



CITY OF

PORTLAND, OREGON

OFFICE OF NEIGHBORHOOD INVOLVEMENT

AMANDA FRITZ, COMMISSIONER  
Amalia Alarcón de Morris, 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: JBA-ACCO \*JIM MAHAR\*

REQUEST: TWO-YEAR VARIANCE FOR A CONSTRUCTION PROJECT FOR 3 MIXED USE BUILDINGS BOUNDED BY NW THURMAN ST, NW 21<sup>ST</sup> AVE, NW RALEIGH ST, AND NW 22<sup>ND</sup> AVE FOR A TOTAL OF UP TO 130 EITHER EARLY MORNING STARTS OR LATE END OF SHIFT DAYS.

VARIANCE NUMBER: 16-214876-000-00-NV

DECIDED: OCTOBER 19, 2016

***INITIALLY APPROVED FOR 30 DAYS, WITH CONDITIONS, AND THE REQUIREMENT TO RETURN TO THE OCTOBER 19, 2016 NOISE REVIEW BOARD MEETING. THIS REQUIREMENT HAS BEEN COMPLETED AND APPROVED BY THE NOISE REVIEW BOARD EFFECTIVE OCTOBER 19, 2016***

**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 Jim Mahar, JBA-ACCO, for a 2-year duration construction project within a 2 city block area, consisting of 3 mixed-use buildings on the previous Conway site located between NW Thurman, NW 21<sup>st</sup> Ave, NW Raleigh St, and NW 22<sup>nd</sup> Ave. The request is for concrete pours, erecting and dismantling 2 tower cranes, some smaller mobile crane usage, and roofing activities on 2 of the low-rise buildings. The requested time is between August 31, 2016 and July 30, 2018, the requested extended hours are between 5:00 am – 8:00 pm

## **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 Kerrie Standlee to grant an initial variance for 30 days of work with the conditions below. Ryan Hyke seconded the motion. The motion passed unanimously, 4 - 0. Board member Jamie Hurd was not in attendance**

### **The Variance is approved with the following conditions:**

- The applicant will return quarterly to review progress and/or complaints and how they were addressed. If there are no concerns that need to be addressed, this condition may be removed at a later date.
- No days may have both morning and evening variances hours.
- There shall be no more than 3 concrete pours per week.
- **There shall be no work allowed on Sundays**
- A more inclusive and effective neighborhood notification system shall be put into place by the October 12, 2016 Noise Review Board meeting.
- Pumper trucks shall have sound mitigation to ensure decibel levels A weighted (Fast) do not exceed 70 between the hours of 5:00 am and 7:00 am, as measured at any residential use location.
- Concrete pumping will not occur before 5:30 am.
- There shall be a hotline phone set up to receive complaints, with the information from and complaints forwarded daily to the noise office, with the response to the complaint included.

- Concrete pumping to occur off of NW 21<sup>st</sup> Ave. Deliveries are to be routed straight off of Thurman over to 23<sup>rd</sup> Ave, or around to the north and back to the east.
- The contractor shall develop noise mitigation plans in response to any complaints verified by the Noise Control Officer.
- From 5:00 am until 7:00 am, back up alarms will be disconnected and spotters will be used to safely back up vehicles

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

**This decision becomes effective for a period of 30 days on September 14, 2016, and then effective for the entire variance request timeline on October 19, 2016.**

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

*Katherine Couch for PVO  
October 19, 2016*