CITY OF NOVATO
COMMUNITY DEVELOPMENT

DATE: February 27, 2020

TO: City Council
City Manager
Community Development Director

FROM: Steve Marshall, Zoning Administrator

SUBJECT: Zoning Administrator's Hearing of February 27, 2020

NEW ITEM:

1. **AUTO SALES AND STORAGE**
   CEQA CATEGORICALLY EXEMPT: SECTION 15301
   P2020-005; USE PERMIT; APN 157-400-77
   275 BEL MARIN KEYS BLVD., SUITE A

   Consider approval of a use permit to allow auto sales and storage within an existing tenant space at 275 Bel Marin Keys Boulevard Suite A within the Novato Industrial Park.

PRESENT

Thomas Knudsen of Zacko Group, LLC, Applicant
Kaitlin Zitelli, Planner I

PUBLIC HEARING

Zoning Administrator Marshall opened the public hearing.

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

Mr. Knudsen confirmed receipt of the staff report and conveyed to staff that he did not have any objections regarding the recommended conditions of approval. Mr. Knudsen asked if approved, could the forms required by the DMV for his business be signed by the Planning Division prior to issuance of a building permit. Zoning Administrator Marshall responded the DMV forms could be signed after the use permit appeal period had ended.

Zoning Administrator Marshall opened the public comment period.

No members of the public attended the 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.

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

FINDINGS

1. CEQA Finding

The request for a use permit to operate a wholesale auto dealership 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 that involve the operation, permitting, leasing, or licensing of existing private structures involving negligible expansion of use.

The proposed use consists of a vehicle storage and sales business to locate in an existing tenant space within an existing private structure. The applicant proposes to install mechanical car lifts for storage of the cars. No other modification to the site, building, or tenant space are proposed. As such, the project meets the criteria for this CEQA exemption.

2. Use Permit Findings

In accordance with Sections 19.42.050E of the Novato Municipal Code, the Zoning Administrator hereby grants a use permit for operation of a wholesale auto dealership, on the basis of the findings below as supported by the facts discussed in the staff analysis above and subject to the conditions of approval specified below.

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.

ACTION TAKEN

In accordance with NMC 19.42.050. E (Use Permit – Findings and Decision), the Zoning Administrator hereby makes the required findings as listed and discussed within the Staff Analysis

section of the staff report, allowing Zacko Group, LLC to operate a wholesale auto dealership (auto broker) at 275 Bel Marin Keys Blvd. Suite A.

CONDITIONS OF APPROVAL

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

1. This Use Permit approval shall expire two (2) years from the date of approval unless the activity authorized therein has commenced operation.

2. Applicant shall obtain a business license for operation of a business within the City of Novato.

3. 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:*

4. Applicant shall obtain all necessary building permits issued by the City of Novato Building Division for any tenant improvements.

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

5. 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 Sanitary District:*

6. Any floor drains within the car storage area shall be capped/covered to eliminate the risk of any spilled oil, coolant, or other chemical entering the sanitary sewer.

7. Oil, coolant, or solvents shall be stored in an appropriate storage locker with double containment.

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

8. The fire sprinkler system shall be evaluated by a licensed qualified fire protection engineer to ensure the current design meets the proposed use of indoor vehicle storage, including the use of vehicle storage rack systems. A report shall be provided to NFD for review.

9. Fire lanes shall be updated as necessary.

10. 'Knox' key access shall be installed at the premises conforming to Novato Fire Protection Standard #202.

11. The business shall create and maintain a pre-plan per Fire Protection District Ordinance.

12. Indoor storage of vehicles shall comply with CFC Section 314 for indoor displays.

13. The address shall be posted clearly visible from the street with numeral illuminated and contrasting color to their background conforming to Novato Fire Protection District Standard #205.

14. The facility and improvements shall comply with California Building Code and State Fire Marshal building standards and regulations.

15. Portable fire extinguishers shall be installed and maintained in accordance with California Fire Code Chapter 9.

16. **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. **BIOMARIN WASTEWATER STORAGE TANKS**
   CEQA CATEGORICALLY EXEMPT: SECTION 15303
   P2019-099; USE PERMIT; APN 157-452-14
   46 GALLI DRIVE

   Consider approval of a use permit application to allow for continued placement and use of two existing wastewater diversion tanks to support BioMarin's manufacturing operations at 46 Galli Drive within the Novato Industrial Park.

PRESENT

Shar Zamanpour, BioMarin Representative
Seema Adina, BioMarin Representative
Kaitlin Zitelli, Planner I

PUBLIC HEARING

Zoning Administrator Marshall opened the public hearing.

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

Ms. Zamanpour confirmed receipt of the staff report and asked if there was a time frame associated with Condition No. 2. Zoning Administrator Marshall replied there was no time frame in which the lot line adjustment application must be made.

There was a discussion regarding the conditions submitted by North Marin Water District (NMWD), which staff did not recommend as conditions of approval to the project. Ms. Zamanpour stated that BioMarin is working with NMWD to pay any required fees due to water usage at 46 Galli Dr.

Zoning Administrator Marshall opened the public comment period.

No members of the public attended the 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 the conditions requested by North Marin Water District were not directly relevant to the on-site storage and disposal of processed wastewater. Given this circumstance, there was no nexus to require the payment of potable water connection fees as a city adopted condition of approval to the use permit.

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

The public hearing was closed.

FINDINGS

1. CEQA Finding

The request for a use permit to site and utilize existing wastewater storage tanks at 46 Galli Drive 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 15332, *In-Fill Development*. The proposed project is consistent with the General Plan, zoning designation and regulations, is on a site within the City limits and is less than five (5) acres in area surrounded by urban uses, has no habitat value for endangered, rare, or threatened species, can be adequately served by all required utilities and public services, and approval of the project would not result in significant effects relating to traffic, noise, air quality, or water quality. Additionally, exceptions specified in Section 15300.2 of the CEQA Guidelines do not apply to the project site and do not preclude the use of this CEQA exemption.

2. Use Permit Findings

In accordance with Novato Municipal Code Section 19.42.050E, the Zoning Administrator hereby grants a use permit for operation of existing wastewater storage tanks, on the basis of the findings below as supported by the facts discussed in the staff analysis above and subject to the conditions of approval specified below.

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.

ACTION TAKEN

In accordance with NMC Section 19.42.050.E (Use Permit – Findings and Decision), the Zoning Administrator hereby makes the required findings as listed and discussed within the staff analysis section of the staff report, to allow for continued siting and operation of the existing wastewater storage tanks at 46 Galli Dr.

CONDITIONS OF APPROVAL

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

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 applicant shall submit an application for a lot merger (lot line adjustment) to be approved and recorded for BioMarin's existing parcels at 46 Galli Drive and 300 Bel Marin Keys Boulevard, consistent with the approvals granted by the Zoning Administrator on July 24, 2008, to expand 46 Galli Drive.

3. 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 *Novato Fire Protection District:*

4. Signage is required for the newer 200-gallon hydrogen peroxide injection tank that was required and installed for odor abatement. NFPA 704 placards shall be installed conforming to Fire District Standards #309. The numerical ranking on the placards shall be in accordance with the highest hazard material noted by the MSDS in each category as approved by the Fire Marshal.

5. Tanks shall be inspected for any sign of leakage or spillage. Should evidence of leakage exist, tanks shall be repaired or replaced as necessary.

6. 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.

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