

**A: PROPOSED CLERICAL AMENDMENTS TO THE OAKLAND
PLANNING CODE CHAPTER 17.101B**

The proposed clerical amendments to Chapter 17.101B supersedes Chapter 17.101B D-OTN Oak to Ninth District Zone Regulations (Ord. No. 13357, § 3(Exh. A), 2-16-2016; Ord. No. 13270, § 3(Exh. A), 11-18-2014; Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. No. 12999, § 4(Exh. A), 3-16-2010) and Chapter 17.101B Planned Waterfront Zoning District (PWD-4) Oak-To-Ninth Mixed Use Development Project (Ordinance No.13738, adopted 5/16/23). Proposed clerical text additions are shown as underline and proposed deletions are shown as ~~striketrough~~.

Chapter 17.101B D-OTN OAK- TO-NINTH DISTRICT ZONE REGULATIONS

Sections:

17.101B.010 Title, Purpose, and Applicability

17.101B.020 Development Plans and Design Review

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17.101B.080 Modifications and Extensions to a Preliminary or Final Development Plan

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17.101B.010 Title, purpose, and applicability.

- A. The provisions of this Chapter shall be known as the D-OTN Oak-to-Ninth District Zone Regulations.
- B. The "Zoning Regulations and Standards for Development and Use of Property within the-

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Oak to Ninth Mixed Use Development" which are attached to Ordinance 12758 C.M.S, and as amended in Section 17.101B.020, shall apply to the area designated in Ordinance 12759 C.M.S.

- C. 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.
- D. The 63.82-acre Oak to Ninth District (Brooklyn Basin) area is governed by the following set of regulations: the regulations set forth in this Chapter; Chapter 17.11 – OS Open Space-zoning regulations for Open Space Region-Serving Park (OS-RSP); 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 D-OTN Oak To Ninth District Zone 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 District (Brooklyn Basin Project) area 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 two separate zoning districts.

Residential and Commercial Uses

Oak to Ninth District. The D-OTN 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

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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 District (Brooklyn Basin) area that would otherwise require a Conditional Use Permit pursuant to Planning Code 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 Chapter 6.04.080, dogs shall be allowed leashed in all public parks and open space areas within the Oak-To-Ninth District (Brooklyn Basin) area boundaries. Dogs shall be allowed unleashed in the dog park designated in the Final Development Plan.

17.101B.020 Development Plans and Design Review

All development projects within the D-OTN Oak To Ninth District Zone will be processed using a Planned Unit Development permitting process. The approved Preliminary Development Plan dated June 20, 2006, as 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 the D-OTN Oak To Ninth District Zone (e.g., subdivision map) shall submitted concurrently with the Preliminary Development Plan or the Final Development Plan.

17. 101B.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

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Municipal Code Chapter 12.36, as it may be amended;

8. Creeks protected by Municipal Code 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.

17.101B.040 Review of Preliminary Development Plan or Amendment of Plan

The Planning Director shall forward the Preliminary Development Plan (PDP) or proposed amendment thereof to the City Engineer for review no later than ten (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 (75) days after it is sent to the City Engineer or within thirty (30) 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 D-OTN Oak To Ninth District Zone Regulations, Chapter 17.11 – OS Open Space zoning regulations for Open Space Region-Serving Park (OS-RSP), 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 D-OTN Oak To Ninth District Zone Regulations, Open zoning regulations for Open Space Region-Serving Park (OS-RSP), 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 (10) 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 17.101B.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 17.101B.030 and 17.101B.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. 101B.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 (FDP).

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-

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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.

17.101B.060 Review of Final Development Plan

The Planning Director shall forward the Final Development Plan to the City Engineer for review no later than ten (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 (75) 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, D-OTN Oak To Ninth District Zone Regulations, the Open Space zoning regulations for Open Space Region-Serving Park (OS-RSP), 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, D-OTN Oak To Ninth District Zone Regulations, the Open Space zoning regulations for Open Space Region-Serving Park (OS-RSP), 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

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(10) 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.

17.101B.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.

17.101B.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.

17.101B.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

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copy, including cutouts, on signs the customary use of which involves periodic changes of copy.

