

Old Austin Neighborhood Association (OANA)
6 June 2017

The OANA Board of Directors (BoD) came together just after 4 PM on Tuesday 6 June 2017 at the Shoal Creek Saloon. Directors in attendance were Ted Siff, Charles Peveto, Diana Zuniga, Blake Tollett and Perry Horton. Advisory Council member Roger Cauvin representing the Plaza Lofts was also in attendance. There were no guests.

Because we lacked a quorum, the approval of the May OANA BoD minutes was deferred.

Under **Committee Reports**, along with his regrets for not being able to attend, our Treasurer Michael Portman reported VIA email that our membership and operating account continue to slowly increase. We then turned to **Parks** reports:

- Duncan Park-Ted tells us that the preliminary master plan has gone through the relevant City Boards and Commissions process and that the Parks & Recreation Department (PARC) is now soliciting a construction proposal. Charles related that since the purple pipe system of reclaimed water currently ends at the park, he would ask OANA to press the City to include the future use of the system for irrigation in the construction proposal parameters. Currently the Watershed Protection Department continues to express concerns about the use of reclaimed water (it is really just below potable) in an urban watershed that drains into Ladybird Lake, especially in light of enhanced nutrients in the water, but there can be variances to this prohibition. The master plan calls for enhanced landscaping that will require at least limited irrigation, and when the next drought occurs, PARC will cut the use of potable water for this purpose. Charles will draft a letter and circulate VIA email to the BoD for approval.
- Shoal Creek-Ted reported that the Shoal Creek Conservancy (SCC) had a very successful awards ceremony. The SCC vision encompasses the drainage system from Walnut Creek just to the south of the Domain all the way down to Ladybird Lake. Their long-term engagement focuses on flood mitigation, water quality and erosion control. Charles told us that Ted Eubanks' Downtown Austin Alliance (DAA) commission to document "Our Austin Story" will not only look at the three remaining public squares but has been expanded to document the lost square, Congress Avenue, Pease Park and Shoal Creek. He also related that the W. 5th Street Bridge over the creek is being nominated for the National Register.
- Wooldridge Square Park-Charles reported that the University graduate student who was doing a visual rendition of the square has finished and his schematics along with a narrative will be forwarded to the National Parks Service and the Austin History Center.

Under **Old Business**:

- W. 12th Street esplanade-no report.
- 603 W. 8th, the Gilfillan House-discussions concerning a proposed restrictive covenant (RC) between the owners of the historic structure and OANA (Ted and Austin, specifically) continue. The owners want to go from the General Office-Historic (GO-H) zoning district to the Downtown Mixed Use-Historic (DMU-H) zoning district and are

seeking support for the rezoning from OANA. One area of focus of the proposed RC relates to noise trespass from the property, and the owners have committed to installing a noise-measuring unit that can be monitored remotely over the internet and the readings from the unit can be used as the basis for formal complaints against the property for noise trespass. They are only committing to maintaining the unit for two years, but since their Outdoor Music Venue (OMV) permit comes up for renewal every year, and the neighbors to the property and OANA will be asked for comments on the renewal application, this commitment could be extended. Once a final version is drafted, it will be circulated to the BoD for comment. Another area of concern for OANA is how the sidewalks will be reconstructed to comply with current City code if the proposed additions subsequent to the rezoning are implemented.

- 405 W. 14th Street is under contract to a potential buyer who wants to use the property with the current entitlements. Excellent!
- OANA Historic Survey-Charles reported that he has had some preliminary discussions with folks and will continue along.
- OANA neighborhood tour-Katie reported to Ted that she has two vendors in mind that may take on the project for us and she will continue talking with them.
- 1108 Nueces and 1202 San Antonio Streets-Both of these properties are asking to be rezoned from General Office (GO) to DMU-60, the 60 being a conditional overlay on the zoning district limiting the maximum developmental height to 60 feet. As both of these requests fit within the recommendations of the Downtown Austin Plan/Northwest District, OANA will support the request. Both properties are also within the Criminal Justice Overlay that prohibits uses such as bail bonds. We will ask the applicants to further prohibit the uses of pawnshop, cocktail lounge, outdoor entertainment or liquor sales.

