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TimberMill Shores

Declarations of Covenants, Conditions and Restrictions For

TimberMill Shores

TimberMill Shores Inc.
May, 2006

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AFTER RECORDING, RETURN TO:

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**RESTATED DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS OF TIMBERMILL SHORES**

Declarants TimberMill Shores, Inc., an Oregon corporation, and Pine Cone, LLC., an Oregon Limited Liability Company, amend and restate the Declarations of TimberMill Shores recorded June 22, 2001 in Volume M01 at Page 29962 of the Official Records of Klamath County, Oregon. Declarants revoke the said Declarations, the Supplemental Declaration recorded in Volume M05 at page 61837, and the Second Supplemental Declarations recorded in Volume M05 at page 67664 of said records in the entirety and substitute the following declarations in place thereof. These Restated Declarations shall apply to all of the real property included in Tract 1430 TimberMill Shores, City of Klamath Falls, Klamath County, Oregon, and to the land described on Exhibit A, attached hereto and incorporated herein. All of said land shall be held, improved, conveyed, hypothecated, encumbered, used, occupied, and administered subject to the Restated Declarations of TimberMill. These Restated Declarations shall run with the real property and shall be binding on all parties having or acquiring any right, title, or interest in the described properties or any part thereof and shall inure to the benefit of each owner thereof.

1. **Name.** The name of the development shall be TimberMill Shores.
2. **Location.** The development is located in Klamath County, Oregon within the boundaries of the incorporated city of Klamath Falls.
3. **Legal Description.** The legal description of the real property (the "Property") subject to these Declarations is set forth on Exhibit "A."
4. **Rights reserved to Declarants.** The Declarants reserve unto themselves, their successors and assigns, the right to plan the development and to approve the uses and development on the Property. This right reserved to the Declarants shall include, but is not limited to:
 - (1) The right to act as the Architectural Review Committee described below;
 - (2) The right to determine the layout of roads, sewers, utilities, and other improvements for the common benefit of the users of the land;
 - (3) The right to determine the initial primary uses for which development may occur on the land;
 - (4) The right to control the design of each improvement on the land as described

herein below, including the right to restrict heights of buildings as may be appropriate for solar access and visual access of the lakefront that adjoins the Property;

(5) The right to change the development plan to accommodate various building types and uses that fit within the design standards of TimberMill Shores;

(6) The right to construct upon the land such streets, utilities, sidewalks, parking areas, and other features for shared use of the occupants of the Property and the right to construct such improvements as the Declarants may deem appropriate for use by the Declarants for lease or letting to other parties, or for resale by the Declarants;

(7) The right to form a not-for-profit corporation ("Association"), of which each land owner will be a member, for the purpose of maintaining and improving the shared elements and developments on the Property, and for the purpose of raising funds for promotion, improvement, and maintenance activities. The Declarants shall act as the Directors of said Association until such time as 75% of the land area has been conveyed or leased to third parties. The Declarants, acting as the Board of Directors of said Association, shall have the right to establish the charges, dues, or assessments that each party shall pay to the Association. Said charges and assessments shall be determined as provided in Bylaws provided by the Declarants at the time the Association is formed and as, thereafter, may be determined by the Board of Directors of the Association;

(8) The Declarants may convey to said Association such portions of the Property as the Declarants may deem appropriate for common or shared use, and the Association shall, thereafter, bear the responsibility for improving and maintaining said Property for the purposes for which it was conveyed to the Association;

(9) The Declarants shall provide in the Bylaws an allocation of votes attributable to each portion or parcel of the Property leased or conveyed to a third party. Said allocation of votes may be based on the square footage of the Property, or on the assessed value of each improvement on the Property, or such other objective criteria as the Declarants may determine;

(10) The Declarants shall, for as long as Declarants serve as the Board of Directors of the Association, maintain a budget for the Association, which budget may include reserve accounts or placement of common and shared elements and for such other costs or improvements as the Board of Directors of the Association deem appropriate; and

(11) After each parcel is conveyed or leased by the Declarants to a third party, said parcel shall be liable for a pro rata share of the expenses of the Association, including reserve accounts and capital construction and improvements to the elements subject to the Association's obligation to maintain and improve them.

5. Amendment of Declarations. These Declarations may be amended if approved by not less than 75% of the owners of the Property with ownership determined on a square-footage basis.

6. Contemplated Improvements. The Declarants do not agree to build any specific improvements and do not choose to limit Declarants' rights to add improvements not

described in these Declarations.

1. **Purpose.** The initial Declarations of TimberMill Shores provide architectural building design standards that create a harmonious environment of design excellence in the development of the TimberMill Shores property. The Covenants, Conditions and Restrictions for TimberMill Shores control the quality of the site design as well establish a sound basis for architectural continuity between the buildings. The Declarants' desire that the architectural building design language and other improvements within Tract 1430 reflect the historic use of the Modoc Lumber Co. mill site that comprises TimberMill Shores. The TimberMill Shores development shall have a visual identity that separates it from the core of the City of Klamath Falls while maintaining linkage with the adjacent downtown area and the historic buildings located therein. These Supplemental Declarations provide specific design criteria for guidance of property owners and the Architectural Review Committee established by the Declarations of TimberMill Shores.

2. **Use of the Land.** TimberMill Shores is an urban mixed-use development, and each lot in Tract 1430 TimberMill Shores may be developed for residential, commercial, and other similar uses. No manufacturing or industrial uses, or use of a lot or building for adult business, mortuary, crematory, cemetery or as a resale/thrift store will be allowed within Tract 1430. The City of Klamath Falls Community Development Ordinance, which maybe accessed on the city's website, defines the said uses, and sets forth the City's Development Standards and site plan review process. The City's Development Standards are minimum standards and are supplemented by the Declarations and the Second Supplemental Declarations of TimberMill Shores.

3. **Review Application and Submittal Requirements.** All proposed new developments will require a completed review application and be submitted to TimberMill Shores, Inc. at the P.O. Box address indicated below. The construction application and submittal form are available at the offices of TimberMill Shores located at 404 South 4th Street, Klamath Falls, Oregon 97601 or on-line at www.timbermillshores.com. All prospective owners are highly encouraged to contact TimberMill Shores or the ARC re: questions pertaining to site and building development. Mailing

Contact Info: TimberMill Shores – Rob Shaw
PO Box 257 Klamath Falls, OR 97601
Tel. 541 884-3177
rshaw@qwest.net

Steele Associates Architects – Jeff Wellman or Scott Steele
686 NW York Drive
Bend, OR 97701
Tel. 541 382 9867
jwellman@steele-arch.com or ssteele@steele-arch.com

4. **Review Process and Responsibilities.** It shall be the responsibility of each property owner and/or his agents to read and fully comprehend the Declarations, Covenants and Restrictions (CC&R's) for the TimberMill Shores development. The Declarant's recognize that it may not be commercially reasonable for a lot purchaser to provide final detailed plans and designs to the Committee prior to taking title. Therefore, a lot purchaser may elect, at the lot purchaser's risk, to close the sale of the Property and complete the following plan review process thereafter or

