

AGENDA



Thursday, August 26, 2010

**Public Hearings and Possible Actions
RECOMMENDATION FOR COUNCIL ACTION****Item No. 88**

Subject: Conduct a public hearing and consider an appeal by the Zilker Neighborhood Association regarding the decision to approve an Outdoor Music Venue permit for Opa's, located at 2050 South Lamar Blvd.

For More Information: Clara Hilling, 974-2686, Sylvia Arzola, 974-6448

Prior Council Action: June 24, 2010 - Council set a public hearing for August 5, 2010. August 5, 2010 - Council postponed to August 26, 2010.

On March 9, 2010, the Planning and Development Review Department approved an Outdoor Music Venue Permit (OMV) for a venue known as Opa's, located at 2050 S. Lamar Blvd.

Ms. Eleanor McKinney and the Zilker Neighborhood Association have appealed approval of the permit. The basis for the appeal is as follows:

1. Proximity of the proposed outdoor music venue to existing land uses including consideration of the date on which the venue was originally permitted relative to surrounding land uses; 2. No history of outdoor music venues in this part of Zilker; 3. Permittee does not qualify for the restaurant exemption; 4. Permittee did not negotiate with the neighborhood; and 5. Shady Grove is not a valid precedent.

Chapter 9-2-25(B) and 9-2-27 of the City Code provides that an interested party may appeal a decision if they are:

- The applicant
- The notice owner of a single-family use located within 600 feet of the proposed outdoor music venue
- The notice owner of a multi-family use located adjacent to the venue (for new permits only)
- A registered neighborhood organization who's declared boundaries are within 600 feet of the proposed venue.

Staff recommends denial of the appeal due to the following:

1. Applicant's stage is oriented away from the residential properties and faces Lamar (stage is approximately 286 feet from the appellants residence);
2. Applicant met with the neighbors prior to issuance and has agreed to limit the hours to 10:00 p.m. every day of the week; and
3. Decibel level is restricted to 70db