

**CITY OF LEADVILLE, COLORADO
RESOLUTION NO. 39
SERIES OF 2022**

**A RESOLUTION APPROVING A FIRST AMENDMENT TO DEED OF
CONSERVATION EASEMENT BETWEEN THE CITY OF LEADVILLE AND THE
COLORADO HISTORICAL FOUNDATION FOR THE TABOR OPERA HOUSE**

WHEREAS, the City of Leadville, Colorado ("City") is the owner of certain real property located at 312 Harrison Avenue, Leadville, Colorado 80461, containing the historic Tabor Opera House ("Property"); and

WHEREAS, the Tabor Opera House is a contributing building in the Leadville National Historic Landmark District as noted on the National Register of Historic Places and designated as a National Treasure by the National Trust for Historic Preservation; and

WHEREAS, the City, in conjunction with the Tabor Opera House Preservation Foundation, is in the process of rehabilitating portions, primarily the exterior, of the Tabor Opera House (the "Project"); and

WHEREAS, to complete the Project, the City secured federal and state grant funding for a portion of the Project costs; and

WHEREAS, one such grant is Grant No. P18AP00415 from the Save America's Treasures Program administered by the National Park Service ("SAT Grant"); and

WHEREAS, in addition, the City granted a conservation easement to the Colorado Historical Foundation, a Colorado nonprofit corporation, over the exterior of the Tabor Opera House for the purpose of preserving and maintaining the Opera House's historical, architectural, cultural, and aesthetic value and significance, which easement is titled Deed of Conservation Easement and is recorded in the real property records of Lake County, Colorado at Reception No. 370101, dated May 4, 2017 ("Original Deed of Easement"); and

WHEREAS, due to the alterations to the Tabor Opera House made for the Project and to the requirements of the SAT Grant, the Original Deed of Easement must be amended to reflect the current state of the exterior of the Tabor Opera House and to include the interior areas of the Tabor Opera House within the conservation easement; and

WHEREAS, City Council therefore finds that it is in the best interests of the City to approve the First Amendment to Deed of Conservation Easement in substantially the same form as attached to this Resolution as Exhibit 1.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LEADVILLE, COLORADO, AS FOLLOWS:

Section 1. The foregoing recitals are incorporated herein by reference as findings and determinations of City Council.

Section 2. The City Council hereby: (a) approves the First Amendment to Deed of Conservation Easement ("First Amendment") between the City and the Colorado Historical Foundation in substantially the form attached hereto as **Exhibit 1**, subject to minor corrections as approved by the City Attorney; and (b) authorizes the Mayor to execute the First Amendment on behalf of the City once in final form.

Section 3. Severability. If any part, section, subsection, sentence, clause or phrase of this Resolution is for any reason held to be invalid, such invalidity shall not affect the validity of the remaining provisions.

Section 4. Effective Date. This Resolution shall take effect upon its adoption by the City Council.

ADOPTED this 4th day of October 2022 by a vote of 6 in favor, 0 against, 0 abstaining, and 1 absent.

CITY OF LEADVILLE, COLORADO:



Greg Labbe, Mayor

ATTEST:



Deputy City Clerk



EXHIBIT 1
FIRST AMENDMENT TO DEED OF CONSERVATION EASEMENT

(see attached)

COLORADO HISTORICAL FOUNDATION

FIRST AMENDMENT TO DEED OF

CONSERVATION EASEMENT

FOR THE PROPERTY KNOWN AS:

TABOR OPERA HOUSE

Granted by:

CITY OF LEADVILLE
A COLORADO STATUTORY MUNICIPALITY
to

Colorado Historical Foundation,
a Colorado nonprofit corporation

RECORDING REQUESTED BY:

Tom Witt, Esq.
Moye White LLP
16 Market Square, 6th Floor
1400 16th Street
Denver, Colorado 80202-1473

**FIRST AMENDMENT TO DEED OF
CONSERVATION EASEMENT**

THIS FIRST AMENDMENT TO DEED OF CONSERVATION EASEMENT ("First Amendment"), made as of _____, 2022, by and between THE CITY OF LEADVILLE, a Colorado statutory municipality, of 800 Harrison Avenue, Leadville, Colorado 80461, Grantor, and the COLORADO HISTORICAL FOUNDATION, a Colorado nonprofit corporation, of P.O. Box 363, Golden, Colorado 80402, Grantee;

RECITALS

- A. Grantee, a non-profit corporation exempt from income tax under Section 501(c)(3) of the Internal Revenue Code, is a qualified organization for the purposes of Section 170(h)(3) of the Internal Revenue Code, and as further defined by Internal Revenue Service Regulation § 1.170A-14(c);
- B. The Grantor is the owner in fee simple of certain real property known as the Tabor Opera House, located at 312 Harrison Avenue, Leadville, Colorado, 80461 (the "Property"), said Property presently including one structure (the "Building"); the Property is more particularly described in Exhibit A and commonly uses the address 308 Harrison Ave., Leadville, CO 80461;
- C. Grantee presently holds a Deed of Conservation Easement on the Property recorded at Reception No. 370101 on May 4, 2017, in the real estate records of the Lake County (the "Original Deed of Easement");
- D. Grantor has altered the Property (the "Alterations") and Grantor and Grantee desire to amend the Original Deed of Easement as provided for in this First Amendment.
- E. Grantee has received \$500,000 in grant-in-aid assistance from the National Park Service of the United States Department of Interior, Save America's Treasures program Grant P18AP00415 which requires further easement restrictions be placed on the building;
- F. Grantor will document the interior as required by the National Park Service including photographs, floor plans and a narrative listing of character defining spaces, materials, and features to be placed on file as a part of the Amended Exhibits B.1 - B.3;
- G. Grantor and Grantee desire to amend the Original Deed of Easement as provided in this First Amended Deed of Easement; and
- H. All capitalized terms herein not otherwise defined shall have the meanings given in the Original Deed of Easement.

AMENDMENT

NOW THEREFORE, in consideration of One Dollar (\$1.00) and other good and valuable consideration, receipt of which is hereby acknowledged, the parties agree to amend the Original Deed of Easement as follows:

1. Exterior Photographs & Photographs, Floor Plans and Narrative of Character Defining Interior Spaces and Features. In order to make more certain the full extent of Grantor's obligations and the restrictions on the Property including the Building, and in order to document, in accord with the requirements of the National Park Service, the exterior and interior nature of the Building as of the date of the First Amendment, attached hereto as Amended Exhibit B.1 and Amended Exhibit B.2, both of which are incorporated herein by this reference, is a set of photographs depicting the exterior and interior surfaces of the Building. It is stipulated by and between Grantor and Grantee that the external nature and significant character defining interior spaces and features of the Building as shown in Amended Exhibit B.1 and Amended Exhibit B.2 are deemed to be the external and significant internal nature of the Building as of the date of this First Amendment and as of the date this Easement is first recorded in the real property records of Lake County, Colorado. The external nature of the Building as shown in Amended Exhibit B.1 is hereinafter referred to as the "*Present Facades*" and the internal space as shown in Amended Exhibit B.2 is hereinafter referred to as "*Character Defining Interior Spaces and Features*." To the extent necessary to protect and include the Character Defining Interior Spaces and Features, Grantor hereby extends and grants to Grantee an easement over the Character Defining Interior Spaces and Features subject to the same terms and conditions of the easement granted in the Original Deed of Easement, as amended hereby.
2. Grantee hereby approves the Alterations to the Present Facades by Grantor, subject to the terms and conditions of the Original Deed of Easement. The Alterations are shown in the photographs attached hereto as Amended Exhibit B.1.
3. Grantor hereby approves the further easement restrictions pertaining to the Character Defining Interior Spaces and Features, subject to the terms and conditions as defined in and Amended Exhibit B.2
4. Grantee hereby approves the proposed Alterations to the building interior, referred to as "Permitted Alterations - Interior" and attached hereto as Amended Exhibit B.3 and incorporated herein by this reference.
5. Grantor agrees that no ground disturbing activity shall be undertaken or permitted to be undertaken on the Subject Property which could potentially affect historic significant archaeological resources without prior written permission of the Grantee affirming that such work will meet the Secretary of the Interior's application "Standards for Archaeology and Historic Preservation".
6. Exhibit B to the Original Deed of Easement is hereby replaced by Amended Exhibit B.1-B.3, attached hereto and incorporated herein by this reference.

7. Grantee shall cause this First Amendment to be recorded in the official real estate records of Lake County, State of Colorado.
8. Grantor and Grantee, upon recordation of this amendment, agree that references in the Original Deed of Easement to the Property, the Building(s) and the Present Facades shall be deemed to refer to the appearance of the same, as documented in this First Amendment.
9. The parties agree that in all other respects, the terms and conditions of the Original Deed of Easement are and shall remain in full force and effect and are incorporated herein by this reference. The above recitals are hereby incorporated herein as if fully restated.

IN WITNESS WHEREOF, Grantor has executed, sealed, and delivered this First Amendment by Greg Labbe, Mayor of Leadville; and Grantee has caused these presents to be accepted.

GRANTOR:

CITY OF LEADVILLE, a Colorado statutory municipality

By: _____
Greg Labbe, Mayor

GRANTEE:

COLORADO HISTORICAL FOUNDATION,
a Colorado nonprofit corporation

ATTEST:

By: _____
Tina Bishop, Secretary

By: _____
Dominick Sekich, President

[SEAL]

ACKNOWLEDGMENT

STATE OF COLORADO)
) ss.
LAKE COUNTY)

I, _____, a Notary Public in and for the State of Colorado, do hereby certify that Greg Labbe, whose name is subscribed to the foregoing instrument as the Mayor, personally appeared before me and acknowledged that he executed the same on behalf of the Town of Leadville.

Given under my hand and seal this ____ day of _____, 2022.

My commission expires: _____.

Notary Public

[SEAL]

STATE OF COLORADO)
) ss.
CITY & COUNTY OF DENVER)

I, _____, a Notary Public in and for the State of Colorado do hereby certify that Dominick Sekich and Tina Bishop whose names are subscribed to the foregoing instrument as president and secretary, respectively, of the Colorado Historical Foundation, personally appeared before me and acknowledged that they executed the same.

Given under my hand and seal this ____ day of _____, 2022.

My commission expires: _____.

Notary Public

[SEAL]

Schedule of Exhibits

Exhibit A	Legal Description of Property
Amended Exhibit B.1	Exterior Photographs of Building
Exhibit B.2	Character Defining Interior Spaces and Features
Exhibit B.3	Permitted Alterations - Interior

DRAFT

EXHIBIT A
Legal Description

South 10 feet, Lot 7 and all lot 8 & 9, Block 1

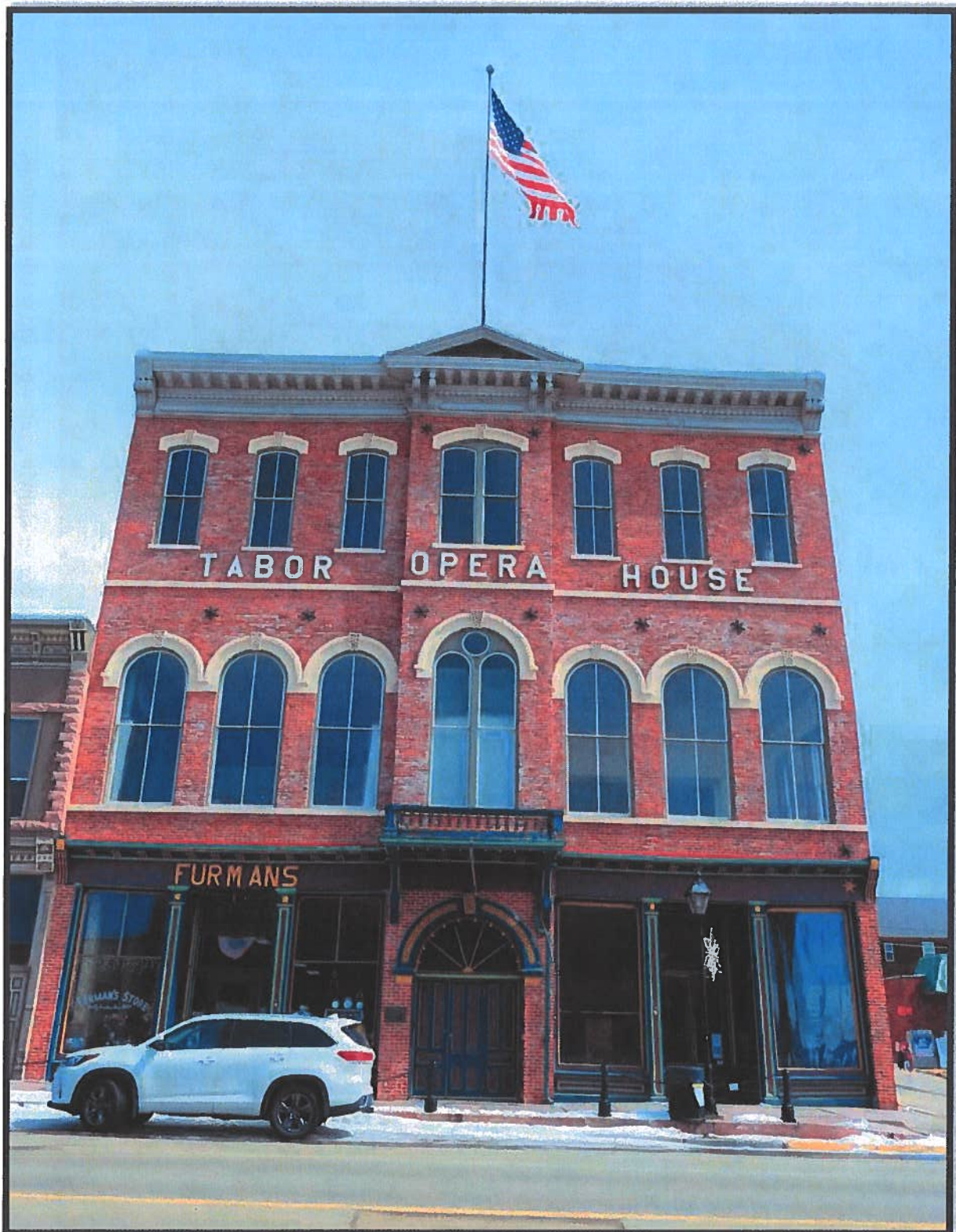
Leadville Improvement Company's Addition to the City of Leadville

County of Lake, State of Colorado

together with Improvements thereon

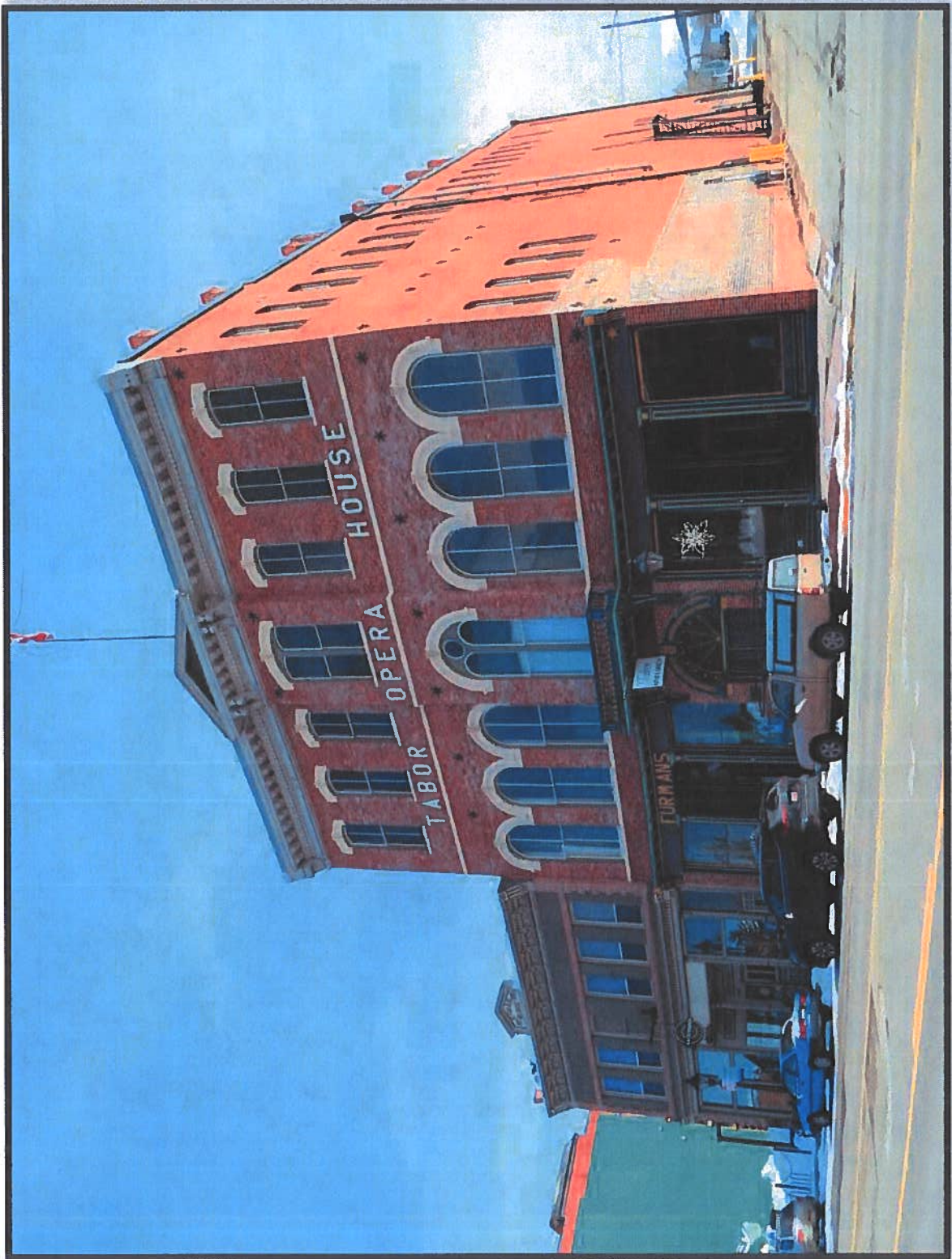
The Property is commonly known as the Tabor Opera House and having a property address of 312 Harrison Avenue, Leadville, CO 80461. The Property has also historically been referred to as and has commonly used the address 308 Harrison Avenue, Leadville, CO 80461.

EXHIBIT B.1 (Baseline Photo-documentation)
(page 1 of 13)



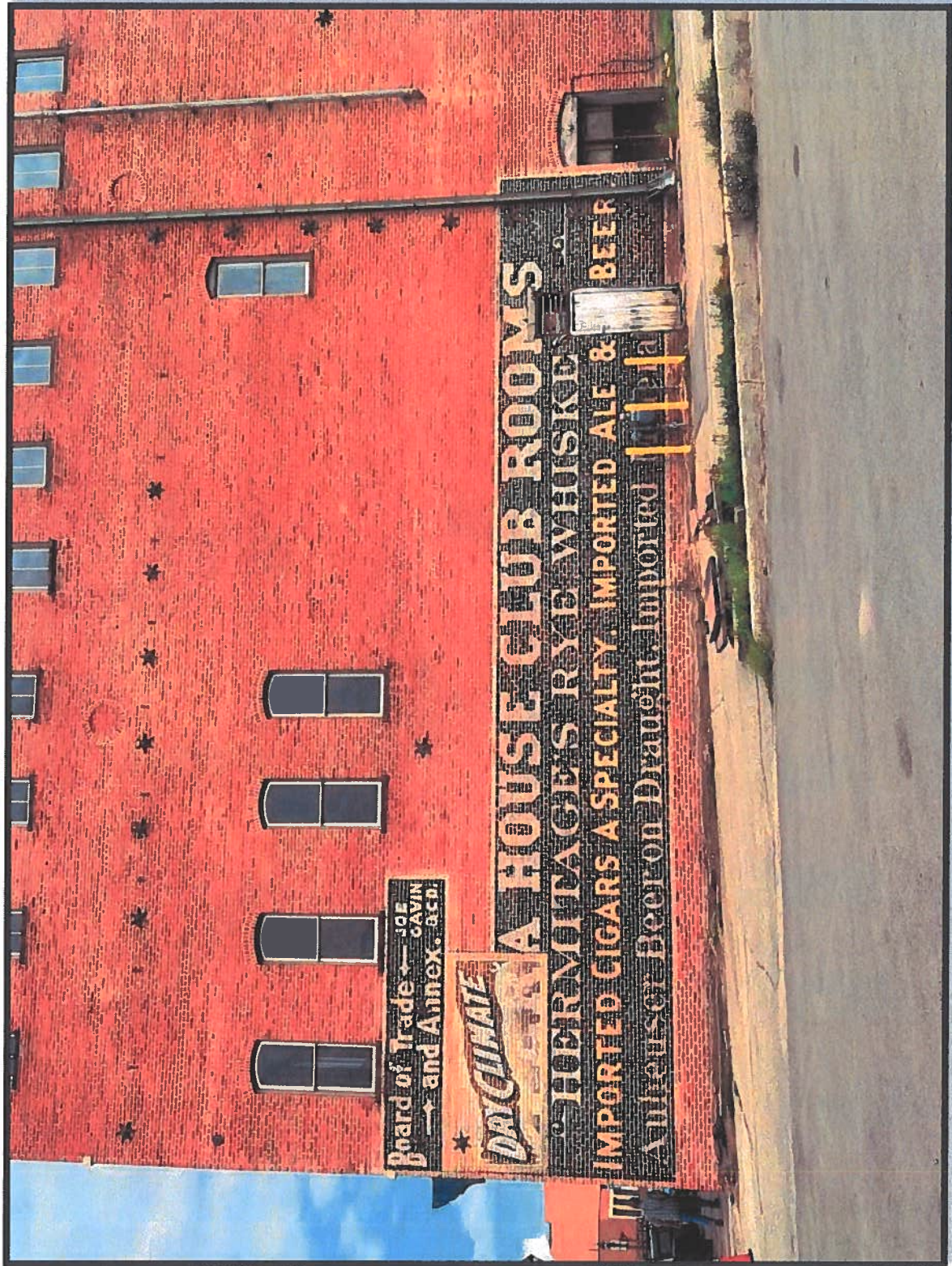
Tabor Opera House (1st Amend): Overall street view of main façade looking east across Harrison Avenue

EXHIBIT B.1
(page 2 of 13)



Tabor Opera House (1st Amend): Southwest corner showing full west and south elevations.

