



To: Planning Commission
Through: Katie Mangle, Planning Director *KM*
From: Ryan Marquardt, Associate Planner
Date: October 5, 2010, for October 12, 2010 Public Hearing
Subject: File: AP-10-01
Applicant: Nabil Kanso, AM Kanso, LLC
Owner(s): Nabil Kanso, 99 Inc.
Address: 10966 SE McLoughlin Blvd.
Legal Description (Map & Taxlot): 1S 1E 35 AA 01900
NDA: Historic Milwaukie

ACTION REQUESTED

Deny AP-10-01. The recommended Findings are found in Attachment 1. This action would uphold the Planning Director's Interpretation (File# DI-10-01) of Title 14, Sign Ordinance, as it relates to LED signage in the downtown zone.

BACKGROUND INFORMATION

A. Related Permit Application

The background of this application begins in 2009 with a sign permit application (Permit #090070). See Attachment 2. The permit was to reface existing signs for the gasoline station at 10966 SE McLoughlin Blvd to change the gasoline brand signage from Arco to 76. The proposed changes to the existing signs were allowed by MMC 14.28.020.A.3, which allows nonconforming signs to be maintained or undergo a change of copy or image without complying with the requirements of the sign code. Any nonconformities related to sign height, area, or internal illumination were allowed to remain.

A condition of approval was added to the sign permit regarding the illumination of the signs. The conditions and notes in the memo were intended to keep the project within the limits of that which is allowed by MMC 14.28.020.A.3, the refacing of an existing sign. The memo clearly prohibited changing the gas price displays to a digital or LED sign.

Despite the conditions of approval, the signage was changed to LED illumination for the gas price displays. This was in violation of the permit approval, and the City proceeded to inform the property owner of the issue. The signage was not modified, and the City proceeded with citing the property for the violation.

Staff discussed the options available to the property owner for the sign. These included:

- Changing the sign to be in conformance with the sign code regulations.
- Applying for a Director's Interpretation of the section of code that prohibits LED illumination downtown, with the option of appeal to the Planning Commission and City Council.
- Applying for a sign adjustment, per MMC 14.32.
- Applying for a zone change to allow LED signs in part or all of downtown.

The applicant, with input from staff, decided to apply for a Director's Interpretation (DI) of the sign code with respect to LED illumination (see Attachment 3). The DI was issued on August 18, 2010 (see Attachment 4), and the property owner appealed the DI to the Planning Commission on August 30, 2010 (see Attachment 5).

This subject of this appeal is the interpretation of the sign code as established by File # DI-10-01. Though they are related, issues about the sign at 10966 SE McLoughlin Blvd such as the approval of the sign, installation of the sign, and appearance of the sign, do not have direct bearing on the interpretation and should not be relied upon by the Planning Commission as a basis for decisions on this matter.

B. Interpretation of the Sign Code

MMC 19.1001.4 authorizes Planning Director interpretations "...to resolve unclear or ambiguous terms, phrases and provisions...". Such interpretations may be requested by an applicant or initiated by the Director. They are subject to appeal.

Code interpretations are **not a code change**, and must be based on the express language of the regulation and the Comprehensive Plan. In interpreting the code, the Director then refers to legal guidance, historic records that reveal the intent, and other adopted documents.

C. Existing LED Signs Downtown

The applicant has identified two other LED reader board signs downtown. Both of these signs were installed prior to adoption of the ordinance that established the current downtown sign illumination standards. The history of these signs is briefly described in Attachment 6.

D. Site-specific factors in the sign permitting

The sign code does have processes and standards built in for consideration of some individual circumstances. There are some standards that are variable from site to site by their nature. These include sign area based on overall wall area and sign area based on street frontage. Another example is that properties with frontage on McLoughlin are allowed a 15 ft tall sign, while others in the same zone without frontage on McLoughlin are allowed 7 ft tall signs. Some signs, such as internally illuminated cabinet signs, are allowed with discretionary approval by the Planning Commission. Finally, there is an allowance for variability based on the sign adjustment process, which requires Planning Commission approval.

The applicant provides several reasons why LED signage is appropriate for the subject site (page 12 of Attachment 5). Briefly summarized, these are:

- The site is on a 5 lane state highway and is more automobile oriented than pedestrian oriented.
- The site is a non-conforming use that has different signage requirements than other downtown uses.

- It is difficult to change the prices on the sign by hand, and an electronic sign eliminates this problem.

Staff does not dispute the facts raised by the applicant about the site or the advantages that LED signage allows. However, none of these facts fits into a standard or process that would allow staff to grant an allowance for LED signage. The sign adjustment process could potentially be used to approve a sign that is not allowed by the sign ordinance. Staff was hesitant to recommend this approach though, since staff does not believe the applicant would meet the criteria (MMC 14.32).

Some of the points raised by the applicant could be the basis for changing the sign code to allow different signage along McLoughlin Blvd than would be allowed along Main Street. Such a code change is possible, and would need to be initiated by the applicant.

In summary, there are site specific factors that support why an LED sign may be desirable at this site. However, these factors cannot be considered within the current sign regulations as interpreted by staff, and do not appear to meet the criteria for an adjustment.

KEY ISSUES

Summary

Staff has identified one key issue for the Planning Commission's deliberation. The question is:

- **Does the language of the Sign Ordinance prohibit LED illumination downtown?**

Analysis

The Planning Director interprets the sign code as not allowing exposed LED illumination in the downtown zones. Planning staff applied this interpretation when reviewing the request for a sign permit for 10966 SE McLoughlin. The interpretation is explained in detail in the Director's Interpretation (Attachment 4). The main points of the interpretation are:

- The introduction to the downtown sign regulations states that signs in the downtown zones are allowed *only* if they are described in the types of signs that are exempt from permit requirements (MMC 14.12.010) or described in the types of signs allowed in the downtown sign district (MMC 14.16.060).
- MMC 14.16.060.H lists illumination standards for signs in the downtown zones. This section includes allowances for the following signs:
 - Backlit signs;
 - Spot lighting used for indirect sign illumination;
 - Awning sign illumination; and,
 - Internally illuminated cabinet signs.

This section does not list LED signs as a type of illumination that is allowed.

- Given that only exempt signs and signs listed in the downtown sign district are allowed, and LED signs are not described in the section that deals with lighting, the Director's conclusion is that LED signs are not allowed downtown.

In addition to the code language, the City also has design guidelines for the downtown area. Though these guidelines do not have the legal importance of actual code requirements, they are helpful in determining the overall intent and vision for downtown signs. The relevant sections of

the downtown design guidelines are the Sign Guidelines and the sign lighting section of the Lighting Guidelines (see Attachment 7).

The types of signs illustrated in these guidelines do not speak directly to LED signage. However, the graphics and text favor simple signage with external illumination that do not exhibit electronics as a part of the sign itself. Staff believes that LED reader boards and changing signs do not fit within the overall intent of the downtown design guidelines for signs and illumination.

The code language itself is not explicit about whether LED signage is allowed. Staff believes that the above interpretation is the most straightforward reading of the ordinance and is consistent with the design objectives for downtown Milwaukee.

Alternate Interpretation

Despite staff's belief that the above interpretation is the correct one, it is possible to interpret the sign ordinance and come to a different conclusion on whether LED signs are allowed in downtown. This alternate interpretation would be supported by a prior approval of an LED sign downtown under an older sign ordinance and the current allowance for LED signs in other sign districts.

The sign code allows LED reader board signage in the Commercial General zone. The commercial sign district contains the same introductory provision as the downtown sign district: no sign can be installed unless it is an exempt sign or meets the requirements of the commercial sign district. The illumination regulations in the commercial sign district merely state that illumination is allowed and provides some limitation on level of illumination. Because there are not specific types of illumination described in this section, staff has approved LED reader board signs in the commercial sign district. A recent example is the reader board at Oak Street Square at Oak St and Highway 224.

The recent history of the downtown sign district could be read to support a similar interpretation for the current downtown sign district (see Attachment 9). In 2000, the sign code grouped downtown zones into the same sign district as other commercial zones in the city. The standards regarding sign illumination for downtown zones were the same as the current illumination standards for the commercial sign district. An LED reader board was approved in February 2003 under these standards.

In April 2003, a separate downtown sign district was established. The illumination standards for the new district were more similar to the current standards in that specific illumination types were listed (see Attachment 8). Staff reports that accompanied these amendments clearly stated that the intent of the regulations was to allow signs with external illumination, and to require DLC approval for signs with internal illumination¹ (see Attachment 9). Internally illuminated cabinet signs, as a subset of internally illuminated signs, were specifically discouraged, though not prohibited. Signs where LED are directly visible are not specifically discussed in the legislative record for these amendments. If signs with visible LEDs were considered internally illuminated, such signs would have been approvable with DLC review by the April 2003 sign code.

Changes to the sign code in 2006 further modified the section of code regulating illumination of downtown signs. The amendments added approval criteria for internally illuminated cabinet

¹ The definition of "sign, internally illuminated" as "...a sign which is wholly or partially illuminated by an internal light source from which light passes through the display surface to the exterior of the sign." This is the current definition and goes back at least as far as the 1993 sign code.

signs. The phrase from the 2003 code that allowed the DLC to approve internally illuminated signs was not carried through into the 2006 amendments. While internally illuminated cabinet signs were discussed at length during the 2006 amendment process, the issue of other types of internal illumination, such as LED reader boards, was not specifically discussed.

Given this history, there are facts that support the alternate interpretation for LED signage. First, the pre-2003 sign code was interpreted to allow an LED reader board downtown. Second, the sign code between 2003-2006 had a process for the approval of internally illuminated signs, even though they were not allowed outright. Finally, even though the 2006 code amendments removed the provision allowing the DLC to approve internally illuminated signs, there is a lack of evidence that the City specifically sought to prohibit LED signs downtown. Giving weight to these facts would support the interpretation that the policy that allowed LED signage in early 2003 has not been changed, and that this type of illumination should still be allowed.

Staff's supports the interpretation that would not allow sign illumination downtown other than what is described in the code. Though City Council did not enact anything specifically in the language of the code regarding LED signage, they did adopt the downtown design guidelines. By adopting these guidelines, City Council adopted a vision that downtown development, including signs, should move toward the vision shown in the guidelines document. Staff believes that the interpretation prohibiting LED signage downtown is supported both in the language of the code and the overall vision espoused by the downtown design guidelines.

CONCLUSIONS

Staff recommendation to the Planning Commission is to deny the appeal of Land Use File# DI-10-01. This would continue the Planning Department's practice of not allowing exposed LED illumination downtown.

CODE AUTHORITY AND DECISION-MAKING PROCESS

The proposal is subject to the following provisions of the Milwaukie Zoning Ordinance, which is Title 19 of the Milwaukie Municipal Code (MMC).

- MMC 19.1011.4, Planning Director's Interpretations
- MMC 14.16.060, Downtown Zones
- MMC 14.24.020, Sign Lighting

This application is subject to minor quasi-judicial review, which requires the Planning Commission to consider whether the applicant has demonstrated compliance with the code sections shown above. In quasi-judicial reviews, the Commission assesses the application against review criteria and development standards and evaluates testimony and evidence received at the public hearing.

The Commission has 4 decision-making options as follows:

- A. Deny the appeal with the Recommended Findings.
- B. Deny the appeal with modified Findings. These modifications would need to be read into the record.
- C. Approve the appeal, which would have the effect of changing how staff implements the subject code on all sites within downtown. Staff would need to be directed on revisions to the findings to support the appeal.

D. Continue the hearing if more information or deliberation is necessary.

The final Planning Commission decision on this appeal must be made by November 23, 2010, to reserve sufficient time for any appeals to the City Council. The City's final decision must be made by January 1, 2011. The applicant can waive the time period in which the application must be decided.

COMMENTS

Notice of the appeal was given to the following agencies and persons: the Design and Landmarks Committee, and the Historic Milwaukie Neighborhood District Association (NDA). The following is a summary of the comments received by the City. See Attachment 10 for further details.

- **Howard Dietrich:** Does not find the sign at the applicant's property offensive. Encourages the City to allow LED lighting since he believes it will be even more widely used in the future and it is more long lasting and energy efficient than incandescent lighting.
Staff Response: Staff agrees that LED lighting has advantages over traditional incandescent lighting and that its use should be encouraged when internal sign illumination and electronic reader boards are allowed. The issue in this appeal, however, is whether directly visible LED illumination is appropriate for the character of downtown. Property owners downtown are currently allowed to enjoy the energy savings and longevity of LED illumination if the LEDs are used as external sign illumination.

