

## LETTER OF CONFIRMATION

After Recording Return to: ASPEN  
Rita L Berry 01038251  
Lawley Brockle Ennis & Hawley  
First Interstate Center  
Suite 1000  
P.O. Box 1617  
Boise Idaho 83701

March 8, 1993

Donald and Susan Gruener  
5875 Basin View Drive  
Klamath Falls, OR 97603

Re: Proposed Albertson's Store #577 at 6th & Homedale, Klamath Falls, Oregon

Dear Mr. and Mrs. Gruener:

This letter is to document and confirm Albertson's, Inc. ("Albertson's") understanding with you regarding vehicle access to and from 6th Street, Klamath Falls, Oregon.

Albertson's has several options to purchase certain real property located at 6th Street and Homedale in Klamath Falls, Oregon, marked on the enclosed Site Plan as the "Albertson's Parcel." You own the real property bordering on 6th Street and immediately adjacent to the east of the Albertson's Parcel. The County of Klamath, Oregon has agreed to allow Albertson's to construct the rear service drive shown on the attached Site Plan, provided that you release your rights to your current access to 6th Street.

You and Albertson's have agreed that in the event Albertson's does purchase the Albertson's Parcel you will release all rights to your access onto 6th Street, and Albertson's will:

- (i) construct a service drive over the portion marked "Permanent Access Easement" on the attached Exhibit "A" and grant you an easement of right-of-way over the same in the form attached hereto as Exhibit "B";
- (ii) remove that portion of your fence cross-hatched on the attached Exhibit "A" and cut and install a rolling industrial gate at that portion of your fence circled on Exhibit "A";
- (iii) complete the landscape container bordering on 6th Street as shown on the attached Exhibit "A."

Donald and Susan Gruener  
March 8, 1993  
Page 2

Albertson's will not, however, be obligated to expend more than \$2,500.00 on items (ii) and (iii) above.

Further, you and Albertson's agree that this letter agreement contains the complete agreement between you and Albertson's regarding the access drive and that in the event either you or Albertson's sues the other party hereto with regard to the access drive that the losing party shall pay the attorneys' fees and costs of the prevailing party, including appellate fees.

Please acknowledge your agreement with the above terms and conditions by executing this letter where indicated below and returning it to:

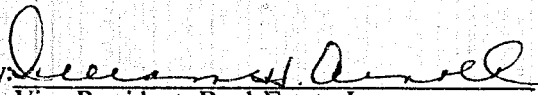
Albertson's, Inc.  
c/o Rita L. Berry  
Hawley Troxell Ennis & Hawley  
P. O. Box 1617  
Boise, Idaho 33701

For your records, I have enclosed a second signed copy of this letter for you to keep.

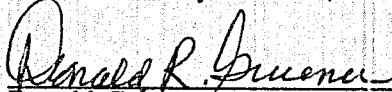
If you have any questions or comments about this letter, please feel free to call Rita L. Berry at (208) 344-6000 or fax comments to (208) 342-3829.


Sincerely,

ALBERTSON'S, INC.

