



STAFF REPORT SAN CLEMENTE ZONING ADMINISTRATOR

Meeting Date: May 5, 2022

- PLANNER:** Karla Morales, Community Development Technician
- SUBJECT:** **Minor Conditional Use Permit (MCUP) 21-070, 9 Style Ramen Beer and Wine**, a request to allow beer and wine service for on-site consumption indoors at an existing restaurant.
- LOCATION:** 2017 S. El Camino Real
- ZONING/GENERAL PLAN:** Neighborhood Commercial 1.3, Affordable Housing Overlay (AH)

PROJECT SUMMARY

- **Site Information:** The project site is located within the Neighborhood Commercial 1.3 Zone and within the Affordable Housing Overlay. The existing restaurant, 9 Style Ramen, occupies a 1,500 square foot tenant space within a two-unit building. The restaurant shares the 12-stall parking lot on-site with another tenant, a laundromat. The project site abuts a residence to the northeast, and is surrounded by commercial businesses on all other sides. The restaurant, provides 32 indoor seats. There is no outdoor seating allowed per a Condition of Approval from a previous entitlement, Minor Architectural Permit 04-038. The intent of this condition was to mitigate any noise impacts to the surrounding residences. The entrance to the restaurant faces El Camino Real. **Figure 1** below shows an aerial view of the site.

Figure 1 – Aerial View



- Proposed Project: The applicant, Eriko Kuninaka, requests approval of a Minor Conditional Use Permit (MCUP) to sell beer and wine for on-site consumption indoors in conjunction with the existing restaurant operations. No modifications to the tenant space, seating, or business hours are proposed. The proposed alcohol service would take place during regular business hours from 12:00 PM to 2:00 PM and 5:00 PM to 9:00 PM from Wednesday through Monday. The restaurant has an approved business license for a restaurant with 32 indoor seats, which is reflected on the floor plan. The project does not propose increased seating; therefore, no additional parking is required.
- Approval Authority: Zoning Administrator approval is required for MCUPs (Zoning Ordinance Section 17.16.070).
- Project Findings: Staff believes the proposed use meets required findings in the attached Resolution (**Attachment 1**) for MCUP approval for the following reasons:
 - Beer and wine service at a restaurant indoors is a conditionally permitted use in the Neighborhood Commercial Zone and is consistent with the General Plan; and
 - The project maintains the primary use of the site as a restaurant; and
 - The project site is suitable for the type and intensity of the proposed use in that the sale and consumption of beer and wine is contained entirely within the building and business operating hours cease no later than 9:00 PM on any given day of the week; and
 - The project does not propose increased seating, therefore no additional parking is required; and
 - The Development Management Team (DMT), including Orange County Sheriff's Department (OCSD), reviewed the project and do not have concerns with the request; and
 - The proposed use will not be detrimental to the public health, safety or welfare or materially injurious to properties and improvements in the vicinity. In that, the proposed use must comply with conditions of approval and code requirements, such as Fire Code, California Building Code, Alcohol Beverage Control licensing requirements, and the Municipal Code, including limits on hours of operation, requirements that limit amplified sound, and requirement of employees to receive alcohol service training.
- CEQA: The project is Categorical Exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15301 (Class 1: Existing Facilities) because the proposed project involves the permitting, operation, and minor alteration of existing structures and facilities involving negligible expansion.
- Public Comment: The project was publicly noticed in accordance with the San Clemente Zoning Ordinance and Staff has received no public comment on this item.

RECOMMENDATION

Staff recommends that the Zoning Administrator:

1. Determine the project is Categorical Exempt from the requirements of the CEQA pursuant to CEQA Guidelines Section 15301 (Class 1: Existing Facilities); and
2. Adopt Resolution ZA 22-004, approving Minor Conditional Use Permit 21-070, 9 Style Ramen, subject to conditions of approval.

