

CITY OF MILWAUKIE
PLANNING COMMISSION MINUTES
TUESDAY, MAY 9, 2006

COMMISSIONERS PRESENT

Donald Hammang, Chair
Jeff Klein, Vice Chair
Teresa Bresaw
Catherine Brinkman
Dick Newman
Scott Churchill

COMMISSIONERS ABSENT

Lisa Batey

STAFF PRESENT

Katie Mangle,
Planning Director
Brett Kelter,
Assistant Planner
Brenda Schleining,
Associate Engineer
Bill Monahan,
Legal Counsel
Karin Gardner,
Admin. Assistant II

1.0 CALL TO ORDER

The meeting was called to order at 6:35 p.m.

2.0 PROCEDURAL MATTERS -- None.

3.0 PLANNING COMMISSION MINUTES -- None.

Approved PC minutes can be found on the City web site at
www.cityofmilwaukie.org

4.0 INFORMATION ITEMS -- City Council Minutes

City Council minutes can be found on the City web site at
www.cityofmilwaukie.org

5.0 PUBLIC COMMENT -- None.

6.0 PUBLIC HEARINGS

6.1 Applicant: Vancouver Sign Co. (for McKee Enterprises)
Owner: David Emami
Location: 11011 SE Main St
Proposal: Approval to turn on an internally illuminated cabinet sign
File Number: DR-06-01
NDA: Historic Milwaukie

Vice Chair Klein opened the hearing on file number DR-06-01 to allow the approval for internally illuminated cabinet sign on the property located at 11011 SE Main Street. The applicant has the burden of proving that the application is consistent with the City of Milwaukie's Zoning Subdivision Ordinances and Comprehensive Plan and any applicable Material Municipal Code provisions. **Vice Chair Klein** then asked for the staff to site the Zoning Ordinance section where the criterion is taken from. **Brett Kelter** stated the section specifically from the Sign Code Section 14.16.060(G) related to sign illumination as well as the Sign Lighting and Sign Guidelines sections of the Downtown Design Guidelines. These are on pages 45 and 47 of the Downtown Design Guidelines.

Vice Chair Klein stated that all testimony and evidence must be directed towards the applicable substance of criteria just described or other criteria in the plan or land use regulations which one believes to apply to the decision. Failure to raise an issue accompanied by statements or evidence sufficient to afford the Planning Commission an adequate opportunity to respond to each of the issues precludes appeal to the City Council or LUBA based on that issue. Failure to raise constitutional or other issues related to proposed conditions of approval with sufficient specificity to allow a response precludes an action for damages in circuit court.

Vice Chair Klein asked if any member wished to abstain or felt they had any conflicts of interest. **Commissioner Brinkman** stated that she had two potential conflicts of interest to declare. Vancouver Sign Company at one point in time had interest in alignment with a former client of the law firm that she works for and that same law firm was adverse to David Emami on a past or more than one past and current issue. **Vice Chair Klein** excused Commissioner Brinkman from making a decision on this issue. There were no other conflicts of interest or ex-parte contacts declared.

Vice Chair Klein asked the Commissioners to raise their hand if they had visited the site prior to the hearing; 6 hands were raised. He then asked if they spoke to anyone at the site or noted anything different from what was indicated in the staff report. All the Commissioners stated that they hadn't. **Vice Chair Klein** then asked the Commissioners if there were any other ex-parte contacts to be declared or if anyone had any rebuttals to the ex-parte contacts declared by the commissioners. All the Commissioners stated they did not. No one in the audience challenged the impartiality of any Commission member or the jurisdiction of the Planning Commission to hear this matter.

STAFF REPORT

Brett Kelter reviewed the staff report with the Commissioners. He first showed an aerial photograph showing the location of the site. The site is at the corner of Main and Jefferson Street. He pointed out the Milwaukie Tri-Cinema and the

Wunderland Theatre in relationship to McLoughlin Blvd. He stated the location of the sign that we are talking about is on the West side of the building facing McLoughlin. **Mr. Kelter** then showed an overhead photo of the before and after photographs from when the Planning Department processed a sign permit application in late 2005 for the cabinet sign; the Wunderland sign. Overheads were shown of the subject site and surrounding area. **Mr. Kelter** stated at the time it was made clear to the applicant that because of the provision in the Sign Code discouraging internally illuminated cabinet signs in the downtown area that we could proceed with processing a sign application and consider the sign as a wall sign but that if it was desired to be turned on as an internally illuminated cabinet sign that they would need to go through the process that they are going through now which is a hearing with the Design and Landmarks Committee followed by Planning Commission recommendation and decision. The sign did meet the criteria established for the downtown zone for wall signs and it was made clear at the time that the sign was not be turned on and as far as we know it has not been.

Mr. Kelter stated that the sign code is not as emphatic or clear as it could be. It discourages but does not prohibit internally illuminated cabinet signs in the downtown zones. He then showed more overheads of the view of the sign and area at night (not illuminated).

Mr. Kelter stated that the burden is on the Design and Landmarks Committee and the Planning Commission to make a decision on whether or not the sign meets what criteria and guidelines that are out there. There are a couple of points that he pulled from the Downtown Design Guidelines on page 45 (Guidelines for Sign Lighting). It does provide some recommendations and makes mention of a few forms that are not recommended. It was noted at the time that the sign in question, unfortunately, falls into the not recommended category for three of the four items; interior plastic sign lighting, use of fluorescent tubes and signs using some exposed electrical conduit. These four items were discussed at the Design and Landmarks Committee meeting last week on Wednesday.

Mr. Kelter asked if everyone had received the Supplemental Report that was prepared after the DLC meeting. He noted some of the conflict expressed by members of the Committee because they want to support businesses in the downtown area and understand that signage is an important part of having a successful business; at the same time they acknowledge they are charged with trying to uphold and promote the guidelines that have been established by the City. They noted that this type of sign is not preferred in the downtown area; thus the code language that we have. **Mr. Kelter** stated that Ed Zumwalt had testimony that pointed out that the location of the sign is on McLoughlin Blvd., which is a highly motorized area. Comments were that if the sign were being proposed for another face of the building, for example, on Main Street, that it would be a very different situation. There was also some ambivalence expressed about that—that it was not the preferred kind of sign but that all things considered

that this is not the worst location for it and in fact may be the most appropriate site if there is one.

Mr. Kelter stated that the DLC Committee (4 members present) at first motioned to deny approval of the sign illumination with a tie 2-2. There were 2 votes in favor of that motion and 2 abstentions, which counted as opposition; so there was an initial deadlock. There was discussion about simply passing that split decision on to the Planning Commission with a summary of some of the basic points. The motion did pass 3-1, but as they moved into the summarizing period, there was a suggestion to rescind that motion and put a new motion forward that would be for approval of the sign with a time limit. Further discussion about that ended in a 4-0 vote to approve the sign for a time period of no more than 3 years from the day of their meeting, expiring May 3, 2009. Along with that was a recommendation to approve use of the sign during each business day from 6pm until midnight.

QUESTIONS FROM THE COMMISSIONERS

Mr. Kelter asked if anyone on the Commission had any questions about the discussion or presentation. **Scott Churchill** asked for clarification on the statement of the burden of proof being on the Commission, but also that the burden of proof is on the applicant. **Mr. Kelter** clarified by stating that the burden of proof is on the applicant to show that they meet the guidelines that have been established and that because we are dealing with discouragement instead of prohibition of the sign, he suggested that some of the burden of proof falls upon the DLC and the Commission.

Catherine Brinkman asked if part of the Design and Landmarks criteria in their consideration is supposed to be the encouragement of business into the area or supporting business. **Mr. Kelter** stated that he did not believe that that was a direct part of their charge. He believes that they are entrusted more with design guidelines and standards.

Teresa Bresaw asked at the end of the 3-year period who would be there to remember to enforce the deadline. **Mr. Kelter** stated that the Planning Department would be responsible to keep track of the deadline. **Mr. Churchill** asked about the original approval that was granted back in November 2005 strictly for the wall sign and if there was a permit required for the electrical portion of the sign. **Mr. Kelter** stated that to his knowledge there had never been any consideration with regards to the electrical part of the sign. He did not know if the sign was actually fully hooked up and ready to be turned on. He noted that the applicant could clarify this question.

CORRESPONDENCE – None.

APPLICANT/REPRESENTATIVE PRESENTATION

Speaking: **Tim Pfeifer**, Vancouver Sign Co., 6615 NE Hwy 99, Vancouver, WA 98665

Speaking: **Scott Brown**, McKee Enterprises, 11011 SE Main, Milwaukie, OR 97222

Mr. Pfeifer thanked the Committee for hearing the application and said that their basic position is that if illuminated, the sign would represent a greater asset for Wunderland. He stated that as the committee can see from the slides, the sign is completely invisible by nighttime and that represents a great challenge for a business that is trying to promote evening entertainment for the whole community.

Mr. Brown addressed the questions about the electrical part of the sign. When the sign was put up, it was not hooked up—the box would need to be opened up to complete the hook up for illumination. He stated that being an entertainment venue into the evening hours up until midnight, having the sign illuminated would help them out immensely. Most people know they run movies but they also have the Wunderland option. He said that it is a nickel arcade, family based. He stated that there are 5 additional Wunderland locations; Salem, Vancouver, Beaverton and 2 locations in Portland (Gateway and Avalon Theatre which is basically the same set-up as Milwaukie). **Mr. Brown** stated that the sign would be helpful due to the recent traffic change of the entrance off of Jefferson on to McLoughlin, causing a loss of traffic in front of the building. He noted that the business brings families into the downtown area and brings in approximately 1500-2000 people per weekend depending on the movies shown. **Mr. Brown** asked for consideration that the sign be allowed to be illuminated earlier in certain months, as early as 4pm instead of 6pm.

QUESTIONS FROM COMMISSIONERS

Teresa Bresaw asked the applicant if Vancouver Sign Co. built the sign. It was clarified that the sign came from a previous Wunderland location and Vancouver Sign Co. only did the installation.

