



CITY OF

PORTLAND, OREGON

OFFICE OF NEIGHBORHOOD INVOLVEMENT

Promoting a culture of civic engagement

AMANDA FRITZ, COMMISSIONER
Amalia Alarcón de Morris, Bureau Director
Noise Control Program
1221 SW 4th Avenue, Room 110
Portland, Oregon 97204

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

FILE COPY

APPLICANT: OREGON DEPARTMENT OF TRANSPORTATION *MARJORIE WEST*

REQUEST: ONE-YEAR VARIANCE FOR OR99E; SE HAROLD STREET TO SE HARRISON STREET – BRIDGE REPLACEMENT AND PRESERVATION PROJECT

VARIANCE NUMBER: 16-140021-000-00-NV

DECIDED: APRIL 13, 2016

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:

A variance was requested from Marjorie West, Oregon Department of Transportation for the OR99E bridge replacement and preservation project.

This request will repave 2.6 miles of OR99E from SE Harold to SE Harrison (part of the project is located in NE Milwaukie). The pavement, last replaced in 1994, has deteriorated and is need of repair. Grinding and repaving of the highway will repair and preserve the roadway and provide a smoother roadway surface. The current striping, last replaced in 1994, has deteriorated and is need of repair. Grinding and repaving of the highway will repair and preserve the roadway and provide a smoother roadway surface. The current striping will be replaced with durable, profiled thermoplastic striping and reflective pavement markings. Additional project elements include: replacement of Crystal Creek Springs Bridge with a culvert, drainage improvements on OR99E from SE Harold to Tolman Street, and sidewalk ramp upgrades on OR99E.

The requested dates and times are as follows:

72 nights with intermittent periods of nighttime work between **January 3, 2017** and **November 17, 2017**.

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:

Julie Greb makes a motion to approve a variance for Oregon Department of Transportation for 72 nights of construction work between January 3, 2017 and November 17, 2017

With the conditions listed below.

Kerrie Standlee makes an amendment that pumps, portable generators, air compressors will be required to have sound enclosed control devices of higher quality than original equipment

Melissa Stewart seconds the motion.

Motion passes unanimously 4 - 0

The Variance is approved with the following conditions:

Nighttime construction activities will comply with ORS 467, OAR 340-035, all other applicable laws and regulations, and to the extent feasible, the following construction noise abatement measures:

- No construction will be performed within 50 feet of an occupied dwelling on Sundays, legal holidays, or between the hours of 10:00 p.m. and 6:00 a.m. on other days.
- Sound levels at any residential structure may not exceed a 75dBA Leq as measured for 15 minutes, with a Fast meter response.
- Equipment will use sound control devices higher quality than those provided on the original equipment. Equipment with un-muffled exhausts is prohibited.
- Equipment will comply with pertinent equipment noise standards of the EPA.