

 CITY OF MILWAUKIE
COUNCIL ORDINANCE No. 2151

An ordinance of the City Council of the City of Milwaukie, Oregon, to amend the Zoning Map to rezone taxlots 12E31BC, lots 8000, 8100, 8200, and 8300 from Residential R-7 to Residential R-5, remove the Historic Resource Overlay from the property located at 4217 SE Railroad Ave; to amend the Milwaukie Comprehensive Plan Land Use Map to designate taxlots 12E31BC, lots 8000, 8100, 8200, and 8300 as Moderate Density rather than Low Density, and to remove the property located at 4217 SE Railroad Ave from Comprehensive Plan Appendix 1 – Historic Resources Property List (File #ZA-2017-002 and CPA-2017-001).

WHEREAS, the proposed amendments to the Zoning Map and Comprehensive Plan will result in a residential development that is compatible with the surrounding neighborhood; and

WHEREAS, legal and public notices have been provided as required by law; and

WHEREAS, on June 13, 2017, the Milwaukie Planning Commission conducted a public hearing, as required by MMC 19.1007.5 and adopted a motion in support of the amendment; and

WHEREAS, the Milwaukie City Council finds that the proposed amendments are in the public interest of the City of Milwaukie.

Now, Therefore, the City of Milwaukie does ordain as follows:

Section 1. Findings. Findings of fact in support of the amendments are adopted by the City Council and are attached as Exhibit A.

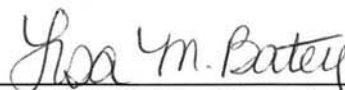
Section 2. Amendments. The Milwaukie Zoning Map is amended as described in Exhibit B (Proposed Zoning Map Amendments), and Exhibit C (Comprehensive Plan Land Use Map Amendment), and Exhibit D (Comprehensive Plan Text Amendment).

Section 3. Effective Date. The amendments shall become effective 30 days from the date of adoption.

Read the first time on 7/18/17, and moved to second reading by 4:0 vote of the City Council.

Read the second time and adopted by the City Council on 7/18/17.

Signed by the Council President on 7/18/17.



Lisa Batey, Council President

ATTEST:

APPROVED AS TO FORM:
Jordan Ramis PC



Scott S. Stauffer, City Recorder



City Attorney

**Recommended Findings of Approval
File #ZA-2017-002; CPA-2017-001 – Keil Gardens
(4217-4219 SE Railroad Ave)**

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 create a 19-lot subdivision at 4217-4219 SE Railroad Ave. The site is made up of 4 contiguous lots and is zoned Low Density Residential R-7. The land use application master file number is S-2017-002, with accompanying file numbers ZA-2017-002, CPA-2017-001, VR-2017-001, and VR-2017-006. An application to demolish the historic structure located at 4217 SE Railroad Ave was processed separately as Land Use File #HR-2017-001. The Planning Commission approved the demolition at a public hearing on May 9, 2017.
2. The land use application was submitted on March 24, 2017. It was initially deemed incomplete by City staff on April 11, 2017. The applicant revised and resubmitted the application on April 28, 2017 and requested that the City deem the application complete as of April 28, 2017.
3. The proposal is subject to the following provisions of the Milwaukie Municipal Code (MMC):
 - MMC 19.301 Low Density Residential Zones
 - MMC 19.902 Amendments to Maps and Ordinances
 - MMC 19.1007 Type IV Review

The application has been processed and public notice provided in accordance with MMC Section 19.1006 Type III Review and Section 19.1007 Type IV Review. A Planning Commission public hearing was held on June 13, 2017 and a City Council public hearing was held on July 18, 2017, as required by law.

4. MMC 19.301 Low Density Residential Zones

MMC 19.301 establishes the development standards that are applicable to this site. As proposed, the subdivision would create 19 lots that range in size between 5,000 sq ft to 6,345 sq ft. The minimum lot size for a single-family detached home in the R-5 zone is 5,000 sq ft. The minimum density requirement for the R-5 zone is 7 dwellings per acre and the maximum density requirement for the R-5 zone is 8.7 dwellings per acre. The 19 proposed lots total 79,501 sq ft or 1.82 acres, which results in an overall density of approximately 7.69 dwellings per acre. The minimum frontage requirement for a standard lot in the R5 zone is 35 ft. Lots 5 and 6 have 35 ft of frontage and have the smallest amount of street frontage of the 19 proposed lots.

