

RESOLUTION NO. 5424

A RESOLUTION ACCEPTING THE FOLLOWING EASEMENT:

Grantor

Waverly Land Management

Purpose

A 16-foot wide sidewalk and utility easement on the north side of Kildeer Avenue as part of the Kohl's development.

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

DATED AND EFFECTIVE THIS 25TH DAY OF APRIL 2007.



Mayor

ATTEST:



City Clerk

LINN COUNTY
Recording Cover Sheet
All Transactions, ORS: 205.234

LINN COUNTY, OREGON 2007-13422
E-EAS
Cnt=2 Stn=1 COUNTER 06/01/2007 02:28:57 PM
\$35.00 \$5.00 \$11.00 \$10.00 \$61.00



00051551200700134220070071

I, Steve Druckenmiller, County Clerk for Linn County, Oregon, certify that the instrument identified herein was recorded in the Clerk records.



Steve Druckenmiller - County Clerk

After Recording Return To:

City of Albany City Clerk _____

PO Box 490 _____

Albany, OR 97321 _____

All Tax Statements Should Be Sent To:

City of Albany Assessment Clerk _____

PO Box 490 _____

Albany, OR 97321 _____

1. Name/Title of Transaction - by ORS 205.234 (a)

Easement for Public Sidewalk and Utilities _____

2. Grantor/Direct Party - required by ORS 205.125(1)(b) and ORS 205.160

Waverly Land Management _____

3. Grantee/Indirect Party - required by ORS 205.125(1)(a) and ORS 205.160

City of Albany _____

4. True and Actual Consideration (if there is one), ORS 93.030

\$1.00 _____

EASEMENT FOR PUBLIC SIDEWALK AND UTILITIES

THIS AGREEMENT, made and entered into this 25 day of April, 2007, by and between Waverly Land Management, 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 construct and maintain a public sidewalk, 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:

A sixteen foot wide sidewalk and utility easement. As described on attached Exhibit A and as shown on the attached map labeled 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.

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

GRANTOR:

Waverly Land Management

Dennis Ropp
Dennis Ropp,

Approving as Tenant of the easement area on the date of this Easement

Kohl's Department Stores, Inc.

Steven R. Karl
Steven R. Karl, Vice President, Property Development Law

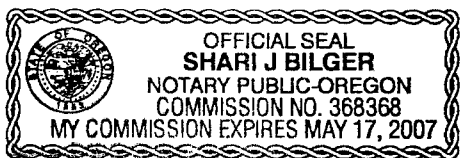
STATE OF OREGON)
County of Linn) ss.
City of Albany)



STATE OF WISCONSIN)
County of Waukesha) ss.
)

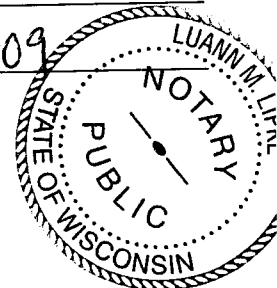
The foregoing instrument was acknowledged before me this 3rd day of April, 2007, by Dennis Ropp as his/her voluntary act and deed.

The foregoing instrument was acknowledged before me this 26th day of March, 2007, by Steven R. Karl, Vice President, Property Development Law of Kohl's Department Stores, Inc. as his voluntary act and deed.



Shari J Bilger
Notary Public for Oregon
My Commission Expires: 5.17.07

Luann M. Linn
Notary Public for Wisconsin
My Commission Expires: 10-18-09



CITY OF ALBANY:

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

Diane Tanguet/Dennis Pro Tem

I, ~~Wes Hare~~, as City Manager of the City of Albany, Oregon, pursuant to Resolution Number 5424, do hereby accept on behalf of the City of Albany, the above instrument pursuant to the terms thereof this 26 day of April 2007.

Diane Tanguet
City Manager Pro Tem

ATTEST:

Betty Tanguet
City Clerk

Exhibit "A"

LEGAL DESCRIPTION

Kohl's - Albany (KOH6080)

16 Foot Sidewalk Easement Legal Description

February 12, 2007

Page 1 OF 2

A portion of Parcel "B" of Minor Land Partition C.S. 18533 Linn County Survey Records, located in the southwest quarter of Section 4, Township 11 South, Range 3 West, Willamette Meridian, Linn County, Oregon, being more particularly described as follows:

The southerly 16 feet of said Parcel "B", lying adjacent to and 16.00 feet northerly of the northerly right-of-way boundary of Killdeer Avenue (dedicated by MF 1336-930, Linn County records), measured perpendicular thereto.

