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## CITY OF EDMONDS

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DEVELOPMENT SERVICES DEPARTMENT • PLANNING DIVISION

### BEFORE THE HEARING EXAMINER FOR THE CITY OF EDMONDS

Phil Olbrechts, Hearing Examiner

RE: WSDOT Noise Variance  PLN2014-0004	<b>DECISION ON RECONSIDERATION</b>
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### SUMMARY

The applicant has requested a variance to City of Edmonds noise standards for temporary nighttime construction work for right-of-way improvements to SR 104. The application was originally denied by a decision dated May 13, 2014 due to discrepancies in sound estimates provided by the applicant. The applicant subsequently filed a request for reconsideration. The request clarified some of the information it had submitted into the record. Based on these clarifications, the variance request is approved.

### RECONSIDERATION REQUEST

The clarifications in the applicant’s reconsideration request marginally justify approval of the requested variance request. However, it should be noted that the information specifically requested by the examiner was ultimately never provided by the applicant. Further, the evidence supporting the variance request was marginal and incomplete. The specific evidence that should be provided by future noise variance applicants was identified in the May 13, 2014 original decision on this application.

At the hearing, the examiner requested that the applicant submit information identifying the ambient noise levels at SR 104 at night. The applicant’s representative responded that he would provide this information in addition to the ambient noise levels of the homes located closest to SR 104. The reason the

Noise Variance

1 examiner requested this information was that the applicant asserted that the proposed  
2 noise levels would not exceed the ambient noise levels of SR 104. The applicant had  
3 provided information on the noise levels it would produce at SR 104, but did not  
4 identify the ambient noise levels. The examiner wanted verification that ambient  
5 noise levels were the same as the applicant's construction noise. As explained by the  
6 examiner at the hearing, the proposal would likely not be considered to adversely  
7 affect neighboring properties if its noise levels didn't exceed ambient levels at SR  
8 104.

9  
10 In response to the examiner's request for verification of noise levels at SR 104, the  
11 applicant provided the following email, referring to a noise study attached to the  
12 email that had been prepared for the Edmonds Crossing project in 1995:

13 *These measurements were taken in 1995 but I believe the early morning*  
14 *time frame accurately reflects the existing background sound levels for the*  
15 *early morning hours when little traffic is on SR104. These reported*  
16 *figures show that at these early morning hours sound levels could drop to*  
17 *as low as 51-52 dBA (see attached tables). I am confident that, although*  
18 *traffic increase in the day time, the night time background is still around*  
19 *51-52 dBA as measured in 1995. In my professional judgment, nighttime*  
20 *sound levels would, at most, increase the 1995 measurements 1-2 decibels.*

21 *I have also updated the equipment table to show how sound from this work*  
22 *would drop off to the receivers at 500 and 1000 feet to residential*  
23 *receivers indicated on the mailing list as well as revised some of the*  
24 *activities based on a better understanding of how the equipment will be*  
25 *used on the project.*

In the May 13 decision on this application, the first paragraph as quoted above was  
construed as providing the noise estimate specifically requested by the examiner, i.e.  
the estimated levels at SR 104, which the paragraph notes is 51-52 dBA. The  
second paragraph provides the estimates additionally volunteered by the applicant,  
i.e. the noise levels of receiving properties.

In its reconsideration request, the applicant's representative noted that his 51-52 dBA  
estimate was not at SR 104 as requested but rather at the closest homes to SR 104,  
located 500 feet away. Nothing in the applicant's email or its attachments identified  
the 51-52 dBA estimate as applying to receiving properties 500 feet from SR 104.  
Nothing in the applicant's email or its attachments otherwise provided a response to  
the examiner's request for estimates of noise levels at SR 104. The applicant's  
representative understood what the examiner was requesting, since at hearing he  
noted that in addition to the estimates at SR 104, he would provide estimates for  
receiving properties located 500 feet away from SR 104. Given these factors, it was  
reasonable to conclude that the 51-52 dBA estimate was for levels at SR 104 as  
expressly requested by the examiner. The applicant has never responded to this  
request.

1 The applicant's clarification as to the location of its 51-52 dBA is sufficient to merit  
2 approval. As determined in Finding of Fact No. 4, the increase in noise at receiving  
3 properties will only be 10 dBA, as opposed to the 20 dBA deduced in the May 13  
4 decision. The 20 dBA determination was based upon the (mis)understanding that the  
applicant's 51-52 dBA estimate was at SR 104 as opposed to at the receiving  
properties 500 feet away.

