

ORDINANCE NO. 2009

AN ORDINANCE OF THE CITY OF MILWAUKIE ANNEXING PORTIONS OF RIGHTS-OF-WAY IN THE N.E. SEWER EXTENSION PROJECT AREA (WHICH IS BOUNDED ON THE NORTH BY SE WESTFORK AVENUE, ON THE EAST BY SE LINWOOD AVENUE, ON THE SOUTH BY SE KING ROAD, ON THE WEST BY THE CURRENT CITY BOUNDARY, AND ON THE NORTHWEST BY SE 55TH AVENUE AND AS MORE SPECIFICALLY DESCRIBED AND DEPICTED IN THE ATTACHED EXHIBITS AS AMENDED) INTO THE CITY LIMITS OF THE CITY OF MILWAUKIE AND WITHDRAWING SAID RIGHTS-OF-WAY FROM CLACKAMAS COUNTY SERVICE DISTRICT FOR ENHANCED LAW ENFORCEMENT. (FILE #A-09-03).

WHEREAS, the territory proposed for annexation is contiguous to the City's boundary and is within the City's urban growth management area; and

WHEREAS, the territory proposed for annexation consists entirely of rights-of-way in the NE Sewer Extension Project Area; and

WHEREAS, the properties in the NE Sewer Extension Project Area are in need of, yet not currently served by, a public sewer system.

WHEREAS, the City is in the process of extending sewer service to the properties in this area pursuant to its 1990 urban growth management agreement with Clackamas County; and

WHEREAS, annexation of the rights-of-way in this area is in anticipation of the completion of the City's sewer extension project. Since City policy does not support extraterritorial extension of City services, annexation is required when individual properties either need or want to connect to City sewer. Annexation is not required for any other reason; and

WHEREAS, annexation of the rights-of-way in this area will make properties in the NE Sewer Extension Project Area contiguous to the City boundary. Since properties need to be contiguous to the City boundary in order to annex and since annexation is required with sewer connection, annexation of the rights-of-way enables property owners to connect to City sewer on their own timeline; and

WHEREAS, annexation of the rights-of-way in this area creates unincorporated islands; and

WHEREAS, the City does not intend to initiate or require annexation of properties within the NE Sewer Extension Project Area that are islanded by City territory but not connected to City sewer; and

WHEREAS, the territory proposed for annexation lies within the territory of Clackamas River Water, Clackamas County Service District No. 5 for Street Lights, and Clackamas County Service District for Enhanced Law Enforcement; and

WHEREAS, the annexation and withdrawals are not contested by any necessary party; and

WHEREAS, the annexation petition was initiated on September 15, 2009 by the Milwaukie City Council on its own motion pursuant to Oregon Revised Statute (ORS) 222.111(2). The petition meets the requirements for initiation set forth in ORS 222.125, Metro Code Section 3.09.040, and Milwaukie Municipal Code (MMC) Subsection 19.1502.2.A.4; and

WHEREAS, the annexation petition meets the requirements of the expedited annexation process, which does not require a public hearing on the matter. The petition was processed and public notice was provided in accordance with ORS Section 222.125, Metro Code Section 3.09.045, and MMC Section 19.1504; and

WHEREAS, Table 19.1504.1.E of the Milwaukie Municipal Code provides for the automatic application of City zoning and Comprehensive Plan land use designations; and

WHEREAS, the City prepared and made available an annexation report that addressed all applicable criteria, and, upon consideration of such report, the City Council favors annexation of the rights-of-way based on findings and conclusions attached hereto as Exhibit A;

NOW, THEREFORE, THE CITY OF MILWAUKIE DOES ORDAIN AS FOLLOWS:

Section 1. The Findings and Reasons for Decision attached as Exhibit A are hereby adopted.

Section 2. The rights-of-way described and depicted in Exhibit B are hereby annexed to the City of Milwaukie.

Section 3. The rights-of-way annexed by this ordinance and described in Section 2 are hereby withdrawn from Clackamas County Service District for Enhanced Law Enforcement. They are not withdrawn from Clackamas River Water and Clackamas County Service District No. 5 for Street Lights.

Section 4. The rights-of-way annexed by this ordinance and described in Section 2 are hereby assigned the applicable land use and zoning designations as prescribed by Table 19.1504.1.E of the Milwaukie Municipal Code.

