

MINUTES
Nightclub, Bars, and Restaurant Citizens Advisory Group Meeting
5-9-13

Citizens In Attendance:

Cane, Camaron	Ingram, Chris	Sheehan, Edward
Cardone, Anthony	Kastanas, Andy	Sizemore, Melanie
Coverdale, LJ	Kastanas, Lesa	Stewart, Walter
Fergusson, Russell	Kretschmer II, Frank	Taylor, Marty
Fletcher, Sheila	Myers, Cheryl	
Foster, James	Nolan, Bill	
Gilewski, Maureen	Padilla, Joe	
Gore, Gina	Palmer, Mike	
Grimes, Andy	Pitkin, Ryan	
Gude, Megan Liddle	Rice, Brett	

Staff In Attendance:

Debra Campbell, Planning Department	Katrina Young, Planning Department	Sandra Montgomery, Planning Department
Sonda Kennedy, Planning Department	Barry Mosley, Planning Department	Karen Robinson, Planning Department
Pontip Aphayarath, Planning Department	Marci Sigmon, Planning Department	Bridget Dixon, Planning Department
Mark Fowler, Neighborhood & Business Services	Jason Kay, City Attorney's Office	

I. *Welcome and Introductions*

The meeting began at 6:05 p.m. Debra Campbell, Planning Director, welcomed everyone to the meeting, and introduced herself. This is the fourth meeting of the Nightclub, Bar, Lounge and Restaurant Citizen Advisory Group. She asked everyone to introduce themselves before she began.

II. *Summary of Purpose and Goals*

Ms. Campbell started with a brief overview of the last meeting, which was held in March. There has not been a meeting since then because staff has been extremely intentional in making sure that the next time the CAG met there would be recommendations for the CAG to review. Staff reviewed the input provided by CAG members at past meetings: the issues and concerns raised by CAG members; the opinion poll taken at the last meeting; suggestions on how to address these issues; and information staff gathered from the survey research from other communities.

Ms. Campbell reviewed the Agenda, and what we hope to accomplish this evening. Staff sent draft recommendations to members before the meeting. She said she would summarize the purpose and goals of the meeting, recap the last meeting, and then present the draft recommendations and answer questions, and have one or more break-out sessions to gather CAG member issues and concerns.

Ms. Campbell summarized the purpose and goals of this CAG effort. The process began in January, when we began discussing the different types of uses we have in our community that serve food and beverages (including alcohol) and have entertainment (including outside entertainment). Nightclubs, bars, lounges and restaurants are acting more alike these days than being different distinct uses. The purpose of this CAG effort is to adequately define uses, develop standards to minimize adverse impacts to nearby residential areas, and to provide more flexibility to businesses.

Ms. Campbell reviewed the current definitions for nightclubs and restaurants:

- Nightclub: Any commercial establishment serving alcoholic beverages and providing entertainment for patrons including bars, lounges and cabaret.
- Restaurant: An establishment designed, in whole or in part, to accommodate the consumption of food and/or beverages.

For restaurants, the differences and issues are: 1) the definition does not reflect the current uses, 2) restaurants are not currently allowed to have any form of entertainment, and 3) restaurants can create secondary impacts. For nightclubs, bars and lounges: 1) the definition is too broad, 2) these uses have a separation distance requirement, up to 400', and 3) these uses can also create secondary impacts.

III. Recap of Last Meeting

Ms. Campbell reminded CAG members about the opinion poll and keypad devices used by CAG members at the March 5 meeting, where staff asked questions and CAG member opinions were recorded through the keypad devices, and results were immediately available. She summarized the responses received:

- Restaurants or nightclubs, bars and lounges should not have separate definitions.
- Entertainment should be included for restaurants, nightclubs, bars and lounges.
- There should be no separation requirement for restaurants, nightclubs, bars or lounges abutting a residential district. *(Ms. Campbell noted that although this was the predominant opinion, there were other opinions about the separation distance requirement).*
- Uses that have no entertainment should not have a separation distance.
- There should be no requirements for restaurants, nightclubs, bars and lounges based on size.
- Hours of operation should not be regulated for nightclubs, bars and lounges.
- No special zoning districts are necessary for restaurants, nightclubs, bars and lounges.

Ms. Campbell asked if there were any questions about what was accomplished at the March meeting.

Citizen: Is your proposal based solely on the opinion poll questions?

Ms. Campbell responded that no, those were just opinions of the CAG members. This poll was just an opinion survey. Staff used a variety of input to draft the recommendations. Staff researched 22 communities to determine what other jurisdictions were doing, and found that there was not a lot of continuity in what others were doing. Staff also reviewed the suggestions and recommendations from earlier CAG meetings, and gave the same opinion poll to staff who responded as citizens and residents of Charlotte.

