

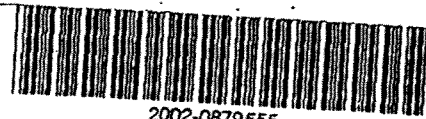
RECORDING REQUESTED BY:

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\_\_\_\_\_

WHEN RECORDED MAIL TO:

Luce, Forward, Hamilton & Scripps, LLP  
600 West Broadway, Suite 2600  
San Diego, CA 92101  
Attn: Marjorie J. Burchett, Esq.

OFFICIAL RECORDS  
SAN DIEGO COUNTY RECORDER'S OFFICE  
GREGORY J. SMITH, COUNTY RECORDER  
FEES: 47.00



2002-0879555

Space Above For Recorder's Use

FIRST AMENDMENT TO  
DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS  
FOR SAN DIEGO SPECTRUM

San Diego Spectrum Owners Association, a Californian non profit mutual benefit corporation and its members ("Association"), makes this First Amendment to Declaration of Covenants, Conditions and Restrictions for San Diego Spectrum ("Amendment"), on October 1, 2002, with reference to the facts set forth below.

RECITALS

A. LNR KEARNY MESA, INC., a California corporation, caused to be filed for record on September 16, 1999 in the Official Records of San Diego County, California, as Instrument No. 1999-0635988, that certain Declaration of Covenants, Conditions and Restrictions for San Diego Spectrum dated September 10, 1999 ("Declaration"), and various Declarations of Annexation and Supplementary Declarations subsequently recorded in San Diego County recorded pursuant to the terms and provisions of the Declaration ("Supplementary Declarations"). All capitalized terms used herein that are not otherwise defined herein shall have the meanings set forth in the Declaration.

B. The Association is vested with the responsibility for the management and control of certain "Common Areas" as described within the Declaration.

C. Section 7.5 provides that a Financing District may maintain the Financing District Improvements located on portions of the Common Area and other areas of the Project described in Exhibit F to the Declaration.

LNR/S.D. Spectrum  
First Amendment to CC&Rs  
26496-5/1723021.3

3/26/02

D. The Association membership is comprised of the individual Owners of the Property, as more particularly described in the Declaration, except for Frito Lay, Inc., a Delaware corporation ("Frito Lay"), which is an Owner of the Property but not a Member of the Association.

E. The City formed the San Diego Spectrum Maintenance Assessment District ("MAD") as a Financing District to maintain the Financing District Improvements. However, the Association obtained consent from the Members representing a majority of the total Voting Power of the Association as well as Frito Lay to abandon MAD and request its dissolution and have the Association assume MAD's maintenance obligations. The City has now dissolved the MAD.

F. Section 17.13 of the Declaration provides that the Declaration may be amended upon the vote or written consent of the Members representing a majority of the total Voting Power of the Association.

G. The Association has obtained the approval of the Members and Frito Lay to amend the Declaration to provide for the maintenance of the Financing District Improvements by the Association, as provided herein.

NOW THEREFORE, the Association declares as follows:

1. Association Maintenance of Common Area. The Declaration is hereby amended to provide that the Association shall assume the obligations of the MAD to maintain the Financing District Improvements as Common Area Easements and Common Improvements. The Declaration is hereby amended to delete any and all references to a Facilities District(s) to the extent such references provide for the maintenance of the Financing District Improvements by a Financing District and not by the Association, since all of these obligations will be performed by the Association as portion of the Common Area.

2. Exhibits to Declaration. Due to a number of re-subdivisions of the Property, as provided in various Supplementary Declarations, certain Exhibits to the Declaration have been updated and modified from those originally made a part of the Declaration. In addition, based on the addition of the Financing District Improvements to the Common Area, additional modifications to certain Exhibits are required. As such, the following Exhibits are hereby deleted in their entirety from the original Declaration and replaced with the Exhibits attached hereto and incorporated herein:

2.1 Common Areas. Exhibit C to the Declaration, depicting the Common Area, as modified by the Supplementary Declarations, is hereby replaced and superceded by Exhibit C attached hereto and incorporated herein.

2.2 Allocation of Assessments and Voting Power. Exhibit D to the Declaration, setting forth the Allocable Share of Assessments and Voting Power, as modified by the

Supplementary Declarations, is hereby replaced and superceded by Exhibit D attached hereto and incorporated herein.

