NOTICE OF DECISION

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

CITY OF Salem AT YOUR SERVICE

Si necesita ayuda para comprender esta información, por favor llame 503-588-6173

DECISION OF THE PLANNING ADMINISTRATOR

AIRPORT OVERLAY ZONE HEIGHT VARIANCE: AVAR24-01

APPLICATION NO.: 24-104996-PLN

NOTICE OF DECISION DATE: August 23, 2024

REQUEST: An Airport Overlay Zone Height Variance to allow the Wireless Communication tower modification approved under SPR-ADJ23-32 to be constructed to a maximum of 377 feet above mean sea level, exceeding the building height limit in the horizontal surface area of the Airport Overlay Zone by approximately 14 feet.

APPLICANT: Richard Cardoza, on behalf of the property owner, State of Oregon Department of Corrections

LOCATION: 3601 State Street

FINDINGS: The findings are in the attached Decision dated August 23, 2024.

DECISION: The **Planning Administrator APPROVED** AVAR24-01 based upon the application materials and the findings as presented in this report.

Salem Revised Code does not provide an expiration period for approval of an Airport Overlay Zone Height Variance. However, the Federal Aviation Administration (FAA) Hazard Determination Letter does provide an expiration date. This decision is based on the validity of the FAA Hazard Determination Letter; therefore, if the FAA determination expires, this decision is no longer valid. Per the FAA letter, the permit will expire on January 18, 2026.

Case Manager: Jamie Donaldson, Planner III, jdonaldson@cityofsalem.net, 503-540-2328

This decision is final; there is no local appeal process. Any person with standing may appeal this decision by filing a "Notice of Intent to Appeal" with the Land Use Board of Appeals, 775 Summer St NE, Suite 330, Salem OR 97301, **not later than 21 days** after **August 23, 2024**. Anyone with questions regarding filing an appeal with the Oregon Land Use Board of Appeals should contact an attorney.

The following items are submitted to the record: 1) All materials and evidence submitted by the applicant, including any applicable professional studies; and 2) All materials, evidence, and comments from City Departments and public agencies. 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: 24 104996.

http://www.cityofsalem.net/planning

BEFORE THE PLANNING ADMINISTRATOR OF THE CITY OF SALEM

DECISION

IN THE MATTER OF APPROVAL OF) FINDINGS & ORDER
AIRPORT OVERLAY ZONE HEIGHT VARIANCE)
CASE NO. AVAR24-01)
3601 STATE STREET) AUGUST 23, 2024

In the matter of the application for an Airport Overlay Zone Height Variance, 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

An Airport Overlay Zone Height Variance to allow the Wireless Communication tower modification approved under SPR-ADJ23-32 to be constructed to a maximum of 377 feet above mean sea level, exceeding the building height limit in the horizontal surface area of the Airport Overlay Zone by approximately 14 feet. The subject property is zoned PH (Public and Private Health Services), 18.68 acres in size, and located at 3601 State Street (Marion County Assessors Map and Tax Lot number: 072W30CB / 3300 and 3400). A vicinity map of the subject property is included as **Attachment A**.

PROCEDURAL FINDINGS

1. On March 3, 2024, an application for an Airport Overlay Zone Height Variance was submitted for property located at 3601 State Street.

2. After additional requested information was provided by the applicant, the application was deemed complete on April 12, 2024. However, on further review of the documents submitted, the FAA determination was expired. The applicant indicated they were obtaining a new FAA determination, and requested that the 120-day State mandated deadline was extended by 90 days to November 3, 2024

3. On July 18, 2024, the applicant submitted a new FAA determination letter, set to expire on January 18, 2026.

SUBSTANTIVE FINDINGS

1. Proposal

The applicant is requesting to increase to the height of the existing Wireless Communication tower located at 3601 State Street. The proposed height increase will encroach into the horizontal surface area of the Airport Overlay Zone by approximately 14 feet. An aeronautical study was conducted for the proposal by the Federal Aviation Administration (FAA), and the letter of evaluation and recommendation is included as **Attachment B**.

2. City Department Comments

The Development Services Division has reviewed the proposal and indicated no concerns.

3. Applicability for an Airport Overlay Zone Height Variance

SRC 602.020 – Development standards:
Development within the Airport Overlay Zone must comply with the development standards applicable in the underlying zone and the development standards set forth in this section. The development standards in this section are in addition to, and not in lieu of, all other applicable development standards in the underlying zone. Where the development standards in this section conflict with the development standards applicable in the underlying zone or any other overlay zone, the more restrictive development standards shall be the applicable development standard.

