

NOTICE OF DECISION

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



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

DECISION OF THE HEARINGS OFFICER

SIGN VARIANCE / SIGN PERMIT CASE NO.: VAR-SI20-02

APPLICATION NO.: 20-107242-SA

NOTICE OF DECISION DATE: August 7, 2020

SUMMARY: A request for a Sign Adjustment and Sign Permit to install a 16-foot metal sculpture on a concrete base at Willamette University.

REQUEST: A Sign Adjustment and Sign Permit to install a new freestanding sign at Willamette University, a 16-foot metal sculpture on a concrete base, for property approximately 34.3 acres in size, zoned PE (Public and Private Educational Services), and located at 850 State Street - 97301 (Marion County Assessors Map and Tax lot numbers: 073W26BC / 04500, and 073W27AD / 00400, 00900 and 01000).

APPLICANT: Mark Mazurier on behalf of Willamette University

LOCATION: 850 State St

CRITERIA: Salem Revised Code (SRC) Chapter(s) 900.040 – Sign Variance

FINDINGS: The findings are in the attached Decision dated August 6, 2020

DECISION: The **Hearings Officer APPROVED** Sign Variance VAR-SI20-02.

The rights granted by the attached decision must be exercised, or an extension granted, by August 25, 2022 or this approval shall be null and void.

| | |
|----------------------------------|-------------------------|
| Application Deemed Complete: | <u>June 25, 2020</u> |
| Public Hearing Date: | <u>July 22, 2020</u> |
| Notice of Decision Mailing Date: | <u>August 7, 2020</u> |
| Decision Effective Date: | <u>August 25, 2020</u> |
| State Mandate Date: | <u>October 23, 2020</u> |

Case Manager: Aaron Panko, APanko@cityofsalem.net, 503-540-2356

This decision is final unless written appeal and associated fee (if applicable) from an aggrieved party is filed with the City of Salem Planning Division by 5:00 p.m., August 24, 2020. **PLEASE NOTE: Due to the COVID-19 pandemic, City of Salem Offices are closed to the public until further notice.** The notice of appeal can be submitted electronically at planning@cityofsalem.net. The notice of appeal must contain the information required by SRC 300.1020 and must state where the decision failed to conform to the provisions of the applicable code section, SRC Chapter(s) 900. The appeal fee must be paid at the time of filing. If the appeal is untimely and/or lacks the proper fee, the appeal will be rejected. The Planning