17.101B.100 Permitted and Conditionally Permitted Activities

Table 17.101B.01 lists the permitted, conditionally permitted, and prohibited activities in the D-OTN and OS-RSP Zones within the Oak to Ninth District (Brooklyn Basin) area. The descriptions of these activities are contained in Chapter 17.10. Section 17.10.040 contains permitted accessory activities.

"P" designates permitted activities in the corresponding zone.

"C" designates activities that are permitted only upon the granting of a Conditional Use Permit (CUP) in the corresponding zone (see Chapter 17.134 for the CUP procedure).

"L" designates activities subject to certain limitations or notes listed at the bottom of the table.

"—" designates activities that are prohibited except as accessory activities according to the regulations contained in Section 17.010.040.

Table 17.101B.01: Permitted and Conditionally Permitted Activities

<u>Activities</u>	<u>Zones</u>		<u>Additional Regulations</u>
	<u>D-OTN</u>	<u>OS-RSP</u>	
<u>Residential Activities</u>			
<u>Permanent</u>	P	C(L4)	
<u>Residential Care</u>	P(L3)	=	<u>17.103.010</u>
<u>Supportive Housing</u>	P	=	
<u>Transitional Housing</u>	P	=	
<u>Emergency Shelter</u>	P(L3)	=	<u>17.103.010</u>
<u>Semi-Transient</u>	C	=	
<u>Bed and Breakfast</u>	=	=	<u>17.10.125</u>
<u>Civic Activities</u>			
<u>Essential Service</u>	P	C	
<u>Limited Child-Care Activities</u>	P	C	
<u>Community Assembly</u>	P	C	
<u>Recreational Assembly</u>	P	C	
<u>Community Education</u>	P	C	
<u>Nonassembly Cultural</u>	P	C	
<u>Administrative</u>	P	C	
<u>Health Care</u>	C	=	
<u>Special Health Care</u>	C	=	<u>17.103.020</u>
<u>Utility and Vehicular</u>	C	=	

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<u>Activities</u>	<u>Zones</u>		<u>Additional Regulations</u>
	<u>D-OTN</u>	<u>OS-RSP</u>	
<u>Extensive Impact</u>	<u>C</u>	<u>C</u>	
<u>A. Marinas</u>	<u>=</u>	<u>C</u>	
<u>Commercial Activities</u>			
<u>General Food Sales</u>	<u>P</u>	<u>=</u>	
<u>Full Service Restaurants</u>	<u>P</u>	<u>C</u>	
<u>Limited Service Restaurant and Cafe</u>	<u>P</u>	<u>C</u>	
<u>Fast-Food Restaurant</u>	<u>C</u>	<u>=</u>	<u>17.103.030 and 8.09</u>
<u>Convenience Market</u>	<u>P</u>	<u>=</u>	<u>17.103.030</u>
<u>Alcoholic Beverage Sales</u>	<u>C</u>	<u>C</u>	<u>17.103.030 and 17.114.030</u>
<u>Mechanical or Electronic Games</u>	<u>C</u>	<u>=</u>	
<u>Medical Service</u>	<u>C</u>	<u>=</u>	
<u>General Retail Sales</u>	<u>P</u>	<u>=</u>	
<u>Large-Scale Combined Retail and Grocery Sales</u>	<u>=</u>	<u>=</u>	
<u>Consumer Service</u>	<u>P</u>	<u>=</u>	<u>17.102.170 and 17.102.450</u>
<u>Consultative and Financial Service</u>	<u>P</u>	<u>=</u>	
<u>Check Cashier and Check Cashing</u>	<u>=</u>	<u>=</u>	
<u>Consumer Cleaning and Repair Service</u>	<u>P</u>	<u>=</u>	
<u>Consumer Dry Cleaning Plant</u>	<u>C</u>	<u>=</u>	
<u>Group Assembly</u>	<u>C</u>	<u>=</u>	
<u>Personal Instruction and Improvement Services</u>	<u>P</u>	<u>=</u>	
<u>Administrative</u>	<u>P</u>	<u>=</u>	
<u>Business, Communication, and Media Services</u>	<u>P</u>	<u>=</u>	
<u>Broadcasting and Recording Services</u>	<u>P</u>	<u>=</u>	
<u>Research Service</u>	<u>P</u>	<u>=</u>	
<u>General Wholesale Sales</u>	<u>=</u>	<u>=</u>	
<u>Transient Habitation</u>	<u>C</u>	<u>=</u>	<u>17.103.050</u>
<u>Building Material Sales</u>	<u>=</u>	<u>=</u>	
<u>Automobile and Other Light Vehicle Sales and Rental</u>	<u>=</u>	<u>=</u>	
<u>Automobile and Other Light Vehicle Gas Station and Servicing</u>	<u>=</u>	<u>=</u>	
<u>Automobile and Other Light Vehicle Repair and</u>	<u>=</u>	<u>=</u>	

