

Case File Number PUD06010, PUD06010-PUDF013

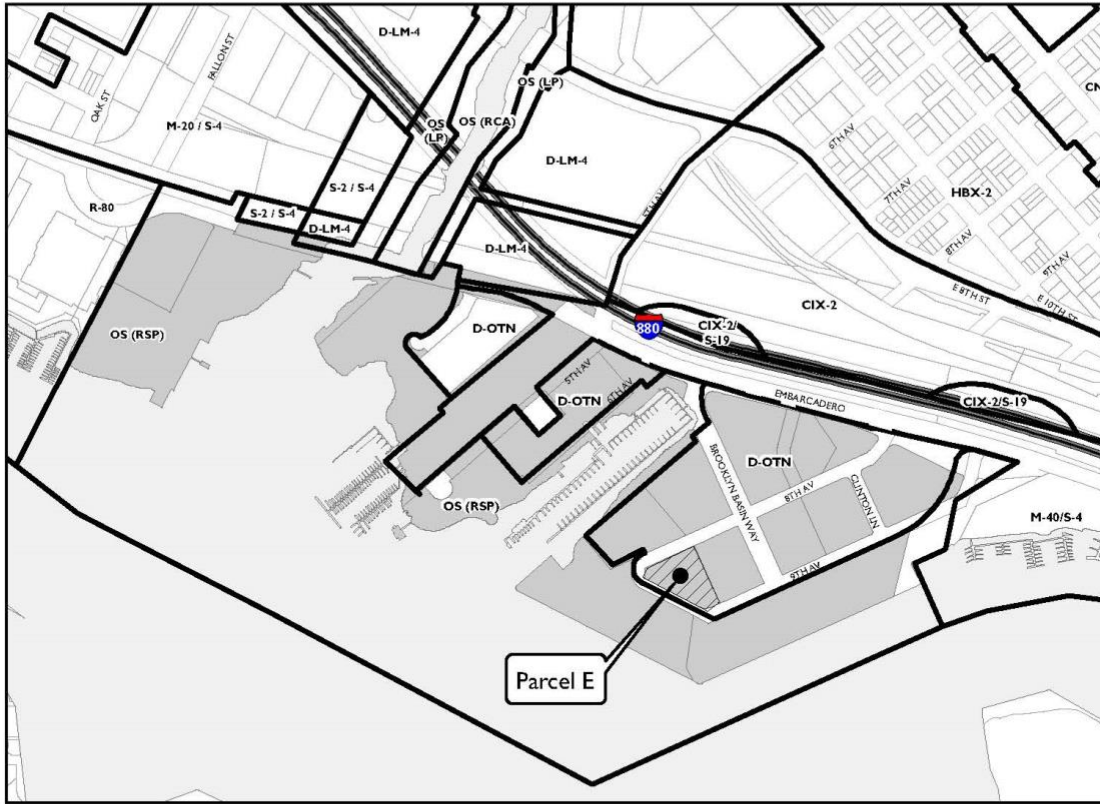
October 5, 2022

<b>Location:</b>	<b>Brooklyn Basin (formerly known as “Oak to 9th Avenue”); specifically, Parcel E</b>
<b>Assessor’s Parcel Number(s):</b>	<b>APN 018 046501600</b>
<b>Proposal:</b>	Final Development Permit (FDP) for Parcel E, including 191 Residential Care activity, consisting of 167 residential care units and 24 memory care rooming units, and 100 parking spaces, in a 7-story building.
<b>Applicant:</b>	Urban Architecture
<b>Contact Person/ Phone Number:</b>	Ashley Vajda, (206) 676-5646
<b>Owner:</b>	SRM Development
<b>Case File Number:</b>	PUD06010-PUDF013
<b>Planning Permits Required:</b>	FDP, Major CUP for Residential Care activity, and compliance with CEQA
<b>General Plan:</b>	Planned Waterfront Development-4
<b>Zoning:</b>	Planned Waterfront Zoning District (PWD-4)/D-OTN-4
<b>Environmental Determination:</b>	Final EIR certified on January 20, 2009
<b>Historic Status:</b>	Non-Historic Property
<b>City Council District:</b>	2 – Nikki Fortunato Bas
<b>Finality of Decision:</b>	Planning Commission, appealable to City Council
<b>For Further Information:</b>	Contact case planner Catherine Payne at (510)917-0577 or by email at <a href="mailto:cpayne@oaklandca.gov">cpayne@oaklandca.gov</a>

## SUMMARY

The proposed project is a Final Development Permit (FDP) and Conditional Use Permit (CUP) for the construction of a residential care and memory care facility in Brooklyn Basin, Parcel E (Parcel E FDP). The proposed use is a residential care activity and would consist of 191 residential care units (including 24 memory care rooming units) in an 85-foot-tall building located in the Brooklyn Basin Planned Unit Development (PUD) along the Oakland Estuary waterfront south of the Lake Merritt Channel. The Planning Commission previously approved FDPs for the development of Brooklyn Basin Parcels A, B, C, D, F, G, H and J.

