

W. H. A.

## AGENDA COVER MEMORANDUM

**Memorandum Date:** August 15, 2007

**Agenda Date:** August 29, 2007

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**TO:** Board of County Commissioners

**DEPARTMENT:** Management Services

**PRESENTED BY:** Jeff Turk, Property Management Officer 2

**SUBJECT:** IN THE MATTER OF PROVIDING DIRECTION TO STAFF FOR DISPOSITION OF COUNTY OWNED TAX FORECLOSED PROPERTY IDENTIFIED AS MAP NO. 18-03-08-44-02500 (ADJOINS 3783 PINE CANYON DRIVE, EUGENE)

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1. **PROPOSED MOTION:** No motion is proposed. Staff is seeking direction from the Board.

2. **AGENDA ITEM SUMMARY:**

Competing offers have been received to purchase the subject property.

Phillip Bulliard, owner of tax lot 2600 which adjoins the subject, has submitted an offer of \$1,200. Mr. Bulliard wishes to pursue using the subject parcel as access to his property should he acquire the subject.

Rahul Deshpande, owner of tax lot 2300, and Janice Jensen, owner of tax lot 2400 (both parcels adjoin the subject), have submitted an offer of \$1,300 for the subject. Their offer is on behalf of, and supported by, 4 other property owners within the 38<sup>th</sup> Street PUD in which the subject property is located.

It should be noted that Mr. Deshpande's and Ms. Jensen's offer was submitted after, and with knowledge of, Mr. Bulliard's offer. Mr. Bulliard has not yet had an opportunity to make a counter offer.

The Board is being asked to provide direction to staff on proceeding with disposition of the subject property with options to include accepting one of the current offers or allowing counter offers to be made and selling the parcel to the highest offerer.

3. **BACK ROUND/IMPLICATIONS OF ACTION:**

A. **Board Action and Other History**

The subject property was acquired through tax foreclosure in September, 1993. It is a 15' x 30' strip and is included in the plat of the 38<sup>th</sup> STREET PUD. It has a current assessed value of \$798. The parcel has not been offered at a public auction (Sheriff's Sale).

The subject parcel is noted as "Lot A" in the 38<sup>th</sup> STREET PUD. The subject parcel is designated in the plat to be used for "bicycle, pedestrian, public utility and emergency vehicle access". There is no indication on the plat or in the CC&Rs that it was to be considered as "common area" for the PUD which, by statute, is not to be assessed.

The subject parcel does not appear to be included in the dedication of public rights of way that were within the plat but rather as an easement with the public having the right to use it as a walkway and for emergency vehicle access. Therefore, the Dept. of Assessment viewed the parcel as private property and subject to taxation. Language in the CC&Rs of the PUD also refer to the subject parcel as an easement.

Often, parcels such as the subject are to be transferred to a homeowner's association comprised of property owners within the PUD but a homeowner's association does not exist and the CC&Rs do not address any transfer of the subject to a homeowner's association.

Mr. Bulliard contacted the County at the end of June about purchasing the subject property as he was to be developing his property (tax lot 2600) with one, single family dwelling. Mr. Bulliard was interested in the subject property for use as access to his (Mr. Bulliard's property is 5 acres lying outside of the PUD plat). Mr. Bulliard's property does have legal access from 38<sup>th</sup> St., however, according to Mr. Bulliard, developing access from 38 St. will be difficult and expensive as a steep ravine will have to be crossed.

Mr. Bulliard was informed that it is the practice of the County to contact other adjoining owners when an offer is received for County property that has not been offered at a public sale (contacting other adjoining owners can reveal issues to be addressed such as encroachments and access).

Ms. Jensen and Mr. Deshpande, as adjoining owners, were contacted and informed of Mr. Bulliard's offer. Both, as well as other property owners they contacted in the PUD, expressed great concern with a sale to Mr. Bulliard and his intent on using the parcel for access. Their concerns are focused on quality of life issues from increased traffic, reduced parking and loss of open space in the cul-de-sac where the subject property is located.

