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DOC # 1999-0095213

RECORDING REQUESTED BY: *Chicago Title* Feb 17, 1999 11:11 AM~~COMMUNITY DEVELOPMENT COMMISSION~~
~~OF THE CITY OCEANSIDE~~OFFICIAL RECORDS
SAN DIEGO COUNTY RECORDER'S OFFICE
GREGORY J. SMITH, COUNTY RECORDERFEES: 0.00
QC: NA

WHEN RECORDED MAIL TO:

CITY OF OCEANSIDE
Oceanside Civic Center
300 North Coast Highway
Oceanside, California 92054
Attention: Dana Whitson
Assistant City Manager

735 9496-15

147-271-014006, 114013

147-271-018006



1999-0095213

SPACE ABOVE THIS LINE FOR RECORDER'S USE
DOCUMENT ENTITLED TO FREE RECORDING
PER GOVERNMENT CODE SECTION 6103PUBLIC PLAZA EASEMENT AGREEMENT

For valuable consideration, DDR OLIVERMcMILLAN OCEANSIDE LLC, a Delaware limited liability company (the "Grantor"), does hereby grant to the City of Oceanside, a municipal corporation (the "Grantee"), a non-exclusive, public easement (the "Public Plaza Easement") over, along and across the land of Grantor situated in the County of San Diego, State of California, more particularly illustrated on Exhibit A and described on Exhibit B (attached hereto and by this reference made a part hereof (the "Easement Parcel"), for the passage of pedestrians.

Use of the Easement Parcel may be governed by reasonable rules and regulations of the Grantor, including without limitation, the right to hold special events and the right to designate specified areas for particular uses such as outside dining or beverage services, so long as such rules and regulations do not unduly interfere with the passage of pedestrians. Use of the Easement Parcel shall be available during daylight hours of each day, and also during nighttime hours of each day when any establishment in space located within the area bounded by Mission Avenue, Coast Highway, Seagaze Drive and Cleveland Street is open for business. The Grantor hereby reserves the right to eject or cause the ejection from the Easement Parcel of any person causing any public or private nuisance and/or violation of said permitted rules and regulations in the Easement Parcel.

This grant of Public Plaza Easement is made by the Grantor pursuant to that certain Disposition and Development Agreement (the "DDA") dated July 2, 1998, between DDR OliverMcMillan LP, a

Delaware limited partnership, the Grantor's predecessor-in-interest, and the Community Development Commission of the City of Oceanside (the "Commission") as recorded TODAY against the Easement Parcel by reference in that certain Grant Deed recorded in the Office of the San Diego County Recorder ~~as follows~~. ~~1999=====~~ concurrently herewith.

Pursuant to the DDA, the Commission shall construct, or cause to be constructed, certain improvements (including, without limitation, hardscape, landscape and fixtures) within the Easement Parcel, pursuant to plans and specifications prepared by the Grantor and approved by the Commission. At all times following completion of construction and installation of such improvements, the Grantor shall operate and maintain the Easement Parcel in a safe manner, and in good repair and condition, at its own cost and expense. Such operation and maintenance shall include, without limitation, all operating administrative responsibilities (e.g. security, utilities, insurance, taxes, etc.), maintenance, replacement, reconstruction and all other costs and expenses whatsoever related to the Easement Parcel. Any material change in the improvements within the Easement Parcel shall require the prior written reasonable consent of the Grantee, which consent shall be deemed granted unless the Grantee disapproves such proposed change in writing within twenty (20) days after submission to the Grantee of the plans and specifications for such proposed change. The Grantor and the Grantee agree that, following completion of construction of the initial improvements by the Commission, neither the Grantee, nor the Commission, shall be responsible for, or bear any costs or expenses with respect to, the Easement Parcel and/or the improvements thereon.

