

87- 9460

DECLARATION OF
COVENANTS, CONDITIONS AND
RESTRICTIONS FOR
TAMARACK PARK EAST

0145-1795

These Covenants, Conditions, and Restrictions are made this 6th day of MAY, 1987, by PACIFIC NORTHWEST DEVELOPMENT CORPORATION, an Oregon Corporation, hereinafter referred to as "Declarant", as owner of the real property in the City of Bend, Deschutes County, State of Oregon, described in Exhibit "A", attached hereto, and incorporated by reference herein.

The property described in Exhibit "A" is hereby subject to these Covenants, Conditions, and Restrictions and will be known as Tamarack Park East, hereinafter referred to as Tamarack Park East.

Tamarack Park East is being developed as a residential community. Except where this Declaration for Tamarack Park East conflicts with any applicable government municipal regulations, this Declaration shall be binding upon all property subject to this Declaration and its owners and their successors in interest as set forth herein. In the event any of the development standards or use restrictions of this Declaration should conflict with a more restrictive standard or requirement set by an applicable zoning ordinance of the City of Bend, the more restrictive standard or requirement of the applicable City of Bend ordinance shall apply.

Section 1. Definitions

1.1 Tamarack Park East: The term "Tamarack Park East" shall mean all of the real property now or hereafter made subject to this Declaration.

1.2 Declarant: The term "Declarant" shall mean Pacific Northwest Development Corporation, an Oregon Corporation, or its successors in interest.

1.3 Block: The term "block" shall mean those areas designated as blocks on subdivision or partition maps according to the records of Deschutes County.

1.4 Lot: The term "lot" shall mean each lot described on a subdivision plat or partition map to any alteration thereof as may be made by a valid lot line adjustment.

1.5 Declaration: The term "Declaration" shall mean this Declaration of Covenants, Conditions, and Restrictions for Tamarack Park East.

1.6 Homesite: The term "homesite" shall mean as defined herein. 0145-1796

1.7 Owner: The term "owner" shall mean and refer to either all holders of fee title to any lot, or any other person or persons entitled to possession of the lot pursuant to a contract or lease.

1.8 Improvements: The term "improvements" shall include, but not be limited to, any buildings, outbuildings, private roads, driveways, parking areas, fences, and barriers, retaining walls and stairs, decks, hedges, windbreaks, planting, planted trees and shrubs, signs, storage areas and all other structures or exterior landscaping, vegetation or ground cover of every type and every kind above the land surface.

1.9 Streets: The term "streets" shall mean any street, highway or other thoroughfare within or adjacent to the Tamarack Park East and shown on any recorded subdivision or partition map, or survey map of record, whether designated thereon as street, boulevard, place, drive, road, terrace, way, lane, circle or otherwise.

Section 2. Property Subject to the Covenants, Conditions, and Restrictions for Tamarack Park East

2.1 General Declaration Creating Tamarack Park East: Declarant hereby declares that all of the real property located in Deschutes County, Oregon described in Exhibit "A" is and shall be hypothecated, encumbered, leased, occupied, built upon or otherwise used, improved or transferred in whole or in part subject to this Declaration. All of said Restrictions are declared and agreed to be established with the purpose of protecting the desirability and attractiveness of said real property and every part thereof. All of the Covenants, Conditions, and Restrictions of Tamarack Park East run with all of said real property for all purposes and shall be binding upon and inure to the benefit of Declarant and all owners, and their successors in interest as set forth in this Declaration.

2.2 Addition of Other Real Property by Grantor:

(a) Declarant may, at any time during the term of this Declaration, add all or a portion of any land now or hereafter owned by Declarant to the property which is covered by this Declaration, and upon recording of a notice of addition of real property, as set forth below, the provisions of this Declaration specified in said notice shall apply to such added land in the same manner as if it were originally covered by this Declaration. Thereafter, to the extent this Declaration is made applicable

thereto, the rights, powers and responsibilities of Declarant and owners of parcels within such added land shall be the same as in the case of the land described in Exhibit "A".

