

<b>3.</b>	<b>Location:</b> <b>Oak Street to Ninth Avenue</b> Approximately 64.2 acres bounded by Embarcadero Road, the Oakland Estuary, Fallon Street, and 10 <sup>th</sup> Avenue. Assessor Parcel Numbers: various
	<b>Proposal:</b> Second LPAB meeting to finalize comments and recommendations to Planning Commission on proposal for a new mixed use development which includes up to 3,100 residential units, 200,000 square feet of ground-floor commercial space, up to 3,950 parking spaces, <del>28.4</del> <u>29.9</u> acres of parks and public open space, two renovated marinas (total 170 boat slips), and a wetlands restoration area, as the proposal relates to historic resources, including comments and recommendations on the Final EIR. The project proposes substantial demolition of a historic resource - the Ninth Avenue Terminal.
	<b>Recommendation:</b> Receive public comments; Board discussion of proposal as it relates to historic resource(s) within the proposal; any remaining comments on the EIR; and, Board discussion of LPAB sub-committee recommendations. Forward final comments and recommendations to the Planning Commission.
	<b>Applicant:</b> Oakland Harbor Partners (Signature Properties & Reynolds and Brown)
	<b>Contact Person/Phone Number:</b> Michael Ghielmetti, Signature Properties (925) 463-1122 Dana Parry, Reynolds and Brown (925) 674-8400
	<b>Owner:</b> The Port of Oakland
	<b>Planning Permits Required:</b> General Plan Amendment (Estuary Policy Plan text and land use map); Central City East Redevelopment Plan Amendment; Central District Urban Renewal Plan Amendment; New Waterfront Planned Development Zoning District and Zoning Map Designation; Vesting Tentative Subdivision Map; Preliminary Development Plan; Design Review; Creek Protection Permit; Tree Removal Permit. OHP is also requesting a Development Agreement.
	<b>General Plan:</b> Estuary Policy Plan Designations: Planned Waterfront Development-1 and Park, Open Space, and Promenades
	<b>Zoning:</b> M-40, Heavy Industrial and S-2/S-4 Civic Center/Design Review Combining Zone
	<b>Environmental Determination:</b> Draft Environmental Impact Report published from September 1, 2005 to October 24, 2005. Responses to comments currently being prepared.
	<b>Historic Status:</b> Ninth Avenue Terminal – Oakland Cultural Heritage Survey (OCHS) Rating A; City of Oakland Landmark Status Pending Philbrick Boat Works – Notice of Intent to Submit an Oakland Landmark and S-7 Preservation Combining Zone Application Form - See Agenda Item #1. No OCHS rating
	<b>Service Delivery District:</b> Downtown Metro and San Antonio 3
	<b>City Council District:</b> 2 – Pat Kernighan, 3 – Nancy Nadel
	<b>For Further Information</b> Contact <b>Joann Pavlinec (510) 238-6344, <a href="mailto:jpavlinec@oaklandnet.com">jpavlinec@oaklandnet.com</a></b>

**SUMMARY**

The purpose of this meeting is to finalize comments and recommendations as they relate to the historic resources within the Oak Street to Ninth Avenue proposal, to be forwarded to the Planning Commission and City Council for consideration during their deliberations about the project. This is the

second of such meetings.

The purpose of the first Landmarks Preservation Advisory Board (LPAB, Board) meeting on January 9, 2006 was for Board discussion of the proposal and the LPAB sub-committee's recommendations, to request further areas of study/investigation to the sub-committee, to discuss compliance with the required findings and demolition/retention of Ninth Avenue Terminal options along with design implications, any suggestions for mitigations, conditions of approval and/or development agreement provisions, to request any additional information from the applicant, comment on the Final Environmental Impact Report,<sup>1</sup> and to receive public comments.

