



# Oregon

Theodore R. Kulongoski, Governor

## Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

Fax (503) 378-5518

www.lcd.state.or.us

### NOTICE OF ADOPTED AMENDMENT

October 15, 2008

TO: Subscribers to Notice of Adopted Plan  
or Land Use Regulation Amendments

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: City of Milwaukie Plan Amendment  
DLCD File Number 005-08



The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. A copy of the adopted plan amendment is available for review at the DLCD office in Salem and the local government office.

Appeal Procedures\*

### **DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: October 29, 2008**

This amendment was submitted to DLCD for review 45 days prior to adoption. Pursuant to ORS 197.830 (2)(b) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR Chapter 661, Division 10). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

**\*NOTE: THE APPEAL DEADLINE IS BASED UPON THE DATE THE DECISION WAS MAILED BY LOCAL GOVERNMENT. A DECISION MAY HAVE BEEN MAILED TO YOU ON A DIFFERENT DATE THAN IT WAS MAILED TO DLCD. AS A RESULT YOUR APPEAL DEADLINE MAY BE EARLIER THAN THE ABOVE DATE SPECIFIED.**

Cc: Gloria Gardiner, DLCD Urban Planning Specialist  
Amanda Punton, DLCD Natural Resource Specialist  
Jennifer Donnelly, DLCD Regional Representative  
Susan Shanks, City of Milwaukie

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PROF **2**

**DLCD**

# Notice of Adoption

THIS FORM **MUST BE MAILED** TO DLCD  
**WITHIN 5 WORKING DAYS AFTER THE FINAL DECISION**  
PER ORS 197.610, OAR CHAPTER 660 - DIVISION 18



Jurisdiction: **City of Milwaukie**

Local file number: **ZC-08-02, CPA-08-02**

Date of Adoption: **10/7/2008**

Date Mailed: **10/8/2008**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? **Yes** Date: 7/24/2008

- Comprehensive Plan Text Amendment
- Comprehensive Plan Map Amendment
- Land Use Regulation Amendment
- Zoning Map Amendment
- New Land Use Regulation
- Other:

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached".

**The adopted amendments modify the City's Zoning Map and Comprehensive Plan Map #4 (Historic Resources), as well as the City's Historic Resources Property List (Appendix 1 to the Comprehensive Plan). The modifications remove the "contributing historic resource" designation from the existing school building at 8950 SE 36<sup>th</sup> Avenue (Ardenwald Elementary School) because it has been approved for demolition and will be replaced with a new, larger building. The adopted amendments reflect this change in historic resource status.**

Does the Adoption differ from proposal? **No, no explanation is necessary.**

Plan Map Changed from: **Contributing Historic Resource 36** to: **No designation**

Zone Map Changed from: **Contributing Historic Resource** to: **No designation**

Location: **8950 SE 36<sup>th</sup> Avenue, Milwaukie, OR 97222**

Acres Involved: **8**

Specify Density: Previous: **N/A**

New: **N/A**

Applicable statewide planning goals:

- 1**  **2**  **3**  **4**  **5**  **6**  **7**  **8**  **9**  **10**  **11**  **12**  **13**  **14**  **15**  **16**  **17**  **18**  **19**

Was an Exception Adopted?  YES  NO

Did DLCD receive a Notice of Proposed Amendment...

45-days prior to first evidentiary hearing?

**Yes**  **No**

If no, do the statewide planning goals apply?

**Yes**  **No**

If no, did Emergency Circumstances require immediate adoption?

**Yes**  **No**

**DLCD file No.** \_\_\_\_\_

Please list all affected State or Federal Agencies, Local Governments or Special Districts:

**North Clackamas School District #12, Metro**

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Local Contact: **Susan P. Shanks, Senior Planner**

Phone: **(503) 786-7653** Extension:

Address: **6101 SE Johnson Creek Blvd.**

Fax Number: **503-774-8236**

City: **Milwaukie**

Zip: **97206-**

E-mail Address: **shankss@ci.milwaukie.or.us**

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## **ADOPTION SUBMITTAL REQUIREMENTS**

This form **must be mailed** to DLCD **within 5 working days after the final decision**  
per ORS 197.610, OAR Chapter 660 - Division 18.

