Minutes

Planning Commission November 5, 2012
City of Orange Monday 7:00 p.m.

PRESENT: Commissioners Buttress, Cathcart, Gladson, Grangoff and Steiner
ABSENT: None

STAFF
PRESENT: Leslie Aranda Roseberry, Planning Manager
Robert Garcia, Associate Planner
Doris Nguyen, Associate Planner
Dan Ryan, Historic Preservation Planner
Gary Sheatz, Assistant City Attorney
Sandi Dimick, Recording Secretary

REGULAR SESSION:

Chair Steiner called the meeting to order at 7:00 p.m. and led the Flag Salute.

Roll Call

All Commissioners were present

PUBLIC PARTICIPATION:

None

PLANNING MANAGER REPORT:

Planning Manager, Leslie Aranda Roseberry, stated there was nothing additional to report.

Chair Steiner provided an overview of the City's appeal process.

Consent Calendar:

(1) APPROVAL OF MINUTES FROM THE REGULAR SCHEDULED MEETING OF OCTOBER 15, 2012.

Commissioner Cathcart made a motion to approve the meeting minutes from the October 15, 2012 Planning Commission meeting as written.

SECOND: Commissioner Buttress
AYES: Commissioners Buttress, Cathcart, Gladson, Grangoff and Steiner
NOES: None
ABSTAIN: None
ABSENT: None

MOTION CARRIED

Commission Business:

(2) APPEAL NO. 531-12 COLGAN RESIDENCE

An appeal by the applicant, Robert Colgan and Mayor Cavecche of Design Review Committee No. 4638-12.

The appellants are seeking to overturn the Design Review Committee's (DRC) denial of a proposal to demolish an existing 1,375 square foot one-story single-family residence and construct a new 2,548 square foot two-story single-family residence. The two-story residence would resemble Craftsman-style architecture.

LOCATION: 137 N. Shattuck Place

NOTE: The proposed project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) per State CEQA Guidelines Section 15303 (Class 3 – New Construction) because the project consists of a new single family residence.

RECOMMENDED ACTION:
Motion on Appeal No. 531-12.

Chair Steiner opened the item and invited the appellant to address the Commission.

Robert Colgan, address on file, stated during the DRC discussion there were concerns with the set back and suggestions by the DRC to change the structure of the 2nd unit. Unfortunately the structural systems of the proposed project would not allow for that. He had enhanced the home by adding additional architectural features as that was what the DRC had wanted. He had a rendering of the home that would have climbing vines around it to help with the separation and articulation when the plants were fully matured and grown in. The reason that the project was being brought to the Planning Commission was that he was limited in what he could do with the way the product or house was constructed. The home would be built in a manner that exceeded all the title 24 requirements and it was a green building effort. It would be highly efficient and he was pushing for a LEAD Platinum certification. He believed the home would qualify for LEAD Gold certification. It was a very energy efficient home and followed green construction. The homes had been introduced in several other cities. The home he proposed was much different than the homes that had been introduced in other cities because Orange was unique, and next to South Pasadena had the toughest architectural design guidelines of any other city; and that was why there had been such an effort to put in architectural enhancements that they could add to the project and to beautify the home. He was going to live in the home he built. He was a custom cabinet maker and he understood good design and architecture. Because the house had no attached garage, either forward or side, it really made it difficult to provide for a set back appearance that was found with an attached garage setting. Mr. Colgan stated he was not stating anything more than had been presented to the DRC, other than that he was appealing the

DRC's decision to the Planning Commission and he was hoping for the Planning Commission's consideration so he could move forward. Several of his neighbors were present and there had been a petition that had gone around and many of his neighbors were present to speak. He was available for questions.

Chair Steiner stated they would now hear the Staff Report.

Associate Planner, Robert Garcia, presented a project overview consistent with the Staff Report.

Chair Steiner asked if Mr. Garcia would elaborate on the City's in fill requirements.

Mr. Garcia stated the infill requirements were throughout the City, not just in the Historic District. Essentially, the infill guidelines were designed to protect the established neighborhood. To ensure that projects submitted to Staff and for DRC review would enhance the neighborhood and not necessarily break apart or introduce elements that were not already in that neighborhood. The requirements would not prohibit a two story home from being built; however, proposals were reviewed carefully to ensure the architecture and style fit in with the aesthetics of the neighborhood.

Planning Manager, Leslie Aranda Roseberry stated the City looked at the infill guidelines, that were adopted by the City Council, to look for compatibility between a new single family home in a single family home residential area to the existing architecture that existed in form, mass and bulk. As Mr. Garcia indicated two story homes were not prohibited, however, such structures needed to be carefully designed to be compatible and fit in with the existing neighborhood.

Chair Steiner asked if there were any questions for Staff.

Commissioner Gladson asked that in Mr. Garcia's review of the neighborhood would he state that some of the one story homes in the immediate area had a boxy or less boxy look in terms of design.

Mr. Garcia stated from his recollection he would state the homes were less boxy and more of a rectangular single story architecture. Some of the roofs were more prominent on some of the homes and it was not a cookie cutter neighborhood. There were enough elements that were from a post WWII design in most of the homes.

Commissioner Gladson stated the homes would appear to have a sense of movement to them and the houses had individual character to them, rather than what one might see in just a square shape.

Mr. Garcia stated that was correct.

Chair Steiner stated he had driven the neighborhood and it was a beautiful street. Going a bit further and around the corner off Maple he had seen 3 homes that were two story

homes. They were not on Shattuck. He asked what the setback requirement was.

Mr. Garcia stated 20'. In the particular neighborhood of the proposed home, the setbacks were generally at about 30'. Code was 20'. They had looked at the setback and Staff supported the setback as proposed by the applicant.

