



MISC 2007072019



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Register of Deeds, Douglas County, NE
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2007072019

DECLARATION OF USE RESTRICTION

This Declaration of Use Restriction ("Declaration") is made effective the 31st day of July, 2006, by Lanoha-Center, Inc., a Nebraska corporation, f/k/a Lanoha-Center Development, Inc. ("Declarant").

Preliminary Statement

Lanoha-Center, Inc., a Nebraska corporation, formerly known as Lanoha-Center Development, Inc. ("Lanoha") is the owner and developer of the Ridgeview Shopping Center situated south and west of the intersection of 180th Street and West Center Road, Douglas County, Nebraska. Lanoha has entered into a Ground Lease with Tranquility Realty, L.L.C., a Nebraska limited liability company ("Tranquility"), dated February 21, 2002 (the "Ground Lease"), pursuant to which Tranquility leases certain ground in the Ridgeview Shopping Center from which it operates a "Fantasy's" branded convenience store. Under the terms of the Ground Lease, Lanoha has agreed not to permit operation of a competing convenience store, gasoline provider, or car wash from certain of the property in the Ridgeview Shopping Center.

David F. Lanoha, the principal of Lanoha is the owner, either individually or through entities which he controls, of additional real estate situated west of the Ridgeview Shopping Center to 192nd Street and West Center Road. David F. Lanoha has agreed, pursuant to a First Amendment to Ground Lease executed concurrently herewith (the "First Amendment"), to restrict such additional real estate from the operation of a convenience store, gasoline provider, or car wash in exchange for Tranquility's agreement to pay increased rent under the Ground Lease. This Declaration of Use Restriction is being entered into for purposes of memorializing the restriction of the real estate legally described on Exhibit "A" attached hereto (the "Restricted Property") as required by the First Amendment.

Return to:
James D. Buser
Pansing Hogan Ernst & Bachman, LLP
10250 Regency Circle, Suite 300
Omaha, Nebraska 68114
Fantasy's Food & Fuel
15611 Harrison St.
Omaha, NE 68136

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In consideration thereof, and for other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Declarant hereby declares the following restrictions:

1. From the date of recording hereof, and continuing until such time as terminated under Section 2 below, Declarant, for itself and its successors and assigns, agrees that the Restricted Property shall not be leased, used, or occupied as a carwash (the "Carwash Restriction"), for the retail sale or dispensing of gasoline (the "Gasoline Restriction"), or a convenience store (the "C-Store Restriction"); provided, however, it shall not be a violation of this Section if other users of the Restricted Property sell products traditionally found in convenience stores as long as the sale of such products is not offered in a dedicated convenience store type setting as opposed to being ancillary to the retailers principal business (e.g. a retail pharmacy such as Walgreens or CVS that sell convenience store items in their stores).

2. The "Gasoline Restriction", "C-Store Restriction" and "Carwash Restriction" shall terminate upon the first to occur of the following:

a. The "Gasoline Restriction" shall terminate thirty (30) days following the date on which Tenant ceases to dispense gasoline at retail from the Demised Premises.

b. The "C-Store Restriction" shall terminate thirty (30) days following the date on which Tenant ceases to operate a convenience store from the Demised Premises.

c. The "Carwash Restriction" shall terminate thirty (30) days following the date on which Tenant ceases to operate a carwash from the Demised Premises.

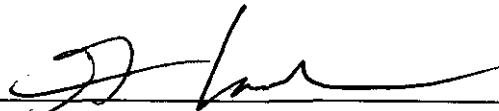
d. The "Gasoline Restriction", "C-Store Restriction" and "Carwash Restriction" shall all terminate upon the expiration or termination of the Ground Lease.

e. The "Gasoline Restriction", "C-Store Restriction" and "Carwash Restriction" shall terminate in the event of a transaction in which there is a change in control in the ownership of Tranquility Realty, L.L.C. such that John Spautstat or his "Immediate Family Members", as hereinafter defined, cease to own a controlling equity interest in the Tenant, whether such transaction is effected by way of the sale of stock, sale of assets, merger or otherwise (a "Change in Control Transaction"). For purposes of this Declaration, the term "Immediate Family Member" shall mean the wife, child, grandchild, father, mother, brother, sister-in-law, sister and brother-in-law of John Spaustat.

3. In the event of a termination of the restrictions provided herein, Declarant, or its successors and assigns, may file an Affidavit of Termination to memorialize such termination.

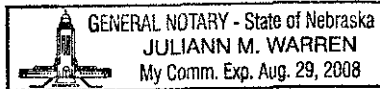
IN WITNESS WHEREOF, Declarant has executed this Declaration to be effective as of the date of recording with the Office of the Register of Deeds of Douglas County, Nebraska.

Lanoha-Center, Inc., a Nebraska corporation, f/k/a
Lanoha-Center Development, Inc.

By: 
David F. Lanoha, President

STATE OF NEBRASKA)
) ss.
COUNTY OF DOUGLAS)

The foregoing instrument was acknowledged before me this 21st day of June, 2007, by David F. Lanoha, President of Lanoha-Center, Inc., a Nebraska corporation, f/k/a Lanoha-Center Development, Inc., on behalf of the corporation.





