Minutes

Planning Commission August 17, 2009
City of Orange Monday–7:00 p.m.

PRESENT: Commissioners Cunningham, Imboden, and Steiner
ABSENT: Commissioners Merino and Whitaker

STAFF
PRESENT: Ed Knight, Assistant Community Development Director
Ted Reynolds, Assistant City Attorney
Chad Ortlieb, Senior Planner
Dan Ryan, Senior Planner, Historic Preservation
Sandi Dimick, Recording Secretary

ADMINISTRATIVE SESSION:

Chair Steiner opened the Administrative Session @ 6:50 p.m. with a review of the Agenda.

Item No. 1, Ehlen & Grote Renovations. Chair Steiner stated he was in receipt of a request by the applicant to continue the item and he wanted to avoid continuing the item to the meetings in September. Commissioner Imboden asked if the applicant was aware that their next hearing could be delayed due to the presentation of the General Plan Updates during the September hearings? Chair Steiner stated he would advise the applicant of the potential delay and ask if the applicant was in agreement with that.

Item No. 2, Ordinance Amendment relating to Sober Living Facilities. Chair Steiner stated he understood that the amendment was to add a regulatory component where one had not existed in the City's Code and that the theory was to add that component to safeguard against potential abuse of that safeguard which was being proposed. Assistant City Attorney, Ted Reynolds stated the Ordinance Amendment would also safeguard against over concentration. The existence of such a facility was permitted under State Law and would not pre-empt the City from what they proposed to add to the existing Ordinance.

Chair Steiner asked if there was any component of the State or Federal Law that stated a City was not allowed to allow the existence of such a facility? Mr. Reynolds stated the Ordinance provided for reasonable accommodations.

Commissioner Cunningham asked if the absence of a regulation of the number of residents in a Sober Living Facility would mean that the applicant would fall under the City's rules? Mr. Reynolds stated the applicant would fall under the Orange Municipal Code for group homes and they would not be permitted to exceed the guidelines established by the City. The City would need to allow group homes to exist at a capacity of 6 tenants and 1 house manager. Mr. Reynolds stated he would be presenting the item.

Item No. 3, Conoco Phillips ABC Type 20 License. Chair Steiner asked if there would be a representative from the Orange Police Department present? Senior Planner, Chad Ortlieb stated he had requested that a representative be present. Detective Matt Miller stated he would be available for any questions and the Police Department had not had an objection to the requested license.

Item No. 4 Beach Pit BBQ Restaurant. Chair Steiner asked if there would be questions on the item? Commissioner Cunningham and Commissioner Imboden stated they would not have questions.

Item No. 5 Francoli Gourmet Italian Restaurant and Sir Wicket's Façade Restoration. Chair Steiner stated he had visited the restaurant and met with the applicant and he would disclose that information during the hearing.

Assistant Community Development Director, Ed Knight stated the Conoco Phillips item was a recommendation to City Council due to the gas station component. He had nothing further to add.

Chair Steiner asked the Commissioners if they would need to recuse themelves from any of the items on the Agenda? Commissioner Cunningham and Commissioner Imboden stated they would be present for all items.

There was no further discussion.

Administrative Session closed at 6:56 p.m.

REGULAR SESSION:

PUBLIC PARTICIPATION: None

CONSENT CALENDAR:

(1) DESIGN REVIEW COMMITTEE NO. 4421-09 – EHLEN & GROTE RENOVATIONS

A proposal to allow exterior modification to a contributing structure.

LOCATION: 110-112 S. Glassell and 34-38 Plaza Square

NOTE: This project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) per State CEQA Guidelines 15331. Historical Resource, Restoration and Rehabilitation Class 31 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:

Staff recommends the Planning Commission approve DRC 4421-09 subject to the conditions listed in the Staff Report and any conditions that the Planning Commission determines appropriate to support the required findings for the proposed façade changes.

Chair Steiner stated the Commission was in receipt of a request to continue the item and verified that with Assistant Community Development Director, Ed Knight.

Mr. Knight stated that was correct.