Citizen: I want to point out that when we started this process, one of the goals was to create development standards that minimized impacts to residents. When the CAG first met in August of 2011, the goal was to adequately define the uses and develop standards so there would be no adverse impact to nearby residential uses. The goal has changed now.

Ms. Campbell stated that the goal in 2011 was unrealistic and unattainable. There can't ever be "no impact". If it is not the intensity of the use, it could be the impact of lighting, or something else. "No impact" is unrealistic. When this CAG process began in January of 2013, we agreed to wipe the slate clean and began again. These were the goals we used in this process.

Citizen: In our neighborhood, different people see impacts differently. What one person might see as adverse, another person likes.

Ms. Campbell reiterated that we are trying to minimize the adverse impacts.

IV. Recommendations

Ms. Campbell reviewed the document sent out to CAG members in advance of the meeting. (Please see additional document titled, “Proposed Text Amendment for Restaurants, Nightclubs, Bars and Lounges” located on the website under the May 9, 2013 meeting date). Our community is changing. This is not simply a process of tweaking regulations. What is important is what kind of community are we trying to build for Charlotte? How do these uses fit in this vision?

Ms. Campbell reviewed the vision statement from the Centers, Corridors, and Wedges Growth Framework document to put this process into context with the larger vision for Charlotte: “Charlotte will continue to be one of the most livable cities in the country, with a vibrant economy, a thriving natural environment, a diverse population and a cosmopolitan outlook. Charlotteans will enjoy a range of choices for housing, transportation, education, entertainment and employment. Safe and attractive neighborhoods will continue to be central to the City’s identity and citizen involvement key to its viability.” She noted that when we have a vibrant and dynamic community, and these various goals, we will have tension. Our goal is to minimize the adverse impacts of that tension, because we have different uses that need to co-exist.

Besides the goals and visions for the community, we have ten guiding principles, also from the Centers, Corridors, and Wedges Growth Framework:

- High quality, context sensitive community design.
- Protection of established neighborhoods.
- Residential opportunities to accommodate a diverse population in quality and livable neighborhoods.
- Diligent consideration of environmental benefits and impacts.
- A healthy and flourishing tree canopy.
- More walkable places with a variety of activities.
- A diverse, growing and adaptable economy.
- Revitalization of economically challenged businesses and residential areas.
- Enhanced transportation networks for pedestrians, cyclists, motorists, and transit users.
- Efficient and coordinated investment in infrastructure that keeps pace with existing and future development.

Ms. Campbell said, given this framework, our purpose is to analyze the challenges facing business owners and residential property owners under the existing Zoning Ordinance definitions for restaurants, nightclubs, bars and lounges. These definitions were established prior to 1981 and have become inadequate to provide the necessary regulations for Charlotte as it grows and becomes a more urban community. The first separation distances established were more for adult oriented businesses, not nightclubs, bars and lounges. When the City changed the adult oriented establishment regulations, making those separation distances greater, the standards were not revised for nightclubs, bars and lounges.

In looking at the nature of these uses, how they have evolved, the character of these uses, and how these uses are similar and different, Ms. Campbell noted that these uses are more similar than different. Staff thought about a new approach. Instead of trying to determine how these uses are different, staff decided to call them “eating, drinking and entertainment establishments”.

Ms. Campbell stated that the proposed changes 1) create new definitions for eating, drinking and entertainment establishments to reflect the similar character and emerging business model of these uses, 2) allow greater entertainment offerings with understandable definitions and rules, 3) reduce the separation distance requirements for these uses by using proximity to a vacant lot or single family dwelling when either is located in a single family zoning district, 4) create consistent separation distances for urban districts, and 5) increase flexibility by creating more than one compliance option for businesses wanting to offer outdoor seating or entertainment.

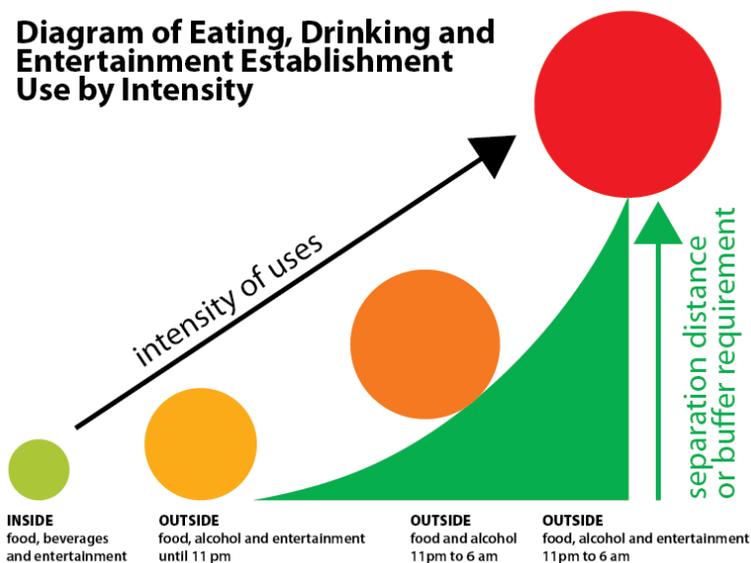
Ms. Campbell reviewed a comparison of the current regulations and the recommended definitions. The proposed definitions are:

- **Type 1 Eating, drinking and entertainment establishments:** An establishment where food is prepared and beverages may be provided, excluding any alcohol. Indoor and outdoor entertainment may be provided. (Examples include Wendy’s, Cook-out, Waffle House, Starbucks, Panera Bread)
- **Type 2 Eating, drinking and entertainment establishments:** An establishment where any alcohol is consumed, food and other beverages are optional, and entertainment may be provided, including outdoor entertainment. Excluded are adult establishments, athletic and sports facilities, conference centers, cultural facilities, hotels and motels, and recreational facilities approved as part of a residential development plan, similar uses and uses exempt from Alcohol Beverage Commission permitting standards. (Examples include Ruth’s Chris Steak House, Applebee’s, Hooter’s, Buffalo Wild Wings, Coyote Joe’s, Banquet Halls)

Ms. Campbell stated that entertainment can be provided in both Type 1 and Type 2 uses as follows:

- Entertainment activity (defined as including, but not limited to, dancing, music, theater or comedy performance, sporting event, trivia game, or game of skill or change) is permitted inside and outside the permanent building.
- “Outdoor entertainment” is defined as any activity or game that is live, broadcast, or recorded which occurs on the premises of, but outside of an eating, drinking and entertainment establishment. Entertainment occurs outdoors when it is outside the permanent enclosed area, contained by permanent walls and a permanent roof of the establishment.
- “Outdoor Seating/Activity Area” is defined as any area outside the permanent building, including without limitation, patios, decks, rooftops, open areas, or parking lots where food or beverages are consumed or entertainment takes place.
- Outdoor entertainment (defined above) is permitted in any Outdoor Seating/Activity Area (defined above) outside the permanent building between the hours of 11 p.m. to 6 a.m., with prescribed conditions.

Ms. Campbell showed a diagram of eating, drinking and entertainment establishments by intensity. When activities come outside, from a land use perspective, the intensity of the use ramps up. The diagram illustrates that uses with inside food and beverages and entertainment have a lower intensity than a use with outside food, alcohol, and entertainment between the hours of 11 p.m. to 6 a.m.



Citizen: Thank you for putting this together, it is very entertaining. But you could not give this presentation at 11:01 p.m. outside on a patio on Saturday night, if you are within 100’ of single

family residential. At Selwyn Pub, for 23 years we've had televisions outside and sometimes a juke box is playing. We've had no noise violation in the past 23 years.

Ms. Campbell said this is not about noise.

Citizen continues: Or other violation. Your definition of entertainment sounds awfully broad if on a Saturday night, a basketball game is on television and the neighbors want to come down and watch the game, and the television has to be turned off outside at 11 p.m.

Ms. Campbell stated that the television does not have to be turned off at 11 p.m. if you meet some of the other standards.

Citizen continues: But at this point, a broadcasted game on Saturday night on the west coast will have to be turned off if you don't meet those standards.

Ms. Campbell stated that is correct. If the standards are not met, the television needs to be turned off outside.

Citizen: Does that mean you have to turn off the sound but can keep the television on?

Ms. Campbell said the television would have to be turned off if the standards were not met.

Citizen: Do the recommendations address the situation where an existing business cannot move 100' away from residences, if they have outdoor entertainment? Given that the arbitrary interpretation of the definition of restaurants has been that they allow no entertainment, has there ever been an instance where the Planning Department has told someone that the music they play on the speaker or the television set is considered to be entertainment, and in violation of the code? I support what you are doing, but if you are going to take an existing patio and say you can't have live music or games, or a television, then you are lumping in a lot of activities together.

Ms. Campbell replied that you can still have these activities. When you take these activities outside the building after 11 p.m., then there are higher standards you have to meet in terms of compatibility with single family homes. You can have entertainment inside around the clock, and do whatever your ABC permit and the police allow you to do. But when it comes outside after 11 p.m., then here is a higher need for compatibility. You can meet these standards with either a 400' separation distance for outdoor entertainment, or you can meet it with a 100' separation distance or a Class A buffer, if you have no entertainment outside, but consume food and beverages outdoors.