ATTACHMENTS

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

1. Recommended Findings in Support of Denial (attached)
2. Sign Permit #090070 (attached)
3. Director's Interpretation Application (attached)
4. Director's Interpretation DI-10-01 (attached)
5. Applicant's Appeal application (attached)
6. History of Existing LED Signs Downtown (attached)
7. Downtown Design Guidelines – Signs and Sign Lighting (attached)
8. Previous Downtown Sign Regulations (Ord.# 1917 and 1880) (attached)
9. Staff Reports from ZA-01-03 and ZA -02-01(attached)
 - A. February 25, 2003 page 4 and 5;
 - B. January 23, 2002
10. Comment received (attached)
11. Exhibits List

**Attachment 1:
Recommended Findings in Support of Denial
Land Use File AP-10-01**

1. The City of Milwaukie issued a Planning Director's interpretation (Land Use File# DI-10-01) on August 18, 2010. The interpretation clarified that the Planning Director interprets Title 14, Sign Ordinance, to not allow directly visible LED illumination on signs in the downtown sign district. The interpretation was issued in response to a request by Nabil Kanso for an interpretation on this matter.
2. On August 30, 2010, Nabil Kanso (applicant) appealed the interpretation in File# DI-10-01 to the Planning Commission, as allowed by Milwaukie Municipal Code (MMC) 19.1001.4.G. The appeal is City of Milwaukie land use file# AP-10-01.
3. The City deemed the appeal application complete on September 3, 2010, and heard the appeal at a public hearing on October 12, 2010, within 40 days of deeming the appeal application complete. The procedures for providing notice and conducting the public hearing were done in accordance with MMC 19.1011.3.
4. The Planning Commission denies the applicant's appeal and upholds the interpretation established in File# DI-10-01. This finding is based on the following reasons.
 - A. The Planning Commission finds that the Milwaukie Downtown Design Guidelines, an ancillary document to the Milwaukie Comprehensive Plan, encourages signs and sign illumination to be externally illuminated, as opposed to having electronic illumination integrated into the sign itself.
 - B. The Planning Commission finds that the provisions of MMC 14.16.060.H establishes the types of sign illumination that are allowed in the downtown sign district, and that is directly visible LED illumination as part of a sign face is not listed in these provisions.
 - C. The Planning Commission finds that the introductory clause on MMC Section 14.16.060 allows only the types of signs listed in that section and in MMC 14.12.010 in the downtown sign district.
5. Notice of the hearing for the appeal application was done in accordance with MMC 19.1011.3. The appeal application was referred to the Historic Milwaukie Neighborhood District Association and the Milwaukie Design and Landmarks Committee. A comment was received from Mr. Howard Dietrich that the sign at the applicant's property is not offensive and that the City should encourage the use of LED lighting because of its longevity and energy efficiency compared with incandescent lighting.

SE McGloughlin

156'

10966 SE McGloughlin

20'-6"

SIGN
 Remove top two sign cabinets from existing Main ID sign.
 Replace the remaining sign cabinets between poles with new sign cabinets, as shown on drawing.
 New reduced overall height of sign: 20'-0"

13'

28'

← Existing Arco Star logos: 1' X 1' →
 Replace these logos with:
 33" diameter 76 logos.

Canopy:
 12'-0" Clearance

50'

40'

**PLANNING
 REVIEW COPY**

↑
 ← Existing AM PM wall signs: 3' X 8'-11"
 To be removed.

AM PM Store

30'

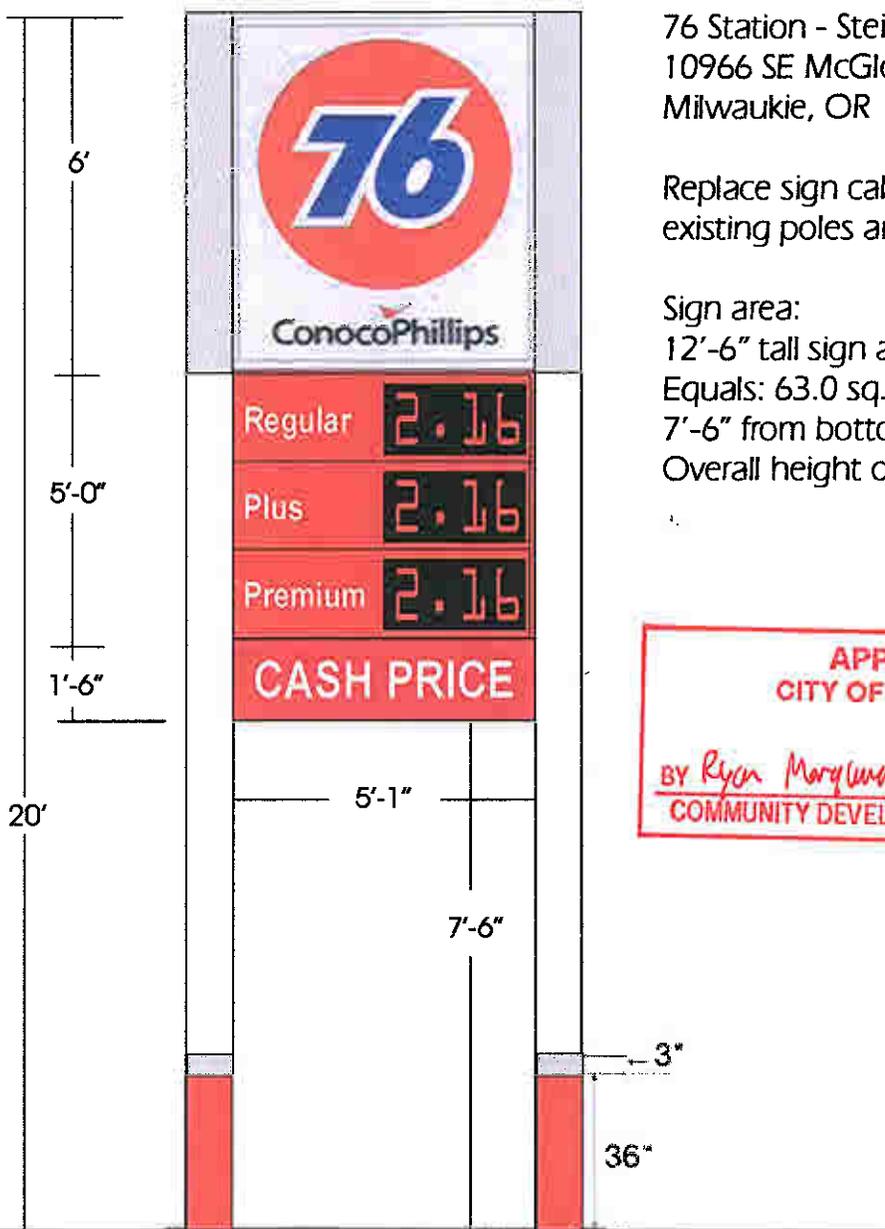
SE Jefferson St.

100'



CASCADE SIGNS & NEON
P.O. BOX 7268
Salem, Oregon 97303-0054
503-378-0012 Fax 503-362-8154
www.cascade-signs.com

Our signs are
out of this world



76 Station - Stein Oil
 10966 SE McLaughlin
 Milwaukie, OR

Replace sign cabinets onto
existing poles and footings.

Sign area:
 12'-6" tall sign area X 5'-1" wide
 Equals: 63.0 sq. Ft.
 7'-6" from bottom of sign to grade
 Overall height of sign: 20'

APPROVED
CITY OF MILWAUKIE

BY Ryan Marylundt *DATE 3/4/09*
COMMUNITY DEVELOPMENT DEPARTMENT

Received for review; (date) _____
 By; (signature) _____

This is an original design created for the exclusive use of the customer. Until transferred by sale, all rights are reserved and it is not to be reproduced in any manner without permission from Cascade Signs & Neon. Salem. OR.

Customer:	Description:
Date:	Type:
Drawn by:	Mount:
Scale:	Location:
Salesman:	Approved by:

Arco to 76 Station
10966 SE McGloughlin
Milwaukie, OR

Existing Main I.D. Sign
Top two sign cabinets to be removed.
All other sign cabinets to be replaced.



To: Building Permit File #090070 – 10966 SE McLoughlin Blvd.
From: Ryan Marquardt, Associate Planner
Date: March 31, 2009
Subject: Sign Permits for 76 Gas Station

Permit #090070 is for the modification of signs at an existing gas station in the Downtown Storefront Zone. The signs to be modified are a sign on the canopy and the freestanding sign on the southwest corner of the property. The signs are permitted subject to the following:

Canopy Sign:

The proposed circular “76” logo is 5.9 square feet in area. The sign is permitted as a wall sign, with the canopy face constituting the wall area. The maximum area allowed by the canopy size is 35 square feet, which is 20% of the canopy face.

The sign is not permitted to be internally illuminated, as this would require approval by the Planning Commission. Any replacement of the existing internally illuminated “Arco” logo cabinet sign that did not utilize the existing illumination would be considered a new internally illuminated cabinet sign. The applicant stated they would not be able to reuse the existing illumination for illumination of the “76” sign.

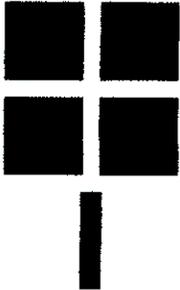
Freestanding sign:

The applicant proposed to modify the existing freestanding sign by removing the upper portion of the sign and re-facing the lower portions of the sign. The sign is a pole sign, which is a nonconforming sign type in the DS zone. The applicant is allowed to reface the portion of the sign as indicated on the approved site plan. The sign may utilize existing internal illumination, but shall not modify any electrical components for the sign. The signs indicating the gasoline prices are allowed to remain illuminated in the same manner as the existing Arco signage, and shall not be converted to digital or LED displays.

ISSUED TO PROPERTY

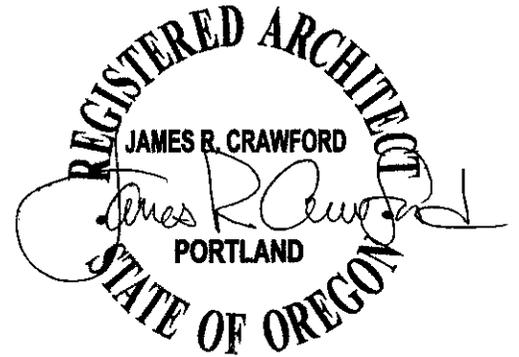
CASCADE SIGN & NEON 10966 SE MCLOUGHLIN BLVD

3/31/2009 marquardtr Notes: 1) Internal illumination of the canopy signs not permitted. 2) Refacing of the freestanding sign approved. Freestanding sign is non-conforming with respect to signs allowed in DS zone. New electric work or modifications to the existing electrical for the sign is not permitted. See memo in permit file.



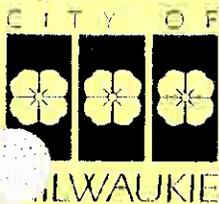
JAMES R. CRAWFORD, ARCHITECT

ARCHITECTURE AND PLANNING
12620 SW FOOTHILL DRIVE
PORTLAND, OREGON 97225
Voice (503) 643-8193 Cell (503) 349-1339
JRCrawford59@aol.com



Application Documents for Administrative Interpretation of the City's Sign Ordinance Title 14 for the Downtown Zones

Submitted July 26, 2010



PLANNING DEPARTMENT
6101 SE JOHNSON CREEK BLVD.
MILWAUKIE, OREGON 97206

PHONE: (503) 786-7630
FAX: (503) 774-8236

Application for Land Use Action

Application Type: Admin. I Minor QJ Leg.
 Admin. II Major QJ

RESPONSIBLE PARTIES: (Please print or type)

APPLICANT(S): NABIL KANSO/AM KANSO LLC	Phone: 503-653-6909
Address: 10966 SE McLOUGHLIN BLVD.	Zip: 97222
PROPERTY OWNER(S): NABIL KANSO/ 99, INC	Phone: 503 653 6909
Address: 10966 SE McLOUGHLIN BLVD.	Zip:

SITE INFORMATION:

Address: 10966 SE McLOUGHLIN BLVD Map & Tax Lot(s):

Comprehensive Plan Designation: DS Zoning: DS Size of property:

PROPOSAL (describe briefly):

REQUEST FOR ADMINISTRATIVE INTERPRETATION OF SIGN CODE IN DOWNTOWN ZONES - ALLOWANCE OF LED ILLUMINATION

PLEASE NOTE: The Land Use Committee (LUC) of your Neighborhood District Association (NDA) will receive a review copy of this application. They may contact you and/or you may wish to contact them:

NDA: LUC Chair: Phone:

ATTEST: I am the property owner or I have attached the owner's authorization to submit this application. To the best of my knowledge, the information provided within this application package is complete and accurate.

