

1  
2 **RESOLUTION 02-**

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

10 Section 1. An application was filed by Won Sam & Katsuko Y. Ahn, seeking a minor  
11 amendment to an existing conditional use permit to change hours of operation of an existing market  
12 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  
13 through Thursday, and to 2:00 A.M. Friday and Saturday.

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

17 Section 3. The City Council conducted a duly noticed public hearing to consider the appeal of  
18 the application for the Conditional Use Permit on May 28, 2002, at which testimony and evidence, both  
19 written and oral, was presented to and considered by the City Council.

20 Section 4. Based on evidence received at the public hearing, the Planning Commission makes  
21 the following factual findings:

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

26 Section 5. Based on the foregoing factual findings, the City Council makes the following  
27 findings pertaining to the application to amend the Conditional Use Permit:

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

1                    Section 6. Based on the foregoing, the City Council hereby sustains the approval for the  
2 Conditional Use Permit minor amendment subject to the following **Conditions of Approval;**

- 3
- 4    **1.     The plans shall remain in substantial conformance with plans submitted and approved at**  
5                    **the October 16, 1990 Planning Commission meeting.**
- 6    **2.     Operating hours shall be limited to between 8:00 A.M. and 12:00 A.M. Sunday through**  
7                    **Thursday, and 2:00 A.M. Friday and Saturday.**
- 8    **3.     The establishment shall not adversely effect the welfare of the residents, and/or**  
9                    **commercial establishments nearby.**
- 10   **4.     The business shall provide adequate staffing, management and supervisory techniques**  
11                    **to prevent loitering, littering, unruliness, and boisterous activities of the patrons**  
12                    **outside the business and in nearby public areas.**
- 13   **5.     Noise emanating from the property shall be within the limitations prescribed by the**  
14                    **City's noise ordinance and shall not create a nuisance to surrounding residential**  
15                    **neighborhoods, and/or commercial establishments.**
- 16   **6.     The exterior of all the premises shall be maintained in a neat and clean manner, and**  
17                    **maintained free of graffiti at all times.**
- 18   **7.     The operation of the business shall comply with all applicable requirements of the**  
19                    **Municipal Code.**
- 20   **8.     The operation of the business shall be reviewed in six months. Any violation of the**  
21                    **Conditions of approval and/or violation of the Hermosa Beach Municipal Code may be**  
22                    **grounds for a public hearing for revocation of the Conditional Use Permit.**

23                    Section 7. This grant shall not be effective for any purposes until the permittee and the owners of  
24 the property involved have filed a the office of the Planning Division of the Community Development  
25 Department their affidavits stating that they are aware of, and agree to accept, all of the conditions of this  
26 grant.

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

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

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

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29

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 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 City Council 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.

Section 8. Based on the foregoing, the City Council hereby sustains approval of a Conditional Use Permit 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.

**PASSED, APPROVED, and ADOPTED** this 28<sup>th</sup> day of May 2002

---

PRESIDENT of the City Council and MAYOR of the City of Hermosa Beach, California

ATTEST:

APPROVED AS TO FORM:

---

CITY CLERK

---

CITY ATTORNEY