



Michael Colbruno, Chair
C. Blake Huntsman, Vice Chair
Doug Boxer
Sandra E. Gálvez
Anne Mudge
Madeleine Zayas-Mart

May 20, 2009
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.**

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.

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

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**

H. Ogawa Plaza, Oakland, California 94612. **Reports are 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 by searching “Frequently Visited Pages” located on the City of Oakland Homepage. Clicking on “Planning Commission Meetings” will open a menu of Planning Commission and Committee Agendas. Staff reports are available on the selected agenda by clicking on the highlighted case file number. 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 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 write “Planning Commission” on the back of the parking ticket.

Applicants or members of the public that plan power point presentations: Please contact Robynn Parker at raparker@oaklandnet.com or 510-238-2950 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

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, 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.

1. **Location:** **661 12th Street (APN 002-0027-007-00)**
Proposal: Development Agreement for Block T-12 of the City Center Project
Project Sponsor/Owner: Shorenstein Realty Investors Eight, L.P., Tom Hart (415) 772-7147
Case File Numbers: **PUD99-215, PUDF07-490, DR07-503, V07-502, ER07-0022**
Planning Permits Required: Development Agreement which would extend the schedule for substantial completion of the Project until April 2015 with 2 one-year options, and amend the Conditions of Approval to conform to the DA language
General Plan: Central Business District
Zoning: C-51 Central Business Service Commercial Zone/S-17 Downtown Residential Open Space Combining Zone
Environmental Determination: An Environmental Impact Report was certified in April 2000 for the City Center Project, and Addendum #3 to the City Center Project EIR was prepared for the Block T12 project in November 2007
Historic Status: N/A - No historic structures are located on the site
Service Delivery District: Metro Downtown
City Council District: 3
Date Filed: December 2008
Action to Be Taken: Recommendation to City Council based on staff report
Finality of Decision: City Council
For Further Information: Contact Eric Angstadt at (510) 238-6190 or by email: eangstadt@oaklandnet.com

2. **Location:** **3830 ("3832") MacArthur Blvd. (APN: 030 -1912-014-00)**
Proposal: To establish a 2,054 square-foot restaurant ("Rico's Grill) with a 690 square-foot dining room. The restaurant would serve beer & wine and close no later than 10:00PM.
Contact Person/ Rod Rossi
Phone Number: (510) 842-3511
Owner: Louis & Marita Rivera
Case File Number: **CM09-082**
Planning Permits Required: Major Conditional Use Permit with Special Findings to allow sale of alcoholic beverages at a Full-Service Restaurant located on a Restricted Street (OMC Sec. 17.102.210(B)(2), 17.134.020(A)(2)(a)(viii)); Minor Conditional Use Permit with Special Findings to allow a General Food Sales Commercial Activity in the C-31 Zone (OMC Sec. 17.48.040(C) & 100, 17.134.020(B));
General Plan: Neighborhood Center Mixed Use
Zoning: C-31 Special Retail Commercial Zone
Environmental Determination: Exempt, Section 15301(e) of the State CEQA Guidelines: Existing Facilities (Alterations to Existing Structures); Section 15183 of the State CEQA Guidelines:
(continued on page 5) Projects consistent with a community plan, general plan or zoning



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Historic Status: Potential Designated Historic Property (PDHP);
Survey rating: C2+ (ASI contributor, secondary importance or superior example)
Service Delivery District: IV – San Antonio/Fruitvale
City Council District: 4- Councilmember Quan
Date Filed: April 16, 2009
Action to be Taken: Decision based on staff report
Finality of Decision: *Appealable to City Council*
For Further Information: Contact case planner **Aubrey Rose, Planner II** at
(510) 238-2071 or arose@oaklandnet.com

3. **Location:** **579 18th Street /1733 San Pablo Avenue (APN 003-0063-004-00)**
Proposal: To provide alcoholic beverage service at restaurant/nightclub
Applicant: Michael O'Connor, "The Independent"
Owners: Loanvest 1 LLC
Contact Person/Phone Number: Michael O'Connor or Namane Mohlabene
(415) 637-1435 or (510) 453-7457
Case File Number: **CMD09-014**
Planning Permits Required: Major Conditional Use Permit and Regular Design Review to allow
alcoholic beverage service activities at a restaurant/nightclub in an
existing commercial building, 11 am to 1 am
General Plan: Central Business District
Zoning: C-55/C-51/S-7 Central Core Commercial
Environmental Determination: Exempt, Section 15301 of the State CEQA Guidelines; Modification of
of Existing Facilities, Section 15183, Projects consistent with a general
plan, community plan, or zoning
Historic Status: PDHP Rating D2+, ASI contributor, minor importance; Ivy Drive
Apartments district
Service Delivery District: Metro
City Council District: 3
For further information: Contact case planner **David Valeska**, at (510) 238-2075 or dvalueska@oaklandnet.com

4. **Location:** **522 2nd Street (APN 001-0133-004-00)**
Proposal: To allow expanding the sale of alcohol at the existing "Kimball's
Carnival", including a sidewalk café and extended hours.
Contact Person/Phone Number: Laura Mendoza Govan, (925) 451-6485
Owner: Kimball Allen
Case File Number: **REV08-017 (Modifies CM99-070)**
Planning Permits Required: Revision to Major Conditional Use Permit, to allow sale of alcohol at
"Kimball's Carnivale" to include sidewalk seating during lunch and
dinner hours, relocate the entrance to 215 Washington Street, and add 7
½ hours daily to service times (expand from 6 pm to 1:45 am, to be
10:30am to 1:45 am, to allow lunch service); other uses remaining as
approved by Major Conditional Use Permit CM99-070 & CM04-396.

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General Plan:	E-15 Estuary Plan (Off Price Retail)
Zoning:	M-30 General Industrial Zoning District
Environmental Determination:	Exempt, Section 15301 of the State CEQA Guidelines: Modification of small structures Additional citation: 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
Service Delivery District:	Metro
City Council District:	3
For Further Information:	Contact David Valeska at (510) 238-2075 or dvaleska@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: [May 6, 2009](#)

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: June 3, 2009