# CITY OF OAKLAND PLANNING COMMISSION



0 250 500 1,000 1,500 2,000 Feet



Case File: PUD06010-PUDF013  
Applicant: Urban Architecture  
Address: Brooklyn Basin (formerly known as "Oak to 9th Avenue");  
Parcel E  
Zone: (PWD-4)/D-OTN

## **PROJECT SITE AND SURROUNDING AREA**

The Brooklyn Basin PUD encompasses an approximately 64-acre site that adjoins the Oakland Estuary to the south, Embarcadero and Interstate 880 freeway to the north, 9<sup>th</sup> Avenue to the east, and Fallon Street to the west. The PUD includes the development of 3,100 residential units, 200,000 square feet of commercial uses, new streets and infrastructure, and 29.9 acres of City parks located along the Oakland Estuary at the Lake Merritt Channel.

Parcel E is located in Phase 2 of the Brooklyn Basin PUD development; specifically, on the block bounded by 8<sup>th</sup> Avenue to the north, Brooklyn Basin Way to the east, 10<sup>th</sup> Avenue to the south, and the pedestrian mews to the east. Parcel E is located west of Parcel D and South of Parcel J.

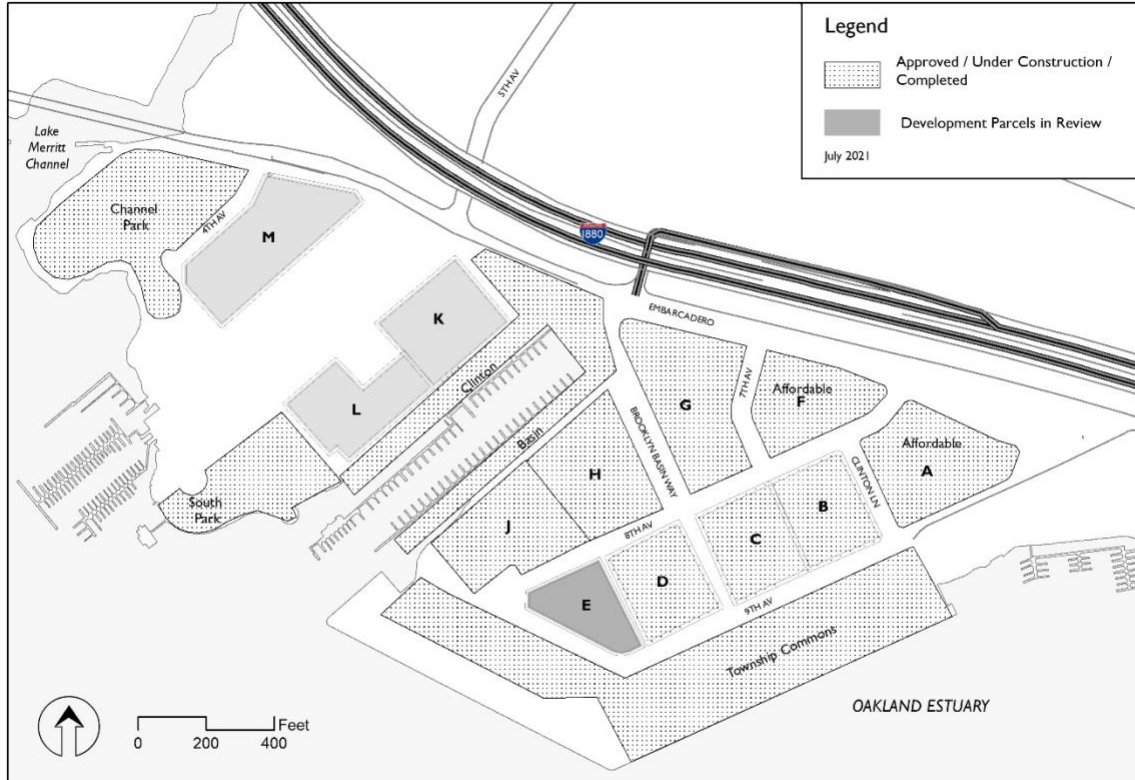
## **PROJECT BACKGROUND**

### *Project History*

The Brooklyn Basin PUD consists of a mix of residential, retail and 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 (with a total of 170 boat slips), and an existing wetlands restoration area. The existing buildings on the site have been demolished with the exception of a portion of the 9th 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. As noted above, Parcel E is located within Phase 2 of the Brooklyn Basin PUD. At this time, the Phase 1 and Phase 2 Final Maps have been recorded, horizontal infrastructure improvements constructed, and Final Development Permits issued for all parks, Parcel A, Parcel B, Parcel C, Parcel D, Parcel F, Parcel G, Parcel H, and Parcel J.

It should be noted that the Brooklyn Basin Master Developer (Master Developer) has submitted a separate application to the City to amend the Development Agreement, the General Plan Designation, and the underlying zoning district to allow for increased residential density at Brooklyn Basin. City staff is conducting environmental analysis of that application and will later consider the merits of the project. It should be noted that the Master Developer application does not impinge on rights to apply for and be granted FDPs at this time that comply with the existing entitlements.

