

VANADIA AND SEEMEL NOISE VARIANCE APPEAL
BLOCK 17 CONSTRUCTION SITE AT 1315 NW 11TH AVE

IF YOU WISH TO SPEAK TO CITY COUNCIL, PRINT YOUR NAME, ADDRESS, AND EMAIL.

NAME (print)	ADDRESS AND ZIP CODE	Email
✓ Joel Andersen	2134 NE 19 TH Ave.	JANDERSEN@ ANDERSEN-CONST.COM
✓ Tiffany Sweitzer	1022 NW Marshall Suite 270	tiffanysphotostreetproperties .com



March 31st, 2015

**RE: Noise Variance #3558622-001 Appeal
Block 17 Construction Site**

Dear City Council,

We are writing to respond to the Appeal forwarded to us from David Vanadia and Gwenn Seemel dated January 26th, 2014 (we assume to be incorrectly dated) in regards to Andersen Construction's Approved Noise Variance Permit #3558622-001.

First, we would like to emphasize that Andersen Construction, as a long standing member of the community (family owned and based in Portland, since 1950), has and will continue to meet all City code, ordinance, and regulation requirements. In fact, we continually go above and beyond these requirements to work with the folks in the community to make the construction process as transparent and unproblematic as possible. Specifically on the Block 17 project, we have been proactive with the city and community by communicating potential disruptions ahead of time through the following actions:

1. Prior to us mobilizing to the project site, we set up a Facebook page and notified the community of this page to allow us to more efficiently and in real time communicate updates to the neighbors.
2. We have coordinated a traffic and delivery plan with the adjacent project sites to minimize the impact of heavy traffic required to complete these types of large, complex urban projects.
3. We personally visited the neighboring residential, office, and retail buildings to advise of the project and provide contact info in the event of concern.
4. We have filed for the proper noise variances for the minimal amount of work that had to take place outside the standard working hours.
5. We have installed smart alarm backup beepers on all of equipment to reduce unnecessary noise disturbance.
6. Every Monday morning at our "All Hands" safety meetings, we continually communicate to our staff and our subcontractors the importance of not starting work prior to 7 AM.
7. Upon request by the Noise Review Board, we have also started hand delivering all early start notices to the neighbors and have turned off all backup alarms prior to 7 AM on early morning starts.

As a part of the community, we understand that construction activities can cause frustrations. As communicated above, we work hard to limit the impacts and would like to provide some perspective:

1. The Block 17 project has received no citations for noise or any other unlawful activity during our 14 month duration on-site.
2. It is our understanding that since the pile driving activities were completed in the summer of 2014, not a single call has been made to the Police Bureau in reference to the Block 17 project.
3. Outside of the folks referenced in the appeal, it is our understanding that no other noise complaints have been filed against the Block 17 project.
4. We continually see praise from the community as to the way we perform our work and respond to peoples' concerns.



5. For the roughly five months of work that is referenced in the variance, we are only asking for seven days in which we extend the allowable construction work hours.
6. The fact is that Andersen is performing our work per the city requirements, which are more stringent than other cities in which our company and team members have performed construction work.

Construction activity that is happening in the Pearl District and all around Portland is a breath of fresh air, for not only the construction industry itself, but the local economy as a whole. Countless trades men and woman are now back to work after years of unemployment. These are good living wage jobs that provide great compensation and benefits in exchange for honest, hard work. We, like all other community members, have the responsibility to follow the regulations that the city and community have put forth and have no problem receiving a citation when we do not. However, the ability to successfully execute a plan of this scale is difficult enough, but when the rules are changed mid-stream, the execution must change, often resulting in a longer schedule and further disruption to the neighbors.

We appreciate the time and effort the ONI Noise Review Board, City Council, and the community have taken to help resolve these issues. We look forward to a continued cooperation through this project and future developments as our city continues to thrive.

