2nd Sending of e-mail—

To: Arthur Graves, Salem City Planner
From: Doug Hartman
re: Memorandum on 8400 tax lot

Hi Art,
The following pages are from a memorandum sent to us collective property owners in 1995. We called ourselves the Tankanahka Owners in tribute to Suzanne Stauss who was native american and the driving force in getting that property transferred into our hands.
The memo reviews the history and status of our partnership as of 1995. It also includes an explanation to the 20' northern boundary change to the 8400 lot.
There are five pages to the memo. The most pertinent part for your consideration is on the third page, line item 2.

Eric Yandell was a highly respected lawyer in our city. He was able to navigate legal documents, recordings, and civic government laws. His actions were governed by the advice of the Salem City Planning Department at the time.

We are asking for a fair consideration of the matter as I outlined in my previous e-mail.
Thank you for help in this matter.

Regards, Doug

Sent. October 15. 2024

MEMORANDUM

TO: Tankanahka Owners

FROM: EY

RE: Actions to Bring Co-Tenancy up to Date

DATE: June 21, 1995

The purpose of this memo is to review the history of the co-tenancy and to identify certain action items to be considered and taken in order to bring our paperwork up to date.

## I. HISTORY

As you know, this matter came to a head in the spring of 1992. On March 31, 1992, we settled with Meaghers and on April 7, 1992, Suzanne signed an earnest money agreement with Fanning. On June 2, the transaction closed in escrow with a deed from Fanning to Stauss, which was recorded June 3 at Reel 956, Page 453 of the Marion County Records. A copy of that recorded deed is attached as Exhibit 1. Suzanne should have that original in the file.

On August 28, Suzanne executed a deed to the co-tenants, recorded October 5, 1992 at Reel 994, Page 13 of the real property records. A copy is attached as Exhibit 2. This original cannot be found. Gordon Hanna's records show that he forwarded the deed to me in December 1993, but I cannot find it in my files or in my safety deposit box.

On November 19, Suzanne gave Nori and me a deed to the 20 feet we were to receive under the Tenancy in Common Agreement (hereafter, the Agreement).. That deed was recorded and the original is in my safety deposit box. See Exhibit 3, attached.

Effective June 2, 1992, we all signed (with the Dixons) the Agreement. A copy of what we signed is attached as Exhibit 4.

In December 1993, Dixons sold and moved. Each of the three remaining "Owners" [1] paid $1,000 for a one-third share of Dixons' interest. As a result, the following ownership percentages came about:

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[1]As used in the Agreement, an "Owner" consists of two individuals [Doug/Karen; Nancy/Suzanne; Eric/Nori] holding an undivided percentage of interest as tenants with the right of survivorship.

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|---|---|
| Stauss/Graf | 45.72% |
| Hartmans | 17.15% |
| Cross/Yandell | 37.13%[2] |

We never did anything to document Brad and Kristin's withdrawal from the group nor to formally convey their portion of the real property to the remaining tenant.

Apparently, Dixons' buyers are now selling and one of the realtors told Suzanne that whoever bought that house would have the option to acquire Dixons' interest in the property -- clearly **not** the case, but it did point out some potential vulnerability or at least a basis for confusion.

In 1994, Nori and I paid off the Hoyts. We never received a voided promissory note. Nancy and Suzanne paid off Guzas in 1994 (I think) and Spencer. Doug and Karen paid off Richards, but I do not know when. Guzas, perhaps, but not Spencer and Richards, returned their promissory notes. We reimbursed N & S for our share of Spencer's note. Doug and Karen are in the process of repaying Nancy and Suzanne for their share of the Spencer note. I am not sure what the total is or what the repayment terms are, but the ultimate result will be to alter the percentage ownerships somewhat. Hartmans will increase and the others will decrease slightly, just as when we bought out Brad and Kristin.

## II. DISCUSSION ITEMS

We have long neglected to fine tune our arrangement and have for three years enjoyed the property as we saw fit. We have neglected our duties under the Agreement, which is a good sign that they probably do not fit our needs. I think it is time to meet and hash all this out. In reviewing the Agreement, I found a number of inartful passages that we may want to rethink. I would propose the following items for an agenda and for follow-up:

A. <u>Status of Title.</u>

The public record needs to be adjusted to reflect the true status of current

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[2]See my memo regarding buyout and tax allocation attached as Exhibit 5.

ownership.

