

STAFF REPORT
OUTDOOR MUSIC VENUE PERMIT

CASE NUMBER: SO-20009-0127M

NAME AND LOCATION OF BUSINESS: Sustainable Waves, 4822 E. Cesar Chavez

ZONING: CS-CO-NP

APPLICANT: Neal Turley

AGENT: Gary Etie

REQUEST: Outdoor Music Venue Permit

10/7/09 - Application received

10/12/09 - Noticed mailed to property owners within 600'

10/26/09 – Deadline to register as interested party

11/11/09 – Appeal Filed

11/13/09 – Deadline to appeal decision

STAFF RECOMMENDATION: Deny Appeal

FINDINGS:

- Venue is surrounded by commercial properties
- Only 3-4 events are held per year
- Direction of stage is directed toward commercial property and away from residential uses and advanced sound equipment helps focus main part of sound to a localized area (input by Gary Luedecke, Channel 6)

HOURS OF OPERATION:

10:00 a.m. to 10:30 p.m. - Sunday

10:00 a.m. to 10:00 p.m. - Monday - Wednesday

10:00 a.m. to 11:00 p.m. - Thursday

10:00 a.m. to Midnight - Friday & Saturday

LEGAL INTERESTED PARTIES:

Daniel Llanes, 4907 Red Bluff Rd.

J. David Moriaty, 4903 Red Bluff Rd.

Linda Marroquin, 4616 E. Cesar Chavez

Thomas H. Atkinson, 5005 Red Bluff Rd.

Michael Bayer, 4901 Red Bluff Rd.

Eugenia G. Than, 102 Springdale Rd.

Ricardo Sanchez, 508 Springdale Rd.

EMAILED COPY OF PERMIT AND SITE PLAN WHEN APPROVED TO:

Officer Jose Rodriguez, CE DR, APD

Officer Chris Davis, CE Patrol, APD

Sergeant Robert Jones, APD

Leander Davila, Constituent Liaison to City Hall, APD

COMPLAINTS SINCE PERMIT ISSUED: Provided by Leander Davila, APD

10/30/09 20:40 Complainant unknown

Decibel reading at 95db. Officer spoke with security to have them turn it down. Also spoke with manager of the operation Todd Hayley.

10/30/09 23:11 Complainant Daniel

Complainant called 3 times. Once to call in the complaint, second to state it got louder, and third to check the status.





City of Austin Planning and Development Review Department
505 Barton Springs Road / P.O. Box 1088 / Austin, Texas 78767-8835

**OUTDOOR MUSIC
VENUE APPEAL**

If you are an applicant or interested party, and you wish to appeal a decision on an Outdoor Music Venue permit, the following form must be completed and filed with the Director of Planning and Development Review Department, City of Austin, at the address shown above. The deadline to file an appeal is 14 days after the decision was issued by the accountable official. If you need assistance, please call (512) 974-2686.

CASE NO. SO-2009-0127M _____

DATE APPEAL FILED 11-11-09 _____

VENUE NAME _Sustainable Waves_

YOUR NAME _Daniel Llanes, River Bluff Neigh.
Association_

VENUE ADDRESS _4822 E. Cesar Chavez St._

SIGNATURE _____ send by email _____

CITY CONTACT _____

YOUR ADDRESS _49097 Red Bluff Rd. _____

SECTION OF CODE APPEALED: _____

YOUR PHONE NO. (512) _431-9665_ **WORK**
() _____ **HOME**

INTERESTED PARTY STATUS: Indicate how you qualify as an interested party who may file an appeal by the following criteria: (Check one)

- ☒ X I am the notice owner of single family use
- ☐ I am the applicant or agent representing the applicant
- ☒ X I am a representative of a neighborhood association and submitted my opposition in writing (date) _____
- ☐ I am the notice owner of a multifamily use located adjacent to the venue (new permits only)

In addition to the above criteria, I qualify as an interested party by one of the following criteria: (Check one)

- ☒ X I am the notice owner of single family use located within 600 feet of the subject site.
- ☐ I am the notice owner of a multifamily use located adjacent to the venue.
- ☒ X I am an officer of a neighborhood or environmental organization whose declared boundaries are within 600 feet of the subject site.

DECISION TO BE APPEALED*: (Check one)

- ☐ Approval of an Outdoor Music Venue Permit
- ☒ X Denial of an Outdoor Music Venue Permit

Date of Decision: _____

Date of Decision: _____

STATEMENT: Please provide the decision being appealed and the specific grounds for the appeal. If specific grounds are not provided appeal will not be considered valid:

Our neighborhood is 60 – 65 % (23 households) of the properties on Cesar Chavez and Red Bluff Rd. are residential, with residential at Tillery Square (43 households), homes on Tillery, Shady and Gonzalez, and just north of this property. My N. A plus 4 residential neighborhoods (registered associations) around this property, are all members of the Govalle/Johnston Terrace Neighborhood Planning Team, in all directions of this property. The area seems to be commercial, but indeed there is a large saturation of long standing residences in this area. Approximately 65% of the area is residential, and a permanent outdoor music venue is be incompatible and would not be appropriate for these neighborhoods.

