



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

September 11, 2013
Regular Meeting

Revised 8-30-13 and 9-4-13* (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.

City 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.

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 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. 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 or 510-238-2912 or Gwen Brown at 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.

1.	Location:	The Public Right of Way near 6690 Pineneedle Drive on joint utility pole # 110133987
	Assessors Parcel Numbers:	(048G-7431-002-06) the parcel adjacent to the right of way
	Proposal:	To install two panel antennas (two-feet long and 10- inches wide, each) for a wireless telecommunications facility (AT&T wireless) on a pre-approved 7-foot extension to an existing 37'-11" high joint utility pole; 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:	Pacific Gas & Electric.
	Case File Number:	DR13-052
	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:	2/6/2013
	Finality of Decision:	Appealable to City Council within 10 Days
	For Further Information:	Contact case planner Catherine Payne at (510) 238-6168 or cpayne@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 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.

2.	Project Name:	Marana Cafe
	Location:	555 19th Street (APN008-0642-017-00)
	Proposal:	Allow Alcoholic Beverage Sales Activity
	Contact Person/Phone Number:	Marin Yang (510) 932-8995
	Owner:	Fox Courts LP
	Case File Number:	CM13-209
	Planning Permits Required:	Major Conditional Use Permit to allow an Alcoholic Beverage Sales Activity, in a Limited Service Restaurant at Fox Courts
	General Plan:	Central Business District
	Zoning:	CBD-X Central Business District-Commercial Zoning District
	Environmental Determination:	Categorically Exempt under California Environmental Quality Act (CEQA) Guidelines Section 15301
	Historic Status:	Not a Potential Designated Historic Property
	Service Delivery District:	Metro
	City Council District:	3
	Commission Action to Be Taken:	Approve Staff Recommendation
	Appeal:	To City Council
	For Further Information:	Contact David Valeska at (510) 238-2075 or dvaleska@oaklandnet.com



3.	Location:	3001-3039 Broadway (APN's: 009-0705-004-00; - 005-00; -006-00; & -007-00)
	Proposal:	Public Hearing on the Draft Environmental Impact Report to obtain comments on the environmental analysis related to the proposed commercial development at the northwest corner of Broadway & 30 th Street. The project would redevelop the existing vacant 1.9 acre lot (formerly used as a surface lot for a used auto dealership) with the new construction of a one-story approximately 36,000 square foot building that would contain a Sprouts Farmers Market grocery store of approximately 26,000 square feet and approximately 10,000 square feet of additional ground floor commercial space. The project would contain auto access off of 30 th Street and a rooftop parking deck.
	Applicant:	Lowney Architects
	Contact Person/Phone Number:	Ken Lowney - (510)836-5400
	Owner:	30 th & Broadway LLC
	Case File Number:	ER12-0007, CMDV13-194 & TPM10164
	Planning Permits Required:	Major Conditional Use permits (New Construction in excess of 10,000 square feet, Alcohol Sales, and a Master Sign Program), Regular Design Review for new construction, Minor Variances for exceeding the maximum front setback of 10 feet for more than 50% of the frontage to create a plaza, for not meeting the minimum conditionally permitted building height of 25 feet, and required loading berths (2 required; 1 proposed), and a Tentative Parcel Map for merging four lots into one.
	General Plan:	Community Commercial
	Zoning:	CC-2, Community Commercial Zone – 2 (Height Area – 75) D-BR, Broadway Retail Frontage Zone
	Environmental Determination:	Draft Environmental Impact Report was published for a 45-day review period from August 16, 2013 to September 30, 2013.
	Historic Status:	Vacant Lot
	Service Delivery District:	2
	City Council District:	3
	Action to be Taken:	Receive public and Planning Commission comments on the Draft Environmental Impact Report. No decision on the Project itself will be made.
	For Further Information:	Contact case planner Peterson Z. Vollmann at (510) 238-6167 or by email: pvollman@oaklandnet.com .

3a.	Location:	Citywide
	Proposal:	Discussion of proposed zoning text amendments to introduce a new Use Classification for and regulations applying to "Crematories", as directed by the City Council
	Applicant:	City Planning Commission
	Case File Number:	ZT13-211
	Planning Permits Required:	Zoning Text Amendments
	General Plan:	All General Plan designations
	Zoning:	All Zoning districts

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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 Oakland Estuary Policy Plan EIR (1998); the EIRs for the West Oakland Central City East, Coliseum and Oakland Army Base Redevelopment Areas. As a separate and independent basis, the proposal is also exempt from CEQA pursuant to CEQA Guidelines Section 15183 "Projects Consistent with a Community Plan, General Plan or Zoning" and Section 15061(b)(3), "General Rule – no possibility of significant environmental impact".
Service Delivery District:	All Service Delivery districts
City Council District	All City Council districts
Status	Hearing by the Planning Commission. This item was continued at the August 28, 2013 Planning Commission Meeting.
Action to be Taken:	Recommendation to City Council.
For further information:	Contact: Peterson Z. Vollmann at 238-6167 or email pvollmann@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, 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.

PLEASE NOTE: ITEM NO. 4 BELOW HAS BEEN REMOVED FROM THIS AGENDA AT THE APPELLANT'S REQUEST

4.	Location:	1901 Broadway (APN: 008-0639-004-00)
	Proposal:	Appeal of the administrative decision to deny an application to legalize a 4,700-square foot medical clinic on the ground floor of an existing commercial building.
	Applicant:	Dr. Michael Caplan, NorCal Health Services (707)354-3535
	Property Owner:	Fruitvale Investments, LLC
	Case File Number	CU12-238, A13-214
	Planning Permits Required:	Minor Conditional Use Permit to establish a Health Care Commercial Activity on the ground floor of an existing building within the CBD-P zone.
	General Plan:	Central Business District
	Zoning:	CBD-P Central Business District Pedestrian Retail Commercial Zone
	Environmental Determination:	Exempt, Section 15270 of the State CEQA Guidelines; disapproval of a project.

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Historic Status: PDHP, API contributor, major importance; Survey rating: Survey Rating: B*1+

Service Delivery District: Metro

City Council District: 3

Action to be Taken: Decision on appeal

Appeal: Final Decision. Not administratively appealable.

For Further Information: Contact case planner Neil Gray at 510-238-3878 or ngray@oaklandnet.com.

5. **Location:** Citywide

Proposal: Appeal of a Zoning Administrator's Determination (DET13-015) that a "Crematorium" is classified as a "General Manufacturing" activity.

Appellant: Roger Lin/ Communities for a Better Environment

Contact Phone Number: (510) 302-0430 x16

Case File Number: A13-181

Planning Permits Required: Not Applicable.

General Plan: All

Zoning: All

Environmental Determination: Exempt, Section 15061(b)(3) of the State CEQA Guidelines, General Rule – no possibility of significant environmental impact. Section 15183 of the CEQA Guidelines, projects consistent with a community plan, general plan, or zoning.

Historic Status: Not Applicable

Service Delivery District: All

City Council District: Citywide

Status: Pending

Action to be Taken: Decision on appeal

Finality of Decision: Final. Not administratively appealable.

For Further Information: Contact case planner Peterson Z. Vollmann at (510) 238-6167 or by email: pvollmann@oaklandnet.com.

COMMISSION BUSINESS

Approval of Minutes

August 7, 2013

Correspondence

City Council Actions



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 MEETING: September 25, 2013

*Revised 8-30-13 to add Item 3.a (Crematorium Regulations). This item was continued at the August 28, 2013, Planning Commission Meeting to September 11, 2013.

*Revised 9-4-13 to remove Item #4 (1901 Broadway) at the Appellant's request.