Chair Steiner opened the item for Public Comment.

Glen Duncan, address on file, provided a handout to the Commissioners. He stated Mr. Colgan had been a neighbor of his for 16 years and he hated to be put in a position, and hoped Mr. Colgan would continue to be his friend. Reluctantly he had signed the petition after the rest of the neighbors had signed it, and he had been dwelling on it ever since. He was one of the 2 neighbors that would be affected by the proposed project most. After signing the petition he drove down to Costa Mesa to view some of the homes, as in the proposal, which had already been built. After seeing the homes he felt that those types of homes would not belong in his neighborhood. If he wanted to live next to a home like that he would have moved to South County with other cookie cutter homes. The Colgan property had a large garage, the garage was there when he had purchased his home; and although it was ugly to look at he had accepted that. He was not pleased with the thought of another massive structure peering over the wall into his yard where he spent a great deal of time. As a property owner he stood for property rights to build the home, he had known Mr. Colgan a long time and he had built quality cabinets and he found it odd that Mr. Colgan would want to build such a cheap looking home. He had concerns that the proposed project would be used as some sort of sales marketing tool for his company that built the modular homes, or possibly he would turn around and sell the property. Either way it would be a permanent fixture on the street and forever change the aesthetics of the neighborhood.

Dan Slater, address on file, stated his office was two doors down from Mr. Colgan's home and he had been working out of that site since 1985. Mr. Colgan was a good friend and neighbor, and he had not liked to oppose people who meant well and support the City so much. He had reviewed the plans and he felt the enhancements that had been made to the proposed project were good and it was a good design, however, the home was not the right home for the neighborhood and too large for the block in mass and bulk compared to the other homes on the block; it was set too far forward that encroached on the set backs and were different from the majority of homes on the block. He lived in a Craftsman home that was built in 1923 and the proposed home was not a Craftsman's home block and it would stick out like a sore thumb and it had not met the infill guidelines. It was an important issue in the City as there had been some real objections built that the guidelines addressed and for those reasons he could not support the proposed project.

Patty Flores, address on file, she had reviewed the design of Mr. Colgan's home and had no issue with it at all. She stated on Dana there were two story homes on that street that had not taken away from the street what so ever and she felt Mr. Colgan had done enough to make the house fit into the neighborhood and it would be an improvement. On the set

back issue, there were two homes on Dana that got some sort of an o.k. to build their homes more forward on the street and she was not certain how that had passed. She supported the proposed project.

Susan Mullen, address on file, stated she lived across the street from the subject site. In their neighborhood there were no two homes were alike and they were all custom built homes. The beauty was in the eye of the beholder. She had lived in her home for 29 years. She had known Mr. Colgan for a long time and he would not build a cookie cutter home in their neighborhood and he took pride in their neighborhood; it was about trust. She supported the proposed project.

Rodney Mullen, address on file, stated he had know Mr. Colgan a long time and he was confident that he would not do anything shoddy and it was not a commercial promotion or was it anything to enhance the product for the company he worked for. It would be a nice addition to the neighborhood and he fully supported the proposed project.

Adolfo Flores, address on file, he asked to review the elevations of the homes in Costa Mesa; which he thought had nothing to do with what was being proposed in Orange. He had seen both elevations the ones that Mr. Colgan had presented and he knew something of elevation and what was proposed was decent, a little different but it was o.k. to be different, they were not in Irvine and he was in complete support of Mr. Colgan. He knew that Mr. Colgan intended to live in the home he built for quite some time. It would not be a spec home, it would be his home. He believed in his neighborhood and it was a nice neighborhood and he stated that he agreed completely with what Mr. Colgan was proposing. It was a nice neighborhood. When the City came forward and wanted to take down the trees, the people that were in the room tonight were those that objected to that. The City had wanted to make improvements to the sidewalks, curbs and gutters. Around the corner on Dana, there are 2 homes that had been remodeled and were two story homes. One street over there are two story homes throughout the neighborhood. What was before them was very nice and he liked it.

Nick Colgan, address on file, stated his was a large Irish family and growing up in the neighborhood it was easy for them to make everyone a part of their family. He had a strong sense of family and sense of pride in everyone's home and yard. It was hard for him to think that it might not be possible for his dad, Robert Colgan, who had worked so hard and was dedicated to perfection and in doing things properly to not be able to build his house. It was something so difficult to achieve and to understand the process, it was frustrating at times. The proposed home would not be a cookie cutter home, but a beautiful Craftsman house. He had sat through design boards and he knew the plans like the back of his hand and it would be a beautiful home and nothing less.

Brian Wilterin, address on file, stated he had known Mr. Colgan for just under 15 years and he was the first neighbor he had met. Mr. Colgan had done some woodwork and helped him with a remodel in his home 10 years ago. Mr. Colgan had not let them compromise with very many things. 10 years later they were still proud of the work he had done with providing custom living room cabinets; when people visited their home

they commented on the cabinets and his floor guy used their home on his website. Mr. Colgan knew architecture and engineering and that was why R.S.I. wanted Mr. Colgan to work with them as he was a pretty clever guy. He had reviewed the pictures of the proposed project and he was not worried about it. He had spoken with other neighbors who also felt that Mr. Colgan would do a good job. He was confident that Mr. Colgan would do a good job. He had spoken with other neighbors about their concerns and he had looked at the R.S.I. website and the photos that Glen had shown him. He felt the homes that were in those photos were not a Mr. Colgan type of thing and he would not want to see him compromise on the proposed project for his own home, as he liked the good stuff. He followed up with Mr. Colgan and his thing would be for him and the neighbor's sake was there was good architectural integrity to the home. One of his favorite homes was Shannon Tucker's home, it was a wonderful home and there had been some concern about box and box ugly. He took his dog for run and realized that Shannon's house was boxy, but it was a beautiful home. It was all about architectural detail. The set back and the two story element had not bothered him too much. He had spoken briefly with Mr. Colgan about the details that would be added to the structure and if he had not met the requirements just yet, he felt confident that it could be done right. He had thought about it quite a bit during the week and he wanted Mr. Colgan to remain in the neighborhood and that there was a home that they could be proud of. Mr. Colgan had the skill set to make sure it was done right. When he had redone his own home they had replaced his windows with vinyl windows and had been told that the steel framed windows should be kept; architecture was subjective and some people got really tied up in some details. Hold Mr. Colgan's feet to the fire and have him fix what needed to be fixed. He supported the proposed project and it was not a project that should be killed.

