



Oakland City Planning Commission

Minutes

Chris Pattillo, Chair
Jonelyn Whales, Vice-Chair
Jahaziel Bonilla
Michael Coleman
Jim Moore
Emily Weinstein

June 5, 2013
Regular Meeting

ROLL CALL

Present: Pattillo, Whales, Bonilla, Coleman, Moore, Weinstein.

Staff: Scott Miller, Aubrey Rose, Celena Chen, Cheryl Dunaway.

WELCOME BY THE CHAIR

Agenda Discussion

Item #s 2 and 3 were removed from this agenda. Planning Commission recommended to approve the minutes at the beginning of the meeting. Mr. Miller stated that the July 3, 2013 Planning Commission Meeting will be postponed due to the July 4th holiday on the day after. We propose July 31, 2013 be an alternate meeting date. September 4, 2013 is the beginning of Rosh Hashanah and we propose August 28, 2013 as the alternate meeting date. The proposed alternate schedule will be formally discussed at the June 19, 2013 Planning Commission Meeting.

Commission Matters

Commissioners Weinstein and Bonilla stated that they both met with the College Preparatory School (CPS) representatives on different dates to receive background information about the project. Chair Pattillo asked for an update on her previous inquiry on the format, timing and venue of the follow up workshop after the AECOMM report on Zoning Changes.

Mr. Miller responded explaining that he isn't prepared

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.

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to give an update at tonight's meeting, but will have staff provide one at the June 19, 2013 Planning Commission Meeting.

CONSENT CALENDAR

Item #1 moved on consent of the Planning Commission.

Commissioner Moore made a motion to approve, seconded by Vice Chair Whales.

Action on the matter: Approved 6 ayes, 0 noes.

1.	Location:	The Public Right of Way near 6652 Pineneedle Drive on joint utility pole # 110133955
	Assessors Parcel Numbers:	(048G-7431-028-00) the lot adjacent to the right of way
	Proposal:	To install a wireless telecommunications facility (AT&T wireless) on an existing 37' high joint utility pole; install two panel antennas (two-feet long and 10- inches wide); at 17' above grade, locate a battery-backup equipment box 2'x2'x1.5'; at 12' above grade, locate an equipment cabinet 4'x1'x1'; at 10' above grade, locate a 1'x1'x4" optical demarcation unit; At 8' above grade, locate a 1'x3"x8" safety shut-off switch and electricity meter; all equipment would be painted to match pole; relocation of existing climbing pegs to accommodate new equipment.
	Applicant:	New Cingular Wireless PCS,LLC./AT&T Mobility
	Contact Person/ Phone Number:	Matthew Yergovich (415)596-3474
	Owner:	PG&E
	Case File Number:	DR13-028
	Planning Permits Required:	Major Design Review to install a wireless Telecommunications Macro Facility to on existing PG&E pole located in the public right of way in a residential zone.
	General Plan:	Hillside Residential
	Zoning:	RH-4 Hillside Residential-4 Zone.
	Environmental Determination:	Exempt, Section 15301 of the State CEQA Guidelines; minor additions and alterations to an existing facility Exempt, 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
	Date Filed:	1/23/2013
	Finality of Decision:	Appealable to City Council within 10 Days
	For Further Information:	Contact case planner Catherine Payne at (510) 238-6168 or jsmadani@oaklandnet.com

Commissioner Moore made a motion to approve, seconded by Commissioner Coleman.

Action on the matter: Approved 6 ayes, 0 noes.



PLEASE NOTE: Item #2, below (Elderberry/Girvin), was continued at the May 1, 2013 commission meeting to June 5th. However, staff is removing it from this agenda because more time is needed to complete plans; a new notice will be provided when this item proceeds to commission.

