### **Minutes**

Planning Commission November 16, 2009 City of Orange Monday 7:00 p.m.

PRESENT: Commissioners Cunningham, Imboden, Merino, and Steiner

ABSENT: Commissioner Whitaker

**STAFF** 

PRESENT: Leslie Aranda Roseberry, Planning Manager

Anna Pehoushek, Principal Planner

Dan Ryan, Senior Planner, Historic Preservation

Chad Ortlieb, Senior Planner Robert Garcia, Associate Planner Sonal Thakur, Assistant Planner Gary Sheatz, Assistant City Attorney Sandi Dimick, Recording Secretary

## **ADMINISTRATIVE SESSION:**

Chair Steiner opened the Administrative Session @ 6:43 p.m. with a review of the Agenda.

Item No. 1, Minutes from the regular Planning Commission Meeting of October 19, 2009. Corrections were noted. Commissioner Merino would abstain from the vote as he was absent on October 19, 2009.

Item No. 2, Casey Residence. Senior Planner, Day Ryan would be presenting the item.

Item No. 3, Tandoor Cuisine. Assistant Planner, Sonal Thakur, would be presenting the item. Chair Steiner asked if a representative from the Police Department would be available. Ms. Thakur stated yes, she understood that a representative would be present.

Item No. 4, Comprehensive General Plan Update. Chair Steiner stated he had been discussing and obtaining clarification on the item from a voting perspective for the Land Use Elements with Planning Manager, Leslie Aranda Roseberry. He understood that Commissioner Cunningham would be recused for the vote on the Chapman Hospital Land Use area. Chair Steiner asked if there were any other areas that they would be discussing that would require any recusals. Assistant City Attorney, Gary Sheatz, stated all other areas were outside of the 500' conflict area. The Planning Commission had already made a recommendation, and regarding the vote that was before the Commission, Commissioner Cunningham could remain present and record an abstention on the Land Use Element that covered the Chapman Hospital area. He would be able to make a recommendation on the other areas and Mr. Sheatz stated that the Chair could frame the motion as such to be recorded as two separate votes. Chair Steiner clarified that the Commission could vote on the Chapman issue and then move onto the other Land Use areas and Commissioner Cunningham could remain present. Mr. Sheatz stated that was correct, if it was just the two votes with no discussion, Commissioner Cunningham would

not need to be recused. Commissioner Merino stated there was the potential for further discussion that might not lead to a conclusion. Chair Steiner stated they would go through the General Plan with the Land Use Focus Area No. 1, then consideration of the EIR and recommendation of the General Plan itself.

Item No. 5, ITT Technical Institute. Senior Planner, Chad Ortlieb, would be presenting the item.

Item No. 6, Verizon Wireless Facility. Associate Planner, Robert Garcia, would be presenting the item.

Item No. 7, Francoli Italian Restaurant. Senior Planner, Dan Ryan, would be presenting the item.

Chair Steiner asked if there was any further discussion regarding the agenda? There was no further discussion. He asked why Francoli's was returning to the Planning Commission. Ms. Aranda Roseberry, stated it was a request to expand the application to include amplification and a sound system.

Chair Steiner asked if the Commissioners were in receipt of the correspondence. All Commissioners stated that they were in receipt of the correspondence.

There was no further discussion.

Administrative Session closed at 6:49 p.m.

### **REGULAR SESSION:**

# **PUBLIC PARTICIPATION: None**

## **CONSENT CALENDAR:**

# (1) APPROVAL OF MINUTES FROM THE REGULAR MEETING OF October 19, 2009.

Commissioner Imboden made a motion to approve the minutes from the regular meeting of the Planning Commission on October 19, 2009 with the changes and corrections noted during the Administrative Session of the Planning Commission Meeting.

SECOND: Commissioner Cunningham

AYES: Commissioners Cunningham, Imboden, and Steiner

NOES: None

ABSTAIN: Commissioner Merino ABSENT: Commissioner Whitaker

**MOTION CARRIED** 

## **Commission Business:**

# (2) DESIGN REVIEW COMMITTEE NO. 4434-09-CASEY RESIDENCE

The applicant proposes to relocate and reorient an existing non-contributing detached 427 square foot, two-car garage within the same property. The existing garage formerly took access off a shared driveway on Palmyra Avenue; however, the easement was dissolved between the adjoining property owners and the applicant is, therefore, applying to relocate the garage to have access off the existing alley at the rear of the property.

LOCATION: 528 East Palmyra Avenue, Old Towne Historic District

NOTE:

This project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) per State CEQA Guidelines Section 15301 (Class 1 – Existing Facilities) consisting of the repair, maintenance, or minor alteration of existing structures or facilities involving negligible or no expansion of the use. The type of "existing facilities" include: demolition and removal of individual small structures (excluding historic resources) and accessory (appurtenant) structures including garages.

### RECOMMENDATION:

Approve DRC 4434-09 for relocation and reorientation of an existing non-contributing garage.

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

Chair Steiner opened the hearing for any questions to Staff.

Commissioner Merino stated just to sum up what he perceived were the issues, as he had read the Staff Report. The issue that initiated the relocation was the dissolution of the common use agreement. The existing house was a contributing structure, but the garage was not. He asked Mr. Ryan if that was correct?

Mr. Ryan stated that was correct.

Commissioner Cunningham asked why the agreement had been dissolved?

Mr. Ryan stated he believed when one of the properties had been sold it was dissolved and the fact that there was a shared driveway. It would have been a much better situation if Planning had been involved in the process. If that driveway had been abandoned and both property owners had agreed to restore the curb and gutter it would have been better. The application currently was only involving one of the property owners.

Commissioner Cunningham asked if the property line went directly through the middle of the shared driveway.

Mr. Ryan stated that was correct.

Chair Steiner invited the applicant to address the Commission.

Applicant, Caroline Casey, address on file, stated after living on Palmyra for 11 years they had decided to sell their home in the hope of purchasing a larger home in a buyer's market. They had placed the home up for sale last May and there had been a lot of interest but no offers due to the lack of available covered parking. They took steps to create that covered parking by moving the garage. As part of the permit process there was a condition to remove the driveway area in front which was a shared driveway with the property next door. Her neighbor had no involvement or interest in their project, yet she would be dramatically affected by that requirement. Unfortunately, her neighbor, Leslie Weber, could not be present; however, she had an email from her which she read:

# Dear Chair Steiner and Members of the Planning Commission:

I understand that one of the issues being considered as part of the Casey's garage project is a requirement to move the shared driveway area in both of our front yards. While I have access to my garage from the alley behind my house, I occasionally park my car in front of my house as a convenience, especially when we have large items such as bags of potting soil, on street sweeping day, or whenever there are large events in Old Towne such as the Street Fair or Halloween; the Caseys or I park a car in the driveway. We cooperate nicely in this event. Neither of us uses the driveway everyday or every week for that matter. Palmyra Avenue is a heavily trafficked street with cars often driving too fast. There are times when I feel more comfortable parking in the driveway, especially if I need to load something into my car or want to vacuum out my car. It simply is not safe to have a car door opening into the street. I would appreciate it if the Commission would move the project forward without a requirement that the driveway apron and driveway be removed. Leaving the driveway and apron intact does not appear to negatively affect anyone and it does provide an additional option for getting a parked car off of the street.

