

MODIFICATION OF GRANT OF EASEMENT WITH COVENANTS
AND RESTRICTIONS AFFECTING LAND

This agreement made and entered into this 30th day of August, 1988, between Safeway Stores Inc., a Delaware Corporation successor in interest by merger to Safeway Stores Inc., a Maryland Corporation, hereinafter called Safeway and Erickson Investment Co., a California Corporation, and James F. Stillwell, hereinafter called developer and the record owners of Parcels 1 and 2: Witnesseth:

1.) Safeway is the owner of Parcel 1 as shown outlined in red on the Plot Plan attached hereto as exhibit "A" hereof and which is more particularly described as follows:

PARCEL 1:

See exhibit "B" attached hereto and made a part hereof.

2.) Developer and the undersigned record owners of Parcel 2 are the owners of Parcel 2 as outlined in green on the Plot Plan attached hereto as exhibit "A" hereof and which are more fully described as follows:

PARCEL 2:

See exhibit "C" attached hereto and made a part hereof.

Whereas the parties have made or are affected by a grant of Easements with Covenants and Restrictions Affecting the herein above decribed land which was recorded as document 27362, Volume M68, Page 9981 through 9987, and whereas the property affected by said grant of Easement with Covenants and Restrictions affecting land has not developed as anticipated and whereas the parties desire to

1 modify the Easement with Covenants and Restrictions affecting Parcel 2 and in
2 consideration thereof to grant to Parcel 1 a fifty foot easement adjacent to and
3 parallel with the northerly boundary of said Parcel 1, in the southerly portion
4 of Parcel 2; and to modify the "Building Areas" as shown outlined in blue on
5 Exhibit A-1.

6 It is therefore,

7 Agreed that the Grant of Easement with Covenants and Restrictions affecting
8 land entered into between Parties recorded as document 27362, volume M68, pages
9 9981 through 9987, inclusively be and the same is hereby modified to exclude the
10 property shown as the Howard property on Exhibit "A", particularly described as
11 follows:

12
13 A portion of Tracts 32 and 33A of Enterprise
14 Tracts, described as follows: Beginning at the
15 three quarter inch pipe marking the Southeast
16 corner of said Tract 32 of Enterprise Tracts;
17 thence Northwesterly along the arc of a curve to
18 the right, having a central angle of 32°41'15" and
19 a radius of 170.0 feet, a distance of 99.95 feet;
20 thence North 55°52'30" West, a distance of 80.29
21 feet to the Easterly line of Austin Street, thence
22 South 34°07'30" West along said line a distance of
23 140.88 feet to the Northwesterly corner of parcel
24 conveyed to Abby's Pizza Inns by Deed recorded in
25 Volume M72 page 6088; thence South 55°52'30" East
26 along the Northerly line of said parcel and its
27 Easterly extension, a distance of 286.75 feet, more
28 or less, to the Easterly line of said Tract 33A;
thence North 0°21'45" East along said line a
distance of 207.73 feet, more or less, to the point
of beginning.

Subject to: Rules, regulations, liens and
assessments of record; situated in Klamath County,
Oregon.

26 With Easements, Covenants and Restrictions to continue as modified on
27 Exhibit "A-1" attached hereto and in consideration thereof granting a fifty foot
28

1 nonexclusive use Easement to Safeway Stores Inc. along the northerly portion of
 2 Parcel 1 for roadway, walkway, ingress and egress, parking of motor vehicles,
 3 loading an unloading of commercial and other vehicles and for driveway purposes.
 4

5 In witness whereof the parties of hereunto set their hands in seals the
 6 day and year above first written.
 7
 8
 9

Safeway Stores Inc., a Delaware
 Corporation, successor in interest
 by merger to Safeway Stores Inc.,
 a Maryland corporation.:

12 Richard Howard
 13 RICHARD HOWARD

By: [Signature]
 Assistant Vice President

15 Marie W. Howard
 16 MARIE W. HOWARD

By: Michael P. Coney
 Assistant Secretary

18 ERICKSON INVESTMENT CO.
 19

20
 21 By: [Signature]
 22

[Signature]
 JAMES F. STILWELL

23
 24 [Signature]
 25 KERNS BROS. REAL ESTATE
 26

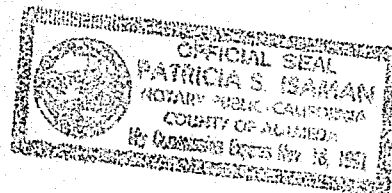
Broughton & Harrell Corp.
 an Oregon Corporation

By: [Signature]
 Vice President

27
 28
 APPROVED JPH

GLENN D. RAMIREZ
 514 WALNUT STREET
 KLAMATH FALLS, OREGON 97601
 (503) 884-9275
 OSB #52091 • CSB #25942

1
2 STATE OF CALIFORNIA)
3 County of ALAMEDA) ss.
4
5 August 30th, 1988.



