



LOS ANGELES CITY PLANNING COMMISSION

200 North Spring Street, Room 272, Los Angeles, California, 90012-4801, (213) 978-1300

www.planning.lacity.org

CORRECTED LETTER OF DETERMINATION

MAILING DATE: **SEP 08 2022**

Case No. **ZA-2021-9890-ZV-1A**

Council District: 14 – de León

CEQA: ENV-2017-4735-MND

Plan Area: Central City North

Related Case: CPC-2017-4734-GPA-ZC-HD-CUB-CUX-ZAA-ZV-RDP-SPR

Project Site: 719 – 725 East 5th Street

Applicant: Ralph Ziman, 721 East 5th Street, LLC
Representative: Elizabeth Peterson, Elizabeth Peterson Group, Inc.

Appellants: Coalition for Responsible Equitable Economic Development Los Angeles (CREED LA) c/o Darien Key, Adams Broadwell Joseph & Cardozo

UNITE HERE Local 11

Representative: Jordan Sisson, Law Offices of Gideon Kracov

At its meeting of **April 28, 2022**, the Los Angeles City Planning Commission took the actions below in conjunction with the approval of the following Project:

Use and maintenance of a 42-room apartment hotel in the M2-2D Zone.

1. **Found**, pursuant to CEQA Guidelines Section 15074(b), after consideration of the whole of the administrative record, including the Mitigated Negative Declaration (Case No. ENV-2017-4735-MND), as circulated on February 11, 2021, and the subsequent Erratum to the MND ("Mitigated Negative Declaration"), and all comments received, with the imposition of mitigation measures, there is no substantial evidence that the Project will have a significant effect on the environment; **Found** the Mitigated Negative Declaration reflects the independent judgment and analysis of the City; **Found** the mitigation measures have been made enforceable conditions on the Project; and **Adopted** the Mitigated Negative Declaration and the Mitigation Monitoring Program prepared for the Mitigated Negative Declaration;
2. **Denied** the appeal in part and **granted** the appeal in part, **sustained** the Zoning Administrator's Determination dated March 17, 2022;
3. **Approved**, pursuant to Section 12.27 of the Los Angeles Municipal Code, a Zone Variance from LAMC Section 12.21 A.4 to allow an apartment hotel use with 42 rooms in the M2-2D Zone;
4. **Adopted** the attached Modified Conditions of Approval; and
5. **Adopted** the attached Amended Findings.

The vote proceeded as follows:

Moved: Millman
Second: Campbell
Ayes: Leung, Lopez-Ledesma, Mack
Absent: Choe, Hornstock, Perlman, Dake Wilson

Vote: 5 – 0



Cecilia Lamas, Commission Executive Assistant
Los Angeles City Planning Commission

Fiscal Impact Statement: There is no General Fund impact as administrative costs are recovered through fees.

***1 Effective Date/Appeals:** The decision of the Los Angeles City Planning Commission is appealable to City Council within 15 days after the mailing date of this determination letter. Any appeal not filed within the 15-day period shall not be considered by the Council. All appeals shall be filed on forms provided at the Planning Department's Development Service Centers located at: 201 North Figueroa Street, Fourth Floor, Los Angeles; 6262 Van Nuys Boulevard, Suite 251, Van Nuys; or 1828 Sawtelle Boulevard, West Los Angeles.

FINAL APPEAL DATE: SEP 23 2022

Notice: An appeal of the CEQA clearance for the Project pursuant to Public Resources Code Section 21151(c) is only available if the Determination of the non-elected decision-making body (e.g., ZA, AA, APC, CPC) **is not further appealable** and the decision is final.

If you seek judicial review of any decision of the City pursuant to California Code of Civil Procedure Section 1094.5, the petition for writ of mandate pursuant to that section must be filed no later than the 90th day following the date on which the City's decision became final pursuant to California Code of Civil Procedure Section 1094.6. There may be other time limits which also affect your ability to seek judicial review.

Attachments: Modified Conditions of Approval, Amended Findings, Interim Appeal Filing Procedure

c: Christina Toy Lee, Associate Zoning Administrator
Heather Bleemers, Senior City Planner
Oliver Netburn, City Planner

¹ Effective Date/Appeals language reflects a correction. Therefore, an appeal period is opened for 15 days after the mailing date of this corrected determination letter.

