

RECORDING REQUESTER Y:

399395

WHEN RECORDED MAIL TO:

CITY CLERK
City of Riverside
City Hall, 3900 Main Street
Riverside, California 92522

Project: Parcel Map Waiver for
Zoning Case R-47-890

RECEIVED FOR RECORD
AT 8:30 O'CLOCK A.M.

NOV 18 1991

Recorded in Official Records
of Riverside County, California

W. J. [Signature]
Recorder
Fees \$ 29

COVENANT AND AGREEMENT
ESTABLISHING EASEMENTS FOR INGRESS, EGRESS AND PARKING

THIS COVENANT AND AGREEMENT is made and entered into this 1ST day of *NOVEMBER*, 1991, by CEPEK PROPERTIES, a California general partnership, hereinafter referred to as "Declarant" with reference to the following facts:

A. Declarant is the fee owner of the two parcels of real property, hereinafter referred to as Parcel "A" and Parcel "B", respectively, located in the City of Riverside, County of Riverside, State of California, described in Exhibit "A" attached hereto and incorporated herein by this reference. Parcels "A" and "B" are hereinafter collectively referred to as the "Property".

B. The Property is located on the northerly side of Indiana Avenue and southerly of the Riverside (91) Freeway between Madison Street and Washington Street. Declarant in Zoning Case R-47-890 has filed an application with the City of Riverside to remove the Property from the Residential-1 ("R-1-65") Zone and place it in the General Commercial ("C-3") Zone.

C. As a condition to the approval by the City of Riverside of the rezoning of the Property in Zoning Case R-47-890 to General Commercial (C-3) with the Two-Story Height of Building Combining Zone (S-2) and the 10-foot Building Setback Combining Zone (X-10), Declarant initiated the vacation of that portion of Hoover Street between Indiana Avenue and the Riverside (91) Freeway which has been incorporated into the Property. A further condition of the rezoning is that both parcels and the vacated portion of Hoover Street shall be consolidated by parcel map waiver but without further Planning Commission action.

D. Declarant has submitted to the Planning Department of the City of Riverside a proposed parcel map waiver indicating the adjustment of lot lines to incorporate the vacated portions of Hoover Street and retaining two separate parcels rather than consolidating both into one. The Planning Department has approved Declarant's plan subject to the execution and recordation of a joint parking and access agreement for the Property.

E. Declarant intends by this document to comply with the condition imposed by the Planning Department of the City of Riverside and to impose upon the Property mutually beneficial restrictions, conditions, covenants and agreements for the benefit of the Property and the improvements to be constructed thereon, and the future owners of both parcels of the Property, and for the same purpose to reserve and grant easements over portions of the Property.

NOW, THEREFORE, Declarant hereby declares that the Property is and hereafter shall be held, conveyed, transferred, mortgaged, encumbered, leased, rented, used, occupied, sold and improved subject to the following declarations, limitations, covenants, conditions, restrictions, and easements, all of which are imposed as equitable servitudes pursuant to a general plan for the development of the Property for the purpose of enhancing and protecting the value and attractiveness of the Property, and each Parcel thereof, in accordance with the plan for the improvement of the Property, and to comply with certain conditions imposed by the City of Riverside for the approval of Zoning Zoning Case R-47-890 and for the approval of the parcel map waiver in conjunction therewith. All of the covenants, conditions, limitations, restrictions and easements shall run with the land, shall be binding on and inure to the benefit of all parties having or acquiring any right, title or interest in the Property or either Parcel or portion thereof, and shall be binding and inure to the benefit of each successor and assignee in interest of each such party. Any conveyance, transfer, sale, assignment, lease or sublease made by Declarant of a Parcel of the Property shall be and hereby is deemed to incorporate by reference all of the provisions of this Covenant and Agreement including, but not limited to, all the covenants, conditions, restrictions, limitations, grants of easement, rights, rights of way and equitable servitudes contained herein.

1. Definitions. In addition to the definitions hereinbefore set forth, the following words or phrases when used in this Covenant and Agreement (except when the context otherwise requires) shall have the following definitions:

(a) "Building Areas" shall mean those areas on each Parcel of the Property upon which buildings are to be constructed pursuant to plans approved by the City and building permits issued therefor and shall include any landscaped areas.

(b) "City" shall mean the City of Riverside, a municipal corporation of the State of California.

(c) "Common Area" shall mean all the area of Parcel "A" and Parcel "B" of the Property other than Building Areas.

(d) "Owner" shall mean any person, whether an individual, corporation, association or otherwise, in which title to a Parcel is vested, as shown by the Official Records of Riverside County, California. Declarant shall be deemed the Owner of all unsold or retained Parcels until Declarant, its successors or assigns shall have executed or caused to be recorded in the Office of the County Recorder of Riverside County, California, an instrument of conveyance conveying the respective Parcel. If more than one person is owner of a Parcel, then all such persons shall be jointly and severally liable for all obligations herein of the Owner of a Parcel.