2.3 Allocation of the Maximum Buildable Square Footage. Exhibit G to the Declaration, setting forth the allocation of the maximum buildable square footage of Lots within the Property as modified by the Supplementary Declarations, is hereby replaced and superceded by Exhibit G attached hereto and incorporated herein.


3. Effect of Amendment. Except as amended hereby, the Declaration remains in full force and effect.

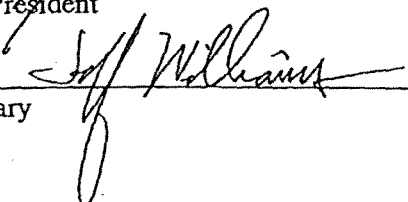
IN WITNESS WHEREOF, this Amendment has been executed as of the date first above written.

CERTIFICATE OF AMENDMENT

The undersigned Vice President of the San Diego Spectrum Owners Association ("Association") and the Secretary of the Association hereby certify that the foregoing First Amendment to Declaration of Covenants, Conditions and Restrictions of San Diego Spectrum have been approved by the vote or written consent of the requisite number of Members of each class of membership in the Association.

SAN DIEGO SPECTRUM OWNERS ASSOCIATION, a California non profit mutual benefit corporation

  
\_\_\_\_\_  
Vice-President

  
\_\_\_\_\_  
Secretary

10949

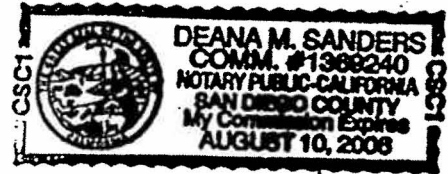
STATE OF CALIFORNIA )  
 ) ss.  
COUNTY OF San Diego )

On October 4, 2002 before me, Deana H. Sanders, personally appeared Jack A. Ritchie personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name(s) are/is subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity, and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature [Handwritten Signature]

(SEAL)



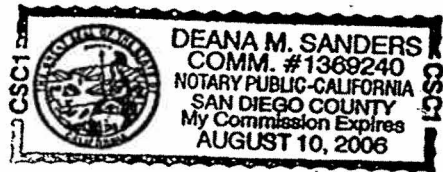
STATE OF CALIFORNIA )  
 ) ss.  
COUNTY OF San Diego )

On October 4, 2002 before me, Deana H. Sanders, personally appeared JEFF Williams personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name(s) are/is subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity, and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature [Handwritten Signature]

(SEAL)



10950

CERTIFICATE OF AMENDMENT  
FRITO LAY, INC.

The undersigned hereby consents to the foregoing First Amendment to Declaration of Covenants, Conditions and Restrictions of San Diego Spectrum and agrees to be bound by its terms to the extent provided for the Declaration in the Grant Deed delivered by Declarant to Frito Lay recorded on October 12, 1999 as Instrument No. 1999-0688550.

FRITO LAY, INC.,  
a Delaware corporation

By: Clint Bixler 9/20/02  
Name: Clint Bixler  
Title: Manager, Real Estate Operations

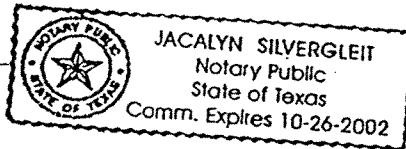
STATE OF TEXAS                    }  
  } ss.  
COUNTY OF COLLIN               }

On this 20th day of September 2002, before me, Jacalyn Silvergleit, the undersigned Notary Public, personally appeared Clint Bixler, Manager, Real Estate Operations, 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.

[Signature]

