

**Department of Community Planning and Economic Development – Planning Division**  
Conditional Use Permit and Variances  
BZZ-5310

**Date:** October 31, 2011

**Applicant:** 303 East Hennepin Limited Partnership, Attn: Jim Surdyk, 303 East Hennepin Avenue, Minneapolis, MN 55414, (612) 379-3232

**Addresses of Property:** 303 East Hennepin Avenue

**Project Name:** Surdyk's – Dynamic Signage

**Contact Person and Phone:** Frank Stone, 1226 2<sup>nd</sup> Street NE, Minneapolis, MN 55413, (612) 910-9595

**Planning Staff and Phone:** Becca Farrar, Senior Planner (612) 673-3594

**Date Application Deemed Complete:** August 29, 2011

**End of 60-Day Decision Period:** October 27, 2011

**End of 120-Day Decision Period:** On October 6, 2011, Staff sent a letter to the applicant extending the decision period to no later than December 26, 2011.

**Ward:** 3      **Neighborhood Organization:** Nicollet Island - East Bank Neighborhood Association

**Existing Zoning:** C2 (Neighborhood Corridor Commercial) District, PO (Pedestrian Oriented) Overlay District

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

**Zoning Plate Number:** 14

**Lot area:** 35,000 square feet or .8 acres

**Legal Description:** Not applicable for this application

**Proposed Use:** A wall-mounted dynamic sign on the west elevation of the existing building.

**Concurrent Review:**

- Conditional Use Permit to allow a dynamic sign on the existing building.
- Variance to allow an increase in the maximum allowable size for a dynamic sign.
- Variance to allow an increase in the overall sign budget.

**Applicable zoning code provisions:** Chapter 525, Article VII, Conditional Use Permit, Article IX, Variances and Chapter 543, On-Premise Signs

**Background:** Surdyk's proposes to remove the existing wall-mounted signage located on the west elevation of the building with a new 262.5 (7.5 feet x 35 feet) square foot dynamic sign at 303 East Hennepin Avenue. The property is zoned C2 and dynamic signs are allowed as a conditional use subject to the provisions outlined in Chapter 525 Administration and Enforcement, and Section 543.340 of the Zoning Code. The maximum

CPED – Planning Division Report  
BZZ-5310

allowable size of a dynamic sign is 32 square feet. The request to install a dynamic sign that is 262.5 square feet in size requires a variance. Further, the combined signage on site with the inclusion of a dynamic sign is over the overall sign budget permitted, therefore another variance is required.

A text amendment was adopted by the City Council in February of 2011 that changed the code requirements for dynamic signs. The zoning code defines a dynamic sign as *“a sign, or any element of a sign, which provides the ability to change text or images, or exhibits changing effects in order to provide intermittent illumination or the illusion of such illumination, or any series of imagery or display which may appear to move or change, including changes produced by any electronic method. A dynamic sign is not a dynamic changeable copy sign.”* In the C2 District, dynamic signs are allowed by conditional use permit on primary building walls or on freestanding monument signs. Accordingly, the applicant has applied for a conditional use permit.

The site received prior City Planning Commission approval in 2004 (BZZ-1429) for a 260 square foot building addition. The proposed addition allowed for the renovation of the store entrance. Further in 2009, the applicant received building permit approval for a building addition on the north side of the structure that allowed for the enclosure of the dumpsters on the site. At the same time, a grandfathered replacement 60 square foot wall sign was installed on the north building wall that was composed of aluminum and lit with neon. In 2011, the south elevation of the building facing East Hennepin Avenue was clad in stainless steel siding and a replacement 203 square foot wall sign composed of aluminum and lit with neon was installed. The applicant had non-conforming rights which enabled the installation of a wall sign that was larger than what typically would be allowed at 120 square feet.

