

W8D1

AGENDA COVER MEMORANDUM

Agenda Date: September 27, 2005

DATE: September 14, 2005

TO: Board of County Commissioners

DEPARTMENT: Management Services

PRESENTED BY: Jeff Turk, Property Management Officer 2

SUBJECT: ORDER/IN THE MATTER OF AUTHORIZING THE SALE OF SURPLUS COUNTY OWNED REAL PROPERTY TO PHYLLIS V. CUNNINGHAM, FORMER OWNER OF RECORD (MAP #17-03-26-42-01200, ADJACENT TO 1473 N. 5TH, SPRINGFIELD)

1. **PROPOSED MOTION:** THE BOARD OF COUNTY COMMISSIONERS MOVES TO AUTHORIZE THE SALE OF SURPLUS COUNTY OWNED REAL PROPERTY TO PHYLLIS V. CUNNINGHAM, FORMER OWNER OF RECORD (MAP #17-03-26-42-01200, ADJACENT TO 1473 N. 5TH, SPRINGFIELD).
2. **ISSUE/PROBLEM:** Ms. Cunningham is the former owner of record of the subject property which adjoins her property that has her residence (tax lot 1300). Ms. Cunningham wishes to repurchase the property pursuant to ORS 275.180 and LM 21.425(4). The proposed purchase price is \$706.00 which includes all taxes, including those which would have been due for the current year, interest and penalties that were owed on the property at the time the County acquired title plus an additional 10% thereon.

3. **DISCUSSION:**

- 3.1 Background

The County acquired title to the subject property in September 2003 through tax foreclosure. The subject is 70' x 72' and serves as the back yard for Ms. Cunningham's home (tax lot 1300, 1473 N. 5th). It has an assessed value of \$5,500. The subject does not

have legal access. Without the benefit of a survey, it is unknown whether a portion of Ms. Cunningham's residence encroaches on the subject. Ms. Cunningham has owned both properties for over 40 years.

In 2000, Ms. Cunningham began having the property taxes on her residence deferred under the State's senior deferral program (Ms. Cunningham is 81 years old). She believed that the subject property was included in the deferral and was ignorant to the fact that two separate tax accounts were involved. Ms. Cunningham had been paying taxes on both properties up until the time of the deferral.

3.2 Analysis

ORS 275.180 provides for selling foreclosed property back to the owner of record at any time but for not less than the amount of taxes, interest and penalties owing on the property at the time the County acquired title plus 6% interest thereon until the time the property is sold. Lane Manual 21.425(4) qualifies ORS 275.180 by requiring one of three conditions to exist for a sale to the former owner of record. Those conditions are that: (a) the property was the residence of the former owner at the time of the foreclosure; (b) an error was made by the Assessor in placing the property on the foreclosure list; (c) the former owner was physically or mentally incapacitated during the foreclosure period. In similar circumstances in the past, the Board has viewed an adjoining property to the former owner's residence as part of their homestead and sold it back to them under the provisions of Lane Manual.

3.3 Alternatives/Options

1. Sell the property to Ms. Cunningham for the minimum amount pursuant to ORS. 275.180 plus taxes which would have been owed for the current year plus 10% thereon. A total of \$706.
2. Sell the property to Ms. Cunningham for an amount greater than #1 above.
3. Reject selling the property back to Ms. Cunningham and offer the property at a Sheriff's sale which may yield greater consideration if the subject proved developable.

3.4 Recommendation

It is recommended that alternative #1 be implemented. There are no underlying reasons - such as money the County has put into the property for upkeep, repairs, etc. - for selling the property above the amount proposed except for any policy decisions by the Board.

3.5 Timing

None.

4. **IMPLEMENTATION/FOLLOW-UP:** Upon approval by the Board of County Commissioners, the Quitclaim Deed will be executed and the property sold to Ms. Cunningham.