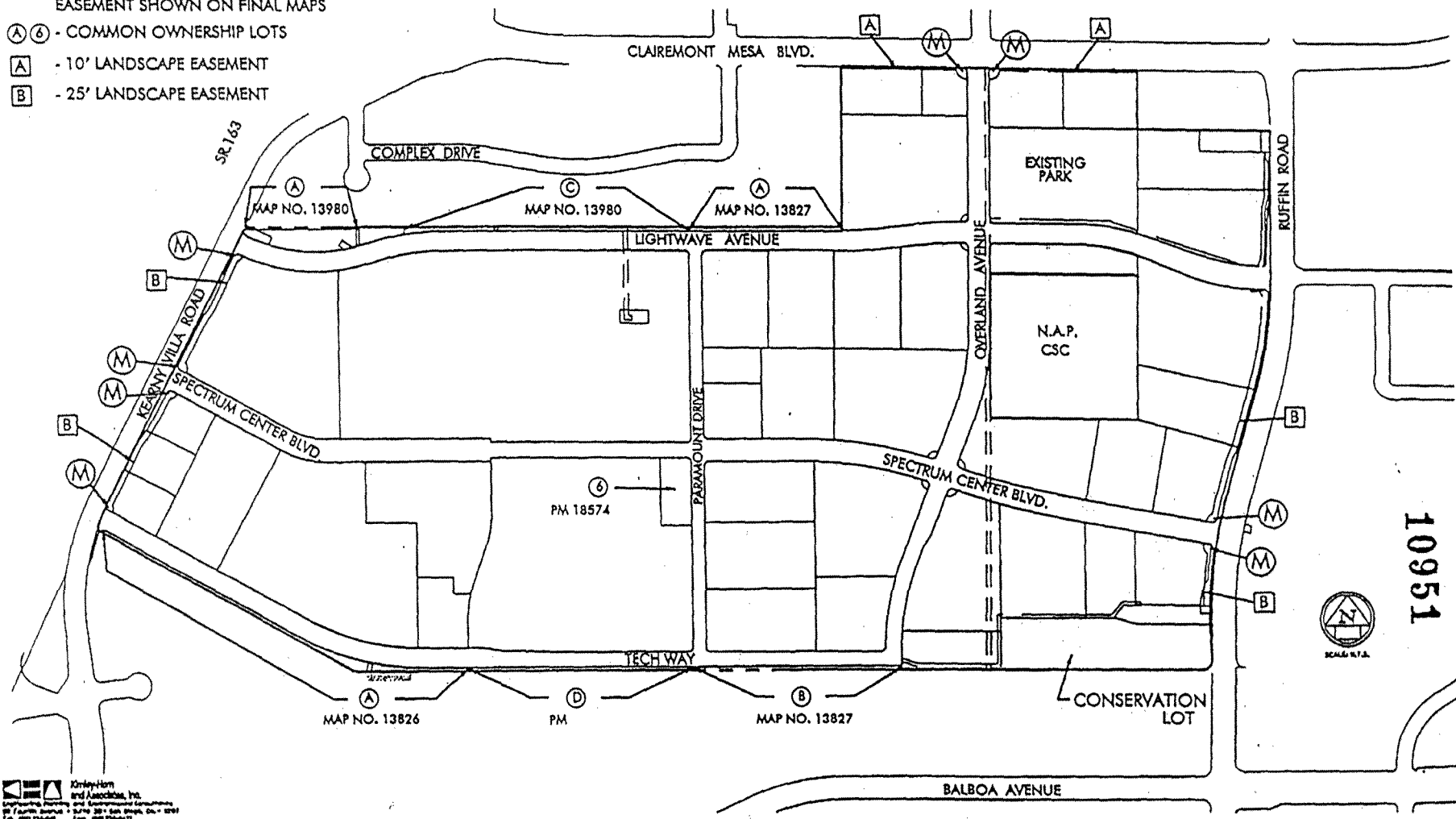
Notary Public



**LEGEND:**

- (M) = VERTICAL PROJECT MONUMENTS  
LOCATED IN CITY LANDSCAPE  
EASEMENT SHOWN ON FINAL MAPS
- (A) (D) - COMMON OWNERSHIP LOTS
- [A] - 10' LANDSCAPE EASEMENT
- [B] - 25' LANDSCAPE EASEMENT

# EXHIBIT C - COMMON AREAS ( EASEMENTS, IMPROVEMENTS, LOTS) SAN DIEGO SPECTRUM



10951

**Kirley-Horn and Associates, Inc.**  
 Engineering, Planning and Environmental Consultants  
 95 Fourth Avenue - Suite 200 - San Diego, CA - 92101  
 Tel: 619 231-9400 Fax: 619 231-9433

\*LOT AREAS & LAND USE SUBJECT TO CHANGE

## EXHIBIT D

## Allocable Share of Assessments and Voting Power

Lot/Parcel # <sup>1/</sup> :	Lot Size (Acres) <sup>2/</sup>	Voting Power <sup>2/</sup>	Allocable Share of Assessments for Lots Subject to Declaration (%) <sup>2/</sup>
Parcel Map No. 18574			
Parcel 1	9.7	10	5.41
Parcel 2	31.0	31	16.76
Parcel 5	18.1	18	9.73
Parcel Map No. 18876			
Parcel 1	11.7	12	6.49
Parcel 2	5.5	6	3.24
Parcel 3	1.6	2	1.08
Final Map Phase 1 (Tract 13826)			
1	1.1	1	0.54
2	1.2	1	0.54
3	1.2	1	0.54
4	4.5	5	2.70

<sup>1/</sup> Refers to Lots/Parcels described and/or depicted on Exhibits A and B to Declaration or subsequently annexed.