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<u>Activities</u>	<u>Zones</u>		<u>Additional Regulations</u>
	<u>D-OTN</u>	<u>OS-RSP</u>	
<u>Cleaning</u>			
<u>Taxi and Light Fleet-Based Services</u>	=	=	
<u>Automotive Fee Parking</u>	C	=	<u>17.103.055</u>
<u>Animal Boarding</u>	=	=	
<u>Animal Care</u>	=	C	
<u>Undertaking Service</u>	=	=	
<u>Industrial Activities</u>			
<u>Custom Manufacturing</u>	=	=	
<u>Light Manufacturing</u>	=	=	
<u>General Manufacturing</u>	=	=	
<u>Heavy/High Impact</u>	=	=	
<u>Research and Development</u>	=	=	
<u>Construction Operations</u>	=	=	
<u>Warehousing, Storage, and Distribution-Related</u>			
<u>A. General Warehousing, Storage and Distribution</u>	=	=	
<u>B. General Outdoor Storage</u>	=	=	
<u>C. Self- or Mini-Storage</u>	=	=	
<u>D. Container Storage</u>	=	=	
<u>E. Salvage/Junk Yards</u>	=	=	
<u>Regional Freight Transportation</u>	=	=	
<u>Trucking and Truck-Related</u>	=	=	
<u>Recycling and Waste-Related</u>	=	=	
<u>A. Satellite Recycling Collection Centers</u>	=	=	
<u>B. Primary Recycling Collection Centers</u>	=	=	<u>17.103.060</u>
<u>Hazardous Materials Production, Storage, and Waste Management-Related</u>	=	=	
<u>Agriculture and Extractive Activities</u>			
<u>Limited Agriculture</u>	C(L1)	=	
<u>Extensive Agriculture</u>	C(L2)	=	
<u>Plant Nursery</u>	=	=	
<u>Mining and Quarrying</u>	=	=	
<u>Accessory off-street parking serving prohibited activities</u>	=	=	<u>17.116.075</u>

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<u>Activities</u>	<u>Zones</u>		<u>Additional Regulations</u>
	<u>D-OTN</u>	<u>OS-RSP</u>	
<u>Activities that are listed as prohibited but are permitted or conditionally permitted on nearby lots in an adjacent zone</u>	<u>C</u>	<u>C</u>	<u>17.102.110</u>

Limitations on Table 17.101B.01:

L1. Limited Agriculture is only permitted upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure). In addition to the CUP criteria contained in Section 17.134.050, this activity must meet the following use permit criteria:

- a. The proposal will not adversely affect the livability or appropriate development of abutting properties and the surrounding neighborhood in terms of noise, water and pesticide runoff, farming equipment operation, hours of operation, odor, security, and vehicular traffic;
- b. Agricultural chemicals or pesticides will not impact abutting properties or the surrounding neighborhood; and
- c. The soil used in growing does not contain any harmful contaminants and the activity will not create contaminated soil.

L2. Extensive Agriculture is only permitted upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure). In addition to the criteria contained in Section 17.134.050, this activity must meet the following use permit criteria:

- a. The proposal will not adversely affect the livability or appropriate development of abutting properties and the surrounding neighborhood in terms of noise, water and pesticide runoff, farming equipment operation, hours of operation, odor, security, and vehicular traffic.