This report will focus on new material submitted since that meeting, including the following:

- Final Environmental Impact Report (Sent to the LPAB under separate cover.)
- Oak to Ninth Avenue Development Feasibility Analysis for Shoreline Improvements and Pier Retrofit dated February 5, 2004 (Attachment A)
- Ninth Avenue Pier Renovation Structural Feasibility Study dated February 6, 2006 (Attachment B)
- Oak to 9<sup>th</sup> Mixed-Use Project Ninth Avenue Terminal Reuse Feasibility Analysis dated February 17, 2006 (Attachment C)
- The Draft Oakland Estuary Policy Plan Amendment (Attachment D)
- Revised sub-committee recommendations based on the three technical reports (outlined in this report)

Background information on the proposal and on the LPAB sub-committee's original recommendations are available in the January 9, 2006 LPAB staff report (Attachment E). Since the LPAB's most recent review of this proposal on January 9, 2006, the Planning Commission held a Special Meeting on January 25, 2006 on the proposal. Their comments did not express any major concern to demolish a significant portion of the Ninth Avenue Terminal. Please see Attachment H for the Historic and Cultural Resources section of the Planning Commission 1-25-06 staff report.

## **SUMMARY - BOARD DISCUSSION – LPAB MEETING JANUARY 9, 2006**

Following Public Comment on the Oak Street to Ninth Avenue project, the Board discussed the proposal with respect to the historic resources. Following are their comments and requests for additional information:

- Request for further research on viable uses for the Ninth Avenue Terminal
- Question as to why the Ninth Avenue Terminal was being substantially demolished when it is not in the way of anything, for a park on which you cannot plant trees. Retaining the building is not a comment on the park space. Both can be achieved.
- The grading concept shows that the elevation of the street adjacent to the park created on the area of the Ninth Avenue Terminal building is five feet below the park elevation. No one who drives down the street will see the water. If a Landmark building is going

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<sup>1</sup> At their regularly scheduled meeting on October 17, 2005, the LPAB held a Public Hearing, and reviewed and commented on the Draft Environmental Impact Report.

to be demolished there needs to be some overriding public benefit. Demolishing the building, but saving the platform that is five feet higher and blocks the public view of the water seems like a mistake. If the building goes, the platform should also go so that you can see the water from Main Street, and not a five foot high wall. At the time of the Estuary Plan there were compensating features for the demolition, but there are not any in this proposal.

*Mr. Ghielmetti responded that he would have answers at the next meeting. He stated that it would be easier to tear down and rebuild than lower it and stated that they would look at building up the rest of the site.*

- The building is a landmark so the best option is retaining the whole building, then the next best option is retaining the original half. The mitigation for demolishing half of the building would be rehabilitating the remaining half.
- If any square footage of the 1920's half is demolished, mitigations would be to provide additional park space and funding from the developer for other landmark buildings or historic projects in the community
- Removing a portion of the terminal should be mitigated. Suggest that a creation of an area that would be a host to historic relocated buildings, like Preservation Park, as a mitigation for the demolition.
- Request for a reading from the State about what uses can be programmed for the Ninth Avenue Terminal. Request to investigate if something like the Ferry building (where there are uses not typically allowed) can happen here. *Director Cappio will include the bill passed related to the site with the next report. (Attachment F).*

## SUMMARY - TECHNICAL REPORTS

### **1) Oak to Ninth Avenue Development Feasibility Analysis for Shoreline Improvements and Pier Retrofit dated February 5, 2004** (Attachment A)

The report provides preliminary engineering for the development of alternatives related to shoreline repair/improvement and seismic retrofit of the Ninth Avenue pier. It includes an assessment of existing conditions and development of shoreline improvement methods.

Environmental site conditions including water levels, wave conditions, wave runup (indication of how high the water level will advance for certain wave conditions), and wave overtopping (method for estimating the level of wave protection) were assessed for the site. The combination of a 50-year wind and a 10-year water level was selected for the design condition, since the probability of a storm wave and an extreme water level occurring simultaneously is relatively low.

The report examines five segments of the shoreline. Segment 4 – Clinton to Ninth Avenue Pier Apron and Segment 5 – Ninth Avenue Terminal Pier relate to the historic resource area of the project.

