

<b>Location:</b>	<b>Brooklyn Basin (formerly known as “Oak to 9th Avenue”); specifically, Parcel C (APN 018 046501400).</b>
<b>Proposal:</b>	Final Development Permit (FDP) for Parcel C, including 241 residential units and up to 3,500 sf ground-floor commercial space in an 86-foot tall building. Minor Variance for reduction of on-site parking.
<b>Applicant:</b>	Zarsion America Inc., Erik Hayden (408)348-5679.
<b>Owner:</b>	ZOHP
<b>Planning Permits Required:</b>	FDP, Minor variance for parking, compliance with CEQA.
<b>General and Estuary Plan:</b>	Planned Waterfront Development-1.
<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>Service Delivery District:</b>	3
<b>City Council District:</b>	2 – Abel Guillen
<b>Action to be Taken:</b>	Consider approval of FDP and Minor Variance, based on attached findings.
<b>Finality of Decision:</b>	Appealable to City Council.
<b>For further information:</b>	Contact case planner <b>Catherine Payne</b> at <b>510-238-6168</b> or by e-mail at <b>cpayne@oaklandnet.com</b>

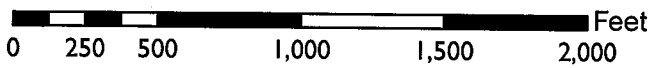
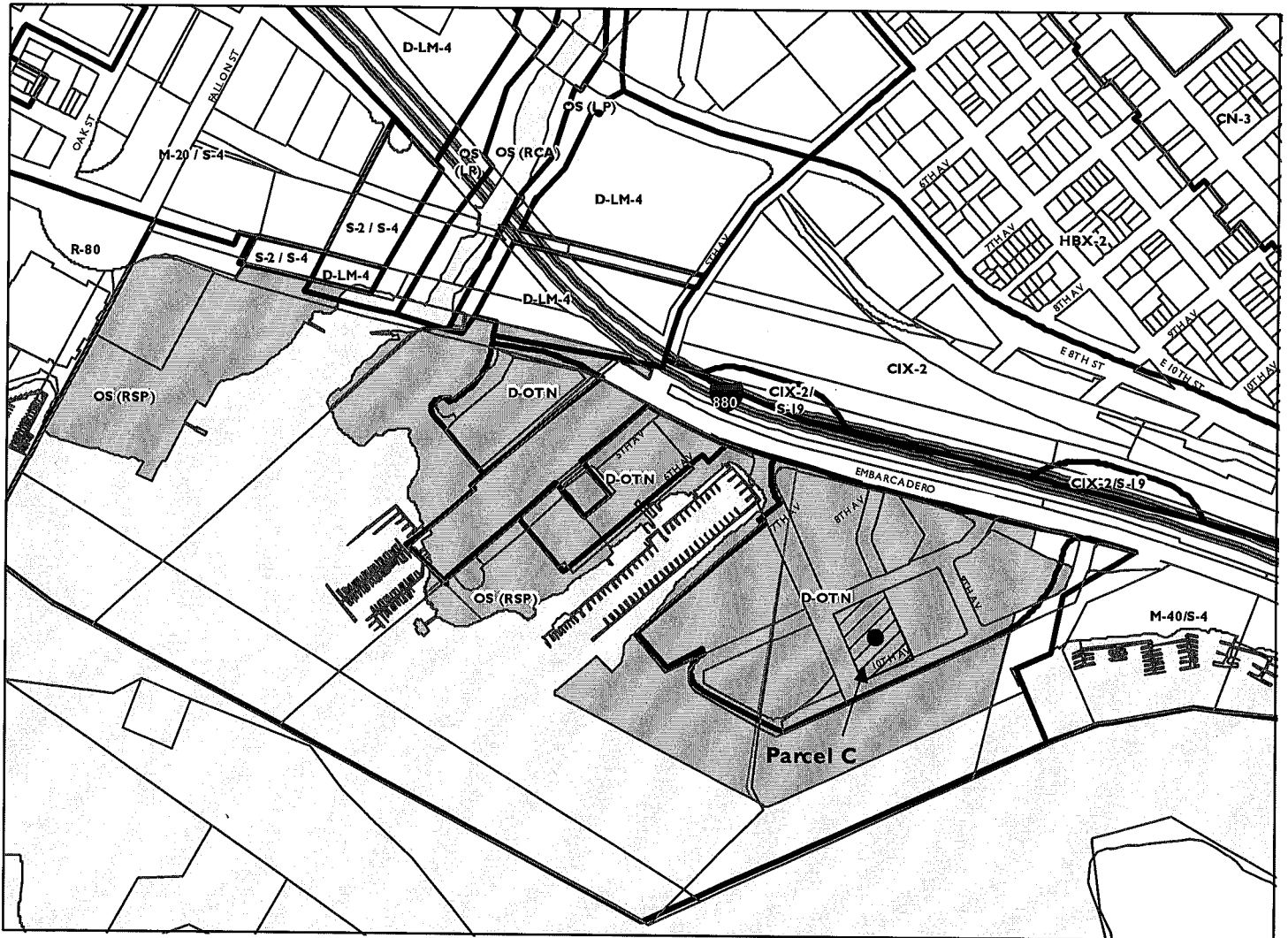
**SUMMARY**

The proposed project is a Final Development Permit for construction of a mixed-use housing product on Parcel C of Brooklyn Basin. The proposed project includes 241 dwelling units and up to 3,500 square feet of ground floor commercial use, as well as accessory parking and usable open space, in an 86-foot tall building encompassing an entire city block in the Brooklyn Basin Planned Unit Development along the Oakland Estuary waterfront south of the Lake Merritt Channel. The Planning Commission approved the first (and most recent) FDP for vertical development for Brooklyn Basin at the adjacent Parcel B side in September 2016.

