



**DAN JOHNSON**  
DIRECTOR

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

June 20, 2023

BCC Agenda Date/Item: \_\_\_\_\_

Board of County Commissioners  
Clackamas County

**Approval of a Board Order Accepting Right of Way and Simultaneously Vacating a Portion of Red House Road. No fiscal impact. No County General Funds are involved.**

<b>Previous Board Action/Review</b>	7/18/23: Request for consent		
<b>Performance Clackamas</b>	Building a strong infrastructure		
<b>Counsel Review</b>	Yes	<b>Procurement Review</b>	No
<b>Contact Person</b>	Douglas Cutshall	<b>Contact Phone</b>	503-742-4669

**EXECUTIVE SUMMARY:** Red House Road (Andrew Johnson Road, County Road No. 545), located in the NE quarter of Section 20, Township 5 South, Range 3 East, W.M., was ordered open to the public, on June 6, 1901. A recent partition of property adjoining Red House Road identified a portion of the as-traveled road lying outside of the legal county right of way. The impacted property owner has offered a 60-foot wide right of way to the public to incorporate the as-traveled road in a legitimate corridor. Recognition of the previously accepted right of way to be a part of the county road system will allow the unused right of way to be vacated. There are no negative impacts to the traveling public or the adjoining property owners by this road action. This action is pursuant to ORS 368.126.

After considering traffic impacts, fiscal impacts, and social impacts, staff believes that it would be in the public's interest to approve the Board Order Acknowledging the 60-foot public right of way as shown in Partition Plat Number 2022-033, to be a part of the County Road system and vacating the unused portion of Red House Road right of way, in accordance with ORS 368.126.

For Filing Use Only

**RECOMMENDATION:**

Staff respectfully recommends that the Board adopt the attached Board Order Acknowledging the public a 60-foot right of way as shown in Partition Plat Number 2022-033 to be a part of the County Road system and vacating the unused portion of Red House Road, (County Road No. 545, DTD No. 52042).

Respectfully submitted,

*Dan Johnson*

Dan Johnson  
Director of Transportation & Development

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

In the Matter of Acknowledging previously Dedicated Right of Way Easement for Red House Road to be part of the County Road System being Co. Rd. No. 545, DTD No. 52042, Situated in the NE ¼ Section 20, T.5 S., R.3 E., W.M.



Board Order No. \_\_\_\_\_  
Page 1 of 1

**This matter coming** before the Board of County Commissioners at this time and it appearing to the Board that a portion of the as traveled Red House Road is not within the legal right of way. An adjoining owner discovered the problem while partitioning their property and has dedicated to the public a Permanent Right of Way Easement for Road Purposes, and;

**Whereas** the said right of way easement was previously accepted through Partition Plat 2022-033, Clackamas County Plat Records, said plat depicts a portion of unused Red House Road right of way. Acknowledging said right of way easement to be part of the County Road System, will allow the Board, per ORS 368.126, to vacate the unused portion of Red House Road right of way, and;

**Whereas** the said as traveled portion of Red House Road is open to the traveling public, and;

**IT IS HEREBY ORDERED** that the Board acknowledge said previously accepted Red House Road right of way easement, depicted on Partition Plat 2022-033, Clackamas County Plat Records, and shown on attached Exhibit "A", to be a part of the County Road System being a portion of County Road Number 545, and, vacate the unused portion of Red House Road right of way, depicted on Partition Plat 2022-033, Clackamas County Plat Records, and attached Exhibit "A" which by this reference are a part of this Board Order, and;

**IT IS FURTHER ORDERED** that this Order and supporting documents be recorded free of charge with the Clackamas County Clerk when presented, with copies sent to the County Assessor Office, County Surveyor's Office, and County Finance/Fixed Assets' Offices.

ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2023

BOARD OF COUNTY COMMISSIONERS

\_\_\_\_\_  
Chair

\_\_\_\_\_  
Recording Secretary

## **MEMORANDUM**

TO: Board of Commissioners

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

DATE: June 5, 2023

SUBJ: **Board Order Acknowledging Right of Way and Vacating a Portion of Red House Road, County Road No. 545**

**LOCATION:** Red House Road is situated easterly of Molalla in the northeast quarter of Section 20, Township 5 South, Range 3 East, Willamette Meridian, Clackamas County, Oregon.

**FACTS AND FINDINGS:** Red House Road (Andrew Johnson Road, County Road No. 545), was ordered opened to the public, on June 6, 1901. A recent partition of property adjoining Red House Road identified a portion of the as-traveled road lying outside of the legal county right of way. The impacted property owner has offered a 60-foot wide right of way to the public to incorporate the portion of the as-traveled road in a legal corridor.

The new 60-foot wide right of way was previously accepted through Partition Plat Number 2022-033. Acknowledging the new right of way to be part of the County Road system, will allow for the vacation of the unused portion of Red House Road right of way. There are no negative impacts to the traveling public or the adjoining property owners by this road vacation. This action is pursuant to ORS 368.126.

