

W. G. D. I.

AGENDA COVER MEMORANDUM

Agenda Date: January 4, 2006

DATE: December 21, 2005

TO: Board of County Commissioners

DEPARTMENT: Management Services

PRESENTED BY: Jeff Turk, Property Management Officer

SUBJECT: ORDER/IN THE MATTER OF AUTHORIZING THE SALE OF SURPLUS COUNTY OWNED REAL PROPERTY TO DONALD L. KEARNEY JR. AND DENISE KEARNEY FOR \$35,000 (MAP # 18-03-17-12, TAX LOTS 3900, 4000 AND 4200, EAST OF 4223 KINCAID, EUGENE)

1. **PROPOSED MOTION:** THE BOARD OF COUNTY COMMISSIONERS MOVES TO AUTHORIZE THE SALE OF SURPLUS COUNTY OWNED REAL PROPERTY TO DONALD L. KEARNEY JR. AND DENISE KEARNEY FOR \$35,000 (MAP # 18-03-17-12, TAX LOTS 3900, 4000 AND 4200, EAST OF 4223 KINCAID, EUGENE)
2. **ISSUE/PROBLEM:** Mr. and Mrs. Kearney have submitted an offer of \$35,000 for the subject properties. The offer is being presented for consideration of acceptance or rejection.
3. **DISCUSSION:**

3.1 Background

The subject properties were acquired through tax foreclosure in May, 1988. The parcels do not have legal access to a public (or private) right of way.

Tax lot 3900 is .22 acres and has an assessed value of \$34,000, tax lot 4000 is .62 acres and has an assessed value of \$27,000, tax lot 4200 is 1.03 acres and has an assessed value of \$61,000 ((1.87 acres/\$122,000 total). The parcels are contiguous, lie on 30% - 75% slopes and are covered with a mixture of firs and hardwoods. The subject properties are listed by the City of Eugene as Open Space with a parent zoning of low density residential.

The properties have been offered at four previous Sheriff sales with the minimum bid lowered each time. They were initially offered at a sale in 1992 with a minimum bid of \$80,200 for all of the parcels. It was most recently offered at a Sheriff's sale on June 20, 2005 with a minimum bid of \$30,000. The parcels have received numerous inquiries over

the years from prospective purchasers but the lack of legal access and the difficulty in possibly attaining access has prevented anyone from making a purchase.

The City of Eugene was contacted to see if they had an interest in acquiring the parcels for park/open space purposes but had no interest in them.

The Kearneys have recently purchased a vacant parcel which adjoins one of the subject properties. Access to the Kearney's property is via Bent Tree Lane which is a private road serving a 14 lot subdivision.

3.2 Analysis

Obtaining access to the subject properties for the purpose of developing them and then selling them will be difficult. Access to the Kearney's property is via Bent Tree Ln. which is a private road that was established to provide access only to the lots in the Bent Tree subdivision. The Kearney's could provide access through their property however, the Kearney's do not have the right to grant access to the subject properties via Bent Tree Ln. Providing access over Bent Tree Ln. would require a majority vote of the lot owners (there are 14 lots in the subdivision). It is possible that the Kearney's could initiate a "Way of Necessity" legal action to secure access over Bent Tree Ln.

Similarly, obtaining access to the subject properties from the North would also require obtaining an easement over a private subdivision road and an easement from a property owner whose parcel lies between the subject and the private road. Access from the West and East also requires obtaining access from an adjoining property owner but would go directly to a public right of way (West Amazon or Shasta Loop). The topography and the development of adjoining lots also makes this difficult.

The Kearney's may be able to use the subject property to site a dwelling in conjunction with their lot in the subdivision, i.e., one dwelling on their entire ownership.

A title report for the subject properties has been obtained and shows no defects to title save for the lack of legal access.

Pursuant to ORS 275.200, property that did not sell at a Sheriff's sale can be sold at private sale without further notice but for not less than 15% of its minimum bid at the Sheriff's sale. The offer meets the requirements of ORS 275.200.

3.3 Alternatives/Options

- A. The Board can accept the \$35,000 offer.
- B. The offer can be rejected with direction to continue negotiations
- C. The offer can be rejected and the property again offered at a future Sheriff's sale.

3.4 Recommendation

It is recommended that the Kearney's \$35,000 offer be accepted (option A). This will return the subject to the tax rolls and, as the adjoining owner, the Kearney's would be in the best position to use the property as additional plottage or in finding a way to obtain legal access (in which event, tax revenues would increase).