The PUD property owners asked for a period of time to research the legalities of using the parcel for access given the restrictions in the plat and to discuss the matter amongst themselves with submitting a competing offer being a possibility.

Mr. Bulliard was informed of the other property owners request for additional time and was agreeable. The PUD property owners were asked to submit any materials and offers for the Board's review by August 13<sup>th</sup> so the matter could be scheduled for the August 29<sup>th</sup> meeting (their offer and other material was received on the 13<sup>th</sup>).

Mr. Bulliard has been made aware of the offer made by the PUD property owners and has stated to Property Management staff that he is willing to make a counter offer exceeding the one made by the PUD property owners.

### **Policy Issues**

ORS 275.200 provides for selling County property at private sale, without public notice if a property has been offered at a Sheriff's sale and remained unsold after the sale. The subject property would be eligible for a private sale and notice was published in the Register-Guard on August 14<sup>th</sup>, 2007.

LM 21.425 states that it shall be the policy of the County to dispose of property not needed for public use.

It has been an unwritten practice of the County to sell irregular, low value parcels only to an adjoining owner.

### **C. Board Goals**

A sale of the property would be consistent with the Board's goals of returning tax foreclosed property to the tax roll.

### **Financial and/or Resource Considerations**

Revenue from the sale of tax foreclosed properties is distributed to all of the taxing districts after program costs are first deducted and retained by the County.

### **E. Analysis**

Use of the subject parcel is restricted by the PUD plat for pedestrian, bicycle and emergency vehicle access and it is questionable whether Mr. Bulliard can legally use it for everyday vehicle access to his property without first having the use restriction vacated. This would require a process similar to vacating public right of way where other affected property owners would need to sign off on the vacation.

I have contacted City of Eugene planning staff and they informed me that while the size of the subject property would meet building code for access for one, single family dwelling they would not approve its use for access given the use restriction for the subject property noted in the plat. The City further indicated that they would require written approval from

property owners within the PUD before consideration would be given to allow the subject parcel to be used for everyday vehicle access (there are 15 lots in the PUD).

Mr. Bulliard is aware of the use restrictions for the subject property and still wishes to purchase it.

Ms. Jensen and Mr. Deshpande, whose properties are within the PUD and also adjoin the subject are aware of the use restrictions on the subject parcel. They, as well as other property owners in the PUD, do not want the subject used for access and are concerned that if Mr. Bulliard purchases the property and attempts to use it for access that they (the PUD property owners) may need to become involved in civil litigation to prevent that. It should be noted that Mr. Bulliard, whether he acquires ownership of the subject or not, may have the right to develop the subject for emergency vehicle access as noted in the plat.

The 38<sup>th</sup> STREET PUD was platted in 1977. At the time it was platted the subject parcel was likely designated for use as a walkway and emergency vehicle access in anticipation that the property to the South (Mr. Bulliard's) would eventually be developed. Given the size of the subject and its restriction it is clear that the intent of the developers of the PUD was not to have the subject used for primary vehicle access to any development of the property beyond it.

One of the considerations for the Board in determining the disposition of the subject property is whether the highest monetary offer will be the sole basis for a sale or whether other factors will be considered where the highest monetary offer is not deemed to be the "best" offer (ORS 275.225 provides for a sale to the "highest & best" offerer). Other factors to consider would be the original intended use of the subject parcel, that fee ownership should be held by a property owner within the PUD as a sale to a non-PUD property would cause undue hardship for the PUD property owners.

It would also be reasonable to dispose of the property strictly based on the highest monetary consideration offered. Mr. Bulliard is an adjoining owner and it could be argued that he should have an opportunity to purchase the subject parcel and pursue options of acquiring legal access through it.

**F. Alternatives/Options**

1. Direct Property Management staff to conduct a sealed bid or oral auction for the property with a sale made to the highest bidder.
2. Accept Mr. Bulliard's \$1,200 offer as it was submitted first.
3. Accept the \$1,300 offer from Ms. Jensen and Mr. Deshpande. (note, Mr. Bulliard has not had an equal opportunity to submit a counter offer)
4. Offer the parcel at a future Sheriff's Auction.