Purchaser may elect to use the following review process prior to closing:

a. **Preliminary Design Review.** The preliminary review process allows the site and building concept to be analyzed at the initial stage where design concerns are more easily addressed and less costly. A conceptual site plan, building plan and building elevation should be provided at this meeting. The prospective landowners are encouraged to attend the preliminary review meeting, as there is great benefit to discuss the intended program with the Architectural Review Committee (ARC) prior to the final review. The preliminary review shall not be deemed as final approval for construction. There will be no fee for the Preliminary Design Review.

b. **Final Design Review.** The applicant shall not submit its site plan to the City of Klamath Falls or seek any other governmental reviews and approvals until such time as the final site plan and building design drawings have been approved by the ARC. Each development application will be reviewed on a case-by-case basis. Final approval is subject to compliance with the design standards as interpreted by the ARC. The final review meetings are closed session; only ARC members, the independent architect consultant and a representative of TimberMill Shores will be present at the meeting. All conditions written by the ARC as a result of the preliminary review must be addressed in the final review submittal. The lot purchaser (applicant) shall provide the following documents to the ARC, prior to the date set for the closing of the sale of the lot:

- Design Review Application Fee and Refund Policy
 - Provide a check made to TimberMill Shores Inc. in the amount equal to \$1/sf of proposed building area, which includes all floors for multi-story buildings with a maximum fee of \$10,000 and a minimum fee of \$2,500. A \$1,500 administration fee will be retained with the balance being refunded to the lot purchaser or applicant upon successful completion of the project and any punch-listed items identified as a result of the ARC's final inspection. The ARC will reserve the right to make partial refunds in cases where non-compliant issues have not been addressed by the owner.
- Completed Application, Submittal to Build Form,
 - Application must be signed by the owner
 - Include current address and phone number on the cover sheet
 - All pages in the application must be completed
- Legal Description of the Property.
- Site Plan (2 copies):
 - the location of the proposed improvements including, but not limited to precise locations of all buildings,
 - grading plan showing existing contours and proposed contours at 2' intervals minimum and on-site drainage/containment systems,
 - Finished Floor Elevation of the first floor of the building
 - property lines, setbacks and easements,
 - utility stub locations and proposed extension locations to the building(s),
 - parking areas and stall layout with accessible parking,
 - sidewalks and pedestrian access areas, retaining walls and decks,
 - site construction materials,

- trash enclosure area,
 - site lighting layout with cut sheet of fixture type,
 - landscape plan with types and locations of existing and new vegetation to be incorporated in the landscaping plan,
 - site signage types and locations, indicate if signs are lit.
 - north arrow
- Conceptual Building Elevations in Color (2 copies)
 - a list of building materials that will be used on the exteriors of the buildings.
 - Drawing scale to be 1/4"=1'-0" or as appropriate to clearly illustrate the building exterior,
 - Exterior building features including but not limited to, exterior lighting, roof, siding, railings, trims, stairways, overhead service doors, etc.
 - Proposed buildings main floor line in relation to the finished grade.
 - Accurate finished grades and existing grades drawn and noted.
- Floor Plans (2 copies)
 - Drawing scale to be 1/4"=1'-0" or as appropriate to clearly illustrate the building floor plan, note the ARC does not intend to dictate the layout of any floor plan submitted for review however, the floor plans will be reviewed for compliance with compatibility with the building elevations and compliance with building entrance and exit locations.
- Roof Plan (2 copies)
 - Drawing scale to be 1/4"=1'-0" or as appropriate to clearly illustrate the building roof plan,
 - Roof mounted HVAC units,
 - Roof mounted accessories and chimneys,
- Samples of exterior building materials and colors including but not limited to exterior paint samples, masonry samples, exterior siding samples, roofing samples and exterior glazing samples. (1 sample each)
- A written description of the intended building uses, and the time at which the lot improvements will be completed.

Within ten (10) days of receipt of said documents, the ARC shall review the documents for completeness. If additional information is required before the review can be completed, the ARC shall so notify the applicant, in writing. The ARC shall take no further action until said complete documentation is received from the applicant. The ARC shall, thereafter, have twenty (20) days to complete its review of the design information provided by the applicant, and it shall provide the applicant with its findings and written decision. The decision may deny the preliminary plans in whole, it may approve the preliminary plans, or it may approve the preliminary plans with conditions of approval. If the preliminary plans are approved with conditions, the applicant shall thereafter, within ten (10) days, advise the ARC of its acceptance of the conditions of approval. If the applicant fails to advise the committee of its acceptance of the conditions, then the application shall be deemed denied and the sale shall be terminated with any earnest money refunded to the applicant and the agreement for the sale and purchase of the lot shall be null and void. If the plans are approved or if the applicant accepts the conditions of approval, the sale of the lot shall be completed as provided in the sale agreement. A copy of the final letter provided the ARC will be sent to the purchaser and the purchasers design and/construction agent(s). The applicant shall make no changes to the parcel until it has received final approval of its detail site plan and design

information from the ARC. Any improvements thereafter constructed shall be constructed in strict conformance with the design approved by the ARC. No changes shall be made without prior written approval of the ARC. The improvements approved by the ARC shall be completed within two years after final approval by the ARC. The time limitation contained in this section may be extended or otherwise modified by agreement between the Applicant and the ARC.

5. **Appeals.** Appeals to the ARC will be considered based on the merit of the request and must be submitted in writing within 14 days of the ARC's written decision.

6. **Enforcement.** As provided by the TimberMill Shores CC&R's, the ARC and/or its representative(s) shall be authorized, upon receipt of an application and submittal to build, to make onsite inspections of the development at any time to monitor the building site and insure the projects compliance with the written conditions of approval and overall TimberMill design guidelines. If a breach of the CC&R's is encountered the breaching party shall be subject to any and all legal ramifications including damages and destruction, removal or the enjoining of any offending improvement or condition. In the event that an owner or his agent fails to comply the ARC and/or its authorized representatives may proceed with enforcement as provided for in these TimberMill Shores CC&R's. Any violation(s) of these CC&R's that are discovered will be forwarded in writing to the owner and/or the owner's agent(s) along with a reasonable timeline to correct the violation(s). In the event the owner fails to comply within this specified time period the ARC and/or its authorized representatives may proceed with enforcement as provided by the TimberMill CC&R's.

7. **Miscellaneous.** The Design Review Application Fee may be changed at any time. If the fees have changed the owner will be required to pay the new scheduled review fee.

8. **Permit Requirements.** The governing jurisdiction of Klamath Falls requires that all necessary permits including but not limited to: City Land Use, City Public Works (erosion control, site construction, etc.) County Building, County Environmental, DEQ and Division of State Lands be obtained prior to any construction work being performed at the site.

