

2:00

02448 ✓

No	02448 ✓	#Pages	6
Doc Tax \$		1012.50	
Fee \$		P&M \$	5.00
Fees Pd \$	40.00	Gen Fee \$	35.00
Ck#		35380	
Refund		Due	

THE STATE OF NEBRASKA } ss.
MADISON COUNTY

This instrument filed for record
the 5 day of June 20 17
at 2:00 P.M. and recorded in
Book 2017 Page 02448
Register of Deeds *Nancy J. Corso*

Return to:
NE Nebraska Title & Escrow
P.O. Box 86
Stanton, NE 68779

NEBRASKA DOCUMENTARY STAMP TAX	
Date	6-5-2017
\$	1012/50 By <i>DSN</i>

SPECIAL WARRANTY DEED

Dated this 2nd day of June, 2017

SHOPKO STORES OPERATING CO., LLC, a limited liability company duly organized and existing under and by virtue of the laws of the State of Delaware, Grantor, in consideration of One Dollar and other good and valuable consideration, receipt of which is hereby acknowledged, conveys to BRIAN C. GIBBS, a single person, Grantee, the following described real estate (as defined in Neb. Rev. Stat. 76-201) (hereinafter, the "Property"):

SEE LEGAL DESCRIPTION ATTACHED AS EXHIBIT A

Grantor warrants that the title to the Property is free of defects, liens and encumbrances, arising by, through or under Grantor (and none other), except municipal and zoning ordinances, public utility easements of record which do not interfere with the proposed development, general taxes for the year of closing, such matters as would be disclosed by an accurate survey and inspection of the Property, and those permitted encumbrances listed on the attached EXHIBIT B.

The Property shall be subject to the following restrictions:

1. The Property shall be used as a retail strip mall with a building square footage no greater than 25,000 square feet, and a building height no greater than 27 feet, and
2. No part of the Property may be used by or for a pharmacy or drugstore; sale of beer, wine, or liquor for off-premises consumption; optical center; general merchandise discount retailer (including but not limited to Wal-Mart, Target, Dollar General, Family Dollar, and Dollar Tree); general toy store; or lawn and garden center. Notwithstanding the foregoing, the following uses shall be permitted: a nutrition/health store such as GNC or Vitamin Shoppe; a restaurant or sports bar where not less than 50% of gross sales are from food; a hardware store; a professional office; a non-national specialty toy store such as Learning Express or Fat Brains; or any use not specifically prohibited herein.

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EXHIBIT A

LEGAL DESCRIPTION OF THE PROPERTY

Lot 4, Block 1 of Replat of ShopKo Acres in the City of Norfolk, Madison County, Nebraska as recorded on September 19, 2005 in Certificates of Plats, at Page 110A in the office of the Register of Deeds, Madison County, Nebraska.

Together with non-exclusive easement rights created by Cross-Easement and Use Restriction Agreement by and between ShopKo Stores, Inc., a Minnesota corporation and Super Valu Stores, Inc., a Delaware corporation, filed May 8, 1986 in M86-5 at Pages 235-258, Amendment filed September 21, 1988 in M88-9 at Pages 704-710A, Assumption filed September 21, 1988 in M88-9 at Pages 719-720, Second Amendment filed August 25, 1989 in M89-8 at Pages 682-687, Third Amendment filed March 17, 2004 in M2004-3 at Pages 1226-1237 inclusive in the office of the Register of Deeds, Madison County, Nebraska.

