

## **AGENDA ITEM 4E**

**Conditional Use Permit—Proposed Lot 3 La Vista  
City Centre Replat 4—La Vista City Centre, LLC**



CITY OF LA VISTA  
PLANNING DIVISION

RECOMMENDATION REPORT

CASE NUMBER: PCUP 19-0003

FOR HEARING OF: February 20, 2020  
Report Prepared on: January 28, 2020

**I. GENERAL INFORMATION**

**A. APPLICANT:**

La Vista City Centre LLC  
P.O. Box 428  
Boys Town, NE 68010

**B. PROPERTY OWNERS:**

PT of Tax Lot 12, 14-14-12:  
City of La Vista  
8116 Park View Blvd.  
La Vista, NE 68128

PT of Outlot A La Vista City Centre:  
City of La Vista  
8116 Park View Blvd.  
La Vista, NE 68128

PT of Lot 13 La Vista City Centre:  
La Vista City Centre LLC  
P.O. Box 428  
Boys Town, NE 68010

**C. LOCATION:** North of the intersection of Main Street and City Centre Drive.

**D. LEGAL DESCRIPTION:** Portions of Tax Lot 12 14-14-12, Lot 13 La Vista City Centre, and Outlot A La Vista City Centre (Proposed to be platted as Lot 3 of La Vista City Center Replat 4).

**E. REQUESTED ACTION(S):** Conditional Use Permit for proposed Lot 3 La Vista City Centre Replat 4 to allow for the construction and operation of an Event Center.

**F. EXISTING ZONING AND LAND USE:**

- Portions of Tax Lot 12 14-14-12 - R-1, Single-Family Residential with Gateway Corridor District (Overlay District); vacant; unused
- Portions of Lot 13 and Outlot A La Vista City Centre - Mixed Use City Centre; vacant.

**G. PURPOSE OF REQUEST:**

1. Conditional Use Permit for proposed Lot 3 La Vista City Centre Replat 4 to allow for the construction and operation of an Event Center.

**H. SIZE OF SITE: 2.03 Acres**

**II. BACKGROUND INFORMATION**

**A. EXISTING CONDITION OF SITE:** The land has a significantly increasing downward slope to the north.

**B. GENERAL NEIGHBORHOOD/AREA ZONING AND LAND USES:**

1. **North:** La Vista Civic Centre Park, R-1 Single-Family Residential with a Gateway Corridor District (Overlay District) and a FF/FW Flood Plain District (Overlay District); Open Recreation Space
2. **East:** Lot 14 La Vista City Centre, MU-CC, Mixed Use City Centre District; Mixed Use development; and La Vista Civic Centre Park, R-1 Single-Family Residential with a Gateway Corridor District (Overlay District) and a FF/FW Flood Plain District (Overlay District); Open Recreation Space.
3. **South:** La Vista City Centre; MU-CC, Mixed Use City Centre District; Mixed Use development.
4. **West:** Lot 12 La Vista City Centre Replat 3, MU-CC, Mixed Use City Centre District; vacant; and La Vista Civic Centre Park, R-1 Single-Family Residential with a Gateway Corridor District (Overlay District) and a FF/FW Flood Plain District (Overlay District); Open Recreation Space.

**C. RELEVANT CASE HISTORY:**

1. The final plat for La Vista City Centre was originally approved by City Council on July 19, 2016.
2. On September 17, 2019 City Council adopted an update to the La Vista Comprehensive Plan's Future Land Use Map to re-designate portions of the proposed Lot 3 La Vista City Centre Replat 4 from Recreational to Mixed Use.

**D. APPLICABLE REGULATIONS:**

1. Chapter 3 of the La Vista Comprehensive Plan – Future Land Use Map
2. Section 5.19 of the Zoning Regulations – MU-CC Mixed Use City Centre District
3. Section 6 of the Zoning Regulations – Conditional Use Permits

### **III. ANALYSIS**

- A. COMPREHENSIVE PLAN:** The Future Land Use Map of the Comprehensive Plan designates the proposed Lot 3 La Vista City Centre Replat 4 as Mixed Use.
- B. OTHER PLANS:** This area has also been designated as blighted and substandard and in need of redevelopment. A proposed amendment to the *84<sup>th</sup> Street Redevelopment Plan* would incorporate part of the northern portion of the former City golf course into the mixed use redevelopment project area.

