
CITY ATTORNEY'S OFFICE

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OFFICE OF THE CITY CLERK
OAKLAND

OAKLAND CITY COUNCIL

ORDINANCE NO. 19798 C.M.S.

AN ORDINANCE APPROVING ZONE TEXT AMENDMENT TO INCREASE THE MAXIMUM AVERAGE DENSITY AND MODIFY THE PARKING REQUIREMENTS IN THE OAK TO NINTH DISTRICT (D-OTN) ZONE; AND MAKING APPROPRIATE CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS

WHEREAS, the City has previously approved a development now known as the Brooklyn Basin (and formerly known as the Oak-to-Ninth Avenue Mixed Use Development) Project on approximately 64.2 acres of land area (and 7.95 acres of water surface area) along the Oakland Estuary, which included up to 3,100 residential units, up to approximately 200,000 square feet (“sf”) of commercial space, a minimum of 3,534 parking spaces, approximately 31 acres of open space, two renovated marinas entailing dredging activities of approximately 20,000 cubic yards of material and up to 167 boat slips, as well as shoreline improvements, new roads, and other infrastructure and improvements (the “Approved Project”);

WHEREAS, in connection with the Approved Project the City established the Planned Waterfront Zoning District (PWD-4), to implement the Approved Project, by City Ordinance No. 12758;

WHEREAS, the PWD-4 District has heretofore become the Oak to Ninth District (D-OTN) Zone;

WHEREAS, Zarsion-OHP I, LLC (“ZOHP” or “Developer”) has submitted entitlement applications for the proposed project to modify the Approved Project (the “Project Modifications”), as set forth in the January 11, 2023 Planning Commission Staff Report and Staff Report to the City Council, incorporated by this reference, which included an application requesting the approval of text amendments to the D-OTN Zone regulations (“Zone Text Amendment”) in accordance with the procedures and requirements contained in Oakland Planning Code (“OPC”) Chapter 17.144;

WHEREAS, the Developer subsequently elected to pursue revised amendments to the Approved Project (the “Revised Project Modifications”), as set forth in the January 11, 2023 Staff Report and Staff Report to the City Council, which continued to include the Zone Text Amendment;

WHEREAS, the Zone Text Amendment would amend the maximum density of the D-OTN Zone to permit up to 3,700 units at a maximum average density of 167 units over 22 developable acres and conform the Brooklyn Basin Project Off-street Parking and Loading Requirements to be consistent with the OPC downtown off-street parking provisions.

WHEREAS, as more fully set forth in the related resolution certifying the Supplemental Environmental Impact Report for the modifications to the Approved Project (the “SEIR”), incorporated by

this reference, the Revised Project Modifications, including the Zone Text Amendment, were analyzed in compliance with the California Environmental Quality Act (“CEQA”);

WHEREAS, on January 11, 2023, the City Planning Commission, after conducting a duly noticed public hearing, hearing all qualified and interested persons, and receiving and considering all relevant evidence, recommended that the City Council certify the SEIR and approve the Revised Project Modifications, including the Zone Text Amendment;

WHEREAS, on May 2, 2023, the City Council, conducted a duly noticed public hearing, heard all qualified and interested persons, and received and considered all relevant evidence on the Revised Project Modifications, including the Zone Text Amendment, wherein upon the public hearing being closed, this ordinance was introduced for first reading.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:

SECTION 1. The recitals set forth above are true and correct and are an integral part of this Ordinance.

SECTION 2. The City Council hereby approves the Zone Text Amendment attached hereto at **Exhibit A**, subject to such minor and clarifying changes consistent with the terms hereof as may be approved by the City Attorney.

SECTION 3. The City Council finds, as more fully set forth in the Planning Code Amendment findings provided in **Exhibit B** (as further defined in Section 4, below), that the Zone Text Amendment is consistent with the General Plan, as amended by the Revised Project Modifications, and in the public interest.

SECTION 4. California Environmental Quality Act Findings. In accordance with Public Resources Code Section 21166 and California Environmental Quality Act (“CEQA”) Guidelines Sections 15162 and 15163, the City examined whether the proposed Zone Text Amendment would result in “substantial changes” that trigger the need for a major modification to the previously certified 2009 EIR due to a new significant impact or a substantial increase in the severity of previously identified significant impacts. An Initial Study was not prepared for the Project, as authorized under Section 15060(d) of the CEQA Guidelines. The City, as the Lead Agency, determined that a Supplemental Environmental Impact Report (SEIR) for the Project would be required. Staff published a Notice of Preparation (NOP) of an EIR on September 21, 2018.

As further set forth in the City’s “Resolution certifying the Brooklyn Basin Marina Expansion Project Supplemental Environmental Impact Report (SEIR) and Making Certain Findings Concerning Environmental Impacts, Mitigation Measures, and Alternatives, and Adopting a Mitigation Monitoring and Reporting Program (MMRP), All In Accordance with the California Environmental Quality Act,” the SEIR did not identify any new or more severe potentially significant or significant and unavoidable impacts than analyzed in the previous Oak-to-Ninth Street Project EIR. None of the additional information provided in the proposed Zone Text Amendment or the Draft SEIR that could result in changes to the environmental analysis in the Draft SEIR under CEQA. The City decided to include additional information in the Response to Comments document for informational purposes for the public and decision-makers for the project. Certain updates included in the FSEIR address topics raised by the public that are comprehensively

addressed in Chapter IV, Consolidated Responses, of the FSEIR document. None of the new information is considered "significant new information" defined in State CEQA Guidelines Section 15088.5, and therefore recirculation of any part of the SEIR is not required.

