



**City of Sherwood  
PLANNING COMMISSION  
Sherwood City Hall  
22560 SW Pine Street  
Sherwood, OR 97140  
January 13, 2009 – 7PM**

### **Business Meeting – 7:00 PM**

1. **Call to Order/Roll Call**
2. **Agenda Review**
3. **Consent Agenda – Draft minutes from 12/9/08**
4. **Staff Announcements**
5. **Council Announcements (Mayor Keith Mays, Planning Commission Liaison)**
6. **Community Comments** (*The public may provide comments on any non-agenda item*)
7. **Old Business:**
  - a. **PA 08-01 - Brookman Road Concept Plan continuation of discussion.** The Planning Commission will continue deliberations on the proposed concept plan and comprehensive plan amendments. The Planning Commission will make a recommendation to the City Council who will make the ultimate decision. The concept plan identifies zoning and provides strategies and recommendations on transportation, parks, infrastructure, and habitat friendly development. The date of the City Council hearing on the matter will be determined at the close of the Planning Commission hearing.
  - b. **PA 08-03 – Sign Code update** – The City will continue deliberation on updates to the sign ordinance to limit the height and size of free-standing signs city-wide with specific exceptions and to modify the non-conforming sign requirements so that signs that are non-conforming due to design or under a certain height or size are not required to come into compliance within a specific period of time.
8. **Comments from Commission**
9. **Next Meeting: 1/27/09**
10. **Adjourn**

**TABLE COPY**



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PLANNING COMMISSION  
Sherwood City Hall  
22560 SW Pine Street  
Sherwood, OR 97140  
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**City of Sherwood, Oregon**  
**Draft Planning Commission Minutes**  
**December 9, 2008**

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**Commission Members Present:**

Chair Allen  
Jean Lafayette  
Matt Nolan  
Raina Volkmer  
Adrian Emery

**Staff:**

Julia Hajduk, Planning Manager  
Heather Austin, Senior Planner  
Karen Brown, Recording Secretary

**Commission Members Absent:**

Todd Skelton

**City Attorney: Heather Martin**

**Council Liaison –**

1. **Call to Order/Roll Call** – **Chair Allen** called the meeting to order. **Karen Brown** called roll
2. **Consent Agenda** – **Chair Allen** asked if anyone had comments or changes to make to the October 14, 2008 draft meeting minutes. No changes were made. Commissioner Lafayette made a motion to approve the consent agenda. The motion was seconded by Commissioner Walker and all were in favor, the motion carried.
3. **Staff Announcements** – There were no staff announcements made at this meeting.
4. **City Council Comments** – **Mayor Mays** had been present during the work session, but was not at the meeting. There were no City Council comments made.
5. **Community Comments** – No community comments were given.
6. **Old Business**
  - a. **Chair Allen** re-opened PA08-01 The Brookman Road Concept Plan continuation. He started by summarizing the process to this point. The Plan has been in review with the Planning Commissioner for a number of months. There have been public hearings held as well as several work sessions over the spring and summer. Tonight's meeting is another public hearing opportunity for comments from the public. He read the public hearing statement, and then asked for any exparte contact or conflicts of interest. He and Commissioner Volkmer both disclosed that they live in the Arbor Terrace neighborhood that could potentially be affected by decisions made on this plan. He then asked Julia to present her staff report.

**Julia Hajduk** – began with a brief summary of the history of the project to date. The 1<sup>st</sup> public hearing was held in June of 2008. Many questions were raised both by the Planning Commission and members of the public and additional information was requested. Staff then broke those out into a series of work sessions during the past several months. Some changes

have been directed by the Commission and currently staff is moving forward with the directives. The Staff report being reviewed in this meeting is a modification to the June 3<sup>rd</sup> Staff report. While there are some changes, it has been built upon the original Steering Committee recommendations. The Steering Committee recommendations are exhibits 1 – 4, and there are recommended conditions throughout the Staff Report based on new information received and questions that were answered in those work sessions. This Staff Report contains a recommendation to forward a recommendation to the City Council for the updated hybrid map and zoning map changes that are identified in exhibit 9. The area of employment has also been a topic of many discussions. Due to the fact that there are still many unknowns within the Brookman Road connector, staff has recommended some specific conditions as well as a policy analysis for Council's consideration that is on page 25 of the Staff Report. Julia read the policy analysis to the commission and public and with that closed her staff report presentation.

Chair Allen asked what the Council would potentially do with the language included in her conditions.

Julia explaining what some of the options could be: they could proceed with adoption, adoption with specific additional amendments to the comprehensive plan regarding phasing or possibly adopt the concept plan and only implement portions through the comp plan map changes. The Council will need to decide at a policy level how they want to proceed with the project.

Chair Allen asked if an option for the Commission would be to strengthen the language from a policy analysis to one or more policy recommendations.

Julia agreed.

Commissioner Emery asked what the time constraints are that have been set by Metro and what Metro's options are if the time constraints are not met.

Julia was not aware of a specific deadline date. She noted that we are already beyond the original date required for a response. An extension was requested. As long as progress is being shown she believes they will not raise too much of an issue. There are however funding restraints. We have received funding through the Metro Construction Excise tax funds. The last payment of those funds is paid upon adoption of something. That should not be the driving factor, but is something to be considered. We do need to continue to proceed and show that an effort is being made. Julia added that this issue has been with the Planning Commission for almost 6 months now and that something needs to get to the City Council for their consideration at a policy level.

Commissioner Lafayette asked what Julia would predict the Council doing with a partial recommendation from the Commission and if the Council could send it back to the Commission.

Julia explained that there are basically 3 distinct areas. She sees that there are several options that the Council could take in making their policy decision that include: taking what is in place now and what is in the near future and move the plan on to implementation, or implement the plan in pieces and not implement the central piece and send that back at a later date, they could also adopt the concept plan but choose not to implement it, they could also say they are not going to adopt or implement the plan, etc. Julia feels that this is a conversation the Council needs to begin having very soon.

Chair Allen gave a quick history for the people in the audience to help them understand the process and how it has come to this point. He then opened the meeting up for public testimony.

**Maureen Pierce** a Sherwood resident testified that she understands that the proposal is for 11 units where she lives and 11 around her and 24 units across the street. She feels this will impact her quality of life as well as her neighbors that are all on septic systems and wells. She feels there will be an increase in traffic and crime in the area due to the location of an apartment building. She is against the proposal.

**Dennis Derby** who, with partners, owns land in the Brookman Road addition area and was also on the Steering Committee testified that his main concern is the wetland area that is identified in the center of the concept plan. He provided copies of a handout that he wanted the Commission to see. (That exhibit will be labeled as 14-B in the record). There is a potential that the concept plan includes some mapping of a wetland 4-5 acres in size that through their wetland delineation may only be 4000 sq. ft. There may be approximately 4 acres of additional buildable land that could be added to the residential area.

**Lisa Jo Frech** testified on behalf of Raindrops to Refuge. Their main concern is Green Design. They strongly advocate the use of "Green Design Principals", which can take place across a wide range of green. Raindrops to Refuge will be more than willing to assemble a panel of experts to help city and county councils and staff to discuss what has happened in other areas. Their support of the project is contingent upon use of "Green Design Principles." They are writing a special grant to pay for the local experts to assist the Commission. They are also creating a resource library of "Green Development Resources" collected from all around the state and the country, so that people can learn from others experiences.

Commissioner Lafayette asked how the Commission could change or improve what they have done so far to highlight the idea of Green Building.

Ms. Frech directed the question to Julia whose response was to say that the recommendations in the Comprehensive Plan already say "encourage use of low impact development practices and storm water system designs where appropriate and permissible that mimic natural hydrologic processes, minimize impacts to natural resources and eliminate pollution to water sheds." That is a proposed policy within the comprehensive plan to implement the Brookman Road concept plan.

**David DeHarpport** introduced himself as a property owner (with partners) of several pieces of property on the eastern section of the concept plan. They do support the draft zoning plan and the concept plan with the exception of the east park. They have drafted a letter with several points defending their suggestion for moving the park further to the west. They respectfully request that the Commission consider relocating the park to the eastern sub-area as shown on the July map.

**Craig Larkin** a Sherwood resident living on Redfern Drive is opposed to the plan as it shows Redfern as a through street. He feels it would be a safety issue for the children as well as creating noise problems.

**Neil Shannon** a Sherwood resident living on Redfern read a statement he had prepared voicing his opinion that connecting Redfern Drive would be a disaster to the neighborhood. He suggests that Redfern Drive should not be shown as a connection until a specific proposal from a developer can show a plan for a limited plan and mitigation if necessary. He also requests that the Commission consider modifications to allow pedestrian, bicycle and emergency vehicle traffic only.

**Doug Davina** a Sherwood resident living on Redfern Drive supports the two previous speakers in their opposition to connecting Redfern Drive. His concern is for the traffic impact and for the safety of the children in the neighborhood.

