

NON-DISTURBANCE, ATTORNMENT & SUBORDINATION
AGREEMENT
(Leasehold Mortgage)

THIS AGREEMENT, made this 27th day of July, 1997, between Clyde A. Collins & Linda J. Collins, an individual, whose address is 9040 Highway 140 East, Klamath Falls, OR 97603, ("Lessor"), and PacPizza, LLC, a Delaware limited liability company, whose address is 2000 Crow Canyon Place, San Ramon, California 94583-1354 ("Proposed Lessee"), and Texas Commerce Bank National Association, a national banking institution, acting as agent for certain financial institutions (collectively, "lenders") extending credit to Proposed Lessee, whose address is 712 West Main Street, Houston, Texas 77002 ("Mortgagee").

WITNESSETH:

WHEREAS, Proposed Lessee has entered into an Asset Sale Agreement dated June 6, 1997, with PIZZA HUT OF OREGON, INC. (hereinafter collectively referred to as "Pizza Hut") for purchase of 149 Pizza Hut Restaurants ("Purchase") and, specifically, the transfer of Pizza Hut's leasehold interest in and to that certain Lease Agreement dated January 6, 1989 ("Lease"), by and between Lessor and Pizza Hut covering the property and improvements located at 3650 S. 6th Street, Klamath Falls, Oregon ("leasehold estate"); and,

WHEREAS, as a condition to the Purchase, Proposed Lessee must obtain satisfactory financing; and,

WHEREAS, Mortgagee has agreed to fund the Purchase provided Proposed Lessee obtains Lessor's acknowledgment and consent to the lien of the leasehold mortgage in the amount of \$ 31 Million Dollars and, further provided that Lessor agrees that Mortgagee may assume Proposed Lessee's leasehold estate in the event of foreclosure under the leasehold mortgage.

NOW, THEREFORE, in consideration of the promises and the mutual covenants and agreements contained, the parties agree as follows:

1. Upon completion of the Purchase, Lessor hereby acknowledges and consents to the lien of the leasehold mortgage dated August 6, 1997 which will be recorded in the office of the KLAMATH County Register of Deeds ("Mortgage") and which shall be secured by the Proposed Lessee's leasehold interest in and to the property described in Exhibit "A" attached hereto ("leased premises").

2. Lessor will use reasonable, good-faith efforts to provide Mortgagee with written notice of any default or alleged default by Proposed Lessee under the Lease, concurrently with any written notice sent to Proposed Lessee as required under the terms of the Lease. Mortgagee shall have the right, but not the obligation, to cure any default within the curative period Proposed Lessee is allowed under the terms of the Lease.

3. Lessor hereby waives all right, title and interest, if any, whether statutory or contractual which Lessor may now or hereafter claim in respect of Proposed Lessee's furniture, fixtures and equipment and Lessor subordinates all right, title and interest in respect of Proposed Lessee's leasehold improvements to the lien of Mortgage. Notwithstanding the foregoing, Lessor acknowledges and agrees that it has no interest in and to Proposed Lessee's personal property, fixtures and equipment, whether or not trademarked, including Proposed Lessee's signage used in connection with a Pizza Hut system restaurant ("trade fixtures"). Further, Lessor, Proposed Lessee and Mortgagee acknowledge and agree that any sale of the trade fixtures, whether upon foreclosure or otherwise, is subject to the terms of the Franchise Agreement between Proposed Lessee, as Franchisee, and Pizza Hut, Inc. as Franchisor.

4. In the event of foreclosure under the Mortgage, Lessor agrees to recognize and attorn to Mortgagee provided that Mortgagee agrees to cure all outstanding defaults, if any, under the Lease. Lessor further agrees not to disturb Proposed Lessee's leasehold estate, including Mortgagee's security interest relating thereto, so long as there are no defaults under the terms of the Lease (which remain uncured beyond the expiration of applicable grace or cure periods). Notwithstanding the foregoing, Mortgagee, its agents, employees, successors and assigns, will not have the right to use or occupy the leased premises for the purpose of operating a Pizza Hut restaurant without the express written consent of Pizza Hut, Inc., in its sole discretion.

5. All insurance proceeds and condemnation awards will be applied as provided by the Lease. Lessor and Proposed Lessee will provide Mortgagee with written notice of any and all casualty losses and any threatened or proposed condemnation actions upon their receipt of notice (whether oral or written) of such actions and/or occurrences.

