

BOARD OF ADJUSTMENT FOR ZONING APPEALS
CITY AND COUNTY OF DENVER
1445 Cleveland Place, Suite 204
Denver, Colorado 80202

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EXEC. DIRECTOR'S OFFICE

PREMISES AFFECTED: 999 YORK STREET (Lengthy Legal.)

APPELLANT: DENVER BOTANIC GARDENS, INC., 909 York Street, Denver, CO 80206, by Donald J. Hopkins, Helme Reherts & Owen L.L.C., 1700 Lincoln Street, Suite 4100, Denver, CO 80203.

APPEARANCES:

Appellant: None.

Opposition: None.

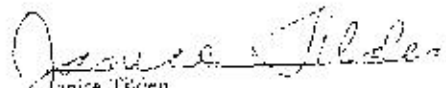
For the City: None.

For Information: None.

SUBJECT: Appeal of an order to discontinue concerts with amplified music as an accessory use to a community center in an O-1 zone.

ACTION OF THE BOARD: The order of the Zoning Administrator is found to be in error in part. The Board finds that the use by right for the subject zone lot is "plant husbandry" with a community center as an accessory use, as a community center appears to the Board to be clearly incidental and customary to and commonly associated with the subject use by right on this zone lot only. Although the O-1 zone district has its conditions on the operation of a community center as a use by right at Section 59-452(J) of R.M.C., the featuring of amplified music/sound as a part of the community center accessory use appears appropriate to the Board only if limited in scope. Exercising the powers of the Zoning Administrator, as given to the Board under Section 59-54 R.M.C., the Board imposes the following limitations on the community center accessory use on the site, taking into consideration both the intensity of the accessory use and its effect on adjacent R-1 and R-3 properties: a) All reasonable efforts shall be made to direct and limit the sound of the amplified music/sound to the O-1 zone lot only, and b) The decibel level of all amplified music/sound shall be limited to 55 Db at or beyond the property line of the O-1 zone lot up to the hour of 10:00 p.m., and shall be in accord with any applicable noise ordinance or Health Code regulations for the R-1 and R-3 zone districts at or beyond the perimeter of the O-1 zone lot between the hours of 10:00 p.m. and 7:00 a.m., even when such ordinances or regulations are more restrictive. The Denver Botanic Gardens is required to monitor compliance with these limitations at the perimeter of the zone lot during events with amplified music, and to maintain a log of compliance for Zoning Administration inspection and review upon demand. The Board's decision is based upon the amended order of the Zoning Administrator dated July 20, 1994, which the Board considers to be within its jurisdiction as a clarification of the July 1, 1994, order. Therefore the request for administrative review and reversal of the Zoning Administrator is **GRANTED** in part.

BOARD OF ADJUSTMENT FOR ZONING APPEALS
Kathryn A. Cheever, Chairman


Janice Pilsen
Technical Secretary/Director

THIS ACTION BY THE BOARD OF ADJUSTMENT IS NOT A ZONING OR BUILDING PERMIT. YOU SHOULD CONTACT/RECONTACT THE ZONING AND BUILDING DEPARTMENTS BEFORE BEGINNING CONSTRUCTION, TO DETERMINE IF ADDITIONAL LAWS OR REGULATIONS APPLY TO YOUR PROJECT AND TO OBTAIN THE NECESSARY PERMITS.