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# CITY OF West Linn

## Memorandum

Date: August 21, 2015

To: Planning Commission

From: John Boyd AICP, Planning Manager

Subject: ConAm LLC DR 15-11/LLA 15-01 Additional Information

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Attached to this memorandum is additional evidence or testimony provided for the ConAm LLC applications. The information provided includes:

1. **Noise Assessment:** A two page Memorandum from Perkins Coie dated August 19, 2015, Exhibit 1, a nine page Memo from Peter Allen P.E. with a 25 page attachment, and Exhibit 2, a 16 page document to Jeff Parker dated August 24, 2006.
2. **Response to Willamette NHA:** An email from Michael Robinson with an attached nine page memo dated August 20, 2015
3. **Robinwood NHA Resolution:** An email from RNA Secretary containing a one page Robinwood Neighborhood Association Resolution and one page Robinwood Neighborhood Association Minutes dated August 11, 2015
4. **Willamette NHA Resolution:** An August 21, 2015 email from Gail Holmes containing a one page Willamette Neighborhood Association Resolution dated August 12, 2015

August 19, 2015

Michael C. Robinson  
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Mr. Zach Pelz, Associate Planner  
City of West Linn Planning and Building Department  
22500 Salamo Road, Suite 1000  
West Linn, OR 97068

**Re: Application by ConAm Properties, LLC;  
City of West Linn File No. DR-15-11/LLA-15-01**

Dear Mr. Pelz:

I have enclosed a memorandum from Daly, Standlee & Associates, Inc. that addresses the applicable noise standards in West Linn Community Development Code ("CDC") 55.070(D)(2)(h) and 55.100(B)(2)-(4) (**Exhibit 1**). Mr. Standlee and his firm are Oregon registered professional engineers who regularly provide noise assessments for land use proposals. ConAm asked Mr. Standlee's firm to evaluate whether the proposed 180 multi-family residential unit and 7 commercial unit mixed use project will satisfy the above-referenced CDC standards regarding noise. Mr. Standlee's memorandum concludes that the relevant CDC standards concerning noise are satisfied by the application.

I have also enclosed an August 24, 2006 report by the same firm in which Mr. Standlee analyzed the noise impacts for the Willamette 205 Corporate Center Phase II office application (**Exhibit 2**). Mr. Standlee concluded in that 2006 report that the noise from the proposed office development would satisfy all applicable city and state noise regulations because of the background noise at the site.

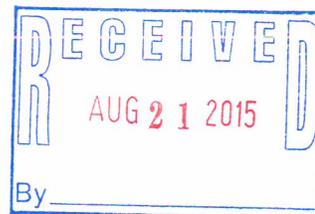
Please place this letter and its two (2) enclosures in the official Planning Department file for this application and before the Planning Commission at the initial evidentiary hearing on August 26, 2015.

Very truly yours,

Michael C. Robinson

Enclosures

cc: Mr. John Boyd (w/ encls.) (via email)  
Mr. Mike Mahoney (w/ encls.) (via email)



Mr. Zach Pelz, Associate Planner  
August 19, 2015  
Page 2

Mr. Rob Morgan (w/ encls.) (via email)  
Mr. Ron Dean (w/ encls.) (via email)  
Mr. Gary Alfson (w/ encls.) (via email)  
Mr. Pete Miller (w/ encls.) (via email)  
Mr. Garrett Stephenson (w/ encls.) (via email)  
Mr. Seth King (w/ encls.) (via email)

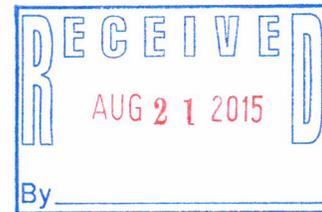
# Memo



Daly • Standlee & Associates, Inc.

4900 S.W. Griffith Drive  
Suite 205  
Beaverton, Oregon 97005  
(503) 646-4420  
Fax (503) 646-3385

**Date:** August 12, 2015  
**To:** Rob Morgan, Development Manager  
ConAm  
**From:** Peter Allen, P.E., Senior Engineer  
Kerrie G. Standlee, P.E., Principal  
**Re:** Tannler Mixed-Use Project Noise Assessment  
DSA File #: 170151  
**CC:** Michael Robinson, Attorney at Law



## 1. Introduction

ConAm Properties, LLC (ConAm) proposes to develop a site in West Linn, Oregon and construct what will be called the Tannler Mixed-Use Project. The project will be a mixed-use commercial and residential complex, with most of the building space being dedicated to residential units. Daly-Standlee & Associates, Inc. (DSA) was asked to review the West Linn Community Development Code (CDC) and Municipal Code (WLMC) and determine if the proposed development would likely comply with the applicable noise-related requirements included within the codes. This document summarizes DSA's review of the two codes and provides an assessment of the proposed development relative to the noise-related requirements in the codes.

## 2. Description of Proposed Development

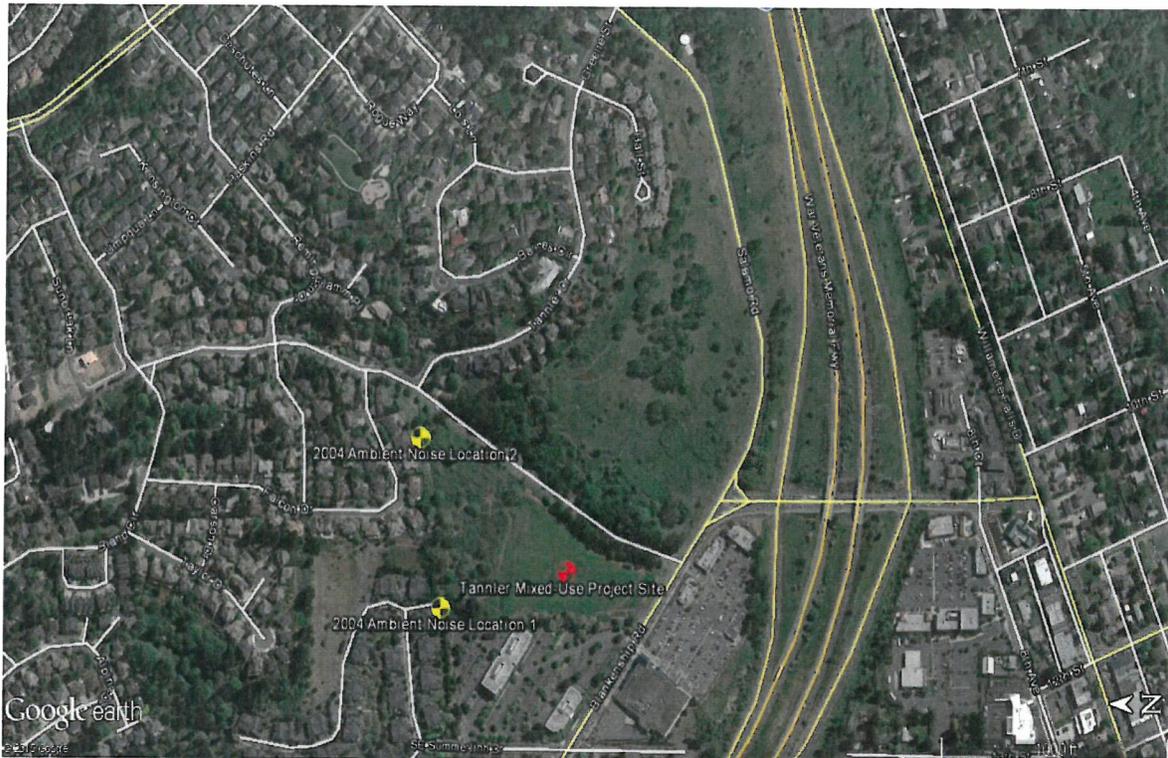
The proposed Tannler Mixed-Use project will be constructed on a site located near the intersection of Tannler Drive and Blankenship Road in West Linn, Oregon. The project site is currently undeveloped, and slopes down from the north to the south. There is an existing residential neighborhood north of the proposed site, an existing commercial development south of the site on the south side of Blankenship Road, an existing office development immediately west of the site, and undeveloped parkland east of the site beyond Tannler Drive (The White Oak Savanna). Interstate 205 is located approximately 700 feet south of southern end of the proposed project site. A 2.5 acre undeveloped open space will be left as a buffer between the northern boundary of the project buildings on the site and the residential

neighborhood to the north. The shortest distance between any building on the site and residences will be approximately 400 feet.

The proposed mixed-use development will include 180 residential units constructed on the second through fourth floors of seven (7) buildings with commercial/office spaces and parking areas located on the ground floor levels of the buildings. The seven (7) commercial/office spaces will occupy approximately 300 square feet of the space on the ground floor level of each of the seven buildings. A clubhouse and pool will be located near the center of the development along Tannler Drive. A preliminary site plan for the project is shown in Figure 1 and a satellite image showing the area around the development is shown in Figure 2.



**Figure 1: Preliminary Site Layout Plan for Tannler Mixed-Use Project**



**Figure 2: Satellite Image Showing Location of Proposed Development**

### 3. Site Zoning and Development Requirements

The site for the proposed mixed-use development is currently zoned Office Business Center (OBC). According to information in Chapter 21 of the West Linn Community Development Code (CDC) Section 21.030, Permitted Uses, the following commercial uses are permitted outright in the OBC zone and require no special approvals:

1. Business equipment sales and services.
2. Business support services.
3. Communications services.
4. Cultural exhibits and library services.
5. Family day care.
6. Financial, insurance and real estate services.
7. Hotel/motel, including those operating as extended hour businesses.
8. Medical and dental services.
9. Parking facilities.
10. Participant sports and recreation, indoor.
11. Personal services and facilities.
12. Professional and administrative services.
13. Utilities, minor.
14. Transportation facilities



CDC Chapter 21, Section 21.050 provides that multiple-family units may be allowed as a mixed use in conjunction with commercial development if the units are constructed above the first floor of the structures on a site and the development meets prescribed conditions.

CDC 21.090 (B) states that the provisions of Chapter 55 CDC, Design Review, shall apply to all uses except detached single-family dwellings.

Section 55.70(D)(2)(h) and 55.100(D)(2)-(4) are the only sections of Chapter 55 CDC that include some reference to noise and how it should be addressed in the design review process.

#### **4. Chapter 55 CDC Noise-Related Criteria**

##### **A. CDC 55.070, Submittal Requirements, (D)(2)(h), states:**

*“If staff determines before or during the pre-application conference that the land use is expected to generate noise that may exceed DEQ standards, the application shall include a noise study conducted by a licensed acoustical engineer that demonstrates that the application and associated noise sources will meet DEQ standards. Typical noise sources of concern include, but are not limited to, vehicle drive-throughs, parking lots, HVAC units, and public address systems”*

##### **B. CDC 55.100 “Approval Standards”, section D “Privacy and Noise”, subsections 2-4, state:**

*2. Residential dwelling units shall be placed on the site in areas having minimal noise exposure to the extent possible. Natural-appearing sound barriers shall be used to lessen noise impacts where noise levels exceed the noise standards contained in West Linn Municipal Code (WLMC) Section 5.487.*

*3. Structures or on-site activity areas which generate noise, lights, or glare shall be buffered from adjoining residential uses in accordance with the standards in subsection C of this section where applicable.*

*4. Businesses or activities that can reasonably be expected to generate noise in excess of the noise standards contained in West Linn Municipal Code Section 5.487 shall undertake and submit appropriate noise studies and mitigate as necessary to comply with the code. (See CDC 55.110(B)(11) and 55.120(M)).*

*If the decision-making authority reasonably believes a proposed use may generate noise exceeding the standards specified in the municipal code, then the authority may require the applicant to supply professional noise studies from time to time during the user’s first year of operation to monitor compliance with City standards and permit requirements.*



5. Discussion of the Proposed Development Relative to CDC 55.070(d)(2)(H)

CDC 55.070(d)(2)(H) is not an applicable standard for the proposed development because staff did not determine before or during the pre-application conference that the development would be expected to generate noise that may exceed Oregon DEQ standards. DSA expects West Linn staff did not address noise in the pre-application conference because it believes the noise generated by the proposed development will not exceed the DEQ noise limits. Nevertheless, DSA has evaluated the noise that can be expected with the proposed development against the DEQ administrative rules regulating noise.

The proposed project will not include any public address systems or vehicle drive-throughs, so those two sound sources specifically referenced in the code are not included in this assessment. Parking lot noise and HVAC equipment noise associated with the commercial and residential uses are included in the assessment.

A. OAR 340-035-0035 Requirements

The Oregon Department of Environmental Quality (DEQ) noise regulations are set forth in Oregon Administrative Rules (OAR) section 340-035-0035 (a copy is attached to this memo). The document states:

“No person owning or controlling a new industrial or commercial noise source located on a previously unused industrial or commercial site shall cause or permit the operation of that noise source if the noise levels generated or indirectly caused by that noise source increase the ambient statistical noise levels, L10 or L50, by more than 10 dBA in any one hour, or exceed the levels specified in Table 8, as measured at an appropriate measurement point, as specified in subsection (3)(b) of the rule, except as specified in subparagraph (1)(b)(B)(iii).”

The allowable noise levels from OAR Section 340-035-0035 are summarized in Table 1 below.

Table 1: Allowable Statistical Noise Levels (from Table 8 in OAR 340-035-0035)

Table with 3 columns: Descriptor, 7 am – 10 pm, 10 pm – 7 am. Rows include L50 (30 minutes out of an hour), L10 (6 minutes out of an hour), and L1 (36 seconds out of an hour) with corresponding dBA values.

OAR 340-035-0035 includes several exemptions, including noise from vehicles meeting the DEQ standards for road vehicles, unamplified voices, and sounds created by lawn care maintenance or snow removal equipment.



## **B. Assessment of Project Noise Relative to OAR 340-035-0035 Requirements**

Under the DEQ noise regulations, new commercial or industrial noise sources located on previously unused sites are prohibited from generating noise that:

- 1) Increases the ambient noise levels at surrounding noise sensitive properties by more than 10 dB above existing ambient noise levels (often referred to “ambient noise degradation rule” limits); or
- 2) Exceeds the limits specified in Table 1 above (often referred to as “maximum allowable noise rule” limits).

To determine which of the two criteria is more stringent, the ambient noise at noise sensitive property around a proposed noise source has to be determined. In January of 2004, DSA conducted ambient sound level measurements at two locations along the south boundary of the existing residential development located north of the proposed development site. The measurements were made in preparation for the potential development of the West Linn Corporate Park II, a the second phase of the commercial office building development that had occurred on the property west of the proposed Tannler Mixed-Use Project site. The results of the measurements showed that the ambient noise at residences north of the proposed Tannler Mixed-Use Project site was already quite high and at times was actually higher than the limits specified in Table 1 above. Table 2 below presents the results of those measurements.

It was observed during the 2004 noise measurements that ambient noise in the residential area was dominated by sound radiating from traffic on Interstate 205. Given the fact that traffic has basically continued to increase along Interstate 205 since 2004, it is reasonable to conclude that the ambient noise at the residences north of the proposed Tannler Mixed-Use Project site has continued to be as loud, if not louder, than it was in 2004. And, based on the noise levels shown in Table 2, DSA concludes the DEQ maximum allowable noise limits shown in Table 1 are the appropriate noise limits to assess the noise radiating from the proposed Tannler Mixed-Use Project site.



**Table 2: January 2004 Ambient Hourly Statistical Noise Levels  
Summerlinn Homes and Falcon Drive Homes<sup>1</sup>**

Measurement Hour	Summerlinn Homes Hourly Statistical Noise Levels <sup>2</sup> (dBA)			Falcon Drive Homes Hourly Statistical Noise Levels <sup>2</sup> (dBA)		
	L <sub>01</sub>	L <sub>10</sub>	L <sub>50</sub>	L <sub>01</sub>	L <sub>10</sub>	L <sub>50</sub>
5:00 PM	65.8	64.2	62.6	66.7	61.4	55.1
6:00 PM	65.6	63.8	61.9	66.9	61.8	56.8
7:00 PM	64.7	62.9	60.8	65.5	59.8	54.0
8:00 PM	64.9	62.9	60.8	63.6	56.6	50.5
9:00 PM	64.0	62.1	59.8	63.8	55.9	49.3
10:00 PM	63.0	60.9	58.5	58.0	51.3	47.6
11:00 PM	62.4	59.8	56.7	57.5	50.6	46.7
12:00 AM	61.6	58.7	55.0	58.1	51.8	46.8
1:00 AM	61.3	57.2	53.1	55.0	50.0	45.9
2:00 AM	60.2	56.6	52.4	58.4	50.0	45.7
3:00 AM	60.8	56.6	51.3	55.3	51.3	46.8
4:00 AM	60.7	56.5	51.1	55.8	51.7	47.4
5:00 AM	60.3	56.5	51.7	61.6	54.8	51.3
6:00 AM	61.9	58.9	55.3	63.2	56.0	52.5
7:00 AM	62.4	59.9	56.6	65.5	59.7	53.6
8:00 AM	64.9	61.9	59.0	66.8	60.8	56.1
9:00 AM	64.6	62.5	60.1	66.5	61.0	57.8
10:00 AM	65.2	63.4	61.2	70.8	62.9	56.6
11:00 AM	65.1	63.3	61.1	66.5	59.9	55.7
12:00 PM	65.9	63.9	61.9	66.9	60.6	56.7
1:00 PM	65.7	63.8	61.9	68.6	60.5	55.5
2:00 PM	65.2	63.7	61.7	67.6	60.6	54.7
3:00 PM	65.0	63.1	61.1	68.5	60.1	53.5

Note 1: See Figure 1 for measurement locations: Summerlinn is Location 1. Falcon Drive is Location 2.

Note 2: The hourly L<sub>01</sub>, L<sub>10</sub> and L<sub>50</sub> noise levels are the sound level exceeded 1%, 10% and 50% of the time during an hour.

As part of the 2004 West Linn Corporate Park II development study, DSA predicted the noise that would radiate to residences north of the Tannler Mixed-Use Project site from large roof-top HVAC units and from automobiles operating in a large parking lot located between the residences and the office building. The results of those predictions showed that the noise radiating from the site would be less than the DEQ maximum allowable noise level limits in Table 1 and often it would be less than the ambient noise already present at the residences. Consequently, DSA concluded that the noise radiating from a potential office complex located on the Tannler Mixed-Use Project site would have virtually no influence on the existing environmental noise levels found at residences



around the site and the noise would be in compliance with all state and local noise criteria.

DSA believes the noise generated by the proposed Tannler Mixed-Use Project will be lower than that associated with the office complex studied in 2004 due to several reasons. First, the HVAC equipment associated with the proposed Tannler Mix-Use Project will be much smaller than that associated with the office building studied in 2004. Instead of large roof-top HVAC units, if the commercial spaces have air conditioning, they will likely have PTAC units which are much smaller in size and noise. Second, the size of the parking lot located nearest the residences will be much smaller with the Tannler Mixed-Use Project than that associated with the office building noise study. The layout of the buildings and parking areas around them will help to ensure vehicle noise will be more dispersed and, at times, blocked by the buildings themselves.

Due to the reasons discussed above, DSA concludes that the noise associated with the proposed Tannler Mixed-Use Project will be in compliance with the noise criteria in CDC 55.070(d)(2)(H), even if it is not outright required to do so.

#### **6. Discussion of the Proposed Development Relative to CDC 55.100(D)(2)-(4)**

This section of the CDC basically requires the applicant to assess the noise generated by a proposed development relative to the standards specified in the West Linn Municipal Code (WLMC) Section 5.487 (a copy of the code is attached to this memo). In summary, the CDC 55.100 (D)(2)-(4) says that for privacy and noise control, the development should:

- Use natural-appearing sound barriers to lessen noise impacts to the proposed residential units where noise levels will exceed the standards in WLMC 5.487;
- Buffer proposed structures or on-site activity areas which generate noise from adjoining residential uses; and
- Conduct a noise study during the first year of operation for those developments where businesses or activities can “reasonably be expected” to generate sounds that exceed the standards in WLMC 5.487.

