

NOTICE OF DECISION

PLANNING DIVISION
555 LIBERTY ST. SE, RM 305
SALEM, OREGON 97301
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Si necesita ayuda para comprender esta información, por favor llame 503-588-6173

DECISION OF THE PLANNING ADMINISTRATOR

TREE CONSERVATION PLAN: TCP25-04

APPLICATION NO.: 25-105509-PLN

NOTICE OF DECISION DATE: May 1, 2025

SUMMARY: A Tree Conservation Plan in conjunction with a five-lot subdivision.

REQUEST: A Tree Conservation Plan in conjunction with a subdivision to create five new lots proposing the removal of ten trees, including three significant trees, and for the preservation of 17 of 27 total trees, or 63 percent. The development site consists of three lots totaling 0.72 acres in size, are zoned RS (Single Family Residential) and located at 4208 and 4258 Market Street NE (Marion County Tax Lot and Assessor Map Numbers 072W19AC / 400; 500; 600)

APPLICANT: Chom General Construction, LLC, represented by Gerardo Maldonado of LEI Engineering & Surveying

LOCATION: 4208 and 4258 Market Street NE, Salem OR 97301

CRITERIA: Salem Revised Code (SRC) Chapter 808.035(d)

FINDINGS: The findings are in the attached Decision dated May 1, 2025.

DECISION: The **Planning Administrator APPROVED** TCP25-04 subject to the following conditions of approval:

- Condition 1:** 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 Planning and Department and approval has been granted by the Planning Administrator. Failure to preserve trees marked for preservation may result in a civil penalty.
- Condition 2:** 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 is on file with the City of Salem and is binding on the lots created by the division of the subject property. Prior to the effective date of the Tree Conservation Plan, no tree shall be removed or critically damaged.

Approval of a Tree Conservation Plan application does not expire.

Case Manager: Peter Domine, Planner II, pdomine@cityofsalem.net, 503-540-2311

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 **Friday, May 16, 2025, by 5:00 p.m.** The appeal must state where the decision failed to criteria conform to the approval 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 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)	FINDINGS & ORDER
TREE CONSERVATION PLAN)	
CASE NO. TCP25-04)	
4208 and 4258 MARKET ST NE)	MAY 1, 2025

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

REQUEST

A Tree Conservation Plan in conjunction with a subdivision to create five new lots proposing the removal of ten trees, including three significant trees, and for the preservation of 17 of 27 total trees, or 63 percent. The development site consists of three lots totaling 0.72 acres in size, are zoned RS (Single Family Residential) and located at 4208 and 4258 Market Street NE (Marion County Tax Lot and Assessor Map Numbers 072W19AC / 400; 500; 600)

PROCEDURAL FINDINGS

1. On March 7, 2025, an application for a Tree Conservation Plan was submitted for property located at 4208 and 4258 Market Street NE (**Attachment A**).
2. The Tree Conservation Plan (**Attachment B**) was submitted in conjunction with a new subdivision application for the subject property (Case No. SUB-ADJ25-02).
3. The application was deemed complete on April 30, 2025.

SUBSTANTIVE FINDINGS

1. Proposal

The tree conservation plan identifies a total of 27 trees above 10 inches diameter-at-breast-height (dbh) on the property, with 17 trees identified for preservation and ten trees proposed for removal, including three significant trees (**Attachment B**). There are no heritage trees or riparian corridor trees or vegetation located on the property.

2. Applicability

A tree conservation plan is required in conjunction with any development proposal for the creation of lots or parcels to be used for single family uses, two family uses, three family uses, four family uses, or cottage clusters. The application was submitted in conjunction with a subdivision tentative plan for the creation of five new lots to be developed for single and two-family uses, Case SUB-ADJ25-02.

3. Summary of Record

The application materials are available on the City's online Permit Application Center at <https://permits.cityofsalem.net>. To view the materials without registering, you may use the search function and enter the permit number listed here: 25 105509.