5 In its request for reconsideration the applicant also notes that the original May 13  
6 decision used incorrect decibel levels in assessing noise levels at 500 feet from SR  
7 104. The original decision did erroneously identify noise levels at 500 feet in its  
8 analysis when the values were actually for receiving properties located 1,000 feet  
9 from SR 104. That error is immaterial. Using the applicant's noise levels at 500 feet  
10 (Ex. 1, att. 5), there is still a difference between ambient and project noise levels that  
11 probably exceeds 20 dBA at 500 feet<sup>1</sup> from SR 104 under the original  
(mis)understanding that ambient noise levels at SR 104 are 51-52 dBA at night. 20  
dBA is far above any threshold that would be considered significant<sup>2</sup>, which was the  
entire point of extrapolating noise levels out to the location of the closest residentially  
developed receiving properties.

## 12 ORAL TESTIMONY

13 Staff

14 Mr. Mike Clugston from the planning division stated that the Washington State  
15 Department of Transportation has applied for a noise variance for a project on  
16 Washington State Route 104. He submitted the Staff Report from April 14 with ten  
17 attachments to the record, and he submitted a public comment letter. Both were  
18 admitted to the record. He stated that the variance has been requested because the  
19 work that this project requires cannot be completed during the day, thus they have to  
20 do it at night. The city code in chapter 5.30 requires that work be conducted between 7  
a.m. and 10 p.m., and a noise variance is required to do work outside that time.  
Additionally, chapter 5.30 identifies the sound levels that need to be met for projects,  
and the work that would be done at night for this project would exceed these sound  
levels.

21 Mr. Clugston stated that the application asks for twenty nights of noise variance  
22 between May 1 and December 31, 2014, and the city must be notified each of the  
23 twenty nights that the variance is used. Also, the application proposes several

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24 <sup>1</sup> The original decision referenced pick-up truck noise levels from Ex. 4 (revised Ex. 1, att. 5) in its  
25 assessment of off-site noise impacts. This should have been the truck mounted attenuator (presumably  
also known as a crash attenuator). A comparison to the pickup noise may have been more accurate.  
Both the pickup truck and attenuator were listed as generating 64 dBA at the project site, but generated  
differing noise levels further from the project site.

<sup>2</sup> As shown in Table 1 to the Edmonds Crossing noise report, Ex. 3, a 20 dBA increase in noise  
correlates with a perceived quadrupling in noise levels.

1 mitigation measures that are described in attachments 2 and 5 to the Staff Report.  
2 These measures will attempt to reduce noise from the project; attachment 5 is a spread  
3 sheet that lists a host of mitigation measures proposed for the equipment that would be  
4 used. He stated that noise variances are different from regular variances that are  
5 described in chapter 20.85. The process for a noise variance is the same, but the  
6 criteria for a noise variance is specific, and it is described in chapter 5.30. Specifically,  
7 ECC 5.30.120.A requires that the Hearing Examiner make a finding that compliance  
8 with the noise requirements in chapter 5.30 cannot be achieved because of special  
9 circumstances. In this case, where the project is proposed qualifies as a special  
10 circumstance that prevents compliance with the noise requirements, and Staff  
11 recommends approval of the variance.

12 The Hearing Examiner asked in reference to attachment 5 what the ambient noise level  
13 is at night on SR 104, and Mr. Clugston stated that Staff does not have information on  
14 that, but a noise study could be conducted to find out what the average noise level is at  
15 night. Also, Mr. Clugston stated that Staff does not know what traffic is like on SR  
16 104 at night. Attachment 9 has information about the residences that are near where  
17 the project is proposed on SR 104. Mr. Clugston stated that he worked on a noise  
18 variance in 2010, but he is not familiar with an application for a noise variance from  
19 the city. The examiner explained that one possible factor that differentiates this project  
20 from that one is that this project does not look to be in a relatively quiet area, thus the  
21 noise from the project would not have a huge impact; this is why it might be important  
22 to know what the ambient noise level at night on the SR 104 is.

#### 23 Applicants

24 The applicant, Mr. Larry Magnoni, stated that he is the acoustic air quality and energy  
25 specialist for the Washington State Department of Transportation. He has been doing  
this work for 23 years. He stated that the buffer zones identified in the application  
refer to the zones in which several mailings have been sent to notify residents nearby,  
or those within a 1,000-foot radius, about the project. Most work in the project is  
going to be around the crosswalk, which is the area that the 1,000 foot radius is based  
on. There will be a few activities, e.g. traffic control signing, outside this 1,000-foot  
radius, but those activities should not exceed the noise levels. The Examiner asked  
where the closest homes to the construction work would be located and Mr. Magnoni  
indicated they were located to the sough in Woodway. Mr. Magnoni was unable to  
note the distances to these homes.

