

**CITY OF MILWAUKIE  
PLANNING COMMISSION  
MINUTES  
Milwaukie City Hall  
10722 SE Main Street  
TUESDAY, February 8, 2011  
6:30 PM**

**COMMISSIONERS PRESENT**

Jeff Klein, Chair  
Nick Harris, Vice Chair  
Lisa Batey  
Chris Wilson  
Mark Gamba

**STAFF PRESENT**

Katie Mangle, Planning Director  
Susan Shanks, Senior Planner  
Ryan Marquardt, Associate Planner  
Damien Hall, City Attorney

**COMMISSIONERS ABSENT**

Scott Churchill

**1.0 Call to Order – Procedural Matters**

**Chair Jeff Klein** called the meeting to order at 6:34 p.m. and read the conduct of meeting format into the record.

**2.0 Planning Commission Minutes – None.**

**3.0 Information Items**

**Katie Mangle, Planning Director**, explained they had begun the process of upgrading the recording system at City Hall which would much more easily and seamlessly allow for the digital audio recording of the meetings. The next phase would be replacing the microphones.

**4.0 Audience Participation** –This is an opportunity for the public to comment on any item not on the agenda. There was none.

**5.0 Public Hearings**

- 5.1 Summary: Land Use and Development Review Tune-Up Code Amendments  
*continued from 1/25/11*  
Applicant: City of Milwaukie  
File: ZA-10-02, CPA-10-03  
Staff Person: Susan Shanks

**Chair Klein** called the hearing for ZA-10-02 and CPA-10-03 to order.

**Susan Shanks, Senior Planner**, presented the staff update on the continued hearing, reviewing the materials distributed to the Planning Commission as well as the attached exhibits as follows:

- The draft ordinance, which included attached Exhibits A, B, and C, was the clean version incorporating all the comments made by the Commission at the last hearing as well as staff's suggestions for changes. If the Commission decided to act on the package, this could be adopted without having to read any modifications into the record. Exhibit D, the clean, 300-page version of the Code, was not attached, but reflected all the changes already incorporated in Exhibit C. A hard copy of Exhibit D was available for review.

- The packet with the goldenrod paper was informational, providing a compare document showing all the changes made between the package presented on January 25 and tonight's package. The key changes incorporated changes from prior discussion regarding story poles, sign postings, and splitting the Type IV legislative process back into separate major quasi-judicial and legislative processes.
- Attachment 3, 5.1, Page 6 of the packet, noted additional language incorporated about sign posting and story poles based on the City Attorney's advice at the last hearing.
- She summarized the conversations she had after the hearing with Christopher Burkett and Jean Baker, two testifiers at the last hearing.
  - Mr. Burkett was concerned specifically with nonconforming uses. Generally, he felt the proposed amortization process was a slippery slope, not that the current language was written too broadly necessarily. Through discussion, she clarified that the amortization proposal only applied to nonconforming uses. He was aware of the delicate balance of the City's regulatory authority with private property rights, and the differing opinions often involved. He supported the Code being more flexible and giving decision makers more discretion where appropriate. He was very pleased with the proposed amendments regarding the variance process.
  - The signage proposal to have applicants post notice was further discussed with Ms. Baker, as well as the proposed Code with regard to public involvement policies. Attachment 1, 5.1 Page 4, was a chart that compared the City's current public involvement policies with policies in the Code amendment package.
    - The current practice of referring applications to the Neighborhood District Associations (NDAs) as well as other agencies soon after the application has been deemed complete was being codified. Another distinct change was getting away from doing only a required newspaper notice for many projects or applications, but to try to use other means to get the word out, such as better and more signage.
  - Ms. Baker was frustrated that she did not have more time for review given the significant number of pages to review for this project. A document was provided in the packet that laid out all the different ways staff tried to get people aware of this project early in the process and how different types of public involvement strategies were implemented, such as attending NDA meetings, emailing NDA people, posting on the website, and using community connections. The Measure 56 notice was also done, a direct mailing done at substantial cost to the City, which was not required based on the nature of the proposed changes. Very few calls were received from that mailing.
- She concluded that no new written comments had been received since the last hearing.

**Chair Klein** called for public testimony in favor of, opposed, and neutral to the application.

**Jean Baker, 2607 SE Monroe, Milwaukie** stated she wanted to amend and extend her remarks from the last meeting as she had several questions.

- She offered a document she believed was circulated everywhere as notice that stated "codifies existing NDA referral process" and asked where that Code language was found.

**Ms. Shanks** replied it could be found in the Review Procedure Chapter 19.1000. Each of the review types talked about a very specific referral process that was not currently in the Code. Now, stated under each review type was, "seven days after an application is deemed complete, refer it to ..." x, y and z, which recognizes official NDA Chairs and Land Use Committee (LUCs) members.

**Ms. Baker** responded that she had hoped they would have come up with something more substantive, instead of landing on NDA members that may or may not respond or understand.

- She had asked for her NDA's contact information and all she received was the one-sheet document.
- She said she was having trouble keeping up with the changes. She loved the chart (Attachment 1, 5.1 Page 4), but it would have been more helpful to extend out. There seemed to be a flip from Types I, II, III, IV and V to quasi-judicial and legislative, which did not come back and fit into Types I through V very well. It was not clear where certain things fit. She suggested having an extension of the chart that stipulated what was considered a Type I review, for example. When it got to legislative and quasi-judicial discussions, there was no further discussion about Types I through V.
- She understood which were legislative, but there were so many categories that it was hard to decipher which types were strictly legislative or major or minor quasi-judicial. It needed to be put in such a succinct manner that people could look and understand which type the review process fit into.

**Ms. Shanks** believed the changes could be made. Information could be extracted from Code language at the beginning of each review type that identifies the action category and put in another attachment as a different table.

**Ms. Baker** agreed that would be helpful. Providing such a visual aide would shorten the information access time and prevent much confusion.

- She apologized for assuming that the critical damage to the citizen participation program came from the Planning Department. She believed the Planning Department was in fact improving citizen participation; however, they could not force citizens to become involved.
- She was only disappointed in the Type V, which she understood to be legislative and for large zone changes. She had assumed public notice was required for all public meetings, as it always had been, and had not foreseen that would change. However, someone had changed the public notice requirements, but it was not the Planning Department. She knew the date of meeting, but not the time or location.
  - After the last meeting, she called the City Manager and asked for a do-over on a procedural error. One of the questions he asked was if she mentioned her objection in the hearing, and she responded 'yes.' He then asked if it was required in the ordinance, but it was not. After some research, she learned there was a quiet, subtle movement to eliminate public hearings and make citizen participation more challenging. This trend was being challenged and reversed.
  - She learned that she was not entitled to the notice she received on the Type V or any further information. All the information she had obtained was at the generosity of the City and at the Planning Director's discretion.

**Chair Klein** stated there were 22,000 citizens in the city and 9,000 structures such as residences which would be a large and expensive mailing. There were a number of avenues in which the information was made available.

**Ms. Baker** explained that her complaints were too much discretion, not enough required notice and how notice was given for legislative review.

- A large zoning change on a legislative change would be a discretionary notice. Public notice 30 days before each hearing was good, but the question was how citizens would be notified.
- As written, there was no requirement to include a time, date, and place. When notice was sent, usable, pertinent, and complete information about the hearing should be included.

**Commissioner Batey** stated that was a standard part of the notices. The information received from Ms. Baker's NDA must have only been part of what the NDA received.

**Ms. Mangle** stated the current Code did not contain that, but the proposed Code did. Page 66 of 82 of the white packet version of the proposed Code listed specifically what was required to be included in the 30-day notice, specifically date, time, location of the hearing, case file number, and map of the properties impacted.

**Ms. Baker** responded that was good and withdrew that objection.

**Ms. Shanks** explained the Measure 56 notice that was sent out lacked certain information, because the ORS requirement only specified that the day of the hearing, not the time and location, had to be included, so she had been following that statute and previous templates. She wished she had included the time and location, but the staff contact information was provided as well. The new Code actually required the additional information, beyond the State statute requirements. Signage was slightly different than an actual mailed notice. Signage did not have that specific language in the Code, but additional language was added that the Planning Director would adopt administrative standards for what should go on signage. The current signs were 11 x 17, but they were trying to improve the signage requirements to make them bigger.

**Ms. Baker** emphasized that the signs needed to state the place and time when an issue would be heard. Anything less than that from the City was just not fair.

- **Ms. Shanks** responded that was something for the Commission to consider based on the additional language added to the sign notification requirement that the applicants would have to do. This could be something included in the administrative standards, or potentially codified as part of the signage information. The current signs, because of the size, currently included the date and staff contact information. With the bigger sign requirement, more information could be included.
- **Ms. Mangle** stated the Commission could amend the proposal to require that additional information on the signs.

**Chair Klein:**

- Stated that when a person came into the Commission to be heard, they should be informed about the issue and receive a packet of information from staff. The date and time were important, but the most important information was the contact information for staff.
  - **Ms. Baker** agreed, but the where and when were critically important as well.
- Responded they now had bigger signs and would address that to include the date and the time.

**Commissioner Batey** stated that Table 5 on Attachment 1 seemed to show a lot of Planning Director discretion. Type V was probably difficult to draft because it encompassed the big zoning change, map changes, and the legislative amendment. She clarified that the words "at Planning Director's discretion" meant it was at their discretion to go beyond what was required by Measure 56 or by notice to the people within 400 ft.

- **Ms. Shanks** replied that it depended on the type of proposal. A map change with a geographic location had different rules than a legislative change and did not specifically apply to any one project or property, but could apply to the whole city in some way or another. Legislative projects were quite variable, ranging from map changes to Code changes to housekeeping changes.

- **Damien Hall, City Attorney**, confirmed that if the City tried to do something without the notice required by Measure 56, the citizens would have recourse to challenge. If there was a procedural error, it could be appealed. If it was demonstrated to the Land Use Board of Appeals (LUBA) that one was prejudiced by the City's procedural error, it would be remanded back to the City where the process would have to be restarted. He confirmed it would have to go to LUBA which could cost thousands of dollars, or if there was an appeal at the local level, something similar could happen.

**Ms. Baker** noted that on a Type V appeal to LUBA, the language did not state "or" but only that appeals were to LUBA.

- **Ms. Shanks** stated if there was a procedural error of which the City became aware, the City would want to rectify that as they had done in the past by delaying hearings or publishing additional notice.
- **Ms. Mangle** clarified that the Measure 56 notice was a separate category of notice than a newspaper notice or a mailed notice to property owners. It had very specific requirements about the language used and how it was done. Not all legislative amendments actually required a Measure 56. The City went above and beyond the noticing requirements.

**Ms. Baker** stated with so many rewrites and amendments, it was hard to tell what had survived; it seemed that there was additional information.

- **Ms. Shanks** confirmed that nothing had changed in Table 5 since she had provided the draft Code last Friday.

**Ms. Baker** said it was still unclear as to what was at the Planning Director's discretion.

**Chair Klein** explained the proposed requirements were in addition to the ORS requirements. There were already required notices, but the proposal stated that the Planning Director also had the ability to institute more than what was required.

**Ms. Baker** remembered that Commissioner Gamba stating at the last meeting that there may be different personnel involved down the road. A minimum should be stated as opposed to just "at the discretion of the Planning Director."

- **Ms. Mangle** explained that the Table 5 was about public information, but the actual Code did contain minimums. The general public notice for Type V applications on page 66 tried to set a clear expectation that the Planning Director shall provide opportunities for public review at early stage in the adoption [process, and then it listed some examples of how that could happen. While that was not a minimum, the second one stated, "at least 30 days ... at a minimum the notice shall be available on the City website and at City facilities." She invited Ms. Baker to offer any specific additions.

**Ms. Baker** hoped the Commission realized that very few people in the city had cable Channel 30. *The Pilot* was an underutilized resource for better information. She considered it more as a bulletin without much substance. Another piece of paper with more information could be sent with the large *Pilot* mailing once a month. She had tried to get *The Pilot* to include information about programs for the poor and land use announcements but they would not.

