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Noise Review Board

January 9, 2020

Minutes

Present: Paul van Orden, Kerrie Standlee, Destiny Wright, Michael Wallace, Ernest Harris

Minutes: Katherine Couch

Call to Order 6:31 pm

Commissioner Fish leaf blower working group update: This item on the agenda was set aside at the request of Asena Lawrence due to the sudden death of Commissioner Fish.

Howard S. Wright request for continuation of variance Block 216 (bounded by SW Alder, SW 9th, SW Washington, SW 10th) to work Monday through Friday between January 16, 2020 and February 28, 2020 to load and haul dump trucks, with an option to extend the dates requested, and public testimony.

Noise Control Officer and NRB Chair provided an update since the December 2019 meeting and then gave report on information about the requested application.

- The zoning code of the project is CXd. This means that the allowable dBA reading between 10:00 pm – 7:00 am is no higher than 65 dBA at night. Upon receiving complaints by residential user would further reduce the allowable limit to 60 dBA.
- After receiving a variance adjustment allowing Howard S Wright to work for two weeks, the applicant worked within the conditions of the adjustment given and was observed by the NRB Chair and Noise Control Officer. On December 12, 2019, both the Chair and NCO visited the site when there was no construction occurring in order to get a sense of

typical sound conditions in the vicinity. When the NRB Chair arrived at approximately 4:30 am, he heard extremely loud noise when he parked the car and observed three garbage trucks lined up on SW Washington, loading garbage from one of the affected hotels, along with other operations in the building

- During the two-week test period when the applicant was working 5:00 am – 7:00 am, the NCO spoke with a representative from one of the hotels to ask how the construction work was affecting them. He was told it was going well. They had one complaint at 4:00 am, but after the December 12 observations, it was concluded that the complaint was about garbage hauling noise and not the excavation and hauling noise.
- After submitting this request, the applicant called the Noise Office about unexpected changes in what they were finding in the substrate. They were hitting rocks and debris rather than the original soft, sandy soil. The Noise Control Officer took sound readings (during regular construction hours). The readings were taken at the midway point on the northwest corner of Washington. The Woodlark is roughly 200 feet away from where readings were taken. Sound levels were 78dBA to 79dBA at the façade of the building.
- Noise Control Officer stated that, due to a lack of complaints coming in during the two-week test period it was concluded the test was successful. The soil that was being excavated at that time didn't appear to cause a significant impact on the community. However, due to changes in the soil being excavated now, there is a need to explore what the current implication is to the community.

Board members had questions regarding garbage hauling times and number of times per week (it occurs daily at any time for commercial properties).

Nick Cusanelli, representing Howard S Wright, was invited to speak. He clarified that garbage haulers' main conflict was the lane closure for excavation hauling trucks on Washington. Howard S. Wright has since moved the truck staging area onto 9thAve.

He said that the Noise Control Officer was correct in describing the character of the material now being excavated. He indicated the rocks will likely carry on to the bottom of the pit. Because of this, he is not comfortable asking for 5:00 am start, based on data received from their acoustical engineer, and the materials they are encountering. He revised the request to a 6:00 am start, reducing it to a 1-hour variance in the morning. They have been starting at 7:00

am, and consequently are only able to get in a 6.5- hour day. The excavating is moving more dirt than they can keep up with. They are falling behind.

Tobin Cooley, representing Listen Acoustics, took the Board through the decibel level readings taken between December 11, 2019, and December 20, 2019. (Report is attached)

He indicated the highest peaks related to the variances activity between 5:00 am and 7:00 am was the initial load of rocks and soil into the bare truck bed.

Public Comments

Steven Liem – West end business owner. He has had good communication with the applicant. He felt that they have done an excellent job working with the surrounding businesses to address safety and noise concerns. He said that for small businesses, every day the project is delayed has had a substantial financial impact on small businesses.

Ciaran Connelly – Ball Janik LLP, representing Provenance Hotels. He said that he applauded the narrowing of the initial request. He didn't see the justification for a noise variance. He felt that since it was a short window of time, and an hour for 30 days, which would equate to 5 days of time, and felt that it might make a week of difference for the applicant to begin at 7:00 am instead of 6 am. This would equate to multiple weeks that hotel clients don't get rest. He requested that, should the variance be granted, a specific date range should be delineated from start to end. He indicated that the hotels have not had adequate communication and this should be improved with communication to hotels. Conditions should be added requiring ongoing monitoring and additional notice requirements. The data should then be provided for the prior week. He requested the applicant inform the neighbors of work being doing during variance hours. He requested that the applicant notify the hotels at same time as they notify the Noise Review Board.