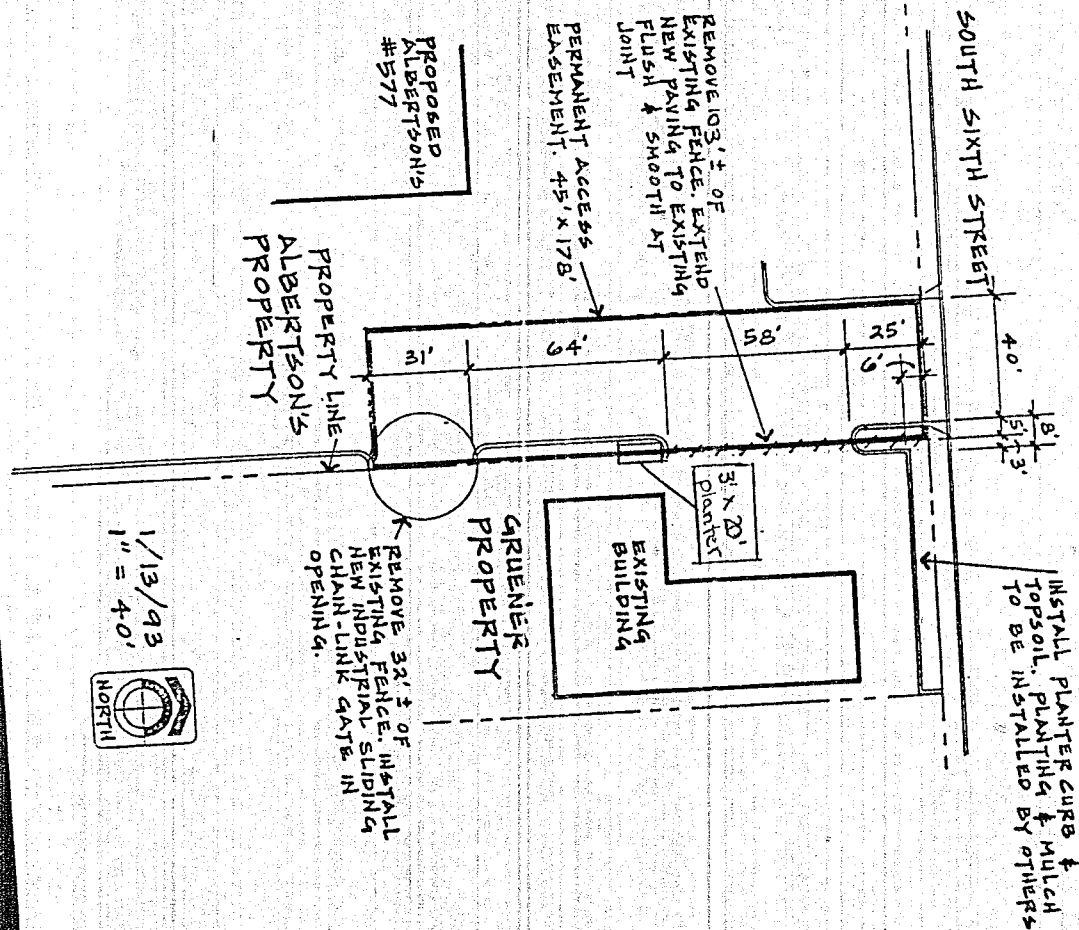
By:   
Vice President, Real Estate Law

ACKNOWLEDGED AND ACCEPTED  
THIS 8th day of March, 1993.

  
Donald Gruener

  
Susan Gruener

## EXHIBIT A



5473  
#577 6th & Homedale  
Klamath Falls, OR  
3/8/93

## EXHIBIT "B"

### GRANT OF RIGHT OF WAY

THIS INDENTURE is made this 12<sup>th</sup> day of March, 1993, by ALBERTSON'S, INC., a Delaware corporation ("Grantor"), to DONALD R. GRUENER and SUSAN E. GRUENER, husband and wife ("Grantees").

WHEREAS, Grantor is seized of an estate in fee simple of a parcel of land located in Klamath County, Oregon more particularly described on Schedule 1 attached hereto (the "Albertson's Property"), a portion of which is marked the Albertson's Property on Exhibit "A" attached hereto;

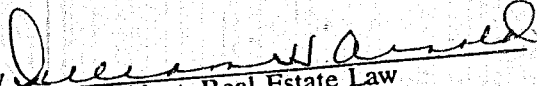
WHEREAS, Grantee is seized of an estate in fee simple of a parcel of land located in Klamath County, Oregon more particularly described on Schedule 1 (the "Grueners Property"), a portion of which is marked the Gruener Property on Exhibit "A";

WHEREAS, Grantor has agreed, for good and valuable consideration, to grant to Grantees an easement of right of way over the Albertson's Property for purposes of ingress and egress in and to the Gruener Property.

NOW, THEREFORE, Grantor hereby grants, bargains, sells and conveys to Grantees, and their successors in interest in the Grueners Property, a permanent easement over the portion of the Albertson's Property cross-hatched on Exhibit "A" and more particularly described in Schedule II attached hereto for ingress and egress to the Grueners Property from that certain Oregon State Highway commonly known both as Sixth Street and as Klamath Falls-Lakeview Highway.

IN WITNESS WHEREOF, this Grant of Right of Way is executed the day and year first above written.

ALBERTSON'S, INC., a Delaware corporation

By   
Vice President, Real Estate Law

\_\_\_\_\_  
Donald R. Gruener

\_\_\_\_\_  
Susan E. Gruener

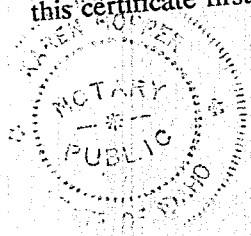
STATE OF IDAHO

County of Ada

) ss.

On this 12<sup>th</sup> day of March, 1993, before me, Karen Hopper,  
 a Notary Public in and for said State, personally appeared William H. Arnold, to me known  
 to be Vice President, Real Estate Law of Albertson's, Inc., the corporation that executed  
 the foregoing instrument, and acknowledged to me that the said instrument is the free and  
 voluntary act and deed of said corporation, for the uses and purposes therein mentioned,  
 and on oath stated that he is authorized to execute the said instrument.

WITNESS MY HAND and official seal hereto affixed the day, month and year in  
 this certificate first above written.



