

April 11, 2002

**Honorable Chairman and Members of the
Hermosa Beach Planning Commission**

**Regular Meeting of
April 16, 2002**

SUBJECT: CONDITIONAL USE PERMIT MINOR AMENDMENT 02-4

LOCATION: 205 PIER AVENUE

APPLICANT: WON SAM & KATSUKO Y. AHN
ALTA-DENA DAIRY
205 PIER AVENUE
HERMOSA BEACH, CA 90254

REQUEST: TO CHANGE HOURS OF OPERATION OF AN EXISTING MARKET WITH OFF-SALE BEER AND WINE FROM 7:00 A.M. TO 10:00 P.M. TO 8:00 A.M. TO 12 MIDNIGHT SUNDAY THROUGH THURSDAY, AND TO 2:00 A.M. FRIDAY AND SATURDAY

Recommendation

Approve the request subject to the conditions as contained in the attached resolution.

Background

ZONING: C-2, Restricted Commercial

GENERAL PLAN: General Commercial

ENVIRONMENTAL DETERMINATION: Categorically Exempt

On July 12, 1983, the City Council granted a Conditional Use Permit for the sale of beer and wine in conjunction with a market at this location. On October 16, 1990, the Planning Commission approved a CUP Amendment request to extend the hours of operation to 7:00 a.m. to 10:00 p.m. and add 250 square feet. The property is located on the northeast corner of Manhattan and Pier Avenues with commercially zoned property to the north and east.

Analysis

The applicant is requesting to extend the hours of operation for the subject drive-thru dairy use from 7:00 a.m. to 10:00 p.m. daily to 8:00 a.m. to 12:00 a.m. (midnight) Sunday through Thursday and 2:00 a.m. Friday and Saturday. Section 17.26.030 of the Hermosa Beach Zone Code requires Conditional Use Permit approval to permit off-sale alcohol establishments in all commercial zones if such establishments stay open between 11:01 p.m. and 2:00 a.m. any day. The drive-thru dairy stays open until 10:00 p.m. daily as a condition of their existing C.U.P. even though current land use regulations allow off-sale alcohol establishments by right in all commercial zones if such establishments close at 11:00 p.m. or earlier.

There are two similar uses nearby, Abe's Liquor and Food Bar (formerly Simpson's Market), which have Conditional Use Permits allowing them to stay open past 11:00 p.m. every night of the week. Staff has also received several correspondence from neighboring residents both in support and against the subject minor amendment to extend the dairy's hours of operation (see Attachment 3). Staff believes that extending the hours of operation for the subject use, if mitigated with conditions in the attached resolution, will not be detrimental to the surrounding residential neighborhood and is compatible with surrounding commercial uses. These conditions of approval include adequate staffing to prevent loitering and littering, noise control, and review of the project by the Planning Commission in six months to determine if any violation of the conditions of approval and/or violation of the Hermosa Beach Municipal Code has occurred.

CONCUR:

Scott Lunceford
Planning Assistant

Sol Blumenfeld, Director
Community Development Department

Attachments

1. Resolution
2. Location Map
3. Correspondence

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P.C. RESOLUTION 02-

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF HERMOSA BEACH, CALIFORNIA APPROVING A CONDITIONAL USE PERMIT MINOR AMENDMENT TO CHANGE HOURS OF OPERATION OF AN EXISTING MARKET WITH OFF-SALE BEER AND WINE FROM 7:00 A.M. TO 10:00 P.M. TO 8:00 A.M. TO 12 MIDNIGHT SUNDAY THROUGH THURSDAY, AND 2:00 A.M. FRIDAY AND SATURDAY FOR 205 PIER AVENUE, LEGALLY DESCRIBED AS LOT 1, BLOCK 49, FIRST ADDITION TO HERMOSA BEACH TRACT

Section 1. An application was filed by Won Sam & Katsuko Y. Ahn, seeking a minor amendment to an existing conditional use permit to change hours of operation of an existing market with off-sale beer and wine from 7:00 A.M. to 10:00 P.M. to 8:00 A.M. to 12 midnight Sunday through Thursday, and to 2:00 A.M. Friday and Saturday.

Section 2. The Planning Commission conducted a duly noticed public hearing to consider the application to amend the Conditional Use Permit on April 16, 2002, at which testimony and evidence, both written and oral, was presented to and considered by the Planning Commission.