The following provides a summary of the status of the Brooklyn Basin project:



**Brooklyn Basin Status**

**Summary of Recent Brooklyn Basin Milestones**

<b>Milestone</b>	<b>Requirement</b>	<b>Status</b>
Land Use Entitlements (DA, PUD/PDP, GPA, Rezone, EIR)	Oakland Municipal Code	Initial (challenged) approval 7/18/2006; Final approval 1/2009
Phase 1 Soil remediation (grading/surcharge permits)	EIR MM H, Prior to issuance of site development building permits	Activities completed 2014
Affordable Housing Developer Selection	DA Exhibit L, Section 4: proposal to City within one year of acquisition of Sites F, T and G	MidPen selected by Master Developer and approved by City Housing Department in 2015
Phase 1 Final Map	TTM, DA	FM7621 Approved May 2015
Phase 1 Infrastructure FDP and construction permits	Zoning regulations	Approved 2015; Complete; Delivery expected with delivery of Phase 1 vertical development
Township Commons Park FDP	DA and PUD	Approved December 2015, BCDC confirmation May 2016
Phase 2 Infrastructure FDP	Brooklyn Basin PUD	Approved 2017; Under construction; Delivery expected with delivery of Phase 2 vertical development
Parcel B Building Permits issued	PUD, FM7621	Approved September 2016, Received TCO July 2019 and approximately 20% leased/occupied
Parcel C FDP approved	PUD, FM7621	FDP approved August 2017, Construction started April 2019
Phase 2 Final Map	PUD, TTM7621	Recorded June 2017
Parcel F FDP approved	Brooklyn Basin PUD	FDP approved November 2017; Construction started December 2019
All Parks FDPs approved	Brooklyn Basin PUD	FDPs approved August 2017
Parcel G FDP approved	Brooklyn Basin PUD	FDP approved March 2019
Parcel A FDP approved	Brooklyn Basin PUD	FDP approved June 2019, Building permits submitted November 2019
Parcel J FDP approved	Brooklyn Basin PUD	FDP approved December 2019, building permits submitted December 2019
Parcel H FDP approved	Brooklyn Basin PUD	FDP approved March 2020
Parcel D FDP approved	Brooklyn Basin PUD	Approved March 2021
Parcel E FDP	Brooklyn Basin PUD	Currently under review
DA amendment application submittal, September 2018	Planning Code Chapter 17.138	Brooklyn Basin Marina Expansion DSEIR published on June 11, 2021

*Public Review*

The proposed project was reviewed by the Design Review Committee of the Planning Commission (DRC) in June 2022. DRC and public comments include the following (with indented, italicized text below each bulleted comment reflect the applicant's response):

- Project is generally well-designed and ready for Planning Commission consideration with a few refinements:
  - Paseo: Will paseo be windy or dark? {Applicant notes paseo is a passage and not a gathering area}
    - *Applicant Response: The current design is following the City required width for the paseo. As an additional mitigation effort, the building steps back along the paseo on the upper two floors, which helps with the westerly sunlight that is able to reach the ground. The landscape design throughout the paseo includes trees and shrubs which will help as a windbreak, however, with the adjacency to the bay, wind is a likely weather pattern. The Paseo is an urban edge between two buildings and is seemingly intended to be a walking and biking path serving as a connection to the Township Commons Park rather than a gathering space.*
  - Building corners:
    - 9<sup>th</sup> Ave. (at turn): Blank wall is a missed opportunity to engage with Township Commons and the public Right-of-Way. Options to consider: Richer facade treatment; breaking down scale of blank wall with emphasis on rich materials on bottom of wall;
      - *Applicant Response: The design has been revised at the base of the building to include wood slats, extra-large storefront windows and a change in the paint color in an effort to reduce the perceived mass of the building at the pedestrian scale and to add a material richness to the base (see Attachment A).*
    - 8<sup>th</sup> Ave.: Exterior column does not support glass entry element; Consider moving column behind glass wall or otherwise providing an integrated design that is not located behind a utilitarian element;
      - *Applicant Response: The exterior column has been relocated. The storefront curtain wall has been revised to encompass the column (see Attachment A).*
    - 8<sup>th</sup>/9<sup>th</sup> Avenue corner: The entrance does not relate to the arrangement and scale of building elements at this corner.
      - *Applicant Response: The design language at the corner of 8th and 9th has been revised to match the corner of 9<sup>th</sup>/the paseo with wood slats, extra-large storefront windows, and a change in paint color from the above massing in an effort to add a material richness to the base (see Attachment A).*
    - 9<sup>th</sup> Avenue podium: Glass railing for open space is long and undifferentiated; Railing can remain transparent, but should be broken into linear sections that are differentiated in order to support articulation of building facade below.

- *Applicant Response: In our discussion during the Design Review Commission meeting, Commissioner Manus agreed that keeping the parapet and glass rail at the current height was best for preserving the sight lines from the open space towards the water.*

## **PROJECT DESCRIPTION**

The proposed Brooklyn Basin Parcel E project is an 85-foot-tall building (seven stories) at the southwest corner of 9<sup>th</sup> Avenue. The project includes 167 residential care units and 24 memory care rooming units, and 100 parking spaces. Plans, elevations and illustrations are provided in Attachment A to this report.

