



May 11, 2017

Land Use File(s): HR-2017-001  
601-17-000343

## NOTICE OF DECISION

This is official notice of action taken by the Milwaukie Planning Commission on May 9, 2017.

**Applicant(s):** Simon Lofts, Sustainable Infill Development LLC  
**Appellant** (if applicable)  
**Location(s):** 4217 SE Railroad Ave  
**Tax Lot(s):** 12E31BC08100  
**Application Type(s):** Historic Preservation Overlay - Demolition  
**Decision:** Approved with Conditions  
**Review Criteria:** Milwaukie Zoning Ordinance:

- MMC Section 19.403.7 Historic Preservation Overlay - Demolition
- MMC Section 19.1006 Type III Review

**Neighborhood(s):** Hector Campbell

**Appeal period closes: 5:00 p.m., May 26, 2017**

This notice is issued in accordance with Milwaukie Municipal Code (MMC) Section 19.1006 Type III Review. The complete case file for this application is available for review between 8:00 a.m. and 5:00 p.m. on regular business days at the Planning Department, Johnson Creek Facility, 6101 SE Johnson Creek Blvd. Please contact Vera Koliass, Associate Planner, at 503-786-7653 or [koliassv@milwaukieoregon.gov](mailto:koliassv@milwaukieoregon.gov), if you wish to view this case file.

**This decision may be appealed by 5:00 p.m. on May 26, 2017, which is 15 days from the date of this decision.** Only persons who submitted comments or made an appearance of record at the public hearing have standing to appeal the decision by filing a written appeal. An appeal of this decision would be heard by the Milwaukie City Council following the procedures of MMC Section 19.1010 Appeals. This decision will become final on the date above if no appeal is filed during the appeal period. Milwaukie Planning staff can provide information regarding forms, fees, and the appeal process at 503-786-7630 or [planning@milwaukieoregon.gov](mailto:planning@milwaukieoregon.gov).

Per MMC Subsection 19.1001.7.E, this land use approval expires unless the applicant has: (1) obtained and paid for all necessary development permits and started construction within 2 years of land use approval, and (2) passed final inspection and/or obtained a certificate of occupancy within 4 years of land use approval. Extensions can be granted per MMC Section 19.908.

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### **Findings in Support of Approval**

Sections of the Milwaukie Municipal Code not addressed in these findings are found to be inapplicable to the decision on this application.

1. The applicant, Simon Lofts of Sustainable Infill Development, LLC, has applied for approval to demolish the historic structure known as the Keil-Hoesly Farm House, which is a designated as a “Significant” historic resource, at 4217 SE Railroad Ave. This site is in the residential R-7 zone. The land use application is HR-2017-001.
2. The applicant has proposed to demolish, or deconstruct, the home as part of a larger land use application package for a 19-lot subdivision (Master File #S-2017-002).

Because the existing structure is a designated “significant” historic resource, approval of an application for historic resource demolition is also required.

3. The proposal is subject to the following provisions of the Zoning Ordinance, MMC Title 19, as follows:

- Subsection 19.403.7 Demolition of designated Historic Resource
- Subsection 19.1006 Type III Review

4. Sections of the Milwaukie Municipal Code not addressed in these findings are found to be not applicable to the decision on this application.
5. Public notice has been provided in accordance with MMC Subsection 19.1006, Type III review. This application is associated with applications for a subdivision, variance, and proposed zoning map and comprehensive plan map changes (Master File #S-2017-001) which will be processed separately. For this land use application, public notice was sent to property owners within 300 feet of the subject property at least 20 days in advance of the required public hearing. A public hearing was held May 9, 2017, as required by law.

6. MMC Section 19.403 Historic Preservation Overlay Zone

MMC Section 19.403 establishes regulations for properties designated as historic resources. Specifically, MMC Subsection 19.403.7 establishes a review process whenever demolition is proposed for properties designated as either “significant” or “contributing” resources.

The subject property is designated as a “significant” resource on the City’s list of historic properties. The applicant has applied for a permit to demolish the existing building on the subject property. The Planning Commission finds that the proposal is subject to the provisions of MMC Subsection 19.403.7.

- A. MMC Subsection 19.403.7.B requires that the property owner list the subject property for sale for at least 90 days, including for at least 30 days prior to the public hearing.

