

**PLANNING COMMISSION REPORT**  
**Regular Agenda – Public Hearing Item**

PC Staff Report  
2/22/2017

**ITEM NO. 4 SPECIAL USE PERMIT; BULLWINKLE’S; 1344 TENNESSEE ST (BJP)**

**SUP-16-00547:** Consider a Special Use Permit to allow a building addition for Bullwinkle’s, located at 1344 Tennessee Street, to expand onto property in a MU (Mixed Use) zoning district. Submitted by Paul Werner Architects on behalf of Sorrentino Investments LLC, property owner of record.

Revised language highlighted in **Bold Blue**.

**STAFF RECOMMENDATION:** Planning Staff recommends approval of a Special Use Permit to allow a building addition for Bullwinkle’s, located at 1344 Tennessee Street, and forwarding the request to the City Commission with a recommendation of approval, subject to the following conditions:

1. Provision of a site plan performance agreement.
2. Filing of Minor Subdivision with the Douglas County Register of Deeds prior release of building permits for development.
3. Applicant shall provide a revised plan that includes the following notes and changes:
  - a. ~~Add a note that identifies the maximum occupant load for Bullwinkle’s.~~ **Add the following note regarding the maximum occupant load for Bullwinkle’s: “The Design Occupancy of the space (total of interior and both patios) at its maximum configuration shall not exceed 269 people.”**
  - b. The label in the building footprint for 314 W 14<sup>th</sup> Street indicates that structure contains 7 bedrooms. However, Note 1.2 lists it as a 5 bedroom *Multi-Dwelling Structure*. Update whichever one is in error with the correct information.

**Applicant’s Reason for Request:** *The application is being submitted for Bullwinkle’s which is proposing an expansion of the existing building located at 1344 Tennessee. The existing building is small and the expansion will occur on 1340 and will provide an indoor area for table and chairs to serve customers.*

**ASSOCIATED CASES/OTHER ACTION REQUIRED**

Active Cases:

- SP-16-00546: A site plan for 1340 Tennessee (*Congregate Living* use)

Completed Cases:

- SP-15-00403: A site plan for a food window for Bullwinkle’s located at 1344 Tennessee
- SP-13-00226: Site Plan for patio, fence and façade changes to Bullwinkle’s
- DR-13-00176: Design Review for Bullwinkle’s approved 6/26/2013
- SUP-3-2-11: Special Use Permit for a *Bar or Lounge* use
- Z-1-2-11: A rezoning from RM32 (Multi-Dwelling Residential) to MU (Mixed Use) District

**Other Action Required**

- Submittal and approval of a Minor Subdivision application to combine the Lots 214 and 216.
- Recording of Minor Subdivision with the Douglas County Register of Deeds.

- Submittal of 1 copy of the approved site plan for release to Development Services for building permits in a digital format.

### KEY POINTS

- A request to rezone the property from RM32 District to MU District was approved by the City Commission on April 26, 2011 (Z-1-2-11, Ordinance 8626). The rezoning included establishing a *Bar or Lounge* use as an automatic Special Use Permit (SUP) for Bullwinkle's located at 1344 Tennessee, which had previously been a nonconforming use.
- The SUP was approved by the City Commission on July 19, 2011 (SUP-3-2-11, Ordinance 8627).
- Per Section 20-1306(b) any alteration or expansion of the use is subject to the Special Use amendment procedures of Section 20-1306.
- The SUP includes a 570 square foot building addition on the north side of the existing structure. The addition will provide more space for tables and chairs.
- An increase in the Maximum Occupant Load is not permitted with the approval of this SUP.
- The building addition will extend across the north lot line. A Minor Subdivision is required to combine Lot 214 (1340 Tennessee) and Lot 216 (1344 Tennessee) so that Bullwinkle's is fully contained on one lot. The property to the north, 1340 Tennessee, and the subject property are under single ownership.

### PUBLIC COMMENT RECEIVED PRIOR TO PRINTING

- One inquiry via phone regarding proposed development.

