

W.9.2
C.
03-10-15-7

AGENDA COVER MEMORANDUM

Agenda Date: October 15, 2003

DATE: October 1, 2003

TO: Board of County Commissioners

DEPARTMENT: County Counsel/Management Services

PRESENTED BY: Jeff Turk, Property Management Officer 2

SUBJECT: ORDER: IN THE MATTER OF MODYFIING THE TERMS OF AN ACCESS EASEMENT AUTHORIZED PER ORDER # 02-5-1-9 GRANTED TO JOHN AND LAURA MAITLAND OVER COUNTY OWNED REAL PROPERTY IDENTIFIED AS ASSESSOR'S MAP # 18-12-34-42 TAX LOTS 1200 AND 1299 (GLENADA AREA) AND AUTHORIZING TEMPORARY ACCESS OVER COUNTY PROPERTY

PROPOSED MOTION: THE BOARD OF COUNTY COMMISSIONERS MOVES TO MODIFY THE TERMS OF AN ACCESS EASEMENT AUTHORIZED PER ORDER # 02-5-1-9 GRANTED TO JOHN AND LAURA MAITLAND OVER COUNTY OWNED REAL PROPERTY IDENTIFIED AS ASSESSOR'S MAP # 18-12-34-42 TAX LOTS 1200 AND 1299 (GLENADA AREA) AND AUTHORIZING TEMPORARY ACCESS OVER COUNTY PROPERTY

1. **ISSUE/PROBLEM:** In May, 2002 pursuant to Order # 02-5-1-9, the Board authorized parameters for granting an access easement to John and Laura Maitland over county property in Glenada. After further reviewing the original parameters of the easement with on ground conditions and impending changes with county planning requirements for access easements, the Maitland's wish to modify the easement previously authorized by the Board. The modifications include expanding the width of the easement to 30 feet from 20 feet and allowing the easement to cross a portion of the county property that was not included in the initial approval.

3. DISCUSSION:

3.1 Background

The Maitland's wish to develop property they own with a dwelling. Access to the property can best be gained over county owned property (the property was acquired through tax foreclosure) as the subdivision was platted in 1898 and the platted streets (not developed) are located in stream beds and steep slopes.

The Board approved parameters for granting an easement in May, 2002. A formal agreement has not yet been executed (health issues delayed the Maitland's development plans).

Approved parameters for the easement required it to be 20 ft. in width and to not lie outside the Western 50 feet of tax lot 1299. Effective January 1, 2004 county land use regulations will require access easements to be 30 feet in width. It was also determined by Mr. Maitland (with concurrence from county staff) that using a portion of the East half of tax lot 1299 would reduce the need to clear trees and other vegetation and reduce erosion as a steep area could be avoided.

Other parameters for the easement approved by the Board are as follows.

- Grantee (and any future users) to be responsible for construction and maintenance of the easement.
- Grantee will hold the county harmless from any liability associated with use of the easement.
- Grantee will not contest any vacation of the platted street adjoining Grantee's property (as the county owns the property on either side of the platted street, the county would acquire fee title to the vacated area).
- The easement on the county property would be vacated if a developed public street were to serve the Grantee's property.
- Easement to be non-exclusive
- \$1,000 consideration for granting the easement.

3.2 Analysis

Main consideration on granting the modification to the easement should be given to its impact on future use of the county's property. Looking at tax lots 1200 and 1299 by themselves and apart from the other county property in the area, the modification should not adversely affect their possible development. If the property were to be developed, it would

be best to combine the tax lots 1200 and 1299 to meet septic and other development standards. The easement to be constructed by Mr. and Mrs. Maitland could also be used to service the county property.

The easement should also have minimal effect on use of tax lots 1200 and 1299 if taken in the context of the county's entire ownership in the area if it were to be used as parks and recreation lands or if all of the county's property was sold to a private party.

Pursuant to ORS 275.090, the county is empowered to grant easements over its lands acquired through tax foreclosure.

3.3 Alternatives/Options

- A. Authorize modifying the easement parameters as presented.
- B. Reject the proposed modifications.
- C. Deny granting an easement.

3.4 Recommendation

It is recommended that the modifications be approved and that temporary access be granted until a permanent easement is executed.

3.5 Timing

The Maitlands wish to proceed with developing their property upon securing the modifications and temporary access.