Key aspects of the proposed project include:

- **Land Use:** The proposed land use activity is Residential Care, and includes both assisted and memory care units.
- **Parking:** 100 parking spaces are provided on the first level of the proposed development. The proposed development would provide additional valet parking for residents, visitors, and employees.
- **Pedestrian Mews:** A 40-foot-wide public walking path provides a connection between 8<sup>th</sup> and 9<sup>th</sup> Avenue. The mews is a planned facility that is being designed so it can be built separately by Parcel D and Parcel E and still be functional if one is built before the other. The comprehensive design for paving and landscaping will ensure that once both Parcels are complete, the pedestrian mews would be a consistent design and provide a shared space accessible to the public.
- **Usable Open Space:** Group usable open space is in the form of a courtyard on the third and fourth level and private balconies are proposed for the residential care units.
- **Design Elements:** The proposed development is located on the corner of 8<sup>th</sup> and 9<sup>th</sup> Avenue where the upper level of building is inset to create an uninterrupted view of Township Commons Park for the proposed residential units. The building has a modern style with limited decorative ornamentation. The exterior wall materials are comprised of wood, stone veneer, and cement plaster. The ground level residential units include private entrances along 9<sup>th</sup> Avenue and the pedestrian mews; these design elements separate the proposed development from the public right-of-way.

## **GENERAL PLAN ANALYSIS**

The Brooklyn Basin project site is in the Planned Waterfront Development-4 (PWD-4) Estuary Policy Plan (EPP) land use designation (the Estuary Policy Plan is the General Plan for the area that includes Brooklyn Basin). The intent of the PWD-4 land use designation is to “provide for the transition of underutilized industrial land to public parks and open space, commercial/retail, multifamily residential, cultural and civic uses. Improve public access to the waterfront by providing additional public parks and open space areas and a waterfront trail.” In terms of desired character, future development should “create a new mixed-use residential, commercial/retail, recreational neighborhood in the areas south of the Embarcadero. New parks

and open space areas will provide public access to the Estuary and will continue the series of waterfront parks and the San Francisco Bay Trail. Civic and cultural uses may be incorporated into the development. Two existing marinas will be renovated to enhance boating and marine-related uses in the area.” The maximum allowed intensity is 50 residential units per gross acre over the entire 64.2 planning area included in the PWD-4 land use classification, and approximately 200,000 square feet of commercial development. The master planned Brooklyn Basin PUD allows for development of up to 3,100 residential units. At this time, the total count for dwelling units approved under Final Development Permits is 2,304 (Parcels A, B, C, D, F, G, H, J), and 191 (Parcel E) dwelling units are currently under review, within the existing allowance.

The following is an analysis of how the proposed project meets applicable EPP objectives (staff analysis in indented, italicized text below each objective):

- Objective LU-1: Provide for a broad mixture of activities within the Estuary area.
  - *The proposed development would deliver a residential care facility that will intensify and support new uses in the Brooklyn Basin area and complement park and recreation uses along the Oakland Estuary waterfront.*
- Objective LU-2: Provide for public activities that are oriented to the water.
  - *The proposed project proposes the development of group usable open space on the third and fourth level of the building that provides views of the waterfront along 9<sup>th</sup> Avenue and Township Commons Park. In addition, the development is set back from the waterfront, allowing the views and experience of the waterfront to dominate the setting. These strong visual and physical connections to the waterfront will enhance the experience of the waterfront for both residents and the public.*
- Objective LU-3: Expand opportunities and enhance the attractiveness of the Estuary as a place to live.
  - *The proposed project will provide housing in a new neighborhood in a desirable location, supporting the socio-economic diversity of Oakland that makes it an attractive and desirable place to live.*
- Objective LU-4: Develop the Estuary area in a way that enhances Oakland’s long-term economic development.
  - *The proposal will deliver residential development that will intensify and support new uses in the Brooklyn Basin area and complement park and recreation uses, as well as commercial uses, along the Oakland Estuary waterfront.*
- Objective LU-5: Provide for the orderly transformation of land uses while acknowledging and respecting cultural and historical resources.
  - *The proposed residential project would meet the PWD-4 goals by providing new uses to underutilized sites. The project is an important piece of the larger Brooklyn Basin project, which is transforming and improving the Oakland Estuary waterfront for public recreational, residential and commercial use. As part of the Brooklyn Basin PUD, the master developer is retaining, restoring, and occupying a portion of the historic 9<sup>th</sup> Avenue Terminal for historic interpretive, recreational, and commercial uses.*



- Objective LU-6: Create greater land use continuity between the Estuary waterfront and adjacent inland districts.
  - *The proposed project on Parcel E is part of the Brooklyn Basin PUD, which is designed specifically to connect the waterfront to the land side of Embarcadero, with landscaped streets and promenades, as well as improved pedestrian, bicycle, and vehicular connectivity across Embarcadero and throughout the site.*