DECISION CRITERIA FINDINGS

4. Analysis of Tree Conservation Plan Approval Criteria

Salem Revised Code (SRC) 808.035(d) provides that an application for a Tree Conservation Plan shall be granted if the following criteria are met. The following subsections are organized with approval criteria, followed by findings of fact upon which the decision is based. Lack of compliance with the following criteria is grounds for denial or for the issuance of conditions of approval to satisfy the criteria.

SRC 808.035(d)(1)(A): No heritage trees are designated for removal;

Finding: There are no heritage trees located on the subject property; therefore, the preservation requirements of SRC 808.035(d)(1) are not applicable to the tree conservation plan.

SRC 808.035(d)(1)(B): No significant trees are designated for removal, unless there are no reasonable design alternatives that would enable preservation of such trees;

Finding: The applicant has proposed to remove three significant trees, a 42-inch dbh cedar (tree 1363 on the plans), a 49-inch pin oak (tree 1317), and a 30-inch dbh cedar (tree 3151), addressed below.

SRC 808.035(d)(1)(C): No trees or native vegetation in a riparian corridor are designated for removal, unless there are no reasonable design alternatives that would enable preservation of such trees or native vegetation.

Finding: There are no riparian areas located on the subject property; therefore, no riparian trees or vegetation are proposed for removal and the preservation requirements of SRC 808.035(d)(1) are not applicable to the tree conservation plan.

SRC 808.035(d)(1)(D): Not less than 30 percent of all trees located on the property are designated for preservation, unless there are no reasonable design alternatives that would enable preservation of such trees;

Finding: The tree conservation plan identifies a total of 27 trees on the property with ten trees designated for removal and 17 trees to be preserved, for a preservation rate of 63 percent ($17 / 27 = 0.63$). The tree conservation plan preserves more than 30 percent of the existing trees on the subject property, meeting the requirements of SRC 808.035(d)(4).

SRC 808.035(d)(1)(E): When less than 30 percent of all trees located on the property are designated for preservation, the mitigation measures required under SRC 808.035(e) are met.

Finding: As more than 30 percent of all the trees located on the property are designated for preservation, the mitigation measures required under SRC 808.035(e) are not applicable.

SRC 808.030(d)(2): When an approval criterion in this subsection requires a determination that there are no reasonable design alternatives that would enable preservation of a tree(s), the following factors, which include but are not limited to the following, shall be considered in making such determination:

- (A) Streets. The removal is necessary due to:*
 - (i) The location and alignment of existing streets extended to the boundary of the subject property;*
 - (ii) The planned alignment of a street identified in the Salem Transportation System Plan (TSP);*
 - (iii) A street required to meet connectivity standards, to serve property where a flag lot accessway is not possible, or where a cul-de-sac would exceed maximum allowed length;*
 - (iv) Any relocation of the proposed street resulting in lots that do not meet lot standards;**(v) A required boundary street improvement.*
- (B) Utilities. The removal is necessary due to existing or proposed utilities that cannot be relocated to an alternative location.*
- (C) Site topography. The removal is necessary due to the topography of site which will require severe grading in the critical root zone of the tree in order to comply with maximum street or intersection grades, fire department access requirements, or Fair Housing Act or ADA accessibility standards.*
- (D) Dwelling unit density. The removal is necessary in order to meet a minimum dwelling unit density of 5.5 dwelling units per acre. In consideration of this factor:*
 - (i) Not more than 15 percent of the proposed dwelling units within the development shall be required to be designated for middle housing in order to meet density requirements and demonstrate there are no reasonable design alternatives enabling preservation of a tree(s); and*
 - aa. The following may be excluded from the total site area for purposes of calculating density: (aa) Riparian corridors, provided the riparian corridor is not graded or developed;*
 - bb. Areas of the site with slopes exceeding 25 percent, provided such areas are not graded or developed; and*
 - cc. Open space that will preserve significant natural features, provided the perpetual maintenance and operation of the open space is provided by a home owners' association.*