1. **Send this Form and TWO Complete Copies** (documents and maps) of the Adopted Amendment to:

**ATTENTION: PLAN AMENDMENT SPECIALIST  
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT  
635 CAPITOL STREET NE, SUITE 150  
SALEM, OREGON 97301-2540**

2. Electronic Submittals: At least **one** hard copy must be sent by mail or in person, but you may also submit an electronic copy, by either email or FTP. You may connect to this address to FTP proposals and adoptions: [webservice.lcd.state.or.us](http://webservice.lcd.state.or.us). To obtain our Username and password for FTP, call Mara Ulloa at 503-373-0050 extension 238, or by emailing [mara.ulloa@state.or.us](mailto:mara.ulloa@state.or.us).
3. **Please Note:** Adopted materials must be sent to DLCD not later than **FIVE (5) working days** following the date of the final decision on the amendment.
4. Submittal of this Notice of Adoption must include the text of the amendment plus adopted findings and supplementary information.
5. The deadline to appeal will not be extended if you submit this notice of adoption within five working days of the final decision. Appeals to LUBA may be filed within **TWENTY-ONE (21) days** of the date, the Notice of Adoption is sent to DLCD.
6. In addition to sending the Notice of Adoption to DLCD, you must notify persons who participated in the local hearing and requested notice of the final decision.
7. **Need More Copies?** You can now access these forms online at <http://www.lcd.state.or.us/>. Please print on **8-1/2x11 green paper only**. You may also call the DLCD Office at (503) 373-0050; or Fax your request to: (503) 378-5518; or Email your request to [mara.ulloa@state.or.us](mailto:mara.ulloa@state.or.us) - ATTENTION PLAN AMENDMENT SPECIALIST.

ORDINANCE NO. 1986

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AMENDING THE CITY ZONING MAP, COMPREHENSIVE PLAN MAP #4 (HISTORIC RESOURCES), AND THE HISTORIC RESOURCES PROPERTY LIST (APPENDIX 1 OF THE COMPREHENSIVE PLAN) TO REMOVE THE "CONTRIBUTING" HISTORIC RESOURCE DESIGNATION FROM THE ARDENWALD ELEMENTARY SCHOOL, WHICH IS LOCATED AT 8950 SE 36<sup>TH</sup> AVENUE (FILE #'S ZC-08-02 and CPA-08-02).

WHEREAS, Ardenwald Elementary School is designated as a "contributing" historic resource on the City's list of historic properties; and

WHEREAS, at a public hearing on September 9, 2008, the Milwaukie Planning Commission approved a land use application (land use file HR-07-02) to allow the demolition of Ardenwald Elementary School; and

WHEREAS, the proposed amendments to the City's zoning map and comprehensive plan would remove the designation of Ardenwald Elementary School as a historic resource from the zoning map, comprehensive plan map #4 (Historic Resources), and Appendix 1 of the comprehensive plan (Historic Resources Property List) to reflect the removal of the historic resource at this location; and

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

WHEREAS, on September 9, 2008, the Milwaukie Planning Commission conducted a public hearing, as required by Zoning Ordinance Subsection 19.1011.5, evaluated the proposal against the applicable approval criteria, 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:**

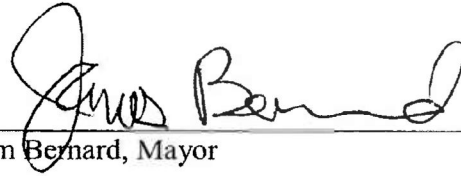
Section 1. Findings. Findings of fact in support of the proposed amendments are attached as Exhibit A.