**PROJECT SITE AND SURROUNDING AREA**

Brooklyn Basin encompasses a 64-acre site that adjoins the Oakland Estuary to the south, the Embarcadero and I-880 freeway to the north, 9<sup>th</sup> Avenue to the east, and Fallon Street to the west. The project includes 29.9 acres of City parks located along the Oakland Estuary edge of the Brooklyn Basin Site. Shoreline Park is the southeastern-most park in Brooklyn Basin and is located on the water side of 9<sup>th</sup> Avenue, generally where the 9th Avenue Terminal is currently located.

# CITY OF OAKLAND PLANNING COMMISSION



Case File: PUD06010-PUDF05 / DA06011  
Applicant: ZOHP  
Address: Brooklyn Basin; specifically Parcel C  
Zone: PWD-4/D-OTN

Parcel C is located in Phase 1 of the Brooklyn Basin PUD; specifically, on the southwest half of the block bounded by 8<sup>th</sup> Avenue to the north, Clinton Lane to the east, 9<sup>th</sup> Avenue to the south, and Brooklyn Basin Way to the west. Parcel C is adjacent to Parcel B (an FDP for which was approved in September 2016), with a public paseo separating the two planned development sites. Site C is located on Brooklyn Basin's primary commercial street, Brooklyn Basin Way, and across from Shoreline Park (for which construction permits were recently issued).

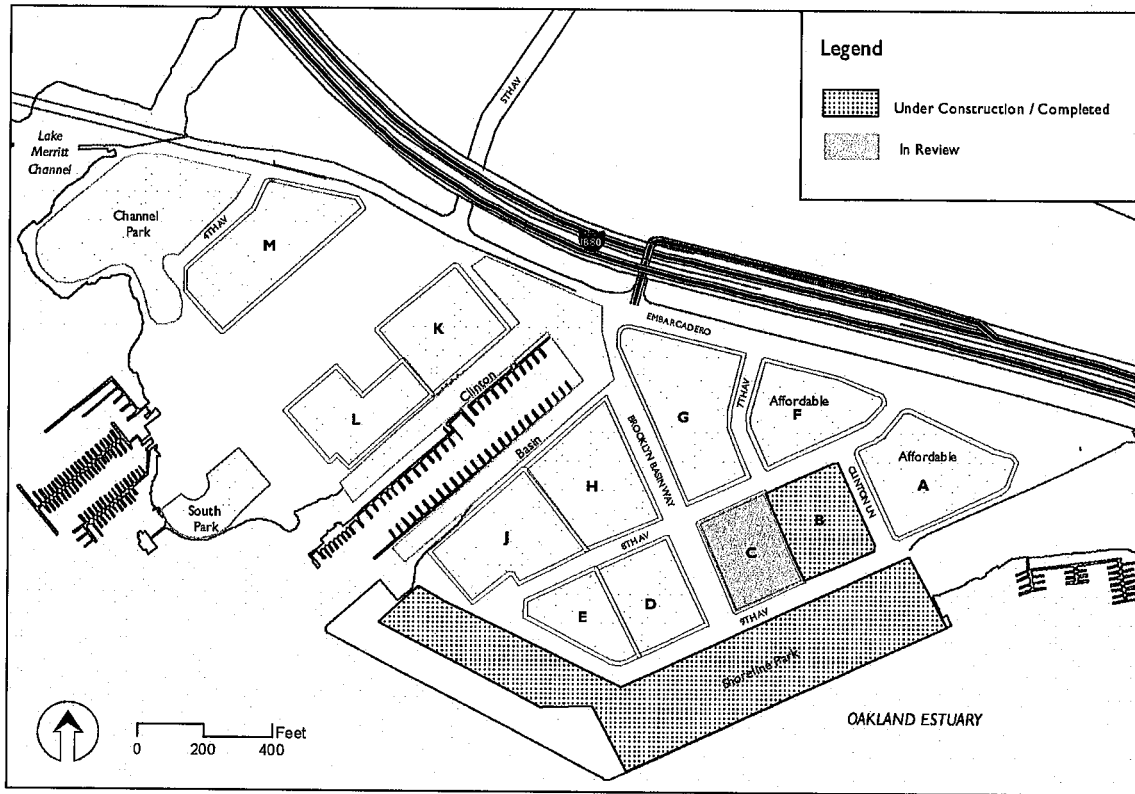
## **PROJECT BACKGROUND**

### *Project History*

The planned Brooklyn Basin Project 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 will be 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 C is located within Phase 1 of the Brooklyn Basin PUD. At this time, the Phase 1 Final Map has been recorded, horizontal infrastructure improvements constructed, and Final Development Permits issued for Shoreline Park and Parcel C. In addition, the Bureau of Planning is in receipt of a FDP application for affordable housing on Parcel F. Most recently, the master developer has recorded the Phase 2 Final Map with the expectation to initiate development of Phase 2 parcels in the near future. Finally, it should be noted that the City of Oakland and the master developer, ZOHP, have undertaken a parcel exchange to allow development of affordable housing on Brooklyn Basin Parcel A. Following the exchange, staff expects to receive applications for the remaining Phase 1 parcels in the near future.

