



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

October 21, 2009
Regular Meeting

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.

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 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 see staff at the meeting for validation of parking tickets.

Applicants or members of the public that plan power point presentations: Please contact Daria Edgerly at dedgerly2@oaklandnet.com or 510-238-2912 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 [Compliance Report on Aaron Metals](#) (750 105th Ave.) Pursuant to Condition of Approval # 8 (Planning Case # CM06-268; City Council Resolution No. 81626 C.M.S.)

Committee Reports

Commission Matters

[Commission Committee Appointments](#)



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:** **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 Katie Walsh
Number: (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
For further information: Contact case Planner **Mike Rivera**, at **(510) 238-6417** or by email at mriviera@oaklandnet.com

2. **Location:** **Bentley School; 1 Hiller Drive, 251 Tunnel Road, 245 Tunnel Road, and 261 Tunnel Road**

APN: **048H-7576-001-04, 048H-7576-030-02, 064 -4231-015 through 064 -4231-017**
Proposal: Increase the student enrollment from 200 to 360 students; change the school operation hours; and allow for childcare, physical education and extracurricular sports classes; and weekday evening, weekend, and summer events at the school. This proposal also includes the number of on-site faculty and the option to change the grade levels from K-8th grade to K-5th grade.
Contact Person/Phone Arlene Hogan / (510) 843-2512
Number:
(continued on page 5)



(continued from page 4)

Owner: Bentley School
Case File Number: ER07-006
Planning Permits Required: New Major Conditional Use Permit (CUP) to increase the student enrollment as required by the original Major CUP (Case File #CM69-107). Changes in school hours, events, grade levels and faculty are included in the new CUP and are not revisions or amendments to the previous 1969 Conditions of Approval.
General Plan: Hillside Residential
Zoning: R-30 One-Family Residential Zone
Environmental Determination: A Draft Environmental Impact Report (EIR) was published on October 28, 2008. The Final EIR will be published by October 9, 2009.
Service Delivery District: II – North Oakland
City Council District: 1
Action to be Taken: Certification of the Environmental Impact Report and decision on the application based on staff report
Finality of Decision: Appealable to City Council
For Further Information: Contact case planner **Heather Klein** at **510 238-3659** or by e-mail at hklein@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.

3. **Location:** **1925 Brush Street (See map on reverse)**
Assessors Parcel Numbers: **003-0047-009-01**
Proposal: Appeal of Zoning Administrator’s approval of application for an Interim Conditional Use Permit to allow expansion of a General Wholesale Sales Commercial Activity and Regular Design Review for an addition to an existing commercial building.
Appellant: Gwen Richardson (510)444-4763
Applicant: Thomas Dolan (510)839-7200
(continued on page 6)

(continued from page 5)
Owner: SuperNutrition (510)446-79680
Case File Number: **A09-183 (CD09-120)**



Planning Permits Required:	Interim Conditional Use Permit to allow expansion of a General Wholesale Sales Commercial Activity and Regular Design Review for an addition to an existing commercial building.
General Plan:	<i>Community Commercial per February 11, 2009 Zoning Determination (Mixed Housing Type Residential)</i>
Zoning:	<i>C-30 District Thoroughfare Commercial Zone/S-20 Historic Preservation District Combining Zone per February 11, 2009 Zoning Determination (R-70 High Density Residential Zone/ S-20 Historic Preservation District Combining Zone)</i>
Environmental Determination:	Exempt, Section 15301 of the State CEQA Guidelines, minor alterations to existing facilities; Section 15183, projects consistent with a community plan, general plan or zoning
Historic Status:	Potential Designated Historic Property (PDHP); Survey Rating: Ec3
Service Delivery District:	1
City Council District:	3
Date Filed:	August 10, 2009
Status:	Pending
Action to be Taken:	Public Hearing
Staff Recommendation:	Deny the appeal and uphold the Zoning Administrator's approval
Finality of Decision:	Final Decision
For further information:	Contact case planner Maurice Brenyah-Addow at 510-238-6342 or by email: mbrenyah@oaklandnet.com

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: November 4, 2009