



CITY OF NOVATO
COMMUNITY DEVELOPMENT

DATE: October 08, 2020
TO: City Council
City Manager
Community Development Director
FROM: Steve Marshall, Zoning Administrator
SUBJECT: Zoning Administrator's Hearing of October 08, 2020
Via Zoom Teleconference

NEW ITEM:

- 1. VINTAGE OAKS PAD W BUILDING
P2020-023 DESIGN REVIEW
P2020-024 USE PERMIT
CEQA CATEGORICALLY EXEMPT – SECTION 15303
APN 153-340-28; 128 VINTAGE WAY**

Conduct a public hearing and possibly approve a use permit and a design review application for the development of a 5,925 square-foot commercial building with three (3) tenant spaces, including a drive-through aisle serving one of the tenant spaces.

PRESENT

Kathy DeOchoa, Cross Point Realty (Applicant)
Phil D'Agostino, Project Architect
Kaitlin Zitelli, Planner II

PUBLIC HEARING

Zoning Administrator Marshall opened the public hearing.

Zoning Administrator Marshall confirmed the applicant had an opportunity to consider the staff report and reviewed the recommended conditions of approval.

Ms. DeOchoa and Mr. D'Agostino acknowledged receiving the staff report and having no questions regarding the recommended conditions of approval.

Zoning Administrator Marshall opened the public comment period.

No members of the public joined the teleconference hearing and the public comment period was closed.

Zoning Administrator Marshall confirmed no written comments were received regarding the proposal.

Zoning Administrator Marshall stated he was approving the use permit and design review for the Pad W building and drive-through based on the findings in the staff report and recommendation of the Design Review Commission and applying the recommended conditions of approval.

Zoning Administrator Marshall noted there is an appeal period of ten (10) calendar days.

FINDINGS

1. The proposed project is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) and the City of Novato Environmental Review Guidelines, pursuant to CEQA Guidelines Section 15303 *New Construction and Conversion of Small Structures*. Section 15303 exempts commercial buildings not exceeding 10,000 square feet in floor area for sites zoned for such use, not involving the use of significant amounts of hazardous substances, where all necessary public services and facilities are available, and the surrounding area is not environmentally sensitive.
2. In accordance with Section 19.42.050E of the Novato Municipal Code, the Zoning Administrator makes the following findings as supported by the facts discussed in the staff report.
 - a. The proposed use is consistent with the General Plan and any applicable specific plan;
 - b. The proposed use is allowed with a use permit within the applicable zoning district and complies with all applicable provisions of this Zoning Ordinance and any relevant Master Plan and/or Precise Development Plan;
 - c. The establishment, maintenance or operation of the use will not, under the circumstances of the particular case, be detrimental to the health, safety, or general welfare of the persons residing or working in the neighborhood of the proposed use;
 - d. The use, as described and conditionally approved, will not be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the City; and
 - e. The location, size, design, and operating characteristics of the proposed use are compatible with the existing and future land uses in the vicinity.
3. In accordance with Section 19.42.030.F. of the Novato Municipal Code and on the basis of the facts presented the staff report and the recommendation for approval by the Design Review Commission on August 19, 2020, the Zoning Administrator finds that:
 - a. The design, layout, size, architectural features and general appearance of the project is consistent with the general plan, and any applicable specific plan, and with the development standards, design guidelines, and all applicable provisions of this code, including this title and any approved master plan and precise development plan.
 - b. The project would maintain and enhance the community's character, provide for harmonious and orderly development, and create a desirable environment for the occupants, neighbors, and visiting public.
 - c. The project would not be detrimental to the public health, safety, or welfare; is not materially injurious to the properties or improvements in the vicinity; does not interfere with the use and enjoyment of neighboring existing or future developments and does not create potential traffic, pedestrian or bicycle hazards.

ACTION TAKEN

The Zoning Administrator hereby approves a use permit for a drive-through facility, and approves the site, landscaping, and building design, and public art piece for the Pad W building, as shown on the plans prepared by SGPA Architecture and Planning dated June 15, 2020, based on the findings above and subject to the conditions of approval specified below.