SRC 602.020(a)(5) – Horizontal surface.
In the horizontal surface, no building, structure, object, or vegetative growth shall have a height greater that that established by a horizontal plane 150 feet above the airport elevation (213.4 feet).

Finding: The proposed extension to the existing Wireless Communication tower was reviewed for compliance with the development standards applicable in the underlying zone, and received approval under Case Number SPR-ADJ23-32. However, the development was found to also be within the Airport Overlay Zone, and the decision conditioned that the applicant provide the appropriate documentation for the site elevation for verification of the height requirements. Based on the FAA evaluation attached, the site location is at 217 feet elevation, and the extension of the tower wireless tower approximately 160 feet above ground level, totaling 377 feet above mean sea level, which exceeds the horizontal surface area of the Airport Overlay Zone (213.4 + 150 = 363.4) by approximately 14 feet (377 – 363.4 = 13.6). Therefore, an Airport Height Variance is required.

DECISION CRITERIA FINDINGS

4. Analysis of Airport Overlay Zone Height Variance Approval Criteria:

The purpose of the Airport Overlay Zone is to establish standards to promote air navigational safety and prevent hazards and obstructions to air navigation and flight. Pursuant to SRC 602.025, no building, structure, or object shall be erected or increased in height, and no vegetation shall be allowed to grow, to a height in excess of the height limitations set forth in this chapter unless a variance has been granted pursuant to this section.

SRC 602.025(d) provides that an application for an Airport Overlay Zone height variance shall be granted if the FAA has issued a determination that the proposed variance will not create a hazard to air navigation.

Finding: The FAA has conducted an aeronautical study of the proposed tower extension on the subject property. Findings from the FAA are included as **Attachment B.** The study revealed that there is no objection to the change, provided the structure is marked/lighted in accordance with FAA Advisory standards to ensure safe and efficient use of the navigable airspace by aircraft or on the operation of air navigation facilities. The criterion is met.

SRC 602.025(e) provides that the Review Authority shall impose as conditions of approval on an Airport Overlay Zone height variance any condition imposed in the FAA determination.

Finding: This Airport Overlay Zone Height Variance approval is valid, provided that the proposed development complies with all conditions and recommendations imposed by the FAA determination letter dated July 18, 2024. The criterion is met.

CONCLUSION

Based upon the requirements of SRC 602.025, the proposed Airport Overlay Zone Height Variance has been reviewed for compliance with the applicable standards and criteria of the Unified Development Code (UDC). The Planning Administrator certifies that the proposed Airport Overlay Zone height variance is in conformance with the UDC, provided compliance occurs with any applicable items noted above.

ORDER

The proposed Airport Overlay Zone Height Variance is consistent with the provisions of SRC Chapter 602 and is hereby **APPROVED.**

Jamie Donaldson, Planner III, on behalf of
Lisa Anderson-Ogilvie, AICP
Planning Administrator