Submitted by: *[Signature]* Date: 7-26-10

THIS SECTION FOR OFFICE USE ONLY:

File #: D1-10-01	Fee: \$ 150	Rcd. by: RWA	Date stamp:
Notes:			RECEIVED JUL 27 2010 CITY OF MILWAUKIE PLANNING DEPARTMENT

SEE REVERSE SIDE FOR APPLICATION CHECKLIST

APPLICATION SUMMARY

Monday, July 26, 2010

Applicant: Nabil Kanso
AM Kanso, LLC
SW 123rd Avenue
Beaverton, Oregon 97005

Contact: Nabil Kanso
503/ 653-6909
or
Jim Crawford
503/643-8193
503/ 349-1339 (cell)

Narrative Prepared by: James R. Crawford - Architect
12620 SW Foothill Drive
Portland, Oregon 97225

Land Owner: 99, Inc.
SW 123rd Avenue
Beaverton, Oregon 97005

Site Address: 10966 SE McLoughlin Blvd.
Milwaukie, Oregon 97222

Comprehensive Plan Designation: DS (Downtown Storefront)

Zoning: DS (Downtown Storefront)

Previous Applications: Sign Application
New sign for existing business

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APPLICATION NARRATIVE

INTRODUCTION:

The site is located on SE McLoughlin Blvd. (State Hwy 99E) at the intersection of Jefferson Street. The physical address is 10966 SE McLoughlin Blvd. The existing use of the property is a gas station and grocery convenience store. The gas station is an existing non-conforming land use under the existing Zoning.

The existing gas station changed brand from Arco to ConocoPhillips 76, remaining under the same ownership. The use was in continuous operation through the transition. The associated convenience grocery store likewise changed from an AM-PM Market to Mini-Mart 76 Gas.

Due to the change of Brand for the property, new signage was required. The owner made application to the City for new signage, which was approved. The signage permit application is on file at the City.

The applicant proposed replacing the existing freestanding internally illuminated cabinet monument sign with a similar freestanding internally illuminated cabinet monument sign. A photograph of the proposed sign was provided with the application. The proposed sign utilized LED lights to relay pricing information instead of the back lit sign with changeable pricing. The City's application did not request information about lighting or light sources.

When the City issued the approval for the sign, a condition of approval specified "No LED signs allowed". The Sign Company missed this condition on the permit and installed the sign that was proposed, being what it believed was approved.

Subsequently, after the sign was installed, the applicant was notified that the sign was in violation of the City's Downtown Sign Ordinance. The applicant has spoken with the City and desires to keep the sign as installed. To that end, we are requesting an interpretation of Title 14 by the Planning Director. We are providing the enclosed narrative in support of our position.

BACKGROUND:

The property is located along SE McLoughlin Blvd. (Hwy 99E), a State highway, which passes through the City of Milwaukie. Highway 99E is located between the city's riverfront park located west of the highway and the downtown, principally located along Main Street, running parallel to Hwy 99E one block to the east.



View from the South

The character of Hwy 99E (McLoughlin Blvd.) is a 5-lane arterial street connecting Portland to the north with Gladstone and Oregon City to the south. The posted speed limit on McLoughlin Blvd. adjacent to the site is 30 MPH. Typically, a downtown business district has a posted speed limit of 20 MPH. This higher speed along McLoughlin Blvd. does not support the “Pearl District” signage promoted for the Main Street commercial activities.

Generally, Milwaukie’s downtown businesses have not developed fronting onto McLoughlin Blvd. Most of the existing frontage development along McLoughlin Blvd. is parking lots, businesses that front of the east-west oriented side streets or automobile oriented businesses, such as service stations.



Sign with LED pricing lighting.

Despite the current zoning, the character of Hwy 99E remains automobile oriented. The highway is not a “shopping” street, lacking on-street parking or a pedestrian oriented streetscape. The rush of a high volume of through traffic is not supportive of storefront retail. Plans by the City for a pedestrian bridge over McLoughlin Blvd. supports the conclusion that Hwy. 99 is not pedestrian friendly. It does however support automobile accommodating commercial.

Unlike Main Street, at the subject property, the city does not require buildings to be built tight to the sidewalk, nor retail on the ground level nor ground floor windows and openings. The Code clearly differentiates Hwy 99E as being different than Main Street yet the City’s sign ordinance does not make that differentiation. The ordinance does however allow a taller monument sign on McLoughlin Blvd. than elsewhere in the downtown zone, at least implying that there is a distinction.



Cabinet sign alternative.

There are two existing gas stations along Hwy 99E within the city’s downtown area. Both stations are located at the Jefferson Street intersection with Hwy 99E. Under the current zoning designations (the applicant’s station is located in the DS district), both gas stations are non-conforming uses. While non-conforming, they remain a necessary part of contemporary American life.

Being an automobile oriented business, the signage needs to be sized for and readable to passing motorists. The business depends upon visibility to attract passing business.

Gas stations are a unique business with unique signage requirements. The gas station sign is required by state law to include the current price of gasoline offered for sale. Gasoline pricing is variable and the prices can go up or down weekly, if not more frequently. Therefore ease of changing the pricing information is a unique need of this business. Two sign choices exist to accommodate the need for changeable pricing. A cabinet sign with manually changed price numbers or a panel sign with LED pricing numerals.

The applicant applied for and inadvertently installed the later type of sign contrary to the approval conditions. The LED light source on the installed sign is only on the price portion of the sign. The balance of the sign is internally an illuminated cabinet sign. The LED lights do not flash or otherwise distract or attract the attention of motorists. The sign is turned off when the gas station is closed. The applicant requests that the sign be allowed as installed.

SIMILAR NON-CONFORMING SIGNS:



Reliable Credit Union



Chan's Steakery

Two existing businesses along McLoughlin Blvd. currently have signs with exposed bulbs (either incandescent or LED) which are non-conforming signs in the downtown district under the current Zoning Code. These are the Reliable Credit Union at 10690 Harrison Street and Chan's Steakery, located at 10477 Main Street. This second sign uses similar red LED lights as the gas station sign.

The **Reliable Credit Union** sign was permitted in 2005. This was an existing sign that needed to be relocated due to a right-of-way modification at the intersection with Hwy 99E. The previous sign had been located at the intersection and encroached into the modified right-of-way. A new CMU monument was built adjacent to Hwy 99E right-of-way north of the original sign monument. This sign has changing text using white incandescent bulbs. The City approved the reinstatement of the non-conforming sign since the relocation was not voluntary

The **Chan's Steakery** sign was permitted in 2003 as an alteration of an existing sign. The permit allowed for the addition of an LED message display at the bottom of the existing sign. The application indicated a "matrix monochrome message display" and they checked off that the sign was internally illuminated, which was not accurate. The plans by Able Sign Company specified a "LED Reader Board, 2'-0" x 6'-0"."

The existing portion of the sign has a changing neon sign that alternates between "open" and "lounge" every two to

three seconds. The LED sign at the bottom with red changeable text is on about a six-second rotation.

The sign ordinance in affect in 2003 was silent regarding the use of LED lighting on signs. LED lighting is a relatively new light source and the Code did not anticipate the use of LED light sources. The Code (14.16.040) indicated that signs in commercial zones may be illuminated. The 2003 Code stated "No exposed incandescent lamp which exceeds 15 watts shall be used on the exterior surface of any sign so as to exposed the face of such bulb or lamp to any public street or right-of-way". The Code otherwise provided for fluorescent lamps or PAR spot or reflector type bulbs were allowed light sources.

ARGUMENTS FOR APPROVAL:

The stated purpose of *Title 14 Signs* is to regulate the design of all signs visible from the right-of-way. The goal of promoting the "neat, clean, orderly and attractive appearance of the community, provide for the safe installation and maintenance of signs" and to "accommodate the need of sign installers while avoiding nuisances to nearby properties". The sign with LED numeration installed is not contrary to the stated goals and purpose of the Code.

The property is located in the Downtown District and is zoned DS (Downtown Storefront). McLoughlin Blvd. is the western edge of the DS Zone. McLoughlin Blvd. is a 5-lane arterial highway; not a pedestrian shopping street. The standards applicable to Main Street and the various east-west oriented side streets intersecting Main Street are not applicable or appropriate to businesses fronting on McLoughlin Blvd. McLoughlin Blvd. does not share the pedestrian oriented character envisioned for Main Street development.

The business is a gasoline service station. A gas station has unique signage needs and relies on its signage to attract passing business. This business is not located on Main Street; it is not a pedestrian oriented business characteristic of Main Street. The business is located along a high-visibility major arterial street. It is an automobile oriented business.

This gas station is a non-conforming auto dependant business. Automobile Service Stations are a non-conforming use in all Downtown zones. Neither the Code nor the Downtown Guidelines address their unique business characteristics, their unique need for signage or the unique character of McLoughlin Blvd. in the DS Zone.

The area north of Harrison Street is identified as an Auto Accommodating Commercial area between Main Street and McLoughlin Blvd (DC Zone). This acknowledges that this strip of commercial property provides for a gradual transition from the Boulevard to Main Street development.

Properties having frontage along McLoughlin Blvd. are recognized in the Code as having unique characteristics that justify modifications to the Sign Code as applied

elsewhere in the Downtown District. Section 16.14.060 (A) (2) allows a doubling of the allowable height of a freestanding sign located along the McLoughlin frontage, as an example.

The purpose of the Downtown zones (19.312.1) is to focus pedestrian-oriented retail uses to the traditional downtown code along Main Street. The pedestrian oriented aspects of the Downtown District are not applicable to this site. The requirement for ground floor retail is limited to properties fronting on Main Street. (Figure 312-1). Ground floor windows and openings are likewise only required on Main Street. (Figure 312-5). This site is not required to build to the street right-of-way. (Figure 312-4).

The City approved the internally lit Cabinet sign installed on the site. Cabinet signs are a non-conforming sign but are allowed by the Code. Section 14.16(H)(5) states that "Internally illuminated cabinet signs are discouraged in the downtown zones. Internal illumination of cabinet signs may be permitted subject to design review...."

The sign applied for was an internally illuminated cabinet sign above an LED numeral panel. The light emitting diodes are placed behind plexiglass. The Sign Code (Section 14.16(H)) does not say "no LED lights" and the language of the Code is vague and confusing. Unlike other sections of the Sign Code, the Downtown Code does not list "prohibited signs". LED signs are allowed elsewhere in the City's commercial districts.

There are several advantages to the LED lighted price indicators. These include:

- 1) the LED light source is an environmentally superior bulb, using far less energy than fluorescent lamps and being increasingly used for "green" reasons and
- 2) the prices can be changed remotely from inside the station,
- 3) the older backlit cabinet signs require an employee to manually go out to change the prices. This is done either from a ladder, risking injury from falling or with a pole with a suction device to grab or reposition the numbers. This exposes the employee and the public in danger if the pole slips or falls, is caught by the wind or otherwise ends up in the lane of traffic.
- 4) The LED light levels can be dimmed to reduce or manage glare.
- 5) The LED display does not move, flash or change. The illuminated numbers are not a distraction to vehicular or pedestrian traffic.

The sign as installed substantially meets the intent of the design standards and the stated purpose of Title 14. The LED lights are less bright than a cabinet sign with pricing. The LED sign is more attractive than the alternative cabinet sign. It presents a neat, clean, orderly and attractive appearance. It clearly displays the price of gasoline being sold, protecting the public welfare. The LED sign provides a safer

condition for employees required to change pricing information on the sign. It accommodates the needs of the sign applicant and does not create a nuisance to nearby properties. It does not create "sign clutter". And finally, it does not distract motorists since it does not have flashing or changeable text.

The applicant requests an administrative review of the Code and an interpretation of the Code that would allow the desired sign, as installed, to remain. The above narrative has attempted to show that this is a special circumstance related to a specific piece of property and that strict application of the Code would cause an unnecessary hardship on the applicant. Further, the installed sign provides a neater appearance than the alternative cabinet sign. Finally, it has been explained that the nature of business, a gas station, and the location on McLoughlin Blvd. creates a special circumstance related to the sign.



