

SAN FRANCISCO BAY CONSERVATION AND DEVELOPMENT COMMISSION

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TO: All Design Review Board Members

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**SUBJECT: Brooklyn Basin – Oak to Ninth Avenue Project; City of Oakland, Alameda County;
Second Pre-Application Review**
(For Board consideration on April 10, 2006)

Project Summary

Applicants: Oakland Harbor Partners, Port of Oakland

Project Representative: Michael Ghielmetti, President, Signature Properties

Project Overview: Oakland Harbor Partners and the Port of Oakland seek to redevelop an underutilized former maritime/industrial district on the Oakland Estuary into a mixed-use waterfront neighborhood. The project sponsors state that the new neighborhood would have strong connections to the region, downtown Oakland, Jack London Square and the adjacent neighborhoods. The primary land use would be residential; however, the development proposal also includes visitor and neighborhood-serving retail and public open spaces. The proposed development also includes the renovation of Clinton Basin Marina and Fifth Avenue Marina and the development of a new ferry terminal. The project sponsors state that the main objectives of this project are to deliver to the Bay Area and the City of Oakland a revitalized waterfront for public use and provide a wide range of needed housing opportunities.

Project Site. The project site, comprised of approximately 62 acres on the Oakland waterfront, is located between the Oakland Estuary and Embarcadero, southeast of Jack London Square, in the City of Oakland, Alameda County. Approximately 18 acres of the site are within the Commission's jurisdiction.

1. **Existing Conditions and Land Uses.** The site is bounded by Interstate 880 to the north, 10th Avenue to the east, the Oakland Estuary to the south and Fallon Street to the west. The project site and surrounding area is relatively flat and is built out with industrial and maritime-related structures. With the exception of Estuary Park, there is no public access to or along the Bay within the project boundary and views of the Bay are generally obscured by the existing uses at the site.

Most of the 7,900 feet of shoreline along the project site is degraded and scarred by its historical industrial use. Concrete rubble, rock riprap, deteriorated pilings, and industrial debris dominate the shoreline. Except for some vegetation near Clinton Basin, some of which was planted as part of a Port of Oakland mitigation project, very little vegetation can be found throughout the site.

Existing structures on the site include the Port of Oakland's former marine terminal known as the 9th Avenue Terminal. This facility includes a large shed building on a pile-supported wharf, other industrial buildings and vast areas of asphalt paving. West of the 9th Avenue Terminal is Clinton Basin and a marina that was closed several years ago by the Port of



Oakland. Immediately west of Clinton Basin are the 5th Avenue Point live-work artist community and an existing marina. The project site does not include approximately six acres of privately held property along 5th Avenue that consist of residential, industrial and commercial uses. Between 5th Avenue and the mouth of the Lake Merritt Channel is a concrete batch plant operated by Berkeley Ready Mix. At the western end of the project site is Estuary Park, an existing City of Oakland park that is leased from the Port of Oakland. Within Estuary Park are a public boat launch ramp and parking lot, the Jack London Aquatic Center, picnic areas and a sports field. Like many large parks in urban areas, Estuary Park suffers from a lack of ongoing maintenance and resources. Planting, paving and site furnishings are generally worn.

Other land uses in the vicinity of the site include light industrial uses, live-work lofts and warehouses (in the Jack London District) and hotel and retail uses (east of Brooklyn Basin).

North of Interstate 880, land uses include the Laney College Campus, Union Pacific Railroad and retail and residential uses in the San Antonio neighborhood. Interstate 880 is not a designated scenic highway or route. However, there may be some views of the estuary from the freeway as it crosses over Lake Merritt Channel. Similarly, the primary views of the estuary from Embarcadero are from the location where the street crosses the channel and at the north end of Clinton Basin.

2. **Geotechnical.** Oakland Harbor Partners conducted a geotechnical investigation of the entire site and characterized the soil on the site. The project sponsors state that the investigation determined that a layer of saturated fine, silty material (Bay mud) of varying thickness and depth is located four to six feet below the ground surface of the site. The existence of Bay mud and a high ground water table will be taken into consideration when designing site infrastructure and buildings. It is anticipated that all buildings and some of the infrastructure would require pile-supported foundation systems.
3. **Soil and Ground Water Contamination.** The Port of Oakland and Oakland Harbor Partners state that they have extensively characterized the condition of the soil and groundwater at the site. The results of the investigation determined that the soil and groundwater have varying levels of contamination. The site would require soil and groundwater remediation as part of the construction of the proposed project.
4. **Infrastructure.** The existing site infrastructure, including roadway, shoreline, telephone, storm, sewer, electrical, natural gas and water systems, are inadequate for the proposed project. As part of the proposed project, these systems would be upgraded to current standards and designed to accommodate the demand of the proposed project. Oakland Harbor Partners expects that there is current capacity in surrounding systems to accommodate the project.

