



**MEMORANDUM**

**DATE:** May 1, 2018

**TO:** Carolyn Lehr, City Manager

**FROM:** Charles S. Bryant, Community Development Director

**SUBJECT:** **Resolution Of The City Council Of The City Of Emeryville Granting A Waiver From The Noise Ordinance To AvalonBay Communities For Construction Work On All Saturdays From May 5, 2018 To May 18, 2019 (Except May 26, 2018, November 24, 2018, And December 22, 2018) At The Marketplace Project (Parcel C-2 And Parcel D) Located At 6251 And 6301 Shellmound Street (APN: 49-1556-1; -2) (CEQA Status: Exempt Pursuant To Section 15061(b)(3))**

**RECOMMENDATION**

Staff recommends that the City Council deny the noise waiver request. However, if the Council, upon hearing testimony, wishes to approve the request, a resolution granting a waiver from the Noise Ordinance is attached. This resolution allows Saturday work on all Saturdays between May 5, 2018 and May 18, 2019 (excluding Saturdays falling on the weekends of Memorial Day (May 26), Thanksgiving (November 24) and Christmas (December 22)) from 10:00 a.m. to 5:00 p.m. at the Marketplace Parcel C-2 (Grocery Store - Residential Component) and Parcel D (Theater Building) located at 6251 Shellmound Street and 6301 Shellmound Street respectively.

**BACKGROUND**

Following approval of Final Development Plans by the Planning Commission, construction of the Marketplace Mixed Use project has been under way since the winter of 2015. The grocery store and associated parking is nearly complete, and the Shellmound Street realignment and construction of Parcel D (223 units) are currently underway. The building permit for Parcel C-2, the residential component (66 units) wrapping the newly built grocery store, was issued on April 6, 2018.

AvalonBay Communities is the developer of both Parcel D and Parcel C-2 and they now request permission to work on all Saturdays from May 5, 2018 to May 18, 2019 (except May 26, November 24, and December 22, 2018) to accelerate the construction schedule (see Exhibit A of the attached Resolution for the applicant's request letter). Requested hours of work on these Saturdays are from 10:00 a.m. to 5:00 p.m.

## **DISCUSSION**

### *Noise Ordinance Waiver Procedures*

Chapter 13 of Title 5 of the Emeryville Municipal Code limits construction noise to 7:00 a.m. to 6:00 p.m. weekdays, 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 on 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.

### *Type of Work*

The proposed work consists of standard construction work such as sidewalk and landscaping, concrete foundation work, framing, and interior work. There will be 30 to 50 workers on site using equipment such as forklifts, nail guns, saws and drills. Please see the attached applicant request letter outlining details regarding type of work on each of the two parcels by each month.

### *Reasons for Noise Waiver Request and Staff Comment*

The applicant is requesting the noise waiver to accelerate the construction schedule. They have held three meetings with residents of EMME, Avenue 64, the Pacific Park Plaza, and Artistry apartments to discuss the requested noise waiver.

Staff typically does not recommend approval of noise waivers merely to accelerate a construction schedule. Therefore, our recommendation is that the Council deny the request. However, upon hearing public testimony, if the Council wishes to approve the waiver, a resolution approving the noise waiver request is attached.

## **FISCAL IMPACT**

None.

## **STAFF COMMUNICATION WITH THE PUBLIC**

A written notification of this public hearing item was sent to both owners and tenants of buildings within 300 feet of the project site, including owners and residents of the EMME, Avenue 64, Pacific Park Plaza, Bridgewater, and the Artistry. A notice was also published in the Oakland Tribune.

**PREPARED BY:** Miroo Desai, Senior Planner

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



---

Carolyn Lehr, City Manager

Attachments:

1. Resolution
2. Exhibit A: Applicant Request Letter dated March 5, 2018