

RESTRICTIVE COVENANTS

STATE OF OREGON)
) ss.
County of Klamath)

KNOW ALL MEN BY THESE PRESENTS:

That the City of Klamath Falls, a municipal corporation of the State of Oregon, is the owner of the following described property:

Situated in the SW-1/4 of Section 17, T.38 S., R.9 E., W.M., Klamath Falls, Oregon, more particularly described as follows:

Beginning at a 2" x 36" iron pipe with a brass cap marking the section corner common to Sections 17, 18, 19 and 20, Township 38 South, Range 9 East, W.M., Klamath County, Oregon; Thence N. 01°14'29" E., along the west line of said Section 17, a distance of 855.26 feet to a 5/8" iron pin; Thence N. 66°02'50" E., 311.28 feet to a 5/8" iron pin at the beginning of a tangent curve concave to the northwest, having a radius of 900.00 feet; Thence northeasterly along the arc of said curve (long chord bears N. 46°35'25" E., 599.98 feet) a distance of 611.26 feet to a 5/8" iron pin; Thence N. 27°07'59" E., 217.40 feet to a 5/8" iron pin; Thence S. 62°52'01" E., 100.00 feet to a 5/8" iron pin at the beginning of a curve concave to the northeast, having a radius of 50.00 feet; Thence southeasterly along the arc of said curve (long chord bears S. 09°35'56" E., 59.81 feet) a distance of 64.11 feet to a 5/8" iron pin; Thence S. 46°19'52" E., 64.18 feet to a 5/8" iron pin; Thence N. 80°16'31" E., 375.09 feet to a 5/8" iron pin on the east line of the NW-1/4 SW-1/4 of said Section 17; Thence S. 01°13'57" W., 200.00 feet to a 1" iron pipe at the SW-1/16 corner of said Section 17; Thence S. 01°13'06" W., along the east line of the SW-1/4 SW-1/4 of said Section 17, a distance of 681.73 feet to a 5/8" iron pin; Thence East, 365.15 feet to a 3-1/2" copper plate set in concrete; Thence S. 00°49'08" W., 643.96 feet to a 5/8" iron pin on the south line of the SE-1/4 SW-1/4 of said Section 17; Thence N. 89°10'40" W., 369.57 feet to a 1" steel shaft at the W-1/16 corner, Sections 17 and 20; Thence N. 89°11'18" W., 1320.56 feet to the point of beginning, containing 43.67 acres more or less.

The City of Klamath Falls (City) does hereby restrict said property as hereinafter set forth, which restrictions shall be binding upon the purchasers, grantees or lessees of any said sites, lands, or tracts, and upon their heirs, assigns, successors, devisees, and administrators and shall be covenants running with the land:

1.

The basic objective of the development of the above described lands to be known as College Industrial Park (CIP), is the creation and continuation of a harmonious non-polluting, park-like development with high design standards and safeguards to the general welfare of each occupant. In this regard, it is the intent of these covenants that future development be compatible with and similar to the existing design of the neighboring Oregon Institute of Technology campus, subject to differences necessitated by the terrain upon which to be built.

Words and phrases used in these covenants shall, unless the context demands otherwise, be defined according to the definitional section(s) of the City zoning ordinance then in effect.

All of the building sites in the park are for light industrial, commercial and warehousing purposes, and all grantees agree to use the sites only for such purposes and under such conditions as are hereinafter set forth:

A. LAND USE

No land in the development shall be used, and no building or structure shall be used, erected, or converted to any use other than those permitted under applicable City Zoning Ordinances or Campus P.U.D. Development Standards.

When there is a conflict between these covenants and any City ordinance, State or Federal Statute or regulation or development standard, the most restrictive regulation will apply.

B. OBJECTIONABLE USES

Building sites in this development may be used for such commercial, industrial, and warehousing purposes as are described in Section (A) above, but each lot owner and tenant agrees not to use or allow the use of said premises or any portion thereof at any time for the manufacture, storage, distribution, or sale of any products or items which shall increase the fire hazard of adjoining properties; or for any business which creates a nuisance; or for any purpose or use in violation of the laws of the City, the State of Oregon, or the United States. Written approval by the Architectural Control Committee (Committee) for a particular use shall be conclusive evidence of compliance with this or any other restriction in these covenants. Nuisances shall include, but not be limited to, vibration, sound, electromechanical disturbances, electromagnetic disturbances, radiation, air, water or light pollution, and emission of toxic, noxious or odorous matter.

