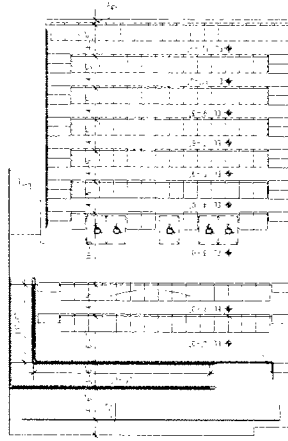
AUDITORIUM 5 FIRST FLOOR PLAN  
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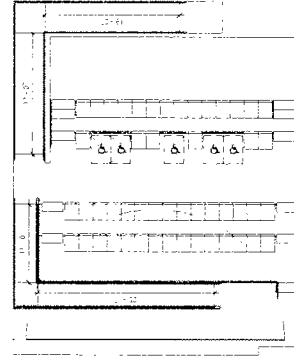
AUDITORIUM 6 SECTION  
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AUDITORIUM 6 ELEVATION  
 1/8" = 1'-0"



AUDITORIUM 6 ALL SEATS FLOOR PLAN  
 1/8" = 1'-0"



AUDITORIUM 6 FIRST FLOOR PLAN  
 1/8" = 1'-0"

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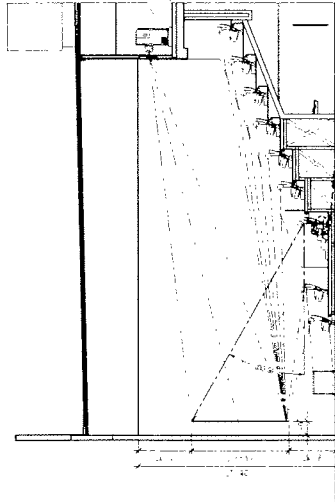
11 SCREEN  
 THEATER  
 MERCATO  
 Naples, FL

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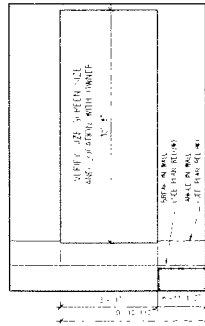
Project No. 1006-1600  
 Drawing No. 2001-0079  
 Sheet

Auditorium 7

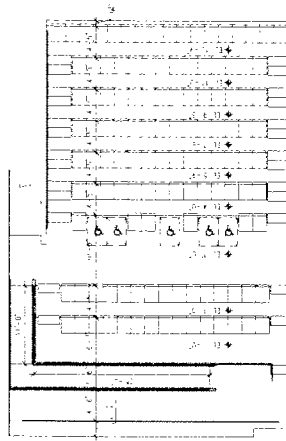
A-5



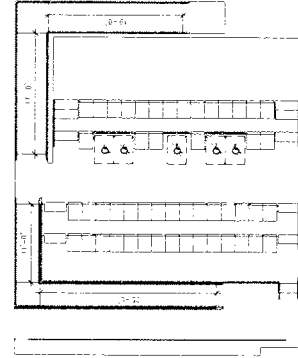
AUDITORIUM 7 SECTION  
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AUDITORIUM 7 ELEVATION  
 1/8" = 1'-0"



AUDITORIUM 7 ALL SEATS FLOOR PLAN  
 1/8" = 1'-0"



AUDITORIUM 7 FIRST FLOOR PLAN  
 1/8" = 1'-0"