



Office of the City Manager

INFORMATION CALENDAR

November 18, 2014

To: Honorable Mayor and Members of the City Council

From:  Christine Daniel, City Manager

Submitted by: Eric Angstadt, Director, Planning and Development Department

Subject: LPC-NOD: 1861-1877 Solano Avenue

INTRODUCTION

The attached Landmarks Preservation Commission (LPC) Notice of Decision (NOD) is submitted to the Mayor and City Council pursuant to Berkeley Municipal Code (BMC) Section 3.24.240, which states that “A copy of the Notice of Decision shall be filed with the City Clerk and the City Clerk shall present said copy to the City Council at its next regular meeting (Ord. 4694-NS § 4.1(c), 1974).”

CURRENT SITUATION AND ITS EFFECTS

The Landmarks Preservation Commission has approved a Structural Alteration Permit to allow rehabilitation of a designated City of Berkeley Landmark, the Oaks Theatre Buildings, including restoration of five retail storefronts.

BACKGROUND

BMC Section 3.24.300 allows the Council to review any action of the Landmarks Preservation Commission in granting or denying a Structural Alteration Permit. In order for the Council to review the decision on its merits, the Council must appeal the Notice of Decision. To do so, a Councilmember must move this Information Item to Action and then move to set the matter for a hearing on its own. Such action must be taken within 15 days from the mailing of the Notice of Decision or by November 18, 2014.

If the Council chooses to appeal the action of the Landmarks Preservation Commission, a public hearing will be set within 25 days pursuant to BMC Section 3.24.300.B. The Council must then rule on the application within 30 days from the date that the public hearing is opened or the decision of the Landmarks Preservation Commission is automatically deemed affirmed.

Unless the Council wishes to review the determination of the Landmarks Preservation Commission and make its own decision, the attached Notice of Decision is deemed received and filed.

ENVIRONMENTAL SUSTAINABILITY

The rehabilitation of historic resources within the City achieves construction and demolition waste diversion; promotes clean transportation options such as cycling, walking, and transit; and does not negatively affect natural habitat.

POSSIBLE FUTURE ACTION

The Council could choose to appeal the decision by the Landmarks Preservation Commission, setting a public hearing at a later date.

FISCAL IMPACTS OF POSSIBLE FUTURE ACTION

Additional staff time would be required to prepare the necessary Council report and resolution.

CONTACT PERSON

Eric Angstadt, Director of Planning and Development, (510) 981-7401

Sally Zarnowitz, Secretary to the Landmarks Preservation Commission, (510) 981-7429

Attachments:

1. 1861-1877 Solano Avenue (LMSAP No. 2014-0002) – LPC NOD



L A N D M A R K S
P R E S E R V A T I O N
C O M M I S S I O N

N O T I C E O F D E C I S I O N

DATE OF BOARD DECISION: October 2, 2014

DATE NOTICE MAILED: November 3, 2014

APPEAL PERIOD EXPIRATION: November 18, 2014

EFFECTIVE DATE OF PERMIT (Barring Appeal or Certification): November 19, 2014¹

1861 Solano Avenue

Structural Alteration Permit (LMSAP# 2014-0002) to rehabilitate a designated City of Berkeley Landmark, the Oaks Theatre Building, including restoration of five retail storefronts.

The Landmarks Preservation Commission of the City of Berkeley, after conducting a public hearing, **APPROVED** with the attached conditions the following permit:

PROJECT DATA:

- City of Berkeley Landmark

PERMITS REQUIRED:

- Structural Alteration Permit (SAP) for alteration on a COB Landmark

APPLICANT: The Bay Architects/KC Bowman, 1840 Alcatraz Ste B, Berkeley, CA 94103

ZONING DISTRICT: C-SO – Solano Avenue Commercial, R-1H – Single Family Residential Hillside District

ENVIRONMENTAL REVIEW STATUS: Categorically exempt pursuant to Section 15331 of the CEQA Guidelines (Historical Resource Restoration/Rehabilitation.)

¹ Pursuant to BMC Section 1.04.070, if the close of the appeal period falls on a weekend or holiday, then the appeal period expires the following business day. Pursuant to BMC Section 3.24.190, the City Council may “certify” any decision of the LPC for review, within fifteen days from the mailing of the NOD. Such certification shall stay all proceedings in the same manner as the filing of a notice of appeal.

LPD – NOD
1861 Solano Avenue
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The Application materials for this project are available online at:
<http://www.cityofberkeley.info/zoningapplications>

FINDINGS, CONDITIONS AND APPROVED PLANS ARE ATTACHED TO THIS NOTICE

COMMISSION VOTE: 8-0-0-0

YES: BEIL, BELSER, BROWN, HALL, LINVILL, PIETRAS, SCHWARTZ, WAGLEY

NO:

ABSTAIN:

ABSENT:

TO APPEAL THIS DECISION (see Section 3.24.300 of the Berkeley Municipal Code):

To appeal a decision of the Landmarks Preservation Commission to the City Council you must:

1. Submit a letter clearly and concisely setting forth the grounds for the appeal to the City Clerk, located at 2180 Milvia Street, 1st Floor, Berkeley; or by facsimile to (510) 981-6901. The City Clerk's telephone number is (510) 981-6900.
2. The appeal must be received prior to 5:00 p.m. on the "APPEAL PERIOD EXPIRATION" date shown above (if the close of the appeal period falls on a weekend or holiday, then the appeal period expires the following business day).
3. Submit the required fee (checks and money orders must be payable to 'City of Berkeley'):
 - a. The basic fee for persons other than the applicant is \$500. This fee may be reduced to \$100 if the appeal is signed by persons who lease or own at least 50 percent of the parcels or dwelling units within 300 feet of the project site, or at least 25 such persons (not including dependent children), whichever is less.
 - b. The fee for appeals of affordable housing projects (defined as projects which provide 50 percent or more affordable units for households earning 80% or less of Area Median Income) is \$500, which may not be reduced.
 - c. The fee for all appeals by Applicants is \$2500.