Finding: The applicant is proposing the removal of three significant trees due to conflicts and site constraints. The 42-inch dbh cedar (tree 88001363) is located toward the edge of Lot 5 where it meets the terminus of the flag lot accessway. More than 50 percent of the tree's 42-foot radius critical root zone extends to within the area proposed for development, including nearly half of Lot 5, severely restricting its developable area. Likewise, the area of critical root zone within the flag lot accessway and in the south side of proposed Lot 3 would also be severely impacted by the development. Without removal of the tree, the flag lot accessway, including the utilities within it, could not serve Lots 3 and 5. Because new driveway approaches onto Market Street NE are not permitted, the flag lot accessway is the only permitted access serving Lots 3 and 5 onto Tierra Drive NE. Similarly, the 30-inch dbh cedar (tree 3151) toward the west side of Lot 1 also conflicts with the proposed flag lot accessway and new driveway approach. As a condition of approval for the subdivision, the existing driveway approach onto Market Street NE serving Lot 1 shall be closed, requiring a new approach onto Tierra Drive NE.

The tree's removal is also necessary for the storm drainage of the required storm water treatment facility. The 49-inch dbh Pin Oak (tree 88001317) located at the northeast corner of proposed Lot 3 also conflicts with the existing sanitary sewer lines to the existing house on Lot 4. Without removal of the tree, new utility lines will be required. Given the site constraints, the trees proposed for removal are the minimum necessary for the reasonable development of the property.

5. SRC 808.046 Protection Measures During Construction

Pursuant to SRC 808.046 all trees or native vegetation are required to be preserved or protected under the UDC during construction. All trees or native vegetation shall be protected during construction with the installation of an above ground silt fence encompass 100 percent of the critical root zone of the tree or the perimeter of the native vegetation. Protection measures are required to remain until issuance of notice of final completion for dwelling unit(s) on the lot, or issuance of certificate of occupancy in all other cases.

Finding: 17 total trees are designated for preservation, the majority of which are on proposed Lot 1, which is developed with an existing single-family dwelling. Along the western edge of Lot 1, six trees are proposed for removal for the development of a new driveway approach; 14 trees along this side of the property are proposed for preservation, as well as one tree (tree 3153) in the rear of the lot; therefore, protection measures are applicable. The following condition applies:

Condition 1: 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 Planning and Department and approval has been granted by the Planning Administrator. Failure to preserve trees marked for preservation may result in a civil penalty.

6. SRC 808.050 Tree Planting Requirements

SRC Chapter 808.050 establishes tree planting requirements for lots or parcels to be used for Single-Family or Two-Family, three family, four family or cottage cluster 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
Less than 4,000 square feet	1
4,000 to 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.

Finding: At the time of building permits, each lot shall meet the tree planting requirements identified in Table 808-1.

Condition 2: Each lot within the development proposal shall comply with the tree planting requirements set forth in SRC 808.050.

IT IS HEREBY ORDERED

The proposed Tree Conservation Plan, TCP25-04, is consistent with the provisions of SRC Chapter 808 and is hereby **APPROVED** subject to the applicable standards of the Salem Revised Code, the findings contained herein, and the following conditions of approval:

Condition 1: 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 Planning and Department and approval has been granted by the Planning Administrator. Failure to preserve trees marked for preservation may result in a civil penalty.

Condition 2: Each lot or parcel within the development proposal shall comply with the tree planting requirements set forth in SRC 808.050.

