

CONDITIONAL USE PERMIT NO. 3144-21

RESOLUTION NO. PC 24-21

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF ORANGE APPROVING CONDITIONAL USE PERMIT NO. 3144-21 TO ALLOW A 28-ROOM TRANSIENT-OCCUPANCY HOTEL IN AN EXISTING 23,128 SQUARE FOOT, TWO-STORY WITH BASEMENT BUILDING LOCATED AT 428 E. LINCOLN AVENUE

APPLICANT: Alan Reay, Manager – Ennerdale 428 E Lincoln LLC

Moved by Commissioner _____ and seconded by Commissioner _____ that the following Resolution be adopted:

WHEREAS, Orange Municipal Code (OMC) Section 17.13.030 requires approval of a Conditional Use Permit for a Hotel on property zoned C-2 (General Business); and

WHEREAS, Conditional Use Permit No. 3144-21 was filed in accordance with the provisions of the OMC; and

WHEREAS, the application for Conditional Use Permit No. 3144-21 was processed in the time and manner prescribed by law; and

WHEREAS, the Planning Commission has authority per OMC Section 17.08.020 to make a final determination on hotel Conditional Use Permit applications; and

WHEREAS, Conditional Use Permit No. 3144-21 is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) per State CEQA Guidelines Section 15301 (Existing Facilities); and

WHEREAS, on October 4, 2021, the Planning Commission conducted a duly advertised public hearing, at which time interested persons had an opportunity to testify either in support of or opposition to Conditional Use Permit No. 3144-21 upon property generally described as follows:

TWO PARCELS:

PARCEL 1 AS SHOWN ON LOT LINE ADJUSTMENT NO. CC-2020-01, AS EVIDENCED BY DOCUMENT RECORDED JULY 15, 2020 AS INSTRUMENT NO. 2020000337896 OF OFFICIAL RECORDS. BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

PARCEL “A” AS SHOWN ON EXHIBIT “B” IN CITY OF ORANGE LOT LINE ADJUSTMENT LL-2014-02, RECORDED APRIL 06, 2016 WITH COUNTY OF ORANGE

**RECORDER AS INSTRUMENT NO. 2016000147622,
FURTHER DESCRIBED AS PARCEL 41 IN 2018 EDITION
OF COUNTY OF ORANGE TAX ASSESSOR PARCEL MAP
ON BOOK 374 PAGE 30 (APN 374-301-41),
ENCOMPASSING THE UNDERLYING LOTS 1, 2, 3, 4, 5, 6
AND 24 OF FRANKLIN'S ADDITION TO OLIVE HEIGHTS
RECORDED IN LOS ANGELES COUNTY
MISCELLANEOUS RECORDS BOOK 18 PAGE 71**

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission approves Conditional Use Permit No. 3144-21 to allow a 28-room transient-occupancy hotel based on the following findings:

SECTION 1 – FINDINGS

General Plan Required Finding:

1. *The project must be consistent with the goals and policies stated within the City's General Plan.*

The project is consistent with the City's General Plan, particularly the Land Use and Economic Development Elements, in that a small hotel provides a niche lodging need adding to a diverse mix of land uses within the City. The hotel is expected to be a revenue-generating land use and contribute to a diversified economic base.

Conditional Use Permit Required Findings:

1. *A Conditional Use Permit shall be granted upon sound principles of land use and in response to services required by the community.*

The proposed hotel use is anticipated to fulfill a niche hotel need for transient occupancy by persons visiting family, business travelers, and vacationers to the area. The commercial designation of the Lincoln Avenue corridor is suitable for a boutique hotel use.

2. *A Conditional Use Permit shall not be granted if it will cause deterioration of bordering land uses or create special problems for the area in which it is located.*

Parking is situated to the rear of the lot and the building is situated towards the front of the lot, away from single-family residential uses behind the hotel. The use shall comply with noise and lighting requirements of the OMC and project conditions related to allowing for staff inspections, durations of stay, and modes of operation. With these conditions, special problems or deterioration of land uses are not anticipated.

