

# NOTICE OF DECISION

PLANNING DIVISION  
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*Si necesita ayuda para comprender esta informacion, por favor llame  
503-588-6173*

## ADMINISTRATIVE DECISION FOR TREE CONSERVATION PLAN ADJUSTMENT

**CASE NO.:** TCPA19-08  
**AMANDA NO.:** 19-116720-NR  
**DATE OF DECISION:** October 25, 2019  
**PROPERTY LOCATION:** 4400-5200 Blocks of Kale Street NE  
**APPLICANT:** Brandie Dalton

### REQUEST

A Tree Conservation Plan Adjustment to Tree Conservation Plan Case No. 07-17 for properties zoned RS (Single Family Residential) and RM-II (Multiple Family Residential-II) and located at the 4400-5200 blocks of Kale Street NE (Marion County Assessor map and tax lot numbers: 062W32C / 00800 and 00900; 062W32DC / 07600; 072W05BA / 21700, 22600, 22700, 22800, 22900, 23000, 23100, 23200, 23300, 23400, 23500, and 23600; 072W05AB / 15100, 15200, 15300, 15400, 15500, 15600).

The tree conservation plan adjustment is the first tree conservation plan adjustment to Tree Conservation Plan Case No. TCP07-17. The tree conservation plan adjustment modifies Tree Conservation Plan Case No. TCP07-17 by identifying two (2) additional trees which were not included in TCP07-17, as well as designating two (2) trees for removal that were originally designated for preservation. The tree conservation plan adjustment results in three (3) trees designated for preservation and six (6) trees designated for removal.

### FINDINGS

The subject property is located at the 4400-5200 blocks of Kale Street NE (**Attachment A**). On December 28, 2007, the original tree conservation plan (TCP) Case No. TCP07-17 was approved for the properties in conjunction with Subdivision Case No. SUB07-13A. The tree conservation plan identified a total of six (6) trees on the property, with five (5) trees designated for preservation and one (1) tree designated for removal.

On July 26, 2019, the applicant, submitted an application for a tree conservation plan adjustment, Case No. TCPA19-08, to modify the approved tree conservation plan by identifying two (2) additional trees which were not included in TCP07-17, as well as designating two (2) trees for removal that were originally designated for preservation. The tree conservation plan adjustment results in three (3) trees designated for preservation and six (6) trees designated for removal.

A summary of the total trees identified for preservation and removal under both the original tree conservation plan and the proposed tree conservation plan adjustment is included in the table below:

Tree Summary						
Case No.	Approval Date	Trees Preserved	Percentage Preserved	Trees Removed	Percentage Removed	Total Trees
TCP07-17	12-28-2007	5	83.3%	1	16.6%	6

Tree Summary						
Case No.	Approval Date	Trees Preserved	Percentage Preserved	Trees Removed	Percentage Removed	Total Trees
TCPA19-08	10-25-2019	3	33.3%	6	66.6%	9

The trees proposed for removal and preservation under the tree conservation plan adjustment are identified in the applicant's map (**Attachment C**). The applicant proposes to preserve three (3) trees (16-inch, 18-inch, and 18-inch Ash trees).

#### 1. Tree Conservation Plan Adjustment Approval Criteria (SRC 808.040(d)):

SRC 808.040(d) establishes the following approval criteria which must be met in order for tree conservation plan adjustment to be approved:

- (1) *There are special conditions that could not have been anticipated at the time the tree conservation plan was submitted that create unreasonable hardships or practical difficulties which can be most effectively relieved by an adjustment to the tree conservation plan.*
- (2) *When the Tree Conservation Plan Adjustment proposes the removal of a significant tree, there are no reasonable design alternatives that would enable preservation of the tree.*
- (3) *When the Tree Conservation Plan Adjustment proposes the removal of a tree or native vegetation within a riparian corridor, there are no reasonable design alternatives that would enable preservation of the tree or native vegetation.*
- (4) *When the Tree Conservation Plan Adjustment proposes to reduce the number of trees preserved in the original tree conservation plan below 25 percent, only those trees reasonably necessary to accommodate the proposed development are designated for removal.*

