



CITY OF
PORTLAND, OREGON
OFFICE OF NEIGHBORHOOD INVOLVEMENT

CHLOE EUDALY, COMMISSIONER
Suk Rhee, Interim Bureau Director
Noise Control Program
1221 SW 4th Avenue, Room 110
Portland, Oregon 97204

Promoting a culture of civic engagement

FINDINGS AND DECISION OF THE NOISE REVIEW BOARD

APPLICANT: BES *EMILY SHORT*

VARIANCE NUMBER: 17-236835-000-00-NV

DECIDED: September 13, 2017

DECISION: APPROVED WITH CONDITIONS

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:

Emily Short, representing Bureau of Environmental Services, is requesting a variance for the Sunnyside East Green Street and Sewer Repair Project, located at SE Cesar Chavez Blvd using the Open Trench and Horizontal Directional Drilling methods of construction, for dates between May 1, 2018 and April 23, 2019. Hours are 10:00 pm through 6:00 am, Monday through Saturday

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? Based on the

potential traffic disruptions that would occur without this variance, the Noise Review Board finds that denying this request will not benefit the public good.

DECISION:

Motion was made by Michael Wallace to grant a variance with the conditions below, which include 3 amendments, asked for by Kerrie Standlee. Jamie Hurd seconded the motion. The motion passed 4 – 0. Board members voting: Melissa Stewart, Kerrie Standlee, Jamie Hurd, and Michael Wallace. Ryan Hyke was not in attendance.

The Variance is approved with the following conditions:

- A. Noise variance shall run from May 1, 2018 through April 23, 2019.
- B. Allowable night work hours are as follows:
 - a. Intersection of SE Yamhill and SE Cesar Chavez Boulevard from 10:00 p.m. to 6:00 a.m., Monday through Saturday for up to 6 nights
 - b. Intersection of SE Taylor and SE Cesar Chavez Boulevard from 10:00 p.m. to 6:00 a.m., Monday through Saturday for up to 8 nights
 - c. SE Cesar Chavez Boulevard from SE Morrison to SE Alder from 10:00 p.m. to 6:00 a.m., Monday through Saturday for up to 10 nights
 - d. Intersection of SE Washington and SE Cesar Chavez Blvd from 10:00 pm to 6:00 am, Monday through Saturday, for up to 3 nights.
- C. From 10:00 pm until 6 am the following morning back up alarms will be disconnected and spotters will be used to safely back up vehicles.
- D. Occupants of 3 homes closest to the work on Cesar Chavez Blvd between SE Alder St & SE Morrison St will be offered accommodations away from the work area on the nights when the work has occurred.
- E. Pumps shall be enclosed to reduce the sound level at the nearest residents within 25 feet to 75 dBA outside any residential structure whenever possible.
- F. Applicant is required to use an enclosure for stationery equipment. It will be placed away from neighbors whenever possible and isolated from any residential neighbors designed to reduce sound levels outside of all residential structures to go no higher than 75 dBA
- G. Notice to be mailed and emailed two weeks prior to start of work to a two-block radius of the work site. Notice shall include the nature of the work, anticipated noise sources and a contact phone number for a person on site to explain the work and possibly mitigate the issue.
- H. Noise Office to be notified once staging areas have been chosen for the project.
- I. BES inspector to be on site during all work hours.

- J. The applicant will send complaint reports along with a complaint log and details of how the problem was resolved to the City of Portland Noise Control Officer. These logs can be emailed to noise@portlandoregon.gov.
- K. The applicant shall prepare to develop a noise mitigation plan with the Noise Control Office should complaints arise.

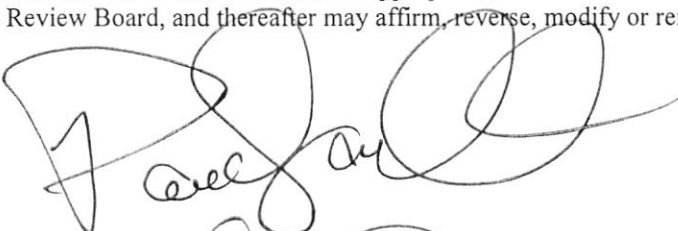

The applicant understands that this variance is subject to review upon complaint.

This decision becomes effective on September 13, 2017.

APPEAL PROCEDURES: PCC Section 18.14.020 (i) states that "A variance decision of the Noise Control Officer or the Noise Review Board may be appealed to the City Council as follows: (1) A variance decision may be appealed by the applicant, his legal representative, or by any person who has submitted oral or written testimony on the application. (2) Notice of intent to appeal shall be submitted in writing to the City Auditor's Office within 10 day of the effective date of the decision. The notice shall identify the decision that is being appealed, and shall include the appellant's name, address and signature, phone number, relationship to the variance decision action, and a clear statement of the specific reason(s) for the appeal including alleged misapplication of City Codes.

(3) Upon receipt of such appeal, the Auditor shall then place the matter upon the Calendar of the City Council. At the time of hearing, the City Council may consider such new matters as it deems appropriate, as well as the record developed before the Noise Control Officer or the Noise Review Board, and thereafter may affirm, reverse, modify or remand the decision".

Paul van Orden,
for the Noise Review Board,
City of Portland


 3, 2017