Sincerely, Leslie Weber 536 E. Palmyra Avenue

Ms. Casey stated she was required to move her half of the driveway and fill it in with grass, and as they had been told by Mr. Ryan, the DRC had deemed the approach historic. The neighbor would not be removing the concrete along her property and that would leave a patch of grass on the other half of it. She understood that the Commissioners had a job to do and their decision took into account things that might be outside of her knowledge base and her personal priorities and she respectfully deferred to their judgment. She hoped that she would be granted the permit that would allow her to move the garage.

Applicant, Michael Williams, address on file, stated he would be involved with the relocation of the garage and was available to answer any questions they might have. He felt the approach and the driveway should be kept as they were, both historic.

Commissioner Imboden asked how long the fence, which ran down and across the driveway, had been in place.

Ms. Casey stated 11 years. They had put that up after purchasing the home. When they moved in she would be doing dishes and kids skateboarding would be skating past her and it became a privacy issue. The neighbor was happy to meet them half way and they had done a quick claim deed and she realized now that they should have gone further than that.

Commissioner Imboden stated that was the current access to the garage in its existing location.

Ms. Casey stated that was correct. The garage could not be accessed with a car, but could be accessed on foot.

Chair Steiner opened the hearing for Public Comment.

Jeff Frankel, address on file, speaking on behalf of the OTPA, stated they had no problem with the relocation of the garage. It was the opinion of the DRC and the OTPA that the approach was original and needed to be preserved to maintain the street scape. The driveway itself was possibly constructed during the period of significance as well. The property contained one of the many shared driveways in the district and they were quite common. When the property was purchased it was probably obvious that there was a shared driveway and it would be rather odd to maintain the approach with only one half of a driveway. It was stated in the Staff Report that there were only 3 properties on the block that had access from the street and Mr. Frankel stated he had counted 9 on the street and they would need to consider the entire block. Basically, one half of the properties on that block had access from the street. He was certain that through the years, and he referred to an aerial of what he thought was a 1947 aerial shot, and stated not much had changed. There were a few properties that had switched to alley access, but for the most part remained unchanged. When properties were switched to alley access, the relationships were not considered as they currently were. It was his understanding that the neighboring property wanted to maintain their driveway. To preserve the street scape he suggested that the applicant maintain the original garage entrance and create an additional entrance from the alley. That would allow the property to maintain the approach driveway and street scape would be preserved with the addition of an alley access and there would no longer be an issue with the parking requirement, although he was not certain that they applied to the Historic District.

Chair Steiner closed the hearing to Public Comment and brought the item back to the Commission for discussion.

Commissioner Merino stated as he read the Staff Report what was driving the removal of one half of the driveway, was that current parking standards would not permit a driveway that would not serve a garage and parking on the front set back was not permitted. The situation before them was unique, and he asked the Assistant City Attorney, Gary Sheatz, if there were any exceptions that they could allow for the project? He felt they would only be solving ½ of the problem and impacting 2 properties that would have a negative

appearance.

Mr. Sheatz stated he was not aware of any exception that could be granted. It was something that they could research and he was a little unclear of what type of an exception he was speaking to?

Commissioner Merino stated as there was not a solution to the entire problem, as the change would only affect one half of the driveway and it had not made much sense to him, that if the parking was truly not allowed, why would only one half of the driveway be required to be removed, and as the adjacent property had no project before them, they could not ask for a change to that property. Based on the testimony he had heard, they would be creating a situation that was not better. He would want to research whether there was a way through ordinance and codes that existed.

Mr. Sheatz stated if he was reading it correctly, part of the issue was the half of the driveway that was on the other property, and if he was being asked if there was a way to change or remove the adjacent properties driveway?

Commissioner Merino stated he understood that they could not do that, but by attempting to solve a problem, it appeared that they would be creating a worse appearance and other issues for the applicant's property.

Commissioner Imboden asked should the Planning Commission move toward a resolution of maintaining the existing drive, would that be something that would require an administrative adjustment or variance or could they simply condition that from the dias.

Planning Manager, Leslie Aranda Roseberry, stated it was an existing condition and there might be a way to utilize the legal non-conforming section of the code, because as it existed, the site was legal and it lead to a garage, the problem being that the driveway was split down the center. Staff had been working on a solution, as the policy in place stated the approach was required to lead to a garage and more importantly the approach would need to lead to a driveway. The code had not addressed a situation that occurred between two properties and that was the issue. She would need to check if they could lean on the legal non-conformity issue, as they could not compel the neighboring property to make a change, and although the Planning Commission could compel the applicant to do something, but they probably would not want one half of an approach or landscaping or paving on one half of the area. The legal non-conforming section of the code might be the only way to remedy it, but once it was moved, it would not be legal non-conforming anymore. They were only looking at half of the situation as they were not dealing with the adjacent property.

Commissioner Imboden asked if the SRC reviewed the project prior to submission to the DRC.

Ms. Aranda Roseberry stated many of the smaller projects that were in Old Towne would not go to SRC if they were not looking at a parking issue, per se, or if they needed more parking or another issue that would trigger the submission to SRC.

Commissioner Imboden stated they had a recommendation from DRC and it was then passed to Public Works and he had read that there were additional notes that recommended removal of the apron and its repair.

Ms. Aranda Roseberry stated that was per the policy as the current code was not set up to handle anything that was a situation of the driveway split down the center. There was not a lot of guidance to follow. She was feeling, from the Commission, that the property should remain as it was; and Mr. Sheatz was looking through the non-conforming uses, and it might be the only thing that they could rest on.

Mr. Sheatz stated he had looked through the legal non-conforming section of the code and had not seen an out that would provide any relief.

Chair Steiner asked if Mr. Sheatz was stating that the Planning Commission was powerless in allowing the property to remain as it was.

Mr. Sheatz stated no, what it meant was he had not seen an exception to the requirement that Staff was referring to as the reason to eliminate the approach.

Commissioner Merino stated he felt it was one of those self inflicted wounds, one body was stating the change was necessary; however, the consensus was that it had not made sense to enforce that change. He asked if there was a way to remove that portion of the project in order to avoid having Public Works require the change.

