



June 18, 2021

VIA ELECTRONIC MAIL: SJLong@cityofsalem.net

Sally Long
City of Salem Planning Division
555 Liberty Street SE, Room 305
Salem, Oregon 97301

RE: Class 3 Site Plan Review / Class 2 Adjustment Case No. SPR-ADJ21-14
Our File No: 22679-29785

Dear Sally:

I represent RD Management LLC and FB Salem, LLC, the owner of 2480 Mission St. SE, Salem (the "**FB Salem Property**"). The FB Salem Property adjoins 2410 Mission Street SE, Salem (the "**Copperstone Property**"), which is the subject property in the above-referenced City of Salem land use application (the "**Copperstone Application**") and owned by Copperstone Inc. ("**Copperstone**"). I submit this comment letter to you neither in support nor opposition of the Copperstone Application; however, I do request a copy of all decisions regarding the above identified application(s).

The Notice of Filing mailed by the City on June 10, 2021 includes a site plan of the Copperstone Property and proposed development. The site plan contains an inaccurate description of the southern boundary of the Copperstone Property. I have attached a survey conducted by my client's surveyor that shows the southern property line is between 0.9 and 1.1 feet away from the building on the Copperstone Property. My client intends to develop FB Salem Property including installing fencing along or near the boundary line between the two properties.

We also want to ensure that the City will enforce all fire and building codes and any other applicable standards for the improvements on the Copperstone Property to the extent they are required. Nothing in the City's decision for the Copperstone Application shall be construed as using any part of the FB Salem Property, nor should it be considered part of the FB Salem development in any manner, including, but not limited to, regarding application of the City's sign code. I have attached a copy of the 2019 general

Park Place, Suite 200
250 Church Street SE
Salem, Oregon 97301

Post Office Box 470
Salem, Oregon 97308

tel 503.399.1070
fax 503.371.2927

www.sglaw.com

judgment for a court case involving FB Salem and Copperstone, in which Copperstone acknowledges and agrees that it has no property rights to or interest in the FB Salem Property

In conclusion, my client asks that the decision for the Copperstone Application apply the applicable standards and fire and building code consistent with the close proximity of the building to the southern boundary line of the Copperstone Property independent of the FB Salem Property.

Please feel free to contact me if you have any questions regarding this letter.

Sincerely,

A handwritten signature in blue ink that reads "Alan Sores". The signature is fluid and cursive, with the first name "Alan" and the last name "Sores" clearly distinguishable.

ALAN M. SOREM
asorem@sglaw.com
Voice Message #303

AMS: jsm
Enclosures
cc: Client

4853-1788-6959, v. 5

SITE PLAN

LOCATED IN THE
NORTHEAST QUARTER OF SECTION 35,
TOWNSHIP 7 SOUTH, RANGE 3 WEST OF THE WILLAMETTE MERIDIAN,
MARION COUNTY, OREGON

NARRATIVE

The purpose of this survey was to show improvements on that tract of land described in Reel 2548, Page 58, Marion County Deed Records. The boundary of said tract was established by holding ODOT calculated points for the center of Mission Street as shown on Marion County Survey 33862 and offsetting the centerline 50 feet Southwesterly to establish the right of way. The ODOT points are in state plane coordinates. Found monuments "B" and "C" were held for the East line. The West line was established 30 feet Easterly and parallel to a line formed by found monuments "A" and "D" as described in said deed. Found monuments "D" and "C" were held for the South line and intersected with the West line as previously established.

EQUIPMENT AND PROCEDURE

A LEICA TS12 Electronic Total Station Survey System;
CARLSON SURVEY Data Collector with supplemental
hand-written field survey notes were used in this survey.

LEGEND:

- LAMP POST
- POWER POLE
- WATER VALVE
- TREE
- BUSH
- BUILDING
- FENCE
- TOP OF CURB
- CONCRETE
- IN/OUT SIGN
- STOP SIGN
- GUY-WIRE
- MAIN SIGN

MONUMENT REFERENCES

- 5/8" IR WITH YPC MARKED "D.W. BAKER PLS 1978"
- 5/8" IR, WITH UNREADABLE YPC
- R.R. SPIKE
- 1/2" IP

SURVEY AND DEED REFERENCES

- R1 Indicates record information from Marion County Survey 35002.

