

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: TCPA23-05

APPLICATION NO.: 23-121766-PLN

NOTICE OF DECISION DATE: December 1, 2023

REQUEST: A Tree Conservation Plan Adjustment (TCPA) to Tree Conservation Plan Case No. TCP14-11 for the removal of one additional tree on a property zoned FMU (Fairview Mixed Use) located at 4001 Village Center Drive SE (Marion County Assessor's Map and Tax Lot number 083W11 / 200).

This TCPA is the first adjustment to Tree Conservation Plan Case No. TCP14-11, which was submitted with a Subdivision application for the subject property (FRP-PAR-SUB14-01). This adjustment modifies TCP14-11 by designating one additional tree for removal, which was initially selected for preservation.

APPLICANT: Cody Orton, Olsen Communities LLC.

LOCATION: 4001 Village Center Drive

CRITERIA: Salem Revised Code (SRC) Chapters 808.040(d).

FINDINGS: The findings are in the attached Decision dated December 1, 2023.

DECISION: The **Planning Administrator APPROVED** TCPA23-05 subject to the following conditions of approval:

- Condition 1:** Prior to final occupancy, two Norway maple trees with a minimum 1.5-inch caliper shall be planted west of Lot 84 in the private use area.
- 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.

Condition 5: 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.

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: Lydia Keller, Planner I, lkeller@cityofsalem.net, 503-540-2326

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, December 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 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
TREE CONSERVATION PLAN
ADJUSTMENT CASE NO. TCPA23-05
4001 VILAGE CENTER DRIVE SE**) **FACTS AND FINDINGS**
)
)
) **December 1, 2023**

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. TCP14-11 for the removal of one additional tree on a property zoned FMU (Fairview Mixed Use) located at 4001 Village Center Drive SE (Marion County Assessor's Map and Tax Lot number 083W11/200).

This TCPA is the first adjustment to Tree Conservation Plan Case No. TCP14-11, which was submitted with a Subdivision application for the subject property (FRP-PAR-SUB14-01). This adjustment modifies TCP14-11 by designating one additional tree for removal, which was initially selected for preservation.

PROCEDURAL FINDINGS

1. On November 2, 2023, an application for a Tree Conservation Plan Adjustment was submitted for property located at 4001 Village Center Road SE (**Attachment A**).
2. On September 8, 2014, Tree Conservation Plan, Case No. TCP14-11, was approved for the subject property in conjunction with Subdivision and Adjustment Case No. FRP-PAR-SUB14-01 4001 Village Center Drive SE (Marion County Assessor's Map and Tax Lot number 083W11/200). The original tree conservation plan identified a total of 209 trees on the property, with 100 trees identified for preservation and 109 trees identified for removal (47.8 percent of trees to remain).

SUBSTANTIVE FINDINGS

1. Proposal

The tree conservation plan adjustment will reduce the number of trees identified for preservation under the tree conservation plan to 47.4% by removing one additional tree (**Attachment B**). A summary of the total trees identified for preservation and removal under the original tree conservation plan and this adjustment are included in the table below:

Tree Conservation Plan Summary						
Case No.	Approval Date	Trees Preserved	Percentage Preserved	Trees Removed	Percentage Removed	Total Trees on subject property
TCP14-11	November 14, 2014	100	47.8%	109	52.2%	209
TCPA23-05	December 1, 2023	99	47.4%	110	52.6%	209

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).

SRC 808.040(d)(1): 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 tree conservation plan adjustment submitted by the applicant identifies one tree for removal which was originally identified for preservation under approved Tree Conservation Plan Case No. TCP14-11. The additional tree proposed for removal is an 84-inch Sequoia located at the southwest corner of Lot No. V-10 of the original phased tentative subdivision plan and tree conservation plan approval (*now Lot No. 92 of proposed Fairview Additional West Phase 5*).

The applicant indicates that removal of the tree is consistent with the approved Fairview Addition West refinement plan, which contemplated the removal of 13 additional trees as part of the development.

Because the subject property is located within the FMU zone, and more specifically the Fairview Addition West refinement plan, development of the property is subject to not only the requirements of SRC Chapter 808 but also the additional requirements of the approved refinement plan. Section 8 (*Wetland and Tree Inventory*) of the Fairview Addition West refinement plan provides that, "The landscaping plan for the area currently designates for

preservation 100 existing trees but reserves the right to selectively reduce this number to 87 (Oregon White Oaks are not included), which still complies with the preservation guidelines found in SRC 808.”