The City Council finds that the proposal complies with the applicable standards of the R-5 zone.
5. MMC 19.902 Amendments to Maps and Ordinances
 - A. MMC 19.902.3.B establishes the approval criteria for Comprehensive Plan text amendments.

Changes to the Milwaukie Comprehensive Plan may be approved if the following criteria are met:

1. The proposed amendment is consistent with the goals and policies of the Comprehensive Plan, as proposed to be amended.

The proposed Comprehensive Plan text amendment would remove the property located at 4217 SE Railroad Ave from Appendix 1 – Historic Resources Property List. This amendment is necessary as the Planning Commission approved the demolition of this historic structure on May 9, 2017 (land use file #HR-2017-001). Demolition of the structure results in a property which would no longer meet the criteria for an historic resource.

2. The proposed amendment is in the public interest with regard to neighborhood or community conditions.

Removing the property from Appendix 1 maintains a full and accurate historic resources property list in the Comprehensive Plan, which is in the public interest. The Hector Campbell Neighborhood District Association (NDA) and the Milwaukie Historical Society support the demolition based on the poor condition of the structure.

3. The public need is best satisfied by this particular proposed amendment.

Removing the property from Appendix 1 maintains a full and accurate historic resources property list in the Comprehensive Plan, which is in the public interest.

4. The proposed amendment is consistent with the Metro Urban Growth Management Functional Plan and relevant regional policies.

This criterion is not applicable to the proposed amendment.

5. The proposed amendment is consistent with relevant State statutes and administrative rules, including the Statewide Planning Goals and Transportation Planning Rule.

Removing the property from Appendix 1 maintains a full and accurate historic resources property list in the Comprehensive Plan. The removal follows the process outlined in city code which has been acknowledged as being in conformance with Statewide Planning Goal 5. Goal 5 addresses open space, natural resources, and historic resources.

As conditioned, the City Council finds that this criterion is met.

- B. MMC 19.902.4.B establishes the approval criteria for Comprehensive Plan Map Amendments

Changes to the maps of the Milwaukie Comprehensive Plan shall be evaluated against the approval criteria in Subsection 19.902.3.B. A quasi-judicial map amendment shall be approved if these criteria are met.

Changes to the Milwaukie Comprehensive Plan may be approved if the following criteria are met:

1. The proposed amendment is consistent with the goals and policies of the Comprehensive Plan, as proposed to be amended.

The proposed Comprehensive Plan map amendment would change the land use designation of the site from Low Density (LD) to Moderate Density (MD). This application requests a zoning map amendment from Residential R-7 to Residential R-5; the new land use designation corresponds to that of the Residential R-5 Zone. This amendment is necessary to maintain consistency between the Comprehensive Plan and Zoning Map. Per Land Use Objective #2, Policy #3, areas may be designated Moderate Density if the predominant housing type will be single family detached on moderate to small lots. The proposed subdivision will be single family homes on lots ranging from 5,000 sq ft to 6,345 sq ft.

2. The proposed amendment is in the public interest with regard to neighborhood or community conditions.

The site is surrounded by residential development on 3 sides, with LD to the north and east and MD to the west across SE 42nd Ave. Lot sizes in the neighborhood to the north and east of the site are approximately 6,000 sq ft in size, less than the minimum 7,000 sq ft required in the R-7 Zone. Industrial land use is to the south across SE Railroad Ave as well as an active rail line. The MD land use designation reflects a slightly higher density single-family residential use that is still designated a low density residential zone in the zoning code. This change is consistent with the surrounding neighborhood as it contains predominantly single-family detached dwellings. The Hector Campbell NDA does not oppose the re-zoning of the site.

3. The public need is best satisfied by this particular proposed amendment.

The MD land use designation reflects a higher density single-family residential use that is consistent with the surrounding neighborhood. However, smaller minimum lot sizes will provide more opportunity for the development of additional housing. The loss of this Low Density area does not create compatibility conflicts given the surroundings land use pattern and density. Areas with a Low Density designation make up over 52% of the City (including right-of-way), the largest residential land use designation in the City. By comparison, Moderate Density comprises just over 10% of the land area.