Chair Steiner asked if there was a representative for the applicant present and stated the request was for continuance to the first meeting in September.

Mr. Knight stated the applicant was asking for a one month continuance which would be the second Planning Commission Meeting in September.

Chair Steiner speaking to Senior Planner, Dan Ryan asked if he had been in contact with the applicant regarding the continuance?

Mr. Ryan stated the applicant had stated that the sample they had proposed to present at the meeting had not been ready and the applicant felt it could take them a month to obtain the sample.

Chair Steiner stated the agenda item had been discussed during the Administration Session of the Planning Commission Meeting and due to the Commission Business items that were already set for the first and second meetings in September, extensive work on the General Plan Amendment, he proposed to move the continuance to the second meeting in October.

Mr. Ryan stated the applicant was aware of the General Plan Update commitment by the Planning Commission.

Chair Steiner made a motion to continue DRC No. 4421-09-Ehlen & Grote Façade Renovation to a date certain of October 19, 2009.

SECOND: Commissioner Imboden
AYES: Commissioners Cunningham, Imboden and Steiner
NOES: None
ABSTAIN: None
ABSENT: Commissioners Merino and Whitaker

MOTION CARRIED

NEW HEARINGS:

(2) ORDINANCE NO. 07-09 – AMENDING TITLE 17 OF THE ORANGE MUNICIPAL CODE RELATING TO SOBER LIVING FACILITIES 12-09

An ordinance to require sober living facilities to obtain a permit and comply with specified regulations.

LOCATION: City-Wide

NOTE: The proposed ordinance amendment is not subject to the provisions of the California Environmental Quality Act (CEQA) because it does not meet the definition of a "project" pursuant to Public Resources Code Section 21065. The proposed ordinance merely establishes requirements for sober living facilities to obtain a permit, comply with specified regulations, and maintain the limit of six tenants and a house manager for a total of seven.

RECOMMENDED ACTION:
Adopt Planning Commission Resolution 29-09 recommending that the City Council approve Ordinance No. 07-09 amending Title 17 of the OMC.

Assistant City Attorney, Ted Reynolds presented an overview consistent with the Staff Report.

Chair Steiner opened the discussion for any questions to Staff.

Commissioner Imboden stated one item that was brought up was that the Ordinance precluded sole use of an accessory second unit for a Sober Living Facility. He was not clear on what the intent of that language meant and what was meant by sole use and also he wondered what it meant in relationship to the primary structure of the facility.

Mr. Reynolds stated he had not drafted the ordinance and what he believed was intended was that the owner of the property could not use only an accessory housing unit for a Sober Living Facility. He would guess that they could use the main structure as well as the accessory unit to qualify.

Commissioner Cunningham stated the language also added that the facility could not be located in the secondary housing unit unless the primary dwelling unit was used for the same purpose. He understood that it would need to be in tandem with the primary residence.

Commissioner Imboden stated that answered his question.

Commissioner Cunningham commented, in the Staff Report it stated that the rules were consistent with rules used by Sober Living by the Sea, which operated numerous Sober Living and Drug & Alcohol Treatment Facilities in Newport Beach. Newport Beach was in the news a lot over the conflicts they had arising over Sober Living Facilities and he asked if those facilities in the news were the same facilities that were owned and operated by Sober Living by the Sea?

Mr. Reynolds stated he believed that to be the case. He had not followed the Newport Beach news very closely, however, he believed it was the same entity and that the City of Newport Beach prevailed in those conflicts. He had not understood the exact specifics of that situation.

Commissioner Cunningham stated he was attempting to gain an understanding of whether the rules the Ordinance proposed would help mediate the problem, or were they rules that were in existence when the problems occurred in Newport Beach?

Mr. Reynolds asked if he was inquiring whether the City of Orange's situation was being addressed?

Commissioner Cunningham stated his concern was, and he had not followed the City of Newport Beach's situation very closely, his concern or red flag was whether the City would be emulating an example of something that had resolved a problem in Newport Beach and would not set up regulations that had created a problem.

