

Sherry Hall, County Clerk

2005-020680

After Recording Return To:



\$41.00

00805289200500206800040045

03/09/2005 04:21:04 PM

Dr. Donald Perman
249 NW 3rd Avenue
Canby OR 97013

D-DEVA Cnt=1 Stn=9 DIANNAW
\$20.00 \$11.00 \$10.00

DEVELOPMENT AGREEMENT

This Development Agreement ("Agreement") is made and entered into this 9th day of March, 2005, binds Eagle Properties NW and Donald D. Perman, Jr, the owners of property identified as Tax Lots 1822 and 1815 of Tax Map 3-1B-34C within the City of Canby, Oregon, and all subsequent owners of said property, their heirs, and assigns to the terms contained herein.

RECITALS

A. Eagle Properties NW, LLC and Donald D. Perman, Jr are the present owners of certain property consisting of approximately 2.4 acres of land, located generally on the east side of S. Redwood Street, north of SE 4th Ave and generally identified as Tax Lots 1822 and 1815 of Tax Map 3-1B-34C within the City of Canby, Oregon and as more particularly described in Exhibit A, attached hereto, incorporated by reference and referenced hereinafter as the "Property."

B. In order to develop the Property, Eagle Properties NW, LLC and Donald D. Perman, Jr. obtained a comprehensive plan land use map and zoning designation amendment from the Canby City Council, CPA 04-02/ZC 04-03, to allow the development of a professional office and health care village on the Property. To accomplish this result, the zoning on the property was changed from a Light Industrial (M-1) to a Heavy Commercial Manufacturing (C-M) zone.

C. As part of approving a comprehensive plan land use map and zone change on the Property, the City Council attached conditions of approval that required the property owner to record a development agreement containing terms as set forth in the following Agreement.

D. This Agreement is intended to provide certainty and assurance to the City and the surrounding community of particular uses continuing on the Property.

AGREEMENT

As owners of the Property, Eagle Properties NW, LLC and Donald D. Perman, Jr hereby agree to bind themselves, all future owners of the Property, their, heirs and assigns to the following covenants and conditions governing the use and development of the Property:

31E34C - 01822

1. Eagle Properties NW, LLC and Donald D. Perman, Jr., all subsequent owners of the Property, their heirs, and assigns agree that as long as the Property retains a Heavy Commercial Manufacturing (C-M) zoning designation, or another commercial zoning designation, development and use of the Property shall be limited to business and professional offices, including medical, dental, and other similar healthcare uses. Use of the Property shall be limited in this way unless and until the Planning Commission or City Council approves alternative uses or until the Property's zoning is changed to a non-commercial use.

2. Eagle Properties NW, LLC and Donald D. Perman, Jr. for themselves and on behalf of all subsequent owners of the Property, their heirs, and assigns recognize that much of the land surrounding the Property is zoned Light Industrial where industrial uses including but not limited to automobile and heavy repair shops, railroad trackage and related facilities and lumber yards are located. Eagle Properties NW, LLC and Donald D. Perman, Jr. for themselves and on behalf of all subsequent owners of the Property, their heirs and assigns acknowledge that uses that are permitted in a Light Industrial zone can create noise, offensive odors or transportation delays resulting from truck traffic. As such, Eagle Properties NW, LLC and Donald D. Perman, Jr. for themselves and on behalf of all subsequent owners of the Property, their heirs and assigns agree that so long as the Property retains a Heavy Commercial Manufacturing (C-M) zoning designation, or another commercial zoning designation, they will not to complain to the City offices or to any other regulatory agency about noise, traffic or other aspects of a neighboring industrial and manufacturing operation so long as that operation is operating consistent with City regulation, agency rules and state law

Executed as of the day and year first above written.

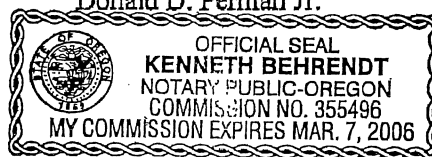
By: Ben Hukkel

Eagle Properties NW, LLC

By: Donald D. Perman Jr.

Donald D. Perman Jr.

STATE OF OREGON)
) ss.
County of Clackamas)



The foregoing instrument was acknowledged before me this 7 day of Mar, 2005, by Donald Perman, Eagle Properties LLC as an authorized agent of Eagle Properties NW, LLC, an Oregon corporation, on behalf of said corporation.

[Signature]
Notary Public for Oregon

My Commission expires: Mar. 7 2006

STATE OF OREGON)
) ss.
County of Clackamas)

The foregoing instrument was acknowledged before me this ____ day of _____, 2005.

Notary Public for Oregon
My Commission expires: _____

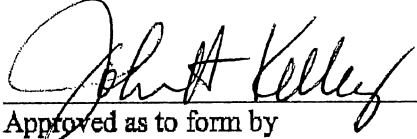

Approved as to form by
John Kelley, City Attorney

EXHIBIT A

The Legal Description for the property identified and encumbered herein is as follows:

Parcel 3, PARTITION PLAT NO. 2003-026, in the City of Canby, County of Clackamas and State of Oregon

Lot 5, TOWNSHIP INDUSTRIAL PARK, in the City of Canby, County of Clackamas and State of Oregon

PDX_DOCS:348841.1 [35401-00100]
03/9/05 9:47 AM