#### **C. TRAFFIC AND ACCESS:**

- 1. The proposed La Vista City Center Replat 4 Final Plat includes the dedication of additional right-of-way along City Centre Drive. This allows for right-of-way access to the lot in this request.
- 2. The access point at 84<sup>th</sup> Street and Summer Drive has been converted to a temporary construction entrance. Existing access to City Centre Drive is from Main Street, with connections to 84<sup>th</sup> Street and Giles Road through the internal road system. The development plan also proposes the connection of City Center Drive to 84<sup>th</sup> Street.

Sidewalk and trail connections will be made at the time of development for each of the parcels involved in the plat.

- 3. A technical memorandum regarding traffic has been provided to update the previous traffic impact study performed by Olsson in August 2016 for the La Vista City Centre project. This memorandum was compiled to assess the traffic impacts associated with the land use proposed on the north end of the La Vista City Centre project.

Staff review of the technical memorandum concluded that the infrastructure that exists and that has been designed and nearing completion in La Vista City Centre is sufficient for the smaller events. That is based on the prediction in the memo that up to 400 persons in 200 vehicles would be arriving during the PM peak hour, which will overlap with the typical PM peak demand of the corridor.

For larger outdoor events (15 per year) and indoor events (estimated at 130 per year), it is recommended that an Event Traffic Management Plan be prepared and made part of a Security, Maintenance, and Operations Plan and Conditional Use Permit. Such plan shall be approved by, and on record with the La Vista Police Department as a condition of the Conditional Use Permit. The proposed permit also would provide for adjustment of event start times as needed if anticipated traffic for events overlapping with peak hour

traffic on 84th Street is greater than the predicted in the technical memorandum,

**D. UTILITIES:**

1. The properties have access to water, sanitary sewer, gas, power and communication utilities.

**IV. REVIEW COMMENTS:**

1. Development of such use will require the rezoning of portions of proposed Lot 3 La Vista City Centre Replat 4 to the MU-CC, Mixed Use-City Center zoning district prior to approval of the Conditional Use Permit.
2. Owner will need to acquire and maintain a liquor license from the Nebraska Liquor Control Commission.
3. Events in the indoor music venue will end by 12:00 a.m. (midnight). Events in the outdoor amphitheater will end by 10:00 p.m. Sunday through Thursday and by 10:30 p.m. Friday through Saturday.

**V. STAFF RECOMMENDATION – Comprehensive Plan Amendment:**

Staff recommends approval of the Conditional Use Permit for an Event Center, subject to such modifications or conditions, if any, as the City Administrator determines necessary or appropriate, satisfaction of all applicable requirements, including without limitation, notice, hearing, and approval of an amendment to the Redevelopment Plan and approval and recording of final replat, redevelopment agreement amendment, subdivision agreement amendment, and applicable property conveyances.

