



DAN JOHNSON
DIRECTOR

DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT
DEVELOPMENT SERVICES BUILDING
150 BEAVERCREEK ROAD OREGON CITY, OR 97045

May 5, 2022

Board of Commissioners
Clackamas County

Members of the Board:

**Approval of a Board Order Vacating a Portion of Whipple Avenue, a Local Access Road.
Funding through applicant and revenue received into County Road Fund.
County General Funds are not involved.**

Purpose/Outcomes	Vacates a portion of Whipple Avenue right of way
Dollar Amount and Fiscal Impact	Application and processing fee received; revenue only
Funding Source	N/A
Duration	Upon execution; permanent vacation.
Previous Board Action	5/3/22: Discussion item at issues
Strategic Plan Alignment	Build public trust through good government
Counsel Review	Reviewed and approved by County Counsel on 03/15/22,NB
Procurement Review	This item was not processed through Procurement. This is a Petition for a Road Vacation.
Contact Person	Doug Cutshall, Engineering Technician 503-742-4669

BACKGROUND

Whipple Avenue, created October 1, 1924 through “Old Orchard”, Plat Number 496, contains a 12 foot wide gravel road within the dedicated 30 foot wide right of way that dead ends three lots southeasterly of Naef Road. As new subdivisions are being built in the area around Whipple Avenue, the petitioner and adjoining property owners wish to preserve a small portion of the way life that only exists on a road that has essentially been forgotten since 1924. The petitioner proposes to vacate 274.00 feet of road right-of-way and, has recorded an ingress egress and utility easement for all of the adjoining properties. This portion of road Right-of-Way serves no public need and is not a benefit to the traveling public.

The portion to be vacated contains approximately 8,209 square feet, of right-of-way that serves no public need and is not a benefit to the traveling public. Vacating this portion of road right of way will not affect area traffic flow or deprive public access to adjoining properties.

The Petition to Vacate under ORS 368.341 has been filed with the determined fee and acknowledged signatures of owners of 100 percent of property abutting public property proposed to be vacated, pursuant to ORS 368.351. All abutting property owners in this instance have signed the Consent to Vacate forms that have been acknowledged by the proper authority.

Clackamas County Department of Transportation Maintenance, Engineering, Planning, Traffic Divisions, and all local utility companies, have been contacted and do not have any objections to this vacation, provided that utility rights are reserved.

RECOMMENDATION

Staff respectfully recommends that the Board adopt the attached Board Order approving the vacation of this portion of Whipple Avenue right of way.

Sincerely,

Doug Cutshall

Douglas Cutshall
Engineering Technician

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF CLACKAMAS COUNTY, STATE OF OREGON**

In the matter of the Vacation of a
portion of Whipple Avenue, situated
In Section 7, T.2 S., R.2 E., W.M.
Clackamas County, Oregon



Board Order No. _____
Page 1 of 2

This matter coming before the Board of County Commissioners at this time and appearing to the Board that in accordance with ORS 368.341 and pursuant to ORS 368.346, a petition has been filed with the determined fee, and a written report finding this vacation to be in the public interest from the County Road Official, Dan Johnson, Director of the Department of Transportation and Development, have been submitted in the matter of the vacation of a portion of Whipple Avenue right of way, described as follows:

All of that portion of vacated Whipple Avenue, as depicted in "Old Orchard", Plat Number 496, Clackamas County Plat Records, situated in the SW¼ of Section 7, T.2 S., R.2 E., W.M., Clackamas County, Oregon, lying southeasterly of and between the northeasterly projection of the southerly right of way of Naef Road (Apple Tree Lane, per plat) to the westerly right of way of Oatfield Road and, a line beginning at the southeasterly corner of Lot 47 of said Plat ending at the southwesterly corner of Lot 68 of said Plat. Being depicted on attached Exhibit "A" and, by this reference being a part of this description.

Containing 8,690 square feet more or less.

Whereas the Board having read said petition and report from the County Road Official, have determined the vacation of the above described portion of roadway to be in the public interest; and,

Whereas the Board adopts as its own, the findings and conclusions contained in the written report from the County Road Official dated November 24, 2021; and,

Whereas the Petitioner has provided an access and utility easement over and across this section of vacated right of way per Deed Document 2022-008645 dated February 09, 2022; and,

Whereas Clackamas County Departments of Transportation Maintenance, Engineering, Planning, Traffic, along with all local utility companies, have been contacted and do not have any objections to this vacation provided that utility rights are reserved; now therefore,

IT IS HEREBY ORDERED that the above described portion of Whipple Avenue as depicted on attached Exhibit "A", containing, 8,690 square feet, more or less, be vacated; and,