5. **ATTACHMENTS:**
 - Board Order
 - Quitclaim Deed
 - Letter from Ms. Cunningham
 - Plat Map

IN THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY, OREGON

ORDER NO. IN THE MATTER OF AUTHORIZING THE SALE OF SURPLUS COUNTY OWNED REAL PROPERTY TO PHYLLIS V. CUNNINGHAM, FORMER OWNER OF RECORD (MAP #17-03-26-42-01200, ADJACENT TO 1473 N. 5TH, SPRINGFIELD)

WHEREAS this matter now coming before the Lane County Board of Commissioners and said Board deeming it in the best interest of Lane County to sell the following real property which was acquired through tax foreclosure, to wit:

Beginning at a point on the North line of Lot 8, Block 2, HUNTS'S ADDITION TO SPRINGFIELD, as the same is platted and recorded in the Lane County Oregon Plat Records, Lane County, Oregon, which point is 110 feet East of the Northwest corner of said lot; running thence East 72.0 feet along the North line of said lot; thence South 70.0 feet parallel to the West line of said lot; thence West 72.0 feet parallel to the North line of said lot; thence North 70.0 feet to the true point of beginning.

WHEREAS said real property is owned by Lane County and not in use for County purposes, and sale of said property would benefit Lane County by its return to the tax roll, and

WHEREAS Ms. Cunningham is the former owner of record of said real property and said real property was part of her homestead where she resided

IT IS HEREBY ORDERED that pursuant to ORS 275.180, ORS 275.275 and Lane Manual 21.425 the real property be sold to Phyllis V. Cunningham for \$706.00, that the Quitclaim Deed be executed by the Board, and that the proceeds be disbursed as follows:

Foreclosure Fund	(228-5570270-446120)	\$506
General Fund	(124-5570260-436521)	200

IT IS FURTHER ORDERED, that this Order shall be entered into the records of the Board of Commissioners of the County.

DATED this _____ day of _____, 2005.

APPROVED AND FORWARDED:

9-15-05

Anna Morrison, Chair, Board of County Commissioners

IN THE MATTER OF AUTHORIZING THE SALE OF SURPLUS COUNTY OWNED REAL PROPERTY TO PHYLLIS V. CUNNINGHAM, FORMER OWNER OF RECORD (MAP #17-03-26-42-01200, ADJACENT TO 1473 N. 5TH, SPRINGFIELD)

QUITCLAIM DEED

LANE COUNTY, a political subdivision of the State of Oregon, pursuant to Order No. _____ of the Board of County Commissioners of Lane County, releases and quitclaims to:

PHYLLIS V. CUNNINGHAM

all its right, title and interest in that real property situated in Lane County, State of Oregon, described as:

Beginning at a point on the North line of Lot 8, Block 2, HUNTS'S ADDITION TO SPRINGFIELD, as the same is platted and recorded in the Lane County Oregon Plat Records, Lane County, Oregon, which point is 110 feet East of the Northwest corner of said lot; running thence East 72.0 feet along the North line of said lot; thence South 70.0 feet parallel to the West line of said lot; thence West 72.0 feet parallel to the North line of said lot; thence North 70.0 feet to the true point of beginning (17-03-26-42-01200).

THIS INSTRUMENT WILL NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES AND TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS. 30.930.

The true and actual consideration for this transfer is \$706.00

LANE COUNTY BOARD OF COMMISSIONERS

STATE OF OREGON)
) ss
COUNTY OF LANE)

On _____, 2005 personally appeared _____

_____, County Commissioners for Lane County, and acknowledged the foregoing instrument to be their voluntary act. Before me:

After recording, return to/taxes to:
Phyllis V. Cunningham
1473 N. 5th St.
Springfield, OR 97477

Notary Public for Oregon
My Commission Expires _____

July 31, 2005

Lane County Real Estate Division

**RE: Account # 0223212
Map, Tax Lot, & SIC 17-03-26-042-01200**

I was the owner of the property listed above. In 2000 my son took care of deferring the property taxes on my property 17-03-26-042-01300. The property that I still own (lot # 17-03-26-042-01300) and the property which was foreclosed (lot 17-03-26-042-01200) are adjacent to each other. It appears to be and has always been considered as one lot to me.

I assumed that correspondence received from Lane County Assessment & Taxation did not require my attention since it was my understanding that taxes were not due on the property until such time as the property were to be sold. I did not intentionally allow my property to be foreclosed in 2002. As indicated above, I have always assumed my 2 properties were considered one property.

I am 81 years old and circumstances are such that it will require me to put my property up for sale. I was not aware of the foreclosure until we started these proceedings to sell what I have always believed to be one property. I believe that any real estate agent or property tax appraiser - *without checking County records* - would have also assumed my property to be one "deep lot".

I am requesting to purchase back Lot # 17-03-26-42-01200. My offer to do so is attached to this request.

