

**COUNCIL ORDINANCE No. 2176**

**AN ORDINANCE OF THE CITY OF MILWAUKIE, OREGON, ANNEXING INTO THE CITY LIMITS THE PUBLIC RIGHTS-OF-WAY OF SE LAKE ROAD AND SE KUEHN ROAD ADJACENT TO THE CEREGHINO FARMS SUBDIVISION AND THE PORTION OF SE LAKE ROAD WEST TO THE CURRENT CITY LIMITS (FILE #A-2019-002).**

**WHEREAS**, the territory proposed for annexation is contiguous to the city's boundary and is within the city's urban growth management area (UGMA); and

**WHEREAS**, the requirements of the Oregon Revised Statutes (ORS) for initiation of the annexation were met by the City Council approving a motion to initiate the annexation at its regular session meeting on May 21, 2019; and

**WHEREAS**, the territory proposed for annexation lies within the territories of both the Clackamas County Service District for Enhanced Law Enforcement and Clackamas County Service District #5 for Street Lights; 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**, the annexed public right-of-way will receive Comprehensive Plan land use and zoning designations equivalent to the adjacent properties; and

**WHEREAS**, the city conducted two public hearings and mailed notice as required by law; and

**WHEREAS**, the Planning Commission held a public hearing on July 23, 2019, and recommended approval of the annexation; 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 public right-of-way 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 attached as Exhibit A are hereby adopted.

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

Section 3. The public rights-of-way annexed by this ordinance and described in Section 2 is hereby withdrawn from both the Clackamas County Service District for Enhanced Law Enforcement and Clackamas County Service District #5 for Street Lights.


Section 4. The public rights-of-way annexed by this ordinance and described in Section 2 is hereby assigned a comprehensive plan land use designation of low density residential (LDR) and a municipal code zoning designation of residential 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, ORS 222.005, and ORS 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 8/20/19, and moved to second reading by 5:0 vote of the City Council.

Read the second time and adopted by the City Council on 8/20/19.

Signed by the Mayor on 8/20/19.



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Mark F. Gamba, Mayor

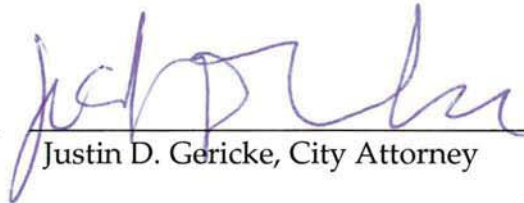
ATTEST:

APPROVED AS TO FORM:



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Scott S. Stauffer, City Recorder



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Justin D. Gericke, City Attorney

## EXHIBIT A FINDINGS IN SUPPORT OF APPROVAL

Based on the staff report for the annexation of the public right-of-way in SE Lake Road and SE Kuehn Road adjacent to the Cereghino Farms subdivision property as well as the SE Lake Road ROW west to the current city limits, the Milwaukie City Council finds:

1. The Annexation Territory consists of approximately 2.16 acres of public right-of-way (ROW) in SE Lake Road and SE Kuehn Road, found on Assessor Maps 1S2E31CC, 2S2E06BA, 2S2E06BB, and 2S2E06BD. The Annexation Territory is contiguous to the existing city limits via the existing SE Lake Road ROW to the west as well as via a residential property at the southwest corner of SE Lake Road and SE Kuehn Road. The Annexation Territory is within the regional urban growth boundary and also within the city's urban growth management area (UGMA).  
  
Clackamas County currently has maintenance authority over the ROW that comprises the Annexation Territory, though the city expects to initiate a transfer of that authority following annexation. The surrounding area consists of residential dwellings and lots (mostly single-family).
2. The City Council initiated annexation of the Annexation Territory on May 21, 2019, in conjunction with the recent annexation of the Cereghino Farms subdivision property (Ordinance 2171, land use file #A-2019-001). The city seeks annexation of the SE Lake Road and SE Kuehn Road ROW to provide greater contiguity of the city limits to the Cereghino Farms subdivision property. The proposed annexation meets the requirements for initiation set forth in Oregon Revised Statutes (ORS) 222.111, Metro Code Section 3.09.040, and Milwaukie Municipal Code (MMC) 19.1102.2.A.4.
3. The annexation petition was processed, and public notice was provided in accordance with ORS 222.170(1), Metro Code Section 3.09.030, and MMC 19.1102.
4. The proposed annexation would adjust the city boundary on the comprehensive plan land use map and zoning map. The application includes a proposal to show the appropriate city land use and zoning designations over the Annexation Territory; for ROW, those designations are determined by the designations of the adjacent properties. The existing comprehensive plan land use and zoning designations on the adjacent properties, both in the county and within the current city boundary, are low density residential and residential R-10, respectively. As proposed, the city land use and zoning designations for the Annexation Territory would also be low density residential and residential R-10, respectively.
5. The approval criteria for 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 boundary (UGB);

*The Annexation Territory is within the regional UGB and within the city's UGMA.*

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

*The Annexation Territory is contiguous to the existing city limits via the existing SE Lake Road ROW to the west as well as via a residential property at the southwest corner of SE Lake Road and SE Kuehn Road.*

- C. The requirements of the ORS for initiation of the annexation process must be met;

*As allowed by ORS 222.111, the City Council initiated the annexation by a motion approved at its regular session meeting on May 21, 2019.*

- 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 and water services are available in the SE Lake Road portion of the Annexation Territory; bringing the Annexation Territory into the city will make those services available to other nearby unincorporated properties if they choose to annex. As proposed, the annexation is consistent with Milwaukie Comprehensive Plan policies.*

- E. The proposal must comply with the criteria of Metro Code Section 3.09.050, which refers to criteria (d) and (e) of Section 3.09.045.