6 Personally appeared the above named Jerome P. Harrison
7 and Michael P. Avery authorized officers of Safeway Stores
8 Inc., a Delaware Corporation successor in interest by merger to Safeway Stores
9 Inc., a Maryland Corporation and acknowledged the foregoing instrument to be
10 their voluntary act and deed.

11 Before me: Patricia S. Isaman

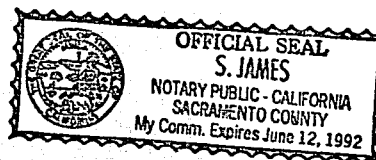
Patricia S. Isaman
NOTARY PUBLIC FOR CALIFORNIA
My commission expires: 11/18/91

STATE OF CALIFORNIA
COUNTY OF Sacramento) ss.
On October 13, 1988

said State, personally appeared Franklin E. Erickson before me, the undersigned, a Notary Public in and for

~~Personally appeared~~ proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/~~they~~ executed the same.

WITNESS my hand and official seal.



son Investment
act and deed.

Signature S. James

(This area for official notarial seal)

21 STATE OF Oregon)
22 County of Klamath) ss.
23
24 Sept. 16, 1988.

25 Personally appeared the above named James F. Stilwell and acknowledged the
26 foregoing instrument to be his voluntary act and deed.

27 Before me:

Kraig B. Ramirez
NOTARY PUBLIC FOR OREGON
My commission expires: 2-14-89
GLENN D. RAMIREZ
514 WALNUT STREET
KLAMATH FALLS, OREGON 97601
(503) 884-0275
OSB #52091 • CSB #25942

1 STATE OF Oregon)
) ss.

2 County of Clackamas)

3 September 12, 1988.

4 Personally appeared the above named Robert Burke, authorized officer
 5 of Broughton & Harrell Corp., an Oregon Corporation, and acknowledged
 6 the foregoing instrument to be his voluntary act and deed.
 7 Before me:

Walter D. [Signature]
 NOTARY PUBLIC FOR OREGON
 My commission expires 10-26-91

8
 9 STATE OF Oregon)
 10) ss.
 11 County of Klamath)

12 September 9 1988.

13 Personally appeared the above named James W. Kerns and
 14 acknowledged the foregoing instrument to be his voluntary act and deed.

15 Before me:

Dale S. [Signature]
 NOTARY PUBLIC FOR OREGON
 My commission expires 3-11-89

16
 17
 18 STATE OF OREGON)
) ss.

19 County of Klamath)

20 Sept. 13 1988.

21 Personally appeared the above named Marie W. Howard and Richard Howard and
 22 acknowledged the foregoing instrument to be their voluntary act and deed.

23 Before me:

Donna L. [Signature]
 NOTARY PUBLIC FOR OREGON
 My commission expires Aug 21, 1990

24
 25

26

27

28

EXHIBIT A

18158

SEE MAP 39 09 03BA

"Buildable Area" allowed by
former Agreement outlined
in Blue

SEE MAP 39 09 03

ST.

PERSHING
WAY

AUSTIN

(VACATED PERSHING WAY)

IKLAMATH FALLS
SOUTH

LAKEVIEW HWY. (140)
ST. HWY. 39 (140)

42

SEE CS 1214

CALIF

SEE CS 1715

2300
0.50 AC.

2200
0.50 AC.

2100
0.50 AC.

2000
0.50 AC.

1900
0.50 AC.

1800
0.50 AC.

1700
0.80 AC.

1600
0.29 AC.

SEE CS 1401

1500
1.00 AC.

1400
0.12 AC.

1300
0.34 AC.

1200
0.80 AC.

SEE CS 1532

RESUB.

ENTERP

41

"Buildable Area" allowed by
Modification of Agreement
outlined in Blue

SEE MAP 39 09 03

PERSHING
WAY

AUSTIN

(KLAMATH FALLS
SOUTH

LAKEVIEW HWY.
ST. HWY. 39 (140)

42

SEE CS 1214

CALIF

SEE CS 1715

HOWARD PROPERTY
Exempted from Modified
Agreement

Abby's

Kerns

Basement

(VACATED PERSHING WAY)
Safeway Stores

g/j/6/6

RESUB.

2300
0.50 AC.

2200
0.50 AC.

2100
0.50 AC.

2000
0.50 AC.

1900
0.50 AC.

SEE CS 3874

1800
0.50 AC.

1700
0.80 AC.

SEE CS 1401

1500
1.00 AC.

1600
0.29 AC.

ENTERP

1200
0.80 AC.

