

RESOLUTION NO. 4542

A RESOLUTION ACCEPTING THE FOLLOWING EASEMENT:

Grantor

OPUS II, L.L.C.

Purpose

A permanent public utility easement described in attached EXHIBIT A and as shown in attached EXHIBIT B.

NOW, THEREFORE, BE IT RESOLVED by the Albany City Council that it does hereby accept this easement.

DATED THIS 14TH DAY OF NOVEMBER 2001.


Council President

ATTEST:



City Recorder

EASEMENT FOR PUBLIC UTILITIES

THIS AGREEMENT, made and entered into this 14 day of November, 2001, by and between OPUS II, L.L.C., hereinafter called Grantor, and the CITY OF ALBANY, a Municipal Corporation, herein called "City."

WITNESSETH:

That for and in consideration of the total compensation to be paid by the City, the grantor has this day bargained and sold and by these presents does bargain, sell, convey, and transfer unto the City of Albany, an easement and right-of-way, including the right to enter upon the real property hereinafter described, and to maintain and repair public utilities for the purpose of conveying public utilities services over, across, through, and under the lands hereinafter described, together with the right to excavate and refill ditches and/or trenches for the location of the said public utilities and the further right to remove trees, bushes, under-growth, and other obstructions interfering with the location and maintenance of the said public utilities.

This agreement is subject to the following terms and conditions:

1. The right-of-way hereby granted consists of:
Exhibit A and Exhibit B
2. The permanent easement described herein grants to the City, and to its successors, assigns, authorized agents, or contractors, the perpetual right to enter upon said easement at any time that it may see fit, for construction, maintenance, evaluation and/or repair purposes.
3. The easement granted is in consideration of \$1.00, receipt of which is acknowledged by the Grantor, and in further consideration of the public improvements to be placed upon said property and the benefits grantors may obtain therefrom.
4. The Grantor does hereby covenant with the City that they are lawfully seized and possessed of the real property above-described and that they have a good and lawful right to convey it or any part thereof and that they will forever warrant and defend the title thereto against the lawful claims of all persons whomsoever.
5. Upon performing any maintenance, the City shall return the site to original or better condition.
6. No permanent structure shall be constructed on this easement.

Return to: City of Albany - Recorder
P.O. Box 490, Albany, OR 97321

IN WITNESS WHEREOF, the Grantor has hereunto fixed his hand and seal the day and year above written.

GRANTOR:

CITY OF ALBANY:

OPUS II, L.L.C.

By: Steve Dale Smith

Title: mgr.

STATE OF OREGON)
County of Linn) ss.
City of Albany)

STATE OF OREGON)
County of Linn) ss.
City of Albany)

I, Steve Bryant as City Manager of the City of Albany, Oregon, pursuant to Resolution Number 4542 do hereby accept on behalf of the City of Albany, the above instrument pursuant to the terms thereof this 14 day of November, 2001.

The foregoing instrument was acknowledged before me this 31 day of October, 2001, by STEVE DALE SMITH, MANAGER (title), of the OPUS II, an Oregon Limited Liability Company, on behalf of the limited liability company.

Steve Bryant
City Manager

ATTEST:

Jeff Grant
Notary Public for Oregon
My Commission Expires: 6/28/04

Ken Thompson
City Recorder



EXHIBIT A

A permanent public utility easement more particularly described as follows:

Commencing at a 5/8 inch iron rod at the Northeast corner of Parcel 1 of Partition Plat No. 2001-29, a Partition Plat of record in Linn County, Oregon, located in the Southeast 1/4 of Section 25, Township 11 South, Range 4 West of the Willamette Meridian, City of Albany, Linn County, Oregon; thence along the East line of said Parcel 1 South $0^{\circ}52'12''$ West 75.48 feet to the TRUE POINT OF BEGINNING; thence perpendicular to said East line North $89^{\circ}07'48''$ West 37.38 feet; thence parallel with said East line South $0^{\circ}52'12''$ West 15.00 feet; thence South $89^{\circ}07'48''$ East 37.38 feet to said East line; thence along said East line North $0^{\circ}52'12''$ East 15.00 feet to the TRUE POINT OF BEGINNING. Containing 561 square feet, more or less. The Basis of Bearings of the above-described easement is Linn County Partition Plat No. 2001-29.

Also, a permanent public utility easement more particularly described as follows:

Commencing at a 5/8 inch iron rod at the Southeast corner of Parcel 1 of Partition Plat No. 2001-29, a Partition Plat of record in Linn County, Oregon, located in the Southeast 1/4 of Section 25, Township 11 South, Range 4 West of the Willamette Meridian, City of Albany, Linn County, Oregon; thence along the East line of said Parcel 1 North $0^{\circ}52'12''$ East 15.00 feet to the North line of a public utility easement conveyed to the City of Albany and described in Linn County Records Microfilm Volume 768 Page 848; thence along said easement North line North $89^{\circ}15'59''$ West 421.71 feet to the TRUE POINT OF BEGINNING; thence continuing along said easement North line North $89^{\circ}15'59''$ West 15.00 feet; thence perpendicular to said North line North $0^{\circ}44'01''$ East 4.58 feet; thence parallel with said North line South $89^{\circ}15'59''$ East 15.00 feet; thence South $0^{\circ}44'01''$ West 4.58 feet to the TRUE POINT OF BEGINNING. Containing 69 square feet, more or less. The Basis of Bearings of the above-described easement is Linn County Partition Plat No. 2001-29.