STRUCTURAL ALTERATION PERMIT ISSUANCE:

If no appeal is received, the Structural Alteration permit will be issued on the first business day following expiration of the appeal period, and the project may proceed at that time. Information about the Building Permit process can be found at the following link:

<http://www.ci.berkeley.ca.us/permitservicecenter/>.

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NOTICE CONCERNING YOUR LEGAL RIGHTS:

If you object to this decision, the following requirements and restrictions apply:

1. If you challenge this decision in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Landmarks Preservation Commission at, or prior to, the public hearing.
2. You must appeal to the City Council within fifteen (15) days after the Notice of Decision of the action of the Landmarks Preservation Commission is mailed. It is your obligation to notify the Land Use Planning Division in writing of your desire to receive a Notice of Decision when it is completed.
3. Pursuant to Code of Civil Procedure Section 1094.6(b) and Government Code Section 65009(c)(1), no lawsuit challenging a City Council decision, as defined by Code of Civil Procedure Section 1094.6(e), regarding a use permit, variance or other permit may be filed more than ninety (90) days after the date the decision becomes final, as defined in Code of Civil Procedure Section 1094.6(b). Any lawsuit not filed within that ninety (90) day period will be barred.
4. Pursuant to Government Code Section 66020(d)(1), notice is hereby given to the applicant that the 90-day protest period for any fees, dedications, reservations, or other exactions included in any permit approval begins upon final action by the City, and that any challenge must be filed within this 90-day period.
5. If you believe that this decision or any condition attached to it denies you any reasonable economic use of the subject property, was not sufficiently related to a legitimate public purpose, was not sufficiently proportional to any impact of the project, or for any other reason constitutes a "taking" of property for public use without just compensation under the California or United States Constitutions, your appeal of this decision must including the following information:
 - A. That this belief is a basis of your appeal.
 - B. Why you believe that the decision or condition constitutes a "taking" of property as set forth above.
 - C. All evidence and argument in support of your belief that the decision or condition constitutes a "taking" as set forth above.

If you do not do so, you will waive any legal right to claim that your property has been taken, both before the City Council and in court.

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PUBLIC COMMENT:

Communications to Berkeley boards, commissions or committees are public record and will become part of the City's electronic records, which are accessible through the City's website. **Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to a City board, commission or committee, will become part of the public record.** If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service or in person to the secretary of the relevant board, commission or committee. If you do not want your contact information included in the public record, please do not include that information in your communication. Please contact the secretary to the relevant board, commission or committee for further information.

FURTHER INFORMATION:

Questions about the project should be directed to the project planner, Sally Zarnowitz, at (510) 981-7410 or szarnowitz@cityofberkeley.info. All project application materials, including full-size plans, may be viewed at the Permit Service Center (Zoning counter), 2120 Milvia Street, between 8 a.m. and 4 p.m., Monday through Friday.

ATTACHMENTS:

1. Findings and Conditions
2. Project Plans

ATTEST:

Sally Zarnowitz, AIA, LEED AP, Secretary
Landmarks Preservation Commission

cc: Owner
Applicant
City Clerk
Applicant:

The Bay Architects/KC Bowman
1840 Alcatraz Ave, Ste. B
Berkeley, CA 94703

Property Owner:

John Gordon/Gordon Commercial Real Estate
2091 Rose Street
Berkeley, CA 94707

ATTACHMENT 1**FINDINGS AND CONDITIONS**

OCTOBER 2, 2014

1861-1877 Solano Avenue**Structural Alteration Permit LMSAP2014-0002**

To rehabilitate a designated City of Berkeley Landmark, the Oaks Theatre Building, including restoration of five retail storefronts.

CEQA FINDINGS

1. The project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA, Public Resources Code §21000, et seq. and California Code of Regulations, §15000, et seq.) pursuant to Section 15331 of the CEQA Guidelines (“Historical Resource Restoration/Rehabilitation”).