Mr. Magnoni stated that, as far as the typical ambient noise level on SR 104 at night, it  
is fairly loud at 6 p.m. but it gets quieter as the night goes on, and this project would  
take lanes on the highway from about 7:00 p.m. to 4:00 a.m. There is traffic in the area  
for the ferry nearby that operates as early as 5:30 in the morning. Mr. Magnoni stated  
that he did not know the typical ambient noise level on SR 104 at, say, 2:00 in the  
morning. When the Hearing Examiner asked why the attachments say that the noise  
from the equipment would not be louder than the noise that is typically in the area, Mr.  
Magnoni clarified that this is the case at 7 p.m., but the area typically grows quieter as

1 the night goes on. He stated that for the closest nearby residents, the noise would be  
2 like a refrigerator kicking on. If there are complaints about the noise, they will respond  
3 within 24 hours to address the concerns. In the past, they have responded to  
4 complaints by offering ear plugs, providing white noise machines, or putting residents  
in hotels. Mr. Magnoni stated that he could easily put up a meter on SR 104 for 24  
hours to take noise measurements that would determine the typical ambient noise level  
in the area at night.

5 Mr. David Crisman, who also works for the Washington State Department of  
6 Transportation, stated that the noisy work for the project would include cutting into  
7 the concrete sidewalk, putting in a ramp, creating an island for pedestrians to cross in  
8 the area, and putting in foundations for a signal; the loudest noises would be from  
9 using the saw, pouring the concrete, and drilling. These activities would be within the  
10 1,000-foot radius, and they would not be continuous throughout the night; the noise  
level would be up for a bit, down for a bit, up for a bit, etc. during the night. Other  
work in the project would include striping, controlling erosion, putting up signs, and  
these activities would be outside the 1,000-foot radius.

11 Mr. Magnoni stated that they have planned mitigation measurements to reduce the  
12 noise of the machines; one is to line the bed of the trucks to quiet the noise that they  
13 make. But there is not much that they can do to reduce the noise of equipment such as  
14 the drills. In response to questions from the Hearing Examiner about how barriers  
15 might be used to mitigate the noise, Mr. Carl Barker, who is from the construction  
16 office, stated that temporary, insulated barriers would be used to mitigate the noise  
17 from small, stationary equipment, but those barriers are not really possible on larger,  
18 moving equipment like drills. In general, this is a measure for mitigation that the city  
19 puts into contracts, and it is mitigation measure three in the Staff Report.

#### 20 Public Comments

21 Mr. Rutledge asked how many consecutive days would work be done, and whether  
22 notifications to residents about the noise would be sent out for each day, or whether  
23 one notification would be sent out to warn about the noise that would be heard for  
several nights in a row. Are people going to receive twenty notifications at a rate of  
one every twelve days? He asked what the crime watch would be while this  
construction was going on. It would be easy for a person to put on a construction  
uniform, break into a home, and leave town without being caught. He asked about a  
tentative date for when the project would start. He stated that the project could be shut  
down if there are more than three complaints at once. It is important to remember to  
notify the residents.

#### 24 Staff Rebuttal

25 Mr. Clugston stated in response to Mr. Rutledge that section ECC 5.30.140 discusses  
citizen complaints, and it does address the concerns that Mr. Rutledge addresses.

1 Applicant Rebuttal

2 In response to questions about when the project will start, the applicant stated the  
3 project would be put up for contract on May 12, there would be a twelve-week period,  
4 and it would be awarded potentially June 16, executed potentially July 7, and the  
5 contractor would need time to procure the materials for up to four months. That is why  
6 the application allows for such a long period; once the contractor starts work, it will  
7 most likely be done within about six weeks. Residents need to be notified about the  
8 noise at least seven days prior to the noise, and they will most likely be notified that  
9 there will be noise for twenty nights within a thirty-day period.

7 **EXHIBITS**

8 The staff report and its 10 attachments were admitted as Exhibit 1 during the hearing.  
9 A letter of support written by Christy Cufley was admitted as Exhibit 2. An April 29,  
10 2014 email from Larry Magnoni to Diane Cunningham with three attachments is  
11 admitted as Exhibit 3. The applicant’s reconsideration request is admitted as Exhibit  
12 4.