9. **Utility Contacts.**

Electric:	Pacific Power Tel. 1-888-221-7070
Water / Sewer:	City of Klamath Falls P O Box 257 Klamath Falls, OR 97601 Tel. (541) 883-5366
Natural Gas:	Avista Utilities 1411 E. Mission Ave. Spokane, WA 99252 Tel. 1-800-227-9187
Telephone:	Qwest

Cable: Tel. 1-800-603-6000
Charter Communications,
300 E. Main St. Klamath Falls, OR 97601
Tel. (541) 884-6880

Fiber optic: Cal Ore
Contact: Robert Hensley
PO Box 847 Dorris, CA 96023
Tel. (530) 397 5200

Geothermal Heat: Contact: Brian Brown
(Consultant) P O Box 563 Ft. Klamath, OR 97626
Tel. (541) 783-3347, Cell 892-8119
bob@cot.net

10. **Site Design Standards**

a. **Site Design Philosophy.** Site plans and site improvements shall reflect the character of TimberMill Shores. Declarants shall work with each landowner to enhance the identity of the use of each lot as part of TimberMill Shores architectural design philosophy. All new development should compliment adjacent existing buildings. Site development shall create visual links and be functional to pedestrian and bicycle paths, and Lake Ewauna. The site design should include courtyards and plazas that provide a continuity of experience between the inside and outside of the building, incorporating furniture and accessories that allow active use of the space. Each lot shall be planned and developed using the Klamath Falls Community Development Ordinance as the base design requirements. The site design standards shown below are supplemental and reinforce the intended design character for TimberMill Shores and shall be followed in addition to the CDO.

- b. **Commercial Service:** (Office, Retail, Mixed Used Office/Retail)
- a. Building Height: 45 feet maximum or a city variance to go higher
 - b. Lot Coverage: Refer to the Klamath Falls CDO
 - c. Setbacks: Front Yard - Minimum: 0 feet along TimberMill Drive and 4th Street.
Side Yard - Minimum: 5 feet
Adjacent to Public Park: 10 feet.
Rear Yard - Minimum: 0 feet, 20 feet from the lake front easement at lots 2,3,5,6 and 7.
 - d. Drive Aisle Width: Two way - 24' minimum
One way - 12' minimum
 - e. Off-Street Parking: Restaurant - 1 space:120sf
Retail - 1 space:250sf
Office - 1 space:300sf
Hotel/Motel - 1 space per guest room / 1 space per 2 employees
Accessible - Per IBC Standards

- f. Parking Stall Size: Standard - 9' x 18' minimum
Compact - 8' x 17' minimum
- g. Compact Parking: A maximum of 30% compact parking is allowed.
- h. Bicycle Parking: 1 space: 20 parking spaces
1 covered space: 10 employees

Note: A 5% reduction in parking may be allowed if a shower facility is incorporated into the building. An additional 5% reduction may be allowed if all bicycle parking is covered.

c. Residential: (Apartment Housing, Mixed Use Residential/Condominium)

- a. Building Height: 45 feet maximum or city variance to go higher
- b. Lot Coverage: Refer to the Klamath Falls CDO
- c. Setbacks: Front Yard - Minimum: 0 feet along TimberMill Drive and 4th Street.
Side Yard - Minimum: 0 feet, Maximum: 5 feet, Adjacent to Public Park: 10 feet.
Rear Yard - Minimum: 0 feet, 20 feet from the lake front easement at lots 2,3,5,6 and 7.
- d. Drive aisle width: Two way - 24' minimum
One way - 12' minimum
- e. Off-Street Parking: Residential - 1 space: unit (space must be covered)
Accessible - Per IBC Standards
- f. Parking Stall Size: Standard - 9' x 18' minimum
Compact - 8' x 17' minimum (30% maximum)
- g. Bicycle Parking: 1 space: 20 parking spaces

d. Public: (Government Office, Health Related Uses)

- a. Building Height: 45 feet maximum or city variance to go higher
- b. Lot Coverage: Refer to the Klamath Falls CDO
- c. Setbacks: Front Yard - Minimum: 0 feet along TimberMill Drive and 4th Street, Maximum: 5 feet, Preferred: 0 feet.
Side Yard - Minimum: 0 feet, Adjacent to Public Park: 10 feet.
Rear Yard - Minimum: 0 feet.
- d. Drive aisle width: Two way - 24' minimum
One way - 12' minimum
- e. Off-Street Parking: Office - 1 space: 300sf
Accessible - Per IBC Standards
- f. Parking Stall Size: Standard - 9' x 18' minimum
Compact - 8' x 17' minimum
- g. Compact Parking: A maximum of 30% compact parking is

- h. **Bicycle Parking:** allowed.
1 space: 20 parking spaces
1 covered space: 10 employees
Note: A 5% reduction in parking may be allowed if a shower facility is incorporated into the building. An additional 5% reduction may be allowed if all bicycle parking is covered.

e. **Adjacent Properties.** Adjacent private properties may not be used for parking areas or staging areas by any contractor or sub-contractor during construction unless otherwise approved by TimberMill Shores or the adjacent property owner's approval. In the event any damage is caused to the adjacent property the property owner and/or the property owner's agent(s) will be held responsible for any restoration of the effected property.

f. **Staging Area and Construction Plan.** Each construction approval submittal shall designate on the site plan an area for construction staging. The staging area shall not negatively impact the adjacent properties or common roadways. Owners will be responsible for the clean up of their site during construction and will be required to put a plan in place to protect shared access drives and roadways.

g. **Parking.** Parking areas shall provide for the necessary parking spaces and stall sizes and contribute to the high-quality design character of TimberMill Shores. Each parking area should be conveniently located, and screened from any primary street frontage (TimberMill Drive, Klamath Avenue and 4th Street), and/or lake frontage by buildings, parking should not be the prominent object on the site. In the event a lot will contain only one building the parking must be screened from the lake or any public way by either landscape, decorative screen wall or a combination of the two. On street parking that occurs at lots 5, 6 and 7 will be provided credit for the on street stalls that abut each lot. All landscape and screen wall buffers are subject to review and approval by the ARC. Parking areas shall be sited on the lots in a manner allowing ready-use of shared parking with adjoining lots and providing ease of pedestrian movement from the parking lot to adjoining businesses. Pedestrian connectivity between and through the internal lots of 9 – 14 shall be addressed when planning the site. At least one paved access from the parking area to the building should be provided. Parking areas should be adjacent to the building, and located at the rear of the lot where buildings are fronting the streets. It is encouraged that adjoining property owners functionally connect their parking lots to allow a shared parking scenario. The landscaping requirements and number of spaces is subject the ARC and City of Klamath Falls review and approval. Each site must meet the parking requirements as set forth in sections 10b-d and 10g of the TimberMill Shores CC&R's including but not limited to stall sizes, ratios and parking aisle widths. The parking standards indicated in this section are considered a minimum, if the Owner requires parking counts that are less than the standard a variance will be required. The maximum number of parking spaces allowed shall be in conformance with the Klamath Falls CDO. In the mixed use office/retail building scenario the parking ratio shall be calculated based on the square footage of each use within the building. One out of every 12 parking stalls shall contain trees or landscaping. The number of continuous parking stalls shall not exceed 10 spaces. A 5% reduction in parking may be allowed if the owner provides a shower facility in the

building. An additional 5% reduction in parking may be allowed if all bicycle parking is covered. No parking shall be allowed in alleys or easements, it is the owner's responsibility to see that their guests or lessees abide by this condition. No vehicles shall be parked in the street for more than 24 hours. Any boats, trailers, buses, motor homes or commercial vehicles shall not be stored on site other than in an enclosed structure. The parking enclosure location and design appearance must be complimentary to that of the main building on the site and must be reviewed and approved by the ARC. Bicycle parking must be provided for each building as set forth in section 10b-d of the CC&Rs and must be located within 50 feet from the entrance of the building.

