Minutes

Planning Commission January 17, 2011
City of Orange Monday 7:00 p.m.

PRESENT: Commissioners Buttress, Cunningham, Imboden, and Steiner
ABSENT: Commissioner Merino

STAFF
PRESENT: Ed Knight, Assistant Community Development Director
Chad Ortlieb, Senior Planner
Anna Pehoushek, Principal Planner
Dan Ryan, Historic Preservation Planner
Gary Sheatz, Assistant City Attorney
Sandi Dimick, Recording Secretary

ADMINISTRATIVE SESSION

Vice Chair Cunningham opened the Administrative Session at 6:50 p.m. with a review of the Agenda.

Item No. 1 & 2 Minutes from the December 6 and December 20, 2010 Planning Commission Meetings. No changes or corrections were noted. Commissioner Buttress stated she would abstain from the vote on the Meeting Minutes.

Item No. 3, Westenhofer Residence. Commissioner Imboden stated he would have questions. Commissioner Buttress stated she would listen.

Item No. 4, Mixed Use Zone Change Ordinance. Commissioner Imboden stated he would abstain from the item as he owned property in Old Towne and he would be speaking on the item during the Public Comment portion of the hearing. Commissioner Buttress asked if the OTPA's concerns would be addressed? Vice Chair Cunningham stated the Staff Report would be presented and then the item would be opened for questions and Public Comment.

Item No. 5, Chapman University Law Clinic. Commissioner Imboden stated he would abstain on the item as he had a prior relationship with the project applicant.

There was no further discussion.

Administrative Session adjourned @ 6:56 p.m.

PUBLIC PARTICIPATION: None

REGULAR SESSION:

Consent Calendar:

(1) APPROVAL OF MINUTES FROM THE REGULAR MEETING OF DECEMBER 6, 2010

(2) APPROVAL OF MINUTES FROM THE REGULAR MEETING OF DECEMBER 20, 2010

Commissioner Steiner made a motion to approve the minutes from the regular meetings of the Planning Commission on December 6, 2010 and December 20, 2010.

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

MOTION CARRIED

Commission Business:

(3) DESIGN REVIEW COMMITTEE NO. 4508-10 AND ADMINISTRATIVE ADJUSTMENT NO. 185-10 – WESTENHOFER RESIDENCE

A proposal to construct a 450 sq. ft. one-story rear and side addition to an existing 617 square foot Bungalow. The proposal includes a request for an Administrative Adjustment to permit a reduction in building separation between the new addition and the existing one-car detached garage/office. As the proposed addition of 450 square feet or 73% expansion is over 20% of the existing floor area of 617 square feet, the project requires Planning Commission review and approval.

LOCATION: 626 W. Culver, Old Towne Historic District

NOTE: Provided that the project is 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, the proposal would be categorically exempt from the provisions of the California Environmental Quality Act (CEQA) per State CEQA Guidelines Section 15331.

RECOMMENDED ACTION:
Take action on DRC 4508-10 for an Old Towne addition that exceeds 20% of the existing floor area and Administrative Adjustment 185-10 for a reduction in building separation for a contributing residence.

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

Vice Chair Cunningham opened the item to any questions for Staff.

Commissioner Imboden asked for an explanation of the comment Mr. Ryan had made regarding the Design Review Committee's deferment of rendering a decision on a particular aspect of the proposed project, a deferment to the Planning Commission?

Mr. Ryan stated the DRC at their December 15, 2010 meeting reviewed all the proposals, some were more involved and some were just a basic site plan and the applicant had a preferred option. The applicant asked that the DRC only consider one proposal and that the DRC make a determination on that proposal, which the DRC had done.

Commissioner Imboden asked what decision was being deferred to the Planning Commission?

Mr. Ryan stated the DRC had not wanted to delve into what percentage of floor area could be expanded, and the reason the project was being brought to the Planning Commission. It was in the DRC's purview to determine that, whether 20% was fine or 70% or whatever.

Commissioner Imboden stated he understood that the DRC had required findings that with proposed projects there would be a compliance determination with the Secretary of Interior Standards and Old Towne Design standards.

Mr. Ryan stated there had been findings in the Staff Report. The DRC had determined that they had liked the design and when the recommendation for approval was made; his understanding in going along with the Staff Report that the findings would be part of their conclusion.

Vice Chair Cunningham asked had the DRC found that the proposed project was in compliance with the Secretary of Interior Standards?

Mr. Ryan stated they had not jumped off the page and stated the proposed project complied with the Secretary of Interior Standards. The findings were included in the Staff Report. The DRC basically determined that they had liked the design and felt it should be approved. The DRC had stated that the project met the Old Towne Design Standards, but had not specifically stated that the proposed project had met the Secretary of Interior Standards.

Vice Chair Cunningham invited the applicant to address the Commission.

Doug Ely, address on file, stated he was the architect on the proposed project, representing the property owners, Peter and Heather Westenhofer. He thanked Mr. Ryan, the Planning Staff and the DRC for their involvement with the project. Initially in going to the Planning Commission he thought that he would be responding to questions regarding use, size and the Administrative Adjustment. In reading the Staff Report; it appeared that Staff was encouraging the Planning Commission to re-evaluate an alternative plan that was never a plan that he and the property owners had determined would work for them. The plan had been prepared in response to the DRC's request. The existing residence was 617 square feet, 1 bedroom with 1 bath. He was proposing to add 450 square feet to the property. The total size would be 1067 square feet and less than 1100 and the property would become a very small 3 bedroom 2 bath home. The only reason that 73% might sound large was only because the original residence was so small. In looking in the packet that Staff had provided there was a block diagram of the south block and in the upper right hand corner there was an address of 626, that was the site in question. The addition would be to the rear and south west corner of the property. The total square footage would bring the residence up to comparable standards with what was also on the block. The total lot coverage proposed was 34% and the average for the

block was 35%. Mr. Ryan had mentioned visibility of the addition from the street. He was proposing adding to the south west corner of the site and that would not be visible from the street unless looking at it from an angle and back at the property. The comment that the other homes, and 6 were mentioned, that had additions not visible from the street; if coming from an angle and looking back the additions were visible. He was not certain how to interpret that comment, visible from the street. The proposed site would be in a similar arrangement.

Mr. Ely stated on the Administrative Adjustment, they proposed to be 5' 6" between the proposed addition and the existing garage and the requirement was 6'. They were asking for a 10% reduction. He believed there was some confusion about the proposed plan that Staff stated complied with the Secretary of Interior Standards and he had a hand out which he provided copies to the Commissioners and stated the cover sheet was the site plan of the proposed and preferred project. When he had first started, Planning Staff had required him to plan around a future 2 car garage to be added to the property. It had never been a desire or intent of his clients to add that. They felt it was not appropriate to plan around that, as the single car attached accessory garage structure, which was contributing, should never be removed. They had gone into the first DRC meeting with their initial proposal, and a flat roof design had been proposed with the original roof scheme as they had not wanted the secondary roof to be higher than the existing roof. The DRC provided appropriate comments to that design and suggested that a flat roof was not consistent with the historic style of the property. He had agreed with that. In their discussion the DRC requested that they explore a plan that expanded to the rear and not go around the south west corner of the property. The second page of the hand out was the proposed design, it was computer generated model. There was a street view and also an aerial view to provide a more complete picture of what was being proposed with the roof form. The third sheet was the plan that he had returned with to the second DRC meeting. The plan was 5 square feet shorter than the proposed original design, however, it caused a lot of problems. First of all in order to attempt to squeeze the addition in, the bedrooms would be 90 square feet and for his clients to want to invest and build to only have 90 square foot bedrooms was not an option. The amount of storage was grossly inadequate. The design also compartmentalized the backyard and created a box out and it had also been designed around a future 2 car garage that created an awkward condition.