SECTION 5. This Ordinance, and the Zone Text Amendment described above, is based, in part, on the findings set forth above and in the findings attached hereto at **Exhibit B**, the CEQA Findings related to approval of the Revised Project Modifications, and any other findings related to approval of the Revised Project Modifications, as well as the other resolutions and ordinances related to the Revised Project Modifications, each incorporated by this reference.

SECTION 6. Except as specifically set forth herein, this Ordinance suspends and supersedes all resolutions, ordinances, plans, codes, laws, and regulations conflicting with this Ordinance and/or implementation of the Zone Text Amendment as approved.

SECTION 7. Severability. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the Chapter. The City Council hereby declares that it would have passed this Ordinance and each section, subsection, clause or phrase thereof irrespective of the fact that one or more other sections, subsections, clauses or phrases may be declared invalid or unconstitutional.

SECTION 8. Effective Date. Pursuant to section 216 of the City Charter, this Ordinance is effective as of the date it is adopted if passed by an affirmative vote of at least six council members; otherwise, it is effective seven days after final adoption.

IN COUNCIL, OAKLAND, CALIFORNIA, MAY 16 2023

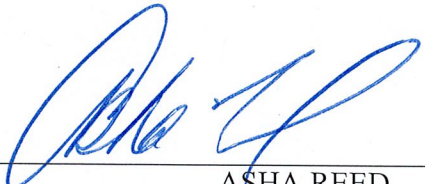
PASSED BY THE FOLLOWING VOTE:

AYES – FIFE, GALLO, JENKINS, KALB, KAPLAN, RAMACHANDRAN, REID, AND
PRESIDENT FORTUNATO BAS - 8

NOES - 0
ABSENT - 0
ABSTENTION - 0

Introduction Date

MAY 2 2023

ATTEST: 
ASHA REED
City Clerk and Clerk of the Council of the City of
Oakland, California

Date of Attestation: May 19, 2023

NOTICE AND DIGEST

AN ORDINANCE APPROVING ZONE TEXT AMENDMENT TO INCREASE THE MAXIMUM AVERAGE DENSITY AND MODIFY THE PARKING REQUIREMENTS IN THE OAK TO NINTH DISTRICT (D-OTN) ZONE; AND MAKING APPROPRIATE CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS

An Ordinance approving zone text amendments to increase the maximum average density and modify the parking requirements in the Oak to Ninth District (D-OTN) Zone for the Brooklyn Basin Project (formerly the Oak to Ninth Avenue Mixed Use Development Project). The zone text amendment would allow 600 additional units, increasing the unit count from 3,100 units to 3,700 units in exchange for community benefits negotiated through a proposed Third Amendment to the Development Agreement as set forth in a separate Ordinance authorizing the City Administrator to negotiate the Third Amendment. The Ordinance also makes California Environmental Quality Act (CEQA) findings consistent with the findings made as part of the City's approval of the project entitlements.

EXHIBIT A

Chapter 17.101B

PLANNED WATERFRONT ZONING DISTRICT (PWD-4) OAK-TO-NINTH MIXED USE DEVELOPMENT PROJECT

Sections:

- 17. .010 Title, Purpose, and Applicability
- 17. .020 Development Plans and Design Review
- 17. .030 Preliminary Development Plan
- 17. .040 Review of Preliminary Development Plan
- 17. .050 Final Development Plan
- 17. .060 Review of Final Development Plan
- 17. .070 Architectural Design Review for Individual Development Projects
- 17. .080 Modifications and Extensions to a Preliminary or Final Development Plan
- 17. .090 Alterations after Issuance of Certificate of Occupancy
- 17. .100 Land Use Regulations
- 17. .110 Maximum Residential Density
- 17. .120 Maximum Retail and Commercial Square Footage
- 17. .130 Building Height
- 17. .140 Yards and Setbacks
- 17. .150 Lot Area, Width, Frontage
- 17. .160 Private Open Space for Residential Uses
- 17. .170 Landscaping, Paving and Buffering
- 17. .180 Parking Requirements
- 17. .190 Signs

17. .010 Title, purpose, and applicability

This chapter establishes land use regulations and development standards for the Oak to Ninth Mixed Use Development, now known as Brooklyn Basin. The approximately 63.82 acre site is bounded by Embarcadero Road, the Oakland Estuary, Fallon Street, and 10th Avenue, and includes the Clinton Basin Marina and the Fifth Avenue Marina, but does not include Fifth Avenue Point (see **Exhibit A**, Zoning Map).

