

FINAL

**39TH AND ADELINE MIXED-USE PROJECT
ENVIRONMENTAL IMPACT REPORT
RESPONSE TO COMMENTS DOCUMENT**

STATE CLEARINGHOUSE # 2007092005



LSA

November 2008

FINAL

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STATE CLEARINGHOUSE # 2007092005

Submitted to the:

City of Emeryville
1333 Park Avenue
Emeryville, CA 94608

and to the:

City of Oakland
Office of the City Administrator
250 Frank H. Ogawa Plaza, Suite 4344
Oakland, CA 94612

Prepared by:

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LSA

November 2008

39TH AND ADELINE MIXED-USE PROJECT
NOTICE OF AVAILABILITY OF FINAL ENVIRONMENTAL IMPACT REPORT (FINAL EIR)
AND NOTICE OF PUBLIC HEARINGS TO CERTIFY THE FINAL EIR

TO: All Interested Parties

SUBJECT: Notice of Availability of Final Environmental Impact Report for the 39th and Adeline Mixed-Use Project and Notice of Planning Commission Meetings to certify the same

CASE NO.: ER 070014 (State Clearinghouse Number: 2007092005)

PROJECT SPONSOR: City of Emeryville and City of Oakland

PROJECT LOCATION: The approximately 1.12-acre (48,820-square-foot) project site is located along Adeline Street between Yerba Buena Avenue and 39th Street, and consists of five parcels (APNs: 012-953-027, 012-953-031, 012-953-032, 012-953-033, and 012-953-034). The site straddles the City of Oakland/City of Emeryville border; the western three-quarters of the site are located in the City of Emeryville; the eastern quarter of the site is located in the City of Oakland. The project site is not listed on a hazardous waste site list compiled pursuant to Government Code Section 65962.5.

PROJECT DESCRIPTION: Implementation of the proposed project would result in the demolition of the existing structure on the project site and development of four three-story (plus mezzanine) buildings. In total, the buildings would contain 101 residential units (including studios, one-bedroom units, two-bedroom units, three-bedroom units, and live/work and work/live spaces), 1,000 square feet of retail space located at the corner of Adeline Street and 39th Street, and 119 parking spaces (including 11 guest parking spaces). All parking would be located below grade. In addition, the project would also include a landscaped courtyard.

Implementation of the project is anticipated to require actions or approvals by the City of Emeryville and the City of Oakland, including design review, conditional use permits, and grading permits. These actions will be considered after certification of the Final EIR.

ENVIRONMENTAL REVIEW: The City of Emeryville and the City of Oakland circulated a Notice of Preparation (NOP) that included a list of potential environmental effects that could result from the proposed project. The NOP was published on August 30, 2007 and public scoping meetings were conducted in Emeryville on September 27, 2007 and in Oakland on October 3, 2007. Comments received by the City of Emeryville and City of Oakland on the NOP were taken into account during the preparation of the EIR.

The Draft EIR was made available for public review on May 16, 2008 and distributed to applicable local and State agencies. Copies of the Notice of Availability of the Draft EIR (NOA) were mailed to all individuals, organizations, and agencies previously requesting to be notified of the Draft EIR, in addition to those agencies and individuals who received a copy of the NOP. Verbal comments on the Draft EIR were accepted at the City of Oakland Planning Commission meeting held on June 18, 2008 and the City of Oakland Landmarks Preservation Advisory Board on July 14, 2008 (no verbal comments were submitted at the June 26, 2008 City of Emeryville Planning Commission meeting due to lack of a quorum). Written comments were submitted throughout the public review period. The CEQA-mandated public comment period for the Draft EIR ended on June 30, 2008.

All written and verbal comments that were received have been compiled and responded to in a Response to Comments document, along with minor changes to the Draft EIR. The Response to Comments document, together with the Draft EIR, constitutes the Final EIR for the proposed project. The City of Emeryville and the City of Oakland, as the Lead Agencies, are hereby releasing this Final EIR, finding it to be accurate and complete and ready for certification. The conclusions and recommendations in the EIR document represent the independent conclusions and recommendations of the City of Emeryville and the City of Oakland. Copies of the Final EIR are available for review or distribution to interested parties at no charge at the following

locations in Emeryville and Oakland during normal business hours: 1) City of Emeryville, 1333 Park Avenue, Emeryville, CA 94608-3517 and 2) City of Oakland Community and Economic Development Agency, Planning Division, 250 Frank H. Ogawa Plaza, Suite 3315, Oakland, CA 94612, and at: <http://www.oaklandnet.com/government/ceda/revised/planningzoning/MajorProjectsSection/environmentaldocuments.html>.

Public Hearing: The Oakland Planning Commission will hold a public hearing on December 3, 2008, and the Emeryville Planning Commission will hold a public hearing on December 11, 2008 to consider certification of the Final EIR for the project. The Emeryville City Council will hold a public hearing to consider certification of the Final EIR for the project on January 20, 2009. For further information please contact **Miroo Desai, AICP, Senior Planner, City of Emeryville** at: (510) 596-3785 or mdesai@ci.emeryville.ca.us.

PUBLIC HEARINGS:

Wednesday, December 3, 2008 at 6:00 p.m. Oakland Planning Commission, Hearing Room 1, City Hall, One Frank H. Ogawa Plaza, Oakland

Thursday, December 11, 2008 at 6:30 p.m. Emeryville Planning Commission, City Council Chambers, 1333 Park Avenue, Emeryville

Tuesday, January 20, 2009 at 7:00 p.m. Emeryville City Council, City Council Chambers, 1333 Park Avenue, Emeryville

Dated: November 21, 2008

Charles Bryant, AICP
Director of Planning and Building

Eric Angstadt, Director
Community and Economic Development Agency

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I. INTRODUCTION

A. PURPOSE OF THE RESPONSE TO COMMENTS DOCUMENT

This document has been prepared to respond to comments received on the Draft Environmental Impact Report (Draft EIR) prepared for the 39th and Adeline Mixed-Use Project (SCH# 2007092005). The Draft EIR identifies the likely environmental consequences associated with the implementation of the proposed project, and recommends mitigation measures to reduce potentially significant impacts. This Response to Comments (RTC) Document provides responses to comments on the Draft EIR and makes revisions to the Draft EIR, as necessary, in response to these comments or to amplify or clarify material in the Draft EIR.

This RTC Document, together with the Draft EIR, constitutes the Final EIR for the proposed project.

B. ENVIRONMENTAL REVIEW PROCESS

According to CEQA, lead agencies are required to consult with public agencies having jurisdiction over a proposed project and to provide the general public with an opportunity to comment on the Draft EIR.