11 **FINDINGS OF FACT**

12 **Procedural:**

- 13
- 14 1. Applicant. The Applicant is the Washington State Department of  
15 Transportation.
  - 16 2. Hearing. A hearing was held on April 24, 2014. The record was held  
17 open through May 2, 2014 in order for the applicant to submit noise readings of  
18 ambient night noise levels at the project site. The original decision, denying the  
19 variance, was issued on May 13, 2014. The applicant filed a request for  
20 reconsideration on May 20, 2014<sup>3</sup>.

19 **Substantive:**

- 20 3. Site/Proposal Description. The Washington State Department of  
21 Transportation (WSDOT) is requesting a nighttime noise variance for work on right-  
22 of-way improvements to State Route 104 (SR104). According to their cover letter in  
23 Attachment 2, WSDOT proposes to construct a mid-block pedestrian and bicycle  
24 crossing to make a connection to the sidewalk west of SR104 with a pedestrian trail  
25 that leads to Edmonds City Park at approximately Mile Post 25.03. The project will

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<sup>3</sup> ECDC 20.06.010 gives the examiner the option of sending out a request for reconsideration for comment from parties of record. In this application that option was not exercised because no party of record contested the accuracy of the applicant’s noise estimates or expressed any concerns about noise impacts in general. The only comment in opposition expressed concerns over the improvement project itself as opposed to the noise it generates.

1 involve paving and concrete work, digging and other utility placement activities,  
2 signing, striping and traffic control equipment.

3 If this work could be completed during the daytime, a noise variance would not be  
4 required. However, because WSDOT can only do lane closures on SR104 at night,  
5 the construction work envisioned within the travel lanes can only occur at night.  
6 Approval of this variance would permit WSDOT to conduct construction activities  
7 for this project between the hours of 10:00 P.M. and 7:00 A.M. for 20 nonconsecutive  
8 nights between May and December 31, 2014. It would also allow the regularly  
9 allowed nighttime decibel levels for potential receiving properties to be exceeded.

10 4. Adverse Impacts. With the clarifications provided by the applicant, it is  
11 determined that the noise generated by the proposal will not create significant impacts  
12 to residents of properties in the vicinity. The applicant provided evidence, Ex. 3, that  
13 marginally establishes that ambient noise levels at the closest residentially developed  
14 receiving properties is 51-52 dBA at night. The maximum noise levels generated by  
15 the equipment of the project 62 dB, as listed in Ex. 3, revised Ex.1, att. 5. The  
16 applicant's representative testified that this noise level was the equivalent of that  
17 generated by a refrigerator. The Edmonds Crossing noise report, Ex. 3, states that 60  
18 dBA is the level of sound generated by a large store air conditioner. Further,  
19 according to Table 1 of the Edmonds Crossing noise report, an increase from 50 to 60  
20 dBA is perceived as a doubling in loudness.

21 Even with the applicant's reconsideration clarification, however, the evidence  
22 presented by the applicant still contains a major inaccuracy. Ex. 1, attachment 5  
23 notes that the equipment generating the loudest noise (80 dBA) "*would be perceived  
24 at or near the same as existing background noise from SR 104 at night.*" (emphasis  
25 added). As determined in the preceding paragraph, the perceived noise level will in  
fact double. That is nowhere near "*at or near the same as existing background  
noise.*" Under questioning from the examiner, the applicant's representative clarified  
that the comment meant to address perceived noise levels at 7:00 pm and that SR 104  
noise levels decrease as the night goes on. The comment in Ex. 1, attachment 5 on  
this issue is highly misleading. "Night" noise levels for the purpose of Edmonds  
noise regulations (and Department of Ecology noise levels as well) is defined as  
10:00 pm to 7:00 am, which of course does not include 7:00 pm noise levels. The  
greatest impacts to adjoining residents would be in the quietest portion of the evening,  
when project noises would be most likely to wake them. Despite this gross  
mischaracterization of night time noise levels, the applicant failed to correct that  
statement when it revised attachment 5 in its Ex. 3 submission.