Mr. Ryan stated there could be a way to have the situation work for everyone. He suggested that they could keep the driveway in place, however, the current backup distance was only 3 feet off the alley and another option might be to move the garage with one door facing the street and leave the approach and driveway in place. Moving the garage would allow the applicant to meet the code for the proper back up distance. It would still appear as a garage door on the street scape side. There would be a driveway that technically led to a garage and it might be a way to resolve the situation. There had been issues created when the properties had not gone through Planning when the easements were given up and they were dealing with that currently.

Chair Steiner invited Mr. Williams to step forward and asked if he had understood the proposal presented by Mr. Ryan?

Mr. Williams stated they would be picking up the garage and moving it, and it would not matter if they needed to move it a few more feet. He would need to discuss that with the property owner to verify if aesthetically that would be agreeable as she was attempting to sell the property.

Chair Steiner asked Ms. Casey if she would be agreeable to the proposed change.

Ms. Casey stated she had wanted a decision and she wanted to understand what the proposal was.

Commissioner Merino suggested that the applicant and Mr. Ryan could take a few

minutes to discuss the situation.

Chair Steiner stated he would suspend the discussion on the item and move to the next agenda item then return to the discussion for the Casey property.

After completion of the hearing for agenda item no. 3, the hearing was reopened on agenda item no. 2, Casey Residence.

Chair Steiner asked if Mr. Ryan and Ms. Casey had a chance to discuss the recommendation for the garage and driveway.

Mr. Ryan stated they had an opportunity to discuss that and they had come up with a workable solution. There would be an 8' carriage door on the garage facing Palmyra and there would be a framed garage door that would face the alley. The garage would be relocated 14' from the rear set back to allow sufficient parking back up distance. In making those changes, it would delete conditions 3, 4, 6 and 8 and add a new condition. Anytime in the future if the resident wanted to remove the fence, the easement could be reinstated and there would be a workable driveway and the end product would keep the appearance and the constructive nature of the historic character in place.

Chair Steiner asked Ms. Casey if that met her approval?

Ms. Casey stated yes.

Chair Steiner asked Mr. Frankel if that was agreeable.

Mr. Frankel stated yes.

Chair Steiner stated there was a proposal before them and brought the item back to the Commission for any further discussion or a decision.

Commissioner Merino made a motion to approve, DRC No. 4434-09, Casey Residence, subject to the conditions contained in the Staff Report and with the changes and deletions to those conditions, noting the item was exempt from CEQA.

SECOND: Commissioner Imboden

AYES: Commissioners Cunningham, Imboden, Merino, and Steiner

NOES: None ABSTAIN: None

ABSENT: Commissioner Whitaker

**MOTION CARRIED** 

# **Continued Hearings:**

# (3) CONDITIONAL USE PERMIT NO. 2656-07 AND 2657-07 – TANDOOR CUISINE OF INDIA.

The Planning Commission continued the aforementioned items from the June 1, 2009 hearing, as they wanted the opportunity to ask a representative from the Orange Police

Department (OPD) questions regarding the information in the OPD memo, specifically about the calls for service to the area. The applicant proposes to modify CUP 1786-89 for an existing Alcohol Beverage Control (ABC) License in order to include some of the restaurant's unlicensed ABC square footage under the permitted area where alcohol can be served. CUP 2657-07 is being requested to permit an accessory dance floor, and would also permit a DJ and/or limited live entertainment with catered events in the subject restaurant.

As four previous CUPs are associated with the subject tenant space and are outdated, the property owner is also volunteering to surrender all entitlements associated with CUP No. 1110-81, CUP 1156-81, CUP 1287-83 and CUP 1786-89 in their entirety.

LOCATION: 1132 East Katella Avenue, Suite A-3 and A-4

NOTE: The proposed project is categorically exempt from the provisions of the

California Environmental Quality Act (CEQA) per State CEQA Guidelines 15301 (Class 1 – Existing Facilities) because the project proposes to modify an existing ABC license and permit an accessory dance floor within the footprint of the existing restaurant building.

### RECOMMENDED ACTION:

Adopt Planning Commission Resolution 15-09 approving CUP 2656-07 to include the 1,560 square foot dining area on the western portion of the restaurant as additional area where alcohol (Type 47 ABC License) may be served and CUP 2656-07 to permit an accessory dance floor and DJ and/or limited live entertainment in association with catered events in the subject restaurant.

Assistant Planner, Sonal Thakur, presented a project overview consistent with the Staff Report.

Chair Steiner opened the hearing for any questions to Staff.

Chair Steiner stated there were a number of conditions proposed regarding limitations and it had appeared that Staff had demonstrated a certain degree of sensitivity to some of the concerns that were presented by affected parties; and those concerns were manifested in the numerous conditions that related to that sensitivity. Specifically, he was referring to page 8 of the Staff Report and there were 6 conditions that appeared to specifically relate to addressing concerns that were presented at the June 9, 2009 meeting.

Ms. Thakur stated that was correct.

Chair Steiner asked how the applicant's ABC (Alcohol and Beverage Control) history would be characterized.

Ms. Thakur stated based upon the information in the memo from the Police Department, it appeared that the applicant had not had disciplinary action with the ABC Department and the Orange Police Department's representative could provide further information.

Sergeant Ross Peterson stated the applicant had no ABC history violations.

Chair Steiner stated he had understood that the only 911 call had been for a medical situation.

Sgt. Peterson stated there had been a 415 music call in June of 2009.

Chair Steiner stated a 415, being a reference to Penal Code Section 415, disturbing the peace.

Sgt. Peterson stated that was correct.

Commissioner Merino stated although the applicant's facility was in an over concentrated high crime area the Police Department had not taken a position of objection to the project.

Sgt. Peterson stated that was correct.

Ms. Thakur stated in response to Commissioner Merino's comment, the restaurant currently had a Type 47 ABC License, so they would not be increasing the concentration.

Commissioner Merino stated they were one of the licenses in the documentation.

Chair Steiner stated that was also one of the reasons for a lack of opposition to the application. He invited the applicant to address the Commission.

Applicant, Steve Sheldon, address on file, stated he was an agent for the applicant. They had agreed on the conditions of approval and they were in support of them and he was available for any questions.

Commissioner Merino asked if the applicant clearly understood that the City had not wanted to revisit or to create a Quan's type situation and that the conditions were specifically geared in not wanting that situation?

Mr. Sheldon stated the applicant was aware of that and he had not wanted that reputation. He ran a family restaurant and he would provide entertainment and not engage in other activities. There were strong conditions of approval and the applicant understood the restrictions and the revocation process.

Chair Steiner asked with respect to the conditions of approval, had the applicant understood that any violation of those conditions could result in revocation?

Mr. Sheldon stated the applicant was aware.

Chair Steiner opened the hearing for Public Comment.

