

## 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, CALIFORNIA (SOMNI 2)**

The Director of Community Development of the City of West Hollywood does hereby resolve as follows:

SECTION 1. On July 24, 2023, the City approved an Administrative Permit (AP 23-0020) for the conversion of a retail space to a restaurant (Somni 2) with ancillary sales, service and consumption of alcoholic beverages (Included interior tenant improvements, exterior alterations, and reconfiguration of the parking lot). The tenant space measures 1,685 sq. ft. with a 774 sq. ft. outdoor dining area and is located at 9045 Nemo Street, in West Hollywood, California.

SECTION 2. On September 1, 2023, an application for Administrative Permit Amendment (APA23-0004) was filed by Mark Lehman on behalf of 9041-9045 Nemo Associates, LLC, to amend the previously issued administrative permit (AP23-0020) to expand the hours of operation and the hours for alcohol sales, service, and consumption from 11:00 P.M. to 1:00 A.M. within the new restaurant's outdoor dining area. The application was deemed complete on September 29, 2023.

SECTION 3. On November 14, 2023, a public hearing was held before the Director of Community Development that was noticed in accordance with West Hollywood Municipal Code requirements in the following ways: 1) the property was posted with a notice of public hearing sign starting October 17, 2023; 2) notices were mailed on November 2, 2023, to all owners and tenants of properties within a 500-foot radius of the project site as well as to Neighborhood Watch groups; and 3) a notice was placed on the City's website and cable television channel. The staff report was made available on the City's website on November 9, 2023.

SECTION 4. The proposed project has been determined not to have a significant effect on the environment and is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Section 15301 (Existing Facilities) of the CEQA Guidelines, given that the expansion of hours for outdoor dining 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.

SECTION 5. Pursuant to Section 19.44.050 of the West Hollywood Municipal Code, the Community Development Director of the City of West Hollywood makes the following findings regarding Administrative Permit Amendment (APA23-0004):

- a. The proposed amendment to the permitted hours for the sales, service, and consumption of alcohol at a restaurant is allowed within the CC1 (Community, Commercial 1) zoning district with an amendment to an approved administrative permit. The restaurant and outdoor dining area have been reviewed and found to be in compliance with all other applicable provisions of the Zoning Ordinance and Municipal Code. The project would not adversely affect any nearby businesses or residents. 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 surround the outdoor dining patio further buffering sound and minimizing any noise from traveling outside the site to the adjacent residential uses to the north. The administrative permit for the patio, approved on July 24, 2023, was conditioned to eliminate potential impacts related to glare, light, loitering, and noise in the outdoor dining area to ensure compliance with Chapter 9.08 (Noise) and Section 19.36.210 (Outdoor Dining) of the WHMC and the conditions will apply for all hours that the patio is operating. Therefore, the project will comply with the applicable provisions of the Zoning Ordinance and the Municipal Code.
- b. The proposed use is consistent with 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 mix of entertainment uses and neighborhood- serving uses." Furthermore, 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 on three sides by commercial uses and will complement the other entertainment and nighttime uses near Santa Monica Boulevard. Operation of the 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 the Santa Monica Boulevard West District.
- c. Extending the hours for the sale, service and consumption of alcohol will not alter the structure, nor the integrity and character of the zoning district in which it is to be located. Permitting this use will not cause a physical alteration and the zoning ordinance and general plan encourage commercial uses, including late-night restaurant and bar uses in this area.

**SECTION 6.** Based on the foregoing, the Community Development Director of the City of West Hollywood hereby approves Administrative Permit Amendment 23-0004 to amend Administrative Permit 23-0020, subject to the following conditions:

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- 1.0 Legal Requirements
- 2.0 Project Description
- 3.0 Operations

