

CITY OF OAKLAND
Interoffice Memorandum



Oakland Parks and Recreation

TO: Barry Miller, Chair, Parks and Recreation Advisory Commission
FROM: Catherine Payne, Planner III, Major Projects Division, Bureau of Planning
DATE: April 8, 2015
SUBJECT: **INFORMATION REPORT REGARDING FINAL DEVELOPMENT PERMIT APPLICATION FOR SHORELINE PARK (BROOKLYN BASIN)**

SUMMARY

The purpose of this report is to provide the PRAC with background and information related to implementation of the Brooklyn Basin Project (formerly known as "Oak Street to Ninth Avenue"). The Brooklyn Basin Project land use entitlements were originally approved in 2006 and 2009. At this time, the applicant, Zarsion-OHP 1, LLC (ZOHP) is initiating Phase I improvements. Specifically, the applicant is seeking a Final Development Permit to construct Shoreline Park, including the demolition of a large portion of the 9th Avenue Terminal, as approved under the Preliminary Development Permit. Later this year, staff will request the PRAC to consider FDP findings for Shoreline Park.

PROJECT SITE AND SURROUNDING AREA

Brooklyn Basin generally encompasses a 64-acre site that adjoins the Oakland Estuary to the south, the Embarcadero and I-880 freeway to the north, 10th Avenue to the east, and Fallon Street to the west. The Shoreline Park site is located in the eastern portion of Brooklyn Basin, generally between 9th Avenue and the Oakland Estuary. The Shoreline Park site previously hosted commercial and industrial uses (including the Ninth Avenue Terminal, a retail furniture store, a metal recycling facility, and outdoor storage of shipping containers).

FISCAL IMPACT

There will be no fiscal impact to the City of Oakland related to development and maintenance of Shoreline Park. The project is responsible for both development and maintenance of all Brooklyn Basin parks, including Shoreline Park.

Regarding development costs and responsibilities, the Development Agreement between City of Oakland, Redevelopment Agency of the City of Oakland, and Oakland Harbor Partners, LLC (Development Agreement) Section 4.4.2 states that:

"Developer, at it[s] sole cost, shall be responsible for the construction of the Public Open Space improvements for that portion of the Public Open Space located east of the Lake Merritt Channel pursuant to plans approved by the City, which plans shall be substantially similar to the conceptual plans included within the Project Approvals... Notwithstanding the foregoing to the contrary, Developer shall have the right to fund all or a portion of the costs associated with the construction of the Public Open Space improvements through the CFD {Community Facilities District}."

In summary, the Development Agreement states that the developer, ZOHP, is responsible for construction and delivery of park improvements to the City of Oakland.

Regarding future ongoing park maintenance, the Development Agreement assumes maintenance to be undertaken by the project:

"The City and Developer shall work together to form the CSD {Community Services District} (Section 4.4.4)... The CSD would be responsible for day to day maintenance of the following public improvements pursuant to the Minimum Maintenance Standards attached hereto as Exhibit F: (i) the improvements within the Public Open Space (including, without limitation, the pile supported deck underlying Shoreline Park) (Section 4.4.4.2)... Regardless of whether or when the CSD is formed, (i) the CFD shall be formed, and (ii) full funding established and authorized as necessary to fulfill in perpetuity (A) the maintenance and service obligations specified in this Section 4.4 or otherwise specified for inclusion in the CSD or CFD budget..." (Section 4.4.4.4)

In summary, the DA states that a CSD and/or CFD or other separate financial tool, acceptable to the City will fund park maintenance and not the City of Oakland.

Staff is currently working with the developer, ZOHP, to establish a Community Facilities District and other financial tools to provide park maintenance that ensure no City of Oakland responsibility, consistent with the terms of the Development Agreement.

