

October 23, 2005

Margaret Stanzione, Project Planner
City Of Oakland
Community and Economic Development Agency
250 Frank Ogawa Plaza, Suite 3315
Oakland, CA 94612

RE: Comments on the Oak to Ninth Avenue Project DEIR
sent via e-mail:mstanzione@oaklandnet.com

Dear Ms. Stanzione:

This is Waterfront Action, Inc.'s response to the Draft Environmental Impact Report for the Oak to Ninth Avenue Project.

Waterfront Action is a citizen-based non-profit organization. Our mission is to promote full implementation of the Estuary Policy Plan and the Lake Merritt Park Master Plan; to protect the public trust; and to educate the citizens about the region's waterfront and its assets. As Executive Director, I bring my experience of historic waterfront processes to the organization. I worked on the League of Women Voters of Oakland Waterfront Study in 1992-1993, and I attended the two day charette workshop (funded jointly by the City and Port) in June of 1995 to dream the vision for the waterfront. In addition I served on the Estuary Advisory Committee for two years, and worked with other committee members to support passage of the Estuary Policy Plan (EPP) by the Planning Commission, the Port Commission and the City Council in June 1999, thereby incorporating it into the City's General Plan.

Waterfront Action's response includes the following position points:

- **The June 8, 1999 EPP should serve the base line against which the project is measured in the DEIR.** The EPP has been adopted as part of the City's General Plan, and as noted below, SB1622 calls for consistency with it.
- **The DEIR appropriately recognizes that the project must conform to the provisions of SB 1622, as adopted:** "The City's approval of the project will be conditioned upon subsequent compliance with the provisions of SB1622 [p. IV.A-33].
- **The DEIR does not provide a clear analysis of the project's conformance with EPP policies.** From the DEIR discussion of the EPP [IV.A-11 through IV.A-14], it is difficult to understand how the proposed project conforms to policies OAK-1 through OAK-12. Indeed, it entirely fails to address several policies. Waterfront Action

believes that the DEIR should show for each EPP policy, how the project: **a)** is consistent with the policy, **b)** conflicts with the policy, or **c)** does not address the policy, which should then be addressed through alternate implementation planning.

- **The project's non-conformance to the EPP cannot properly be addressed by future amendments to the City's general plan;** SB 1622 calls for the project's proposed land-swap to "effectuate the principles and objectives contained in regional and local land use plans, especially the estuary plan..."[Sec 3(a)] SB1622 refers to the EPP in its form in 2004, when the legislature passed 1622. Similarly, it calls for "public access consistent with policies OAK-9, OAK-10, OAK-11, and OAK-12 of the estuary plan in effect on June 1, 2004..."[Sec 4(D)(h)]. If the project is proposed to conform to some other, future amended EPP and General Plan, then the provisions of 1622 are not satisfied and further legislation will be required to address these new circumstances.

Following are Waterfront Action's detailed comments and questions regarding the DEIR's conformance with a range of EPP policies. Each comment identifies the relevant EPP policy number:

OAK-1: *Protect and enhance the natural and built components that establish the waterfront's unique environment.*

The Ninth Avenue Terminal Shed is a historic element reflecting the long history of waterfront industry that continues to bring commerce to Oakland. To reduce it to a shadow would not "protect and enhance...the built components" existing on the site. Filbrick's Boat Works, founded in 1934 and located in a historic building, is one of the few remaining wooden boat builders. This is both a historic and public trust use. It is slated to be demolished.

How does the project address the following specific EPP policies?

OAK-1.1: *Encourage the preservation and enhancement of wetland areas.*

OAK-1.2: *Provide for continuous pedestrian and bicycle movement along the water's edge.*

OAK-1.3: *Undertake remediation of contaminants in conjunction with development and/or improvement of relevant sites.*

OAK-2: *Establish a well-structured, integrated system of major recreational facilities which accommodate a wide variety of activities and which take advantage of the unique waterfront setting. Promote a variety of recreational experiences.*

By creating streets that do not connect to the Embarcadero at right angles, the developer is blocking the view corridors necessary for the public to see not only the water but the parks scheduled in the project.

How does the project address the following specific EPP policies?

OAK-2.1: *Expand Estuary Park. Encourage aquatic sports within the mouth of Lake Merritt Channel. Expand & Rehabilitate Estuary Park. Develop the Jack London*

Aquatic Center. Develop the mouth of Lake Merritt Channel as a protected water space for aquatic sports.

OAK-2.2: Create a major new park on the east side of the mouth of the Lake Merritt Channel, at the Estuary.

OAK-2.3: Enhance Clinton Basin. Rehabilitate the marina. Establish a linear open space composed of a series of smaller parks around Clinton Basin. Provide for a limited number of new recreational slips east of Fifth Avenue.

OAK-2.4: Establish a large park in the area of the existing Ninth Avenue Terminal to establish a location for large civic events and cultural activities.

OAK-3: Link the estuary to Lake Merritt by enhancing the Lake Merritt Channel.

It appears that this goal is outside the scope of this project. It must be addressed through other implementation plans.

OAK-4: Provide for lively, publicly oriented activities that complement the adjacent waterfront parks and open spaces.

Housing adjacent to open spaces can privatize or otherwise restrict the public celebration space anticipated in the EPP. There would need to be the caveat about public parks and potential events written into the disclosures of every for-sale unit in the project.

How does the project address the following specific EPP policies?

OAK-4.1: Preserve and expand the existing Fifth Avenue Point community as a neighborhood of artists and artisan studios, small businesses, and water-dependent activities.

OAK-4.2: Promote development of educational and cultural interpretive facilities.