EXHIBIT B.1
(page 3 of 13)



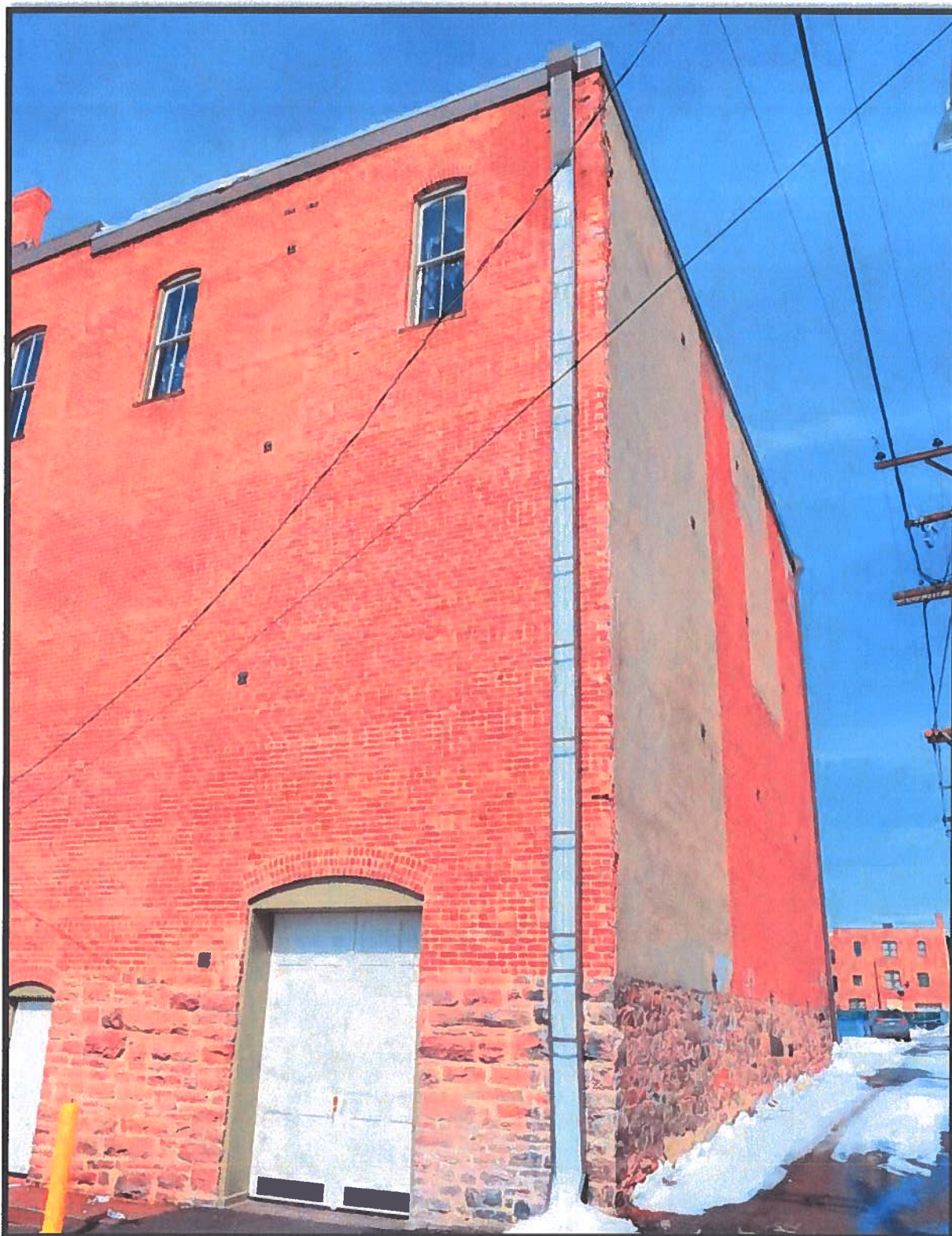
Tabor Opera House (1st Amend): View of west end of south elevation showing restored ghost sign

EXHIBIT B.1
(page 4 of 13)



Tabor Opera House (1st Amend): View of east end of south elevation.

EXHIBIT B.1
(page 5 of 13)



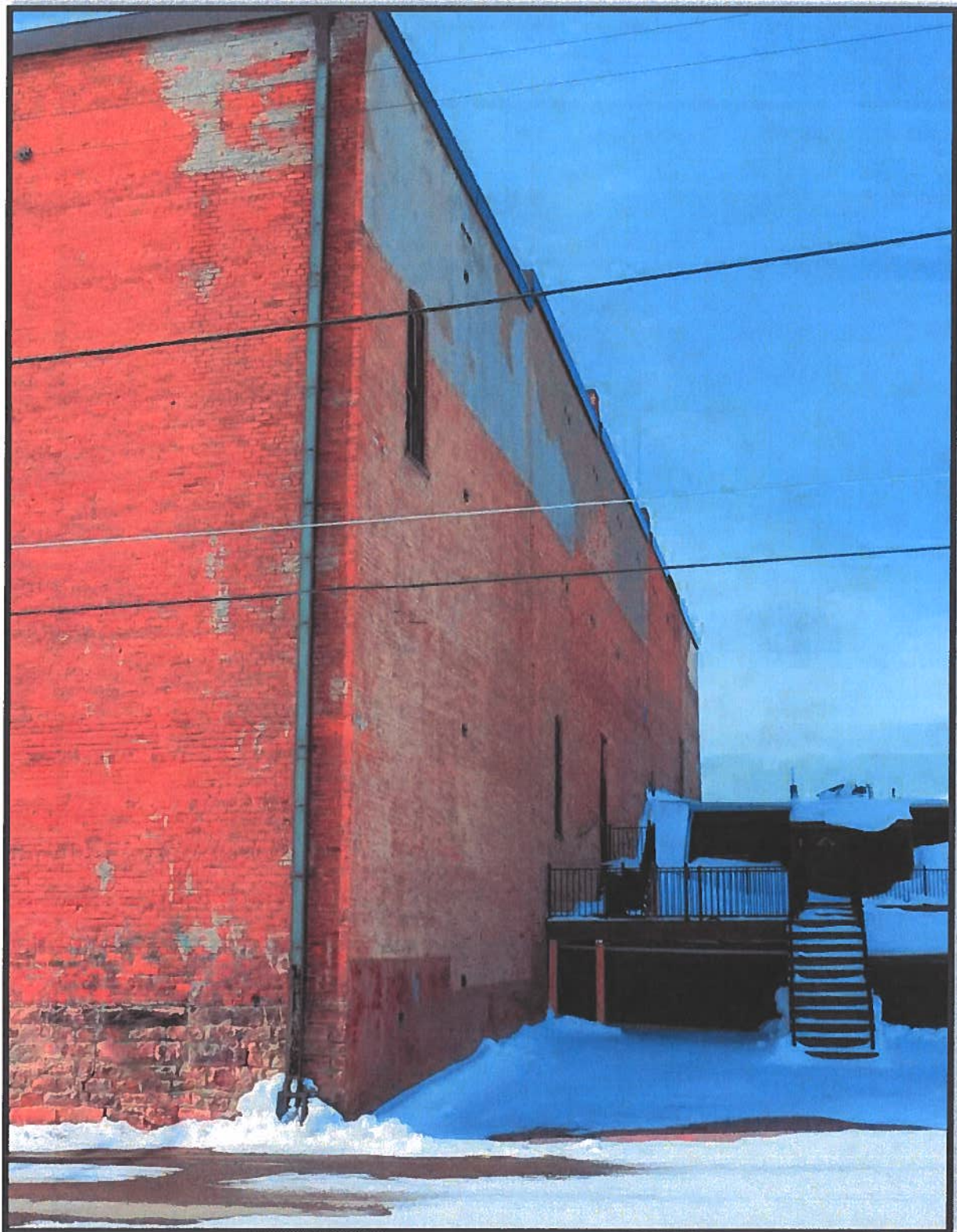
Tabor Opera House (1st Amend): View of southeast corner.

EXHIBIT B.1
(page 6 of 13)



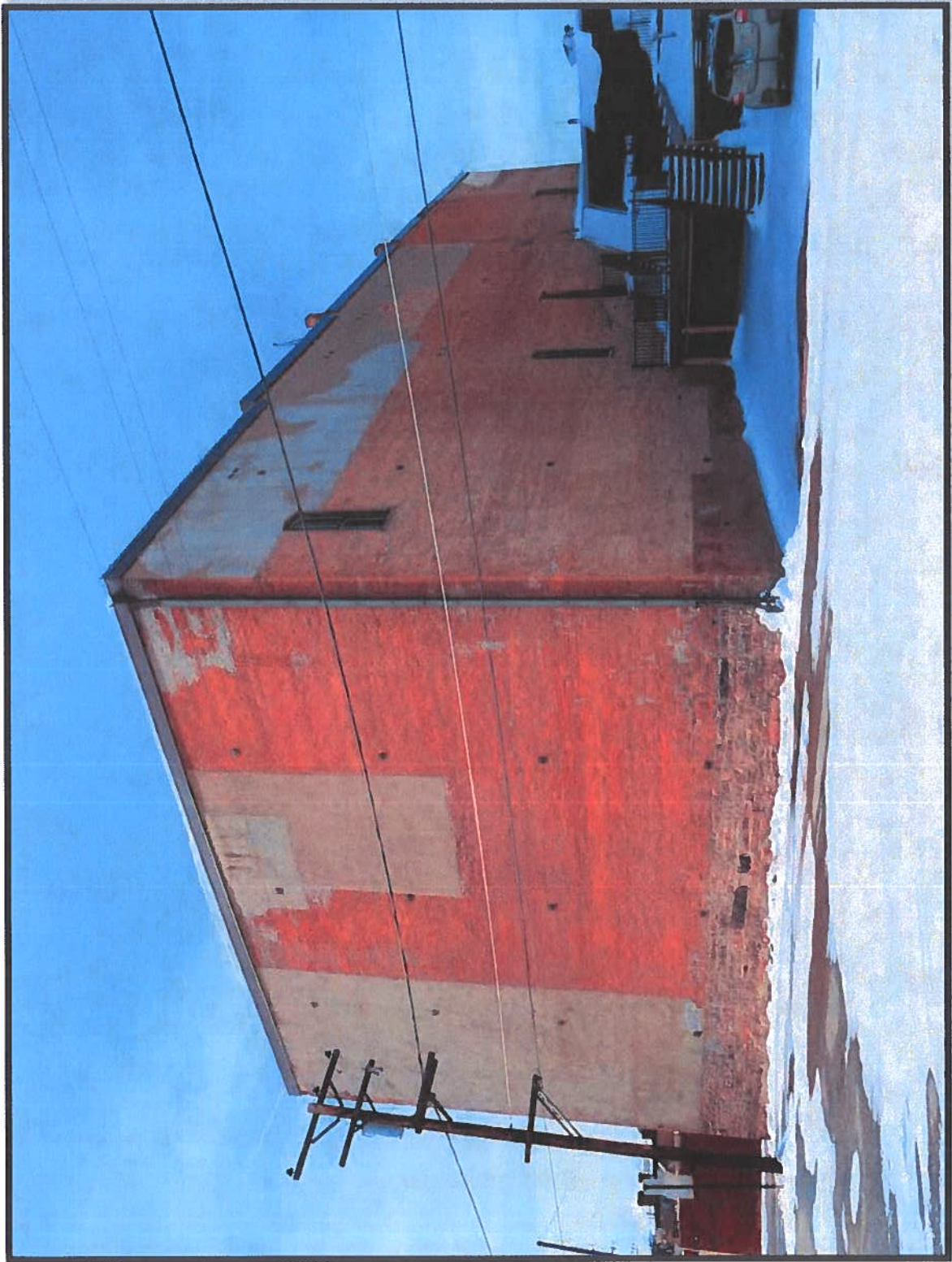
Tabor Opera House (1st Amend): View of east elevation.

EXHIBIT B.1
(page 7 of 13)



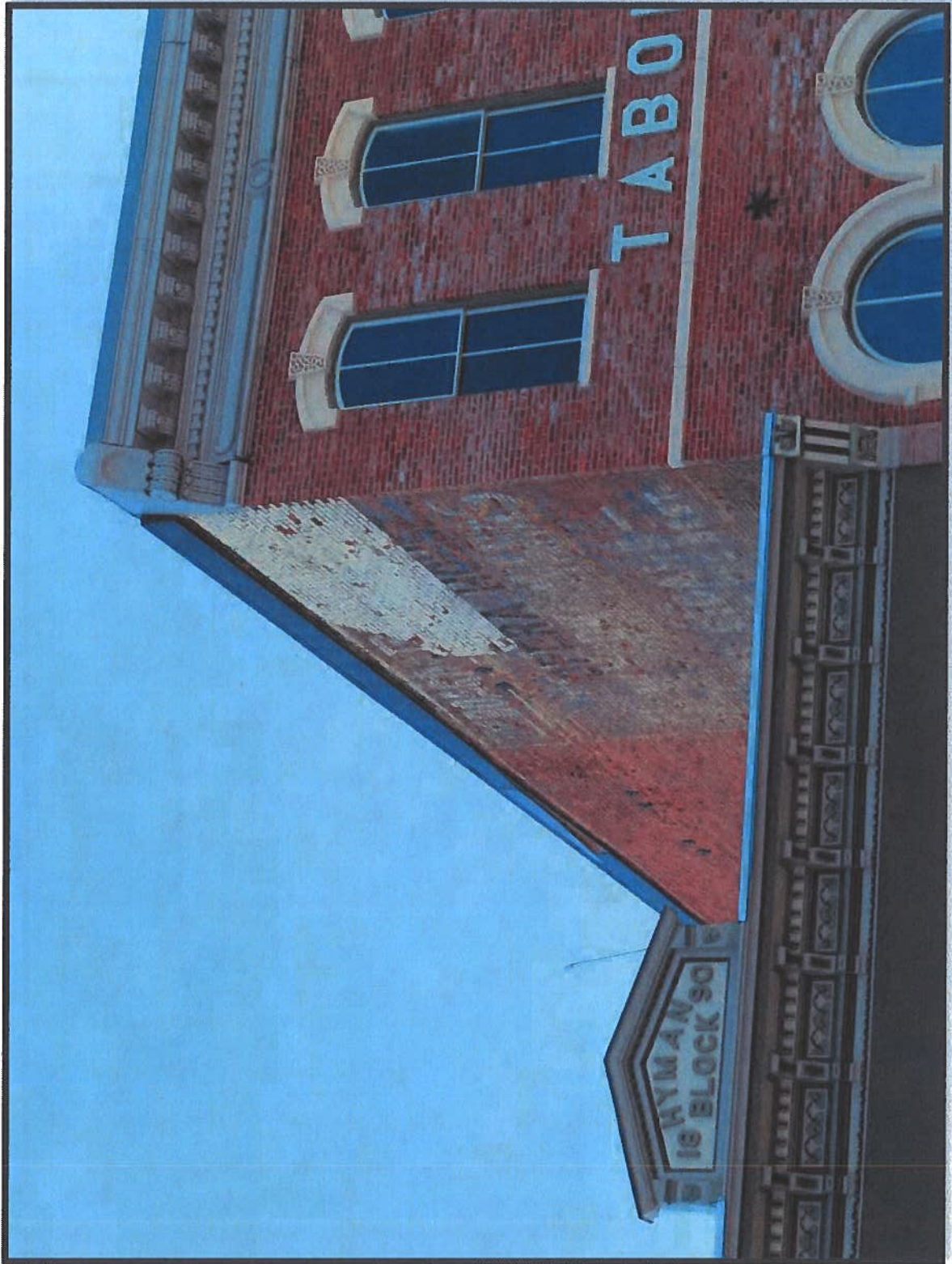
Tabor Opera House (1st Amend): View of northeast corner.

EXHIBIT B.1
(page 8 of 13)



Tabor Opera House (1st Amend): View of east and north elevations

EXHIBIT B.1
(page 9 of 13)



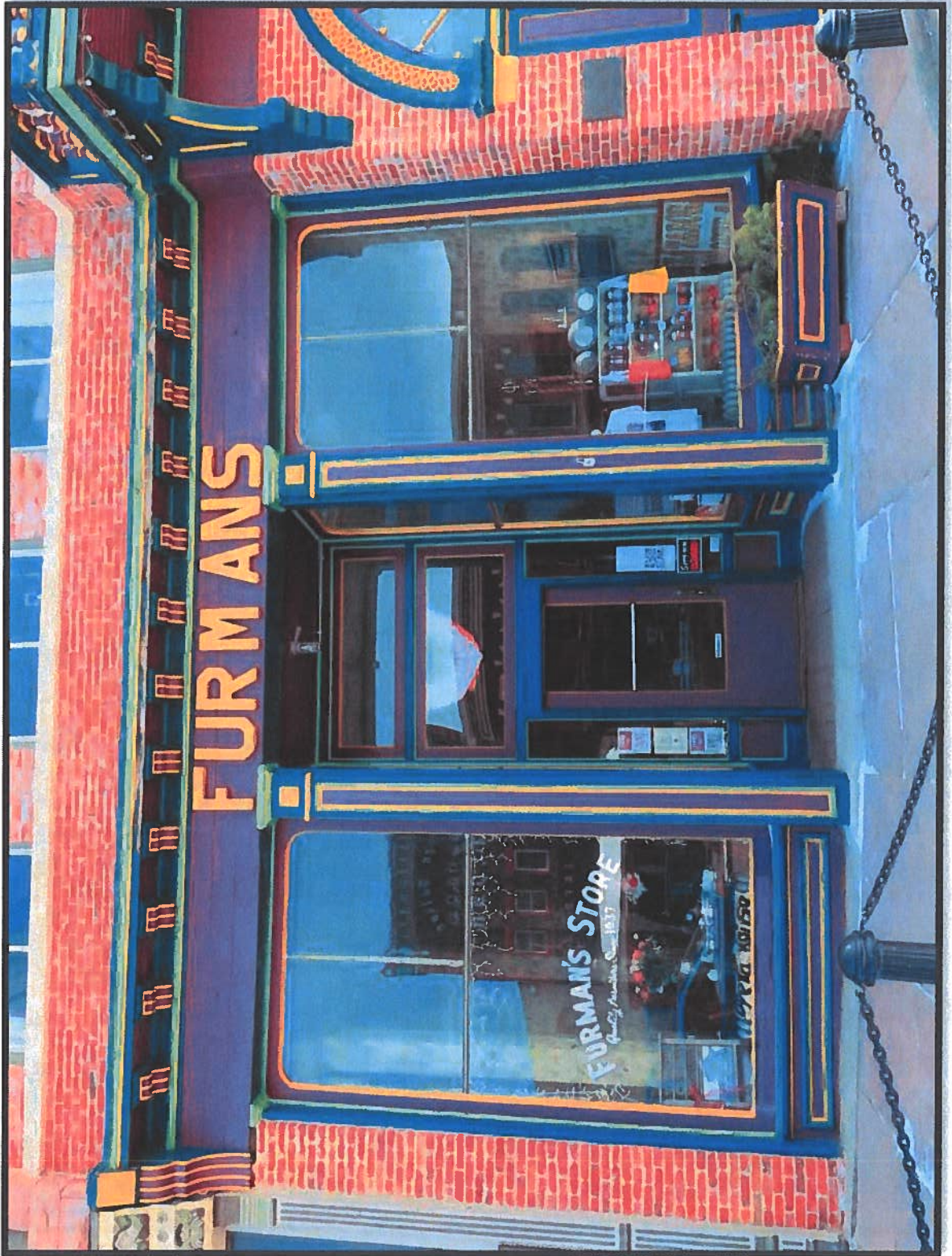
Tabor Opera House (1st Amend): View of upper west end of north elevation.