Further, the 2016 Housing Needs Assessment (HNA), which assesses the city's 20-year housing and residential land needs projects the need for 1,150 new housing units by 2036. Designating the site with a higher density land use and the accompanying zoning amendment, will provide the opportunity for more housing units than allowed under the current designation. Although the HNA acknowledges no new need for housing in the middle of the pricing spectrum (\$240,000 - \$490,000), we can assume that homes built on R-5 lots will be less expensive than those built on R-7 lots. The proposal responds to an identified need for additional housing supply.

4. The proposed amendment is consistent with the Metro Urban Growth Management Functional Plan and relevant regional policies.

The MD land use designation reflects a slightly higher density single-family residential use as compared to the LD land use designation, which is consistent with Metro Urban Growth Management Functional Plan (UGMFP) and relevant regional policies. Title 1 of the UGMFP states that plan amendments and zone changes cannot have the effect of lowering density. This proposal increases density on the property, which is not in conflict with Title 1.

5. The proposed amendment is consistent with relevant State statutes and administrative rules, including the Statewide Planning Goals and Transportation Planning Rule.

The proposed land use map amendment from LD to MD still identifies single-family home development as the predominant land use type and is consistent with relevant State statutes and administrative rules, including the Statewide Planning Goals and Transportation Planning Rule. The proposal addresses Goal 10 – Housing, by proposing residential development at a higher density. The 2016 Housing Needs Assessment (HNA), which assesses the city's 20-year housing and residential land needs projects the need for 1,150 new housing units by 2036. Designating the site with a higher density land use and the accompanying zoning amendment, will provide the opportunity for more housing units than allowed under the current designation.

Goal 12 – Transportation is addressed as the number of new dwelling units and the associated trips will not impact the functional classification of SE Railroad Ave or SE 42nd Ave, both of which are collector streets.

As conditioned, the City Council finds that this criterion is met.

C. MMC 19.902.6.B establishes the approval criteria for Zoning Map amendments.

The proposal requests 2 zoning map amendments: rezone the site from Residential R-7 to Residential R-5; and remove the Historic Resources Overlay from the property located at 4217 SE Railroad Ave.

Changes to the Zoning Map shall be evaluated against the following approval criteria. A quasi-judicial map amendment shall be approved if the following criteria are met:

1. The proposed amendment is compatible with the surrounding area based on the following factors:

- a. Site location and character of the area.
- b. Predominant land use pattern and density of the area.
- c. Expected changes in the development pattern for the area.

The zone change proposal is appropriate given the characteristics of the surrounding area. To the west across SE 42nd Avenue is an area zoned R-5 with a Moderate Density designation in the Comprehensive Plan. To the south across SE Railroad Avenue is an area zoned Business Industrial (BI) with an Industrial designation in the Comprehensive Plan. In the directly adjacent R-7 zoned areas, many of the lots are sub-standard for the R-7 zone. Seventeen of the nineteen lots zoned R-7 that are

adjacent to the site are 6,500 square feet or less. Although the R-5 zone and the Moderate Density land use designation reflect a higher density single-family residential use, they are similar in density with the surrounding neighborhood. Further, smaller minimum lot sizes will provide more opportunity for the development of 6 units of additional housing over the R-7 zone. The R-7 zone is also the largest zone in the city, comprising over 40% of the land area (including right of way). By comparison, R-5 comprises just over 10% of the land area.

Removing the Historic Resources Overlay from the property located at 4217 SE Railroad Ave is appropriate given the approval of the demolition permit for the historic structure (HR-2017-001).

The Hector Campbell Neighborhood District Association had no objections to the proposal.

2. The need is demonstrated for uses allowed by the proposed amendment.

The R-5 zone will provide the opportunity to build additional single-family homes on the site. The R-5 zone is considered a Low Density Residential Zone in the zoning code, with the same permitted uses. There is demonstrated need for additional housing in the city and in the greater region, illustrated by the Council's recent declaration of a housing emergency. Further, the 2016 Housing Needs Assessment (HNA), which assesses the city's 20-year housing and residential land needs projects the need for 1,150 new housing units by 2036. Designating the site with a higher density land use and the accompanying zoning amendment, will provide the opportunity for more housing units than allowed under the current designation.

