

# 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 REGULATION VARIANCE CASE NO.: TRV24-03**

**APPLICATION NO.: 24-118803-PLN**

**NOTICE OF DECISION DATE:** October 10, 2024

**REQUEST:** A Tree Variance for the removal of one 33-inch diameter at breast height (dbh) Spruce tree to accommodate street standard requirements for a four-family development. The subject property is approximately 0.21 acres in size, zoned RS (Single Family Residential) and located at 2605 Laurel Avenue NE (Marion County Assessor's Map and Tax Lot Number 073W14BD / 03100).

**APPLICANT:** Ron Jackson, on behalf of Villalobos Real Estate, LLC

**LOCATION:** 2605 Laurel Ave NE, Salem OR 97301

**CRITERIA:** Salem Revised Code (SRC) Chapter 808.045(d)(1)

**FINDINGS:** The findings are in the attached Decision dated October 10, 2024.

**DECISION:** The **Planning Administrator APPROVED** Tree Variance Case No. TRV24-03 subject to the following conditions of approval:

**Condition 1:** A minimum of five shade trees with a minimum caliper of 3 inches shall be planted on the lot prior to inspection for final occupancy of any dwelling to be constructed on the lot. The five trees will meet the standard of SRC 808.050, Table 808-1.

**Condition 2:** At the time of building permit, a two-year irrigation plan shall be provided for the required tree plantings to ensure establishment. Within the first two-years following final occupancy, any required tree planting that dies shall be replaced.

The rights granted by the attached decision must be exercised, or an extension granted, by October 29, 2026, or this approval shall be null and void.

Application Deemed Complete:	<u>September 23, 2024</u>
Notice of Decision Mailing Date:	<u>October 10, 2024</u>
Decision Effective Date:	<u>October 29, 2024</u>
State Mandate Date:	<u>January 21, 2025</u>

Case Manager: Quincy Miller, Planner I, [gmiller@cityofsalem.net](mailto:gmiller@cityofsalem.net), 503-584-4676

This decision is final unless written appeal and associated fee (if applicable) from an aggrieved party is filed with the City of Salem Planning Division, Room 320, 555 Liberty Street SE, Salem OR 97301, or by email at [planning@cityofsalem.net](mailto:planning@cityofsalem.net), no later than 5:00 p.m., Friday, October 25, 2024. Any person who presented evidence

or testimony at the hearing may appeal the decision. The notice of appeal must contain the information required by SRC 300.1020 and must state where the decision failed to conform to the provisions of the applicable code section, 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 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.

The complete case file, including findings, conclusions and conditions of approval, if any, is available for review by contacting the case manager, or at the Planning Desk in the Permit Application Center, Room 305, City Hall, 555 Liberty Street SE, during regular business hours.

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

# BEFORE THE PLANNING ADMINISTRATOR OF THE CITY OF SALEM

## DECISION

IN THE MATTER OF APPROVAL OF ) FINDINGS & ORDER  
TREE REGULATION VARIANCE )  
CASE NO. TRV24-03 )  
2605 LAUREL AVE NE ) OCTOBER 10, 2024

In the matter of the application for a Tree Regulation Variance submitted by the applicant, Ron Jackson, on behalf of the property owner, Villalobos Real Estate, LLC, 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

**Summary:** A Tree Variance to remove one significant tree that will be impacted by required sidewalk construction for a four-family development.

**Request:** A Tree Variance for the removal of one 33-inch diameter at breast height (dbh) Spruce tree to accommodate requirements for a four-family development. The subject property is approximately 0.21 acres in size, zoned RS (Single Family Residential) and located at 2605 Laurel Avenue NE (Marion County Assessor's Map and Tax Lot Number 073W14BD / 03100).

A vicinity map illustrating the location of the property is attached as part of the staff report as **Attachment A**.

## PROCEDURAL FINDINGS

### 1. Background

On September 4, 2024, an application for a Tree Regulation Variance was filed for the subject property. The application was deemed complete for processing on September 23, 2024. The 120-day deadline is January 21, 2025.