Lisa Bojorquez, address on file, stated she supported the design and would read into the record letters from two other neighbors that were unable to attend the meeting but had wanted to show their support of the project. The letters were received by the Commission Chair to be entered into the record.

Chair Steiner closed the Public Comment portion of the meeting and asked the applicant if he had anything further to add?

Mr. Colgan stated he wanted to thank all the neighbors for their support. He had taught Craftsman history for 15 years and the proposal was for a true Craftsman house. The home that Mr. Duncan had shown in the photos was not the home he was proposing to build. He was Vice President for R.S.I. development and the mission of R.S.I. was to create affordable homes that met all energy and structural requirements in a manner that was affordable for people who really needed homes. The home proposed was not an affordable home. He believed in his company and in their product. His idea was to take that type of home, a box, and without altering the systems housed in the structure of the home that allowed the home to be built extremely fast and extremely economically, to allow a general contractor to add enhancements that would customize the home. That was what he had proposed. He would not live in a standard R.S.I house in their neighborhood, would he live in that house in Menifee, absolutely. They had built 300 of those houses for people who would have never been able to afford a home. He believed

in the proposed project and in the method of construction of the proposed home. He was not able to completely customize the home as he could only compromise so much from a structural and systems standpoint. Whatever the Commission decided tonight he just wanted to state that he was proud of his neighborhood and he was not building a home in order to sell it. He loved his neighborhood and he loved the City. He wanted a home that he could be proud of and his neighbors could be proud of. He had met the guidelines, the guidelines were a neighborhood guideline and that was what it stated, it was people who would stand together and state their opinion and find a compromise in what ever they would do; he knew going into the DRC he would need to make compromises. He tried to put every architectural element into his proposed home to appease them and to have a home that he could be proud of.

Lorena Arce, address on file, stated that Commissioner Gladson had asked about the boxy nature of other homes in the area; on the 5th and 6th page of the packet there were some homes that were very boxy and there was another home on page 4 that had a little bit more of a rectangular feel to it where the protrusion of the garage was sticking out and that home was unique. It was 127 N. Shattuck and that was reflective of a unique home and she wanted the Commission to understand that the homes in the neighborhood were not cookie cutter homes and they were not particular to any one style. She wanted to address comments that were made about architectural detail. There were colored copies of the details within the packets and they were customized to Mr. Colgan's family's desire and not particular to R.S.I.'s design. She had also looked into the R.S.I. product and realized the proposed project was very different from the cookie cutter type homes that R.S.I. produced.

Chair Steiner asked if the two story building could be broken into smaller architectural components and if that could not be done was it due to the type of building he proposed?

Mr. Colgan stated it was not possible, there were shared systems within the walls and the outside walls were 2" x 6" construction which far exceeded normal building codes. The outside of the house was sheathed and within the walls were housed all of the electrical and plumbing and because of how the protrusions came through the slab and they were precision built; the plumbing and electrical could not be off more than an 1/8 of an inch. When the home was dropped onto the material that came up through the slab all of the houses were engineered that the service, bathroom, kitchen and such were housed in the exterior walls. With the 2" x 6" walls those could accommodate much denser insulation and there would never be an opportunity for a nail, screw or staple to ever come into contact with water, waste, electrical or gas; so from a standpoint or warranty and mold and the nightmares of building it would not occur as there would not be any penetration to those systems. They had done a lot of research and had found where the issues had occurred. If the planes of the structure were shifted the architectural integrity of the building would be lost. The structural requirements completely changed and the cost to meet the structural requirements increased exponentially; it was truly amazing how fast the cost could be doubled or tripled by off setting the structure. With that stated, he had created pop outs to provide for some architectural articulation, pop outs that were non structural. It was a box and in attaching a pop out, and in all honesty they had done that

all the time, but in the Craftsman movement that was not done; secondly every time he added a pop out onto the house he encroached on his neighbors. The setbacks were brought in and the windows were not in direct line sight of any of the neighbor's homes and the rear windows viewed directly to their own backyard and the side windows were toward the front of the structure to provide for privacy for themselves and their neighbors. He had considered all the questions in the design and placement of the home. He had another design for a home that could be set back more, but it would encroach on the neighbors more. He was considerate of the neighbors first and foremost in his design and obviously architecturally he loved the house and wanted to live in it the rest of his life.

Chair Steiner asked what was the set back?

Mr. Colgan stated 31' and to the porch it was 26'.

Chair Steiner asked if it could be pushed back further.

Mr. Colgan stated it would push the property back where the windows would peer into the neighbor's yard and he was being sensitive to that. He wanted a more useable backyard. He could take it another 6' forward and still be within the setback requirements, but he had a beautiful Sycamore tree that he had not wanted to remove. He had planted all of his trees when he moved into the home in 1987. He cared about the street and what things looked like.

Chair Steiner asked when he had appeared before the DRC was there not an opportunity to tweak the design?

