

RESOLUTION NO. 17-128

Resolution Of The City Council Of The City Of Emeryville Granting A Waiver From The Noise Ordinance To AG-CCRP Public Market, L.P. For Construction Work On All Saturdays Between July 29, 2017 And November 11, 2017 At the Public Market For Streetscape Work

WHEREAS, on June 1, 2017, AG-CCRP Public Market requested a noise waiver to allow work from 9:00 a.m. to 6:00 p.m. on all Saturdays between July 15, 2017 and October 28, 2017 at the Public Market Project located in the vicinity of 5959 Shellmound Street; and

WHEREAS, the request is being made to facilitate the timely completion of construction of the new grocery store and associated parking, which in turn will allow construction of the redesigned and expanded Christie Avenue Park on a lot that is currently providing surface parking for the Public Market; and

WHEREAS, 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 subject to such conditions as the Council deems necessary to fulfill the purposes of the Noise Ordinance; and

WHEREAS, the City Council held a duly and properly noticed public hearing on the request on Tuesday, July 11, 2017, and continued the hearing to July 25, 2017 to allow the applicant more time to conduct outreach to neighbors; now, therefore, be it

RESOLVED, that the City Council of the City of Emeryville hereby finds that the noise waiver for construction associated with the streetscape work at the Public Market Project in the vicinity of 5959 Shellmound Street 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 be it further

RESOLVED, that the City Council finds that the conditions of approval listed below provide adequate protection for nearby residents and businesses; and be it further

RESOLVED, that the City Council hereby approves the request of AG-CCRP Public Market, L.P. for a waiver of construction noise hours for Saturday work in the vicinity of 5959 Shellmound Street with the following conditions:

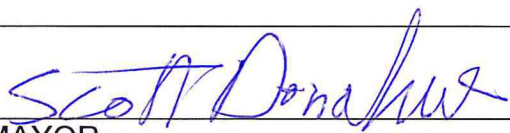
1. Work shall be allowed on all Saturdays from July 29, 2017 to November 11, 2017, inclusive, between 10:00 a.m. and 6:00 p.m. All work and equipment shall be limited to that described in the attached letter from AG-CCRP Public Market, L.P. dated July 24, 2017, and attached hereto as Exhibit A; except that no

Saturday work shall occur on the entire length of Market Drive including South Market Drive.

2. Two signs shall be posted indicating the name and telephone number of a person to contact for concerns or complaints. This telephone must be answered by a live person during construction hours (not by voice mail or answering machine). This person must have the authority to stop work. These signs must be clearly legible from Shellmound Street.
3. The applicant shall notify all neighbors within 300 feet of the site, and the Emeryville Police, Fire and Public Works departments, prior to commencing weekend work.
4. If residents or local businesses complain, all work on the site and in the vicinity shall cease until the issue is resolved.
5. The City Council may revoke or modify this approval if the applicant fails to comply with any of these conditions of approval, or if any complaints are received and not satisfactorily resolved.

ADOPTED by the City Council of the City of Emeryville at a regular meeting held on Tuesday, July 25, 2017 by the following vote:

AYES:	<u>3</u>	Mayor Donahue, Vice Mayor Bauters and Council Member Martinez
NOES:	<u>2</u>	Council Members Medina and Patz
ABSTAIN:	<u>0</u>	
ABSENT:	<u>0</u>	


MAYOR

ATTEST:

APPROVED AS TO FORM:


DEPUTY CITY CLERK


CITY ATTORNEY

Exhibit A: Noise Ordinance Saturday Work Request Matrix dated July 24, 2017

AG-CCRP Public Market, L.P.

June 1, 2017

Charles S. Bryant
Director of Planning and Building
1333 Park Avenue
Emeryville, CA 94608

Re: Noise Ordinance Waiver Request
Marketplace – Phase I Streetscape
5959 Shellmound Street, Emeryville, CA

Dear Mr. Bryant:

On behalf of AG-CCRP Public Market, L.P., I am writing to request approval for a waiver to the City of Emeryville's Noise Ordinance for ongoing work at the Marketplace Phase I Streetscape project, located at 5959 Shellmound Street.

