

## AFFIDAVIT OF CONSENT

The undersigned beneficiary of that certain trust deed recorded on February 4, 2019, in Reel 4164, Page 149, Marion County, Oregon Deed Records, hereby consents to the subdividing of that certain real property described on the attached Exhibit "A".

Dated this 3<sup>rd</sup> day of October, 2019.



STATE OF OREGON )  
 )ss  
County of *Clackamas* Marion )

This instrument was acknowledged before me this 3th day of October, 2019,  
by Chris Blaser as VP of M+T Bank.

Notary Public – State of Oregon

Notary Public – State of Oregon

976794  
Commission Number

Commission Number

My Commission expires: 7.11.22

After recording Return to:  
Multi/Tech Engineering Svcs., Inc.  
1155 13<sup>th</sup> Street SE  
Salem, OR 97302

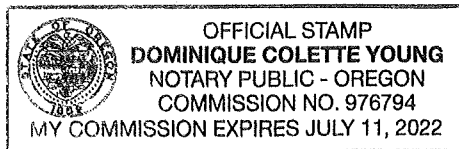
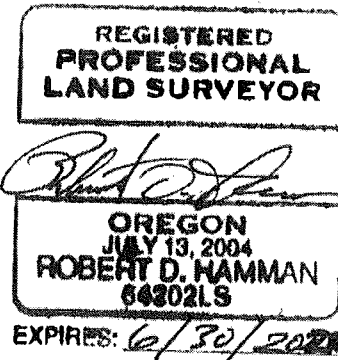


EXHIBIT "A"

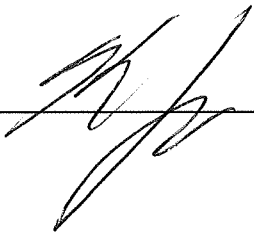
BEGINNING AT A 5/8" IRON ROD LOCATED IN THE NORTHWEST CORNER OF PARCEL 5 DESCRIBED IN REEL 3978, PAGE 175, IN MARION COUNTY DEED OF RECORDS, LOCATED IN THE SOUTHWEST QUARTER OF SECTION 32, TOWNSHIP 6 SOUTH, RANGE 2 WEST OF THE WILLAMETTE MERIDIAN, CITY OF SALEM, MARION COUNTY, OREGON; THENCE SOUTH 89°45'46" WEST 1708.78 FEET TO A 3/4" IRON PIPE; THENCE ALONG THE WEST LINE OF PARCEL 4, DESCRIBED IN REEL 3978, PAGE 175 MARION COUNTY DEED RECORDS, SOUTH 00°29'19" EAST 1320.25 TO A 5/8" IRON ROD ON THE NORTH RIGHT OF WAY LINE OF KALE STREET; THENCE ALONG SAID RIGHT OF WAY LINE THE FOLLOWING 2 CALLS NORTH 90°00'00" EAST 628.23 FEET TO A 5/8" IRON ROD; NORTH 89°21'20" EAST 1073.91 FEET TO A 5/8" IRON ROD; THENCE ALONG THE WEST LINE OF LOT 279, NORTHSTAR PHASE 3, NORTH 00°11'56" WEST 1315.21 FEET TO THE POINT OF BEGINNING AND CONTAINING 51.68 ACRES MORE OR LESS.



## AFFIDAVIT OF CONSENT

The undersigned beneficiary of that certain trust deed recorded on August 23, 2019, in Reel 4233, Page 386, Marion County, Oregon Deed Records, hereby consents to the subdividing of that certain real property described on the attached Exhibit "A".

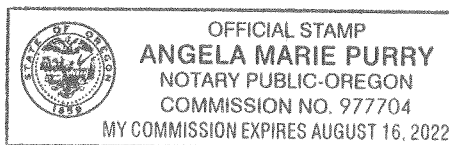
Dated this 3<sup>rd</sup> day of December, 2019.

  
\_\_\_\_\_

STATE OF OREGON )

)ss

County of Multnomah )



This instrument was acknowledged before me this 3<sup>rd</sup> day of December, 2019,  
by Kevin Capozzi as Division President.

