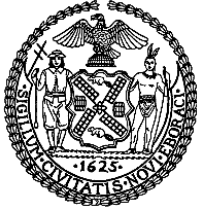


CITY OF NEW YORK

**MANHATTAN COMMUNITY BOARD FOUR**

330 West 42<sup>nd</sup> Street, 26<sup>th</sup> floor New York, NY 10036  
tel: 212-736-4536 fax: 212-947-9512  
[www.nyc.gov/mcb4](http://www.nyc.gov/mcb4)



**Burt Lazarin**  
Chair

**Jesse Bodine**  
District Manager

October 5, 2018

Rick Chandler  
Commissioner  
NYC Department of Buildings  
280 Broadway  
New York, NY 10007

Maria Torres-Springer  
Commissioner  
NYC Department of Housing Preservation & Development  
100 Gold Street  
New York, NY 10038

**Re: 355-357 West 39<sup>th</sup> Street**

Dear Commissioners Chandler and Torres-Springer:

On July 11, 2018, the Clinton/Hell's Kitchen Land Use Committee discussed 355-357 West 39<sup>th</sup> Street, a site containing three residential buildings which obtained approval for demolition in 2016.

By a vote of 29 in favor, 0 opposed, 0 abstaining, and 0 present but not eligible, MCB4 voted to support the redevelopment of the site, which will include an affordable Community Facility. The Board also voted to request that DOB and HPD provide the approvals necessary to allow the redevelopment of this site to proceed.

**Background**

355 and 357 West 39<sup>th</sup> Street are both four-story buildings, with an additional building, 355 Rear, being two-stories. All three buildings are located in the Special Hudson Yards District (SHYD) and contain a total of eight units. On December 9, 2016, MCB4 held a meeting to discuss the issues of illegal demolitions in the district. At this meeting, MCB4 staff and a Board member reviewed a list of the most recent Alt 1, new building, and demolition filings and

discovered that among them were three separate filings for the demolition of 355, 355 Rear, and 357 West 39<sup>th</sup> Street<sup>1</sup>. All of these applications were shown as having been approved according to DOB’s Building Information System (BIS). Additionally, a job filing for a new building received approval on December 6, 2016.

The buildings are located in Subarea D5 of the SHYD, where the demolition of multiple dwelling buildings is prohibited.

Since April 20, 2018, MCB4 has met with the owner to develop a plan to restore the residential units and allow development of the site to proceed.

At the request of MCB4, the owner withdrew all three demolition applications on May 3, 2018<sup>1</sup>.

### **Proposed Redevelopment**

The owner has proposed the following development plan:

Proposed Development:	Residential building with ground floor commercial
Proposed Stories:	11
Proposed Total Units:	Approximately 24
Proposed Affordable Community Facility:	Approximately 500 square feet

In addition, the owner will do the following:

- **39<sup>th</sup> Street Building Facades**—The developer will preserve these buildings in the majority, altering the buildings and creating an addition. The developer also agreed to preserve and restore the 39<sup>th</sup> Street façades. Subsequent to that commitment however, issues with structural stability of the 39<sup>th</sup> facades were discovered. On September 20, 2018, MCB4 representatives met on site with the developer’s architect, structural engineer, and shoring engineer. It was clearly observed that the 39<sup>th</sup> Street façades had begun to separate from the building. An agreement was reached by the developer and MCB4 to rebuild the 39<sup>th</sup> street façades with brick and precast materials similar to façades surrounding the site. The developer agreed to develop architectural elevations and material sample for MCB4 review prior to finalizing design
- **Affordable Community Facility**—Subject to a recorded agreement between the developer and MCB4, the developer will provide an affordable community facility of approximately 500 square feet.

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<sup>1</sup> See DOB Job Numbers [122953161](#), [122953152](#), and [122953170](#)

During the initial meeting with the owner, the Board requested that the owner provide onsite affordable residential units. The owner considered this request. At a subsequent meeting, given the limited size of the site, the owner stated that they could not provide onsite affordable residential units and instead proposed an affordable Community Facility. After internal discussion, the Board agreed to have the developer present that proposal at its July 11, 2018 Clinton/Hell's Kitchen Land Use Committee meeting. The Community Board considered and was favorable to the proposal. The exact price per square foot and the tenant selection process for the space are to be developed jointly with the developer and MCB4.

### **MCB4 Request**

MCB4 has been informed by the owner that it has requested approval for an alteration from HPD which would allow the removal and replacement of more than 20 percent of the floor area<sup>2</sup>. The Board supports the request for this degree of alteration under ZR 93-91(b)(1) and provides the following response:

**With the execution of a recorded agreement regarding the affordable Community Facility, prior to the issuance of an alteration permit for the removal and replacement of more than 20 percent of the floor area, MCB4 supports this application under ZR 93-91 (b) (1).**

Furthermore, MCB4 requests that both HPD and DOB work with the owner to proceed with its alteration permit expeditiously in order to secure the affordable Community Facility.

### **Conclusion**

MCB4 has seen demolition applications filed and/or approved for 11 sites encompassing 166 residential units in our district. Owners of these locations have sought to evade the zoning requirements of each of our four Special Zoning Districts that are meant to preserve affordable, rent stabilized housing. In some of these cases, owners have sought other methods to demolish this housing.