*The annexation proposal is consistent with applicable Metro code sections for annexations, as detailed in Finding 6.*

- F. The proposal must comply with the criteria of MMC 19.902 for Zoning Map Amendments and Comprehensive Plan Map Amendments, if applicable.

*The annexation would add new territory within the city limits, and the new territory must be designated on both the zoning map and the comprehensive plan map for land use. These additions effectively constitute amendments to the zoning map and comprehensive plan map.*

The approval criteria for zoning map amendments and comprehensive plan amendments are provided in MMC 19.902.6.B and 19.902.3.B, respectively. Collectively, the criteria address issues such as compatibility with the surrounding area, being in the public interest and satisfying the public need, adequacy of public facilities, consistency with transportation system capacity, consistency with goals and policies of the Milwaukie Comprehensive Plan and relevant Metro plans and policies, and consistency with relevant State statutes and administrative rules.

*MMC Table 19.1104.1.E establishes automatic zoning map and comprehensive plan map designations for expedited annexations. Compliance with the table is essentially equivalent to specific findings that address individual criteria for zoning map and comprehensive plan map amendments, such as compatibility, public need, etc. In essence, if a proposed designation is consistent with the table, it is consistent with the various applicable plans and policies.*

*In the case of the proposed annexation, the public ROW will assume the zoning designation of adjacent properties, which is R-10 both for incorporated and unincorporated lots in this area. The application includes a proposal to designate the Annexation Territory according to the*

*guidance of MMC Table 19.1104.1.E, from a county zoning designation of Residential R-10 to a city designation of R-10 for zoning and a county land use designation of Low Density Residential to a city designation of Low Density Residential for land use. The approval criteria for both proposed amendments are effectively met.*

6. Prior to approving an annexation, the city must apply the provisions set forth in Metro Code Section 3.09.050.D, which references subsections D and E of Section 3.09.045. 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 has an UGMA agreement with Clackamas County that outlines procedures and practices for coordinating land use planning activities. 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.*

- (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:*

*Wastewater: The city maintains a public sewer system in SE Lake Road within the Annexation Territory that can adequately serve the area. The existing sewer system in SE Kuehn Road is maintained by Clackamas County Water Environment Services (WES); staff intends to seek jurisdictional transfer of the sewer system to the city following annexation.*

*Storm: The city has a short segment of storm line on the north side of the ROW at 4637 SE Lake Road but no other stormwater facilities in the SE Lake Road or SE Kuehn Road ROW.*

Transportation: Clackamas County currently maintains SE Lake Road and SE Kuehn Road. Following this annexation of ROW, the city will initiate a transfer of jurisdiction for maintenance authority.

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's water service master plan for all of the territory within its UGMA addresses the need to prepare for future demand and coordinate service provision changes with CRW. The city has 6-in and 12-in cast iron pipe (CIP) water mains in SE Lake Road west of SE Kuehn Road and a 12-in CIP water main in Lake Road east of SE Kuehn Road. CRW maintains an 8-in ductile iron pipe (DIP) water main in SE Lake Road east of SE Kuehn Road and a 6-in CIP water main in SE Kuehn Road. As per the city's intergovernmental agreement (IGA) with CRW, CRW will continue to provide water service within the Annexation Territory.

(5) Any applicable comprehensive plan.

As discussed in Finding 5, the proposed annexation is consistent with the Milwaukie Comprehensive Plan. The Clackamas County Comprehensive Plan contains no specific language regarding city annexations. The comprehensive plans, 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 will initiate a transfer of jurisdiction for the newly annexed ROW in SE Lake Road and SE Kuehn Road once the annexation is official.

B. Consider whether the boundary change would:

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

As discussed above in Finding 6-a, the city is the primary identified urban service provider in the area of the proposed annexation. The proposed annexation will facilitate the timely, orderly, and economic provision of urban services to properties abutting the Annexation Territory.

The city has public sewer service via a sewer line in SE Lake Road. As per the UGMA agreement discussed above in Finding 6-a, CRW will continue to provide water service to the surrounding area through its existing water lines within the Annexation Territory.

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

The Annexation Territory consists of approximately 2.16 acres of public ROW in SE Lake Road and SE Kuehn Road. 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.

