



CITY OF NOVATO
COMMUNITY DEVELOPMENT

ZONING ADMINISTRATOR MINUTES

DATE: September 26, 2024

TO: City Council
City Manager
Community Development Director

FROM: Steve Marshall, Zoning Administrator

SUBJECT: Zoning Administrator's Hearing of September 26, 2024

PRESENT

David Ayala, Planner I

PUBLIC COMMENT

No members of the public attended the meeting.

PUBLIC HEARING

**B.1. YOSUMI RAMEN - ON-SITE ALCOHOLIC BEVERAGE SALES
CEQA CATEGORICALLY EXEMPT: SECTION 15301
P2023-053; USE PERMIT
APN 140-061-14; 934 DIABLO AVENUE**

Conduct a public hearing and possibly approve a use permit allowing alcoholic beverage sales for on-site consumption at Yosumi Ramen, a restaurant located at 934 Diablo Avenue within the Novato Fair Shopping Center.

Zoning Administrator Marshall opened the hearing.

The applicant did not attend the hearing nor were members of the public present.

Zoning Administrator Marshall closed the hearing.

Zoning Administrator Marshall approved the use permit based on the analysis, findings, and conditions of approval noted in the staff report.

The meeting was adjourned.

FINDINGS

1. CEQA Finding

The proposal 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 of an existing or former use. The proposal does not include any modifications to the tenant suite or building where Yosumi Ramen is located. Therefore, the proposal meets the criteria for the noted CEQA exemption.

2. Use Permit Findings

In accordance with Novato Municipal Code Section 19.42.050.E (Use Permit – Findings and Decision) and Novato Municipal Code Section 19.34.050.D (Alcoholic Beverage Establishments – Findings for Approval), the Zoning Administrator hereby makes the required findings as listed and discussed in the staff analysis section of the staff report.

ACTION TAKEN

The Zoning Administrator approved the use permit allowing for alcoholic beverage sales for on-site consumption at Yosumi Ramen (934 Diablo Avenue), 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. The use permit approval shall expire two (2) years from the date of approval unless the activity authorized herein 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. Noise associated with this approval shall conform to NMC Section 19.22.070 (Noise and Construction Hours).
5. The business owner 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.
6. The use permit and a copy of the conditions of approval for the permit shall be displayed on the premises of the establishment in a place where it may readily be viewed by any member of the general public.
7. The business owner is encouraged to have its employees attend periodic alcohol service

trainings offered by the Novato Police Department.

8. Alcoholic beverages shall not be served to patrons who are obviously intoxicated or under the influence.
9. No employee or volunteer shall consume alcohol on premises during their work shift.
10. 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.
11. 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 the 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.
12. Corporate, franchise or organization regulations shall not override the conditions of the use permit as issued by the City of Novato.
13. The sale of alcohol for on-site consumption shall comply with all other requirements of the Novato Fair Shopping Center Master Plan and Precise Development Plan.

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

14. Any tenant improvements are subject to obtaining a building permit. Tenant improvements shall comply with building code and will be reviewed to ensure that the proposed occupancy is consistent for the building construction type, and the adjacent occupancies. Prepared documents shall be signed by a licensed professional.

The following conditions of approval shall be met to the satisfaction of the Novato Fire Protection District (NFPD):

15. The address shall be posted clearly visible from the street with numerals illuminated and contrasting color to their background conforming to Novato Protection standard #205.
16. The facility and improvements shall comply with California Building Code and State Fire Marshal building standards and regulations.
17. Maximum Occupant Capacity signs shall be installed as required by the Fire Marshal conforming to the Fire District Standard #115.
18. Portable fire extinguishers shall be installed and maintained in accordance with California Fire Code Chapter 9.

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:

19. 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.

20. Installation of an above-ground reduced pressure principle (RPP) backflow prevention device at the meter is required in accordance with District 6 as www.nmwd.com and California Department of Health Regulations (Title 17). Upon installation, an inspection report (including device testing) must be completed and returned to the District prior to the commencement of business activities. Please contact our Cross-Connection Technician at (415) 761-8948 or backflow@nmwd.com if you have any questions regarding clarification of cross-connection and/or backflow protection requirements. Should you have any questions regarding this matter, please contact our Engineering Services Representative at (415) 761-8935.

Indemnity and Time Limitations

21. 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.
22. 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.
23. The applicant indemnifies the City for all the City's costs, fees, and damages which the City incurs in enforcing the above indemnification provisions.
24. 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.
25. 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

The decision of the Zoning Administrator is final unless a written appeal and appeal fee are submitted to the Community Development Department within 10 days of the date of the action.