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17 SEPTEMBER 91 04:39 PM
KATIE L. DIXON
RECORDER, SALT LAKE COUNTY, UTAH
CHARLES L. ALLSEN
215 S STATE ST NO. 900
SLC UT 84111
REC BY: KARMA BLANCHARD, DEPUTY

DECLARATION OF RESTRICTION

This DECLARATION OF RESTRICTION, (this "Declaration") is made this 12th day of September, 1991 by CORNERSTONE LEISURE INDUSTRIES, INC., a Utah corporation, Debtor-in-Possession, Bankruptcy No. 90B-07722, ("Declarant") for the benefit of the GFI Property and the Albertsons Property (as defined herein), GFI, LTD. II-WVC INVESTMENTS, LTD., a Utah limited partnership, and its successors and assigns ("GFI"), which is the owner of the GFI Property; Kmart CORPORATION, a Michigan corporation, and its successors and assigns ("Kmart"), which currently holds a leasehold interest in the GFI Property; and ALBERTSONS REALTY, INC., a Delaware corporation, and its successors and assigns ("Albertsons"), which is the owner of the Albertsons Property, with reference to the following facts:

A. Declarant is the fee interest owner of certain real property located in the City of West Valley City, County of Salt Lake, State of Utah, more particularly described on Exhibit "A" attached hereto (the "Restricted Property").

B. GFI is the fee interest owner of certain real property located in the City of West Valley City, County of Salt Lake, State of Utah, which real property lies contiguous to the Restricted Property, more particularly described in Exhibit "B" attached hereto (the "GFI Property").

C. Albertsons is the fee interest owner of certain real property located in the City of West Valley City, County of Salt Lake, State of Utah, which real property lies contiguous to the Restricted Property more particularly described in Exhibit "C" attached hereto (the "Albertsons Property").

D. Kmart presently leases a portion of the GFI Property from GFI, and intends to construct certain additional improvements ("Improvements") on the GFI Property which will enlarge the overall size of the Kmart structure which presently exists on the GFI Property.

E. The West Valley City Building Code (the "Code"), requires that a minimum separation of sixty (60) feet between certain buildings on both the Albertsons Property and the GFI Property and other structures around them be maintained.

F. To ensure that the separation required by the Code is at all times maintained, and to allow GFI, Kmart and Albertsons

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to construct and maintain their respective improvements on the GFI Property, and the Albertsons Property, Declarant has agreed to place a restriction prohibiting the construction and/or maintenance of certain types of improvements on the Restricted Property.

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, Declarant, intending to be legally bound, does hereby agree as follows:

1. Building Restriction. No improvement, building, or structure of any kind shall be constructed and/or maintained on or over the Restricted Property which would in any way cause the GFI Property, or the Albertsons Property or the structures thereon to be in violation of the building separation provisions of the Code, as referred to above. Should either Declarant or its successors and assigns violate the foregoing restriction, then GFI, Kmart or Albertsons, or their respective successors and assigns, may, as their sole and exclusive remedies, seek and shall be entitled to injunctive relief and/or specific performance to ensure that the violating improvement, building or structure is removed and that this restriction is fully and strictly enforced.

2. Compliance. This Declaration is not intended to alter or affect determinations as to whether proposed or existing improvements on the Restricted Property, the GFI Property or the Albertsons Property meet or comply with applicable set-back or other open area restrictions established by West Valley City, or other governmental authority with jurisdiction over the Restricted Property, for side yard, density, fire control or other purposes.