August 18, 2010

Mr. Nabil Kanso
10966 SE McLoughlin Blvd.
Milwaukie, OR 97222

Land Use File: DI-10-01 – Director’s Interpretation of the Light Emitting Diode (LED) Signs in Downtown

Dear Mr. Kanso:

This letter is a Director’s Interpretation as authorized in Milwaukie Municipal Code (MMC) Section 19.1001.4. As explained in MMC 19.1001.4(A), the interpretation process is provided to resolve unclear or ambiguous terms, phrases, and provisions within the Titles 14, 17, and 19 of the Milwaukie Municipal Code.

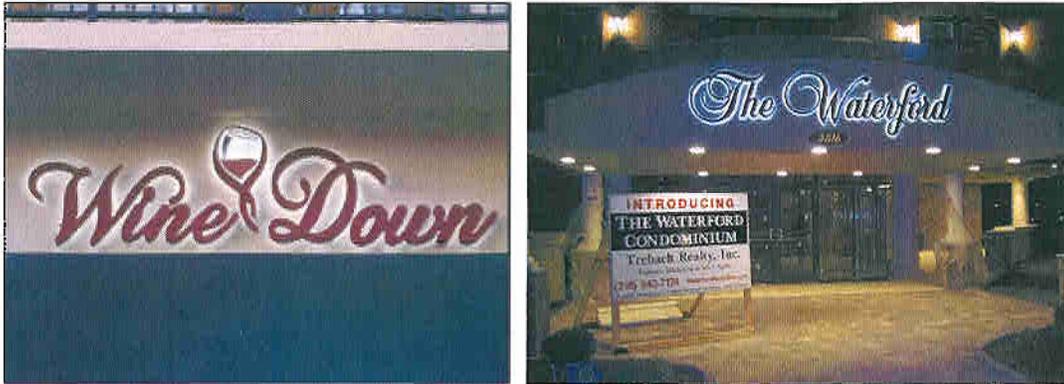
On July 27, 2010, the City of Milwaukie received a request from you regarding the interpretation of the allowance for LED signs in the downtown sign district. For the reasons explained below, it is my interpretation that LED illumination, and LED reader boards that are directly visible, are not allowed outright in the downtown sign district.

Code Language of Title 14 - Signs

The basis of this interpretation is in the introduction to the downtown sign district. MMC 14.16.060 begins with the introductory provision: *“No sign shall be installed or maintained in the DC, DS, DO, DR and DOS Zones, except as allowed under Section 14.12.010 Exempted Signs, or as otherwise noted in this section.”* I interpret this provision to mean that if a sign does not fit the description of either the exempted sign section or the signs described in MMC 14.12.060, then the sign is not allowed.

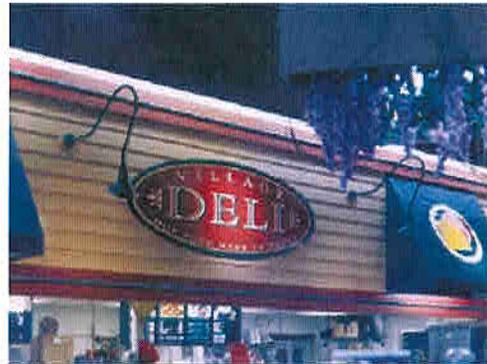
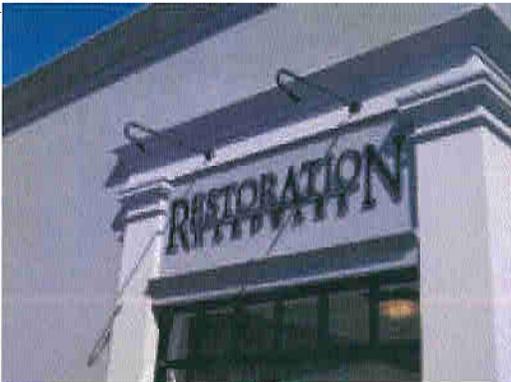
MMC 14.12.010, Exempted Signs, does not have any specific provisions regarding sign illumination. This leaves MMC 14.16.060.H as the applicable illumination regulations for the downtown zones. The signs described in this subsection are as follows:

MMC 14.16.060.H.1: “Signs with opaque letters or symbols that are backlit, having a light source behind the opaque area and not directly visible from in front of the sign, are permitted.” I interpret this provision to allow signs similar to the one in Figure 1a and 1b. LED illumination could be utilized for the backlighting in signs permitted by this subsection, though the LEDs themselves could not be directly visible.



Figures 1a and 1 b: Backlit signs with opaque letters.

MMC 14.16.060.H.2: “Par spot or reflective-type bulbs may be used for indirect illumination of the display surface if properly shielded from direct glare onto streets.” I interpret this subsection to allow signs similar to what is shown in Figure 2a and 2b. LED illumination could be allowed as the light source for the indirect illumination, but would need to be appropriately screened from being directly visible.



Figures 2a and 2 b: Signs with indirect illumination.

MMC 14.16.060.H.3: “Awning signs shall not be internally illuminated. Features on an awning sign may be externally illuminated subject to review by the Design and Landmarks Committee and approval by the Planning Commission... according to the following criteria:

- a. Sign lighting should be designed as an integral component of the building and sign composition.
- b. Sign lighting should be designed primarily for the enhancement of the pedestrian environment along adjacent streets and open spaces.
- c. Lighting should contribute to a sign that is architecturally compatible with the character of the area.”

I interpret this subsection to prohibit signs similar to the one in Figure 3 to be prohibited. Signs similar to what is depicted in Figure 4 may be permitted, subject to the approval process in this subsection. It is possible that LEDs could be integrated into an awning sign and approved by the Design and Landmarks

Committee and Planning Commission. This would be allowed on a discretionary basis.

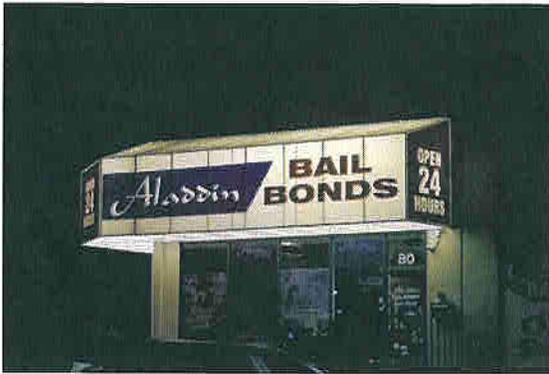


Figure 3: Prohibited illuminated awning sign.

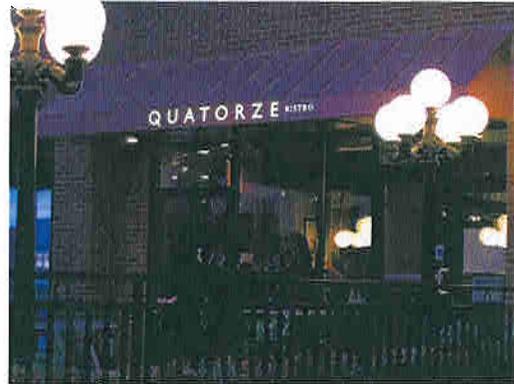


Figure 4: Illuminated features on an awning

MMC 14.16.060.H.4: "Sign illumination shall be directed away from, and not be reflected upon, adjacent premises." This subsection regulates the orientation of lighting fixtures that provide indirect illumination of signs and does not relate to the type of illumination.

MMC 14.16.060.H.5: "Internally illuminated cabinet signs are discouraged in the downtown zones. Internal illumination of cabinet signs may be permitted subject to design review by the Design and Landmarks Committee and approval by the Planning Commission..." I interpret the signs allowed by this subsection as being similar to the ones illustrated in Figure 5a and 5b. LEDs could be used as an illumination source for internally illuminated cabinet signs, but by the definition of internal illumination, could not be directly visible.

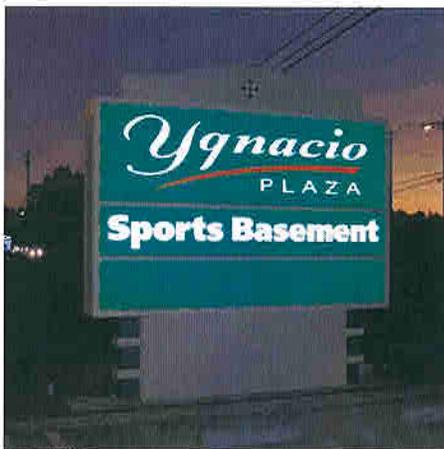


Figure 5 a and 5b: Internally illuminated cabinet signs

MMC 14.24.020 has additional standards for sign illumination in all zones. The last provision of this subsection, MMC 14.24.020.E, states: *In the event of a conflict between the standards in this section and a specific standard in the regulations for a sign district, the sign district regulations shall prevail.* Though

LEDs are not specifically mentioned in MMC 14.24.020, this provision clearly states that the provisions of MMC 14.16.060.H supersede the provisions of this subsection. As outlined above, nothing in MMC 14.16.060.H would allow LED illumination to be directly visible.

Arguments for LED Illumination Allowance

The circumstances that gave rise to the request for a Director's Interpretation are that a freestanding sign at 10966 SE McLoughlin Blvd was refaced. As part of the refacing, LED signs were added that display gasoline prices at the service station on the property. The application for this Director's Interpretation includes several arguments for allowing LED reader board signs. These arguments are summarized as follows:

- 1) McLoughlin Blvd is an automobile oriented road. LED signage that is designed to be seen more by automobile traffic is appropriate in this location even though it may not be appropriate for other parts of downtown. The sign code acknowledges the different character of McLoughlin Blvd by its allowance for taller freestanding signs along this road.
- 2) The LED sign installed at the site does not detract from the overall aesthetics of the site, and is an improvement on the previous sign. As such, it conforms generally to the purpose statements the sign code and the Downtown Design Guidelines. The brightness of the sign can be controlled, and the sign does not flash or change copy in a way that would pose a safety hazard.
- 3) The LED sign uses less energy than other forms of sign illumination. It is also advantageous to have an electronic changing sign because of the safety hazard posed by manually changing gasoline prices along busy streets.

I agree that each of these arguments has merit. However, I may not consider site-specific and business specific factors while processing a sign permit under the existing code.

DI-10-01 – LED Sign Illumination in Downtown Zones
August 18, 2010

Page 5

Conclusion

As described above, I do not interpret the code to allow LED reader board signs in the downtown zones. This interpretation is based on the language of the adopted code and cannot take into account the specific factors in your arguments. Such factors may, however, provide the basis for an application for a variance from the standards of the sign code or a proposal to amend the regulations in the City's sign code.

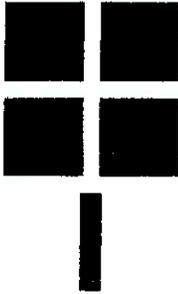
This interpretation may be appealed to the Planning Commission within 14 days of the date of this letter. The appeal process is described in MMC 19.1011.4(G) and (H), and the Appeal application is available on the City's website. The fee for an appeal is \$500.

Sincerely,



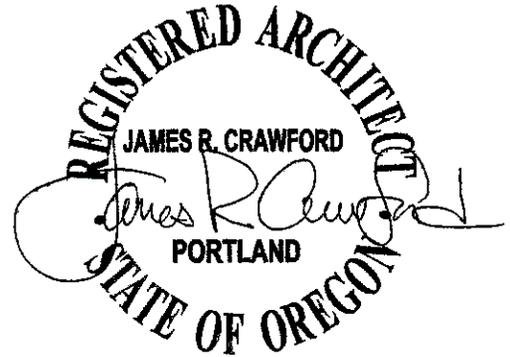
Katie Mangle
Planning Director

CC: James Crawford, 12620 SW Foothill Drive, Portland, OR 97225
Sarah Lander, Code Compliance Assistant
File: DI-10-01



JAMES R. CRAWFORD, ARCHITECT

ARCHITECTURE AND PLANNING
12620 SW FOOTHILL DRIVE
PORTLAND, OREGON 97225
Voice (503) 643-8193 Cell (503) 349-1339
JRCrawford59@aol.com



Application Documents for Administrative Interpretation of the City's Sign Ordinance Title 14 for the Downtown Zones

Submitted July 26, 2010



PLANNING DEPARTMENT
6101 SE JOHNSON CREEK BLVD.
MILWAUKIE, OREGON 97206

PHONE: (503) 786-7630
FAX: (503) 774-8236

Application for Land Use Action

Application Type:	<input checked="" type="checkbox"/> Admin. I <input type="checkbox"/> Minor QJ <input type="checkbox"/> Leg. <input type="checkbox"/> Admin. II <input type="checkbox"/> Major QJ
--------------------------	--

RESPONSIBLE PARTIES: (Please print or type)

APPLICANT(S): NABIL KANSO/AM KANSO LLC	Phone: 503-653-6909
Address: 10966 SE McLOUGHLIN BLVD.	Zip: 97222
PROPERTY OWNER(S): NABIL KANSO/ 99, INC	Phone: 503 653 6909
Address: 10966 SE McLOUGHLIN BLVD.	Zip:

SITE INFORMATION:

Address: 10966 SE McLOUGHLIN BLVD	Map & Tax Lot(s):
Comprehensive Plan Designation: TDS	Zoning: DS Size of property:

PROPOSAL (describe briefly):

REQUEST FOR ADMINISTRATIVE INTERPRETATION OF SIGN CODE IN DOWNTOWN ZONES - ALLOWANCE OF LED ILLUMINATION

PLEASE NOTE: The Land Use Committee (LUC) of your Neighborhood District Association (NDA) will receive a review copy of this application. They may contact you and/or you may wish to contact them:

NDA:	LUC Chair:	Phone:
------	------------	--------

ATTEST: I am the property owner or I have attached the owner's authorization to submit this application. To the best of my knowledge, the information provided within this application package is complete and accurate.