WLMC Section 5.487 does not include any objective metrics by which to evaluate projected noise levels. Instead, the code specifies the following prohibitions:

- Any unreasonably loud, disturbing, or raucous noise;
- Any noise that unreasonably annoys, disturbs, injures, or endangers the comfort, repose, health, safety, or peace of reasonable persons of ordinary sensitivity, within the jurisdictional limits of the City; or
- Any noise which is so harsh, prolonged, unnatural, or unusual in time or place as to occasion unreasonable discomfort to any persons, or as to unreasonably interfere with



## Tannler Mixed-Use Project Noise Assessment

the peace and comfort of neighbors or their guests, or operators or customers in places of business, or as to detrimentally or adversely affect such residences or places of business.

DSA believes the proposed Tannler Mixed-Use Project will meet these requirements because:

- 1) There are no sound sources associated with the development that will radiate noise to adjacent residential properties that would be deemed unreasonable by an average, reasonable person with ordinary sensibilities given the ambient noise levels already found at the residences.
- 2) There will be a sufficient buffer of 2.5 acres of land between the project development and existing residences to the north to prevent unreasonable amounts of noise generated by traffic and activities at the project buildings from being transmitted to those residential properties.
- 3) Noise generating activities in the Tannler Mixed-Use Project such as that found in the swimming pool and clubhouse areas of the development will be buffered from the existing residential property to the north by the buildings located between the noise source and the receivers.

### 7. Conclusion

DSA evaluated the proposed Tannler Mixed-Use development to determine if the land use is expected to generate noise levels that will exceed the DEQ noise limits at the nearest residential property or be incompatible with the existing acoustic environment at that property. The proposed development includes a relatively small area of commercial suites (seven suites with approximately 300 square feet each, for a total of approximately 2100 square feet of space within the development), which will most likely limit the types of commercial noise sources at the site and the size of any air handling equipment expected with the project. Given the fact that Interstate 205 traffic is a constant source of high levels of background noise in the area that will likely not be affected by the proposed project, DSA concludes the noise associated with the proposed Tannler Mixed-Use Project will comply with the goals and objectives of the West Linn Community Development Code.







► [The Oregon Administrative Rules contain OARs filed through January 15, 2015](#) ◀

**QUESTIONS ABOUT THE CONTENT OR MEANING OF THIS AGENCY'S RULES?  
CLICK HERE TO ACCESS RULES COORDINATOR CONTACT INFORMATION**

## DEPARTMENT OF ENVIRONMENTAL QUALITY

### DIVISION 35

#### NOISE CONTROL REGULATIONS

##### General

#### 340-035-0005

##### Policy

In the interest of public health and welfare, and in accordance with ORS 467.010, it is declared to be the public policy of the State of Oregon:

- (1) To provide a coordinated state-wide program of noise control to protect the health, safety, and welfare of Oregon citizens from the hazards and deterioration of the quality of life imposed by excessive noise emissions;
- (2) To facilitate cooperation among units of state and local governments in establishing and supporting noise control programs consistent with the state program and to encourage the enforcement of viable local noise control regulations by the appropriate local jurisdiction;
- (3) To develop a program for the control of excessive noise sources which shall be undertaken in a progressive manner, and each of its objectives shall be accomplished by cooperation among all parties concerned.

Stat. Auth.: ORS 467

Stats. Implemented: ORS 467.010

Hist.: DEQ 75, f. 7-25-74, ef. 8-25-74; DEQ 77, f. 9-5-74, ef. 9-25-74

#### 340-035-0010

##### Exceptions

- (1) Upon written request from the owner or controller of a noise source, the Department may authorize exceptions as specifically listed in these rules.
- (2) In establishing exceptions, the Department shall consider the protection of health, safety, and welfare of Oregon citizens as well as the feasibility and cost of noise abatement; the past, present, and future patterns of land use; the relative timing of land use changes; and other legal constraints. For those exceptions which it authorizes the Department shall specify the times during which the noise rules can be exceeded and the quantity and quality of the noise generated, and when appropriate shall specify the increments of progress of the noise source toward meeting the noise rules.

Stat. Auth.: ORS 467

Stats. Implemented: ORS 467.030

Hist.: DEQ 75, f. 7-25-74, ef. 8-25-74; DEQ 77, f. 9-5-74, ef. 9-25-74

#### 340-035-0015

##### Definitions

As used in this division:

- (1) "Air Carrier Airport" means any airport that serves air carriers holding Certificates of Public Convenience and Necessity issued by the Civil Aeronautic Board.
- (2) "Airport Master Plan" means any long-term development plan for the airport established by the airport proprietor.
- (3) "Airport Noise Abatement Program" means a Commission-approved program designed to

achieve noise compatibility between an airport and its environs.

- (4) "Airport Proprietor" means the person who holds title to an airport.
- (5) "Ambient Noise" means the all-encompassing noise associated with a given environment, being usually a composite of sounds from many sources near and far.
- (6) "Annual Average Day-Night Airport Noise Level" means the average, on an energy basis, of the daily Day-Night Airport Noise Level over a 12-month period.
- (7) "Any One Hour" means any period of 60 consecutive minutes during the 24-hour day.
- (8) "Closed Course Motorcycle Racing Vehicle" means any motorcycle racing vehicle that is operated in competition or practice session on a closed course motor sports facility, i.e., where public access is restricted and admission is generally charged.
- (9) "Commission" means the Environmental Quality Commission.
- (10) "Construction" shall mean building or demolition work and shall include all activities thereto such as clearing of land, earthmoving, and landscaping, but shall not include the production of construction materials.
- (11) "Day-Night Airport Noise Level (Ldn)" means the Equivalent Noise Level produced by airport/aircraft operations during a 24-hour time period, with a 10 decibel penalty applied to the level measured during the nighttime hours of 10 p.m. to 7 a.m.
- (12) "Department" means the Department of Environmental Quality.
- (13) "Director" means the Director of the Department.
- (14) "Drag Racing Vehicle" means any racing vehicle used to compete in any acceleration competition initiated from a standing start and continued over a straight line course.
- (15) "Emergency Equipment" means noise emitting devices required to avoid or reduce the severity of accidents. Such equipment includes, but is not limited to, safety valves and other unregulated pressure relief devices.
- (16) "Equivalent Noise Level (Leq)" means the equivalent steady state sound level in A-weighted decibels for a stated period of time which contains the same acoustic energy as the actual time-varying sound level for the same period of time.
- (17) "Existing Industrial or Commercial Noise Source" means any industrial or commercial noise source for which installation or construction was commenced prior to January 1, 1975.
- (18) "Farm Tractor" means any motor vehicle designed primarily for use in agricultural operations for drawing or operating plows, mowing machines, or other implements of husbandry.
- (19) "Four Wheel Drive Racing Vehicle" means any four-wheeled racing vehicle with at least one wheel on the front and rear axle driven by the engine or any racing vehicle participating in an event with predominantly four wheel drive racing vehicles.
- (20) "Go-Kart Racing Vehicle" means a light-weight four-wheeled racing vehicle of the type commonly known as a go-kart.
- (21) "Impulse Sound" means either a single pressure peak or a single burst (multiple pressure peaks) for a duration of less than one second as measured on a peak unweighted sound pressure measuring instrument or "C" weighted, slow response instrument and specified by dB and dBC respectively.
- (22) "In-Use Motor Vehicle" means any motor vehicle which is not a new motor vehicle.
- (23) "Industrial or Commercial Noise Source" means that source of noise which generates industrial or commercial noise levels.
- (24) "Industrial or Commercial Noise Levels" means those noises generated by a combination of equipment, facilities, operations, or activities employed in the production, storage, handling, sale, purchase, exchange, or maintenance of a product, commodity, or service and those noise levels generated in the storage or disposal of waste products.
- (25) "Motorboat" as used in OAR 340-035-0025 means a watercraft propelled by an internal combustion engine but does not include a boat powered by an outboard motor or an inboard/outboard power package designed to exhaust beneath the surface of the water.
- (26) "Motorcycle" means any motor vehicle, except farm tractors, designed to travel on not more than three wheels which are in contact with the ground.
- (27) "Motor Sports Advisory Committee" means a committee appointed by the Director, from among the nominees, for the purpose of technical advice on racing activities and to recommend Exceptions to these rules as specified in OAR 340-035-0040(12). This Committee shall consist of:

- (a) One permanent public member nominated by a noise impacted group or association; and
  - (b) One representative of each of the racing vehicle types identified in OAR 340-035-0040(2) as nominated by the respective sanctioning bodies; and
  - (c) The program manager of the Department's noise pollution control section who shall also serve as the departmental staff liaison to this body; and
  - (d) An attorney; and
  - (e) An acoustical engineer.
- (28) "Motor Sports Facility" means any facility, track or course upon which racing events are conducted.
- (29) "Motor Sports Facility Noise Impact Boundaries" means the daily 55 dBA day-night (Ldn) noise contours around the motor sports facility representing events that may occur on the day of maximum projected use.
- (30) "Motor Sports Facility Owner" means the owner or operator of a motor sports facility or an agent or designee of the owner or operator. When a Racing Event is held on public land, the event organizer (i.e., promoter) shall be considered the motor sports facility owner for the purposes of these rules.
- (31) "Motor Vehicle" means any vehicle which is, or is designed to be self-propelled or is designed or used for transporting persons or property. This definition excludes airplanes, but includes watercraft.
- (32) "New Airport" means any airport for which installation, construction, or expansion of a runway commenced after January 1, 1980.
- (33) "New Industrial or Commercial Noise Source" means any industrial or commercial noise source for which installation or construction was commenced after January 1, 1975 on a site not previously occupied by the industrial or commercial noise source in question.
- (34) "New Motor Sports Facility" is any permanent motor sports facility for which construction or installation was commenced after January 1, 1982. Any recreational park or similar facility which initiates sanctioned racing after this date shall be considered a new motor sports facility.
- (35) "New Motor Vehicle" means a motor vehicle whose equitable or legal title has never been transferred to a person who in good faith purchases the new motor vehicle for purposes other than resale. The model year of such vehicle shall be the year so specified by the manufacturer, or if not so specified, the calendar year in which the new motor vehicle was manufactured.
- (36) "Noise Impact Boundary" means a contour around the airport, any point on which is equal to the airport noise criterion.
- (37) "Noise Level" means weighted sound pressure level measured by use of a metering characteristic with an "A" frequency weighting network and reported as dBA.
- (38) "Noise Sensitive Property" means real property normally used for sleeping, or normally used as schools, churches, hospitals or public libraries. Property used in industrial or agricultural activities is not Noise Sensitive Property unless it meets the above criteria in more than an incidental manner.
- (39) "Octave Band Sound Pressure Level" means the sound pressure level for the sound being measured within the specified octave band. The reference pressure is 20 micropascals (20 micronewtons per square meter).
- (40) "Off-Road Recreational Vehicle" means any motor vehicle, including water craft, used off public roads for recreational purposes. When a road vehicle is operated off-road the vehicle shall be considered an off-road recreational vehicle if it is being operated for recreational purposes.
- (41) "One-Third Octave Band Sound Pressure Level" means the sound pressure level for the sound being measured within the specified one-third octave band at the preferred frequencies. The reference pressure is 20 micropascals (20 micronewtons per square meter).
- (42) "Open Course Motorcycle Racing Vehicle" means any motorcycle racing vehicle that is operated in competition on an open course motor sports facility, i.e., where public access is not generally restricted. This definition is intended to include the several types of motorcycles such as "enduro" and "cross country" that are used in events held in trail or other off-road environments.
- (43) "Oval Course Racing Vehicle" means any racing vehicle, not a motorcycle and not a sports car, which is operated upon a closed, oval-type motor sports facility.
- (44) "Person" means the United States Government and agencies thereof, any state, individual, public or private corporation, political subdivision, governmental agency, municipality, industry, co-partnership, association, firm, trust, estate, or any other legal entity whatever.
- (45) "Practice Sessions" means any period of time during which racing vehicles are operated at a

motor sports facility, other than during racing events. Driver training sessions or similar activities which are not held in anticipation of a subsequent racing event, and which include only vehicles with a stock exhaust system, shall not be considered practice sessions.

(46) "Preferred Frequencies" means those mean frequencies in Hertz preferred for acoustical measurements which for this purpose shall consist of the following set of values: 20, 25, 31.5, 40, 50, 63, 80, 100, 125, 160, 200, 250, 315, 400, 500, 630, 800, 1000, 1250, 1600, 2000, 2500, 3150, 4000, 5000, 6300, 8000, 10,000, 12,500.

(47) "Previously Unused Industrial or Commercial Site" means property which has not been used by any industrial or commercial noise source during the 20 years immediately preceding commencement of construction of a new industrial or commercial source on that property. Agricultural activities and silvicultural activities generating infrequent noise emissions shall not be considered as industrial or commercial operations for the purposes of this definition.

(48) "Propulsion Noise" means that noise created in the propulsion of a motor vehicle. This includes, but is not limited to, exhaust system noise, induction system noise, tire noise, cooling system noise, aerodynamic noise, and, where appropriate in the test procedure, braking system noise. This does not include noise created by road vehicle auxiliary equipment such as power take-offs and compressors.

(49) "Public Roads" means any street, alley, road, highway, freeway, thoroughfare, or section thereof in this state used by the public or dedicated or appropriated to public use.

(50) "Quiet Area" means any land or facility designated by the Commission as an appropriate area where the qualities of serenity, tranquility, and quiet are of extraordinary significance and serve an important public need, such as, without being limited to, a wilderness area, national park, state park, game reserve, wildlife breeding area, or amphitheater. The Department shall submit areas suggested by the public as quiet areas, to the Commission, with the Department's recommendation.

(51) "Racing Events" means any time, speed or distance competition using motor vehicles, conducted under a permit issued by the governmental authority having jurisdiction or under the auspices of a recognized sanctioning body. This definition includes, but is not limited to, events on the surface of land and water. Any motor sports event not meeting this definition shall be subject to the ambient noise limits of OAR 340-035-0030(1)(d).

(52) "Racing Vehicle" means any Motor Vehicle that is designed to be used exclusively in Racing Events or any New Motor Vehicle that has not been certified by its manufacturer as meeting the applicable noise limits of OAR 340-035-0025 or any vehicle participating in or practicing for a Racing Event.

(53) "Recreational Park" means a facility open to the public for the operation of off-road recreational vehicles.

(54) "Road Vehicle" means any motor vehicle registered for use on public roads, including any attached trailing vehicles.

(55) "Road Vehicle Auxiliary Equipment" means those mechanical devices which are built in or attached to a road vehicle and are used primarily for the handling or storage of products in that motor vehicle. This includes, but is not limited to, refrigeration units, compressors, compactors, chippers, power lifts, mixers, pumps, blowers, and other mechanical devices.

(56) "Sound Pressure Level" (SPL) means 20 times the logarithm to the base 10 of the ratio of the root-mean-square pressure of the sound to the reference pressure. SPL is given in decibels (dB). The reference pressure is 20 micropascals (20 micronewtons per square meter).

(57) "Special Motor Racing Event" means any racing event in which a substantial or significant number of out-of-state racing vehicles are competing or any event which has a special significance to the community and which has been recommended as a special motor racing event by the motor sports advisory committee and approved by the Department.

(58) "Sports Car Racing Vehicle" means any racing vehicle which meets the requirements and specifications of the competition rules of any sports car organization.

(59) "Statistical Noise Level" means the noise level which is equalled or exceeded a stated percentage of the time. An L10 = 65 dBA implies that in any hour of the day 65 dBA can be equalled or exceeded only 10% of the time, or for 6 minutes.

(60) "Stock Exhaust System" means an original equipment manufacturer exhaust system or a replacement for original equipment for a street legal vehicle whose noise emissions do not exceed those of the original equipment.

(61) "Temporary Autocross or Solo Course" means any area upon which a paved course motor sports facility is temporarily established. Typically such courses are placed on parking lots, or other large paved areas, for periods of one or two days.

(62) "Top Fuel-Burning Drag Racing Vehicle" means a drag racing vehicle that operates using principally alcohol (more than 50 percent) or utilizes nitromethane as a component of its operating fuel and commonly known as top fuel and funny cars.

(63) "Trackside" means a sound measuring point of 50 feet from the racing vehicle and specified in Motor Race Vehicle and Facility Sound Measurement and Procedure Manual, NPC5-35.

(64) "Warning Device" means any device which signals an unsafe or potentially dangerous situation.

(65) "Watercraft Racing Vehicle" means any racing vehicle which is operated upon or immediately above the surface of water.

(66) "Well Maintained Muffler" means a device or combination of devices which effectively decreases the sound energy of internal combustion engine exhaust without a muffler by a minimum of 5 dBA at trackside. A well maintained muffler shall be free of defects or modifications that reduce its sound reduction capabilities. Each outlet of a multiple exhaust system shall comply with the requirements of this subsection, notwithstanding the total engine displacement versus muffler length requirements. Such a muffler shall be a:

- (a) Reverse gas flow device incorporating a multitube and baffle design; or a
- (b) Perforated straight core device, fully surrounded from beginning to end with a sound absorbing medium, not installed on a rotary engine:
  - (A) At least 20 inches in inner core length when installed on any drag race engine exceeding 1600 cc (96.7 cubic inches) displacement; or
  - (B) At least 12 inches in inner core length when installed on any non-motorcycle drag race engine equal to or less than 1600 cc (96.7 cubic inches) displacement; or
  - (C) At least 6 inches in inner core length and installed at the outlet end of any four-cycle motorcycle drag race engine; or
  - (D) At least 8 inches in inner core length when installed on any two-cycle motorcycle drag race engine; or an
- (c) Annular swirl flow (auger-type) device of:
  - (A) At least 16 inches in swirl chamber length when installed on any drag race engine exceeding 1600 cc (96.7 cubic inches) displacement; or
  - (B) At least 10 inches in swirl chamber length when installed on any drag race engine equal to or less than 1600 cc (96.7 cubic inches) displacement; or a
- (d) Stacked 360° diffuser disc device; or a
- (e) Turbocharger; or a
- (f) Go-kart muffler as defined by the International Karting Federation as specified in Motor Race Vehicle and Facility Sound Measurement and Procedure Manual, NPC5-35; or an
- (g) Original equipment manufacturer motorcycle muffler when installed on a motorcycle model such muffler was designated for by the manufacturer; or
- (h) Boat motor whose exhaust exits beneath the water surface during operation; or a
- (i) Formula Vee four-into-one header/collector when installed on a Formula Vee sports car racing vehicle; or a
- (j) Hughes-type Racing muffler; or
- (k) Any other device demonstrated effective and approved by the motor sports advisory committee and the Department.

Stat. Auth.: ORS 467

Stats. Implemented: ORS 467.030

Hist.: DEQ 75, f. 7-25-74, ef. 8-25-74; DEQ 77, f. 9-5-74, ef. 9-25-74; DEQ 119, f. & ef. 9-1-76; DEQ 135, f. & ef. 6-7-77; DEQ 33-1979, f. & ef. 11-27-79; DEQ 17-1980, f. & ef. 5-28-80; DEQ 33-1980, f. 12-2-80, ef. 1-1-82; DEQ 7-1983, f. & ef. 4-22-83

### 340-035-0025

#### Noise Control Regulations for the Sale of New Motor Vehicles

##### (1) Standards and Regulations:

- (a) No person shall sell or offer for sale any new motor vehicle designated in this rule which produces a propulsion noise exceeding the noise limits specified in **Table 1**, except as otherwise provided in these rules.
- (b) Subsequent to the adoption of a Federal Environmental Protection Agency procedure to determine sound levels of passenger cars and light trucks, or a nationally accepted procedure for these vehicles not similar to those specified and approved under subsection (2)(a) of this rule, the

Department shall conduct an evaluation under such new procedure.

(c) After an appropriate evaluation of noise emission data measured under the procedure specified under subsection (1)(b) of this rule, the Department shall make recommendations to the Commission on the adequacy of the procedure and the necessity of amendments to this rule for incorporation of the procedure and associated standards.

(d) No person shall sell or offer to sell any new motorcycle, new motorcycle exhaust system or new motorcycle exhaust system component manufactured after January 1, 1983 unless the motorcycle, exhaust system, or exhaust component is properly labeled or marked in accordance with federal noise regulations specified in Part 205 **Subpart E of Title 40 of the Code of Federal Regulations**.