Section 5. The City shall immediately file a copy of this ordinance with Metro and other agencies required by Metro Code Chapter 3.09.030 and ORS 222.005 and 222.177. The annexation and withdrawal shall become effective upon filing of the annexation records with the Secretary of State as provided by ORS 222.180.

Read the first time on 1/5/10, and moved to second reading by 5:0 vote of the City Council.

Read the second time and adopted by the City Council on 1/5/10

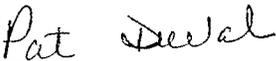
Signed by the Mayor on 1/5/10



Jeremy Ferguson, Mayor

ATTEST:

APPROVED AS TO FORM:
Jordan Schrader Ramis PC



Pat DuVal, City Recorder



City Attorney

Document1 (Last revised 09/18/07)

EXHIBIT A

FINDINGS IN SUPPORT OF APPROVAL

Based on the staff report for expedited annexation of the rights-of-way in the NE Sewer Extension Project Area, the Milwaukie City Council finds:

1. The territory proposed for annexation is contiguous to the City's boundary and within the City's urban growth management area. The territory consists entirely of rights-of-way in an area of unincorporated Clackamas County that is zoned and developed with single family residential homes. The City seeks annexation of this territory because the City is in the process of extending City sewer service to this area. Annexation of the rights-of-way would make the properties in the project area contiguous to the City's boundary. Since contiguity with the City's boundary is required for annexation and since annexation is required with sewer connection, annexing the rights-of-way would enable the City to process property owners' annexation applications when sewer connections are made in the future.
2. The annexation petition was initiated on September 15, 2009 by the Milwaukie City Council on its own motion pursuant to Oregon Revised Statute (ORS) 222.111(2). The petition meets the requirements for initiation set forth in ORS 222.125, Metro Code Section 3.09.040, and Milwaukie Municipal Code (MMC) Subsection 19.1502.2.A.4.
3. The majority of the territory proposed for annexation is land that has been dedicated to the public for right-of-way purposes. Public right-of-way is exempt from ad valorem taxation. The only portion of the territory proposed for annexation that has not been dedicated to the public is Hazel Place between Hollywood Ave and Wichita Ave. Hazel Place is a public road under Clackamas County ownership. Clackamas County is a public entity. Pursuant to ORS 222.170(4), the City is not required to obtain consent from property owners in the territory proposed for annexation when the territory is publicly owned or exempt from ad valorem taxation.
4. The annexation petition meets the requirements of the expedited annexation process, which does not require a public hearing on the matter. The annexation petition was processed and public notice was provided in accordance with ORS Section 222.125, Metro Code Section 3.09.045 Expedited Decisions, and MMC Section 19.1504 Expedited Process.
5. The expedited annexation process provides for automatic application of City land use and zoning designations to the territory based on the territory's existing zoning designation in the County. The territory's existing zoning designations in the County are primarily R7 and R10, with a few properties zoned for commercial and industrial uses. Pursuant to MMC Table 19.1504.1.E, the automatic City zoning and Comprehensive Plan land use designations upon annexation to the City would be primarily R7 and R10 and Low Density Residential, respectively.

the lead in providing urban services in the area of the proposed annexation. Pursuant to this agreement, the City is in the process of extending City sewer service to this area. The proposed right-of-way annexation is in anticipation of the completion of this sewer project and the requirement for properties to annex to the City in order to connect to the City's new sewer line.

- (B) Any applicable annexation plan adopted pursuant to ORS 195.205;
There are no applicable annexation plans adopted pursuant to ORS 195 in the area of the proposed annexation.

- (C) Any applicable cooperative planning agreement adopted pursuant to ORS 195.020 (2) between the affected entity and a necessary party;
There are no applicable cooperative planning agreements adopted pursuant to ORS 195 in the area of the proposed annexation.

- (D) Any applicable public facility plan adopted pursuant to a statewide planning goal on public facilities and services;
A public facilities plan was developed by Clackamas County and subsequently adopted by the City through the City's urban growth management agreement with Clackamas County pursuant to the statewide planning goal on public facilities. The City's extension of City sewer in the area of the proposed annexation is consistent with this public facilities plan.