(b) The notice of addition of real property referred to above shall contain at least the following provisions:

(1) A reference to this Declaration stating the date of recording and the recording information where the Declaration is recorded.

(2) A statement that the provisions of this Declaration or some specified part thereof shall apply to such added real property.

(3) A legal description of such added real property.

(4) Such other or different covenants, conditions, and restrictions as Declarant shall, in its discretion, specify to regulate and control the use, occupancy, and improvement of such added real property.

Section 3. Architecture Review Committee

3.1 Responsibility. The Architecture Review Committee will be responsible for the approval of plans and specifications for the development of any building, structure, or other improvements on any lot, including landscaping.

3.2 Membership. The Architecture Review Committee shall consist of three members, and shall initially be composed of Pete Wilson, Herb Hatfield and Joan Crew. A majority of the committee may designate a representative to act for it. In case of death or resignation of any member of the committee, the remaining member or members shall have full authority to designate a successor. Neither the members of the committee or its designated representative shall be entitled to any compensation for services performed by said members. In the event that the deaths or resignations of all members of the committee shall occur without successors having been appointed, the majority of the owners shall have full power to designate successors.

3.3 Action. Except as otherwise provided herein, a majority of the Architecture Review Committee shall have power to act on behalf of the committee without the necessity of a meeting and without the necessity of consulting the remaining members of the committee. The committee may render its decisions only by written instrument setting forth the actions taken by the members consenting thereto.

3.4 Failure to Act. In the event the committee, or its

designated representative, fails to approve or disapprove plans and specifications within 30 days after the same have been submitted to it, or in any event, if no suit to enjoin the construction has been commenced before completion, approval will not be required and these provisions shall be deemed to have been fully complied with.

3.5 Nonwaiver. Consent by the Architecture Review Committee to any matter proposed to it or within its jurisdiction shall not be deemed to constitute a precedent or waiver impairing its right to withhold approval as to any similar matter thereafter proposed or submitted to it for consent.

3.6 Liability. Neither the Architecture Review Committee nor any member thereof shall be liable to any owner for any damage, loss, prejudice suffered or claimed on account of any action or failure to act of the committee or any member thereof, provided that the members acted in accordance with actual knowledge possessed by them, and that they acted in good faith.

Section 4. Restrictions on Use of Property

4.1 Occupancy. No owner shall occupy, use or permit his lot or any part thereof to be used for any purpose other than a private, single family residence for the owner, their family, or their guests, except that each owner shall be permitted to rent the unit when he is not in occupancy.

4.2 Improvements. Each lot within Tamarack Park East shall be maintained in a clean and attractive condition, in good repair and in such a fashion as not to create a fire hazard.

4.3 Approval Required. No improvement, as defined in Section 1.8 above, shall be erected, placed, altered, maintained, or permitted to remain on any land subject to this Declaration until final plans and specifications have been submitted to and approved in writing by the Architecture Review Committee.

4.4 Appearance. All garbage, trash, cuttings, refuse, garbage and refuse containers, clothes drying apparatus, and other service facilities located on the lot shall be screened from view in a manner approved by Declarant.

4.5 Construction and Alteration. Nothing shall be altered or constructed in or removed from or placed on a lot except with the prior written consent of the Architectural Review Committee.

4.6 Offensive or Commercial Activity. No offensive or commercial activity shall be carried on nor shall anything be done which may be or become an annoyance or nuisance to the other owners.

4.7 Signs. No sign of any kind shall be displayed to public view on or from any lot without the Declarant's prior written consent, provided, however, that an owner may display not more than one (1) "for sale" sign per lot.

4.8 Exterior Lighting or Noise Making Device. No exterior lighting or noise making device shall be placed on a lot or any portion thereof without the prior written consent of the Architectural Review Committee.

4.9 Antennas. No television antenna, radio antenna, state-lite antenna, or other receiving device shall be placed on any lot without the prior written consent of the Architecture Review Committee.

4.10 Limitation on Transfer. No owner shall transfer either by conveyance, contract of sale or lease any interest in his lot which would result in ownership of such lot being held by more than ten persons.