No other persons were signed up or chose to testify, therefore, Chair Allen closed the Public Hearing on PA 08-01 Brookman Road Concept Plan and asked for any more staff comments.

Julia responded by saying that she believes that all of the issues raised at this meeting have been raised and addressed within the Staff Report and recommendations. She responded to a question from Chair Allen regarding funding for park development by saying that as part of the fiscal analysis that was done, SDC fees will partially fund the park land. There are no development code requirements that require parks to be dedicated at this time in Sherwood. The parks shown may not be developed where indicated.

Chair Allen summarized what decisions he sees need to be made or considered including:  
Considering testimony received at this meeting that said don't proceed  
Green Development standards issues  
Park area adequacy issue  
What to do within the central sub-area regarding residential vs. jobs generating land  
Redfern connectivity issue  
Wetland issue near area on North side  
East park location

Commissioner Nolan added that he has concerns about what the residential vs. industrial mix should be. He feels without knowing where the I-5/99 connector will go through, they are ahead of things making their decision. Commissioner Emery agreed 100% and added that he feels it is too early in the process to make a decision and would be happy to see the question tabled for a year.

Julia recommended that a decision like that should come as a policy decision and that the City Council needs to be the group that makes that determination. The Commission can raise all their issues and concerns, but that the Council needs to consider their options.

Commissioner Nolan added that he feels that while the advisory committee did a great job, there is such a huge uncertainty about what will happen to make a decision.

The Commission continued to discuss options for zoning possibilities. Chair Allen asked Tom Pessemier (the City's Community Development Director and member of the I-5/99 W Stakeholder's committee) to address the Commission and public. Tom indicated that originally a decision was anticipated to be made regarding the connector more than a year ago. He stated that there are no further meetings planned on the project until at least mid January or February.

At best there may be a decision made on a corridor to revise the RTP within 2009, but any decisions regarding construction would be many, many years in the future.

Chair Allen asked Heather Martin, from the City's Attorney's office when and if they owners in that area ever get the chance to argue their case, and say the process has taken too long and now we can develop our land as we want.

Heather explained that she would have to look into a get a bit more information.

Chair Allen rephrased his question by saying that he is worried about the unintended consequences that if the Commission takes a deferral action that could end up taking years, would that then allow the land owners to fight and win a case that they have been held up too long and be allowed to move forward.

Julia, as with Heather, would like to look more closely at that question, but she sees this as more of a Metro issue. She doesn't see immediate issues, but the question will arise when Metro starts looking at their next UGB expansion they will have to factor in the amount of area previously brought in that are still not being developed and why. As far as a legal right to develop land based on a time limit for being in the UGB she is not aware of any issues. The area will have to be concept planned and zoned.

The Commission continued to discuss what the ramifications would be of any decision or choice not to make decision at this time would be.

Julia strongly encouraged the Commission to move this process onto the City Council, and to give the Council an opportunity to hear and think about everything the Commission has said. If they are in full agreement they can then remand the issue back to the Commission or they can table it, but that at this point it really needs to be elevated to the next level, so a policy level decision can be made about how to proceed.

The Commission discussed the benefits and options of having a work session with the City Council.

Chair Allen then asked if any of the outstanding issues would impact what the decision about Redfern might be. Commissioners Nolan and Emery both feel that Redfern should not have any connection and should be removed from the plan regardless of any other connections made, however preserving the pedestrian, bike and emergency connection.

Commissioner Lafayette voiced a concern about modifying connectivity promised in the TSP.

Chair Allen took an informal poll of the Commissioner to see if they were all in favor of modifying the connectivity of Redfern. All were in favor. He then called for a 5 minuet recess to speak with staff.

Chair Allen called the meeting back to order and suggested moving forward with a recommendation to the City Council to adopt a modified version of the Hybrid Concept plan pending a couple issues that need to be decided east of Cedar Creek, then go into a work session with the Council to discuss a policy decision about what the Council would like to see for the

central and western parts of the plan with respect to waiting or not for the I-5/99 connector decisions to be made.

Commissioner Emery would like to see something in writing from staff before any decisions are made showing exactly what is being proposed. He also asked for a tax lot break down of the effected areas.

A discussion ensued about the property needing to go through annexation and what the Commission's recommendations would mean. For clarification, Julia explained the process of annexation to the Commission and members of the public including the need to be voted on by the citizens of Sherwood and the potential time frame of 6 months for the process to take place.

Chair Allen proposed continuing the deliberation on the plan amendment to the first meeting in January. He asked staff to provide the material needed to consider a recommendation on the portion of the concept plan east of Cedar Creek, with revised finds that deal with limiting the connectivity on Redfern and any guidance from the City's Attorney about what the risks are of a long term failure to Master Plan. He asked if there is a motion to continue deliberation on PA 08-01 Brookman Road Concept Plan to the January 13<sup>th</sup>, 2009 meeting. Commissioner Nolan so moved and Commissioner Lafayette seconded the motion. All were in favor, the motion carried.

6.b. **Chair Allen** opened the public hearing for PA08-03 City of Sherwood Sign Code. He read the public hearing statement then asked the Commission for any exparte' contact, bias or conflicts of interest. None were given.

Julia presented the staff report by first reminding everyone that the Sign Code had been update in 2004/2005. In the 2005 ordinance there was an amortization clause in the non-conforming section that says any non-conforming signs would have to be removed within 5 years of that ordinance. In preparation for implementing that clause the city did an inventory on all of the free standing signs in the city. In that inventory it was discovered that over half of the current signs are non-conforming due to design and/or height and size. Another issue that has been raised is that the current sign code does not make a distinction in size based on location. The Commission has met in two different work sessions and compared Sherwood's sign code to neighboring jurisdictions and the sign inventory. What is being recommended is that uniformly all free standing signs in the City can be 6' tall and 36 sq. ft. in size. However, there is an understanding that along Pacific Hwy. and larger commercial areas may need larger signs as traffic is going much faster reducing visibility. The proposed exception is that sites along or within 100' of Pacific Hwy. be allowed to be increased to 20' per development site and 150 sq. ft. in size. In addition commercial plazas and centers greater than 10 acres elsewhere in the city may also be increased to the 20', 150' sq. ft. limits as well. Another concern raised was the electronic messaging signs. There is a proposal included to limit the area of a sign that can be electronic messages.

Exhibit C (distributed at the meeting) is from Matt Grady with Gramor recommending some modifications. He points out that the proposed code unintentionally regulates away wall signs in industrial areas, which was not the intent. He suggests referring back to wall signs for commercial standards. He also recommends adding a caveat for the Langer project as it is a pre-approved PUD that is allowed to have commercial development.



Another point of clarification is that the intent is to rectify the issue that over half of the existing signs are non-conforming and under the current standards would have to come down by 2010. The proposal is to modify the non-conforming section to say that except for those signs deemed to be really too tall and too big all currently non-conforming signs would continue to be classified as non-conforming but would not have to come down. The signs that currently have to come down within 5 years will still have to be removed if they are too tall or too big. The signs that are non-conforming based on design would not have to be removed. The proposal only exempts those under 25' in height. Julia then asked if there were any questions.

Chair Allen asked if the proposed language has been reviewed by legal counsel. Julia confirmed that it has.

He also suggested clarifying the language on page 2, adding "subject to the exemptions in A & B" Julia agreed and added that staff proposed changing the language to say "any" sign under 25' tall. Commissioner Lafayette suggested deleting "under" 25' and changing the wording to "all signs up to 25 ft."

Julia added that the Council has a resolution in place that temporarily prohibits the acceptance of free standing sign permit applications while the code is being updated. Due to the holidays and scheduling staff will not meet the 90 period given to update the code, so council may decide on December 16th, to extend that resolution by an additional 45 days.

Chair Allen opened the meeting up to public testimony.

**Matt Grady** of Gramor Development's testimony was mainly directed at the Langer PUD which is an industrial zoned property of approximately 65 acres. He worked with Julia to create some revised language that would allow commercial type signs in this industrial area, which is included in the letter he has submitted. He urged the Commission to adopt the new code.

**Jim Claus** began by saying he has sent the Planning Staff a Best Practice Manual that has been reviewed by most of the leading authorities on signs in the United States. He believes that the code being proposed needs a very thorough review. He went on to say that sign codes were given 1<sup>st</sup> Amendment protection by the Supreme Court. He mentioned that if signs were not time, place and manner content neutral one would have to pay damages and costs for litigation. He feels the proposed code is not time, place and manner and not content neutral. He finds it very unfortunate that as he sees it we have rules being proposed now that are contrary to the State Compliance agreement. He pointed out to Chair Allen that this could be a real consideration because some of the provisions being proposed, if implemented on Hwy 99 and brought into the Billboards would instantly introduce a 10% withdraw of highway funds.

As his 5 minute time limit ran out, Chair Allen asked Mr. Claus for an example of something in the code that would not be content neutral.