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



**Brooklyn Basin Status**

**Summary of Recent Brooklyn Basin Milestones Spring 2017**

Milestone	Requirement	Status
Land Use Entitlements (DA, PUD/PDP, GPA, Rezone, EIR)	Oakland Municipal Code	Complies: 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	Complies: 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	Complies: 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	Under construction; Completion expected 2016
Embarcadero Roadway Improvements	PUD	Under construction; Completion expected 2016

Community Facilities District	Condition of Approval 38, Prior to issuance of first Final Map	Complies: Estoppel Certificate in place; CFD formation in process.
Shoreline Park FDP	DA and PUD	Complies: Approved December 2015, BCDC confirmation May 2016
Parcel B FDP	PUD, FM7621	Approved September 2016
Phase 2 Final Map	PUD, TTM7621	Recorded June 2017

### *Public Participation*

The proposed project was reviewed by the Design Review Committee (DRC) of the Planning Commission at their regularly scheduled meeting on June 28, 2017. There were no public speakers. The DRC was generally supportive of the project, and made the following comments:

- Provide a thorough color study, as this project will be precedent-setting as one of the early Brooklyn Basin development projects. A nautical theme is a good start. Explore a warmer palette.
- Materials include too much plaster finish.
- 9<sup>th</sup> Avenue ground floor units do not have enough separation from public right-of-way. Study how to maintain connectivity between private and public spheres while allowing for unit privacy.
- 9<sup>th</sup> Avenue and Brooklyn Basin Way building corner is the “front” of the project: this corner should appear residential and include the same language of modulation and design concepts that is thematic to the rest of the building and provides its singular design character.

## **PROJECT DESCRIPTION**

The proposed Brooklyn Basin Parcel C project is an 86-foot tall building encompassing half of a city block. The project includes 241 residential units and 3,500 square feet of ground-floor commercial space. The project includes a mix of one- and two-bedroom units. In addition, the project includes ample open space provided in private balconies, a podium amenity space, and a mews. The project also includes 240 parking spaces. Plans, elevations and illustratives are provided in Attachment A to this report.

## **GENERAL PLAN ANALYSIS**

The Brooklyn Basin project site is located 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 PWED-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 units considered under Final Development Permits is 482, well 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 proposal will deliver residential and commercial development 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 will include expansive views of the waterfront, and will orient and frame pathways to and views of the waterfront for the public travelling along Brooklyn Basin Way or the mews to the east of the project. 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 include expansive views of the waterfront, and will orient and frame pathways to and views of the waterfront for the public travelling along Brooklyn Basin Way or the mews to the east of the project. These strong visual and physical connections to the waterfront will enhance the experience of the waterfront for both residents and the public.*
- Objective LU-4: Develop the Estuary area in a way that enhances Oakland’s long-term economic development.
  - *The proposal will deliver residential and commercial 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. In addition, the mixed-use residential and commercial project will contribute to the City’s tax and employment base.*
- Objective LU-5: Provide for the orderly transformation of land uses while acknowledging and respecting cultural and historical resources.
  - *The proposed mixed-use residential and commercial project would meet the goals for providing new uses on 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 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 C is part of the larger 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 C is located within the Planned Waterfront Zoning District-4 (PWD-4 Zone). The intent of the PWD-4 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 following discussion outlines the purpose of the PWD-4 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 mixed-use project with high-density residential and ground floor commercial uses. The project faces the waterfront, while set back from the Estuary by Shoreline Park and 9<sup>th</sup> Avenue.*
- 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 PWD-4 Zone 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 mixed-use residential and commercial proposal includes a convenient public pathway along the east side of the property that provides access from 8<sup>th</sup> Avenue to 9<sup>th</sup> Avenue and to Shoreline Park and the Oakland Estuary.*
- 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 project for Parcel B in order to provide variety in the neighborhood. In addition, the project includes landscaping concepts intended to provide*

*connectivity between the public and private realms, particularly along the paseo to the east and Brooklyn Basin Way to the west.*

### 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, including the public paseo that is part of and to the east of the proposed Parcel C project. The paseo will be visible from 9<sup>th</sup> Avenue and Shoreline Park and will include landscaping intended to provide a visual connection to 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 a much-needed influx of residential units with a variety of unit types (including one- and two-bedroom models). The Brooklyn Basin PUD includes 465 affordable residential units to be provided on other sites in the neighborhood, as well. By bringing residential development and intensifying land uses at Brooklyn Basin, the proposed project will encourage and support use of the waterfront at all hours of the day.*
  - Maintain and enhance public views of the waterfront.
    - *The 86-foot tall building is located approximately 300 feet from the Estuary, and will not block or impede views of the waterfront. Brooklyn Basin Way and the paseo are both intended to frame views of the waterfront from within the neighborhood.*
  - 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 active uses in order to frame and enrich the character of the adjacent rights-of-way.*
  - Introduce ground level activities that enliven streets and public spaces.
    - *The proposed project is designed to maximize active ground floor uses along Brooklyn Basin Way and provide transparency and openness between the public and private realms at grade. In addition to retail uses fronting the public right-of-way, the project includes bike storage facilities, leasing office, lobbies and unit entrances at grade, facing the public right-of-way to enliven the street frontage.*
  - 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 is substantially set back from the Estuary and allows for public experience and appreciation of the waterfront.*