Mr. Reynolds stated in the Newport Beach situation he understood there had been far more people per unit. That was one of the reasons the City of Orange felt that the code amendment was useful, but it was also consistent with what the County was doing and it was something the City had not had any opposition to from some of the operators. The Amendment was also consistent with what the State had done. For example, in the context of group homes, it appeared that the State, in other circumstances where licensing was occurring, the number of 6 was the maximum number of tenants used.

Chair Steiner stated, with respect to the information at the top of page 5, which referenced limiting occupancy to 3 persons per bedroom. He asked regarding the subsequent sentence; first regarding the reference to drug registrants and taking a page from his own legal experience in prosecuting similar types of offenses, a drug registrant, pursuant to Health & Safety Code Section 11590, subsequent to or in connection with certain violations and convictions for certain drug related offenses, a person was required to register as a drug offender and he asked if that was correct?

Mr. Reynolds stated he had not known that specifically, however, the code was aimed at offenders of controlled substances.

Chair Steiner stated he wanted to be sure his definition of a drug registrant was the same as the definition used in the proposed amendment and knowing to whom that would apply as it related to the cap or limit of such occupants in a residence. He presumed that his understanding of a drug registrant would be any person subject to registration requirements under the code section he had previously referenced to.

Mr. Reynolds stated he believed Chair Steiner was correct. He had reviewed that code section and there had been references to other code sections identifying the types of offenders Chair Steiner spoke of and he agreed with Chair Steiner's statements.

Chair Steiner stated as it related to the number of parolee or probationers to 2, he asked if that was 2 each; 2 drug registrants, 2 parolees, and 2 probationers with the number in each category not to exceed 2. He asked for clarification of that limit?

Mr. Reynolds asked if he could have a moment to review that language as he had not been the person who had drafted the amendment. He stated in reading the sections, it appeared that a facility could house 2 registrants who were controlled substance offenders. He was reading from page 10 of the ordinance, which was the version of the City Council ordinance. On page 10 he was reviewing sub-paragraphs J and K. It appeared to him that there could be 2 of the total number of 6 tenants that could be controlled substance offenders and there could also be 2 persons who could be a parolee or probationer, or 1 parolee or 1 probationer, if there would be a distinction between the two.

Chair Steiner stated, given the fact that there was reference making reasonable allowance for people who fell within the definition of addict, to the extent that a person fell into that category and who also fell into the category described by sections J or K, would there be any problem that a cap of 4 would run afoul of the reasonable allowance that was being made?

Mr. Reynolds asked if Chair Steiner would clarify reasonable allowance?

Chair Steiner stated for reasonable accommodation, would there be a potential problem that the City could encounter, as there was a limit being imposed below the 6 in the event that all the occupants fell within the limits of J and K?

Mr. Reynolds stated only 4 could qualify under J and K, with only 2 other positions available for recovering persons.

Chair Steiner stated to the extent that there was a facility currently operating that had 6 tenants residing at that facility and they all fell within the definition of J and K, would that mean that the facility would be required to reduce the number of tenants at that facility?

Mr. Reynolds stated the ordinance would be for facilities going forward, once the ordinance was effective. For existing facilities, he believed those would be grandfathered.

Commissioner Cunningham stated there appeared to be a disconnect between the intent of J and K as it was summed up in the Staff Report. At the top of page 5 it read: "it limited the number of drug registrants and or parolees or probationers to 2." He understood that to mean that the limit was for a maximum of 2 people within the categories. As Chair Steiner had pointed out, effectively the manner in which the ordinance was written, it would permit twice as many people. He believed the intent of

the ordinance would be to limit the number of persons that fell into those categories to 2?

Mr. Reynolds stated he felt there was an inconsistency between the Staff Report and the ordinance and he would go with the ordinance as that was what would be adopted and that would limit the number to 4. He had not known if the intent was to implement what was described on page 5 and to keep the number at less than 4? In reviewing the ordinance it would certainly allow 4. As he had not drafted the ordinance, unless the item was continued, he would not be able to present what the intent had been and if there was a correction needed.

