

#2	Location:	Oak Street to Ninth Avenue Approximately 64.2 acres bounded by Embarcadero Road, the Oakland Estuary, Fallon Street, and 10 th Avenue. Assessor Parcel Numbers: various
	Proposal:	Public hearing on the Draft Environmental Impact Report to obtain comments regarding the environmental analysis related to 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, 28.4 acres of parks and public open space, two renovated marinas (total 170 boat slips), and a wetlands restoration area. The existing buildings on the site will be demolished with the exception of a portion of the Ninth Avenue Terminal shed building and the Jack London Aquatic Center.
Applicant:		Oakland Harbor Partners (Signature Properties & Reynolds and Brown)
Contact Person/Phone Number:		Michael Ghielmetti, Signature Properties (925) 463-1122 Dana Parry, Reynolds and Brown (925) 674-8400
Owner:		Port of Oakland
Case File Number:		ER 04-0009
Planning Permits Required:		General Plan Amendment (Estuary Policy Plan), Central City East Redevelopment Plan Amendment, Rezoning and Zoning Code Amendment, Development Agreement, Vesting Tentative and Final Subdivision Maps, Preliminary and Final Development Plans, Design Review, Creek Protection Permit, Tree Removal Permit
General Plan:		Estuary Policy Plan Designations: Planned Waterfront Development-1 and Park, Open Space, and Promenades
Zoning:		M-40, Heavy Industrial and S-2/S-4 Civic Center/Design Review Combining Zone
Environmental Determination:		Draft Environmental Impact Report was published for a 54-day review period (September 1, 2005 to October 24, 2005)
Historic Status:		Ninth Avenue Terminal – Oakland Cultural Heritage Survey Rating A; City of Oakland Landmark Status Pending
Service Delivery District:		Downtown Metro and San Antonio 3
City Council Districts:		2 – Pat Kernighan, 3 – Nancy Nadel
Action to be Taken:		Receive public and Commission comments on the Draft Environmental Impact Report
For Further Information:		Contact project planner Margaret Stanzione at (510) 238-4932 or by email at mstanzione@oaklandnet.com

SUMMARY

Oakland Harbor Partners (OHP), the project sponsor, filed an environmental review application for the Oak to Ninth development project in Spring 2004. A Draft Environmental Impact Report (DEIR) was prepared and released for public comment on September 1, 2005. The purpose of this hearing is to provide an opportunity for the Commission and the public to review the information in the DEIR and provide comments on the specific information, issues and analysis contained in the document.

The project proposes the redevelopment of an industrial area 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, 28.4 acres of parks and public open space, two renovated marinas (total 170 boat slips), and a wetlands restoration area. The existing buildings on the site will be demolished with the exception of a portion of the Ninth Avenue Terminal shed building and the Jack London Aquatic Center.

An Initial Study was prepared under the California Environmental Quality Act (CEQA) and it was determined that an Environmental Impact Report (EIR) would be prepared for the proposed project. The purpose of the CEQA review is to identify the significant effects of a project on the environment, to identify alternatives to the project, and to indicate the manner in which those significant effects can be mitigated or avoided.

The Draft Environmental Impact Report was released for a 54-day public review period from September 1, 2005 to October 24, 2005. After the DEIR public comment period closes, all comments received will be responded to in the Final EIR along with any clarifications, corrections and minor changes. Thereafter, the Planning Commission and City Council will use the information contained in the EIR as the merits of the project are reviewed.

PROJECT BACKGROUND

The Port of Oakland decided to sell part of its property after it was determined that, due to the depth of the Estuary, the Ninth Avenue Terminal could no longer be served by large container ships. In 2001, the Port issued a Request for Proposals to solicit development schemes for the property. Oakland Harbor Partners (OHP) was selected to develop the site.

OHP submitted an application to the City for environmental review for a mixed use residential, commercial, civic, public open space project on the waterfront. The proposed project requires amendments to the General Plan (Estuary Policy Plan), a rezoning and zoning code amendment, an amendment to the Central City East Redevelopment Plan, a possible amendment to the Central District Urban Renewal Plan, a preliminary and final development plan including design review approval, vesting tentative and final subdivision maps, a creek protection permit, a tree removal permit, and possibly other City approvals/actions. The project sponsor has also requested a development agreement. Environmental Science Associates was hired to prepare the Draft Environmental Impact Report, analyze the potential effects of the proposed project, and provide mitigation measures to eliminate or reduce the potential impacts.

PROJECT SITE AND SURROUNDING AREA

The 64.2 acre project site adjoins the Oakland Estuary to the south, the Embarcadero and I-880 to the north, 10th Avenue to the east, and Fallon Street to the west. The project area does not include approximately six acres of privately-held property along and east of 5th Avenue that contain a mix of commercial and industrial uses, as well as a small community of work/live facilities. The eastern part of the project site contains commercial and industrial uses (the Ninth Avenue Terminal, a retail furniture store, a metal recycling facility, and outdoor storage of shipping containers). The central portion of the project site contains commercial and industrial uses, a concrete batch operation, and a mix of manufacturing and outdoor storage uses. The western part of the site contains public open space and industry (Estuary Park and Jack London Aquatic Center, and an East Bay Municipal Utility District dechlorination facility).

Immediately to the north of the site is the Embarcadero, the I-880 freeway and the Amtrak and Union Pacific Railroad. Further north, across the railroad tracks are the Peralta Community College district facilities and Laney College Campus, the BART maintenance shop facilities and the San Antonio District. To the south of the site, across the Oakland Estuary, is the City of Alameda and Coast Guard Island. East of the site are hotel and marine-related retail uses along the Embarcadero and marina facilities along Brooklyn Basin. To the west are the Portobello and The Landing residential condominium developments, commercial warehouses, a television broadcasting storage facility, and commercial, residential and live/work uses in the Jack London District approximately one mile to the west. The Lake Merritt BART Station is located approximately one mile to the northwest.