The 63.82 acre Oak to Ninth Mixed Use Development is governed by the following: the Planned Waterfront Zoning District-4 (PWD-4) regulations; the Open Space – Regional Serving Park (OS-RSP) zoning regulations; the Civic Center/Design Review Combining Zone (S-2/S-4) regulations; the Preliminary Development Plan dated February 2006 and approved on June 20, 2006, amended on November 5, 2014 and amended on May 16, 2023 Oak to Ninth Design Guidelines amended on November 5, 2014; Vesting Tentative Tract Map No. 7621 dated March 8, 2006 and approved on June 20, 2006; Conditions of Approval approved on June 20, 2006, amended on May 17, 2017 and

on May 16, 2023; the Mitigation Monitoring Reporting Program approved on June 20, 2006, and the Development Agreement approved on June 20, 2006, amended on May 16, 2023.

The specific purposes of the Planned Waterfront Zoning District-4 are to:

- A. Encourage the **creation of a mixed-use district** that integrates a combination of residential, commercial, public open space and civic uses.
- B. Establish **development standards** that allow residential, commercial, public open space and civic activities to compatibly co-exist.
- C. Provide a **balance of private development and public open space** with convenient access to public open space and the waterfront.
- D. Improve **access to the waterfront** and recreational opportunities along the waterfront including boat launches and marinas.
- E. Encourage **quality and variety in building and landscape design** as well as compatibility in use and form.
- F. Encourage development that is **respectful of the environmental qualities** that the site has to offer.

The 63.82-acre Oak to Ninth Mixed Use Development Project is divided into two major areas: private residential and commercial development (approximately 34 acres), and public parks, open space, and civic uses (approximately 30 acres), and is assigned three separate zoning districts. Refer to **Exhibit A**, Zoning Map.

Residential and Commercial Uses

Planned Waterfront Zoning District-4. The **PWD-4** zone is intended to provide mid-rise and high-rise housing opportunities together with ground floor retail and 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.

Public Parks, Open Space, and Civic Uses

Open Space - Region Serving Park. The **OS (RSP)** zone is the area that is designated for public parks, open space, and civic uses. New parks include Shoreline Park, including the remaining portion of the 9th Avenue Terminal, South Park, Channel Park, and Estuary Park. Clinton Basin and the Fifth Avenue Marina are also included in this zoning district. Uses proposed in this zone are regulated by the City of Oakland as Trustee in consultation with the State Lands Commission which retains jurisdiction over Public Trust lands.

Notwithstanding the provisions of Chapter 17.11, Open Space Zoning Regulations, open space activities and facilities in the Oak to Ninth Mixed Use Development that would otherwise require a conditional use permit pursuant to sections 17.11.060 and 17.11.090 instead shall be approved as part of the Preliminary Development Plan or Final Development Plan.

Notwithstanding the provisions of Municipal Code 6.04.080, dogs shall be allowed leashed in all public parks and open space areas in the PWD-4 zoning district. Dogs shall be allowed unleashed in the dog park designated in the Final Development Plan.

Civic Center Zone/Design Review. The S-2/S-4 zone is intended to create, preserve, and enhance areas devoted primarily to major public and quasi-public facilities and auxiliary uses, and is typically appropriate for public facilities. This zone is assigned to the Jack London Aquatic Center and the East Bay Municipal Utility District dechlorination facility.

17. .020 Development Plans and Design Review

All development projects within the Planned Waterfront Zoning District-4 will be processed using a planned unit development approach. The approved Preliminary Development Plan dated June 20, 2006 and amended on May 16, 2023, provides the comprehensive development framework for the entire 63.82 acre site. The entire development will be constructed in five phases. Each phase requires submittal and approval of a Final Development Plan. Design Review for each Final Development Plan shall follow the schedule outlined in Chapter 17.136, Design Review Procedure. Each building or structure not submitted with the application for a Final Development Plan will require separate design review approval. Both the Preliminary and Final Development Plans shall be prepared by a professional design team consisting of a registered civil engineer, licensed architect, planner or licensed building designer, and any other qualified professionals that the City may require.

Other applications required for development and use of property within Planned Waterfront Zoning District-4 (e.g., subdivision map) may be submitted concurrently with the Preliminary Development Plan or the Final Development Plan.

17. .030 Preliminary Development Plan

The Preliminary Development Plan shall include the following:

1. Streets, driveways, sidewalks, pedestrian and bikeways, and off-street parking and loading areas, including integration with surrounding uses;
2. Shoreline improvements;
3. Location and dimensions of structures;
4. Utilization of property for residential and non-residential use;
5. Population estimates;
6. Public uses, including civic buildings, parks, playgrounds, and other open space uses;
7. Major landscaping features, including a tree survey indicating trees protected by Chapter 12.36, as it may be amended;
8. Creeks protected by Chapter 13.16, as it may be amended;

9. Historic resources pursuant to the City's Historic Preservation Element Policy 3.8 or as defined in Section 15064.5 of Title 22 of the California Code of Regulations;
10. Plan and elevation drawings establishing the scale, bulk, massing, character, and relationships of buildings, streets, and public and private open space in a schematic or conceptual format;
11. A tabulation of the land use area and gross floor area to be devoted to various uses and a calculation of the average residential density per gross acre and per net acre;
12. A preliminary phasing plan generally depicting projected development time frames including quantitative data, such as population, housing units, land use acreage, and other data sufficient to illustrate the relationship between the phasing of development and the provision of public facilities and services;
13. A preliminary public services and facilities plan including proposed location, extent and intensity of essential public facilities and services such as public and private streets and transit facilities, pedestrian access, bikeways, sanitary sewer service, water service, storm drainage structures, solid waste disposal and other utilities; and a table comparing the plan description to the existing location, extent, and intensity of such essential public facilities and services; and
14. A public facilities financing plan.