Mr. Colgan stated there was not; the DRC asked for some pretty incredible things such as to tear down the building in the back and move the home to the back of the lot. It was not rational in his mind some of the things they were asking him to do. He walked the DRC Committee Members through the logic of his design and asked if there was an element that he could bolt onto the home to make it work. Anything he put onto the sides would decrease the setback to the neighbors, he added a full porch with open beams and very nice Craftsman details; and to have the porch with a three foot overhang and have it lower at the front. It would taper up slightly and in looking at the front elevation it would separate the plate line from the first and second floor and draw ones eye downward and not upward. The roof had been flattened out quite a bit. The home would be on slab and he really attempted to think of all the elements and use an engineered product. To use an engineered product and keep it intact and augment it with some really fine architectural enhancements and that was what they were asking to do.

Commissioner Gladson stated if she was hearing correctly the prefabricated modular system which was a really cool technology would be built in a warehouse to a two story design and the plans showed the walls at 17' tall.

Mr. Colgan stated if the home was approved, don't blink an eye. The walls were built at 16' wide and it was called panelized construction and it was not a new technology. The wall panels were built in a factory in a controlled environment and the wall panels were framed and clamped together with the sheathing nailed together with an automated nailer.

Commissioner Gladson stated with the second story, or mass and the first story or volume it would seem that it would be possible to off set the second form in terms of the structural aspects or had it had to happen at the same time?

Mr. Colgan stated the walls had to physically line up due to the systems that had to align between the first and second floors.

Commissioner Gladson stated there was an existing, fairly large garage at the back of the property and was there an alternative explored in attaching the home to that structure, could it have been done, could it have been attached to the modular structure?

Mr. Colgan stated no it was not an option. Besides, the code requirements would not allow them to do that. There was a distance requirement between the garage and the residence.

Commissioner Gladson stated there were code requirements but if the structure were attached there would not be a distance requirement. She had wondered if that option had been explored.

Commissioner Buttress stated with the porch, she asked if the porch was flat.

Mr. Colgan stated that was correct. The porch would be 8" above grade and the house would be above the porch approximately 2".

Commissioner Buttress stated in reviewing the drawings she was having a difficult time making out where the front door was.

Mr. Colgan pointed out where the front door would be located and referenced the black line drawings.

Commissioner Buttress asked if the property currently contained a swimming pool.

Mr. Colgan stated no.

Commissioner Cathcart stated when he received his packet he was not overjoyed. He had served on the Design Review Committee for several years. The project was a project that the City Council had no way of knowing could happen when they approved the infill guidelines. The quality of construction as presented was beautiful; the integrity of the gentleman that was building the home was not at issue. His concern was holding with the code and putting the City Council on the hot seat to change it or to be put in a position to

do what the Planning Commission was being asked to do. To be quite honest, they would need to ignore the infill guidelines in order to approve the proposal before them and that bothered him. He would like to see, and although it would hold the applicant off of being able to build his home right away, to see the appeal go forward to the City Council and to have those 5 people figure out how to deal with the issue. It was not within the Planning Commission's purview to change the code, but it was the job of the City Council to do that and it should be placed right at their feet that the times were changing and technology was changing and the in fill guideline issue needed to be addressed. He was a property rights advocate, but someone had to tell the people who made the rules to change the rules so the body that reviewed the projects, the DRC and the Planning Commission, would not need to avoid the in fill guidelines and there should be a way to make the project before them fit.

Chair Steiner stated the Mayor had assisted in having the appeal move forward to have the Planning Commission take another review of it beyond what had been done at the Design Review Committee level. In reviewing the findings that the Planning Commission was required to adhere to; in his mind the massing elements was so great for the street, it was two story and was not set back very far and was not consistent with the neighborhood, it had not fit into the neighborhood. He was not comfortable in moving the item forward. The applicant was able to appeal their decision to the City Council. There was no question that the infill requirement finding could not be made and he couldn't see a way around it.

Commissioner Buttress stated Commissioner Cathcart had stated the situation extremely well. She believed in property rights for individuals that they had the right to do what they do and she was very impressed, seeing that she worked for Southern California Edison, and she was very energy conscious. Mr. Colgan had a technology that he was looking at for his proposed home, however, the Commission's hands were tied when they sat on the dais and understood there was something on the books that told them that the project was part of an infill residential development. That was what it was and it was sited in the guidelines that additions and new structure were to be compatible with the scale, massing, orientation and articulation of the surrounding development. As lovely as Mr. Colgan had worked to make the home fit into the neighborhood, and she lived in Orange for the reason that there were not cookie cutter places, and she was not stating that she would want to see the proposal be a cookie cutter place. She just felt her hands were tied with what was before them and Commissioner Cathcart very articulately stated it was probably the City Council that needed to hear the discussion and perhaps re-visit the guidelines that they had decided on.

Chair Steiner stated he had not believed that the City Council was really interested in having the residential areas of Orange to have 2500 square foot buildings in one block and 1500 square foot houses on another part of the block; he had not seen the City Council heading in that direction. As far as the Planning Commission was concerned, they appreciated the applicant coming before them and for the neighbors who had spoken; with many of them very supportive of the proposed project and those that

expressed their concerns.

Commissioner Grangoff stated he would just add onto what Commissioner Cathcart and Commissioner Buttress had stated. The thing that struck him the most when reviewing the item and what he struggled with was that they held people to the standards and the guidelines currently, in going through the Design Review Committee process that cost them a lot of money and they go back and forth with the Design Review Committee and change their proposals; and in the interest of fairness they needed to hold everyone to those same standards unless the standards were changed, which was a role of the City Council. As they moved forward it was something good for the City Council to look and he agreed with the comments stated by Commissioner Cathcart.