The applicant's proposed development plans are included as **Attachment B** and the arborist report addressing the approval criteria is included as **Attachment C**.

## SUBSTANTIVE FINDINGS

### 2. Summary of Record

The following items are submitted to the record and are available: 1) all materials and testimony submitted by the applicant, including any applicable professional studies such as traffic impact analysis, geologic assessments, stormwater reports, and; 2) materials, testimony, and comments from public agencies, City Departments, neighborhood associations, and the public. All application materials are available on the City's online Permit Application Center at <https://permits.cityofsalem.net>. You may use the search function without registering and enter the permit number listed here: 24 118803.

### 3. Neighborhood Association and Public Comments

The subject property is located within the boundaries of the Highland Neighborhood Association.

Applicant Neighborhood Association Contact: SRC 300.310 requires an applicant to contact the neighborhood association(s) whose boundaries include, and are adjacent to, property subject to specific land use application requests. Pursuant to SRC 300.310(b)(1), neighborhood association contact is not required for the requested land use application (Tree Regulation Variance).

Neighborhood Association Comment: Notice of the application was provided to the neighborhood association pursuant to SRC 300.520(b)(1)(B)(v), which requires notice to be sent to any City-recognized neighborhood association whose boundaries include, or are adjacent to, the subject property. As of the date of this staff report, no comment has been received from the Neighborhood Association.

Homeowner's Association: The subject property is not located within a homeowner's association.

Public Comment: Notice was also provided, pursuant to SRC 300.520(b)(1)(B)(iii), (iv), (vi), & (vii), to the address of the subject property and all property owners and tenants within 250 feet of the subject property. As of the date of completion of this staff report, one comment was received from neighboring property owners and tenants. The comment and staff response are summarized as follows.

*Concerns regarding the local significance of the tree and impacts to wildlife.*

**Staff Response:** The age of the tree and the presence of wildlife are not applicable criterion for approval of a tree regulation variance. As part of the proposed development, at least five new trees will be planted per SRC 808.050, providing more trees on the lot than previously existed.

### 4. City Department Comments

Development Services: Reviewed the proposal and indicated no concerns.

Building and Safety: Reviewed the proposal and indicated no concerns.

Fire Department: Reviewed the proposal and indicated no concerns.

### 5. Public Agency Comments

No Public or Private Agency comments were received.

## **DECISION CRITERIA FINDINGS**

### 6. Analysis of Tree Regulation Variance Approval Criteria

Salem Revised Code (SRC) 808.045(d) sets forth the following criteria that must be met before approval can be granted to a request for a Tree Regulation Variance. In this case, the applicant has requested to address the hardship criterion in SRC 808.045(d)(1).

***SRC 808.045(d)(1)(a): There are special conditions that apply to the property which create unreasonable hardships or practical difficulties which can be most effectively relieved by a variance.***

**Finding:** The applicant has provided a conceptual site plan which shows the proposed development of the four-family structure along with the location of the proposed sidewalk improvements. The tree is abutting the proposed sidewalk improvements at the corner of Hickory Street NE and Laurel Avenue NE on the southeast corner of the development site. The 33-inch dbh Spruce tree is considered a Significant Tree under SRC 808.005, as the tree is “any other tree with a dbh of 30 inches or greater.”

Because the tree is protected under SRC 808.015, tree protection measures under SRC 808.046 are required. SRC 808.046(a)(1)&(2) provides that all protected trees shall be protected during construction with the installation of an above ground silt fence, or its equivalent, which encompasses 100 percent of the critical root zone of the tree. The critical root zone is measured as one foot in radius for every one inch of dbh of the tree. Based on the tree’s 33-inch dbh, the critical root zone is 33 feet in radius. Within the area protected by the above ground silt fence, the tree’s trunk, roots, branches, and soil shall be protected to ensure the health and stability of the tree; and there shall be no grading, placement of fill, storage of building materials, or parking of vehicles. Notwithstanding SRC 808.046(a)(2), pursuant to SRC 808.046(a)(3), “up to a maximum of 30 percent of the critical root zone of a tree may be disturbed in order to accommodate development of [a] property when a report from an arborist is submitted documenting that such disturbance will not compromise the long-term health and stability of the tree and all recommendations included in the report to minimize any impacts to the tree are followed.”