Commissioner Cunningham asked if that was the intent and if a correction needed to be made, he asked how would that read? Would it be as simple as combining J and K and adding an and/or? His guess, given the detailed regulations that Sober Living Facilities were required to follow within the ordinance, he believed the intent would limit the number to 2 and it was a fairly significant aspect of the ordinance.

Mr. Reynolds stated he could not state with certainty that the agenda report was correct.

Chair Steiner stated it was too significant of a component of the Ordinance Amendment to move forward without knowing. He had not wanted to interpret the law from the dais as he believed it should be. He felt what had been important was the relevance and the intent of the draft and the Commission was not clear on what that was. Instead of stating what they felt it should be, and he had an opinion of what it should be, however, that was not the role of the Planning Commission, particularly without clarification. There could be some rational explanation that 2 11590s, 2 probationers or parolees were allowed, and he had not wanted to guess at it. There were no public speakers on the item and he was inclined to continue the item to allow clarification of the applicability of J and K and the extent to which it was consistent or inconsistent with the Staff Report.

Mr. Reynolds stated he agreed that it was significant and agreed with that course of action.

Chair Steiner asked if there was a problem with continuing the item under the same theory that they had continued Item No. 1, to continue to the second meeting in October. If it was an urgency item, he would place it on the Agenda of the next meeting.

Assistant Community Development Director, Ed Knight stated he was not aware of any urgency on the item.

Mr. Reynolds stated in light of the fact that he had not known of any urgency or if there was a deadline that needed to be met, he asked, understanding there was a full agenda scheduled for the next few meetings, if that area of the ordinance was the only area that needed clarification, could they possibly place the item on the agenda of the September 9, 2009 Planning Commission Meeting and they could continue from there if necessary?

Chair Steiner stated he was agreeable to those suggestions, providing his colleagues were in agreement as well. He directed that the item could be continued and be placed

as the last item on the agenda as there were a number of residents that had been instructed to return to the next meeting to discuss their concerns as they related to the General Plan Update. He had not wanted to debate whether the intent was for 2 probationers or 2 11590s or 2 parolees.

Commissioner Imboden asked if there was noticing involved with the Ordinance Amendment?

Mr. Reynolds asked if he wanted to continue to a date uncertain?

Commissioner Imboden stated if the flexibility assisted with fitting the item back into the schedule, his question had been was there required noticing?

Mr. Reynolds stated no, not for the continuation. The item had been noticed, but it was important that it be continued to a date certain.

Chair Steiner made a motion to continue, Ordinance No. 07-09, Amending Title 17 of the Orange Municipal Code relating to Sober Living Facilities to a date certain of September 9, 2009.

SECOND: Commissioner Cunningham
AYES: Commissioners Cunningham, Imboden, and Steiner
NOES: None
ABSTAIN: None
ABSENT: Commissioners Merino and Whitaker

MOTION CARRIED

(3) CONDITIONAL USE PERMIT NO. 2733-09 – CONOCO PHILLIPS COMPANY INC

A proposal to allow an Alcoholic Beverage Control Type 20 (Off-Sale Beer and Wine) license in an existing mini-mart supporting an existing automotive fueling station.

LOCATION: 615 S. Tustin Street

NOTE: This project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA), per CEQA Guidelines Section 15301 (Class 1 – Existing Facilities).

RECOMMENDED ACTION:
Staff recommends that the Planning Commission recommend that the City Council approve CUP 2733-09 by adopting Planning Commission Resolution 33-09.

Senior Planner, Chad Ortlieb presented a project overview consistent with the Staff Report.

Chair Steiner opened the item for any questions to Staff.

Chair Steiner asked if the applicants owned the facility since October 2008? He directed Mr. Ortlieb to the memo from the Orange Police Department dated April 8, 2009.

Mr. Ortlieb stated he had no reason to doubt that information.

Chair Steiner stated they could clarify that with Detective Matt Miller and asked if he would step forward for clarification. Chair Steiner asked Detective Miller if he recalled the memo he was referring too?