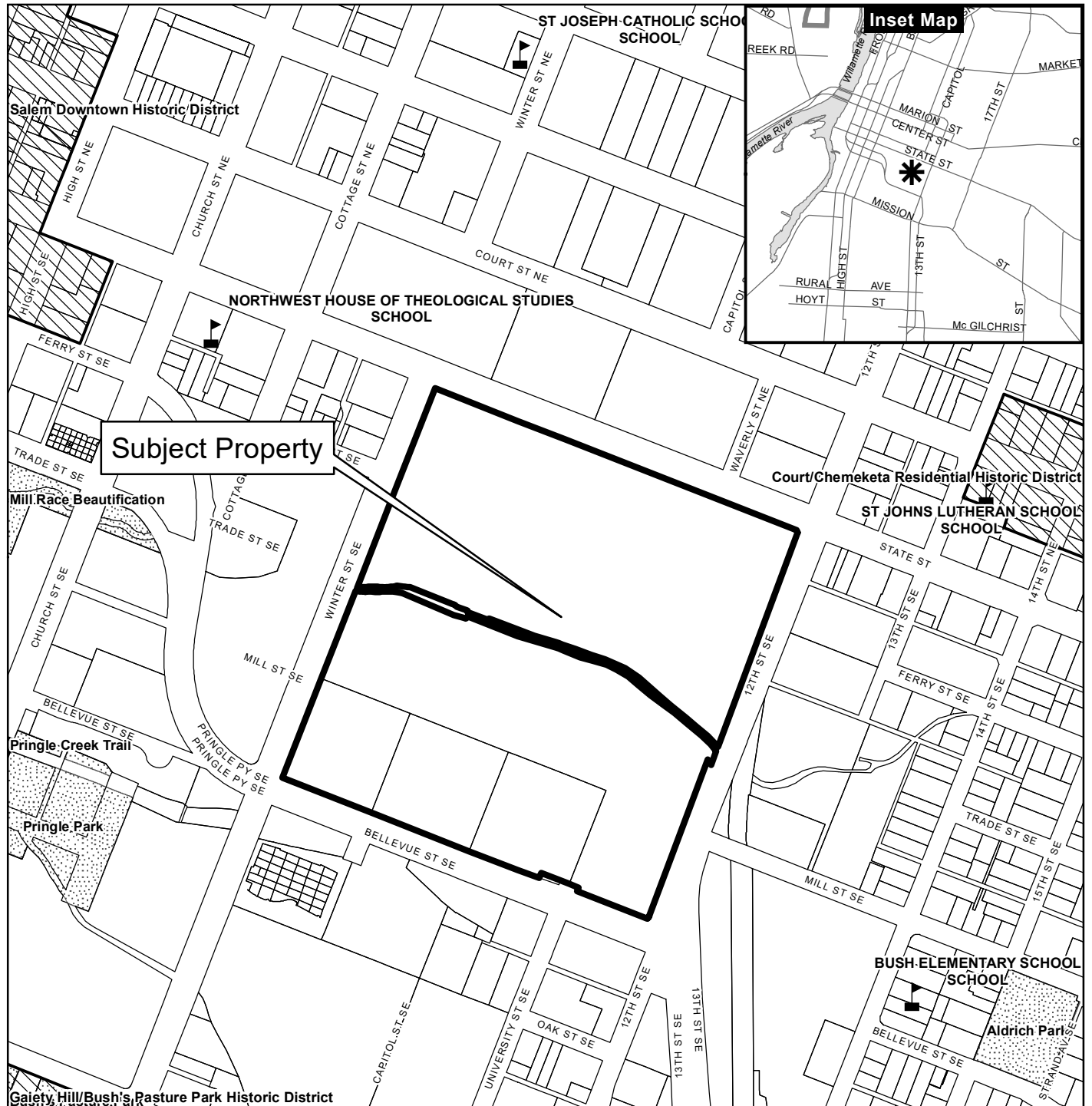
Commission will review the appeal at a public hearing. After the hearing, Planning Commission may amend, rescind, or affirm the action, or refer the matter to staff for additional information.

The complete case file, including findings, conclusions and conditions of approval, if any, is available for review by contacting the case manager, or at the Planning Desk in the Permit Application Center, Room 305, City Hall, 555 Liberty Street SE, during regular business hours. For access to case related documents during the closure of City Hall to the public because of the Covid-19 pandemic, please contact the Case Manager.

<http://www.cityofsalem.net/planning>

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Vicinity Map 850 State Street



Legend

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

- Parks

CITY OF Salem
AT YOUR SERVICE
Community Development Dept.

