

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.: TRV22-04

APPLICATION NO.: 22-115011-PLN

NOTICE OF DECISION DATE: September 28, 2022

SUMMARY: A Tree Variance to perform construction within more than 30% of the critical root zone of one significant tree.

REQUEST: A Tree Variance to perform construction and place a new MFH within more than 30% of the Critical Root Zone of one Significant Tree at an existing property 0.12 acres in size, located at 2293 47th Av NE (Marion County tax lot 072W17CC17500). The impacted tree is proposed to be preserved and protective measures taken during construction.

APPLICANT: Kacy Ramirez, Evergreen Property Group

LOCATION: 2293 47th Avenue NE, Salem OR 97305

CRITERIA: Salem Revised Code (SRC) Chapters 808.045(d) – Tree Variance

FINDINGS: The findings are in the attached Decision dated September 28, 2022.

DECISION: The **Planning Administrator APPROVED** Tree Regulation Variance Case No. TRV22-04 subject to the following conditions of approval:

- Condition 1:** The impacted significant tree shall be preserved and is not authorized for removal.
- Condition 2:** The applicant shall follow all Arborist recommendations and construction methods within the Critical Root Zone of the identified significant tree, as described in **Attachment D**.
- Condition 3:** An arborist shall be present during site development or ground disturbing activity.

The rights granted by the attached decision must be exercised, or an extension granted, by October 14, 2024, or this approval shall be null and void.

Application Deemed Complete:	<u>September 12, 2022</u>
Notice of Decision Mailing Date:	<u>September 28, 2022</u>
Decision Effective Date:	<u>October 14, 2022</u>
State Mandate Date:	<u>January 10, 2023</u>

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

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, no later than 5:00 p.m. Thursday, October 13, 2022. 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(s) 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. TRV22-04)
2293 47 th AVE NE) SEPTEMBER 28, 2022

In the matter of the application for Tree Regulation Variance Permit, applications submitted by the applicant Kacy Thomas-Ramirez of Evergreen Property Group, on behalf of KMS Enterprises 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 perform construction within more than 30% of the critical root zone of one significant tree.

Request: A Tree Variance to perform construction and place a new manufactured dwelling within more than 30% of the Critical Root Zone of one Significant Tree at an existing property 0.12 acres in size, located at 2293 47th Av NE (Marion County tax lot 072W17CC / 17500). The impacted tree is proposed to be preserved and protective measures taken during construction.

A vicinity map is included as **Attachment A**.

PROCEDURAL FINDINGS

1. Proposal

The development of a new manufactured home on an existing foundation will require protective measures for one significant tree.

2. Background

On July 20, 2022, an application for a Tree Regulation Variance was filed for the proposed development. The applicant proposed the demolition of an existing manufactured home to be replaced with a new manufactured home occupying the same footprint. There are three trees in question on the subject property, one of which is considered significant, having a dbh (diameter at breast height) of 30 inches or more, as defined by Sec. 808.005 of the Salem Revised Code. After additional materials were submitted by the applicant, the application was deemed complete for processing on September 12, 2022. The 120-day state mandated decision deadline for this consolidated application is January 10, 2023.

The applicant's proposed site plan is included as **Attachment B** and the applicant's written statement addressing the approval criteria is included in the record as **Attachment C**.

SUBSTANTIVE FINDINGS

3. Summary of Record

The following items are submitted to the record and are available upon request: 1) All materials submitted by the applicant, including any applicable professional studies such as traffic impact analysis, geologic assessments, and stormwater reports; 2) any materials, testimony, and comments from public agencies, City Departments, neighborhood associations, and the public; and 3) all documents referenced in this report. All application materials are available on the City's online Permit Application Center at <https://permits.cityofsalem.net>. You can use the search function without registering and enter the permit number listed here: 22 115011.

4. Neighborhood Association and Public Comments

The subject property is located within the boundaries of the North Lancaster Neighborhood Association (NOLA).

Applicant Neighborhood Association Contact: Neighborhood Association Contact is not required for this application.

Neighborhood Association Comment: Notice was provided, pursuant to SRC 300.520(b)(1)(B)(v) to the neighborhood association. No comments were received from the neighborhood association.

Homeowners Association: The subject property is located within a Homeowners Association.