- 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 adjacent Parcel B project. The intent of this approach is to provide a diversity of architectural expression within the neighborhood for visual complexity and interest.*
- Design Guidelines:
  - Pedestrian Mews: Complementing and extending the public street network, a series of more intimately scaled pedestrian streets will offer additional access through the community and to the waterfront.
    - *The proposed project includes a paseo on the east side of the project, and is massed and organized to frame Brooklyn Basin Way and the paseo, and to bring active uses to those frontages to enhance the street frontage experience in the area.*
  - Townhouse Style Units: Units that will activate sidewalks along the pedestrian mews near Shoreline Park and along the other internal streets of the community.
    - *The residential units facing the mews have entrances on the mews and generous openings facing the mews. In addition, this side of the building is highly articulated to decrease the apparent mass of the building to a more intimate, personal scale.*
  - Podium Units: In the mid-rise building of Brooklyn Basin will come in a full range of sizes and as such will serve a broad segment of the population including seniors, singles and young couples. Many of these units will enjoy direct views to the waterfront and/or internal courtyard open spaces with resident-serving amenities.
    - *The proposed Parcel C project includes a range of sizes of residential units with direct and indirect views of the Oakland Estuary. Many units have views of the podium-level amenity courtyard, which includes landscaping, view areas, play areas, and a swimming pool.*
  - Multiplicity of Architectural Expressions: Buildings within Brooklyn Basin are not restricted to any specific architectural style. Rather, a variety of architectural expressions are encouraged as a means of enhancing the diverse mixed-use, urban character of the community.
    - *The proposed Parcel C project has a contemporary design intended to complement to the forms of the 9<sup>th</sup> Avenue Terminal and sail boats in the future marina, and to appear unique from the adjacent Parcel B project.*

### Residential Land Use and Density Analysis

The applicable zoning regulations include land use and density allowances. The zoning regulations allow for up to a total of 3,100 residential units (including 465 affordable units) and up to 200,000 square feet of commercial development across the entire 63.82-acre Brooklyn Basin site. The zoning regulations and PUD identify overall density for the project as well as baseline densities for

each future parcel. In addition, both the zoning regulations and PUD stipulate that the baseline densities can be exceeded through density transfers under certain conditions. Any individual site can receive an up to 33 percent density transfer by right. An individual site can receive an up to 50 percent density transfer subject to design review. However, the overall Brooklyn Basin site is limited to a maximum of 3,100 dwelling units regardless of any density transfers that may occur.

The Brooklyn Basin project includes 465 affordable residential units within the overall 3,100 permitted units. The 2009 baseline density distribution across parcels assumed allocation of the affordable units on Parcels F and G. However, the City Council recently approved an affordable housing swap such that the current affordable housing parcels are Parcels F and A. The applicant is using density transfers (all of which are by right, with the exception of Parcels B and C) to enable a reallocation of densities that absorbs this recent change to the project. It should also be noted that Parcel B was previously subject to design review and Parcel C is currently subject to a design review process to allow density transfers of up to 50 percent. The following matrix is intended to memorialize the current density allocations for Brooklyn Basin and confirm the assumption that the allocations are (or have been) properly enabled:

#### 2017 Brooklyn Basin Parcel Densities

Parcel	Baseline Density Allowance	Reallocation (accounting for 2017 parcel swap and zoning/PUD allowances)		Enabling Procedure
		2017 Allocation	Delta (from 2009 to 2017)	
B	175	241	+66 du/38%	Design review (approved 2016)
C	175	241	+66 du/38%	Design review (in process 2017)
D	175	175	0	Original approval
E	131	138	+7 du/6%	By right
G	300	288	-12 du/5%	By right
H	375	No change	0	Original approval
J	339	No change	0	Original approval
K	322	332	+10 du/4%	By right
L	146	No change	0	Original approval
M	390	360	-30 du/9%	By right
Affordable Housing Parcels (2017)				
A	407	300	-107 du/36%	Approved by Council (2017 parcel swap)
F	165	165	0	Approved by Council (2017 parcel swap)
<b>Total</b>	<b>3,100</b>	<b>3,100</b>	<b>0/No change</b>	

With regards to the current Parcel C application specifically, the baseline residential density is 175 dwelling units, with an additional allowance for up to 50% density transfer with design review (up to 262 dwelling units). The proposed FDP is for 241 dwelling units, which is within the permitted density, including the density transfer, as subject to design review.