SECRETARY OF THE INTERIOR’S STANDARDS FINDINGS

Regarding the Secretary of the Interior’s Standards for Rehabilitation, the Landmarks Preservation Commission of the City of Berkeley makes the following findings:

1. The property’s use, created as a movie house with ground level commercial and second floor office spaces, will remain.
2. The historic character of the property will be retained and preserved. No distinctive materials will be removed to accommodate the alterations. The small scale retail storefront spaces that characterize the original historical building will be re-introduced to create a more compatible architectural aesthetic to the original façade. The proposed work will return the storefronts to their original look with details in keeping with the scale of the original facade. The original storefront on site will be rehabilitated in-kind.
3. The proposed project will not lead to any changes that will create a false sense of historical development, as the new storefronts will incorporate slightly different materials and will therefore be differentiated from the original storefront at 1869 Solano. The Theatre’s ground floor retail storefronts will be rehabilitated to more closely match that of their previous historical condition prior to the 1950-1960’s remodeling.
4. The existing storefront façades date back to the 1950-1960’s, however they do not appear to have acquired historical significance, especially in light of their original historic character. These storefront facades are being rehabilitated to more closely match their original ‘key hole’ character, as evidenced by historical photos and the existing storefront at 1869 Solano. The current storefront entrances do not relate well to the rest of the Theatre’s façade and compromise the historic integrity of the building.

5. The proposed restoration and rehabilitation of the storefronts will establish the original keyhole entries, tile bulkheads and storefront glass windows. The existing materials at 1869 Solano will be retained, repaired, and/or replaced in-kind.
6. The existing materials at 1869 Solano will be retained, repaired, and/or replaced in-kind.
7. No chemical treatments are proposed and the physical alterations of the storefronts will be localized as to not disturb the historic features of the original storefront. If necessary, special conditions will require use of the gentlest means possible.
8. The project does not have the potential to disturb archaeological resources
9. The proposed project will not lead to any changes that will destroy historic materials, features or spatial relationships. The Theatre's ground floor retail storefronts will be restored to their previous historical condition prior the 1950-1960's remodeling. However, the new storefronts will incorporate slightly different newer materials from the original storefront at 1869 Solano and will therefore be easily differentiated.
10. The project does not propose any new additions. The Theatre's ground floor retail storefronts will be restored to their previous historical condition prior to the 1950-1960's remodeling, essentially improving the integrity of the historic property.

FINDINGS FOR APPROVAL

1. As required by Section 3.24.260 of the Landmarks Preservation Ordinance, the proposed work is as appropriate for and as consistent with the purposes of the Ordinance as is possible within the peculiar circumstances of the owner of the property and preservation or enhancement of the characteristics and particular features specified in the designation.

The project involves installation of signage on a City Landmark. Because the project is consistent with the Secretary of the Interior's Standards, the project will not adversely affect the exterior features of the landmark, the special character or special historical, architectural or aesthetic interest or value of the landmark and its site.

STANDARD CONDITIONS

The following conditions, as well as all other applicable provisions of the Landmarks Preservation Ordinance, apply to this Permit:

1. Conditions Shall be Printed on Plans

The conditions of this Permit shall be printed on the *second* sheet of each plan set submitted for a building permit pursuant to this Permit, under the title 'Structural Alteration Permit Conditions'. *Additional sheets* may also be used if the *second* sheet is not of sufficient size to list all of the conditions. The sheet(s) containing the conditions shall be of the same size as those sheets containing the construction drawings; 8-1/2" by 11" sheets are not acceptable.

2. Plans and Representations Become Conditions

Except as specified herein, the site plan, floor plans, building elevations and/or any additional information or representations, whether oral or written, indicating the proposed structure or manner of operation submitted with an application or during the approval process are deemed conditions of approval.

3. Subject to All Applicable Laws and Regulations

The approved use and/or construction is subject to, and shall comply with, all applicable City Ordinances and laws and regulations of other governmental agencies. Prior to construction, the applicant shall identify and secure all applicable permits from the Building and Safety Division, Public Works Department and other affected City divisions and departments.

4. Exercise and Lapse of Permits (Section 23B.56.100)

- A. A permit for the construction of a building or structure is deemed exercised when a valid City building permit, if required, is issued, and construction has lawfully commenced.
- B. A permit may be declared lapsed and of no further force and effect if it is not exercised within one year of its issuance, except that permits for construction or alteration of structures or buildings may not be declared lapsed if the permittee has: (1) applied for a building permit; or, (2) made substantial good faith efforts to obtain a building permit and begin construction, even if a building permit has not been issued and/or construction has not begun.

5. Indemnification Agreement

The applicant shall hold the City of Berkeley and its officers harmless in the event of any legal action related to the granting of this Permit, shall cooperate with the City in defense of such action, and shall indemnify the City for any award of damages or attorneys fees that may result.

ADDITIONAL CONDITIONS

The following additional conditions are attached to this Permit:

6. Physical Treatments

Any physical necessary physical treatment shall be undertaken using the gentlest means possible in order to retain the integrity of historic materials.

7. Materials

A material review will be coordinated with staff to more accurately recreate the historic tile in front of Jay's.



Sally Zarnowitz, AIA, LEED AP
Secretary, Landmarks Preservation Commission

APPLICANT STATEMENT (PROJECT DESCRIPTION):

Attachment 2 - Approved Plans 19-02-14
 The building owner desires to improve the looks of the Theater by rehabilitating the building in a manner consistent with its original look, and repairing original materials where they exist.

Background:

The Oaks Theatre is a City of Berkeley Landmark, designated on February 2, 2006. It was constructed in 1925 by Richard Boies. It is a 1,000 seat movie theater with a two story commercial facade along its street facade. The ground floor area has 5 small retail stores along with the Theater lobby entry. The second floor has several offices. The use of the building has remained unchanged since its construction.