Commissioner Gladson stated she concurred with a lot of what she had heard and frankly the applicant was an up-standing individual. There was no question that it was not a personal issue, and not about whether they liked a design or not. She wanted the applicant to be able to grow his home and improve upon his home. It was not in her view a property rights issue. The Commission had been fundamentally directed by the City Council to look at the issue of mansionisasion and to look at the issue of big bulky homes in neighborhoods that had not had that situation. She concurred that the findings before them on the proposed project could not be made. There were no facts that could support the findings that the Commission was held to make. Frankly the two homes on Dana were exactly examples of homes that were two story structures that had met the infill guidelines and were the rule to follow and particularly the home at 1370 Dana was an excellent example. She would encourage those types of applications to come before them. Secondly, the Design Review Committee, which Commissioner Cathcart and herself had served on that Committee, were the experts on the issue before them. The Committee Members of the Design Review Committee were professional landscape and building architects who had chimed in unanimously on the design aspect of the proposal before them. They worked and attempted to pull out the fact if the applicant had designed the home to the standards that they would have been able to approve the project. It was unfortunately not possible with the design and the manufacturing techniques involved with the home. She was confident that a two story home could be built at the subject site if it met the standards. She would be voting in opposition and not approving the appeal and she felt the Commission had no other choice.

Commissioner Buttress stated she had also gone through the neighborhood and although, she had not turned on Dana, but had turned on Maple and there were a couple of two story homes right around the corner. Those homes blended very well with the neighborhood and again they were not complete around the home, but a section that became two story. She understood that it was easier with the attached garage situation. She could understand how those homes had been construction, but they had fit into the neighborhood and would have met the standards. She would probably have to say no to the proposal before them.

Chair Steiner brought the item back to the Commissioner for a motion.

Mr. Colgan asked if he could make an additional comment.

Chair Steiner invited the applicant to address the Commission.

Mr. Colgan stated the homes the Commissioners were referring to were both structures with attached garages. He actually built the cabinets for both of those homes. He knew the homes very well inside and out and there was not a second story set back on the Tanis home, it was directly over the top of the garage. The Harms house had no second story set back at the house structure, there was a second story set back at the garage structure. In having a detached garage, which existed on his street, better than 70% of the homes on Shattuck were detached garage homes; and a lot of the massing opportunity was lost due to that design. That was something that needed to be considered by the Design Review Committee. He had a couple of questions that he would want to follow up with. He asked Assistant City Attorney, Gary Sheatz, if he could explain to him the difference between an ordinance and a guideline as stated in the charter.

Mr. Sheatz stated the City did not have a charter as they were a general law City and not a charter City. Under some of the ordinances, and the ordinances were adopted by the City Council, had to comply with State Law, as they were a general law City. The guidelines, and in particular the infill guidelines, were adopted or referenced in the ordinances. He was not quite sure what Mr. Colgan was asking.

Mr. Colgan stated when reviewing the requirements to build a home there was a check sheet for height, mass, setback, square footage, FAR, and on all of those things he was in compliance on and well under the City's recommendation. He was not asking for a condition or a variance of any kind and wanted to know how he could meet all the City's requirements to build the home and still be denied. Because there was a design guideline that had not specifically stated and was very subjective in how it was perceived, he wanted to understand how that guideline could supersede all of the other requirements for building a home?

Ms. Aranda Roseberry stated the guidelines had not superseded the ordinance, but worked in concert with and it was a matter of meeting the setback, the height requirements, the lot coverage and massing requirements and that was sort of the form of the structure; and then when reviewing the architectural form there was the design guidelines to be looked at, they worked together and it was not an "either or" issue. The guidelines were adopted by the City Council and were meant to be used together with the other development standards in the code.

Commissioner Buttress stated in the Staff Report it was outlined very carefully in the infill guidelines and in one of the paragraphs it was stated that perceived scale of a new infill residence should be minimized and to achieve that a two story building should be broken up into smaller architectural components or include a substantial single story element and in the case before them the applicant was proposing a two story box with architectural elements, dormers on the roof of the second story gave the appearance of a

½ floor and gave the residence an appearance of a two and a half story home.

Mr. Colgan stated he had read that and his question was how when all the building requirements were met that a Committee could take a look at an architectural design and completely reject the project?

Commissioner Gladson stated what they had read in the Staff Report and from the meeting minutes, the DRC had found that the project had not met the tests that they had before them. The architectural requirements for bulk and mass had not been met.

Mr. Colgan stated that was what he wanted to clarify, was it a requirement or a guideline?

Mr. Sheatz stated the development standards needed to be met as well as the architectural standards. There were architectural standards that stated refer to the infill guidelines, in terms of meeting that. They might not be able to open up the OMC and find it right there, but there was a referral to the infill guidelines and the infill guidelines were things that had been changed over the years and there were different applications depending on where the site was located. The guidelines were set aside and separate as they were guidelines that could be changed by the City Council by adopting the resolution that approved the infill guidelines without having to take it as an ordinance. The ordinance required a reading, a second reading and then it would be adopted 30 days thereafter. Within the ordinance it would always be stated that there needed to be compliance with the architectural standards and within the architectural standards there were the infill guidelines, the infill guidelines could be changed through a resolution at the City Council level.

Ms. Arce stated with the infill guidelines, where had it stated that the application needed to meet 100% of the infill guidelines, the project had met a lot of them? With bulk and mass which were the primary issues, where had it stated that they had to match? She felt it was a judgment call that the Commission needed to make; given Mr. Colgan's circumstances he was stuck with the guidelines.

Mr. Colgan stated to Ms. Arce that the Commissioners had stated they could not make the call and he understood what the Commission was stating that they were hamstrung and they were stuck with what the guidelines stated.

Commissioner Gladson stated they needed to follow the law of the City of Orange.

Ms. Arce asked if the law stated that the guidelines had to be met at 100%.