The City of Emeryville and the City of Oakland circulated a Notice of Preparation (NOP) that included a list of potential environmental effects that could result from the proposed project. The NOP was published on August 30, 2007 and public scoping meetings were conducted in Emeryville on September 27, 2007 and in Oakland on October 3, 2007. Comments received by the City of Emeryville and City of Oakland on the NOP were taken into account during the preparation of the EIR.

The Draft EIR was made available for public review on May 16, 2008 and distributed to applicable local and State agencies. Copies of the Notice of Availability of the Draft EIR (NOA) were mailed to all individuals, organizations, and agencies previously requesting to be notified of the Draft EIR, in addition to those agencies and individuals who received a copy of the NOP. Verbal comments on the Draft EIR were accepted at the City of Oakland Planning Commission meeting held on June 18, 2008 and the City of Oakland Landmarks Preservation Advisory Board on July 14, 2008 (no verbal comments were submitted at the June 26, 2008 City of Emeryville Planning Commission meeting due to lack of a quorum). Written comments were submitted throughout the public review period.

The CEQA-mandated public comment period for the Draft EIR ended on June 30, 2008. The copies of all written comments received during the comment period are included in Chapter III of this document.

C. DOCUMENT ORGANIZATION

This RTC Document consists of the following chapters:

- *Chapter I: Introduction.* This chapter discusses the purpose and organization of this RTC Document and the Final EIR, and summarizes the environmental review process for the project.
- *Chapter II: List of Commenting Agencies, Organizations and Individuals.* This chapter contains a list of agencies, organizations, and persons who submitted written comments or spoke at the public comment sessions on the Draft EIR during the public review period.
- *Chapter III: Comments and Responses.* This chapter contains reproductions of all comment letters received on the Draft EIR as well as a summary of the comments provided at the public comment sessions. A written response for each CEQA-related comment received during the public review period is provided. Each response is keyed to the preceding comment. It should be noted that many of the comments received do not pertain to the CEQA analysis, but relate to the merits of the project or other issues. While these comments will be included in the record before the decision-makers, the purpose of this document is to respond to CEQA comments and not other issues.
- *Chapter IV: Draft EIR Revisions.* Corrections to the Draft EIR necessary in light of the comments received and responses provided, or necessary to amplify or clarify material in the Draft EIR, are contained in this chapter. Text with underline represents language that has been added to the Draft EIR; text with ~~strikeout~~ has been deleted from the Draft EIR.

II. LIST OF COMMENTING AGENCIES, ORGANIZATIONS AND INDIVIDUALS

This chapter presents a list of letters and comments received during the public review period, and describes the organization of the letters and comments that are included in Chapter III, Comments and Responses, of this document.

A. ORGANIZATION OF COMMENT LETTERS AND RESPONSES

Chapter III includes a reproduction of each letter received on the Draft EIR (and public hearing transcripts). The individuals and agencies that submitted comments on the Draft EIR, and the public hearings held for the project at which individuals submitted comments on the adequacy of the Draft EIR, are listed below. The comments in each of these letters or public hearing transcripts are enumerated and discussed in Chapter III. Comments are numbered in the margin of each letter. For instance, Response D-2 refers to the second enumerated comment in the East Bay Municipal Utility District letter.

B. LIST OF AGENCIES, ORGANIZATIONS, AND INDIVIDUALS COMMENTING ON THE DRAFT EIR

The following comment letters and verbal comments were submitted to the City during the public review period.

- Letter A: City of Oakland Planning Commission (June 18, 2008)
- Letter B: State of California Department of Transportation (June 26, 2008)
- Letter C: Gail Donaldson, City of Emeryville Planning Commission (June 26, 2008)
- Letter D: East Bay Municipal Utility District (July 3, 2008)
- Letter E: Alameda County Congestion Management Agency (July 7, 2008)
- Letter F: Joshua Keller (July 3, 2008)
- Letter G: City of Oakland Landmarks Preservation Advisory Board (July 14, 2008)

III. COMMENTS AND RESPONSES

Written responses to each written and verbal comment received on the Draft EIR are provided in this chapter. Each letter is immediately followed by responses keyed to the specific comments. Each letter is assigned a number, as listed in Chapter II of the document. Comments are numbered in the margin of each letter. For instance, Response D-2 refers to the second enumerated comment in Letter D, which was submitted by the East Bay Municipal Utility District.

Corrections to the Draft EIR that are appropriate in light of the comments received and responses provided, or which are necessary to clarify material in the Draft EIR, are included in the responses. Underlined text represents language that has been added to the Draft EIR; text with ~~strikeout~~ has been deleted from the Draft EIR.

The reader should note that where text within individual letters is not enumerated, it does not raise environmental issues and does not relate to the information or analysis within the Draft EIR; therefore, no response is required.

One “Master Response” is provided in this chapter. This Master Response addresses several comments made requesting additional information about the Partial Project alternative, which was identified as the “environmentally superior” alternative in the Draft EIR.

MASTER RESPONSE: PARTIAL PROJECT ALTERNATIVE

Several comments were submitted requesting additional information about the Partial Project alternative, including the economic feasibility of the alternative. City staff will address economic feasibility issues separately as part of the analysis of the merits of the project. In summary, the Partial Project alternative would preserve the existing structure's facade along 39th Street and Adeline Street but develop the project site with retail and residential uses at a similar scale, density, and design as the proposed project. This alternative would include a cafe on the corner of 39th Street and Adeline Street, as well as 90 residential units, including studios, one-, two- and three-bedroom units, live/work units, and work/live units. The size and total number of residential units that would be accommodated by the alternative were determined at the conceptual level and take into account the reduction in interior space that would be required to preserve the important facades of the existing building. The Partial Project alternative was determined to be the environmentally superior alternative because it would preserve the significant facades of the Standard Beverages Ltd. building (which is a significant historic resource) while allowing for the development of needed housing in an infill setting that is well-served by transit.

In response to comments submitted about this alternative, Murakami/Nelson, the architect for the project, submitted a letter from R.P. Gallagher and Associates containing a brief analysis of structural issues associated with implementing the alternative. This letter, which includes conceptual building sections and wall plans prepared by Murakami/Nelson, is included as Appendix A to this RTC Document. In summary, retention of the existing facade along 39th Street and Adeline Street would be technically feasible, but the structural engineer "strongly recommend[s] against it" due to "basic incompatibilities between a relatively stiff composite brick wall . . . being connected laterally to a relatively flexible wood frame." Although the facade has been retrofitted, it is not in conformance with seismic requirements for new construction, and exhibits serious structural problems, including: weak mortar; cracking; a bulge under one of the bay windows; bowed lintels; and other general instabilities.

