



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

December 5, 2007
Regular Meeting

REVISED 11-29-07*

REVISED 12-3-07 (see end of Agenda)**

MEAL GATHERING

5:00 P.M.

Saigon Restaurant, 326 Frank Ogawa Plaza, Oakland. Open to the public. (Members of the public may purchase their own meal if desired. Consumption of food is not required to attend.)

BUSINESS MEETING

6:00 P.M.

Hearing Room One, 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

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.



Chair. Persons wishing to address the continued item may do so under Open Forum.

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.**

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

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.

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.

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.

1.	Location:	2335 Market Street (APN: 005-0431-008-02)
	Proposal:	Create separate ownership opportunities for six existing dwelling units. Condominium conversion rights are being generated from 3015 Martin Luther King Way and 2276 MacArthur Blvd.
	Applicant/	Vince Wirthman
	Phone Number:	(510) 504-5683
	Owner:	Dale V. Wirthman
	Case File Number:	<u>TTM7803</u>
	Planning Permits Required:	Tentative Tract Map for a condominium conversion involving 5 or more existing units.
	General Plan:	Mixed Housing Residential
	Zoning:	C-10, Local Retail Commercial Zone
	Environmental Determination:	Exempt, Section 15301 of the State CEQA Guidelines; Existing Facilities, and, Section 15183 of the State CEQA Guidelines; projects consistent with a community plan, general plan, or zoning.
	Historic Status:	Not a Potentially Designated Historic Property; No rating
	Service Delivery District:	1
	City Council District:	3
	Action to be Taken:	Approve with Conditions
	Finality of Decision:	Appealable to City Council
	For Further Information:	Contact case planner Ulla-Britt Jonsson at 510-238-3322 or by email at <u>ujonsson@oaklandnet.com</u>



Location: [Areas in the City with Business Mix and General Industrial General Plan Land Use Classifications and Light Industrial-1, Light Industrial-2, Light Industrial-3 and Heavy Industry Estuary Policy Plan Land Use Classifications](#) (See Attachment B)

Proposal: Consider proposed Revisions to Oakland Planning Code to:

- (1) Add Chapter 17.73 "CIX-1, CIX-2, IG and IO Industrial Zones", which is intended to replace Chapters 17.66 "M-10 Special Industrial Zone Regulations", 17.68 "M-20 Light Industrial Zone Regulations", 17.70 "M-30 General Industrial Zone Regulations", 17.72 "Heavy Industrial Zone Regulations" and 17.98 "S-16 Industrial-Residential Transition Combining Zone Regulations";
- (2) Amend the City's Zoning Maps to map these proposed zones in areas in the city that currently have the General Plan Land Use Classification of Business Mix and General Industrial/Transportation, as well as in areas with Estuary Policy Plan Area land use classifications of Light Industrial-1, Light Industrial-2, Light Industrial-3 and Heavy Industry; areas with the General Plan and Estuary Policy Plan land use classifications described above are generally located in parts of West Oakland and Central and East Oakland, generally south of International Boulevard;
- (3) Amend Chapter 17.10 "Use Classifications" to include more detailed examples and be more reflective of prevailing types of non-residential uses;
- (4) Add Chapter 17.21 "Health and Safety Overlay Zone which, if applied, would enforce the Fire Department's existing mandate to review activities that involve the use or storage of hazardous materials or waste within 300-feet of any residential zone;
- (5) Amend Chapter 17.120 "General Performance Standards" to be more specific about where a stated standard should be measured; and,
- (6) Consider a Proposal for a Definition and Regulations Regarding Work/Live in the Industrially-Zoned Areas

Applicant: Planning Commission

Planning Permits Required: Zoning Text Amendments, Zoning Map Amendments. This is a **discussion item only**. Staff will return to the Commission at a later date with a formal recommendation to be forwarded to the City Council.

General Plan: Business Mix and General Industrial General Plan Land Use Classifications

Zoning: Primarily focused on, but not limited to the industrial zones: M-10 Special Industrial Zone, M-20 Light Industrial Zone, M-30 General Industrial Zone, M-40 Heavy Industrial Zone, and S-16 Industrial-Residential Transition Combining Zone.

Environmental Determination: Staff plans to rely on the previously certified Final Environmental Impact Report (EIR) for the Land Use and Transportation Element of the General Plan (1998); the Oakland Estuary Policy Plan EIR (1998); the EIRs for the West Oakland Central City East, Coliseum and Oakland Army Base Redevelopment Areas; the proposal would also be exempt under CEQA Guidelines section 15061(b)(3): no possibility that the activity in question may have a significant effect on the environment.

Service Delivery District: Metro, 1, 3, 4, 5 and 6

City Council district: 2, 3, 5 6 and 7

Date Filed: 9/13/07

Status: Heard by Zoning Update Committee on 9/10/07 and 10/17/07. Recommended by Zoning Update Committee to be considered by the Planning Commission

Staff Recommendation: Take comments, discuss and give direction to staff.

For further information: Contact **Margot Lederer Prado**, Business Development at (510) 238-6766 or by email at mprado@oaklandnet.com or **Alisa Shen**, Strategic Planning at (510) 238-2166 or by email at ashenshen@oaklandnet.com.



