



Revised 5/4/17

Kent Taylor Civic Hall  
200 NE Second Street  
McMinnville, OR 97128

**City Council Meeting Agenda  
Tuesday, May 9, 2017**

**6:00 p.m. – Dinner Meeting  
7:00 p.m. – Regular Council Meeting**

*Welcome! All persons addressing the Council will please use the table at the front of the Council Chambers. All testimony is electronically recorded. Public participation is encouraged. If you desire to speak on any agenda item, please raise your hand to be recognized after the Mayor calls the item. If you wish to address Council on any item not on the agenda, you may respond as the Mayor calls for "Invitation to Citizens for Public Comment."*

**6:00 PM – DINNER MEETING – CONFERENCE ROOM**

1. CALL TO ORDER
2. REVIEW CITY COUNCIL AGENDA
3. ADJOURNMENT

**7:00 PM – REGULAR COUNCIL MEETING – COUNCIL CHAMBERS**

1. CALL TO ORDER
2. PLEDGE OF ALLEGIANCE
3. INVITATION TO CITIZENS FOR PUBLIC COMMENT – *The Mayor will announce that any interested audience members are invited to provide comments. Anyone may speak on any topic other than: a topic already on the agenda; a matter in litigation, a quasi-judicial land use matter; or a matter scheduled for public hearing at some future date. The Mayor may limit the duration of these comments.*
4. PROCLAMATIONS
  - a. National Public Works Week Proclamation
  - b. National Police Week Proclamation
5. CONSENT AGENDA
  - a. Request from Center Market #17 for a liquor license at 509 NE Baker Street.
  - b. Request from Izzy's Restaurant for a liquor license at 1290 N Highway 99 W.
6. NEW BUSINESS
  - a. Request from Jessica Rex on behalf of Memorial Elementary School PTA for noise variance waiver for an event on May 12<sup>th</sup>, 2017.

Kent Taylor Civic Hall is accessible to persons with disabilities. A request for an interpreter for the hearing impaired or for other accommodations for persons with disabilities should be made a least 48 hours before the meeting to the City Recorder (503) 435-5702. For TTY services, please dial 711.

7. PRESENTATIONS

- a. Economic Development Update – Jody Christenson
- b. McMinnville Airshow Proposal – Bill Braack, Oregon International Air Show

8. RESOLUTIONS

- a. **Resolution No. 2017-32**: A Resolution initiating the proceedings and setting a date and time for a public hearing to vacate a portion of NE Macy Street (RV 1-17).
- b. **Resolution No. 2017-33**: A Resolution Approving a Waiver of Deed Restriction. *(Request for waiver of deed restriction regarding height for the property located at 3950 SE Three Mile Lane.)*

9. ADVICE/ INFORMATION ITEMS

- a. Reports from Councilors on Committee & Board Assignments
- b. Department Head Reports

10. EXECUTIVE SESSION UNDER ORS 192.660(2)(d) TO CONDUCT DELIBERATIONS WITH PERSONS DESIGNATED TO CARRY OUT LABOR NEGOTIATIONS.

11. ADJOURNMENT

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**City of McMinnville**  
**Community Development Department**  
231 NE Fifth Street  
McMinnville, OR 97128  
(503) 434-7312

[www.mcminnvilleoregon.gov](http://www.mcminnvilleoregon.gov)

## STAFF REPORT

**DATE:** May 2, 2017  
**TO:** Jeff Towery, City Manager  
**FROM:** Mike Bisset, Community Development Director  
**SUBJECT:** National Public Works Week 2017

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### **Council Goal:**

Promote Sustainable Growth and Development & Communicate with Citizens and Key Local Partners

### **Report in Brief:**

This is a proclamation to be read by the Mayor which will proclaim May 21-27 as Public Works Week, and also to invite the Council to the City's Public Works Week activities.

### **Discussion:**

At their May 9, 2017 meeting, the Mayor and City Council will issue the proclamation declaring May 21-27, 2017 as National Public Works Week in McMinnville. As in the past, during Public Works Week, we will recognize City and McMinnville Water & Light staff at a BBQ. We are hopeful that the City Council can join us in this fun celebration. Invitations to the BBQ are included in the packet, and the event particulars are:

#### **11<sup>th</sup> Annual National Public Works Week BBQ**

Wednesday, May 24<sup>th</sup> @ Noon

McMinnville Water & Light Warehouse Building, 855 NE Marsh Lane

In addition to the BBQ, our Public Works Week activities will once again include "Touch a Truck" events at area elementary schools. Staff will meet with the kindergarten students from three schools this year, to share information related to what "public works" is about, and how we serve the community. We will also display various pieces of City and McMinnville Water & Light equipment for the students to learn about, climb on, and operate (well supervised of course!).

In the past the feedback from the schools regarding these events has been very positive, and this is definitely a fun time for the kids and the staff! We would like to invite the City Council to join us at the "Touch a Truck" events:

#### **Monday, May 22<sup>nd</sup> @ Columbus Elementary**

- Noon & 1:00pm presentations to kindergarten classes
- Located in the covered area at the north side of the school

#### **Tuesday, May 23<sup>rd</sup> @ Grandhaven Elementary**

- 8:30am & 9:30am presentations to kindergarten classes
- Located in the parking lot on the north end of the school

#### **Thursday, May 25<sup>th</sup> @ Newby Elementary**

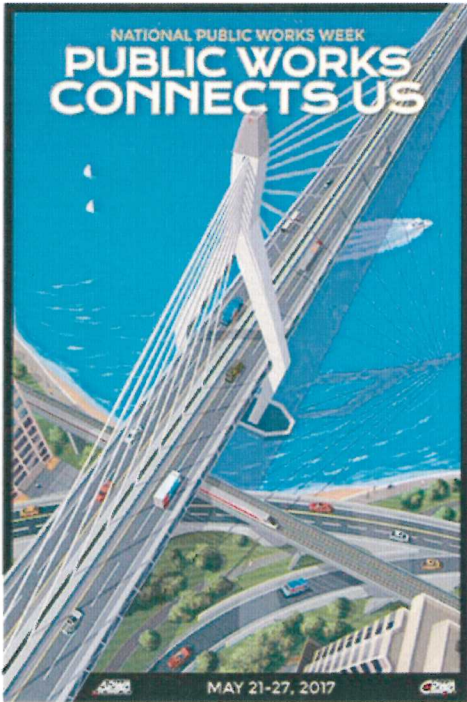
- 8:30am & 9:30am presentations to kindergarten classes
- Located on the west side of the Duniway parking lot

As always, we very much appreciate the support of the City Council, related to these Public Works Week activities, and we hope to see everyone there!

# PROCLAMATION

## NATIONAL PUBLIC WORKS WEEK

May 21 - 27, 2017



**WHEREAS**, 2017 marks the 57<sup>th</sup> annual National Public Works Week, and this year's theme is *"Public Works Connects Us"*; and

**WHEREAS**, public works, as the cornerstone of civilization, plays a vital role in connecting us all together; and

**WHEREAS**, public works provides, maintains, and improves the structures and services that assure a higher quality of life for our communities; and

**WHEREAS**, our streets, roads, bridges, and public transportation keep us linked together, and our clean water and sanitation services keep us healthy and allow our communities to grow and prosper; and

**WHEREAS**, the employees of McMinnville Water & Light and of the City's Engineering, Building, Public Works, and Wastewater Departments work tirelessly every day to strengthen the bond that keeps us all connected; and

**WHEREAS**, it is in the public interest for McMinnville's citizens, business owners, civic leaders, and youth to gain an understanding of the importance of public works and public works programs in their daily lives.

**NOW, THEREFORE, I**, Scott A. Hill, Mayor of the City of McMinnville, do hereby proclaim the week of May 21 – 27, 2017 as **"NATIONAL PUBLIC WORKS WEEK"** in the City of McMinnville and I call upon all citizens, business leaders and civic organizations to acquaint themselves with the issues involved in providing and maintaining our public works infrastructure and to recognize the contributions that our public works employees make every day to our health and welfare.

**IN WITNESS, WHEREOF** I hereunto set my hand and cause the Official Seal of the City of McMinnville to be affixed this 9<sup>th</sup> day of May 2017.

Scott A. Hill, Mayor





**City of McMinnville  
Administration**  
230 NE Second Street  
McMinnville, OR 97128  
(503) 435-5702

[www.mcminnvilleoregon.gov](http://www.mcminnvilleoregon.gov)

## STAFF REPORT

**DATE:** May 9, 2017  
**TO:** Mayor and City Councilors  
**FROM:** Melissa Grace, City Recorder/ Legal Assistant  
**SUBJECT:** National Police Week Proclamation

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### **Council Goal:**

Communicate with Citizens and Key Local Partners

### **Report in Brief:**

This is a proclamation to be read by the Mayor which will proclaim May 15<sup>th</sup> – May 21<sup>st</sup>, 2017 as National Police Week in McMinnville.

### **Background:**

In 1962, President Kennedy proclaimed May 15 as National Peace Officers Memorial Day and the calendar week in which May 15 falls, as National Police Week. Established by a joint resolution of Congress in 1962, National Police Week pays special recognition to those law enforcement officers who have lost their lives in the line of duty for the safety and protection of others.

### **Fiscal Impact:**

None.

### **Alternative Courses of Action:**

None.

### **Recommendation/Suggested Motion:**

Staff recommends that the Mayor read the attached proclamation to proclaim May 15<sup>th</sup> – May 21<sup>st</sup>, 2017 as National Police Week in McMinnville.

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#### *Attachments:*

*Attachment A - Proclamation for National Police Week*



## PROCLAMATION

**Whereas**, The Congress and President of the United States have designated May 15 as Peace Officers' Memorial Day, and the week in which May 15 falls as National Police Week; and

**Whereas**, the members of the law enforcement agency of McMinnville play an essential role in safeguarding the rights and freedoms of McMinnville; and

**Whereas**, it is important that all citizens know and understand the duties, responsibilities, hazards, and sacrifices of their law enforcement agency, and that members of our law enforcement agency recognize their duty to serve the people by safeguarding life and property, by protecting them against violence and disorder, and by protecting the innocent against deception and the weak against oppression; and

**Whereas**, the men and women of the law enforcement agency of McMinnville unceasingly provide a vital public service.

**Now, therefore, I, Scott A. Hill**, Mayor of the City of McMinnville, Oregon, do hereby proclaim the week of May 15 – May 21, 2017

## NATIONAL POLICE WEEK

and call upon all citizens of McMinnville and upon all patriotic, civic, and educational organizations to observe the week of May 15 – 21, 2017, as **Police Week** with appropriate ceremonies and observances in which all of our people may join in commemorating law enforcement officers, past and present, who, by their faithful and loyal devotion to their responsibilities, have rendered a dedicated service to their communities and, in so doing, have established for themselves an enviable and enduring reputation for preserving the rights and security of all citizens.

I further call upon all citizens of McMinnville to observe May 15, 2017 as Peace Officers' Memorial Day in honor of those law enforcement officers who, through their courageous deeds, have made the ultimate sacrifice in service to their community or have become disabled in the performance of duty, and let us recognize and pay respect to the survivors of our fallen heroes.

**In Witness Whereof**, I have hereunto set my hand and caused the official Seal of the City of McMinnville to be affixed this 9<sup>th</sup> day of May, 2017.



  
\_\_\_\_\_  
Scott A. Hill, Mayor



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## Agenda Item Summary

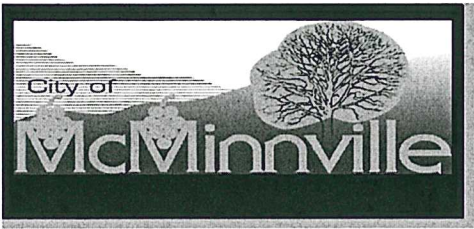
**DATE:** May 9, 2017  
**TO:** Jeff Towery, City Manager  
**FROM:** Melissa Grace, City Recorder/ Legal Assistant  
**SUBJECT:** Consent Agenda

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There are two items on the Consent Agenda:

- a. Request from Center Market #17 for a liquor license at 509 NE Baker Street.
- b. Request from Izzy's Restaurant for a liquor license at 1290 N Highway 99 W.

Please see attached liquor license recommendation.



City Recorder Use
Final Action: _____
<input type="checkbox"/> Approved <input type="checkbox"/> Disapproved

## Liquor License Recommendation

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BUSINESS NAME / INDIVIDUAL: Center Market #17  
BUSINESS LOCATION ADDRESS: 509 NE Baker Street  
LIQUOR LICENSE TYPE: Change in ownership

Is the business at this location currently licensed by OLCC

Yes     No

If yes, what is the name of the existing business:

Baker St, Inc.

Hours of operation: 24 hours a day, 7 days a week

Entertainment: N/A

Hours of Music: N/A

Seating Count: N/A

EXEMPTIONS:

(list any exemptions)

N/A

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Tritech Records Management System Check:  Yes     No

Criminal Records Check:  Yes     No

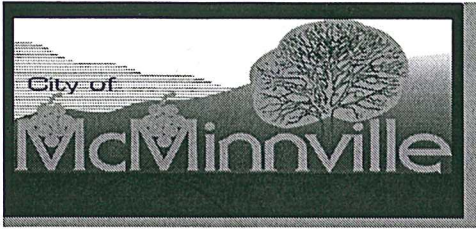
Recommended Action:  Approve     Disapprove

Chief of Police / Designee

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City Manager / Designee





City Recorder Use

Final Action: \_\_\_\_\_

Approved     Disapproved

### Liquor License Recommendation

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BUSINESS NAME / INDIVIDUAL:   Izzy's Restaurant / Delfino Alvarez - Pineda    
BUSINESS LOCATION ADDRESS:   1290 N Hwy 99W McMinnville, OR    
LIQUOR LICENSE TYPE:   Limited on Premises Sales / New Owner  

Is the business at this location currently licensed by OLCC

Yes     No

If yes, what is the name of the existing business:

\_\_\_\_\_

Hours of operation:           See Application          

Entertainment:   Recorded Music / Video Lottery  

Hours of Music:           See Application          

Seating Count:           156          

EXEMPTIONS:

(list any exemptions)

None

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Tritech Records Management System Check:  Yes     No

Criminal Records Check:  Yes     No

Recommended Action:  Approve     Disapprove

\_\_\_\_\_  
Chief of Police / Designee

\_\_\_\_\_  
City Manager / Designee



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## STAFF REPORT

**DATE:** May 4, 2017  
**TO:** City Council  
**FROM:** Jeff Towery, City Manager  
**SUBJECT:** Request from Ms. Rex for noise variance waiver for May 12<sup>th</sup>, 2017.

