

104-O-14

AN ORDINANCE

Extending the Time for the Applicant to Obtain a Building Permit to Construct the Residential Units in the Orrington Hotel Planned Development Previously Authorized by Ordinance 93-O-03

WHEREAS, the City of Evanston is a home-rule municipality pursuant to Article VII of the Illinois Constitution of 1970; and

WHEREAS, as a home rule unit of government, the City has the authority to adopt legislation and to promulgate rules and regulations that protect the public health, safety, and welfare of its residents; and

WHEREAS, it is a well-established proposition under all applicable case law that the power to regulate land use through zoning regulations is a legitimate means of promoting the public health, safety, and welfare; and

WHEREAS, Division 13 of the Illinois Municipal Code (65 ILCS 5/11-13-1, *et seq.*) grants each municipality the power to establish zoning regulations; and

WHEREAS, pursuant to its home rule authority and the Illinois Municipal Code, the City has adopted a set of zoning regulations, set forth in Title 6 of the Evanston City Code of 2012, as amended, ("the Zoning Ordinance"); and

WHEREAS, on October 13, 2003, the City Council enacted Ordinance 93-O-03 by a supermajority vote (7-0), as required by Section 6-3-6-6 of the Zoning Ordinance, attached hereto as Exhibit 1 and incorporated herein by reference, which, pursuant to the provisions of the Zoning Ordinance, granted a Special Use Permit for a Planned Development (the "Planned Development") in the D3 Downtown Core

Development Zoning District and the D2 Downtown Retail Core Zoning District at 1710 Orrington Avenue and 1717 – 1725 Sherman Avenue (the “Subject Property”), which is legally described in Exhibit 1; and

WHEREAS, The Planned Development Ordinance approved the renovation and expansion of an existing hotel and provided for the construction of up to thirty (30) residential units to be located above the existing garage parcel, commonly known as 1717-1725 Sherman Ave, at the Subject Property (the “Project”); and

WHEREAS, the renovation and expansion of the existing hotel was timely undertaken and completed in accordance with the Planned Development Ordinance; and

WHEREAS, the Subject Property is under new ownership and by letter to the City dated July 14, 2014, the new owner of the Subject Property, CRP/DOW Orrington Hotel, L.L.C. (the “Applicant”) requested an amendment to the Planned Development in order to extend the timeframes to obtain a building permit to construct the residential units and finish the last phase of the Project (the “Amendment”); and

WHEREAS, Section 9 of Ordinance 93-O-14 provided for a longer time period for construction beyond City Code restrictions provided in Sections 6-3-5-15(a) and 6-11-1-10(A)(4) and extended the date to obtain a building permit to five (5) years in order to allow for a staged development; and

WHEREAS, the City Council previously approved two (2) extensions beyond the initial five (5) year period, each for three (3) years, the first in 2008 and subsequently in 2011; and

WHEREAS, in order to commence construction of the residential units, the

Applicant requests an amendment to the Planned Development to provide for an additional three (3) years to obtain a building permit to commence construction of the residential units in the Project, revising the date to obtain a building permit to be October 11, 2017 (the "Extension Request"); and

WHEREAS, on September 8, 2014 the Planning and Development Committee ("P&D Committee") held a meeting, in compliance with the provisions of the Illinois Open Meetings Act (5 ILCS 120/1 *et seq*), during which it retained jurisdiction over the Extension Request; and

WHEREAS, during said meetings, the P&D Committee received input from the public, and carefully deliberated on the Extension Request and the Applicant was given notice of the P&D and City Council meetings; and

WHEREAS, at its meeting of September 22, 2014, held in compliance with the provisions of the Illinois Open Meetings Act, the City Council considered the P&D Committee's deliberations and recommendations, heard public comment, made findings and considered this Ordinance 104-O-14 and the Extension Request,

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EVANSTON, COOK COUNTY, ILLINOIS, THAT:

SECTION 1: The foregoing recitals are hereby found as fact and incorporated herein by reference.

