

# NOTICE OF DECISION

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



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## DECISION OF THE PLANNING ADMINISTRATOR

**TREE CONSERVATION PLAN: TCP22-10**

**APPLICATION NO.: 22-111318-NR**

**NOTICE OF DECISION DATE:** July 3, 2023

### SUMMARY:

**REQUEST:** A Tree Conservation Plan in conjunction with a Subdivision (Case No. CU-SUB-ADJ-DAP22-05) proposing the preservation of 13 trees, or 100 percent of the trees. The subject property is approximately 1.71 acres in size, zoned RA (Residential Agriculture) and IC (Industrial Commercial), and located in the 1300 Block of Mildred Lane SE (Marion County Assessor Map and Tax Lot Number: 083W14CB02401).

**APPLICANT:** JCT Construction Group, LLC (James Cain, James Tokarski)

**LOCATION:** 1300 Block of Mildred Lane SE

**CRITERIA:** Salem Revised Code (SRC) Chapter 808.035.

**FINDINGS:** The findings are in the attached Decision dated July 3, 2023

**DECISION:** The **Planning Administrator APPROVED** TCP23-10 subject to the following conditions of approval:

- Condition 1:** All trees designated for retention under the tree conservation plan shall be protected during construction with the installation of an above ground silt fence, or its equivalent, which shall encompass 100 percent of the critical root zone of the trees. Tree protection measures shall remain in place until the issuance of Notice of Final Completion for the dwelling unit(s) on the lot.
- Condition 2:** Each lot or parcel within the development proposal shall comply with the tree planting requirements set forth in SRC 808.050.
- 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.

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. No tree designated for removal on the approved Tree Conservation Plan shall be removed or critically damaged prior to the Tree Conservation Plan approval date.

Approval of a Tree Conservation Plan application does not expire.

Case Manager: Bryce Bishop, Planner III, [bbishop@cityofsalem.net](mailto:bbishop@cityofsalem.net), 503-540-2399

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 **Monday, July 18, 2023 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 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

<b>IN THE MATTER OF APPROVAL OF</b>	<b>) FINDINGS &amp; ORDER</b>
<b>TREE CONSERVATION PLAN</b>	<b>)</b>
<b>CASE NO. TCP23-10</b>	<b>)</b>
<b>1300 BLK MILDRED LANE SE</b>	<b>) JULY 2, 2023</b>

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 (Case No. CU-SUB-ADJ-DAP22-05) proposing the preservation of 13 trees, or 100 percent of the trees. The subject property is approximately 1.71 acres in size, zoned RA (Residential Agriculture) and IC (Industrial Commercial), and located in the 1300 Block of Mildred Lane SE (Marion County Assessor Map and Tax Lot Number: 083W14CB02401).

### PROCEDURAL FINDINGS

1. On May 31, 2022, an application for a Tree Conservation Plan was submitted for property located in the 1300 Block of Mildred Lane SE (**Attachment A**).
2. The Tree Conservation Plan (Attachment B) was submitted in conjunction with a new subdivision application for the subject property (Case No. CU-SUB-ADJ-DAP22-05).
3. After additional requested information was provided by the applicant, the application was deemed complete on November 4, 2022.

### SUBSTANTIVE FINDINGS

#### **1. Proposal**

The tree conservation plan identifies a total of 13 trees above 10 inches diameter-at-breast-height (dbh) on the property, with all 13 trees identified for preservation (**Attachment B**). All 13 trees are riparian corridor trees.

#### **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.

#### **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: 22 111318.

## **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:** There are no significant trees located on the subject property; therefore, the preservation requirements of SRC 808.035(d)(2) are not applicable to the tree conservation plan.

***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:** The tree conservation plan submitted by the applicant identifies a total of 13 trees on the western portion of the site. None of the trees are designated as significant trees based on their size and species, but they are located within the riparian corridor of the Waln Creek. Of the total 13 trees existing on the site, the proposed tree conservation plan identifies 13 trees (100 percent) for preservation and none for removal. The applicant also indicates that there is no native vegetation present within the riparian corridor. The proposed tree conservation plan therefore exceeds the minimum preservation requirements of SRC Chapter 808.

***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 all 13 trees, or 100 percent for preservation. Because the tree conservation plan preserves more than 25 percent of the existing trees on the subject property, the tree conservation plan complies with the requirements of SRC 808.035(d)(4).

