

4. SPECIAL EVENT PERMIT NO. 2010-265 - 7300 West 119<sup>th</sup> Street

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1. APPLICANT: Shawn McClenny, representing Fuel American Made Bar and Grill, is the applicant for this request.
2. REQUESTED ACTION: The applicant is requesting approval of a special event permit to allow an outdoor event on July 3, 2010.
3. LOCATION: The subject property is located at 7300 West 119<sup>th</sup> Street.
4. EXISTING ZONING: This property is currently zoned CP-2, Planned General Business District.
5. ANALYSIS: On July 3, 2010, Fuel Bar and Grill is planning an outdoor concert until 11 p.m. at their location in the Rosana Square Shopping Center. The site plan submitted by the applicant proposes a stage for a band to be located on the sidewalk adjacent to Schmitt Music Center, Fuel, and Raoul's Velvet Room. This area will be barricaded off and manned with security for the event. The applicant is estimating a total of 2,500 guests will attend the concert. The applicant is also requesting banners to be placed along the Fuel patio, on the stage, and on the extended premises.

The property is located within a commercial district surrounded to the north and west by residential neighborhoods. There have been similar requests for live outdoor music approved by the City Council in the past. Some of those events have gone smoothly and others have generated complaints from nearby residents, particularly when the music continues until late at night. Under the stipulations of approval proposed by the staff, the Police Department has full authority to take whatever action is necessary if there are any noise complaints.

6. STAFF RECOMMENDATION: This location has had similar events in the past without any major complaints. The staff recommends approval of Special Event Permit No. 2010-265, on July 3, 2010, subject to the following stipulations:
  - a. The band and outdoor activities that include any sound amplification shall conclude by 11 p.m.
  - b. Serving alcoholic beverages outside the business during the event requires the approval of a temporary liquor license by the City Council.

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- c. This event is exempted from the requirements of Overland Park's noise ordinance (O.P.M.C. 7.08.001 – 7.08.003) until 11 p.m. If at any time during the course of this event the applicant is notified by an Overland Park Police Officer or other person designated as a commissioned City Officer that the sound generated by the event is creating a public disturbance, the sound shall be lowered so as not to create such a disturbance. If the public disturbance continues, the noise exemption is terminated and the sounds generated by the event are subject to the provisions of and prosecution under O.P.M.C. 7.08.001 – 7.08.003. For purposes of this permit, a public disturbance is defined as sound that unreasonably disturbs or interferes with the peace, comfort and repose of others. The Overland Park Police Officer or other person designated as a commissioned City Officer shall make the determination as to whether a public disturbance is occurring based upon reasonable complaints and his or her reasonable conclusion after investigating those complaints. The exemption is terminated upon notification of such termination to the holder of the permit at the location of the event and may revoke this special event permit if the applicant does not reduce noise levels immediately upon request.
  
- d. All structures associated with the event shall be removed from the property and the area cleaned and returned to its original state by July 4, 2010.