

NOTICE OF DECISION

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



*Si necesita ayuda para comprender esta información, por favor llame
503-588-6173*

DECISION OF THE PLANNING ADMINISTRATOR

TREE CONSERVATION PLAN ADJUSTMENT: TCPA22-04

APPLICATION NO.: 22-108930-NR

NOTICE OF DECISION DATE: May 31, 2022

REQUEST: A Tree Conservation Plan Adjustment (TCPA) to Tree Conservation Plan Case No. 21-03, which originally proposed the preservation of 31 percent, out of a total of 192 trees. The proposed TCPA will reduce the preservation to 30% by removing an additional two trees. The subject properties are approximately 32.5 acres, zoned RA (Residential Agriculture) and RM-II (Multiple Family Residential) and located on the 4400 Block of Battle Creek Road SE (Marion County Assessor Map and Tax Lot Numbers 083W12B / 1600 and 083W11D / 200, 400, 601).

APPLICANT: Westwood Homes LLC (Richard Todd Boyce, William Alan Wagoner)

LOCATION: 4400 Block of Battle Creek Rd SE

CRITERIA: Salem Revised Code (SRC) Chapters 808.040.

FINDINGS: The findings are in the attached Decision dated May 31, 2022.

DECISION: The **Planning Administrator APPROVED** TCPA22-04 subject to the following conditions of approval:

- Condition 1:** The conditions of SUB-ADJ21-06 and UGA17-03MOD1 shall be complied with during all construction activities.
- Condition 2** Any changes to the approved Tree Conservation Plan Adjustment must be submitted to the Community Development Department in the form of another Tree Conservation Plan Adjustment application for review and approval.
- Condition 3:** No tree designated for preservation may be removed or critically damaged unless and until a Tree Conservation Plan Adjustment application is submitted to the Community Development Department and approval has been granted by the Planning Administrator. Failure to preserve trees marked for preservation may result in a civil penalty.
- 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.

Condition 6: Each lot or parcel within the development proposal shall comply with the tree planting requirements set forth in SRC 808.050.

The applicant, and all representatives thereof, shall comply with all applicable development standards of SRC Chapter 808. The approved Tree Conservation Plan Adjustment is on file with the City of Salem and is binding on the lots created by the division of the subject property. No tree designated for removal on the approved Tree Conservation Plan Adjustment shall be removed or critically damaged prior to the Tree Conservation Plan Adjustment approval date.

Approval of a Tree Conservation Plan Adjustment application does not expire.

Case Manager: Jamie Donaldson, Planner II, jdonaldson@cityofsalem.net, 503-540-2328

This decision is final unless written appeal from the applicant or the owner of the subject property is filed with the City of Salem Planning Division Room 305, 555 Liberty Street SE, Salem OR 97301 no later than **Wednesday, June 15, 2022 by 5:00 p.m.** The appeal must state where the decision failed to conform to the approval criteria in SRC Chapter 808. The appeal fee must be paid at the time of filing. If the appeal is untimely and/or lacks the proper fee, the appeal will be rejected. The Salem Hearings Officer will review the appeal at a public hearing. After the hearing, the Hearings Officer may amend, rescind, or affirm the action or refer the matter to staff for additional information.

<http://www.cityofsalem.net/planning>

BEFORE THE PLANNING ADMINISTRATOR OF THE CITY OF SALEM

DECISION

IN THE MATTER OF APPROVAL OF) FACTS & FINDINGS
TREE CONSERVATION PLAN)
ADJUSTMENT CASE NO. TCPA22-04)
4400 BLOCK BATTLE CREEK ROAD SE) MAY 31, 2022

In the matter of the application for a Tree Conservation Plan Adjustment, the Planning Administrator, having received and reviewed evidence and the application materials, makes the following findings and adopts the following order as set forth herein.

REQUEST

A Tree Conservation Plan Adjustment (TCPA) to Tree Conservation Plan Case No. 21-03, which originally proposed the preservation of 31 percent, out of a total of 192 trees. The proposed TCPA will reduce the preservation to 30% by removing an additional two trees. The subject properties are approximately 32.5 acres, zoned RA (Residential Agriculture) and RM-II (Multiple Family Residential) and located on the 4400 Block of Battle Creek Road SE (Marion County Assessor Map and Tax Lot Numbers 083W12B / 1600 and 083W11D / 200, 400, 601).