**VI. ATTACHMENTS TO REPORT:**

1. Vicinity Map
2. Proposed Conditional Use Permit

**VII. COPIES OF REPORT SENT TO:**

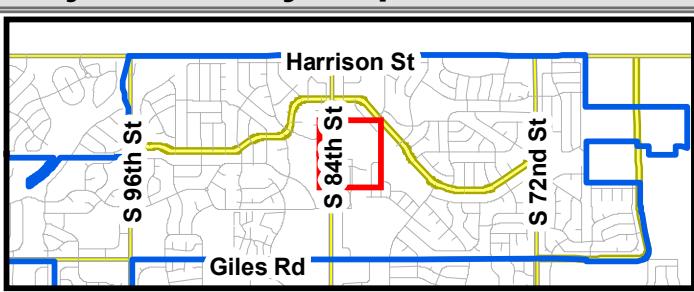
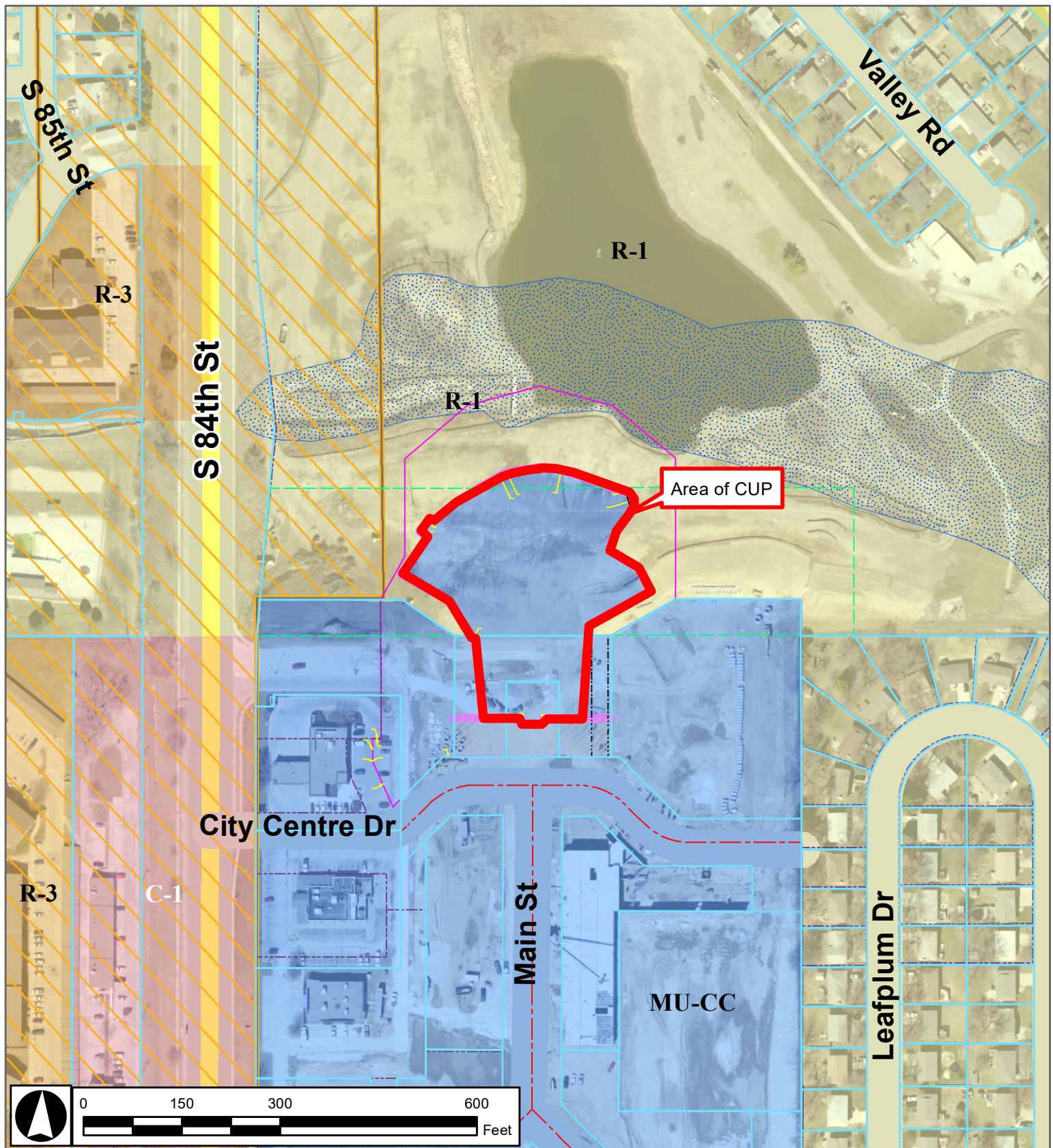
1. Eric Williams, Olsson Associates Inc.
2. Chris Erickson, La Vista City Centre, LLC
3. Public Upon Request

Prepared by:

Community Development Director

2/20/2020

Date



# **City of La Vista Conditional Use Permit**

## **Conditional Use Permit for Indoor/Outdoor Event Center**

This Conditional Use Permit (“Permit” or “Conditional Use Permit”) issued effective as of the Effective Date specified below by the City of La Vista, a municipal corporation in the County of Sarpy County, Nebraska (“City”) to City Centre Music Venue, LLC and Astro Theatre, LLC, each a Nebraska limited liability company (together referred to herein as “Permittee”), pursuant to the La Vista Zoning Ordinance.

WHEREAS, Permittee wishes to construct and operate an event center upon the following described tract of land within the City of La Vista zoning jurisdiction:

Lot 3, La Vista City Centre Replat 4, Located in the NW & SW ¼ Section 14, Township 14 North, Range 12 East of the 6<sup>th</sup> P.M. in Sarpy County, Nebraska (“Property”)

WHEREAS, La Vista City Centre, LLC on behalf of Permittee has applied for a conditional use permit for the purpose of locating and operating an event center; and

WHEREAS, the Mayor and City Council of the City of La Vista are agreeable to the issuance of a conditional use permit to the Permittee for such purposes, subject to certain conditions and agreements as hereinafter provided.