Detective Miller stated since October of 2008 there had not been any calls for service during the current ownership.

Chair Steiner invited the applicant to step forward to address the Commission.

Applicant, Rassol Eftertekarian, address on file, stated he was the owner of the 76 Station. He had been with Conoco Phillips Corporation for over 17 years and he had a couple of stations. He opened the Tustin Street station in March of 2008 and most of the profitability for his station came from the sale of gas. He wanted to add beer and wine and obtain a permit to sell that. There were a lot of residents that walked to his station and it would be convenient for them to do that.

Applicant, Ken Kang, address on file, stated he wanted to emphasize one point. Many people when they spoke of gas station convenience stores had the old image. One thing that made him pursue this and he did not drink and had not condoned that activity for himself and his family.

Chair Steiner asked Mr. Kang for his affiliation with the applicant?

Mr. Kang stated he was a representative for the station. He noticed that more than restaurants, convenience stores, liquor stores and even 7/11 stores security was not as secure as the security at gas stations. He had been involved with two stations, one in the City of West Covina that had 23 cameras, and one in Highland that had 36 cameras. The type of unwanted persons would not go to a site that had security cameras like that. Gas station security focused on both the inside and outside of the facility, and there was more light than most facilities. In visiting a 7/11 store at night it was dim and not very secure. A gas station parking lot was lit and secure and that was the point he wanted to make. There were some neighbors who had asked for the addition of alcohol sales to the facility and they would be providing an environment that was more secure. On June 7, 2009 there was a boy in his neighborhood that had been shot in the head while using a pay phone that was not in an area that had been secure, and there had been a lot of gangsters that had hung around in that area.

Chair Steiner state he understood the point Mr. Kang was making and appreciated his input and the efforts being made to provide security.

Chair Steiner brought the item back to the Commission for further discussion. He stated the agenda item was for a recommendation to the City Council and the decision the Planning Commission arrived at would be a recommendation to the City Council. He had a concern with the label that was slapped on a lot of businesses of being in a high crime area. It was important to note that crime came in many forms. From the reports from the Police Department and from Staff, when an area was labeled as high crime one would believe it would be a problematic area. He was impressed by the lack of any problems at the applicant's location since ownership was assumed by the current applicant. He also felt it was important to note that the reference to high crime was apparently due to theft and vehicle burglary, which were crimes, however, when hearing high crime one would tend to think of robberies, car jackings, homicides and gang crimes. He appreciated the efforts made to clarify what was meant by high crime and it was the best way to inform the Commission to assist with their decision making.

Commissioner Cunningham made a motion to adopt PC 33-09, recommending approval to the City Council of Conditional Use Permit No. 2733-09-Conoco Phillips Company, Inc., subject to the conditions contained in the Staff Report.

SECOND: Commissioner Imboden
AYES: Commissioners Cunningham, Imboden, and Steiner
NOES: None
ABSTAIN: None
ABSENT: Commissioners Merino and Whitaker

MOTION CARRIED

(4) CONDITIONAL USE PERMIT NO. 2744-09 AND DESIGN REVIEW COMMITTEE NO. 4422-09 – BEACH PIT BBQ RESTAURANT

A proposal to allow exterior improvements, signage, and a CUP to allow an Alcoholic Beverage Control Type 41 (On-Sale Beer and Wine) for a restaurant. The project includes a request for an "On Sale Beer and Wine for a Bona Fide Public Eating Place" Type 41 ABC license.

LOCATION: 124-128 North Glassell

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) that consists of the repair, maintenance, or minor alteration of existing private structures, exterior alterations and/or topographical features.

RECOMMENDED ACTION:
Adopt Planning Commission Resolution No. 31-09 approving a Type 41 ABC license including exterior modifications and signage.

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

Chair Steiner invited the applicant to step forward to address the Commission.