CONDITIONS OF APPROVAL

The following conditions of approval shall be met to the satisfaction of the *Novato Planning Division*:

1. The Use Permit approval shall expire two (2) years from the date of approval unless the activity authorized therein has commenced operation.
2. The Design Review approval shall expire two (2) years from the date of approval unless within that time a building permit has been issued and remains valid.
3. All proposed trees shall be 24-inch box sized trees. Said trees shall be shown on the plans submitted for building permit review, subject to review and approval by the Community Development Director or designee with respect to tree size.
4. Additional trees shall be added along the Vintage Way frontage and shown on the landscaping plan to be submitted with the building permit application for the project, subject to review and approval by the Community Development Director or designee.
5. No deviation from approved plans, including color changes or substitution of materials, shall be made without City approval. Minor alterations can be considered by Planning Division staff. Significant design revisions shall be returned to the Design Review Commission for consideration.
6. Final design for building permit issuance and construction shall be in conformance with all City ordinances, including, but not limited to, development and building standards.
7. The approval granted herein shall not become effective until all appropriate fees billed by the City of Novato to the application account are paid in full in accordance with the City's Cost Base Fee System. Failure to pay said fees may result in the City withholding issuance of related building permits, certificate of occupancy, and recordation of final maps or other entitlements.

The following conditions must be met to the satisfaction of the *Building Division of the City of Novato Community Development Department*:

8. Applicant shall obtain all necessary building permits issued by the City of Novato Building Division.

The following conditions must be met to the satisfaction of the *Engineering Division of the City of Novato Public Works Department*:

General Conditions of Approval:

9. Applicant shall design and construct all necessary and required improvements and facilities in accordance with Chapter V – Development Standards of the Novato Municipal

Code (NMC) and the Uniform Construction Standards All Cities and County of Marin, unless specific design exceptions have been approved. Approval of a site plan depicting improvements that do not conform to the NMC does not constitute approval of a design exception, unless explicitly stated herein or in another approved City resolution.

10. Applicant shall be responsible for all City plan check and inspection costs. The Applicant shall enter into a Cost Recovery Agreement and deposit funds with the City upon the initiation of plan check services. The amount of the initial deposit shall be determined by the City Engineer. Additional funds may be required based upon actual plan check, map check and inspection costs.
11. Applicant shall submit for review and approval Improvement Plans prepared by a California Registered Civil Engineer for all necessary and required on-site and off-site public and private improvements. The Improvement Plans shall show all existing and proposed utilities, above and below ground, including water, sanitary sewer, storm sewer, communication lines, electricity, natural gas, transformers, vaults and meters. The final plan set shall include all civil, landscape and joint trench drawings under a single cover sheet. Improvement Plans must be approved by the City Engineer prior to any on-site or off-site construction.
12. An Encroachment Permit is required for any work within City right of way. An Encroachment Permit will not be issued prior to the approval of the Improvement Plans.
13. All existing and proposed electrical and communications lines, both on the site and along its frontages, shall be placed underground at the Applicant's expense. All pull boxes, junction structures, service cabinets, vaults, valves and similar devices shall be installed behind the back edge of walkways within the City right-of-way or within a public utility easement, at locations approved by the City Engineer. If any utility appurtenances are permitted to be above ground, such as vaults and boxes, they shall be painted a color approved by the City. New improvements within existing and proposed utility easements shall be subject to the approval of the appropriate utility company.
14. Applicant shall submit for review and approval a detailed Stormwater Control Plan (SWCP) prepared in accordance with the current Bay Area Stormwater Management Agencies Association (BASMAA) Post Construction Manual. Site improvements shall incorporate Low Impact Design (LID) principles and permanent post-construction storm water pollution BMPs. The Stormwater Control Plan shall be submitted for review with the initial submittal of the Improvement Plans.
15. Prior to the approval of the Improvement Plans and prior to the issuance of a grading, demolition or building permit, the Applicant shall obtain all necessary permits, approvals and/or clearances from any other regulatory agencies with jurisdiction over the project, including but not limited to the Marin County Flood Control District, Regional Water Quality Control Board, Novato Fire Protection District, Department of Fish and Game and U.S. Army Corp of Engineers. Proof of approval and/or clearances, including but not limited to, North Marin Water District, and the Novato Sanitary District shall be submitted to the City prior to approval of the Improvement Plans. A complete set of Improvement Plans shall be submitted to all agencies, districts, and utilities affected by, or providing service to the development, for review and comment.
16. The Applicant shall obtain written confirmation and approval from Novato Fire Protection District (NFPD) for requirements for emergency vehicular access and appropriate posted signage. Applicant shall locate signs required by NFPD to the satisfaction of the City Engineer.

