

2010-008827

Klamath County, Oregon



00087736201000088270030038

07/26/2010 09:36:12 AM

Fee: \$47.00

9-DR-10

2010-008544

Klamath County, Oregon



00087398201000085440010014

07/16/2010 10:28:19 AM

Fee: \$37.00

After recording return to:

City of Klamath Falls
 500 Klamath Avenue
 Klamath Falls, OR 97601
 (City Recorder)

Re: RECORDING TO INCLUDE EXHIBIT A Referring to 2010-008544
 RESTRICTIVE COVENANT

Known all men by these presents that Darren Bogatay (Property Owner), hereby grants this restrictive covenant in favor of the City of Klamath Falls, and for the benefit of the public, prohibiting the individual sale of any Parcels, or any portion thereof, legally described as Lots 1 and 2, Block 1 of Replat #1, Sunnyside Addition, Tax Lots R-3809-022CA-00200 & 00300. The intent of this Restrictive Covenant is to ensure that Lots 1 or 2, Block 1 of Replat #1, Sunnyside Addition individually meet all requirements in the City Development Ordinance, before either are sold, as required by the City of Klamath Falls Planning Commission Administrative Review, attached and marked Exhibit A. This Restrictive Covenant shall be binding on and inure to the benefit of Darren Bogatay (Property Owner), the City and their respective successors and assigns. By signing below, the City of Klamath Falls accepts the grant of restrictive covenant made herein.

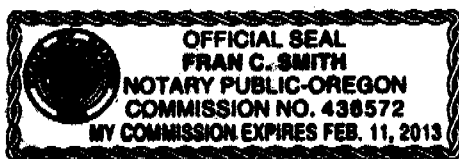
By:

Darren Bogatay

STATE OF OREGON)

County of Klamath) ss.

Subscribed and acknowledged before me this 15th day of July, 2010 by Darren Bogatay (property owner), as his voluntary act and deed.



BEFORE ME:

[Signature]
 Notary Public for Oregon
 My Commission Expires: 2/11/13

ACCEPTED BY THE CITY OF KLAMATH FALLS

By:

Rick Whitlock, City Manager

Attest:

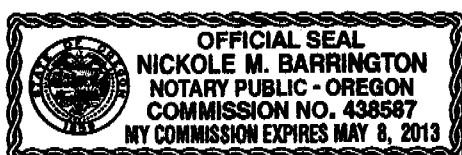
Elisa Olson, City Recorder

STATE OF OREGON)

County of Klamath) ss.

On the 15th day of July, 2010, personally appeared Rick Whitlock and Elisa D. Olson, who, each being first duly sworn, did say that the former is the City Manager and the latter is the City Recorder of the City of Klamath Falls, an Oregon municipal corporation, and that this instrument was signed on behalf of said municipal corporation; and each of them acknowledged said instrument to be the City's voluntary act and deed.

BEFORE ME:



[Signature]
 Notary Public for Oregon
 My Commission Expires: 5-8-2013

Administrative Review

In the matter of an
Administrative Review for:

Final Decision and Conditions: 9-DR-10

Darren Bogatay
680 Loma Linda Drive
Klamath Falls, OR 97601

William Fridinger
1692 Cove Point Road
Klamath Falls, OR 97601

Rhine-Cross Group, LLC
112 N. 5th Street
Klamath Falls, OR 97601

Date: May 18, 2010

In accordance with the provisions of Sections 11.050-11.094 of the Community Development Ordinance (CDO), the City of Klamath Falls Planning Department has reviewed this request for a Design Review.

NATURE OF THE PROPOSAL

The applicant, Rhine-Cross Group, LLC for Darren Bogatay, proposes to construct a new 14' x 26' (364 sq ft) coffee kiosk with associated asphalt drive thru, parking and landscaping. The property will share existing access with the neighboring Taco Time restaurant. The subject property is currently mostly undeveloped with a portion of the existing Taco Time driveway and parking lot located on the subject property.

