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Subject: Entertainment Districts & Common Consumption Areas

Date: Tue, May 14, 2019 7:47 pm

Attachments: REVISED HANDOUT FROM CHRISTINE O'CONNOR.docx (201K)

Councilman New and Committee:

I am writing about tomorrow's (May 15th) committee presentation on Common Consumption Areas and Promotional Associations and Entertainment Districts. There is a document drafted and distributed to INC last Saturday, and additional questions and thoughts in this email. I am hopeful this input will be useful.

We should all be clear that neighbors are not clamoring for this tool; it is at the Mayor's urging that this has been revived since falling short in 2014. The ordinance is presented as an opportunity for "local businesses, neighborhoods, and stakeholders [to]utilize private and public spaces in creative ways." But before using public spaces for private economic gain, the public needs to be on board with the concept. The ordinance has wide reaching consequences and INC also has concerns with safety, monitoring, noise, the exponential impacts of these CCAs on neighborhoods already in the midst of numerous licensed premises, and the ordinance process.

We acknowledge that Margie Valdez, who served as INC's point person on MJ Consumption and many other issues, was on E&L's list last summer and was notified. However, Margie has not been able to stay active in INC, and INC has fallen off E&L's radar. Even those who signed up for info heard nothing between Nov. 2018 and an announcement for a May 2nd meeting, and there is nothing about this topic on E&L's website. The Ordinance was just made available to INC on April 27, 2019. I know Erica is addressing the fact that you can't research this issue at all on Denver's website, but — once again — this comes **after the fact**, after the ordinance has been drafted and gone to Council members. We are also concerned the Timeline makes clear the intent to take the ordinance through City Council in the second quarter, which means by June — next month!

Some questions/thoughts (in addition to those in attached Word Doc, please do start with that document):

1. Does creation of an Entertainment District by Council occur after the issuance of CCA license and PA by Excise & Licenses? The steps and timeline are unclear.
2. Erica has explained that the term "Entertainment Districts" is an unfortunate name dictated by State law for an area that needs to be drawn around proposed CCAs in order to make sure there are 20,000 sq.ft. of licensed premises in proximity to each other. She has explained that EDs are not a zoning classification, or something like a BID, and really have no purpose other than a line on a map necessary for CCAs to be issued, and therefore shouldn't be of concern. But they are, because an unlimited number of CCAs can be applied for in each ED. Council can create them based solely on the request of a PA or CCA, the applicant draws the lines, the public does not weigh in at all on the Entertainment Districts. The EDs are pretty much ignored in the ordinance and made to seem administrative in nature, a hoop to be jumped through so the CCA can be issued. They deserve further discussion.
3. The ordinance provides that an unlimited number of Entertainment Districts and CCAs can be issued within Denver. Would E&L consider letting Council designate one or two site specific Entertainment Districts to eliminate concerns?

(Erica explains that only a few areas of the City are really "envisioned" as places these CCAs might be created, i.e. Union Station, The Source, possibly the Dairly block, Avanti. However, the concentration of bars along Colfax, along Broadway, might also lend those areas to such licensing. I would even speak personally about Lowry, where I live, which has five licensed premises in proximity to each other that either already total 20,000 sq. ft. of licensed premises or are very close to that square footage. Nowhere near the downtown areas mentioned! Would it make sense to limit this new licensing to specific locales after getting buy-in from neighbors in those specific areas? Right now, before creating an "expectation" that

the new licensing will be applied citywide, might be the time to think about a more limited approach.)

4. If an ED is drawn larger than needed to achieve the 20,000 sq. ft. requirement, can City Council narrow the District? Should the applicant for a CCA be able to arbitrary lines for an ED even if the “density of liquor establishments” can be met with a smaller area? What is the goal of creating larger EDs than required? What safeguards to EDs provide to this process?

5. Erica explains that there are three types of CCAs but they are not spelled out in the ordinance and this needs work:

- (1) enclosed privately owned,
- (2) adjoining liquor premises that do not need to utilize the public right of ways to connect, but share a patio, and
- (3) occasional “special event type” Common Consumption Areas

This third category needs significant additional discussion. The ordinance is unclear and I hope to get the opportunity to visit with the drafters as this is addressed. As Erica has described, there are so many complaints and issues regarding special events, how would this ordinance protect against permanent ‘special event type’ CCA licensing? There may be answers but the answers are not in the ordinance.

Thank you for considering these issues. I do understand that Erica and other stakeholders have spent time on this; that does not mean it is ready for prime time or that involved residents and RNOs fully grasp the scope of the ordinance.

Christine O'Connor
Co-Chair with Ean Tafoya, of INC Zoning & Planning Committee
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LIQUOR COMMON CONSUMPTION AREAS & ENTERTAINMENT DISTRICTS TO COME TO DENVER
COMMENTS FROM INC ZAP (Zoning & Planning) CO-CHAIR CHRISTINE O'CONNOR TO INC MEMBERS

WHAT: A new ordinance will allow two or more owners of liquor licensed premises to request that City Council create an Entertainment District, and that Excise & License issue a license for a Liquor Common Consumption Area. Common Consumption Areas can include both privately owned premises and public spaces, and be either enclosed or not enclosed. If you are familiar with Stanley Market Place in Aurora, that is an example of a Common Consumption Area -- privately owned and enclosed -- where people can wander with drinks from establishment to establishment. The Mayor has urged creation of Entertainment Districts in Denver for several years, although the effort failed in 2014.