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### **Report in Brief:**

This action is the consideration of a waiver from the noise Ordinance.

### **Background:**

Jessica Rex, PTA president at Memorial Elementary School has requested a waiver of the city's noise ordinance for their Spring Fling Carnival fundraiser located at Memorial Elementary School, on Friday, May 12<sup>th</sup>, 2017. The live performances will begin at 5:00 end no later than 8:00 PM.

The McMinnville Municipal Code, Section 8.16.150, specifies that:

A. No person shall make, assist in making or permit any loud, disturbing or unnecessary noise which either annoys, disturbs, injures or endangers the comfort, repose, health, safety or peace of others.

B. The following acts are declared (sic) to be loud, disturbing and unnecessary noises in violation of this section...

11. The use or operation of any . . . loudspeakers or any instrument for sound producing or any sound-amplifying device so loudly as to disturb persons in the vicinity thereof or in such a manner as renders the use thereof a nuisance; provided, however, that *upon application to the common council, permits maybe granted* to responsible persons or organizations to broadcast programs of music, news, speeches or general entertainment . . . (emphasis added).

A representative from the Memorial Elementary School PTA will be present at the Council meeting to answer any questions you might have.

### **Fiscal Impact:**

There is no anticipated fiscal impact.

### **Recommendation:**

If you vote in favor of allowing this waiver, you would only need to direct the City Manager to write a letter to Ms. Rex, letting her know that she has the Council's approval.



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**Office of the City Manager**  
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## MEMORANDUM

**DATE:** May 2, 2017  
**TO:** Mayor and City Councilors  
**FROM:** Jeff Towery, City Manager  
**SUBJECT:** Presentation: McMinnville Airshow Proposal

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### **Report in Brief:**

At the May 9, 2017 City Council meeting, Bill Braack, President of the Oregon International Air Show, will make a presentation regarding a proposal to organize and operate an annual airshow at the McMinnville Municipal Airport.

### **Background:**

The Oregon International Air Show (OIAS) has organized and operated an annual airshow at the Hillsboro Airport since 1988. The group operates as a non-profit, with a charitable mission to support charities throughout the region.

OIAS has expressed the desire to establish an annual air show at the McMinnville Municipal Airport. The OIAS proposal indicates an interest in developing a 5-year agreement, with the first airshow occurring in 2018. In 2019, and beyond, OIAS would like to feature a jet team, such as the US Navy Blue Angels, at the annual McMinnville airshow.

### **Discussion:**

The OIAS proposal includes several City commitments related to the proposed annual air shows, including:

- Right of Entry to the McMinnville Airport for the purpose of the airshow
- Fire/EMS services for the airshow
- Law Enforcement for the airshow
- A City Staff member to serve as POC for airshow coordination
- Office space at airport for airshow operational headquarters for 3 weeks (2 - weeks prior to airshow and 1 week after airshow)

Staff is generally supportive of the concept of developing and staging a world class airshow at the airport. That said, it's not certain that the City has the resources or ability to provide fire/EMS and law enforcement resources to support an event of the size envisioned by OIAS. More work is needed to understand the scope of City services required to support the event.

The Airport Commission considered the proposal at their May 2, 2017 Airport Commission meeting. The Commission was supportive of the concept of an annual airshow at the airport, and recommended continued discussions with OIAS to determine if the City is able to provide the needed support for the event.

**Attachments:**

1. Oregon International Air Show Proposal: McMinnville Airshow

**Recommendation:**

Staff recommends continued discussions with OIAS to determine the scope and magnitude of City services necessary to support an annual airshow, and the development of a formal agreement for the City Council's consideration.



# **OREGON INTERNATIONAL AIR SHOW**

## **PROPOSAL**

### **MCMINNVILLE AIRSHOW**



## EXECUTIVE SUMMARY

The Oregon International Air Show has been Oregon's largest aviation event since 1988. From 1988 to 2002 the event was known as the Rose Festival Air Show. In 2002, the Hillsboro Chamber and the Rose Festival Organization decided to focus on their core business lines. This left the airshow without an organizing body. In late 2002, the Oregon International Air Show was founded and incorporated as a 501(c)3 with the purpose of continuing the airshow event and its charitable mission to support charities throughout the region. Since 2003, the Oregon International Air Show has donated more than \$2.1 million to these charities. In order to ensure a permanent scholarship and charitable fund, in 2016, the Oregon Airshow Charitable Foundation was established.

Our desire is to establish an airshow at the McMinnville Airport in the City of McMinnville in Yamhill County, Oregon. The purpose of this airshow is to promote the McMinnville community, the Evergreen Flight Museum and the wine industry of Yamhill County and to continue our charitable mission by attracting up to 30,000 guests to the McMinnville airport for an inaugural show in the summer of 2018.

Our intention is to feature one of the North American Jet Teams (USAF Thunderbirds, USN Blue Angels or RCAF Snowbirds) in the skies above McMinnville in 2019 and beyond.

## PROPOSAL

The Oregon International Air Show (OIAS) seeks to enter into a 5-year agreement with the City of McMinnville to organize and operate an aviation event (airshow) at the McMinnville Airport beginning in the summer of 2018.

The OIAS Staff would work with City Officials to set the date(s) of the event.

The Oregon International Airshow would provide the following:

- ◆ Liability insurance for the airshow consistent with industry standards
- ◆ Process all local, state and federal permits, waivers and approvals
- ◆ Operational costs for airshow
- ◆ Marketing and Promotion coordination & costs
- ◆ Volunteer Coordination
- ◆ OIAS to provide singular POC to the City staff for airshow coordination
- ◆ OIAS will work with emergency services personnel to draft ingress/egress documents

The Oregon International Air Show would ask the City of McMinnville to provide the following items (at no charge):

- ◆ Right of Entry to the McMinnville Airport for the purpose of the airshow
- ◆ Fire/EMS services for the airshow
- ◆ Law Enforcement for the airshow
- ◆ A City Staff member to serve as POC for airshow coordination
- ◆ Office space at airport for airshow operational headquarters for 3 weeks (2 - weeks prior to airshow and 1 week after airshow)

This simple proposal is designed to convey our desire and request for approval to organize and run an airshow at the McMinnville Airport. We understand that a more formal agreement must be completed. The Oregon International Air Show staff is available to answer any and all questions from the City, the Airport Commission and/or the City Council.

The Oregon International Air Show is known for executing well-run, safe, family-friendly events and we look forward to working with the City of McMinnville throughout the approval process. Furthermore, we look forward to working with the Chamber of Commerce and the Yamhill County Business Development professionals to promote the region in a collaborative manner.

Respectfully submitted,



Bill Braack, President  
Oregon International Air Show



## MEMORANDUM

**DATE:** May 2, 2017  
**TO:** Jeff Towery, City Manager  
**FROM:** Mike Bisset, Community Development Director  
**SUBJECT:** NE Macy Street Vacation Request (RV 1-17)

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### **Council Goal:**

Promote Sustainable Growth and Development

### **Report in Brief:**

On February 6, 2017, the City received the attached letter from the Yamhill County Gospel Rescue Mission (YCGRM) and H&R Burch Limited Partnership (Burch) regarding the vacation of a portion of Macy Street. The letter requests that the City Council initiate the vacation process, as allowed by state statutes.

### **Background:**

The processes for the vacation of public right of way within incorporated cities are outlined in Oregon Revised Statutes (ORS) Chapter 271. The vacation process may be initiated by the adjacent property owners. Under that process, the property owners must file a petition with the City describing the area to be vacated, outlining the purpose for which the vacated area will be used, and noting the reason(s) the vacation is in the best public interest.

The petition must include written consent from all owners abutting the vacation area, and the written consent from two-thirds of the “affected” property owners. Statute prescribes the definition of “affected” properties, and it is generally all properties within 200’ laterally on each side of the vacated area and within 400’ beyond the extension of the vacated area.

So, in the case of the NE Macy Street request, if the property owners were to initiate the vacation petition, signatures of consent from two-thirds of the property owners would be required from the area bounded by 200’ west and east of Macy, and 400’ north and south of the vacation area (Note that the submitted request from YCGRM and Burch includes the signatures of consent from the abutting property owners).

The second process allowed by ORS 271 is a City Council initiated vacation process. Under that process, the petition from abutting and affected property owners is not required.

Under both vacation processes, the City Council, via Resolution, would set a public hearing date to consider public testimony regarding the proposed vacation. Affected utilities are notified of the proposal and allowed to comment. Notice of the hearing is published in the local newspaper, and the notice is posted at each end of the proposed vacation area. Additionally, notice of the proposed vacation is mailed to those in the abutting and affected areas prescribed by statute.



Upon conclusion of the public hearing, the City Council will consider an Ordinance to vacate the subject area. If the vacation Ordinance is adopted by the City Council, it is recorded with the County Clerk's office, and title to the vacated area is attached to the adjacent properties.

Under the City Council initiated vacation process, statutes allow the vacation to be approved without consent of the abutting owners. In that case, if the vacation substantially affects the market value of such property, the statutes require payment of damages (Note that the submitted request from YCGRM and Burch includes the signatures of consent from the abutting property owners).

The application fee for the property owner initiated vacation process is \$655.00. Those fees cover the costs of processing the application, publishing and mailing the vacation hearing notices, and the fees to record the adopted vacation ordinance. Under a City Council initiated process, those costs and fees would be paid by the City.

### **Discussion:**

The area subject to the request from YCGRM and Burch includes NE Macy Street, from the south boundary of NE 14<sup>th</sup> Street to the south boundary of YCGRM owned property (see the area map attached to the request). Staff understands that the vacated area would be used for parking by YCGRM, and that the additional land area gained by YCGRM by the vacation would help facilitate the completion of plans to add the approved men's facility on the site.

In the late 1990's, the City completed a transportation project to connect 14<sup>th</sup> Street to the east to the Lafayette Avenue/Riverside Drive intersection. At the time, due to sight distance limitations and safety concerns, the connection of NE Macy Street to NE 14<sup>th</sup> Street was removed. Since that time, properties along that portion of NE Macy Street are accessed from NE 13<sup>th</sup> Street to the south.

Due to the sight distance limitations and safety concerns, City Engineering staff would note that the reconnection of NE Macy Street to NE 14<sup>th</sup> Street in the future would not be recommended. Therefore, staff believes that area subject to the request is not of benefit to the traveling public as right of way.

The area subject to the request does contain City owned public sewer and storm lines. Additionally, it is expected that there are other utilities within the area proposed for vacation (e.g. waterlines, power facilities, communication facilities, etc). If the area were to be vacated, a public utility easement would be maintained over the area to allow for the continued maintenance of the various facilities that are present. Staff would note that the proposed use of the area for parking by the YCGRM would not generally conflict with any utilities contained within a public utility easement.

The request was reviewed by the McMinnville Affordable Housing Task Force (MAHTF) at their meeting on Wednesday, April 26, 2017. The MAHTF was supportive of the request, and has recommended that the City Council initiate the vacation process.

### **Attachments:**

1. Resolution with Exhibit A
2. Letter from the Yamhill County Gospel Rescue Mission and H&R Burch Limited Partnership (dated February 6, 2017)

### **Recommendation:**

Given the written concurrence from the abutting property owners, the staff opinion that the area subject to the request is not of benefit to the traveling public as right of way, and the belief that the existing utilities in the area can be accommodated by a public utility easement, staff and the McMinnville Affordable Housing Task Force recommend that the City Council adopt the attached resolution initiating the vacation process for a portion of NE Macy Street, as allowed by state statutes.

RESOLUTION NO. 2017-32

A Resolution initiating the proceedings and setting a date and time for a public hearing to vacate a portion of NE Macy Street (RV 1-17).

BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF McMinnville, OREGON, as follows:

- 1. That proceedings be initiated for the purpose of vacating the area as described as follows and as shown on attached Exhibit "A":

All that part of Northeast Macy Street in the City of McMinnville, County of Yamhill and State of Oregon, lying Northerly of the Northerly right of way line of Northeast 13th Street and Southerly of the Southerly right of way line of Northeast 13th Way all in said City, County and State, SAVE AND EXCEPTING THEREFROM the following:

Beginning at the Southeast corner of Lot 8, Block 58 of Oak Park Addition in the City of McMinnville, County of Yamhill and State of Oregon; thence Easterly along the Northeasterly right of way line of NE 13th Street a distance of 60 feet more or less to the Southwest corner of Lot 1, Block 61 of said Oak Park Addition; thence Northerly along the West line of said Lot 1 a distance of 50 feet more or less to the Northwest corner of said Lot 1; thence Westerly a distance of 60 feet more or less to the Northeast corner of said Lot 8, Block 58 of Oak Park Addition; thence Southerly along the-East line of said Lot 8 a distance of 50 feet more or less to the point of beginning.

- 2. That this resolution, having been duly discussed by the Council, shall constitute an initiation of such vacation proceedings.
- 3. That the Council does hereby and herein fix the 13<sup>th</sup> day of June 2017 at the hour of 7:00 p.m. in the Kent L. Taylor Civic Hall in the City of McMinnville, Oregon, as the time and place for the hearing upon said proposed vacation and objections thereto, if any.
- 4. That the Recorder is hereby instructed to give notice of such hearing by publishing a notice in the News Register, the City's official newspaper, once each week for two consecutive weeks prior to said hearing, which notice shall describe the area to be vacated, and within five days after the date of the first publication of said notice, to post or cause to be posted at or near each end of said proposed vacation, a copy of such notice which shall be headed, "Notice of Street Vacation", and such notice shall be posted in at least two conspicuous locations in such proposed vacation as above described.
- 5. That this Resolution shall take effect immediately upon passage and shall continue in full force and effect until revoked or replaced.

Adopted by the Common Council of the City of McMinnville at a regular meeting held the 9<sup>th</sup> day of May, 2017 by the following votes:

Ayes: \_\_\_\_\_

Nays: \_\_\_\_\_

Approved this 9<sup>th</sup> day of May, 2017.

\_\_\_\_\_  
MAYOR

Approved as to form:

\_\_\_\_\_  
CITY ATTORNEY



ASSESSMENT & TAX  
CARTOGRAPHY

S.W.1/4 S.E.1/4 SEC.16 T.4S. R.4W. W.M.  
YAMHILL COUNTY OREGON  
1" = 100'



- CANCELLED TAXLOTS:
- 7200
  - 7103
  - 6600
  - 6001
  - 5800
  - 4700
  - 3200
  - 500
  - 300

DATE PRINTED: 4/22/2014

This product is for Assessment and Taxation (A&T) purposes only and has not been prepared or is suitable for legal, engineering, surveying or any purposes other than assessment and taxation.

