Planning Commission
Agenda Item

October 7, 2013

TO: **Chair Steiner and**
Members of the Planning Commission

THRU: **Leslie Aranda Roseberry**
Planning Manager

FROM: **Anne E. Fox**
Contract Staff Planner

SUBJECT

PUBLIC HEARING: Conditional Use Permit No. 2910-13 – Provisions Market, located at 141-143 North Glassell Street.

SUMMARY

The applicant is requesting to modify an existing Alcoholic Beverage Control (ABC) Type 20 (Off-Sale Beer and Wine – Package Store) License and Type 42 (On-Sale Beer and Wine – Public Premises) License to an ABC Type 41 (On-Sale Beer and Wine - Eating Place) License to have on-site consumption of beer and wine with food.

RECOMMENDED ACTION

Adopt Planning Commission Resolution No. PC 33-13 entitled:

> **A RESOLUTION OF THE PLANNING COMMISSION APPROVING CONDITIONAL USE PERMIT NO. 2910-13 TO ALLOW AN ALCOHOLIC BEVERAGE CONTROL TYPE 41 (ON-SALE BEER AND WINE - EATING PLACE) LICENSE AND ACCEPT THE VOLUNTARY SURRENDER OF CUP NOS. 2832-11, 2591-06 & 2539-05 AT 141-143 NORTH GLASSELL STREET**

AUTHORIZATION/GUIDELINES

Orange Municipal Code (OMC) Section 17.10.030 authorizes the Planning Commission to review and take action on a Conditional Use Permit (CUP). A CUP is required for an ABC license in the Old Towne Mixed Used (OTMU-15) zone. OMC Section 17.30.030 establishes standards for any on-sale establishment license subject to an approved Business Establishment Alcohol Management and Education Program. The final determination by the Planning Commission on this application

may be appealed to the City Council pursuant to the time period and requirements established in the OMC for appeals.

PUBLIC NOTICE

On September 26, 2013, the City sent a Public Hearing Notice to a total of 159 property owners/tenants within a 300-foot radius of the project site, and persons specifically requesting notice. The project site was also posted with the notification on that same date.

ENVIRONMENTAL REVIEW

Categorical Exemption: 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 establishment. There is no public review required.

PROJECT BACKGROUND

Applicant:	Havens Provisions, LLC.
Property Owner:	Selman Family Trust
Property Location:	141-143 North Glassell Street
Existing General Plan Land Use Element designation:	Old Towne Mixed Use (OTMU) 6-15 Du/Ac; 0.5-1.0 FAR
Existing Zoning Classification:	Old Towne Mixed Used (OTMU-15)
Old Towne:	Yes
Redevelopment Project Area:	Yes Formerly
Specific Plan/PC:	No
Site Size:	.17 acre – 7,484 square feet
Circulation:	The project site is located mid-block on the east side of Glassell Street. The City's Master Plan of Arterial Highways classifies North Glassell Street as Secondary Augmented Arterials with an 80-foot right of way.
Existing conditions:	The subject site is developed with an 8,260 square foot; two-story commercial/office building that was built in 1915. The subject tenant space occupies 2,350 square feet on the ground floor with 528 square feet of rear, outdoor patio dining area.
Surrounding land uses and Zoning:	North, South, East and West – Commercial, Retail, Office and Restaurant uses, OTMU (Old Towne Mixed Use, 15 S)
Previous Applications/Entitlements:	CUP 2832-11 & DRC 4558-11 – The Bruery Provisions ABC Type 42 License modification to allow Rear Outdoor Patio Area and service of alcohol in that area. CUP 2591-06 – Frog's Breath Cheese Store ABC Type 42 License to allow wine tastings along with Retail Sales, CUP 2539-05 – Frog's Breath Cheese Store ABC Type 20 to allow the Retail Sale of Beer and Wine

PROJECT DESCRIPTION

The applicant is requesting to replace an existing Alcoholic Beverage Control (ABC) Type 20 (Off-Sale Beer and Wine – Package Store) License and Type 42 (On-Sale Beer and Wine – Public Premises) License with an ABC Type 41 (On-Sale Beer and Wine - Eating Place) License to have on-site consumption of beer and wine with food. One of the business owners of Provisions Market, Ace Patel, also owns and is operating since September 2009, the Haven Gastropub, and is familiar with the City's requirements for operating a business that serves alcoholic beverages within Old Towne. The submitted floor plans indicate only minor modification to the already improved tenant space, providing a total seating capacity of 72, with 42 interior seats and 30 seats in the rear, outdoor patio.