1. Assuming the original deed from Stauss to the tenants cannot be found, we may need to prepare something to document that fact. I spoke with Ken Mayer at Key Title. He said one of the main purposes of the recording system is to substitute for lost deeds and that nothing needs to be recorded because it is already of record. I could prepare a lost instrument affidavit to keep in the main file. In short, however, we have little to worry about it seems. I will ask one of my partners if he has any ideas.

2. When I talked to the City planner on June 20, he indicated that a lot line adjustment could be effectuated without City review or approval by recording new deeds showing the amended property descriptions. What I may need to do, therefore, is re-record the deed to our place to show that we now own the additional 20 feet. The deed from Stauss to the tenants, which was recorded, contains a property description that does not include the 20 feet we received. Thus, it should not be necessary to re-record the Stauss-tenants deed;

3. We need a deed from Brad and Kristin that conveys their interest to the three remaining Owners in equal shares and which perhaps reflects the new percentage ownerships.

After doing the foregoing, the public record should reflect the true ownership interests and exclude any inference that whoever buys Dixons' house has any interest or right whatsoever in or to the property.

B. <u>Updating our Contract to Reflect Current Ownership.</u>

We should also have Dixons sign an addendum to the Agreement to reflect the fact that we have bought them out. This addendum would contain a mutual release of all claims of us against them and them against us.

C. Restrictive Covenants.

We have long discussed the advisability of recording restrictive covenants on the property so that, if we were to sell it or (heaven forbid) the City were to try to condemn[3] or manipulate it, we have a sound legal basis for restricting development of the property to what we originally contemplated. The Agreement does state an intent to hold the property for development but to limit that development to no more than three single family houses. Maybe we want to reexamine that philosophy.

In any event, restrictive covenants (with which the City to date has not sought to mess) could include limitations on use, lot size, height, number of units, architecture, destruction of vegetation, setbacks, easements, landscaping, redivision, maintenance, and so forth. The restrictions would run in favor of each of our properties so that any one of us (or our successors) could enforce a violation. As I understand it, the presence of these restrictive covenants would foil or complicate any attempt to compel a use for the property contrary to our desires.

D. Additional Lot Line Adjustments.

The City may start reviewing lot line adjustments. We may be well advised to make any additional adjustments we want now. I am not convinced they are necessary; everyone seems to be making such use of the property as they desire. As tenants in common, we each have the legal right to use the whole property without compensating anyone else, provided the use complies with any agreement we may have. An alternative may be to give life estates to specific areas of the property. I am not in favor of any further division, because it could unduly complicate future transactions or the clearing of the property if we did decide to sell all or some part of

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[3]Frankly, I think it extremely unlikely that the City would ever try to get the power to condemn undeveloped lots for infill. I think it would be unconstitutional. Nevertheless, they threatened condemnation of a sewer easement across private property to let Meaghers do it. We cannot be too careful. What could well happen is that the value of undeveloped land could rise so dramatically that the taxes would be killers.

it[4] and may not afford us any additional protection. I am certainly open to persuasion (including by my wife). One of her particular concerns is to adjust enough to make cul-de-sac development impossible. My goal is to see that everyone makes full use of the property according to their own wishes.

E. Sign-off of Notes.

We need to get each of the "lenders" to sign off their promissory notes. Several may not be able to find the originals. In that case, we can get them to sign off with an affidavit of lost instrument.

F. Modifications to the Agreement.

In going over the Agreement I found several things I'd like to discuss and clarify -- basically editorial stuff. It is probably time to look the whole thing over anyway. We need to talk about allocating maintenance costs (where the Cross-Yandells do and will fall short, at least while the kids are small), taxes, improvements, protection against dumpers, price on buyouts, buyout on death of a couple, and a number of other things. Think about it and let me know your concerns.

Hope this memo helps. Lets get together Sunday or as soon as possible.

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[4]If we try to partition the property or to sell it off in less than its entirety, the City may have some say and could make our task too complicated.