Present condition of the property:

Several of the retail spaces' facades had been "modernized" at various times in the last fifty years. One retail space is original, but is worn and in need of repair with in-kind material replacement.

Property and Neighboring Buildings Description:

The Theater is adjacent to and between two-story commercial buildings along Solano Avenue. It is a part of the Solano Avenue Neighborhood Commercial District.

Current Proposed Project Outline:

- Two retail spaces, 1863 and 1865, will require major remodeling and will be rebuilt to their original condition with "keyhole" entrances, tiled bulletins and glass.
- Two retail spaces, 1866 and 1867, will require minor remodeling and will be rebuilt to their original condition with a new "keyhole". The storefront at 1869 is original and will be maintained and repaired in kind, as well as the storefront at 1871.
- Proposed site and building improvements enhance surrounding property values, stabilize the neighborhood, and increase economic and financial benefits to the City and its inhabitants.

Project benefits:

- Proposed project considers the following benefits to the neighborhood and City:
 - Restores a City of Berkeley Landmark to its original appearance with small retail stores, thereby strengthening the historic character of the neighborhood.
 - Improves the design and aesthetic of the Oaks Theatre.
 - Complies with the Secretary of Interior Standards for rehabilitation, see attached document.

Findings:

- We request that the Landmarks Preservation Commission make the following findings, per BMC Section 3.24.010 Findings:
 - C. The proposed project promotes the health, safety and general welfare of the City through:
 - 1. Protection, enhancement, and preservation of the original use of the Oaks Theatre. It is important to local history, provides a significant example of architectural styles and is an important part of the City's history and its neighborhood.
 - 2. Protection, enhancement, and preservation of the City and its neighborhood.
 - 3. Proposed site and building improvements enhance surrounding property values, stabilize the neighborhood, and increase economic and financial benefits to the City and its inhabitants.
 - 4. The proposed project preserves the Theater's architectural style, reflects the distinct phases of its history - culturally and architecturally
 - 5. The proposed project enriches human life by fostering knowledge of the living heritage of the past.

LANDMARK STATUS INFO:

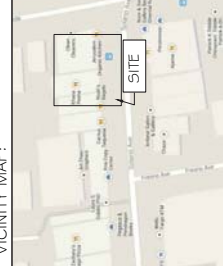
LANDMARK # 346: OAKS THEATRE
 KID PROTHEATRES (1925)
 DESIGNATED: 2. FEBRUARY 2006

THE TENTH CINEMA BUILT FOR THE BLUMENFELD THEATERS CHAIN, THE OAKS THEATRE IS THE OLDEST SURVIVING BUILDING IN BERKELEY. THE OAKS THEATRE IS ONE OF THE OLDEST MOVIE THEATERS IN THE BAY AREA. THE OAKS THEATRE WAS BUILT BY RICHARD BOIES, WHO WAS RESPONSIBLE FOR 25 OTHER MOVIE THEATERS, INCLUDING THE ALEXANDRIA BALBOA IN SAN FRANCISCO AND THE GRAND LAKE IN OAKLAND. LIKE MANY EARLY MOVIE PALACES, THE OAKS WAS DESIGNED IN THE SPANISH COLONIAL STYLE. AT THE TIME, IT WAS LABELED "MODIFIED MOORISH," WHICH MEANT MUCH GRILLWORK AND POINTED ARCHES, AS WELL AS MOORISH FIGURED TILE WORK" AROUND THE LOWER WALLS. IN THE MID-1930S THE FACADE, MARQUEE, AND VERTICAL SIGNAGE WERE REMODELED IN THE ART DECO STYLE.

ZONING INFO: C-50 (SOLANO AVE COMM. DIST.)