Effectively, the applicant would be surrendering the existing CUP authorizations that allow the subject premises to operate as a Bar and Tavern, replacing with a CUP that allows the sale and service of beer and wine in a bona-fide restaurant. With this change in alcohol sales classification, the business operator believes that they can provide a more family-friendly environment to their patrons by serving food at all times that alcohol is served. Provisions Market plans to offer packaged food in the market section of the tenant space that includes several options from local artisan food markets. Specifically, they have added "Portola Coffee Lab," a gourmet coffee roaster based in Costa Mesa, to their offerings and intend to have a walk-up service counter located towards the front entrance to the tenant space to allow patrons to purchase coffees and teas. As such, the applicant is seeking to expand the hours of operation from what the current CUPs authorize (10:00 a.m. to 10:00 p.m. Sunday through Wednesday; and 10:00 a.m. to 12:00 a.m. Thursday through Saturday). The new hours of operation are proposed to be 6:00 a.m. to 2:00 a.m. seven days a week. Provisions Market will offer breakfast items to coincide with the coffees and teas; with lunch and dinner fare later in the day.

Development Standards

Other than signage, no changes are proposed to the exterior of the building or site. Design Review Committee (DRC) No. 4698-13 for this signage is currently under review and will be acted upon by the Design Review Committee, tentatively scheduled for the October 16, 2013 meeting. Neither the DRC nor the subject CUP request is subject to development standards. Therefore, a comparison of the building to existing development standards has not been conducted.

APPLICATION(S) REQUESTED/ REQUIRED FINDINGS

Conditional Use Permit: The applicant is requesting a Conditional Use Permit for the sale of beer and wine, (ABC Type 41 License) for on-site consumption by patrons of the establishment.

Required Findings:

1. A Conditional Use Permit shall be granted upon sound principles of land use and in response to services required by the community.

2. A Conditional Use Permit shall not be granted if it will cause deterioration of bordering land uses or create special problems for the area in which it is located.
3. A Conditional Use Permit must be considered in relationship to its effect on the community or neighborhood plan for the area in which it is located.
4. A Conditional Use Permit, if granted, shall be made subject to those conditions necessary to preserve the general welfare, not the individual welfare, of any particular applicant.

ANALYSIS/STATEMENT OF THE ISSUES

Issue 1: Existing Licenses within 600 feet of the Site

For information purposes, staff identified the following facilities selling alcoholic beverages that are located within a 600-foot proximity to the restaurant's entrance (Attachment 3).

Existing Licenses

Establishment Name	License Type	Address
Paul's Cocktails	Type 48 (On-Sale General – Public Premises)	207 W. Chapman Ave
Byblos	Type 41 (On-Sale Beer & Wine – Eating Place)	129 W. Chapman Ave
Café Lucca	Type 41 (On-Sale Beer & Wine – Eating Place)	106 N. Glassell Street
Citrus City Grille	Type 41 (On-Sale Beer & Wine – Eating Place)	122 N. Glassell Street
Smoqued BBQ	Type 41 (On-Sale Beer & Wine – Eating Place)	128 N. Glassell Street
Ohara's Pub	Type 48 (On-Sale General – Public Premises)	150 N. Glassell Street
Zitos Pizza	Type 41 (On-Sale Beer & Wine – Eating Place)	154 N. Glassell Street
Jalapenos	Type 41 (On-Sale Beer & Wine – Eating Place)	156 N. Glassell Street
Rutabegorz	Type 41 (On-Sale Beer & Wine – Eating Place)	264 N. Glassell Street
The Filling Station	Type 41 (On-Sale Beer & Wine – Eating Place)	201 N. Glassell Street
Tokyo Café	Type 41 (On-Sale Beer & Wine – Eating Place)	161 N. Glassell Street
149 Sports Grill & Bar	Type 41 (On-Sale Beer & Wine – Eating Place)	149 N. Glassell Street
Provisions Market	***Type 41 (On-Sale Beer and Wine – Eating Place)***	***141-143 N. Glassell Street***
Elks Lodge	Type 57 (Special On-Sale General)	211 E. Chapman Ave
Renatas Cafe	Type 41 (On-Sale Beer & Wine – Eating Place)	227 E. Chapman Ave
Watsons	Type 41 (On-Sale Beer & Wine – Eating Place)	116 E. Chapman Ave
Francoli Italian	Type 21, 47 and 58 (Off-Sale General, On-Sale General – Eating Place, and Caterer Permit)	100 S. Glassell Street
Felix Continental	Type 41 (On-Sale Beer & Wine – Eating Place)	36 W. Plaza Square
Rod's	Type 21 (Off-Sale General)	118 W. Chapman Ave