EXHIBIT B.1
(page 10 of 13)



Tabor Opera House (1st Amend): View of west elevation/main facade along Harrison

EXHIBIT B.1
(page 11 of 13)



Tabor Opera House (1st Amend): View of storefront on main façade, north (left) side

EXHIBIT B.1
(page 12 of 13)



Tabor Opera House (1st Amend): View of main theatre entrance on façade, center

EXHIBIT B.1
(page 13 of 13)



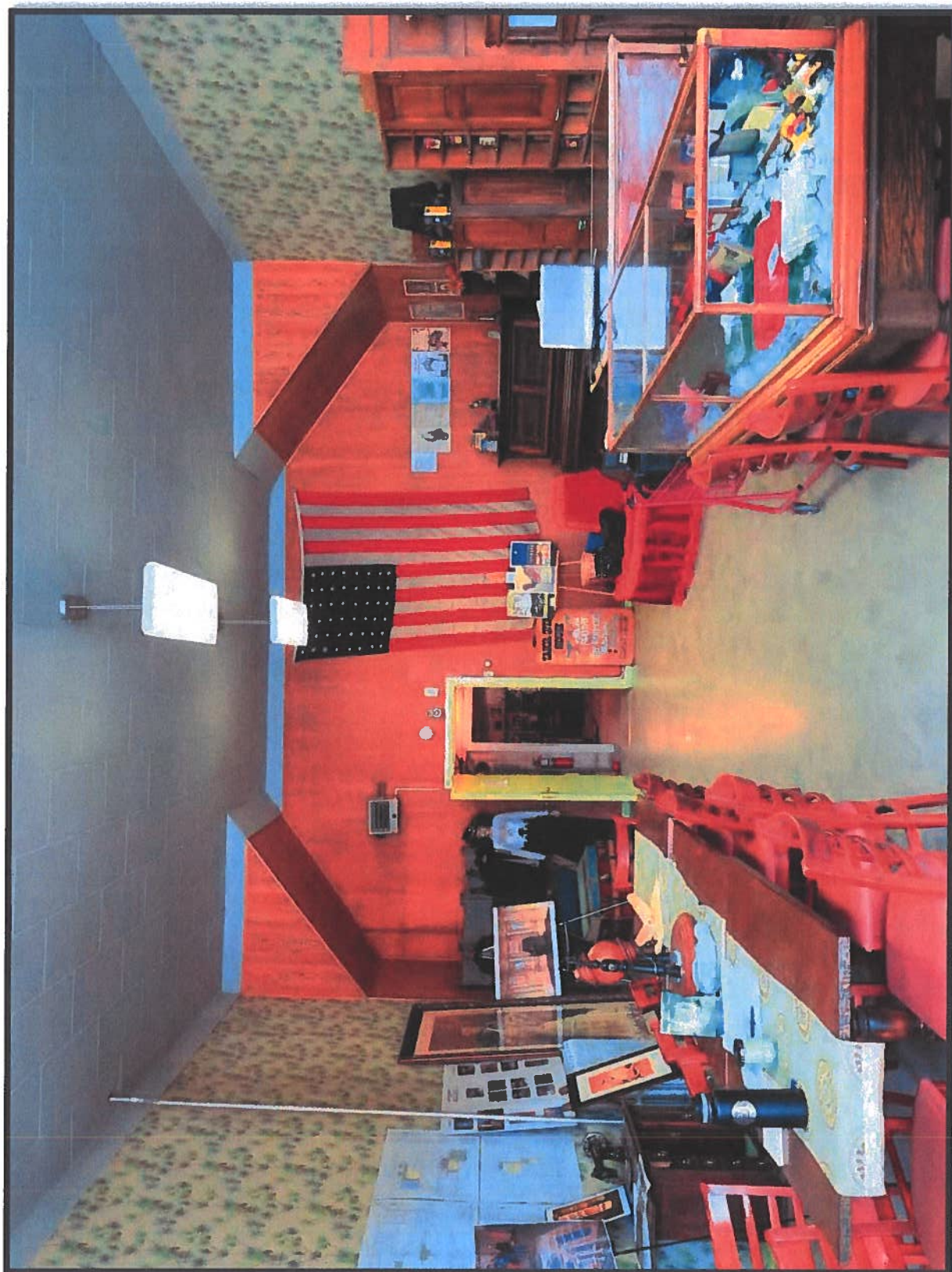
Tabor Opera House (1st Amend): View of storefront on main façade, south (right) side

EXHIBIT B.2 (Baseline Photo-documentation)
(Interior Photographs, page 1 of 49)



Tabor Opera House (1st Amend) - Lower First Floor: West (front) end of North Tenant Space

EXHIBIT B.2
(Interior Photographs, page 2 of 49)



Tabor Opera House (1st Amend) - Lower First Floor: East (rear) end of North Tenant Space

EXHIBIT B.2
(Interior Photographs, page 3 of 49)



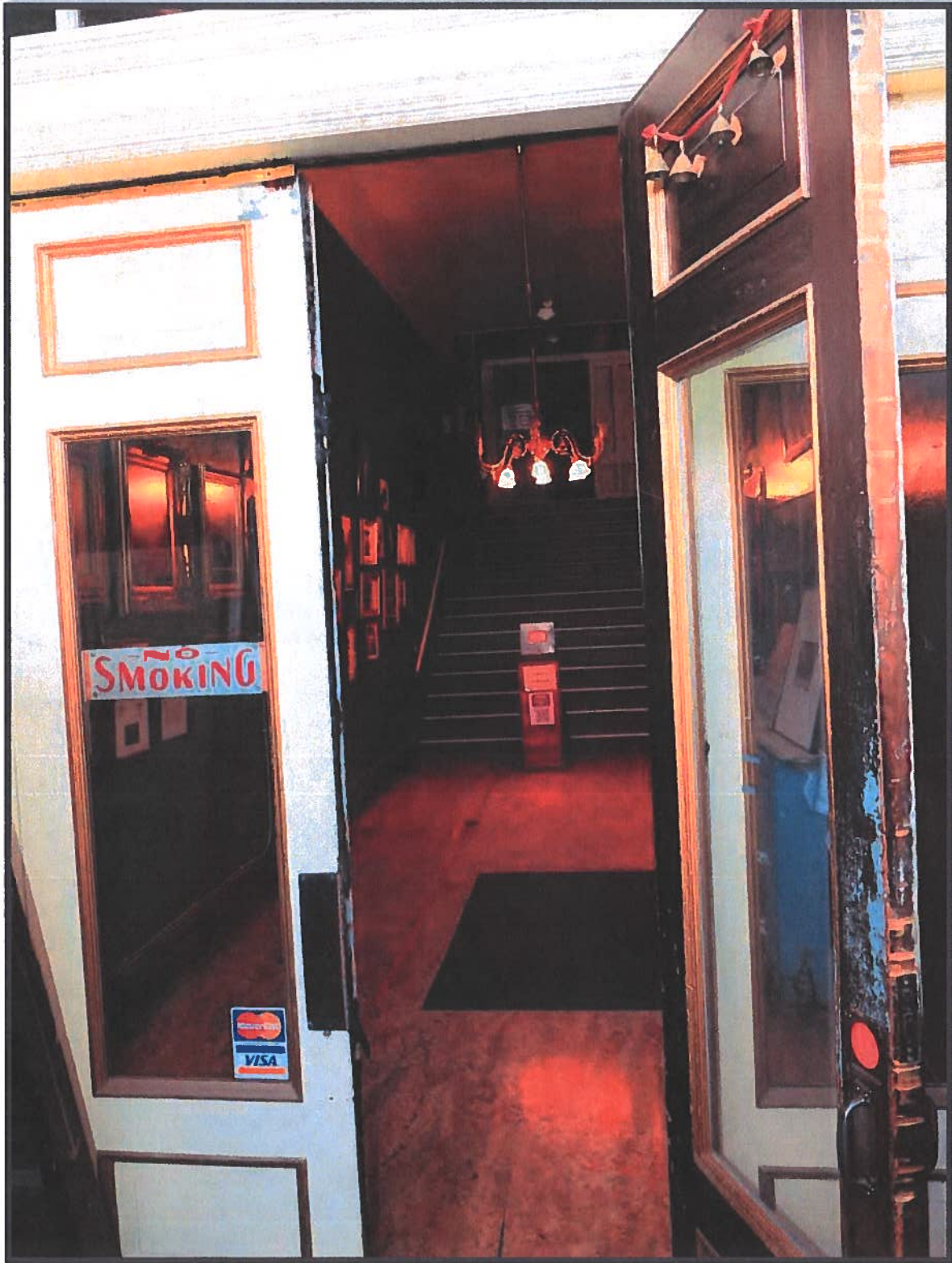
Tabor Opera House (1st Amend) - Lower First Floor: Entry Hall, looking west

EXHIBIT B.2
(Interior Photographs, page 4 of 49)



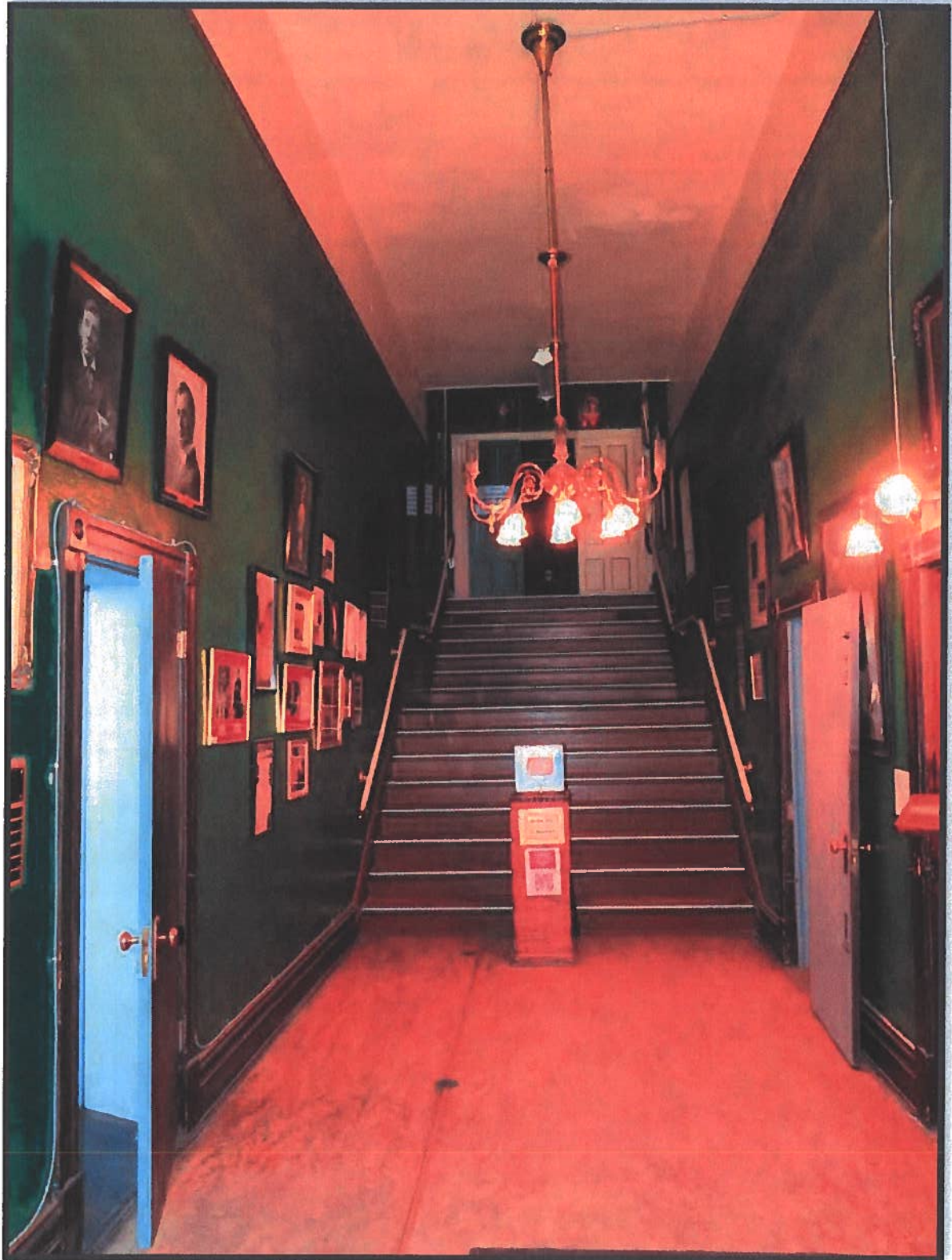
Tabor Opera House (1st Amend) - Lower First Floor: Entry vestibule showing built in display case , light fixture, and mill work

EXHIBIT B.2
(Interior Photographs, page 5 of 49)



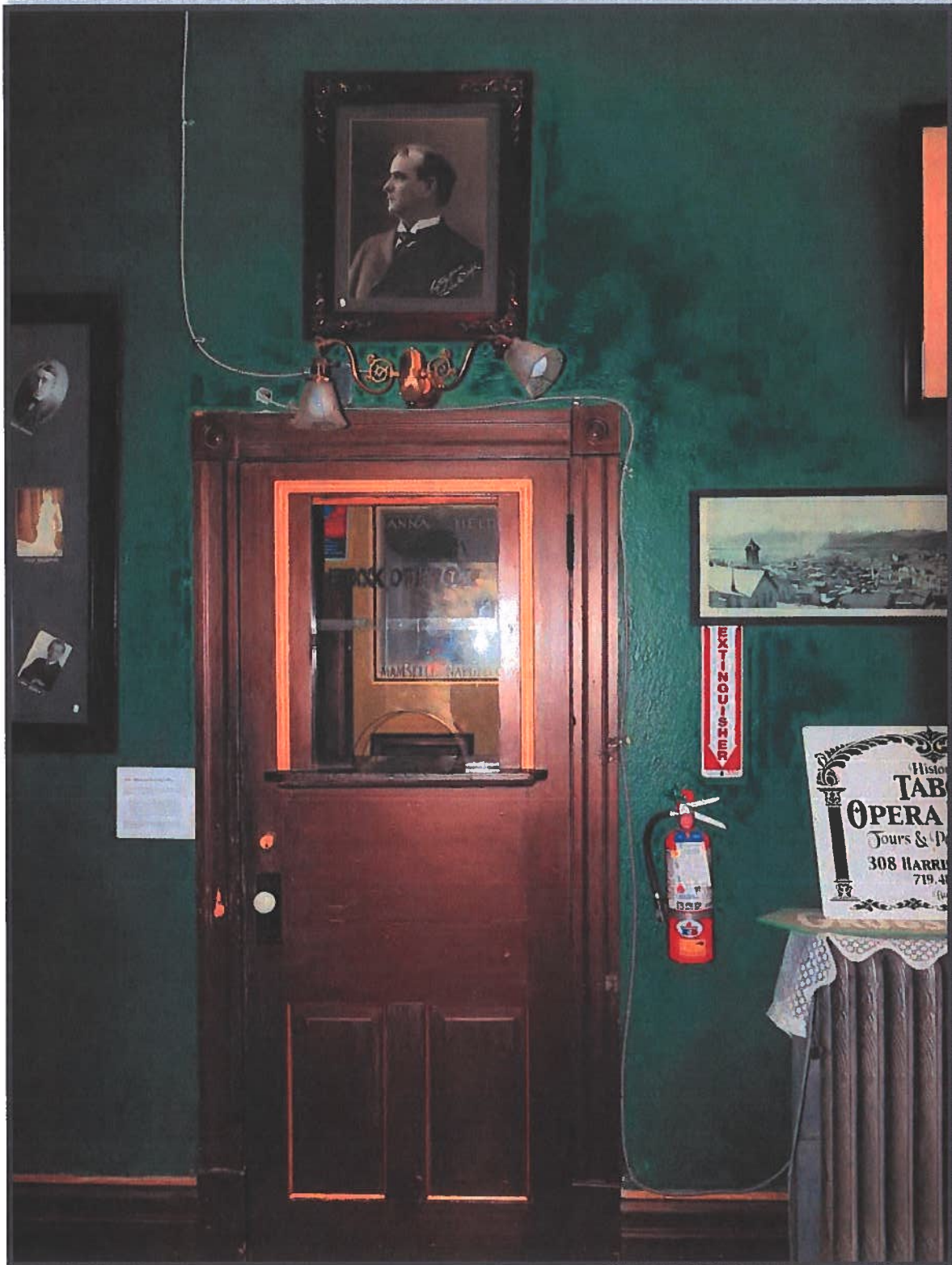
Tabor Opera House (1st Amend): Lower First Floor - View of Entry Hall from vestibule

EXHIBIT B.2
(Interior Photographs, page 6 of 49)



Tabor Opera House (1st Amend): Lower First Floor - Central Hall & Stairs to Theater

EXHIBIT B.2
(Interior Photographs, page 7 of 49)



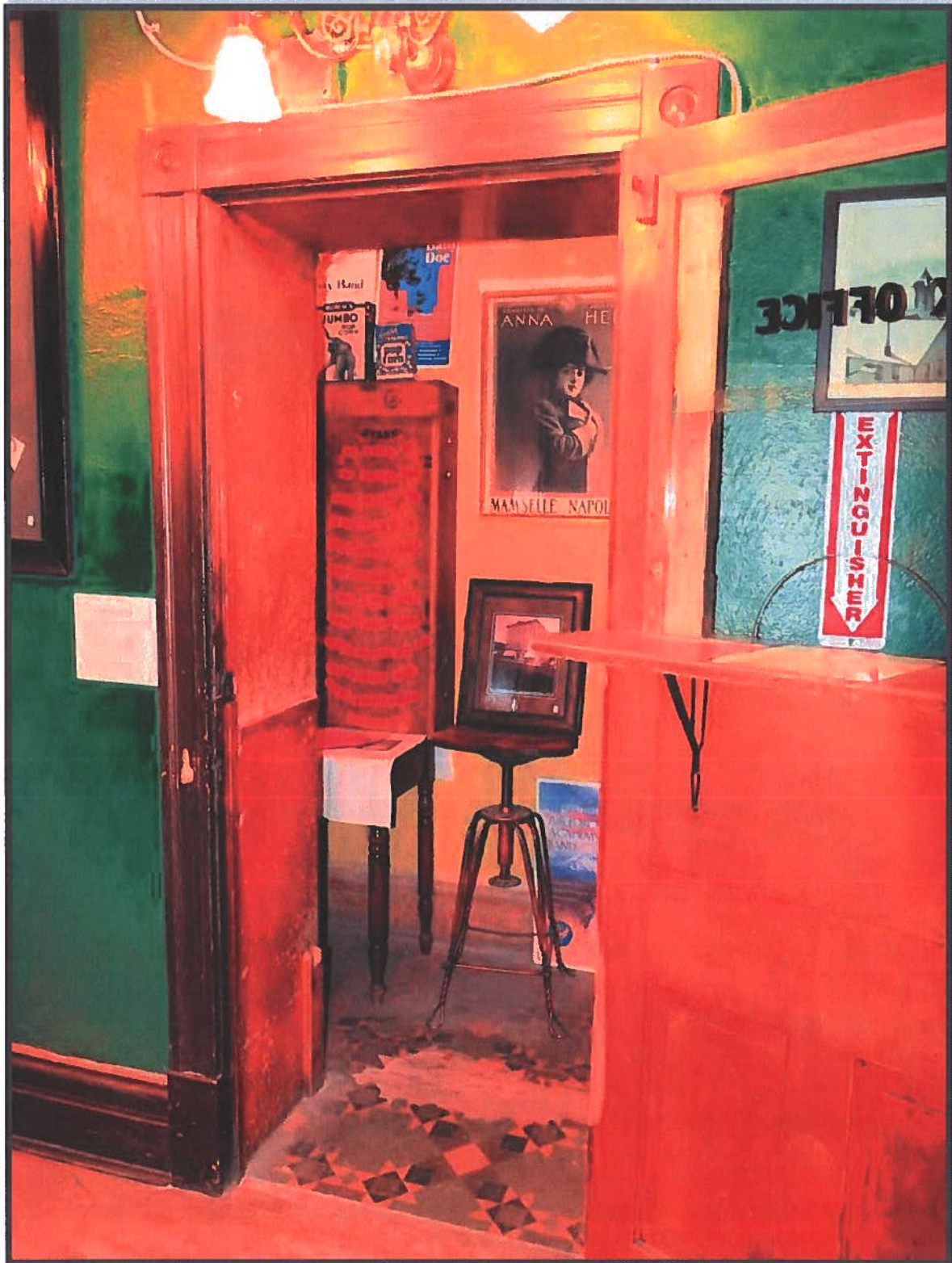
Tabor Opera House (1st Amend): Lower First Floor - Ticket Booth in Entry Hall, looking south

EXHIBIT B.2
(Interior Photographs, 8 of 49)



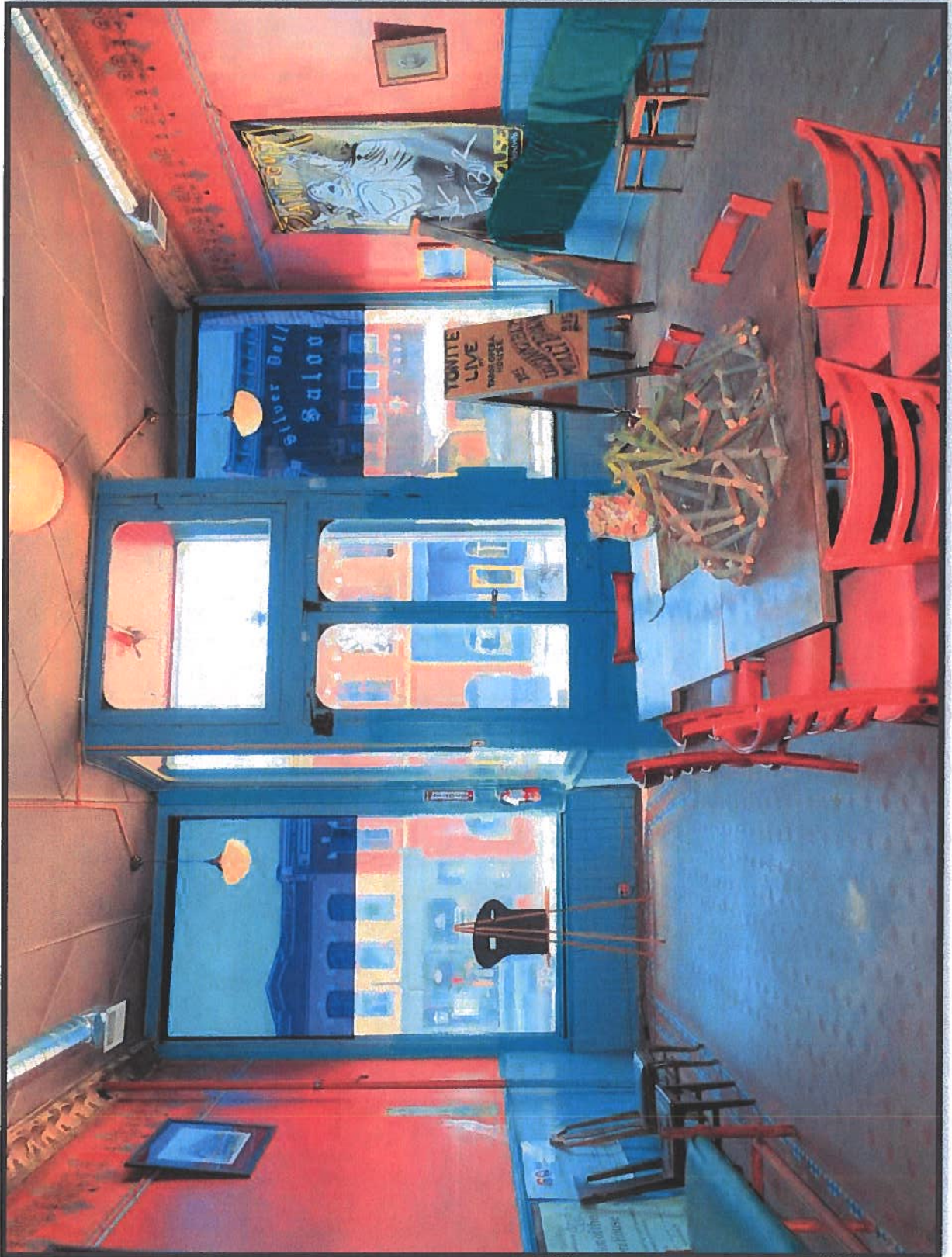
Tabor Opera House (1st Amend): Ticket Booth in Entry Hall, looking southwest