**V. TIMING/IMPLEMENTATION**

Property Management staff will proceed based on direction given by the Board.

**VI. RECOMMENDATION**

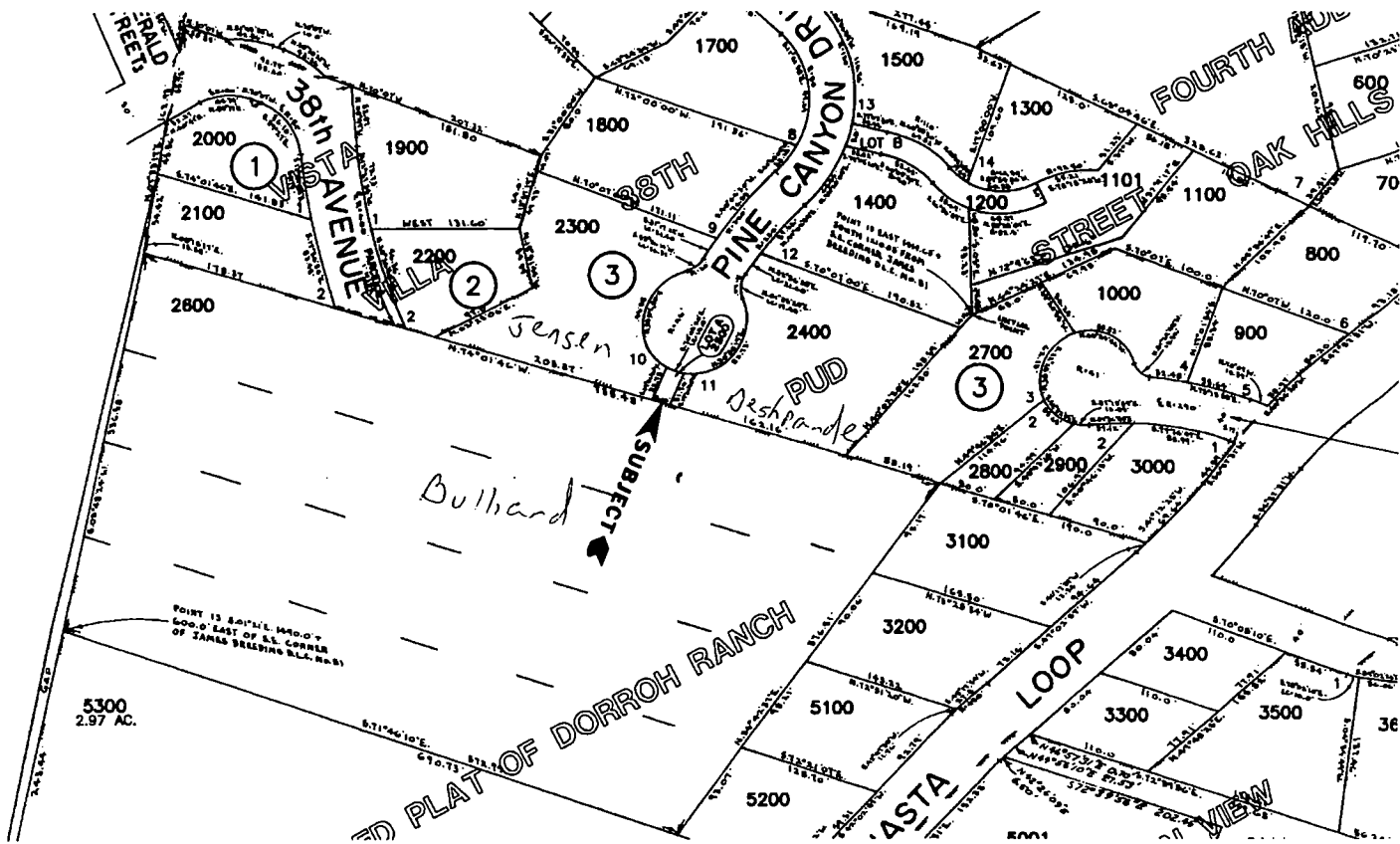
It is recommended that Option 1 be pursued giving all adjoining owners an equal opportunity to purchase the parcel.

