



DAN JOHNSON
DIRECTOR

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

February 3, 2022

Board of Commissioners
Clackamas County

Members of the Board:

Board Order Vacating a Portion of 79th Avenue, County Road No.3225

Purpose/Outcomes	Vacates a portion of 79 th Avenue right of way
Dollar Amount and Fiscal Impact	Application and processing fee received
Funding Source	Revenue- Road Fund
Duration	Upon execution; permanent vacation.
Previous Board Action	2/1/22: Discussion item at issues
Counsel Review	Reviewed and approved by County Counsel on 1/5/22- NB
Procurement Review	This item was not processed through Procurement. This is a Petition for a Road Vacation.
Strategic Plan Alignment	Build public trust through good government
Contact Person	Doug Cutshall, Engineering Technician 503-742-4669

BACKGROUND

79th Avenue, (Center Street, plat name) dedicated July 3, 1913 in Coates Home Tracts, Plat Number 373, Clackamas County Plat Records, situated in the NE1/4 of Section 29, T.1 S., R.2 E., W.M. was later adopted as County Road Number 3225. The petitioner has approved plans to realign, extend and, construct 79th Avenue southerly to Johnson Creek Boulevard. The realignment will leave the southerly 270 feet of the 40 foot wide, portion of 79th Avenue. Vacating this portion of right of way will not deprive public access to adjoining properties and will not affect area traffic flow.

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 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 all utility access and maintenance rights are reserved.

RECOMMENDATION

Staff respectfully recommends that the Board adopt the attached Board Order approving the vacation of a portion of 79th Avenue.

Sincerely,

Doug Cutshall

Doug 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 79th Avenue
County Road No. 3225, situated in
Section 29, T.1 S., R.2 E., W.M.
Clackamas County, Oregon



Board Order No. _____
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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 368.351, a petition has been filed with the determined fee and acknowledged signatures of owners of 100 percent of property abutting public property proposed to be vacated, and a written report finding this vacation to be in the public interest from the County Road Official, Dan Johnson, Director, have been submitted in the matter of the vacation of a portion of 79th Avenue, County Road Number 3225, said portion described as follows:

All that portion of 79th Avenue, situated in the northeast ¼ of Section 29, T.1 S., R.2 E., W.M., Clackamas County, Oregon, as more particularly described and shown on attached Exhibits "A" and "B" by this reference being a part of this Board Order.

WHEREAS, the Board having read said petition and report from the County Road Official and having determined the vacation of the above described portion of road right of way to be in the public interest; and,

WHEREAS, Clackamas County Department of Transportation and Development, including its Maintenance, Engineering, Planning, and Traffic divisions, along with all local utility companies, have been contacted and do not have any objections to this vacation, provided that utility access and maintenance rights are reserved;

IT IS HEREBY ORDERED, that the Board adopts as its own, the findings and conclusions contained in the written report from the County Road Official dated December 7, 2021; and,

IT IS FURTHER ORDERED that rights for all existing utilities within the vacated 79th Avenue right of way, be reserved. Nothing contained herein shall cause or require the removal or abandonment of any surface water or storm drainage pipeline, sanitary sewer pipeline, 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, including but not limited to those improvements under the ownership, management or control of Water Environment Services ("WES"). In addition, the rights are reserved to access, inspect, operate, perpetually maintain, repair, replace, construct or reconstruct, install, renew, and enlarge all utilities or improvements that are now used for any public service or utility. No building, structure, or other improvements shall be constructed upon the reservation area without the prior written consent of Clackamas County, or WES if the proposed improvements would encroach on infrastructure owned, managed or controlled by WES, nor shall any property owner engage in an activity or use that would harm or impair the reservation area or impede the proper functioning of the improvements described in this paragraph. This reservation of rights shall not obligate Clackamas County or WES to replace any improvements constructed in the reservation area that may impede the ability of Clackamas County or WES to use the area for the purposes described herein; and,

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

In the matter of the Vacation of
a portion of 79th Avenue
County Road No. 3225, situated in
Section 29, T.1 S., R.2 E., W.M.
Clackamas County, Oregon



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IT IS FURTHER ORDERED that the attached described portion of 79th Avenue, County Road Number 3225, containing 9,786 square feet, more or less, as described and shown on attached Exhibits "A" and "B" be vacated; and,

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.