NOW, THEREFORE, BE IT KNOWN THAT subject to the conditions hereof, this conditional use permit is issued to the Permittee to use the Property for an event center, said use hereinafter being referred to as “Permitted Use” or “Use”.

### **Conditions of Permit**

The conditions to which the granting of this permit is subject are:

1. The rights or obligations granted or imposed by this permit shall run with the land, are transferable, and shall be binding on any successors or assigns. Any deviation from or breach of any terms hereof shall cause permit to expire and terminate.
2. In respect to the proposed Use:
  - a. The use shall be limited to and in accordance with the operations described in the Operational Statement, attached as Exhibit “A” and incorporated by reference into this Permit, or described elsewhere in this Permit. Any material change in operations, including, but not limited to, the hours of operation or additional or different uses or services provided, shall require review by the Planning Department and may require an amendment to the Conditional Use Permit, subject to Planning Department, Planning Commission, and/or City Council approval, depending on the nature of the proposed change.
  - b. The Property shall be developed and maintained in accordance with the site plan and elevations, as attached as Exhibits B and C, respectively, approved by the City Council, and incorporated herein by this reference, which site plan includes without limitation the boundaries of the Property and any easements, proposed structures and orientation, parking, access points, and drives. Any proposed modifications to the site plan or elevations shall be submitted to the Chief Building Official and subject to such approval as specified by applicable law or regulations.

- c. The use shall conform to the Security, Maintenance, and Operations Plan approved by and on file with the La Vista Police Chief or his or her designee from time to time (“Designated Police Contact”). A copy of the approved Security, Maintenance, and Operations Plan shall be maintained on site. At least ten (10) days before implementing any proposed change to requirements or contents of the Security, Maintenance, and Operations Plan, the Permittee shall submit the proposed change to the Designated Police Contract. Any such change shall be subject to approval of the Designated Police Contact.
- d. Operations must comply with the Event Traffic Management Plan within the Security, Maintenance, and Operations Plan.
- e. All spaces, facilities, and equipment must be maintained in a neat, good, working, sanitary and aesthetic condition and repair, and in accordance with applicable requirements, including without limitation any applicable design standards.
- f. The Permittee shall make regular inspections of the premises and structures at least annually, and the operation thereof for any hazard or risk, including, but not limited to, those of an environmental or safety nature. The Permittee shall take immediate action to protect persons, property and the environment from any damage, injury or loss, or risk thereof, arising out of or resulting from any hazard or risk on the premises and to abate any hazard or risk and remove it from the premises in accordance with any applicable laws, rules or regulations, as amended or in effect from time to time.
- g. Permittee and the Use shall comply with all applicable federal, state and/or local laws, rules, or regulations, as adopted or amended from time to time.
- h. Permittee hereby indemnifies the City against, and holds the City harmless from, any liability, loss, claim or expense whatsoever (including, but not limited to, reasonable attorney fees and court cost) arising out of or resulting from the acts, omissions or negligence of the Permittee, or any agents, employees, assigns, suppliers or invitees of Permittee arising out of or resulting from the Permitted Use.

3. The Permittee’s Use as approved pursuant to these provisions shall be subject to the following:
  - a. An annual inspection to determine compliance with the conditions of approval.
4. Notwithstanding any other provision herein to the contrary, this permit, and all rights granted hereby, shall expire and terminate as to a permitted use hereunder upon the first of the following to occur:
  - a. Permittee’s abandonment of the permitted use. Non-use thereof for a period of twelve (12) consecutive months shall constitute a presumption of abandonment, except in cases of cessation due to casualty or renovation when repairs, reconstruction, or construction is diligently progressing.
  - b. Cancellation, revocation, denial or failure to maintain any federal, state or local permit required for the Use, and failure to correct the same within the timeframes provided in subsection “c” below.
  - c. Permittee’s breach of any other terms hereof and its failure to correct such breach within thirty (30) days of City’s giving notice thereof, or, to the extent such breach cannot be corrected within said thirty (30) days, Permittee shall have as long as reasonably necessary to correct the breach provided they commence correction efforts within said thirty (30) days and diligently pursue to completion.
5. In the event of the Permittee’s failure to promptly remove any hazard from the premises, or the Use and permit end and Permittee fails to promptly remove any structures or any remaining hazard, the City may, at its option (but without any obligation to the Permittee or any third party to exercise said option) cause the same to be removed at Permittee’s cost and the Permittee shall reimburse the City the costs incurred to remove the same.
6. If any provision, or any portion thereof, contained in this Permit is held to be unconstitutional, invalid, or unenforceable, the remaining provisions hereof, or portions thereof, shall be deemed severable, shall not be affected, and shall remain in full force and effect.

