



*Michael Colbruno, Chair
C. Blake Huntsman, Vice Chair
Doug Boxer
Sandra E. Gálvez
Anne Mudge
Madeleine Zayas-Mart*

February 4, 2009
Regular Meeting

REVISED 1-28-09* (See end of Agenda)

MEAL GATHERING **5:00P.M.**

Saigon Restaurant, 326 Frank H. Ogawa Plaza, Oakland.

Open to the public (Members of the public may Purchase their own meals if desired. Consumption of food is not required to attend.)

BUSINESS MEETING **6:00 P.M.**


Hearing Room 1, City Hall, One Frank H. Ogawa Plaza

Persons wishing to address the Commission on any item on the agenda, including Open Forum and Director's Report, should fill out a speaker card and give it to the Secretary "*Agenda items will be called at the discretion of the Chair not necessarily in the order they are listed on the Agenda*". Speakers are generally limited to two minutes at the discretion of the Chair. Applicants and appellants are generally limited to five minutes.

The order of items will be determined under "Agenda Discussion" at the beginning of the meeting. With the exception of Open Forum, a new item will not be called after **10:15 p.m.**, and the meeting will adjourn no later than **10:30 p.m.** unless the meeting is extended by the Chair with the consent of a majority of Commissioners present.

Please check with the Planning Department prior to the meeting regarding items that may be continued. Any agenda item may be continued, without the hearing on the matter being opened or public testimony taken, at the discretion of the Chair. Persons wishing to address the continued item may do so under Open Forum.

For further information on any case listed on this agenda, please contact the case planner indicated for that item. For further information on Historic Status, please contact the Oakland Cultural Heritage Survey at 510-238-6879. For other questions or general information on the Oakland City Planning Commission, please contact the Community and Economic Development Agency, Planning and Zoning Division, at 510-238-3941.

 This meeting is wheelchair accessible. To request materials in alternative formats, or to request an ASL interpreter, or assistive listening device, please call the **Planning Department at 510-238-3941** or **TDD 510-238-3254** at least three working days before the meeting. Please refrain from wearing scented products to this meeting so attendees who may experience chemical sensitivities may attend. Thank you.



**New web-site staff report
download instructions**

Staff reports for items listed on this agenda will be available by 3:00 p.m. the Friday before the meeting, to any interested party, at the Community and Economic Development Agency, Planning and Zoning Division, 250 Frank

H. Ogawa Plaza, Oakland, California 94612. **Reports are available at the Strategic Planning Division on the 3rd floor (Suite 3315), which closes at 5:00 p.m.**

Staff reports are also available on-line, by 3:00 p.m. the Friday before the meeting, at www.oaklandnet.com by searching “Frequently Visited Pages” located on the City of Oakland Homepage. Clicking on “Planning Commission Meetings” will open a menu of Planning Commission and Committee Agendas. Staff reports are available on the selected agenda by clicking on the highlighted case file number. You will need to ensure that your computer will accept pop-ups from the host site (oaklandnet.com) and that your computer has a later version of Adobe Acrobat Reader installed. For further information, please call **510-238-3941**.

If you challenge a Commission decision in court, you will be limited to issues raised at the hearing or in correspondence delivered to the Zoning Division, Community and Economic Development Agency, at, or prior to, the hearing. Any party seeking to challenge in court those decisions that are final and not administratively appealable to the City Council must do so within ninety (90) days of the date of the announcement of the final decision, pursuant to Code of Civil Procedure Section 1094.6, unless a shorter period applies.

Please note that the descriptions of the applications found below are preliminary in nature and that the projects and/or descriptions may change prior to a decision being made.

While attending Planning Commission Meetings, parking in the Clay Street Garage is free. Attendees should write “Planning Commission” on the back of the parking ticket.

Applicants or members of the public that plan power point presentations: Please contact Robynn Parker at raparker@oaklandnet.com or 510-238-2950 or Gwen Brown at gbrown@oaklandnet.com or 510-238-6194 at least 48 hours prior to the meeting.