Submitted by:	Date:
---------------	-------

THIS SECTION FOR OFFICE USE ONLY:

File #:	Fee: \$	Rcd. by:	Date stamp:
Notes:			

SEE REVERSE SIDE FOR APPLICATION CHECKLIST



PLANNING DEPARTMENT
6101 SE Johnson Creek Blvd
Milwaukie OR 97206

PHONE: 503-786-7630
FAX: 503-774-8236
E-MAIL: planning@ci.milwaukie.or.us

For all Land Use Applications
(except Annexations)

Submittal Requirements

All land use applications must be accompanied by a signed copy of this form (see reverse for signature block) and the information listed below. The information submitted must be sufficiently detailed and specific to the development being proposed to allow for adequate public review. Failure to submit this information may result in the application being deemed incomplete per the Milwaukie Municipal Code (MMC) and Oregon Revised Statutes.

Contact Milwaukie Planning staff at 503-786-7630 or planning@ci.milwaukie.or.us for assistance with Milwaukie's land use application requirements.

1. **Detailed and comprehensive description** of all existing and proposed uses and structures, including a summary of all information contained in any site plans.
Depending upon the development being proposed, the description may need to include both a written and graphic component such as elevation drawings, photo simulations, etc.
2. **Detailed statement** that demonstrates how the proposal meets all applicable approval criteria, zoning and land use regulations, and development standards.
3. **Site plan(s), preliminary plat, or final plat** as appropriate.
See Site Plan, Preliminary Plat, and Final Plat Requirements for guidance.
4. **All required land use application forms and fees**, including any deposits.
Applications without the required application forms and fees will not be accepted.
5. **A signed statement** from all property owners authorizing the applicant to submit the proposal for land use action where the applicant is not the owner of all property included in the proposal.
Applications without written owner authorization will not be accepted.

APPLICATION PREPARATION REQUIREMENTS:

- Five copies of all application materials are required at the time of submittal. Staff will determine how many additional copies are required, if any, once the application has been reviewed for completeness.
- All application materials larger than 8½ x 11 in. must be folded and be able to fit into a 10- x 13-in. or 12- x 16-in. mailing envelope.
- All application materials must be collated, including large format plans or graphics.

ADDITIONAL INFORMATION:

- Milwaukie's community involvement policies are implemented through its Neighborhood District Associations (NDA). Applicants are strongly encouraged to present their proposal to all applicable NDAs prior to the submittal of a land use application and, where presented, to submit minutes from all such meetings. NDA information: <http://www.ci.milwaukie.or.us/nda/nda.html>.
- Submittal of a full or partial electronic copy of all application materials is strongly encouraged.

APPLICATION SUMMARY

Monday, July 26, 2010

Applicant: Nabil Kanso
AM Kanso, LLC
SW 123rd Avenue
Beaverton, Oregon 97005

Contact: Nabil Kanso
503/ 653-6909
or
Jim Crawford
503/643-8193
503/ 349-1339 (cell)

Narrative Prepared by: James R. Crawford - Architect
12620 SW Foothill Drive
Portland, Oregon 97225

Land Owner: 99, Inc.
SW 123rd Avenue
Beaverton, Oregon 97005

Site Address: 10966 SE McLoughlin Blvd.
Milwaukie, Oregon 97222

Comprehensive Plan Designation: DS (Downtown Storefront)

Zoning: DS (Downtown Storefront)

Previous Applications: Sign Application
New sign for existing business

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SIMILAR NON-CONFORMING SIGNS:	7
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APPLICATION NARRATIVE

INTRODUCTION:

The site is located on SE McLoughlin Blvd. (State Hwy 99E) at the intersection of Jefferson Street. The physical address is 10966 SE McLoughlin Blvd. The existing use of the property is a gas station and grocery convenience store. The gas station is an existing non-conforming land use under the existing Zoning.

The existing gas station changed brand from Arco to ConocoPhillips 76, remaining under the same ownership. The use was in continuous operation through the transition. The associated convenience grocery store likewise changed from an AM-PM Market to Mini-Mart 76 Gas.

Due to the change of Brand for the property, new signage was required. The owner made application to the City for new signage, which was approved. The signage permit application is on file at the City.

The applicant proposed replacing the existing freestanding internally illuminated cabinet monument sign with a similar freestanding internally illuminated cabinet monument sign. A photograph of the proposed sign was provided with the application. The proposed sign utilized LED lights to relay pricing information instead of the back lit sign with changeable pricing. The City's application did not request information about lighting or light sources.

When the City issued the approval for the sign, a condition of approval specified "No LED signs allowed". The Sign Company missed this condition on the permit and installed the sign that was proposed, being what it believed was approved.

Subsequently, after the sign was installed, the applicant was notified that the sign was in violation of the City's Downtown Sign Ordinance. The applicant has spoken with the City and desires to keep the sign as installed. To that end, we are requesting an interpretation of Title 14 by the Planning Director. We are providing the enclosed narrative in support of our position.

BACKGROUND:

The property is located along SE McLoughlin Blvd. (Hwy 99E), a State highway, which passes through the City of Milwaukie. Highway 99E is located between the city's riverfront park located west of the highway and the downtown, principally located along Main Street, running parallel to Hwy 99E one block to the east.



View from the South

The character of Hwy 99E (McLoughlin Blvd.) is a 5-lane arterial street connecting Portland to the north with Gladstone and Oregon City to the south. The posted speed limit on McLoughlin Blvd. adjacent to the site is 30 MPH. Typically, a downtown business district has a posted speed limit of 20 MPH. This higher speed along McLoughlin Blvd. does not support the “Pearl District” signage promoted for the Main Street commercial activities.

Generally, Milwaukie’s downtown businesses have not developed fronting onto McLoughlin Blvd. Most of the existing frontage development along McLoughlin Blvd. is parking lots, businesses that front of the east-west oriented side streets or automobile oriented businesses, such as service stations.



Sign with LED pricing lighting.

Despite the current zoning, the character of Hwy 99E remains automobile oriented. The highway is not a “shopping” street, lacking on-street parking or a pedestrian oriented streetscape. The rush of a high volume of through traffic is not supportive of storefront retail. Plans by the City for a pedestrian bridge over McLoughlin Blvd. supports the conclusion that Hwy. 99 is not pedestrian friendly. It does however support automobile accommodating commercial.

Unlike Main Street, at the subject property, the city does not require buildings to be built tight to the sidewalk, nor retail on the ground level nor ground floor windows and openings. The Code clearly differentiates Hwy 99E as being different than Main Street yet the City’s sign ordinance does not make that differentiation. The ordinance does however allow a taller monument sign on McLoughlin Blvd. than elsewhere in the downtown zone, at least implying that there is a distinction.



Cabinet sign alternative.

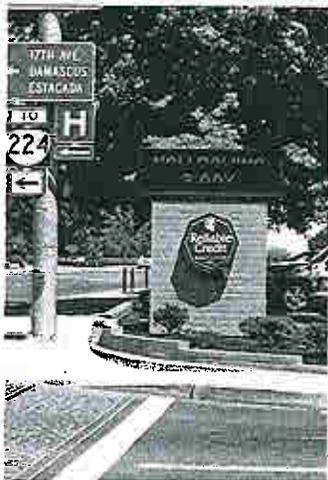
There are two existing gas stations along Hwy 99E within the city’s downtown area. Both stations are located at the Jefferson Street intersection with Hwy 99E. Under the current zoning designations (the applicant’s station is located in the DS district), both gas stations are non-conforming uses. While non-conforming, they remain a necessary part of contemporary American life.

Being an automobile oriented business, the signage needs to be sized for and readable to passing motorists. The business depends upon visibility to attract passing business.

Gas stations are a unique business with unique signage requirements. The gas station sign is required by state law to include the current price of gasoline offered for sale. Gasoline pricing is variable and the prices can go up or down weekly, if not more frequently. Therefore ease of changing the pricing information is a unique need of this business. Two sign choices exist to accommodate the need for changeable pricing. A cabinet sign with manually changed price numbers or a panel sign with LED pricing numerals.

The applicant applied for and inadvertently installed the later type of sign contrary to the approval conditions. The LED light source on the installed sign is only on the price portion of the sign. The balance of the sign is internally an illuminated cabinet sign. The LED lights do not flash or otherwise distract or attract the attention of motorists. The sign is turned off when the gas station is closed. The applicant requests that the sign be allowed as installed.

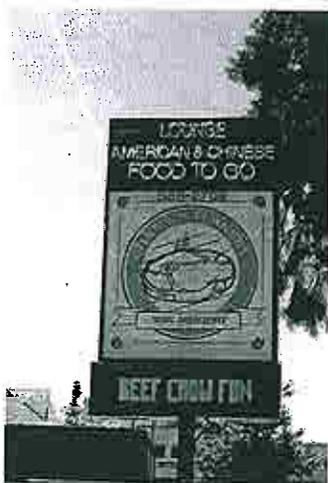
SIMILAR NON-CONFORMING SIGNS:



Reliable Credit Union

Two existing businesses along McLoughlin Blvd. currently have signs with exposed bulbs (either incandescent or LED) which are non-conforming signs in the downtown district under the current Zoning Code. These are the Reliable Credit Union at 10690 Harrison Street and Chan's Steakery, located at 10477 Main Street. This second sign uses similar red LED lights as the gas station sign.

The **Reliable Credit Union** sign was permitted in 2005. This was an existing sign that needed to be relocated due to a right-of-way modification at the intersection with Hwy 99E. The previous sign had been located at the intersection and encroached into the modified right-of-way. A new CMU monument was built adjacent to Hwy 99E right-of-way north of the original sign monument. This sign has changing text using white incandescent bulbs. The City approved the reinstatement of the non-conforming sign since the relocation was not voluntary



Chan's Steakery

The **Chan's Steakery** sign was permitted in 2003 as an alteration of an existing sign. The permit allowed for the addition of an LED message display at the bottom of the existing sign. The application indicated a "matrix monochrome message display" and they checked off that the sign was internally illuminated, which was not accurate. The plans by Able Sign Company specified a "LED Reader Board, 2'-0" x 6'-0"."

The existing portion of the sign has a changing neon sign that alternates between "open" and "lounge" every two to

three seconds. The LED sign at the bottom with red changeable text is on about a six-second rotation.

The sign ordinance in affect in 2003 was silent regarding the use of LED lighting on signs. LED lighting is a relatively new light source and the Code did not anticipate the use of LED light sources. The Code (14.16.040) indicated that signs in commercial zones may be illuminated. The 2003 Code stated “No exposed incandescent lamp which exceeds 15 watts shall be used on the exterior surface of any sign so as to exposed the face of such bulb or lamp to any public street or right-of-way”. The Code otherwise provided for fluorescent lamps or PAR spot or reflector type bulbs were allowed light sources.

ARGUMENTS FOR APPROVAL:

The stated purpose of *Title 14 Signs* is to regulate the design of all signs visible from the right-of-way. The goal of promoting the “neat, clean, orderly and attractive appearance of the community, provide for the safe installation and maintenance of signs” and to “accommodate the need of sign installers while avoiding nuisances to nearby properties”. The sign with LED numeration installed is not contrary to the stated goals and purpose of the Code.