Under **New Business**:

- Our neighbor at 1105 Rio Grande is planning to ask that his property be rezoned from GO to DMU, and we feel confident that they will accept the same conditional overlays we are asking to be placed on the properties at 1108 Nueces and 1202 San Antonio Streets.
- All night concrete pours in the construction of the Independent residential tower. Katie Jackson, our BoD member from Seaholm residences, has been talking with the City and the contractor about noise and light trespass from this construction project. Attached to these minutes are the relevant emails from the residents of Seaholm as well as a comment from BoD member Ray Canfield. Diana clarified for us that the ordinance as currently adopted by the City is up for review after a year, and by consensus of BoD members present, OANA will ask to be a part of the yearly review in August.
- The Greater Austin Crime Commission has asked OANA and other downtown organizations for support in their quest to add more funding for the Austin Police Department (APD) in the upcoming City budget. Of course the underlying question when any governmental program increases their budget is where is the money going to be coming from for the increase; either more revenue must be collected or other budgets must be cut. Ted will evaluate and email the BoD with more information.

Having run through our time, we adjourned until the afternoon of Tuesday 11 July.

Blake Tollett, Secretary
OANA

From an email sent by BoD Member Katie Jackson to the OANA BoD (with minor editing):

Hi Board,

I agree with Kathy regarding the “temperature” argument. The Independent began overnight pours in January when the weather was cold and we have had a very mild spring and summer. The Independent has scheduled overnight concrete pours every 6 nights as part of their construction plan and now the Proper has begun over night pours as well. The chief complaint of the residents is that they are awakened at 3am and can not go back to sleep due to sound reaching heights of 86 decibels in their condos and bright lights shining in their windows. It is also of important note that many small children live in the building and they are awakened as well and this triggers a cascade of negative effects on the children and families throughout the day.

Please see the concrete pour permit criteria below:

(A)

PERMIT FOR CONCRETE INSTALLATION DURING NON-PEAK HOUR PERIODS.

For property located within 600 feet of a residence, church, hospital, hotel, or motel, the director may issue a permit under Subsection (B) authorizing an applicant to deliver, place, or pour concrete during the non-peak hour period of 7:00 p.m. to 6:00 a.m. if:

1. (1) the accountable official determines that the delivery, finishing, placement, or pouring of concrete during non-peak hour periods is in the interest of public health, safety, and welfare, or is justified by urgent necessity; and
2. (2) the property is located:
 1. (a) within the Downtown Density Bonus area identified in Section 25- 2-586(B) (Downtown Density Bonus Program)', and
 2. (b) within one of the following zoning districts:
 1. (i) the Central Business District (CBD) base zoning district; or
 2. (ii) the Public (?) zoning district.

The director may issue one of the following permit types for a project if the application meets the general standards in Subsection (A) and complies with the additional restrictions under this subsection, which must be listed as conditions on the permit.

The Seaholm residents requested that Jason Alexander and his team research how "the delivery, finishing, placement, or pouring of concrete during non-peak hour periods is in the interest of public health, safety, and welfare, or is justified by urgent necessity".

5th and West, The Independent, 3rd and Shoal, and the Proper all have been doing concrete pours during the day, so the argument that it is in the interest of public health, safety and welfare” does not have credibility. If the over night pours are disturbing the residents of the neighborhood and have nothing to do with being behind schedule or financial interests then they should not have any issue doing pours during the day or from 7pm to midnight.

Lastly please see the email from Dr. Goldstein, a Seaholm resident and physician, who feels that it is not in interest of the public health to have these over night pours:

Good Evening Mr. Alexander,

I am a resident in the Seaholm Residences. You may have seen my name on most correspondence. Unfortunately we will be unable to attend the meeting, and contribute to a mutual resolution.

We have resided in Seaholm since October 2016. And have also been disturbed by the excessive noise from The Independent's over night concrete pours. We also have a place in the Portland OR Pearl redevelopment neighborhood. In all the years, 20 years, we lived there we never experienced over night construction noise. We never lost any sleep. And we are right in the middle of 38 acres of continuous construction.

We knew about Austin's downtown construction conflicts and the final ordinance, prior to buying in Seaholm. We knew there would be noise, just not this much during the sleeping hours. I have noticed total disregard by workers and supervisors to the impact to the surrounding neighborhood and it's residents. This includes the Library site, The Independent, and now starting at the 3rd & Shoals and The Proper sites. I have read and reread the ordinance. They don't abide by it, and deny any knowledge of any regulations pertaining to their work. I have called 911 multiple times. Never got a call back, or seen any city employees show in response to my complaint calls. Calling to report, waiting for a call back or some response just adds the lost sleep time. This system does not work. Without efficient reliable enforcement, nothing will change, and the construction companies and their developers know they can push the envelope. Consequences of being caught, is the cost of a bad dinner out. And they will continue this behavior. The only thing they may fear is the denial of permits, loss of workdays, and increase cost. I don't see this even happening with the present pattern of permitting and enforcement.