EXHIBIT B.2
(Interior Photographs, page 9 of 49)



Tabor Opera House (1st Amend): Ticket Booth in Central Hall, showing ticket seating chart

(Interior Photographs, page 10 of 49)



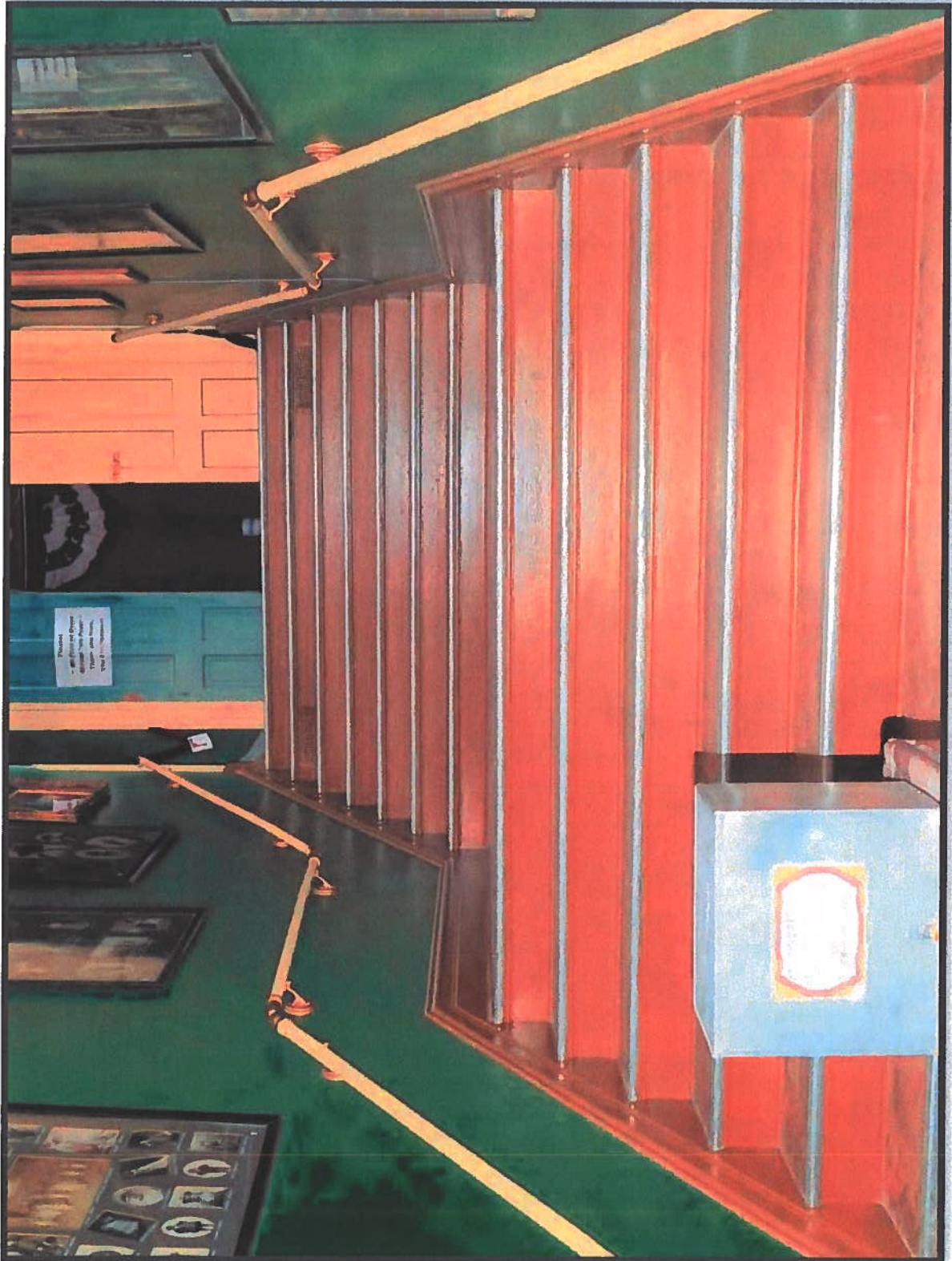
Tabor Opera House (1st Amend): Lower First Floor - West/front end of south Tenant Space

EXHIBIT B.2
(Interior Photographs, page 11 of 49)



Tabor Opera House (1st Amend): Lower First Floor - East/back end of south Tenant Space

EXHIBIT B.2
(Interior Photographs, page 12 of 49)



Tabor Opera House (1st Amend): Lower First Floor - Steps in Entry Hall, looking up toward theater entrance

EXHIBIT B.2
(Interior Photographs, page 13 of 49)



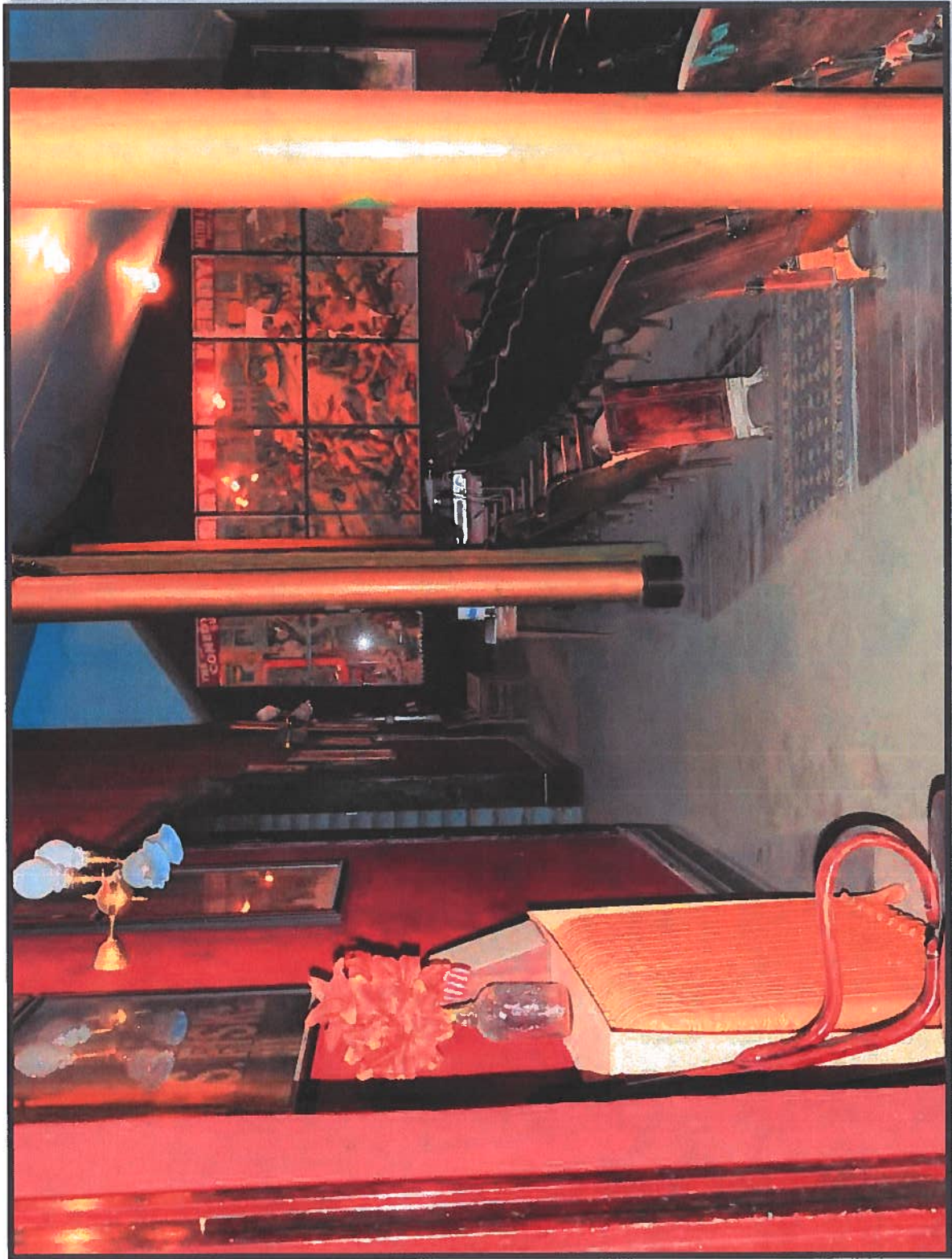
Tabor Opera House (1st Amend): Upper First Floor - Steps in Entry Hall, looking west

EXHIBIT B.2
(Interior Photographs, page 14 of 49)



Tabor Opera House (1st Amend): Upper First Floor - Entrance to theater at top of stairs

EXHIBIT B.2
(Interior Photographs, page 15 of 49)



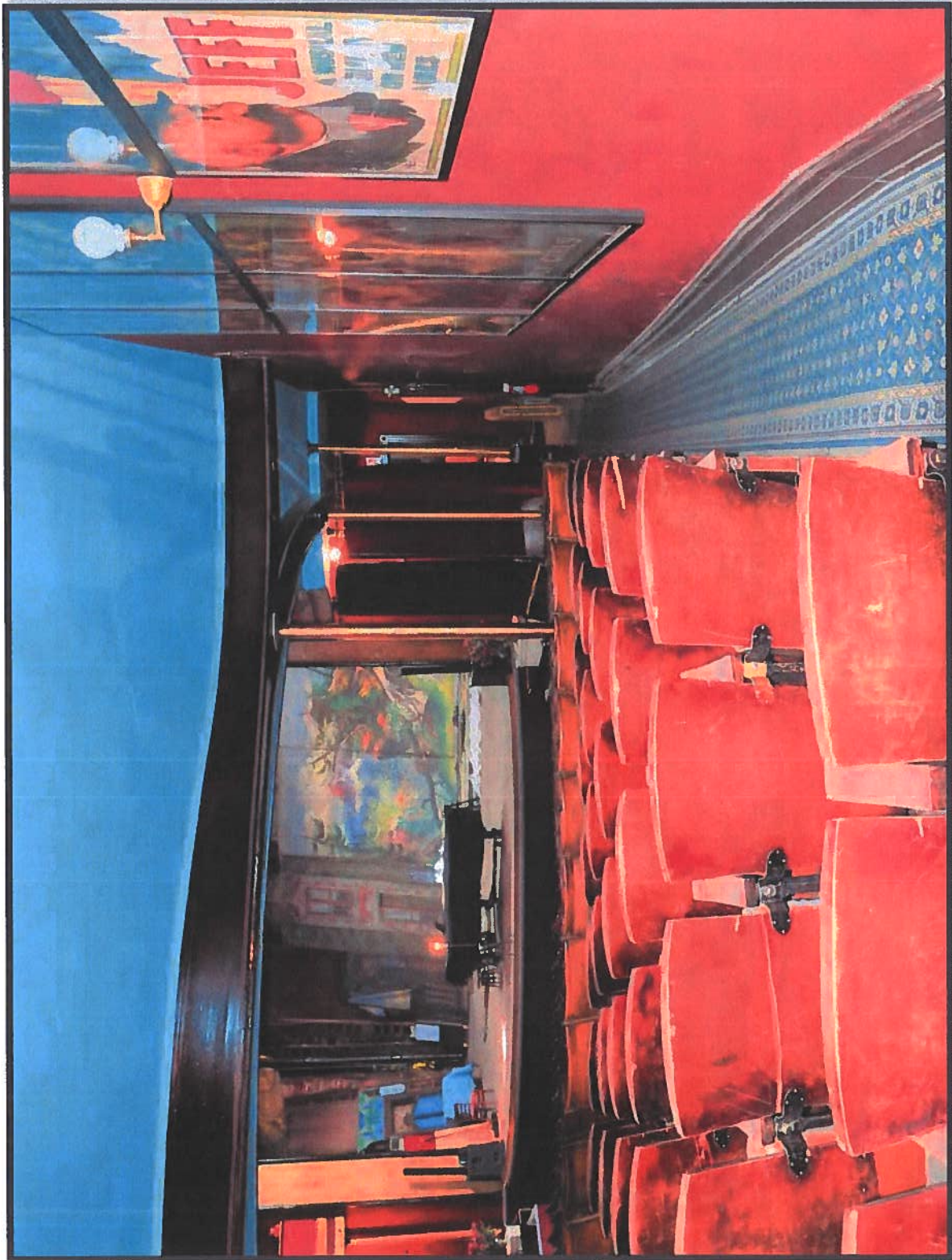
Tabor Opera House (1st Amend): Upper First Floor - Back of theater house, looking north

EXHIBIT B.2
(Interior Photographs, page 16 of 49)



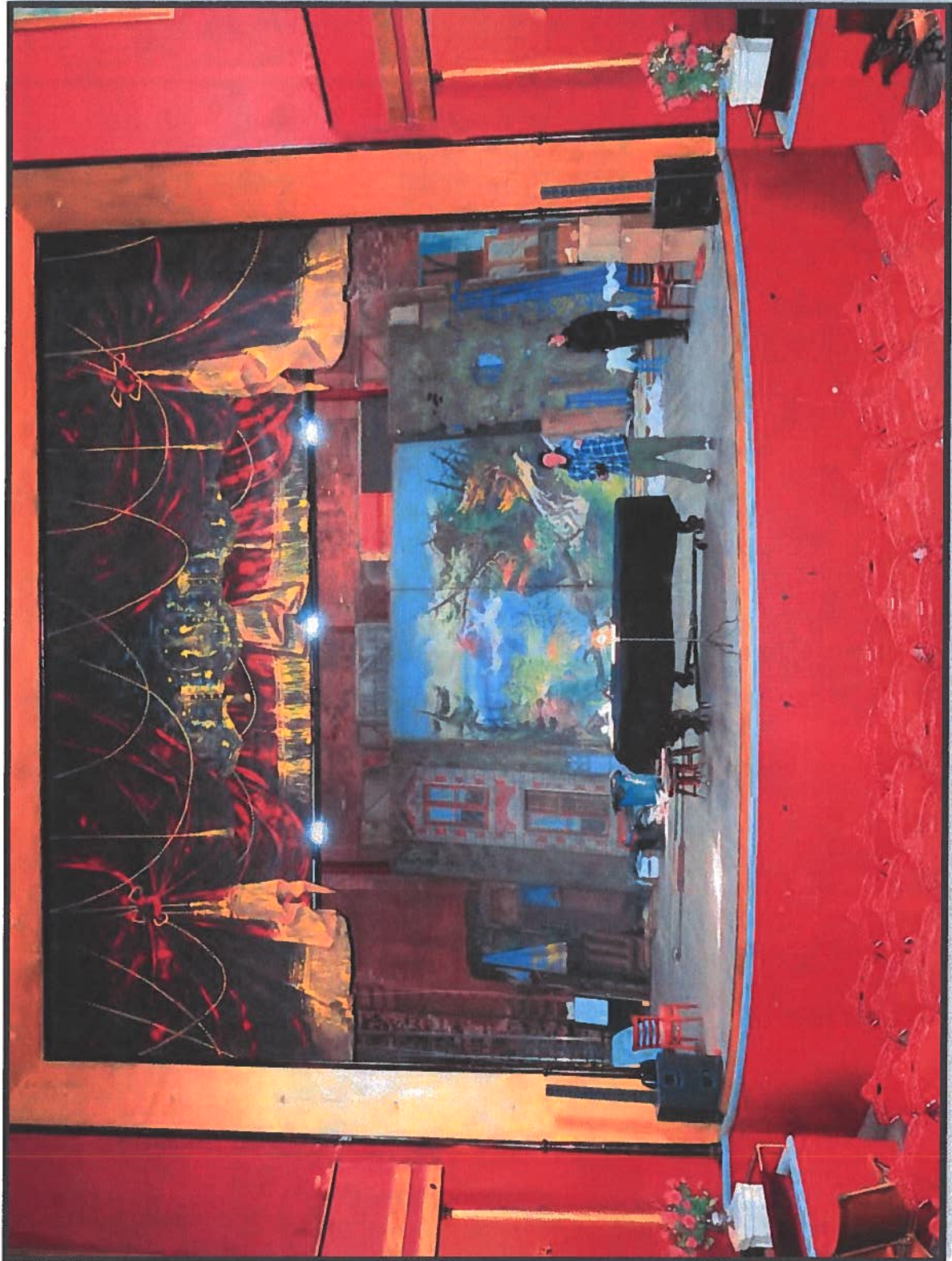
Tabor Opera House (1st Amend): Upper First Floor - Aisle along north (left) outside wall

EXHIBIT B.2
(Interior Photographs, page 17 of 49)



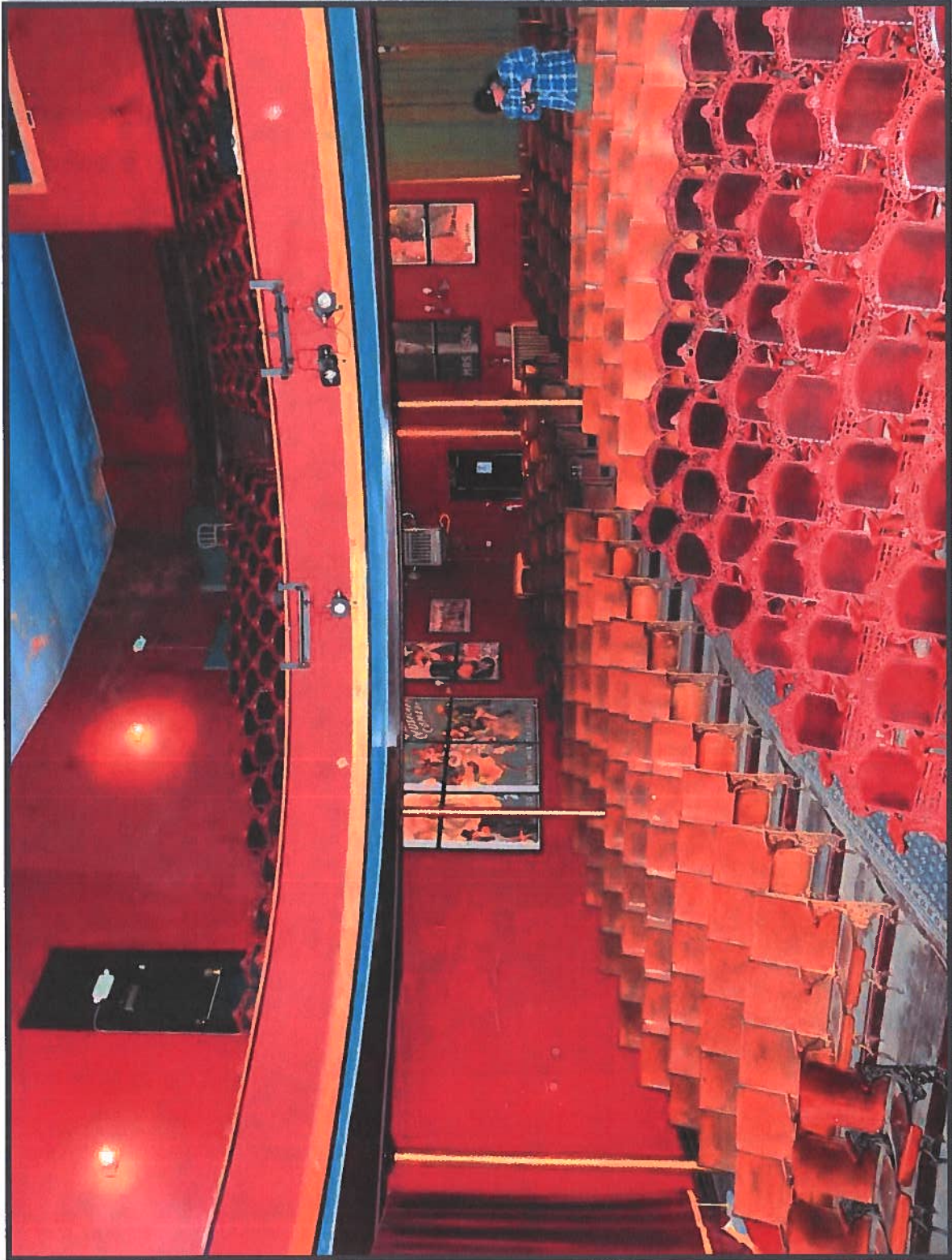
Tabor Opera House (1st Amend): Upper First Floor - Aisle along south (right) outside wall

EXHIBIT B.2
(Interior Photographs, page 18 of 49)



Tabor Opera House (1st Amend): Upper First Floor - View east to stage from theatre house

EXHIBIT B.2
(Interior Photographs, page 19 of 49)