If the alternative were to be pursued, the new structure would need to be set-back behind the preserved facade, and the new structure would require an independent wall and foundation to address anticipated structural incompatibilities resulting from the connection of the relatively stiff flexible brick facade to the (new) relatively flexible wood frame or metal stud building. The foundation underlying the facade would also need to be replaced. However, because the facade is structurally unsound, the foundation would have to be poured in segments, in order to ensure underlying stability during the construction period. The gap between the facade and the new structure would need to be tied with flexible connections, and the structural reinforcements that would be required around all window and door openings would result in window sills approximately 24 inches across. The R.P. Gallagher and Associates letter states that while preserving the facade would be technically feasible, it could be potentially risky to worker safety, due to the proximity of the edge of the sub-grade parking garage to the existing facade. The excavated parking level and the facade would be separated by only 10 feet. Refer to Appendix A for additional detail about the structural considerations of the alternative.

The Partial Project alternative was developed notwithstanding the assumption that preservation of the existing facade along 39th Street and Adeline Street, and reconfiguration of the project design, would add substantially to the cost of the development. Although the alternative may not be optimal from a

cost perspective, it was identified and evaluated in the EIR because *CEQA Guidelines* section 15126.6 requires the analysis of “a range of reasonable alternatives to the project, or to the location of the project, which would feasibly obtain most of the basic objectives of the project but would avoid or lessen any of the significant effects of the project.” Because demolition of the historic Standard Beverages Ltd. building was the one significant unavoidable impact of the project identified in the Draft EIR, identification and analysis of a facade preservation alternative was warranted, even if such an alternative may be determined to be economically infeasible by the project sponsor. *CEQA Guidelines* section 15126 states that a variety of issues may be taken into account in determining the feasibility of an alternative, including site suitability, economic viability, availability of infrastructure, general plan consistency, and other factors, but that “[n]o one of these factors establishes a fixed limit on the scope of reasonable alternatives.” Therefore, inclusion of the Partial Project alternative as one in a range of reasonable alternatives is appropriate. In deciding whether to approve the project, decisionmakers may take both environmental and economic considerations into account.



Item 5.	Location: 1032-39 th Street (APNs: 012-953-027, 012-953-031, 012-953-032, 012-953-033, and 012-953-034)
	Proposal: Redevelopment of 1.12-acre site with up to 101 residential units, 1,000 square feet of retail and associated parking and open space; project would involve demolition of existing historic building; project site is located in both Emeryville and Oakland.
	Project Sponsor: Murakami/Nelson Architecture Corporation
	Owner: Madison Park, Financial Corporation
	Case File Numbers: ER070014
	Planning Permits Required: Design Review, Conditional Use Permit and variances.
	General Plan: Housing and Business Mix
	Zoning: HBX-2
	Environmental Determination: EIR
	Historic Status: C3
	Service Delivery District: 2
	City Council District: 2 - Brunner
	Action to be taken: Hold public hearing and receive public testimony on Draft EIR.
	For further information: Contact case planner Catherine Payne at (510) 238-6168 or cpayne@oaklandnet.com

Catherine Payne presented the staff report.

Speakers:

George Nesbitt

- Prefer to leave building as is, or save architectural elements.
- Understands that building is not the best to save.
- Elements of demolished building could be incorporated into new buildings; this should be looked at in EIR and Design Review process.
- The HBX zone should involve an equality of housing and business, not a loss of businesses.
- Supports project.

1

Sanjiv Handa

- Over the last 15 years, Emeryville has cut funding for public services.
- Regional problems have been foisted on Oakland.
- City should evaluate need to provide joint public services.

2

Planning Commission

- Partial Project alternative should undergo additional study.
- Sponsor should retain the building's history and as many units as possible. This will make the project unique and give the sponsor a competitive advantage.
- Draft guidelines should be followed in regard to human remains. Building integrity should be preserved.
- Draft is well done.

3

Action on the Matter:

This was a scoping session. Only Public testimony was solicited. No vote was taken.

Letter A
City of Oakland Planning Commission
June 18, 2008

- Response A-1: This comment, which pertains to the merits of the project, and not to the adequacy of the Draft EIR, is noted. Incorporating elements of the existing building into new buildings on the site may have merit, but would not reduce the environmental impacts of the project, and was not explored in the Draft EIR. The potential use of historic materials in new construction on the site may be considered by decisionmakers as they decide whether to approve the project.
- Response A-2: This comment addresses the financing of public services and does not pertain to the adequacy of the Draft EIR. This issue will be considered by decisionmakers in the course of project review.
- Response A-3: Refer to the Master Response and Appendix A for additional information about the Partial Project alternative (including conceptual building sections and wall plans). If human remains are identified on the site, they would be treated in accordance with the City of Oakland's uniformly applied development conditions, and applicable State law.

DEPARTMENT OF TRANSPORTATION

111 GRAND AVENUE
P. O. BOX 23660
OAKLAND, CA 94623-0660
PHONE (510) 622-5491
FAX (510) 288-5559
TTY 711



*Flex your power!
Be energy efficient!*

June 26, 2008

ALA123027
ALA-123-0.3
SCH#2007092005

Ms. Miroo Desai, Senior Planner
City of Emeryville
1333 Park Avenue
Emeryville, CA 94608

Dear Ms. Desai:

39th and Adeline Mixed-Use Project – Draft Environmental Impact Report

Thank you for continuing to include the California Department of Transportation (Department) in the environmental review process for the 39th and Adeline Mixed-Use Project. The following comments are based on the Draft Environmental Impact Report.

1

Community Planning

The proposed project is expected to generate approximately 885 daily trips, 65 trips during the AM peak hour, and 84 trips during the PM peak hour. These new trips would impact State facilities, where "...the intersection of San Pablo Avenue/40th Street would operate at an unacceptable Level-of-Service (LOS) E during the PM Peak hour in the Cumulative Conditions. Furthermore, the San Pablo Avenue/36th Street intersection would operate at an unacceptable LOS F during the AM peak hour."

2

To reduce vehicular impacts on State facilities, we recommend improving pedestrian access and path of travel by:

- Signalizing the Yerba Buena Avenue/Adeline Street intersection to provide safer accommodation for pedestrian trips (crossing east-west on Adeline Street) to the transit services and commercial activities on San Pablo Avenue.
- Install new/update curb ramp crossings at Yerba Buena Avenue that is compliant to the Americans with Disabilities Act.