### Minor Variance for Parking

Under the applicable zoning regulations, the proposed project is required to provide one parking space for each residential unit and two parking spaces for every 1,000 square feet of commercial space. The proposed Parcel C FDP includes 241 residential units and 3,500 square feet of commercial development. As such, the project is required to provide 247 on-site parking spaces. However, the project is designed to include 240 parking spaces. Staff supports the proposed parking quantities. The parking has been designed to be entirely set back from an apron of active ground-floor uses fronting the public right-of-way on all sides of the project. In addition, only one side of the project includes any exposed parking above the ground-floor (the side facing 8<sup>th</sup> Avenue). Limiting the quantity of on-site parking allows for high-quality urban design for the public and the neighborhood. In terms of practicality, parking will be unbundled. This means that on-site parking spaces are leased separately, and residents may choose to either lease or forego a parking space. This provides desired flexibility at a time when more and more people rely on alternative modes of transportation (including ridesharing and public transportation, for example). Finally, the Brooklyn Basin project includes future parking (both structured and on-street). This should ensure adequate parking in both the near and long-term future for Parcel C.

## ZONING AND RELATED ISSUES

### *Design*

Staff has worked with the applicant and architect to finesse the proposed design for the Parcel C site. Parcel C is essentially an entire city block, and the proposed project is a single building built out to the public right-of-way. The team has worked to reduce the risk of a monolithic mass while providing a consistent and unified design theme to provide project identity and visual harmony. The design of the building is intended to respond to the gable roof of the remaining portion of the 9<sup>th</sup> Avenue Terminal across 9<sup>th</sup> Avenue. The 9<sup>th</sup> Avenue Terminal renovation will include a trellis structure that carries the roof form into Shoreline Park. The Parcel C design applies the angle of the gable to the vertical mass of the building to provide articulation and variation in massing. Key aspects of the project design include the following:

- **Building Orientation:** The Parcel C Project is designed as a single building, with parking located generally at the interior of the project and wrapped by active ground floor and upper-level residential uses. “Back-of-house” uses are ganged on 8<sup>th</sup> Avenue, with commercial uses fronting Brooklyn Basin Way, and residential uses fronting 9<sup>th</sup> Avenue and the mews.
- **Building Appearance:** The project differentiates the corners of the building through massing, articulation, exterior treatments and extensive glazing. As designed, the building corners break down otherwise long facades and bulk, and provide a sense of desired connectivity between the public right-of-way and private realm of the building itself.
- **Building Façade Treatments:** Each side of the building is treated to address its specific condition.
  - The Brooklyn Basin Way side of the building includes active, commercial storefronts, leasing and lobby areas on this primary commercial street. In addition,

the project takes advantage of a building setback to provide an active buffer of seating and other plaza-like features between public and private uses.

- The 9<sup>th</sup> Avenue side of the project includes significant step-downs from the maximum height to allow the podium-level amenity space to have views of the waterfront and to step down the mass close to the park and waterfront. In addition, this side of the project has extensive glazing to take advantage of the waterfront views and provide connectivity between the project and Shoreline Park.
- The mews side of the project includes the most extensive façade articulation and variety of exterior treatments to create an intimate scale adjacent to the narrow mews. In addition, this side of the project includes stoops with direct access to the mews, again enforcing the connectivity between the public and private realms.
- The 8<sup>th</sup> Avenue side of the Parcel C project hosts the “back-of-house” uses, such as loading, driveway, and mechanical enclosures. To soften the necessary but inactive uses, the project is designed to wrap retail from Brooklyn Basin Way around 8<sup>th</sup> Avenue, include the bicycle parking on 8<sup>th</sup> Avenue, and to maximize residential unit openings at the corner of the building at the mews. In addition, this is the only side of the building with exposed upper level parking; the design integrates the angled articulation and sets the parking back to deemphasize the parking use and to emphasize the design continuity of the overall project.
- Building Context: The proposed Parcel C project is the same construction type and size as the adjacent Parcel B project (located on the opposite side of the mews, and the first Brooklyn Basin development parcel to be seeking construction permits). In order to provide variety in the district, the Parcel C project is massed differently from the Parcel B project (with less massing articulation and height variation than Parcel B). In contrast with the Parcel B project, the Parcel C project uses the vertical gable angles (and supporting rhythms and patterns) to provide visual complexity and break down the scale of the building rather than relying heavily on building setbacks and stepbacks.
- Design Issues: In general, staff finds the project to be well-designed and much improved since the original submittal. The project is visually interesting without being overly busy. The location of ground floor uses has been finessed to maximize activity and transparency along the public right-of-way and at the corners of the building. Back-of-house uses are generally contained within the project and are minimized along the edges. The DRC agreed with staff evaluation. That said, staff has a few remaining design concerns and asks the Planning Commission to consider the following:
  - Materials: The project includes a mix of materials, including cementitious treatments (plaster or stucco finish), and significant quantities of metal treatments. Staff believes that the metal finishes are critical to the architectural success of the building and seeks to ensure that the project retains the metal exterior treatment through to project delivery. Metal is a significantly more expensive finish than stucco. Applicants often seek to value-engineer exterior treatments during project delivery. Staff recommends that the Planning Commission demand high-quality finishes for this project, specifically retention of the metal finishes (and significant quantities thereof).

- Colors: Staff recommends that the applicant explore somewhat warmer options for the black metal panel and white cementitious products. The warmth of the custom patina metal should be complemented by the other dominant material colors.
- 9<sup>th</sup> Avenue Ground Floor: As noted above, more study is required to demonstrate the ground floor residential units facing 9<sup>th</sup> Avenue have adequate separation from the public right-of-way to support privacy, safety and comfort for residents.

