ORDINANCE NO. 2038

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, ANNEXING A TRACT OF LAND IDENTIFIED AS 9320 SE STANLEY AVENUE INTO THE CITY LIMITS OF THE CITY OF MILWAUKIE AND WITHDRAWING THE TRACT FROM THE TERRITORY OF CLACKAMAS COUNTY SERVICE DISTRICT FOR ENHANCED LAW ENFORCEMENT AND CLACKAMAS COUNTY SERVICE DISTRICT NO. 5 FOR STREET LIGHTS. (FILE #A-11-04).

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 requirements of the Oregon Revised Statutes for initiation of the annexation were met by providing written consent from a majority of electors and all owners of land in the territory proposed for annexation; and

WHEREAS, the territory proposed for annexation lies within the territory of 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 will promote the timely, orderly, and economic provision of public facilities and services; 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 conducted a public meeting and mailed notice of the public meeting as required by law; 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 tract of land and withdrawal from all applicable districts based on findings and conclusions attached hereto as Exhibit A;

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

Section 1. The Findings in Support of Approval and attached as Exhibit A are hereby adopted.

Section 2. The tract of land described and depicted in Exhibit B is hereby annexed to the City of Milwaukie.

Section 3. The tract of land annexed by this ordinance and described in Section 2 is hereby withdrawn from Clackamas County Service District for Enhanced Law Enforcement and Clackamas County Service District No. 5 for Street Lights.

Section 4. The tract of land annexed by this ordinance and described in Section 2 is hereby assigned a Comprehensive Plan land use designation of Low Density Residential and a Municipal Code zoning designation of Residential zone R-7.

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 withdrawals 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 9/6/11, and moved to second reading by 5-0 vote of the City Council.

Read the second time and adopted by the City Council on 9/6/11.

Signed by the Mayor on 9/6/11.

Jeremy Ferguson, Mayor

ATTEST:

Pat DuVal

Pat DuVal, City Recorder

APPROVED AS TO FORM:
Jordan Ramis PC

City Attorney

Document1 (Last revised 09/18/07)

Exhibit A

FINDINGS IN SUPPORT OF APPROVAL

Based on the expedited annexation staff report for 9320 SE Stanley Ave (the "Annexation Property"), the Milwaukie City Council finds:

1. The Annexation Property consists of one tax lot comprising 0.38 acres (Tax Map 1S2E30AD Tax Lot 4200). The western border of the site is contiguous to the existing city limits via SE Stanley Avenue. The Annexation Property is also within the City's urban growth management area (UGMA).

   The Annexation Property is developed with a single-family dwelling unit. The surrounding area consists primarily of single-family dwellings.

2. The property owner seeks annexation to the City to access City services, namely sewer service. The Annexation Property was allowed to make an emergency connection to the City's sewer system after the septic system on the property failed. Since City policy does not allow extraterritorial connections to City services, the property owners submitted an annexation application and Consent to Annex form prior to making the sewer connection, which obligated them to complete the annexation process.

3. The annexation petition was initiated by Consent of All Owners of Land on July 12, 2011. It meets the requirements for initiation set forth in ORS 222.125, Metro Code Section 3.09.040, and Milwaukie Municipal Code (MMC) Subsection 19.1102.2.A.1.

4. The annexation petition was processed and public notice was provided in accordance with ORS Section 222.125, Metro Code Section 3.09.045, and MMC Section 19.1104.

5. The annexation petition is being processed as an expedited annexation at the request of the property owner. It meets the expedited annexation procedural requirements set forth in MMC Section 19.1104.

6. The expedited annexation process provides for automatic application of City land use and zoning designations to the Annexation Property based on its existing land use designation in the County, which is Residential R7. Pursuant to MMC Table 19.1104.1.E, the automatic City Comprehensive Plan land use and zoning designations for the Annexation Property are Low Density Residential and Residential Zone R-7, respectively.

7. The applicable City approval criteria for expedited annexations are contained in MMC 19.1102.3. They are listed below with findings in italics.

   A. The subject site must be located within the City's urban growth management area (UGMA);

      The Annexation Property is within the City's UGMA.

B. The subject site must be contiguous to the existing city limits;

The Annexation Property is contiguous to the existing city limits along its eastern edge.

C. The requirements of Oregon Revised Statutes for initiation of the annexation process must be met;

David and Teresa Nelson, owners of the Annexation Property and both registered voters, consented to the annexation by signing the petition. There are no additional registered voters residing at the Annexation Property. As submitted, the annexation petition meets the Oregon Revised Statutes requirements for initiation pursuant to the "Consent of All Owners of Land" initiation method, which requires consent by all property owners and a majority of the electors residing at the Annexation Property.