Citizen continues: If your neighbor turns the television on and off and you can't hear it, is it really happening? If we are looking at how we are impacting other properties and you're throwing in something you can't see or hear from that far away, along with something you can hear at more than 400', like a live band that you can hear ½ mile away, I'm saying maybe we have gone too far in what the definition for entertainment is. I suggest we notch off television and music in the definition of entertainment, and not eliminate a bunch of businesses that can't shift their building across the street to be 100' or 400' away.

Ms. Campbell appreciated the comments and noted that staff is recording all the comments. She then asked Katrina Young to review the prescribed conditions for separation distances. Ms. Young noted that the group has touched on a number of the prescribed conditions, but she will try to clarify the proposed recommendations.

The first category is outdoor entertainment. Staff is recommending two different recommendations for both type 1 and type 2 eating, drinking and entertainment establishments. One is for the more urban zoning districts, and the other is for the other zoning districts. For the urban districts of MUDD, UMUD and TOD, we are recommending a 100' separation distance if there is outdoor entertainment between the hours of 11 p.m. and 6

a.m. For the other commercial districts, the separation distance would be 400' between the same hours. This is the current requirements for nightclubs, bars and lounges.

The second category is the consumption of food and beverages outside between the hours of 11 p.m. and 6 a.m. This is where you might have tables and chairs outside on a patio or on a deck. Staff is recommending a 100' separation distance requirement in both the urban and commercial zoning districts. This prescribed condition is new, and we are recommending it for the type 2 eating, drinking and entertainment establishments.

In addition, there is a buffer requirement. There are two types of buffer requirements. First, there is the buffer requirement that we currently have for the separation of land uses. For example, a heavy industrial use next to an office use would require a Class B buffer. What we are recommending also is that if you cannot meet the 100' separation distance requirement for the outdoor consumption of food and beverages between 11 p.m. and 6 a.m., then you could increase your buffer width to a Class A buffer standard. Class A buffers range between 40' to 100', based on the size of the lot.

Ms. Young noted that the separation distance for outdoor entertainment must be met if the entertainment occurs in an outdoor seating/activity area (excluding smoking areas) at any time between the hours of 11 p.m. to 6 a.m. These separation distances can also be reduced through an adopted PED Streetscape Plan. The current separation distances for nightclubs, bars and lounges are based on zoning districts or land uses. The separation distance for outdoor consumption of food and beverages must be met if food and beverages are consumed outside the permanent building between the hours of 11 p.m. to 6 a.m.

Citizen: Can you explain what you mean by excluding smoking areas? Do you get to designate the smoking area?

Ms. Young replied that many restaurants have areas designated for smoking. This area is different from where patrons congregate to consume food and beverages where there are tables and chairs or where other activities occur. A smoking area is only for smoking. Ms. Young said that the Planning Department does not regulate this.

Citizen: But outdoor smoking areas can have tables and chairs. People carry their beverages with them and stand there, and smoke their cigarettes.

Ms. Young indicated that it would then be considered an outdoor activity area.

Citizen: Is an outdoor smoking area one that you can smoke in, but can't carry your beverage in?

Ms. Young replied, yes. It is only for smoking.

Ms. Young reviewed several diagrams in the PowerPoint presentation that illustrated the 100' separation distance for outdoor eating/activity area and for outdoor entertainment.

Referring to the first diagram, Ms. Young noted that the measurement for the 100' outdoor eating/activity area for type 2 uses in all commercial zoning districts is measured from the edge of the outdoor activity area to the property line of a single family or vacant lot located in a single family zoning district. What if an existing business can't move the building? The option would be to add a Class A buffer (40' to 100' in width), with trees and shrubs.

Citizen: Would that buffer reduce the amount of space for entertainment or consumption?

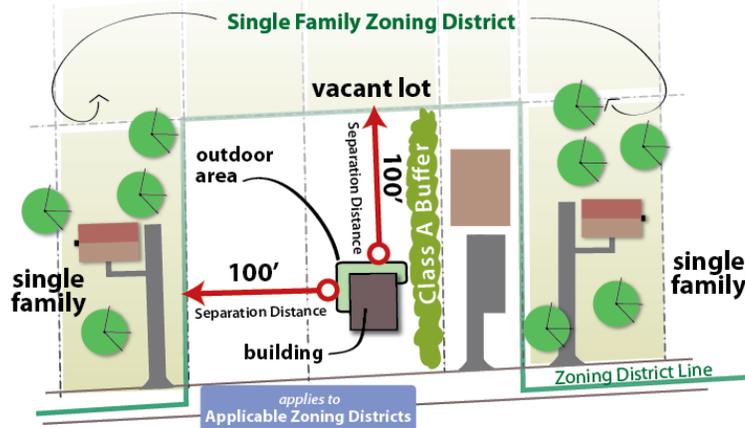
Ms. Young replied, no, it would not reduce the space. She referred to the diagram. Since the 100' separation distance cannot be met, it allows an option to install a Class A buffer to mitigate the impact on nearby single family or vacant lot in a single family district. The Class A buffer requirement ranges from 40' to 100', and includes a required number of trees and shrubs per 100'.