Public Comment: Notice was provided, pursuant to SRC 300.520(b)(1)(B)(iii), (vi), & (vii), to all property owners and tenants within 250 feet of the subject property. Comments were received from four persons all with no objections to the removal.

5. City Department Comments

There were no concerns indicated by City Departments.

6. Public Agency Comments

Notice was provided, pursuant to SRC 300.520(b)(1)(B) (viii), (ix) & (x), to numerous public agencies, including Salem Area Mass Transit District. No comments were received.

DECISION CRITERIA FINDINGS

7. 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. There is one significant tree identified on the subject property. The applicant has requested a Tree Variance to locate a new manufactured home within more than 30% of the critical

root zone of the tree. Per Sec. 808.005, the critical root zone is defined as “the circular area beneath a tree established to protect the tree’s trunk, roots, branches, and soil to ensure the health and stability of the tree. The critical root zone measures one-foot in radius for every one-inch of dbh of the tree.” In this case, the applicant has requested to address the hardship criteria in SRC 808.045(d)(1).

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

Finding: The applicant’s project arborist, Santiam Tree Service, Inc., reviewed the trees and their root conditions and provided the recommendations outlined below. The arborist’s report (**Attachment D**) indicated the trees are in healthy condition. The request is not to remove the trees, but to impact more than 30% of the critical root zone. The applicant proposed to preserve them using construction methods to avoid impacts to the trees. Not impacting more than 30% of the critical root zone of the trees would eliminate the applicant’s ability to replace the existing dwelling. Since the critical root zone encompasses the entire lot, not impacting more than 30% would create an unreasonable hardship that can most effectively be relieved by approval of the variance. The applicant has provided an arborist report with methods and recommendations to ensure the least amount of impact to the critical root zone and ensuring the survival of the significant tree. To ensure the health of the significant tree during construction within the critical root zone, the following conditions apply:

- Condition 1:** The impacted significant tree shall be preserved and is not authorized for removal.
- Condition 2:** The applicant shall follow all Arborist recommendations and construction methods within the Critical Root Zone of the identified significant tree, as described in **Attachment D**.
- Condition 3:** An arborist shall be present during site development or ground disturbing activity.

CONCLUSION

Based upon review of SRC Chapters 808, the applicable standards of the Salem Revised Code, the findings contained herein, the application complies with the requirements for an affirmative decision.

ORDER

Tree Regulation Variance, Case No. TRV22-04 is hereby **APPROVED** subject to SRC Chapters 808, the applicable standards of the Salem Revised Code and conformance with the approved site plan included as **Attachment B** and subject to the following conditions:

- Condition 1:** The impacted significant tree shall be preserved and is not authorized for removal.

Condition 2: The applicant shall follow all Arborist recommendations and construction methods within the Critical Root Zone of the identified significant tree, as described in **Attachment D**.

Condition 3: An arborist shall be present during site development or ground disturbing activity.