D. The proposal must be consistent with Milwaukie Comprehensive Plan Policies;

Chapter 6 of the Comprehensive Plan contains the City's annexation policies. Applicable annexation policies include: (1) delivery of City services to annexing areas where the City has adequate services and (2) requiring annexation in order to receive a City service. City sewer service is available to the Annexation Property in Stanley Ave. The property owners are pursuing expedited annexation because the City allowed an emergency connection to the City sewer due to the failure of the existing septic system on the Annexation Property. As proposed, the annexation is consistent with Milwaukie Comprehensive Plan policies.

E. The proposal must comply with the criteria of Metro code Sections 3.09.050(d) and, if applicable, (e).

The annexation proposal is consistent with applicable Metro Code sections for expedited annexations as detailed in Finding 8.

8. Prior to approving an expedited annexation, the City must apply the provisions contained in Section 3.09.045.D of the Metro Code. They are listed below with findings in italics.

A. Find that the change is consistent with expressly applicable provisions in:

(1) Any applicable urban service agreement adopted pursuant to ORS 195.205;

There are no applicable urban service agreements adopted pursuant to ORS 195 in the area of the proposed annexation. The City, however, has an UGMA agreement with Clackamas County that states that the City will take the lead in providing urban services in the area of the proposed annexation. Pursuant to this agreement, the City recently completed construction of a public sewer system in this area. The proposed annexation is in keeping

with the City's policy of requiring properties to annex to the City in order to connect to City services such as the new sewer line.

(2) 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.

(3) 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.

(4) Any applicable public facility plan adopted pursuant to a statewide planning goal on public facilities and services;

Clackamas County completed a North Clackamas Urban Area Public Facilities Plan in 1989 in compliance with Goal 11 of the Land Conservation and Development Commission for coordination of adequate public facilities and services. The City subsequently adopted this plan as an ancillary Comprehensive Plan document. The plan contains four elements:

- *Sanitary Sewerage Services*
- *Storm Drainage*
- *Transportation Element*
- *Water Systems*

The proposed annexation is consistent with the four elements of this plan as follows:

Sewer: The City is the identified sewer service provider in the area of the proposed annexation and recently completed construction of a public sewer system that can adequately serve the Annexation Property.

Storm: The Annexation Property is not connected to a public storm water system. Treatment and management of on-site storm water will be required when new development occurs.

Transportation: The City will require public street improvements along the Annexation Property's frontage when new development occurs.

Water: Clackamas River Water (CRW) is the identified water service provider in this plan. However, the City's more recent UGMA agreement with the County identifies the City as the lead urban service provider in the area of the proposed annexation. The City is in the process of developing a water service master plan for all of the territory within its UGMA and discussing possible

service provision changes with CRW. In the meantime, CRW will continue to provide water service to the Annexation Property.

(5) Any applicable comprehensive plan.

The proposed annexation is consistent with the Milwaukie Comprehensive Plan, which is more fully described on the previous page. The Clackamas County Comprehensive Plan contains no specific language regarding City annexations. It does, however, contain the City-County UGMA agreement, which identifies the area of the proposed annexation as being within the City's UGMA. The UGMA agreement requires that the City notify the County of proposed annexations, which the City has done. The agreement also calls for City assumption of jurisdiction of local streets that are adjacent to newly annexed areas. The City has already annexed and taken jurisdiction of the Stanley Ave right-of-way adjacent to the proposed Annexation Property.

B. Consider whether the boundary change would:

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

The City is the identified urban service provider in the area of the proposed annexation, and the proposed annexation will facilitate the timely, orderly, and economic provision of urban services to the Annexation Property.

The City has recently expanded City sewer service into this area via Stanley Ave. The proposed annexation is requested because the City allowed the Annexation Property to make an emergency connection to the City's new sewer system due to the failure of the existing septic system on the Annexation Property.

The area is currently served by CRW, and the City does not propose to duplicate CRW's water system to serve the Annexation Property.

(2) Affect the quality and quantity of urban services; and

The Annexation Property is a tax lot developed with a single-family residence. Annexation of the site is not expected to affect the quality or quantity of urban services in this area, given the surrounding level of urban development and the existing level of urban service provision in this area.

(3) Eliminate or avoid unnecessary duplication of facilities and services.

The Annexation Property will be served by the Milwaukie Police Department upon annexation. In order to avoid duplication of law enforcement services, the site will be withdrawn from the Clackamas County Service District for Enhanced Law Enforcement.

CRW is the current water service provider in the area of the proposed annexation. Until such time as the existing IGA between the City and CRW is renegotiated, the City does not intend to duplicate CRW's existing water supply system or withdraw private properties being served by CRW from the CRW district. CRW will continue to be the water service provider in this area.