At the time of submittal of the original tree conservation plan it was anticipated by the applicant that the 84-inch Sequoia could be preserved. However, upon subsequent evaluation by the applicant it has been determined that the tree cannot be preserved due to its size in relation to the size of the lot upon which it's located and the amount of grading that will be required within the critical root zone of the tree to construct required boundary street improvements and accommodate the future development of the lot.

While the need to remove this tree was not anticipated under the original tree conservation plan approval, its removal is necessary to allow for the reasonable development of the proposed lot and the removal maintains consistency with the approved refinement plan, which allows for the applicant's selective removal of up to 13 additional trees beyond what was approved under the original tree conservation plan. This approval criterion is met.

SRC 808.040(d)(2) 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 tree identified for removal was not classified as significant tree in TCP14-11. Therefore, the adjustment does not propose the removal of a significant tree. This criterion is not applicable.

SRC 808.040(d)(3) 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: No riparian corridors are located on the subject property; therefore, no riparian trees or native vegetation will be removed from the site. This criterion is not applicable.

SRC 808.040(d)(4) 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: The applicant originally submitted a tree conservation plan indicating that 109 out of a total of 209 trees identified on the subject site would be removed, leaving only 47.8 percent of the trees for preservation. With the proposed tree conservation plan adjustment, there will be one additional removal of an 84-inch sequoia. With a total of 99 trees being preserved throughout the subject property, a preservation rate of approximately 47.4 percent is maintained.

Although the 84-inch sequoia was not considered significant at the time of the original tree conservation plan approval, the tree is considered significant under the current requirements of SRC Chapter 808. Due to the large size of the tree the applicant has proposed mitigating its removal with the replanting of two Norway maples in the private use area west of Lot 84 in proposed Phase 5 of the Fairview Addition West subdivision. Pursuant to SRC 808.040(f),

conditions may be imposed on the approval of a tree conservation plan adjustment to ensure compliance with the approval criteria and to fulfill the intent of the original tree conservation plan. In order fulfill the intent of the original tree conservation plan to preserve this tree and mitigate its removal, the following condition of approval shall apply:

Condition 1: Prior to final occupancy, two Norway maple trees with a minimum 1.5-inch caliper shall be planted west of Lot 84 in the private use area.

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: Prior to final occupancy, two Norway maple trees with a minimum 1.5-inch caliper shall be planted west of Lot 84 in the private use area.

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.

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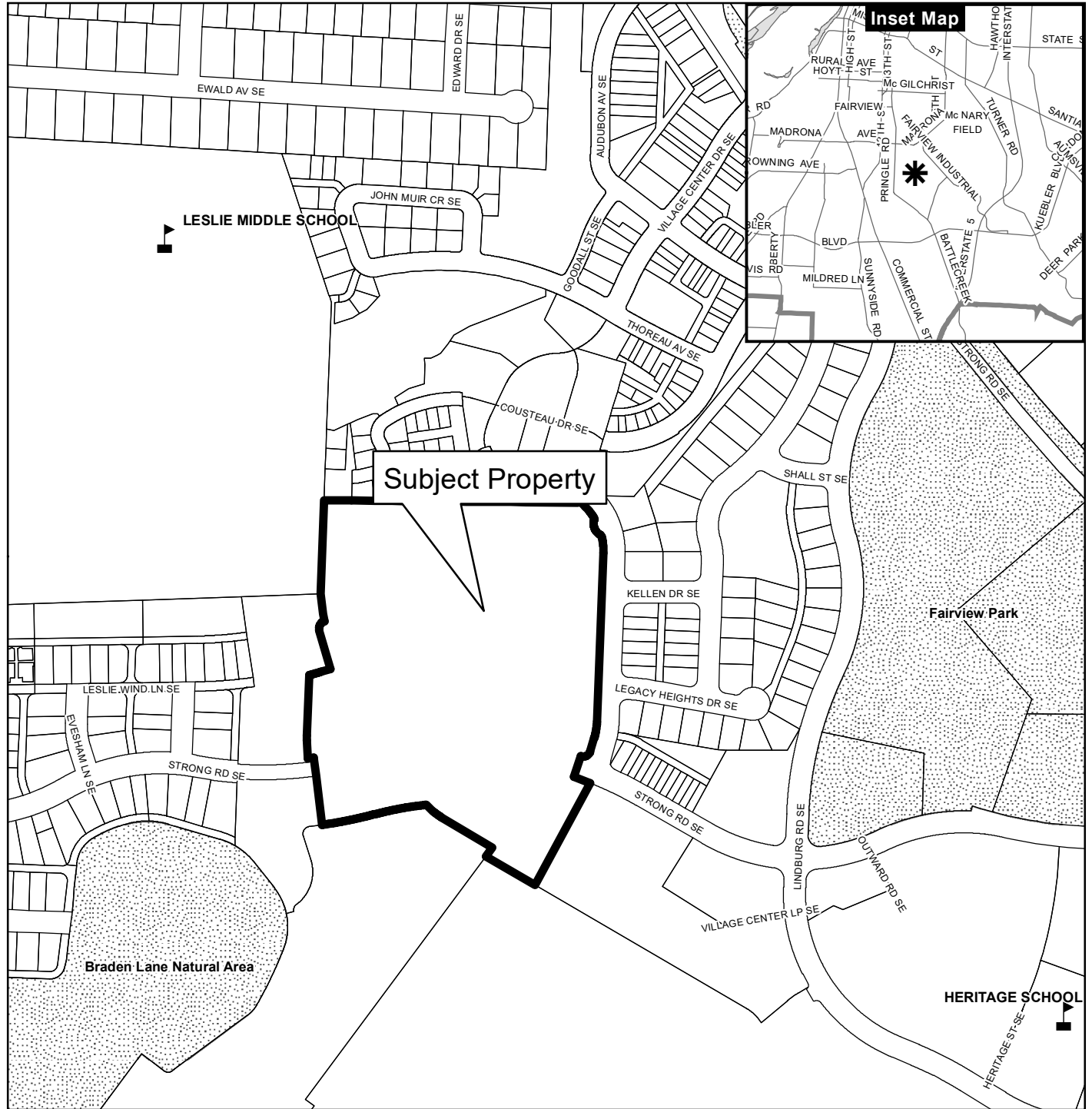