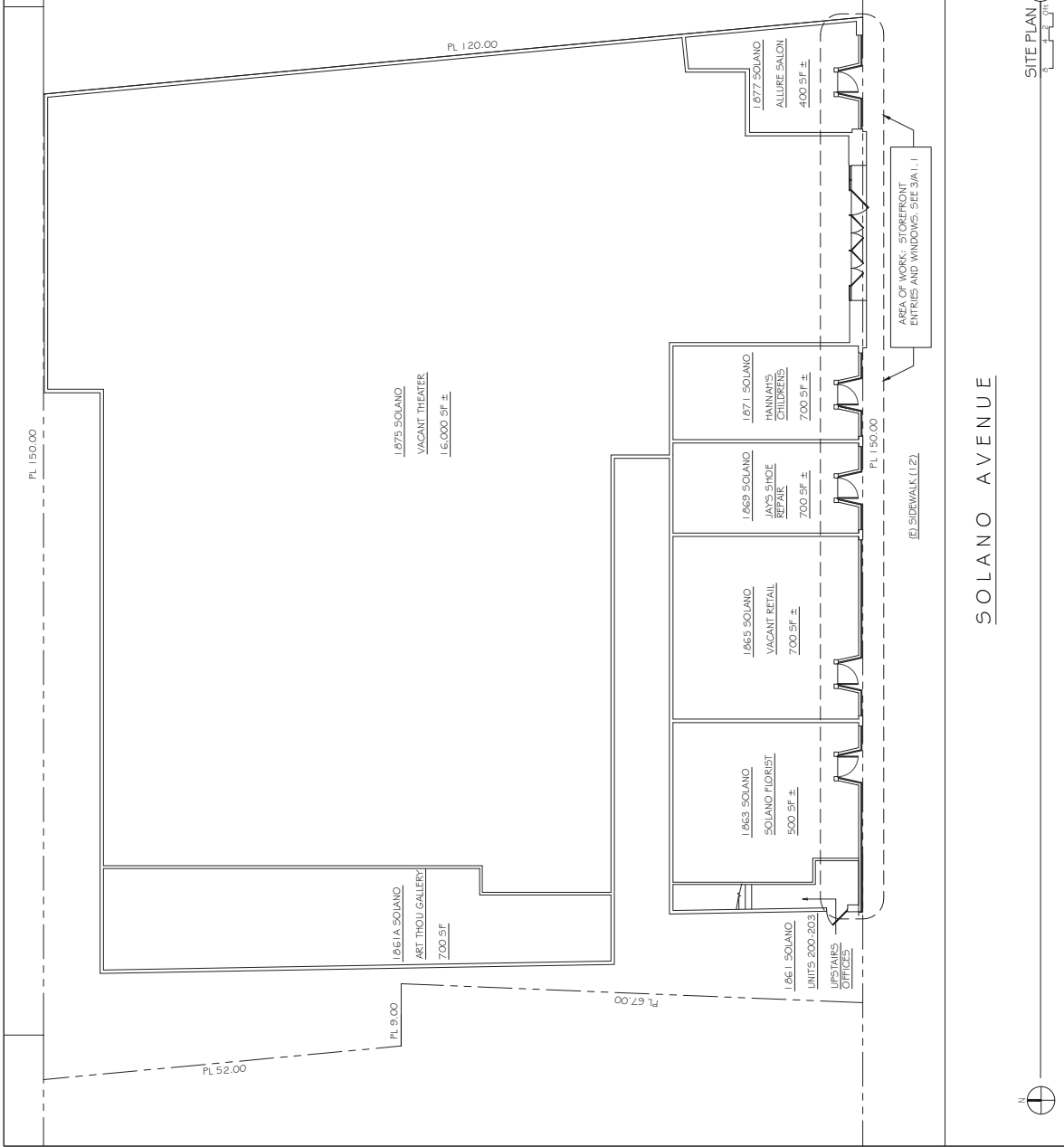
EXISTING # PROPOSED (NO CHANGE IS PROPOSED FOR THE BUILDING ENVELOPE)	15,516 SF
LOT SIZE	15,516 SF
GROSS FLOOR AREA	16,150 SF
BUILDING FOOTPRINT	14,100 SF APPROX
LOT COVERAGE	91%
HEIGHT - AVERAGE	50' MAX
STORIES	2
SETBACKS	0' SETBACKS ON ALL SIDES
OFF-STREET PARKING	NONE

VICINITY MAP:



DRAWING LIST:

AO-1	COVER SHEET
A0-1	PROPOSED PLAN & DETAILS
A2-1	EXISTING ELEVATION
A2-2	PROPOSED ELEVATION
E-101	EXISTING GROUND FLOOR PLANS
E-102	EXISTING SECOND FLOOR PLANS
E-301	EXISTING SECTIONS
E-302	EXISTING SECTIONS



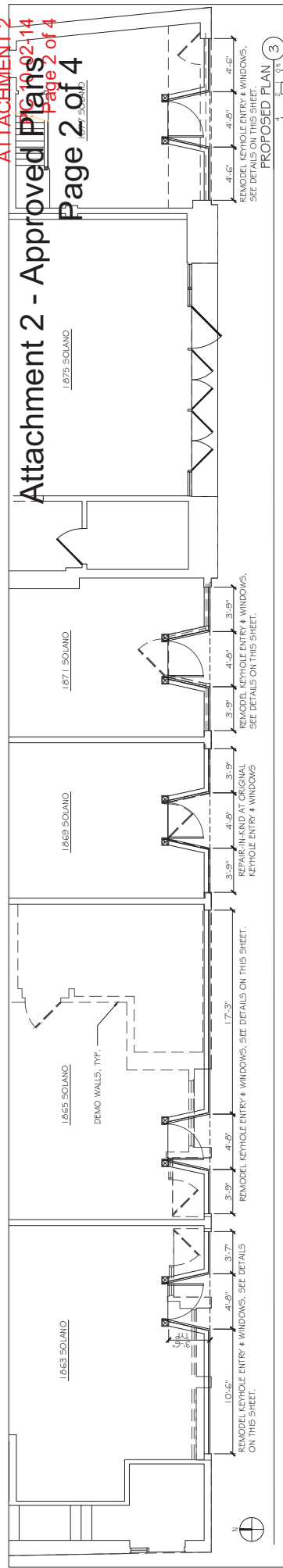
PROJECT:
 STRUCTURAL ALTERATION PERMIT FOR RETAIL STOREFRONT REHABILITATION AND RESTORATION
OAKS THEATRE
 1861-1877 SOLANO
 BERKELEY, CA 94707