**VII. FOLLOW-UP**

Property Management staff will implement the direction given by the Board.

**VII. ATTACHMENTS**

Tax Map  
PUD Plat  
Aerial Photo  
Letter from Ms. Jensen and Mr. Deshpande  
Letter from Richard Blunt, PUD Owner  
Email from Ms. Jensen  
Petition of Support from PUD Owners  
Letter from Mr. Bulliard



NOT FILMED  
TO SCALE

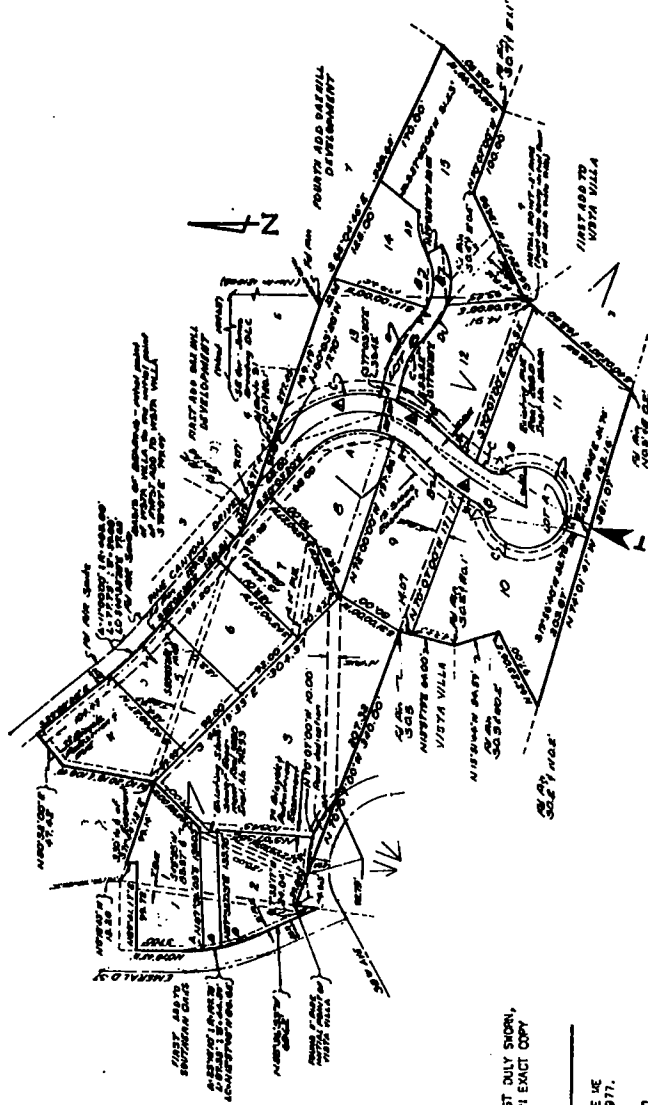
# 38<sup>TH</sup> STREET P.U.D.

PART OF WHICH IS A REPLAT OF LOT 1 BLOCK 7 FIRST ADDITION  
TO SOUTHERN OAKS AND LOTS 3 & 4, BLOCK 2 FIRST ADDITION TO  
OAK HILLS DEVELOPEMENT.

SEC. 8 T18S R3W WM  
EUGENE, LANE COUNTY, OREGON  
SCALE 1" = 100'

FILE 72 SLIDE 103

1801



**FILED**  
AUG 11 1977  
LANE COUNTY, OREGON

STATE OF OREGON )  
COUNTY OF LANE ) SS

I, THOMAS F. POAGE, BEING FIRST DULY SHOWN,  
DEPOSE AND SAY THAT THIS IS AN EXACT COPY  
OF THE FINAL PLAT AS SHOWN.