IT IS FURTHER ORDERED that rights for all existing utilities within the vacated Whipple Avenue right of way, be reserved, nothing contained herein shall cause or require the removal or abandonment of any storm or sanitary sewer, water main, gas line, conduit of any kind, wires, or poles which are now installed in said right-of-way and used or intended to be used for any public service or utility. In addition, the rights are reserved to access, maintain, repair, construct or reconstruct, install, renew, and enlarge all utilities that are now used for any public service or utility; and,

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF CLACKAMAS COUNTY, STATE OF OREGON**

In the matter of the Vacation of a
portion of Whipple Avenue, situated
In Section 7, T.2 S., R.2 E., W.M.
Clackamas County, Oregon

}

Board Order No. _____

Page 2 of 2

IT IS FURTHER ORDERED, that this Order and attached exhibits be recorded in the Deed Records for Clackamas County and that a copy be filed with the County Surveyor, County Assessor, and Finance Office/Fixed Assets.

ADOPTED this _____ day of _____, 2022

BOARD OF COUNTY COMMISSIONERS

Chair

Recording Secretary

SITUATED IN THE SW¹/₄ OF
SECTION 7, T.2 S., R.2 E., W.M.

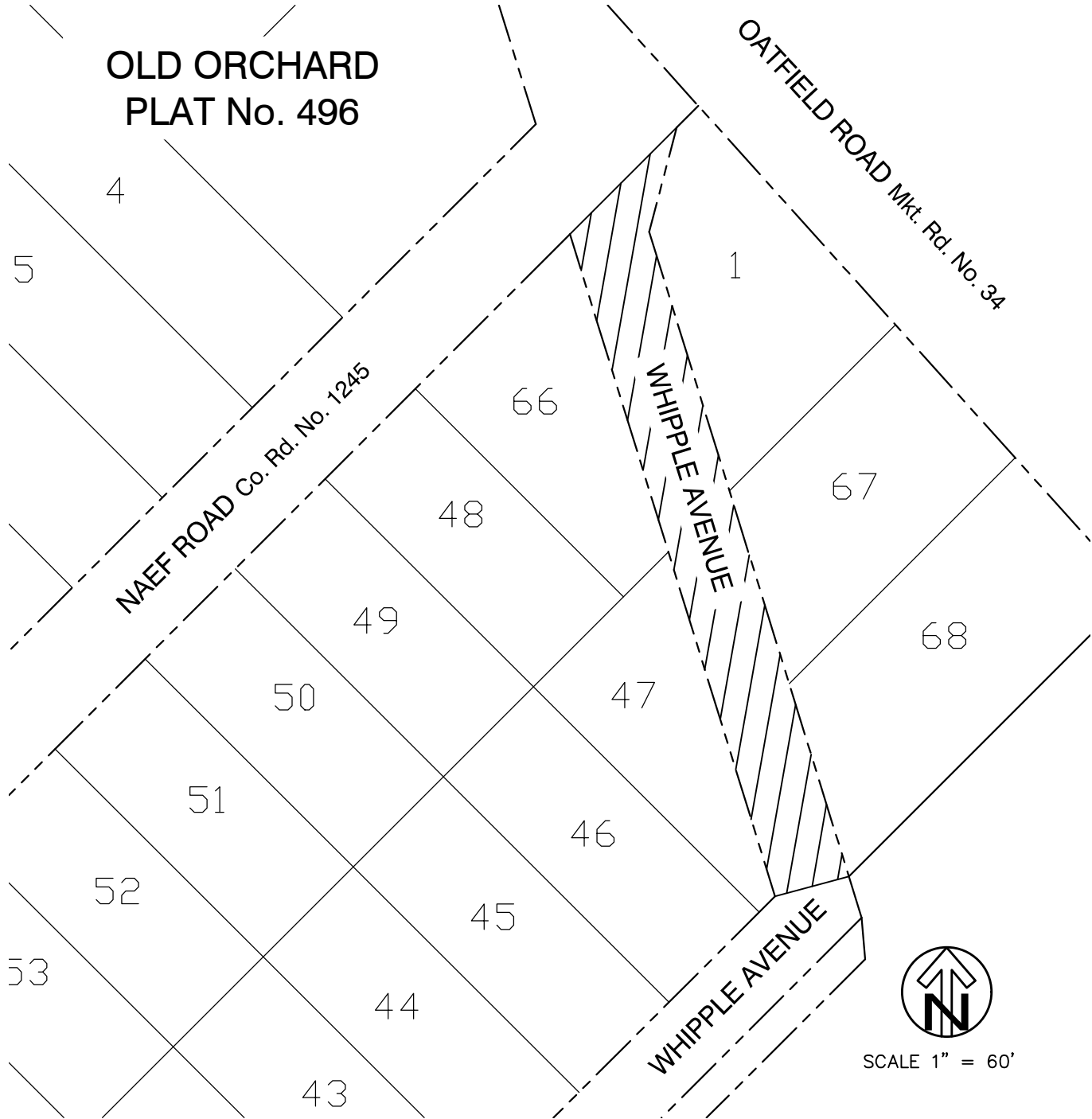
OLD ORCHARD
PLAT No. 496

OATFIELD ROAD Mkt. Rd. No. 34

NAEF ROAD Co. Rd. No. 1245

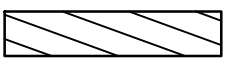
WHIPPLE AVENUE

WHIPPLE AVENUE



SCALE 1" = 60'

LEGEND



VACATED AREA
8,690 Sq. Ft.

DEPARTMENT OF TRANSPORTATION
AND DEVELOPMENT
150 BEAVERCREEK ROAD
OREGON CITY, OR 97045



BY: D. CUTSHALL DATE: 03/03/2020

EXHIBIT "A"

SHEET
1 OF 1

MEMORANDUM

TO: Board of Commissioners

FROM: Dan Johnson, Director D.T.D.

DATE: November 24, 2021

SUBJ: **BOARD ORDER VACATING A PORTION OF WHIPPLE AVENUE**

LOCATION: The proposed road vacation is located in the southwest quarter of Section 7, Township 2 South, Range 2 East, Willamette Meridian.

FACTS AND FINDINGS: Whipple Avenue, created October 1, 1924 through “Old Orchard”, Plat Number 496, contains a 12 foot wide gravel road within the dedicated 30 foot wide right of way that dead ends three lots southeasterly of Naef Road. The petitioner proposes to vacate 274.00 feet of road right-of-way and, has recorded an ingress egress and utility easement for all of the adjoining properties. This portion of road right-of-way serves no public need and is not a benefit to the traveling public. Vacating this portion of road right of way will not affect area traffic flow or deprive public access to adjoining properties.

The Petition to Vacate under ORS 368.341 has been filed with the determined fee and, acknowledged signatures of owners of 100 percent of private property proposed to be vacated and acknowledged signatures of owners of 100 percent of property abutting the public property proposed to be vacated, pursuant to ORS 368.351. All abutting property owners in this instance have signed the Consent to Vacate forms that have been acknowledged by the proper authority.