Having talked with several police officers, I understand that this issue is of low priority. As it should be. So low that it is not disseminated to them. The fact that the police department is understaffed does not help.

I mentioned lose of sleep several times, and others have also included it in their complaints. As a physician, I understand what lose of sleep can do to an individual. It is technically called "Sleep Deprivation", and it is a serious health issue. Research has shown that it can lead to accidents, suicide, cardiovascular gastrointestinal, mental issues and even marital stress and divorce. I think reevaluation of this ordinance needs to consider these impacts on the human body.

I believe you have heard many complaints about this issue. Have you received any suggested solutions, where both parties, contractors/developers and the surrounding residents, can live in harmony? Development is good for the community and happy residents, voters and taxpayers is the goal of all city officials. They will be there long after the contractors/workers leave.

I offer the following suggestions to mitigate the violations and inability to adequately enforce the ordinance:

- 1) Educate the contractors/developers about the present and eventual updated ordinance. Have them sign agreements to, and an understanding of them, and the consequences.
- 2) The present the four developers (The Independent, 3rd & Shoals, The Proper, and 5th and West) that they agree to share in the hiring an independent qualified sound specialist to monitor the over night pours. That person would be required to report hourly measured sound levels according to the ordinance specs. Also observation of their light mitigation efforts. These reports and recommendation have been submitted to the code enforcement department and permitting department. His contact information should be supplied the surrounding residents, through their management agents. Cost would be minimal to the contractors, since they are only presently doing a pour every 7-10 days for 6- 7 hours. And it is insignificant compared to a violation, loss of permit, or 30-day suspension.
- 3) Reduce the number of pours to a total of only one permitted per week, in the Seaholm District.
- 4) Increase the penalties to significant \$\$\$\$s.
- 5) Increase dialogue between the contractors and the residents. Example, one day a week to discuss issues.
- 6) Contractors design and construct a movable containment structure for the cement trucks and pumps, to reduce the reach of their revved up engines during the pours.
- 7) Do not allow cement trucks to stage at the sites. They must wait in a location distant from any residential building, and be called to the site when needed to properly do their pours.
- 8) Educate residents about the ordinance, enforcement and the contractor's needs and constraints to successfully do their job.
- 9) Lower the allowable decibel levels.

I could think of more, but I think you get my perceptive. Everyone working for a common goal, peace, sleep and prosperity.

Have a great successful meeting for everyone involved... residents, developers, contractors, and city officials.

Respectfully,

Joel Goldstein

In conclusion, as a nurse practitioner and Seaholm Resident, I do not feel like early morning concrete pours are in the best interest of the public health and welfare of the residents, rather they are against the public health and welfare. Residents are awakened 2 to 3 times a week now in the wee hours of the early morning during the deepest part of the circadian rhythm cycle and they can not go back to sleep. As a downtown resident, I am for progress and urban living. However, The Seaholm and The Spring (and numerous other buildings) were built without over night pours, so surely we can work together with the developers to make a compromise.

Best,

Katie J.

On Jun 5, 2017, at 10:17 AM, Kathy Marcus <katmarcus@gmail.com> wrote:

Ok, I promise I will back at of this battle... after my next comment. The pours are done at the convenience of the builder and the large and well-funded concrete lobby. The argument was it drove the cost of building up 20% but that 20% savings is never reflected back into the cost of the folks renting or buying into the building. And they are pouring concrete when it is cool outside-before the heat sets in this summer. Phoenix does not allow overnight concrete pour and the city is hotter than Austin. Every building outside of the CBD cannot have overnight concrete pours yet projects come in on time (the Seaholm and the Spring are outside of the CBD) and at cost.

But one night a week is much better than 7 nights. I do wish they would do the 7 p.m. to midnight pours so I hope Katie is able to push that agenda.

And the stakeholders will convene at the end of 2017 so I'm hoping OANA might want to get involved with those meetings.

The main stakeholders throughout the 2.5 years was the Spring (and a loose consortium of other condo owners), DANA (Barry Lewis and I were the ones who worked on this since October 2014) , Rainey Street Neighborhood Association, Downtown Austin Alliance, the Concrete Association and developers. We had a website presence, went to every meeting about this (even the ones the city failed to tell us about), did our own research on other cities, met with every city council person about this problem (including Chris Riley now head of DANA). I will be happy if someone else jumped into this but, unfortunately, that usually happens when stakeholders are affected by noise and lights.