17. Prior to City approval of the Improvement Plans, Applicant shall obtain signatures from representatives of the Novato Fire Protection District and the Novato Sanitary District on the final Improvement Plans acknowledging their review.
18. The Applicant shall design and construct all new pedestrian walkways, ramps and accessible parking spaces to meet current Americans with Disabilities Act Accessibility Guidelines, California Title 24 requirements, and City maximum cross-slopes and grades.
19. All outside garbage facilities shall be designed to be fully covered with a roof meeting Marin County's storm water pollution prevention best management practices.
20. Stenciling shall be provided on curb inlets to prohibit dumping of pollutants. The stencil detail shall be included in the Improvement Plans.
21. Landscape plans shall be submitted with the Improvement Plans and shall meet the requirements of sight distance to the satisfaction of the City Engineer.
22. Prior to the approval of the Improvement Plans, the Applicant shall submit a copy their Storm Water Pollution Prevention Plan (SWPPP) and Notice of Intent (NOI) for coverage under the State Water Resources Control Board's General Construction Permit for Stormwater Discharges Associated with Construction and Land Disturbance Activities (Order 2009-0009-DWQ).

Special Conditions of Approval:

23. The Applicant shall submit Improvement Plans for the entire development prepared by a registered Civil Engineer (Engineer of Record) in substantial conformance with the Site Plans for Design Review prepared by Roberts Engineering, Inc., dated June 2020 (referred to herein as Preliminary Plans).
24. Applicant shall construct all of the **Public Improvements** generally as shown on the Preliminary Plans and more specifically described below.
 - a. Replace the existing curb ramp at the southeast corner of the intersection of Vintage Way and the entry road with a curb ramp meeting current Americans with Disabilities Act Accessibility Guidelines, California Title 24 requirements, and City maximum cross-slopes and grades.
25. Applicant shall construct all of the Private Improvements generally as shown on the Preliminary Plans and more specifically described below.
 - a. Replace all existing curb ramps within the work limits with curb ramps meeting current Americans with Disabilities Act Accessibility Guidelines and California Title 24 requirements.
26. Applicant shall submit for review and approval by the City Engineer, a Post Construction Stormwater Operations and Maintenance Plan that provides a plan sheet showing all storm drain and water quality infrastructure that is to be maintained, along with detailed instructions and schedules for the ongoing maintenance and operation of all post-construction stormwater BMPs.

Construction Conditions of Approval:

27. Construction stormwater pollution prevention measures as indicated in the SWPPP shall be consistent with the details in the most recent version of the California Stormwater Quality Association Stormwater Best Management Handbook-Construction or the Caltrans Storm Water Quality Handbook Construction Site BMPs Manual. A Qualified SWPPP Practitioner shall be responsible for implementing the measures at the site and performing all required monitoring and inspection/maintenance/repair activities. The project Applicant shall also prepare a Rain Event Action Plan (if required based on the determined risk level) as part of the SWPPP.
28. Construction activities shall be limited to the days and hours stipulated in Novato Municipal Code 19.22.070B. City established inspection hours are Monday through Thursdays, and alternating Fridays from 7 a.m. until 4 p.m. except on City recognized holidays. Applicant shall be responsible for the City's additional cost to provide inspection during times not established as regular City inspection hours.
29. A City of Novato Encroachment Permit shall be obtained prior to any grading, trenching, pavement, construction of improvements or any other work in the public right-of-way.
30. If any hazardous materials are encountered during the construction of this project, all work shall be immediately stopped and the Marin County Environmental Health Service Department, the Novato Fire Protection District, and the City Inspector shall be notified immediately. Work shall not proceed until clearance has been issued by all of these agencies.
31. Upon completion of the project and prior to acknowledgment of completion, all new storm drains 15" in diameter and larger shall be professionally televised and a video of the recording delivered to the City Engineer for review. The video shall indicate the pipe being televised, indicate station points along each pipe, and shall have the bottom of the pipe at the bottom of the monitor when viewed. The televised speed shall be slow enough to enable viewers to ascertain the pipe condition and the speed shall be reduced or paused as necessary at sags, gaps, obstructions and damaged areas of the pipe. Prior to acknowledgment of completion of the project, pipe damage and obstructions shall be repaired to the satisfaction of the City Engineer.
32. The Applicant shall keep adjoining public streets free and clean of project dirt, mud, materials, and debris during the construction period, as is found necessary by the City Engineer. The Applicant's contractor shall provide dust control seven (7) days a week, twenty-four (24) hours a day and this provision shall be noted on the plans.
33. The following shall be added to the general notes on the civil plans, "All roads used within the City of Novato during construction shall be cleaned daily, or more often as required by the City Engineer, of all dirt and debris spilled or tracked onto the City streets, or private driveways."
34. Where soil or geologic conditions encountered in grading operations are different from that anticipated in the soil and/or geologic investigation report, or where such conditions warrant changes to the recommendations contained in the original soil investigation, a revised soil or geologic report shall be submitted for approval by the City Engineer. Additionally, if field conditions warrant installation of any subdrains, the location, size and construction details must be provided to the City for review and approval prior to construction.

