



Vien Truong, Chair  
C. Blake Huntsman, Vice Chair  
Michael Colbruno  
Chris Pattillo  
Jonelyn Whales  
Madeleine Zayas-Mart

**April 4, 2012**  
**Regular Meeting**

Revised 3-23-12\* (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.**

**Council Chambers, 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 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.



**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 Planning and Zoning Division, 250 Frank H. Ogawa Plaza, Oakland, California 94612. Reports are also available at the Strategic Planning Division on the 3<sup>rd</sup> 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](http://www.oaklandnet.com). Select the "Government" tab, scroll down and click on "Planning & Zoning" 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, 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 tokens.

Applicants or members of the public that plan power point presentations: Please contact Cheryl Dunaway at [cdunaway@oaklandnet.com](mailto:cdunaway@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.

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, a minimum of twenty-five (25) copies should be submitted to Planning staff no later than the time is scheduled to be considered by the Commission.

**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.

### ***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 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. If any interested party seeks to challenge such decision in court, an appeal 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, 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. However, the appeal will be limited to issues and/or evidence presented to the City Planning Commission prior to the close of the City Planning Commission's public hearing on the matter.

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.



**PLEASE NOTE, ITEM 1A BELOW, WAS CONTINUED FROM THE MARCH 21<sup>ST</sup> TO THE APRIL 4<sup>TH</sup> AGENDA.**

1a.	<b>Location:</b>	<b>4149 Foothill Boulevard (APN: 033 -2150-006-02)</b>
	<b>Proposal:</b>	To allow an existing full service restaurant "Las Adelitas" serving beer and wine under conditional use permit #CM98123 (approved 1998) to also sell distilled spirits/liquor. The restaurant would maintain its 10:00 pm closing time.
	<b>Applicant/</b>	Mr. Oswal Jimenez
	<b>Phone Number:</b>	(510) 928-2286
	<b>Owner:</b>	Mixtly Inc.
	<b>Case File Number:</b>	<b>CM12016</b>
	<b>Planning Permits Required:</b>	Major Conditional Use Permit with additional findings for a full service restaurant located on a restricted street to change its State ABC license
	<b>General Plan:</b>	Urban Residential
	<b>Zoning:</b>	RU-5 Urban Residential Zone - 5
	<b>Environmental</b>	Exempt, Section 15301 of the State CEQA Guidelines:
	<b>Determination:</b>	Existing Facilities (operations); Section 15183 of the State CEQA Guidelines: Projects Consistent with a Community Plan, General Plan or Zoning
	<b>Historic Status:</b>	Non-historic property
	<b>Service Delivery District:</b>	IV
	<b>City Council District:</b>	5
	<b>Status:</b>	This item was discussed at the March 21 meeting and continued to address issues related to noise, hours of operation and security.
	<b>Date Filed:</b>	February 8, 2012
	<b>Action to be Taken:</b>	Decision based on staff report
	<b>Finality of Decision:</b>	Appealable to City Council within 10 calendar days
	<b>For Further Information:</b>	Contact case planner <b>Aubrey Rose, AICP</b> at <b>(510) 238-2071</b> or <a href="mailto:arose@oaklandnet.com">arose@oaklandnet.com</a>

1.	<b>Location:</b>	<b>4251 International Boulevard (APN: 033-2153-004-01)</b>
	<b>Proposal:</b>	The proposal includes renovation of an existing gas station and the addition of 1,334 square feet to the existing 1,648 square foot building on site to create a new 2,900 square foot convenience market in conjunction with the continued operation of the automotive service station.
	<b>Applicant:</b>	David J. Elliott & Associates
	<b>Contact Person/Phone Number:</b>	David Elliott / (831)663-1418
	<b>Owner:</b>	DODG Corporation
	<b>Case File Number:</b>	<b>CMD11218</b>
	<b>Planning Permits Required:</b>	Regular Design Review for construction and exterior modifications and Major Conditional Use permit for a Convenience Market.
	<b>General Plan:</b>	Community Commercial
	<b>Zoning:</b>	CC-2, Community Commercial Zone - 2
(continued on page 5)		Height/Intensity Area - 75





(continued from page 4)

**Environmental Determination:** Exempt, Section 15303 of the State CEQA Guidelines; new construction or conversion of small structures; and Section 15183 of the CEQA Guidelines, projects consistent with a community plan, general plan, or zoning.

**Historic Status:** Not a Potentially Designated Historic Property: Rating: \*3

**Service Delivery District:** 5

**City Council District:** 5

**Status:** Pending

**Action to be Taken:** Decision on application

**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](mailto:mhackett@oaklandnet.com)

2. **Location:** 1611 2<sup>nd</sup> Avenue (corner of Foothill Boulevard) (APN: 020 -0182-002-00)

**Proposal:** To allow a new full service restaurant "Portal Restaurant" to serve beer and wine with meals for on-site consumption. The restaurant contains a dining room and rear patio and would close at 11:00 PM. New signage would replace existing from the previous restaurant.

**Applicant:** Rebecca Amato

**Phone Number:** (510) 420-0210

**Owner:** Yong S. Cho

**Case File Number:** CM12029

**Planning Permits Required:** Major Conditional Use Permit with additional findings for a full service restaurant located within 200-feet of a restricted street to serve alcoholic beverages

**General Plan:** Urban Residential

**Zoning:** CN-2 Neighborhood Commercial Zone – 2

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

**Historic Status:** Non-historic property; survey rating: D3

**Service Delivery District:** III

**City Council District:** 3

**Date Filed:** March 8, 2012

**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, AICP** at (510) 238-2071 or [arose@oaklandnet.com](mailto: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**

March 7, 2012

**Correspondence**

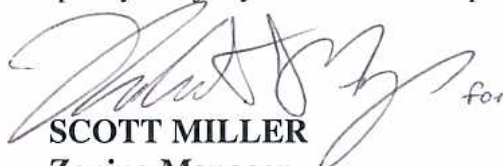
**City Council Actions**

**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:** April 18, 2012

\* Revised 3-23-12 to add Item 1a to the agenda, as continued from the March 21<sup>st</sup> agenda.