(2) Measurement:

(a) Sound measurements shall conform to test procedures adopted by the Commission in **Motor Vehicle Sound Measurement Procedures Manual (NPCS-21)**, or to standard methods approved in writing by the Department. These measurements will generally be carried out by the motor vehicle manufacturer on a sample of either prototype or production vehicles. A certification program shall be devised by the manufacturer and submitted to the Department for approval within 60 days after the adoption of this rule;

(b) Nothing in this rule shall preclude the Department from conducting separate or additional noise level tests and measurements on new motor vehicles being offered for sale. Therefore, when requested by the Department a new motor vehicle dealer or manufacturer shall cooperate in reasonable noise testing of a specific class of motor vehicle being offered for sale.

(3) Manufacturer's Certification:

(a) Prior to the sale of or offer for sale of any new motor vehicle designated in **Table 1**, the manufacturer or a designated representative shall certify in writing to the Department that vehicles listed in Table 1 made by that manufacturer and offered for sale in the State of Oregon meet applicable noise limits. Such certification will include a statement by the manufacturer that:

(A) The manufacturer has tested sample or prototype vehicles;

(B) That such samples or prototypes met applicable noise limits when tested in accordance with the procedures specified;

(C) That vehicles offered for sale in Oregon are substantially identical in construction to such samples or prototypes.

(b) Nothing in this rule shall preclude the Department from obtaining specific noise measurement data gathered by the manufacturer on prototype or production vehicles for a class of vehicles for which the Department has reasonable grounds to believe is not in conformity with the applicable noise limits.

(4) Exceptions: Upon prior written request from the manufacturer or designated representative, the Department may authorize an exception to this noise rule for a class of motor vehicles, if it can be demonstrated to the Department that for that specific class a vehicle manufacturer has not had adequate lead-time or does not have the technical capability to either bring the motor vehicle noise into compliance or to conduct new motor vehicle noise tests.

(5) Exemptions:

(a) All racing vehicles, except racing motorcycles and racing motorboats, shall be exempt from the requirements of this rule provided that such vehicles are operated only at facilities used for sanctioned racing events;

(b) Racing motorcycles and racing motorboats shall be exempt from the requirements of this rule provided that racing motorcycles are operated only at facilities used for sanctioned racing events, racing motorboats are operated only at areas designated by the State Marine Board for testing or at an approved racing event, and the following conditions are complied with:

(A) Prior to the sale of a racing motorcycle or racing motorboat, the prospective purchaser shall file a notarized affidavit with the Department, on a Departmentally approved form, stating that it is the intention of such prospective purchaser to operate the vehicle only at facilities used for sanctioned racing events; and

(B) No racing vehicle shall be displayed for sale in the State of Oregon without notice prominently affixed thereto:

(i) That such vehicle will be exempt from the requirements of this rule only upon demonstration to the Department that the vehicle will be operated only at facilities used for sanctioned racing events, and

(ii) That a notarized affidavit will be required of the prospective purchaser stating that it is the intention of such prospective purchaser to operate the vehicle only at facilities used for sanctioned racing events; and

(C) No racing vehicle shall be locally advertised in the State of Oregon as being for sale without notice included:

(i) Which is substantially similar to that required in subparagraph (B)(i) and (ii) of this subsection; and

(ii) Which is unambiguous as to which vehicle such notice applies.

[ED. NOTE: The Table(s) referenced in this rule are not printed in the OAR Compilation. Copies are available from the agency.]

[Publication: The Publication(s) referred to or incorporated by reference in this rule are available from the agency.]

Stat. Auth.: ORS 467

Stats. Implemented: ORS 467.030

Hist.: DEQ 75, f. 7-25-74, ef. 8-25-74; DEQ 119, f. & ef. 9-1-76; DEQ 135, f. & ef. 6-7-77; DEQ 143, f. & ef. 9-30-77; DEQ 146, f. & ef. 11-3-77; DEQ 18-1978, f. & ef. 12-1-78; DEQ 20-1978, f. & ef. 12-27-78; DEQ 3-1979, f. & ef. 2-2-79; DEQ 10-1980, f. & ef. 4-3-80; DEQ 17-1980, f. & ef. 5-28-80; DEQ 13-1982, f. & ef. 7-21-82; DEQ 7-1983, f. & ef. 4-22-83

### 340-035-0030

#### Noise Control Regulations For In-Use Motor Vehicles

(1) Standards and Regulations:

(a) Road Vehicles:

(A) No person shall operate any road vehicle which exceeds the noise level limits specified in **Table 2** or in such a manner to exceed the noise level limits specified in Table 3, except as otherwise provided in these rules.

(B) No person shall operate a road vehicle with any of the following defects:

(i) No muffler;

(ii) Leaks in the exhaust system;

(iii) Pinched outlet pipe.

(C) Non-conforming "classic" and other "special interest" vehicles may be granted an exception to this rule, pursuant to OAR 340-035-0010, for the purpose of maintaining authentic equipment.

(b) Off-Road Recreational Vehicles:

(A) No person shall operate any off-road recreational vehicle which exceeds the stationary noise level limits specified in **Table 4** or in such a manner as to exceed the moving vehicle noise level limits specified in **Table 4**;

(B) No person shall operate an off-road recreational vehicle with any of the following defects:

(i) No muffler;

(ii) Leaks in the exhaust system;

(iii) Pinched outlet pipe.

(c) Trucks Engaged in Interstate Commerce. Motor vehicles with a GVWR or GCWR in excess of 10,000 pounds which are engaged in interstate commerce by trucking and are regulated by **Part 202 of Title 40** of the **Code of Federal Regulations**, promulgated pursuant to Section 17 of the Noise Control Act of 1972, 86 Stat. 1248, Public Law 92-574, shall be:

(A) Free from defects which adversely affect sound reduction;

(B) Equipped with a muffler or other noise dissipative device;

(C) Not equipped with any "cut-out" devices, "by-pass" devices, or any other similar devices; and

(D) Not equipped with any tire which as originally manufactured or newly retreaded has a tread pattern composed primarily of cavities in the tread, excluding sipes and local chunking, not vented by grooves to the tire shoulder or vented circumferentially to each other around the tire.

(d) Ambient Noise Limits:

(A) No person shall cause, allow, permit, or fail to control the operation of motor vehicles, including motorcycles, on property which he owns or controls, nor shall any person operate any such motor vehicle if the operation thereof increases the ambient noise level such that the appropriate noise level specified in **Table 5** is exceeded as measured from either of the following points, if located within 1,000 feet (305 meters) of the motor vehicle:

(i) Noise sensitive property; or

(ii) A quiet area.

(B) Exempt from the requirements of this section shall be:

(i) Motor vehicles operating in racing events;

(ii) Motor vehicles initially entering or leaving property which is more than 1,000 feet (305 meters) from the nearest noise sensitive property or quiet area;

(iii) Motor vehicles operating on public roads; and

(iv) Motor vehicles operating off-road for non-recreational purposes.

(e) Auxiliary Equipment Noise Limits:

(A) No person shall operate any road vehicle auxiliary equipment which exceeds the noise limits specified in **Table 6**, except as otherwise provided in these rules;

(B) No person shall cause, allow, permit, or fail to control the operation of any road vehicle auxiliary equipment that exceeds 50 dBA for more than 30 minutes between 10 p.m. and 7 a.m. at any appropriate noise sensitive property measurement point as specified in OAR 340-035-0035(3)(b).

(f) Motorcycles manufactured after December 31, 1982 to Federal Noise Regulations (**40 CFR Part 205**):

(A) No person shall remove or render inoperative, or cause to be removed or rendered inoperative, other than for the purposes of maintenance, repair, or replacement of any device or element of design incorporated in the motorcycle for the purpose of noise control;

(B) No person shall remove or deface any noise label or mark required by federal law which is affixed to any motorcycle or motorcycle part for purposes of identifying the motorcycle or motorcycle part as a federally regulated product;

(C) No person shall operate any road or off-road motorcycle manufactured to federal noise law that does not bear a label or mark on the exhaust system that matches the model specific code of the motorcycle on which the system is installed;

(D) No person shall operate, nor shall any person cause, allow, permit or fail to control the operation of any competition motorcycle identified for "competition use only" by the noise label or mark required by federal law on any property other than a motor sports facility in a practice session or a racing event;

(E) No person shall operate, nor shall any person cause, allow, permit or fail to control the operation of any motorcycle fitted with an exhaust system or exhaust system component identified for "competition motorcycles only" by the noise label or mark required by federal law on any property other than a motor sports facility in a practice session or a racing event.

(2) Measurement. Sound measurement shall conform to test procedures adopted by the Commission in **Sound Measurement Procedures Manual (NPCS-1)** and **Motor Vehicle Sound Measurement Procedures Manual (NPCS-21)** or to standard methods approved in writing by the Department.

(3) Exemptions:

(a) Motor vehicles registered as antique or historical motor vehicles licensed in accordance with ORS 481.205(4) are exempt from these regulations;

(b) Motor vehicle warning devices are exempt from these regulations;

(c) Vehicles equipped with at least two snowtread tires are exempt from the noise limits of **Table 3**;

(d) Motor vehicles described in subsection (1)(c) of this rule, which are demonstrated by the operator to be in compliance with the noise levels in Table 3, for operation greater than 35 mph, are exempt from these regulations;

(e) Auxiliary equipment operated on construction sites or in the maintenance of capital equipment or to avoid or reduce the severity of accidents or operated on a farm for agricultural purposes or operated on forest land as defined in subsection (1) of ORS 526.324 for activities related to the growing or harvesting of forest tree species are exempt from these regulations.

(4) Equivalency:

(a) The in-use motor vehicle standards specified in **Table 2** and **3** have been determined by the Department to be substantially equivalent to the 25 foot stationary test standards set forth in 1977 Oregon, Laws, Chapter 273;

(b) Tests shall be conducted according to the procedures in **Motor Vehicle Sound Measurement Procedures Manual (NPCS-21)** or to standard methods approved in writing by the Department.

[ED. NOTE: The Table(s) referenced in this rule are not printed in the OAR Compilation. Copies are available from the agency.]

[Publication: The Publication(s) referred to or incorporated by reference in this rule are available from the agency.]

Stat. Auth.: ORS 467

Stats. Implemented: ORS 467.030

Hist.: DEQ 75, f. 7-25-74, ef. 8-25-74; DEQ 119, f. & ef. 9-1-76; DEQ 135, f. & ef. 6-7-77; DEQ 147(Temp), f. & ef. 12-1-77; DEQ 2-1978, f. & ef. 3-1-78; DEQ 7-1983, f. & ef. 4-22-83

### 340-035-0035

#### Noise Control Regulations for Industry and Commerce

##### (1) Standards and Regulations:

(a) Existing Noise Sources. No person owning or controlling an existing industrial or commercial noise source shall cause or permit the operation of that noise source if the statistical noise levels generated by that source and measured at an appropriate measurement point, specified in subsection (3)(b) of this rule, exceed the levels specified in **Table 7**, except as otherwise provided in these rules.

##### (b) New Noise Sources:

(A) New Sources Located on Previously Used Sites. No person owning or controlling a new industrial or commercial noise source located on a previously used industrial or commercial site shall cause or permit the operation of that noise source if the statistical noise levels generated by that new source and measured at an appropriate measurement point, specified in subsection (3)(b) of this rule, exceed the levels specified in **Table 8**, except as otherwise provided in these rules. For noise levels generated by a wind energy facility including wind turbines of any size and any associated equipment or machinery, subparagraph (1)(b)(B)(iii) applies.

##### (B) New Sources Located on Previously Unused Site:

(i) No person owning or controlling a new industrial or commercial noise source located on a previously unused industrial or commercial site shall cause or permit the operation of that noise source if the noise levels generated or indirectly caused by that noise source increase the ambient statistical noise levels, L10 or L50, by more than 10 dBA in any one hour, or exceed the levels specified in Table 8, as measured at an appropriate measurement point, as specified in subsection (3)(b) of this rule, except as specified in subparagraph (1)(b)(B)(iii).

(ii) The ambient statistical noise level of a new industrial or commercial noise source on a previously unused industrial or commercial site shall include all noises generated or indirectly caused by or attributable to that source including all of its related activities. Sources exempted from the requirements of section (1) of this rule, which are identified in subsections (5)(b) - (f), (j), and (k) of this rule, shall not be excluded from this ambient measurement.

##### (iii) For noise levels generated or caused by a wind energy facility:

(I) The increase in ambient statistical noise levels is based on an assumed background L50 ambient noise level of 26 dBA or the actual ambient background level. The person owning the wind energy facility may conduct measurements to determine the actual ambient L10 and L50 background level .

(II) The "actual ambient background level" is the measured noise level at the appropriate measurement point as specified in subsection (3)(b) of this rule using generally accepted noise engineering measurement practices. Background noise measurements shall be obtained at the appropriate measurement point, synchronized with windspeed measurements of hub height conditions at the nearest wind turbine location. "Actual ambient background level" does not include noise generated or caused by the wind energy facility.

(III) The noise levels from a wind energy facility may increase the ambient statistical noise levels L10 and L50 by more than 10 dBA (but not above the limits specified in Table 8), if the person who owns the noise sensitive property executes a legally effective easement or real covenant that benefits the property on which the wind energy facility is located. The easement or covenant must authorize the wind energy facility to increase the ambient statistical noise levels, L10 or L50 on the sensitive property by more than 10 dBA at the appropriate measurement point.

(IV) For purposes of determining whether a proposed wind energy facility would satisfy the ambient noise standard where a landowner has not waived the standard, noise levels at the appropriate measurement point are predicted assuming that all of the proposed wind facility's turbines are operating between cut-in speed and the wind speed corresponding to the maximum sound power level established by IEC 61400-11 (version 2002-12). These predictions must be compared to the highest of either the assumed ambient noise level of 26 dBA or to the actual ambient background L10 and L50 noise level, if measured. The facility complies with the noise

ambient background standard if this comparison shows that the increase in noise is not more than 10 dBA over this entire range of wind speeds.

(V) For purposes of determining whether an operating wind energy facility complies with the ambient noise standard where a landowner has not waived the standard, noise levels at the appropriate measurement point are measured when the facility's nearest wind turbine is operating over the entire range of wind speeds between cut-in speed and the windspeed corresponding to the maximum sound power level and no turbine that could contribute to the noise level is disabled. The facility complies with the noise ambient background standard if the increase in noise over either the assumed ambient noise level of 26 dBA or to the actual ambient background L10 and L50 noise level, if measured, is not more than 10 dBA over this entire range of wind speeds.

(VI) For purposes of determining whether a proposed wind energy facility would satisfy the **Table 8** standards, noise levels at the appropriate measurement point are predicted by using the turbine's maximum sound power level following procedures established by IEC 61400-11 (version 2002-12), and assuming that all of the proposed wind facility's turbines are operating at the maximum sound power level.

(VII) For purposes of determining whether an operating wind energy facility satisfies the **Table 8** standards, noise generated by the energy facility is measured at the appropriate measurement point when the facility's nearest wind turbine is operating at the windspeed corresponding to the maximum sound power level and no turbine that could contribute to the noise level is disabled.

(c) Quiet Areas. No person owning or controlling an industrial or commercial noise source located either within the boundaries of a quiet area or outside its boundaries shall cause or permit the operation of that noise source if the statistical noise levels generated by that source exceed the levels specified in **Table 9** as measured within the quiet area and not less than 400 feet (122 meters) from the noise source.

(d) Impulse Sound. Notwithstanding the noise rules in **Tables 7** through 9, no person owning or controlling an industrial or commercial noise source shall cause or permit the operation of that noise source if an impulsive sound is emitted in air by that source which exceeds the sound pressure levels specified below, as measured at an appropriate measurement point, as specified in subsection (3)(b) of this rule:

(A) Blasting. 98 dBC, slow response, between the hours of 7 a.m. and 10 p.m. and 93 dBC, slow response, between the hours of 10 p.m. and 7 a.m.

(B) All Other Impulse Sounds. 100 db, peak response, between the hours of 7 a.m. and 10 p.m. and 80 dB, peak response, between the hours of 10 p.m. and 7 a.m.

(e) Octave Bands and Audible Discrete Tones. When the Director has reasonable cause to believe that the requirements of subsection (1)(a), (b), or (c) of this rule do not adequately protect the health, safety, or welfare of the public as provided for in ORS Chapter 467, the Department may require the noise source to meet the following rules:

(A) Octave Bands. No person owning or controlling an industrial or commercial noise source shall cause or permit the operation of that noise source if such operation generates a median octave band sound pressure level which, as measured at an appropriate measurement point, specified in subsection (3)(b) of this rule, exceeds applicable levels specified in **Table 10**.

(B) One-third Octave Band. No person owning or controlling an industrial or commercial noise source shall cause or permit the operation of that noise source if such operation generates a median one-third octave band sound pressure level which, as measured at an appropriate measurement point, specified in subsection (3)(b) of this rule, and in a one-third octave band at a preferred frequency, exceeds the arithmetic average of the median sound pressure levels of the two adjacent one-third octave bands by:

(i) 5 dB for such one-third octave band with a center frequency from 500 Hertz to 10,000 Hertz, inclusive. Provided: Such one-third octave band sound pressure level exceeds the sound pressure level of each adjacent one-third octave band; or

(ii) 8 dB for such one-third octave band with a center frequency from 160 Hertz to 400 Hertz, inclusive. Provided: Such one-third octave band sound pressure level exceeds the sound pressure level of each adjacent one-third octave band; or

(iii) 15 dB for such one-third octave band with a center frequency from 25 Hertz to 125 Hertz, inclusive. Provided: Such one-third octave band sound pressure level exceeds the sound pressure level of each adjacent one-third octave band;

(iv) This rule shall not apply to audible discrete tones having a one-third octave band sound pressure level 10 dB or more below the allowable sound pressure levels specified in **Table 10** for the octave band which contains such one-third octave band.

(2) Compliance. Upon written notification from the Director, the owner or controller of an industrial or commercial noise source operating in violation of the adopted rules shall submit a compliance schedule acceptable to the Department. The schedule will set forth the dates, terms, and conditions by which the person responsible for the noise source shall comply with the adopted rules.

## (3) Measurement:

(a) Sound measurements procedures shall conform to those procedures which are adopted by the Commission and set forth in Sound Measurement Procedures Manual (NPCS-1), or to such other procedures as are approved in writing by the Department;

(b) Unless otherwise specified, the appropriate measurement point shall be that point on the noise sensitive property, described below, which is further from the noise source:

(A) 25 feet (7.6 meters) toward the noise source from that point on the noise sensitive building nearest the noise source;

(B) That point on the noise sensitive property line nearest the noise source.

## (4) Monitoring and Reporting:

(a) Upon written notification from the Department, persons owning or controlling an industrial or commercial noise source shall monitor and record the statistical noise levels and operating times of equipment, facilities, operations, and activities, and shall submit such data to the Department in the form and on the schedule requested by the Department. Procedures for such measurements shall conform to those procedures which are adopted by the Commission and set forth in Sound Measurement Procedures Manual (NPCS-1);

(b) Nothing in this rule shall preclude the Department from conducting separate or additional noise tests and measurements. Therefore, when requested by the Department, the owner or operator of an industrial or commercial noise source shall provide the following:

(A) Access to the site;

(B) Reasonable facilities, where available, including but not limited to, electric power and ladders adequate to perform the testing;

(C) Cooperation in the reasonable operation, manipulation, or shutdown of various equipment or operations as needed to ascertain the source of sound and measure its emission.

(5) Exemptions: Except as otherwise provided in subparagraph (1)(b)(B)(ii) of this rule, the rules in section (1) of this rule shall not apply to:

(a) Emergency equipment not operated on a regular or scheduled basis;

(b) Warning devices not operating continuously for more than 5 minutes;

(c) Sounds created by the tires or motor used to propel any road vehicle complying with the noise standards for road vehicles;

(d) Sounds resulting from the operation of any equipment or facility of a surface carrier engaged in interstate commerce by railroad only to the extent that such equipment or facility is regulated by pre-emptive federal regulations as set forth in Part 201 of Title 40 of the Code of Federal Regulations, promulgated pursuant to Section 17 of the Noise Control Act of 1972, 86 Stat. 1248, Public Law 92-576; but this exemption does not apply to any standard, control, license, regulation, or restriction necessitated by special local conditions which is approved by the Administrator of the EPA after consultation with the Secretary of Transportation pursuant to procedures set forth in Section 17(c)(2) of the Act;

(e) Sounds created by bells, chimes, or carillons;

(f) Sounds not electronically amplified which are created by or generated at sporting, amusement, and entertainment events, except those sounds which are regulated under other noise standards. An event is a noteworthy happening and does not include informal, frequent, or ongoing activities such as, but not limited to, those which normally occur at bowling alleys or amusement parks operating in one location for a significant period of time;

(g) Sounds that originate on construction sites.