**Chair Klein** stated the question was how to send the packet of information out to the 9,000 homes and 22,000 people that lived in Milwaukie. He agreed *The Pilot* was underutilized and crammed for space. The City had been trying to get information to citizens and get them to become involved. The City had limited resources. The cost of the mailing recently sent out cost

\$4,000 and four people showed up. Only about 4% of the population read *The Pilot*. Planning Commission and City Council met on alternating weeks, so that was four mailings that could go out every month at \$4,000 per mailing.

**Ms. Baker** suggested enough lead time existed for the meetings to get one piece of paper with the information included in *The Pilot* mailing. Although, the Community Connection website sent out information once a week and could be used for neighborhood notices a month prior, many people did not use the Internet. There were some things that could change that would not cost anything or very little.

**Chair Klein** reiterated the challenge was figuring out how to reach a mass audience. They had sent information to every single household and only four people showed up, and he was glad to have four people.

**Ms. Baker** replied the information that went out did not reflect what was really going on and did not connect. She suggested enlisting the help of graphic artists or another committee to get some points across clearly to the citizens. She wanted to know what the City was doing to stimulate NDAs and other groups to go beyond what they were doing.

- **Ms. Shanks** stated the information Ms. Baker received from the NDA was not the complete package provided to the NDA. The one-sheet document was provided to her out of context.

**Chair Klein** stated the hardest part was getting people to plug in. The City was working to get people better informed, but there came a time when the cost and time necessary had to be weighed and considered.

**Ms. Baker** stated they lost so much when Milwaukie lost the community newspaper, but people could still be inspired. They needed to find out what other cities like Portland were doing to get people involved.

- She summarized the areas that needed to be addressed were what information was conveyed, the vehicle used to convey the information and a better explanation of discretion.
- Also, she had not heard of plans, documents, bills, and ordinances being corrected after being adopted. She asked what kind of amending and correcting could be done legally after the amendments were adopted.

**Commissioner Batey** explained the Commission could only make a recommendation to Council. Once enacted by Council, it could not be changed.

- **Mr. Hall** added that up until being adopted by Council, changes by direction of the Commission or Council were permitted. As with all legislative action, the stopping place was adoption by Council. Once adopted and all the appeal periods had expired and the action was final, an ordinance would be required to amend it.
- **Ms. Shanks** stated that it would require this review process all over again.
- **Ms. Mangle** added that Council would hold a public hearing and take comment; this was all part of the public involvement process.

**Ms. Shanks** summarized that Ms. Baker wanted her to do another public information piece further describing the different types of applications, as well as what was administrative versus quasi-judicial versus legislative and also to amend the sign posting requirements to add date and time.

- **Ms. Mangle** added staff should also look at the Type V boxes in Table 5 to better clarify Planning Director discretion.

**Chair Klein** stated it was important to stress that people need to contact staff in order to be educated about what would be happening before coming to a hearing. He agreed it was important to add the place of the hearing, but it was very important that that was secondary to contacting staff.

- **Ms. Shanks** added one reason time could be a bit tricky was because the agenda had a number of items on it, and the item people came to provide input on could be called at a much later time than the start of the meeting.

**Chair Klein** pointed out the City had a website with the information. Those without Internet access could access computers at no charge at the library.

**Ms. Mangle** stated *The Pilot* had a City calendar with the meeting dates and times.

- **Ms. Baker** noted the tiny calendar was a problem for people with poor eyesight. She suggested the City have a recorded line with the information

**Mr. Hall** noted the important take away was that the proposed Code did not limit the methods the City could use to deliver notice. It was a discussion to be had on the most effective way to deliver notice, but that discussion was in no way curtailed by the proposed Code.

**Ms. Baker** said she wanted to get input from the NDAs about what notice they wanted.

- **Chair Klein** suggested talking to Ray Bryan of Ms. Baker's NDA Land Use Committee.
- **Mr. Hall** directed staff to ensure Ms. Baker got the contact information for the NDAs.

**Ms. Baker** suggested the Commission recommend a focus group work together to discuss notice, small print issues, computer use, cable access, etc. This was how citizen participation was achieved and she did not feel the City was using its resources to get the best results.

**Chair Klein** reiterated that at a recent meeting four people attended, the City sent letters to everyone, it was published in *The Pilot* and sent by e-mail, and only two people actually testified.

**Ms. Mangle** stated the new City Manager was very focused on communication. Information Officer Grady Wheeler was spending a lot of time on the issue and she agreed to put him in touch with Ms. Baker.

**Chair Klein** added that if a decision was made tonight, it would be forwarded to Council where Ms. Baker would have an opportunity to testify.

**Ms. Mangle** clarified that the next issue scheduled for public hearing would be the Natural Resource Overlay Project. The update of the Residential Development Standards would be a very broad public involvement process. She welcomed Ms. Baker's involvement on both issues.

There was no further public comment.

**Ms. Shanks** confirmed that staff would add the hearing location to the signage as well as the date and time. She requested that in creating the language for the new sign posting requirement, the language be put in one place and have each review type reference the language, rather than it being repeated throughout the Code. No content change was proposed.

**Chair Klein** stated he had taken a quick poll and confirmed that what was proposed in the goldenrod document looked good.

**Chair Klein** closed the public testimony on ZA-10-02 and CPA-10-03 at 7:35 p.m. and called for discussion.

#### Planning Commission Discussion

**Commissioner Gamba** stated he supported the proposal given the couple of small changes discussed.

**Commissioner Batey** understood Mr. Burkett's comments about the amortization being a slippery slope; however, it was very well written in her opinion. Council would have a very difficult time following that tenet, even if amortization were needed, so it was a good tool to have in the City's arsenal. She believed staff should be commended for their public outreach. She realized Ms. Baker only learned of the hearing late in the game, but acknowledged the City had done a lot to get the word out. She agreed *The Pilot* could be better used. The Police Chief's Corner was a good addition to *The Pilot*, and she suggested perhaps including a Planning Director's Corner when big issues came up, such as the Residential Design Standards. Otherwise, she was pleased with the package and would vote to recommend moving it forward.

**Commissioner Wilson** was also happy with the proposal. He thanked staff for their efforts and Ms. Baker for her opinions. He also thanked staff for meeting with Ms. Baker the past week and considering what she had to say.

**Vice Chair Harris** shared the concerns regarding the amortization; however, based on his research, it would be difficult to abuse it. He saw no reason not to move forward.

**Chair Klein** agreed. He understood Ms. Baker's concerns coming late into the game. The City may need to look at its filters and perhaps do better training with the NDAs so they have a better understanding of their responsibilities. The NDAs might need to do a better job of understanding the information being requested of them. He suggested the City may need to do more outreach to the NDAs. As far as outreach, this project probably had one of the biggest public outreach efforts conducted by the City. Without a doubt, this was ready to move forward to Council.

**Commissioner Batey moved to recommend that City Council adopt the package in file number ZA-10-02 and CPA-10-03 proposing amendments to the Milwaukie Comprehensive Plan and Municipal Code, specifically Exhibits B, C, and D with the amendments discussed pertaining to the Code provisions dealing with signage. Commissioner Gamba seconded the motion, which passed unanimously.**

**Ms. Shanks** stated the applications would go to Council on either March 1 or March 15, 2011. She said that she would let Ms. Baker know what date was determined.

The Commission took a brief recess and reconvened at 7:50 p.m.

#### 6.0 Worksession Items

- 6.1 Summary: Sign Code Amendments discussion (Review of amendments drafted by Jim Crawford)  
Staff Person: Ryan Marquardt



**Ryan Marquardt, Associate Planner**, stated that since the meeting packet was distributed to the Commission, there had been further occurrences with regard to sign illumination and standards so tonight's discussion would be broadened. Issues to be discussed in the worksession would include:

- Readerboard signage downtown, specifically with regard to a continuation of the appeal last October about the signage at the '76 Station. The Commission had requested that the applicant/property owner return with some Sign Code amendments, which were in the packet.
  - He noted 6.1 Page 8 of the packet had a picture of the '76 sign, stating it was actually about 20%. It was 12.5 sq ft of reader area, and the overall size was about 63.5 sq ft.
- The City's overall sign illumination standards, which were outdated, and the types of technologies that could be used.
- Illuminated billboards with regard to appropriate locations and restrictions on the display, including moving or changing aspects as well as overall brightness.
- Appropriateness of content regarding off premise advertising; should the City regulate whether or not something was a billboard advertisement or just a large sign for a particular property?
- He first requested feedback from the Commission regarding Mr. Crawford's proposed Code amendments regarding downtown readerboard signage.

**Commissioner Gamba** was concerned about one part that stated that either conventional or LED bulbs could be used and be visible. One reason he was willing to support a proposal like this was because of the electric savings, and those wanting to move in this direction should use the latest technology and not be permitted to use conventional bulbs. Other than that, he was happy with the proposal.

**Commissioner Batey** asked if all the existing signs downtown fit within the 20 sq ft and 25%t display requirements.

Staff was not certain and deferred to Mr. Crawford.

**Jim Crawford**, representing Mr. Kansa, stated the '76 sign portion that was LED and 12.5 sq ft, which was about 23% of the total sign. Overall, the sign was about 55 sq ft. Based on frontage, the current Code allowed a much bigger sign. The proposal recommended a square footage and a percentage to provide a cap on total signage either way. He had heard interest in a reasonable amount of LED illumination for display.

**Chair Klein** said he liked the '76 sign because of its ease of use. He had seen someone changing the sign at the other '76 station while traffic was speeding by. The '76 sign would be static and would only change when gas prices changed. Items on pages 9 and 10, which discussed sign content being mobile, changing, or flashing, became a big deterrent for his support. Content that changed every 10 seconds was fine, but not when it scrolled through. The proposed '76 sign was exactly what he wanted.

**Commissioner Batey** noted that everyone violated the 10-second change rule when they started until the rule was enforced.

**Commissioner Wilson** asked if the same 20% tolerance would work in the future when the City wanted to encourage businesses, like fuel stations, to use the small pedestal signs.

**Mr. Crawford** responded the sign could be done in a slightly different configuration as a monument sign with the same sign area with the '76 emblem and the pricing adjacent to it, turned sideways and built into a ground mounted sign. One downside of a monument sign on the south side of a property on a northbound street was vision clearance issues. Currently, with the legs and the sign being 7.5 ft up in the air, people could see through the airspace in between the poles without having to roll out into the sidewalk in order to see up McLoughlin Blvd. A monument sign at that location would have to be moved to the north side of the property because of visibility, but then the driveway coming out on the next property would have the same problem. Driveways have been eliminated on the state highways as ODOT has tried to limit the number of accesses. The sight lines change slightly with accesses onto side streets that then connect to the state highway due to setbacks from the right-of-way.

**Commissioner Batey** stated the Code called for that pole sign to become a monument sign by the grandfathering date of 2013 or so.

- **Mr. Marquardt** clarified that properties along McLoughlin Blvd were allowed a pole sign although they were not allowed in most other areas in the downtown sign district. The pole portion of the '76 station sign was not nonconforming, although the height might be.

**Vice Chair Harris** suggested removing references to exposed bulbs or prohibiting exposed incandescent bulbs to move toward LED use Section 6 (6.1 Page 4).

- **Commissioner Wilson** noted the point could be moot when incandescent bulbs are no longer available.
- **Ms. Mangle** agreed the City's entire approach to regulating illumination was immature and needed to be addressed.

**Commissioner Gamba:**

- Posited that the Thai restaurant could have a little readerboard with the daily lunch specials that was 100% of the sign. Setting a percentage could cause the sign to be bigger to accommodate the size of the readerboard message. He suggested allowing a readerboard sign up to a certain size, and then require readerboards greater than that size to be regulated by the percentage.
  - **Ms. Mangle** noted if the goal was to control the illuminated aspect of the sign, why make it relative to the size of the sign. She suggested focusing on just limiting the illuminated portion as an actual measurement in MMC Section 14.16. Did it matter if the rest of the sign was still pretty big?
- Believed limiting the illuminated portion would work. The concern was that if this proposal was approved, the gas stations would be happy, but the law would also require a really big sign for a restaurant wanting a little readerboard to advertise their lunch special. Why require a really big sign just to put up a small readerboard?

**Commissioner Batey** believed a stand alone readerboard looked real bad. The provided examples were good, but she noted that as the percentage of the sign that was readerboard got bigger, the signs looked worse.