## **ZONING ANALYSIS**

Parcel E is located within the Oak to Ninth District (D-OTN Zone). The intent of the D-OTN Zone is to provide mid-rise and high-rise housing opportunities together with ground-floor retail and commercial uses. Future development is to be set back from the waterfront and address compatibility between residential and nonresidential uses and reflect a variety of housing and business types. The Planned Waterfront District-4 (PWD-4) regulations also apply to projects within Brooklyn Basin. The following discussion outlines the purpose of the PWD-4 regulations and the D-OTN zone, with staff analysis provided below in indented, italicized text:

- Encourage the creation of a mixed-use district that integrates a combination of residential, commercial, public open space and civic uses.
  - *The proposed project is a residential care facility that will diversify living opportunities in the neighborhood. The project incorporates a large, landscaped roof terrace allowing the residents to view Township Commons Park.*
- Establish development standards that allow residential, commercial, public open space and civic activities to compatibly co-exist.
  - *The proposed project is subject to and generally meets the development and other standards under the D-OTN Zone and the PWD-4 standards for density, height, setbacks, outdoor open space and parking, and is compatible with the site and surrounding area.*
- Provide a balance of private development and public open space with convenient access to public open space and the waterfront.
  - *The residential project is conveniently located at the corner of 8<sup>th</sup> and 9<sup>th</sup> Avenues and overlooks Township Commons Park. Several building entries have been strategically placed to face the proposed pedestrian mews and to have convenient access to Township Commons Park.*
- Improve access to the waterfront and recreational opportunities along the waterfront including boat launches and marinas.
  - *The proposal is part of the Brooklyn Basin PUD which includes infrastructure improvements such as marinas and boat launch areas for public use along the Oakland Estuary.*
- Encourage quality and variety in building and landscape design as well as compatibility in use and form.
  - *The proposal is designed to be visually interesting and differentiated from the planned projects for Parcel C and Parcel D in order to provide variety in the neighborhood. The first two floors create an urban/residential street edge with large windows, and the upper levels are setback from the street to create a*

*landscaped roof terrace and views of Shoreline Park. The proposed landscaping is intended to provide connectivity between the public and private realms.*

*Zoning Considerations*

- Residential density: 131 residential units were originally allocated to Parcel E according to the baseline PUD density allowance. Sixty additional units are being transferred from Parcel K to Parcel E, to achieve a total of 191 units. This unit swap is permitted subject to Design Review, as requested in this application for development review.
- Parking: 48 parking spaces are required. One hundred parking spaces (used by both the residents and the employees) and one (1) facility vehicle parking spaces are provided.

**Brooklyn Basin Parking Table**

Residential Parking Standard	75% reduction in parking	Required employee parking space	Required parking spaces	Provided parking spaces	Delta
Parking Space per residential unit (1 space/du)  191 parking spaces required	48 residential parking spaces required	One (1) space for every three (3) employees.  35 employees proposed = 12 parking spaces required	60	100	+60 spaces

**Brooklyn Basin Residential Density Allocation**

Parcel	Baseline Density Allowance	Re-Allocation	Delta	Enabling Procedure
A	407	254	-153du/ -38%	Design Review, (approved 2017) swap with Parcel F
B	175	241	+66 du/38%	Design review (approved 2016)
C	175	241	+66 du/38%	Design review (approved 2017)
D	175	243	+68du/38%	By right, swap with Parcel M
E	131	191	+60du/31%	By right, swap with Parcel K
F	165	211	+46 du/28%	Design Review (approved 2017), swap with Parcel A
G	300	371*	+71 du/19%	By right, swap with Parcel K
H	375	380	+5 du/1%	By right, (under review), swap with Parcel M
J	339	378	+39 du/12%	By right, (under review), swap with Parcel M
K	322	231	-91 du/-28%	By right, swap with Parcel G
L	146	146	0/0	Original approval

M	390	213	-177 du/-41%	Design Review, Swap with Parcel D,H, J
<i>Total</i>	<i>3,100</i>	<i>3,100</i>		

*\*Parcel G reallocation initiated after Planning Commission approval, which is allowed by Planning Code.*

*Zoning Analysis*

The proposed project includes 24 Memory Care units (18.8% of the project) and 167 Residential Care units (81.1% of the project). The project’s compliance with the underlying regulatory framework is outlined below:

<b>Criteria</b>	<b>Planned Waterfront Zoning District-4</b>	<b>Proposed</b>	<b>Analysis</b>
<b>Land Use</b>			
Residential Care Facility	CUP	191 units: 24 memory care rooming units; and 167 residential care units	Conditional use permit is required; Baseline Density Allowance = 131 and PUD reallocation density up to 191.
Building Height	86-100’	85’ height proposed	Complies
Open Space - Residential	150 sf per unit Private usable open space 2x Total Required: 28,650 SF	8,388 sf Private = 16,776 sf Group Open Space = 12,759 SF Total = 29,535 sf	Complies
Parking – residential care units	1 space/du = 191 spaces 75% reduction in parking is permitted for housing for persons who are physically disabled, or who are 60 years or older (Chapter 17.116.110). 48 parking spaces required	120 parking spaces proposed with the use of car stackers (3 or 4 levels high)	Complies
Parking – residential care employees	1 space for each 3 employees on site during the shift that has maximum staffing and one (1) space for each facility; 35 employees = 12 parking spaces.	12 parking employee parking spaces within the car stacker system 1 space is allocated for facility vehicle	Complies

	1 space for each facility vehicle.		
Loading	1 residential berth	1 residential berth and accessible loading area per Caltrans detail A90B	Complies
Recycling	2 cubic feet per residential unit	432 cubic feet recycling provided	Complies

Current Zoning Requirements (not applicable, but considered best practice)			
BIKE PARKING - Residential	Long term: 1/4 du = 40 spaces Short term: 1/20 du = 8 spaces	42 long term spaces provided 4 short term spaces provided	Not applicable, but the proposed design elements for long- and short-term bicycle parking comply.