355-357 West 39<sup>th</sup> Street is among those sites. In this case, however, MCB4 and the owner worked together to develop an innovative solution that allows development to proceed while still providing a needed community benefit. MCB4 requests that the DOB and HPD provide the approvals necessary to allow the development of the site to proceed.

Sincerely,



Burt Lazarin  
Chair  
Manhattan Community Board 4



Jean-Daniel Noland  
Chair  
Clinton/Hell's Kitchen Land Use Committee

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<sup>2</sup> See Attachment A: Letter to K. Darga dated August 1, 2018

Enclosure

Cc: Hon. Jerry Nadler, U.S. Congress  
Hon. Brad Hoylman, New York State Senate  
Hon. Gale A. Brewer, Manhattan Borough President  
Hon. Richard Gottfried, New York State Assembly  
Hon. Linda Rosenthal, New York State Assembly  
Hon. Corey Johnson, Speaker, New York City Council  
Hon. Helen Rosenthal, City Council  
M. Rebholz, DOB  
M. Park, HPD  
K. Darga, HPD  
J. Hoffman, HPD  
Owners

# ATTACHMENT A

August 1, 2018

Via Federal Express & Via Email:

New York City Department of Housing Preservation and Development  
100 Gold Street, Room 903  
New York, New York 10038

Attn: Kimberly Darga, Associate Commissioner for Preservation Finance

Re: 355 West 39<sup>th</sup> Street FRONT, 355 West 39<sup>th</sup> Street REAR and 357 West 39<sup>th</sup> Street  
New York, New York  
Block 763, Lots 1001 – 1010 (the “Properties”)  
**Request For HPD Certification Under NYC Zoning Resolution 93-91(b) (1)**  
**That An Alteration Permit Is Required To Allow Partial Demolition of 20**  
**percent or more of the # Residential Floor Area #**

Dear Associate Commissioner Darga:

We represent 355 39<sup>th</sup> Street LLC the owner (“Owner”) of the above-listed three (3) Properties which are multiple dwellings containing, in aggregate, eight (8) dwelling units and commercial space. The Properties consist of vacant condominium units, 355 W. 39<sup>th</sup> Street FRONT has received a Certificate of No Harassment (“CONH”, Exhibit A) and applications for CONH for the other two buildings constituting the Properties are currently being processed by HPD.

Based upon the Properties’ location in Subarea D5 of the Hell’s Kitchen Subdistrict D of the Special Hudson Yards District, in order for an alteration permit to be approved by the NYC Department of Buildings (“DOB”) for the partial demolition of a #multiple dwelling#, where such partial demolition would decrease the amount of residential #floor area# in such multiple dwelling(s) by 20 percent or more, **we are writing to request that HPD certify pursuant to NYC Zoning Resolution 93-91(b)(1), following sixty (60) days’ notice and opportunity to comment to the local Community Board (the “CB”), that an alteration permit is required to allow the removal and replacement of 20 percent or more of the #floor area#.** Please note that Owner has presented a proposal to Manhattan CB 4’s Clinton / Hell’s Kitchen Land Use Committee whereby Owner would substantially preserve the Properties’ walls, demolish and rebuild all floor area within the Properties and redevelop the Properties to use the full floor area of the site (the “Preservation and Redevelopment Proposal”). Please see attached drawings (Exhibit B) which reflect the current exterior of the Properties as well as the design of the Preservation and Redevelopment Proposal. The intention is for the Preservation and Redevelopment Proposal, upon completion of construction, to consist of a residential building containing approximately twenty-six dwelling units plus ground floor commercial and community facility space.

New York City Department of Housing Preservation and Development  
August 1, 2018  
Page 2

This request to HPD for certification under ZR 93-91(b)(1) and the Preservation and Redevelopment Proposal are contingent upon HPD issuance of CONHs for all three (3) of the Properties.

We have been informed by Tom Gilman, RA, the architect for the Properties, that their current Floor Area is, and pursuant to the Preservation and Redevelopment Proposal their Floor Area will be (approximately and subject to change), as follows:

<b>Properties' Current Floor Area (aggregate information for all 3 buildings):</b>	Sf #s	% Change
Current Residential Floor Area	6,556 sf	
Current Commercial Floor Area	1,812 sf	
Current Total Floor Area	8,368 sf	
<b>Floor Area &amp; Residential Floor Area After Partial Demolition (prior to reconstruction):</b>	0 sf	100% Decrease from Current Residential Floor Area & Current Floor Area (will be reconstructed and increased, upon completion).
<b>Preservation and Redevelopment Proposal Floor Area (upon completion, all #s approximate and subject to change):</b>		
Residential Floor Area (approx.)	16,728 sf	255% of Residential Floor Area that currently exists.
Commercial Floor Area (approx.)	1,538 sf	
Community Facility Floor Area (approx.)	861 sf	
<b>Total Floor Area Upon Completion (approx.)</b>	19,127 sf	228% of Floor Area that currently exists.