As discussed in the applicant’s arborist’s report (**Attachment C**), the long-term health of the tree can only be maintained if construction activities within the critical root zone (CRZ) are limited. The required sidewalks as part of the proposed development will be within approximately six feet of the tree, which will severely disrupt the CRZ on the southern and eastern sides of the tree. Per the arborist, “no root cutting construction activities, or back filling should occur within 15’ of the tree’s trunk.” Disruption to the tree would also occur with the proposed development itself, as the foundations for the new buildings are still within the CRZ of the tree. Deep cuts of the roots along with heavy equipment use on and near the tree’s CRZ would significantly impact the long-term health of the tree.

As required under SRC 808.050, the applicant’s proposed residential development of the property will require a minimum of five trees to be planted prior to final occupancy. To mitigate the impact of the removal of a significant tree and ensure the establishment of the required plantings, the following is conditioned.

**Condition 1:** A minimum of five shade trees with a minimum caliper of 3 inches shall be planted on the lot prior to inspection for final occupancy of any dwelling to be constructed on the lot. The five trees will meet the standard of SRC 808.050, Table 808-1.

**Condition 2:** At the time of building permit, a two-year irrigation plan shall be provided for the required tree plantings to ensure establishment. Within the first two-years following final occupancy, any required tree planting that dies shall be replaced.

As the required sidewalks for the proposed development are infeasible without disturbing more than 30 percent of the tree's critical root zone, the applicant has requested a Tree Variance under SRC 808.045 to remove the significant tree. Due to the required setbacks and locations of the required sidewalks and the existing location of the tree, the protection measures create a practical difficulty to the otherwise reasonable development of the property, creating an unreasonable hardship that can most effectively be relieved by approval of the variance.

***SRC 808.045(d)(1)(b): The proposed variance is the minimum necessary to allow the otherwise lawful proposed development of activity.***

**Finding:** As described in the findings above, the applicant's proposal to remove the significant tree is the minimum necessary to allow for construction of the required street section outlined in the Salem Transportation Systems Plan. Without removal of the Significant Tree, sidewalks could not be provided within the street right-of-way. In addition, construction of units would cause harm to the tree and preservation would prevent otherwise lawful development of the subject property.

## **7. Conclusion**

Based upon review of SRC Chapter 808, the applicable standards of the Salem Revised Code, the findings contained herein, and due consideration of comments received, the application complies with the requirements for an affirmative decision.

### **IT IS HEREBY ORDERED**

Tree Regulation Variance Case No. TRV24-03 is hereby **APPROVED** subject to SRC Chapter 808, the applicable standards of the Salem Revised Code, and conditions of approval.

**Condition 1:** A minimum of five shade trees with a minimum caliper of 3 inches shall be planted on the lot prior to inspection for final occupancy of any dwelling to be constructed on the lot. The five trees will meet the standard of SRC 808.050, Table 808-1.

**Condition 2:** At the time of building permit, a two-year irrigation plan shall be provided for the required tree plantings to ensure establishment. Within the first two-years following final occupancy, any required tree planting that dies shall be replaced.