Section 3. Based on evidence received at the public hearing, the Planning Commission makes the following factual findings:

1. The business is currently operating under the terms of a Conditional Use Permit, as amended, approved in 1990, for on-sale alcohol (beer/wine) in conjunction with a market with hours of operation from 7:00 A.M. to 10:00 P.M. daily.
2. The property is zoned C-2, with commercially zoned property to the north and east.

Section 4. Based on the foregoing factual findings, the Planning Commission makes the following findings pertaining to the application to amend the Conditional Use Permit:

1. The site is zoned C-2, and is suitable for the proposed use with the proposed amendment for extended hours with off-sale alcohol;
2. The proposed use with extended hours is compatible with surrounding commercial uses;
3. The imposition of conditions as required by this resolution will mitigate any negative impacts on nearby residential or commercial properties;
4. The amendment is Categorically Exempt from the requirement for an environmental assessment pursuant to Section 15301 class 1 (involving negligible or no expansion of use beyond that previously existing) of the California Environmental Quality Act.

Section 5. Based on the foregoing, the Planning Commission hereby approves amendments to the Conditional Use Permit, subject to the following **Conditions of Approval**, which supersede the Conditions contained in P.C. Resolution 90-85:

1. **The plans shall remain in substantial conformance with plans submitted and approved at the October 16, 1990 Planning Commission meeting.**

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- 2. Operating hours shall be limited to between 8:00 A.M. and 12:00 A.M. Sunday through Thursday, and 2:00 A.M. Friday and Saturday.**
- 3. The establishment shall not adversely effect the welfare of the residents, and/or commercial establishments nearby.**
- 4. The business shall provide adequate staffing, management and supervisory techniques to prevent loitering, littering, unruliness, and boisterous activities of the patrons outside the business and in nearby public areas.**
- 5. Noise emanating from the property shall be within the limitations prescribed by the City's Noise Ordinance and shall not create a nuisance to surrounding residential neighborhoods, and/or commercial establishments.**
- 6. The exterior of all the premises shall be maintained in a neat and clean manner, and maintained free of graffiti at all times.**
- 7. The project and operation of the business shall comply with all applicable requirements of the Municipal Code.**
- 8. The project and operation of the business shall be reviewed in six months. Any violation of the Conditions of approval and/or violation of the Hermosa Beach Municipal Code may be grounds for a public hearing for revocation of the Conditional Use Permit.**

Section 6. This grant shall not be effective for any purposes until the permittee and the owners of the property involved have filed at the office of the Planning Division of the Community Development Department their affidavits stating that they are aware of, and agree to accept, all of the conditions of this grant.

The Conditional Use Permit Amendment shall be recorded, and proof of recordation shall be submitted to the Community Development Department.

Each of the above conditions is separately enforced, and if one of the conditions of approval is found to be invalid by a court of law, all the other conditions shall remain valid and enforceable.

Permittee shall defend, indemnify and hold harmless the City, its agents, officers, and employees from any claim, action, or proceeding against the City or its agents, officers, or employee to attack, set aside, void or annul this permit approval, which action is brought within the applicable time period of Government Code. The City shall promptly notify the permittee of any claim, action, or proceeding and the City shall cooperate fully in the defense. If the City fails to promptly notify the permittee of any claim, action or proceeding, or if the City fails to cooperate fully in the defense, the permittee shall no thereafter be responsible to defend, indemnify, or hold harmless the City.

The permittee shall reimburse the City for any court and attorney's fees which the City may be required to pay as a result of any claim or action brought against the City because of this grant. Although the

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permittee is the real party in interest in an action, the City may, at its sole discretion, participate at its own expense in the defense of the action, but such participation shall not relieve the permittee of any obligation under this condition.

The subject property shall be developed, maintained and operated in full compliance with the conditions of this grant and any law, statute, ordinance or other regulation applicable to any development or activity on the subject property. Failure of the permittee to cease any development or activity not in full compliance shall be a violation of these conditions.

The Planning Commission may review this Conditional Use Permit and may amend the subject conditions or impose any new conditions if deemed necessary to mitigate detrimental effects on the neighborhood resulting from the subject use.

VOTE: AYES:
 NOES:
 ABSENT:
 ABSTAIN:

CERTIFICATION

I hereby certify the foregoing Resolution P.C. 02- is a true and complete record of the action taken by the Planning Commission of the City of Hermosa Beach, California, at their regular meeting of April 16, 2002.

Sam Perrotti, Chairman

Sol Blumenfeld, Secretary

Date_____

Cupr02-4