### *Compliance with Design Guidelines*

As noted above, staff has worked with the applicant and the architect to deliver high-quality architectural and urban design for the Brooklyn Basin Parcel C project. The original Parcel C plan submittal was designed to fully comply with the “Oak to Ninth Avenue/Brooklyn Basin Design Guidelines” (design guidelines). However, staff found the appearance of the project to be busy and unorganized and the central design concepts to be lost in meeting the guidelines. The plans have been revised twice to clarify the major design concepts, calm the appearance and deliver a building that is different from yet harmonious with the adjacent Parcel B project. Based on staff comments, the applicant has revised the plans in a manner that is not entirely compliant with the design guidelines. Compliance with design guidelines is not specifically required, and the intent of design guidelines is to ensure the delivery of attractive buildings with land uses appropriately sited to provide an active street frontage. Staff believes the Parcel C design achieves the intent of the design guidelines without meeting some of the specific guidelines. Staff is providing analysis of how and why the Parcel C proposal does and does not meet key design guidelines for the edification of the Design Review Committee:

- Compliant Features:

- Vertical expression at corners and towers encouraged: Each of the four corners of the building is distinct from the rest of the building.
  - *In general, the corners are more transparent and are treated to appear as vertical landmark feature.*
- To promote additional variation and articulation, changes in building materials are encouraged, consistent with the coherent volumetric approach to the overall massing and architectural expression. Varied fenestration, balconies, bay windows, loggia, etc. are also encouraged.
  - *The project includes a language of features and patterns based on the geometric gable theme. The features include: articulated geometric volumes, balconies and bay windows; complementary exterior treatment materials; and varied window openings and fenestration intended to emphasize connectivity between private and public realms while protecting privacy and providing visual clues to the residential nature of the building (particularly on the upper levels).*
- The parking garage façade should be architecturally integrated with the façade of the occupied space served by the garage.
  - *The parking garage is nested within the proposed Parcel C building, except on the 8<sup>th</sup> Street side. Along 8<sup>th</sup> Avenue, the exterior treatment of the garage is consistent with and complementary to the design themes and features of*

- the overall project. In this way, the appearance of the garage is deemphasized.*
- The proportion and subdivision of typical windows should reflect the overall proportion and character of the building.
    - *As noted above, the varied window openings and fenestration are intended to emphasize connectivity between private and public realms while protecting privacy and providing visual clues to the residential nature of the building (particularly on the upper levels).*
  - Terraces and open spaces for the use and enjoyment of residents are encouraged.
    - *The proposed Parcel C project includes balconies integrated into the architectural design of the building, as well as a significant podium-level amenity space facing 9<sup>th</sup> Avenue and Shoreline Park. The podium-level amenity space includes a pool.*
  - Appliance vents, exhaust fans, and similar roof penetrations should be located so as to not be visible from streets or open spaces.
    - *Roof penetrations are set back from the parapet and will not be visible from the public rights-of-way within the Brooklyn Basin district.*
  - If stoops are used, they should become an attractive addition to the ambience of the street and provide another layer of positive activities to the streetscape environment.
    - *The stoops and entrance patios facing the mews are designed to be integral to the design of the mews itself.*
  - Non-Compliant Features:
    - Buildings should introduce a differentiated architectural expression and/or a step of at least 5 feet, above a height of 65 feet, to allow for the uppermost floors to be articulated, and to maintain a perceived street wall height roughly equivalent to, or less than, the building face-to-face dimension across the street...
      - *The proposed Parcel C design does not consistently provide a stepback above a height of 65 feet. Staff encouraged the applicant to eliminate stepbacks in many instances to emphasize the dynamic visual effect of the vertical geometric theme of the building. The result is a more powerful design that is visually unique from the adjacent Parcel B project and architecturally elegant.*
    - Significant changes in building massing should be provided above a height of 30 feet. Such changes are defined as a building offset of not less than five (5) feet for 20% of the building frontage along a public street or open space, incorporated at particular intervals depending upon the frontage and the scale of the adjoining street or public space.
      - *The proposed Parcel C design does not consistently provide changes to the massing above the height of 35 feet. Staff encouraged the applicant to reduce massing changes in many instances to emphasize the dynamic visual effect of the vertical geometric theme of the building. The result is a more powerful design that is visually unique from the adjacent Parcel B project and architecturally elegant.*

- A two- to eight-foot building setback along the mixed use streets and along the waterfront/park edges is intended to encourage a variety of urban design features at the street level consistent with ground floor uses...
  - *The project includes extensive active uses on the ground floor and maximizes porosity and transparency between the public and private realms on the ground floor. Staff believes that, in this instance, the ground floor uses and openings fully achieve the urban quality objective of this guideline and that setbacks are not required.*
- Ground level residential units that are at grade or elevated above the adjacent sidewalk should include other devices that protect the privacy of the unit from the street. If the average setback is less than three feet from the property line along a non-commercial street, ground floor residential uses should be raised a minimum of three feet above grade. In addition, setback areas adjacent to residential units should provide separation from the public right-of-way with decorative low fences, vegetation or other attractive barriers.
  - *At this time, it is unclear if and/or how the ground floor units facing 9<sup>th</sup> Avenue achieve a comfortable separation between the units and the public right-of-way. It appears that the units are within one elevation foot of grade and that there is no setback along that edge. The applicant should provide more information about how privacy will be achieved for these units while providing a sense of connectivity to the adjacent street and park environment.*
- Articulated building entries should be provided wherever appropriate, at intervals of at least 200 feet or one per block face.
  - *The Parcel C project meets the intent of the guideline by providing articulated building entries on all sides of the project. In addition, the project includes residential stoops along the mews and significant commercial openings along Brooklyn Basin Way (that wrap around 8<sup>th</sup> Avenue, as well).*