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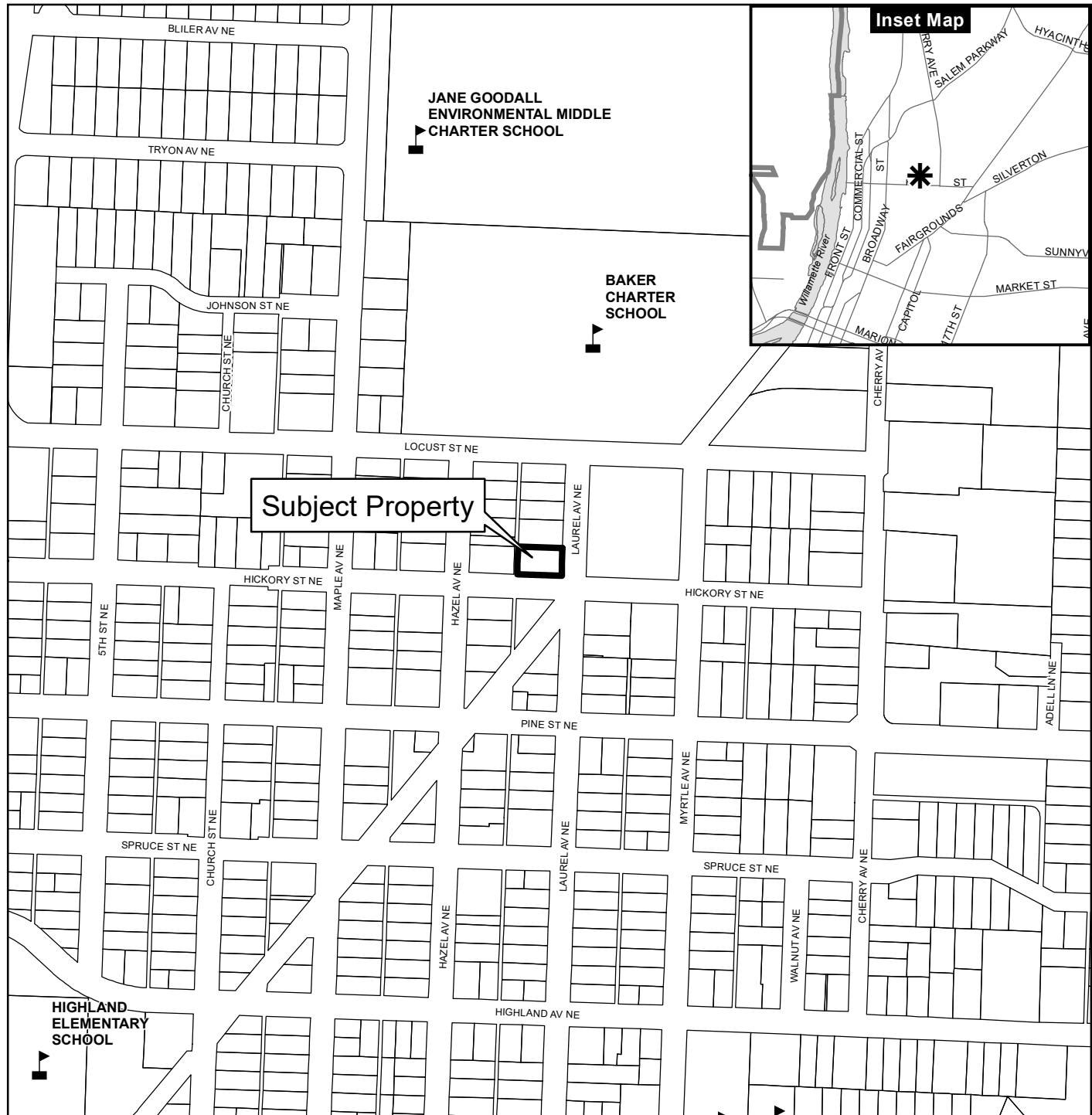
Quincy Miller, Planner I, on behalf of  
Lisa Anderson-Ogilvie, AICP  
Planning Administrator

Attachments: A. Vicinity Map  
B. Site Plan  
C. Arborist Report

G:\CD\PLANNING\CASE APPLICATION Files 2011-On\TREES\TRV-Tree Regulation Variance\2024\Planner  
Docs\TRV24-03.QM.docx