(e) "Parcel" or "Parcels" shall mean the Parcel or Parcels of the Property hereinabove described.

2. Easements Granted.

(a) Declarant hereby establishes and grants nonexclusive easements for pedestrian and vehicular ingress and egress and for parking on, over and across the Common Areas of Parcels "A" and "B" of the Property, and as each such Parcel may hereinafter be configured, for the use and benefit of and as easements appurtenant to the remaining Parcel. The driveways, walkways and parking areas shall be installed on each Parcel in accordance with plans approved by the City in connection with the issuance of any building permit for such Parcel.

(b) The easements hereinabove granted or established shall include all rights necessary and proper for the installation, construction, maintenance, repair, replacement and use of driveways, walkways and parking areas. The cost of repair and maintenance of the driveways, walkways and parking areas shall be borne by the Owner of the Parcel upon which such driveways, walkways or parking areas are located.

(c) Those areas on each Parcel of the Property designated as parking areas shall be in conformance with plans for the development of such Parcel which have been or may be approved by the City and shall include the number of parking spaces required by the Riverside Municipal Code for all of the uses on such Parcel.

3. Barriers. No walls, fences, or barriers of any kind shall be constructed or maintained on the Common Area, or any portion thereof, by any Owner, tenant or person which shall prevent or impair the use or exercise of any of the easements granted herein, or the free access and movement, including without limitation, of

pedestrians and vehicular traffic between the Parcels; provided, however, reasonable traffic controls as may be necessary to guide and control the orderly flow of traffic may be installed so long as access driveways to the parking areas on the Property are not closed or blocked. The only exceptions to this provision shall be for incidental encroachments upon the Common Area which may occur as a result of the use of ladders, scaffoldings, barricades and similar facilities resulting in temporary obstruction of the Common Area, all of which are permitted hereunder so long as their use is kept within reasonable requirements of construction or maintenance work being expeditiously pursued.

4. Not a Public Dedication. Nothing herein contained shall be deemed to be a gift or dedication of any portion of the Common Area to the general public or for the general public or for any public purposes whatsoever, it being the intention of Declarant that this document shall be strictly limited to and for the purposes herein expressed. The right of the public or any person to make use whatsoever of the Common Area of the Property, or any portion thereof (other than any use expressly allowed by a written or recorded map, agreement, deed or dedication) is solely by permission, and subject to the control of the Owner(s). Notwithstanding any other provision herein to the contrary, the Owner(s) may periodically restrict ingress and egress from the Common Area in order to prevent a prescriptive easement from arising by reason of continued public use. Any restriction on ingress or egress shall be limited to the minimum period necessary to prevent the creation of a prescriptive easement and shall occur at such time as to have a minimum effect on the parties hereto.

5. Non-Merger. This Covenant and Agreement shall not be subject to the doctrine of merger, even though the underlying fee ownership of the Parcels described herein, or any parts thereof, is vested in one party or entity.

6. Effect of Covenant and Agreement. Any person who now or hereafter owns or acquires any right, title or interest in or to either Parcel of the Property shall be deemed (a) to have consented and agreed to every covenant, condition, restriction and easement contained herein; and (b) to have been granted and be subject to each of the applicable easements described in Paragraph 2 hereof, whether or not any reference to this Covenant and Agreement is contained in the instrument by which such person acquired an interest in the Property.

7. Mutuality, Reciprocity, Run with Land. All of the provisions contained herein are made for the direct, mutual and reciprocal benefit of both Parcels of the Property and create mutual, equitable servitudes upon each Parcel as the servient tenement in favor of the other Parcel as the dominant tenement and create reciprocal rights and obligations among the respective Owners of both Parcels, and privity of contract and estate among all grantees of the Parcels, their successors and assigns in interest. In addition, each

of the provisions hereof shall operate as covenants running with the land for the benefit of the Property and each Parcel thereof and shall inure to the benefit of all Owners thereof, their successors and assigns in interest, and shall apply to and bind each successive Owner of each Parcel, their successors and assigns in interest.

8. Enforcement. The terms of this Covenant and Agreement may be enforced by the City, its successors or assigns, and by any Owner, lessee, or tenant of either Parcel of the Property. Should the City or any Owner, lessee or tenant bring an action to enforce any of the terms of this Covenant and Agreement, the prevailing party shall be entitled to costs of suit including reasonable attorneys' fees.

9. Termination and Modification. Subject to the prior written approval of the City Council of the City of Riverside, this Covenant and Declaration, and any provision contained herein, may be terminated, modified or amended as to all of the Property or any portion thereof, upon the written consent of all the Owners of the Property. No such termination, modification or amendment shall be effective until there shall have been executed, acknowledged and recorded in the Office of the Recorder of Riverside County, California, an appropriate instrument evidencing the same including the consent thereto by the City.