ROLL CALL

WELCOME BY THE CHAIR

COMMISSION BUSINESS

Agenda Discussion

Director’s Report

Committee Reports



Commission Matters

City Attorney's Report

OPEN FORUM

At this time members of the public may speak on any item of interest within the Commission's jurisdiction. Speakers are generally limited to two minutes or less if there are six or less speakers on an item, and one minute or less if there are more than six speakers.

CONSENT CALENDAR

The Commission will take a single roll call vote on all of the items listed below in this section. The vote will be on approval of the staff report in each case. Members of the Commission may request that any item on the Consent Calendar be singled out for separate discussion and vote.

1.	Location:	<u>2112 Fruitvale Ave.</u> (See map on reverse)
	Assessors Parcel Numbers:	(027 -0837-009-01)
	Proposal:	Request for a Major Conditional Use Permit for a new wireless telecommunication facility (macro) and Regular Design Review to install (12) wall mounted antennas on the roof of Pacific Bell Telephone Company Building
	Applicant:	Verison Wireless
	Contact Person/ Phone	Pamela Noble
	Number:	(925) 786-2362
	Owner:	Pacific Bell Telephone Company, d/b/a AT&T California
	Case File Number:	CMD08-316
	Planning Permits Required:	Conditional Use Permit to install a new wireless telecommunication facility and Regular Design Review to install (12) additional antennas and including a new enclosed equipment cabinet located on grade of the Pacific Bell commercial building.
	General Plan:	Mixed Housing Type
	Zoning:	C-30 District Thoroughfare Commercial Zone / S-4 Design Review Combing Zone
	Environmental Determination:	Exempt, Section 15303 of the State CEQA Guidelines; new construction of small structures, 15301 existing facilities; 15183 Projects consistent with the General Plan or Zoning.
	Historic Status:	Not Potential Designated Historic Property (PDHP); Survey rating: X
	Service Delivery District:	4
	City Council District:	V
	Date Filed:	12/10/08
	Finality of Decision:	Appealable to City Council
	For Further Information:	Contact case planner Jose M. Herrera-Preza at (510) 238-3808 or jherrera@oaklandnet.com

PUBLIC HEARINGS



The hearing provides opportunity for all concerned persons to speak; the hearing will normally be closed after all testimony has been heard. If you challenge a Commission decision in court, you will be limited to issues raised at the public hearing or in correspondence delivered to the Zoning Division, Community and Economic Development Agency, at, or prior to, the public hearing.

The Commission will then vote on the matter based on the staff report and recommendation. If the Commission does not follow the staff recommendation and no alternate findings have been prepared, then the vote on the matter will be considered a “straw” vote, which essentially is a non-binding vote directing staff to return to the Commission at a later date with appropriate findings and, as applicable, conditions of approval that the Commission will consider in making a final decision.

If you wish to be notified on the decision of an agenda item, please indicate the case number and submit a self-addressed stamped envelope, for each case.

Planning Commission decisions that involve “major” cases (i.e., major variances, major conditional use permits) are usually appealable to the City Council. Such appeals must be filed within ten (10) calendar days of the date of the announcement of the Planning Commission decision and by 4:00 p.m. An appeal shall be on a form provided by the Planning and Zoning Division of the Community and Economic Development Agency, and submitted to the same at 250 Frank H. Ogawa Plaza, Suite 2114, to the attention of the Case Planner. The appeal shall state specifically wherein it is claimed there was error or abuse of discretion by the Planning Commission or wherein their decision is not supported by substantial evidence and must include payment in accordance with the City of Oakland Master Fee Schedule. Failure to timely appeal will preclude you from challenging the City’s decision in court. The appeal itself must raise each and every issue that is contested, along with all the arguments and evidence in the record which supports the basis of the appeal; failure to do so will preclude you from raising such issues during your appeal and/or in court.