**At this point Owner also requests that HPD notify CB4 and start the 60 day notice and comment period (the "60 Day Period") and, following the earlier of the end of the 60 Day Period or CB4's early termination of the 60 Day Period, that HPD certify to DOB that an alteration permit can be issued under ZR 93-91(b)(1).**

New York City Department of Housing Preservation and Development  
August 1, 2018  
Page 3

We have been informed that CB4 will soon be voting on a letter of support for the Preservation and Redevelopment Proposal and we will ask that CB4 advise HPD of its early termination of the 60 Day Period.

Please let us know what information and documentation you may require to process this request for ZR 93-91(b)(1) certification. We understand that you will notify CB4 so that the 60 Day Period can proceed.

Very truly yours,

Rosenberg & Estis, P.C.

  
Daniel M. Bernstein, Esq.

Cc: Man Hei ("Roger") Li & Alex Lu, Esq. - 355 39<sup>th</sup> Street LLC ([via email](#))  
Tom Gilman, RA - Gilman Architects ([via email](#))  
Wei Wang, Ph.D, PE – Urban Tech USA ([via email](#))  
Joseph Restuccia, Jesse Bodine and Jean-Daniel Noland - Manhattan CB4 ([via email](#))  
Jeremy Hoffman - HPD ([via email](#))

Attachments ([Exhibit A](#)): CONH for 355 W. 39<sup>th</sup> Street FRONT.  
([Exhibit B](#))

1. Photograph of existing façade of 355 W. 39<sup>th</sup> Street FRONT and 357 W. 39<sup>th</sup> Street.
2. Proposed Preservation Drawings (A220 & A210) showing approximate proposed wall retention and removal.
3. Proposed Structural Drawings depicting method of supporting retained existing walls (4 sheets).
4. Proposed Exterior and Elevation Drawings (2 sheets).
5. Existing and Proposed Massing Drawing (A200).



**EXHIBIT A**

**CITY OF NEW YORK**  
**DEPARTMENT OF HOUSING PRESERVATION AND DEVELOPMENT**

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**INITIAL DETERMINATION UPON APPLICATION FOR A  
CERTIFICATION OF NO HARASSMENT PURSUANT TO THE SPECIAL  
HUDSON YARDS DISTRICT, SECTIONS 93-90 OF THE NEW YORK CITY  
ZONING RESOLUTION**

**Application No.:** 75/17

**Applicant(s):** Manhei Li

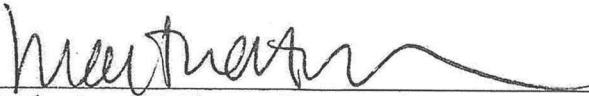
**Premises:** 355 West 39 street– front building only  
New York, New York 10018

**Inquiry Period:** June 21, 2004 to the present

**Action:** Granted – This certification is granted for one building only located at 355 West 39, New York, New York 10018– front of the property known as Block 763, Lot 6 containing a cellar, 1<sup>st</sup> floor commercial space, 2<sup>nd</sup> floor class “A” apartment, 3<sup>rd</sup> floor class “A” apartment, and 4<sup>th</sup> floor class “A” apartment.