Ultimately, whether or not a noise level is significant is a subjective determination.  
In this case the applicant's noise expert testified that the noise levels would not be  
significantly adverse and there was no evidence to the contrary. Noise levels will be  
those of an air conditioning unit or refrigerator, which would not be anticipated to  
interfere with the sleep. The conditions of approval will require numerous noise  
attenuation measures, including the use of noise mitigation shields, noise blankets,

1 skirts and other devices to reduce noise of stationary equipment. Parking and idling  
2 near residences will not be permitted. Further, the conditions of approval require the  
3 applicant to provide a noise complaint line for persons that are adversely affected. In  
4 response to complaints, the applicant is prepared to accommodate the concerns of  
5 affected residents with measures such as providing ear plugs or even putting up the  
6 residents in a hotel. No one testified against the noise levels of the proposal. Further,  
7 the noise levels will be of limited duration and the maximum 62 dBA levels will be  
8 very close to the 60 dBA levels designated as acceptable by ECDC 5.30.040 for  
9 daytime noise levels. Although some of the applicant's evidence was misleading,  
10 most of it was consistent with the findings and noise information in the Edmonds  
11 Crossing report. For all these reasons, as conditioned it is determined that the facility  
12 will not create significant adverse noise impacts.

13 5. Other Mitigation. The applicant testified that there is no other mitigation  
14 reasonably available beyond that incorporated into the conditions of approval. The  
15 mitigation proposed by the applicant (and partially summarized in Finding of Fact  
16 No. 4) does appear to be as comprehensive as could be reasonably expected from the  
17 applicant. The only other mitigation that could be employed would be to require the  
18 construction work to be done during the day. The staff report notes that the project  
19 will entail lane closures on SR 104 that "cannot be shut down during the day". The  
20 record does not identify why this cannot be done, but given the high traffic levels of  
21 SR 104 and the associated ferry traffic as identified in the City's comprehensive plan,  
22 it is reasonable to conclude that lane closures on SR 104 could create significant  
23 traffic problems. Given the absence of any testimony to the contrary, it is determined  
24 that there is no other mitigation available that could involve feasible technology or  
25 control methods.

## CONCLUSIONS OF LAW

### **Procedural:**

1. Authority of Hearing Examiner. ECDC 20.85.020 provides the Hearing  
Examiner with the authority to review and act upon variance applications as Type III-  
A.

### **Substantive:**

2. Review Criteria and Application. As discussed in the Summary, the  
project will generate night time noise levels up to 80 dBA at the noise source and up  
to 62 dBA at residential receiving properties. ECDC 5.30.040, in conjunction with  
ECDC 5.30.050(A), limits noise levels, depending on the zoning<sup>4</sup> of the noise source,  
to 45 dB to 50 dBA at residentially zoned receiving properties between the hours of

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<sup>4</sup> The applicant and staff did not identify the zoning of the noise generating or noise receiving properties.

1 10:00 pm and 7:00 am. As noted in the staff report, the noise generated by the  
2 proposal during daylight hours is exempt from Chapter 5.30 ECDC standards as  
3 construction and utility noise. ECDC 5.32.120(C) (3) provides that variances to noise  
4 standards shall be processed as required by and meet the criteria of ECDC 20.85.020  
[sic]. ECDC 5.30.120(A) and (B) also add additional criteria to noise variances.  
Applicable criteria are quoted below and applied through corresponding conclusions  
of law.

5 **ECDC 5.30.120(A):** *Variances may be granted to any person from any requirement*  
6 *of ECC 5.30.040 or 5.30.110 if findings are made that immediate compliance with*  
7 *such requirement cannot be achieved because of special circumstances rendering*  
8 *immediate compliance unreasonable in light of economic or physical factors,*  
*encroachment upon an existing noise source or because of nonavailability of feasible*  
*technology or control methods.*

9 3. Special circumstances justify the noise variance because there is no other  
10 mitigation available that could involve feasible technology or control methods as  
determined in Finding of Fact No. 5.

11 **ECDC 5.30.120(B):** *Any such variance or renewal thereof shall be granted only for*  
12 *the minimum time period found to be necessary under the facts and circumstances.*

13 4. The applicant proposes a maximum of 20 nights for the variance, which it has  
14 determined is necessary for completion of the proposed SR 104 improvements at  
15 night. The applicant has no discernible reason to extend the construction period for  
16 any time longer than necessary. There being no evidence to the contrary, it is  
determined that the requested variance is for the minimum time period necessary to  
complete the project.