L3. See Section 17.103.010 for other regulations regarding Residential Care Residential Activities, and Sections 17.103.010 and 17.103.015 for other regulations regarding Emergency Shelter Residential Activities. Notwithstanding anything to the contrary contained in the Planning Code, Emergency Shelter Residential Activities are permitted by-right on properties owned by churches, temples, synagogues, and other similar places of worship approved for Community Assembly Civic Activities; prohibited elsewhere in the zone.

L4. Permanent Residential Activities are only permitted in the OS-RSP Zone upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure), and only if the extent of the activity meets the definition of "Caretaker's quarters" in Section 17.09.050.

17.101B.110 Maximum Residential Density

- A. The residential density for the overall 63.82-acre Oak To Ninth District (Brooklyn Basin) area averages approximately fifty-eight (58) dwelling units per gross acre, and approximately one-hundred and sixty seven (167) dwelling units per net acre. The density is distributed over thirteen development parcels or areas as shown in Table 17.101.B.02 and Table 17.101.B.03.

Table 17.101B.02: Maximum Residential Density

<u>240 Density</u>	<u>Gross Acres</u>	<u>Net Developable Acres</u>

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<u>Site Area</u>	<u>63.82</u>	<u>22.18</u>
<u>Number of Residential Units</u>	<u>3,700</u>	<u>3,700</u>
<u>Average Residential Density</u>	<u>58 du/gross acre</u>	<u>140 du/net acre*</u>

*Net developable acres exclude 9.18 acres of roads.

Table 17.101B.03: Development Parcels or Areas

	<u>A</u>	<u>B</u>	<u>C</u>	<u>D</u>	<u>E</u>	<u>F*</u>	<u>G*</u>	<u>H</u>	<u>J</u>	<u>K</u>	<u>L</u>	<u>M</u>	<u>N</u>	<u>Total</u>
<u>Net Acres</u>	<u>2.38</u>	<u>1.53</u>	<u>1.48</u>	<u>1.46</u>	<u>1.20</u>	<u>1.75</u>	<u>2.72</u>	<u>2.08</u>	<u>1.84</u>	<u>1.69</u>	<u>1.45</u>	<u>2.60</u>	<u>0</u>	<u>22.18</u>
<u>No. Number of Dwelling Units (D.U.)</u>	<u>254</u>	<u>241</u>	<u>241</u>	<u>240</u>	<u>200</u>	<u>211</u>	<u>340</u>	<u>410</u>	<u>390</u>	<u>360</u>	<u>240</u>	<u>573</u>	<u>0</u>	<u>3,700</u>
<u>D.U./Net Acre</u>	<u>107</u>	<u>158</u>	<u>163</u>	<u>164</u>	<u>167</u>	<u>120</u>	<u>125</u>	<u>197</u>	<u>211</u>	<u>213</u>	<u>165</u>	<u>220</u>	<u>0</u>	<u>167</u>

*These two parcels are designated for 465 units of affordable housing. Refer to the Conditions of Approval for the Brooklyn Basin/Oak-to-Ninth Development Project and the Development Agreement, Exhibit L, for the details of the affordable housing obligations.

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 thirty-three percent (33%) of the allocation of the development parcel receiving the transferred units (more than thirty-three percent (33%) up to fifty percent (50%) of the dwelling units may be transferred subject to design review approval);

(2) The total number of dwelling units does not exceed three thousand seven hundred (3,700) for the entire Oak to Ninth Mixed Use Development Project;

(3) The average density for the entire project does not exceed one-hundred sixty-seven (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 Preliminary Development Plan (PDP), unless specified in the PDP.

17.101B.120 Maximum Retail and Commercial Square Footage

Approximately two-hundred thousand (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.

17.101B.130 Building Height

Height limits throughout the project area range from eighty-six (86) feet to two hundred forty (240) feet. The height of mid-rise structures on designated parcels can increase up to one hundred twenty (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.

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17.101B.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.

17.101B.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.

17.101B.160 Usable Open Space Standards

Residential Uses - A minimum of one hundred fifty (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.