*Upon annexation, the Annexation Territory will be served by the Milwaukie Police Department. The city will also assume responsibility for the street lights in the Annexation Territory; however, with the city's current enrollment in PGE Option A, maintenance of these street lights will be performed by PGE. To avoid duplication of law enforcement and street lighting services, the site will be withdrawn from both the Clackamas County Service District for Enhanced Law Enforcement and Clackamas County Service District #5 for Street Lights, respectively, upon annexation.*

- C. A city may not annex territory that lies outside the UGB, except that it may annex a lot or parcel that lies partially within and partially outside the UGB.

*The Annexation Territory is entirely within the regional UGB.*

7. The city is authorized by ORS 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 city maintains a public sewer system in SE Lake Road within the Annexation Territory that can adequately serve the area. The existing sewer system in SE Kuehn Road is maintained by WES; staff intends to seek jurisdictional transfer of the sewer system to the city following annexation.*

Water: *CRW is the water service provider identified in the North Clackamas Urban Area Public Facilities 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's water service master plan for all of the territory within its UGMA addresses the need to prepare for future demand and coordinate service provision changes with CRW. The city has 6-in and 12-in CIP water mains in SE Lake Road west of SE Kuehn Road and a 12-in CIP water main in Lake Road east of SE Kuehn Road. CRW maintains an 8-in DIP water main in SE Lake Road east of SE Kuehn Road and a 6-in CIP water main in SE Kuehn Road. As per the city's IGA with CRW, CRW will continue to provide water service within the Annexation Territory, which should not be withdrawn from this district at this time.*

Storm: *The city has a short segment of storm line on the north side of the ROW at 4637 SE Lake Road but no other stormwater facilities in the SE Lake Road or SE Kuehn Road ROW.*

Fire: *The Annexation Territory is currently served by Clackamas Fire District #1 and will continue to be served by the district upon annexation, since the entire city is within this district.*

Police: *The Annexation Territory 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 area. To avoid duplication of services, the area will be withdrawn from this district upon annexation to the city.*

Street Lights: *The Annexation Territory is currently within Clackamas County Service District #5 for Street Lights but will be withdrawn from this district upon annexation.*

*Other Services: Community development, public works, planning, building, engineering, code enforcement, and other municipal services are available through the city and will be available to the area upon annexation as necessary. The Annexation Territory will continue to remain within the boundaries of certain regional and county service providers, such as TriMet, North Clackamas School District, Vector Control District, and North Clackamas Parks and Recreation District.*





AKS ENGINEERING & FORESTRY, LLC  
12965 SW Herman Road, Suite 100, Tualatin, OR 97062  
P: (503) 563-6151 | www.aks-eng.com

AKS Job #6685-02

OFFICES IN: BEND, OR - KEIZER, OR - TUALATIN, OR - VANCOUVER, WA

## EXHIBIT B

### Annexation Description

A portion of right-of-way, located in the Northwest One-Quarter of Section 6, Township 2 South, Range 2 East, Willamette Meridian, Clackamas County, Oregon, and being more particularly described as follows:

Beginning at the northwest corner of the Elisha Kellogg Donation Land Claim No. 54, also being on the west line of Document Number 2015-052983, Clackamas County Deed Records; thence along said west line, North 01°19'24" East 226.08 feet to the northeast corner of Document Number 2017-074698, Clackamas County Deed Records, also being on the southerly right-of-way line of SE Lake Road (45.00 feet from centerline), and the Point of Beginning; thence along said southerly right-of-way line along a non-tangent curve to the right with a Radius of 5774.58 feet, a Delta of 01°36'36", a Length of 162.28 feet and a Chord of North 70°42'56" West 162.27 feet; thence continuing along said southerly right-of-way line, North 69°54'38" West 154.92 feet; thence continuing along said southerly right-of-way line (variable width from centerline), North 72°46'23" West 100.12 feet; thence continuing along said southerly right-of-way line (50.00 feet from centerline), North 69°54'38" West 48.41 feet; along a curve to the right with a Radius of 5779.58 feet, a Delta of 00°54'03", a Length of 90.87 feet and a Chord of North 69°27'36" West 90.87 feet to the northwest corner of said deed, also being on the easterly right-of-way line of SE Kuehn Road, County Road No. 1249, (15.00 feet from center line); thence along said easterly right-of-way line, South 00°58'18" West 818.63 feet to the northwest corner of Document Number 2007-064347, Clackamas County Deed Records; thence leaving said easterly right-of-way line, North 87°34'13" West 30.00 feet to the westerly right-of-way line of SE Kuehn Road, County Road Number 1249, (variable width from centerline); thence along said westerly right-of-way line, Northerly 475 feet, more or less, to the southeast corner of Document Number 2006-109951, Clackamas County Deed Records, also being on the City of Milwaukie city limits line; thence continuing along said westerly right-of-way line and said city limits line, Northerly 385 feet, more or less, to the intersection of said westerly right-of-way line and the southerly right-of-way line of SE Lake Road (30.00 feet from centerline); thence along said southerly right-of-way line and said city limits line, Northwesterly 273 feet, more or less, to the southwesterly extension of the easterly line of Document Number 2011-010989, Clackamas County Deed Records; thence along said southwesterly extension and said city limits line, Northeasterly 60 feet, more or less, to the southeasterly corner of said deed, also being on the northerly right-of-way line of SE Lake Road (variable width from centerline); thence leaving said city limits line along said northerly right-of-way line, Southeasterly 881 feet, more or less, to the northerly extension of the west line of said Document Number 2015-052983; thence along said northerly extension and the west line of said Document Number 2015-052983, Southerly 101 feet, more or less, to the Point of Beginning.