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 will be sold.
- 5. **ATTACHMENTS:**
 - Board Order
 - Quitclaim Deed
 - Area Map
 - Tax 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 DONALD L. KEARNEY JR. AND DENISE KEARNEY FOR \$35,000 (MAP # 18-03-17-12, TAX LOTS 3900, 4000 AND 4200, EAST OF 4223 KINCAID, EUGENE)

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:

See Attached Exhibit "A"

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 said parcels were offered at a Sheriff's sale on June 20, 2005, 2004 with minimum bids of \$5,000, \$10,000 and \$15,000 and

WHEREAS no bids were received for said parcel and it remained unsold at the close of said sale

IT IS HEREBY ORDERED that pursuant to ORS 275.200 and ORS 275.275, the parcel be sold to Donald L. Kearney Jr. and Denise Kearney for \$35,000, that the Quitclaim Deed be executed by the Board and that the proceeds be disbursed as follows:

Foreclosure Fund	(228-5570270-446120)	\$34,850.00
General Fund	(124-5570260-436521)	150.00


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 _____, 20____.

APPROVED AS TO FORM

Date 12-22-05 Lane County

Chair, Board of County Commissioners


OFFICE OF CLERK OF COUNTY

IN THE MATTER OF AUTHORIZING THE SALE OF SURPLUS COUNTY OWNED REAL PROPERTY TO DONALD L. KEARNEY JR. AND DENISE KEARNEY FOR \$35,000 (MAP # 18-03-17-12, TAX LOTS 3900, 4000 AND 4200, EAST OF 4223 KINCAID, EUGENE)

EXHIBIT "A"

PARCEL 1: (TAX LOT 3900)

Beginning at the iron pipe marking the one-quarter corner between Sections 8 and 9, Township 18 South, Range 3 West of the Willamette Meridian; thence South 3673.4 feet to a point; thence West 1511.0 feet to a point marked by an iron pin; thence South 1° 24' East 177.8 feet to an iron pin marking the True Point of Beginning; thence South 54° 42' East 149.70 feet to a point marked by an iron pipe; thence South 0° 26' 20" East 236.53 feet to a point marked by an iron pin; thence North 89° 47' East 500.93 feet to a point marked by an iron pipe; thence North 0° 54' 48" West 541.20 feet to a point in the center of Sunset Boulevard, as traveled; thence North 69° 58' 42" West 140.34 feet along the centerline of Sunset Boulevard to a point therein; thence North 5° 50' 12" East 7.07 feet continuing along said centerline to a point; thence South 60° 26' 48" West 557.70 feet along an existing property line fence to the True Point of Beginning, in Lane County, Oregon.

EXCEPT: Beginning at the iron pipe marking the one-quarter corner between Sections 8 and 9, Township 18 South, Range 3 West of the Willamette Meridian; thence South 3673.4 feet to a point; thence West 1511.0 feet to a point marked by an iron pin; thence South 1° 24' East 177.8 feet to a point marked by an iron pin; thence South 54° 42' East 149.70 feet to an iron pipe marking the True Point of Beginning; thence South 0° 26' 20" East 236.53 feet to a point marked by an iron pin; thence North 89° 47' East 500.93 feet to a point marked by an iron pipe; thence North 0° 54' 48" West 541.20 feet to a point in the center of Sunset Boulevard, as traveled; thence North 69° 58' 42" West 140.34 feet along the centerline of Sunset Boulevard to a point therein; thence North 5° 50' 12" East 7.07 feet continuing along said centerline to a point; thence South 60° 26' 48" West 418.61 feet to a point marked by an iron pin; thence South 0° 26' 20" East 155.11 feet to the True Point of Beginning, in Lane County, Oregon.

PARCEL 2: (TAX LOT 4000)

Beginning from an iron pipe marking the one-quarter corner between Sections 8 and 9, Township 18 South, Range 3 West of the Willamette Meridian; thence 3673.4 feet and West 1511.0 feet to a point marked by an iron pipe; thence South 1° 24' East 177.8 feet to an iron rod marking the True Point of Beginning, and the Northeast corner of a tract of land described in the Deed Recorded July 15, 1958, Reception No. 43422, Lane County Oregon Records; thence South 54° 42' East 149.7 feet to the iron pipe marking the Southeast corner of said tract of land; thence South 88° 45' West 462.13 feet along the South line of said tract of land as monumented on the ground to a point marked by an iron pin; thence North 23° 04' West 116.19 feet to an iron pin set on the North line of said tract of land; thence South 88° 28' East 385.5 feet to the True Point of Beginning, in Lane County, Oregon.

