



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

February 17, 2010
Regular Meeting

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

Hearing Room 4, One Frank Ogawa Plaza, Oakland

Open to the public (Members of the public may bring 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.



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

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.

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 [Bentley School Update](#)

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.	<p>Location: 1305 Everett Avenue (APN: 024 -0544-001-00)</p> <p>Proposal: Request for a Major Conditional Use Permit for a new wireless telecommunication facility (mini) and Regular Design Review to install (5) antennas on the parapet wall on the roof of a residential building.</p> <p>Applicant: Clearwire Corp.</p> <p>Contact Person/ Phone Number: Michelle Weller (925) 997-1312</p> <p>Owner: Abe Naiditch</p> <p>Case File Number: CMD09-219</p> <p>Planning Permits Required: Conditional Use Permit to install a new wireless telecommunication mini facility and Regular Design Review to install (3) panel antennas, (2) microwave antennas and including a new enclosed equipment cabinet located inside a detached garage.</p> <p>General Plan: Detached Unit Residential</p> <p>Zoning: R-50 Medium Density Residential Zone</p> <p>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.</p> <p>Historic Status: Not Potential Designated Historic Property (PDHP); Survey rating: X</p> <p>Service Delivery District: 3</p> <p>City Council District: V</p> <p>Date Filed: 10/19/09</p> <p>Status: This item was on the January 20, 3010, agenda and was continued to February 17th at the request of the Council office.</p> <p>Finality of Decision: Appealable to City Council</p> <p>For Further Information: Contact case planner Jose M. Herrera-Preza at (510) 238-3808 or jherrera@oaklandnet.com</p>
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2.	<p>Location: 3700 Dorisa Avenue</p> <p>Assessors Parcel Numbers: (043A -4675-005-13)</p>
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Proposal: Request for a Major Conditional Use Permit for a co-location of a new wireless telecommunication facility (mini) and Regular Design Review to install (1) internet exchange point, (3) panel antennas and (1) enclosed equipment cabinet on northern most down slope of St. Paschal Church.

Applicant: Cortel Corp.

Contact Person/ Phone Number: Michelle Weller (925) 997-1312

Owner: Roman Catholic Bishop of Oakland

Case File Number: **CMD09-269**

Planning Permits Required: Conditional Use Permit to install a new wireless telecommunication mini facility and Regular Design Review to install (3) panel antennas, (1) internet exchange point and including a new enclosed equipment cabinet.

General Plan: Hillside 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: 6

City Council District: VII

Date Filed: 12/10/09

Finality of Decision: Appealable to City Council

For Further Information: Contact case planner **Jose M. Herrera-Preza** at (510) 238-3808 or jherrera@oaklandnet.com

3. **Location:** **1001 42nd Street (APN: 012-1023-001-01)**

Proposal: Establish a new Mini-telecom facility with 9 antennas located within a decorative screen on the roof of an industrial building.

Applicant/ Phone Number: Charnel James (925) 244-1890

Owner: 1001 42nd Street LLC

Case File Number: **CMD09-205**

Planning Permits Required: Major Conditional Use Permit for a Telecommunications Facility within three hundred (300) feet of the boundary of an R-40 residential zone, Regular Design Review permit for a Mini Telecom Facility.

General Plan: Housing and Business Mix

Zoning: HBX-2, Housing and Business Mix Commercial Zone

Environmental Determination: Exempt, Section 15301(k) of the State CEQA Guidelines: Minor Alteration to an Existing Facility; Section 15183 of the State CEQA Guidelines: projects consistent with a community plan, general plan, or zoning.

Historic Status: Potential Designated Historic Property (PDHP); Minor Importance, Potentially Secondary Importance or Superior, Survey Rating Dc3

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Service Delivery District: 2
City Council District: 1
Action to be Taken: Decision on application based on staff report
Finality of Decision: Appealable to City Council
For Further Information: Contact case planner **Ulla-Britt Jonsson** at **510-238-3322** or by email at ujonsson@oaklandnet.com

4. **Location:** **10970 International Boulevard (APN: 047-5596-004-00)**
Proposal: Installation of a wireless facility consisting; one equipment cabinet, located within existing enclosed facility at the ground floor, three microwave antennas, and three panel antennas at approximately 78' high attached to an existing food mart water tank structure with 33 existing antennas for a total of 39 telecommunication antennas.
Applicant: Cortel c/o Clearwire
Contact Person/Phone Number: Michelle Weller (925)997-1312
Owner: Bay Area Commercial, Inc.
Case File Number: **CMD09-278**
Planning Permits Required: Regular Design Review to install 3 microwave antennas, 3 panels telecommunication antennas and one equipment cabinet to be located within existing enclosed facility.
Major Conditional Use Permit for the installation of a Macro telecommunication facility within 100 feet of a residential zone.
General Plan: Community Commercial
Zoning: C-40 Community Thoroughfare Commercial Zone.
S-4 Design Review Combining Zone.
Environmental Determination: Exempt, Section 15301 of the State CEQA Guidelines; minor additions and alterations to existing structures.
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; Survey Rating: N/A
Service Delivery District: 6
City Council District: 7
Status: Pending
Action to be Taken: Decision of Application
Finality of Decision: *Appealable to City Council*
For Further Information: Contact case planner Jason Madani at **(510) 238-4790** or by email: jmadani@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 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.