3. Covenant Running with the Land. The Restricted Property shall be held, conveyed, hypothecated, encumbered, leased, rented, used, occupied and improved subject to and in accordance with the restriction set forth in this Declaration, which is declared to be in furtherance of and for the improvement of the GFI Property and the Albertsons Property and for purposes of enhancing its value, use, desirability and safety. The restriction created hereby is imposed as an equitable servitude upon the Restricted Property in favor of the GFI Property and the Albertsons Property, and shall be a covenant running with the land, binding upon and inuring to the benefit of Declarant, GFI, Kmart and Albertsons and their respective successors and assigns, and all other persons having or acquiring any right, title or interest, including leasehold interest, in all or any portion of the Restricted Property, the GFI Property or the Albertsons Property, and their respective successors and assigns. However, no party, successive owner, lessor or lessee shall be liable for any breach of the restriction hereby imposed occurring before he or it acquired an interest in the Restricted Property, or after he or it has parted with the Restricted Property or ceased to enjoy its benefits.

4. Due Authorization. Declarant hereby represents and warrants that the execution and performance of this Declaration have been duly authorized; that no consent not previously obtained is required for this Declaration to be binding in accordance with its terms; that the Declarant has full power and authority to make this Declaration and to effect and comply with the restriction hereby imposed; and that the person who has executed this Declaration on behalf of Declarant has full authority to do so.

5. Attorney Fees. In the event any action be instituted by GFI, Kmart, Albertsons or Declarant, or their respective successors and assigns, to enforce any of the terms or provisions hereof, including any action instituted for declaratory or injunctive relief, the prevailing party in such action shall be entitled to recover from the other party its reasonable attorney fees, costs and expenses incurred in connection with such litigation.

6. Enforcement and Termination. The terms and conditions of this Declaration shall have no force or effect unless and until the construction of the Improvements has commenced. This Declaration shall automatically terminate if (i) the Code (or any successor provision of the Code) no longer requires the sixty (60)-foot building separation, or (ii) if any portion of the Restricted Property is no longer required to meet the Code's separation requirements; then in such event, this Declaration shall automatically terminate as to such portion of the Restricted Property that is no longer required to meet the Code's separation requirements. Except as provided for in this Paragraph 6, no party hereto shall terminate, or otherwise cancel this Declaration, without recordation of an instrument evidencing the express written consent of GFI, Kmart and of Albertsons, or their successors and assigns to the extent GFI no longer has an ownership interest in the GFI Property, Kmart no longer has a leasehold interest in the GFI Property or Albertsons no longer has an ownership interest in the Albertsons Property.

7. This Declaration is expressly conditional upon approval of the Bankruptcy Court after notice to creditors in Bankruptcy Case No. 90B-07722 in the Bankruptcy Court for the District of Utah, Central Division.

IN WITNESS WHEREOF, the undersigned has duly executed this Declaration as of the day and year first above written.

DECLARANT:

CORNERSTONE LEISURE INDUSTRIES, INC., a Utah corporation, Debtor-in-Possession, Bankruptcy No. 90B-07722

By: [Signature]

Its: President

ATTEST:

By: [Signature]

STATE OF UTAH)
) :ss.
COUNTY OF Salt Lake)

On the 12 day of September, 1991, personally appeared before me mark Davis and _____, personally known to me (or proved to me on the basis of satisfactory evidence) to be the persons who executed the within instrument as President and _____ on behalf of CORNERSTONE LEISURE INDUSTRIES, INC., the Corporation therein named as Declarant, and acknowledged to me that such Corporation executed the within instrument pursuant to its by-laws or a resolution of its board of directors.

Notary Public
BRENDA L. HAMMOND
50 So. Main St. #1800
Salt Lake City, Utah 84144
My Commission Expires
July 23, 1993
State of Utah
[SEAL]

[Signature]
NOTARY PUBLIC

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EXHIBIT "A"

RESTRICTED PROPERTY

Easement West of Kmart Loading Dock

Beginning at a point which is North 0°09'50" West along the section line 831.74 feet and South 89°50'10" West 53.00 feet and North 89°59'10" East 229.50 feet and South 0°09'50" East 60.0 feet; and North 89°59'10" East 370.50 feet; and North 0°09'50" West 75.30 feet from the Southeast corner of Section 26, Township 1 South, Range 2 West, Salt Lake Base and Meridian to the point of beginning; thence North 0°09'50" West 110 feet; thence South 89°50'10" West 15 feet; thence South 0°09'50" East 110 feet; thence North 89°50'10" East 15.0 feet to the point of beginning.