The property is located in the Downtown District and is zoned DS (Downtown Storefront). McLoughlin Blvd. is the western edge of the DS Zone. McLoughlin Blvd. is a 5-lane arterial highway; not a pedestrian shopping street. The standards applicable to Main Street and the various east-west oriented side streets intersecting Main Street are not applicable or appropriate to businesses fronting on McLoughlin Blvd. McLoughlin Blvd. does not share the pedestrian oriented character envisioned for Main Street development.

The business is a gasoline service station. A gas station has unique signage needs and relies on its signage to attract passing business. This business is not located on Main Street; it is not a pedestrian oriented business characteristic of Main Street. The business is located along a high-visibility major arterial street. It is an automobile oriented business.

This gas station is a non-conforming auto dependant business. Automobile Service Stations are a non-conforming use in all Downtown zones. Neither the Code nor the Downtown Guidelines address their unique business characteristics, their unique need for signage or the unique character of McLoughlin Blvd. in the DS Zone.

The area north of Harrison Street is identified as an Auto Accommodating Commercial area between Main Street and McLoughlin Blvd (DC Zone). This acknowledges that this strip of commercial property provides for a gradual transition from the Boulevard to Main Street development.

Properties having frontage along McLoughlin Blvd. are recognized in the Code as having unique characteristics that justify modifications to the Sign Code as applied

elsewhere in the Downtown District. Section 16.14.060 (A) (2) allows a doubling of the allowable height of a freestanding sign located along the McLoughlin frontage, as an example.

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There are several advantages to the LED lighted price indicators. These include:

- 1) the LED light source is an environmentally superior bulb, using far less energy than fluorescent lamps and being increasingly used for "green" reasons and
- 2) the prices can be changed remotely from inside the station,
- 3) the older backlit cabinet signs require an employee to manually go out to change the prices. This is done either from a ladder, risking injury from falling or with a pole with a suction device to grab or reposition the numbers. This exposes the employee and the public in danger if the pole slips or falls, is caught by the wind or otherwise ends up in the lane of traffic.
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The sign as installed substantially meets the intent of the design standards and the stated purpose of Title 14. The LED lights are less bright than a cabinet sign with pricing. The LED sign is more attractive than the alternative cabinet sign. It presents a neat, clean, orderly and attractive appearance. It clearly displays the price of gasoline being sold, protecting the public welfare. The LED sign provides a safer

condition for employees required to change pricing information on the sign. It accommodates the needs of the sign applicant and does not create a nuisance to nearby properties. It does not create "sign clutter". And finally, it does not distract motorists since it does not have flashing or changeable text.

The applicant requests an administrative review of the Code and an interpretation of the Code that would allow the desired sign, as installed, to remain. The above narrative has attempted to show that this is a special circumstance related to a specific piece of property and that strict application of the Code would cause an unnecessary hardship on the applicant. Further, the installed sign provides a neater appearance than the alternative cabinet sign. Finally, it has been explained that the nature of business, a gas station, and the location on McLoughlin Blvd. creates a special circumstance related to the sign.

Attachment 6: Existing Downtown LED Signs

- Reliable Credit

The freestanding illuminated reader board sign at the corner of Harrison St and McLoughlin Blvd has been in existence for at least 10 years. It was approved under a sign ordinance that predates the implementation of the downtown zones. A photo of the sign as it exists today and a photo dating from approximately 1998 are shown below. City records do not indicate the date the sign was originally installed. The sign was moved in 2003 due to the McLoughlin improvement project's acquisition of the portion of the site where the sign was located. Because a public project had required removal of the sign, the owner was allowed to reinstall the sign following the project's completion. The permit to relocate the sign was submitted and approved in 2005 (Permit # 050304), and the sign was installed sometime in 2007.



- Chan's Stakery

The freestanding sign at Chan's Stakery, illustrated below, also includes an electronic display. The permit was approved by the Planning Department on February 26, 2003. The downtown design guidelines were an officially adopted document at the time of approval. However, the approval occurred before the 2003 sign code amendments that placed the downtown zones into their own sign district. As a result, the illumination standards were the same as for other commercial zones within the City. This section of code does not list specific types of allowed sign illumination. The rationale for approval of this reader board sign is the same as the current approval for reader board signs in other commercial zones in the city.



The presence of these signs has limited bearing on the subject of this appeal. Both of these signs were approved under sign codes that were substantively different than the regulations for the current downtown sign district. They are also both counter to the type of signs illustrated in the downtown design guidelines. In staff's view, these signs are a legitimate part of Milwaukie's downtown sign milieu, but are not a type of sign that should be constructed by future downtown development.

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)

CHAPTER 14.16—SIGN DISTRICTS

Last Rev. Ord. #1880 9/19/00

2. Height and/or clearance.

An awning sign may not extend higher than the point at which the roofline intersects the exterior wall, regardless of the existence of a parapet wall. The minimum clearance below an awning on which signage is hung or displayed is 8 feet from the sidewalk or ground level to the lowest portion of the awning, or suspended sign, whichever is lowest.

3. Number.

One awning sign per frontage per occupancy is permitted.

D. Daily display sign.

1. Area.

The maximum permitted area of a daily display sign shall be 8 square feet per display surface and 16 square feet overall, with a maximum height limit of 6 feet above ground level.

2. Number.

One daily display sign per business is permitted.

3. Location.

A daily display sign must be located on the premises with which it is associated, but not within required landscaped areas, except that a daily display sign may be allowed within the public right-of-way or off the premises, subject to the standards of Section 14.20.040.

E. Illumination.

Signs in C-N zones may have external illumination, in addition to lighting as noted in Section 14.24.020. Par spot or reflective type bulbs may be used for indirect illumination of the display surface if properly shielded from direct glare onto streets. Sign illumination shall be directed away from, and not be reflected upon, adjacent premises.

14.16.040. Commercial zone.

No sign shall be erected or maintained in the C-L, DS, DC, DO, DOS, C-G, and C-CS Zones, except as allowed under Section 14.12.010 or as otherwise noted in this section.

A. Freestanding sign.

1. Area.

The maximum permitted display surface area of a freestanding sign shall be computed on 1½ square feet of area per lineal foot of street or highway frontage for the first 100 feet of such frontage, plus 1 square foot of area for each foot of frontage over 100 feet, but not exceeding 300 square feet of sign area per display surface for each sign, or a total of 1,200 square feet for all display surfaces as authorized in Section 14.16.040.A.4.

2. Height and/or clearance.

The maximum height of any portion of a sign or sign structure shall be 25 feet from ground level at its base regardless of location. The minimum clearance below the lowest portion of a freestanding sign and the ground below shall be 14 feet in any driveway or parking area. In the DS, DC, DO, and DOS zones, properties without frontage on McLoughlin Boulevard are limited to a maximum freestanding sign height of 7 feet.

3. Location.

No freestanding sign, or any portion of any freestanding sign, shall be located on or be projected over any portion of a street, sidewalk, or other public right-of-way or property except that those currently existing may project over such right-of-way for a distance not to exceed 2 feet.

4. Number.

One multifaced freestanding sign shall be permitted on a street or highway frontage. Where a frontage exceeds 300 feet in length, 1 additional freestanding sign is permitted for such frontage. No freestanding sign shall be permitted on the same premises where there is a projected or roof sign.

B. Wall sign.

1. Area.

Wall signs shall not exceed in gross area 20 percent of the face of the building to which the sign is attached or on which the sign is maintained. This includes signs painted directly on the building surface.

2. Height and/or clearance.

No wall sign shall extend above the roofline at the wall or the top of a parapet wall, whichever is higher.

3. Number.

No limit, dictated by area requirements.

C. Projecting signs.

1. Area.

Projecting signs shall not exceed in gross area 20 percent of the face of the building to which the sign is attached or on which the sign is maintained. However, if a projecting sign is located on the same building face as a wall sign, the total of all sign surfaces shall not exceed 20 percent of the face of the building.

2. Height and/or clearance.

No projecting sign shall extend above the roofline at the wall or the top of a parapet wall, whichever is higher. Overhead clearance and projection into public rights-of-way shall be maintained so that no sign shall project within 2 feet of the curb nor beyond the distances specified in the following table:

Table 1 Projection of Signs Into Public Rights-of-Way	
Clearance	Maximum Projection into Public Right-of-Way
Less than 8 feet	Not permitted
8 feet	1 foot
8 to 16 feet	1 foot plus 6 inches for each foot of clearance in excess of 8 feet
Over 16 feet	5 feet

3. Location.

No projecting sign shall be located within 20 feet of another projecting sign. Of two signs not conforming to this provision, the first lawfully erected sign may remain.

4. Number.

Only 1 projecting sign will be permitted on the same business frontage. No projecting sign shall be permitted on the same premises where there is a freestanding sign or roof sign.

D. Roof signs.

1. Area.

Total sign area for roof signs shall not exceed 1 square foot for each lineal foot of street frontage of the parcel of real property on which the sign is to be located.

2. Height and/or clearance.

The maximum height of a roof sign shall not exceed 8 feet above the highest point of the building. All roof signs shall be installed or erected in such a manner that there shall be no visible angle iron or similar sign support structure.

3. Location.

No roof sign shall be erected unless and until approved by the Fire Marshal after a finding that the site, type, and location of the sign will not substantially interfere with fire fighting. Roof signs may not project over the parapet wall.

4. Number.

Roof signs are permitted instead of, but not in addition to, projecting signs or freestanding signs.

E. Awning sign.

1. Area.

The maximum permitted display surface of an awning sign which is painted onto, attached to, or affixed to, the surface of an awning, is 25 percent of the surface of the awning measured in vertical distance times length. For a sign hung or suspended underneath an awning, the sign shall not exceed in area 1 square foot per 1 lineal foot of awning length.

2. Height and/or clearance.

An awning sign may not extend higher than the point at which the roofline intersects the exterior wall, regardless of the existence of a parapet wall. The minimum clearance below an awning on which signage is hung or displayed is 8 feet from the sidewalk or ground level to the lowest portion of the awning, or suspended sign, whichever is lowest.

3. Number.

One awning sign per frontage per occupancy is permitted.

4. Illumination of awning signs.

Awning signs shall have external illumination only in the DS, DC, DO, DR, and DOS zones. Internal illumination is prohibited in these zones.

F. Under-marquee signs.

1. Area.

Under-marquee signs shall not exceed 6 square feet per display surface or 12 square feet in overall sign area.

2. Height and/or clearance.

Under-marquee signs must have 8 feet of clearance below the lowest portion of the sign and the ground below.

3. Location.

Under-marquee signs shall not project within 2 feet of the curb.

4. Number.

No limit, dictated by area requirements.

G. Billboard signs.

Billboard signs existing at the effective date of this Ordinance shall be permitted to remain and be maintained in reasonable repair, but may not be replaced or relocated.

CHAPTER 14.16—SIGN DISTRICTS

Last Rev. Ord. #1880 9/19/00

H. Daily display sign.

1. Area.

The maximum permitted area of a daily display sign shall be 12 square feet per display surface and 24 square feet overall, with a maximum height limit of 6 feet above ground level.

2. Number.

One daily display sign per business is permitted.

3. Location.

A daily display sign must be located on the premises with which it is associated, but not within required landscaped areas, except that a daily display sign may be allowed within the public right-of-way or off the premises, subject to the standards of Section 14.20.040.

I. Illumination.

Signs in commercial zones may be illuminated. Within 500 feet of any residentially zoned property when fluorescent tubes are used for interior illumination of a sign, such illumination shall not exceed illumination equivalent to 425 milliamperes rating tubes behind a plexiglass face with tubes spaced at least 7 inches, center to center. No exposed incandescent lamp which exceeds 15 watts shall be used on the exterior surface of any sign so as to expose the face of such bulb or lamp to any public street or public right-of-way. Par spot or reflective type bulbs may be used for indirect illumination of the display surface if properly shielded from direct glare onto streets.

14.16.050. Manufacturing zone.

No sign shall be erected or maintained in an M or BI zone, except as allowed under Section 14.12.010 or as otherwise noted in this section.

A. Freestanding sign.

1. Area.

The maximum permitted area of a freestanding sign shall be computed on 1½ square feet of area per lineal foot of street or highway frontage for the first 100 feet of such frontage plus 1 square foot of area for each foot of frontage over 100 feet, but not exceeding 250 square feet of sign area per display surface for each sign, or a total of 1,000 square feet for all display surfaces.

2. Height and/or clearance.

The maximum height of any portion of a sign or sign structure shall be 25 feet from ground level at its base regardless of location. The minimum clearance below the lowest portion of a freestanding sign and the ground below shall be 14 feet in any driveway or parking area.