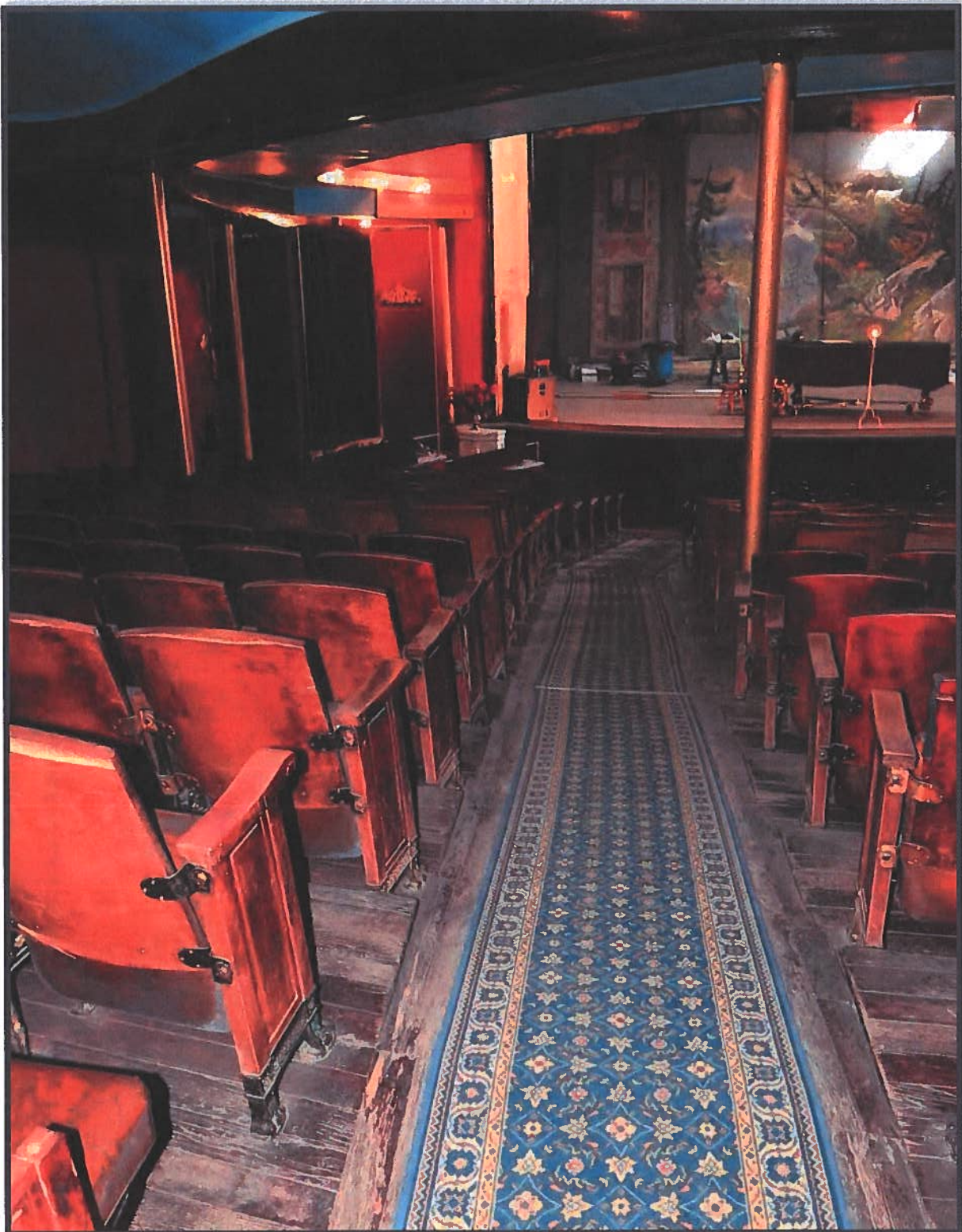
Tabor Opera House (1st Amend) : Upper First Floor - View southwest from stage to theater house showing balcony

EXHIBIT B.2
(Interior Photographs, page 20 of 49)



Tabor Opera House (1st Amend) : Upper First Floor - Central view east from back of theater house to stage

EXHIBIT B.2
(page 21 of 49)



Tabor Opera House (1st Amend): Upper First Floor - North/left central aisle view east from back of theater house

EXHIBIT B.2
(page 22 of 49)



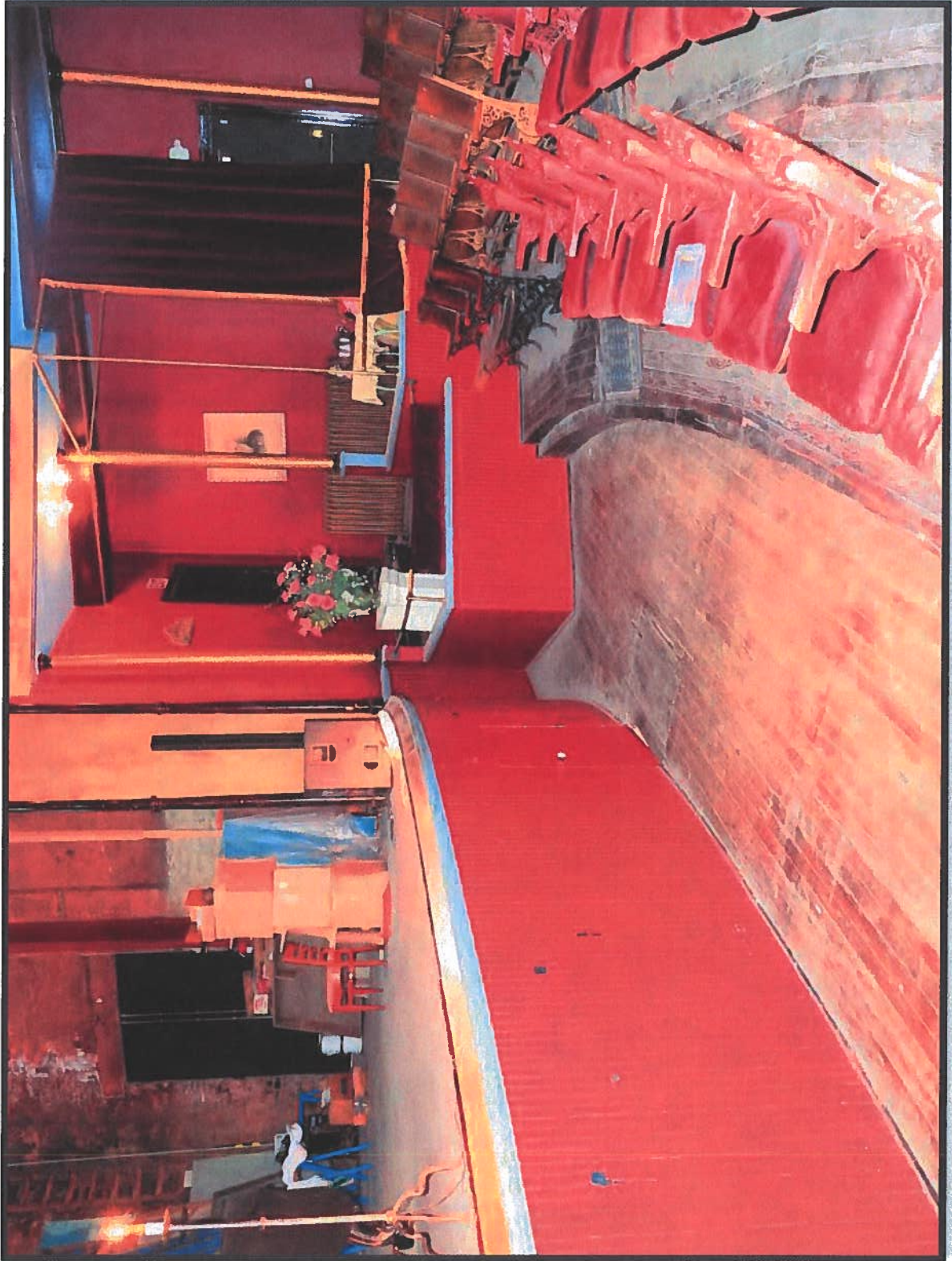
Tabor Opera House (1st Amend): Upper First Floor - South/right central aisle view east from back of theater house

(Interior Photographs, page 23 of 49)



Tabor Opera House (1st Amend): Upper First Floor: View north to front of theatre house showing orchestra pit and stage right

EXHIBIT B.2
(Interior Photographs, page 24 of 49)



Tabor Opera House (1st Amend): Upper First Floor - View south to front of theatre house showing orchestra pit and stage left

EXHIBIT B.2
(Interior Photographs, page 25 of 49)



Tabor Opera House (1st Amend): Upper First Floor - Stage right

EXHIBIT B.2
(Interior Photographs, page 26 of 49)



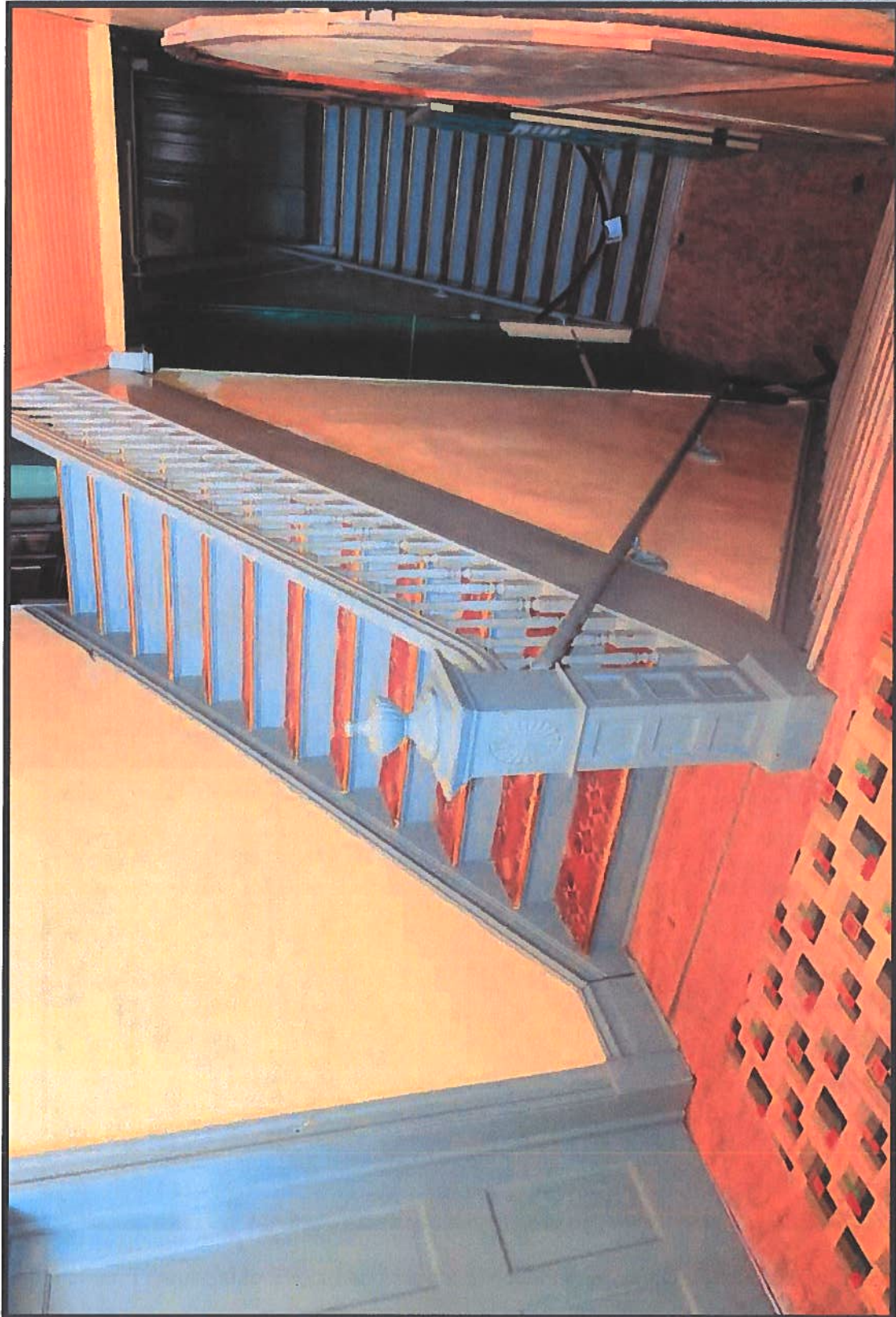
Tabor Opera House (1st Amend): Upper First Floor - Stage left

EXHIBIT B.2
(Interior Photographs, page 27 of 49)



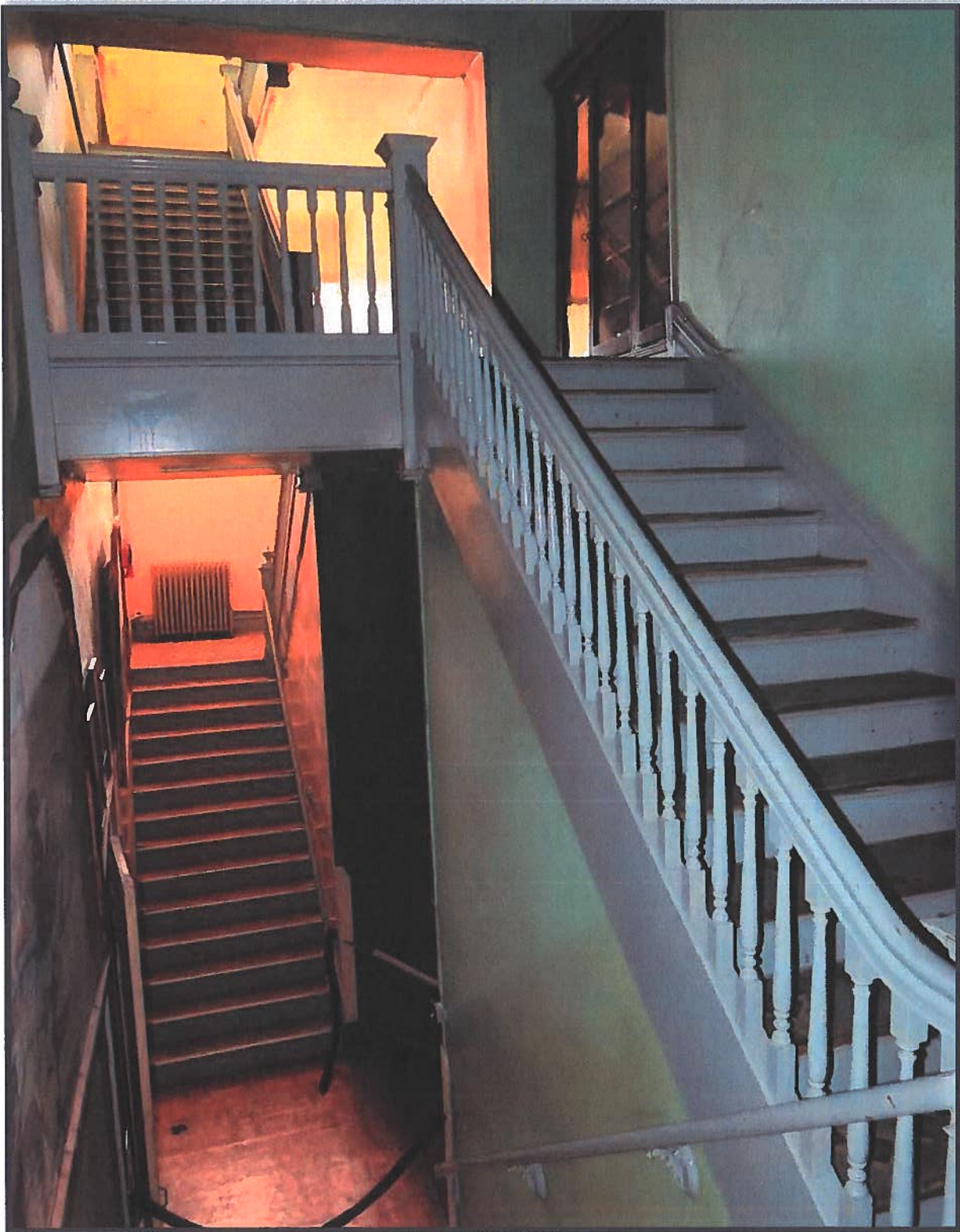
Tabor Opera House (1st Amend): Upper First Floor - View southwest across stage to theater house

EXHIBIT B.2
(Interior Photographs, page 28 of 49)



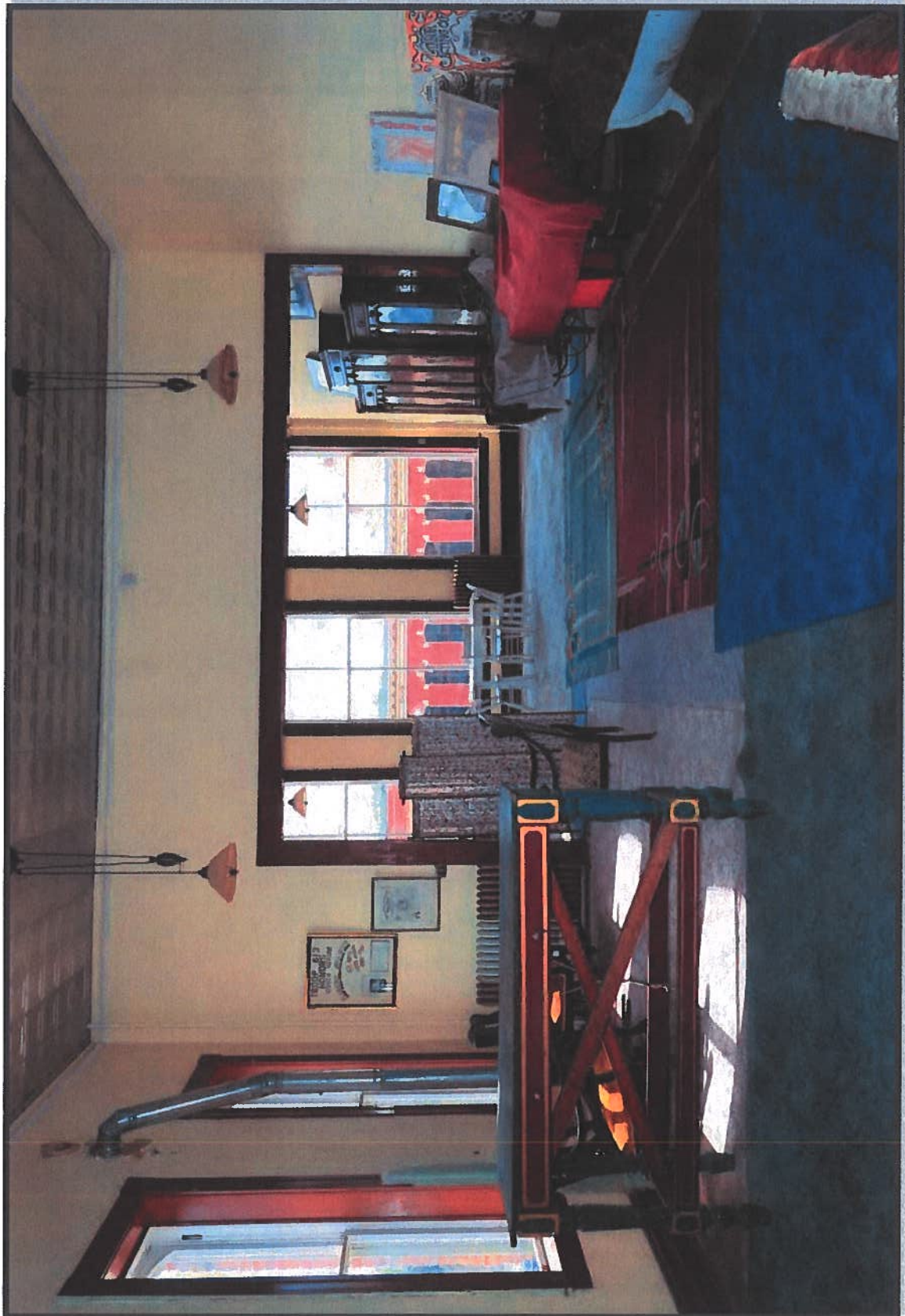
Tabor Opera House (1st Amend): Upper First Floor Stair to Second Floor looking northwest from landing

EXHIBIT B.2
(page 29 of 49)



Tabor Opera House (1st Amend): Upper First Floor Stair to Second Floor looking south from landing

EXHIBIT B.2
(Interior Photographs, page 30 of 49)