CONTINUED

PARCEL 2: continued ...

EXCEPT: Beginning at the initial point of the RIDENOUR PLAT, as platted and recorded in Book 31, Page 27, Lane County Oregon Plat Records, in Lane County, Oregon; running thence South 88° 49' 30" East 80.79 feet; thence South 4° 15' 20" West 201.44 feet; thence South 88° 38' West 79.49 feet; thence North 23° 04' West 59.62 feet; thence North 19° 30' East 110.90 feet; thence North 45.05 feet to the Point of Beginning, in Lane County, Oregon.

ALSO EXCEPT that portion lying within RIDENOUR PLAT, as platted and recorded in Book 31, Page 27, Lane County Oregon Plat Records, in Lane County, Oregon.

PARCEL 3: (TAX LOT 4200)

Beginning at a point South 6° East 180.0 feet from a point which is 1450.0 feet West and 835.0 feet South of the Northeast corner of Section 17, Township 18 South, Range 3 West of the Willamette Meridian; thence South 6° 0' East 180.0 feet; thence West 790.0 feet, more or less, to center of Dillard Road; thence along centerline of Dillard Road; thence North 4° 05' West 175.0 feet; thence East 780.0 feet to the Point of Beginning, all in Lane County, Oregon.

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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:

DONALD L. KEARNEY JR. AND DENISE KEARNEY

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

See Attached Exhibit "A"

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER CHAPTER 1, OREGON LAWS 2005 (BALLOT MEASURE 37 (2004)). THIS INSTRUMENT WILL/DOES 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 THE 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 AND T INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER CHAPTER 1, OREGON LAWS 2005 (BALLOT MEASURE 37 (2004)).

The true and actual consideration for this transfer is \$35,000.00

LANE COUNTY BOARD OF COMMISSIONERS

STATE OF OREGON)
) ss
COUNTY OF LANE)

On _____, 2006 personally appeared _____,
_____, _____, _____, _____

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

Notary Public for Oregon

My Commission Expires _____

After recording, return to/taxes to:
Donald L. & Denise Kearney
1738 Estate Dr.
Eugene, OR 97405

