



BOARD OF COMMISSIONERS
Agenda Item Summary

Agenda Category: Orders Item No:

Date: January 10, 2023

Originating Department: Public Works

Issue: In the matter of rescinding Resolution #2010-009 allowing a gate to be constructed on Topper Avenue in Klamath County, Oregon.

Background: Resolution #2010-009 was signed and approved on November 3, 2009 permitting a gate to be constructed on Topper Avenue to help minimize vandalism and trespass from patrons of the old Topper Tavern. In 2019, the Tavern was lost in a structure fire, and a written request to remove the gate was submitted to Public Works by residents along Topper Avenue to allow unimpeded lawful public access. This Order terminates the Public Works gate permit and rescinds Resolution #2010-009.

Recommended Motion: Board to rescind Resolution #2010-009 allowing a gate to be constructed on Topper Avenue in Klamath County, Oregon. Fiscal Impact is none.

DONE AND DATED this _____ day of _____, 20__.

Chair
Approved
Denied

Vice-Chair
Approved
Denied

Commissioner
Approved
Denied

**BOARD OF COUNTY COMMISSIONERS
IN AND FOR THE COUNTY OF KLAMATH, STATE OF OREGON**

In the matter of rescinding the gate)
construction resolution, 2010-009, on)
Topper Ave, a Public Road in Klamath)
County, Oregon.)

Order # _____

WHEREAS, on November 3, 2009 during the Klamath County Board of Commissioners regular scheduled business meeting, the board signed a resolution, (# 2010-009) to permit John and Barbara Hunter to construct a Gate on Topper Avenue to help minimize vandalism and trespass from patrons of the old Topper Tavern; and

WHEREAS, Topper Tavern was lost to a structure fire in 2019; and

WHEREAS, a written request to remove the gate was submitted to Public Works by residents along Topper Ave. Said request explains that the current access along Mathers Street to the applicant’s property is forcing public travel to trespass on private land and the remedy to this trespass is removal of the gate on Topper Ave allowing for unimpeded lawful public access; and

WHEREAS, on 11/22/2022 during the Klamath County Board of Commissioners regular scheduled Administrative meeting, the board was addressed regarding the request to rescind the aforementioned resolution and have the gate removed.

NOW THEREFORE IT IS HEREBY ORDERED that gate resolution #2010-009 be rescinded and the Public Works gate permit is hereby terminated. Said gate on Topper Ave shall be removed within 30 days of the date of this order and all materials associated with the gate become the property of John and Barbara Hunter.

DONE AND DATED this _____ day of _____, 2023

KLAMATH COUNTY BOARD OF COMMISSIONERS

Commissioner

Chair

Commissioner

BOARD OF COUNTY COMMISSIONERS

KLAMATH COUNTY, OREGON

COPY

In the matter of allowing a gate to)
be constructed on Topper Avenue,)
a public Road in Klamath County)

RESOLUTION NO. 2010-009

WHEREAS, John Hunter and Barbara Hunter own property on Topper Avenue; and

WHEREAS, said property is remotely situated in Klamath County and has suffered extensive vandalism; and

WHEREAS, the Hunter's agree to undertake any costs necessary for installation and maintenance of the gate; and

WHEREAS, John and Barbara Hunter, and Tommy Moore and his mother Fern Moore are the four people who represent the landowners that would be most affected by the installation of the gate and all four have expressed a desire to have the gate installed; and

WHEREAS, O.R.S. 368.056 allows the county governing body, Board of County Commissioners, to issue a permit to persons for the placement of a gate across a public road.

NOW, THEREFORE, IT IS HEREBY ORDERED AND RESOLVED that a gate may be constructed across Topper Avenue by permit issued by the Klamath County Public Works Department. The permittees, John and Barbara Hunter shall bear all cost of construction and maintenance of said gate.

DONE AND DATED this 3 day of November, 2009.

KLAMATH COUNTY BOARD OF COMMISSIONERS:

Out of Office Today

Chairman

Cheryl Herbert
Commissioner

[Signature]
Commissioner

BRANDSNESS, BRANDSNESS & RUDD, P.C.

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October 7, 2009

Stan Strickland
Klamath County Public Works
305 Main St., 2nd Floor
Klamath Falls, OR 97601

Re: 5352 Topper Avenue
My Clients: John and Barbara Hunter

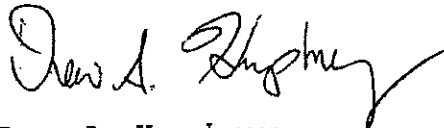
Dear Mr. Strickland:

Pursuant to our telephone conversation on Friday, September 25, 2009, I am hereby supplying you with a letter requesting that Klamath County Public Works ask the Board of County Commissioners for permission for the installation of a gate across Topper Avenue in the Stewart Lennox development. As you know, I represent John and Barbara Hunter, residents of the area. I have also spoken with and received the approval of Tommy Moore and his mother Fern, both residents in the area. Mr. and Mrs. Hunter own 5352 Topper Avenue, as well as the rental property located at 5340 Topper Avenue. Mr. Moore owns 5280 Topper Avenue. Mr. Moore's mother, Fern Moore, owns 5291 Topper Avenue. These four people represent the landowners that would be most affected by the installation of the gate. All four have expressed a desire to have the gate installed.