**1.0 LEGAL REQUIREMENTS**

- 1.1) This permit shall not be effective for any purpose unless within 60 days of the approval of this permit a duly authorized representative of the owner of the property has filed with the Department of Community Development, a notarized affidavit accepting all the conditions of this permit. This affidavit shall be recorded with the County Recorder and is binding on successors. If the property owner is a corporation, then an officer of the corporation duly authorized to bind the corporation shall sign the acceptance affidavit. (CHPP)
- 1.2) If any provision of this permit is held or declared by a court of competent jurisdiction to be invalid and such invalidation would result in a material change to the obligations of or the benefits accruing to either the City or the applicant hereunder, the Director may declare the permit to be void and the privileges granted hereunder to have lapsed. (CHPP)
- 1.3) Approval of this permit shall expire thirty-six (36) months from the date of approval by the approving authority, unless significant construction or improvements or the use authorized hereby has commenced or an extension of the permit has been granted. Two (2) more extensions of time for use inauguration may be requested at one (1) year per extension request and the maximum time period for an approved permit or entitlement shall not exceed five (5) years. No extension shall be considered unless requested at least 45 days prior to the expiration date. (CHPP)
- 1.4) In the event that the applicant violates or fails to comply with any of the conditions of approval of this permit, the City may take measures to cure such violations, including but not limited to, revocation of this permit. The applicant shall be required to reimburse the City fully for its costs and expenses, including but not limited to, attorney's fees, in undertaking such corrective action. Reimbursement of enforcement costs shall constitute a civil debt and may be collected by any means permitted by law. In the event that violations of this permit occur, the City shall refrain from issuing further permits, licenses or other approvals until such violation has been fully remedied. (CHPP)
- 1.5) The applicant shall defend, indemnify and hold harmless the City and its agents, employees and officers from any claim, action, or proceeding brought by a third party against the City, its agents, employees or officers and the applicant to attack, set aside, or void any of this resolution or any permit authorized hereby for the project, including (without limitation) reimbursing the City its actual attorney's fees and costs in defense of the Litigation. (CHPP)
- 1.6) All conditions of approval in Administrative Permit 23-0020 remain in full force and effect, except as pertains to the modified hours of operation. The operational conditions in Administrative Permit 23-0020 apply for all hours of operation. (CHPP)

**2.0 PROJECT DESCRIPTION**

- 2.1) This approval is to amend the hours of operation and hours for alcoholic beverage sales in the outdoor dining area of a new restaurant located at 9045 Nemo Street (Somni 2), as noted in condition 3.1. (CHPP)
- 2.2) The property shall be developed and maintained in substantial conformance with the submitted plans on file in the Department of Community Development, date stamped November 14, 2023, unless otherwise indicated on the plans or in this resolution of approval. The restaurant and service of alcohol is limited to and shall not expand beyond the interior and exterior dining areas as indicated on the site plan on file. (CHPP)

**3.0 OPERATIONS**

- 3.1) The table below indicates the hours of operation of the interior restaurant area, the outdoor dining area, and for the sale, service, and consumption of alcohol.

|                                                                          |                            |
|--------------------------------------------------------------------------|----------------------------|
| <i>Interior Restaurant Dining Permitted Hours</i>                        | 11:00 am to 2:00 am daily  |
| <i>Sales &amp; Service of Alcohol in Interior Restaurant Dining Area</i> | 11:00 am to 1:30 am daily  |
| <i>Outdoor Dining Area Permitted Hours</i>                               | 11:00 am to 1:00 am daily  |
| <i>Sales &amp; Service, of Alcohol in Outdoor Dining Area</i>            | 11:00 am to 12:30 pm daily |

(Code Compliance)

- 3.2) The outdoor dining shall be closed between the hours of 1 a.m. to 11 a.m. daily. (Planning, Code Compliance)
- 3.3) This permit shall be reviewed by the Director of Community Development and the Code Compliance Division at six months following the commencement of full operation to determine if the conditions of approval are adequate to prevent the business from becoming a nuisance to nearby residential properties. If a modification to the conditions of this permit is deemed necessary, the matter will be reviewed by the Director at a duly noticed public hearing. (CHPP)

**PASSED, APPROVED AND ADOPTED THIS 14<sup>th</sup> DAY OF NOVEMBER, 2023**

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**Taylor Galindo**  
Planning Intern  
Current and Historic Preservation  
Planning

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**Nicholas P. Maricich, Director**  
Community Development Department

Any action to challenge the final decision of the City made as a result of the public hearing on this application must be filed within the time limits set forth in Code of Civil Procedure Section §1094.6.