If you have any questions, please contact me at 503-283-6712 or by e-mail at jkowalewski@andersen-const.com

Sincerely;

ANDERSEN CONSTRUCTION COMPANY

Jerrod Kowalewski, AIA
Senior Project Manager

cc:

Paul van Orden, Noise Control Officer
Nick Fish, City Commissioner
Amanda Fritz, City Commissioner
Dan Saltzman, City Commissioner
Steve Novick, City Commissioner

March 25, 2015

Dear City Council,

This letter addresses the appeal for noise variances #3569176 and #3558622 scheduled for hearing in City Council Chambers at 2 PM on April 1, 2015.

On March 20, 2015 appellants Gwenn Seemel and David Vanadia met with Chad Stover, Project Manager for the Mayor, as well as Maryhelen Kincaid who was appointed by City Council on February 19, 2015 to lead a Construction Noise Task Force in order to seek an equitable resolution for the construction saturation situation in the north Pearl District and potentially Portland at large.

During our meeting, Chad presented an idea for a possible research based noise study that he had been thinking about over the previous six weeks. He made it very clear that he has limited resources to pursue the study, he was not promising anything and he emphatically encouraged us to reach out to City Council directly.

Also during that meeting, Maryhelen stated that she has a lot of commitments and cannot maintain the level of involvement necessary to follow a long term process and so it was her recommendation that City Council implement a 90-day trial of "Livable Weekends" (details outlined below) in the North Pearl District instituted as an emergency ordinance, which will be active over the coming summer months.

After hearing the City's suggestions, we are updating our appeal as follows:

UPDATED APPEAL REQUEST

The appeal for variances #3569176 and #3558622 as previously received by City Hall contain what have become irrelevant requests. The construction activities for which the variances were granted have already been carried out and the pleas need updating—a lot has transpired since the appeal was filed. Below are some of the neutralizers to our original appeal.

Walsh Variance #3569176:

1. The noise board determined that Walsh cannot limit early morning activities due to unpredictable weather.
2. By decree of Title 18, construction activity is already prohibited on Sundays.
3. Invalidated by request #1.
4. Instead of a written agreement, we are now requesting a 90-day trial of Livable Weekends.

Andersen Variance #3558622:

1. Andersen claims they are now done with concrete pours at Block 17.
2. By decree of Title 18, construction activity is already prohibited on Sundays.
3. Andersen did not post a sign on its fence and will not need to now that the variance activity is complete.
4. Instead of a written agreement, we are now requesting a 90-day trial of Livable Weekends.

To hypothetically and retroactively grant or deny our appeal as it was requested months ago would be a waste of time for both citizens and City Council. What's more, the Noise Board is proposing to amend Title 18 so that future noise variance appeals get heard by the Hearings Officer as opposed to City Council, so the April 1st hearing is an important opportunity for City Council to work with citizens to implement an equitable solution to a chronic problem that will continue to damage livability in Portland for years to come unless immediate action is taken.

Since it is City Council's responsibility to ensure livability for citizens in Portland as outlined in section 18.02.020 of Title 18, we are now asking that City Council implement a 90-day trial in the north Pearl District as recommended by City Council's Construction Noise Task Force. Details are below:

LIVABLE WEEKENDS in a NOISE IMPACT ZONE

When there are 3 or more construction sites located within a 2 block radius, and a noise-receiving residence that predates the construction exists within that same radius, the area shall be deemed a *Noise Impact Zone* (name suggested by the Noise Office, cited in the city document "Proposed Changes to Title 18, the Noise Code" - <http://www.portlandoregon.gov/oni/article/523591>) inside which NO WORK shall take place from 6

PM on Fridays until 7 AM on Monday. However, variance work can happen Mondays through Fridays for necessary construction activities as usual.

The benefits are as follows:

Notification - Clear expectations make for better relations. In a Noise Impact Zone, ongoing notification requirements are waived for construction companies. Residents are alerted to the fact that they are in a Noise Impact Zone that will be loud during the week and quiet during the Livable Weekends.