Section 2. Zoning map and Comprehensive Plan. The zoning map is amended as shown in Exhibit B (revised zoning map). The comprehensive plan is amended as shown in Exhibit C (revised historic resources map) and Exhibit D (revised historic resources property list).

Read the first time on 10/7/08, and moved to second reading by 5 vote of the City Council.

Read the second time and adopted by the City Council on 10/07/07

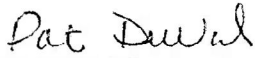
Signed by the Mayor on 10/07/08



Jim Bernard, Mayor

ATTEST:

APPROVED AS TO FORM:  
Jordan Schrader Ramis, LLP



Pat DuVal, City Recorder



City Attorney

**EXHIBIT A**  
**Recommended Findings in Support of Approval**  
**Casefile #s ZC-08-02 and CPA-08-02**  
**(Map changes related to Ardenwald Elementary School demolition)**

1. The City of Milwaukie, acting as applicant, has applied for approval to amend the zoning map, comprehensive plan map (hereafter referred to as “comp plan map”), and historic resources properties list to remove the “contributing” designation for 8950 SE 36th Avenue, Ardenwald Elementary School. The City proposes the following specific actions:
  - Remove the “contributing” historic resource designation from 8950 SE 36<sup>th</sup> Avenue (Ardenwald Elementary School) on the Milwaukie Zoning Map.
  - Remove the “contributing” historic resource designation from 8950 SE 36<sup>th</sup> Avenue (Ardenwald Elementary School) on Milwaukie Comprehensive Plan Map 4 (Historic Resources).
  - Remove 8950 SE 36th Avenue (Ardenwald Elementary School) from the City’s list of historic properties, found in Appendix 1 of the Milwaukie Comprehensive Plan
  
2. North Clackamas School District #12 (hereafter referred to as “the District”) received approval by the Planning Commission to replace the existing Ardenwald Elementary School with a new, larger building to accommodate an increased student population (land use file CSU-07-04). The District also received approval from the Planning Commission to demolish the existing school, a designated historic resource (land use file HR-07-02). The new school building will be constructed behind the existing school, which will be demolished to make room for parking and loading areas as well as ball fields and outdoor play areas.
  
3. The proposal is subject to the following provisions of the Zoning Ordinance, Title 19 of the Milwaukie Municipal Code (MMC), as follows:
  - MMC Chapter 19.900 Amendments
  - MMC Subsection 19.1011.4 Major Quasi-Judicial Review

The proposal is also subject to Milwaukie Comprehensive Plan Chapter 2, Plan Review and Amendment Process.

Sections of the Milwaukie Municipal Code and Comprehensive Plan not addressed in these findings are found to be not applicable to the decision on this application.
  
4. Public notice has been provided in accordance with MMC Subsection 19.1011.4, Major Quasi-Judicial Review, which includes notification to the State Department of Land Conservation and Development. Public notice was sent to property owners within 400 feet of the subject property at least 10 days in advance of the required public hearing, which satisfies the major quasi-judicial notification requirements. The Planning Commission held a public hearing on September 9, 2008, as required by law. The City Council held a public hearing on October 7, 2008, as required by law.

5. The City Council finds that the proposed amendments are consistent with the following applicable State, Metro, and City policies, agreements, provisions, and regulations:

**Milwaukie Municipal Code**

Chapter 19.900 Amendments

MMC Section 19.903 states that proposals for zoning map amendments must provide evidence that all requirements of this title relative to the proposed use or uses are satisfied, in addition to addressing the following:

*A. Applicable requirements of Section 19.1003;*

MMC Section 19.1003 requires that applications be made on forms prescribed by the city. In this case, staff has determined that this narrative response and the accompanying exhibits are sufficient materials for this application.