Commissioner Gladson stated the ordinance stated that there were 4 findings that the Commission had to find facts for to prove that the project was appropriate and it was legal terminology, but that was what it stated and Staff had provided them with very solid facts that were very defensible. She understood that the process was a struggle for the applicant and they had a motion and a second and they were ready to take a vote.

Mr. Colgan stated he just wanted to understand.

Commissioner Gladson stated it was something Mr. Colgan might need to do outside of the meeting with his professional team and the City's professional team and Attorney to see if there were any alternatives for him.

Chair Steiner asked for a motion on the item before them.

Commissioner Buttress made a motion to deny Appeal No. 531-12-Colgan Residence.

SECOND: Commissioner Gladson
AYES: Commissioners Buttress, Cathcart, Gladson, Grangoff and Steiner
NOES: None
ABSTAIN: None
ABSENT: None

MOTION CARRIED

New Hearings:

(3) CONDITIONAL USE PERMIT 2843-11; MINOR SITE PLAN REVIEW NO. 685-11; AND DESIGN REVIEW COMMITTEE NO. 4603-11-SOUTHSIDE TOWING

The applicant is proposing the construction of a new 1,200 square foot metal modular building at an existing tow and impound yard. The modification to the site requires that the use comply with current zoning standards where a Conditional Use Permit is needed for outdoor storage/impound of vehicles and for 24-hour operation.

LOCATION: 551 North Batavia Street

NOTE: The proposed project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) per State CEQA Guidelines Section 15301 (Class 1 – Existing Facilities) because the project consists of minor alterations to the land use.

RECOMMENDED ACTION:
Adopt Planning Commission Resolution 42-12 approving a 1,200 square foot metal modular building and a 24-hour outdoor storage/impound yard for vehicles.

Associate Planner, Robert Garcia, presented a project overview consistent with the Staff Report.

Chair Steiner opened the item for any questions for Staff and asked if any additional communication had been received? There was none.

Chair Steiner invited the applicant to address the Commission.

David Padua, address on file, stated they were proposing a 1200 square foot building and they were looking to house the evidence holds as not to compromise them by the elements. Currently Southside Towing had an off site facility, but it would be more convenient to have an on site facility for the Police Department and for security reasons.

Commissioner Buttress asked if he was comfortable with restructuring the parking lot.

Mr. Padua stated yes.

Chair Steiner asked the applicant if he agreed with the 24 Conditions of Approval. Mr. Padua stated yes.

Doug Ely, address on file, stated he was available for any questions. They were proposing a 1200 square foot building which was an improvement to the site. The

building would be a metal clad building with chain link and there would be some paving improvements and allow for a roadway for Fire Department vehicles. There would be some signage on the outside and they were responding to the water quality management requirements.

Chair Steiner opened the item for Public Comment.

Y. Farber, address on file, stated she was the neighbor directly to the north of the subject site. Her concern was not of the building, but whenever the property was disturbed she had an increase in rodents in her home. She then had to contact pest control and she was not certain that would occur with the proposal. Before they start moving stuff around on the property, could the area be examined for rodents? Generally there was nothing to complain about. She was not sure who owned to property, but there was a chain link fence that ran along the property lines and maybe another type of fencing would be better.

Chair Steiner asked the applicant to enter a response to Ms. Farber's comment.

Mr. Padua stated his site was located at the far end of the property and Ms. Farber was located toward the front. The entry to their facility was not where Ms. Farber was, they entered off of Walnut. There was another business, a donation place that was further to the front of the property and traveled along the area Ms. Farber spoke of. As far as rodents they backed up to the railroad and to Mr. Crane and there were all sorts of possums, mice, skunks, cats and all kinds of things. There had been another tow company located where Ms. Farber was referring to that had just moved out. He had not thought that they would be disturbing anything.

Commissioner Buttress stated she believed Ms. Farber's concern was during the construction phase of the project. When the construction is being done, could the applicant check for those types of things.

Chair Steiner stated Ms. Farber could always contact vector control to place traps out there.

Commissioner Gladson asked for a clarification of hours of operation?

Mr. Padua stated their hours were from 8:00 a.m. to 6:00 p.m. There were patrons that had to pick up vehicles after hours and vehicles would be made available after hours by appointment only. With the Police Department and tows they were not certain when those calls would come in.

Chair Steiner asked since when had they been contracted with the Police Department?

Mr. Padua stated since 2010 and with the California Hwy Patrol since 2006.

Commissioner Buttress stated it was interesting attempting to find the business.

Mr. Padua stated they were located far in the back and they were obscured from the general public's view, except for the Amtrak.

Chair Steiner brought the item back to the Commission for further discussion or action.

Commissioner Grangoff made a motion to adopt PC Resolution No. 42-12, approving CUP No. 2843-11; Minor Site Plan Review No. 685-11 and Design Review Committee No. 4603-11-Southside Towing, subject to the conditions contained in the Staff Report, noting that the item was categorically exempt from CEQA.

SECOND: Commissioner Buttress
AYES: Commissioners Buttress, Cathcart, Gladson, Grangoff and Steiner
NOES: None
ABSTAIN: None
ABSENT: None

MOTION CARRIED

Commissioner Grangoff excused himself from the remainder of the Planning Commission Meeting due to another commitment.

(4) CONDITIONAL USE PERMIT NO. 2856-12 - RAMONA CARNICERIA

The applicant is requesting an Alcoholic Beverage Control (ABC) Type 20 License (Off-Sale Beer and Wine) to sell beer and wine at the Ramona Carniceria Market.

LOCATION: 1965 North Tustin

NOTE: The proposed project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) per State CEQA Guidelines Section 15270 (Projects Which Are Disapproved).

