

<b>2.</b>	<b>Location:</b>	<b>One 9<sup>th</sup> Avenue/Brooklyn Basin</b>
	<b>Proposal:</b>	Confirmation of LPAB unanimous approval: 1) on March 8, 2004 to adopt the Preliminary Evaluation Sheet for Landmark Eligibility, and to direct staff to prepare a draft resolution for review and consideration; and 2) on May 10, 2004, to adopt the Resolution and to direct staff to forward the nomination of the Ninth Avenue Terminal to the Planning Commission for a Public Hearing.
	<b>Recommendation:</b>	Confirm Previous LPAB Approvals
	<b>Owner:</b>	Port of Oakland
	<b>Applicant:</b>	Oakland Heritage Alliance and Friends of the Ninth Avenue Terminal
	<b>General Plan:</b>	Urban Open Space
	<b>Zoning:</b>	M-40
	<b>Environmental Determination:</b>	Exempt per Sections 15061(b)(3) and 15331 of the State CEQA Guidelines.
	<b>Historic Status:</b>	Oakland Cultural Heritage Survey B+3 – Major Importance, Not in a Historic District (rating of A on the LPAB rating sheet)
	<b>Service Delivery District:</b>	3 San Antonio
	<b>City Council District:</b>	2
	<b>For Further Information</b>	Contact <b>Joann Pavlinec (510) 238-6344, <a href="mailto:jpavlinec@oaklandnet.com">jpavlinec@oaklandnet.com</a></b>

**SUMMARY**

In light of the Oak to Ninth Project currently going through the entitlement process, the Development Director recommends that the Landmark Preservation Advisory Board (LPAB, Board) review for confirmation, the previous unanimous LPAB recommendation to the Planning Commission to nominate the Ninth Avenue Terminal for Landmark Designation (May 10, 2004).

**BACKGROUND**

The application to Landmark the Ninth Avenue Terminal has a long history of review and consideration, as outlined chronologically below:

- November 3, 2003 LAPB Meeting: the LPAB reviewed and unanimously adopted the Preliminary Evaluation for the Ninth Avenue Terminal;
- December 8, 2003 LPAB Meeting: Mr. Ghielmetti removed Signature’s opposition to proceed with the Landmark Nomination and requested that the Board Proceed, at their pleasure. Barbara Szudy, Port Project Manager for the Oak to Ninth district Project, responded that the Port was also withdrawing any objections and looks forward to working cooperatively with the LPAB. The LPAB voted unanimously to proceed with the nomination, based on the adopted preliminary evaluation and consideration of the above comments. The LPAB directed the applicant to

prepare and submit a completed Oakland Landmark Combining Zone Application within six months.

- March 8, 2004 LPAB Meeting: The joint applicants, Oakland Heritage Alliance and the Friends of Ninth Avenue Terminal, submitted a full application. The LPAB reviewed and unanimously adopted the Final Evaluation Sheet for Landmark Eligibility and directed staff to prepare a draft resolution for review and consideration.
- May 10, 2004 LPAB Meeting: The LPAB unanimously adopted the draft resolution and directed staff to forward the nomination to the Planning Commission for public hearing.
- June 2, 2004 Planning Commission Meeting: Application to designate One 9<sup>th</sup> Avenue/Brooklyn Basin (Ninth Avenue Terminal) as a City of Oakland Landmark Continued.

### **LPAB Sub-Committee (Muller, Parish, Peterson) Recommendation**

The LPAB Sub-Committee discussed the confirmation of the LPAB's previous unanimous action on March 8, 2004 and on May 10, 2004. The Sub-Committee made the following recommendation, as part of the overall recommendations in review of the Oak to Ninth Project with respect to historic resources:

*Recommendation #2:* Confirm the previous LPAB unanimously adopted Preliminary Evaluation Sheet for Landmark Eligibility for Ninth Avenue Terminal (March 8, 2004) and unanimously adopted Resolution and unanimous direction to staff to forward the nomination of Ninth Avenue Terminal to the Planning Commission for a Public Hearing (May 10, 2004).

*Sub-Committee Discussion:* The LPAB sub-committee recommends confirmation of the previous Board Action as outlined above. No changes have been made to the Ninth Avenue Terminal that would affect its current status. Therefore, the Landmark application should proceed for review by the Planning Commission and City Council at the same meetings that the Oak to Ninth Project is being deliberated or prior to the Oak to Ninth Project review by the Planning Commission and City Council.