- **Ms. Mangle** commented it might encourage a bigger sign in total just to get a readerboard.

**Chair Klein** suggested that up to 6 sq ft of readerboard sign be allowed and after that going into the percentage, such as the cap of 20%.

**Mr. Crawford** noted that no photograph was provided for a restaurant with a readerboard in the window as a plug-in, unregulated sign. Staff clarified that window signs were exempt, and he inquired whether such issues needed to be addressed. The language proposed to solve issues for the '76 Station could affect other businesses. Language regarding the incandescent light bulb was trying to get the credit union to be a conforming versus nonconforming sign if they had a static display. Once the bulbs burnt out, they would need to replace the sign with LED or some different technology for illumination.

**Commissioner Batey** stated that she did not like the idea of addressing these issues outside of a bigger look at the Sign Code. There were too many problems.

**Commissioner Gamba** believed a lot of what was in the proposal was good language for the entire city and not just McLoughlin Blvd downtown.

**Ms. Mangle** requested guidance from the Commission about some questions posed in the staff report about the draft proposal 6.1 Page 2 Item C. C.6 was pretty critical because the Commission was identified as the decision maker, yet no criteria had been specified. Depending on the criteria or sensitivity, staff could craft something that was still just a regular sign permit if it was all just about size and objective brightness. The Commission should decide generally, if it needed to be a discretionary decision, why it would need to come to the Commission and if so, what criteria should be included. She assumed Commission review had been included because signage could be a sensitive issue, but was a public hearing necessary?

Discussion continued amongst the Commission and staff as follows:

- Having signage reviewed by some one (body) was a good idea. If the law required that someone had to actually look at the sign and either approve or deny it, the City could avoid issues not thought of yet. No one could have imagined 10, 15, or 20 years ago the sign now installed in the North Industrial area.
  - Criteria would be needed. It went back to the lowest common denominator and where the bar was set.
- **Mr. Hall** suggested the approval criteria could state that the signage must be consistent with the surrounding area or with the aesthetic purpose of the underlying zone. For discretionary criteria to apply, an objective criterion was needed as an option. If a more contentious element like LEDs were wanted, then the discretionary criteria would apply.
- If the signage came before the Commission for a discretionary decision, it would have to go before the DLC prior to that. It would be better to tie the DLC in before the process so they would at least have a review of the downtown area.
  - Some kinds of signs already required going through DLC before coming to Commission, and that could be used as a model.
  - The DLC does get the referral for all applications in downtown, so they could discuss it and provide comment without a formal additional step or meeting.
  - Inevitably, the decision would come to Commission to decide whether or not it met the qualifications outlined by Mr. Hall.
- Mr. Hall's suggestion was a good idea. It gave discretion, and provided for a lot of leeway to accommodate the temperature on what the sign would inevitably be. Similar signs in the past had brought out a lot of public comment, and while this particular '76 Station sign had pros and cons, it was moving in a positive direction.
- Language-stating signs had to be consistent with the underlying zoning was great for downtown, but did not help outside of downtown. There was discussion about having some sign review beyond downtown.

- Back in the early days of the Commission, Commissioner Carter stated they needed to remove the “downtown” from the downtown guidelines and have it just be the City of Milwaukie guidelines.
- Regarding Question 4, the addition of an electronic readerboard sign should absolutely not be allowed to go into nonconforming signs.
- The Sign Code needed to be looked at more generally and not addressed in isolation. There should be a limit to the number of roof signs allowed on a building. The issue that could arise with the small readerboard signs in windows was there could be 2 signs, and people would not need to integrate anything. The City should be working away from a proliferation of signs.
- The total square footage of signage per establishment should be limited.
- Under the current Code, roof signs, wall signs, and freestanding signs all had their own allocation.
- Should businesses located along the Harrison St frontage get the same square footage of signage as Dark Horse Comics, for instance, because they were an establishment?
- The 6 criteria proposed by staff provided a good starting place.
- At some point, it would be a good idea to incorporate the DLC as they had a really good critical eye about what was going on.
- Last time staff had presented two different views for the Commission to consider, which was appreciated.
  - Staff clarified that Mr. Crawford had prepared all the findings.

**Ms. Mangle** explained that a sign had been installed last week on Main St in the North Industrial Area. It was not through permitting yet, and would be approved by the City. When they started testing the sign last week, staff began getting a lot of complaints and questions.

- The sign was actually illegal from ODOT's point of view and the applicant would not be able to get the required permits from the State. The sign was different than the '76 sign. It qualified as outdoor advertising, a very specific ORS definition, and required ODOT approval which they did not meet, and ODOT cited them today.
  - The City's standards were nonexistent for those types of signs. ODOT had those standards, but the City did not implement ODOT rules, resulting in a pretty awkward permitting situation.
- If the Commission chose to go forward with the downtown signage amendments, many of the same Code sections that could address that type of sign would be changed. ODOT suggested sign code models to consider. In doing some changes to the Sign Code to address the '76 Station and Main St signs, specifically on changing illuminated signs, they might be able to couple that with Mr. Crawford's amendments and other Codes to make targeted and specific changes without a ton of work; something could be done quickly, knowing that broader changes were wanted.
- One reason whole-chapter Code amendments were done was because targeted little changes usually end up not connecting the dots somewhere and things get lost.
  - However, the risk was pretty high for more of the large illuminated billboard signs, so she would be more comfortable than normal with doing something targeted if it could be done with low effort, both on the Code writing and the outreach portion, which was always tricky with signage because it affected a lot of property rights.
- Another aspect with illumination, which was almost the technology side, would be pretty easy to add into the Code because it involved measurements. This was addressed in the City of Salem's code language.

- She displayed a picture taken during the day of the illuminated, moving LED sign installed in the North Industrial area that was set on 5% brightness.

**Commissioner Batey** stated the sign would be inappropriate even if it were just a solid sign because it was out of scale for that building. It was allowed by Code because the Code had a ridiculous measurement based on the frontage of the property as opposed to the size of the building.

**Chair Klein** agreed the Sign Code needed to be addressed, but the real surgical issue that needed to be address regarded the '76 Station. Then, the Commission should talk to Council. The Commission could come up with good ideas for great signage, but until Council decided which the direction they wanted to go, the Commission would have a very hard time getting the Sign Code through. The last time they had sign issues, the Council did not want to take as restrictive an approach as the Commission, which undermined the Commission's goals. He hoped this could be discussed at the meeting with Council on March 1.

**Ms. Mangle** stated staff hoped to get some broad guidance on illumination in general, like the technology side of illuminated billboards and outdoor advertising. If the Commission could define what the project was specifically, staff could work to craft some Code, using code from other cities and Mr. Crawford's proposal.

**Mr. Crawford** noted that red LED diodes were proposed for the '76 Station and they would be visible from the front on a black background and monochrome. This was, in fact, prohibited in their draft language because of the black background. It did not necessarily have to be red. Citing various examples in the packet, he explained they were trying to limit using a great deal of white. Considerations should also be given for possible future uses of downtown facilities or along the waterfront.

**Chair Klein** stated questions were then raised about what constituted background and what percentage had to be black.

**Commissioner Gamba** did not believe that the color should necessarily be limited. The Code should simply address plain letters or words on a plain background. Black might not be a bad thing.

**Chair Klein** believed a static image had to be maintained and that no television screen type signage should be allowed. DVD players were not allowed on dashboards.

- **Mr. Crawford** added Portland had wrestled with the moving, television type of advertising on Sixth Ave by I-405 and on the Morrison Bridge and finally figured out how to address the issue.

**Mr. Hall** suggested if the Commission was moving toward a more targeted amendment, the purpose of such an amendment might be twofold: first, to solve Mr. Kanso's problem, and second, to provide regulations to bridge until a more thorough adoption could occur. If this was done at the same time as the Commission providing the impetus for a more thorough adoption, he did not know how much more specific amendments, such as colors of signs, background versus not background, etc., had to go into the details. It sounded like the Commission wanted to allow the '76 Station sign but stop giant LED signs until they could clean house and get the Sign Code they wanted.

**Commissioner Gamba** replied that short of a lot of description, the baby was thrown out with the bathwater when they state no LED signs. Some amount of description was needed as to what was prohibited: no movement, no multicolored backgrounds, etc. The proposed amendments pretty much covered it.

**Ms. Mangle** summarized that the Commission generally agreed with the downtown draft proposal as written to incorporate the DLC and doing a strategic Code amendment knowing that a broader discussion was needed. For other parts of the city, they would address the illuminated billboard signs; specifically their movement, brightness, and TV screen quality, but not necessarily precluding the small static readerboards in the same way. Maybe some of the things crafted for downtown could apply to other areas. Staff would use as much language as possible from Salem and Portland codes, and she welcomed further input from the Commissioners.

The Commission and staff discussed the new sign in the North Industrial area with these comments:

- ODOT had a list of many standards, including specific illumination standards. What keyed the sign into ODOT's regulations was it was viewable and readable from a State highway. While many outdoor advertising signs on State highways did not conform to ODOT regulations, ODOT had limited resources for enforcement. After a sign was cited, the citation went into a file and many times that was the end of it.
  - With the current state of the Milwaukie Code, it would be difficult for the City to pick up those violations. The City also did not want the burden of enforcing regulations. If hefty fines were built in payable to the City, it might be worth enforcing the violations.
- A condition of approval could be added that before a sign was turned on, proof of an ODOT permit was required.
- Under ODOT regulations, illumination and movement were not permitted primarily because of the traffic safety issue. A sign on Hwy 99E seemed to violate those criteria.
- One difficulty was that the signs often are not actually owned by the property owner, but by the sign company, who leases the space from the property owner.
- ORS 377.720, which was limited to outdoor advertising signs as defined by ORS 377.715, stated, "A sign may not be erected or maintained if ..." and then there was 9 different "ifs". The one that applied to this sign most directly was number 4, "has any lighting, unless such lighting is so effectively shielded as to prevent beams or rays of light from being directed at any portion of the main traveled way of a State highway or of such low intensity or brilliance as not to cause glare or to impair vision of the driver or a motor vehicle or otherwise to interfere with the operation thereof." The State did not want the light going out from the sign but shot back at the sign.
  - In terms of ODOT enforcement, a letter writing campaign by the citizens of Milwaukie may or may not make ODOT more likely to enforce their code.
- The sign in the North Industrial area would be in conformance with the Sign Code; however, they had not yet fully demonstrated compliance with the current standards, but they would. Once the Commission addressed and amended the Sign Code, those signs would be legally nonconforming.
- Again, these issues had been raised in the past. The Commission discussed putting a sunset clause on nonconforming signs in the city, but Council disagreed. With the new Council, the question deserved being raised again.
- With the Sign Code, the Commission needed to have a stance that would help companies generate business, while still creating a positive, livability environment in the city.

**Mr. Crawford** understood that the '76 Station sign was a nonconforming sign because as a 20-ft sign, it exceeded the 15-ft height restriction. They had added the language that one could modify as part of the changing of copy, in this case the changing of brand from Arco to '76. At that point, when the new sign was going in, the LED came in as part of the rebranding, because the current Code prohibited changing out the electronic portion of the sign. Changing the wiring internally from florescent to an LED light was what tripped the Code criteria; otherwise, it would have just been a cabinet sign with a refacing. If the Commission did not allow a nonconforming sign due to height to be changed out to incorporate LED technology, then their problem was still unsolved.

- The tripping point was modifying the language to incorporate the LED. The current language stated the internal wiring of the cabinet sign could not be changed. An electrician was required to change it from fluorescent to LED, and it came from the sign company prewired to allow that.

**Chair Klein** understood the question, adding it was part of a discussion the Commission would have at a later date. What they currently wanted to do was to put the existing sign into a nonconforming use that was accepted at this point in time. Later on, as the discussion went to Council, nonconforming signs could be addressed throughout the city.

**Mr. Marquardt** noted Mr. Crawford's point still stood. According to the discussion, the Commission did not want to incorporate LED or readerboard signage into nonconforming signs, though that discussion was still open. If something like that were adopted, it would not address the '76 sign because it was nonconforming, and no permit could be issued based off the new Code.

Commissioner Wilson left the meeting at this time.