NOTES

- All monuments found erect, in good condition and useable unless otherwise noted.
- Alum - Aluminium
- R/W - Right-of-way
- YPC - Yellow Plastic Cap
- R.R. - Railroad
- MCDR - Marion County Deed Records

DRAWING NO.: 19071	PREPARED FOR AND AT THE REQUEST OF	JOB NO. 19-071
DATE: JUNE 24, 2019	CHRIS GREENE	SCALE 1"=20'
REGISTERED PROFESSIONAL LAND SURVEYOR	LIABILITY FOR THIS SURVEY IS EXPRESSLY LIMITED TO SAID PERSON OR PERSONS.	CHECKED BY: JEP
	LOCATION:	DRAWN BY: CMH
OREGON JAN 10, 2008 TROY E. PETERSEN 61408	LOCATED IN THE NE 1/4 OF SEC. 35 T. 7 S, R. 3 W., W.M. MARION COUNTY, OREGON	GENERAL LEGEND: IR=IRON ROD IP=IRON PIPE YPC=YELLOW PLASTIC CAP C=COMPUTED COURSE ()=DEED RECORD []=SURVEY RECORD ● MONUMENT FOUND ○ 5/8"X30" IR SET WITH YPC MARKED "PETERSEN PLS 61408"
EXPIRES: 12/31/20	LAND MARKERS SURVEYING	
	4068 HUDSON AVE NE SALEM, OREGON 97301	PHONE 581-0911

"This map does not guarantee that any particular use may be made of the property illustrated hereon. Parties should check with the City or County planning department to verify approved uses."

RECORDING COVER SHEET (Please Print or Type)

This cover sheet was prepared by the person presenting the instrument for recording. The information on this sheet is a reflection of the attached instrument and was added for the purpose of meeting first page recording requirements in the State of Oregon, ORS 205.234, and does NOT affect the instrument.

*THIS SPACE RESERVED FOR USE BY
THE COUNTY RECORDING OFFICE*

AFTER RECORDING RETURN TO:

Jennifer C. Paul

Saalfeld Griggs PC

PO Box 470

Salem, OR 97308-0470

1) TITLE(S) OF THE TRANSACTION(S) ORS 205.234(a)

Stipulated General Judgment

2) DIRECT PARTY / GRANTOR(S) ORS 205.125(1)(b) and 205.160

Copperstone, Inc., AKA, Cooperstone, Inc., an Oregon corporation

3) INDIRECT PARTY / GRANTEE(S) ORS 205.125(1)(a) and 205.160

FB Salem, LLC, a Delaware limited liability company

**4) TRUE AND ACTUAL CONSIDERATION
ORS 93.030(5) – Amount in dollars or other**

\$ _____ ☒ Other

5) SEND TAX STATEMENTS TO:

FB Salem, LLC

810 7th Avenue, 10th Floor

New York, NY 10019

**6) SATISFACTION of ORDER or WARRANT
ORS 205.125(1)(e)**

CHECK ONE: ☐ FULL
(If applicable) ☐ PARTIAL

**7) The amount of the monetary
obligation imposed by the order
or warrant. ORS 205.125(1)(c)**

\$ _____

**8) If this instrument is being Re-Recorded, complete the following statement, in
accordance with ORS 205.244: "RERECORDED AT THE REQUEST OF _____**

TO CORRECT _____

PREVIOUSLY RECORDED IN BOOK _____ AND PAGE _____, OR AS FEE
NUMBER _____."

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IN THE CIRCUIT COURT FOR THE STATE OF OREGON,
FOR THE COUNTY OF MARION

FB SALEM, LLC, a Delaware limited liability
company,

Plaintiff,

v.

COPPERSTONE, INC., AKA, COOPERSTONE, INC., an
Oregon corporation,

Defendant.

CASE No. 19CV40740

STIPULATED GENERAL JUDGMENT

This matter comes to the Court upon stipulation of the parties who have settled the above-captioned case. Plaintiff, FB Salem, LLC ("*FB Salem*"), appears by and through Jennifer C. Paul and Sarah J. Holmes, Saalfeld Griggs PC, Salem, Oregon. Defendant, Copperstone, Inc., aka Cooperstone, Inc., appears by and through William D. Brandt, William D. Brandt PC, Salem, Oregon.

The parties stipulate, agree and advise the Court of the following:

The parties have agreed to settle the above-captioned matter pursuant to this Stipulated General Judgment, resolving all claims, counterclaims, and defenses that were or could have been raised herein related to the above-captioned matter.