The applicant now proposes to clad the west elevation of the building facing University Avenue with stainless steel and to install a large, 262.5 square foot dynamic sign. The Zoning Administrator has determined that the applicant currently has grandfather rights to approximately 350 square feet of allowable signage on the west elevation of the structure; however, these grandfather rights do not apply to a new dynamic sign. The applicant has stated in their application materials that the programming of the new sign is planned to be such that the top half of the sign would be a stationary image that would list the business name in white letters on a red background. The lower portion of the sign would be of changing programming that would abide by the parameters set out in Section 543.340. Overall, the applicant has a grandfathered wall sign budget of 613 square feet for the building. The recently installed signage on the building totals 263 square feet; there is an additional 350 square feet of allowable signage remaining for the west elevation for a wall sign. Due to the fact that the applicant is proposing a 262.5 square foot dynamic sign, which has no grandfather rights, the overall budget in this circumstance is 295 square feet (263 square feet that are currently located on the premises plus 32 square feet for the dynamic sign), thus the need for a variance. Under current regulations, the applicant would only be allowed to install a wall sign that was 146.5 square feet in size.

The project was originally scheduled and heard at the October 3, 2011, Planning Commission meeting. The Planning Commission continued the applications for two cycles in order to allow the applicant time to generate design alternatives reflecting less square footage than what was originally proposed. At the time of printing, Staff had not received any new drawings; thus the CPED recommendation remains unchanged. Staff anticipates that the applicant will present these alternatives at the Planning Commission meeting on October 31, 2011.

Staff has not received official correspondence from the Nicollet Island – East Bank Neighborhood Association or any neighborhood letters prior to the printing of this report. Any correspondence received shall be forwarded on to the Planning Commission for consideration.

**CONDITIONAL USE PERMIT: to allow a dynamic sign in the C2 District**

**Findings as Required by the Minneapolis Zoning Code:**

The Community Planning and Economic Development Department – Planning Division has analyzed the application and from the findings above concludes that:

**1. Will not be detrimental to or endanger the public health, safety, comfort or general welfare.**

Planning Staff believes that the proposal to install a 262.5 square foot dynamic sign on the property, over 8 times greater than what the Zoning Code allows, would be detrimental to or endanger the public health, safety, comfort or general welfare. Such a large sign would not only be a distraction for passing motorists but would also set a precedent for businesses desiring large dynamic signs. Further, the site is adjacent to residential uses across East Hennepin Avenue and University Avenue. The applicant has stated in their application materials that they intend to have the top portion of the sign as a stationary image listing the business name; a sign with a stationary image need not be dynamic. Planning Staff would recommend that the applicant design a sign similar to the replacement signs installed on the north and south elevation that are composed of aluminum and lit with neon for the business name and include a dynamic sign below this internally illuminated sign that meets all of the standards outlined in Section 543.340 of the Zoning Code.

**2. Will not be injurious to the use and enjoyment of other property in the vicinity and will not impede the normal or orderly development and improvement of surrounding property for uses permitted in the district.**

The surrounding area is developed and there is a mix of commercial and residential uses. As previously noted, residential uses are located across both East Hennepin Avenue and University Avenue. There are other additional residential uses within the neighborhood as well. The addition of a dynamic sign that meets all zoning code standards should have no negative impacts on surrounding properties whereas the proposal to incorporate a large sign over 8 times greater than what is allowed arguably would. While the subject property is located within the East Hennepin Activity Center, it is not located downtown or within the downtown entertainment district. Planning Staff believes that the proposed signage should be separated into two signs, with one being an internally illuminated sign (similar to the existing signs on the north and south elevations of the building) and the other a dynamic sign that meets the provisions as outlined in the Zoning Code.

**3. Adequate utilities, access roads, drainage, necessary facilities or other measures, have been or will be provided.**

The utilities, access, drainage, and other facilities are existing and adequate and should not be impacted by the proposed sign.

**4. Adequate measures have been or will be provided to minimize traffic congestion in the public streets.**

The addition of a dynamic sign that meets the standards outlined in Section 543.340 of the Zoning Code should not have any impact on traffic congestion in the public streets. However, a large sign could cause congestion, apart from endangering safety.

**5. Is consistent with the applicable policies of the comprehensive plan.**

CPED – Planning Division Report  
BZZ-5310

*The Minneapolis Plan for Sustainable Growth* states the following about signs: “Sign design needs to balance the desire to convey information with a need to maintain visual aesthetics so signage is not intrusive. The scale of signage should be geared toward the pedestrian and less to the automobile. Unique signage that incorporates unusual materials or designs is encouraged.” As previously noted, the property is located within the East Hennepin Activity Center, a designated mixed-use area, along East Hennepin Avenue which is a designated Commercial Corridor in this location and along University Avenue which is a designated Community Corridor in this location.