#### 2. Analysis of Tree Conservation Plan Approval Criteria:

- (1) **There are special conditions that could not have been anticipated at the time the tree conservation plan was submitted that create unreasonable hardships or practical difficulties which can be most effectively relieved by an adjustment to the tree conservation plan.**

**Finding:** The map provided by the applicant (**Attachment C**), indicates the six (6) trees designated for removal and the three (3) trees designated for preservation. In the applicant's written statement (**Attachment B**), they indicate it is not feasible to preserve the three trees proposed for removal in the northern portion of the site, as they are located within lot 666, which is to be constructed as a stormwater detention facility for the Northstar subdivision. Construction of this facility will likely damage the trees beyond the point of preservation. Additionally, the three trees originally designated for preservation on lot 150 are located within the building footprint of the lot and are not feasible to preserve.

Staff finds that requiring the preservation of these six (6) trees would have created a practical difficulty to development the properties. To mitigate the additional removal of trees, the following condition of approval shall apply:

**Condition 1:** Prior to receiving certificate of final occupancy for lots 133, 142-158, 280-290, and 462-471, of the trees to be planted as required under SRC Chapter 808,

Table 808-1, a minimum of one tree shall be a shade tree and shall be planted within 5 feet of the property line abutting Kale Street NE.

- (2) **When the Tree Conservation Plan Adjustment proposes the removal of a significant tree, there are no reasonable design alternatives that would enable preservation of the tree.**

**Finding:** There are no significant trees on the subject properties. Because no significant tree is proposed to be removed, this criterion is not applicable to the proposed tree conservation plan adjustment.

- (3) **When the Tree Conservation Plan Adjustment proposes the removal of a tree or native vegetation within a riparian corridor, there are no reasonable design alternatives that would enable preservation of the tree or native vegetation.**

**Finding:** There is a riparian corridor that passes through some of the subject properties, however no trees within the riparian corridor are proposed for removal with this tree conservation plan adjustment. This criterion is therefore not applicable to the proposed tree conservation plan adjustment.

- (4) **When the Tree Conservation Plan Adjustment proposes to reduce the number of trees preserved in the original tree conservation plan below 25 percent, only those trees reasonably necessary to accommodate the proposed development are designated for removal.**

**Finding:** This tree conservation plan adjustment proposes to designate two (2) additional trees for removal, resulting in the preservation of three (3) trees out of a total eight (8) trees, or 37.5 percent. Because the tree conservation plan adjustment does not reduce the number of trees to be preserved below 25 percent, this criterion is not applicable to the proposed tree conservation plan adjustment.

### 3. SRC Chapter 808 Planting Requirements

SRC 808.050 establishes tree planting requirements for lots or parcels to be used for the construction of single family dwelling units or duplex dwelling units in development proposals for subdivisions, partitions, and replats. The specific number of trees that must be provided on each lot is based upon the requirements of Table 808-1, as shown below:

Table 808-1: Tree Planting Requirements	
Lot or Parcel Size	Minimum Trees Required
6,000 ft. <sup>2</sup> or less	2
6,001 ft. <sup>2</sup> to 7,000 ft. <sup>2</sup>	3
7,001 ft. <sup>2</sup> to 8,000 ft. <sup>2</sup>	4
8,001 ft. <sup>2</sup> to 9,000 ft. <sup>2</sup>	5
Greater than 9,000 ft. <sup>2</sup>	6

In the event there are insufficient existing trees on a lot or parcel to meet the requirements of Table 808-1, the deficiency shall be made up by planting trees that are at least 1.5 inches in caliper.