Mr. Ely stated the DRC then requested that he return with another alternative that removed the requirement for a future 2 car garage. The DRC agreed that they would more than likely never approve the demolition of the accessory single car garage. Plan No. 6 was that design. It allowed them to increase the bedroom sizes and closet area, but the design was still substandard to what their original design had required. In addition he had to utilize an Administrative Adjustment on the east side of the property. There were mature fruit trees on the site that were a very important component of the property and a part of the culinary arts profession Mrs. Westenhofer was involved in. The square footage and FAR was larger and in reviewing the last sheet there was a matrix that he had presented at the 3rd DRC meeting. It had been modified, as there had been another plan alternative which had not been acted upon by the DRC. Plan No. 4, the preferred plan, was smaller than Plan No. 6, Plan No. 3 had not worked and it would be more costly to

build. They had been told that cost was not an issue, but when clients were stretched really thin to improve their home and the neighborhood, it was an undue burden that was being placed upon them when the proposed plan that was preferred and had been presented was found appropriate by the DRC. He apologized for the length of his presentation. In reviewing the second sheet and the aerial views that described what would happen to the home, he was proposing a shed roof at the west elevation which would tuck underneath the original roof and the existing roof would be preserved. The only portion of the existing roof that would change was a transverse gable that went across an approximate 18 square foot portion of the roof. He had reviewed other Mills Act Contract homes that had more roof affected. In terms of the Secretary of Interior Standards it was stated that with additions such as the one proposed, that the exterior materials shall be differentiated. The DRC had provided recommendations that the siding be slightly different, and distinguishingly different than the original and would comply with the forms, material and scale. The DRC found that the proposed project met the standards and the proposal was approved. In summary the design before the Planning Commission had been approved by the DRC, it was compliant with the Secretary of Interior Standards and guidelines. The size allowed the project to be compatible with other properties on the block and he therefore encouraged the Planning Commission to support the DRC findings and approve the project as submitted.

Vice Chair Cunningham asked if there were any questions for the applicant?

Commissioner Imboden stated with all the drawings that they had before them he was not clear on what was the existing roof and what would occur through the process, he asked if there was a specific drawing that would clarify that?

Mr. Ely stated on the 2nd sheet of the handout the roof forms were described there and on the layout on the wall there was an area of the roof that was shaded a slightly different color. That area was the only portion of the roof that would be framed over the existing roof.

Commissioner Imboden stated part of his confusion was on attachment no. 15, he wanted to confirm that was the proposal the Planning Commission was being asked to approve?

Mr. Ely stated the proposed preferred plan was attachment no. 16.

Commissioner Imboden stated on page 5, drawing 2, on what was labeled as the west elevation, he was unclear as they were depictions of two south elevations.

Mr. Ely stated that was an error. The elevation labeled west elevation was the west elevation.

Commissioner Imboden asked if what he was reviewing was existing and new, there was a crosshair at the top and he asked for clarification.

Mr. Ely stated he understood what was confusing Commission Imboden. He had completed some research on the original residence and it appeared that the residence had gone through 3 separate additions. What was being shown was the original form and taking it all the way across to a non-textured area that was the existing roof.

Commissioner Imboden stated on the drawing there was a dashed line shown above what would be the existing roof ridge and he asked if it was intentionally higher or if that was an error?

Mr. Ely stated that was a dash line indicating where the existing roof was. It was a graphic delineation of the line of demarcation between existing and new and there was not an indication of a higher form.

Commissioner Steiner stated it had been indicated that in option no. 3 the bedroom sizes were 90 square feet, he asked how that compared to the proposed preferred option?

Mr. Ely stated the bedrooms were 99 square feet.

Commissioner Steiner asked what would the storage area be?

Mr. Ely stated they were up to 24 lineal feet vs. 13½ lineal feet. The other site arrangement was not what the property owners desired and conducive to raising a family. To have a compartmentalized backyard was an awkward arrangement. It was also contradictory to the Secretary of Interior Standards in regards to open space. A project would not typically be designed so linear, like a hot dog, all the way to the end of the property. The design that was proposed and preferred was more appropriate and would have been a design that would have been designed at the time if the need had been there and it was more sympathetic as it provided 80 square feet of open space in the backyard. It was a more viable product and his clients had not wanted to invest in a substandard project.

Commissioner Steiner asked why in option no. 3 had there been the awkward arrangement around a future garage?

Mr. Ely stated option no. 3 was designed around a future 2 car garage that was a requirement by the Planning Department and not anything they had proposed. If the garage was built as a 2-car garage it would have an odd circulation to get to the backyard. The DRC stated that the garage would not ever be a reality and had suggested that the future 2-car garage be eliminated and why plan no. 6 was the alternative. He was surprised that Staff had not chosen that proposal, plan no. 6 over plan no. 3, and he believed the reason for that was due to plan no. 3's square footage being less. It was less and it had not worked.

Vice Chair Cunningham stated in reference to the Mills Act there was a question on whether the proposed project violated the Mills Act Contract and he asked if Mr. Ely would explain that?

Mr. Ely stated if a project was compliant with the Secretary of Interior Standards it should be compliant with the Mills Act. The Mills Act contained language referencing scale and roof line and the same language was contained in the Secretary of Interior Standards. He had taken it upon himself to look at other Mills Act properties that had been recently remodeled and there had been projects that had roof forms built on top of the original roof form in greater magnitude than what he was proposing. Those were still considered Mills Act properties. He had been told that it was a then vs. now situation, however, there were properties modified as recently as two years ago. As far as the Mills Act Contract was concerned, as long as the Secretary of Interior Standards were being addressed the project should be compliant. The real issue was how much was too much. The Secretary of Interior Standards had not provided clear guidance on that issue. The main guidance was as least as possible. The Old Towne Standards had a list from 1 to 10 and he could go through those if it was the wish of the Commission.

Commissioner Cunningham asked Mr. Ryan to address whether the applicant's preferred plan was in conformance with the Mills Act?