6. Neither Lessor nor Proposed Lessee will, without the prior written consent of Mortgagee, which consent will not be unreasonably withheld or delayed: a) modify the Lease or any extension or any renewal thereof in such a way so as to increase or accelerate rent payments, shorten the original term, or change any renewal option; b) terminate the Lease except as provided by its terms; or, c) tender or accept surrender of the Lease or make prepayment of rent in excess of one month thereunder.

7. If the Lease is terminated for any reason in accordance with the provisions of the Lease and the terms of this Agreement, the Mortgage also shall automatically terminate as to the leased premises. The parties agree that no further documentation will be required to effectuate this provision.

8. This Agreement shall be filed of record in the appropriate recording office at the time the Mortgage and related security documents are filed. All parties shall promptly receive a copy of this Agreement upon full execution as well as a file-stamped copy of the same.

9. Lessor's representations hereunder are specifically contingent upon receipt of adequate legal documentation evidencing that Proposed Lessee has consummated the Purchase and has taken assignment to the Lease from Pizza Hut.

10. All notices required hereunder or under the Lease shall be in writing and shall be sent by the United States Mail (registered or certified, return receipt requested, postage prepaid) or sent by receipted overnight delivery service and addressed to the parties as follows:

If to Lessor: 9040 Highway 140 East
Klamath Falls, OR 97603

If to Proposed Lessee: 2000 Crow Canyon Place
San Ramon, CA 94583-1384
Attn: Michael D. Long

If to Mortgagee: 712 West Main Street
Houston, TX 77002
Attn: John C. Sarvadi

11. The provisions of this Agreement shall bind and inure to the benefit of the parties hereto, their heirs, executors, administrators, successors and assigns.

12. This Agreement shall be self-operative and effective without the execution of any further instrument on the part of any party hereto.

13. The governing law for this Agreement shall be as set forth in the Lease.

14. This Agreement may be executed in counterparts, each of which shall be deemed to be an original and all of which together shall constitute one and the same instrument.

15. This Agreement may be amended, supplemented or otherwise modified only by a written instrument duly executed by all of the parties hereto.

16. If any provision or provisions of this Agreement, or any portion thereof, is invalid or unenforceable pursuant to a final determination of any court of competent jurisdiction or as a result of future legislative action, such determination or action will be construed consistent with the intent of the parties hereto so as (whenever possible) not to affect the validity or enforceability hereof and will not affect the validity or effect of any other portion hereof which shall remain in full force and effect.

17. THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE SUBSTANTIVE LAWS OF THE STATE OF OREGON, WITHOUT REGARD TO PRINCIPLES OF CONFLICTS OF LAWS.

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed the day and year first above written.

WITNESS:

By [Signature]

Clyde A. Collins

By [Signature]

WITNESS:

By [Signature]

Linda J. Collins

By [Signature]
"LESSOR"

ATTEST:

By [Signature]
Name: KARA NORDSTROM
Title: BANKING OFFICER

TEXAS COMMERCE BANK
NATIONAL ASSOCIATION, as Agent

By [Signature]
Name: John C. Sarvadi
Title: Vice President
"MORTGAGEE"

27857

WITNESS:

PACPIZZA, LLC

By Anne T. Armstrong

Name: ANNE T. ARMSTRONG

Title: LEGAL ASSISTANT

By Michael C. Long

Name: Michael C. Long

Title: Manager

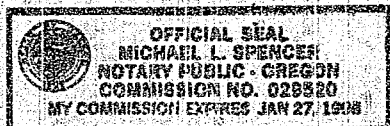
"PROPOSED LESSEE"

STATE OF Oregon }
COUNTY OF Clatsop } s.s.:
PERSONAL

On 7/27, 1997, before me, the undersigned, a Notary Public in and for said state and county, personally appeared Andre & Linda Olson, known to me to be the person who executed the within instrument, and acknowledged to me that he/she executed the within instrument of his/her own free will.

WITNESS my hand and official seal the day and year first above written.

My Appointment Expires:



Michael Spencer
Oregon Notary Public

STATE OF _____ }
COUNTY OF _____ } s.s.:
CORPORATE

On _____, 1997, before me, the undersigned, a Notary Public in and for said state and county, personally appeared _____, known to me to be the _____ and _____ of the corporation that executed the within instrument, known to me to be the persons who executed the within instrument on behalf of the corporation therein named, and acknowledged to me that such corporation executed the within instrument pursuant to its bylaws or a resolution of its Board of Directors.