RECOMMENDED ACTION:
Adopt Planning Commission Resolution 44-12 denying a request for an ABC Type 20 license.

Associate Planner, Doris Nguyen, presented a project overview consistent with the Staff Report.

Chair Steiner invited the applicant to address the Commission.

Mustafa Kahala, address on file, stated he believe that having beer and wine in his store would be a public service and help his community for many reasons. He had been at that business for 3 years and thought he would never apply for a beer and wine license. His customers had come to him to ask him why he had not had a beer and wine license; instead his customers had to cross the street on Tustin and go to CVS to buy their beer there. It was dangerous to cross the street. He had many licenses and in the last two years he received a WIC and food stamp license and never violated any of his licenses. He never called the Police Department and he helped the Police Department by having 28 cameras around the store, inside and out and he had a security guard all the time and he never had any problems. Many of the Police officers came to his store asking for assistance in reviewing tapes. If given the opportunity with a beer and wine license he would take any conditions and ensure that it was a help to the community; he would help the Police Department. His purpose was not to make his store a beer and wine store and if he had wanted to do that he would have done that years ago. The reason was to make it a convenience store. Patrons could buy their meat, their groceries, their soda, vegetables and also get a 12 pack of beer. He was willing to accept any conditions. He wanted to improve his business and to help the community.

Chair Steiner asked the applicant if he had met with the Police Department.

Mr. Kahala stated he met with the Police Department and spoke with them 3 times over the phone. The problem was a gang problem in the area and not associated with drinking, usually it was drugs. Honestly he had been at the location for 3 years and had never had any problems, he had not called the Police Department; not even once. Generally the Police Department came to review his cameras. He had been visited by a Police Officer Michelle who had given him fliers to hand out, and he had given the fliers out to the neighborhood. The Police officer had not spoken Spanish and he had, they went together to pass out his advertisement flier with the Police Department flier to the neighbors. He truly believed having a beer and wine license would help. He would hire more security and he would not advertise the sale of beer and wine at all. He was trying to make it convenient to his patrons. There had been a reference to another market and actually that market was closing down, it was in the process and he had gotten an offer to buy that store. That other store was a beer and wine store; his store would not be that way. He would have a couple doors of beer and it would be as a convenience for his customers.

Richard Ortiz, address on file, stated he was the designer and he was present to support Mr. Kahala and he was not aware that the area where the store was located was a high crime area. He had met with the neighbors and the community about the project and there had been a mention that the area had been bad, but now it was better and they could go out. The neighbors gathered with the families every weekend and they hung out periodically. The store was a convenience market that closed at 9:00 p.m.; it would not remain open until 12:00. The store was very small and there would not be a huge area for beer. There were only 7 doors and they would use just a few to display the produce and to help the neighbors.

Mr. Kahala stated there had been reference to an incident that had occurred, about selling beer to a minor and he wanted to remind everyone present and he had a partner back then and was surprised when the Police Department had notified him of the incident and he had not been in the country when it happened. He was the one that told the Police Department about the store and they had gone there and searched it. He went to college and was being educated to become a High School teacher and with the low budget it had not worked out. He had bought the business and moved to Orange to support his family and to help others and him. He invested in the business. The store had everything except the beer.

Chair Steiner invited the Police Department's representative to address the Commission.

Sergeant Mike Monjaraz, Orange Police Department, stated as part of his responsibility he had reviewed the application that was before them. He appreciated the support that Mr. Kahala provided to the Orange Police Department and respected his right to pursue an ABC and CUP license. There were legitimate concerns for crime and quality of life for the residents at that location. The market was located in District 87 and had 43% more crime than other reporting districts in the City of Orange. The average for crimes in a district was 77; reporting district 87 had 110 reported crimes. By allowing the addition of a CUP license at that site it would contribute to an already problematic area.

The business was located in a gang induction area. He had worked the gang unit and patrol and it was an area of high crime. There had been assaults to a Police officer in the area, reports of shootings and alcohol related crimes, including violations of alcohol codes such as drinking in public. As recently as two days ago, he had received calls from a resident in the area reporting on thefts that had been occurring in the area and narcotics incidents. As it related to quality of life for residents in the area, the area was considered over concentrated. Currently the off sale limit was 3 licenses allowed and there were 3 existing. By adding a fourth it would lead to over concentration and diminish quality of life for residents. As Planner Nguyen had mentioned the business was located within 100' of multiple high density apartment complexes and single family units and there was no barrier separating the subject site from the residential community. He had witnessed first hand families frequenting the area. Along with his experience of the area and a review of criminal history with occurrences of drinking in public and urinating in public the Police Department believed there would be impacts on quality of life to the residences residing near the business. Due to the totality and review of the facts the Orange Police Department was opposed to the application before them.

Commissioner Cathcart asked how many times the Police Department had been called to the subject site.

Sgt. Monjaraz checked his reports.

Chair Steiner stated the area was the concern, not particularly the business. There may have not been any calls for service at that particular address.

Sgt. Monjaraz stated there were no calls for service to the convenience store's address.

Commissioner Cathcart stated he understood what Chair Steiner was getting at, but he had wanted to hear the number.

Commissioner Gladson asked what the distinction with a Type 20 license in reference to a person going into the store to obtain beer or wine and if someone was a minor or inebriated?

Sgt. Monjaraz stated he was not sure he understood the question.

Commissioner Gladson stated as she understood with a Type 20 license she could just walk into the market and buy liquor, she would not need to purchase any other product.

Sgt. Monjaraz stated the Type 20 license was restricted to beer and wine only.

Chair Steiner stated the problem he had with the issue before them was that the Planning Commission repeatedly had ABC license requests and had granted the requests in areas with over concentration of alcohol license in areas that were considered high crime. Most recently an approval had been granted for the Stadium entertainment area and even

Watson's drug store; he asked what set the item before them apart and what was the defining issue?