**Mr. Hall** did not believe the proposed Code amendment changed the height limitation, so the '76 sign would still be a nonconforming use. Theoretically, it was a timing issue as far as if the Commission wanted to go with what Commissioner Batey suggested that an amended Code would prohibit switching out normal lights for LED lights in nonconforming signs. That could be something that applied forward from adoption of said amendment, and because they had already done it, theoretically, then the '76 sign would only be nonconforming for the height.

Discussion continued regarding the '76 Station sign issue with the following comments:

- The Commission should not prohibit replacing incandescent bulbs with LEDs. If the gas station across the street wanted to make their nonconforming sign smaller and switch to LEDs, the Commission should not stop that just because it was still a nonconforming sign. The idea was to move toward conformity and reduce electrical use, so the Commission should not want to stop that replacement. Installation of a new nonconforming sign would be a different story.
  - A scenario like that could result in no one putting a new sign up but just refinishing and refacing existing signs, which was currently being done.
- **Mr. Crawford** explained the issue with regard to the municipal court was a Code compliance issue. They needed to know what steps to take to address the compliance issue, so they could tell the judge that they were no longer in violation of the law, because the law had changed.
  - **Ms. Mangle** clarified the issue was with illumination, not the height.
- **Mr. Crawford** wanted to know to what extent the existing sign could be modified. As he understood the Sign Code, he was prohibited from changing the fluorescent light fixtures in

his internally illuminated cabinet sign to LEDs because rewiring was required, even though it would use 5% of the energy of the fluorescents to illuminate the sign.

- **Ms. Mangle** stated the specific standard to address was that at what point was a modified sign determined to be a new sign. That threshold might need to be adjusted a bit or the Commission could decide if such an extensive amount of change was done, the sign should be brought into full compliance. Sign refacing is allowed, but not a lot of mechanical or infrastructure changes because then essentially a new sign was being built and full compliance with the Sign Code was required. On the other hand, such modifications enabled the City to push for full compliance.
- **Commissioner Batey** preferred monument signs and to move away from pole signs. She acknowledged visibility around that corner was a challenging aspect of where the '76 sign was located. The sign could impact visibility if lowered to comply with the 15-ft height limitation.
- Moving into a sign variance at this point in time would only address the height, size, etc. A pole sign was not nonconforming, so a variance would be needed. Again, the issue was at what point was a sign no longer begin modified, but being changed so much that it was a new sign.
- It seemed backward that changing from an old to a new technology was the trigger that made it a new sign whereas changing the face and the message did not. Technological upgrades should be allowed, but the changing of the message or face should constitute a new sign.
  - **Ms. Mangle** explained that all commercial property owners assumed they could change the face of the sign, and that the structure of the sign was permitted. She would not feel comfortable trying to change this assumption in the surgical type of Code amendment being considered.
- The technology used within the sign seemed to be the issue. The Code update could address how the City deals with illumination as a technology, to better define the thresholds. The nonconforming sign could still be a bit of an issue.

**Terry Whistler, 11519 SE 30<sup>th</sup> Ave, Milwaukie**, observed that the question of when a change occurred was different for the City and for a business. The City wanted the maximum opportunity to make ugly signs go away. Whether it involved a new light or a new facing, it was the City's one and only chance to do anything about an eyesore for the next 10 years. A business would say, "Stay away from my property rights and my freedom of expression; how a sign was lit was irrelevant, and freedom of speech could not be regulated."

- He noted there was something inherent to rapidity of motion. Biologically, people are wired to look at things that change. It was the objective of those signs to override the consciousness that made them so objectionable. Some research must exist about physiological responses to visual stimulus so that one could prove that their biology was overridden.

**Commissioner Batey** wanted to know what underpinned the ODOT regulation read by Mr. Hall. A whole discussion about that distraction took place with the high school sign. At that time, she researched the issue online and found one good item on the US Department of Transportation website, but it took a lot of digging.

**Chair Klein** noted the City Attorney at the time stated he had worked on some cases where they were not able to bring any proof that a scrolling or moving sign was in any way a distraction. Because it was not a distraction while driving did not mean it was not an eyesore in the city, which really needed to be addressed.



**Commissioner Batey** noted that the inability to prove the issue in a court case did not mean there was no research supporting that this type of signage was a distraction.

**Mr. Hall** commented that in establishing a standard about the scientific response to a sign, the experts on that issue would seem to be the sign companies who had done all the studies and would show up with experts to discuss the information that actually served them. He agreed it was the business of sign companies to figure out how to get people to look at the sign, and they knew that information.

**Commissioner Gamba** suggested having a standard that disallowed change more frequently than a specifically determined time, like every 24 hours or 12 hours. It was measureable and would solve a lot of the problems.

**Ms. Mangle** reviewed the general goals suggested for this specific Code project as follows:

- Allow small readerboard LED signs on monument or freestanding signs on lots fronting McLoughlin Blvd and downtown, which Mr. Crawford's proposal discussed.
- Clarify and modernize the City's illumination standards overall.
- Limit TV-style illuminated moving signs everywhere.
- Coordinate with ODOT's outdoor advertising standards.
- Allow change to LED technology without crossing the threshold of calling it a replacement sign.

Additional comments from the Commission included:

- Size should be addressed in conjunction with the building as well as the idea that the sign was measured by the property frontage as opposed to the building it was placed on.
- A reduced maximum signage size was suggested regardless of the building or property; the current maximum size was obviously too big.
  - **Ms. Mangle** explained that imposing a maximum signage size everywhere would change the scope of the project, requiring notification to all affected property owners. Portland had standards regarding signage within 100 ft of every State highway; something similar could be included.
- The current '76 Station sign issue should be addressed and then the Commission could readdress the issues on the grander scale.
- Mr. Crawford's language could be used with some minor tweaking, which would address the immediate issue.
  - **Mr. Crawford** agreed, adding what they really needed was the ability to modify a nonconforming sign so they did not trip up again on a technicality that the sign was rewired.
  - **Ms. Mangle** reminded that the Code was being written for every property and every situation and Mr. Crawford had done a good job of addressing that. The Code was not written to specifically address one situation.
- Adding a size limitation for signs by highways was a possibility. Those property owners would still need to be contacted, but there were a limited amount, and some precedent had been set for that.

**Chair Klein** stated this was a good opportunity for the Commission to have that discussion with Council, because regardless of what a property owner may or may not necessarily want, the

Council would inevitably have the final decision. He appreciated Mr. Crawford's efforts in helping to make changes to the Sign Code.

6.2 Summary: Discussion of work plan for FY 2010-11; revisions to Bylaws  
Staff Person: Katie Mangle

**Ms. Mangle** noted the Commission's annual joint meeting with Council would be March 1 at Council's worksession. Her draft staff report to Council was provided in the packet and gave an overview of some of the Commission's accomplishments over the past year. The Planning Commission 2010-11 Priorities were split into A and B categories.

- The A list identified the fundamental job of the Planning Commission, which regarded Metro compliance and holding public hearings, as well as the Residential Development Standards Project, which was already in process.
- The B list contained a long list of items that were in development or that the Commission wanted to develop or that needed discussion with Council to develop strategies. Feedback was requested about items in the B category.
- She clarified that the items in A.3 on 6.2 Page 2 that were enacted in December 2010 might begin over the next year. The City usually had 2 years to comply with the new Metro requirements. Within the next year, they would need to determine the scope of the TSP update. Industrial zone amendments were also pretty small and limited. Title 6 was more of an opportunity, so even explaining that would take a while. While no set requirement existed, the Commission would need to discuss strategies for complying with all these different items. Some decisions would need to be made, and the approach would be implemented over the following year.

**Chair Klein:**

- Noted the second bullet on 6.2 Page 3, "planning for development on rezoning of Murphy and McFarland sites projects." He believed it was bad policy to be planning on a site and working toward something that would add to infrastructure where it was currently not present to support the surrounding areas. The Commission was doing the work of the owners by rezoning the property to try to sell it or bring it into something other than what it was presently, which was just basically open space. He suggested contacting the development community to say the City was willing to rezone the properties and would take all offers and consider good plans. It was throwing money away for the Commission to draw out a project without having ownership of the property or a buyer on one end and a seller on the other.
  - **Ms. Mangle** responded that the City was simply being reactive. The current zoning on those properties precluded any good development from happening.
- Asked if rezoning it would preclude development from happening otherwise. Would it be rezoned for just anything, or into specific zoning for what the City was planning for that property?
  - **Ms. Mangle** explained that the property owners would be involved in the rezoning and they were asking the same questions. The property owners have come to staff in the past when someone wanted to buy the property and asked what would be involved in rezoning to allow a certain use to happen. Going through a rezoning process was a huge, steep hill to climb without the City or the community being part of that conversation.
- Believed the City would want to either sign off or not sign off on any type of development of that magnitude for either one of those sites. Discussion would occur about the particular type of development once someone submitted a plan.

- **Ms. Mangle** noted that once an application was submitted, it was subject to the 120-day clock. There was no time for good community discussion and conversations about the design, aspirations, amenities, requirements, etc.
- She clarified that staff was already getting questions about what reasonable plans would work on the Murphy and McFarland sites, which was why the planning work needed to be done.
- Staff did not believe any existing zones were acceptable for the site, which is why the conversation would include broader commercial areas.
  - The site was presently a mixed use zone with a transoriented development overlay, and these canceled each other out unless it was an industrial use. There were many strange issues. The General Commercial Zone was a strip mall zone; the Neighborhood Commercial Zone did not even allow coffee shops.
- The City did not have very good commercial zones, so the conversation was not just about the Murphy and McFarland sites, but also about 32<sup>nd</sup> Ave, 42<sup>nd</sup> Ave, and some other areas. They needed to know what the community wanted and the vision for these different areas to ensure the regulations would at least allow that vision to happen; the proposed work would not make it happen.
- Responded that would be great if the City had an unlimited amount of money, but it did not. The item above, "vision and revised Code for neighborhood-oriented commercial areas (particularly 32<sup>nd</sup> and 42<sup>nd</sup> Ave)" would give a far greater bang for the buck than anything that could possibly be done for Murphy and McFarland for the next 10 years. If development occurred on the McFarland site, no current infrastructure existed, like streets, sidewalks, accessibility, bike lanes, etc., to service that area in any manner. The City would be continually adding to an already bottlenecked and reduced pedestrian- and bicycle-friendly atmosphere in that area. No development should be done on the rezoning of the properties. He did not understand why the City would consider trying to increase density and infill when infrastructural issues needed to be addressed. There were bigger fish to fry than trying to figure out who could buy the Murphy and McFarland sites and how to make it desirable without addressing bike and pedestrian issues on 42<sup>nd</sup> Ave.

**Commissioner Batey:**

- Noted that all of B.1 was a big project that had many pieces. If the Commission was going to do the surgical strike on the Sign Code, the bigger Sign Code revision ought to come before B.1. Although there was some outreach involved, the Sign Code was not that big of a project. In terms of staff hours, the Sign Code was not anywhere near as big a project as B.1.
- **Ms. Mangle** agreed and stated the Sign Code should be listed separately. The Sign Code was intimidating because it was not only about finding the standards, but about setting community expectations. It was a public relations job as well as getting the Council and Commission on the same page in terms of expectations. The Sign Code was about changing the expectations about how signs would be regulated in a pretty big way. And it involved sign companies who were different than even the people the Residential Development Standards Project would affect, because they had deep pockets and lawyers.
  - A sign company already submitted a Freedom of Information Act request on the sign permit for the sign on Main St. When the Sign Code project was started, staff wanted to make sure the appropriate resources were being put into it.
- Staff would have more capacity to start work on the Sign Code once the Code Tune-Up and Natural Resource Overlay projects were done; they were just starting work on the Residential Development Standards and starting the commercial areas discussion. She

hoped the Sign Code project would be a partnership between staff and the Commission. Having the Commissioners talking with businesses and Councilors would help immensely.

- **Commissioner Gamba** suggested having at least two or three short, joint worksessions with Council to hammer it out.
- Believed the Commission should capitalize on the current reaction to the Main St sign.

**Chair Klein** wanted to add the eco-training that Mart Hughes did to B.4 Trainings for Commissioners. The tour was also something the new planning staff should take. Taking the tour gave him different outlooks on how environmental issues were handled.