The attached Exhibit "B" entitled "16' WIDE SIDEWALK EASEMENT" is made a part hereof.

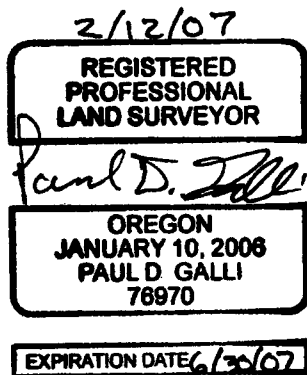
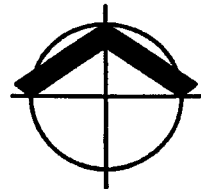
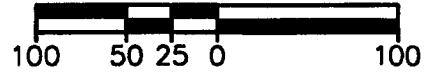


EXHIBIT "B"

ALBANY AVENUE



SCALE: 1" = 100'



WAVERLY LAND MANAGEMENT
(VOLUME 515 PAGE 406-414)

NOTE: SEE ATTACHED
LEGAL DESCRIPTION

WAVERLY LAND MANAGEMENT
(VOLUME 515 PAGE 406-414)

MINOR LAND PARTITION
C.S. 18533
PARCEL "B"

AIRPORT ROAD

NEW 16' SIDEWALK
EASEMENT

16.00'

KILLDEER AVENUE

(60' RIGHT OF WAY, PER MF 1336-930)

60'

W R G
DESIGN INC.

5415 SW Westgate Dr.
Ste 100 / Portland, OR
97221 / Tel. 503.419.2500

16' WIDE SIDEWALK EASEMENT
PARCEL B OF MINOR LAND PARTITION (C.S.18533)

SW 1/4 OF SECTION 4, TOWNSHIP 11 SOUTH, RANGE 3 WEST,
WILLAMETTE MERIDIAN, CITY OF ALBANY, OREGON

PROJECT NO. KOH6080
DATE: 02/12/2007
BY: MLJ
SCALE: 1" = 100'
SHEET NO. 2 OF 2

EASEMENT ADDENDUM

Grantor: Kohl's Department Stores, Inc.

Grantee: City of Albany

Instrument Date: March 26, 2007

Anything in this instrument to the contrary notwithstanding, Grantee by recording this instrument and/or exercising the rights herein granted agrees to the following conditions:

(i) The easement(s) herein granted are subject to all easements and encumbrances of record and are nonexclusive provided later granted easements shall be subject to Grantee's rights and uses.

(ii) Grantee shall not in the exercise of the within easement(s) unreasonably interfere with any business of Grantor. Without limiting the generality of the foregoing, Grantee shall not obstruct any access to Grantor's Property or perform any maintenance, except in an emergency, during the period of time commencing November 1 and ending on the following January 15.

(iii) After recording this instrument, Grantee shall provide Grantor with the date, instrument number, book and page of recording.

(e) Except as set forth herein, all utilities shall be underground.