# Vicinity Map

## 2605 Laurel Avenue NE



### Legend

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

Parks

**CITY OF Salem**  
AT YOUR SERVICE  
Community Planning and Development

0 100 200 400 Feet



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FORESTRY · PLANNING · LANDSCAPE ARCHITECTURE

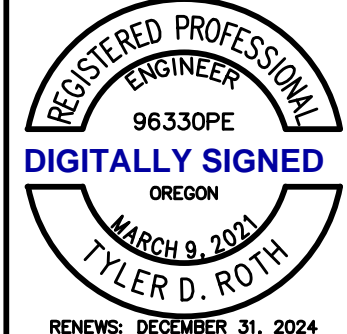
2605 LAUREL AVE NE

OREGON

SALEM

GRADING, DRAINAGE, AND  
SURFACING PLANDESIGNED BY: TDR  
DRAWN BY: TD  
MANAGED BY: TDR  
CHECKED BY: TDR

DATE: 2/7/2024

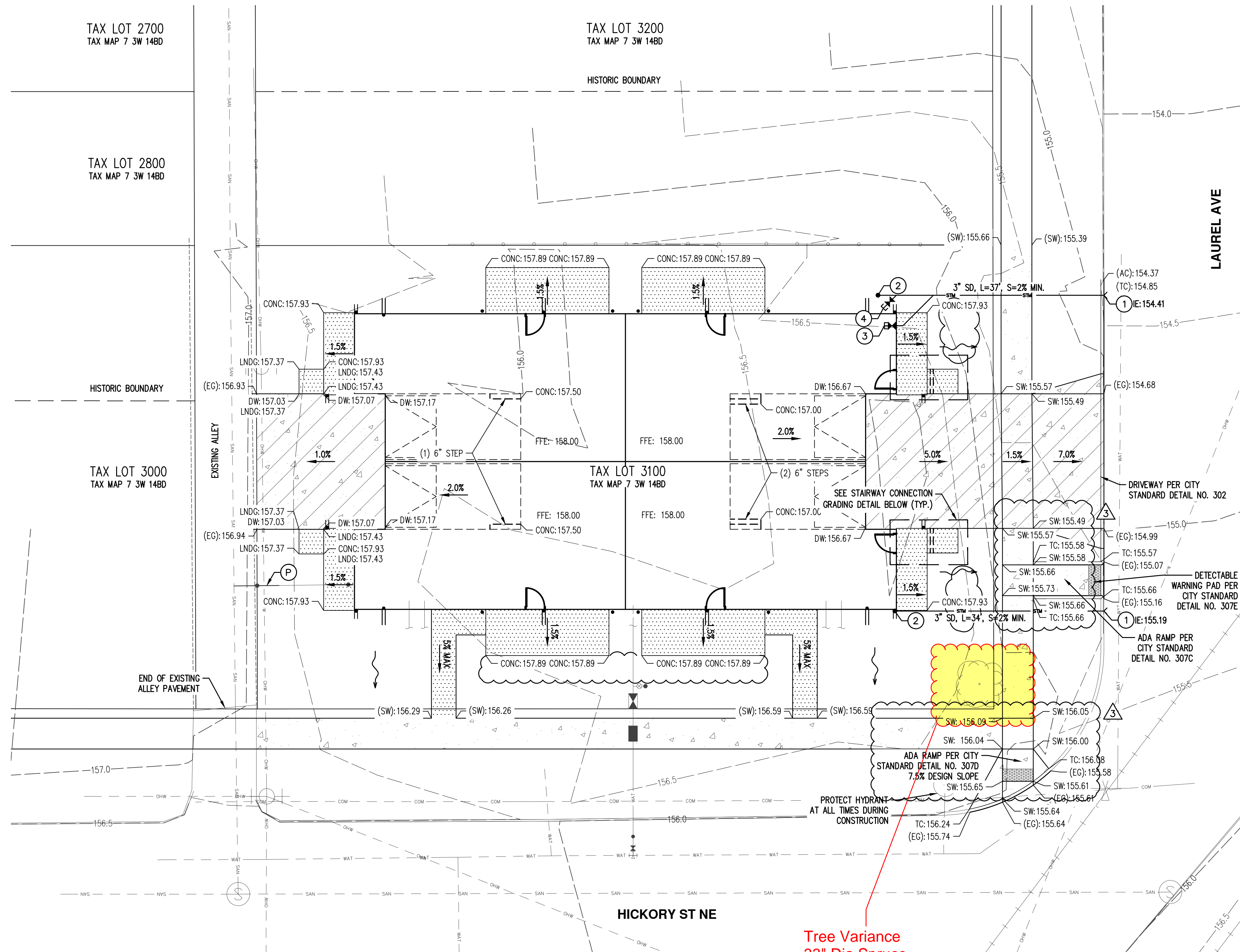


REVISIONS: DECEMBER 31, 2024

REVISIONS  
REV #1-PRC1 06/24/2024  
REV #2-PRC2 7/19/2024  
REV #3-PRC3 8/09/2024JOB NUMBER  
10244

SHEET

C200



## ABBREVIATIONS:

## EXISTING:

(EG): EXISTING GRADE ELEVATION  
(AC): EXISTING ASPHALT CONCRETE ELEVATION  
(TC): EXISTING TOP OF CURB ELEVATION  