## **Miscellaneous**

The conditions and terms of this permit shall be jointly and severally binding upon City Centre Music Venue, LLC and Astro Theatre, LLC and their respective successors and assigns.

1. Delay of City to terminate this permit on account of breach of any of the terms hereof shall not constitute a waiver of City's right to terminate, unless it shall have expressly waived said breach, and a waiver of the right to terminate upon any breach shall not constitute a waiver of the right to terminate upon a subsequent breach of the terms hereof, whether said breach be of the same or different nature.
2. Nothing herein shall be construed to be a waiver or suspension of, or an agreement on the part of the City to waive or suspend, any zoning law or regulation applicable to the premises except to the extent and for the duration specifically authorized by this permit.
3. Any notice to be given by City hereunder shall be in writing and shall be sufficiently given if sent by regular mail, postage prepaid, addressed to the Permittee as follows:

**Contact Name and Address:** Chris Erickson  
City Centre Music Venue, LLC  
222 S. 15<sup>th</sup> Street, STE 1404S  
Omaha, NE 68102

**Effective Date:**

This permit shall take effect upon the filing hereof with the City Clerk a signed original hereof.

THE CITY OF LA VISTA

By \_\_\_\_\_  
Douglas Kindig, Mayor

Attest:

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Pam Buethe  
City Clerk

**CONSENT AND AGREEMENT**

The undersigned do hereby consent and agree to the conditions of this permit and that the terms hereof constitute an agreement on the part of each of the undersigned to fully and timely perform each and every condition and term hereof, and the undersigned do hereby warrant, covenant and agree to fully and timely perform and discharge all obligations and liabilities herein required to be performed or discharged by Permittee.

City Centre Music Venue, LLC:

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Astro Theatre, LLC

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

### ACKNOWLEDGMENT OF NOTARY

STATE OF NEBRASKA )  
COUNTY OF \_\_\_\_\_ ) ss.  
 )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2020, before me, a Notary Public duly commissioned and qualified in and for said County and State, appeared Douglas Kindig and Pamela A. Buethe, personally known by me to be the Mayor and City Clerk of the City of La Vista, and the identical persons whose names are affixed to the foregoing Agreement, and acknowledged the execution thereof to be their voluntary act and deed and the voluntary act and deed of said City.

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Notary Public

### ACKNOWLEDGMENT OF NOTARY

STATE OF \_\_\_\_\_ )  
COUNTY OF \_\_\_\_\_ ) ss.  
 )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2020, before me, a Notary Public duly commissioned and qualified in and for said County and State, appeared [\_\_\_\_\_], personally known by me to be the \_\_\_\_\_ of City Centre Music Venue. LLC, and the identical person whose name is affixed to the foregoing Agreement, and acknowledged the execution thereof to be his voluntary act and deed and the voluntary act and deed of said company.

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Notary Public

### ACKNOWLEDGMENT OF NOTARY

STATE OF \_\_\_\_\_ )  
COUNTY OF \_\_\_\_\_ ) ss.  
 )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2020, before me, a Notary Public duly commissioned and qualified in and for said County and State, appeared [\_\_\_\_\_], personally known by me to be the \_\_\_\_\_ of Astro Theatre. LLC, and the identical person whose name is affixed to the foregoing Agreement, and acknowledged the execution thereof to be his voluntary act and deed and the voluntary act and deed of said company.

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Notary Public

## ASTRO THEATER OPERATING STATEMENT

City Ventures, 1% Productions, and Mammoth, Inc., though affiliated entities, intend to acquire, develop and operate on Lot 13 of the previously approved La Vista City Centre project and adjunct parcels a state of the art, best in market live performance indoor/outdoor event center. This project shall consist of 56,157 square feet of building and surrounding outdoor live performance venue, to be named the Astro Theater. The estimated occupant load of the indoor amphitheater is 3,290 occupants and the outdoor music venue is estimated to hold 4,455 occupants.