**Commissioner Gamba** suggested participation in The Natural Step Program of at least half the Council and half the Commission. The training provided participants a different, more holistic perspective about how they viewed things. Things were viewed from the perspective of how they would affect everything, such as carbon footprint and all aspects of the planet.

- **Ms. Mangle** stated it was a budget consideration; the cost was about \$1,000 for 8 people. This training was something to be considered for the next fiscal year. Lake Oswego used The Natural Step as the approach to their comprehensive plan.

**Ms. Mangle** noted she had not received any email about revisions to the bylaws.

**Commissioner Batey** stated that they still had not finalized the timing of elections, though the matter was resolved for this year.

**Commissioner Gamba** liked the idea of a prospective Chair having time to observe the current Chair before taking the position.

**Chair Klein** agreed. The only thing they would have to worry about was if the Chair decided to step down in the middle of their term, which would create a whole different set of circumstances. He did not believe it was necessary to have something in the bylaws that provided for a Chair elect.

**Ms. Mangle** clarified that Commissioners were allowed two, full 4-year terms in addition to filling a previous person's term. She agreed to check whether that was in conflict with the City Charter; which stated that it was a maximum of two, 2-year terms.

## **7.0 Planning Department Other Business/Updates**

**Ms. Mangle** stated the Trolley Trail would begin construction tomorrow. When the portion of the Trolley Trail that was in the city came in to get a CSU permit a year and a half ago, conditions were written and things set up for that section to be coordinated with light rail so that if it changed a set amount in certain ways, it would have to return to the Commission. That portion of the trail was still in design, and staff was watching the process and tracking the issue.

## **8.0 Planning Commission Discussion Items**

**Commissioner Batey** stated that when they discussed North Clackamas Park, she would like an update on Riverfront Park and what was happening with the permitting agencies and the nonmotorized boat access issue.

- **Ms. Mangle** replied the focus of that project had been on the signalization and coordinating with sewer treatment plant access.

**9.0 Forecast for Future Meetings:**

February 22, 2011

1. Worksession: North Clackamas Park North Side Master Plan

March 8, 2011

1. Public Hearing: Natural Resource & Water Quality Code Amendment

Meeting adjourned at 8:53 p.m.

Respectfully submitted,

Paula Pinyerd, ABC Transcription Services, Inc. for  
Alicia Stoutenburg, Administrative Specialist II

  
Lisa Batey, Chair



## **AGENDA**

### **MILWAUKIE PLANNING COMMISSION Tuesday February 8, 2011, 6:30 PM**

**MILWAUKIE CITY HALL  
10722 SE MAIN STREET**

- 1.0 Call to Order - Procedural Matters**
- 2.0 Planning Commission Minutes** – Motion Needed
- 3.0 Information Items**
- 4.0 Audience Participation** – This is an opportunity for the public to comment on any item not on the agenda
- 5.0 Public Hearings** – Public hearings will follow the procedure listed on reverse
  - 5.1 Summary: Land Use and Development Review Tune-Up Code Amendments  
*continued from 1/25/11*  
Applicant: City of Milwaukie  
File: ZA-10-02, CPA-10-03  
Staff Person: Susan Shanks
- 6.0 Worksession Items**
  - 6.1 Summary: Sign Code Amendments discussion (Review of amendments drafted by Jim Crawford)  
Staff Person: Ryan Marquardt
  - 6.2 Summary: Discussion of work plan for FY 2010-11; revisions to Bylaws  
Staff Person: Katie Mangle
- 7.0 Planning Department Other Business/Updates**
- 8.0 Planning Commission Discussion Items** – This is an opportunity for comment or discussion for items not on the agenda.
- 9.0 Forecast for Future Meetings:**
  - February 22, 2011      1. Worksession: North Clackamas Park North Side Master Plan
  - March 8, 2011        1. Public Hearing: Natural Resource & Water Quality Code Amendment

### 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

1. **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. For background information on agenda items, call the Planning Department at 503-786-7600 or email [planning@ci.milwaukie.or.us](mailto:planning@ci.milwaukie.or.us). Thank You.
2. **PLANNING COMMISSION MINUTES.** Approved PC Minutes can be found on the City website at [www.cityofmilwaukie.org](http://www.cityofmilwaukie.org)
3. **CITY COUNCIL MINUTES** City Council Minutes can be found on the City website at [www.cityofmilwaukie.org](http://www.cityofmilwaukie.org)
4. **FORECAST FOR FUTURE MEETING.** These items are tentatively scheduled, but may be rescheduled prior to the meeting date. Please contact staff with any questions you may have.
5. **TME LIMIT POLICY.** The Commission intends to end each meeting by 10:00pm. The Planning Commission will pause discussion of agenda items at 9:45pm to discuss whether to continue the agenda item to a future date or finish the agenda item.

### Public Hearing Procedure

Those who wish to testify should come to the front podium, state his or her name and address for the record, and remain at the podium until the Chairperson has asked if there are any questions from the Commissioners.

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.** Staff will report any verbal or written correspondence that has been received since the Commission was presented with its meeting packet.
3. **APPLICANT'S PRESENTATION.**
4. **PUBLIC TESTIMONY IN SUPPORT.** Testimony from those in favor of the application.
5. **NEUTRAL PUBLIC TESTIMONY.** Comments or questions from interested persons who are neither in favor of nor opposed to the application.
6. **PUBLIC TESTIMONY IN OPPOSITION.** Testimony from those in opposition to the application.
7. **QUESTIONS FROM COMMISSIONERS.** The commission will have the opportunity to ask for clarification from staff, the applicant, or those who have already testified.
8. **REBUTTAL TESTIMONY FROM APPLICANT.** After all public testimony, the commission will take rebuttal testimony from the applicant.
9. **CLOSING OF PUBLIC HEARING.** The Chairperson will close the public portion of the hearing. The Commission will then enter into deliberation. From this point in the hearing the Commission will not receive any additional testimony from the audience, but may ask questions of anyone who has testified.
10. **COMMISSION DISCUSSION AND ACTION.** It is the Commission's intention to make a decision this evening on each issue on the agenda. Planning Commission decisions may be appealed to the City Council. If you wish to appeal a decision, please contact the Planning Department for information on the procedures and fees involved.
11. **MEETING CONTINUANCE.** Prior to the close of the first public hearing, *any person* may request an opportunity to present additional information at another time. If there is such a request, the Planning Commission will either continue the public hearing to a date certain, or leave the record open for at least seven days for additional written evidence, argument, or testimony. The Planning Commission may ask the applicant to consider granting an extension of the 120-day time period for making a decision if a delay in making a decision could impact the ability of the City to take final action on the application, including resolution of all local appeals.

*The City of Milwaukie will make reasonable accommodation for people with disabilities. Please notify us no less than five (5) business days prior to the meeting.*

### **Milwaukie Planning Commission:**

Jeff Klein, Chair  
Nick Harris, Vice Chair  
Lisa Batey  
Scott Churchill  
Chris Wilson  
Mark Gamba

### **Planning Department Staff:**

Katie Mangle, Planning Director  
Susan Shanks, Senior Planner  
Brett Kelter, Associate Planner  
Ryan Marquardt, Associate Planner  
Li Alligood, Assistant Planner  
Alicia Stoutenburg, Administrative Specialist II  
Paula Pinyerd, Hearings Reporter



# MILWAUKIE

*Dogwood City of the West*

**To:** Planning Commission

**Through:** Katie Mangle, Planning Director

**From:** Susan P. Shanks, Senior Planner  
Ryan Marquardt, Associate Planner  
Marcia Hamley, Administrative Specialist II

**Date:** February 1, 2011, for February 8, 2011, Public Hearing

**Subject:** File: ZA-10-02 & CPA-10-03  
File Type: Zoning Ordinance Amendment and Comprehensive Plan Amendment  
Applicant: Katie Mangle, Planning Director, City of Milwaukie

---

## ACTION REQUESTED

Recommend that City Council adopt the proposed amendments to Milwaukie Comprehensive Plan Chapters 1 and 2; Milwaukie Municipal Code Title 19 Zoning Ordinance, Title 17 Land Division Ordinance, Title 14 Sign Ordinance; and related amendments to Titles 2, 3, 12, 13, and 18 with the recommended findings in support of approval.

## BACKGROUND INFORMATION

This staff report is for a continuation of the January 25, 2011 hearing on the proposed amendments described above. Please refer to the January 25 staff report for additional background information.

### A. History of Prior Actions and Discussions

- **January 2011:** Planning Commission held the first public hearing on the proposed code amendments.
- **December 2010:** Staff distributed the full package of proposed code amendments.
- **November 2010:** Briefing #6 provided an overview of all proposed procedural improvements and policy changes, with a focus on amortization of nonconforming uses and expiration of land use approvals.
- **November 2010:** 2-hour discussion with Planning Commission Subcommittee.
- **October 2010:** Briefing #5 focused on conditional uses, amendments to maps and ordinances, and development review.



- **October 2010:** 1-1/2 hour discussion with Planning Commission Subcommittee.
- **September 2010:** Briefing #4 focused on variances and nonconforming situations.
- **August 2010:** Briefing #3 focused on variances and nonconforming situations.
- **July 2010:** Briefing #2 focused on time limits and extensions of land use approvals.
- **July 2010:** 1-hour discussion with Planning Commission Subcommittee.
- **May 2010:** Briefing #1 focused on project goals and the City's code history and current review procedures.
- **March 2010:** The Commission reviewed the intergovernmental agreement between the City and the State of Oregon.
- **October 2009:** Staff presented the 2009 Smart Growth Code Assessment Final Report to Council. Council concurred with the code amendment priorities identified in the report and requested that staff move forward with the next phase of the project.
- **August 2009:** Planning Commission reviewed and provided concurrence on the Action Plan presented in the 2009 Smart Growth Code Assessment Final Report.

## COMMENTS ON THE PROPOSAL

After many months of work developing the proposed amendments with staff, the Planning Commission held the first public hearing on the proposal on January 25, 2011. Nine people contacted staff in advance of this hearing with questions about the proposal and/or the hearing. Three people testified at the hearing, one of whom submitted written testimony. During the hearing, two commissioners and one testifier proposed changes to the proposal. The Commission continued the hearing to allow staff time to incorporate these changes into the proposal and respond to questions raised.

As of the writing of this report, staff revised the proposal to address the written testimony received, left a phone message with one testifier, and met with another, Ms. Baker, to discuss the proposed amendments in more detail. As a result of questions raised at the January 25 hearing by Ms. Baker, staff also created a one-page table that compares the current and proposed codes with respect to public involvement so that it is easier to understand the kinds of changes being proposed (see Attachment 1).

Staff also briefed the NDA leadership on the status of the proposal at their January 26 meeting.

As of the writing of this report, no additional written comments have been received. Any comments received prior to 3pm on the day of the February 8 hearing will be provided to the Commission before the hearing. Comments received after 3pm will be presented at the hearing.

See Attachment 2 for a summary of the public involvement and information tasks completed during the course of this project.

## RECOMMENDATION

### **Staff's recommendation to the Planning Commission is as follows:**

Approve a motion to recommend that City Council adopt the draft ordinance and related exhibits as proposed, with the modifications described in the January 25 staff report and discussed at

the January 25 hearing. In addition to the modifications shown in Attachment 3 involving story poles and sign postings, staff will bring copies of all other modifications previously discussed by the Planning Commission to the February 8 hearing.

## **CODE AUTHORITY AND DECISION-MAKING PROCESS**

The proposed amendments are subject to the following provisions of the Milwaukie Zoning Ordinance, which is Title 19 of the Milwaukie Municipal Code (MMC), and the Milwaukie Comprehensive Plan (MCP).

- Chapter MMC 19.900 Amendments
- Subsection MMC 19.1011.5 Legislative Review
- MCP Chapter 2 Objective 1 Amending the Plan

The proposed amendments are subject to legislative review, which requires both the Planning Commission and City Council to consider whether the proposal complies with the code sections shown above. For legislative actions, the Planning Commission assesses the application against the review criteria, evaluates testimony and evidence received at a public hearing, and makes a recommendation to City Council. City Council will hold another public hearing to consider the Commission's recommendation, evaluate any additional testimony and evidence, and make the final decision on the proposal.