The above described tract of land contains 2.16 acres, more or less.

**REGISTERED  
PROFESSIONAL  
LAND SURVEYOR**

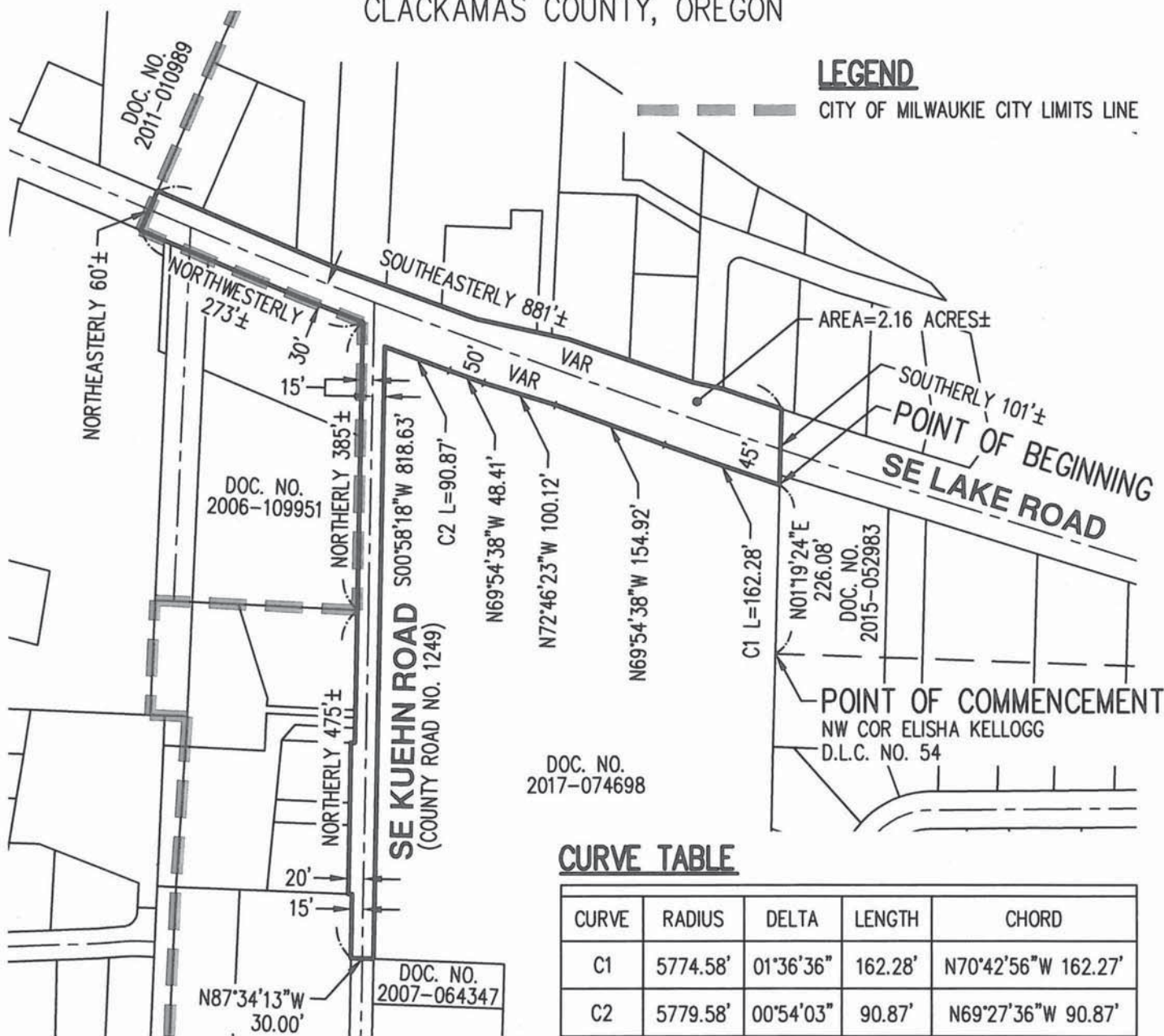
*Benjamin R Huff*

**OREGON  
MARCH 14, 2017  
BENJAMIN R HUFF  
84738PLS**

**RENEWS: 6/30/21**

# EXHIBIT B

A PORTION OF RIGHT-OF-WAY,  
 LOCATED IN THE NORTHWEST 1/4 OF SECTION 6,  
 TOWNSHIP 2 SOUTH, RANGE 2 EAST, WILLAMETTE MERIDIAN,  
 CLACKAMAS COUNTY, OREGON



### CURVE TABLE

CURVE	RADIUS	DELTA	LENGTH	CHORD
C1	5774.58'	01°36'36"	162.28'	N70°42'56"W 162.27'
C2	5779.58'	00°54'03"	90.87'	N69°27'36"W 90.87'