February 6, 2017

Heather Richards  
Planning Director  
City of McMinnville  
231 NE Fifth Street  
McMinnville, OR 97128

Dear Heather:

The Yamhill County Gospel Rescue Mission (the "Mission") owns lots 3, 4, 5, 6 and 7 of Block 4 of Oak Park Addition. Lots 5, 6 and 7 abut the west edge of NE Macy Street.

H&R Burch Limited Partnership ("Burch") owns lots 1, 2, 3, 4 and 5 of Oak Park Addition. Lots 2, 3 and 4 abut the west edge of NE Macy Street.

NE Macy Street is and has been for some years closed to through traffic onto 14<sup>th</sup> Street due to traffic safety issues.

Both the Mission and Burch believe it to be in the interest of the City and themselves if the portion of NE Macy Street abutting lots 5, 6 and 7 of Block 58 owned by the Mission and lots 2, 3 and 4 of Block 61 were vacated (See attached map).

Since the portion of NE Macy Street which we are proposing to be vacated is not available for vehicular traffic except to the undersigned property owners, the undersigned request that, in lieu of obtaining written consents of properties in the vicinity, the City Council initiate a vacation process as provided by ORS 271.130.

Thank you for your consideration of this request.

Very truly yours,

  
\_\_\_\_\_  
Mission President

  
\_\_\_\_\_  
Burch Managing Partner

cc: Candace Haines

CSP 7339 7  
900  
CSP 8082  
100 50

50 2 7  
C S  
107.5 1 8 30 30  
VAC

50 4 2  
S  
100 1  
RES # 2001-50  
VAC

14TH

Mission Property  
↓

ST

15 100  
4 1900 5 50  
3 1901 55 CS 11816 6 50  
2 2000 2100 7 100  
1 8 100  
50 50

LOGAN

100 100  
50 1800 4 50  
50 50 1500 5 50  
3 58 ↓ 6  
2 1801 1600 7 50  
1 1700 CSP 7339 8 100  
100 50 1

Burch Property  
↓

1401  
4 1400 17312 SF 3 1 2 6 8  
61 5  
100 38 6

13TH

ST

Vacation area of West Street

115  
4 2600 5 50  
3 56 6 50  
2 2700 7 50  
1 8  
CS 10706

75  
2500 57  
2  
PARK

RAILROAD AVE  
12TH  
11TH  
ALPINE AVE  
6400 13  
6200 14  
6300  
6301 CSP 458  
6700 15  
6500 4 4 8 4  
CS 15 3 50  
7000 7001 CSP 7941 5  
7100 0.32 AC. 6  
6800  
5300 5  
5400 6  
5500 8  
5100 75.70 4  
12.68



**City of McMinnville**  
**City Attorney's Office**  
230 NE Second Street  
McMinnville, OR 97128  
(503) 434-7303

[www.mcminnvilleoregon.gov](http://www.mcminnvilleoregon.gov)

## MEMORANDUM

**DATE:** May 3, 2017  
**TO:** Jeff Towery, City Manager  
**FROM:** David Koch, City Attorney  
**SUBJECT:** Waiver of Deed Restriction at 3950 SE Three Mile Lane

---

### **Council Goal:**

Promote Sustainable Growth and Development

### **Report in Brief:**

On April 17, 2017, the City received the attached letter from Lendlease/Parallel Infrastructure requesting that the City grant a waiver of deed restriction on the above referenced property. The waiver request would modify the existing 100' height restriction imposed in a deed restriction by the City, to allow for the construction of a cell phone tower as a height of 135'.

(Note: Although the letter indicates the tower height would be 130', all supporting documentation submitted with the request indicate a tower height of 135')

### **Background:**

In 1971, the City of McMinnville conveyed certain real property located adjacent to the McMinnville Municipal Airport to Evergreen Helicopters, by deed recorded as Document 85-125 Yamhill County Records. The deed included certain covenants, conditions and restrictions, which included a prohibition against the erection of any building or other structure on the property to a height in excess of 100 feet above ground level.

The current owners of the subject property, Kit P. Johnston and Caralee Johnston ("Owners"), have entered into an agreement with PI Tower Development LLC, ("Lessee") to lease a portion of the property for the construction and erection of a telecommunications tower with a proposed height of 135 feet above ground level.

The Owners and Lessee have requested that the City waive the deed restriction in order to allow for the telecommunications tower to be constructed. Lessee has provided evidence that the proposed tower has received all necessary approvals from the City's Planning Department, the Federal Aviation Administration and the Oregon Department of Aviation.

The Lessee has agreed to pay the City \$500 to offset the City's costs of processing this request.

**Discussion:**

The Council's decision regarding whether or not to grant the waiver of the deed restriction is a legislative decision, as opposed to a quasi-judicial decision. There are no set criteria for the City to consider or apply to its decision. In making its decision, the Council should be guided by its determination of whether granting the waiver is in the public interest. The requestor will be present at the Council meeting to present their request and to answer questions posed by the Council.

**Attachments:**

1. Resolution with Exhibit A (Waiver of Deed Restriction).
2. Letter from Lendlease/Parallel Infrastructure dated April 17, 2017, requesting waiver.
3. Letter from Lendlease/Parallel Infrastructure dated April 17, 2017, discussing Siting Conditions.
4. FAA Determination of No Hazard to Air Navigation, dated November 3, 2016.
5. ODA Comments regarding project, dated October 20, 2016.
6. Tower design
7. Tower profile photo simulation

**Recommendation:**

None.

RESOLUTION NO. 2017-33

A Resolution Approving a Waiver of Deed Restriction.

RECITALS:

In 1971, the City of McMinnville conveyed certain real property located adjacent to the McMinnville Municipal Airport to Evergreen Helicopters, by deed recorded as Document 85-125 Yamhill County Records. The deed included certain covenants, conditions and restrictions, which included a prohibition against the erection of any building or other structure on the property to a height in excess of 00 feet above ground level.

The current owners of the subject property, Kit P. Johnston and Caralee Johnston ("Owners"), have entered into an agreement with PI Tower Development LLC, ("Lessee") to lease a portion of the property for the construction and erection of a telecommunications tower with a proposed height of 135 feet above ground level.

The Owners and Lessee have requested that the City waive the deed restriction in order to allow for the telecommunications tower to be constructed. Lessee has provided evidence that the proposed tower has received all necessary approvals from the City's Planning Department, the Federal Aviation Administration and the Oregon Department of Aviation.

The Lessee has agreed to pay the City \$500 to offset the City's costs of processing this request.

NOW THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF McMINNVILLE, OREGON as follows:

1. In consideration of the payment of \$500, the Council approves the waiver of deed restriction and authorizes the City Manager to execute the Waiver of Deed Restriction instrument attached hereto as Exhibit A.
2. This Resolution will take effect immediately upon passage.

Adopted by the Common Council of the City of McMinnville at a regular meeting held the 9th day of May, 2017 by the following votes:

Ayes: \_\_\_\_\_

Nays: \_\_\_\_\_

Approved this 9th day of May, 2017.

\_\_\_\_\_  
MAYOR

Approved as to form:

\_\_\_\_\_  
CITY ATTORNEY



Prepared by and upon recording return to:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Ph: \_\_\_\_\_

Site Name: \_\_\_\_\_

Site Number: \_\_\_\_\_

**WAIVER OF DEED RESTRICTION**

**THIS WAIVER OF DEED RESTRICTION** (“Waiver”) is made and executed this \_\_\_\_\_ day of \_\_\_\_\_, 2016 by the CITY OF MCMINNVILLE, a municipal corporation (the “City”)

**WHEREAS**, the City conveyed certain real property situated in the County of Yamhill, State of Oregon, by virtue of that certain Deed by and between the City of McMinnville, a municipal corporation, owner of McMinnville Airport and Evergreen Helicopters, Inc., dated August 18, 1971, recorded August 18, 1971, at Document No. 85-1250, Yamhill County Records and Deed by and between the City of McMinnville, a municipal corporation, owner of McMinnville Airport and Evergreen Helicopters, Inc., dated January 8, 1975, recorded January 10, 1975 at Document No. 103-1697, Yamhill County Records (the “Property”), attached hereto as Exhibit “A” and Exhibit “B”, respectively (collectively, the “Deeds”); and

**WHEREAS**, the City imposed certain covenants, conditions, restrictions and reservations on the Property in the Deeds in order to restrict business operations and to comply with all rules, regulations, limitations and restrictions established by the Federal Aviation Administration (“FAA”) in the operation of the McMinnville Airport (the “Deed Restrictions”); and

**WHEREAS**, paragraph (2) of the Deed Restrictions prohibit any building or other structure upon the Property to a height exceeding 100 feet above ground level; and

**WHEREAS**, Evergreen Helicopters, Inc. conveyed the Property to Evergreen International Aviation, Inc. by virtue of that certain Deed, dated May 2, 2013, recorded May 2, 2013, at Document No. 201306660, Yamhill County Records; and Evergreen International Aviation, Inc., as to Parcel 1 and 3 and Evergreen International, Inc. f/k/a Evergreen Air, Inc., as to Parcel 2, conveyed the Property to Kit Johnston Farms by virtue of that certain Statutory Quitclaim Deed, dated December 17, 2015, recorded December 17, 2015, at Document No. 201519475, Yamhill County Records; and Kit P. Johnston, who acquired title as Kit Johnston Farms, which is an assumed name of Kit Patrick Johnston, conveyed the Property to Kit P.

Johnston and Caralee Johnston, husband and wife, by virtue of that certain Statutory Bargain and Sale Deed, dated December 17, 2015, recorded December 17, 2015, at Document No. 201519476, Yamhill County Records; and

**WHEREAS**, the fee owner of the Property, Kit P. Johnston and Caralee Johnston, husband and wife (collectively, the "Owner"), have entered into a certain Ground Lease Agreement, dated October 5, 2016, with PI Tower Development LLC, a Delaware limited liability company ("Lessee"), to lease a portion of the Property to construct and erect a telecommunications tower with a proposed height of 135 feet above ground level (the "Structure"), a copy of the Memorandum of Ground Lease Agreement, dated October 5, 2016, recorded October 5, 2016, at Document No. 201615546, Yamhill County Records, attached hereto and made a part hereof as Exhibit "C"; and

**WHEREAS**, Owner and Lessee are desirous of having that paragraph of the Deed Restrictions prohibiting any building or other structure upon the Property to a height exceeding 100 feet above ground level waived by the Grantor of such Deed Restrictions, the City of McMinnville, in order to construct and erect a telecommunications tower on the Property with a proposed height of 135 feet above ground level.

**WHEREAS**, Lessee has obtained a Determination of No Hazard to Air Navigation, wherein the Federal Aviation Administration, Southwest Regional Office, Obstruction Evaluation Group, has conducted an aeronautical study on the Structure which revealed that the Structure, "...does not exceed obstruction standards and would not be a hazard to air navigation under certain conditions.", a copy of said Determination of No Hazard to Air Navigation attached hereto and made a part hereof as Exhibit "D".

**WHEREAS**, Lessee has obtained from the Oregon Department of Aviation ("ODA") comments regarding the construction of a telecommunications tower constructed to 135-FEET in height located in McMinnville, Oregon, wherein the ODA, "...does not object with conditions to the construction described in the proposal.", a copy of said Oregon Department of Aviation comments attached hereto and made a part hereof as Exhibit "E"; and

**WHEREAS**, Owner and Lessee are desirous of the City executing and delivering this Waiver for recordation in the Yamhill County Records in order to permit the construction of a telecommunications tower 135 foot in height on the Property.

**NOW THEREFORE**, for and in consideration of good and valuable consideration, the receipt and adequacy of which is hereby acknowledged by the parties, the parties hereby agree as follows:

1. The recitals as set forth herein above are incorporated into this Waiver as if written herein in their entirety.

2. The City does and hereby waives the Deed Restriction that prohibits any building or other structure upon the Property to a height exceeding 100 feet above ground level, but only to the extent that the construction and erection of the Structure complies with Exhibit "D and Exhibit "E", attached hereto and made a part hereof.

3. All other restrictions and protective covenants contained in the Deed Restrictions shall remain in full force and effect with respect to the Property.

**IN WITNESS WHEREOF**, the City has caused this Waiver to be executed as a sealed instrument on the day and year set forth below, to be effective as of the day and year set forth above.

**CITY OF MCMINNVILLE, a municipal  
corporation of the State of Oregon**

By: \_\_\_\_\_  
Its: \_\_\_\_\_

STATE OF OREGON

COUNTY OF YAMHILL

BE IT KNOWN, on this \_\_\_\_ day of \_\_\_\_\_, 2016, before me, personally came and appeared \_\_\_\_\_, the \_\_\_\_\_ of the CITY OF MCMINNVILLE, a municipal corporation of the State of Oregon, known by me to be the person executing the foregoing instrument and acknowledged said instrument by him executed to be his free act and deed in said capacity and the free act and deed of said City of McMinnville.

\_\_\_\_\_  
NOTARY PUBLIC  
My commission expires: \_\_\_\_\_

EXHIBIT "A"

Deed Recorded as Document No. 85-1250

DEED

WHEREAS, the CITY OF McMinnville, a municipal corporation, is the owner of McMinnville Airport and desires to convey to EVERGREEN HELICOPTERS, INC. the tract of land hereinafter described which is a part of said McMinnville Airport; and

WHEREAS, EVERGREEN HELICOPTERS, INC. desires to purchase said real premises and to construct thereon a hanger and office facility for the purpose of storing, servicing, operating and repairing helicopters, (and other aircraft owned by Evergreen Helicopters, Inc.), and related parts and accessories and in which to conduct the business of helicopter service; and

WHEREAS, the CITY OF McMinnville, a municipal corporation and EVERGREEN HELICOPTERS, INC. acknowledge that the conduct of its business by EVERGREEN HELICOPTERS, INC. should be compatible with other use of the McMinnville Airport and in conformity with the rules, regulations and restrictions of the Federal Aviation Administration; now, therefore,

KNOW ALL MEN BY THESE PRESENTS, That the CITY OF McMinnville, a municipal corporation of the State of Oregon, hereinafter called Grantor, for the consideration hereinafter stated, does hereby grant, bargain, sell and convey unto EVERGREEN HELICOPTERS, INC., an Oregon corporation, hereinafter called Grantee, and grantee's successors and assigns, that certain real property situated in the County of Yamhill and State of Oregon, described as follows, to-wit:

Being a part of the John White Donation Land Claim No. 82, Notification No. 1227 in Township 4 South, Range 4 West of the Willamette Meridian, in Yamhill County, Oregon; said part being more particularly described as follows:

Beginning at a point on the North line of the John White Donation Land Claim, said line also being the center line of State Highway No. 152 (Three Mile Lane), 3,165 feet westerly as measured along the centerline from the North East corner of said White D.L.C.; thence westerly 600 feet along said centerline; thence South parallel to the West line of the City of McMinnville (Airport) tract 756 feet; thence Easterly parallel to the centerline of said Highway 600 feet; thence North parallel to the West line of said City of McMinnville tract 756 feet to the place of beginning, containing 10 acres, more or less.