Karen Hopper  
 Notary Public for the State of Idaho  
 Residing at Bain ID  
 My Commission Expires 8-21-98

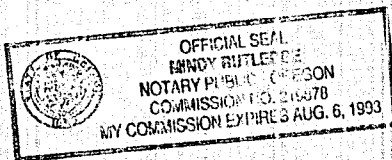
STATE OF OREGON

County of CLATSOP

) ss.

On this 17<sup>th</sup> day of MARCH, 1993, before me, MINDY BUREGE,  
 a Notary Public in and for said state, personally appeared DONALD R. GRUENER and  
 SUSAN E. GRUENER, husband and wife, known or identified to me to be the persons  
 whose names are subscribed to the within instrument, and acknowledged to me that they  
 executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal  
 the day and year in this certificate first above written.



Mindy Rutledge  
 Notary Public for the State of Oregon  
 Residing at CLATSOP FALLS  
 My Commission Expires 8-6-93

## SCHEDULE I

## ALBERTSON'S PROPERTY

## PARCEL 1:

Lot 1, Block 1, BAILEY TRACTS #2, in the County of Klamath, State of Oregon, EXCEPT THEREFROM any portion lying within the right of way of South 6th Street.

## PARCEL 2:

Beginning at a point 30 feet South and 432.1 feet West of the quarter section corner between Sections 1 and 2, Township 39 South, Range 9 East of the Willamette Meridian, in the County of Klamath, State of Oregon; thence South 253.7 feet; thence North 70 degrees 19' West 74.3 feet; thence North 228.7 feet; thence East 70 feet to the point of beginning.

EXCEPT THEREFROM that portion conveyed to the State of Oregon, by and thru its State Highway Commission by deeds recorded August 13, 1964 in Book 355 at Page 300 and Book 355 at Page 304, Deed Records.

## PARCEL 3:

All that portion of the NE 1/4 of SE 1/4 of Section 2, Township 39 South, Range 9 East of the Willamette Meridian, in the County of Klamath, State of Oregon, more particularly described as follows:

Beginning at a point 30 feet South and 502.1 feet West of the quarter section corner between Sections 1 and 2, Township 39 South, Range 9 East of the Willamette Meridian; thence South 228.7 feet; thence North 70 degrees 19' West 74.3 feet; thence North 203.7 feet; thence East 70 feet to the place of beginning;

ALSO beginning at a point 30 feet South and 572.1 feet West of the quarter section corner between Sections 1 and 2, Township 39 South, Range 9 East of the Willamette Meridian; thence South 203.7 feet; thence South 72 degrees 30' West 101.7 feet; thence North 233.3 feet; thence East 96.9 feet to the point of beginning.

EXCEPTING THEREFROM that portion conveyed to the State of Oregon, by and thru its State Highway Commission by deeds recorded August 13, 1964 in Book 355 at Page 300 and Book 355 at Page 304, Deed Records.

CODE 41 MAP 3909-2DA TL 800  
CODE 41 MAP 3909-2DA TL 900  
CODE 41 MAP 3909-2DA TL 1200



## GRUENER PROPERTY

A tract of land in the NE 1/4 SE 1/4 of Section 2, Township 39 South, Range 9 East of the Willamette Meridian, in the County of Klamath, State of Oregon, described as follows:

Beginning at a point 30 feet South of and 350.3 feet West of the quarter section corner between Sections 1 and 2, Township 39 South, Range 9 East of the Willamette Meridian; thence South 282.7 feet; thence North 70 degrees 19' West 86.9 feet; thence North 253.7 feet; thence East 81.8 feet to the place of beginning.

EXCEPTING THEREFROM that portion along the North boundary of said tract conveyed to the State of Oregon by deed recorded July 1, 1964 in Book 354 at Page 244, Deed Records.

CODE 41 MAP 3909-2DA TL 700

FROM :

PHONE NO. :

P07

5477

Owner  
Erwin R. Ritter, L.S.

SCHEDULE II

Owner  
Dennis A. Ensor

**TRU (SURVEYING) LINE**

TELEPHONE (503) 884-3691  
2333 SUMMERS LAKE - KLAMATH FALLS, OREGON 97603

JANUARY 27, 1993

LEGAL DESCRIPTION  
OF  
EASEMENT FROM ALBERTSON'S TO GRUENER

A TRACT OF LAND SITUATED IN THE NE1/4 SE1/4 OF SECTION 2,  
T39S, R9EWM, KLAMATH COUNTY, OREGON, MORE PARTICULARLY DESCRIBED  
AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF THAT TRACT OF LAND  
DESCRIBED IN DEED VOLUME M90 PAGE 2677 OF THE KLAMATH COUNTY DEED  
RECORDS, FROM WHICH THE EAST 1/4 CORNER OF SAID SECTION 2 BEARS  
N84°58'45"E 433.61 FEET, SAID POINT ALSO BEING THE NORTHEAST  
CORNER OF THE PROPOSED ALBERTSON'S PARCEL; THENCE S00°00'26"W,  
ALONG THE EAST LINE OF SAID ALBERTSON'S PARCEL, 178 FEET; THENCE  
N89°43'42"W 45.00 FEET; THENCE N00°00'26"E 178 FEET TO THE  
SOUTHERLY RIGHT OF WAY LINE OF SOUTH 6TH STREET; THENCE  
S89°43'42"E 45.00 FEET TO THE POINT OF BEGINNING.