7/12/2019

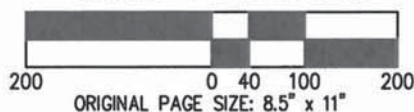
**REGISTERED  
 PROFESSIONAL  
 LAND SURVEYOR**

*Benjamin R Huff*  
 OREGON  
 MARCH 14, 2017  
 BENJAMIN R HUFF  
 84738PLS  
 RENEWS: 6/30/21

### PREPARED FOR

CITY OF MILWAUKIE  
 6101 SE JOHNSON CREEK BOULEVARD  
 MILWAUKIE, OR 97206

SCALE: 1" = 200 FEET



<b>ANNEXATION MAP</b>		<b>EXHIBIT B</b>
AKS ENGINEERING & FORESTRY, LLC 12965 SW HERMAN RD, STE 100 TUALATIN, OR 97062 503.563.6151 WWW.AKS-ENG.COM		DRWN: WCB CHKD: BRH AKS JOB: 6685-02



# Exhibit B

1 2 E 31CC  
MILWAUKIE

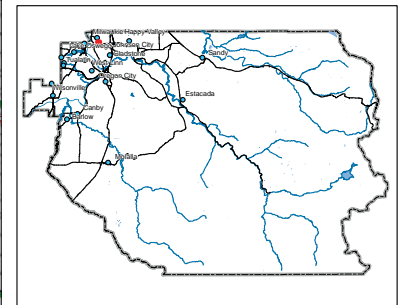
S.W.1/4 S.W.1/4 SEC.31 T.1S. R.2E. W.M.  
CLACKAMAS COUNTY  
1" = 100'

D. L. C.  
JOHN GARRETT NO 38 & 61  
JOSEPH KELLOGG NO 39 & 67

Cancelled Taxlots

- 200
- 300
- 400
- 501
- 602
- 600
- 621
- 622C2
- 622
- 628
- 629C1
- 629C2
- 629C3
- 630C1
- 630C2
- 630C2
- 700
- 701
- 800
- 902
- 1000
- 1100
- 1780

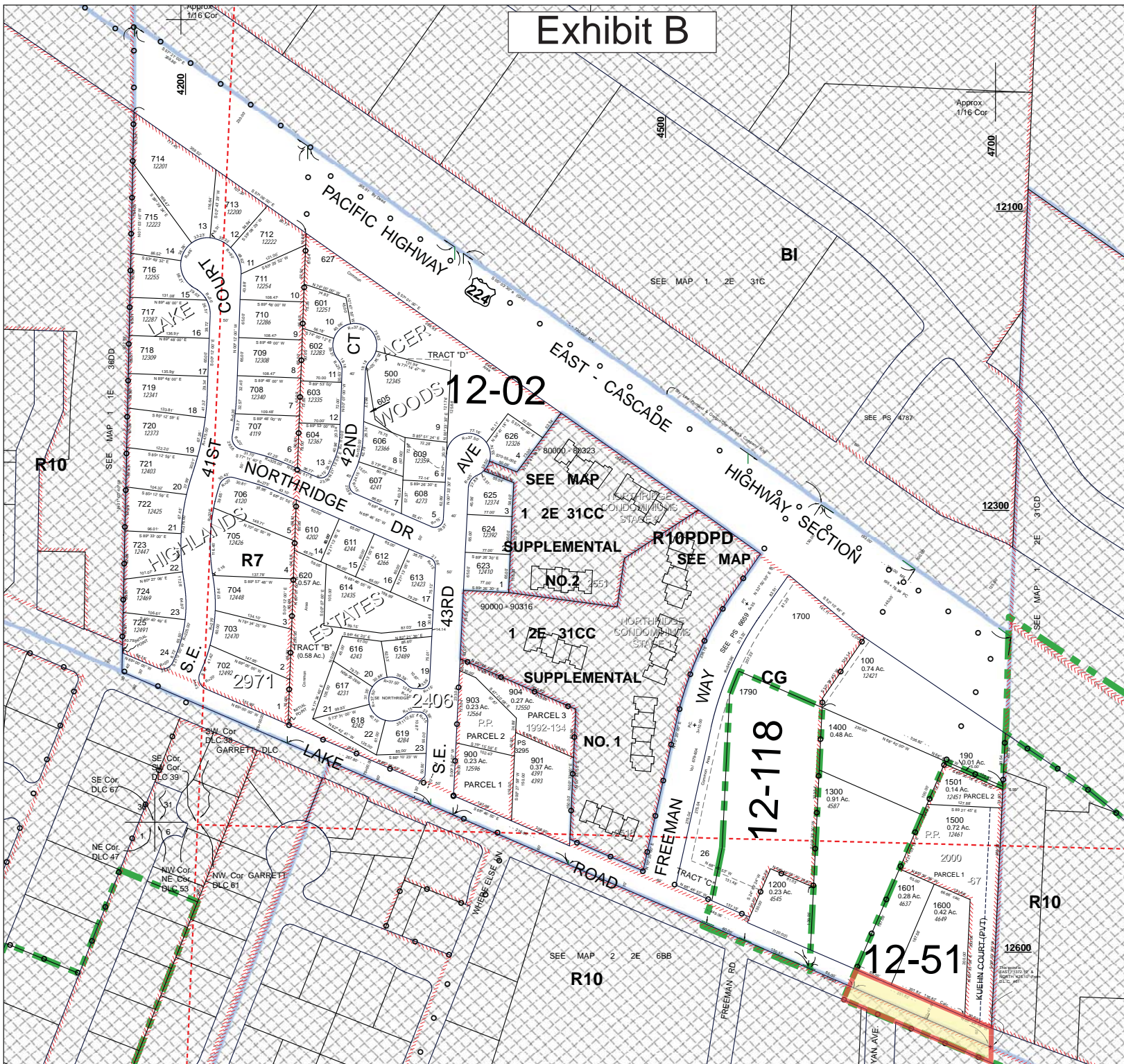
- Parcel Boundary
- Private Road ROW
- Historical Boundary
- Railroad Centerline
- TaxCodeLines
- Map Index
- WaterLines
- Land Use Zoning
- Plats
- Water
- Corner
- Section Corner
- 1/16th Line
- Govt Lot Line
- DLC Line
- Meander Line
- PLSS Section Line
- Historic Corridor 40'
- Historic Corridor 20'