35. Utilities to be abandoned shall be removed or completely filled with suitable material and capped to the approval of the applicable utility agency and to the approval of the City Engineer.
36. After all of the new underground utilities within existing public streets have been installed, the entire affected areas shall be milled and repaved to present a neat finished pavement area. Multiple trench patches are not acceptable.
37. Upon completion of the building and site improvements, the Applicant shall clean, repair, or reconstruct the curb, gutter, and sidewalk along the entire frontage of the developed property as may be required by the City Engineer to conform to the City standards prior to receiving an occupancy permit for the building.

Occupancy Conditions of Approval:

38. Prior to occupancy, the property owner shall enter into a Stormwater Maintenance Agreement with the City that provides the terms, conditions, and security associated with the ongoing requirements of the Post Construction Stormwater Best Management Practices.
39. Prior to occupancy, the Applicant shall submit a certification by the Geotechnical Engineer of Record confirming that all the work has been completed in substantial conformance with the recommendations in Soils Investigation/Geotechnical Report.
40. Prior to occupancy, the Applicant shall provide a letter from the Civil Engineer of Record certifying that all the site improvements were constructed and inspected in substantial conformance with the approved plans and City Standards.
41. Prior to occupancy, the Applicant shall provide a mylar and digital copy of the Improvement Plans that include all as-built or field changes.

The following conditions must be met to the satisfaction of the *North Marin Water District*:

42. The project must conform to District Regulation 15 – Mandatory Water Conservation Measures. Occupancy approval shall not be granted until compliance with water conservation measures, as applicable, can be verified.
43. Installation of an above-ground, reduced pressure principle (RPP) backflow prevention device at the meter is required in accordance with the District's Regulation 6 and California Department of Health Regulations. Upon installation, an inspection report must be completed and returned to the District prior to the commencement of business activities.

The following conditions must be met to the satisfaction of the *Novato Fire Protection District*:

44. An automatic fire sprinkler system is required to be installed conforming to NFPA Std. 13. Plans and hydraulic calculations shall be submitted to the Fire Marshal for review prior to installation.
45. All automatic fire sprinkler and fire alarm systems, flow switches, and control valves shall be monitored by an approved UL Central Station company, zoned and enunciated as required by the Novato Fire District and Fire Protection Standard #400.

