ORDINANCE NO. 2053

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, ANNEXING MULTIPLE TRACTS OF LAND INTO THE CITY LIMITS OF THE CITY OF MILWAUKIE AND WITHDRAWING THE TRACTS FROM SERVICE DISTRICTS AS DESCRIBED BELOW. (FILE #A-12-04).

WITHDRAWAL OF THE FOLLOWING TRACTS OF LAND IDENTIFIED BELOW BY TAX MAP ID NUMBER AND STREET ADDRESS FROM THE TERRITORY OF CLACKAMAS COUNTY SERVICE DISTRICT FOR ENHANCED LAW ENFORCEMENT AND CLACKAMAS COUNTY SERVICE DISTRICT NO. 5 FOR STREET LIGHTS:

1.	1S2E30AD07500	9491 SE Wichita Ave
2.	1S2E30AD07600	9491 SE Wichita Ave
3.	1S2E30AD07700	9491 SE Wichita Ave
4.	1S2E30AD07800	No address
5.	1S2E30DA02500	No address

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 19.1104.1.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 tracts 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. Findings. The Findings in Support of Approval and attached as Exhibit A are hereby adopted.

Section 2. Property Descriptions. The tracts of land described and depicted in Exhibit B are hereby annexed to the City of Milwaukie.

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 The tracts of land annexed by this ordinance and described in Section 2 are hereby withdrawn from Clackamas County Service District for Enhanced Law Enforcement and Clackamas County Service District No. 5 for Street Lights.

Section 4. Zoning and Land Use Designations. The tracts of land annexed by this ordinance and described in Section 2 are hereby assigned the following Municipal Code zoning and Comprehensive Plan land use designations.

	Tax Map ID	Address	Zoning	Land Use
1.	1S2E30AD07500	9491 SE Wichita Ave	R-7	Low Density
2.	1S2E30AD07600	9491 SE Wichita Ave	R-7	Low Density
3.	1S2E30AD07700	9491 SE Wichita Ave	R-7	Low Density
4.	1S2E30AD07800	None	R-10	Low Density
5.	1S2E30DA02500	None	R-10	Low Density

Section 5. Effective Date of Annexation. 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 10/16/12 and moved to second reading by 5-0 vote of the City Council.

Read the second time and adopted by the City Council on 10/16/12

Signed by the Mayor on 10/16/12

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)

ATTACHMENT 1 - EXHIBIT A

FINDINGS IN SUPPORT OF APPROVAL

Based on the expedited annexation staff report for 9491 SE Wichita Ave (the "Annexation Properties"), the Milwaukie City Council finds:

1. The Annexation Properties consist of five tax lots comprising 1.07acres (Tax Map 12E30DA Lots 07500, 07600, 07700, and 02500 and Tax Map 12E30AD Lot 07800). The tax lots are contiguous to the existing city limits on Wichita Ave. The Annexation Properties are also within the City's urban growth management area (UGMA).

   Tax Map 12E30DA Lots 07500, 07600, and 07700 are developed with a church building and associated parking, and Tax Lot 02500 is vacant. Tax Map 12E30AD Lot 07800 is also vacant. The surrounding area consists primarily of single-family dwellings.

2. The property owners seek annexation to the City to access City services, namely sewer service.

3. The annexation petition was initiated by Consent of All Owners of Land on September 13, 2012. 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 Properties based on their existing land use and zoning designation in the County, which are Low Density Residential and Residential R7 and R10 respectively. Pursuant to MMC Table 19.1104.1.E, the automatic City Comprehensive Plan land use designation for the Annexation Properties is Low Density Residential, and the automatic zoning designations are Residential R-7 and R-10.

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 Properties are within the City's UGMA.

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

The Annexation Properties are contiguous to the existing city limits along Wichita Ave.

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

The Clackamas County Assessment and Tax Department and Clackamas County Elections Department have verified that that 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 Properties in Wichita Ave and Firwood St. 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 completed construction of a public sewer system in this area in 2010. 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 (LCDC) 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:

<u>Sewer:</u> 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 Properties.

<u>Storm:</u> The Annexation Properties are not connected to a public stormwater system. Treatment and management of on-site stormwater will be required when new development occurs.

<u>Transportation:</u> The City will require public street improvements along the frontage of the Annexation Properties when new development occurs.

<u>Water:</u> 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 Properties.

(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 Wichita Ave and Firwood St rights-of-way adjacent to the proposed Annexation Properties.

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 Properties.

The City has recently expanded City sewer service into this area via Wichita Ave and Firwood St. The area is currently served by CRW, and the City does not propose to duplicate CRW's water system to serve the Annexation Properties.