PROCEDURAL FINDINGS

1. On April 26, 2022, an application for a Tree Conservation Plan Adjustment was submitted for property located at 4400 Block of Battle Creek Road SE (**Attachment A**).
2. On December 15, 2021, Tree Conservation Plan, Case No. TCP21-03, was approved for the subject property in conjunction with Subdivision and Adjustment Case No. SUB-ADJ21-06. The original tree conservation plan and identified a total of 192 trees on the property, with 60 trees identified for preservation and 132 trees identified for removal (31 percent of trees to remain).

SUBSTANTIVE FINDINGS

1. Proposal

The tree conservation plan adjustment will reduce the preservation to 30% by removing an additional two trees (**Attachment B**).

2. Applicability

Except as provided under the following exceptions, no tree or native vegetation designated for preservation in a tree conservation plan shall be removed unless a tree conservation plan adjustment has been approved pursuant to this section.

Exceptions: A tree conservation plan adjustment is not required for:

- A tree that has been removed due to natural causes; provided, however, that evidence must be provided to the Planning Administrator demonstrating the removal was due to natural causes.

- Removal of a hazardous tree, subject to a tree and vegetation removal permit issued under SRC 808.030.
- Removal necessary to effect emergency actions excepted under SRC 808.030(a)(2)(H).

3. Analysis of Tree Conservation Plan Adjustment Approval Criteria:

The approval criteria for a Tree Conservation Plan are found in SRC 808.040(d).

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 applicant has indicated that the stormwater facility is required to increase in size from the originally approved subdivision. The need to relocate the facility abutting A Avenue is needed to obtain adequate capacity. The applicant is required to remove trees within a stormwater facility, which will require the removal of two 40-inch Fir trees, one conditioned under Condition 1 of TCP21-03. Since the removal is necessary for construction of the storm water facility it is not practical to save the two Fir Trees. Staff finds this criterion satisfied.

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: The proposed tree conservation plan was approved prior to Ordinance 13-21 which was effective on March 16, 2022. The trees identified for removal are not identified as significant trees in TCP21-03. Therefore, the adjustment does not propose removal of significant trees. This criterion is not applicable.

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 are no riparian corridors located on the subject property; therefore, no riparian trees or native vegetation will be removed from the site. This criterion is not applicable.

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: Under the originally approved tree conservation plan, 31 percent of the trees on the property were identified for preservation. Under the proposed tree conservation plan adjustment, a total of two additional trees have been removed, increasing the number of trees removed to 134 trees. With a total of 58 trees preserved throughout the subject property, a preservation rate of approximately 30 percent is maintained, and found in compliance with this criterion.

4. SRC Chapter 808 Planting Requirements

SRC Chapter 808.050 establishes tree planting requirements for lots or parcels to be used for Single-Family or Two-Family uses. 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

Lot Size	Required Trees
Up to and including 6,000 square feet	2
6,001 to 7,000 square feet	3
7,001 to 8,000 square feet	4
8,001 to 9,000 square feet	5
Above 9,000 square feet	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.

IT IS HEREBY ORDERED

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

- Condition 1:** Any changes to the approved Tree Conservation Plan Adjustment must be submitted to the Community Development Department in the form of another Tree Conservation Plan Adjustment application for review and approval.
- Condition 2:** No tree designated for preservation may be removed or critically damaged unless and until a Tree Conservation Plan Adjustment application is submitted to the Community Development Department and approval has been granted by the Planning Administrator. Failure to preserve trees marked for preservation may result in a civil penalty.
- Condition 3:** 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 4:** 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.



Jamie Donaldson, Planner II, on behalf of,
Lisa Anderson-Ogilvie, AICP
Planning Administrator