*The Minneapolis Plan for Sustainable Growth* has the following policies for signs:

**Policy 10.20: Promote an attractive environment by minimizing visual clutter and confusion caused by a proliferation of signage.**

10.20.1 Location, size, height and spacing of off-premise advertising signs and billboards shall be regulated to minimize their visual blighting effects.

10.20.2 Master sign plans shall be submitted for multi-tenant buildings to ensure a complementary relationship between signage and the architecture of a building.

10.20.3 Develop incentives for exceptional sign design and style, including a special review process to ensure appropriate location, size, height and compatible design to the architecture of the building and other signage.

10.20.4 Develop a consistent, city-wide wayfinding signage design and maintenance plan for neighborhoods, trails, etc.

**Policy 10.21: Unique areas and neighborhoods within the city should have a special set of sign standards to allow for effective signage appropriate to the planned character of each area/neighborhood.**

10.21.1 Supporting the regional draw of Downtown entertainment areas, larger scale signage shall be allowed in appropriate places (such as the Hennepin Avenue Downtown Entertainment Area and Nicollet Mall Overlay District).

10.21.2 To promote street life and activity, signs should be located and sized to be viewed by people on foot (not vehicles) in order to preserve and encourage the pedestrian character of commercial areas that have traditional urban form.

10.21.3 Encourage effective signage that is appropriate to the character of the city’s historic districts and landmarks, and preserves the integrity of historic structures.

The proposed 262.5 square foot dynamic sign is not supported by the above listed policies. Planning Staff would support a dynamic sign that meets the standards as outlined in Section 543.340 of the Zoning Code.

**6. And, does in all other respects conform to the applicable regulations of the district in which it is located, with the approval of this conditional use permit.**

With the approval of the conditional use permit, and the variances, the proposed sign would conform to the applicable district regulations. The minimum lot size for a dynamic sign is 12,000 square feet and the subject site is 35,000 square feet. One dynamic sign is allowed and one is proposed. The sign is required to be a minimum of

CPED – Planning Division Report  
BZZ-5310

100 feet from the nearest residence or office residence district and part of a lot that has 660 feet of contiguous commercial, downtown or industrial zoning on the same side of the street. Both of these requirements have been satisfied. The following additional provisions apply:

- *Height.* Notwithstanding Table 543-3, Specific Standards for Signs in the Downtown Districts, and 543-4, Specific Standards for Signs in the Industrial Districts, the maximum height of a dynamic sign attached to a building shall be fourteen (14) feet, or top of wall, whichever is less.

*Staff comment:* The sign would be attached to a building wall and as proposed would be 7.5 feet tall and 35 feet wide, located at a height of 13 feet. The maximum height for a dynamic sign in the C2 District is 14 feet or the top of the wall upon which the sign is mounted.

- *Size.* Dynamic signs shall not exceed thirty-two (32) square feet. Dynamic signs shall be included in the calculation of the total permitted sign area.

*Staff comment:* The proposed dynamic sign would be 262.5 square feet in area (7.5 feet by 35 feet). Overall, the applicant has a grandfathered wall sign budget of 613 square feet for the building. The recently installed signage on the building totals 263 square feet; there is 350 square feet of allowable signage remaining for the west elevation for a wall sign. Due to the fact that the applicant is proposing a 262.5 square foot dynamic sign, which has no grandfather rights, the overall budget in this circumstance is 295 square feet, thus a variance has been applied for in this circumstance. Under current regulations, the applicant would only be allowed to install a wall sign that was 146.5 square feet in size.

- *Duration of message.* The sign message shall remain static for a period of not less than sixty (60) seconds. The transition from one (1) message to the next shall be direct and immediate, without any special effects.

*Staff comment:* The applicant has confirmed that the message will remain static for a minimum of 60 seconds and will transition with no special effects.

- *Image characteristics and transition.* Dynamic signs shall have a pitch of not greater than twenty (20) millimeters between each pixel. Special effects, including but not limited to dissolving, fading, scrolling, starbursts and wiping shall be prohibited.

*Staff comment:* The applicant has confirmed that the sign will have a pixel spacing of 19 mm and no special effects.