C. PLAN APPROVAL

No building, fence, wall, sign advertisement, driveway, loading facility, storage facility, parking area, site grading, landscaping, disposal facility, or any other improvement shall be constructed or added to, excepting changes made inside a building, without the written approval of the Committee. Complete detailed plans and specifications for the proposed improvements, showing the nature, kind, shape, dimensions, materials, colors, lighting, siting, grading and landscaping or alterations to existing facilities shall be submitted to the Committee for review. If approval is granted, a copy of the plans and specifications shall be retained on file by the Committee. The Committee reserves the right to refuse approval of any plans, specifications, or proposed land uses if such improvements are found to be contrary to the "best interests" of the Park.

Following completion of the project, the owner shall furnish the Committee a complete set of as-built drawings showing exact field location of all improvements, including below grade installations.

D. SETBACKS

Buildings shall not be located nearer than 50 feet from Industrial Drive or Northern Heights Blvd., nor 25 feet from Century Drive or College Way property lines. Building setbacks from all other property lines shall not be less than 10 feet.

E. BUILDING CONSTRUCTION

It is intended that all building construction, accessory buildings, and enclosures be consistent in design and quality of materials for each building site. The building codes of the City in effect at the time of any construction shall apply to such construction.

Exterior walls shall be brick, natural stone, glass, concrete slab, or any other wall surface currently being used on a major OIT structure and approved by the Committee. Roofs visible to public view shall be flat, however, flat roofs of different heights shall be

allowed in the same structure. All roof structures and appurtenances shall be painted a suitable dark color to make them less noticeable, or shall be shielded from the same elevation. Shielding or screening shall be in harmony with the side walls. Fencing shall not extend in front of the building. All utilities shall be buried. No building shall be painted, repainted, or resurfaced with any material without written approval of color and/or material. All other construction not covered in the above statement shall be as approved consistent with the basic objective and intent of these covenants. Questions concerning a design or material use shall whenever possible be resolved by reference to design and materials employed on the OIT campus.

F. STORAGE

No outside storage of any kind, including refuse collection areas, shall be permitted unless such stored material is visually screened from view by a planting screen not less than five feet in height and which attains a mature height of at least seven feet, or which rises two feet above the stored material, whichever is higher. Planting screens shall be sufficient to obscure the stored material with 24 months.

Where, because of intense shade, security reasons, soil conditions, or similar characteristics, a required planting screen cannot be expected to thrive, a sight-obscuring fence or similar non-vegetative screening of similar configurations (exposed concrete block prohibited) may be substituted.

All fencing and screening required by this Section shall be installed prior to occupancy or commencement of use. Where compliance with the preceeding sentence is not possible because of the season of the year, the Committee may grant an appropriate delay provided such delay shall not exceed six months.

All required fences and screenings shall conform to plans submitted to and approved by the Committee. Storage shall be limited to the rear two-thirds of the property on any area not a part of a setback area as provided for in Section D hereof; provided, the Committee may allow storage to the lot line of any lot where said lot line does not abut a street.

G. LOADING AREAS

Truck loading and receiving areas shall not be permitted in the front yard of a building; provided, the Committee may approve such necessary areas in the front yard of a building when the facilities are so screened as not to be visible from the public street in front of the building, or when the facilities are so designed as to substantially blend into the design of the building.

H. LANDSCAPING

1. All land areas, including easements, not occupied by structures, driveways, storage areas, sidewalks, parking and service areas, shall be landscaped and shall be maintained in a park-like manner. A landscaped area shall consist of an area with trees, shrubs, lawns, and other previous ground covering or material approved by the Committee which is planned to compliment and be consistent with the entire development.
2. Whenever a portion of a lot or parcel area is required to be devoted to landscaped open space, at least one tree is required for each 1,500 sq. ft. of such space or fraction thereof. Trees shall be planted within 10 feet of the curbs on both sides of all arterials and collectors within the development. One tree shall be planted for every 50 feet of such frontage along each arterial and collector. The Committee may grant an exception to such requirements upon a finding that there are trees existing along said streets or on abutting properties which in the opinion of the Committee comply with the spirit and intent of this section. New trees to be provided pursuant to this section shall conform to the provisions of subsection 4a below.

3. Landscaping of Unscreened Parking Areas:

a. Where the provision of off-street parking for five or more vehicles on a given lot is required, the following shall apply:

(1) Parking lots shall have landscaped islands at the ends of parking rows to facilitate movement of traffic and to break large areas of parking space.