  
\_\_\_\_\_

Notary Public – State of Oregon

977704  
\_\_\_\_\_

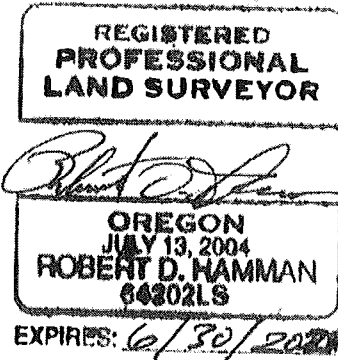
Commission Number

My Commission expires: Aug 16, 2022

After recording Return to:  
Multi/Tech Engineering Svcs., Inc.  
1155 13<sup>th</sup> Street SE  
Salem, OR 97302

EXHIBIT "A"

BEGINNING AT A 5/8" IRON ROD LOCATED IN THE NORTHWEST CORNER OF PARCEL 5 DESCRIBED IN REEL 3978, PAGE 175, IN MARION COUNTY DEED OF RECORDS, LOCATED IN THE SOUTHWEST QUARTER OF SECTION 32, TOWNSHIP 6 SOUTH, RANGE 2 WEST OF THE WILLAMETTE MERIDIAN, CITY OF SALEM, MARION COUNTY, OREGON; THENCE SOUTH 89°45'46" WEST 1708.78 FEET TO A 3/4" IRON PIPE; THENCE ALONG THE WEST LINE OF PARCEL 4, DESCRIBED IN REEL 3978, PAGE 175 MARION COUNTY DEED RECORDS, SOUTH 00°29'19" EAST 1320.25 TO A 5/8" IRON ROD ON THE NORTH RIGHT OF WAY LINE OF KALE STREET; THENCE ALONG SAID RIGHT OF WAY LINE THE FOLLOWING 2 CALLS NORTH 90°00'00" EAST 628.23 FEET TO A 5/8" IRON ROD; NORTH 89°21'20" EAST 1073.91 FEET TO A 5/8" IRON ROD; THENCE ALONG THE WEST LINE OF LOT 279, NORTHSTAR PHASE 3, NORTH 00°11'56" WEST 1315.21 FEET TO THE POINT OF BEGINNING AND CONTAINING 51.68 ACRES MORE OR LESS.



## AFFIDAVIT OF CONSENT

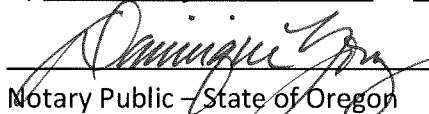
The undersigned beneficiary of that certain trust deed recorded on February 23, 2018, in Reel 4049, Page 102, Marion County, Oregon Deed Records, hereby consents to the subdividing of that certain real property described on the attached Exhibit "A".

Dated this 3<sup>rd</sup> day of October, 2019.

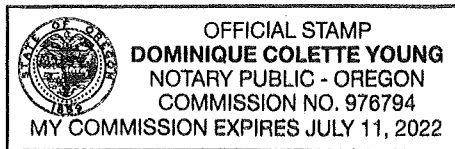


STATE OF OREGON                    )  
  )ss  
County of Clackamas                    )  
  )  
County of Marion

This instrument was acknowledged before me this 3 th day of October, 2019,  
by Chris Blaser as VP of M+T Bank.

  
Notary Public - State of Oregon

976794  
Commission Number

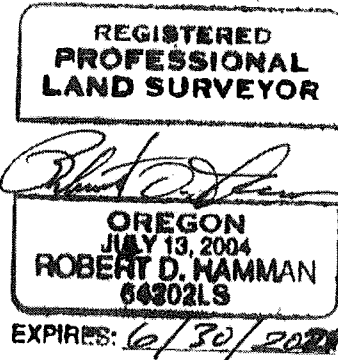


My Commission expires: 7/11/22

After recording Return to:  
Multi/Tech Engineering Svcs., Inc.  
1155 13<sup>th</sup> Street SE  
Salem, OR 97302

EXHIBIT "A"

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✓  
After Recording, return to:  
City of Salem  
City Recorder  
555 Liberty St SE, Rm  
325  
Salem OR 97301-3513

REEL 4089 PAGE 46  
MARION COUNTY  
BILL BURGESS, COUNTY CLERK  
06-18-2018 12:21 pm.  
Control Number 511608 \$ 121.00  
Instrument 2018 00028777



PLANNING DIVISION  
555 LIBERTY ST. SE, RM 305  
SALEM, OREGON 97301  
PHONE: 503-588-6173  
FAX: 503-588-6005

## NOTICE OF DECISION

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### ADMINISTRATIVE DECISION FOR MODIFICATION OF TENTATIVE SUBDIVISION PLAN

