

SUBJECT: REQUEST TO AMEND AN ADMINISTRATIVE PERMIT TO EXPAND THE HOURS OF OPERATION FOR OUTDOOR DINING WITH LATE NIGHT ALCOHOLIC BEVERAGE SALES AT A NEW RESTAURANT LOCATED AT 9045 NEMO STREET (SOMNI 2)

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STATEMENT ON THE SUBJECT

The applicant is requesting to amend a previously issued administrative permit to expand the hours of operation for outdoor dining with the sales, service, and consumption of alcohol at a new restaurant from 11:00 A.M. to 11:00 P.M. daily, to 11:00 A.M. to 1:00 A.M. daily. The restaurant is located at 9045 Nemo Street (Somni 2).

RECOMMENDATION

Staff recommends that the Director of Community Development hold a public hearing, consider all pertinent testimony, and conditionally approve the application request by adopting the following:

- 1) Draft Resolution No. CD 23-278: **“A RESOLUTION OF THE DIRECTOR OF COMMUNITY DEVELOPMENT OF THE CITY OF WEST HOLLYWOOD CONDITIONALLY APPROVING AN AMENDMENT TO AN ADMINISTRATIVE PERMIT EXPANDING THE HOURS OF OPERATION FOR AN OUTDOOR DINING AREA AND THE SALES, SERVICE, AND CONSUMPTION OF ALCOHOL AT A NEW RESTAURANT, LOCATED AT 9045 NEMO STREET, WEST HOLLYWOOD, CA (SOMNI 2).”** (EXHIBIT A)

BACKGROUND

Application Information

The requested expansion of alcoholic beverage sales at a restaurant's outdoor dining area after 11:00 P.M. requires review and approval from the Director of Community Development at a public hearing, pursuant to Chapter 19.44 of the West Hollywood Municipal Code (WHMC). The required findings are included in draft Resolution No. CD 23-278.

A. Date of Application:	September 1, 2023
B. Application Deemed Complete	September 29, 2023
C. Applicant:	Madison Nemo LLC
D. Property Owner:	9041-9045 Nemo Associates, LLC
E. Zoning / General Plan:	CC1 (Commercial, Community 1)
F. Environmental Status:	Categorically Exempt per CEQA Guidelines Section §15301 (Existing Facilities)
G. Public Notices:	The public hearing was noticed in accordance with the WHMC

Site and Area Conditions

The parcel is located at the corner of Nemo Street and Santa Monica Boulevard. The property is developed with three, one-story commercial buildings. The two buildings on the west of the site will house the restaurant. On-site parking is located adjacent to the restaurant in a surface parking lot with entry from Nemo Street. To the east and west is a mix of uses that characterize Santa Monica Boulevard including restaurant, entertainment, retail, bank, office, and other commercial activities. Approximately one-fifth of a mile to the west along Santa Monica Boulevard is the border between West Hollywood and Beverly Hills, marked by the intersection of Santa Monica Boulevard and Doheny Drive.



Figure 1: Aerial view of the subject site with the red box highlighting the identifying property line.

Neighboring Land Uses & Zoning

The subject site is located within the CC1 (Community, Commercial 1) Zone which is intended to provide a wide variety of commercial opportunities to serve local community needs, as well as broader market areas. The uses along Nemo Street and Santa Monica Boulevard are developed with a mix of commercial uses (art gallery, florist, restaurants, retail stores, offices, mixed-use development). The properties located north of the subject site, on Harland Avenue, are developed with single-story, single-family residences and two/three-story apartment buildings within the R2 (Residential, Low Density) zone. The restaurant is not located within 500 feet of any religious facility or school. The closest public park, Beverly Hills Park, is southwest of the subject site.

Project History

On *July 24, 2023*, the City approved Administrative Permit (AP 23-0020) for the change of use from a retail space to a restaurant (Somni 2) with ancillary sales, service, and consumption of alcoholic beverages (and interior tenant improvements, exterior alterations, and reconfiguration of the parking lot). The subject tenant space measures 1,685 sq. ft. with a 774 sq. ft. outdoor dining area. A copy of the Conditions of Approval for AP 23-0020 is included as Exhibit B, and the project has been submitted to the City's Building and Safety Division and received one round of plan check.

California Environmental Quality Act (CEQA)

The proposed project has been determined not to have a significant effect on the environment and is categorically exempt from the provisions of CEQA pursuant to Section 15301 (Existing Facilities) of the CEQA Guidelines, given that the expansion of hours for outdoor dining and alcohol sales, service, and consumption at an existing business is an operational modification, and its scope involves no expansion of use beyond existing conditions on a property that is not environmentally sensitive.

Public Comment

At the time the staff report was published, staff had not received any correspondence from the public regarding the proposed project. A neighborhood meeting is not required for this type of application.

