

NOTICE OF DECISION

PLANNING DIVISION
555 LIBERTY ST. SE, RM 305
SALEM, OREGON 97301
PHONE: 503-588-6173
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*Si necesita ayuda para comprender esta informacion, por favor llame
503-588-6173*

DECISION OF THE PLANNING ADMINISTRATOR

CLASS 2 WIRELESS PERMIT CASE NO.: WS221-05

APPLICATION NO.: 21-111680-ZO

NOTICE OF DECISION DATE: September 16, 2021

SUMMARY: Replace an existing utility pole and install a small cell wireless communications facility on the replacement pole.

REQUEST: Class 2 Wireless Communications Facility Siting Permit to replace an existing 35 foot 2 inch utility pole in the right-of-way on the western side of the 4500-4699 Liberty Road S block adjacent to 4555 Liberty Road S (Marion County Assessor Map and Tax Lot 083W09AC03900) in the CR (Retail Commercial) zone with a 30 foot utility pole, install equipment on the pole, and attach an antenna at the top with a maximum height of 36 feet.

APPLICANT: Meredith Hewett on behalf of New Cingular Wireless PCS LLC (AT&T)

LOCATION: 4500-4699 Liberty Road S, Salem OR 97302

CRITERIA: Salem Revised Code (SRC) Chapters 703.020(e)(2) – Wireless communications facility siting permits

FINDINGS: The findings are in the attached Decision dated September 16, 2021.

DECISION: The **Planning Administrator APPROVED** Class 2 Wireless Permit Case No. WS221-05 subject to the following conditions of approval:

- Condition 1:** An obsolete wireless communications facility shall be removed by the owner within six months of the date the facility ceases to be operational.
- Condition 2:** All wireless communications facilities shall be operated and maintained in compliance with all radio frequency emission standards specified by the Federal Communications Commission.
- Condition 3:** All wireless communications facilities shall be installed and maintained in accordance with applicable federal, state, and local laws.
- Condition 4:** All wireless communications facilities shall allow for the attachment or collocation of additional facilities to the greatest extent possible, unless such attachment or collocation interferes with the owner's wireless communications facilities, jeopardizes the physical integrity of a structure with which a wireless communications facility is associated, or the owner refuses to consent to the attachment or collocation of additional wireless communications facilities.

- Condition 5:** Vegetation that is either removed or destroyed as a result of construction shall be replanted with appropriate plant materials as prescribed in SRC Chapter 807.
- Condition 6:** Prior to making any opening or cut in any right-of-way, an owner shall obtain approval from the City Engineer.
- Condition 7:** After construction, maintenance, or repair of any wireless communications facility, an owner shall leave any right-of-way disturbed by such activity in as good or better condition than it was before the commencement of such work. The owner shall promptly complete restoration work and promptly repair any damage caused by such work at its sole cost and expense. When any opening or cut is made by the owner in the pavement of right-of-way, the owner must promptly refill the opening or cut, and restore the surface to a condition satisfactory to the City Engineer, in accordance with public works construction standards.
- Condition 8:** Prior to performing any excavation in right-of-way to underground any auxiliary support equipment, all necessary city permits shall be obtained and all appropriate notice given to any franchisees, licensees and grantees, other city departments, and other governmental units that own or maintain facilities which may be affected by the excavation.
- Condition 9:** All undergrounding and excavation work must comply with the Oregon Utility Notification Law, ORS 757.542-757.562 and 757.993, and all rules and regulations promulgated thereunder.
- Condition 10:** All excavations made by an owner in right-of-way shall be properly safeguarded for the prevention of accidents and must be done in compliance with all applicable federal, state, and local laws and regulations.
- Condition 11:** Except for short or temporary durations during testing or during operation in emergency situations, noise generating equipment associated with wireless communications facilities shall not produce sound levels in excess of standards established in SRC Chapter 93.
- Condition 12:** No City tree may be pruned or removed, no construction within the Critical Tree Zone of a City tree may occur, and no tree may be planted on City property, unless a permit is obtained from Public Works pursuant to SRC Chapter 86.

The rights granted by the attached decision must be exercised, or an extension granted, by October 2, 2023, or this approval shall be null and void.

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|----------------------------------|---------------------------|
| Application Deemed Complete: | <u>August 23, 2021</u> |
| Notice of Decision Mailing Date: | <u>September 16, 2021</u> |
| Decision Effective Date: | <u>October 2, 2021</u> |
| State Mandate Date: | <u>December 21, 2021</u> |

Case Manager: Pamela Cole, pcole@cityofsalem.net, 503-540-2309

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, Room 320, 555 Liberty Street SE, Salem OR 97301, or by email at planning@cityofsalem.net, no later than 5:00 p.m. Friday, October 1, 2021. 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) 703. The appeal fee must be paid at the time of filing. If the appeal is untimely and/or lacks the proper fee, the appeal will be rejected. The Hearings Officer will review the appeal at a public hearing. After the hearing, the Hearings Officer may amend, rescind, or affirm the action, or refer the matter to staff for additional information.

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.

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

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503-588-6173***

BEFORE THE PLANNING ADMINISTRATOR OF THE CITY OF SALEM

**CLASS 2 WIRELESS COMMUNICATIONS FACILITY SITING PERMIT
CASE NO. WS221-05
DECISION**

| | | |
|---------------------------------------|----------|--|
| IN THE MATTER OF APPROVAL OF |) | CLASS 2 WIRELESS COMMUNICATIONS |
| WIRELESS COMMUNICATIONS |) | FACILITY SITING PERMIT |
| FACILITY SITING PERMIT |) | |
| CASE NO. WS221-05 |) | |
| WESTERN RIGHT-OF-WAY OF THE |) | |
| 4500-4699 LIBERTY ROAD S BLOCK |) | SEPTEMBER 16, 2021 |

In the matter of the application for a Class 2 Wireless Communications Facility Siting Permit submitted by Meredith Hewett of J5 Infrastructure Partners, on behalf of the applicant New Cingular Wireless PCS LLC (doing business as AT&T), the Planning Administrator, having received and reviewed evidence and the application materials, makes the following findings and adopts the following order as set forth herein.

REQUEST

Summary: Replace an existing utility pole and install a small cell wireless communications facility on the replacement pole.

Request: Class 2 Wireless Communications Facility Siting Permit to replace an existing 35 foot 2 inch utility pole in the right-of-way on the western side of the 4500-4699 Liberty Road S block adjacent to 4555 Liberty Road S (Marion County Assessor Map and Tax Lot 083W09AC03900) in the CR (Retail Commercial) zone with a 30 foot utility pole, install equipment on the pole, and attach an antenna at the top with a maximum height of 36 feet.

A vicinity map illustrating the location of the property is attached hereto and made a part of this staff report (**Attachment A**).

FINDINGS

1. Class 2 Wireless Communications Facility Siting Permit Applicability

The existing utility pole and the proposed utility pole are utility structures according to the definition of SRC 703.005: any utility pole, guy or support pole, utility pole extension, light standard, light pole or other similar pole that is suitable for the installation of wireless communications facilities. The proposed replacement of a utility structure for the purpose of attachment of an antenna or antenna array is a second priority siting according to SRC 703.010(c). SRC 703.020(b) requires a Class 2 Wireless Communications Facilities Siting Permit for any second priority siting.

2. Background

A Class 2 Wireless Communications Facility Siting Permit was submitted on June 23, 2021 by Meredith Hewett of J5 Infrastructure Partners, on behalf of the applicant New Cingular Wireless PCS LLC (doing business as AT&T). Additional information was requested from the applicant on July 2, 2021. The application was deemed complete for processing on August 23, 2021.

In accordance with procedural requirements of SRC 300.520(b), staff mailed a Notice of Filing and Request for Comments on August 23, 2021 with a comment deadline of September 7, 2021. Notice of the application was posted on the property on August 24, 2021 in accordance with SRC 300.520(b). The 120-day state-mandated deadline is December 21, 2021.

The applicant's proposed site plans are included as **Attachment B**, elevations depicting the proposed facility are included as **Attachment C**, and photo simulations are included as **Attachment D**.

Summary of Record:

The following items are submitted to the record and are available upon request: All materials submitted by the applicant, including any applicable professional studies; any materials and comments from public agencies, City departments, neighborhood associations, and the public; and all documents referenced in this report.

Homeowners Association

The subject property is not located within an active Homeowners Association.

Neighborhood Association Comment

Notice of the application was provided to the Sunnyslope Neighborhood Association (Sunnyslope) pursuant to SRC 300.520(b)(1)(B)(v), which requires notice to be sent to any City-recognized neighborhood association whose boundaries include, or are adjacent to, the subject property. No comments were received from Sunnyslope.

Public Comment

Notice was also provided, pursuant to SRC 300.520(b)(1)(B)(iii), (vi), & (vii), to all property owners and addresses within 250 feet of the utility structure. The subject property was posted pursuant to SRC 300.520(b)(2).