Encroachment Permit

Please be advised that any work or traffic control within the State right-of-way (ROW) requires an encroachment permit that is issued by the Department. Traffic-related mitigation measures will be incorporated into the construction plans during the encroachment permit process. See the following website link for more information:

3

<http://www.dot.ca.gov/hq/traffops/developserv/permits/>

Letter
B
cont.

Ms. Miroo Desai/City of Emeryville
June 26, 2008
Page 2

To apply for an encroachment permit, submit a completed encroachment permit application, environmental documentation, and five (5) sets of plans which clearly indicate State ROW to the address at the top of this letterhead, marked ATTN: Michael Condie, Mail Stop #5E.

3
cont.

Should you have any questions regarding this letter, please call Yatman Kwan of my staff at (510) 622-1670.

Sincerely,



LISA CARBONI
District Branch Chief
Local Development - Intergovernmental Review

c: State Clearinghouse, City of Oakland Planning Department

Letter B
State of California Department of Transportation
Lisa Carboni, District Branch Chief
June 26, 2008

Response B-1: This introductory comment is noted.

Response B-2: The comment recommends that the intersection of Yerba Buena Avenue/Adeline Street be signalized as a mitigation measure to improve pedestrian conditions in the area, and that new or updated curb ramps be installed at the intersection of Yerba Buena Avenue/Adeline Street to meet Americans with Disabilities Act (ADA) standards. As part of the project, the existing curb ramps at the southeast corner of the intersection of Yerba Buena Avenue/Adeline Street would be updated to meet Americans with Disabilities Act (ADA) standards. Although signalization of the intersection of Yerba Buena Avenue/Adeline Street could improve pedestrian circulation and traffic flow around the site, this improvement is not required by the findings of the impact analysis conducted for the project.

The transportation study prepared as part of the Draft EIR was conducted in accordance with the California Environmental Quality Act (CEQA) and City of Oakland and City of Emeryville standards for such analyses. The intersections referenced in the comment are in the City of Emeryville. Based on the City of Emeryville's criteria of significance for transportation impacts, the project would not result in a significant impact to pedestrian facilities around the site. Therefore, no mitigation measure to improve pedestrian facilities was identified in the Draft EIR. In addition, the intersection of Yerba Buena Avenue/Adeline Street operates well within acceptable levels of service, and would not satisfy a Caltrans/Manual on Uniform Traffic Control Devices (MUTCD) peak hour signal warrant in any of the analyzed scenarios, including the Cumulative Plus Project scenario. However, the conclusions of the impact analysis would not preclude the City from requiring signalization of the Yerba Buena Avenue/Adeline Street intersection as a condition of approval.

Response B-3: The proposed project would not involve work within a State right-of-way, and would not require an encroachment permit.

From: Gail Donaldson [mailto:donaldson1286@yahoo.com]
Sent: Thursday, June 26, 2008 9:59 AM
To: Charles Bryant
Cc: James Martin; Gail Donaldson
Subject: Comments on 39th & Adeline EIR

Hello Charlie,

Unfortunately I was not able to pick up the packet for the whole agenda, but I did have a chance to look at the 39th & Adeline Draft EIR which we received at our last Commission meeting. I have a few questions and comments to forward on this item:

Page 4, Section 3:

The word "not" should be deleted - the sentence should read "... the proposed project would result in one significant unavoidable impact..."

| 1

Page 57, Project's Relationship to General Plan Land Use Policy 7:

The chart states that the buildings would be set back approximately 4.5 feet from the homes to the east. As the plans show that buildings would extend to the property line, I assume that means there will be a 4.5 building separation. I would like to further clarification about how that transition will be handled to ensure compatibility with the surrounding residential area. I understand that this is almost entirely on the Oakland portion of the project, but it is a concern.

| 2

Pages 100 and 112, Intersection No. 5:

The EIR indicates that the projected cumulative 2030 level of service for Adeline & 40th Streets at AM peak, both with and without the project, is better than the existing level of service. It also indicates that the 2030 cumulative AM peak at Adeline & 39th is better with the project than without. Please clarify.

| 3

Although the EIR did not identify "significant" traffic impacts, it would have been useful to include a brief discussion of TDM strategies that could be employed, both in relationship to the traffic impacts that were shown and in relationship to parking.

| 4

Since the only significant unavoidable impact identified in the report is the loss of the architecturally significant building (by Emeryville standards), I feel that the design of the proposed project and the building materials proposed will be of utmost importance.

| 5

Sincerely,

Gail Donaldson
Commissioner

Letter C
City of Emeryville Planning Commission
Gail Donaldson
June 26, 2008

Response C-1: Page 4 of the Draft EIR is modified as follows:

3. Significant Unavoidable Impacts

As discussed in Chapters IV and VI of this EIR, the proposed project would ~~not~~ result in one significant unavoidable impact to the environment: demolition of the Standard Beverages Limited building on the project site, which is considered a historic resource pursuant to CEQA.

Response C-2: This comment requests additional information about the transition (in terms of design) from the eastern side of the proposed project to the surrounding residential neighborhood. The project site abuts a residential property in Oakland on 39th Street and a commercial property in Oakland on Yerba Buena Avenue. The neighboring single-story residential building on 39th Street is separated from the property line on the project site by a 12-foot-wide driveway. The neighboring two-story commercial building on Yerba Buena Avenue is built up to the project site property line. The commercial property is used as a warehouse and truck yard for a construction company, and the existing commercial building has no windows facing the project site. Therefore, development of the proposed project would not create privacy concerns associated with the adjacent commercial uses.

To address privacy concerns associated with the adjacent residential uses, no windows are proposed on the project building's east wall and there would be an 8-foot-tall solid plastered wall at the courtyard. The proposed building along 39th Street would step down to two stories where it abuts the neighboring residential property, in order to minimize shade and shadow and preserve sunlight exposure. The height reduction at the building's eastern edge would also allow the building to better relate to the mass of the adjacent residential building. These design motifs are the result of meetings held between the architect and adjacent property owner, community outreach, and feedback from City staff and the Emeryville and Oakland Planning Commissions.

Response C-3: The intersection of Adeline Street/40th Street has an actuated signal controller that allocates the effective green time for each movement based on demand (traffic volumes). Additional green time is allocated to movements with higher demand. The overall operation of an intersection is governed by average vehicle delay for all vehicles which travel through the intersection. Some

movements experience a lower-than-average delay (usually the major street) and some movements experience a higher-than-average delay (usually the minor street). Since the demand for certain major movements in the cumulative condition would be slightly higher than in the existing condition, more green time would be allocated to these movements. At the intersection of Adeline Street/40th Street, movements with lower than average delay would be allocated additional green time (due to increased volumes), resulting in a decrease in delay for these movements and a slight decrease in overall average vehicle delay for the intersection as a whole in the cumulative condition.