Access to the site is directly from The Embarcadero. In addition, 5th Avenue extends in a north-south direction from the waterfront to East 18th Street and also provides direct access to the site. The nearest southbound I-880 on-ramp is at 10th Avenue and the Embarcadero, and the nearest northbound I-880 on-ramp is at 6th and Jackson Streets. Southbound and northbound I-880 off-ramps nearest to the project site are located at Oak Street, on 5th and 6th Streets, respectively.

PROJECT DESCRIPTION

OHP is proposing to redevelop 64.2 acres of waterfront property by converting an underutilized, maritime and industrial area into a mixed-use neighborhood with residential, retail/commercial, open space, and marina uses. The majority of existing uses and structures on the project site would be demolished. Approximately 28.4 acres (or 44%) of the site would be developed with parks and open spaces, including the existing Estuary Park and Jack London Aquatic Center.

The project would consist of approximately 3,100 residential dwelling units (a mix of flats, townhomes, and lofts) on 13 separate development parcels. Approximately 200,000 square feet of ground-floor retail/commercial space would be distributed throughout each of the 13 development parcels and would be designed to provide a variety of active retail, restaurant, service, and small office uses to support the new residential neighborhood and serve visitors to the site.

A maximum of 165,000 square feet of the existing 180,000 square-foot Ninth Avenue Terminal building and a portion of its existing wharf would be demolished to create the largest (9.7 acres) of a series of interconnected parks and waterfront space. The project would retain a minimum of 15,000 square feet of the Terminal's Bulkhead Building envisioned to contain a variety of uses consistent with the Tidelands Trust. A continuous public pedestrian trail and Class I bicycle facility along the entirety of the project's waterfront would also be created as a segment of the Bay Trail.

Building heights would range from six to eight stories (up to 86 feet) in height, with high rise tower elements of up to 24 stories (240 feet) on certain parcels. A variant to the project allows consideration of increased maximum building heights from 86 feet to 120 feet on certain development parcels.

The project would rebuild and expand the existing Fifth Avenue Marina and Clinton Basin Marina, which would entail dredging activities and straightening the existing undulating and unprotected condition of Clinton Basin's shoreline. The project would improve the existing shoreline along the project site with varying treatments, including marsh habitats, the riprap, and bulkhead walls. Site remediation would also occur as part of the project.

The project would provide a total of approximately 3,950 onsite parking spaces: about 3,500 in enclosed parking structures, about 375 spaces along public streets within the project area, and about 75 spaces in surface lots in proximity to the proposed open space areas, primarily for use by park and marina users.

Proposed Parks, Open Space and Trails

A mix of active and passive parks and open spaces covering approximately 44 percent of the project site (28.4 acres) would be integrated into the project. This includes approximately 20.7 acres of new and permanent public open space (not including the existing Estuary Park and Jack London Aquatic Center) that would be designed as a series of interconnected parks and waterfront spaces to provide a variety of recreational opportunities. Potential uses include informal green spaces for passive recreation, playgrounds, picnic areas, and gardens. These improvements would include the continuous public pedestrian trail and Class I bicycle facility along the entirety of the project's waterfront, linking an existing Bay Trail segment that currently ends at Estuary Park to Brooklyn Basin. The trail would accommodate pedestrians and bicycles and a variety of users within a maximum 40-foot-wide right-of-way along the waterfront edge of the project site.

The series of parks that are proposed include Shoreline Park/Ninth Avenue Terminal Bulkhead building (9.74 acres); Gateway Park and Quay/Clinton Basin (3.12 acres); South Park (2.30 acres); Channel Park (5.52 acres); and Estuary Park and Jack London Aquatic Center (7.7 acres). Please refer to DEIR, Figure III-7, Proposed Shoreline Parks Network.

Site Access

The Embarcadero along the project site would be improved and widened into a parkway that would be landscaped to provide a distinctive northern edge to the project and provide some level of screening of the adjacent above-grade portion of I-880. Eight intersections along the Embarcadero are proposed to be improved in order to allow for safe and efficient circulation to and from the project site. The continuation of 5th Avenue, currently the only through connection from north of the Embarcadero (due to the existence of the Union Pacific railroad tracks and I-880) would be improved to become one of the main entrances to the central portion of the development.

The site would also be accessed from its estuary frontage from boats through the marinas, and by the Bay Trail, and based on currently-adopted City plans and projects that will create new waterway and pedestrian connections between Lake Merritt and the Estuary, the project site would be accessible from the north via Lake Merritt Channel once such future projects are implemented. Existing waterfront pedestrian paths are available from the west and the east.

Site Remediation

The site's soil and groundwater contain varying levels of contamination due to previous onsite and offsite manufacturing and industrial activities. Existing contaminants include volatile organic compounds (VOCs), polycyclic aromatic hydrocarbons (PAHs), metals, and petroleum hydrocarbons and gasoline, diesel, and motor oil. The project sponsor will be responsible for cleaning up the site to the thresholds established for residential occupancy in accordance with all applicable laws and regulations under the direction of the California Department of Toxic Substances Control.

Project Phasing

The project would be remediated and developed in up to eight phases over a period of approximately 11 years: 2007 to 2018. Generally, the site will be developed from east to west as follows:

Phases 1 to 3 (2007 to 2010) Demolish approximately 88,000 square foot of manufacturing, storage, retail, and services uses. Construct approximately 1,139 units and 69,000 square feet of retail/commercial.

Phases 4 and 5 (2008 to 2014) Construct approximately 1,473 units and 79,000 square feet of retail/commercial, Clinton Basin Quay, and project streets. Shoreline Park would be developed by 2012, and Gateway Park would be developed by 2014, as would the Bay Trail segment from Brooklyn Basin to Clinton Basin.

Phases 6 and 7 (2009 to 2017) Approximately 798 units and 37,000 square feet of retail and project street rights-of-way. South Park would be developed by 2015, and Channel Park would be developed by 2017, as would the Bay Trail segment east of Clinton Basin. Estimated demolition: Approximately 46,000 square feet of marine, storage, service, manufacturing, and industrial uses.