17. .040 Review of Preliminary Development Plan or Amendment of Plan

The Planning Director shall forward the Preliminary Development Plan or proposed amendment thereof to the City Engineer for review no later than 10 days after a determination that the submittal is complete. The Planning Commission shall hold a public hearing on the Preliminary Development Plan or amendment thereof no later than seventy-five days after it is sent to the City Engineer or within thirty days of the Planning Commission receiving a report from the City Engineer, whichever is earlier. Notice of the hearing shall be given by the City Clerk or Planning Director, as set forth in Section 17.140.030.

The Planning Commission shall approve the Preliminary Development Plan or amendment thereof if it makes written findings that the Preliminary Development Plan is in substantial conformance with the Planned Waterfront Zoning District-4 (PWD-4) Regulations, the Open Space-Region Serving Park (OS- RSP) zoning regulations, the Civic Center/Design Review Combining Zone (S-2/S-4) regulations, the Oak to Ninth Design Guidelines, Vesting Tentative Tract Map No. 7621, Conditions of Approval, and the Mitigation Monitoring Reporting Program, as they may be amended.

The Planning Commission shall disapprove the Preliminary Development Plan or amendment thereof if it makes written findings that the Preliminary Development Plan is not in substantial conformance with the Planned Waterfront Zoning District-4 (PWD-4) Regulations, the Open Space-Region Serving Park (OS-RSP) zoning regulations, the Civic Center/Design Review (S-2/S-4) zoning regulations, the Oak to Ninth Design Guidelines, Vesting Tentative Tract Map No. 7621, Conditions of Approval, and the Mitigation Monitoring Reporting Program, as they may

be amended, and that it is not possible to require changes or impose conditions of approval as are reasonably necessary to ensure conformity to these documents.

The decision of the Planning Commission on the Preliminary Development Plan or amendment thereof shall become final ten calendar days after the adoption of the findings, unless the Planning Commission decision is appealed to the City Council in accordance with Section 17.140.070. In the event the last date to file an appeal falls on a weekend or holiday when City offices are closed, the next date such offices are open for business shall be the last date of appeal.

If the Preliminary Development Plan or amendment thereof satisfies the requirements for a Final Development Plan (as described in 17. .050), the Preliminary Development Plan may also serve as a Final Development Plan and shall be entitled the “Preliminary and Final Development Plan,” and include all the submittal requirements for each application as set forth in 17. .030 and 17. .050. No separate Final Development Plan shall be required to be filed when the Preliminary Development Plan is combined with a Final Development Plan.

17. .050 Final Development Plan

Final Development Plans shall be submitted for each phase of development. Final Development Plans shall include all information contained in the Preliminary Development Plan plus the following requirements in sufficient detail to indicate the operation and appearance of all development shown on the Final Development Plan.

1. The location of all public infrastructure that provides water, sewage, and drainage facilities and other utility services.
2. The location of all private infrastructure that provides gas, electric, and other utility services.
3. The location of all shoreline improvements and remediation plans.
4. Detailed building plans, elevations, sections, and a description of all exterior building materials if a development project is included with the Final Development Plan. The application for the first building proposed in a phase must show the conceptual building massing, heights, and rooflines of future buildings on all adjacent parcels to be constructed within the phase in order to evaluate shadows, relationships between buildings, access and circulation.
5. Landscape plans, and buffering plans, if required, prepared by a landscape architect, if a development project is included with the Final Development Plan.
6. The character and location of signs.
7. Detailed improvement plans for all public and private streets, driveways, sidewalks, pedestrian and bikeways, and off-street parking and loading areas.
8. Detailed improvement plans for all parks and open space areas, including programmed activities and the Bay Trail;

9. Detailed demolition plans for the appropriate phase;
10. Grading and soil remediation plans approved by the appropriate agency, other earth-moving plans, if appropriate, including estimated quantities and the grading schedule for the appropriate phase;
11. The public facilities financing plan for the appropriate phase approved as part of the Preliminary Development Plan modified as necessary to reflect changed conditions or new information.
12. Plan references to all improvements for the appropriate phase required for the Vesting Tentative Tract Map 7621 approved on June 20, 2006 and as may be amended.
13. Plan references to all improvements for the appropriate phase required of the Conditions of Approval for the project approved on June 20, 2006 and as may be amended.
14. Plan references to all improvements for the appropriate phase required of the Mitigation Monitoring Reporting Program for the project approved on June 20, 2006 and as applicable.
15. An applicant shall submit evidence of all documents required for dedication or reservation of land and for all bonds or other forms of financial assurances acceptable to the City required for timely completion of on-site and off-site public improvements necessitated by the project including, without limitation, for guaranteeing completion and faithful performance of the work with the Final Development Plan, including but not limited to, approved subdivision improvement agreements.