Mr. Ryan stated in reviewing the impact to a resource, just the impact to the resource in the amount of exterior resource material that was being lost or destroyed, the standards recommended the least possible impact and that the addition was out of public view. Mr. Ely referred to a project that had been recently built. That particular project was a home that sat on a corner and part of the addition was completed on the front of the house on the side in 1950. Part of that project was with an addition to the back that would be visible from the side street and the property owner had wanted to change the roof style from a hip to a gable roof and move the gable out and increase the roof height for the addition on the side corner. The original roof height had been 22' 7" and they ended up with a 17' 6" high addition over the roof and it was not visible from the street and had not impacted the original roof or the building. It was a better proposal than to just add on to the rear. To address massing and height a smaller addition on the interior portion of the lot was more appropriate for that site. The least impactful situation based on the Secretary of Interior Standards is what was chosen, and it had the least impact to the street scape for that particular project. There was 22' of building lost on the east elevation of that property and there was a small porch added that was reversible and the original building fabric still existed. In reviewing other Mills Act Projects he found that most of them were built to the rear of the properties. When the DRC made a determination they were making a determination that met the findings, however, they had not always stated that the project met the Secretary of Interior Standards. It met the Old Towne Design Standards and the DRC had moved the proposal forward and it was assumed with that action that the DRC found that the project met the standards.

Assistant Community Development Director, Ed Knight, stated hypothetically if the Planning Commission approved the proposed project they would make the same type of findings that were made by the DRC regarding the guidelines and the view from the street, massing, lot coverage and roof design. If the Planning Commission made those findings as the DRC had addressed in their minutes, which it was consistent with the Old

Towne Design Standards that was the same language that the Mills Act contained. The body that made the final action, and determined that the proposed project met the Old Towne Design Standards and the Secretary of Interior Standards, the same thing that had been found by the DRC, then it would be consistent with the Mills Contract that had been entered into by the property owner with the City. The City would not render a decision that was inconsistent with another contract that existed.

Vice Chair Cunningham opened the hearing for Public Comment.

Michelle Carder, address on file, representing the OTPA, stated she felt like she had just fallen down the rabbit hole, based on what she had heard from Mr. Ely. She appreciated the political and kind slant of Mr. Ryan's comments, however, she felt the project could be summarized in one single piece of paper that had been provided by Mr. Ryan to the DRC and was in the possession of the Planning Commission that clearly and explicitly outlined each of the six proposals and there was only one proposal that met the Old Towne Design Standards, only one proposal that met local CEQA and only one proposal that abided by the Mills Act. OTPA agreed with that 100%, that was proposal no. 3. She was now hearing about closet sizes, storage space and with all due respect none of that mattered as the Secretary of Interior Standards had not addressed storage space, open space or room size. They were reviewing a project that proposed to alter the roof line by Mr. Ely's representation by about 18 square feet. In a conversation with Mr. Frankel earlier, Mr. Ely had stated it would be approximately 20 square feet and the Mills Contract that the City Mayor signed specifically stated that there would be no changes to the material and character defining characteristics of the property and specifically defined the roof line as one of those characteristics. She read from the Mills Act: Owner agrees to preserve and maintain the historic property and character defining features. Character defining features include, but are not limited to the general architectural form, style, materials, design, scale, details, mass, roof line and other aspects of the exterior of the historic property. Approving the proposed project would absolutely violate the Mills Contract. That statement was coming from the prospective of a lawyer, from common sense and from what the contract stated. The other thing stated in the contract was that the Secretary of Interior Standards had not just governed the Mills Contract, but were the minimum for the contract. The OTPA's letter that had been submitted to the City last week explained that the DRC should have applied the Secretary of Interior Standards to the proposal rigidly and that had not occurred. She respectfully found that the project should return to the DRC for the required findings to be made or outright denied.

Vice Chair Cunningham invited the applicant's representative to respond to the Public Comment.

Mr. Ely stated he wanted to respond to the comments made by Mr. Ryan. The roof that was being mentioned in regards to the Mills Act was not the property on Maple; but he was referring to the property on Pine Street. There was a second story addition to the back of the home at the corner of Harwood and Maple and it was true that the other property had the same condition, but was not appropriate to speak to as it was one of his projects. There were other Mills Act Contract homes that had more alterations to the

existing roof. He respected Ms. Carder's comments and they were both preservationists and they both had a different interpretation of the same document. If no historic material could be touched it would not allow for any changes to historic material; in reviewing the Secretary of Interior Standards the guidelines were provided that stated in Preservation Brief no. 14, changes were inevitable in buildings and neighborhoods as it was in individuals and families, never static, buildings and neighborhoods grew, diminish and continue to evolve as additional family living space is alternately needed and abandoned. Some exterior and interior alterations to historic buildings are generally needed to ensure its continued use. It was the case in the proposal before them. It was important that such changes would not radically change, obscure or destroy character defining spaces, materials and features. Were the materials that he was proposing to remove character defining features, he stated no, as the character was still visible from the street and in walking around the proposed addition it had the same character. It was just larger. There were recommended guidelines; designing additions to roofs such as residential, office or storage spaces when required by the new use that they are inconspicuous from the public right-of-way and would not damage or obscure character defining features. There were numerous examples in the guidelines and preservation briefs about how it should be interpreted. The DRC consisted of design professionals and were well versed in the Secretary of Interior Standards and he encouraged the Planning Commission to follow along with the DRC's recommendations as it was important that the Standards were so precise as not to touch existing materials, but to touch as few as possible and sometimes things could be touched too much and it would start destroying the character of a residence. He felt he had not done that with his proposed project, but that the scale and character had been maintained and the addition was not visible from the street, Mills Act or non Mills Act if a property was on the Historic Registry they were treated very similarly.

Vice Chair Cunningham stated he had received a late speaker card.

Tim Lamberth, 618 W. Culver Ave, Orange, stated he was the neighbor directly east of the Westenhofer property and he had done an addition approximately 5 years ago and they had a secondary roof line. The addition was barely visible from the street and could only be seen from across the street. The Westenhofer's proposal was much more minimal than what he had done on his site. His home was smaller, only 550 square feet, and they had completed a 495 square foot addition to his home and it had been a benefit to his family, in allowing them to raise a family and to live and work in the City of Orange. It was a blessing to be there and it was a wonderful place to be. He knew that the Westenhofers' wanted to experience what he had. He had lived there for 10 years. The Westenhofers' lived and worked in the community and supported the businesses in the City and he felt the City should send out a message that those were the type of people the City wanted to attract. If the proposed project was denied he was not certain if they would move, but certainly they would not be able to do what they wanted to do. As far as the requirements referenced regarding touching historic elements, it was a visibility issue from the street or how much it would affect anyone and who would view it. If it was in the backyard and 50 to 60 feet from the street and the amount of visibility would be so minimal. In driving by in a car at the normal speed limit that perhaps just having a

second to view the property and knowing what to look for it might be visible, but to passersby who frequently came to his home they had no idea it was a 60' deep home as it appeared as a very small home from the street scape. After reviewing the proposal before them it would be very similar to what he had done to his home.

Commissioner Imboden stated he was attempting to get his hands around the project before them and there was this infamous plan no. 3 that Mr. Ely had stated would not be a direction that he and the property owners would be agreeable to. He asked if he understood correctly that the DRC reviewed the initial submittal, asked for alternative proposals that they felt would comply more with the Standards and there were other proposals included in their packets, but were there no viable alternatives?

Mr. Ely stated that was correct, although on plan no. 6 the bedroom and closet sizes got to the point where they were close, it came down to was that option too big and it compartmentalized the backyard. Committee Member Woollett stated that the open space was a critical factor in evaluating projects.

Commissioner Imboden stated he was not looking for justification, but that there was one proposal and that was what they were presenting and all of the other proposals had never been options.