The parties acknowledge that the above-captioned matter was filed on the part of FB Salem to fully and finally resolve the parties' interests in their respective properties.

The parties acknowledge that Copperstone, Inc., aka Cooperstone Inc. is the record fee title holder of property commonly referred to as 2410 Mission St. SE, Salem, OR 97302, Tax Lot 9300 ("*Tax Lot 9300*"). The name "Cooperstone, Inc." was a scrivener's error in the vesting

1 deed, transferring Tax Lot 9300 to Copperstone, Inc. in actuality. A true and accurate copy of
2 the vesting deed, with legal description, for Tax Lot 9300 is attached hereto as *Exhibit 1* and is
3 incorporated herein by this reference. (Copperstone Inc., aka Cooperstone, Inc. is hereinafter
4 referred to as "*Copperstone*").

5 The parties acknowledge that FB Salem is the record fee title holder of property
6 commonly referred to as 2460-2470 Mission St. SE, Salem, OR 97302, Tax Lot 600 ("*Tax Lot*
7 *600*") and the vacant Tax Lot 700 ("*Tax Lot 700*"), which is contiguous to Tax Lots 9300 and 600.

8 A true and correct copy of the subject vesting deed, with legal description, for Tax Lot 600 is
9 attached hereto as *Exhibit 2* and is incorporated herein by this reference. A true and correct
10 copy of the subject vesting deed, with legal description, for Tax Lot 700 is attached hereto as
11 *Exhibit 3* and is incorporated herein by this reference.

12 The parties acknowledge that a certain Memorandum of Lease, dated August 26, 1968
13 and recorded in the Marion County Recorder's Office, Volume 656, Page 437; a certain
14 Declaration of Easement, recorded in the Marion County Recorder's Office, Volume 684, Page
15 422 on June 4, 1970; and, a certain Amended and Restated Memorandum of Lease, recorded
16 on April 19, 2000 in the Marion County Recorder's Office, Reel 1684, Page 371, were
17 terminated by bankruptcy order entered on November 19, 2018, in the case *In re Sears Holding*
18 *Corporation, et al.* thereby terminating the parties' successor easement interests respectively in
19 Tax Lot 9300 and Tax Lot 700.

20 The parties agree that Copperstone, its successors, lessees, tenants and/or assigns have
21 no easement interest in Tax Lot 700 for ingress or egress or otherwise.

22 The parties agree that FB Salem, its successors, lessees, tenants and/or assigns have no
23 easement interest in Tax Lot 9300 for ingress or egress or otherwise.

24 The parties agree that Copperstone, its successors, lessees, tenants and/or assigns have
25 no contractual or equitable rights in or to FB Salem's property, Tax Lots 600 and 700, including,
26 but not limited to parking, ingress and egress, storage or otherwise.

No good cause exists for setting aside the settlement agreement or for setting this case for trial.

This Court shall retain jurisdiction to resolve any disputes regarding this Stipulated General Judgment. Now therefore:

IT IS HEREBY ORDERED AND ADJUDGED:

1.

Copperstone, its successors, lessees, tenants and/or assigns have no easement interest in Tax Lot 700 for ingress or egress or otherwise.

2.

FB Salem, its successors, lessees, tenants and/or assigns have no easement interest in Tax Lot 9300 for ingress or egress or otherwise.

3.

Copperstone, its successors, lessees, tenants and/or assigns have no contractual or equitable rights in or to FB Salem's Property, Tax Lots 600 and 700, including, but not limited to parking, ingress and egress, storage or otherwise.

4.

Upon entry of this Stipulated General Judgment, Copperstone, its lessees, tenants, successors and assigns shall cease and desist from using FB Salem's Tax Lots 600 and 700 for any use or purpose.

5.

This Court shall retain jurisdiction to resolve any dispute regarding this Stipulated General Judgment.

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6.

The parties shall be responsible for their own respective attorney fees, costs and disbursements.