(h) Sounds created in construction or maintenance of capital equipment;

(i) Sounds created by lawn care maintenance and snow removal equipment;

(j) Sounds generated by the operation of aircraft and subject to pre-emptive federal regulation. This exception does not apply to aircraft engine testing, activity conducted at the airport that is not directly related to flight operations, and any other activity not pre-emptively regulated by the federal government or controlled under OAR 340-035-0045;

(k) Sounds created by the operation of road vehicle auxiliary equipment complying with the noise rules for such equipment as specified in OAR 340-035-0030(1)(e);

(l) Sounds created by agricultural activities;

(m) Sounds created by activities related to the growing or harvesting of forest tree species on forest land as defined in subsection (1) of ORS 526.324.

(6) Exceptions: Upon written request from the owner or controller of an industrial or commercial noise source, the Department may authorize exceptions to section (1) of this rule, pursuant to rule 340-035-0010, for:

- (a) Unusual and/or infrequent events;
- (b) Industrial or commercial facilities previously established in areas of new development of noise sensitive property;
- (c) Those industrial or commercial noise sources whose statistical noise levels at the appropriate measurement point are exceeded by any noise source external to the industrial or commercial noise source in question;
- (d) Noise sensitive property owned or controlled by the person who controls or owns the noise source;
- (e) Noise sensitive property located on land zoned exclusively for industrial or commercial use.

[ED. NOTE: Tables referenced are available from the agency.]

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 467

Stats. Implemented: ORS 467.030

Hist.: DEQ 77, f. 9-5-74, ef. 9-25-74; DEQ 135, f. & ef. 6-7-77; DEQ 8-1980, f. & ef. 3-11-80; DEQ 7-1983, f. & ef. 4-22-83; DEQ 5-2004, f. & cert. ef. 6-11-04

### **340-035-0040**

#### **Noise Control Regulations for Motor Sports Vehicles and Facilities**

##### (1) Statement of Purpose:

(a) The Commission finds that the periodic noise pollution caused by Oregon motor sports activities threatens the environment of citizens residing in the vicinity of motor sports facilities. To mitigate motor sports noise impacts, a coordinated statewide program is desirable to ensure that effective noise abatement programs are developed and implemented where needed. This abatement program includes measures to limit the creation of new noise impacts and the reduction of existing noise impacts to the extent necessary and practicable;

(b) Since the Commission also recognizes the need of Oregon's citizens to participate in recreational activities of their choice, these rules balance those citizen needs which may conflict when motor sports facilities are in operation. Therefore, a policy of continuing participation in standards development through the active cooperation of interested parties is adopted. The choice of these parties is to limit the noise emission levels of racing and recreational vehicles, to designate equipment requirements, and to establish appropriate hours of operation. It is anticipated that safety factors, limited technology, special circumstances, and special events may require exceptions to these rules in some instances; therefore, a mechanism to accommodate this necessity is included in this rule;

(c) This rule is designed to encourage the motor sports facility owner, the vehicle operator, and government to cooperate to limit and diminish noise and its impacts. These ends can be accomplished by encouraging compatible land uses and controlling and reducing the racing vehicle noise impacts on communities in the vicinity of motor sports facilities to acceptable levels;

(d) This rule is enforceable by the Department and civil penalties ranging from a minimum of \$25 to a maximum of \$500 may be assessed for each violation. The motor sports facility owner, the racing vehicle owner and the racing vehicle driver are held responsible for compliance with provisions of this rule. A schedule of civil penalties for noise control may be found under OAR 340-012-0052.

##### (2) Standards:

(a) Drag Racing Vehicle. No motor sports facility owner and no person owning or controlling a drag racing vehicle shall cause or permit its operation at any motor sports facility unless the vehicle is equipped with a properly installed and well maintained muffler;

(b) Oval Course Racing Vehicle. No motor sports facility owner and no person owning or controlling an oval course racing vehicle shall cause or permit its operation at any motor sports facility unless the vehicle is equipped with a properly installed and well-maintained muffler and noise emissions from its operation do not exceed 105 dBA at trackside;

(c) Sports Car Racing Vehicle. No motor sports facility owner and no person owning or controlling a sports car racing vehicle shall cause or permit its operation at any motor sports facility unless the vehicle is equipped with a properly installed and well-maintained muffler and noise emissions from its operation do not exceed 105 dBA at trackside;

(d) Closed Course Motorcycle Racing Vehicle. No motor sports facility owner and no person owning or controlling a closed course motorcycle racing vehicle shall cause or permit its operation at any motor sports facility unless the vehicle is equipped with a properly installed and well-

maintained muffler and noise emissions from its operation do not exceed 105 dBA at trackside or 105 dBA at 20 inches (.5 meter) from the exhaust outlet during the stationary measurement procedure;

(e) Open Course Motorcycle Racing Vehicle. No motor sports facility owner and no person owning or controlling an open course motorcycle racing vehicle shall cause or permit its operation at any motor sports facility unless the vehicle is equipped with a properly installed and well-maintained muffler and noise emissions do not exceed 105 dBA at 20 inches (.5 meter) from the exhaust outlet during the stationary measurement procedure;

(f) Four Wheel Drive Racing Vehicles. No motor sports facility owner and no person owning or controlling a four wheel drive racing vehicle shall cause or permit its operation at any motor sports facility unless the vehicle is equipped with a properly installed and well-maintained muffler and noise emissions from its operation do not exceed 105 dBA at trackside;

(g) Watercraft Racing Vehicle. No motor sports facility owner and no person owning or controlling a watercraft racing vehicle shall cause or permit its operation at any motor sports facility unless the vehicle is equipped with a properly installed and well-maintained muffler and noise emissions from its operation do not exceed 105 dBA at trackside;

(h) Autocross or Solo Racing Vehicle. No motor sports facility owner and no person owning or controlling an autocross or solo racing vehicle shall cause or permit its operation on any temporary autocross or solo course unless the vehicle is equipped with a properly installed and well-maintained muffler and noise emissions from its operation do not exceed 90 dBA at trackside. Autocross and solo events conducted on a permanent motor sports facility, such as a sports car or go-kart course, shall comply with the requirements for sports car racing vehicles specified in subsection (2)(c) of this rule;

(i) Go-Kart Racing Vehicle. No motor sports facility owner and no person owning or controlling a go-kart racing vehicle shall cause or permit its operation at any motor sports facility unless the vehicle is equipped with a properly installed and well-maintained muffler and noise emissions from its operation do not exceed 105 dBA at trackside.

(3) New Motor Sports Facilities. Prior to the construction or operation of any permanent new motor sports facility, the facility owner shall submit for Department approval the projected motor sports facility noise impact boundaries. The data and analysis used to determine the boundary shall also be submitted to the Department for evaluation. Upon approval of the boundaries, this information shall be submitted to the appropriate local planning unit and the Department of Land Conservation and Development for their review and appropriate action.

(4) Practice Sessions. Notwithstanding section (2) of this rule, all racing vehicles in order to operate in practice sessions, shall comply with a noise mitigation plan which shall have been submitted to and approved by the motor sports advisory committee and the Director. Such plans may be developed and submitted prior to each racing season. An approved plan may be varied with prior written approval of the Department.

(5) Recreational Park. When a motor sports facility is used as a recreational park for the operation of off-road recreational vehicles, the ambient noise limits of OAR 340-035-0030(1)(d) shall apply.

(6) Operations:

(a) General. No motor sports facility owner and no person owning or controlling a racing vehicle shall permit its use or operation at any time other than the following:

(A) Sunday through Thursday during the hours 8 a.m. to 10 p.m. local time; and

(B) Friday through Saturday, state and national holidays and the day preceding, not to exceed three consecutive days, during the hours 8 a.m. to 11 p.m. local time.

(b) Overruns. Each motor sports facility may overrun the specified curfew times, including the time specified in subsection (11)(c) of this rule, not to exceed 30 minutes, no more than six days per year due to conditions beyond the control of the owner. Each overrun shall be documented to the Department within ten days of the occurrence;

(c) Special Events. Any approved special motor racing event may also be authorized to exceed this curfew pursuant to subsection (12)(a) of this rule.

(d) Continued Special Events. Any approved special event that cannot be completed within established curfew times due to circumstances beyond the control of the owner, such as but not limited to oil spills and accidents, may be continued the following day under the same conditions provided in the special event exception. The Department shall be notified within ten days of any continued special event.

(7) Measurement and Procedures. All instruments, procedures and personnel involved in performing sound level measurements shall conform to the requirements specified in **Motor Race Vehicle and Facility Sound Measurement and Procedure Manual, NPC-35**, or to standard methods approved in writing by the Department.

(8) Monitoring and Reporting:

(a) It shall be the responsibility of the motor sports facility owner to measure and record the required noise level data as specified under subsections (2)(b) - (i) of this rule and the **Motor Race Vehicle and Facility Sound Measurement and Procedure Manual, NPC-35**. The owner shall either keep such recorded noise data available for a period of at least one calendar year or submit such data to the Department for storage. Upon request the owner shall make such recorded noise data available to the Department;

(b) When requested by the Department, any motor sports facility owner shall provide the following:

(A) Free access to the facility;

(B) Free observation of noise level monitoring;

(C) Cooperation and assistance in obtaining the reasonable operation of any Racing Vehicle using the facility as needed to ascertain its noise emission level.

(9) Vehicle standards. No motor sports facility owner and no person owning or controlling a racing vehicle shall cause or permit a racing event or practice session unless the vehicle is equipped and operated in accordance with these rules.

(10) Vehicle Testing. Nothing in this section shall preclude the motor sports facility owner from testing or barring the participation of any racing vehicle for non-compliance with these rules.

(11) Exemptions:

(a) Any motor sports facility whose racing surface is located more than 2 miles from the nearest noise sensitive property shall be exempt from this rule;

(b) Any top fuel-burning drag racing vehicle shall be exempt from the requirements of subsection (2)(a) of this rule. No later than January 31, 1985 the Department shall report to the Commission on progress toward muffler technology development for this vehicle class and propose any necessary recommendations to amend this exemption;

(c) Operation of non-complying jet powered dragsters between the hours of 11 a.m. and 10 p.m.;

(d) Operation of non-muffled racing vehicles at practice sessions between 12 noon and 3 p.m. as part of an approved plan as required pursuant to section (4) of this rule.

(12) Exceptions. The Department shall consider the majority and minority recommendations of the motor sports advisory committee prior to the approval or denial of any exception to these rules. Exceptions may be authorized by the Department for the following pursuant to OAR 340-035-0010:

(a) Special motor racing events;

(b) Race vehicle or class of vehicles whose design or mode of operation makes operation with a muffler inherently unsafe or technically unfeasible;

(c) Motor sports facilities previously established in areas of new development of noise sensitive property;

(d) Noise sensitive property owned or controlled by a motor sports facility owner;

(e) Noise sensitive property located on land zoned exclusively for industrial or commercial use;

(f) Any motor sports facility owner or race sanctioning body that proposes a racing vehicle noise control program that accomplishes the intended results of the standards of section (2) of this rule, the measurement and procedures of section (7) of this rule, the monitoring and the reporting of section (8) of this rule;

(g) Any motor sports facility demonstrating that noise sensitive properties do not fall within the motor sports facility noise impact boundaries may be exempt from the curfew limits of section (6) of this rule and the monitoring and reporting requirements of section (8) of this rule;

(h) Any practice session for non-muffled racing vehicles that does not meet the exemption requirements specified in subsection (11)(d) of this rule.

(13) Motor Sports Advisory Committee Actions. The committee shall serve at the call of the chairman who shall be elected by the members in accordance with the rules adopted by the committee for its official action.

(14) Effective Date. These rules shall be effective January 1, 1982.

[Publication: The Publication(s) referred to or incorporated by reference in this rule are available from the agency.]

Stat. Auth.: ORS 467

Stats. Implemented: ORS 467.030

Hist.: DEQ 33-1980, f. 12-2-80, ef. 1-1-82; DEQ 7-1983, f. & ef. 4-22-83

**340-035-0045****Noise Control Regulations for Airports****(1) Statement of Purpose:**

(a) The Commission finds that noise pollution caused by Oregon airports threatens the public health and welfare of citizens residing in the vicinity of airports. To mitigate airport noise impacts a coordinated statewide program is desirable to ensure that effective Airport Noise Abatement Programs are developed and implemented where needed. An abatement program includes measures to prevent the creation of new noise impacts or the expansion of existing noise impacts to the extent necessary and practicable. Each abatement program will primarily focus on airport operational measures to prevent increased, and to lessen existing, noise levels. The program will also analyze the effects of aircraft noise emission regulations and land use controls;

(b) The principal goal of an airport proprietor who may be required to develop an Airport Noise Abatement program under this rule should be to reduce noise impacts caused by aircraft operations, and to address in an appropriate manner the conflicts which occur within the higher noise contours;

(c) The Airport Noise Criterion is established to define a perimeter for study and for noise sensitive use planning purposes. It is recognized that some or many means of addressing aircraft/airport noise at the Airport Noise Criterion Level may be beyond the control of the airport proprietor. It is therefore necessary that abatement programs be developed, whenever possible, with the cooperation of federal, state and local governments to ensure that all potential noise abatement measures are fully evaluated;

(d) This rule is designed to encourage the airport proprietor, aircraft operator, and government at all levels to cooperate to prevent and diminish noise and its impacts. These ends may be accomplished by encouraging compatible land uses and controlling and reducing the airport/aircraft noise impacts on communities in the vicinity of airports to acceptable levels.

(2) Airport Noise Criterion. The criterion for airport noise is an Annual Average Day-Night Airport Noise Level of 55 dBA. The Airport Noise Criterion is not designed to be a standard for imposing liability or any other legal obligation except as specifically designated within this section.

**(3) Airport Noise Impact Boundary:**

(a) Air Carrier Airports. Within 12 months of designation, the proprietor of any Air Carrier Airport shall submit for Department approval, the existing airport Noise Impact Boundary. The data and analysis used to determine the boundary shall also be submitted to the Department for evaluation;

(b) Existing Non-Air Carrier Airports. After an unsuccessful effort to resolve a noise problem pursuant to section (5) of this rule, the Director may require the proprietor of any existing non-air carrier airport to submit for Department approval, all information reasonably necessary for the calculation of the existing airport Noise Impact Boundary. This information is specified in the Department's **Airport Noise Control Procedure Manual (NPCS-37)**, as approved by the Commission. The proprietor shall submit the required information within twelve months of receipt of the Director's written notification;

(c) New Airports. Prior to the construction or operation and any required local government land-use approval of any New Airport, the proprietor shall submit for Department approval the projected airport Noise Impact Boundary for the first full calendar year of operation. The data and analysis used to determine the boundary shall also be submitted to the Department for evaluation. The Department shall notify the appropriate local planning unit of the results of their evaluation;

(d) Airport Master Planning. Any airport proprietor who obtains funding to develop an airport Master Plan shall submit for Department approval an existing noise impact boundary and projected noise impact boundaries at five, ten, and twenty years into the future. The data and analysis used to determine the boundaries shall also be submitted to the Department for evaluation;

(e) Impact Boundary Approval. Within 60 days of the receipt of a completed airport noise impact boundary, the Department shall either consider the boundary approved or provide written notification to the airport proprietor of deficiencies in the analysis.

**(4) Airport Noise Abatement Program and Methodology:**

(a) Abatement Program. The proprietor of an existing or new airport whose airport Noise Impact Boundary includes Noise Sensitive Property, or may include Noise Sensitive Property, shall submit a proposed Airport Noise Abatement Program for Commission approval within 12 months of notification, in writing, by the Director. The Director shall give such notification when the Commission has reasonable cause to believe that an abatement program is necessary to protect the health, safety or welfare of the public following a public informational hearing on the question of such necessity. Reasonable cause shall be based upon a determination that:

(A) Present or planned airport operations cause or may cause noise impacts that interfere with noise sensitive use activities such as communication and sleep to the extent that the public health, safety or welfare is threatened;

(B) These noise impacts will occur on property presently used for noise sensitive purposes, or where noise sensitive use is permitted by zone or comprehensive plan; and

(C) It appears likely that a feasible noise abatement program may be developed.

(b) Program Elements. An Airport Noise Abatement Program shall consist of all of the following elements, but if it is determined by the Department that any element will not aid the development of the program, it may be excluded:

(A) Maps of the airport and its environs, and supplemental information, providing:

(i) Projected airport noise contours from the Noise Impact Boundary to the airport property line in 5 dBA increments under current year of operations and at periods of five, ten, and twenty years into the future with proposed operational noise control measures designated in paragraph (4)(b) (B);

(ii) All existing Noise Sensitive Property within the airport Noise Impact Boundary;

(iii) Present zoning and comprehensive land use plan permitted uses and related policies;

(iv) Physical layout of the airport including the size and location of the runways, taxiways, maintenance and parking areas;

(v) Location of present and proposed future flight tracks;

(vi) Number of aircraft flight operations used in the calculation of the airport noise levels. This information shall be characterized by flight track, aircraft type, flight operation, number of daytime and nighttime operations, and takeoff weight of commercial jet transports.

(B) An airport operational plan designed to reduce airport noise impacts at Noise Sensitive Property to the Airport Noise Criterion to the greatest extent practicable. The plan shall include an evaluation of the appropriateness and effectiveness of the following noise abatement operations by estimating potential reductions in the airport Noise Impact Boundary and numbers of Noise Sensitive Properties impacted within the boundary, incorporating such options to the fullest extent practicable into any proposed Airport Noise Abatement Program:

(i) Takeoff and landing noise abatement procedures such as thrust reduction or maximum climb on takeoff;

(ii) Preferential and priority runway use systems;

(iii) Modification in approach and departure flight tracks;

(iv) Rotational runway use systems;

(v) Higher glide slope angles and glide slope intercept altitudes on approach;

(vi) Dispaced runway thresholds;

(vii) Limitations on the operation of a particular type or class of aircraft, based upon aircraft noise emission characteristics;

(viii) Limitations on operations at certain hours of the day;

(ix) Limitations on the number of operations per day or year;

(x) Establishment of landing fees based on aircraft noise emission characteristics or time of day;

(xi) Rescheduling of operations by aircraft type or time of day;

(xii) Shifting operations to neighboring airports;

(xiii) Location of engine run-up areas;

(xiv) Times when engine run-up for maintenance can be done;

(xv) Acquisition of noise suppressing equipment and construction of physical barriers for the purpose of reducing aircraft noise impact;

(xvi) Development of new runways or extended runways that would shift noise away from populated areas or reduce the noise impact within the Airport Noise Impact Boundary.

(C) A proposed land use and development control plan, and evidence of good faith efforts by the proprietor to obtain its approval, to protect the area within the airport Noise Impact Boundary from encroachment by non-compatible noise sensitive uses and to resolve conflicts with existing unprotected noise sensitive uses within the boundary. The Plan is not intended to be a community-wide comprehensive plan; it should be airport-specific, and should be of a scope appropriate to the size of the airport facility and the nature of the land uses in the immediate area. Affected local governments shall have an opportunity to participate in the development of the plan, and any written comments offered by an affected local government shall be made available

to the Commission. The Department shall review the comprehensive land use plan of the affected local governments to ensure that reasonable policies have been adopted recognizing the local government's responsibility to support the proprietor's efforts to protect the public from excessive airport noise. The plan may include, but not be limited to, the following actions within the specified noise impact zones:

- (i) Changes in land use through non-noise sensitive zoning and revision of comprehensive plans, within the Noise Impact Boundary (55 dBA);
- (ii) Influencing land use through the programming of public improvement projects within the Noise Impact Boundary (55 dBA);
- (iii) Purchase assurance programs within the 65 dBA boundary;
- (iv) Voluntary relocation programs within the 65 dBA boundary;
- (v) Soundproofing programs within the 65 dBA boundary, or within the Noise Impact Boundary (55 dBA) if the governmental entity with land use planning responsibility desires, and will play a major role in implementation.
- (vi) Purchase of land for airport use within the 65 dBA boundary;
- (vii) Purchase of land for airport related uses within the 65 dBA boundary;
- (viii) Purchase of land for non-noise sensitive public use within the Noise Impact Boundary (55 dBA);
- (ix) Purchase of land for resale for airport noise compatible purposes within the 65 dBA boundary;
- (x) Noise impact disclosure to purchaser within the Noise Impact Boundary (55 dBA);
- (xi) Modifications to Uniform State Building Code for areas of airport noise impact within the Noise Impact Boundary (55 dBA).

