



**FINDINGS AND DECISION OF
THE NOISE REVIEW BOARD**

APPLICANT: OREGON DEPARTMENT OF TRANSPORTATION *NATE SCOTT*

REQUEST: ONE-YEAR VARIANCE FROM JANUARY 1, 2018 THROUGH DECEMBER 31, 2018

VARIANCE NUMBER: 17-197065-000-00-NV

DECIDED: JULY 12, 2017

DECISION: APPROVED WITH CONDITIONS

FILE COPY

BACKGROUND:

Title 18 establishes sound levels based on the zones of both the source and receivers of noise. Events that produce noise above permitted levels may be considered for variance from the code. The Noise Review Board is charged by code to review and act upon some of these applications. The review must consider the physical characteristics; times & duration of the emitted sound; the geography, zone and population density of the affected area; whether the public health, safety or welfare is impacted; whether the sound source predates the receiver(s); and whether compliance with the standard would produce hardship without equal or greater benefit to the public. The code does not preclude review of other factors, nor does it specify the weight to be given to each criterion.

REQUEST:

Request from Nate Scott, Oregon Department of Transportation, to increase safety for pedestrians, bicyclists, transit-users and motorists on a busy section of Southeast Powell Boulevard (us26), between Southeast 20th and Southeast 34th Avenues. This area of Powell Boulevard serves 34,600 to 38,500 cars and trucks per day in addition to thousands of bicyclists, transit riders and pedestrians. The project is expected to increase safety by reducing serious crashes within the project area while minimizing traffic impacts to the neighborhoods and local businesses.

FINDINGS:

- A. The public's health, welfare and safety are not affected by the anticipated noise levels, except possible temporary interference with sleep at later hours and for closer-in properties.
- B. The sound source does not predate receivers.

- C. The last criterion in reviewing Noise Variances speaks to a sort of “balancing test”, in which compliance/non-compliance is measured against the “public good.” Will the denying of this application produce hardship without equal or greater benefit to the public? Although “benefit” usually refers to economic gain, the Board also includes the pleasure obtained from the viewing of an event, the fostering of interest in an activity, or the pride in one’s city, which occurs via national exposure. In the present case the event is not only a well recognized community event, per se, but it also contributes to the national exposure of the City of Portland. The Noise Review Board finds that denying this event will not benefit the public good.

DECISION:

Motion was made by Jamie Hurd to grant a variance with the conditions below. Ryan Hyke seconded the motion. The motion passed unanimously, 3 – 0. Voting members present were Jamie Hurd, Ryan Hyke, and Kerrie Standlee. Both Melissa Stewart and Michael Wallace were absent.

The Variance is approved with the following conditions:

Proposed mitigation measures:

- A. No construction will be performed within 1,000 feet of an occupied dwelling on Sundays, legal holidays, or between the hours of 10:00 p.m. and 6:00a.m. on other days, without the approval of the ODOT Engineer.
- B. Equipment will use sound control devices no less effective than those provided on the original equipment. Equipment with un-muffled exhausts is prohibited.
- C. Equipment will comply with pertinent equipment noise standards of the EPA

If a specific noise impact complaint is received, one or more of the following noise mitigation measures may be required, as directed by the Engineer:

- D. Stationary construction equipment will be located as far from nearby noise sensitive properties as feasible.
- E. Idling equipment will be shut off.
- F. Construction operations will be rescheduled to avoid periods of noise annoyance identified in the complaint.
- G. Nearby residents will be notified whenever extremely noisy work will be occurring.
- H. Temporary or portable acoustic barriers will be installed around stationary construction noise sources.
- I. Electric-powered equipment will be operated using line voltage power or solar power.