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

The Annexation Properties are composed of five tax lots; Tax Lots 07500, 07600, and 07700 are developed with a church, and Tax Lots 07800 and 02500 are vacant. Annexation of the properties 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 Properties 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 Properties are within the City's sewer service area and are served by the City's 8-inch sewer line in Wichita Ave and Firwood St.

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

   Storm: The Annexation Properties are 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 Properties are 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 Properties are currently served by the Clackamas County Sheriff's Department and are 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 Annexation Properties should be withdrawn from Clackamas County Service District for Enhanced Law Enforcement upon annexation to the City.

   Street Lights: The Annexation Properties are currently within Clackamas County Service District No. 5 for Street Lights (the "District"). 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 Properties 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 sites upon annexation. The Annexation Properties 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.

ATTACHMENT 1 - EXHIBIT B

Annexation to the City Of Milwaukie
LEGAL DESCRIPTION

Milwaukie Annexation File No. A-12-04

Property Address: 9491 SE Wichita Avenue, Milwaukie, OR 97222

Tax Lot Description: 1S2E30AD 07500, 07600, 07700

Legal Description: Parcel I:

Part of the Hector Campbell Donation Land Claim in Section 30, Township 1 South, Range 2 East of the Willamette Meridian, in the County of Clackamas and State of Oregon, described as follows:

BEGINNING at a point in the Southeast corner of Lot 9, Block 9, HOLLYWOOD PARK ANNEX, which point is in the Westerly boundary line of Wichita Road; thence West along the South line of said lot 9, Block 9, HOLLYWOOD PARK ANNEX 130 feet to the Southwest corner of said Lot 9; thence South 115 feet to the Northwest corner of Lot 7, Block 10, HOLLYWOOD PARK ANNEX; thence East, along the North line of said Lot 7, Block 10, 130 feet to the Easterly boundary line of Wichita Road; thence North, along the said Easterly boundary line 115 feet to point of beginning.

EXCEPTING THEREFROM that portion conveyed to Clackamas County for road purposes, by Deeds recorded in Book 352, page 567, and Book 437, page 601, Deed Records of Clackamas County, Oregon; and FURTHER EXCEPTING that portion conveyed to Clackamas County for road purposes by Deed Recorded July 16, 1976, as Fee No. 76-24105.

Parcel II:

Lots 8 and 9, Block 9, HOLLYWOOD PARK ANNEX, in the County of Clackamas and State of Oregon; and ALSO including the following described strip of land:

A tract of land in Section 30, Township 1 South, Range 2 East of the Willamette Meridian, in the County of Clackamas and State of Oregon, being a portion of Lot 10, Block 9, HOLLYWOOD PARK ANNEX, a recorded Plat, described as follows:

BEGINNING at the Northwest corner of Lot 9, Block 9, of said Plat; thence South, along the West line of said Lot 9, a distance of 4.52 feet to the most Southerly Southeast corner of said Lot 10; thence West along the South line of Lot 10, a distance of 50.00 feet; thence North 6.91 feet; thence East in a straight line 180.00 feet to a point in the East line of said Lot 10, that bears North 2.39 feet from the most Easterly Southeast corner of said Lot 10; thence South 2.39 feet to the most Easterly Southeast corner of said Lot 10; thence West, along the North line of said Lot 9, a distance of 130.00 feet to the point of beginning.

Property Address: None

Tax Lot Description: 1S2E30AD 07800

Legal Description: <u>Parcel III:</u>

The West half of the following described property, in the County of Clackamas and State of Oregon:

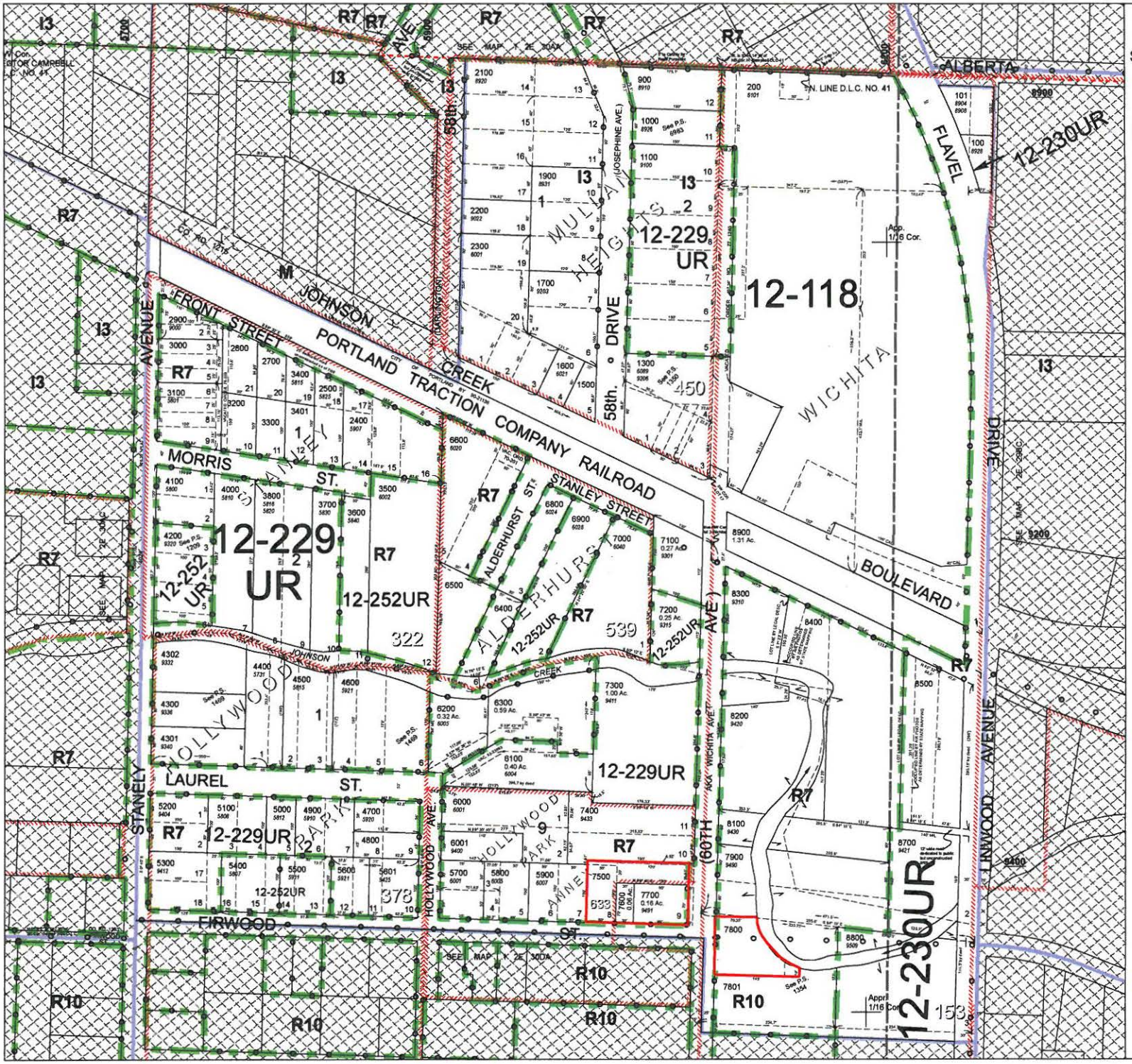
COMMENCING at a point 633 feet South of the Northwest corner of Lot 2, WICHITA; thence Easterly 471.5 feet, more or less, to a point on the East line of the plat of WICHITA, that is 144.5 feet North of the Southeast corner of Lot 3, WICHITA; thence South 237.3 feet, more or less, to an intersection with the East-West centerline through Lot 4, WICHITA; thence West on said centerline 469.4 feet, more or less, to the West line of Lot 4; thence North, along the West lines of Tracts 4 and 3, a distance of 282.4 feet, more or less, to the point of beginning; EXCEPT the South 75 feet; also EXCEPT the following: Part of Lots 2 and 3, WICHITA, described as follows: Beginning in the West line of Wichita 633 feet South of the Northwest corner of said Lot 2; thence South 84° 19' East 25.12 feet to the East line of Wichita Avenue and the TRUE point of beginning; thence South 84° 19' East 70.68 feet; thence Westerly 70.35 feet to a point 7 feet South of the true point of beginning; thence North 7 feet to the true place of beginning; and FURTHER EXCEPTING any portion of the above described property conveyed to Alfred D. Enns and Dorothy Bell Enns, by Deed Recorded August 11, 1977, as Fee No. 77-32097; and FURTHER EXCEPTING that portion lying Northerly and Easterly of the centerline of Johnson Creek.