Enforcement - Police will be notified by the Noise Office that Livable Weekends have been enacted within a particular boundary. As a result, police can easily and effectively enforce the ordinance without confusion or hesitation because of the clear and solid rules of the Noise Impact Zone, which also makes it easy for construction companies to follow.

Livability - Local activities can proceed as usual on weekends. This is especially important for outdoor events in the park as adults and children will not be endangered by the heavy trucks and machinery that use the roadways during the week. Residents with open windows will enjoy lower amounts of noise and less airborne contaminated dust entering their homes since there will be no construction activity on the work sites.

Business - Local establishments have been coping with the multi-year slump that comes with construction happening outside their doors and will continue into 2016. With Livable Weekends, shops will see more summer foot traffic, and restaurants with open windows and/or outdoor seating can host patrons without battling construction noise, dust and disturbances.

Parking - Parking is limited in the north Pearl District. Enacting Livable Weekends means shoppers, tourists, residents and guests will not have to compete with several hundred construction workers for the area's limited parking spots.

Plenty of Work - There is a lot of growth happening in Portland. Contractors who want to continue working 6 day weeks can work on sites outside of the Noise Impact Zone or they can take the weekend off knowing that the Livable Weekend is a temporary civic measure that balances citizen and corporate interests on the rare occasion that a Noise Impact Zone occurs.

85 Work Hours Per Week - Construction companies operating in a Noise Impact Zone still have a 5-day window to do variance-granted large volume concrete pours, crane erections, jumps, dismantling and other activities. Using standard ordinance hours, and with Livable Weekends enacted, developers and construction companies have 55 legal workable hours per week with an additional 30 hours available should they apply for a variance, bringing the total to 85 available work hours per week in a temporary Noise Impact Zone.

Corporate Citizen Equity - There's a natural concession and compromise that occurs within densely populated areas. When multiple corporate construction sites occupy a neighborhood, million dollar budgets outweigh the clout of everyday citizens. Livable Weekends balances the negative impact on the neighborhood that results from a community being overrun with private interests.

Construction Workers - A construction manager from ODOT reported to the Noise Board that his employees work better and happier when they have time off at the end of each week. Construction workers have also expressed that they enjoy time with their families on the weekend and that they prefer to work in less saturated areas for reasons of personal and public safety. Enacting a Noise Impact Zone offers citizens and workers a reprieve from the stress of living and working in a construction laden area, which helps reduce conflicts overall.

The Noise Office - Paul Van Orden, Portland's single Noise Control Officer, is currently the only person who can issue noise citations in the entire city. Paul has lamented that he is underappreciated and complained that the Noise Board and Noise Office are understaffed and overworked. Enacting a Noise Impact Zone will reduce the amount of time and energy required by Noise Control to enforce unbridled construction activity in densely populated areas.

Open Public Space - Fields Park is home to weekend happenings such as movies, weddings, daily dog walks, sunbathing, exercise groups, concerts and other community activities. The park will be more welcoming and accessible during Livable Weekends—especially for city residents who don't have backyards or balconies.

Real Estate Sales - Real estate salespeople can show homes to potential future residents on Livable Weekends, which would give buyers a more accurate picture of how robust their life in the Pearl District will be after the contaminated brownfield construction sites are capped with new buildings in the coming years.

Children at Play - According to the Record of Decision (ROD) authored in 2000 by the Department of Environmental Quality (DEQ), the entirety of the Hoyt Street brownfield should be capped by now. This has not happened. Meanwhile, due to poor planning, The Abigail and The Ramona—buildings designed for families with young children—are currently surrounded by uncapped brownfield blocks that expose children to contaminants of concern (lead, benzene, etc.) at unacceptable levels. With a Noise Impact Zone enacted in the north Pearl District, children who play outdoors on the weekends will hopefully inhale, ingest, and come in contact with less contaminants since dust won't be actively kicked up by heavy machinery on nearby brownfield construction sites during Livable Weekend hours.