14.16.040

14.16.040 Commercial zone.

No sign shall be erected or maintained in the C-L, C-G and C-CS zones, except as allowed under Section 14.12.010 or as otherwise noted in this section.

A. Freestanding Sign.

1. Area. The maximum permitted display surface area of a freestanding sign shall be computed on one and one-half square feet of area per lineal foot of street or highway frontage for the first one hundred feet of such frontage, plus one square foot of area for each foot of frontage over one hundred feet, but not exceeding three hundred square feet of sign area per display surface for each sign, or a total of one thousand two hundred square feet for all display surfaces as authorized in Section 14.16.040A4.

2. Height and/or Clearance. The maximum height of any portion of a sign or sign structure shall be twenty-five feet from ground level at its base regardless of location. The minimum clearance below the lowest portion of a freestanding sign and the ground below shall be fourteen feet in any driveway or parking area.

3. Location. No freestanding sign, or any portion of any freestanding sign, shall be located on or be projected over any portion of a street, sidewalk or other public right-of-way or property, except that those currently existing may project over such right-of-way for a distance not to exceed two feet.

4. Number. One multifaced freestanding sign shall be permitted on a street or highway frontage. Where a frontage exceeds three hundred feet in length, one additional freestanding sign is permitted for such frontage. No freestanding sign shall be permitted on the same premises where there is a projected or roof sign.

B. Wall Sign.

1. Area. Wall signs shall not exceed in gross area twenty percent of the face of the building to which the sign is attached or on which the sign is maintained. This includes signs painted directly on the building surface.

2. Height and/or Clearance. No wall sign shall extend above the roofline at the wall or the top of a parapet wall, whichever is higher.

3. Number. No limit, dictated by area requirements.

C. Projecting Signs.

1. Area. Projecting signs shall not exceed in gross area twenty percent of the face of the building to which the sign is attached or on which the sign is maintained. However, if a projecting sign is located on the same building face as a wall sign, the total of all sign surfaces shall not exceed twenty percent of the face of the building.

2. Height and/or Clearance. No projecting sign shall extend above the roofline at the wall or the top of a parapet wall, whichever is higher. Overhead clearance and projection into public rights-of-way shall be maintained so that no sign shall project within two feet of the curb nor beyond the distances specified in the following table:

**Table 14.16.040
Projection of Signs Into Public
Rights-of-Way**

Clearance	Maximum Projection Into Public Right-of-Way
Less than eight feet	Not permitted
Eight feet	One foot
Eight to sixteen feet	One foot plus six inches for each foot of clearance in excess of eight feet
Over sixteen feet	Five feet

3. Location. No projecting sign shall be located within twenty feet of another projecting

14.16.040

sign. Of two signs not conforming to this provision, the first lawfully erected sign may remain.

4. Number. Only one projecting sign will be permitted on the same business frontage. No projecting sign shall be permitted on the same premises where there is a freestanding sign or roof sign.

D. Roof Signs.

1. Area. Total sign area for roof signs shall not exceed one square foot for each lineal foot of street frontage of the parcel of real property on which the sign is to be located.

2. Height and/or Clearance. The maximum height of a roof sign shall not exceed eight feet above the highest point of the building. All roof signs shall be installed or erected in such a manner that there shall be no visible angle iron or similar sign support structure.

3. Location. No roof sign shall be erected unless and until approved by the fire marshal after a finding that the site, type, and location of the sign will not substantially interfere with fire fighting. Roof signs may not project over the parapet wall.

4. Number. Roof signs are permitted instead of, but not in addition to, projecting signs or freestanding signs.

E. Awning Sign.

1. Area. The maximum permitted display surface of an awning sign which is painted onto, attached to or affixed to the surface of an awning is twenty-five percent of the surface of the awning measured in vertical distance times length. For a sign hung or suspended underneath an awning, the sign shall not exceed in area one square foot per one lineal foot of awning length.

2. Height and/or Clearance. An awning sign may not extend higher than the point at which the roofline intersects the exterior wall, regardless of the existence of a parapet wall.

The minimum clearance below an awning on which signage is hung or displayed is eight feet from the sidewalk or ground level to the lowest portion of the awning, or suspended sign, whichever is lowest.

3. Number. One awning sign per frontage per occupancy is permitted.

F. Under-Marquee Signs.

1. Area. Under-marquee signs shall not exceed six square feet per display surface or twelve square feet in overall sign area.

2. Height and/or Clearance. Under-marquee signs must have eight feet of clearance below the lowest portion of the sign and the ground below.

3. Location. Under-marquee signs shall not project within two feet of the curb.

4. Number. No limit, dictated by area requirements.

G. Billboard Signs. Billboard signs existing at the effective date of the ordinance codified in this chapter shall be permitted to remain and be maintained in reasonable repair, but may not be replaced or relocated.

H. Daily Display Sign.

1. Area. The maximum permitted area of a daily display sign shall be twelve square feet per display surface and twenty-four square feet overall, with a maximum height limit of six feet above ground level.

2. Number. One daily display sign per business is permitted.

3. Location. A daily display sign must be located on the premises with which it is associated, but not within required landscaped areas, except that a daily display sign may be allowed within the public right-of-way or off the premises, subject to the standards of Section 14.20.040.

I. Illumination. Signs in commercial zones may be illuminated. Within five hundred feet of any residentially zoned property when fluo-

14.16.040

rescent tubes are used for interior illumination of a sign, such illumination shall not exceed illumination equivalent to four hundred twenty-five milliamperes rating tubes behind a plexiglass face with tubes spaced at least seven inches, center to center. No exposed incandescent lamp which exceeds fifteen watts shall be used on the exterior surface of any sign so as to expose the face of such bulb or lamp to any public street or public right-of-way. Par spot or reflective type bulbs may be used for indirect illumination of the display surface if properly shielded from direct glare onto streets. (Ord. 1917 § 3 (Exh. B) (part), 2003; Ord. 1916 § 3 (Exh. B) (part), 2003; Ord. 1880 § 6 (Exh. A) (part), 2000; Ord. 1733 § 1(1)(Exh. A) (part), 1993)

14.16.050 Manufacturing zone.

No sign shall be erected or maintained in an M or BI zone, except as allowed under Section 14.12.010 or as otherwise noted in this section.

A. Freestanding Sign.

1. Area. The maximum permitted area of a freestanding sign shall be computed on one and one-half square feet of area per lineal foot of street or highway frontage for the first one hundred feet of such frontage plus one square foot of area for each foot of frontage over one hundred feet, but not exceeding two hundred fifty square feet of sign area per display surface for each sign, or a total of one thousand square feet for all display surfaces.

2. Height and/or Clearance. The maximum height of any portion of a sign or sign structure shall be twenty-five feet from ground level at its base regardless of location. The minimum clearance below the lowest portion of a freestanding sign and the ground below shall be fourteen feet in any driveway or parking area.

3. Location. No freestanding sign, or any portion of any freestanding sign, shall be lo-

cated on or be projected over any portion of a street, sidewalk or other public right-of-way or property except that those currently existing may project over such right-of-way for a distance not to exceed two feet.

4. Number. One multifaced freestanding sign designating the principal goods, products, facilities or services available on the premises shall be permitted on a street or highway frontage. Where a frontage exceeds three hundred feet in length, one additional freestanding sign is permitted for such frontage. No freestanding sign shall be permitted on the same premises where there is a roof sign.

B. Wall Sign.

1. Area. Wall signs shall not exceed in gross area ten percent of the face of the building to which the sign is attached or on which the sign is maintained. This includes signs painted directly on the building surface.

2. Height and/or Clearance. No wall sign shall extend above the roofline at the wall or the top of a parapet wall, whichever is higher.

3. Number. No limit, dictated by area requirements.

C. Roof Signs.

1. Area. Total sign area for roof signs shall not exceed one square foot for each lineal foot of street frontage of the parcel of real property on which the sign is to be located.

2. Height and/or Clearance. The maximum height of a roof sign shall not exceed eight feet above the highest point of the building. All roof signs shall be installed or erected in such a manner that there shall be no visible angle iron or similar sign support structure.

3. Location. No roof sign shall be erected unless and until approved by the fire marshal after a finding that the site, type and location of the sign will not substantially interfere with fire fighting. Roof signs may not project over the parapet wall.

14.16.050

4. Number. Roof signs are permitted instead of, but not in addition to, freestanding signs.

D. Awning Sign.

1. Area. The maximum permitted display surface of an awning sign which is painted onto, attached to or affixed to the surface of an awning is twenty-five percent of the surface of the awning measured in vertical distance times length. For a sign hung or suspended underneath an awning, the sign shall not exceed in area one square foot per one lineal foot of awning length.

2. Height and/or Clearance. An awning sign may not extend higher than the point at which the roofline intersects the exterior wall, regardless of the existence of a parapet wall. The minimum clearance below an awning on which signage is hung or displayed is eight feet from the sidewalk or ground level to the lowest portion of the awning or suspended sign, whichever is lowest.

3. Number. One awning sign per frontage per occupancy is permitted.

E. Billboard Signs. Billboard signs existing at the effective date of the ordinance codified in this chapter shall be permitted to remain and be maintained in reasonable repair, but may not be replaced or relocated.

F. Daily Display Sign.

1. Area. The maximum permitted area of a daily display sign shall be twelve square feet per display surface and twenty-four square feet overall, with a maximum height limit of six feet above ground level.

2. Number. One daily display sign per business is permitted.

3. Location. A daily display sign must be located on the premises with which it is associated, but not within required landscaped areas, except that a daily display sign may be allowed within the public right-of-way or off the prem-

ises, subject to the standards of Section 14.20.040.

G. Illumination. Signs in manufacturing zones may be illuminated. Within five hundred feet of any residentially zoned property when fluorescent tubes are used for interior illumination of a sign, such illumination shall not exceed illumination equivalent to four hundred twenty-five milliamperes rating tubes behind a plexiglass face with tubes spaced at least seven inches, center to center. No exposed incandescent lamp which exceeds fifteen watts shall be used on the exterior surface of any sign so as to expose the face of such bulb or lamp to any public street or public right-of-way. Par spot or reflective-type bulbs may be used for indirect illumination of the display surface if properly shielded from direct glare onto streets or other property. (Ord. 1880 Exh. A (part), 2000: Ord. 1733 § 1(1) (Exh. A) (part), 1993)

14.16.060 Downtown zones.

No sign shall be erected or maintained in the DC, DS, DO, DR and DOS zones, except as allowed under Section 14.12.010 or as otherwise noted in this section.

A. Freestanding Sign. In the downtown zones, freestanding signs shall be monument type only. The sign face shall be no less than sixty percent of the total area of the monument. Pole signs are prohibited.

1. Area. The maximum permitted display surface area of a freestanding sign shall be computed on one square foot of area per lineal foot of street or highway frontage.

a. In the DO zone the maximum area shall not exceed forty square feet per display surface and eighty square feet overall.

b. In the DR and DOS zones the maximum area shall not exceed thirty-two square feet per display surface and sixty-four square feet overall.

14.16.060

2. Height and/or Clearance.
 - a. In the DC, DS and DO zones, free-standing signs are limited to a maximum height of seven feet. Properties with frontage on McLoughlin Boulevard may have free-standing signs with a maximum height of fifteen feet and shall only be located along the McLoughlin Boulevard frontage. Freestanding sign height shall be measured from the top of the sign to the lowest finished grade within a six foot horizontal distance from the sign.
 - b. In the DR and DOS zones freestanding signs are limited to a maximum height of six feet above grade.
3. Number. One freestanding sign is permitted on a street or highway frontage.
- B. Wall Sign.
 1. Area. The maximum permitted area of a wall sign shall be twenty percent of the building face.
 - a. In the DR and DOS zones the maximum permitted area of a wall sign shall be sixteen square feet.
 2. Height and/or Clearance. No wall sign shall extend above the roofline at the wall or the top of a parapet wall, whichever is higher.
 3. Number.
 - a. Dictated by area requirements.
 - b. In the DR and DOS zones one wall sign is permitted in addition to one freestanding sign.
 4. Location. Limited to the building surface or surfaces facing the public right-of-way only.
- C. Awning Sign.
 1. Area. The maximum permitted display surface of an awning sign which is painted onto, attached to, or affixed to, the surface of an awning, is twenty-five percent of the surface of the awning measured in vertical distance times length. For a sign hung or suspended underneath an awning, the sign shall

not exceed in area one square foot per one lineal foot of awning length.