**Duration:** This certification will remain in effect for three years from the Date of Issuance.

**Date:** July 11, 2018

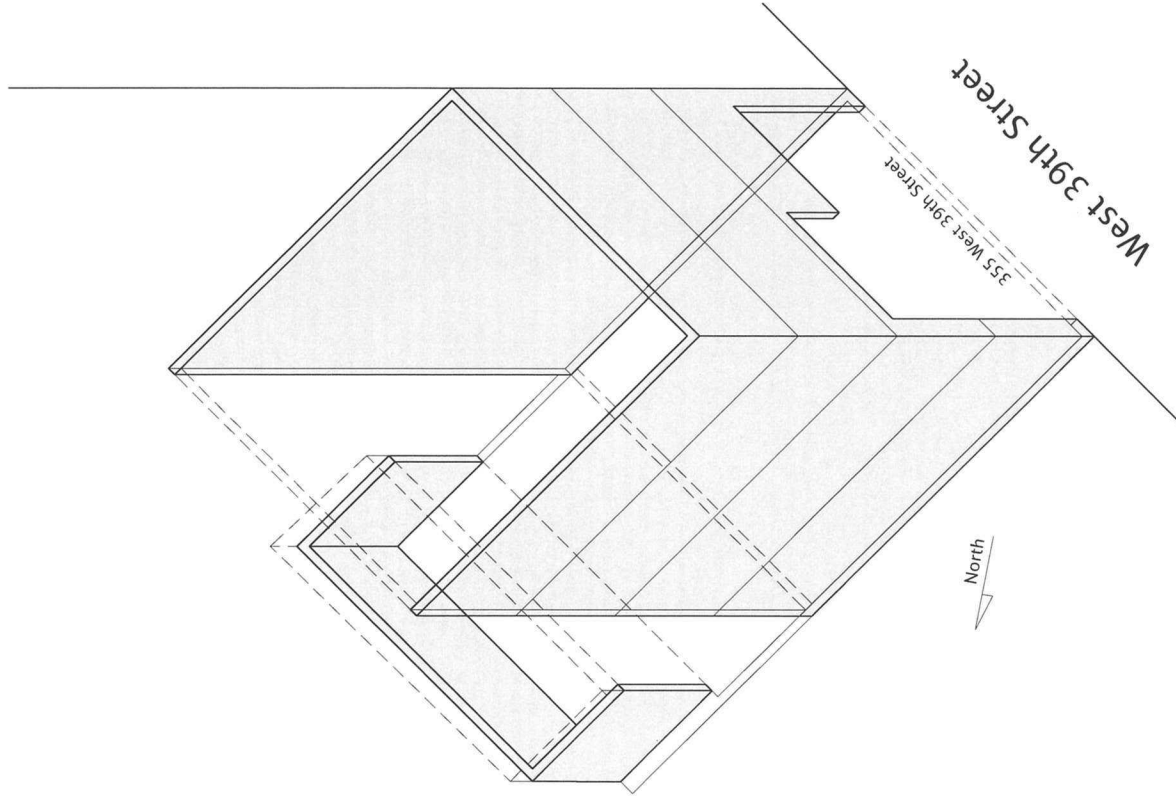
  
\_\_\_\_\_  
Martha Ann Weithman, Esq., Assistant Commissioner-HLD  
Department of Housing Preservation & Development