(SW): EXISTING SIDEWALK ELEVATION

## PROPOSED:

FFE: FINISHED FLOOR ELEVATION  
SW: SIDEWALK ELEVATION  
CONC: CONCRETE ELEVATION  
DW: DRIVEWAY ELEVATION  
LNDG: LANDING ELEVATION

DOWNWARD SLOPE: X.X%

## GENERAL NOTES:

- REFER TO BUILDING PLANS FOR DOWNSPOUT ROUTING ALONG FOOTINGS AND CRAWL SPACE DRAIN DETAILS.
  - EXISTING ELEVATION INFORMATION BASED ON SURVEY PROVIDED BY K2 SURVEYING. NOTIFY ENGINEER IF EXISTING SITE CONDITIONS DO NOT MATCH EXISTING GRADE CALLOUTS.
  - SUBMIT SCORING PLAN TO OWNER FOR REVIEW AND APPROVAL PRIOR TO POURING CONCRETE.
  - FINISH GRADE LANDSCAPING TO BEGIN 8" BELOW FFE AND SLOPE AWAY FROM BUILDING.
- (P) PRIOR TO CONSTRUCTION AND ORDERING PIPE MATERIALS, CONTRACTOR SHALL POTHOLE EXISTING UTILITIES TO VERIFY EXACT LOCATION, ALIGNMENT, DEPTH, AND SIZE. CONTACT ENGINEER IF ADJUSTMENT IS REQUIRED.