Mr. Claus pointed out the 35% message center proposal. "That's been held not to be content neutral...." Why are we picking 35% of a sign that can change? The latest revolution in signs is LEDs, which can be seen on the sign Mr. and Mrs. Claus have recently erected. He also believes the City has stepped outside the compliance agreement that has been signed with the Federal Government on 99W with the 30 second review. Those areas are what need to be reviewed. He offered to review the code for the City to help find the areas that are unconstitutional. He

doesn't believe we need more billboards and audacious signs and he doesn't feel that we should have more signs that are not time, place and content neutral.

Commissioner Emery asked if Mr. Claus is familiar with regulations or limitations on the brightness or suggested lumen ratings.

Mr. Claus's sign has an automatic dimmer. He believes this a valid point. The incandescent lights tend to have a halation effect. The automatic dimmer devices remove the halation effect, which needs to be done. The foot lumens on florescent lights do need to be controlled.

**John Alto** representing Chevron and **Cam Durrell** representing Les Schwab Tire Center testified together. Mr. Alto believes that the image of our community is developed as they drive through. What they see is from the edge of the road into about 50'. He feels there is nothing more important than signs and the sign ordinance in the city. If we don't have a good, simple sign ordinance it will go the wrong direction. He fully supports what the Planning Commission and Staff have done. He doesn't believe that what is being proposed will have a big financial burden on existing signs which is a critical item for him. He submitted, as reference the sign code for Scottsdale, Arizona, which has the reputation for having the tightest sign ordinance in the country. While he believes it is not perfect, it may have elements that could help tighten the sign code in Sherwood. He wanted to emphasize that it is important his sign on Hwy. 99 W be allowed to maintain its height as people have to make a decision at 45 mph to safely enter their facility.

Mr. Durrell does feel that these changes may put a financial burden on some of the businesses in Sherwood as they try to bring their signs into compliance. He feels that with the state of the economy at this time and as we try to encourage new business to even up our tax base that it is important to look at the burden that could be created for small businesses. He also asked that the Commission think about, in addition to Hwy 99 and the sight lines, that Tualatin/Sherwood Road be considered in this light as well. If people are traveling east to west on Tualatin/Sherwood road, his sign is not visible until after you have passed the driveway.

He recommended that the City notify business owners when their signs are out of compliance. He was not aware that his sign was out of compliance until he read it on the front page of the Sherwood Gazette.

Commissioner Emery asked regarding the Scottsdale sign ordinance if he liked it and if he felt it worked for the businesses.

Mr. Alto does like their code and the detail it goes into regarding wall signs and landscaping around free standing signs. He feels that the big challenge now is not with the permanent signs that he and Les Schwab have, but rather the temporary banners, posters and plywood that will be difficult to regulate.

Both gentlemen offered their information and help to the Commission and Staff if needed.

Chair Allen closed the public testimony on PA 08-02. He asked for legal counsel's s take on the 35% allowed for message centers not being content neutral.

Heather Martin from the City Attorney's office response was that it is content neutral issue. As long as we are not controlling what is being written on the board, we are not reviewing for content.

Julia added that it is an issue of design, how it's constructed, not the content. She suggested that perhaps a more thorough legal review needs to be done. She sees that the distinction is that there may be aspects of the existing code that may not be fully content neutral. Changes can continue to be made to try to obtain content neutrality. This review was focused on free standing signs, so there has not been a legal analysis on the full sign code.

Chair Allen would feel more comfortable seeing the proposed language in writing and that could buy some more time if there are more legal reviews needed. At a minimum he would like to see the changes say that anything built new the rules will be X and take more time to deal with any non-conforming signs and height and size issues. He does want to keep the changes that have been discussed so far including: the references to A and B in 5, changing the language in D to say "up to and including 25" and 100 sq. ft. in size.

Julia clarified where she thought the meeting was going by saying she is assuming that there will be a motion made to continue and that the Commission would want Staff to come back with all of the changes discussed this evening as well as a legal response on whether or not additional changes may be appropriate or necessary to insure compliance with current sign rules. Staff will also review the sign code from Scottsdale provided by Mr. Alto and have an initial response to that.

She added a response to Mr. Durrell's statement about the Les Schwab sign, under the proposed amendments that sign would not have to come down.

After some discussion among the Commission about determining the "Town Center" as the location of where the signs could be up to 20 feet tall and 150 square feet in size Chair Allen asked if the Town Center is defined well enough to say if a business is outside the town center area.

Julia confirmed that it is well defined.

Chair Allen asked if staff could bring back language that expands the area that is entitled to higher and larger signs to either use an existing definition or propose something that captures a commercially viable distance around both main intersections on Hwy 99.

Commissioner Lafayette asked for clarification on existing code language in several places in the code. Julia answered her questions and also explained that the proposed changes are not looking at the entire code at this time. Chair Allen added that the mission for this review is height and size.

Chair Allen summarized that he is looking for language that makes the adjustments discussed around the 6 corners area to be reviewed at the January 13<sup>th</sup>. He reminded everyone of the expiration date of the moratorium and suggested at a minimum they come out of that meeting with something regarding new construction so the moratorium on applications can be lifted. There will be additional review by the City's Attorney as well as a review of the issues raised in Jim Claus' letter. There will also be a copy of the Scottsdale code (exhibit C-9) distributed for

review. Chair Allen asked that Julia bring up the issue of the proposed Pride Disposal sign at the next meeting since it is late and he would like to give it some quality attention.

Commissioner Lafayette made a motion to continue PA 08-03 Sign Code Amendment to the January 13<sup>th</sup>, meeting. Commission Nolan seconded the motion. All were in favor, the motion carried.

Chair Allen closed the meeting at 9:30

**7. Next Meeting: January 13<sup>th</sup>, 2009**

End of minutes.



## MEMORANDUM

22560 SW Pine St  
Sherwood, OR 97140  
Tel 503-625-5522  
Fax 503-625-5524

To: Planning Commission

From: Julia Hajduk, Planning Manager

Date: January 6, 2009

RE: PA 08-01 – Brookman Road Concept Plan

At the December 9, 2008 Planning Commission meeting the Commission took additional public testimony and began deliberations on the proposed concept plan, comprehensive plan amendments and zoning amendments. After the additional public testimony and discussion, the Commission decided to continue deliberations until the January 13<sup>th</sup> meeting to allow staff time to prepare a “map” illustrating what it would look like if only the eastern portion of the concept plan area (east of Cedar Creek) were implemented through concept plan zoning at this time as well as get more information on the legal ramifications of not taking action on the concept plan. In addition, the Commission indicated an interest in having a work session with the City Council to discuss the concept plan before forwarding a recommendation to the Council for consideration.

Because the Commission continued to be concerned about implementation of the full concept plan area due to the unknowns of the I-5/99W connector project, they wanted to look at what a partial implementation of only the portion east of Cedar Creek would look like. Staff has prepared a revised zoning map that illustrates only the portion east of Cedar Creek being implemented through comprehensive plan zoning. It continues to be staff's recommendation that the Commission forward the entire concept plan to the Council for adoption and implementation consideration.

Staff relayed the request to schedule a joint Council-Planning Commission work session. The City Council has already scheduled a Work Session on January 20<sup>th</sup> for Staff to present the Planning Commission recommendations. The expectation has been that the Commission will make a recommendation based on the best information available to them and the Council will consider the recommendation. If the Council has concerns about the Commission recommendation or issues raised by the Commission, they would remand the issue back to the Commission for further review. Staff has verified that at this time Brookman Road will be a separate facility from any I-5/99W Connector or Arterial connection and the I-5/99W Connector decision should not impact the ability for the Commission to make recommendations based on the information previously presented.

Staff has asked a Metro staff representative to respond to the proposition that a concept plan not be adopted or that the Commission continues to delay a recommendation. The Metro staff indicated that the compliance deadline has already passed but as long as the City is making “progress” they would not take any formal action. If the City determined to not take any action Metro may object. This would definitely result in the non-payment of the final construction excise tax payment but could also include more formal Metro Council action. In addition, the Title 11 ordinances require either a City or County

