



City of Emeryville

CALIFORNIA

MEMORANDUM

DATE: October 21, 2025

TO: LaTanya Bellow, City Manager

FROM: Chadrick Smalley, Community Development Director

SUBJECT: **Resolution Of The City Council Of The City Of Emeryville Granting A Waiver From The Noise Ordinance To Deacon Construction, LLC For One Night Of Work Beginning On Thursday, December 4 2025 At 8:00 P.M. And Concluding On 8:00 A.M. Friday, December 5, 2025 For The Replacement Of A Transformer That Requires Crane Work, A Light Tower, And A 300 kW Generator At Total Wine & More Located At 3938 Horton Street (APN: 7-617-20 AND 7-617-22) (CEQA Status: Exempt Pursuant To State CEQA Guidelines Section 15061(b)(3))**

RECOMMENDATION

Due to the unique nature and circumstances of the work, staff recommends that the City Council adopt the attached Resolution granting a waiver from the Noise Ordinance to allow night work to facilitate the replacement of a transformer at Total Wine & More at 3938 Horton Street from 8:00 p.m. December 4, 2025 to 8:00 a.m. on December 5, 2025.

BACKGROUND

The transformer at Total Wine & More, located at 3938 Horton Street at the southwest corner of 40th Street, needs to be replaced. This involves lifting the old transformer out with a crane and installing a new transformer with a crane. During this time, power will be disconnected and a generator will be used to keep the store refrigeration units running.

DISCUSSION

Noise Ordinance Waiver Procedures

Chapter 13 of Title 5 of the Emeryville Municipal Code limits construction noise to weekdays from 7:00 a.m. to 6:00 p.m. but allows a developer or contractor to ask the City Council for a waiver of the construction noise restrictions. Section 5-13.06 sets forth the procedures for a waiver. The applicant must submit a request, accompanied by the required fee, to the Planning Director, stating the hours and days of work requested, type of work to be conducted, type of equipment to be used, location on the property where work will take place, and reason(s) why a waiver is needed. The City Council then holds a noticed public hearing regarding the request and may grant the request by resolution and designate such conditions as it deems necessary. After granting the request, the City Council may revoke or modify the waiver if the applicant fails to comply with any of the

conditions upon which the waiver was granted, or if complaints are received and not satisfactorily resolved.

Reason for Noise Waiver Request

The transformer at Total Wine & More needs to be replaced. This involves lifting the old transformer out with a crane and installing a new transformer with a crane. While the power is disconnected, a generator needs to be used to keep the store refrigeration units running. The generator running the refrigeration units cannot be used to run the store's seven rooftop HVAC units, as the naturally occurring fluctuations in voltage and frequency from the generator can damage the HVAC units. Subsequently, this work needs to be done when the store is not open, during the time the HVAC units are not critical to occupancy.

Store hours (when work cannot be done):

- 9 a.m. to 9 p.m.

Requested night work hours beginning on December 4:

- Set Up Time: 8:00 p.m. to 10:00 p.m.
- Work Time: 10:00 p.m. to 6:00 a.m.
- Breakdown Time: 6:00 a.m. to 8:00 a.m.

Type of Equipment Used:

- Crane Truck rated at 55 dB – only needed to place the transformer
- Light Tower rated at 45 dB – only required during PG&E work (10:00 p.m. to 6:00 a.m.)
- 300 kW Generator rated at a range of 60-70 dB – duration of work

Description of Work

A crew will start arriving at the work site at 8:00 p.m. to set up. PG&E will have a four-person crew, the electrical contractor will have a four-person crew, the HVAC subcontractor will have a one-person crew, and Deacon Construction will have a superintendent onsite, for a total of ten individuals. All crew members will park on the south side of the building in the main parking lot, away from the nearest residents which are located on the north side of the building, across 40th Street.

The transformer, located on the east side of the building near 40th Street, will be replaced. Because the work is being done at night, a light tower will be used for the safety of the workers. The light tower will be positioned directly next to the work area and pointed directly down at the electrical trench. See Site Plan included in the applicant request letter.

PG&E will disconnect the power at approximately 10:00 p.m., and the electricians will start up the generator. PG&E will place the transformer, connect the existing primary lines to the new transformer, and energize the transformer. The HVAC units and any equipment that

has multiple phases will be tested before turning on the new power source. The installation is scheduled for completion by 6:00 a.m., with clean up and equipment breakdown concluding no later than 8:00 a.m.

Staff believes that the request for night work is reasonable given the unique nature and circumstances of the work to be performed. Staff recommends approval of the requested noise waiver.

FISCAL IMPACT

None.

CEQA STATUS

Staff recommends the City Council find that this noise waiver is exempt from the California Environmental Quality Act (CEQA) under the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment, as stated in Section 15061(b)(3) of the State CEQA Guidelines and, in this instance, it can be seen with certainty that there is no possibility that the noise waiver will cause a significant effect on the environment. This recommendation is incorporated in the attached resolution.

STAFF COMMUNICATION WITH THE PUBLIC

As required by the Noise Ordinance, staff mailed notices to property owners and site addresses within 300 feet of 3938 Horton Street and published a legal advertisement in the Oakland Tribune.

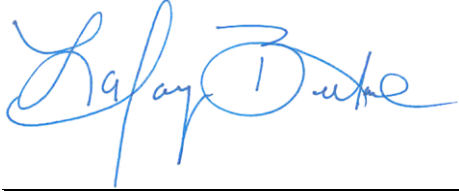
CONCLUSION

Staff recommends approval of the noise waiver request subject to the conditions of approval outlined in the draft resolution.

PREPARED BY: Navarre Oaks, Senior Planner

REVIEWED BY: Miroo Desai, Planning Manager

**APPROVED AND FORWARDED TO THE
CITY COUNCIL OF THE CITY OF EMERYVILLE:**

A handwritten signature in blue ink, appearing to read "LaTanya Bellow", is written over a horizontal line.

LaTanya Bellow, City Manager

ATTACHMENT

- Draft Resolution, including Exhibit A, Applicant Request Letter