Attachments: A. Vicinity Map
B. FAA Determination Letter dated July 18, 2024

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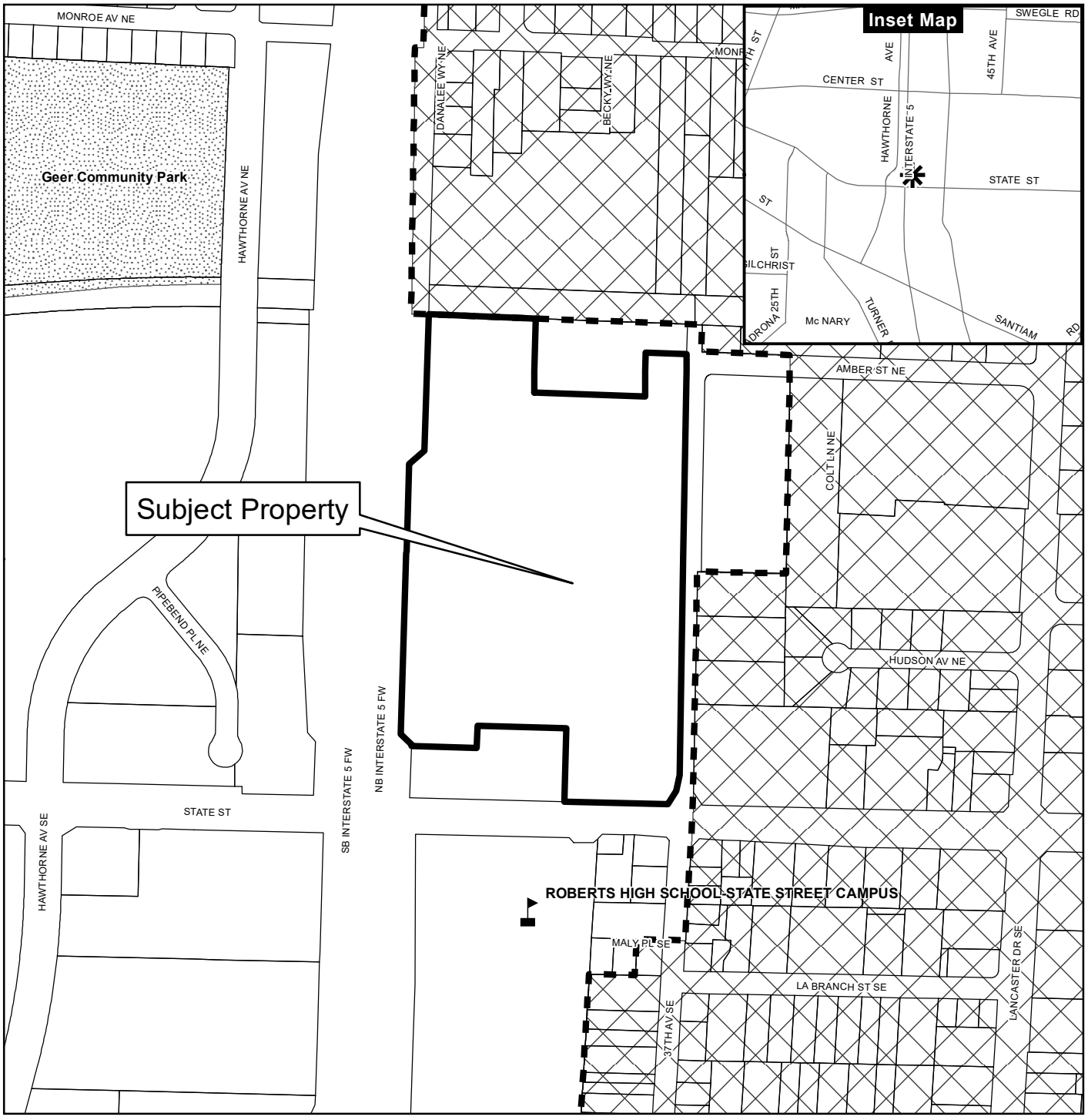
Vicinity Map
3601 State Street



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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Mail Processing Center
Federal Aviation Administration
Southwest Regional Office
Obstruction Evaluation Group
10101 Hillwood Parkway
Fort Worth, TX 76177

Aeronautical Study No.
2024-ANM-2416-OE
Prior Study No.
2020-ANM-6536-OE

Issued Date: 07/18/2024

Kevin Brown
Oregon Department of Corrections
3601 State St
Salem, OR 97301

**** DETERMINATION OF NO HAZARD TO AIR NAVIGATION ****

The Federal Aviation Administration has conducted an aeronautical study under the provisions of 49 U.S.C., Section 44718 and if applicable Title 14 of the Code of Federal Regulations, part 77, concerning:

Structure:	Antenna Tower CDC
Location:	Salem, OR
Latitude:	44-55-52.30N NAD 83
Longitude:	122-59-22.30W
Heights:	217 feet site elevation (SE)
	160 feet above ground level (AGL)
	377 feet above mean sea level (AMSL)

This aeronautical study revealed that the structure would have no substantial adverse effect on the safe and efficient utilization of the navigable airspace by aircraft or on the operation of air navigation facilities. Therefore, pursuant to the authority delegated to me, it is hereby determined that the structure would not be a hazard to air navigation provided the following condition(s) is(are) met:

As a condition to this Determination, the structure is to be marked/lighted in accordance with FAA Advisory circular 70/7460-1 M, Obstruction Marking and Lighting, red lights-Chapters 4,5(Red),&15.

Any failure or malfunction that lasts more than thirty (30) minutes and affects a top light or flashing obstruction light, regardless of its position, should be reported immediately to (877) 487-6867 so a Notice to Air Missions (NOTAM) can be issued. As soon as the normal operation is restored, notify the same number.

It is required that FAA Form 7460-2, Notice of Actual Construction or Alteration, be e-filed any time the project is abandoned or:

_____ At least 10 days prior to start of construction (7460-2, Part 1)
__X__ Within 5 days after the construction reaches its greatest height (7460-2, Part 2)

This determination expires on 01/18/2026 unless:

(a) the construction is started (not necessarily completed) and FAA Form 7460-2, Notice of Actual Construction or Alteration, is received by this office.