17. .060 Review of Final Development Plan

The Planning Director shall forward the Final Development Plan to the City Engineer for review no later than 10 days after a determination that the submittal is complete. The Planning Commission shall hold a public hearing on the Final Development Plan, including Design Review, no later than seventy-five days after the Plan is sent to the City Engineer or within thirty days of the Planning Commission receiving a report from the City Engineer, whichever is earlier. Notice of the hearing shall be given by the City Clerk or Planning Director as set forth in Section 17.140.030.

The Planning Commission shall approve the Final Development Plan if it makes written findings that the Final Development Plan is in substantial conformance with the Preliminary Development Plan; Oak to Ninth Design Guidelines, Planned Waterfront Zoning District-4 (PWD-4) Regulations, the Open Space-Region Serving Park (OS-RSP) zoning regulations, the Civic Center/Design Review Combining Zone (S-2/S-4) regulations, Vesting Tentative Tract Map No. 7621, Conditions of Approval, Mitigation Monitoring Reporting Program, and the Development Agreement, as they may be amended.

The Planning Commission shall disapprove the Final Development Plan if it makes written findings that the Final Development Plan is not in substantial conformance with the Preliminary

Development Plan; Oak to Ninth Design Guidelines, Planned Waterfront Zoning District-4 (PWD-4) Regulations, the Open Space-Region Serving Park (OS-RSP) zoning regulations, the Civic Center/Design Review Combining Zone (S-2/S-4) regulations, Vesting Tentative Tract Map No. 7621, Conditions of Approval, Mitigation Monitoring Reporting Program, and the Development Agreement, as they may be amended, and that it is not possible to require changes or impose conditions of approval as are reasonably necessary to ensure such conformity.

The decision of the Planning Commission on the Final Development Plan shall be final ten calendar days after the adoption of the findings unless the Planning Commission decision is appealed to the City Council in accordance with Section 17.140.070. In the event the last date to file an appeal falls on a weekend or holiday when City offices are closed, the next date such offices are open for business shall be the last date of appeal.

17. .070 Architectural Design Review for Individual Development Projects

Design review for any residential, commercial, or civic development projects that are not submitted with a Final Development Plan application will be reviewed and approved separately. The procedure for Design Review shall follow the schedule outlined in Chapter 17.136, Design Review Procedure. Design Review shall be limited to a determination of whether or not the proposed design conforms to the Oak to Ninth Design Guidelines and is in substantial compliance with the Final Development Plan, Vesting Tentative Tract Map No. 7621, Conditions of Approval, Mitigation Monitoring Reporting Program, and the Development Agreement. The Director of City Planning shall refer the application to the Planning Commission. The Planning Commission's decision may be appealed to the City Council.

17. .080 Modifications to a Preliminary or Final Development Plan

Minor changes to an approved Preliminary or Final Development Plan may be approved by the Planning Director prior to issuance of a certificate of occupancy if such changes are consistent with the purposes and character of the approved Preliminary or Final Development Plan. Minor changes, modifications or adjustments may include, but are not limited to, minor adjustments to the phasing plan boundaries, adjustments to public improvements and access if the proposed changes do not interfere with view corridors or access to the waterfront, minor modifications to the grading plan, minor changes to lot lines, minor modifications to the street sections, minor adjustments to roadway alignments, the amount and distribution of commercial uses within an existing phase, modifications to shoreline treatment, minor adjustments to setbacks and exterior materials, and modifications of the landscaping plan. The decision of the Planning Director can be appealed to the Planning Commission and final action on any appeal rests with the Planning Commission.

Amendments to the Preliminary Development Plan or Final Development Plan would be required if changes to the road alignments affected views and access to the waterfront, changes were proposed to the height, massing, and location of buildings (other than those in the tower zones), if the overall density were changed, and for any other change that the Planning Director found was not in substantial compliance with the Preliminary Development Plan or the Final Development Plan. The revised Preliminary Development Plan or Final Development Plan

would be reviewed by the Planning Commission at a noticed public hearing. The decision of the Planning Commission may be appealed to the City Council.

17. .090 Alterations after Issuance of Certificate of Occupancy

After issuance of a certificate of occupancy, no building, sign, or other structure shall be constructed or established, or altered in such a manner as to affect exterior appearance, unless plans for such proposal have been approved with a finding that the proposals shall be in substantial compliance with the Oak to Ninth Design Guidelines specified for the Oak to Ninth Development Project. Approval is not required for temporary realty or development signs, holiday decorations, and displays behind a display window; or for mere changes of copy, including cutouts, on signs the customary use of which involves periodic changes of copy.

17. .100 Land Use Regulations

The following table lists the permitted, conditionally permitted, and prohibited activities in the PWD-4 and the OS (RSP) zoning districts. Refer to Chapter 17.76 for the land use regulations for the S-2/S-4 combining zone. The description of these land uses are contained in Chapters 17.10 and 17.11.

