

Memorandum

City of Lawrence

Planning & Development Services

TO: David L. Corliss, City Manager

FROM: Planning Staff

CC: Scott McCullough, Planning and Development Services Director
Sheila Stogsdill, Assistant Planning Director

Date: June 15, 2011

RE: SUP-3-2-11: Bullwinkle's 1344 Tennessee; Bar or Lounge Use

At the April 19, 2011 City Commission meeting, the City Commission directed staff to work with the applicant regarding SUP-3-2-11 for Bullwinkle's located at 1344 Tennessee for a Bar or Lounge Use to draft conditions to be placed on the Special Use Permit (SUP) to address the increase in noise and activity when the presumed drinking establishment license is sought, which will extend the hours of operation from midnight to 2 am. This SUP is derived from the rezoning of the property from RM32 (Multi-Dwelling Residential) District to MU (Mixed Use) District where an automatic SUP can be granted upon rezoning to the MU District.

The applicant has proposed extending a portion of the southern fence to 6' in height as well as planting a Red Sunset Maple tree along the south side of the patio to try to address some concerns regarding noise. See attached letter and site plan.

This site has some constraints being that it is an existing small site that is located on a corner. Section 20-1102 of the *Land Development Code* states, "No fence, wall, hedge, Landscaping, sign or other material or Structure that will obstruct vision between a height of 3 feet and 10 feet shall be erected, placed or maintained within the triangular area formed by an imaginary line starting at the point of intersection of Corner Lot Lines and extending 25 feet from their point of intersection." Additionally the City Code, Section 18-109(1) requires a 50' sight triangle from the intersection of the curb lines and states that no shrubs or bushes shall be taller than 36". See attached sight triangle diagram. In the diagram, the green triangle is the 25' sight triangle and the blue triangle shows the 50' sight triangle. Because of these requirements, little can be done to the west and southwest side of patio to buffer noise generated by potentially increasing the hours of operation to 2 am.

The range of options for conditions includes:

- No conditions. (would permit the owner to apply for a DE license and extend hours to 2 am)

- Keep status quo. (limit to Cereal Malt Beverage license and close at midnight)
- Allow owner to apply for DE license but limit hours to midnight, 1 or 2 am.
- Add landscaping along the south side of the patio to buffer/absorb noise. (trees, shrubs, greenery on the fence)
- Increase the height of the fence along south side of patio, outside of sight triangle, to 6'. (currently 4' fence)
- Accept the applicant's proposal of extending a portion of the southern fence to 6' in height as well as planning a Red Sunset Maple tree along the south side of the patio.

A fence addition, or any structural addition, would require HRC approval. The applicant proposal of changing a portion of the fence from 4' to 6' would be an administrative process.

The *Land Development Code* permits the City Commission to amend, suspend or revoke a SUP at any time with a public hearing to address any issues that have risen with the approval. This allows the Commission to add conditions, suspend or revoke the SUP if issues arise in the future.

Ordinance 8627 regarding this SUP does not have any conditions included in Section 4. If the Commission approves the SUP, the ordinance will be revised to reflect the Commission decision before second reading.

Action Options

1. Approve SUP-3-2-1 for Bullwinkle's located at 1344 Tennessee to permit a Bar or Lounge use with no conditions as recommend by the Planning Commission on March 28, 2011 and approve Ordinance 8627 on first reading. (approval with a majority vote)
2. Approve SUP-3-2-1 for Bullwinkle's located at 1344 Tennessee to permit a Bar or Lounge use with conditions and approve Ordinance 8627 on first reading. (approval with a super majority vote)
3. Deny SUP-3-2-1 for Bullwinkle's located at 1344 Tennessee to permit a Bar or Lounge use and approve Ordinance 8627 on first reading. (denial with a super majority vote)