DATED this _____ day of _____, 2022

BOARD OF COUNTY COMMISSIONERS

Chair

Recording Secretary

EXHIBIT A
VACATED PORTION OF SE 79TH AVENUE
COUNTY ROAD NO. 3225
IN THE NE 1/4 OF SECTION 29, T1S, R2E, WM,
IN CLACKAMAS COUNTY, OREGON
APRIL 25, 2019

A PORTION OF SE 79TH AVENUE, LOCATED IN THE NE 1/4 OF SECTION 29, T1S, R2E, WILLAMETTE MERIDIAN, CLACKAMAS COUNTY, OREGON, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SE CORNER OF SE 79TH AVENUE AS PER "COATES HOME TRACTS", SAID POINT IS ALSO THE NE CORNER OF THE LAND DESCRIBED IN DEED DOCUMENT NO. 2018-017978, PARCEL 5, CLACKAMAS COUNTY DEED RECORDS, AND IS S38°46'53"W, 981.27 FEET FROM A 4-1/4 INCH BRASS DISK AT THE NE CORNER OF SAID SECTION 29; THENCE S89°29'16"W ALONG THE NORTH LINE OF THE LAND DESCRIBED IN SAID DOCUMENT NO. 2018-017978, 40.01 FEET TO A 5/8 INCH IRON REBAR WITH YELLOW PLASTIC CAP INSCRIBED "COMPASS CORP" AT THE SW CORNER OF SAID SE 79TH AVENUE AND ON THE EAST LINE OF LOT 10, "COATES HOME TRACTS"; THENCE N00°28'53"E ALONG THE EAST LINES OF LOTS 10, 9, 8, AND 7, "COATES HOME TRACTS", 203.59 FEET TO THE BEGINNING OF A NON-TANGENT CIRCULAR CURVE CONCAVE TO THE NW AND HAVING A RADIUS OF 228.50 FEET, CHORD BEARING AND DISTANCE OF N17°41'24"E, 135.20' FEET, AND DELTA ANGLE OF 34°25'01", SAID POINT IS S00°28'53"W, 148.55 FEET FROM A 1/2 INCH IRON PIPE AT THE NE CORNER OF LOT 5, "COATES HOME TRACTS"; THENCE NORTHEASTERLY ALONG SAID CURVE 137.26 FEET TO THE EAST RIGHT-OF-WAY LINE OF 79TH AVENUE AND THE WEST LINE OF THE LAND DESCRIBED IN DEED DOCUMENT NO. 2000-000175; THENCE S00°28'53"W ALONG SAID EAST AND WEST LINES 108.00' FEET TO THE NORTHWESTERLY NW CORNER OF PARCEL 1, PARTITION PLAT 1991-8, SAID NORTHWESTERLY NW CORNER IS S23°35'00"E 0.46 FEET FROM A 1/2 INCH IRON PIPE; THENCE S00°28'53"W ALONG THE NORTHWESTERLY WEST LINE OF PARCEL 1, PARTITION PLAT NO. 1991-8, 224.04 FEET TO THE POINT OF BEGINNING.

THE LAND DESCRIBED ABOVE CONTAINS 9786 SQUARE FEET, MORE OR LESS, AND IS SUBJECT TO AND TOGETHER WITH ALL EASEMENTS AND RESERVATIONS OF RECORD.

REGISTERED
PROFESSIONAL
LAND SURVEYOR



OREGON
JULY 25, 1995
ROBERT ALAN JOHNSON
#2725

EXPIRES 6/30/19



JOHNSON LAND SURVEYING, INC.