3.	Location:	229 International Boulevard (APN: 020-0127-006-03)
	Proposal:	New construction of an eight story mixed use building containing 94 dwelling units and approximately 2,989 square feet of ground floor retail space and lobby along with parking for 99 cars on a basement level and part of the ground floor.
	Applicant:	Rene Cardinaux AIA Architect
Contact Person/Phone Number:		Rene Cardinaux (707) 763-9555
	Owner:	Raymond and Cindy Zhang
	Case File Number:	CMDV06-432
	Attachments:	Project Plans , Floor Plans , Elevations
Planning Permits Required:		Major Design Review for new construction of a building exceeding 25,000 square feet, Interim Conditional Use Permit for Residential Density allowed within the Urban Residential General Plan Area, and Minor Variances to allow parking stall and aisle dimensions permitted in the S-12 Zone.
	General Plan:	Urban Residential
	Zoning:	C-40, Community Thoroughfare Commercial Zone
Environmental Determination:		Exempt, Section 15332, State CEQA Guidelines, Infill Development. Exempt, 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 (PDHP); rating: F3
Service Delivery District:		3
City Council District:		2
	Status:	Pending
	Action to be Taken:	Decision on application based on staff report.
	Finality of Decision:	<i>Appealable to City Council</i>
For Further Information:		Contact case planner Laura Kaminski at (510) 238-6809 or by email: lkaminski@oaklandnet.com

4.	Location:	1807-1829 Telegraph Avenue – Fox Oakland Theater and Building
		APN 008-0642-001-00
	Proposal:	Major Conditional Use Permit for alcoholic beverage sales at the Fox Theater complex including the Theater, Lobby/Annex Bar and adjacent outdoor seating area
	Applicant:	Fox Theater Master Tenant, LLC
Contact Person/Phone Number:		J. B. Chew, (510) 238-3629
	Case File Number:	CM07482
	Attachments	Part 1 , Part 2 , Part 3 , Part 4
Planning Permits Required:		Major Conditional Use Permit
	General Plan:	Central Business District

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Zoning: Entire Site:
S-17 – Downtown Residential Open Space Combining Zone
Northwestern Portion:
C-51 – Central Business Service Commercial Zone
Southwestern Portion:
C-55 – Central Core Commercial
Eastern Portion:
C-55 – Central Core Commercial
S-8 – Urban Street Combining Zone

Environmental Determination: California Environmental Quality Act, Mitigated Negative Declaration adopted by the Planning Commission on June 1, 2005

Historic Status: Listed on the National Register of Historic Places; City of Oakland Landmark; Anchor and contributor in an Area of Primary Importance

Service Delivery District: Downtown Metro

City Council District: 3, Nancy Nadel

Action to be Taken: Approve with conditions

Finality of Decision: Appealable to City Council

For further information: Contact case planner **Joann Pavlinec** at (510) 238-6344 or by e-mail at jpavlinec@oaklandnet.com

**PLEASE NOTE: THE FOLLOWING ITEMS #5 AND #6
WILL NOT BE HEARD BEFORE 7:30 P.M.**

5. Location: Block T12 of City Center -bounded by 11th/12th/Jefferson Streets and Martin Luther King, Jr. Wy. (APN 002-0027-007-00)

Proposal: To construct a mixed-use project including approximately 588,000 square feet of office space, 9,500 square feet of ground-floor commercial space, and associated structured parking spaces.

Project Sponsor: Shorenstein Realty Investors Eight, L.P./Tom Hart (415) 772-7147

Owner: City of Oakland Redevelopment Agency

Case File Number: [PUD99-215](#)

Planning Permits Required: Modification to Preliminary Development Plan for City Center project, Final Development Plan for Block T12, Design Review, and a Minor Variance for a reduction in the number and dimensions of parking spaces.

General Plan: Central Business District

Zoning: C-51 Central Business Service Commercial Zone/ S-17 Downtown Residential Open Space Combining Zone

Environmental Determination: An Environmental Impact Report was certified in April 2000 for the City Center project, and per CEQA Guidelines Section 15164, Addendum #3 to the City Center Project EIR was prepared for the Block T12 project in November 2007.

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Historic Status: N/A - No structures are located on the site.
Service Delivery District: Metro Downtown
City Council District: 3
Date Filed: August 3, 2007
Action to be Taken: Decision based on staff report
Finality of Decision: Appealable to City Council within 10 days
For Further Information: Contact case planner **Lynn Warner** at (510) 238-6983 or by email: lwarners@oaklandnet.com

6. Location: Uptown Area (bounded by San Pablo Avenue to the west, Thomas L. Berkley Way to the north, Telegraph Avenue to the east, and 19th Street to the south, specifically affects Parcel 4).
Proposal: Mixed use, ground-floor retail with above-ground floor residential uses, as well as associated parking and open space.
Project sponsor: FC Oakland, Inc.
Owner: City of Oakland Redevelopment Agency
Case File Number(s): CMDV07011; T0700003; ER03-0007;
Planning Permits Required: Major Conditional Use Permit; Minor Variance; No-build easement on adjacent City park;
General Plan: Central Business District
Zoning: C-51 Central Business Service Commercial Zone/C-55 Central Core Commercial Zone /S-17 Downtown Residential Open Space Combining Zone
Environmental Determination: The EIR for this project was certified on February 18, 2004 by the Planning Commission. Addendum filed.
Historic Status: Site includes no historic buildings.
Service Delivery District: I – Downtown/West Oakland/Harbor
City Council District: 3
Status: NA;
Action to be Taken: Consider approval and accept addendum to EIR.
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: ITEM #6, ABOVE, HAS BEEN REMOVED FROM THIS AGENDA.

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 28, 2007 (Moved to December 19, 2007)

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: December 19, 2007

*Revised 11-29-07 to indicate Item #2 as a discussion - only item and to indicate the November 28, 2007 minutes being moved to December 19, 2007.

**Revised 12-3-07 to indicate Item #6 (Uptown Parcel 4) being removed from this agenda.