

WJC- 56329

Vol M04 Page 40563

State of Oregon, County of Klamath
 Recorded 06/23/2004 2.53 P m
 Vol M04 Pg 40563-69
 Linda Smith, County Clerk
 Fee \$ 51.00 # of Pgs 7

When recorded return to:
 Christopher M. McNichol
 Gust Rosenfeld P.L.C.
 201 E. Washington, Suite 800
 Phoenix, Arizona 85004-2327

Klamath Falls, OR #1772-02

RESTRICTIVE COVENANT

THIS RESTRICTIVE COVENANT ("Covenant") is dated as of the 15th day of June, 2004, by **WAL-MART REAL ESTATE BUSINESS TRUST**, a Delaware statutory trust, of 2001 S.E. Tenth Street, Bentonville, Arkansas 72716-0550 ("Wal-Mart"), and shall be effective upon recording in the real estate records of Klamath County, Oregon.

WITNESSETH:

WHEREAS, Wal-Mart is the owner of the "Wal-Mart Tract" as shown on the depiction attached hereto as Exhibit A hereof, said tract being legally described on Exhibit B attached hereto;

WHEREAS, Wal-Mart is the owner of the "Wal-Mart Expansion Tract" as shown on the depiction attached hereto as Exhibit A hereof, said tract being legally described on Exhibit C attached hereto;

WHEREAS, the Wal-Mart Tract is contiguous to the Wal-Mart Expansion Tract (collectively, the "Tracts"), and Wal-Mart desires to expand its existing store located on the Wal-Mart Tract onto the Wal-Mart Expansion Tract; and

WHEREAS, in order to allow such expansion, the City of Klamath Falls (the "City") has requested that a restrictive covenant be imposed on the Tracts to prohibits the separate sale of either Tract.

NOW, THEREFORE, Wal-Mart hereby covenants as follows:

1. Restriction. The Wal-Mart Tract and the Wal-Mart Expansion Tract shall not hereinafter be voluntarily conveyed separate from one another. The intent of this Covenant is that neither Tract can be voluntarily sold and conveyed by Wal-Mart, or any successor in interest, separately from the other Tract, but may be sold and conveyed together and liens and easements may be separately taken and given without restriction.

5100 am

2. Breach. In the event of breach or threatened breach of this Covenant, the City and/or the Klamath County Building Department (may enjoin, abate or remedy by appropriate proceedings against any owner of the Tracts to which such violation applies.

3. Rights of Successors. This Covenant and the obligations hereunder shall create mutual benefits and servitudes running with the land. This Covenant shall bind and inure to the benefit of the parties hereto, their respective heirs, representatives, lessees, successors and assigns. The singular number includes the plural and the masculine gender includes the feminine and neuter.

4. Modification. Except as otherwise provided for herein, this Covenant (including exhibits) may be modified or canceled only by the mutual agreement of the City, the Klamath County Building Department and Wal-Mart.

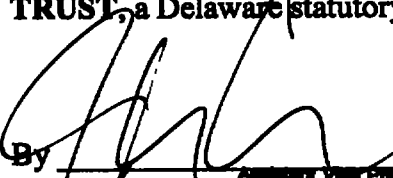
5. Non-Merger. So long as Wal-Mart or its affiliate is owner or lessee of the Wal-Mart Tract and the Wal-Mart Expansion Tract, this Covenant shall not be subject to the doctrine of merger.

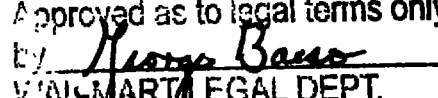
6. Duration. This Covenant shall automatically terminate and be of no further force or effect upon and after the earlier of (i) the recordation of a plat of record which combines the Wal-Mart Tract and the Wal-Mart Expansion Tract into one aggregate property, or (ii) the recorded agreement of the City and Wal-Mart releasing this Covenant of record.

7. Headings. The headings herein are inserted only as a matter of convenience and for reference and in no way define, limit or describe the scope or intent of this document nor in any way affect the terms and provisions hereof.

IN WITNESS WHEREOF, the parties have executed this Covenant the day and year first written above.

WAL-MART REAL ESTATE BUSINESS
TRUST, a Delaware statutory trust

By 
Its JOHN E. CLARKE
"Wal-Mart" MBA

Approved as to legal terms only
by 
WALMART LEGAL DEPT.
Date: 6-15-04

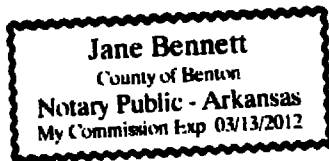
State of Arkansas

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County of Benton

The foregoing instrument was acknowledged before me this 16th day of June, 2004, by John E. Clarke, a Assistant Vice President of Wal-Mart Real Estate Business Trust, a Delaware statutory trust, on behalf of the trust.