Phase 8 (2011 to 2018) Approximately 300 units and 15,000 square feet of retail/commercial and project street rights-of-way. Improvements (re-vegetation) of Estuary Park and the adjacent Bay trail segment would occur by 2018. Estimated demolition: approximately 78,400 square feet of wholesale grocery store.

OVERVIEW OF REQUIRED APPROVALS

Approvals for the project are required from the City of Oakland and other State and Federal Agencies as follows:

The *Estuary Policy Plan* assigns two land use designations to the project site. Estuary Park and Jack London Aquatic Center (except within approximately 200 feet of the Embarcadero) are designated Parks, Open Space and Promenades (P). The remaining portion of the project site, is designated Planned Waterfront Development (PWD-1). Residential uses are not specifically called out as a permitted land use in the PWD-1; therefore, the EPP will need to be amended to allow residential uses. The residential density currently assigned to this land use designation

will need to be amended to accommodate the proposed development. In addition, other changes may be made to the Oak-to-Ninth Avenue District chapter in the *EPP* to update the text and to accommodate the proposed project. The Planning Commission would be required to review the General Plan Amendment and forward its recommendation to the City Council for final decision.

Redevelopment Plan Amendments

Land Use Map: Portions of the project site are located within areas governed by the *Central City East Redevelopment Plan* and the *Central City East Redevelopment Plan*. Amendments would need to be made to these plans to conform the proposed land use changes to the Estuary Policy Plan and the proposed Planned Waterfront Zoning District (PWD-1). The Redevelopment Plan Amendments would require approval by the Oakland Redevelopment Agency and City Council.

Inclusionary Housing Requirements: The California Community Redevelopment Law (Health & Safety Code Section 33000, et seq.) requires that at least 15% of all new and substantially rehabilitated housing units developed within a redevelopment project area be affordable to low and moderate income households. At least 40% of these units (or 6% of the total) must be affordable to very low income households. For the 2,800 units being built in the Central City East Redevelopment area, the Redevelopment Agency would be required to assure that at least 420 low- to moderate-income units would be constructed within 10 years with at least 168 of the affordable units affordable to very-low-income households.

These affordable housing obligations must be met by an Agency for each project area over the life of the redevelopment plan, and for each 10-year period during the plan's life. The law requires that the five-year implementation plan for each project area include a strategy to comply with these affordable housing requirements. If the requirements are not met during a 10-year compliance period, the agency must meet the goals on an annual basis until the requirements for the 10-year period are met. If the agency has exceeded the requirements, any excess units can be counted toward satisfying the requirements for the next 10-year period.

The law does not require that an agency impose the 15% obligation on each housing project (although the law and the Central City East Redevelopment Plan permit the Agency to do this at the Agency's discretion). Rather, the Redevelopment Agency is required to meet this obligation within the project area as a whole during the compliance period. The Redevelopment Agency and the project sponsor are in discussion regarding affordable housing requirements. Agency staff has indicated that they will present specific options available to meet the requirements as part of the discussion about the merits of the project.

Rezoning and Zoning Code Amendments

The existing zoning on most of the site is M-40, Heavy Industrial Zone. The area west of the channel, including Estuary Park, the Jack London Aquatic Center and the Cash-and-Carry site are zoned S-2/S-4 Civic Center/Design Review. The industrial M-40 zoning is not consistent with the existing *EPP* land use designation which allows mixed use development.

A new zoning district will be prepared for the project site consistent with the *EPP* designation. The new zoning district, Planned Waterfront Development-1, will be a "master plan zoning district" for the entire site. A preliminary development plan (PDP) and final development plan (FDP) will be required for each individual project. All phases of development will need to

comply with the provisions of this new zoning district. A similar approach was used for the recently adopted Wood Street Development Project.

The proposed Planned Waterfront Zoning District (PWD-1) will include permitted and conditionally permitted land uses, development standards, and other requirements for the residential and commercial portions of the site, as well as the public open space areas. Design Guidelines will also be prepared for the project site and for all buildings. The Oakland Planning Code would be amended to add the new PWD-1 zoning district and its associated regulations, and the zoning map would be amended to apply the PWD-1 zoning district. Approval of the proposed zoning district and zoning map will require a recommendation from the Planning Commission with final approval by the City Council.

Preliminary Development Plan (PDP), Final Development Plan (FDP), Final Design Review Preliminary and Final Development Plans, including design review, would be required for project development as set forth in the proposed Planned Waterfront Zoning District.

Vesting Tentative and Final Maps

The project sponsor has proposed that a Vesting Tentative Map be approved for the entire project area, which would enable successive final maps for individual subdivisions within the project area to be prepared and approved over a multi-year period to sustain the land use approvals. This type of map is typical for larger subdivision being developed in phases over multiple years. The maps would be prepared by a registered civil engineer or land surveyor. The Vesting Tentative Map would require approval by the City Planning Commission, and the Final Vesting Maps would require approval by the City Council.

Development Agreement (DA)

The project sponsor has requested that the City enter into a Development Agreement that will 1) provide for a vested entitlement period, 2) specify requirements for phasing of project development, 3) stipulate what City regulations and fees will apply throughout the term of the DA with respect to the project, and 4) establish other commitments. The City Planning Commission would review the DA and forward its recommendation to the City Council for a final decision.

Tree Removal Permit

The project sponsors would be required to obtain a Tree Removal Permit prior to removal of, or construction activity in close proximity to, a Protected Tree, as defined in Oakland Municipal Code Section 12.36.020. Tree permits would require approval by the Tree Services Section of the Oakland Public Works Agency.

Creek Protection Permit

A Creek Protection Permit is necessary for work proposed adjacent to the Oakland Estuary and/or along the Lake Merritt Channel. All creek protection permits would require approval by the Environmental Services Division of the Oakland Public Works Agency.