*B. Reasons for requesting the zoning map amendment;*

The amendments to the zoning and comp plan maps are being proposed because of the imminent demolition of the existing Ardenwald Elementary School, which is a designated "contributing" historic resource. Once the existing building is demolished to make room for a larger school building, the designated "contributing" historic resource will no longer exist and should therefore no longer appear on the City's zoning or comp plan maps. The requested amendments are intended to keep the City's maps current.

*C. Description of existing site conditions, including but not limited to topography, public facilities and service, natural hazards, natural areas or open space, historic sites, transportation, current uses of the subject site and current zoning of the subject site;*

The subject property includes several existing buildings that comprise the Ardenwald Elementary School, as well as parking areas, playing fields, and at least 100 trees of various varieties, ages, and sizes. Efforts are underway to build a new school facility. Once the new building is completed, the existing school will be demolished and the final site improvements (including new parking areas and playing fields) will be completed. The underlying zoning of the site is residential R-7 and the school operates at the site as a community service use. The western two-thirds of the site have a comp plan land use designation of Public (P) and the eastern one-third has a comp plan land use designation of Low Density (LD).

*D. Description of the intended use or uses;*

The site will continue to be used for an elementary school, with playing fields and parking and loading areas.

*E. Identification on a detailed site plan of public facilities both existing and proposed; existing and proposed structures and site development details, including display of setback and other zoning standards compliance information; and an indication of mitigation or other measures proposed for purposes of health, safety or welfare within the community.*

Existing and proposed site plans were included in the original application.

*F. The approval criteria of Section 19.905, which include the following:*

- i. The proposed amendment must conform to applicable comprehensive plan goals, policies and objectives and be consistent with the provisions of city ordinances, Metro urban growth management functional plan and applicable regional policies.*

The historic resources element of the comprehensive plan is intended to preserve and protect significant historical and cultural sites and structures in the city. Once the old school is demolished, no historic structure will remain on the site. The proposed amendments will implement the Planning Commission's decision to allow the demolition of the historic structure by removing the "contributing" historic resource designation from the applicable maps.

- ii. *The anticipated development must meet the intent of the proposed zone, taking into consideration the following factors: site location and character of the area, the predominant land use pattern and density of the area, the potential for mitigation measures adequately addressing development effects, any expected changes in the development pattern for the area, the need for uses allowed by the proposed zone amendment, and the lack of suitable alternative sites already appropriately zoned for the intended use or uses. The planning commission and city council shall use its discretion to weigh these factors in determining the intent of the proposed zone.*

The proposed amendments will not change the underlying zoning of the subject property and do not contradict the recent approval (land use file CSU-07-04) for a new elementary school as a community service use on the site.

- iii. *The proposed amendment will meet or can be determined to reasonably meet applicable regional, state or federal regulations.*

The proposed amendments are intended to maintain the accuracy of the City's zoning and comp plan maps with respect to ongoing development in Milwaukie. Notice of the proposed amendments was provided to both Metro and the State Department of Land Conservation and Development.

- iv. *The proposed amendment demonstrates that existing or planned public facilities and services can accommodate anticipated development of the subject site without significantly restricting potential development within the affected service area.*

The school replacement project has already been reviewed as part of the approval process for CSU-07-04, which included conditions of approval to ensure that public facilities will be adequate to serve the new school.

- v. *The proposed amendment is consistent with the functional classification, capacity, and level of service of the transportation system. A transportation impact analysis may be required subject to the provisions of Chapter 19.1400.*

As noted above, the school replacement project was reviewed as part of the approval process for CSU-07-04, which included conditions of approval to ensure that the transportation system will be adequate to serve the new school.

### **Milwaukie Comprehensive Plan**

#### Chapter 2 Plan Review and Amendment Process

Chapter 2 states that all amendments to the Comprehensive Plan, including map amendments associated with annexations, shall be evaluated based on the following criteria:

- A. *Conformance with the Comprehensive Plan, its goals, policies, and spirit.*

The historic resources element of the comprehensive plan is intended to preserve and protect significant historical and cultural sites and structures in the city. Once the old school is demolished, no historic structure will remain on the site. The proposed amendments will implement the Planning Commission's decision, which allowed for the



demolition of the historic structure, by removing the “contributing” historic resource designation from the applicable maps.

