

MEMORANDUM

To: Members of Market Street Advisory Committee (“MSAC”)

From: Paula Parziale and Anne Mitchell (Noise Sub-Committee Members)

Re: Findings and Proposed Advisements to Board of Selectmen on Noise Concerns

Date: October 24, 2017

The MSAC Noise Sub-Committee took note of the concerns raised by residents during the hearing on September 14, 2017 and had several follow-up meetings with Nanci Horn of WS Development (“MarketStreet Management”) and with Police Chief David Breen.

Key Noise Issues or Noise Concerns Raised by Residents were the following:

- Loud noise from the use of snow removal equipment (especially on the evenings after a large snow storm);
- Landscaping/cleaning company use of loud blowers early in the morning and 7 days a week;
- Delivery truck hours of operation;
- Music (this was a historical complaint);
- Building 1350 construction (potential noise in future); and
- Lack of ability to enforce the noise level requirements (i.e., the maximum noise level of 9 decibels from the property line) and the suggestion made for the implementation of noise by-law for enforcement.

1. NOISE FROM SNOW REMOVAL EQUIPMENT (Discovery of MarketStreet Management Procedures and Safety Issues Related to Snow Removal)

- Snow equipment is stored at MarketStreet which causes less noise to the neighborhood with trucks arriving and exiting.
- MarketStreet Management works with snow removal company to have various snow piles all distributed around property (at times, there has been a large snow pile in front of the property, but they generally try to distribute snow piles all around property).
 - There is not one good location for dumping snow and there are several issues to consider. Tenants complain that snow piles are too close to their businesses or that there are lost parking spots near their businesses, but on the other hand, large snow piles in the front of the property are unsightly to residents.
- Market Street Management has requested the plow blades be oiled to make snow dumping easier (less banging to dump), but this is not the main issue with the banging sounds. The banging sound is primarily from the gates on the trucks filled with snow when they offload the snow. To alleviate this banging sound a backhoe is often used to

pull snow off the trucks. When there is a lot of heavy snow, it needs to be scraped. They treat with salt before scraping to help alleviate noise.

- The foreman on duty pro-actively spends time driving around the property and monitoring snow the removal company to ensure noise is minimized (morning /evening).
- Approached Conservation Committee (“Con Comm”) for approval where snow may be deposited/piled.
- Researched the use of an area away from the residential side of the property close to Boston Sports Club to dump snow, but this was rejected by the Con Comm due to proximity to the Saugus River.
- Snow removal is a very tricky issue because of the timing of storms (and size of storms).
- Imperative to provide a safe driving/walking environment for tenants and patrons, but limited as to timing of when snow piles that are plowed during the storm can be moved (cannot move large piles of snow during the day when stores are open and there are pedestrians walking around the property).
- Back-up beeping on snow removal trucks is a safety issue and cannot be avoided (required by law).
- Chief Breen advised that even if the Town had a comprehensive noise by-law, this by-law could not be used to enforce against snow removal companies who are required to have back-up beeping sounds on trucks and because the removal of snow is a safety issue. Stated differently, a noise by-law would not be enforceable against snow removal companies who are plowing during a snow storm or who are working on snow removal after a storm (which also is a safety issue).

Findings/Recommendations Regarding Snow Removal Noise

After meeting with the MarketStreet management to address residents’ concerns related to snow removal noise, we find that MarketStreet management has already taken steps to minimize snow removal noise. Due to the timing of storms, it is impossible to plow only at certain times of the day, and therefore evening plowing is a necessity (and the snow removal noise is unavoidable).

MarketStreet will review with its contracted snow removal company the issue of the banging of trucks plows and truck gates each season. Market Street management will do all they can to continue its efforts to mitigate noise related to snow removal.

At this time, we do not have a recommendation for any changes regarding how to minimize the noise affiliated with Market Street snow removal. We recommend that the issue continue to be monitored, especially during the construction of Building 1350 when snow removal may be even more of a challenge.

2. NOISE CONCERNS RAISED REGARDING USE OF LANDSCAPE/CLEANING EQUIPMENT, DELIVERY TRUCKS/TRASH, AND MUSIC

- There have been complaints regarding landscaping/cleaning company using blowers early morning and on Sundays. This issue had already been resolved by MarketStreet Management at the time it was raised at the residents meeting.
 - Landscapers on property Monday thru Saturday, not 7 days a week.

- They do not arrive before 7:00 a.m.
 - Cleaning Company no longer using blowers in the early morning hours.
- Delivery truck hours of operation: 6:00 a.m. – 9:00 p.m. are enforced by security (on duty 24 hours) and by MarketStreet Management
 - Not allowed on property prior to 6:00 a.m.
 - Market Street Whole Foods is only Whole Foods that does not have deliveries 24 hours a day.
 - Nancy sends routine emails to tenants and store managers and meets with store managers to address any issues, including delivery truck hours.
 - Complaints have been few and far between on this issue.
 - Over the past 4 years, MarketStreet Management reported less than 5 complaints regarding delivery hours/noise.
 - Tenants are provided a Tenant Manual (which includes a provision to address delivery times and the prohibited use of Walnut Street by delivery trucks is also highlighted in this manual).
- Trash pick-up hours 7 a.m. – 9 p.m.
 - An early complaint of trash trucks arriving prior to 7:00 a.m. was made and addressed by MarketStreet Management.
- Music:
 - In response to complaints about music, MarketStreet Management has removed all speakers (on backs of building closest to Walnut Street) and has caused other speakers to be faced away from Walnut Street.
 - With the addition of the Apple store, 7 more speakers removed.
 - Hours of music 7:00 a.m. to 10:00 p.m. (will be shortened in winter)
 - Movie nights, speakers are deliberately faced away from the residential area.
 - Management pro-actively sends security out to berm to monitor/check noise level at the berm/property line on occasion.
- One resident commented on the unexpected noise of kiosks turning on when walking by, but this does not appear to be a significant noise concern.