### ATTACHMENTS

1. Site Plan
2. Maximum Occupant Load Certificate

### GENERAL INFORMATION

Current Zoning and Land Use: MU (Mixed Use) District; *Bar or Lounge* and *Multi-Dwelling Structure*

Surrounding Zoning and Land Use:

To the north:  
MU (Mixed Use) District; *Multi-Dwelling Structure*

To the south:  
RM32 (Multi-Dwelling Residential) District; *Multi-Dwelling Structure*

To the east:  
RM32 (Multi-Dwelling Residential) District; *Detached Dwelling*

To the west:  
MU (Mixed Use) District; *Multi-Dwelling Structure*

### Summary of Request

The Bullwinkle's bar is located at 1344 Tennessee and is zoned MU (Mixed Use) District. The *Bar or Lounge* use is permitted in the MU District with the approval of a Special Use Permit (SUP). The previous SUP (SUP-3-2-11) was approved by the City Commission on July 19, 2011.

The applicant is proposing a 570 square foot building addition to be located on the north side of the building, which will extend across the north lot line. A Minor Subdivision will be required to combine Lot 214 (1340 Tennessee) and Lot 216 (1344 Tennessee) so that the Bullwinkle's is contained entirely on one lot. Lot 214 and Lot 216 are under single ownership.

At the time of this report, a Minor Subdivision application had not been submitted, however the site plan submitted with the SUP assumes future submittal and approval of the Minor Subdivision. The site plan contains all of the uses associated with the properties, which include a proposed *Congregate Living* use at 1340 Tennessee, and the *Bar or Lounge* and *Multi-Dwelling Structure* uses at 1344 Tennessee. However, the Special Use Permit pertains only to the *Bar or Lounge* use as the two residential uses are permitted in the MU District by right. As such, the focus of this staff report is the *Bar or Lounge* use and does not include the residential uses. A site plan application was submitted for the proposed *Congregate Living* use at 1340 Tennessee and a separate administrative review of that use is currently underway (SP-16-00546).

The purpose of the proposed Bullwinkle’s building addition is to provide more interior space for tables and chairs. While the footprint of the building is increasing, an increase to the Maximum Occupant Load provided by the Fire Marshal is not permitted with this SUP. **The previously approved Special Use Permit (SUP-3-2-11) did not require parking for Bullwinkle’s. The current occupancy limits were established under the existing conditions. The proposed addition will increase the size of the building, however by maintaining the current occupancy limits the existing conditions are not changing.**

There are separate occupancy limits for the interior area and the exterior patio area, as shown in Table 1 below. ~~The occupancy limits permitted in the patio vary depending on the configuration of the area and will not change with this project. Likewise, the interior occupancy limit will remain at 95 occupants.~~ **The total maximum number of occupants allowed is 269 people. This includes the combined total of the interior occupancy limit of 95 people and the standing room occupancy limit for the patios. The SUP will include a note stipulating that the design occupancy of the space, at its maximum designed configuration, shall not exceed the 269 people.**

Area	Occupancy Limit	
Interior Occupancy Limit	95 Occupants	
Interior Bar	95 Occupants	
Exterior Occupancy Limit	Upper Patio	Lower Patio
Standing Room	71	103
Barrel Tables	51	73
Tables/Chairs	24	34

**Table 1.** Maximum Occupant Load

**Review and Decision-Making Criteria (Land Development Code Section 20-1306(i))**

**1. WHETHER THE PROPOSED USE COMPLIES WITH ALL APPLICABLE PROVISIONS OF THIS DEVELOPMENT CODE**

Applicant’s Response: *The proposed use is allowed on this MU zoned property with the approval of a Special Use Permit.*

The proposed use of *Bar or Lounge* is allowed in the MU District with approval of a Special Use Permit. The following is a review of the change proposed with this project for compliance with the Development Code.