Any party seeking to challenge a final decision in court must do so within ninety (90) days of the date of the announcement of a final decision, pursuant to Code of Civil Procedure section 1094.6, unless a shorter period applies.

Interested parties are encouraged to submit written material on agenda items in advance of the meeting and prior to the close of the public hearing on the item. To allow for distribution to the Commission, staff, and the public, 25 copies of all material should be submitted. Material submitted at least ten days prior to the meeting may be included as part of the agenda packet; material submitted later will be distributed at or prior to the meeting. To ensure that material is distributed to Commissioners, it should be received by the Commission.

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| 2. | Location: | Portion of Coliseum Gardens Master Plan site; specifically, site bounded by Snell Street, 69th Avenue, the continuation of Lion Way and 70th Avenue |
| | Proposal: | Phase IV of the Coliseum Gardens Master Plan includes development of 72 multi-family residential dwelling units, 73 on-site parking spaces, residential open space and site planning features. |
| | Applicant(s): | Creekside Partners, on behalf of the Oakland Housing Authority, the East Bay Asian Local Development Corporation (EBALDC) in partnership with the Related Companies of California. |
| | Owner(s): | Oakland Housing Authority, City of Oakland |
| | Case File Number(s): | <u>CMV08-247, RZ08-248, GP08-249</u> |
| | Planning Permits Required: | Major Conditional Use Permit and Minor Variance for Phase IV; Tentative Parcel Map. |
| | General Plan: | Mixed Housing Type Residential, Urban Residential |

(continued on page 5)



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Zoning: R-36 Small Lot Residential, R-50 Medium Density Residential, M-30 General Industrial

Environmental Determination: A Mitigated Negative Declaration and a Finding of No Significant Impact for the Coliseum Gardens Master Plan was certified on June 4, 2003. The Planning Commission will consider an addendum to this document.

Historic Status: 849-70th Ave (APN 041-4166-007) is a PDHP, rated Dc3

Service Delivery District: V, Central East Oakland

City Council District: 7 - Reid

Status: NA

Action to be Taken: Consider approval of Major Conditional Use Permit and Minor Variance for Phase IV; recommendation to City Council regarding General Plan Amendment and Rezone

Finality of Decision: Appealable to City Council

For further information: Contact case planner **Catherine Payne** at (510) 238-6168 or by email at cpayne@oaklandnet.com

PLEASE NOTE: ITEMS #3 AND #4, BELOW, HAVE BEEN REMOVED FROM THIS AGENDA.

3. Location: **2500 Embarcadero, Suite C / Just Dance Ballroom**
(**Legal address: 2121 Diesel Street; APN: 019-0070-001-03**)

Proposal: To allow the sale of alcohol by proprietor at temporary/occasional on-site events, mainly during weekend evenings; the project would involve shared on-site parking between adjacent businesses based on alternated business hours and/or off-site event parking that may be accessed by shuttle.

The project would also require a Special Activity Permit/Cabaret license for cabaret/dancehall (City Administrator's Office), Special Event Permit (Police Department), and Public Assembly permit (Fire Department)

Contact Person/ Mr. San Wong / Just Dance Ballroom
Phone Number: (510) 654-8288

Owner: Steve Fagalde / 2100 Embarcadero LLC

Case File Number: **CM08-211**

Planning Permits Required: Major Conditional Use Permit to allow an Alcoholic Beverage Sales Commercial Activity with a conditionally permitted Group Assembly Commercial Activity, CV08321 (OMC Sec. 17.72.040(B), 17.134.020(A)(2)(a)(viii))

Estuary Policy Plan: LI 2: Light Industry (Brooklyn Basin)
(southwest corner: Waterfront Commercial Recreation 2)

Zoning: M-40 Heavy Industrial Zone

Environmental Determination: Exempt, Section 15301 of the State CEQA Guidelines: "operation of existing private structures, facilities";
Section 15183 of the State CEQA Guidelines:

(continued on page 6) Projects consistent with a community plan, general plan or zoning



(continued from page 5)

Historic Status: Not a Potential Designated Historic Property;
Service Delivery District: No Survey Rating
City Council District: IV—San Antonio / Fruitvale
Date Filed: 5—Vice Mayor De La Fuente
Action to be Taken: July 14, 2008
Finality of Decision: Decision based on staff report
For Further Information: *Appealable to City Council*
 Contact case planner **Aubrey Rose, Planner II** at
 (510) 238-2071 or arose@oaklandnet.com

4. **Location:** 522 2nd Street (APN 001-0133-004-00)
Proposal: Alcoholic Beverage Service—Not in a Full Service Restaurant (Dinner Only), expanding existing facility in Jack London Square
Contact Person/Phone Number: Laura Mendoza Govan, (925) 451-6485
Owner: Kimball Allen
Case File Number: REV08-017 (Modifies CM99-070)
Planning Permits Required: Major Conditional Use Permit for Alcoholic Beverage Sales, to allow “Kimball’s Carnivale” to have sidewalk seating during lunch and dinner hours, relocate the entrance to 215 Washington Street, and add 7 ½ hours daily to service times (expand from 6 pm to 1:45 am, to be 10:30 am to 1:45 am, to allow lunch service); other uses remaining as approved by Major Conditional Use Permits CM99-070 & CM04-396
General Plan: E-11 Estuary Plan (Industrial)
Zoning: M-30 General Industrial Zoning District
Environmental Determination: Exempt, Section 15301 of the State CEQA Guidelines: Modification of small structures
 Additional citation: Section 15183 of the State CEQA Guidelines: Projects consistent with a community plan, general plan or zoning
Historic Status: Not a Potential Designated Historic Property
Service Delivery District: Metro
City Council District: 3
For Further Information: Contact **David Valeska** at (510) 238-2075 or dvaleska@oaklandnet.com

5. **Location:** 630 3rd Street (APN 001-0123-009-00)
Proposal: Alcoholic Beverage Service—Not in a Full Service Restaurant for existing facility in Jack London Square
Contact Person/Phone Number: Thomas Dean (510) 302-9311
Owner: Terradev Jefferson LLC
Case File Number: CM08-319
 (continued on page 7)



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Planning Permits Required: Major Conditional Use Permit for Alcoholic Beverage Sales, to “Oakland Metro Operahouse” for transfer of approved alcohol service before, during and after cultural presentations, from 201 Broadway to a new location at 630 3rd Street

General Plan: E-11 Estuary Plan (Industrial)

Zoning: M-30 General Industrial Zoning District

Environmental Determination: Exempt, Section 15301 of the State CEQA Guidelines: Modification of small structures
Additional citation: Section 15183 of the State CEQA Guidelines: Projects consistent with a community plan, general plan or zoning

Historic Status: Not a Potential Designated Historic Property

Service Delivery District: Metro

City Council District: 3

For Further Information: Contact **David Valeska** at **(510) 238-2075** or dvaleska@oaklandnet.com

6. Location: **2935 Telegraph Avenue (APN’s 009-0698-001-00; 009-0698-002-01; 009-0698-002-02; 009-0698-002-03; 009-0698-030-00)**

Proposal: To modify Condition of Approval #33. The proposed modification would allow demolition of the historic resource, due to public health and safety, prior to Building Permit Application Approval and the commencement of construction.

Applicant: Courthouse Associates, LLC

Contact Person/Phone Number: Alex Waterbury (650)349-1224

Case File Number: [**REV09-0002 \(Modifies VMD06-441\)**](#)

General Plan: Community Commercial/Urban Residential

Zoning: C-40 – Community Thoroughfare Commercial; R-80 – High-rise Apartment Residential

Environmental Determination: An Environmental Impact Report which focuses on Historic Resources and Transportation/Traffic was certified by the Planning Commission on August 1, 2007.