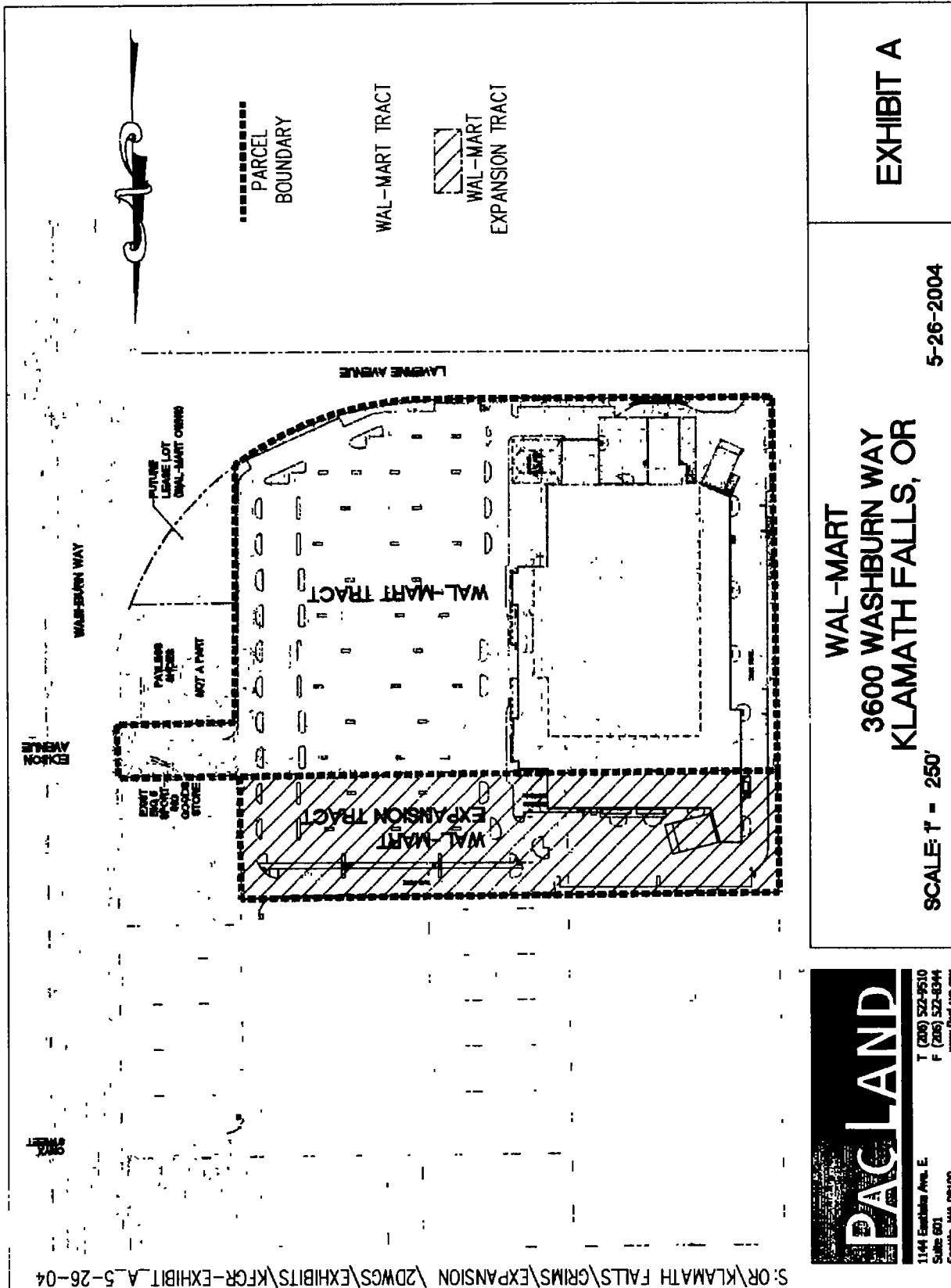
(Seal and Expiration Date)



Jane Bennett
Notary Public

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EXHIBIT A
(Depiction of the Tracts)



PAC LAND

1144 Eastlake Ave. E.
Suite 601
Seaside, WA 98139

T (206) 522-9510
F (206) 522-4344
www.PacLand.com

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EXHIBIT B

(Wal-Mart Tract legal description)

**PARCEL 1 OF LAND PARTITION NO. 23-03, KLAMATH COUNTY PLAT RECORDS,
RECORDED APRIL 23, 2004 AND LOCATED IN THE NORTHEAST QUARTER OF
SECTION 9, TOWNSHIP 39 SOUTH, RANGE 9 EAST, WILLAMETTE MERIDIAN,
KLAMATH COUNTY, OREGON.**

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EXHIBIT C

(Wal-Mart Expansion Tract legal description)

PARCEL 1 OF MAJOR LAND PARTITION 23-91, KLAMATH COUNTY PLAT RECORDS, RECORDED APRIL 24, 1992 AND LOCATED IN THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 9, TOWNSHIP 39 SOUTH, RANGE 9 EAST OF WILLAMETTE MERIDIAN, KLAMATH COUNTY, OREGON.