



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

**February 20, 2008**  
**Regular Meeting**

**REVISED 2-13-08\* (See End of Agenda)**

**MEAL GATHERING 5:30 P.M.**

**Hearing Room 4, City Hall, 1 Frank Ogawa Plaza, Oakland.**  
Open to the public. (Members of the public may bring 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 Chair. Persons wishing to address the continued item may do so under Open Forum.

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***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.



**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 3<sup>rd</sup> 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](http://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**

[General Plan Guidelines/Best Fit Determination Process](#)

**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.

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| <b>1.</b> | <p><b>Location:</b> 3407 ("3401") International Blvd. (APN: 033-2196-021-05)</p> <p><b>Proposal:</b> To install a Wireless Communications 'Macro' Facility on the roof of a 4-story building containing a ground-floor business ("Foodvale") and upper-story residences; the facility would feature three rooftop antennas concealed within a new structure, and a 196 square-foot equipment enclosure mounted above an existing ground-level rear trash enclosure.</p> <p><b>Applicant:</b> Maryann Miller, for MetroPCS</p> <p><b>Contact Person/Phone Number:</b> Maryann Miller (510)919-3224</p> <p><b>Owner:</b> Fruitvale Enterprises, LLC</p> <p><b>Case File Number:</b> <b>CMD 07-0449</b></p> <p><b>Planning Permits Required:</b> Major Conditional Use Permit to allow a Macro Facility within 100-feet of a Residential Zone (OMC Sec., 17.134.020(A)(3)(i)); Minor Conditional Use Permits (2) to allow a Macro Facility within the C-28 Zones (OMC Sec. 17.44.060) &amp; S-15 Zone (OMC Sec. 17.97.070, -.100)<br/>Regular Design Review to allow a new Macro Facility within the City (OMC Sec. 17.44.020, 17.97.020, 17.128.070(B), 17.136.040(A)(1), (2), (10))</p> <p><b>General Plan:</b> Neighborhood Center Mixed Use</p> <p><b>Zoning:</b> C-28 Commercial Shopping District Zone<br/>(International Blvd &amp; 34<sup>th</sup> Av./Avenida De La Fuente frontages)<br/>S-15 Transit Oriented Development Zone (E. 12<sup>th</sup> St. frontage)</p> <p><b>Environmental Determination:</b> Exempt, Section 15301(e) of the State CEQA Guidelines:<br/>Existing Facilities (Additions to existing structures)<br/>Exempt, Section 15183 of the State CEQA Guidelines:<br/>Projects consistent with a community plan, general plan or zoning</p> <p><b>Historic Status:</b> Not a Potential Designated Historic Property<br/>Survey Ratings: *3</p> <p><b>Service Delivery District:</b> 4 - San Antonio/Fruitvale</p> <p><b>City Council District:</b> 5 - De La Fuente</p> <p><b>Date Filed:</b> October 15, 2007</p> <p><b>Status:</b> Pending</p> <p><b>Action to be Taken:</b> Decision based on staff report</p> <p><b>Finality of Decision:</b> <i>Appealable to City Council</i></p> <p><b>For Further Information:</b> Contact case planner <b>Aubrey Rose</b> at <b>(510) 238-2071</b> or by email: <b>arose@oaklandnet.com</b></p> |
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<b>2.</b>	<b>Location:</b>	<b>1940 23<sup>rd</sup> Avenue</b>
	<b>Assessors Parcel Numbers:</b>	<b>(021 -0249-026-00)</b>
	<b>Proposal:</b>	Request for a Major Conditional Use Permit for a new wireless telecommunication facility (macro) and Regular Design Review to install (3) concealed antennas inside an existing church cross at the front of the building.
	<b>Applicant:</b>	Metro PCS
	<b>Contact Person/ Phone Number:</b>	Kelly Pepper (415) 558-8188
	<b>Owner:</b>	Twenty Third Avenue Church of God
	<b>Case File Number:</b>	<a href="#">CMD07-366</a>
	<b>Planning Permits Required:</b>	Conditional Use Permit to install a new wireless telecommunication facility and Regular Design Review to install (3) antennas inside an existing church cross including a new enclosed equipment cabinet located in a 3 <sup>rd</sup> floor room.
	<b>General Plan:</b>	Mixed Housing Type
	<b>Zoning:</b>	R-50 High Medium Density Residential Zone
	<b>Environmental Determination:</b>	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.
	<b>Historic Status:</b>	Not a Potential Designated Historic Property; Survey rating: F2-
	<b>Service Delivery District:</b>	4
	<b>City Council District:</b>	V
	<b>Date Filed:</b>	8/13/07
	<b>Finality of Decision:</b>	Appealable to City Council
	<b>For Further Information:</b>	Contact case planner <b>Jose M. Herrera-Preza</b> at <b>(510) 238-3808</b> or <a href="mailto:jherrera@oaklandnet.com">jherrera@oaklandnet.com</a>

