



DEED 2003241043



DEC 16 2003 10:23 P 4

Nebr Doc Stamp Tax
12/16/03
Date
\$ 1925. <sup>00</sup>
By <i>WJ</i>

RECEIVED  
 COUNTY OF ...  
 ...

This instrument prepared by:

Wal-Mart Stores, Inc.  
 Sam M. Walton Development Complex  
 2001 S.E. 10<sup>th</sup> Street  
 Bentonville, AR 72716-0550  
 Attn: Brandi Lewis  
 (479) 277-1348

After recording return to:

Fidelity National Title Insurance Company  
 717 North Harwood Street, Suite 800  
 Dallas, TX 75201  
 Attn: Rod Faris  
 (214) 969-5300

*Deed B*  
 FEE 21.00 FB \_\_\_\_\_  
 BKP \_\_\_\_\_ C/O \_\_\_\_\_ COMP WJ  
 DEL \_\_\_\_\_ SCAN \_\_\_\_\_ FV \_\_\_\_\_  
 4/2

**SPECIAL WARRANTY DEED**

This SPECIAL WARRANTY DEED made this December 2<sup>nd</sup>, 2003, between **WAL-MART STORES, INC.**, a Delaware corporation, with a corporate address of: 702 S.W. 8<sup>th</sup> Street, Bentonville, AR 72716 ("Grantor"), and **WALLY PROPERTIES, LLC**, an Oklahoma limited liability company, with an address of P.O. Box 10210, Fort Smith, AR 72917 ("Grantee").

**W I T N E S S E T H:**

THAT GRANTOR, for and in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration, to it in hand paid by Grantee, the receipt whereof is hereby acknowledged, does hereby forever grant, bargain, sell, convey and confirm to Grantee, and its successors and assigns, a certain tract of land, containing 2.30 ACRES, more or less, situated, lying, and being in the City of Omaha, Douglas County, Nebraska, as more particularly described to wit:

See Exhibit "A" attached hereto and made a part hereof ("Property");

TO HAVE AND TO HOLD said land unto Grantee, and its successors and assigns, forever, with all tenements, appurtenances and hereditaments thereunto belonging, subject to easements, conditions, restrictions and other matters of record, and subject to the following conditions and restrictions:

- (a) Grantee covenants that the Property shall only be used for purposes of the kind typically found in shopping centers, including, but not limited to, offices, restaurants, and retail shops.
- (b) Grantee further covenants that the Property shall not be used for or in support of the following: (i) a discount store in excess of eight thousand (8,000) square feet in floor size, wholesale membership/warehouse club, grocery store/supermarket, pharmacy/drug store; (ii) gas station, quick lube/oil change facility, automobile tire sales; (iii) movie theater, bowling alley, health spa/fitness center; or (iv) adult book store, bar, night club, billiard parlor, any place of recreation/amusement, or any business whose principal revenues are from the sale of alcoholic beverages.
- (c) Grantee further covenants that only one (1) one-story building may be erected on said Property, which building, so long as the applicable parking ratio required herein is met, shall not exceed thirty thousand (30,000) square feet in floor size per building or twenty-six (26) feet in height.
- (d) Grantee further covenants that in the event the Property is used for a restaurant, there shall not be less than fifteen (15) parking spaces on the Property for every one thousand (1,000) square feet of

② \* 71798-

F-9418

floor building area thereon; for all other uses permitted hereunder there shall not be less than five (5) parking spaces per one thousand (1,000) square feet of floor building area on the Property.

- (e) Grantee further covenants that: (i) only signs advertising business located on the Property may be erected thereon; (ii) the Property and all improvements erected or constructed thereon shall be maintained in good condition and repair; and (iii) the exterior of which shall not be constructed of metal.
- (f) Grantor reserves the right to approve, prior to commencement of any construction by Grantee of any buildings or improvements on the Property, Grantee's: (i) site plans, (ii) utility plans including connections, (iii) grading plans including stormwater management, (iv) setbacks from lot lines, (v) location and dimensions of parking areas and spaces, driveways, and service areas, (vi) landscaping plans, (vii) the placement of Grantee's building(s) and other improvements (viii) exterior elevations and (ix) signage ("Development Plan") prepared by certified/licensed architects and/or engineers and conforming with the restrictions set forth above. Grantee shall deliver said Development Plan to Grantor for its approval. Grantor shall have thirty (30) days after receipt of the Development Plan from Grantee to approve or disapprove the Development Plan in writing. If the Development Plan is disapproved, Grantor shall give the reasons for such disapproval, and Grantee shall resubmit to Grantor a revised Development Plan incorporating Grantor suggested revisions within thirty (30) days from the date of Grantee's receipt of Grantor's disapproval, and the same time schedule as mentioned above shall be repeated until the Development Plan is approved.
- (g) All such covenants, conditions, restrictions and approval rights shall remain in effect for a period of fifty (50) years. The aforesaid covenants, conditions, restrictions and approval rights shall run with and bind the Property, and shall bind Grantee or an affiliated company, or its successors or assigns, and shall inure to the benefit of and be enforceable by Grantor, or an affiliated company, or its successors and assigns, by any appropriate proceedings at law or in equity to prevent violations of such covenants, conditions, restrictions and approval rights and/or to recover damages for such violations.