The Planning Commission has the following decision-making options:

1. Forward a recommendation to City Council to approve the proposed amendments and ordinance.
2. Forward a recommendation to City Council to approve the proposed amendments and ordinance with modifications.
3. Continue the hearing to further evaluate the proposed amendments and ordinance.
4. Deny the proposed amendments and ordinance. This would have the effect of deciding to continue to implement the code in its current state.

Because this proposal is a legislative action, there is no deadline by which the City must make a final decision.

## **ATTACHMENTS**

Attachments are provided only to the Planning Commission unless noted as being attached. All material is available for viewing upon request.

1. Comparison of current and proposed policies for public involvement in the land use review process (attached)
2. Summary of public involvement and information tasks for this project (attached)
3. Proposed amendments related to story poles and sign postings (attached)

The proposed amendments and other project documents are available online at:

<http://www.ci.milwaukie.or.us/planning/land-use-and-development-review-code-tune-project>

## Code Requirements for Public Involvement in the Land Use Process

Comparison between current policies and those proposed by the  
Land Use and Development Review Code Tune-up Project

REVIEW TYPE	CURRENT REQUIREMENT	PROPOSED REQUIREMENT
<b>Type I (PD)</b> Referral Mailed Notice Newspaper Notice Sign Notice Appeal	<ul style="list-style-type: none"> <li>• None.</li> <li>• None.</li> <li>• None.</li> <li>• None.</li> <li>• Unclear.</li> </ul>	<ul style="list-style-type: none"> <li>• None.</li> <li>• None.</li> <li>• None.</li> <li>• None.</li> <li>• Appeal to PC.</li> </ul>
<b>Type II (PD)</b> Referral Mailed Notice  Newspaper Notice Sign Notice  Appeal	<ul style="list-style-type: none"> <li>• None.</li> <li>• 300-foot notice 14 days prior to decision finalized.</li> <li>• None.</li> <li>• None.</li> <li>• Elevation to PC w/ appeal to CC.</li> </ul>	<ul style="list-style-type: none"> <li>• 7 days after application complete.</li> <li>• 300-foot notice 7 days after application complete with minimum 14-day comment period.</li> <li>• None.</li> <li>• 7 days after application complete and until decision issued.</li> <li>• Appeal to PC.</li> </ul>
<b>Type III (PC)</b> Referral Mailed Notice  Newspaper Notice Sign Notice Appeal	<ul style="list-style-type: none"> <li>• None.</li> <li>• 300-foot notice 20 days before hearing.</li> <li>• 2X before hearing: 14 &amp; 5 days</li> <li>• 10 days before hearing.</li> <li>• Appeal to CC.</li> </ul>	<ul style="list-style-type: none"> <li>• 7 days after application complete.</li> <li>• 300-foot notice 20 days prior to hearing. (400-foot notice 20 days prior to hearing for zoning map amendments.)</li> <li>• None.</li> <li>• 14 days before hearing.</li> <li>• Appeal to CC "on the record."</li> </ul>
<b>Type IV (PC &amp; CC)</b> Referral Mailed Notice*  Newspaper Notice Sign Notice Appeal	<ul style="list-style-type: none"> <li>• None.</li> <li>• 400-foot notice 10 days before each hearing. (ZC)</li> <li>• 400-foot notice 30 days before each hearing for Comp Plan map amendments. (CP)</li> <li>• 2X before each hearing: 14 &amp; 5 days</li> <li>• 10 days before each hearing.</li> <li>• Appeal to LUBA.</li> </ul>	<ul style="list-style-type: none"> <li>• 7 days after application complete.</li> <li>• 400-foot notice 20 days before each hearing. Additional notice for zoning map amendments per ORS. (ZC)</li> <li>• None.</li> <li>• 14 days before each hearing.</li> <li>• Appeal to LUBA.</li> </ul>
<b>Type V (PC &amp; CC)</b> Referral Public Notice  Public Meeting(s) Newspaper Notice*  Sign Notice Appeal	<ul style="list-style-type: none"> <li>• At PD's discretion.</li> <li>• None.</li> <li>• At PD's discretion</li> <li>• 2X before each hearing: 14 &amp; 5 days (ZC)</li> <li>• 30 &amp; 10 days (CP)</li> <li>• None.</li> <li>• Appeal to LUBA.</li> </ul>	<ul style="list-style-type: none"> <li>• At PD's discretion.</li> <li>• 30 days before each hearing. Additional notice at PD's discretion and per ORS.</li> <li>• At PD's discretion.</li> <li>• At PD's discretion.</li> <li>• At PD's discretion.</li> <li>• Appeal to LUBA.</li> </ul>

\* Current inconsistency between Zoning Code and Comprehensive Plan.

PD = Planning Director  
 PC = Planning Commission  
 CC = City Council  
 ZC = Zoning Code  
 CP = Comprehensive Plan

## **Summary of Public Involvement and Information Tasks**

### **Land Use and Development Review Tune-up Project**

#### **Public Meetings**

- May – December 2010: 7 Planning Commission work sessions and 3 subcommittee meetings.
- November – January 2010: 3 City Council work sessions.

#### **Public Hearings**

- January – February 2011: 2 Planning Commission hearings.
- March 2011: 1 or more City Council hearings.

#### **Neighborhood District Associations**

- November 4, 2010: Project introduction at NDA Land Use Training meeting.
- November 10, 2010: Project e-mail summary with link to project website.
- December 29, 2010: Project e-mail notice with code amendment adoption timeline.
- January 26, 2011: Project update at NDA Leadership meeting. (Staff requested to be on the agenda in September 2010 but briefing delayed due to other discussion items.)

#### **Interested Persons**

- January 3, 2011: Project e-mail summary with link to project website.
- January 18, 2011: Project e-mail summary with link to project website.

#### **Property Owners**

- January 5, 2011: 3-page notice mailed to all property owners in the City that described the proposed code amendments and provided information about the January 25 hearing.

#### **Website**

- November 2010: Project website created.
- November 2010: Preliminary draft chapters posted to website.
- December 10, 2010: First full draft proposal posted to website.
- January 14, 2011: Revised full draft proposal posted to website.

#### **Milwaukie Pilot**

- January 2011: Project article with January 25, 2011 hearing date, staff contact, and project website information.

#### **Community Connection**

- Ongoing: Project information posted in JCB Bulletin on a weekly basis, including Planning Commission and City Council work sessions and hearings and other project milestones.

## CHAPTER 19.1000

### REVIEW PROCEDURES

The following underlined text shows the proposed substantive changes to the draft version of Chapter 19.1000 that the Planning Commission reviewed at its January 25, 2011 hearing on the Land Use and Development Review Code Tune-up Project. The underlined text reflects the Commission's desire to include more detailed information about story poles and sign postings in this package of code amendments.

#### APPLICATION SUBMITTAL & HEARING REQUIREMENTS

##### 19.1001.6 Applications

##### C. Notice Requirements

1. Notice of Type II, III, and IV applications and some Type V applications shall be posted on the subject property by the applicant per Sections 19.1005 – 8 respectively. If the affidavit of posting is not submitted on time or if the required number and type of notice signs are not posted for the required period of time, the City may require an extension of the 120-day decision requirement, delay the decision, and/or postpone or continue the public hearing on the application as necessary. The applicant will be required to repost the notice signs as necessary to meet the requirements of Sections 19.1005 – 8 respectively.
2. Where a review type in this chapter specifies that mailed notice of an application or hearing is required, the notice is deemed to have been provided upon the date the notice is deposited in the mail. Failure of the addressee to receive such notice shall not invalidate the proceedings if it can be demonstrated by affidavit that notice to the required parties was deposited in the mail. Notice to surrounding property owners shall be provided using the most recent property ownership information from the county assessor that is available to the city.

##### D. Additional Requirements

For applications where the subjective aspects of the height and mass of the proposed development will be evaluated at a public hearing, temporary on-site "story pole" installations that simulate the proposed development, and photographic representations thereof, may be required prior to the public hearing.

##### 19.1003.2 Application Submittal Requirements

All application information must be sufficiently detailed and specific to the development being proposed to allow for adequate public review. The application submittal must include all of the items listed below in order for the City to accept the application and initiate completeness review. If the application requires a public hearing, additional items may be required per Subsections 19.1001.6.C and D prior to the public hearing.

- A. Application form, including signature(s) of the property owner or public agency initiating the application.
- B. Deed, title report, or other proof of ownership.

## Proposed Code Amendment

---

- C. Detailed and comprehensive description of all existing and proposed uses and structures, including a summary of all information contained in any site plans. The description may need to include both a written and graphic component such as elevation drawings, 3 dimensional models, and photo simulations, etc. For applications where the subjective aspects of the height and mass of the proposed development will be evaluated at a public hearing, temporary on-site "story pole" installations that simulate the proposed development, and photographic representations thereof, may be required at the time of application submittal.

## SIGN POSTINGS

### 19.1005.3 Type II Public Notice

- C. Notice Sign

No more than 7 days after the application has been deemed complete, notice of the application shall be posted on the subject property by the applicant and shall remain continuously posted until the decision is issued. Signs shall be posted on the property in a location which is clearly visible to vehicles traveling on a public street and legible to pedestrians walking by the property. The number and size of signs shall be appropriate given the size of the property, number of street frontages, and the functional classification of surrounding streets. The City shall provide the applicant at least one sign and the instructions for posting. An affidavit of posting shall be submitted by the applicant prior to the issuance of the decision and made part of the case file.

The Planning Director shall adopt administrative rules for sign postings. The rules shall ensure that sign postings are consistent in appearance, legible to the public, and appropriate for the type and location of development being proposed. They will also ensure that the applicant's affidavit contains all necessary information, including but not limited to photographic documentation, to confirm that the requirements of this subsection have been met.

### 19.1006.3 Type III Public Notice & 19.1007.3 Type IV Public Notice

- E. Notice Sign

At least 14 days prior to the hearing, notice of the application shall be posted on the subject property by the applicant and shall remain continuously posted until the hearing. Signs shall be posted on the property in a location which is clearly visible to vehicles traveling on a public street and legible to pedestrians walking by the property. The number and size of signs shall be appropriate given the size of the property, number of street frontages, and the functional classification of surrounding streets. The City shall provide the applicant at least one sign and the instructions for posting. An affidavit of posting shall be submitted by the applicant prior to the hearing and made part of the case file.

The Planning Director shall adopt administrative rules for sign postings. The rules shall ensure that sign postings are consistent in appearance, legible to the public, and appropriate for the type and location of development being proposed. They will also ensure that the applicant's affidavit contains all necessary information, including but not limited to photographic documentation, to confirm that the requirements of this subsection have been met.



# MILWAUKIE

*Dogwood City of the West*

**To:** Planning Commission

**Through:** Katie Mangle, Planning Director

**From:** Ryan Marquardt, Associate Planner

**Date:** February 1, 2011, for February 8, 2011, Worksession

**Subject:** Sign Code Amendments for Electronic Readerboards

---

## ACTION REQUESTED

None. This is a briefing for discussion only regarding potential amendments to the sign code to address the allowance of electronic readerboards downtown. The appellant from File #AP-10-01 needs the Planning Commission's feedback on the attachments to this staff report to proceed with creating an application to amend the sign code.

## BACKGROUND INFORMATION

The background of this item begins with a 2009 permit to reface existing signage at 10966 SE McLoughlin Blvd. The work done to the sign installed changeable electronic text that displays gasoline prices with light emitting diodes (LEDs). Planning Department staff had not authorized such signage to be installed, and presented gas station owner, Mr. Nabil Kansa, with options for remedying the violation. Mr. Kansa ultimately appealed the Planning Director's interpretation that Milwaukie Municipal Code (MMC) Title 14 Sign Ordinance does not allow electronic readerboard signs in the downtown zones. The Planning Commission upheld the Planning Director's interpretation, meaning that the LED electronic readerboard signage was in violation of the code.

Though the Planning Commission upheld the interpretation, it also expressed dissatisfaction with the current regulations regarding readerboard signage. During its deliberation, the Planning Commission requested that the appellant return to discuss amendments to allow limited readerboard signage in a manner that would not negatively affect the aesthetics of downtown. Pursuant to that request, the applicant is returning at this worksession to discuss such code amendments.