- 4. **IMPLEMENTATION/FOLLOW-UP:** Upon approval by the Board of County Commissioners, the Maitlands will define the easement route, have it surveyed and legally described. An easement document will be drafted and executed by the Maitlands and then forwarded to the Board for execution.
- 5. **ATTACHMENTS:**
 - Board Order
 - Map showing modified easement location
 - Order #02-5-1-9
 - Plat Map

IN THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY, OREGON

ORDER NO. IN THE MATTER OF MODIFYING THE TERMS OF AN ACCESS EASEMENT
AUTHORIZED PER ORDER # 02-5-1-9 GRANTED TO JOHN AND LAURA
MAITLAND OVER COUNTY OWNED REAL PROPERTY IDENTIFIED AS
ASSESSOR'S MAP # 18-12-34-42 TAX LOTS 1200 AND 1299 (GLENADA
AREA) AND AUTHORIZING TEMPORARY ACCESS OVER COUNTY
PROPERTY

WHEREAS The Lane County Board of Commissioners pursuant to order # 02-5-1-9 approved granting an
access easement to John and Laura Maitland within given parameters and

WHEREAS the county and the Maitlands wish to modify the parameters approved for said easement

IT IS HEREBY ORDERED that, pursuant to ORS 275.090 and ORS 275.275, the easement parameters
authorized pursuant to Order # 02-5-1-9 shall be modified to provide an easement width of 30 and to allow
the easement to lie within the South ½ of the East ½ of tax lot 1299 on map # 18-12-34-42. All other
parameters contained in Order # 02-5-cross within the Eastern half of tax lot feetBoard authorizes modifying
executing an easement agreement over county owned real property with John and Laura Maitland (grantees)
with said easement agreement to include terms substantially similar to those in attached Exhibit "A" and that
said easement shall be recorded in the deed records of Lane County.

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 _____, 2002

Peter Sorenson, Chair,
Lane County Board of Commissioners

IN THE MATTER OF MODIFYING THE TERMS OF AN ACCESS EASEMENT AUTHORIZED PER ORDER # 02-
5-1-9 GRANTED TO JOHN AND LAURA MAITLAND OVER COUNTY OWNED REAL PROPERTY IDENTIFIED
AS ASSESSOR'S MAP # 18-12-34-42 TAX LOTS 1200 AND 1299 (GLENADA AREA) AND AUTHORIZING
TEMPORARY ACCESS OVER COUNTY PROPERTY

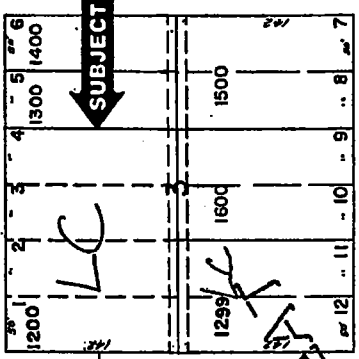
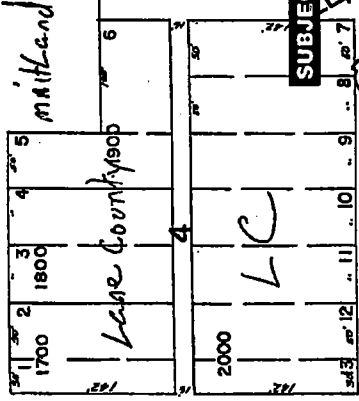
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Date 10-7-03 lane county

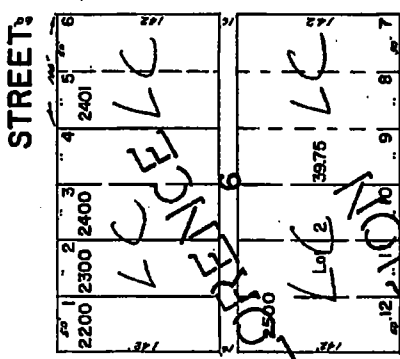
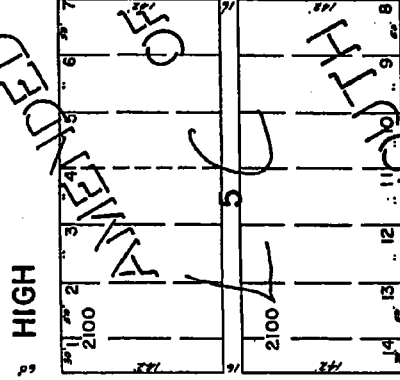