#### *Conditions of Approval and Impact Fees*

The proposed FDP is part of the previously approved Brooklyn Basin project. Brooklyn Basin is subject to both a PUD and a Development Agreement. Conditions of Approval were applied to the PUD at the time of adoption (2009). The adopted Conditions of Approval and requirements of the DA continue to apply to the project. With regards to recently adopted impact fees, the Development Agreement for the Brooklyn Basin project stipulates that no new fees can be applied to the project following the date of DA approval (2009). As such, impact fees are not applied to the Parcel C FDP.

#### **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 provided under separate cover to the Planning Commission

(Attachment B) and 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 Parcel C FDP. In accordance with CEQA, the City reviewed and analyzed the proposed Parcel C FDP application 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 is 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 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 C 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:

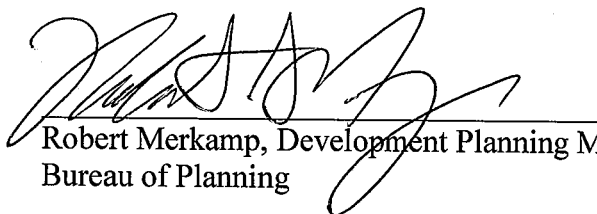
1. Pursuant to CEQA Guidelines Section 15162, and based on the attached findings (and incorporated herein by reference), rely on the Oak to Ninth Avenue Project EIR as adequate under CEQA for analysis of the Brooklyn Basin Parcel C Final Development Permit;
  2. Approve the Brooklyn Basin Parcel C Final Development Permit, subject to the attached findings and following staff recommendations:
    - a. Direct applicant to retain metal siding material as shown in approved plans;
    - b. Direct applicant to work with staff to explore options for a warmer color palette; and
    - c. Direct applicant to work with staff to provide adequate separation between ground floor units facing 9<sup>th</sup> Avenue and adjacent public right-of-way.
- and
3. Approve a Minor Variance for reduction of seven required on-site parking spaces, based on the attached findings.

Prepared by:



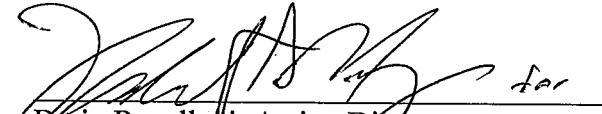
Catherine Payne, Planner IV

Reviewed by:



Robert Merkamp, Development Planning Manager  
Bureau of Planning

Approved for forwarding to the Planning Commission:

  
Darin Ranelletti, Acting Director  
Department of Planning & Building

Attachments:

- A. Proposed Brooklyn Basin Parcel C Plans, dated July 14, 2017
- B. Oak to Ninth Avenue Redevelopment Project EIR (provided under separate cover to the Planning Commission; available to the public at 250 Frank Ogawa Plaza, Suite 3315, Oakland CA, 94612 during regular business hours, and at <http://www2.oaklandnet.com/Government/o/PBN/OurOrganization/PlanningZoning/DO WD008409> ).
- C. 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)

**REQUIRED FINDINGS:  
BROOLYN BASIN SHORELINE PARK  
FINAL DEVELOPMENT PERMIT**

Required findings include:

- California Environmental Quality Act
- Planned Waterfront Zoning District-4(PWD-4) Findings for FDP
- Regular Design Review: Planning Code Section 17.136.050
- Variance Findings: Planning Code Section 17.148.050

### 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 provided under separate cover to the Planning Commission (Attachment B) and 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 Parcel C 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 is 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 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 C 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 C development.

### City of Oakland Design Review Findings

The proposed Brooklyn Basin Parcel C design is subject to Planning Code Section 17.136.050 - Regular design review criteria. Accordingly, regular design review approval may be granted only if the proposal conforms to all of the following general design review criteria, as well as to any and all other applicable design review criteria:

#### 17.136.050 Regular design review criteria.

Regular design review approval may be granted only if the proposal conforms to all of the following general design review criteria, as well as to any and all other applicable design review criteria:

1. For Residential Facilities.

1. That the proposed design will create a building or set of buildings that are well related to the surrounding area in their setting, scale, bulk, height, materials, and textures:

*The proposed Brooklyn Basin Parcel C project is a residential building that is designed to comply with the applicable design regulations for the site. The project incorporates subtle nautical colors, materials and shapes to respond to the site's location along the Oakland Estuary. In addition, the project includes design features and articulation of massing intended to complement the remaining portion of the nearby 9<sup>th</sup> Avenue Terminal.*

2. That the proposed design will protect, preserve, or enhance desirable neighborhood characteristics;

*The proposed Brooklyn Basin Parcel C project is the second of 12 vertical development blocks to be considered for final entitlements. The project helps set the tone for the entire district by complying with the intent of the design guidelines while incorporating whimsical design themes and details to provide a unique visual appearance in the neighborhood.*

3. That the proposed design will be sensitive to the topography and landscape.

*The Brooklyn Basin Parcel C site is located in a generally flat area adjacent to the Oakland Estuary. The vacant site is part of a larger bay fill area most recently used for industrial, warehousing and transportation land uses. The project incorporates subtle nautical colors, materials and shapes to respond to the site's location along the Oakland Estuary. In addition, the project includes design features and articulation of massing intended to complement the remaining portion of the nearby 9<sup>th</sup> Avenue Terminal.*

4. That, if situated on a hill, the design and massing of the proposed building relates to the grade of the hill;

*NA.*

5. That the proposed design conforms in all significant respects with the Oakland General Plan and with any applicable design review guidelines or criteria, district plan, or development control map which have been adopted by the Planning Commission or City Council.

