

NEBRASKA DOCUMENTARY  
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Apr 24, 2019  
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CASS COUNTY, NE.

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*Jana K. Pahlman*  
REGISTER OF DEEDS  
#01393 \$34.00

Pages 5

AFTER RECORDING, RETURN TO: Nicholas F. Sullivan, Erickson & Sederstrom, P.C., 10330 Regency Parkway Drive, Omaha, NE 68114  
(Space Above This Line for Recording Data)

**SHARED DRIVEWAY AND ACCESS EASEMENT AGREEMENT**

**This Shared Driveway and Access Easement Agreement** (this "Agreement") is made and entered into this 9 day of April, 2019 by and between **WESTSIDE DEVELOPMENT, INC.**, a Nebraska corporation ("Westside"), and **KOMCON REAL ESTATE, LLC**, a Nebraska limited liability company ("Komcon"). Westside and Komcon may be referred to in this Agreement each individually as a "Party," and collectively as the "Parties."

**WHEREAS**, Westside is the current owner of a tract of real estate located in Cass County, Nebraska described as follows (hereinafter "Lot 1"):

Lot 1, Westside Commercial Subdivision Replat 2, being an administrative replatting of Lots 4 through 6, Westside Commercial Subdivision, a subdivision located in the SW 1/4 of the NW1/4 of Section 13, Township 12 North, Range 13 East of the 6th P.M., an Addition to the City of Plattsmouth, as surveyed, platted, and recorded in Cass County, Nebraska;

**WHEREAS**, Komcon is the current owner of a tract of real estate located in Cass County, Nebraska described as follows (hereinafter "Lot 2"):

Lot 2, Westside Commercial Subdivision Replat 2, being an administrative replatting of Lots 4 through 6, Westside Commercial Subdivision, a subdivision located in the SW 1/4 of the NW1/4 of Section 13, Township 12 North, Range 13 East of the 6th P.M., an Addition to the City of Plattsmouth, as surveyed, platted, and recorded in Cass County, Nebraska;

**WHEREAS**, Lot 1 and Lot 2 are adjoining parcels of real estate located in Cass County, Nebraska, as set forth in Westside Commercial Subdivision Replat 2 recorded September 5, 2018, as Plat Book 21, Page 3a; Miscellaneous Book 75, Page 259, of the Official Records of Cass County, Nebraska;

**WHEREAS**, Westside and Komcon desire that Lot 1 and Lot 2 be developed and improved in conjunction with each other pursuant to a general plan of improvement to form a commercial shopping center;

**WHEREAS**, Westside and Komcon being the owners of adjoining parcels of real estate located in Cass County, Nebraska, wish to enter into an agreement to provide for the joint use and maintenance of an approximately twenty-five foot (25') wide and two hundred four and 45/100 foot (204.45') long shared access drive to be constructed on that portion of Lot 1 and Lot 2 as depicted on Exhibit "A" attached hereto and incorporated herein by this reference (the "Shared Access Driveway");

**WHEREAS**, Westside and Komcon being the owners of adjoining parcels of real estate located in Cass County, Nebraska, also wish to create and grant to each other and their respective heirs, personal representatives, lessees, successors, transferees, assigns, employees, agents, and invitees a permanent right-of-way and access easement consisting of a permanent right of ingress and egress for vehicular and pedestrian access to, from, over, and across the paved driveways, parking surfaces, and concrete sidewalks (the paved driveways, parking surfaces, and concrete

sidewalks are collectively referred to in this Agreement as the “Common Areas”) that currently exist or that may be constructed on the Parties’ respective parcels; and

**WHEREAS**, Komcon purchased Lot 2 from Westside, and as a condition to the purchase of Lot 2, Westside and Komcon agreed to enter into and record this Agreement.

**NOW THEREFORE**, in consideration of and based upon the foregoing recitals, as well as other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties mutually agree as follows:

1. **Recitals**: The Parties agree that the recitals set forth above form an integral part of this Agreement and are therefore incorporated by this reference as if fully set forth herein.

2. **Lot 1 Right-of-Way Easement**. Komcon hereby grants to Westside for the benefit of Westside, its heirs, personal representatives, lessees, successors, transferees, assigns, employees, agents, and invitees (collectively “Westside and its Authorized Users”), and for the benefit of Lot 1, full and free right and liberty for Westside and its Authorized Users to travel across and exercise the right of reasonable ingress and egress over and across the Shared Access Driveway so as to gain access to Lot 1.