Gil Ramos, address on file, stated he was present to oppose the measure that was before them. He lived directly across the street from the Tandoor, approximately 100' and even

on the good nights they could hear the dishes banging. He had a two story house and they could hear dishes, and he felt that once the music was fired up and there were more people in the building they would hear a lot more noise. He had contacted the restaurant on a few occasions when they had asked that the music be turned down and that the back door be closed. The noise through that door funneled directly to their bedroom. It was his fault in not calling 911, he was a fireman for the City of Los Angeles and he knew about 911 abuses, and had not wanted to call for that reason. He wanted to handle it himself with a direct call. There was an occasion at approximately 1:00 a.m., he had not remembered the exact date, the noise had been going on for quite some time and his wife had contacted the restaurant requesting that the noise be turned down. It was not turned down, he drove around to the restaurant, the back door was open, he walked through the restaurant and asked to speak to the manager. He told him of his concerns that he was attempting to sleep, he needed to get up at 5:00 a.m. and he would appreciate if the noise was kept down. The manager said he was sorry and the doors were closed and he had not heard any more noise after that. Mr. Ramos stated his concern was that if the permit was granted as time went on, and with alcohol, people wanted to have fun and the music would get louder. Many of the adjacent neighbors had lived there longer, and the restaurant just wanted to add a banquet, but it could easily become a night club.

Bill Hodson, address on file, stated basically his bedroom was about 100' from the back of the building and again it was the thumping of the music. Everyone had been at a stop light and had felt the thumping of the cars. The beat was going and there was the clanking of the dishes. There were car alarms that went off in the lot in the back. The latest issue were the spot lights that were pointed straight into his yard, not only had he needed to keep his windows closed but now he needed to close his blinds. He could not even watch T.V. with the spot lights pointing into his home. He had actually pointed the lights down, but they were pointed back up and he was not certain why they needed the lights pointed that way. He felt the location would turn into a night club. Reading what the applicant wanted to do; expand the dance floor area and the alcohol area, they wanted the dance floor and they wanted to include a D.J. and other live music. The last thing he wanted to hear at midnight was "Hey everybody get on the dance floor." He would not want to hear that. He wanted to reiterate his concerns from the June meeting. He felt that every time he heard the thumping he had the right, if it bothered him in the lease bit, to contact the Police Department.

Chair Steiner closed the meeting to Public Comment and brought the item back to the Commission for discussion.

Commissioner Merino stated there were several conditions of approval and two of them had to do with, Conditions No.23 and 26, the D.J./Band and the audible level of the music. He asked if those conditions had been added subsequent to the last hearing to address the issues that they were hearing.

Ms. Thakur stated that was not correct, those were standard conditions that the Police Department tagged on.

Commissioner Merino asked if those conditions would be in place currently for the applicant.

Ms. Thakur stated the former CUP's had included old entitlements and the current standards of approval would not be included in that.

Commissioner Merino stated based on the new conditions that were being added, he understood that the applicant would be under additional restrictions that would address the concerns that were presented.

Ms. Thakur stated that was correct. Condition No. 25 read that the Police Department and the ABC Department required that the rear door of the business shall be kept closed at all times, with the exception of an emergency or for acceptance of deliveries. There shall be no deliveries before 7:00 a.m. or after 7:00 p.m.

Commissioner Merino stated he believed that Staff had taken measures, through standard conditioning, to address the concerns that were presented.

Commissioner Imboden stated there were two concerns that had not been addressed through the conditions and he would look to the applicant's representative to help them out in showing sensitivity towards their neighbors in addressing the concerns for the car alarms and the lights.

Chair Steiner stated they had seen lighting language on many occasions, and to what extent could additional language be added to the conditions of approval with respect to the current lighting situation?

Ms. Thakur stated a condition could be added that would provide a restriction on the number of foot candles and that light would not be allowed to shine on neighboring properties. That language had been used before.

Chair Steiner stated one of the residents was expressing concern and it appeared to be a justifiable concern regarding lights shining into his backyard, and he asked if the applicant was aware of the situation and would they be agreeable to a condition to remedy that situation?

Mr. Sheldon stated they would agree.

Commissioner Cunningham asked when the neighbors were hearing the dishes was that just when the doors were open, or was there another aperture where the noise escaped from?

Mr. Sheldon stated he was not aware of another area and felt it was when the doors were open.

Commissioner Imboden asked the members of the public who had spoken, if the noise was coming from the restaurant when the doors were open?

They nodded and proceeded to speak.

Chair Steiner stated the meeting was closed for Public Comment and they could not take additional testimony. He asked Ms. Thakur, in respect to the car alarm situation, could there be standard language drafted to address that concern?

Ms. Thakur stated she was not aware of such a condition; Staff could draft a condition that would address the situation.

Mr. Sheldon stated he believed the alarms were coming from the employees parking in the rear of the location and they could add a condition that the employees would only park in the front of the building.

Chair Steiner asked Sgt. Peterson if there was a non-emergency number that the public could call in the event they needed to report a 415 type activity and would not require a 911 call.

Sgt. Peterson stated there was, in fact, such a number; it was (714) 744-7444.

Chair Steiner stated with respect to disturbance of the peace type calls, if it was late at night, after midnight, hypothetically, and a resident could hear the thumping of loud music coming from the interior of the restaurant, he asked Sgt. Peterson if that was something the Police Department was dispatched on, could the Police Department take action on that type of a call?

Sgt. Peterson stated they would issue a first response noise notification, followed by a second response if the situation was not addressed.

Chair Steiner stated and failure to comply could result in revocation of a CUP to further criminal prosecution.

Sgt. Peterson stated that was correct.

Commissioner Merino stated to address the thumping issue, it oftentimes was a situation of decibel levels. He had seen other projects that had come before the Planning Commission that incorporated decibel levels in a condition and could that be added. If there was a restriction on decibel levels it could alleviate the problem and reduce the car alarms from being activated.

Chair Steiner stated he was keeping track and so far they had added a lighting restriction, a parking restriction that had been suggested by the applicant and a decibel restriction that had been suggested. He brought the item back to the Commission for any further discussion or a motion.

Commissioner Merino made a motion to adopt PC 15-09, approving CUP No. 2656-07 and CUP 2657-07, Tandoor Cuisine of India, subject to the conditions contained in the Staff Report and with the additional conditions presented, oting the item was categorically exempt from CEQA.

Commissioner Merino stated with the conditions contained in the Staff Report and the additional conditions added, it was a promotion of business for the City and also addressed the concerns of the community.

Commissioner Imboden stated in regard to the light, he was not certain how the ordinance read and believed it was foot candles. He would want to entertain that the Commission take that a bit further, and that the lights used have their point source not visible to the neighboring properties and it needed to point to the property and not to the neighbor's windows.

