



*Michael Colbruno, Chair  
C. Blake Huntsman, Vice Chair  
Doug Boxer  
Sandra E. Gálvez  
Vince Gibbs  
Vien Truong  
Madeleine Zayas-Mart*

**September 2, 2009**  
**Regular Meeting**

Revised 8-24-09\* (See End of Agenda)

**MEAL GATHERING 5:15 P.M.**

**Saigon Restaurant, 326 Frank 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.

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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.

Applicants or members of the public that plan power point presentations: Please contact Daria Edgerly at [dedgerly2@oaklandnet.com](mailto:dedgerly2@oaklandnet.com) or 510-238-2912 or Gwen Brown at [gbrown@oaklandnet.com](mailto: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** Status Report and Timeline for the Citywide Zoning Update

**Committee Reports**

**Commission Matters** Commission Election of Officers



## **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:** 4660 Harbord Drive (APN: 048B-7150-002-04)  
**Proposal:** To install a wireless communication facility for 8 new antennas and 4 interior cabinets on the existing two penthouse facilities located on the rooftop and on the corner building turret of the school facility.  
*(The Planning Commission continued this application from the August 5<sup>th</sup> to the September 2<sup>nd</sup> public meeting for the applicant to assess and revise the collocation of proposed antennas on the building rooftop).*

**Contact Person:** T-Mobile, Ana Gomez-Abarca  
**Phone Number:** (415) 990-5384  
**Owner:** Holy Names High School  
**Case File Number:** CMD09-139  
**Planning Permits Required:** Major Conditional Use Permit to operate a new unmanned wireless communication facility in a residential zone; Regular Design Review for new wireless antennas.

**General Plan:** Institutional  
**Zoning:** R-30 One-Family Residential Zone  
**Environmental Determination:** Exempt, Section 15301(e) of the State CEQA Guidelines: Existing Facilities (additions to existing structures); Section 15183 of the State CEQA Guidelines: Projects consistent with a Community plan, General Plan or Zoning  
**Historic Status:** Potential Designated Historic Property (PDHP); Survey Rating: B+3, Major Importance  
**Service Delivery District:** 2  
**City Council District:** 1  
**Date Filed:** June 17, 2009  
**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 **Mike Rivera**, at (510) 238-6417 or by email at [mrivera@oaklandnet.com](mailto:mrivera@oaklandnet.com)

2.                   **Location:** Citywide  
**Proposal:** Corrections, Refinements and Clarifications of General Plan Land Use Diagram to Generally Reflect Existing Zoning or Land Use, and Conform to the Intent of the Previously Adopted General Plan

**Applicant:** Planning Commission  
**Case File Number:** GP09168  
**Planning Permits Required:** N/A  
**General Plan:** Citywide  
**Zoning:** Citywide  
**Environmental Determination:** Relying on the previously certified Final Environmental Impact Report (EIR) for the Land Use and Transportation Element of the General Plan (ER97-0018).; as a separate and independent basis, this proposal is also exempt under Sections 15061(b)(3), 15183, and/or Section 15273 of the State CEQA Guidelines.

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**Service Delivery District:** Citywide  
**City Council district:** Citywide  
**Date Filed:** July 15, 2009  
**Status:** N/A  
**Staff Recommendation:** Forward recommendation to City Council.  
**For further information:** Contact **Christina Ferracane**, Strategic Planning at (510) 238-3903 or by email: [cferracane@oaklandnet.com](mailto:cferracane@oaklandnet.com)

**PLEASE NOTE: ITEM NO. 3, BELOW, HAS BEEN REMOVED FROM THIS AGENDA.**

3. **Location:** ~~100 Webster Street (APN 001-0149-008-00)~~  
**Proposal:** ~~To conduct wine sales, wine tasting, and group assembly activities at an existing commercial building in the Jack London District.~~  
**Applicant:** ~~Tudal Capital Group, LLC  
Katie Walsh~~  
**Owner:** ~~100 Webster Street, LLC~~  
**Contact Person/Phone Number:** ~~Katie Walsh  
(510) 406-1970~~  
**Case File Number:** ~~CM09-133~~  
**Planning Permits Required:** ~~Major Conditional Use Permit for Alcoholic Beverage Sales Activity.~~  
**General Plan:** ~~Mixed Use District/ Estuary Area~~  
**Zoning:** ~~C-45 Community Shopping Commercial Zone;  
S-4 Design Review Combining Zone~~  
**Environmental Determination:** ~~Exempt, Section 15301 of the State CEQA Guidelines:  
Existing Facilities;  
Section 15183 of the State CEQA Guidelines:  
Projects consistent with a General plan, Community Plan, or Zoning~~  
**Historic Status:** ~~Not a Potential Designated Historic Property (PDHP);  
Survey Rating: D3, Minor Importance~~  
**Service Delivery District:** ~~Metro~~  
**City Council District:** ~~3~~  
**Finality of Decision:** ~~Appealable to City Council within 10 days~~  
**For further information:** ~~Contact case Planner **Mike Rivera**, at (510) 238-6417 or by email at [mrivera@oaklandnet.com](mailto:mrivera@oaklandnet.com)~~