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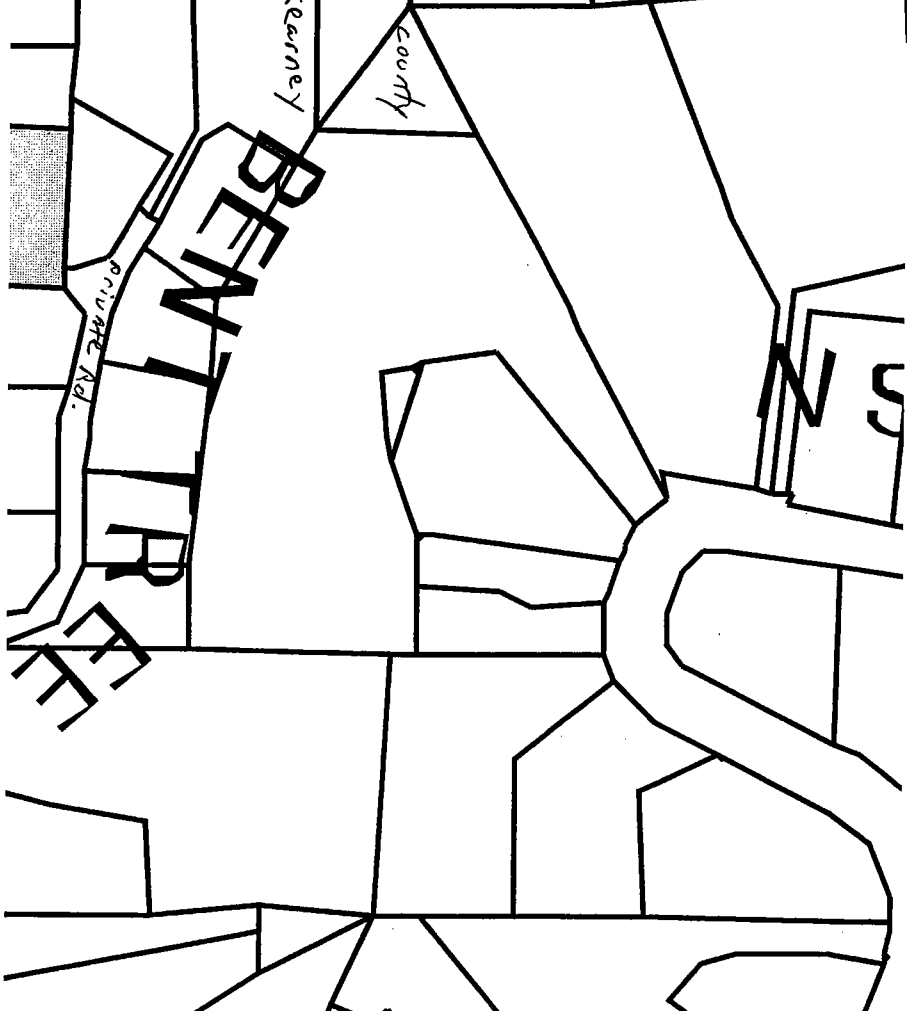
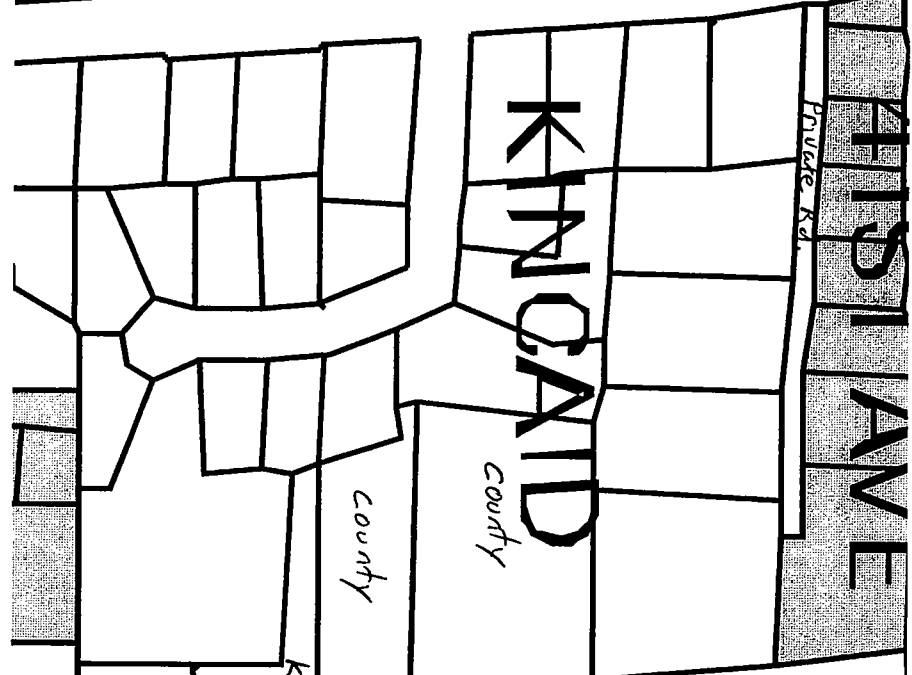
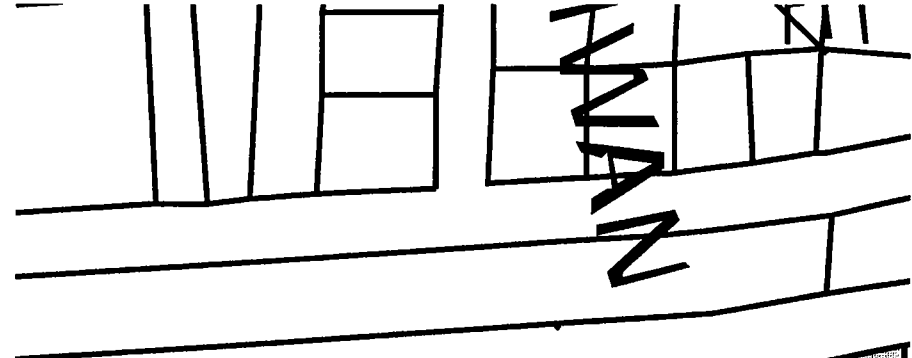
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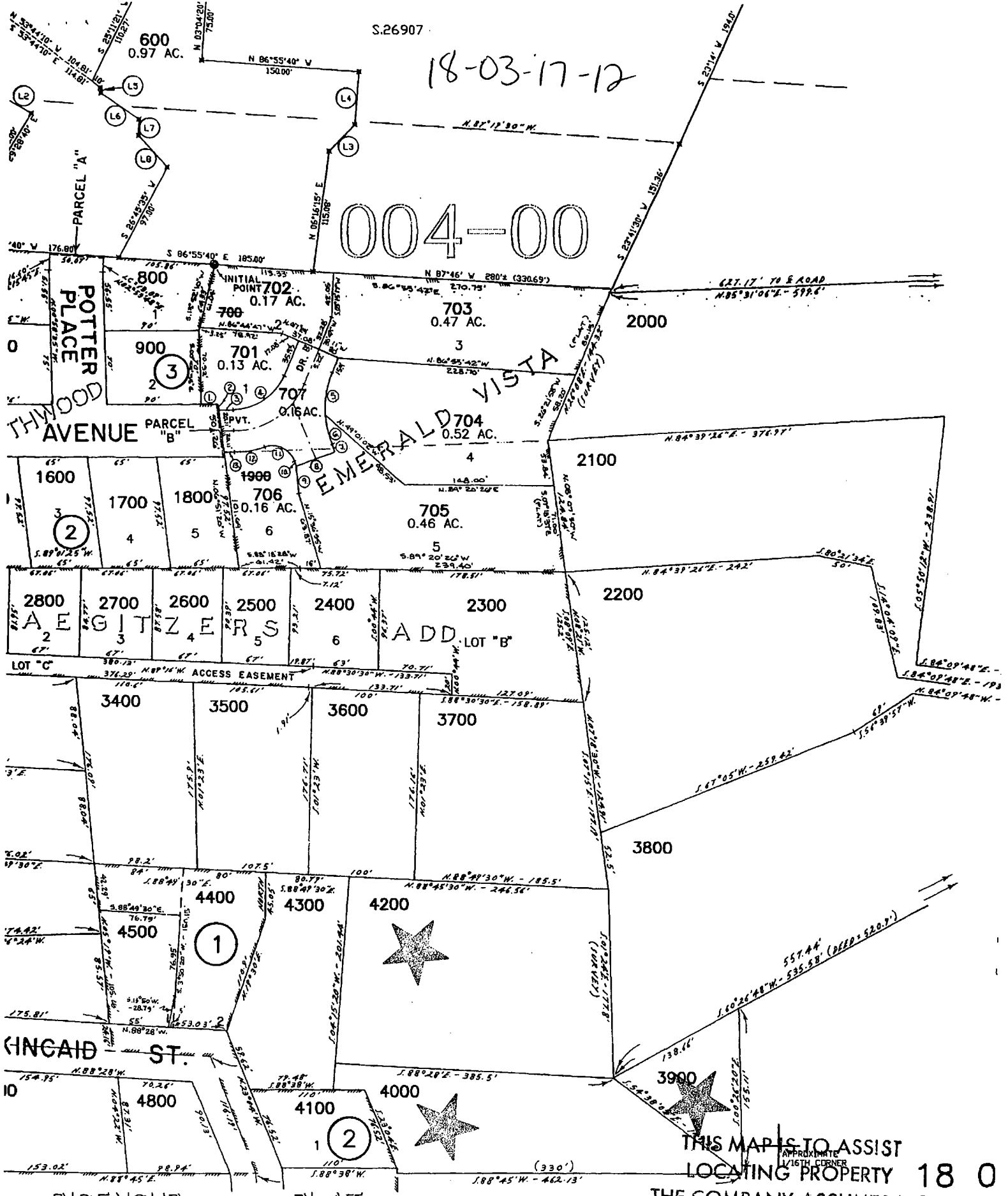
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S.26907

18-03-17-12

004-00



THIS MAP IS TO ASSIST
 LOCATING PROPERTY 18 0
 THE COMPANY ASSUMES NO
 LIABILITY FOR INACCURACIES.

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COURTESY OF
 EVERGREEN LAND TITLE CO
 741-1981

RIDENOUR
 SEE MAP 18 03 17 13

PLAT