**EXHIBIT B**

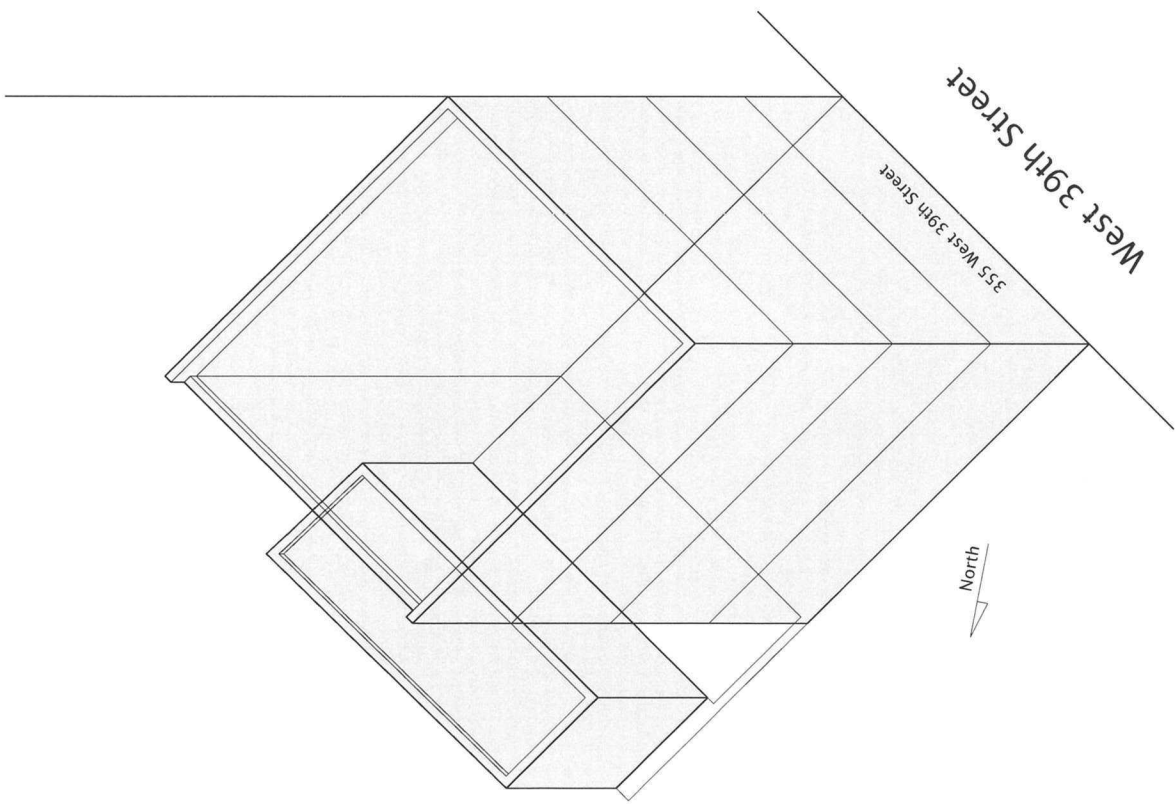
**EXHIBIT 1**



**EXHIBIT 2**

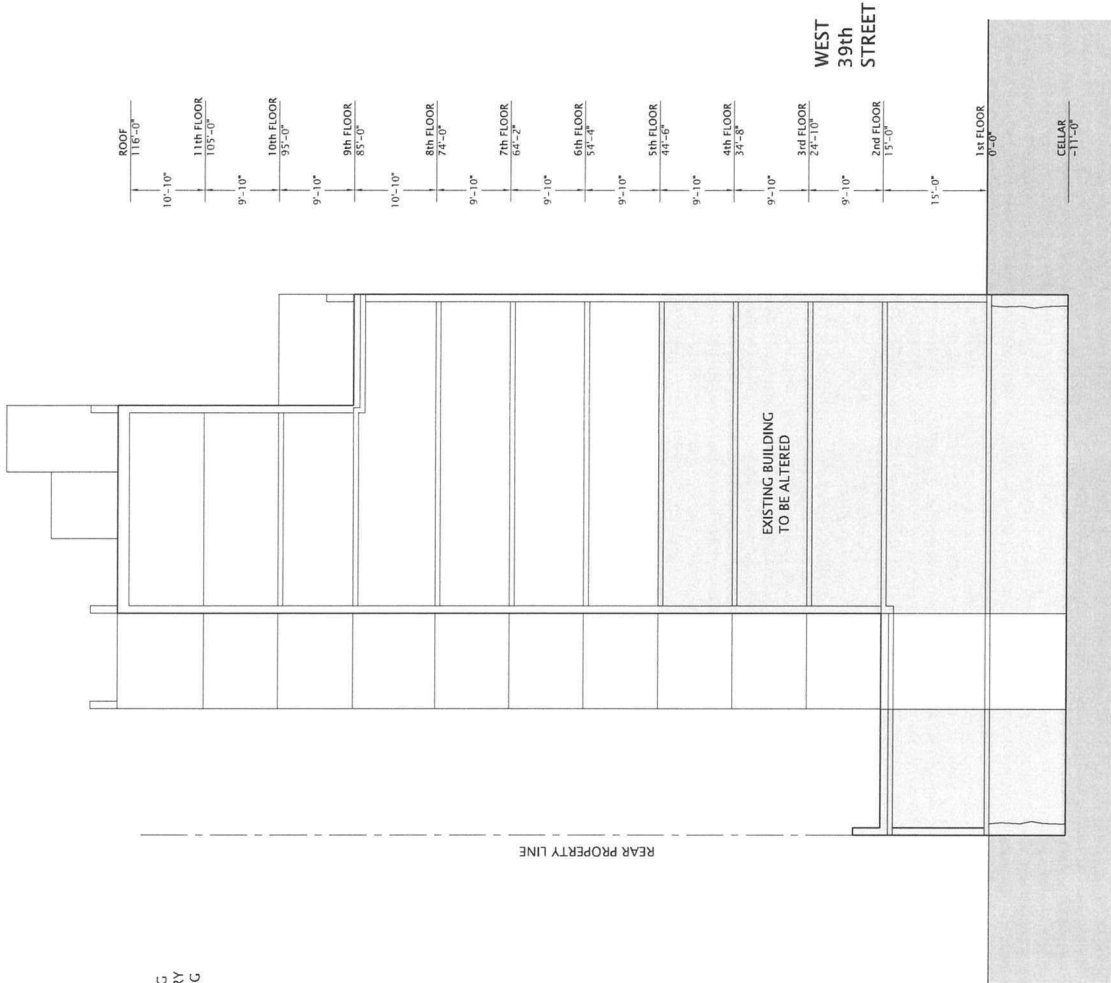


**PROPOSED  
PRESERVATION**