AND SAID GRANTOR does hereby warrant the title to said Property, and will defend the same against the lawful claims of all persons claiming under Grantor, but none other, subject to the easements, encumbrances, restrictions, and other matters of record and the covenants, conditions, and restrictions as stated herein, and subject to real property taxes for the year of 2003, and thereafter.

[Signature page follows]

IN WITNESS WHEREOF, Grantor has caused this instrument to be executed in its name by its Director of Land Development, of the Grantor, Wal-Mart Stores, Inc. and caused its corporate seal attested by its Assistant Secretary to be hereto affixed the day and year first above written.

**WAL-MART STORES, INC.,**  
a Delaware corporation

ATTEST:

BY:

*[Signature]*  
Latriece Watkins  
Assistant Secretary

BY:

*[Signature]*  
Carole J. Baker,  
Director of Land Development

[CORPORATE SEAL]

ACKNOWLEDGEMENT

STATE OF ARKANSAS            )  
  ) §  
COUNTY OF BENTON         )

In the State of Arkansas, County of Benton, on this December 2, 2003, before me, the undersigned, a Notary Public in and for said County and State, personally appeared Carole J. Baker to me personally known, who being by me duly sworn did say that she is the Director of Land Development, of the Grantor in the foregoing special warranty deed, and that the seal thereto affixed is the corporate seal of said Wal-Mart Stores, Inc. and that said special warranty deed was signed, sealed and delivered on behalf of said corporation by authority of its Board of Directors and said Carole J. Baker acknowledged said special warranty deed to be the free act and deed of said corporation.

WITNESS my hand and notarial seal subscribed and affixed in said county and state, the day and year in this certificate above written.

BY: *Paula A. Seay*  
Notary Public

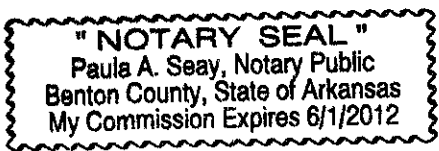


EXHIBIT "A"

LOTS 2 AND 3, STARWOOD SOUTH REPLAT, AS SURVEYED, PLATTED AND RECORDED IN DOUGLAS COUNTY, NEBRASKA. TOGETHER WITH AN ACCESS EASEMENT LYING IN LOT 1, STARWOOD SOUTH REPLAT AS SURVEYED, PLATTED, AND RECORDED IN DOUGLAS COUNTY, NEBRASKA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF LOT 2; THENCE S 2 59'52" W A DISTANCE OF 41.99 FEET; THENCE S 87 00'08" E A DISTANCE OF 638.85 FEET; THENCE N 2 59'51" E A DISTANCE OF 281.45 FEET; THENCE N 51 38'42" E TO A POINT ON THE SOUTH RIGHT OF WAY LINE OF REDICK CIRCLE A DISTANCE OF 42.99 FEET; THENCE N 57 14'40" W ALONG SAID RIGHT OF WAY A DISTANCE OF 25.60 FEET; THENCE CONTINUING ON SAID RIGHT OF WAY ON CURVE WITH A RADIUS OF 140.23 FEET AND ARC DISTANCE OF 74.10 FEET AND A CHORD BEARING N 72 22'27" W A DISTANCE OF 73.24 FEET; THENCE S 42 00'53" E A DISTANCE OF 26.62 FEET; THENCE S 2 59'52" W A DISTANCE OF 266.75 FEET; THENCE S 47 59'52" W A DISTANCE OF 19.09 FEET; THENCE N 87 00'08" W A DISTANCE OF 583.35 FEET ALONG THE SOUTHERLY LINE OF LOTS 2, 3, AND 4 TO THE POINT OF BEGINNING.

EASEMENT CONTAINS: 39,910.46 SQUARE FEET OR 0.92 ACRES MORE OR LESS