h. **Excavation and Site Drainage.** All excavation and site drainage must be compatible with the drainage philosophy established in the master drainage plan and City of Klamath Falls drainage guidelines. In the event onsite drainage must be incorporated all excavation spoils must be removed from the site. Areas that are disturbed during construction must be restored to their original appearance or in accordance with an approved site plan. A drainage plan is required to be submitted as part of all construction and landscape submittals and is subject to the ARC review and approval. For purposes of drainage all site grading must be sloped away from all structures on a site.

i. **Pedestrian Access.** Horizontal surfaces should have pedestrian pathways constructed of concrete that are 5 feet wide and flow together between lots. The site plans for each of the lots adjoining a pedestrian access way, as shown on the Final Plat Map of Tract 1430, shall incorporate the pedestrian access ways in the site design, so that the pedestrian access ways complement the site design and convenient pedestrian access is available from each adjoining lot to the pedestrian access way. Pedestrian Access Easements at lots 3-7 and 9-14 shall be nicely landscaped along the paths and shall provide a continuous flow of landscape appearance between lots.

j. **Recreational Easement Development.** The development plans for lots 2, 3, 5, 6, and 7 shall provide for the improvement of the Lake Ewauna Recreational Easement. The waterfront should welcome the user to Lake Ewauna; provide stopping points along the trail, places to rest and appropriate amenities. The character of the lake edge should be a transition between a recreated natural lake environment and the adjacent development. The lot owner shall fund their portion and coordinate the improvement of the easement area with Klamath County, the easement owner, and the City of Klamath Falls, the easement manager. The trail when fully completed may include a concrete walkway, with ample landscaping including grass and native plants and trees, an automatic irrigation system, benches at regular intervals, and lighting. The construction of the trail will ultimately need to be coordinated with the overall trail development plan. If the easement area has not theretofore been improved, the lot owner, in conjunction with the landscaping of its lot, shall make minimal improvements to the easement area, including construction of a gravel trail ten feet in width and removal of weeds and other undesirable vegetation. The lot owner is encourage to make additional improvements and may be entitled to development credits from the City of Klamath Falls for such improvements. Following initial improvement of the easement area, (trail surface walkway and landscaping) maintenance of the easement area shall be provided by the TimberMill Shores Property

Owners' Association, and the lot owners shall have no further responsibility for maintenance or improvement of the recreational easement area.

k. **Landscaping.** Landscaping is required as a part of any site development and is required for all parcels and may be a condition of approval in some areas. All sites shall be maintained to present a neat and orderly appearance to all on and off-property vantage points. The landscaping requirements of the City of Klamath Falls shall be considered minimum requirements. Landscaping considerations shall tie into the Klamath Falls urban renewal plan and shall include:

- a. All landscaping must be completed within six months of the completion of the building construction.
- b. The front and side setbacks along the public right of way shall be adequately landscaped.
- c. Underground sprinklers shall be utilized unless xeriscape design is approved by the ARC.
- d. To the extent reasonably possible, larger trees and shrubs shall be used in landscaping plantings with a suggested minimum tree caliper of two inches and a suggested minimum shrub size of five gallons.
- e. Street tree species, number of trees and locations at the areas between the curb and sidewalks will be subject to the review and approval by the ARC. This also applies to ground cover material.
- f. Benches and other pedestrian amenities shall be used where appropriate.
- g. Pedestrian linkage with dedicated pedestrian access ways shall be required.
- h. In some situations screening may be required to conceal an unsightly element on the owner's site, these areas will be reviewed by the ARC and will be addressed in written format to the landowner with required provisions.
- i. It will be the landowner's responsibility to follow the landscape plan approved by the ARC.
- j. Landowners that have contiguous properties should work together to create a continuous flow of landscape appearance and use plantings that are compatible in nature and look.
- k. Underground irrigation shall be utilized and designed to irrigate all lawns and shrub areas using separate zones for each area.
- l. Irrigation controllers shall be set up for 365-calendar day watering using odd or even day programs.

l. **Driveways and Walkways.** Driveway entrances onto streets and alleys shall be limited to two per site, unless otherwise approved by the ARC. Shared driveway access is provided between parcels. Each lot owner shall coordinate the construction of the shared access drive between the Owner's lot and the neighboring lot, when a lot owner first constructs the driveway access they shall submit the construction cost for the entrance improvements to TimberMill Shores. TimberMill Shores will record this data and write into the sale of the adjacent property that one half of the cost of the shared drive access improvements will be reimbursed by the adjacent property owner. Driveways shall be a maximum of 40 feet wide where shared access occurs, except to radius the street. At

proposed driveways that do not share access the maximum width will be 30 feet. No driveways will be allowed along the greenbelt areas or pedestrian access ways. All proposed driveways will be subject to the ARC review and approval. The city of Klamath Falls requires a permit for all curb cuts for any driveway. Driveways may be constructed of concrete, asphalt or masonry pavers. Driveway aprons shall be constructed of concrete with a minimum thickness of 8". All sidewalks and walkways shall be constructed of concrete or masonry pavers and shall be geothermally heated unless the geothermal resource system is not available to the property. Sidewalks shall be a minimum of 5 feet wide and with a score pattern every 5 feet or where required.

m. **Fences and Retaining Walls.** All fences and retaining walls will need to be reviewed by the ARC and will require a permit from the city. The heights or elevations of fences and site walls shall be measured from the existing natural elevations of the property; fences shall be six feet high or less. Cyclone, metal mesh and chain link fences are not allowed; however metal fence posts may be used. Freestanding site walls shall be constructed of concrete, masonry, wood, wrought iron, stucco which is cement based or stone. All concrete and masonry walls shall be a minimum of 8" thick. Natural wood fences or walls are encouraged and shall be either painted or stained unless a clear natural wood is used. Site walls and fences should generally match the building colors and materials to maintain the architectural continuity.

n. **Water Features.** All water features must have written approval by the ARC prior to their construction.

o. **Trash Enclosures.** Each commercial building shall have a trash enclosure area that screens garbage, recycling and landscape debris. The trash enclosure structure must have adequate space to enclose commercial trash and recycle containers. Trash enclosures may be detached from buildings and independently located on the site. All trash enclosures should be constructed of masonry or wood that compliments the building architecture and building materials and should be landscaped on sides that are visible by neighboring lots or a pedestrian way. Each landowner will be responsible for their own trash removal during and after construction.