Grantor shall at all times maintain bodily injury and property damage liability insurance covering the Easement Parcel, with coverage of at least \$3,000,000.00 combined single limit. Such insurance shall name the Grantee, the Commission, and their respective officers and employees as additional insureds. The Grantor shall furnish, or cause to be furnished, to the Grantee duplicate originals or appropriate certificates of such insurance to demonstrate that such insurance is continuously in effect.

In amplification and not in restriction of the provisions set forth hereinabove, it is intended and agreed that the Grantee shall be deemed a beneficiary of the covenants provided for in this Public Plaza Easement Agreement both for and in its own right and also for the purposes of protecting the interests of the community. All covenants without regard to technical classification or designation shall be binding for the benefit of the Grantee and such covenants shall run in favor of the Grantee for the entire period during which such covenant shall be in force and effect, without regard to whether the Grantee is or remains an owner of any land or interest therein to which such covenants relate. The

Grantee shall have the right, in the event of any breach of any such covenant, agreement or condition, to exercise all the rights and remedies, and to maintain any actions at law or suit in equity or other proper proceedings to enforce the curing of such breach of covenant, agreement or condition.

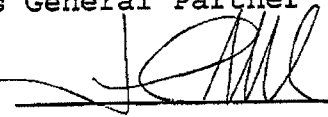
This Public Plaza Easement shall remain in effect for a period ending thirty-four (34) years after the earlier of (1) the opening date of any theater constructed adjacent to the Easement Parcel pursuant to the DDA, or (2) the ninety-first (91st) day after the Grantor provides the theater tenant with written notice of substantial completion of required work on such theater, but not exceeding thirty-five (35) years after recordation of this Public Plaza Easement Agreement. Upon the expiration of such period, the Grantor and the Grantee shall promptly execute and record a written notice memorializing the termination of this Public Plaza Easement Agreement.

IN WITNESS WHEREOF, this Public Plaza Easement Agreement is executed as of this 16th day of February, 1999.

DDR OLIVERMcMILLAN OCEANSIDE LLC,
a Delaware limited liability company

By: DDR OliverMcMillan LP,
a Delaware limited partnership
Its Sole Member

By: DDR OliverMcMillan Inc.,
a Delaware corporation
Its General Partner

BY: 
Print Name: JAMES L. McMILLAN
Title: PRESIDENT

By: _____
Print Name: JAMES L. McMILLAN
Title: PRESIDENT

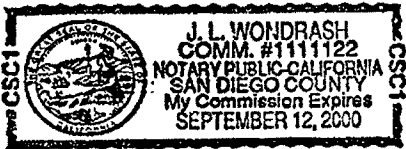
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STATE OF CALIFORNIA)
) ss.
COUNTY OF SAN DIEGO)

On Feb. 16, 1999, before me, the undersigned, personally appeared James L. McMillan, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.



J. L. Wondrash
Notary Public

STATE OF CALIFORNIA)
) ss.
COUNTY OF SAN DIEGO)

On _____, before me, _____, personally appeared _____, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

J.
Notary Public

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CERTIFICATE OF ACCEPTANCE
(Government Code Section 27281)

This is to certify that the interest in real property conveyed by the foregoing instrument to the City of Oceanside, a municipal corporation, is hereby accepted by the undersigned officer on behalf of the City of Oceanside, pursuant to authority conferred by Resolution No. R98-134, adopted by the Council of the City of Oceanside on July 1, 1998, and the Grantee consents to recordation thereof by its duly authorized officer.

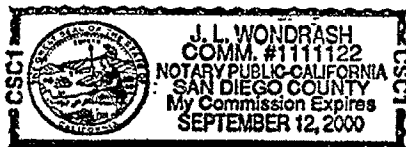
Dated: 2-16-99

By: Thomas J. Wilson

STATE OF CALIFORNIA)
) ss.
COUNTY OF SAN DIEGO)

