

## RESOLUTION NO. 19-19

**Resolution Of The City Council Of The City Of Emeryville Granting A Waiver From The Noise Ordinance To EAH Housing And J.H. Fitzmaurice, Inc. For Saturday Work From February 23, 2019 Through August 10, 2019 Between The Hours Of 9:00 A.M. And 5:00 P.M. For Work With Hand Tools And Mixers For Paint, Texture, And Stucco At 3706 San Pablo Avenue (APN: 49-951-8 and -9)**

**WHEREAS**, on January 22, 2015 the Planning Commission approved the 3706 San Pablo Avenue Affordable Housing Project, an 87-unit affordable housing development with approximately 6,900 square feet of commercial space, now known as “Estrella Vista”, and

**WHEREAS**, on January 17, 2019 EAH Housing and J.H. Fitzmaurice, Inc requested a Noise Waiver for exterior and interior work from 8:00 a.m. to 5:00 p.m. on Saturdays from February 23, 2019 through August 10, 2019 for work using hand tools and mixers at 3706 San Pablo Avenue; and

**WHEREAS**, the majority of the proposed work will be located in the interior of the building and will be done using hand tools, while mixers for paint, texture, and stucco will occasionally be required; and

**WHEREAS**, a portion of the proposed work includes exterior lath, stucco, painting, waterproofing, and paver installation in the courtyard; and

**WHEREAS**, staff recommends a start time of 9 a.m., as part of the request is for exterior building work that is in close proximity to the residential neighbors to the east of 3706 San Pablo Avenue; 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; and

**WHEREAS**, the City Council of the City of Emeryville conducted a noticed public hearing on February 19, 2019 to consider the noise waiver request; now therefore, be it

**RESOLVED**, that the City Council of the City of Emeryville hereby finds that the noise waiver for Saturday construction work at 3706 San Pablo Avenue 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; and be it further

**RESOLVED**, that the City Council finds that the conditions set forth below provide adequate protection for nearby residents and businesses; and be it further


**RESOLVED**, that the City Council hereby approves the request for a waiver of construction noise hours for Saturday work at 3706 San Pablo Avenue with the following conditions:

1. Work shall be allowed on Saturdays between 9:00 a.m. and 5:00 p.m. from February 23, 2019 through August 10, 2019, with the exception of Memorial Day Weekend (Saturday, May 25, 2019). All work shall be limited to that described in the letter from J.H. Fitzmaurice dated January 16, 2019, attached hereto as Exhibit A.
2. Saturday parking for workers shall be redirected to West MacArthur Boulevard.
3. Plastic tarps shall be in place on all scaffolding facing adjacent properties to the east of the site during stucco or painting work.
4. Three 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 San Pablo Avenue, West MacArthur Boulevard, and 37<sup>th</sup> Street.
5. 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.
6. If residents or local businesses complain, all work on the site and in the vicinity shall cease until the issue is resolved.
7. 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, February 19, 2019 by the following vote:

AYES:	5	Mayor Medina, Vice Mayor Patz, and Council Members Bauters, Donahue, and Martinez
NOES:	0	
ABSTAIN:	0	
ABSENT:	0	

ATTEST:

  
CITY CLERK

  
MAYOR

APPROVED AS TO FORM:

  
CITY ATTORNEY



# J.H. Fitzmaurice, Inc.

License No. 111689

GENERAL CONTRACTORS/CONSTRUCTION MANAGERS

2857 Hannah Street Oakland, CA 94608-4019  
Tel (510) 444-7561 Fax (510) 444-1344 mh@jhfoak.com

City of Emeryville  
1333 Park Avenue Emeryville, CA  
Attn: Mr. Charles S. Bryant  
Director of Planning and Building

January 16<sup>th</sup>, 2019

RECEIVED

JAN 17 2019  
NOISE 19-001  
PLANNING DIVISION

Re: 3706 San Pablo  
Request to work Saturdays

Dear Mr. Bryant,

Hope this letter finds you well. EAH Housing (Non-Profit Developer) and J.H. Fitzmaurice, Inc. (General Contractor) are requesting permission to work Saturdays at the 3706 San Pablo project located at 3706 San Pablo Avenue in Emeryville. Per Miroo Desai at the City of Emeryville the following information is required and is provided as follows:

## 1. Hours and days of work requested

We are requesting for Saturday's from 8AM to 5PM to be considered as allowable work days. We are requesting up to an average of two to three Saturdays per month for the remainder of the anticipated construction period. We will only be working select Saturdays for critical work as needed; we will not be working every Saturday.

## 2. Type of work to be conducted

Interior work such as drywall, taping, texturing, painting & interior trim finishes. Exterior work would include lath, stucco, paint, waterproofing and pavers at Courtyard elevation which is not visible from street elevations. In addition, we would like to request permission for lath, stucco, painting & brick scope of work at exterior elevations as well. All vehicles will be parked in Garage and will not take away from street parking. In addition, there will be no deliveries of any kind during these Saturday work hours. No public work or street improvement work will be conducted. Also, all tools & equipment used during Saturday work will not generate significant noise and will comply with Chapter 13 NOISE policy per City of Emeryville.

## 3. Type of equipment to be used

Hand tools will be used. Occasional use of mixer for paint, texture, stucco will be used as required. All noise generated from equipment being used will comply with Chapter 13 NOISE policy per the City of Emeryville.

## 4. Location on the property, where work will take place

Work would primarily take place at the interior of the building with occasional work at the Courtyard and Exterior elevations as noted in section 2 above. No public work or street improvement work will be conducted.

## 5. Why is the waiver needed

This waiver is being requested and is needed in order to complete the project per the contract completion date. The contract completion date is July 15<sup>th</sup>, 2019. Due to unforeseen conditions associated with removal of an existing billboard and abatement of contaminated soils at the beginning of the project, the contract completion date was pushed back to August 14<sup>th</sup>, 2019. In order to make up for this lost time, J.H. Fitzmaurice & EAH Housing are asking for certain Saturdays to be allowed as work days for scopes of work that impact the overall schedule. In addition, EAH represented the July 15<sup>th</sup>, 2019 completion

**Exhibit A**

date to its lender and investor. As a non-profit affordable housing developer reliant on tax credit financing for this project, not completing the project by mid-July 2019 would result in downward adjustment of tax credit funding. This downward adjustment could harm the ability to convert to permanent financing and begin moving tenants into the completed project. Lastly, the 3706 San Pablo project is providing affordable housing to a community and area in need of such affordable housing, which the City of Emeryville is aware of as it has contributed funds to this project. Allowing to work certain Saturdays would better ensure that this critical affordable housing will be delivered on time.

**6. Person to contact with phone number and email**

- Kyan Hakimi, Project Manager, J.H. Fitzmaurice, Inc.  
Tel: (510) 774-5871, Email: [kyan@jhfoak.com](mailto:kyan@jhfoak.com)
- Ethan Daniels, Sr. Project Manager, EAH Housing  
Tel: (415) 295-8866, Email: [ethan.daniels@eahhousing.org](mailto:ethan.daniels@eahhousing.org)

Please Note: check for fee associated with putting in this request for \$1,284.00 payable to City of Emeryville is enclosed with this letter.

Thank you for your time & we appreciate your consideration of this request.

Regards,



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Project Manager  
J.H. Fitzmaurice, Inc.  
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**Ethan Daniels**

Sr. Project Manager

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