### DECISION

The proposed Tree Conservation Plan Adjustment is consistent with the provisions of SRC Chapter 808 and is hereby **APPROVED** subject to the following conditions of approval:

- Condition 1:** Prior to receiving certificate of final occupancy for lots 133, 142-158, 280-290, and 462-471, of the trees to be planted as required under SRC Chapter 808, Table 808-1, a minimum of one tree shall be a shade tree and shall be planted within 5 feet of the property line abutting Kale Street NE.
- Condition 2:** Any changes to the approved Tree Conservation Plan Adjustment must be submitted to the Community Development Department in the form of a new Tree Conservation Plan Adjustment application for review and approval.
- Condition 3:** No tree designated for preservation under the approved Tree Conservation Plan Adjustment may be removed or critically damaged unless and until a new Tree Conservation Plan Adjustment application is submitted and approved by the Planning Administrator.
- Condition 4:** Prior to and during any grubbing, grading and construction activities, all trees designated for preservation shall be protected from removal or critical damage. Trees designated for protection shall be clearly marked on-site. Required tree protection measures during construction shall consist of protective fencing placed under the canopy of the tree. No grubbing, grading, construction, vehicle parking, or storage/disposal of materials/fill shall be allowed inside the protective fencing.
- Condition 5:** Adherence to the Tree Conservation Plan Adjustment is required at the time of building permit application. All trees designated for preservation under the Tree Conservation Plan Adjustment shall be protected, as required above, until issuance of a Notice of Final Completion for each affected parcel/lot.



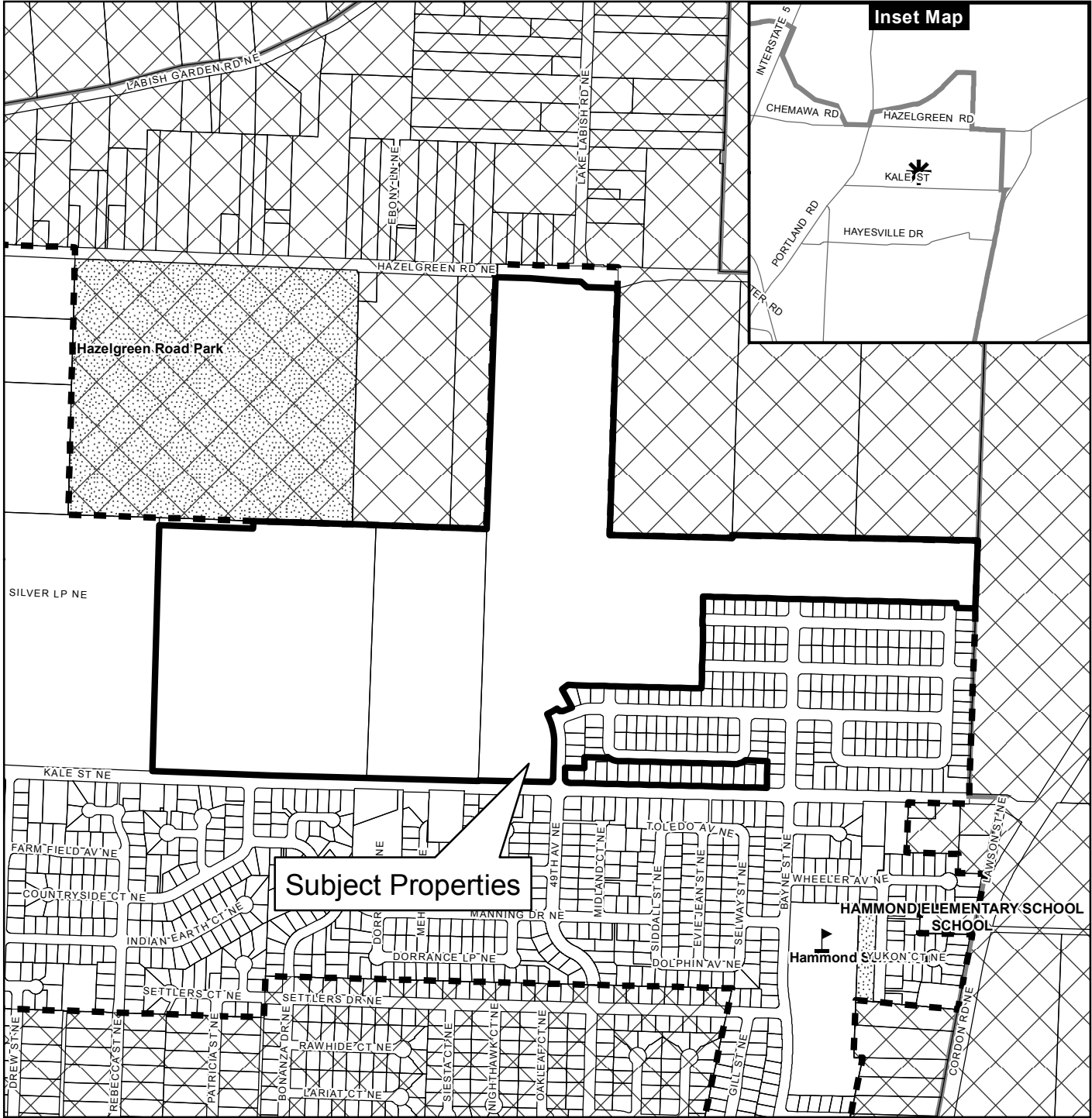
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Brandon Pike, Planner I  
Planning Administrator Designee

