



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

Aeronautical Study No.
2023-ACE-7358-OE
Prior Study No.
2020-ACE-8862-OE

Issued Date: 04/05/2024

Ryan Cronk
Flaherty and Collins Properties, Inc.
One Indiana Square
Suite 3000
Indianapolis, IN 46204

**** 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: | Multi-unit Housing 5th and Main |
| Location: | Kansas City, MO |
| Latitude: | 39-06-32.62N NAD 83 |
| Longitude: | 94-35-01.42W |
| Heights: | 832 feet site elevation (SE) 139 feet above ground level (AGL) 971 feet above mean sea level (AMSL) |

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

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

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

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

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

See attachment for additional condition(s) or information.

The structure considered under this study lies in proximity to an airport and occupants may be subjected to noise from aircraft operating to and from the airport.

This determination expires on 10/05/2025 unless:

- (a) the construction is started (not necessarily completed) and FAA Form 7460-2, Notice of Actual Construction or Alteration, is received by this office.
- (b) extended, revised, or terminated by the issuing office.
- (c) the construction is subject to the licensing authority of the Federal Communications Commission (FCC) and an application for a construction permit has been filed, as required by the FCC, within 6 months of the date of this determination. In such case, the determination expires on the date prescribed by the FCC for completion of construction, or the date the FCC denies the application.

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

This determination is subject to review if an interested party files a petition that is received by the FAA on or before May 05, 2024. In the event an interested party files a petition for review, it must contain a full statement of the basis upon which the petition is made. Petitions can be submitted to the Manager, Rules and Regulations Group via email at OEPetitions@faa.gov, or via mail to Federal Aviation Administration, Air Traffic Organization, Rules and Regulations Group, Room 425, 800 Independence Ave, SW., Washington, DC 20591. FAA encourages the use of email to ensure timely processing.

This determination becomes final on May 15, 2024 unless a petition is timely filed. In which case, this determination will not become final pending disposition of the petition. Interested parties will be notified of the grant of any review. Any questions regarding your petition, contact Rules and Regulations Group via telephone (202) 267-8783.

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

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

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

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

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

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

If we can be of further assistance, please contact Luke Wray, at (817) 222-4559, or luke.w.wray@faa.gov. On any future correspondence concerning this matter, please refer to Aeronautical Study Number 2023-ACE-7358-OE.

Signature Control No: 602692296-618059438

(DNH)

Eric F Johnston

Manager, Obstruction Evaluation Group

Attachment(s)

Additional Information

Map(s)

Part 77 - Title 14 CFR Part 77, Safe, Efficient Use and Preservation of the Navigable Airspace

LOCATION OF PROPOSED CONSTRUCTION

The proposed project (building corners) would be located approximately 0.93-0.99 Nautical Miles (NM) southeast of the Airport Reference Point (ARP) at Charles B Wheeler Downtown Airport (MKC), Kansas City, MO.

OBSTRUCTION STANDARDS EXCEEDED

Three studies were filed for this proposal. Each building corner was studied separately, and the narrative below provides the initial analysis for the locations that exceed obstruction standards. The proposals are identified as exceeding the obstruction standards of 14 CFR Part 77 as applied to MKC:

1. 77.17 (a)(5) The surface of a takeoff and landing area of an airport or any imaginary surface established under 77.19, 77.21, or 77.23.

a. 77.19 (a) Horizontal surface. A horizontal plane 150 feet above the established airport elevation.

2020-ACE-7356-OE - Exceeds by 65 feet.

2020-ACE-7357-OE - Exceeds by 65 feet.

2020-ACE-7358-OE - Exceeds by 65 feet.

AERONAUTICAL STUDY FOR POSSIBLE INSTRUMENT FLIGHT RULES (IFR) EFFECT DISCLOSED THE FOLLOWING:

> The proposed structure would have no effect on existing IFR arrival/departure routes, operations, or procedures.

> The proposed structure would have no effect on any existing or proposed IFR en route routes, operations, or procedures.

> The proposed structure would have no effect on any existing or proposed IFR minimum flight altitudes.

