
C. Comments from Cynthia Shartzter, and Responses Previously Submitted to the Planning Commission

After the close of the public review and comment period on the Draft EIR, the City received comments from Cynthia Shartzter dated October 24, 2004. The City prepared and submitted responses to those comments (designated as Letter UU) to the Planning Commission, and that information was incorporated by reference into the Final EIR.

For convenience and documentation, the comment letter and responses are provided on the following pages.

October 24, 2005

Ms. Margaret Stanzione
 Project Planner
 City of Oakland
 Community and Economic Development Department
 250 Frank H. Ogawa Plaza, Suite 3315
 Oakland, CA 94612

Re: Comments on DEIR for Proposed Project 'Oak to 9th'

Dear Ms. Stanzione:

This letter supplements my June 30, 2004 letter on the 'Notice of Preparation of the EIR,' public comments I made at the June 16, 2004 Planning Commission meeting to advocate for the adaptive reuse of the entire Ninth Avenue Terminal-Ninth Avenue Transit Shed, as a member of the historic preservation group in the 'Small Group Interviews' (with Naomi Schiff and Leal Charonnat), and community meetings on March 30, 2004 and April 9, 2005.

UU-1

The Process

Please note that although the public meetings, e.g., 'small group interviews' responded to public request for a participatory process they were not responsive to the public request. The request was for a 'National Charrette Institute-type' process. The key aspect of this participatory process is that it is progressive and iterative. The City of Oakland's small group interview process—a shadow of an authentic process of public participation—is now referred to in the community as 'charrette-lite.'

The way the City/Port's public process makes a mockery of genuine public process is best summarized by the Executive Summary and the summary report (see p. 9 of the Staff Report dated September 28, 2005) which states: "...Meetings attendees understand and respect the need for the project to be economically feasible for the developer..."

UU-2

The one person that articulated this statement identified herself as a potential investor in the project. Therefore I believe that it is an overstatement and inaccurate reflection of 'the public' to include this sweeping generalization. Based on my personal observations, this individual and employees of the Port of Oakland were strategically placed in breakout groups, i.e., if enough individuals representing the interests of the developer fan out in a 'public' meeting the result is a sweeping generalizations that bring to mind Carpentier and Oakland's waterfront history.

With Oakland's historic ties to the waterfront and the challenges it experienced to return the waterfront to public ownership, it would be unfortunate if the Port and its political allies now hand over public property, i.e., Tidelands trust land, into private ownership.

UU-3

Comments on DEIR for
Proposed Project 'Oak to 9th

Page 2

October 24, 2005

Having followed the 'development' process in Oakland or the 'redevelopment' process as was the case of Jack London Square—beginning with 160 14th Street to 16th to Wood Street Train Station—to me the Oak to Ninth Street project reflects another example of how the system is 'gamed' and how the public process is manipulated.

UU-4

Preserving Oakland's History by reusing its cultural resources

As the last survivor of the City of Oakland's three Municipal Terminals from the 1925 harbor bond, the preservation the Ninth Avenue Terminal—in its entirety—would honor the bond between the Port and City of Oakland and symbolized by the Terminal. The Ninth Avenue Terminal—completed in 1930—has a strong link with the establishment of the first Board of Port Commissioners of the Port of Oakland.

UU-5

A copy of the landmark application for the Ninth Avenue Terminal, prepared for the Oakland Heritage Alliance and Friends of the Ninth Avenue Terminal was an attachment to my June 30, 2004 letter.

Proposed demolition of a building of such landmark distinction, even with retention a token portion, is not justified.

There are multiple examples of successful adaptive reuse projects, e.g., Ferry Building in San Francisco and the Subway Terminal Building in Los Angeles. The 500,000 square foot Subway Terminal Building—opened in 1925—has been converted into 277 live-work units called Metro 417. In San Francisco, the new Asian Art Museum is housed in the adaptively reused SF Library (one of the original Carnegie-funded libraries); architect Guy Aulenti also adaptively reused a Paris train station into a museum, the Musée D'Orsay.

UU-6

In Richmond, Orton Development of Emeryville is leading the way in the Bay area by partnering with the National Park Service and the City of Richmond to adaptively reuse the Ford Assembly Plant. Oakland deserves similarly progressive development for its waterfront. The preservation of the Ninth Avenue Terminal-Ninth Avenue Transit Shed—in its entirety—offers an opportunity to build smart and to help Oakland join the ranks of cities around the world that recognize and reap the strategic and economic benefits of adaptive reuse of historic and cultural resources.