100' Separation Distance for Outdoor Eating/Activity Area-Type 2 (alcohol consumed)

11 pm to 6 am



Separation Distance for Outdoor Consumption of Food and Beverages must be met if food and beverages are consumed outside the permanent building between the hours of 11 pm to 6 am.



NOTE: Buffer not required except when 100' separation cannot be met. (For example, a 1 acre lot would require a 46' wide Class A Buffer)

Citizen: What if you had a building that is 50' away from a single family use? Would you need a Class A buffer all around the bar area where there is outdoor seating and outdoor entertainment?

Ms. Young responded that the Class A buffer is only required for outdoor consumption of food and beverages, not outdoor entertainment.

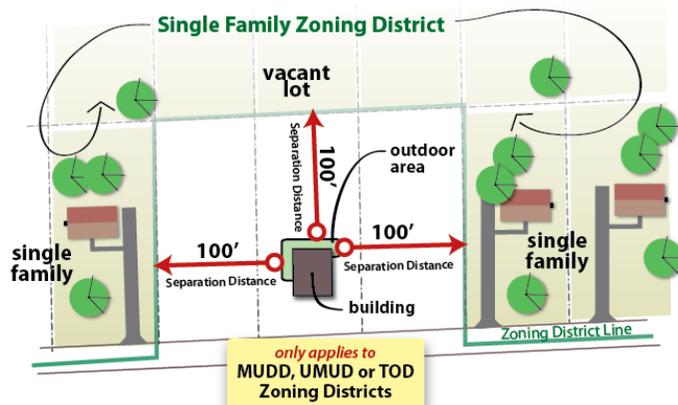
Ms. Young referred to the next diagram for outdoor entertainment. For the urban districts of MUDD, UMUD and TOD, there is a 100' separation distance for outdoor entertainment.

100' Separation Distance for Outdoor Entertainment

11 pm to 6 am



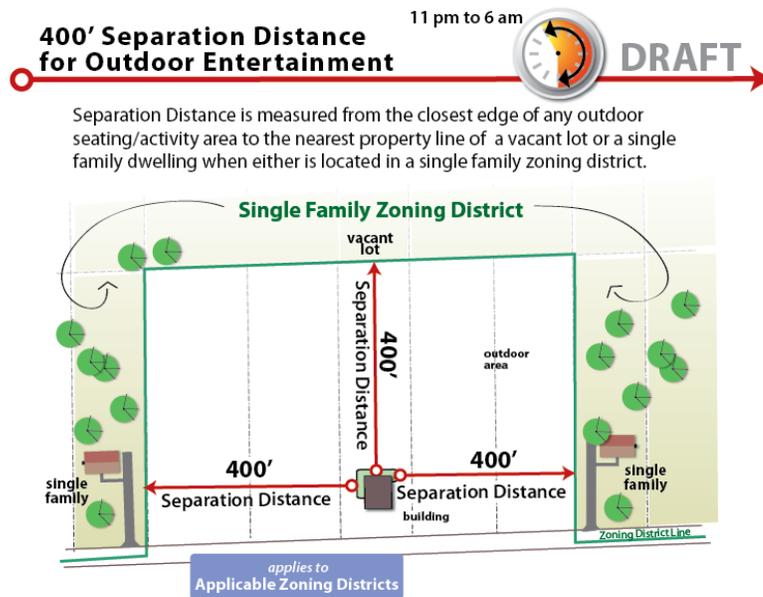
Separation Distance is measured from the closest edge of any outdoor seating/activity area to the nearest property line of a vacant lot or a single family dwelling when either is located in a single family zoning district.



Citizen: Does this apply to apartment buildings?

Ms. Campbell said, not any more. It only applies to a single family house or a vacant lot in a single family residential district.

Ms. Young said that for all the other zoning districts, besides the urban districts, the separation distance for outdoor entertainment is 400' after 11 p.m. If you are greater than 400', the business is fine.



Citizen: In earlier discussions we suggested that a major thoroughfare could reduce the separation distance.

Ms. Young said, no there is no credit if it is along a major thoroughfare. However, the width of the major thoroughfare would count toward the 100' or 400' separation distance. This is to protect the single family dwellings located in single-family zoning districts after 11 p.m.

Citizen: Can you give me an example of what an urban district is? What area of uptown is urban? Are NODA, Plaza-Midwood, and Elizabeth single family districts?

Ms. Young explained that uptown is urban, with tall buildings, that may have mixed-uses within the building. The single family districts are R-3, R-4, R-5, R-6, and R-8.