*Oak to 9<sup>th</sup> Brooklyn Basin Design Guidelines*

- Urban Design Principles:
  - Create walkable and lively public streets, open spaces and pedestrian ways that provide strong visual and pedestrian linkages between the waterfront and inland areas.
    - *The Brooklyn Basin PUD will have approximately ten new public streets. Parcel E is a triangular site that has access to three urban edges, e.g., the northern façade of the building faces 8<sup>th</sup> Avenue where mixed-use development is proposed, the eastern façade of the building abuts the pedestrian mews which connects to Township Commons Park, and the southern façade of the building faces 9<sup>th</sup> Avenue and Shoreline Park.*
  - Introduce a mix of housing that supports a diverse population of residents and that promotes a nighttime environment along the waterfront.
    - *The proposed project adds diversity in the PUD housing types by providing independent, assisted, and memory care housing, with a total of 191 residential types (including studio, one-, two-, and memory care bedroom models).*
  - Maintain and enhance public views of the waterfront.
    - *The 85-foot tall building provides direct views to Township Commons Park and the Estuary, and will not block or impede views of the waterfront.*
  - Configure and design buildings to spatially define and reinforce the public character of streets and open spaces.

- *The proposed building is designed with a strong street wall and maximized ground floor transparency and landscaping to frame and enrich the character of the adjacent rights-of-way.*
- Develop a dynamic composition of taller and shorter buildings that reinforce the spatial characteristics of the waterfront and open space system, and that dramatize this unique shoreline setting.
  - *The project is a mid-rise product designed to fit the Brooklyn Basin PUD. The building provides some height variation to reduce the risk of a monolithic presence.*
- Allow for a diversity of architectural expressions within the strong public framework of streets and open spaces.
  - *The project is designed to fit within the desired scale of development of the site while being massed and articulated differently from the nearby Phases 1 and 2 projects. The intent of this approach is to provide a diversity of architectural expression within the neighborhood for visual complexity and interest.*

## **ZONING AND RELATED ISSUES**

### *Design*

Staff has worked with the applicant and architect to refine the proposed design for Parcel E. Key aspects of the building include:

- **Building Orientation:** The Parcel E Project is on the corner of 8<sup>th</sup> and 9<sup>th</sup> Avenue oriented toward Township Commons Park and the Estuary and Brooklyn Basin Way. The façades facing 9<sup>th</sup> Ave and the pedestrian mews have ground floor residential units with private patios.
- **Ground Floor Residential:** Residential units are located on 9<sup>th</sup> Avenue and the pedestrian mews and provides private patios, landscaping, and appropriate separation between the public and private realm.
- **Pedestrian Mews:** The design for the pedestrian mews accommodates pedestrian connectivity between 8<sup>th</sup> and 9<sup>th</sup> Avenue, providing a connection to Township Commons Park.
- **Vehicular access:** The project includes an on-street drop-off area and access to on-site parking along 8<sup>th</sup> Avenue, as well as accessible street parking on 9<sup>th</sup> Ave (accessible in compliance with the Americans with Disabilities Act).

*Issues*

Staff finds that there are no outstanding issues related to this project and recommends approval. Issues identified and addressed through management of this entitlement application include the following:

- Design: Staff finds the currently proposed project design to resolve previously identified issues (as noted in the *Project Background* section of this report). The project design has been updated to respond to issues previously raised by staff and by the DRC. The building is well articulated, interesting on all sides, includes porosity to provide a sense of connectivity between the public and private realms where they meet, and blank walls have been embellished and/or detailed to provide visual interest.
- Parking: A 75% reduction in parking is permitted for housing for persons who are physically disabled, or who are 60 years or older (per Chapter 17.116.110) and would result in the reduction of required off-street parking spaces from 191 to 48. Additional site parking for employee parking spaces and one (1) facility vehicle spaces is required. An automatic car stacker (either 3 or 4 car high) is proposed, resulting in 100 parking spaces that would be utilized by both the residents and employees and one (1) facility vehicle are provided. A dedicated passenger and accessible loading zone is proposed on 8<sup>th</sup> Avenue.
- Conditional Use Permit: The proposed project requires a Conditional Use Permit for the Residential Care Activity. The Residential Care Activity includes residential units complemented assistance for activities of daily living, including food service, personal assistance, and therapeutic support. Staff believes that this activity provides diversity to the housing types at Brooklyn Basin, providing housing opportunities for a larger segment of the population. The Residential Care Activity does include more intensive staffing and services than residential uses; this project supports staffing with ample parking and shuttle facilities, as well as public drop-off and ADA accessibility for the site. See Conditional Use Permit findings in this report.

