

Attention Property Owner: A land use proposal has been submitted for property near where you live or near property you own elsewhere. State law requires that the county notify property owners within a certain distance from this property. The proposal and address of the property is described in the "Application" section below. The decision in this case does not directly affect the zoning or use of your property. If you object to the decision, refer to the "Appeal" section. If you have questions, contact the staff person listed at the end of this report.

## **NOTICE OF DECISION CONDITIONAL USE CASE NO. 25-016**

**APPLICATION:** Application of New Cingular Wireless PCS, LLC on behalf of Russel, Lori, and Linda Leach for a conditional use permit to establish a transmission tower on a 2.44-acre parcel in a CR (Commercial Retail) zone located at 4764 Portland Road NE, Salem (T7S; R2W; Section 6BC; Tax lot 7500).

**DECISION:** The Zoning Administrator for Marion County has **APPROVED** the above-described Conditional Use and Adjustment application subject to certain conditions.

**EXPIRATION DATE:** This conditional use permit is valid only when exercised by **May 14<sup>th</sup>, 2027**. The effective period may be extended for an additional year subject to approval of an extension (form available from the Planning Division). **Additional extensions may not be granted if the regulations under which this decision was granted have changed since the original approval.**

**WARNING:** A decision approving the proposed use is for land use purposes only. Due to septic, well, and drain field replacement areas, this parcel may not be able to support the proposal. To ensure the subject property can accommodate the proposal the applicant should contact Building Inspection Division, (503) 588-5147.

**This decision does not include approval of a building permit.**

**CONDITIONS:** The following conditions must be met before a building permit can be obtained or the approved use established:

1. The applicant shall obtain approval for any permits required by the Marion County Building Inspection Division.
2. Any expansion of the transmission pole height shall require the approval of a new conditional use permit.
3. The development shall significantly conform to the site plan submitted with the proposal. Minor variations are permitted upon review and approval by the Planning Director.

**ADDITIONAL CONDITIONS:** Once the approved use is established the following conditions must be continually satisfied:

4. Failure to continuously comply with the conditions of approval may result in this approval being revoked.

**OTHER PERMITS, FEES AND RESTRICTIONS:** This approval does not remove or affect covenants or restrictions imposed on the subject property by deed or another instrument. The proposed use may require permits and/or fees from other local, State or Federal agencies. This decision does not take the place of, or relieve the responsibility for, obtaining other permits or satisfying any restrictions or conditions thereon. It is recommended that the agencies mentioned in Finding #5 under Findings and Conclusions below be contacted to identify restrictions or necessary permits. The applicant is advised of the following:

5. The applicants should contact the Marion County No. 1 Fire District to obtain a copy of the District's Recommended Building Access and Premise Identification regulations and the Marion County Fire Code Applications Guide. Fire District access standards may be more restrictive than County standards.
6. The applicants should contact Marion County Land Development and Engineering (503-584-7714) for additional Engineering Requirements and Advisories, listed in Finding #5 below, that may be required.

**APPEAL PROCEDURE:** The Marion County Zone Code provides that certain applications be considered first by the County Zoning Administrator. If there is any doubt that the application conforms with adopted land use policies and regulations the Zoning Administrator must condition or deny the application. Anyone who disagrees with the decision

may request that the application be considered by a County Hearings Officer after a public hearing. The applicant may also request reconsideration (one time only and a fee of \$200) on the basis of new information subject to signing an extension of the 120-day time limit for review of zoning applications.

A public hearing is held on appeals subject to the appellant paying a \$250.00 fee. Requests for reconsideration, or consideration by a hearings officer, must be in writing (form available from the Planning Division) and received in the Planning Division, 5155 Silverton Rd. NE, Salem, by 5:00 p.m. on **May 14<sup>th</sup>, 2025**. If you have questions about this decision, contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **May 15<sup>th</sup>, 2025**, unless further consideration is requested.

**FINDINGS AND CONCLUSIONS:** Findings and conclusions on which the decision was based are noted below.

1. The property is designated Mixed Use in the Salem Area Comprehensive Plan. The purpose of this designation is to allow a mixture of complementary land uses may include housing of all types, retail, offices, commercial services, and civic uses to create economic and social vitality and the ability to meet multiple needs in compact areas. The corresponding Commercial Retail (CR) zone is to provide areas suitable for professional and general commercial offices, retail sales within a building, eating and drinking places, commercial accommodations and commercial services.
2. The property is located at 4764 Portland Rd NE on the east side of Portland Road within the City of Salem urban growth boundary. The property contains Cycle Country, a dealership for motorcycles and ATVs.
3. Deed research was conducted to determine the legality of the parcel. The property was once three separate parcels. The northern portion of the lot was described in 1963, (Vol. 572, Page 378), the middle portion described in 1937 (Vol. 228 Page 474), and the southern portion described in 1951 (Vol. 431 Page 563). The parcels were surveyed and recorded in the book of land records in Survey 34659, showing the official property lines. The lot is therefore considered legal for land use purposes.
3. Surrounding properties to the north and south are zoned CR and are in commercial use. The parcel directly east is within the City of Salem's planning jurisdiction. The western property line is bordered Portland Rd NE.
4. The applicants, on behalf of the property owners, are proposing to construct a 100-foot monopole in place of an existing light pole. The pole will consist of antennas, radios, and other ancillary equipment above the light. Ground equipment will consist of a backup generator, GPS and utility cabinets.
5. Various agencies were contacted about the proposal and given an opportunity to comment.