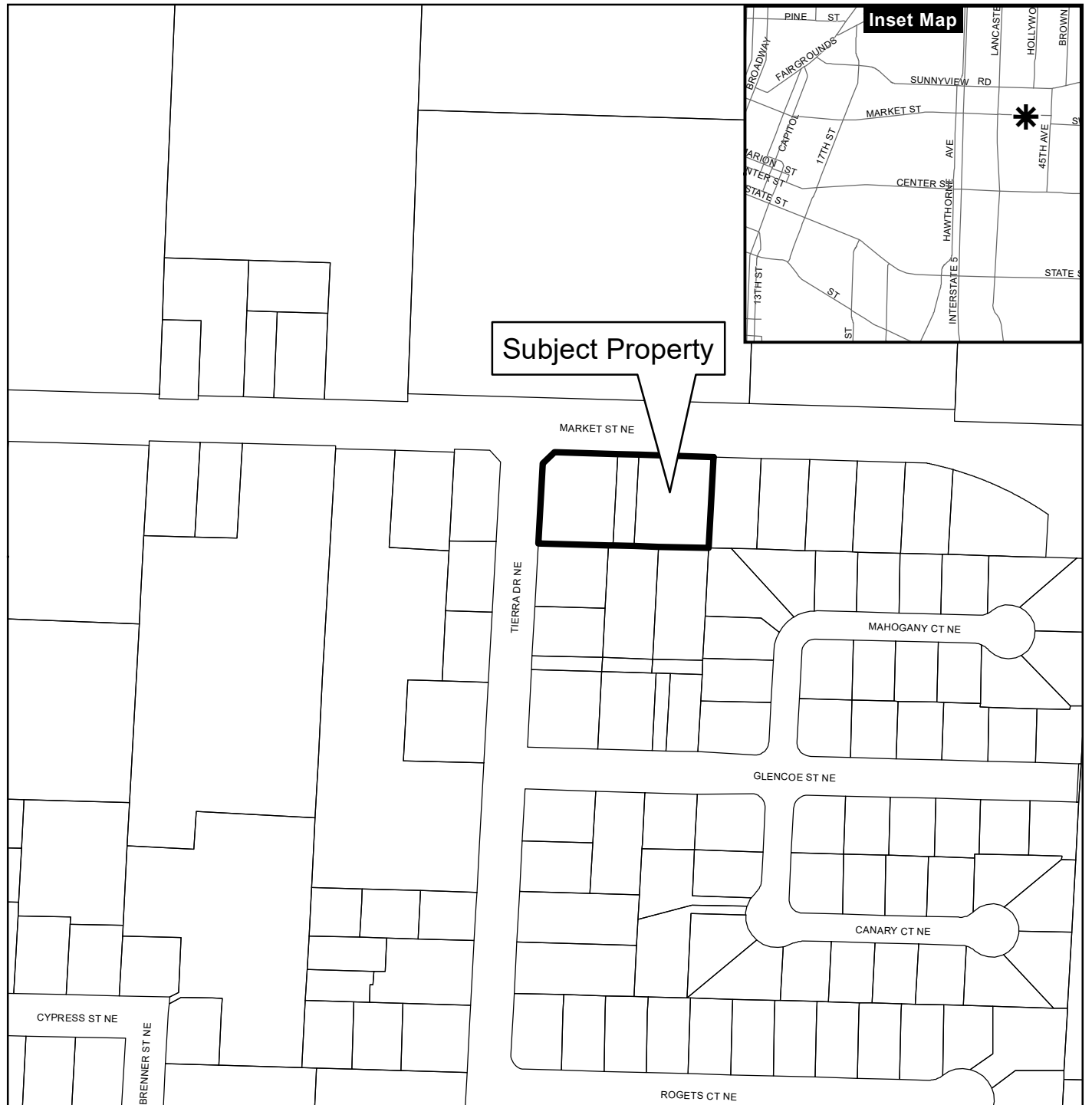


Peter Domine, Planner II, on behalf of,
Lisa Anderson-Ogilvie, AICP
Planning Administrator

Attachments:

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

Vicinity Map 4208 & 4258 Market Street NE



Legend

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

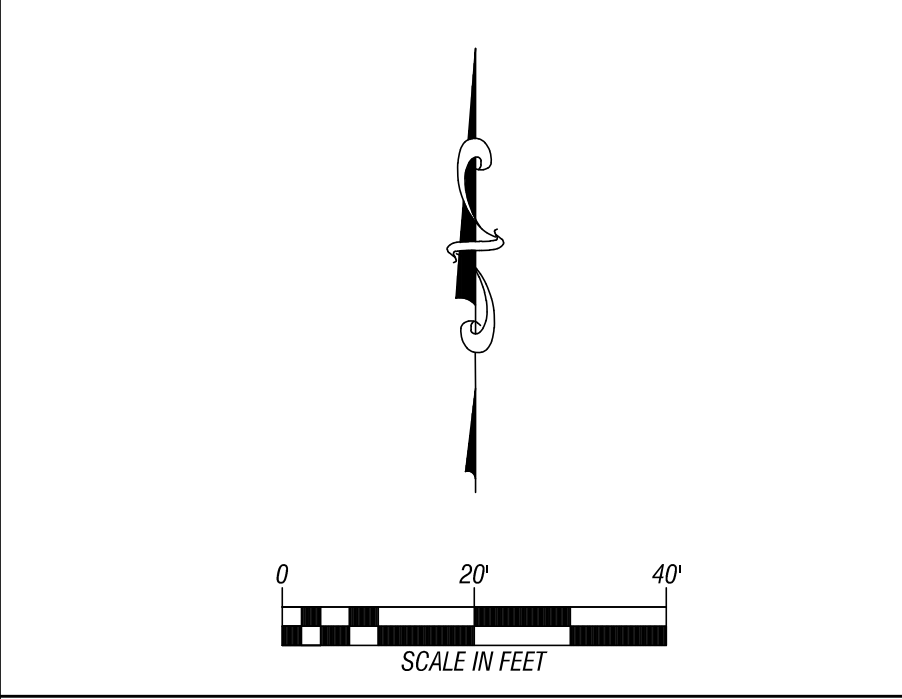
- Parks

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Community Planning and Development


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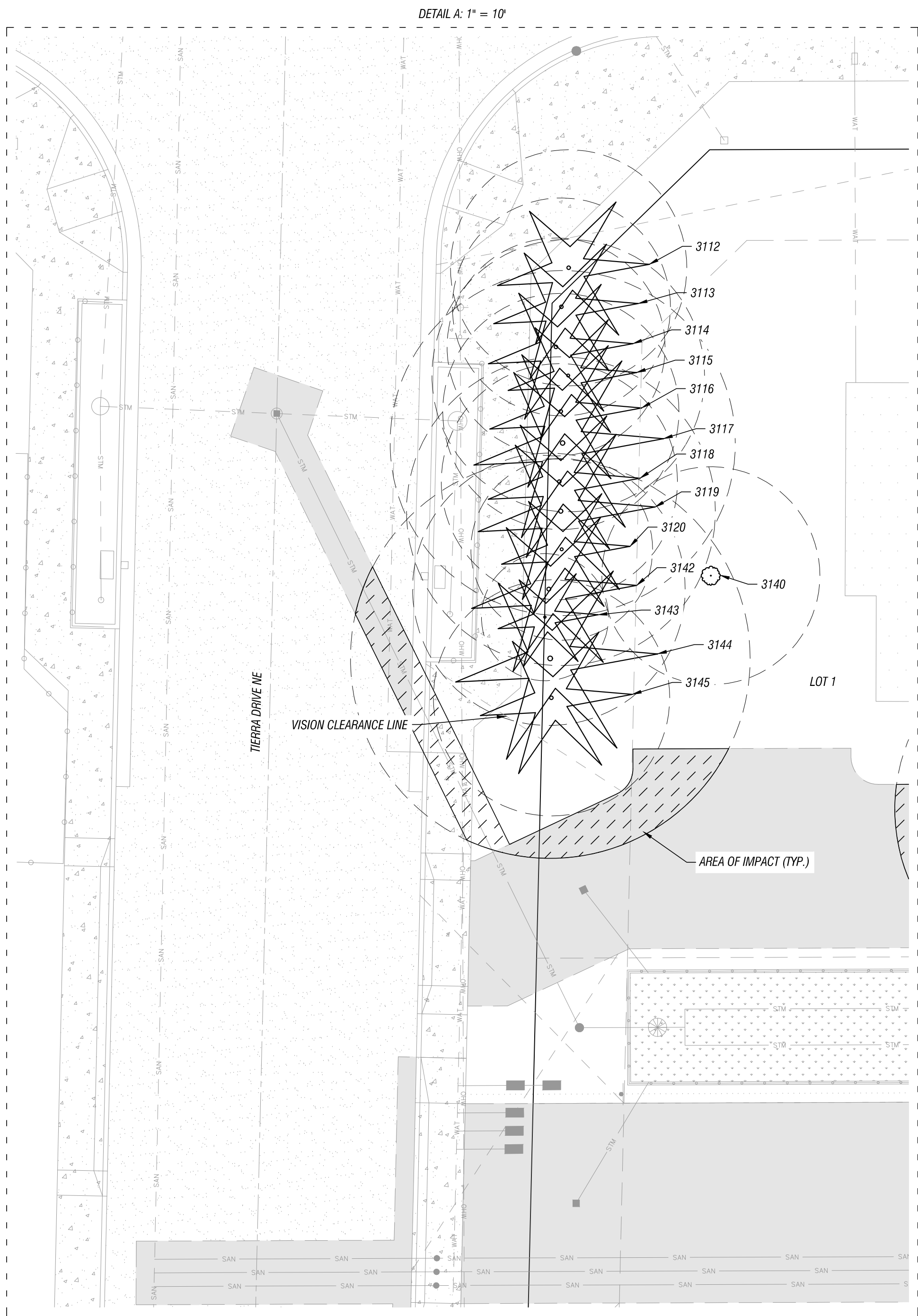