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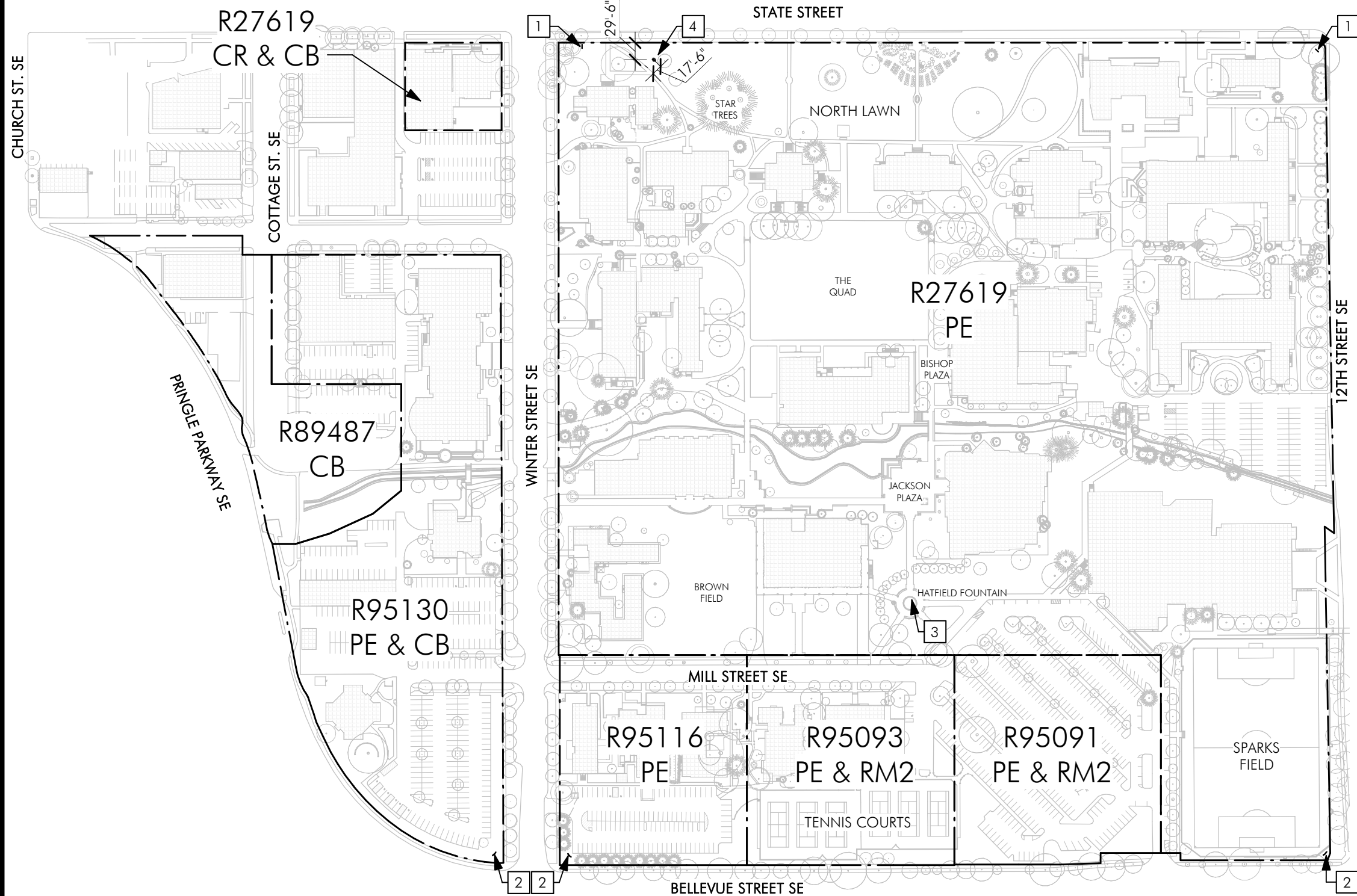


IMAGE 01



IMAGE 02



IMAGE 03

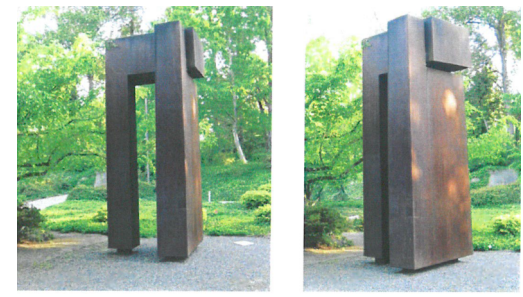


IMAGE 04

SITE PLAN NOTES:

- LOCATION OF PROPERTY LINES ARE APPROXIMATE LOCATIONS AND USED FOR REFERENCE FOR INSTALLATION OF NEW SCULPTURE

SITE PLAN INFO:

| | | | |
|-----------|----------------|---|----------|
| TAX LOTS: | | | |
| • R27619 | 1,121,234.4 sf | = | 25.74 ac |
| • R95091 | 126,759.6 sf | = | 2.91 ac |
| • R95093 | 129,373.2 sf | = | 2.97 ac |
| • R95116 | 117,176.4 sf | = | 2.69 ac |
| • R95130 | 312,325.2 sf | = | 7.17 ac |
| • R89487 | 108,900 sf | = | 2.50 ac |
| • R95117 | 24,829.2 sf | = | 0.57 ac |

TOTAL 1,940,598 sf = 44.55 ac

ZONING: PE, RM2, CB, & CR

SITE CODE NOTES:

- EXISTING ALUMINUM SIGN. NON-ILLUMINATING. TEXT HEIGHT VARIES, 3" - 9". SIZE: 4'-0" H x 8'-0" W FOR 32 SF OF SIGNAGE. SEE IMAGE 01 FOR TYPICAL ELEVATION
- EXISTING ALUMINUM SIGN. NON-ILLUMINATING. TEXT HEIGHT VARIES, 3" - 9". SIZE: 3'-0" H x 9'-0" W FOR 27 SF OF SIGNAGE. SEE IMAGE 02 FOR TYPICAL ELEVATION
- EXISTING HATFIELD FOUNTAIN, CONSTRUCTED ON CONCRETE AND STANDS APPROXIMATELY 13'-0" TALL. SEE IMAGE 03 FOR REFERENCE
- PROPOSED FREE STANDING SCULPTURE. CONSTRUCTED OF STAINLESS STEEL. SIZE: 15'-2" H x 6'-0" W x 6'-8" L FOR 91 SF OF SIGNAGE. SEE IMAGE 04 FOR REFERENCE



OVERALL SITE PLAN

0' 40' 100' 200' 400' 600' 1" = 200'-0"

**CITY OF SALEM
BEFORE THE HEARINGS OFFICER**

| | | |
|--|---|------------------------------------|
| A REQUEST FOR A SIGN ADJUSTMENT AND | } | |
| SIGN PERMIT TO INSTALL A NEW | } | VAR-SI20-02 |
| FREESTANDING SIGN AT WILLAMETTE | } | |
| UNIVERSITY, A 16-FOOT METAL | } | |
| SCULPTURE ON A CONCRETE BASE, FOR | } | FINDINGS OF FACT, CONCLUSIONS, AND |
| PROPERTY APPROXIMATELY 34.3 ACRES | } | DECISION |
| IN SIZE, ZONED PE (PUBLIC AND PRIVATE | } | |
| EDUCATIONAL SERVICES), AND LOCATED | } | |
| AT 850 STATE STREET - 97301 (MARION | } | |
| COUNTY ASSESSORS MAP AND TAX LOT | } | |
| NUMBERS: 073W26BC / 04500, AND | } | |
| <u>073W27AD / 00400, 00900 AND 01000.)</u> | | |

DATE AND PLACE OF HEARING:

Wednesday, July 22, 2020, 5:30PM, remote via Zoom and live streamed on YouTube.

APPEARANCES:

Staff: Aaron Panko, Planner III

Neighborhood Association: Central Area Neighborhood Development Organization (CANDO), Southeast Salem Neighborhood Association (SESNA), and Northeast Neighbors (NEN)

Proponents: Mark Mazurier on behalf of Willamette University
(written application materials only)

**SUMMARY OF THE APPLICATION AND HEARING
BACKGROUND**

The City of Salem held a duly authorized and noticed public hearing on July 22, 2020, regarding a request for a Sign Variance and Sign Permit to allow the installation of a new freestanding sign at Willamette University: a 16-foot metal sculpture on a concrete base, for property approximately 34.3 acres in size, zoned PE (Public and Private Educational Services), and located at 850 State Street. Due to the COVID-19 Pandemic, consistent with City meetings and hearings