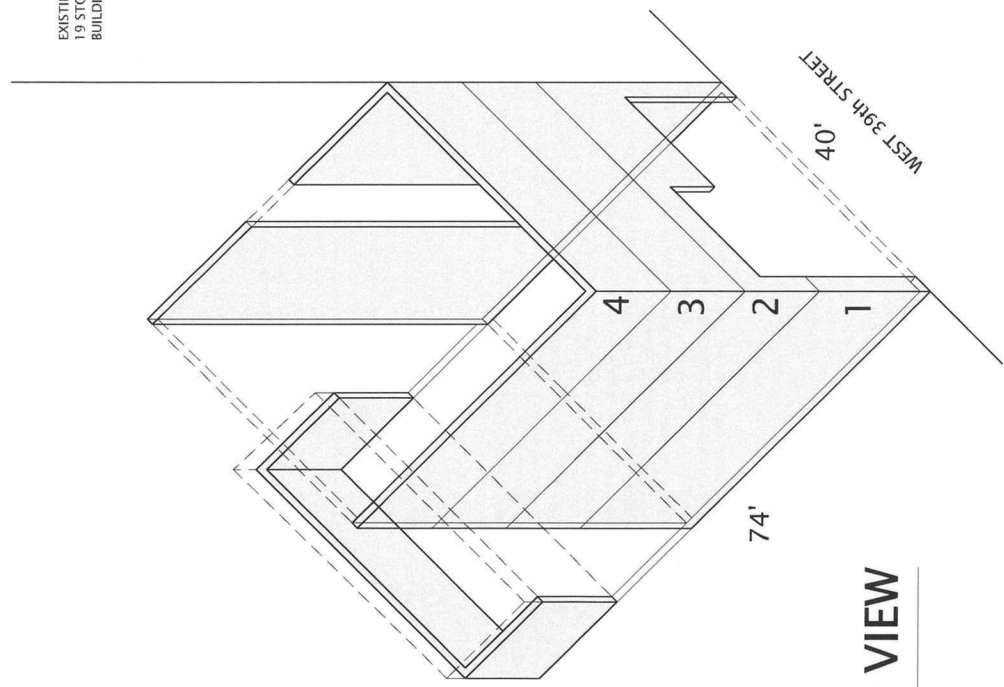


**EXISTING**

date	no.	description



EXISTING  
19 STORY  
BUILDING

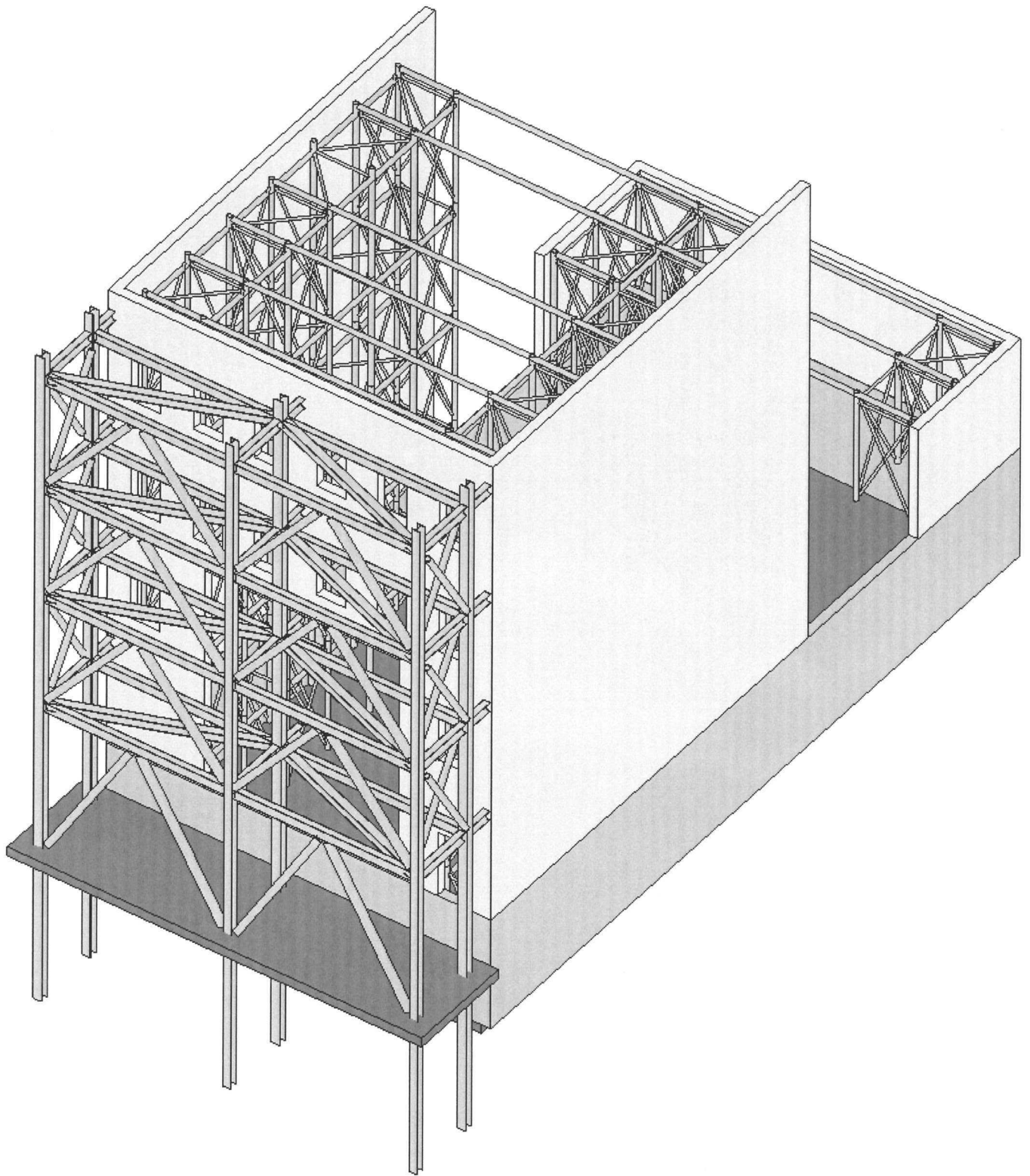