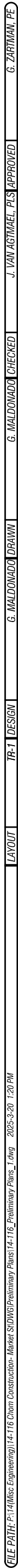
NOTE: CT (CATEGORY) 30 (DBH)
CT = CONIFEROUS TREE
DT = DECIDUOUS TREE

 = TREES TO BE REMOVED

 = CRITICAL ROOT ZONE (INCH OF DIAMETER X 1-FOOT RADIUS)


 = SIGNIFICANT TREE CRITICAL ROOT ZONE (INCH OF DIAMETER X 1-FOOT RADIUS)

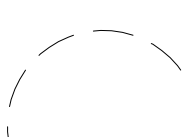





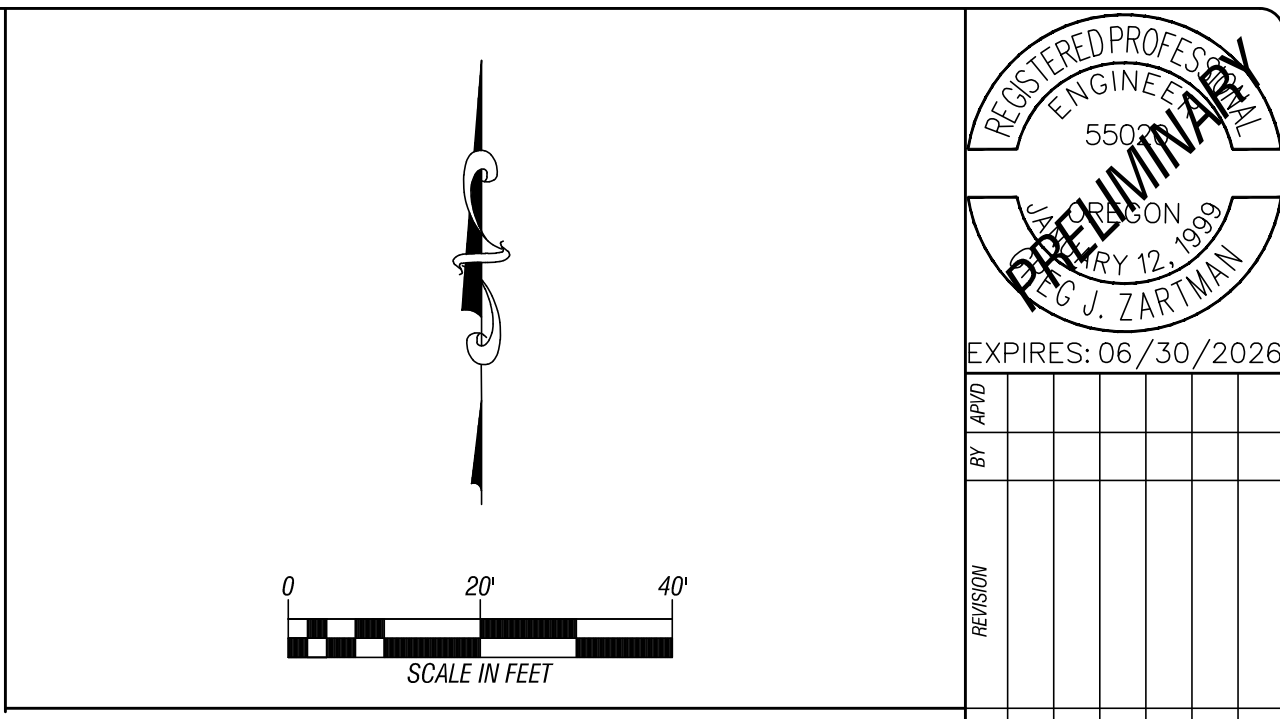
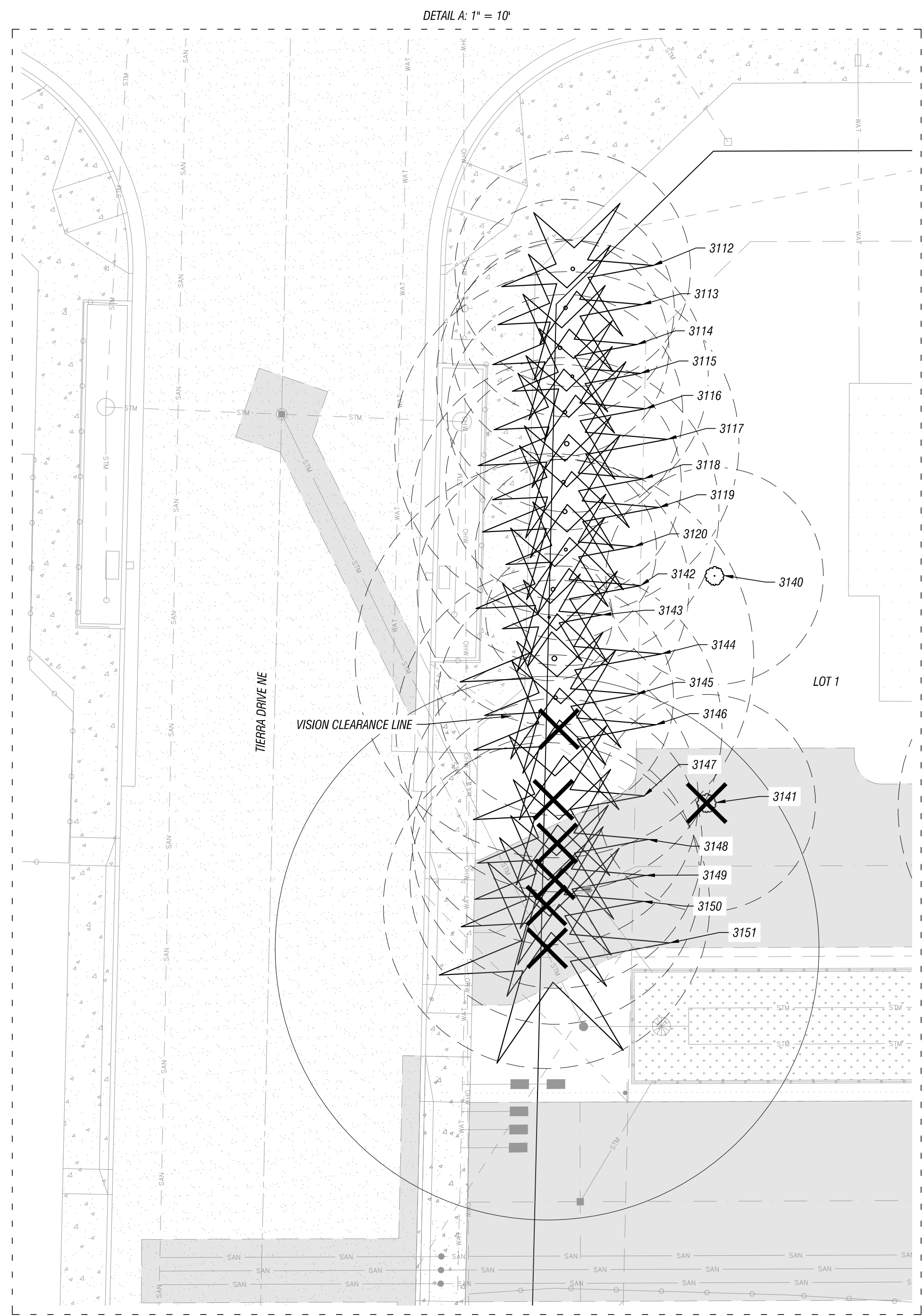
TREE TABLE									
TAG NUMBER	CATEGORY	DBH	SPECIES	REMOVE/PROTECT	TAG NUMBER	CATEGORY	DBH	SPECIES	REMOVE/PROTECT
1534	CT	97	SEQUOIA	PROTECT	3144	DT	22	CEDAR	PROTECT
3112	DT	13	CEDAR	PROTECT	3145	DT	13	CEDAR	PROTECT