During the hearing, Aaron Panko requested the Staff Report and presentation be entered into the Record, and the Hearings Officer granted the request. Due to the Covid-19 pandemic, testimony from neighborhood organizations, persons in favor or opposition, and rebuttal by the applicant was limited to written testimony. The record was held open for seven days to allow for additional written testimony. No person or organization provided any written testimony. At the end of the seven day period, the applicant waived the additional period for a final written argument.

Based on the application and the staff report and presentation, the Hearings Officer makes the following:

FINDINGS OF FACT AND CONCLUSIONS

1. Salem Area Comprehensive Plan (SACP) designation

The Salem Area Comprehensive Plan (SACP) map designation for the subject property is "Community Service Education." The subject property is within the Urban Growth Boundary and is located inside the Urban Service Area.

2. Zoning and Surrounding Land Uses

The subject property is zoned PE (Public and Private Educational Services).

The zoning and uses of surrounding properties include:

North: Across State Street – PM (Capitol Mall) – Capitol Building
South: Across Bellevue Street SE – CR (Retail Commercial), CO (Commercial Office), PH (Public and Private Health Services) and PE (Public and Private Education Services) – Eating and Drinking, Salem Hospital
East: Across 12th Street SE – MU-I (Mixed Use), CR (Retail Commercial), and CG (General Commercial) – Eating and Drinking, Willamette Heritage Center, State of Oregon
West: Across Winter Street SE – CR (Retail Commercial) and PE (Public and Private Education Services) – Willamette University

3. Site Analysis

The subject property is approximately 34.4 acres in size and has frontage along State Street, 12th Street SE, Winter Street SE, and Bellevue Street SE. In the Salem Transportation System Plan (TSP), State Street and 12th Street SE are designated as Major Arterial streets, Winter Street SE is designated as a local street and Bellevue Street SE is designated as a Parkway. The proposed metal sculpture will be located near the intersection of Winter Street SE and State Street, setback approximately 30 feet from State Street.

4. Neighborhood and Citizen Comments

Notice of the application was sent to the Central Area Neighborhood Development Organization (CANDO), and adjacent neighborhood associations Southeast Salem Neighborhood Association (SESNA) and Northeast Neighbors (NEN). Notice was also provided to all property owners of record and tenants within 250 feet of the subject property. At the time of this Final Decision, no comments have been received from CANDO, SESNA, NEN, or surrounding property owners.

5. City Department and Public Agency Comments

The Building and Safety Division and Public Works Department have reviewed the proposal and indicated no concerns.

The Historic Preservation Office/City Archaeologist has reviewed the proposal and commented that the property is within a High Probability Archaeological Zone. An Inadvertent Discovery Plan is required to be in place prior to any ground disturbing activity.

6. Sign Variance Applicability – SRC Chapter 900

SRC 900.040(a) provides that sign variances may be granted to the height and display surface standards, to increase the number of allowed signs, to allow relocation of a sign, and to allow structural alterations to a sign.

A sign variance shall not provide for any of the following:

- a) To allow a sign prohibited by SRC 900.020 (Prohibited Signs).
- b) To decrease a setback or special setback.
- c) To allow placement of a sign in a vision clearance area.
- d) To allow structural alterations to a non-conforming or non-complying sign.
- e) To authorize a sign not otherwise permitted on the property for which the variance is sought.
- f) To allow any sign other than those specifically allowed by this Chapter.
- g) To modify the display and brightness regulations for electronic display signs established by SRC 900.090.

The Hearings Officer notes that the applicant is requesting a sign variance to allow an additional freestanding sign along State Street, for a total of three freestanding signs on State Street, where a maximum of one freestanding sign is allowed, and to increase the display surface allowance for the freestanding sign from a maximum of 32 square feet (SRC 900.215(b)(1)(B)) to 91 square feet.