SAVE AND EXCEPT that portion lying within the boundaries of public roads and/or highways.

To have and to hold the same unto said grantee and its successors and assigns forever, but subject to the following covenants, conditions, restrictions and reservations, namely:

- (1) The grantee covenants and agrees to confine its business operations to the storing, servicing, operating and repairing of helicopters and related equipment, (and other grantees owned aircraft), and to comply with all rules, regulations, limitations and restrictions established by the Federal Aviation Administration in the operation of the McMinnville Airport. The grantee shall

1. DEED

Recorded By  
Evergreen Helicopters, Inc.  
The Aircraft Company

- not engage in the repairing, servicing and fueling of fixed-wing aircraft and shall not conduct flight training by fixed-wing aircraft except by written permission of the city manager under instruction of the Airport Commission.
- (2) Grantee further covenants and agrees not to construct any building or other structure upon said premises to a height exceeding 100 feet above ground level.
- (3) The grantee covenants and agrees that it shall not install any equipment upon said real premises which would interfere with radio and radar facilities operated by or in connection with the McMinnville Airport, nor install or operate any light, or create any restrictions to visibility which would interfere with the operation of aircraft at the airport.
- (4) In the event of the future sale by the grantee of said real premises, or any part thereof, such sale shall be subject to the grantor's approval and the grantor shall have the first right of refusal to purchase said real premises from the grantee at and for the price fixed by the grantee.
- (5) There is hereby reserved to the Grantor, its successors and assigns, for the use and benefit of the public, a right of flight for the passage of aircraft in the airspace above the surface of the premises herein conveyed. This public right of flight shall include the right to cause in said airspace any noise inherent in the operation of any aircraft used for navigation or flight through the said airspace or landing at, taking off from or operating on the McMinnville Municipal Airport.

The above covenants, conditions, limitations and restrictions shall extend to and include the successors and assigns of the grantee and shall be held to run with and bind the real premises hereby conveyed and all subsequent owners and occupants thereof.

The grantor shall have the right to prevent or stop violation of any of the above covenants, conditions, limitations and restrictions by injunction or other lawful procedure and to recover any damages resulting from such violation.

The grantor hereby covenants to and with said grantee and its successors and assigns, that grantor is lawfully seized in fee simple of the above granted premises free from all encumbrances, and that grantor will warrant and forever defend the above granted premises and every part and parcel thereof against the lawful claims and demands of all persons whomsoever, but subject to the above covenants, conditions, limitations and restrictions.

The true and actual consideration paid for this transfer, stated in terms of dollars is \$25,000.00.

Grantee intends to build and construct upon said real premises an office and hangar building at an estimated cost of \$200,000.00 in accordance with preliminary plans submitted to and approved by the McMinnville Airport Commission, and the grantee agrees to build and construct said facility within three years from the date of this deed. Grantee covenants that the final plans for said facility will generally

conform with the preliminary plans approved by the Airport Commission. The real premises above described are hereby conveyed subject to the condition that if the grantees shall not, within three years from the date of this deed, construct and erect on said land said facilities to cost not less than \$200,000.00, the title to said real premises shall, on the expiration of said period, revert to and become re-vested in the grantor; provided, the time period in which to construct said facility may be extended by the council of the city after consideration of all circumstances then existing.

IN WITNESS WHEREOF, the City of McMinnville has caused these presents to be executed, and its name to be signed and its corporate seal to be affixed by Norman R. Scott, Mayor and John M. Teague, Recorder, this 18th day of August, 1971, pursuant to Ordinance No. 350 of said City, passed and approved by the Council and the Mayor on the 3rd day of August, 1971.



CITY OF McMINNVILLE, a municipal corporation of the State of Oregon  
By Norman R. Scott, Mayor  
By John M. Teague, Recorder

STATE OF OREGON )  
County of Yamhill ) ss.

On this 18th day of August, 1971, before me appeared NORMAN R. SCOTT and JOHN M. TEAGUE, both to me personally known, who being first duly sworn, did say that he, the said Norman R. Scott is the Mayor, and he, the said John M. Teague, is the Recorder of the City of McMinnville, the within named municipal corporation, and that the seal affixed to said instrument is the seal of said city, and that said instrument was signed and sealed by authority of Ordinance No. 350 of said City, and that the same Norman R. Scott and John M. acknowledged to me that said deed was the free act and deed of said City.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal the day and year above written.



STATE OF OREGON, )  
County of Yamhill, ) ss.  
Notary Public for Oregon  
My Commission expires: 8-4-72  
10458

I, JACK BEELER, County Clerk in and for said County and State, do hereby certify that the within Instrument of Writing was received and has been by me filed, recorded on Page 1252 of Volume 85 of the Records of Yamhill County, on this 18th day of August, A. D. 1971, at 11:00 o'clock A.M. In testimony whereof, I have hereto subscribed my name and affixed my Official Seal.  
JACK BEELER, County Clerk  
By John Beeler

EXHIBIT "B"

Deed Recorded as Document No. 103-1697



DEED

FILM 100 PAGE 1697

WHEREAS, the CITY OF McMinnville, a municipal corporation, is the owner of McMinnville Airport and desires to convey to EVERGREEN HELICOPTERS, INC., the tract of land hereinafter described which is a part of said McMinnville Airport; and

WHEREAS, EVERGREEN HELICOPTERS, INC., desires to purchase said real premises and to construct thereon a hangar and office facility for the purpose of storing, servicing, operating and repairing helicopters, (and other aircraft owned by Evergreen Helicopters, Inc.), and related parts and accessories and in which to conduct the business of helicopter service; and

WHEREAS, the CITY OF McMinnville, a municipal corporation, and EVERGREEN HELICOPTERS, INC., acknowledge that the conduct of its business by EVERGREEN HELICOPTERS, INC., should be compatible with other use of the McMinnville Airport and in conformity with the rules, regulations and restrictions of the Federal Aviation Administration; now, therefore,

KNOW ALL MEN BY THESE PRESENTS, That the CITY OF McMinnville, a municipal corporation of the State of Oregon, hereinafter called Grantor, for the consideration hereinafter stated, does hereby grant, bargain, sell and convey unto EVERGREEN HELICOPTERS, INC., an Oregon corporation, hereinafter called Grantee, and Grantee's successors and assigns, that certain real property situated in the County of Yamhill and State of Oregon, described as follows, to wit:

Being a part of the North  $\frac{1}{2}$  of the John White D.L.C. No. 82, Section 26, Township 4 South, Range 4 West, Willamette Meridian, Yamhill County, Oregon and being more particularly described as follows:

Beginning at a point which is 892.06 feet (13.516 chains) South 89°45' East and 30.00 feet (at right angles) South 0°15' West from the Northwest corner of said claim, said beginning point being 30 feet south of the Northwest corner of that certain tract conveyed to the City of McMinnville by Edith Shirley on April 2, 1942 and being recorded on April 2, 1942 at 3:39 PM in Volume 119, Page 403, Deed Records of Yamhill County, Oregon, said beginning point being located by C.S.P. - 6058, Volume T, Page 388, County Survey Records; thence South 89°45' East, along the south line of Oregon State Highway No. 18, 661.92 feet to the Northwest corner of that certain tract of land as located by the City of McMinnville in C.S.P. - 5237, Volume R, Page 226, County Survey Records; thence following the boundaries of said survey South 726.00 feet; thence South 89°45' East 600.00 feet; thence leaving said surveyed boundaries South 125.00 feet; thence North 89°45' West 1265.63 feet to the West boundary of the aforementioned City of McMinnville tract; thence North 0°15' East along the said West boundary 850.99 feet to the place of beginning and containing 14.69 acres, more or less.

To have and to hold the same unto said Grantee and its successors and assigns forever, but subject to the following covenants, conditions, restrictions and reservations, namely:

Page 1 of 3 pages

286 RV-2

103  
SLM 103 PAGE 1898

- (1) The Grantee covenants and agrees to confine its business operations to the storing, servicing, operating and repairing of helicopters and related equipment, (and other Grantee owned aircraft), and to comply with all rules, regulations, limitations and restrictions established by the Federal Aviation Administration in the operation of the McMinnville Airport. The Grantee shall not engage in the repairing, servicing and fueling of fixed-wing aircraft and shall not conduct flight training by fixed-wing aircraft except by written permission of the city manager under instruction of the Airport Commission.
- (2) Grantee further covenants and agrees not to construct any building or other structure upon said premises to a height exceeding 100 feet above ground level.
- (3) The Grantee covenants and agrees that it shall not install any equipment upon said real premises which would interfere with radio and radar facilities operated by or in connection with the McMinnville Airport, nor install or operate any light, or create any restrictions to visibility which would interfere with the operation of aircraft at the airport.
- (4) In the event of the future sale by the Grantee of said real premises, or any part thereof, such sale shall be subject to the Grantor's approval and the Grantor shall have the first right of refusal to purchase said real premises from the Grantee at and for the price fixed by the Grantee.
- (5) There is hereby reserved to the Grantor, its successors and assigns, for the use and benefit of the public, a right of flight for the passage of aircraft in the airspace above the surface of the premises herein conveyed. This public right of flight shall include the right to cause in said airspace any noise inherent in the operation of any aircraft used for navigation or flight through the said airspace or landing at, taking off from or operating on the McMinnville Municipal Airport.

The above covenants, conditions, limitations and restrictions shall extend to and include the successors and assigns of the Grantee and shall be held to run with and bind the real premises hereby conveyed and all subsequent owners and occupants thereof.

The Grantor shall have the right to prevent or stop violation of any of the above covenants, conditions, limitations and restrictions by injunction or other lawful procedure and to recover any damages resulting from such violation.

The Grantor hereby covenants to and with said Grantee and its successors and assigns, that Grantor is lawfully seized in fee simple of the above granted premises free from all encumbrances, and that Grantor will warrant and forever defend the above granted premises and every part and parcel thereof against the lawful claims and demands of all persons whomsoever, but subject to the above covenants, conditions, limitations and restrictions.

Page 2 of 3 pages

The true and actual consideration paid for this transfer, stated in terms of dollars is Eighty-nine Thousand, Six Hundred and Nine Dollars (\$89,609).

IN WITNESS WHEREOF, the City of McMinnville has caused these presents to be executed, and its name to be signed and its corporate seal to be affixed by Norman R. Scott, Mayor, and Marjorie E. Kerber, Recorder, this 8 day of January, 1975, pursuant to Ordinance No. 3732 of said City, passed and approved by the Council and the Mayor on the 7th day of January, 1975.

CITY OF McMINNVILLE, a municipal corporation of the State of Oregon

By Norman R. Scott, Mayor

By Marjorie E. Kerber, Recorder



STATE OF OREGON }  
COUNTY OF YAMHILL } ss.

On this 8 day of January, 1975, before me appeared NORMAN R. SCOTT and MARJORIE E. KERBER, both to me personally known, who being first duly sworn, did say that he, the said Norman R. Scott is the Mayor, and she, the said Marjorie E. Kerber, is the Recorder of the City of McMinnville, the within named municipal corporation, and that the seal affixed to said instrument is the seal of said City, and that said instrument was signed and sealed by authority of Ordinance No. 3732 of said City, and that the same Norman R. Scott and Marjorie E. Kerber acknowledged to me that said deed was the free act and deed of said City.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal the day and year above written.

E. Clifton Ross  
Notary Public for Oregon  
My Commission expires: 10-15-78



STATE OF OREGON }  
County of YAMHILL } ss. 33261

I, Wanda Call, County Clerk in and for said County and State, do hereby certify that the within instrument of writing was received and has been by me duly recorded on page 269 of Film Vol. 100 of the Records of said County, on this 10 day of January AD 1975 at 1:35 o'clock P.M.

In testimony whereof, I have hereto subscribed my name and affixed my Official Seal, Wanda Call, County Clerk

By Wanda Call  
Deputy

286-BV-2

EXHIBIT "C"

Memorandum of Ground Lease Agreement

Upon recording return to:  
PI Tower Development LLC  
7411 Fullerton Street  
Suite 110  
Jacksonville, Florida 32256  
Attention: Contracts Administrator

Yamhill County Official Records **201615546**  
DMR-LDMR  
Stn=0 SUTTONS **10/05/2016 10:26:32 AM**  
6Pgs \$30.00 \$11.00 \$5.00 \$20.00 **\$66.00**

I, Brian Van Bergen, County Clerk for Yamhill County, Oregon, certify that the instrument identified herein was recorded in the Clerk records.

Brian Van Bergen - County Clerk

Site Name: OR-McMinnville-Spruce-Goose  
Site Number: PIOR016

PIN#: R442600101

### MEMORANDUM OF GROUND LEASE AGREEMENT

This Memorandum of Ground Lease Agreement is made on October 5<sup>th</sup>, 2016, by and between **Kit P. Johnston and Caralee Johnston**, husband and wife, as Lessor, whose mailing address is 11320 SE Lafayette Hwy, Dayton, OR 97114 and **PI TOWER DEVELOPMENT LLC**, a Delaware limited liability company, as Lessee, whose address is 7411 Fullerton Street Suite 110, Jacksonville, Florida 32256.

