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CITY ADVISES SHORT-TERM COMPLIANCE WITH DOWNTOWN SOUND LAWS
Central Business District Plan amendment process is underway

5/4/16, Asbury Park, NJ – Some downtown businesses in the Central Business District were recently issued letters of violation in regards to the absence of a Sound Mitigation Report for their establishment, a legal requirement under the current Central Business District (CBD) Plan. The City is working to amend many aspects of the CBD Plan, including sound management. Until sound requirements of the Plan can be revisited, the law requires all businesses that play music to complete a Sound Mitigation Report.

“We can’t just turn a blind eye to it, especially when we were asked to look at all the businesses, to be sure that we were treating everyone equally,” said City Manager Michael Capabianco. “But we have to follow the law, it’s the fair and correct thing to do. We agree that it’s a bad regulation, and we have to follow the legal timeline in fixing it, but we’ll fix it.”

Before a new business in the CBD is issued a mercantile license, they are required to submit a Sound Mitigation Report if they plan to provide or host music, live or recorded. A business owner with a new establishment was asked to complete their report as required by the ordinance. The business owner in turn questioned whether all CBD businesses had filed their Mitigation Report, and requested a full investigation. As part of the City’s investigation, Zoning Officer Barbara Van Wagner found music hosting in some downtown businesses that had not completed a Mitigation Report before opening.

“It was part of the checklist for approval, but for already established businesses there was no regulation or relief sought for businesses that didn’t have to do an initial Sound Mitigation Report. Over the years they might have put music indoors or music outdoors, but we never had the enforcement capabilities to find this,” said Capabianco.

Businesses who haven’t completed a Sound Mitigation Report are advised to turn off their music until the CBD Plan amendments are approved by the City Council and the Planning Board, so that they are in compliance with the ordinance.

City staff, including Van Wagner, Capabianco, and Director of Planning and Redevelopment Michele Alonso, think that the regulation as it exists now is not effective, and needs to be changed. The existing plan applies too broadly to all types of music, from live music to anything coming from a speaker.

Planned amendments to the sound requirements of the CBD Plan would require physical soundproofing measures between certain uses, but not require businesses to complete the full Mitigation Report. The City has consulted other municipalities in New Jersey who have similar noise control measures in place, in order to create a balanced system which will work for businesses and give the City the ability to enforce noise control measures while adhering to the Department of Environmental Protection’s sound requirements.

“We need something to manage the sound levels, but not something as severe as this current ordinance. A municipality has to protect a balance between different kinds of entertainment experiences, whether you want a quiet bar or dining experience, are at the movies or at a gallery, or want to enjoy live music or a louder bar atmosphere,” Alonso said. “Unchecked noise in the downtown – whether music or general crowd noise – affects other businesses as well as residents.”

Out of respect for the concern over the Mitigation Reports, the CBD Plan amendment related to noise control will be presented at the May 11th City Council Meeting. The rest of the amendments, which includes critical issues to the CBD, will be presented at either the May 11th or the May 25th meeting. Capabianco and Alonso will present recommended changes at the City Council Workshop Meeting on May 9.

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