- *Luminance.* Between sunrise and sunset the maximum luminance shall be five thousand (5,000) nits and between sunset and sunrise the maximum luminance shall be five hundred (500) nits. All signs with a dynamic display having illumination by means other than natural light must be equipped with an automatic dimmer control or other mechanism that automatically controls the sign's brightness to comply with this requirement. Except for Institutional and Public Uses, the dynamic sign shall not display messages or be illuminated when the use is closed.

*Staff comment:* The applicant has confirmed that the sign will have a maximum luminance of 5,000 nits between sunrise and sunset and 500 nits at all other times. The sign will be equipped with a light sensor and automatic dimmer control to comply with this requirement.

**In addition to the conditional use standards contained in Chapter 525 and this article, the City Planning Commission shall consider, but not be limited to, the following factors when determining sign variances or conditional use permits:**

CPED – Planning Division Report  
BZZ-5310

- 1. The sign adjustment will not significantly increase or lead to sign clutter in the area or result in a sign that is inconsistent with the purpose of the zoning district in which the property is located.**

The addition of this sign will not necessarily lead to sign clutter, as one could argue that the current signage on the building is cluttered. However, the sign is inconsistent with the purpose of the zoning district in which the property is located, the Zoning Code and *The Minneapolis Plan for Sustainable Growth* as the sign that is proposed is significantly larger than what is permitted.

- 2. The sign adjustment will allow a sign that relates in size shape, materials, color, illumination and character to the function and architectural character of the building or property on which the sign will be located.**

The sign would be professionally constructed and installed. The sign is a metal cabinet with internally illuminated copy face. The sign as proposed would be out of scale with the building on site. The applicant has stated in their application materials that they intend to have the top portion of the sign as a stationary image listing the business name; a sign with a stationary image need not be dynamic. Planning Staff would recommend that the applicant design a sign similar to the replacement signs installed on the north and south elevation that are composed of aluminum and lit with neon for the business name and include a dynamic sign below this internally illuminated sign that meets all of the standards outlined in Section 543.340 of the Zoning Code.

**VARIANCE** – (1) Variance to allow an increase in the maximum allowable size for a dynamic sign; (2) Variance to allow an increase in the overall sign budget.

**Findings as Required by the Minneapolis Zoning Code for the Variance:**

- 1. Practical difficulties exist in complying with the ordinance because of circumstances unique to the property. The unique circumstances were not created by persons presently having an interest in the property and are not based on economic considerations alone.**

**To allow an increase in the maximum allowable size for a dynamic sign:** Planning Staff does not believe that there are unique circumstances that warrant such a sizeable increase in area for a dynamic sign on the premises. As a result of grandfather rights, the applicant is entitled to far more signage than would typically be permitted on the site provided the sign is a wall sign and not a dynamic sign. There are no practical difficulties that exist in complying with the ordinance in this circumstance. Such a large sign would not only be a distraction for passing motorists but would also set a precedent for businesses desiring large dynamic signs. Further, the site is adjacent to residential uses across East Hennepin Avenue and University Avenue. The applicant has stated in their application materials that they intend to have the top portion of the sign as a stationary image listing the business name; a sign with a stationary image need not be dynamic. Planning Staff would recommend that the applicant design a sign similar to the replacement signs installed on the north and south elevation that are composed of aluminum and lit with neon for the business name and include a dynamic sign below this internally illuminated sign that meets all of the standards outlined in Section 543.340 of the Zoning Code.

**To allow an increase in the overall sign budget:** The applicant proposes to increase the overall sign budget in order to allow a 262.5 square foot dynamic sign. As previously noted, the applicant has a grandfathered wall sign budget of 613 square feet for the building. The recently installed signage on the building totals 263 square feet; there are 350 square feet of allowable signage remaining for the west elevation for a wall sign. Due to the fact that the applicant is proposing a 262.5 square foot dynamic sign, which has no grandfather rights, the overall budget in this circumstance is 295 square feet (263 square feet that are currently located on the premises plus 32 square feet for the dynamic sign), thus the need for a variance. There are no practical difficulties that exist in

CPED – Planning Division Report  
BZZ-5310

complying with the ordinance. The applicant has stated in their application materials that they intend to have the top portion of the sign as a stationary image listing the business name; a sign with a stationary image need not be dynamic. Planning Staff would recommend that the applicant design a sign similar to the replacement signs installed on the north and south elevation that are composed of aluminum and lit with neon for the business name and include a dynamic sign below this internally illuminated sign that meets all of the standards outlined in Section 543.340 of the Zoning Code.