- Roth IGA Foodliner Inc., commented that the proposed location would be closer to their existing freestanding reader board sign, be significantly larger in circumference than the existing light pole, and increase visual obstruction of the sign and suggested that the applicant pursue alternative solutions such as replacing a different light pole south of the reader board (**Attachment E**).

Applicant response: Roth's suggests an alternative location for AT&T's proposed small wireless facility in case number WS221-05. AT&T's proposed small wireless facility meets the City's applicable siting standards as designed, including being located on the highest priority street classification in the vicinity, a major arterial. See Section 703.030. Roth's does not identify any decision criteria relevant to its comments, and the City's code does not prefer Roth's proposed alternative location over AT&T's proposed location. AT&T's project complies

with all relevant criteria, and the City can easily find that AT&T has satisfied its code requirements.

Staff response: The City's criteria and standards for wireless facility siting permits do not require a replacement pole to be installed in the same position as the existing pole, be the same circumference as the existing pole, or be placed to eliminate all visual obstructions to features on abutting properties.

The criteria for replacement of a utility structure in right-of-way specify that a proposal may not cause an increase in the number of utility structures in the right-of-way or cause an enlargement or expansion of an existing utility structure in the right-of-way. Replacement poles are often placed a few feet from existing poles to minimize disruption of utility services during construction. The existing pole is about 39 feet north/northwest of the sign, and the proposed pole would be about 36 feet north/northwest of the sign. At the completion of the project, only one utility structure will remain, meeting the applicable criterion.

The applicable standards allow a replacement pole that is larger in circumference than the existing pole. The applicant's elevation drawings indicate that the circumference of the proposed pole is approximately 10 inches at the base, 7.25 inches at 22 feet above grade (even with the base of the equipment cabinet), and 6 inches at 30 feet above grade (the base of the antenna shroud); the circumference of the existing pole is approximately 7.75 inches at the base, 5.5 inches at 22 feet above grade, 4.5 inches at 30 feet above grade, and 4 inches at the top height of 35 feet 2 inches. The increase in pole circumference is approximately 29 percent at the base, 32 percent at 22 feet above grade, and 33 percent at 30 feet above grade. A replacement light pole must often be larger in circumference than an existing light pole to support additional weight of attached antennas and equipment. The applicable standard requires that a replacement utility structure that is required to provide structural capacity to support an antenna or auxiliary support equipment shall be at least as wide as the engineering minimum required to provide the required support, and to meet safety standards promulgated by the Oregon Public Utility Commission. The applicant provided plans and a structural analysis stamped by registered professional engineers, indicating that the replacement structure meets this standard.

The applicable standards do not prohibit visual obstruction of features on abutting properties. Staff compared the known sign display surface area with approximate areas that the existing and proposed poles would obstruct. The most recently approved permit records for the Roth's sign indicate that the top of the highest sign cabinet is 25 feet above grade, the bottom of the lower sign cabinet is 15 feet above grade, and the combined display surface area of the two cabinets is 136 square feet, not including the areas of the small signs that are often placed below the two cabinets. If the existing and replacement poles were directly north of the center of the Roth's sign, the existing pole would obstruct approximately 4.7 square feet (3.5 percent) of the sign cabinet area, and the proposed pole and equipment enclosure would obstruct approximately 12.2 square feet (9.0 percent) of the sign cabinet area. However, because the existing and proposed pole are 39 feet or 36 feet from the sign, respectively, and pedestrians and drivers approach at an oblique angle, the percentage of visual obstruction would vary depending on the viewer's location. Using Google street view to approximate the position of a driver in the right southbound lane, staff estimates that the existing light pole would not obstruct the sign when a driver is 0 to 105 feet north of the sign, and the proposed replacement pole would not obstruct the sign when a driver is approximately 0 to 90 feet north of the sign. The visual obstruction is minimal.

The proposal meets the applicable criteria and standards. Therefore, the City cannot require the applicant to replace a different light pole in order to reduce visual obstruction of the Roth's sign.

City Department Comments:

The Public Works Department reviewed and approved the proposal.

The Building and Safety Division reviewed the proposal and had no concerns.

The Fire Department reviewed the proposal and had no concerns.

Public and Private Service Provider Comments:

PGE, the owner of the utility pole, received notice of the proposal and had no comments.

3. Analysis of Class 2 Wireless Communications Facility Siting Permit Approval Criteria

SRC 703.020(e)(2) states that a Class 2 wireless communications facility siting permit shall be granted only if each of the following criteria is met:

- (A) The proposed utility structure meets the standards in this Chapter.
- (B) For replacement of a utility structure outside right-of-way, the proposed wireless communications facility cannot practicably be located on an existing or modified structure outside right-of-way.
- (C) For replacement of a utility structure outside right-of-way, the approval will not cause an increase in the number of utility structures on the property or cause an enlargement or expansion of an existing utility structure on the property.
- (D) For replacement of a utility structure in right-of-way, the proposed wireless communications facility cannot practicably be located on an existing structure inside or outside right-of-way or on a modified or replacement structure outside right-of-way.
- (E) For replacement of a utility structure in right-of-way, the approval will not cause an increase in the number of utility structures in the right-of-way or cause an enlargement or expansion of an existing utility structure in the right-of-way.

The existing and proposed utility structures are located in public right-of-way; therefore, criteria B and C are not applicable to this application.

Criterion A: The proposed utility structure meets the standards in this Chapter.

Finding: With conditions of approval, the proposed development complies with all applicable development standards of the Salem Revised Code, as described below.

Wireless Communications Facilities (SRC Chapter 703) Standards

SRC 703.010(b) - Collocation Required: All wireless communications facilities located in right-of-way shall be collocated or attached to replacement utility structures. All wireless communications facilities located outside of right-of-way shall be collocated, unless the collocation would interfere with other wireless communications facilities located on the same structure or jeopardize the physical integrity of the structure upon which collocation will be

made, consent cannot be obtained for the collocation on a structure, or the available structures do not provide sufficient height to obtain coverage or capacity objectives.

Applicant's Statement: The proposed (SWF) small wireless facility on the west side of Liberty Road S, approximately 250 feet south of Cunningham Lane S, is a proposed collocation on a replacement City of Salem streetlight.

Finding: The proposed facilities will be attached to a utility structure that will replace an existing utility structure.

SRC 703.010(c) - Siting Priority: Wireless communications facilities shall be sited according to the following priority, by descending order of preference:

- (1) First priority: collocation or attachment of an antenna or antenna array on a support tower, support structure, or utility structure;
- (2) Second priority: replacement of a utility structure for the purpose of attachment of an antenna or antenna array;
- (3) Third priority: substantial change in the physical dimensions of a support tower or replacement with a support tower that represents a substantial change in the physical dimensions of the original support tower;
- (4) Fourth priority: construction of a new support tower.

Applicant's Statement: The proposed (SWF) small wireless facility on the west side of Liberty Road S, approximately 250 feet south of Cunningham Lane S, is a proposed collocation on a replacement City of Salem streetlight (C8309A-1253) making it a second priority site per SRC 703.010(c), 703.010(c)(2) and 703.030(b)(1)(B)(ii).

Finding: Collocation is defined in SRC 703.005(g) as the mounting or installation of an antenna on an existing support structure, utility structure, or support tower. A first priority siting is a collocation or an attachment of an antenna or antenna array on existing support tower, support structure, or utility structure. Because the existing utility structure will be replaced, the proposal is for a second priority siting rather than a first priority siting, and the applicant is required to document that replacement of the existing utility structure is necessary because the proposed antennas cannot be collocated or attached to an existing support tower, utility structure or support tower. The application submittal requirements for a Class 2 Wireless Communications Facility Siting Permit include documentation that placement at a first-priority site is not feasible and coverage maps or capacity documentation showing any gap in the provider's service and minimum height or configuration of the facility needed to fill the gap. The applicant's submittal fulfills the requirements, and the proposal meets the standards.

SRC 703.030 - Replacement Utility Structure Development Standards:

(b) *Class 2.* The replacement of a utility structure shall comply with the following siting standards:

(1) *Inside right-of-way.*

- (A) All wireless communications facilities located in the right-of-way shall be collocated or attached to a replacement utility structure.
- (B) Wireless communications facilities proposed to be sited in the right-of-way shall be sited according to the following priorities, in descending order of preference. If the priority is not followed, the owner must demonstrate why a higher priority is not

available for use. For purposes of this subsection, streets shall have the classification set forth in the Salem Transportation System Plan.

- (i) First priority: parkway or freeway;
- (ii) Second priority: major arterials;
- (iii) Third priority: minor arterials;
- (iv) Fourth priority: collectors;
- (v) Fifth priority: local streets.

Applicant's Statement: The proposed (SWF) small wireless facility on the west side of Liberty Road S, approximately 250 feet south of Cunningham Lane S, is a proposed collocation on a replacement City of Salem streetlight (C8309A-1253) making it a second priority site per SRC 703.010(c), 703.010(c)(2) and 703.030(b)(1)(B)(ii).

