



**City of Austin Development Services Department**  
**505 Barton Springs Rd. Suite 100 / P.O. Box 1088 / Austin, Texas 78767-1088**

**OUTDOOR MUSIC  
VENUE APPEAL**

If you are an applicant and/or property owner 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 Accountable Official of the Development Services Department. The deadline to file an appeal is 14 days after the decision was issued by the accountable official. If you need assistance, please contact (512) 974-2686.

**CASE NO.** SO-2018-0281

**DATE APPEAL FILED** 2019/01/02

**VENUE NAME** Yard Bar

**YOUR NAME** Elaine Robbins

**VENUE ADDRESS** 6700 Burnet Rd.

**SIGNATURE** \_\_\_\_\_

**YOUR ADDRESS** 2505 Addison Ave

**CITY CONTACT** Bryan Walker

**YOUR PHONE NO.** (512) 450-4991

**SECTION OF CODE APPEALED:** \_\_\_\_\_

**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
- ☐ 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.
- ☐ 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)

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

**Date of Decision:** 2018/12/18

**Date of Decision:** \_\_\_\_\_

**STATEMENT:** I oppose the city's decision to offer an outdoor music permit to the Yard Bar. I oppose the permit for outdoor music at this location in general, and also oppose the granting of 150 events per year (the neighbors proposed 50) and 150 decibels, which is above the level discussed. The venue is within 100 feet of six properties that have been residentially zone and used in that manner for greater than 60 years (one sharing a property line with the Yard Bar). In addition, there are 60-plus well-established, residentially zoned properties within 600 feet of Yard Bar, and approximately 70% of those properties oppose the permit application.

While I support the city's interest in retaining its title as a music capital, I strongly resent this kind of effort to impose music in quiet, residential family neighborhoods. This is clearly an incompatible use. Why should we have to hear the Yard Bar's music on evenings and weekends, while gardening and dining on our decks, and even in our homes? Please focus your music development in nonresidential areas such as Anderson Lane and Burnet Lane above 183.



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CASE NO. SO-2018-0281

VENUE NAME YARD BAR

VENUE ADDRESS 6700 BURNET RD

CITY CONTACT BRYAN WALKER

SECTION OF CODE APPEALED: \_\_\_\_\_

DATE APPEAL FILED 3-Jan-19

YOUR NAME Kevin Smith

SIGNATURE [Signature]

YOUR ADDRESS 2500 Park View Dr  
Austin, TX 78757

YOUR PHONE NO. (512) 791-6064

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

- ☒ I am the notice owner of single family use
- ☐ I am the applicant or agent representing the applicant
- ☐ 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)

- ☒ 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.
- ☐ 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
- ☐ Denial of an Outdoor Music Venue Permit

Date of Decision: Friday 12/14/2018

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:

While I truly appreciate the amount of effort staff  
placed into making this unique permit, I feel there still  
some further room ~~there~~ for improvement before it is fully  
granted. At the proposed 65/75 db limit I can hear the music in  
my house. I would ask the limit to be lowered to 60/70. Whilst,  
this might be still audible, I should be able to draw out the music  
with raising the volume of my television. Secondly, I truly do  
(Attach additional page if necessary.)

appreciate the consideration of the day-care's hours in  
shorting Friday's hours and the neighborhood's concerns about  
having a 9:00pm bedtime. I feel that having 10 straight hours of  
music on every single Saturday (almost the length of a day at the ACL  
Fest) and six hours every Sunday is not fully compatible with a  
pre-existing - well established - neighborhood. I would like to propose  
the Friday hours stay the same; the Saturday hours be shortened to  
either noon to 6:00pm (to match Sunday) or 2:00pm to 8:00pm. Six  
hours provides plenty of time to showcase four bands. (Honestly, my  
true preference is four hours max, a normal music concert only lasts  
for three hours or so),

Thank you for your consideration and hard work  
thus far.

Kevin Smith



City of Austin Development Services Department  
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## OUTDOOR MUSIC VENUE APPEAL

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CASE NO. SO-2018-0281

DATE APPEAL FILED 1/3/19

VENUE NAME YARD BAR

YOUR NAME John and Lynda Faught

VENUE ADDRESS 6700 BURNET RD

SIGNATURE John Faught  01/03/2019

CITY CONTACT BRYAN WALKER

YOUR ADDRESS 2501 Addison Ave

(Across residential street from Yard Bar)

SECTION OF CODE APPEALED: \_\_\_\_\_

YOUR PHONE NO. (512) 791-5209

(512) 206-6584

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

- ☒ I am the notice owner of single family use
- ☐ I am the applicant or agent representing the applicant
- ☐ 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)**

- ☒ 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.
- ☐ 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
- ☐ Denial of an Outdoor Music Venue Permit

Date of Decision: Friday 12/14/2018

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:

The Yard Bar is an unpermitted proposed music venue located on a residential street. Even though the business has a Burnet Rd address, for all practical uses and purposes the venue is a business located on Daugherty, a residential street. There is no fence, wall or structure of any kind that separates this music venue from the adjacent neighbors. Our homes face the music stage! This is just not an appropriate location for a music venue. We have an opposed to number of over 80% of neighbors within 600 ft that has submitted to the City and yet the permit was still approved. We do appreciate the restrictions on the permit but this location is just not an appropriate venue. In addition it will and has already created a parking nightmare for the surrounding neighbors during live music events. Please reconsider and reject this permit to reflect the will of the adjacent and most affected neighborhood.