(c) Federal Aviation Administration Concurrence. The proprietor shall use good faith efforts to obtain concurrence or approval for any portions of the proposed Airport Noise Abatement Program for which the airport proprietor believes that Federal Aviation Administration concurrence or approval is required. Documentation of each such effort and a written statement from FAA containing its response shall be made available to the Commission;

(d) Commission Approval. Not later than twelve months after notification by the Director pursuant to subsection (4)(a) of this rule, the proprietor shall submit a proposed Airport Noise Abatement Program to the Commission for approval. Upon approval, the abatement program shall have the force and effect of an order of the Commission. The Commission may direct the Department to distribute copies of the approved abatement program to interested federal, state and local governments, and to other interested persons, and may direct the Department to undertake such monitoring or compliance assurance work as the Commission deems necessary to ensure compliance with the terms of its order. The Commission shall base its approval or disapproval of a proposed Noise Abatement Program upon:

- (A) The completeness of the information provided;
- (B) The comprehensiveness and reasonableness of the proprietor's evaluation of the operational plan elements listed under paragraph (4)(b)(B) of this rule;
- (C) The presence of an implementation scheme for the operational plan elements, to the extent feasible;
- (D) The comprehensiveness and reasonableness of the proprietor's evaluation of land use and development plan elements listed under paragraph (4)(b)(C) of this rule;
- (E) Evidence of good faith efforts to adopt the land use and development plan, or obtain its adoption by the responsible governmental body, to the extent feasible;
- (F) The nature and magnitude of existing and potential noise impacts;
- (G) Testimony of interested and affected persons; and
- (H) Any other relevant factors.

(e) Program Renewal. No later than six months prior to the end of a five-year period following the Commission's approval, each current airport Noise Abatement Program shall be reviewed and revised by the proprietor, as necessary, and submitted to the Commission for consideration for renewal.

(f) Program Revisions. If the Director determines that circumstances warrant a program revision prior to the scheduled five year review, the Airport Proprietor shall submit to the Commission a revised program within 12 months of written notification by the Director. The Director shall make such determination based upon an expansion of airport capacity, increase in use, change in the types or mix of various aircraft utilizing the airport, or changes in land use and development in the

impact area that were unforeseen in earlier abatement plans. Any program revision is subject to all requirements of this rule.

(5) Consultation. The Director shall consult with the airport proprietor, members of the public, the Oregon Departments of Transportation, Land Conservation and Development and any affected local government in an effort to resolve informally a noise problem prior to issuing a notification under subsections (3)(b), (4)(a) and (4)(f) of this rule.

(6) Noise Sensitive Use Deviations. The airport noise criterion is designed to provide adequate protection of noise sensitive uses based upon out-of-doors airport noise levels. Certain noise sensitive use classes may be acceptable within the airport Noise Impact Boundary if all measures necessary to protect interior activities are taken.

(7) Airport Noise Monitoring. The Department may request certification of the airport Noise Impact Boundary by actual noise monitoring, where it is deemed necessary to approve the boundary pursuant to subsection (3)(e) of this rule.

(8) Exceptions. Upon written request from the Airport Proprietor, the Department may authorize exceptions to this rule, pursuant to OAR 340-035-0010, for:

- (a) Unusual or infrequent events;
- (b) Noise sensitive property owned or controlled by the airport;
- (c) Noise sensitive property located on land zoned exclusively for industrial or commercial use.

[Publication: Publications referenced are available from the agency.]

Stat. Auth.: ORS 467

Stats. Implemented: ORS 467.030

Hist.: DEQ 33-1979, f. & ef. 11-27-79; DEQ 7-1983, f. & ef. 4-22-83

#### **340-035-0100**

##### **Variances**

(1) Conditions for Granting. The Commission may grant specific variances from the particular requirements of any rule, regulation, or order to such specific persons or class of persons or such specific noise source upon such conditions as it may deem necessary to protect the public health and welfare, if it finds that strict compliance with such rule, regulation, or order is inappropriate because of conditions beyond the control of the persons granted such variance or because of special circumstances which would render strict compliance unreasonable, or impractical due to special physical conditions or cause, or because strict compliance would result in substantial curtailment or closing down of a business, plant, or operation, or because no other alternative facility or method of handling is yet available. Such variances may be limited in time.

(2) Procedure for Requesting. Any person requesting a variance shall make his request in writing to the Department for consideration by the Commission and shall state in a concise manner the facts to show cause why such variance should be granted.

(3) Revocation or Modification. A variance granted may be revoked or modified by the Commission after a public hearing held upon not less than 20 days notice. Such notice shall be served upon the holder of the variance by certified mail and all persons who have filed with the Commission a written request for such notification.

Stat. Auth.: ORS 467

Stats. Implemented: ORS 467.030

Hist.: DEQ 75, f. 7-25-74, ef. 8-25-74

#### **340-035-0110**

##### **Suspension of Commission and Department Responsibilities**

In 1991, the Legislative Assembly withdrew all funding for implementing and administering ORS Chapter 467 and the Department's noise program. Accordingly, the Commission and the Department have suspended administration of the noise program, including but not limited to processing requests for exceptions and variances, reviewing plans, issuing certifications, forming advisory committees, and responding to complaints. Similarly, the public's obligations to submit plans or certifications to the Department are suspended.

Stat. Auth.: ORS 467

Stats. Implemented: ORS 467

Hist.: DEQ 5-2004, f. & cert. ef. 6-11-04

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**TABLE 7**  
**(340-35-035)**

**Existing Industrial and Commercial Noise Source Standards**

**Allowable Statistical Noise Levels in Any One Hour**

<b><u>7am – 10 pm</u></b>	<b><u>10 pm – 7am</u></b>
L <sub>50</sub> – 55 dBA	L <sub>50</sub> – 50 dBA
L <sub>10</sub> – 60 dBA	L <sub>10</sub> – 55 dBA
L <sub>1</sub> – 75dBA	L <sub>1</sub> – 60 dBA

**TABLE 8**  
**(340-35-035)**

**New Industrial and Commercial Noise Source Standards**

**Allowable Statistical Noise Levels in Any One Hour**

<b><u>7 am – 10 pm</u></b>	<b><u>10 pm – 7am</u></b>
L <sub>50</sub> – 55 dBA	L <sub>50</sub> – 50 dBA
L <sub>10</sub> – 60 dBA	L <sub>10</sub> – 55 dBA
L <sub>1</sub> - 75 dBA	L <sub>1</sub> – 60 dBA

**TABLE 9**  
**(340-35-035)**

**Industrial and Commercial Noise Source Standards for Quiet Areas**

**Allowable Statistical Noise Levels in Any One Hour**

<b><u>7 am – 10 pm</u></b>	<b><u>10 pm – 7 am</u></b>
L <sub>50</sub> – 50 dBA	L <sub>50</sub> – 45 dBA
L <sub>10</sub> – 55 dBA	L <sub>10</sub> – 50 dBA
L <sub>1</sub> – 60 dBA	L <sub>1</sub> – 55 dBA

**TABLE 10**  
**(340-35-035)**

**Median Octave Band Standards for Industrial and Commercial Noise Sources**

**Allowable Octave Band Sound Pressure Levels**

<b><u>Octave Band Center Frequency, Hz</u></b>	<b><u>7am – 10 pm</u></b>	<b><u>10 pm – 7 am</u></b>
31.5	68	65
63	65	62
125	61	56
250	55	50
500	52	46
1000	49	43
2000	46	40
4000	43	37
8000	40	34

## 5.487 Sound Levels and Noise.

- (1) Purpose. The City Council of the City of West Linn finds that low and moderate ambient noise levels are a significant City amenity. They find further that the level of noise that exists in a community directly affects the livability of the community and the health, comfort and welfare of its residents. It is, therefore, the express intent and purpose of this section to establish noise level standards that protect and improve the quality of life of West Linn's residents at work, rest and play and that can be objectively measured and enforced.
- (2) General Prohibition. No person shall make, continue, assist in making, or allow:
- (a) Any unreasonably loud, disturbing, or raucous noise;
  - (b) Any noise that unreasonably annoys, disturbs, injures, or endangers the comfort, repose, health, safety, or peace of reasonable persons of ordinary sensitivity, within the jurisdictional limits of the City; or
  - (c) Any noise which is so harsh, prolonged, unnatural, or unusual in time or place as to occasion unreasonable discomfort to any persons, or as to unreasonably interfere with the peace and comfort of neighbors or their guests, or operators or customers in places of business, or as to detrimentally or adversely affect such residences or places of business.
- (3) The standard for judging loud, disturbing and unnecessary noises shall be that of an average, reasonable person with ordinary sensibilities after taking into consideration:
- (a) The proximity of the sound to sleeping facilities, whether residential or commercial;
  - (b) The land use, nature, and zoning of the area from which the sound emanates and the area where it is received or perceived;
  - (c) The time of day or night the sound occurs;
  - (d) The duration of the sound; and
  - (e) Whether the sound is recurrent, intermittent, or constant.
- (4) Prohibited Noises. The following acts are declared to be per se violations of this chapter. This enumeration does not constitute an exclusive list. It shall be unlawful for any person to commit, create, assist in creating, permit, continue, or permit the continuance of any of the following:
- (a) Radios, Televisions, Stereos, Musical Instruments and Similar Devices. The use or operation of any device designed for sound production or reproduction, including, but not limited to, any radio, musical instrument, television set, stereophonic equipment, or similar device that is plainly audible to any person other than the player(s) or operator(s) of the device, and those who are voluntarily listening to the sound, and unreasonably disturbs the peace, quiet, and comfort of neighbors in residential areas, including multi-family or single-family dwellings.
  - (b) Animals or Birds. Frequent or continuing noise for a period of 15 minutes in any hour emitted by an animal or bird for which a person is responsible, except for animals provoked by a person trespassing, threatening to trespass, or unambiguously taunting the animal. A person is responsible for

an animal if the person owns, controls, or otherwise cares for the animal or bird.

(c) Mechanical Devices. The use of any mechanical device, fixed or mobile, operated by compressed air, steam, gasoline, electricity or otherwise, including the use of domestic power tools for lawn care, landscaping, and gardening, as well as hobby, craft, and household maintenance, between the hours of 9:00 p.m. and 7:00 a.m.

(d) Construction or Repair of Building, Excavation of Streets and Highways. The erection, excavation, demolition, alteration or repair of any building, structure, street, or highway, between the following hours:

(i) 7:00 p.m. and 7:00 a.m. Monday through Friday;

(ii) 5:00 p.m. and 9:00 a.m. on Saturday, Sunday and Federal holidays. In nonemergency situations, the City Manager may issue a construction noise permit, upon application, if the City Manager determines that the public health and safety will not be impaired by the loud and raucous noise, and if the City Administrator further determines that loss or inconvenience would otherwise result. The permit shall grant permission in nonemergency cases for a period of not more than seven days. The permit may be renewed once for a period of seven days or less.

(e) Yelling, Shouting, and Similar Activities. Yelling, shouting, hooting, whistling, singing, or creation of noise in residential areas or in public places, between the hours of 9:00 p.m. and 7:00 a.m., or at any time or place so as to unreasonably disturb the quiet, comfort, or repose of reasonable persons of ordinary sensitivities, unless a special permit is granted by the City Manager. This section is to be applied only to those situations where the disturbance is not a result of the content of the communication but due to the volume, duration, location, timing or other factors not based on content.

(f) Loudspeakers, Amplifiers, Public Address Systems, and Similar Devices. The unreasonably loud and raucous use or operation of a loudspeaker, amplifier, public address system, or other device for producing or reproducing sound is prohibited without a permit from the City Manager. The City Manager may grant a special permit to responsible persons or organizations for the broadcast or amplification of sound as a part of a national, State, or City event, public festival, or special events of a noncommercial nature. This permit shall not be required for any public performance, gathering, or parade for which a permit authorizing the event has been obtained from the City.

(g) Emergency Signaling Devices. Owning, installing or causing to be installed any fire or anti-theft alarm system that produces an audible alarm on any building or any motor vehicle, unless such alarm terminates after 15 minutes of activation when there is no emergency. Existing systems shall be altered to conform to this section if the City or any of its officers receives a written complaint from a person disturbed by a nonconforming alarm. Nonconforming alarm owners shall have 60 calendar days to bring such alarm into compliance after receipt of written notification of its noncompliance.

(h) The use of any compression or dynamic braking device, commonly referred to as "jake brakes," for reasons other than to avoid imminent danger to persons or property, with the exception of vehicles traveling in transit through the City on I-205.

(i) Vehicle Horns, Signaling Devices, and Similar Devices. The sounding of any horn, siren, gong, or signal device on any automobile, motorcycle, or other vehicles on any street, except as a necessary warning of danger to property or person.

- (j) The following forms of unnecessary vehicle noise:
- (i) Causing the squealing of tires by excessive acceleration or speed except to avoid imminent danger to person or property.
  - (ii) Revving of an engine excessively or in a way unnecessary to the operation of the vehicle.
- (k) Loading or Unloading Merchandise, Materials, and Equipment. Unreasonably loud and excessive noise produced by the loading or unloading of any vehicle at a place of business or residence.
- (5) Exemptions. Sounds caused by the following are exempt from this section:
- (a) Sounds used for the purpose of alerting persons to the existence of an emergency or produced by the performance of emergency work, vehicles or equipment, including police, fire and ambulance.
  - (b) Sounds of regular vehicular traffic upon premises open to the public.
  - (c) Operations of the Oregon Department of Transportation (ODOT) in constructing or maintaining any State highway, or operations required by ODOT to take place outside of the hours allowed in subsection (4)(d) of this section.
  - (d) Operations required to take place outside of the hours allowed in subsection (4)(d) of this section by any Federal or State agency for the construction, excavation or maintenance of any structure or roadway, whether public or private.
  - (e) Repairs of utility structures which pose a clear and immediate danger to life, health, or significant loss of property.
  - (f) Noise from temporary construction activities that take place between hours allowed in subsection (4)(d) of this section, or those construction activities that are allowed due to a construction noise permit from the City Manager.
  - (g) Outdoor School and Playground Activities. Reasonable activities conducted on public playgrounds and public or private school grounds, which are conducted in accordance with the manner in which such spaces are generally used, including, but not limited to, school athletic and school entertainment events.
  - (h) Other Outdoor Events. Athletic events, outdoor gatherings, public dances, shows and sporting events, and other similar outdoor events; provided, that any required permits have been obtained from the appropriate permitting authority.
  - (i) Holiday related activities, such as fireworks, on Independence Day and New Year's Eve.
- (6) Penalties. A violation of this section is a Class A violation and a public nuisance.
- (7) Special Permits.
- (a) The City Manager may grant a special permit to any person or organization if findings are made that immediate compliance with any requirement of this section cannot be achieved because of special circumstances rendering immediate compliance unreasonable in light of economic or physical factors, encroachment upon an existing noise source or because of the unavailability of feasible technology or

control methods.

- (b) Any such special permit shall be granted only for the minimum time period found to be necessary under the facts and circumstances.
- (c) The City Manager may attach conditions of approval to a special permit to mitigate noise impacts to surrounding properties.
- (d) The decision of the City Manager may be appealed to the Hearings Officer pursuant to the administrative appeals process in Section 1.400 et seq.

[New Section 5.487 added by Ordinance No. 1496, adopted 08-20-2003; amended by Ordinance No. 1581, adopted 11-24-2008; amended by Ordinance No. 1588, adopted 08-10-2009; amended by Ordinance No. 1612, adopted 04-08-2013; amended by Ordinance No. 1621, adopted 04-21-14.]

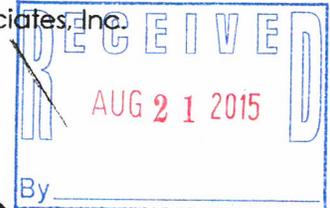
August 24, 2006



Blackhawk, LLC  
2020-C SW 8<sup>th</sup> Avenue, P.O. Box 170  
West Linn, OR 97068

Daly • Standlee & Associates, Inc.

4900 S.W. Griffith Drive  
Suite 216  
Beaverton, Oregon 97005  
(503) 646-4420  
Fax (503) 646-3385



Attn: Mr. Jeff Parker

From: Kerrie G. Standlee  
Senior Principal

Re: **Willamette 205 Corporate Center  
Phase II Noise Study**  
DSA File #: 154062



EXPIRES: 6/30/08

### **Introduction**

Daly-Standlee & Associates, Inc. (DSA) conducted a noise study for the proposed Willamette 205 Corporate Center Phase II office complex development in West Linn, Oregon. Under the West Linn development code, the applicant, when requesting building permits for a proposed development, is required to submit a noise study showing that the noise associated with the development will comply with both the Oregon DEQ Noise Regulations and the sections of the West Linn Municipal code that relate to noise. Therefore, the noise study was conducted to determine if the noise that will be generated by the proposed development will be in compliance with those codes.

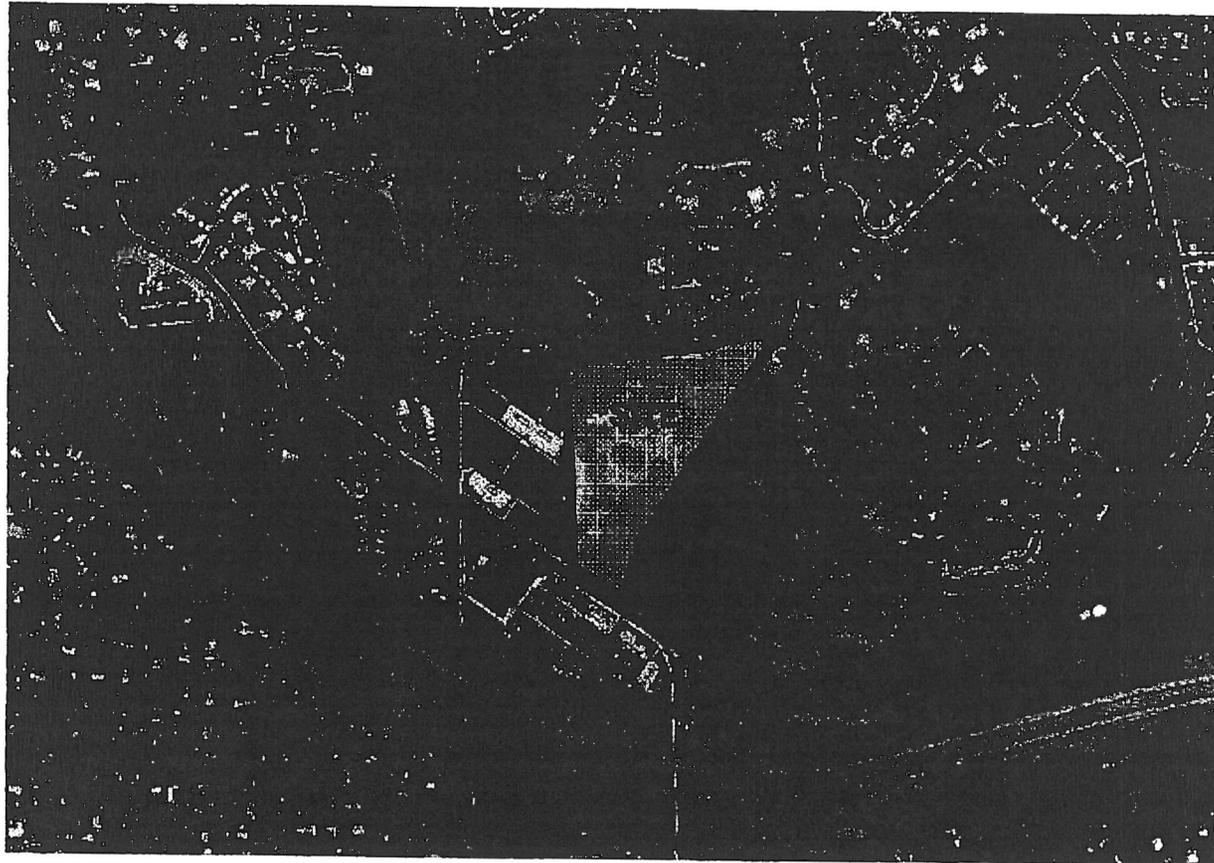
This report provides the results of the noise study and the conclusions based on those results.