1. Lessor and Lessee are parties to a Ground Lease Agreement dated as of October 5<sup>th</sup>, 2016 (the "Lease"), the terms and provisions of which are incorporated herein by this reference. The premises covered by the Lease are located in **Yamhill County, OR**, as more fully described in the legal description attached hereto as **Exhibit "A"** ("Leased Premises").
2. Pursuant to the Lease, the Lessor has granted, and by these presents does grant, to the Lessee easements for ingress, egress, utilities, "Fall Zone" (if applicable), and any other easements required by Lessee or governmental authorities for the duration of the Lease Agreement a more particularly described on **Exhibit "A"** hereto. The easement rights herein granted include the right and authority of Lessee to grant or assign to third parties all or some of the easement rights granted to Lessee herein.
3. The Lease provides for an initial term of five (5) years (the "Initial Term") which commenced on October 5<sup>th</sup>, 2016. The Lease also provides for five (5) additional five (5) year renewal terms (each, a "Renewal Term"). The Lease shall automatically renew for each such Renewal Term unless Lessee delivers written notice of intent not to renew to Lessor at least thirty (30) days prior to the expiration of the Initial Term, or the Renewal Term then in effect.
4. The Lease provides that during the term of the Lease, in the event that the Lessor receives and desires to accept a bona fide offer to sell and convey the Leased Premises to a third party not related to the Lessor by at least 51% common ownership, then the Lessor shall first provide the Lessee with a written offer to sell and convey the Leased Premises to Lessee upon the same terms and conditions as the offer made by the third party, and Lessee shall have twenty (20) business days in which to accept the offer.
5. All of the terms and conditions of the Lease are incorporated herein by reference. In the event of a conflict between the terms hereof and the terms of the Lease, the terms of the Lease shall govern.

IN WITNESS WHEREOF, the parties hereto have executed this Memorandum of Lease as of the date first written above.

LESSOR:

Kit Johnston

Kit P. Johnston

Print Name: Kit P. Johnston

Witness:

M. Tereza Smith

Print Name: M. TEREZA SMITH

Kyle Faulk

Print Name: Kyle Faulk

STATE OF Oregon

COUNTY OF Yamhill

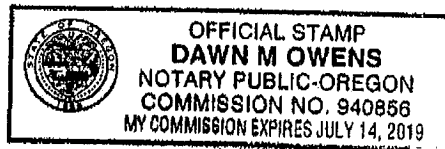
I, Dawn M. Owens a Notary Public of the County and State aforesaid, certify that Kit P. Johnston personally came before me this day and acknowledged that (s)he executed the foregoing instrument. He/She is personally known to me or produced Oregon Drivers license as identification.

WITNESS my hand and notarial seal, this 6 day of Sept., 2016.

Notary Public: Dawn M. Owens

Print Name: Dawn M. Owens

My Commission Expires: July 14, 2019



LESSOR:

*Caralee Johnston*  
Print Name: Caralee Johnston

Witness:

*Sordy Willis*  
Print Name: Sordy Willis

*Karen E. Humpal*  
Print Name: KAREN E HUMPAL

STATE OF Oregon  
COUNTY OF Yamhill

I, Deborah J. Beam a Notary Public of the County and State aforesaid, certify that Caralee Johnston personally came before me this day and acknowledged that (s)he executed the foregoing instrument. He/She is personally known to me or produced Oregon Drivers License as identification.

WITNESS my hand and notarial seal, this 6<sup>th</sup> day of September 2016.

Notary Public: *Deborah J. Beam*  
Print Name: Deborah J. Beam  
My Commission Expires: 3-11-2018



LESSEE:

PI TOWER DEVELOPMENT LLC,  
a Delaware limited liability company

Witness:

[Signature]  
Print Name: Samia Carstens

RE RALDI  
Print Name: Ron E. Bittner  
Title: Vice President

[Signature]  
Print Name: Stacey Rinaldi

STATE OF FLORIDA

COUNTY OF DUVAL

I, Stacey Rinaldi the undersigned Notary Public for said County and State, do hereby certify that Ron Bittner as VP of PI Tower Development LLC, a Delaware limited liability company, personally appeared before me this day, and acknowledged the due execution of the foregoing instrument on behalf of said company. He/She is personally known to me or produced \_\_\_\_\_ as identification.

WITNESS my hand and notarial seal, this 4<sup>th</sup> day of October 2016.

Notary Public: [Signature]  
Print Name: Stacey Rinaldi  
My Commission Expires: 4/7/20





**EXHIBIT "A"**

**LEASED PREMISES AND EASEMENTS**

The 40' x 60' Leased Premises and Easement(s) are located in the land legally described as follows:

Real property in the County of Yamhill, State of Oregon, described as follows:

PARCEL 1:

BEING A PART OF THE JOHN WHITE DONATION LAND CLAIM NO. 82, NOTIFICATION NO. 1227 IN SECTION 26, TOWNSHIP 4 SOUTH, RANGE 4 WEST OF THE WILLAMETTE MERIDIAN IN YAMHILL COUNTY, OREGON, SAID PART BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE NORTH LINE OF THE JOHN WHITE DONATION LAND CLAIM, SAID LINE ALSO BEING THE CENTER LINE OF STATE HIGHWAY NO. 152 (THREE MILE LANE) 3,165 FEET WESTERLY AS MEASURED ALONG THE CENTERLINE FROM THE NORTHEAST CORNER OF SAID WHITE DONATION LAND CLAIM; THENCE WESTERLY 600 FEET ALONG SAID CENTERLINE; THENCE SOUTH PARALLEL TO THE WEST LINE OF THE CITY OF MCMINNVILLE (AIRPORT) TRACT, 756 FEET; THENCE EASTERLY PARALLEL TO THE CENTERLINE OF SAID HIGHWAY, 600 FEET; THENCE NORTH PARALLEL TO THE WEST LINE OF SAID CITY OF MCMINNVILLE TRACT, 756 FEET TO THE PLACE OF BEGINNING.

EXCEPTING THEREFROM THE FOLLOWING DESCRIBED TRACT, TO-WIT: A TRACT OF LAND IN SECTION 26, TOWNSHIP 4 SOUTH, RANGE 4 WEST OF THE WILLAMETTE MERIDIAN IN YAMHILL COUNTY, OREGON, BEING PART OF THAT CERTAIN TRACT OF LAND DESCRIBED IN DEED TO EVERGREEN HELICOPTERS, INC., (HEREINAFTER REFERRED TO AS "EVERGREEN") RECORDED IN FILM VOLUME 85, PAGE 1250, YAMHILL COUNTY DEED RECORDS, AND BEING DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN THE NORTH LINE OF THE JOHN WHITE DONATION LAND CLAIM THAT IS NORTH 89°45' WEST 3471.42 FEET FROM THE NORTHEAST CORNER OF SAID CLAIM; THENCE NORTH 89°45' WEST, 293.58 FEET ALONG SAID CLAIM LINE TO THE NORTHWEST CORNER OF SAID EVERGREEN TRACT; THENCE SOUTH 591.00 FEET PARALLEL WITH THE WEST LINE OF THE CITY OF MCMINNVILLE (AIRPORT) TRACT; THENCE SOUTH 89°45' EAST 289.16 FEET PARALLEL WITH THE SOUTH LINE OF SAID EVERGREEN TRACT; THENCE NORTH 00°25'40" EAST 591.00 FEET TO THE POINT OF BEGINNING.

ALSO EXCEPTING THAT PORTION ACQUIRED BY THE STATE OF OREGON BY AND THROUGH ITS DEPARTMENT OF TRANSPORTATION BY DECREE ENTERED JULY 24, 1990 IN THE CIRCUIT COURT OF OREGON, YAMHILL COUNTY, SUIT CV89-118, AND RECORDED AUGUST 1, 1990 IN FILM VOLUME 246, PAGE 603, DEED AND MORTGAGE RECORDS.

PARCEL 2:

A TRACT OF LAND IN SECTION 26, TOWNSHIP 4 SOUTH, RANGE 4 WEST OF THE WILLAMETTE MERIDIAN, YAMHILL COUNTY, OREGON, BEING PART OF THAT CERTAIN TRACT OF LAND DESCRIBED IN DEED TO EVERGREEN HELICOPTERS, INC. (HEREAFTER REFERRED TO AS "EVERGREEN") RECORDED IN FILM VOLUME 85, PAGE 1250, YAMHILL COUNTY DEED RECORDS AND BEING DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN THE NORTH LINE OF THE JOHN WHITE DONATION LAND CLAIM THAT IS NORTH 89° 45' WEST, 3471.42 FEET FROM THE NORTHEAST CORNER OF SAID CLAIM; THENCE NORTH 89° 45' WEST, 293.58 FEET ALONG SAID CLAIM LINE TO THE NORTHWEST CORNER OF SAID EVERGREEN TRACT; THENCE SOUTH 591.00 FEET PARALLEL WITH THE WEST LINE OF THE CITY OF MCMINNVILLE (AIRPORT) TRACT; THENCE SOUTH 89° 45' EAST, 289.16 FEET PARALLEL WITH THE SOUTH LINE OF SAID EVERGREEN TRACT; THENCE NORTH 00° 25' 40" EAST, 591.00 FEET TO THE POINT OF BEGINNING.

EXCEPTING THAT PORTION ACQUIRED BY THE STATE OF OREGON BY AND THROUGH ITS DEPARTMENT OF TRANSPORTATION BY DECREE ENTERED JULY 24, 1990 IN THE CIRCUIT COURT OF OREGON, YAMHILL COUNTY, SUIT CV89-118, AND RECORDED AUGUST 1, 1990 IN FILM VOLUME 246, PAGE 603, DEED AND MORTGAGE RECORDS.

PARCEL 3:

BEING A PART OF THE JOHN WHITE DONATION LAND CLAIM NO. 82, NOTIFICATION NO. 1227 IN SECTION 26, TOWNSHIP 4 SOUTH, RANGE 4 WEST, OF THE WILLAMETTE MERIDIAN IN YAMHILL COUNTY, OREGON, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT THAT IS 3,765 FEET WEST AND 756 FEET SOUTH FROM THE NORTHEAST CORNER OF THE SAID JOHN WHITE DONATION LAND CLAIM; SAID POINT ALSO BEING THE SOUTHWEST CORNER OF THAT TRACT OF LAND CONVEYED TO EVERGREEN HELICOPTERS INC., AN OREGON CORPORATION BY DEED RECORDED AUGUST 18, 1971 IN FILM VOLUME 85, PAGE 1250, DEED AND MORTGAGE RECORDS; THENCE CONTINUING SOUTH 125 FEET TO A POINT ON THE SOUTH LINE OF THE TRACT OF LAND CONVEYED TO EVERGREEN HELICOPTERS INC., IN DEED RECORDED JANUARY 10, 1975 IN FILM VOLUME 103, PAGE 1697, DEED AND MORTGAGE RECORDS, WHICH POINT IS 600 FEET WEST OF THE SOUTHERLY SOUTHEAST CORNER OF THE EVERGREEN HELICOPTER TRACT; THENCE EAST ALONG THE SAID SOUTH LINE 600 FEET TO THE SOUTHERLY SOUTHEAST CORNER THEREOF; THENCE NORTH 125 FEET TO THE SOUTHEAST CORNER OF THAT TRACT IN FILM VOLUME 85, PAGE 1250, DEED AND MORTGAGE RECORDS; THENCE WEST ALONG THE SOUTH LINE OF THE TRACT OF LAND CONVEYED TO EVERGREEN HELICOPTERS IN DEED RECORDED AUGUST 18, 1971 IN FILM VOLUME 85, PAGE 1250 DEED AND MORTGAGE RECORDS 600 FEET TO THE TRUE POINT OF BEGINNING.

TOGETHER WITH AN EASEMENT AS DISCLOSED IN "CORRECTIVE DECLARATION OF ACCESS EASEMENT" RECORDED JUNE 30, 2011 AS INSTRUMENT NO. 201108044, DEED AND MORTGAGE RECORDS, YAMHILL COUNTY, OREGON.

EXHIBIT "D"

Determination of No Hazard to Air Navigation (FAA)



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

Aeronautical Study No.  
 2016-ANM-2915-OE  
 Prior Study No.  
 2016-ANM-2802-OE

Issued Date: 11/03/2016

Regulatory  
 PI Tower Development LLC  
 7411 Fullerton Street  
 Suite 110  
 Jacksonville, FL 32256

**\*\* 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: Monopole Spruce Goose  
 Location: McMinnville, OR  
 Latitude: 45-11-58.92N NAD 83  
 Longitude: 123-08-29.82W  
 Heights: 159 feet site elevation (SE)  
 135 feet above ground level (AGL)  
 294 feet above mean sea level (AMSL)

This aeronautical study revealed that the structure does not exceed obstruction standards and would not be a hazard to air navigation provided the following condition(s), if any, is(are) met:

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)
- Within 5 days after the construction reaches its greatest height (7460-2, Part 2)

Based on this evaluation, marking and lighting are not necessary for aviation safety. However, if marking/lighting are accomplished on a voluntary basis, we recommend it be installed and maintained in accordance with FAA Advisory circular 70/7460-1 L Change 1.

This determination expires on 05/03/2018 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 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 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 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.

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 Airmen (NOTAM) can be issued. As soon as the normal operation is restored, notify the same number.

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

If we can be of further assistance, please contact our office at (202) 267-4525. On any future correspondence concerning this matter, please refer to Aeronautical Study Number 2016-ANM-2915-OE.