Attachments: A. Vicinity Map  
B. Applicant's Written Statement  
C. Approved Tree Conservation Plan Adjustment

Cc: Alan Kessler, GIS  
File - Tree Conservation Plan Case No. TCP07-17

Vicinity Map  
4400-5200 Blocks of Kale Street NE



Legend

- Taxlots
- Urban Growth Boundary
- City Limits
- Outside Salem City Limits
- Historic District
- Schools



Parks



Community Development Dept.

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0 100 200 400 Feet



# TRANSMITTAL



**DATE:** July 29, 2019

**JOB #:** 6610

**To:** Planning Division  
Community Development  
Room 305

**PROJECT:** Northstar (SUB07-13A)

**FROM:** Brandie Dalton, Land-Use Planner

**RE:** *TREE CONSERVATION PLAN ADJUSTMENT FOR TCP 07-17*

ENCLOSED IS A TREE CONSERVATION PLAN ADJUSTMENT FOR BRUSH COLLEGE SUBDIVISION. THE APPLICANT IS REQUESTING A TREE CONSERVATION ADJUSTMENT IN ORDER TO REMOVE 6 ADDITIONAL TREES. IN 2007, THE APPLICANT WAS GIVEN APPROVAL TO REMOVE TREES ON THE SITE THROUGH TREE CONSERVATION PLAN (TCP) 07-17.

**SRC 808.040(d):**

**(1) *THERE ARE SPECIAL CONDITIONS THAT COULD NOT HAVE BEEN ANTICIPATED AT THE TIME THE TREE CONSERVATION PLAN WAS SUBMITTED THAT CREATED UNREASONABLE HARDSHIPS OR PRACTICAL DIFFICULTIES.***

APPLICANT FINDINGS: TCP 07-17 ALLOWED THE APPLICANT APPROVAL TO REMOVE 1 TREE ON THE SITE WHILE PRESERVING 5 TREES (83%), OF THE ORIGINAL TREES WITHIN SUB07-13A.

AFTER STARTING WORK AND GRADING ON THE SITE, IT WAS DETERMINED THAT THERE ARE ACTUALLY 9 TREES ON THE SITE, NOT 6 AS NOTED IN THE ORIGINAL TCP.