41

SEE CS 1532

33A

EXHIBIT B

LEGAL DESCRIPTION, PARCEL I

9986

A tract of land situated in Tract 33A, Enterprise Tracts subdivision, in the SE 1/4 of section 3, T 39S, R 3E W.M., Klamath County Oregon, More particularly described as follows:

Beginning at the cased monument marking the northwest corner of said section 3; thence S 00° 00' 30" E along the westerly boundary of said section 3 826.8 feet, more or less, to its intersection with a line parallel with and 75 feet distant at right angles northeasterly from the centerline of South Sixth Street as the same is now located and constructed, said parallel line being also the northerly right-of-way line of said street; thence S 55° 52' 30" E along said parallel line 1741.84 feet to a 5/8 inch iron pin marking the True Point of Beginning of this description, said point being on the easterly right-of-way line of Austin Street with the location of said point being in conformance with record of survey No. 939 filed in the office of the Klamath County Surveyor which contains the original owner's certification of original property corners; thence N 34° 07' 30" E at right angles to said South Sixth Street and along the easterly right-of-way line of Austin Street a distance of 250.00 feet to a 5/8 inch iron pin with aluminum cap; thence S 55° 52' 30" E parallel with South Sixth Street a distance of 451.18 feet to a 5/8 inch iron pin with aluminum cap on the westerly line of that property described in Volume 168, Page 4736, Klamath County Deed Records; thence S 34° 07' 30" W parallel with Austin Street and along the westerly line of the last described property a distance of 250.00 feet to a 5/8 inch iron pin on the northerly right-of-way line of South Sixth Street, said point being the southwesterly corner of the above described property and from which a cross chiseled in the concrete sidewalk bears S 34° 07' 30" W 10.00 feet; thence N 55° 52' 30" W along the northerly right-of-way line of South Sixth Street a distance of 451.18 feet to the True Point of Beginning.

EXHIBIT C

LEGAL DESCRIPTION PARCEL II

9987

1 tract of land situated in Tract 33A, Enterprise Tracts subdivision, in the NW $\frac{1}{4}$ of Section 3, T 39 S, R 9 E, Klamath County, Oregon, more particularly described as follows:

Beginning at the cased monument marking the northwest corner of said Section 3; thence S 00°00'30" E along the westerly boundary of said Section 3, 826.8 feet, more or less, to its intersection with a line parallel with and 75 feet distant at right angles northeasterly from the centerline of South Sixth Street as the same is now located and constructed; said parallel line being also the northerly right-of-way line of said street; thence S 55°52'30" E along said parallel line 1741.24 feet to a 5/8 inch iron pin marking the easterly right-of-way line of Austin Street with the location of said point being in conformance with record of survey No. 939 filed in the office of the Klamath County Surveyor which contains the original owner's certification of original property corners; thence N 34°07'30" E at right angles to said South Sixth Street and along the easterly right-of-way line of Austin Street a distance of 250.00 feet to a 5/8 inch iron pin with aluminum cap marking the True Point of Beginning of this description; thence N 34°07'30" E along said easterly line of Austin Street a distance of 307.45 feet to a 5/8 inch iron pin with aluminum cap on the northerly line of said Tract 33A, Enterprise Tracts; thence S 89°30'00" E along said northerly line a distance of 209.67 feet to a 3/4 inch iron pipe marking the northeast corner of said Tract 33A; thence S 00°21'45" W along the easterly line of said Tract 33A a distance of 497.64 feet to a 5/8 inch iron pin with aluminum cap; thence S 34°07'30" W a distance of 9.80 feet to a 5/8 inch iron pin with aluminum cap; thence N 55°52'30" W parallel with South Sixth Street a distance of 451.18 feet to the True Point of Beginning, containing 2.841 acres, more or less, with bearings based on existing deed records.

ALSO:

The NE $\frac{1}{4}$ of Lot B, Subdivision of Enterprise Tract No. 24, Klamath County, Oregon, more particularly described as follows:

Beginning at a 3/4 inch iron pipe marking the northwest corner of said Lot B; thence S 89°33'45" E along the north line of said Lot B a distance of 299.51 feet to a 3/4 inch iron pipe on the westerly right-of-way line of Arthur Street; thence S 00°21'45" W along the said westerly line of Arthur Street a distance of 72.72 feet to a 5/8 inch iron pin with aluminum cap; thence N 89°33'45" W parallel with the north line of said Lot B a distance of 299.51 feet to a 5/8 inch iron pin with aluminum cap; on the westerly line thereof; thence N 00°21'45" E along the westerly line of said Lot B a distance of 72.72 feet to the point of beginning, containing 0.5007 acres, more or less, with bearings based on existing deed records.

STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of _____ the _____ 27th day
of _____ Oct. _____ A.D., 19 88 at 12:03 o'clock _____ P.M., and duly recorded in Vol. _____ M88
of _____ Deeds _____ on Page 18153

FEE \$48.00

Evelyn Biehn County Clerk

By Pauline Mueland