- (E) Any applicable comprehensive plan.
The proposed right-of-way annexation is consistent with the Milwaukie Comprehensive Plan, which is more fully described in Finding 6D. The Clackamas County Comprehensive Plan contains no specific language regarding City annexations. It does, however, contain the City-County UGMA, which identifies the area of the proposed annexation as being within the City's urban growth management area. The UGMA requires the City to notify the County of annexations, which the City has done. The UGMA also calls for City assumption of jurisdiction of local streets that are adjacent to annexed territories. The territory proposed for annexation consists entirely of rights-of-way. The City is in the process of assuming jurisdiction of these streets from the County.

- (2) Consider whether the boundary change would:

- (A) Promote the timely, orderly and economic provision of public facilities and services;

EXHIBIT B.1

ANNEXATION TO THE CITY OF MILWAUKIE Rights-of-Way in the NE Sewer Extension Project Area File #A-09-03

LEGAL DESCRIPTION

SE King Road (1S2E30DC and 1S2E30DD)

A Public Right-of-way in Sections 29 and 30, Township 1 South, Range 2 East, W.M., more particularly described as follows:

SE King Road (County Road No. 132) from the northerly extension of the westerly boundary of Lot 16, Block 7, MINTHORN ADDITION, east 1700 feet to the westerly right-of-way line of SE Linwood Avenue.

Said right-of-way is 60 feet wide, more or less.

SE 55th Avenue

Parcel 1 (1S2E30AB)

A Public Right-of-way in Section 30, Township 1 South, Range 2 East, W.M., more particularly described as follows:

That portion of SE 55th Avenue (County Road No. 1239) from the northerly right-of-way line of SE Johnson Creek Blvd, northerly 400 feet, more or less, to the westerly extension of the centerline of the right-of-way of SE West Fork Street, that is east of the centerline of the right-of-way.

Said half right-of-way varies in width from 12.5 feet to 25 feet, more or less.

Parcel 2 (1S2E30AB and 1S2E30AC)

A Public Right-of-way in Section 30, Township 1 South, Range 2 East, W.M., more particularly described as follows:

SE 55th Avenue (County Road No. 1283) from the Southwest boundary of property deeded to the City of Portland in Instrument No. 90-21136, Clackamas County Deed Records, (formerly the Portland Traction Company right-of-way) south 722 feet, more or less, to the westerly extension of a line 50 feet south of and parallel with the northerly line of Tract 4, GIBSON'S SUBDIVISION OF TRACTS 10, 11, 12, AND THE WEST 480 FEET OF TRACTS 1 AND 2 OF LOGUS TRACT, in Clackamas County, Oregon.

Said right-of-way is 40 feet wide, more or less.

Parcel 3 (1S2E30AC)

A Public Right-of-way in Section 30, Township 1 South, Range 2 East, W.M., more particularly described as follows:

SE Stanley Avenue from the southerly right-of-way line of SE King Road south 230 feet to the easterly extension of the centerline of Llewellyn Street (Magnolia Avenue) vacated.

Said right-of-way is 60 feet wide, more or less.

SE Hollywood Avenue

Parcel 1 (1S2E30AD and 1S2E30DA)

A Public Right-of-way in Section 30, Township 1 South, Range 2 East, W.M., more particularly described as follows:

SE Hollywood Avenue from the easterly extension of the southerly right-of-way line of SE Laurel Street south 340 feet to the south boundary of HOLLYWOOD PARK ANNEX, a duly recorded subdivision in Clackamas County, Oregon, and its westerly extension.

Said right-of-way is 37.4 feet wide, more or less.

Parcel 2 (1S2E30DA)

A Public Right-of-way in Section 30, Township 1 South, Range 2 East, W.M., more particularly described as follows:

SE Hollywood Avenue from the westerly extension of the southerly boundary of said HOLLYWOOD PARK ANNEX south 480 feet to the easterly extension of the southerly line of Lot 7, Block 5, HOLLYWOOD PARK, a duly recorded subdivision in Clackamas County, Oregon.

Said right-of-way is 12.5 feet wide, more or less.

Parcel 3 (1S2E30DA and 1S2E30DD)

A Public Right-of-way in Section 30, Township 1 South, Range 2 East, W.M., more particularly described as follows:

SE Hollywood Avenue from the easterly extension of the northerly line of Lot 7, Block 6, of said HOLLYWOOD PARK south 617.5 feet to a point 137.5-feet south of the southerly line of said HOLLYWOOD PARK.

Said right-of-way is 12.5 feet wide, more or less.