Sincerely,

John Faught  
Lynda Faught






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<b>CASE NO.</b>	<b>SO-2018-0281</b>	<b>DATE APPEAL FILED</b>	<b>12/31/18</b>
<b>VENUE NAME</b>	<b>Yard Bar</b>	<b>YOUR NAME</b>	<b>Carol Vaughan</b>
<b>VENUE ADDRESS</b>	<b>6700 Burnet Rd</b>	<b>SIGNATURE</b>	
		<b>YOUR ADDRESS</b>	<b>2509 Addison Ave</b>
<b>CITY CONTACT</b>	<b>Bryan Walker</b>		<b>Austin 78757</b>
<b>SECTION OF CODE APPEALED:</b>	_____	<b>YOUR PHONE NO.</b>	<b>(512) 924-5052</b>

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

- ☒ I am the notice owner of single family use
- ☐ I am the applicant or agent representing the applicant
- ☐ 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)

- ☒ 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.
- ☐ 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
- ☐ Denial of an Outdoor Music Venue Permit

Date of Decision: 12/14/18

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:

(Attach additional page if necessary.)

**Four Additional Pages Are Attached**

1. **Investigation by City Music Office Was Improperly Conducted Prior to Filing of Permit Application.** In accordance with City Ordinance §9- 2-50 (B), the Music Office is directed to conduct an investigation into an Outdoor Music Venue permit application after an application is filed.

In the case of the Yard Bar application, the Music Office, acting through Entertainment Services Manager Brian Block, began the investigation into a possible OMV permit for the Yard Bar **several months before** the Yard Bar filed an OMV permit application. This “pre-application” investigation included communicating with the Yard Bar owner and selected Allandale residents (one of whom is a City employee<sup>1</sup>), conducting sound tests and on-site inspections before residents like me even received any sort of notice that an OMV was being considered and investigated. At one neighborhood meeting months prior to when the Yard Bar filed an OMV application, (and, therefore, before issuance of required notice), the neighbor who is also a City employee told the neighbors attending the meeting that the City planned to approve the permit application but would consider reducing the typically-approved decibel level of 70 db (which is exactly what ultimately happened).

It is my opinion that the determination to recommend approval of a Yard Bar OMV permit application was made by Mr. Block long before notice of the application was provided, which significantly undermines the integrity of the process directed by the City Council. In my opinion, the City Council should not condone this type of action on the part of the Music Office and should act to deny the Yard Bar’s permit application.<sup>2</sup>

**Action Requested:**

That the City Council reverse Mr. Walker’s decision approving the Yard Bar OMV permit application and take whatever additional action regarding the permit application it deems relevant.

**Suggestion:**

That the City Council direct the Music Office, in the future, to act in accordance with all City Ordinances relating to requests for OMV permits.

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<sup>1</sup> My comments are, in no way, meant to criticize the neighbor/City employee for any of his actions in engaging in ongoing communications with Mr. Block prior to when the Yard Bar filed its OMV application. In my opinion, all actions related to determining recommendations regarding whether an OMV issue are the responsibility of the Music Office and Bryan Walker, who, based on the recommendation of the Music Office, determines whether to approve the permit application.

<sup>2</sup> All comments and arguments in this appeal were previously submitted to Mr. Walker for his consideration on or before August 27, 2018.

2. The OMV Permit does not mitigate impacts to the portion of the Allandale neighborhood adjacent to the Yard Bar and it does not protect the health and safety of residents living adjacent to the Yard Bar, as required by City Ordinance.

In accordance with City Ordinance § 9-2-53<sup>3</sup>, Mr. Walker is permitted to approve the Yard Bar's OMV application only if he finds that the conditions included in the Music Office's recommendation to approve the permit are sufficient to:

- 1) mitigate the adverse impacts of a Yard Bar OMV permit on the portions of the Allandale neighborhood adjacent to the Yard Bar; and
- 2) protect the health and safety of Allandale residents living in areas adjacent to the Yard Bar.

There is no indication in the Yard Bar permit that either adverse impacts to, or the health and safety of, Allandale residents living adjacent to the Yard Bar have even been considered by the Music Office or Mr. Block. Mr. Block should be required to certify that he has considered both actions to mitigate adverse impacts and the health and safety of adjacent residents (not only with respect to the Yard Bar's OMV permit but to all other OMV permits for venues adjacent to residential areas); and that, when appropriate 2) any appropriate actions related to mitigating adverse impacts and protecting health and safety are included in the permit.

In the case of the Yard Bar OMV permit, there is absolutely no barrier along the western/back side of the property. The Yard Bar parking lot is configured to direct all traffic to exit the property directly into the residential streets immediately adjacent to the Yard Bar. This creates a huge risk to the neighborhood and its residents, including a significant number of children.

(A full discussion of the reasons for this request, along with photos, is contained in information I submitted to Mr. Walker on August 27, 2018; the document is also attached to the email transmission of this appeal to Mr. Walker.)

I suggest that there is no documented consideration of either of these two elements in the activities preceding the approval of the permit.

**Action Requested:** Deny the OMV permit. In any event, prior to approving any OMV permit for the Yard Bar, to mitigate adverse actions of an OMV permit and to protect the health and safety of residents living adjacent to the Yard Bar, the Yard Bar's permit should be contingent upon erecting a fence, at least 6 feet tall, along its western property line and ensuring that car traffic to the Yard Bar must enter from and exit onto Burnet Rd, rather than directly onto neighborhood streets.