Finding: The applicant provided propagation maps indicating that the proposed location in the right-of-way of a major arterial street (Liberty Road S) will provide the required coverage. No higher-classification streets are available in the vicinity. The applicant's submittal fulfills the requirements, and the proposal meets the standard.

SRC 703.060 - Replacement Utility Structure Development Standards:

Height - Inside the right-of-way, an original utility structure may be replaced with a replacement utility structure that is taller than the original structure, provided that the combined height of a replacement structure, antenna mounting device, and antenna is no greater than:

- (i) 78 feet for a replacement structure located on a parkway or freeway;
- (ii) 73 feet for a replacement structure on a major arterial;
- (iii) 63 feet for a replacement structure on a minor arterial; or
- (iv) 53 feet for a replacement structure located on a collector street or local street.

Width - A replacement utility structure that is required to provide structural capacity to support an antenna or auxiliary support equipment shall be at least as wide as the engineering minimum required to provide the required support, and to meet safety standards promulgated by the Oregon Public Utility Commission.

Surface and Coloration - A replacement structure shall be painted, coated, or given a surface application that is similar to the color and surface texture of the existing utility structure or original structure.

External cables and wires - All external cables and wires shall be placed in conduit or painted or colored to match the replacement structure.

Lighting - Unless the existing utility structure or original structure was lighted, a replacement structure shall not be lighted.

Finding: The combined height of the replacement structure, antenna mounting device, and antennas would be 36 feet, which is below the maximum combined height of 73 feet for a major arterial street. The applicant provided stamped plans and a structural analysis from registered professional engineers confirming that the proposed antennas will not jeopardize the physical integrity of the replacement pole. The proposed replacement would be metal, as is the existing streetlight pole. The proposed cables and wires will be placed in conduit or run inside the pole. The new pole and new light arm color and finish will match the existing pole. New equipment is to be painted to match the replacement light pole. The proposed structure will have a light arm (luminaire) with a standoff that matches the existing. The proposed utility structure meets the standards.

SRC 703.040 - Antenna Development Standards:

Antennas attached to utility structures shall comply with the following development standards:

Physical integrity - The antennas shall not jeopardize the utility structure's physical integrity.

Guy poles - Antennas shall not be located on guy poles.

Mounting - Antennas and antenna mounting devices placed below the top of the utility structure shall be mounted in one of the following configurations:

(A) Flush with the utility structure; or

(B) On extension arms that are no greater than three feet in length.

Surface and Coloration - Antennas must be painted, coated, or given a surface application that is similar to the color and surface texture of the utility structure so as to minimize visual impact as much as reasonably possible.

Lighting - Unless required by the FAA or the Oregon Aeronautics Division, antennas shall not be lighted.

Finding: The applicant provided stamped plans and a structural analysis from registered professional engineers confirming that the proposed antennas will not jeopardize the physical integrity of the replacement pole. The existing and proposed pole are not guy poles. The antenna will be mounted at the top of the utility structure and located inside a concealment. The proposed antenna concealment will be painted to match the replacement pole. The proposed antenna meets the standards.

SRC 703.050 - Auxiliary Support Equipment Development Standards:

Screening - Equipment associated with antennas on utility structures inside right-of-way and not installed on the utility structure shall be installed within an underground vault or in not more than one above ground cabinet with a combined height plus width plus depth no greater than 120 linear inches.

Equipment, other than optical fibers, wires or cables, attached to a utility structure shall:

(i) Project no more than 18 inches from the surface of the utility structure;

(ii) Be less than or equal to 24 inches in height;

(iii) Be mounted a minimum of 15 feet above ground level on a utility structure located in the right-of-way between the sidewalk and the street improvement or a minimum of ten feet above ground level on a utility structure located in the right-of-way between the sidewalk and the property line abutting the right-of-way or a minimum of ten feet above ground level on a utility structure located outside the right-of-way.

Vision Clearance - Auxiliary support equipment installed above ground shall meet the vision clearance area requirements of SRC 76.170 (SRC 805).

External cables and wires - All external cables and wires for auxiliary support equipment shall be placed in conduit or painted to match the tower, building, support structure, or utility structure, as applicable.

Coloration - Equipment installed on a utility structure shall be non-reflective and painted, coated or given a surface application that is identical to the color and surface texture of the utility structure. Other equipment shall be non-reflective and painted natural earth or leaf tones or otherwise colored or surfaced so as to blend with the surrounding environment.

Lighting - Motion detecting security lighting is allowed for auxiliary support equipment, but shall be the minimum necessary to secure the auxiliary support equipment, shall not illuminate adjacent properties in excess of 0.4 foot candles measured directly beneath the security lighting, at ground level, and shall be shielded to prevent direct light from falling on adjacent properties.

Finding: The proposed equipment projects more than 18 inches from the surface of the pole. The largest equipment cabinet is 44 inches high, 20 inches deep, and 21 inches wide. It must be mounted several inches from the pole to allow safe climbing. The FCC standards adopted in 2019 for small wireless facilities (*Accelerating Wireless and Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment*, Declaratory Ruling and Third Report and Order, WT Docket No. 17-79, WC Docket No. 17-84, FCC 18-133 (rel. Sept. 27, 2018); 83 Fed. Reg. 51867 (Oct. 15, 2018) ("FCC Order")) supersede the City's development standards. The FCC Order allows a total volume of no more than 28 cubic feet, with no dimensional limitations on individual pieces of equipment or cabinet sizes. The proposed equipment would occupy a volume less than 28 cubic feet.

The proposed auxiliary support equipment is shown on the pole at 22 feet above grade at the lowest point, exceeding the minimum height of 15 feet above grade for a utility structure in the right-of-way between the sidewalk and the street improvement and exceeding the minimum of ten feet above ground level on a utility structure located in the right-of-way between the sidewalk and the property line abutting the right-of-way.

The proposed equipment will not be located within any vision clearance areas. External wires and cables not located inside the pole will be placed in conduit. The proposed equipment is to be painted to match the replacement pole and will not have security lighting. The proposed equipment meets the applicable standards.

SRC 703.080 - Conditions: Every wireless communications facility siting permit shall be subject to the following conditions:

- Condition 1:** An obsolete wireless communications facility shall be removed by the owner within six months of the date the facility ceases to be operational.
- Condition 2:** All wireless communications facilities shall be operated and maintained in compliance with all radio frequency emission standards specified by the Federal Communications Commission.
- Condition 3:** All wireless communications facilities shall be installed and maintained in accordance with applicable federal, state, and local laws.
- Condition 4:** All wireless communications facilities shall allow for the attachment or collocation of additional facilities to the greatest extent possible, unless such attachment or collocation interferes with the owner's wireless communications facilities, jeopardizes the physical integrity of a structure with which a wireless communications facility is associated, or the owner refuses to consent to the attachment or collocation of additional wireless communications facilities.
- Condition 5:** Vegetation that is either removed or destroyed as a result of construction shall be replanted with appropriate plant materials as prescribed in SRC Chapter 807.
- Condition 6:** Prior to making any opening or cut in any right-of-way, an owner shall obtain approval from the City Engineer.

- Condition 7:** After construction, maintenance, or repair of any wireless communications facility, an owner shall leave any right-of-way disturbed by such activity in as good or better condition than it was before the commencement of such work. The owner shall promptly complete restoration work and promptly repair any damage caused by such work at its sole cost and expense. When any opening or cut is made by the owner in the pavement of right-of-way, the owner must promptly refill the opening or cut, and restore the surface to a condition satisfactory to the City Engineer, in accordance with public works construction standards.
- Condition 8:** Prior to performing any excavation in right-of-way to underground any auxiliary support equipment, all necessary city permits shall be obtained and all appropriate notice given to any franchisees, licensees and grantees, other city departments, and other governmental units that own or maintain facilities which may be affected by the excavation.
- Condition 9:** All undergrounding and excavation work must comply with the Oregon Utility Notification Law, ORS 757.542-757.562 and 757.993, and all rules and regulations promulgated there under.
- Condition 10:** All excavations made by an owner in right-of-way shall be properly safeguarded for the prevention of accidents and must be done in compliance with all applicable federal, state, and local laws and regulations.
- Condition 11:** Except for short or temporary durations during testing or during operation in emergency situations, noise generating equipment associated with wireless communications facilities shall not produce sound levels in excess of standards established in SRC Chapter 93.

Use and Development Standards – CR (Retail Commercial) Zone:

SRC 522.005 - Uses:

Permitted, special, conditional and prohibited uses in the CR zone are set forth in SRC 522.005, Table 522-1.

Finding: The proposed development is a wireless communication facility. Wireless communication facilities are allowed in the CR zone per SRC 522.005, Table 522-1, subject to SRC Chapter 703.

