

[DRAFT] RESOLUTION NO. 21-0005

RESOLUTION OF THE MANHATTAN BEACH CITY COUNCIL
MODIFYING CONDITIONS TO A USE PERMIT FOR AN EXISTING
VISITOR ACCOMMODATION USE LOCATED AT 1700 NORTH
SEPULVEDA BOULEVARD; AND MAKING AN ENVIRONMENTAL
DETERMINATION IN ACCORDANCE WITH THE CALIFORNIA
ENVIRONMENTAL QUALITY ACT (RESIDENCE INN BY MARRIOTT)

THE MANHATTAN BEACH CITY COUNCIL HEREBY FINDS, DETERMINES AND
RESOLVES AS FOLLOWS:

SECTION 1. WH Manhattan Beach LP (the “Owner” hereinafter) owns the Residence Inn by Marriott (the “Inn” hereinafter) on the commercially-zoned property located at 1700 North Sepulveda Boulevard (the “Site”). On January 2, 1985, the City Council adopted Resolution No. 4181 and Resolution No. 4182, granting a Conditional Use Permit and Variance for the construction and operation of a 176-room motel with conference facilities on the Site, subject to conditions. On September 19, 1990, the Planning Commission approved Conditional Use Permit Amendment 90-46 (Resolution PC 90-24) to allow beer and wine service at the motel, subject to conditions. Hereinafter, the original Conditional Use Permit and all amendments thereto, will be referred to as the “Use Permit.”

SECTION 2. A shooting occurred at the Site on September 8, 2020, prompting the Mayor to request a report on the Inn at the next City Council meeting. After providing advance notice to representatives of the Owner (“Inn Representatives” hereinafter), staff presented a report outlining the shooting incident, additional incidents, and complaints from neighboring residents, at a duly noticed City Council meeting held on September 15, 2020. The report states that Manhattan Beach Police Department records indicate that the site had experienced heightened criminal activity. The September 15, 2020 staff report and attachments thereto are hereby incorporated herein by this reference. Residents who live near the Inn provided comments and complaints about the Inn. After the staff’s presentation and public comments, the City Council requested that staff schedule a review of the Use Permit, in accordance with Municipal Code Section 10.84.070(B)(4) and Condition No. 24 in Resolution 4181. Municipal Code Section 10.84.070(B)(4) and Condition No. 24 authorize the City Council to conduct a review of the Use Permit to determine compliance with conditions imposed and Municipal Code requirements.

SECTION 3. On October 20, 2020, the City Council reviewed the Use Permit pursuant to Municipal Code Section 10.84.070(B)(4) and Use Permit Condition No. 24. After receiving input from staff, Inn Representatives, and residents who live in the vicinity of the Inn, the City Council determined that there are reasonable grounds to consider revocation or modification of the Use Permit. The October 10, 2020 staff report and attachments thereto are hereby incorporated herein by this reference. The Council directed staff to

schedule a public hearing to consider modifying the conditions of approval for the Use Permit in accordance with Municipal Code Section 10.104.030. Municipal Code Section 10.104.030 provides that, upon making a finding that that “the terms or conditions of approval of the permit have been violated or that other laws or regulations have been violated”, the City shall revoke or modify the conditions of a use permit.

SECTION 4. On January 5, 2021, the City Council conducted a duly noticed public hearing to consider whether the terms or conditions of approval of the Use Permit have been violated or that other laws or regulations have been violated. If the Council so determines, the Municipal Code requires either revocation of the use permit or modification to the conditions of approval. Evidence, both written and oral, was presented to the Council, including a staff report and staff presentation. All persons wishing to address the Council regarding the Inn before and during the hearing were provided an opportunity to do so in full compliance with the Brown Act, as modified by Governor Gavin Newsom’s Executive Order N-29-20 for public hearings occurring during the COVID-19 emergency. The City provided Inn Representatives with ample opportunity to submit material in advance of the meeting, and provided them with an opportunity to speak during the public hearing. Inn Representatives provided comments.

SECTION 5. The record of the public hearing indicates:

- A. The City Council approved a Conditional Use Permit and associated Variance on January 2, 1985, for the construction and operation of a 176-room motel with conference facilities at the Site. In 1990, the City approved Use Permit Amendment 90-46 to allow beer and wine service at the motel.
- B. A shooting occurred at the Site on September 8, 2020. At a duly noticed City Council meeting held on September 15, 2020, staff presented the City Council with a report about the shooting incident, additional incidents, complaints from neighboring residents, and heightened criminal activity at the Site.
- C. After considering a staff report, comments from the public, and comments from Inn Representatives at a duly noticed City Council meeting held on October 20, 2020, the City Council determined that there are reasonable grounds for revocation or modification of the conditions of approval and directed staff to schedule a public hearing to consider modifications to the Use Permit’s conditions of approval in accordance with Municipal Code Section 10.104.030.
- D. In an effort to address the issues referenced above, Inn Representatives have worked closely with City staff and residents to develop measures designed to enhance safety, reduce and eliminate noise, and enable the Inn to operate in a manner that is compatible with surrounding uses. Among other measures, Inn Representatives have offered to:
 - Install additional flood lights and security cameras;
 - Install a gated parking control system;

- Implement a neighborhood communications protocol; and
- Improve the existing wall between the Site and the residential neighbors to the east.