CASE NO.: SUB07-13A2  
AMANDA NO.: 17-109611-LD  
DATE OF DECISION : May 24, 2017  
PROPERTY LOCATION: 4400-5200 Block of Kale Road NE  
APPLICANT: Northstar Communities LLC

#### REQUEST

Modification of the amended approval of tentative subdivision plan SUB07-13A (Northstar subdivision) to reconfigure the boundaries between lot groupings described as "segments" in the tentative subdivision plan. SUB07-13A granted

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approval to divide approximately 148.74 acres into multi-family and single family residential lots, with six alternative subdivision layouts resulting in up to approximately 729 lots and concurrent variances to allow townhouse lots on the portion of the subject property zoned RM-2 (Multiple Family Residential). The requested modification does not change the street layout or number or configuration of single family residential lots within the subdivision.

Urban Growth Preliminary Declaration UGA07-01 was granted in association with the subdivision and, pursuant to SRC 200.025(g)(1), remains in effect as long as SUB07-13A remains valid.

The subject property is approximately 148.74 acres in size, zoned RS (Single Family Residential) and RM-1 and RM-2 (Multiple Family Residential), and located in the 4400-5200 blocks of Kale Road NE (Marion County Assessor's Map and Tax Lot Numbers 062W32C 00200; 00800; 00900; 1000; and 062W32D 00701 and 01100).

### **DECISION**

The requested modification of the tentative subdivision plan is APPROVED subject to the applicable standards of the Salem Revised Code, the findings contained herein, and the findings and conditions adopted in the approval of amended tentative subdivision plan SUB07-13A and amended Urban Growth Area Preliminary Declaration UGA07-01, unless otherwise indicated.

### **BACKGROUND**

On December 18, 2007, the Subdivision Review Committee approved amendments to the Northstar subdivision, a proposal to divide approximately 148.74 acres into multi-family and single family residential lots, with six alternative subdivision layouts resulting in up to approximately 730 lots and concurrent variances to allow townhouse lots on the portion of the subject property zoned RM-2 (Multiple Family Residential). Urban Growth Preliminary Declaration UGA07-01 was granted in association with the Northstar tentative subdivision plan. Two-year extensions of the amended approval were granted in 2009, 2011, 2013, and 2015. The most recent extension is set to expire on December 18, 2017.

As originally approved, the tentative subdivision plan divides the overall 729-lot development into 11 "segments" labeled "A" through "K" and consisting of between 38 and 131 lots each. Although the segments are related to incremental platting of the subdivision, these segments are not "phases" and the Northstar subdivision is not a phased tentative subdivision plan as described in SRC 205.015. As described in the original Subdivision Review Committee decision approving SUB07-13, the segments "are not phases as no particular order has been proposed for their development and each segment must be individually reviewed for applicable development standards."

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The tentative subdivision plan approved in SUB07-13A included six different platting alternatives. One set of alternatives allows for flexibility to address Department of State Lands requirements for the portion of the North Fork of the Little Pudding River running through the subject property. Another set of alternatives applies to different configurations for Segments J and K, which approximately occupies the northern half of Tax Lot 200, in a "panhandle" extending northward to Hazelgreen Road NE. One option would divide the entire area into single family residential lots; the "school/park option" would reserve approximately 11.23 acres for a combined elementary school and park; and the "park option" would provide approximately 6.92 acres for a park site. Either the "school/park option" or the "park option" would also include single family residential lots on the remainder of the "panhandle" area.

## **FINDINGS**

The subject property is located at the 4400-5200 Blocks of Kale Road NE (Attachment A). On December 18, 2007, the Subdivision Review Committee approved amendments to the Northstar subdivision (SUB07-13A), a proposal to divide approximately 148.74 acres into multi-family and single family residential lots, with six alternative subdivision layouts resulting in up to approximately 730 lots and concurrent variances to allow townhouse lots on the portion of the subject property zoned RM-2 (Multiple Family Residential). UGA07-01 was issued in connection with the Northstar tentative subdivision plan (SUB07-13).

The subdivision process reviews development for compliance with City standards and requirements contained in the UDC, the Salem Transportation System Plan (TSP), and the Water, Sewer, and Storm Drain System Master Plans. A second review occurs for the created lots at the time of site plan review/building permit review to assure compliance with the UDC. Compliance with conditions of approval to satisfy the UDC is checked prior to city staff signing the final subdivision plat.