Signed: 10/21/2019 03:58 PM


Circuit Court Judge Sean E. Armstrong

IT IS SO STIPULATED:

s/ JENNIFER C. PAUL

JENNIFER C. PAUL, OSB No. 104791
Email: jpaul@sglaw.com
Phone: (503) 399-1070
Of Attorneys for Plaintiff

s/ WILLIAM D. BRANDT

WILLIAM D. BRANDT, OSB No. 720366
Email: bill@brandtlawoffices.com
Phone: (503) 485-4168
Of Attorneys for Defendant

SUBMITTED BY:

JENNIFER C. PAUL, OSB No. 104791
Email: jpaul@sglaw.com
Phone: 503.399.1070
Of Attorneys for Plaintiff

CERTIFICATE OF READINESS

I hereby certify, pursuant to UTCR 5.100 as of the 18th day of October, 2019, that:

All service requirements for service of the proposed Order or Judgment were satisfied because:

- ☐ Service on each counsel occurred not less than three (3) days prior to submission to the court;
- ☐ Copy was served on a self-represented party not less than seven (7) days prior to submission to the Court and with a notice of the time period when objections are due;
- ☒ The enclosed Order or Judgment is stipulated to and no objection exists to the Judgment or Order;
- ☐ The Order or Judgment is being presented in open court with all parties present; service is not required by statute, rule or otherwise; or as otherwise provided in UTCR 5.100(3).

The proposed Order is ready for judicial signature because:

- ☒ Each party affected by this Order or Judgment has stipulated to the Order or Judgment, as shown by each party's signature on the document being submitted;
- ☐ Each opposing party affected by this Order or Judgment has approved the Order or Judgment, as shown by signature on the documents being submitted or by written confirmation of approval sent to me;
- ☐ I have served a copy of this Order or Judgment on all parties entitled to service and:
 - ☐ No objections have been served on me;
 - ☐ I received objections that I could not resolve with the opposing party despite reasonable efforts to do so. I have filed a copy of the objections I received and indicated which objections remain unresolved.

SAALFELD GRIGGS PC

BY S/ JENNIFER C. PAUL
JENNIFER C. PAUL, OSB No. 104791
Email: jpaul@sglaw.com
SARAH J. HOLMES, OSB No. 183673
Email: sholmes@sglaw.com
Phone: (503) 399-1070
Fax: (503) 371-2927
Of Attorneys for Plaintiff

KNOW ALL MEN BY THESE PRESENTS, That
WILBUR & DELK, a Partnership

hereinafter called grantor, for the consideration hereinafter stated, conveys and specially warrants to
COOPERSTONE, INC., an Oregon corporation

hereinafter called grantee, and unto grantee's heirs, successors and assigns all of that certain real property with the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining, situated in the County of Marion, State of Oregon, described as follows, to-wit:

SEE ATTACHED EXHIBIT "A" FOR LEGAL DESCRIPTION

To Have and to Hold the same unto the said grantee and grantee's heirs, successors and assigns forever.
And the grantor hereby covenants to and with the said grantee and grantee's heirs, successors and assigns that said real property is free from encumbrances created or suffered thereon by grantor and that grantor will warrant and defend the same and every part and parcel thereof against the lawful claims and demands of all person claiming by, through, or under the grantor.

The true and actual consideration paid for this transfer, stated in terms of dollars, is \$ 460,000.00
Ⓞ However, the actual consideration consists of or includes other property or value given or promised which is (the whole/part/other consideration (indicate which)). Ⓞ (The sentence between the symbols Ⓞ, if not applicable, should be deleted. See ORS 93.030.)

In construing this deed and where the context so requires, the singular includes the plural and all grammatical changes shall be implied to make the provisions hereof apply equally to corporations and to individuals.

In Witness Whereof, the grantor has executed this instrument this 5th day of April, 1999; if a corporate grantor, it has caused its name to be signed and seal affixed by its officers, duly authorized thereto by order of its board of directors.

THIS INSTRUMENT WILL NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES AND TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS 30.930.

JOHN C. WILBUR

ROBERT W. DELK

By John C. Wilbur, his Attorney-in-fact

STATE OF OREGON
County of MARION } ss.

BE IT REMEMBERED, That on this 05 day of April, 1999, before me, the undersigned, a Notary Public in and for said County and State, personally appeared the within named JOHN C. WILBUR AND ROBERT W. DELK, BY JOHN C. WILBUR, HIS ATTORNEY-IN-FACT

known to me to be the identical individual s described in and who executed the within instrument and acknowledged to me that THEY executed the same freely and voluntarily.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal the day and year last above written.