17.101B.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 (1) 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 (6½) feet, the trees to be provided shall include street trees to the satisfaction of the Public Works

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Agency.

3. For surface parking lots greater than three thousand (3,000) square feet in size, at least one tree shall be provided for every six (6) 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.

17.101B.180 Parking Requirements

Parking and Loading Standards shall be consistent with Chapter 17.116, unless as specified below in Table 17.101B.04.

Table 17.101B.04: Parking Requirements

<u>Parking Standard</u>	<u>Zoning Districts</u>	
-	<u>D-OTN</u>	<u>OS-(RSP)</u>
<u>Parking Spaces Required per Residential Unit</u>	<u>One (1) space for each dwelling unit, except that no parking shall be required if located within one-half (1/2) mile of a major transit stop, as defined in Section 21155 of the Public Resources Code.</u>	<u>N/A</u>
<u>Parking Spaces Required for Commercial Activities</u>	<u>One (1) space for each 500 square feet of floor area, except that no parking shall be required if located within one-half (1/2) mile of a major transit stop, as defined in Section 21155 of the Public Resources Code.</u>	<u>N/A</u>
<u>Parking Spaces Required for Marinas</u>	<u>One (1) space for each 5 boat slips.</u>	<u>One (1) space for each 5 boat slips.</u>
<u>Parking Spaces Required per Acre of Public Open Space</u>	<u>N/A</u>	<u>Five (5) spaces for each 1 acre of Public Open Space.</u>
<u>Parking Spaces Required for Jack London Aquatic Center</u>	<u>N/A</u>	<u>One (1) space for each 1,400 square feet of floor area.</u>
		-

Note: A seventy-five percent (75%) reduction in parking is permitted for housing for persons who are physically disabled, or who are sixty (60) years or older, and the occupancy of the units is guaranteed

for at least fifty (50) years (See Chapter 17.116.110).

17.101B.190 Signs

Signs in the Oak-to-Ninth District (Brooklyn Basin) area 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.

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- 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 two and one-half (2.5) feet and seven (7) feet for a depth of five (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 fifty (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.

Chapter 17.101B D-OTN OAK TO NINTH DISTRICT ZONE REGULATIONS

Sections:

~~17.101B.010 Title, purpose, and applicability.~~

~~17.101B.020 Permitted and conditionally permitted activities.~~

~~17.101B.010 Title, purpose, and applicability.~~

~~A. The provisions of this Chapter shall be known as the D-OTN Oak to Ninth District Zone Regulations.~~

~~B. The "Zoning Regulations and Standards for Development and Use of Property within the Planned Waterfront Zoning District (PWD-4) Oak to Ninth Mixed Use Development" which are attached to Ordinance 12758 C.M.S, and as amended in Section 17.101B.020, shall apply to the area designated in Ordinance 12759 C.M.S.~~

~~(Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. No. 12999, § 4(Exh. A), 3-16-2010)~~

~~17.101B.020 Permitted and conditionally permitted activities.~~

~~Table 17.101B.01 lists the permitted, conditionally permitted, and prohibited activities in the D-OTN and OS-RSP Zones within the Oak to Ninth/Brooklyn Basin Mixed Use Development. The descriptions of these activities are contained in Chapter 17.10. Section 17.10.040 contains permitted accessory activities.~~

~~"P" designates permitted activities in the corresponding zone.~~

~~"C" designates activities that are permitted only upon the granting of a Conditional Use Permit (CUP) in the corresponding zone (see Chapter 17.134 for the CUP procedure).~~

~~"L" designates activities subject to certain limitations or notes listed at the bottom of the table.~~

~~"—" designates activities that are prohibited except as accessory activities according to the regulations contained in Section 17.010.040.~~

Table 17.101B.01: Permitted and Conditionally Permitted Activities

Activities	Zones		Additional Regulations
	D-OTN	OS-RSP	
Residential Activities			
Permanent	P	C	
Residential Care	P(L3)	C	17.103.010
Supportive Housing	P	C	
Transitional Housing	P	C	
Emergency Shelter	P(L3)	—	17.103.010
Semi-Transient	C	—	
Bed and Breakfast	—	—	17.10.125