**2. The property owner or authorized applicant proposes to use the property in a reasonable manner that will be in keeping with the spirit and intent of the ordinance and the comprehensive plan.**

**To allow an increase in the maximum allowable size for a dynamic sign:** The proposal to install a 262.5 square foot dynamic sign in place of the allowable 32 square foot sign is not reasonable and would not be keeping with the spirit and intent of the ordinance and the comprehensive plan as noted in the above conditional use permit findings. Due to the fact that the site is across from residential uses, and the possibility that allowing such a large sign could be precedent setting, Planning Staff believes that the request is unreasonable and would result in adverse impacts to adjacent residences, as well as serve as a distraction to drivers in the immediate vicinity.

**To allow an increase in the overall sign budget:** The proposal to increase the overall sign budget in order to allow a sign that doesn't have any grandfather rights would not be reasonable and is not keeping with the spirit and intent of the ordinance and the comprehensive plan. The applicant has rights to signage that far exceeds what would typically be allowed under the Zoning Code provided it is a wall sign. The suggestion by Planning Staff to design a sign that is similar to those located along the north and south building walls with the inclusion of a dynamic sign that meets the provisions outlined in Section 543.340 of the Zoning Code is reasonable and consistent with adopted policy.

**3. The proposed variance will not alter the essential character of the locality or be injurious to the use or enjoyment of other property in the vicinity. If granted, the proposed variance will not be detrimental to the health, safety, or welfare of the general public or of those utilizing the property or nearby properties.**

**To allow an increase in the maximum allowable size for a dynamic sign:** The proposal to install a dynamic sign that is over 8 times larger than what would typically be permitted would likely have adverse impacts on the essential character of the locality, be injurious to the use and enjoyment of other property in the vicinity and detrimental to the health, safety, and welfare of the general public and of those utilizing the property or nearby properties. Planning Staff does not believe that the request is reasonable or contextually appropriate given the composition of surrounding properties as well as the existing site conditions. With consideration of grandfather rights, Planning Staff believes that the applicant has more than ample ability to meet the Zoning Code standards as well as the objective of installing a dynamic sign.

**To allow an increase in the overall sign budget:** The proposal to allow an overall increase in the sign budget is unnecessary given the circumstances and would likely have adverse impacts on the essential character of the locality, be injurious to the use and enjoyment of other property in the vicinity and detrimental to the health, safety, and welfare of the general public and of those utilizing the property or nearby properties. Excessive signage on the property is not consistent with adopted City policies. The alternative proposed by Planning Staff is reasonable, contextually appropriate and consistent with adopted City policies.

**RECOMMENDATION:**

**Recommendation of the Community Planning and Economic Development Department - Planning Division for conditional use permit for a dynamic sign:**

CPED – Planning Division Report  
BZZ-5310

The Community Planning and Economic Development Department - Planning Division recommends that the City Planning Commission **deny** the conditional use permit to allow a 262.5 square foot dynamic sign and in lieu of adopt the findings above and **approve** the conditional use permit to allow a 32 square foot dynamic sign on the property located at 303 East Hennepin Avenue subject to the following conditions:

1. The conditional use permit shall be recorded with Hennepin County as required by Minn. Stat. 462.3595, subd. 4 before building permits may be issued or before the use or activity requiring a conditional use permit may commence. Unless extended by the zoning administrator, the conditional use permit shall expire if it is not recorded within one year of approval.
2. The dynamic sign shall not exceed 32 square feet in area and shall meet all other standards outlined in Chapter 525 Administration and Enforcement, and Section 543.340 of the Zoning Code.

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

The Department of Community Planning and Economic Development – Planning Division recommends that the City Planning Commission adopt the above findings and **deny** the application for a variance to allow an increase in the maximum allowable size for a dynamic sign from 32 square feet to 262.5 square feet as proposed on the west elevation of the existing structure located at 303 East Hennepin Avenue.

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

The Department of Community Planning and Economic Development – Planning Division recommends that the City Planning Commission adopt the above findings and **deny** the application for a variance to allow an increase in the overall sign budget for property located at 303 East Hennepin Avenue.

**Attachments:**

1. Project description and findings
2. Correspondence
3. Zoning map
4. Site plans and elevations
5. Photos