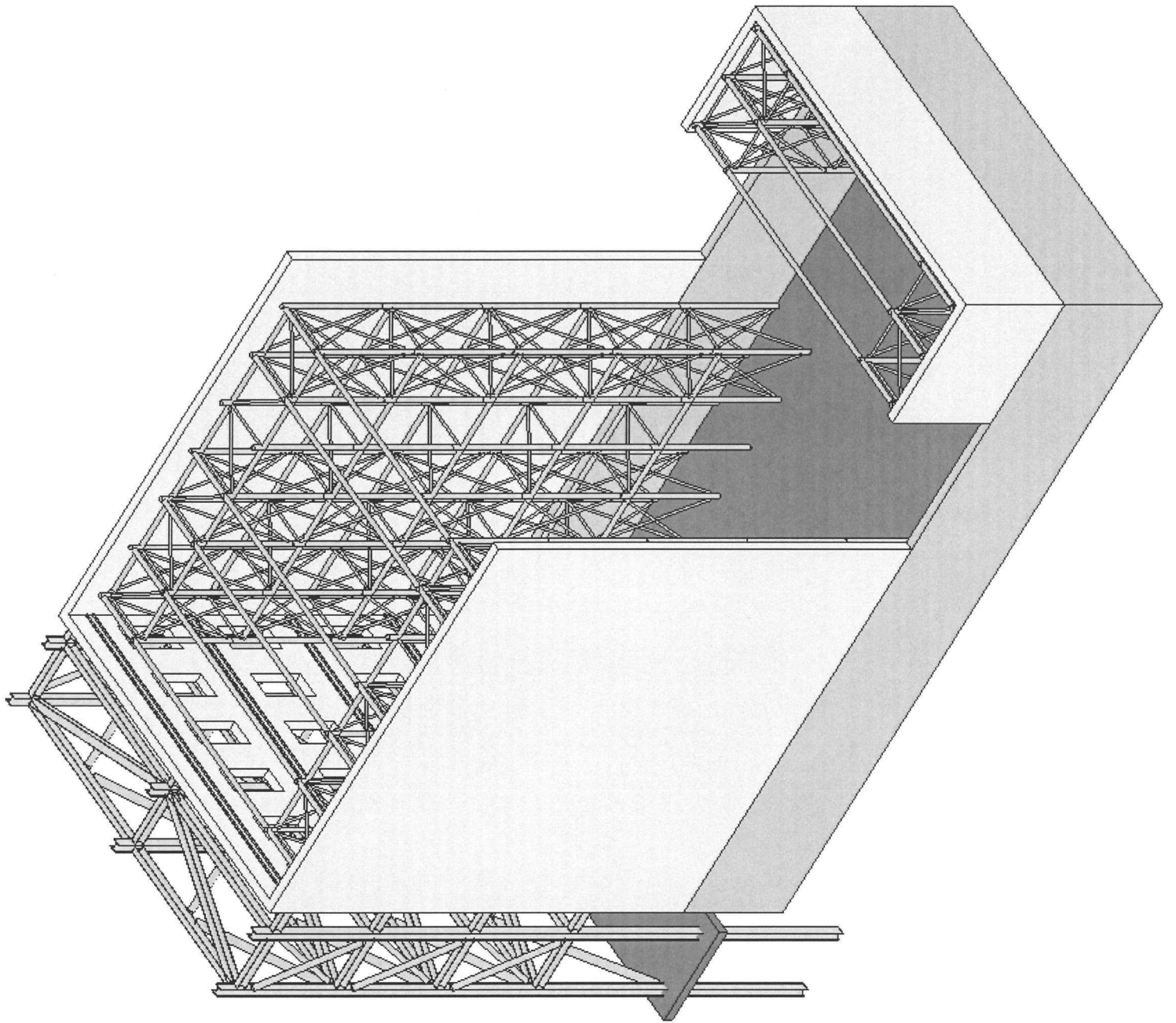
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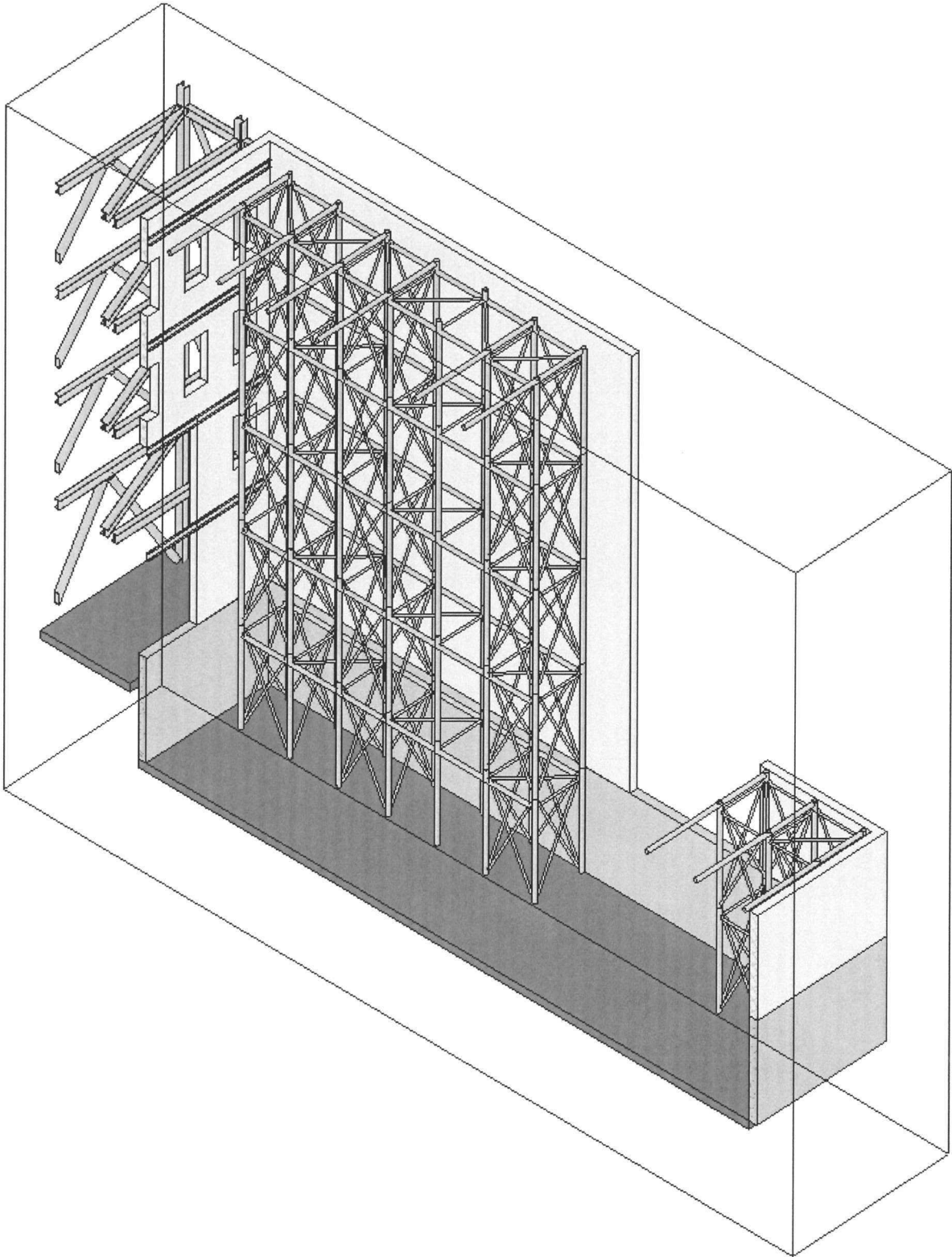
**BUILDING SECTION**