The existing building was posted for sale on March 31, 2017. The listing agent is Bennet Vander with Keller Williams, a real estate firm. The for-sale sign was posted in front of the site on SE Railroad Ave. The posting includes a sign that reads, “HISTORIC BUILDING FOR SALE - WILL BE DEMOLISHED UNLESS MOVED.” The sign is printed in bold letters that are six inches in height. The listing agent prepared an informational flyer for the property and has been available to provide information about the property to anyone who might inquire.

The Planning Commission finds that this standard is met.

- B. MMC Subsection 19.403.7.C requires that the Planning Commission hold a public hearing to consider a request to demolish a historic resource within 45 days of the application.

The original application packet for Historic Resource Demolition (which included concurrent applications for a Subdivision, Variance, Zoning Map Amendment and Comprehensive Plan Map Amendment) was submitted on March 24, 2017. A demolition permit application was submitted to the Building Department on March 27, 2017. The Planning Commission held a public hearing to consider the demolition application only on May 9, 2017. The Planning Commission finds that this standard is met.

- C. MMC Subsection 19.403.7.D provides review criteria for determining the appropriateness of the demolition request. The Planning Commission is required to consider the following:

*i. All plans, drawings, and photographs as may be submitted by the applicant;*

The applicant submitted site plans showing proposed conditions as well as photographs of various portions of the existing building and property. The Planning Commission finds that the information submitted is sufficient for consideration of the demolition request.

*ii. Information presented at a public hearing held concerning the proposed work;*

The applicant presented the project at a regular meeting of the Hector Campbell Neighborhood District Association (NDA) on March 13, 2017, and at a meeting of the Design and Landmarks Committee on May 1, 2017. The Planning Commission held a public hearing focused on the demolition request on May 9, 2017. City staff and the applicant presented information regarding both the historic property and the proposed demolition. The Planning Commission finds that the information presented at the various public meetings and at the public hearing is sufficient for consideration of the demolition request.

*iii. The city comprehensive plan, including the economic, social, environmental, and energy consequences (ESEE);*

Chapter 3 of the Milwaukie Comprehensive Plan (hereafter referred to as the “Comp Plan”) addresses Environmental and Natural Resources, including a Historic Resources Element. Objective 1 of the Historic Resources Element focuses on identification and preservation of historic resources and includes policies that require City review of proposed demolitions and encourage restoration and maintenance where appropriate. The Planning Commission has reviewed the demolition request pursuant to the City’s Type III review process and finds that demolition is appropriate and that restoration and maintenance are infeasible.

The Planning Commission has reviewed the demolition proposal as required by the municipal code. The applicant has investigated the possibility of using the existing historic structure within the proposed subdivision, but has asserted that attempting to move and renovate the building is not economically or structurally feasible. The applicant has indicated that an effort will be made to reuse or recycle as much of the demolition material as possible, thereby responding to the energy consequences of the demolition.

The 1988 ESEE analysis identifies the economic and social consequences of allowing the demolition of designated resources, including loss of a housing opportunity and a contribution to the community’s image and neighborhood

character. However, the analysis also notes that a resource without much architectural integrity, or in poor condition, may be replaced with a structure of higher assessed value. The assessed value of the subject structure is \$89,570 and an assessed land value of nearly \$168,000, clearly identifying the lack of economic value in the structure. A newly constructed home would have a far greater assessed value.

Given the very poor condition of the structure, the proposed demolition does not present any significant negative social impacts and the proposed improvements are more likely to have a positive economic impact than a negative one.

The Planning Commission finds that the proposed demolition meets the goals, objectives, and policies of the Comp Plan.

*iv. The purpose as set forth in MMC Subsection 19.403.1;*

MMC Subsection 19.403.1 outlines the purpose of the Historic Preservation overlay zone, including the general goals of protecting, enhancing, perpetuating, and using sites and structures that reflect the city's unique heritage. Specifically, the Historic Preservation overlay is designed to facilitate preservation of historic resources for the following reasons:

- a. Safeguard the city's heritage as embodied and reflected in such resources;*
- b. Encourage public knowledge, understanding, and appreciation of the city's history and culture;*
- c. Foster community and neighborhood pride and sense of identity based on recognition and use of cultural resources;*
- d. Promote the enjoyment and use of cultural resources appropriate for the education and recreation of the people of the city;*
- e. Preserve diverse and significant architectural styles reflecting phases of the city's history, and encourage complementary design and construction relative to cultural resources;*
- f. Enhance property value and increase economic and financial benefits to the city and its residents;*
- g. Identify and resolve conflicts between the preservation of cultural resources and alternative land uses;*
- h. Integrate the management of cultural resources and relevant data into public and private land management and development processes; and*
- i. Implement the goals and policies of the comprehensive plan.*