CLIENT:
 GORDON COMMERCIAL REAL ESTATE
 2091 RODE STREET
 BERKELEY CA 94709

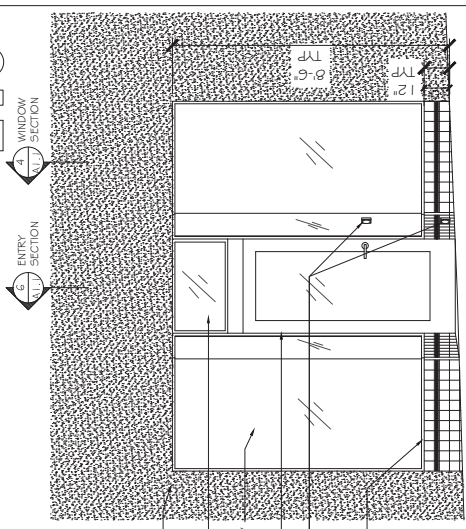
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 7/17/14 PLSUBMIT/TA

DRAWING SHEET:
 COVER SHEET
AO.1



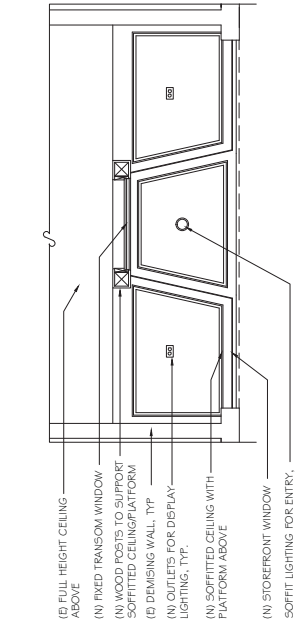


PROPOSED PLAN



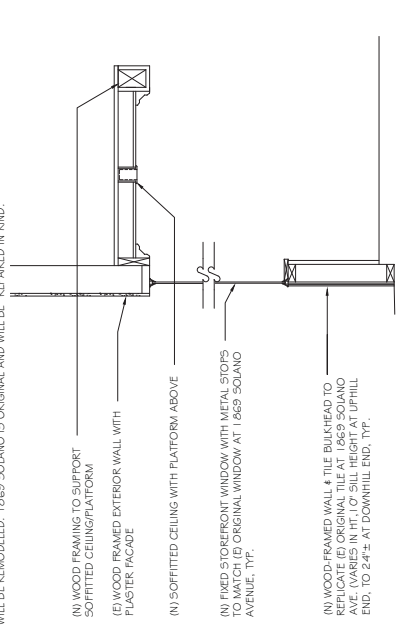
TYP. REMODELED STOREFRONT ELEVATION

STOREFRONTS AT 1863, 1865, 1871, AND 1877 SOLANO ARE NOT ORIGINAL AND WILL BE REMODELED. 1869 SOLANO IS ORIGINAL AND WILL BE REPAIRED IN KIND.



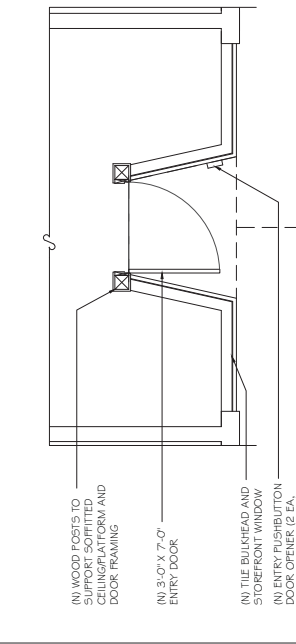
TYP. STOREFRONT ENTRY REFLECTED CEILING

STOREFRONTS AT 1863, 1865, 1871, AND 1877 SOLANO ARE NOT ORIGINAL AND WILL BE REMODELED. 1869 SOLANO IS ORIGINAL AND WILL BE REPAIRED IN KIND.



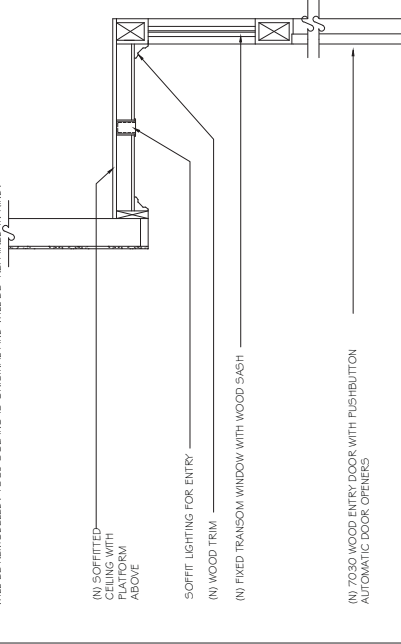
TYP. STOREFRONT SECTION (WINDOW)

STOREFRONTS AT 1863, 1865, 1871, AND 1877 SOLANO ARE NOT ORIGINAL AND WILL BE REMODELED. 1869 SOLANO IS ORIGINAL AND WILL BE REPAIRED IN KIND.



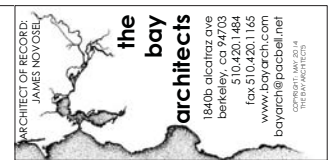
TYP. REMODELED STOREFRONT ENTRY PLAN

STOREFRONTS AT 1863, 1865, 1871, AND 1877 SOLANO ARE NOT ORIGINAL AND WILL BE REMODELED. 1869 SOLANO IS ORIGINAL AND WILL BE REPAIRED IN KIND.