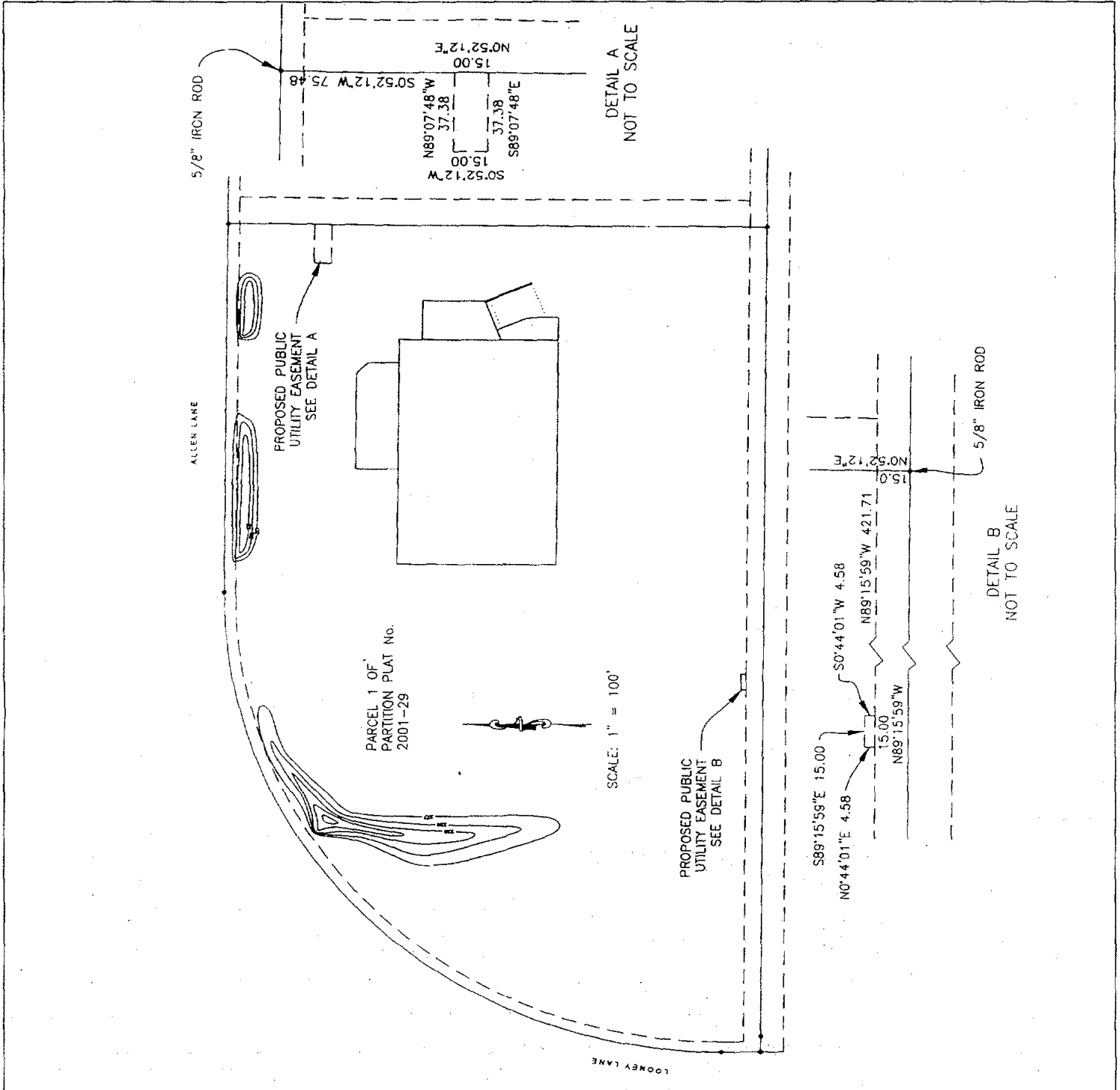


EXHIBIT B

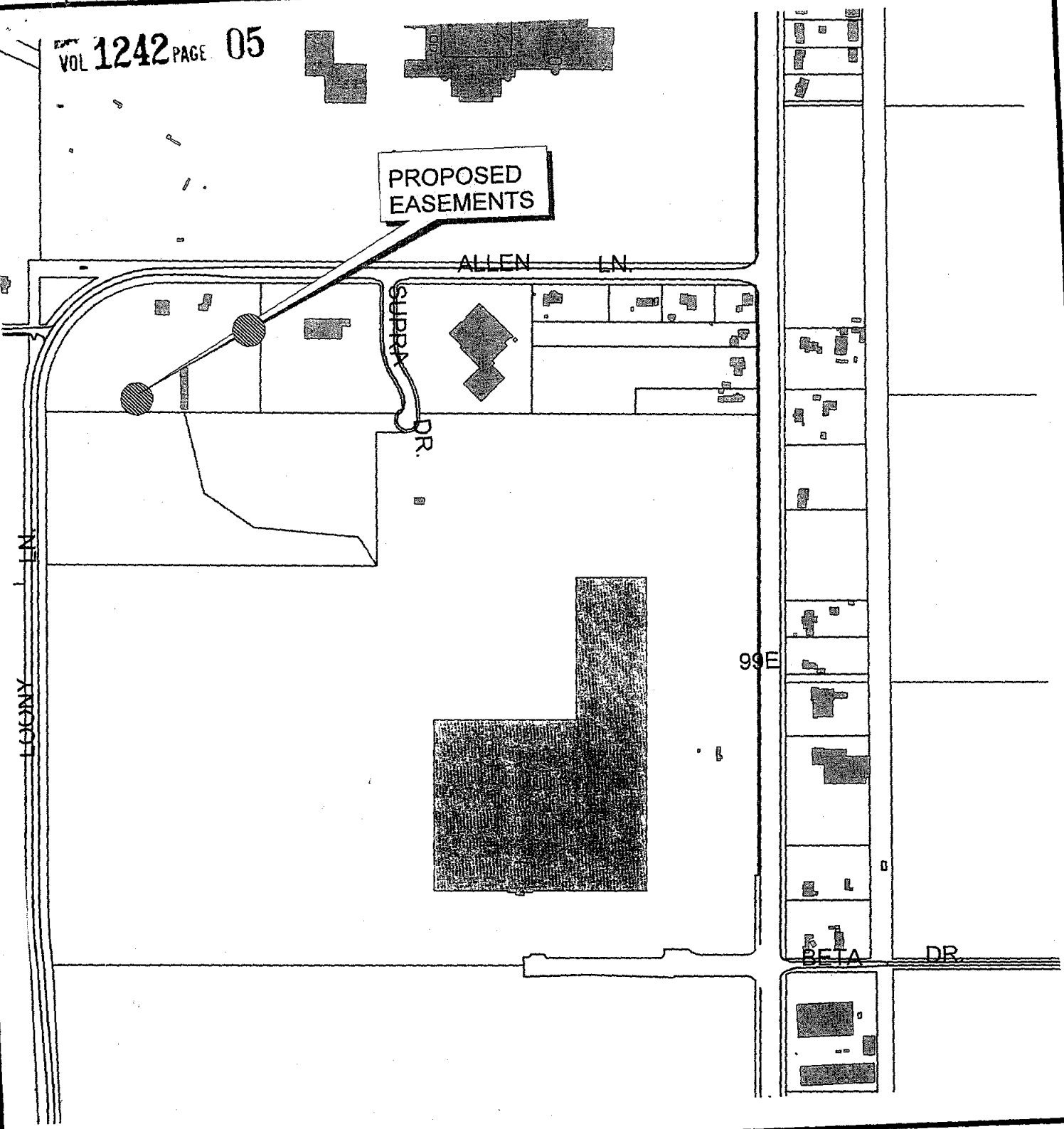
VOL 1242 PAGE 04

LOCATED IN THE SE 1/4
SECTION 25 IN T 11 S, R 4 W,
WILLIAMETTE MERIDIAN
CITY OF ALBANY
LINN COUNTY
OREGON

OPUS II, L.L.C.
TWO PUBLIC UTILITY EASEMENTS



PROPOSED EASEMENTS



VICINITY MAP

100 0 100 Feet



OPUS II, L.L.C.

Mike Brash, CMS

angles J:VAV_PROJSITE_MAP.APR

Engineering

October 11, 2001

PUBLIC UTILITY EASEMENT

The City of Albany's infrastructure records, drawings, and other documents have been gathered over many decades, using differing standards for quality control, documentation, and verification. All the information provided represents current information in a readily available format. While the information provided is generally believed to be accurate, occasionally this information proves to be incorrect, and thus its accuracy is not warranted. Prior to making any property purchases or other investments based in full or in part upon the information provided, it is specifically advised that you independently field verify the information contained within our records.



STATE OF OREGON
County of Linn

I hereby certify that the attached
was received and duly recorded
by me in Linn County records.

STEVE DRUCKENMILLER
Linn County Clerk

By JD, Deputy

M
R 25
S 70
A 11
O

MF 1242

PAGE 01

2001 DEC -6 P 3:08

46

Resolution No. 4542

Recorded Document Recorder File 3962