OFFICE OF LEGAL COUNSEL

PACIFIC

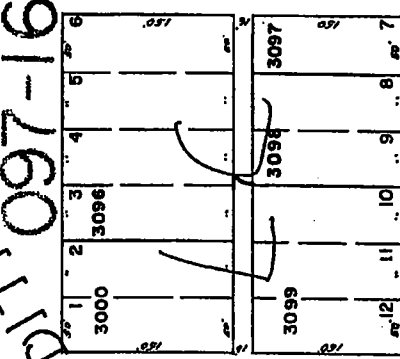
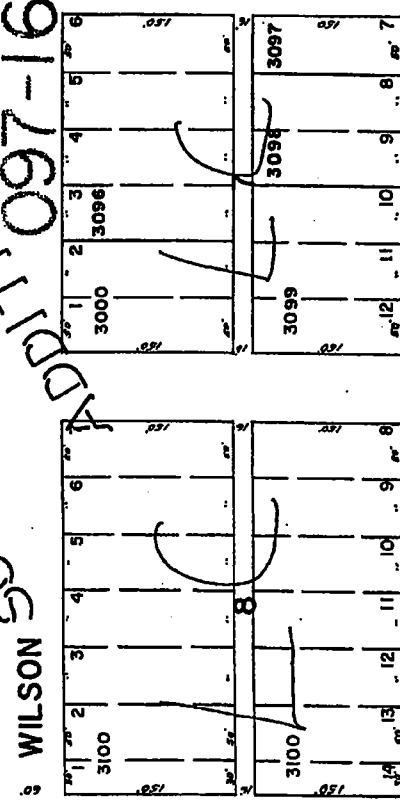
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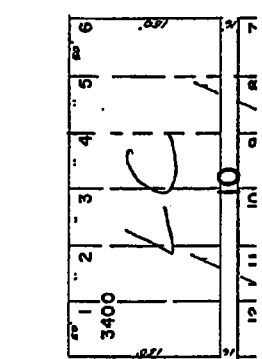
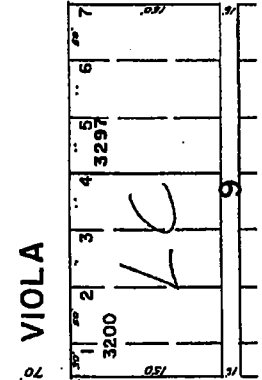
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WILSON

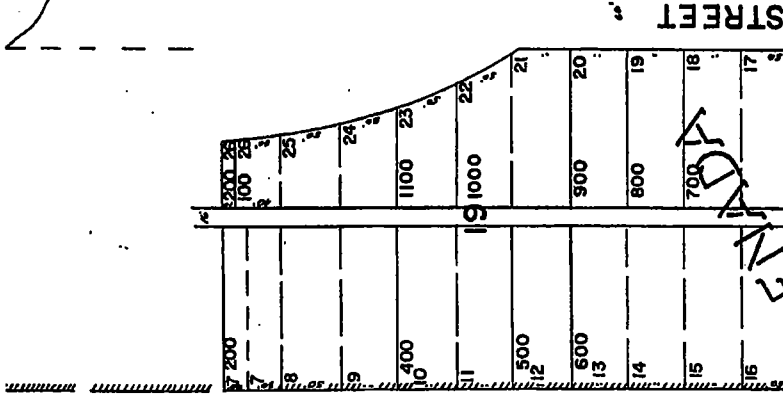


VIOLA



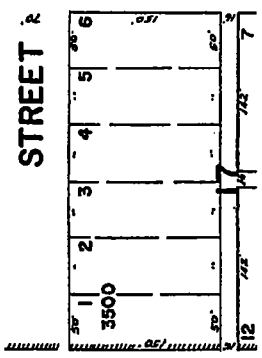
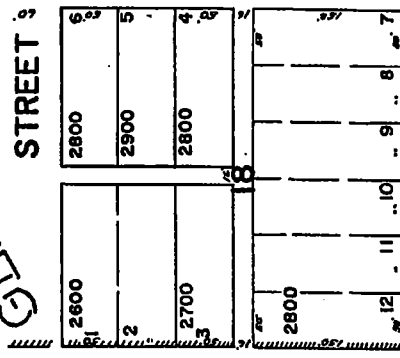
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See Map 18 12 34 3 1

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PASSED

IN THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY, OREGON

ORDER NO. 02-5-1-9 IN THE MATTER OF AUTHORIZING THE GRANTING OF AN ACCESS EASEMENT TO JOHN AND LAURA MAITLAND OVER COUNTY OWNED REAL PROPERTY IDENTIFIED AS ASSESSOR'S MAP # 18-12-34-42 TAX LOTS 1200 AND 1299 (GLENADA AREA)

WHEREAS Lane County acquired real property identified as Assessor's map # 18-12-34-42, tax lots 1200 and 1299 through property tax foreclosure by virtue of a Deed recorded on September 20, 2000, Reception No. 2000-054464, Lane County Oregon Deed Records and

WHEREAS John and Laura Maitland own property identified as Assessor's map # 18-12-34-13-01200 which adjoins the county owned real property and

WHEREAS John and Laura Maitland wish to secure access to their property by virtue of an easement over and across said county owned real property

IT IS HEREBY ORDERED that, pursuant to ORS 275.090 and ORS 275.275, the Board authorizes executing an easement agreement over county owned real property with John and Laura Maitland (grantees) with said easement agreement to include terms substantially similar to those in attached Exhibit "A" and that said easement shall be recorded in the deed records of Lane County.