SECTION 2: Pursuant to the terms and conditions of this ordinance and Sections 6-3-5-15(a) and 6-11-1-10(A)(4) of the Zoning ordinance, the City Council hereby grants an amendment to the Planned Development Special Use Permit previously authorized by Ordinance 93-O-03 and subsequently amended in 2008 and

2011, respectively, to allow for a two (2) year time extension to the Applicant to obtain a building permit for the limited purpose of construction of the residential units above the parking garage located at 1717-1725 Sherman Avenue in the Planned Development described herein.

SECTION 3: Pursuant to Subsection 6-3-5-12 of the Zoning Ordinance, the City Council imposes the following conditions on the Special Use Permit granted for the Planned Development, which may be amended by future ordinance(s), and violation of any of which shall constitute grounds for penalties or revocation of said Special Use Permit pursuant to Subsections 6-3-10-5 and 6-3-10-6 of the Zoning Ordinance:

- (a) **Compliance with Applicable Requirements:** The Applicant shall develop and operate the Planned Development authorized by the terms of this ordinance in substantial compliance with the following: the terms of this Ordinance 104-O-14; terms of Ordinance 93-O-13 and subsequently amended in 2008 and 2011, which have not been amended by this Ordinance; all applicable City Code requirements; the Applicant's testimony and representations to the P&D Committee, and the City Council; and the approved documents on file in this case.
- (b) **Construction of Residential Units:** The Applicant must obtain a building permit for the construction of up to thirty (30) residential units above the parking garage located at 1717-1725 Sherman Avenue in the Planned Development within two (2) years (October 11, 2016). The construction shall be in compliance with all applicable City Code restrictions, including but not limited to, the construction must be completed within a period of twenty-four (24) months after issuance of the building permit.
- (c) **Changes in Property Use:** Any change as to the property's use in the future must be processed and approved as an additional amendment to the Planned Development.
- (d) **Construction Management Plan:** The Applicant shall sign and agree to a construction management plan, including but not limited to a construction staging plan prior to the issuance of the building permit.
- (e) **Review of Plans:** All requirements of Ordinance 93-O-14 shall remain unchanged except as provided herein, including Applicant must obtain the review and recommendation for the residential development from the Plan

Commission and approval by the City Council with respect to appearance of the Residential Development, including without limitation colors, materials, landscape plan, architectural detailing such as banding and window openings and spacing; and

- (f) **Recordation:** Pursuant to Subsection 6-3-6-10 of the Zoning Ordinance, the Applicant shall, at its cost, record a certified copy of this ordinance, including all exhibits attached hereto, with the Cook County Recorder of Deeds, and provide proof of such recordation to the City, before the City may issue any permits pursuant to the Planned Development authorized by the terms of this ordinance.

SECTION 4: Except as otherwise provided for in this Ordinance 104-O-14, all applicable regulations of the Ordinance 93-O-03, the Zoning Ordinance, and the entire City Code shall apply to the Subject Property and remain in full force and effect with respect to the use and development of the same. To the extent that the terms and/or provisions of any of said documents conflict with any of the terms herein, this Ordinance 104-O-14 shall govern and control.

SECTION 5: When necessary to effectuate the terms, conditions, and purposes of this ordinance, "Applicant" shall be read as "Applicant and its agents, assigns, and successors in interest" and shall mean CRP/DOW Orrington Hotel, L.L.C., and any and all successors, owners, and operators of the Subject Property.

SECTION 6: This ordinance shall be in full force and effect from and after its passage, approval, and publication in the manner provided by law.

SECTION 7: Except as otherwise provided for in this ordinance, all applicable regulations of the Zoning Ordinance and the entire City Code shall apply to the Subject Property and remain in full force and effect with respect to the use and development of the same. To the extent that the terms and provisions of any of said documents conflict with the terms herein, this ordinance shall govern and control.

SECTION 8: All ordinances or parts of ordinances that are in conflict with the terms of this ordinance are hereby repealed.