Applicant, Tim DeCinces, address on file, stated Mr. Ryan had covered all the points and they were excited to be in construction and bring their family BBQ experience to Old Towne Orange. It fit perfectly with their first restaurant, which was a renovated house and with their second location which was a renovated garage in Old Towne Tustin.

Chair Steiner opened the hearing for Public Comment.

Leason Pomeroy, address on file, stated he was an architect and he had an office on N. Glassell in Orange. He was familiar with Beach Pit BBQ and had eaten at both of their locations and he looked forward to having them in Orange. He was very familiar with the building and felt it was an absolute perfect use for that particular building, in having the service in the back, an in line shop and using the original signs.

Jeff Frankel, address on file, stated he represented the OTPA. All in all it appeared to be a great project. The applicant had done a phenomenal job at the location in Tustin in reusing an auto repair garage and the food was good, he had eaten there. He wanted to address the 50 years old or older criteria, it had been public discussion for a number of years and they were not opposed to that criteria, however, it would be inconsistent to apply it to one project and not another. He felt they needed City Council direction and there had been discussion over a number of years regarding that topic and nothing had moved forward. There was an issue regarding plastic signage. The standards stated that plastic, high gloss or shiny surfaces were prohibited and that all signs shall be externally illuminated and no internally illuminated sign shall be permitted or replaced. One of the DRC recommendations was for vinyl or back lit lettering which conflicted with the standards. Lastly, the maximum signage area permitted was 26 square feet and 70 square feet was proposed. The standards stated that historically documented signs from original building photographs could exceed permitted limits. He was not aware of any photo documentation of the building that would substantiate the size of the signage.

Al Ricci, address on file, stated he was a local realtor and owned the building at 124 N. Glassell. Mr. DeCinces had come to them about six months ago wanting to open Beach Pit BBQ in Old Towne. What they had looked for in Old Towne was to have a variety of restaurants and Beach Pit BBQ had the unique flavor that would draw people into Old Towne for a unique dining experience. He was excited to have Mr. DeCinces come to Old Towne with Beach Bit BBQ. He had 7 other locations, 5 in Angels Stadium and 2 other free standing restaurants. He had not had any ABC violations and he ran a great restaurant.

Relative to the building, each point in time was history, they were living history now and in 1957 when Paul Cannon placed the sign up it was history and it was now 52 years old. It should be protected just like anything in the 1920's or 1930's. It was a shame that every time something was done in Old Towne they attempted to mimic 1920 or 1910 or 1909; in 1957 that sign was history, it was permanent and was still the same sign. For Mr. DeCinces to take and reuse that sign and to bring it back the way it had been in 1957

was what he was attempting to do and it would add an eclectic flavor to Old Towne and revitalize the sign. As a resident of Orange and a realtor in Old Towne, he was looking forward to having Mr. DeCinces open Beach Pit BBQ.

Chair Steiner closed the public hearing and brought the item back to the Commission for further discussion.

Commission Imboden stated he wanted to gain clarification from staff on the materiality of the signage and he wanted to hear Staff's response to the material used and how they applied to the standards.

Mr. Ryan stated there was a section in the standards that stated shiny plastic signs were prohibited. The DRC had taken that and had stated that as long as the material was not shiny and had a matt finish it could be used. The intent was that shiny or highly reflective surfaces were what the original standards had referred to. The DRC also stated a vinyl material could be used that had a metal appearance or finish and that was the direction that was taken. The original sign on the building was plastic and there was correlation to that and language had been placed in the report that would allow the applicant to use either, depending on what the applicant felt would be the best application.

Commissioner Imboden stated the proposed application brought up a few areas where perhaps the standards they had were not as clear as they would like them to be. In projects such as the one before them or facades that were outside of the period of significance, it created a gray area. For him the signage, in regards to the area, was pushing the envelope but not so far that he could not support the proposed project. The changes were fairly minor and the signage fit within the configuration of the area in front of the building and it was acceptable. He would be in support of the project and had no issues in regard to the alcohol component.

Commissioner Imboden made a motion to adopt PC 31-09, approving Conditional Use Permit No. 2744 and Design Review Committee No. 4422-09- Beach Pit BBQ Restaurant, subject to the conditions contained in the Staff Report and noting the item was categorically exempt from CEQA.