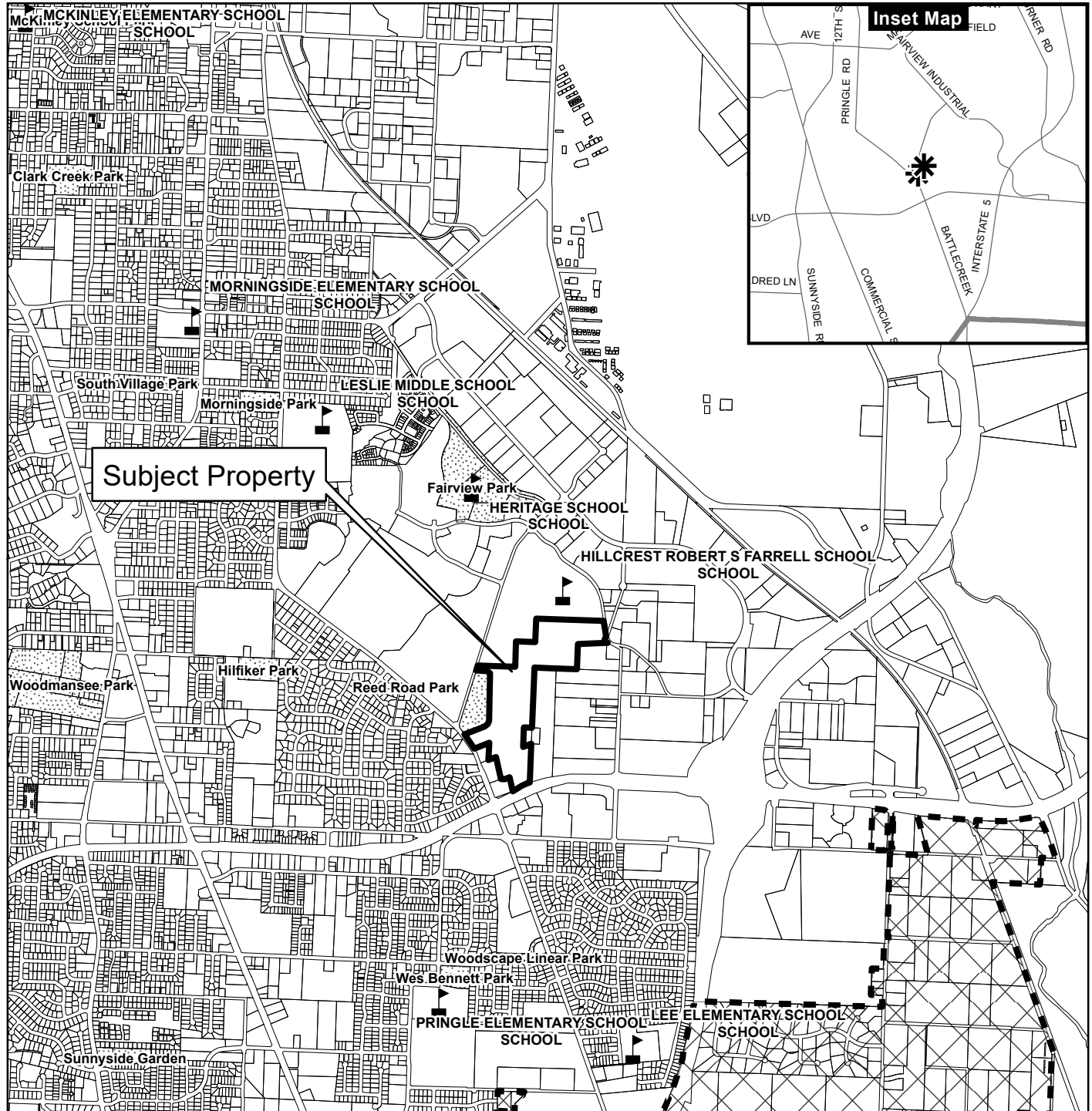
Attachments:

- A. Vicinity Map
- B. Approved Tree Conservation Plan

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Decisions\TCPA22-04.oed.docx

Vicinity Map

4400 Battle Creek Road SE



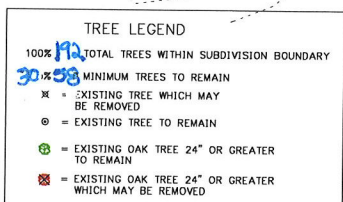
Legend

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

0 000 400 Feet



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8. REVISED LOTS, STREETS, & TREES	T.N.S.	04/06/2022
7. REVISED LOTS & STREETS.	P.H.S.	09/12/2019
6. REVISED LOTS, & ADDED TREES	P.H.S.	08/29/2019
5. STREET WIDTHS & PEDESTRIAN EASEMENTS.	P.H.S.	08/14/2019
4. ADDED NEW STREETS & EX. EASEMENTS.	P.H.S.	06/28/2019
3. UPDATED PER DRAINAGE REQUIREMENTS.	P.H.S.	06/05/2019
1. REVISED PER CITY OF SALEM REVIEW.	P.H.S.	03/25/2019