Mr. Ely stated that was correct. The other proposals had been developed in response to the DRC's request to show why other options would not work and the DRC approved the plan that they were submitting to the Planning Commission.

Vice Chair Cunningham closed the hearing to Public Comment and brought the item back to the Commission for further discussion.

Commissioner Imboden stated with no offense meant to anyone, the proposal before them was the messiest application that the Planning Commission had ever had before them, which made their job much, much more difficult. He stated it was not the result of any one player in the game and that everyone involved had contributed to it. He had heard about the project before he saw it and in review of the project it was much less than what he had expected. That being said, there were still issues that he had concerns with. He was troubled that an application was before them that from his understanding was the same application that had been submitted to the DRC that had not been approved; as it had not been in compliance with the Secretary of Interior Standards. The DRC had asked the applicant to go back and explore alternatives and those alternatives were brought back, however, the alternatives were not viable. The DRC wrestled with the proposal again and again had not approved the proposal due to compliance issues. The proposed project returned to the DRC a third time and suddenly it was approved. In review of the DRC Meeting minutes he could not find the language that told him there was suddenly a reversal on a decision. He was perplexed that the DRC would discuss how much was too much and punt the project to the Planning Commission. Certainly anyone who held a seat on the DRC should be capable and qualified in making those decisions, probably better than the Planning Commission and he was disappointed with the way that the

project had arrived before the Planning Commission. In reviewing the project, the size of the addition, although the numbers seemed large before and after, they were starting with a very small structure and any addition that was viable would appear large in terms of a percentage. The size had not concerned him. He was not concerned with the Administrative Adjustment request and it was well justified. He had not had an issue with the one car vs. two car garage, he understood it was not part of the application and felt it was good that there was an attempt to retain the historic garage as it was a contributing resource. He felt they had spent far too much time talking about the visibility of the addition from the street, and they had heard that numerous times during the presentation. Certainly the Secretary of Interior Standards recommended that modifications be completed on less prominent facades of the building, but the discussion regarding visibility that if it was not visible from the street anything goes was not something that was found in the standards. They had spent far too much time discussing that and a point that was not relevant. There were several comments heard regarding what had shaped the proposal before them and he was perplexed by the loss of non-historic trees and he could understand and appreciate the interest in maintaining those, but being a National Historic District and a historic property and a contributing cultural resource and having a Mills Act there were priorities and obligations beyond fruit trees that could be replaced. He had not accepted that as justification for the proposed project. There was also a discussion about the burden being placed on the applicant due to the Secretary of Interior Standards and he had not bought that argument; it was an agreement that the property owner willfully entered into with the City to comply with the standards. With those comments being the background for his decision and where he fell on the proposed project, Commissioner Imboden stated he was not troubled by the project's design, he felt the design was sensitive, he was not troubled by the size, he felt the size was appropriate. He had problems that in reviewing the proposal that it appeared to him that at least ¼ of the buildings exterior was not only being touched but being demolished. There was some talk about a California roof, as if one roof would just drop down over the other and he was a bit confused as in reviewing the supporting roof members those were being demolished as well. What that brought him to was another conflict with the standards that the DRC failed to mention, was the reversibility of the project, which was also a standard. There was no way to see that the project would be reversible as the original footprint of the building was not just added to but it would be removed. He was struggling with the proposed project for that reason and the compliance with the Secretary of Interior Standards. The design was sensitive, the size was allowable, and there was a need to keep the properties viable in order to preserve them and that they needed to entertain getting at the edge with size on some of the historic properties. He had trouble with an issue that had not been presented; the reversibility of the proposed project. The standards were quite clear about reversibility and that alterations that were undertaken should be reversible. The other thing that he wanted to address was there had been a lot of discussion about changes on other projects and roof forms in Old Towne Orange and that was very complicated when they began to compare other projects as every single home was different and the standards were applied differently. He would look to the roofs to ensure that they were discernable; it was not as if they could not be added to but was the original roof form being preserved, and could it still be identified as the original resource. In the proposed project he felt it came close and they had not

needed to spend a lot of time on that point, but he wanted to put that out there as there had been much discussion about it. He would want to have discussion with his fellow Commissioners about the amount of demolition that was taking place, the amount of exterior components that were being removed and the reversibility aspect in regard to the compliance aspect of the proposed project.

Vice Chair Cunningham stated it was a messy situation and on the reversibility factor which was a legitimate point, he asked Commissioner Imboden if he saw any way out?

Commissioner Imboden stated he was not going to tell the applicant that they had to build the infamous plan no. 3 that they had not wanted to build, but when he looked at that plan it was an addition that was compliant. He was of the same agreement as the City Staff, the DRC and the OTPA had. Had that meant that the applicant had to build to that plan, no, it was up to them what they wished to propose for approval. All he was looking at was the square footage and when they were getting close to ¼ of the exterior of the building being permanently demolished. They were out of compliance and ultimately it was not the responsibility of the Planning Commission to begin to design a project. It would not be a design the applicant would want or that the architect would support. He was stating that he saw the potential for a viable alternative and he felt it had not been brought to the table yet and he could not approve the project in its present state. There were minor adjustments that could be made to provide the applicant with a program that would work and he was not concerned with size or the Administrative Adjustment, but he was looking for a project that came into compliance with the standards.

Commissioner Steiner stated his concern was that he was not optimistic that it could be achieved, as they had already reviewed six other options and three trips to the DRC and he was not confident that they could progress any further along in the process. The comments made by Commissioner Imboden were very thoughtful and he knew more about the specifics than the other Commissioners. It appeared that the effort was in substantial compliance and they should vote the project either up or down.

Commissioner Imboden stated he would prefer to allow the applicant to have a say in whether they take a vote, consider a continuance or send the proposal back to the DRC, he was not excited about the thought to send it back to the DRC, but at the same time the proposals mentioned were never really alternatives and that was where his concerns came from. It appeared that neither the DRC or the Planning Commission were ever presented with a viable alternative and when an applicant is asked to return on a continuance to present alternatives it was assumed that the applicant would return with a viable alternative that could be approved. That was his interpretation of the minutes and the process that they had gone through.

Vice Chair Cunningham stated he agreed with most of the comments made by the other Commissioners, it was a nice design, it was not out of character and the visibility issue was an issue and any addition to a small building would appear large percentage wise, but where he was getting stuck was the issue of reversibility. He asked Mr. Ely if the proposed project was reversible; he was not an architect and respected Commissioner

Imboden's opinion?

Commissioner Buttress stated as she was new to the Planning Commission she wanted more detail on the reversibility issue and was that a consideration if the addition was removed that the building could be put back to its original form?

Commissioner Imboden stated not only that it could be put back, but it was also part of the issue of removing as little of the historic fabric as possible that came into play. In the standards on item no. 10 it stated wherever possible new additions or alterations of structures shall be done in such a manner that if such additions or alterations were removed in the future, the essential form and integrity of the structure would be unimpaired. He was speaking to that, for example, if dormers were placed on an existing roof that they could later be removed and the original roof form would be in place. It was difficult to add to the side of a building and not have loss. It was almost impossible, additions could be built over an exterior of the building and in theory a removal could occur. In the proposal before them the entire rear wall was being demolished, the adjacent wall to that demolished and the other wall, he was not certain if it would be removed or modified and the proposal had not presented just an add on but considerable removal. It was a point that he struggled with, once the original fabric was removed it was gone and there was no way to remove the addition and not have the structure impaired. It appeared that the applicant's representative would have an opportunity for further discussion and what he wanted to hear was if they were interested in truly exploring an alternative that would do less to destroy the historic resource or were they interested in a decision on the application before them. He could not approve the proposal as presented.