Mr. Churchill then asked the applicant about their comment to staff that this was a hardship effectively slowing the business down by not having the sign illuminated. The applicant stated that not having the sign illuminated would not be helping the business with respect to advertising since the business is new to the area. The applicant mentioned that this is an area of town that not many people are familiar with. Since this is a new location for their business, their goal would be to promote it and bring new people into the area.

Mr. Churchill referenced the Sign Ordinance on page 3 about gooseneck lighting being a recommended source of lighting wall signs. He stated that one way the current sign could be modified is with gooseneck lighting, by attaching gooseneck housing on to the top, which would bring the sign into compliance. **Mr. Kelter** clarified that the reason for the hearing was because of the method of illumination and that in order for the sign to be internally illuminated it has to go thru this process. According to the current code, any other form would not require this process at all. There was some discussion about the possibility of gooseneck lighting and what the cost would be to modify the current sign. The applicant stated that they just recently had to turn off all their flashing lights.

PUBLIC TESTIMONY

Speaking: **Ed Zumwalt**, 10888 SE 29th, Milwaukie, OR 97222
Historic Milwaukie Neighborhood Association

Mr. Zumwalt stated that he felt that we should err the side of the businessman. He asked for clarification on signs being in compliance by the year 2013. **Mr. Kelter** stated that the most recent version of the Sign Ordinance was approved in 2003 and the language includes provisions for non-conforming signs to remain in place for 10 years after they become illegal. **Mr. Zumwalt** felt that facing McLoughlin would not be too garish. He also said that maybe the business could bring in families with the youth at the Wunderland and the parents wandering around and enjoying the new restaurants and lounges and shops that will be built around town. He feels that the Planning Commission should consider the application for the businessman.

Speaking: **Rosemary Crites**, 4917 SE Aldercrest Rd, Milwaukie, OR 97222

Ms. Crites stated that this is a very important issue. A lot of work has been done on the redevelopment of downtown Milwaukie, and signage is a real issue; it tells people what Milwaukie is about. One thing that we have fought is a very bad reputation, but things have been turning around. Signage says either we have some "class" here and other types businesses of that higher level want to come or they are discouraged because they don't fit in. Her concerns are down the road when other businesses come in and state that this company has a sign and they want the same kind of sign and the City has no recourse. She feels that the decision of this application will determine what will happen in the future.

DISCUSSION AMONG THE COMMISSIONERS

Mr. Kelter clarified that the recommendation that has come from the DLC is to allow the internal illumination for 3-years and then for the sign to be turned off after this period.

Vice Chair Klein reconfirmed with the Planning staff that the original staff report was in support of denial of this application. He then asked if the applicant had any rebuttal or any additional comments in response to the public testimony. He then closed the public testimony of the hearing and opened it up to discussion among the Commissioners.

Teresa Bresaw stated that she felt that a 3-year period to allow the signage is too long. She felt that a one-year period would be sufficient for this allowance.

Donald Hammang stated that he would be in favor of giving the applicant dusk to midnight approval for a time limit of 2 years. He stated that because of the uncertainty of where the City will be in 2 years with regards to the amount of foot traffic that losing the sign after 2 years might not matter. He commented that the existing site was anything but subtle and not pretty.

Catherine Brinkman stated that she is empathetic with the businessman and that this is a very important issue. She is concerned that this will open the gateway to a flood of additional signs. She questioned why we have recommended criteria if we are not going to use it. She also questioned the viability of the DLC's decision based on the fact that their criteria do not include evaluating the economic issue; their criteria is whether it matches what "they" created as the design standards. She made note that this location is not an obscure building that is not being seen. There are signs all over the building. She stated how important it is to uphold the City's efforts to beautify the area. She stated that the site is already sufficiently lighted and that we need to be very careful of what kinds of signage are used in our downtown area. She feels like there are plenty of options available for the business operator to put up a sign that can be seen and that is in compliance with our design criteria. She would like to see businesses work with the City to share the vision of what the citizens have put together for the future.

Brett Kelter clarified that the sign was originally approved as a wall sign with the understanding that they could not illuminate it without going through the process of approval. **Katie Mangle** stated that the sign does function as a wall sign.

Catherine Brinkman asked if this sign is one of the non-conforming signs that fall under the 2013 deadline. Mr. Kelter answered that because internal illumination is only discouraged and is not prohibited, the 10-year time limit does not apply.

Dick Newman stated that the Planning Commission has a set of recommendations that it should be trying to uphold.

Catherine Brinkman moved to deny application DR-06-01 requesting an internally illuminated cabinet sign in the downtown office zone and to adopt the recommended findings in support of denial with the condition that paragraph 3 be

amended to accurately reflect the decision of the Design and Landmarks Committee from their May 3rd, 2006 hearing.

Vice Chair Klein asked for a vote on the motion to deny application DR-06-01 requesting the internally illuminated cabinet sign in the downtown office zone and to adopt the recommended findings in support of denial with the condition that paragraph 3 be amended to accurately reflect the Design and Landmarks Committee.

Ayes: Klein, Bresaw, Brinkman, Newman, Churchill

Nays: Hammang

Motion carried 5-1.

Vice Chair Klein stated that if anyone wishes to appeal this decision to the City Council they must make an application stating grounds for their appeal within 15 days of the mailing of the Notice of Decision. Please see the Community Development staff for details.

6.2 Text Amendments for CSO and Comprehensive Plan

Katie Mangle stated that the originally scheduled hearing on the text amendments for the Community Service Overlay and Comprehensive Plan that was scheduled for tonight has been continued to May 23rd. The information will be presented at this meeting and the staff report will be sent to the Planning Commission and the rest of the interested parties prior to the hearing.

7.0 WORKSESSION ITEMS

7.1 Additional revisions to 19.321, Community Service Overlay

Katie Mangle stated following the last worksession on April 25 when we discussed the Community Service Overlay zones, one additional revision that staff is proposing which is deleting specific standards for churches and related facilities – our intent of the revisions would be to neutralize any religious gender oriented language so we are deleting the word church and using religious institutions. **Ms. Mangle** noted that later it was realized that there was an entire section relating to specific standards for churches, convents, and related facilities. She proposed to revise it so that religious institutions are covered within the same sections as public and private institutions; thereby eliminating any potential claims about discrimination. She also noted looking back in the code there was still a reference to churches that still shows up there. This must have been a long time ago back when churches were Conditional Uses. There is actually a reference that allows churches to exceed the base zone height. So the intent to allow churches to exceed the base zone height up to 50 feet. We don't think that this is a big policy change.

Ms. Mangle stated that the other revision was to reverse the decision in the new Section 19.321.6 – changing the wording from “may” back to “shall” -- essentially the Council would like it to read, “if the Commission finds that the approval standards in 19.321.5 are met, the Commission “shall” approve the designation of the site.

8.0 DISCUSSION ITEMS – None.

9.0 OLD BUSINESS -- None.

10.0 OTHER BUSINESS / UPDATES

10.1 Matters from the Planning Director

Katie Mangle commented that the Commissioners might have heard about the City Council’s big outreach project to talk to the community about street maintenance and potentially looking at increasing more dedicated plans for street funding.

Ms. Mangle stated we felt it important to bring this information to the Commission partly because of them being the community leaders that they are and also due to any valuable information that you and your communities could contribute valuable input. **Ms. Mangle** handed out some very educational flyers and reviewed them with the Commissioners. She told them that the City Council will be having a discussion on July 18 on the Street Funding Outreach Program.

Ms. Mangle introduced **Brenda Schleining**, who is an Engineer at JCB. **Ms. Schleining** is attending the meeting as a technical resource. **Ms. Mangle** stated that we will be going out into the community to share information and educate them on the status of the conditions of the City’s streets. She did mention that the current funding only allows for temporary fixes such as potholes and general maintenance.

Ms. Mangle explained each of the handout materials for the Commissioners, reminding them that the longer we wait the more costs will go up. After much discussion, the question arose whether this issue is important to the citizens of Milwaukie and if so, what are the solutions? The question also came into the discussion of what are other communities doing? **Ms. Mangle** drew their attention to some of the options listed on the back of the materials. She reviewed those listed, clarifying many of them. She said the next step is to make decisions: A) Do you care/how much does the community care? B) Do you have any preferred solutions? C) If we move forward with this project how should we prioritize? If the City Council does propose a tax, what types of streets and what areas - all of that - would be completely up for discussion.

QUESTIONS/COMMENTS BY THE COMMISSIONERS

Teresa Bresaw asked specifically about how the street utility fee (noted on the back of the material as an option) would be collected. **Ms. Mangle** stated that it would be collected through the City utility water/stormwater bill. The rates would need to be estimated with standards--certain rates for residential, business and industrial. This kind of increase would need to be voted on by the people.

Scott Churchill said that the subject has arose in his neighborhood association and that the citizens are not against options for funding as long as they know where and how the monies are being spent. They wouldn't mind paying to improve their neighborhoods (property taxes included) but they would want to see what they were going to get for their contribution and see real progress.

Brenda Schleining made the point that the historically the property tax has always failed. Secondly, the most important thing that people will ask you is the idea of pave now or pay later. Two years ago 22% of our streets were failing, and now it's 27% are failing and in 5 years this number is going to be approaching 40%. **Ms. Schleining** said that truly is pave now or pay later. She discussed the inevitable expensive of the cost of repairs now as compared to the expense in the future. Commissioners had more discussion on the issue with regards to the past history of property taxes. The City has not had much success with passing a property tax in the past. **Ms. Schleining** clarified how the streets were "classified" as noted on the map provided with the types of streets and their assigned named classification.

Katie Mangle welcomed and encouraged the Commissioners to submit any additional written comments/ideas regarding the street maintenance funding outreach project.

11.0 NEXT MEETING -- May 23, 2006 Hearing on Community Service Overlay and Comprehensive Plan Amendments

Vice Chair Klein introduced the newest member of the Planning Commission, **Scott Churchill**. **Scott Churchill** stated that he was a new resident to Milwaukie and that he lives in Historic downtown on Monroe near 28th. He was born and raised in Seattle but then moved to California as well as spending some time in New York. He is an architect and has practiced both residential and commercial but historic in the last 10 years – mostly commercial and a lot of owners/rep and construction management work but the link to Oregon now there is more residential involvement so his direction has changed.

