

North Canton City Council
Finance and Property Committee

Ordinance No. 78 - 2019

An ordinance authorizing the Mayor, on behalf of the City of North Canton, to execute a modification agreement of an open-end mortgage with AMC Land Company, Ltd., dated March 19, 2010, and modified on October 31, 2017, by replacing subplot 36, parcel 94-00552, with subplot 219, parcel 94-00986, and declaring the same to be an emergency.

WHEREAS, AMC Land Company has requested to modify an open-end mortgage, last recorded as Instrument No. 201710310046490, Stark County, Ohio, by replacing subplot 36, parcel 94-00552, with subplot 219, parcel 94-00986, Stark County, Ohio, so that subplot 36 may be sold for construction of a single-family home. A copy of the proposed modification agreement is attached hereto and incorporated herein.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF NORTH CANTON, COUNTY OF STARK, AND STATE OF OHIO:

- Section 1. That AMC Land Company has requested to modify an open-end mortgage with the City, last recorded as Instrument No. 201710310046490, Stark County, Ohio, by replacing subplot 36, parcel 94-00552, with subplot 219, parcel 94-00986, Stark County, Ohio, so that subplot 36 may be sold for construction of a single-family home.
- Section 2. That subplot 36, parcel 94-00552, shall be replaced with subplot 219, parcel 94-00986, for the open-end mortgage described above, and that the remaining provisions contained therein shall remain in full force and effect.
- Section 3. That the Mayor, on behalf of the City, be, and is hereby authorized to execute modification agreement described herein.
- Section 4. That if a provision of this ordinance is or becomes illegal, invalid, or unenforceable, that shall not affect the validity or enforceability of any other provision of this ordinance.
- Section 5. That this ordinance is hereby declared to be an emergency measure necessary for the preservation of the health, safety and peace of the City of North Canton, and further necessary enable the property owner and purchaser to promptly complete and publicly record the sales transaction, and permit the developer to begin construction on a new North Canton single-family home in weather-permitting conditions; wherefore, provided it receives the affirmative vote of six or more members of Council elected thereto, this ordinance shall take effect and be in full force immediately upon its adoption by Council and approval by the Mayor. Otherwise, it shall take effect and be in full force from and after the earliest period allowed by law.

Passed in Council this 21 day of October 2019



David Held, Mayor

Signed: 10/21, 2019

ATTEST:


Laura Brown, Director of Finance

MODIFICATION AGREEMENT

This MODIFICATION AGREEMENT (this "Agreement") is made effective as of _____, 2019, by and between AMC LAND COMPANY, LTD., an Ohio limited liability company, (the "Grantor"), with a mailing address being 6690 Beta Drive, Suite 220, Mayfield Village, Ohio 44143, and the CITY OF NORTH CANTON, Stark County, Ohio, with a mailing address of 143 North Main Street, North Canton, Ohio 44720 (the "Grantee") for the purpose of memorializing the terms by which City Lot Number 6306 (Parcel Number 94-00552), originally mortgaged by the Grantor in that certain Open-End Mortgage, dated March 19, 2010 and recorded as Instrument Number 201003220009929, of the Stark County, Ohio Records, has been released and a new parcel, City Lot 68247 (Parcel Number 94-00986) substituted in its place.

WHEREAS, on or about March 19, 2010, Grantor entered into that certain Open-End Mortgage in favor of Grantee securing City Lots (6774)(Parcel No.: 94-00949)(Sublot 207); (6843)(Parcel No.: 94-01005)(Sublot 238); and (6814)(Parcel No.: 94-00976)(Sublot 209); and

WHEREAS, on July 17, 2017, Grantee partially released City Lot 6843 (Parcel No.: 94-01005)(Sublot 238), recorded as Instrument No. 201707170029657 of the Stark County, Ohio Records; and

WHEREAS, on October 31, 2017, Grantee entered into that certain Modification Agreement, and partially released City Lot 6814 (Parcel No.: 94-00976)(Sublot 209), recorded as Instrument No. 201710310046490 of the Stark County, Ohio Records; and

WHEREAS, on October 31, 2017 Grantor entered into that certain Modification Agreement and substituted Sublot 207 (Parcel No. 94-00949) with Sublot 36 (City Lot 6306, Parcel Number 94-00552), recorded as Instrument No. 201710310046490; and

WHEREAS, the Grantor has requested and the Grantee has agreed, to remove Sublot 36 (City Lot 6306, Parcel No.: 94-00552) from the Open-End Mortgage, provided that an additional City Lot is substituted in its place, namely, Sublot 219 (City Lot 6824, Parcel Number 94-00986).

NOW THEREFORE, for the mutual covenants contained herein and for other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Grantor and Grantee agree as follows:

1. Affirmation of Recitals. Each of the parties acknowledge that the recitals set forth above are true and correct. All such recitals are incorporated herein by reference.