7. Analysis of Sign Variance Criteria – SRC Chapter 900

Pursuant to SRC 900.040(d), an application for a sign variance shall be granted if the following criteria are met:

Criterion 1:

Compliance with the applicable standard would create an unnecessary hardship due to unique or unusual physical conditions of the property over which the applicant has no control, such as topography and lot shape, which are not present on other properties in the vicinity that have the same zone designation; the hardship does not result from actions of the applicant, owner, or previous owners of the property; and the sign variance is limited to the minimum reasonably necessary to alleviate the problem created by the unique or unusual physical conditions.

The Hearings Officer notes that the subject property is approximately 34.3 acres in size and has more than 1,300 feet of frontage along State Street. Willamette University has two freestanding monument signs to identify the university campus at the corners near the intersections of Winter Street SE and State Street, and 12th Street SE and State Street. The proposed freestanding sculpture will not have any identifying markings for Willamette University, however, because the sculpture is designed to attract the attention of the public, it is consistent with the definition of a sign in SRC Chapter 900 (Sign Code) and is regulated as a sign. Willamette University does have other sculptures on the campus, however, because these sculptures are nonilluminated and not visible from the public right-of-way, they are exempt from permit requirements and are allowed in addition to any other signs otherwise allowed by Chapter 900 (see SRC 900.030(c)(5)).

The Hearings Officer notes that the variance is requested due to the unusually large size of the campus and the need to locate the proposed metal sculpture art piece next to the Arts Building in a location that will have minimal impact on existing trees and vegetation. The variance is necessary to allow the reasonable installation of an art piece on the Willamette University campus, while having minimal impact on the physical conditions of the property.

In summary, the Hearings Officer finds that the applicant has adequately addressed how the subject property features unique conditions that create a hardship in complying with the applicable standard. The Hearings Officer finds that these are unusual or unique conditions of the lot that necessitate the larger sign; therefore, this criterion is met.

Criterion 2:

The sign variance is necessary to permit signage comparable with other properties in the vicinity that have the same zone designation.

The Hearings officer notes that the properties in the vicinity have similarly sized sculptures and structures.

The applicant's written statement did not provide an analysis of signage present at other properties in the vicinity. The Staff report provided the Hearings Officer with an analysis that indicates that other properties in the vicinity and in the same zone, such as the Salem Hospital, which owns another large property in the vicinity with the same PE zone. At the intersection of Mission Street SE and Church Street SE there is an archway and interpretive panels that lead to the entrance of the "Let's go play!" adaptive playground, that is similar in size and character as the proposed sculpture.

The Hearings Officer notes that the Willamette University campus is located adjacent to the Capitol Mall and is near the Salem Downtown Central Business District, although not necessarily sharing the same zoning, outdoor art installations are common throughout the Capitol Mall and downtown area. Art installations include the Parade of Animals, which is located at Willson Park and visible from the public right-of-way, the polished chrome cube located in the downtown streetscape near 415 State Street, the sculpture garden at the Salem Convention Center at 200 Commercial Street NE, and the Crescent Probe sculpture located at the Peace Plaza between the Library and City Hall. The Hearings Officer finds that the proposed sculpture is similar to other art installations in the vicinity and is therefore consistent with this approval criterion.

The applicant has adequately demonstrated how the sign variance is necessary to permit signage comparable with other properties in the vicinity that have the same zone designation, therefore the Hearings Officer finds that this criterion is met.

Criterion 3:

The sign variance will not adversely affect the function or appearance of the development and use of the property and surrounding properties.

The Hearings Officer notes that the proposed sculpture will increase the overall appearance and visibility of the Willamette University campus along State Street, while fostering the arts and a sense of community within the city.