Parcel 4 (1S2E30DD)

A Public Right-of-way in Section 30, Township 1 South, Range 2 East, W.M., more particularly described as follows:

SE Hollywood Avenue from the easterly extension of the southerly line of the Plat of HOLLYWOOD PARK south 167 feet as conveyed to Clackamas County in Book 408, Page 236, Clackamas County Deed Records, for use as a public street.

Said right-of-way being 12.5 feet wide, more or less.

SE Stanley Street (1S2E30AD)

A Public Right-of-way in Section 30, Township 1 South, Range 2 East, W.M., more particularly described as follows:

SE Stanley Street from the easterly right-of-way line of SE Alderhurst Street easterly 200 feet to its easterly terminus, as dedicated in ALDERHURST subdivision.

Said right-of-way is 30 feet wide, more or less.

Un-named Street between SE Wichita Avenue & SE Linwood Avenue (1S2E30AD)

A Public Right-of-way in Section 30, Township 1 South, Range 2 East, W.M., more particularly described as follows:

The un-named and unimproved street along the Southwest boundary of property deeded to the City of Portland in Instrument No. 90-21136, Clackamas County Deed Records, (formerly the Portland Traction Company right-of-way) from the easterly right-of-way line of SE Wichita Avenue (AKA 60th Avenue) easterly 455 feet, more or less, to the westerly right-of-way line of SE Linwood Avenue.

Said right-of-way is 25 feet wide, more or less.

SE Morris Street (1S2E30AD)

A Public Right-of-way in Section 30, Township 1 South, Range 2 East, W.M., more particularly described as follows:

SE Morris Street from the easterly right-of-way line of SE Stanley Avenue easterly 371 feet to its terminus.

Said right-of-way is 40 feet wide, more or less.

SE Laurel Street (1S2E30AD)

A Public Right-of-way in Section 30, Township 1 South, Range 2 East, W.M., more particularly described as follows:

SE Laurel Street from the easterly right-of-way line of SE Stanley Avenue east 500 feet, more or less, to the easterly terminus at the northerly extension of the easterly right-of-way line of SE Hollywood Avenue.

Said right-of-way is 50 feet wide, more or less.

SE Firwood Street

Parcel 1 (1S2E30AC and 1S2E30DB)

A Public Right-of-way in Section 30, Township 1 South, Range 2 East, W.M., more particularly described as follows:

Parcel 2 (1S2E30DA)

A parcel of land lying in the Hector Campbell D.L.C. No 41, Township 1 South, Range 2 East, W.M., Clackamas County, Oregon and being all of that property described in that Bargain and Sale Deed to Clackamas County, a political subdivision of the State of Oregon, recorded October 18, 1952, in Book 461, Page 744, Film Records of Clackamas County.

Said parcel is 34 feet wide, more or less, and 457 feet long, more or less, and extends from the easterly right-of-way of SE Hollywood Avenue to the westerly right-of-way of SE Wichita Avenue (AKA SE 60th Avenue).

SE Hill Street (1S2E30DA)

A Public Right-of-way in Section 30, Township 1 South, Range 2 East, W.M., more particularly described as follows:

SE Hill Street from the westerly right-of-way line of SE Wichita Avenue (AKA SE 60th Avenue) west 220 feet to its terminus.

Said right-of-way is 50 feet wide, more or less.

SE Maple Street (1S2E30DA)

A Public Right-of-way in Section 30, Township 1 South, Range 2 East, W.M., more particularly described as follows:

SE Maple Street (County Road No. 2325) from the northerly extension of the west line of Lot 2, Block 8, of said HOLLYWOOD PARK east 362.5 feet to the westerly right-of-way line of SE Hollywood Avenue.

Said right-of-way is 40 feet wide, more or less.

SE Hector Street (1S2E30DD)

A Public Right-of-way in Section 30, Township 1 South, Range 2 East, W.M., more particularly described as follows:

SE Hector Street (County Road No. 2465) from the easterly right-of-way line of SE Stanley Avenue east 462.5 feet, more or less, to northerly extension of the westerly right-of-way line of SE Hollywood Avenue.

Said right-of-way is 40 feet wide, more or less.

