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2 **RESOLUTION 02-**

3 **A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HERMOSA BEACH,**
4 **CALIFORNIA, MODIFYING A CONDITIONAL USE PERMIT MINOR AMENDMENT TO**
5 **CHANGE HOURS OF ALCOHOL SALES OF AN EXISTING DRIVE-THRU**
6 **DAIRY/MARKET WITH OFF-SALE BEER AND WINE AT 205 PIER AVENUE, LEGALLY**
7 **DESCRIBED AS LOT 1, BLOCK 49, FIRST ADDITION TO HERMOSA BEACH TRACT**

8 Section 1. An application was filed by Won Sam & Katsuko Y. Ahn, seeking a minor
9 amendment to an existing conditional use permit to change hours of alcohol sales of an existing drive-thru
10 dairy/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
11 Sunday through Thursday, and to 2:00 A.M. Friday and Saturday.

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

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

18 Section 4. Based on the foregoing factual findings, the City Council makes the following
19 findings pertaining to the application to amend the Conditional Use Permit:

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

28 Section 5. Based on the foregoing, the City Council hereby sustains the approval for the
29 Conditional Use Permit minor amendment subject to the following **Conditions of Approval**;

- 30 **1. The plans shall remain in substantial conformance with plans submitted and approved at**
31 **the October 16, 1990 Planning Commission meeting.**
- 32 **2. Alcohol sales shall be limited to between 6:00 A.M. and 11:00 P.M. Sunday through**
33 **Thursday, and 12:00 A.M. Friday and Saturday.**
- 34 **3. The establishment shall not adversely effect the welfare of the residents, and/or**
35 **commercial establishments nearby.**

- 1 **4. The business shall provide adequate staffing, management and supervisory techniques**
2 **to prevent loitering, littering, unruliness, and boisterous activities of the patrons outside**
3 **the business and in nearby public areas.**
- 4 **5. Noise emanating from the property shall be within the limitations prescribed by the**
5 **City's noise ordinance and shall not create a nuisance to surrounding residential**
6 **neighborhoods, and/or commercial establishments.**
- 7 **6. The exterior of all the premises shall be maintained in a neat and clean manner, and**
8 **maintained free of graffiti at all times.**
- 9 **7. The operation of the business shall comply with all applicable requirements of the**
10 **Municipal Code.**
- 11 **8. The operation of the business shall be reviewed by the Planning Commission in six**
12 **months. Any violation of the Conditions of approval and/or violation of the Hermosa**
13 **Beach Municipal Code may be grounds for a public hearing for revocation of the**
14 **Conditional Use Permit.**

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

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

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

23 Permittee shall defend, indemnify and hold harmless the City, it agents, officers, and employees from any
24 claim, action, or proceeding against the City or its agents, officers, or employee to attack, set aside, void or
25 annul this permit approval, which action is brought within the applicable time period of the State
26 Government Code. The City shall promptly notify the permittee of any claim, action, or proceeding and
27 the City shall cooperate fully in the defense. If the City fails to promptly notify the permittee of any claim,
28 action or proceeding, or if the City fails to cooperate fully in the defense, the permittee shall no thereafter
29 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
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.

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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 7. 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 alcohol sales of an existing drive-thru dairy/market with off-sale beer and wine from 7:00 A.M. to 10:00 P.M. to 6:00 A.M. to 11:00 P.M. Sunday through Thursday, and to 12:00 A.M. Friday and Saturday.

PASSED, APPROVED, and ADOPTED this 28th 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