Residential Buildings that will Benefit from Livable Weekends

The Parker Apartments
The Wyatt Apartments
The Sitka Apartments
The Pinnacle Condos
The Encore Condos
The Bridgeport Condos
The Freedom Center Apartments
The Ramona Apartments

Some Storefront Businesses that will Benefit from Livable Weekends

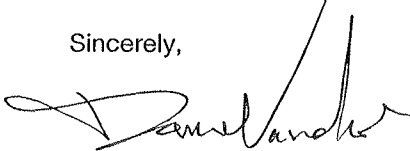
Ovation
Ecro
Circle Studio
Dublin Bay
Planet Granite
YoYo Yogi
Streetcar Bistro
The Fields Bar and Grill
Pearl Animal Hospital
Pure Space
Friendly House
Portland Public School at The Ramona

WHY AN EMERGENCY ORDINANCE

Our request is the result of over a year of careful study, consideration and communication with police, the Office of Neighborhood Involvement, Noise Office staff, the Noise Board, the Noise Control Officer, noise-impacted citizens and the newly appointed and recently disbanded Construction Noise Task Force. There are no extra costs associated with the implementation of the proposed 90-day trial outlined in this appeal. The trial itself acts as research and so there is no need for external consultants or endless research initiatives that will take longer to get started than multiple construction projects in the Pearl District will take to complete.

Please minimize our exposure to the negative psychological and physiological effects of excessive construction in our neighborhood to preserve and promote the public health, safety and welfare for residents and our children. Now is when we need your help.

Sincerely,



David Vanadia
1550 NW 14th Ave. #620
Portland, Oregon 97209
(646) 415-1692



Gwenn Seemel
1550 NW 14th Ave. #620
Portland, Oregon 97209
(503) 784-9248



CITY OF PORTLAND

Office of City Auditor Mary Hull Caballero

Council / Contracts Division
1221 S.W. 4th Avenue, Room 130, Portland, Oregon 97204
phone: (503) 823-4022
www.portlandoregon.gov/auditor/



February 18, 2015

David Vanadia
Gwenn Seemel
1550 NW 14th #620
Portland, Oregon 97209

RE: Noise Appeal
Andersen Construction – Variance #3558622

Dear David and Gwenn:

Please be advised the City Auditor's Office is in receipt of your appeal of the noise variance granted to Andersen Construction. A hearing has been scheduled before City Council on April 1, 2015 at 2:00 p.m. The hearing will take place in Council Chambers located in City Hall, 1221 SW 4th Avenue on the 2nd floor.

If you have any questions, please do not hesitate to contact me at 503-823-4022 or toni.anderson@portlandoregon.gov.

Sincerely,

Toni Anderson
Council/Contracts Supervisor
Office of the City Auditor

Appeal: Andersen Construction Noise Variance #3558622

Monday, January 26, 2014

Dear City Council,

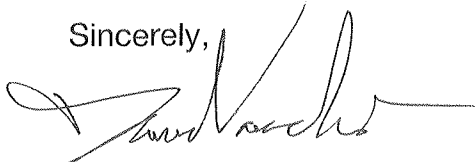
We are writing to **appeal Noise Variance #3558622 granted to Andersen Construction**. We live within a two-block radius of the Block 17 construction site and we submitted oral testimony against granting this noise variance at the January 14, 2015 Noise Board Meeting, thus our eligibility to appeal.

In requesting variance #3558622, the Portland Noise Board and the Noise Control Office granted this variance despite receiving ongoing negative feedback from neighborhood residents about Andersen's unlawful behavior in our neighborhood. Anderson has proven unreliable in their dealings with our community and as such we offer the following simple and reasonable solution:

- 1. Andersen Construction be prevented from variance-permitted pre-7 AM starts on Saturdays for the duration of construction at Block 17.**
- 2. Andersen Construction be prevented from working at all on Sundays (NO WORK from 6 PM Saturday until 7 AM on the following Monday) for the duration of their North Pearl District projects.**
- 3. Andersen Construction is to post a sign at their work site specifying that no work will happen during the hours of 6 PM on Saturdays until 7 AM on Sundays nor before 7 AM on Mondays or Saturdays for the duration of the project. The sign should also including a police phone number to call if work is performed.**
- 4. Andersen Construction, Hoyt Street Properties, Noise Control, Portland Police and City Council provide the community with a written agreement to enact and enforce this agreement.**

Having Monday and Saturday mornings before 7 AM and Sundays off means residents can know that we have some respite in our construction-saturated neighborhood so we can relax with family, entertain visitors, enjoy local parks, expect no street closings and not be overwhelmed by workers, their cars, large construction vehicles and noise—all of which will help provide at least a semblance of livability in our neighborhood. We feel this agreement will reduce noise complaints in our area overall.

Sincerely,



David Vanadia
1550 NW 14th #620
Portland, OR 97209
Cell: (646) 415-1692



Gwenn Seemel
1550 NW 14th #620
Portland, OR 97209
Cell: (503) 784-9248



CITY OF

PORTLAND, OREGON

OFFICE OF NEIGHBORHOOD INVOLVEMENT

CHARLIE HALES, MAYOR

Amalia Alarcón de Morris, Bureau Director

Noise Control Program

1221 SW 4th Avenue, Room 110

Portland, Oregon 97204

Promoting a culture of civic engagement

Noise Variance / Permit

FILE COPY

Application #: 3558622

Applicant: ANDERSEN CONSTRUCTION *CANDICE SUND*
6712 N CUTTER CIRCLE
PORTLAND OR 97217

Organization:

Activity: CONSTRUCTION – 4 CONCRETE POURS AND CRANE
DEMOBILIZATION

Event Location: 1315 NW 11TH AVE (BLOCK 17)

Date(s): Jan 28, 2015 through May 31, 2015

Hours: 5:00 am - 9:00 pm for pours only
6:00 am – 9:00 pm for crane erection*

*Delivery of crane parts or actual cranes and equipment to the site may occur between 5:00 am and 6:00 am

Application for the above has been reviewed by the Noise Control Officer, City of Portland, and is hereby:

Approved, with the following conditions:

- A. The variance shall run for seven days between January 28, 2015 through May 31, 2015. The hours of the variances construction shall be from 5:00 a.m. to 9:00 p.m. for concrete pours only. The hours for crane erection shall be from 6:00 am – 9:00 pm. Delivery of crane parts or actual cranes and equipment to the site may occur between 5:00 am and 6:00 am.
- B. The variance will be used for 4 concrete pours during the months of January 2015 and February 2015, and tower crane demobilization for 3 days during the month of May 2015.
- C. The applicant shall post a copy of the permit at the site for viewing by the public or a responding police officer. It shall be a minimum of 16 inches by 24 inches, with the permit reproduced in its actual size of 8.5 inches by 11 inches for each page. The top shall have a bold title "Noise Variance Permit".
- D. Notification of the variance shall be given to the front desk at The Sitka, Wyatt, Parker, Ramona and Freedom Center Apartments, with a reminder 3 or 4 days in advance of each concrete pour and before crane demobilization occurs. Notice will include a contact person and phone number for construction noise issues.
- E. 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.

F. 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.

G. 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 faxed to the Noise Office at (503) 823-7915 with a follow-up call to (503) 823-7350 to verify receipt of fax.

H. On Sundays **no work** shall be permitted during the duration of the variance time period.

I. The Applicant shall be prepared to develop a noise mitigation plan with the Noise Control Office should complaints arise.

J. The noise variance will be reviewed upon receipt of complaints. If complaints are filed, the Noise Control Officer may modify the variance, as needed, to resolve community noise disturbances.

K. The Applicant will notify the Noise Control Officer by the next morning if the variance was needed to work outside the normally permitted construction hours. The Applicant will keep a running tally of varianced days used. This log shall be made available to the Noise Control Office upon request.

