**Minutes**

Planning Commission
City of Orange

August 5, 2013
Monday 7:00 p.m.

**PRESENT:** Commissioners Buttress, Cathcart, Correa, and Gladson
**ABSENT:** Commissioner Steiner

**STAFF PRESENT:** Leslie Aranda Roseberry, Planning Manager
Robert Garcia, Associate Planner
Gary Sheatz, Assistant City Attorney
Mark Schwartz, Recording Secretary

**REGULAR SESSION**

**1. OPENING:**

Acting Chair Buttress called the meeting to order at 7:00 p.m.

**ROLL CALL:**

All Commissioners present except Commissioner Steiner.

**PUBLIC PARTICIPATION:**

None

**CONTINUED OR WITHDRAWN ITEMS:**

None

**PLANNING MANAGER REPORT:**

Planning Manager Roseberry stated there was nothing additional to report.

**APPEAL ANNOUNCEMENT:**

Acting Chair Buttress reviewed the appeal process.

## 2. CONSENT CALENDAR:

### 2.1 APPROVAL OF MINUTES FROM THE REGULAR SCHEDULED PLANNING COMMISSION MEETING OF JULY 15, 2013.

Commissioner Gladson made a motion to postpone approval of the meeting minutes from the July 15, 2013 Planning Commission meeting since only 2 commissioners who attended that meeting were present at the current meeting.

**SECOND:** Commissioner Cathcart
**AYES:** Commissioners Buttress, Cathcart, Correa, and Gladson
**NOES:** None
**ABSENT:** Commissioner Steiner

**MOTION CARRIED**

## 3. NEW HEARING:

### 3.1 CONDITIONAL USE PERMIT NO. 2889-12 – 149 SPORTS GRILL & BAR

The applicant is requesting to upgrade an existing Alcoholic Beverage Control (ABC) Type 41 (On-Sale Beer and Wine for a Bona Fide Public Eating Place) License to an ABC Type 47 (On-Sale General for Bona Fide Public Eating Place) License to have on-site consumption of alcohol for patrons of the establishment.

**LOCATION:** 149 N. Glassell Street

**NOTE:** The proposed project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) per State CEQA Guidelines 15301 (Class 1 – Existing Facilities) because the project consists of the operation and licensing of an existing private structure.

**RECOMMENDED ACTION:**

Adopt Planning Commission Resolution 28-13 approving an upgrade from a Type 41 ABC license to a Type 47 ABC license.

Associate Planner Robert Garcia presented an overview of the project consistent with the staff report.

Commissioner Correa expressed concern that alcohol mostly be served with full meals so as to minimize the negative effects of people coming to the restaurant just to drink.

Mr. Garcia assured him that was the intent of the proposal.

Commissioner Gladson asked for clarification on the nature of the alcohol license and asked for confirmation that the license is for the property, not the owners, and therefore, the license will continue to be in effect if the property is sold.

Mr. Garcia confirmed that.

Commissioner Gladson also asked whether Citrus City Grille had a Type 47 license rather than a Type 41 license.

Mr. Garcia confirmed that and admitted the report was incorrect.

Commissioner Cathcart asked Assistant City Attorney Sheatz how to require the restaurant to serve alcohol only with full meals. Mr. Sheatz stated that the license requires alcohol to be served with a meal. There are no specific stipulations about how much food must be ordered, but he believes there can be some stronger wording in the licensing language that ensures the intent behind a Type 47 license is being kept.

The applicants, Armon and Sammy Medali spoke. Armon Medali stated that 149 Sports Grill and Bar is a restaurant, and is not looking to have people come in just to drink. He also stated that all the wait staff will attend the ABC class on how to pour drinks safely, ensuring that wait staff will know to cut off customers from alcohol when they have had too much, and/or provide food for them if they have consumed alcohol without eating any food.

Commissioner Correa acknowledged that the Medali Family seems to be responsible, but expressed concern that there is no safeguard that the next owners will be responsible if the property is sold.

Commissioner Gladson asked if the owners were aware that the conditions in the staff report didn't allow for a happy hour or other alcohol-related signage, and a separate license to have such signage would need to be re-applied for in the future.