SECTION 9: If any provision of this ordinance or application thereof to any person or circumstance is ruled unconstitutional or otherwise invalid, such invalidity shall not affect other provisions or applications of this ordinance that can be given effect without the invalid application or provision, and each invalid provision or invalid application of this ordinance is severable.

SECTION 10: The findings and recitals herein are hereby declared to be prima facie evidence of the law of the City and shall be received in evidence as provided by the Illinois Compiled Statutes and the courts of the State of Illinois.

Ayes: 8

Nays: 0

Introduced: September 8, 2014

Adopted: September 22, 2014

Attest:

Rodney Greene
Rodney Greene, City Clerk

Approved:

September 24, 2014

Elizabeth B. Tisdahl
Elizabeth B. Tisdahl, Mayor

Approved as to form:

W. Grant Farrar *mam.*
W. Grant Farrar, Corporation Counsel

EXHIBIT 1

ORDINANCE 93-O-03

10/15/2003

93-O-03

AN ORDINANCE

**GRANTING A SPECIAL USE FOR A
PLANNED DEVELOPMENT IN THE D3 DOWNTOWN
CORE DEVELOPMENT ZONING DISTRICT AND
THE D2 DOWNTOWN RETAIL CORE ZONING DISTRICT AT
1710 ORRINGTON AVENUE/1717-1725 SHERMAN AVENUE**

WHEREAS, Orrington Hotel, LLC, as owner of the Property, as hereinafter defined ("Owner"), submitted an application to the City of Evanston (the "City") seeking approval of a special use for a planned development (the "Planned Development") including approval of development allowances related to building height and the ziggurat setback, as regulated in the Zoning Ordinance of the City of Evanston (the "Zoning Ordinance"), as affects certain property located within the D3 Downtown Core Development Zoning District (the "D3 District") and the D2 Downtown Retail Core Zoning District (the "D2 District") and shown on the Development Plan (as hereinafter defined); and

WHEREAS, 1710 Orrington Avenue, improved with the Orrington Hotel, is generally located in the area bounded by Orrington Avenue, Church Street, that certain public alley located parallel to and south of Clark Street and that certain public alley located parallel to and east of Sherman Avenue (the "Hotel Parcel") and 1717-1725 Sherman Avenue, the parking garage, is generally located in the area bounded by Sherman Avenue, that certain public alley located parallel to and south of Clark Street and that certain public alley located parallel to and east of Sherman Avenue (the

"Garage Parcel") (the Garage Parcel and the Hotel Parcel are collectively referred to herein as the "Property" and are more particularly described in Exhibit A attached hereto and made a part hereof); and

WHEREAS, the Hotel Parcel is currently improved with the building and other improvements commonly known as the Orrington Hotel and the Garage Parcel is currently improved with the building and other improvements commonly known as 1717-1725 Sherman Avenue (the Orrington Hotel's parking garage) and the Property is intended to be further developed pursuant to those certain Orrington Hotel Revitalization Plans, including a Site Plan, Ninth Floor Conference Center Plans and Building Elevations and Sections, and Sherman Avenue Residential Development plans, all prepared by Destefano Keating Partners Limited and dated September 4, 2003 which are attached hereto and made a part of this Ordinance as Exhibit B (collectively, the "Development Plan"); and

WHEREAS, The Garage Parcel (a lot held in single ownership) is located primarily in the D3 District but also partially in the D2 District, and, therefore, pursuant to Section 6-7-2 (B) 3 of the Zoning Ordinance and for purposes of this Special Use Ordinance, the Zoning Administrator has determined that the D3 District regulations extend to the entire Garage Parcel and, in addition, that the Property should be treated as a single zoning lot;

WHEREAS, the development of the Property pursuant to the Development Plan requires development allowances from the strict application of the D3 District regulations of the Zoning Ordinance so as to permit construction of structures to defined

building heights in excess of heights permitted by and with setbacks other than the ziggurat setback required by applicable regulations of the Zoning Ordinance; and