3. The availability is shown of suitable alternative areas with the same or similar zoning designation.

This criterion is intended to ensure that a suitable number of other properties with the same base zone designation will remain available for development. The R-7 zone is the largest zone in the city, comprising over 40% of the land area (including right of way). By comparison, R-5 comprises just over 10% of the land area. There is ample area in the city available for larger-lot single family residential development.

4. The subject property and adjacent properties presently have adequate public transportation facilities, public utilities, and services to support the use(s) allowed by the proposed amendment, or such facilities, utilities, and services are proposed or required as a condition of approval for the proposed amendment.

This area is adequately served by public utilities and transportation infrastructure. There is a 10-inch sewer main and a 14-inch water line in SE Railroad Ave which are adequate to serve 19 new homes. Within the public rights-of-way that will serve the proposed development, new water and sanitary sewer mains will be constructed as per City standards and will be maintained by the City. The proposed development is estimated to have an average daily vehicle trip count of 190, which is not a significant increase to a collector street. As conditioned with additional improvements, the development will have adequate services.

5. The proposed amendment is consistent with the functional classification, capacity, and level of service of the transportation system. A transportation impact study may be required subject to the provisions of Chapter 19.700.

As conditioned with additional improvements, the proposed development will not have a negative impact on the existing transportation network. The proposed development is estimated to have an average daily vehicle trip count of 190, which is not a significant increase to a collector street. A transportation impact study was not required for the proposed development.

6. The proposed amendment is consistent with the goals and policies of the Comprehensive Plan, including the Land Use Map.

The proposed Comprehensive Plan map amendment would change the land use designation of the site from Low Density LD to Moderate Density MD. This subdivision application requests a zoning map amendment from Residential R-7 to Residential R-5; the new land use designation corresponds to that of the Residential R-5 Zone. This amendment is necessary to maintain consistency between the Comprehensive Plan and Zoning Map. Per Land Use Objective #2, Policy #3, areas may be designated Moderate Density if the predominant housing type will be single family detached on moderate to small lots. The proposed subdivision will be single family homes on lots measuring approximately 5,000 sq ft.

7. The proposed amendment is consistent with the Metro Urban Growth Management Functional Plan and relevant regional policies.

The proposed zoning map amendment from R-7 to R-5 is still within the City's low density residential zones and is consistent with the Metro Urban Growth Management Functional Plan. The MD land use designation reflects a slightly higher density single-family residential use as compared to the LD land use designation, which is consistent with Metro Urban Growth Management Functional Plan (UGMFP) and relevant regional policies. Title 1 of the UGMFP states that plan amendments and zone changes cannot have the effect of lowering density. This proposal increases density on the property, which is not in conflict with Title 1.

8. The proposed amendment is consistent with relevant State statutes and administrative rules, including the Statewide Planning Goals and Transportation Planning Rule.

The proposed zoning map amendment from R-7 to R-5 is still within the City's low density residential zones and is consistent with relevant State statutes and administrative rules, including the Statewide Planning Goals and Transportation Planning Rule.

The proposed land use map amendment from LD to MD still identifies single-family home development as the predominant land use type and is consistent with relevant State statutes and administrative rules, including the Statewide Planning Goals and