E. The modifications proposed herein are limited to operational changes and minor site improvements to an existing land use, and will not intensify the current use. The proposed modifications are designed to modify site operations to protect the public health, safety and welfare of persons residing or working near the Site, and to enable the use to be compatible with surrounding uses. The proposed modifications conform with Goal LU-5, Policy LU-5.1 of the City's General Plan, which requires the separation or buffering of residential areas from businesses which may generate, *inter alia*, noise, odors, high traffic volumes, light or glare, or adverse impacts on resident security and personal safety. The addition of flood lights and security cameras on the Site will enable the hotel management to monitor activity on the site, particularly the eastern portion closest to residential properties. The addition of gated parking control system will ensure that use of the parking lot is limited to those authorized to be on the site. The implementation of a neighborhood communications protocol will enable the hotel and surrounding residents to be aware of any new or ongoing issues, and preemptively and proactively address them in an effort to minimize demands on public services, such as police calls. The improved wall will decrease noise migrating off-site and increase safety.

SECTION 6. Staff has determined, and the City Council in its independent judgment finds, in light of the whole record before it, that the proposed modifications to conditions is categorically exempt from the requirements of the California Environmental Quality Act (CEQA), pursuant to State CEQA Guidelines (14 Cal. Code Regs.) Section 15301 (Existing Facilities), as the proposed modifications involve no expansion of the existing hotel use. Pursuant to State CEQA Guidelines Section 15300.2 (Exceptions), there is no reasonable possibility that the activity will have a significant impact on the environment because there are no unusual circumstances in this situation. The Project will neither individually nor cumulatively have an adverse effect on wildlife resources, as defined in Fish and Game Code Section 711.2.

SECTION 7. Based upon the foregoing, and evidence presented at the public hearing, the Council hereby finds:

- A. State statutes and City law have been violated on the Site. Crime has occurred in violation of the California Penal Code. Municipal Code regulations, including but not limited to Chapter 4.116 smoking regulations and Chapter 5.48 noise regulations, have been violated. As the owner of the property, the Owner has a duty to prevent these violations on its property, and take measures designed to eliminate, mitigate and reduce such violations.
- B. In light of Finding A, the City Council must either revoke the Use Permit or modify

the conditions of approval pursuant to Manhattan Beach Municipal Code Section 10.104.030D. Based upon the measures taken by the Inn, and its agreement to take the additional measures listed in subsection D of Section 5 of this Resolution, modification of the conditions of approval should adequately ameliorate the factors leading to this hearing.

- C. Modifying the conditions of approval by adding reasonable conditions and modifying existing conditions is necessary to protect the public health, safety and welfare of persons residing or working near the Site, and to enable the use to be compatible with surrounding uses.

SECTION 8. Based upon the foregoing, and after considering all of the evidence in the record, the City Council hereby modifies the Use Permit conditions of approval by adding the following conditions, which supplement all existing conditions provided in Resolution Nos. 4181 and 4182 and Resolution PC 90-24:

1. The Owner shall install motion-activated flood lights to illuminate the rear of the property, adjacent to the eastern property line. Lights shall be shielded to prevent light trespass into the residential neighborhoods adjacent to the project site. The Owner shall submit plans for said flood lights to the City for formal plan review no later than January 15, 2021, with installation to be completed no later than 90 days from permit issuance.
2. The Owner shall install an on-site security system no later than March 18, 2021 and shall maintain said system for the duration of the operation of the site as a Visitor Accommodation use. The system shall include cameras at no fewer than four locations within the eastern portion of the property, as well as cameras specifically facing the eastern property line fence. The security cameras shall supplement existing hotel protocols for on-site security personnel.
3. The Owner shall install and maintain a gated traffic-control system in the parking lot of the site. The system shall limit vehicular access to the main portion of the parking lot to hotel patrons and those with hotel-issued access identification. Plans for the gate system shall be submitted to the City for formal plan review no later than January 15, 2021, with construction to be completed no later than 90 days from permit issuance, to the satisfaction of the Community Development Director.
4. Commencing no later than January 15, 2021, and for the duration of the operation as a Visitor Accommodation use, the Owner shall require a guest signature on a "Code of Conduct" upon guest check-in. The "Code of Conduct" or similarly titled statement shall: (a) advise guests of their obligations in respect to the hotel's and City's non-smoking policies and laws; (b) require guests to observe the hotel's posted "quiet hours" inside and outside of their guestrooms and to comply with

the City's noise ordinance; (c) acknowledge the hotel's posted limits on guestroom occupancy from 9:00 P.M. to 9:00 A.M.; and (d) acknowledge that violations of the "Code of Conduct" may result in forfeiture of up to all of the guest's deposit and/or eviction from the hotel.