PROJECT DESCRIPTION

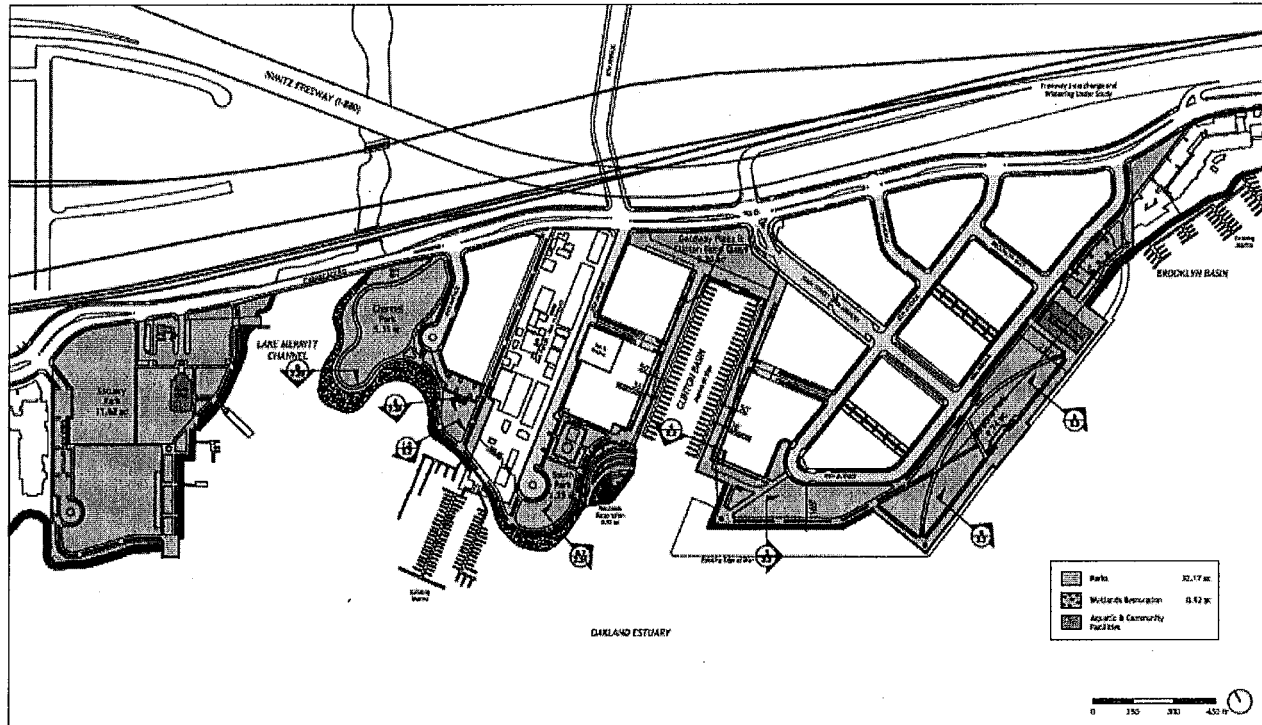


Figure 1: Brooklyn Basin Parks (Shoreline Park is the southeastern most park)

ZOHP is initiating final permit applications to develop Shoreline Park. Shoreline Park is the first of three new parks that are planned as part of the approved Brooklyn Basin project. Shoreline Park is the southeastern most park at the Brooklyn Basin site (immediately east of 9th Avenue), sited generally where the 9th Avenue Terminal is currently located. ZOHP received preliminary land use entitlements for the park and demolition of the 9th Avenue Terminal in 2009. At this time, the remaining City of Oakland requirements to allow issuance of construction-related permits for the park include:

- Demolition Findings for the 9th Avenue Terminal (Landmarks Preservation Advisory Committee—LPAB-- recommendation to Planning Commission--PC);
- Submittal of an application to designate the 9th Avenue Terminal as a City of Oakland Landmark (LPAB and PC recommendation to City Council); and
- Final Development Permit for Shoreline Park, including the remaining portion of the 9th Avenue Terminal (LPAB and Parks and Recreation Advisory Committee—PRAC-- recommendation to PC).

ZOHP has submitted a Final Development Permit (FDP) application for Shoreline Park, as well as a Landmark Application for the 9th Avenue Terminal. As of this writing, staff has not deemed either application complete. However, in the interest of seeking early public and City input, staff is providing information to and seeking guidance from the PRAC regarding the project status and proposed design.

The planned Shoreline Park is approximately 10 acres, much of which is located on an existing pile-supported wharf over the Bay. The approved design includes demolition of approximately 90 percent of the 9th Avenue Terminal, and historic preservation of the southeastern portion of the building. The park is envisioned to host periodic special events. There are 30 off-street parking spaces and up to 60 on-street parking spaces (public spaces located on 9th Avenue, adjacent to the park). The FDP included an open lawn area occupying up to four acres of the site; however, due to structural limitations of the wharf, the FDP application includes wood decking in lieu of lawn.

Attachment A provides the plans submitted by ZOHP to initiate the FDP application, and includes both conceptual park plans and the proposed 9th Avenue Terminal building design.