Proposed Project. Within the Commission's jurisdiction, the proposed project would include parks, bike paths, pedestrian walks, pile-supported structures, a reconfigured shoreline, marinas, a ferry terminal, roads, residential mixed-use buildings and a restored portion of the 9th Avenue Terminal shed.

The project sponsors have described the plan as a mixed-use neighborhood with open space, residential, retail, and marina uses. This neighborhood would include a mix of active and passive open space uses covering approximately 45% of the project site. The residential element consists of predominantly six- to eight-story buildings with select locations for buildings reaching a height of 240 feet. The proposal includes a residential configuration that consists of multi-family units and rental apartments and retail space consisting of grocery, shops, restaurants and visitor-serving uses. The regional, neighborhood, visitor-serving and/or water-oriented commercial uses would be located around Clinton Basin and, where feasible, adjacent to waterfront public open space areas. The marina component would consist of approximately 250 boat slips in two marina locations: 50-75 slips located in Clinton Basin and 175 to 200 boat slips located in the proximity of the existing 5th Avenue Marina.

Outlined below is a brief description of the proposed project. The project sponsors will present greater detail on the project at the April 10, 2006 Design Review Board meeting.

1. **Bay Fill.** The proposed project would include the removal of approximately 75,681 square feet of solid Bay fill as part of the shoreline design, the placement of approximately 74,110 square feet of solid Bay fill for public access at Clinton Basin, and the removal of approximately 126,920 square feet of pile-supported fill with the removal of a significant portion of wharf at the Ninth Avenue Terminal. Additional fill would be required for the proposed marina.
2. **Residential Component.** The proposed project includes up to 3,100 multi-family residential units on 13 development parcels covering approximately 24 acres. The density of the proposed project is 50 units per gross acre. The density is intended to provide an urban living experience with buildings ranging in height from 65 to 240 feet. Building massing is intended to provide variation and architectural interest that promote a cohesive community scale and attractive pedestrian environment. Residential buildings in designated locations would provide ground floor activity through the integration of either retail uses or a residential stoop-type design at the sidewalk. Buildings within the proposed project would be governed by a set of design guidelines.
3. **Retail Component.** The project proposal includes up to 200,000 square feet of retail that is intended to support the new residents as well as enhance the experience of visitors from the surrounding region. Located on the ground floor of residential buildings, retail space would be designed to accommodate small shops, galleries, restaurants and specialty grocers. The retail would generally be located in two areas: (1) along the central entry street (Main Street/6th Avenue) located adjacent to the Village Green and Quay; and (2) along either side of Clinton Basin. The retail uses along Main Street/6th Avenue would be larger in size than those proposed along Clinton Basin (where uses would include small shops and restaurants).
4. **Parking.** Parking for the retail uses would be in the parking garages of the buildings they occupy as well as on adjacent streets. Parking for residential units would be accommodated off the street within the building structures. There would be a minimum of one parking space per residential unit and two parking space per 1000 square feet of retail space. Public parking is proposed on all the streets within the project as well as in a few small lots adjacent to large open spaces. In addition, public parking would be available in some of the proposed buildings for visitors to the stores, shops, parks and marinas.
5. **Vehicular and Transit Connections.** Improved vehicular access to the site would be provided by several new intersections along Embarcadero as well as improvements to freeway on-ramps and off-ramps. The Lake Merritt BART Station is approximately one mile to the northwest. The site is not currently served by any public transportation; however, the proposed project would be served by AC transit bus line number 11 and a privately funded shuttle system.
6. **Marinas.** There are two existing marinas located within the project area. One marina is located within Clinton Basin and is owned by the Port of Oakland. The other marina, located at the end of 5th Avenue, is owned by the Port and currently leased to a private party. The proposed project includes rebuilding the marina in Clinton Basin and replacing the 5th Avenue marina with a new marina that would contain approximately 200 slips. There would be a mix of short-term, transient and long-term slips available. The marinas are intended to activate the waterfront and enhance the experience of the visiting public.