*B. Public need for the change.*

In May 2007, voters approved a school bond measure to fund facility expansion and improvement projects at public schools throughout the North Clackamas School District. Ardenwald Elementary School is one of the schools slated for expansion and will be redesigned to serve twice as many students, which involves demolishing the existing historic structure and replacing it with a larger building. It is necessary to remove the historic designation from the subject property on the comp plan map to reflect the demolition of the historic resource.

*C. Public need is best satisfied by this particular change.*

Once the existing school building is demolished, the designated “contributing” historic resource will no longer exist and therefore should not appear on the City’s zoning and comp plan maps. Given the actual change in the historic resources inventory, the public need is best served by the proposed amendments since they will keep the City’s maps current.

*D. The change will not adversely affect the health, safety, and welfare of the community.*

Removing the historic resource designation from the subject property will have no adverse impacts on public health, safety, or welfare.

*E. The change is in conformance with applicable Statewide Planning Goals.*

Statewide Planning Goal 2 deals with land use planning and emphasizes maintaining a comprehensive plan and zoning ordinance that are up to date and consistent with one another. Given that the proposed school development involves the approved demolition of a designated historic structure, the proposed amendments allow the City to ensure that both the zoning map and relevant comprehensive plan map accurately reflect the current status of historic properties in Milwaukie.

*F. The change is consistent with Metro Growth Management Functional Plan and applicable regional policies.*

The proposed amendments are consistent with the Metro Growth Management Functional Plan and applicable regional policies. An analysis demonstrating the consistency of the proposed amendments with the Metro Growth Management Functional Plan was provided to Metro at least 14 days before the final hearing for this application.