3. *A Conditional Use Permit must be considered in relationship to its effect on the community or neighborhood plan for the area in which it is located.*

The property is not located within any community or neighborhood plan. Furthermore, parking is situated to the rear of the lot and the building is situated towards the front of the lot, away from single-family residential uses behind the hotel. The use shall comply with noise and lighting requirements of the OMC and project conditions related to staff inspections, durations of stay, and modes of operation. With these conditions, special problems or deterioration of land uses are not anticipated.

4. *A Conditional Use Permit, if granted, shall be made subject to those conditions necessary to preserve the general welfare, not the individual welfare of any particular applicant.*

All project conditions maintain a purpose of preserving the general welfare of the City and community. Conditions specifically serve to ensure the use occurs as a transient-occupancy hotel and not as a boarding or lodging house, maintains compliance with fire codes, maintains the property and building as it was originally approved, prevents glare and sound impacts, and allows for staff monitoring of the use to ensure conditions are complied with.

SECTION 2 – ENVIRONMENTAL REVIEW

The proposed project is categorically exempt from the provisions of CEQA per State CEQA Guidelines Section 15301 (Existing Facilities) because the project is authorizing a hotel use of an existing building designed to accommodate a hotel and does not trigger any of the exceptions to exemptions listed in CEQA Guidelines Section 15300.2. There is no public review required.

SECTION 3 – CONDITIONS OF APPROVAL

BE IT FURTHER RESOLVED that the following conditions are imposed with approval:

1. The project shall conform in substance and be maintained in general conformance with the application, plans, and exhibits date stamped July 19, 2021, including any modifications required by conditions of approval, and as approved by the Planning Commission. Any future expansion in area or in the nature and operation of the use approved by Conditional Use Permit 3144-21 shall require an application for a new or amended entitlement as applicable by the OMC. Further, exterior building color and materials shall conform to the plans and color and materials board approved by the Design Review Committee on May 20, 2015. Any change to the exterior of the building from the approved plans shall be subject to review and approval by the Design Review Committee.
2. The applicant agrees to indemnify, hold harmless, and defend the City, its officers, agents and employees from any and all liability or claims that may be brought against the City arising out of its approval of this permits, save and except that caused by the City's active negligence. The City shall promptly notify the applicant of any such claim, action, or

proceedings and shall cooperate fully in the defense. The term “applicant” shall refer to the entity that requests approval of this action or any successor in interest to this approval.

3. The applicant shall comply with all federal, state, and local laws, including all City regulations. Violation of any of those laws in connection with the use may be cause for revocation of this permit.
4. Except as otherwise provided herein, this project is approved as a precise plan. After any application has been approved, if modifications are proposed regarding the location or alteration of any use or structure, the plan modifications shall be submitted for review by the Community Development Director or designee (“Director”). Modifications may include but are not limited to the landscaping, parking, understory, room count, room configuration, or room use, regardless of if the modifications result from other City requirements such as Building Codes, water quality, Fire, or Police. If the Director determines that plan modifications comply with the provisions and the spirit and intent of the approval action, and that the action would have been the same for the changed plan as for the approved plan, the Director may approve the changed plan without requiring a new public hearing. Should the modifications be considered substantial, the modifications shall be reviewed and approved by the Planning Commission.
5. Building permits shall be obtained for any construction work on the property, as required by the building code in effect or the City Building Official. Failure to obtain the required building permits may be cause for revocation of this entitlement.
6. The applicant shall comply with the conditions of approval for Major Site Plan No. 0782-14 and Design Review No. 4752-14 as approved in Planning Commission Resolution No. PC 19-15 in addition to the conditions in this approval.
7. All occupancy at the hotel shall be transient, which is defined as for a period of thirty (30) consecutive calendar days or less. Transient Occupancy Tax shall be paid to the City. No contracts or agreements shall be entered into authorizing occupancy longer than 30 days, not including occupancy for the on-site manager. Temporary exceptions may only be made with Director approval upon adequate advance notice.
8. A bona fide cashier and system of accounting for cash receipts shall be in place and a copy of such accounting system provided to the City upon request.
9. The owner and/or operator of the business shall make records available for inspection to the City Business License Division within 10 days of request. Records to be made available may include but are not limited to:
 - a. All records related to contracts, agreements, and invoices to tenants, including any agreements formulated by third party vendors and honored by the hotel;
 - b. The dates and duration of stays of tenants;
 - c. The names and contact information for tenants;