WITNESS my hand and official seal the day and year first above written.

My Appointment Expires:

_____, Notary Public

STATE OF _____ }
COUNTY OF _____ } s.s.:
PARTNERSHIP

On _____, 1997, before me, the undersigned, a Notary Public in and for said state and county, personally appeared _____, known to me to be the _____ of the partnership that executed the within instrument, known to me to be the person who executed the within instrument on behalf of the partnership therein named, and acknowledged to me that such partnership executed the within instrument pursuant to its _____.

WITNESS my hand and official seal the day and year first above written.

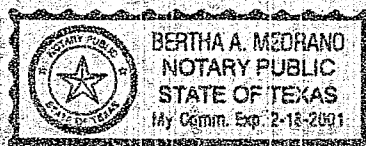
My Appointment Expires:

_____, Notary Public

STATE OF Texas
COUNTY OF Harris

} s.s.

This instrument was acknowledged before me on August 18, 1997, by John C. Sarvadi, the duly authorized Vice-President of Texas Commerce Bank National Association, a national banking association, on behalf of such banking association.



Bertha A. Medrano
Notary Public in and for
The State of TEXAS

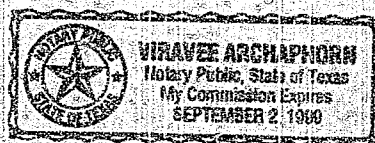
STATE OF Texas
COUNTY OF Dallas

} s.s.

On August 13, 1997, before me, the undersigned, a Notary Public in and for said state and county, personally appeared Michael C. Long, known to me to be the Manager of the limited liability company that executed the within instrument, known to me to be the person who executed the within instrument on behalf of the company therein named, and acknowledged to me that such company executed the within instrument pursuant to its articles or Operating Agreement.

WITNESS my hand and official seal the day and year first above written.

My Appointment Expires:



Viravee Archaphorn
Notary Public

#102022, 3650 South 6th Street, Klamath Falls, Klamath County, Oregon, which is more legally described as:

Approximately 4,833 square feet of leased area located in the Town and Country Shopping Center, Klamath Falls, Oregon, which shopping center is more fully described in Exhibit "A-1" hereto. Situated in Section 3, Township 39 South, Range 9 East Willamette Meridian, Klamath County, Oregon, and more particularly located at (unspecified) South Sixth Street, Klamath Falls, Oregon, designated as space D-1A on Exhibit "A-1" hereto.

Pursuant to Chicago Title Insurance Company's Commitment No. 39211 for Title Insurance dated August 27, 1996, the property may be legally described as follows:

A portion of the NE 1/4 SE 1/4 of Section 3, Township 39 South, Range 9 East of the Willamette Meridian, Klamath County, Oregon, more particularly described as follows:

Beginning at an iron pin on the South right-of-way line of South Sixth Street as presently located and constructed, which bears South 0 degrees 22' 15" East a distance of 48.5 feet from the Northwest corner of said NE 1/4 SE 1/4; thence Easterly, along said right-of-way line a distance of 142.5 feet to a point; thence South at right angles to said right-of-way line a distance of 460.0 feet to a point; thence West, parallel to said right-of-way line a distance of 142.5 feet, more or less, to the West line of said NE 1/4 SE 1/4; thence North along said West line a distance of 460.0 feet to the point of beginning.

PARCEL 2

A tract of land situated in the NE 1/4 SE 1/4 of Section 3, Township 39 South, Range 9 East of the Willamette Meridian, Klamath County, Oregon, more particularly described as follows:

Beginning at a 1/2 inch iron pin which bears South 89 degrees 52' West a distance of 745.73 feet and South 0 degrees 20'55" East a distance of 220.16 feet from the brass cap monument marking the East quarter corner of Section 3, Township 39 South, Range 9 East of the Willamette Meridian, Klamath County, Oregon, said beginning point also being on the South line of tract described as Parcel #1 in Deed from Klamath County School District to Klamath County, recorded in Volume 295 at page 135, Deed Records of Klamath County, Oregon; thence continuing from said beginning point South 0 degrees 20'55" East along a line parallel to and 4.0 feet distant Easterly, when measured at right angles to, from the existing Easterly wall of the Payless Drug Store Building as the same is presently located and constructed a distance of 402.04 feet to a 1/2 inch iron pipe; thence South 53 degrees 42' 15" West a distance of 304.44 feet, more or less, to a 1/2 inch iron pipe on the Northeasterly boundary of the O. C. & E. Railroad right-of-way as the same is presently located and constructed, and from which point the aforesaid monument marking the East quarter corner of said Section 3 bears North 50 degrees 50'20" East a distance of 1273.34 feet; thence Northwesterly along said Northeasterly boundary of the O. C. & East Railroad right-of-way a distance of 299.5 feet, more or less to the West line of said NE 1/4 SE 1/4; thence North along said West line a distance of 186.5 feet, more or less,

to a point on said West line which bears South 0 degrees 22'15" East a distance of 460.0 feet from the Southerly boundary line of the relocated right-of-way of the Klamath Falls-Lakeview Highway; thence easterly, parallel with said highway right-of-way line a distance of 142.5 feet to a point; thence North, parallel with the West line of said NE 1/4 SE 1/4, a distance of 460.0 feet, more or less, to the Southerly boundary of said relocated highway right-of-way; thence Easterly along said relocated right-of-way line a distance of 387.7 feet, more or less, to a point which bears North 0 degrees 20'55" West from the point of beginning; thence South 0 degrees 20'55" East a distance of 174.66 feet, more or less, to the point of beginning

A parcel of land lying in the NE 1/4 SE 1/4 of Section 3, Township 39 South, Range 9 East of the Willamette Meridian, Klamath County, Oregon, more particularly described as follows:

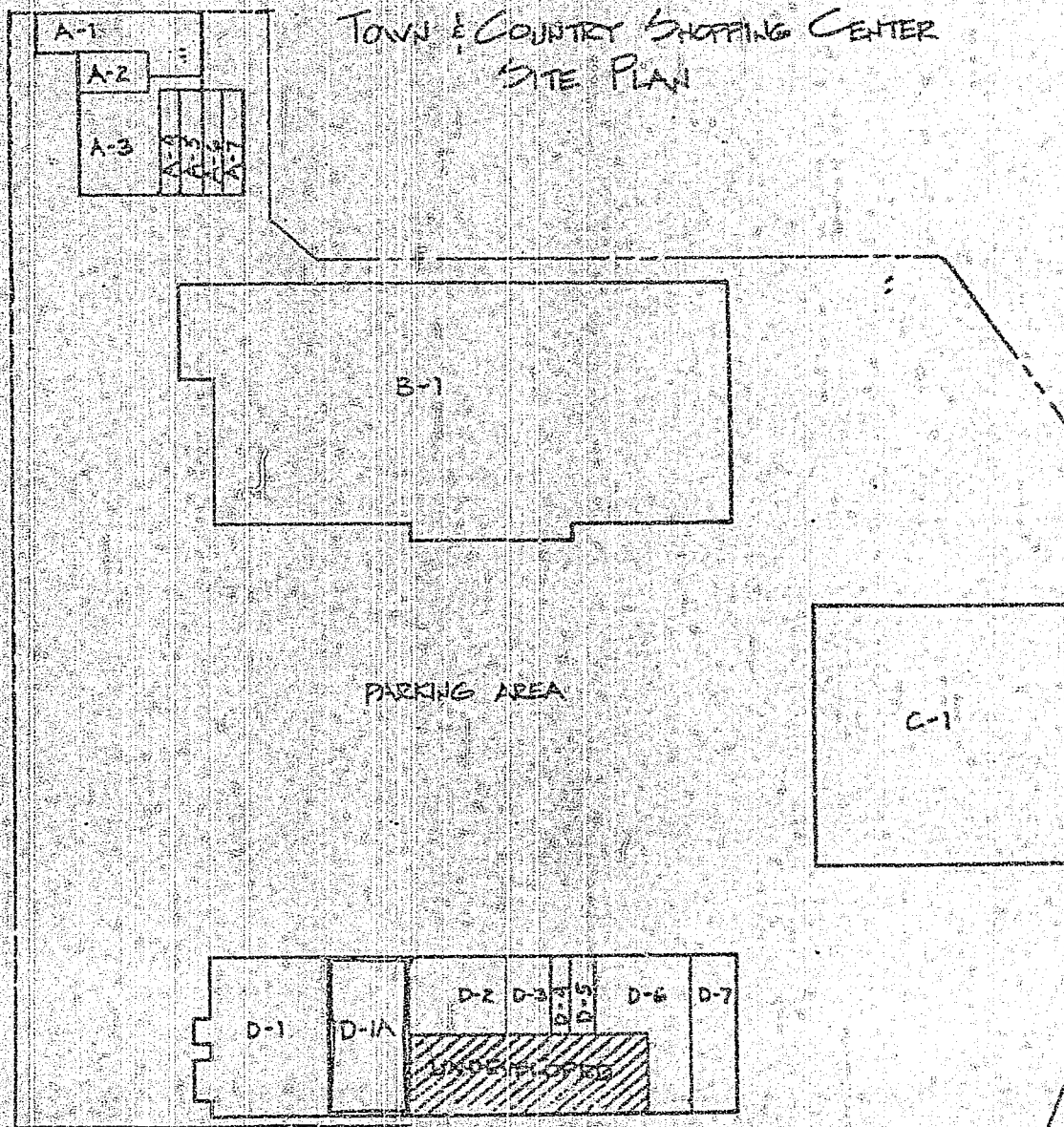
Beginning at a point which bears South 01 degrees 14' East a distance of 55.03 feet and South 89 degrees 14' West a distance of 580.0 feet from the quarter section corner common to Sections 2 and 3, said Township and Range, said point being on the South right-of-way line of South Sixth Street as presently located and constructed; thence continuing South 89 degrees 14' West along said South right-of-way line a distance of 129.4 feet to the Northwest corner of this description; thence South 0 degrees 18' East a distance of 137.0 feet to an iron pin; thence North 89 degrees 14' East a distance of 131.9 feet to an iron pin; thence North 01 degrees 14' West a distance of 137.0 feet, more or less, to the point of beginning, EXCEPTING a strip of land 8 feet wide running North and South on the West side of said parcel reserved for sidewalk purposes.