### **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.

## 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

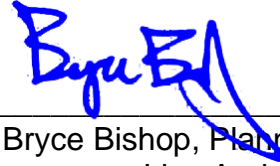
In the event there are insufficient existing trees on a lot or parcel to meet the requirements of Table 808-1, the deficiency shall be made up by planting trees that are at least 1.5 inches in caliper.

### **IT IS HEREBY ORDERED**

The proposed Tree Conservation Plan 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:** All trees designated for retention under the tree conservation plan shall be protected during construction with the installation of an above ground silt fence, or its equivalent, which shall encompass 100 percent of the critical root zone of the trees. Tree protection measures shall remain in place until the issuance of Notice of Final Completion for the dwelling unit(s) on the lot.
- Condition 2:** Each lot or parcel within the development proposal shall comply with the tree planting requirements set forth in SRC 808.050.

**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.



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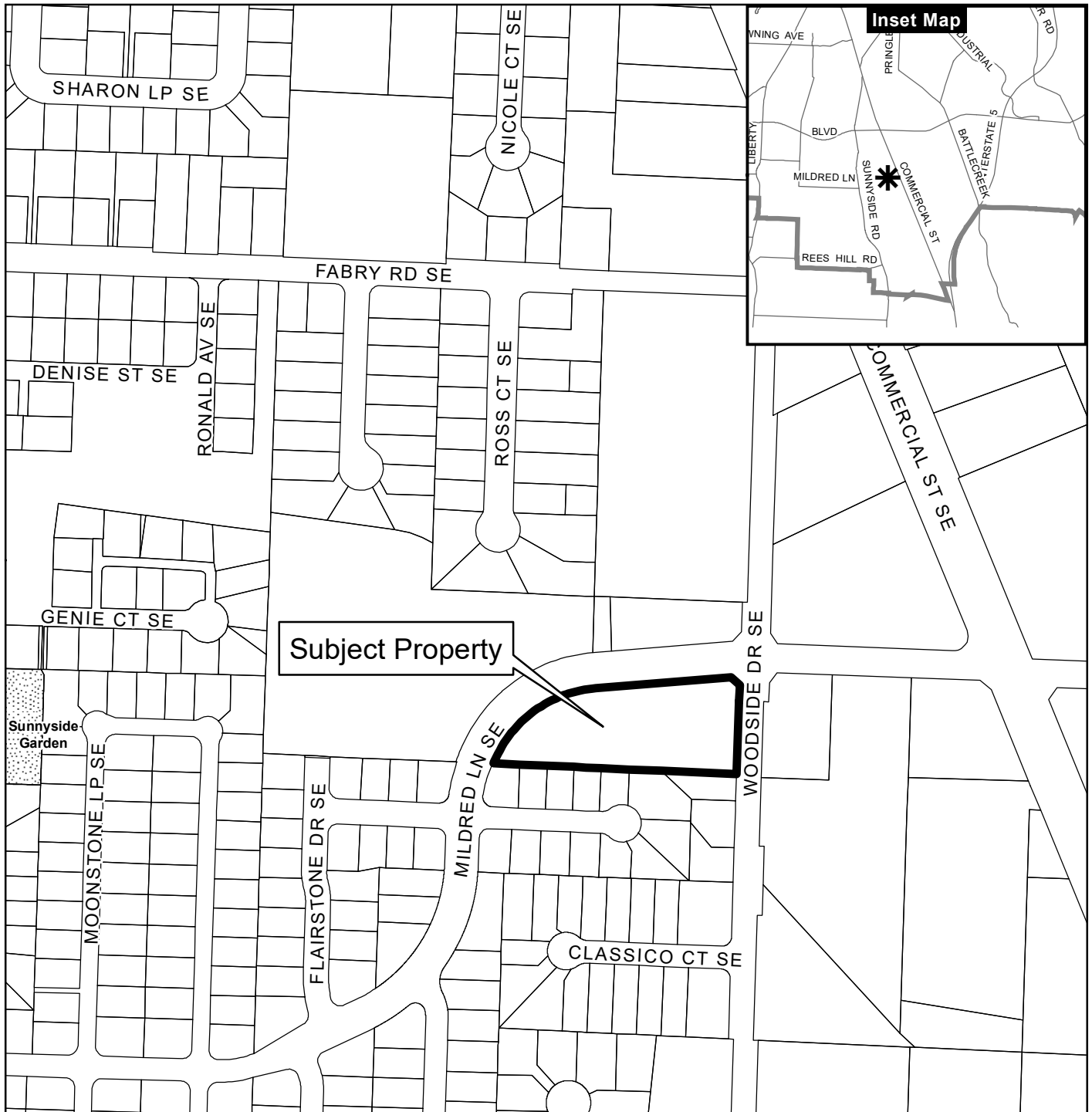
Bryce Bishop, Planner III, on behalf of,  
Lisa Anderson-Ogilvie, AICP  
Planning Administrator