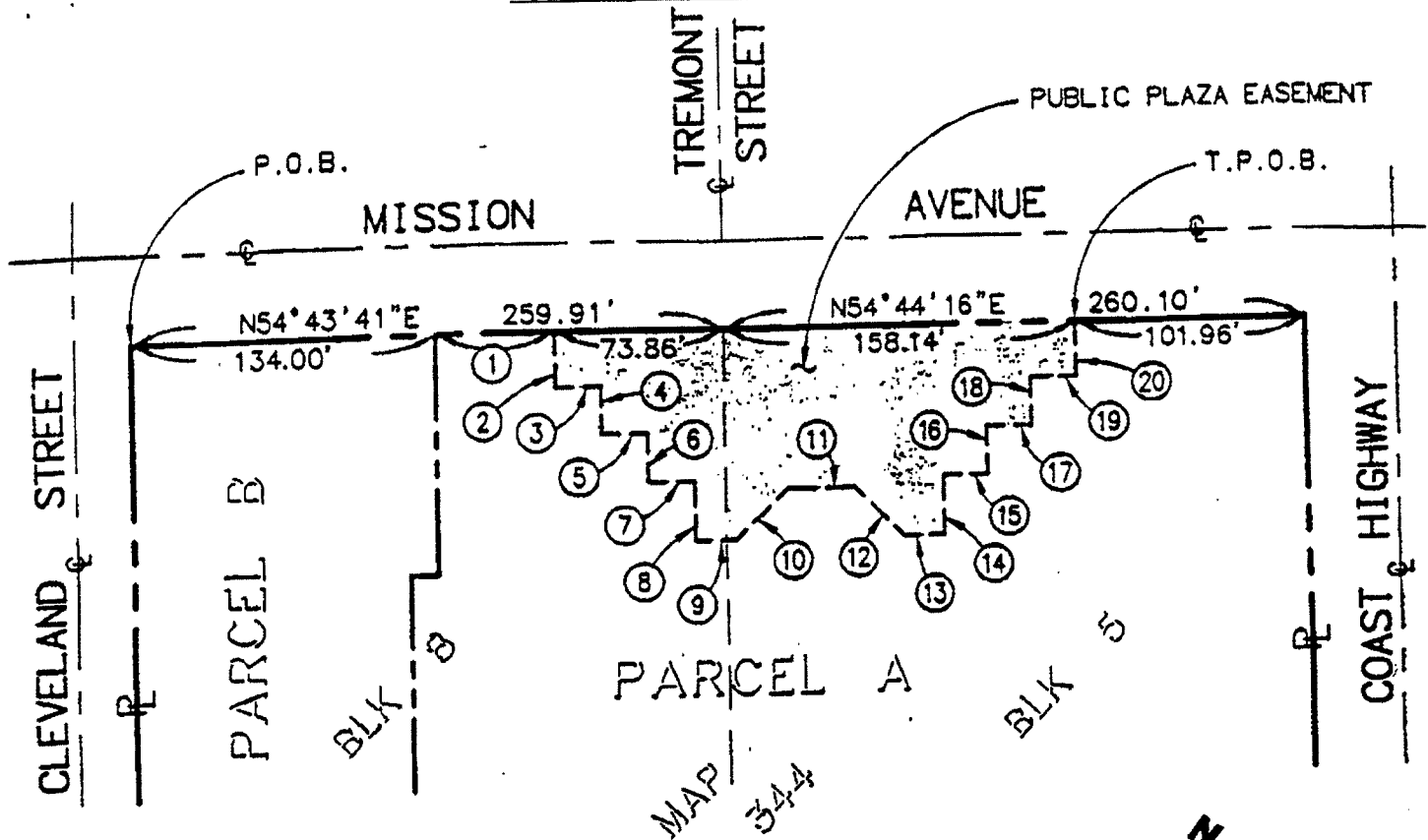
On February 16, 1999, before me, the undersigned, a Notary Public in and for said State, appeared Thomas J. Wilson, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her authorized capacity, and that by his/her signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.