Citizen: Let's say you have a restaurant zoned UR, and they have outdoor dining and outdoor entertainment, with no complaints now. With this recommendation, would they need to put in a buffer to be in compliance? Would they need to rezone?

Ms. Campbell stated that if you take the existing definition of restaurant, literally, the restaurant with outdoor dining and outdoor entertainment would be illegal. So what we are doing is creating the opportunity to allow these to exist legally with the appropriate application of standards that mitigate impacts on surrounding uses. If no one is complaining, that is great. That establishment is being a good neighbor.

Ms. Campbell explained that staff used an inventory of the 1519 restaurants registered with the Fire Department and tested the proposed prescribed conditions, including hours of operation, and found that 16 establishments that were zoned in the commercial districts and 11 establishments that were located in urban districts, or a total of 27 establishments out of a total of 1519 restaurants, could not meet the proposed separation distance standards.

Citizen: I know the definition of entertainment is broad. Did you find any examples in the other communities where they considered television playing and background music to be entertainment?

Ms. Montgomery was asked to respond, and said that other communities did regulate audio and video.

Citizen: What is going to be grandfathered as non-conforming uses for existing businesses? What won't be? Will the Planning Department or Enforcement take the position because no entertainment was ever allowed, even though it was never enforced, that, therefore, none of these existing businesses are going to be protected with the non-conforming use chapter?

Ms. Campbell responded that first and foremost, our intent is not to go out gestapo-style and shut businesses down. That is not what we are going to do. We would like the property owners to take individual, responsible actions for compliance. If the draft recommendations become law, we would expect and anticipate compliance. In terms of what the Planning Department is going to do, staff will provide that particular business owner with information on all legal recourses they could take. They could seek a variance with the Zoning Board of Adjustment, or they could seek administrative relief, or a rezoning.

Citizen: By setting these separation distances at these times, it is being acknowledged that there could be adverse impacts to single family uses located within 400' after 11 p.m. But before 11 p.m. the impacts are considered to be minimal? Single family uses are protected after 11 p.m.?

Ms. Campbell asked for clarification. We are saying that most of the time, after 11 p.m., in terms of the compatibility of uses, most of the time, the single family uses are quieting down or settling down. They are the less intense use. Adjacent to the single family use, is a much more intense use. What is happening on the inside of the intense use can happen all day and night long, without separation. But once the activity comes outside, that is when there is a separation distance requirement.

Citizen continues: You feel that there is no adverse impact on single family residences before 11 p.m. or that it is negligible?

Ms. Campbell stated that if you have seating area and alcohol is consumed between 11 p.m. and 6 a.m. there is a 100' separation distance or a buffer.

Citizen: Under the current rules, if you have a 400' separation distance, you can do this now, correct?

Ms. Campbell replied yes, nightclubs are currently required to have a 400' separation distance from all residential uses or districts. This has not changed. Adjacency was also for multi-family and condominiums. Now the separation distance is just for single-family uses or a vacant lot in a single family district.

Citizen: Did you use the Noise Ordinance cut-off times in drafting these regulations?

Ms. Campbell replied, yes.

Citizen: On Thursday the time change in the Noise Ordinance is 9 p.m.

Citizen: What if a business can't do the 400' separation distance, is there some buffer that works? Or are those businesses just out of luck?

Ms. Campbell stated that no, if the 400' separation distance cannot be met, then the outdoor entertainment would need to move inside the building. Another option would be to seek a rezoning to an urban district, which would allow a 100' separation distance. There is no buffer alternative for outdoor entertainment.

Citizen: Have you considered changing the definition of outdoor entertainment after 11 p.m. or has it been decided that all types of entertainment will be grouped together?

Ms. Campbell responded that these are draft recommendations, and CAG members can discuss and propose recommendations for changes.

Citizen: Let's say the diagram lots are all zoned B-1, and the use requires a 400' separation distance because of the adjacent single family zoning. What if all five lots were rezoned to an urban district? Would that require a 100' separation distance then?

Ms. Campbell said, yes. Ms. Young added that if the lots were combined, and the outdoor activity area was in the center, then they probably would meet the separation distance requirement.

Citizen: Does that mean just after 11 p.m. or any time?

Ms. Young clarified that it is after 11 p.m.

Citizen: If the outdoor consumption area is closer to the single family area, could you have an outdoor entertainment on one side of the building and close down the other part of the outdoor seating area at 11 p.m. to be in compliance? Will there be flexibility if a barrier like a roped-off area is made to prevent outdoor activity in a particular area, or if the business asks people to stand over to one side. Will that work?

Mark Fowler from Neighborhood & Business Services answered the question. He replied that his department would look at this when a business license application was submitted. The owner would have to show the location of the outdoor activity area. That is where the measurement would begin. Ms. Campbell noted that for existing businesses, she hoped that the business owner would be responsible and be a good neighbor. This is about respect for adjacent uses.