THE APPLICANT IS REQUESTING THE REMOVAL OF 5 ADDITIONAL TREES ON THE SITE. THERE ARE 3 TREES ON THE SITE THAT ARE NO LONGER THERE DUE TO WEATHER AND CONSTRUCTION ON THE SITE. IT WAS ALSO DETERMINED THAT DUE TO CURRENT DETENTION NEEDS AND REQUIREMENTS FOR THE SITE, 2 TREES WITHIN THE NORTHWEST CORNER OF THE SITE WILL NEED TO BE REMOVED OR THEY WILL BE DAMAGED DUE TO CONSTRUCTION OF THE DETENTION AREA. THEREFORE, THE DETENTION REQUIREMENTS AND THE REMOVAL OF TREES HAS CREATED AN UNFORESEEN HARDSHIP.

THESE TREES NEED TO BE REMOVED IN ORDER TO AVOID DAMAGING THE TREES OR CAUSING SAFETY ISSUES LATER DUE TO UNSTABLE TREES. THEREFORE, THE APPLICANT IS REQUESTING APPROVAL TO REMOVE 5 ADDITIONAL TREES ON THE SITE.

***(2) WHEN THE TREE CONSERVATION PLAN ADJUSTMENT PROPOSES THE REMOVAL OF A SIGNIFICANT TREE, THERE ARE NO REASONABLE DESIGN ALTERNATIVE THAT WOULD ENABLE PRESERVATION OF THE TREE.***

APPLICANT FINDINGS: THERE ARE NO SIGNIFICANT TREES LOCATED ON THE SUBJECT PROPERTY. THEREFORE, THIS CRITERIA IS NOT APPLICABLE.

***(3) WHEN THE TREE CONSERVATION PLAN ADJUSTMENT PROPOSES THE REMOVAL OF A TREE OR NATIVE VEGETATION WITHIN A RIPARIAN CORRIDOR, THERE ARE NO REASONABLE DESIGN ALTERNATIVES THAT WOULD ENABLE PRESERVATION OF THE TREE OR NATIVE VEGETATION.***

APPLICANT FINDINGS: THERE IS NO RIPARIAN CORRIDOR LOCATED ON THE SUBJECT PROPERTY. THEREFORE, THIS CRITERIA IS NOT APPLICABLE.

***(4) WHEN THE TREE CONSERVATION PLAN ADJUSTMENT PROPOSES TO REDUCE THE NUMBER OF TREES PRESERVED IN THE ORIGINAL TREE CONSERVATION PLAN BELOW 25 PERCENT, ONLY THOSE TREES REASONABLY NECESSARY TO ACCOMMODATE THE PROPOSED DEVELOPMENT ARE DESIGNATED FOR REMOVAL.***

APPLICANT FINDINGS: THE PROPOSED TCPA WILL RESULT IN THE REMOVAL OF 6 TREES WHILE PRESERVING 3 TREES (33%) ON THE SITE WITHIN THE NORTHSTAR SUBDIVISION (SUB07-17).

AFTER STARTING WORK AND GRADING ON THE SITE, IT WAS DETERMINED THAT THERE ARE 3 TREES THAT ARE GONE AND 2 TREES THAT NEED TO BE REMOVED DUE TO THE DETENTION AREA.