**Attachments:**

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

# Vicinity Map

## 1300 Block of Mildred Lane SE



### Legend

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

- Parks

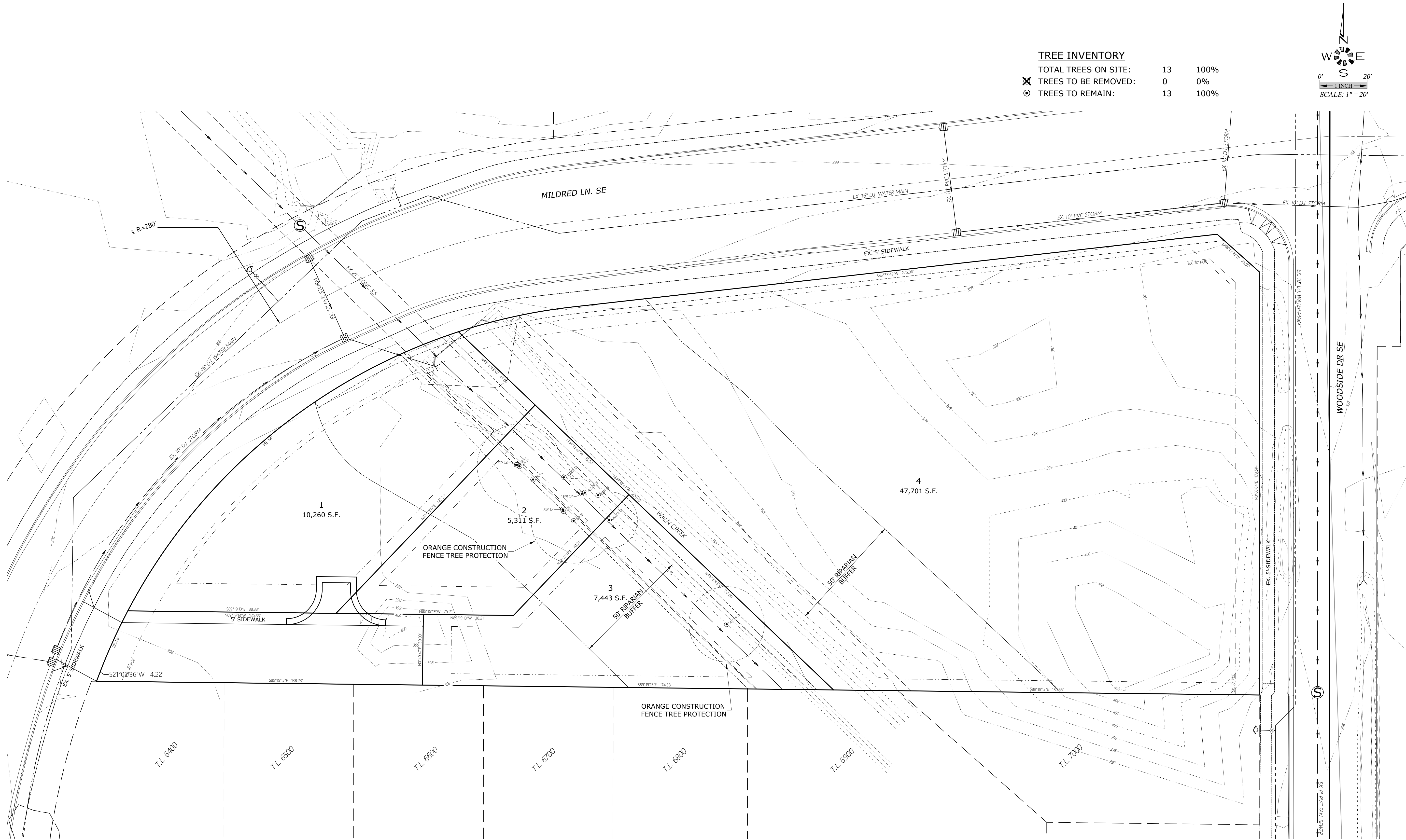
**CITY OF Salem**  
AT YOUR SERVICE  
Community Development Dept.

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Design: M.D.G.  
Drawn: T.N.S.  
Checked: J.J.G.  
Date: MAY 2021  
Scale: AS SHOWN

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J & J ESTATES

TENTATIVE SUBDIVISION PLAN  
TREE CONSERVATION