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

DATED this 1st day of May, 2002


Chair, Board of County Commissioners

APPROVED AS TO FORM

Date 4-19-02 Secretary



DEPUTY SECRETARY

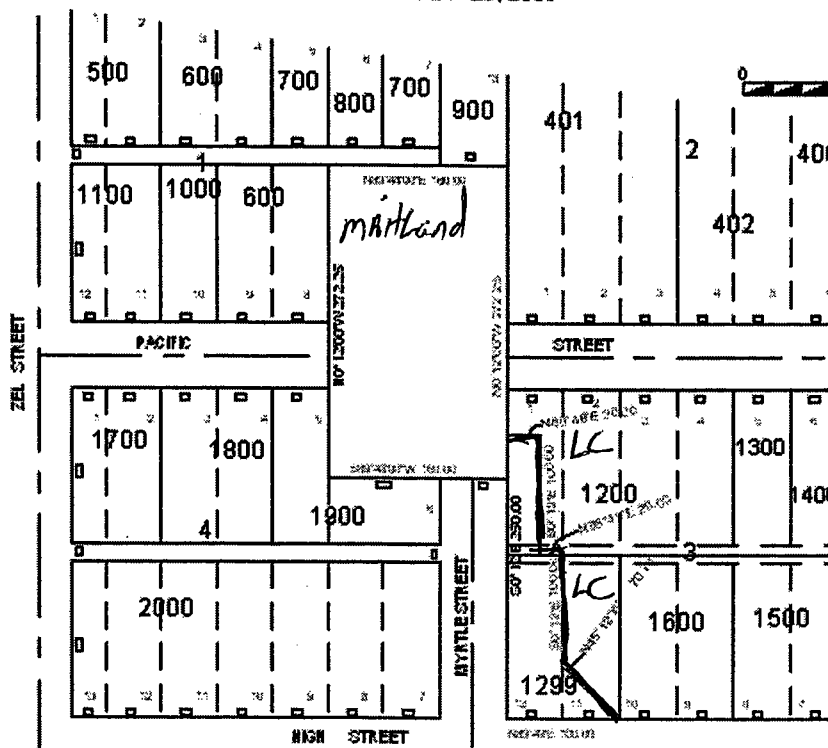
IN THE MATTER OF AUTHORIZING THE GRANTING OF AN ACCESS EASEMENT TO JOHN AND LAURA MAITLAND OVER COUNTY OWNED REAL PROPERTY IDENTIFIED AS ASSESSOR'S MAP # 18-12-34-42 TAX LOTS 1200 AND 1299 (GLENADA AREA).

EXHIBIT "A"

TERMS TO BE INCLUDED IN EASEMENT TO JOHN AND LAURA MAITLAND.

- The easement shall be 20 feet in width or as required to meet county standards for ingress and egress.
- The easement shall within lot 12 of tax lot 1299 (the western 50 feet of the tax lot) and be within the Western 30 feet and Southern 100 feet of lot 1 of tax lot 1200 on map 18-12-34-42.
- Easement to be non-exclusive
- Grantee to hold County harmless from claims during construction and use of easement
- The easement is subject to encumbrances and liens of record
- Easement to be vacated if public access provided to Grantee's property
- Grantee not to contest vacation of street west of county property
- Consideration of \$1,000
- Grantee responsible for maintenance of easement. If additional parties are granted use of this easement, all parties granted access using this easement shall be required to share maintenance costs equally.

SKETCH
JOHN HAMLAND
N/E 1/4, SEC. 34, T18S, R12W, W.M.
DUNES CITY, LAKE COUNTY, OREGON
JULY 29, 2003



THIS SKETCH IS FOR THE PURPOSE OF IDENTIFYING THE LOCATION OF THE EASEMENT AREA ONLY. THERE IS NO INTENT TO PROVIDE DIMENSIONS OR LOCATIONS OF PROPERTY CORNER LINES.

L19C2007/512/2H09