### A. History of Prior Actions and Discussions

- **October 2010:** Planning Commission hears appeal (AP-10-01) on whether MMC Title 14 Sign Ordinance allows electronic readerboard signs downtown.

## **B. Proposed Amendments**

Mr. Jim Crawford represents Mr. Kansa and has been working on drafting amendments to the sign code. His work is included in Attachment 1 to this staff report. The proposed text amendments are included in the first two pages of Attachment 1, and are summarized as follows:

- Electronic message boards would be allowed with approval by the Planning Commission as part of a freestanding sign for properties along McLoughlin Blvd.
- The maximum area of an electronic message board would be the smaller of 25% of the sign's total display area OR 20 sq ft per display surface.
- The electronic message board could change copy once every 24 hours and would not be allowed to flash or having moving copy.
- Electronic message boards could use normal bulbs or LEDs to display copy.
- Addition of an electronic message board would be allowed as a change in copy for non-conforming signs.

Mr. Crawford's report includes several examples of freestanding signs that include electronic message boards, along with the percentage of the total sign face utilized by the message board.

## **C. Questions for Consideration**

In staff's opinion, the materials in Attachment 1 present a good starting point for the Planning Commission's consideration of this matter. It would be helpful to have guidance from the Planning Commission on the following aspects of the amendments:

1. Is it appropriate to limit the allowance for electronic readerboard signs to freestanding signs on properties fronting McLoughlin Blvd? Should the allowance include other types of signs? Other areas of downtown?
2. Are the proposed limitations on the amount of a sign face that can be an electronic message board appropriate?
3. Would the Planning Commission add, modify, or delete any of the standards that would apply to electronic message boards (MMC 14.16.060.I.2-6)?
4. Is the Planning Commission comfortable with allowing the addition of an electronic readerboard sign into signs that are nonconforming?
5. Does the Planning Commission believe that these amendments are consistent with the applicable Downtown Design Guidelines (see Attachment 2)?
6. What should the criteria for approval be? Though this draft identifies the Planning Commission as the decision-maker, there aren't any discretionary approval criteria listed.

Staff has these additional items of note related to these amendments:

- The amendments affect only downtown Milwaukie. The sign ordinance already allows for readerboard signs in commercial areas outside of downtown.



- It is helpful to have an explicit allowance, as included in the draft, for LED illumination for interior illumination of signs, regardless of if they are used inside or outside of downtown.
- The draft amendments propose an exception to the one copy change per 24 hour limitation for signs displaying the time or temperature. This is a content-based regulation that is not legal; the City removed a similar provision for this reason in 2007.
- Staff agrees that some type of limitation on the illumination level of electronic message boards is needed. The draft amendments have a very subjective measure allowing the Planning Director to determine what is “too bright”. It is difficult to develop, interpret, and enforce illumination standards, and staff expects that more effort may need to be devoted to this topic.

#### **D. Next Steps**

Based on the discussion at this worksession, staff expects that Mr. Crawford will refine the draft amendments. Once the Planning Commission is comfortable with the draft amendments, staff expects to initiate the code amendment process as a City-initiated amendment. The amendments would come before the Planning Commission at a public hearing, at which the Commission would make a recommendation to the City Council regarding adopting the amendments.

#### **ATTACHMENTS**

Attachments are provided only to the Planning Commission unless noted as being attached. All material is available for viewing upon request.

1. Applicant's Proposed Amendments to Title 14 Signs (attached)
2. Downtown Design Guidelines – Signs and Sign Lighting (attached)

## Proposed Sign Code Language:

---

### Electronic Message Signs

#### MMC 14.04.030 Definitions

Sign, electronic message. “Electronic message sign” means a sign that contains numbers, letters, words or symbols capable of being changed. The display on the sign face is changed by electric or electronic means.

Static Message. “Static Message” means a sign that does not move, change, scroll, vary in color or light intensity excepting on a daily basis.

#### MMC 14.16.060.A Freestanding signs

1. Area
- c. In all of the Downtown Zones, properties with frontage on SW McLoughlin Blvd. may incorporate a one single- or double-sided electronic message sign as part of the a monument or freestanding sign subject to design review by the Planning Commission. Such sign shall be located along the McLoughlin Blvd. frontage. An electronic message sign shall only be allowed as a portion of the total allowable sign area as described above and is not to be an additional sign.

The sign area of the electronic message portion of the overall sign is to be limited to the more restrictive of:

1. The maximum area shall not exceed twenty (20) square feet per display surface and;
2. The maximum percentage of the overall sign shall not exceed twenty-five (25) percent of the display surface each side.

#### MMC 14.16.060.H Illumination

6. LED (light emitting diodes) illumination may be used for internal cabinet illumination.
7. Electronic Message Signs may use exposed bulb or LED illumination.

#### MMC 14.16.060. I Electronic Message Sign Standards

Electronic message signs may be incorporated into monument or freestanding signs located adjacent to the McLoughlin Blvd. frontage in all of the Downtown Districts subject to MMC 14.16.060.A. the following:

1. All electronic message signs require Planning Commission approval.

2. An electronic message sign shall have a static message and shall not have a change in message more than one time per 24 hours.  
Exception: signs that only display the time and temperature.
3. An electronic message sign may have characters lit individually with exposed bulbs or LED illumination. Characters are to be monochromatic on a black background. The color of the display is subject to Planning Commission review and approval.
4. An electronic message sign may be incorporated into a new or existing freestanding sign provided the electronic message sign assembly is an integral part of the sign with no dimensional variation in width or thickness.
5. No electronic message sign bulb or diode may be illuminated to a degree of brightness that is greater than necessary for adequate visibility for daytime and nighttime use. Signs found to be too bright shall be adjusted or removed as directed by the planning director.
6. Electronic message signs with flashing, moving, scrolling or changing electronic message or images or that vary color or light intensity are prohibited in the Downtown District. Sign copy shall not appear to flash, undulate, or pulse, or portray explosions, fireworks, flashes of lights, or blinking of chasing lights. Copy shall not appear to move toward or away from the viewer, expand or contract, bounce, rotate, spin, twist, or otherwise portray graphics or animation as it moves onto, is displayed on, or leaves the sign face.

#### **MCC 14.24.020 Sign Lighting**

F. The prohibition in the Code of bare bulb illumination or visible sign sources in the Downtown Districts is not intended to prohibit the use of LED (light emitting diode) as a source of internal cabinet illumination or bulbs or LED for electronic message sign display.

#### **MCC 14.28.020 Nonconforming signs**

- A. Time Limit
  3. Any sign which is structurally altered, relocated, or replaced shall immediately be brought into conformance with all of the provisions of this chapter. A nonconforming sign in all zones may be maintained or undergo a change of copy or image without complying with the requirements of this chapter.  
Exception: With Planning Commission approval, a nonconforming sign may be altered to include an electronic message sign as part of a change of copy or image subject to MMC 14.16.060.A.1.c and MMC 14.16.060.I.

## Examples of Electronic Message Signs

Types of businesses and organizations that commonly use electronic message signs:

### Churches

Electronic message portion of total sign  
Is approximately 60%

This sign is approximately 32 sq. ft.  
excluding the brick monument)



Electronic message portion of total sign  
Is approximately 70%



### Schools

Electronic message portion of total sign  
Is approximately 42%

This sign is approximately 36 sq. ft.  
The message portion is approximately 15 sq. ft.



### **Civic – coming events**

Electronic message portion of total sign  
Is approximately 35%

This sign is approximately 72 sq. ft. The  
message portion is approximately 24 sq. ft.



### **Theaters – plays and music events**

Electronic message portion of total sign  
Is approximately 40%

(The sign is not incorporated into the  
overall signage but is a separate sign)



### **Clubs and Athletic Facilities**

Electronic message portion of total sign  
Is approximately 60%

(The sign is not incorporated into the  
overall signage but is a separate sign,  
dimensionally larger than the monument  
base or balance of the sign.)

The overall sign area is approximately 44  
sq. ft. The electronic message sign is  
approximately 26 sq. ft.





## Gas Stations – Pricing information

Electronic message portion of total sign  
Is approximately 20%

This is the applicant's sign. The overall  
sign area is approximately 63.5 sq. ft.  
The electronic display area is approximately  
12.5 sq. ft.

Electronic message portion of total sign  
Is approximately 17%



Electronic message portion of total sign  
Is approximately 14%

(Note that as the total sign area  
increases, the percentage of electronic  
display area decreases).

This sign also post the price of diesel fuel.



## Large Shopping Center Monuments

Electronic message portion of total sign  
Is approximately 22%

(The sign is not incorporated into the overall signage but is a separate sign, dimensionally larger (width and thickness) than the monument base or balance of the sign.)



## Retail Strip Malls

Electronic message portion of total sign  
Is approximately 31%



## Stand Alone Retailers

Electronic message portion of total sign  
Is approximately 32%



### Combination Sign

#### Motels and Hotels

Electronic message portion of total sign  
Is approximately 45%



#### Retail Centers

Electronic message portion of total sign  
Is approximately 26%



#### Small Retail Strip Centers

Electronic message portion of total sign  
Is approximately 64%

(The sign is not well incorporated into the overall signage but is a separate sign, dimensionally larger than the other signs below.)





### Stand Alone Businesses

Electronic message portion of total sign  
Is approximately 32%

(Note background is bright white and sign is wider than the signs below).



### Stand Along Retailers

Electronic message portion of total sign  
Is approximately 26%

(Note white background color).



### Building Material / Construction

Electronic message portion of total sign  
Is approximately 40%



### Retailers – Promotional Sales

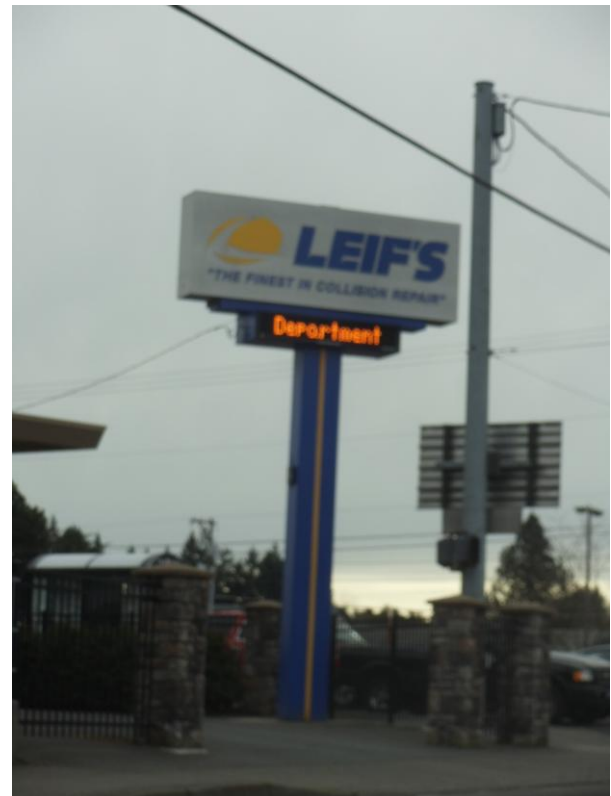
Electronic message portion of total sign  
Is approximately 25% excluding temporary  
sign below and characters mounted to posts.



### Body Shops – scrolling message.

Electronic message portion of total sign  
Is approximately 16%

(Note: Smallness of electronic message  
requires a scrolling message).



### **Bars, Taverns and Restaurants**

Electronic message portion of total sign  
Is approximately 25%, excluding lottery  
sign area.



### **Banks and Credit Unions**

Electronic message portion of total sign  
Is approximately 12%

Often limited to time and temperature but  
can include changes messages about  
Interest rates, etc.



# Lighting Guidelines

Milwaukie Downtown Design Guidelines

## 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

Sign guidelines are organized by sign type. Sign guidelines include specific descriptive requirements of recommended and not recommended signs. Sign types include:

- Wall Signs
- Hanging or Projecting Signs
- Window Signs
- Awning Signs
- Information and Guide Signs
- Kiosks and Monument Signs
- Temporary Signs

Visual examples are included as models for design and review purposes. They are intended to provide designers and the Design and Landmarks Commission a means to recognize recommended and not recommended sign types.