ORS 368.126 states, "When a county governing body establishes a new public road following the general alignment of an existing public road, the final order or resolution shall identify all parts of any existing road that are to be vacated. Vacation of those parts described is effective without any other proceedings. A road so vacated shall not be closed to public use until the road laid out to replace it is actually opened to travel."

Red House Road is open to the traveling public. After considering traffic impacts, fiscal impacts, and social impacts, staff believes that it would be in the public's interest to approve the Board Order Recognizing the previously dedicated 60 foot wide right of way as shown in Partition Plat Number 2022-033, to be a part of the County Road system and vacating the unused portion of Red House Road right of way, in accordance with ORS 368.126.

It is my assessment to support the subject acknowledgment of new right of way as part of County Road Number 545 and, the vacation of the unused portion of Red House Road.

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 still available via Red House Road.

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

Finding: It was physically possible to build a road, unfortunately, it was built out of the legal right of way.

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

Finding: It was economically feasible at the time of the original road construction.

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

Finding: Red House Road provides access to all of the properties the old alignment provided.

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 right of way has no present or future value.

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 right of way to the traveling public.

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

Finding: There are no anticipated impacts to the future use of the right of way proposed to be vacated.

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.

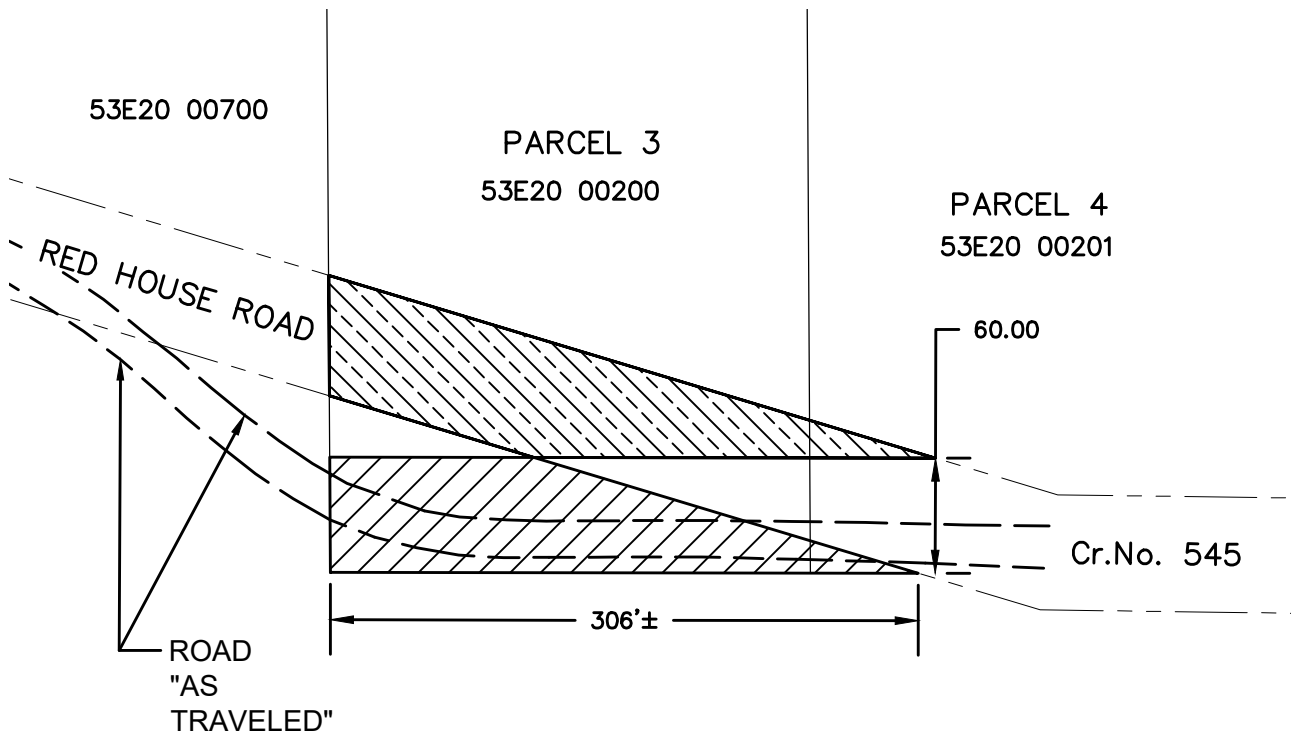
Finding: Not applicable.

---

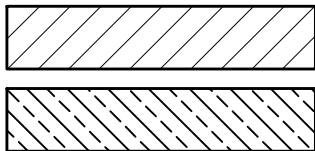
Dan Johnson, Director D.T.D

SITUATED IN THE NE 1/4 OF SECTION 20, T.5 S., R.3 E., W.M.  
AND PARTITION PLAT 2022-033

PARTITION  
PLAT 2022-033



LEGEND



DEDICATED RIGHT OF WAY

VACATED PORTION OF RIGHT OF WAY



SCALE 1"=100'