46. Roadways and driveways shall have a minimum clearance of not less than 20-feet horizontal by 14-feet vertical clearance. No object shall encroach into this horizontal and vertical plane.
47. Roadways shall be not less than 20-feet wide capable of accommodating a 60,000 gallon vehicle weight and driveways not less than 16-feet wide capable of accommodating a 40,000 gallon vehicle weight, all weather surface (AC paving or concrete), unobstructed, and shall be installed prior to lumber delivery or framing.
48. 'No parking fire lane' curbs and signs shall be installed in accordance with NFD Standard #204, as required by the Fire Marshal.
49. 'Knox' key access shall be installed at the premises conforming to Novato Fire Protection Standard #202.
50. A business shall create and maintain a pre-plan per Fire Protection District ordinance.
51. The address shall be posted clearly visible from the street with numerals illuminated and contrasting color to their background conforming to Novato Fire Protection Standard #205.
52. The facility and improvements shall comply with California Building Code and State Fire Marshal building standards and regulations.
53. Portable fire extinguishers shall be installed and maintained in accordance with California Fire Code Chapter 9.
54. Locks on the front door shall comply with the requirements of the California Building Code and the California Fire Code. At no time shall thumb turn locks be used.
55. Indemnity and Time Limitations
 - a. The applicant shall defend, indemnify and hold harmless the City, its agents, officers, attorneys and employees from any claim, action, or proceeding brought against the City or its agents, officers, attorneys, or employees, to attack set aside, void or annul the City's decision to approve the application and associated environmental determination at issue herein. This indemnification shall include damages or fees awarded against the City, if any, cost of suit, attorney's fees, and other costs and expenses incurred in connection with such action whether incurred by the applicant, the City, and/or parties initiating or bringing such action.
 - b. The applicant shall defend, indemnify and hold harmless the City, its agents, officers, employees, and attorneys for all costs incurred in additional investigation (such as the environmental determination at issue herein or any subsequently required Environmental Document), if made necessary by said legal action and if the applicant desires to pursue securing such approvals, after initiation of such litigation, which are conditioned on the approval of such documents, in a form and under conditions approved by the City Attorney.
 - c. The applicant indemnifies the City for all the City's costs, fees, and damages which the City incurs in enforcing the above indemnification provisions.
 - d. Unless a shorter period applies, the time within which judicial review of this decision must be sought is governed by California Code of Civil Procedure, Section 1094.6.

- e. The Conditions of Project Approval set forth herein include certain fees, dedication requirements, reservation requirements, and other exactions. Pursuant to Government Code Section 66020(d) (1), these Conditions constitute written notice of a statement of the amount of such fees, and a description of the dedications, reservations, and other exactions. The applicant is hereby further notified that the 90-day approval period in which you may protest these fees, dedications, reservations, and other exactions, pursuant to Government Code Section 66020(a), has begun. If the applicant fails to file a protest within this 90-day period complying with all of the requirements of Section 66020, the applicant will be legally barred from later challenging such exactions.

FURTHER ACTION

No further action on the application will be taken unless an appeal is filed in writing within ten (10) calendar days, along with the required filing fee.

NEW ITEM:

**2. TAGLIAFERRI'S OFF-SITE ALCOHOL SALES USE PERMIT
CEQA CATEGORICALLY EXEMPT: SECTION 15301
P2020-047; USE PERMIT APN 141-201-54;
1727 (1765) GRANT AVENUE**

Conduct a public hearing and possibly approve a use permit to allow for Tagliaferri's Delicatessen and Café to sell alcoholic beverages for off-site consumption at 1765 Grant Avenue, a tenant space located within the Downtown Novato Center shopping center.

PRESENT

Brian Tagliaferri, Applicant
Vivek Damodaran, Planner II

PUBLIC HEARING

Zoning Administrator Marshall opened the public hearing.

Zoning Administrator Marshall confirmed the applicant had an opportunity to consider the staff report and reviewed the recommended conditions of approval.

Mr. Tagliaferri acknowledged receiving the staff report and having no questions regarding the recommended conditions of approval.

Zoning Administrator Marshall opened the public comment period.

No members of the public joined the teleconference hearing and the public comment period was closed.

Zoning Administrator Marshall confirmed no written comments were received regarding the proposal.

Zoning Administrator Marshall stated he was approving the use permit based on the findings in the staff report and applying the recommended conditions of approval.

Zoning Administrator Marshall noted there is an appeal period of ten (10) calendar days.

The public hearing was closed.