**Suggestion:** The City should redesign its form related to the issuance of OMV's to ensure that the accountable official (in this case, Mr. Walker) has considered and affirmed that each specific requirement contained in City ordinances related to approving OMV's has been complied with. For example, consider including an item similar to the following:

Yes \_\_\_ No \_\_\_ The accountable official has considered whether the OMV permit should include actions to mitigate the adverse impacts of the permit on adjacent neighborhoods; and, if so, such activities include:

<sup>3</sup> City Ordinance § 9-2-53 (A) states: (A) The accountable official shall approve an application under Section 9-2-37 ( 24-Hour Live Music Permit ), Section 9-2-38 ( Multi-Day Special Event Permit ), or Section 9-2-39 ( Outdoor Music Venue Permit ) if:

- (1) the music office and the special events office have recommended a temporary event impact plan under Section 9-2-52 (Temporary Event Impact Plan ), if applicable; and
- (2) the accountable official finds that the conditions included in the temporary event impact plan or other recommendation of the music office are sufficient to:
  - (a) mitigate adverse impacts of the proposed venue on adjacent residential, commercial, and civic uses; and
  - (b) protect the health and safety of residents living in areas adjacent to the proposed event or venue.

(underlining added.)

3. **The Good Neighbor Policy, the purpose of which is to maintain the safety, quiet and cleanliness of the area surrounding an Outdoor Music Venue, has not been passed.**

In 2013, the City Council required the adoption of a "Good Neighbor Policy" related to the issuance of Outdoor Music Venue permits. Five years later, the "Good Neighbor Policy" has not been passed.

City ordinance § 9-2-40 - GOOD NEIGHBOR POLICY, passed in 2013, states:

- (A) The purpose of the Good Neighbor Policy is to maintain the safety, quiet, and cleanliness of the area surrounding an Outdoor Music Venue.
- (B) A permit holder, as a condition of the Outdoor Music Venue permit, must comply with the requirements set forth in the Good Neighbor Policy.
- (C) The Good Neighbor Policy shall be adopted by rule in accordance with Chapter 1-2 (*Adoption of Rules*).  
(Underlining, boldface added.)

In accordance with City Ordinance City ordinance §9-2-1 (4) and City Code Chapter 9-2, both the conditions of Chapter 9-2 and the conditions of the Good Neighbor Policy are required to be incorporated into all OMV permits.

The City Council clearly recognized five years ago that additional protection, outside of Chapter 9-2, was needed for residential neighborhoods and areas surrounding Outdoor Music Venue and thus required that the Good Neighbor Policy be adopted.

The failure of the Music Office (or other responsible City official) to ensure that the Good Neighbor Policy was passed, after being directed by the Council, seems to serve as a testament to both the diminished value the Music Office has for protecting neighbors adjacent to a venue with an OMV as well as its lack of respect for City Council directives.

**Action Requested:** I am requesting here the same action I requested of Mr. Block on August 27, 2018: If there is any possibility that the permit will be finally approved, defer any action on the permit application until after the Good Neighbor Policy has been adopted.

**Suggestions:** I offer the following suggestions related to the Good Neighbor Policy:

- **City Role to Serve as Advocate for and Ensure Neighborhood Safety and Cleanliness.** I believe the Good Neighbor Policy should establish and define a role for a designated City department or official/employee to serve as an advocate for the maintenance of neighborhood safety, quiet and cleanliness as part of the permitting process. Currently, there is little or no advocacy for neighborhoods on the City's part, only a role for listening to neighbors advocate. (I am left wondering whether anyone from the City noticed or discussed the fact that the Yard Bar's Back Exit feeds directly into neighborhood streets.) The City should take an active role as an advocate of safe and clean neighborhoods and be a leader in making sure that, to the greatest extent possible, neighborhoods are protected. I also recommend that, as a condition precedent to the City approving an Outdoor Music Venue permit for a venue within 600 feet of a residential use, a city employee or official should be required to certify that the conditions of the permit are "sufficient to...protect the health and safety of residents living in areas adjacent to the proposed" venue.

I strongly suggest that the Good Neighbor Policy should accept, as a given, that people will leave Outdoor Music Venues and drive with varying levels of alcohol in their bloodstream. This is reality. The Good Neighbor Policy should require Outdoor Music Venue permit conditions that mitigate the risk of intoxicated drivers leaving the venue, particularly to nearby residential areas. Possible conditions include 1) prohibiting venues from having exits directly into adjacent neighborhoods; 2) requiring the venue to have an exit onto a thru street; and 3) having increased police presence at the end of outdoor events.

- **Parking and Traffic.** The approval of an Outdoor Music Venue permit and the safety of adjacent neighborhoods are inextricably intertwined. The safety of adjacent neighborhoods is significantly impacted by parking and traffic related to the venue. To protect the safety of adjacent neighborhoods, the Good Neighbor Policy should require that traffic and parking issues are addressed before an Outdoor Music Venue permit is issued. Citizens and venue neighbors should not be left with the burden of moving among City departments in an endless struggle to address these issues.



- **Trash.** I believe the Good Neighbor Policy should address the trash that ends up on neighborhood streets after a music event and ways to address the problem. For example, a venue might be required to have large waste cans and recycle bins at the venue exit; and to have a venue employee peruse and pick up trash in the residential area immediately adjacent to the venue.