SUBSCRIBED AND SHOWN TO BEFORE ME  
THIS 11TH DAY OF AUGUST, 1977.

*Thomas F. Poage*  
THOMAS F. POAGE  
Notary Public  
Lane County, Oregon  
9-16-77

STATE OF OREGON )  
COUNTY OF LANE ) SS

I, THOMAS F. POAGE DO HEREBY CERTIFY THAT TO THE BEST OF MY KNOWLEDGE THE ANTERIOR  
MONUMENTS WITHIN THE HEREON SHOWN PLAT WILL BE SET WITHIN 60 DAYS OF THE COMPLETION  
OF IMPROVEMENTS.

*Thomas F. Poage*  
THOMAS F. POAGE  
Notary Public  
Lane County, Oregon  
9-16-77

RESTRICTION

ALL EASEMENTS SUBJECT TO  
EUGENE CITY CODE.

ELECTRIC DISTRIBUTION FACILITIES SHALL BE UNDERGROUND  
AND SUBJECT TO THE POLICIES AND PROCEDURES OF THE EUGENE  
WATER AND ELECTRIC BOARD NOW IN EXISTENCE, OR AS HEREAFTER  
AMENDED.

LOT 2 IS A PRIVATE DRIVE AND A P.E.

LOT 1 IS A BICYCLE, PEDESTRIAN, PUBLIC UTILITY AND EMERGENCY  
VEHICLE ACCESS.