7. **Historical Resources.** The City of Oakland has identified the 9th Avenue Terminal shed building as a potential historical resource. The building was built in two phases – approximately half the building was built in the 1920's and was used to store break bulk cargo. The second half of the building was built in the 1950's and served the same purpose. When the shipping industry changed to containerized cargo in the 1970's, the need for break bulk cargo storage diminished significantly. The building is currently used to store cotton and other large items. The majority of the shed building is built on a pile-supported pier. The project sponsors state that the pier structure and shed building would need to be upgraded to meet current seismic safety standards. Due to the unsafe condition of the pile-supported structure and the shed building, the proposed project includes retaining only a portion of the pile-supported structure and a minimum of 15,000 square feet of the front portion of the shed building.
8. **Open Space.** The 29.9 acres of public open space are divided into four major areas (from east to west): the 9th Avenue Terminal and Shoreline Park, Clinton Basin, Channel Park and Estuary Park. The open space would provide a series of interconnected public access and open areas from Estuary Park to 10th Avenue. The proposed open space plan includes a continuous system of public trails along the site's waterfront and would close a large gap in the proposed alignment of the San Francisco Bay Trail. In addition, the plan contemplates larger open spaces that would serve as venues for active and passive recreational activities and boat access. The open space plan incorporates the existing wetland at the mouth of Clinton Basin, an improved Clinton Basin inner harbor defined by a broad seawall promenade, and a new plaza/park at the foot of Clinton Basin as a gathering place and window to the Estuary.

Use. Bay Plan Map No. Five of the *San Francisco Bay Plan* designates a portion of land at the western end of the project site as a Waterfront Park Priority Use Area. Within the Commission's jurisdiction at this site, the proposed development would be consistent with the priority use designation. However, the Commission has no regulatory authority landward of its 100-foot shoreline band. Also, on February 20, 2003, the Commission adopted a resolution to amend the San Francisco Seaport Plan, the San Francisco Bay Plan and resolution 16 to delete the Port Priority Use Area and Marine Terminal designation from the Port of Oakland's Ninth Avenue break bulk terminal at the eastern end of the site. Therefore, there is no Priority Use designation for that portion of the project site.

Prior Board Review. The Design Review Board reviewed this project at its May 9, 2005 meeting and had the following recommendations: (1) the project proponents should consider street geometries that relate to important views; (2) the Board has an expectation that building heights will vary; (3) eight-story buildings need to be considered as they relate to public views; (4) retention of the Ninth Avenue Terminal shed building should be considered to retain the distinctive industrial waterfront character; (4) the urban edge of Clinton Basin would be interesting, is desirable and should be promoted; (5) public parking for open spaces and impacts on existing public parking need to be evaluated; (6) the programming of the public spaces need to be better understood; (7) increasing the height of the residential towers and lowering the podium buildings might improve public connections and views to the Bay; (8) some fill in the Bay makes sense at the end of Clinton Basin, however, the exact amount needs studying and should be determined based on the public's sense of arrival to the park and to the Bay; and (9) a future presentation should include a contextual understanding of other plans for open space along the Oakland Estuary. The following is the applicants' response to each of the Board's comments that were made at its May 9, 2005 meeting.

1. **Prior Board Comment:** *Consider street geometries that relate to important views.*

Applicant Response: To improve the views to the Bay, the applicants have reconfigured Parcels F and A at the west end of the site to allow 8th Avenue to extend to Embarcadero. Similarly, a portion of Parcel K has been removed to allow more direct views down Main Street (6th Avenue) to the Bay from Embarcadero.

2. **Prior Board Comment:** *The Board has an expectation that building heights will vary.*
Applicant Response: The applicants are working with the City of Oakland to develop a set of urban design principles that will guide building heights and massing. General concepts will be discussed at the April 10, 2006 Design Review Board meeting.

3. **Prior Board Comment:** *Retention of the Ninth Avenue Terminal shed building should be considered to retain the distinctive industrial waterfront character.*
Applicant Response: The applicants have studied the economic feasibility of saving the Ninth Avenue Terminal shed building and have concluded the most viable option is the proposed reuse of approximately 15,000 square feet.

4. **Prior Board Comment:** *The urban edge of Clinton Basin would be interesting, is desirable and should be promoted.*
Applicant Response: The proposal for an urban edge (vertical bulkhead wall) at Clinton Basin has not changed.