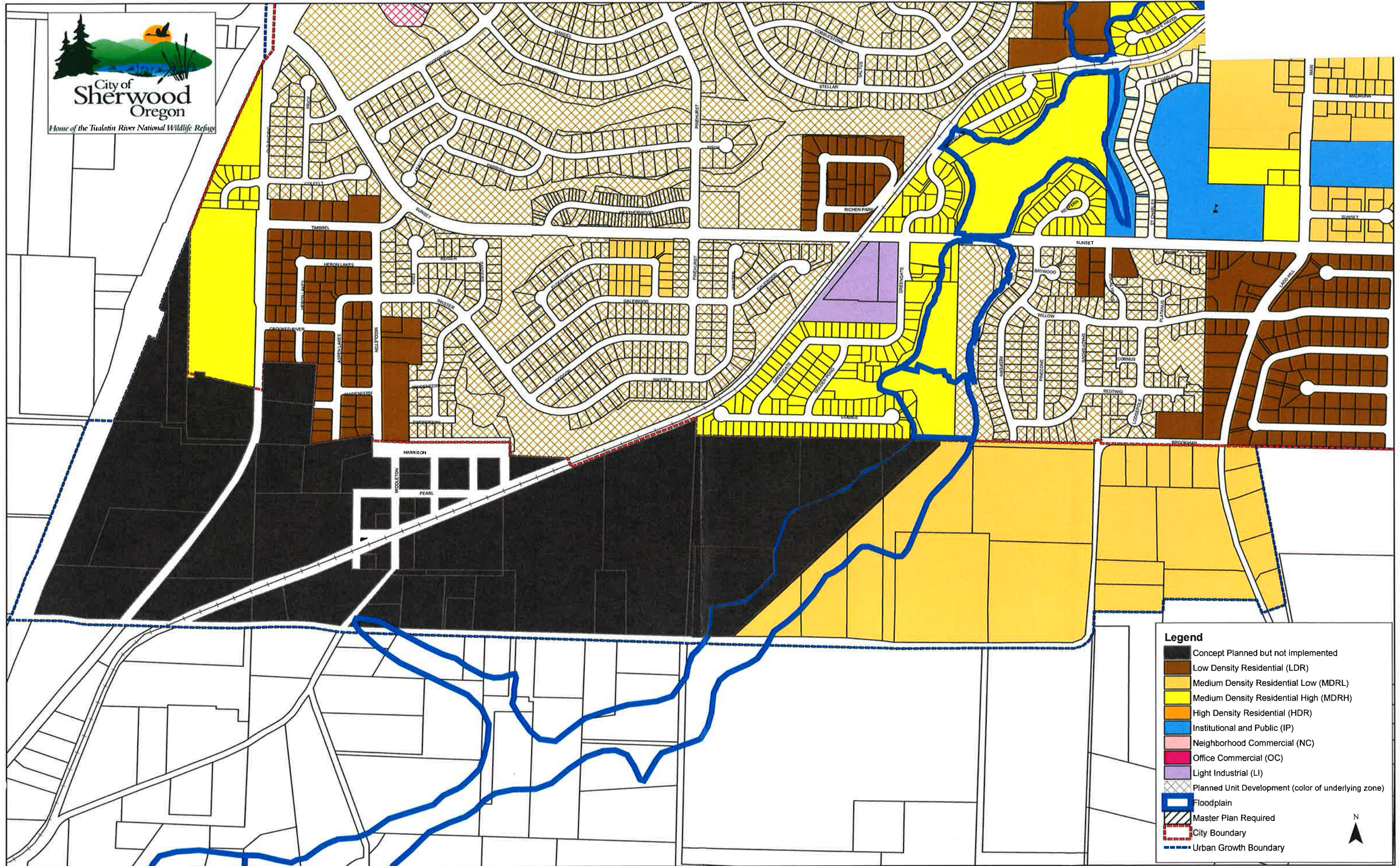
to develop and adopt a concept plan. It is possible that if the City simply chose to take no action, that the concept planning decision ability could be taken out of City control. Metro will submit a formal letter with greater detail prior the January 13, 2009 meeting.

The Commission indicated at the December 9, 2008 meeting that they were considering taking the public comments regarding the Red Fern connection and would recommend modifying the proposed comprehensive plan policies to specifically state that a through vehicular connection from Red Fern would not be permitted while retaining pedestrian, bicycle and emergency vehicle access. Provided the Commission's motion forwarding a recommendation to the Council continues to reflect this desire, staff will prepare modified findings and comprehensive plan policies to this effect for Council to consider.

With this update and information, staff recommends that the Commission forward a recommendation to the City Council to adopt the Concept Plan, comprehensive plan policies and comprehensive plan map based on the December 3, 2008 staff report with the Red Fern modification previously discussed in this memo. Alternatively, the Commission could decide to forward a recommendation to the City Council to adopt the Concept Plan but only implement the eastern portion of the concept plan area through adoption of modified comprehensive plan text and a modified map (Attachment 1).

# Brookman Addition Zoning- DRAFT January 5, 2009

Attachment 1



**Legend**

- Concept Planned but not implemented
- Low Density Residential (LDR)
- Medium Density Residential Low (MDRL)
- Medium Density Residential High (MDRH)
- High Density Residential (HDR)
- Institutional and Public (IP)
- Neighborhood Commercial (NC)
- Office Commercial (OC)
- Light Industrial (LI)
- Planned Unit Development (color of underlying zone)
- Floodplain
- Master Plan Required
- City Boundary
- Urban Growth Boundary

N



Home of the Tualatin River National Wildlife Refuge

## MEMORANDUM

22560 SW Pine St  
Sherwood, OR 97140  
Tel 503-625-5522  
Fax 503-625-5524

To: Planning Commission  
From: Julia Hajduk, Planning Manager  
Date: January 6, 2009  
RE: Sign Code update – PA 08-03

At the December 9, 2008 Planning Commission meeting the Commission took public testimony and began deliberations on proposed amendments to the sign code. The Commission continued the deliberation asking specifically for a response from the City Attorney's office to comments raised by Mr. Jim Claus at the public hearing and in written testimony (Exhibit C-2 of the 12-9-08 staff report). A memo has been prepared and is attached to this Memo at Attachment 1 will be incorporated as Exhibit F of the record. In the memo, Ms. Martin recommended one change to the proposed code amendments as well as several amendments to existing code to ensure consistency with a recent Oregon Supreme Court ruling.

In addition, the Commission discussed the proposed changes and asked staff to prepare modifications:

1. Clarifying when signs were exempt from the amortization requirement
2. Providing signs up to 20 feet tall and 150 square feet in size Tualatin-Sherwood road and Sherwood Boulevard (to key intersections) in addition to the original proposal to allow this height and size along Pacific Highway and Commercial Centers and Plazas greater than 10 acres
3. Reflecting the clarification/recommendation from Matt Grady submitted in verbal and written testimony with modifications proposed by staff.

These modifications are provided in Attachment 2 to this memo. This attachment is the original Exhibit A with the areas modified highlighted in yellow (other than the yellow highlighting, the color differences are meaningless). Additions are identified with underlining and deletions are identified with ~~strikethroughs~~.





## MEMORANDUM

TO: Sherwood Planning Commission  
FROM: Heather R. Martin, Office of the City Attorney *HRM*  
SUBJECT: Sign Code Amendments – PA 08-03  
DATE: December 29, 2008

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\*\*\*\*\**Confidential Attorney-Client Privileged Communication*\*\*\*\*\*

### INTRODUCTION

The City is proposing an update to the sign code to: 1) limit the height and size of free-standing signs city-wide with specific exceptions; and 2) modify the compliance requirements for certain signs that are non-conforming due to design or which are under a certain height or size. At the December 9, 2008 Planning Commission meeting, the Commission indicated that they would like a memo addressing the issues discussed in Jim Claus' October 29, 2008 letter. Additionally, the City would like to ensure that the proposed changes are consistent with the rest of the code and that the existing code is not in conflict with state or federal law.

### ANALYSIS

#### 1. Regulation of Political Speech

One issue Mr. Claus raises is the restriction of political speech. The changes the City is proposing are not directed at regulating political speech rather they are content-neutral changes. When municipal sign ordinances are challenged as violating the First Amendment, the test set forth in *Ward v. Rock Against Racism*, 491 U.S. 781 (1989), is used to determine the constitutionality of the restriction. Under *Ward*, reasonable time, place and manner restrictions are allowed so long as they are content-neutral, narrowly tailored to serve significant government interests and there are alternative channels of communication available. To qualify as content-neutral there must be no reference to the content of the regulated speech. Most of the proposed sign code changes do not reference the content of the signs instead, the modifications are primarily focused on sign height, size and location.

Attachment 1

The City's goals of traffic safety and aesthetics would probably be viewed as a significant government interest and the means to achieve those goals are narrowly tailored towards that end. Typically, government interests such as traffic safety and aesthetic concerns are sufficient and courts will show deference for the legislative body's judgment in determining how best to achieve their goals. See *Ward, GK Ltd. Travel v. City of Lake Oswego*, 436 F. 3d 1064 (9<sup>th</sup> Cir. 2006). It should also be noted that none of these modifications propose an outright prohibition on signs. There are alternative channels of communication available, usually in the form of a sign that is smaller or of a different design, etc.

There is one minor change that the City might want to make to the proposed changes in Section 16.102.030(2)(A)(1)(b) to avoid any appearance of content-based restrictions – remove the very last part of this section so that it reads: “One additional free-standing monument sign may be provided for fueling stations ~~to provide required pricing information~~. I think it is fairly obvious that fueling stations are going to use their additional sign for pricing information as they all currently do, but, by removing this language the City ensures there are no content-based distinctions in the sign code.

## **2. Outdoor Advertising**

Mr. Claus also raises the issue of outdoor sign regulation specifically amortization of billboards within 600 feet of a federal highway. It does not appear that any of the sign code modifications would affect billboards within 600 feet of a federal highway but again, as articulate above, the City may use reasonable time, place and manner restrictions that are content-neutral to regulate signs.