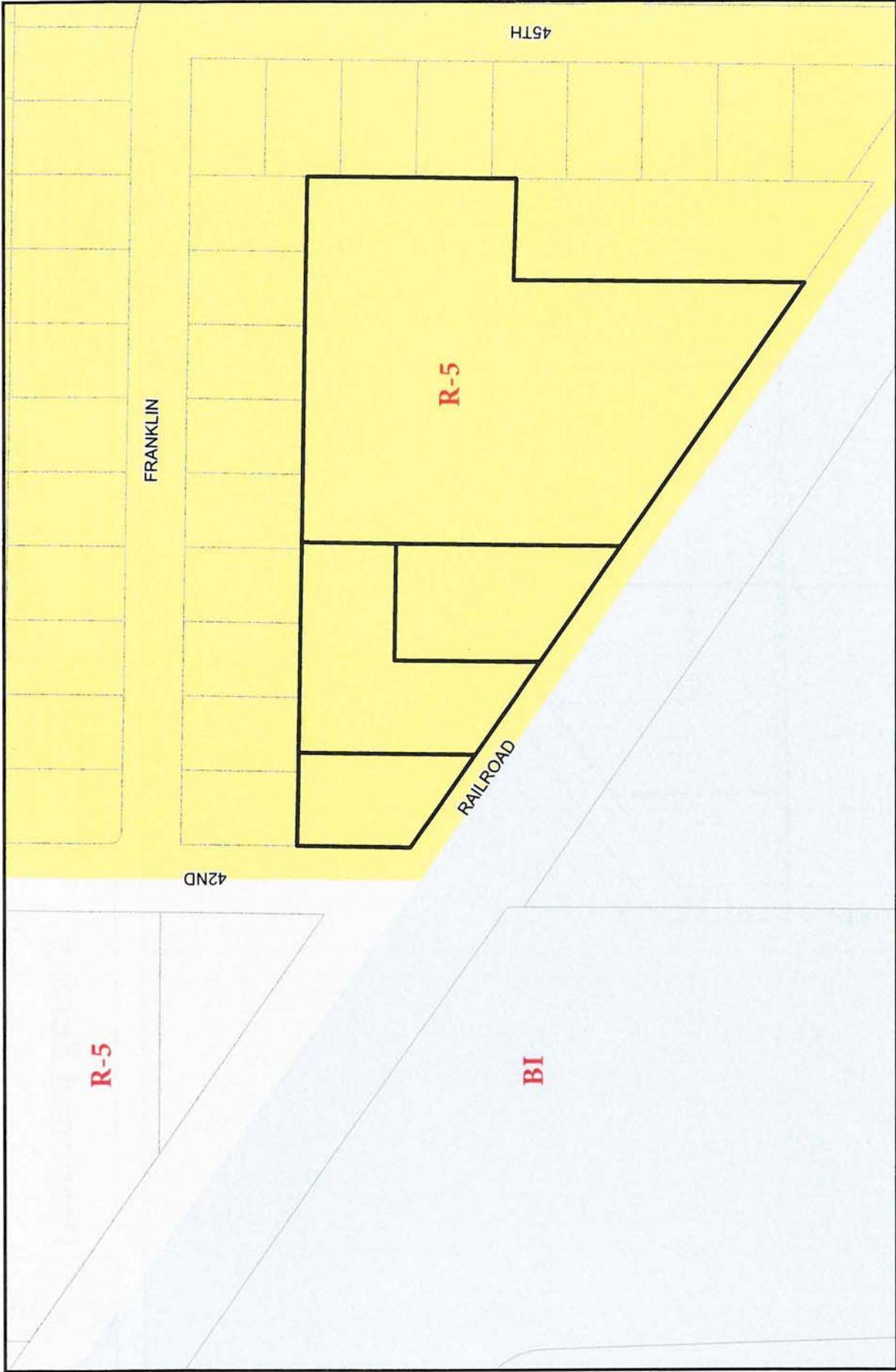
Transportation Planning Rule. The proposal addresses Goal 10 – Housing, by proposing residential development at a higher density. The 2016 Housing Needs Assessment (HNA), which assesses the city’s 20-year housing and residential land needs projects the need for 1,150 new housing units by 2036. Designating the site with a higher density land use and the accompanying zoning amendment, will provide the opportunity for 6 more housing units than allowed under the current designation.

Goal 12 – Transportation is addressed as the number of new dwelling units and the associated trips will not impact the functional classification of SE Railroad Ave or SE 42nd Ave, both of which are collector streets.

As conditioned, the City Council finds that this criterion is met.

6. As described in Finding 3, public notice of these applications was posted on site and mailed to parties as identified in the Milwaukie Municipal Code. The applications were referred for comment to the following: Milwaukie Building Division; Milwaukie Engineering Department; Clackamas Fire District #1; Clackamas County; Metro; ODOT; and the Hector Campbell Neighborhood District Association Chairperson and Land Use Committee. The responses relevant to these land use applications received are summarized below. Agencies did not respond if a response is not listed below.

Exhibit B.