5. **Prior Board Comment:** *Public parking for open spaces and impacts on existing public parking need to be evaluated.*
Applicant Response: The applicants have prepared a draft Transportation Demand Management Plan to address transportation and parking issues for the project. The plan will be finalized and would be implemented as a condition of approval for the project.

6. **Prior Board Comment:** *More information is needed about the programming of the proposed open spaces and how much area is needed for uses such as special events, etc.*
Applicant Response: Since the Board's last review, several open space areas have been programmed with use such as bocce courts, a children's play area and a dog park. Within the larger open spaces, the applicant believes that the type of activities that are likely to occur include informal field games such as soccer, touch football, Frisbee, and volleyball. The parks will remain in public ownership and operated by the City of Oakland Parks and Recreation Department. Requests for special events such as craft fairs, concerts, kite festivals, and farmers markets will go through the City's normal permit process and be subject to BCDC review.

7. **Prior Board Comment:** *Increasing the height of the residential towers and lowering the podium buildings might improve public connections and views to the Bay.*
Applicant Response: The building heights have not changed since the Board's last review.

8. **Prior Board Comment:** *Some fill in the Bay for public access makes sense at the end of Clinton Basin, however, the exact amount needs studying and should be determined based on the public's sense of arrival to the park and to the Bay.*
Applicant Response: Since the Board's last review, the applicants have reduced the amount of proposed Bay fill in Clinton Basin by 15,400 square feet in an effort to bring the water closer to Embarcadero and improve the sequence of arrival at the proposed Gateway Park.

9. **Prior Board Comment:** *A future presentation should include a contextual understanding of other plans for open space along the Oakland Estuary.*

Applicant Response: Discussion on this point will be taken up at the April 10, 2006 Design Review Board meeting.

Design Review Board Issues. The McAteer-Petris Act and the *San Francisco Bay Plan* both require that the maximum feasible public access consistent with a project be provided. Additionally, the McAteer-Petris Act allows filling of San Francisco Bay only when the public benefits from the fill clearly exceed public detriment from the loss of the water areas and when the fill is limited to water-oriented uses or minor fill for improving shoreline appearance or public access to the Bay. The staff believes that the project raises three primary issues for the Board to address in its review of this master plan: (1) whether the proposed project is designed to provide adequate, usable and attractive public access areas and is consistent with the Bay Plan policies on Public Access; (2) whether the proposed project is designed to be consistent with the Bay Plan policies on Appearance, Design, and Scenic Views; and (3) whether the proposed Bay fill is necessary to improve shoreline appearance and public access and will provide substantial public benefits as part of a shoreline park and recreation area.

1. **Whether the proposed project is designed to provide adequate, usable and attractive public access areas consistent with the Bay Plan policies on public access.** At this conceptual stage of the project, the staff requests that the Board focuses its review on the adequacy of the proposed public access, including physical public access to and along the shoreline and visual public access (views) to the Bay from other public spaces.

In evaluating the adequacy of the proposed public access, the Board should advise the Commission and project sponsors on the following:

- a. Whether the proposed street network provides adequate physical and visual connections to the shoreline from Embarcadero and other public spaces;
 - b. Whether the site design provides adequate public access areas relative to the proposed adjacent development and proposed building heights, particularly in the area of Clinton Basin;
 - c. Whether the pile-supported structure at the Ninth Avenue Terminal wharf would provide a desirable, long-term amenity for the public, and whether there would be enough remaining attractive and useable space in the event that the wharf becomes structurally unsound and unusable in the future;
 - d. Whether the proposed programming and design of the public spaces take advantage of inherent site opportunities; and
 - e. Whether each of the individual open spaces throughout the project is designed to provide distinctiveness, diversity (of generations and activities), comfort, opportunities for large gatherings as well as small intimate public areas in the outdoor environment, quality of movement from one shoreline experience to another, and choice and flexibility of movement throughout the shoreline that provides a varied and rich Bay experience.
2. **Whether the proposed project is designed consistent with the Bay Plan policies on appearance, design, and scenic views.** The Bay Plan policies on appearance, design and scenic views state that: "All Bayfront development should be designed to enhance the pleasure of the user or viewer of the Bay. Maximum efforts should be made to provide, enhance, or preserve views of the Bay and shoreline, especially from public areas, from the Bay itself, and from the opposite shore....In some areas, a small amount of fill may be allowed if the fill is necessary--and is the minimum absolutely required--to develop the project in accordance with the Commission's design recommendations....Structures and facilities that do not take advantage of or visually complement the Bay should be located and designed so as not to impact visually on the Bay and shoreline. In particular, parking areas should be located away from the shoreline. However, some small parking areas for fishing access and Bay viewing may be allowed in exposed locations....Shoreline

developments should be built in clusters, leaving open area around them, to permit more frequent views of the Bay....Views of the Bay from vista points, from roads, and from other areas should be maintained by appropriate arrangements and heights of all developments and landscaping between the view areas and the water. In this regard, particular attention should be given to all waterfront locations, areas below vista points, and areas along roads that provide good views of the Bay for travelers, particularly areas below roads coming over ridges and providing a 'first view' of the Bay."