The intersection of Adeline Street/39th Street is unsignalized, and was therefore analyzed for the most congested approach. Average vehicle delay would increase for this intersection after implementation of the project. For the most congested approach (shared westbound-left/westbound-right), the delay would decrease slightly with implementation of the project. During the AM peak period under cumulative conditions, the volume for the westbound-left (WBL) movement is proportionally higher than the volume for the westbound-right (WBR) movement. However, with the project in place, the volume for the WBR movement would become proportionally higher than that of the WBL movement. Therefore, the probability of a left-turning vehicle arriving at the intersection at any given time would be lower than the probability of a right-turning vehicle arriving at the intersection, allowing for more vehicles to make a flared right turn without being blocked by a left-turning vehicle. Effectively, shared-lane capacity would be increased for the right-turners with the project in place, resulting in a slightly lower delay for the worst-performing approach movement.

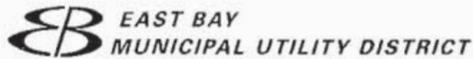
Response C-4:

The proposed project, by nature of its location (near a Bus Rapid Transit route along San Pablo Avenue and numerous other transit routes) and relatively high residential density, would be expected to generate fewer vehicle trips than a less-dense project of a similar size that is located at a greater distance from major transit routes. While the proposed project would not result in significant adverse impacts to transportation facilities for which mitigation would be required, the implementation of Transportation Demand Management (TDM) measures has the potential to result in additional trip reductions. The objective of TDM measures is to reduce vehicle trips at commercial/residential developments by incorporating project components which encourage increased transit use, carpooling, and walking and biking. A TDM Plan would be required as a standard condition of approval for the project. The following TDM strategies, among others, could be effective at the project site.

- Provide priority parking spaces for carpools and vanpools;
- Participate in area shuttle services to transit centers;
- Install additional bicycle parking stalls to promote bicycle ridership;
- Improve pedestrian-oriented design elements, such as short pedestrian crossings, wide sidewalks and street trees;

- Improve nearby bus stop shelters to encourage the use of public transit;
- Require users of parking to pay the costs directly, as opposed to sharing the costs indirectly with others through increased rents and tax subsidies;
- Require on-site employers to provide commuter checks for employees;
- Provide information boards/kiosks displaying transit routes and schedules, carpooling and vanpooling information, and bicycle facility information;
- Include TDM information in rental packets and home ownership documents; and
- Provide high-speed wireless internet to encourage telecommuting.

Response C-5: This comment, which pertains to the merits of the project's design (and not the adequacy of the EIR), is noted. Design issues will be considered by the decisionmakers in the course of project review.



July 3, 2008

Miroo Desai, Senior Planner
City of Emeryville
1333 Park Avenue
Emeryville, CA 94608

Re: Draft Environmental Impact Report – 39th and Adeline Mixed-Use Project,
Emeryville and Oakland

Dear Ms. Desai:

East Bay Municipal Utility District (EBMUD) appreciates the opportunity to comment on the Draft Environmental Impact Report (EIR) for the 39th and Adeline Mixed-Use Project located in the Cities of Emeryville and Oakland. EBMUD has the following comments.

WATER SERVICE

EBMUD's Central Pressure Zone, with a service elevation between 0 and 100 feet, will serve the proposed development. Off-site pipeline improvements, at the project sponsor's expense, may be required to meet domestic demands and fire flow requirements set by the local fire department. Off-site pipeline improvements include, but are not limited to, replacement of existing water mains to the project site. When the development plans are finalized, the project sponsor should contact EBMUD's New Business Office and request a water service estimate to determine costs and conditions for providing water service to the proposed development. Engineering and installation of water meters and off-site pipeline improvements requires substantial lead-time, which should be provided for in the project sponsor's development schedule.

The project sponsor should be aware that EBMUD will not inspect, install or maintain pipeline in contaminated soil or groundwater (if groundwater is present at any time during the year at the depth piping is to be installed) that must be handled as a hazardous waste or that may pose a health and safety risk to construction or maintenance personnel wearing Level D personal protective equipment. Nor will EBMUD install piping in areas where groundwater contaminant concentrations exceed specified limits for discharge to sanitary sewer systems or sewage treatment plants.

Project sponsors for EBMUD services requiring excavation in contaminated areas must submit copies of existing information regarding soil and groundwater quality within or adjacent to the project boundary. In addition, the applicant must provide a legally

Miroo Desai, Senior Planner
July 3, 2008
Page 2

sufficient, complete and specific written remedial plan establishing the methodology, planning and design of all necessary systems for the removal, treatment, and disposal of all identified contaminated soil and/or groundwater. EBMUD will not design the installation of pipelines until such time as soil and groundwater quality data and remediation plans are received and reviewed and will not install pipelines until remediation has been carried out and documentation of the effectiveness of the remediation has been received and reviewed. If no soil or groundwater quality data exists or the information supplied by the applicant is insufficient EBMUD may require the applicant to perform sampling and analysis to characterize the soil being excavated and groundwater that may be encountered during excavation or perform such sampling and analysis itself at the applicant's expense.

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cont.

WATER CONSERVATION

The proposed project presents an opportunity to incorporate water conservation measures. EBMUD would request that both Cities include in its conditions of approval a requirement that the project sponsor comply with Article 9-4.54 of the Municipal Code of the City of Emeryville, Landscape Design and Development Requirements and the Landscape Water Conservation Section, Article 10 of Chapter 7 of the Oakland Municipal Code. EBMUD staff would appreciate the opportunity to meet with the project sponsor to discuss water conservation programs and best management practices applicable to the integrated projects. A key objective of this discussion will be to explore timely opportunities to expand water conservation via early consideration of EBMUD's conservation programs and best management practices applicable to the project.

2

If you have any questions concerning this response, please contact David J. Rehnstrom, Senior Civil Engineer, Water Service Planning at (510) 287-1365.

Sincerely,



William R. Kirkpatrick
Manager of Water Distribution Planning

WRK:NJR:sb
sb08_178.doc

cc: Catherine Payne, City of Oakland
Adam Weinstein, LSA Associates, Inc.
Simon Chen, Madison Park Financial

Letter D
East Bay Municipal Utility District
William Kirkpatrick, Manager of Water Distribution Planning
July 3, 2008

- Response D-1: This comment, which discusses the East Bay Municipal Utility District's protocol in regard to installation of new water and sanitary sewer infrastructure, is noted. This protocol will be considered by decisionmakers in the course of project review.
- Response D-2: This comment, which requests that water conservation provisions be incorporated as conditions of approval into the project, is noted. Water conservation measures will be considered by decisionmakers in the course of project review.