Sincerely,

A handwritten signature in black ink, appearing to read "Phyllis V. Cunningham". The signature is fluid and cursive, with a large loop at the end.

**Phyllis V. Cunningham
1473 North 5th Street
Springfield OR 97477**

STRE

I-105

EUGENE



$\Delta = 29^{\circ}40'30''$
 $T = 151.74'$
 $D = 10'0''$
 $R = 572.96'$
 $L = 296.75'$

ST

PART R I D
 PLAT 2

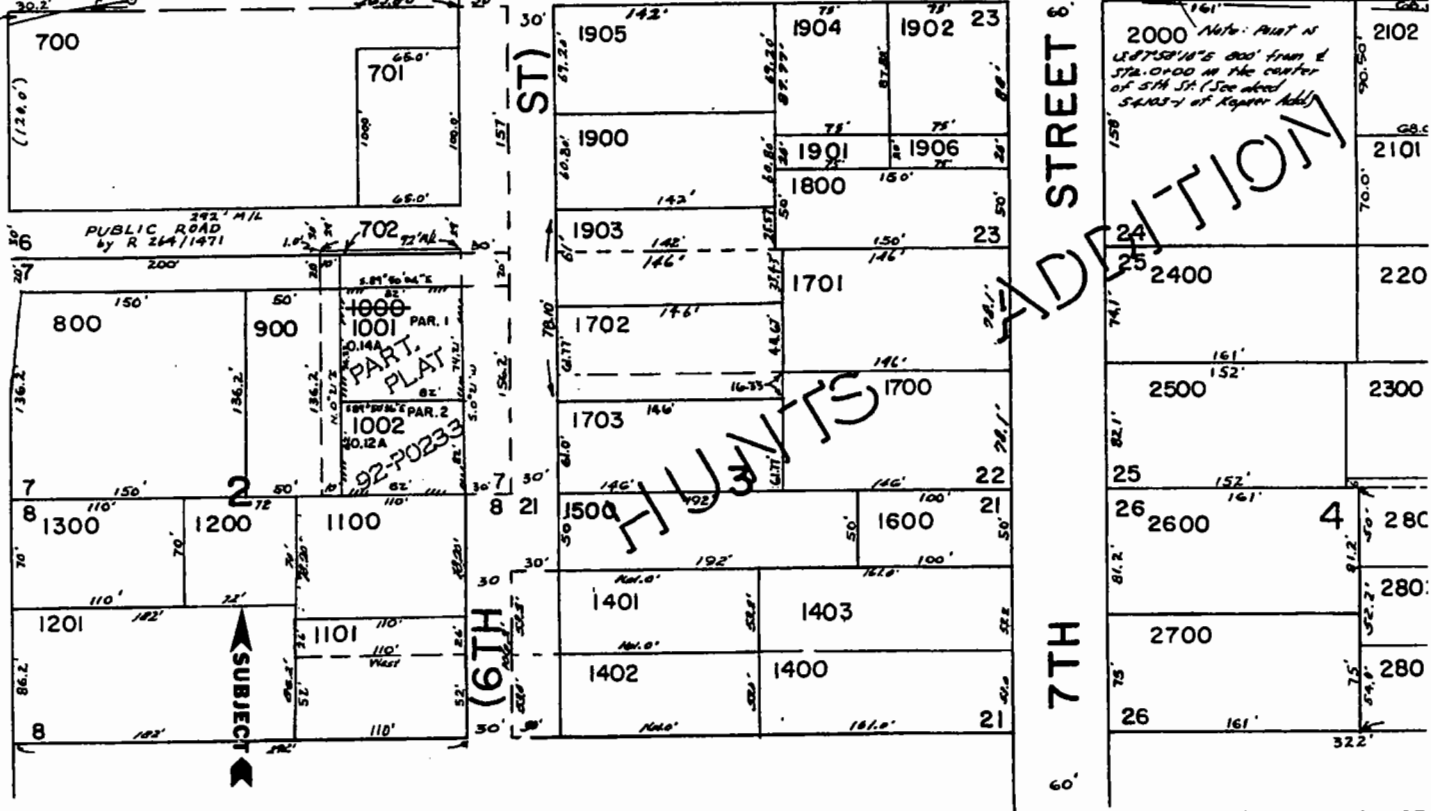
PLEASANT

5000

5TH

STREET 6'

7TH



See Map 17 03