August 27, 2018

Bryan Walker  
Planner II  
City of Austin  
Development Services Department

Re: Yard Bar Outdoor Music Permit Application

Dear Mr. Walker,

I have lived in my home in the Allandale neighborhood since 1987. My home is one of the treasures in my life as is my City. During this time, I've watched the neighborhood and the City grow and change. The City is currently struggling to manage major issues related to urban growth and economic development. We all want the City to thrive and have many diverse views on what this looks like.

The City's struggle has now become my struggle: balancing our interest in economic growth and development with our interest in maintaining clean, healthy, safe, peaceful and strong neighborhoods.

The issue of whether to issue an Outdoor Music Permit to the Yard Bar, a venue near me selling food and liquor and operating an off-leash dog park, hits squarely at our challenge of balancing these interests in a way that is fair and that positively represents both the interests of the City and the interests of the Allandale neighborhood.

In the information that is attached, I explain why I believe that you should deny the Yard Bar's permit application.

I appreciate your consideration of this information.

Sincerely,

A handwritten signature in black ink, appearing to read 'C. Vaughan', with a stylized flourish at the end.

Carol Vaughan  
Allandale Resident  
2509 Addison Avenue

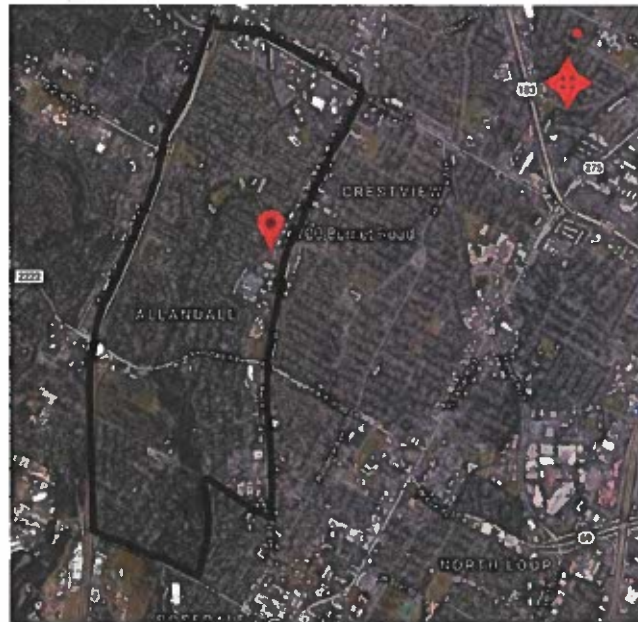
## Introduction

**The Yard Bar.** The Yard Bar is a restaurant (general) use located at 6700 Burnet Rd, Austin, TX 78757, which opened in 2015. (See Figure 1, below.) In addition to serving food, the Yard Bar is licensed to serve alcohol and beer. The Yard Bar also operates an off-leash area for dogs on its premises.

**The Allandale Neighborhood.** Austin's Allandale Neighborhood is bounded by West Anderson Lane on the north, Burnet Road on the east, Hancock Drive/Shoal Creek/45<sup>th</sup> Street on the south, and North MoPac Expressway Northbound on the west. (See Figure 1, below.)

**OMV Permit Application.** On August 10, 2018, The Yard Bar, through its owner Kristen Heaney, filed an application with the City of Austin for an Outdoor Music Venue permit.

**Request.** Even without an Outdoor Music Permit, I believe the operation of the Yard Bar, for reasons I explain below, has created safety risks to Allandale residents and their children living adjacent to the Yard Bar as well as to other nearby neighbors. The approval of an Outdoor Music Permit without major changes to the physical premises of the Yard Bar, which I propose below, will only increase the current safety risks. Therefore, I strongly believe that, at this time, the Yard Bar's permit application should be denied.<sup>1</sup>



**Figure 1. Overview of the Yard Bar (red symbol) and the Allandale Neighborhood.**

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<sup>1</sup> Regardless of the decision you make on the Yard Bar application for an OMV permit, thank you for your responsiveness to all of my requests for information and, for what seems to me, a true effort to deal with me honestly and to provide transparency to the OMV process.

## **I. The Yard Bar Application for an Outdoor Music Venue Permit**

On August 10, 2018, the Yard Bar, through its owner Kristin Heaney, filed an application for an Outdoor Music Venue (OMV) permit.<sup>2</sup>

In her application, Ms. Heaney requests that she be allowed to have a maximum of 52 Amplified Sound Events per year with a decibel allowance of 70 dBA and 80 dBC. Of the 52 allowable sound events, she requests permission to hold no more than 6 Amplified Sound Events per year on Monday through Thursday between 10 am and 8 pm; and to hold a maximum of 52 sound events (minus the number of events she holds of Monday through Thursday) on Fridays and Saturdays between 10 am and 9:30 pm. She agrees to limit all sound events to three hours and that she will not allow karaoke or disc jockeys.

Assuming Ms. Heaney's permit is approved as requested, here are two scenarios of how she could schedule these events:

1. She could hold an amplified sound event every week of the year, on either Friday or Saturday, from 6:30 pm to 9:30 pm.
2. Assuming bad weather (cold, rainy, etc.) on 10 weekends per year, she could hold amplified sound events on both Friday and Saturday of the same week for 10 weekends per year, from 6:30 pm to 9:30 pm (for a total of 20 events); and then hold a sound event on either Friday or Saturday during 32 additional weeks in a year, from 6:30 pm to 9:30 pm.