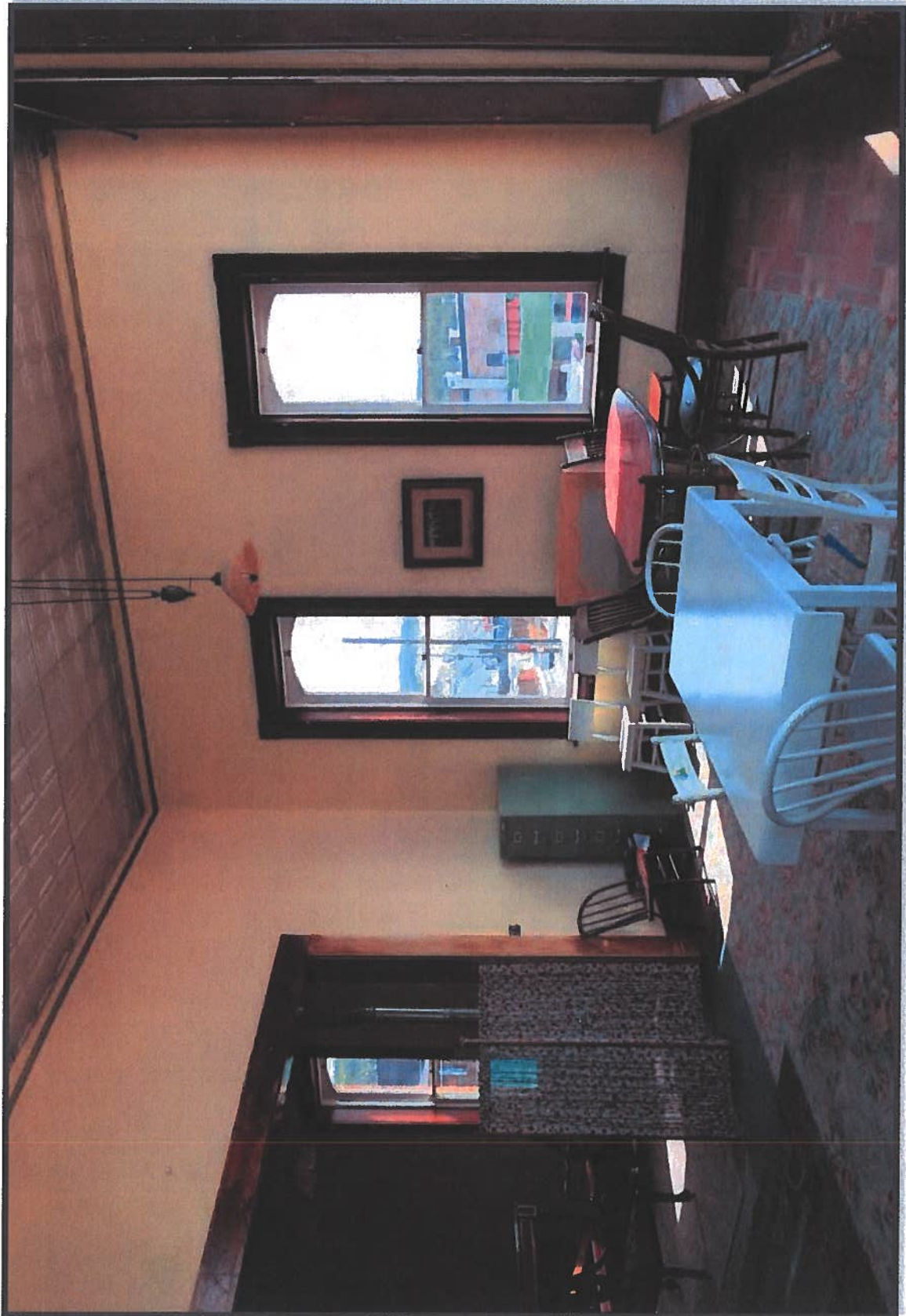
Tabor Opera House (1st Amend): Second Floor - Tabor Suite south, looking to the west/front

EXHIBIT B.2
(Interior Photographs, page 31 of 49)



Tabor Opera House (1st Amend): Second Floor - Tabor Suite south looking east/rear

EXHIBIT B.2
(Interior Photographs, page 32 of 49)



Tabor Opera House (1st Amend): Second Floor - Tabor Suite south, west/front end of space looking south

EXHIBIT B.2
(Interior Photographs, page 33 of 49)



Tabor Opera House (1st Amend): Second Floor - Tabor Suite South - west/front end of space looking north

EXHIBIT B.2
(page 34 of 49)



Tabor Opera House (1st Amend): Second Floor - Tabor Suite north, west/front end

EXHIBIT B.2
(Interior Photographs, page 35 of 49)



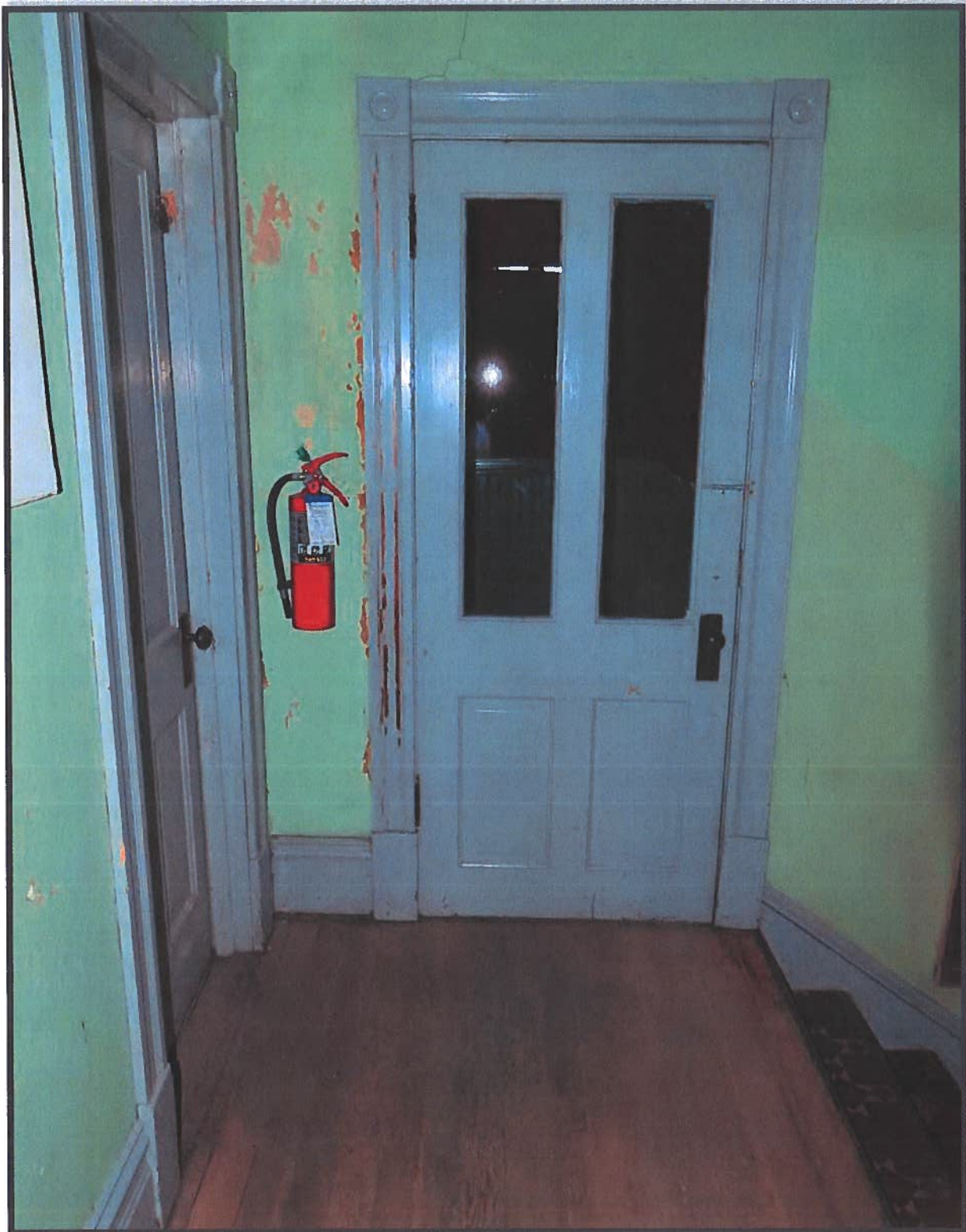
Tabor Opera House (1st Amend): Second Floor - Tabor Suite North, looking to the west/front of building

EXHIBIT B.2
(Interior Photographs, page 36 of 49)



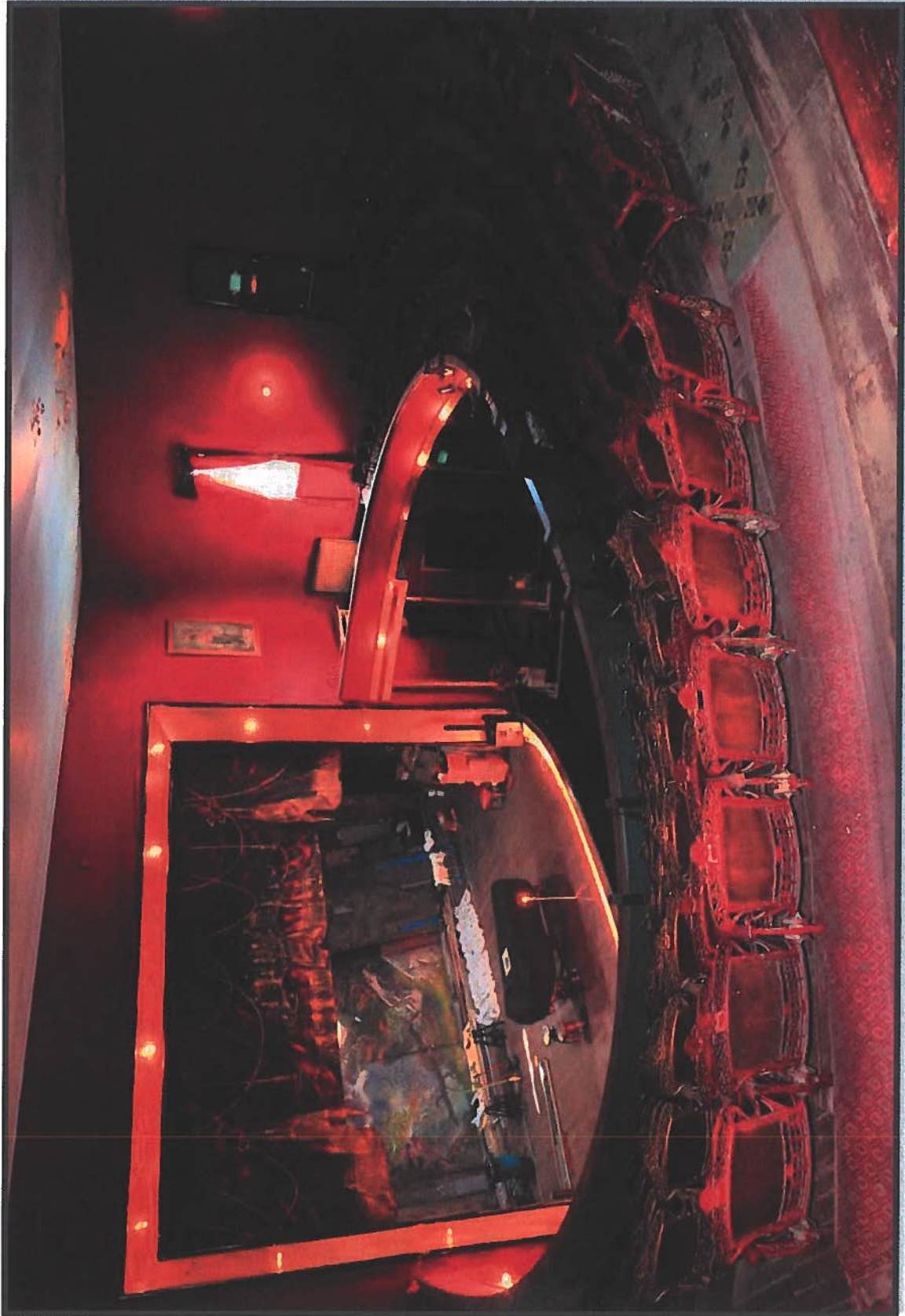
Tabor Opera House (1st Amend): Second Floor - Tabor Suite North looking east toward the back

EXHIBIT B.2
(page 37 of 49)



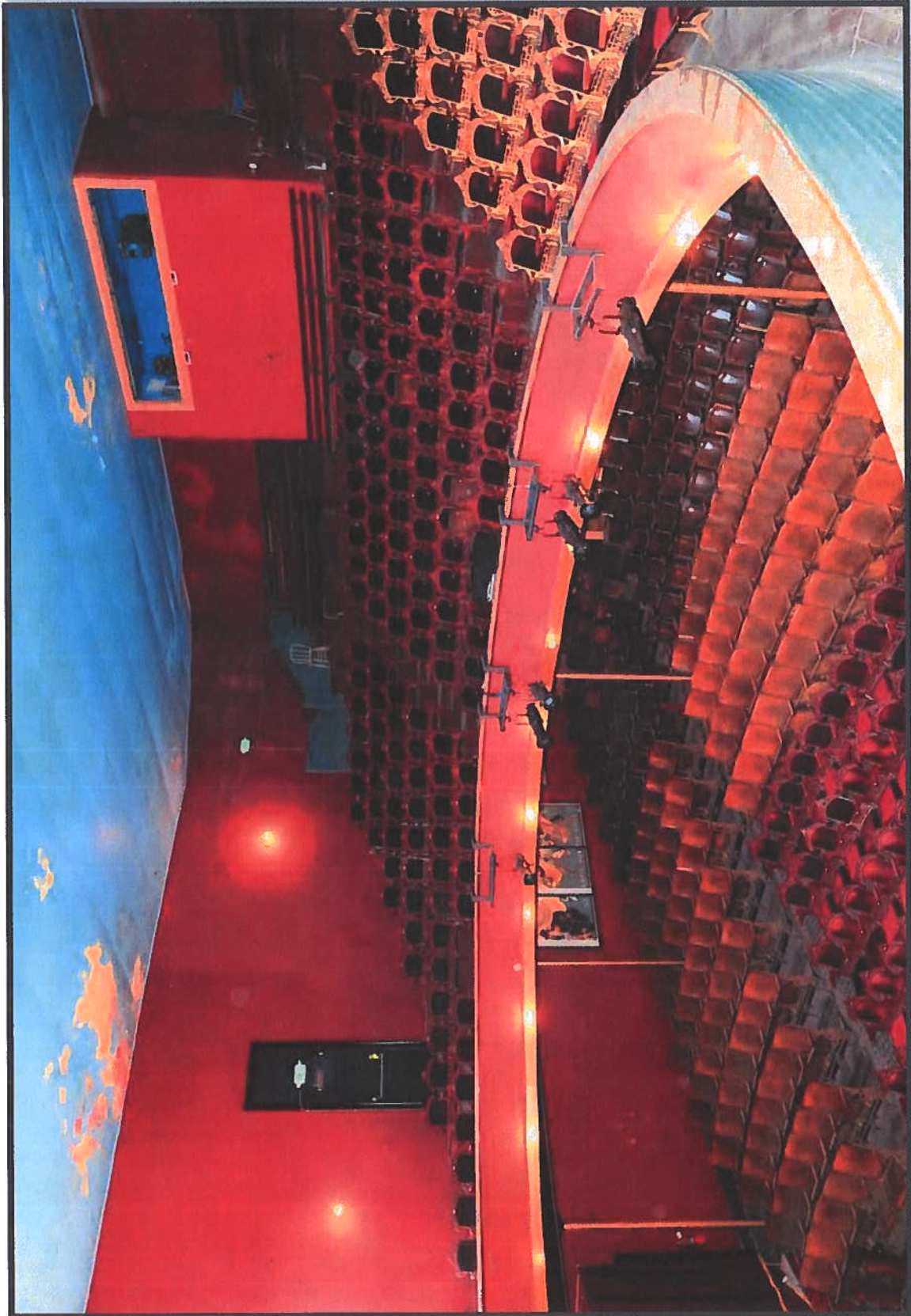
Tabor Opera House (1st Amend): Second Floor - North stair landing door to Balcony

EXHIBIT B.2
(Interior Photographs, page 38 of 49)



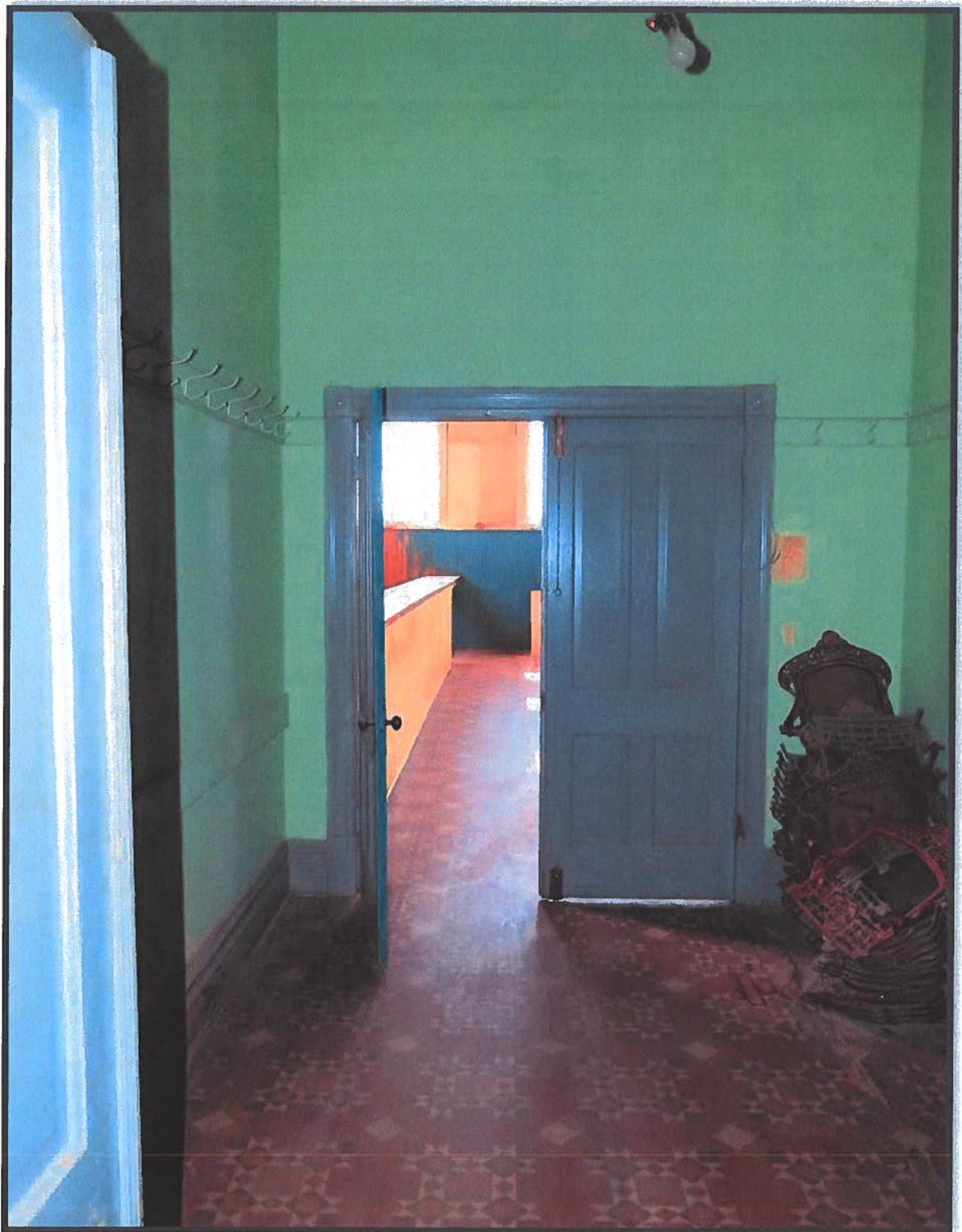
Tabor Opera House (1st Amend): Second Floor - View of theatre from Balcony, looking southeast

EXHIBIT B.2
(Interior Photographs, page 39 of 49)



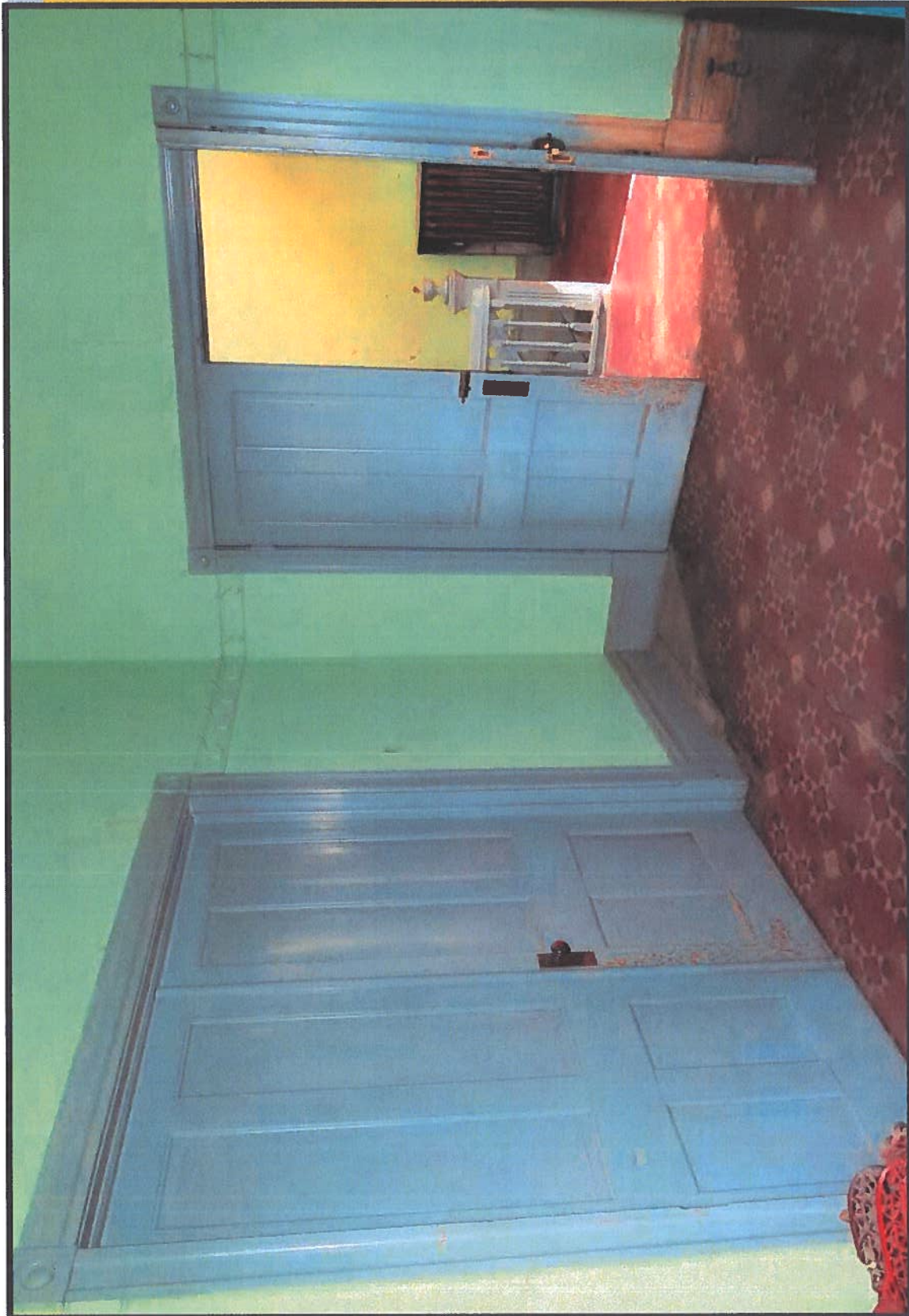
Tabor Opera House (1st Amend): Second Floor - View of theater house looking southwest across Balcony