9. The City is authorized by ORS Section 222.120 (5) to withdraw annexed territory from non-City service providers and districts upon annexation of the territory to the City. This allows for more unified and efficient delivery of urban services to newly annexed properties and is in keeping with the City's Comprehensive Plan policies relating to annexation.

   Wastewater: The Annexation Property is within the City's sewer service area and is served by the City's 8-inch sewer line in Stanley Ave.

   Water: The Annexation Property is currently served by CRW through a CRW water line in Stanley Ave. Pursuant to the City's IGA with CRW, the site should not be withdrawn from this district at this time.

   Storm: The Annexation Property is not connected to a public storm water system. Treatment and management of on-site storm water will be required when new development occurs.

   Fire: The Annexation Property is currently served by Clackamas County Fire District No. 1 and will continue to be served by this fire district upon annexation, since the entire City is within this district.

   Police: The Annexation Property is currently served by the Clackamas County Sheriff's Department and is within the Clackamas County Service District for Enhanced Law Enforcement, which provides additional police protection to the area. The City has its own police department, and this department can adequately serve the site. In order to avoid duplication of services, the site should be withdrawn from Clackamas County Service District for Enhanced Law Enforcement upon annexation to the City.

   Street Lights: The Annexation Property is currently within Clackamas County Service District No. 5 for Street Lights (the "District"). There are two street lights across Stanley Ave from the Annexation Property. As of July 1, 2011, an intergovernmental agreement between the City and the District transfers operational responsibility to the City for the street lights and street light payments in the NESE area, though the properties themselves remain in the District until they annex to the City. The Annexation Property should be withdrawn from the District upon annexation, as the City provides street lighting for properties within the city as part of its package of city services.

   Other Services: Planning, Building, Engineering, Code Enforcement, and other municipal services are available through the City and will be available to the site upon annexation. The Annexation Property will continue to receive services and remain within the boundaries of certain regional and county service providers, such as TriMet, North Clackamas School District, Vector Control District, etc.

Exhibit B

JUL 2011
RECEIVED
CLACKAMAS
COUNTY
ASSESSOR

RECORDED IN CLACKAMAS COUNTY
JOHN KAUFFMAN, COUNTY CLERK
2002-009419
$26.00
01/29/2002 04:41:37 PM
D-D Cnt=1 Stn=10 ANIEE
$5.00 $11.00 $10.00

WARRANTY DEED

0 0069990

DAVID NELSON, personal representative of the estate of LOUIS ERNEST NELSON, Multnomah County Probate number 010290 292, grantor, conveys and warrants to DAVID NELSON, grantee, the following described real estate in Clackamas County, Oregon:

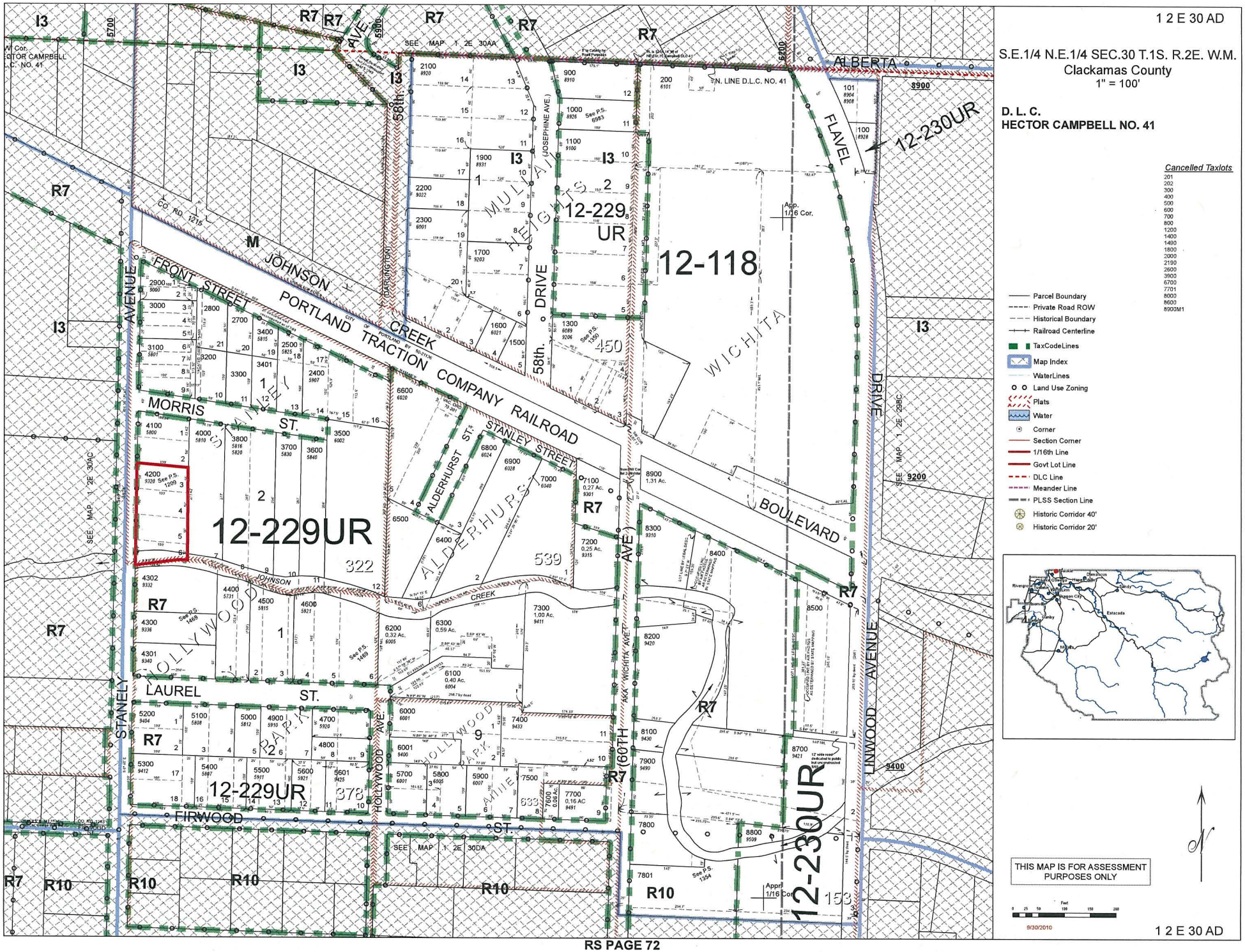
Lots 3, 4, 5 and 6, Block 2, Stanley - along with manufactured home with title 9922582438
This real estate is located at 9320 SE Stanley Ave, Milwaukie, OR
12E 30 AD 04200