Sgt. Monjaraz stated as a gang expert and a patrol officer for many years that was in fact a high crime area and problematic for the Police Department. The area was heavily patrolled and a gang territory existed in that area. He had driven in the area and just today there was gang graffiti in the area. It appeared to have been painted over, however, the gang remnants were on buildings and vehicle and it posed a challenge for the Police Department. Just two days ago he had received a call from a resident requesting assistance with issues they were having.

Commissioner Gladson stated if crime were to get below the City average in that area would the Police Department's position change?

Sgt. Monjaraz stated that could be the case.

Commissioner Buttress stated she drove through the area and there was an apartment door that opened directly to the driveway of the building. It was not the property owners issue; however, there was no barrier to the apartments to the rear. She understood the concerns of the Police Department and it was a very densely populated area.

Mr. Kahala stated he was willing to do whatever it took to make the area safer and he had installed cameras and if there was a condition that he would not sell singles he would accept that. His point was not to make his store a beer and wine store, but to add convenience for his customers. He would use more technology, higher security and whatever it took to make it safer.

Chair Steiner brought the item back to the Commissioner for further discuss or action.

Commissioner Cathcart stated he was in a quandary because he hated to see an honest business be denied something where someone else was causing the problem and not the business owner. He appreciated what Sgt. Monjaraz stated, but he had felt that the person who was applying, that they should review his operation and that operation alone rather than stating that there would be problems due to the area the business was located in. He had a problem in judging the applicant by looking at other people's behavior. He was not certain what he would do.

Commissioner Gladson stated she would be happy to make a motion to deny the CUP, but before that she wanted to explain herself a bit. When it came to licenses with alcohol for off site use, with patrons that could just come in and buy alcohol and take it out of the premises they needed to be incredibly cautious with land use related to that type of use. When it had come to restaurants and food service it was a bit easier to deal with another permit or license when there was over concentration. The Police Department and Staff had hit the nail on the head with the item before them and there was plenty of convenience to purchase that type of product in the area and she felt the findings were

clear for denial and there was opportunities at other locations in Orange for the applicant to conduct such a business; it was not appropriate at the site in the application before them.

Commissioner Gladson made a motion to adopt PC Resolution No. 44-12, approving a denial for CUP No. 2856-12-Ramona Carniceria, denying a request for an ABC Type 20 license.

Commissioner Buttress stated she would second the motion and in addressing the applicant she stated it was not a statement reflected of the applicant as a business owner; she had a very big concern of where the business was located and the building was a difficult site to view with the back alley area.

SECOND: Commissioner Buttress
AYES: Commissioners Buttress, Gladson, and Steiner
NOES: Commissioner Cathcart
ABSTAIN: None
ABSENT: Commissioner Grangoff

MOTION CARRIED

(5) CONDITIONAL USE PERMIT NO. 2879-12 AND DESIGN REVIEW COMMITTEE NO. 4639-12-DEVONE RESIDENCE

The applicant proposes to install a new bathroom in an existing detached laundry service room. The project also includes construction of a new 285 square foot one story addition at the rear of the contributing 1923 Bungalow residence. The installation of a bathroom in an accessory structure requires a Conditional Use Permit. Additionally, as the floor will expand from 1,372 sq. ft. to 1,657 sq. ft., the project also requires review and approval by the Planning Commission.

LOCATION: 174 North Cambridge

NOTE: The proposed project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) per State CEQA Guidelines Sections 15303 (Class 3 – New Construction or Conversion of Small Structures) and 15331 (Class 31 – Historical Resource Restoration and Rehabilitation) because it consists of projects limited to maintenance, repair, stabilization, rehabilitation, restoration, preservation, conservation or reconstruction of historical resources in a manner consistent with the Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring and Reconstructing Historic Buildings.

RECOMMENDED ACTION:
Adopt Planning Commission Resolution No. 43-12 permitting the installation of a bathroom in an accessory structure and the construction of a 285 sq. ft. addition that exceeds 20% of the existing floor area for a contributing residence.

Historic Preservation Planner, Dan Ryan, presented a project overview consistent with the Staff Report.

Chair Steiner invited the applicant to address the Commission.

Thomas Drummond, address on file, stated he was the architect on the project and he had worked closely with the DRC and made changes per their suggestions and he was in agreement with the conditions that had been posed by the DRC.

Chair Steiner asked if there were any questions for the applicant. There were none.

Chair Steiner brought the item back to the commission for further discussion or action.

Commissioner Gladson stated it was an excellent project and an example of how the process could set them free; to allow the project to evolve and take the wisdom of the experts who should be commended. It was a handsome addition to a resource that was valued in Old Towne. It was a nice demonstration of an addition that met the property owner's needs. It was a great project and she was in support of it.

Commissioner Gladson made a motion to adopt PC Resolution 43-12, approving Design Review Committee No. 4639-12-Devone Residence, subject to the conditions contained in the Staff Report, noting the item was categorically exempt from CEQA.

SECOND: Commissioner Steiner
AYES: Commissioners Buttress, Cathcart, Gladson, and Steiner
NOES: None
ABSTAIN: None
ABSENT: Commissioner Grangoff

MOTION CARRIED

(6) ADJOURNMENT

Commissioner Gladson made a motion for adjournment to the next regular scheduled meeting of the Planning Commission on Monday, November 19, 2012.

SECOND: Commissioner Buttress
AYES: Commissioners Buttress, Cathcart, Gladson, and Steiner
NOES: None
ABSTAIN: None
ABSENT: Commissioner Grangoff

MOTION CARRIED

Meeting Adjourned @ 8:58 p.m.