The intent is to have an estimated 150 events (music, comedy, and other live entertainment) per calendar year at the event center, the dates of the shows will vary based on the availability of musicians, so there are no set days of operation. The outdoor amphitheater will be limited to 15 events per calendar year. The event center shall open doors one hour prior to the show. Events in the indoor music venue will end by midnight (CST). For the outdoor amphitheater, events will end by 10:00 PM (CST) for any day from Sunday through Thursday and will end by 10:30 PM (CST) on Friday or Saturday. Agreements with performers or others in connection with use of the event venue will include sound level parameters in accordance with applicable standards. The number of events or hours of operation in this paragraph excludes and does not apply to events pursuant to the right of the City or its designee to use the event center.

The Applicant will be issuing an RFP for General Contracting Services to a select list of bidders and they have contracted with TACK Architects for Architectural Services and Olsson Associates for civil, survey, & public improvement design and construction administration for the Project.

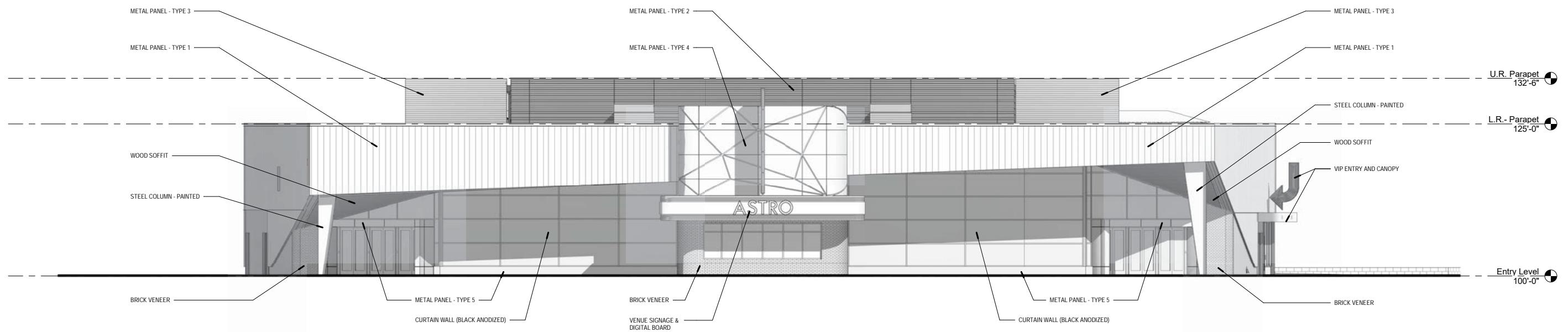
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## Exhibit C



SOUTH ELEVATION - COLORED



SOUTH ELEVATION

SCALE: 1/8" = 1'-0"