East Austin residents have had to endure pollution from the Tank Farms, BFI, numerous industrial sites having 18 wheelers idling for hours on end, polluting the air & killing our trees and making residents ill, and now we are having to endure this unregulated barrage of venues that are creating unbearable

noise pollution.

Further, the applicant violated their permit during SXSW this past year, forged their permit and there was complicity within the permitting office, APD and the Sherriff's office. We are being inundated with outdoor music venue permits in our area, non of which are suitable for this area.

We have also experienced evasive behavior and "stonewalling" from, and have no confidence that the personell in the permitting office are honest or have our interests in mind. They have been "too friendly" with music venue permit applicants. The paper work his also extremely confusing to us. We are being force to resubmit our complaint and the permitting office seems to be "making up the rules as we go along".

I am including the comments of those other neighbors who are also opposed to this permit, and ask that they be included as part of this appeal.

Ms. Hilling, you have their comments, please submit them with this appeal notice so we have their comments on record.

Sylvia Marroquin – 4616 E. Cesar Chavez, David Moriaty – 4903 Red Bluff Rd., Mike Bayer – 4901 Red Bluff Rd., Thomas H. Atkinson – 5005 Red Bluff Rd., Javier Luis – 4600 E. Cesar Chavez, Andres Aviles Castro & Juan Castro – 901 Springdale, David Perez – 4600 E. Cesar Chavez, Amelia Garcias – 4600 E. Cesar Chavez, Mar Gacia – 4600 E. Cesar Chavez, Rigo Rivas – 4926 E. Cesar Chavez, Roy Rellrigu – 4926 E. Cesar Chavez, Nathan Daley – 4616 E. Cesar Chavez, Kelley McBride – 4616 E. Cesar Chavez, Cristina Herencia, PhD – 4600 E. Cesar Chavez, Gloia M Castillo – 4926 E. Cesar Chavez,

(Attach additional page if necessary.)

INTERESTED PARTY INFORMATION

Interested parties are specifically defined in section 9-2-27 of the City Code. To view the Code on-line, go to this link:
http://www.aunlegal.com/austin_tx/.

Besides the applicant or owner listed in an application, a person can become an interested party if they communicate an interest to the City through the Case Manager and if they satisfy at least one of the following criteria: 1) they are notice owner of single family use that is within 600 feet of the proposed venue; 2) for new permits they are the notice owner of a multifamily use located adjacent to the venue or 3) they are a representative of a neighborhood organization whose boundaries are within 600 feet of the proposed venue and entitled to notice under Section 9-2-26 (Notice Requirements for Outdoor Music Venues).

If a person satisfies the criteria to become an interested party, they must communicate an interest by delivering a written statement to the Accountable Official or by making telephone contact with the Accountable Official. The communication must: 1) generally identify the issues of concern; 2) include the person's name, telephone phone number, and mailing address; 3) be delivered before the earliest date on which action on the application may occur under Subsection 9-2-23(B); and 4) if the communication is by telephone, be confirmed in writing not later than seven days after the earliest date on which action on the application may occur under Subsection 9-2-23(B).

Written comments concerning the outdoor music venue application may be submitted to the accountable official on this form. Comments on a separate form should include the case number and the contact person listed on the notice.

Case Number: SO-2009-0127M
Contact: Clara Hilling, 974-2686

☐ I am in favor ☒ I object
☐ I meet the requirements for and request to be an interested party

LINDA MARROQUIN 512 474-4499
Home (please print) Telephone number

Hele E. Cesac Chavez 78702
Address(es) affected by this application (Street, City, ZIP Code)

Mailing address (Street, City, ZIP Code)


Signature

10/25/09
Date

Comments:

Mail comment forms to:

City of Austin

Planning and Development Review Department

Attn: Clara Hilling

P. O. Box 1088

Austin, TX 78767-1088

RE: Case Number SO-2009-0127M

I object to the proposed music venue located at 4822
Cesar Chavez St .

<u>Name</u>	<u>Address and Phone</u>
SylviaMarroquin	4616 E. Cesar Chavez 78702 512-750-5656

Comments: I am against the proposed outdoor music venue at 4822 E. Cesar Chavez. For the last couple of years during SXSW music festival, they have had a party there. Last year, they somehow got a permit to function until 5 a.m. Wed, Thursday, Friday and Saturday. This permit should not have been allowed by city ordinance and yet none of my neighbors nor myself was notified or given the opportunity to object to it.