## **3. On-Premises Signs**

In his letter, Mr. Claus also stated concerns about the impact on-premises sign regulations would have on small businesses. The City's intention is not to take signs away entirely leaving businesses with no viable advertising space, rather the sign code amendments are meant to harmonize business goals with City goals regarding traffic safety and aesthetics. The City understands the importance of signage for businesses and economic development.

The case cited by Mr. Claus, *Denny's Inc et al v. City of Agoura Hills*, involves a California municipality and Mr. Claus himself states that the case “reversed amortization in California.” This case, while significant in California, is not the proper case to analyze and apply when considering the types of changes the City wants to make here in Oregon. A much closer analogy would be the Lake Oswego case mentioned above, *GK Ltd Travel v. Lake Oswego*. Lake Oswego's regulations, which are very similar to the proposed changes here (see Staff Report,

Exhibit D), were held to be valid and content-neutral even though some regulations were based on the speaker (for example hospitals, railroads and public bodies were exempted from permitting requirements). The court in that case also showed deference for the City's stated goals of traffic safety and aesthetics. Lake Oswego's practice of permitting regulatory classifications based on sign structure types was also valid, even though one restriction involved a banning certain types of pole signs altogether.

In looking at the entire sign code, not just the changes proposed, there are several off-premise sign distinctions that the City should probably remove to ensure compliance with a recent Oregon Supreme Court ruling, *Outdoor Media Dimensions v. DMV*, 340 Ore. 275 (2006). In effect, this case prohibits distinctions between on- and off-premises signs because the content of the sign will be interpreted to determine which category the sign falls into. Towards this end, the City should make the following changes to the code:

- Section 16.102.010(9)(A) – remove the definition for off-premise sign
- Section 16.102.010(9)(E) – remove the last sentence – “Any legally permitted off-premise sign on the site must comply with the provisions of this Chapter”
- Section 16.102.030(2)(A)(1) – should read: “Number Permitted: Except as otherwise provided in a-c below, one (1) multi-faced, free-standing sign ~~designating the principal goods or services available on the premises~~ shall be permitted per lot. Any ~~off-premise~~ free-standing sign legally located on the site...”
- Section 16.102.030(2)(A)(6) – should read: ~~Off-Premise~~ Existing Signs: Sign area will be calculated as part of the permitting business's total square footage requirements as described in subsection (A)(4). Any ~~off-premise~~ free standing sign legally located on a single business site shall be considered the sole free-standing sign allowed on the site and shall comply with the provisions of this Chapter. All ~~off-premise~~ signs oriented...”
- Section 16.102.030(2)(C)(3) – remove this restriction
- Section 16.102.030(3)(A) – should read: “One (1) multi-faced free-standing sign ~~designating the principal uses of the premises~~ shall be permitted...”

If these changes do not reflect the ultimate goal of the City, please let me know and we can work with the City to effect changes that produce the desired outcome.

#### 4. Sign Code Overhaul

Mr. Claus also goes on to make observations about the overall viability of the sign code which he feels can be remedied with a sign code overhaul (for example rewriting the definitions, purpose

and scope). Currently, the City's sign code is constitutional and the proposed modifications are the necessary changes needed to meet the City's goals. It is not necessary to rewrite the City's regulations.

### **5. Electronic Message Board Signs**

During the Planning Commission meeting, Mr. Claus also expressed concern over the proposed electronic message board signs. The electronic message sign regulation is also content-neutral. Reducing the total allowable sign area per sign face is similar to enforcing a design, height or size standard. It is also permissible to limit the number of times the sign can change in 30 seconds. Flashing signs may be prohibited as they present certain safety and aesthetic issues. For example, Oregon state law prohibits flashing signs: "a sign may not be erected or maintained if it...contains, includes or is illuminated by any flashing, intermittent, revolving, rotating or moving light or moves or has any animated or moving parts." ORS 377.720(3). Oregon's ban on flashing signs along state roads is, in part, to preserve aesthetics. See ORS 377.705.

### **CONCLUSION**

Most of the proposed changes except the one regarding fueling stations are reasonable time, place, and manner regulations that are content-neutral and are not problematic. The rest of the code should also be updated with no distinction between on- and off-premise signs.

Please let me know if you have any questions or if you need further assistance.

## 16.102.010 GENERALLY

### 1. Sign Permits

A. Except as otherwise provided in this Section and Sections 16.102.040 through 16.102.070, no person shall construct, install, structurally alter or relocate any sign without first obtaining an administrative sign permit from the City as required by Chapter 16.72 and making payment of the fee required by Section 16.74.010. In addition, all permitted illuminated signs shall be subject to the provisions of the State Electrical Code and any applicable permit fees. (Ord. 2005-002 § 5; 2002-1132)

### 2. Sign Application

Application for a sign permit shall be made upon forms provided by the City and shall include the following information:

- A. Name, address and telephone number of the applicant. Name, address, telephone number and signature of the landowner.
  - B. Location of the building structure or lot to which or upon which the sign is to be attached or erected.
  - C. A scaled drawing showing sign design including colors, dimensions, sign size, height above ground, method of attachment, construction and materials, type, source and intensity of illumination and the relationship to any building to which the sign will be attached.
  - D. A plot plan drawn to scale indicating the location of all buildings, property lines, existing signs, street lights, easements, and overhead power lines on the same premises.
  - E. Name, address and telephone number of the person or firm who will erect, construct and maintain the sign.
- (Ord. 2004-006 § 3; 86-851)

### 3. Exceptions

The following signs shall not require a sign permit but shall conform to all other applicable provisions of this Chapter:

- A. Traffic signs installed per the Manual of Uniform Traffic Control Devices and other federal, state and local traffic sign regulations.
- B. Nameplates not exceeding one (1) square foot in area.
- C. Messages on a legally erected, painted or printed advertising sign, theater marquee or similar sign specifically designed for the use of replaceable copy.
- D. On-site painting, repainting, cleaning and normal maintenance and repair of a sign.
- E. Memorial signs or tablets, names of buildings and date of erection when cut into any masonry surface or when constructed of bronze or other noncombustible materials.
- F. A construction site sign denoting an architect, engineer, contractor, subdivision or development, not exceeding thirty-two (32) square feet in area, provided that such sign is removed within thirty (30) days from date of issuance of the final occupancy permit or within two (2) years, whichever is less.
- G. Portable/Temporary Signs allowed per Sections 16.102.040 through 16.102.070.

H. Public utility signs and other signs required by law.

I. Signs on private property 3 square feet or less per sign face and under 3 feet tall when freestanding and installed to be readable on private property.

(Ord. 2002-1132 § 3; 86-851)

#### 4. Violations

The City shall order the removal of any sign erected or maintained in violation of the provisions of this Chapter. The City shall give ninety (90) days written notice to the owner of the sign or, if the owner of the sign cannot be notified, to the owner of the building, structure or premises on which such sign is located, to remove the sign or to bring it into compliance. After ninety (90) days the City may remove such sign at cost to the owner of the building, structure or premises. All costs incurred by the City will be a lien against the land or premises on which the sign is located and may be collected or foreclosed in the same manner as similar liens. (Ord. 86-851 § 3)

#### 5. Nonconforming Signs

a. Signs which do not conform to the provisions of this Chapter shall be regarded as non-conforming signs and shall be brought into compliance with this Code's standards.

b. Except as exempted in d below, any nonconforming sign in existence as of the effective date of Ordinance 2005-002, shall be brought into compliance within five (5) years of the effective date of Ordinance 2005-002. Any nonconforming sign erected after the effective date of Ordinance 2005-002 or made non-conforming by subsequent sign ordinance amendments, shall be brought into compliance within five years of the issuance of a building permit to construct the sign or adoption of the ordinance creating the non-conformity. Any nonconforming sign not brought into compliance within five years shall be removed at the expense of its owner or the owner of the property upon which it is located.

c. Except as exempted in d below, Any nonconforming sign which is structurally altered, relocated or replaced shall immediately be brought into compliance.

d. Permanent residential development signs, signs in I-P zones or property developed with public and church usessigns, and signs in any zone under 25 feet tall or less and/or 150 square feet in size are exempt from the requirement to come into compliance within 5 years and may remain until structurally altered, relocated or replaced. ~~this section.~~ (Ord. 2005-002 § 5; 2004-006)

#### 6. Abandoned Signs

Any person who owns or leases a sign shall remove the sign and sign structure when the business advertised is discontinued or moves. The City shall give the owner of the building, structure or premises upon which an abandoned sign is located ninety (90) days written notice for removal of the sign. After ninety (90) days the City may remove such sign at cost to the owner of the building, structure or premises. All costs incurred by the City may be a lien against the land or premises on which such sign is located and may be collected or foreclosed in the same manner as similar liens. (Ord. 86-851 § 3)

#### 7. Additional Setbacks

Where the supporting member of any sign is permanently erected or affixed to

the ground within a setback area established pursuant to Section 16.58.020, no permit shall be issued for such sign until the owner(s) of the sign and premises upon which the sign will be erected, enter into a written agreement with the City providing the supporting member within ninety (90) days of written notice by the City. The agreement shall further provide that after ninety (90) days the City may remove such sign at the expense of the owner(s). All costs incurred by the City may be a lien against such land or premises and may be collected or foreclosed in the same manner as similar liens. (Ord. 86-851 § 3)

#### 8. Construction and Maintenance

Except as otherwise provided in this Code, the construction of all signs or sign structures shall conform to applicable provisions of the Uniform Building Code. All signs, supports, braces, guys and anchors and sign sites shall be kept in good repair and maintained in a clean, safe condition. (Ord. 86-851 § 3)

#### 9. Definitions

A. Off-Premise Sign: A sign placed at a location other than on the lot or property where the business or event being advertised or otherwise promoted is located.