Ms. Mangle introduced and thanked **Karin Gardner** for agreeing to come to the meeting with very little notice since **Shirley Richardson** could not attend due to a

family emergency. This prompted the Commissioners to ask how the minutes are coming from past meetings. **Ms. Mangle** stated that we were working on getting them drafted and submitted for approval.

Ms. Mangle briefly discussed the letter she sent to the North Clackamas Parks and Recreation Department prompted by the concerns expressed in a letter from the Friends of Clackamas Park with regards to mowing too close to the wetlands. The letter outlined the agreement that she had discussed with North Clackamas Parks – the maintenance department agreed to establish a 15-foot buffer around the wet areas. The bigger issues will be addressed when we do the North Clackamas Park Plan in the next year.

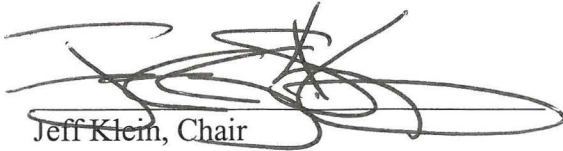
Ms. Mangle touched base with the Commissioners on the letters to Clackamas County with regards to the Harmony Park Apartments a few months ago. She made reference to the location on the map, stating that the apartments are outside of the city boundary with some apartments already on site with the goal to add additional apartments to the site. City sewer already serves the apartments so the County has acknowledged that if the new apartments are constructed, the City will have to provide the service and be annexed into the City. She said that Minthorn Creek runs through the site. Essentially the proposal includes impacts and mitigation that the City would not have agreed to. The County has agreed to it and has issued a Notice of Decision approving the project. Their Notice of Decision did include a lot of comments that she made that inserted the City of Milwaukie's interests that we can require prior to issuing building permits which included proving to us that there is no reasonable alternative. They will not be able to hook up to sewer until they get building permits from us.

The County Planning staff included in their staff report that they agreed that this project should have been heard by City of Milwaukie not Clackamas County. There are a lot of regulatory loopholes that this has been weaving through at Metro, County and City levels. The City Planning staff is considering appealing the project. It is not expected to go to LUBA at this time; it would go to the County Hearings Officer and we have until May 15th to decide. **Ms. Mangle** wanted to let the Commissioners know that they were considering doing this.

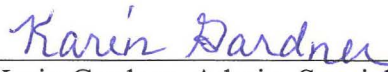
Donald Hammang stated that the issue here is that under Milwaukie's rules, Title 3, this 25-foot buffer on the creek is a primary body of water. The County doesn't recognize that, so they are allowing them to go in and only leave 9-feet of buffer—so this person is allowed to go in under County rules and annex to get our sewer without fully complying with our rules.

Chair Hammang moved to adjourn the meeting of May 9, 2006. **Commissioner Bresaw seconded** the motion. MOTION PASSED UNANIMOUSLY.

The meeting adjourned at 8:35 p.m.



Jeff Klein, Chair



Karin Gardner, Admin. Specialist II
(for Shirley Richardson, Hearings Reporter)

MILWAUKIE PLANNING COMMISSION	MILWAUKIE CITY HALL 10722 SE MAIN STREET
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AGENDA
TUESDAY, MAY 9, 2006
6:30 PM

		ACTION REQUIRED
1.0	Call to Order	
2.0	Procedural Matters If you wish to speak at this meeting, please fill out a yellow card and give to planning staff. Please turn off all personal communication devices during meeting. Thank You.	
3.0	Planning Commission Minutes Approved PC Minutes can be found on the City web site at: www.cityofmilwaukie.org	Motion Needed
4.0	Information Items – City Council Minutes City Council Minutes can be found on the City web site at: www.cityofmilwaukie.org	Information Only
5.0	Public Comment This is an opportunity for the public to comment on any item not on the agenda	
6.0 6.2	Public Hearings Type of Hearing: Minor Quasi-Judicial Applicant: Vancouver Sign Co. for McKee Enterprises Owner: David Emami Location: 11011 SE Main Street Proposal: Approval for internally illuminated cabinet sign File Number: DR-06-01 NDA: Historic Milwaukie Staff Person: Brett Kelter Type of Hearing: Legislative This hearing is being continued to May 23rd - no information will be presented at this meeting. Applicant: City of Milwaukie Proposal: Text Amendment to 19.321 – Community Service Overlay and Comprehensive Plan	Discussion and Motion Needed For These Items
7.0 7.1	Work session Items Additional revisions to 19..321, Community Service Overlay	
8.0	Discussion Items This is an opportunity for comment or discussion by the Planning Commission for items not on the agenda.	Review and Decision
9.0	Old Business	
10.0 10.1 10.2	Other Business/Updates Matters from the Planning Director - Street Maintenance Funding Outreach Design and Landmarks Committee Report	Information Only Review and Comment
11.0	Next Meeting: 5/23 Hearing on Community Service Overlay and Comprehensive Plan Amendments The above items are tentatively scheduled, but may be rescheduled prior to the meeting date. Please contact staff with any questions you may have.	

<p>Forecast for Future Meetings:</p> <p>6/13 Hearing</p> <p>6/27 Hearing</p>

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Milwaukie Planning Commission Statement

The Planning Commission serves as an advisory body to, and a resource for, the City Council in land use matters. In this capacity, the mission of the Planning Commission is to articulate the Community's values and commitment to socially and environmentally responsible uses of its resources as reflected in the Comprehensive Plan

Public Hearing Procedure

1. **STAFF REPORT.** Each hearing starts with a brief review of the staff report by staff. The report lists the criteria for the land use action being considered, as well as a recommended decision with reasons for that recommendation.
2. **CORRESPONDENCE.** The staff report is followed by any verbal or written correspondence that has been received since the Commission was presented with its packets.
3. **APPLICANT'S PRESENTATION.** We will then have the applicant make a presentation, followed by:
4. **PUBLIC TESTIMONY IN SUPPORT.** Testimony from those in favor of the application.
5. **COMMENTS OR QUESTIONS.** Comments or questions from interested persons who are neither in favor of nor opposed to the application.
6. **PUBLIC TESTIMONY IN OPPOSITION.** We will then take testimony from those in opposition to the application.
7. **QUESTIONS FROM COMMISSIONERS.** When you testify, we will ask you to come to the front podium and give your name and address for the recorded minutes. Please remain at the podium until the Chairperson has asked if there are any questions for you from the Commissioners.
8. **REBUTTAL TESTIMONY FROM APPLICANT.** After all testimony, we will take rebuttal testimony from the applicant.
9. **CLOSING OF PUBLIC HEARING.** The Chairperson will close the public portion of the hearing. We will then enter into deliberation among the Planning Commissioners. From this point in the hearing we will not receive any additional testimony from the audience, but we may ask questions of anyone who has testified.
10. **COMMISSION DISCUSSION/ACTION.** It is our intention to make a decision this evening on each issue before us. Decisions of the Planning Commission may be appealed to the City Council. If you desire to appeal a decision, please contact the Planning Department during normal office hours for information on the procedures and fees involved.
11. **MEETING CONTINUANCE.** The Planning Commission may, if requested by any party, allow a continuance or leave the record open for the presentation of additional evidence, testimony or argument. Any such continuance or extension requested by the applicant shall result in an extension of the 120-day time period for making a decision.
12. **TIME LIMIT POLICY.** All meetings will end at 10:00pm. The Planning Commission will pause hearings/agenda items at 9:45pm to discuss options of either continuing the agenda item to a future date or finishing the agenda item.

The Planning Commission's decision on these matters may be subject to further review or may be appealed to the City Council. For further information, contact the Milwaukie Planning Department office at 786-7600.

Milwaukie Planning Commission:

Donald Hammang, Chair
Jeff Klein, Vice Chair
Lisa Batey
Teresa Bresaw
Catherine Brinkman
Dick Newman

Planning Department Staff:

Katie Mangle, Planning Director
Susan Shanks, Associate Planner
Brett Kelter, Assistant Planner
Ryan Marquardt, Assistant Planner
Jeanne Garst, Office Supervisor
Karin Gardner, Administrative Assistant
Marcia Hamley, Administrative Assistant
Shirley Richardson, Hearings Reporter



TO: PLANNING COMMISSION PACKET RECIPIENTS

FROM: Karin Gardner, Administrative Specialist II

RE: Amended Packet for 5/9/06 Planning Commission Meeting

DATE: May 5, 2006

The packet for the 5/9/06 Planning Commission meeting has been amended. The following items are being provided to you for the packet you received earlier this week:

- 1) Agenda Item 6.1 - Vancouver Sign Co for McKee Enterprises: Supplemental Report
- 2) Agenda item 6.2 - Comprehensive Plan and Zoning Ordinance text amendments: Revised Code Text for page 3 attached. Per Council direction, 19.321.6.A changed from "may" back to "shall." (Planning Commission members only)
- 3) Draft letter to the City of Portland regarding the Springwater Trail closure (Planning Commission members only)



To: Planning Commission

Through: Katie Mangle, Planning Director

From: Brett Kever, Assistant Planner

Date: May 5, 2006 (for the Planning Commission meeting on May 9)

Subject: File: DR-06-01
Applicant: Vancouver Sign Co. for McKee Enterprises
Site Address: 11011 SE Main St.

Supplement to Staff Report

Design and Landmarks Committee Recommends Approval

On May 3, 2006, the Design and Landmarks Committee (DLC) held a public hearing on File # DR-06-01, a Design Review application for approval of an internally illuminated cabinet sign for the Wunderland arcade in the downtown zone. The DLC voted unanimously to **recommend that the Planning Commission approve illumination** of the subject sign for a period not to exceed three years.

The original staff report was written prior to the DLC meeting and recommended denial of the application. In its discussion at the May 3 meeting, the DLC expressed a reluctance to encourage internally illuminated cabinet signs in downtown zones but was also supportive of businesses downtown. The Committee found a compromise in limiting the time that the subject sign can be illuminated.

In response to the DLC's decision, staff revised the Action Requested. The background and analysis of the staff report previously submitted to the Planning Commission remains applicable. At the May 9 hearing, staff can further elaborate on the DLC's discussion.