**TREE INVENTORY**

TOTAL TREES ON SITE:	9
TREES TO BE REMOVED:	6
TREES TO REMAIN:	3

**IF YOU HAVE ANY QUESTIONS REGARDING THIS ISSUE PLEASE FEEL FREE TO CONTACT US. THANK YOU.**

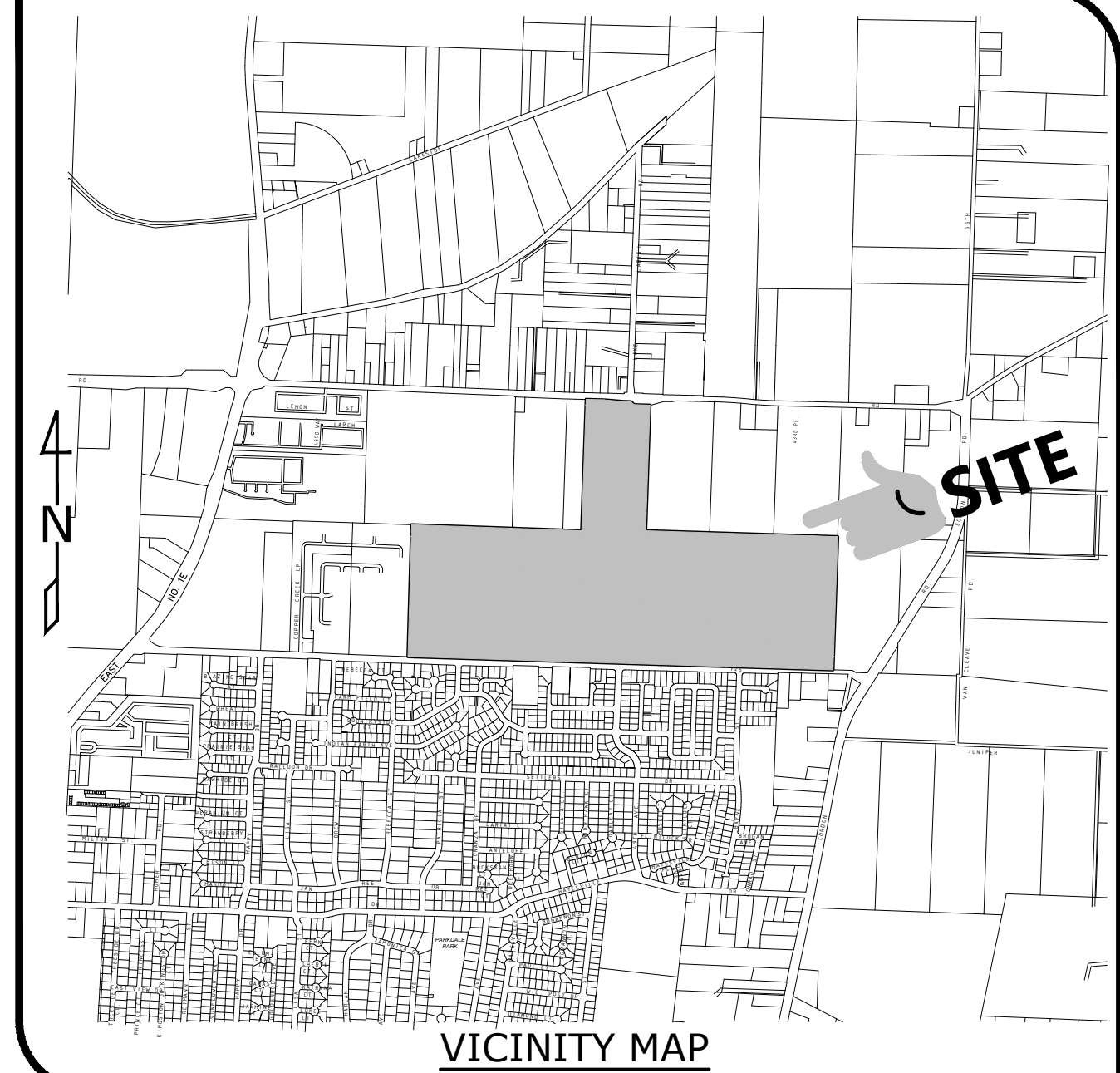
**SIGNED:** \_\_\_\_\_  
[bdalton@mtengineering.net](mailto:bdalton@mtengineering.net)



# ATTACHMENT C

## NORTHSTAR

SEC. 32, T. 6 S., R. 2 W., W.M.  
CITY OF SALEM  
MARION COUNTY, OREGON



Owner / Developer:  
**NORTHSTAR**  
**COMMUNITIES L.L.C.**  
9550 SE CLACKAMAS RD.  
CLACKAMAS, OREGON 97015  
PHONE: (503) 655-7933