The Segment 4 area involves only a small area of the 1950's portion of Ninth Avenue Terminal. It is a timber wharf constructed in the 1940's for heavy vertical loads. The majority of the vertical piles were PVC wrapped in the last 20 years, and have not been unwrapped for inspection. Based on hammer soundings some appear capable of supporting light traffic loads and a pathway. Other pile types (not vertical piles) were unwrapped and have lost most of their cross sectional area. Some corner piles are

cracked. The deck is asphalt and in poor condition. Although wharf repairs for the timber structure are possible, the number of piles requiring replacement may be significant and costly. If this area is needed, the report recommends demolishing and rebuilding a concrete wharf.

The Segment 5 area, the Ninth Avenue Terminal Pier is a 1200-foot long wharf. It was originally constructed in 1930 with a total area of about 270,000 square feet. In the late 1930s the pier was extended to include areas to the north and west of Segment 4. The pier structure of the Ninth Avenue Terminal building is composed of a concrete deck supported by jacketed concrete and green timber (non-creosoted) piles. Tests were done to determine additional shear reinforcement required. Based on this analysis, retrofit methods were selected. All retrofits include removing the 16 foot wide timber apron along the wharf face. It is in poor condition and would be a high maintenance feature. The following methods were investigated.

- 1) Retrofit Concrete Wharf, Replace Timber Apron
- 2) Retrofit With Retained Fill
- 3) New Structure
- 4) Crib Structure

The estimates of construction costs mentioned at the beginning of this report are not included, but the EPS Reuse Feasibility Analysis (Attachment C) includes Ninth Avenue Pier Retrofit costs, under Development Costs in Table 7 – Summary of Ninth Avenue Terminal Commercial Reuse Analysis by Alternative. This is the last page of the EPS Reuse Feasibility Analysis.

An earlier report (February 20, 2002) consisting of a brief and qualitative assessment of existing conditions is attached to this report. It states that the wharf was originally designed for heavy loads, and without performing further testing and analysis it is safe to say that the condition of the vertical load carrying system is good and capable of supporting light traffic loads and a pathway. The asphalt portion of the deck requires replacement. It further states that within 20 years some of the timber piles, pilecaps, stringers and decking may require replacement.

## **2) Ninth Avenue Pier Renovation Structural Feasibility Study dated February 6, 2006** **(Attachment B)**

The purpose of the report is to provide schematic seismic rehabilitation details for the Ninth Avenue Terminal buildings.

The report finds that the existing structural system is in generally good condition. However, there is some deterioration in the exterior longitudinal concrete walls. Although the report cites cracks, spalled concrete, and exposed and corroding reinforcing steel, it states that the longitudinal concrete walls have adequate strength to resist the in-plane seismic forces, but not out-of-plane seismic forces.

It further states that the existing steel truss frames are in excellent condition. However, they are a potential seismic collapse hazard because the frames, deficiency in their anchorage to the pier deck, and the existing roof diaphragm do not have adequate capacity to resist the in-plane seismic forces.

Upgrades would be required to address these deficiencies. Two alternatives are proposed.

1. Mezzanine Alternative - The mezzanine alternative would add 70,000 sq. ft. of second floor area to the 1929 section, and 72,000 sq. ft. of second floor area to the 1950 section, in addition to other seismic upgrades and repair of the exterior concrete walls.
2. Trussed Column Alternative – The trussed column alternative would not add any additional usable square footage, but would include required seismic upgrades and repair of the exterior concrete walls.

The report does not provide cost estimates for this upgrade work.

**Note:** Although the report states the project would not be eligible to use the State Historical Building Code (SHBC), the SHBC applies to all qualified historic structures, districts and sites. This includes evaluated local inventories. Prior to the Ninth Avenue Terminal's Landmark eligibility rating of 'A' determined by the LPAB, it was a Potential Designated Historic Structure, rated 'B', listed in the OCHS Reconnaissance Survey in 1997 and on the Local Register of Historic Resources. Therefore, Ninth Avenue Terminal would be eligible for the SHBC and the structure has been done under a Code that is most likely more restrictive. The report cites the 2001 California Building Code as the governing code. The analysis uses neither the California Building Code nor the SHBC. It uses FEMA standards for the analysis.

