




# AGENDA ITEM



April 14, 2020

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**TO:** Honorable Mayor and Members of the City Council

**THRU:** Rick Otto, City Manager

**FROM:** Bill Crouch, Community Development Director, AICP, AIA, NCARB, LEED (AP) 

**REVIEW:** City Manager  Finance 

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## 1. SUBJECT

A Resolution of the City Council of the City of Orange revoking and repealing in entirety, Conditional Use Permit No. 2948-14, which permitted a motel upon property located at 428 E. Lincoln Avenue.

## 2. SUMMARY

Conditional Use Permit No. 2948-14 was approved by the Planning Commission in 2015, approving the JR Motel as a motel use. Since its opening, the motel has operated as a boarding house, not a motel, and has a history of building and fire code violations. Therefore, the Planning Commission has taken action to recommend that the City Council revoke the Conditional Use Permit.

## 3. RECOMMENDED ACTION

Approve Resolution No. 11221.

## 4. FISCAL IMPACT

None.

## 5. STRATEGIC PLAN GOALS

Goal 1: Provide for a safe community:

d: Assure the development of the City occurs in a fashion that maximizes public safety

## 6. DISCUSSION AND BACKGROUND

On July 6, 2015, Planning Commission Resolution No. PC 19-15 (Attachment 3) approved a Conditional Use Permit (CUP) for the operation of a two-story, 23,128 square foot, 28-room motel with a basement on two existing vacant parcels located at 428 E. Lincoln Avenue. The name of the use is JR Motel. Development standards, plans, conditions, and minutes from the meeting are as listed in the July 6, 2015 staff report packet (Attachments 3 through 6).

At a public hearing held on October 7, 2019, staff presented to the Planning Commission a report of the numerous violations of building and fire codes at the JR Motel, some of which were repeat violations. Staff also reported that the use of building was not operating according to the permitted motel use. Staff sought direction for further action (Attachments 7 and 8). The Planning Commission voted to continue the public hearing and directed staff to return with a resolution modifying existing conditions of approval designed to prevent future building and fire code violations and bring the use into conformance with operating conditions consistent with a conventional motel.

The continued Planning Commission hearing was held on November 4, 2019, at which time another continuance until December 19, 2020, was granted at the request of the JR Motel's new attorney. At the December 19, 2019 Planning Commission meeting, the Commission considered additional conditions for the CUP and statements made by the JR Motel attorney and business/property owner. The JR Motel representatives indicated their inability to operate under the additional conditions. Therefore, the Planning Commission directed staff to schedule a CUP revocation hearing (Attachments 9 through 13).

At the March 2, 2020 Planning Commission meeting, the Commission held a revocation hearing at which it reviewed evidence in the staff report, evidence presented by the City Attorney's office, testimony from the JR Motel attorney and owner/operator, and the public. The Commission voted (5:0) to approve a resolution recommending that the City Council revoke the JR Motel CUP (Attachments 14 through 19). The Planning Commission's recommendation was based on the following findings:

- The Owner's deviation from the approved plans and exhibits and the change to the exterior of the building constitute violations of General Condition No. 1.
- The Owner's construction of the additional hallway and bedrooms in the basement, complete with electrical, mechanical and plumbing improvements in the underfloor area of the building, the addition of an exterior door from the basement hallway to the parking lot, the addition of doorways to suites on the upper floors, and alterations made to exit and life-safety panic hardware without a building permit constitute violations of the California Building Code and violations of General Condition No. 3.
- The Owner's failure to submit plans to the Community Development Director prior to making modifications to the suites, the basement, and the lobby area constitutes a violation of General Condition No. 4.
- The Owner's failure to submit a changed precise plan to the Community Development Director prior to altering the approved plan, constitutes a violation of General Condition No. 5. In addition, the Owner's failure to submit notification or a plan for a change of use to the Community Development Director prior to beginning operations as a boarding or lodging house constitutes a violation of General Condition No. 5.
- The Owner failed to obtain any construction or building permits as required by the City, prior to constructing the additional hallway and bedrooms complete with electrical, mechanical and plumbing improvements in the underfloor area of the building, adding an exterior door from the basement hallway to the parking lot, adding hallway doors and subdividing suites on the upper floor areas, and altering

exit and life-safety panic hardware. All of these actions constitute a violation of General Condition No. 61.

- The operational characteristics of the JR Motel are not in accord with the definition of “hotel” and are in accord with the definitions of “boarding house” and “lodging house” in that rooms are rented under rental agreements, meals are provided and no transient occupancy exists. Based on the above, approval of the JR Motel as a motel use when, in fact, it is operating as a boarding house or lodging house, was based on misinformation as to the actual use intended.
- Transient Occupancy Tax (TOT) has been required, but not paid, for occupancies up to 30 days at the JR Motel and its claimed exemptions for occupancies over 30 days have not been supported by written documentation; therefore, JR Motel has violated OMC Chapter 5.16 by failing to collect and remit TOT to the City.
- The Owner has not posted the required signs and is in violation of Civil Code Section 1863.

## **7. ATTACHMENTS**

1. Resolution No. 11221; a Resolution of The City Council of the City Of Orange revoking and repealing in entirety, Conditional Use Permit No. 2948-14, which permitted a motel upon property located at 428 E. Lincoln Avenue
2. Vicinity Map
3. Planning Commission Staff Report Dated July 6, 2015
4. Planning Commission Resolution No. PC 19-15 (Original Approval)
5. Approved Plans date stamped July 6, 2015
6. Planning Commission Minutes Dated July 6, 2015
7. Planning Commission Staff Report Dated October 7, 2019, including a Summary Table of City and Outside Agency Contact and Violations
8. Planning Commission Minutes Dated October 7, 2019
9. Continuance Request Memo to the Planning Commission Dated October 31, 2019
10. Planning Commission Staff Report Dated November 4, 2019, including Draft Planning Commission Resolution No. PC 21-19 and Argument from Liu Law, Inc.
11. Planning Commission Minutes Dated November 4, 2019
12. Public Speaker Photographs Memo to the Planning Commission Dated December 6, 2019
13. Planning Commission Minutes Dated December, 16, 2019
14. Planning Commission Staff Report Dated March 2, 2020
15. Planning Commission Resolution No. PC 06-20 (Recommendation to Revoke)
16. Correspondence to the Planning Commission Dated February 29, 2020
17. Planning Commission Draft Minutes Dated March 2, 2020
18. Site Photos
19. Business License Excerpts