Other City Permits

The small group interviews were conducted on February 1, 2 and 3, 2005. The two community meetings were held on March 30, 2005 and April 9, 2005. Community meeting participants were asked to discuss at least the following key questions:

- What issues about the proposed project are important to you? Why?
- What specific changes to the proposed project would you recommend?

A Summary Report, “Small Group Interviews & Public Meetings” for the Oak to Ninth Waterfront Project was published in May 2005. The Executive Summary and the Summary Report (see Attachment A) identify the following findings and issues:

“Generally speaking, all meeting attendees expressed a deep understanding and appreciation of this important opportunity to develop Oakland’s waterfront. Meeting attendees understand and respect the need for the project to be economically feasible for the developer. Many community members share an excitement about the potential for the proposed development site. They also share the following issues:”

- This is a unique opportunity that must be done in a way for all of Oakland to enjoy
- The proposed project should more closely relate to the Estuary Policy Plan
- Concerns that the proposed density cannot be handled by existing roadways and access points
- Long, broad, sweeping view corridors to the water are important
- Integrate the site into the rest of Oakland and utilize context sensitive design
- The desire for mixed income housing
- Preserve or reuse a greater portion of the 9th Avenue Terminal
- The community would like a more inclusive, iterative planning process

GENERAL PLAN ANALYSIS

Almost every Element of the Oakland General Plan includes goals, objectives, policies and/or actions that apply to the proposed project. Appendix F of the DEIR lists goals, objectives, policies and/or actions from the Land Use and Transportation Element; the Estuary Policy Plan; the Historic Preservation Element; the Open Space, Conservation and Recreation Element; the Safety Element; the Housing Element; Noise Element; Bicycle Master Plan; Pedestrian Master Plan; and the Scenic Highways Element. Appendix F also discusses goals from the Central City East Redevelopment Plan and the Central District Urban Renewal Plan that relate to the project. Additionally, there is also a section on the San Francisco Bay Plan and San Francisco Bay Area Seaport Plan.

Chapter IV of the DEIR, “Land Use, Plans and Policies,” includes a discussion of the key goals, objectives, policies or actions that pertain to the project. Appendix F of the DEIR contains the entire list. There will be a discussion about the main issues pertaining to the proposed project and their consistency with the City’s adopted plans and policies when considering the merits of the project in a later staff report, therefore, there will not be an analysis of these plans in this

staff report. The intent of this report is to focus on the DEIR and the adequacy of the information in the DEIR.

ZONING ANALYSIS

As mentioned previously, the current zoning on the project site would not accommodate the mixed use project. The project sponsor proposes a new zoning district and associated regulations for the 64 acre site. The proposed zoning district, the **Planned Waterfront Zoning District (PWD-1)**, is a “master plan” zone that will be applied to the Oak-to-Ninth mixed use development project. The intent of the new zoning district is to encourage the creation of a mixed-use district that integrates a combination of residential, commercial, public parks and open space, marinas, and civic uses.

The zoning district is separated into two sub-zones: Planned Waterfront District-A, which is intended to provide mid-rise and high-rise housing opportunities together with ground floor neighborhood-serving commercial uses. Future development will be set back from the waterfront and will stress compatibility between residential and nonresidential uses and reflect a variety of housing and business types.

The Planned Waterfront District-B sub-zone is the area that is designated for public open space and civic uses, including Estuary Park, the Jack London Aquatic Center, and the remaining portions of the Ninth Avenue Terminal. This area also contains the East Bay Municipal Utility District dechlorination facility. Uses proposed in this area will be regulated by the City of Oakland in consultation with the State Lands Commission which retains jurisdiction over Public Trust lands.

Land Uses are specified as permitted, conditionally permitted, or prohibited for each of the sub-zones. The zone also includes standards for residential density; non-residential square footage; street-level development standards; building heights; yards, setbacks and buffers; lot area, width, and frontage; private open space for residential use; landscaping and paving; and parking requirements.

Design guidelines have also been prepared for the proposed project which will be approved as part of the project application. The proposed Guidelines address design features such as architectural character; pedestrian connections; building massing; building articulation; parking garage facades; balconies; awnings and canopies; windows; service access; equipment screening; rooftop treatment; mechanical penetrations at facades; waste handling areas; exterior wall materials; roofing materials for sloped roofs; and exterior color.

ENVIRONMENTAL REVIEW

The Draft Environmental Impact Report was released for a 54-day public review period on September 1, 2005. The document analyzes potentially significant environmental impacts in the following environmental categories:

Land Use, Plans and Policies
Transportation, Circulation, and Parking

Air Quality and Meteorological Conditions
Hydrology and Water Quality
Cultural Resources
Geology, Soils, and Seismicity
Noise
Hazardous Materials
Biological Resources
Population, Housing, and Employment
Visual Quality
Public Services and Recreation
Utilities and Service Systems

Table II-1, "Summary of Impacts and Mitigation Measures for the Oak to Ninth Redevelopment Project" (DEIR pages II-7 to II-48) summarizes the impacts and mitigation measures identified in the DEIR (see Attachment B). The table describes the potential impacts with a level of significance prior to mitigation; recommended mitigation measures; and the resulting level of significance with implementation of the required mitigations. A complete discussion of each impact and associated mitigation measure is provided in Chapter IV, Environmental Setting, Impacts, and Mitigation Measures.

SIGNIFICANT AND UNAVOIDABLE

The Draft EIR also identifies certain significant and unavoidable impacts, even after the implementation of mitigation measures. Staff has organized the Significant and Unavoidable impacts into five categories:

1. **Project-level** impacts that cannot be mitigated to a level of less than significant
2. **Project-level** impacts that cannot be mitigated by the City of Oakland because the City does not have the authority to implement the mitigation measures. If mitigated by the responsible entity, the impacts will be mitigated to a level of less than significant
3. **Cumulative impacts** that cannot be mitigated to a level of less than significant
4. **Cumulative impacts** that cannot be mitigated by the City of Oakland because the City does not have the authority to implement the mitigation measures. If mitigated by the responsible entity, the impacts will be mitigated to a level of less than significant.
5. **Cumulative impacts** that cannot be mitigated by the City of Oakland because the City does not have the authority to implement the mitigation measures. Even when mitigation measures are implemented by the responsible entity, the impacts are still Significant and Unavoidable.