Natural Resources

SRC 86 – Trees on City Owned Property: SRC Chapter 86 provide a unified, consistent, and efficient means for the planning, planting, maintenance, and removal of trees located on city property, including rights-of-way, and to limit the adverse impacts to city trees and city infrastructure. No City trees appear to be affected by the proposed project. However, to ensure that this proposal is in compliance with the requirements of SRC Chapter 86, the following condition is necessary:

- Condition 12:** No City tree may be pruned or removed, no construction within the Critical Tree Zone of a City tree may occur, and no tree may be planted on City

property, unless a permit is obtained from Public Works pursuant to SRC Chapter 86.

SRC 808 - Preservation of Trees and Vegetation: The City's tree preservation ordinance, under SRC Chapter 808, provides that no person shall remove a significant tree (Oregon White Oak greater than 24 inches in diameter at breast height) (SRC 808.015) or a tree or native vegetation in a riparian corridor (SRC 808.020), unless the removal is excepted under SRC 808.030(a)(2), undertaken pursuant to a permit issued under SRC 808.030(d), undertaken pursuant to a tree conservation plan approved under SRC 808.035, or permitted by a variance granted under SRC 808.045. No protected trees or native vegetation have been identified on the site plan for removal.

SRC 809 - Wetlands: The Salem-Keizer Local Wetland Inventory (LWI) shows no wetland areas in the project area.

SRC 810 - Landslide Hazards: A geological assessment or report is required when regulated activity is proposed in a mapped landslide hazard area. The applicant's proposal does not appear to disturb any portion of a mapped landslide hazard area with regulated activities; therefore, a geological assessment is not required.

Airport Overlay Zone

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

Finding: The replacement utility structure would be located outside of the Airport Overlay Zone and airport building restriction areas.

Historic Preservation

Jason Allen, the Historic Preservation Specialist for the State Historic Preservation Office (SHPO) issued a general interpretation regarding FCC exemptions from Section 106 review (June 12, 2020). He stated that a pole replacing an existing utility pole is considered a new structure and this type of installation is classified as a Tower and therefore exemptions from 106 review are based upon Section III of the 2004 Nationwide Programmatic Agreement.

Applicant's Statement: This is being submitted as a Class 2 application; this will be a replacement structure in a non-historic district. Per the parameters outlined within the document known as 2004 Nationwide PA, Section ii.A.14 this proposal is classified as a Tower because no new structures would be placed except in the event of this installation for the purpose of supporting the equipment.

Finding: The applicant submitted a Small Cell Wireless Section 106 Exemption Form that was reviewed and approved by the City's Historic Preservation Program Manager / Historic Preservation Officer & City Archaeologist.

Criterion D: For replacement of a utility structure in right-of-way, the proposed wireless communications facility cannot practicably be located on an existing structure inside or outside right-of-way or on a modified or replacement structure outside right-of-way.

Finding: The application submittal requirements for a Class 2 Wireless Communications Facility Siting Permit include documentation that placement at a first-priority site (an existing structure inside or outside right-of-way) is not feasible and coverage maps or capacity documentation showing any gap in the provider's service and minimum height or configuration of the facility needed to fill the gap. The applicant's submittal fulfills the requirements, and the proposal meets this criterion.

Criterion E: For replacement of a utility structure in right-of-way, the approval will not cause an increase in the number of utility structures in the right-of-way or cause an enlargement or expansion of an existing utility structure in the right-of-way.

Finding: The applicant's proposal replaces an existing utility pole inside right-of-way with a new pole that supports utility infrastructure. The proposed replacement utility structure will continue to perform the same function as the original utility structure. The proposal will not cause an increase in the number of utility structures on the property or cause any of the other existing utility structures to be enlarged or expanded.

4. Based upon review of SRC Chapter 703, the applicable standards of the Salem Revised Code, the findings contained herein, and due consideration of comments received, the application complies with the requirements for an affirmative decision.

ORDER

Final approval of Class 2 Wireless Communications Facility Siting Permit Case No. 21-05 is hereby **APPROVED** subject to SRC Chapter 703, the applicable standards of the Salem Revised Code, conformance with the approved site plan (**Attachment B**), the proposed elevation drawings (**Attachment C**), and the following conditions of approval:

- Condition 1:** An obsolete wireless communications facility shall be removed by the owner within six months of the date the facility ceases to be operational.
- Condition 2:** All wireless communications facilities shall be operated and maintained in compliance with all radio frequency emission standards specified by the Federal Communications Commission.
- Condition 3:** All wireless communications facilities shall be installed and maintained in accordance with applicable federal, state, and local laws.
- Condition 4:** All wireless communications facilities shall allow for the attachment or collocation of additional facilities to the greatest extent possible, unless such attachment or collocation interferes with the owner's wireless communications facilities, jeopardizes the physical integrity of a structure with which a wireless communications facility is associated, or the owner refuses to consent to the attachment or collocation of additional wireless communications facilities.

- Condition 5:** Vegetation that is either removed or destroyed as a result of construction shall be replanted with appropriate plant materials as prescribed in SRC Chapter 807.
- Condition 6:** Prior to making any opening or cut in any right-of-way, an owner shall obtain approval from the City Engineer.
- Condition 7:** After construction, maintenance, or repair of any wireless communications facility, an owner shall leave any right-of-way disturbed by such activity in as good or better condition than it was before the commencement of such work. The owner shall promptly complete restoration work and promptly repair any damage caused by such work at its sole cost and expense. When any opening or cut is made by the owner in the pavement of right-of-way, the owner must promptly refill the opening or cut, and restore the surface to a condition satisfactory to the City Engineer, in accordance with public works construction standards.
- Condition 8:** Prior to performing any excavation in right-of-way to underground any auxiliary support equipment, all necessary city permits shall be obtained and all appropriate notice given to any franchisees, licensees and grantees, other city departments, and other governmental units that own or maintain facilities which may be affected by the excavation.
- Condition 9:** All undergrounding and excavation work must comply with the Oregon Utility Notification Law, ORS 757.542-757.562 and 757.993, and all rules and regulations promulgated thereunder.
- Condition 10:** All excavations made by an owner in right-of-way shall be properly safeguarded for the prevention of accidents and must be done in compliance with all applicable federal, state, and local laws and regulations.
- Condition 11:** Except for short or temporary durations during testing or during operation in emergency situations, noise generating equipment associated with wireless communications facilities shall not produce sound levels in excess of standards established in SRC Chapter 93.
- Condition 12:** No City tree may be pruned or removed, no construction within the Critical Tree Zone of a City tree may occur, and no tree may be planted on City property, unless a permit is obtained from Public Works pursuant to SRC Chapter 86.



Pamela Cole, Planner II, on behalf of
Lisa Anderson-Ogilvie, AICP
Planning Administrator

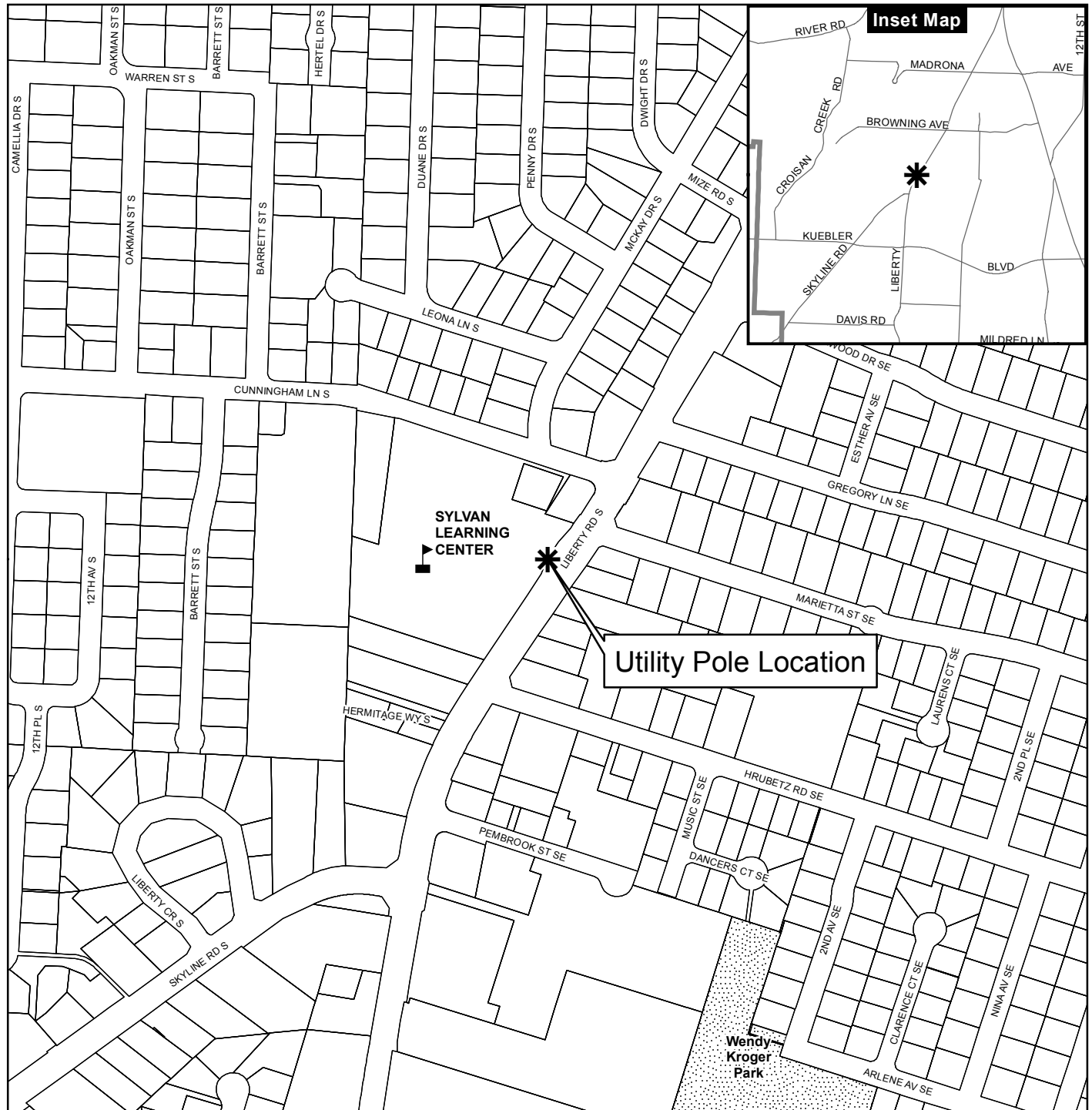
Attachments: A. Vicinity Map
B. Site Plans
C. Proposed Elevations
D. Photo simulations
E. Comments Submitted by Roth's