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Mr. Walker, as you know, you have been designated by the City Manager to approve or deny applications for Outdoor Music Venue permits. The process for acting on a permit application, pursuant to City ordinance, includes:

1. **Notice.** Within 14 days after receiving an OMV permit application, you issue notice of the permit application to several entities, including homeowners within 600 feet of the Yard Bar and the applicable neighborhood association. (See §9-2-54)
2. **Forwarding Application to the City Music Office.** Within three days of receiving the application, you forward the application to the City Music Office. (See §9-2-50 (A).)
3. **Investigation by City Music Office.** After receiving an OMV permit application, the Music Office conducts an investigation of issues related to the application; the investigation may include on-site inspections and sound measurements, discussions with nearby residents and other research relevant to assessing potential impacts related to the permit application. (See §9-2-50 (B).)

In the case of the Yard Bar, the Music Office, acting through Entertainment Services Manager Brian Block, began the investigation into a possible OMV permit for the Yard Bar several months before the Yard Bar filed an OMV permit application (and, accordingly, before you provided the notice required by §9-2-54) and substantially completed the investigation before the Yard Bar filed an OMV application.

It is not apparent why the Music Office conducted an investigation of an OMV permit for the Yard Bar before the Yard Bar filed an OMV permit application (and, accordingly, before notice of a permit application had been given). (See letter of July 24, 2018 to Erica Shamaly from Carol Vaughan and forwarded to you on August 1, 2018, wherein I discuss the irregularities of this situation).

## II. The Yard Bar Location and Premises

The Yard Bar is a restaurant (general) use<sup>3</sup> located at 6700 Burnet Rd., Austin, TX 78757. (See Figure 2, below.) In addition to serving food, the Yard Bar is licensed to serve alcohol and beer and operates an off-leash area for dogs on its premises. The Yard Bar opened in 2015. For many years prior to the opening of the Yard Bar, the Yard Bar property was used as a miniature golf course.



Figure 2. Overview of the Yard Bar. (This satellite overview from Google Maps was taken before the Yard Bar opened when the premises were used as a miniature golf course; I cannot locate any current satellite photos of the Yard Bar. The property lines and the parking areas are substantially the same as when the miniature golf course occupied the premises. The area of the premises used for customers is similar to the area formerly used as the golf course.)

**Eastern Boundary.** The Yard Bar is bounded on the west by Burnet Rd. Customers, either walking or driving, can enter the premises from Burnet Rd. (See Figure 3, below.)



Figure 3. Eastern boundary and entrance to the Yard Bar from Burnet Rd.

<sup>3</sup> See City Ordinance §25-2-808, Restaurants and Cocktail Lounges.



**Western Boundary.** The Yard Bar is bounded on the west by Daugherty St. There is no “do not enter” sign at this exit; customers can (and do) also use this access to enter the Yard Bar both walking and by car. (See Figure 4, below.)



Figure 4. Western boundary and exit to the Yard Bar along Daugherty St.

**Northern Boundary.** The northern boundary of the Yard Bar is a single-family residence located at 6709 Daugherty St. (See Figure 5, below)

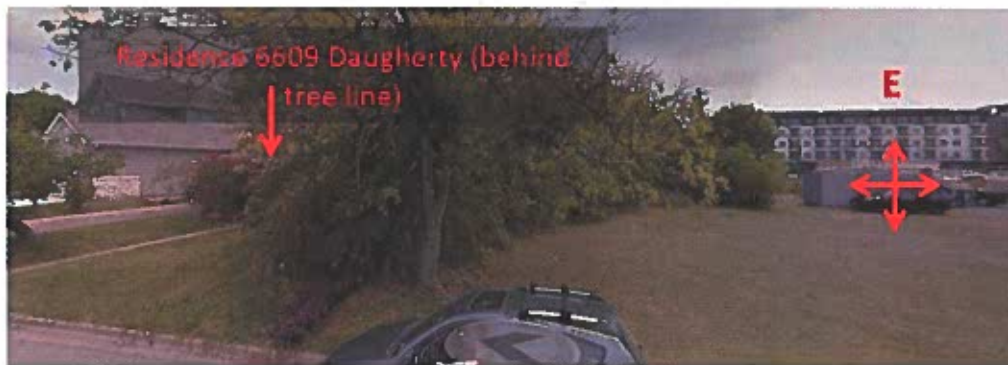


Figure 5. Northern boundary of Yard Bar.

**Southern Boundary.** The Yard Bar’s southern boundary separates the Yard Bar from the U-Haul Storage Facility immediately to the south of the Yard Bar. (See Figure 6, below)