## **CALIFORNIA ENVIRONMENTAL QUALITY ACT**

The City Council certified an Environmental Impact Report (EIR) for the existing project approvals on January 20, 2009. The Oak to Ninth Avenue Project Environmental Impact Report [SCH No. 2004062013] is available to the public at the Planning Department offices and on the web at:

<http://www2.oaklandnet.com/Government/o/PBN/OurOrganization/PlanningZoning/DOWD008409>. Staff has determined that no new information about the site, changes to the project, or circumstances under which the project would be undertaken have occurred that would require subsequent or supplemental environmental review for the proposed minor revision to the Parcel E FDP. In accordance with CEQA, the City reviewed and analyzed the proposed project changes and other relevant information to determine whether circumstances requiring the preparation of a subsequent or supplemental EIR exist. Based upon available information, the City has determined that none of those circumstances are present. Because the FDP and related permits represent a refinement of, and not a substantive change to, the approved project, no further environmental review is required. None of the circumstances that require a supplemental or

subsequent EIR pursuant to Public Resources Code Section 21166 or CEQA Guidelines Section 15162 have occurred. Specifically:

- There are no substantial changes proposed in the project which would result in new significant environmental effects or a substantial increase in the severity of previously identified significant effects;
- There are no substantial changes with respect to project circumstances which would result in new significant environmental effects or a substantial increase in the severity of previously identified significant effects; and
- There is no new information of substantial importance which would result in new significant environmental effects, a substantial increase in the severity of previously identified significant effects, previously infeasible mitigation measures or alternatives now found to be feasible, or new mitigation measures or alternatives which are considerably different from previous ones that would substantially reduce environmental effects.

Here, based upon available information, the City believes that none of the circumstances described above have occurred since 2009 and, therefore, no subsequent or supplemental environmental review is required under CEQA.

**RECOMMENDATION:**

The proposed Brooklyn Basin Parcel E FDP is consistent with and constitutes a design evolution and refinement of the previously approved PDP. Staff finds the proposed project to be well designed, responsive to DRC comment, and recommends approval. Staff specifically recommends that the Planning Commission:

1. Pursuant to CEQA Guidelines Section 15162, and based on the attached findings (and incorporated herein by reference), rely on the Oak to Ninth Avenue Project EIR as adequate under CEQA for analysis of the Brooklyn Basin Parcel E Final Development Permit;
2. Approve the Brooklyn Basin Parcel E Final Development Permit; and
3. Approve a Conditional Use Permit for Residential Care Activity at Parcel E.

Prepared by:

*Catherine Payne*

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CATHERINE PAYNE  
Development Planning Manager

Approved for forwarding to the Planning Commission:



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Ed Manasse Deputy Director  
Bureau of Planning

**ATTACHMENTS:**

- A. Findings for Approval
- B. Conditions of Approval (not attached, rely on previously adopted Conditions of Approval and CEQA Mitigation Measures related to case file PUD06010, inclusive)
- C. Brooklyn Basin Parcel E Plans, dated August 16, 2022
- D. Oak to Ninth Environmental Impact Report
- E. Background Documents:



- a. D-OTN Zoning District Regulations (formerly Planned Waterfront Zoning District (PWD-4) Oak-to-Ninth Mixed Use Development Project)
- b. Brooklyn Basin – Oak to 9<sup>th</sup> Preliminary Development Plan, October 2006, and Oak to 9<sup>th</sup> Brooklyn Basin Design Guidelines, November 2006
- c. Conditions of Approval, 2006
- d. Master Creek Permit Conditions of Approval (2016)

**ATTACHMENT A: FINDINGS FOR APPROVAL**

**CALIFORNIA ENVIRONMENTAL QUALITY ACT**

The City Council certified an Environmental Impact Report (EIR) for the existing project approvals on January 20, 2009. The Oak to Ninth Avenue Project Environmental Impact Report [SCH No. 2004062013] is available to the public at the Planning Department offices and on the web at:

<http://www2.oaklandnet.com/Government/o/PBN/OurOrganization/PlanningZoning/DOWD008409>. Staff has determined that no new information about the site, changes to the project, or circumstances under which the project would be undertaken have occurred that would require subsequent or supplemental environmental review for the proposed minor revision to the Parcel E FDP. In accordance with CEQA, the City reviewed and analyzed the proposed project changes and other relevant information to determine whether circumstances requiring the preparation of a subsequent or supplemental EIR exist. Based upon available information, the City has determined that none of those circumstances are present. Because the FDP and related permits represent a refinement of, and not a substantive change to, the approved project, no further environmental review is required. None of the circumstances that require a supplemental or subsequent EIR pursuant to Public Resources Code Section 21166 or CEQA Guidelines Section 15162 have occurred. Specifically:

- There are no substantial changes proposed in the project which would result in new significant environmental effects or a substantial increase in the severity of previously identified significant effects;
- There are no substantial changes with respect to project circumstances which would result in new significant environmental effects or a substantial increase in the severity of previously identified significant effects; and
- There is no new information of substantial importance which would result in new significant environmental effects, a substantial increase in the severity of previously identified significant effects, previously infeasible mitigation measures or alternatives now found to be feasible, or new mitigation measures or alternatives which are considerably different from previous ones that would substantially reduce environmental effects.