p. **Utilities and Utility Meters.** All utility pipes and conduits to individual structures must be installed underground. Above ground exposed services are not allowed. All utility meters such as gas and electric meters shall be located in an area that is not visible from a roadway however; the meter should be located in such an area that is easily accessed by the utility companies for reading and maintenance. Exposed utilities must be painted to match the color of the adjacent building surface and be screened from view by landscape.

q. **Flagpoles.** Flagpoles and banners may be allowed but must be reviewed by the ARC prior to installation.

r. **Temporary Structures.** No structure of temporary use such as trailers, tents, shacks, barns, garages or other outbuildings shall be allowed on any lot at any time. Construction trailers shall be allowed only during the construction duration but must be removed upon

completion of the building. All construction trailers will require a temporary use permit through the Planning Division.

s. **Signage.** No off-site signage within TimberMill Shores may be used without prior approval by the ARC or signed permit from the city. The TimberMill logo may be stamped on various locations such as sidewalks and concrete entrances, as determined by the ARC. TimberMill shores will provide a detail of the logo for use by the lot owner. All signs must be professionally produced. Plastic or store bought signs are prohibited. All monument signs shall incorporate the TimberMill logo, masonry base, steel sign frame and expanded metal insert as shown in *exhibits 2a – 2c*. Monument signs shall be either ground lit or top lit. The display of signs, including “realtor” signs, “for sale” signs, “for rent” signs shall require prior written approval of the ARC and shall strictly comply with design standards proscribed by the ARC. All political or campaign signs and public event signs are not allowed. All signs must meet the City of Klamath Falls requirements as represented in the Klamath Falls Community Development Ordinance. All proposed signage must be submitted to the ARC and will be reviewed on a case-by-case basis. Any deviation from the signage criteria written in these CC&R’s must be submitted as a variance to the ARC for review. The signage as represented in these CC&R’s is the exclusive design of Carlson Sign Company, who has been involved in the Timber Mill Shores project from conception. All signage shall be manufactured by Carlson Sign Company of Bend, Oregon.

Sign Manufacturer: Carlson Sign Company – Darryl Cox
1605 N. E. Forbes Rd.
Bend, OR 97701
Tel. 541-382-2182
Email: dcox@carlsonsign.com

1. **Window Signs:** The maximum sign area shall be no more than 4 square feet.
2. **Wall Signs:** Not Permitted.
3. **Awning and Canopy Signs:** The maximum sign area shall be no more than 10 square feet on the main awning and/or canopy face. Lettering may appear and be integrated at the fascia but must not dominate the sloped or curved portions of the structure.
4. **Projecting or Blade Signs:** Maximum sign area shall be no more than 5 square feet. The distance from the lower edge of the sign shall be a minimum of 7 feet 6 inches from the sidewalk. The distance from the building wall to the signboard shall be a maximum of 6 inches. The maximum signboard width shall not exceed 2 feet 10 inches. The maximum signboard height shall be 2 feet 6 inches. The sign components shall be finished as follows:
 - Tube steel frame (curved metal top and vertical metal sides) to be powder coated metal, Manufacturer/Color: Cardinal Industrial Finishes/“Rust Texture” Semi Gloss T091-BR47.
 - Expanded metal mesh and angled frame color to be selected and

submitted by the Owner/Tenant for approval.

- Tenant lettering shall be aluminum finish to be selected and submitted by the Owner/Tenant for approval. *See exhibits 1a – 1d.*

Monument Signs: One freestanding monument sign per lot shall be permitted within 25 feet of the right-of-way access to streets and must be set back 5 feet from the property line. The maximum sign area shall not exceed 32 square feet with the sign dimensions as shown in *exhibit 2b*. Maximum lettering and other graphic height shall be not more than 12 inches. The overall maximum monument sign height shall not exceed 7 feet 4 inches and the overall width shall not exceed 8 feet. The base material of the monument sign shall incorporate the palate of masonry material as shown in *exhibit 2c*. The sign location shall not interfere with pedestrian or vehicle circulation or vision. The sign components shall be finished as follows:

- TimberMill Shores Logo: Copper with patina finish.
- Tube steel sign frame (curved metal top and vertical metal sides) to be powder coated metal, Manufacturer/Color: Cardinal Industrial Finishes/"Rust Texture" Semi Gloss T091-BR47.
- Aluminum cabinet to be selected and submitted by the Owner/Tenant for approval. Color selected to be no lighter in color than the lightest color within the rock base
- Expanded metal mesh and angled frame color to be selected and submitted by the Owner/Tenant for approval. Color selected to be no lighter in color than the lightest color within the rock base.
- Tenant lettering shall be aluminum finish to be selected and submitted by the Owner/Tenant for approval.
- Sign base to be faced with Mtn. Ledge stone, color "Wallowa" with Hearthstone trim block color "Brown". *See exhibits 2a – 2c.*

t. **Exterior Lighting.** The exterior lighting design should eliminate glare and annoyance to the adjacent properties. Good lighting of pedestrian areas and parking lots shall be required using light fixtures that are approved by the Architectural Review Committee. Exterior light fixtures must have a downward and shielded directed light source. No part of the lamp may be exposed through perforated or opaque material. All holiday lighting must be completely removed by January 31. All exterior light fixtures must be approved by the ARC prior to being installed.

11. Architectural Building Design Standards

a. **Building Design Philosophy.** Buildings shall be designed to accommodate a mix of uses, shall be designed to fit into and contribute to the evolving context of TimberMill Shores, and shall enhance and contribute to the public experience. Buildings and spaces shall be of a quality of design and construction that encourage and set a standard for adjunct development. The building design shall incorporate elements into the building envelope, which extend to the outdoor room, such as terraces, balconies, or loggias. Blank

walls (walls without windows, showcases, displays or pedestrian access points) shall be limited to 50% of any ground level building element, which abuts a public road, street, sidewalk or pathway. Service elements for buildings should be integrated into the building envelope and, when possible, be placed away from pedestrian ways and screened visually and acoustically. Upper levels of buildings facing the Lake should incorporate decks, balconies, loggias, or other devices that activate the wall enclosing the Lake.

b. **Building Heights and Locations.** Buildings should be placed to the street edge with a storefront character encouraging pedestrian commuters and public transportation. "Celebrate" the entrance to the building from the street. At least 75% of the front edge of the lot must have a building and 60% of the required building frontage must be at the front lot line. Alternate building locations at lake front lots and building uses that may require a greater setback will be reviewed by the ARC prior to approval. The preferred setback from the front lot line is 0 feet. Building facades that face the street should be done either with a gabled end, a flat roof behind a parapet or a false front. Single level buildings will be required to be a minimum of 20 feet in height along the street facing façade. Buildings and other improvements shall be sited to maintain view corridors toward the lakefront. Buildings on lots 5, 6, and 7 should be limited to three stories and a maximum height of 45 feet measured from the natural, undisturbed ground surface below the center of the building or improvement to the highest point on the building or improvement. A variance through TimberMill Shores and the city will be required if a building is to exceed the 45' height limitation. Building and improvements on all other lots shall not exceed 45 feet as provided in the City's Development Ordinance.