4. **Location:** **316 14th Street (APN 008-0625-047-00)**  
**Proposal:** To operate a bar at a new restaurant in the Central Business District.  
**Applicant:** Jamal Perry  
**Owner:** Unsuik Perry  
**Contact Person/Phone Number:** Jamal Perry  
(510) 719-8175  
**Case File Number:** **CM09-163**  
**Planning Permits Required:** Major Conditional Use Permit to allow Alcoholic Beverage Sales Activity at an existing commercial building.  
**General Plan:** Central Business District  
**Zoning:** C-55 Central Core Commercial Zone;  
S-17 Downtown Residential Open Space Combining Zone

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**Environmental Determination:** Exempt, Section 15301 of the State CEQA Guidelines:  
Existing Facilities;  
Section 15183 of the State CEQA Guidelines:  
Projects consistent with a General plan, Community Plan, or Zoning

**Historic Status:** Not a Potential Designated Historic Property (PDHP);  
Survey Rating: Ed3, Minor Importance

**Service Delivery District:** Metro

**City Council District:** 2

**Finality of Decision:** Appealable to City Council within 10 days

**For further information:** Contact case Planner **Mike Rivera**, at **(510) 238-6417** or by email at [mrivera@oaklandnet.com](mailto:mrivera@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, 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.

**PLEASE NOTE: ITEM NO. 5, BELOW, WILL NOT BE HEARD PRIOR TO 7:30 P.M.**

5. **Location:** 4768 International Boulevard (APN: 035 -2360-018-00)  
**Proposal:** To Appeal the Zoning Manager’s Administrative Determination letter dated May 20, 2009 that indicated the Deemed Approved (legal non-conforming) Status for Alcoholic Beverage Sales Commercial Activity at a General Food Sales Commercial Activity location (a bar, formerly “La Oficina”) had lapsed due to discontinuation of active operation for more than 90 days (from March 17, 2008 to present) and for ceasing to be licensed by the State Department of Alcoholic Beverage Control (ABC), pursuant to OMC Sec. 17.114.050(B) for Nonconforming Uses.

**Appellant/** Juan Burgos  
**Phone Number:** (415) 716-0800  
**Owner:** Juan Burgos  
**Case File Number:** A09-126  
**General Plan:** Urban Residential (street frontage);  
Mixed Housing Type Residential (rear)

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**Zoning:** C-40 Community Thoroughfare Commercial Zone/  
S-4 Design Review Combining Zone (street frontage);  
R-70 High Density Residential Zone (rear)



**Environmental Determination:** Exempt, Section 15270 of the State CEQA Guidelines: Projects Which Are Disapproved;  
 Exempt, Section 15321 of the State CEQA Guidelines: Enforcement Actions by Regulatory Agencies;  
 Section 15183 of the State CEQA Guidelines: Projects Consistent with a Community Plan, General Plan or Zoning

**Historic Status:** Non-Historic Property (NHP); Survey rating: Ed3

**Service Delivery District:** V – Central East Oakland

**City Council District:** 5- Councilmember De La Fuente

**Date Filed:** May 29, 2009

**Action to be Taken:** Uphold the Zoning Manager’s Administrative Determination and Deny the Appeal

**Finality of Decision:** *Final (Not Appealable pursuant to OMC Sec. 17.132.030)*

**For further information:** Contact case planner **Aubrey Rose, Planner II** at (510) 238-2071 or [arose@oaklandnet.com](mailto:arose@oaklandnet.com)

**PLEASE NOTE: ITEM NO. 6, BELOW, HAS BEEN REMOVED FROM THIS AGENDA.**

6. **Location:** **3446 Market Street (APN 009-0739-028-00)**

**Proposal:** Appeal of Zoning Manager determination that Alcoholic Beverage Sales Deemed Approved Status has lapsed

**Applicant:** Richard D. Warren

**Owners:** Musa Selah

**Contact Person/Phone Number:** Richard D. Warren  
(510) 528-4423

**Case File Number:** **A09-142**

**Planning Permits Required:** Appeal of Zoning Manager’s Administrative Determination letter dated June 10, 2009 to lapse the Deemed Approved (legal non-conforming) Status for Alcoholic Beverage Sales Activity under OMC Section 17.114.050(B) due to cessation of possession of a California Alcoholic Beverage Control license and for cessation of Alcoholic Beverage Sales for over 90 days, prior to May 31, 2009, for “New York Market”

**General Plan:** Mixed Housing Type Residential

**Zoning:** R-36 Small Lot Residential Zone

**Environmental Determination:** Exempt, Section 15270 of the State CEQA Guidelines: Projects which Are Disapproved; Section 15321 of the State CEQA Guidelines: Enforcement Actions by Regulatory Agencies; Section 15183 of the State CEQA Guidelines: Projects Consistent with a Community Plan, General Plan or Zoning

**Historic Status:** Not Potential Designated Historic Property

**Service Delivery District:** 1

**City Council District:** 3

**Action to Be Taken:** Uphold the Zoning Manager’s Administrative Determination and Deny the Appeal

**Finality of Decision:** *Final (Not Appealable Pursuant to OMC Sec. 17.132.030)*

**For further information:** Contact case planner **David Valeska**, at (510) 238-2075 or [dvaleska@oaklandnet.com](mailto:dvaleska@oaklandnet.com)



**Approval of Minutes:** August 5, 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:*** September 16, 2009

\*Revised 8-24-09 to indicate Items No. 3 (100 Webster Street) and No. 6 (3446 Market Street) removed from this Agenda.