Property Address: None

Tax Lot Description: 1S2E30AD 02500

Legal Description: <u>Parcel IV:</u>

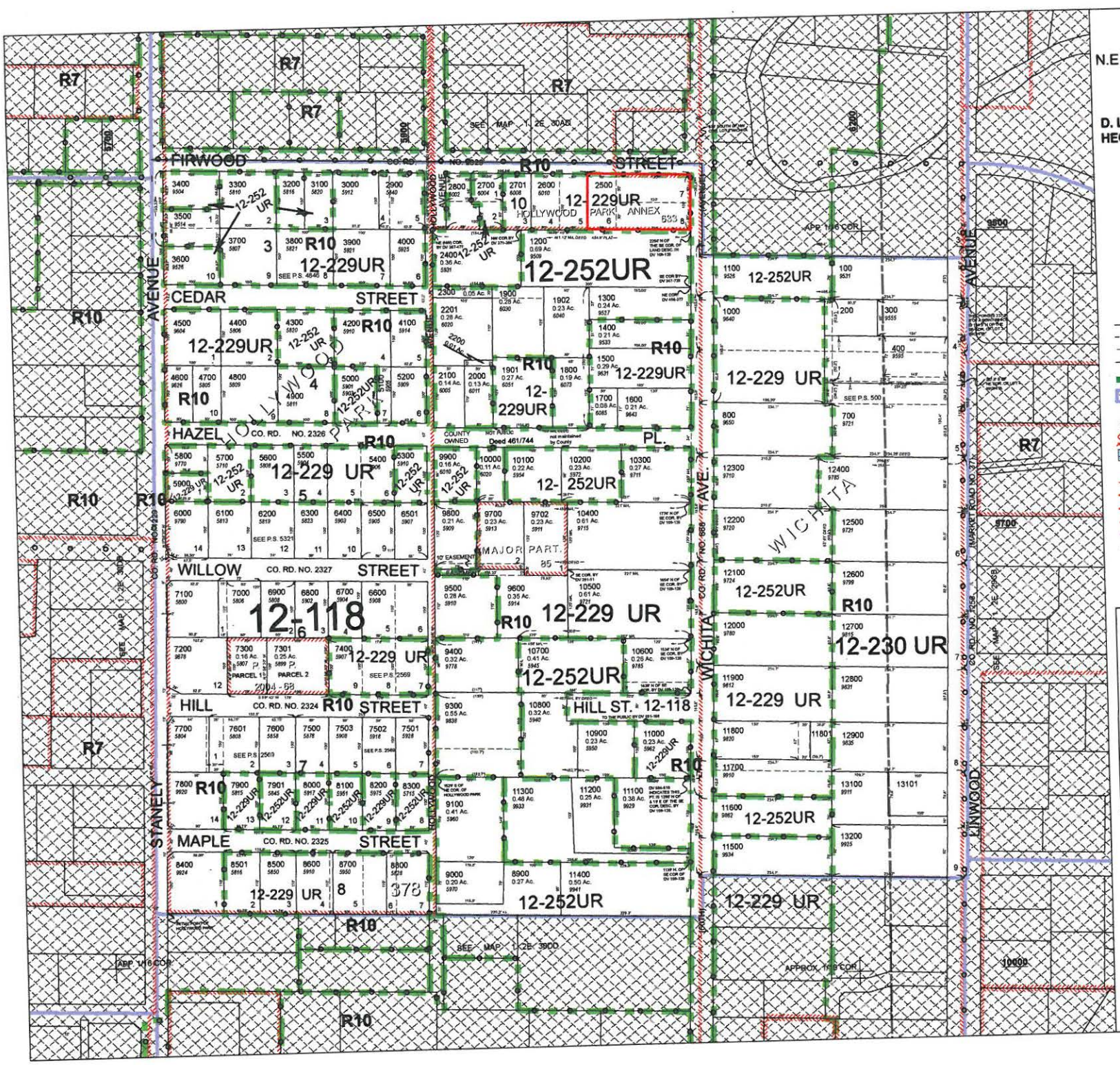
Lots 6, 7, and 8, Block 10, HOLLYWOOD PARK ANNEX, in the County of Clackamas and State of Oregon.


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
1600
2000
2190
2600
3900
6700
7701
8000
8600
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
6/25/2012
1 2 E 30 AD
ALBERTA
FLAVEL
12-230UR
12-118
12-229 UR
12-229UR
12-252UR
12-230UR
FRONT STREET
PORTLAND TRACTION COMPANY RAILROAD
STANLEY STREET
BOULEVARD
MORRIS ST.
LAUREL ST.
FIRWOOD ST.
STANLEY AVENUE
HOLLYWOOD AVE.
LINWOOD AVENUE
DRIVE
58th. DRIVE
MULLAN HEIGHTS
ALDERHURST
WICHITA
JOHNSON CREEK
HOLLYWOOD PARK
R7
R10
13
322
539
450
378
153
633

1 2 E 30 DA

N.E.1/4 S.E.1/4 SEC.30 T.1S. R.2E. W.M.
Clackamas County
1" = 100'

D. L. C.
HECTOR CAMPBELL NO. 41



1 2 E 30 DA