**Signature Control No: 305710751-309264735**

( DNE )

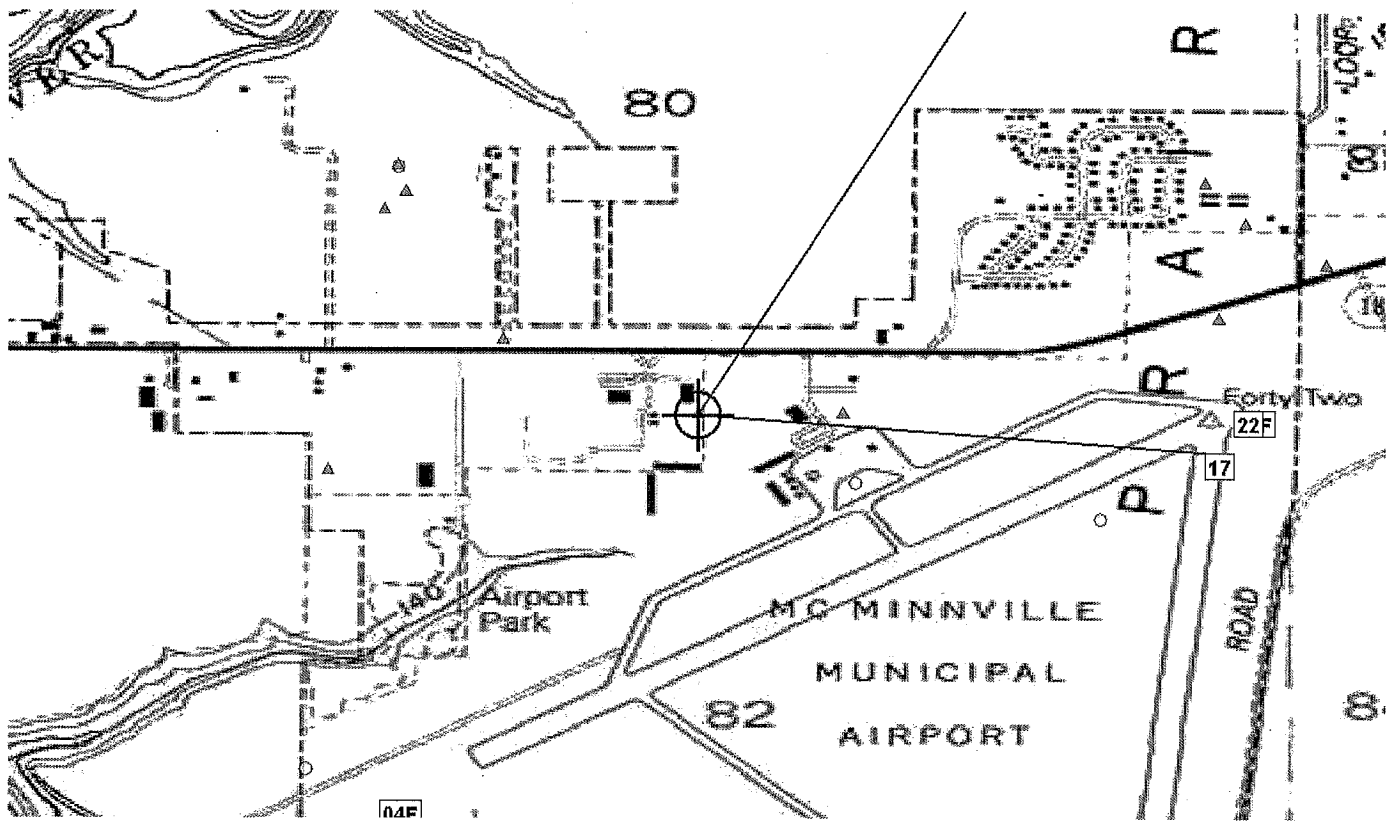
David Maddox  
Specialist

Attachment(s)  
Frequency Data  
Map(s)

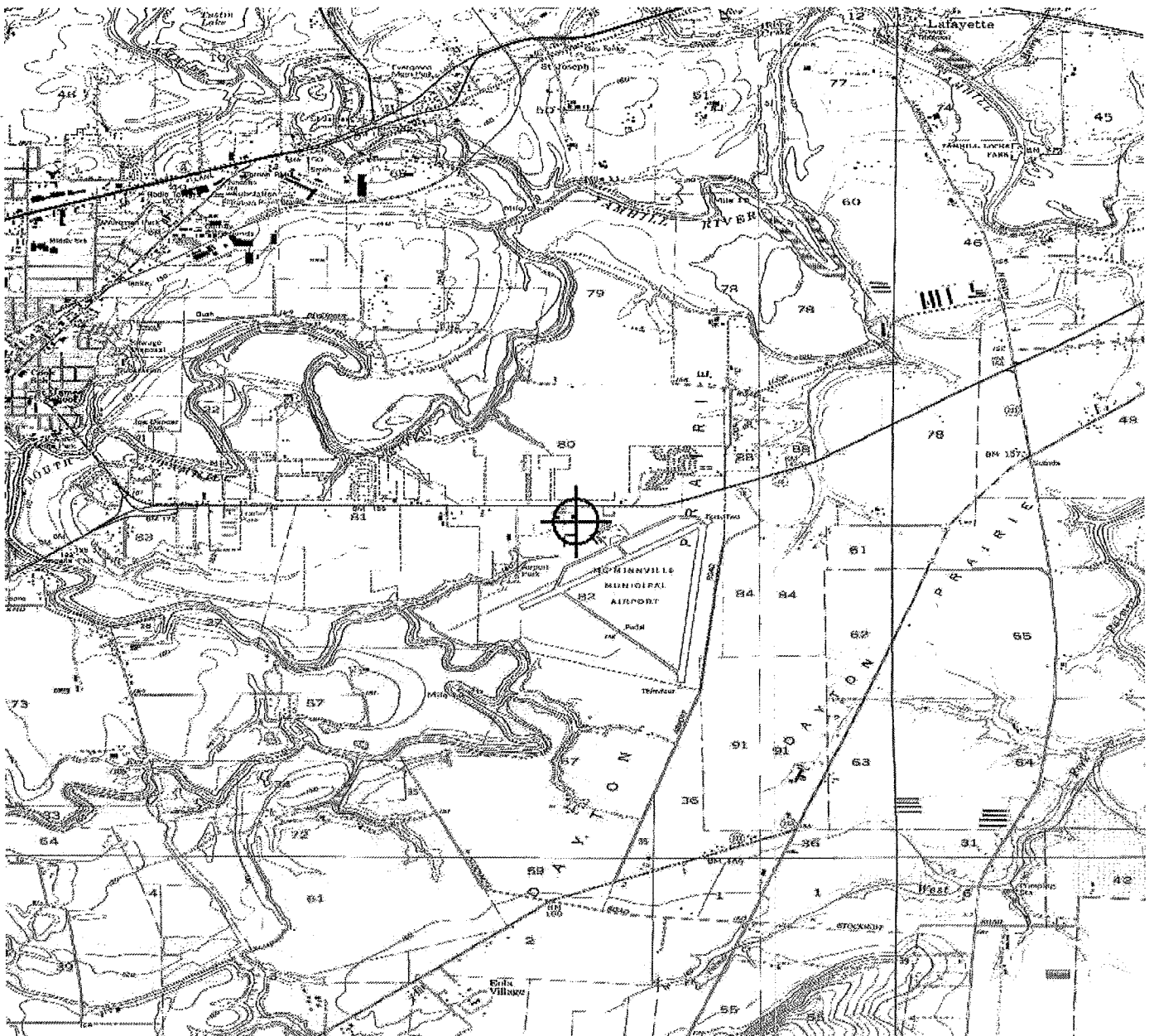
cc: FCC

Frequency Data for ASN 2016-ANM-2915-OE

LOW FREQUENCY	HIGH FREQUENCY	FREQUENCY UNIT	ERP	ERP UNIT
698	806	MHz	1000	W
806	824	MHz	500	W
824	849	MHz	500	W
851	866	MHz	500	W
869	894	MHz	500	W
896	901	MHz	500	W
901	902	MHz	7	W
930	931	MHz	3500	W
931	932	MHz	3500	W
932	932.5	MHz	17	dBW
935	940	MHz	1000	W
940	941	MHz	3500	W
1850	1910	MHz	1640	W
1930	1990	MHz	1640	W
2305	2310	MHz	2000	W
2345	2360	MHz	2000	W



TOPO Map for ASN 2016-ANM-2915-OE





Sectional Map for ASN 2016-ANM-2915-OE

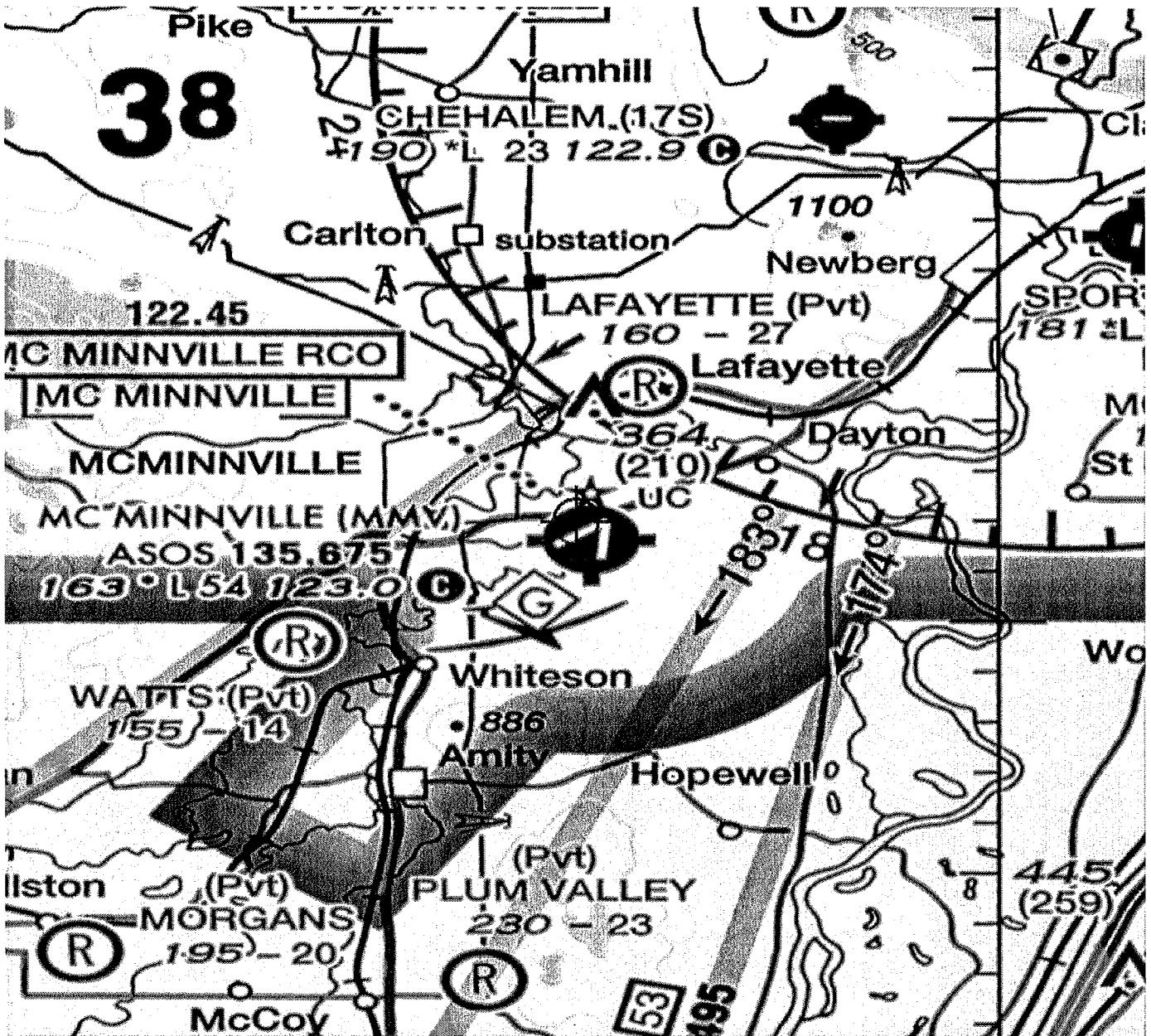


EXHIBIT "E"

Oregon Department of Aviation ("ODA") comments regarding the construction of a telecommunications tower constructed to 135-FEET in height located in McMinnville, Oregon



# Oregon

Kate Brown, Governor



October 20, 2016

Tyler Clouse  
Environmental Specialist  
Environmental Solutions Division  
Summit Solutions Group

3040 25th Street, SE  
Salem, OR 97302-1125  
Phone: (503) 378-4880  
Toll Free: (800) 874-0102  
FAX: (503) 373-1688

**Subject: Oregon Department of Aviation comments regarding the construction of a telecommunications tower constructed to 135-FEET in height located in McMinnville, Oregon.**

### Aviation Reference: 2016-ODA-260-OE

The Oregon Department of Aviation (ODA) has conducted an aeronautical study of this proposed construction and has determined that notice to the FAA is required. The structure does exceed FAR Part 77.9 (a-d) and Obstruction Standards of OAR 738-70-0100.

This determination is based, in part, on the foregoing description which includes specific coordinates and heights. Any changes to the original application will void this determination. Any future construction or alteration to the original application will require a separate notice from ODA.

This determination will expire 18 months after its effective date, regardless of whether the proposed construction or alteration has been started, or on the date the proposed construction or alteration is abandoned, whichever is earlier.

### Mitigation Recommendation:

- We do not object with conditions to the construction described in this proposal. This determination does not constitute ODA approval or disapproval of the physical development involved in the proposal. It is a determination with respect to the safe and efficient use of navigable airspace by aircraft and with respect to the safety of persons and property on the ground.
- Marking and lighting are recommended for aviation safety. We recommend it be installed and maintained in accordance with FAA Advisory Circular AC70/7460-1L
- The proposed obstruction should to be lower to a height that is no longer a hazard to the airport primary and horizontal surface FAA FAR 77
- The proposed obstruction should be relocate outside the airport primary and horizontal surface FAA FAR 77

Sincerely,

Jeff Caines, AICP – Land Use Planner

LESSOR'S CONSENT

Lessor/Owner consents and agrees to the foregoing Waiver as of this \_\_\_\_ day of , 2016, which was entered into at Lessor's and Lessee's request. The foregoing Waiver shall not alter, waive or diminish any of Lessor's obligations under the Lease. Lessor/Owner is not a party to the above Waiver.

Witnesses:

LESSOR/OWNER:

\_\_\_\_\_

\_\_\_\_\_

By: Kit P. Johnston

Print Name of Witness

\_\_\_\_\_

\_\_\_\_\_

By: Caralee Johnston

Print Name of Witness

STATE OF \_\_\_\_\_  
COUNTY OF \_\_\_\_\_

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2016, by Kit P. Johnston, a person of full age and majority, who is personally known to me or has produced \_\_\_\_\_ as identification.

Notary Public: \_\_\_\_\_

Print Name: \_\_\_\_\_

{affix notary stamp/seal}

My Commission Expires: \_\_\_\_\_

STATE OF \_\_\_\_\_  
COUNTY OF \_\_\_\_\_

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2016, by Carlee Johnston, a person of full age and majority, who is personally known to me or has produced \_\_\_\_\_ as identification.

Notary Public: \_\_\_\_\_

Print Name: \_\_\_\_\_

{affix notary stamp/seal}

My Commission Expires: \_\_\_\_\_



4/17/17

David R. Koch  
McMinnville City Attorney  
230 NE 2<sup>nd</sup> Street  
McMinnville, OR 97128

Requesting Waiver of Deed Restriction @ 3950 SE Three Mile Ln. Parcel # R442600101  
(Site Name: Spruce Goose)

Dear David:

This letter is to request that the City of McMinnville consider allowing a waiver of deed restriction on the above-mentioned property. PI Tower Development LLC (PI Towers) is proposing a tower of 130' which exceed the deed restriction of 100'. PI Towers has secured City approvals in zoning and building departments. PI Towers has approval (with conditions) from Federal Aviation Administration (FAA) and Oregon Department of Aviation (ODA).