July 7, 2008

Miroo Desai
Senior Planner
City of Emeryville
1333 Park Avenue
Emeryville, CA 94608-3517
mdesai@ci.emeryville.ca.us

SUBJECT: Comments on the Draft Environmental Impact Report (DEIR) for the City of Emeryville and the City of Oakland 39th and Adeline Mixed Use Project

Dear Ms. Desai:

Thank you for the opportunity to comment on the City of Emeryville's Draft Environmental Impact Report (DEIR) for the 39th and Adeline Mixed Use Project. The project is located on 1.12 acres along Adeline Street between Yerba Buena Avenue and 39th Street in the Cities of Emeryville and Oakland. The applicant is requesting a conditional use permit, parking variance, design review and major design review, along with required permits. The project would involve demolition of the existing structure and development of four three-story and mezzanine buildings containing 101 residential units, 1,000 square feet of retail space and 119 parking spaces.

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Based on our review of the trip generation analysis for the 39th and Adeline Mixed Use Project, it does not generate 100 or more P.M. peak hour trips above existing conditions. The project, therefore, is exempt from the Land Use Analysis Program of the Congestion Management Program.

Thank you for the opportunity to comment on this Draft EIR. Please do not hesitate to contact me at 510/836-2560 if you require additional information.

Sincerely,

Diane Stark
Senior Transportation Planner

cc: Ms. Catherine Payne, City of Oakland, Community and Economic Development Agency, 250 Frank H. Ogawa Plaza, Oakland, CA 94612

file: CMP - Environmental Review Opinions - Responses - 2008

Letter E
Alameda County Congestion Management Agency
Diane Stark, Senior Transportation Planner
July 7, 2008

Response E-1: This introductory comment, which describes the proposed project, is noted.

Response E-2: This comment, which states that the project “is exempt from the Land Use Analysis Program of the Congestion Management Program,” is noted. No additional response is required.

-----Original Message-----
From: joshua keller [mailto:jkeller@speakeasy.net]
Sent: Thursday, July 03, 2008 5:54 PM
To: Miroo Desai
Subject: 39th and Adeline Mixed-Use Project

Ms. Miroo Desai
July 3rd 2008
City of Emeryville
1333 Park Avenue
Emeryville, CA 94608

Re:
39th and Adeline Mixed-Use Project

As the owner of the residence at 1028 39th Street I will share a
100' property line with the proposed mixed use project. My concerns
with its development are the impact of lengthy construction and it's
end result on the present and future value of the experience at 1028.

I hope that, as with any construction, due diligence will be
exercised in maintaining neighborhood safety, while minimizing
debris, noise, and quality of life interruptions.

1028 currently has excellent privacy and very good sun exposure,
considering the 14' brick wall that runs along the 100' shared
property line. Virtually no neighbors have sight lines into this
area, which is unique.

I purchased the property in great part for these qualities of
privacy and sun and have enjoyed them for many years. Our tenants
who now reside at 1028 have made it quite clear that they too, place
great value on these existing characteristics. I ask that they be
preserved as much as possible.

I support well thought-out development and believe that quality
projects which consider the value of the neighboring living
experience, immediate and otherwise, will benefit the area.

Josh Keller
510 355 7451

Letter F
Josh Keller
July 3, 2008

Response F-1: This comment expresses concern about the project's construction-related impacts (including noise, debris, and other quality of life issues) and impacts on privacy and sun exposure. Construction-related impacts are evaluated throughout the Draft EIR, including in Section IV.D, Transportation and Circulation; Chapter VI, CEQA-Required Assessment Conclusions; and the Initial Study (Appendix B of the Draft EIR). The project would be subject to standard conditions of approval, which would reduce construction-period impacts to a less-than-significant level. Impacts on privacy and sun exposure are typically not considered physical environmental impacts as defined by CEQA (unless the reduction of sun exposure involves a public park or solar receptor), and are not evaluated in this Draft EIR; however, these concerns may be taken into account by City of Emeryville and City of Oakland decisionmakers when they decide whether to approve the project. The proposed project would include a concrete wall along its eastern boundary to provide privacy to adjacent residential uses.

MEMORANDUM

To: Catherine Payne, Planner IV
From: Joann Pavlinec, Planner IV
Subject: Landmarks Preservation Advisory Board Meeting 7-14-08: Comments on Draft Environmental Impact Report for 1032 39th Street
Date: July 18, 2008

Public Comments:

Naomi Schiff: The Planning Commission is correct on its direction for support and interest in development of the partial project alternative described and reviewed in the Alternatives Analysis. The partial project alternative looks excellent. Maybe the developer could get some Oakland façade grant money. This is an opportunity to do a façade preservation which we don't always advocate. The brick appears very good and attractive and it could be an elegant asset. If the City needs to flex other requirements to do that, they should.

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Board Discussion/Comments:

Outlined below are the Board's comments and recommendations:

- Concern that if retention of the façade is required, that it be researched prior to final approval so that the project will not return for Modification to the Mitigations, Conditions and or the approved project when the project is ready for construction. Urge that before retention of the facade is recommended, that it be weighed more carefully.
- As part of the Final Environmental Impact Report, there should be further discussion about the true feasibility of retaining the façade. If it's not feasible, it is not a true alternative and it is not clear how much analysis of feasibility was conducted. That would be an obvious area to focus some attention on, for the record.
- The partial project alternative should be explored since it is so close to the project goals.
- It would be good to look at the financial feasibility. Has gone by the building several times and noted the uniqueness of that corner site. It represents one of the last single story brick warehouses in that district and to see it become another stucco loft building is a shame. The partial project alternative is a good recommendation.
- Adding a little more consideration of an alternative would not be difficult or expensive to do; therefore, recommends that it be studied, more articulated and defined. Conceptual plans and elevations, along with unit counts should be developed to show how it would work. There should then be a discussion of the pros and cons.

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Letter G
City of Oakland Landmarks Preservation Advisory Board
Joann Pavlinec, Planner IV
July 14, 2008

- Response G-1: This comment, which expresses support for the Partial Project alternative, is noted.
- Response G-2: Refer to the Master Response and alternative feasibility materials included in Appendix A.
- Response G-3: Refer to the Master Response and Appendix A.
- Response G-4: Refer to the Master Response and Appendix A.
- Response G-5: The materials in Appendix A include conceptual building sections and a wall plan. The alternative would accommodate 90 residential units, as assumed in the Draft EIR. Refer to the Master Response and Appendix A for additional detail. Regarding the “pros and cons” of the alternative, refer to pages 124 and 128 of the Draft EIR for an analysis of the potential environmental benefits and impacts of the alternative. An evaluation of the pros and cons of the project as they relate to issues other than physical environmental impacts (e.g., economic feasibility) is outside the purview of CEQA, and structural considerations are addressed in the letter included as Appendix A.