1. The DEIR states that no feasible mitigation measures have been identified that would reduce the following *project-level impacts* to a level of less than significant:

Transportation, Circulation, and Parking

- Traffic at the intersection of *5th Street and Broadway* would worsen during the evening peak traffic times
- Traffic at the intersection of *6th and Jackson Streets and at the I-880 Northbound On-Ramp* to the freeway would worsen during the morning peak traffic times
- Traffic at the intersection of *Lakeshore Avenue and MacArthur Boulevard* would worsen during the evening peak traffic hours

Noise

- Construction activities could exceed existing noise levels in the project area and could be heard in residential areas
- New housing and public parks are proposed to be developed in an area where existing noise levels are above what is considered “normally acceptable”

Cultural Resources

- The Ninth Avenue Terminal would be demolished, and the wharf structure supporting the Ninth Avenue Terminal would be substantially altered. Both are historic resources as defined by CEQA.
- New construction is proposed within 100 feet of the remaining Bulkhead Building which may not be architecturally compatible with the historic structure.

2. The DEIR states that the following *project level impacts* will remain Significant and Unavoidable because the mitigation measures cannot be solely implemented by the City of Oakland. Once implemented, however, the impact would be less than significant.

Transportation, Circulation, and Parking

- Traffic at the intersections of *6th and Jackson Streets and at the I-880 Northbound On-Ramp* to the freeway would worsen during the evening peak traffic times unless Caltrans changed the timing of the traffic signal
- Traffic at the intersections of *Embarcadero and I-880 Northbound Off-Ramp-6th Avenue* would worsen during the evening peak traffic times unless Caltrans installed a traffic signal
- Traffic at the intersection of *Atlantic Avenue and Webster Street* would worsen during the morning peak traffic hours unless the City of Alameda changed the timing on the traffic signal

- Traffic at the intersection of *5th and Oak Streets at the I-880 Southbound On-Ramp* would worsen during the evening peak traffic hours unless Caltrans changed the timing on the traffic signal
- Traffic at the intersection of *Embarcadero and I-880 Southbound On-Ramp* would worsen during the evening peak hour traffic hours unless Caltrans installed a traffic signal

3. The DEIR states that no feasible mitigation measures have been identified that would reduce the following *cumulative impacts* to a level of less than significant:

Transportation, Circulation, and Parking

- Traffic generated by the project when built out, as well as other cumulative traffic in the vicinity, would worsen the intersection of *5th Street and Broadway* during the evening peak hour traffic times
- Traffic generated by the project when built out, as well as other cumulative traffic in the vicinity, would worsen the intersection of *6th and Jackson Streets at the I-880 Northbound On-Ramp* during the morning and evening peak hour traffic times
- Traffic generated by the project when built out, as well as other cumulative traffic in the vicinity, would worsen the intersection of *Lakeshore Avenue and Foothill Boulevard* during the morning peak hour traffic times
- Traffic generated by the project when built out, as well as other cumulative traffic in the vicinity, would worsen the intersection of *Lakeshore Avenue and MacArthur Boulevard* during the evening peak hour traffic times
- Traffic generated by the project when built out, as well as other cumulative traffic in the vicinity, would worsen the intersection of *14th Avenue and 7th/East 12th Streets (Southbound)* during the evening peak hour traffic times
- Traffic generated by the project by year 2025 will change traffic conditions on the local and regional roadways

Air Quality and Meteorological Conditions

- The project together with anticipated future cumulative development in Oakland and the Bay Area in general would contribute to regional air pollution

Cultural Resources

- Substantial demolition of the Ninth Avenue Terminal, and the demolition of the two other Oakland Municipal Terminals, would result in cumulative impacts to historic resources

4. The DEIR states that the following *cumulative impacts* will remain Significant and Unavoidable because the mitigation measures cannot be implemented by the City of Oakland. Once implemented, however, the impact would be less than significant.

Transportation, Circulation, and Parking

- Traffic generated by buildout of the project would worsen traffic at the intersection of *5th and Oak Streets at the I-880 Southbound On-Ramp* during the evening peak traffic hours unless Caltrans changed the timing on the traffic signal
- Traffic generated by buildout of the project would worsen traffic at the intersection of *Embarcadero and I-880 Southbound On-Ramp* during the evening peak hour traffic hours unless Caltrans changed the timing on the traffic signal

5. The DEIR states that the following *cumulative impact* will remain Significant and Unavoidable because the mitigation measures cannot be implemented by the City of Oakland. Even when mitigation measures are implemented, the impact would still be Significant and Unavoidable.

Transportation, Circulation, and Parking

- Traffic generated by buildout of the project would worsen traffic at the intersection of *Atlantic Avenue and Webster Street* in Alameda during the morning and evening peak commute hours unless the City of Alameda improves the signal timing

Alternatives Considered in the Draft EIR

CEQA requires that a range of reasonable alternatives to the proposed project, or to the location of the proposed project, be described in the DEIR. The discussion should focus on alternatives to the project or its location which are capable of avoiding or substantially lessening any significant effects of the project. Chapter V of the Draft EIR discusses several alternatives to the proposed project including:

- Alternative 1A: No Project/No New Development
The project site would remain as it is currently.
- Alternative 1B: No Project/Estuary Policy Plan
The project site would be developed according to the *Estuary Policy Plan* (based on certain assumptions and the Bird's eye perspective diagram)
- Alternative 2: Enhanced Open Space/Partial Ninth Avenue Terminal Preservation and Adaptive Reuse
This alternative would increase the amount of open space to approximately 41.5 acres, retain the 1920s portion of the Ninth Avenue Terminal building, construct approximately 1,800 dwelling units and 95,000 square feet of commercial space.