17 **ECDC 20.85.010:** *No variance may be approved unless all of the findings in this*  
18 *section can be made.*

19 **ECDC 20.85.010.A(1) – Special Circumstances:** *That, because of special*  
20 *circumstances relating to the property, the strict enforcement of the zoning ordinance*  
21 *would deprive the owner of use rights and privileges permitted to other properties in*  
*the vicinity with the same zoning.*

22 a. *Special circumstances include the size, shape, topography, location or*  
23 *surroundings of the property, public necessity as of public structures and*  
*uses as set forth in ECDC 17.00.030 and environmental factors such as*  
*vegetation, streams, ponds and wildlife habitats.*

24 b. *Special circumstances should not be predicated upon any factor personal*  
25 *to the owner such as age or disability, extra expense which may be*  
*necessary to comply with the zoning ordinance, the ability to secure a*  
*scenic view, the ability to make more profitable use of the property, nor any*

1 *factor resulting from the action of the owner or any past owner of the same*  
2 *property;*

3 5. The special circumstance of the proposal is the location of SR 104 in  
4 proximity to residential areas. The transportation needs of the area dictate the  
5 location of SR 104 and improvements such as the proposed crosswalk are in the  
6 public interest and cannot be avoided. Public necessity also justifies the variance as  
7 identified in ECDC 20.85.010(A)(1). The special circumstances are not predicated  
8 upon any factor personal to the applicant and arise entirely from public necessity.

9 **ECDC 20.85.010(B) – Special Privilege:** *That the approval of the variance would*  
10 *not be a grant of special privilege to the property in comparison with the limitations*  
11 *upon other properties in the vicinity with the same zoning;*

12 6. Variances would likely be granted for any other improvements to public  
13 roads that have similar impacts. No special privilege is involved.

14 **ECDC 20.85.101(C) – Comprehensive Plan:** *That the approval of the variance will*  
15 *be consistent with the comprehensive plan;*

16 7. Page 86-87 of the Edmonds Comprehensive Plan contains a section on  
17 noise pollution. This section of the Plan recognizes that noise can adversely affect  
18 health and that measures should be taken to preserve a quiet environment. The  
19 limited duration and extent of the noise variance in conjunction with the numerous  
20 mitigation measures are consistent with these comprehensive plan objectives.

21 **ECDC 20.85.010(D) – Zoning Ordinance:** *That the approval of the variance will be*  
22 *consistent with the purposes of the zoning ordinance and the zone district in which*  
23 *the property is located;*

24 8. ECDC 16.10.000(B)(4) provides that one of the purposes of all residential  
25 zones is to keep residents free from noise. The conditions of this variance decision  
mitigate noise as much as reasonably possible and limit night time noise to moderate  
levels. As conditioned, the proposal is consistent with the purpose of keeping  
residents free from noise.

**ECDC 20.85.010(E) – Not Detrimental:** *That the variance as approved or*  
*conditionally approved will not be significantly detrimental to the public health,*  
*safety and welfare or injurious to the property or improvements in the vicinity and*  
*same zone;*

9. As conditioned, the variance will not create significant adverse noise  
impacts as determined in Finding of Fact No. 4. Consequently, the criterion is met.

1 **ECDC 20.85.010(F) – Minimum Variance:** *That the approved variance is the*  
2 *minimum necessary to allow the owner the rights enjoyed by other properties in the*  
3 *vicinity with the same zoning.*

4 10. As determined in the Findings of Fact, the applicants have provided as  
5 much noise mitigation as they reasonably can under the circumstances and the  
6 variance is limited to the time necessary to complete the project. The criterion is  
7 satisfied.

8 **DECISION**

9 The variance application is approved, subject to the following conditions:

- 10 1. The proposed mitigation measures described in Attachments 2 and 5 are  
11 required. In addition, the notice to residents shall include contact information  
12 for a designated City staff person to address situations where the applicant  
13 does not resolve a complaint to the satisfaction of the complainant. City staff  
14 shall have the authority to require the applicant to provide for additional  
15 accommodations to the complainant as reasonably necessary to mitigate  
16 adverse noise impacts.
- 17 2. The granting of a variance does not relieve WSDOT from the requirements of  
18 ECC 5.30.130 relating to public disturbance noises.
- 19 3. The noise variance is valid for only 20 nights between May 1 and December  
20 31, 2014 and WSDOT must notify the City each time the variance is used.

21 Dated this 22nd day of May, 2014.

22   
23 Phil A. Olbrechts

24 Edmonds Hearing Examiner

25 **Appeal Right and Valuation Notices**

This land use decision is final and subject to closed record appeal to the City Council as authorized by ECDC 20.01.003. Appeals must be filed within 14 days of the issuance of this decision as required by ECDC 20.07.004(B). Reconsideration may be requested within 10 calendar days of issuance of this decision as required by ECDC 20.06.010.

Affected property owners may request a change in valuation for property tax purposes notwithstanding any program of revaluation.

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