Respectfully submitted,

Cynthia L. Shartzter
cell 510-882-0371

Attachments:

Comments on Notice of Preparation of EIR for Proposed 'Oak to 9th' 30 June 2004

Comments on DEIR for
Proposed Project 'Oak to 9th

Page 3

October 24, 2005

June 30, 2004

Ms. Margaret Stanzione
Project Planner
City of Oakland
Community and Economic Development Department
250 Frank H. Ogawa Plaza, Suite 3315
Oakland, CA 94612

Re: Comments on Notice of Preparation of EIR for Proposed Project 'Oak to 9th

Dear Ms. Stanzione:

This letter supplements public comment I made at the June 16, 2004 Planning Commission meeting to advocate for the adaptive reuse of the entire Ninth Avenue Terminal-Ninth Avenue Transit Shed. A copy of the landmark application for the Ninth Avenue Terminal, prepared for the Oakland Heritage Alliance and Friends of the Ninth Avenue Terminal, is provided (Attachment E).

As the last survivor of the City of Oakland's three Municipal Terminals from the 1925 harbor bond, the preservation the Ninth Avenue Terminal—in its entirety—would honor the bond between the Port of Oakland and the City of Oakland and symbolized by the Terminal. The Ninth Avenue Terminal—completed in 1930—has a strong link with the establishment of the first Board of Port Commissioners of the Port of Oakland. The 1925 harbor bond that funded the construction of the Ninth Avenue Terminal required that the Board of Port Commissioners be formed. The date the first Board of Port Commissioners was sworn in—February 12, 1927—is recognized as the birth date of the Port of Oakland.

UU-7

The Ninth Avenue Terminal-Ninth Avenue Transit Shed was rated 'A' by City Staff—eligible for city landmark status—as well as appearing eligible for National Register status (Attachment A). The City of Oakland's Landmark Preservation Advisory Board (LPAB) unanimously approved Resolution 2004-3 to designate this property as an Oakland Landmark pursuant to Section 17.144 of the Oakland Planning Code (Attachment F). In addition, pursuant to the Historic Preservation Element (HPE) Policy 2.3(d) staff found the Ninth Avenue Terminal to have 'exceptional significance.' (Attachment D). The December 8, 2003 Staff report includes a discussion of the LPAB Policies & Procedures, General Plan—Historic Preservation Element Policy: 2.3 (d), 2.4(c), 3.2, 3.3 and notes that the Landmark Designation process "...will alter this application process [application process for a specific project] only with respect to LPAB Design Review" (Attachment C). The June 2, 2004 Planning Commission consideration of the Ninth Avenue Terminal landmark designation was postponed.

At its meeting of June 14, 2004 review of the Notice of Preparation for the Proposed Project 'Oak to Ninth' the LPAB requested that contrary to the described project

Comments on DEIR for
Proposed Project 'Oak to 9th

Page 4

October 24, 2005

intent to demolish the Ninth Avenue Terminal shed building "...with the exception of a[n unspecified] portion..." serious consideration should be given to the preservation of the Transit Shed in its entirety and its adaptive reuse. In particular, the building's monumentality was recognized as part of its essential character. I write in support of the preservation of the Ninth Avenue Terminal-Ninth Avenue Transit Shed, in its entirety. I echo requests by Oakland residents and social profit organizations such as Oakland Heritage Alliance that due consideration must be given in the EIR for the preservation of a significant portion of the Ninth Avenue Terminal. The Resolution 2004-3 to designate Ninth Avenue Terminal-Ninth Avenue Transit Shed an Oakland Landmark best summarizes the historic significance of this property (Attachment F).

UU-7
(CONT.)

As an intact, original wharf and transit shed still in use the Ninth Avenue Terminal is a fine example of simple, Beaux-arts style applied to an industrial/commercial building. It's amalgamation of water, rail, and land transportation capability in one facility is an early example of an inter-modal transportation complex. The building is 1,004 feet long by 180 feet wide. On the interior the sense of its monumentality is carried out in four acres of enclosed space, soaring to 47 feet in the middle and 27 feet on its sides. There are twenty-one cargo doors along the length of the transit shed on the waterfront, each door 16 feet by 16 feet. Along the length of the transit shed on the land side there are eighteen cargo doors, each 14 feet by 10 feet. At both ends of the building—at the transit shed's main entrance and at its rear, open wharf entrance—there is a cargo door, 24 feet by 18 feet.

