

Noise Task Force- Appendix

Pile Driving Discussion 11.5.15

Commissioner Fritz Proposal for Task Force discussion on Pile Driving

1. Eliminate automatic exemption of pile driving in Noise Code per 18.10.060 A. All pile driving activities generating noise above 85 dBA require a variance.
 - Only eliminate exemption of pile driving equipment if you also increase staff to enforce breaches of variances at any fee amount.
 - Is 85dBA the right tool for measurement, and if so, how would it be determined?
 - Should the exemption be based on the equipment w/ industry standards? How would dBA be measured per variance?
 - Strongly support
 - I have a basic problem with eliminating the automatic exemption. This is a site-specific design issue that applies to limited locations and specific building types. Pile driving is an important tool that has been used to build much of our public infrastructure and significant buildings. We should not limit design options or impede progress or potential landmarks.

2. Variances for pile driving are decided after a public hearing at the Noise Review Board, with appeal to the City's Code Hearings Officer.
 - Support/yes (2)

3. Review Process [*Based on BDS Adjustment Review for Land Use cases*]
 - A. Application: Noise Office Staff notifies applicant of any missing information or materials within 14 days of submittal.
 - Yes
 - The application and notice make for too lengthy of a review process. The review process should be shortened.
 - Why does it take 14 days to determine completeness?
 - Provide detailed permit application to reduce the chance of incompleteness

 - B. Public notice: Once Complete Application is received, public notice is mailed to all property owners within 500 feet and to neighborhood organizations within 500 feet of the site. At least 21 days are allowed for public comment.
 - Change "property owners" to "residents"
 - More than 50% of Pearl District residents are renters

- Must be mailed by the City (not developer). Need to include neighborhood coalitions and business associations.
 - Notification should be done through an updated interactive web site which makes it possible to go to one place for accurate and timely information.
 - No mailings: they often don't get to the people who need to know
 - What is the rationale for 500 feet? Should the distance be greater depending on the density of buildings in the area?
- C. Decision: Made by the Noise Review Board in a public hearing within 45 days after the application is determined to be complete.
- BDS Land Use Review is 35 days – stay consistent with this
 - Why 45 days?
 - Follow guidelines for design review before Design Commission or Adjustment Review or Public Works appeal panel
- D. Notice of Decision: Must be mailed to the applicant and all stakeholders who have provided comment and who have indicated they would like to be on the list of notified parties.
- Who would keep the list of interested parties? Must include neighborhood associations, coalitions and business associations
 - Follow BDS policy and ONI contact list for land use
 - Website access to information is much likelier to reach interested parties
 - Should stakeholders who have not provided comment also have an opportunity to be notified?

4. Appeals Process *[per City Code 22.10 – Appeals to the Code Hearings Officer]*

- A. An appeal on a variance decision must be filed within 10 business days of the date of the decision.
- 30 days notice for preparing an appeal to an approved variance
 - Change to 15 days
 - Follow BDS; 10 days is too short to get public response
- B. Appeal fee (nominal fee of \$10) must be paid directly to the Code Hearings Office.
- Waive fee for “low income” or eliminate fee (very few appeals) – fee could be a barrier for “low income housing” residents
 - Disagree with fee waiver. The fee could be increased to support the possible need for additional noise staff.
- C. Upon receipt of a request for hearing, the Code Hearings Officer shall schedule and hold an appeal hearing within 30 days after the receipt of such

request.

D. Notice of the time, date, and place of hearing shall be given to the person requesting the hearing and to the Noise Office. Notice shall also be given to any person who may reasonably appear to be adversely affected should the decision or determination not be sustained after hearing. The Code Hearings Officer may provide by rule for the manner of providing notice to such persons.

- Notice qualifications okay if available on website. Not dependent on mailings.
- Good notification system needed; flyers might not be as effective as we think
- Website notice is essential
- Use code language (BDS) on how notice is determined.

E. The time for hearing may be extended by the Code Hearings Officer for good cause shown, upon such terms and conditions as the Code Hearings Officer shall deem just and appropriate.

5. Proposed Approval Criteria for variances on pile driving exceeding 85dBA:

A. A State-licensed geotechnical engineer certifies that no quieter construction method is practicable on the site; and

- Strongly support 5 A, B, and C (1)
- This (whole) section should be omitted (2 people). While another practicable method may be available, it may not be the best method for a particular soil type. Limiting the option for driven pile puts safety at jeopardy and I feel that makes the city liable and at risk.
- Require certification by independent expert

B. Specified duration of noise exceeding the standard is the minimum necessary for project construction; and

- How would this be determined?

C. Mitigation is provided to the extent practicable or an explanation by the engineer as to why no mitigation can occur. Types of mitigation may include: consideration of further restrictions on hours and days beyond baseline standards, noise monitoring and mitigation devices, and other mechanisms to reduce impacts on neighboring residents and businesses.

- Need acceptable definition of “mitigation” and what options could be employed
- Hire “noise experts” to develop this. Look at New York City code and other cities using mitigation strategies.

D. Others?

- Establish definitions for standards and measurement – i.e. what is an “acceptable” level
6. When a project is underway using pile driving methods under 85db, and unforeseen conditions require use of impact pile drivers exceeding 85db, the Noise Officer may grant an emergency variance so the project can continue on schedule. The Noise Review Board will hold a hearing on the variance at the next scheduled meeting. Notice of the emergency variance will be mailed to all residents and businesses entitled to notice under 3, above, informing recipients of the reason for the emergency variance and the opportunity to testify at the public hearing and the opportunity to appeal any decision.
 - A. Notification should be managed by a dedicated staff person that would update the website to include all pertinent information
 - B. Unforeseen conditions are a common occurrence during the construction process. Additional public interaction will cause substantial monetary and time impacts.
 - C. This is confusing ... if the noise office grants an emergency variance, why is the Noise Review Board hearing necessary? (2 people)
 - D. Keep appeal process same as described in #4?

 7. Conditions of any approval may be established by the Noise Review Board or Noise Control Officer.

Overall comments:

- This is a long period of time to put a construction project on hold. 14 days of submittal for the application + 10 days on an appeal = 24 days while a project is slowed or halted because pile driving cannot occur until approved. What about the residents who want the construction group in and out (quickly)? Residents like me want these projects to be wham, bam, done. Construction is, first of all, loud, no matter what. Second, construction creates physical barriers – lack of access to streets, sidewalks, etc. Detours are sometimes involved. For bicyclists like me, sometimes construction dirt and loose gravel near the site can cause safety problems, especially when dark at night. This also impacts people with disabilities and moms with strollers. Third, construction sites are aesthetically displeasing to the eye. Many residents, and I think even those against pile driving, can agree that we want these construction groups in and out as fast as possible. A 24-day delay because one person decides to file an appeal affects many others besides this one person.
 - This said, I propose:

- Shorter application, review and appeal timeline – from start to finish. “21 days” is outdated and reflects the times of snail mail. Times have changed w/ faster technology so email or phone calls could accelerate the communication process.
 - Mandate that at least 20 residents or business owners must sign a petition to file an appeal in the first place
- General concern: how will this new process affect/burden the Noise Review Board and Noise Control Office?
 - Adding to Noise Office duties should require additional staffing as to not disrupt or impede current Noise Office/Noise Review Board duties and responsibilities.
- Look at future projects including Lloyd District, Broadway Corridor, Conway site – that would address impacts with multiple projects in the area.