2.	Location:	The public Right of Way at the intersection of Elderberry Dr. and Girvin Dr. (adjacent to 6239 Elderberry Dr.) APN: (048D-7302-001-00)
	Proposal:	To install a wireless telecommunication facility (AT&T wireless) on an existing 43' high PG&E utility pole located in public right-of-way: Install two panel antennas (approximately two feet long and ten inches wide mounted onto a seven foot tall extension affixed on top of the pole; an associated equipment box, one battery backup and meter boxes within a 6' tall by 18" wide singular equipment box attached to the pole at 8' height above ground.
	Applicant:	New Cingular Wireless PCS, LLC./AT&T Mobility
	Contact Person/Phone Number:	Matthew Yergovich (415)596-3474
	Owner:	Pacific Gas & Electric PG&E
	Case File Number:	DR13-055
	Planning Permits Required:	Major Design Review to install a wireless Telecommunication Macro Facility to on existing PG&E pole located in the public right of way in a residential zone.
	General Plan:	Hillside Residential
	Zoning:	RH-4 Hillside Residential Zone
	Environmental Determination:	Exempt, Section 15301 of the State CEQA Guidelines; minor additions and alterations to an existing facility. 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:	4
	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 Michael Bradley at (510) 238-6935 or by email: mbradley@oaklandnet.com

**PUBLIC HEARINGS**

PLEASE NOTE: ITEM #3, BELOW HAS BEEN REMOVED FROM THIS AGENDA.

3.	Location:	77 Pearl Street (APN: 010-0805-006-01) (4/4/12)
	Proposal:	To legalize an existing second dwelling unit and create a third new dwelling unit within an existing structure or a site with two existing structures, establishing a total of thirteen (13) dwelling units on the lot.
	Re Notification	
	Applicant:	Kent Lau & Tran Vu
	Contact Person/Phone Number:	Same (408)425-4523
	Owner:	Albert Tung
	Case File Number:	CMD12039
	Planning Permits Required:	Major Conditional Use Permit to allow for 5 or more units on a RM-4 lot and Design review for the creation of, and legalization of a two new dwelling units.
	General Plan:	Mixed Housing Type Residential
	Zoning:	Mixed Housing Type Residential Zone 4 Regulations
	Environmental Determination:	15332, In-fill Development Projects
	Historic Status:	PDHP, secondary importance or superior example; rating C3
	Service Delivery District:	2
	City Council District:	3
	Status:	Pending
	Action to be Taken:	Decision based of staff recommendation
	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

4.	Project Name:	The 1222 Bar (Former Golden Bull Site)
	Location:	412 14th Street (APN008-0621-010-00)
	Proposal:	Allow Alcoholic Beverage Sales Activity
	Contact Person/Phone Number:	Calvin Ransom (510) 485-1214
	Owner:	R. Oh Byung
	Case File Number:	CM12-065
	Planning Permits Required:	Major Conditional Use Permit to allow an Alcoholic Beverage Sales Activity, and Group Assembly for entertainment and dancing, in a 3,000 square foot existing ground floor building area in City Center area
	General Plan:	Central Business District
	Zoning:	CBD-P Central Business District-Pedestrian Retail Commercial Zoning District/S-7 Historical Combining District
	Environmental Determination:	Categorically Exempt under California Environmental Quality Act (CEQA) Guidelines Section 15301
	Historic Status:	Designated Historic Property; Area of Primary Importance contributor, secondary importance; Cb-1+ rating, Downtown Historic District
	Service Delivery District:	Metro
	City Council District:	3
	Commission Action to Be Taken:	Approve Staff Recommendation
	Appeal:	Appealable to City Council within 10 days
	For Further Information:	Contact David Valeska at (510) 238-2075 or dvaleska@oaklandnet.com



Staff Member Aubrey Rose gave a presentation.

Chair Pattillo asked if there are any proposed exterior changes.

Mr. Rose responded by stating that there are no proposed exterior changes.

Commissioner Coleman stated that this is a good use of this building.

Commissioner Coleman made a motion to approve, seconded by Vice Chair Whales.

Action on the matter: Approved 6 ayes, 0 noes.