3. **Lot 2 Right-of-Way Easement**. Westside hereby grants to Komcon for the benefit of Komcon, its heirs, personal representatives, lessees, successors, transferees, assigns, employees, agents, and invitees (collectively “Komcon and its Authorized Users”), and for the benefit of Lot 2, full and free right and liberty for Komcon and its Authorized Users to travel across and exercise the right of reasonable ingress and egress over and across the Shared Access Driveway so as to gain access to Lot 2.

4. **Shared Access Driveway Maintenance**. All costs and expenses for the repair, maintenance, and replacement of the Shared Access Driveway shall be mutually agreed upon and shared equally by Westside and Komcon. Such repair, maintenance, and replacement shall include, but shall not be limited to cleaning, snow and ice removal, paving or asphaltting, and reconstruction when necessary.

5. **Grant of Access Easement by Westside**: Westside hereby grants to Komcon and its Authorized Users, and for the benefit of Lot 2, a permanent non-exclusive appurtenant right, privilege, and easement for purposes of access to and from and ingress and egress by vehicular and pedestrian traffic over and across the Common Areas that exist or that may be constructed on Lot 1. Westside shall not do or permit any act or acts that will unreasonably prevent or hinder the access to and from and ingress or egress of Komcon or its Authorized Users over and across the Common Areas of Lot 1. The easement granted herein shall not be used for any purpose other than such vehicular and pedestrian traffic.

6. **Grant of Access Easement by Komcon**: Komcon hereby grants to Westside for the benefit of Westside and its Authorized Users, and for the benefit of Lot 1, a permanent non-exclusive appurtenant right, privilege, and easement for purposes of access to and from and ingress and egress by vehicular and pedestrian traffic over and across the Common Areas that exist or that may be constructed on Lot 2. Komcon shall not do or permit any act or acts that will unreasonably prevent or hinder the access to and from and ingress or egress of Westside or its Authorized Users over and across the Common Areas of Lot 2. The easement granted herein shall not be used for any purpose other than such vehicular and pedestrian traffic.

7. **Construction, Repair, and Maintenance of Common Areas**: Westside and Komcon agree to construct, repair, and maintain all Common Areas on their respective parcels in reasonably good order, condition, and repair. Westside, or its successors or assigns, shall be solely responsible for all costs and expenses for the construction, repair, maintenance, and replacement of all Common Areas on Lot 1. Komcon, or its successors or assigns, shall be solely responsible for all costs and expenses for the construction, repair, maintenance, and replacement of all Common Areas on Lot 2.

8. **Westside Indemnification**: Westside shall indemnify, defend, and hold harmless Komcon and Komcon’s successors and assigns, individually or collectively, from and against any and all demands, claims, causes of action, obligations, damages, liabilities, losses, suits,

judgments, costs, and expenses (including reasonable attorneys' fees) of any kind or nature that may be or are incurred by Komcon or Komcon's successors and assigns for any and all personal injuries, death, or property damage in any way arising out of, relating to, or on account of any use or occupation of the Shared Access Driveway or Common Areas on Lot 2 by Westside or by virtue of Westside's interest therein, provided, however, Westside shall not be liable for any injury, damage, or loss occasioned by the negligence, gross negligence, or willful misconduct of Komcon or its successors or assigns.

9. **Komcon Indemnification:** Komcon shall indemnify, defend, and hold harmless Westside and Westside's successors and assigns, individually or collectively, from and against any and all demands, claims, causes of action, obligations, damages, liabilities, losses, suits, judgments, costs, and expenses (including reasonable attorneys' fees) of any kind or nature that may be or are incurred by Westside or Westside's successors and assigns for any and all personal injuries, death, or property damage in any way arising out of, relating to, or on account of any use or occupation of the Shared Access Driveway or Common Areas on Lot 1 by Komcon or by virtue of Komcon's interest therein, provided, however, Komcon shall not be liable for any injury, damage, or loss occasioned by the negligence, gross negligence, or willful misconduct of Westside or its successors or assigns.