SECOND: Commissioner Cunningham
AYES: Commissioners Cunningham, Imboden, and Steiner
NOES: None
ABSTAIN: None
ABSENT: Commissioners Merino and Whitaker

MOTION CARRIED

(5) CONDITIONAL USE PERMIT NO. 2757-09 AND DESIGN REVIEW COMMITTEE NO. 4384-08 – FRANCOLI GOURMET ITALIAN RESTAURANT AND SIR WICKET FAÇADE RESTORATION

A proposal to allow an Alcoholic Beverage Control Type 47 (On-Sale General Eating

Place – Restaurant) and Type 21 (Off-Sale General – Package Store) as well as live entertainment and façade improvements for the opening of a new restaurant within the Plaza Historic District.

LOCATION: 100-108 S. Glassell

NOTE: The proposed project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) per State CEQA Guidelines 15331. Historical Resource Restoration and Rehabilitation Class 31 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. 35-09 approving Types 47 and 21 ABC licenses as well as live entertainment and exterior modifications.

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

Chair Steiner opened the hearing for any questions to Staff, there were none. He invited the applicant to step forward and address the Commission.

Applicant, Leason Pomeroy, address on file, stated he was not only the architect for the project but also one of the owners of the building and to him it was one of the most significant buildings in Orange. It was on the Plaza, on the corner, and it was an "A" location. As Mr. Ryan had pointed out they had considered a multi-tenant for the space where Sir Wickets store had been. They had looked at two different tenants, however, the tenants were very different and they had not cared for the store front set back. They had gone before the DRC to obtain a preliminary reaction from them. They had an interesting confrontation with the OTPA and they met with Mr. Frankel and others from the organization and they came to a really good consensus. During that time Francoli, which was an incredible restaurant, came along and sparked them to restore the building and to do it right from the ground up. They were taking every effort possible to restore the building to the show piece that it really was. He welcomed Francoli Restaurant to Orange.

Chair Steiner opened the hearing for public comment.

Alberto Tilicone, address on file, stated he was the owner of Francoli Gourmet Restaurant. He thanked the Commission for the opportunity to open his location in downtown Orange which he really liked. On Attachment No. 5 there was a letter explaining the Francoli Restaurant concept and their 16 year business in Newport Beach which was successful. They ran a fine Italian Restaurant that had been in business since

1993 and it was also used for the sale of retail items.

Jeff Frankel, address on file, representing the OTPA. He thanked Mr. Pomeroy for the opportunity to meet with him and preview his plan. The project was definitely moving in the right direction and they supported his proposed project. The OTPA was assured that the recessed store fronts would not include the removal of any historic fabric and during construction if any historic fabric was uncovered, those elements would be preserved. The proposed project appeared consistent with historic photos taken during the period of significance and they appreciated the fact that a second opening would not need to be created. The glass proposed for the site was also period appropriate and they supported the DRC recommendations which Mr. Ryan had stated. He supported the project.

Nick Arhontes, address on file, stated he was present to support the recommended action on the proposed project. He and his wife had lived in the community for 28 years and they welcomed the convenience to spend money in their community. They enjoyed the renaissance in the Plaza area and Francoli would be a welcomed addition to the community. He and his wife, Dianna, were very acquainted and experienced with the restaurant's menu, quality and service. They looked forward to the opening of the restaurant in the community.

Al Ricci, address on file, stated he was excited about Francoli Gourmet Restaurant coming into town. After hundreds and hundreds of sales Sir Wickets had finally gone out of business. Francoli was in Newport Beach for over 16 years and to their gain, the Irvine Company had decided to place a Nordstrom where his location had been and had not renewed his lease. Francoli Restaurant had the opportunity to move to the Aldo's location, however, when he found the location on the Plaza he chose to spend a lot more money to be on the Plaza and he felt his heart was in the right place and it would be a good location for the restaurant. In dining at the applicant's restaurant, it felt like you were in Italy or wanted to go to Italy, it was just that good. He thanked the Commission for their support of the project.