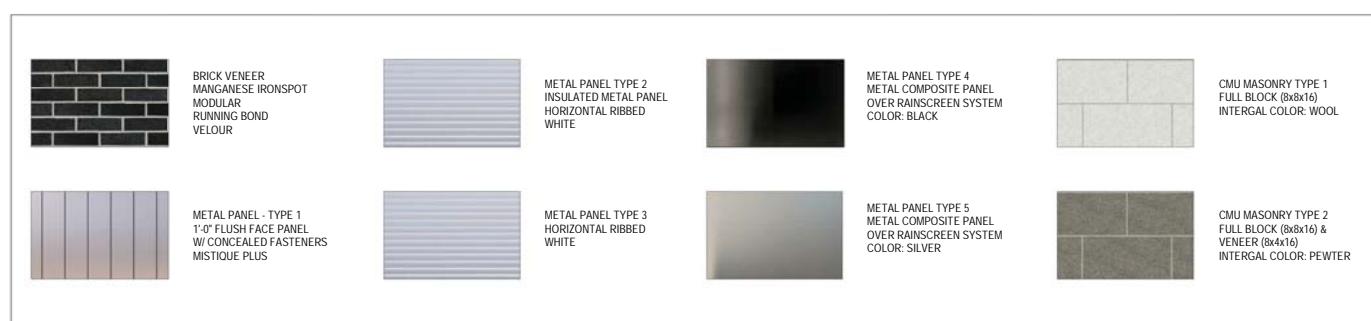
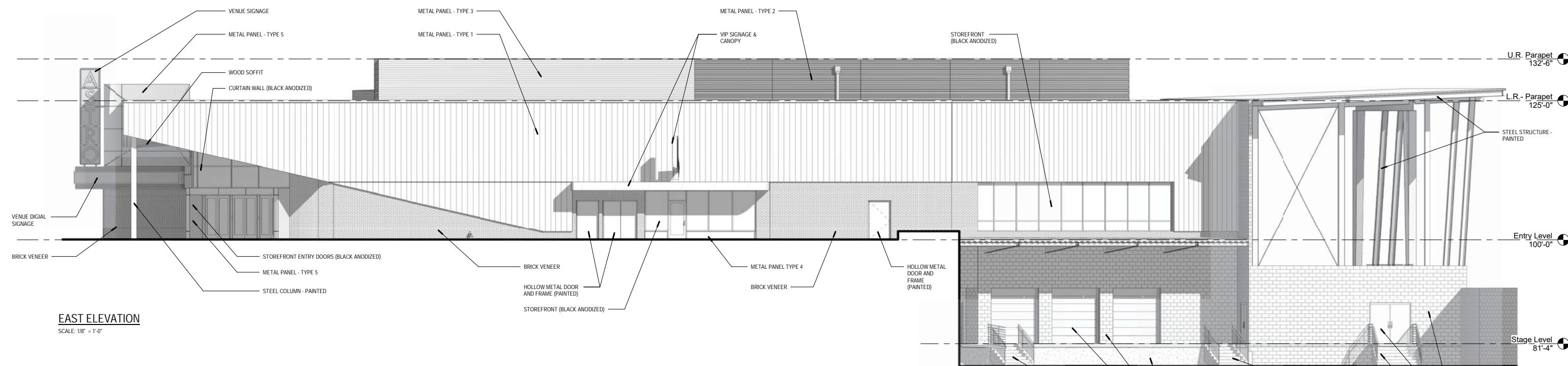
### ASTRO THEATER