FINDINGS

1. The request for a use permit to allow for alcoholic beverage sales, off-site within an existing tenant space is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) and the City of Novato Environmental Review Guidelines pursuant to CEQA Guidelines Section 15301, Existing Facilities. CEQA Guidelines Section 15301 exempts projects consisting of the operation of private facilities that involve negligible or no expansion. The applicant will be operating a delicatessen and café with proposed alcoholic beverage sales for off-site consumption within an existing tenant suite at 1765 Grant Avenue with approval of a use permit. This proposal involves a change in use of the existing tenant suite with minor tenant improvements and no building expansion(s).
2. In accordance with Section 19.42.050E of the Novato Municipal Code, the Zoning Administrator makes the following findings as supported by the facts discussed in the staff report:
 - a. The proposed use is consistent with the General Plan and any applicable specific plan;
 - b. The proposed use is allowed with a use permit within the applicable zoning district and complies with all applicable provisions of this Zoning Ordinance and any relevant Master Plan and/or Precise Development Plan;
 - c. The establishment, maintenance or operation of the use will not, under the circumstances of the particular case, be detrimental to the health, safety, or general welfare of the persons residing or working in the neighborhood of the proposed use;
 - d. The use, as described and conditionally approved, will not be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the City; and
 - e. The location, size, design, and operating characteristics of the proposed use are compatible with the existing and future land uses in the vicinity.
3. In accordance with NMC Section 19.34.050.D (Alcoholic Beverage Establishments), the Zoning Administrator hereby makes the following supplemental findings as supported by the facts presented in the staff report:

Supplemental Finding 1: The proposed use will not adversely affect the welfare of the area residents, or result in an undue concentration of establishments dispensing alcoholic beverages in the area, as determined by the Review Authority.

Supplemental Finding 2: The proposed use is located at an appropriate distance from:

- a. Residential uses;
- b. Religious facilities, schools, public parks and playgrounds, and other similar uses;
- c. Other establishments dispensing alcoholic beverages.

Supplemental Finding 3: The size and proposed activity level (i.e., music, entertainment activities, food service, arcade games, or other amusement activities, etc.) will be compatible with the uses in and/or character of, the surrounding area.

Supplemental Finding 4: The signs and other advertising on the exterior of the premises will be compatible with the character of the area.

Supplemental Finding 5: The applicant has committed to voluntarily provide a beverage service training program, should one be made available locally on a no-charge basis for employees who sell or dispense alcoholic beverages, and would provide them with the knowledge and skills needed to comply with their responsibilities under State law, including the following topics:

- a. State laws relating to alcoholic beverages, particularly ABC regulations and penal provisions concerning sales to minors and intoxicated persons, driving under the influence, hours of legal operation, and penalties for violations of these laws;
- b. The potential legal liabilities of owners and employees of businesses dispensing alcoholic beverages to patrons who may subsequently injure, kill, or harm themselves or innocent victims as a result of the excessive consumption of alcoholic beverages;
- c. Alcohol as a drug and its effects on the body and behavior, including the operation of motor vehicles;
- d. Methods of dealing with intoxicated customers and recognizing underage customers;
- e. Methods to appropriately pace customer drinking to reduce the risk that the customer will leave the premises in an intoxicated manner; and
- f. Knowledge of mixology, including marketable alternatives to alcoholic beverages.

ACTION TAKEN

The Zoning Administrator hereby approves a use permit for Tagliaferri's Delicatessen allowing the sale of alcoholic beverages for off-site consumption based on the findings above and subject to the conditions of approval specified below.

CONDITIONS OF APPROVAL

The following conditions of approval shall be met to the satisfaction of the Zoning Administrator:

1. This Use Permit approval shall expire two (2) years from the date of approval unless the activity authorized therein has commenced operation.
2. The approval granted herein shall not become effective until all appropriate fees billed by the City of Novato to the application account are paid in full in accordance with the City's Cost Base Fee System. Failure to pay said fees may result in the City withholding issuance of related building permits, certificate of occupancy, and recordation of final maps or other entitlements.
3. A Sign Permit shall be obtained through the Planning Division prior to the installation of any exterior building signage, subject to the review and approval of the Community Development Director.

4. The applicant shall secure an alcohol license from the California Department of Alcoholic Beverage Control (ABC). The applicant shall deliver a copy of the use permit approved by the Zoning Administrator to ABC when securing the alcohol license.
5. The applicant is encouraged to have its employees attend periodic alcohol service trainings offered by the Novato Police Department.
6. Alcoholic beverages shall not be served to patrons who are obviously intoxicated or under the influence.
7. No employee or volunteer shall consume alcohol on premises during their work shift.
8. No exterior or interior window signage with visibility from the right-of-way, sidewalks, or parking areas shall be used to advertise in any manner the sale of alcohol products.
9. The applicant shall post signage which prohibits entrance of anyone 21 years of age or younger to the bar area. The signs shall cite the appropriate codes for enforcements.
10. At any time, the business may be visited, unannounced by City staff, to review the business operation's compliance with the City's regulations (including use permit conditions) concerning alcoholic beverage establishments. Violation of any conditions of this Use Permit or any municipal, state, or federal law, rule or regulation, including without limitation the provisions of the Novato Municipal Code or Alcohol Beverage Control Act regulations, may be grounds for revocation or modification of the Use Permit.
11. Corporate, franchise or organization regulations shall not override the conditions of the Use Permit as issued by the City of Novato.