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Civic Activities			
Essential Service	P	€	
Limited Child-Care Activities	P	€	
Community Assembly	P	€	
Recreational Assembly	P	€	
Community Education	P	€	
Nonassembly Cultural	P	€	
Administrative	P	€	
Health Care	€	—	
Special Health Care	€	—	17.103.020
Utility and Vehicular	€	—	
Extensive Impact	€	€	
A. Marinas	—	€	
Commercial Activities			
General Food Sales	P	—	
Full-Service Restaurants	P	€	
Limited-Service Restaurant and Cafe	P	€	
Fast-Food Restaurant	€	—	17.103.030 and 8.09
Convenience Market	P	—	17.103.030
Alcoholic Beverage Sales	€	€	17.103.030 and 17.114.030
Mechanical or Electronic Games	€	—	
Medical Service	€	—	
General Retail Sales	P	—	
Large-Scale Combined Retail and Grocery Sales	—	—	
Consumer Service	P	—	17.102.170 and 17.102.450
Consultative and Financial Service	P	—	
Check-Cashier and Check-Cashing	—	—	
Consumer-Cleaning and Repair Service	P	—	
Consumer-Dry-Cleaning Plant	€	—	
Group Assembly	€	—	
Personal Instruction and Improvement Services	P	—	
Administrative	P	—	
Business, Communication, and Media Services	P	—	
Broadcasting and Recording Services	P	—	

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Research Service	P	—	
General Wholesale Sales	—	—	
Transient Habitation	€	—	17.103.050
Building Material Sales	—	—	
Automobile and Other Light Vehicle Sales and Rental	—	—	
Automobile and Other Light Vehicle Gas Station and Servicing	—	—	
Automobile and Other Light Vehicle Repair and Cleaning	—	—	
Taxi and Light Fleet-Based Services	—	—	
Automotive Fee Parking	€	—	17.103.055
Animal Boarding	—	—	
Animal Care	—	€	
Undertaking Service	—	—	
Industrial Activities			
Custom Manufacturing	—	—	
Light Manufacturing	—	—	
General Manufacturing	—	—	
Heavy/High Impact	—	—	
Research and Development	—	—	
Construction Operations	—	—	
Warehousing, Storage, and Distribution-Related			
A. General Warehousing, Storage and Distribution	—	—	
B. General Outdoor Storage	—	—	
C. Self or Mini Storage	—	—	
D. Container Storage	—	—	
E. Salvage/Junk Yards	—	—	
Regional Freight Transportation	—	—	
Trucking and Truck-Related	—	—	
Recycling and Waste-Related	—	—	
A. Satellite Recycling Collection Centers	—	—	
B. Primary Recycling Collection Centers	—	—	17.103.060
Hazardous Materials Production, Storage, and Waste Management-Related	—	—	
Agriculture and Extractive Activities			
Limited Agriculture	€(L1)	—	

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Extensive Agriculture	€(L2)	—	
Plant Nursery	—	—	
Mining and Quarrying	—	—	
Accessory off-street parking serving prohibited activities	—	—	17.116.075
Activities that are listed as prohibited but are permitted or conditionally permitted on nearby lots in an adjacent zone	€	€	17.102.110

Limitations on Table 17.101B.01:

~~L1.~~ Limited Agriculture is only permitted upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure). In addition to the CUP criteria contained in Section 17.134.050, this activity must meet the following use permit criteria:

- ~~1.~~ The proposal will not adversely affect the livability or appropriate development of abutting properties and the surrounding neighborhood in terms of noise, water and pesticide runoff, farming equipment operation, hours of operation, odor, security, and vehicular traffic;
- ~~2.~~ Agricultural chemicals or pesticides will not impact abutting properties or the surrounding neighborhood; and
- ~~3.~~ The soil used in growing does not contain any harmful contaminants and the activity will not create contaminated soil.

~~L2.~~ Extensive Agriculture is only permitted upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure). In addition to the criteria contained in Section 17.134.050, this activity must meet the following use permit criteria:

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

.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:

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- 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

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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.