B. Sign Face Area: The area of the sign shall be measured as follows if the sign is composed of one or more individual cabinets or sides:

1. The area around and enclosing the perimeter of each cabinet, sign face or module shall be summed and then totaled to determine total area. The perimeter of measurable area shall include all written advertising copy, symbols or logos.

2. If the sign is composed of more than two sign cabinets, sign facia or modules, the area enclosing the entire perimeter of all cabinets and/or modules within a single, continuous geometric figure shall be the area of the sign.

C. Single Business Site: Any lot, or combination of lots legally bound together by a deed restriction, restrictive covenant or any other recorded document, having a single legally permitted business on the site.

D. Commercial Center: Any lot, or combination of lots legally bound together by a deed restriction, restrictive covenant or other recorded document, having at least two (2) but no more than three (3) legally permitted businesses on the site.

E. Commercial Plaza: Any lot, or combination of lots legally bound together by a deed restriction, restrictive covenant or other recorded document, having four (4) or more legally permitted businesses on the site. Any legally permitted off-premise sign on the site must comply with the provisions of this Chapter.

F. Free-Standing Signs:

1. Monument Sign: A sign constructed so that it is erected on grade or set into a hillside. If the monument sign is supported by poles, the sign shall extend to cover the support poles to within four (4) inches of the grade. Each free-standing monument sign shall have no more than two (2) faces.

2. Column Sign: A sign supported by two square columns covered by wood, brick, metal or stone with a minimum width of twenty-four (24) inches or a single square column with a minimum width of thirty-six (36) inches and a maximum width of thirty-six (36) inches. ~~The columns must extend uninterrupted from grade level to the base of the sign face.~~

~~G3.~~ Pole Sign: A free-standing sign mounted on one (1) vertical support less than 36 inches wide.

**HG. Wall Sign:** A sign attached to, erected against or painted on a wall of a building.

**HH. Permanent Residential Development Sign:** Any sign erected in association with a single-family attached, single-family detached, duplex or townhome subdivision or Planned Unit Development (PUD). (Ord. 2005-002 § 5; 2004-006)

**JI. Roof Signs:** Signs erected in or directly above a roof or parapet of a building or structure.

J. Electronic Message signs: Consistent with 16.102.020.6, electronic message signs may not change more than once every 30 seconds. In addition, the change may not involve movement, flashing or changes in intensity of lighting. Electronic message signs are limited to no more than thirty five (35) percent of the total allowable sign area per sign face.

(Ord. 2004-006 § 3)

## 16.102.020 PROHIBITED SIGNS

### 1. Unsafe or Unmaintained Signs

All signs and sign structures must be constructed, erected and maintained to withstand the wind, seismic and other loads as specified in the Uniform Building Code. No sign shall be constructed, erected or maintained in violation of the maintenance provisions of this Chapter. (Ord. 86-851 § 3)

### 2. Signs on Streets

No sign shall substantially obstruct free and clear vision along streets or by reason of the position, shape or color, may interfere with, obstruct the view of, or be confused with any authorized traffic signal or device. No sign shall use the words "stop", "look", "danger", or any other similar word, phrase, symbol or character that interferes with or misleads motorists, pedestrians or bicyclists.

(Ord. 86-851 § 3)

### 3. Obstructing Signs

No sign or sign structure shall be located or constructed so that it obstructs access to any fire escape, exit doorway or other means of egress from a building. No sign or supporting structure shall cover, wholly or partially, any window or doorway in any manner that will substantially limit access to the building in case of fire. (Ord. 86-851 § 3)

### 4. Rotating or Revolving Signs

Rotating or revolving signs are prohibited. (Ord. 86-851 § 3)

### 5. Illuminated Signs

Flashing signs, exposed reflective type bulbs, strobe lights, rotary beacons, par spots, zip lights and similar devices are prohibited. No exposed incandescent lamp which exceeds twenty-five (25) watts shall be used on the exterior surface of any sign so as to expose the face of such bulb or lamp to a public street. All permitted signs shall bear an approved Underwriters Laboratory label. (Ord. 86-



851 § 3)

6. Changing Image Signs

Any sign that through the use of moving structural elements, flashing or sequential lights, lighting elements, or other automated method, resulting in movement, the appearance of movement or change of sign image or message are prohibited. Changing image signs do not include otherwise static signs where illumination is turned off and back on at a maximum of once every 30 seconds and such change does not involve movement, flashing or changes in intensity of lighting. (Ord. 2003-1153 § 1)

7. Pole Signs, over six (6) feet in height (Ord. 2004-006 § 3)

8. Signs on Vacant Land

Any sign on unimproved property, unless allowed as a temporary sign under Sections 16.102.040 through 16.102.070 shall be prohibited. (Ord. 2004-006 § 3)

9. Permanent Residential Development Signs  
(Ord. 2005-002 § 5; 2004-006)

10. Roof Signs (Ord. 2004-006 § 3)

16.102.030 SIGN REGULATIONS BY ZONE

1. Residential Zones

No sign requiring a permit shall be allowed in residential zones except for the following:

A. Public/Semi-Public Uses

For churches, schools and other public uses located within a residential or institutional public zone:

1. One (1) wall sign not exceeding thirty-six (36) square feet shall be permitted on a maximum of two (2) building elevations. Wall signs must be attached flat against the building face.
2. One (1) free-standing sign per street frontage not exceeding thirty-six (36) square feet per sign face shall be permitted. A minimum setback of fifteen (15) feet from property lines adjacent to public streets is required. The maximum height of any portion of a free-standing sign shall be limited to ~~eight (8)~~ six (6) feet from ground level at its base.

B. Multi-Family Development Signs

One (1) non-illuminated free-standing ~~monument~~ sign per street frontage not exceeding thirty-six (36) square feet per sign face shall be permitted. The maximum height of any portion of a free-standing sign shall be limited to ~~five (5)~~ six (6) feet from ground level at its base. (Ord. 2005-002 § 5; 2004-006)

C. Non-Residential Signs

One (1) monument sign not more than sixteen (16) square feet in area identifying a permitted use in a residential zone shall be allowed.  
(Ord. 2005-002 § 5; 2004-006; 2002-1132)

D. Temporary/Portable Signs

The requirements of Sections 16.102.040 through 16.102.070 shall apply.  
(Ord. 2004-006 § 3)

2. Commercial Zones

No sign requiring a sign permit shall be allowed in commercial zones except for the following:

A. Free-Standing Signs

1. Number Permitted: Except as otherwise provided in a.-c. below, One (1) multi-faced, free-standing sign designating the principal goods or services available on the premises shall be permitted per lot. Any off-premise free-standing sign legally located on a site shall be considered the sole free-standing sign allowed on the site and shall comply with the provisions of this Chapter.

a. Where the total street frontage exceeds three-hundred (300) feet in length, one (1) additional free-standing sign is permitted; however Except as otherwise permitted in b. or c. below, no more than one (1) free-standing sign per street frontage shall be permitted. Where two (2) or more signs are allowed due to multiple frontages, each sign shall be oriented to face a different direction or street frontage.

b. One additional free-standing monument sign may be provided for fueling stations to provide required pricing information.

c. A Commercial Center or Commercial Plaza with at least two (2) stand alone businesses may have one additional free-standing sign provided the site has more than 300 feet of frontage

2. Height Limit: The maximum sign height shall not exceed six (6) feet in all commercial zones except that in the locations identified in (a)-(d) below, Commercial zones on or within 100 feet of Pacific Highway or commercial centers or plazas in commercial zones elsewhere in the city that are greater than 40 acres, the height, for no more than one sign per single business site, commercial center or plaza, may be increased to no more than 20 feet to allow for the construction of a column sign only. The exception locations are identified as:

- a. on or within 100 feet of Pacific Highway,
  - b. Commercial Centers or plazas greater than 10 acres,
  - c. Tualatin-Sherwood Road between Borchers Road and Adams Avenue,
- and
- d. Sherwood Boulevard between Borchers Road and Century Boulevard.
- the following:

1.	Single Business Site	25 feet
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2.	Commercial Center	30 feet
3.	Commercial Plaza	35 feet

The height of the sign shall be measured from the average grade of the building footprint located on site to the highest point of the sign. For sites with more than one (1) building, the average grade of the building closest to the location of the sign shall be used.