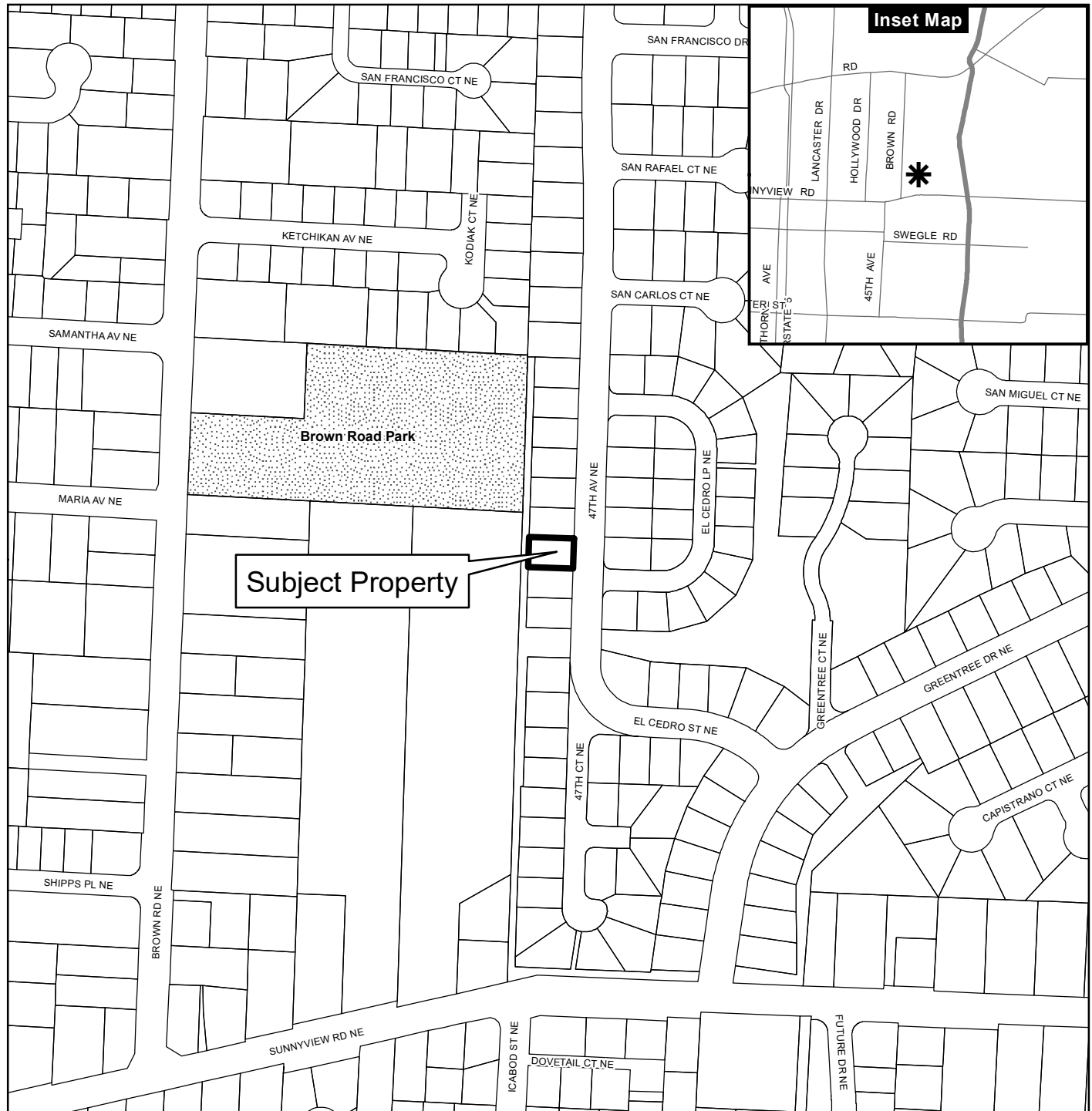


Peter Domine, Planner I
On behalf of Lisa Anderson-Ogilvie, AICP
Planning Administrator







Attachments: A. Vicinity Map
B. Site Plan
C. Applicant's Written Statement
D. Arborist's Report

Vicinity Map

2293 47th Ave NE



Legend

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

0 100 200 400 Feet



CITY OF Salem
AT YOUR SERVICE
Community Development Dept.