4.11 Mobile homes. No house trailer, mobile home, tent, shack, barn or other similar outbuilding or structure, whether permanent or temporary, shall be erected or placed on any lot.

4.12 Utilities. No above-ground utilities, pipes or wires shall be used to connect improvements with supplying facilities.

4.13 Parking. A minimum of two parking places must be provided for each lot. No extended parking on any street shall be allowed by any house trailer, travel trailer, boat trailer, camper or incapacitated motor vehicle. No boats, trailers, buses, motor homes, commercial vehicles, trucks larger than one ton, disabled vehicles or other similar vehicles shall be parked or stored on any lot or in any street in a position whereby said vehicles will be visible from the street or from the homes on other lots.

4.14 Fence Line Easement. Declarant hereby reserves a non-exclusive easement ten (10) feet in width on, over and across the rear portion of each lot which abuts Butler Market Road and a 20 foot easement on Lots 1 and 2, Block 2 and Lot 1, Block 1 as shown on the official plat for the purpose of the installation, maintenance and repair of a fence, entrance sign, utilities, and a rock or brick sign standard. The fence, if constructed, will be of such material as Declarant, in its sole discretion, shall deem appropriate. No owner shall make any repair, change or alteration of the fence without the prior written approval of the Declarant.

4.15 Sewer Line Easement. Certain lots within Tamarack Park East are subject to a sewer line easement reserved for the

benefit of the City of Bend as the same is shown on the official plats of property subject to this Declaration. This is a non-exclusive easement for the installation, maintenance and repair of a sewer line. No improvement or structure of any kind, except a boundary fence, shall be permitted on the easement. Any landscaping or fencing placed upon the easement strip shall be done only in accordance with any applicable standards established by the City of Bend. Neither the City of Bend or Declarant shall be responsible for restoring any landscaping or fencing in the event the City of Bend is required to enter upon the easement for the purposes set forth herein.

4.16 Lot Area, Width, Set-Back Lines. Lot area, width, and set-back lines shall be in accordance with the requirements of the applicable Deschutes County Zoning and Land Use Regulations and as shown on the fact of the Plat.

4.17 Livestock, Poultry, and Pets. No animals, livestock, or poultry of any kind shall be raised, bred or kept on any lot, except that dogs, cats, or other household pets may be kept provided that they are not kept, bred or maintained for any commercial purposes.

4.18 Sight Distance at Intersections. On a corner lot, no fence, wall, shrub planting which obstruct sight lines at elevations between two (2) and six (6) feet above roadways shall be placed or permitted to remain within the triangular area, formed by the street property lines and a line connecting them at points 25 feet from the intersection of the street lines, or in the case of a rounded property corner from the intersection of the street property lines extended.

The same sight line limitations shall apply on all lots within first ten (10) feet of a street right-of-way line. No trees shall be permitted to remain within such distances unless the foliage line is maintained at sufficient height to prevent obstruction of such sight lines.

4.19 Walls and Fences. Side and rear setback spaces may have a fence constructed to a height of six feet (6') and may be a solid fence. An exception to the fencing along the side setback is noted above in paragraph 4.18 above. No boundary line hedge or shrubbery shall be permitted with a height of more than six feet (6'). No wall or fence of any height shall be constructed on any lot until after the height, type, design and approximate location therefore, shall have been approved in writing by the Architecture Review Committee. The heights or elevations of any wall or fence shall be measured from the existing elevations of the property at or along the applicable points or lines.

4.20 Temporary Structures. No structure of a temporary

character, trailer, basement, tent, shack, garage, barn, or other out-building shall be used on any lot at any time as a residence, either temporarily or permanently. No prefabricated or mobile home shall be permitted on any lot unless approved in writing by the Architectural Review Committee.

4.21 Licensed Contractors. No amateur home building will be allowed on any lot. The principal structure on each lot shall be constructed by a licensed building contractor only.