**A. Site Summary**

The site summary below assumes the approval of the Minor Subdivision to combine Lot 214 (1340 Tennessee) and Lot 216 (1344 Tennessee). Recording of the Minor Subdivision with the Douglas County Register of Deeds is required prior to the release of building permits for development.

Site Summary:		
	Existing	Proposed
Total area: 11,700 sq ft		
Lot Size: (sq ft)	11,700 sq ft	11,700 sq ft
Building: (sq ft)	3,395 sq ft	4,034 sq ft
Impervious Cover: (sq ft) %	5,366 sq ft 46%	8,475 sq ft 72%
Pervious Cover: (sq ft) %	6,334 sq ft 54%	3,225 sq ft 28%

**B. Access and Parking**

Per the previously approved Special Use Permit (SUP-3-2-11), parking is not required for Bullwinkle's. **The proposed addition would increase the size of the building; however the occupancy limits established for the existing conditions are not changing. Given this, the parking requirements established by the previously approved SUP are still applicable. Any future increases in the occupancy limits for Bullwinkle's would require a variance from parking standards by the Board of Zoning Appeals.**

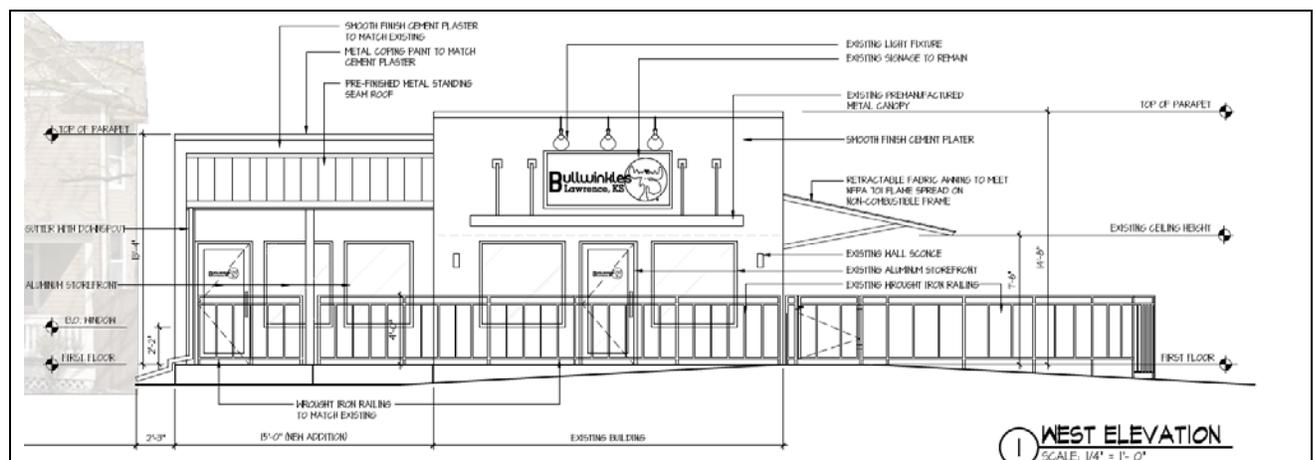
The site plan shows that the parking requirement for the *Congregate Living* use at 1340 Tennessee is exceeded by one space. This additional space is designated for Bullwinkle employee parking on the site plan.

There are no changes to access associated with this project. The main entrance to the interior portion of Bullwinkle's is provided from Tennessee Street and the patio can be accessed from 14<sup>th</sup> Street.