Commissioner Buttress stated she could agree that the design that the applicant preferred was a better design, but Commissioner Imboden brought forth some interesting points that were worth exploring. She found plan no. 3 unpleasing, if she was the neighbor or anyone else, there was no artistic value to that project. What had been presented made a nice presence, but if it had not followed the rules she had some concerns.

Vice Chair Cunningham stated he was taking in what Commissioner Imboden had stated regarding reversibility and regardless of what option was chosen some of the walls would be taken away and was it a matter of the amount of wall?

Commissioner Imboden stated it was not necessary to always remove a wall as the new space could butt up right against the existing wall, however, it was not the case in the proposal before them. The walls were being demolished and the building's original footprint would no longer exist.

Mr. Ely stated regarding reversibility they could treat the proposal in that the rear of the home was reversible. They could leave the existing wall in place, so that in the event the addition could be removed and restored to the original form. The rear of the home had a sliding door that was not historically sensitive and they would not need to save that, however, the floor plan would allow for that to occur. The area on the west elevation

would be the only area that would need to have physical removal of the façade; that façade could be reconstructed. On option no. C was where they had looked at taking out that wall. Commissioner Imboden had stated that the original roof structure was being removed, but that was not the case as the transverse gable could be built over the existing roof and there was only a small 18 square foot area that would be modified with the existing roof underneath that. Commissioner Imboden had also stated that it appeared that there had not been changes to the original proposal. There had been varying roof forms and the original had a flat roof, on the second proposal a DRC member had suggested a pitch roof and ridge that was higher in the back that had not worked. They had come up with the retention of the entire existing roof with framing over the corner and the shed roof was pitched over the existing roof. Reversibility on the west elevation was the only area that would present an issue. They had looked at numerous options and those had been presented in order to present their dilemma. The only option that worked was the proposal before them. In their attempts to come off only from the rear of the house meant that there would be a long corridor and small buildings to one side of the home. As far as reversibility they could accomplish that.

Commissioner Imboden asked along the wall on gridline C he asked if that was a wall that would remain?

Mr. Ely stated that wall would be retained, the wall on gridline 3 would be removed as it split the bedroom and along gridline B on the back wall it could be moved up one foot and preserved. In terms of removal of material it would only be a 10’ 6” area that would require rebuilding.

Vice Chair Cunningham stated after hearing from the applicant in what would be taken out and what would remain and the reversibility issue, he felt there was enough area that would be left unimpaired and he was satisfied if it was left unimpaired wherever possible. He asked for any further discussion or a motion.

Commissioner Imboden stated he was somewhat of the same thought in that minor changes to the floor plan made a world of difference in getting the proposed project in compliance. He had not wanted the applicant to have to go through another exercise with a review, however, he was not comfortable with approving plans not before them. He had an idea in crafting language to place walls on gridlines as indicated on the plans and he asked if that was an option?

Mr. Knight stated Staff understood what would be maintained and what would not and in referring to the plan he stated along gridline B the existing wall would be maintained, siding would be removed and the non-contributing aluminum door would be removed and the wall that would be removed would be the wall that split the new bedroom and would be the only portion that would be completely removed. Staff would interpret that information and a decision to that effect from the Commission.

Commissioner Imboden made a motion to approve, DRC No. 4508-10 and AA No. 185-10-Westenhofer Residence, subject to the conditions contained in the Staff Report and

noting the item was categorically exempt from CEQA, in order for the project to be in compliance with the Secretary of Interior Standards modifications to the plans shall be that the existing rear building wall at gridline B be maintained and that the east wall of the existing structure be maintained in place with the exception of approximately 10' 6" as currently indicated on the plans as being demolished.

Vice Chair Cunningham asked if that motion was acceptable to the applicant?

Mr. Ely stated yes.

Mr. Knight stated that in the motion it was stated that the project met the Secretary of Interior Standards and the motion inferred and directly addressed that the findings also met the Design Review Guidelines and Administrative Adjustment Guidelines as contained in the Staff Report.

Commissioner Imboden stated his motion agreed with that statement.

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

MOTION CARRIED

Continued Hearings:

(4) ZONE CHANGE NO. 1258-10 – MIXED USE ZONE STANDARDS ORDINANCE AMENDMENT

Continued from Planning Commission meetings of October 4, 2010 and September 20, 2010 due to the need for further information and the necessity to re-notice the project. The proposal consists of two components: an ordinance amendment adding new Mixed Use Zoning Standards to title 17 of the Orange Municipal Code and a Zone Change to implement the new Mixed Use Land Use Designation on parcels as indicated in the 2010 General Plan thereby achieving consistency between the General Plan Land Use designations and Zoning in accordance to State Law.

LOCATION: City Wide

NOTE: Final Program Environmental Impact Report (EIR) No. 1815-09 for the Comprehensive General Plan Update was certified on March 9, 2010 and prepared in accordance with the California Environmental Quality Act. The proposed activity is within the scope of the previously approved General Plan and is adequately described in the previously certified General Plan Program EIR for purposes of CEQA.

RECOMMENDED ACTION:

Adopt Planning Commission Resolution No. 33-10 recommending City Council approval of an Ordinance Amendment adding new Mixed Use Zoning Standards and definitions to Title 17 of the Orange Municipal Code to implement the new Mixed Use Land Use designations of the 2010 General Plan.

Adopt Planning Commission Resolution 34-10 recommending City Council approval of Zone Change 1258-10 to implement the new Mixed Use Land Use Designation on parcels as indicated in the 2010 General Plan thereby establishing consistency between General Plan Land Use designations and Zoning classifications in accordance with State law.

Commissioner Imboden stated he would be recused from the items presentation as he owned property in the subject area.

Principal Planner, Anna Pehoushek, presented a project overview consistent with the Staff Report.

Vice Chair Cunningham opened the item to any questions for Staff.

Vice Chair Cunningham stated there was an area that Staff was requesting the Commissions input on and he asked for clarification on the section?

Ms. Pehoushek stated there were a number of areas that were pointed out in the OTPA's correspondence and Staff was looking to the Commission for direction on those issues contained on page no. 3 of the proposed standards and on the use table. There was a comparison of existing uses in the zoning comparison table as well.

Vice Chair Cunningham opened the hearing for Public Comment.

Steve Bennett, 351 S. Grand Street, Orange, stated last October the OTPA sent a letter to Staff outlining preservation issues that they had with the ordinance amendment and that was included in the packet. It had been also discussed by Staff. The OTPA was asking that the ordinance be revised with respect to the preservation of historic resources. Staff had assured the OTPA that their comments would be discussed during the presentation before them.