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

Vicinity Map

Adjacent to 083W09AC03900

West side of the 4500-4699 block of Liberty Road S



Legend

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

Parks

CITY OF Salem
AT YOUR SERVICE
Community Development Dept.

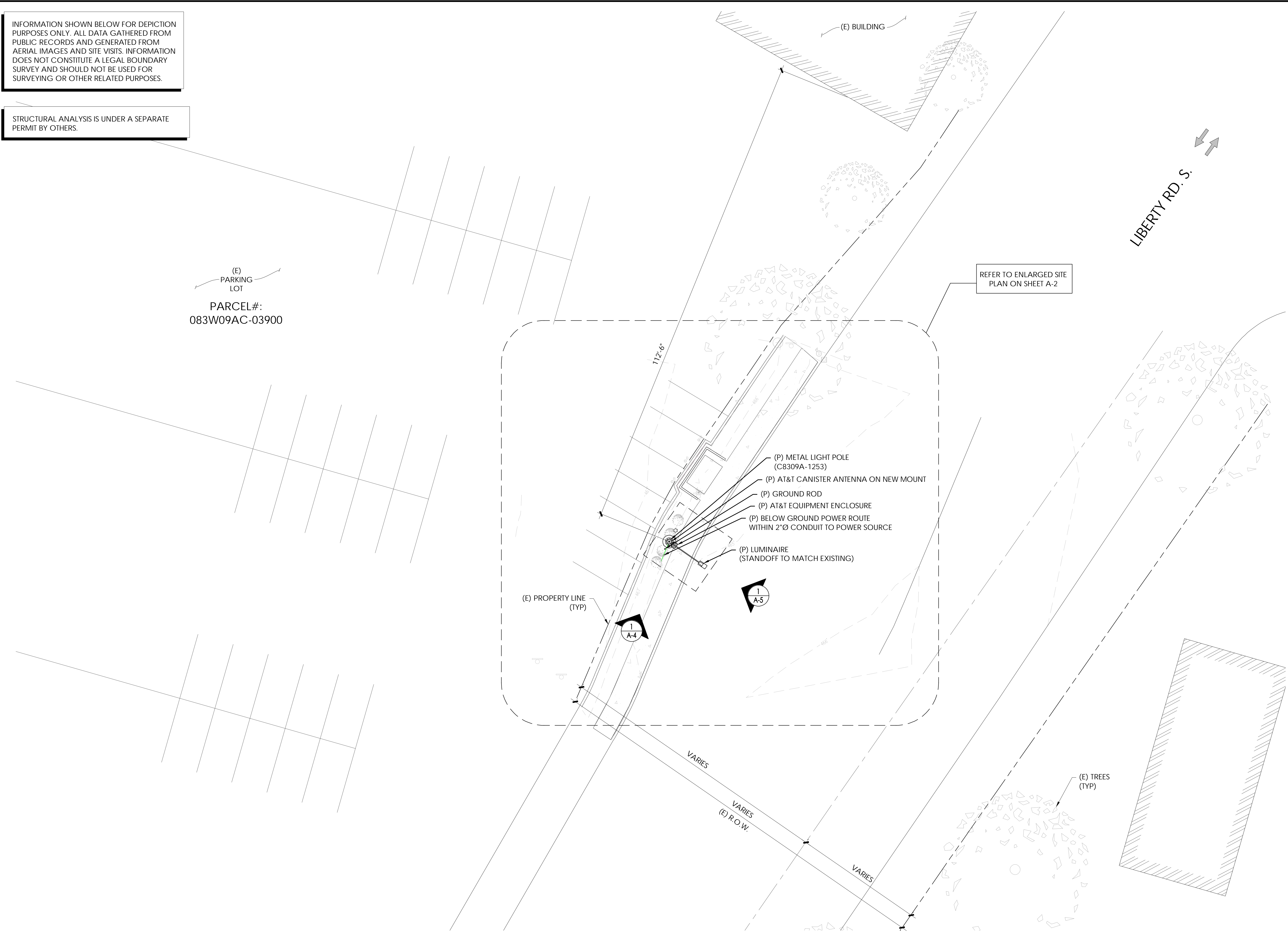
This product is provided as is, without warranty. In no event is the City of Salem liable for damages from the use of this product. This product is subject to license and copyright limitations and further distribution or resale is prohibited.

0 100 200 400 Feet



INFORMATION SHOWN BELOW FOR DEPICTION PURPOSES ONLY. ALL DATA GATHERED FROM PUBLIC RECORDS AND GENERATED FROM AERIAL IMAGES AND SITE VISITS. INFORMATION DOES NOT CONSTITUTE A LEGAL BOUNDARY SURVEY AND SHOULD NOT BE USED FOR SURVEYING OR OTHER RELATED PURPOSES.

STRUCTURAL ANALYSIS IS UNDER A SEPARATE PERMIT BY OTHERS.



(E) PARKING LOT
PARCEL#:
083W09AC-03900

REFER TO ENLARGED SITE
PLAN ON SHEET A-2

PREPARED FOR



19801 SW 72ND AVE.
TUALATIN, OR 97062

Vendor:

J5 INFRASTRUCTURE
PARTNERS
2030 MAIN ST.
SUITE 200
IRVINE, CA 92614
J5 PROJECT ID: P-052193

Vendor:

Vendor:

DRAWN BY: MDA

CHECKED BY: JMM

| | | |
|-----|----------|-------------|
| 0 | 07/06/21 | 100% CDs |
| REV | DATE | DESCRIPTION |

Licenser:



"I HEREBY CERTIFY THAT THESE PLANS WERE PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM DULY REGISTERED ENGINEER UNDER THE LAWS OF THE STATE OF OREGON."

AT&T Site ID:

CRAN_RWOR_SALEM_049D

26783-049D

1050 CANDLELIGHT DR.
EUGENE, OR 97402

Sheet Title:

OVERALL SITE
PLAN

Sheet Number:

A-1

- NOTE:
1. NEW POLE COLOR AND FINISH TO MATCH EXISTING POLE.
 2. NEW LIGHT ARM COLOR AND FINISH TO MATCH EXISTING POLE.
 3. NEW EQUIPMENT TO BE PAINTED WITH RF TRANSPARENT, UV RESISTANT, OUTDOOR RATED PAINTED TO MATCH REPLACEMENT LIGHT POLE.
 4. CONTRACTOR SHALL RE-INSTALL ALL EXISTING STREET SIGNS AS NEEDED ON NEW POLE.
 5. CONTRACTOR TO INSTALL ENCLOSURE ON STREET SIDE.
 6. INSTALL RF WARNING SIGNS PER MANUFACTURER SPECIFICATIONS AS REQUIRED BY LAW OR BY THE POLE OWNER. NO ADDITIONAL SIGNAGE WILL BE POSTED.
 7. PRESERVE THE CLIMBING SPACE ON THE FIELD SIDE OF THE POLE
 8. FIBER TO BE PROVIDED BY OTHERS UNDER SEPARATE PERMIT.
 9. ALL LANDSCAPING AND SPRINKLERS SHALL BE RESTORED TO ORIGINAL CONDITION.
 10. ANY DISTURBED CONCRETE/BRICKWORK IN EXISTING SIDEWALK TO BE REPAIRED TO MATCH CURRENT CONDITIONS.