c. **Building Materials for Exterior Walls and Trim.** The exterior design of each TimberMill Shores building shall consider the use of more than one exterior material. Building walls of more than one material shall change the materials along horizontal lines or other architectural features. Exterior materials that appear heavier should be used below the lighter exterior materials to maintain an architectural balance of building materials. The visible surfaces of buildings should encourage the use of natural materials such as brick, concrete masonry units, cast in place concrete, rock, cultured stone, stucco and wood with a semi-transparent or solid body stains or paints. Emphasis should be put on wood features such as large wooden beams, exposed rafter tails and/or architectural wood or steel bracket to help emphasize the design. Monolithic and synthetic exterior building materials are subject to approval by the ARC for use on exterior surfaces of buildings and improvements in TimberMill Shores.

d. **Exterior Colors and Stains.** All exterior colors will be subject to the review and approval by the ARC. Colors that are appropriate with the character and style of the building are strongly recommended. Bright colors that are out of character will not be allowed. All natural wood elements must be treated or stained.

e. **Awnings.** Awnings are encouraged at retail and pedestrian settings. All awnings shall fit the window bays to blend with or augment the architectural character of the building. Glass, metal, wood and fabric awnings are acceptable materials.

f. **Roofs.** Where pitched roofs are proposed, slate, tile, concrete wood simulated shakes and composition roofing are acceptable roofing applications. At low slope roofs single ply membrane roofs may be acceptable at areas where a cornices and parapets are used to conceal mechanical equipment from adjacent properties. Sloped roofs shall have a minimum pitch of 4:12. Eaves overhangs shall be at least 18 inches and shall be visibly supported by brackets or rafter tails. Eaves proposed less than 18 inches will be individually considered by the ARC.

g. **Gutters and Downspouts.** Gutters and downspouts are recommended and may be required on some buildings where either pedestrian traffic may occur or where roof or building surface drainage will need to be controlled. Gutters and downspouts shall be designed as a continuous architectural design feature. Exposed gutters and downspouts shall be colored or painted to blend in with the adjacent surface. All drainage pipes that are connected to downspouts must be concealed from view of neighboring properties.

h. **Windows, Glazing, Doors and Entrances.** Wood, vinyl or prefinished metal window frames are allowed. Glazing shall be clear or Low E units. No reflective glass is allowed. Aluminum window and doorframes must be prefinished with a factory-applied coating or anodized finish. Interior window treatments shall compliment the exterior façade. Entry doors shall be wood, embossed metal or fiberglass.

i. **Heating and Cooling Systems.** All heating and cooling systems and equipment must be screened from the view of neighboring properties and roadways.

j. **Overhead and Service Doors.** Overhead doors should be located in a way to accommodate vehicle loading and unloading but may not be visible from the street. Overhead doors may be of metal construction and must be painted to match the adjacent building to architecturally blend in with the exterior.

k. **Primary Building Entrances.** Each building must have a primary entrance located on the primary street or lakefront. Additional building entrances may be located on other facades or as required.

l. **Satellite Dishes and Antennas.** No exterior satellite receivers or transmitters, television antennas, radio antennas or other receiving device shall be placed on any building, structure or tree without the review and approval of the ARC.

m. **Security.** All security concerns should be forwarded to the Klamath Falls Police Department at 911 for emergencies or (541)-883-5336. Any CC&R violation should be reported to the TimberMill Shores ARC at (541) 884-3177.

12. **Declaration Enforcement**

a. This Declaration shall be specifically enforceable by Declarant or by any Owner of any Lot in the TimberMill Shores Mixed Use Development. Any breach of this

Declaration shall subject the breaching party to any and all legal remedies, including damages or the destruction, removal or the enjoining of any offending improvement or condition.

b. In the event that legal suit or legal action is instituted for the enforcement of this Declaration or for any remedy for the breach of this Declaration, the prevailing party shall recover that party's reasonable attorney's fees incurred in such suit or action (or any appeal there from) as adjudged by the trial or appellate court.

13. Binding Effect

a. The Covenants, Conditions and Restrictions of this Declaration shall run with the land included in the TimberMill Shores Mixed Use Development and shall bind, benefit and burden each Lot in the TimberMill Shores Mixed Use Development including any additions thereto. The terms of this Declaration shall inure to the benefit and shall bind Declarant, successors and assigns of Declarant and all Owners of any Lot in the TimberMill Shores Mixed Use Development, their successors, assigns, heirs, administrators, executors, mortgagees, lessees, invitees or any other party claiming or deriving any right, title or interest or use in or to any real property in the TimberMill Shores Mixed Use Development. The use restrictions and regulations set forth in Section 5 and Section 6 of this Declaration shall be binding upon all Owners, lessees, licensees, occupants and users of the property known as the TimberMill Shores Mixed Use Development and their successors in interest as set forth in this Declaration including any person who holds such interest as security payment of an obligation including any mortgagee or otherwise holder in actual possession of any Lot by foreclosure or otherwise and any other person taking title from such security holder.

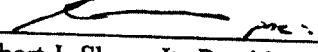
14. Declarant Immunity

a. The Declarant has a non-exclusive right and power to enforce the covenants, conditions, and restrictions contained in this Declaration, but the Declarant has no legal obligation to enforce or attempt to enforce the provisions hereof. In the event Declarant refuses, neglects, fails or is negligent in enforcing or attempting to enforce the Declaration, there shall not exist or be created any cause of action or claim against Declarant, and each Owner or any person or entity claiming by, through or from said Owner hereby releases Declarant from and against any claim arising in connection with the development of the Property or related to Declarant's acts or omissions in preparing, filing or enforcing this Declaration and shall be stopped from making or enforcing any such claim.

15. Signatures and Notification

a. These Declarations apply to all of TimberMill Shores. These Declarations shall be effective and shall bind and burden the property upon recording in the Deed Records of Klamath County, Oregon.

TIMBERMILL SHORES, INC.
Post Office Box 257
Klamath Falls, Oregon 97601
Klamath Falls, Oregon 97601

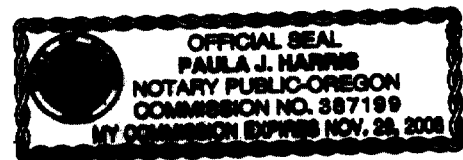
By: 
Robert J. Shaw, Its President

STATE OF OREGON, County of Klamath) ss.

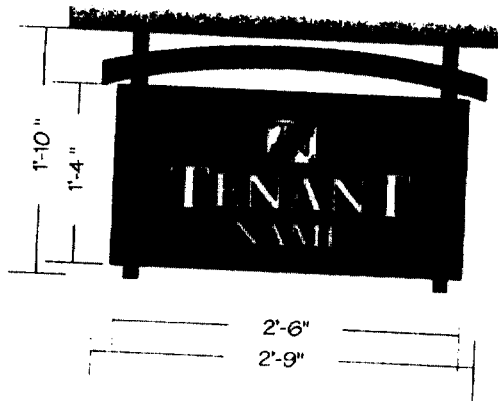
This instrument was acknowledged before me on June 1, 2006, 2006 by
Robert J. Shaw, as the President of TimberMill Shores, Inc.