Parcel No.: 5901352.60

EXHIBIT B**PERMITTED ENCUMBRANCES**

1. (a) Taxes or assessments that are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the Public Records; (b) proceedings by a public agency that may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the Public Records.
2. Any facts, rights, interest or claims that are not shown by the Public Records but that could be ascertained by an inspection of the Land or that may be asserted by persons in possession of the Land.
3. Easements, liens or encumbrances, or claims thereof, not shown by the Public Records.
4. Discrepancies, conflicts in boundary lines, shortage in area, encroachments, or any other facts which a correct survey would disclose, and which are not shown by public records.
5. (a) Unpatented mining claims; (b) reservations or exceptions in patents or in Acts authorizing the issuance thereof; (c) water rights, claims or title to water, whether or not the matters excepted under (a), (b), or (c) are shown by the Public Records.
6. Loss or damage by reason of there being recorded in the Public Records, any deeds, mortgages, liens, pendens, liens or other title encumbrances subsequent to the commitment date and prior to the effective date of the final Policy.
7. Any lien, or right to a lien, for services, labor or material theretofore or hereafter furnished, imposed by law and not shown by the public records.
8. Taxes and assessments not yet due or payable and special assessments not yet certified to the office of the County Treasurer.
9. Rights or interest of parties in possession pursuant to unrecorded or recorded leases, contracts, and/or verbal agreements.
10. Rights of the public, United States of America, the State of Nebraska, the County of Madison, in and to any portion of the land taken or used for highways, roads, streets, or alleys, whether by easement or fee title.
11. Easements, restrictions and conditions contained in instrument filed for record on April 10, 1984, at Cabinet 1 of Plats, Page 162A; being the Plat of SHOPKO ACRES, AN ADDITION TO NORFOLK, MADISON COUNTY, NEBRASKA
12. Terms and Conditions as set forth in document captioned SUBDIVISION AGREEMENT SHOPKO ACRES in the City of Norfolk, Nebraska; filed for record April 10, 1984 in M84-4, Page 322-352 Incl.
13. Terms and Conditions as set forth in document captioned CLERK'S CERTIFICATE EASEMENT, ORDINANCE NO. 3255, filed for record September 19, 1984 in M84-9, Page 385-388 incl.

14. Easements, restrictions and conditions contained in instrument filed for record on April 16, 1985, at Cabinet 1 of Plats, Page 178A; being the Plat of REPLAT OF SHOPKO ACRES, AN ADDITION TO NORFOLK, MADISON COUNTY, NEBRASKA
15. Terms and Conditions as set forth in document captioned CLERK'S CERTIFICATE, SUBDIVISION AGREEMENT Replat of Shopko Acres, Madison County, Nebraska, filed for record April 16, 1985 in M85-4, Page 558-566 incl.
16. Terms and Conditions as set forth in document captioned SHOPKO STORES, INC. CROSS-EASEMENT AND USE RESTRICTION AGREEMENT (Norfolk, Nebraska) filed for record May 8, 1986 in M86-5, Page 235-258 Incl.
17. Terms and Conditions as set forth in document captioned AMENDMENT OF CROSS-EASEMENT AND USE RESTRICTION AGREEMENT (Norfolk, Nebraska) filed for record September 21, 1988 in M88-9, Page 704-710A Incl.
18. Terms and Conditions as set forth in document captioned ASSUMPTION OF CROSS-EASEMENT AND USE RESTRICTION AGREEMENT (Norfolk, Nebraska) filed for record September 21, 1988 in M88-9, Page 719-720
19. Terms and Conditions as set forth in document captioned SECOND AMENDMENT OF CROSS-EASEMENT AND USE RESTRICTION AGREEMENT (Norfolk, Nebraska) filed for record August 25, 1989 in M89-8, Page 682-687 Incl.
20. Terms and Conditions as set forth in document captioned EASEMENT between Dial Realty Corp., a Nebraska Corporation and ShopKo Stores, Inc.; filed for record September 27, 1999 in M99-9, Page 1174-1180
21. Terms and Conditions as set forth in document captioned THIRD AMENDMENT TO CROSS-EASEMENT AND USE RESTRICTION AGREEMENT Norfolk, Nebraska; filed for record March 17, 2004 in M2004-3, Page 1226-1237
22. Easements, restrictions and conditions contained in instrument filed for record on September 19, 2005, at Cabinet 5 of Plats, Page 110A; being the Plat of REPLAT 2 OF LOT 1-R BLOCK 1 REPLAT OF SHOPKO ACRES, in the City of Norfolk, Madison County, Nebraska
23. Terms and Conditions as set forth in document captioned ASSIGNMENT AND ASSUMPTION OF OPERATING AGREEMENTS; filed for record July 3, 2006 in Book 2006-07, Page 0281-0286
24. Terms and Conditions as set forth in document captioned RESOLUTION NO. 2016-52, "West Highway 275 Redevelopment Area" filed for record October 21, 2016 in Book 2016, Page 04685

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EXHIBIT C

LEGAL DESCRIPTION OF THE ADJACENT REAL ESTATE

Lot 1 of Replat 2 of Lot 1-R, Block 1, of Replat of Shopko Acres, in the City of Norfolk, Madison County, Nebraska.

Parcel No.: 5902800.23