With the proposed demolition, the developer intends to create a new 19-lot residential development. The historic structure will be either sold and moved, or it will be deconstructed to re-use the materials. When originally listed as an historic resource, the structure was vacant, but in reasonable repair. Decades later, the structure is nearing collapse, the stability of the foundation is not known, and overall it has not been maintained in a condition that allows it to be preserved. The house is set back from the road and not readily visible; windows are broken and walls are crumbling. Any historic artifacts or implements will be salvaged for use and display at the Milwaukie Museum, in coordination with family members.

As noted above in Finding 7-C(iii), the consequences of the demolition of the structure, which is in very poor condition, are outweighed by the potential benefits of the proposed development. The proposal meets the goals, objectives, and policies of the Comp Plan. The Planning Commission finds that the proposed demolition fits with the purpose of MMC Subsection 19.403.1.

- v. *The criteria used, and findings and decisions made, in the original designation of the landmark or historic district in which the property under consideration is located;*

When the house was originally designated as a historic resource as part of a countywide inventory conducted in 1988, it was evaluated and scored using a standard worksheet that addressed its historical association, architecture, and environment. It scored 38 out of 86 possible points (44 percent), with high scores of 10 in 2 categories: 1) in its association with J.K. Wait, one of Milwaukie's earliest pioneers and leaders; and 2) in its style as one of the "finest examples of the Vernacular style in Milwaukie." Although it only scored 38 points, or 44 percent, the house was designated as a "significant" resource because MMC Subsection 19.403.3 defines "significant" as a resource that scores 10 in at least two categories.

The accompanying evaluation report described the house as "reminiscent of the Classical Revival style. This style found expression in farmhouses around the state in the mid 19<sup>th</sup> century." It noted the "tall, narrow volume capped with a gable roof and the bilateral symmetry of the façade."

The Planning Commission finds that the information provided for the original designation of the historic resource does not provide a compelling reason to save the historic structure, especially given that it has been vacant and not maintained for over 30 years and is in extremely poor condition. Further, much of its significance is its association with an early settler to Milwaukie, rather than the structure itself. The site will continue to be used for residential purposes, the structure will be deconstructed and the materials re-used, and artifacts will be salvaged for use by the Milwaukie Museum.

- vi. *The historical and architectural style, design, arrangement, materials, or its appurtenant fixtures; the relationship of such features to similar features of other buildings within the district; and the position of the building or structure in relation to public rights-of-way and to other buildings and structures in the area;*

The existing building was built in "Vernacular" style, reminiscent of the Classical Revival style, with a tall, narrow volume, gable roof, and a bilateral symmetry of the façade arranged around the central entrance. The house was built in 2 phases with the front of the house being the later phase (1890s) and the part most visible from the road. It sits on a bench above Railroad Ave and is partially hidden by overgrown vegetation. The surrounding neighborhood is composed primarily of mid-20<sup>th</sup> century residences with the International Way industrial area across the street.

The "significant" ranking indicates that the building is a notable in its "vernacular" style, and also due to its association with J.K. Wait, one of Milwaukie's earliest pioneers and leaders. He represented Clackamas County twice in the state legislature and Multnomah County as a senator.

The Planning Commission finds that significant architectural elements of the existing historic resource are substantially degraded and damaged to such a degree, that the request for demolition is justified.

- vii. The effects of the proposed work upon the protection, enhancement, perpetuation, and use of the district which cause it to possess a special character or special historic or aesthetic interest or value;*

The request for demolition is accompanied by a proposal to build a new 19-lot residential subdivision on the site. As proposed, the site will serve the neighborhood and larger community as a residential neighborhood, providing much needed housing in a very tight real estate market.

The Planning Commission finds that this criterion does not apply to this project, as it is not located in an historic district.

- viii. Whether denial of the permit would involve substantial hardship to the applicant, and whether issuance of the permit would act to the substantial detriment of the public welfare and would be contrary to the intent and purposes of this title.*

Denial of the demolition permit would potentially result in a delay of the proposed development project. Maintaining the structure on the site in its current location would result in a design not in conformance with site design standards and a reduction in dwelling unit count which would make the project financially infeasible. The only option would be for someone to purchase and move the existing building, the cost of which would likely be prohibitive.