Attachments:

1. Resolution ZA 22-004
Exhibit A – Conditions of Approval
2. Project Narrative
3. Floor Plan

ATTACHMENT 1

RESOLUTION NO. ZA 22-004

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF SAN CLEMENTE, CALIFORNIA, APPROVING, MINOR CONDITIONAL USE PERMIT (MCUP) 21-070, 9 STYLE RAMEN BEER AND WINE, A REQUEST TO ALLOW BEER AND WINE SERVICE FOR ON-SITE CONSUMPTION INDOORS AT A RESTAURANT LOCATED AT 2017 S EL CAMINO REAL

WHEREAS, on May 12, 2021, an application was submitted, and completed on March 30, 2022, by Eriko Kuninaka, 1909 Colina Salida del Sol, San Clemente, CA, 92673; for Minor Conditional Use Permit (MCUP) 21-070, a request to allow beer and wine service for on-site consumption indoors at a restaurant. The site is located in the Neighborhood Commercial 1.3 Zone within the Affordable Housing Overlay at 2017 S El Camino Real. The site's legal description is Lot 4 of Block 12 of Tract 851 and Assessor's Parcel Number 690-402-13; and

WHEREAS, the Planning Division has completed an initial environmental assessment of the above matter in accordance with the California Environmental Quality Act (CEQA) and recommends that the Zoning Administrator determine the project is Categorically Exempt from CEQA pursuant to State CEQA Guidelines Section 15301 (Class 1: Existing Facilities). This is recommended because the project consists of permitting and licensing alcohol sales at an existing restaurant involving no expansion of the use; and

WHEREAS, the Development Management Team (DMT) reviewed the proposed project for compliance with the General Plan, Zoning Ordinance, and other applicable City ordinances and codes; and

WHEREAS, the City Planner advertised and noticed the Zoning Administrator public hearing for this item at least ten days in advance of the hearing by both publication in a newspaper of general circulation in the City of San Clemente and by mailing a notice of the time, place, and purpose of such hearing to required recipients, including property owners within 300 feet of the subject parcel; and

WHEREAS, on May 5, 2022, the Zoning Administrator of the City of San Clemente held a duly noticed public hearing on the subject application, considered written and oral comments, and facts and evidence presented by the applicant, City staff, and other interested parties.

NOW, THEREFORE, The Zoning Administrator of the City of San Clemente does hereby resolve as follows:

Section 1. Incorporation of Recitals.

The Zoning Administrator hereby finds that all of the facts in the Recitals are true and correct and are incorporated and adopted as findings of the Zoning Administrator as fully set forth in this resolution.

Section 2. CEQA Findings.

Based upon its review of the entire record, including the Staff Report, any public comments or testimony presented to the Zoning Administrator, and the facts outlined below, the Zoning Administrator hereby finds and determines that the proposed project is categorically exempt from CEQA pursuant to State CEQA Guidelines Section 15301 (Class 1: Existing Facilities). The Class 1 exemption specifically exempts from further CEQA review the operation, permitting, licensing, or minor alteration of existing facilities with negligible or no expansions of the existing use. Since the project consists only of the permitting and licensing of the existing approved business for beer and wine sales, the project qualifies for the Class 1 exemption.

Furthermore, none of the exceptions to the use of the Class 1 categorical exemption identified in State CEQA Guidelines section 15300.2 apply. The project will not result in a cumulative impact from successive projects of the same type in the same place, over time. There are no unusual circumstances surrounding the project that result in a reasonably possibility of a significant effect on the environment. The project is not in a scenic corridor, will not alter or impact historic resources, and does not include any hazardous waste sites. The project consists of no physical modifications to the structure or the environment and involves only modifying the types of alcohol permitted to be served. Thus, the Class 1 exemption applies, and no further environmental review is required.