Included in this submittal you will find:

- Summary of Siting Conditions
- Photo Simulation of Proposed Tower
- ODA Determination
- FAA Determination
- Tower Design
- Waiver of Deed Restriction

Yours sincerely,

*Brandon A. Olsen*

**Brandon A. Olsen**  
**Director, Program Management**  
**Lendlease / Parallel Infrastructure**  
**(PI Tower Development LLC)**  
Brandon.olsen@lendlease.com



4/17/17

Requesting Waiver of Deed Restriction @ 3950 SE Three Mile Ln. Parcel # R442600101

#### Summary of Siting Conditions:

PI Tower Development LLC (PI Towers) is dedicated to providing multi-tenant, wireless infrastructure (towers) in the “Least Intrusive” means necessary. We do this in conjunction with the local jurisdiction, the community and the carrier we provide a service for. The trigger for siting a tower is the carrier(s) need to provide coverage to its customers.

In this case, Verizon Wireless contracted PI Towers to develop a new wireless facility which would service the highway corridor of NE Three Mile Ln. (Hwy 18) north of McMinnville Airport. This location would also provide inbuilding coverage and capacity to Evergreen Aviation & Space Museum, Evergreen Theatre, Olde Stone Village and the surrounding community. Lastly the location had to provide seamless handoff to the network sites located West, North and East of the proposed tower.

As part of PI Towers due diligence protocol, we verify that there is a need by more than one carrier. When we researched the area desired by Verizon, we found that AT&T, Sprint and other smaller providers need coverage in this area as well.

With the criteria defined and knowing that we will design a single tower that can handle multiple tenants, we looked to secure a location in a desirable zone. We always look to industrial area first when siting tower. The location chosen with the furthest from residence areas we could find. It is in an M-2 General Industrial zone with Commercial zoned properties to the North.

To provide adequate coverage, in-building penetration and quality hand-offs for (3) carriers we started with a desired tower height of 150'. The zone allowed for the height but our biggest concern was the airport traffic. We filed FAA and ODA at the start of the project. With feedback from both entities, we dropped the tower filing height to 135'. (130' tower plus 5' variance buffer). This was approved with marking and lighting conditions.

With the ODA requesting that PI Towers mark and light the tower according to FAA Advisory Circular AC70/7460-1L, the design of the structure was not fixed.



Our proposed facility went through the PI Towers internal review process and was approved. Verizon approved the FAA / ODA height of 130'. The 130' monopole, marked and lit per the ODA was submitted to the City of McMinnville (zoning and building departments) and approval / permits were issued.

In summary, when siting this facility, we applied the least intrusive practices.

Least Intrusive:

- Zone (minimize residential impact)
- Reduce the Number of Towers (design the tower to handle (4) carrier tenants)
- Height (minimum to meet coverage objective (multi-tenant))
- Facility Type (monopole) (not a large lattice tower or guy tower with wires)
- Visual (due to the requirement of ODA, the tower cannot be visually reduced)

Please refer to the included photo simulations for a depiction of the tower.

Yours sincerely,

*Brandon A. Olsen*

**Brandon A. Olsen**  
**Director, Program Management**  
**Lendlease / Parallel Infrastructure**  
**(PI Tower Development LLC)**

Brandon.olsen@lendlease.com



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

Aeronautical Study No.  
 2016-ANM-2915-OE  
 Prior Study No.  
 2016-ANM-2802-OE

Issued Date: 11/03/2016

Regulatory  
 PI Tower Development LLC  
 7411 Fullerton Street  
 Suite 110  
 Jacksonville, FL 32256

**\*\* 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: Monopole Spruce Goose  
 Location: McMinnville, OR  
 Latitude: 45-11-58.92N NAD 83  
 Longitude: 123-08-29.82W  
 Heights: 159 feet site elevation (SE)  
 135 feet above ground level (AGL)  
 294 feet above mean sea level (AMSL)

This aeronautical study revealed that the structure does not exceed obstruction standards and would not be a hazard to air navigation provided the following condition(s), if any, is(are) met:

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)
- Within 5 days after the construction reaches its greatest height (7460-2, Part 2)

Based on this evaluation, marking and lighting are not necessary for aviation safety. However, if marking/lighting are accomplished on a voluntary basis, we recommend it be installed and maintained in accordance with FAA Advisory circular 70/7460-1 L Change 1.

This determination expires on 05/03/2018 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.

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

If we can be of further assistance, please contact our office at (202) 267-4525. On any future correspondence concerning this matter, please refer to Aeronautical Study Number 2016-ANM-2915-OE.

**Signature Control No: 305710751-309264735**

( DNE )

David Maddox  
Specialist

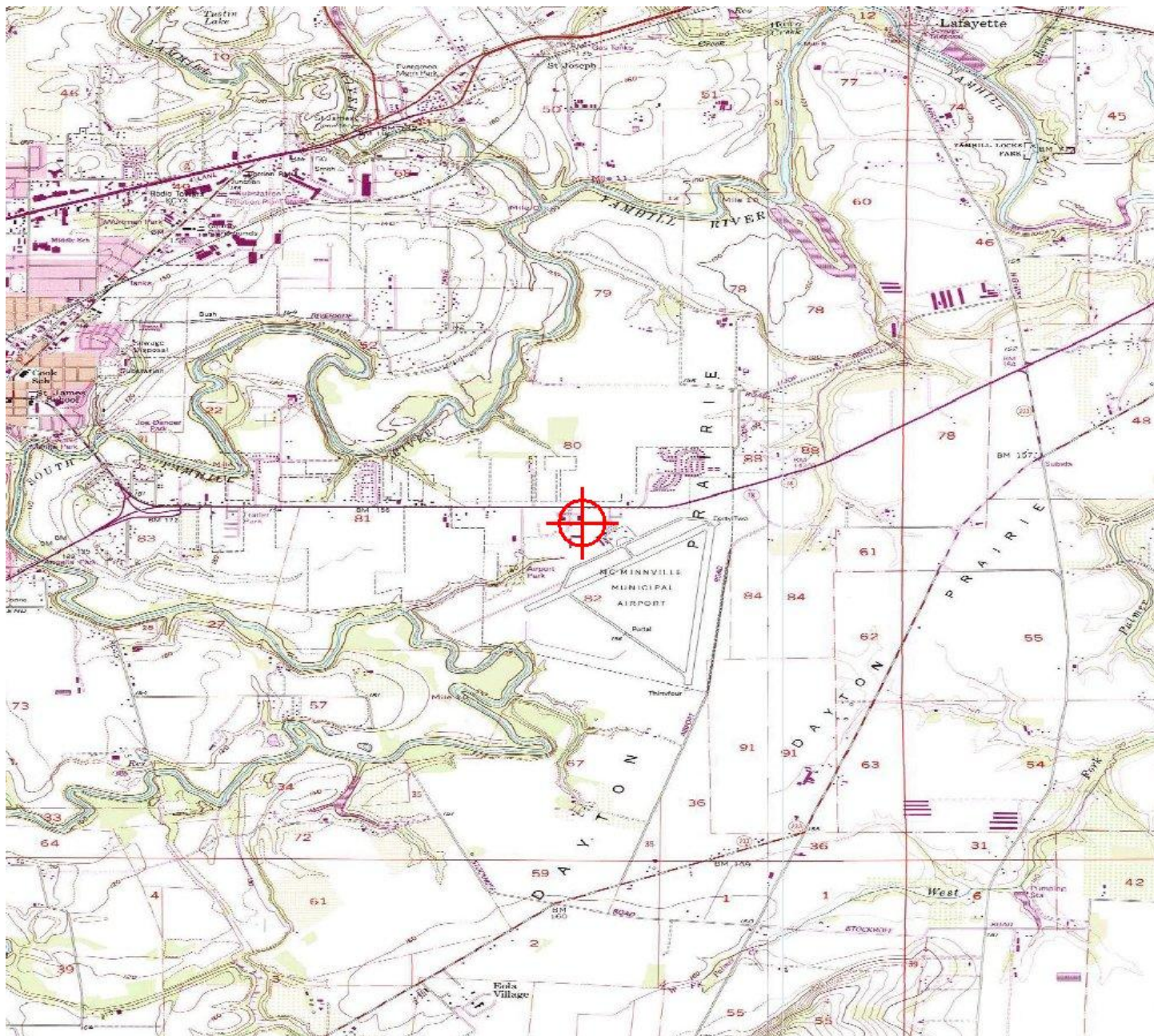
Attachment(s)  
Frequency Data  
Map(s)

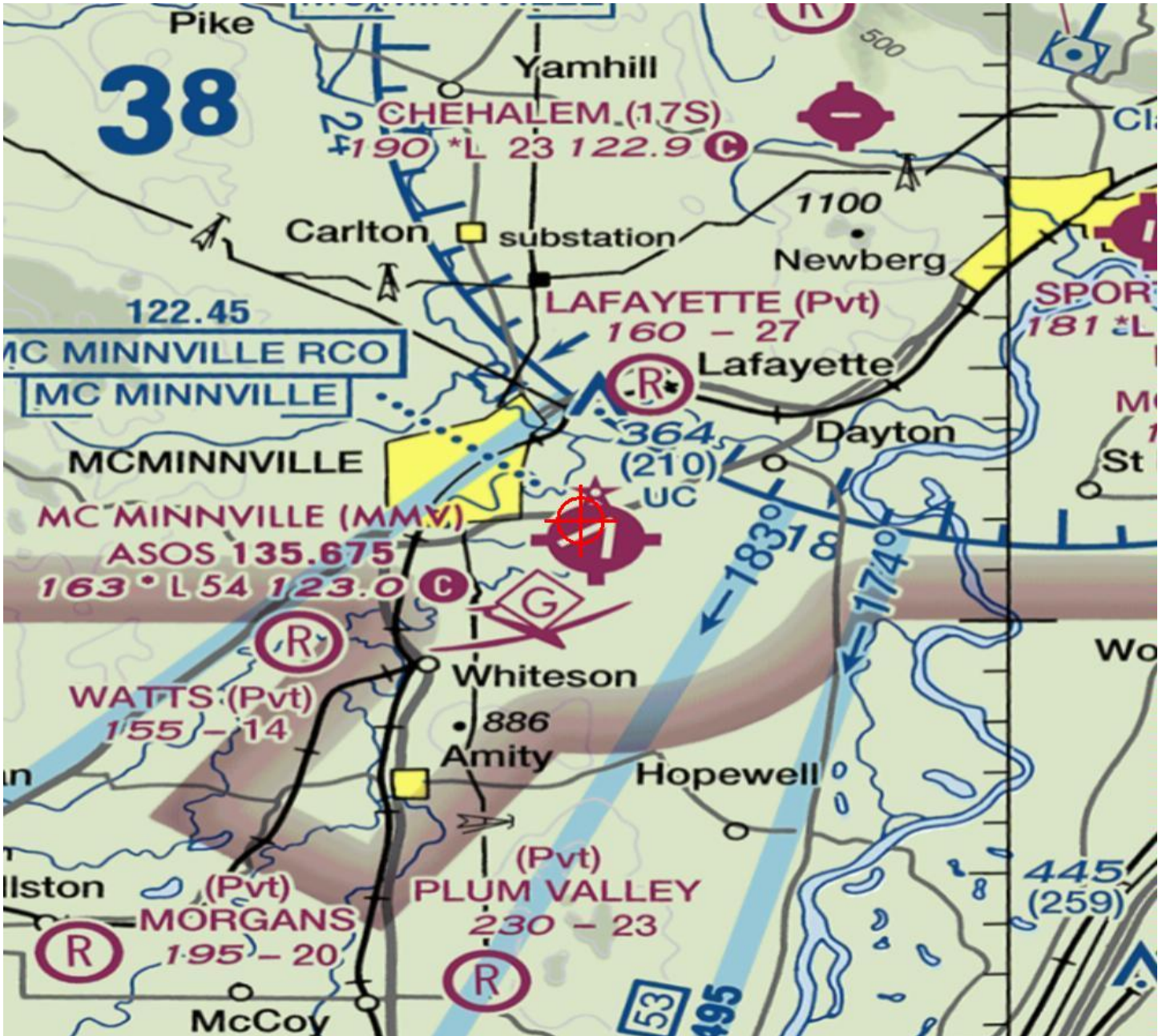
cc: FCC

**Frequency Data for ASN 2016-ANM-2915-OE**

<b>LOW FREQUENCY</b>	<b>HIGH FREQUENCY</b>	<b>FREQUENCY UNIT</b>	<b>ERP</b>	<b>ERP UNIT</b>
698	806	MHz	1000	W
806	824	MHz	500	W
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869	894	MHz	500	W
896	901	MHz	500	W
901	902	MHz	7	W
930	931	MHz	3500	W
931	932	MHz	3500	W
932	932.5	MHz	17	dBW
935	940	MHz	1000	W
940	941	MHz	3500	W
1850	1910	MHz	1640	W
1930	1990	MHz	1640	W
2305	2310	MHz	2000	W
2345	2360	MHz	2000	W









# Oregon

Kate Brown, Governor



October 20, 2016

Tyler Clouse  
Environmental Specialist  
Environmental Solutions Division  
Summit Solutions Group

3040 25th Street, SE  
Salem, OR 97302-1125  
Phone: (503) 378-4880  
Toll Free: (800) 874-0102  
FAX: (503) 373-1688

**Subject: Oregon Department of Aviation comments regarding the construction of a telecommunications tower constructed to 135-FEET in height located in McMinnville, Oregon.**

**Aviation Reference: 2016-ODA-260-OE**

The Oregon Department of Aviation (ODA) has conducted an aeronautical study of this proposed construction and has determined that notice to the FAA is required. The structure does exceed FAR Part 77.9 (a-d) and Obstruction Standards of OAR 738-70-0100.

This determination is based, in part, on the foregoing description which includes specific coordinates and heights. Any changes to the original application will void this determination. Any future construction or alteration to the original application will require a separate notice from ODA.

This determination will expire 18 months after its effective date, regardless of whether the proposed construction or alteration has been started, or on the date the proposed construction or alteration is abandoned, whichever is earlier.