TYP. REMODELED STOREFRONT SECTION (DOOR)

STOREFRONTS AT 1863, 1865, 1871, AND 1877 SOLANO ARE NOT ORIGINAL AND WILL BE REMODELED. 1869 SOLANO IS ORIGINAL AND WILL BE REPAIRED IN KIND.



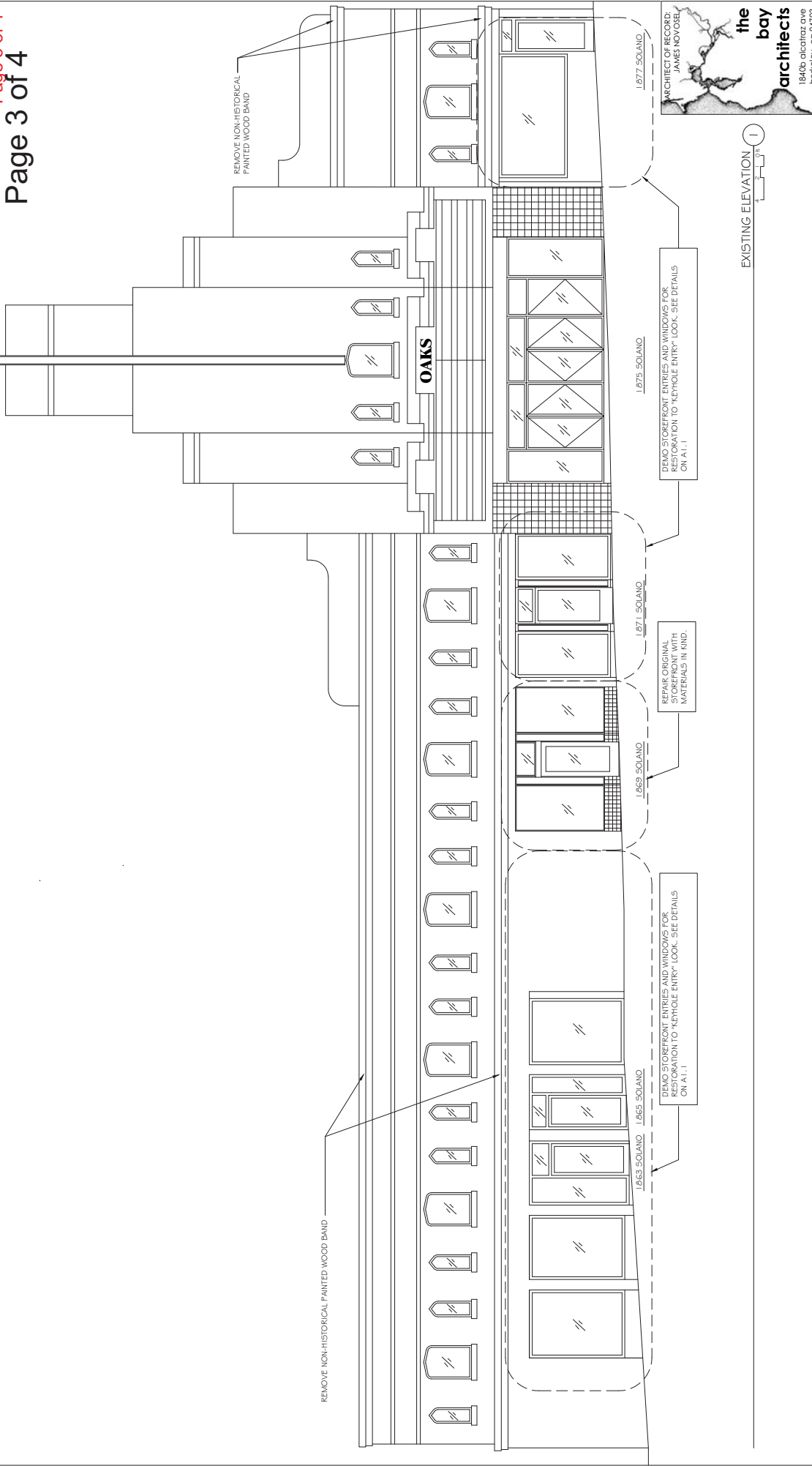
ARCHITECT OF RECORD:
 JAMES NOVOSSEL
 1840b alcatraz ave
 berkeley, ca 94703
 phone 510.421.1165
 www.bayarch.com
 bayarch@pacbell.net
 LICENSED ARCHITECT
 NO. 50107
 STATE OF CALIFORNIA
 LICENSE NO. 18694

PRINT DATE / PURPOSE:
 7/17/14 / PC-SUBMITTA

CLIENT:
 GORDON COMMERCIAL
 REAL ESTATE
 2091 RODE STREET
 BERKELEY CA
 94709

PROJECT:
 STRUCTURAL ALTERATION PERMIT FOR RETAIL
 STOREFRONT REHABILITATION AND RESTORATION
 OAKS THEATRE
 186-187 SOLANO
 BERKELEY, CA 94707