Karen Moyer – in-house council for Provenance Hotels. She echoed the need for better communication and advance notice from the applicant. She shared that The Dossier has a contract with airlines that includes a stipulation that any noise impact on pilots would nullify the contract. Recognizes garbage haulers are part of problem. She would prefer that the applicant work an hour later in the evening instead of a 6:00 am start time.

Emma Paustian – Park Avenue West, and TMNT Development. She is opposed to the variance due the impacts on residents of Park Avenue West and Eaton Apartments.

Will McMillon – resident at the Eaton Building. He was opposed to the variance and spoke about the work being done on New Year’s Day. Nick Cusanelli of Howard S Wright commented during Mr. McMillon’s testimony time and informed the Board that the New Year’s Day noise was a result of a Portland Water Bureau work in the area and not Block 216 work. Mr. McMillon was unaware of that fact.

Chris Bedo – Provenance Hotels. The proposed variance impacts The Dossier Hotel due to the airline crew contracts mentioned previously. The ongoing construction has cost Provenance Hotels considerable expense and is a contributing factor in customer complaints. He is opposed to the variance.

Farrah Perry - Property Manager of Park Avenue West. She is opposed to the variance due to impact on residents of Park Avenue West.

Nick Cusanelli – Howard S Wright. He explains that while excavating is occurring there are other activities going on at the same time. Between the dirt still waiting to be brought to surface, and the concurrent activities, there is a real issue of worker safety, due to the large amount of material and lack of visibility. They have fallen behind and the dirt is getting in the way of drilling operations. They are already having to use every Saturday to keep up with the excavation. They are halfway way down. They are anticipating getting to the bottom by mid-February, barring unforeseen circumstances.

They weren’t planning on monitoring the sound levels the whole time. He is willing to email anticipated work to all on his contact list. He requested the ability to ask for an extension without another board meeting, and instead, handle it in-house with the Noise Office.

Deliberations

The board had a lively discussion involving the valid concerns on all sides, communication processes with the hotels, and the details of the strata in the area of the project.

Kerrie Standlee suggested using a sound curtain with similar material that met with success on a project in the Pearl District for pile driving.

Destiny Wright moved to grant a variance to Howard S Wright for a 6:00 am start Monday through

Friday for 35 working days starting January 13 not to exceed beyond February 28. Michael Wallace makes a friendly amendment to look at the feasibility of the barrier at the site that only goes until middle Feb 15. Destiny Wright doesn't accept this friendly amendment. **Destiny Wright continues the motion and adds that the Noise Review Board approve the conditions listed in the original variance with the addition of the following two conditions.**

By 5:00 pm each Saturday during the variance period, the applicant shall inform neighbors of the anticipated work schedule for the variance hours during the coming week.

If the applicant decides to seek an extension of the variance, the applicant must inform the Noise Control Office and shall inform neighbors of its intention at the same time it informs the Noise Control Office.

Kerrie Standlee makes a friendly amendment that the applicant will conduct a feasibility study to determine if a physical sound barrier could be installed adjacent to the side of truck loading to reduce the amount of impact sound radiating to nearby receivers, and report back to the Noise Control Officer. Should conditions arise that cause loss of working days during the variance, the Noise Control Officer and Board Chair will look at extending days to make up for days lost due to unforeseen conditions or events.

The Noise Control Officer and the Board Chair shall follow-up in reviewing the feasibility study and shall also review any complaints, should there be any during the time the feasibility study is being completed.

Complaints will be reviewed at any point throughout the project by the Noise Control Officer and may result in changes to the permit that range from condition changes and additions, up to and including revocation of the permit.

Destiny Wright agrees to this friendly amendment.

Michael Wallace proposes a friendly amendment to include a deadline of January 17, 2020, to report on the feasibility of a physical sound barrier constructed adjacent to the site.

Destiny Wright agrees to this friendly amendment.

Ernest Harris seconded the motion. **Motion Passes 4-0.**

Adjourn – Destiny Wright moves to table the remainder of items until February meeting. Ernest Harris moves to second. Meeting adjourned at 9:21 pm.

Agenda Items tabled for the meeting, below:

- **Code, bylaws and procedural rules review**
- **November 2019 meeting minutes**
- **General public comments**