(2) A minimum of three percent of the space provided for vehicular circulation such as driveways, driveway easements, or open parking areas shall be in landscaping which shall be evenly distributed throughout. Long rows of parking spaces shall be interrupted by a landscape break. The minimum dimensions of the landscape shall cover a surface area of at least one square yard and the landscaping shall be protected from vehicular damage by some form of wheel guard.

b. Where the provision of off-street parking for 20 or more vehicles on a given lot is required, there shall be landscaped open space within the perimeter of the parking area or areas, in the minimum amount of 12 square feet for each parking space, which shall be so located that no parking space is more than 120 feet from a portion of the landscaped open space required by this section. The required landscaped open space need not be contiguous, but there shall be at least one tree in each separate area.

c. When parking areas project into the front yard, the remaining yard shall be landscaped to provide partial screening of the parking area. When parking areas project into exterior side yards, the remaining yard and the setback area shall be landscaped to provide partial screening of the parking area. Landscaping shall include plantings and berms not exceeding 30 inches in height. Tree limbs in said plantings shall have a clearance of eight feet above grade. Landscaping in such yards shall include trees placed not less than one tree for each 50 feet of frontage.

d. Trees required by this section shall be included in computing any number required by subparagraph 2 above.

4. Specifications:

Unless otherwise specified, all required landscaping shall conform to the following provisions:

a. Any tree required to be planted by this section shall have a minimum trunk diameter (measuring 12 inches above ground level) of not less than two inches. All such trees as required shall be maintained in a healthy condition by the owner unless otherwise specified. They shall not be pruned, except to remove dead wood, in such a manner as to prevent growth to a height of at least 15 feet or to reduce existing height below 15 feet. Where new tree plantings are otherwise required, existing trees having a height of at least 10 feet may be counted as required trees if the earth under their branches remains as a landscaped area as defined under subsection 1 of this section.

b. Landscaping shall primarily consist of ground cover, ferns, trees, shrubs, or other living plants and with sufficient permanent irrigation installation to properly maintain all vegetation. Decorative design elements such as fountains, pools, benches, sculptures, planters, and similar elements may be placed within the area.

c. Spacing of shrubs refers to the distance between the centers of the plants. Where not intended as screening, such spacing shall generally be equal to the first numeral of the planting height, i.e., 3 feet 4 inch shrub = 3 feet on center spacing. However, narrower, upright plants shall be spaced closer. Where such shrubs are intended as screening, spacing shall be in such manner so as to be sight obscuring.

d. All shrubs and trees shall be at least 10 feet from geothermal conduit lines and drain basins and five feet from other underground utilities. All shrubs and trees shall be no closer than three feet from the sidewalk.

5. Installation - Landscaping, including trees, shall be installed prior to occupancy. Where compliance with the preceding sentence is not possible because of the season of the year, the Committee may grant an appropriate delay provided such delay shall not exceed six months.

I. MAINTENANCE

The owner of any tract in this development must at all times keep the premises, buildings, improvements, landscaping, and appurtenances in a safe, clean, wholesome condition, and comply in all respects with all government health policy requirements; and any owner shall remove, at his own expense, any rubbish of any character whatsoever which may accumulate on said tract.

J. SIGN STANDARDS

It is intended that all signing or advertising devices of any kind shall be compatible with the park-like character of the industrial development by utilizing good graphic methods and aesthetic judgment. The control and erection of signs upon buildings and premises shall be at the discretion of the Committee. No billboards, signs, or other advertising devices of any character shall be erected, posted, painted, displayed, or permitted upon any part of the building or premises without the prior written approval of the Committee. A scale drawing in color of any sign, trademark or advertising device to be used on the premises shall be submitted in duplicate for approval by the Committee.

In general, signs may be sized to be reasonably visible from adjacent streets, but in scale with the building or area where installed. Signs shall not be intermittent or moving, and shall not pertain to anything or activity other than those on the same premises.

K. UTILITIES

All secondary electrical service lines and telephone lines to buildings shall be underground. Transformers and switches placed above grade shall be screened from view with landscaping. Expenses for underground service and landscaping shall be born by the property owner. The property owner shall obtain and submit to the Committee as-built plans showing location of underground utilities on his property.

L. SPECULATIVE PURCHASES

These sites are being sold by City with the expectation that the purchaser will, in a timely manner, construct a building and improve the lot according to the approved plans. Building permits for such construction and improvement must be secured within eighteen (18) months of the closing date of the purchase of the site and construction must be completed within 36 months of the closing date, or City may, at its option, repurchase the land from the purchaser for the principal paid to the date of the exercise of said option on the originally agreed-to purchase price.