The applicant stated that it would be difficult to insure without using FEMA standards or the California Building Code. Attached is information from the National Trust for Historic Preservation on a National Trust Insurance Service. This was developed in recognition of the challenges and opportunities of insuring historic properties. Insurance products are now available through the National Trust (Attachment G).

### **3) Oak to 9<sup>th</sup> Mixed-Use Project Ninth Avenue Terminal Reuse Feasibility Analysis dated February 17, 2006 (Attachment C)**

The report analyzes retention of the proposed 15,000 square foot portion of the building, a 90,000 square foot portion of the building and retaining the entire Ninth Avenue Terminal, 180,000 square feet. Uses analyzed include those uses proposed by the applicant for the 15,000 sq. ft. portion, uses similar to those proposed by the LPAB sub-committee for the 90,000 sq. ft. portion, and uses proposed by class project from the University of California, Berkeley<sup>2</sup>.

The report finds the Developer's proposal as having the greatest likelihood of being fully occupied. The Developer's proposed reuse plan, would rehabilitate 15,000 square feet of the 1920's structure for use as a visitors' and cultural/community center, including a maritime history center, cafe and/or gift shop, and would also include over three acres of public parks.

Alternative 2 recommends retention of 90,000 sq. ft., the 1920's portion of the building. The report proposes visitors' cultural/community space, warehouse space for a boat builder, other marine-related space, food concessions, boat rental, bike rental, and other commercial uses. Based on EPS' estimation

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<sup>2</sup> The Ninth Avenue Terminal: A FEASIBILITY STUDY FOR ADAPTIVE REUSE, prepared by University of California, Berkeley, City Planning 290E class, 'Historic Preservation in California.'

of required square footage for these uses, there would be an additional 11,000 square feet of unused space within the Terminal, thereby reducing the revenue potential.

Both the Developer's 15,000 sq. ft. reuse proposal and the LPAB sub-committee's 90,000 sq. ft. reuse recommendation would involve financial shortfalls, under the EPS analysis. The Developer's proposal of 15,000 square feet would result in a \$16.3 million shortfall and the 90,000 square foot would result in a \$22 million shortfall, a difference of about \$5.7 million additional for the 90,000 square foot option.

Please review Table 7 – Summary of Ninth Avenue Terminal Commercial Reuse Analysis by Alternatives, the last page of the analysis.

The UC Berkeley students' recommendations for reuse of the entire Terminal are discussed in the report. Staff has not summarized them because the sub-committee recommendation supports demolition of the 1950's portion of the Terminal.

**Note:** It should be noted that although the Developer offered space to Philbrick Boat Works, the report states the rent for the square footage necessary for a comparable space would result in a rent rate of \$15,000 per month, which the report states is significantly greater than what the current owner pays.

## **AMENDMENTS TO THE OAKLAND ESTUARY POLICY PLAN (Attachment D)**

The Oakland Estuary Policy Plan amendments propose to modify the Plan to conform with the Oak Street to Ninth Avenue proposed project.

With respect to the historic resource, the Ninth Avenue Terminal, the following amendments have been proposed:

1. Page 2 Finally, the prospect of consolidating maritime activities in the Outer Harbor provides a tremendous opportunity to remove a portion of ~~improve~~ the Ninth Avenue Terminal for greater public access and use.
2. Page 5 Recognize that the Ninth Avenue Terminal bulkhead portion of the building shed, or portions thereof, may be suitable for rehabilitation and adaptive reuse.
3. Page 6 The Port and City should investigate the feasibility of retaining keeping and reusing approximately 15,000 square foot bulkhead portion of the 9<sup>th</sup> Avenue Terminal. The remainder of the 9<sup>th</sup> Avenue Terminal may be removed to allow for the public park called for above in Policy OAK-2.4. Building (or portions thereof). A Specific Plan for the entire District should be initiated prior to development. (See Policy Oak 5)
4. Page 6 ~~Encourage the mooring of vessels adjacent to the Ninth Avenue Terminal. Along the southern boundary of the Ninth Avenue Terminal, a limited amount of vessel mooring is encouraged to complement the recreational and cultural uses of the area.~~

## REVISED SUB-COMMITTEE RECOMMENDATIONS

Based on the three technical reports, the LPAB sub-committee recommendations have been revised.