Jeff Frankel, address on file, stated he was presently speaking as a concerned property owner vs. an OTPA representative. He wanted clarification on Ms. Pehoushek's comments regarding the Commission addressing the concerns from the public. He was a property owner at 384 S. Orange, and his property was adjacent to a property affected by the zoning ordinance amendment. He was opposed to numerous proposed inappropriate uses which included dog and cat grooming with and without boarding, veterinarian clinics, animal hospital with boarding, automobile repair and sales and the fact that it was historic automobile repairs the repairs and noise would still be the same; recycling centers, and restaurants with and without alcohol sales. Although the uses might be appropriate on West Chapman where the uses were not residential, it was a different situation on S. Glassell where the majority of properties were historic residential and the adverse impact resulting from the proposed uses, and not limited to, include noise, fumes, foul odors, vermin, and crime which in turn would significantly impact property values. Imagine having any of these uses in their own backyards with many of them requiring only over the counter approval. Instead of applying the same to the entire spoke street area, the proposed uses should be specific to the appropriate areas where the impacts would be minimal and the uses would be appropriate. The proposed amendment could potentially have an impact on their property. Property adjacent would be deficient in parking for most of the proposed uses and as it appeared that the proposal would allow moving buildings without any apparent review criteria and a historic garage could be moved and demolished without Planning or Council review to accommodate the proposed use and not comply with the Design Standards which he understood would apply to the district and be in conflict with the current Old Towne Design Standards. He was asking for a revision in the proposed uses to specific areas and to eliminate any inconsistencies with the existing ordinance.

Robert Imboden, address on file, stated he came before the Commission as a property owner at 350 S. Glassell Street, he had perhaps the singular distinction of having his property potentially rezoned. Much of what he wanted to state had already been stated, but what he wanted to do was to bring some immediacy to the impacts his property faced. It would also impact every property owner on the spoke streets, as well as property owners who lived directly behind those properties. He shared a concern regarding animal uses. The veterinarians and groomers raised a concern, as he was not anti-pet but concerned with having those uses directly next door with barking dogs all day long. Auto repairs also presented a concern and he asked the Commissioners if they would want an auto repair business to open up over night next door to their homes without any public review, no conditions placed on the business, and even having the ordinance specify historic auto repair there were still concerns with vintage hot rods revving loud pipes next door to his home all day long. In visiting recycling centers there were shopping carts and plastic bags left lying around and it seemed that use would be better served in a pure commercial zone rather than a mixed use residential zone? Lastly one of the items he had concern with were restaurants, and there were restaurants on the books being permitted with no public review or conditions to limit where the dumpster would be placed with the smelly trash that would be sitting out in the hot summer sun right over his garden wall and there were no conditions being place on how late people could be out talking out on a patio late at night right next to his home. In conclusion he stated for those of us who owned property being rezoned or directly adjacent to a property being rezoned the impacts were very real and could be very real. There had been a lot of discussion during the General Plan Updates regarding the economy, where they were at and were they were headed and what the future held, the residential properties around the potential rezoning sites had not needed their property values to diminish due to an auto repair business opening up over night next door to them. He asked that the Commission look to the changes with sensitivity and to bring conditional uses to the language and to please review the issues that were presented in the OTPA's correspondence as he also supported those issues as many of those changes would not preserve but hinder preservation in Old Towne.

Steve Prothero, 741 E. Briardale, Orange, stated primarily he supported the Urban Mixed Use zoning that he would be addressing. The properties he wanted to discuss were those on Katella and Main on the south west corner as well as the properties between Main and Batavia on the north side of Katella. Currently the predominant use was old industrial and there had not been a large enough threshold of change occurring yet, or the need to tear those down and rebuild and he was not certain it would occur in the future to become an Urban Mixed Use zone. An area that was pedestrian friendly, zero setbacks with false fronts. In speaking with Mrs. Pehoushek they had clarified the situation and had come up with some language that might help the situation. On the properties between Main and Batavia on the north side he felt they needed some flexibility in the Urban Mixed Use language in that it was on the eastern edge of Urban Mixed Use that ran all the way to Disneyland; Katella was not very pedestrian friendly. It was 8 lanes wide with traffic moving quickly and had not made for a friendly atmosphere. In looking at Cities with an Urban Mixed Use culture it was not on an 8 lane highway. The other problem was that the property sat directly across from auto dealerships. His feeling based on the revenue

that they provided for the City and the acreage required that they would not move and that they would be there for a long time. His concern was that the language was restrictive on the reality of the property and it was more of a retail and commercial use property with parking. A change in the language would provide more flexibility on how they would approach that and he would support new language being adopted.

Lyle Shelton, 10781 Orange Park Blvd, Orange, stated he represented a portion of the ownership of an old Orange Packing House at 426 W. Almond and most recently used as the second harvest food distribution center. He and his partner purchased that location in 1960 and had seen changes. The item he wanted to address was the adaptive re-use of existing buildings and density. He read: when a new dwelling unit, included a live/work unit created within a non-residential building the allowed density of the unit may be increased by up to 15%, they were speaking of approximately 2 units and there were only 2 packing houses that were represented in that portion of Orange. Due to the size and scope of the project it would be necessary to redo the packing houses and the 15% incentive would not be sufficient to justify doing that. As Mr. Imboden had stated when the economics of the country were the way they were it was a shame to do something that would take away property value; and the proposed ordinance would do that.

Richard Ham, 1300 Quail, Newport Beach, stated he had become acquainted with Mr. Shelton six months ago and have been assisting him to plan a mixed use project for his site. His company was a mixed use in-fill developer and they had done work in Old Towne Fullerton and they had just completed a project in Old Towne Tustin and they were working in Old Towne Temecula and one in Huntington Beach. In looking at the property and at the Old Citrus warehouses they were very difficult to rehab as it was quite a burden financially to get them modified from their existing use to a another use. He was pleased to have seen in the mixed use ordinance that there was an incentive area, section 17.19.210, unfortunately the incentive, as Mr. Shelton articulated, of 15 % really took the density from 15 dwelling units per acre to 17.2 dwelling units per acre and was not much of an incentive. There was a Citrus Packing House in Claremont that was just redone and it was a City project that was paid by City funds and there was a project in Anaheim on Anaheim Street with an adaptive reuse of a Citrus Warehouse there and with a building of 42,000 square feet and the contract was $6.4 million and the City of Anaheim was currently funding that project. Mr. Shelton's property had 50,000 square feet in his main building with another 20,000 square feet on top of that. They had looked at the possibility of adding language that would apply to only Citrus Warehouse properties that would make the financial incentives greater in attempting to get the properties re-adapted. They had put language together; they added after no. 2 the following language: A higher level of incentive can be applied by the reviewing body to provide additional encouragement for the reuse of historic Citrus Packing Warehouses that were listed in the City's Historic Resource Inventory where the packing house was being restored, preserved or adaptively reused to allow the property density to be increased by up to 50% by the reviewing body so long as the height of the new property would be no greater than the historic structure and any new properties would be at least 25 feet from the adjacent property. He provided copies of the language to the Commission. They had talked numbers and they had listened very patiently to the

previous Agenda item and although 50% sounded like a large number they were speaking 50% of a 15% dwelling unit per acre density and a 1 FAR and it would just mean only adding up to a 1.5 FAR which was not that large and go to a 22.5 dwelling units per acre.