### **Summary of Findings**

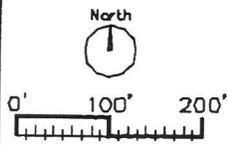
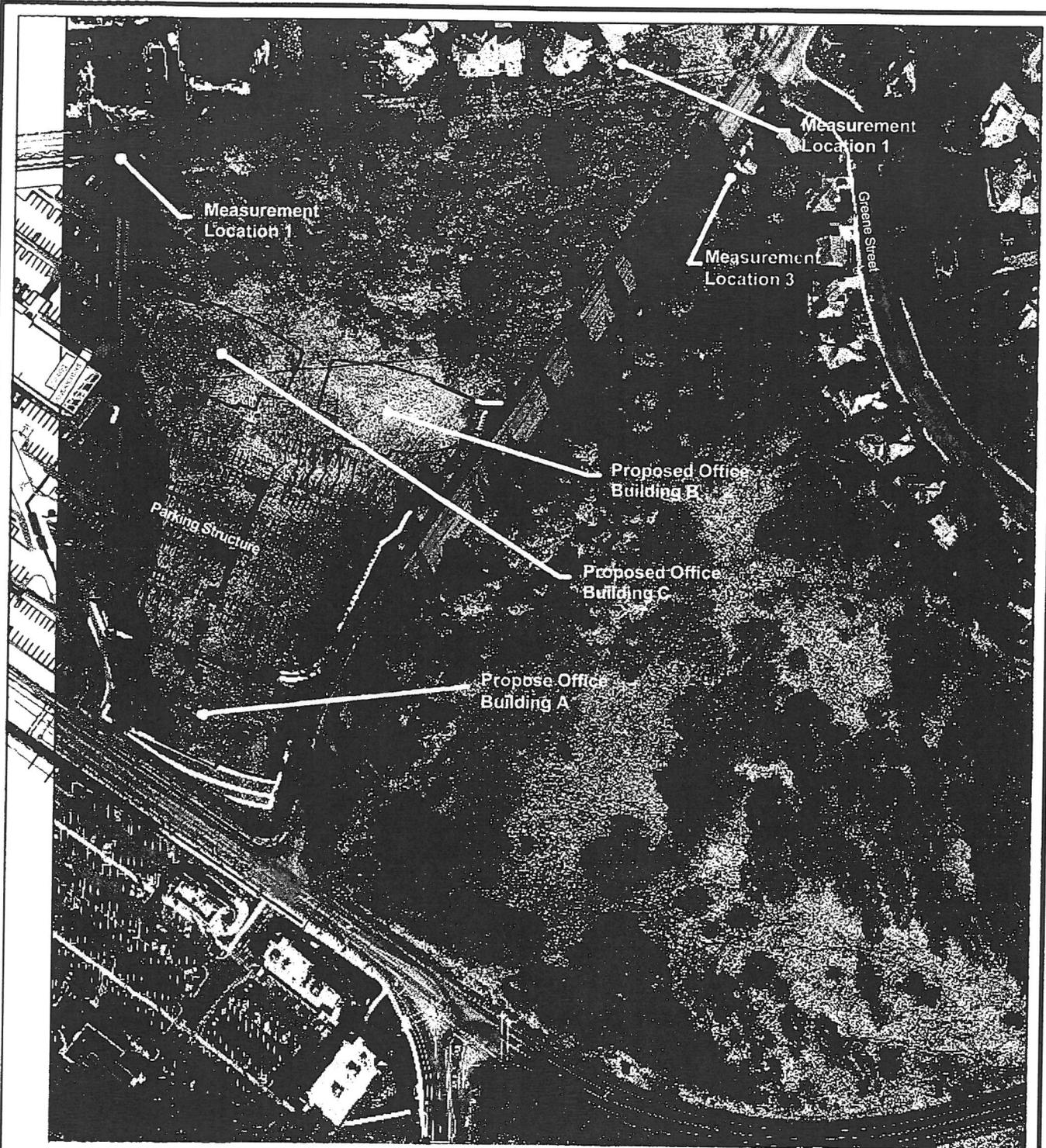
Based on the results of ambient noise levels measured over a 3 day period that included weekday and weekend periods, and based on the noise levels predicted to radiate from the proposed Willamette 205 Corporate Center Phase II office buildings, the noise radiating from the office park will meet all state and city noise regulations during all hours.

### **Site Description**

The Willamette 205 Corporate Center Phase II development will be a commercial development that will be located at the northwest corner of Blankenship Road and Tannler Drive in West Linn, OR (see Figure 1). The development will be bordered on the south by Blankenship Road, on the west by the West Linn Corporate Park I which has two existing office buildings (1800 Blankenship Road "Building A" and 1830 Blankenship Road "Building B"), on the north by the Summer Linn Apartment Complex and the Barrington Heights residential development, and on the east by Tannler Drive (see Figure 2).



Daly-Standlee & Associates, Inc.		Vicinity Map		
Phone: 503/646-4420 Fax: 503/646-3385 Email: DSA@acoustechgroup.com				
DESIGNED BY:	DRAWN BY:	DATE:	PROJECT NO.	Figure 1
M. Shiach	M. Shiach	7/12/06	154061	



Daly-Standlee & Associates, Inc.

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 email: DSA@acoustechgroup.com

**Proposed Office Complex and  
 Noise Measurement Locations**

DESIGNED BY:	DRAWN BY: <b>CLA</b>	DATE: <b>8/23/2006</b>	PROJECT NO. <b>154061</b>	<b>Figure 2</b>
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The topography at the site slopes upward from the site's southwest corner to its northeast corner. The southwest corner of the site has an elevation of approximately 210 feet above sea level and the elevation in the northeast corner of the site is approximately 100 feet above that found in the southwest corner.

Three office buildings are proposed on the site. Building "A", a three-story office building spanning the east-west width of the site, is proposed in the lower, southeast portion of the site. Office Building "B" and "C", both three-story buildings, are proposed side-by-side along a line running east-west across the site in the upper portion of the site approximately 200 to 225 feet south of the northwest corner of the site (see Figure 2). Parking for the three office buildings will be located in a parking structure that will be located between the lower three story building and the upper two, three story buildings.

The roof of the three-story office building on the lower portion of the site will be at an elevation of approximately 280 feet above sea level (approximately 50 feet above the ground elevation at its building site) while the roof of the upper three story office buildings will be at an elevation of approximately 343 feet above sea level (approximately 47 feet above the ground on the south side of the building and 37 feet above the ground elevation in the northwest corner of the site).

The nearest occupied residential properties are located north of the site and east of the site. The Summer Linn Apartments are located immediately adjacent to the northwest corner of the site and represent the nearest residential structures to the proposed office buildings. The Barrington Heights residential development, located immediately east of the Summer Linn Apartments, border the majority of the north property line of the proposed office buildings. Homes are located on Greene Street across Tannler Drive, east of the northeast corner of the office building site.

The apartment in the Summer Linn Apartment complex nearest the proposed development will be approximately 252 feet from the northwest corner of the western office building in upper portion of the site. The apartment building is constructed in an old rock quarry so that the ground elevation at the apartments is approximately the same as that found in the northwest corner the project site (approximately 320 feet above sea level). The top floor of the apartments will be approximately 13 feet below the roof of the nearest 3-story office building. People living on the top floor of the apartment buildings should not be able to see the surface of the roof of the upper two office buildings but they could likely see the walls being constructed around the rooftop HVAC equipment.

The closest house to the office buildings in the Barrington Heights development will be approximately 398 feet from the northwest corner of the eastern office building in the upper portion of the site. The homes located in that development along the north property line will be at a much higher elevation than the roof of the office building (the elevation of the ground floor levels of the homes range from 375 feet above sea level to 385 feet above sea level) so that people in the homes will be overlooking the roof of the office buildings but they will not be able to see the HVAC equipment due to a proposed 10 foot high barrier wall constructed around the equipment.



The nearest home on Greene Street will be approximately 530 feet from the east side of the eastern office building proposed in the upper portion of the site. Most of the homes in the development will be at a higher elevation than the roof of the office buildings so that the occupants of those homes will overlook the roof of the buildings but they will not be able to see the HVAC equipment due to the presence of a 10 foot high wall around the equipment.

An Albertsons Food Store is located on the south side of Blankenship Road south of the proposed development site. Undeveloped land zoned for commercial use is located west of the Albertsons store. Interstate Highway 205 is located further south of the Albertson store approximately 650 feet from the southern boundary of the site.

The site will be cleared of vegetation to allow for the construction of the three buildings, the parking area between the buildings and the access drives. However, there will be approximately 200 feet of bushes and trees left between the eastern building along the north portion of the site and the residential developments to the northeast and east (Barrington Heights and Greene Street).

### ***Facility Information:***

Noise sources expected at the office complex are:

- rooftop HVAC equipment,
- road traffic generated by the building,
- automobiles driving in the parking lot,
- slamming automobile doors,
- garbage trucks,
- delivery trucks,
- lawn maintenance equipment,
- routine parking lot maintenance equipment (such as parking lot sweeps and leaf blowers).

No emergency generators are expected on the exterior of the building. It is expected that routine parking lot maintenance equipment (such as parking lot sweeps and leaf blowers) will only operate between the hours of 7 AM and 10 PM.

According to representatives of the Willamette 205 Corporate Center Phase II LLC, two, 70-ton Trane Intellipak commercial packaged rooftop units are proposed on the two 3-story office buildings in the northern portion of the site and three, 70-ton Trane Intellipak commercial packaged rooftop units are proposed on the office building in the southern portion of the site.

Vehicles will access the proposed office center complex at two locations along Tannler Drive near the center of the east side of the site and at four locations on the west side of the site along the driveway leading to the existing office building west of the proposed development.



### Noise Criterion

The Oregon Department of Environmental Quality (DEQ) noise regulations (OAR Chapter 340-35-035) control noise radiating from “new” and “existing” industrial or commercial noise sources. A new industrial or commercial noise source is defined as any noise source that begins operation after January 1, 1975. Therefore, under the DEQ noise regulations, the proposed office park will be a “new commercial noise source”.

The DEQ noise regulation categorizes a new commercial noise source as a new source located on a “previously used commercial site” or as new source located on a “previously unused commercial site”. A “previously used commercial site” is defined as a site on which commercial or industrial activity occurred within the 20 years preceding the operation of the new noise source on the site. The proposed Willamette 205 Corporate Center Phase II development will be located on property that has never been used for a commercial operation. Therefore, the DEQ regulation for new commercial sound sources located on a previously unused site will apply to the development.

The Oregon DEQ noise regulation for a new commercial noise sources on a previously unused site states that the noise radiating from the new source cannot exceed the maximum allowable limits in Table 8 of the regulation (see Table 1 below) nor increase the existing ambient hourly statistical  $L_{10}$  and  $L_{50}$  noise levels by more than 10 dBA at any appropriate noise sensitive receiver. The second part of the limitation (the 10 dBA increase limitation) is commonly known as the ambient degradation rule in the regulation. The hourly  $L_{10}$ , and  $L_{50}$  sound levels are defined as those sound levels at a receiver that are equaled or exceeded 10% and 50% of an hour, respectively. The appropriate noise sensitive receiver location is defined as any point 25 feet from a residence, motel, church, school or hospital or the property line of the noise sensitive property which ever is farther from the noise source.

**TABLE 1**  
**DEQ Maximum Allowable Hourly Statistical Noise Levels**

<b>OAR 340-35-035 - Table 8</b>	
<b>New Industrial and Commercial Noise Source Standards</b>	
<b>Allowable Statistical Noise Levels in Any One Hour</b>	
<b>7 am - 10 pm</b>	<b>10 pm - 7 am</b>
$L_{50}$ - 55 dBA	$L_{50}$ - 50 dBA
$L_{10}$ - 60 dBA	$L_{10}$ - 55 dBA
$L_{01}$ - 75 dBA	$L_{01}$ - 60 dBA

The West Linn Community Development Code Section 55.100(D), Approval Standards – *Privacy and Noise*, requires that all “Businesses or activities that can reasonably be expected to generate noise shall undertake and submit appropriate noise studies and mitigate as necessary.” Office buildings are generally considered to be businesses that



generate noise in the City of West Linn. Therefore, the West Linn *Privacy and Noise* code will also apply to the Willamette 205 Corporate Center Phase II development.

The West Linn Community Development Code states that for any new commercial development on a vacant or previously unused commercial site, the operation of a noise source shall not cause or permit noise levels which would increase the ambient hourly statistical  $L_{10}$  and  $L_{50}$  noise level by more than 5 dBA at any appropriate receiver. This part of the City code is similar to the DEQ ambient degradation criteria with the exception that the City of West Linn criteria more stringent than the DEQ ambient degradation criteria.

The West Linn Community Development Code Section 55.100(D) also regulates the maximum allowable hourly statistical sound levels that can be generated by a new commercial development and the limits specified by the City are shown in Table 2.

**TABLE 2**  
**West Linn Maximum Allowable Hourly Statistical Noise Levels**

<b>Section 55.100(D) - Table 1</b>	
<b>Businesses or activities that can be expected to generate noise</b>	
<b>Allowable Statistical Noise Levels in Any One Hour</b>	
<b>7 am - 7 pm</b>	<b>7 pm - 7 am</b>
$L_{50}$ - 55 dBA	$L_{50}$ - 50 dBA
$L_{10}$ - 60 dBA	$L_{10}$ - 55 dBA
$L_{01}$ - 75 dBA	$L_{01}$ - 60 dBA

The maximum allowable criteria limits specified in the City code are the same as those specified in the state. However, there are more hours included in the “Nighttime” hour category in the West Linn code than in the DEQ code. As a result, Section 55.100(D) of the West Linn Community Development code becomes more stringent than the DEQ code..

### **Existing Ambient Noise Levels at Residences around the Development**

Noise measurements were made for 24 hours at two locations near the northeast corner of the site in the vicinity of homes nearest the site in the Barrington Heights development and homes nearest the site on Greene Street (Measurement Locations 2 and 3 of Figure 2). Those measurements began at 4 p.m. on January 21, 2004 and ended at 4 p.m. on January 22. Forty eight (48) hour noise measurements were made at a third location near the Summer Linn Apartments (Measurement Location 1 in Figure 2) beginning at 12 noon on January 24, 2004 and ending at 12 noon on January 26, 2004. The longer term measurements at Location 1 were made to provide information about the weekend noise levels generally found in the area.



### Measurement Procedure

Noise levels were measured using three Larson Davis Model 720 sound level meters which meet the American National Institute (ANSI) requirements for a Type 2 sound level meter. The detectors of the meters were set for “fast” response. The meters have a built-in microprocessor and memory capability that allowed calculations and storage of a variety of statistical data. The microphones were located approximately five feet above ground level. All three sound level meters were field calibrated prior to the noise measurement with a Larson Davis Model CA 250 sound level calibrator.

### Measurement Locations

Measurement Location 1 was located in the northwest corner of the site, approximately 450 feet east of Summerlinn Drive, and approximately 50 feet south of the Summer Linn Apartments (see Figure 2). Measurement Location 1 was selected to provide information on the ambient noise levels experienced by the occupants of the Summer Linn Apartment buildings nearest the proposed development.

Measurement Location 2 was located approximately 150 feet west of Tannler Drive, and approximately 75 feet south of the houses in Barrington Heights (see Figure 2). Measurement Location 2 was selected to provide information on the ambient noise levels experienced by the residents of homes in the Barrington Heights area nearest the proposed development.

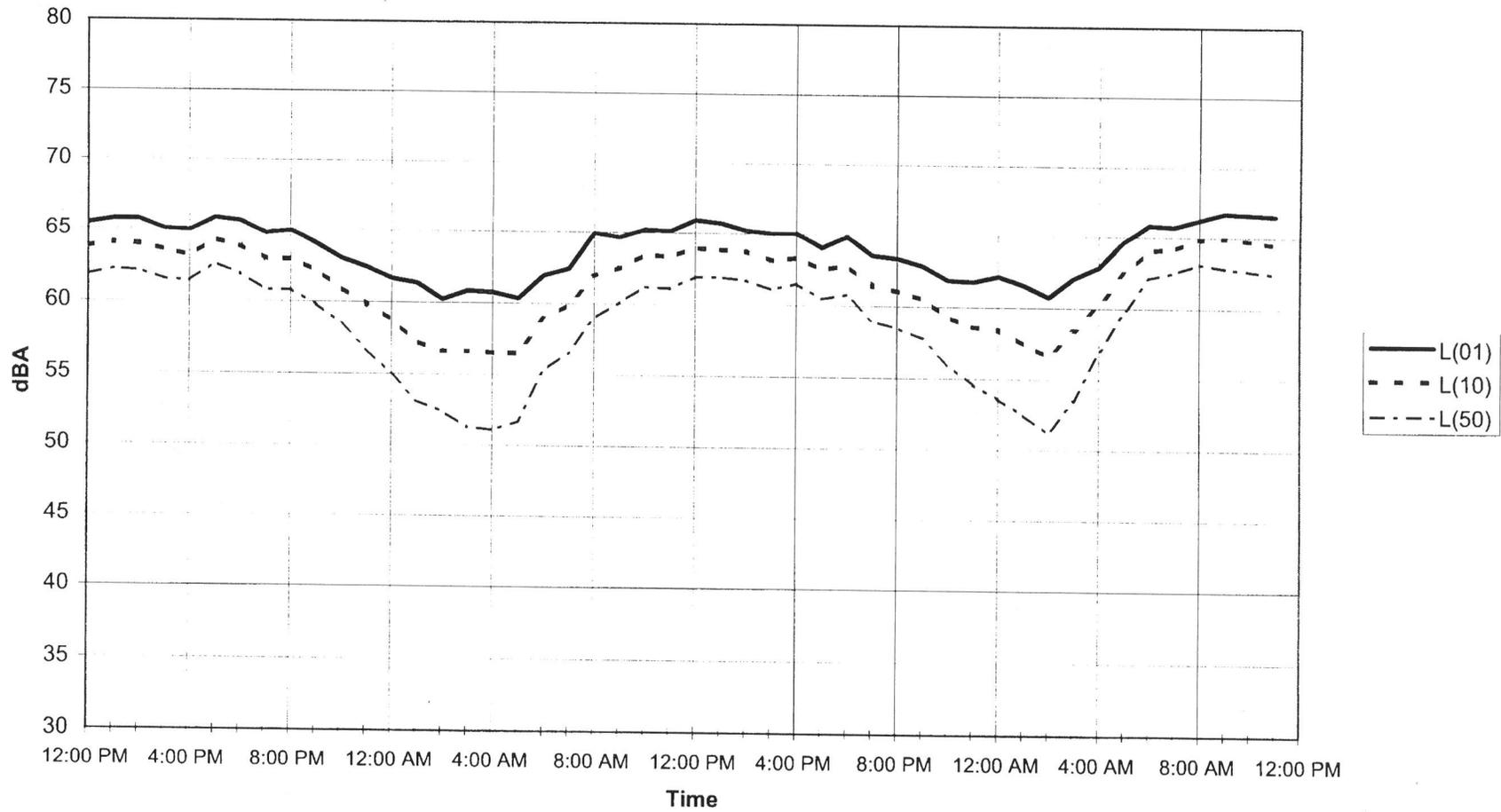
Measurement Location 3 was located approximately 25 feet east of Tannler Drive, and approximately 35 feet from the first home on Greene Street (see Figure 2). Measurement Location 3 was selected as a measurement point because it was at a much lower elevation than any other home in the area and the noise from Interstate 205 traffic (the major source of ambient noise in the area) appeared to be lower at that home than at any other home in the area. Therefore, to be conservative in defining the ambient noise, the measurement site was selected to provide ambient noise level data for the homes on Greene Street.