Chair Steiner stated it was a condition that had been incorporated before and he was seeing a nod from Staff that it would be added. For the resident's information, a foot candle was a reference to the amount of light that actually spilled onto the property and it was a separate issue in regard to the point source. Commissioner Imboden's suggestion was that both would be regulated.

Commissioner Merino stated he would add those recommendations to his condition.

Chair Steiner stated the Commission was extremely sensitive to community concerns and with reference to a night club and it had manifested in previous decisions. He felt with the proposed conditions and additional conditions added, they had addressed the concerns presented.

SECOND: Commissioner Cunningham

AYES: Commissioners Cunningham, Imboden, Merino and Steiner

NOES: None ABSTAIN: None

ABSENT: Commissioner Whitaker

### **MOTION CARRIED**

# (4) COMPREHENSIVE GENERAL PLAN UPDATE – GENERAL PLAN AMENDMENT 2009-0001 AND ENVIRONMENTAL IMPACT REPORT NO. 1815-09

The Comprehensive General Plan Update represents a complete updating of the City's 1989 General Plan (amended in 2005), including Land Use, Circulation and Mobility, Growth Management, Natural Resources, Public Safety, Noise, Cultural Resources (Historic Preservation), Infrastructure, Urban Design, and Economic Development Elements. The General Plan establishes a Community Vision supported by goals, policies, and implementation programs.

The Planning Commission commenced the public hearing process on the project on August 3, 2009, holding subsequent hearings on September 9th, September 21st, October 5th and October 19th. The Commission completed its discussion of the General Plan content and associated EIR over the course of these meetings. However, one aspect of the proposed Land Use Plan involving a change in land use designation for the property located at 446 South Tustin Street (Val Verde Estates Mobile Home Park) was continued

to allow for the appropriate public notification regarding this possible change prior to Planning Commission deliberation.

#### **NOTE:**

The environmental impacts of the proposed General Plan update and its project alternatives were evaluated by Draft Environmental Impact Report (DEIR) No. 1815-09 which was prepared in accordance with the provisions of the California Environmental Quality Act (CEQA) per State CEQA Guidelines Section 15070 et seq and in conformance with the Local CEQA Guidelines. The 45-day public review period was initiated on February 13, 2009 ending on March 30, 2009. Copies of the document were available for public review at the Orange Public Library & Local History Center (Main), Taft Branch, and El Modena Branch Libraries and at City Hall. The document was also available to the public on the City's website.

Staff received 783 written comment letters during the public review period, of which 656 were form letters and an additional 52 were the same form letter with additional comments added. The City prepared a Response to Comments/FEIR document to address environmental comments received during the public review period.

### RECOMMENDED ACTION:

Adopt Planning Commission Resolution 34-09 recommending that the City Council approve General Plan Amendment No. 2009-0001 for the City of Orange Comprehensive General Plan Update.

Adopt Planning Commission Resolution 35-09 recommending that the City Council approve program Environmental Impact Report No. 1815-09 for the City of Orange Comprehensive General Plan Update.

Chair Steiner stated the item had a number of components that he would describe. It was the conclusion of what had been a very lengthy process with regard to the amendment of the City's General Plan, which had last been updated in 1989. There had been a number of changes that had been made through various focus areas and elements. Currently there were a few items remaining, first the Land Use Element with respect to Focus Area No.1, and there would be no further discussion for that area, and it had not included the area of South Tustin. Commissioner Cunningham would be abstaining on the vote of the item.

Commissioner Merino made a motion to Adopt PC 34-09, recommending approval to the City Council, General Plan Amendment No. 2009-0001 for Focus Area No. 1 of the Land Use Element, excluding the property at 446 S. Tustin.

SECOND: Commissioner Imboden

AYES: Commissioners Imboden, Merino, and Steiner

NOES: None

ABSTAIN: Commissioner Cunningham ABSENT: Commissioner Whitaker

**MOTION CARRIED** 

Chair Steiner stated the next item to be discussed would be within Agenda Item No. 4 and concerned the area at 446 S. Tustin.

Principal Planner, Anna Pehoushek, presented a review of Focus Area No. 1, and specifically for the proposed Land Use change at 446 S. Tustin Street, which was the site of the Val Verde Mobile Home Park.

Chair Steiner opened the hearing for any questions to Staff.

Commissioner Merino stated for the record, whatever Land Use decision that was made would not affect the Val Verde project that would be going through an application process at a later date. If the applicant chose to go forward, there was nothing in the decision the Planning Commission would make that would stop that application.

Planning Manager, Leslie Aranda Roseberry, stated the point that Ms. Pehoushek had referenced in her presentation was that there was an application that included a General Plan Amendment, a Zone Change, an Environmental Document and a Site Plan. This request would bifurcate that process. The analysis had not been completed for that application and there were many things missing and a conclusion had not been arrived at for that project. If the City Council deemed to change it ahead of time, it would depend on what the property owner wanted to do with it.

Commissioner Merino stated that was the point he was making, that the applicant would still have the opportunity to make changes or amendments as part of the application process that they would be bringing through.

Ms. Aranda Roseberry stated the applicant would have the opportunity to apply for anything they wanted.

Commissioner Merino stated in other study areas, and he had been absent when the issue was addressed, one of the issues was that Staff had made recommended changes to change the fabric of the City to either higher or lower densities based on what City Staff had wanted to achieve in a particular study area. He was attempting to understand why, along the focus area, they were discussing that things had been left alone?

Ms. Pehoushek stated early on in the development of the Land Use Alternatives and the different options available for the Chapman/Tustin Focus Area, Staff had looked at an alternative situation for South Tustin given the fact that there were existing residential and commercial developments. One of the options was to establish a mixed used designation for the area south of Palmyra. When that information was presented in a study session, Staff received direction from the Council and Commission that the preference was to leave the Land Use designations alone for those Land Use areas.

Commissioner Merino stated Staff had taken the direction to make changes and then they received direction to leave the area alone.

Ms. Pehoushek stated that was correct.

Chair Steiner invited the applicant to address the Commission. He stated he had met briefly with the applicant's representative recently.

Applicant's representative, Steve Sheldon, address on file, stated the application was about helping the City meet its regional housing needs and the application of the property owner to have a change in General Plan designation. They would be hearing a lot of information, based on the correspondence they had received, regarding the zoning for the mobile home park and the potential for closure of the mobile home park. That was not what was before the Commission currently. It was not in their purview and unless the application was submitted, which was many moons away from being heard, and if it would occur that the mobile home park would close, the residents would be compensated from \$15,000 to \$25,000 for those trailers that were owned by the residents. There would be compensation for a consultant who would assist with relocation and additional monies set aside for the disabled, elderly or those with special needs. It was part and parcel of the zone application that was not before the Commission. It was about the property owner asking that the City change their designation and was perfectly appropriate for that request. It occurred throughout all cities in California. The property owners were noticed of the General Plan designation and they were given the opportunity to weigh in as to whether they wanted that change. The issue was not about bifurcating the project, it was about the property owners' request for what they wanted on their property and addressing the growing population. Orange needed to address their needs and it was a place where the property owner was suggesting that the City could put growth on their property and he would be okay with that.