Athina Singer, 204 E. 17th Street, Ste. 202, Costa Mesa, stated she appreciated the mixed use areas that the City had created and the work that Ms. Pehoushek had done. They were concerned with some of the language regarding street adjacent buildings for some properties they owned along the medical corridor on S. Main between La Veta and Chapman. They had a similar issue with quite a speedy road that was not pedestrian friendly and the City was focused on medical projects in that area, as well as retail oriented projects and to have parking behind the building where the entrance was in the front was not practical for medical use. It would be an issue to disabled people, handicapped and ill patients and to have them park in the back and to somehow get around to the street side would not function well for the types of projects she envisioned for that area. Her company also owned the retail center at Main and La Veta and the parking situation would not function as proposed in the language. The minimum 40,000 square foot lot requirement for some of the specific properties would be prohibitive for future new retail development.

Vice Chair Cunningham closed the Public Hearing and brought the item back to the Commission for further discussion or a motion.

Commissioner Steiner asked for Staff's response to the Public Comments?

Ms. Pehoushek stated on some of the comments from Mr. Frankel; in respect to some of the uses Staff was looking toward the Commission to offer their recommendation for the appropriateness of those uses, the uses that were identified were those uses that were allowed in other commercial corridors that abutted residential properties in other areas of the City. In terms of moving buildings without any review, as she had mentioned, there was nothing in the proposed zone that would eliminate the current demolition requirements for a building that would be relocated and would go through the same process as existed currently. With respect to Mr. Imboden's comments again in response to the types of uses Staff would be looking to the Commission for their guidance. In response to Mr. Prothero and Ms. Singer's comments regarding pedestrian activity on Katella and the Main Street area; something that was factored in was that during the day time the area was a very auto oriented location and at night time when there were events at the Honda Center or at the Stadium there were people parking all over the place, on the Katella corridor people were walking and Staff was thinking about not only day time hours, but also night time hours and the level of activity that occured with the changing dynamics as property characteristics and uses changed. In the case of South Main there was auto activity, but also the medical centers and people walking out of the hospitals for lunch, using the bus and various types of various pedestrian activity. The City was looking to the standards to create a more enticing and comfortable environment to walk. People would walk regardless what they did with the development standards and they were attempting to acknowledge the fact that people were using the sidewalks and to respond to that in adapting the physical space to the human behavior that was occurring.

With respect to Mr. Shelton and Mr. Hamm's comments, there had been much discussion about the appropriate densities all over Old Towne and they had recognized that those types of properties with a large characteristic and a historic element on a larger piece of property and 15 units per acre that might not be enough to encourage change, however, they had also heard a lot from the community and during the public comment session with the Planning Committee and the City Council that there were concerns with going beyond the 15 unit per acre and the sites were challenging due to the size of the buildings on those sites and the significant resources that would be needed to do something with those buildings. They had put forward the 15% bonus as an incentive and it was at the heals of the General Plan hearing process and Staff would look to the Commission for guidance. Getting back to Ms. Singer's comments regarding parking orientation and building setbacks, hopefully the language that was proposed related to 100% commercial projects would address that. The City was hoping to accommodate situations where parking could still be accommodated along a building frontage but that it was not necessarily the predominate feature of that property and perhaps some part of the building was oriented to the sidewalk to a great extent to what was encouraged in the standards and parking could be at the side of the building. There were different ways in which to provide parking other than behind a building and they were attempting to create a better balance between buildings, parking and the sidewalk in commercial areas.

Vice Chair Cunningham asked if there were any questions for Staff?

Commissioner Steiner asked if it was the desire of Staff, assuming that the Commission would like to have further sensitivity to the expectations and hopes raised, could that be something Staff would consider and return to the Commission with further recommendations at another time?

Ms. Pehoushek stated if clear direction was provided, in the case of uses if the Commission chose to eliminate certain uses in certain locations or requirements for a CUP that was direction that they could incorporate into the proposed ordinance to take to the City Council.

Commissioner Steiner stated there needed to be further sensitivity in a City such as Orange that had such uniqueness for uses on the spoke streets. For the Katella area, when he was with the OCTA Board of Directors they had been pleased to see Katella become a smart street with significant traffic flow and turning lanes and Katella was quite a bit different than Main Street. He hoped that they could address some of the issues brought forth from a Staff level. There needed to be some accommodation with regard to the packing house properties, they were not speaking to having the density go from 15 to 30 with the recommendation from 15 to 17. Mr. Shelton and Mr. Hamm spoke about going to a 22 dwelling units per acre and he felt that was agreeable for the reuse of those very unique properties. He would defer to the other Commissioners for their input.

Vice Chair Cunningham stated after hearing the public comment he had not heard anything that was unreasonable in terms of requests or massaging and working on the proposed ordinance. For example in the Old Towne Mixed use area regarding restaurants

at the very minimum he felt they should require CUPs and the residents needed an opportunity to speak to those new uses. He agreed with Mr. Frankel and Mr. Imboden regarding auto repair and pet businesses and at first it would seem not so impactful, but barking dogs could get very annoying and autos could be as well. He would be in favor of striking auto repairs and the pet oriented businesses completely. Going in no particular order the OTPA asked about section 17.19.120 regarding the masonry walls and if wooden fences would be allowed and he had not had an objection to that. His direction would be to include that. He would include Commissioner Steiner's comments as well. In reference to having a higher adaptive reuse he would want Staff to work with the property owners in developing that percentage. He had a question about something Mr. Prothero stated regarding the auto dealerships, and wondered if it was a legal non-conforming issue?

Ms. Pehoushek stated auto dealers would be an allowable use in the Urban Mixed Use area and during the time of the General Plan hearings they had received correspondence from one of the dealerships to be designated as a Mixed Use property and that was part of the motivation for that change.

Vice Chair Cunningham stated on section 17.19.75, there were members of the public who had addressed new language for commercial developments, he was alright with the added language and he felt is was a good addition.

Commissioner Steiner stated he and Commissioner Buttress might be at a bit of a disadvantage on the item as they had not been members of the Planning Commission when all the work was being done on the General Plan Amendment and all the discussion that had occurred. He was attempting to find a manner to address the concerns that had been brought forward by the public and would be supported by Staff.

Vice Chair Cunningham asked Mr. Knight if it would be sufficient to move the item with a direction to Staff to go back and re-work the ordinance with the comments received and the input from the Commission?

Mr. Knight stated that would be fine and they would also want to take a look at the comments provided regarding the 15% incentive, as that incentive was meant to be a modest incentive to provide a little bit of encouragement and Staff was not stating anything either positive or negative about the 50% incentive. Currently the upper limit of the district was 15 dwelling units per acre and in getting to 22 dwelling units per acre it shifted the land use designation and would become something different. The State of California allowed for density bonuses for affordable housing and the State addressed if incentives were provided and it shifts the allowable density range to a higher one that was o.k., and he would want Ms. Pehoushek to take a further look at that to provide for the appropriate language or whether the applicant would need to present a GPA and a zone change asking for a higher density for the site, rather than a 50% incentive. He would look to the ordinance to either make those findings to shift to a higher density. There was an expectation on the part of the community to remain at 15 dwelling units per acre. If another incentive was provided it would shift the land use to a different range. For

affordable housing the State allowed for that, however, he was uncertain what needed to occur with an incentive of 50% or should they acknowledge the concerns and request that applicants apply for a GPA and zone changes.