“P” designates permitted activities in the corresponding zone

“C” designates activities that are permitted only upon the granting of a conditional use permit (see Chapter 17.134) in the corresponding zone

“--” designates uses that are prohibited in the corresponding zone

LAND USE CLASSIFICATIONS	ZONING DISTRICTS		ADDITIONAL REGULATIONS
	PWD-4 Residential & Commercial Development	OS (RSP) Open Space Regional Serving Park 1/	
RESIDENTIAL ACTIVITIES			
PERMANENT	P	C	See 17.11.060
SEMI-TRANSIENT	C	--	See 17.102.212
RESIDENTIAL CARE	C	--	See 17.102.212
SERVICE-ENRICHED PERMANENT HOUSING	C	--	See 17.102.212
TRANSITIONAL HOUSING	--	--	
EMERGENCY SHELTER	--	--	
CIVIC ACTIVITIES			
ESSENTIAL SERVICE	C	C	See 17.11.060
LIMITED CHILD-CARE	P	C	See 17.11.060
COMMUNITY ASSEMBLY	P	C	See 17.11.060
COMMUNITY EDUCATION	P	C	See 17.11.060
NONASSEMBLY CULTURAL	P	C	See 17.11.060
LAND USE CLASSIFICATIONS	ZONING DISTRICTS		ADDITIONAL REGULATIONS

	PWD-4 Residential & Commercial Development	OS (RSP) Open Space Regional Serving Park ^{1/}	
ADMINISTRATIVE	P	C	See 17.11.060
HEALTH CARE	C	--	
SPECIAL HEALTH CARE	C	--	See 17.102.410
UTILITY AND VEHICULAR	C	--	
EXTENSIVE IMPACT	C	C	See 17.11.060
A. Marinas ^{2/}	--	C	See 17.11.060
TELECOMMUNICATIONS	C	--	See 17.128
COMMERCIAL ACTIVITIES			
GENERAL FOOD SALES			
A. Restaurant	P	C	See 17.102.335
B. Limited Service Restaurant	P	C	
C. Fast Food Restaurant	C	--	See 17.102.210
D. Vehicular Food Vending	--	--	
E. Grocery	P	--	
F. Convenience Market	P	--	See 17.102.210
ALCOHOLIC BEVERAGE SALES	C	C	See 17.102.210 See 17.11.060
MECHANICAL OR ELECTRONIC GAMES	C	--	See 17.102.210
MEDICAL SERVICE	C	--	
THERAPEUTIC MASSAGE	P	--	
GENERAL RETAIL SALES	P	--	
LARGE SCALE COMBINED RETAIL AND GROCERY SALES	--	--	
GENERAL PERSONAL SERVICE	P	--	
CONSULTATIVE AND FINANCIAL SERVICE	P	--	
CHECK CASHIER AND CHECK CASHING	--	--	
CONSUMER LAUNDRY AND REPAIR SERVICE	P	--	
GROUP ASSEMBLY	C	--	
ADMINISTRATIVE	P	--	
BUSINESS AND COMMUNICATIONS SERVICE	P	--	
RETAIL BUSINESS SUPPLY	P	--	
RESEARCH SERVICE	P	--	
GENERAL WHOLESALE SALES	--	--	
TRANSIENT HABITATION	C	--	See 17.102.370
CONSTRUCTION SALES & SERVICE	--	--	
AUTOMOTIVE SALES, RENTAL, AND DELIVERY	--	--	
AUTOMOTIVE SERVICING	--	--	
AUTOMOTIVE REPAIR AND CLEANING	--	--	
AUTOMOTIVE FEE PARKING	C	--	
TRANSPORT AND WAREHOUSING	--	--	
ANIMAL CARE	--	C	See 17.11.060
UNDERTAKING SERVICE	--	--	
SCRAP OPERATION	--	--	
JOINT LIVING & WORKING QUARTERS	P	--	See 17.102.190
MANUFACTURING ACTIVITIES			
LAND USE CLASSIFICATIONS		ZONING DISTRICTS	ADDITIONAL REGULATIONS

	PWD-4 Residential & Commercial Development	OS (RSP) Open Space Regional Serving Park ^{1/}	
AGRICULTURAL AND EXTRACTIVE ACTIVITIES			
ACCESSORY USES/FACILITIES	P or C	C	See 17.10.040 See 17.10.070 See 17.11.060
SIGNS	P	P	See 17.104 See 17.11
NONCONFORMING USES			See 17.114

1/ Uses permitted or conditionally permitted in the OS(RSP) zone must be compliant with the Public Trust Doctrine. Acceptable trust uses include, but are not limited to, uses that promote water-oriented or water dependent recreation and commerce, navigation, fisheries, public access and the preservation of the land in its natural condition.

2/ "Marinas" are defined as "Water basins with docks, mooring facilities, supplies and equipment for boats.

17. .110 Maximum Residential Density

A. The residential density for the overall 63.82 acre project site averages approximately 58 dwelling units per gross acre, and approximately 16740 dwelling units per net acre. The density is distributed over thirteen development parcels or areas as shown below.

