

**Community Planning and Economic Development - Planning Division Report**  
Expansion or Alteration of a Nonconforming Use  
BZZ-4868

**Date:** August 16, 2010

**Applicant:** Carol Watt, Tri-Star Management

**Address of Property:** 4701 Hiawatha Avenue

**Contact Person and Phone:** Carol Watt, (763) 923-7889

**Planning Staff and Phone:** Brad Ellis, (612) 673-3239

**Date Application Deemed Complete:** July 8, 2010

**End of 60 Day Decision Period:** September 7, 2010

**Ward:** 12     **Neighborhood Organization:** Longfellow Community Council and Standish-Ericsson Neighborhood Association

**Existing Zoning:** C3A Community Activity Center District, PO Pedestrian Oriented Overlay District, SH Shoreland Overlay District

**Proposed Zoning:** Not applicable for this application.

**Zoning Plate Number:** 34

**Existing Use:** Shopping center

**Concurrent Review:** Expansion of a nonconforming pole sign to increase the size from 117.3 square feet to 182.3 square feet total.

**Applicable Code Provisions:** Chapter 531, Nonconforming Uses and Structures; Chapter 551, Overlay Districts.

**Background:** Carol Watt, on behalf of Tri-Star Management, has applied for an expansion of a non-conforming use to allow for a 65 square foot sign cabinet to be added to an existing non-conforming pole sign. The existing pole sign is a 117.3 square foot, 32 foot four inch (32'4") tall sign identifying the existing Blockbuster video store. The sign is located in the northwest corner of the site, adjacent to the access road between the shopping center and the Burger King along Hiawatha Avenue. The subject site contains the Blockbuster, a pet supply store, several restaurants, a liquor store, and several other retail uses. No modifications to the building are proposed as part of this application. The proposed alteration to the existing sign would add a 65 square foot cabinet to identify other businesses in the shopping center.

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The existing pole sign was lawfully established in 1996 but was made non-conforming on January 6<sup>th</sup>, 2005 with the addition of the PO Pedestrian Oriented Overlay District to this parcel as part of the rezonings around the neighborhood transit station areas. This overlay district prohibits on-premise pole signs. As a result, any alteration of the existing pole sign requires City Planning Commission approvals for an expansion or alteration of a non-conforming use. In addition, the City adopted changes to Chapter 543, On-Premise Signs, on July 17, 2009. As a result of this amendment, pole signs are no longer permitted in any zoning district in the City. Under current regulations, this property is permitted to have one freestanding monument sign, with a maximum size of 80 square feet and a maximum height of eight feet to top of sign.

As of the writing of this report, staff has received a letter of support for the application from the Longfellow Community Council. Any additional correspondence received will be distributed to the Commission at the meeting.

**EXPANSION OF A LEGAL NONCONFORMING USE: To allow the addition of a 65 square foot sign cabinet to an existing pole sign.**

The Planning Commission may approve an application if it meets the following standards and all other applicable regulations in the zoning ordinance (this section shall not authorize a use prohibited in the zoning district in which it is located to be expanded beyond the boundaries of its zoning lot):

**(1) A rezoning of the property would be inappropriate.**

The pole sign became non-conforming with the adoption of the PO Pedestrian Oriented Overlay District in January of 2005. This rezoning examined all of the Neighborhood Station Areas and instituted the PO Pedestrian Oriented Overlay District over most of them, with follow-up rezoning studies to change the underlying base zoning to be consistent with station area small area plans, in this case the 46<sup>th</sup> Street Station Area Master Plan. The PO Pedestrian Oriented Overlay District was applied to the site and the Transit Station Area to encourage the creation of higher density, mixed-use, pedestrian-oriented environments. Rezoning the property to remove the PO Pedestrian Oriented Overlay District would not be consistent with the comprehensive plan for with the small area plan for this area. In addition, pole signs are not allowed in any zoning district in the City. Rezoning the property to accommodate the existing pole sign would also require an application for a variance to the type of sign, the height of the sign, and the size of the sign. The existing pole sign is allowed to remain as long as its use is not discontinued for more than one year.

**(2) The enlargement, expansion, relocation, structural alteration or intensification will be compatible with adjacent property and the neighborhood.**

The subject sign is on a parcel that is located in an Activity Center in a Transit Station Area along a frontage road of Hiawatha Avenue/Highway 55. The site is surrounded by commercial uses and there are other pole signs in the area. All properties immediately adjacent to the site are also within the boundaries of the Activity Center, the Transit Station Area, and the PO

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Pedestrian Oriented Overlay District. The PO Pedestrian Oriented Overlay District was applied to the subject area to encourage a pedestrian-oriented environment. Pole signs are typically intended for automobile traffic, not pedestrian traffic. The purpose of regulations governing on-premise signs are to allow effective signage appropriate to the planned character of each zoning district, to promote an attractive environment by minimizing visual clutter and confusion, to minimize adverse effects on nearby property, and to protect the public health, safety and welfare. The existing sign is already significantly over the size and height regulations for the zoning district. The increase in size would not be consistent with the intent of the sign regulations, Transit Station Areas, Activity Centers, or the Pedestrian Oriented Overlay District and could set a precedent for allowing larger and taller signs, resulting in visual clutter.

- (3) **The enlargement, expansion, relocation, structural alteration or intensification will not result in significant increases of adverse, off-site impacts such as traffic, noise, dust, odors, and parking congestion.**

The proposed change is related to signage only and should have no off-site impacts related to traffic, noise, dust, odor or congestion.

- (4) **The enlargement, expansion, relocation, structural alteration or intensification, because of improvements to the property, will improve the appearance or stability of the neighborhood.**

The proposed change to the existing pole sign will not improve the appearance or stability of the neighborhood. Pole signs are prohibited in the Pedestrian Oriented Overlay District due to the fact that this district is intended to encourage the pedestrian character of commercial areas and to promote street life and activity by regulating building orientation and design and accessory parking facilities, and by prohibiting certain high impact and automobile-oriented uses. Due to their height, pole signs are automobile-oriented and not at a pedestrian level. The proposed height of the additional cabinet is not oriented to pedestrian traffic, and is intended to be read from the highway, although it is difficult to ascertain if the additional signage could be seen in time from the highway for an automobile to access the site. While staff recognizes the challenges related to the site's relative lack of visibility, allowing an expansion of this nonconforming sign is not consistent with the intent of the Pedestrian Oriented Overlay District and would not enhance the appearance or stability of the area.

- (5) **In districts in which residential uses are allowed, the enlargement, expansion, relocation, structural alteration or intensification will not result in the creation or presence of more dwelling units on the subject property than is allowed by the regulations of the district in which the property is located.**

Residential uses are allowed in the C3A District. However, no residential uses exist on the site and none are proposed at this time.

- (6) The enlargement, expansion, relocation, structural alteration or intensification will not be located in the Floodway District.**

The property is not located in the Floodway District.

**Recommendation of the Community Planning and Economic Development Department – Planning Division:**

The Community Planning and Economic Development Department – Planning Division recommends that the City Planning Commission adopt the above findings and **deny** the expansion of a nonconforming use to increase the size of a pole sign located on the property at 4701 Hiawatha Avenue.

**Attachments:**

- 1) Applicant statement of use
- 2) Applicant findings
- 3) Correspondence
- 4) Zoning map
- 5) Sign plans
- 6) Site Plan
- 7) Photos