THIS MAP IS FOR ASSESSMENT  
PURPOSES ONLY

7/25/2016

1 2 E 31CC  
MILWAUKIE



This map was prepared for assessment purpose only.

NE 1/4 NW1/4 SEC. 6 T2S. R2E. W.M.

D.L.C.

2 2E 6BA

CLACKAMAS COUNTY

JOSEPH KELLOGG NO 53  
ELISHA KELLOGG NO. 54  
JOHN GARRETT NO. 61

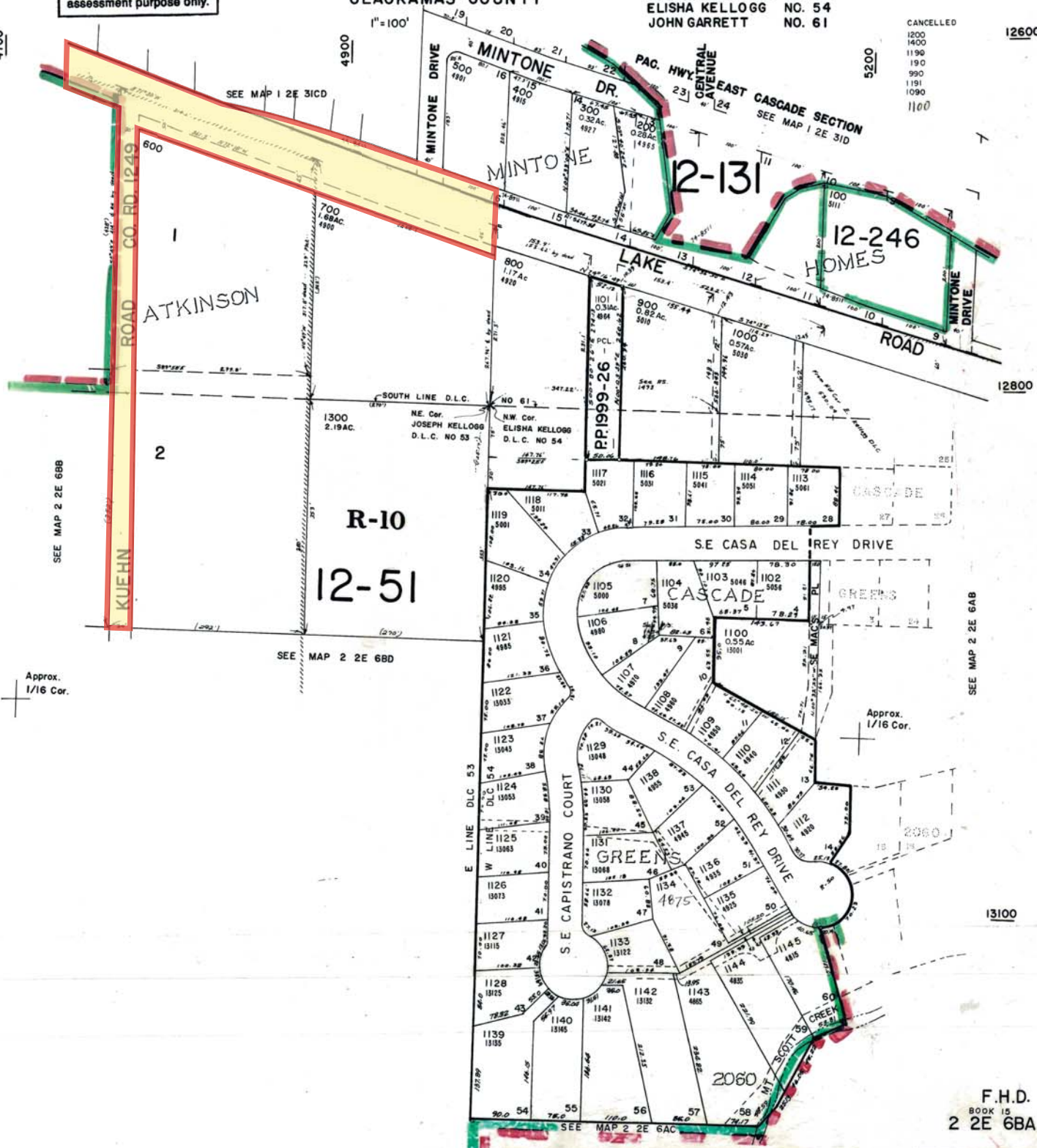
CANCELLED  
1200  
1400  
1190  
190  
990  
1191  
1090  
1100

12600

4700

4900

5200



SEE MAP 2 2E 6BB

Approx. 1/16 Cor.