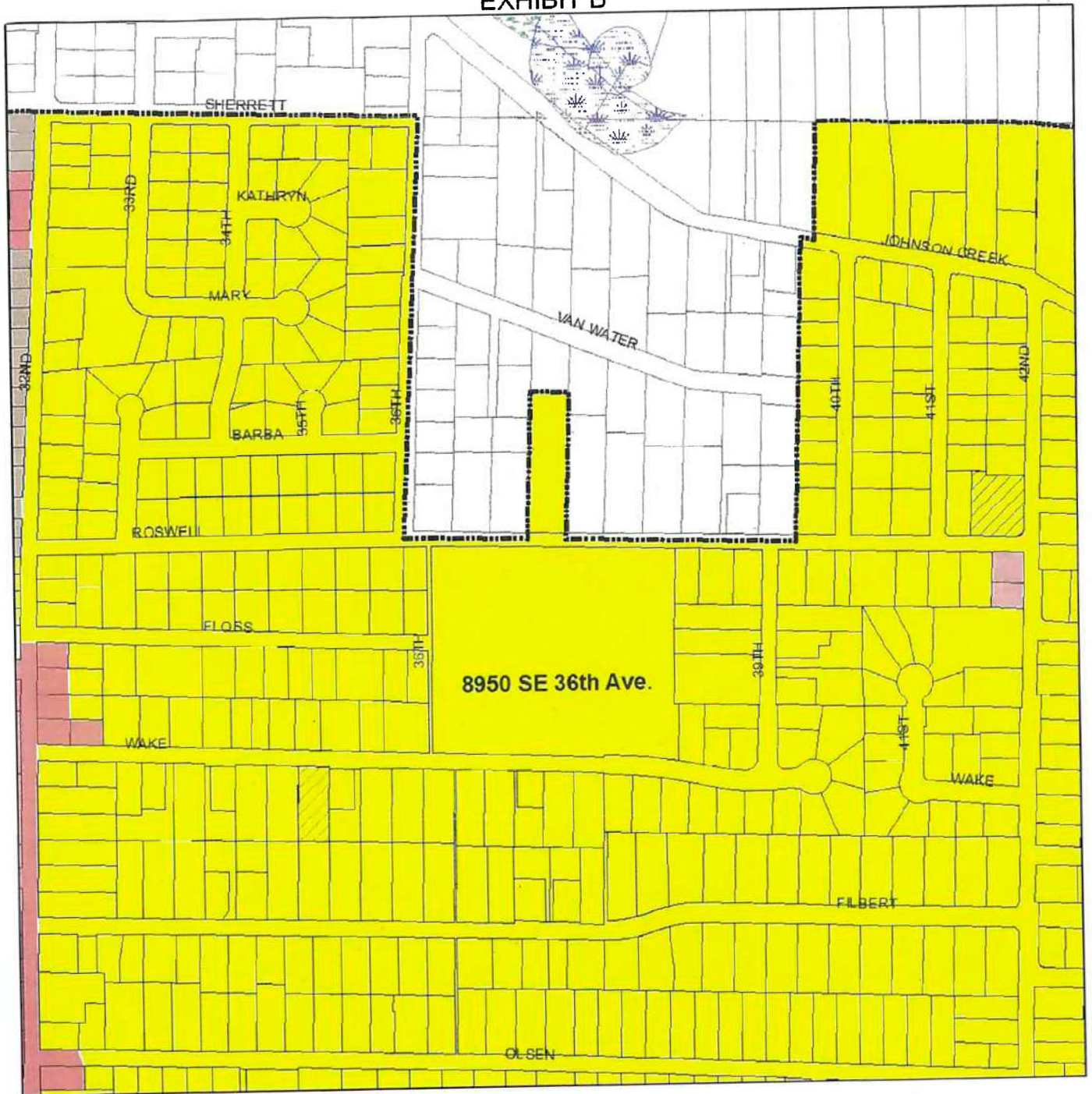
6. The application was referred to the following departments and agencies on August 1, 2008: Milwaukie Building Division, Milwaukie Engineering Department, Clackamas County Fire District #1, Ardenwald-Johnson Creek Neighborhood District Association Chairperson and Land Use Committee, and Design and Landmarks Committee. The comments received are summarized as follows:

- Tom Larsen, Building Official, City of Milwaukie: No comments.
- Zach Weigel, Civil Engineer, City of Milwaukie: No comments.
- Three members of the public made inquiries by phone about the proposed amendments, in response to the public notice that was mailed in advance of the hearing. All three callers asked for more information about how the zone change and comp plan map amendment applications would affect their properties. Staff answered

all their questions, noting that the proposed zone change and comp map amendment are specific to the school site and will not directly affect any of the surrounding properties. Staff answered calls from the following people:

- A. Katherine Cleveland, owner of 3443 SE Floss St.
- B. Jonathan Redman, grandson of the owner of 3023 SE Balfour St.
- C. Patricia Kenney, owner of 3724 SE Wake St.