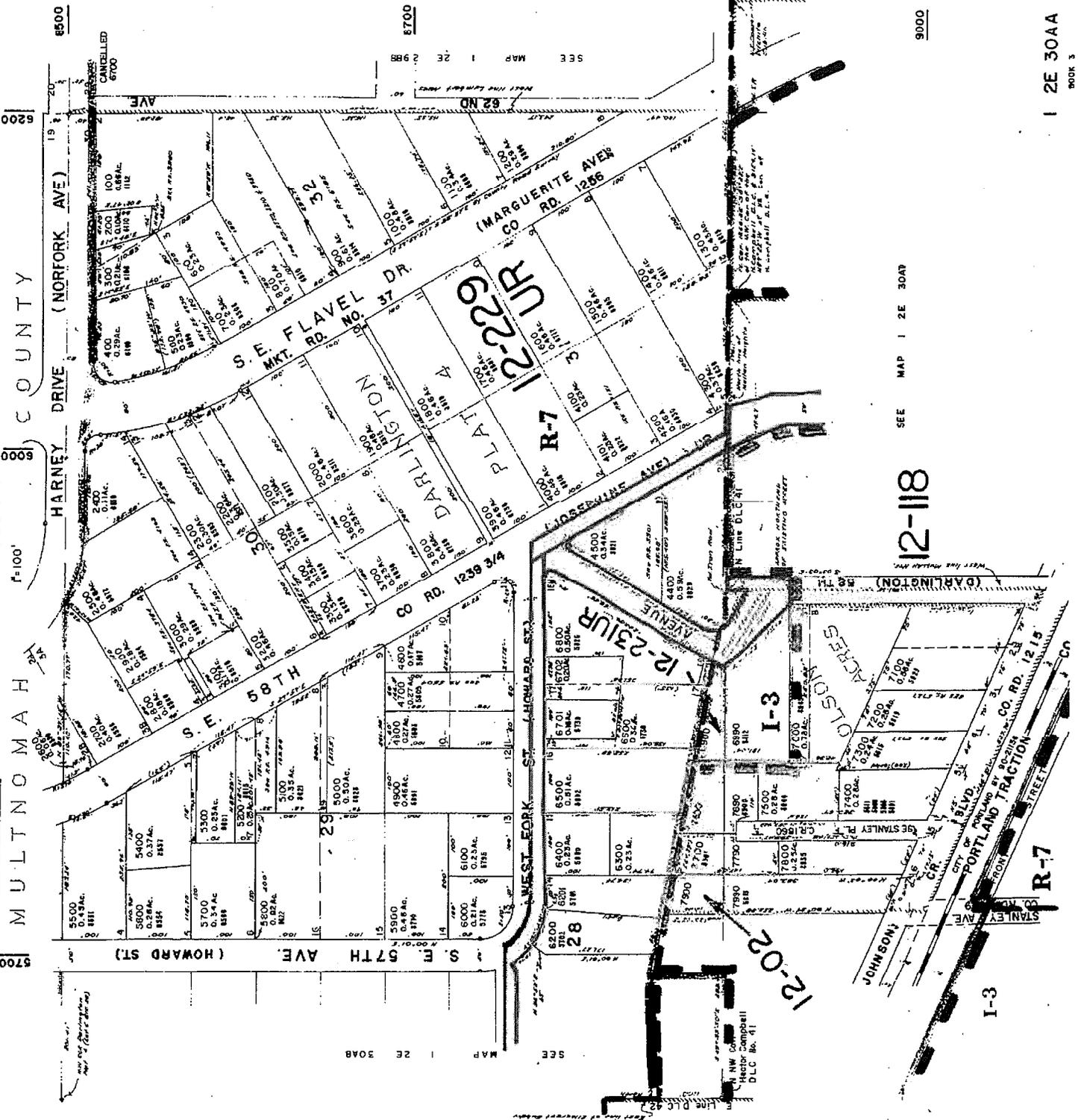
SE 58th Drive

Parcel 1 (1S2E30AD)

EXHIBIT B.2

NE 1/4 NE 1/4 SEC 30 T.1S R.2E W.M.
CLACKAMAS COUNTY
D. L. C.
HECTOR CAMPBELL NO. 41

This map was prepared for
assessment purposes only.