EXHIBIT B.2
(page 37 of 49)



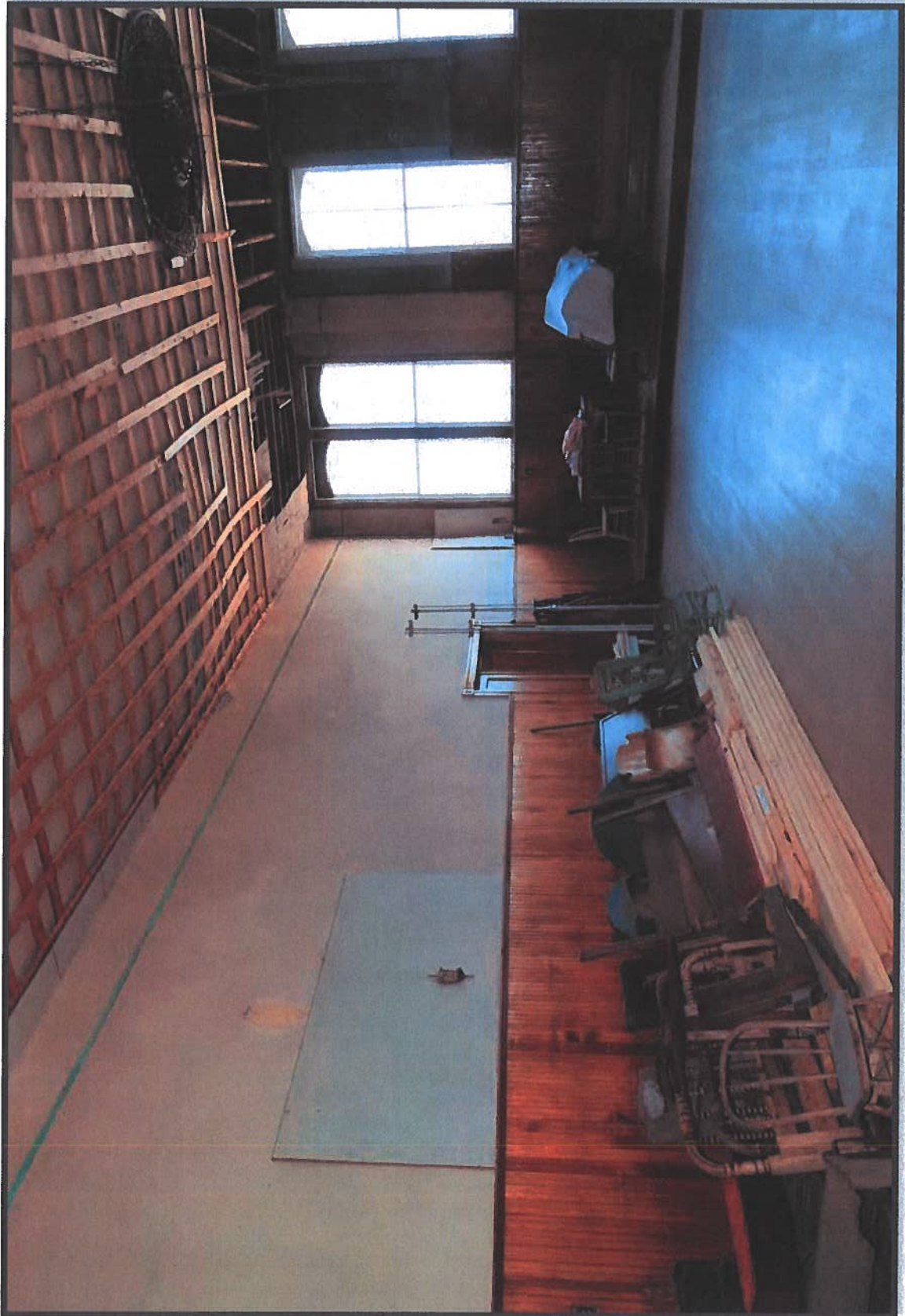
Tabor Opera House (1st Amend): Second Floor - North stair landing door to Balcony

EXHIBIT B.2
(Interior Photographs, page 40 of 49)



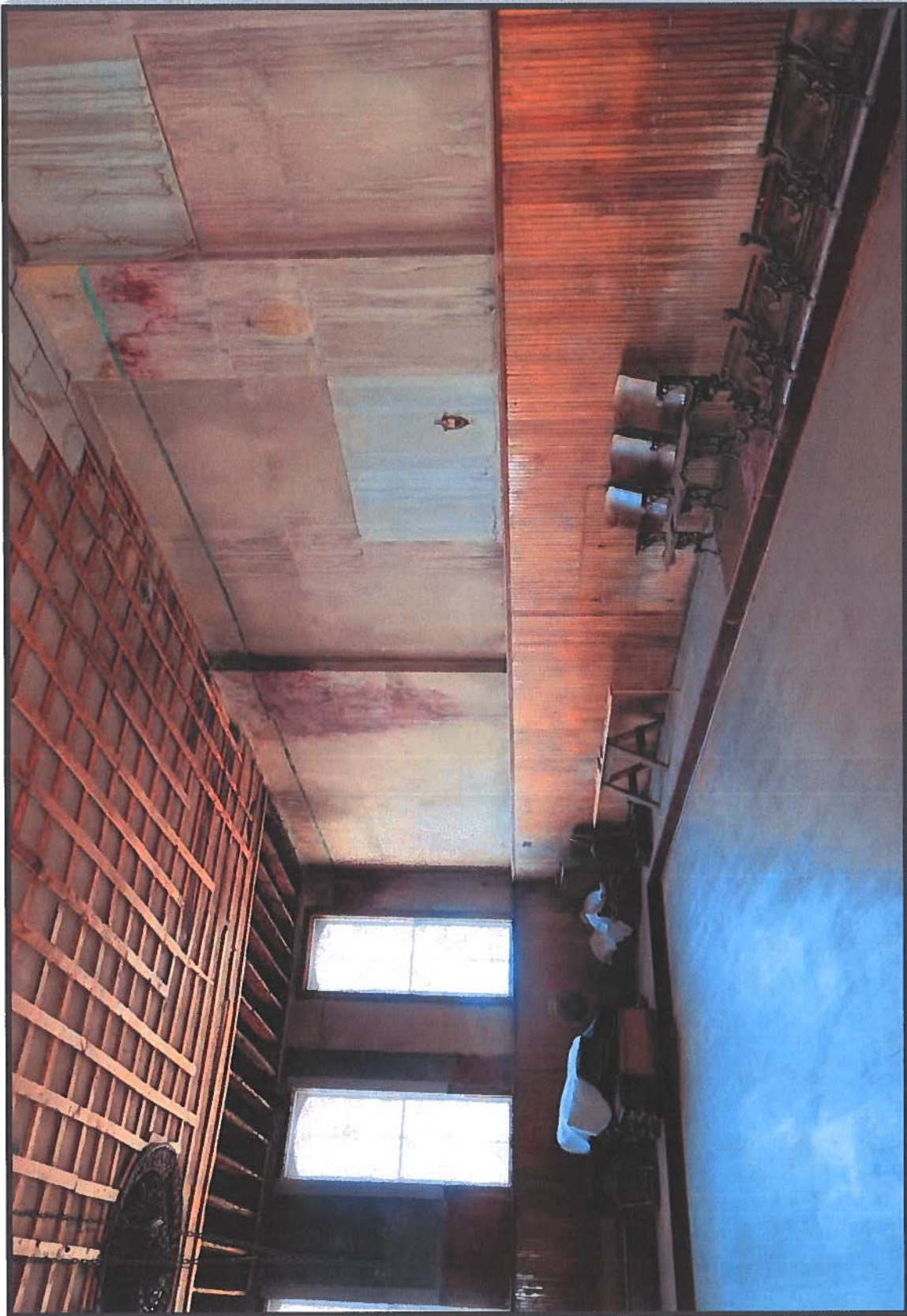
Tabor Opera House (1st Amend): Third Floor - View of ballroom looking southwest toward front

EXHIBIT B.2
(Interior Photographs, page 40 of 49)



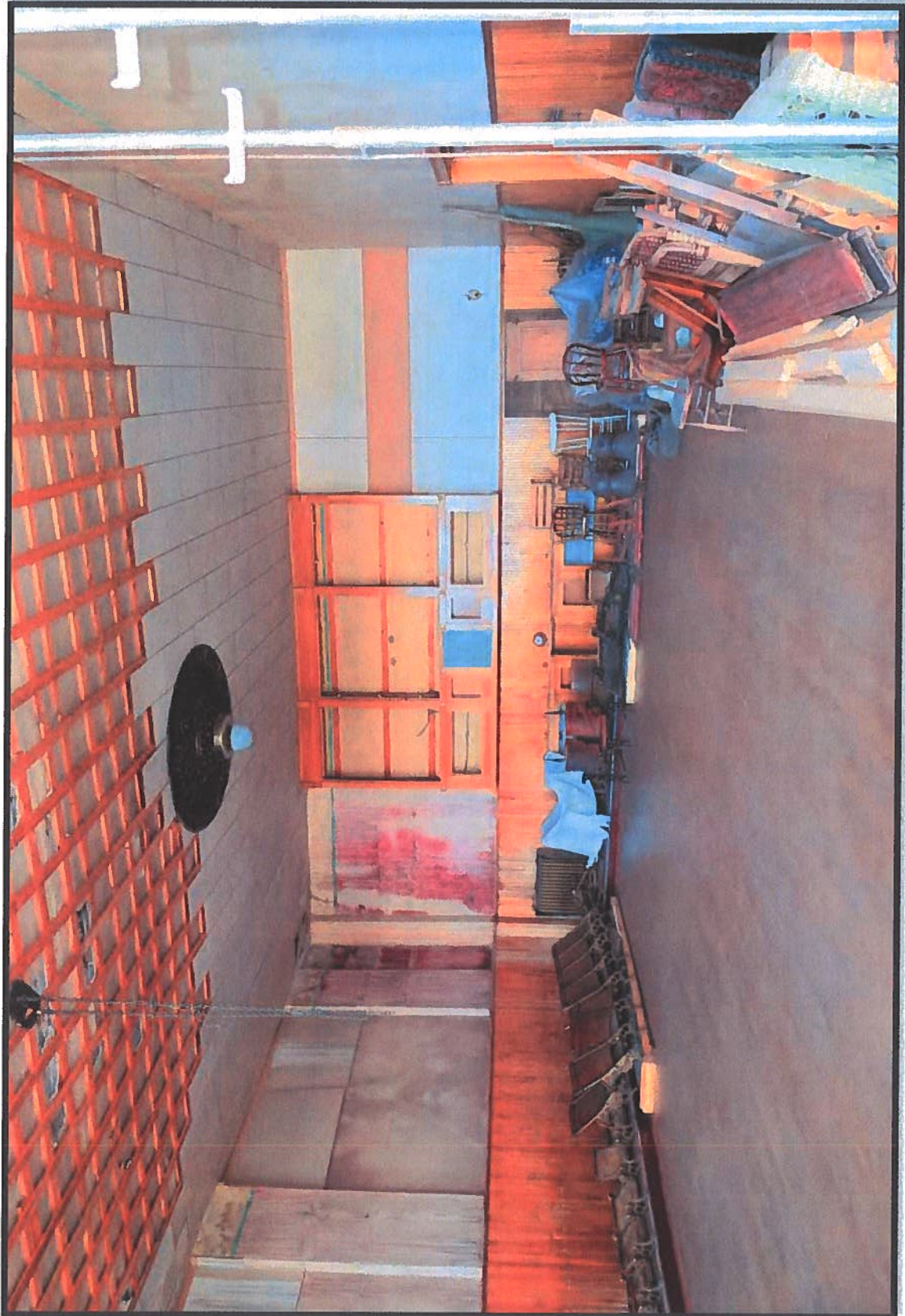
Tabor Opera House (1st Amend): Third Floor - View of ballroom looking southwest toward front

EXHIBIT B.2
(Interior Photographs, page 41 of 49)



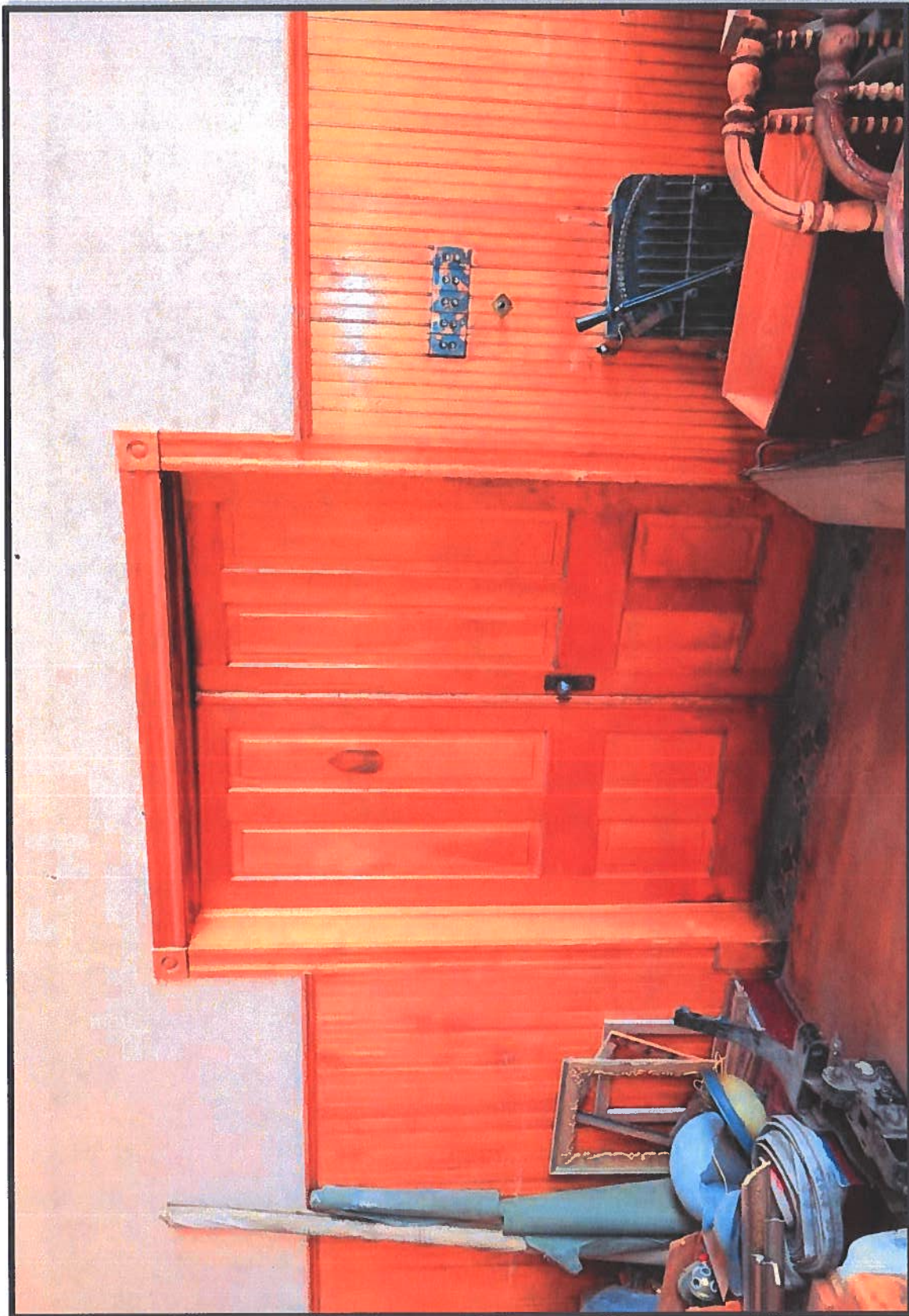
Tabor Opera House (1st Amend): Third Floor - View of ballroom looking northwest toward front

EXHIBIT B.2
(Interior Photographs, page 42 of 49)



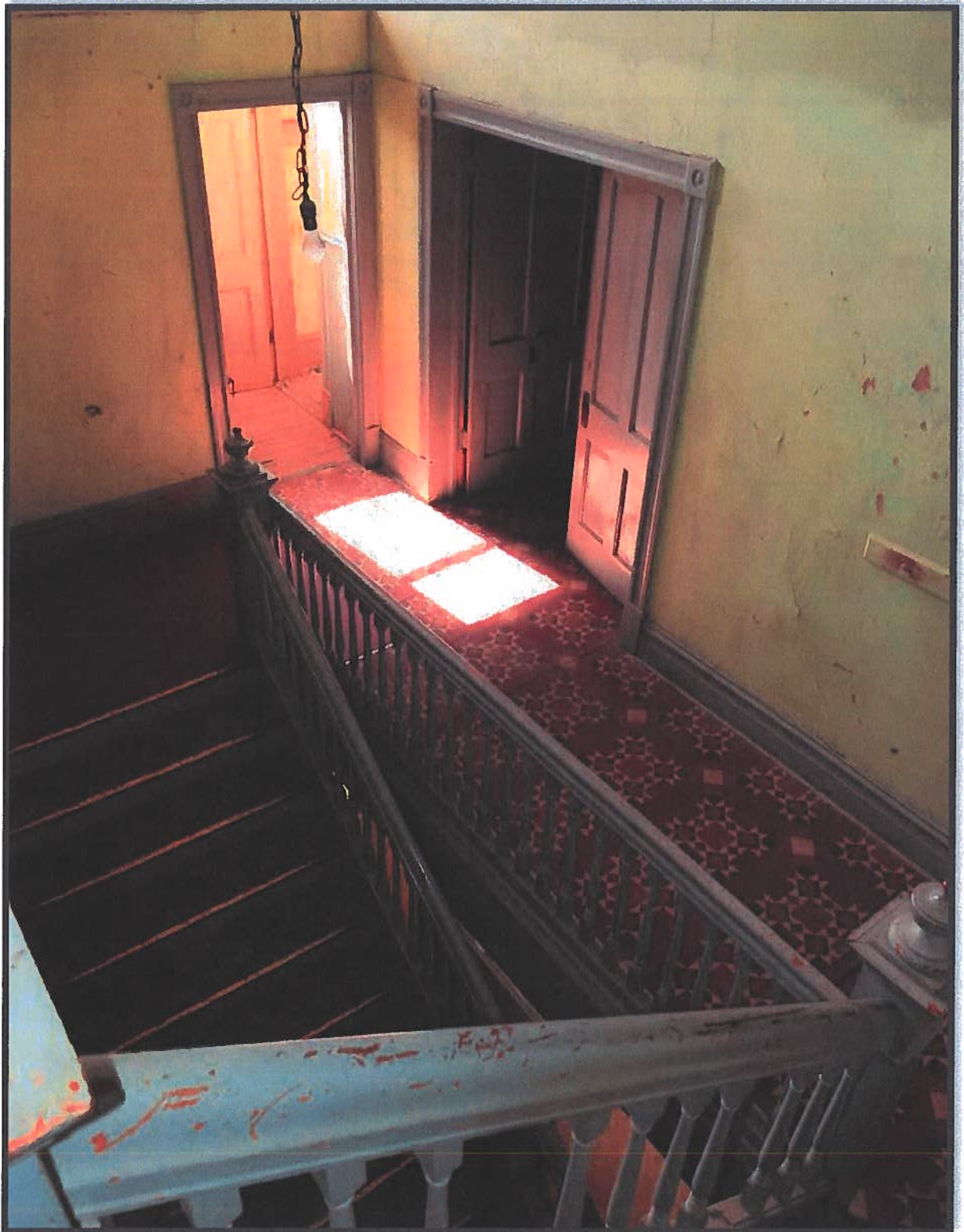
Tabor Opera House (1st Amend): Third Floor - View of ballroom looking east to rear

EXHIBIT B.2
(Interior Photographs, page 43 of 49)



Tabor Opera House (1st Amend): Third Floor - View of Ballroom double doors and rheostat along south wall at east end

EXHIBIT B.2
(page 44 of 49)



Tabor Opera House (1st Amend): Third Floor - View of third floor stair landing

EXHIBIT B.2
(page 45 of 49)



Tabor Opera House (1st Amend): Third Floor - View of stair from landing to the light well area

EXHIBIT B.2
(Interior Photographs, page 46 of 49)