The provisions of MMC Subsection 19.403.7.F allow suspension of the requested demolition permit for a period of up to 30 days from the hearing date. That period may be extended for up to a total of no more than 120 days. If no alternative has been demonstrated to be practical by the end of the suspension period, the demolition permit should be issued. Since the timeline for the subdivision land use review process is still ongoing, there does appear to be time to allow an exploration of alternatives without significantly impacting the overall project. However, the applicant would have to spend some time and money to pursue such alternatives, with little chance of success given the condition of the structure.

The Planning Commission finds that to deny the demolition permit at this time would not serve the public interest and would present some hardship to the applicant.

The Planning Commission finds that the criteria for demolition of a historic resource have been met.

7. MMC Title 16 requires that the applicant obtain an erosion control permit prior to construction or commencement of any earth disturbing activities. As conditioned, the applicant shall comply with MMC Title 16 Erosion Control for the demolition portion of the project.
8. The application was referred to the following departments and agencies on March 31, 2017: Milwaukie Building Division, Milwaukie Engineering Department, Clackamas County Fire District #1, Hector Campbell Neighborhood District Association Chairperson and Land Use Committee, the Design and Landmarks Committee, and the Oregon State Historic Preservation Office.

The comments received are summarized as follows:

- **Matt Amos, Clackamas Fire District #1:** No comment.
- **David Aschenbrenner, Chair, Hector Campbell NDA:** On Monday, April 10, 2017, the Hector Campbell NDA voted to approve the demolition of the historic house and

asked that the notice sign be relocated for improved visibility. The NDA also requested that artifacts from the home be preserved by the Milwaukie Museum.

- **David Aschenbrenner, President, Milwaukie Historical Society:** The Historical Society does not object to the demolition of the house, due to costly and challenging structural issues. The Society requests permission to enter the premises and remove artifacts to be preserved by the Milwaukie Historical Society.
- **Jamie French, M.A., State Historic Preservation Office Archaeologist:** As no previous archaeological surveys have been completed in the project area, extreme caution is recommended during ground disturbing activities. Per ORS 358.905 and ORS 97.74, if any archaeological objects or sites are discovered during construction, all activities should cease until a professional archaeologist can evaluate the discovery.
- **Design and Landmarks Committee (DLC):** The DLC reviewed the application at a public meeting on May 1, 2017 and recommended approval of the application to the Planning Commission. The DLC recommended an additional condition of approval that marker or identifier be installed identifying the site as the site of the Keil-Hoesley Farm House.

### Conditions of Approval

1. Prior to construction or commencement of any earth disturbing activities for the approved demolition, obtain an erosion control permit in accordance with the provisions of Milwaukie Municipal Code (MMC) Title 16 Erosion Control.
2. To mitigate the loss of the historic structure, prior to demolition, staff from the Milwaukie Museum will be permitted to access the property to salvage historic artifacts for use and display at the museum, in coordination with family members.
3. To the greatest extent practicable, the structure will be de-constructed to salvage the demolition materials for reuse where possible.
4. An historic marker or another identifier shall be installed to identify the property as being the site of the former Keil-Hoesley Farm House.

### Other requirements

1. Development activity on the site shall be limited to 7 a.m. to 10 p.m. Monday through Friday and 8 a.m. to 5 p.m. Saturday and Sunday, per MMC Subsection 8.08.070(I).



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David Levitan, AICP  
Acting Planning Director

cc: Simon Lofts (795 NW Torrey View Ln, Portland, OR 97229)  
Mark Dane (Mark Dane Planning, 14631 SW Millikan Way, Suite 6, Beaverton, OR 97003)  
Planning Commission (*via e-mail*)  
Alma Flores, Community Development Director (*via e-mail*)  
Chuck Eaton, Engineering Director (*via e-mail*)  
Alex Roller, Engineering Technician II (*via e-mail*)  
Samantha Vandagriff, Building Official (*via e-mail*)  
Bonnie Lanz, Permit Specialist (*via e-mail*)  
Mike Boumann and Matt Amos, CFD#1  
NDA(s): Hector Campbell (*via e-mail*)  
Interested Persons  
Land Use File(s): Master File #S-2017-002 (HR-2017-001)