Saturday work is being requested in order to accelerate our construction schedule to achieve two major milestones sooner than currently expected.

- The first milestone we are hoping to achieve is the opening of the parking structure on Parcel C-1. The opening of this parking structure is the trigger which then allows us to take the Parcel E surface parking lot offline in order to begin construction on Christie Park. We believe that the opening of Christie Park is a tremendous community benefit and the sooner we are able to start work on it, the sooner we can deliver it to the citizens of Emeryville.
- The second milestone is the opening of New Seasons Market, which is currently scheduled for early November. If we fail to complete the surrounding streetscape work by late October, then the grocery store will likely not open until March of next year. Again, we believe that the opening of the store is of great benefit to the community and that the community has waited patiently through an arduous entitlement and construction process.

As both of these milestones require the same streetscape work to be completed, the request is for additional time to accelerate the work specifically on South Market Drive, the Parcel B portion of realigned Shellmound and 62nd Street. The attached matrix outlines the requested dates for the waiver along with a description of the scope and the location. In addition, the attached plans provide specific details on the location of each particular area of work.

Thank you for your consideration of this request. If there are any questions I can answer, please do not hesitate to let me know.

Regards,



Tim Bacon
For AG-CCRP Public Market, L.P.

Exhibit A

July 24, 2017

PLANT



Noise Ordinance Saturday Work Request

Emeryville Public Market Streetscape Project

Work hours	Date of Work	Description of Work	Type of Equipment	Location	Jobsite Contact
10am-6pm	7/29/2017	62nd Street - Installation of pavers Market Street (South end only) - Installation of flow through planters Shellmound Street (Lot B) - Excavation of soils	Excavator (Excl Market St.), Offhaul trucks, Backhoe, Saws	62nd Street Market Street (South end) Shellmound Street (Lot B)	Lloyd Berges (925) 628-3322
10am-6pm	8/5/2017	62nd Street - Installation of pavers Market Street (South end only) - Backfill to subgrade Shellmound Street (Lot B) - Construct Flow through planters	Excavator (Excl Market St.), Offhaul trucks, Backhoe, Saws, Compaction equipment (Excl Market St.)	62nd Street Market Street (South end) Shellmound Street (Lot B)	Lloyd Berges (925) 628-3322
10am-6pm	8/12/2017	62nd Street - Installation of pavers Market Street (South end only) - Backfill to subgrade Shellmound Street (Lot B) - Construct Flow through planters	Excavator (Excl Market St.), Offhaul trucks, Backhoe, Saws, Compaction equipment (Excl Market St.)	62nd Street Market Street (South end) Shellmound Street (Lot B)	Lloyd Berges (925) 628-3322
10am-6pm	8/26/2017	62nd Street - Installation of pavers Market Street (South end only) - Installation of base rock Shellmound Street (Lot B) - Backfill to subgrade	Excavator (Excl Market St.), Offhaul trucks, Backhoe, Saws, Compaction equipment (Excl Market St.)	62nd Street Market Street (South end) Shellmound Street (Lot B)	Lloyd Berges (925) 628-3322
10am-6pm	9/2/2017	62nd Street - Installation of pavers Market Street (South end only) - Installation of streetlighting/irrigation lines Shellmound Street (Lot B) - Installation of streetlighting/irrigation lines	Excavator (Excl Market St.), Offhaul trucks, Backhoe, Saws, Compaction equipment (Excl Market St.)	62nd Street Market Street (South end) Shellmound Street (Lot B)	Lloyd Berges (925) 628-3322