### **Recommendation #1 concerning Required Findings:**

*Recommendation #1:* The sub-committee finds that the current proposal for the substantial demolition of 9<sup>th</sup> Avenue Terminal, the proposed design of the new west façade of the remaining portion of Ninth Avenue Terminal and of the adjacent Shoreline Park design is not equal in quality to the existing design and therefore the findings for General Plan Historic Preservation Element (HPE) Policy 3.5 could not be made, based on the following Findings:

- 1) A ratio of one square foot of proposed park area to one square foot of building demolition of Ninth Avenue Terminal, a building that appears eligible for the National Register of Historic Places, deemed eligible for City of Oakland Landmark Status is not equal in quality to the existing Ninth Avenue Terminal's design and the history of Oakland it embodies. The following features of the building's architecture and history point out the significance of the Ninth Avenue Terminal.
  - a. a prominent visual element of Beaux-Arts derived architectural style to create monumental imagery to a utilitarian industrial building;
  - b. reflects the influence of the City Beautiful Movement in the early 20<sup>th</sup> Century promoting the idea of embellishing utilitarian buildings with historicist architectural treatments to convey the ideals of beauty, public benefit, and sound planning principles to enhance the appearance of the city;
  - c. a prominent visual element in the neighborhood and along the waterfront;
  - d. the last of Oakland's transit sheds that enabled the Port to achieve its mission and success;
  - e. strongly illustrative and intimately connected with important patterns of political, economic, and industrial history, the development of the city and the history of a distinct geographic region and well-defined era;
  - f. strongly linked to the establishment of the first Board of Port Commissioners, as a requirement of the 1925 harbor bond issue;
  - g. is significant to maritime history of the City of Oakland and the Bay Area with respect to architecture, maritime commerce, transportation and port history;
  - h. is an early example of an inter-modal transportation complex consisting of water, rail and land transportation capability in one facility;
  - i. symbolizes the long fostered relationship and connection between the Port and the City.
- 2) The park elevation is five feet above the adjacent street and other areas of the site. The proposed elevation of the park will block the public view of the water from the street and other areas of the site.
- 3) There are insufficient activities proposed for the site, so that there is not enough to draw the general public to this area of the waterfront for recreational activities or to support the retail proposed for the entire project.
- 4) There is not any area for shelter from wind or sun.

Sub-committee discussion: If the 1920's portion of the Ninth Avenue Terminal, a City of Oakland Historic Resource, is going to be demolished there should be some overriding public benefit directly related to the Historic Resource, and Mitigation as outlined in Recommendation #6.

Staff has outlined below required findings related to the historic resources:

***Historic Preservation Element, Policy 3.5: Historic Preservation and Discretionary Permit Approvals***

For additions or alteration to Heritage Properties or Potential Designated Historic Properties requiring discretionary City permits, the City will make a finding that

- (1) the design matches or is compatible with, but not necessarily identical to the property's existing or historical design; or
- (2) the proposed design comprehensively modifies and is at least equal in quality to the existing design and is compatible with the character of the neighborhood; or
- (3) the existing design is undistinguished and does not warrant retention and the proposed design is compatible with the character of the neighborhood.

For any project involving complete demolition of Heritage Properties or Potential Designated Historic Properties requiring discretionary City permits, the City will make a finding that:

- (1) the design quality of the proposed project is at least equal to that of the original structure and is compatible with the character of the neighborhood; or
- (2) the public benefits of the proposed project outweigh the benefit of retaining the original structure;
- (3) the existing design is undistinguished and does not warrant retention and the proposed design is compatible with the character of the neighborhood.

**Recommendation #2 concerning retention and rehabilitation of the 1920's portion of Ninth Avenue Terminal**

Recommendation #2: Retain and rehabilitate the entire 1920's portion of Ninth Avenue Terminal.