CONDITIONS OF APPROVAL

(As Modified by the City Planning Commission at its meeting on April 28, 2022)

Upon the following additional terms and conditions:

1. All other use, height and area regulations of the Municipal Code and all other applicable government/regulatory agencies shall be strictly complied with in the development and use of the property, except as such regulations are herein specifically varied or required.
2. The use and development of the property shall be in substantial conformance with the plot plan and floor plan submitted with the application and marked Exhibit "A", except as may be revised as a result of this action.
3. The authorized use shall be conducted at all times with due regard for the character of the surrounding district, and the right is reserved to the Zoning Administrator to impose additional corrective Conditions, if, in the Administrator's opinion, such Conditions are proven necessary for the protection of persons in the neighborhood or occupants of adjacent property.
4. All graffiti on the site shall be removed or painted over to match the color of the surface to which it is applied within 24 hours of its occurrence.
5. A copy of the first page of this grant and all Conditions and/or any subsequent appeal of this grant and its resultant Conditions and/or signed Letters of clarification shall be printed on the building plans submitted to the Department of City Planning and the Department of Building and Safety for purposes of having a building permit issued at any time during the term of this grant.
6. Prior to the effectuation of this grant, a covenant acknowledging and agreeing to comply with all the terms and conditions established herein shall be recorded in the County Recorder's Office. The agreement (standard master covenant and agreement form CP-6770) shall run with the land and shall be binding on any subsequent owners, heirs or assigns. The agreement with the conditions attached must be submitted to the Department of City Planning for approval before being recorded. After recordation, a certified copy bearing the Recorder's number and date shall be provided for inclusion in case file.
7. Approved herein a variance to allow an apartment hotel use with 42 rooms. In the event that a change of use is required by Building and Safety to permit the apartment hotel use, the apartment hotel shall not be required to conform to the current regulations of the zone and other applicable current land use regulations
8. No other deviations from the provisions of the Municipal Code have been requested or approved herein.
9. All new rooms shall be subject to the Rent Stabilization Ordinance.
10. **INDEMNIFICATION AND REIMBURSEMENT OF LITIGATION COSTS.**

Applicant shall do all of the following:

- a. Defend, indemnify and hold harmless the City from any and all actions against the City relating to or arising out of, in whole or in part, the City's processing and approval of this entitlement, including but not limited to, an action to attack, challenge, set aside, void, or otherwise modify or annul the approval of the entitlement, the environmental review of the entitlement, or the approval of subsequent permit decisions, or to claim personal property damage, including from inverse condemnation or any other constitutional claim.
- b. Reimburse the City for any and all costs incurred in defense of an action related to or arising out of, in whole or in part, the City's processing and approval of the entitlement, including but not limited to payment of all court costs and attorney's fees, costs of any judgments or awards against the City (including an award of attorney's fees), damages, and/or settlement costs.
- c. Submit an initial deposit for the City's litigation costs to the City within 10 days' notice of the City tendering defense to the applicant and requesting a deposit. The initial deposit shall be in an amount set by the City Attorney's Office, in its sole discretion, based on the nature and scope of action, but in no event shall the initial deposit be less than \$50,000. The City's failure to notice or collect the deposit does not relieve the applicant from responsibility to reimburse the City pursuant to the requirement in paragraph (b).
- d. Submit supplemental deposits upon notice by the City. Supplemental deposits may be required in an increased amount from the initial deposit if found necessary by the City to protect the City's interests. The City's failure to notice or collect the deposit does not relieve the applicant from responsibility to reimburse the City pursuant to the requirement in paragraph (b).
- e. If the City determines it necessary to protect the City's interest, execute an indemnity and reimbursement agreement with the City under terms consistent with the requirements of this condition.

The City shall notify the applicant within a reasonable period of time of its receipt of any action and the City shall cooperate in the defense. If the City fails to notify the applicant of any claim, action, or proceeding in a reasonable time, or if the City fails to reasonably cooperate in the defense, the applicant shall not thereafter be responsible to defend, indemnify or hold harmless the City.

The City shall have the sole right to choose its counsel, including the City Attorney's office or outside counsel. At its sole discretion, the City may participate at its own expense in the defense of any action, but such participation shall not relieve the applicant of any obligation imposed by this condition. In the event the applicant fails to comply with this condition, in whole or in part, the City may withdraw its defense of the action, void its approval of the entitlement, or take any other action. The City retains the right to make all decisions with respect to its representations in any legal proceeding, including its inherent right to abandon or settle litigation.

For purposes of this condition, the following definitions apply:

“City” shall be defined to include the City, its agents, officers, boards, commissions, committees, employees, and volunteers.

“Action” shall be defined to include suits, proceedings (including those held under alternative dispute resolution procedures), claims, or lawsuits. Actions include actions, as defined herein, alleging failure to comply with any federal, state or local law.

Nothing in the definitions included in this paragraph are intended to limit the rights of the City or the obligations of the applicant otherwise created by this condition.

