

**Community Planning and Economic Development - Planning Division Report**  
Expansion or Alteration of a Nonconforming Use  
BZZ-4603

**Date:** November 30, 2009

**Applicant:** Louis Dachis- Merwin Liquors

**Address of Property:** 700 West Broadway

**Contact Person and Phone:** John Reiter- All-Brite Sign (763) 428-3553

**Planning Staff and Phone:** Kimberly Holien (612) 673-2402

**Date Application Deemed Complete:** October 20, 2009

**End of 60 Day Decision Period:** December 19, 2009

**Ward: 3      Neighborhood Organization:** Hawthorne Neighborhood Council

**Existing Zoning:** C3S, Community Shopping Center District; WB, West Broadway Overlay District

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

**Zoning Plate Number:** 13

**Existing Use:** Shopping center.

**Concurrent Review:** Expansion of nonconforming use to allow for a dynamic sign to be added to an existing pole sign.

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

**Background:** John Reiter of All-Brite Sign, on behalf of Merwin Liquors, has applied for an expansion of a non-conforming use to allow for a 16 square foot dynamic sign cabinet to be added to an existing, non-conforming pole sign. The pole sign also contains a 66 square foot cabinet identifying the business. The sign is located in the southeast corner of the site, adjacent to the West Broadway right-of-way. The subject site contains Merwin Liquors, an off-sale liquor store, a pharmacy, and check cashing use. No modifications to the building are proposed as part of this application. The proposed alteration to the existing sign will remove a cabinet that is 24 square feet in area and replace it with a cabinet that is approximately 16 square feet in area, decreasing the total sign area.

The existing pole sign was made non-conforming on October 16, 2009 with the adoption of the West Broadway Overlay District. This overlay zoning district prohibits on-premise pole signs. As such, any alteration of the existing pole sign requires land use approvals for an expansion or alteration of a non-

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conforming use. The City also adopted changes to the sign regulations in Chapter 543 of the zoning code on July 17, 2009. As a result of this amendment, pole signs are not permitted in any zoning district in the City. The property is permitted to have one freestanding sign in the form of a monument sign. Dynamic signs are allowed by conditional use permit on primary buildings walls. The proposed sign would be located on an existing freestanding sign and not on a building wall. Dynamic signs may be up to 32 square feet in area and the message shall be required to remain static for a period of not less than 8 seconds. The proposed sign is within the size parameters allowed.

The City approved a conditional use permit for a shopping center at this location in 2005 to allow the liquor store, check cashing and pharmacy uses. An application for site plan review was also submitted at that time and returned by the City Planning Commission. The site plan approved with the conditional use permit has been implemented on the property.

Staff has not received any correspondence from the Hawthorne Community Council as of the printing of this staff report. Any correspondence received will be distributed to the Commission at the meeting.

**EXPANSION OF A LEGAL NONCONFORMING USE: To allow the addition of a dynamic changeable copy sign 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 West Broadway Overlay District in October 2009. This recent rezoning examined the subject site and surrounding area and made zoning changes consistent with the recommendations in West Broadway Alive! small area plan. The overlay district was applied to the site and surrounding area in an effort to preserve and encourage a high-density, transit-supportive and pedestrian-oriented environment in the West Broadway commercial core. Rezoning the property to remove the West Broadway Overlay District would not be consistent with the small area plan for this area. Furthermore, 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 existing use is allowed to remain as long as the 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 along a commercial corridor. 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 West Broadway Overlay District. This 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.

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An expansion of this sign would not be consistent with the intent of the West Broadway Overlay District.

- (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 will 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 West Broadway Overlay District due to the fact that this district is intended to preserve and encourage a high-density, transit-supportive and pedestrian-oriented environment 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 dynamic changeable copy sign is not oriented to pedestrian traffic. Allowing an expansion of this non-conforming sign is not consistent with the intent of the newly adopted West Broadway Overlay District and would not enhance the 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 C3S 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:**

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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 non-conforming use for the property at 700 West Broadway.

**Attachments:**

1. Statement from applicant.
2. Zoning map.
3. Site plan
4. Sign plan.
5. Photos.