Lydia Keller, Planner I, on behalf of,
Lisa Anderson-Ogilvie, AICP
Planning Administrator

Attachments:

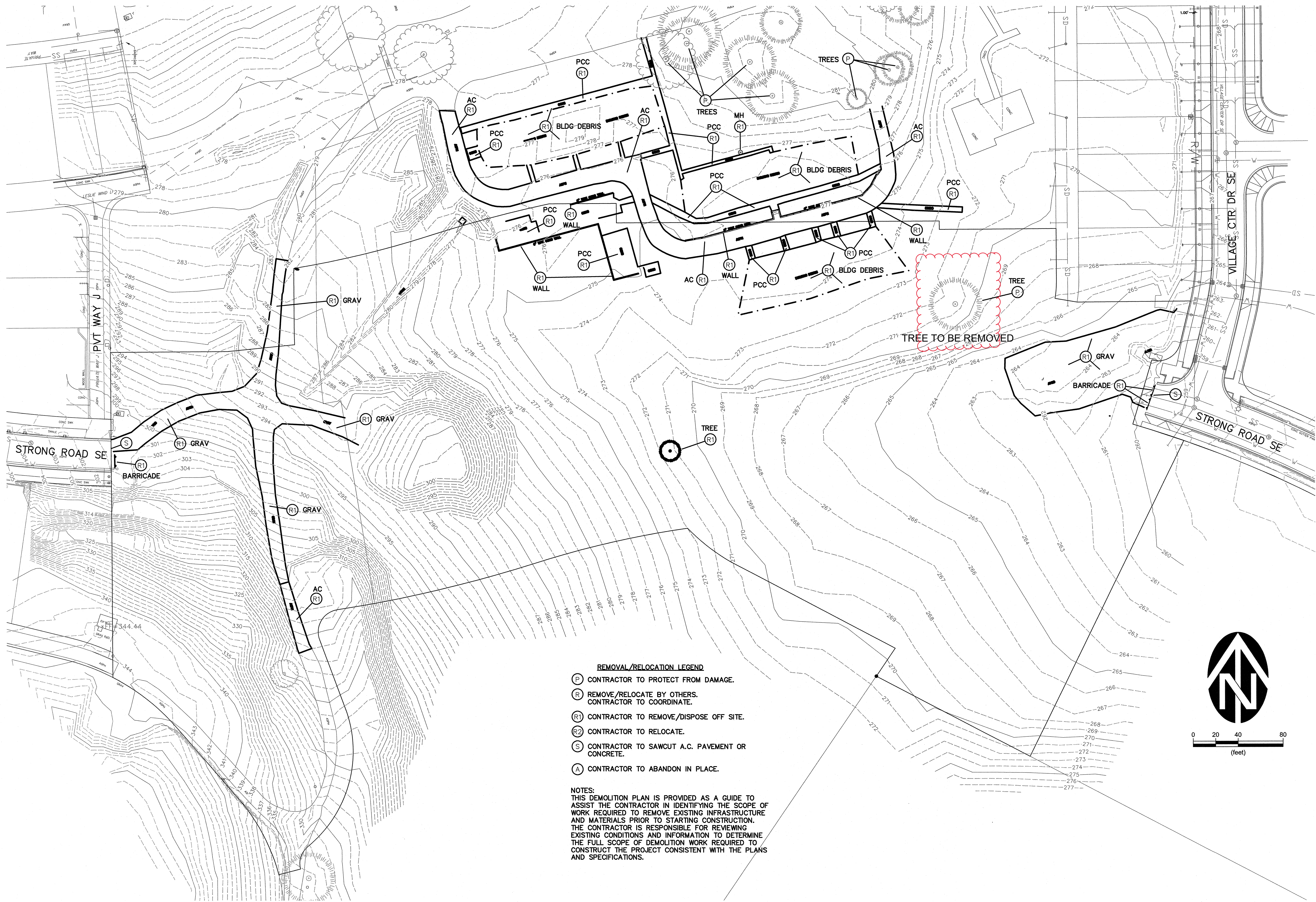
- A. Vicinity Map
- B. Approved Tree Conservation Plan