## # STORM DRAIN (SD) KEYED NOTES:

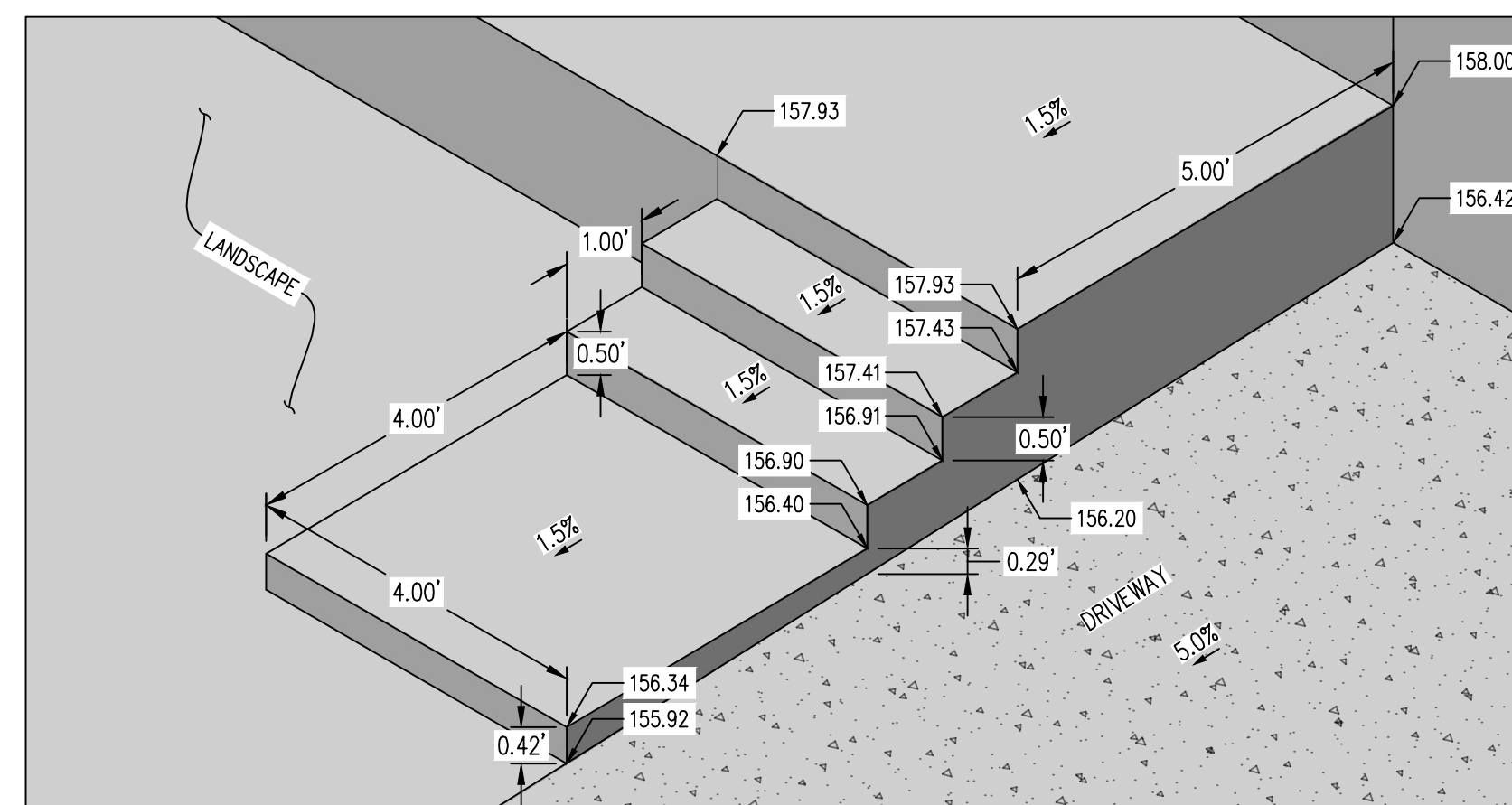
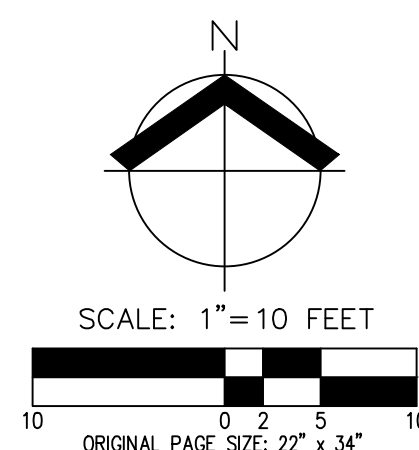
- 3" WEEP HOLE PER CITY STANDARD DETAIL NO. 257
- 3" DOWNSPOUT CONNECTION WITH CLEANOUT PER OREGON PLUMBING SPECIALTY CODE (OPSC). ROUTE ROOF DRAIN ALONG FOOTING TO DOWNSTREAM STUB AS REQUIRED. SEE BUILDING PLANS FOR CONTINUATION.
- STORM DRAIN (SD) STUB FOR CRAWL SPACE DRAIN. REFER TO BUILDING PLANS AND PROVIDE BACKWATER VALVE PER OPSC AS REQUIRED.
- SD STUB FOR FOUNDATION DRAIN CONNECTION. REFER TO BUILDING PLANS FOR FOUNDATION DRAIN DETAILS AND BACKWATER VALVE SPECIFICATIONS.