Section 3. Minor Conditional Use Permit Findings

With respect to Minor Conditional Use Permit (MCUP) 21-070 for the proposed service of beer and wine at a restaurant for on-site consumption indoors, the Zoning Administrator finds as follows:

- A. The proposed use is permitted within the subject zone pursuant to the approval of a Minor Conditional Use Permit and complies with all the applicable provisions of the Zoning Ordinance, the San Clemente General Plan and the purpose and intent of the zone in which the use is being proposed, in that:
1. Beer and wine service at a restaurant indoors is a conditionally permitted use in the Neighborhood Commercial 1.3 Zone; and
 2. The proposed alcohol service (for on-site consumption) is ancillary to the permitted restaurant use; and
 3. The purpose and intent of all Neighborhood Commercial Zones is to accommodate retail, service, and commercial recreation uses. Restaurants are a typical use in this zone and are a type of general commercial use; and

4. The General Plan Land Use Element establishes the following goal for the Commercial Land Uses in the City: *“Achieve and maintain a healthy employment base with diverse retail, office, and service uses that: 1) meet citizens’ needs; 2) help generate municipal revenues that improve quality of life; 3) are compatible with adjacent residential neighborhoods; and 4) support the goals and policies of the Economic Development Element of the General Plan.”* The project is consistent with this goal in that it allows for service of beer and wine at a restaurant which could meet the needs of citizens to have a variety of restaurants to dine at.
- B. The site is suitable for the type and intensity of use that is proposed, in that:
1. The proposed beer and wine service (for on-site consumption) is ancillary to a permitted restaurant use;
 2. No modifications are proposed to the tenant space or the existing restaurant operations other than to allow service of beer and wine; and
 3. Code compliance staff and the Orange County Sheriff’s Department reviewed the proposed alcohol service and concluded alcohol can be served and consumed on-site without compatibility issues, provided that operations comply with licensing requirements, conditions of approval, and with regulations.
- C. The proposed use will not be detrimental to the public health, safety or welfare, or materially injurious to properties and improvements in the vicinity, in that:
1. The proposed use must comply with conditions of approval and code requirements to maintain the public health, safety, and welfare of the area, such as the Fire Code, California Building Code, Alcohol Beverage Control licensing requirements, and the Municipal Code. This includes but is not limited to requiring employees to receive alcohol service training to avoid the sale of alcoholic beverages to minors for consumption, limits on hours of operation, and requirements that limit amplified sound, particularly on the patio area;
 2. Should there be a compatibility issue, conditions of approval attached hereto as Exhibit A, allow the City to adjust operating hours and require noise abating measures if changes are necessary to ensure compliance with the noise ordinance and maintain the public health, safety, and welfare of the area; and
 3. Code Compliance Staff and the Orange County Sheriff’s Department reviewed the proposed alcohol service and concluded alcohol can be served and consumed on-site without compatibility issues, provided that operations comply with licensing requirements, conditions of approval, and with regulations.

D. The proposed use will not negatively impact surrounding land uses, in that:

1. The proposed use must comply with conditions of approval and code requirements to maintain the public health, safety, and welfare of the area, such as the Fire Code, California Building Code, Alcohol Beverage Control licensing requirements, and the Municipal Code. This includes but is not limited to requiring employees to receive alcohol service training to avoid the sale of alcoholic beverages to minors for consumption, limits on hours of operation, and requirements that limit amplified sound particularly on the patio area;
2. Should there be a compatibility issue, conditions of approval attached hereto as Exhibit A, allow the City to adjust operating hours and require noise abating measures, if changes are necessary to ensure compliance with the noise ordinance and maintain the public health, safety, and welfare of the area;
3. Code Compliance Staff and the Orange County Sheriff's Department reviewed the proposed alcohol service and concluded alcohol can be served and consumed on-site without compatibility issues, provided that operations comply with licensing requirements, conditions of approval, and with regulations; and
4. The City has no record of code compliance complaints related to noise issues or other impacts from the business's regular operations due to the proximity to residences in the area.

Section 4. Zoning Administrator Approval.

Based on the foregoing recitals and findings above, and the written and oral comments, facts, and evidence presented, the City of San Clemente Zoning Administrator approves Minor Conditional Use Permit (MCUP) 21-070, 9 Style Ramen Beer and Wine, subject to the Conditions of Approval set forth in Exhibit A.