Alternative 3: Reduced Development/Ninth Avenue Terminal Preservation
This alternative would retain the entire Ninth Avenue Terminal building, partially remove the wharf structure, provide almost 40 acres of public open space, and construct approximately 540 residential units and 10,000 square feet of commercial space.

Sub-Alternative: Full Ninth Avenue Terminal Preservation and Adaptive Reuse
This stand-alone sub-alternative would retain and reuse the entire Ninth Avenue Terminal building and related wharf structure. This sub-alternative could be combined with the proposed project or any other alternative.

Comparison of Impacts: Table V-5, "Summary of Impacts: Project and Alternatives" (DEIR, pages V-42 to V-67) summarizes the impacts between the various alternatives. In general, all alternatives would result in fewer traffic impacts to the local and regional roadway circulation in year 2025 and Alternative 3 would result in Less than Significant impacts for local intersections for traffic generated by Phase I construction. Cumulative regional air pollution would result in Less than Significant impacts with Alternatives 1B and 3. Population growth would be lower with Alternatives 1B and 3. The Sub-alternative would preserve the Ninth Avenue Terminal, thereby reducing any impacts associated with its full or partial removal. All other impacts shown in the summary table are similar to those identified for the project.

Environmentally Superior Alternative: The Draft EIR, as required by CEQA, determined that Alternative 1A is the environmentally superior project. As required by CEQA, however, a second alternative shall be identified when the "no project" alternative emerges as the Environmentally Superior Alternative. In this case, the Reduced Development/Preservation (Alternative 3) with the full Preservation Sub-Alternative would therefore be considered environmentally superior since it would avoid (or reduce to the greatest extent) several significant and unavoidable impacts that would occur with the project. Refer to DEIR Table V-5, "Summary of Impacts: Project and Alternatives," (pages V-42 to V-67) for a comparison between the proposed project and the alternatives.

KEY PROJECT AND ENVIRONMENTAL ISSUES

Land Use, Plans and Policies

As discussed elsewhere in this report, staff believes that the proposed project is consistent with many of the goals, objectives, policies and actions in the City of Oakland's adopted plans. While the proposed project is consistent with the vision of mixed use development on the waterfront as adopted in the LUTE and the EPP, amendments would need to be made to the EPP to accommodate residential development at the proposed density in this location.

When the EPP was adopted in 1999, the uses that were contemplated for the Oak to Ninth District were those consistent with the Tidelands Trust. Residential uses are not permitted on Tidelands Trust properties. In September 2004 the California Assembly adopted legislation (SB 1622) that would allow the State Lands Commission to amend the Tidelands Trust boundaries.

If a portion of the Oak to Ninth site were removed from the Tidelands Trust, then residential development could be considered.

Issues identified to date:

- How should the Oak to Ninth District be developed to meet the key policies and objectives identified in the *Estuary Policy Plan*? What scale, type, mix and density should be allowed for this site?
- What factors are most critical for the redevelopment as it relates to the Fifth Avenue Point community?
- Should the affordable housing required under the Redevelopment Plan be provided by the project sponsor on-site, a combination of on-site and off-site, or elsewhere in the Redevelopment Plan area?

Transportation, Circulation, and Parking

General circulation in the vicinity of the project is challenging with the proximity of the I-880 freeway and the Amtrak train tracks. As mentioned in the DEIR, the confluence of these transportation systems sometimes contributes to congestion issues.

Access into and out of the project site will be from the Embarcadero which will connect to several new public streets in the project. In addition to serving the residents and commercial users, these streets will provide public access to the public parks and open spaces along the waterfront.

Issues identified to date:

- What are the feasible approaches for balancing likely traffic congestion with the proposed 3,100 residential units and 200,000 square feet of commercial development?
- Has public access within the project site to the public parks and open spaces along the waterfront been maximized with the proposed circulation pattern?
- Parking demand for the contemplated uses will likely exceed on-site supply, particularly at peak times (during weekends, special events, etc.) Is this shortage acceptable? Are there other options for increasing supply?

Cultural Resources

The Ninth Avenue Terminal is rated “A” by the Oakland Cultural Historic Survey. Additionally, the building has been recommended eligible for listing in the National Register as an individual resource, and recommended eligible as a City of Oakland Landmark by the Oakland Landmarks Preservation Advisory Board.

As discussed in the Cultural Resources section of the DEIR, many goals and policies in the City’s General Plan elements are relevant to cultural resources citywide, and other specifically address the project area or specific resources in the project area or on the Oak to Ninth Project site.

The Historic Preservation Element (HPE) includes a number of goals and policies that support the preservation and protection of historic resources (see DEIR Appendix F). These policies

generally *encourage* but do not mandate the preservation of Oakland’s historic resources, within the context of and consistent with other General Plan goals, objectives, and policies. For example, HPE policies that discuss “the unnecessary destruction” of historic buildings and the direction to employ “all reasonable efforts to avoid or minimize adverse effects” on historic resources must be considered with competing policies, such as the proposed project’s provision of substantial new housing in Oakland, which is encouraged by General Plan policies in the LUTE and the Housing Element, or the fulfillment of providing shoreline access and parkland as set forth in the EPP and OSCAR.

Policy OAK-2.4 of the EPP states, “Establish a large park in the area of the existing Ninth Avenue Terminal to establish a location for large civic events and cultural activities.” This discussion of this policy also states, “Recognize that the Ninth Avenue Terminal shed, or portions thereof, may be suitable for rehabilitation and adoptive reuse. However the terminal building impedes public access to and view of a key area of the Estuary. Furthermore, the bird’s eye illustration in the EPP (page 89) shows the Ninth Avenue Terminal removed and the Crescent Park in its place.