ANALYSIS

Project Description

Somni 2 will be a fine dining restaurant focusing on a small-scale tasting menu concept that consists of approximately 1,685 square feet of interior space and 774 square feet of outdoor dining area.

The applicant is proposing to expand the hours of operation and the hours for alcoholic beverage sales in the outdoor dining area. The hours approved for the interior of the restaurant under AP23-0020 are from 11:00 A.M. to 2:00 A.M. daily, and 11:00 A.M. to 11:00 P.M. daily in the outdoor dining area. The request is to expand the operating hours and the hours of alcohol sales, service, and consumption in the outdoor dining area from 11:00 P.M. to 1:00 A.M. daily. The owner would like patrons of the restaurant to be able to enjoy an alcoholic beverage with their meals in the patio during the late-night

hours. While recent changes to the zoning ordinance have removed the public hearing requirement for alcohol service incidental to a restaurant in most instances, pursuant to Section 19.44.020(A)(9)(c) of the WHMC, “Outdoor dining with late night alcoholic beverage sales for on-site consumption (after 11:00 P.M.), shall require the approval of an administrative permit by the Planning and Development Services Director at a duly noticed public hearing.”

The entire outdoor dining area is located on private property, adjacent to the restaurant. The outdoor dining area is in the middle of the property in a sheltered courtyard. The kitchen and back of the house areas of the restaurant and the existing structures and back wall on the Premises fully enclose the outdoor dining patio further buffering sound and minimizing noise traveling outside the site to the adjacent residential uses to the north. The project plans are attached as Exhibit E. There are no physical improvements proposed to this tenant space under this permit request.

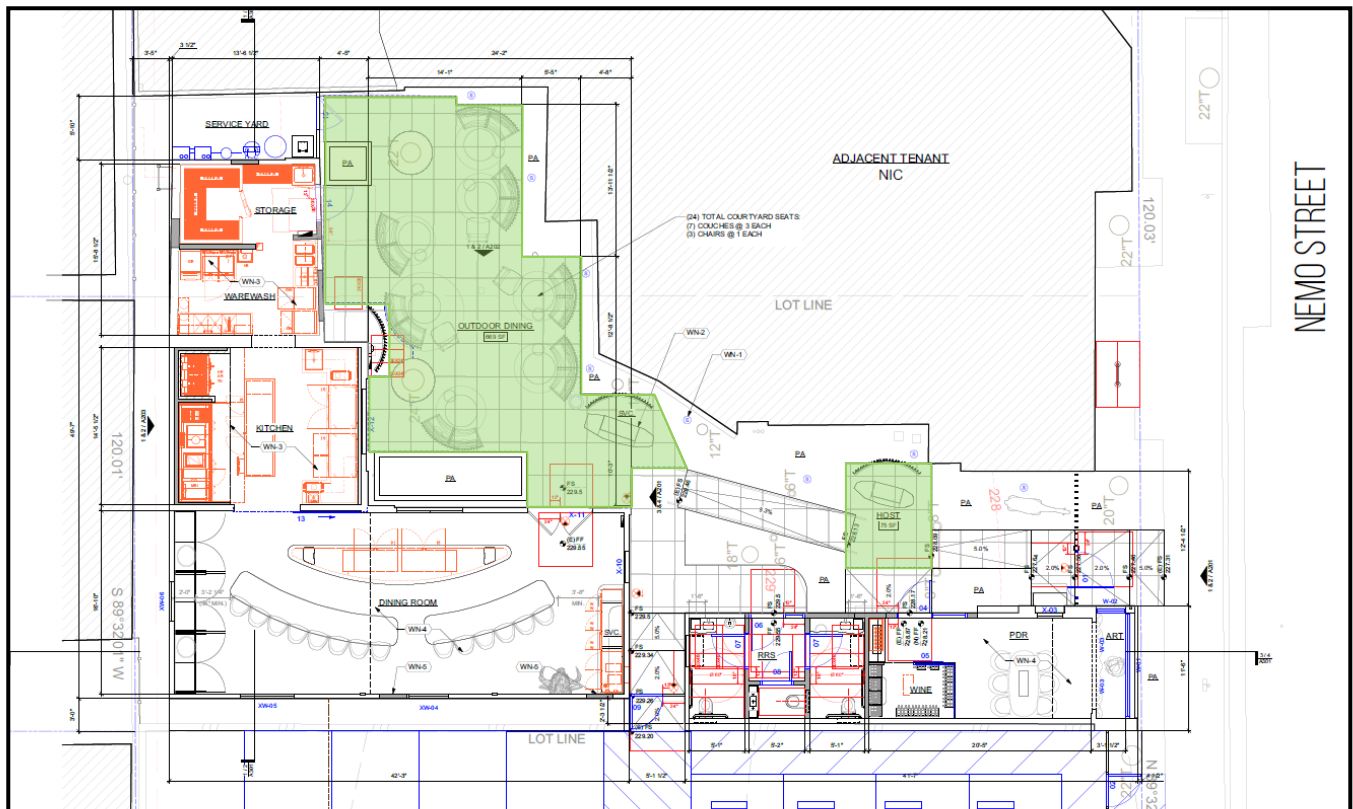


Figure 2: Floor Plan of the tenant space (outdoor area highlighted in green).

