

MOTION: Commissioner Willits
SECOND: Commissioner Martinez
AYES: Commissioners Glasgow, Willits, Simpson, Vazquez and Martinez
NOES: None

MOTION CARRIED

RECESS 7:27 - 7:34

3.3 Revocation of Conditional Use Permit No. 2948-14, JR Motel, 428 E. Lincoln Avenue.

The Planning Commission directed staff to bring forward a resolution recommending that the City Council revoke Conditional Use Permit No. 2948-14 for the JR Motel which was approved as a motel but operates as a boarding house.

NOTE: The proposed project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) per State CEQA Guidelines 15321 (Class 21 – Enforcement Actions by Regulatory Agencies) because enforcement of project conditions and Orange Municipal Code Section 17.10.030H is being undertaken. No public review is required.

RECOMMENDED ACTION:

Adopt planning commission Resolution No. PC 06-20 entitled:

A Resolution of the Planning Commission of the City of Orange recommending to the City Council of the City of Orange, that Conditional Use Permit No. 2948-14, which permitted a motel upon property located at 428 E. Lincoln Avenue, be revoked and repealed in its entirety.

Mary Binning, Sr. Assistant City Attorney provided a visual presentation and explained the definition of a hotel and zones in which they are allowed, purpose of a Conditional Use Permit and its process, and the code requirements for revocation.

Staff has determined that grounds for revocation are as follows:

- The operations of the JR motel are inconsistent with the definition of a hotel and the Conditional Use Permit was granted based on information that it would be a hotel. Atypical services on the premises, which are not provided by other permitted hotels in the city, including the following:
 - Room lined with bassinets, staff members wearing scrubs, table lined with bottle warmers, collection of car seats, line of strollers, large industrial kitchen with several staff members, line of commercial refrigerators, racks of bulk food, mommy services, medical transportation, regular shopping transportation, one-to-one nanny services, legal consultation and other general services.
 - Gross sales reported to Business License have not been reconciled and transient occupancy tax has never been paid to the city until the Planning Commission held its first hearing.
- Hotel is not open to the public: no telephone number for reservations, no website, no exterior signage, exterior doors are locked to the public, exclusively uses overseas booking agencies.

- Operational characteristics fit the definition of a Boarding House or a Lodging House, not a Hotel use.
- Violations of the Planning conditions of approval:
 - Subdivision of suites
 - Addition of underfloor rooms and hallway
 - Installation of exit door into parking space
 - Failure to have registration desk in lobby
 - Failure to have sitting area in lobby – use of area for food buffet
- Failure to obtain building permits in violation of the Building Code:
 - Subdividing suites
 - Excavation of underfloor area
 - Creation of new bedrooms in underfloor area
 - Addition of windows into basement walls
 - Added shower in lobby restroom
 - Added sink in lobby
- Violations of the Fire Code
 - 2017**
 - Panic hardware not installed
 - No key in Knoxbox
 - Locked exits
 - Lack of evacuation plan
 - Hasp/pin lock on kitchen doors
 - 2019**
 - Exits covered by shades
 - Door opening into vehicle parking space
 - Lack of sprinkler system in added areas
 - Line of commercial refrigerators in added areas
 - Lack of evacuation plan
 - Violations in notice dated May 16, 2019
 - County Health Department violations

Staff presented evidence that Mr. Huang is a Class G license, general building contractor and is familiar with building and permit requirements, concluding that the violations of the Building Code and Fire Code were intentional.

The majority of the illegal construction has been removed except for those concrete and supporting additions determined to be detrimental to the integrity of the building if they were removed.

Pete Goodrich, Chief Building Official stated that various staff have probably made 100 visits to the site, and it has taken a lot of staff time from various departments. Staff does not know if the added construction was built to code because it was determined that it had to be removed rather than try to obtain permits that would have required the revision of the conditional use permit. To the best of his knowledge, most of the work was done in a fair manner; not so much for the fire sprinklers and electrical.

Robert DeSimone, Fire Department Specialist explained the demolition permit has been cleared and the sprinkler permit is pending because the basement does not have sprinklers

Staff and Commission discussed the following:

- The pricing schedules for occupants and the lack of rental agreements for stays over 30 days.
- Lack of a public website.
- Structural integrity due to addition of illegal windows.
- Lack of Transient Occupancy Tax payment and applicant's intent to pay back taxes.
- Owner is aware of the hotel definition; which means stays that are 30 days or less.
- There is a preponderance of evidence that the hotel is not operating as publicized and not in accordance with code.
- Staff has given the applicant opportunities to make the hotel conform.
- There's been a tremendous impact to taxpayer dollars, additional burden on Police, Fire, Finance and Community Services and as a general contractor, there has been a blatant disrespect for the rules and regulations.

Tony Lu, attorney for the applicant provided a rebuttal as follows:

- Violations in the basement have been repaired.
- Conditions of approval were unclear and he asked for clarification.
- The facility is not a birthing house, boarding/lodge and runs as a hotel with 90% or more of the rooms transient in nature.
- Transient Occupancy Tax was paid for October 2019; they had no previous knowledge that this had to be paid back to day one and it would be a huge burden to pay back.
- They can provide name and addresses of guests.
- Cost of inspections by staff seems prohibitively high; they paid one invoice thus far.
- Proper plans have been submitted.
- Guests have room keys.
- Lease agreements have been provided.

He stated his client did not intentionally lie to the city.

Chih Chun Huang, owner, confirmed all the additional work was done under his general license and explained his understanding of the Transient Occupancy Tax and was under the assumption that no tax was due because the patrons were non-transient and he had provided the rental agreement to the city. The city is now asking for retroactive payment.

Ms. Binning stated the City's Business License Coordinator couldn't find any documentation of rental agreements and neither can the owner.

Chair Glasgow opened the public hearing.

Mark Landry, Bob Brogdon and Debi Brogdan all spoke in support of revoking the hotel's conditional use permit.

Chair Glasgow closed the public hearing.

A motion was made to adopt Planning resolution number PC 06 – 20 entitled: A Resolution of the Planning Commission of the City of Orange recommending to the City Council of the City of Orange, that Conditional Use Permit No. 2948-14, which permitted a motel upon property located at 428 E.

Lincoln Avenue, be revoked and repealed in its entirety.

MOTION: Commissioner Glasgow
SECOND: Commissioner Simpson
AYES: Commissioners Glasgow, Willits, Simpson, Vazquez and Martinez
NOES: None

MOTION CARRIED

1.8 Election of Chair and Vice Chair:

A motion was made to appoint Commissioner Simpson as Chair of the Planning Commission effective March 4, 2020:

MOTION: Commissioner Willits
SECOND: Commissioner Vazquez
AYES: Commissioners Glasgow, Willits, Simpson, Vazquez and Martinez
NOES: None

MOTION CARRIED

A motion was made to appoint Commissioner Glasgow as Vice Chair of the Planning Commission effective March 4, 2020:

MOTION: Commissioner Willits
SECOND: Commissioner Martinez
AYES: Commissioners Glasgow, Willits, Simpson, Vazquez and Martinez
NOES: None

MOTION CARRIED

4. ADJOURNMENT: 8:54 P.M.

The next Regular Planning Commission Meeting will be held on Monday, March 16, 2020 at 7:00 p.m. in the Council Chamber.

Anna Pehoushek
Assistant Community Development Director