PASSED AND ADOPTED at a regular meeting of the City of San Clemente Zoning Administrator on May 5, 2022.

Cecilia Gallardo-Daly, Zoning Administrator

CONDITIONS OF APPROVAL
MCUP 21-070, 9 STYLE RAMEN BEER AND WINE

1.0 GENERAL CONDITIONS OF APPROVAL

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| 1.1 | Within 30 days of approval of this application, the applicant shall submit to the City Planner a signed acknowledgement concurring with all conditions of approval on a form to be provided by the City. Failure to submit this acknowledgement may be grounds to revoke this approval. | Planning |
| 1.2 | The applicant shall defend, indemnify, and hold harmless the City of San Clemente and its officers, employees, and agents from and against any claim, action, proceeding, fines, damages, expenses, and attorneys' fees, against the City, its officers, employees, or agents to attack, set aside, void, or annul any approval or condition of approval of the City concerning this project, including but not limited to any approval or condition of approval of the City Council, Planning Commission, or City Planner. Applicant shall pay all costs. The City shall promptly notify the applicant of any claim, action, or proceeding concerning the project and the City shall cooperate fully in the defense of the matter. The City reserves the right, at its own option, to choose its own attorney to represent the City, its officers, employees, and agents in the defense of the matter. If the applicant fails to so defend the matter, the City shall have the right, at its own option, to do so and, if it does, the applicant shall promptly pay the City's full cost of the defense. | Planning |
| 1.3 | Use and development of this property shall be in substantial conformance with the approved plans, material boards and other applicable information submitted with this application, and with these conditions of approval. | Planning |
| 1.4 | The applicant shall comply with all applicable current and future provisions of the San Clemente Municipal Code, adopted ordinances, and state laws. | All |
| 1.5 | Use of the subject property shall conform to all occupancy requirements, including posting of signs related to the maximum occupancy limitations. | Code
Comp |
| 1.6 | No signage is approved through this permit. All signs, including permanent, window, and temporary signage shall comply with Zoning Ordinance, including issuance of any applicable required permits. | Code
Comp
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7.0 OPERATIONAL CONDITIONS OF APPROVAL

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| 7.3 | The sale of alcoholic beverages for indoor on-site consumption shall be limited to the hours of 12:00 PM to 2:00 PM and 5:00 PM to 9:00 PM from Wednesday to Monday. | Planning |
| 7.4 | All employees shall receive Responsible Alcoholic Beverage Service training as offered through programs established by the Orange County Health Care Agency and Alcoholic Beverage Control of the State of California. Training shall be provided as soon as practical following the hire date of each employee. Evidence of such training shall be maintained on-site during business hours, and made available for inspection by any city official upon request. (SCMC Section 17.16.070) | Code
Comp |
| 7.5 | The service and consumption of alcoholic beverages shall only be permitted in conjunction with food service, with same foods prepared on site. The foods shall be available at all times that alcoholic beverages are being served. | Code
Comp |
| 7.6 | A manager shall be on the premises at all times, and available to respond to issues raised by representative from the Orange County Sheriff's Department, Orange County Fire Authority, or City of San Clemente Code Compliance, during the hours of operation when alcohol service is occurring. | Code
Comp |
| 7.7 | These conditions of approval shall be posted in a conspicuous location clearly visible to employees to ensure they are informed of and adhere to requirements and policies for all operations of the business, including but not limited to alcohol service. | Code
Comp |
| 7.8 | The use of amplified sound (including the electronically amplified sound of live music, human voice, or other sound within a business, restaurant, bar, or other commercial establishment) shall not be permitted. This prohibition does not include the indoor use of televisions, radios, or reasonable background or ambient music. | Code
Comp* |
| 7.17 | The Applicant shall post a sign or notice at the premises that states, "WARNING: DRINKING WINE, BEER AND OTHER ALCOHOLIC BEVERAGES DURING PREGNANCY CAN CAUSE BIRTH DEFECTS. FOR INFORMATION AND MATERIALS RELATING TO FETAL ALCOHOL SYNDROME, CONTACT YOUR LOCAL MARCH OF DIMES." The notice or sign shall be posted or displayed at the premises in the manner provided for in San Clemente Municipal Code, Title 8 – Health and Safety. [Citation - Section 8.08.010 of the SCMC] | Code
Comp** |