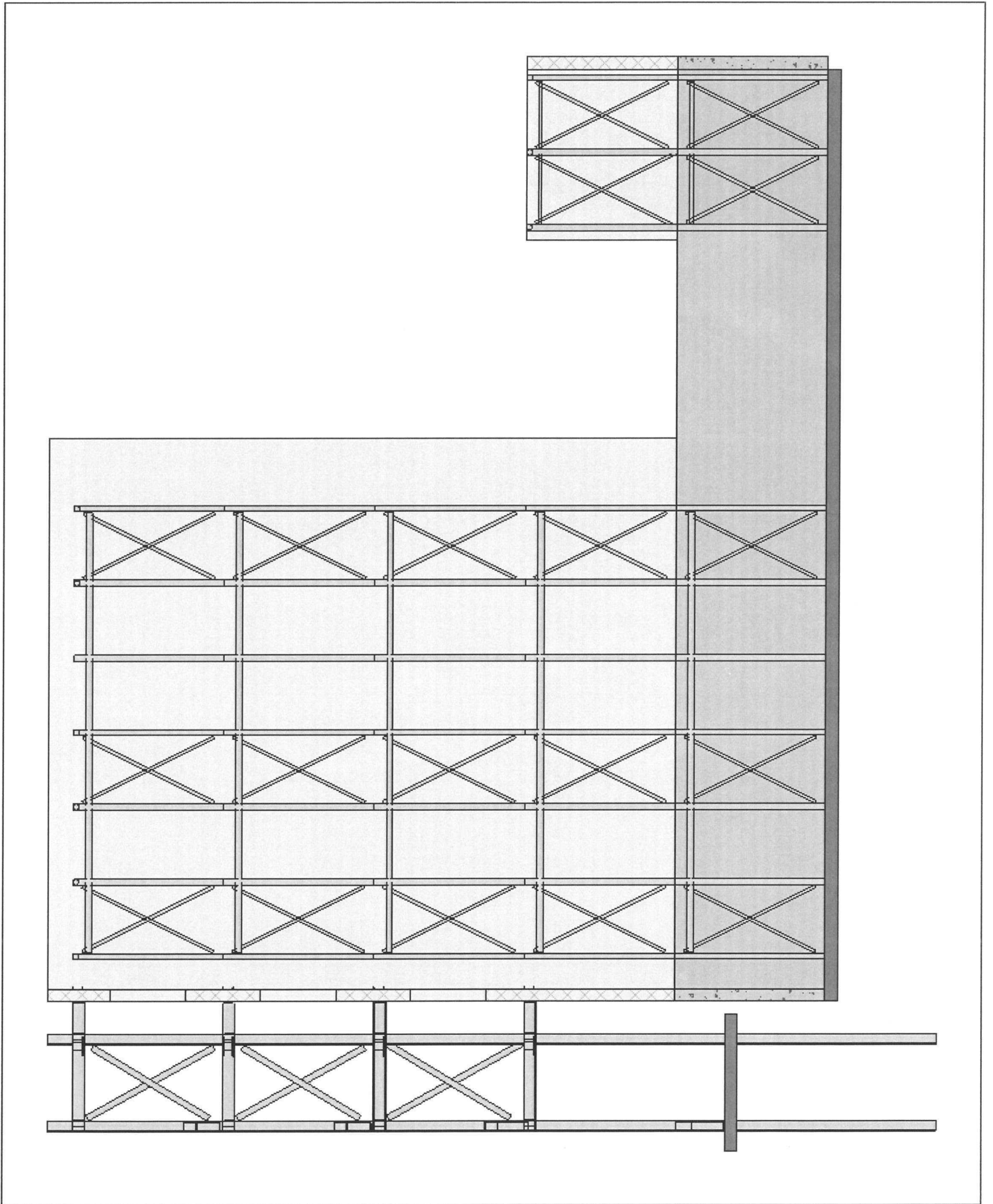


**EXHIBIT 3**









**EXHIBIT 4**



date	no.	description





**EXHIBIT 5**

revisions	
date	description