AERONAUTICAL STUDY FOR POSSIBLE VISUAL FLIGHT RULES (VFR) EFFECT DISCLOSED THE FOLLOWING:

> The proposed structure would not conflict with airspace required to conduct normal VFR traffic pattern operations at any known public use or military airports.

> The proposed structure would not penetrate those altitudes normally considered available for VFR en route flight.

The proposed building would lie within MKC VFR traffic pattern airspace (TPA) climb and descent area. It exceeds the horizontal surface by 65 feet (most critical corner). The proposed building will be required to be marked and lighted, in accordance with the Advisory Circular 70/7460-1M, to provide additional conspicuity for pilots flying in this vicinity.

PREVIOUS DETERMINATION

This proposal was previously studied by the FAA and a Determination of No Hazard was issued on March 24, 2023. Subsequently, modifications to the project required an 18-foot increase to the overall height for a new proposal of 971 feet AMSL.

CIRCULARIZATION AND NEGOTIATIONS

To facilitate the public comment process, this aeronautical study was circularized on February 12, 2024, to all known aviation and non-aviation interested parties that may be affected by the proposal. No letters of objection were received as a result of the circularization. Circularization does not affect the public's right to petition for discretionary review of determinations on structures exceeding obstruction standards.

BASIS FOR DECISION

The proposal would exceed section 77.19 (a), a Horizontal Surface, and exceed the TPA; however, the proposal would still not have impact compared to existing structures previously studied by the FAA (ASN 2023-ACE-634-OE, at 100 feet AGL/935 feet AMSL), and smokestacks charted in the Obstacle Authoritative Source (OAS), (# 29-000712 249 feet AGL/1004 feet AMSL) of greater height in proximity to the proposal. There is no plan on file to remove them. Even though the proposed structure would encroach the VFR TPA by 65 feet, the proposed building would be located between those existing structures to the northeast and west of this proposal site that are also within the same climb/descent area. As revealed by Air Traffic Organization (ATO) Safety Management System (SMS) panel review, flight paths in this area remain higher than typical due to existing structures that of themselves would exceed traffic pattern airspace but do not create significant degradation to operational efficiencies. The FAA sought additional information to determine whether additional risk or decrease in efficiency to the NAS would be introduced by the proposal.

After an extensive review of safety requirements, governance, and local air traffic policies/protocols at MKC, our study disclosed the interactions with obstruction standard surfaces, defined in the JO 7400.2M, are distinct and uniquely acceptable given this location in the downtown Market Place of Kansas City, MO. Additionally, the airport authorities at MKC launched a pilot awareness initiative that will provide enhanced information on the MKC TPA to the flying community and NAS stakeholders such as the prominent 1038 feet AMSL Christopher S. Bond Bridge located 1.26 NM east of the MKC ARP. Study also determined MKC ATCT includes initial and annual controller awareness education to ensure existing and future controllers are well aware of the preexisting, non-standard airspace conditions. Pilot and controller awareness initiatives are a result of recently finished structures, as well as rapid growth that has resulted in recent proposed construction in the downtown Market Place area within MKC TPA for southern approaches. Future proposals will be reviewed for cumulative effect.

The study did not identify any IFR arrival, departure, or en route effects. There would be no effects on any existing or proposed en route VFR operations. There are no physical or electromagnetic effects on the operation of air navigation and communications facilities. The study did not disclose any effects on any airspace and routes used by the military. It would not impact MKC airport or any other existing or planned public-use or military airports would be impacted. Records indicate that MKC has 124,214 aircraft operations per year as of September 2023, and an average of at least one VFR operation could be affected per day.

DETERMINATION - NO HAZARD TO AIR NAVIGATION

The cumulative impact of the structure, combined with the impact of other structures, is not significant. Study did not disclose any adverse effect on existing or proposed public-use or military airports or navigational facilities. Nor would the structure affect the capacity of any known existing or planned public-use or military airport.

Therefore, it is determined that the structure does not have a substantial adverse effect on the safe and efficient utilization of the navigable airspace by aircraft or on any air navigation facility and is not a hazard to air navigation.