5.	<p>Location: Citywide between San Leandro & Berkeley, primarily along International Boulevard and Telegraph Avenue</p> <p>Proposal: Discussion and Recommendation on the proposed East Bay Bus Rapid Transit (BRT) project, including direction on a Locally Preferred Alternative (LPA) for route and stations.</p> <p>Applicant: City of Oakland/CEDA/Transportation Services Division</p> <p>Planning Permits Required: None</p> <p>General Plan: Various Commercial and Mixed-Use designations</p> <p>Zoning: Various Districts</p> <p>Environmental Determination: AC Transit is the Lead Agency for Environmental Review; The City of Oakland is a Responsible Agency and will be participating in the EIR/EIS process;</p> <p>Action to be taken: Hold Public Hearing and discuss plans and recommendations for the proposed BRT project through Oakland. Provide a Recommendation on the BRT and specifically the LPA to the City Council;</p> <p>For Further Information Contact Bruce Williams at (510) 238-7229 or bwilliams@oaklandnet.com</p>
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6.	<p>Location: 2417 M L King Jr Way (APN 008-0677-001-00)</p> <p>Proposal: To rebuild the minipark at 25th & M L King Jr. Park</p> <p>Applicant: City of Oakland—Recreation & Parks</p>
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Owners: City of Oakland
Contact Person/Phone Number: Sandra Ousley, CEDA (510) 238-7213
Case File Number: **CU09-050**
Planning Permits Required: Major Conditional Use Permit and Small Project Design Review to allow rebuilding of an existing minipark with natural or artificial turf replacing paved area, over subsurface drainage areas, installing childrens' play equipment, fencing, gates, ADA handicap-accessible concrete paths, trees, drinking fountain, signage, area lights; retaining other features such as cultural murals, on approximately 1/4 acre 25th & M L King Jr. Park

General Plan: U R (Urban Residential)
Zoning: OS-AMP Open Space-Active Mini-Park District
Environmental Determination: Exempt, Section 15301 of the State CEQA Guidelines; Modification of Existing Facilities, Section 15304, Minor Alterations to Land; Section 15330, Minor Actions to Prevent, Minimize, Stabilize, Mitigate, or Eliminate the Release or Threat of Release of Hazardous Waste or Hazardous Substances; and Section 15183, Projects consistent with a general plan, community plan, or zoning

Historic Status: Not PDHP/not historic
Service Delivery District: 1
City Council District: CD3
Staff Recommendation: Approve
Finality of Action: Appealable to City Council
For further information: Contact case planner **David Valeska**, at (510) 238-2075 or dvaleska@oaklandnet.com

7. **Location:** **2000 MacArthur Boulevard (APN: 029A-1301-022-00)**
Proposal: To establish a 2,146 square-foot restaurant ("Bay Laurel Restaurant"). The restaurant would serve beer & wine and close no later than 10:00pm.
Applicant / Phone Number: Lydia Walker (510) 336-2296
Owner: Phillip Bell Family Trust
Case File Number: **CM10-009**
Planning Permits Required: Major Conditional Use Permit with special findings to allow sale of alcoholic beverages at a Full-Service Restaurant located on a Restricted Street (OMC Sec. 17.102.210(B)(2), 17.134.020(A)(2)(a)(viii)); Minor Conditional Use Permits (2) with special findings to allow Full-Service Restaurant Commercial and Custom Manufacturing (food preparation for catering) Activities in the C-31 Zone (OMC Sec. 17.48.040(C) & 100, 17.48.040(D), 17.134.020(B))

General Plan: Neighborhood Center Mixed Use
Zoning: C-31 Special Retail Commercial Zone
Environmental Determination: Exempt, Section 15301 of the State CEQA Guidelines: Existing Facilities;
 Section 15183 of the State CEQA Guidelines:
 Projects Consistent with a Community Plan, General Plan, or Zoning

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Historic Status: Non-Historic Property; No survey rating
Service Delivery District: III – Central /Chinatown / Lower Hills
City Council District: 4- Quan
Date Filed: January 11, 2010
Action to be Taken: Decision based on staff report
Finality of Decision: *Appealable to City Council*
For Further Information: Contact case planner **Aubrey Rose, Planner II** at (510) 238-2071 or arose@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.

(There are no appeals on this agenda)

COMMISSION BUSINESS

Approval of Minutes: January 20, 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
Zoning Manager
Planning and Zoning Division

NEXT REGULAR MEETING: March 3, 2010