- 7.18 Discharge of wash water and other pollutants is prohibited from entering the storm drain system. Applicant must prevent pollutants (e.g. sediment, trash, food waste etc.) and any wash water used during cleanup from entering the storm drain system. Code
Comp
WQ**
- 7.19 The Applicant shall use her/his best judgment and best management practices to ensure commercial activities on the premises will be conducted in a manner that will not be disruptive to neighbors. The business owner/property owner shall be responsible for ensuring compliance with the San Clemente Municipal Code (SCMC), and all conditions of approval contained herein. The Applicant (including any property owners and managers, and their designees) hereby understands that noncompliance with regulations and conditions of approval, shall be immediate grounds for citation pursuant to SCMC Section 8.52.030(Y), which states, "It is declared a public nuisance for any person owning, leasing, occupying or having charge or possession of any premises in this City to maintain such premises in such manner that ... A structure, improvement, property, and/or land use is not in compliance with terms and/or conditions of any City of San Clemente issued permit or approval," and any subsequent revision of this section of the code. [Citation - Section 8.52.030(Y) of the SCMC] Code
Comp**
- 7.20 The Applicant shall use his/her best judgment and best management practices to ensure activities on the premises will be conducted in a manner that will not be disruptive to other commercial or residential neighbors and result in police services, which cost the City of San Clemente expense. Code
Comp
OCSD**
- 7.21 The Applicant (including any property owners and managers, and their designees) shall be responsible for ensuring that no noise-generating activities on the subject property are conducted between the hours of ten (10:00) p.m. and seven (7:00) a.m. Such prohibited activities include, but are not limited to, dumping trash into outside trash bins, the use of parking lot sweepers, the use of high-pressure washers, or other maintenance or delivery activities which generate noise having the potential of disturbing neighboring properties. [Citation - Section 8.48.070(P) of the SCMC] Code
Comp**
- 7.22 The Applicant understands and acknowledges sound amplification devices located outside any business's primary building are not permitted, unless specifically identified and approved in this permit or subsequent permits approved by the City. [Citation - Section 8.48.080 of the SCMC] Code
Comp**
- 7.23 The Applicant understands and acknowledges sound amplification devices located outside any business's primary building are not Code
Comp**

permitted, unless specifically identified and approved in this permit or subsequent permits approved by the City. [Citation - Section 8.48.080 of the SCMC]

7.24 The Applicant (including any property owners and managers, and their designees) shall abide by all applicable laws, including Orange County Health Department and the California Department of Alcoholic Beverage Control (ABC) laws.

Code
Comp
OCHCA
ABC**

* Denotes a modified Standard Condition of Approval

** Denotes a project specific Condition of Approval

ATTACHMENT 2

From: Eriko Corp.

2017 S. El Camino Real
San Clemente, CA 92672

9styleramen@gmail.com

03/30/2022

Letter of project narrative

To whom it may concern:

9 Style Ramen is a public dining establishment serving traditional Japanese cuisine located at 2017 S. El Camino Real, San Clemente have requested a TYPE 41 liquor license.(Beer and Wine)

Occupancy level of 32 persons. Only indoor alcohol operations and no outdoor alcohol service will take place.

The size of the tenant suite is 1500 square feet, 37' from front door to back door, and 31' width.

9 Style Ramen will operate from 12 PM to 2 PM and from 5 PM to 9PM. The hours of alcohol service will be available the same as hours of operation. Wednesday through Monday. Closed Tuesday. Customers will be served at their table.

The alcohol will be stored in storage inside of the restaurant.

Best Regards,

Eriko Kuninaka

Eriko Corp

ATTACHMENT 3