APPEALS

5.	Location:	6100 Broadway / College Preparatory School
	Assessor's Parcel Number:	048A-7200-004-01
	Proposal:	An appeal of the Zoning Manager's decision to approve a revision to a conditional use permit that increased maximum permitted enrollment at a private high school from 340 students to 375 students.
		The application #REV120004 was submitted on February 23, 2012 and approved on December 20, 2012
	Appellant /	Ms. Leila Moncharsch
	Phone Number:	(510) 482-0390
	Owner:	College Preparatory School
	Case File Number:	A13007
	Planning Permits Required:	Revision to amend a Minor Conditional Use Permit for expansion of a Community Education Civic Activity in the RD-1 Zone
	General Plan:	Detached Unit Residential
	Zoning:	RD-1 Detached Unit Residential Zone
	Environmental Determination:	<u>Approval of 12/20/12</u> Exempt, Section 15301 of the State CEQA Guidelines: Existing Facilities (operation); Exempt, 15314 of the State CEQA Guidelines: Minor Additions to Schools; Section 15183 of the State CEQA Guidelines: Projects Consistent with a Community Plan, General Plan or Zoning <u>Appeal submitted 1/11/13</u> Exempt, Section 15270 of the State CEQA Guidelines: Projects Which Are Disapproved
	Historic Status:	Non-historic property
	Service Delivery District:	2
	City Council District:	1
	Date Filed:	January 11, 2013
	Action to be Taken:	Deny the appeal and uphold the Zoning Manager's decision
	Finality of Decision:	Final (Not Appealable pursuant to OMC Sec. 17.132.030)
	For Further Information:	Contact case planner Aubrey Rose, AICP, Planner II at (510) 238-2071 or arose@oaklandnet.com

Chair Pattillo recused herself from hearing this appeal due to a work related conflict.

Staff Member Aubrey Rose gave a presentation.



Vice Chair Whales asked for an explanation of the California Environmental Quality Act (CEQA) exemption that was used.

Mr. Rose responded stating that there are two separate points. The first point is the baseline under CEQA for this application is with the existing number of students at 372. However, the Transportation Consultant studied impacts of increasing the enrollment amount from 340 to 375. CEQA exemption 15314 covers expansions of up to 25% which in this case is about 10%.

Commissioner Moore stated that the General Plan allows four schools in this area.

Mr. Rose stated that this is correct.

Appellants: Mitch Taylor and Tim Durham spoke as the appellants presenting their reasons for objecting to the College Preparatory School (CPS) expansion.

Project Applicants: Monique Duvaine and Bonnie Nelson presented their arguments for College Preparatory School (CPS).

Commissioner Coleman stated that Ms. Duvaine commented that the amplified noise is well under control. Please explain the significant noise from the event that occurred last weekend that Mr. Durham referred to.

Ms. Duvaine responded stating that there was a concert on campus that Friday night, but there were no scheduled events that occurred on Saturday so, she isn't aware of any noise on that day.

Commissioner Weinstein asked what is the notification process to the neighbors in the area when holding an event with amplified sound. Vice Chair Whales asked if the neighbors are notified about the scheduled events that require permits.

Ms. Duvaine explained that about every six weeks the school usually sends out a "Neighbor Notes" newsletter which lists all of the upcoming scheduled events. They also have a standing event twice a week in which there is no notification sent out to the residents in the area. If there is a public event than notification is sent out to the neighbors otherwise, no notification is sent if it is a small private event except those that are listed in the "Neighborhood Notes" newsletter.

Commissioner Moore asked if permits were required for certain events.

Ms. Duvaine responded stating that the school obtain permits when there is an event that requires outside amplification that lasts over 10 minutes.

Speakers: Don Dunning, Hollis Matson, Dr. Andris Skuja, Drew Lau-Regent, LeAnn Bischoff, Kathy Kasper, Alejandro Arechiga, Eva Campodonico, Andrew Ferrier, Marcha Larsson, Jim Larsson, Michelle Mika, Susan Ford, Yang Wang, Larry Gregory, Joey Lim, Sue Piper, Romeo Garcia, Josh Thieriot, Pinkie Young, Don Santina, Barbara Gross, John Fanning, Prasant Nukalapati, Mercy Albaran, Steve Chabon, Carolyn Dundes, Spreck Rosekrans, Charles McCulloch, Leila Moncharsh.



Planning Commission Questions, Comments and Concerns:

Commissioner Coleman expressed his gratitude to the public for taking time to come and give their comments. He stated that he understands the concern about the existing conditions and that College Preparatory School (CPS) may've exceeded their commitment to the maximum enrollment amount. The proposed increase amount is very small which doesn't seem like it would create a huge amount of traffic or noise. Some of the residents in the area also stated that there are very little traffic and noise impacts and he also visited the campus and didn't see that being a problem. One of the comments made by opposing public speakers is that the enrollment number will continue to increase annually, but he is willing to give the school the benefit of the doubt and allow them a maximum of 375 students and also enforce the rule. He stated that the conditions set forth must be met. He believes that the traffic and noise impacts have been reduced, despite what some members of the public stated.