Maximum Residential Density

240 Density	Gross Acres	Net Developable Acres
Site Area	63.82	22.18
Number of Residential Units	3,740	3,740
Average Residential Density	58 du/gross acre	16740 du/net acre

* net developable acres exclude 9.18 acres of roads

Development Parcels or Areas

	A*	B	C	D	E	F*	G	H	J	K	L	M	N	Total
Net Acres	2.38	1.53	1.48	1.46	1.20	1.75	2.72	2.08	1.84	1.69	1.45	2.60	0	22.18
No. D.U.	254 407	241 175	241 175	240 175	200 131	211 165	340 00	410 375	390 339	360 22	240 146	573 390	0	3,740 0
D.U./Net Acre	107 171	158 114	163 118	164 120	167 108	120 94	125 110	197 180	211 184	213 190	165 101	220 92	0	16740

* These two parcels are designated for 465 units of affordable housing. Refer to the Conditions of Approval for the project and the Development Agreement, Exhibit L, for the details of the affordable housing obligations.

B. Density Transfer. Unused allowable densities, or number of units approved for a development parcel may be used on, or transferred to, another development parcel. The number of dwelling units per development parcel may increase or decrease provided that: (1) the number of dwelling units being transferred does not exceed more than 33% of the allocation of the

development parcel receiving the transferred units (more than 33% up to 50% of the dwelling units may be transferred subject to design review approval); (2) the total number of dwelling units does not exceed ~~3,400~~700 for the entire Oak to Ninth Mixed Use Development Project; (3) the average density for the entire project does not exceed ~~140~~167 dwelling units per net acre; and (4) the height of the buildings where the density is being transferred does not exceed the building heights approved in the PDP, unless specified in the PDP.

17. 120 Maximum Retail and Commercial Square Footage

Approximately 200,000 square feet of retail, commercial, and civic uses is distributed throughout the project area primarily on the ground floor level of the structures with residential units above. The remaining portion of the Ninth Avenue Terminal is also included in this total.

17. 130 Building Height

Height limits throughout the project area range from 86 feet to 240 feet. The height of mid-rise structures on designated parcels can increase up to 120 feet; however, the heights of the 240-foot towers cannot be increased. Any increases in density and height will need to be approved by the Planning Commission when considering the Final Development Plan or architectural design review for a development project that is not part of the Final Development Plan submittal.

17. 140 Yards and Setbacks

All front, side, rear, and corner side yard setbacks will be determined through the design review approval process and must conform to the Preliminary Development Plan, Final Development Plan, Oak to Ninth Mixed Use Development Design Guidelines, and Vesting Tentative Tract Map No. 7621, if specified. Appropriate buffer treatments may be required of buildings adjacent to other zoning district boundaries or between uses that the Planning Director has determined to be potentially incompatible. Buffer treatments could include, but are not limited to, a combination of setbacks, visual buffers, barriers, or dense landscaping.

17. 150 Lot Area, Width, and Frontage

All lot area, width, and frontage requirements will be determined through the design review approval process and must conform to the Preliminary Development Plan, Final Development Plan, Vesting Tentative Tract Map No. 7621, and Oak to Ninth Mixed Use Development Design Guidelines, if specified.

17. 160 Usable Open Space Standards

Residential Uses - A minimum of 150 square feet per residential unit must be provided as usable open space. Each square foot of private usable open space conforming to the provisions of Section 17.126.040 shall be considered equivalent to two square feet of required group usable open space and may be so substituted. Group open space may be located anywhere on the same development parcel including the roof of any building on the site.

17. .170 Landscaping, Paving, and Buffering

A detailed landscaping, paving, and buffering plan shall be submitted for every development project, consistent with the Preliminary Development Plan or Final Development Plan, the Oak to Ninth Design Guidelines, and Chapter 17.124 except as noted below, and shall contain the following:

1. An automatic system of irrigation for all landscaping shown in the plan;
2. A minimum of one fifteen-gallon tree, or substantially equivalent landscaping as approved by the Planning Director, shall be provided for every 20 to 25 feet of street frontage or portion thereof. On streets with sidewalks where the distance from the face of the curb to the outer edge of the sidewalk is at least six and one-half feet, the trees to be provided shall include street trees to the satisfaction of the Public Works Agency.
3. For surface parking lots greater than 3,000 square feet in size, at least one tree shall be provided for every six parking spaces.
4. For surface parking lots adjacent to private property or public open space, buffering shall be provided to minimize potential impacts between uses.
5. For buildings adjacent to other zoning district boundaries, or between uses that the Planning Director has determined to be potentially incompatible, buffer treatments should be applied and could include, but are not limited to, a combination of setbacks, visual buffers, barriers, or dense landscaping. This does not apply to development which is separated from public open space by a street right-of-way.

17. .180 Parking Requirements

Parking and Loading Standards shall be consistent with Chapter 17.116, unless as specified below.

Parking Standard	Zoning Districts		
	PWD-4	OS (RSP)	S-2/S-4
<u>Minimum/maximum number of parking spaces per residential unit</u>	0.5 to 1 space/du	N/A	N/A
Parking spaces per 1,000 sq. ft. of commercial area <u>when > 10,000 sf</u>	2 spaces/1,000 sq.ft. <u>otherwise no parking required</u>	N/A	N/A
Parking spaces per five boat slips	1 space/ five boat slips	1 space/ five boat slips	N/A
Parking spaces required per acre of public open space	N/A	5 spaces per acre	N/A
Jack London Aquatic Center	N/A	N/A	1 space/1,400 s.f. of floor area

Note: A 75% reduction in parking is permitted for housing for persons who are physically disabled, or who are 60 years or older, and the occupancy of the units is guaranteed for at least 50 years (See Chapter 17.116.110).