BACKGROUND

City of Oakland Land Use Entitlements

The planned Brooklyn Basin Project consists of a mix of residential, retail/commercial, civic, and parks and open space uses preliminarily approved by the Planning Commission on March 15, 2006, and for which a Development Agreement was executed on July 18, 2006 by the City Council. Following a legal challenge, final entitlements were granted in 2009. The project sponsors plan to construct up to 3,100 residential units, 200,000 square feet of ground-floor commercial space, a minimum of 3,950 parking spaces, 29.9 acres of parks and public open space, two renovated marinas (total of 170 boat slips), and an existing 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. The project does not include approximately six acres of privately-

held property along and east of 5th Avenue that contains a mix of commercial and industrial uses, as well as a small community of work/live facilities.

Over the past year, ZOHP has worked with the City of Oakland to comply with the terms of the zoning regulations, Development Agreement (DA), Planned Unit Development permit (PUD), Environmental Impact Report (EIR) and the adopted project Conditions of Approval (CoAs) to prepare the Phase I site for parcel development activities. Parcel development cannot occur until a Final Map is issued, and specific CoAs must be met prior to issuance of the first Final Map. To this end, the applicant has worked to complete the following milestones toward issuance of the first Final Map (this matrix represents the highlights of the applicant's activities and is not exhaustive):

Summary of Brooklyn Basin Milestones March 2015

Milestone	Required by	Status
Land Use Entitlements (DA, PUD/PDP, GPA, Rezone, EIR)	Oakland Municipal Code	Complies: Initial (challenged) approval 7/18/2006; Final approval 1/2009
Schematic Master Improvement Plan	CoA 33, Prior to issuance of site development grading permit	Complies: Submitted to the City of Oakland and revised based on City comments 3/2014; City Engineer approval 5/2014
Soil remediation (grading/surcharge permits)	EIR MM H, Prior to issuance of site development building permits	Complies: Activities initiated 6/2014
Sale of Parcels F, G and T to the City of Oakland	CoA 48: 90 days after determination of Finished Lots or earlier	Complies: Close of escrow 8/2014 (prior to Finished Lot)
Phase I Infrastructure FDP	Zoning regulations	Approved by Planning Commission 11/14
CFD	CoA 38, Prior to issuance of first Final Map	In process as of this writing
Final TDM	EIR MM B and C, CoA 22, Prior to approval of FDP	Complies: Planning Commission recommendation 11/5/14; City Council consideration pending
Submittal of CC&Rs	CoA 30, Prior to submittal of First Final Map	Complies: 8/2014

The PUD includes two permitting phases: the Preliminary Development Permit (PDP) and the Final Development Permit (FDP). The PDP was approved as part of the PUD approval in 2006. The PDP represents schematic design of Shoreline Park (and is shown in Attachment B to this report). The FDP is intended to represent design development of the approved PDP—it should be consistent with and an evolution and refinement of the approved PDP. In considering approval of an FDP application, the Planning Commission is asked to make “written findings that the Final Development Plan is in substantial conformance with the Preliminary Development Plan...” (Planned Waterfront Zoning District Section PWD-4.060). The PRAC, in turn, will be asked to make a recommendation to the Planning Commission for all future Brooklyn Basin Park FDP applications based on the required findings.

State Lands Jurisdiction

The Public Trust Policy for the California State Lands Commission controls waterfront land uses generally (and Shoreline Park, specifically), as follows:

Uses of trust lands, whether granted to a local agency or administered by the State directly, are generally limited to those that are water dependent or related, and include commerce, fisheries, and navigation, environmental preservation and recreation. Public trust uses include, among others, ports, marinas, docks and wharves, buoys, hunting, commercial and sport fishing, bathing, swimming, and boating. Public trust lands may also be kept in their natural state for habitat, wildlife refuges, scientific study, or open space. Ancillary or incidental uses, that is, uses that directly promote trust uses, are directly supportive and necessary for trust uses, or that accommodate the public's enjoyment of trust lands, are also permitted. Examples include facilities to serve visitors, such as hotels and restaurants, shops, parking lots, and restrooms. Other examples are commercial facilities that must be located on or directly adjacent to the water, such as warehouses, container cargo storage, and facilities for the development and production of oil and gas. Uses that are generally not permitted on public trust lands are those that are not trust use related, do not serve a public purpose, and can be located on non-waterfront property, such as residential and nonmaritime related commercial and office uses.

In summary, applicable State Lands jurisdiction requires Shoreline Park uses to be waterfront-related and public in nature.