IV. TEXT REVISIONS

This chapter presents one specific revision to the text of the Draft EIR that is being made in response to comments. Added text is indicated with underlined text. Deletions to text in the Draft EIR are shown with ~~strikeout~~. Page numbers correspond to the page numbers of the Draft EIR. The clarification presented in this chapter does not significantly alter the conclusions or findings of the Draft EIR.

Page 4 of the Draft EIR is modified as follows:

3. Significant Unavoidable Impacts

As discussed in Chapters IV and VI of this EIR, the proposed project would ~~not~~ result in one significant unavoidable impact to the environment: demolition of the Standard Beverages Limited building on the project site, which is considered a historic resource pursuant to CEQA.

APPENDIX A

STRUCTURAL FEASIBILITY

R. P. Gallagher Associates, Inc.
Structural and Earthquake Engineering

519 Seventeenth Street
Suite 220
Oakland, CA 94612
(510) 893-2400
FAX (510) 893-2452

August 21, 2008

Mr. Zachary Goodman, AIA
Murakami/Nelson Architects
100 Filbert Street
Oakland, CA 94607

Subject: Building at 3900 Adeline Street, Oakland

Dear Zach:

A structural engineer from our office recently visited the building at 3900 Adeline. The purposed of the visit was to observe the construction and to examine the feasibility of re-using the existing brick wall at the front of the building as part of a new apartment building. Under this scenario, the remaining portion of the existing building would be demolished to make way for the new building. The following is our report.

Existing Building Conditions

The building is mostly one-story, with a small two-story portion at the corner of Adeline and 39th Streets. It appears to have been constructed in the 1930's or before and is an unreinforced masonry (URM) structure. The brick walls are on the Adeline and 39th Street sides of the building. They appear to be two wythes thick and for the most part are without headers that tie the wythes together. (There are some header bricks at windows and doors and on the addition at 3908 Adeline). Buildings with this type of construction can be very hazardous in an earthquake.

There are a series of tie plates and thru-bolts at the second floor and roof levels. These indicate that the wall has been structurally connected to the floor and roofs. This is a common mitigation measure for URM buildings and indicates that the building has been retrofitted. While this reduces risk, it does not eliminate it or bring the building into conformance with seismic requirements for new construction.

Our examination of the exterior brick walls revealed a number of structural problems. These are discussed below.

- (1) The mortar appears weak in places and in a few areas is missing. In some locations, we were able to scrape portions of the mortar away with a key.
- (2) The long one-story wall on 39th Street is cracked in many places. For example, there are large diagonal “step” cracks under at least two bays of windows. There are also large cracks in several places between pilasters and the adjoining wall. The areas where the walls are cracked are potentially unstable because there is no reinforcing steel to hold the adjacent pieces together.
- (3) A “bulge” has developed under one bay of windows on 39th Street wall. This indicates that the wall has moved outward. The windows above the bulge show similar movement.
- (4) At the very end of the 39th Street wall, the brick wall has moved outward, away from the abutting hollow clay tile wall.
- (5) The underside of several of the steel members supporting brick lintels are bowed in places. This probably is due to expansion caused by rust and indicates structural deterioration is present.
- (6) On one side of the large roll-up metal door on 39th Street, a portion of the wall has been rebuilt. Above the rebuilt portion there is a large diagonal crack. This entire wall segment roughly 3 feet wide by 10 feet high appears unstable and is likely to fall out in an earthquake.

In summary, the building at 3900 Adeline has walls with URM construction. These are in poor condition. Buildings with URM walls, even those that have been retrofitted, are at risk to have their walls collapse or partially collapse in a major earthquake. Because of the hazards of falling brick, URM buildings can pose serious life-safety risks to both their occupants and persons on adjacent sidewalks.

Feasibility of Re-Using Brick Wall

It does not appear to us that using the existing brick wall as part of the structural system of the new wood frame apartment building is a good idea. Structurally, there would be some basic incompatibilities between a relatively stiff composite brick wall (assuming it was reinforced as discussed below) being laterally connected to a relatively flexible wood frame (or metal stud) building.

Mr. Zachary Goodman, AIA
August 21, 2008
Page 3

If it is absolutely essential to preserve the brick wall, and we recommend against this, it would have to first be repaired and stabilized. Then it could possibly be reinforced with a 4 to 6 inch thick layer of shotcrete. The shotcrete would be placed over a two-way grid of reinforcing bars. In addition, there would need to be dowels at roughly 2'-0" on center each way to connect the existing brick to the new shotcrete. The foundation would also have to be rebuilt.