WHEREAS, pursuant to Sections 6-3-6-4 and 6-3-6-5 of the Zoning Ordinance, a planned development may provide for development allowances which depart from height, setback, and other regulations established in the Zoning Ordinance, subject to approval of the City Council; and

WHEREAS, the City's Plan Commission conducted a public hearing on September 10, 2003, and September 17, 2003 pursuant to proper notice in case no. ZPC 03-10-RD making a written record thereof, upon application of Owner for approval of a special use to establish the Planned Development and the Plan Commission made certain findings of fact and recommended that the Planned Development be approved, subject to certain conditions, including the requested relief related to defined building height and the ziggurat setback, which findings and recommendation are incorporated herein by reference; and

WHEREAS, the Planning and Development Committee of the City Council considered the record and recommendations of the Plan Commission at its October 13, 2003 meeting and recommended approval of the application; and

WHEREAS, the City Council considered the respective records and recommendations of the Plan Commission and Planning and Development Committee at its October 13, 2003 meeting; and

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EVANSTON, COOK COUNTY, ILLINOIS:

SECTION ONE: That the aforedescribed Planned Development, case no. ZPC-03-10-PD, be and it is hereby approved to permit the construction and operation on the Property of a hotel to include, among other things, a new conference and meeting facility, and no more than thirty (30) residential units to be constructed above the existing Garage Parcel substantially in conformance with the D3 District regulations, the Development Plan as approved by the City and the terms of this Ordinance, all on property legally described in Exhibit A attached hereto and made a part hereof.

SECTION TWO: That the City Council adopts the findings of the Plan Commission that the application meets the standards for special uses set forth in Section 6-3-5-10 of the Zoning Ordinance, as follows:

- a) Planned developments are a listed special use in the D3 District, pursuant to Section 6-11-9-3.
- b) The proposed Planned Development is in keeping with the purposes and policies of the Comprehensive General Plan and the Zoning Ordinance, as amended from time to time in that the proposed use will enhance the existing assets of the central business district which will in turn bolster the overall social and economic quality of the City, will preserve and energize the existing character of downtown, will add housing stock to the central business district which will in turn increase the property tax base of the City, will promote the growth of downtown by attracting new business and business opportunities, will promote a mixed-use central business district that will be attractive, convenient and economically vibrant, and will promote the downtown as a viable tourist destination.
- c) The proposed Planned Development will not have a negative cumulative effect in conjunction with other special uses in the immediate neighborhood and the City as a whole, in that it will help to solidify the fundamental character of the area surrounding the Property and help to establish a precedent of preservation which will impact the City positively.
- d) The proposed Planned Development does not interfere with or diminish the value of property in the neighborhood, in that it has no

adverse impact on the value of property and encourages a higher incremental assessed valuation for property within the Downtown District.

- e) The proposed Planned Development can be adequately served by public facilities and services, in that existing streets and other infrastructure are sufficient to meet the proposed development's needs and will remain that way after completion of the proposed planned development.
- f) The proposed Planned Development will not cause undue traffic congestion, in that the existing streets, the parking garage located on the Property and other infrastructure are sufficient to meet the proposed development's needs.
- g) The proposed Planned Development will preserve and enhance the Orrington Hotel, a building which has been a cornerstone in downtown Evanston since the 1920s.
- h) There are no significant natural and environmental features at the site. The Property currently occupies 100% of the site area and there will be no change to the natural and environmental conditions of the site.
- i) The proposed development will comply with all applicable legislation.

SECTION THREE: That the City Council adopts the findings of the Plan Commission that the application met the standards for planned developments set forth in the Downtown Districts provisions in Section 6-11-1-10 (A), Section 6-11-1-10 (B), and Section 6-11-1-10 (C) of the Zoning Ordinance:

6-11-1-10 (A)

- a. 1) As required by Section 6-11-1-10 (A), the proposed development is compatible with surrounding development, and will not exercise any influence contrary to the purpose and intent of the Zoning Ordinance. The hotel has been at its existing location since the 1920s, and the only significant change to the hotel will be the construction of a conference and meeting facility on the remaining portion of ninth floor of the hotel which will have a height matching the existing structure. The addition of three stories containing no more than thirty (30) residential units to the Garage Parcel will

result in a mixed-use development that will be compatible with surrounding developments which are also characterized by a mixed-use character.

