

MINUTES
Nightclub, Bars, and Restaurant Citizens Advisory Group Meeting
10-21-11

Citizens In Attendance:

Gil Narvaez, CMPD	Fred Frazier	D. Harris, CMPD	Eric Mickley, CMPD
Lee Kelly	Melanie Kurelyla	Bill Murray, CMPD	Bill Nolan
Mike Ford	Diane Langevin	Natalie K. Beard	Rob Nixon
Penny Craver	Ken Koontz	Ed Sheehan	David Ratcliffe

Staff In Attendance:

Katrina Young, Planning Department	Barry Mosley, Planning Department	Zenia Duhaney, Planning Department
Sonda Kennedy, Planning Department	Sandra Montgomery, Planning Department	Gay Grayson, Planning Department
Marci Sigmon, Planning Department	Mark Fowler, Code Enforcement	

I. Welcome and Introductions

Katrina Young welcomed everyone to the meeting, which began at 6:10 p.m. Ms. Young introduced herself, and asked everyone to introduce themselves and provide the name of the organization or interest they represent.

II. Recap of September 22nd Meeting

Ms. Young reviewed the concerns and considerations discussed for restaurants, nightclubs, and entertainment. In summary, from CAG feedback, there appears to be no real issues with restaurant use as it related to separation requirements or noise. The issue with nightclubs and bars is the noise level that is created from entertainment and secondary impacts such as car doors closing, etc. Entertainment at an establishment does matter as it relates to noise. It is okay to allow some form of entertainment in restaurants with no separation requirements only if the noise level is acceptable. Entertainment at nightclubs and bars should require a separation because of the late hours of operation.

III. Noise Ordinance

Ms. Young provided CAG members with an overview of the Noise Ordinance that was recently adopted and effective on June 15, 2011. The noise ordinance is designed to provide flexibility to address specific situations. Specifically, the ordinance covers the use of Outdoor Amplification and Music at Commercial Establishments. The decibel levels for outdoor amplified sound and acoustic music is limited to a range of 60 to 85 decibels, based on the time of day and the day of the week. All decibels levels are measured at the property line of the property in which the sound is being generated.

A decibel level of 90 is equivalent to truck traffic; a level of 60-70 is normal conversation. A telephone dial tone is 80 decibels. A whisper quiet library is 30 decibels.

IV. Recommendations

Ms. Young reviewed the draft definitions prepared by staff for social entertainment, restaurant, and restaurant with social entertainment:

Social Entertainment:
 Social entertainment includes, but is not limited to dancing, live or recorded music, a disc jockey, singing, karaoke, a stand-up comedy show, a floor show, billiards, bowling, theatrical or other performance or similar activities. The use of television, video, or arcade games shall not be considered social entertainment unless the establishment is age restricted.

Restaurant:

An establishment that is engaged in the preparation and serving of food and drink on-premise.

Restaurant with Social Entertainment closing after midnight:

An establishment that is engaged in the preparation and serving of food, and alcoholic beverages on-premise, and where social entertainment is provided after midnight.

Nightclub, bars, lounges:

An establishment that sells alcoholic beverages for on-premise consumption. The establishment may:

- Be age restricted;
- Provide social entertainment or food;
- Have a cover charge or fee; or
- Offer memberships.

This use does not include adult entertainment.

Next, the draft recommendations for prescribed conditions were reviewed:

Restaurant with Social Entertainment, closing after midnight and Nightclubs:

1. If social entertainment is provided entirely within an enclosed building, a minimum 400 foot separation distance is required from any residential structure in any residential district, except TOD-R.
2. If social entertainment is provided outside, then a minimum 400 foot separation distance is required from any residential structure in any residential district, except TOD-R.
3. If a major thoroughfare, railroad, or greenway is adjacent to a restaurant, then the minimum separation distance on that adjacent side(s) may be reduced to a minimum of 300 feet.
 - A land use permit is required only if the minimum separation distance is reduced to a minimum of 300 feet on any side(s) of the use and exterior windows and doors shall be closed after midnight, except for ingress/egress.
 - A new permit is required if there is a change in use of the establishment or if a noise violation has been issued for the premises within the previous 12 month period with additional modifications as deemed necessary by enforcement division.
4. If the restaurant is located in the UMUD zoning district, then there is no separation distance required, regardless of the provision of social entertainment.

Note: Separation distances shall be measured from the closest point of the restaurant use to the residential property line. If outdoor social entertainment is provided, then the measurement shall be taken from the closest point of the outdoor social entertainment area to the residential property line.

V. *Group Discussion*

Ms. Young divided the CAG members into three break-out groups: pink, yellow and blue. Each group was asked to provide feedback on the definitions proposed and the prescribed conditions, and to relay group findings to the larger group:

Blue Group

- Decrease decibel level lower than the current noise ordinance after midnight
- Allow a restaurant with social entertainment to remain open after midnight.

Pink Group

- Noise is the issue
- Metro City – Noise Walls
- Metropolitan City – Restaurants stay open past midnight
- 400' is excessive, 200' or 100' or 50' or 25'
- Use fines as deterrent to observe noise level
- Trash, disturbances, crimes-violence, shootings
- Age restricted, cover, membership
- Restaurants with good standing should not have 400' separation
- Regulations for people that ignore
- Negative impacts – late night and alcohol
- Intent – Economic Development and restrictive rights
- Educate businesses
- Measure structure to structure
- Encourage rehab
- Variances
- Restrictions on hours – change to 2:00 unless in violation
- Promoters
- Reduce separation for restaurants with social entertainment after midnight
- Use of promoters – if using on regular basis – classify as a nightclub

Yellow Group

- Times have changed (try to keep doors open)
- Definitions: Where restaurant is not in violation because some businesses more changing into after midnight entertainment
- Changes Residential
- People want a safe neighborhood, keep the 400' separation
- Residential concerns: residents cannot have noise in R-5 because will not be tolerated. Giving restaurants more options is issue for R-5 property owner: they can have noise up to midnight
- Maybe outside restrictions
- Restaurants remain the same. Stay inside with noise and stay open longer
- Change closing hours from midnight to 11:00 pm (some against)
- Keep as is with 400 separation with outdoor entertainment
- Compromise is the key
- Time is an issue-not open long enough
- Keep Charlotte a world class city

After each group met, they individually presented their thoughts to the entire group. Ms. Young thanked the groups for their work.

VI. Questions

The following questions and comments were made:

- Why aren't variances a solution? Charlotte used to have a special use permit, but does no longer. Such a permit would require a public hearing before City Council before being granted. If reinstated, a special use permit process could increase City Council's workload significantly.
- Residents and property owners don't expect secondary impacts from a restaurant.
- "Balanced" recommendations won't be perceived as fair and balanced, depending on your point of view.
- Restaurants and nightclubs are not permitted in residential districts. Then why are they allowed to be placed on the perimeter of a neighborhood, and the rights of the adjacent residential properties are impacted? Lots

on the exterior of a neighborhood should be afforded the same rights as those inside the neighborhood.
Would like a 200' separation for restaurants that have social entertainment and close before midnight.

- Noise matters all day long, in the afternoon and at midnight.
- Reduce noise all day and night.

VII. Wrap Up and Next Steps

The next meeting will be held November 17th. Staff will revise the definitions and consider changes to the prescribed conditions. A draft of the revisions will be sent out in advance of the November meeting.

The meeting was adjourned at 8:30 p.m.