**Mitigation Recommendation:**

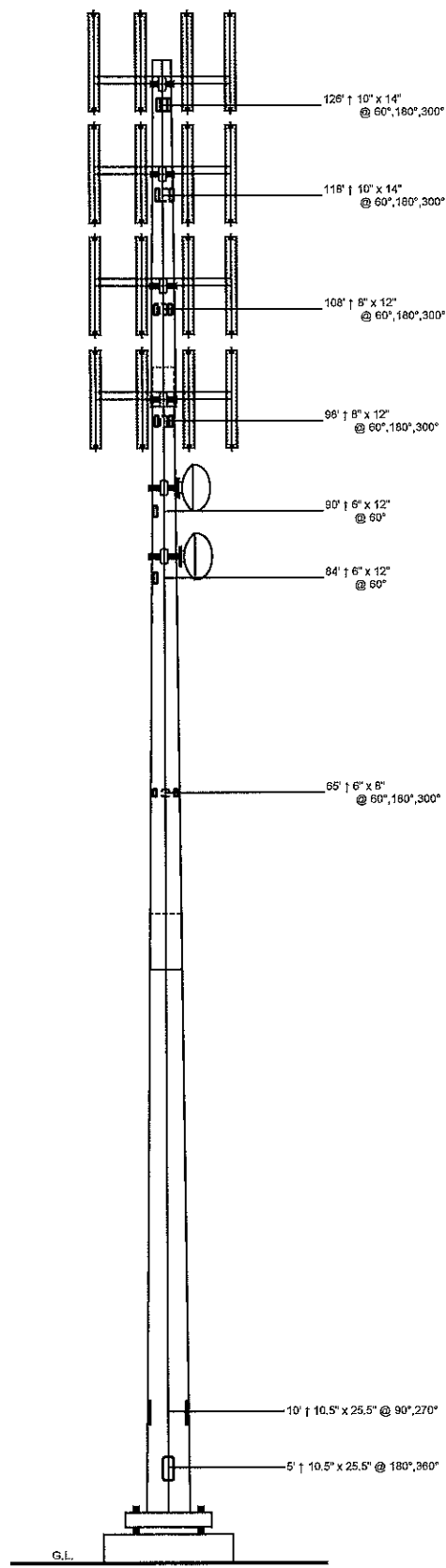
- We do not object with conditions to the construction described in this proposal. This determination does not constitute ODA approval or disapproval of the physical development involved in the proposal. It is a determination with respect to the safe and efficient use of navigable airspace by aircraft and with respect to the safety of persons and property on the ground.
- Marking and lighting are recommended for aviation safety. We recommend it be installed and maintained in accordance with FAA Advisory Circular AC70/7460-1L
- The proposed obstruction should to be lower to a height that is no longer a hazard to the airport primary and horizontal surface FAA FAR 77
- The proposed obstruction should be relocate outside the airport primary and horizontal surface FAA FAR 77

Sincerely,

Jeff Caines, AICP – Land Use Planner

SIZES ARE PRELIMINARY AND MAY CHANGE UPON FINAL DESIGN

Length (ft)	53' - 3"	53' - 6"	30' - 8"
Number Of Sides	18		
Lap Splice (ft)	5' - 0"	3' - 6"	
Top Diameter (in)	34.54"	23.9"	18"
Bottom Diameter (in)	47.05"	33.47"	25.22"
Taper (in/ft)		0.2349	
Grade		A572-65	
Weight (lbs)	10794	7064	2242
Overall Steel Height (ft)		128	



### Designed Appurtenance Loading

Elev	Description	Tx-Line
130	(12) HTXC6318R000	(12) 1 5/8"
130	(12) RRH2x40-HW	
130	(4) DC8-48-60-18-8F	(4) 1 1/2"
128	H.C. Platform (Monopole Only) - 12' w/ Enhanced Support Rail	
120	H.C. Platform (Monopole Only) - 12' w/ Enhanced Support Rail	
120	(12) HTXC6318R000	(12) 1 5/8"
120	(12) RRH2x40-HW	
120	(4) DC8-48-60-18-8F	(4) 1 1/2"
110	H.C. Platform (Monopole Only) - 12' w/ Enhanced Support Rail	
110	(3) DC8-48-60-18-8F	(3) 1 1/2"
110	(9) HTXC6318R000	(9) 1 5/8"
110	(9) RRH2x40-HW	
100	H.C. Platform (Monopole Only) - 12' w/ Enhanced Support Rail	
100	(9) HTXC6318R000	(9) 1 5/8"
100	(9) RRH2x40-HW	
100	(3) DC8-48-60-18-8F	(3) 1 1/2"
92	(1) Dish Mount (Monopole Only) - Pipe Mount (up to 6' Dish)	
92	(1) 4' Solid Dish w/ Radome	(1) 1 5/8"
86	(1) Dish Mount (Monopole Only) - Pipe Mount (up to 6' Dish)	
86	(1) 4' Solid Dish w/ Radome	(1) 1 5/8"

### Load Case Reactions

Description	Axial (kips)	Shear (kips)	Moment (ft-k)	Deflection (ft)	Sway (deg)
3s Gusted Wind	43.96	34.28	3666.96	11.15	9.22
3s Gusted Wind 0.9 Dead	32.98	34.28	3594.88	10.67	8.97
3s Gusted Wind&Ice	55.42	3.67	395.15	1.23	1.01
Service Loads	36.63	7.99	850.53	2.63	2.15

### Base Plate Dimensions

Shape	Diameter	Thickness	Bolt Circle	Bolt Qty	Bolt Diameter
Round	59.25"	2.25"	53.5"	14	2.25"

### Notes

- 1) Antenna Feed Lines Run Inside Pole
- 2) All dimensions are above ground level, unless otherwise specified.
- 3) Weights shown are estimates. Final weights may vary.
- 4) The Monopole was designed for a basic wind speed of 93 mph with 0" of radial ice, and 30 mph with 1/2" of radial ice, in accordance with ANSI/TIA-222-G, Structure Class II, Exposure Category C, Topographic Category 1.
- 5) The tower design meets the requirements for an Ultimate Wind Speed of 120 mph (Risk Category II), in accordance with the 2014 Oregon Structural Specialty Code.
- 6) Full Height Step Bolts

**Sabre Industries**  
Building Systems by CellXion

**Sabre Communications Corporation**  
7101 Southbridge Drive  
P.O. Box 658  
Sioux City, IA 51102-0658  
Phone: (712) 258-6690  
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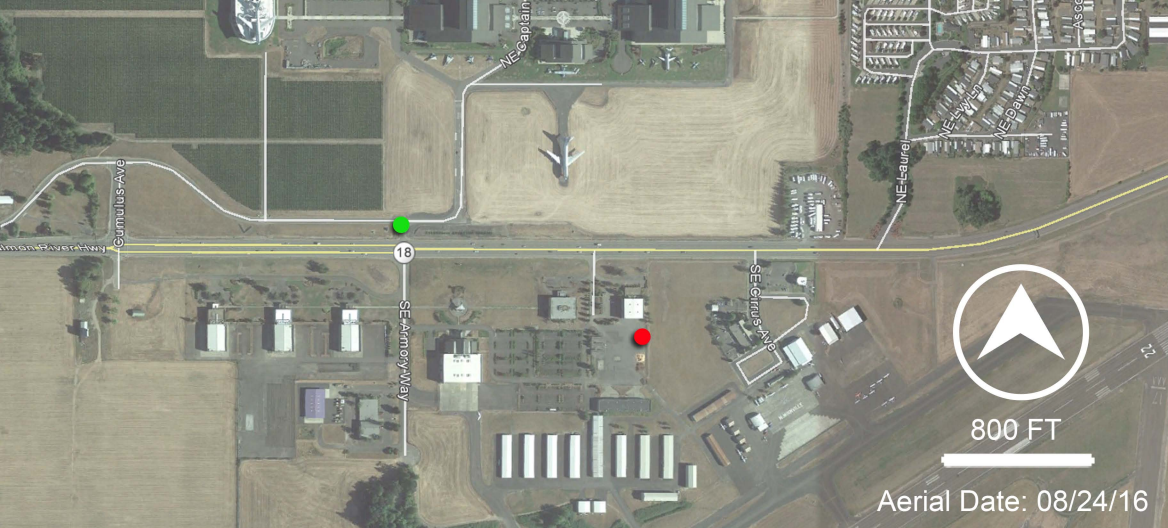
Quote: 17-4391-JJM-R1

Customer: PARALLEL INFRASTRUCTURE

Site Name: Spruce Goose, OR PIOR016

Description: 130' Monopole

Date: 12/13/2016 By: TRJ Page: 1



AERIAL OF SUBJECT AREA

- APPROX. PHOTO LOCATION
- APPROX. PROPOSED ANTENNA LOCATIONS



Conceptual Model

**Parallel**  
INFRASTRUCTURE

# Spruce Goose

## Looking Southeast

CS Project# PLI-17-0002-2



04.11.2017 13:57

Existing



PROPOSED 130' AGL MONOPOLE W/ (12) PANEL ANTENNAS - SEE NOTES BELOW

04.11.2017 13:57

Proposed

NOTES:

1. PM/GC TO VERIFY PAINTING REQUIREMENTS WITH JURISDICTION / FAA PRIOR TO ORDERING SUPPORT STRUCTURES, ATTACHMENTS, ANTENNAS, AND OTHER APPURTENANCES.

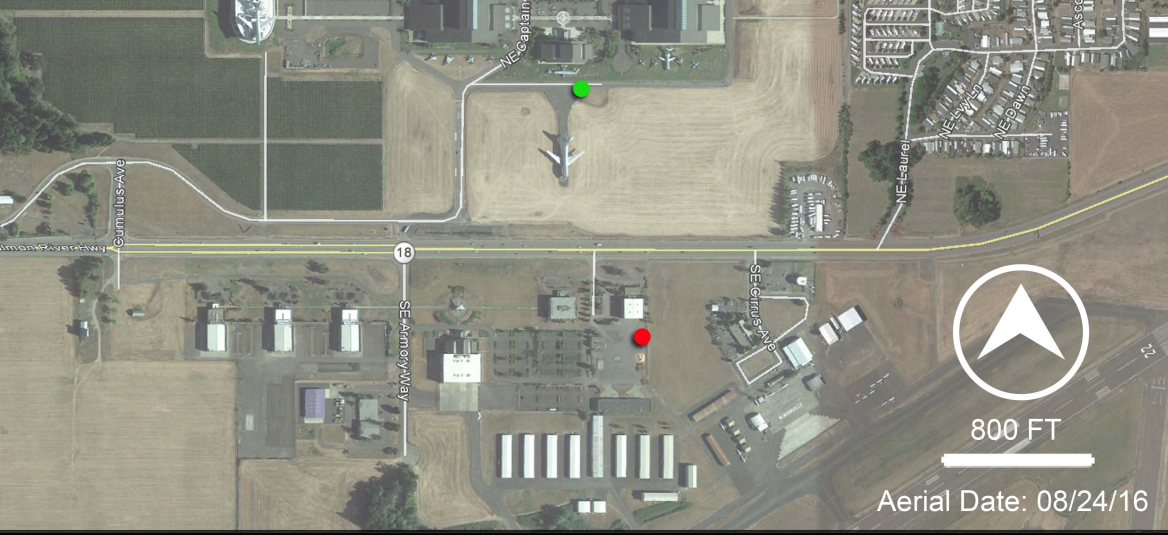
2. VISUAL IMPACTS WILL BE AFFECTED BY LOCATION AND VISIBILITY OF OBSERVER. THIS DOCUMENT IS FOR PLANNING AND INFORMATION PURPOSES ONLY AND IS CONCEPTUAL. THIS IS SOLELY THE PHOTOGRAPHER'S INTERPRETATION OF THE PROPOSED DEVELOPMENT.



# Spruce Goose

## Looking South

CS Project# PLI-17-0002-2



AERIAL OF SUBJECT AREA

● APPROX. PHOTO LOCATION

● APPROX. PROPOSED ANTENNA LOCATIONS



Existing



Proposed

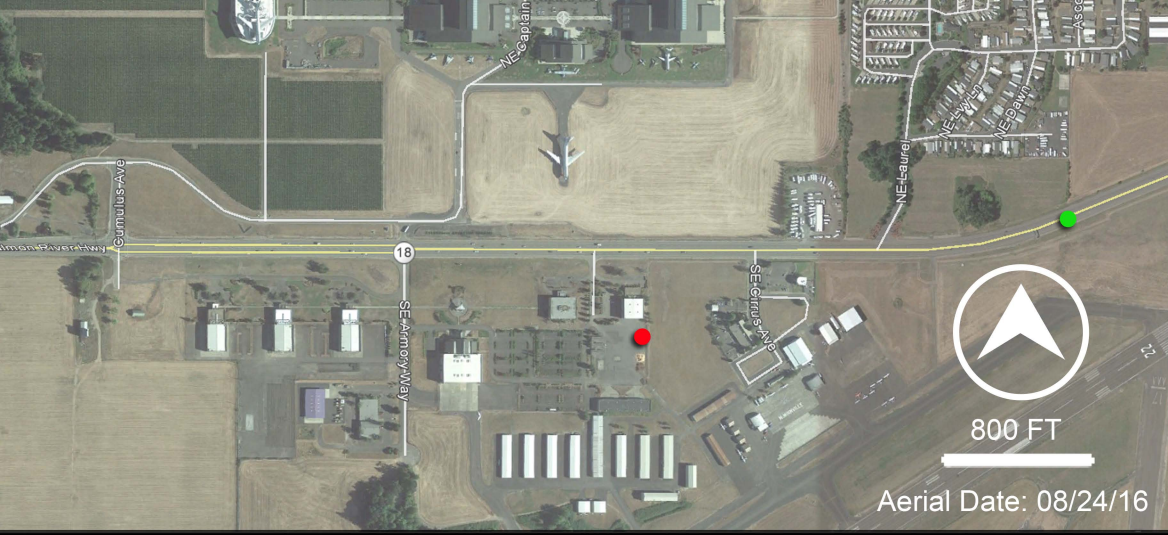
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# Spruce Goose

## Looking Southwest

CS Project# PLI-17-0002-2



AERIAL OF SUBJECT AREA

● APPROX. PHOTO LOCATION

● APPROX. PROPOSED ANTENNA LOCATIONS



Existing



Proposed

NOTES:

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# Spruce Goose

## Looking Southeast

CS Project# PLI-17-0002-2



AERIAL OF SUBJECT AREA

● APPROX. PHOTO LOCATION

● APPROX. PROPOSED ANTENNA LOCATIONS



Existing



Proposed

NOTES:

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