Existing Zoning

Milwaukee Planning Dept.
Data: City of Milwaukee GIS;
Metro RLIS
Date: 6/22/2017
Author: Planning Staff

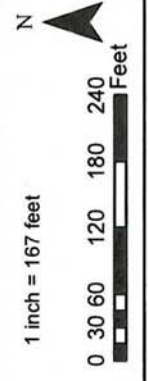
1 inch = 167 feet



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Milwaukie Planning Dept.
 Data: City of Milwaukie GIS;
 Metro RLIS
 Date: 6/22/2017
 Author: Planning Staff

Proposed Zoning

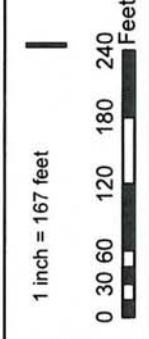


Exhibit C.



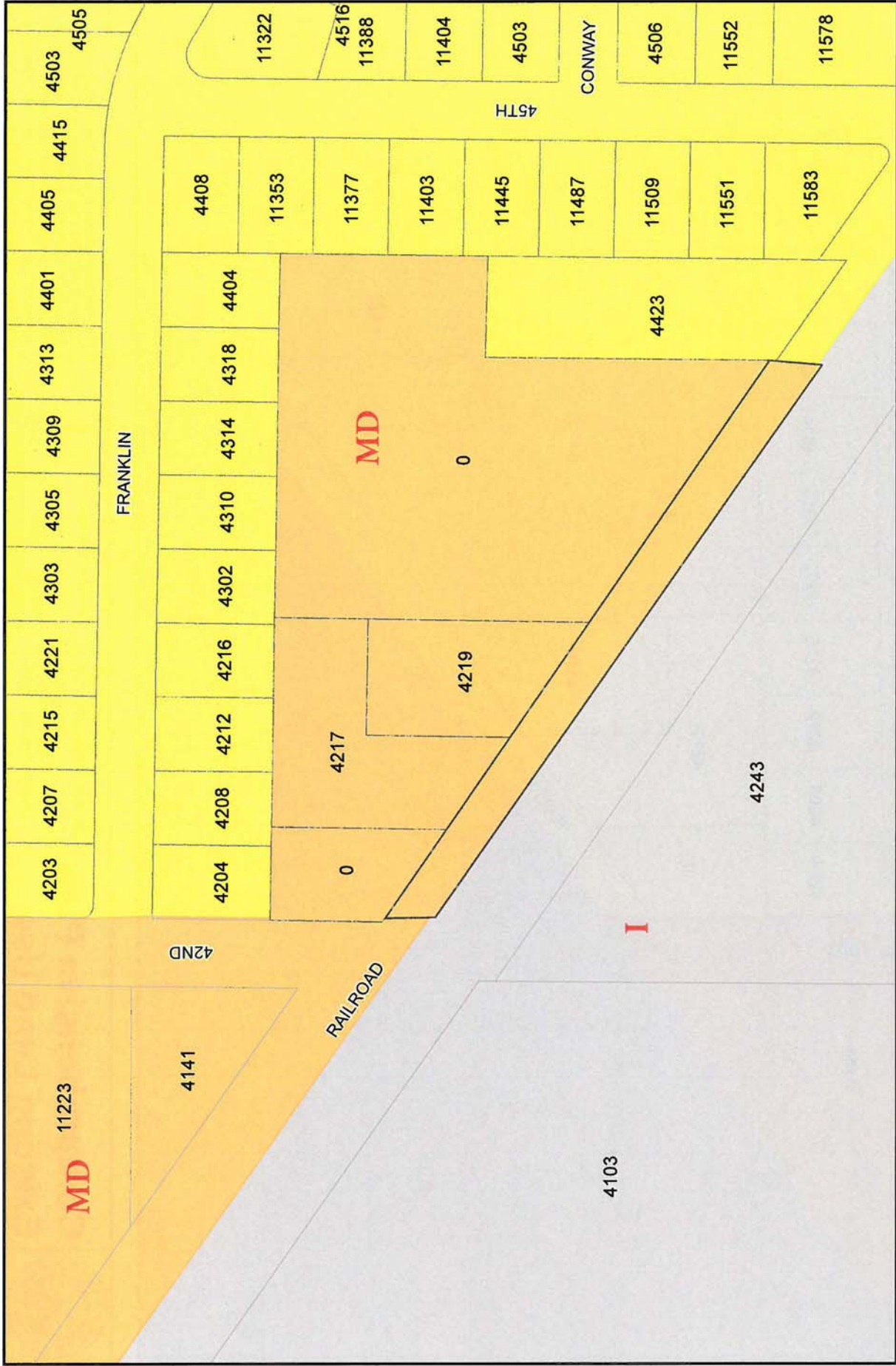
Comprehensive Plan Existing Land Use

Milwaukie Planning Dept.
Data: City of Milwaukie GIS:
Metro RLIS
Date: 6/19/2017
Author: Planning Staff



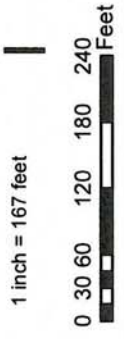
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Exhibit C.



Comprehensive Plan Proposed Land Use

Milwaukie Planning Dept.
Data: City of Milwaukie GIS:
Metro RLIS
Date: 6/19/2017
Author: Planning Staff



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APPENDIX 1 — HISTORIC RESOURCES PROPERTY LIST

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<u>SITE NO./ADDRESS/(YEAR BUILT)***</u>	<u>TYPE</u>	<u>SCORE</u>	
<u>“Significant” properties:</u>			
1	9712 SE Cambridge Lane (1941)*	House	56
2	9717 SE Cambridge Lane (1938)	House	52
3	9911 SE Cambridge Lane (1923)*	House	50
4	10200 SE Cambridge Lane (1915)*	House	45
5	2300 SE Harrison (1937)*	Milwaukie Jr. High School	60
6	3235 SE Harrison (1888)*	House	42
7	10636 SE Main (1925)*	Milwaukie Masonic Lodge	58
8	10722 SE Main (1938)*	Milwaukie City Hall	59
9	11008 SE Main (1905)*	Commercial Building	43
10	4217 SE Railroad (1885)*	House	38
11	3125 SE VanWater (1886)*	Ardenwald Cong. Church	62