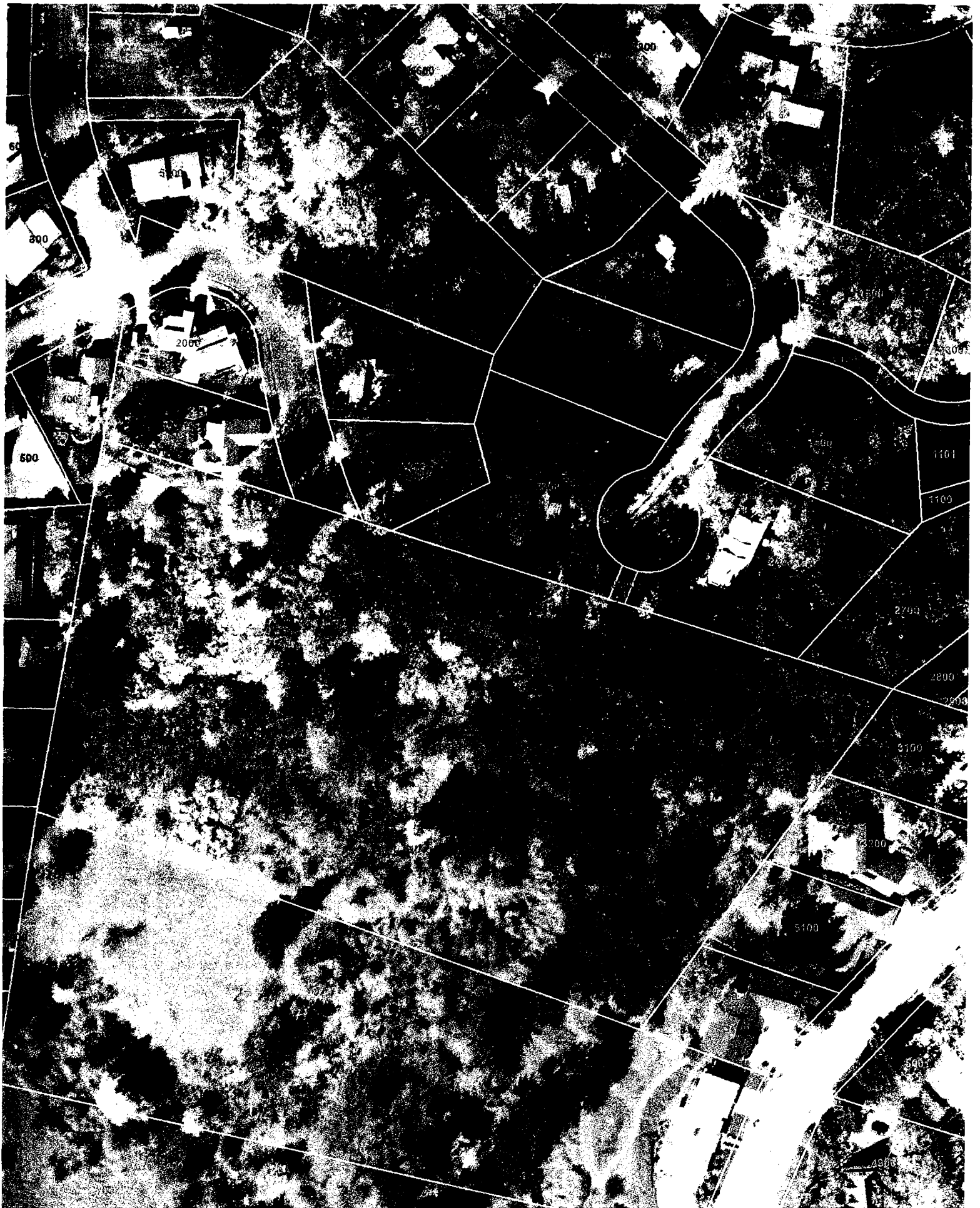
LOT	CURVE	BEARING	CHORD	RADIUS
1	A	N02°11'23"W	19.86	197.75
2	A	N81°43'33"W	42.26	105.00
3	B	N10°45'36"W	47.20	197.75
4	A	N50°30'27"W	42.26	105.00
5	B	N08°59'13"W	20.14	197.75
6	A	S44°33'20"E	77.63	405.00
7	A	S11°41'58"E	99.29	89.00
8	A	S30°48'02"W	28.18	80.00
9	B	S40°04'30"W	78.35	320.00
10	A	S31°17'22"W	21.40	320.00
11	B	S33°28'16"W	16.31	20.00
12	C	S08°24'53"W	85.94	48.00
13	A	N34°30'19"E	82.73	48.00
14	B	N01°39'24"E	19.48	20.00
15	C	N02°56'08"E	21.00	200.00
16	A	N41°08'54"E	57.32	200.00
17	B	N32°20'04"E	60.54	120.00
18	C	S60°03'20"E	52.63	90.00
19	D	S36°36'08"E	38.69	82.50
20	A	N53°00'34"W	19.64	82.50
21	B	N60°03'20"W	64.38	110.00
22	C	N00°56'44"W	116.78	180.00
23	A	S78°18'28"W	55.21	98.50
24	B	S09°54'28"W	62.53	82.50
25	A	N78°18'28"E	55.21	98.50
26	B	N00°56'44"E	60.27	82.50
27	A	S70°03'20"E	15.00	48.00
28	A	N12°08'40"E	20.00	120.00

CURVE DATA

CURVE NO.	DELTA	RADIUS	CHORD	BEARING
1	63°00'00"	100.00	104.50	S19°33'20"E
2	34°00'00"	100.00	58.47	S29°56'40"W
3	27°00'00"	300.00	140.07	S33°28'40"W







August 9, 2007

Janice Jensen  
3783 Pine Canyon Drive  
Eugene, OR 97405

Rahul Deshpande  
2034 Oxford Avenue  
Cardiff-by-the-Sea, CA 92007

Lane County Board of Commissioners  
125 East 8th Avenue  
Eugene, OR 97401

Dear Honorable Commissioners:

Pine Canyon Drive is a quiet street ending in a cul de sac with our two properties. In addition, there is a narrow easement lot (15' x 30') designated for "bicycle, pedestrian, public utility, and emergency vehicle access." This lot is known as "Lot A" in the "38th Street PUD." Unfortunately, Lane County acquired Lot A due to non payment of property taxes. This lot is now the subject of our discussion.

Our understanding is that an offer has been made to acquire "Lot A" by the owner of property that is not in the "38th Street PUD." Our understanding, based on interaction with the offeror and county staff, is that the offeror (Mr. Bulliard), intends to build a road across this lot to his property below. Lot 2600, Mr. Bulliard's property, is already accessible via 38th Avenue.