SEE MAP 1 2E 30A
9000

12-18

12-20

12-21

12-22

12-23

12-29

1 2E 30AA
BOOK 3

R-7

I-3

R-7

I-3

R-7

NE 1/4 SE 1/4 SEC. 30 T.1S. R.2E. W.M.
CLACKAMAS COUNTY

D.L.C.
HECTOR CAMPBELL NO. 41

I 2E 30DA

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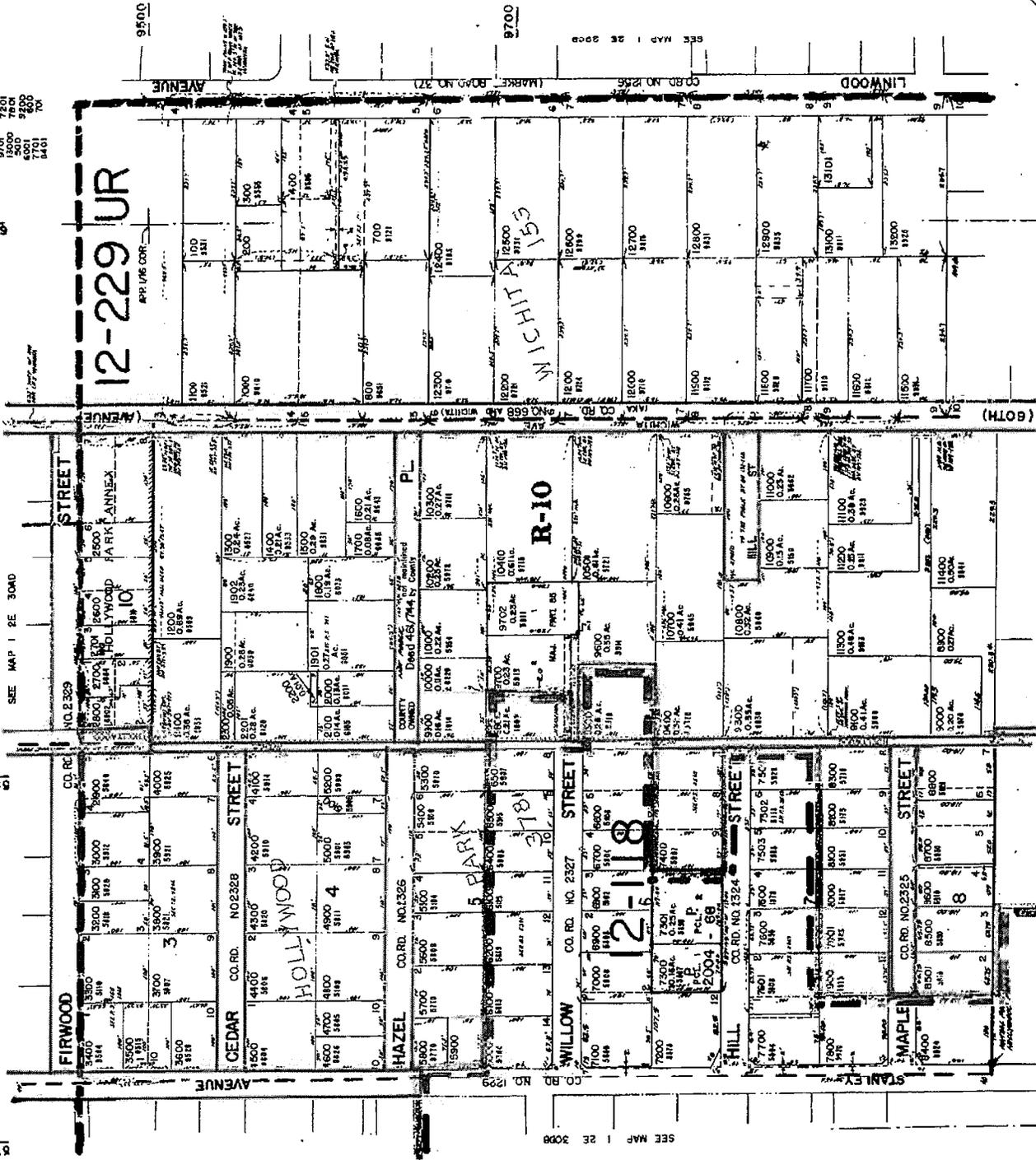
700

990

1"=100'

990

CANCELLED TAX LOTS
7101
7102
7103
7104
7105
7106
7107
7108
7109
7110



APPROX. 1/6 COR.

SEE MAP I 2E 30DA

APPROX. 1/6 COR.