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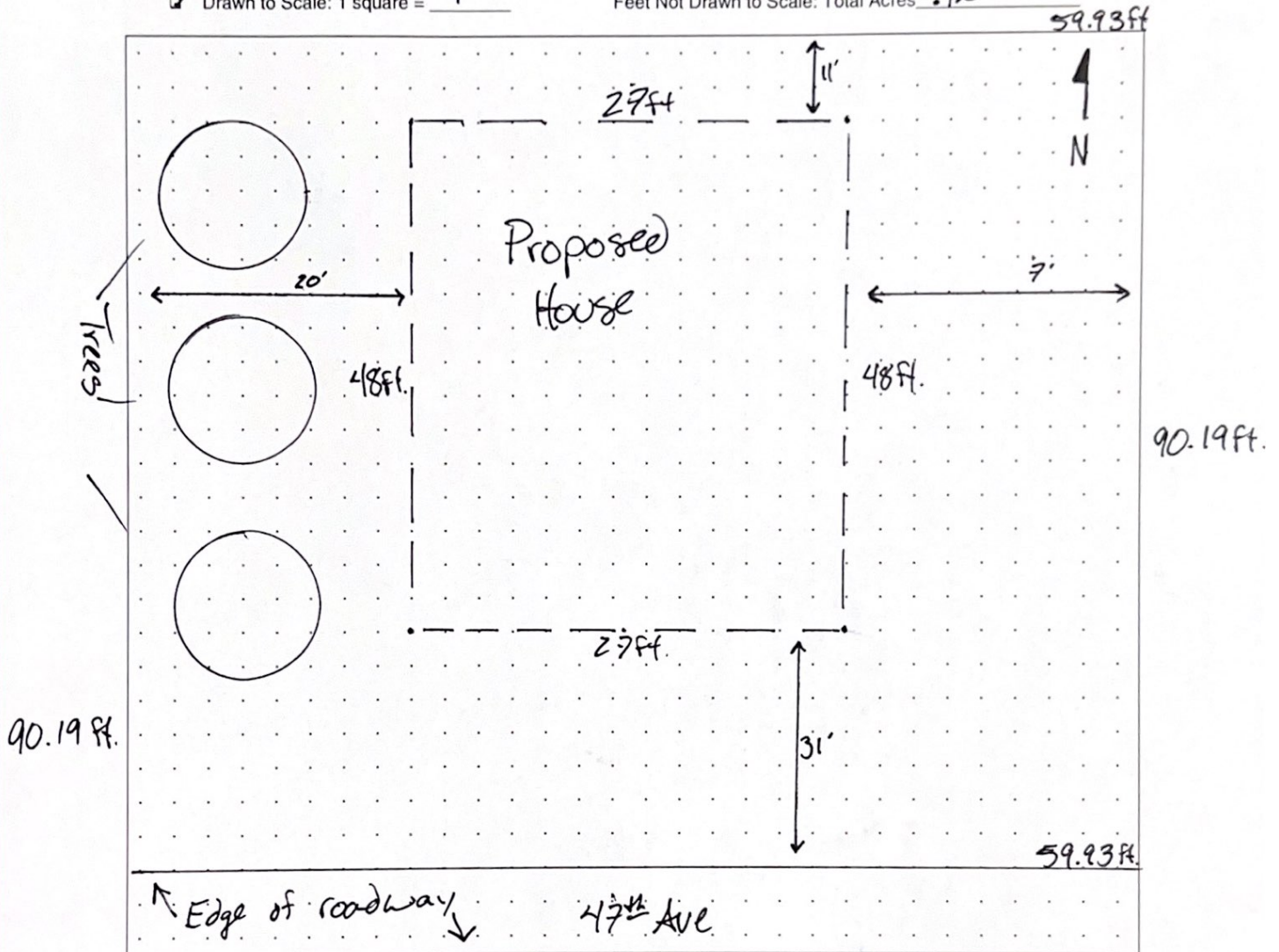
2293 47th Ave Ne
Salem, OR 97305

Tax Lot # 125600

SITE PLAN MUST SHOW ALL PROPERTY LINES AND DIMENSIONS

☒ Drawn to Scale: 1 square = 1"

Feet Not Drawn to Scale: Total Acres .12



I certify that the above information is accurate to the best of my knowledge. I AM THE ☐ Owner or ☒ Authorized Agent

NAME (please print): Kary Ramirez Telephone # 458-233-9865

Applicant's Signature: K Ramirez Date: 9/2/22

Applicant's Mailing Address: 849 Hickory St. NW City: Albany Zip: 97321

FOR OFFICE USE ONLY

PLANNING: _____ Date: _____

PUBLIC WORKS: _____ Date: _____

BUILDING INSPECTION (Acceptable for Planning requirements only) _____ Date: _____



EVERGREEN

RENOVATION SERVICES

Building The Future. Restoring The Past.

RE: 2293 47th Ave NE Salem, OR

09/02/2022

To whom it may concern:

The proposed variance is the minimum necessary to allow the otherwise lawful proposed development or activity, without the variance, we would suffer a reduction in the fair market value of the property. The proposed variance is the minimum necessary to prevent a reduction in the fair market value of the property. The proposed variance is also consistent with all other applicable local, state, and federal laws.


For any questions, please call Wendy Thrush, Operations Manager KMS Enterprises LLC 520-612-1541.

Managing member - Kyle Mokhtarian 520-275-7175

DocuSigned by:
KMS Enterprises
44AE3F8143E248C...