Issue 2: Sensitive Receptors

The OMC requires a CUP for the sale of alcoholic beverages to ensure there will be no adverse impact on surrounding land uses or allow the availability of alcoholic beverages to minors. In reviewing alcohol permits, the Zoning Ordinance details specific land uses that are sensitive to

alcohol activities, but does not establish any specific distances for these uses. The State Alcoholic Beverage Control Board investigation requires applicants to identify the sensitive land uses within 600 feet of the site. There are following sensitive receptors in the vicinity of the subject property:

Sensitive Receptors

Establishment Name	Address	Distance To Project Site
Son Light Christian Center	172 N. Glassell Street	Approx 200’
Residential on second floor of the Wells Fargo Bank building	109 N. Glassell Street	Approx 150’
First Presbyterian Church of Orange	191 N. Grand Street	Approx 175’

Issue 3: Census Tract Alcohol and Crime Statistics Information

The Police Department reports that the business is proposed within a census tract that is considered over-concentrated with on-sale Department of ABC licenses (Attachment 4).

Alcohol Licenses

	Existing	Allowed
On Sale Licenses	18	4
Off-Sale Licenses	5	2

Census Tract (No. 0759.01) has 23 existing On-Sale and Off-Sale licenses, the total allowed On-Sale and Off-Sale Licenses permitted is six licenses. There are 14 ABC licenses within 600 feet of the proposed subject location. The additional licenses are located in one or more adjacent census tract areas. The number of On-Sale ABC licenses is over-concentrated.

The Orange Police Department’s Vice Unit reviewed the proposal and has provided a memo stating that current crime figures in Reporting District 23W show 174 crimes reported where the average number of Part 1 crimes and Part 2 arrests for the City of Orange is 69. This is a high crime area as the number of crimes is considerably more than 20% over average. The applicant is requesting an ABC license upgrade in a census tract that is considered to be a high crime area as follows:

Crime Statistics

Census Tract Arrests	Citywide Average Arrests	Percent Above Average
174	**69**	**152%**

Although the area is considered to be over-concentrated, approving this application will not increase concentration levels as the subject premises has existing ABC Type 20 and Type 42 Licenses. The property, Selman Family Trust, has submitted a letter voluntarily surrendering all of the prior CUP approvals for these ABC License Types that typically run with the land. Further, the owner of Provisions Market has agreed to the conditions of approval. Granting this request would not increase these numbers, but effectively reduces the number by one license type and downgrades an

existing licensed establishment. The Police Department and Planning Staff support the request because it is anticipated through the analysis and review that the operation of the business will not increase or contribute to the crime rate in the reported district.

ADVISORY BOARD RECOMMENDATION

None required.

ATTACHMENTS/EXHIBITS

Attachments:

1. Draft Planning Commission Resolution No. PC 33-13
2. Vicinity Map
3. PC Evaluation Map
4. Orange Police Department Memorandum, dated June 26, 2013

Exhibits provided to the Planning Commission:

A. Submitted Floor Plan date labeled October 7, 2013

cc: Ace Patel
Havens Provisions, LLC.
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Orange, Ca 92866