Alcohol Service Incidental to Restaurant Food Service

The applicant has applied for a Type 41 Alcohol License (On-Sale Beer and Wine for Eating Place – Restaurant) from the California Department of Alcoholic Beverage Control (ABC). The ABC license process is currently on hold, pending action by the City of West Hollywood. According to ABC, there are five other establishments within the general vicinity of the subject site that sell alcohol for on-site consumption. Most of these establishments are full-service restaurants where alcohol is served as accessory to meal service. Below is a table listing the establishments in the immediate area followed by a vicinity map.

Business	Address	Type of License	Hours of Alcohol Service Per MCUP
Dan Tana's	9071 Santa Monica Blvd.	(47) On-Sale General Eating Place (77) Event Permit	(Not regulated by MCUP or AP)
Troubadour	9079 Santa Monica Blvd.	(47) On-Sale General Eating Place	8:00 am – 2:00 am <i>daily</i>
Doheny Room	9077 Santa Monica Blvd.	(47) On-Sale General Eating Place (58) Caterer Permit	8:00 am – 2:00 am <i>daily</i>
Bravo Toast	632 1/2 N Doheny Dr.	(41) On-Sale Beer and Wine - Eating Place	<u>Sunday - Wednesday</u> 7:00 am – 10:00 pm <u>Thursday - Saturday</u> 7:00 am – 11:00 pm
Uchi (<i>pending</i>)	9001 Santa Monica Blvd.	(47) On-Sale General Eating Place	8:00 am – 12:00 am <i>daily</i>



Figure 3: ABC License Vicinity Map

Business Description Submitted by Applicant

At the 9045 Nemo Street location for Somni 2, the restaurateur (Aitor Zabala) intends to create a new and reimagined "second coming" of his restaurant Somni. Somni 2 will continue in a similar style of imaginative dishes with modernist techniques. The restaurant intends to remain a very personal affair, commencing with two services per night for 14 diners, with seats divided between views of an open kitchen and the lush outdoor patio. A separate private interior table for six will feature a different tasting menu.

Aitor Zabala's most recent stint was as Chef and Creative Director of the restaurant known as Somni. Somni was an intimate 10-seat chefs-counter restaurant, where he presided over a 25-course tasting menu. Chef Aitor's previous restaurant ventures were SAAM Los Angeles, Jaleo Las Vegas, China Poblano, America Eats, and The Bazaar South Beach at the SLS Miami.

Hours of Operation & Alcohol Service

The existing entitlement for the restaurant allows the sales, service, and consumption of beer and wine from 11:00 A.M. to 11:00 P.M. daily at the outdoor dining area. The applicant is proposing to expand the restaurant's operating hours for the sales, service, and consumption of alcohol in the outdoor dining area to 1:00 A.M. daily.

Outdoor Dining Area

	Currently Permitted	Requested by Applicant	Recommended by Staff
Hours	11:00 am to 11:00 pm (Daily)	11:00 am to 1:00 am (Daily)	As proposed

Sales, Service and Consumption of Alcohol

	Currently Permitted	Requested by Applicant	Recommended by Staff
Hours	<i>Outdoor patio</i> 11:00 am to 11:00 pm (Daily)	11:00 am to 1:00 am (Daily)	11:00 am to 12:30 am (Daily)

The proposed hours of operation are consistent with other similar restaurants in the area. Staff is recommending that the sales and services of alcohol end 30 minutes earlier in order to ensure patrons have enough time to consume their drinks and leave the premises by closing time.

Noise

The nearest residential properties are located behind the restaurant, along Harland Avenue. The outdoor dining patio space is nearly enclosed on all four sides with the exception of the main entrance and the path to the parking area. The buildings on the property encapsulate the outdoor dining patio space, and the tall roof lines provide a natural buffer for any sound that is generated. While this separation will provide a certain measure of buffering with respect to noise transfer to the residents of Harland

Avenue, the original Administrative Permit (AP23-0020) approved for the patio included sound management conditions listed below to ensure that neighbors of the restaurant to the north or by nearby commercial businesses are not disrupted.