In Senate Bill 375, it required integration of the planning process for transportation land use and housing to reduce green house emissions through vehicle miles traveled. SB375 was asking local jurisdictions to do more urban planning and more in-fills; and the property owner was stating that they could do that on their property and it was appropriate in the General Plan Update. It would be a smart growth opportunity near freeways and a major artery and it made sense in that area. He could not find one area that had an addition of housing units in that planning area and he felt additional density should be spread out throughout the City. There might be certain areas of concentration and they had seen examples at the Platinum Triangle, but it would be nice to have density spread out in the City of Orange. The application that was on file, and was irrelevant, asked for an additional 24 units and they recognized that if they moved forward with that project, there would be 40 units approved for in the General Plan for that property. In looking at the number of trips traveled on Tustin, that number would be a drop in the bucket for that roadway.

Other policy issues that would support his project would be a sustainable community strategy created by SCAG and counties and cities. The City of Orange would be accepting more density as surrounding cities would also be doing that. The property owner, again, would invite that density on his property. It would not be a lot but they would be playing their part in the attempt for more density. He felt it would be smart growth, and of the 52 units, 20 were owned by the property owner; only 32 were owner occupied.

Another comment that he had heard was just because a property owner had an application underway that the General Plan designation should or should not be changed, it was not a fair argument and the application should be handled on its own merit. He believed he had heard Staff state that areas that had applications pending, had no recommended changes, and that kind of a carte blanche thing; to just not look at the application was not fair. He felt his application should be looked at for the reasons he mentioned. It should be approved for good reasons and not just because they asked for it, but it should not be denied just because they had an application pending.

Chair Steiner opened the hearing for Public Comment.

Cheryl Hansmann, address on file, stated her experience at the mobile home park had been that there had been no plans for the residents and she had not expected any plan from the owner. She had not expected the property owner to properly compensate the residents and the residents had not expected him to be fair and to show justice to the residents of the park. The residents were very concerned as they had seen what the record had been. There was a moral issue, about taking care of people and having some responsibility for their relocation, to give them the right amount of compensation for their property, and the record for the property owner was that he would not do that. They were very concerned about it, there were elderly and disabled residents and they had very young families in the park that had the faith that they could move into the park and have homes for their children. Two weeks after some of the families had moved in, those families found out that they would not have what they had sought in the park. They had moved into a park that would be redeveloped. The record showed that the owner had not been very just in dealing with the residents of the park. People had to leave to relocate to other locations and had been given a fraction of the value of their property. It was not a good record and the residents had not trusted the property owner. They were asking the City to come to their aide and have conditions for the property owner when it happened, that the residents were compensated for their property, that the elderly were taken care of, that the young families that had the promise of owning their own homes were taken care of. She felt he would not do that, it was not his record. She had no leverage, she was not the property owner, although she owned property in the park and paid taxes, and she wanted to know that Orange would consider the residents and they would see to it that those residents were taken care of, they had no power, all they had was a prayer and she asked for the Commission's consideration.

Duane Jerome, address on file, stated Ms. Hansmann was his neighbor and he had sent an e-letter to the Commission.

Chair Steiner acknowledged receipt of the letter.

Mr. Jerome stated some of the things that the property owner's representative had stated was that there were a lot of renters in the park and the property had been up in the air for almost 3 years as to whether there would be a change and would they be kicked out and no one wanted to purchase a property in the park. There were two homes that had been for sale for over a year now. No one was purchasing, they were all being rented. There were 4 to 5 open spaces and no additional units had been placed there and the rents were going up. There was a statement that, with the additional density, the traffic would not be

affected; currently just trying to get out of the driveway early in the morning could take up to 10 minutes. Many of the residents, including himself, had gotten into accidents in the last few years. There was also some speculation that a new driveway would be added and the property owner would need to buy a home in the back and place a driveway through it and encroach on a beautiful quiet street because people would not want to hassle with the traffic out front. It was basically a location for disabled, senior, and low income residents. The single wide trailers would be difficult to move as most mobile home parks would not want them; they had not wanted anything older than 10 to 15 years old. What would he be offered; market value? Mr. Jerome stated he had not thought so. It was early, but it was big stuff for them to look at.

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

Commissioner Merino stated he wanted to ensure his understanding was correct. The issue before the Commission was a Land Use issue and on the comments he had heard from the two residents of the park, would those issues not be addressed at a time when an applicant would go before the Planning Commission? There was currently nothing they could do for the residents under the auspicious of what was before them.

Ms. Aranda Roseberry stated the Land Use change would be doing something for the applicant that would have some spill over affects if that was recommended to the City Council. By splitting the project up, or bifurcating the project, the applicant would be coming back with a Zone Change request, Major Site Plan and the Environmental work. The General Plan change would not afford the applicant much time saved for environmental because there needed to be additional environmental analysis completed and the applicant would need to present a project specific analysis.

Commissioner Merino stated that was his point, that there was nothing before them to condition other than denial of the request by the property owner and that would only be a change in the Land Use designation.

Ms. Aranda Roseberry stated in the past before the Planning Commission there had been a General Plan Amendment Zone Change that had come forward on another property, a much smaller property and the Planning Commission continued the item, telling the property owner and the applicant what would need to be on the project specifically before the Planning Commission would take action.

Commissioner Merino asked if that was part of the General Plan Update.

Ms. Aranda Roseberry stated no, but it was a request for a General Plan designation change.

Commissioner Merino stated that could take place at the time the application was brought forward?

Ms. Aranda Roseberry stated that was correct.

Chair Steiner asked Mr. Sheatz that to the extent a recommendation, if there was one, how could they incorporate the fact that the EIR, which they would be voting on, had not included an environmental analysis as it related to the General Plan Amendment?

Mr. Sheatz stated if the inclination of the Planning Commission was to recommend the General Plan designation change; the recommendation would be to the City Council, subject to further environmental analysis. He had not known how extensive that would be and any analysis that would be done had not been seen and any recommendation made should acknowledge that. Once City Council had received that, it could be sent back to Staff for further examination as it related to the recommendations coming from the Planning Commission.

Chair Steiner stated that any decision made by the Planning Commission would be a recommendation and the City Council would have a final determination on the matter.

Mr. Sheatz stated that was correct.

Commissioner Cunningham made a motion to recommend to the City Council that the Land Use Change for Focus Area No. 1, specifically for the property at 446 S. Tustin, be designated as Medium Density Residential, subject to further environmental analysis and noting that he understood the concerns expressed by the residents of the mobile home park and that the recommendation made would not affect what ultimately occurred with the mobile home park.