Action Requested (Revised)

Approve application DR-06-01, requesting an internally illuminated cabinet sign in the Downtown Office (DO) Zone, and adopt the recommended findings in support of approval. (See Attachment 1, Recommended Findings in Support of Approval.)

Attachment 1

Recommended Findings in Support of Approval

1. The applicant has submitted a Design Review application for approval of an internally illuminated cabinet sign in the Downtown Office (DO) Zone at 11011 SE Main Street. The site is subject to the zoning regulations of Section 19.312 as well as the signage regulation of Section 14.16.060.
2. Application DR-06-01 has been processed and public notice has been provided in accordance with requirements of Zoning Ordinance Section 19.1011.3 Minor Quasi-Judicial Review.
3. As per Section 14.16.060(G) of the Sign Ordinance, a meeting of the Design and Landmarks Committee has been held to review this application. The Design and Landmarks Committee recommends that the Planning Commission approve this application for illumination for a period not to exceed three years, until 6:00pm on May 3, 2009. The Committee recommends that the sign be approved for illumination between the hours of 6:00pm and midnight on days of business.

A. Major utility facilities, including sewage treatment plants and thermal (coal, gas, or oil) power generating plants, other than cogeneration facilities sited with an industrial use. A generator supplying on-site power is not a thermal power generating plant for purposes of this section.

19.321.34 Notice Requirements. Except as provided in Section 19.321.45C and 19.321.4214 Wireless communication facilities, the planning commission shall hold a public hearing for a community service use request per the procedures outlined in subsection 1401.319.1011.3-Minor Quasi-Judicial Review, Community Service Overlay Use.

19.321.45 Standards for Authority to Grant or Deny a Community Service Uses.

A. An application for a community service use may be allowed if the following criteria are met:

1. The building setback, height limitation, and off-street parking and similar requirements governing the size and location of development in of the underlying zone are met. Where a specific standard is not proposed in the CSU, the standards of the underlying zone are met;

2. Specific standards for the proposed uses as found in subsections 19.321.710-19.321.4014 are met; and

3. The hours and levels of operation of the proposed use arecan be adjusted to be reasonably compatible with surrounding uses;

4. The public benefits of the proposed use are greater than the negative impacts, if any, on the neighborhood; and

5. The location is appropriate for the type of use proposed.

19.321.6 Procedures for Reviewing a Community Service Use

A. The planning commission will hold a public hearing on the establishment of, or major modification of, the proposed community service use. If the commission finds that the approval standards in 19.321.5 are met, the commission shall approve the designation of the site for community service use. If the commission finds otherwise, the application shall be denied. An approval allows the use on the specific property for which the application was submitted, subject to any conditions the planning commission may attach.

B. In permitting a community service use or the modification of an existing one, the Cityplanning commission, or the community development director in the case of a minor change, may impose suitable conditions which assure

19.321.4 Notice Requirements. Except as provided in Section 19.321.5C and 19.321.14 Wireless communication facilities, the planning commission shall hold a public hearing for a community service use request per the procedures outlined in subsection 19.1011.3-Minor Quasi-Judicial Review, Community Service Use.

19.321.5 Standards for Community Service Uses.

A. An application for a community service use may be allowed if the following criteria are met:

1. The building setback, height limitation, and off-street parking and similar requirements governing the size and location of development in the underlying zone are met. Where a specific standard is not proposed in the CSU, the standards of the underlying zone are met;

2. Specific standards for the proposed uses as found in subsections 19.321.10-19.321.14 are met;

3. The hours and levels of operation of the proposed use are reasonably compatible with surrounding uses;

4. The public benefits of the proposed use are greater than the negative impacts, if any, on the neighborhood; and

5. The location is appropriate for the type of use proposed.

19.321.6 Procedures for Reviewing a Community Service Use

A. The planning commission will hold a public hearing on the establishment of, or major modification of, the proposed community service use. If the commission finds that the approval standards in 19.321.5 are met, the commission shall approve the designation of the site for community service use. If the commission finds otherwise, the application shall be denied. An approval allows the use on the specific property for which the application was submitted, subject to any conditions the planning commission may attach.

B. In permitting a community service use or the modification of an existing one, the City may impose suitable conditions which assure compatibility of the use with other uses in the vicinity. These conditions may include but are not limited to:

1. Limiting the manner in which the use is conducted by restricting the time an activity may take place and by minimizing such environmental effects as noise and glare;

2. Establishing a special yard, setback, lot area, or other lot dimension;

3. Limiting the height, size, or location of a building or other structure;

DRAFT

May 5, 2006

George Lazovoy, Portland Parks & Recreation, Project Manager
Daryl Houtman, BES Watershed Services
City of Portland
1120 SW 5th Ave.
Portland, OR 97204

Subject: Springwater Trail Closure

Dear Sirs:

The City of Milwaukie Planning Commission wishes to voice our displeasure to the City of Portland about matters related to the closure of the Springwater Corridor Trail from May 1 through November 1, 2006. We understand that the trail will be closed for necessary maintenance of a major sewer line, and that this project could not take place without closure of the trail and Tideman Johnson Park.

The cause of our grievance is the unfortunate timing of the construction schedule, and the potential to delay the opening of the Three Bridges project. Milwaukie residents have eagerly awaited the completion of the Three Bridges project for many months. As residents and volunteers within our community, we have been spreading information given to us by the City of Portland that the project would be open in Spring 2006 for the public to enjoy. It is frustrating to now learn that the Three Bridges section may be separated from the trail for the entire summer as a result of the sewer maintenance project.

Ideally, construction on both of these projects could have taken place simultaneously. We realize that this may not have been possible due to budgets and other construction schedules. At the least, we would have appreciated knowing much earlier on in the bridge planning process that the Three Bridges project may not be utilized until the end of 2006. Improved communication between the Bureaus responsible for these projects could have avoided the false expectations that the new section of the Springwater Trail would be open for use this spring.

City of Portland

05/05/06

2

We appreciate all the City of Portland has done to establish this resource for the benefit of both of our cities. Our request is that the bureaus responsible for projects near the same site coordinate and communicate more effectively to minimize the length of closures and give correct information about how long closures will last. We strongly support opening the bridges this spring, if that is still an option. It is not our intent, or wish, that the timeline for either of these on-going projects be altered at this point.

Sincerely,

Katie Mangle, Planning Director

On behalf of the City of Milwaukie Planning Commission

Cc List:

City of Milwaukie Planning Commission

JoAnn Herrigel, Community Services

Kenny Asher, Community Development and Public Works



To: Planning Commission

Through: Katie Mangle, Planning Director

From: Brett Kelter, Assistant Planner

Date: May 9, 2006

Subject: File: DR-06-01
Applicant: Vancouver Sign Co. for McKee Enterprises
Site Address: 11011 SE Main St.
(Tax Lot 1S1E35AD00100)
NDA: Historic Milwaukie

Action Requested

Deny application DR-06-01, requesting an internally illuminated cabinet sign in the Downtown Office (DO) Zone, and adopt the recommended findings in support of denial. (See Attachment 1, Recommended Findings in Support of Denial.)

Key Issue

How does this illuminated sign fit with the City's Downtown Design Guidelines?

Background

The applicant is seeking approval of an internally illuminated sign for a business in the DO Zone. The property is located on the southwest corner of Main Street and Jefferson Street in the DO Zone. David Emami owns the building, which currently houses Milwaukie Tri-Cinemas and the Wunderland arcade, operated by McKee Enterprises.

Building Characteristics

The building elevations on Jefferson and Main Streets present a pedestrian-friendly environment with street-level signs, street trees, a canopy over part of the sidewalk, and a bench. Signage above the building's Jefferson Street entrance is ringed with small incandescent bulbs that for many years were wired to be flashing, in violation of Sign Ordinance Section 14.12.020(A). The 10-year window for this particular type of nonconforming sign expired in 2003. The lights

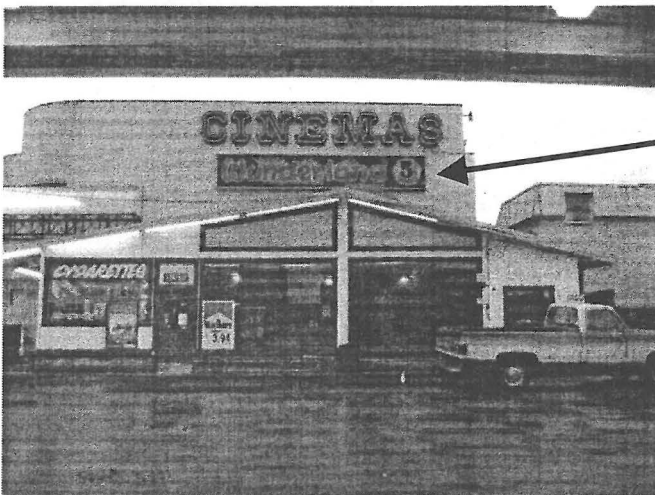
have recently been brought into compliance (they are no longer flashing) and the other existing signage appears to be in conformance with the Sign Ordinance.

In late 2005, a City Building Permit (#050464) was issued for tenant improvements at the site so that Wunderland could move into the building. The remodel included creating a level floor in one of the theaters to establish a space for the arcade. The applicant received a Sign Permit (#050498) for installation of a cabinet sign brought from another location. The sign was installed on the building's west elevation (where it faces McLoughlin Boulevard) and is wired with electrical infrastructure. At the time of permit issuance, it was made clear that the sign could not be internally illuminated without going through the approval process. According to all observation and reports it has never been turned on. The applicant is now seeking approval to activate the sign's internal illumination.

Project Description

Project details for illuminating the Wunderland sign are as follows:

1. The applicant proposes internal illumination of an already-installed cabinet sign. The sign is 22 feet long and 4.5 feet high, with a projection of approximately 12 inches.
2. The sign is installed directly below an existing illuminated "Cinemas" sign. These signs are on the western face of the building and are visible from McLoughlin Boulevard.
3. There is approximately 20 feet of clearance between the bottom of the sign and the base of the building, where the topography slopes downward toward McLoughlin Boulevard. The sign appears to be even higher when viewed from the adjacent gas station and other points farther to the west.
4. The sign installation was approved because it meets the area requirements for wall signs in Downtown Zones (sign area not to exceed 20 percent of building face) as per Section 14.16.060(B).