Even the city code compliance officer, Chris Maldonado, who responded to the complaints, said that he had never seen a permit to 5 a.m. given to any other party at SXSW. The party organizers were rude to the Compliance Officers and refused to shut it down. It was not until Saturday night that the Code Compliance officers finally shut down the noise.

The noise was to the point that the house was vibrating, until 5 a.m. All my tenants complained that they did not get any sleep before having to go to work in the morning. To allow these people who have so little regard for their neighbors have a permit to disturb us whenever they want is atrocious. It should not be allowed in this highly residential area.

I have enclosed a list of signatures from some of my neighbors. I asked them if they had been disturbed and if they had called the police. The majority of these people, who are renters, said that they did not call because the police do not respond or did not think it would make any difference. It is time that the city shows these people that the City does care about all their citizens, not just the ones with money.

Sylvia Marroquin

RE: Case Number SO-2009-0127M

I object to the proposed music venue located at 4822
Cesar Chavez St .

Name	Address and Phone
Javier Luis	4600 E. Cesar Chavez Apt. 5
AUDREY AULES CASTRO	
Juan Castro	901 Sprindal
David Perez	4600 Cesar Chavez Apt. 2 902-3876
Amelia Puentes	4600 Cesar Chavez 965-6888
Raul Salgado Aranda	
Mar Garcia	4600 Cesar Chavez Apt. 9
Rigo Rivas	4926 Cesar Chavez
Roy Redondo	4926 Cesar Chavez Apt. 5

RE: Case Number SO-2009-0127M

I object to the proposed music venue located at 4822
Cesar Chavez St .

Name

Address and Phone

NATHAN DALEY

4616 E CESAR CHAVEZ

2FA-6760

RE: Case Number SO-2009-0127M

I object to the proposed music venue located at 4822
Cesar Chavez St .

Name

Address and Phone

KELLY MCBRIDE

4616 E. 1ST 4744499
CESAR CHAVEZ

Comments

RED BULL PARTY SXSW 2009 SHOOK MY WINDOWS TIL DAWN

RE: Case Number SO-2009-0127M

I object to the proposed music venue located at 4822
Cesar Chavez St.

Name

Address and Phone

CAUSTINA HERENCIA, Ph.D. 4600 E. Cesar Chavez, Apt. 3
Austin, TX 78702

512 804-4879

Comments I was appalled at the level of noise allowed and imposed on working class people last year when their neighbors had a party next door in SXSW. It was not only the level of noise until early hours of the morning during the week, but also the increase of a bad enough traffic congestion, noise and drunk pedestrians through the whole event that was totally out of control! The vibrations would not only affect working people who go to work at 6 am but it must be deadly for birds and other critters in the green areas. There are many abuses common in this area and the city needs to take care of them if it wants respect from Austin citizens, especially working class.

RE: Case Number SO-2009-0127M

I object to the proposed music venue located at 4822
Cesar Chavez St .

Name Gloria M Casto Address and Phone
4926-Cesar Chavez - Austin 78702 -

Comments NO puedo dormir
me duelen la cabeza por el
ruido mi esposo se enfermó
de los nervios no puedo
ir a trabajar mucho ~~de~~ la
gente es muy seria
acercarse a piacer ~~de~~ no ay
respeto andan arriba abajo
sonando puertas ni pueden
pasar al baño no ay respeto
gracias Gloria M Castillo

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Case Number: SO-2009-0127M
Contact: Clara Hilling, 974-2686

☐ I am in favor ☒ I object
☐ I meet the requirements for and request to be an interested party

Michael Bayer
Name (please print)
4901 RED BLUFF RD
Address(es) affected by this application (Street, City, ZIP Code)
Austin TX 78702
512-431-9871
Telephone number

Mailing address (for City, ZIP Code)

Michael Bayer
Signature

10/25/09
Date

Comments:

I can Barely handle
SX SW. Amount of waste
be excessive.

Mail comment forms to:
City of Austin
Planning and Development Review Department
Attn: Clara Hilling
P. O. Box 1088
Austin, TX 78767-1088

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Contact: Clara Hilling, 974-2686

☐ I am in favor ☒ I object
☒ I meet the requirements for and request to be an interested party

Name (please print) Thomas H. Atkinson Telephone number 361 5208

Address(es) affected by this application (Street, City, ZIP Code) 5005 Red Bluff Road

Mailing address (Street, City, ZIP Code) Austin 78702
Clara Hilling Signature 25. X. 2009 Date

Comments:

Mail comment forms to:

City of Austin
Planning and Development Review Department
Attn: Clara Hilling
P. O. Box 1088
Austin, TX 78767-1088