## 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)

## Sign Guidelines

Milwaukie Downtown Design Guidelines

### Wall Signs

#### Guideline

*Signs should be sized and placed so that they are compatible with the building's architectural design.*

#### Description

Signs should not overwhelm the building or its special architectural features. Signs should not render the building a mere backdrop for advertising or building identification.

#### Recommended

- Wall signs should be located along the top, middle or at the pedestrian level of buildings.
- Signs should be incorporated into the building architecture as embossing, low relief casting, or application to wall surfaces.
- Signs may be painted or made with applied metal lettering and graphics.
- Signs should be durable and long lasting.
- Signs may incorporate lighting as part of their design.
- Signs should be located as panels above storefronts, on columns, or on walls flanking doorways.

#### Not Recommended

- The material, size and shape of signs that overwhelm, contrast greatly or adversely impact the architectural quality of the building.



Recommended: Signs incorporated into architectural design (NW 23rd and Everett, Portland)



Not Recommended: Oversized sign (NW 10th and Burnside, Portland)



Not Recommended: Building facades designed primarily to serve as a sign (NW 20th and Burnside, Portland)

# Sign Guidelines

Milwaukie Downtown Design Guidelines

## Hanging or Projecting Signs

### Guideline

*Hanging signs should be oriented to the pedestrian, and highly visible from the sidewalk.*

### Description

Signs should not overwhelm the streetscape, and should be compatible with and complementary to the building architecture and any awnings, canopies, lighting, and street furniture.

### Recommended

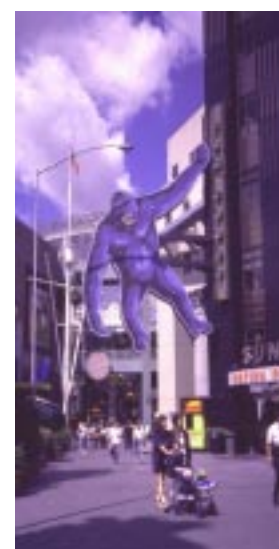
- Any required sign lighting should be integrated into the facade of the building. (See lighting guidelines.)
- Signs should be very graphic and constructed of high quality materials and finishes.
- Signs should be attached to the building with durability in mind.

### Not Recommended

- Signs interfering with sight lines that may create a safety hazard, obstruct or block views.



Recommended: Hanging signs (Oak Street, Hood River, Colorado Blvd., Pasadena, CA, False Creek Waterfront, Vancouver, BC, NW 23rd and Glisan, Portland)



Not Recommended: Overscaled Hanging signs that block, obstruct or dominate views (City Walk, Los Angeles, CA)



## Sign Guidelines

Milwaukie Downtown Design Guidelines

### Window Signs

#### Guideline

*Window signs should not obstruct views through windows.*

#### Description

Window signs should be oriented to pedestrians rather than motorists. They should be an integral component of the storefront design.

#### Recommended

- Neon or other illumination is only appropriate if installed as interior signs.
- Interior applied lettering or graphics.

#### Not Recommended

- Painted window signs.



Recommended: Interior neon sign indicates retail use only (NW 23rd and Irving, Portland)



Not Recommended: Window advertising sign (SW Broadway and Washington, Portland)

# Sign Guidelines

Milwaukie Downtown Design Guidelines

## Awning Signs

### Guideline

*Awning signs should be used as alternatives to building or wall signs. They should be designed as a means to attract attention to a shop, office or residential entrance.*

### Description

Awning signs should not dominate or overwhelm the building; rather, the awning should serve as mere backdrop for building or tenant identification.

### Recommended

- Awning signs generally should occur at only one location on a single building.
- Signs painted on fabric awning valances.
- Signs applied to, embossed on or attached to canopy edges.

### Not Recommended

- Signs located on second or upper story awnings.
- Lighting of awning signs either externally or internally.



Recommended: Sign compatible with and integrated into architecture of building (SW 10th and Alder, Portland)



Not Recommended: Vinyl awning sign (N Lombard and N Denver, Portland)

## Sign Guidelines

Milwaukie Downtown Design Guidelines

### Information and Guide Signs

#### Guideline

*Directional signs should be small scale and of consistent dimensions, and located in a visually logical order. These signs also should provide on-site directional information.*

#### Description

Directional signs - those intended to identify and direct vehicular and pedestrian traffic to various on-site destinations - may be provided along roadways and within all multi-parcel developments, consistent with the City's Sign Code.

Directional signs should be designed consistently throughout a project. All signs shall be fabricated from the same materials, with a consistent color palette and common graphic theme. The use of materials compatible with adjacent architectural design is encouraged.

#### Recommended

- Location at entries to parking lots or service areas.
- Signs in internal courtyards, along walkways, or at plazas.



Recommended: Pedestrian scaled directional signs (Portland Art Museum, Saturday Market, Portland)



Recommended: Low scaled auto-oriented directional sign (N Interstate and N Denver, Portland)

# Sign Guidelines

Milwaukee Downtown Design Guidelines

## Kiosks and Monument Signs

### Guideline

*Directory monument information signs should illustrate the layout of a development, and list and locate uses or tenants within.*

### Description

These signs should be highly graphic, constructed of durable materials and consistent with architectural and landscape themes. They should be scaled to and easily approached by pedestrians rather than passing motorists.

### Recommended

- Kiosks that provide directional information and additional space for public announcements or flyers.
- Vandal-resistant painted or cast metal sign monuments.
- Compatibility with adjacent architecture and established downtown streetscape elements.

### Not Recommended

- Freestanding monuments at primary building entries, forecourts or plazas.
- Wood construction, glass, plastic or other non-durable materials.
- Internal illumination.
- Wildly contrasting colors or graphics that are highly distracting.



Recommended: Information kiosk oriented to pedestrians (Pearl Street Mall, Boulder, CO)



Not Recommended: "Suburban-styled" monument signs at building entries (Second and Morrison, Portland)



## Sign Guidelines

Milwaukie Downtown Design Guidelines

### Temporary Signs

#### Guideline

*Signs identifying short-term uses or activities should be allowed on a temporary basis if consistent with the design character of the surrounding area.*

#### Description

Temporary signs should not obstruct pedestrian access or disrupt the visual quality of downtown. Sandwich board signs should be located within close proximity of the use identified. Temporary signs should be used only during hours in which businesses are open.

#### Recommended

- Easels and chalkboards.
- High quality professionally-painted and -designed sandwich boards.

#### Not Recommended

- Signs which impede or obstruct pedestrian access.
- Poor quality “homemade”-looking sign construction, painting, graphics or lettering.
- Attachments of balloons, banners or flags.
- Advertisements for products or services.



Recommended: Temporary signs constructed of durable materials (Broadway and Morrison, Portland)



Recommended: Small chalkboard as temporary sign (NW 21st and Johnson, Portland)



Not Recommended: Poorly executed and maintained temporary signs (NW 6th and Everett, and SW 3rd and Ankeny, Portland)



**To: Planning Commission**

**From: Katie Mangle, Planning Director**

**Date: January 27, 2011, for February 8, 2011, Worksession**

**Subject: Draft Work Plan for Discussion with Council**

---

### **ACTION REQUESTED**

Review and comment on the draft Planning Commission work program for the fiscal year of 2010-11. The Commission is scheduled to meet with City Council to discuss this program on March 1, 2011; the staff report for this discussion is due February 16.

### **BACKGROUND INFORMATION**

The Milwaukie Municipal Code requires that the City Council meet annually with the Planning Commission to discuss its work program.

The Planning Commission serves the City by reviewing and advising on matters of planning and zoning, according to the provisions of the Comprehensive Plan and Zoning, Sign, and Land Division ordinances. It does this by deciding land use and development applications, developing long-range plans, and proposing updates and amendments to the Milwaukie Municipal Code and Comprehensive Plan. Planning Staff works closely with the Commission to make progress in all of these areas.

#### **A. Accomplishments in 2009-10**

During the past year, the Planning Commission has had many accomplishments, including the following:

- Held 11 public hearings on land division, land use, and legislative applications.
- Prepared one major code amendment package for Council adoption – 19.500 Off-Street Parking Code, which Council adopted in April 2009.
- Developed the code amendments related to the Land Use and Development Review Process Tune-up project, to be presented to Council for adoption this spring. This project represents significant progress on work identified by the Commission in its work plans since 2004.
- Developed the code and map amendments needed for the City to comply with Metro Functional Plan Title 13, the Natural Resource Overlay project. This project is also on track to present to Council for adoption this spring.
- Completed the first significant update to the Commission Bylaws since 1998.
- Held one training on the land use process and holding effective public hearings.

- Advised staff on upcoming policy changes, select administrative review decisions, and long range planning projects.

In addition, the Commission discussed a wide variety of topics in work session, including:

- The Portland to Milwaukie light rail project
- The Johnson Creek Watershed Council's work
- Comprehensive Plan update
- The South Downtown Concept
- Restructuring of the development review fee schedule

As evidenced by previous work programs, there is a long list of potential projects for the commission and staff. The proposed work program for the coming fiscal year is a plan for fulfilling the Commission's responsibilities for long-term and current planning, recognizing available staff and budget resources.

### **Draft Planning Commission Priorities for 2010-11**

Based on Commission work plans and "wish lists" developed over the past four years, the priorities in the Smart Growth Code Assessment, and recent Commission discussions, staff has drafted the following draft list of the Planning Commission priorities for its work in FY 2010-11.

#### **A. Projects and tasks already identified or in process**

1. **Conduct public hearings** and make decisions on matters that may include, but are not limited to, community service uses, variances, zone changes, conditional uses, subdivisions, and partitions. With this task, the Commission reacts to applications made to the City by other parties.
2. **Residential Development Standards Project** – Lead the community to develop a coherent vision and new code for all residential development. This long-range planning and code amendment project has been on the Commission's work plan for many years, so will be a top priority to complete over the next year. During its recent goal setting session, members of Council requested that this project be a focus of the discussion during the March 1 meeting.
3. **Maintain compliance with the Metro Regional Functional Plan** – This work is required for the City to comply with regional planning policies. The City will be required to comply with the following as a result of regional policy changes adopted by the Metro Council in December 2010.
  - Begin update of the Transportation System Plan
  - Industrial zone amendments to comply with Title 4 (Industrial lands).
  - Develop approaches to complying with Title 6 (Centers, Main Streets and Corridors) and 1 (Housing)

#### **B. Projects and issues to be discussed and developed**

1. **Begin the Commercial Areas planning and regulatory improvements** - The 2009 Smart Growth Code Assessment identified as 3<sup>rd</sup> and 4<sup>th</sup> priorities improvements to Commercial area zoning and a revisiting/ updating of the Downtown zoning policies. In 2009, the City received a grant for this project from Metro. However, funding has been delayed by a lawsuit regarding Metro's Construction Excise Tax, the grant funding

source. Pending Council approval of local funding and staff availability, this project will be developed over the coming year to include:

- Vision and revised code for neighborhood-oriented commercial areas (particularly 32<sup>nd</sup> and 42<sup>nd</sup> Avenues)
- Planning for development on and rezoning of Murphy and McFarland sites
- Downtown Plan and code refresh
- Consideration of forming an urban renewal district to implement the community's plans

**2. Work with Council to develop a strategy for updating the Milwaukie**

**Comprehensive Plan** – The state-mandated Periodic Review of Milwaukie's 1989 Comprehensive Plan has been delayed indefinitely. The City needs to develop a strategy for updating the Plan to address local needs, and create a plan and strategy for a strong and healthy Milwaukie over the next twenty years.

**3. Other issues and topics for education and discussion**

- Light rail station area planning – Participation in the design of the light rail project, which will complete final design and permitting over the next year. How can the City make the most of the increased transit service to be provided by the Tacoma and Lake Road stations?
- Review and update Chapter 14 - Sign Code to address electronic signs and improve aesthetic standards throughout the City of Milwaukie
- Sustainability and Milwaukie's response to forthcoming requirements to reduce greenhouse gas emissions.
- Other?

**4. Trainings for Commissioners**

Commissioner trainings may include:

- Oregon's land use system
- Holding public hearings

What other types of training would you like to see over the next year?