

Returned at Counter

After recording return to:
City Recorder
500 Klamath Avenue
Klamath Falls, OR 97601

2020-009201

Klamath County, Oregon



00262770202000092010060069

07/27/2020 03:50:33 PM

Fee: \$107.00

RESTRICTIVE COVENANT

Be it known by all that Klamath Falls Holdings, LLC, an Oregon limited liability company, 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 in Exhibit A. The intent of this Restrictive Covenant is to ensure that all parcels described in Exhibit A are "held together by a single property owner," as required by the Conditions of Approval, Exhibit FOC of the City of Klamath Falls Council FINAL ORDER for Design Review 12-DR-18 and Conditional Use Permit 3-CUP-18 dated January 31, 2020. The Final Order Conditions of Approval, Exhibit FOC, is attached hereto as Exhibit B. The Restrictive Covenant shall be binding on and inure to the benefit of Klamath Falls Holdings, LLC, an Oregon limited liability company, the City of Klamath Falls, its successors and assigns, and the public. By signing below, the City of Klamath Falls accepts the grant of restrictive covenant made herein.

KLAMATH FALLS HOLDINGS, LLC,
An Oregon limited liability company


By: Justin Hurley Braswell
Its: Manager
("Klamath Falls Holdings")

STATE OF OREGON)
)ss.
County of Jackson)

On this 22 day of July, 2020, personally appeared the above-named Justin Hurley Braswell, who being sworn, stated that he is the Manager of Klamath Falls Holdings, an Oregon limited liability company, and that the foregoing instrument was voluntarily signed on behalf of said limited liability company and by authority of its Operating Agreement.

Before me:




Notary Public for Oregon

Accepted by the City of Klamath Falls

By: _____

Nathan Cherpeski, City Manager

Attest: _____

Nickole Barrington, City Recorder

STATE OF OREGON)

)ss.

County of Klamath)

On this 27th day of July, 2020, personally appeared the above-named Nathan Cherpeski and Nickole Barrington, 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:



Notary Public for Oregon

EXHIBIT A

Description of Parcels

PARCEL A:

Lot 10, TRACT 1430, TIMBERMILL SHORES, according to the official plat thereof on file in the office of the County Clerk, Klamath County, Oregon

380932AC Tax Lot 10700

PARCEL B:

Lot 12, TRACT 1430, TIMBERMILL SHORES, according to the official plat thereof on file in the office of the County Clerk, Klamath County, Oregon.

380932AC Tax Lot 10500

PARCEL C:

Lot 13, TRACT 1430, TIMBERMILL SHORES, according to the official plat thereof on file in the office of the County Clerk, Klamath County, Oregon.

380932AC Tax Lot 10600

EXHIBIT B

Final Order - Conditions of Approval

EXHIBIT - FOC **FINAL ORDER - CONDITIONS**

Prior to the issuance of a Development Permit:

- 1) The applicant shall make the requested changes to the Traffic Impact Study and/or provide a response to clarify the items listed as A. through E. in the Traffic Impact Study Review, Exhibit F of the Agenda Report.
- 2) The applicant shall submit a revised site plan showing the following:
 - a. Frontage improvements along 4th Street illustrating new curb/gutter, planter strip, and sidewalk.
 - b. Pedestrian service access to the geothermal snowmelt heat exchange building.
- 3) To approve the three existing Lots as a single site, the applicant must do one of the following:
 - a. Complete a land partition to consolidate the Lots; or
 - b. Record a restrictive covenant/deed restriction to prohibit the sale of these Lots independent of each other for as long as the group of Lots is needed for the site to be approved as a single unit.

Prior to the issuance of a Site Construction Permit:

- 1) Any public improvements, City utility service connections, grading/erosion control, and on-site storm water detention shall be shown on a set of engineering design/construction plans that meet the requirements of the PWES current edition.
- 2) The applicant shall submit 5 copies of the engineering design / construction plans and 3 copies of the private storm report to the City Development Services office at 226 South 5th Street. The applicant will be required to have a signed set of Site Construction Permit set of drawings, from Development Services, prior to the issuance of the City's Site Construction Permit. If any questions arise, feel free to contact Scott Souders @ 541-883-5290.
 - a. Access, Site Circulation, and Frontage Improvements –
 - The construction plans shall incorporate the driveway placement, circulation, and easements called for as recommended conditions of approval in the Traffic Impact Study Review, Exhibit F.
 - The entirety of the 4th Street frontage will need new type "A" curb/gutter, 4.75' planter strip and new 6' wide sidewalk.
 - Provide and maintain service access from Sydney Way to the existing geothermal snowmelt heat exchange building by way of concrete sidewalk or approved equivalent.
 - b. Grading –

- This site meets the criteria for large site grading with erosion and sediment control. Refer to the City's Public Works Engineering Standards (PWES) Section 3-5.2 for requirements.
- A DEQ 1200-C permit is required for this site due to more than one acre of ground being disturbed. A copy of the executed permit will be required prior to issuance of a Site Construction Permit.

c. Storm water –

- A design level stormwater site plan/report will be required at the time of the first engineering review submittal. The subdivision's stormwater system was designed to accommodate up to a 25-year storm event. Show the conveyance of up to a 100-year storm event, with emergency overflow routing for protection of property and lives. Refer to Section 4-6 of the PWES.

d. Sewer –

- The applicant will need to submit their final plumbing fixture plans; along with a completed Sewer System Development Charge Calculation Information Sheet. The sewer System Development Charge (SDC) will be calculated by the City for the applicant to pay prior to receiving their Development Permit.
- The applicant will need to submit the Sewer Use Evaluation information sheet to City Development Services, along with the design/construction plans, to determine if there are any pretreatment requirements for this site. Please note: The signature line on page 4 of this form is to be completed by a person in charge of the facility.

- 4) All required Development Services fees and SDCs shall be paid prior to the issuance of a Site Construction Permit.

General Conditions:

1. The approved vehicle parking layout shall be striped with four-inch-wide painted lines, wheel stops, or curbing shall be installed to prevent vehicles from driving over landscaping, unpaved areas, and sidewalks. The ADA accessible spaces shall be constructed to meet all requirements of the Oregon Department of Transportation Disabled Parking Standards for width, location, striping and signage. All required parking shall be completed prior to building occupancy.
2. Anything shown on any City approved plan (e.g. site plan, landscaping plan, construction plan etc.) shall be accurately reflected on the associated property as part of the execution of the approved development / use prior to building occupancy. Any subsequent changes to said plans must first be reviewed by the appropriate City Department(s) in order to determine whether the change(s) will be allowed under this project; or whether a separate land use project / permit will be necessary.
3. All businesses, contractors and subcontractors are required to have a valid City Business License. Business Licenses are obtained / renewed by Planning.
4. A sign permit must be submitted, reviewed, and approved prior to installation of each sign.

5. An approved fence permit must be obtained from the Planning Division prior to the installation or construction of any fence.
6. Construction/Building plans shall address and incorporate the information provided by the Klamath County Building Department (Exhibit G of the Agenda Report), the Deputy State Fire Marshal (Exhibit H of the Agenda Report), and the other agencies who provided comment (Exhibit I of the Agenda Report).
7. The Applicant shall specifically utilize the 1,060 sq. ft. Commercial Service space being added through the minor modification for a Commercial Service purpose as defined in CDO Section 10.010, and as listed in CDO Section 12.000-Uses Permitted by Zone.