IN WITNESS WHEREOF Declarant has caused this Covenant and Agreement to be duly executed the day and year first above written.

CEPEK PROPERTIES, a California
General Partnership

By: Dorothy B. Lindlief, as Trustee
of the Dorothy B. Lindlief Revocable
Trust dated October 22, 1986, a general
partner

By *Dorothy B Lindlief*
Dorothy B. Lindlief, as Trustee

APPROVED AS TO CONTENT:

By *[Signature]*
Planning Department

By: ROBERT THOMAS CEPEK and SHARON RUTH
CEPEK as Trustees of the CEPEK FAMILY
TRUST dated December 14, 1990, a
general partner

APPROVED AS TO FORM:

[Signature]
Assistant City Attorney

By *Robert Thomas Cepek*
Robert Thomas Cepek, as Trustee

By *Sharon Ruth Cepek*
Sharon Ruth Cepek, as Trustee

BP/3053A/jm
11/1/91


J.F. Davidson Associates, Inc.

ENGINEERING PLANNING SURVEYING ARCHITECTURE LANDSCAPE ARCHITECTURE

February 22, 1990

W.O. 8911714

Revised May 15, 1991

EXHIBIT "A"

PARCEL MAP WAIVER

ZONING CASE R-47-890

CEPEK

PARCEL "A"

That portion of Lot 41 and Hoover Street (Lot "D") of Madison Park as shown by map on file in Book 14 of Maps, at pages 82 and 83 thereof, Records of Riverside County, California, described as follows:

Commencing at the most Southerly corner of said Lot 41;

Thence N.34°00'00"W., along the Southwesterly line of said Lot 41, a distance of 4.00 feet to a point on a line parallel with and 44.00 feet Northwesterly, measured at right angles from the centerline of Indiana Avenue as shown on said Madison Park, said point being the point of beginning of the parcel of land to be described;

Thence continuing N.34°00'00"W. along the Southwesterly line of said Lot 41, a distance of 145.25 feet to the Southeasterly line of that certain parcel of land as conveyed to the State of California by deed recorded July 10, 1956 as Instrument No. 47891, Official Records of Riverside County, California;

Thence N.58°52'55"E. along the Southeasterly line of said parcel of land as conveyed to the State of California, and its Northeasterly prolongation thereof, a distance of 185.26 feet to a point on the Southwesterly line of Lot 44 of said Madison Park, said point being the most Southerly corner of that certain parcel of land as conveyed to the State of California by deed recorded February 25, 1954 as Instrument No. 9527, in Book 1558, page 490, Official Records of Riverside County, California;

Thence S.34°00'00"E. along the Southwesterly line of said Lot 44, a distance of 135.94 feet to a line parallel with and 44.00 feet

Northwesterly, measured at right angles from the centerline of said Indiana Avenue;

Thence S.56°00'00"W. along said parallel line, a distance of 185.03 feet to the point of beginning.

The above described parcel of land contains 0.597 acres, more or less.

PARCEL "B"

That portion of Lot 44 of Madison Park as shown by map on file in Book 14 of Maps, at pages 82 and 83 thereof, Records of Riverside County, California, described as follows:

Commencing at the most Southerly corner of Lot 41 of said Madison Park;

Thence N.34°00'00"W. along the Southwesterly line of said Lot 41, a distance of 4.00 feet to a line parallel with and 44.00 feet Northwesterly, measured at right angles from the centerline of Indiana Avenue as shown on said Madison Park;

Thence N.56°00'00"E. along said parallel line, a distance of 185.03 feet to a point on the Southwesterly line of said Lot 44, said point being the point of beginning of the parcel of land to be described;

Thence N.34°00'00"W. along the Southwesterly line of said Lot 44, a distance of 135.94 feet to the most Southerly corner of that certain parcel of land as conveyed to the State of California by deed recorded February 25, 1954, Instrument No. 9527, in Book 1558, page 490, Official Records of Riverside County, California;

Thence N.54°51'00"E. along the Southeasterly line of said parcel of land as conveyed to the State of California, a distance of 114.29 feet to the Northeasterly line of said Lot 44;

Thence S.34°17'29"E. along said Northeasterly line, a distance of 138.24 feet to a line parallel with and 44.00 feet Northwesterly, measured at right angles from the centerline of said Indiana Avenue;

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PARCEL MAP WAIVER - PARCEL A&B
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Thence S.56°00'00"W. along said parallel line, a distance of 114.97 feet to the point of beginning.

The above described parcel of land contains 0.361 acres, more or less.

LO:MWC:lb
exh/ao4



DESCRIPTION PREPARED UNDER THE SUPERVISION OF:

Homer A. Fontaine 5/16/91
Homer A. Fontaine Date
J. F. DAVIDSON ASSOCIATES, INC.

DESCRIPTION APPROVAL 6/11/91
George P. Hutchinson
SURVEYOR CITY OF RIVERSIDE