Notary Public for Oregon

My Commission Expires: Nov 29, 2008



Hanging Sign



Projecting Sign

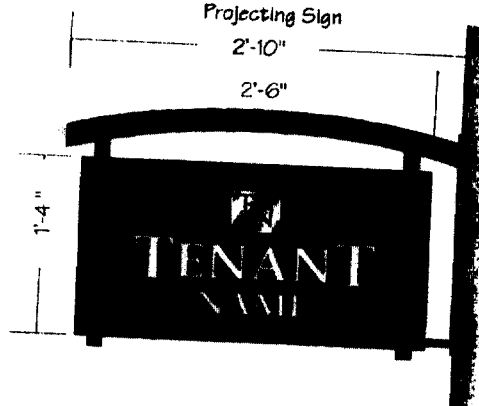


EXHIBIT 1A

IMPORTANT NOTICE

This design is the exclusive property of Carlson Sign Co. Others using this design will be subject to prosecution.

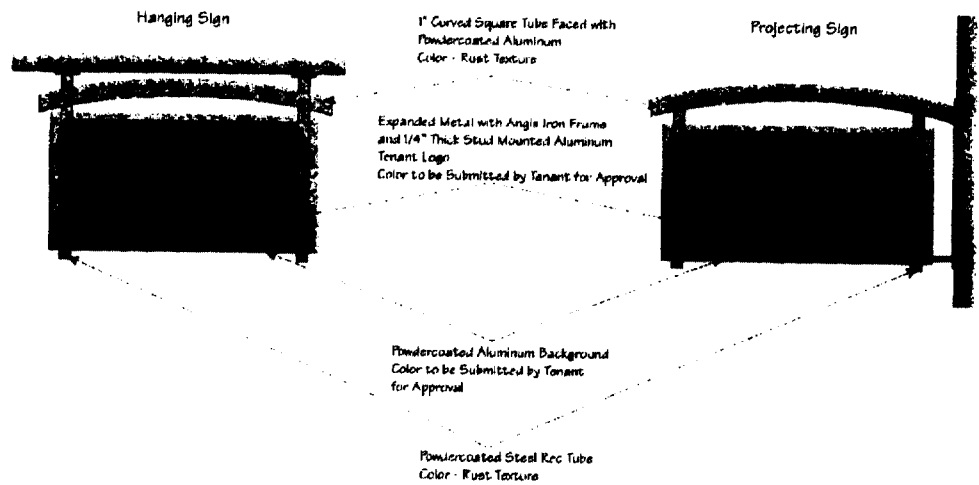


EXHIBIT 1B

IMPORTANT NOTICE
 This design is the exclusive property of Carlson Sign Co. Others using this design will be subject to prosecution.

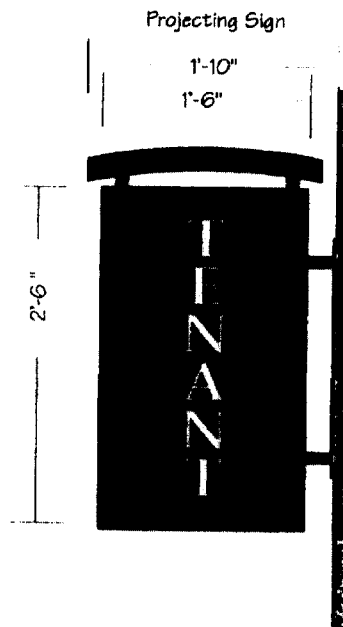


EXHIBIT 1C

IMPORTANT NOTICE

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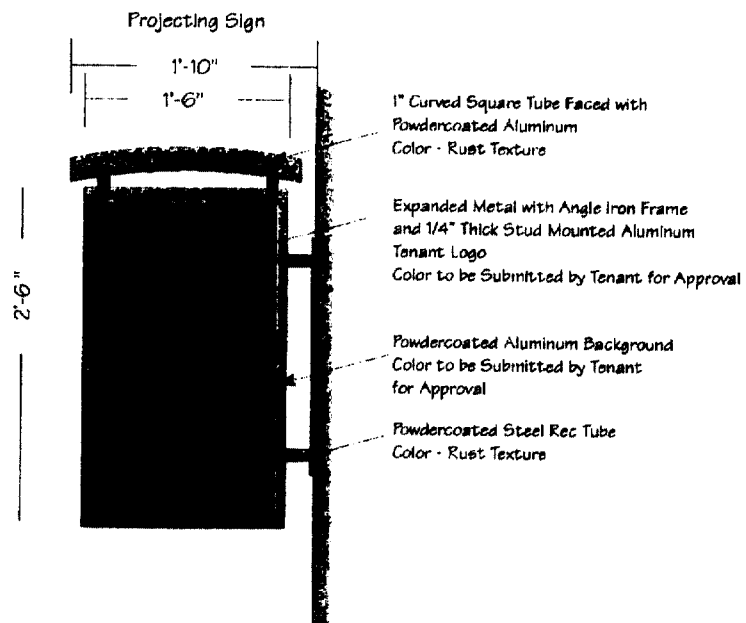