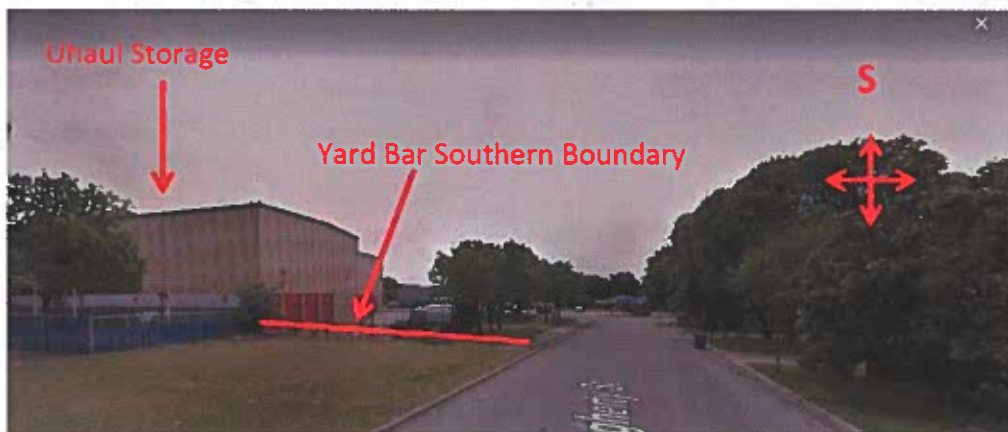


Figure 6. Southern Boundary of the Yard Bar

### III. Unacceptable Risks to Health and Safety of Residents Living Near the Yard Bar

City Ordinance § 9-2-53 provides that the “accountable official” (in this case, you) may approve an Outdoor Music Venue permit only if the conditions related to the permit are “sufficient to...protect the health and safety of residents living in areas adjacent to the proposed” venue.<sup>4</sup>

**Current Risk to Safety of Residents Living Adjacent to Yard Bar.** Even without the approval of the current application for an Outdoor Music Venue for the Yard Bar, I believe that several factors related to the Yard Bar’s current operation at 6700 Burnet Rd. have already combined to create safety risks for Allandale residents adjacent to the Yard Bar.

First, the Yard Bar is immediately adjacent to the Allandale neighborhood, separated only by Daugherty Street. It is not unique in Austin that a restaurant/bar is adjacent to a residential neighborhood. Here, however, there is absolutely no barrier between the Yard Bar and Daugherty Street and the Allandale neighborhood. There are neighborhood homes along Daugherty St., both directly facing the Yard Bar and next door to the Yard Bar. Every other restaurant on Burnet Rd. that shares a boundary with the Allandale neighborhood is divided from the neighborhood by a fence, wall or building structure.<sup>5</sup> Not so with the Yard Bar.

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<sup>4</sup> City Ordinance § 9-2-53 (A) states:

- (A) The accountable official shall approve an application under Section 9-2-37 ( *24-Hour Live Music Permit* ), Section 9-2-38 ( *Multi-Day Special Event Permit* ), or Section 9-2-39 ( *Outdoor Music Venue Permit* ) if:
- (1) the music office and the special events office have recommended a temporary event impact plan under Section 9-2-52 ( *Temporary Event Impact Plan* ), if applicable; and
  - (2) the accountable official finds that the conditions included in the temporary event impact plan or other recommendation of the music office are sufficient to:
    - (a) mitigate adverse impacts of the proposed venue on adjacent residential, commercial, and civic uses; and
    - (b) protect the health and safety of residents living in areas adjacent to the proposed event or venue.

<sup>5</sup> Restaurants and bars on the portion of Burnet Rd. bordering the Allandale Neighborhood that sell food and liquor or liquor only and have fences and/or structures between the venue and the neighborhood include 1) El Mercado at 7414 Burnet Rd.; 2) Ichiban at 7310 Burnet Rd.; 3) The Growler Room at 6800 Burnet Rd.; 4) Sap's Fine Thai Cuisine at 5800 Burnet Rd.; 5) Little Longhorn Saloon at 5434 Burnet Rd.; 6) Taco Flats at 5520 Burnet Rd.; 7) Blue Star Cafe at 4800 Burnet Rd. 8) Gusto at 4800 Burnet Rd. The Yard Bar alone has no buffer of any kind between the premises and the neighborhood.

Second, not only is there no barrier between the Yard Bar and the Allandale neighborhood, the Yard Bar has a back exit that leads directly into the neighborhood. By arrows painted on the asphalt in the parking lot, customers are directed to leave the Yard Bar through the Back Exit into the neighborhood, rather than the Burnet Rd. access. (See Figures 7 and 8, below.)



Figure 7. Overview of the Yard Bar Back Exit to neighborhood streets.



Figure 8. One of two arrows directing customers to leave the Yard Bar through the Back Exit into neighborhood streets rather than the Burnet Rd. access.



Moreover, the Back Exit leads directly into residential streets that have homes on both sides of the street—Parkview, Twin Oaks, Addison and many other nearby streets. (See Figure 9, below.)



Figure 9. Yard Bar back exit leading into neighborhood streets.

The Back Exit to the Yard Bar, through which customers are directed to exit, provides an open invitation to customers leaving the Yard to travel through our neighborhood streets, which have homes on both sides of the street. These streets are not thru streets. In fact, a person who exits the Yard Bar through the Back Exit is likely to travel down several residential non-thru streets in Allandale before finally arriving at a thru street, including Koenig Lane or Shoal Creek Blvd.

The Yard Bar serves beer and liquor. “Drinking and driving” is a reality. The dangers associated with drinking and driving are well documented. Any amount of alcohol in the bloodstream can impair a person’s ability to drive.<sup>6</sup> Given a choice, many people who leave a restaurant or bar with an elevated level of alcohol in their bloodstream will choose an exit route that is less likely to be supervised by the police or which will have less traffic than thru streets; i.e., “let’s take the back route”. Customers leaving the Yard Bar are no different. Unfortunately for the Allandale neighborhood, our residential streets are the “back route” for Yard Bar customers.