REGISTERED  
PROFESSIONAL  
LAND SURVEYOR

*Dennis A. Ensor*

OREGON  
JULY 25, 1990  
DENNIS A. ENSOR  
2442

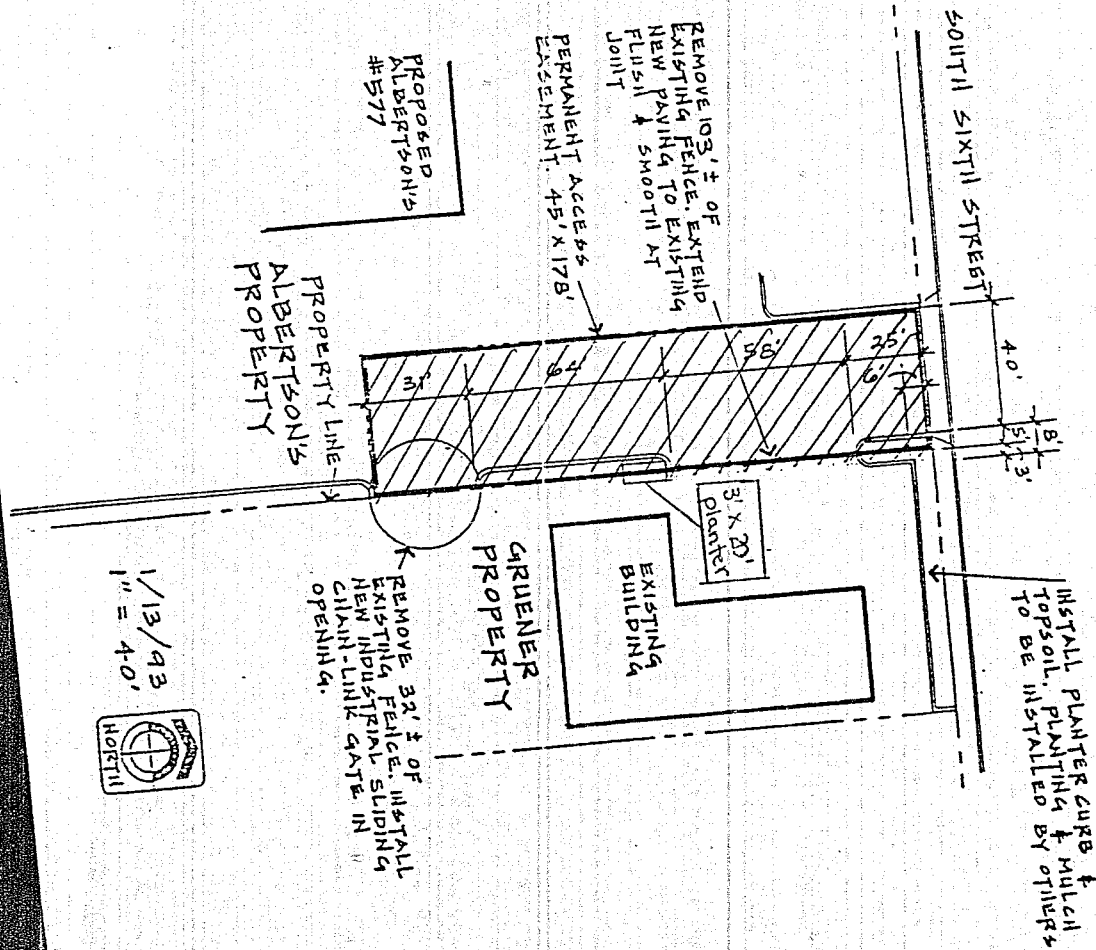
*Dennis A. Ensor*  
DENNIS A. ENSOR O.L.S. 2442

EXPIRATION: 12/31/93



5478

EXHIBIT A



1/13/93  
1" = 40'



STATE OF OREGON: COUNTY OF KLAMATH: ss. \_\_\_\_\_ the 17th day  
 Filed for record at request of Aspen Title Co A.M., and duly recorded in Vol. M93  
 of March A.D., 19 93 at 10:43 o'clock on Page 5470  
 By Evelyn Biehn County Clerk

FEE \$ 70.00