The following conditions of approval shall be met to the satisfaction of the Novato Building Division:

12. Any tenant improvements are subject to a building permit. Tenant improvements will be reviewed to ensure that the proposed occupancy is consistent for the building construction type, and the adjacent occupancies.

The following conditions of approval shall be met to the satisfaction of the North Marin Water District (NMWD): Please contact the NMWD at (415) 897-4133 if you have questions about these requirements:

13. The applicant must submit improvement plans and future water use estimates to the NMWD. Occupancy approval shall not be granted until review is completed and if applicable, new water facilities installation is complete and fees are paid.
14. The project must conform to NMWD Regulation 15 (Mandatory Water Conservation Measures). Occupancy approval shall not be granted until compliance with water conservation measures, as applicable can be verified. For the full scope of the required water conservation measures for both indoor fixtures/appliances and landscaping refer to NMWD Regulation 15, Section (e.) and (f.) at www.nmwd.com Please contact the NMWD Water Conservation Coordinator at (415) 761-8933 if you have any questions regarding clarification of the required water conservation measures or plans submittal requirements.
15. An above-ground, reduced pressure principle (RPP) backflow prevention device at the meter is required in accordance with NMWD Regulation 6 and the California Department of Health Regulations (Title 17). An inspection report (device testing) must be completed and

returned to the NMWD prior to the commencement of business activities. Please be advised that the device is required to be tested annually, including temporary shut off to the water service to complete the test. Please contact the NMWD Cross Connection Control Technician at (415) 761-8914 if you have questions about these requirements.

The following conditions of approval shall be met to the satisfaction of the Novato Sanitary District (NSD). Please contact the NSD at (415) 892-1694 if you have questions about these requirements:

16. All prep and kitchen area fixtures, floor drains and floor sinks are to be plumbed through a grease interceptor adequate to meet the Novato Sanitary District's standards for grease removal.
17. Common laterals are to be cleaned and CCTV to ensure that there are no pipeline deficiencies that could cause a sewer back up into the proposed deli.

Indemnity and Time Limitations

- a. The applicant shall defend, indemnify and hold harmless the City, its agents, officers, attorneys and employees from any claim, action, or proceeding brought against the City or its agents, officers, attorneys, or employees, to attack set aside, void or annul the City's decision to approve the application and associated environmental determination at issue herein. This indemnification shall include damages or fees awarded against the City, if any, cost of suit, attorney's fees, and other costs and expenses incurred in connection with such action whether incurred by the applicant, the City, and/or parties initiating or bringing such action.
- b. The applicant shall defend, indemnify and hold harmless the City, its agents, officers, employees, and attorneys for all costs incurred in additional investigation (such as the environmental determination at issue herein or any subsequently required Environmental Document), if made necessary by said legal action and if the applicant desires to pursue securing such approvals, after initiation of such litigation, which are conditioned on the approval of such documents, in a form and under conditions approved by the City Attorney.
- c. The applicant indemnifies the City for all the City's costs, fees, and damages which the City incurs in enforcing the above indemnification provisions.
- d. Unless a shorter period applies, the time within which judicial review of this decision must be sought is governed by California Code of Civil Procedure, Section 1094.6.
- e. The Conditions of Project Approval set forth herein include certain fees, dedication requirements, reservation requirements, and other exactions. Pursuant to Government Code Section 66020(d) (1), these Conditions constitute written notice of a statement of the amount of such fees, and a description of the dedications, reservations, and other exactions. The applicant is hereby further notified that the 90-day approval period in which you may protest these fees, dedications, reservations, and other exactions, pursuant to Government Code Section 66020(a), has begun. If the applicant fails to file a protest within this 90-day period complying with all of the requirements of Section 66020, the applicant will be legally barred from later challenging such exactions.

FURTHER ACTION

No further action on the application will be taken unless an appeal is filed in writing within ten (10) calendar days, along with the required filing fee.