OAK-4.3: Facilitate the relocation of break-bulk cargo operations from the Ninth Avenue Terminal.

OAK-4.4: Promote development of commercial- recreational uses in the vicinity of the Crescent Park and Clinton Basin.

OAK-4.5: North of the Embarcadero, encourage a mixed-use district while maintaining viable industrial uses.

OAK-5: Initiate more specific planning of the entire Oak to Ninth District.

The Port and the City jointly decided to save money by not doing a Specific Plan. Why was this action not brought before City Council?

OAK-6: Explore the future potential for a new BART station and a major parking facility on BART property at Fifth Avenue and East Eighth Street.

This is outside the scope of this project.

OAK-7: Coordinate with CalTrans on the upgrade of the I-880 Freeway to improve regional access to the waterfront.

The City is the lead agency for this effort.

OAK-8: Enhance Fifth Avenue as the principal pedestrian and vehicular linkage to the public open space surrounding the mouth of the Lake Merritt Channel.

This is a critical piece in terms of public safety that is not discussed in the DEIR.

II-43 B.6 Project would increase potential for pedestrian safety conflicts.

Mitigation: none required

IVA-15: Stronger physical circulation connections to nearby areas are not likely to occur.

When adding over 3,000 people to an area, is there not an obligation to enhance pedestrian safety? 5th Avenue as currently configured, is a dangerous intersection at the Embarcadero. This will be the main ingress and egress from the development. Pedestrians must have safe alternatives to get over the Embarcadero roadway.

IVB-8: IVB-8 The Embarcadero/5th Avenue intersection operates under a u\stop sign control on three approaches; ...The heavy eastbound traffic flow (about 500 vehicles during each peak hour) is forced to stop and can often experience long delays.

IVB-60: Railroad Operations: Because no set schedule exists for freight rail operations, more or fewer trains could operate along this line in the future.

There is no mention of AMTRAK's Capitol Corridor plans for significantly increasing the number of Oakland to San Jose commuter trains. Where is the analysis of future plans of both AMTRAK and Union Pacific affecting this significant 5th Avenue corridor?

This single intersection 5th Avenue at the Embarcadero has a number of circumstances that will significantly impact automobile traffic, bicycle and pedestrian crossings. Who will provide a full assessment of railroad impacts including traffic studies at 5th Avenue and Oak to determine the most effective mechanisms for providing safe passage to and from the OHP project?

Key elements in the EPP were incorporated into the legislation (SB1622) necessary for the Public Trust trade to move forward. These elements include OAK-9 through OAK-12:

OAK-9: Improve the Embarcadero east of Oak Street as a multimodal landscaped parkway with bicycle, pedestrian and vehicular facilities

Is the proposed project consistent with this policy? How?

OAK-10: Create a network of pedestrian-friendly streets that opens up views and access to the water

The EPP specifies: *"The configuration of streets should be aligned to promote views and access to the shoreline, provide convenient access to and parking for open spaces, and discourage fast-moving through traffic. Streets should include generous provisions for*

pedestrians and be landscaped in a manner that extends the open space amenity inland from the shoreline." (p. 98)

By creating streets that do not connect to the Embarcadero at right angles, is the developer is blocking the view corridors necessary for the public to see not only the water but the parks scheduled in the project?

Is the proposed project consistent with this policy?

OAK-11: *Design parking to be convenient and complementary to the public orientation of uses within the area.*

Page IV.B-71(footnote 18) the proposed project would provide covered parking at minimum rates of one space per residential unit, one space per 500 sq. ft. of commercial space, and one space per five boat slips. The project also would provide parking in surface lots in the open space acres of the site (about 75 spaces for project build out), and on-street parking within the project site (about 375 spaces for project build out). The surface lot spaces and on-street spaces do not count toward satisfying the Code requirement.

The parking requirements listed do not reflect the reality of multiple bedrooms generally having multiple cars. A current example of the City permitting one space per unit is the Jack London (loft) District between Alice and Oak, 2nd and 4th Streets. There is no street parking available to support the commercial uses. The Jack London District Neighborhood Association did a survey after completion of the loft developments, and parking demand worked out to be approximately 1.46 spaces (urban housing standard) per unit. For 3100 units, that would use up 4526 spaces which would still result in a shortfall of 542 spaces (when you add the 3534 plus 375 on-street plus 75 for open space).

OAK-12: *Establish a management program for special events access and parking.*

These policies are not being met by the present proposed project. All large open spaces have housing adjacent to them. To avoid privatizing or otherwise restricting the public celebration space anticipated there should be a requirement that the public parks and potential events should be written into the disclosures for every for sale unit in the project.

Policy W9.5: Access to transportation corridors and transit should be provided.

Under Metropolitan Transportation Commission's "Transit Oriented Development" the distance to transit should not exceed one half mile. The Lake Merritt BART station is one mile away, and currently there are no AC Transit services for this corridor. The DEIR on page IVA-10 states that "a public shuttle service between the project site and nearby transit hubs... would be incorporated into the development." Will the developer pay for the shuttle? For what length of time will the developer fund it? Who will determine when it is necessary or not?

Page III-22 Project Phasing

The project would be remediated and developed over a period of approximately 11 years...Improvements (re-vegetation) of Estuary Park and the adjacent Bay Trail would occur by 2018.

The improvements should occur as the staging occurs, so that the first phase of approximately 1,100 units would be accompanied by a functioning Bay Trail and open space area. Note: this is the approach that the Mission Bay Project in San Francisco is using.

Thank you for your review and consideration of these comments.

Sincerely,

Sandra Threlfall
Executive Director