1. Program and reuse the 1920's Ninth Avenue Terminal space, including the following:

- a cultural/community center providing information and history of Oakland's maritime activities and involvement in international cargo, transportation, and distribution;
- space for relocation of Philbrick Boat Works;
- other marine-related uses;
- boat and bike rental space to provide activities for the general public and to activate the adjacent park;
- food concessions spaces to activate the adjacent park;
- an area at the westernmost edge that is semi-enclosed, (i.e., uses only the shell of the Ninth Avenue Terminal) for a semi-sheltered area of the park with chess tables and other seating for passive activities (this semi-enclosure could also be used for sun and wind protection);

- any remaining area of the Ninth Avenue Terminal 1920's area should be used for paid parking to offset the expense of the parking facility.
- 2. Utilize the mezzanine alternative (outlined in Technical Report Attachment B, as a structural solution for the rehabilitation of the Ninth Avenue Terminal) for additional revenue to offset debt.
- 3. For every square foot of the 1951 portion of Ninth Avenue Terminal demolished (i.e., the 1951 portion of Ninth Avenue Terminal), the project shall provide a minimum of one square foot of park area to the Shoreline Park (i.e. facing the Brooklyn Basin).
- 4. Wharf/apron area on other waterfront side of Ninth Avenue Terminal building shall be a minimum of 26 feet and ramp to the water. (Per the pier report, this will require replacement.)
- 5. Relocate the proposed park area where the 1920s portion of the Terminal is located to the area adjacent to the 1951 portion of the Ninth Avenue Terminal. Relocate proposed building square footage in this area to higher density buildings.
- 6. Prior to design review approval, the Landmarks Preservation Advisory Board shall review and make recommendations to the appropriate review body or administrator on the final design of the remaining portion of the building and its new proposed west façade.

*Sub-Committee Discussion:* While members of the sub-committee recognized the ideal goal would be to rehabilitate and reuse the entire Ninth Avenue Terminal, the sub-committee took into consideration the extensive structural repair that would be required to retain the entire Terminal and the fact that the 1920's portion of the Terminal is more structurally intact and architecturally of a higher quality than the 1950's portion of the Terminal.

In order to provide the greatest potential for successful rehabilitation and re-use of the 1920's portion of the Terminal the sub-committee is not requiring additional resources of the project budget or project land area (i.e., the sub-committee is not recommending a greater park area square footage than is already proposed, nor is the sub-committee recommending any compensation for the demolition of the 1951's portion of the terminal.)

In order to meet the required findings for quality of design, the sub-committee recommends that the LPAB review the proposed design of any alterations to the Ninth Avenue Terminal. Even without this recommendation, design review by the LPAB would be required if the landmarking application is approved by the City Council.

### **ALTERNATE Recommendation #2 concerning retention and rehabilitation of the 1920's portion of Ninth Avenue Terminal**

This recommendation changes sub-section #3 of Recommendation #2 as follows (1, 2, 4, 5 and 6 of Recommendation #3 are included in this Alternate):

- 3) Demolish both the 1951 portion of the Ninth Avenue Terminal and the wharf supporting it. The savings from not retrofitting the wharf can be used to rehabilitate Ninth Avenue Terminal. Relocate the proposed park area where the 1951 portion of the Terminal is located to the land adjacent to the new shoreline, created by the demolition of this area

of the wharf. Push back and relocate proposed building square footage in this area to higher density buildings.

*Sub-committee discussion:* The sub-committee felt that the cost of retrofitting the wharf was substantial for the return of a park on a concrete deck that blocked the public view of the water. This solution would bring the public closer to the water and permit public view of the water, while cutting costs, saving the 1920s portion of the terminal, and retaining the proposed building square footage of the project.

**Recommendation #3 concerning the grading of the Ninth Avenue Terminal Site and blocking the public view of the water from the public areas of the site**

*Recommendation #3:* Study appropriate modifications to the grading and overall elevations of the site in order to provide and improve views of the Estuary from all public areas of the site, because currently the public view of the water is blocked by a proposed elevation of the park that is five feet above the adjacent road and other areas of the project site.

**Recommendation #4 concerning continued maintenance of the Terminal prior to rehabilitation/demolition:**

*Recommendation #4:* Within two months of City of Oakland entitlements the applicant and/or Port, whoever owns the property at the time, shall submit a protection and maintenance plan for the Ninth Avenue Terminal building. The Terminal shall continue to be used if possible, and the applicant and/or Port shall maintain access for trucks to the site through any new development. The maintenance and protection plan shall be reviewed for approval by the Development Director. The applicant and/or Port shall begin implementation of the plan within three months of the City of Oakland entitlements (following Development Director approval).