Chair Steiner closed the public hearing and brought the item back to the Commission for further discussion.

Commissioner Imboden stated he had a question for Mr. Ryan. He had anticipated that there would have been a representative from the Heritage Orange County group present to provide a blessing and that was not necessarily a condition of approval, he asked if that group had been involved in the process?

Mr. Ryan stated he felt Mr. Pomeroy could speak to that question. There had been some discussion a while back when the initial project was proposed in response to the removal of non-historic features of the building.

Mr. Pomeroy stated when they had initially met with the DRC, a representative from that group had been present and they had received a letter in support of the proposed project. When they had become entangled and had modified the building to create a more historically significant project, he had not followed up with them. He could state, without a doubt, that the Heritage group was in full support of the project and he would

be willing to obtain a letter from them if necessary.

Chair Steiner stated the Commission dealt with many projects and he wanted to make special exception for Francoli. He had dined at their location, he and his wife had dined there and it was true as he was tempted to get a round trip ticket to Italy. The dining experience was unique and unlike any other Italian restaurant he had been to. He was delighted that the restaurant was coming to Orange and he was sorry they had to leave Newport Beach; however, their loss was Orange's gain. He wanted to relay a story that related to the applicant's impression of the Plaza and that it had reminded the applicant of the Piazzas in Italy and he felt it was a charming and telling acknowledgment by the applicant of the significance of the Plaza to the City and the significance to the applicant as he had the possibility of being a business owner in their City. He wanted special notice of how impressed he was with the restaurant's operation, there had been live music when he had visited the restaurant which added to the ambiance of the location and it was delightful. He was fully in support of the application.

Commissioner Imboden stated he would agree and disagree, if you visited Francoli one would not need to go to Italy. He had worked at Fashion Island and had frequented the location in Newport Beach many times and he was excited to have them relocate to the Plaza in Orange and he welcomed them to Orange. He had no problem with the alcohol portion of the proposed application, the long tenure and the applicant's operation of their facility in Newport Beach was evidence of what would occur in Orange. He was very comfortable with the proposal presented in terms of the modifications to the building. It appeared that the project may have gotten off to a rough start, however, everyone was currently in agreement on the proposed project. He had no concerns and felt the restoration of the building was moving in the right direction all within the limits of what was allowable. He was in support of the item.

Commissioner Cunningham stated he would join in the excitement. He and his wife had been strolling along the Plaza and they had visited the store front and were excited to know what was coming. He was excited to have such a high class restaurant such as Francoli Gourmet Italian Restaurant move to the Plaza. The plans were beautiful and it was nice to see a project where everyone was on board and he would be in support of the project before them.

Commissioner Imboden made a motion to adopt PC 35-09, approving Conditional Use Permit No. 2757-09 and Design Review Committee No. 4384-08-Francoli Gourmet Italian Restaurant and Sir Wicket Façade Restoration, subject to the conditions contained in the Staff Report, and noting the project was categorically exempt from the provisions of CEQA.

Commissioner Imboden pointed out that there was a typo in reference to the address noted in the resolution.

Chair Steiner stated the location read 100-100-108 and should read 100-108.

Commissioner Imboden stated that was correct.

Mr. Ryan nodded yes in concurrence with the correction.

SECOND: Commissioner Cunningham
AYES: Commissioners Cunningham, Imboden, and Steiner
NOES: None
ABSTAIN: None
ABSENT: Commissioners Merino and Whitaker

MOTION CARRIED

(6) ADJOURNMENT

Chair Steiner made a motion to adjourn to the next regular meeting of the Planning Commission scheduled on Wednesday, September 9, 2009.

SECOND: Commissioner Imboden
AYES: Commissioners Cunningham, Imboden, and Steiner
NOES: None
ABSTAIN: None
ABSENT: Commissioners Merino and Whitaker

MOTION CARRIED

MEETING ADJOURNED @ 8:21 P.M.