<sup>2/</sup> Approximate net acreage of Lots/Parcels. Total votes for Lots subject to Declaration = 173. Votes allocated based on 1 vote per each net acre of each Lot as set forth herein rounded to the nearest net acre, subject to re-calculation in the future upon a reduction of net acreage due to any re-configuration of dedicated streets on Lots or Parcels. In addition, both Voting Power and Allocable Share of Assessments are subject to re-calculation as provided in the Declaration and any Declaration of Annexation.

LNR/S.D. Spectrum  
26496-5/11723021.3

3/14/02

## EXHIBIT D

# 10953

Lot/Parcel # <sup>1/</sup> :	Lot Size (Acres) <sup>2/</sup>	Voting Power <sup>2/</sup>	Allocable Share of Assessments for Lots Subject to Declaration (%) <sup>2/</sup>
Parcel Map No. 18553			
Parcel 1	1.8	2	1.08
Parcel 2	1.0	1	0.54
Parcel 3	6.4	6	3.24
Parcel Map No. 18779			
1	2.0	2	1.08
2	2.0	2	1.08
Final Map Phase 2 (Tract 13827)			
6	3.5	4	2.16
7	3.9	4	2.16
8	5.8	6	3.24
9	2.9	3	1.62
10	2.6	3	1.62
11	2.7	3	1.62
12	4.3	4	2.16
13 <sup>3/</sup>	3.3	0	1.67
14 <sup>3/</sup>	3.1	0	1.62
15 <sup>3/</sup>	3.0	0	1.62
16 <sup>3/</sup>	3.0	0	1.62

<sup>3/</sup> Lots 13 through 16 are not subject to Declaration and have no Voting Power but are subject to the payment of the appropriate Allocable Share of Assessments subject to separate agreements recorded on November 30, 1999 in the Official Records of the San Diego County Recorder as Instrument No. 1999-0783154 and on October 12, 1999 in the Official Records of the San Diego County Recorder as Instrument No. 1999-0688550. Therefore, 12 additional votes have been added to the total votes solely for purposes of calculating the Allocable Share of Assessments. The 12 additional votes have not been included in the Voting Power column of this Exhibit D.

LNR/S.D. Spectrum  
26496-5/11723021.3

3/14/02

## EXHIBIT D



# 10954

Lot/Parcel # <sup>1</sup> :	Lot Size (Acres) <sup>2</sup>	Voting Power <sup>2</sup>	Allocable Share of Assessments for Lots Subject to Declaration (%) <sup>2</sup>
<b>Parcel Map No. 18532</b>			
1	1.0	1	.54
2	1.5	2	1.08
3	3.1	3	1.62
4	5.7	6	3.24
<b>Parcel Map No. 18711</b>			
1	3.1	3	1.62
2	3.5	4	2.16
3	3.1	3	1.62
4	5.0	5	2.70
5	2.5	3	1.62
<b>Final Map Phase 2 (Tract 13827)</b>			
26	1.6	2	1.08
27	5.0	5	2.70
28	4.1	4	2.16
29	2.0	2	1.08
30	3.1	3	1.62
<b>Total</b>		<b>173</b>	<b>100%</b>

