Oakland City Planning Commission REVISED* AGENDA

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

March 2, 2011
Regular Meeting

Revised 2-18-11* (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 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 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.

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 Commission Election of Officer(s)

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:**	**4300 MacArthur Boulevard (APN: 030 -1982-118-00)**
	Proposal:	To modify a telecommunications facility concealed within a decorative tower located at a commercial center. The facility consists of 8 antennas and the proposal is to replace 2 antennas and add an additional new antenna to total 9 antennas; changes to concealed equipment cabinets are also proposed.
	Applicant/ Phone Number:	John Yu/Lyle Co. (for AT&T) (916)801-6112
	Owner:	K & K Investments II LLC
	Case File Number:	**CMD10-343**
	Planning Permits Required:	Major Conditional Use Permit with additional Macro telecom findings (OMC Sec. 17.48.060(B), 17.128.070(C), 17.134.020(A)(3)(i)); Regular Design Review with additional Macro telecom findings (OMC Sec. 17.48.020, 17.128.070(B), 17.136.040(A)(10))
	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: Project consistent with a Community Plan, General Plan or Zoning
	Historic Status:	Unknown
	Service Delivery District:	IV
	City Council District:	4 - Schaaf
	Date Filed:	December 21, 2010
	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 **Aubrey Rose** at **(510) 238-2071** or arose@oaklandnet.com

2. **Location:**	**5921 Shepherd Canyon Road (APN: 048E-7350-005-01)**
Proposal:	Installation of a wireless telecommunication facility on top of an existing light pole consisting of: replace an existing 12" radome with a new 18" radome on the same pole and increase the existing pole height from 53' to 56'; add an additional equipment cabinet to the existing ground floor screened equipment area, three set of panel antennas inside radome screen located within City of Oakland Fire Station site.
Applicant:	Cortel Inc. for T-Mobile Wireless
Contact Person/Phone Number:	Shannon McDougall (415)244-8018
Owner:	City Of Oakland
Case File Number:	**CMD11-002**
Planning Permits Required:	Major Conditional Use Permit and Design Review to install a wireless Telecommunication Macro Facility on top of an existing light pole. The project is consisting of: increasing the existing pole height from 53' to 56'; add an additional equipment cabinet to the existing ground floor screened equipment area, three set of panel antennas inside radome screen within the residential zone.
General Plan:	Hillside Residential
Zoning:	R-20 Low Density Residential Zone. S-10 Scenic Route Combing 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:	2
City Council District:	1
Status:	Pending
Action to be Taken:	Decision of Application
Finality of Decision:	Appealable to City Council within 10 days
For Further Information:	Contact case planner **Jason Madani** at **(510) 238-4790** or by email: **jsmadani@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.

3.	**Location:**	**3222 Martin Luther King Jr. Way ("S & N Market") (APN: 009 -0716-027-00**
	Proposal:	**To allow a convenience market selling beer and wine to include sale of liquor/distilled spirits.** **The project would convert a Deemed Approved (legal nonconforming) establishment to a conditionally permitted establishment and would require an upgrade to the ABC license from a #20/Beer&Wine to a #21/General** ***The project was originally scheduled for the February 2, 2011 hearing and was rescheduled to notice a required Variance***
	Applicant/ Phone Number:	Adel M. Homnan (510) 654-6471
	Owner:	David Kwong
	Case File Number:	**CM10313**
	Planning Permits Required:	Major Conditional Use Permit to change an ABC license type at a legal nonconforming Alcoholic Beverage Sales Commercial Activity (OMC Sec. 17.102.210(A), 17.114.070(A)(4)); Major Variance to allow an Alcoholic Beverage Sales Commercial Activity within 1,000-feet of another alcohol activity (OMC Sec. 17.102.210(B)(1)); Additional criteria (2 sets) for sale of alcoholic beverages and for findings of Public Convenience or Necessity for an over-concentrated area (OMC Sec. 17.102.210(B)(3), (4))
	General Plan:	Urban Residential
	Zoning:	C-10 Local Retail Commercial Zone
	Environmental Determination:	Statutorily exempt, Section 15270(a)(b)(c) of the State CEQA Guidelines: Project Which Are Disapproved
	Historic Status:	Potential Designated Historic Property; Survey rating: Dc2- (ASI non-contributor, minor importance, potentially secondary)

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Service Delivery District:	I
City Council District:	3
Date Filed:	December 6, 2010
Action to be Taken:	Deny the application
Finality of Decision:	Appealable to City Council within 10 days
For Further Information:	Contact case planner **Aubrey Rose** at **(510) 238-2071** or arose@oaklandnet.com

***PLEASE NOTE: ITEM 4, BELOW, HAS BEEN REMOVED FROM THIS AGENDA AND WILL BE RESCHEDULED TO THE MARCH 16, 2011 PLANNING COMMISSION MEETING. SEPARATE NOTICE FOR THAT MEETING WILL ALSO BE PROVIDED.**

~~4.~~ ~~**Location:**~~	~~**Multiple parcels immediately adjacent to the Macarthur BART station; on the west side of Telegraph Avenue between 40th Street and West Macarthur Boulevard (see map)**~~
~~**Assessors Parcel Numbers**~~	~~012-0969-053-03, 012-0968-055-01, 012-0967-01, 012-0969-002-00, 012-0969-003-00, 123-0969-053-02, 012-0969-004-00, 012-0968-003-01, 012-0967-009-00, and 012-0967-010-00~~
~~**Proposal:**~~	~~Construct Stage One (1) of the Macarthur Transit Village project (PUD06058), including: a new BART parking garage with 468 parking spaces and 5,200 square feet of ground-floor commercial space; as well as new streets, utilities, and public improvements. Additional application for Vesting Tentative Map for entire site.~~
~~**Applicant(s):**~~	~~West Macarthur Transit Community Partners (MTCP)~~
~~**Owner(s):**~~	~~Art May; (510) 903-2051~~
~~**Case File Number(s):**~~	~~**PUDF10-097, TTM8047 (related to PUD06058)**~~
~~**Planning Permits Required:**~~	~~Waiver of dimensional standards to allow a dead-end segment of Apgar Street, in Conjunction with a Final Development Permit, Vesting Tentative Map~~
~~**General Plan:**~~	~~Neighborhood Mixed Use~~
~~**Zoning:**~~	~~S-15 Transit-Oriented Development Zone~~
~~**Environmental Determination:**~~	~~An Environmental Impact Report (EIR) was certified in June 2008.~~
~~**Historic Status:**~~	~~There are no Potential Designated Historic Properties located on the project site.~~
~~**Service Delivery District:**~~	~~Service District 2~~
~~**City Council District:**~~	~~1 – Brunner~~
~~**Status:**~~	~~Design Review on May 26, 2010~~
~~**Action to be Taken:**~~	~~Consider recommendation of waiver from subdivision regulations (OMC Title 16, to allow a new dead-end street that does not meet dimensional standards)~~
~~**Finality of Decision:**~~	~~NA~~
~~**For further information:**~~	~~Contact case planner **Catherine Payne** at **(510) 238-6168** or by email at **cpayne@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 February 2, 2011

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: March 16, 2011

*Revised 2-18-11 to indicate Item #4 (MacArthur BART Transit Village) being removed from this agenda.