- d. The room rate charged to tenants;
 - e. A list of hotel amenities offered including but not limited to transportation, meal service, equipment rental, or laundry service; and,
 - f. The rate charged for any incidental amenities provided, which shall be included on the copy of tenant invoices.
 - g. Any other details related to room rental determined by City staff.
10. The operator shall submit to City inspection of any and all rooms in the facility upon request by City staff.
11. If a future violation of any condition of approval or a violation of building, fire, or OMC occurs, Conditional Use Permit No. 3144-21 may be presented to the Planning Commission for its consideration of further conditions, modifications, or revocation.
12. The use must be run as a hotel in perpetuity and may not operate as a boardinghouse or lodging house as defined by OMC Sections 17.04.021 and 17.04.031.
13. All interior building space on the Planning Commission approved plans, date stamped July, 19, 2021, shall be utilized as labeled on the plans, including but not limited to a reception desk, conference room, sitting area, and kitchenette. 28 hotel guest rooms are recognized as labeled on the approved plans as #101 - #114 and #201 - #214. No other use of space shall occur than that labeled on approved plans without Director or Planning Commission approval.
14. The operator shall comply with all requirements of Civil Code Division 3, Part 4, Title 3, Article 4, "Innkeepers", including the posting of rates.
15. The hotel entry door to the lobby shown on Sheet A-1 of the approved building plans shall be open during daylight hours and when locked for the evening, shall be key or combination controlled by registered guests/occupants and shall maintain a working intercom system that facilitates visitor notification to the manager that access to the facility is requested. City staff or guest entry to the lobby shall occur within 5 minutes of intercom communication to the manager.
16. The lower lobby entry doors, shown on approved building plan Sheet A-2, shall be combination or key controlled by registered guests.
17. There shall be no restaurant operation on the premises except that food service from the kitchen may be provided to guests registered for overnight stays at the time of food service.
18. The hotel facilities shall not be operated for any convention or gathering purposes except for guests registered for overnight stays at the time of the event.
19. A manager shall be on-site at all times and reasonably available to the reception desk shown on the site plan. The manager shall be responsive to all disturbances caused by guests and, at

the time of hiring, a contact name and number of the manager shall be provided to the Director and all property owners and residents which have property lines within 20 feet the hotel property.

20. No hotel staff, besides the manager, may live on-site.
21. Hotel availability shall be advertised in media outlets typical to the hospitality industry and rooms shall be available to the general public.
22. The conference and multi-purpose rooms shown on the floor plans shall not be used for dining or living purposes without approval from the Director or Planning Commission.
23. The understory space shown on the floor plan may not be used for occupancy, storage, or any other use.
24. Hotel rooms shall not be used for parties.
25. This approval is for 28 hotel rooms. Additional rooms may not be created without Director or Planning Commission approval.
26. Prior to the operation of the business, the applicant shall file for a business license with the Business License Division. Failure to obtain the required business license will be cause for revocation of this approval.
27. In conjunction with the operation of the business, all noise levels generated shall conform to the levels allowed by Code.
28. Any graffiti shall be removed within 72 hours from the time the City of Orange Notice of Violation is received by the applicant/property owner.
29. The applicant at all times shall provide all parking spaces shown on the approved site plan.
30. In conjunction with the operation of the hotel, should parking issues arise on the site or the surrounding neighborhood, the applicant shall work with the Community Development Department to resolve any issues. If such issues are not resolved to the City's satisfaction, Conditional Use Permit No. 3144-21 shall be presented to the Planning Commission for its consideration of further conditions, modifications, or revocation.
31. Glare from any new or remodeled lighting on the premises shall be installed in such a way to direct, control, and screen the lighting to prevent off site light spillage onto adjoining properties and shall not be a nuisance to any point beyond the exterior boundaries of the property or cause illumination in residential districts in excess of 0.5 foot-candles. Prior to certificate of occupancy, the applicant shall contact the Orange Police Crime Prevention Bureau and set an appointment on-site to test all lighting to ensure it meets OMC standards.

