



*C. Blake Huntsman, Chair  
Chris Pattillo, Vice Chair  
Michael Colbruno  
Michael Coleman  
Jim Moore  
Vien Truong,  
Jonelyn Whales*

**December 19, 2012**  
**Regular Meeting**

**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.**

**Sgt. Mark Dunakin 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 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

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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**

Chair. Persons wishing to address the continued item may do so under Open Forum.

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**

**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. | <b>Location:</b>                    | <b>5329-5345 Foothill Boulevard (APN: 035-2389-017-03)</b>  |
|    | <b>Proposal:</b>                    | To replace three (3) existing telecommunication antennas, with three (3) new antennas at a site with 40 existing telecommunication antennas.  |
|    | <b>Applicant:</b>                   | Metro PCS, Maryann Miller Novak   |
|    | <b>Contact Person/Phone Number:</b> | Maryann Miller Novak /(510)919-3224   |
|    | <b>Owner:</b>                       | Fairfax Lighthouse Deliverance Center   |
|    | <b>Case File Number:</b>            | <b>CMD11-191</b>  |
|    | <b>Planning Permits Required:</b>   | Regular Design Review to install three (3) telecommunication antennas, within an enclosed faux chimney on the roof of an existing building.<br>Major Conditional Use Permit for the installation of a Macro telecommunication facility within 100 feet of a residential zone. |
|    | <b>General Plan:</b>                | Neighborhood Center Mixed Use   |
|    | <b>Zoning:</b>                      | CN-3 Neighborhood Center -3   |
|    | <b>Environmental Determination:</b> | Exempt, Section 15301 of the State CEQA Guidelines; minor additions and alterations to existing structures.<br>Section 15183 of the State CEQA Guidelines; projects consistent with a community plan, general plan or zoning.   |
|    | <b>Historic Status:</b>             | Potential Designated Historic Property; Survey Rating: B +2 +   |
|    | <b>Service Delivery District:</b>   | 5   |
|    | <b>City Council District:</b>       | 4   |
|    | <b>Status:</b>                      | Pending   |
|    | <b>Action to be Taken:</b>          | Decision of Application   |
|    | <b>Finality of Decision:</b>        | Appealable to City Council within 10 days   |
|    | <b>For Further Information:</b>     | Contact case planner Michael Bradley at (510) 238-6935 or by email: <a href="mailto:mbradley@oaklandnet.com">mbradley@oaklandnet.com</a>  |



## 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.	<b>Location:</b>	1035-1045 22 <sup>nd</sup> Avenue (2 buildings at 1001 22 <sup>nd</sup> Avenue)
	<b>Assessor's Parcel Number:</b>	019 -0048-004-00
	<b>Proposal:</b>	To convert two adjoined warehouses with on-site surface parking into 26 live-work units.
		(A pending application would subdivide the land, buildings, and parking into a new parcel)
	<b>Applicant /</b>	Jeff Wilcox
	<b>Phone Number:</b>	(925) 890-6199
	<b>Owner:</b>	Wilcox Embarcadero Associates
	<b>Case File Number:</b>	CM12234
	<b>Planning Permits Required:</b>	Major Conditional Use Permit to allow a nonresidential use exceeding 25,000 square feet in floor area to establish in a zone that prohibits residential use; Additional findings for Joint Living and Working Quarters + Infill Development Projects

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**General Plan:** Estuary Plan: Light Industry 2  
**Zoning:** M-40 Heavy Industrial Zone/  
 S-4 Design Review Combining Zone  
**Environmental Determination:** Exempt, Section 15332 of the State CEQA Guidelines:  
 Infill Development Projects;  
 Section 15183 of the State CEQA Guidelines:  
 Projects Consistent with a Community Plan, General Plan or Zoning  
**Historic Status:** NA  
**Service Delivery District:** III  
**City Council District:** 5  
**Date Filed:** September 13, 2012 / November 21, 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, Planner II**  
 at (510) 238-2071 or arose@oaklandnet.com

3. **Location:** 2205 Telegraph Avenue
- Assessors Parcel Numbers:** APN 008-0660-003-05 / 052-01
- Proposal:** Demolition of an existing building, rebuild a new slightly larger commercial building with a new design to accommodate the existing fast-food restaurant "Taco Bell".
- Applicant:** Richard Low / Dolan Foster Enterprises LLC
- Contact Person/ Phone:** Richard Low
- Number:** (925) 978-3977
- Owner:** David & Lisa Leung
- Case File Number:** CMDV12-171
- Planning Permits Required:** Requesting a Major Conditional Use Permit for the expansion of a legal non-conforming Fast Food restaurant containing a Drive thru facility and Regular Design Review for an existing Fast Food Restaurant Commercial Activity (Taco Bell) to a) expand the building from 1,683 square feet to 2,558 square feet (875 square feet added); b) relocate the building on the site and modify the architectural design; c) replace all building and site signage; d) minor variance to allow new building height at 23' where 45' is the height minimum for new construction..
- General Plan:** Central Business District
- Zoning:** CBD-C Central Business District Commercial 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:** Metro
- City Council District:** III
- Date Filed:** 4/11/12
- Finality of Decision:** Appealable to City Council within 10 days
- For Further Information:** Contact case planner **Jose M. Herrera-Preza** at (510) 238-3808 or jherrera@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.

## **COMMISSION BUSINESS**

### **Approval of Minutes**

#### **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.

  
**ROBERT MERKAMP**  
Zoning Manager  
Planning and Zoning Division

**NEXT REGULAR MEETING:** January 9, 2013