Mr. Armon Medali acknowledged that condition and said that the food is the main focus on their restaurant and he sees this alcohol license as simply a way to allow people to enjoy martinis and other drinks with the meals they will get.

Acting Chair Buttress asked if the owners were aware of, and willing to abide by, all 48 of the conditions expressed in the staff report. Mr. Armon Medali said they were.

Commissioner Cathcart mentioned that the CUP could be revoked at some future point by a public hearing, so the approval of this license should not be viewed as *carte blanche* to operate with impunity.

Acting Chair Buttress opened the meeting up to public comment.

Judy Schroeder, owner of The Gallery at 112 E. Maple Street which is around the corner from the applicant's restaurant, spoke. She stated that she has had several windows broken and other negative repercussions from people consuming liquor in the Plaza area. She also mentioned that she has heard from several customers that Orange should be careful about loosening restrictions on alcohol because cities like Huntington Beach and Fullerton loosened their restrictions and are sorry they did because it is very difficult to go back and tighten them again. She also mentioned that there are already several places that serve liquor in the Plaza area, and while she acknowledges that this new type license will bring people into the restaurant, she wonders whether it will bring people in to eat or to drink. She also mentioned that she doesn't want to go through any broken windows, and that she wants the police and all the businesses in the Plaza area to do their part to help all businesses thrive without having to incur the extra expenses associated with cleaning up after people who have had too much to drink.

Betty Woody, address on file, spoke. She also mentioned having to clean up after people who have had too much to drink, and having to fix broken windows as well. She stated that bringing in more liquor, while it appears to be a way to improve business, will hurt all the businesses in the area in the long term.

Acting Chair Buttress closed the public portion of the meeting.

Commissioner Cathcart mentioned that other businesses, including Orange Cycle, have had similar repercussions to those described by the speakers for decades. He recommended working closer with the Chamber of Commerce to give people something positive to do rather than simply get drunk somewhere else. He agreed with Judy that the owners of 149 Sports Grill and Bar shouldn't be singled out, but that the presence of liquor in the Plaza area certainly contributes to the problems being described.

Commissioner Correa mentioned that comparing Orange to Huntington Beach is like comparing apples and oranges, since the situations are so different. He also urged us to have faith in our police department to do what they can to curtail these negative effects. Additionally, he acknowledged that there are going to be jerks who do bad things regardless of the alcohol policies enforced by the City. He mentioned that we have to balance things out, and that's what this meeting is all about.

Commissioner Gladson mentioned that the main determination is "what do we want our Plaza to be?" Will it be an entertainment district that becomes a huge regional draw? Do we want it to be a combination of nice dining and shopping, mostly antiques? Answering that question will be the main challenge. She stated she is concerned about the tipping point and about the over-concentration of taverns and bars in the Plaza area. She stated that while she supports the change being discussed, she puts the responsibility on the restaurant owners to responsibly manage things. If things aren't managed well, there will be complaints and possibly a revoking of the license. She stated her confidence in the conditions being placed on the restaurant owners. Her only concern seemed to be tightening up the closing time for the restaurant.

Assistant City Attorney Sheatz stated that there needed to be consistency with enforcing closing times for all restaurants and bars in the Plaza area or else the City could be on unsteady legal grounds for enforcing an earlier closing time for a specific business.

Commissioner Cathcart noted that as Chapman University has grown, the number of people creating problems related to alcohol consumption has increased as well. He urged that we ask the University's security department for help in policing alcohol consumption and its negative consequences.

Commissioner Gladson reminded everyone that the purview of the Planning Commission is not to determine whether drinking alcohol is acceptable, but to view the issue from a land use perspective. She indicated that generally the commission seemed to be fine with the application as it relates to land use, but would like to see if moving the closing time to earlier would be a good idea.

Mr. Garcia mentioned that one of the main concerns is to have a level playing field for competitiveness among businesses in the Plaza area and not have a competitive advantage given to either new or existing businesses regarding closing times. He

mentioned that the discussion on limiting the hours should be discussed with the applicants and that the ABC standards for times to serve alcohol are from 6am to 2am.

Commissioner Correa asked to hear from the police department representative.