J. L. Wondrash
Notary Public

MAP OF EASEMENT PARCEL



[---] DENOTES PUBLIC PLAZA EASEMENT

SCALE: 1"=80'

①	$N54^{\circ}43'41"E$	52.05'	⑪	$N54^{\circ}43'25"E$	29.99'
②	$N35^{\circ}16'35"W$	25.48'	⑫	$N80^{\circ}16'35"W$	32.12'
③	$N54^{\circ}43'25"E$	20.00'	⑬	$N54^{\circ}43'25"E$	18.29'
④	$N35^{\circ}16'35"W$	22.00'	⑭	$N35^{\circ}16'35"W$	27.17'
⑤	$N54^{\circ}43'25"E$	20.00'	⑮	$N54^{\circ}43'25"E$	20.00'
⑥	$N35^{\circ}16'35"W$	22.00'	⑯	$N35^{\circ}16'35"W$	22.00'
⑦	$N54^{\circ}43'25"E$	20.00'	⑰	$N54^{\circ}43'25"E$	20.00'
⑧	$N35^{\circ}16'35"W$	27.17'	⑱	$N35^{\circ}16'35"W$	22.00'
⑨	$N54^{\circ}43'25"E$	18.29'	⑲	$N54^{\circ}43'25"E$	20.00'
⑩	$N09^{\circ}43'25"E$	32.12'	⑳	$N35^{\circ}16'35"W$	25.44'

EXHIBIT B

DESCRIPTION OF EASEMENT PARCEL

THOSE PORTIONS OF BLOCKS 5 AND 8 OF OCEANSIDE TOWNSITE, IN THE CITY OF OCEANSIDE, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO THE MAP THEREOF NO. 344, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY JULY 1, 1885, DESCRIBED AS FOLLOWS:

COMMENCING AT THE MOST WESTERLY CORNER OF SAID BLOCK 8; THENCE NORTH 54°43'41" EAST 259.91 FEET ALONG THE NORTHERLY LINE OF SAID BLOCK TO THE CENTERLINE OF TREMONT STREET; THENCE NORTH 54°44'16" EAST 260.10 FEET ALONG THE NORTHERLY LINE OF SAID BLOCK 5 TO THE MOST NORTHERLY CORNER OF SAID BLOCK; THENCE RETURNING ALONG SAID NORTHERLY LINE OF BLOCK 5 SOUTH 54°44'16" WEST 101.96 FEET TO THE TRUE POINT OF BEGINNING; THENCE SOUTH 35°16'35" EAST 25.44 FEET; THENCE SOUTH 54°43'25" WEST 20.00 FEET; THENCE SOUTH 35°16'35" EAST 22.00 FEET; THENCE SOUTH 54°43'25" WEST 20.00 FEET; THENCE SOUTH 35°16'35" EAST 22.00 FEET; THENCE SOUTH 54°43'25" WEST 20.00 FEET; THENCE SOUTH 35°16'35" EAST 27.17 FEET; THENCE SOUTH 54°43'25" WEST 18.29 FEET; THENCE NORTH 80°16'35" WEST 32.12 FEET; THENCE SOUTH 54°43'25" WEST 29.99 FEET; THENCE SOUTH 9°43'25" WEST 32.12 FEET; THENCE SOUTH 54°43'25" WEST 18.29 FEET; THENCE NORTH 35°16'35" WEST 27.17 FEET; THENCE SOUTH 54°43'25" WEST 20.00 FEET; THENCE NORTH 35°16'35" WEST 22.00 FEET; THENCE SOUTH 54°43'25" WEST 20.00 FEET; THENCE NORTH 35°16'35" WEST 22.00 FEET; THENCE SOUTH 54°43'25" WEST 20.00 FEET; THENCE NORTH 35°16'35" WEST 25.48 FEET TO A POINT ON THE NORTHERLY LINE OF SAID BLOCK 8; THENCE NORTH 54°43'41" EAST 73.86 FEET ALONG SAID NORTHERLY LINE; THENCE NORTH 54°44'16" EAST 158.14 FEET ALONG THE NORTHERLY LINE OF SAID BLOCK 5 TO THE TRUE POINT OF BEGINNING.