Because a road or even a driveway will forever change the character and integrity of Pine Canyon Drive, and in particular, the cul de sac, we are now forced to make an offer to purchase this land. We are proposing to purchase this land on behalf of the "38th Street PUD", with the understanding the lot will be left as open space. If the "38th Street PUD" is unable to put the framework in place, to manage ownership, including payment of property taxes, our intent is to own the lot jointly.

The original design of the subdivision did not plan for a steep driveway at the end of the cul de sac. In fact, Mr. Bulliard's desired use violates current zoning. Additionally, it violates the intent when the "38th Street PUD" was subdivided and developed.


We have decided to make a higher offer than Mr. Bulliard because we believe so strongly in preserving the present quality of life on Pine Canyon Drive. However, our willingness to preserve the lot as open space provides the community with far greater value than just the monetary offer. We are convinced that a sale to Mr. Bulliard will irreparably damage the integrity of the neighborhood and the resident's quality of life.

We respectfully request your consideration and acceptance of our offer.

Sincerely,



Janice Jensen, Owner and Resident, 3783/85 Pine Canyon Drive



Rahul Deshpande, Owner, 3780/82 Pine Canyon Drive

July 2, 2007

Jeff Turk  
Property Management Office  
Department of Management Services

Re: Lane County Owned Property Adjoining Janice Jensen Property  
Tax Lot 2500

Att: County commissioners care of Jeff Turk

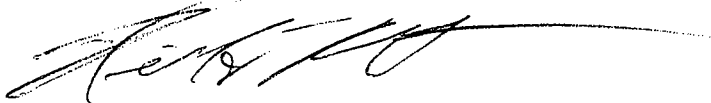
Dear Jeff Turk/County Commissioners:

As per our conversation on the phone last week, the County has received an offer to purchase tax lot 2500 from Mr. Bulliard. This small piece of property has a designated use for bicycle, foot, emergency vehicles and utilities only. Selling this property to an individual with the intent of using for access to a building site would drastically change the dynamics of the current existing cul de sac. The density of the area includes a duplex on either side of this tax lot. The cul de sac would not accommodate the necessary parking for the existing families if converted to a drive or other access for future development of the five acres, tax lot 2600, owned by Mr. Bulliard and is not a part of the 38<sup>th</sup> Street PUD. Mr. Bulliard's property has access at 38<sup>th</sup> St. If the CC&R's were to be changed in the future due to this sale, Pine Canyon Drive could become a shortcut from 30<sup>th</sup> Ave. to the neighborhoods of East Eugene and Amazon area.

I believe that it is important to all residents of the 38<sup>th</sup> Street PUD to limit the traffic to the Lane County's/City of Eugene's original approval of the PUD. I have owned tax lot 1800 for 27 years and purchased the lot and situated my home on the lot and in this neighborhood with the belief that the CC&R's would not be faced with future changes.

How was this lot offered for sale? What changes are possible to the use of tax lot 2500? The best use of the property is to sell it to someone within the existing PUD. I believe that the others property owners within the PUD should be notified.

Cordially  
Richard Blunt  
3780 Pine Canyon Dr.  
Eugene, Or. 97405



8/13/07

Note:

- 1) A blank copy of the Letter & Signatures from the 38<sup>th</sup> Street PUD property owners is included
- 2) ALL of the tax lots except one are represented with signatures.

The absent signature is due to the owner being unable to be contacted,

J.C.J.

**August 9, 2007**

**Lane County Board of Commissioners**  
125 East 8th Avenue  
Eugene, OR 97401

**Dear Honorable Commissioners:**

We, the residents and property owners, in the "38th Street PUD" support the offer by Ms. Jensen and Mr. Deshpande to purchase the "Lot A" within "38th Street PUD" on behalf of the "38th Street PUD".

If the "38th Street PUD" is unable to provide reasonable mechanisms to manage the property, "Lot A" can be held by Ms. Jensen and Mr. Deshpande and be maintained/managed by them.