Subject to easements and restrictions of record.

27862

TOWN & COUNTRY SHOPPING CENTER
SITE PLAN

SOUTH SIXTH STREET



SCALE: 1"=100'-0"

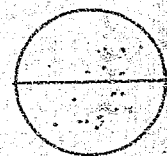
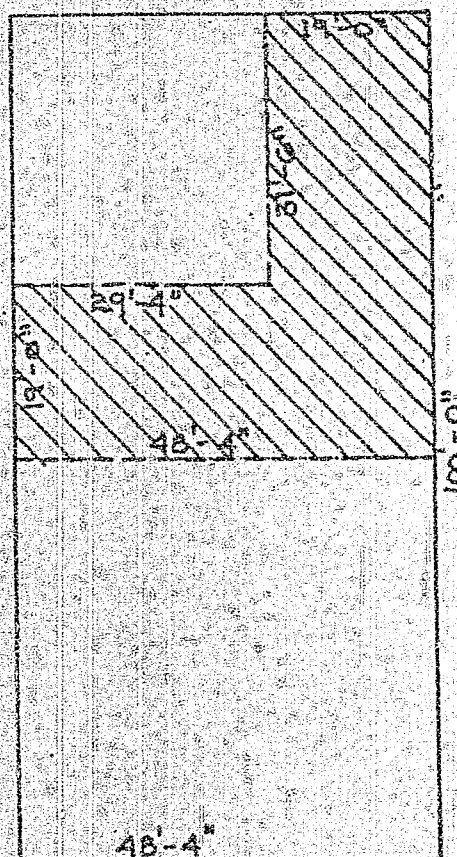
EXHIBIT A-1
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EXHIBIT A-1
TENANT SPACE FLOOR PLAN

27863



KEY:
 SECOND FLOOR SPACE RESERVED BY LANDLORD FOR FUTURE DEVELOPMENT.

EXHIBIT A-1 Page 2 of 2
 #102022

STATE OF OREGON, COUNTY OF KLAMATH ss.

Filed for record at request of Vinson & Elkins L.L.P. the 26th day
 of August A.D. 19 97 at 10:27 o'clock A.M., and duly recorded in Vol. M97
 of Mortgages on Page 27853

FEE \$60.00

By Bernetha G. Leitch, County Clerk
Kathleen Ross