*As noted throughout this staff report, the Parcel C Final Development Permit is an evolution and refinement of the approved Planned Unit Development, and complies with the underlying regulations controlling development of the site, and with the intent of the design guidelines for Brooklyn Basin.*

### City of Oakland Variance Findings

The proposed Brooklyn Basin Parcel C design requires a minor variance for reduce parking. Accordingly, minor variance approval may be granted only if the proposal conforms to all of the following general variance findings, below:

#### 17.148.050 Findings required.

A. With the exception of variances for Adult Entertainment Activities or Sign Facilities, a variance may be granted only upon determination that all of the following conditions are present:

1. That strict compliance with the specified regulation would result in practical difficulty or unnecessary hardship inconsistent with the purposes of the zoning regulations, due to unique physical or topographic circumstances or conditions of design; or, as an alternative in the case of a minor variance, that such strict compliance would preclude an effective design solution improving livability, operational efficiency, or appearance.

*Strict compliance with the Brooklyn Basin district parking regulations would preclude an effective design solution with regards to livability and appearance. The proposed parking solution eliminates ground-floor parking that would result in a blank façade along 8<sup>th</sup> Avenue. By reducing parking, the project, which occupies an entire city block, is able to include active uses along all street frontages. Eliminating parking on the ground floor results in an attractive, usable right-of-way adjacent to the project, promoting public use and safety. In addition, the reduced parking minimizes the amount of exposed parking above the ground floor along 8<sup>th</sup> Street, resulting in a more activated and attractive façade along this block face.*

2. That strict compliance with the regulations would deprive the applicant of privileges enjoyed by owners of similarly zoned property; or, as an alternative in the case of a minor variance, that such strict compliance would preclude an effective design solution fulfilling the basic intent of the applicable regulation.

*The current parking regulations for the Brooklyn Basin district have not been updated to reflect the more contemporary approach to on-site parking reflected in other moderate- to high-density zoning districts in Oakland. The project will provide 95 percent of the required parking and will unbundle parking so that parking is available on an as-needed basis. This should ensure that all tenants who desire parking have spaces available.*

3. That the variance, if granted, will not adversely affect the character, livability, or appropriate development of abutting properties or the surrounding area, and will not be detrimental to the public welfare or contrary to adopted plans or development policy.

*The proposed reduction in required parking would enhance livability and character of the development by maximizing active street frontages and building facades. In addition, unbundled parking will likely ensure that all tenants who wish to are able to have available parking on-site.*



4. That the variance will not constitute a grant of special privilege inconsistent with limitations imposed on similarly zoned properties or inconsistent with the purposes of the zoning regulations.

*The proposed reduction in on-site parking is minimal and would comply with the current parking regulations for many other moderate- to high-density residential zoning districts in Oakland.*

5. That the elements of the proposal requiring the variance (e.g., elements such as buildings, walls, fences, driveways, garages and carports, etc.) conform with the regular design review criteria set forth in the design review procedure at Section 17.136.050.

*The proposed reduction in on-site parking in fact supports compliance with the design guidelines and design review criteria for the Brooklyn Basin area. In this case, reduce quantity of parking enhances an active project street frontage on all sides of the project.*

6. 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 have been adopted by the Planning Commission or City Council.

*The proposed project complies with the applicable regulatory framework in all ways, with the exception of this minor variance. The minor variance supports compliance with guidelines and regulations requiring active street frontages and visually interesting building facades along the public right-of-way*

7. For proposals involving one (1) or two (2) residential dwelling units on a lot: That, if the variance would relax a regulation governing maximum height, minimum yards, maximum lot coverage or maximum floor area ratio, the proposal also conforms with at least one of the following additional criteria:

1. The proposal when viewed in its entirety will not adversely impact abutting residences to the side, rear, or directly across the street with respect to solar access, view blockage and privacy to a degree greater than that which would be possible if the residence were built according to the applicable regulation and, for height variances, the proposal provides detailing, articulation or other design treatments that mitigate any bulk created by the additional height; or
2. Over sixty percent (60%) of the lots in the immediate vicinity are already developed and the proposal does not exceed the corresponding as-built condition on these lots and, for height variances, the proposal provides detailing, articulation or other design treatments that mitigate any bulk created by the additional height. The immediate context shall consist of the five (5) closest lots on each side of the project site plus the ten (10) closest lots on the opposite side of the street (see illustration I-4b); however, the Director of City Planning may make an alternative determination of immediate context based on specific site conditions. Such determination shall be in writing and included as part of any decision on any variance.

*NA.*