4.22 Firearms and Related Activity. No firearm, cross bow, bow and arrow, or air gun, including without limitation, BB type or pellet guns, whether for purposes of hunting or target practice, shall be used within the subdivision.

4.23 Clothes Drying Area. No portion of any lot shall be used as a drying or hanging area for laundry of any kind where it can be viewed from any street or adjacent house.

4.24 Water and Sewer Supply. No individual water supply system or sewage disposal system shall be permitted on any lot.

4.25 Severability. Invalidity of any use of these covenants by judgment or court order shall in no way affect any of the other provisions, which shall remain in full force and effect.

Section 5. Duration and Amendment of this Declaration.

5.1 Duration. The Covenants, Conditions, and Restrictions of Tamarack Park East shall continue to remain in full force and effect at all times with respect to all property, and each part thereof, now or hereafter made subject thereto (subject however, to the right to amend and repeal as provided for herein) for a period of thirty years from the date this Declaration is recorded. However, unless within one year from the date of said termination, there shall be recorded an instrument directing the termination of this Declaration signed by owners of not less than fifty-one percent (51%) of the lots then subject to this Declaration, this Declaration, as in effect immediately prior to the expiration date, shall be continued automatically without further notice for an additional period of ten years and thereafter for successive periods of ten years unless within one year prior to the expiration of such period the Covenants, Conditions, and Restrictions for Tamarack Park East are terminated as set forth above in this section.

5.2 Amendment. This Declaration or any provision thereof, or any Covenant, Condition or Restriction contained herein, may be terminated, extended, modified or amended, as to the whole of said property or any part thereof with a written consent of the owners of fifty-one percent (51%) of the lots subject to these

Restrictions.

5.3 Any amendment, deletion, or repeal of this Declaration shall not become effective until recorded in the Official Records of Deschutes County, Oregon.

Section 6. Enforcement.

6.1 This declaration shall be specifically enforceable by the Architecture Review Committee or by any owner of any lot in Tamarack Park East. 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.

6.2 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 fees incurred in such suit or action (or any appeal therefrom) as adjudged by the trial or appellate court.

Section 7. Effect of Declaration

The Covenants, Conditions, and Restrictions of this declaration shall run with the land included in Tamarack Park East and shall bind, benefit, and burden each lot in Tamarack Park East, including any additions thereto. The terms of this Declaration shall inure to the benefit and shall bind Declarant, all successors and assigns of Declarant and all owners of any lot in Tamarack Park East, 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 Tamarack Park East. The use restrictions set forth in Section 4 of this declaration shall be binding upon all Owners, lessees, licensees, occupants and users of the property known as Tamarack Park East and their successors in interest as set forth in this declaration, including any person who holds such interests as security for the payment of an obligation including any mortgagee or other security holder in actual possession of any lot by foreclosure or otherwise and any other person taking title from such security holder.

PACIFIC NORTHWEST DEVELOPMENT
CORPORATION

By 

C. M. PETE WILSON, President

0145-1803

STATE OF OREGON, County of Multnomah, ss:

The foregoing instrument was acknowledged before me this 6 day of May, 1987, by O. M. PETE WILSON, President of PACIFIC NORTHWEST DEVELOPMENT CORPORATION, an Oregon Corporation, on behalf of the corporation.



Janice M. Jansen
NOTARY PUBLIC FOR OREGON
My Commission Expires: 2/7/90

EXHIBIT "A"

0145-1804

Tamarack Park East, Phase I, Deschutes County, Oregon

STATE OF OREGON)
COUNTY OF DESCHUTES) ss.

I, MARY SUE PENHOLLOW, COUNTY CLERK AND
RECORDER OF CONVEYANCES, IN AND FOR SAID
COUNTY, DO HEREBY CERTIFY THAT THE WITHIN
INSTRUMENT WAS RECORDED THIS DAY:

87 MAY 13 PH 3:33

MARY SUE PENHOLLOW
COUNTY CLERK

Greg Franchise

BY P. L. [Signature] DEPUTY

NO. 87- 3460 FEE 41-

DESCHUTES COUNTY OFFICIAL RECORDS