Bay Conservation and Development Commission

With regards to the Shoreline Park project, The Bay Conservation and Development Commission (BCDC) has jurisdiction over the 100 feet of land inland from the San Francisco Bay shoreline and requires the provision of a minimum 10-foot wide section of the Bay Trail through all redeveloped bayfront parcels in their jurisdiction, as well as “maximum feasible public access” (Shoreline Spaces: Public Access Design Guidelines for the San Francisco Bay, BCDC). More specifically, Shoreline Park is subject to a BCDC Permit (No. 2006.007.01) that is generally consistent with the PDP (see Attachment B), and includes: 345,000 square feet of access, including a public fountain, 40 benches, pedestrian-scale lighting, wharf railings, one Bay Trail directional map, four interpretive/historic markers, a vertical trail marker; a 24,600 square-foot rain garden for stormwater

detention, as well as public access improvements along the train trestle located to the northeast of the Ninth Avenue Terminal.

Public Comments to Date

The LPAB previously reviewed the Shoreline Park FDP application at their regularly scheduled meeting on March 9, 2015. In addition, the LPAB held a public hearing on the information item. The following comments were received:

- LPAB:
 - Landmark application:
 - Prefer to process Landmark application sooner rather than later (prior to demolition)
 - Would like to receive an application to landmark entire building
 - *Staff note: CoA 25.b(5) states project requirement as: ...an application to nominate the remaining portion of the building and the site as a City of Oakland landmark*
 - Can 2004 landmark application be revived?
 - Would like applicant to work with community to submit application
 - LPAB might receive two separate applications at two different times
 - Design:
 - Park design should incorporate references to extent and footprint of historic building: carry evidence of building out into landscape (keep pedestals/columns)
 - Ensure long-term maintenance of unique park features
 - Need more public amenities: restrooms, seating and gathering areas
 - Park feels vast and empty:
 - Invigorate space with pop-up retail and activities;
 - Indicate immense scale of 9th Avenue Terminal;
 - Express landscape that might have been there historically
 - Established a subcommittee:
 - Andrews and MacDonald volunteered to be on subcommittee
- Public Speakers:
 - Naomi Schiff:
 - Likes Michael Willis design for the remaining portion of the 9th Avenue Terminal
 - Mark the original portion of the building to indicate the earlier (vs. the later) construction phase of the building
 - Park design is not adequately detailed
 - Does not support landmarking the building: this is a remnant of a facility and landmarking such would be an insult
 - Believes the wharf may be historic given its' age
 - No high-end restaurant
 - Integrate indoor/outdoor space
 - Joyce Roy:
 - How many building bays is the project required to preserve?
 - *Staff note: The required retention of twenty thousand square feet of the original building is accommodated by retention of four building bays;*

keeping an additional two bays as outdoor space is not part of the required building retention

- Designate entire building as a landmark, as the planned project may never happen

NEXT STEPS

The purpose of this report is to provide background information regarding the Brooklyn Basin Shoreline Park PDP, provide the PRAC with the preliminary Shoreline Park FDP submittal, and provide clarity to and respond to questions from the PRAC and community members regarding the remaining decision-making process for development of the park.

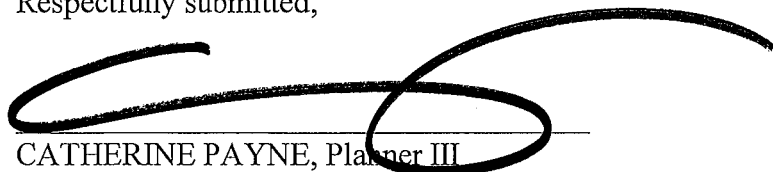
In the future, the PRAC will be asked to conduct design review and make a recommendation regarding the required FDP findings. As noted above, the required Planning Commission findings are “that the Final Development Plan is in substantial conformance with the Preliminary Development Plan...” (Planned Waterfront Zoning District Section PWD-4.060).

RECOMMENDATION

Staff recommends the PRAC:

- A. Accept this informational report;
- B. Review the attached plans (Attachment A);
- C. Provide early comment on the FDP submittal and required findings; and
- D. Identify any outstanding information needs.

Respectfully submitted,



CATHERINE PAYNE, Planner III
Development Planning Division

Attachment A: Shoreline Park FDP Submittal (February 2015)

Attachment B: Brooklyn Basin Approved PDP (2006)

Attachment C: Development Agreement Exhibit F