

MINUTES
Nightclub, Bars, and Restaurant Citizens Advisory Group Meeting
12-1-11

Citizens In Attendance:

Charleen Bradley	Jaime Coats	Janeen Bradley	Brad Smith
Sean Wilbur	Melane Kurelyla	Hillary Page	Bill Nolan
Darryl Ramjohn	James Glover	Natalie K. Beard	Rob Nixon
Penny Craver	Sek Bowman	Tom Rowssey	David Ratcliffe
Chris Berry	Melanie Sizemore	Kyle Gladge	Paulette Benkendorf
Andy Kastanas	Phil Rossi	Thom Perez	Mark Sprinkle
Russell Fergusson	Nikki Pratt	John Ashley	Erin Binford
Chris Neeson	Alan Cole	Kristina Cole	Bob Durken
Jim Kleimberg	Kim Charles	Brad Scorse	Kevin Carolla
Joseph Occhipint	Sheila Fletcher	Charles Bangus	John Merry
Nick Simms	Kevin Magiuse	William Thevaos	Mike Palmer
Anthony Cardone	Dave Sexton	Laura Camdo	Jessica Proctor
John Meyer	Brandon Hoskins	Angelica Srivoraphan	Merritt Tracy
Steve Thorston	Charlie Schmidt		

Staff In Attendance:

Katrina Young, Planning Department	Barry Mosley, Planning Department	Marci Sigmon, Planning Department
Sonda Kennedy, Planning Department	Sandra Montgomery, Planning Department	Gay Grayson, 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 to the group.

II. Recap of October 20, 2011 Meeting

Ms. Young summarized the Noise Ordinance. It covers the use of outdoor amplification and music at commercial establishments. The limitations include a range of decibel levels from 60 to 85 decibels, based on the time of day and the day of the week. Decibel readings are measured at the property line of the property in which the sound is being generated.

At the October 20th meeting, staff presented draft definitions for “social entertainment”, “restaurants”, “restaurants with social entertainment closing after midnight” and “nightclubs, bars, and lounges”.

The prescribed conditions suggested by staff for ““restaurants with social entertainment closing after midnight” included:

- A 400’ separation required from social entertainment within an enclosed building, or from where social entertainment is located outside of a building.
- 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 300’.

Ms. Young reviewed the feedback/observations from CAG members at the October 20th meeting:

Separation Distance:

- The 400’ separation distance is too excessive – reduce distance to 200’, 100’, 50’, or 25’.
- Keep the separation distance at 400’.
- Negative impacts occur during late night hours, and when alcohol is consumed.

Social entertainment:

- Allow a restaurant to remain open after midnight
- Include outdoor entertainment at 400' separation distance.'

Restaurant:

- Giving restaurants more options is an issue for nearby residences.
- Allow noise up until midnight.
- Keep the noise inside and stay open longer.
- If promoters are used on a regular basis, then classify use as a nightclub.

Noise:

- Change the closing hours from midnight to 11:00 pm to be more in line with the Noise Ordinance.
- Do not change the hours to 11:00 pm.
- Decrease the decibel level lower than the current Noise Ordinance.
- Use fines as a deterrent to encourage observation of the Noise Ordinance.

Ms. Young stated that at the October meeting there was also an agreement to exclude background recorded music, karaoke, television, and arcade games from the definition of "social entertainment". However, because the CAG group is still far apart on reaching a consensus on the draft definitions and draft prescribed conditions, more feedback from CAG members is needed before the definitions and prescribed conditions are revised.

The CAG members were asked to provide additional feedback at this meeting.

III. Discussion

Ms. Young divided the CAG members into three break-out groups: pink, yellow and blue. Each group was asked to provide feedback on three additional questions, and to present the group findings to the larger group. The questions were:

- How should we distinguish the differences between uses that do provide entertainment and those that do not?
- Should there be more than one definition of a restaurant? How would you distinguish between them?
- Should there be separation requirements? Separating from what?
- What other things should be considered?

After each group met, they individually presented their thoughts to the entire group:

Pink Group

- Should not be a distinction
- Enforce Noise Ordinance
- Realize there is a down economy
- What constitutes entertainment?
- Discussed this at last meeting - making distinctions
- Should be addressed by neighborhoods and not by zoning

Yellow Group

- There should be one definition that includes nightclubs and restaurants. Lump them together. There are no differences.
- There should be no separation distances. If the Noise Ordinance is doing its job, there should be no need for separation distances.
- A separation distance discourages business owners from locating in Charlotte.

