**ORDINANCE NO.** 2039

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, ANNEXING A TRACT OF LAND IDENTIFIED AS 10113 SE HOLLYWOOD 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-11-05).**

**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 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 The tract of land annexed by this ordinance and described in Section 2 is hereby withdrawn from Clackamas County Service District for Enhanced Law Enforcement and Clackamas County Service District No. 5 for Street Lights.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-10.

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 10113 SE Hollywood Ave (the "Annexation Property"), the Milwaukie City Council finds:

1. The Annexation Property consists of two tax lots comprising 0.32 acres (Tax Map 1S2E30DD Tax Lot 6600 and 8000). The western border of the site is contiguous to the existing city limits via property at 10118 SE Stanley Avenue and on the eastern border via the right-of-way for Hollywood Avenue. The Annexation Property is also within the City's urban growth management area (UGMA).

   The Annexation Property is developed with a duplex, and the surrounding area consists primarily of single-family dwellings.

2. The property owner seeks annexation to the City to access City services, namely wastewater 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 26, 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 R10. Pursuant to MMC Table 19.1104.1.E, the automatic City Comprehensive Plan land useand zoning designations for the Annexation Property are Low Density Residential and Residential Zone R-10, 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;

*Clackamas County has certified that 100% of the property owners and at least 50% of registered voters at the Annexation Property, consented to the annexation by signing the petition. 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 along Hollywood 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 Hollywood 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 Hollywood 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 two tax lots developed with a duplex 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 Hollywood 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"). As of July 1, 2011, an intergovernmental agreement between the City and the District transferred 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.

10. The Annexation property is developed with a duplex. Based on records from Clackamas County Assessor's office showing the structure was constructed in 1950, an aerial photograph from 1968 showing that the structure appears to

have two entrances, and the fact that Clackamas County did not establish zoning for this area until July 13, 1970, the City Council finds that the use of the property as a duplex is an legal nonconforming use with respect to the current Clackamas County zoning.

Upon annexation, the property will receive a City of Milwaukie zoning designation of Residential zone R-10. A duplex, or single-family attached dwelling, is a conditional use in the R-10 zone. The City Council finds in accordance with MMC 19.905.8.A that the duplex will be considered a de facto conditional use upon annexation.