<sup>6</sup> The website of “Alcohol Rehab Guide”, located at <https://www.alcoholrehabguide.org/> includes specific information at <https://www.alcoholrehabguide.org/alcohol/crimes/dui/about-how-blood-alcohol-content-levels-affect-driving>. The website includes the following information: “Any amount of alcohol in your bloodstream can impact your driving ability.” The website provides examples of how a person’s blood alcohol level may impact driving:  
 Blood Alcohol Content of 0.05: Increased lack of judgment, exaggerated behavior, lack of coordination, reduced ability to detect moving objects, lack of alertness, lack of inhibitions, decreased small-muscle control, reduced response rate  
 Blood Alcohol Content of 0.08: Reduced muscle coordination, lack of judgment, lack of reasoning, lack of self-control, loss of short-term memory, reduced ability to concentrate, lack of speed control, reduced ability to process information  
 Blood Alcohol Content of 0.10: Poor coordination, slowed reaction times, reduced ability to control the vehicle, reduced ability to keep vehicle within a lane and brake at appropriate times, slurred speech

Thus, the operation of the Yard Bar has created a current risk of injury to residents, including children, living in residential areas adjacent to the Yard Bar.<sup>7</sup>

**Application for an Outdoor Music Venue Permit.** City Ordinance § 9-2-53 specifically provides that an Outdoor Music Venue Permit cannot be approved unless the conditions related to the permit are "sufficient to...protect the health and safety of residents living in areas adjacent to the proposed" venue. The operation of the Yard Bar has already created a safety risk for the Allandale residents living adjacent to the Yard Bar. Allowing the Yard Bar to become an Outdoor Music Venue will only increase this risk. You should deny the Yard Bar's permit application because, pursuant to City Ordinance § 9-2-53, the conditions related to a Yard Bar permit are not sufficient to protect the safety of Allandale residents living adjacent to the Yard Bar.

Yard Bar owner Kristen Heaney indicated at the Allandale Neighborhood Association on August 1, 2018 that her motivation to get an Outdoor Music Permit is to increase profits. Increased profits will be derived from more customers and increased sale of liquor and beer. Many people listening to outdoor music typically drink liquor and beer the entire time the music is presented and typically leave when the music ends with elevated levels of alcohol in their bloodstream. The situation at the Yard Bar will be no different if an Outdoor Music Venue permit is approved. More customers will leave through the Yard Bar's Back Exit, possibly many at the same time, and the number of people driving through our neighbor streets with elevated levels of alcohol in their bloodstream will increase as will the risk of injury to our residents.

Of the approximately 136 Outdoor Music Venues approved by the City as of August 10, 2018, the City's AB+C database indicates in the "amplified sound district" field of 11 of these venues, like the Yard Bar, are "within 600 feet of residential". Significantly, of these 11 venues, no venue has an exit that feeds directly into a non-thru residential street with homes on both sides of the street. Our Allandale Neighborhood does not want to be the first.

(See Appendix 1 at end of document, which includes aerial maps of other venues within 600 feet of residential, none of which have exits into residential non-thru streets with homes on both sides of the street and most of which lead to non-residential thru streets.)

1) The Yard Bar is located immediately adjacent to the Allandale neighborhood. 2) The Yard Bar's Back Exit feeds directly into the neighborhood. 3) At the location of the Back

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<sup>7</sup> Allandale residents recognize that we cannot change the reality that customers of the Yard Bar will drink and drive. What we believe very strongly, though, is that action should be taken to mitigate the possibility that Yard Bar customers leave the Yard Bar with elevated levels of alcohol and drive through our neighborhood. One way to mitigate this risk is to close the Yard Bar Back Exit into our neighborhood and erect a wall or fence along the western border of the Yard Bar, like every other restaurant on Burnet Rd. bordering the Allandale neighborhood.

Exit, there are residential streets with homes on both sides of the street. 4) The Yard Bar directs customers to leave through the Back Exit. 5) Many Yard Bar customers have been drinking alcohol when they leave the Yard Bar and drive directly into the neighborhood. This is an unsafe situation for the neighborhood. 6) Approving an Outdoor Music Venue permit will make this situation even more unsafe.

You are directed by City ordinance §9-2-53 to approve an Outdoor Music Permit only if the conditions are sufficient to “protect the health and safety of residents living in areas adjacent to the proposed venue.” In the case of the Yard Bar permit application, the conditions are not sufficient to protect the health and safety of residents living in the area adjacent to the Yard Bar. Therefore, you should deny the permit application.

#### **IV. The Requirement for a Good Neighbor Policy**

If there is any possibility that the Yard Bar’s permit application will be approved, such action should be deferred until a Good Neighbor Policy is adopted, as required by City Ordinance §9-2-40.

Given the circumstances surrounding the Yard Bar’s application for an Outdoor Music Venue permit, it is significant that the City Council, in 2013, required the adoption of a “Good Neighbor Policy” related to the issuance of Outdoor Music Venue permits.

Five years later, the “Good Neighbor Policy” has not been adopted.

City ordinance § 9-2-40 - GOOD NEIGHBOR POLICY, passed in 2013, states:

- (A) The purpose of the Good Neighbor Policy is to maintain the safety, quiet, and cleanliness of the area surrounding an Outdoor Music Venue.
- (B) A permit holder, as a condition of the Outdoor Music Venue permit, must comply with the requirements set forth in the Good Neighbor Policy.
- (C) The Good Neighbor Policy shall be adopted by rule in accordance with Chapter 1-2 (*Adoption of Rules*).