Vicinity Map 4001 Village Center Drive SE



Legend

Taxlots	Outside Salem City Limits	Parks	 Community Development Dept.
Urban Growth Boundary	Historic District		
City Limits	Schools	<div style="border: 1px solid black; padding: 5px;"> This product is provided as is, without warranty. In no event is the City of Salem liable for damages from the use of this product. This product is subject to license and copyright limitations and further distribution or resale is prohibited. </div>	



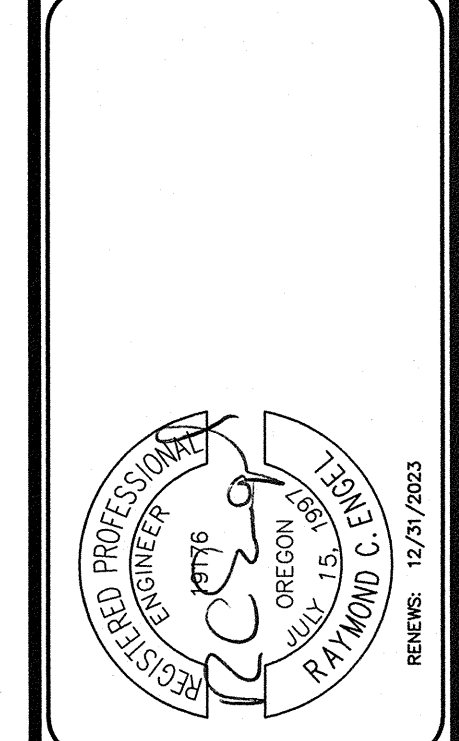
- REMOVAL/RELOCATION LEGEND**
- (P) CONTRACTOR TO PROTECT FROM DAMAGE.
 - (R) REMOVE/RELOCATE BY OTHERS. CONTRACTOR TO COORDINATE.
 - (R1) CONTRACTOR TO REMOVE/DISPOSE OFF SITE.
 - (R2) CONTRACTOR TO RELOCATE.
 - (S) CONTRACTOR TO SAWCUT A.C. PAVEMENT OR CONCRETE.
 - (A) CONTRACTOR TO ABANDON IN PLACE.

NOTES:
 THIS DEMOLITION PLAN IS PROVIDED AS A GUIDE TO ASSIST THE CONTRACTOR IN IDENTIFYING THE SCOPE OF WORK REQUIRED TO REMOVE EXISTING INFRASTRUCTURE AND MATERIALS PRIOR TO STARTING CONSTRUCTION. THE CONTRACTOR IS RESPONSIBLE FOR REVIEWING EXISTING CONDITIONS AND INFORMATION TO DETERMINE THE FULL SCOPE OF DEMOLITION WORK REQUIRED TO CONSTRUCT THE PROJECT CONSISTENT WITH THE PLANS AND SPECIFICATIONS.

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NO.	DATE	DESCRIPTION	BY

VERIFY SCALE
 IN ORIGINAL DRAWING
 IF NOT ONE INCH ON
 THIS SHEET, ADJUST
 SCALES ACCORDINGLY.
 DSN: RCE
 DRN: RCE
 CKD: RCE
 DATE: JUN 2023



WE
WESTECH ENGINEERING, INC.
 CONSULTING ENGINEERS AND PLANNERS
 3841 Fairview Industrial Dr. S.E., Suite 100, Salem, OR 97302
 Phone: (503) 585-2474, Fax: (503) 585-3886
 E-mail: westech@westech-eng.com

Olsen Design & Development Monmouth, Oregon
 Fairview Addition West Phase 5
**Survey, Existing Conditions,
 & Demolition Plan**
 DRAWING
G-5
 JOB NUMBER
2834.5500.0