- 2) The proposed development will enhance the existing downtown by maintaining and improving the Orrington Hotel and its accessory restaurant and retail uses, and the addition of no more than thirty (30) one- and two-bedroom residential units to the downtown will add to the revitalization of downtown, enhance the taxable value of the Garage Parcel and land and buildings throughout the City, and contribute to a mixed use vitality by attracting new business opportunities, including conventions and tourists.
 - 3) The proposed development will be compatible with and implement the Comprehensive General Plan, the Plan for Downtown Evanston and the Zoning Ordinance, as stated in Section Two above.
- b. The proposed planned development meets all requirements of Section 6-11-1-10 (B), relating in general to need for the proposed use and such site controls and standards as safe and convenient, pedestrian and vehicular movement, utility location and capabilities.
 - c. The requirements of Section 6-11-1-10 (C) are met in that: The proposed development's divergences from as-of-right allowances are within the planned development allowances. The proposal is within the maximum allowable FAR, without any zoning relief, and the maximum defined building height which shall be no greater than the height of the existing tenth floor, or 111 feet (as measured from grade to the top of the tenth floor roof) for the Hotel Parcel is considerably less than 170 feet. The development's major divergences from the D3 District's as-of-right requirements, regarding the ziggurat setback are acceptable at this location under the circumstances of this proposal and are consistent under the circumstances of this proposal with the values and goals of the Comprehensive General Plan for Downtown Evanston.

SECTION FOUR: Pursuant to Section 6-3-6-5 of the Zoning Ordinance, a development allowance relative to the regulations of Section 6-11-1-4 of the Zoning Ordinance is hereby granted to waive the requirement set forth in Section 6-11-1-4 of the Zoning Ordinance to permit (i) the construction of a structure on the Garage Parcel as part of the Planned Development which shall have a thirteen- (13-) foot ziggurat setback, instead of the required forty- (40-) foot ziggurat setback, and (ii) the

construction of a conference and meeting facility on the remaining portion of the ninth floor of the Hotel Parcel as part of the Planned Development which shall have an approximately ten- (10-) foot setback from the south lot line along Church Street and a setback ranging between zero (0) feet and three and one-half (3 ½) feet from the east lot line along Orrington Avenue, instead of the required forty- (40-) foot ziggurat setback, all in accordance with the Development Plan.

SECTION FIVE: Pursuant to Section 6-3-6-5 of the Zoning Ordinance, a development allowance relative to the regulations of Section 6-11-5-8 of the Zoning Ordinance is hereby granted to waive the requirement set forth in Section 6-11-5-8 of the Zoning Ordinance to permit the construction of a structure on the Hotel Parcel as part of the Planned Development which shall have a defined building height no greater than the height of the existing tenth floor, a defined building height of 111 feet (as measured from grade to the top of the tenth floor roof) with a maximum height to the top of the existing hotel's cupola of approximately 136 feet, all in accordance with the Development Plan.

SECTION SIX: The development of the residential units (the "Residential Development") to be constructed above the existing parking garage located on the Garage Parcel shall comply in all material respects with the following guidelines and with the Development Plans:

- a. The Residential Development shall contain no more than 30 residential or long-term stay hotel units and no more than three stories;
- b. The Residential Development (a) will consist of architectural stucco, specifically not including EFIS or "Dryvit"; (b) will contain new load bearing points that will be placed over the existing column points

and integrated into the existing structural grid of the garage; and (c) will be set back thirteen (13) feet from Sherman Avenue;

- c. In order to provide for the clearest vertical circulation and to maintain the existing garage layout, including it's vehicular ingress and egress, the residential elevator and new stairwell to be constructed as a part of the Residential Development will be located on the ground floor within the retail portion of the Garage Parcel;
- d. The Owner agrees that it will obtain the review and recommendation for the Residential Development from the Plan Commission and approval by the City Council with respect to appearance of the Residential Development including without limitation colors, materials, landscape plan, architectural detailing such as banding and window openings and spacing; and
- e. To the extent applicable and notwithstanding Sections 6-3-5-15 (a) and 6-11-1-10 (A) (4) of the Zoning Ordinance, which provides that a special use permit be valid for only one year unless a building permit is issued and construction is actually begun within that period, the special use permit being issued as part of this Ordinance shall be subject to the provisions set forth in Section Nine below.