Citizen continues: Would it be advisable then to segment the outdoor activity area into two areas?

Mr. Fowler said that they could submit the information for review, and that would be reasonable.

Ms. Campbell continued with the presentation of the summary of proposed changes. The proposed recommendations:

- Makes it simpler for businesses to know how to comply with the rules and makes it easier for the City to enforce the rules on behalf of citizens.
- Relaxes a number of requirements for eating, drinking and entertainment establishments. It allows them to adapt and innovate to serve Charlotte's diverse business and neighborhood environment, but still maintain protection of residential areas.
- Identifies and addresses the need to regulate the secondary impacts that have been expressed by residential property owners.
- Creates simpler classifications and more flexible rules that impact less than 2% of existing eating, drinking and entertainment establishments.

She also noted that other related issues will be forwarded to the appropriate department:

- Zoning Ordinance changes alone will not fully address the issues that have been raised through this process.
- Staff will forward and request consideration of identified issues to other departments, including:
 - CMPD – Noise Ordinance enforcement
 - LUESA – Increased building code standards for mixed-uses and/or noise attenuation.

Citizen: Let's say a business has an outdoor eating area after 11 p.m., and it doesn't meet the separation distance requirements. They should not be doing the outdoor eating or entertainment. But they do it anyway, and get complaints. How will Code Enforcement handle this if they can't do this after 11 p.m.

Ms. Campbell replied that they need to go inside the building at 11 p.m. There are other options available: a rezoning, a variance through the Zoning Board of Adjustment, an administrative. Staff will work with the business owner.

Citizen: Is there a process established for businesses that don't conform? Are there fines?

Ms. Campbell said that if this is adopted, there would need to be opportunities for education. We would be somewhat lenient and relaxed, but we would still need to enforce the code. Ms. Young added that for new businesses, there would be an application form and new businesses would be able to get information on the prescribed standards at the time they get their business license.

Ms. Campbell reviewed the single family zoning districts: R-3, R-4, R-5, R-6, and R-8.

V. Break Out Session

Ms. Campbell asked CAG members what they liked about the recommendations from a business perspective. The responses were:

- Like the urban district separation distance of 100'.
- Like that you allowed the PEDSCAPE plans to adjust the separation distances. We appreciate that.
- In earlier meetings, there were 1800 restaurants and 250 nightclubs.

Ms. Campbell stated that those numbers were for all of Mecklenburg County. There are 1519 restaurants in Charlotte, and 221 nightclubs. Nightclubs are the winners. As long as the activity is inside the building, they have no separation distance.

Citizen: The losers are the neighborhood pubs that have live music and television outside.

Ms. Campbell replied that you can do those things.

Ms. Campbell asked for what CAG members liked about the recommendations from a neighborhood perspective? The responses were:

- A lot of businesses will be able to stay.
- Regulations are clear to understand and people can anticipate the interaction that can occur.
- Maintains a lively, and more diverse neighborhood.
- People will know what can happen.
- Clear and simple language. There will be people that will want to make it more difficult to understand. As long as the language is clear and simple, code enforcement can do its job or answer questions.

Ms. Campbell asked for what CAG members disliked from a business perspective. The responses were:

- Neighborhood pubs that serve food are lumped in with Coyote Joe's where food is optional. There is a huge difference.

Ms. Campbell asked for clarification. How specifically are neighborhood pubs impacted by these regulations?

Citizen continues: Selwyn Pub has a patio on Selwyn Ave. Residential is behind the parcel; the patio is on the street front, which is very busy. We were told we were urban, as there is no parking. For 23 years we have had televisions and juke box music playing outside on the patio. These regulations

will have a huge impact on the business. We don't open until 3:00 p.m. because we are urban and there is no parking. If we have to shut down at 11 p.m., the business will have to close down.

Ms. Campbell responded that when we did our analysis of this business, the outside patio complied with the separation distance, since the patio is on the front. These recommendations will not affect your use. You should be fine.

Citizen continues: But at 11:00 p.m., we can't have any entertainment outside.

Ms. Campbell replied that the business meets the separation distance, and you can have outdoor entertainment.

Citizen: If you are saying I am okay, I can take that measure, too.

Ms. Campbell asked what else is disliked about the recommendations?

Citizen: Some businesses may be outside the buffer, but I don't believe this is the case for a lot of businesses. When you have an establishment that may be inside the separation distances but is keeping noise to a minimum on the patio, they are being a good neighbor, and don't have excessive noise. People are outside dining. I feel people are caught up in it, and saying, I've been a good neighbor. But all of a sudden, I'm in violation and being asked to rezone, or relocate my patio, or shut down my operating hours or provide a buffer. Should we go back and just let the Noise Ordinance be the guide?