32. Prior to Building Permit issuance, the applicant shall pay any outstanding monies due to the City for Planning Division entitlement activities related to this project.
33. In conjunction with the operation of the hotel, the property owner shall be responsible to maintain the property to a level deemed adequate by the Director. This includes, but is not limited to, the buildings, carports, landscape on-site, trash areas, signage, utilities, property walls, and gates.
34. Subsequent modifications to the approved architecture and color scheme shall be submitted for review and approval to the Director. Should the modifications be considered substantial, the modifications shall be reviewed by the Design Review Committee.
35. Prior to operation of a hotel, the applicant shall obtain a building permit for the signage required on the plans submitted with Conditional Use Permit No. 3144-21.
36. A lighting plan shall be submitted for review and approval for any exterior lighting of common areas or parking areas. Lighting plan shall be designed to confine all direct lighting to the property.
37. Prior to business license issuance or any use of the site, the applicant shall complete the installation of fire sprinkler coverage in the concealed combustible understory space. Plans submitted for Building Plan Check shall comply with the California Fire Code as amended by the City and as frequently amended and in effect at the time of application for Building Permit. The plans shall comply with current Fire Codes regardless of any prior plans that may have been prepared.
38. All exterior commercial doors, during the hours of darkness, shall be illuminated with a minimum of one foot candle of light. All exterior bulbs shall be protected by weather and vandalism resistant cover(s).
39. A minimum of one foot candle shall be maintained on all surfaces of the parking lot, from dusk until dawn every operating day. The applicant shall ensure that lighting on the site shall be directed, controlled, and screened in such a manner so as to refrain from shining directly on surrounding properties.
40. Prior to business license issuance, the applicant shall schedule a light reading inspection with the Crime Prevention Bureau. The lighting shall be tested and confirmed to determine if the lighting meets or exceeds the exterior boundary standards. The applicant shall use shielding so as to ensure that the light standards meet the requirements of OMC Section 17.12.030 for the areas beyond the property's exterior boundaries; light spillage or pollution to surrounding residential areas shall not exceed a maintained minimum of 0.5 foot-candle. Specifically, glare from any lighting on the premises shall be installed in such a way to direct, control, and screen the lighting to prevent off site light spillage onto adjoining properties and shall not be a nuisance to any point beyond the exterior boundaries of the property or project site or cause illumination in residential districts in excess of 0.5 foot-candles.

41. Aisles, passageways and recesses related to and within the building complex shall be illuminated with an intensity of at least one quarter (.25) foot candles at the ground level during the hours of darkness. Lighting devices shall be protected by weather and vandalism resistant covers.
42. The applicant shall not grant any easement(s) over any property subject to a requirement of easement, dedication, or irrevocable offer of dedication to the City, unless such easements are expressly made subordinate to the easements or dedication rights of the City. Prior to granting any such easements, the applicant shall furnish a copy of the proposed easement to the Director, Water Division Manager, and Public Works Director for review and approval prior to recordation.
43. Prior to issuance of a business license, the applicant shall submit and receive approval from the Director for a Waste Reduction Plan. The applicant shall coordinate with the City's recycling coordinator to develop a plan demonstrating compliant waste removal for the business operations.
44. The drainage swale in the rear of the parcel shall be kept clean to allow for clear flow at all times.
45. The applicant shall comply with and maintain the Priority Project Water Quality Management Plan (WQMP) approved with Major Site Plan No. 0782-14.

I hereby certify that the foregoing Resolution was adopted on October 4, 2021, by the Planning Commission of the City of Orange by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

Dave Simpson, Planning Commission Chair

Date