SECTION SEVEN: All requirements applicable in the D3 District as provided in the Zoning Ordinance shall govern and remain in full force and effect with respect to the use and development of the Property, except as and to the extent said requirements have been modified by this Ordinance, and the Property may be developed in any manner that conforms to said requirements as modified hereby.

SECTION EIGHT: Nothing herein shall be construed to prohibit or in any way restrict the alienation, sale or any other transfer of all or any portion of the Property or any rights, interests or obligations therein, provided that after such alienation, sale, or other transfer, all applicable requirements of this Zoning Ordinance and the City Code are met.

SECTION NINE: The two-year completion date provided for in Sections 6-3-5-15 (a) and 6-11-1-10 (A) (4) of the Zoning Ordinance, is hereby extended to five (5) years to allow for staged development, of the approved plans on file and representations of the Owner. If a perfected application for a building permit for the improvements described in the Development Plan is not filed with the City within five- (5-) years following adoption of this Ordinance (rather than twelve months), then the Planned Development shall expire. Said five- (5-) year period may be extended by and if, within that period, upon written request from Owner, the City Council determines that good cause for such extension is shown. Any extension granted may be subject to conditions, as provided for in Section 6-11-1-10 (A) 4 of the Zoning Ordinance. The City Council is under no obligation to grant an extension. The Planned Development will be constructed in phases and multiple building permits may be sought in connection with the construction of improvements in accordance with the Development Plan. Owner shall have twenty-four (24) months from date a building permit for improvements described in the Development Plans is issued by the City to complete the construction of the work authorized by said permit. If construction of the improvements described in the Development Plan are begun and is being diligently pursued within such twenty-four (24) month period, but are not completed, then such twenty-four (24) month time period for required completion of the Planned Development is set forth in this Ordinance may, upon prior approval by the City Council, be extended to permit the completion of said construction.

SECTION TEN: Construction of the Planned Development as set forth in the Development Plan and this Ordinance shall be subject to the Site Plan and Appearance

Review provisions of the City Code, the Owner's agreement to the conditions set forth in Section Six of this Ordinance, and in accordance with representations of the Owner to the Plan Commission, the Planning and Development Committee, and the City Council.

SECTION ELEVEN: References herein to the "Zoning Ordinance" shall in all cases mean the Zoning Ordinance in effect as of the date hereof; provided, however, except as provided in Section 10 of this Ordinance, that if the Zoning Ordinance is hereafter amended or interpreted so as to be less restrictive relative to the use and development of the Property than is currently the case, then such less restrictive amendment or interpretation shall control.

SECTION TWELVE: References herein to the "Owner" shall in all cases mean Orrington Hotel, LLC and any and all successor owners, and operations of the Hotel Parcel and/or the Garage Parcel, as applicable.

SECTION THIRTEEN: Applicant is required to record at its cost a certified copy of this Ordinance along with the development plan in the Cook County Recorder's Office and to provide a copy of same to the City's Zoning Administrator before any permits may be obtained.

SECTION FOURTEEN: All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION FIFTEEN: This Ordinance shall be in full force and effect from and after its passage, approval, and publication in the manner provided by law.

AYES: 7
NAYS: 0

Introduced: October 13, 2003

Adopted: October 13, 2003

Approved: October 14, 2003

Lorraine H. Norton
Mayor

ATTEST:

Mary J. Harris
City Clerk

Asst. Corporation Counsel:
[Signature]