Here, based upon available information, the City believes that none of the circumstances described above have occurred since 2009 and, therefore, no subsequent or supplemental environmental review is required under CEQA.

**Planned Waterfront Zoning District-4(PWD-4)  
Findings for FDP**

**“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/S4) regulations, Vesting Tentative Tract Map No. 7621, Conditions of Approval, Mitigation Monitoring Reporting Program, and the Development Agreement...”**

As demonstrated throughout this staff report, the Brooklyn Basin Parcel E Final Development Permit is consistent with the Preliminary Development Plan, the intent of the Oak to Ninth Design Guidelines, and the Planned Waterfront Zoning District (PWD-4/D-OTN-4) zoning regulations, the Conditions of Approval, the MMRP, and the Development Agreement. As noted in this report, the FDP is a refinement of the PDP and includes only non-substantive changes intended to carry out the Oak to Ninth project approvals and refine the design of Parcel E development.

**Conditional Use Permit Findings**

A CUP is required for the Residential Care Activity, under the applicable base zoning district regulations (D-OTN, PWD-4), subject to the following criteria (in bold with staff analysis indented below each criteria):

**A. That the location, size, design and operating characteristics of the proposed development will be compatible with and will not adversely affect the livability or appropriate development of abutting properties and the surrounding neighborhood, with consideration to be given to harmony in scale, bulk, coverage, and density; to the availability of civic facilities and utilities; to harmful effect, if any, upon desirable neighborhood character; to the generation of traffic and the capacity of surrounding streets; and to any other relevant impact of the development.**

The proposed project is a Residential Care Activity facility that is the similar scale and bulk as the other approved projects at Brooklyn Basin. The project is residential in nature, similar to the other approved Brooklyn Basin projects. The staffing and services associated with the Residential Care Activity will not be substantial and will not conflict with the nearby residential and recreational uses predominant at Brooklyn Basin. Residential Care is a variation on residential use that will allow housing for a broader demographic than would otherwise be accommodated in Brooklyn Basin, providing for a more vibrant and diverse neighborhood.

**B. That the location, design, and site planning of the proposed development will provide a convenient and functional living, working, shopping, or civic environment, and will be as attractive as the nature of the use and its location and setting warrant.**

The project development is located in a new, densely planned neighborhood that will include significant residential development, public recreation, and grocery shopping. In addition, Brooklyn Basin is currently serviced by a shuttle that accesses downtown Oakland and access to public transit, including BART and AC Transit. The proposed facility is designed to respond to conditions surrounding the site, including the nearby Oakland Estuary. In

addition, the project design includes materials, massing articulation, and openings that are attractive and inviting to the surrounding community.

**C. That the proposed development will enhance the successful operation of the surrounding area in its basic community functions, or will provide as essential service to the community or region.**

The proposed Residential Care Activity will provide an essential service by providing housing opportunities for members of the community who benefit from support carrying out activities of daily living.

**D. That the proposal conforms to all applicable regular design review criteria set forth in the regular design review procedures at Section 17.136.050.**

The proposed project, as noted throughout the Planning Commission staff report, complies with the adopted Design Guidelines for the Brooklyn Basin Project, the specific design review criteria applicable to the Brooklyn Basin Planned Unit Development Project. The project includes high-quality materials, plentiful openings, articulated massing, and generous ground-floor height and treatments. These features contribute to an aesthetically well-composed and designed building.

**E. That the proposal conforms in all significant respects with the Oakland General Plan and with any other applicable guidelines or criteria, district plan or development control map which has been adopted by the Planning Commission or City Council.**

The project conforms to the policies of the General Plan by providing new residentially-oriented uses at Brooklyn Basin, as noted throughout this report. Residential uses are envisioned and permitted at Brooklyn Basin and specifically on this Parcel E.

**ATTACHMENT B. CONDITIONS OF APPROVAL (NOT ATTACHED, RELY ON PREVIOUSLY ADOPTED CONDITIONS OF APPROVAL AND CEQA MITIGATION MEASURES RELATED TO CASE FILE PUD06010, INCLUSIVE)**

**ATTACHMENT C: BROOKLYN BASIN PARCEL E PLANS DATED AUGUST 16, 2022**  
**(provided as a separate file attachment to this report)**

**ATTACHMENT D: OAK TO NINTH ENVIRONMENTAL IMPACT REPORT  
(provided as a separate file attachment to this report)**

**ATTACHMENT E. BACKGROUND DOCUMENTS:  
(provided as a separate file attachment to this report)**

- b. D-OTN Zoning District Regulations (formerly Planned Waterfront Zoning District (PWD-4) Oak-to-Ninth Mixed Use Development Project)
- c. Brooklyn Basin – Oak to 9<sup>th</sup> Preliminary Development Plan, October 2006, and Oak to 9<sup>th</sup> Brooklyn Basin Design Guidelines, November 2006
- d. Conditions of Approval, 2006
- e. Master Creek Permit Conditions of Approval (2016)