- Condition 11.3 requires that ambient music shall be limited in the outdoor area: speakers will be installed low to the ground, facing inward toward the outdoor dining area with electronic equalizers and limiters controlling sound, and that no live music would be permitted to take place in this area.
- Condition 11.4 requires an initial sound demonstration to be approved by the Director of Planning & Development Services to determine whether the music and sound from operations are plainly audible at the nearest residences.
- Condition 12.4 requires the operator of the restaurant to post signage urging patrons to respect nearby residential neighbors by being quiet upon exiting the premises.
- Condition 12.11 requires the establishment to be conducted in compliance with the noise requirements in the Zoning Ordinance and Noise Ordinance of the Municipal Code. This provision ensures that if the restaurant operators fail to abide by provisions of the Municipal Code designed to protect residential neighbors, the business license associated with the establishment would be subject to revocation.

Code Compliance Division and Sheriff's Office

There are no open code compliance cases or violations levied against the subject property. The restaurant approved in July 2023 has not commenced operation. The Code Compliance Division believes that adequate conditions have been included in the original approval that help safeguard the community and provide for responsible restaurant operations, and that there is not a cause for concern regarding the extension of hours for alcoholic beverage sales in the outdoor patio.

Staff contacted the Los Angeles County Sheriff's Department regarding the proposed project and inquired on any criminal activity or concerns associated with the property or the immediate area. The Sheriff's office had no objections to the proposed extension of operating hours in the patio.

Staff's Recommendation

The requested entitlement would allow the tenant to operate consistently with other similar restaurants in the area while ensuring that the operating characteristics of the use, as well as any conditions imposed on the business, are appropriate and tailored to the establishment's site and surroundings. The proposed use is compliant with WHMC Section 19.36.060 "Alcoholic Beverage Sales," and this type of incidental alcohol service is consistent with the vision set forth in the West Hollywood General Plan, which encourages the development of restaurants. This restaurant is located within the Santa Monica Boulevard West District, which is known as a destination for nightlife and entertainment, and a center for neighborhood-serving retail and restaurants. By providing the sales, service, and consumption of alcohol in the outdoor patio past 11:00 P.M., the business will provide an additional amenity to local residents and visitors.

The subject site is over 500 feet away from Beverly Hills Park to the west, separated by many buildings, including other restaurants in between. The extension of hours in the outdoor dining would not affect the park to any greater degree than any of the many restaurants in the vicinity, most of which offer ancillary alcohol service with meals. Furthermore, the restaurant will operate as a typical full-service restaurant. The administrative permit for the patio, approved on July 24, 2023, contains conditions with respect to operations (as referenced in the Noise section above and in AP23-0020) including those regarding outdoor sound and limitation on operating hours will ensure that the site does not become a nuisance. Therefore, the project will comply with the applicable provisions of the Zoning Ordinance and the Municipal Code.

The project is consistent with the policies, general land uses, and programs of the General Plan given that Policy LU-12.2 encourages this area of the city "to continue to allow a wide variety of commercial uses and services, with a mix of entertainment uses (e.g., clubs, bars, restaurants) and neighborhood-serving uses (e.g., supermarkets, cafes)." In addition, the proposed project is consistent with policy ED-7.3, which seeks to "attract complementary entertainment businesses such as restaurants, bars, cafes, theaters, music venues, and nightclubs to enhance the desirability of the City as a tourist destination." The property is surrounded by commercial uses and will complement the other entertainment and nighttime uses along Santa Monica Boulevard. Operation of a restaurant's outdoor dining area with late-night incidental alcohol service at this location will not endanger, jeopardize, or otherwise constitute a menace to the public convenience, health, interest, safety, or the general welfare of persons residing or working in the vicinity of the restaurant as it is compatible with the existing land uses in Santa Monica Boulevard West District.

The area is an active environment with many different commercial uses including other restaurants with ancillary alcohol service. The use is compatible with the surrounding uses and environment and provides a convenient location for dining to the surrounding neighbors, and visitors to the area with hours that coincide with other uses and are convenient to those target audiences. Therefore, staff finds that the applicant's request to close the outdoor dining patio at 1:00 A.M. daily is appropriate and consistent with the provisions of WHMC Section 19.36.060.

SUMMARY

The applicant is requesting to expand the restaurant's hours of operation for the outdoor dining area and alcohol (beer and wine) sales, service, and consumption from 11:00 P.M. to 1:00 A.M. daily. Through appropriate conditioning that addresses hours of operation, outdoor dining, noise, and other operational concerns, all the required findings for the project can be made. The approval is further conditioned such that if it is found that operation of the establishment results in significant off-site noise or other public nuisance, the Director of Community Development may modify the conditions of this permit to reduce or eliminate adverse impacts on the neighborhood. Therefore, staff recommends that the Director approve the application request subject to the findings and conditions set forth in Draft Resolution CD 23-278.

EXHIBITS

- A. Draft Resolution No. CD 23-278
- B. AP23-0020 (Conditions of approval)
- C. Sample Menu (Somni 2)
- D. Radius Map
- E. Project Plans