Amended subdivision SUB07-13A was approved in 2007 under the requirements of former SRC Chapter 63 (Subdivisions). Since that time, the City's zoning and development codes were amended as part of the City's Unified Development Code (UDC) project. The UDC was a multi-year project to update the City's zoning and development codes to make them easier to understand and administer. The intent of the project was to reorganize and streamline, but not to make major policy changes to existing standards and criteria. The standards and criteria applicable to subdivisions were included in the standards and criteria updated as part of the UDC. However, because the UDC was not intended to make policy changes, none of those revisions have required modification of the original subdivision approval. Minimum lot size and dimensions, street standards, and other requirements applicable to the subdivision remain the same.

As described above, the Northstar subdivision is not a phased subdivision but a

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single tentative subdivision plan consisting of defined "segments" which can be platted in any order. On this basis, the applicant may plat several segments at once, but cannot plat an incomplete portion of an individual segment. The requested modification would reconfigure boundaries between segments, resulting in changes to the number of lots in each segment as described in the table below.

	Approved Lots	Proposed Lots	Net Change
<b>A</b>	115	50	-65
<b>B</b>	45	66	+21
<b>C</b>	84	44	-40
<b>D</b>	59	70	+11
<b>E</b>	71	67	-4
<b>F</b>	57	100	+43
<b>G</b>	61	55	-6
<b>H</b>	81	131	+50
<b>I</b>	56	46	-10
<b>J</b>	38	38	0
<b>K</b>	62	62	0

As described above, the tentative subdivision plan also approves "options" with alternative configurations for Segments C, J, and K.

A final plat has not been approved or recorded for the tentative subdivision as originally proposed. No changes to the number or configuration of lots are proposed, and points of access to the existing street network would remain the same.

**1. Criteria for Modification of the Approval of a Tentative Subdivision Plan (SRC 205.070(d)):**

SRC 205.070(d) establishes the following approval criteria for modification of the approval of a tentative subdivision plan:

- (1) *The proposed modification is not substantially inconsistent with the conditions of the original approval; and*
- (2) *The proposed modification will not result in significant changes to the physical appearance of the development, the use of the site, and the impacts on surrounding properties.*

**2. Analysis of Modification Approval Criteria:**

***SRC 205.070(d)(1): The proposed modification is not substantially inconsistent with the conditions of the original approval.***

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**Finding:** As originally approved, the Northstar tentative subdivision plan would divide approximately 148.74 acres into multi-family and single family residential lots, with six alternative subdivision layouts resulting in up to approximately 729 lots and concurrent variances to allow townhouse lots on the portion of the subject property zoned RM-2 (Multiple Family Residential). The Subdivision Review Committee approved the application (Case No. 13-07) and a subsequent amendment (Case No. SUB13-07A), subject to 24 conditions of final plat approval (Attachment B). In addition, Condition 1 requires the final plat to comply with the four conditions of approval of Comprehensive Plan and Zone Change case CPC-ZC05-12, and Condition 22 requires compliance with the 10 conditions of approval for Urban Growth Preliminary Declaration case UGA07-01.1

Condition 9 designates the front lot line for flag lots within the proposed subdivision, as listed in a table contained within the condition. Although the modification may change the segment of some lots from what is listed in the table, the numbering of lots spans the entire tentative subdivision plan. The requested modification does not alter the identification of the applicable lots by lot number.

Implementation of Condition 12 is implemented by any construction activity in Segments J or K. Similarly, Condition 20 must be met prior to plat approval for Segments H or I. The configuration and boundaries of Segments J and K remain unchanged under the requested modification. In the originally approved tentative subdivision plan, Segments H and I contain the easternmost 137 lots within the overall Northstar subdivision. The requested modification would extent the boundaries of these segments slightly to the west, to encompass a total of 186 lots. All lots contained within the originally approved Segments H and I remain within one of these segments under the proposed modification. As result, the platting of lots which serves as the trigger for the transportation improvements required in Condition 20 remain unchanged under the configuration of segment boundaries requested in the modification.

Because they can be platted in any order, segments were reviewed and approved to comply with standards as standalone plats. Therefore, with the exception of Conditions 12 and 20 described above, conditions do not specifically depend on sequencing of development to implement applicable requirements.