The variance request is to allow the installation of a 16-foot-tall sculpture next to the arts building, near the intersection of Winter Street SE and State Street. The Hearings Officer notes that the proposed sculpture is not a typical freestanding sign display in that the sculpture itself does not contain any messaging or logo identifying a place of business or service provided on the property. Rather, the sculpture is intended as a piece of artwork promoting a sense of community within the city.

The Hearings Officer notes that the impacts of the proposed sculpture will also be minimized on surrounding properties because the sculpture will not be

illuminated, isn't carrying a message or logo for the campus, and will be setback approximately 30 feet from State Street. The Hearings Officer finds that the variance will not adversely affect the function or appearance of the development and use of the property and surrounding properties. The Hearings Officer finds that this criterion is met.

Criterion 4:

The sign variance will not impose limitations on other properties and signage in the area, including signage that would be allowed on adjacent properties.

The Hearings Officer notes that in some cases, such as with outdoor advertising signs, or freestanding signs for shared shopping centers, office complexes or industrial complexes, approval of a sign may create limitations on signage permitted on abutting or nearby properties. In this case, granting the sign variance to allow one additional freestanding sign for the Willamette University campus will not impose limitations on the sign allowance for abutting or nearby properties, therefore the request complies with this criterion.

The Hearings Officer finds that granting the application would not limit allowed signage for adjacent properties.

The Hearings Officer finds that this criterion is met.

8. Analysis of Sign Permit Approval Criteria – SRC Chapter 900

SRC Chapter 900.025(d) provides that an application for a sign permit shall be granted if the following criteria are met:

Criterion 1:

The sign meets the requirements of SRC Chapter 56.

The Hearings Officer notes that freestanding signs that are greater than 7 feet in height require a building permit to construct. The proposed freestanding sculpture is approximately 16 feet in height and requires a building permit to construct. The applicant has applied for a building permit to install the sculpture (20-104908-BP).

The Hearings Officer finds that this criterion is satisfied.

Criterion 2:

The sign is allowed in the zone.

The Hearings Officer notes that in the PE (Public and Private Education) zone, a maximum of one freestanding sign is permitted per street frontage. The variance request is to increase the number of freestanding signs on a street frontage above the number of signs permitted under SRC 900.215(b)(1)(B).

The Hearings Officer finds that this criterion is satisfied.

Criterion 3:

The sign will not interfere with the use of any public right-of-way, other public easements, or other publicly owned property.

The Hearings Officer notes that no evidence has been presented that the sign will interfere with use of the public right-of-way, public easements, or other publicly owned property. The Hearings Officer notes that given the location of the property and proposed location for the sculpture, the proposed sculpture is unlikely to interfere with the use of any property that the public has an interest in.

The Hearings Officer finds that this criterion is satisfied.

Criterion 4:

The sign conforms to all the applicable standards in this Chapter.

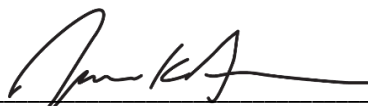
The Hearings Officer notes that the variance application seeks approval to allow one additional freestanding sign on State Street, and to increase the display area allowance from a maximum of 32 square feet to 91 square feet. The proposed sign complies with the maximum height allowance of 16 feet as well as the minimum three-foot setback standard adjacent to a street. With those exceptions, the sign conforms to the applicable standards for a freestanding sign in the PE zone. The Hearings Officer finds that the proposed sculpture complies with all other standards of SRC Chapter 900.

No participant objected to or challenged the testimony or evidence presented in the staff report and hearing. Based on the Record and testimony, the Hearings Officer finds the application satisfies the relevant criteria.

DECISION

The Hearings Officer **APPROVES** the request for a Sign Variance and Sign Permit to allow the installation of a 16-foot metal sculpture on a concrete base at Willamette University for property approximately 34.3 acres in size, zoned PE (Public and Private Educational Services) and located at 850 State Street – 97301.

DATED: August 6, 2020


James K. Brewer, Hearings Officer