## ***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.

<b>3.</b>	<b>Location:</b>	<b>4501 Broadway (APN 013-1138-032-01)</b>
	<b>Proposal:</b>	To operate an administrative office for Kaiser Permanente within the existing 40,500 square foot, two-story office building with an accessory open parking lot.
	<b>Applicant:</b>	Kaiser Foundation / Percy Hsieh
	<b>Contact Person/Phone Number:</b>	Percy Hsieh (510)618-5923
	<b>Owner:</b>	Kaiser Permanente
	<b>Case File Number:</b>	<b>CM08-002 Attachment A Attachment D</b>
	<b>Planning Permits Required:</b>	Major Interim Conditional Use Permit for a non-residential project involving 25,000 square foot or more of floor area; and for commercial activity located in the R-35 Special One-Family Residential Zone occupying more than 1,500 square foot of floor area.
	<b>General Plan:</b>	Community Commercial
	<b>Zoning:</b>	R-35 Special One-Family Residential Zone; and C-40 Community Thoroughfare Commercial Zone
	<b>Environmental Determination:</b>	The use of the 4501 Broadway property as offices for Kaiser was included and analyzed in the Kaiser Master Plan Final Environmental Impact Report (EIR). File: ER050004. On a separate and independent basis, this use qualifies for an Exemption under CEQA Guidelines 15301 (Existing Facilities) and 15183 (Projects consistent with a community Plan, General Plan, or Zoning)
	<b>Historic Status:</b>	Not a Potential Designated Historic Property Survey Rating: X
	<b>Service Delivery District:</b>	2
	<b>City Council District:</b>	1
	<b>Date Filed:</b>	January 7, 2008
	<b>Status:</b>	Pending
	<b>Action to be Taken:</b>	Contained in staff report
	<b>Finality of Decision:</b>	Appealable to City Council
	<b>For Further Information:</b>	Contact Case Planner: <b>Mike Rivera</b> at <b>(510) 238-6417</b> or by email: <b>mriviera@oaklandnet.com</b>

<b>4.</b>	<b>Location:</b>	<b>4311 – 4317 Macarthur Boulevard</b>
	<b>Assessors Parcel Number:</b>	<b>(APN: 030 -1982-121 through 123)</b>



<b>Proposal:</b>	To construct a mixed use senior housing development containing 115 apartments and approximately 3,124 of ground level commercial space. <i>NOTE: This project was continued by the Planning Commission at the September 19, 2007 hearing with no action after receiving public testimony. The item was later heard before both the December 12, 2007 and January 23, 2008 DRC meetings.</i>
<b>Applicant:</b>	AMG Associates
<b>Contact Person / Phone Number:</b>	Kristen Weirick (818)380-2600
<b>Owners:</b>	Hahn Development/Hahn & Kang Equity (510)688-8350
<b>Planning Permits Required:</b>	Major Interim Conditional Use Permit for a project that exceeds the density allowed by the zoning but is consistent with the General Plan; Minor Conditional Use Permit for ground level parking in the C-31 zone, Minor Conditional Use Permit to reduce the required amount of parking as per section 17.116.110 of the O.P.C., Minor Variance for general building height for a structure varying between 47' and 60' tall ; Minor Variance for height of building adjacent to R-50 Zone; and Design Review.
<b>General Plan:</b>	Neighborhood Center Mixed Use
<b>Zoning:</b>	C-30 District Thoroughfare Commercial Zone S-4 Design Review Combining Zone C-31 Special Retail Commercial Zone
<b>Environmental Determination:</b>	Infill Exemption; CEQA Guidelines Section 15332
<b>Historic Status:</b>	No Historic Record – vacant lots
<b>Service Delivery District:</b>	4
<b>City Council district:</b>	4
<b>Date Filed:</b>	August 14, 2006
<b>Staff Recommendation:</b>	Decision based on staff report
<b>Finality of Decision:</b>	Appealable to City Council within 10 days
<b>For further information:</b>	Contact case planner <b>Robert D. Merkamp</b> at 510 238-6283 or by e-mail at <a href="mailto:rmerkamp@oaklandnet.com">rmerkamp@oaklandnet.com</a>

