



CITY OF
PORTLAND, OREGON
OFFICE OF NEIGHBORHOOD INVOLVEMENT

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Promoting a culture of civic engagement

FINDINGS AND DECISION OF THE NOISE CONTROL OFFICER AND PORTLAND CITY COUNCIL

APPLICANT: BREMIK CONSTRUCTION *DEZMOND EVANS*

REQUEST: VARIANCE FOR CONSTRUCTION – 6 CONCRETE POURS AND DELIVERIES

VARIANCE NUMBER: 16-239519-000-01-NV

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.

Appellant David Mitchell appealed the Noise Control Officer's determination on Noise Variance #16-239519-01 to the Portland City Council. The formal appeal of the noise variance was heard by City Council on April 19, 2017 and April 26, 2017. At this time the City Council reviewed the record, including testimony from all parties present at the two Council hearings and upheld the Noise Control Officer's determination with modifications to the original conditions of approval.

The modifications are as follows:

- 1) The City Council made a preliminary determination that of the six concrete pours allowed in the noise variance, any additional dates will be limited to no early concrete pours on the weekends. This includes both Saturdays and Sundays.
- 2) In moving forward, no early set up times for concrete pour operations will be allowed to begin at 4 AM. All remaining early concrete pours under this noise variance will commence at no earlier than 5 AM for set up of equipment exceeding the noise code, and no pouring of concrete will commence prior to 6 AM
- 3) The changes that might be finalized in this process by City Council, to this particular noise variance, shall be seen as applying to the unique circumstances for this request.

Concrete pours have individual challenges and limits. The changes to this variance request are not meant to set a specific precedence for the review and determination on all the unique cases the Noise Control Officer or the Noise Review Board makes a determination on for the community.

- 4) No specific limitations were placed on the early delivery of materials to the site which is not generally a loud operation and has not been listed as one of the concerns in the variance appeal or in the testimony in support of a change to the variance determination. Changes to the original variance conditions for early materials deliveries shall remain in place in the variance.

ORIGINAL APPLICANT'S REQUEST:

A variance was originally requested for six large concrete pours and for early delivery of large equipment and materials between the dates of March 27, 2017 through March 26, 2018 (concrete pours will occur between March 27, 2017 and August 1, 2017). Times were requested for two of the pours with set up beginning at 4:00 am, with pour beginning no earlier than 5:00 am; four pours with set up beginning at 5:00 am, with pour beginning no earlier than 6:00 am. All pours would cease by 8:00 pm. Deliveries of equipment and materials from 6:00 am until 8:00 pm

FINAL DECISION FROM PORTLAND CITY COUNCIL

The Variance decision by the Noise Control Officer was deliberated over by City Council and was approved with changes with the following conditions:

- A. The variance shall run from March 27, 2017 through March 26, 2018 (concrete pours will occur between March 27, 2017 and August 1, 2017). The hours of the variances construction shall be from 5:00 a.m. to 8:00 p.m. for the concrete pours (set-up at 5:00 am and pour beginning at 6:00 am), and shall be from 6:00 am – 8:00 pm for the deliveries.
- B. Concrete pump trucks will be staged on NW 9th Avenue, in front of the construction site.
- C. From 6:00 p.m. until 9:30 p.m., the contractor will be required to use 'smart alarm' back up beepers, instead of a standard reversal alarm, for all equipment activity. After 9:30 p.m. and until 7 a.m. the following morning, back up alarms will be disconnected and spotters will be used to safely back up vehicles.
- D. The Applicant shall work to utilize a direct connection to power whenever possible. Use of gasoline or diesel generators or other stationary equipment will be isolated from any residential neighbors with the safe use of a 3/4 inch plywood enclosure that does not impact the need of the unit to be properly ventilated.