Cabinet sign proposed for internal illumination.

Analysis of Key Issue

How does this illuminated sign fit with the City's Downtown Design Guidelines?

Sign Ordinance Section 14.16.060(G) sets standards for sign illumination in the Downtown Zones.

This section states that internally illuminated cabinet signs are "discouraged" in the Downtown Zones but that they may be permitted subject to design review approval. The minor quasi-judicial process involves the Design and Landmarks Committee, as the initial reviewer, holding a hearing and making a recommendation to the Planning Commission for a second hearing and final decision.

The Downtown Design Guidelines address sign lighting and note that lighting may provide interest not only during nighttime but also daytime. (See Attachment 2, Downtown Design Guidelines for Lighting and Signs.) The Guidelines list different types of lighting as "recommended" or "not recommended" as follows:

Recommended:

- "Gooseneck" lighting that illuminates wall-applied signs.
- Sign silhouette backlighting.
- Incandescent or fluorescent bulb or low-voltage lighting.

Not Recommended:

- Backlight vinyl awning sign lighting.
- Interior plastic sign lighting.
- Metal halide, neon or fluorescent tube sign lighting.
- Signs lit by lights containing exposed electrical conduit, junction boxes or other electrical infrastructure.

The sign in question falls into three of the four categories that are "not recommended" for sign lighting.

Section 14.16.060(G) directs the Design and Landmarks Committee to use the Downtown Design Guidelines as approval criteria. While the Downtown Design Guidelines do not list specific criteria for approval of discouraged sign lighting, staff propose that the following criteria for sign illumination meet the intent of the Sign Ordinance and Downtown Design Guidelines:

1. *Sign lighting should be designed as an integral component of the building and sign composition.* (Downtown Design Guidelines, page 45)

The subject sign was not designed specifically for this location. Rather, it is a preexisting sign brought in from another business location.
2. *Sign lighting should be oriented toward pedestrians along adjacent streets and open spaces.* (Downtown Design Guidelines, page 45)

The subject sign is located at the top of the building's west elevation, oriented toward passing automobiles on McLoughlin Boulevard. The sign is designed more for attracting motorist attention than for pedestrian-scale advertising.

3. *Signs should be architecturally compatible and contribute to the character of the area.* (Downtown Design Guidelines, page 46)

As documented in the applicant's photos, the view of the building's west elevation includes an active gas station with a convenience store and pump canopy. The nighttime view shows a considerable amount of undirected light from the gas station. An additional illuminated cabinet sign would only add to the light "pollution" in this location.

4. *Signs should be good neighbors—they should not compete with each other or dominate the setting due to inconsistent height, size, shape, number, color, lighting, or movement.* (Downtown Design Guidelines, page 46)

There is an illuminated "Cinemas" sign just above the subject sign. The two signs combined do not exceed the maximum area coverage permitted by Sign Ordinance Section 14.16.060(B). However, if both were illuminated, they would combine with light from the gas station to visually dominate the entire block.

The proposed illuminated sign does not meet these criteria.

The Downtown Design Guidelines were created to ensure a degree of order, harmony, and quality within the built environment. They allow the development of buildings and projects that are attractive individually yet contribute to a downtown that is unified and distinctive as a whole. Plastic-faced cabinet signs that are internally illuminated by fluorescent tubes with exposed electrical conduit and electrical infrastructure simply do not fit with that vision.

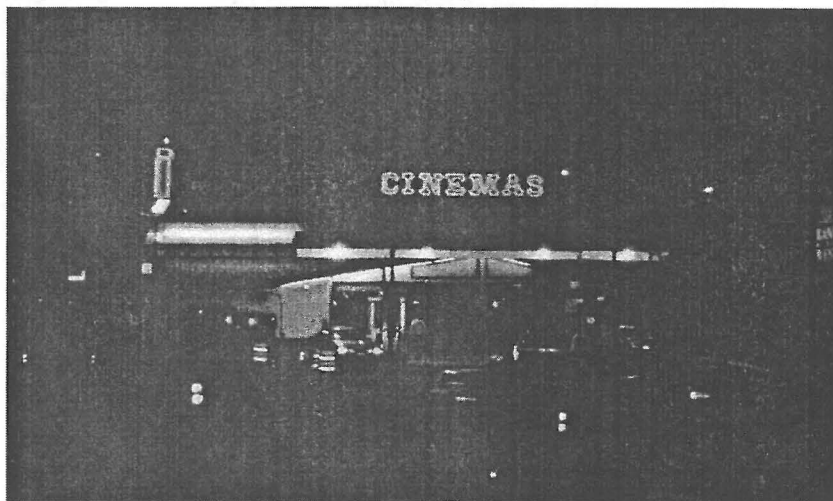
The Sign Ordinance does not prohibit the proposed illumination method outright; it is only "discouraged." Nevertheless, to allow the proposed internally illuminated sign is to move away from the direction of the Downtown Design Guidelines. (See Attachment 1, Recommended Findings in Support of Denial.)

Applicant's Response

(See Attachments 3 and 4, Applicant's Narrative and Applicant's Site Plan and Photos, respectively.) This application is seeking approval to internally illuminate Wunderland's single-face cabinet sign presently located on the west elevation of the old Milwaukie Cinema building. Illumination of this sign is imperative for McKee Enterprises (owner/operator of Wunderland). The sign is oriented toward McLoughlin Boulevard, a primary artery for motorists driving into and through Milwaukie. Without illumination the sign is completely invisible after nightfall. (See Attachment 4 and/or photo below.) Wunderland is a business competing to sell evening entertainment to the community. By granting the authority to

illuminate this sign, the City will be stimulating business at Wunderland specifically and in the downtown area in general. Disallowing internal illumination weakens Wunderland's viability as a business.

In response to the various guidelines noted above, we would note that the soft-fluorescent tubes that provide the sign's lighting are concealed within the cabinet to soften the illumination effect. The sign lighting is oriented toward automobile and pedestrian traffic on McLoughlin Boulevard. The plastic sign face showcases the Wunderland logo and is a brand image for this business. It is consistent with the business's signs at other locations. All electrical components of the sign are housed within the cabinet, with the exception of the switch box and conduit to the nearest circuit, both of which are required for quickly "de-powering" the sign as per UL requirements.



Nighttime view of subject property from McLoughlin Blvd.

With regard to the recommendations in the Downtown Design Guidelines for preferred styles of sign lighting, we note that gooseneck lighting is infeasible for this size of sign and that the lights needed to properly illuminate it would consume a lot of energy. Gooseneck lighting would spill over the sign to shine on the building wall. Silhouette backlighting is not compatible with the existing sign and bulb lighting (whether incandescent or fluorescent) would create hot spots and inconsistent illumination. Fluorescent tubes provide the most energy-efficient and effective lighting for this sign.

Staff's Response

Staff concurs with the applicant that the sign in question is designed to be internally illuminated and that it is underutilized without internal illumination. Furthermore, the sign is oriented to face McLoughlin Boulevard, which is a travel corridor developed more for motorized traffic than for pedestrians. The sign is located at least 20 feet above grade and is well positioned to capture motorist attention.

However, the subject sign falls into three of the four categories that are "not recommended" for sign lighting. Internal illumination is perhaps the best option for the current sign, but there is no compelling reason why another sign style with the same Wunderland logo and different illumination could not be used in its place. And while McLoughlin Boulevard is a heavily motorized transit corridor, there have been recent and considerable efforts to make McLoughlin more pedestrian-friendly.

The city is investing heavily in redevelopment of the riverfront area and this section of the downtown presents the city's face to a major traffic corridor. Why allow signage that makes this short stretch of McLoughlin Boulevard look like the intensely commercial strips further south? The applicant's sign does not follow the design direction established in the Downtown Design Guidelines and would move the downtown farther away from the desired visual appearance.



View of subject sign as seen from the west side of McLoughlin Boulevard

Conclusion

The Design and Landmarks Committee finds that the proposed sign does not meet the recommended guidelines for sign lighting as presented in the Downtown Design Guidelines. The Design and Landmarks Committee recommends that the Planning Commission deny the request for the reasons identified below:

1. Denial of this request for approval upholds the intent of the Downtown Design Guidelines, which were adopted by the City Council in 2003.
2. As a plastic-faced cabinet sign that would be internally illuminated by fluorescent tubes with exposed electrical conduit and electrical infrastructure, the sign in question falls into three of the four categories that are "not recommended" for sign lighting.
3. The proposed criteria for sign illumination (identified on pages 3 and 4) are not met.
4. The sign in question conforms to all other applicable criteria for signs in the Downtown Zones as specified in Section 14.16.060. The applicant has already installed the sign and is currently using it without internal illumination. However, if sign illumination is desired, another method could be used that is more compatible with the Design Guidelines.

Code Authority and Decision-Making Process

Milwaukie Municipal Code:

- Section 14.16.060(G) Illumination for Signs in Downtown Zones
- Section 19.312.7(G) Approval Criteria for Design Review in Downtown Zones
- Section 19.1011.3 Minor Quasi-Judicial Review

Design review applications for internally illuminated signs in the Downtown Zones are subject to minor quasi-judicial review. The Design and Landmarks Committee conducts an initial hearing and makes a recommendation to the Planning Commission for a second hearing and final decision. Both the Design and Landmarks Committee and the Planning Commission must consider whether

the applicant has demonstrated substantial consistency with the code sections listed above. In a quasi-judicial review the Planning Commission shall assess the application against approval criteria and evaluate testimony received at the public hearing. The Planning Commission then has three decision-making options:

1. Deny the application upon finding that it does not meet approval criteria.
2. Approve the application upon finding that all approval criteria have been met.
3. Approve the application subject to conditions as they are needed for compliance with approval criteria.

Design and Landmarks Committee Recommendation

The City of Milwaukie Design and Landmarks Committee reviewed this application on May 3, 2006. A summary of their recommendation will be available at the Planning Commission meeting on May 9, 2006.