### Measurement Results

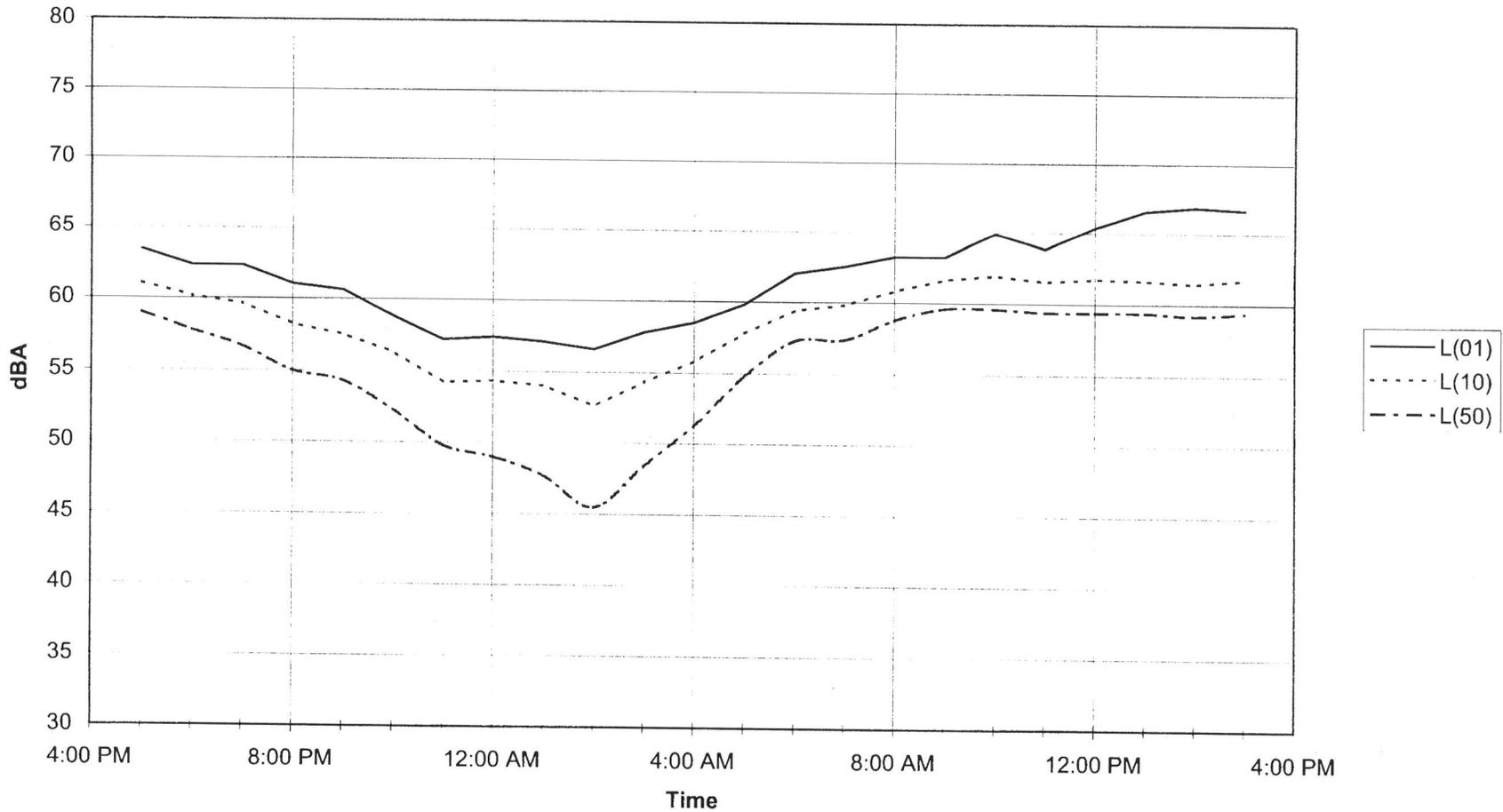
Figure 3 presents the ambient noise levels recorded at measurement Location 1. Figure 4 presents the ambient noise levels recorded at measurement Location 2 and Figure 5 presents the ambient noise levels recorded at measurement Location 3.

The ambient sound level measurement results indicate the noise levels at residences around the proposed office site already approach or exceed the West Linn and DEQ maximum allowable hourly statistical sound level limits for commercial and industrial sources. Therefore, the ambient degradation rule in the West Linn and DEQ regulations would be less stringent than the maximum allowable hourly statistical sound level limits and the predicted noise levels should be compared with the maximum allowable limits of both rules.

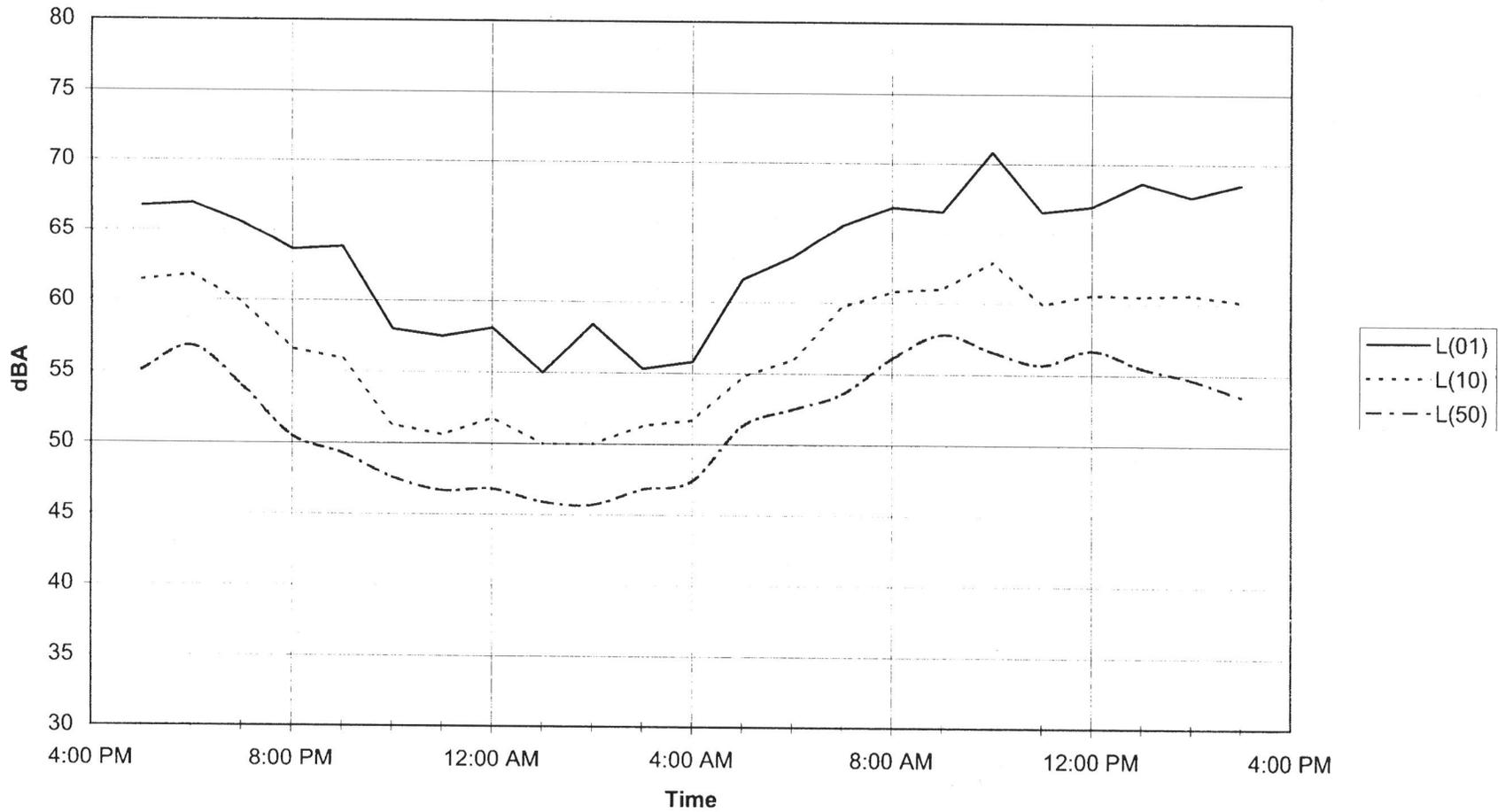
**Figure 3**  
**Ambient hourly L01, L10, & L50 sound levels - Location 1 (Summer Linn Apartments)**  
**Measured January 24, 2004 - January 26, 2004**  
*(See Figure 2 For Location)*



**Figure 4**  
**Ambient hourly L01, L10, & L50 sound levels - Location 2 (Barrington Heights home)**  
**Measured January 21, 2004 - January 22, 2004**  
*(See Figure 2 For Location)*



**Figure 5**  
**Ambient hourly L01, L10, & L50 sound levels - Location 3 (Greene Street home)**  
**Measured January 21, 2004 - January 22, 2004**  
*(See Figure 2 For Location)*





## Observations

Observations were made at each measurement location during various periods of the day to help establish the source of the ambient noise found at the locations. Traffic on Interstate 205 was the primary noise source influencing the hourly  $L_{01}$ ,  $L_{10}$ , and  $L_{50}$  noise levels measured in the vicinity of all 3 measurement locations. Noise from traffic on I-205 varied with the time of day as the volume of traffic changed but in general, the noise from the freeway was always present at a high enough level to be the primary source of environmental noise in the area.

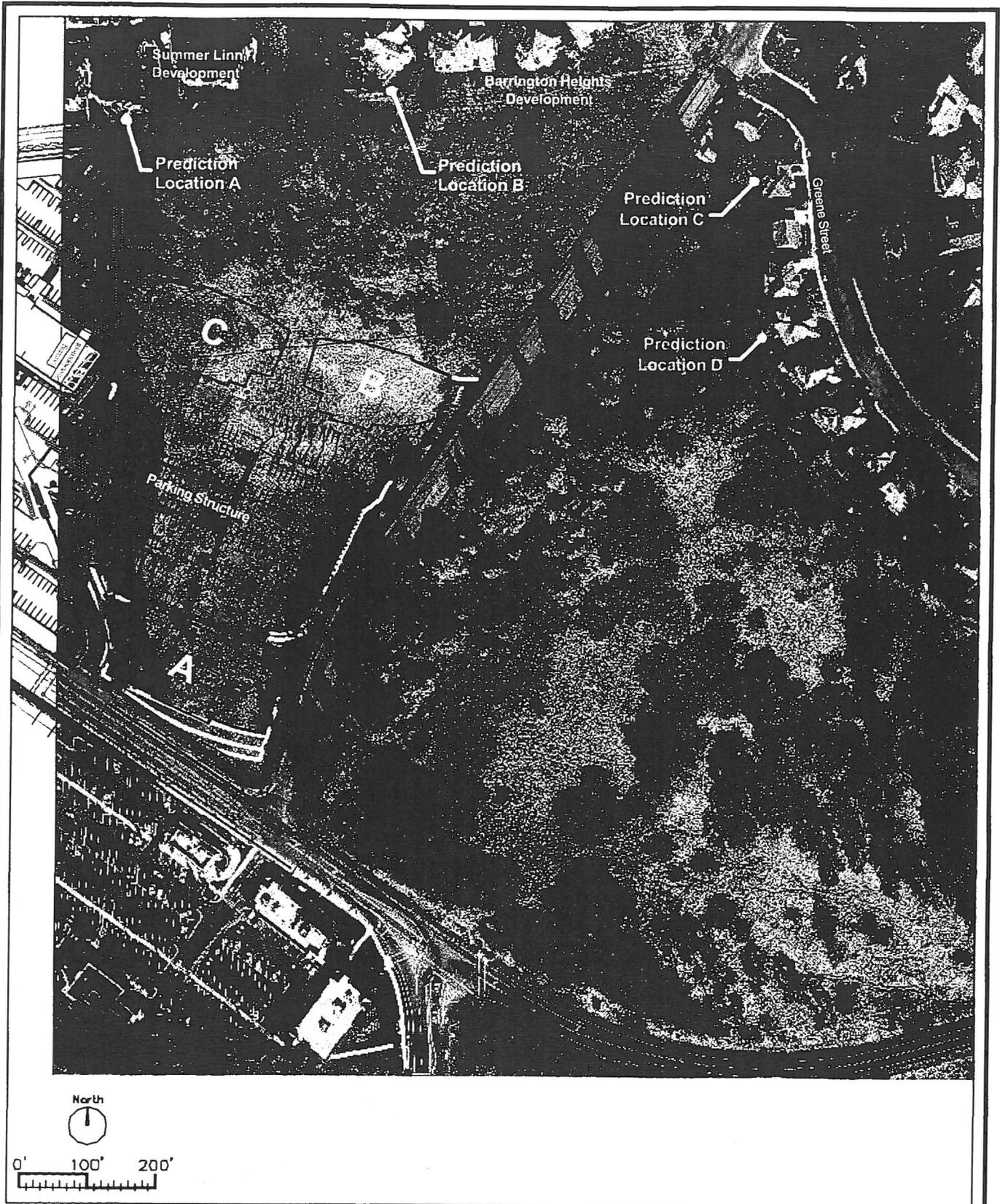
At measurement Location 1, a train horn was observed for a brief duration during an observation period, but sound from the horn was seldom observed to exceed 60 dBA. During an early morning observation period, people were arriving in their cars to the existing Building A office building in the West Linn Corporate Park I development. During that time period, the noise generated by closing car doors was never audible above the ambient noise caused by the freeway traffic. At times, noise from aircraft could be heard for a very brief duration at Location 1 as well as at Location 2 and Location 3.

At measurement Location 2 and 3, cars on Tannler Drive contributed some noise to the measured hourly statistical  $L_{01}$  and  $L_{10}$  sound levels during periods of higher traffic volumes along the road.

## ***Predicted Noise Radiating from the Office Complex***

### **Analysis Procedure**

The highest possible hourly statistical noise levels radiating from the Willamette 205 Corporate Center Phase II development were predicted at four residential locations. One location was directly north in the Summer Linn Apartments. A second location was to the north at the nearest home in the Barrington Heights development. The third location was at the Greene Street home with the quietest ambient noise levels and the fourth location was at the home on Greene Street nearest the proposed development. The four locations chosen are believed to have the greatest potential of receiving the highest noise levels from the proposed development or of having the greatest change in ambient noise caused by the development. The positions are labeled A, B, C, and D in Figure 6.



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**Nearby Residence Locations and  
 Noise Prediction Locations**

DESIGNED BY:	DRAWN BY: <b>CLA</b>	DATE: <b>8/23/2006</b>	PROJECT NO. <b>154061</b>	<b>Figure 6</b>
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The noise levels were predicted at positions 25 feet from the existing structures at those sites in accordance with the City of West Linn and the Oregon DEQ noise regulations. Noise levels were predicted using a computer program that includes the effects of atmospheric conditions, spreading loss, berms, barriers, vegetation, etc. Reference noise levels for HVAC units, automobiles, garbage trucks, and leaf blowers were obtained from published reference data and noise data measured by DSA. Car door slams were also measured by DSA, and included in the analysis of the predicted noise generated by the proposed Office Complex. The reference noise data used in the analysis are presented in Table 3.

TABLE 3

Reference Sound Levels Used in Predicting the Noise Radiating from the Office Complex

Source	Distance (ft)	Maximum Noise Level (dBA)
130-ton Trane Intellipak Commercial Packaged Rooftop Unit	33	67
Automobile – driving slowly	50	70
Automobile – idling	50	49
Automobile – car door slam*	50	71
Garbage Truck	50	72
Recycling Truck	50	65
Delivery Truck	50	59
Leaf Blower	10	83
Parking Lot Sweeper	50	60

\*The sound during a car door slam was found to exist for approximately 180ms. During that time, the SPL rose to the maximum level shown and then decreased back down to below the ambient noise during the measurement.

To predict the loudest nighttime (7 PM – 7 AM) hour statistical noise levels, the following assumptions were included in the analysis:

- All of the rooftop units are operating continuously and simultaneously during the entire loudest nighttime hour. The rooftop units will be located close to the center of the three buildings. The source height of the noise radiating from the rooftop units was assumed to be 4 feet above the roof elevation.
- A garbage truck (the loudest of a garbage, a recycling, or a delivery truck) is at the site during the loudest nighttime hour.
- 4 automobiles are traveling at 15 mph during the entire hour in the parking lot and
- 4 automobiles are idling during the entire hour in the parking lot.
- 50 car door slams occur in the parking area during the hour.



To predict the loudest daytime (7 AM – 7 PM) hour statistical noise levels, the following assumptions were included in the analysis:

- All of the rooftop units are operating continuously and simultaneously during the entire loudest daytime hour.
- 10 automobiles are idling in the parking lot simultaneously for an entire hour and
- 10 automobiles are driving at 15 mph in the parking lot simultaneously for an entire hour.
- A leaf blower (with a higher noise level than a parking lot sweeper) is at the site during the loudest hour.
- A garbage truck (the loudest of a garbage, a recycling, or a delivery truck) is at the site during the loudest hour.
- 200 car door slams occur during the loudest hour.

With both scenarios, the assumptions are very conservative because, as one example, it is very unlikely that there will ever be a time when all the rooftop HVAC equipment will operate continuously during any hour. Also, it is not likely that every person arriving at the building will actually “slam” their car door which is assumed in the analysis.

In assessing the site generated noise, the loudest possible daytime and nighttime hour noise levels were compared with the West Linn and Oregon DEQ daytime and nighttime criteria.

**Analysis Results**

The loudest possible hourly statistical sound levels predicted at the nearest residences are shown in Table 4.

**TABLE 4**  
**Loudest Possible Hourly L<sub>01</sub>, L<sub>10</sub>, and L<sub>50</sub> Noise Levels Radiating from Willamette 205 Corporate Center Phase II during Daytime and Nighttime Hours**

Residence Location	Loudest Nighttime Hour (7PM – 7 AM)			Loudest Daytime Hour (7AM – 7 PM)		
	L(01)	L(10)	L(50)	L(01)	L(10)	L(50)
A – Nearest Summer Linn Apartment	45	40	40	50	40	40
B – Nearest Barrington Heights Home	47	42	42	53	42	42
C – Greene Street Home w/quietest ambient	53	38	38	56	38	38
D – Nearest Greene Street Home	53	38	38	56	38	38
*Note – noise levels presented are the loudest noise levels that could ever be expected to radiate from the site, but they are not considered typical. **See Figure 6 for Residence Locations.						



The results of the analysis show that the noise radiating from the Willamette 205 Corporate Center Phase II Office buildings will be well under the West Linn and DEQ maximum allowable hourly statistical noise limits during daytime and nighttime hours (see Table 1 and Table 2 for criteria).

Because there have been concerns voiced by members of the West Linn City Council in the past with the impact of noise generated by car door closures in parking lots, it should be noted that the noise generated by “slamming” car doors would virtually be inaudible because the parking area will be blocked from view of the nearest residences by the northern buildings. It is predicted that the loudest hourly  $L_{01}$  noise level caused by slamming car doors would be in the range of 29 dBA at the nearest residence; Location A (the Summer Linn Apartments); well below the ambient noise in the area. Slamming car doors would provide no contribution to the predicted hourly  $L_{10}$  or  $L_{50}$  noise level because the duration of one slam is less than 187 milliseconds and there could never be enough total occurrences in an hour to contribute a total of 30 minutes of sound (the hourly  $L_{30}$  period) much less 6 minutes of sound (the hourly  $L_{10}$  period).

Even though the ambient degradation rule will not be the controlling criteria for this project, a prediction was made of the change that would occur in the ambient noise level at the four prediction locations if the project was allowed to be constructed. It was predicted that there would be no change in ambient hourly  $L_{10}$  or  $L_{50}$  noise levels with the construction of the Willamette 205 Corporate Center Phase II.

## ***Conclusions***

Based on the results of the noise study, we conclude that the noise radiating from the proposed Willamette 205 Corporate Center Phase II office complex will meet all state and local noise regulations during daytime and nighttime hours

The noise radiating from the proposed office center will have virtually no influence on the existing environmental noise levels found at residences around the site.

## Shroyer, Shauna

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**To:** Boyd, John  
**Subject:** RE: My Client, ConAm Properties, LLC; Response to Inaccurate Information Provided to Willamette Neighborhood Association Meeting on August 12

John Boyd, Planning Manager  
Planning, #1524



Please consider the impact on the environment before printing a paper copy of this email.  
This e-mail is subject to the State Retention Schedule and may be made available to the public.