EXHIBIT 1D

IMPORTANT NOTICE
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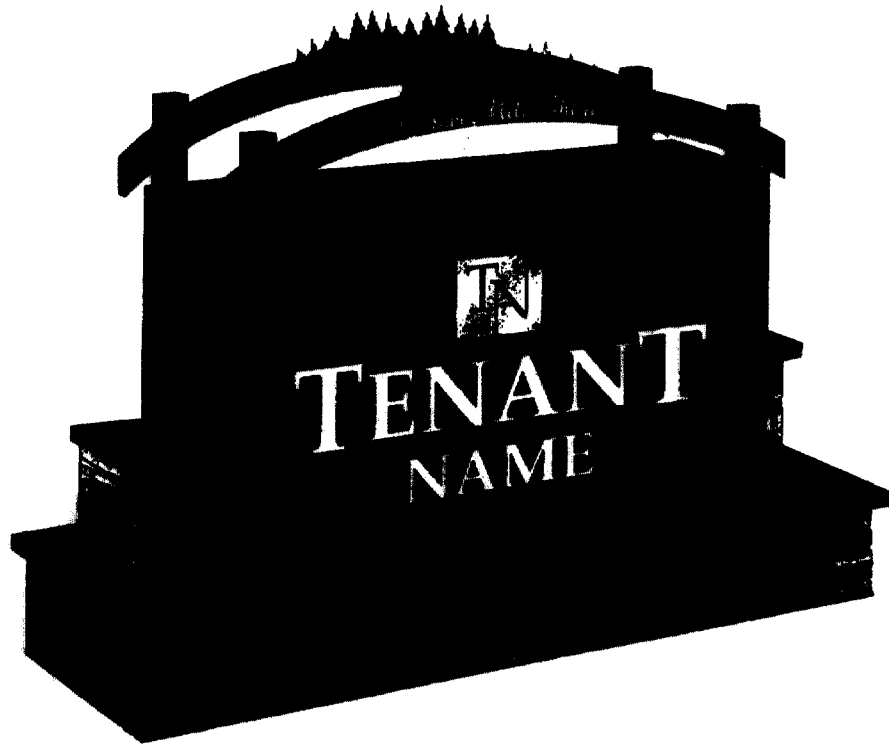
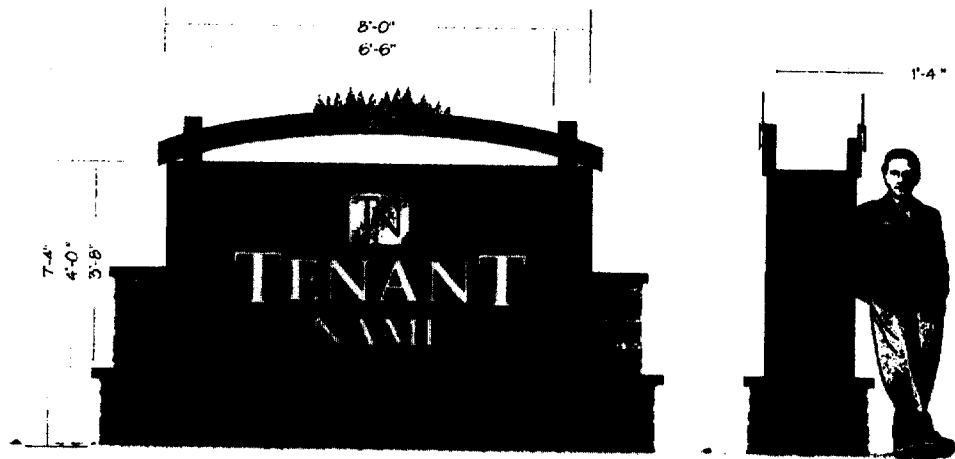


EXHIBIT 2A

IMPORTANT NOTICE
This design is the exclusive
property of Carlson Sign Co.
Others using this design
will be subject to prosecution.



Double Faced Non-Illuminated Monument Sign with Powdercoated Sign Cabinet and Vertical and Curved Horizontal Structures.
 TimberMill Shores Logo - 1/4" Thick Flat Cut Out Copper with Clearcoat and Patina Finishes

EXHIBIT 2B

IMPORTANT NOTICE
 This design is the exclusive property of Carlsom Sign Co. Others using this design will be subject to prosecution.

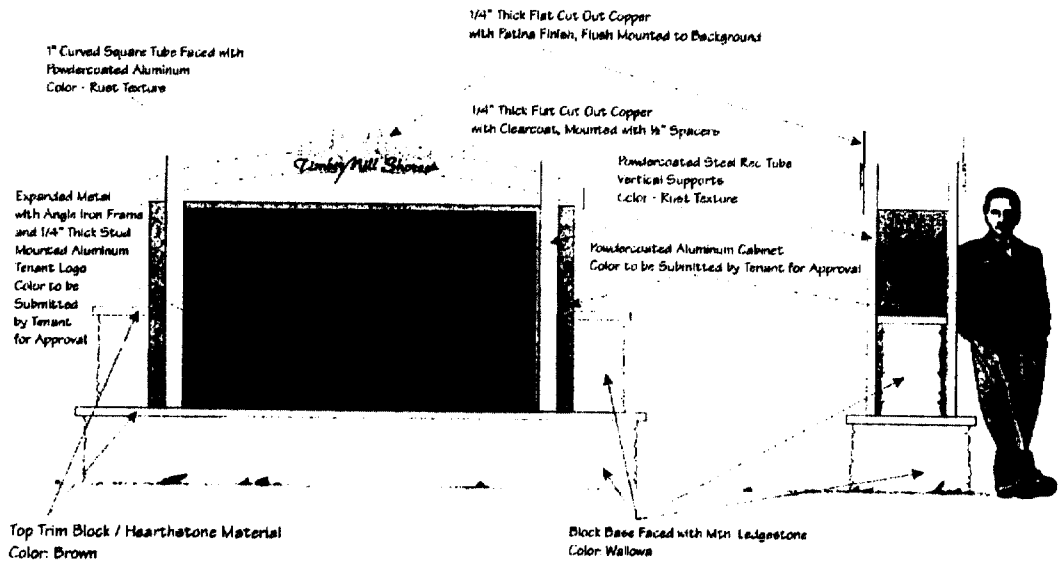


EXHIBIT 2C

IMPORTANT NOTICE
 This design is the exclusive property of Carlson Sign Co. Others using this design will be subject to prosecution.

EXHIBIT A
LEGAL DESCRIPTION
Restated Declaration of Covenants, Conditions and Restrictions
TimberMill Shores

Parcel I:

All of Tract 1430 TimberMill Shores, City of Klamath Falls, Klamath County, Oregon.

Parcel II:

Lots 6, 7 and 8 of Block 85 of Klamath Addition to the City of Klamath Falls, Klamath County, Oregon.

Parcel III:

That portion of Lots 3, 4, 5, 6, 7 and 8 of Block 92 of Klamath Addition to the City of Klamath Falls, Klamath County, Oregon, included in Parcel 2 of Land Partition 6-P-04.

Parcel IV:

A tract of land situated in the E1/4 of the SE1/4 of Section 32 and the W1/2 of the SW1/4 of Section 33, Township 38 South, Range 9 East of the Willamette Meridian, Klamath County, Oregon, being more particularly described as follows:

Commencing at the E1/4 corner of said Section 32, evidenced by a brass cap in a monument box; thence South 69° 36' 00" West, 3810 feet; thence South 38° 56' 00" West, 1647 feet; thence South 10° 40' 50" West, 72.50 feet to a point on the Southerly right-of-way of South 5th Street and the true point of beginning; thence along said right-of-way North 78° 37' 30" East, 176.63 feet to a point of curvature; thence along the arc of a 97.67 foot radius curve to the right through a central angle of 21° 49' 00", an arc distance of 37.19 feet (the long chord of which bears North 89° 40' 36" East, 36.97 feet) to a point of non-tangency and the true point of beginning of that tract of land described in Volume M94, Page 35320 of the Klamath County Deed Records; thence leaving said right-of-way and along the Westerly line of said tract South 10° 43' 36" West, 687.12 feet to a point of curvature; thence along the arc of a 573.14 foot radius curve to the left through a central angle of 61° 59' 03", an arc distance of 620.04 feet (the long chord of which bears South 20° 13' 02" East, 590.24 feet) to a point of tangency; thence North 51° 04' 00" West, 399.65 feet to a point of curvature; thence along the arc of a 487.68 foot radius curve to the right through a central angle of 46° 15' 29", an arc distance of 393.73 feet (the long chord of which bears North 12° 26' 54" West, 383.12 feet) to a point of tangency; thence North 10° 40' 50" East 578.70 feet to the true point of beginning.

Bearings are based upon the plat of Klamath Addition to Linkville on file in the Office of the Klamath County Surveyor.