Comments

Comments received from Ed Zumwalt, Chair of Historic Milwaukie NDA:

Initial feelings are that lighting the sign facing McLoughlin is OK. It would definitely be an asset to the businessman and would not be too much of a blemish on that face of the city. If it were aimed at Main Street, that would be a different story.

Attachments

1. Recommended Findings in Support of Denial
2. Downtown Design Guidelines for Lighting and Signs
3. Applicant's Narrative
4. Applicant's Site Plan and Photos

Attachment 1

Recommended Findings in Support of Denial

1. The applicant has submitted a Design Review application for approval of an internally illuminated cabinet sign in the Downtown Office (DO) Zone at 11011 SE Main Street. The site is subject to the zoning regulations of Section 19.312 as well as the signage regulation of Section 14.16.060.
2. Application DR-06-01 has been processed and public notice has been provided in accordance with requirements of Zoning Ordinance Section 19.1011.3 Minor Quasi-Judicial Review.
3. As per Section 14.16.060(G) of the Sign Ordinance, a meeting of the Design and Landmarks Committee has been held to review this application. The Design and Landmarks Committee recommends that the Planning Commission deny this application for illumination. The sign in question is a plastic-faced cabinet sign that would be internally illuminated by fluorescent tubes with exposed electrical conduit and electrical infrastructure. As such, it falls into three of the four categories that are "not recommended" for sign lighting and is therefore inconsistent with the Downtown Design Guidelines. Other options for sign illumination that are more consistent with the guidelines are available to the applicant.
4. The proposed sign does not meet the intent of the Downtown Design Guidelines as summarized in the criteria outlined on pages 3 and 4 of the staff report.

Lighting Guidelines

Milwaukee Downtown Design Guidelines

6.1 Page 9

Sign Lighting

Guideline

Sign lighting should be designed as an integral component of the building and sign composition.

Description

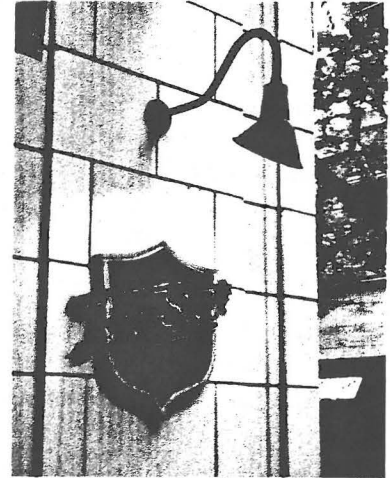
Sign lighting may provide interest not only during nighttime but also daytime. Sign lighting should be oriented toward pedestrians along adjacent streets and open spaces.

Recommended

- "Gooseneck" lighting that illuminates wall-applied signs.
- Sign silhouette backlighting.
- Incandescent or fluorescent bulb or low-voltage lighting.

Not Recommended

- Backlight vinyl awning sign lighting.
- Interior plastic sign lighting.
- Metal halide, neon or fluorescent tube sign lighting.
- Signs lit by lights containing exposed electrical conduit, junction boxes or other electrical infrastructure.



Recommended: Gooseneck lighting that illuminates a wall sign (SW 5th and Alder, Portland)



Not Recommended: Exposed utilitarian lighting (SW Salmon and 9th, Portland)

Sign Guidelines

Milwaukie Downtown Design Guidelines

Intent

Each development or building represents only a small portion of the downtown as a whole, but contributes significantly to the overall visual image of downtown. The uniform application of sign guidelines addressing type, location, size and quality will ensure a visually pleasing downtown environment.

Signs may provide an address, identify a place of business, locate tenants, or generally provide directions and information. Appropriately designed, signs can also reinforce the downtown's character and provide visual interest. Regardless of function, signs should be architecturally compatible and contribute to the character of the area. Signs should be good neighbors - they should not compete with each other or dominate the setting due to inconsistent height, size, shape, number, color, lighting or movement.

Code Requirement:

The following guidelines do not supersede sign codes. They are instead intended to supplement the City's sign code. All required permits can be obtained through the Milwaukie Planning Department. Please refer to the City of Milwaukie's Sign Ordinance for complete requirements and approval procedures.



Recommended: Signs that are highly graphic and oriented toward the pedestrian. (Vancouver, BC)

Vancouver Sign Company

Vancouver Sign Company, Inc.

6615 NE Hwy 99 ♦ Vancouver, WA 98665 ♦ (360) 693-4773 ♦ Fax: (360) 693-2747

March 28, 2006

City of Milwaukie
Planning Department
6101 SE Johnson Creek Blvd.
Milwaukie, OR 97206

RE: Request for Internally Illuminated Cabinet Sign

To Whom the Matter Concerns,

McKee Enterprises DBA "Wunderland" has solicited Vancouver Sign Co. to help with the approval process for illuminating a cabinet sign in the Downtown Zone of Milwaukie. We have been advised by Brett Kelter as to the procedures and required submittals for this process. The objective of our request is to gain permission to illuminate Wunderland's single face cabinet sign presently located on the West elevation of the Old Milwaukie Cinema Building (please see attached picture).

Illumination of this sign has become an imperative matter for McKee Enterprises. This sign is oriented towards McLoughlin Blvd., which is the primary artery used by motorists driving into and thru City of Milwaukie. As shown in the attached photo, the subject sign is completely invisible after nightfall. This is a major problem for a business competing in the entertainment industry which sells evening entertainment to the community. Motorists who pass by on McLoughlin Blvd. are completely oblivious that the Wunderland arcade is located where it is and is open for business. By granting McKee Enterprises authority to illuminate this sign, the City of Milwaukie will help stimulate business at Wunderland and in the Downtown Zone in general, and by disallowing McKee Enterprises to illuminate this sign, City of Milwaukie will be weakening the viability of an entertainment business in the Downtown Zone.

As required, I will now provide narrative for each of the City of Milwaukie's guidelines and recommendations for sign lighting and wall signs.

SIGN Lighting Guideline:

Sign lighting should be designed as an integral component of the building and sign composition. The sign lighting of this sign consists of soft fluorescent tubes, which are internally housed in the sign cabinet. Lighting is concealed within the cabinet to soften the illumination effect and for uniformity. When illuminated, this sign will provide interest day and night and will attract more

customers. The sign lighting will be oriented towards automobile and pedestrian traffic on McLaughlin Blvd.

Recommendations:

"Gooseneck" lighting that illuminates wall-applied signs. This style of lighting is not appropriate in this instance for numerous reasons. The size of this sign prohibits such lighting. This sign is 25 feet long and would require a minimum of 1 gooseneck light for every 3-4 feet. The energy consumed by this many gooseneck lights would make lighting this sign unfeasible. Additionally, light would be shown on the building wall which would illuminate more area of the building than is necessary and would waste energy.

Sign silhouette backlighting. This type of lighting is not applicable to the type of sign currently on the wall. The Wunderland sign is a cabinet sign which would not function with silhouette backlighting.

Incandescent or fluorescent bulb or low-voltage lighting. The lighting used in this sign is soft fluorescent tube, which results in consistent energy efficient lighting throughout the sign. The use of fluorescent bulbs, as opposed to lamps would result in hot spots and inconsistent lighting, which would show dark and light spots in the sign. Given that this sign is 25' long, fluorescent tubes provide the best illumination source.

Not Recommended:

Backlight vinyl awning sign lighting. This is not applicable.

Interior plastic sign lighting. The Wunderland sign consists of a solid aluminum cabinet with a plastic insert face. This plastic face is needed for printing the Wunderland logo and "5¢" symbol, indicating that the business offers 5¢ arcade games. This style of cabinet sign is consistent with all Wunderland locations. Wunderland has created a brand image with this type of sign, which is easily recognizable by business patrons. If Wunderland were to change the signage style, the value of their brand would decrease.

Metal halide, neon, or fluorescent tube sign lighting. The Wunderland sign uses Fluorescent tube lighting. This type of lighting is needed for consistent lighting of a sign this size.

Signs lit by lights containing exposed electrical conduit, junction boxes, or other electrical infrastructure. This sign houses all electrical components inside the cabinet, with the exception of the switch box and conduit coming from the circuit on the corner of the building. Illuminated signs are required to have a switch box on the exterior of the sign for quickly de-powering the sign per U.L. Requirements. Illuminating this sign requires approx 6' of conduit to run power from the nearest circuit to the sign.

Thank you for consideration of this issue. An illuminated sign facing McLaughlin Blvd. will greatly help Wunderland attract customers day and night and will be an asset to their business.