10000

I 2E 30DA
BOOK 3

SW 1/4 S.E. 1/4 SEC. 30 T.15. R.2E. W.M.
CLACKAMAS COUNTY

D. L. C.
DANIEL HATHAWAY NO. 40
HECTOR CAMPBELL NO. 41

I 2E 300C
MILWAUKIE

This map was prepared for
assessment purposes only.

1"=100'

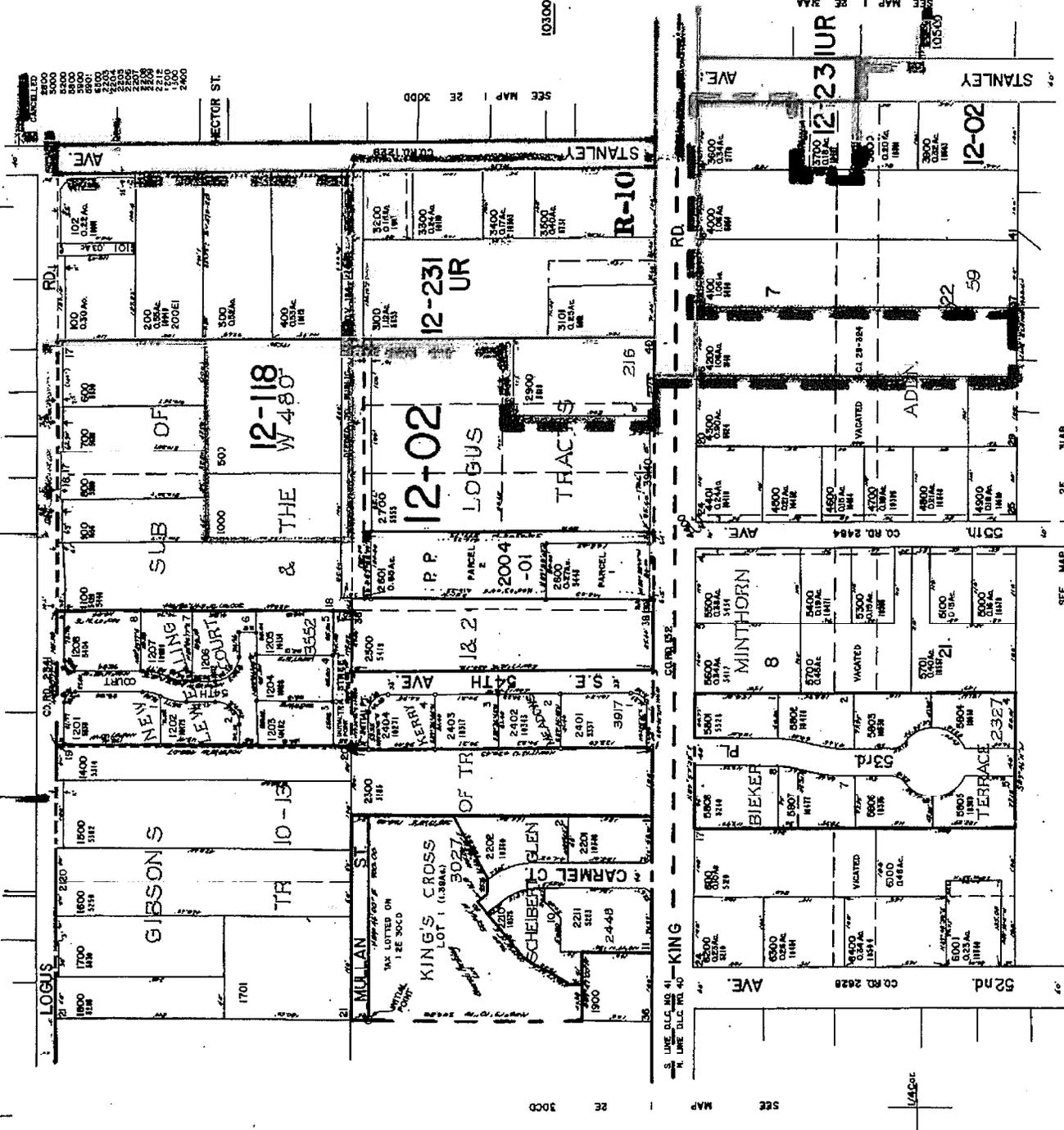
SEE MAP I 2E 300B

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SEE MAP I 2E 300B

I 2E 300C
MILWAUKIE
BOOK 3