Project Number: 2017.008.00  
Project Status: Design Review  
Date: 07/02/2019

# Exhibit C



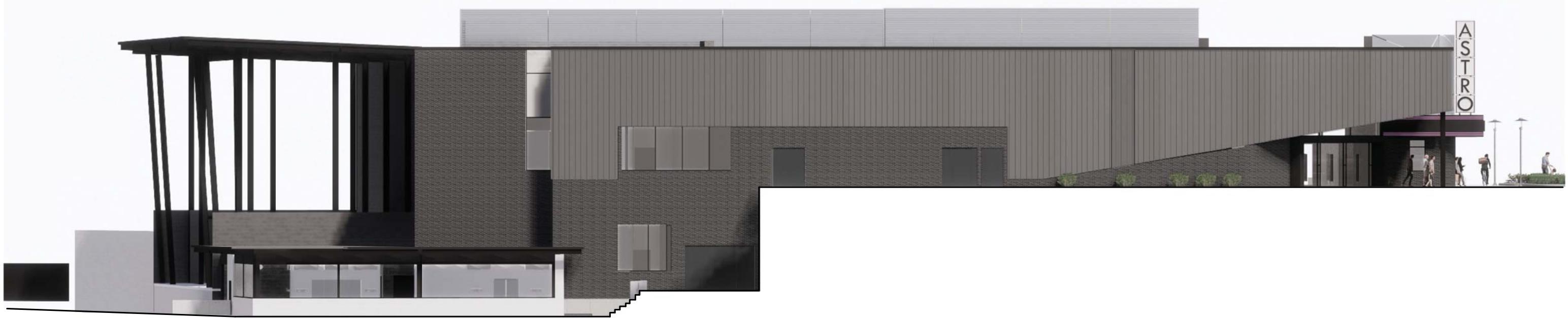
EAST ELEVATION - COLORED



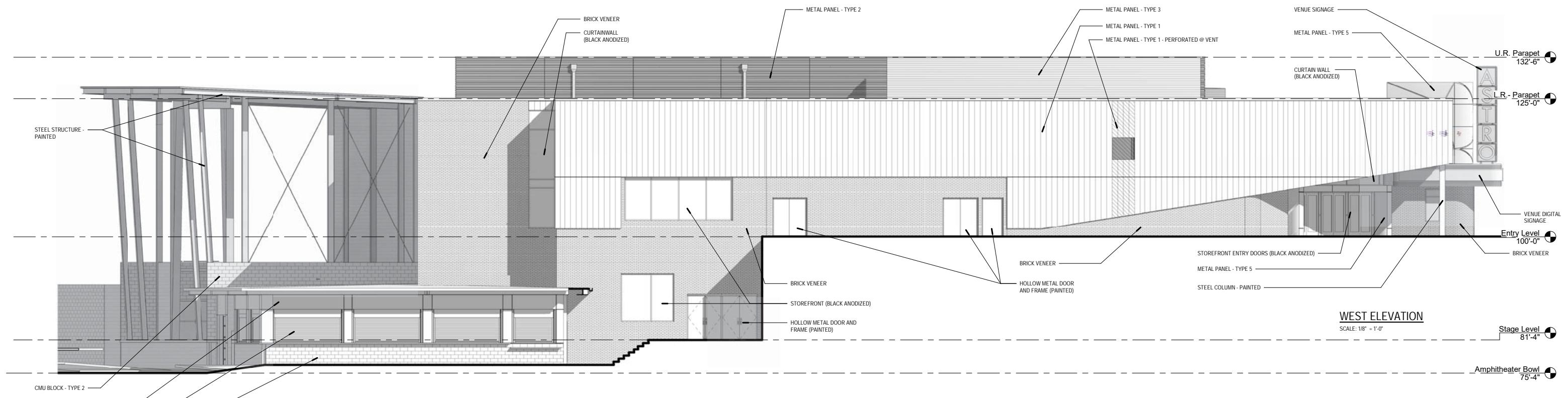
## ASTRO THEATER

Project Number: 2017.008.00  
Project Status: Design Review  
Date: 07/02/2019

# Exhibit C



WEST ELEVATION - COLORED



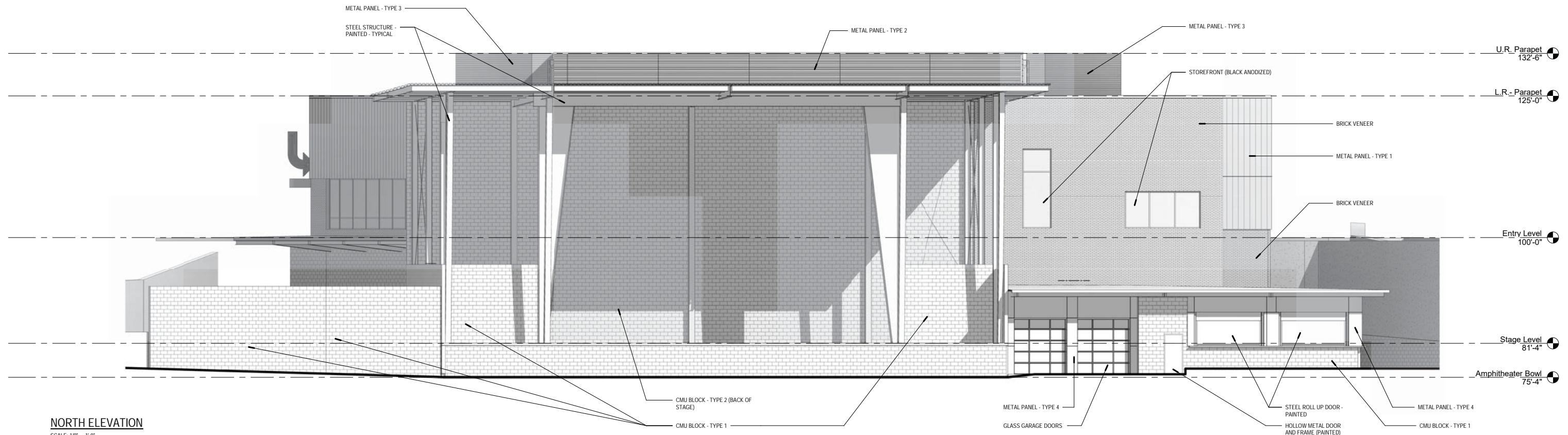
## ASTRO THEATER

Project Number: 2017.008.00  
Project Status: Design Review  
Date: 07/02/2019

# Exhibit C



NORTH ELEVATION - COLORED



## ASTRO THEATER

Project Number: 2017.008.00  
Project Status: Design Review  
Date: 07/02/2019