-----Original Message-----

**From:** Robinson, Michael C. (Perkins Coie) [MRobinson@perkinscoie.com]  
**Received:** Thursday, 20 Aug 2015, 4:17PM  
**To:** Willamette Neighborhood Association [WillametteNA@westlinnoregon.gov]  
**CC:** Robinson, Michael C. (Perkins Coie) [MRobinson@perkinscoie.com]; [mmahoney@conam.com](mailto:mmahoney@conam.com) [mmahoney@conam.com]; Stephenson, Garrett H. (Perkins Coie) [GStephenson@perkinscoie.com]; [rmorgan@conam.com](mailto:rmorgan@conam.com) [rmorgan@conam.com]; [jeff@parkerdev.com](mailto:jeff@parkerdev.com) [jeff@parkerdev.com]; Kerr, Chris [ckerr@westlinnoregon.gov]; Boyd, John [jboyd@westlinnoregon.gov]; [michael@prospectpdx.com](mailto:michael@prospectpdx.com) [michael@prospectpdx.com]; Pelz, Zach [ZPELZ@westlinnoregon.gov]  
**Subject:** My Client, ConAm Properties, LLC; Response to Inaccurate Information Provided to Willamette Neighborhood Association Meeting on August 12

Dear Ms. Holmes,

Attached please find my letter and exhibits on behalf of ConAm Properties, LLC regarding the August 12 Willamette Neighborhood Association meeting.

Thank you.

**Michael C. Robinson | Perkins Coie LLP**

PARTNER

1120 N.W. Couch Street Tenth Floor

Portland, OR 97209-4128

D. +1.503.727.2264

C. +1.503.407.2578

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E. [MRobinson@perkinscoie.com](mailto:MRobinson@perkinscoie.com)



Selected as 2014 "Law Firm of the Year"  
in Litigation - Land Use & Zoning by  
U.S. News – Best Lawyers® "Best Law Firms"

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NOTICE: This communication may contain privileged or other confidential information. If you have received it in error, please advise the sender by reply email and immediately delete the message and any attachments without copying or disclosing the contents. Thank you.

August 20, 2015

Michael C. Robinson  
MRobinson@perkinscoie.com  
D. +1.503.727.2264  
F. +1.503.346.2264

**VIA EMAIL**

Ms. Gail Holmes, President  
Willamette Neighborhood Association  
801 Wendy Court  
West Linn OR 97068

**Re: My Client, ConAm Properties, LLC; Response to Inaccurate Information Provided to Willamette Neighborhood Association Meeting on August 12, 2015**

Dear Ms. Holmes:

I am writing to you in your capacity as President of the Willamette Neighborhood Association (the "WNA"). The purpose of my letter is to correct certain information concerning the ConAm application that was provided to those attending the WNA meeting on Wednesday, August 12, 2015.

- 1. West Linn Ordinance No. 1622 (adopted June 2, 2014) did not change the maximum height allowed in the OBC zone nor did ConAm ask for it to be changed.**

Ordinance No. 1622 did not amend the Office Business Center ("OBC") maximum height in West Linn Community Development Code ("CDC") 21.070 for uses permitted outright and uses permitted under prescribed conditions.

CDC 21.070.A establishes dimensional requirements, including maximum height, for permitted uses and uses permitted under prescribed conditions in the OBC zone. CDC 21.070.A.6 provides in its entirety:

**"The maximum building height shall be 2-1/2 stories or 35 feet for any structure located within 50 feet of a low or medium-density residential zone and 3-1/2 stories or 45 feet for any structure located 50 feet or more from a low or medium-density residential area."**

Ordinance No. 1622, Section 24, amended several zoning districts' dimensional requirements, including the OBC zone. The amendments to the OBC zone included amendments to the dimensional requirements in CDC 21.070.A.1-4 but Ordinance No. 1622 did *not* amend the maximum height in the OBC zone. (**Exhibit 1, Pages 28 and 36**).

Those attending the WNA meeting were told that the City Council had changed the maximum height in the OBC zone and that there was “talk” that “they” (presumably meaning ConAm) had asked the City to adopt an amendment to the OBC’s zone maximum height.

Not only did the City Council not change the maximum height in the OBC zone but at no time did my client or its representatives ask the City to amend the maximum height of permitted and uses permitted under prescribed conditions in the OBC zone.

- 2. Neither the Savanna Oaks Neighborhood Association (“SONA”) nor have the Barrington Heights, Tanner Woods, Hidden Creek (“BHT”) Neighborhood Associations adopted a resolution opposing the ConAm application as of the date of this letter.**

Those attending the WNA meeting twice heard that SONA and BHT had adopted resolutions opposing the ConAm application as of August 12, 2015. Those statements were incorrect. SONA will consider a resolution on the ConAm application at its August 25, 2015 special meeting (**Exhibit 2**).

Ms. Meredith Olmsted is the acting president of BHT. My office received the following email from Ms. Olmsted on Friday, August 14, 2015:

**“We have had no meeting to pass a resolution as yet. We have agreed only to request standing should it become necessary in the future. . . . We will meet again on Monday, August 24, 2015. That proposed development is on our agenda.”**

Thus, neither neighborhood association had adopted a resolution concerning the ConAm application on August 12, 2015.

- 3. The Robinwood Neighborhood Association (“RNA”) August 11, 2015 agenda did not include an old business item to adopt a resolution concerning the ConAm application..**

I have attached the RNA August 11, 2015 agenda (**Exhibit 3**). Ms. Swartz [sic] is shown as a guest speaker to discuss the ConAm application. The RNA adopted the resolution but did so without an agenda item expressly providing that the resolution would be considered and thus violated its by-laws. The RNA by-laws, Article 3, Section 1 (C), state that voting shall be limited to old business agenda items unless a new business agenda item is considered “time is of the essence” and a resolution so stating is adopted. The August 11, 2015 agenda has no item for ConAm under either the old or new business items. Thus, no person reading the agenda could

Ms. Gail Holmes, President  
August 20, 2015  
Page 3

have known that a resolution was to be considered. The RNA had no authority to vote on a resolution at the August 11 meeting.

The draft agenda is still on the RNA website. The minutes and resolution for that meeting show that there was a vote to consider the motion "time sensitive" (**Exhibit 4**). Therefore, the resolution must have been at least listed as new business on the agenda. The resolution was not listed as new business on the agenda. The August 11, 2015 draft RNA agenda has no item under the old business portion of the agenda related to ConAm.

**4. Conclusion.**

I would appreciate your distributing this letter to those attending the next WNA meeting.

Very truly yours,



Michael C. Robinson

MCR:rsr  
Enclosures

cc: Mr. Mike Mahoney (w/ encls.) (via email)  
Mr. Rob Morgan (w/ encls.) (via email)  
Mr. Jeff Parker (w/ encls.) (via email)  
Mr. Chris Kerr (w/ encls.) (via email)  
Mr. John Boyd (w/ encls.) (via email)  
Mr. Zach Pelz (w/ encls.) (via email)  
Mr. Michael Selvaggio (w/ encls.) (via email)

...

25. Lodge, fraternal, community center and civic assembly not listed as permitted uses in 19.030. (Ord. 1192, 1987; Ord. 1339, 1992; Ord. 1463, 2000; Ord. 1523, 2005; Ord. 1590 § 1, 2009; Ord. 1604 §§ 16, 17, 2011)

26. Extended hour businesses that include a new building or expansion of an existing structure.

OFFICE BUSINESS CENTER

21.030 PERMITTED USES

The following uses are permitted outright in this zone:

...

7. Hotel/Motel; including those operating as extended hour businesses.

...

~~21.040 ACCESSORY USES~~

~~Accessory uses are allowed in this zone as provided by Chapter 34 CDC.~~

21.060 CONDITIONAL USES

The following uses are conditional uses which may be allowed in this zone subject to the provisions of Chapter 60 CDC, Conditional Use:

...

~~6. Transient lodging and associated convention facilities.~~

**SECTION 24. Amendment.** Sections 08.070, 09.070, 10.070, 11.070, 12.070, 13.070, 14.070, 15.070, 16.070, 18.070, 19.070, 21.070, 22.070, and 23.070 of the City of West Linn Community Development Code, relating to lot dimensional and setback requirements are amended to read as follows:

R 40

08.070 DIMENSIONAL REQUIREMENTS, USES PERMITTED OUTRIGHT AND USES PERMITTED UNDER PRESCRIBED CONDITIONS

~~landscaped areas.~~ If there are not street trees within the public right-of-way, the front setback area shall include such trees per the requirements of the City Arborist.

~~8. For lot lines that abut streets with an expected average daily trip total of more than 18,000 vehicles, a minimum of 20 feet.~~

#### OFFICE BUSINESS CENTER

#### 21.070 DIMENSIONAL REQUIREMENTS, USES PERMITTED OUTRIGHT AND USES PERMITTED UNDER PRESCRIBED CONDITIONS

A. Except as may be otherwise provided by the provisions of this code, the following are requirements for uses within this zone:

1. The minimum front lot line length or the minimum lot width at the front lot line shall be 35 feet.

2. The average minimum lot width shall be 35 feet.

~~3. The average minimum lot depth shall not be less than 90 feet.~~

4. The ~~minimum~~ yard dimensions or ~~minimum~~ building setback area from the lot line shall be:

a. ~~For an~~ Interior side yard, a minimum of seven and one-half feet.

b. ~~For a s~~ Side yard abutting a street, no minimum ~~15 feet.~~

c. ~~For a r~~ Rear yard, a minimum of 25 feet; ~~however, where the use abuts a residential district, the setback distance of the residential zone shall apply, and, in addition, a buffer of up to 50 feet may be required.~~

...

~~5. For lot lines that abut an arterial, there shall be no minimum yard dimensions or minimum building setback area, and the maximum building setback shall be 20 feet.~~

d. Front yard, no minimum and a 20-foot maximum. The front setback area between the street and the building line shall consist of landscaping or a combination of non-vehicular hardscape areas (covered with impervious surfaces) and landscaped areas. If there are not street trees within the public right-of-way, the front setback area shall include such trees per the requirements of the City Arborist.

...

~~e. For lot lines that abut streets with an expected average daily trip total of more than 18,000 vehicles, a minimum of 20 feet.~~

## **Savanna Oaks Neighborhood Association Meeting**

**In the Community Room of the TVF&R Fire Station  
1860 Willamette Falls Drive, West Linn, OR 97068**

**August 22, 2015  
5:00 PM**

### **\*\*\* SPECIAL MEETING \*\*\***

#### **Agenda**

---

1. Call to order.
2. New Business.
  - a. Discussion and possible vote on a resolution concerning the ConAm Application (DR-15-11) for development of 180 apartment units and commercial space at the corner of Blankenship Road and Tannler Drive.
  - b. Other business as may come before the meeting.
3. Adjourn.

Robinwood Neighborhood Association of the City of West Linn  
Draft Agenda – August 11, 2015  
Tuesday at 7:00 pm  
Robinwood Station, 3706 Cedar Oak Drive, West Linn

1. **Call to Order, Agenda Review and Introductions**
2. **Approval of Minutes** July 14, 2015
3. **Treasurer Report** Tony Bracco
4. **Guest Speakers:** Andrew Tull, Present proposed development at 18000 Upper Midhill Drive.  
Roberta Swartz, Present 192 Apartments at Tanner and Blackenship.  
Karen Simms-Bundy, Proposal for Dog Leash Hours at Mary S. Young Park
5. **Announcements, City and Community Events:**  
Robinwood NA Picnic on August 22, Saturday,  
Volunteers needed
6. **Updates:** Robinwood Station: Randall Fastabend  
Community Garden: Randall Fastabend
7. **Committee Reports:** Parks & Rec: Don Kingsborough  
  
Community Development: Kevin Bryck  
Public Works: Tony Bracco  
  
Emergency Preparednes/MYN:  
Peter Herring/Christine Steel  
Economic Development Comm:
8. **Old Business**
9. **New Business**
10. **Adjournment**

Robinwood Neighborhood Association Board Members  
Kazi Ahmed, President, presidentrna@gmail.com  
Jim O'Toole, Vice President, vicepresidentrna@gmail.com  
Kevin Bryck, Secretary, secretaryRNA@gmail.com Anthony  
Bracco, Treasurer  
Curt Sommer, Member-At-Large

Robinwood Neighborhood Association of the City of West Linn  
Minutes August 11th, 2015

Meeting of the Robinwood Neighborhood Association(RNA) called to order at 7:0 pm.

**Agenda** approved with additions to new business.

**Introductions of new guests:** Sumdar, Michael Piece, Paul & Theresa Carney, Tim Crane  
Karen Simms-Bundy, Jerry, Lynne, Crystal, Sally Walker, Bob & Marsha Nicoles, Steve, Tom M

**July 2015 Minutes** approved by voice vote, Motion by Mike M , second by Tony Bracco.

**Treasurer Report:** Payment of \$103.05 on 07/14 results in a balance of \$1871.54. There is a balance due to FORS+/- \$200.

**Guest Speakers:** Andrew Tull 3J Consulting - Proposed development at 18000 Upper Midhill Drive at north terminus of street. 34 single family detached subdivision with average lot size 6250sf within R4.5 zoning. Type 3 land use process. Parts of Scenic Drive right-of-way were abandoned. Higher density than surrounding homes. Additional lot size tends to back on existing lots to save trees and water resource area and create buffer. Beginning of process.

Roberta Swartz - Rezoning at Tanner and Blankenship for 180 Apartments, lowered from 192 due to only 2 driveways. Con-Am is apartment developer. Previously denied so new proposal with only 3000sf of commercial space included as end run around zoning. We have only until August 26th to gather opposition, since city eliminated de novo hearings. Parking space on site is inadequate and plan calls for street parking on Tannler. 1.3 acres lot line adjustment to be retained by current owner for unknown purpose.

Motion that issue is time sensitive by Mary Hill, second by Tony Bracco. Motion passes.  
Motion by Crystal Greenlend, second by Tillie Hoffberg to adopt resolution (attached) opposing the proposed development passed with 10 ayes, 2 nays and 2 abstentions.

Karen Simms-Bundy - Proposal for dog off-leash hours at Mary S. Young Park to be presented at September Park and Rec Board meeting.

**Announcements:**

Next City Council Meetings 9/14 at 6:30pm and City Council Work Sessions 9/21 at 6pm  
Willamette NA meeting tomorrow 8/12 7pm Police Station and Bolton NA Meeting 8/18 7pm  
Movies in the Park at Tannler Creek on Friday 8/14 8pm

**Updates:**

**Community Garden:** Lisa Clifton - Garden going great.

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**Committee and Community Reports:**

**Parks & Rec:** Cedaroak boat ramp minor dredging took place last week.

**Community Development:** 2 Pre-Apps for Robinwood 8/20 10 & 11am

**Public Works:** Tony Bracco - Street Paving continues with equipment left blocking Lower Midhill. Delay paving Shady Hollow due to moving utility pole and installing vault.

**Emergency Preparedness:** Christine Steel - September is Preparedness Month.

Big Emergency Preparedness Fair 9/24 at LDS Church.

New leadership classes available for sign-up.

**Old Business:**

More volunteers needed for picnic. Scott Stoneking and Kim Eback volunteered.

**New Business:**

SONA Resolutions to be considered next month.

Crystal Greenlend on View Dr. has concerns about invasive weeds spreading from adjacent commercial property and speeders on her street. Advised to use Clackamas resolution service.

Adjourned at 8:35 **Attendees: 56**

**EXHIBIT 4**

# Robinwood Neighborhood Association City of West Linn

Resolution adopted August 11th 2015 regarding Planning Project DR-15-11

Motion by Crystal Greenlend, seconded Tillie Hoffberg, approved with 10 ayes, 2 nays and 2 abstentions:

The Robinwood Neighborhood Association opposes Project DR-15-11, the application for the apartment development at the intersection of Tannler and Blankenship based upon the following criteria:

CDC 55.030(c)(1) requires the Planning Commission to consider criteria set forth in CDC 99.110 in addition to the conditions in CDC 55 when considering Class II Design Reviews; and CDC 99.110 provides for consideration of "applicable standards of any provision" of the Community Development Code.

Community Development Code 21.010 describes the purpose of the Office Business Center zone currently existing on the Tannler property as to contribute to the commercial spaces in West Linn.

The proposed design is not compatible with the stated purpose of the Office Business Center zone described in CDC 21.010,

The plan for the Tannler development drastically emphasizes residential development to the detriment of commercial uses and to the intent of the OBC zone as described in the CDC. The supposed commercial space consists of 7 underground /daylight single garage spaces with a glass facade substituted for the roll-up door, an abuse of the OBC zoning.

Placing a predominantly residential development into an OBC zone contrary to the stated intent of the zone sets a poor precedent with regard to future applications.

The Tannler property represents one of the last remaining undeveloped OBC zones in the City, which demands that the application be treated with deep consideration.

A prudent decision by the Planning Commission and the City Council will consider the long-term best interest of the entire City rather than the short-term most marketable use of a single property.

The proposed development engenders a number of unanswered questions regarding parking, traffic, safety, and surface water management.

The Robinwood Neighborhood Association urges the Planning Commission and the City Council to deny the Class II Design Review application and lot line adjustment.

Submitted by the Robinwood Neighborhood Association Secretary.

# Robinwood Neighborhood Association City of West Linn

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Submitted by the Robinwood Neighborhood Association Secretary.

# Robinwood Neighborhood Association of the City of West Linn Minutes August 11th, 2015

Meeting of the Robinwood Neighborhood Association(RNA) called to order at 7:0 pm.

**Agenda** approved with additions to new business.

**Introductions of new guests:** Sumdar, Michael Piece, Paul & Theresa Carney, Tim Crane  
Karen Simms-Bundy, Jerry, Lynne, Crystal, Sally Walker, Bob & Marsha Nicoles, Steve, Tom M

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**Parks & Rec:** Cedaroak boat ramp minor dredging took place last week.

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SONA Resolutions to be considered next month.

Crystal Greenlend on View Dr. has concerns about invasive weeds spreading from adjacent commercial property and speeders on her street. Advised to use Clackamas resolution service.

**Adjourned at 8:35 Attendees: 56**

# RESOLUTION

*of the*

## WILLAMETTE NEIGHBORHOOD ASSOCIATION

---

To the West Linn City Council and West Linn Planning Commission:

The Willamette Neighborhood Association respectfully represents as follows:

Whereas development near the intersection of Tannler Drive and Blankenship Road is likely to have significant impacts on the surrounding community; and,

Whereas a four-story mixed-use development has no precedent in the city limits of West Linn; and

Whereas potential stresses on local infrastructure and public services are issues of concern for Willamette residents and businesses; and,

Whereas the Willamette Neighborhood Association has consistently noted the value of robust commercial spaces as part of a well-planned community; and,

Whereas the Tannler property represents one of the last remaining undeveloped OBC zones in the City, which demands that any application to the property be treated with deep consideration; and,

Whereas CDC 55.030(c)(1) requires the Planning Commission to consider criteria set forth in CDC 99.110 in addition to the conditions in CDC 55 when considering Class II Design Reviews; and CDC 99.110 provides for consideration of “applicable standards of any provision” of the Community Development Code; and,

Whereas Community Development Code 21.010 describes the purpose of the Office Business Center zone currently existing on the Tannler property as to contribute to the commercial spaces in West Linn; and,

Whereas it is the sense of the Willamette Neighborhood Association that the plan for the Tannler development presented to the Association drastically emphasizes residential development to the detriment of commercial uses and to the intent of the OBC zone as described in the CDC; and,

Whereas it is the sense of the Willamette Neighborhood Association that imposing a transparently residential development into a OBC zone contrary to the stated intent of the zone sets a dangerous and careless precedent with regard to future applications; and,

Whereas it is the sense of the Willamette Neighborhood Association that a prudent decision by either the Planning Commission or the City Council will consider the long-term best interest of the entire City rather than the short-term most marketable use of a single property; now, therefore,

Be it resolved:

1. That it is the position of the Willamette Neighborhood Association that the proposed development engenders a number of unanswered questions regarding traffic, safety, and water management; and,
2. That The Willamette Neighborhood Association finds that the proposal is not compatible with the Willamette Neighborhood Association’s Vision Plan – particularly with regard to maintenance of vibrant business growth; and,
3. That the Willamette Neighborhood Association finds that the proposed design is not compatible with the stated purpose of the Office Business Center zone described in CDC 21.010, and urges the Planning Commission and the City Council to deny a Class II Design Review application; and,
4. A copy of this resolution shall be delivered to the West Linn City Council, the West Linn Planning Commission, and be recorded in the minutes of the Willamette Neighborhood Association.

Adopted August 12, 2015