Ms. Campbell stressed that the intent of this process is not to shut businesses down. The intent is to clarify and to make sure that businesses were not shut down, and also to protect lower intensity uses. Staff tried to figure out how to mitigate and minimize the impacts on adjacent uses. What is also important is to not create a whole bunch of standards that would create a lot of non-conforming uses. One of Council's policies is to minimize the number of non-conforming uses that are created. It took staff a long time to call these businesses, to test the recommendations. Half the staff was calling restaurants. Mr. Fowler was measuring in the field. I'm not saying that no one will be impacted. We have done a lot of due diligence to minimize the impacts. If you have recommendations in terms of tweaks, this is the time to suggest those things.

Citizen continues: Is there some way to interlay the Noise Ordinance into the standards?

Ms. Campbell noted that the Noise Ordinance is not part of the Zoning Ordinance, and not enforced by the same entity.

Additional comments:

- You've done an awesome job.
- Do not like the 400' separation distance.
- Is there some way you could allow a television with a small speaker on a patio? For a lot of businesses, the lifeblood of the business is the patio.
- Everyone did great in checking the impacts to existing businesses, but what research was done on the residences impacted by the changes?

Ms. Campbell responded that the changes are more stringent regulations about the outdoor entertainment. No, we didn't call homes to get household input. Ms. Young added that for restaurants with outdoor seating, where they were eating and drinking outside, that use could be very close to residential. Now, after 11 p.m., we are asking for a 100' separation distance to protect the residential uses from the commercial use.

Ms. Campbell added that of the 1519 restaurants, many of them currently have outdoor entertainment and are not meeting the 100' separation distance or buffer. This is a new standard they will have to meet.

Citizen: What about a florist or dry-cleaning establishment that is next door to a residential use? What if that use changes into a nightclub? What about those people that would have a nightclub next door? That's possible if all the entertainment is inside. There is a lot that has not been vetted. I don't know where to start.

Ms. Campbell stated that a lot of staff vetting and discussion has taken place. We visualize restaurants as selling food. They may serve alcohol. Nightclubs serve alcohol and may have food. If both are operating inside, what is the difference?

Citizen continues: Hours of operation are different. Peak hours of operation are different.

Ms. Campbell said there are restaurants that are also open late. The uses are blending.

Citizen: There is no guarantee of what happens next door.

Citizen: How can you say that Shomars is similar to a nightclub?

Ms. Campbell said Shomars is type 1 and the nightclub is a type 2 eating, drinking and entertainment establishment.

Ms. Campbell asked for proposed changes to be e-mailed or sent to staff. Staff will share these with the CAG members.

More comments:

- Change outdoor entertainment to exclude unamplified television sets and music as background. Music turns conversations into a drone, instead of individual voices.
- Propose no audio, only visual outside.
- When you are watching a game on television, part of the entertainment is excitement about the game. It is entertainment and a generator of impacts on residential uses. It does matter.
- Praise for job done.
- A ramp-up is needed for education of neighbors and businesses.
- Violators should not be allowed to continue in violation for years.
- Like to remove televisions and juke box/music that is at a lower decibel level than the Noise Ordinance from the outdoor activity area.
- Can there be a maximum size for outdoor television screens? The light is bright.
- Keep it simple. If you are eliminating things, like televisions or juke boxes, what about radio? The list of exempt things will snowball and the resulting regulations will end up hard to enforce with a laundry list of items that are included and excluded.
- From your perspective, is there more adverse impact on businesses or residential areas? (Ms. Campbell responded that the goal is to minimize the impact on residential areas and provide flexibility for businesses. She added that she thinks this has been accomplished in the draft recommendations).
- How many residences are impacted with these regulations? We need to know. This proposal is vastly different from that presented in 2011. So up until tonight, the proposals have not been as drastic from a residential perspective, if they even know what is going on.

Ms. Campbell stressed that staff has done a ton of public outreach trying to get neighborhoods involved, and we have gotten neighborhood representatives who have said, I like these businesses. That is why I moved here. Do not impact these businesses.

Citizen: In my neighborhoods, we have received multiple e-mails. I've tried to get people to come. People don't come. If they don't show up, they aren't concerned.

Ms. Campbell stressed that we can't have a stigma against certain uses. What makes a use a bad neighbor is when something bad happens. We can create ordinances that try to address what happens to a specific use. What we want to do is find a balance between these uses and the contribution they make to our community. Our role is to find that balance.

Citizen: Is there a change in parking spaces for these uses?

Ms. Campbell said there is no change recommended.

VI. Wrap Up and Next Steps

Next steps: Staff will review the comments and make some tweaks. The next meeting is tentatively scheduled for May 30th.

Ms. Campbell thanked everyone for coming and participating, and acknowledged the contributions made by staff. The meeting was adjourned at 7:37 p.m.