3113	DT	12	CEDAR	PROTECT	3146	DT	18	CEDAR	REMOVE
3114	DT	12	CEDAR	PROTECT	3147	DT	16	CEDAR	REMOVE
3115	DT	10	CEDAR	PROTECT	3148	DT	16	CEDAR	REMOVE
3116	DT	13	CEDAR	PROTECT	3149	DT	16	CEDAR	REMOVE
3117	DT	19	CEDAR	PROTECT	3150	DT	18	CEDAR	REMOVE
3118	DT	13	CEDAR	PROTECT	3151	DT	30	CEDAR	REMOVE
3119	DT	17	CEDAR	PROTECT	3153	DT	20	APPLE	PROTECT
3120	DT	10	CEDAR	PROTECT	88001317	DT	49	PIN OAK	REMOVE
3140	DT	12	MAPLE	PROTECT	88001362	CT	18	PONDEROSA PINE	REMOVE
3141	DT	12	MAPLE	REMOVE	88001363	CT	42	INSENT CEDAR	REMOVE
3142	DT	15	CEDAR	PROTECT	88001364	CT	22	INSENT CEDAR	REMOVE
3143	DT	7	CEDAR	PROTECT					

NOTE: CT(CATEGORY) 30(DBH)
CT = CONIFEROUS TREE
DT = DECIDUOUS TREE

 = TREES TO BE REMOVED

 = CRITICAL ROOT ZONE (INCH OF DIAMETER X 1-FOOT RADIUS)

 = SIGNIFICANT TREE CRITICAL ROOT ZONE (INCH OF DIAMETER X 1-FOOT RADIUS)



REGISTERED PROFESSIONAL
ENGINEER
55029
OREGON
JANUARY 12, 1999
REG. J. ZARTMAN
PRELIMINARY
EXPIRES: 06/30/2026

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CORNER OF MARKET AND TIERRA

CHOW CONSTRUCTION

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LEI
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*TREE REMOVAL
PLAN*

SCALE $1" = 20'$	TR-1
PROJECT NO. 14-116	
SHEET 04 OF 15	

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