and also:

Easement West of Albertson's Loading Dock

Beginning at a point which is North 0°09'50" West along the section line 891.74 feet and South 89°59'10" West 653.0 feet and South 0°09'50" East 329.73 feet from the Southeast corner of Section 26, Township 1 South, Range 2 West of the Salt Lake Base and Meridian thence from point of beginning the following; thence South 0°09'50" East 135 feet; thence South 89°50'10" West 20 feet; thence North 0°09'50" West 135 feet; thence North 89°50'10" East 20 feet to the point of beginning.

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EXHIBIT "B"

GFI PROPERTY

Beginning at a point which is North 0°09'50" West along the section line 786.24 feet and South 89°50'10" West 53.00 feet from the Southeast corner of Section 26, Township 1 South, Range 2 West, Salt Lake Base and Meridian and running thence South 89°50'10" West 110.50 feet; thence South 0°09'50" East 89.50 feet; thence South 89°50'10" West 199.00 feet; thence South 0°09'50" East 7.12 feet; thence South 89°50'10" West 135.50 feet; thence South 0°09'50" East 60.00 feet; thence South 89°50'10" West 155.00 feet; thence North 0°09'50" West 263.70 feet; thence North 89°59'10" East 370.50 feet; thence South 0°09'50" East 60.00 feet; thence North 89°59'10" East 229.50 feet; thence South 0°09'50" East 45.50 feet to the point of beginning. Contains 105,185.2 square feet or 2.415 acres.

Beginning at a point which is North 0°09'50" West along the section line 786.24 feet and South 89°50'10" West 53.00 feet and North 0°09'50" West 45.50 feet from the Southeast corner of Section 26, Township 1 South, Range 2 West, Salt Lake Base and Meridian and running thence South 89°59'10" West 229.50 feet; thence North 0°09'50" West 60.00 feet; thence South 89°59'10" West 370.50 feet; thence North 0°09'50" West 640.30 feet; thence North 89°59'10" East 489.50 feet; thence South 0°09'50" East 185.06 feet; thence North 89°59'10" East 110.50 feet; thence South 0°09'50" East 60.00 feet; thence South 89°59'10" West 110.50 feet; thence South 0°09'50" East 129.50 feet; thence North 89°50'10" East 110.50 feet; thence South 0°09'50" East 325.79 feet to the point of beginning. Contains 363,179.46 sq. feet or 8.338 acres.

EXHIBIT "C"

ALBERTSONS PROPERTY

Beginning at a point which is North 0°09'50" West along the section line 354.24 feet and South 89°50'10" West 53.00 feet from the Southeast corner of Section 26, Township 1 South, Range 2 West, Salt Lake Base and Meridian and running thence South 89°50'10" West 176.00 feet; thence North 0°09'50" West 2.50 feet; thence South 89°50'10" West 59.50 feet; thence North 0°09'50" West 72.88 feet; thence South 89°50'10" West 217.38 feet; thence South 0°08'47" East 5.00 feet; thence South 89°50'10" West 113.12 feet; thence North 0°09'50" West 5.00 feet; thence South 89°50'10" West 40.00 feet; thence North 0°09'50" West 200.00 feet; thence North 89°50'10" East 321.00 feet; thence North 0°09'50" West 7.12 feet; thence North 89°50'10" East 49.50 feet; thence North 0°09'50" West 60.00 feet; thence North 89°50'10" East 119.00 feet; thence South 0°09'50" East 49.50 feet; thence North 89°50'10" East 110.50 feet; thence South 0°09'50" East 293.00 feet to the point of beginning. Contains 148,003.2 square feet or 3.39 acres.