3. Clearance: Signs are prohibited over a driveway or parking area.

4. Area:

~~a. Single Business Site: The maximum sign face area for a single business site shall be no more than one hundred fifty (150) square feet. The total for all free-standing sign faces shall not exceed three hundred (300) square feet.~~

~~b. Commercial Center: The maximum sign face area for a commercial center sign shall be no more than two hundred (200) square feet. The total for all free-standing sign faces shall not exceed four hundred (400) square feet.~~

~~c. Commercial Plaza: The maximum sign face area for a commercial plaza sign shall be no more than three hundred (300) square feet. The total for all free-standing sign faces shall not exceed six hundred (600) square feet.~~

~~d. Maximum sign face area on any sign for any one (1) legally permitted business shall not exceed one hundred fifty (150) square feet. The maximum sign area for all commercial zones shall not exceed 36 square feet per sign face with a maximum of 2 sign faces permitted except that in those areas identified in 16.102.030 .2.A.2, (a)-(d) Commercial zones on or within 100 feet of Pacific Highway or commercial centers and plazas in commercial zones that are greater than 10 acres elsewhere in the City, the sign area may be increased up to 150 square feet for no more than one sign per single business site, commercial center or plaza.~~

5. Location: No free-standing sign or any portion of any free-standing sign shall be located within a public right-of-way. Free-standing signs must comply with the Clear Vision Area requirements of Section 16.58.010.

6. Off-Premise Signs: Sign area will be calculated as part of the permitting business's total square footage requirements as described in subsection (A)(4). Any off-premise free-standing sign legally located on a single business site shall be considered the sole free-standing sign allowed on the site and shall comply with the provisions of this Chapter.

All off-premise signs oriented to be viewed from State Highway 99W shall be subject to the standards and requirements of the Oregon Administrative Rules and Oregon Revised Statutes administered and enforced by the Oregon Department of Transportation (ODOT). Where there is a conflict between the standards or requirements of the City and the State, the more restrictive standards or requirements shall apply.

## B. Wall Signs

Wall signs in combination with banner and projecting signs placed per Section 16.102.070 and defined in Section 16.102.040C, shall not exceed twenty percent

(20%) of the gross area face of the building to which the sign is attached. Signs placed on or within one (1) foot of display windows and designed to be viewed from the exterior of the building shall be included in determining the amount of signing. A minimum of thirty (30) square feet is guaranteed and the maximum shall be two-hundred fifty (250) square feet. Wall signs may not project more than one and one-half (1-1/2) feet from the wall to which they are attached.

### C. Projecting Signs

Projecting signs supported by a wall of a building or structure shall be permitted under the following conditions:

1. Only one (1) projecting sign will be permitted on the same business frontage with wall signs.
2. No projecting sign shall be permitted on the same premises where there is a free-standing sign or roof sign.
3. A projecting sign shall be used solely to identify a business and shall not be used to advertise services or products sold on the premises.
4. No projecting sign shall extend more than three (3) feet above the roof line at the wall or the top of a parapet wall, whichever is higher.
5. No projecting sign shall be located within twenty (20) feet of another projecting sign in the same horizontal plane.
6. No projecting sign shall be supported by a frame, commonly known as an "A frame" or other visible frame located on the roof of a building.
7. No sign shall project to within two (2) feet of the curb of a public street or beyond five (5) feet from the building face, whichever is less.

### D. Directional Signs

The requirements of subsection C shall apply. (Ord. 2004-006 § 3; 2002-1132)

### E. Temporary/Portable Signs

The requirements of Sections 16.102.040 through 16.102.070 shall apply. (Ord. 2004-006 § 3; 2002-1132)

## 3. Industrial Zones

No sign requiring a permit shall be allowed in industrial zones except for the following:

### A. ~~A.~~ Free standing signs –

1. Industrial zoned properties that have an approved PUD and approval for permitted commercial uses, shall apply requirements in Section 16.102.030.2.A (a)-(c), 2, 3, 4, 5, 6, B, C, D and E.

- ~~1-2.~~ Other than allowed under (1) above, industrial zones may have Signs permitted in commercial zones, provided that only one (1) multi-faced free-standing sign designating the principal uses of the premise shall be permitted per street frontage provided the height does not exceed six (6) feet and the sign face in any setback area, if the area of any one face of such free-standing sign does not exceed sixty (60) thirty six (36) square feet per sign face for a maximum of and the total area of

~~all faces of such free-standing sign does not exceed one hundred and twenty (120)72 square feet.~~

B. Directional Signs - The requirements of subsection C shall apply. (2004-006 § 3; 2002-1132)

C. Temporary/Portable Signs - The requirements of Sections 16.102.040 through 16.102.070 shall apply.

D. Wall Signs – the requirements of Section 16.102.030.2, Commercial Signs shall apply.



## Karen Brown

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**To:** Julia Hajduk  
**Subject:** RE: Brookman Concept Plan update

-----Original Message-----

From: NEIL SHANNON [mailto:neilshnn@msn.com]

Sent: Friday, January 09, 2009 4:57 PM

To: Julia Hajduk

Subject: RE: Brookman Concept Plan update

Hi Julia,

I had an opportunity to look through the January 13th Planning Commission packet & had a couple of comments and a request that you might want to consider.

Comments:

On page 1, Agenda, item 9 - Next Meeting... Is the next meeting really Friday January 23 or should that be changed to January 27?

On page 1 of the draft minutes, item 6a, Commissioner Allen and Volkmer live in Arbor Lane, not Arbor Terrace.

on page 4 of the draft minutes, my testimony at the top of the page does not make sense. At the 4th line where it says "a plan for a limited plan" I think should read "a plan for limited traffic"

and the request..

I see the DRAFT Brookman Addition Zoning map dated January 5, 2009 but black and white just does not do it justice. I assume that it is available in color, is there a way to get a color copy?

As always, thanks for the help.

Neil Shannon  
23997 SW Red Fern Drive

# **APPROVED MINUTES**



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**City of Sherwood, Oregon**  
**Draft Planning Commission Minutes**  
**January 13, 2009**

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**Commission Members Present:**

Chair Allen  
Jean Lafayette  
Matt Nolan  
Raina Volkmer  
Adrian Emery  
Lisa Walker

**Staff:**

Julia Hajduk, Planning Manager  
Karen Brown, Recording Secretary

**Commission Members Absent:**

Todd Skelton

**City Attorney:**

Chris Crean

**Council Liaison – Keith Mays**

1. **Call to Order/Roll Call** – Chair Allen called the meeting to order. Karen Brown called roll.
  
2. **Agenda Review** – includes the Brookman Road Concept Plan and the Sign Code update. Chair Allen noted that there was a revision on the agenda saying that the next meeting would be held January 27<sup>th</sup>, 2009 rather than January 23<sup>rd</sup>.
  
3. **Consent Agenda** – Chair Allen asked for any comments or changes needed in the December 9<sup>th</sup>, 2008 minutes.  
**Commissioner Lafayette** noted that on page 7 in Mr. Claus’s testimony, line 6, some of the wording was not clear. It was determined however, that since that is how the sentence was spoken it would be appropriate not to make changes.  
  
**Julia** asked the Commission if they were in agreement with the changes suggested by Neil Shannon (a citizen observer) including changing a reference to Arbor Terrace that should have been Arbor Lane as well as the addition of a word in Mr. Shannon’s testimony given at the December 9<sup>th</sup> meeting.  
  
The Commission agreed that the changes were appropriate and Commissioner Lafayette moved to approve the consent agenda, incorporating the recommended changes from Mr. Neil Shannon. Commissioner Walker seconded the motion and all Commission members voted to approve the agenda.
  
4. **Staff Announcements** – Julia announced that due to inclement weather in December the Area 48 kickoff meeting was rescheduled for Wednesday January 14<sup>th</sup> from 6:00 pm to 8:00 pm in the Community Room at City Hall.

There will be a work session with the Planning Commission as the Steering Committee on the Adams Avenue Concept Plan January 27th. There will also be an Open House on February 25<sup>th</sup>, 2009.

The annual Planning Department report will be presented to the Commission at the January 27<sup>th</sup> meeting as well.

5. **City Council Comments – Mayor Mays** was not present at this point of the meeting however did arrive later in the evening.

6. **Community Comments** – None given

7. **Old Business** –

- a. **Chair Allen** called to order the continuation meeting of PA 08-01. He read the disclosure statement and asked for any exparte' contact. He and Commissioner Volkmer both disclosed that they in the Arbor Lane neighborhood, but both do intend to participate in the decision.

**Julia** presented a brief PowerPoint presentation to recap the steps that have been taken so far in this decision making process:

The Steering Committee reviewed and developed a concept plan from May 2007 to June 2008. In that process they established goals, evaluated alternatives, considered public involvement, then made a recommendation to the Planning Commission.