Sandra L. Murphy
Notary Public for Oregon.
My Commission expires 3-22-00

Wilbur & Delk
Grantor's Name and Address Cooperstone, Inc.
Grantee's Name and Address Cooperstone, Inc. c/o Robert L. Armstrong P C 2425 13th SE Salem, OR 97302
Until a change is requested all tax statements shall be sent to the following address. Cooperstone, Inc. same as above
Name, Address, Zip

Space Reserved
For
Recorder's Use

STATE OF OREGON,
County of _____ } ss.
I certify that the within instrument was received for record on the _____ day of _____, 19____, at _____ o'clock _____ M., and recorded in book/reel/volume No. _____ on page _____ or as fee/file/instrument/microfilm/reception No. _____ Record of Deeds of said county.
Witness my hand and seal of County affixed.

Name _____ Title _____
By _____ Deputy

EXHIBIT "A"

A portion of Lots 5 & 6, MILLERS MILL CREEK RURAL HOME TRACTS, Plat Volume 2, Page 48, Marion County, Oregon, and more particularly described as follows:

Beginning at a point on a line parallel with and a perpendicular distance of 5.00 feet, measured Southerly, from the Southerly right of way line of Mission Street, said point bears South 0° 31' 30" West 5.79 feet and South 59° 11' East 34.74 feet from a 1/2 inch iron pipe marking the Northwestern corner of that portion of land described in Volume 656, Page 435, Deed Records for Marion County, Oregon; and running thence South 0° 31' 30" West 220.95 feet parallel with the Westerly boundary line of said described parcel to a point; thence South 89° 28' 30" East 116.00 feet to a point; thence North 0° 31' 30" East 153.19 feet parallel with said Westerly boundary line to a line on said line parallel with the Southerly right of way line of Mission Street; thence North 59° 11' West 134.34 feet along said line to the point of beginning.

SAVE AND EXCEPT that portion conveyed to the State of Oregon, June 22, 1987, in Reel 555, Page 144, Marion County Records.

REEL:2548

PAGE: 58

October 06, 2005, 11:18 am.

CONTROL #: 151915

**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: \$ 31.00

**BILL BURGESS
COUNTY CLERK**

THIS IS NOT AN INVOICE.

After recording return to:
FB SALEM, LLC ATTN: WILLIAM WEINBERG
810 SEVENTH AVENUE, 28TH FLOOR
NEW YORK, NY 10019

TITLE ORDER NO: 18-75119
KEY ESCROW NO: 02-58601

Until a change is requested tax statements
shall be sent to the following address:
SAME AS ABOVE

WARRANTY DEED -- STATUTORY FORM
(INDIVIDUAL or CORPORATION)

FRAMINGHAM MALL ASSOCIATES, a Massachusetts Limited Partnership, Grantor,

conveys and warrants to:

FB SALEM, LLC, a Delaware limited liability company, Grantee,

the following described real property free of encumbrances except as
specifically set forth herein:

SEE EXHIBIT A WHICH IS MADE A PART HEREOF BY THIS REFERENCE

SUBJECT TO: SEE ATTACHED

Tax Account No: R82567 Map No:

THIS INSTRUMENT WILL NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT
IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR
ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY
SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY
APPROVED USES AND TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST
PRACTICES AS DEFINED IN CRS 30.930.

The true consideration for this conveyance is \$975,000.00. However, if
the actual consideration consists of or includes other property or other
value given or promised, such other property or value was part of the/the
whole of the (indicate which) consideration.

If grantor is a corporation, this has been signed by authority of the Board of
Directors.

Dated this 25 day of August, 1999.

GRANTOR(S):

FRAMINGHAM MALL ASSOCIATES
BY: Joseph Sloves
JOSEPH SLOVES, GENERAL PARTNER

COLORADO
STATE OF OREGON, County of Pitkin ss.

This instrument was acknowledged before me on August, 1999
by JOSEPH SLOVES, as GENERAL PARTNER, of FRAMINGHAM MALL ASSOCIATES

Chris Novell
Notary Public for OREGON Colorado

My Commission Expires: 3/31/2001



18-75119

AUG 27 1999

EXHIBIT 'A'

Those portions of Lots 5 and 6 of MILLER'S MILL CREEK RURAL HOME TRACTS in the City of Salem, Marion County, Oregon, described as follows:

Beginning at a 3/4 inch iron pipe on the Southerly boundary line of said Lot 5, being also the Southeasterly corner of that certain tract of land conveyed to A. H. and P. Scharff, by deed recorded in Volume 569, page 56, Deed Records for Marion County, Oregon; thence North 00°51'50" East 239.32 feet along the Easterly line of said land of Scharff to a 3/4 inch iron pipe on the Southwesterly right of way line of Mission Street; thence North 59°11'00" West, along said Southwesterly right of way line, 291.05 feet to a point in a line parallel with and distant 146.00 feet Easterly, measured at right angles, from the Easterly boundary line of that certain parcel of land conveyed to Curly's Dairy, Inc., by deed recorded in Volume 485, Page 157, Deed Records for Marion County, Oregon; thence South 00°31'30" West along said parallel line, 388.98 feet; thence North 89°28'30" West 146.00 feet to a point in said Easterly boundary of Curly's Dairy, Inc.; thence South 00°31'30" West, along said Easterly boundary and along the Easterly boundary of the AMENDED PLAT OF NEW HAVEN, as recorded in Volume 16, Page 24, Record of Town Plats for Marion County, Oregon, and along the Southerly extension thereof, 660.17 feet to a 3/4 inch iron pipe marking the Southwesterly corner of said Lot 6; thence along the Southerly boundary of said Lot 6, South 89°22'00" East, 669.36 feet to a 1/2 inch iron rod marking the Westerly right of way line of 25th Street; thence North 00°43'30" East, 2.79 feet along said Westerly right of way line to a 5/8 inch iron rod with an aluminum cap marking the beginning of a curve left; thence Northwesterly, along said curve left to a 5/8 inch iron rod with an aluminum cap, the long chord bears North 10°14'30" West, 322.38 feet; thence along the arc of a curve right to an iron bolt, the long chord bears North 10°31'30" West, 352.59 feet; thence North 89°59'30" West, 145.68 feet along the Southerly boundary line of said Lot 5 to the point of beginning.

EXCEPTING THEREFROM those parcels of land conveyed to the State of Oregon, by and through its Department of Transportation, Highway Division by deeds recorded March 3, 1988 in Reel 605, Page 385, 386 and 387, Microfilm Records, Marion County, Oregon.

ALSO EXCEPTING THEREFROM that portion set forth in Stipulated Final Order under Case No. 91C-12212-1, Marion County Circuit Court, filed September 17, 1995.

TOGETHER WITH the following described easements:

A non-exclusive easement for ingress and egress purposes over a strip of land, 30.00 feet in width, lying Easterly of and contiguous to that certain line hereinbefore described as the Easterly boundary line of that certain parcel of land conveyed to Curly's Dairy, Inc., and extending from the Southwesterly line of Mission Street hereinbefore mentioned to that certain course hereinbefore described as having a bearing of North 89°28'30" West, 146.00 feet

A non-exclusive easement for ingress and egress purposes over a strip of land, 30.00 feet in width, lying Westerly of and contiguous to that certain course hereinbefore described as having a bearing of South 00°31'30" West and a length of 388.98 feet and extending from the southwesterly line of Mission Street hereinbefore described as having a bearing of North 89°28'30" West, 146.00 feet. Save and except that portion conveyed to the City of Salem, a municipal corporation, by deed recorded December 18, 1969 in Volume 676, Page 94, Deed Records, Marion County, Oregon.

AUG 27 1999

EXHIBIT "A" - CON'T

SUBJECT TO:

1. The rights of the public in and to that portion of the premises herein described lying within the limits of roads, streets and highways.
2. An easement created by instrument, including the terms and provisions thereof,
Dated: July 14, 1965
Recorded: July 15, 1965 in Volume 603, Page 814,
Deed Records, Marion County, Oregon
In favor of: Williams' Bakery
For: Road and roadway
4. Airport Clear Zone Easement, including the terms and provisions thereof,
Recorded: January 24, 1967 in Volume 626, Page 755, Deed Records, Marion County, Oregon.
5. Airport Clear Zone Easement, including the terms and provisions thereof,
Recorded: January 24, 1967 in Volume 626, Page 758, Deed Records, Marion County, Oregon.
6. Airport Clear Zone Easement, including the terms and provisions thereof,
Recorded: August 16, 1967 in Volume 635, Page 384, Deed Records, Marion County, Oregon.
7. An easement created by instrument, including the terms and provisions thereof,
Dated: October 3, 1967
Recorded: January 2, 1968 in Volume 641, page 243, Deed Records, Marion County, Oregon
In favor of: Williams Bakery
For: Right of Way
8. Airport Clear Zone Easement, including the terms and provisions thereof,
Recorded: October 23, 1968 in Volume 655, Page 550, Deed Records, Marion County, Oregon.
9. Airport Clear Zone Easement, including the terms and provisions thereof,
Recorded: October 23, 1968 in Volume 655, Page 580, Deed Records, Marion County, Oregon.
10. Airport Clear Zone Easement, including the terms and provisions thereof,
Recorded: November 8, 1968 in Volume 656, Page 401, Deed Records, Marion County, Oregon.
11. Lease, including the terms and provisions thereof, a memorandum of which was,
Dated: August 28, 1968
Recorded: November 8, 1968 in Volume 656, Page 437,
Deed Records, Marion County, Oregon
Lessor: Arthur T. Lanning, a married man
Lessee: S. S. Kresge Company, a Michigan corporation
The lessor's interest was acquired by numerous instruments, the most recent of which was,
Dated: June 30, 1981
Recorded: September 22, 1981 in Reel 261, Page 1671,
Microfilm Records, Marion County, Oregon
To: Framingham Mall Associates
12. An easement created by instrument, including the terms and provisions thereof,
Dated: January 28, 1969
Recorded: January 31, 1969 in Volume 659, Page 670,
Deed Records, Marion County, Oregon
In favor of: City of Salem
For: Drainage Easement
13. Declaration of Easement, including the terms and provisions thereof
Recorded: June 4, 1970 in Volume 684, Page 422, Deed Records, Marion County, Oregon.

AUG 27 1999

14. An easement created by instrument, including the terms and provisions thereof,

Dated: June 1, 1971
Recorded: June 16, 1971 in Volume 704, Page 793,
Deed Records, Marion County, Oregon
In favor of: Pacific Northwest Bell Telephone Company
For: Underground facilities

15. Lease, including the terms and provisions thereof, a memorandum of which was,

Dated: December 31, 1971
Recorded: March 16, 1972 in Volume 722, Page 591,
Deed Records, Marion County, Oregon
Lessor: Jay Furman as Trustee for the benefit of Jason Furman under Trust Agreement dated January 31, 1972 as to an undivided 25% interest; Barbara A. Murray as Trustee for the benefit of Vicki L. Murray under Trust Agreement dated January 16, 1967, as to an undivided 25% interest; Barbara A. Murray as Trustee for the benefit of Bruce S. Murray under Trust Agreement dated January 16, 1967, as to an undivided 25% interest; Barbara A. Murray as Trustee for the benefit of Erica S. Murray under Trust Agreement dated January 16, 1967, as to an undivided 25% interest.
Lessee: Twenty-Second Salem Corp., an Oregon corporation
The lessor's interest in said lease was assigned by instrument,
Recorded: September 22, 1981 in Reel 261, Page 1674,
Microfilm Records, Marion County, Oregon
To: Framingham Mall Associates

16. An easement created by instrument, including the terms and provisions thereof,

Dated: October 10, 1987
Recorded: March 3, 1988 in Reel 605, Pages 385, 386 and 387,
Microfilm Records, Marion County, Oregon
In favor of: State of Oregon, by and through its Department of Transportation, Highway Division
For: Slopes and utilities

17. An easement created by instrument, including the terms and provisions thereof,

Dated: September 17, 1991
Filed: September 17, 1993 in Marion County Circuit Court, under Case No. 91C-12212-1
In favor of: State of Oregon, by and through its Department of Transportation
For: Slopes and utilities

18. Any and all subsisting leases.

19. Taxes for the fiscal year 1999-2000, a lien in an amount to be determined, but not yet due and payable.

AUG 27 1999

REEL:1628

PAGE: 586

August 27, 1999 , 01:58P

CONTROL #: 1628586

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: \$50.00

ALAN H DAVIDSON
COUNTY CLERK

AUG 27 1999

MAIL TAX STATEMENTS TO:

FB Salem, LLC
810 7th Avenue
10th Floor
New York, NY 10019

REEL 4241 PAGE 126
MARION COUNTY
BILL BURGESS, COUNTY CLERK
09-12-2019 11:11 am.
Control Number 567839 \$ 96.00
Instrument 2019 00043164

AFTER RECORDING RETURN TO:

Alan M. Sorem
Saalfeld Griggs PC
PO Box 470
Salem, OR 97308

STATUTORY BARGAIN AND SALE DEED

Grantor: *Twenty-Second Salem Corp.*, an Oregon corporation

Grantee: *FB Salem, LLC*, a Delaware limited liability company

RECITALS:

- A. Grantor is the current owner of that certain real property located in Marion County, Oregon, legally described on *Exhibit A*, which is attached hereto and incorporated herein by this reference (the "*Property*").
- B. Grantor was dissolved on or about January 10, 2005.
- C. Grantor desires to convey the Property to Grantee as described below to complete the winding-up process authorized by ORS 60.637(1).