Few design details have been presented to the staff regarding the appearance and design of the project components, such as building architecture, specific open space features and streetscape elements.

In evaluating the conceptual design, the Board should advise the Commission and applicants and provide recommendations on the following:

- a. Whether the proposed siting and design of the project components within the Commission's jurisdiction will enhance the visual quality of the shoreline development;
 - b. Whether views of the Bay for local travelers, particularly "first views of the Bay," are maintained by appropriate arrangements and heights of all development and landscaping between the view areas and the water.
3. **Whether the proposed Bay fill is necessary to improve shoreline appearance and public access and provides substantial public benefits as part of a shoreline park and recreation area.** As mentioned above, the proposed project would result in the removal of approximately 75,681 square feet of solid Bay fill as part of the shoreline design, the placement of approximately 74,110 square feet of solid Bay fill for public access at Clinton Basin, and the removal of approximately 126,920 square feet of pile-supported fill with the removal of a significant portion of wharf at the Ninth Avenue Terminal. Additional fill would be required for the proposed marina.

Section 66605 of the McAteer-Petris Act requires that fill in the Bay should only be authorized when: (1) the public benefits from the fill clearly exceed public detriment from the loss of water areas; (2) the fill should be limited to water-oriented uses or minor fill to improve shoreline appearance or public access; (3) there is no alternative upland location; (4) the fill is the minimum amount necessary; (5) the fill minimizes harmful effects to the bay, such as the reduction or impairment of the volume surface area or circulation of water, water quality, fertility of marshes or fish and wildlife resources or other conditions impacting the environment; and (6) that the fill would, to the maximum extent feasible, establish a permanent shoreline.

The Bay Plan policies on recreation state, in part, that "small amounts of Bay filling may be allowed for shoreline parks and recreational areas that provide substantial public benefits and that cannot be developed without some filling." The Bay Plan policies on the control of filling and dredging in the Bay state in part, that "[a] proposed project should be approved if the filling is the minimum necessary to achieve its purpose, and if it meets one of the following...conditions...[t]he filling is in accord with the Bay Plan policies as to the Bay-related purposes for which filling may be needed (i.e., ports, water-related industry, and water-related recreation)...or...[t]he filling is in accord with the Bay Plan policies as to minor fills for improving shoreline appearance or public access."

Section 10700 of the Commission's regulations state that the Commission may approve the placement of minor fill to improve shoreline appearance only if: (1) the fill is necessary because the present appearance of the Bay and shoreline in the area adversely affects enjoyment of the Bay and its shoreline and it is either physically impracticable or economically infeasible to improve the appearance without filling; (2) the amount of filling is the minimum necessary to improve shoreline appearance; (3) the proposed project would improve the shoreline appearance; and (4) the fill will not adversely affect enjoyment of the Bay and the fill will not have any adverse effect on present or possible future use of the area for any designated priority water-related use or for public access.

Section 10701 of the Commission's regulations state that the Commission may approve the placement of minor fill to improve public access only if: (1) the fill is necessary because there is at present inadequate public access to the Bay shoreline in the area and it is either physically impracticable or economically infeasible to improve public access without filling; (2) the fill will improve public access to the Bay; and (3) the amount of the filling approved is the minimum necessary to provide improved public access to the Bay.

When the Commission reviews the proposed project, it will determine whether the proposed fill is consistent with BCDC's laws and policies regarding fill in the Bay. However, at this time, the Design Review Board should advise the Commission and the applicants on:

- a. Whether the proposed 1.7 acres of Bay fill at Clinton Basin is needed and appropriately sized to create an attractive and usable shoreline park; and
- b. Whether the proposed fill at Clinton Basin is necessary to improve shoreline appearance and public access and provides substantial public benefits as part of a shoreline park or recreational area that cannot be developed without some filling.