10. **Parties Bound Hereunder; Release of Liability:** This Agreement, the easements, covenants, conditions, and restrictions set forth herein, and the rights and obligations pertaining thereto, shall each perpetually run with the land, inure to the benefit of and be binding among the Parties hereto, the subsequent owners of Lot 1 and Lot 2, and each of their respective invitees, lessees, licensees, employees, servants, agents, customers, visitors, heirs, personal representatives, successors, transferees, and assigns, the same as if they were in every case named and expressed and shall perpetually continue in full force and effect. In the event any present or future owner of Lot 1 or Lot 2 shall convey their interests therein, such owner so conveying such property shall be automatically freed and relieved, from and after the date of the recording of the conveyance of such property, of all liabilities for future performance of any agreements, duties, and obligations on the part of such owner which is required by this Agreement to thereafter be performed with respect to such property so conveyed; it being intended hereby that all the agreements, duties, obligations, and liabilities contained in this Agreement shall be binding on the owners of the properties and any subsequent owners of the properties only as to that owner's period of ownership, and that each such conveying owner shall remain liable after the date of recording of such conveyance only for any liabilities and obligations herein, if any, which have arisen or accrued prior to such date of conveyance.

11. **Miscellaneous General Provisions:** This Agreement shall be governed by and construed in accordance with laws of the State of Nebraska. The unenforceability of any term of this Agreement shall not affect the enforceability of any of the remaining terms of this Agreement. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

[REMAINDER INTENTIONALLY LEFT BLANK; SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, Buyer and Seller have duly executed and delivered this Agreement effective as of the date first written above.

**SELLER:**

**BUYER:**

WESTSIDE DEVELOPMENT, INC.,  
a Nebraska corporation,

KOMCON REAL ESTATE, LLC,  
a Nebraska limited liability company,

By: [Signature]  
Printed Name: Steven K. Willey

By: [Signature]  
Printed Name: Joel Makovicka

Title: President

Title: Sole Member

STATE OF NEBRASKA )  
COUNTY OF Douglas ) ss.

The foregoing instrument was acknowledged before me this 9th day of April, 2019, by Steven K. Willey, President of Westside Development, Inc., a Nebraska corporation, as his voluntary act and deed on behalf of said company.

WITNESS my hand and Notarial Seal on the date last above written.

[Signature]  
Notary Public

STATE OF NEBRASKA )  
COUNTY OF DOUGLAS ) ss.

State of Nebraska – General Notary  
CHERYL ROYALTY  
My Commission Expires  
August 30, 2020

The foregoing instrument was acknowledged before me this 12 day of April, 2019, by Joel Makovicka, Sole Member of Komcon Real Estate, LLC, a Nebraska limited liability company, as his voluntary act and deed on behalf of said company.

WITNESS my hand and Notarial Seal on the date last above written.

[Signature]  
Notary Public

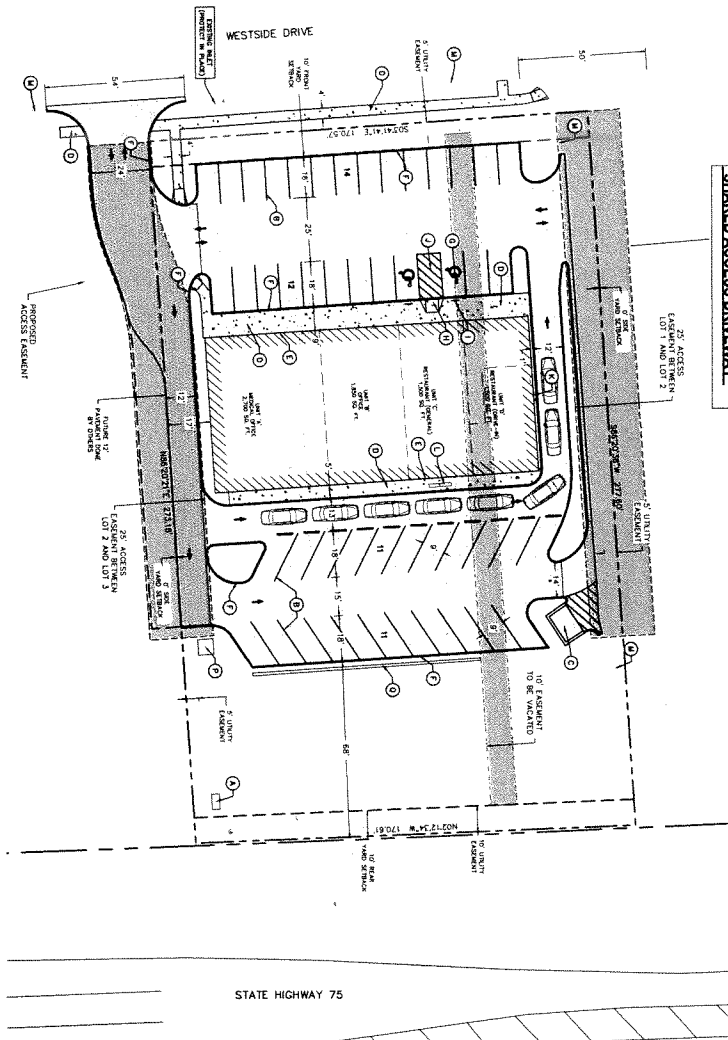
GENERAL NOTARY - State of Nebraska  
DEBORAH A. HUBBS  
My Comm. Exp. March 18, 2022