Policy OS-7.4 (Waterfront Park Enhancement) of the OSCAR Element includes a discussion of potential waterfront parks. Page 2-51 discusses the Clinton Basin/Ninth Avenue Terminal area and recommends this area for a shoreline park if large-scale redevelopment is proposed. It also states that “the Marine Terminal itself has historic value and should be preserved as part of any new development.”

Given that the City’s adopted plans are themselves in conflict on whether historic preservation objectives or open space and view objectives should prevail, this is an issue of critical importance.

Issues identified to date:

- Should a larger portion of the Ninth Avenue Terminal be retained than that proposed by the project sponsor?
- Can the finding specified in HPE Policy 3.5 be made to demolish the majority of the building?
- What is the feasible balance between the retention of the Ninth Avenue Terminal and the provision of public open space?
- What other approaches can be used to strike the balance of open space and development, such as leaving a greater portion of the structural elements of the Ninth Avenue Terminal Building in place, but removing the walls to gain waterfront views. (Such an approach was used on a smaller scale at the Pyramid Brewery on Gilman Street in Berkeley.)

Biological Resources/Wetlands

With improvements of the shoreline, and the retention of the Clinton Basin Wetland Restoration and Enhancement Project, the project would not conflict with an applicable habitat conservation plan or natural community conservation plan. Mitigation measures are included in the DEIR that specifically address retention and protection of the wetland restoration project. Debris removal, soil remediation, and shoreline improvements that would create new vegetated shoreline

embankments and marsh habitat along the project site are likely to result in an increase of habitat quantity and quality. Construction impacts could temporarily impact biological resources, but the impacts would be less than significant.

Population, Housing, and Employment

Issues were raised during the scoping sessions for the EIR regarding impacts of the project related to population, housing, business activity, and employment. Specifically, the analysis focuses on the inducement of population growth and on displacement of housing, people, businesses, and jobs, as well as on potential indirect physical impacts.

Existing Business Activity and Employment

Current businesses on the site lease from the Port of Oakland. Most of the business activities on the project site are industrial and marine-related support uses. All but two of the 21 businesses are on month-to-month leases with the exception of Cash & Carry wholesaler (lease expires 2009 and the sand and gravel and ready-mix concrete operations (lease expires in 2015). These businesses have approximately 231 employees. All businesses would need to relocate to accommodate the proposed project.

Housing and Population Increases

The project proposes to add 3,100 residential units, with an estimated population of 5,061 people. Of these residents, 3,585 are expected to be employed. A total of 623 jobs will be created in the 200,000 square feet of retail/commercial development.

Fifth Avenue Point Area

There are privately-owned parcels near the middle of the Oak to Ninth District that are not included in the project site although they are surrounded by it. The area is an enclave of artist studios, artisan workshops, and small businesses occupying the older industrial building stock there. It is estimated that about 108 people work in this area in a mix of arts and crafts, manufacturing, light industrial, professional service, and water-related business activities. Approximately 33 people live in the buildings where they work.

Issue Identified to Date:

- The EPP includes a policy to preserve and expand this artists and small business community. How does the current plan foster that and what physical elements need to be incorporated into the proposed site plan to create future connections as other properties redevelop over time?

Potential Indirect Impacts of Proposed Retail Development

Concern was expressed that the 200,000 square feet of new retail/commercial development would affect existing neighborhood commercial districts and corridors in Oakland and specifically on the Eastlake District located along International Boulevard and East 12th Street north of the project across the I-880 freeway.

The study prepared for the DEIR concludes that Oakland is underserved by retail, residents shop elsewhere because of the lack of retail options within convenient access, Oakland could support

additional retail development to improve retail opportunities for residents and to keep more local spending in Oakland.

New retail development does not necessarily mean competition for sales from existing merchants in Oakland. The analysis found that there are notable differences in the types of retailing between surrounding neighborhood retail districts/corridors and the retail proposed for the project. The differences occur because of the rich ethnic and cultural diversity in surrounding Oakland neighborhoods which is clearly reflected in the types and market orientations of businesses in the neighborhood retail district. Thus, rather than competing, the district would offer different types of goods and services with its own particular market orientation. In addition, project residents could provide market support for retail establishment in surrounding neighborhood areas, particularly for ethnic-oriented foods and eating places and other goods and services of types not available in the project.

Potential Indirect Impacts from Housing Market Effects

Public comments on the Notice of Preparation raised concerns about the potential effects of the project on the supply of affordable housing in Oakland and on housing rents and prices in existing neighborhoods surrounding the project. Some of the comments raised concerns about economic and quality of life implications of potentially higher housing rents/prices as a result of the project.

The project would increase the supply of housing in Oakland by 3,100 units and expand the housing choices available to Oakland residents and others in the housing market. The new housing units would include a mix of sizes and types of multi-family housing. Both ownership and rental housing is anticipated, with the majority of the units to be offered for sale. Greater housing supply would mean less competition for available housing. New housing opportunist in the project would capture demand that otherwise would focus on existing housing and other new housing development.

The project would result in additional affordable housing development in Oakland, consistent with state law requirements about housing developed in redevelopment areas.

The large amount of housing to be developed in the project would increase the housing opportunities in Oakland relative to the number of jobs in the City.

Housing demand and prices and rents have been increasing in neighborhoods surrounding the project site as a result of broader citywide and regional housing market factors and trends. These market forces and recent trends are anticipated to continue, independent of whether or not the project is developed.

The project would have effects on both the supply of and demand for housing. The large amount of housing to be added in the project as well as the additional affordable housing to be developed, are anticipated to have the most influential effects on housing market conditions overall and would contribute to easing upward pressures on housing prices and rents in Oakland.

Issue Identified to Date:

- What is the best mixture of housing types, price ranges, sizes and other features to create a diverse new community reflective of Oakland?