(b) extended, revised, or terminated by the issuing office.

(c) the construction is subject to the licensing authority of the Federal Communications Commission (FCC) and an application for a construction permit has been filed, as required by the FCC, within 6 months of the date of this determination. In such case, the determination expires on the date prescribed by the FCC for completion of construction, or the date the FCC denies the application.

NOTE: REQUEST FOR EXTENSION OF THE EFFECTIVE PERIOD OF THIS DETERMINATION MUST BE E-FILED AT LEAST 15 DAYS PRIOR TO THE EXPIRATION DATE. AFTER RE-EVALUATION OF CURRENT OPERATIONS IN THE AREA OF THE STRUCTURE TO DETERMINE THAT NO SIGNIFICANT AERONAUTICAL CHANGES HAVE OCCURRED, YOUR DETERMINATION MAY BE ELIGIBLE FOR ONE EXTENSION OF THE EFFECTIVE PERIOD.

This determination is subject to review if an interested party files a petition that is received by the FAA on or before August 17, 2024. In the event an interested party files a petition for review, it must contain a full statement of the basis upon which the petition is made. Petitions can be submitted to the Manager, Rules and Regulations Group via email at OEPetitions@faa.gov, or via mail to Federal Aviation Administration, Air Traffic Organization, Rules and Regulations Group, Room 425, 800 Independence Ave, SW., Washington, DC 20591. FAA encourages the use of email to ensure timely processing.

This determination becomes final on August 27, 2024 unless a petition is timely filed. In which case, this determination will not become final pending disposition of the petition. Interested parties will be notified of the grant of any review. Any questions regarding your petition, contact Rules and Regulations Group via telephone (202) 267-8783.

This determination is based, in part, on the foregoing description which includes specific coordinates, heights, frequency(ies) and power. Any changes in coordinates, heights and frequencies or use of greater power, except those frequencies specified in the Colo Void Clause Coalition; Antenna System Co-Location; Voluntary Best Practices, will void this determination. Any future construction or alteration, including increase to heights, power or the addition of other transmitters, requires separate notice to the FAA. This determination includes all previously filed frequencies and power for this structure.

If construction or alteration is dismantled or destroyed, you must submit notice to the FAA within 5 days after the construction or alteration is dismantled or destroyed.

This determination does include temporary construction equipment such as cranes, derricks, etc., which may be used during actual construction of the structure. However, this equipment shall not exceed the overall heights as indicated above. Equipment which has a height greater than the studied structure requires separate notice to the FAA.

This determination concerns the effect of this structure on the safe and efficient use of navigable airspace by aircraft and does not relieve the sponsor of compliance responsibilities relating to any law, ordinance, or regulation of any Federal, State, or local government body.

This aeronautical study considered and analyzed the impact on existing and proposed arrival, departure, and en route procedures for aircraft operating under both visual flight rules and instrument flight rules; the impact on all existing and planned public-use airports, military airports and aeronautical facilities; and the cumulative impact resulting from the studied structure when combined with the impact of other existing or proposed structures. The study disclosed that the described structure would have no substantial adverse effect on air navigation.

An account of the study findings, aeronautical objections received by the FAA during the study (if any), and the basis for the FAA's decision in this matter can be found on the following page(s).

A copy of this determination will be forwarded to the Federal Communications Commission (FCC) because the structure is subject to their licensing authority.

This determination cancels and supersedes prior determinations issued for this structure.

If we can be of further assistance, please contact Paul Holmquist, at (206) 231-2990, or paul.holmquist@faa.gov. On any future correspondence concerning this matter, please refer to Aeronautical Study Number 2024-ANM-2416-OE.

Signature Control No: 619416259-627626265 (DNH)
Eric F Johnston
Manager, Obstruction Evaluation Group

Attachment(s)
Frequency Data
Map(s)

cc: FCC

Frequency Data for ASN 2024-ANM-2416-OE

LOW FREQUENCY	HIGH FREQUENCY	FREQUENCY UNIT	ERP	ERP UNIT
6	7	GHz	55	dBW
10	11.7	GHz	55	dBW
450	470	MHz	500	W
806	824	MHz	500	W
851	866	MHz	500	W

TOPO Map for ASN 2024-ANM-2416-OE

Sectional Map for ASN 2024-ANM-2416-OE