**Recommendation #5 concerning timing of demolition (partial or full) of Ninth Avenue Terminal**

*Recommendation #5:* Any demolition (partial or full) of Ninth Avenue Terminal shall not take place prior to:

1. The submission for permits for the development phase that includes the land occupied by the terminal.
2. Approval of building permit plans for Shoreline Park (i.e. facing the Brooklyn Basin)
3. The City's review and approval of a funding structure for the rehabilitation and re-use of the portion of the Ninth Avenue Terminal that will be preserved.

**Recommendation #6 concerning compensation/consequences for demolition of historic resource:**

*Recommendation #6:* Should the Planning Commission and/or City Council approve demolition of any of the 1920s portion of the Ninth Avenue Terminal, the Landmarks Preservation Advisory Board recommends the following:

- For every square foot of demolition of the 1920s portion of the Terminal, the project shall provide a minimum of two square feet of park area to the Shoreline

- Park facing the Brooklyn Basin. The minimum two square feet is additional and beyond what is shown in the plan analyzed in the EIR.
- Compensation of \$5 million for demolition of any portion of the 1920s portion of the Ninth Avenue Terminal up to the 15,000 square feet proposed for retention by the Developer (proportionate to the amount of square feet demolished) for the loss of the Historic Resource, to subsidize the rehabilitation of a landmark(s) and/or preservation district(s) (S-7 or S-20) and/or establish a Historic Preservation Fund. The landmark(s) or preservation district(s) shall be determined by the Landmarks Preservation Advisory Board and shall be significant (e.g. Southern Pacific Railroad Station at 16<sup>th</sup> and Wood Streets, Moss House); and
  - Compensation of \$10 million for demolition of the entire Ninth Avenue Terminal for the loss of the Historic Resource, to subsidize the rehabilitation of a landmark(s) and/or preservation district(s) (S-7 or S-20) and/or establish a Historic Preservation Fund. The landmark(s) or preservation district(s) shall be determined by the Landmarks Preservation Advisory Board and shall be significant (e.g. Southern Pacific Railroad Station at 16<sup>th</sup> and Wood Streets, Moss House).

Sub-Committee Discussion: The sub-committee also took into consideration that the Planning Commission and City Council may not adopt the LPAB's recommendations concerning retention of the 1920's portion of the Ninth Avenue Terminal.

The sub-committee believes that the current proposed Shoreline Park design could not meet the required findings. In order to be at least equal in design and quality to that of the Ninth Avenue Terminal, the proposed park area could not be substituted on a one square foot of park for one square foot of demolition of the Terminal; the exchange for one square foot of demolition should require a minimum of two square feet of park area. However, in order to encourage retention of the 1920's portion of the Terminal, the sub-committee is not requesting additional park area in exchange for the demolition of the 1950's portion of the Terminal.

Compensation for all or a portion of the 1920's Terminal was discussed. Based on the sub-committee's proposed compensation<sup>3</sup> at the January 9, 2006 LPAB meeting, it has been suggested that they look to previous Mitigation Measures that incorporated compensation for loss of Historic Resources. Compensation for loss of Historic Resources has been evolving during the recent past, as City development has escalated and more Historic Resources are being demolished. All of the previous Oakland projects involving monetary compensation for loss of a Historic Resource have involved Historic Resources of less importance and scale. Most recently, a Mitigation Measure was approved for the Broadway-West Grand Mixed-Use Project of \$125,000 for five demolished small-scale, one to two-story, facades. This was based on the average amount of a City facade improvement grant award (\$25,000). All of these buildings were small in scale, and rated low on the OCHS rating scale. The

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<sup>3</sup> Initially, the sub-committee recommended compensation at \$200/sq. ft. demolished, under the rationale that not even a surface parking lot could be constructed for \$100/square foot. Very basic construction is currently running between \$150-\$200/sq. ft.

facades were the only visible portion of the building. By contrast Ninth Avenue Terminal is one of Oakland's largest buildings, highly visible, whose use is tightly related to its location on the waterfront, integrally involved with the development of the City of Oakland and the Port, and the last of its type on the Oakland Estuary. It is rated the highest possible rating, 'A', and appears eligible for the National Register of Historic Places. The sub-committee believes that the previous buildings for which a Mitigation Measure required compensation for demolition are not even a close precedent upon which to base compensation for the demolition of Ninth Avenue Terminal. Therefore, the above recommendations are proposed to the Full Board.