Visual Quality and Shadow

The project would demolish most of the existing buildings on the project site and involve site grading, construction of new buildings, shoreline improvements (both natural and constructed), and the addition of publicly accessible open spaces for active and passive recreation. The project would replace existing visual elements on the site that have neutral or low aesthetic value. These include expansive paving, vacant swaths of unkempt open land, some deteriorating buildings, debris on land and along the shoreline, and cyclone fencing. Replacement of these elements has the potential to enhance the visual quality of the project site and the surrounding estuary area.

The project would result in noticeable changes in visual character due to the construction of new buildings, adaptive reuse of the Ninth Avenue Terminal Bulkhead Building, creation of large open spaces, and an overall intensification of development. The project would improve the visual quality of the area by redeveloping unsightly vacant and underused areas and surface parking lots, providing new parks and publicly oriented recreation venues, and implementing a streetscaping program for new public streets throughout the project site and along the Embarcadero. The project would also further enhance existing, attractive facilities, such as the Jack London Aquatic Center and parking area.

Construction of new project buildings would result in changes to short- and medium-range views from the public access areas along the Oakland shoreline, estuary waters, I-880, and the Embarcadero, and would change long-range views from the city of Alameda shoreline and inland Oakland areas.

Public Services and Recreation Facilities

The major issue regarding this section is the provision of new public open space. The total amount of public open space in the project is 28.4 acres, including Estuary Park and Jack London Aquatic Center. The amount of new public open space is 20.7 acres.

The EIR prepared for the *Estuary Policy Plan* estimated that 41.5 acres of open space would be provided in the Oak to Ninth District (no specific amount was stated in the EPP). The EPP also assumed that Estuary Park would be expanded almost to the Embarcadero and that the Ninth Avenue Terminal would be demolished and public open space would be provided in its place.

The project proposes new public open space in generally the same locations as shown in the EPP, but a smaller amount (28.4 acres vs. 41.5 acres).

Issues Identified to Date:

- Should the amount of open space and park lands be expanded to be more consistent with the general concept in the EPP?
- Is increasing residential density and scale an appropriate trade off to gain more open space and parklands, particularly along the shoreline?

PUBLIC COMMENTS

Staff has received several letters over the past several months regarding the proposed project. Copies of these letters are attached to this staff report (Attachment C).

PROPOSED REVIEW PROCESS

Staff is providing an *estimated* timeline for the development review process. An outline of the major steps of the process is presented below. Dates in parentheses are *estimates*.

- Draft Environmental Impact Report published for public comment, 54-day review period, September 1 – October 24, 2005
- Final Environmental Impact Report published (January 2006)
- Project Application Submittal, including response to public comments and information and analysis contained in the EIR (November, 2005 - January 2006)
- Community Meetings and Workshops on the Proposed Project (January - March 2006)
- Design Review Committee meeting (January - February 2006)
- Landmarks Preservation Advisory Board Public Hearing (February 2006)
- Parks and Recreation Advisory Commission Meeting re: new parks and open space for project (February 2006)
- Planning Commission Public Hearings (February - March 2006)
- City Council Meetings and Public Hearings on the Project, the proposed General Plan Amendment, Rezoning, Redevelopment Plan Amendment and Development Agreement (April - June 2006)

STAFF RECOMMENDATION

Staff recommends that the Planning Commission:

- 1) Hold a public hearing and receive public testimony on the Draft Environmental Impact Report
- 2) Provide staff and the project sponsors any direction regarding issues to be addressed in the Final EIR
- 3) Close the public hearing on the Draft EIR, but continue to accept written comments on the Draft EIR until 4:00 p.m. on October 24, 2005.

Prepared by:

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Project Planner

Approved for forwarding to the
City Planning Commission:

CLAUDIA CAPPPIO
Director of Development

ATTACHMENTS

- A. CirclePoint Report “Summary Report – Small Group Interviews and Public Meetings,” May 2005. Entire report is available on-line at <http://www.oaklandnet.com/government/ceda/revised/planningzoning/MajorProjectsSection/oaktoninth.html>

- B. Table II-1, “Summary of Impacts and Mitigation Measures for the Oak to Ninth Redevelopment Project” (pages II-7 to II-48)

- C. Correspondence Received – July 2004 to September 2005
(This list does not include correspondence received in response to the EIR Notice of Preparation. Those comment letters are available upon request)
 - 1. E-mail from Steve Lowe to the Oakland Planning Commission, cc: Claudia Cappio, dated 7/21/2004
 - 2. Letter from Jennifer Lin, Margaret Gordon, and Tim Thomas to Kiana Buss and Kip Lipper, cc: Margaret Stanzione, dated 4/4/2005
 - 3. Letter from John Sutter to Margaret Stanzione, dated 4/6/2005
 - 4. E-mail from Naomi Schiff to Margaret Stanzione, dated 5/4/2005
 - 5. E-mail from Ron Bishop to Claudia Cappio dated 5/6/2005
 - 6. Letter from John Sutter to Margaret Stanzione dated 5/10/2005
 - 7. Letter from Michael E. Willis to Oakland Planning Commission dated 5/16/2005
 - 8. Letter from Martell J. Glommen, Mason-McDuffie Financial Corporation to Oakland Planning Commission dated 6/8/2005
 - 9. Letter from Ed Kuo, The Grubb Co., to the Oakland Planning Commission dated 8/15/2005
 - 10. Letter from Angela Wei Grubb, The Grubb Co., to the Oakland Planning Commission dated 8/22/2005
 - 11. Letter from Andy Nelsen and Jennifer Lin dated 7/15/2005 and the Executive Summary from a report entitled, “*Making a Neighborhood for All of Oakland: A Community Proposal for Affordable Housing and Jobs for the Oak to 9th Development Site.*”
(The report is available for review at the CEDA-Planning and Zoning Division, 250 Frank Ogawa Plaza, Suite 3315 and is on-line as an attachment to the staff report.)

- D. Draft Environmental Impact Report (previously distributed).
Available on-line at <http://www.oaklandnet.com/government/ceda/revised/planningzoning/MajorProjectsSection/oaktoninth.html>