9/2/2022

Best Regards,

DocuSigned by:
Kacy Thomas-Ramirez 

9/2/2022

1D83B92247274CE
Kacy Thomas-Ramirez

Evergreen Renovation Services

CCB# 238114

3000 Market St NE Ste. 325

Salem, OR 97321

Phone 458-233-9865

Fax 520-300-8204

Email kacyramirez@yahoo.com

Website: www.evergreenrenoservices.com

Building The Future. Restoring The Past.



Arborist Evaluation
 Santiam Tree Service Inc
 PO Box 401 Scio, OR 97374
 Phone- (541) 905 6674

PROPERTY LOCATION-
 2293 47th Ave NE
 Salem, OR 97305

TREE LOCATION-
 Three trees along the southern border of the property.

To whom it may concern,

This report is to address the potential of tree impact when removing and replacing a mobile home on the above mentioned property.

Property and Tree Evaluation

There are three trees in question, two Sweet Gums (*Liquidambar styraciflua*) and one Douglas Fir (*Pseudotsuga menziesii*). All three trees appear to be in good, healthy condition. There are no major defects on the trunks, the canopies appear healthy and all major leaders have intact tops. There are some exposed roots on the easternmost Sweet Gum and the rest of the root zones were exposed smooth soil or uninspectable due to refuse but it can be assumed they are in similar condition. The only items of note are: the rootzones being bare or trash covered, that the trunk flare on the Fir and middle Gum appear to be partially buried and should be exposed and that the center Gum is a codominant tree at the base and the union should be inspected regularly for cracks and defects.

Removing and Replacing the Structure

Tree roots are mostly in the top 18 inches of soil and can reach three times the diameter of the dripline. Construction impacts are mostly related to root damage via soil compaction and root severing. These impacts can take 1-3 years to become evident in the canopy. A tree's roots are shallow and far spreading. The roots closest to the tree are mostly for anchorage, as they grow away from the tree they are more for transport and finally the feeder roots that are very small and close to the surface of the soil. These roots, especially the transport and feeder, need pore space to function and survive. The pore space in the soil allows for water and oxygen which the roots need to absorb nutrients, water and respire.

Typically when construction happens around a tree a Tree Protection Zone (TPZ) is established to prevent damage. Tree Protection Zones (TPZ) as defined by the International Society of Arboriculture is a radius of 1 foot per 1 inch of tree Diameter at Breast Height (DBH 4.5') plus the DBH or the longest reaching dripline plus 1 foot, whichever is larger. For example a 6" DBH tree will have a 13.5' diameter TPZ or if the radius of the tree's dripline is 7 feet it would have a 15" diameter TPZ.. Temporary fencing shall be installed to dictate these zones.

TPZ's exist to prevent the most common construction impacts: soil compaction, root cutting and canopy contact. Things that must be avoided in the TPZ are and not limited to: stockpiling of material, parking of equipment or vehicle, soil compaction via equipment, vehicles or foot traffic, soil contamination via washing of equipment (grease, concrete, paint, ect), grade

change via cut or fill, attaching anything to trunk or branch, wounding trunk or branch with equipment and trenching.

Recommendations

Special care should be taken to not impact the rootzones not already impacted by the removal and replacement of the structure. The guidelines outlined above regarding storage of waste and materials as well as soil compaction should be followed during the process. Following the clearing of the refuse and prior to building around the property I would recommend placing wood chips or mulch under the trees to help: prevent soil compaction, retain soil moisture, prevent runoff and provide nutrients to the soil as it breaks down.

Conclusion

Considering that there is a structure currently within the limits of the TPZ and the new mobile home installation will not require excavation or additional compaction I believe that there should not be any negative impacts on the trees' health.

Isaac Alexander delledera Schumacher
29.July.2022
Certified Tree Worker Specialist
Certified Arborist
MA-5768AT



This report was completed via a visual inspection from the ground. To better know the structural integrity of the trunk and the condition of the root system and canopy; a resistograph, an air-spade excavation and an aerial inspection would be required respectively.

This report is my opinion based on the visual data I recorded. With my education and experience I can make informed recommendations, however it is up to the client and the owners of the trees to make their own decisions regarding their level of acceptable risk. Any tree or limb may fail at any time for any reason. Trees are living, growing organisms that are constantly influencing and being influenced by their surroundings.