The full Landmark designation process is outlined below:

- Notice of Intent to Submit an Oakland Landmark Combining Zone Application Form
- Schedule Notice of Intent for Board Consideration
- Notification to Property Owners of Board consideration of Notice of Intent; Request for Property Owner Comments
- Preliminary Determination of Landmark Eligibility
- Second Request for Property Owner Comments
- Oakland Landmark Combining Zone Application Form
- No discussion of Landmark Prior to Board Deliberations

- Final Determination of Landmark Eligibility
- Resolution Initiating Landmark Designation

Design Review is required for designated Landmarks under Section 17.102.030B *Special Regulations for designated landmarks* of the Planning Code. Staff has outlined below additional findings that the Board would be required to make if Ninth Avenue Terminal receives Landmark Designation. Design review approval may be granted only upon determination that the proposal conforms to the general design review criteria set forth in the design review procedure in Chapter 17.136 and the criteria set forth in subdivisions 1) and 2) below or to one or both of the criteria in 3) below.

- 1) That the proposal will not adversely affect the exterior features of the designated landmark;
- 2) That the proposal will not adversely affect the special character, interest, or value of the landmark and its site, as viewed both in themselves and in their settings;
- 3) If the proposal does not conform to the criteria set forth in subdivisions 1 and 2:
  - a) That the designated landmark or portion thereof is in such condition that it is not architecturally feasible to preserve or restore it, or
  - b) That, considering the economic feasibility of alternatives to the proposal, and balancing the interest of the public in protecting the designated landmark or portion thereof, and the interest of the owner of the landmark site in the utilization thereof, approval is required by considerations of equity.

## **DISCUSSION**

The Landmark Designation of the Ninth Avenue Terminal is a distinct process from reviewing any potential project involving alterations to the Terminal. LPAB Design Review is the appropriate process to advise and assist the Planning Commission in its consideration of options to encourage and achieve preservation of worthy structures. The LPAB is the only body tasked with advising in that capacity. In addition, this designation assures more formal consideration of historical preservation options through Landmark Design Review, which would provide a public forum for interested citizens to be heard and a Board with professional expertise in historic resource fields to respond to these concerns within a well-defined framework that sets criteria for the issues.

A Board decision to confirm the nomination would directly acknowledge that the Terminal is historically significant, and would ensure that the Terminal's historic significance be recorded in its list of Local Landmarks, regardless of the outcome of the Oak to Ninth project.

The Historic Preservation Element provides criteria for alterations to Landmarks so that regardless of the final Oak to Ninth project proposal, there are clear criteria and a framework for review. The recommendation to proceed with the Landmark Designation would further all of these policies.

**January 9, 2006**

Many factors will affect the Ninth Avenue Terminal's future. Landmark Designation does not obstruct any possibility. Any future alteration or use of the Terminal will be considered during the application process for a specific project. Landmark Designation will alter this application process only with respect to LPAB Design Review.

**RECOMMENDATION**

- 1) Receive testimony from the applicant, property owner, and interested citizens;
- 2) Review:
  - a. Oakland Landmark and S-7 Preservation Combining Zone Application Form and supporting material;
  - b. the Final Evaluation Sheet for Landmark Eligibility (adopted by the LPAB on March 8, 2004); and
  - c. Resolution 2004-3 (approved by the LPAB on May 10, 2004).
- 3) Confirm the adoption of the Final Evaluation Sheet for Landmark Eligibility and the determination that the Ninth Avenue Terminal is Eligible for City Landmark Designation, previously unanimously confirmed by the LPAB on March 8, 2004;
- 4) Confirm the adoption of Resolution 2004-3 and direct staff to forward the nomination to the Planning Commission for public hearing on the proposed designation, either on the same meeting dates as the Oak to Ninth project review before the Planning Commission and City Council or prior to those dates.

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: Oakland Landmark and S-7 Preservation Combining Zone Application Form and supporting material;
- B: The Final Evaluation Sheet for Landmark Eligibility (adopted by the LPAB on March 8, 2004); and
- C: Resolution 2004-3 (approved by the LPAB on May 10, 2004).
- D: LPAB Minutes March 8, 2004 and May 10, 2004