Oakland City Planning Commission REVISED* AGENDA

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

January 19, 2011
Regular Meeting

Revised 1-7-11* (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

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 devise, 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.

discretion of the 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 also 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**. Select the "Government" tab, scroll down and click on "Planning & Zoning" (under CEDA), click on "visit the Boards and Commissions page" under "Planning Commission". 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 Section1094.6, 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 Cheryl Dunaway at cdunaway@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

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:**	**7400 MacArthur Boulevard (APN: 040A-3408-022-01)(6-28-10)**
	Proposal:	To install three (3) new dish antenna and three (3) new panel antennas on the roof top of an existing building (Elmhurst Pharmacy, formerly the Eastmont Theatre). The Micro-Telecommunication facility has previously existing antennas and will include a roof top (partly canceled) equipment cabinet.
	Applicant:	Jacqueline Smart / Clearwire
	Contact Person/Phone Number:	(510)435-9849
	Owner:	Kal and Nital Patel
	Case File Number:	**CMD10-172**
	Planning Permits Required:	Major Conditional Use Permit and Regular Design Review for Micro-Telecommunication facilities within 100 feet of a residential zone.
	General Plan:	Neighborhood Center
	Zoning:	C-20
	Environmental Determination:	Exempt, Section 15301 of the State of CEQA Guidelines; existing facilities.
	Historic Status:	PDHP, of no particular interest, potentially secondary importance; rating, Ec3
	Service Delivery District:	5
	City Council District:	6
	Status:	pending
	Action to be Taken:	Based on staff report
	Finality of Decision:	Appealable to City Council within 10 days
	For Further Information:	Contact case planner **Moe Hackett** at **(510) 238-3973** or by email: **mhackett@oaklandnet.com**

PLEASE NOTE: ITEM NO. 2, BELOW, HAS BEEN REMOVED FROM THIS AGENDA.

~~2.~~ ~~**Location:**~~	~~**3701 High Street (APN: 030 -1935-017-02)**~~
~~**Proposal:**~~	~~Request for a Major Conditional Use Permit and Design Review to co-locate a total of six antennas (3 panel antennas and 3 internet exchange antennas) and one equipment cabinet to an existing unmanned macro telecommunications facility located on the Bell Tower of St. Lawrence O'Toole Catholic Church.~~
~~**Applicant:**~~	~~Michelle Weller / Clearwire.~~
~~**Contact Person/ Phone**~~	~~Michelle Weller~~
~~**Number:**~~	~~(925) 997-1312~~
~~**Owner:**~~	~~Roman Catholic Bishop of Oakland~~
~~**Case File Number:**~~	~~**CMD10-226**~~
~~**Planning Permits Required:**~~	~~Major Conditional Use Permit to co-locate to an existing wireless telecommunication macro facility within a residential zone and Regular Design Review to add a total of 6 antennas and add a new equipment cabinet. All new antennas will be fully screened.~~
~~**General Plan:**~~	~~Detached Unit Residential~~
~~**Zoning:**~~	~~R-30 One Family Residential 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:**~~	~~IV~~
~~**City Council District:**~~	~~IV~~
~~**Date Filed:**~~	~~8/18/10~~
~~**Finality of Decision:**~~	~~Appealable to City Council within 10 days~~
~~**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

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.

3.	
Location:	**5914 Telegraph Avenue (APN.016-1386-012-03)**
Proposal:	Installation of a wireless telecommunication facility consisting of: eight (8) panel antennas at approximately 66'-2" high above grade and attached to an existing 76'-7" high Monopole with eight (8) existing antennas for total of 16 telecommunication antennas, and 4 accompanying ground mounted equipment cabinets within a chain link enclosure.
Applicant/ Phone Number:	Steven J. Christenson/RS&L Consulting Services (for: T-Mobile Wireless Co.) (530) 368-0730
Owner:	Crown Castle/Bautista Emilio
Case File Number:	**CMD10-072**
Planning Permits Required:	Major Conditional Use Permit with special findings to allow co-location on a Monopole Facility within 100' of a Residential Zone (OMC Sec. 17.16.070, 17.128.080(C), 17.134.020(A)(3)(i)); and Regular Design Review with special findings to allow the expansion of a Monopole Facility (OMC Sec. 17.16.030, 17.128.080(B), 17.136.040(A)(10))
General Plan:	Urban Residential
Zoning:	C-28 Commercial Shopping District Zone and within 100' of R-35 Special-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:	Non-Historic Property; no survey rating
Date Filed:	August 11th 2010
Support/Opposition:	**Support**: Steven J. Christenson/RS& L Consulting Services (for: T-Mobile Wireless Co.) and Vivek Bhatia Oakland residence. **Opposition**, Neighbors: Cory & Megan Borovicka, Nicole M. Aruda, Michael Krajac, Patricia Smith, Carlo & Mary Busby, Tamar Carson, Robert Wiles

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Summary of Planning Commission Action on October 6th 2010:	On October 6, 2010, item #1 on consent calendar; The Planning commission held a Public Hearing, and the Commission took a straw vote to deny Planning approval recommendation, and requested Planning staff prepare findings for denial of Telecommunication co-location project (CMD10-072). On December 1, 2010, the Commission granted a continuance, at the applicant's request, to the Planning Commission meeting on January 19, 2011.
Finality of Decision:	Appealable to City Council within 10 days
For Further Information:	Contact case planner Jason Madani, **Planner II** at **(510) 238-4790** or **jsmadani@oaklandnet.com**