Commissioner Buttress asked in the motion could they include that information and she had agreed with some of the other comments brought forth, such as the items Mr. Frankel had presented; and as much as she loved her dogs she would not want to live next to a grooming place or veterinarian clinic and that even a historic automobile would create an annoyance. On the restaurants she felt a CUP should be a requirement regardless of alcohol service or not and that would allow the community to have input.

Vice Chair Cunningham stated his sense was that on the Old Towne spoke street concerns regarding uses that any proposed restaurants would require a CUP, that animal oriented business not be allowed and the same with auto repair and recycling businesses would not be allowed and that the elimination of those types of businesses had been a reasonable request. The new language could be included for section 17.19.75 regarding commercial development and on section 17.19.120 to allow 6' wooden fences as an alternative to masonry walls and that they further direct Staff to work with the property owners regarding the additional incentives for Citrus warehouse adaptive reuse and the parking issues raised. That would be his motion.

Commissioner Steiner asked Mr. Knight on in-fill projects particularly the Citrus warehouses; would the property owners only recourse be a General Plan Amendment?

Mr. Knight stated Staff would need to review that issue and if a 50% incentive could be allowed with findings and if it was possible with the shift in land use designations, but if they could not make those findings the main recourse would be a GPA.

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

Vice Chair Cunningham called for a 5 minute break to return at 9:40 p.m.

Upon the commencement of the meeting Mr. Knight stated Zone Change No. 1258-10, Mixed Use Zone Standards Ordinance Amendment would return to the Planning Commission on a date certain of February 23, 2011.

New Hearings:

(5) CONDITIONAL USE PERMIT NO. 2769-09; MINOR SITE PLAN 0616-09; AND DESIGN REVIEW COMMITTEE NO. 4448-09 – CHAPMAN UNIVERSITY LAW CLINICS

A proposal to renovate the interior and exterior of an existing building (Cypress Street School) to be used as a free community law clinic for Chapman University.

LOCATION: 544 N. Cypress

NOTE: This project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) per State CEQA Guidelines 15301 (Class 1 – Existing Facilities) because it consists of a minor alteration to existing private structures and exterior alterations.

RECOMMENDED ACTION:
Adopt Planning Commission Resolution No. 01-11 to allow for the interior and exterior renovation of a 9,532.5 SF building to be used as a law clinic for a university.

Commissioner Imboden stated he would be recused from the items presentation due to a prior relationship with the applicant.

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

Vice Chair Cunningham opened the item to any questions for Staff? There were none.

Vice Chair Cunningham invited the applicant to address the Commission.

Ken Ryan, 17922 Fitch Avenue, Irvine, stated he was present with various members of his design team and he congratulated Commissioner Buttress on her appointment to the Commission and to Commissioner Steiner in following in his son's footsteps. He stated that they had been working with Staff and were in agreement with all Conditions of Approval. He wanted to point out a couple of items that were a win-win situation; they had been working on the project for several years and had gone through several SRC reviews and they received unanimous approval from the DRC and they were extremely please to bring the project to the City and not only for the physical attributes but also for the community connection aspects of the project. They had worked with community leaders, and as Mr. Ortlieb had stated the site was not within the City's historic district, however, they had shared the project with OTPA and they supported the work that they were doing. They also worked very closely with the Orange Barrio Historic Society, with

Leo Castro and Philip Collin who were present and the project book highlighted that vision. The use itself would be free pro bono legal services to the community, those would include elder law, tax law, entertainment contract law, family violence law and military law that existed here and there throughout the campus currently and would be all in one place for the communities use. He presented a PowerPoint presentation to the Commission and stated the building would be remodeled to resemble the previous use years ago as a Cypress Street school house and as Mr. Ortlieb had indicted they had designed the building from both a site plan and a landscape perspective to satisfy the silver or gold LEED certification. The site was not in great shape but the core of the original building still existed. They had spent quite a bit of time working with the OBHS and the building had initially opened as a segregated school. In 1944 the site closed and in 1981 Villa Park Orchard located there and made some changes and they would be bringing the building back to resemble it original form. He presented a photo of a boarded up school house, and stated it was one of the few early photos that existed of the site. There would be a commemorative plaque located near the front door and a landscape plan included on Orange Grove, there would be drought tolerant landscape, a renovation of the interior space and removal of non-historic metal awnings and other enhancements to include new doors to the front. He pointed out the various enhancements throughout his presentation.

Vice Chair Cunningham asked if there were any questions for the applicant? There were none.

Vice Chair Cunningham opened the item to Public Comment.

Bob Hitchcock, address on file, stated in the interest of time he would not read the 30 to 40 pages he had prepared, but would get right to the point. He was speaking on behalf of the OTPA and they whole heartedly supported the project. Chapman University was to be commended for their attention to the history of the property and they had been thoughtful enough to share their plans with the OTPA from the early stages. There had been sensitivity to the history and architecture of the site and the OTPA thanked them and supported their work on the project.

Paul Guzman, 2113 N. Santa Fe Street, Santa Ana, stated he was the founder and a board member of the Orange Barrio Historic Society. He gave compliments to Chapman University for their cooperation with their organization and the City of Orange as well. 10 years ago they started the organization in preserving their historical buildings that were in the City. His family had been in the City of Orange close to 100 years and through inter marriages with the Peraltas' and Sepulvedas' in the community, all of them were inter-related. He had attended Cypress School from kindergarten through 2nd grade. He looked back at the building as something when he was gone that his children could state that was a place where it all started. Their families came from Mexico 100 years ago and settled in the community and made the community. His parents had limited education, but Orange School District established the school and not from ignorance but for a place for children to go to school; his education was from that school. When the school closed in 1944 it went through disrepair with various owners and 10 years ago

they had the idea that something needed to be done and they had gone to Chapman University and found what their intent was. They were pleased to see it. He was very happy and proud of Chapman and the City and he encouraged that they support the project.

Vice Chair Cunningham closed the Public Hearing and brought the item back to the Commission for further discussion or action.

Commissioner Steiner stated Chapman University should be commended for the work that they had done and in presenting the project to the Planning Commission with respect to the history of the school and to know that the legal clinic that would go in would assist the disenfranchised and the vulnerable would offer so much to the community. He was pleased with the project before them.

Commissioner Steiner made a motion to adopt PC 01-11, approving CUP No. 2769-09, MSP No. 0616-09 and DRC No. 4448-09-Chapman University Law Clinics, subject to the conditions contained in the Staff Report, noting the item was categorically exempt from CEQA.

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

MOTION CARRIED

(2) ADJOURNMENT:

Adjournment to the next regular Planning Commission Meeting scheduled for Monday, February 7, 2011.

Commissioner Steiner made a motion to adjourn to the next regular scheduled Planning Commission Meeting on February 7, 2011.

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

MOTION CARRIED

Meeting Adjourned @ 9: 58 p.m.