**PLEASE NOTE: ITEM #5, BELOW, HAS BEEN REMOVED FROM THIS AGENDA**

<b>5.</b>	<b>Location:</b> <del>Head Royce School; 4233, 4309, and 4315 Lincoln Ave and 4274 Whittle Ave; (APN: 029A-1367-001-07 through 029A-1367-006-01)</del>
	<b>Proposal:</b> <del>Implementation of the second phase of the Head Royce Master Plan which includes replacement of the existing auditorium (2 proposed schemes); renovation of the administration/arts building; construction of a new gymnasium entry and improvements to the amphitheater; as well as general repairs, interior renovations, mechanical upgrades, and landscape improvements.</del>
(continued on page 7)	<del>The overall master plan and the first phase were approved by the Planning Commission on January 4, 2006.</del>



(continued from page 6)

<b>Applicant:</b>	John Malick and Associates
<b>Contact Person/Phone Number:</b>	John Malick / (510) 595-8042
<b>Owner:</b>	Head Royce School
<b>Case File Number:</b>	<b>PUDF07-520</b>
<b>Planning Permits Required:</b>	Final Development Plan
	<i>The Preliminary Planned Unit Development Plan and the Final Development Plan for the first phase was approved by the Planning Commission on January 4, 2006.</i>
<b>General Plan:</b>	Detached Unit Residential and Hillside Residential
<b>Zoning:</b>	R-30 One Family Residential Zone
<b>Environmental Determination:</b>	Mitigated Negative Declaration for the Master Plan was adopted by the Planning Commission on January 4, 2006 (Case File ER04-0014).
<b>Historic Status:</b>	<del>The existing buildings are not Potentially Designated Historic Properties (PDHP).</del>
<b>Service Delivery District:</b>	IV—Fruitvale
<b>City Council District:</b>	4
<b>Status:</b>	Staff Report (findings contained)
<b>Action to be Taken:</b>	Decision based on staff report
<b>Finality of Decision:</b>	Appealable to City Council within 10 days
<b>For Further Information:</b>	Contact case planner <b>Heather Klein</b> at <b>510 238-3659</b> or by e-mail at <b>hklein@oaklandnet.com</b> .

## 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, 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.



<b>6.</b>	<b>Location:</b> 634 21 <sup>st</sup> Street (APN: 008 -0647-019-01)
	<b>Proposal:</b> Appeal of an Administrative decision to summarily reject the previous appeal documentation as untimely since the application fee was not submitted before the end of the appeal period.
	<i>(NOTE: The proposed appeal (which is NOT currently before the Commission) was the result of an Administrative denial of the demolition permit of the St. Francis de Sales Rectory based on the building's status as a historic resource and the necessity of a Conditional Use Permit and EIR. The Church does not believe the building to be historic or that an EIR is required for its demolition).</i>
	<b>Applicant:</b> Reed Smith LLP
<b>Contact Person/Phone Number:</b>	Sherry Geyer / (415) 543-8700
	<b>Owner:</b> Roman Catholic Bishop of Oakland
	<b>Case File Number:</b> A07-550
	<b>General Plan:</b> Central Business District
	<b>Zoning:</b> C-51 Central Business Service Commercial Zone
	S-17 Downtown Residential Open Space Combining Zone
	<b>Environmental Determination:</b> See above – In dispute but not currently before Commission.
	<b>Historic Status:</b> See above – In dispute but not currently before Commission
	<b>Service Delivery District:</b> Downtown Metro
	<b>City Council District:</b> 3
	<b>Action to be Taken:</b> Decision is final and is not administratively appealable. If the Commission denies the appeal and upholds the Staff determination, then an EIR must be prepared for the demolition of the Rectory. If the Commission upholds the appeal and reverses the Staff determination, the matter will be referred to the Landmark's Board and then will return to the Commission to determine whether the Rectory is a CEQA Historic Resource and if an EIR is required.
	<b>For Further Information:</b> Contact case planner <b>Heather Klein</b> at <b>510 238-3659</b> or by e-mail at <a href="mailto:hklein@oaklandnet.com">hklein@oaklandnet.com</a> .

## COMMISSION BUSINESS

### Approval of Minutes:

#### 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:*** March 5, 2008

\* Revised 2-13-08 to indicate Item #5 being removed from this agenda and to clarify that item #6 is a final action that is not administratively appealable.