PROCESS: E&L reached out to INC last year about 2018 meetings, there has been no community meeting since November 2018, until Erica Rogers attended the April 27th ZAP meeting where she shared the DRAFT Liquor Common Consumption Area ordinance. (Erica will also present at the INC May 11th Delegate Meeting.) INC learned, however, that this measure was introduced to City Council a couple of days after the April 27th meeting, leaving no time for INC to evaluate the ordinance or work with E&L prior to its introduction. INC and RNOs can submit comments to City Council, but ZAP's Platform calls for giving residents and RNOs the opportunity to be **at the table when planning and zoning issues are considered by the City.**

SPECIFIC ISSUES:

The "need" for Entertainment Districts and Common Consumption Areas is presumed, without really hearing from those who will be most impacted -- surrounding neighbors. We have not seen studies and analysis of benefits and costs, such as increased revenues for the City or increased expenditures by the City to make this concept work. The ordinance creates both a brand new liquor license and much larger Entertainment Districts.

Protecting Neighborhoods:

--Excise & License believes the draft ordinance protects neighborhoods because it will only allow the Common Consumption Area licenses to extend until 2 am, as opposed to 4 am as proposed several years ago by Crisanta Duran. However, that time restriction simply mirrors Denver's existing liquor license regulations, and does not add any significant protection for neighborhoods. The state law (C.R.S. § 12-47-301(11)(b)) actually allows municipalities to impose stricter limits on hours, size and security!

--Excise & License believes neighborhoods are protected by a Needs & Desires hearing, but -- again -- this also mirrors existing Denver liquor license procedures. Need INC point out how futile "needs" and "desires" hearings are for many neighbors? With huge Entertainment District being created, and an unlimited number of Common Consumption Areas possible, this process offers little in the way of assurances for neighbors.

--If "good cause" can be shown as to why the license should not be granted, the Director may deny the license. E&L believes that is an "added" layer of protection for neighbors. INC believes several items listed as good cause (fights, violence, liquor license violations) should be evaluated by the Director prior to moving an application for any liquor license forward, and therefore does not consider it "added" protection for neighbors.

Festivals and special events can be tremendous fun for neighbors, and Denver has Special Event licensing for those events. E&L says the CCAs are not an attempt to move away from the 15 times per year special event licensing system into more or less permanent common consumption areas. But it sounds like E&L believes there is some desire to eliminate "outside" vendors who sell liquor at special events in order to allow local owners of existing licensed premises to create the special event feel through CCAs. INC would like some clarity re the section that requires applications for CCAs to include authorizations to use sidewalks and right-of-ways,

zone use permits etc. We are unclear whether the ordinance prohibits use of public space, parks and right-of-ways unless a Special Events permit is additionally requested, or if there are steps such as zone use permits that can be granted to effectively allow use of public areas in these Common Consumption Areas. E&L might have an understanding of the answers, but it is not clear in the Draft Ordinance.

Other Areas that should be discussed:

1. Five-year trial period. E&L believes applicants need start-up time to form Promotional Associations and go through this new licensing process. INC is not convinced five years is necessary and feels a shorter trial period should be explored.
2. No limit on number of Entertainment Districts and CCAs that can be formed in Denver during that trial period. Five years of unlimited EDs and CCAs does not sound like a trial period.
3. Broad definition of “eligible neighborhood organizations.” There are 3 listed: (1) RNOs are eligible only if they have been registered as an RNO for TWO years; Business Improvement Districts with no such restriction as to time in existence; and “any other type of association of residents and owners” designated by discretion of Director. This entire section needs to be discussed.
4. The draft ordinance does not specify whether the designated area will be drawn around the smaller Common Consumption Area described in the application, or the much larger Entertainment District? Since the “license” only applies to the CCA, it is likely to be the latter, but INC believes it should be applied to the Entertainment District.
5. Entertainment Districts are created by ordinance or resolution of City Council. No public process such as we see in zoning, for example. Additionally, the three distinct entities being created (Promotional Associations, Common Consumption Areas, and Entertainment Districts) are combined in one application with no clarity as to whether Council must first create the ED, and what that process looks like.
6. INC questions whether support from a BID – the BID may include the licensed premises seeking licensing -- should be considered evidence of “community” support. It could mean the business owners of an area are simultaneously the Applicant and support for such a license.
7. Definition of “evidence of community support” INC does not believe one letter or statement of support (especially if from a business district) is sufficient to demonstrate community support. INC would like to require evidence that a Promotional Association reached out to each RNO that touches any portion of the Entertainment District and CCA, and evidence that the Promotional Association attempted to enter into a Good Neighbor Agreement with surrounding RNOs. (E&L’s initial response is that E&L sends a Notice of application & hearing and that is sufficient outreach. Practice indicates not all business owners do reach out to RNOs ahead of time and not all are willing to enter into GNAs even if requested to do so.)
8. Confusion about public areas. Mentioned already above.
9. E&L states that no park land/public open spaces can be brought into the Common Consumption Areas, but would like that prohibition clearly stated in the ordinance, and not await creation of regs.
10. Fees are extraordinarily low (\$250 for a Promotional Association License and \$250 for Common Consumption Area License). E&L states that Colorado State Law limits fees to the actual cost of administering CCAs. This needs further exploration.

It is INC’s obligation to consider unintended consequences of broad measures such as bringing Entertainment Districts to Denver as well as Common Consumption Areas. We believe – if these concepts are to be tried – that the concepts needs to be clearly articulated more clearly, and be tried in a couple of specific enclosed areas first. Please send feedback based on the handout from Excise and licenses and these questions raised by INC to zoningplanning@denverinc.org.