SEE MAP 2 2E 6BD

SEE MAP 2 2E 6AB

Approx. 1/16 Cor.

13100

F.H.D.  
BOOK 15  
2 2E 6BA

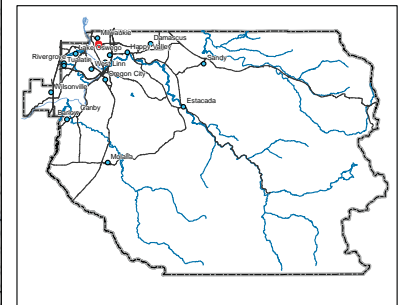
N.W.1/4 N.W.1/4 SEC.6 T.2S. R.2E. W.M.  
CLACKAMAS COUNTY  
1" = 100'

D. L. C.  
JOHN D. GARRETT NO. 38 & 61  
JOSEPH KELLOGG NO. 53

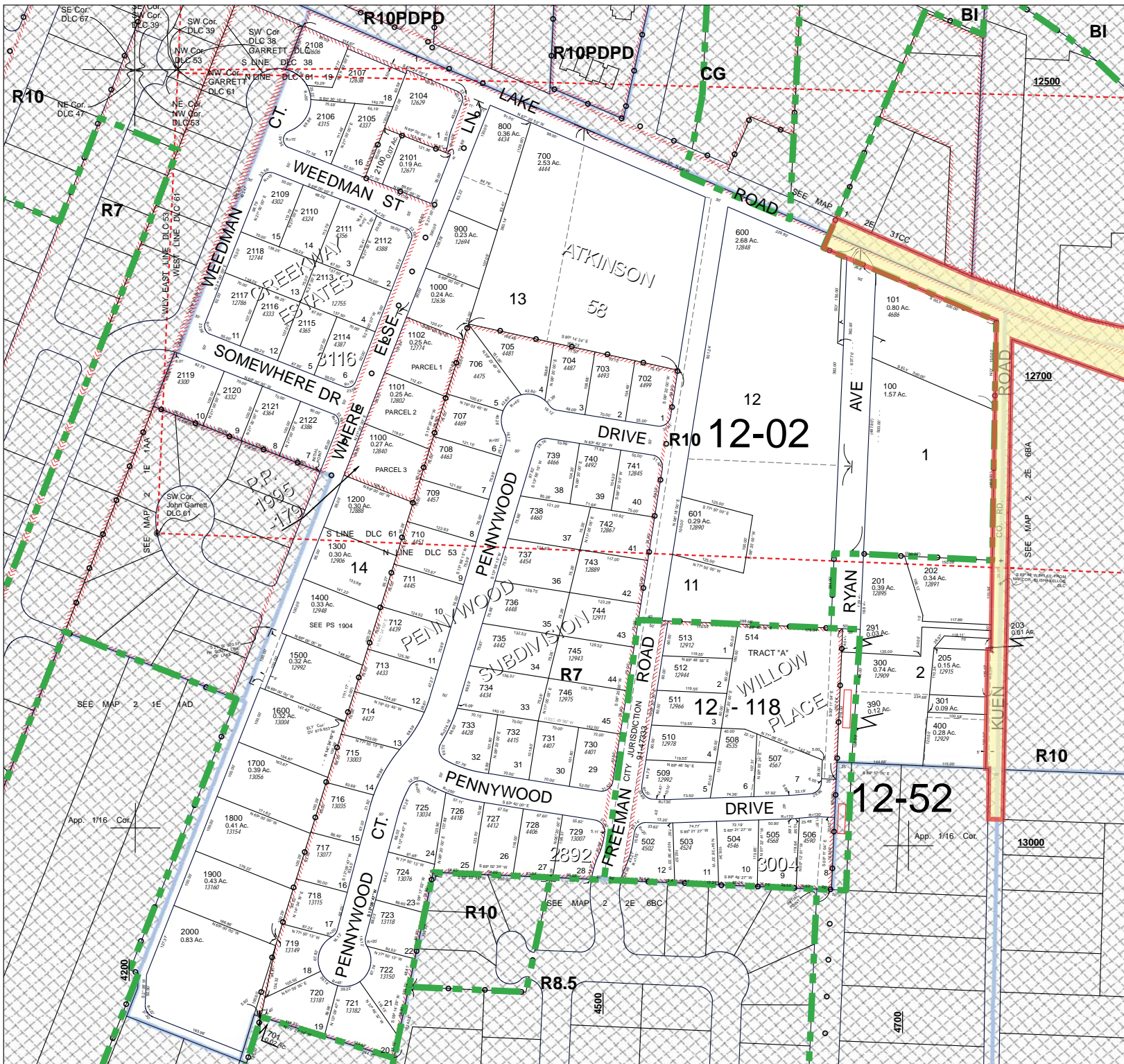
Cancelled Taxlots

- 200
- 204
- 401
- 500
- 500U1
- 500U2
- 501
- 500
- 591
- 594
- 596
- 2102
- 2103

- Parcel Boundary
- Private Road ROW
- Historical Boundary
- Railroad Centerline
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- 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



This map was prepared for assessment purpose only.