Proposed demolition of a building of such landmark distinction, even with retention of an unspecified portion, is not justified. Previously the California Supreme Court has ruled that documentation of the historical features of the building and exhibition of a plaque do not reasonably begin to alleviate the impacts of its destruction because, "a large historical structure, once demolished, normally cannot be adequately replaced by reports and commemorative markers." Luckily times are changing, "According to a report by the Harvard University Graduate School of Design, renovation, reuse and preservation of existing buildings represents more than 40 percent of the design and construction market in the United States, particularly in urban areas." (California Real Estate Journal, March 1, 2004)

There are multiple examples of successful adaptive reuse projects, e.g., Ferry Building in San Francisco and the Subway Terminal Building in Los Angeles. The 500,000 square foot Subway Terminal Building—opened in 1925—has been converted into 277 live-work units called Metro 417. Oakland's City officials could benefit from Los Angeles' lessons to develop an adaptive reuse ordinance. In San Francisco, the new Asian Art Museum is housed in the adaptively reused San Francisco Library (one of the original Carnegie-funded libraries); architect Guy Aulenti also adaptively reused a Paris train station into the Musée D'Orsay.

In an article in the California Real Estate Journal, March 1, 2004, "Adaptive Reuse of Older Buildings Can Turn Community Eyesores into Assets," Y. Gaffen notes that,

October 24, 2005

"...the economic benefits of adaptive reuse versus demolition can be enormous. According to the 'Journal of Property Management,' reuse projects are popular 'because they can significantly reduce construction costs for developers, and they present economically viable alternatives to commercial tenants in search of large spaces.' It is estimated that adaptive reuse projects cost an average of 16 percent less than new construction...Today, a number of economic incentives, primarily federal, are available to reuse historic buildings...."

UU-7
(CONT.)

There are sustainable benefits to the adaptive reuse of the Ninth Avenue Terminal-Ninth Avenue Transit Shed and the preservation of its materials. Y. Gaffen notes conservation of raw materials along with sustainable benefits at the neighborhood, city-wide, and regional levels. At the regional level he states, "...the preservation of existing facilities contributes to smart growth by reducing pressure on undeveloped green space and decreasing the need to extend infrastructure into undeveloped areas." California Real Estate Journal, March 1, 2004

The Ninth Avenue Terminal is already built on the Oakland Inner Harbor waterfront. Its adaptive reuse would best serve the neighborhood, city, and region due to its significance both to the maritime history of the City of Oakland and of the Bay Area. The resolution for its landmark designation states that it "is an especially prominent visual element in the neighborhood and along the waterfront, a signature and anchor building, due to the building's distinctive design, focal location on the Oakland-Alameda Estuary, and large scale..."

An example of state of the art construction and engineering during an era when projects were 'built to last;' the wharf may be considered 'overbuilt' given current knowledge of the industry. However, because of its exceptionally high standard of construction and engineering, the Ninth Avenue Terminal-Ninth Avenue Transit Shed has survived intact and is a prime candidate for reuse.

During research I located the Invitation For Bids in the Port of Oakland archives. According to the Invitation For Bids (IFB) for the Ninth Avenue Terminal (issued July 16, 1929 and due August 5, 1929) the construction of the Ninth Avenue Pier was started at the west end of the pier and was built from east to west. The construction specifications for the wharf (called a pier) are described in explicit detail including the materials, standards, inspection, etc. Some excerpts from the specifications that reflect the high quality and standards are provided below:

The structural steel required for the pier was described as:

...medium steel, with a tensile strength of at least 60,000 pounds per square inch, and workmanship thereon shall be subject to all the tests and conform with all the requirements of the standard specifications for structural steel for buildings adopted in 1901 by the American Society for Testing Materials and revised in 1921. (p. 21)

The dock iron required for the pier was described as:

Comments on DEIR for
Proposed Project 'Oak to 9th

Page 6

October 24, 2005

All bolt, spike and red iron shall have a tensile strength of at least 45,000 pounds per square inch of section. All wrought iron shall be fibrous in texture and capable of being bent double, cold, over a 2-inch cylinder without breaking the fibre. All forgings shall be perfect in every respect.
(p. 22)

The preservation of the Ninth Avenue Terminal-Ninth Avenue Transit Shed—in its entirety—offers an opportunity to build smart and to help Oakland join the ranks of cities around the world that recognize and reap the strategic and economic benefits of adaptive reuse of historic and cultural resources.

Respectfully submitted,

Cynthia L. Shartzner
1528 Alice Street, Apt. 12
tel 510-763-7173; cell 510-882-0371

UU-7
(CONT.)