2. Specific Amendments to the Open-End Mortgage.

a. City Lot 6306 (Parcel No.: 94-00552)(Sublot 36), recorded as Instrument No. 201710310046489 of the Stark County, Ohio Records has been released from the Open-End Mortgage.

b. City Lot 6824 (Parcel No.: 94-00986)(Sublot 219), the legal description of which is attached hereto as Exhibit A, shall be added to the Open-End Mortgage in substitution of City Lot 6306 (Parcel No.: 94-00552)(Sublot 36).

3. Ratification. Grantor hereby represents and warrants to Grantee that all of the terms and provisions of the existing Open-End Mortgage not otherwise modified herein, are ratified and remain in full force and effect.

4. Representations by Grantor. The Grantor further represents and warrants that:

a. Grantor (i) is duly formed, validly existing and in full force and effect under the laws of the State of Ohio; (ii) has all necessary power and authority and full legal right to own its property and to carry on its business as presently conducted; and (iii) has all necessary power and authority, and full legal right, to enter into this Agreement and to perform, observe and comply with all of its agreements and obligations hereunder.

b. All necessary actions have been taken by Grantor, as applicable, to authorize the execution, delivery and performance of this Agreement.

5. Binding Effect. This Agreement shall be binding upon and shall inure to the benefit of Grantor and Grantee, and their respective successors and permitted assigns.

6. Governing Law. This Agreement shall be construed in accordance with the internal, substantive laws of the State of Ohio.

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IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first set forth above.

AMC LAND COMPANY, LTD.

By: [Signature]
Name: James J. Aveni
Title: Manager

STATE OF OHIO)
)
COUNTY OF Cuyahoga)

BEFORE ME, a Notary Public in and for such County and State, personally appeared the above-named AMC LAND COMPANY, LTD., an Ohio limited liability company ("Grantor"), by James J. Aveni, its Member, who acknowledged that he did sign the foregoing Modification Agreement and that the same is Grantor's free act and deed and his free act and deed both personally and as Grantee's duly authorized member.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal at _____, County, Ohio, this ____ day of _____, 2019.

[Signature]
Notary Public
CITY OF NORTH CANTON
By: _____

James A. Grasso, Esq.
Notary Public, State of Ohio
My commission has no expiration date
Section 147.03 R.C.

Name: Honorable David Held
145 North Main Street
North Canton, Ohio 44720

Title: Mayor

Approved as to form and content:

Timothy L. Fox, Director of Law

STATE OF OHIO)
)
COUNTY OF STARK)

BEFORE ME, a Notary Public in and for said County and State, personally appeared the above named David Held, in his official capacity as the Mayor of the City of North Canton, who acknowledged that he did sign the foregoing Modification Agreement, and that the same is his free act and deed, this _____ day of _____, 2019.

Notary Public

This Instrument Prepared By:
Nicholas J. DeBaltzo, Jr., Esq.
Dinn, Hochman & Potter, LLC
5910 Landerbrook Drive, Suite 200
Mayfield Heights, Ohio 44124
440-544-1104

Exhibit A

Situated in the City of North Canton, County of Stark and State of Ohio:

And known as City Lot No. 6824 and also known as Subdivision Sublot No. 219 of the Monticello Subdivision #7 as recorded by Instrument No. 200512070081813 of Stark County Records, be the same more or less, but subject to all legal highways.

Permanent Parcel Number 94-00986

Address: 1360 Shiloh Run SE, North Canton, Ohio 44709

PARTIAL SATISFACTION OF MORTGAGE

This is to certify that the conditions of a certain Open-End Mortgage given by AMC Land Company, LTD., an Ohio limited liability company, and dated March 19, 2010, as Modified on October 31, 2017, have been satisfied as to Sublot Number 36 in the Monticello Subdivision, Phase 7, which Sublot is further identified as Parcel Number 94-00552, City Lot 6306 in the County of Stark and City of North Canton, Ohio.

Therefore, the Open-End Mortgage attaching to said Sublot is hereby discharged, provided however, that the lien of said Open-End Mortgage attaching to the remaining real property within the Monticello Subdivision, Phase 7 remains in full force and effect.

Said Open-End Mortgage is recorded as Instrument Number 201003220009929 of the Stark County, Ohio Records, as Modified on October 31, 2017 and recorded as Instrument 201710310046489.

City of North Canton

By: _____
Honorable David Held, Mayor
143 North Main Street
North Canton, Ohio 44720

State of Ohio)
) SS
County of Stark)

BEFORE ME, a Notary Public in and for said County and State, personally appeared the above named David Held, in his official capacity as the Mayor of the City of North Canton, who acknowledged that he did sign the foregoing Partial Satisfaction of Mortgage, and that the same is his free act and deed, this _____ day of July, 2019.

In testimony Whereof, I have hereunto set my hand and official seal at North Canton,
Ohio this _____ day of _____, 2019.

Notary Public
Commission Expiration Date: _____

This Instrument Prepared By:
Nicholas J. DeBaltzo, Jr., Esq.
Dinn, Hochman & Potter, LLC
5910 Landerbrook Drive, Suite 200
Mayfield Heights, Ohio 44124
(440) 446-1100