EXHIBIT B












# Proposed Zoning

8950 SE 36th Ave.  
(Ardenwald Elementary School)

## Legend

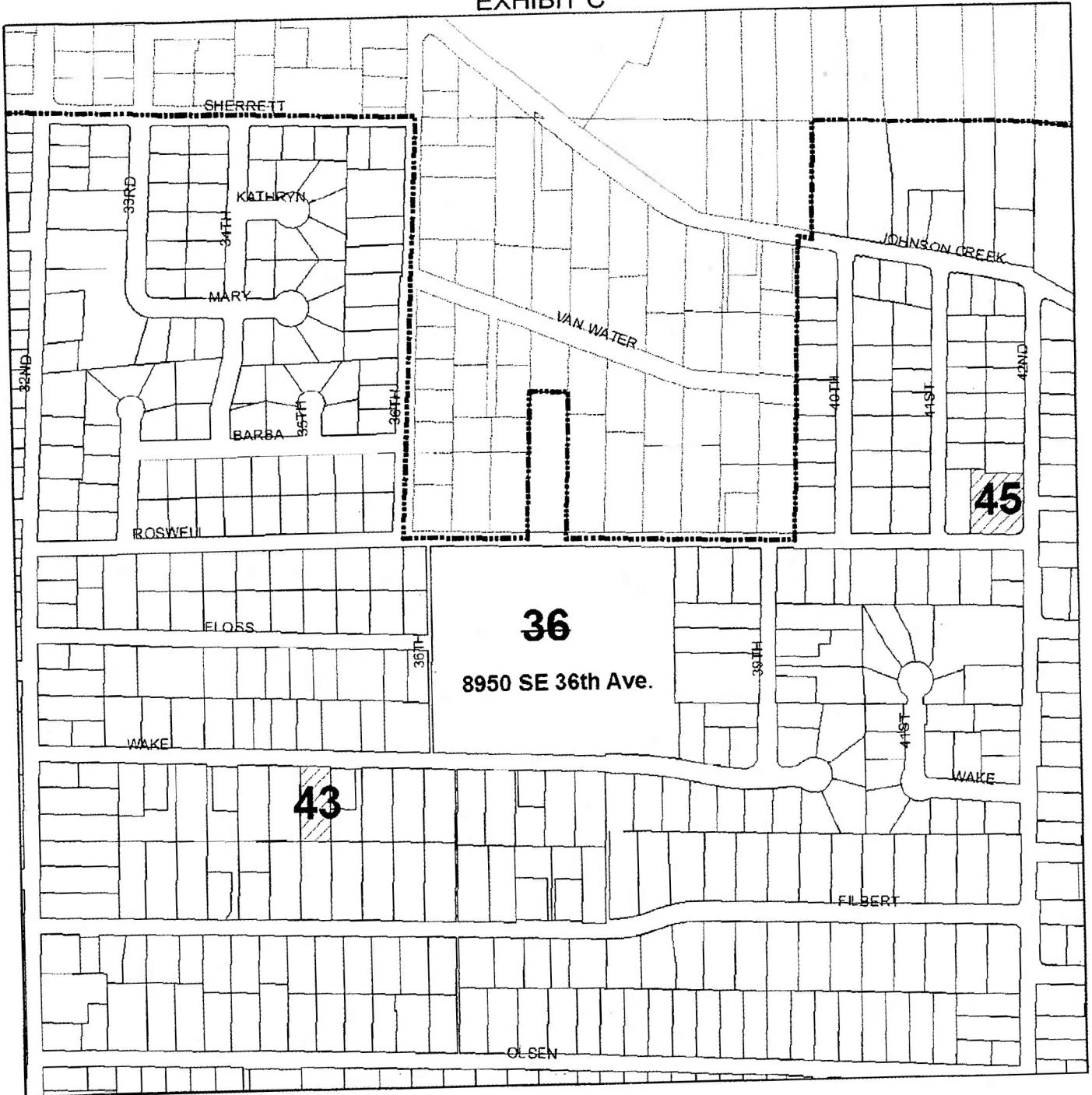
Zoning hist\_resrc Water Resources  City Limit

ZONE	HISTORIC	TYPE	
		CONT	 RIPARIAN
		SIG	 WETBUF
		UNRK	
		R7	



0 50 100 200 300 400  
Feet

EXHIBIT C



**Proposed Historic Resources Map  
(Milwaukie Comprehensive Plan Map 4)**

8950 SE 36th Ave.  
(Ardenwald Elementary School)


**Legend**

hist\_resrc  City Limit

**HISTORIC**

-  CONT
-  SIG
-  UNRK



0 50 100 200 300 400  
 Feet

## EXHIBIT D

### Milwaukie Comprehensive Plan

#### Appendix 1 Historic Resources Property List (proposed)

<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

<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. _____	Ardcnwald 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.