STRUCTURAL ANALYSIS OF EXISTING/NEW POLES BY OTHERS.

AT&T IS RESPONSIBLE FOR MAKE READY COORDINATION AND CONSTRUCTION.

(E) PARKING LOT

PARCEL#:
083W09AC-03900



PREPARED FOR



19801 SW 72ND AVE.
TUALATIN, OR 97062

Vendor:



2030 MAIN ST.
SUITE 200
IRVINE, CA 92614
J5 PROJECT ID: P-052193

Vendor:

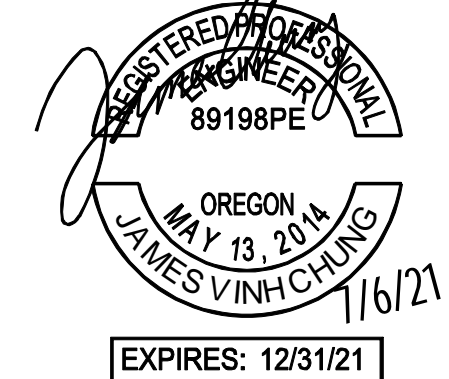
Vendor:

DRAWN BY: MDA

CHECKED BY: JMM

| REV | DATE | DESCRIPTION |
|-----|----------|-------------|
| 0 | 07/06/21 | 100% CDs |

Licenser:



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AT&T Site ID:

CRAN_RWOR_SALEM_049D

26783-049D

1050 CANDLELIGHT DR.
EUGENE, OR 97402

Sheet Title:

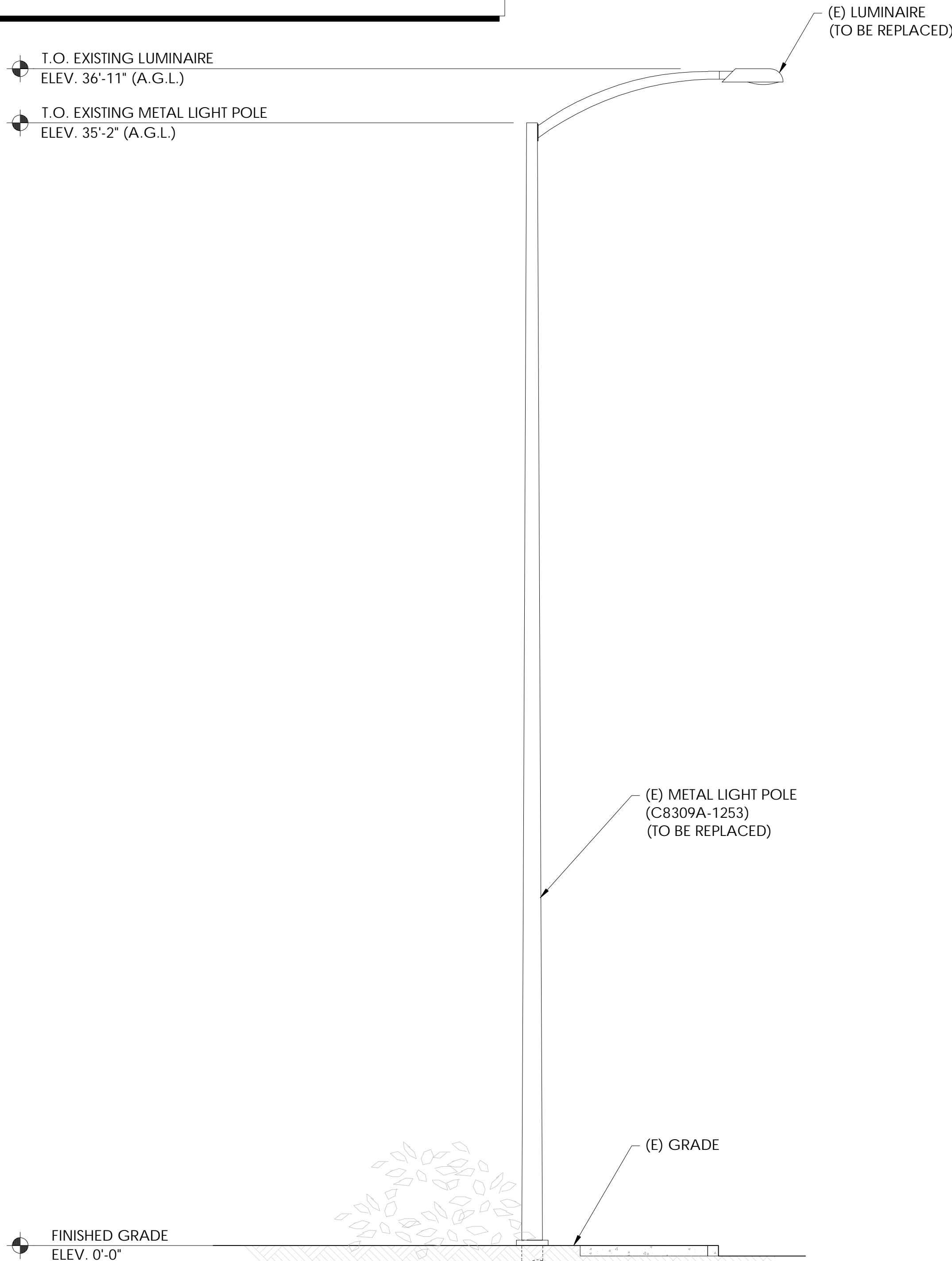
ENLARGED SITE
PLAN

Sheet Number:

A-2

- NOTE:
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STRUCTURAL ANALYSIS OF EXISTING/NEW POLES BY OTHERS.

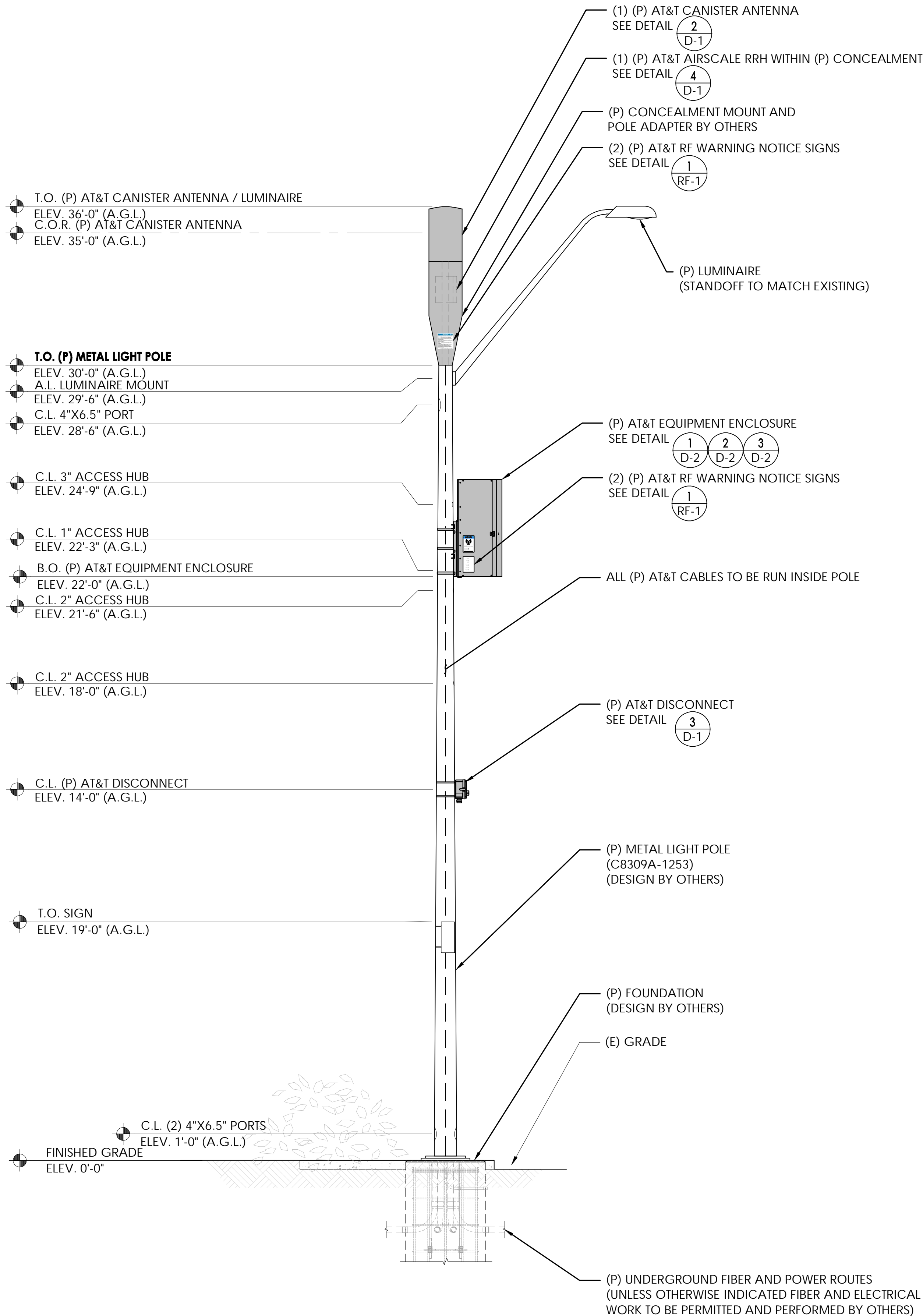


EXISTING SOUTHWEST ELEVATION

24"x36" SCALE: 3/8" = 1'-0"