Commissioner Weinstein stated that it is exciting to see so many students from College Preparatory School (CPS) involved in the land use process. The General Plan recognizes that it is important to have schools located in neighborhoods and they are an asset to the City of Oakland in general whether it's private, public, charter or other types of schools. We are here to try to find a balance between the needs of the school to operate to the best of their ability, while respecting their neighborhood and mitigating the impacts that are inherent to any school. We need to find an enrollment cap that allows College Preparatory School (CPS) to operate with some flexibility to accommodate enrollment fluctuations and program needs. Based on the conditions of the Conditional Use Permit (CUP) in 2009 College Preparatory School (CPS) has approached the Planning staff and followed all necessary procedures to apply for a modification to that Conditional Use Permit (CUP), and therefore are not in violation of their Conditional Use Permit (CUP) from 2009. While she appreciates the concerns of precedence being set and the patterns of enrollment violations for other private schools, we are here today to speak about this specific case of College Preparatory School (CPS), and it is important to consider each project on its own merit. She lives about a mile and a half from Oakland Technical High School and hears amplified noise on an ongoing basis such as: school functions, sporting events, pep rallies, etc. and deal with heavy traffic on Broadway as a result. She still considers it an asset to her community, but it is inherent impact of a school. She feels that College Preparatory School (CPS) has gone above and beyond to try to mitigate noise and she doesn't see evidence that shows an enrollment increase will impact noise to the neighbors. It's clear that College Preparatory School (CPS) has followed the mitigation measures that were included in the 2009 Conditional Use Permit (CUP) and is in support of the minor modifications.

Commissioner Moore thanked the public for coming and truly understands their concerns of the noise and traffic impacts, and sees improvement on reduction over the past three years. It's evident that College Preparatory School (CPS) is abiding by the conditions of use and is in support of upholding the Zoning Manager's decision.

Commissioner Bonilla also thanked the public for coming to voice their comments. He doesn't agree with some of the speakers that the Planning Commission doesn't really take time to review the documents brought before them and poor decisions are made as a result of it. He expressed that he spent a lot of time to really review and studied this appeal very carefully.



He appreciates what the public speakers and representatives from College Preparatory School (CPS) stated at tonight's meeting. He used to live near Manzanita Elementary School and understands about noise. Based on his review of this appeal, he is in support of upholding the Zoning Manager's decision.

Vice Chair Whales stated that she agrees with her fellow Planning Commissioners that proposed enrollment increase doesn't seem that significant. She asked staff to explain what a "Keep Clear Zone" is, referenced in Condition #15. She also appreciates the public coming out to speak at tonight's meeting and that the students are also present to show their support. She lives close to an elementary school where she hears amplified noise as well. She reiterated Commissioner Coleman's statement that the focus of the appeal is on the increased maximum enrollment proposal, not the merit of the actual programs and studies of the school and supports upholding the Zoning Manager's decision. Mostly because school enrollment will increase which shows to the quality of programs and the number of families who are prepared to send their children to College Preparatory School.

Mr. Rose responded explaining that the Keep Clear Zone idea is to stripe a section of Broadway crossing Brookside Avenue so that vehicles exiting the school driveway onto the street, wouldn't block vehicles from driving on Brookside Avenue and Broadway coming from the opposite direction which is in the public right of way. There are several drop off areas, but not at that location in particular.

Commissioner Moore made a motion to deny the appeal, seconded by Commissioner Coleman.

Action on the matter: Denied 6 ayes, 0 noes.

Approval of Minutes

Approval of the March 6, 2013 and April 3, 2013 minutes.
Commissioner Coleman made a motion to approve, seconded by Commissioner Moore.

Action on the matter: Approved 4 ayes, 2 abstentions
(Bonilla, Weinstein)

Approval of the April 17, 2013 minutes.
Commissioner Coleman made a motion to approve, seconded by Commissioner Moore.

Action on the matter: Approved 3 ayes, 3 abstentions
(Pattillo, Bonilla, Weinstein).

May 1, 2013 minutes continued until the June 19, 2013
Planning Commission Meeting.



ADJOURNMENT

Meeting adjourned at approximately 8:30 P.M.

SCOTT MILLER
Zoning Manager
Planning and Zoning Division

NEXT REGULAR MEETING: June 19, 2013