## **FULL LPAB RECOMMENDATIONS**

### **Recommendation #1 concerning Landmark Designation of Ninth Avenue Terminal**

*Recommendation #1:* Forward nomination of Ninth Avenue Terminal as a City of Oakland Landmark, along with the Resolution to Landmark Ninth Avenue Terminal, to the Planning Commission and City Council.

*Sub-Committee Discussion:* The LPAB unanimously adopted the Preliminary Evaluation Sheet for Landmark Eligibility for Ninth Avenue Terminal (March 8, 2004), unanimously adopted the Resolution and unanimously directed staff to forward the nomination of the Ninth Avenue Terminal to the Planning Commission for a Public Hearing (May 10, 2004). Therefore, the Landmark application should proceed for review by the Planning Commission and City Council prior to, or at the same time, as the meetings that the Oak to Ninth Project is being deliberated by the Planning Commission and the City Council.

### **Recommendation #2 concerning relocation of Philbrick Boat Works**

*Recommendation #2:* Philbrick Boat Works shall be relocated in a place on the Oakland Estuary. (Unanimous Board Recommendation 1-9-06).

The Board may wish to discuss this condition. At the previous meeting, prior to Board action, the Board discussed the relocation. The Board raised questions about the rent that Philbrick Boat Works is currently paying. The Board asked if the business had comparable space on the water, for comparable rent, within the project, could the business move. The owner responded that it would be possible.

Per the technical reports submitted by the applicant, the proposed rent for the comparable space which the business would require is \$15,000 per month, which the report states is significantly greater than what the current owner pays.

Although the Developer offered relocation for this business, this offer and the LPAB's Recommendation may not be possible to implement either at the Ninth Avenue Terminal or at other locations within the project if this is going rental fee for the project.

## **AMENDMENTS TO THE OAKLAND ESTUARY POLICY PLAN (Attachment D)**

The proposed amendments with respect to Historic Resources have been outlined earlier in this report. Based on the sub-committee recommendations, the amendments would not be consistent.

Following the Board's direction on the sub-committee's recommendations, the full Board should review the amendments and take action to support/not support the historic-related amendments.

### **RECOMMENDATION**

1. Receive any testimony from the applicant and interested citizens;
2. Discuss the LPAB sub-committee's and full LPAB's recommendations, with respect to required findings, design review, conditions of approval, mitigation measures and Development Agreement provisions, and provide any further comments on the EIR. (Staff recommends that The Board take Action separately on each recommendation in this report for a clear and precise recommendation to the Planning Commission and City Council.)
3. Take Action to support/not support the proposed Amendments to the Historic Resource areas of the Estuary Plan.

Respectfully submitted:

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Claudia Cappio  
Development Director

Prepared by:

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Joann Pavlinec, Planner III  
Historic Preservation, Major Projects

Attachments:

- A: Oak to Ninth Avenue Development Feasibility Analysis for Shoreline Improvements and Pier Retrofit dated February 5, 2004
- B: Ninth Avenue Pier Renovation Structural Feasibility Study dated February 6, 2006
- C: Oak to 9<sup>th</sup> Mixed-Use Project Ninth Avenue Terminal Reuse Feasibility Analysis dated February 17, 2006
- D: The Oakland Estuary Policy Plan Amendment
- E: Landmarks Preservation Advisory Board Staff Report – January 6, 2006
- F: SB 1622 Senate Bill
- G: Information on Insurance programs available from the National Trust
- H: Historic and Cultural Resource Section of the Planning Commission 1-25-06 Staff Report