LNR/S.D. Spectrum  
26496-5/11723021.3

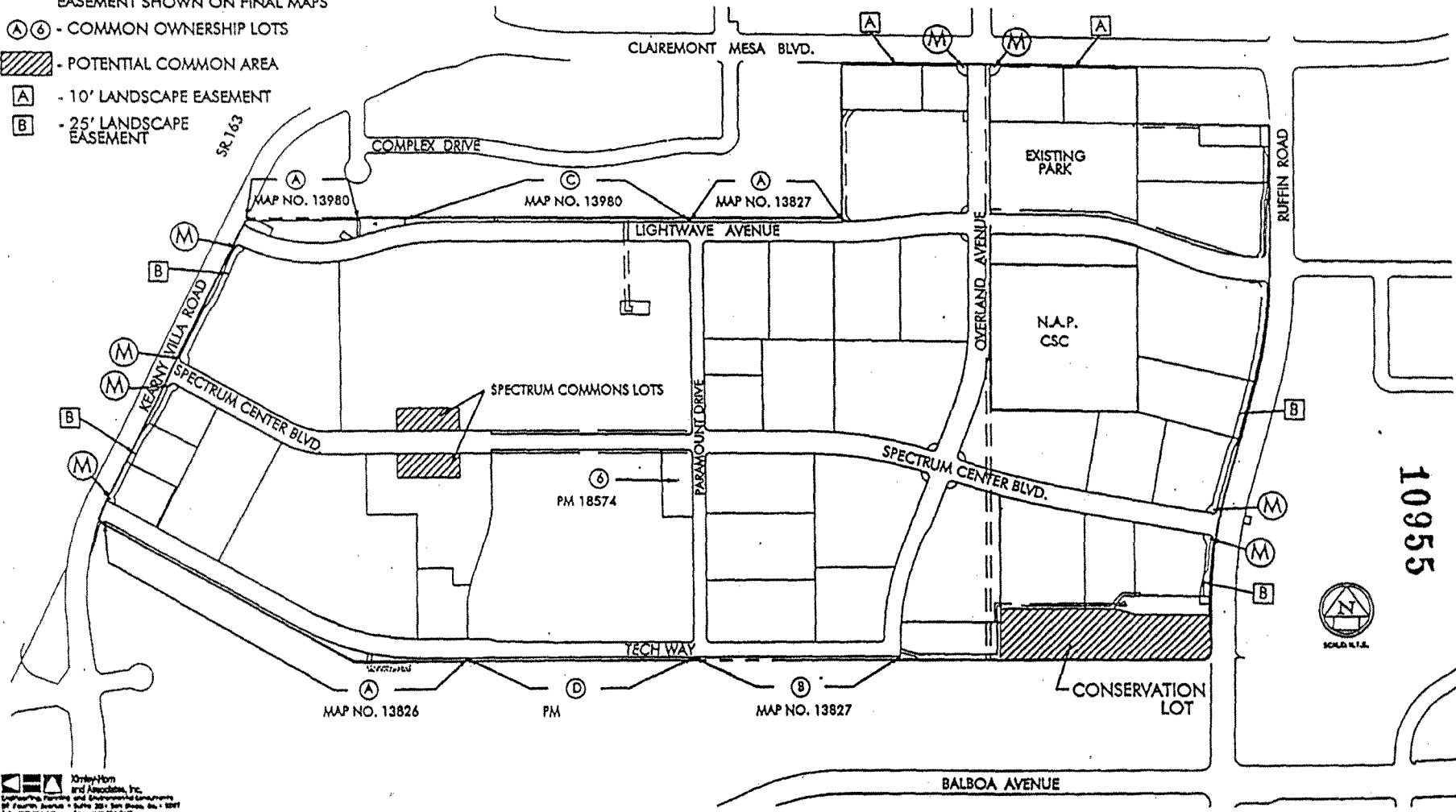
3/5/02

## EXHIBIT D

**LEGEND:**

- (M) = VERTICAL PROJECT MONUMENTS LOCATED IN CITY LANDSCAPE EASEMENT SHOWN ON FINAL MAPS
- (A) (C) - COMMON OWNERSHIP LOTS
- [Hatched Box] - POTENTIAL COMMON AREA
- (A) - 10' LANDSCAPE EASEMENT
- (B) - 25' LANDSCAPE EASEMENT

# EXHIBIT E - POTENTIAL COMMON AREAS ( EASEMENTS, IMPROVEMENTS, LOTS) SAN DIEGO SPECTRUM



Korley-Horn and Associates, Inc.  
 Civil, Surveying, Planning and Environmental Engineering  
 14140 La Jolla Village Drive, Suite 200, San Diego, CA 92131  
 Tel: 619 594-9400 Fax: 619 594-9403

\*LOT AREAS & LAND USE SUBJECT TO CHANGE

10955



EXHIBIT G

Maximum Buildable Square Footage Per Lot

PCD AREA<sup>1/</sup>

LOT #	LOT AREA (acres) <sup>2/</sup>	MAXIMUM BUILDABLE SQUARE FOOTAGE <sup>3/</sup>
TRACT 13826		
1	1.1	8,000 SQ. FT.
2,3	2.4	45,000 SQ. FT.
4	4.5	245 HOTEL ROOMS
PARCEL MAP NO. 18574		
1, 2 (PORTION) <sup>4/</sup>	32.5	603,000 SQ. FT.
PARCEL MAP NO. 18876		
2	5.5	125 RESIDENTIAL UNITS
SUBTOTAL		656,000 SQ. FT.
RESERVED BUILDABLE CAPACITY (PCD AREA)		139,000 SQ. FT.
TOTAL PCD BUILDABLE CAPACITY		795,000 SQ. FT.