Sincerely,

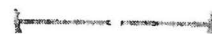
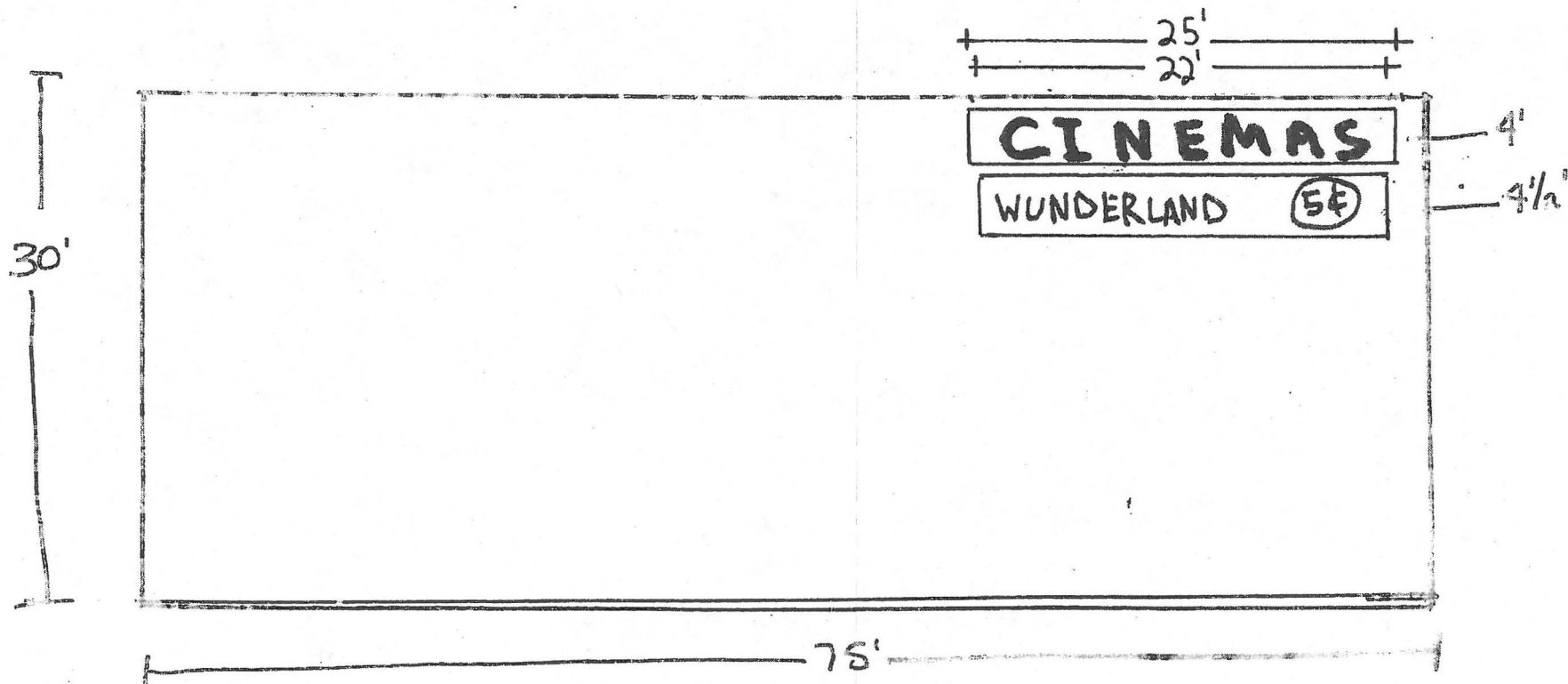
A handwritten signature in black ink, appearing to read "Tim Pfeifer". The signature is stylized with a large, sweeping initial "T" and a cursive "Pfeifer".

Tim Pfeifer
Vancouver Sign Co.

NORTH



— BUILDING: CMU CONSTRUCTION, yellow

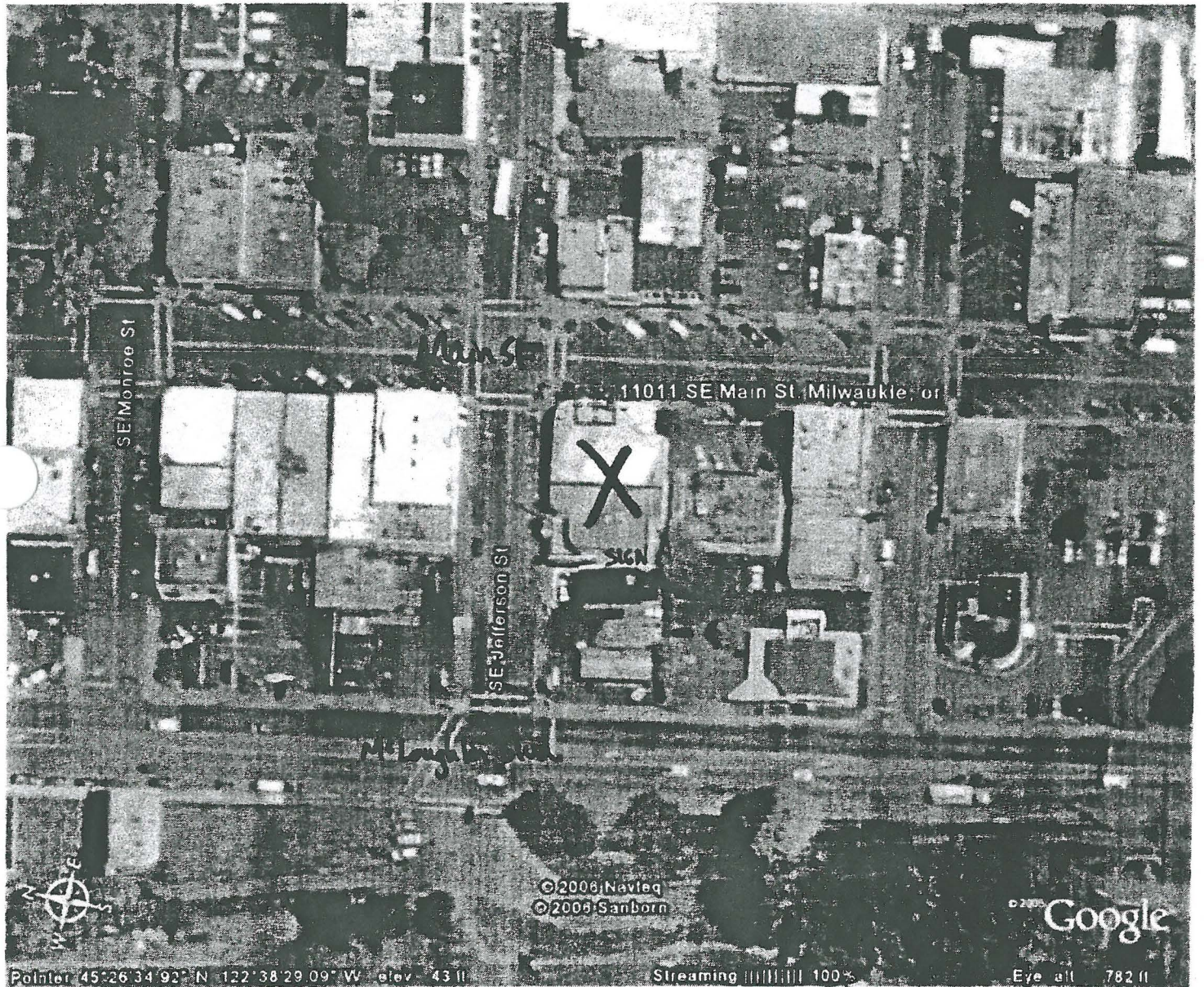


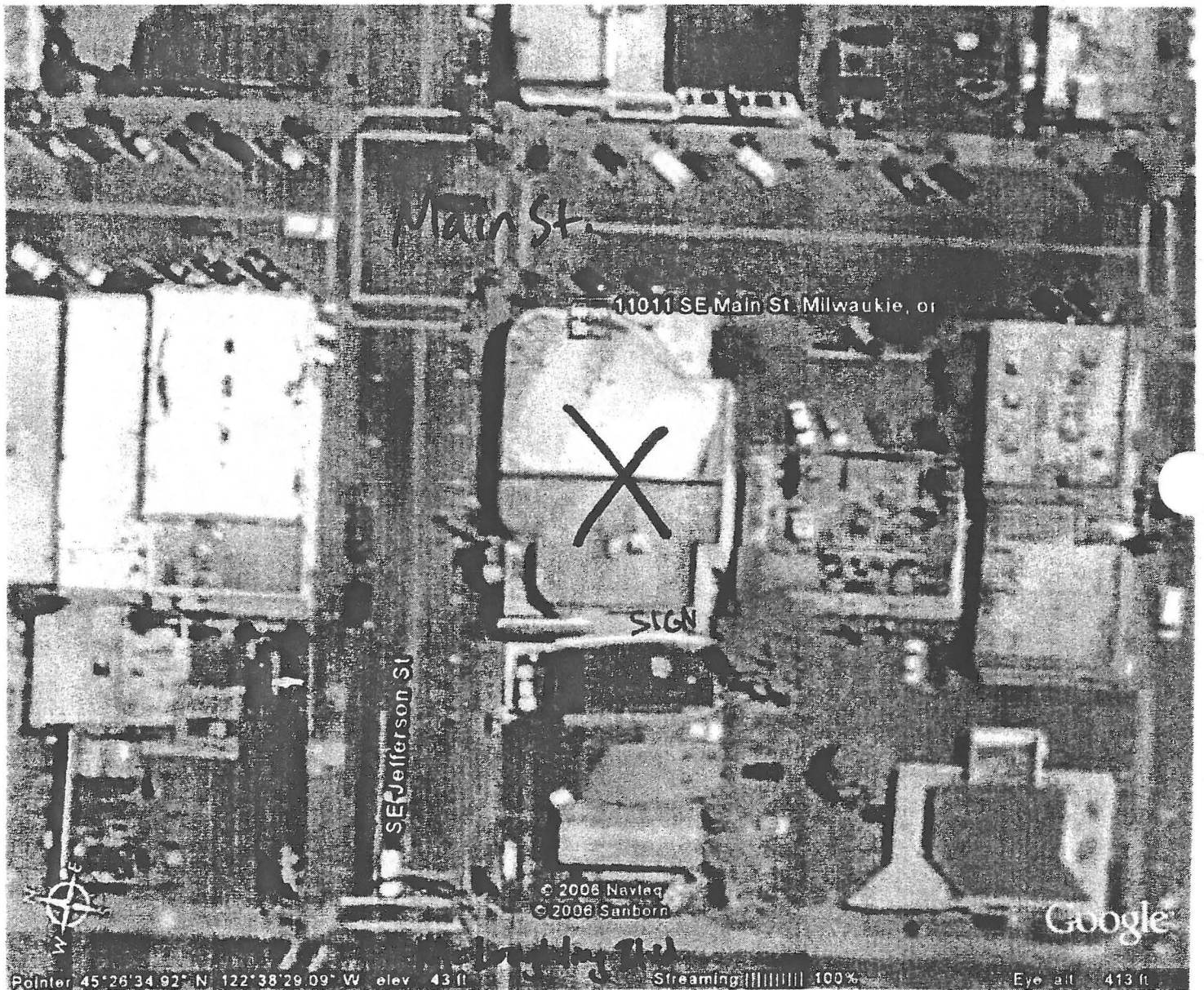
Scale
1" = 10'











MEMORANDUM

To: City of Milwaukie Planning Commission
From: Katie Mangle, City of Milwaukie Planning Director
Cc: Brett Kelter, Assistant Planner
Date: May 2, 2006

Re: Documents for May 9, 2006 Planning Commission Hearing

Draft Document

This packet contains a staff report for the matter on the Hearings portion of the May 9th meeting agenda. This material should be sufficient for you to familiarize yourself with the proposal and staff's recommendation. Due to the timing of the Planning Commission hearing and the DLC meeting, however, staff will send an updated report to you later this week. Specifically, I will forward to you the final versions of the following document:

1. **Staff report for case DR-06-01**, the Wunderland sign. The Design and Landmarks Committee will meet on May 3rd. The final version of the staff report will include any necessary revisions to reflect the committee's recommendation to the Commission.