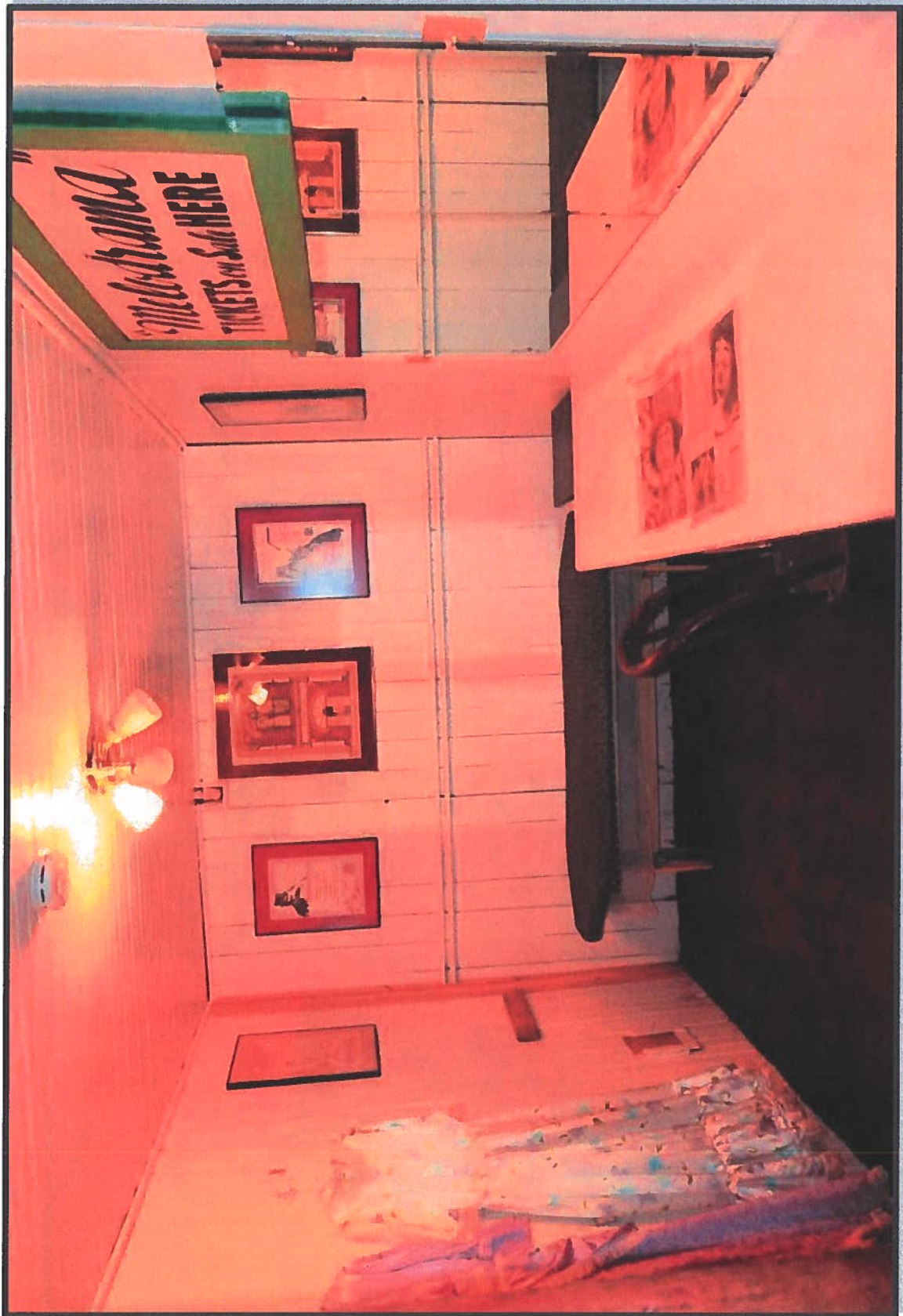
Tabor Opera House (1st Amend): Third Floor - View of former light well looking northwest

EXHIBIT B.2
(page 47 of 49)



Tabor Opera House (1st Amend): Third Floor - Central view of former light wall looking west

EXHIBIT B.2
(Interior Photographs, page 48 of 49)



Tabor Opera House (1st Amend): Lower First Floor Plan - Original dressing room (sample)

EXHIBIT B.2
(Interior Photographs, page 49 of 49)



Tabor Opera House (1st Amend): Lower First Floor - Original dressing room (sample)

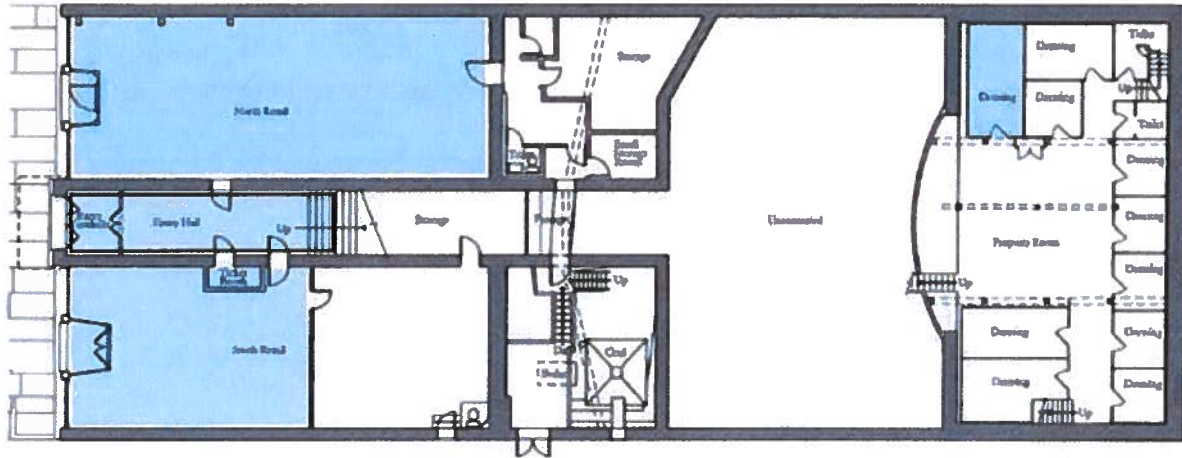
EXHIBIT B.2
Character Defining
Interior Spaces and Features

The required interior preservation, maintenance, and rehabilitation, as stipulated in paragraph 2 of this First Amended Deed of Conservation Easement, shall apply only to the spaces indicated by grey shading on the existing floor plans, included herein in Exhibit B.2. All other interior spaces shall also be maintained in a good and sound state of repair as stated in paragraph 2.2 of the Original Deed of Conservation Easement.

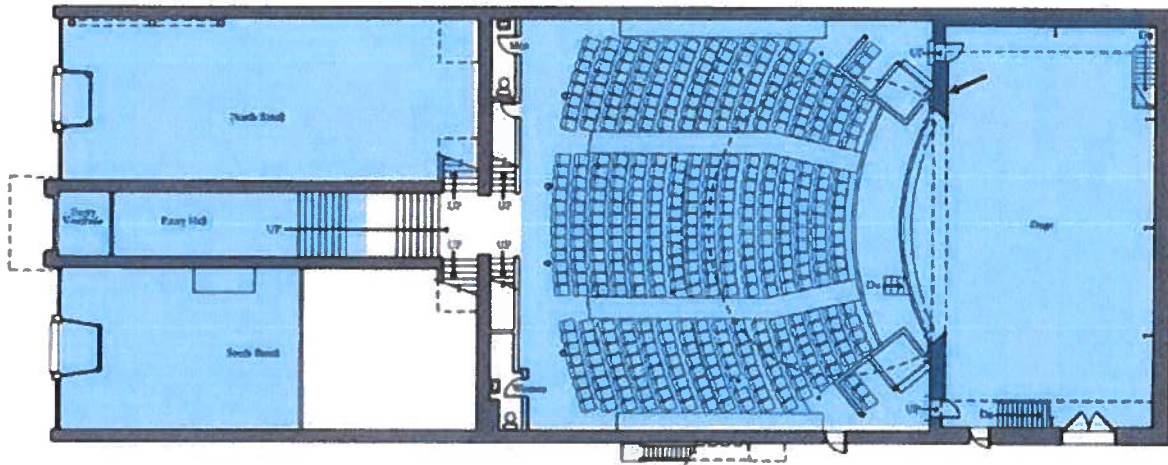
Unless otherwise specified, "Character Defining Interior Spaces and Features" include the following, as the same exists as of the date of this First Amendment.

1. Placement and configuration of primary walls and openings
2. Plaster walls and bead board finishes
3. Historic interior doors and door casings
4. Wood flooring
5. Wood trim to include baseboard and picture rail.
6. Main stair wood balustrade and newel posts
7. Specialty finishes including the stenciled frieze and decorative cornice in the lower first floor south retail space.
8. Large rheostats in the Ballroom

**EXHIBIT B.2 (cont.)
Character Defining
Interior Spaces and Features**



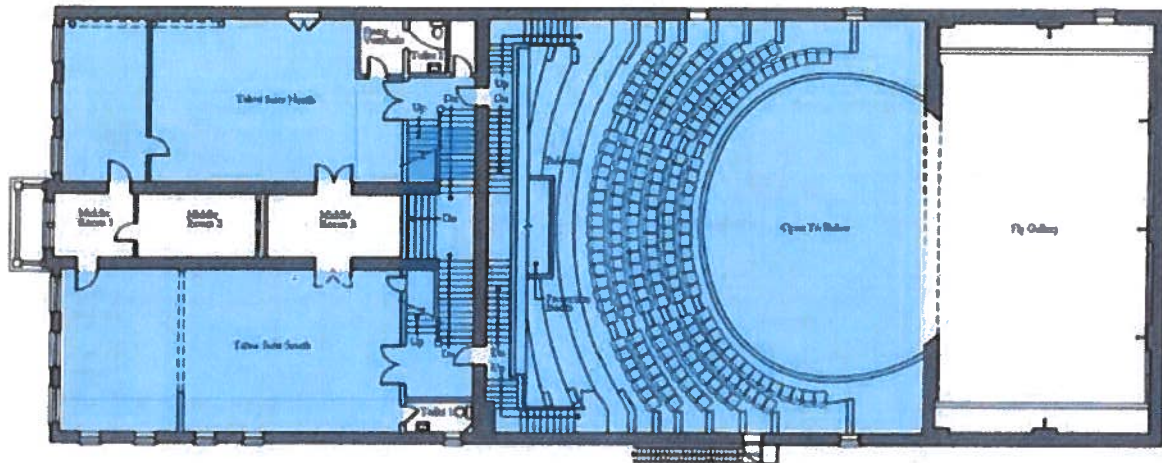
⊕ EXISTING LOWER FIRST FLOOR PLAN



⊕ EXISTING UPPER FIRST FLOOR PLAN

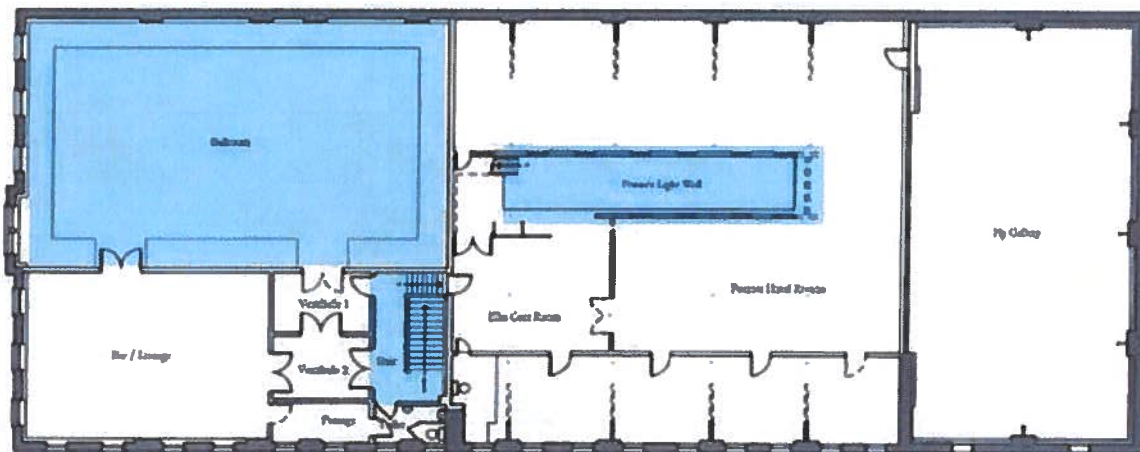
HOEHN ARCHITECTS PC

EXHIBIT B.2 (cont.)
Character Defining
Interior Spaces and Features



 EXISTING SECOND FLOOR PLAN

HOBHN ARCHITECTS PC



⊕ EXISTING THIRD FLOOR PLAN

HOBHN ARCHITECTS PC

EXHIBIT B.3 Permitted Alterations - Interior

Subject to the provisions of paragraph 4 and per current building code, Grantor may construct the following permitted addition(s), alteration(s) and upgrades as shown in the floor plans/construction documents included herein in Exhibit B.3.

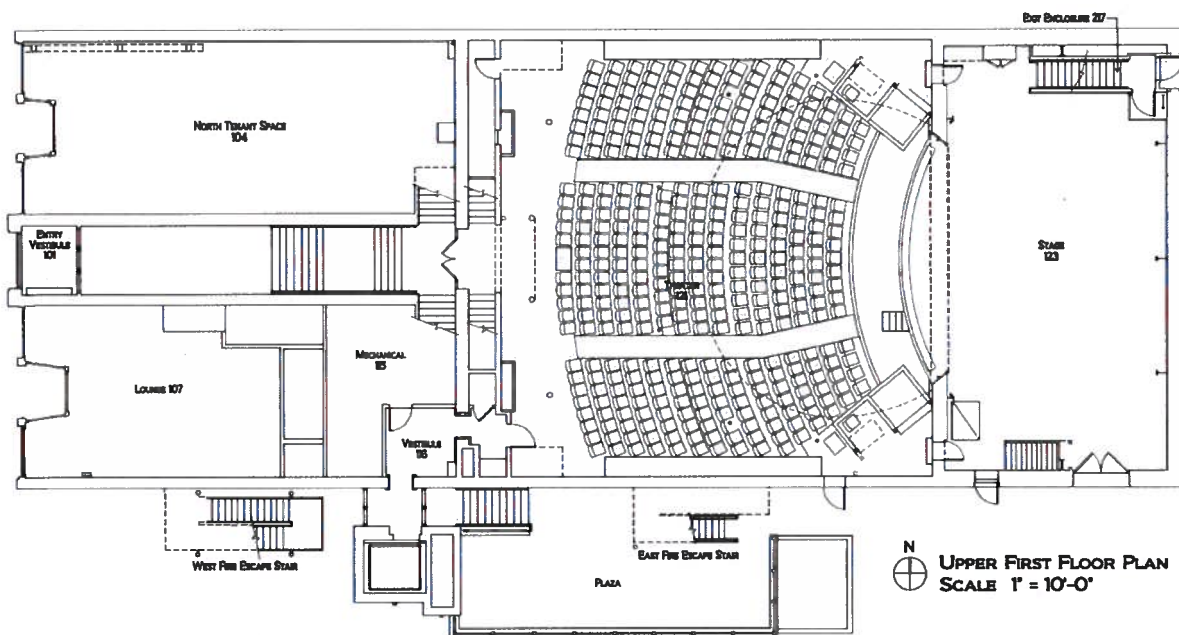
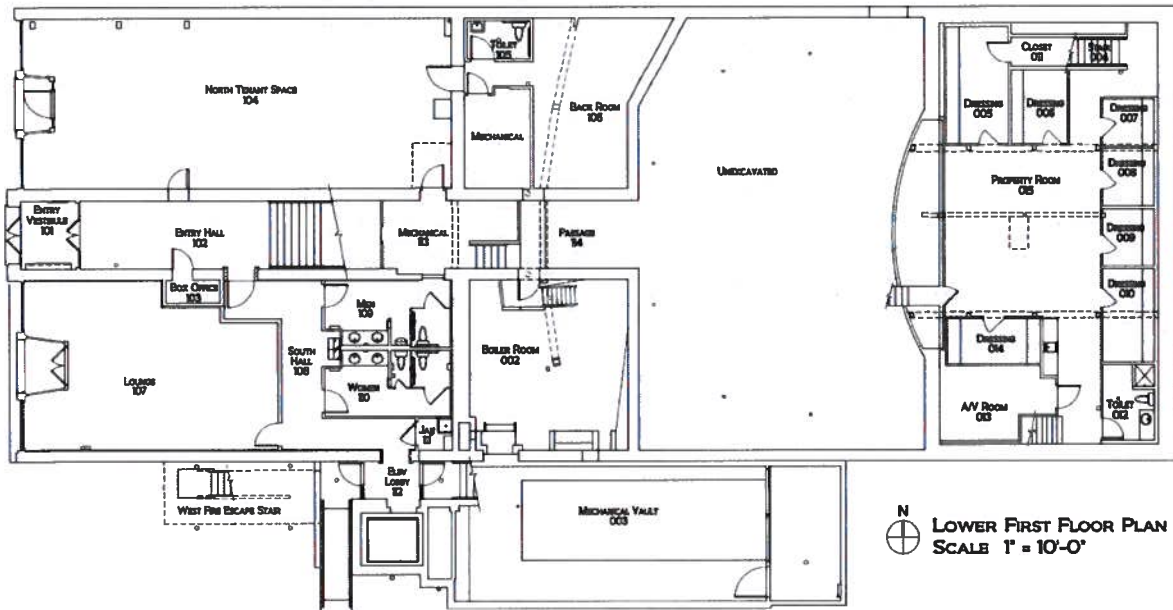
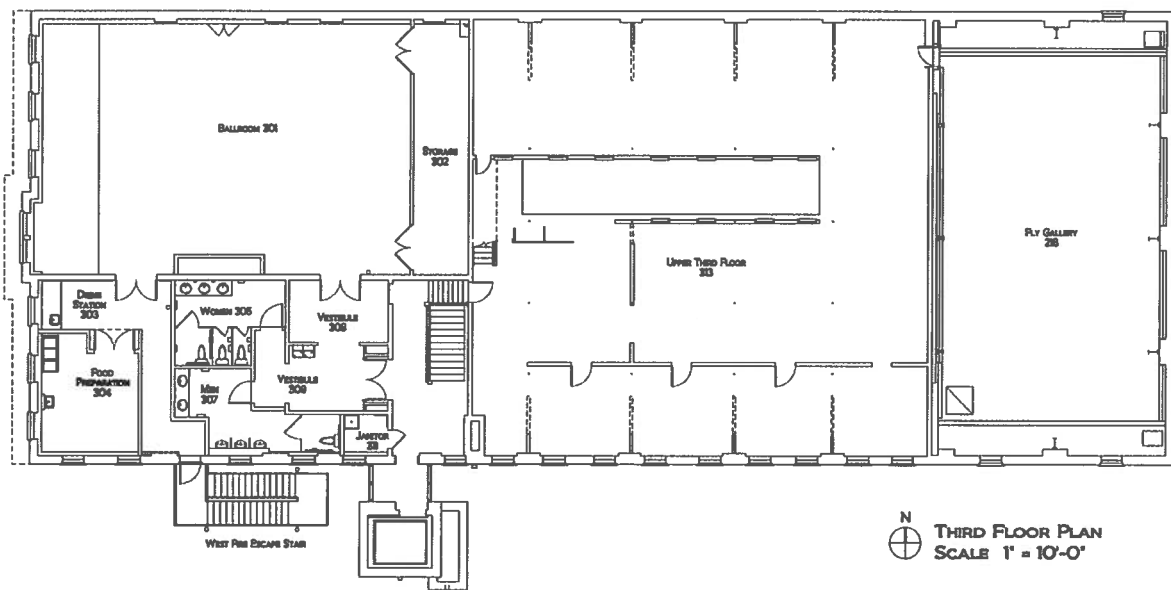
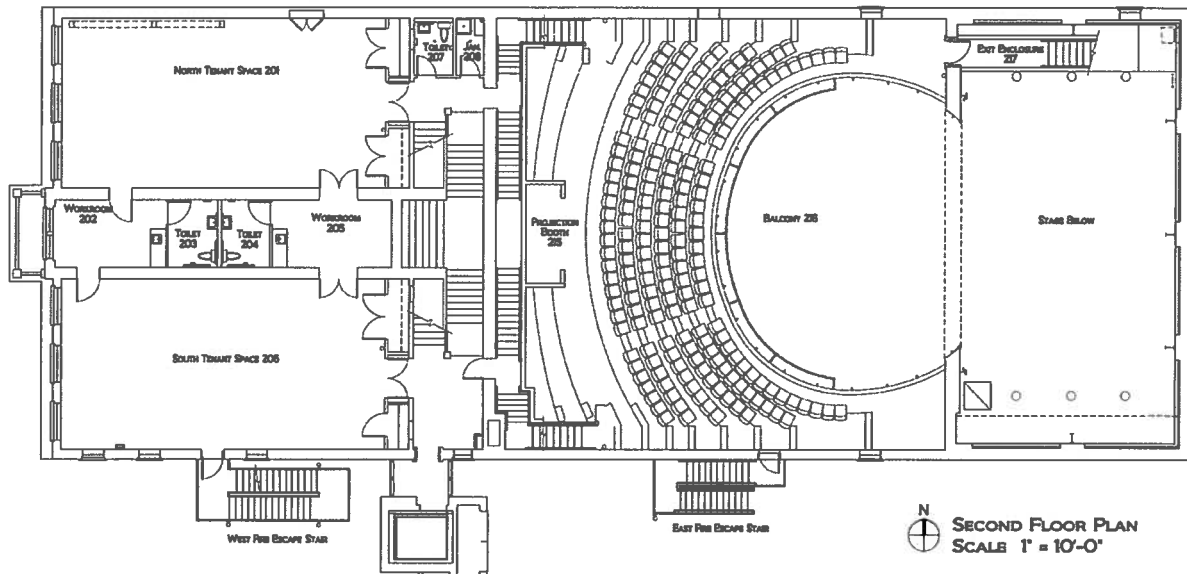


EXHIBIT B.3 (continued)
Permitted Alterations



Additional Permitted Alterations not indicated on construction drawings:

- Electrical Panel on the stage wing will be upgraded for code compliance. The historic panel will be relocated for display to visitors.
- Staircase on stage level at northeast corner may be replaced if a second exit from the balcony is required.