This instrument will not allow use of the property described in this instrument in violation of applicable land use laws and regulations. The grantee should check to determine if there is any fire protection available for the property. Some property, such as farm property or forest property has limited uses as defined under Oregon law an in particular ORS 30.930. Before signing or accepting this instrument, the person acquiring fee title or any interest in the property should check with the appropriate city or county planning dept. to verify approved uses.
The consideration paid for this conveyance was distribution to sole heir in the above estate. The probate inventory value of the real estate was $175,000.

DAVID NELSON PERSONAL REPRESENTATIVE
Subscribed and sworn to before me on January 23, 2002
by David Nelson as personal representative

Notary Public for Oregon
After recording please return to mail future real estate tax statements to:
Mr. David Nelson
9320 SE Stanley
Milwaukie, OR 97222

OFFICIAL SEAL
PHYLLIS E SODERLUND
NOTARY PUBLIC-OREGON
COMMISSION NO. 320954
MY COMMISSION EXPIRES FEB 21, 2003


1 2 E 30 AD
S.E.1/4 N.E.1/4 SEC.30 T.1S. R.2E. W.M.
Clackamas County
1" = 100'
D. L. C.
HECTOR CAMPBELL NO. 41
Cancelled Taxlots
201
202
300
400
500
600
700
800
1200
1400
1490
1800
2000
2190
2600
3900
6700
7701
8000
8600
8900M1
Parcel Boundary
Private Road ROW
Historical Boundary
Railroad Centerline
TaxCodeLines
Map Index
WaterLines
Land Use Zoning
Plats
Water
Corner
Section Corner
1/16th Line
Govt Lot Line
DLC Line
Meander Line
PLSS Section Line
Historic Corridor 40'
Historic Corridor 20'
THIS MAP IS FOR ASSESSMENT PURPOSES ONLY
9/30/2010
1 2 E 30 AD
12-118
12-229UR
12-230UR
12-229 UR
12-229UR
12-230UR
ALBERTA
FLAVEL
DRIVE
WICHITA
BOULEVARD
JOHNSON
CREEK
PORTLAND TRACTION COMPANY RAILROAD
FRONT STREET
MORRIS ST.
STANLEY STREET
ALDERHURST ST.
LAUREL ST.
FIRWOOD ST.
STANELY AVENUE
HOLLYWOOD AVE.
LINWOOD AVENUE
(60TH AVE.)
AKA WICHITA AVE.
(JOSEPHINE AVE.)
58th.
(DARLINGTON)
CO. RD. 1215
N. LINE D.L.C. NO. 41
SEE MAP 1 2E 30AA
SEE MAP 1 2E 30AC
SEE MAP 1 2E 30DA
SEE MAP 1 2E 29BC
App. 1/16 Cor.
Appr. 1/16 Cor.
I3
R7
R10
M
450
539
322
378
633
153