# EXHIBIT "A"



VICINITY MAP  
NOT TO SCALE

ENGINEER  
OLSSON ASSOCIATES  
601 P STREET, SUITE 200  
LINCOLN, NE 68508  
PHONE: 402-474-6311  
FAX: 402-474-6312



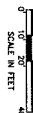
"SHARED ACCESS DRIVEWAY"

SITE INFORMATION	
EXISTING ZONING	DC - CENTRAL COMMERCIAL
LEGAL, DESC.	LOT 2, WESTSIDE COMMERCIAL SUBDIVISION REPLAT 2
ADDRESS	N/A
SETBACKS	
10' (FRONT) OF (SIDE) 10' (REAR)	
REQUIRED	ACCESSIBLE PARKING
PROVIDED	2 STALLS
VARIOUS BUILDING CODES	10% (70% ALLOWED)
MAXIMUM BUILDING COVERAGE	07% (00% ALLOWED)

SITE PARKING				
UNIT	SQUARE FOOTAGE	USE	PARKING REQUIREMENT	PARKING STALLS
A	2,700	GENERAL OFFICE	1 PER 3 DOCTORS	9 (MINIMUM 3 DOCTORS)
B	1,600	OFFICE	1 PER 300 SF	7
C	1,500	RESTAURANT (GENERAL)	1 SPACE PER 1 PERSON	18 (MINIMUM 18)
D	1,500	RESTAURANT (GRM-N)	1 SPACE PER 20 FT <sup>2</sup> OF DISTANCE	12 (MINIMUM 12)
			TOTAL	46
			PROVIDED	48

LEGEND

- PROPERTY LINE
- EXISTING LINE
- PROPOSED STRUCTURE
- PROPOSED DRIVE AND CUTTER



- LEGEND
- ① TRAILER SIGN
  - ② 4" WHITE PARALLEL MARKING (TP-2)
  - ③ TYPICAL ENCLOSURE
  - ④ PROPOSED CONCRETE SIDEWALK
  - ⑤ LAMPS OF BUILDING
  - ⑥ CONSTRUCT 4" CURB
  - ⑦ 40% PARALLEL MARKING, TYPICAL OF 2
  - ⑧ ADA COMPLIANT RAMP
  - ⑨ ADA ACCESSIBLE SIGN, TYPICAL OF 2
  - ⑩ 4" WHITE PARALLEL MARKING, 20' O.C. @ 45°
  - ⑪ PAVEMENT WINDOW
  - ⑫ DRIVE THRU MENU BOARD
  - ⑬ INDICATE EXISTING CURB AND CUTTER, IN PLACE
  - ⑭ CONSTRUCT 7" P.C.C. PARALLEL DRIVEWAY
  - ⑮ CONSTRUCT 4" P.C.C. PARALLEL
  - ⑯ PROPOSED TRANSFORMER
  - ⑰ PROPOSED RETAINING WALL



**olsson**  
601 P Street, Suite 200  
P.O. Box 04608  
Lincoln, NE 68506  
TEL 402.474.6311 www.olsson.com

<p>RETAIL SHELL</p> <p>Lot 2, Westside Commercial Subdivision Replat 2 Plattsmouth, NE</p> <p>SITE PLAN</p>	<p>Ayers &amp; Ayers, Inc.</p> <p>1404 North 8th Street Lincoln, Nebraska 68504 TEL 402-474-6311 FAX 402-474-6312</p>	<p>ARCHITECTURE ETCETERA</p> <p>2436 South 48th Street Lincoln, Nebraska 68506 TEL 402-474-6311 FAX 402-474-6312</p> <p><b>ARCHI + ETC., LLC</b> ARCHITECTURE ETCETERA</p>
<p>DATE DRAWING: 9-17-18</p>	<p>DATE: 18-09-18</p>	<p>PRELIMINARY NOT FOR CONSTRUCTION</p>
<p>C-100</p>	<p>OLSSON ASSOCIATES, INC.</p>	<p>OLSSON ASSOCIATES, INC.</p>