10185 SW HOODVIEW DR, TIGARD, OR 97224
503-407-9966 jsurvey@frontier.com jlsurvey.com

EXHIBIT B

VACATED PORTION OF SE 79TH AVENUE COUNTY ROAD NO. 3225








IN THE NE 1/4 OF SECTION 29, T1S, R2E, WM,
IN CLACKAMAS COUNTY, OREGON
APRIL 25, 2019

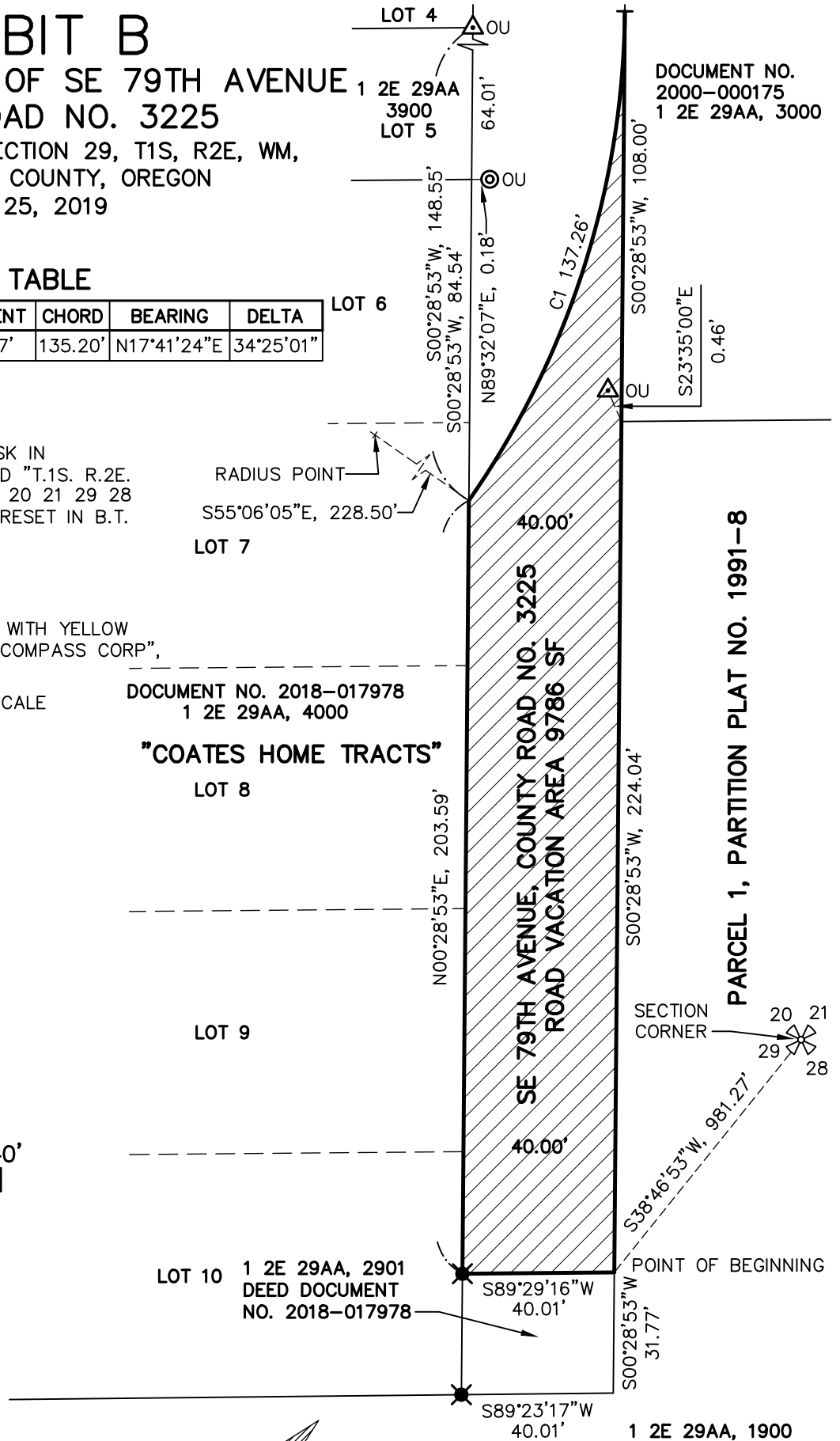
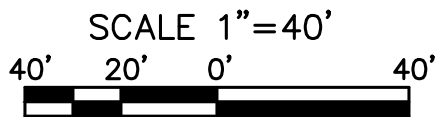
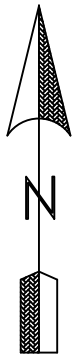
DOCUMENT NO.
2000-000175
1 2E 29AA, 3000