2. Height and/or Clearance. An awning sign may not extend higher than the point at which the roofline intersects the exterior wall, regardless of the existence of a parapet wall. An awning sign may not be located higher than the first floor of a building or fifteen feet, whichever is less. The minimum clearance below an awning on which signage is hung or displayed is eight feet from the sidewalk or ground level to the lowest portion of the awning or suspended sign, whichever is lowest.

3. Number. One awning sign per frontage per occupancy is permitted.

D. Daily Display Sign.

1. Area. The maximum permitted area of a daily display sign shall be eight square feet per display surface and sixteen square feet overall, with a maximum height limit of six feet above ground level.

2. Number. One daily display sign per business is permitted.

3. Location. A daily display sign must be located on the premises with which it is associated, but not within required landscaped areas, except that a daily display sign may be allowed within the public right-of-way or off the premises, subject to the standards of Section 14.20.040.

E. Projecting Signs.

1. Area. Projecting signs shall not exceed in gross area twenty percent of the face of the building to which the sign is attached or on which the sign is maintained. However, if a projecting sign is located on the same building face as a wall sign, the total of all sign surfaces shall not exceed twenty percent of the face of the building.

2. Height and/or Clearance. No projecting sign shall extend above the roofline at the wall or the top of a parapet wall, whichever is

14.16.060

higher. No projecting sign shall project more than five feet from a building. Overhead clearance and projection into public rights-of-way shall be maintained so that no sign shall project within two feet of the curb nor beyond the distances specified in the following table:

**Table 14.16.050
Projection of Signs Into Public Rights-of-Way**

Overhead Clearance	Maximum Projection Into Public Right-of-Way
Less than eight feet above finished floor/grade	Not permitted
Eight feet above finished floor/grade	One foot
Eight to sixteen feet above finished floor/grade	One foot plus six inches for each foot of clearance in excess of eight feet
Over sixteen feet above finished floor/grade	Five feet

3. Location. No projecting sign shall be located within twenty feet of another projecting sign. Of two signs not conforming to this provision, the first lawfully erected sign may remain.

4. Number. Only one projecting sign will be permitted on the same business frontage. No projecting sign shall be permitted on the same premises where there is a freestanding sign.

F. Under-Marquee Signs.

1. Area. Under-marquee signs shall not exceed six square feet per display surface or twelve square feet in overall sign area.

2. Height and/or Clearance. Under-marquee signs must have eight feet of clear-

ance below the lowest portion of the sign and the ground below.

3. Location. Under-marquee signs shall not project within two feet of the curb.

4. Number. No limit, dictated by area requirements.

G. Illumination. Internally illuminated cabinet signs are discouraged in the downtown zones. Internally illuminated signs may be permitted subject to design review approval by the design and landmarks commission per the procedures outlined in Section 19.1011.3. In considering internally illuminated signs, the design and landmarks commission shall use the downtown design guidelines as approval criteria, as provided under subsection 19.312.7F. All other illuminated signs may be permitted subject to the following:

1. Backlit or "halo" illuminated signs with individual letters are permitted as illuminated signs.

2. Par spot or reflective type bulbs may be used for indirect illumination of the display surface if properly shielded from direct glare onto streets.

3. Awning signs shall not be illuminated, either internally or externally unless approved by the design and landmarks commission.

4. Sign illumination shall be directed away from, and not be reflected upon, adjacent premises. (Ord. 1917 § 3 (Exh. B) (part), 2003; Ord. 1916 § 3 (Exh. B) (part), 2003; Ord. 1733 § 1(1) (Exh. A) (part), 1993)

public hearing before the DLC. Smaller changes that do not effect the architecture of a building and create an inconsistency with the design guidelines will be reviewed by staff.

The following are the key elements of the proposed design review process.

- New construction and significant changes to buildings are reviewed at a public hearing by the Design and Landmarks Commission against design guidelines.
- The review process has been minimized for minor work/projects by allowing staff review (Type I) of those changes that will not significantly alter the architectural character of a building, with staff having discretion to "kick up" to a Type II review.
- DLC may grant modifications to design standards with findings, rather than through a variance. Design standards are closely tied to the architecture of a building. This provision is included to allow flexibility when an acceptable design solution meets the intent of the particular design standard as well as the design guidelines.
- DLC is the review authority for variances to development standards. Development standards include building height, floor area ratio and street setbacks. These elements can have bearing on design and the overall context of the downtown and therefore staff believes any variation is appropriate for consideration by the DLC.
- "Stand alone" residential¹ development is exempt from design review. This exemption is necessary to meet state law requirements that development involving "needed housing"² have the option to only be subject to clear and objective standards. The subjective nature of design guidelines and a design review process does not meet this requirement.
- Mixed-use buildings require design review for non-residential portion. Residential portion of the building only subject the design standards or may elect full design review.

Downtown Sign Code

The draft downtown design guidelines include specific guidelines for signs. It was determined that rather than have a majority of signs in the downtown subject to a design review process, that key elements of the sign guidelines be included in the Sign Ordinance. This would allow most signs to be reviewed and approved through administrative sign permits, rather than through a potentially lengthy design review application. Only those signs that have potential to impact the design character of downtown would require design review approval by the DLC.

¹ "Stand alone" residential is a development that is entirely residential with no mixed use.

² Needed housing under Oregon's Statewide Planning Goals and Guidelines means types determined to meet the need shown for housing within an Urban Growth Boundary. Until housing target numbers are met for in the Metro region, all new housing is considered "needed."

The following are the key elements of proposed sign code amendments to be consistent with design guidelines.

- Reduces the height and area of freestanding signs.
- Limit awning signs to first floor of building and/or no higher than 15 feet.
- Discourage internally illuminated cabinet signs, requiring design review by DLC.
- All other internally illuminated signs require design review by DLC.
- Backlit, individually lettered signs permitted.

Membership in the DLC

The Milwaukie Municipal Code does not currently provide for a Planning Commission member to sit on DLC and limits sitting on more than one board or commission. A proposed amendment to Section 19.323.4 of the Zoning Ordinance would allow one member of the Planning Commission to simultaneously serve on the Design and Landmarks Commission.

Decision Making Process

As a joint public hearing of the Planning Commission and Design and Landmarks Commission, the following are the decisions-making procedures for each commission:

Design and Landmarks Commission

- Section 2.18.010.D of the Milwaukie Municipal Code establishes the Design and Landmarks Commission's authority to "review and recommend appropriate design review processes and procedures to the City Council."

Planning Commission

- Compliance with the Comprehensive Plan and Zoning Ordinance

Zoning amendments are subject to approval criteria contained in the Zoning Ordinance and must be consistent with Comprehensive Plan policies. Staff believes the proposal is consistent with both. The analysis that demonstrates compliance is found in Attachment 4.

- Applicable Code Provisions

Zoning Ordinance: 900 – Amendments & 1011.5 – Legislative Actions



TO: Milwaukie Design and Landmarks Commission

FROM: Alice Rouyer, Interim Community Development Director *ACR*
Kenneth Kent, Associate Planner *KK*

DATE: January 23, 2002

SUBJECT: Item II – Sign Ordinance Amendment for Downtown Zones

Based on the sign guidelines developed for the Downtown Design Review Project, staff feels it is appropriate to consider amendments to the Sign Ordinance to better reflect the intent of the Design Guidelines. The current sign regulations for the Downtown Zones are for the most part the same as the standards contained in the Commercial Zone and Residential-Office-Commercial Zone portions of the Sign Ordinance. These standards apply throughout the City. Given the higher design standards for the downtown, it makes sense to have compatible sign regulations. If the intent is to have signs that are consistent with the character of the downtown, it would be more effective to set the minimum standard through ordinance rather than through guidelines.

Staff is seeking the following input and direction from the DLC regarding Downtown sign standards:

1. Are amendments to the Sign Ordinance appropriate?
2. Are the proposed sign standards adequate?
3. Should the DLC review internally illuminated signs?
4. Are there other sign types or sign locations that should be subject to DLC review?

The proposed design review process for Downtown does not include review of signs by the Design and Landmarks Commission (DLC). This was discussed in general and the consensus was that it may not be appropriate for every sign to be considered by the DLC. As it is currently structured, the existing Sign Ordinance provides the overall authority for the type, size and location of signs. The Sign Guidelines would only be advisory. Therefore, if we do not have a review process for signs, other than an administrative staff review, we have limited ability to impose any of the sign guidelines.

In order to minimize the review process for signs while still achieving the intent of the proposed sign guidelines, staff has drafted an amended sign code for the Downtown Zones that incorporates the intent of the sign guidelines and includes review of certain signs by the DLC. In this way, signs that can be approved by staff will be more in keeping with the design standards established for the Downtown, while providing for a discretionary review process before the DLC for those signs that have potential aesthetic impacts.

The following briefly summarizes the key points of the draft sign standards for the Downtown Zones.

Freestanding sign height –Currently freestanding signs in the Downtown Zones that have frontage on McLoughlin can be 25 feet in height. For those properties without frontage on McLoughlin the maximum height is 7 feet. The proposed standards reduce the height for properties fronting McLoughlin to 15 feet. The area of a freestanding sign under current standards can be up to 300 square feet per display surface. The proposed downtown standards reduce the maximum area to 50 square feet per display surface with a maximum of 100 square feet of total area. The proposed code also prohibits pole signs as a type of freestanding sign. The proposed regulations require that freestanding signs in the Downtown Zones be of a monument type only where the base of the sign is equal to with width of the sign face.

Illumination - Currently, internally illuminated signs are permitted in the Downtown Zones, except for awning signs. Current standards require that awning signs in the Downtown Zones have external illumination only. The draft sign guidelines encourage use of external illumination, such as “gooseneck” lights and back lit, “halo” type signs. Based on this sign guideline, the proposed sign code requires that all signs in the Downtown Zones have external illumination. Internally illuminated signs may be permitted, subject to approval by the DLC.

Awning Signs -The height of awning signs is currently limited to a point where the roof intersects the exterior wall. The proposed regulations limit awning sign height to the first floor of the building.

Roof Signs – Under the current standards, roof signs are permitted in all but the Downtown Residential Zone. Given the Downtown Design Guidelines, it is staff’s opinion that roof signs would not be consistent with character of the Downtown. The proposed regulations do not allow roof signs in the Downtown Zones.

DLC Sign Review - The DLC would review requests for internally illuminated signs. Requests for variances to Downtown sign standards would be considered by the DLC.

Murals/Public Art – The current sign standards include an exemption for painted wall decorations, when not accompanied by a written message. This has been interpreted to allow murals. However, the distinction between a mural as art and a mural as a sign can be difficult given constitutional law regarding free speech. The proposed sign code amendments eliminate the exemption that applies to murals. Murals would then be

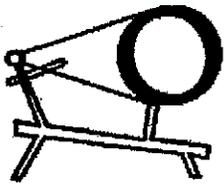
considered as wall signs in terms of permitted size and would be limited to 20 percent of the wall on which they are located.

The question of murals ties into review of public art. Under the current draft of the design review process for the Downtown, public art is subject to review by the DLC. The DLC may wish to discuss the type of art that are anticipated. The draft Design Guidelines address art that is a part of a particular development. A question to consider is whether the DLC should be the body to review all public art in the Downtown Zones.

Attached is a copy of the proposed amendments to Sign Ordinance with proposed deletions shown on ~~striketrough~~ and additions shown in underline. Just the portions of the code that are to be changed have been provided. In terms of how this fits into the overall process of the Downtown Design Review Project, tonight's meeting is intended to receive comments from the DLC, and then for staff to follow-up with revisions to be brought back at a public hearing along with the Design Guidelines and Design Review code. Also attached is an updated project schedule that has the DLC conducting a public hearing on February 27, 2002, followed by the Planning Commission on March 26, 2002 and City Council on May 7, 2002.

Exhibits

- A - Draft Downtown Sign Code Amendments
- B - Sign Guidelines portion of the Downtown Design Guidelines
- C - Updated Project Schedule



Oregon Worsted Company



Mill End Store



Real Estate September 23, 2010

Ryan Marquardt
Associate Planner
City of Milwaulkie Planning Department
6101 SE Johnson Creek Blvd
Milwaulkie, Oregon 97206
503-774-8236

Re: Ap-10-01 Uion 76 Station

Milwaulkie Planning Commission

Modern Lighting Fixtures will all convert to LED Lights within 5 TO 10 Years.

This particular sign is not offensive.

LEDs conserve energy and last much longer than incondesent lighting. We should encourage there usage.

Sincerely,

Howard N. Dietrich Jr.

cc Nabil Kanso
10966 SE McLoughlin Blvd.
Milwaulkie, Oregon