2



PROPOSED EAST ELEVATION

24"x36" SCALE: 3/8" = 1'-0"



1

PREPARED FOR



19801 SW 72ND AVE.
TUALATIN, OR 97062

Vendor:



2030 MAIN ST.
SUITE 200
IRVINE, CA 92614

J5 PROJECT ID: P-052193

Vendor:

Vendor:

DRAWN BY: MDA

CHECKED BY: JMM

| REV | DATE | DESCRIPTION |
|-----|----------|-------------|
| 0 | 07/06/21 | 100% CDs |

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OF OREGON."

AT&T Site ID:

CRAN_RWOR_SALEM_049D

26783-049D

1050 CANDLELIGHT DR.
EUGENE, OR 97402

Sheet Title:

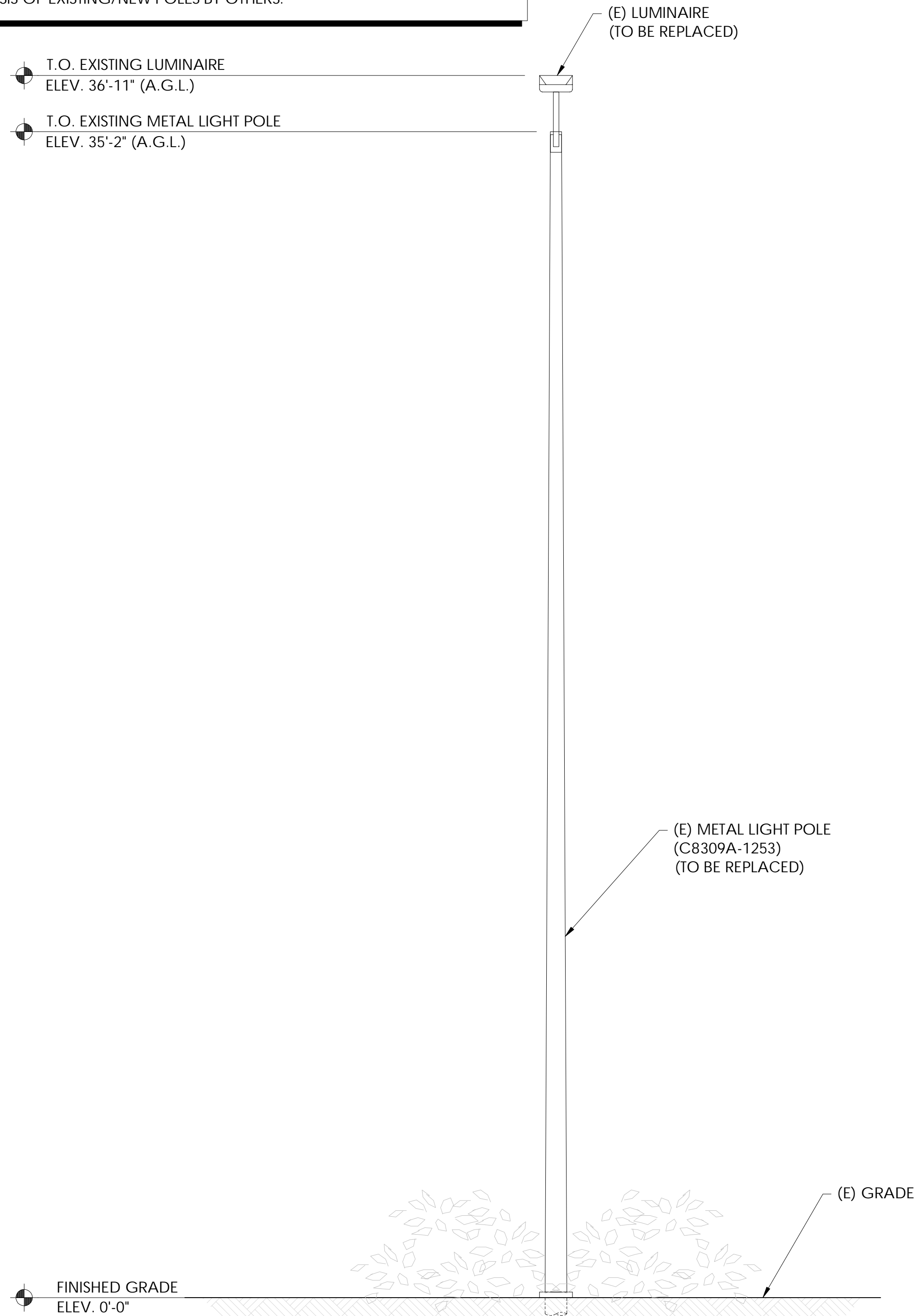
ELEVATIONS

Sheet Number:

A-4

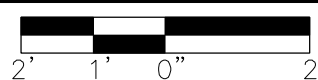
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STRUCTURAL ANALYSIS OF EXISTING/NEW POLES BY OTHERS.



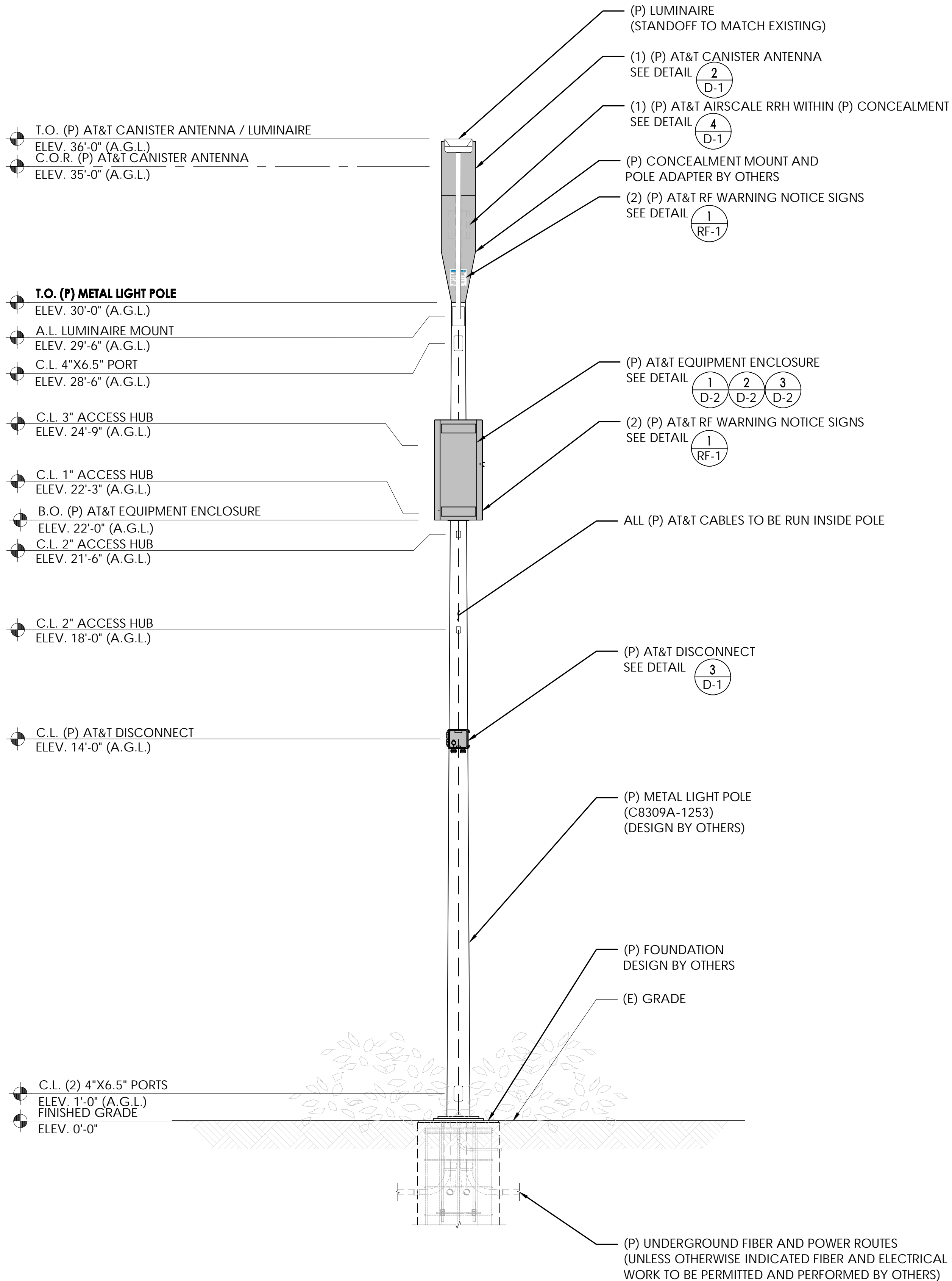
EXISTING NORTH ELEVATION

24"x36" SCALE: 3/8" = 1'-0"