The Public Works Department has reviewed the proposed modification and submitted comments (Attachment D) finding that the modification is in substantial conformance with the conditions of approval adopted in SUB07-13A and clarifying the applicable segments for implementation of conditions adopted in UGA07-01, consistent with the reconfigured segment boundaries proposed in the subject modification. The modification does not inhibit the applicant from fulfilling other conditions

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1 Comments from the Public Works Department (included as Attachment D) address the conditions of UGA07-01 as "UGA Condition A" through "UGA Condition G," corresponding to lettered headings in the June 25, 2007 decision approving UGA07-01.

incrementally, as the subdivision is developed under the modified configuration. The proposal meets this criterion.

**SRC 205.070(d)(2): *The proposed modification will not result in significant changes to the physical appearance of the development, the use of the site, and the impacts on surrounding properties.***

**Finding:** The applicant does not propose to change the use of the site, which would be subdivided into lots for single family residential development, with park and school sites included in optional configurations. The applicant's proposal retains the same street and lot layout as approved for the tentative subdivision plan. The Tree Conservation Plan (TCP07-17) approved for the tentative subdivision plan is not altered by the requested modification and would remain in effect. The variances granted in SUB07-13 are addressed in the Subdivision Review Committee's decision and are not altered by the reconfigured segments proposed in this modification.

The physical appearance of the completed development would remain essentially the same as originally proposed, with no changes to the internal street system or lot configuration on the perimeter of the property. Because of the very similar configuration and identical use of the eventual completed subdivision, the requested modification would not increase or otherwise change impacts on surrounding properties.

The proposal meets this criterion.

### **3. Effect on Expiration Period of Original Approval:**

Pursuant to SRC 205.070(e), "the effect of a modification upon the expiration period of the original approval, if any, shall be established in the modification decision."

**Finding:** Condition 6 of SUB07-13A requires that the final plat for the entirety of the tentative subdivision plan be platted within 10 years of the date of final plat approval. The applicant's written statement cites unforeseen circumstances which have to date prevented the platting of any segment of the tentative subdivision. The ten-year span approved for recording the original subdivision recognizes the scale and complexity of implementing a mixed-use subdivision of this size, as well as the further coordination needed to provide public facilities within Segments J and K. While the tentative subdivision plan remains non-phased under the requested modification, the overall size of the development, the incremental approach to platting indicated by the "segments" of lots designated by the applicant, and the complexity of the proposal as described above, additional time is warranted to complete final platting of all proposed segments.

Consistent with the two-year deadline established for recording the final plat for a tentative subdivision plan, the expiration date of the modified subdivision is hereby

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extended by two years, to December 18, 2019. Recognizing the incremental platting proposed by the applicant, the size and complexity of the overall development, and findings in both SUB07-13A and this modification decision that the "segments" designated by the applicant meet applicable standards on an individual basis, the applicant is permitted to apply for up to four further extensions of the expiration date, in two year increments, with the final extension expiring no later than December 18, 2027.

Pursuant to SRC 200.025(g), a UGA Preliminary Declaration issued in connection with a subdivision shall remain valid as long as the tentative subdivision approval remains valid. Therefore, UGA07-01 and its terms and conditions would remain in effect for the duration of the subject modification and any subsequent extensions.

### DECISION

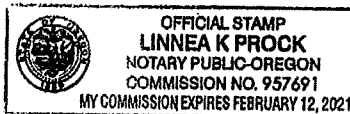
The requested modification of the amended tentative subdivision plan is **APPROVED** subject to the applicable standards of the Salem Revised Code, the findings contained herein, and the findings and conditions adopted in the approval of tentative subdivision plan SUB07-13A and UGA07-01 as previously amended, unless otherwise indicated.

### LEGAL DESCRIPTION

See Attachment A.




Bryce Bishop, Planner II: Current Planning



STATE OF OREGON            )  
  ) ss.  
County of MARION         )

This instrument was acknowledged before me on this 30 day of May, 2018, by Bryce Bishop, Planner II.

  
\_\_\_\_\_  
Notary Public for Oregon  
My Commission Expires: 2-12-21

## **ATTACHMENT A**

Properties as described in Statutory Warranty Deed, recorded in Marion County,  
State of Oregon, as Instrument No. Reel 3978, Page 175.

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**REEL: 4089**

**PAGE: 46**

**June 18, 2018, 12:21 pm.**

CONTROL #: 511608

State of Oregon  
County of Marion

I hereby certify that the attached  
instrument was received and duly  
recorded by me in Marion County  
records:

FEE: \$ 121.00

BILL BURGESS  
COUNTY CLERK

THIS IS NOT AN INVOICE.

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