Clackamas County Departments of Transportation Maintenance, Engineering, Planning, Traffic, along with all local utility companies have been contacted and do not have any objections to this vacation, provided that utility rights are reserved.

This road vacation does not violate any portion of Clackamas County Code 7.03.095 (4) (A). Said Code enumerated as follows;

a. Whether the vacation would inhibit or preclude access to an abutting property, and whether an access reservation would be adequate to protect that access;

Finding: Vacating this right of way would not inhibit or preclude access to any abutting property. Access to abutting properties is available via recorded Ingress Egress and Utility Easement per Document 2022-008645

b. Whether it is physically possible to build a road that meets contemporary standards over the existing terrain or right of way;

Finding: This portion of Whipple Avenue right of way is only 30 feet wide which does not allow for the construction of a road meeting county road standards.

c. Whether it is economically feasible to build a road that meets contemporary standards over the existing terrain or right of way;

Finding: It is economically feasible to build a road in this portion of this right of way however there is no public need to further improve this right of way.

d. Whether there is another nearby road that can effectively provide the same access as the right-of-way to be vacated;

Finding: There are no other roads that effectively provides the same access.

e. Whether the right-of-way to be vacated has present or future value in terms of development potential, use in transportation linkages, or use in road replacements;

Finding: The substandard width right of way has present and future value to only the adjoining properties.

f. Whether there are present and future likely benefits of the right-of way to the traveling public;

Finding: There are no present and future likely benefits of the substandard width right of way to the traveling public.

g. Whether anticipated growth or changes in use of the surrounding area are likely to impact the future use of the right-of-way proposed to be vacated;

Finding: There is currently a planned subdivision nearby that may impact the use of the substandard width right of way proposed to be vacated, however there are no conditions for any improvements of this portion of Whipple Avenue.

h. Whether the right-of-way proposed to be vacated leads to a creek, river, or other waterway that can be used for public recreation; and

Finding: Not applicable.

i. Whether the right-of-way proposed to be vacated leads to federal, state or local public lands that can be used for public recreation.

Finding: Not applicable.

It is my assessment that the proposed vacation is in the public interest.