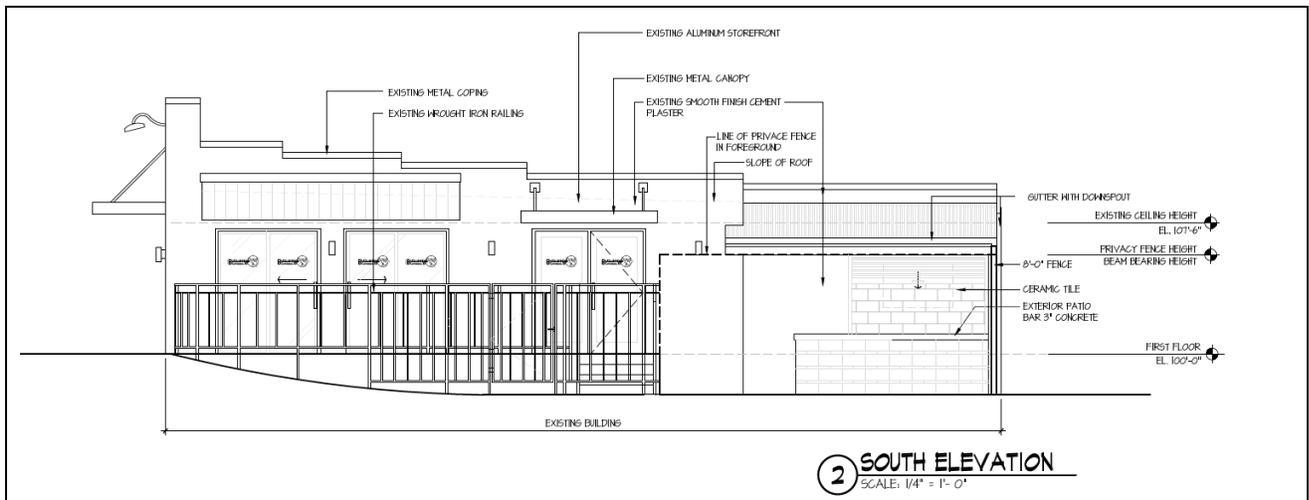
**C. Design Standards**

The property is included in the Oread Design Guidelines. A design review will be assigned with the building permit review for compliance with Chapter 6, Commercial & Mixed Use, of the Guidelines.

The proposed building addition is setback from the existing façade along Tennessee Street. This meets the requirement of the Oread Design Guidelines that facades greater than 40 feet wide shall have the building setback.



**Figure 2a.** Elevation as viewed from Tennessee Street.



**Figure 2b.** Elevation as viewed from 14<sup>th</sup> Street.

#### D. Landscaping and Screening

Street trees were approved and provided with the site plan, SP-13-00226.

Per the previously approved Special Use Permit (SUP-3-2-11), the site provides landscaping in the right-of-way of Tennessee Street. A right-of-way agreement signed with the SUP for maintenance of this landscaping remains applicable. The site plan, SP-13-00226, provided additional landscaping at the corner of the patio area and along the fence of the patio area to the east in order to discourage congregation of people along the sidewalk on the outside of the patio. There are no changes proposed to the existing landscaping.

The site plan proposes adding 10 shrubs along Tennessee, extending the existing landscaped area north to include the area adjacent to the building addition.

#### E. Lighting

A photometric plan is not required for this special use as no changes are proposed to the existing site or lighting.

#### F. Floodplain

The property is not located within the regulatory floodplain and is not subject to a local floodplain development permit.

**Staff Finding** – This use complies with the applicable provisions of the Development Code.

#### 2. WHETHER THE PROPOSED USE IS COMPATIBLE WITH ADJACENT USES IN TERMS OF SCALE, SITE DESIGN, AND OPERATING CHARACTERISTICS, INCLUDING HOURS OF OPERATION, TRAFFIC GENERATION, LIGHTING, NOISE, ODOR, DUST AND OTHER EXTERNAL IMPACTS

Applicant's Response: *The proposed addition is compatible with the adjacent Bullwinkle's building and will be compatible with the setbacks of the house to the north.*

The interior and exterior occupancy limits for Bullwinkle's are not permitted to change with approval of this Special Use Permit (SUP). As such, the surrounding neighborhood should not be affected by this proposed building addition. The operating characteristics of the *Bar or Lounge* use are not changing with this SUP. As such, the traffic generation, lighting, noise, and other external impacts should remain consistent to what existed prior to the building addition.