To the Applicant:

1. Carry this document with you during the activity. This is not a permit to make more noise than is minimally necessary for your needs.
2. Violation of the conditions of this variance constitutes grounds for revocation of the variance, and denial of future applications, and may also result in the issuance of citation(s) for violations of City Code.
3. If a Police or Noise Control Officer should appear, his/her instructions will supersede this variance and take precedence.

Date:

January 21, 2015


Paul van Orden, Noise Control Officer

IMPACT STATEMENT

Legislation title: Appeal of David Vanadia and Gwenn Seemel against the noise variance granted to Andersen Construction for the Block 17 construction site located at 1315 NW 11th Avenue

Contact name: Toni Anderson

Contact phone: 503-823-4022

Purpose of proposed legislation and background information:

The purpose of this Council item is to provide the appellants, David Vanadia and Gwenn Seemel, the opportunity to appeal the City's Noise Control Officer's Noise Variance/Permit # 3558622 granted to Andersen Construction for the Block 17 construction project. Appeals to City Council of variance decisions may be submitted by the "applicant, his legal representative, any affected neighborhood association, or any person who has submitted oral or written testimony on the application" per Portland City Code Section 18.14.020 I.1.

Per 18.14.020 I.3., the Auditor upon receipt of an appeal shall place the matter on the agenda.

Financial and budgetary impacts:

This Council item will not generate or reduce current or future revenue coming to the City. There are no costs to the City as a result of this Council item.

Community impacts and community involvement:

Public notification of the Andersen Construction's noise variance application was required per the Noise Control Officer's decision. No future public involvement is anticipated or considered necessary for this Council item. After the City Council has made its decision on this appeal, there is no further opportunity for public involvement at the City level.

Budgetary Impact Worksheet

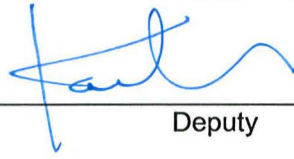
Does this action change appropriations?

- YES:** Please complete the information below.
- NO:** Skip this section

Fund	Fund Center	Commitment Item	Functional Area	Funded Program	Grant	Sponsored Program	Amount

Agenda No.
REPORT
Title

Appeal of David Vanadia and Gwenn Seemel against the noise variance granted to Andersen Construction for the Block 17 construction site located at 1315 NW 11th Avenue
(Hearing introduced by Auditor Hull Caballero)

INTRODUCED BY Commissioner/Auditor: Mary Hull Caballero	CLERK USE: DATE FILED <u>MAR 27 2015</u>
COMMISSIONER APPROVAL Mayor—Finance and Administration - Hales Position 1/Utilities - Fritz Position 2/Works - Fish Position 3/Affairs - Saltzman Position 4/Safety - Novick	Mary Hull Caballero Auditor of the City of Portland By:  _____ Deputy
BUREAU APPROVAL Bureau: Auditor Bureau Head: M. Hull Caballero <i>Mary Hull Caballero</i> Prepared by: T. Anderson Date Prepared: 3/23/2015 Impact Statement Completed <input checked="" type="checkbox"/> Amends Budget <input type="checkbox"/> City Auditor Office Approval: required for Code Ordinances City Attorney Approval: required for contract, code, easement, franchise, charter, Comp Plan Council Meeting Date 4/1/2015	ACTION TAKEN: APR 01 2015 APPEAL DENIED

AGENDA
TIME CERTAIN <input checked="" type="checkbox"/> Start time: 2:00 Total amount of time needed: 1 hr (for presentation, testimony and discussion)
CONSENT <input type="checkbox"/>
REGULAR <input type="checkbox"/> Total amount of time needed: _____ (for presentation, testimony and discussion)

FOUR-FIFTHS AGENDA	COMMISSIONERS VOTED AS FOLLOWS:		
		YEAS	NAYS
1. Fritz	1. Fritz	✓	
2. Fish	2. Fish	✓	
3. Saltzman	3. Saltzman	✓	
4. Novick	4. Novick	✓	
Hales	Hales	✓	