~~.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;~~

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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.

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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.
16. ~~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

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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.

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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

LAND USE CLASSIFICATIONS	ZONING DISTRICTS		ADDITIONAL REGULATIONS
	PWD 4 Residential & Commercial Development	OS (RSP) Open Space Regional Serving Park ⁺	
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			

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ESSENTIAL SERVICE	€	€	See 17.11.060
LIMITED CHILD CARE	P	€	See 17.11.060
COMMUNITY ASSEMBLY	P	€	See 17.11.060
COMMUNITY EDUCATION	P	€	See 17.11.060
NONASSEMBLY CULTURAL	P	€	See 17.11.060
LAND USE CLASSIFICATIONS	ZONING DISTRICTS		ADDITIONAL REGULATIONS
	PWD-4 Residential & Commercial Development	OS (RSP) Open Space Regional Serving Park¹⁷	
ADMINISTRATIVE	P	€	See 17.11.060
HEALTH CARE	€	-	
SPECIAL HEALTH CARE	€	-	See 17.102.410
UTILITY AND VEHICULAR	€	-	
EXTENSIVE IMPACT	€	€	See 17.11.060
A. Marinas ²⁴	-	€	See 17.11.060
TELECOMMUNICATIONS	€	-	See 17.128
COMMERCIAL ACTIVITIES			
GENERAL FOOD SALES			
A. Restaurant	P	€	See 17.102.335
B. Limited Service Restaurant	P	€	
C. Fast Food Restaurant	€	-	See 17.102.210
D. Vehicular Food Vending	-	-	
E. Grocery	P	-	
F. Convenience Market	P	-	See 17.102.210
ALCOHOLIC BEVERAGE SALES	€	€	See 17.102.210 See 17.11.060
MECHANICAL OR ELECTRONIC GAMES	€	-	See 17.102.210
MEDICAL SERVICE	€	-	
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	€	-	
ADMINISTRATIVE	P	-	
BUSINESS AND COMMUNICATIONS SERVICE	P	-	

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		-	
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."

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 1674 G dwelling units per net acre. The density is distributed

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over thirteen development parcels or areas as shown below.

Maximum Residential Density

<u>240</u> Density	Gross-Acres	Net-Developable Acres
Site Area	63.82	22.18
Number of Residential Units	3,7100	3,7100
Average Residential Density	580 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	<u>2</u> 3 8	<u>1</u> 5 3	<u>1</u> 4 8	<u>1</u> 4 6	<u>1</u> 2 0	<u>1</u> 7 5	<u>2</u> 7 2	<u>2</u> 0 8	<u>1</u> 8 4	<u>1</u> 6 9	<u>1</u> 4 5	<u>2</u> 6 0	0	<u>22</u> 18
No. D.U.	<u>25</u> 4 40 7	<u>2</u> 4 1 7 5	<u>24</u> 1 17 5	<u>24</u> 0 17 5	<u>2</u> 0 0 1 3 1	<u>21</u> 1 16 5	<u>34</u> 0 00	<u>4</u> 1 0 3 7 5	<u>39</u> 0 33 9	<u>36</u> 0 22	<u>2</u> 4 0 1 4 6	<u>57</u> 3 39 0	0	<u>37</u> 10 0
D.U./Net-Acre	<u>10</u> 7 17 1	<u>1</u> 5 8 1 1 4	<u>16</u> 3 11 8	<u>16</u> 4 12 0	<u>1</u> 6 7 1 0 8	<u>12</u> 0 94	<u>12</u> 5 11 0	<u>1</u> 9 7 1 8 0	<u>21</u> 1 18 4	<u>21</u> 3 19 0	<u>1</u> 6 5 1 0 1	<u>22</u> 0 92	0	<u>16</u> 74 0

* 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. * 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 3,100700 for the entire Oak to Ninth Mixed Use Development Project; (3) the average density for the entire project does not exceed 140167 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

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

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.~~

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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.~~

E. —

1. ~~Exterior signs made of materials that are impermanent and will not stand exposure to weather.~~
2. ~~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.~~

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