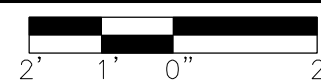


2

PROPOSED NORTH ELEVATION



24"x36" SCALE: 3/8" = 1'-0"



1

PREPARED FOR



19801 SW 72ND AVE.
TUALATIN, OR 97062

Vendor:

J5 INFRASTRUCTURE
PARTNERS
2030 MAIN ST.
SUITE 200
IRVINE, CA 92614
J5 PROJECT ID: P-052193

Vendor:

Vendor:

DRAWN BY: MDA

CHECKED BY: JMM

| REV | DATE | DESCRIPTION |
|-----|----------|-------------|
| 0 | 07/06/21 | 100% CDs |

Licensors:



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26783-049D

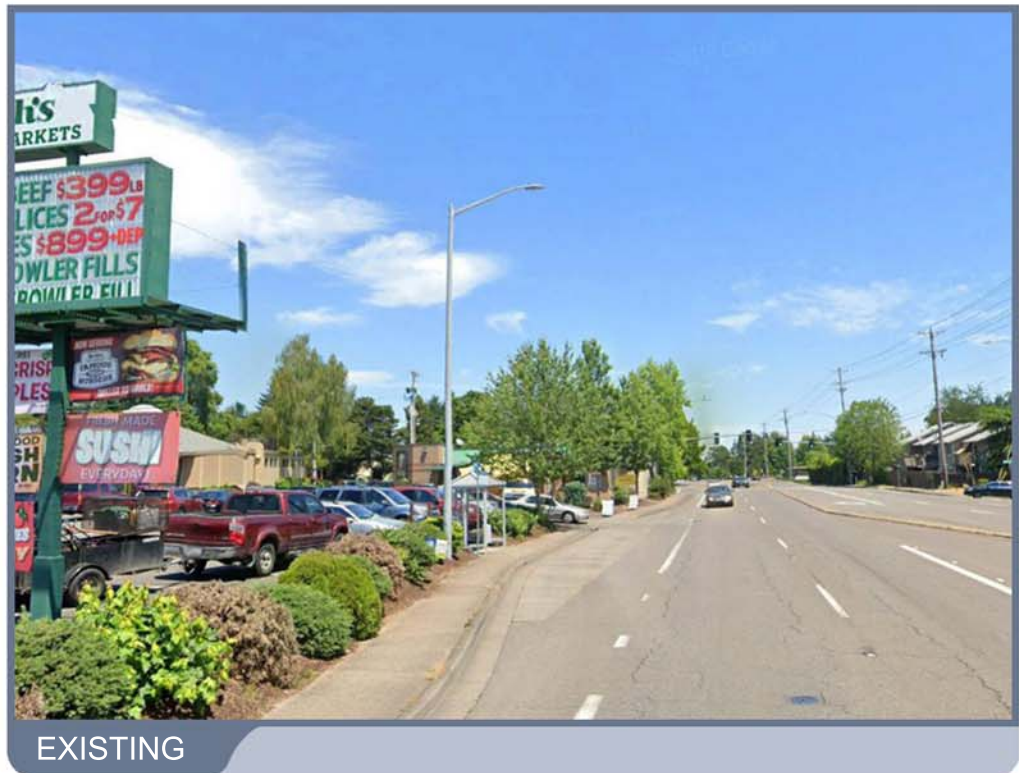
1050 CANDLELIGHT DR.
EUGENE, OR 97402

Sheet Title:

ELEVATIONS

Sheet Number:

A-5



REQUEST FOR COMMENTS***Si necesita ayuda para comprender esta informacion, por favor llame 503-588-6173*****REGARDING:** Class 2 Wireless Permit Case No. WS221-05**PROJECT ADDRESS:** 4500-4699 Liberty Road S, Salem OR 97302**AMANDA Application No.:** 21-111680-ZO**COMMENT PERIOD ENDS:** Tuesday, September 7, 2021 at 5:00 P.M.

REQUEST: Class 2 Wireless Communications Facility Siting Permit to replace an existing 35 foot 2 inch utility pole in the right-of-way on the western side of the 4500-4699 Liberty Road S block adjacent to 4555 Liberty Road S (Marion County Assessor Map and Tax Lot 083W09AC03900) in the CR (Retail Commercial) zone with a 30 foot utility pole, install equipment on the pole, and attach an antenna at the top with a maximum height of 36 feet.

The Planning Division is interested in hearing from you about the attached proposal. Staff will prepare a Decision that includes consideration of comments received during this comment period. We are interested in receiving pertinent, factual information such as neighborhood association recommendations and comments of affected property owners or residents. The complete case file, including all materials submitted by the applicant and any applicable professional studies such as traffic impact analysis, geologic assessments, and stormwater reports, are available upon request.

Comments received by 5:00 p.m., Tuesday, September 7, 2021, will be considered in the decision process. Comments received after this date will be not considered. *Comments submitted are public record. This includes any personal information provided in your comment such as name, email, physical address and phone number. Mailed comments can take up to 7 calendar days to arrive at our office. To ensure that your comments are received by the deadline, we recommend that you e-mail your comments to the Case Manager listed below.*

CASE MANAGER: Pamela Cole, Planner II, City of Salem, Planning Division; 555 Liberty St SE, Room 305, Salem, OR 97301; Phone: 503-540-2309; E-Mail: pcole@cityofsalem.net.

For information about Planning in Salem, please visit: <http://www.cityofsalem.net/planning>

PLEASE CHECK THE FOLLOWING THAT APPLY:

- ☐ 1. I have reviewed the proposal and have no objections to it.
- ☒ 2. I have reviewed the proposal and have the following comments: Please see attached.

Name/Agency: Roth IGA Foodliner, Inc.

Address: 4895 Indian School Rd NE, Salem, OR 97305

Phone: 503.393.7684

Email: TimJennings@Roths.com

Date: September 7, 2021

IMPORTANT: IF YOU MAIL COMMENTS, PLEASE FOLD AND RETURN THIS POSTAGE-PAID FORM

September 7, 2021

Pamela Cole, Planner II
City of Salem Planning Division
555 Liberty Street SE, Room 305
Salem, OR 97301

Dear Ms. Cole:

Roth I.G.A. Foodliner, Incorporated ("Roth's") requests a change to the proposed utility pole in Class 2 Wireless Permit Case No. WS221-05 to prevent obstruction of its reader board sign ("the Sign") reflected in the Photo Simulation. Roth's is a long-time tenant of the property located at 4555 Liberty Road S, Salem OR 97302 and the anchor tenant for the Shopping Center at such property. Roth's made a significant investment in the reader board sign to enable travelers on Liberty Road to see its advertised products.

The proposed location of the new utility pole is three feet closer to the Sign than the current utility pole. The photo simulation below reflects the proposed equipment attachment at the same height as the Sign. This new equipment will effectively obstruct the view of the Sign from drivers headed south on Liberty Road. The pictures in the Photo Simulation in the City's proposal was taken while facing north on Liberty Road. Please refer to the photos below, which faces south on Liberty Road, so that the true impact on the Sign can be better seen. The image on the right does not take into account that the Cellular pole would be significantly larger in circumference than the existing light pole. This would mean that more of the Readerboard sign would be blocked from the driver's view.



CURRENT VIEW



BLOCKING VIEW

Silverton • McMinnville • Monmouth • Stayton
Salem (Lancaster, Vista, Sunnyslope, West Salem and Hayesville)

Page 2, September 7, 2021

One alternative might be to leave the current light pole as is by Roth's Readerboard and replace the light pole farther to the south. You can see in this picture, this light pole is a significant distance from both the Sunnyslope Shopping Center Readerboard and the Roth's Readerboard.



An alteration to the location and/or configuration of the utility pole is necessary to prevent the visual obstruction. Roth's would be happy to work with the City on determining alternative solutions. The contact information for Roth's is:

Roth I.G.A. Foodliner, Incorporated
Attn: Tim Jennings
Address: 4895 Indian School Road, NE; Salem, OR 97305
Phone: 503-393-4684
Email: TimJennings@Roths.com

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read 'Tim Jennings'.

Tim Jennings
Vice President of Operations