M. POTENTIAL FUTURE LIABILITY

In the event that the Fire Chief of the City of Klamath Falls determines that a particular site requires an additional fire hydrant(s) and water mains appurtenant thereto, the landowner or tenant agrees to have such hydrant and mains installed at his expense.

A. ARCHITECTURAL CONTROL COMMITTEE

In order to achieve a comprehensive review of the design and construction of improvements in the College Industrial Park and assure consistent interpretation and application of these covenants with the Campus Planned Unit Development Standards, an Architectural Control Committee consisting of the members of the City of Klamath Falls Planning Commission is hereby established.

It is the intent of these covenants, that these covenants be applied by the Committee in conjunction with the application for a conditional use permit in the CIP area of the Campus P.U.D., and that where there is a conflict or an inconsistency between provisions of the P.U.D. standards and these covenants, the Committee's/Commission's resolution be final. Further, it is not the intent of this provision to enable any person to appeal a Committee decision to the Common Council of the City as is the case for a conditional use permit request.

B. PROCEDURE AND POWERS

1. Except as otherwise provided herein, a majority of the members of the Committee shall have power to act on behalf of the Committee without the necessity of a meeting and without the necessity of consulting the remaining members of the Committee. The Committee shall act only by written instrument setting forth the action taken and signed by the members of the Committee consenting to such action. The Committee may enact procedural rules not in conflict with the provisions of these covenants.
2. The Committee shall have the authority to carry out and to enforce by appropriate suit in law or equity the provisions of these covenants.
3. The Committee may vary any quantitative provision contained herein, for which more specific variance authority is not provided elsewhere, by up to 10%.
4. When and if a property owner is found to be in violation of the covenants as herein described, he shall be given written notice of the deficiency by the Committee and given thirty (30) days to make any necessary corrections. If the violation persists beyond the thirty (30) day period, the Committee shall have the authority to correct the condition at the owner's expense and to take such legal action as it deems appropriate.

III.

These covenants are to run with the land and shall be binding on all parties and all persons claiming under them for a period of 15 years from the date these covenants are recorded, after which time these covenants shall be automatically extended for a successive period of ten (10) years, unless an instrument signed by a majority of the then owners of the lots has been recorded, agreeing to change these covenants in whole or in part.

Invalidation of any portion of these covenants shall in no way affect the remainder of these covenants, which shall remain in full force and effect.

These covenants shall bind and enure to the benefit of, and be enforceable by suit for injunction or for damages by the owner or owners of any of the above described lands, each of their legal representatives, heirs, successors or assigns. Failure to enforce any of such covenants shall in no event be deemed a waiver of the right to do so thereafter.

Should suit or action be instituted to enforce any of the covenants after written demand for the discontinuance of a violation thereof, and any failure to do so, then, whether said suit be reduced to decree or not, the owner seeking to

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enforce or to restrain any such violation shall be entitled to have and recover from such defendant or defendants, in addition to the costs of disbursements allowed by law, such sum as the Court may adjudge reasonable as an attorney fee in such suit or action.

IN WITNESS WHEREOF, the City of Klamath Falls has, by its duly authorized officers, hereunto set its hand this 10th day of August, 1979.

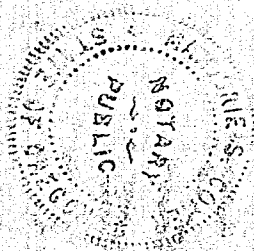
CITY OF KLAMATH FALLS

By: George C. Flitcraft Mayor

Attest: [Signature] Recorder

On this 10th day of August, 1979, before me appeared George Flitcraft and Harold Derrah both to me personally known, who being duly sworn, did say that he the said George Flitcraft is the Mayor, and he the said Harold Derrah is the Recorder of the within named City and that the said instrument was signed and sealed in behalf of said City by authority of its Common Council, and George Flitcraft and Harold Derrah acknowledged said instrument to be the free act and deed of said City.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed by official seal the day and year last above written.



Marion L. Comer
NOTARY PUBLIC OR OREGON
My Commission Expires: 11/20/82

After recording, return to City of Klamath Falls, P. O. Box 237, Klamath Falls, OR 97601

STATE OF OREGON, COUNTY OF KLAMATH, ss.

Filed for record at request of City of Klamath Falls,

this 10th day of August A. D. 1979 at 4:45 clock P. M.

fully recorded in Vol. M79, of Deeds on Page 19167

Wm D. MILNE, County Clerk

By: Bernetha [Signature]

Fee \$24.50