5. Effective immediately, the Owner shall establish a direct line of communication, via phone, email or similar technology, by which neighboring property owners may directly communicate with hotel management. Additionally, the Owner shall host, at a minimum, one meeting per year, virtual or in person, with the neighboring community to field questions or concerns regarding operation of the hotel. The Owner shall notify the Community Development Director of any meetings two weeks in advance of the scheduled date of the meeting.
6. In the event that a lawsuit is filed challenging the City Council's determinations herein, including its CEQA determination, the Owner shall defend, indemnify, and hold harmless the City, its elected officials, officers, employees, volunteers, agents, and those City agents serving as independent contractors in the role of City officials (collectively "Indemnitees") from and against any claims, damages, actions, causes of actions, lawsuits, suits, proceedings, losses, judgments, costs, and expenses (including, without limitation, attorneys' fees or court costs) in any manner arising out of or incident to the City Council's determinations herein, including its CEQA determination. The Owner shall pay and satisfy any judgment, award or decree that may be rendered against City or the other Indemnitees in any such suit, action, or other legal proceeding. The City shall promptly notify the Owner of any claim, action, or proceeding and the City shall reasonably cooperate in the defense. If the City fails to promptly notify the Owner of any claim, action, or proceeding, or if the City fails to reasonably cooperate in the defense, the Owner shall not thereafter be responsible to defend, indemnify, or hold harmless the City or the Indemnitees. The City shall have the right to select counsel of its choice. The Owner shall reimburse the City, and the other Indemnitees, for any and all legal expenses and costs incurred by each of them in connection therewith or in enforcing the indemnity herein provided. Nothing in this condition shall be construed to require the Owner to indemnify Indemnitees for any Claim arising from the sole negligence or willful misconduct of the Indemnitees. In the event such a legal action is filed challenging the City's determinations herein, the City shall estimate its expenses for the litigation. The Owner shall deposit said amount with the City or enter into an agreement with the City to pay such expenses as they become due.
7. The provisions, terms and conditions set forth herein are perpetual, and are binding on the Owner, its successors-in-interest, and, where applicable, all tenants and lessees of the site. Further, the Owner shall submit the covenant, prepared and approved by the City, indicating its consent to the conditions of approval of this Resolution, and the City shall record the covenant with the Office of the County Clerk/Recorder of Los Angeles. The Owner shall deliver the

executed covenant, and all required recording and related fees, to the Department of Community Development within 30 days of the adoption of this Resolution. Notwithstanding the foregoing, the Community Development Director may, upon a request by the Owner, grant an extension to the 30-day time limit.

SECTION 9. Based upon the foregoing, and after considering all of the evidence in the record, the City Council hereby replaces Condition No. 18 in Resolution 4181 with the following condition:

8. The Owner shall increase the height of the eastern perimeter wall/fence to no less than eight feet above grade level on the western side of the fence and no less than 10 feet above grade level on the eastern side of the fence. Furthermore, the Owner shall incorporate emergency vehicle access gates controlled only by the City at the existing eastern entryway, inclusive of a rubber strip at the bottom of the emergency gates to fill in any gaps and prevent trash or other debris from inadvertently traveling into the adjacent residential neighborhood. The Owner shall cooperate with the abutting property owners regarding the wall/fence design. The plans for the wall/fence, as agreed upon by abutting property owners, shall be submitted to the City for formal plan review no later than January 15, 2021, with construction to be completed no later than 90 days from permit issuance.

SECTION 10. The City Council's decision is based upon each of the totally independent and separate grounds stated herein, each of which stands alone as a sufficient basis for its decision.

SECTION 11. The time within which judicial review, if available, of this decision must be sought is governed by California Code of Civil Procedure Section 1094.6, unless a shorter time is provided by other applicable law. The City Clerk shall mail by first class mail, postage prepaid, a certified copy of this Resolution and a copy of the affidavit or certificate of mailing to the Residence Inn by Marriott, and to any other persons or entities requesting notice of the decision.

SECTION 12. The City Clerk shall certify to the adoption of this Resolution.

ADOPTED on January 5, 2021

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

SUZANNE HADLEY
Mayor

LIZA TAMURA
City Clerk