- Provide flexibility – business owners should not be penalized.

Blue Group

- Distinguished uses by cover charge and security
- A bar has recorded music, TV, karaoke and live music
- A restaurant has recorded music, TV's , karaoke and live music

Ms. Young stated that we hear your concerns. We understand that restaurants have changed. Dining is more of an experience that includes different forms of entertainment. Our job is to balance what is best for businesses and citizens. Although few citizens and neighborhood representatives are participating, they will be at the City Council meeting to provide their comments. We need to work together to find a solution. We recognize that you have an investment in the community, and it is not just an economic investment. We need to consider that what is in the best interest of the City may not be what you think. You will have the opportunity to voice your concerns at the City Council meeting. If you end up disagreeing with the proposed definitions and conditions, you can present a whitepaper to City Council and voice your concern. Staff will have to have a rationale to support the recommendations.

VI. Questions

The following questions and comments were made:

1. We have investments in our businesses. We are worried about our livelihoods and those of our employees, the City, State, and citizens. What gives staff the right to make the recommendations?
 - *Ms. Young noted that these regulations impact everyone, including staff as clients of restaurants and nightclubs, too. She reminded everyone of earlier meetings that detailed the roles of the CAG members and staff. Staff only makes recommendations; the City Council makes the final decision.*
2. The mobile food vendors 400' separation distance restrictions resulted in putting many mobile food vendors out of business. They have limited locations in which to set up. 60 vendors were reduced to five.
3. The City Council charged staff with this undertaking. We should direct our attention to City Council.
4. Philosopher's Stone – bought this business next to residential. The powers that be have an agenda and push it through. Our job as citizens is to get involved and be heard by City Council. The City was going to ban outside music 100% in the Noise Ordinance until we got involved. We have rights and so do residents. 30% of businesses live nearby and are critical to the success of our business.
5. Is there any data regarding why we are making changes to the Zoning Ordinance vs. what is being voiced here?
 - *Ms. Young noted that there are some statistics available from the Police Department and Code Enforcement. They have a task team that conducts inspections. Several businesses have been operating as a nightclub, instead of a restaurant. These businesses were given a Notice of Violation and the NOV has been appealed to the Zoning Board of Adjustment. The Zoning Board of Adjustment has created an interim rule on what is considered to be a restaurant: If 80% of the business is from food sales, and if it is not age-restricted, and if entertainment is periodic (i.e. once a month), then it is a restaurant. The Zoning Board of Adjustment was receiving many appeals and directed Planning to review the definitions and prescribed conditions. Until this process is complete, that is the distinction between a restaurant and a nightclub.*
6. Would the Notice of Violations indicate what the violation is?
 - *Ms. Young indicated that it does. We could ask for a copy of the NOV's, but this would have no bearing in this process. We are not here to discuss noise or the Noise Ordinance, only land use.*
7. Previous presentations have indicated that Noise is an issue and a reason why the separation distances are needed.
 - *Ms. Young noted that the Noise Ordinance is about amplified music and it doesn't address people talking or vehicular noise.*
8. Will our views be presented to the City Council?
 - *Ms. Young stated that based on feedback, staff will come back with recommendations for change. You may agree or disagree. We have tried to look at all sides. The text amendment will be taken through the process, with a City Council public hearing, a Zoning Committee recommendation, with the City Council making the final decision.*

9. Why is there a public perception that there are gang fights, violence, noise, or mobs at nightclubs?
10. We are frustrated from where this push is coming from.
 - o *Ms. Young stated that staff will provide information about previous Zoning Board of Adjustment cases.*
11. The restaurant business employs 40,000 people in Charlotte that pay taxes. If we don't see our recommendations in the text amendment, we will fight with newspapers and television coverage. We demand to see our recommendations.
 - o *Ms. Young apologized that all that was stated is not included in the staff recommendations. She reminded everyone this is an advisory group, and staff is seeking feedback and input from CAG members.*

IV. Wrap Up and Next Steps

Note: Ms. Young announced that the CAG process is being placed on hold until the Noise Ordinance is revisited. The City Council members were getting calls and e-mails about the Noise Ordinance and this CAG process. Since there was so much confusion between the Noise Ordinance and this process, we were asked to place this process on hold until the City Council can review and finalize the Noise Ordinance. Once that is done, we will reconvene.

The next meeting will be scheduled after the holidays towards the end of January or early February, 2012.

The meeting was adjourned at 8:40 p.m.