17. .190 Signs

Signs in the Oak to Ninth Mixed Use Development project shall be consistent with the adopted Master Sign Plan requirements listed below.

- A. Individual Signs. Individual signs not part of an approved Master Sign Plan are subject to design review in accordance with Chapter 17.104.
- B. Master Sign Plan. A master sign plan shall be submitted with each Final Development Plan to be approved by the Planning Commission. The decision of the Planning Commission may be appealed to the City Council. Applications for approval of a master sign plan shall include the following:
1. A master sign program, drawn to scale, delineating the site proposed to be included within the signing program and the general location of all signs;
 2. Drawings and/or sketches indicating the exterior surface details of all buildings on the site on which wall signs, directory signs, ground signs, or projecting signs are proposed;
 3. A statement of the reasons for any requested modifications to the regulations or standards of Chapter 17.104;
 4. A written program specifying sign standards, including color, size, construction details, placement, and necessity for City review for distribution to future tenants.
- C. Master Sign Plan Approval. In approving a master sign program, the Director shall find:
1. That the plan's contribution to the design quality of the site and surrounding area will be superior to the quality that would result under the regulations and standards of Section 17.104.
 2. That the proposed signs are compatible with the style or character of existing improvements on the site and are well-related to each other.
 3. That future tenants will not be denied adequate opportunities for identification if transfers of sign area from one building frontage to another are proposed by the master sign plan.
 4. Roof and penthouse signs are permitted provided that the signs are integrated with the design and materials of the building, subject to design review by the Planning Director. No more than one sign is approved per phase unless approved by the Planning Director.
 5. One Master Identification Sign visible to the I-880 freeway is permitted for the project subject to design review by the Planning Director.
- The Planning Director may require any reasonable conditions necessary to carry out the intent of the master sign plan requirements while still permitting each sign user opportunities for effective identification and communication.
- D. Prohibited Location, Sign Type, and Message. The following types of signs and

locations of signs are prohibited.

1. A sign in a required yard adjoining a street property line which interferes with driveway visibility. Visibility of a driveway crossing a street property line shall not be blocked between a height of 2.5 feet and 7 feet for a depth of 5 feet from the street property line as viewed from the edge of the right- -way on either side of the driveway at a distance of 50 feet or at the nearest property line intersecting the street property line, whichever is less.
2. Moving flashing or animated signs, balloons or similar inflated signs, portable signs, searchlights, flags, pennants, streamers, spinners or similar devices, except as specifically authorized by the Planning Director.
3. Signs with lighting, colors, design or text that could be confused with a public traffic directional sign or control device.
4. Signs containing statements, words, pictures, or other representations which are in reference to obscene matter which violates the California Penal Code Section 311 et. seq.
5. Exterior signs made of materials that are impermanent and will not stand exposure to weather.
6. Signs affixed to any vehicle or trailer on a public street or public or private property unless the vehicle or trailer is intended to be used in its normal business capacity and not for the sole purpose of attracting business.

EXHIBIT B

Planning Code Amendment Findings Pursuant to Planning Code Section 17.144.060

The Project requires Zoning Code text amendments to increase the permissible residential density and alter the parking requirements to match the downtown off-street parking provisions (a reduction in required parking from 1.0 spaces per residential unit to 0.75 spaces per residential unit). To approve these amendments, the City considers whether the existing zone or regulations are inadequate or otherwise contrary to the public interest.

The existing zoning regulations do not allow the City to maximize multifamily housing because it restricts density and requires too much parking. Existing density requirements in the Brooklyn Basin area are contrary to public interest because they prevent the construction of additional, small multifamily residential units in an area the City has found appropriate for residential development. Given that many of the units would be smaller in size, and more affordable by design, than typical suburban type of developments, the Project would provide more housing opportunities for a wider and more diverse array of income groups. Existing parking requirements in the Brooklyn Basin area are also contrary to public interest because they prevent the realization of sustainable, pedestrian-oriented development. Facilitating reduced parking would reduce dependence on single-occupancy vehicles, which would encourage more people to walk, bike, and/or take transit, which in turn would reduce pollution and greenhouse gas emissions and promote public health and protect the natural environment.

Furthermore, in light of the state's housing crisis, which is particularly acute in the Bay Area, the public interest is best served by allowing additional housing within the same development envelope the City has already found appropriate in terms of bulk and height. With an additional 600 residential units, the Project will promote the local and regional welfare as it demonstrates a substantial investment in the Oakland community that moves the City and the Bay Area closer to achieving the goal of building the State out of the housing crisis.

The zoning for the Project site would remain Planned Waterfront Zoning District 4 (PWD-4), which zoning would remain consistent with the applicable General Plan land use designation of Estuary Policy Plan Planned Waterfront Development 4 (PWD-4). The zoning amendment, including the increase in permissible residential density, is consistent with the General Plan and the proposed density increase General Plan amendment discussed above.