Findings/Recommendations Regarding Noise Concerns Related to Landscaping/Cleaning Equipment, Delivery/Trash Trucks and Music

We find that MarketStreet has been responsive to and has addressed most (if not all) noise complaints related to landscaping/cleaning equipment, delivery/trash trucks and music. MarketStreet Management will continue to resolve noise related issues communicated to them and will continue to be proactive and sensitive to noise issues raised by neighboring residents.

We recommend that residents be advised to continue to address any future noise concerns with MarketStreet Management (i.e., Nanci Horn’s office) and that due to lack of any ability to enforce noise levels, that this issue continue to be monitored as needed.

3. CONSTRUCTION OF BUILDING 1350

- Construction currently scheduled to begin in early November 2017 (construction fencing is going up in the next two weeks).
- Section 3.2 of the Development Agreement allows for construction between the hours of 7:00 a.m. and 6:00 p.m. (Monday through Friday) and on Saturdays from 7:00 a.m. to 5:00 p.m (with a few stated exceptions). The construction contracts will comply with the Development Agreement, but MarketStreet Management states that construction hours typically will be 7:00 a.m. to approx. 3:00 p.m.
- Loudest work will be delivery of steel and steel hammering.
- During Phase 2 construction, MarketStreet Management stated no noise complaints were received by its office.
- MarketStreet currently has an email blast in place for events at MarketStreet, which residents can sign up to receive. Residents that would like to be added may sign up.
- MarketStreet marketing team currently working on “construction notes” area on the website. The construction tab on the MarketStreet website is expected to be up and running by the time construction starts and will be updated throughout the project.

Findings/Recommendations Regarding Noise from Construction of Building 1350

Noise from construction is unavoidable but hours of construction during the day typically will be from 7:00 a.m. – 3:00 p.m. We recommended that MarketStreet Management update residents on its website regarding construction schedule and the time periods when noise will be unusually loud (e.g., steel hammering). We recommend that MarketStreet Management update its website regularly to inform residents of anticipated louder construction time periods for resident awareness.

We recommend that neighboring residents (possibly through social media or Topics 01940 website) be urged to sign up for email regarding events occurring at MarketStreet and/or that they regularly visit the website for construction updates.

We also recommend that Mr. Yerardi assist in updating LIFE residents how to access this information.

4. CONCERNS RAISED ABOUT LACK OF ABILITY TO ENFORCE NOISE LEVELS/SUGGESTION OF NOISE BY-LAW

The issue was raised that when there were noise complaints (e.g., music complaints) made when the development first opened to the public, Police Chief Breen informed the residents who complained that there could be no enforcement without a by-law. Another resident also pointed out that even though MarketStreet Management currently is addressing noise issues that are raised by residents, the town should implement an applicable noise by-law in the event the property is ever sold in the future (noting that the next owner may not be as accommodating in responding to complaints).

- The Development Agreement provides that the noise at the property line cannot be any louder than 9 decibels.
- The implementation of a noise by-law; however, would not just apply to MarketStreet; such a by-law would be a town-wide noise by-law (and there is a practical issue of how to incorporate the restrictions of the Development Agreement into a town-wide noise by-law).
- In our discussion with Chief Breen, he also pointed out that even if you had a noise by-law that encompassed the requirements of the Development Agreement (i.e., the noise level at the property line), there also is the practical issue of how to measure whether the noise at the property line is above the maximum 9 decibels.
- We found one town (Brookline) that had a noise by-law which included noise prohibitions based on certain decibel levels, and if warranted in the future (as noted in our recommendations below), this is an issue that could be researched further (i.e., based on how other towns enforce noise by-laws that include decibel levels).
- As noted above, and as explained by Chief Breen, any such noise by-law will not apply to noise related to snow removal.
- Discovery on noise complaints is as follows:
 - MarketStreet Management has received only a handful of complaints over the last few years.
 - 1 resident called once: 2 residents called a “handful” of times
 - There were no complaints logged on MSAC website link used for comments/concerns.
 - Lynnfield Police log: 2 calls in 2016, one of which related to snow removal noise.
 - MSAC Residents meeting: 2 comments regarding snow removal noise; all other comments related primarily to historical noise issues that have been addressed (landscaping/cleaning, delivery trucks and music).

Findings/Recommendations Regarding Suggestion of Implementing Noise By-Law For Enforcement

In light of: (i) our discussion with Police Chief Breen regarding a noise by-law, (ii) the fact that there have been a limited number of noise complaints/concerns on record in recent years, and (iii) that MarketStreet Management has taken steps to address the residents’ noise complaints, we are not recommending that the Selectmen research or consider proposing a noise by-law at this time. We do recommend that this issue be reviewed again in one year (after determining whether there is an increase in noise complaints over the year and/or if residents complain that MarketStreet Management is not addressing their noise concerns/complaints).