CURVE TABLE

CURVE	RADIUS	LENGTH	TANGENT	CHORD	BEARING	DELTA
C1	228.50'	137.26'	70.77'	135.20'	N17°41'24"E	34°25'01"

LEGEND

-  FOUND 4-1/4" BRASS DISK IN MONUMENT BOX, INSCRIBED "T.1S. R.2E. MULTNOMAH CO. LS 2832 20 21 29 28 CLACKAMAS 2010 1964", RESET IN B.T. BOOK H, PAGE 411.
-  FOUND 1/2" IRON PIPE
-  FOUND 3/4" IRON PIPE
-  FOUND 5/8" IRON REBAR WITH YELLOW PLASTIC CAP INSCRIBED "COMPASS CORP", SET IN SN 19508
-  SURVEYED LINE NOT TO SCALE
-  ORIGIN UNKNOWN
-  VACATED PORTION



REGISTERED
PROFESSIONAL
LAND SURVEYOR

Robert Alan Johnson
OREGON
JULY 23, 1995
ROBERT ALAN JOHNSON
#2725

EXPIRES 6/30/19

 **JOHNSON LAND SURVEYING, INC.**

10185 SW HOODVIEW DR, TIGARD, OR 97224
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MEMORANDUM

TO: Board of Commissioners

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

DATE: December 7, 2021

SUBJ: **ROAD OFFICIAL'S REPORT FOR THE VACATION OF 79TH AVENUE**

LOCATION: 79th Avenue, County Road Number 3225, is situated in the NE1/4 of Section 29, T.1 S., R.2 E., W.M.

FACTS AND FINDINGS: 79th Avenue, (Center Street, plat name) dedicated in Coates Home Tracts, Plat Number 373, July 3, 1913 Clackamas County Plat Records, was later adopted as County Road Number 3225. The petitioner has approved plans to realign, extend and, construct 79th Avenue southerly to Johnson Creek Boulevard. The remaining portion of 79th Avenue outside the new alignment is a dead end road and provides no connectivity to any through streets in the area. Vacating the southerly 270 feet of the 40 foot wide, portion of 79th Avenue will not deprive public access to adjoining properties and will not affect area traffic flow.

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 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 all utility access and maintenance rights are reserved.

After considering traffic impacts, fiscal impacts, and social impacts, it appears to be in the public interest to vacate the area petitioned.

It is my assessment to support the subject vacation.

Pursuant to ORS 368.351 and County policy, the Board may make its determination in the matter of this vacation without a public hearing. This is allowed when there is 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 any public property proposed to be vacated, this Road Official's Report is submitted, and there is no controversy related to the proposed vacation.

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 through several adjoining public roads.

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

Finding: The portion of 79th Avenue to be vacated currently is developed with a road. The newly realigned section of 79th Avenue will be constructed to extend southerly to Johnson Creek Boulevard. The new alignment improves the connectivity of 79th Avenue, and eliminates the need for the portion of 79th Avenue subject to this vacation.

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 to build a road in a portion of this right of way, however there is no public need to further improve this portion of 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 plans to realign, extend and construct 79th Avenue southerly to Johnson Creek Boulevard, and maintain access to adjoining properties.

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 present and future value and will be incorporated in the developer's plans.

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

Finding: The new alignment improves the connectivity of 79th Avenue, and eliminates the need for the portion of 79th Avenue subject to this vacation. After the construction of the new alignment, there will be no benefit for the traveling public in the portion of 79th Avenue subject to this vacation. The vacated portion will be incorporated as part of the petitioner's development.

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: The vacated portion will be incorporated as part of the petitioner's development. The newly realigned section of 79th Avenue will be constructed to extend southerly to Johnson Creek Boulevard. The new alignment improves the connectivity of 79th Avenue, and eliminates the need for the portion of 79th Avenue subject to this vacation

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, on balance, the proposed vacation is in the public interest.