Twenty-Second Salem Corp., an Oregon corporation, "*Grantor*," hereby conveys to *FB Salem, LLC*, a Delaware limited liability company, "*Grantee*," the Property as described on Exhibit A.

The true and actual consideration paid for this conveyance is Zero Dollars (\$0). However, the actual consideration consists of or includes other property or value given or promised which is the whole of the consideration.

The following is the notice as required by Oregon law: "BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE

PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010."

Dated this 11th day of September, 2019.

GRANTOR:

TWENTY-SECOND SALEM CORP.

By: 

Richard Birdoff, President

STATE OF New York)
) ss.
County of New York)

This instrument was acknowledged before me on September 11, 2019, by Richard Birdoff, President of Twenty-Second Salem Corp., an Oregon corporation.


Notary Public for _____
My Commission Expires: _____

Donna J. Phillips-Status
Notary Public, State of New York
01PH4919935
Qualified in Kings County
Certificate Filed in New York County
Commission Expires Feb. 28, 2022

EXHIBIT A

Beginning at a point at the intersection of the Westerly boundary line of that portion of land described in Volume 656, Page 435, Marion County Record of Deeds, Northeast 1/4, Northeast 1/4, Section 35, Township 7 South, Range 3 West, Willamette Meridian, Marion County, Oregon and a line parallel to and perpendicular distance of 5.00 feet, measured Southerly, from the Southerly right of way line of Mission Street, said point bears South 0°31'30" West 5.79 feet from a 1/2 inch iron pipe marking the Northwestern corner of said described tract, and running thence South 0°31'30" West 468.18 feet along said Westerly boundary line and the Westerly boundary line of that portion of land described in Volume 656, Page 434, Marion County Record of Deeds, to a point; thence South 89°28'30" East 146.00 feet to a point; thence North 0°31'30" East 230.00 feet parallel to said Westerly boundary line to a point; thence North 89°28'30" West 116.00 feet parallel to the Southerly boundary line of the herein described parcel; thence North 0°31'30" East 220.95 feet to a point on said line parallel to the Southerly right of way line of Mission Street; thence North 59°11' West 34.74 feet along said line to the point of beginning.

SAVE AND EXCEPT that portion of property described in Warranty Deed recorded March 23, 1988 in Reel 609 Page 295, Marion County Deed Records, Oregon.

REEL: 4241

PAGE: 126

September 12, 2019, 11:11 am.

CONTROL #: 567839

**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: \$ 96.00

**BILL BURGESS
COUNTY CLERK**

THIS IS NOT AN INVOICE.

CERTIFICATE OF SERVICE

I hereby certify that on the 18th day of October, 2019, I served STIPULATED GENERAL JUDGMENT on:

William D. Brandt
William D. Brandt, P.C.
494 State Street, Suite 300B
Salem, OR 97301-4384
bill@brandtlawoffices.com
Of Attorneys for Defendant

- ☒ by **electronic** means through the Court's Case Management/Electronic Case File system, which will send automatic notification of filing to each person listed above.
- ☒ by **mailing** a true and correct copy to the last known address of each person listed. It was contained in a sealed envelope, with postage paid, addressed as stated above, and deposited with the US Postal Service in Salem, Oregon.
- ☒ by **emailing** a true and correct copy to the last known email address of each person listed, with confirmation of delivery.

SAALFELD GRIGGS PC

BY S/ JENNIFER C. PAUL
JENNIFER C. PAUL, OSB No. 104791
Email: jpaul@sglaw.com
SARAH J. HOLMES, OSB No. 183673
Email: sholmes@sglaw.com
Phone: (503) 399-1070
Fax: (503) 371-2927
Of Attorneys for Plaintiff

4836-9924-8296, v. 6

REEL: 4258

PAGE: 99

October 22, 2019, 11:22 am.

CONTROL #: 573616

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: \$ 166.00

**BILL BURGESS
COUNTY CLERK**

THIS IS NOT AN INVOICE.