Because this ordinance states that the Good Neighbor Policy “shall be adopted by rule”, the City Council required that the Good Neighbor Policy be passed.<sup>8</sup>

Further, in City ordinance §9-2-1 (4), the City Council defines the “Good Neighbor Policy” as “a set of good business practices required as a condition of an Outdoor Music Venue permit issued under [Chapter 9-2. – Noise And Amplified Sound].”<sup>9</sup> Under this definition, therefore, the Council made clear that conditions to be included in the “Good

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<sup>8</sup> See City Ordinance § 1-1-6(A).

<sup>9</sup> See City Ordinance §9-2-1 (4).

Neighbor Policy” are required as a condition of an Outdoor Music Venue permit; in other words, the conditions for issuing and complying with an Outdoor Music Venue permit include both the conditions in Chapter 9-2 and the conditions of the “Good Neighbor Policy”.

The Good Neighbor Policy should be an integral part of any Outdoor Music Venue permit issued by the City. The City Council clearly recognized five years ago that additional protection, outside of Chapter 9-2, was needed for residential neighborhoods and areas surrounding Outdoor Music Venue and thus required that the Good Neighbor Policy be adopted.

First, you should deny the Yard Bar permit now, pursuant to §9-2-53. If there is any possibility, however, that you will approve the permit, you should defer any action on the permit application until after the Good Neighbor Policy has been adopted.

I would like to offer the following ideas for the Good Neighborhood Policy.

- **City Role to Serve as Advocate for and Ensure Neighborhood Safety and Cleanliness.** I believe the Good Neighbor Policy should establish and define a role for a designated City department or official/employee to serve as an advocate for the maintenance of neighborhood safety, quiet and cleanliness as part of the permitting process. Currently, there is little or no advocacy for neighborhoods on the City’s part, only a role for listening to neighbors advocate. (Did anyone from the City notice, comment on or address the fact that the Yard Bar’s Back Exit feeds directly into neighborhood streets?)

The City should take an active role as an advocate of safe and clean neighborhoods and be a leader in making sure that, to the greatest extent possible, neighborhoods are protected.

I also recommend that, as a condition precedent to the City approving an Outdoor Music Venue permit for a venue within 600 feet of a residential use, a city employee or official should be required to certify that the conditions of the permit are “sufficient to...protect the health and safety of residents living in areas adjacent to the proposed” venue.

- **Parking and Traffic.** The approval of an Outdoor Music Venue permit and the safety of adjacent neighborhoods are inextricably intertwined. The safety of adjacent neighborhoods is significantly impacted by parking and traffic related to the venue.

To protect the safety of adjacent neighborhoods, the Good Neighbor Policy should require that traffic and parking issues are addressed before an Outdoor Music Venue permit is issued. Citizens and venue neighbors should not be left with the burden of moving among City departments in an endless struggle to address these issues.

The City should step up and serve as the leader to address these issues in an integrated fashion rather than leaving this role and burden to citizens and neighbors to the venue.

I strongly suggest that the Good Neighbor Policy should accept, as a given, that people will leave Outdoor Music Venues and drive with varying levels of alcohol in their bloodstream. This is reality. The Good Neighbor Policy should require Outdoor Music Venue permit conditions that mitigate the risk of intoxicated drivers leaving the venue, particularly to nearby residential areas. Possible conditions include 1) prohibiting venues from having exits directly into adjacent neighborhoods; 2) requiring the venue to have an exit onto a thru street; and 3) having increased police presence at the end of outdoor events.

- **Trash.** I believe the Good Neighbor Policy should address the trash that ends up on neighborhood streets after a music event and ways to address the problem. For example, a venue might be required to have large waste cans and recycle bins at the venue exit.

It is time to comply with the City Council's 5-year old directive that a Good Neighbor Policy should be adopted to maintain the safety, quiet, and cleanliness of the area surrounding an Outdoor Music Venue. Until this happens, action on the Yard Bar's permit application should be deferred.

## **VI. Closing and Summary**

1. **Safety Risk.** The operation of the Yard Bar has created a risk to the safety of Allandale residents living adjacent to the Yard bar because there is no barrier of any kind between the Yard Bar and the adjacent neighborhood and the Yard Bar has a Back Exit that feeds directly into the residential streets of Allandale with homes on both sides. People leaving the Yard Bar drive through the neighborhood with varying levels of elevated levels of alcohol in their bloodstreams. This creates a safety risk for neighbors, including children, living in the neighborhood adjacent to the Yard Bar. This risk will be increased if the Yard Bar is allowed to have an Outdoor Music Venue permit.

Pursuant to City Ordinance § 9-2-53, the "accountable official" may approve an Outdoor Music Venue permit only if the conditions related to the permit are "sufficient to...protect the health and safety of residents living in areas adjacent to the proposed" venue. In the case of the Yard Bar, the requirements of this provision are not met and the Yard Bar's permit application should be denied.

2. **Defer Action on Yard Bar Permit Application Until a Good Neighbor Policy is Adopted.** Clearly and simply, the City Council directed five years ago that a Good

**Neighbor Policy be adopted with the purpose of maintaining the safety, quiet and cleanliness of the area surrounding an Outdoor Music Venue. The City's failure to do this has a direct impact of the Yard Bar's permit application. If there is any possibility that the Yard Bar permit application will be approved, any action on the permit application should be deferred until the Good Neighbor Policy is adopted.**