12	1620 SE Waverly Dr. (1922)*	House	54
14	11300 SE 23rd (1925)*	Milwaukie High School	53
15	10399 SE 34th (1912)*	House	46
24	12006 SE McLoughlin**	House	32
34	11188 SE 27th**	House	52
45	8835 SE 42nd (1923)	House	67
46	9002 SE McLoughlin (1938)	Commercial Building	71
<u>“Contributing” properties:</u>			
13	2316 SE Wren St. (1922)*	House	32
16	2115 SE Adams**	House	19
17	9900 SE Cambridge Lane**	House	27
18	4141 SE King Rd.**	House	36
19	2515 SE Lake Rd.**	House	33
20	3182 SE Lake Rd.**	House	44
21	10914 SE Main**	Commercial Building	45
22	10999 SE Main**	Commercial Building	38
23	11073 SE Main**	Commercial Building	39
25	2526 SE Monroe**	House	33
26	12374 SE Oatfield**	House	35
27	12021 SE River Rd.**	House	33
28	1612 SE Waverly Dr.**	House	49
29	12671 SE Where Else Lane**	House	36

APPENDIX 1 — HISTORIC RESOURCES PROPERTY LIST

<u>SITE NO./ADDRESS/(YEAR BUILT)***</u>	<u>TYPE</u>	<u>SCORE</u>
30 11912 SE 19th**	House	38
31 10392 SE 23rd**	House	37
32 10565 SE 23rd	House	50
33 Deleted		
35 11630 SE 27th**	House	34
36 Deleted by Ord. 1986	Ardenwald School	
37 9405 SE 42nd**	House	36
38 9908 SE Cambridge Lane	House	36

“Unrankable” properties:

39 2607 SE Monroe	House	?
40 2715 SE Monroe	House/First City Water Works	?
41 Pioneer Cemetery	Cemetery	?
42 Deleted by Ord. 1981		
43 3438 SE Wake St.	House	?
44 Deleted by Final Order of Council, April 3, 2007		?

* Has a rating score with at least two 10's from the Evaluation Worksheet.

** Has a rating score with at least one 10 from the Evaluation Worksheet.

*** Year built listed for significant structures only.