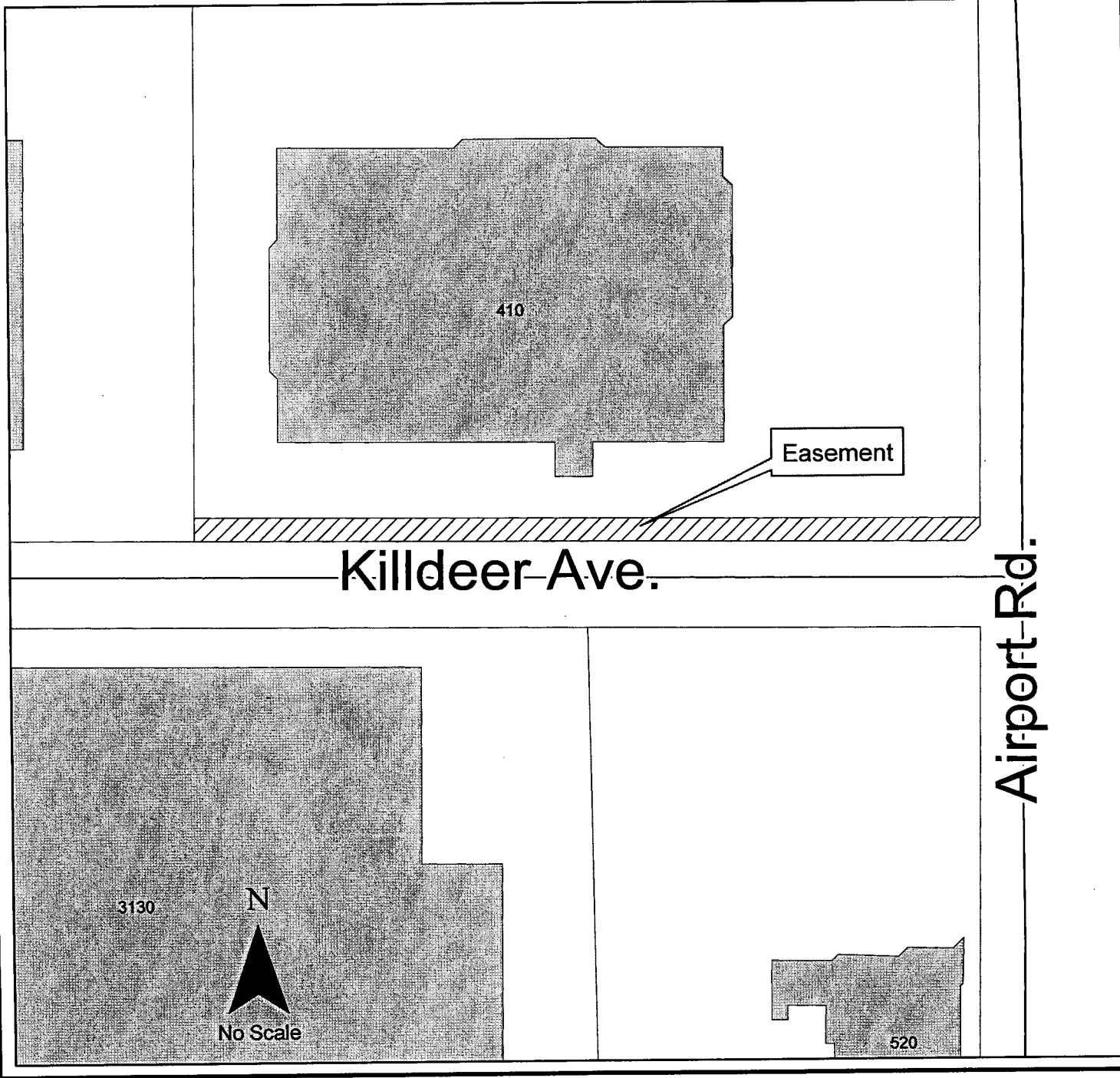
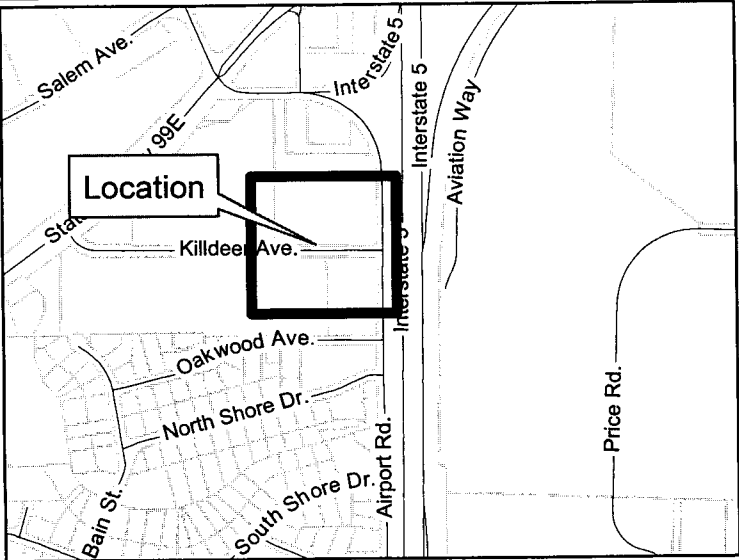
EXHIBIT C

11S03W04CB00108

A sixteen foot wide sidewalk
and utility easement.



Geographic Information Services



Resolution No. 5424

Recorded Document Recorder File No. 4905