

**CONDITIONAL USE REVIEW AFTER HOURS NOISE**

<b>Owner:</b> Giroux Family Trusts – Bernard A., June T., Victor T., and Ramona. 9318 Rt. 116, Hinesburg, Vermont 05461	<b>Applicant:</b> Martin's Foods of South Burlington, Inc. (a Vermont Corporation doing business as Hannaford Supermarkets) PO Box 1000, Portland ME, 04104
<b>Surveyor/Engineer:</b> O'Leary-Burke Associates PLC 1 Corporate Drive, Suite # 1, Essex Jct. VT.	<b>Property Tax Parcel:</b> 20-50-02.100 Commerce Street Extension

**BACKGROUND**

Per section 5.12.1, No noise other than noises that would be part of the normal coming and going by occupants shall be discernable at property lines during the following hours:

*Commercial and industrial districts: before 6:00 a.m. or after 10:00 p.m. on weekdays, or before 7:00 a.m. or after 9:00 p.m. on weekends and holidays.*

*The development review board may permit noises at other times, as a conditional use if it finds that reasonable steps have been taken to accommodate adjoining property owners, and if it finds that it is reasonable to permit noise at other times. This section 5.12.1 shall not be construed to prohibit usual and customary residential activities or property maintenance.*

The issues to be considered should include refrigeration units on the trucks, back up beepers if present, any clanging etc. from waste disposal or compactor noise, and the noise of the refrigeration units, air conditioning units etc. serving the building.

**REVIEW**

Conditional Use Review – “The proposed use shall not adversely affect:”

- 1) The capacity of existing or planned community facilities. **I can't foresee any impact**
- 2) The character of the area affected, and the essential character of the neighborhood or district in which the property is located. **In this case, since the district boundaries lie at boundary of the lot, it is the essential character of the neighborhood which should be considered. The neighborhood consists of a wide range of uses, from the closest neighbors being both Dark Star on one side, and a small residential cottage on the other to the mostly commercial uses in the Commerce park environs and the portion of Mechanicsville Road directly opposite the lot, to the wonderful older houses closer to 116 and the residential areas on the hillside above the property.**

**Darkstar hours of operation were limited to from 6 until 10, however they were allowed to return their loaded vehicles after those hours, with the understanding that normal operating procedure would be to unload them the next morning. The Mobile station was permitted to open at five because of the many commuters on their way to work but not after 10 although it was requested. The Vet clinic was allowed to have special “on call” hours to take care of emergencies only. The Middlebury bank was allowed to have the drive through open at all times after much discussion about the lighting and its impact.**

- 3) Traffic on the roads and highways in the vicinity. **I can't foresee any issues.**
  
- 4) The Town Plan and bylaws in effect – **The town plan addresses many diverse elements related to the future of Hinesburg and can be “cherry Picked” in many ways to support various visions. The zoning has been revised to ensure that commercial development can be accommodated within the Village Growth Area. Because of our zoning this project is located where the town plan promoted growth, and the use, as well is permitted. The challenge is best summarized by a sentence from the plan: *The challenge will be to integrate the new with what currently exists in such a way that the overall Town and Village character are preserved.***
  
- 5) Utilization of renewable energy resources. **I can't see any impact due to the extended hours**
  
- 6) The appropriate use or development of adjacent property. **The main areas of concern are basically the deliveries that will take place while the store is closed. Back up alarms, refrigeration units, both on trucks and on the structure, especially in the quiet of the night, can be very disturbing to the neighboring residences and conditions which both control and allow for subsequent re-appraisal it issues arise should be incorporated into any approval.**
  
- 7) The public welfare in any other matter. **I can't think of other issues.**

Peter Erb, Zoning Administrator.