Chair Steiner stated in reading the correspondence received, they were noted as objections to the Land Use change and in reviewing the letters they appeared to be an objection to zoning changes, site plan or environmental issues. The Commission was hearing the concerns expressed and he wanted to reiterate that those issues were not what were currently before the Planning Commission. Nothing was being put in based on the recommendation they were currently making and if, in the future, there would be a proposed project, there would be an additional public hearing that would need to occur, and, in addition, the decision the Planning Commission would be making was merely a recommendation to the City Council who had the ultimate authority. He was not at all unmoved by the concerns that had been expressed by the residents in the correspondence received and through Ms. Hansmann who spoke before them. He wanted to emphasis that it was not the issue before them and there had been previous concerns expressed through Public Comments and the Commission realized it was an important issue and they were listening.

SECOND: Commissioner Merino

AYES: Commissioners Cunningham, Imboden, Merino, and Steiner

NOES: None ABSTAIN: None

ABSENT: Commissioner Whitaker

MOTION CARRIED

Chair Steiner made a motion to adopt PC 34-09, recommending approval to the City Council, General Plan Amendment No. 2009-0001 for the City of Orange

Comprehensive General Plan Update.

SECOND: Commissioner Imboden

AYES: Commissioners Cunningham, Imboden, Merino, and Steiner

NOES: None ABSTAIN: None

ABSENT: Commissioner Whitaker

### MOTION CARRIED

Chair Steiner made a motion to adopt PC 35-09, recommending approval to the City Council, Environmental Report No. 1815-09 for the City of Orange Comprehensive General Plan Update.

SECOND: Commissioner Merino

AYES: Commissioners Cunningham, Imboden, Merino, and Steiner

NOES: None ABSTAIN: None

ABSENT: Commissioner Whitaker

### **MOTION CARRIED**

Commissioner Imboden stated as they were wrapping up the General Plan Update he wanted to thank City Staff and Ms. Pehoushek in particular. They had been living it for a long time but nowhere what she had been doing. Ms. Pehoushek had been presenting the components and the Planning Commission had been pushing hard questions at her for a long time now and he wanted to commend her on a great job.

Chair Steiner thanked Ms. Pehoushek for her assistance in guiding them through it, as it was quite an undertaking that had not been done in 20 years. He realized the work that went into the General Plan Update. Through Ms. Pehoushek's hard work and so many individuals who took part in the process and through the Planning Commission's decisions and the City Councils decisions, it would hold very positive things for the City of Orange.

# **New Hearings:**

# (5) CONDITIONAL USE PERMIT NO. 2762-09 – ITT TECHNICAL INSTITUTE

The applicant proposes to occupy 33,364 square feet of an existing 180,470 square foot office building with a college. The applicant requests to operate with 800 on-campus students, (over a six-day, two schedule period) and 100 staff members. A Conditional Use Permit is required for the school use and for the code alternative parking standards proposed.

LOCATION: 4000 Metropolitan Drive

NOTE: The proposed project is categorically exempt from the provisions

of the California Environmental Quality Act (CEQA) per State

CEQA Guidelines 15301 (Class 1 – Existing Facilities) because the project proposes to occupy an existing building with a new tenant.

### RECOMMENDED ACTION:

Adopt Planning Commission Resolution PC 41-09 approving the establishment of a university with 800 students and 100 staff members on-campus and for the use of a shared use parking arrangement.

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

Chair Steiner opened the hearing for any questions to Staff.

Commissioner Merino stated the proposed project was not the first of that type of institution that had been brought before the Planning Commission and he had not heard from Staff regarding any negative impacts that had been caused with previous applications and he assumed there had not been any negative impacts.

Mr. Ortlieb stated if there had been any negative impacts, that would have been disclosed.

Chair Steiner invited the applicant to address the Commission.

Applicant, Steve Sheldon, address on file, stated he was present on behalf of the applicant, Wells Fargo. He wanted to thank the City Staff for doing such a wonderful job for getting the application through the process. As it related to the application, he was in support of all the conditions of approval and had a question regarding Condition No. 7, between the time of 5:00 and 5:30 p.m., and he asked if 5:30 p.m. was an acceptable time?

Mr. Ortlieb stated there was not an issue with that and it was consistent with the lease agreement.

Chair Steiner opened the hearing for Public Comment.

Eric Hittleman, address on file, stated he owned the adjacent property across Metropolitan and he had learned that there was going to be a Public Hearing and it was noticed as 800 students and 100 staff and they were concerned with those numbers. He had obtained a copy of the proposed resolution and through the information provided by Staff, which was put together very well, mitigated most of their concerns with the applicant's request to move Condition No. 7 back to 5:30 p.m. further addressed any potential concerns they had. He wanted to express a concern that the conditions be maintained during the term of the lease, and any intensification of use could negatively impact the adjacent owners. They would be willing to accept the Staff Report and to support the addition of the school as long as there would be no intensification of that use beyond what was presented in the resolution.

Chair Steiner stated to the extent that intensification would occur and that intensification caused violations of the conditions included in the draft resolution, he asked Mr. Sheatz if the applicant would then be subject to penalties accordingly?

Mr. Sheatz stated that was correct.

Chair Steiner closed the hearing to Public Comment and brought the item back to the Commission for further discussion or action.

Commissioner Merino stated the City of Orange was considered an education community and the proposed application would be another fine addition and looking at the aerial shots it would be near the Block of Orange, and would potentially have an economic benefit to that area. The age group that would be attending ITT would also enhance the community of folks that would frequent the Block of Orange.

Commissioner Merino made a motion to Adopt PC 41-09, approving CUP No. 2762-09-ITT Technical Institute, subject to the conditions contained in the Staff Report and with the modification to Condition No. 7 to change the time to 5:30 p.m., and noting the item was categorically exempt from CEQA.

SECOND: Commissioner Cunningham

AYES: Commissioners Cunningham, Imboden, Merino, and Steiner

NOES: None ABSTAIN: None

ABSENT: Commissioner Whitaker

**MOTION CARRIED** 

# (6) CONDITIONAL USE PERMIT NO. 2766-09 – VERIZON WIRELESS FACILITY, SCE LATTICE TOWER

The applicant proposes to modify Conditional Use Permit 2737-08, for a wireless communications facility on an existing Southern California Edison (SCE) lattice tower. The proposal calls for four (4) new panel antennas (1 sector) to be mounted on the existing SCE lattice tower in addition to the eight (8) panel antennas (2 sectors) previously approved for a total of 12 panel antennas.