10am-6pm	9/9/2017	62nd Street - Installation of site furnishings Market Street (South end only) - Installation of curb, gutter, sidewalk Shellmound Street (Lot B) - Installation of base rock	Excavator (Excl Market St.), Offhaul trucks, Backhoe, Saws, Compaction equipment (Excl Market St.)	62nd Street Market Street (South end) Shellmound Street (Lot B)	Lloyd Berges (925) 628-3322
10am-6pm	9/16/2017	62nd Street - Installation of streetlights, planting, striping Market Street (South end only) - Installation of curb, gutter, sidewalk Shellmound Street (Lot B) - Installation of curb, gutter, sidewalk	Excavator (Excl Market St.), Backhoe, Saws, Gradall	62nd Street Market Street (South end) Shellmound Street (Lot B)	Lloyd Berges (925) 628-3322
10am-6pm	9/23/2017	Market Street (South end only) - Installation of curb, gutter sidewalk Shellmound Street (Lot B) - Installation of curb, gutter sidewalk	Saws, Gradall	Market Street (South end) Shellmound Street (Lot B)	Lloyd Berges (925) 628-3322
10am-6pm	9/30/2017	Market Street (South end only) - Installation of curb, gutter sidewalk Shellmound Street (Lot B) - Installation of curb, gutter sidewalk	Saws, Gradall	Market Street (South end) Shellmound Street (Lot B)	Lloyd Berges (925) 628-3322
10am-6pm	10/7/2017	Market Street (South end only) - Paving Shellmound Street (Lot B) - Installation of curb, gutter sidewalk	Trucks, Paving Machine, Saws, Gradall	Market Street (South end) Shellmound Street (Lot B)	Lloyd Berges (925) 628-3322
10am-6pm	10/14/2017	Market Street (South end only) - Set Trees and streetlighting Shellmound Street (Lot B) - Paver Installation	Saws, Gradall	Market Street (South end) Shellmound Street (Lot B)	Lloyd Berges (925) 628-3322
10am-6pm	10/21/2017	Market Street (South end only) - Set Trees and streetlighting Shellmound Street (Lot B) - Paver Installation	Saws, Gradall	Market Street (South end) Shellmound Street (Lot B)	Lloyd Berges (925) 628-3322
10am-6pm	10/28/2017	Shellmound Street (Lot B) - Paving	Trucks, Paving Machine	Shellmound Street (Lot B)	Lloyd Berges (925) 628-3322
10am-6pm	11/4/2017	Shellmound Street - Demolition and excavation (existing Shellmound St. tie in area) - Demolition and excavation (area against Tower building)	Excavator, Offhaul trucks, Backhoe, Saws	Shellmound Street (Existing Shellmound tie in area) Shellmound Street (Lot B)	Lloyd Berges (925) 628-3322
10am-6pm	11/11/2017	Shellmound Street - Install Flow through planters (Existing Shellmound tie in area) - Place base rock (area against tower building)	Compaction equipment, Excavator	Shellmound Street (Existing Shellmound tie in area) Shellmound Street (Lot B)	Lloyd Berges (925) 628-3322
10am-6pm	11/18/2017	Shellmound Street - Backfill to subgrade (Existing Shellmound tie in area) - Prep for sidewalk placement (against tower building)	Compaction equipment, Excavator, Offhaul Trucks	Shellmound Street (Existing Shellmound tie in area) Shellmound Street (Lot B)	Lloyd Berges (925) 628-3322
10am-6pm	11/25/2017	Shellmound Street - Install Storm drain lateral, place base rock (Existing Shellmound tie in area) - Placement of sidewalk (against tower building)	Compaction equipment, Excavator, Offhaul Trucks	Shellmound Street (Existing Shellmound tie in area) Shellmound Street (Lot B)	Lloyd Berges (925) 628-3322
10am-6pm	12/2/2017	Shellmound Street - Placement of curb, gutter, sidewalk (Existing Shellmound tie in area)	Saws, Gradall	Shellmound Street (Existing Shellmound tie in area)	Lloyd Berges (925) 628-3322
10am-6pm	12/9/2017	Shellmound Street - Signage and road striping (Existing Shellmound tie in area)	Striping Truck	Shellmound Street (Existing Shellmound tie in area)	Lloyd Berges (925) 628-3322