The subject property is zoned Neighborhood Commercial within the Campus Planned Unit Development (PUD) and comprises Lots 1 & 2, Block 1 of Replat #1 Sunnyside Addition. The property is approximately 33,977 sq ft (0.78 acres) in area. The property is addressed as 2750 Campus Drive and can be found on Klamath County Assessor's Tax Map R-3809-022CA, tax lots 00200 & 00300.

AGENCY COMMENTS

Planning --

1. Permitted Uses: The proposed use of the property as a restaurant is a conditionally permitted use in the Neighborhood Commercial portions of the Campus Planned Unit Development (PUD). A conditional use permit was granted in 1995 (18-CUP-95) to build two restaurants on tax lots 3809-022CA-00200, 00300, 00400, 00500 & 00600 (Lots 1-5, Block 1, Replat #1 Sunnyside Addition). A Design Review was approved for the construction of the Taco Time restaurant on tax lots 00400, 00500 & 00600 in 1995 (19-DR-95). A second restaurant was not constructed at that time. The applicant proposes to construct a second restaurant on a portion of the original subject property which is now under separate ownership.
2. Legal Lots: The subject property is comprised of 2 individual lots: Lots 1 & 2, Block 1 of Replat #1 Sunnyside Addition. The proposed development of this property treats all portions of the subject property as one unit of land with the proposed parking lot and driveway encroaching onto Lot 1.

Since the applicant is proposing to use the subject property as one continuous development this review will use the external boundaries of the entire subject property when reviewing setbacks, lot coverage, driveways, etc.

The applicant shall record a Deed Restriction with the Klamath County Clerk's office to prohibit the individual sale of either Lot 1 or Lot 2 until all CDO requirements (landscaping, parking, setbacks, lot coverage, etc.) are provided for each lot independent of the other.

3. Lot Coverage: The Campus PUD Development Standards (PUDDS) allow a maximum lot coverage of 70% for Neighborhood Commercial properties. The proposed coffee kiosk will cover 364 sq ft or approximately 1% of this approximately 33,977 sq ft subject property.
4. Building Height: The Campus PUDDS list a maximum height of 30' for buildings in Neighborhood Commercial zones. The maximum height of the proposed structure is 17'.
5. Setbacks: The Campus PUDDS require a minimum 30' setback for all street frontages and a minimum 20' setback for all side and rear yards. The proposed site plan shows the following setback distances: Approximately 24.5' west side yard, approximately 74' from the Campus Drive right-of-way (north), approximately 135' northeast side yard, approximately 142' southeast side yard, and approximately 27.5' from the Shallock Avenue right-of-way. The proposed setback distance from the Shallock Avenue right-of-way is less than the minimum 30' required by the Campus PUDDS.
 - *The setback from Shallock Avenue shall be increased to a minimum of 30' – or –*
 - *The applicant shall apply for a variance for the proposed setback from Shallock Avenue. If the Variance is approved the setback can remain as shown and if the variance is denied the setback shall be increased to a minimum of 30'.*
6. Driveways: City Code Section 8.570 allows for a maximum of two driveways per street for commercial developments and no more than a total of four driveways regardless of the number of abutting streets. The proposed site plan shows a total of three driveways serving the proposed development: One on Campus Drive and two on Shallock Avenue. The total number of driveways and the number of driveways per street are within the maximums allowed by City Code.

The driveway on Campus Drive and the west driveway on Shallock Avenue are existing, shared driveways, also used by the Taco Time restaurant. These driveways were reviewed and approved in 1995 by City Staff and the Planning Commission. A "right of way easement agreement" (M00 PG36380) has been recorded to insure continued ingress/egress for the subject property.

No additional driveways (beyond what is shown on the proposed site plan) will be permitted for Lots 1 & 2, Block 1, Replat #1 Sunnyside Addition. These lots will have two driveways on Shallock Avenue once the proposed development occurs and City Code Section 8.570 requires commercial developments abutting streets with different performance classifications to access the street with the lower classification. Campus Drive is an arterial street and Shallock Avenue in a local street.