Historic Status: City of Oakland Historic Resource for purposes of CEQA with an Oakland Cultural Heritage Preliminary Field Rating of B+3 (of major importance, not in an area of primary or secondary importance). Most recently used as the Courthouse Athletic Club, and previously a mortuary remodeled from a residence.

Service Delivery District: North Oakland 2

City Council District: 3 – Nancy Nadel

Action to be Taken: Per staff report.

For Further Information: Contact case planner Joann Pavlinec at **(510) 238-6344** or by email: jpavlinec@oaklandnet.com



PLEASE NOTE: ITEM #7 BELOW, WILL NOT BE HEARD PRIOR TO 8:00 P.M.

7.	Location:	2901 East 12th Street (vacant land located on the southwest side of East 12 th Street near the intersection of 30 th Avenue) (APN's 025-0693-003-03 & 025-0693-008-00)
	Proposal:	Construct a new car wash.
	Applicant:	Pacific Thomas Capital
	Contact Person/Phone Number:	Frank Spangler, Pacific Thomas Capital / (925) 988-0804
	Owner:	Pacific Thomas Corporation; Nova Group
	Case File Numbers:	<u>CMD08-208</u>
	Planning Permits Required:	1) Major Conditional Use Permit to allow a Drive-Through Nonresidential Facility; and 2) Regular Design Review to allow establishment of an Automotive Repair and Cleaning Commercial Activity located within 150 feet of a residential zone.
	General Plan:	Regional Commercial
	Zoning:	M-30 General Industrial Zone
	Environmental Determination:	Exempt, Section 15303 of the State CEQA Guidelines: Construction of new small structures; and Section 15183, of the State CEQA Guidelines: Projects consistent with a community plan, general plan or zoning
	Historic Status:	No historic record (vacant lot)
	Service Delivery District:	4
	City Council District:	5
	Status:	Pending
	Action to be Taken:	Decision on application based on staff report
	Finality of Decision:	Appealable to City Council
	For further information:	Contact the case planner, Darin Ranelletti , at (510) 238-3663 or by e-mail at dranelletti@oaklandnet.com .

APPEALS

The Commission will take testimony on each appeal. If you challenge a Commission decision in court, you will be limited to issues raised at the public hearing or in correspondence delivered to the Zoning Division, Community and Economic Development Agency, at, or prior to, the public hearing; provided, however, such issues were previously raised in the appeal itself.

Following testimony, the Commission will vote on the report prepared by staff. If the Commission reverses/overturns the staff decision and no alternate findings have been prepared, then the vote on the matter will be considered a "straw" vote, which essentially is a non-binding vote directing staff to return to the Commission at a later date with appropriate findings and, as applicable, conditions of approval that the Commission will consider in making a final decision.

Unless otherwise noted, the decisions in the following matters are final and not administratively appealable. Any party seeking to challenge these decisions in court must do so within ninety (90) days of the date of the announcement of the final decision, pursuant to Code of Civil Procedure section 1094.6, unless a shorter period applies.

(There are no appeals on this agenda)



COMMISSION BUSINESS

Approval of Minutes: November 19, 2008 and January 21, 2009
Correspondence

City Council Actions

OPEN FORUM

At this time members of the public may speak on any item of interest within the Commission's jurisdiction. Speakers are generally limited to two minutes or less if there are six or less speakers on an item, and one minute or less if there are more than six speakers.

ADJOURNMENT By **10:30 P.M.** unless a later time is agreed upon by a majority of Commissioners present.

SCOTT MILLER
Zoning Manager
Planning and Zoning Division

NEXT REGULAR MEETING: February 18, 2009

*Revised 1-28-09 to indicate Items #3 and #4 being removed from this agenda, and to add the minutes from the November 19, 2008 meeting;