<sup>1/</sup> Allocable by Declarant pursuant to Section 5.11 of Declaration. All maximum buildable square footages are subject to amendment and adjustment by the City pursuant to the Project Approval Documents, at the request of Declarant and upon the consent of the Owner of the affected Lot(s).

<sup>2/</sup> Lot Areas are subject to adjustment upon dedication of public right-of-ways to the City and maximum buildable square footage may be reduced accordingly.

<sup>3/</sup> The maximum buildable square footages set forth herein are based in the uses and zoning permitted under the Project Approval Documents. Other uses approved by the Declarant, Design Review Committee and/or City requiring a conditional use permit or other amendment to the Project Approval Documents may not be limited by these square footages.

<sup>4/</sup> The division of the PID and PCD Area for Lot 2 are set forth on the New Center Master Plan dated November 18, 1997, as amended at the City Council Meeting on October 3, 2000.

LNR/S.D. Spectrum  
26496-5/11723021.3

3/14/02

EXHIBIT G

10957

PID AREA

LOT #	LOT AREA (ACRES) <sup>1/2</sup>	MAXIMUM BUILDABLE SQUARE FOOTAGE BUILDOUT <sup>1/2</sup>
PARCEL MAP NO. 18553		
PARCEL 1	1.8	15,510 SQ. FT.
PARCEL 2	1.0	8,617 SQ. FT.
PARCEL 3	6.4	129,079 SQ. FT.
PARCEL MAP NO. 18779		
1	2.0	22,843
2	2.0	35,057
TRACT 13827		
6	3.5	61,622 SQ. FT.
7	3.9	72,838 SQ. FT.
8	5.8	106,290 SQ. FT.
9, 10, 11, 12	12.5	228,252 SQ. FT.
13	3.3	77,219 SQ. FT.
14	3.1	72,071 SQ. FT.
15	3.0	71,135 SQ. FT.
16	3.0	71,135 SQ. FT.
PARCEL MAP NO. 18532		
1	1.0	23,400 SQ. FT.
2	1.5	35,801 SQ. FT.
3	3.1	61,550 SQ. FT.
4	5.7	110,948 SQ. FT.

LNR/S.D. Spectrum  
26496-5/11723021.3

3/14/02

EXHIBIT G

LOT #	LOT AREA (ACRES) <sup>1/2</sup>	MAXIMUM BUILDABLE SQUARE FOOTAGE BUILDOUT <sup>2</sup>
<b>PARCEL MAP NO. 18711</b>		
1	3.1	71,936 SQ. FT.
2	3.5	81,217 SQ. FT.
3	3.1	71,936 SQ. FT.
4	5.0	108,000 SQ. FT.
5	2.5	58,012 SQ. FT.
<b>TRACT 13827</b>		
26	1.6	58,012 SQ. FT.
27	5.0	110,759 SQ. FT.
28	4.1	90,823 SQ. FT.
29	2.0	44,304 SQ. FT.
30	3.1	68,671 SQ. FT.
<b>PARCEL MAP NO. 18574</b>		
2 (PORTION) <sup>3</sup>	8.2	397,000 SQ. FT.
<b>PARCEL MAP NO. 18876</b>		
1	11.7	200,000 SQ. FT.
<b>SUBTOTAL</b>		<b>2,541,468 SQ. FT.</b>
<b>RESERVED (PID AREA) BUILDABLE CAPACITY</b>		<b>528,532 SQ. FT.</b>
<b>TOTAL PID BUILDABLE CAPACITY</b>		<b>3,070,000 SQ. FT.</b>

<sup>3/</sup> The division of the PID and PCD Area for Lot 2 are set forth on the New Center Master Plan dated November 18, 1997, as amended at the City Council Meeting on October 3, 2000.

EXHIBIT G

10959

PLANNED RESIDENTIAL DEVELOPMENT AREA (PRD)

LOT #	LOT AREA (ACRES) <sup>12</sup>	MAXIMUM BUILDABLE SQUARE FOOTAGE BUILDOUT <sup>12</sup>
PARCEL 5 OF PARCEL MAP NO.18574	18.1	448 APARTMENT UNITS

LNR/S.D. Spectrum  
26496-5/11723021.3

3/14/02

EXHIBIT G