Sgt Mike Monjarez, police representative, mentioned that the City of Orange has one of the most restrictive Conditional Use Permits (CUP's) in the area. He also stated that the CUP is the most effective tool the police have for limiting the negative effects of alcohol consumption. He reminded the Commission of the conditions put on the applicants as part of the application, including no happy hour designation allowed. He also noted that the staff report states that the police recommend a 10pm closing time, and indicated that the applicants said they would be willing to discuss a different closing time.

Acting Chair Buttress stated that the City of Fullerton has had more relaxed CUP's, and they are currently feeling the negative effects from them.

Commissioner Gladson asked if the police have had any spike in their current services as a result of the current operation of 149 Sports Grill and Bar. The police representative stated that there hasn't been any spike. Commissioner Gladson also asked about the broken windows Ms. Schroeder mentioned. The police representative didn't have any specific information about those incidents.

Commissioner Correa asked the police representative to explain the rationale for the recommended 10pm closing time. The police representative explained that that was a reasonable time frame, since many other restaurants in the area close at 10pm as well.

Acting Chair Buttress asked if the applicants wanted to come up and share their thoughts on the closing time recommendation.

Mr. Armon Medali mentioned that they often get late night customers who come by to eat prior to going to bars or other establishments that stay open later. As a result, they requested a 12am closing time, but they would be open to discussing it.

Commissioner Gladson asked if the applicants would be willing to agree to an 11pm closing time on Sunday-Thursday, and 12am on Friday and Saturday.

The applicants expressed agreement with that arrangement.

Commissioner Correa wanted to make sure it was clarified, both with the Commission and the public, that this establishment is a restaurant and not a bar. He stated he agreed with the police department's recommendation of 10pm.

Commissioner Gladson asked the applicants if they were comfortable with a 10pm closing time. The applicants stated that they often are busy later at night, and often the restaurant has a lot of customers after 10pm. They also said that people who are full with food don't have quite as many negative effects from alcohol intoxication.

Acting Chair Buttress clarified that the applicants would prefer 11pm on Sunday-Thursday and 12am on Friday and Saturday.

Commissioner Correa asked if the police department would be comfortable with those times. Sgt. Monjarez stated they recommended 10pm for a reason and that they believe 10pm is a reasonable hour for a restaurant in the area.

Assistant City Attorney Sheatz recommended gathering information on when other similar businesses in the area close so that a fair closing time can be determined.

Acting Chair Buttress asked if the entire proposal should wait until that data can be gathered.

Assistant City Attorney Sheatz mentioned that often both the police recommendation and the applicants' desired operating hours are used to determine an appropriate closing time. He recommended continuing the item until that data can be collected and examined.

Acting Chair Buttress asked if any of the commissioners felt strongly about this issue.

Commissioner Cathcart said he feels strongly that 11pm is a fair time, while 10pm is too restrictive. Without a degree in how to manage a restaurant, the Commission should not be dictating operating policy to restaurant owners. The problem of the negative consequences of alcohol consumption will still need to be addressed whether the restaurant closes at 10pm or 11pm.

Mr. Armon Medali mentioned that Citrus City Grille is open until 12am every night and Haven is open until 2am every night. He also stated that because the 149 Sports Grill and Bar serves breakfast, a closing time earlier than 2am is preferred anyway. He affirmed that he was happy to meet the Commission halfway with an 11pm closing time on Sunday-Thursday.

Commissioner Gladson motioned to adopt the Planning Commission Resolution 28-13 approving an upgrade from a Type 41 ABC license to a Type 47 ABC license, based on operating hours of 7am to 11pm on Sunday-Thursday, and 7am to 12am on Friday and Saturday.

**SECOND:** Commissioner Cathcart
**AYES:** Commissioners Buttress, Cathcart, Correa, and Gladson
**NOES:** None
**ABSENT:** Commissioner Steiner

**MOTION CARRIED**

## 4. ADJOURNMENT:

Acting Chair Buttress motioned to adjourn until the next regularly scheduled meeting on Monday, August 19, 2013.

**SECOND:** Commissioner Cathcart
**AYES:** Commissioners Buttress, Cathcart, Correa, and Gladson
**NOES:** None
**ABSENT:** Commissioner Steiner

**MOTION CARRIED**