The Planning Commission held their first hearing in June of 2008. There were then subsequent work sessions held to answer questions about issues that had been posed to the Commission concluding with the second public hearing held in December, 2008.

Issues that were addressed in those work sessions included: parks, schools, historic resources, the Redfern connection and employment land as it relates to the potential I-5/99W Connector. Staff prepared a memo October 7, 2008 that addressed those issues and provided recommendations for each. She shared with the Commission a

Comprehensive Plan Zoning Map that had been drawn to show a “big black whole” on the western side and applying only the comprehensive plan zoning which would be Medium Density Residential Low to the eastern portion of the area. She noted that the dividing line is drawn through the middle of the flood plain since its exact location has not been determined. In her memo Julia refers to the time constraints placed on the plan by Metro. As long as the Commission is continuing to work toward a decision there would be no issues. If progress stops completely then there could be enforcement action taken. A letter from Dick Benner, the Metro Attorney presented to the Commission that evening explains the process if the deadlines are not met.

Chair Allen asked to whom the responsibility would fall to request an extension from Metro - the Planning Commission or the City Council?

Julia's response was that since it would be a policy decision, it would have to come from the City Council.

Julia went on to address the request to schedule a joint work session to get some policy direction. She explained that the answer is twofold. A work session has been scheduled; however it is with the expectation that the Commission forward their recommendations at that time. The Commission is made up of group of wise individuals that should be able

to come to a conclusion. If after that the Council has concerns or issues, they can then remand those back to the Commission if necessary

For the benefit of new Commission members and members of the community Julia reviewed the general process plan for review a new Comprehensive Plan.

The next steps that need to take place are that the Commission needs to make a recommendation on the Comprehensive Plan, the Comp. Plan Map and Comp. Plan Text. That could include approving the Steering Committees recommendations, approving them with modifications or recommending denial with justifications for such a recommendation. A Council work session to present the Commission's recommendation has been scheduled for January 20<sup>th</sup>, 2009 with a tentative public hearing scheduled for February 3<sup>rd</sup>. That concluded her presentation.

Chair Allen asked for questions and to begin the deliberation process.

Commissioner Emery handed out a map from the Stakeholder Working Group Packet for the I-5/99 W Collector that shows what will be proposed for the RTP at the Stakeholder's meeting later in the week including a connection near Brookman Road.

Tom Pessemier, the Community Development Director, added that the map distributed by Commissioner Emery is alternative 7 and that the Executive Management Team met and decided to forward a recommendation to the Project Steering Committee to consider adoption of this alternative.

A lengthy discussion ensued considering the effect the connectivity could have on the Brookman Road area in which Commissioner Emery handed out another map he created with his suggestions for changing the zoning in the Brookman Road area to include a much larger area of Light Industrial. Several options for adding employment, buffers, green space and parks were offered by members of the Commission.

Julia cautioned the Commission that it appears that they are going through an alternatives process here on the fly. She suggests the possibility of recommending to Council more employment than what is shown and what may be warranted and that perhaps it should come back to the Commission. If they are trying to create a revised plan during this meeting she has concerns.

Chair Allen believes that there is sufficient information in the record and that there has been sufficient discussion on the record of alternatives to support the suggestion of a new Hybrid that substantially increases the light industrial and buffering issues that would arise from that zoning.

The Commission continued to suggest alternatives and options that they would feel comfortable recommending, including changing zoning, adding more industrial area and reducing the number of new homes,

Commissioner Walker added that they recognize a lot of time has gone into the development of all the drafts as well as a great deal of time devoted by the committees to meetings and discussions about the project, but that the time spent is not the best reason

to take a plan forward that they disagree with or don't find satisfactory. She realized much time has been spent, but that maybe more time is needed. Commission is feeling a great deal of pressure to make a decision that they don't want to make.

After more debating on the alternatives, Chair Allen suggested a 5 minute recess.

The meeting resumed after a short break. Chair Allen wanted to summarize and articulate the changes he sees have been suggested, and come to an agreement about how to enact the new principles. The first item he wants added to the record is that the Commission believes the assumptions underlying the original concept plan have changed substantially since the time the plan was done, specifically but not exclusively the I-5/99 Connector and the assumptions about job productivity based on the existence of that connectivity, and the current economy. Based on those changed assumptions, the Commission has some principles that they would like to see applied to whatever concept is adopted:

1. Reduce the residential acreage in the concept plan by a minimum of 75%, replacing substantially all of the residential zoned land between the North/South section of Brookman Road and the railroad tracks with a Light Industrial zone.
2. A buffer added to the North between the Light Industrial area and the existing residential land.
3. Recommendation that the Redfern connection be opened to pedestrian, bike and emergency access only.
4. Changing the alignment of Brookman Road as reflected in the July 1<sup>st</sup>, 2008 Hybrid draft.
5. Modifying the east and west portions as needed to meet the other planning objectives of the Concept Plan.

In light of the new development of the information regarding the I-5/99W connector, the Commission's hesitation to make a recommendation, and Chair Allen's suggestion of 5 principles, Attorney Chris Crean suggested structuring a four part recommendation including:

1. The fact that the assumptions have changed.
2. The Council not adopt the Concept Plan as presented.
3. The Council amend the Concept Plan to reflect the 5 principles outlined by Chair Allen.
4. Request that Council return the recommendation to the Commission to construct a new alternative based on those principles.

Commissioner Lafayette moved that with the advice of the City Attorney they forward a four step recommendation incorporating their 5 policy changes and move that they approve the 4 step process on PA08-01 Brookman Addition Concept Plan.

Commissioner Nolan seconded motion.

Chair Allen called for a vote. All members were in favor and the motion carried.

- b. Chair Allen received for deliberation on the public hearing for PA08-03 Sign Code Update. A condensed version of the public hearing statement and asked for conflicts. None were given.

Julia then gave a quick review of the Sign Code Update process to this point. On December 9<sup>th</sup>, 2008 a public hearing was held and public testimony was received on the proposed sign code amendments. Deliberation was continued and a response was requested from the City Attorney's office to testimony given by, and a letter received from, Jim Claus. The response is included in the packets handed out for the meeting this evening labeled as attachment 1.

She also noted that based on input at the last meeting, clarifications were made and the proposed amendments reflect those clarifications regarding what is subject to amortization, testimony given by Matt Grady of Gramor Development as well as proposed amendments by staff. Primarily there had been discussion about where signs above 6 feet tall should be allowed. Attachment 2 in the packets includes proposed changes including:

1. Clarification made to say including signs 25' or less, rather than under 25' and 150 sq. ft. in size or less.
2. The maximum sign height may not exceed 6' in all commercial zones. The height for no more than one sign per single business, commercial center or plaza may be increased to no more than 20' to allow for the construction of one column sign only, with the exceptions of property located on or within 150' of Pacific Hwy., Commercial centers or plazas greater than 10 acres, Tualatin/Sherwood Road between Borchers Road and Adams Avenue and Sherwood Boulevard between Borchers Road and Century Boulevard.
3. On page 7, starting with the third line, of the proposed new text, change from 16.102.030.2.a.2 (a) – (d) to 16.102.030.2.a.2 (a) – (c).
4. Per public comments received regarding Industrial Zones on page 8 of 9 free standing signs were added as well as wall signs being added back in as they were taken out inadvertently.

Julia reminded Chair Allen that at the last meeting he had asked that she bring up the Pride Disposal comments.

The Commission discussed the Pride Disposal site and their desire to have two signs. Conversation included: whether or not the site has two frontages and the number of signs allowed, and whether or not they have access from both frontages.

Chair Allen asked if this would be an issue that would allow them to apply for a variance.

Julia's response was that it is not easy to get a variance, and that they would need to prove that there are no other alternatives. She was reminded that their issue is actually that they have two lots and that they cannot have a sign on a vacant lot. She read from a letter submitted by Pride that states "there is currently a cement monument at our entrance with our logo and address. We thought that with this vast space a second sign would be appropriate as a read to show coming community events etc. We then looked at the tax lot boundaries closer and found the Oregon Street side of the property was a different tax lot." They have applied for and were denied a sign permit, because the sign

code says you cannot have a sign on an empty lot. At this point it was determined that this issue is not going to be resolved with the current sign code being reviewed.

Chair Allen asked for any further concerns or comments on the proposed sign code. None were given.

Commissioner Lafayette moved that the Planning Commission recommend approval to the City Council PA08-03 Sign Code Amendment based on the adoption of the Staff Report, finds of fact, public testimony, staff recommendations, agency comments and exhibit A as amended.

Recommendation seconded by Commissioner Nolan.

Chair Allen asked called for a vote, all Commissioner were in favor.

Motion carried.

**8. New business** – Chair Allen asked for any comments from the Commission.

Commissioner Lafayette asked staff for an update at the next meeting of the status of the policy of the inter-code interpretation of the goals within the code.

**9. Next Meeting: February 10, 2009**

**Chair Allen** closed the meeting at 8:55

End of minutes.