Additional Proposed Revisions

I want to draw your attention to proposed revisions to section 19.321 that staff added following the Planning Commission work session on 4/25:

1. **Revise the title from "Community Service Overlay" to "Community Service Use".**
The existing code language refers to Community Service Uses throughout the section, and the revised title further clarifies that this designation is comparable to a Conditional Use.
2. **Delete subsection 19.321.9, Specific Standards for Churches, Convents, and Related Facilities. Add Religious Facilities to subsection 19.321.10. Add the height exemption for spire, and a definition of spire, to 19.321.10.**

With this revision, religious institutions will be subject to the same development standards as other institutions. This change will allow religious institutions to exceed the height limitations of the base zone, up to 50 feet, as is the current standard for public and private institutions. This revision will protect the City against claims under the federal Religious Land Use and Institutionalized Persons Act of 2000 (RLUIPA) by treating religious, public and private institutions equally.

Staff believes this change is consistent with the intent of the Ordinance because the code for Conditional Uses, 19.602.2 - Height Exception, states, "a church or public building may be built to exceed the height limitations of the zone in which it is located to a maximum height of fifty (50) feet..." Though churches are no longer considered to be a Conditional Use in any zone, it is clear that prior intent was to allow for churches to meet the same height standard as other institutions.

Planning Commission will hear this application, ZA-06-01/CPA-06-01, at the 5/23 meeting.

If you have questions or concerns, please feel free to contact me at 503-786-7652, or manglek@ci.milwaukie.or.us.

**Amendments to Milwaukie Municipal Code
Title 19—Zoning Ordinance**

SECTION 19.321 COMMUNITY SERVICE USE:

19.321 Community Service Use CSU:

19.321.1 Purpose. This section allows development of certain uses which, because of their public convenience, necessity, and unusual character, may be appropriately located in most zoning districts, but which may be permitted only if appropriate for the specific location for which they are proposed. This section provides standards and procedures for review of applications for such community uses. Community service uses may be sited in any zone, except where expressly prohibited, if they meet the standards of this section. Approval of a CSU does not change the zoning of the property.

19.321.2 Applicability. Any community service use shall be subject to the provisions of this section. Application must be submitted to establish or modify a community service use. Community service uses include certain private and public utilities, institutions, and recreational facilities as listed below:

A. Institutions-Public/Private and Other Public Facilities.

1. Schools, public or private, and their accompanying sports facilities, daycare centers, private kindergartens;
2. Government office buildings for local, state, or federal government such as a city hall, courthouse, police station, or other similar buildings;
3. Hospital;
4. Cemetery;
5. Nursing or convalescent home;
6. Religious institutions;
7. Community meeting building;
8. Temporary or transitional facility;
9. Other similar uses as determined by the planning commission.

B. Specified Utilities.

1. Sewage pumping stations;

2. Water wells, pump stations, reservoirs, and any other facilities used for production, treatment, and distribution of the municipal water supply;
3. Electrical power substations;
4. Repealed by Ord. 1910;
5. Public works shops, road shops, yards, bus barns, equipment and material storage yards, and other similar uses;
6. Repealed by Ord. 1910;
7. Repealed by Ord. 1910;
8. Public transit facilities;
9. Passenger terminal;
10. Other similar uses as determined by the planning commission.

C. Recreation Facilities-Public or Private.

1. Private club, lodge, grange;
2. Public and/or privately owned parks and golf courses;
3. Pedestrian and bicycle trails;
4. Public or private recreational facilities such as pools, gyms, indoor and outdoor sports courts or fields, and associated facilities;
5. Other similar uses as determined by the planning commission.

D. Communication Facilities.

1. Telephone switching station;
2. Telephone, microwave facilities;
3. Radio and television transmission facilities, including studios;
4. Wireless communication facilities.

19.321.3. Unpermitted uses

The following uses may not be permitted as community service uses and are prohibited in all zones:

A. Major utility facilities, including sewage treatment plants and thermal (coal, gas, or oil) power generating plants, other than cogeneration facilities sited with an industrial use. A generator supplying on-site power is not a thermal power generating plant for purposes of this section.

19.321.4 Notice Requirements. Except as provided in Section 19.321.5C and 19.321.14 Wireless communication facilities, the planning commission shall hold a public hearing for a community service use request per the procedures outlined in subsection 19.1011.3-Minor Quasi-Judicial Review, Community Service Use.

19.321.5 Standards for Community Service Uses.

A. An application for a community service use may be allowed if the following criteria are met:

1. The building setback, height limitation, and off-street parking and similar requirements governing the size and location of development in the underlying zone are met. Where a specific standard is not proposed in the CSU, the standards of the underlying zone are met;

2. Specific standards for the proposed uses as found in subsections 19.321.10-19.321.14 are met;

3. The hours and levels of operation of the proposed use are reasonably compatible with surrounding uses;

4. The public benefits of the proposed use are greater than the negative impacts, if any, on the neighborhood; and

5. The location is appropriate for the type of use proposed.

19.321.6 Procedures for Reviewing a Community Service Use

A. The planning commission will hold a public hearing on the establishment of, or major modification of, the proposed community service use. If the commission finds that the approval standards in 19.321.5 are met, the commission may approve the designation of the site for community service use. If the commission finds otherwise, the application shall be denied. An approval allows the use on the specific property for which the application was submitted, subject to any conditions the planning commission may attach.

B. In permitting a community service use or the modification of an existing one, the City may impose suitable conditions which assure compatibility of the use with other uses in the vicinity. These conditions may include but are not limited to:

1. Limiting the manner in which the use is conducted by restricting the time an activity may take place and by minimizing such environmental effects as noise and glare;

2. Establishing a special yard, setback, lot area, or other lot dimension;

3. Limiting the height, size, or location of a building or other structure;

4. Designating the size, number, location, and design of vehicle access points;
5. Increasing roadway widths, requiring street dedication, and/or requiring improvements within the street right-of-way including full street improvements;
6. Designating the size, location, screening, drainage, surfacing or other improvement of a parking area or truck loading area; and/or
7. Limiting or otherwise designating the number, size, location, height and lighting of signs.

C. The planning director may approve minor modifications to an approved community service use pursuant to a type I procedure, provided that such modification:

1. Does not increase the intensity of any use;
2. Meets all requirements of the underlying zone relating to building size and location and off-street parking and the standards of Title 19;
3. Does not result in deterioration or loss of any protected natural feature or open space, and does not negatively affect nearby properties;
4. Does not alter or contravene any conditions specifically placed on the development by the planning commission or city council; and
5. Does not cause any public facility, including transportation, water, sewer and storm drainage, to fail to meet any applicable standards relating to adequacy of the public facility.

19.321.7 Nonconforming Community Service Uses

Any use prohibited by Section 19.321.3 that was approved prior to the adoption of Section 19.321.3 may remain in use through December 31, 2015, but may not be enlarged, upgraded, remodeled, or altered in any way, except as needed to abate nuisances declared by the City. No changes in the operation of such nonconforming uses are permitted, except as needed to abate City-declared nuisances. Violation of this section shall be prosecuted under Chapter 1.08 and the civil penalty for violation of this section shall be \$10,000 per day of violation. During the period when any such nonconforming use remains in effect, the owner of the property and the operator of the use are jointly liable to the City for payment of a nonconforming major utility fee in the amount of \$90,000 per month, payable for each calendar month or portion thereof that the property is in actual use as a nonconforming major utility.

Renumber subsequent subsections as follows:

- **19.321.5 becomes 19.321.8**
- **19.321.6 becomes 19.321.9**
- **19.321.7 becomes 19.321.10**
- **19.321.8 becomes 19.321.11**

19.321 is deleted.

19.321.12 Specific Standards for Institutions—Public, Private, Religious, and Other Facilities not Covered by Other Standards.

A. Utilities, streets, or other improvements necessary for the public facility or institutional use shall be provided by the agency constructing the use.

B. When located in or adjacent to a residential zone, access should be located on a collector street if practicable. If access is to a local residential street, consideration of a request shall include an analysis of the projected average daily trips to be generated by the proposed use and their distribution pattern, and the impact of the traffic on the capacity of the street system which would serve the use. Uses which are estimated to generate fewer than twenty (20) trips per day are exempted from this subsection B.

C. When located in a residential zone, lot area shall be sufficient to allow required setbacks that are equal to a minimum of two thirds ($2/3$) of the height of the principal structure. As the size of the structure increases, the depth of the setback must also increase to provide adequate buffering.

D. The height limitation of a zone may be exceeded to a maximum height of fifty (50) feet provided subsection C above is met.

E. Noise-generating equipment shall be sound-buffered when adjacent to residential areas.

F. Lighting shall be designed to avoid glare on adjacent residential uses and public streets.

G. Where possible, hours and levels of operation shall be adjusted to make the use compatible with adjacent uses.

H. A spire on a religious institution may exceed the maximum height limitation. For purposes of this section, "spire" means a small portion of a structure that extends above the rest of the roofline, or a separate structure that is substantially smaller than the main structure and extends above the roofline of the main structure. "Spire" includes but is not limited to ornamental spires, bell towers, other towers, minarets, and other similar structures or projections. The number of spires on a religious institution property is not limited, so long as the spires remain only a small portion of the area of the structures.

Renumber subsequent subsections as follows:

- **19.321.11 becomes 19.321.13**
- **19.321.12 becomes 19.321.14, including self-references and Table within this subsection**

Update all references to “CSO” or “community service overlay” to “CSU” or “community service use” as follows:

- **15.32.030.A**
- **19.202**
- **19.505.1**
- **19.507.1**
- **19.1011.3.C**
- **19.1410.4.B.2**
- **19.1504.1 Table 1**