A design review will be assigned for the building addition with the building permit. The addition will be reviewed with the Oread Design Guidelines for compatibility with the neighborhood and surrounding uses. The proposed building addition is setback from the existing façade along Tennessee Street. This meets the requirement of the Oread Design Guidelines that facades greater than 40 feet wide shall have the building setback.

**Staff Finding** – The proposed use is compatible with the adjacent uses in terms of size, massing, orientation, hours of operation and other external impacts.

**3. WHETHER THE PROPOSED USE WILL CAUSE SUBSTANTIAL DIMINUTION IN VALUE OF OTHER PROPERTY IN THE NEIGHBORHOOD IN WHICH IT IS TO BE LOCATED**

Applicant's Response: *The proposed expansion of Bullwinkle's will not cause lessening of property values in the neighborhood. The remodel of Bullwinkle's a couple of years ago has been a big improvement for the neighborhood and the small expansion to better serve customers will also have a positive impact on this corner of Tennessee.*

The *Bar or Lounge* use has existed on the property for several years. The previous Special Use Permit was approved by the City Commission in 2011 when the use became regulated as a Special Use with the property's rezoning to the MU District.

The building addition will be reviewed with the Oread Design Guidelines during the building permit process for compatibility with the surrounding area.

**Staff Finding** – Substantial diminution of other property values in the area is not anticipated.

**4. WHETHER PUBLIC SAFETY, TRANSPORTATION AND UTILITY FACILITIES AND SERVICES WILL BE AVAILABLE TO SERVE THE SUBJECT PROPERTY WHILE MAINTAINING SUFFICIENT LEVELS OF SERVICE FOR EXISTING DEVELOPMENT**

**Staff Finding** – Adequate public facilities and transportation access exist for this development, and the use is currently operating. The proposed use does not preclude the ability to service the existing uses in respect to public safety, transportation, and utilities.

**5. WHETHER ADEQUATE ASSURANCES OF CONTINUING MAINTENANCE HAVE BEEN PROVIDED**

The proposed request provides an enforceable tool to address the use and continued maintenance of the property with regard to landscaping, exterior activity, and off-street parking.

**Staff Finding** – Adequate assurances of continued maintenance are inherent in the use and the Special Use Permit approval process.

**6. WHETHER THE USE WILL CAUSE SIGNIFICANT ADVERSE IMPACTS ON THE NATURAL ENVIRONMENT**

Applicant's Response: *The proposed use will not cause adverse impacts to the existing natural environment in this mixed use and multi-dwelling residential area. The landscaping provided for Bullwinkle's will be preserved with this expansion and more landscaping will be added to the newly expanded site as well.*

The property is located within an existing urban area. The site is developed with buildings and pavement. Only a small area of the property is pervious. There are no existing natural elements such as mature trees or floodplain that are affected by the change of use represented in this application.

**Staff Finding** – The proposed use will not cause significant adverse impacts on the natural environment.

**7. WHETHER IT IS APPROPRIATE TO PLACE A TIME LIMIT ON THE PERIOD OF TIME THE PROPOSED USE IS TO BE ALLOWED BY SPECIAL USE PERMIT AND, IF SO, WHAT THAT TIME PERIOD SHOULD BE**

There was not a time limit associated with the previously approved Special Use Permit.

The Development Code, Section 20-1305 (I), includes a process to revoke an approved Special Use Permit. Other than non-compliance with the scope or conditions of approval reasons for revocation could include nuisance complaints from adjacent property owners or some future incompatibility with the neighborhood. This provision provides an opportunity to monitor the use as needed.

**Staff Finding** – Staff does not recommend a time limit on the Special Use Permit.

**CONCLUSION**

Section 20-402 of the Land Development Code requires a Special Use Permit for the *Bar or Lounge* use in the MU District. The use, as planned, is compatible with this location. Staff recommends approval of the Special Use Permit as conditioned.