Mr. and Mrs. Hunter have stated that they will meet any conditions and undertake any costs the Board feels is necessary for the installation of the gate. They will also undertake any maintenance obligation the Board requires of them. If you are in need of any other information to bring this matter to the Board, please so advise me. Please let me know if I can be of any further assistance to you in this matter. I look forward to speaking with regarding this matter should it become necessary.

Very truly yours,

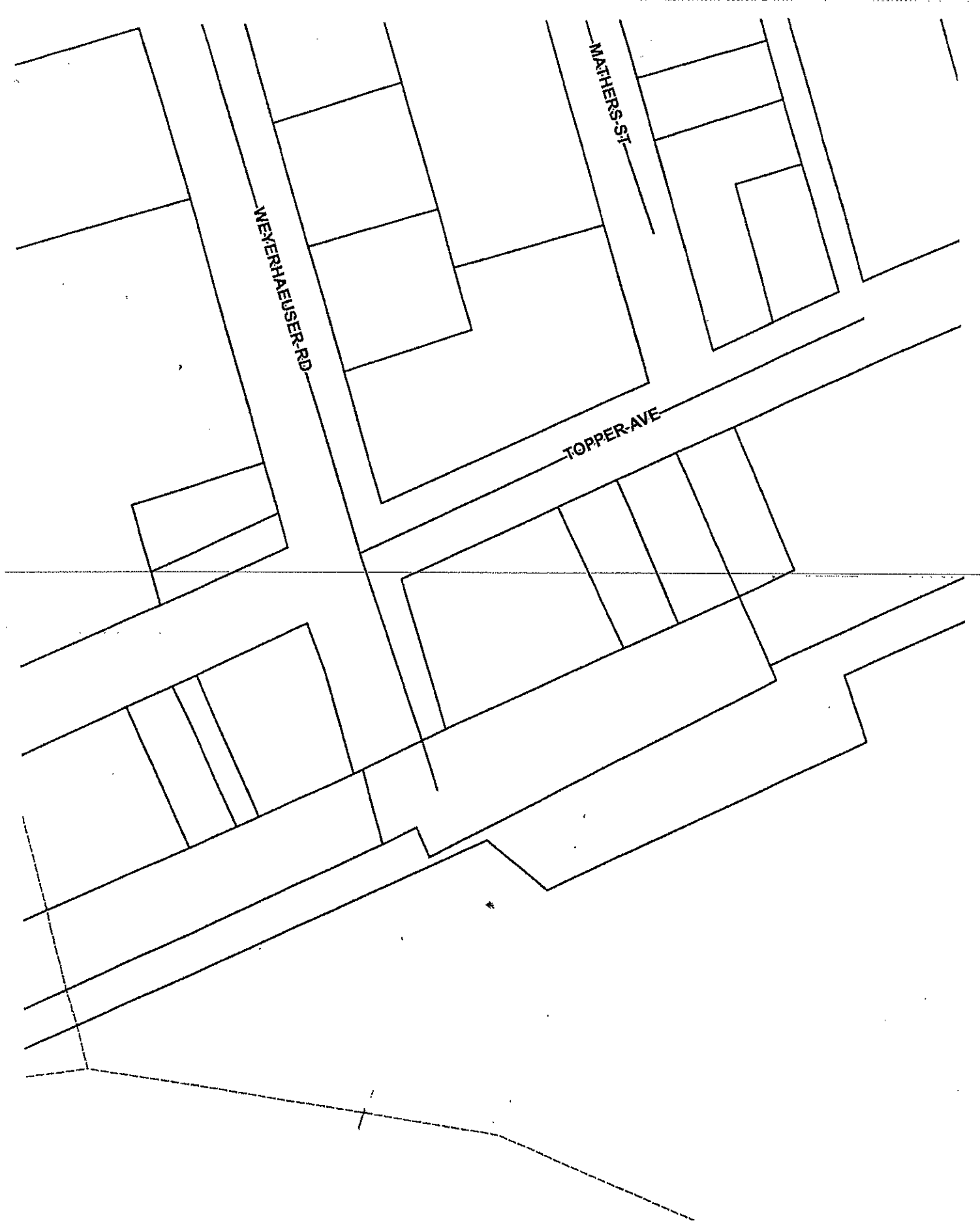
BRANDSNESS, BRANDSNESS & RUDD, P.C.



Drew A. Humphrey

DAH:kab
c: Client
huntba01

RECEIVED
OCT 9 2009
PUBLIC WORKS DEPT.



MEYERHAUSER RD

MATHERS ST

TOPPER AVE