## CURB KEYED NOTES:

- FIELD FIT WITH CITY INSPECTOR TO MEET ADA COMPLIANCE.

## LEGEND

EXISTING GROUND CONTOUR (0.50 FT)	---	154.5
EXISTING GROUND CONTOUR (1 FT)	---	155.0
PROPOSED CLEANOUT (CO)/DOWNSPOUT (DS)	•	
FOUNDATION DRAIN BACKWATER VALVE	⌵	
SLOPE TO DRAIN AWAY FROM BUILDINGS, MIN. 1.0% WITHOUT PONDING WATER	→	
NEW SIDEWALK PER CITY OF SALEM STANDARD DETAIL NO. 306B		
6" PCC DRIVEWAY PER CITY REQUIREMENTS		
CONCRETE PATIOS 1.5% MAX. CROSS SLOPE (4" PCC OVER 2" BASE ROCK). SEE STANDARD SIDEWALK DETAIL.		



STAIRWAY CONNECTION GRADING DETAIL

NTS

July, 26th 2024

**From: Will Fargo**  
**ISA Certified Arborist PN-9313A**  
[willfargo@gmail.com](mailto:willfargo@gmail.com)  
**503-881-6004**



**ATTN: City of Salem**

**RE: 2605 Laurel Ave. NE**

To Whom it May Concern,

I have been contracted by Project Lead / Permit Specialist Ron Jackson of Lenity Architecture to develop a basic tree conservation plan for the construction of a building at the above address in an effort to preserve the health and stability of one (1) 33" DBH Sitka Spruce (*Picea sitchensis*) tree located at the southeast corner of the property (photos attached). While a formal tree risk assessment was not conducted, upon a brief health inspection, this tree appears to be in moderate health. The base of the trunk has been significantly damaged and the canopy of the tree has been raised by approximately 50%, but the remaining canopy appears vigorous. The tree is abutted by a sidewalk and Laurel Ave. on the east side and Hickory St. to the south. The proposed building will impact some of the northwest quadrant of this tree's Critical Root Zone (CRZ). It is my opinion that less than 25% of the tree's critical root zone will be impacted by construction activities and the health and stability can be preserved by adhering to the following criteria:

1. Limit construction activities to the northwest quadrant of the tree's CRZ.
2. Provide 6' chain link fencing surrounding the tree, 33 feet from the trunk of the tree to protect the tree's CRZ. Where the CRZ extends into Hickory St. and Laurel Ave, provide fencing at the curb. Where the fence meets the proposed building, provide fencing adjacent to the building perimeter.
3. Ensure unnecessary construction activities (heavy equipment use, parking, tool storage and material storage) do not occur in the entire northwest quadrant of the tree's CRZ.
4. No root cutting construction activities, or back filling should occur within 15' of the tree's trunk.
5. Building foundation (including the patio post footing closest to the tree) depth shall be minimized as much as possible.
6. When excavating for foundation, avoid cutting roots greater than 4" in diameter. If a root 4" or greater in diameter must be cut, make sure that roots are cleanly cut with a sharp tool. All exposed roots as a result of excavation activities are to be

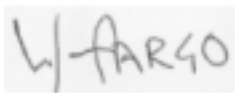
kept moist during excavation and immediately covered with moist, native soil, and amended with compost.

7. Prune tree to remove dead wood, hazardous branches, epicormic shoots and fractured branches prior to building occupancy.

It is my opinion that by complying with the above conditions, the tree in question can be effectively preserved.

Should there be any questions or concerns regarding this inspection, please don't hesitate to reach out.

Sincerely,

A handwritten signature in black ink that reads "W/FARGO". The signature is written in a casual, slightly slanted style.

Will Fargo

503-881-6004

willfargo@gmail.com

ISA Certified Arborist PN-9313A