I believe OANA should take a tougher stand on this as they weren't a part of most of our meetings. If nothing else a simple cutoff at 10 p.m. which is more liberal than any other city.

Kathy

On Jun 5, 2017, at 9:51 AM, Ray Canfield wrote:

Ted, If we are going to discuss overnight pours, we should consider the side of the contractor. I have a couple of friends in the concrete business that tell me pouring concrete overnight is better because of cooler temperatures that make the concrete easier to work with, which in turn makes for a better pour and thus makes for a better building. They also tell me that transporting the concrete at night is better for the ready mix trucks that can be delayed in daytime traffic. These delays affect the quality of the concrete.

We should weigh both sides before getting involved in a rehash of the ordinance. It's only one night a week.

Ray

Ray Canfield
Shoal Creek Saloon
909 N Lamar Blvd
Austin, Tx 78703
Elevation 476 ft

On Jun 4, 2017, at 9:47 PM, Katie Jackson <katiejacksonrn@gmail.com> wrote:

Ted I took a last minute trip to California so I won't be in attendance. I am happy to write more tomorrow about the Seaholm concrete pour disturbances. The ordinance is clearly inadequate. After 16 midnight to 6am pours, the city finally deployed a sentinel monitor 75 feet from the concrete trucks and not from the pump on top of the building. The states the sound was less than 78 decibels 75 feet from the trucks. Residents report decibels as high as 86 inside of their units during these pours. The ordinance did not account for the sound of the pump on top of the building nor did it account for sound bouncing off buildings and getting louder. Sound amplification is a basic law in physics. The Seaholm residents would like a compromise of 7pm to midnight pours. We met with Jason Alexander at the city and went line by line over the ordinance and we do not feel like the early morning pours meet the criteria of public safety as daytime pours happen weekend at the independent, 5th and west, 3rd and shoal, and proper. Feel free to respond if you have any more questions or concerns.

Thanks,

Katie

Sent from my iPhone

On Jun 4, 2017, at 15:47, Kathy Marcus <katmarcus@gmail.com> wrote:

Ted, I'm sorry I will be out of town for the meeting.

Regarding the concrete pour we worked on that ordinance for 2 1/2 years. Never happy about the outcome but it is much better than what it was. I would suggest the residents review that ordinance completely and request a "sound sentinel" that is stationed at the corner of the development and record the dBa. They have to revisit the ordinance in a year but that's a few more months away and we would be grateful for their input and the next round of discussion. Here is the application

https://www.austintexas.gov/sites/default/files/files/Development_Services/SMP_Non-Peak_Hours_Concrete_Installation_Permit_app.pdf

Now the question is how to obtain their permit and make sure they are holding to it. I called once and it took many phone calls to find the city person in charge of the permit for this site. I am guessing someone on the board might be able to do it easier than me.

Actually doing this only one day is not as bad as it was (7 nights a week). The sound can be up to 78dBA at 75' from source from midnight to 6 a.m. and they have to file a Sound management plan.

If residents know before that happens that can take steps to mitigate the noise for themselves- ear plugs and dark curtains.

So anyone want to spend 2.5 years to change this again?

Just a by the way, the Seaholm condos tried to get a special permit to pour 24 hours even though they are outside the CBD area. We gathered a petition so this would not happen and fortunately got it stopped. The Independent is in the CBD because they are on the east side of west Avenue. And, after doing extensive research, I found we were the ONLY city in the US that allowed 24 hour construction noise.

Kathy/ Spring

On Jun 4, 2017, at 5:00 PM, Ted Siff wrote:

Dear OANA board, advisory council and alumni board –

I've attached our draft agenda for our meeting this Tuesday, June 6th - as well as Blake's always excellent May meeting minutes.

Board members Michael and Ray won't be able to make the meeting, but I hope to see the rest of the board in the Saloon's side room at 4 pm.

Continuing thanks to Ray for providing this great venue.

A couple of notes about the agenda.

Board member Katie reports significant noise disturbance to Seaholm Residences caused by the Independent condo concrete pours that are occurring from midnight to 6 a.m., one

day/week. The developer, Aspen Heights, appears to be following the city ordinance requirements which may be inadequate. Older board members know OANA's participation in revising this ordinance a couple years ago. Katie will provide more details.

Also, the Greater Austin Crime Commission (founded by former mayor Roy Butler about 30 years ago), wants OANA's support of its advocacy for more \$\$ for police. Let's discuss.

It's a full agenda. Look forward to seeing you there.

Finally, thanks to Michael P for submitting his report (pasted below) in advance.

Best, Ted

Ted Siff, Board President
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