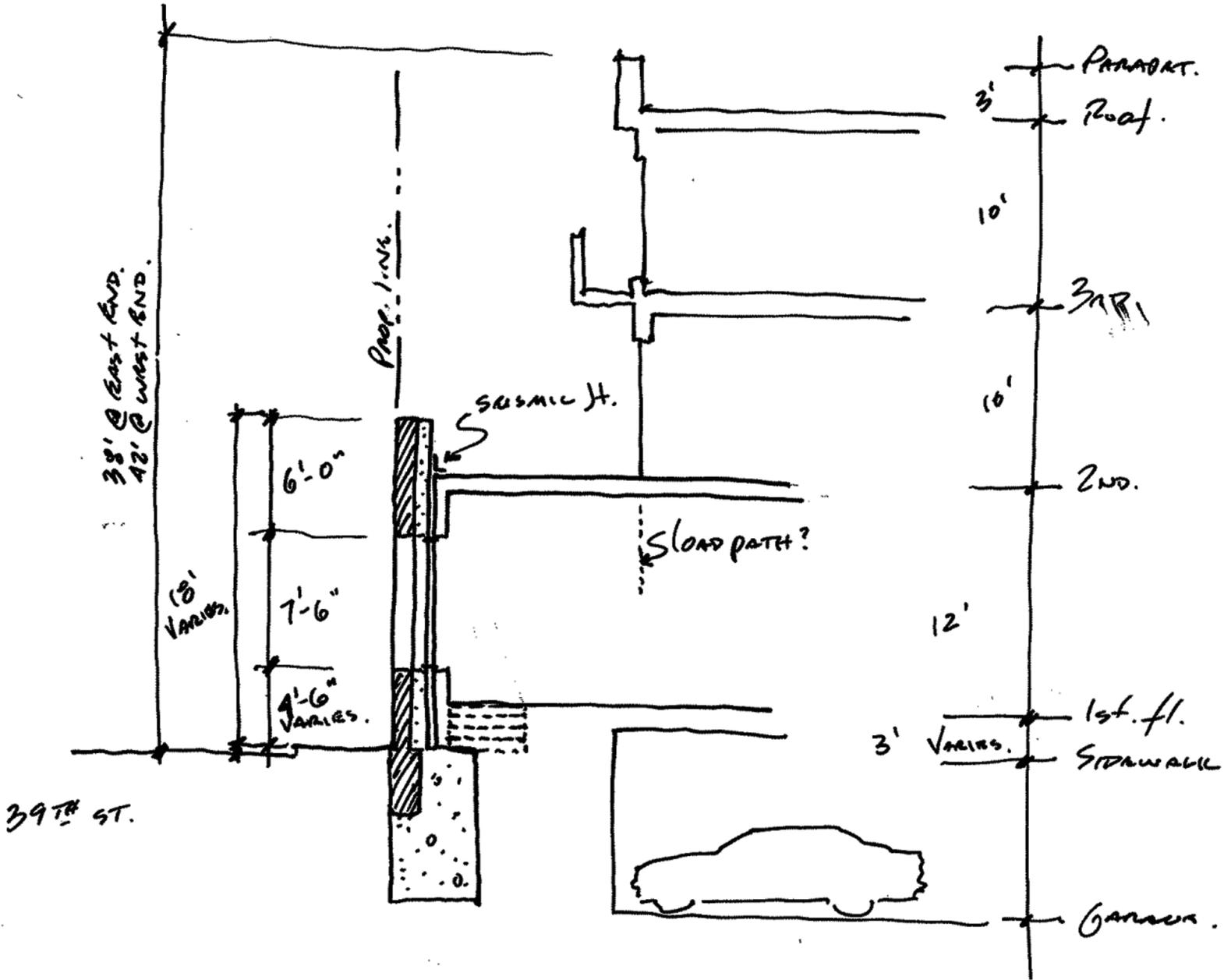
A new foundation for the composite brick-shotcrete wall will be difficult to construct because the foundation will need to be dug parallel to the existing foundation. The new foundation would have to be tied structurally to the existing foundation (the construction of which is unknown). As we understand a new basement for parking is to be constructed about 10-feet from the existing wall, this would be a difficult, potentially risky operation.

In summary, while restoring the wall is technically feasible, it could be done only at great expense and some risk to the workmen. We strongly recommend against it.

Very truly yours,

A handwritten signature in cursive script, appearing to read "R. Gallagher".

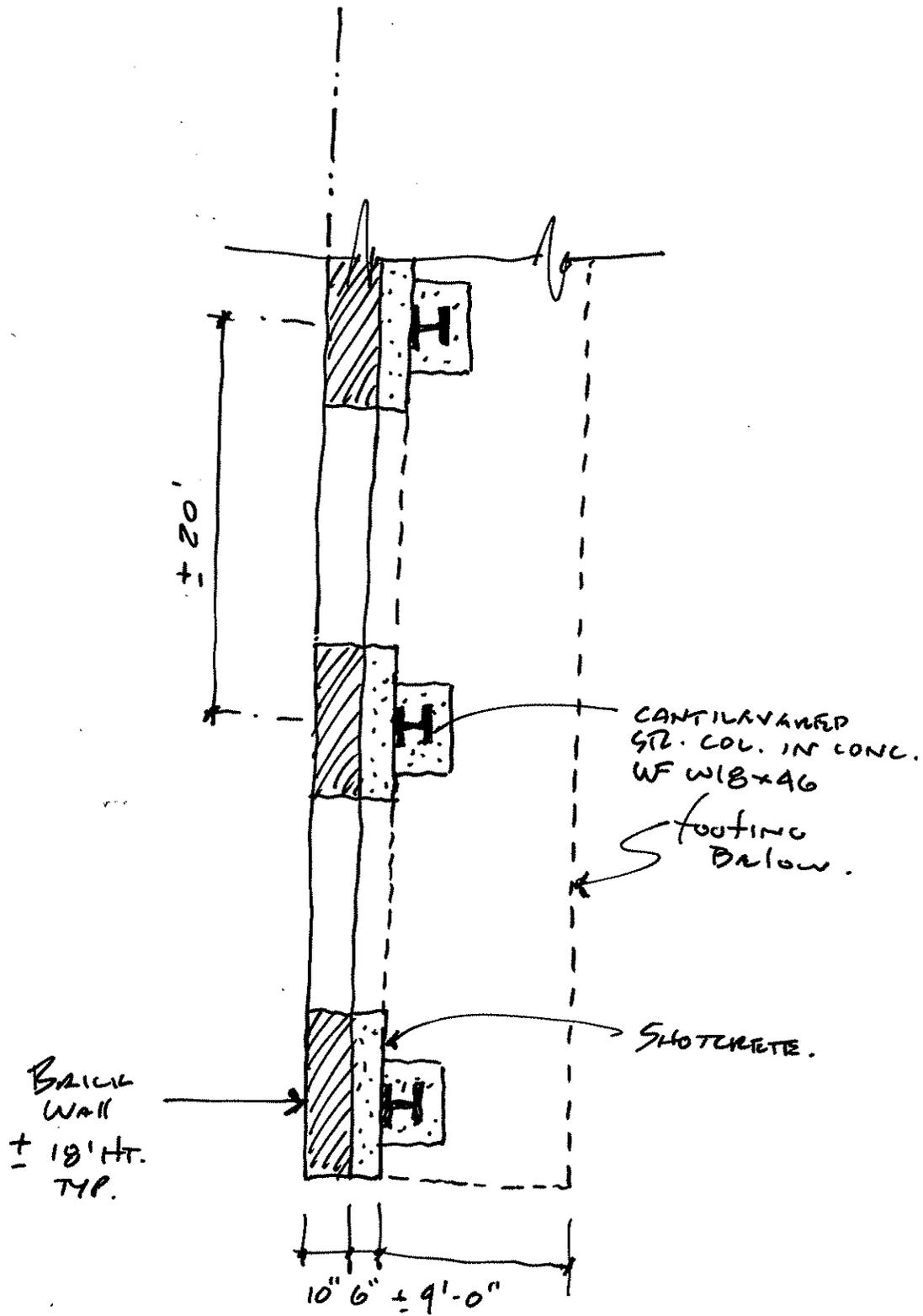
Ronald Gallagher, SE
President



Section @ 39th St.
1. Pressure Brick facade.

N.T.S.

8-7-08



STABILIZED WALL PLAN

N.T.S.

8.8.08