SE 1/4 NW 1/4 SEC. 6 T.2S. R.2E. W.M.  
CLACKAMAS COUNTY

D. L. C.  
JOSEPH KELLOGG NO 53

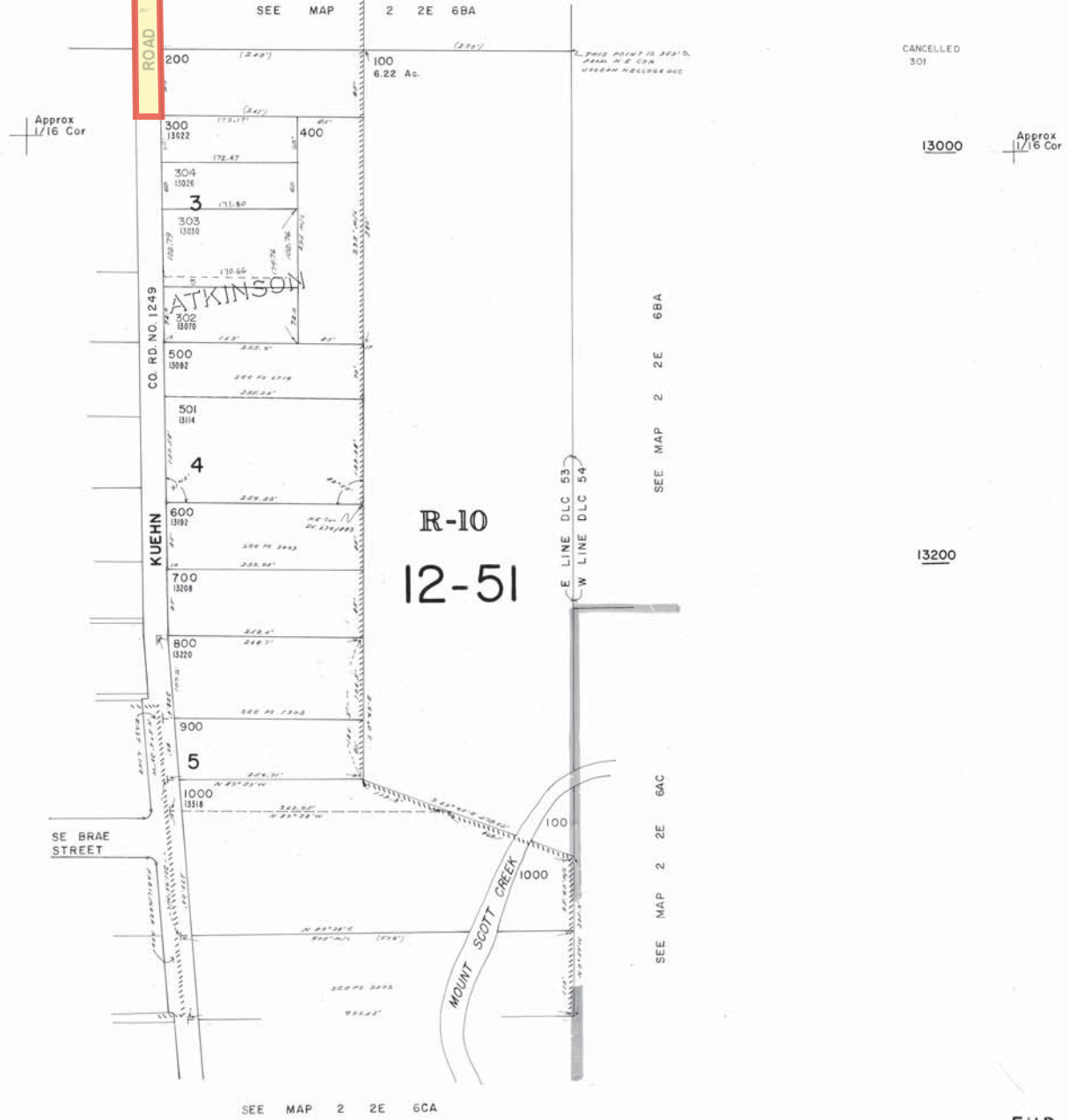
2 2E 6BD

1"=100'

4700

5000

5200



R-10  
12-51

9 11-69 D.H

Approx 1/16 Cor

13500 BOOK 15  
Approx Center Sec  
2 2E 6BD

F.H.D.