LOCATION: South of Serrano Avenue & West of Kendra Drive

8030 Serrano Avenue

## RECOMMENDED ACTION:

Adopt Planning Commission Resolution PC 42-09 approving Conditional Use Permit 2766-09 to modify Conditional Use Permit 2737-08 to allow four (4) new panel antennas (1 sector) to be mounted on the existing SCE lattice tower in addition to the eight (8) panel antennas (2 sectors) previously approved on property zoned P-C on a lot south of Serrano Avenue & west of Kendra Drive.

Associate Planner, Robert Garcia, 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 address the Commission.

Applicant, Peter Blied, address on file, stated he was representing Verizon Wireless and his partner Eric Meurs was also present. He thanked Mr. Garcia for his assistance and they were basically present to clean up the plans. The initial project had been approved approximately one year ago, and through further research with their RF Engineers and with the landlord SCE, they had realized that there was an additional sector of antennas needed in order to provide the coverage to their Verizon customers. He was in agreement with the conditions of approval and was available for any questions the Commissioners might have.

Chair Steiner opened the hearing for public comment.

Mark Mina, address on file, stated he lived directly across from where the towers were. He was present at the June hearing which was the initial permit request. He had paid an additional \$75,000 for a canyon view and the proposed antennas were directly across from his bedroom window and he felt they chose that site as it was easily accessible to the repair vehicles. His concerns were the same as they had been in June, the towers were complete eyesores and the Planning Commission stated the permits were a reasonable request and the towers had to go somewhere. There were other towers all along the canyon that the antennas could be installed on. The canyon was a high fire zone and he was not certain how the additional equipment would affect that. He asked the Commission how they would feel if that was located outside of their bedroom window?

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

Commissioner Merino stated the actual tower, the high tension structure, was an existing element, there was no proposal to build another one. The proposed application was for additional antennas to be added to the existing tower. He referred to a photo that had been presented of the site.

Commissioner Imboden stated for bookkeeping purposes, on the exemption from CEQA, it was noted as 4 panels to be located on an SCE tower and he doubted that was on the CEQA list and he asked if more could be stated?

Mr. Garcia stated yes, it could be stated that the exemption was due to a minor modification on existing equipment.

Chair Steiner stated he wanted to address the comment about how would the Commissioners feel if there were a tower in their backyards. The question was not well taken. The last thing the community would want was a bunch of affected parties voting on issues before them. The job of the Planning Commission was to place an objective

perspective and to apply that to those issues. As often as they would want to apply their personal perspective to a project, they were bound to provide an objective analysis to the issues presented before them.

Commissioner Cunningham stated nothing appeared to have changed since the project had been presented in June, the tower was still there and the applicant would be adding a bit more equipment to the site. It had been approved in June and there was no reason to deny it currently.

Commissioner Cunningham made a motion to adopt PC 42-09, approving CUP 2766-09-Verizon Wireless Facility, SCE Lattice Tower, subject to the conditions contained in the Staff Report and noting that the item was categorically exempt from CEQA.

Commissioner Merino stated it was always better to install additional antennas on existing structures or towers, rather than impacting the City by building new towers.

SECOND: Commissioner Imboden

AYES: Commissioners Cunningham, Imboden, Merino, and Steiner

NOES: None ABSTAIN: None

ABSENT: Commissioner Whitaker

**MOTION CARRIED** 

# (7) CONDITIONAL USE PERMIT 2773-09-FRANCOLI GOURMET ITALIAN RESTAURANT

The applicant proposes to modify an existing CUP 2757-09 which allowed On-Sale General Eating Place (Type 47) and Off-Sale General – Package Store (Type 21) licenses including entertainment in a new 2,250 square foot restaurant. The modifications requested under the new CUP 2773-09 are use of a limited sound/speaker system for singers/musicians, and the transfer of an existing Type 58 (catering permit) for the new restaurant. Although the applicant originally requested a modification of business hours with this proposal, the applicant has since withdrawn that part of the project request.

LOCATION: 100-108 S. Glassell

NOTE: The proposed project is categorically exempt from the provisions

of the California Environmental Quality Act per State CEQA

Guidelines 15301 (Class 1 – Existing Facilities).

## RECOMMENDED ACTION:

Adopt Planning Commission Resolution PC 40-09 approving the modification of the existing ABC license (which permits alcoholic beverage licenses, Type 47 – On-Sale General and Type 21 – Off-Sale General with Live Entertainment) and permit the use of small amplified speakers for background music for musicians/singers and a Type 58 catering permit for a new restaurant.

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

Chair Steiner opened the hearing for any questions to Staff.

Chair Steiner asked what the business hours would be.

Mr. Ryan stated 9:00 a.m. to 12 midnight.

Commissioner Imboden asked on the amplification the applicant was requesting, was that for interior amplification only?

Mr. Ryan stated that was correct and one of the conditions of approval was that all live entertainment would be confined to the inside of the restaurant and that the interior doors and windows would remain closed during times of such entertainment to eliminate any complaints of noise from neighboring businesses.

Chair Steiner asked Mr. Ryan if he had the opportunity to observe the restaurant at its previous location.

Mr. Ryan stated yes.

Chair Steiner stated he had also, and in all candor, his enthusiasm for the restaurant remained unaffected. With respect to the previous operating location, there had been interior amplification.

Mr. Ryan stated there were small speakers.

Chair Steiner asked Mr. Ryan if the request being made for amplification was consistent with what the applicant had at their previous location.

Mr. Ryan stated yes.

Chair Steiner asked Sgt. Peterson if he was present to offer any information on the proposed project.

Sgt. Peterson stated he was not.

Chair Steiner acknowledged that the applicant was present and that he had nothing additional to state. He brought the item back to the Commission for discussion or a motion.

Commissioner Merino made a motion to adopt PC 40-09, approving CUP 2773-09, Francoli Gourmet Italian Restaurant, subject to the conditions contained in the Staff Report, noting the item was categorically exempt from CEQA.

Chair Steiner stated that Commissioner Merino was referring to the hopefully soon to be opened restaurant at the south west corner of the Plaza.

Commissioner Imboden asked Chair Steiner if he wanted to add a condition as to when the restaurant needed to be opened.

Chair Steiner stated no, other than hopefully soon.

SECOND: Commissioner Imboden

AYES: Commissioners Cunningham, Imboden, Merino, and Steiner

NOES: None ABSTAIN: None

ABSENT: Commissioner Whitaker

**MOTION CARRIED** 

## (8) ADJOURNMENT

Chair Steiner made a motion for adjournment to the next regular scheduled meeting of the Planning Commission for Monday, December 7, 2009.

SECOND: Commissioner Merino

AYES: Commissioners Cunningham, Imboden, Merino and Steiner

NOES: None ABSTAIN: None

ABSENT: Commissioner Whitaker

**MOTION CARRIED** 

MEETING ADJOURNED @ 8:53 P.M.