4.	
Location:	**522-20th Street (Thomas Berkley Way)**
Proposal:	Temporary auto-fee parking (up to four years), surface lot, up to 49 spaces (24 paved, and up to 49 with valet service)
Applicant(s):	Terra Linda Development Services, LLC
Owner(s):	Patrick White
Case File Number(s):	**V10-116 (related to REV07-0014)**
Planning Permits Required:	Minor Conditional Use Permit, Minor variance
General Plan:	CBD
Zoning:	CBD-X
Environmental Determination:	Exempt, CEQA sections: 15304, Minor Alterations to land; 15311, Accessory Structures; 15332-Infill Development Projects
Historic Status:	Not a PDHP; vacant
Service Delivery District:	I – Downtown/West Oakland/Harbor
City Council District:	3
Status:	NA
Action to be Taken:	Consider approval of Minor CUP and Minor Variance
Finality of Decision:	Appealable to City Council within 10 days
For further information:	Contact case planner **Catherine Payne** at **(510) 238-6168** or by email at **cpayne@oaklandnet.com**

5.	
Location:	**Citywide**
Proposal:	In all HBX zones: designate Micro and Mini Telecommunications facilities as conditionally permitted; amend zoning code section 17.134.020 (j) to require the Major Conditional Use Permit procedure (including a public hearing before the Oakland Planning Commission) for Telecommunications facilities; amend zoning code section 17.128.110 to require the site alternatives analysis procedure for Telecommunications facilities in the HBX zones for certain Telecom facilities
Applicant:	Planning Commission
Case File Number:	ZT10341
Planning Permits Required:	N/A
General Plan:	Citywide
Zoning:	Citywide HBX zones

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(continued from page 6) **Environmental Determination:**	The zoning text amendment is exempt, each as a separate and independent basis, under CEQA Guidelines Section 15061(b)(3) (the "General Rule" that CEQA applies only to projects which have the potential for causing a significant effect on the environment); Section 15307 ("Actions by Regulatory Agencies for Protection of Natural Resources")—because the ordinance makes citing new telecom equipment subject to a more rigorous administrative and Commission-level review; Section 15183 ("Projects Consistent with a Community Plan, General Plan, or Zoning"). As a further separate and independent basis, the proposal relies on the previously certified Final Environmental Impact Report for the Land Use and Transportation Element of the General Plan, adopted 1998; the Oakland Estuary Policy Plan Environmental Impact Report, adopted 1998; the Final EIR for the 1998 Amendment to the Historic Preservation Element of the General Plan; the 2007-2014 Housing Element Final EIR certified in December 2010; and various Redevelopment Plan Final EIRs.
Service Delivery District:	Citywide
City Council district	Citywide
Date Filed:	December 17, 2010
Staff Recommendation	Forward recommendation to City Council
For further information:	Contact **Devan Reiff**, Strategic Planning at (510) 238-3550 or by email: dreiff@oaklandnet.com

6. **Location:**	**Citywide**
Proposal:	Planning Code Amendment to include Temporary Conditional Use Permit regulations
Project Sponsor:	Planning Commission
Owner(s):	NA
Case File Number(s):	**ZT10-0007**
Planning Permits Required:	Planning Code Amendment
General Plan:	All
Zoning:	All
Environmental Determination:	The proposal relies on the previously certified Final Environmental Impact Report (EIR) for the Land Use and Transportation Element of the General Plan (1998); the FEIR for the 1998 Amendment to the Historic Preservation Element of the General Plan; the Housing Element Update Initial Study/Mitigated Negative Declaration (2004); and CEQA Guidelines Section 15183, "Projects Consistent with a Community Plan, General Plan or Zoning"
Historic Status:	All, including Areas of Primary Importance (APIs), Areas of Secondary Importance (ASIs), landmark properties, and other historically rated properties.
Service Delivery District:	All
City Council District:	All
Status:	Item continued by the Planning Commission to January 19, 2011 agenda.
Action to be Taken:	Consider recommendation to City Council.
For further information:	Contact **Catherine Payne** at **510-238-6168** or by e-mail at **cpayne@oaklandnet.com**

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

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.

7.	**Location:**	**1600 Broadway (APN 008-06222-008-00)**
	Proposal:	Appeal of Administrative Denial of a Request to legalize a wall sign exceeding 513 square feet in area installed without permits on the side of an office building for Oaksterdam University; a substitute mural of similar size has been requested
	Contact Person/Phone Number:	Salwa Ibrahim, (510) 637-9909
	Owner:	Danyol Akol
	Case File Number:	**A10-107 (Appeal Denial of DV10-031)**
	Planning Permits Required:	Appeal of Administrative Denial of Minor Variance for exceeding allowed sign area (513 square feet requested, 20 additional square feet allowed) and Regular Design Review to allow new wall sign
	General Plan:	Central Business District
	Zoning:	CBD-P, Central Business District Pedestrian Zoning District
	Environmental Determination:	Exempt-Section 15270, Projects Which are Disapproved; Section 15321, Enforcement Actions by Regulatory Agencies; Section 15311, Accessory Structures
	Historic Status:	Not a Potential Designated Historic Property
	Service Delivery District:	Metro
	City Council District:	3
	Staff Recommendation:	Deny Appeal
	Finality of Decision:	Final, Not Administratively Appealable
	For Further Information:	**D. Valeska, Planner II,(510) 238-2075** dvaleska@oaklandnet.com

COMMISSION BUSINESS

Approval of Minutes: December 15, 2010

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

SCOTT MILLER
Zoning Manager
Planning and Zoning Division

NEXT REGULAR MEETING February 2, 2011

*Revised 1-7-11 to indicate Item #2 (3701 High Street) as being removed from this agenda.