FINDINGS

(As Amended by the City Planning Commission at its meeting on April 28, 2022)

ZONE VARIANCE FINDINGS

In order for a variance to be granted, all five of the legally mandated findings delineated in City Charter Section 562 must be made in affirmative. Following (highlighted) is a delineation of the findings and the application of the relevant facts of the case to same:

1. **The strict application of the provisions of the Zoning Ordinance would result in practical difficulties or unnecessary hardships inconsistent with the general purposes and intent of the zoning regulations.**

The strict application of the provisions of the zoning ordinance would result in unnecessary hardships inconsistent with the general provisions and intent of the zoning regulations. The subject property was originally developed in 1906 as a residential hotel and was located amongst a cluster of single-room occupancy hotels in an area identified by SurveyLA as the "Fifth Street Single-Room Occupancy Hotel Historic District." The zoning of the subject property and those around it has since changed to M2 as the surrounding area took on an industrial character over the course of the 20th Century.

While the zoning changed, the use of the property never did, rendering the El Sol Hotel an existing non-conforming use, in that hotels are not permitted in the M2 zone. While M2 zoning regulations seek to establish and preserve job-providing industrial uses in the City, the subject property has never served an industrial use, as evidenced by the historic building permit record and other research. Moreover, since the discontinuance of the hotel use, around 2018, there has been no change of use permit filed with or issued by the Department of Building and Safety. As such, the most recent, permitted use on the site is a hotel use; any other use would not only need a change of use which would require conformity to the current zoning regulations, some of which may not be possible due to the existing conditions, but also significant alterations to the building's interior layout to accommodate the new use. Without such a change of use, the building would be vacant and unused.

Therefore, as the building's use has always been a hotel use which only lost its non-conforming status due to a discontinuance of use (not a change of use), strict application of the provisions of the Zoning Ordinance would result in practical difficulties or unnecessary hardships inconsistent with the general purposes and intent of the zoning regulations in that it would either 1) necessitate a change of use which would require conformity to the current zoning regulations (which may not be possible) and substantial alterations to the building's interior layout, or 2) require the building to lay vacant.

2. **There are special circumstances applicable to the subject property such as size, shape, topography, location or surroundings that do not apply generally to other property in the same zone and vicinity.**

There are special circumstances applicable to the subject property that do not apply

generally to other property in the same zone and vicinity. Specifically, unlike many other properties nearby that fall under the same zoning classification of M2 – Light Industrial, the subject property was originally developed as a residential hotel use, it has never been used as a manufacturing or industrial property and the original residential hotel use has never been changed. Some of the residential hotels that were part of the “Fifth Street Single-Room Occupancy Hotel Historic District,” such as the adjacent Edward Hotel building to west have been in continual operation since their development. However, many others were demolished and redeveloped with light manufacturing and industrial uses consistent with the character and zoning of the area. The El Sol Hotel was continually operated as a residential hotel, most recently by Salvation Army, who owned and managed the building until approximately 2010. The property is well-suited to serve as a residential hotel again as the building is in good condition with only interior tenant improvements needed to establish the 42 residential hotel units. The proposed plan maintains the building’s interior circulation pattern and upgrades its existing shared bathroom and shower facilities while adding four rooms on the groundfloor to provide the required 42 units. The exterior of the historic building would remain unaltered, maintaining the historic building’s window pattern while providing light and air to the newly demised units.

Therefore, as the subject property (unlike most others in the vicinity) was originally developed as a residential hotel, was continually used as such until the 2010s and is well-suited to continue functioning in the manner it was originally intended, there are special circumstances applicable to the subject property that do not apply generally to other property in the same zone and vicinity.

3. **That the variance is necessary for the preservation and enjoyment of a substantial property right or use generally possessed by other property in the same zone and vicinity but which, because of such special circumstances and practical difficulties or unnecessary hardships is denied to the property in question.**

The requested variance to re-establish the existing non-conforming apartment hotel use to provide 42 units of affordable housing where currently none exist is necessary only because the longstanding historic residential hotel use was discontinued. The property is zoned M2 – Light Industrial but has never formally served as an industrial use nor has its residential apartment hotel use changed through City permitting. Without the approval of the requested variance, the owner loses their substantial property right of re-establishing the property’s original longstanding use. In light of the City’s urgent need to develop affordable housing, unnecessary hardships to bring new units online such as the property’s zoning should be removed through the issuance of the variance. This is further warranted by the fact that the owner and developer would not face substantial practical difficulties in conducting tenant improvements to re-establish the residential hotel units at the property given the building’s excellent condition, existing bathroom and shower facilities and the fact that no exterior work is necessary.