Attachments:

- (A) LPAB Evaluation Sheet for Landmark Eligibility
- (B) Port of Oakland November 10, 2003
- (C) LPAB Staff Report December 8, 2003
- (D) Findings of 'Exceptional Significance'
- (E) Landmark and S-7 Preservation Combining Zone Application
- (F) LPAB Resolution 2004-3
- (G) S-7 Preservation Combining Zone Regulations

Responses to Cynthia L. Shartzter Comments

- UU-1 The DEIR indicates on page I-2 that comments responding to the Notice of Preparation (NOP) of the Draft EIR and that involved environmental issues associated with the project site and proposed project are addressed in the DEIR. A summary of comments on the NOP was included in **Appendix B** of the DEIR, and copies of responses to the NOP are available for review at all locations where the DEIR was available for review (as specified on the Notice of Availability issued August 31, 2005). The comment is noted.
- UU-2 The comment addresses the City-sponsored community outreach process conducted by CirclePoint consultants (retained by the City), which involved nine small group meetings and two community-wide meetings and that was conducted separate from the environmental review process for the project. The merits of the community outreach process or comments received during that process do not address physical environmental impacts under CEQA or the adequacy of the analysis in the DEIR. The comment is noted.
- UU-3 The comment opines on a separate property transaction between the Port and the State Lands Commission that is not a part of the project, but that is already authorized by the Legislature to take place on behalf of the State. As such, the issue does not concern the environmental consequences of the project discussed in the DEIR. However, as discussed in Response to Comment GG-18, the Legislature delegated to the State Lands Commission the authority to approve and implement the property transaction of Tidelands Trust lands pursuant to specific conditions of Senate Bill (SB) 1622, the Oak to Ninth Avenue District Exchange Act. Additionally, a public hearing before the Board of Port Commissioners, as required by the Charter of the City of Oakland and SB 1622, would occur before the sale or exchange of Tidelands Trust lands may take place. The City's approval of the project will be conditioned upon subsequent compliance with the provisions of SB 1622.
- UU-4 The comment addresses the merits of the redevelopment process for the project and does not address physical environmental impacts under CEQA or the adequacy of the analysis in the DEIR. The comment is noted.
- UU-5 Impact E.3 regarding the proposed demolition of substantial portions of the Ninth Avenue Terminal would be significant and unavoidable, even after mitigation (DEIR p. IV.E-26). This determination considers the historic relevance of the Ninth Avenue Terminal to the development of the city, as discussed on DEIR pages IV.E-15 through IV.E-17 and within the historic resources evaluation (HRE) prepared by Carey & Co., historic resource consultants for the project. The HRE is included in Appendix G of the DEIR and contains and references much of the information provided in the 2003 landmark application for the Ninth Avenue Terminal structure (prepared by the commenter). As stated above in Response to Comment UU-1, information provided in responses to the NOP was addressed the DEIR.

The comment also suggests that demolition of the Terminal is “not justified.” As stated in Response to Comment K-3, Chapter V (Alternatives) of the DEIR describes and analyzes a range of project alternatives that retain all or part of the Ninth Avenue Terminal: Alternative 3 (Enhanced Open Space/Partial Ninth Avenue Terminal Preservation and Adaptive Reuse) and Sub-Alternative (Full Ninth Avenue Terminal Preservation and Adaptive Reuse). Prior to its action on the project, City decisionmakers will evaluate the project alternatives analyzed in the DEIR. The City will either reject these alternatives and adopt the proposed project, or alternatively, they will elect one of the alternatives analyzed, instead of the project.

- UU-6 The comment outlines examples of possible reuse scenarios for the preserved Terminal. See Master Response B regarding further analysis of reuse alternatives for the Ninth Avenue Terminal. Also, the alternatives described and analyzed in the DEIR include a number of reuse scenarios outlined by the community and comply with CEQA mandates for examining preservation alternatives for the historic resource. The City decisionmakers will consider this information before acting on the project.
- UU-7 Previously submitted comments received in response to the NOP for the Draft EIR are provided as attachment to this comment letter. As previously indicated, comments received in response to the NOP were considered and incorporated in the DEIR as appropriate. Overall, the NOP response from the commenter discusses the historic merits of the Ninth Avenue Terminal, the City of Oakland’s process of considering the landmark application to date, the commenter’s support for preserving a “significant portion” of the Terminal, adequate mitigation, successful adaptive Terminal reuse projects and the economic benefits of reuse versus demolition, and the structural and architectural merits of the structure. As stated above, with regard to factors relevant to the physical environmental impacts of the project under CEQA, the DEIR includes accurate historical and architectural setting information about the Terminal, and an adequate range of preservation alternatives that incorporates a number of reuse scenarios outlined by the community. Also, since publication of the DEIR, the project sponsor has prepared an economic feasibility and constraints report (capital and operational) on retaining all or parts of the Ninth Avenue Terminal (as well as on each of the other project alternatives). The economic feasibility and constraints report will be provided to City decisionmakers separate from this environmental report for its consideration of the project and the alternatives evaluated in the DEIR. The City will determine the adequacy of the report for its purposes, and will consider all information provided in the DEIR and this FEIR prior to acting on the project.