

**ITEM NO. 4 SPECIAL USE PERMIT; BULLWINKLE'S; 1340 TENNESSEE ST (BJP)**

**SUP-16-00547:** Consider a Special Use Permit to allow a building addition for Bullwinkle's, located at 1340 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.

**STAFF PRESENTATION**

Ms. Becky Pepper presented the item.

**APPLICANT PRESENTATION**

Mr. Paul Werner, Paul Werner Architects, said the site had been cleaned up and the owners had invested a lot of money. He said the house at 1344 Tennessee Street would also be renovated and cleaned up. He agreed with the staff conditions.

**PUBLIC HEARING**

No public comment.

**COMMISSION DISCUSSION**

Commissioner Britton asked what the number of occupants was on a normal night.

Mr. Werner said the maximum occupancy was 269 people. He said there was about a two hour window on Friday and Saturday nights when the bar typically reaches the maximum occupancy. He said he was working with the fire department.

Commissioner Kelly said the two homes and business were owned by the same owner. He wondered what would happen if the ownership was transferred.

Mr. Werner said that was one of the reasons for combining the lots into one property to make it clearer. He said the minor subdivision would make it harder for the property to be pieced off.

Commissioner Sands asked if improved parking was part of the project.

Mr. Werner said there was a parking lot there now and it would be improved and in better shape with this project. He said the parking would be paved once the project was complete. He also stated it was reserved parking that went with the resident homes.

Commissioner Willey asked staff about the standard for setbacks.

Mr. McCullough said in this case it was driven by the building fire code. He said after the lot was combined the buildings could be as close as the design allowed.

Commissioner Willey asked if the homes would be improved with fire retardant materials.

Mr. Werner said the buildings were closest at the bay window area of the house and he was not sure the bay window was salvageable. He said both structures would have fire sprinkles installed.

Commissioner Carpenter said every time he drives by Bullwinkle's there are people out the door and around the corner waiting to get in.

Mr. Werner said on a game days all the bars in the area are crowded.

Commissioner Carpenter said on Thursday and Friday evenings Bullwinkle's was packed.

Mr. Werner said the business was doing well which was why he was here.

Commissioner Carpenter said the patio made the site safer. He asked how maximum occupancy was enforced.

Mr. Werner said the fire department shows up during peak hours and counts the number of people.

Commissioner von Achen said Bullwinkle's was a bar that people walked to instead of driving.

Mr. Werner said that was correct. He said fire retardant materials would be used. He said a 5' setback between structures on one lot and one and two hour fire walls would meet the building and fire codes making it safer than it currently was.

Commissioner Britton inquired about the history of occupancy limit problems.

Mr. McCullough said bars were routinely checked by the fire department. He said through the years bars come in and out of compliance as management changes. He said when architects submit plans they design a certain occupant load. He gave the example of restaurants downtown that were required to install a fire sprinkler if the occupancy was more than 100 people. He said the fire department pays special attention to establishments that could be dangerous if the occupancy is exceeded. He said a new policy included occupancy rates on outdoor patio spaces.

Commissioner Culver asked if increased occupancy was desired in the future by Bullwinkle's if it would require parking requirements.

Mr. McCullough said that was correct.

Commissioner Kelly said enforcement was the best way to deal with occupancy issues.

Commissioner Willey felt the addition of fire sprinklers was a gain to the property.

Commissioner Sands asked how many bedrooms were in the house at 1344 Tennessee Street.

Mr. Werner said both 1344 Tennessee and 314 W. 14<sup>th</sup> would have 7 bedrooms and be congregate living residences.

Commissioner Kelly asked if the house improvements would follow the Oread Design Guidelines.

Mr. McCullough said that was correct.

*Public comment was reopened.*

Mr. Terry Riordan, 1613 Tennessee St, had questions and concerns about this project. He did not feel it was consistent with what was in this area. He stated there had been at least four fires on Tennessee Street. He said there were not any other houses in the neighborhood that were 2' apart. He was concerned about the safety of the patrons at Bullwinkle's lining up outside.

Commissioner von Achen expressed concern about the 2' distance between the buildings and asked how it was allowed in the Oread Guidelines.

Mr. McCullough said the mixed use district was a specific category in the guidelines which allowed that kind of closeness of buildings. He said the MU district called for more intensity and density which was not the typical residential pattern. He said closing up the patio helped with some of the loitering, as well as landscaping in the right-of-way.

Commissioner Kelly said the location of Bullwinkle's was unique and presented some challenges. He felt comfortable that the factors that could be controlled were being controlled.

Commissioner Sands inquired about the difference between a single family residence and congregate living use.

Mr. McCullough said congregate living allowed more than four unrelated people to live there, required one parking space per bedroom, and required a fire sprinkler system.

Commissioner Culver said an addition to the building without increasing the occupancy fit the Special Use Permit and the role of Planning Commission. He felt that combining the lots was beneficial for the property owner by giving them a vested interest in both the business and residences. He also felt that down the road there would be more certainty of what may happen to the properties by them being combined. He said the addition of a sprinkler system would increase the safety of the structures.

### **ACTION TAKEN**

Motioned by Commissioner Culver, seconded by Commissioner Sands, to approve a Special Use Permit, SUP-16-00547, 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 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.

Commissioner Britton said he would vote in favor of the motion but hoped the property owner/manager would not exceed the maximum occupancy. He said it would be a nice improvement for the area and not have significant negative impacts on the safety issues that currently exist there.

Unanimously approved 9-0.