DRAWING SHEET:
 PROPOSED PLAN &
 DETAILS
 A.I.1



EXISTING ELEVATION 1

ARCHITECT OF RECORD:
JAMES NOVOSIEL
1840b alcatraz ave
berkeley, ca 94703
tel: 510.420.1165
www.bayarch.com
bayarch@pacbell.net
CORPORATE: JAN 20 14
THE BAY ARCHITECTS

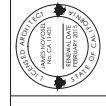
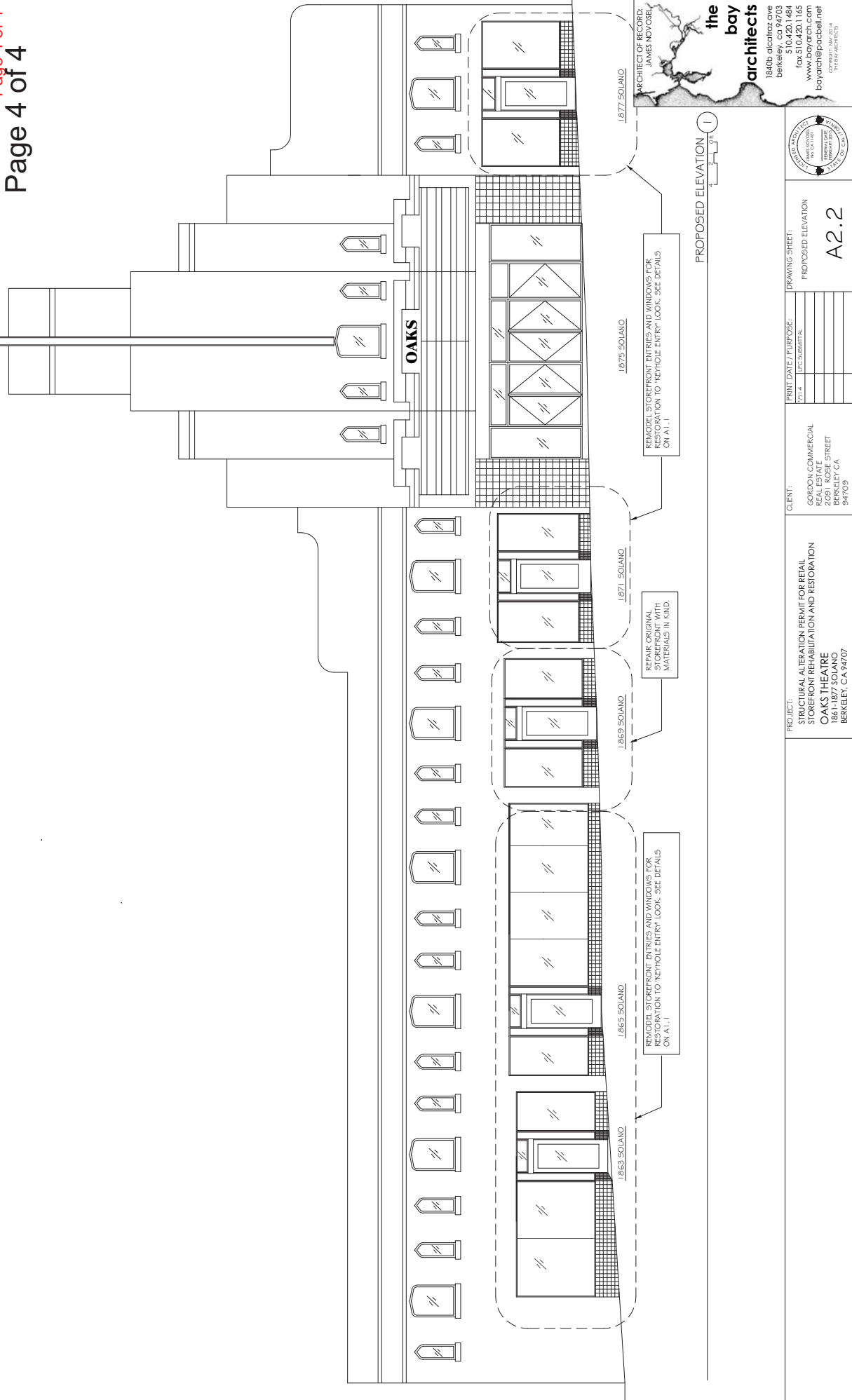
the bay architects



PRINT DATE / PURPOSE:	12/14 / PC-SUBMITTA
DRAWING SHEET:	EXISTING ELEVATION
A2.1	

CLIENT:
GORDON COMMERCIAL
REAL ESTATE
2091 RODE STREET
BERKELEY CA
94709

PROJECT:
STRUCTURAL ALTERATION PERMIT FOR RETAIL
STOREFRONT REHABILITATION AND RESTORATION
OAKS THEATRE
881-1877 SOLANO
BERKELEY, CA 94707



CLIENT: GORDON COMMERCIAL REAL ESTATE 2091 RODE STREET BERKELEY CA 94709

PROJECT: STRUCTURAL ALTERATION PERMIT FOR RETAIL STOREFRONT REHABILITATION AND RESTORATION OAKS THEATRE 881-1877 SOLANO BERKELEY, CA 94707

PRINT DATE / PURPOSE: 7/17/14 IFC SUBMITTAL

DRAWING SHEET: PROPOSED ELEVATION

A2.2