Notary Public

EXHIBIT "A"

Legal Description

66-32931
Lots 12, 13, 17, 19 and 20, and Outlot C and Outlot B, in RIDGEVIEW, an Addition to the City of Omaha, as surveyed, platted and recorded, in Douglas County, Nebraska;

And,

66-32932
Lot 1, in RIDGEVIEW REPLAT 1, an Addition to the City of Omaha, as surveyed, platted and recorded, in Douglas County, Nebraska;

And,

66-32948
Lots 1 and 2, in RIDGEVIEW REPLAT 5, an Addition to the City of Omaha, as surveyed, platted and recorded, in Douglas County, Nebraska;

And,

66-32949
Lot 2, in RIDGEVIEW REPLAT 6, an Addition to the City of Omaha, as surveyed, platted and recorded, in Douglas County, Nebraska;

And,

66-32951
Lots 1 and 2, in RIDGEVIEW REPLAT 7, an Addition to the City of Omaha, as surveyed, platted and recorded, in Douglas County, Nebraska;

And,

32-15-11
01-60000
A tract of land situated in the East Half of the Northwest Quarter (E1/2 NW1/4) and West Half of the Northeast Quarter (W1/2 NE1/4) of Section 32, Township 15 North, Range 11 East of the 6th P.M., in Douglas County, Nebraska, lying North of condemn property line of Papillion Creek and Tributaries Lakes, being more particularly described as follows:

Beginning at a point on the East line of said West Half of the Northeast Quarter, said point being 1,400.00 feet Northerly of the Southeast corner thereof, thence Westerly, parallel with the South line of said West Half of the Northeast Quarter, 300.00 feet; thence Northwesterly to a point, said point being 1,680.00 feet North and 330.00 feet East of the Southwest corner of said West Half of the Northeast Quarter; thence Northwesterly to a point, said point being 470.00 feet South of and 165.00 feet East of the Northwest corner of said West Half of the Northeast Quarter; thence Westerly, parallel with the North line of said West Half of the Northeast Quarter, to the West line of said West Half of the Northeast Quarter; thence Southerly, along said West line to a point, said point being 850.00 feet Southerly of said Northwest corner; thence Southwesterly to a point, said point being 1,010.00 feet South of and

365.00 feet West of the Northeast corner of said East Half of the Northwest Quarter; thence Northwesterly to a point, said point being 330.00 feet South of and 755.00 feet West of said Northeast corner; thence Westerly, parallel with the North line of said East Half of the Northwest Quarter, 250.00 feet; thence Southerly, parallel with the West line of said East Half of the Northwest Quarter, 300.00 feet; thence Westerly, parallel with said North line of the East Half of the Northwest Quarter, to said West line of the East Half of the Northwest Quarter, EXCEPT that part taken for State Highway;

AND, EXCEPT that part thereof described as follows;

Referring to the Northwest corner of said Section 32; thence Easterly, a distance of 405.57 meters (1,330.61 feet), along the North line of said Quarter Section; thence Southerly, deflecting $90^{\circ}00'00''$ right, a distance of 26.67 meters (87.50 feet), to a point on the West line of the property owned by the Grantor(s); thence Easterly, deflecting $90^{\circ}06'29''$ left, a distance of 100.62 meters (330.11 feet), along the Southerly West Center Road right-of-way line, to the Point of Beginning; thence Easterly, deflecting $00^{\circ}00'00''$, a distance of 40.96 meters (134.39 feet), to the Northwest corner of Lot 20, Ridgeview Subdivision; thence Southerly, deflecting $90^{\circ}06'29''$ right, a distance of 13.91 meters (45.64 feet), to a point on the West line of said Lot 20; thence Westerly, deflecting $88^{\circ}38'29''$ right, a distance of 20.62 meters (67.66 feet); thence Westerly, deflecting $26^{\circ}33'54''$ right, a distance of 22.36 meters (73.36 feet); thence Northerly, deflecting $63^{\circ}26'06''$ right, a distance of 4.80 meters (15.75 feet), to the Point of Beginning.

AND, EXCEPT all that part thereof included within the Plat and Dedication of Ridgeview recorded January 3, 2000, in Book 2141 at Page 366 of the Deed Records of Douglas County, Nebraska;

AND, EXCEPT that part of said East Half of the Northwest Quarter more particularly described as follows:

Commencing at the Northeast corner of the Northwest Quarter of said Section 32; thence along the East line of said Northwest Quarter, South $00^{\circ}37'11''$ West (assumed bearing), 85.00 feet to a point, said point being on the South right-of-way line of West Center Road; thence along said South line, South $89^{\circ}52'44''$ West, 863.72 feet, to the true Point of Beginning; thence South $00^{\circ}00'47''$ East, 118.48 feet, to the beginning of a non-tangent curve to the right; thence along said curve, having a radius of 240.00 feet and a chord bearing South $71^{\circ}52'18''$ West, 149.24 feet, an arc distance of 151.76 feet; thence North $00^{\circ}00'47''$ West, 164.62 feet, to a point on the South right-of-way line of said West Center Road; thence along said South line, North $89^{\circ}52'44''$ East, 141.85 feet, to the true Point of Beginning