It is critical to our community character that this "Lot A" be maintained as open space. In particular, the use of "Lot A" as a driveway or road is unacceptable. We believe selling of "Lot A" to a person who intends to place a road on it will damage our quality of life. Traffic will be increased and parking in the cul-de sac reduced, among other issues.

In addition, as this lot is currently zoned for "bicycle, pedestrian, public utility, and emergency vehicle access" we would vigorously oppose any attempt to allow a road, driveway, or make any changes that increase the intensity of use.

[illegible]

August 9, 2007

Lane County Board of Commissioners  
185 East 5th Avenue  
Eugene, OR 97401


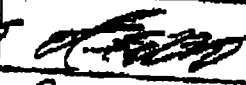


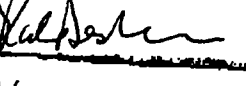

Dear Honorable Commissioners:

We, the residents and property owners, in the "58th Street PUD" support the offer by Mr. Jensen and Mr. Deshpande to purchase the "Lot A" within "58th Street PUD" on behalf of the "58th Street PUD".

If the "58th Street PUD" is unable to provide reasonable mechanisms to manage the property, "Lot A" can be held by Mr. Jensen and Mr. Deshpande and be maintained/managed by them.

It is critical to our community character that this "Lot A" be maintained as open space. In particular, the use of "Lot A" as a driveway or road is unacceptable. We believe selling of "Lot A" to a person who intends to place a road on it will damage our quality of life. Traffic will be increased and parking in the outside area reduced, among other issues.

In addition, as the "Lot A" is currently zoned for bicycle, pedestrian, public utility, and emergency vehicle access we would vigorously oppose any attempt to allow a road, driveway, or make any changes that increase the intensity of use.

Name	Signature	Address	Tax Lot:
WILLIAM TEMES		3775 Pine Canyon Eugene, OR 97405	OWN 2 lots 1500, 1300
Richard Deshpande		3700 Pine Canyon Dr.	1800
JANICE JENSEN		3783/85 Pine Canyon	2400
DAVID TURET		3774 PINE CANYON DRIVE	MAP & TAX LOTS: 18-03-08-44-01700
RAHUL DESHPANDE		3782/84 Pine Canyon Drive	2300
Kathryn Temes		3775 Pine Canyon Dr. Eugene, OR 97405	2 lots 1500 + 1300

Via fax 682-4290

August 14, 2007

Mr. Jeff Turk  
Lane County  
Dept. of Mgmt. Services  
Property Mgmt. Division  
125 E 8th Ave.  
Eugene, OR. 97401

Re: offer to Purchase  
TAX LOT NO. 18-03-08-44-0290

Dear Mr. Turk:

I understand that you have received an offer from others to purchase the above referenced lot for \$1,300.

This is to advise that I remain interested in purchasing the lot and am willing to exceed your \$1,300 present offer.

I can revise my present offer to \$1,400 or perhaps suggest an open auction among the interested parties so that this matter can be finalized.

Respectfully,  
Philip Bullard

## **TURK Jeff R**

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**From:** Janice C.Jensen [janice@kidpage.org]  
**Sent:** Tuesday, August 14, 2007 4:45 PM  
**To:** TURK Jeff R  
**Cc:** Rahul Deshpande  
**Subject:** Follow-up letter to Lane County Commissioners

August 14, 2007

Dear Lane County Board of Commissioners,

A call to Jeff Turk this afternoon revealed that he informed the other offeror to buy "Lot A," Philip Bulliard, of our 38th Street PUD offer. Mr. Turk indicated that Mr. Bulliard is willing to increase his offer and has sent a letter stating this.

Since we are a group of property owners, with two owners living outside the state, we cannot agree to instantly increase our offer. However, we want the option to alter our offer should you decide an auction of the property is appropriate.

We continue to believe our offer provides the community with far greater value.

Sincerely,

Janice C. Jensen on behalf of the 38th Street PUD property owners