EXHIBIT B

Annexation to the City Of Milwaukie
LEGAL DESCRIPTION

Milwaukie Annexation File No. A-11-05

Property Address: 10113 SE Hollywood Avenue, Milwaukie, OR 97222

Tax Lot Description: 1S2E30DD 08000 and 06600

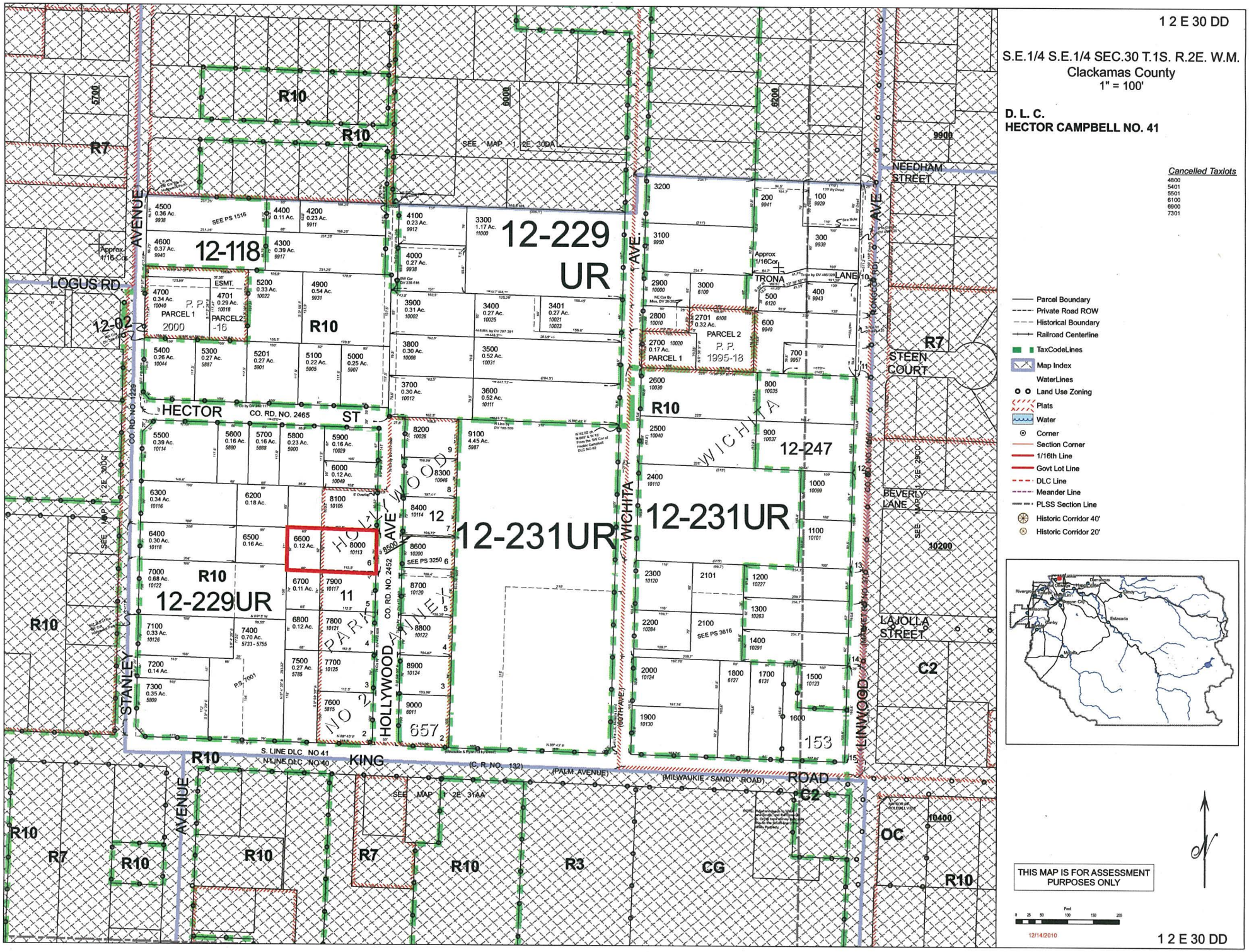
Legal Description:

Lot 8000
Lot 6, EXCEPT the East 5 feet thereof, and the North 4 feet of Lot 5, EXCEPT the East 5 feet thereof, Block 11, HOLLYWOOD PARK ANNEX NO 2, in the County of Clackamas and State of Oregon.

Lot 6600
A tract in the Hector Campbell Donation Land Claims 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 the Northwest corner of lot 6. Block 11, HOLLYWOOD PARK ANNEX NO. 2; thence West on the Westerly extension of the North line of said Lot 6, a distance of 65 feet, more or less, to the East line of tracts described in Deed recorded July 20, 1954, in Book 484, Page 60, and February 7, 1949 in Book 416, Page 295,Clackamas County Deed Records; thence South along said East line 82 feet; thence East, parallel with said Westerly extension of the Northerly line of Lot 6, a distance of 65 feet, more or less, to the West line of HOLLYWO0D PARK ANNEX NO. 2; thence North along said West plat line 82 feet to the point of beginning.

County: Clackamas


1 2 E 30 DD
S.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
Cancelled Taxlots
4800
5401
5501
6100
6900
7301
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
12/14/2010
1 2 E 30 DD
12-229 UR
12-231UR
12-231UR
12-229UR
12-118
12-247
12-02
R10
R7
R3
CG
OC
C2
LOGUS RD.
HECTOR ST
CO. RD. NO. 2465
STANLEY AVENUE
HOLLYWOOD AVE
WICHITA AVE.
LINWOOD AVE
NEEDHAM STREET
STEEN COURT
BEVERLY LANE
LAJOLLA STREET
KING ROAD
(PALM AVENUE)
(MILWAUKIE - SANDY ROAD)
S. LINE DLC NO 41
N LINE DLC NO 40
SEE MAP 1 2E 30DA
SEE MAP 1 2E 31AA
SEE PS 1516
SEE PS 3250
SEE PS 3616
PARCEL 1
PARCEL 2
P. P. 2000
P. P. 1995-18
ESMT.
TRONA LANE
Approx 1/16Cor
657
153
11
12