4. **The granting of such variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the same zone or vicinity in which the property is located.**

The granting of the variance will not be materially detrimental to the public welfare or injurious to property or improvements in the same zone or in the vicinity of the subject property. Approval of the requested variance would allow the new owner of the property to re-establish its existing residential apartment hotel use, which is non-conforming due to the property's M2 zoning designation. The project will introduce 42 affordable units where currently there are none, representing a benefit to the city, as opposed to a detriment. The subject property had operated as a residential hotel providing affordable housing throughout the 20th century until the early 2010's. Despite not being used for residential for years, the historic building is in excellent condition with only interior tenant improvements needed to re-establish the original use. The original use of the building continues to be compatible with the neighborhood in which it is located and is consistent with the area's zoning. The property adjacent to the El Sol Hotel is also a residential hotel and has been approved to be redeveloped with permanent supportive housing. The DTLA 2040 Community Plan Update that is almost through the City's review process at the time of this writing allows housing where current zoning (such as M2) does not allow. The soon-to-be-approved plan identifies the area in which the subject is property located as the 1XL zone, where deed-restricted affordable housing would be permitted by right. The proposed project and requested zone variance would result in exactly the type of development the new zoning calls for while also establishing the original use. For all of these reasons, it can be concluded that the project will be beneficial, rather than detrimental to the public welfare.

5. The granting of the variance will not adversely affect any element of the General Plan.

The granting of this variance will not compromise or adversely affect any element of the General. Rather, the proposed project to re-establish the original historic hotel use to provide deed-restricted affordable housing units in the heart of Skid Row in a building where currently none exist supports the goals and policies of the general plan and Central City Community Plan. The current 2013-2021 Housing Element sets goal to increase housing production and preservation in order to ensure neighborhood livability and work to end homelessness. The 2021 to 2029 Housing Element update, currently under review by the City doubles down on these goals to work to add hundreds of thousands of new residential units with an emphasis on deed-restricted affordable housing, an integral tool in the fight against homelessness. As noted in finding 4 above, approval of the requested Zone Variance would directly support the goals of the DTLA 2040 Community Plan Update by creating new deed-restricted affordable housing in an area where the future zoning (IX1) specifically encourages the by-right development of affordable housing. The proposed project also supports the goals and policies of the current Central City Community Plan as follows:

Objective 1-3: To foster residential development which can accommodate a full range of incomes.

Policy 1-3.1: Encourage a cluster neighborhood design comprised of housing and services.

Objective 1-5: To preserve the existing low-income housing stock, including single room occupancy (SRO) units.

Policy 1-5.1: Monitor the supply of low-income housing stock to guard against loss of units through demolition, conversion, and deterioration of units.

Additionally, the project has a historic preservation benefit as it will re-establish the existing historic use of the property without negative impacts to the building's historic facades, while allowing the building to be used as originally intended and to its full potential to provide much-needed affordable housing.

Lastly, the project has been conditioned to require that all new rooms be subject to the provision of the Rent Stabilization Ordinance.

FLOOD HAZARD FINDING

6. The National Flood Insurance Program rate maps, which are a part of the Flood Hazard Management Specific Plan adopted by the City Council by Ordinance No. 172,081, have been reviewed and it has been determined that this project is located in Zone X, an area of minimal flooding.

COVID-19 UPDATE

Interim Appeal Filing Procedures

Fall 2020



Consistent with Mayor Eric Garcetti's "Safer At Home" directives to help slow the spread of COVID-19, City Planning has implemented new procedures for the filing of appeals for non-applicants that eliminate or minimize in-person interaction.

OPTION 1: Online Appeal Portal

(planning.lacity.org/development-services/appeal-application-online)

Entitlement and CEQA appeals can be submitted online and payment can be made by credit card or e-check. The online appeal portal allows appellants to fill out and submit the appeal application directly to the Development Services Center (DSC). Once the appeal is accepted, the portal allows for appellants to submit a credit card payment, enabling the appeal and payment to be submitted entirely electronically. A 2.7% credit card processing service fee will be charged - there is no charge for paying online by e-check.

Appeals should be filed early to ensure DSC staff has adequate time to review and accept the documents, and to allow Appellants time to submit payment. On the final day to file an appeal, the application must be submitted and paid for by 4:30PM (PT). Should the final day fall on a weekend or legal holiday, the time for filing an appeal shall be extended to 4:30PM (PT) on the next succeeding working day. Building and Safety appeals (LAMC Section 12.26K) can only be filed using Option 2 below.

OPTION 2: Drop off at DSC

An appellant may continue to submit an appeal application and payment at any of the three Development Services Center (DSC) locations. City Planning established drop off areas at the DSCs with physical boxes where appellants can drop.

Metro DSC

(213) 482-7077
201 N. Figueroa Street
Los Angeles, CA 90012

Van Nuys DSC

(818) 374-5050
6262 Van Nuys Boulevard
Van Nuys, CA 91401

West Los Angeles DSC

(310) 231-2901
1828 Sawtelle Boulevard
West Los Angeles, CA 90025

City Planning staff will follow up with the Appellant via email and/or phone to:

- Confirm that the appeal package is complete and meets the applicable LAMC provisions
- Provide a receipt for payment