Public Works Land Development and Engineering Permits (LDEP) requested that the following be included in the land use decision.

**Requirements:**

Transportation System Development Charges (SDCs) will be assessed at the time of application for building permits.

Marion County Building commented:

No Building Inspection concerns. Permit(s) are only required for electrical systems providing power to equipment.

City of Salem Planning commented:

Upon annexation, the replacement structure would exceed the maximum height of 70 feet, where the combined height of the replacement light pole, antenna mounting device, and antenna shall not exceed the maximum height for a structure in the MU-III zone per SRC 703.060(a)(1)(A). Antennas attached to a utility structure outside the right-of-way shall be no higher than 15 feet above the top of the utility structure per SRC 703.040(d)(3)(A).

Marion County No. 1 Fire District commented:

- a. Fire apparatus Access Road Width and Vertical Clearance: Fire apparatus roads shall have an unobstructed driving surface width of not less than 20 feet; 26 feet adjacent to fire hydrants 2022 Oregon Fire Code (OFC) Appendix D103.1 and an unobstructed vertical clearance of not less than 13 feet 6 inches. 2022 Oregon Fire Code (OFC) Section 503.2.1 and Appendix D103.1
- b. Premise Identification: Buildings shall have address numbers or approved identification placed in position

that is plainly legible and visible from the access road fronting the property. Numbers shall contrast with their background and shall be a minimum of 4 inches height with a minimum stroke width of ½ inch. (2022 OFC 505.1)

- c. Fire Safety During Construction: Approved fire department access shall be installed and serviceable prior to and during the time of construction. 2022 Oregon Fire Code Chapter 33.

All other contacted agencies either failed to comment or stated no objection to the proposal.

- 6. All conditional uses are subject to the general criteria in MCC 16.40.020, these include:

- (a) *The use is listed as a conditional use in the zone, or is otherwise identified as a conditional use and is consistent with the intent and purpose of the zone and the provisions that authorized consideration as a conditional use.*

The applicants are proposing to construct a transmission pole and necessary operating equipment for the purpose of providing outdoor, in-vehicle, and in-building coverage within the local area. MCC 16.06.020.A.5 lists transmission towers as a conditional use in the CR zone. The proposed use is consistent with the zone. The criterion is met.

- (b) *The parcel is suitable for the proposed use considering such factors as size, shape, location, topography, soils, slope stability, drainage and natural features.*

The parcel is 2.44-acres and consists of one commercial building and a parking lot. The applicants indicate this project will only use approximately 300 square feet of space. The parking lot will still provide adequate space for access for both customers of the business and for emergency services. The property appears to be flat and fully paved as per Marion County GIS aerials and contour lines. These factors indicate the proposed use will have little impact on the existing parcel. The criterion is met.

- (c) *The proposed use, as conditioned, will not substantially limit, impair, or preclude the use of surrounding properties for the uses permitted in the applicable zone.*

The proposed transmission pole will not require substantial redevelopment of the property that would impact the surrounding area. The redevelopment proposed is limited to renovations on an existing light pole and the minimal addition of ground equipment. Once constructed, the use will not bring a significant level of traffic that would be unusual to a commercially zoned area. The only additional traffic will be monthly maintenance or inspections conducted by one or two persons in a single vehicle. This traffic is not expected to substantially limit, impair, or preclude the use of surrounding properties as commercial businesses. The criterion is met.

- (d) *The proposed use, as conditioned, will not have a significant adverse effect on air or water quality.*

The proposed use is not expected to generate any significant adverse effects on air or water quality in the area. The criterion is met.

- (e) *Adequate public and utility facilities and services to serve the use are available or will be made available prior to establishment of the use.*

The property has access to essential public utilities for the use as a transmission tower. The criterion is met.

- 9. Based on the above findings, it has been determined that the request satisfies all applicable criteria and is, therefore, **APPROVED**.

Brandon Reich  
Planning Director/Zoning Administrator

Date: April 29<sup>th</sup>, 2025

If you have any questions regarding this decision contact Gillian Peden at (503) 588-5038.

Notice to Mortgagee, Lienholder, Vendor or Seller: ORS Chapter 215 requires that if you receive this Notice, it must promptly be forwarded to the purchaser.



## ZONING MAP

Input Taxlot(s): 072W06BC07500

**Owner Name:** LEACH, RUSSELL D 50% & LEACH, LORI J & LEACH, LINDA G 50%

**Situs Address:** 4764 PORTLAND RD NE

**City/State/Zip:** SALEM, OR, 97305

**Land Use Zone:** CR

**School District:** SALEM-KEIZER

**Fire District:** MARION COUNTY NO.1

### Legend

Input Taxlots

Lakes & Rivers

Highways

Cities



scale: 1 in = 131 ft

DISCLAIMER: This map was produced from Marion County Assessor's geographic database. This database is maintained for assessment purposes only. The data provided hereon may be inaccurate or out of date and any person or entity who relies on this information for any purpose whatsoever does so solely at his or her own risk. In no way does Marion County warrant the accuracy, reliability, scale or timeliness of any data provided on this map.