



City of Portland, Oregon
Bureau of Development Services
Land Use Services
FROM CONCEPT TO CONSTRUCTION

Dan Ryan, Commissioner
Rebecca Esau, Director
Phone: (503) 823-7300
Fax: (503) 823-5630
TTY: (503) 823-6868
www.portland.gov/bds

Date: January 12, 2022
To: Interested Person
From: Hillary Adam, Land Use Services
503-823-8953 / Hillary.Adam@portlandoregon.gov

NOTICE OF A TYPE Ix DECISION ON A PROPOSAL IN YOUR NEIGHBORHOOD

The Bureau of Development Services has approved a proposal in your neighborhood. The mailed copy of this document is only a summary of the decision.

The reasons for the decision are included in the version located on the BDS website <http://www.portlandonline.com/bds/index.cfm?c=46429>. Click on the District Coalition then scroll to the relevant Neighborhood, and case number. If you disagree with the decision, you can appeal. Information on how to do so is included at the end of this decision.

CASE FILE NUMBER: LU 21-105478 HRM – NEW ROOFTOP GENERATOR

GENERAL INFORMATION

Applicant: Paul Soper pauls@gbdarchitects.com / 503-224-9656
GBD Architects
1120 NW Couch St
Portland, OR 97209

Owners Agent: Ty Barker tyb@unicoprop.com / 503-860-7068
Unico Properties
111 SW 5th Ave Ste 1250
Portland OR 97204

Interested Party: Vismnu Jhaveri vishnu.jhaveri@lewisbuilds.com / 503-223-0500
Lease Crutcher Lewis
550 SW 12th Ave
Portland, OR 97205

Owner: UPG Montgomery Park Property Owner LLC
1215 4th Ave Ste 600
Seattle, WA 98161

Site Address: 2701 NW VAUGHN ST

Legal Description: TL 200 11.06 ACRES ALSO SEE SUBS -0291 -0292, SECTION 29 1N 1E

Tax Account No.: R941290290

State ID No.: 1N1E29D 00200

Quarter Section: 2826

Neighborhood: Northwest District, contact Greg Theisen at 503-227-5430.

Business District: None
District Coalition: Neighbors West/Northwest, contact Mark Sieber at 503-823-4212.

Plan District: None
Other Designations: Historic Landmark, listed on the National Register of Historic Places

Zoning: EXd – Central Employment with design and Historic Resource Protection overlays
Case Type: HRM – Historic Resource Review with Modification request
Procedure: Type Ix, an administrative decision with appeal to the Oregon Land Use Board of Appeals (LUBA).

Proposal:

The applicant proposes a new rooftop generator, measuring 7'-1" (h) x 5'-0" (w) x 13'-3" (l), to be installed on a 2'-6" high platform behind the existing MONTGOMERY PARK sign.

A Modification is requested to 33.140.210.B.3 to exceed the maximum height limit of 65' and the 10' exception (to 75') for rooftop mechanical equipment.

Relevant Approval Criteria:

In order to be approved, this proposal must comply with the approval criteria of Title 33. The relevant approval criteria are:

- 33.846.060.G (1-10)
- 33.846.070 Modifications Considered During Historic Resource Review

ANALYSIS

Site and Vicinity: Constructed in 1920 and enlarged in 1936, the Montgomery Ward & Company Building was one of six similar catalog distribution centers developed by the company between 1920 and 1929. The Portland location was chosen for a catalog distribution facility because of Portland's prominence as a transportation hub and the home of a strong, well-educated workforce. The building was designed by W. H. McCauley, an architect in the fulltime employ of Montgomery Ward & Company. The building is listed in the National Register of Historic Places under Criterion "A" for its association with the evolution of mailorder retailing. It is also listed under Criterion "C" for its architectural expression as a massive warehousing facility. The building was vacated by the company in 1984. In 1989, the Naito Corporation rehabilitated the building and converted it into office space. At that time, the main entrance was shifted to a glass-enclosed light-well on the west façade. Until that time, the west façade had been the rear façade of the building.

In general, the property is surrounded on the east and north by General and Heavy Industrial (IHk) Zones with area of Central Employment (EXd), General Employment (EG2) abutting the site to the east and north respectively. Across NW Wayward Street to the west and south, the site abuts a small section of General Employment 1 (EG1) and Commercial/Mixed Use 2 (CM2) with a majority of the south frontage abutting Residential 1,000 (R1) zoning. The building is considered the most important example of Reinforced Concrete Utilitarian style architecture in the city. When constructed, it was the largest building in Portland, and one of the largest concrete structures west of the Rockies. It continued to be the largest building in Portland until 1970 when the First National Bank Tower was constructed. By its sheer size relative to its surroundings, the Montgomery Park Building contributes strongly to the neighborhood and the sign structure and signage is a prominent element against Forest Park as a background to the west. The "massive steel-framed roof sign" is noted under Section 8 of the Nomination for being the largest (roof sign) in the City.

To the east of the site are restaurants, cafes. To the west and south is largely residential but also includes the Chapman Elementary School with subsequent open space. The site is served by frequent transit and is also surrounded by designated city bikeways including: NW Nicolai Street to the north, NW Wardway to the west, and NW Vaughn Street to the

south. Although the site is not in the NW Pedestrian District, the site is immediately adjacent to the district at the southeast corner.

Zoning: The Central Employment (EX) zone allows mixed-uses and is intended for areas in the center of the City that have predominantly industrial type development. The intent of the zone is to allow industrial and commercial uses which need a central location. Residential uses are allowed, but are not intended to predominate or set development standards for other uses in the area. The development standards are intended to allow new development which is similar in character to existing development.

The “d” overlay promotes the conservation and enhancement of areas of the City with special historic, architectural or cultural value. New development and exterior modifications to existing development are subject to design review. This is achieved through the creation of design districts and applying the Design Overlay Zone as part of community planning projects, development of design guidelines for each district, and by requiring design review. In addition, design review ensures that certain types of infill development will be compatible with the neighborhood and enhance the area.

The Historic Resource Protection overlay is comprised of Historic and Conservation Districts, as well as Historic and Conservation Landmarks and protects certain historic resources in the region and preserves significant parts of the region’s heritage. The regulations implement Portland’s Comprehensive Plan policies that address historic preservation. These policies recognize the role historic resources have in promoting the education and enjoyment of those living in and visiting the region. The regulations foster pride among the region’s citizens in their city and its heritage. Historic preservation beautifies the city, promotes the city’s economic health, and helps to preserve and enhance the value of historic properties.

Land Use History: City records indicate that prior land use reviews include:

- HL 53-85 – Designation of the property through a Type III procedure.
- HL 60-85 – Renovation of the property through a Type III procedure.
- HL 13-88 – Type 1x approval of ATM installation.
- HL 80-89 – Type Ix approval of “Antennas and Dishes”.
- HL 81-89 – Type Ix approval of “Antennas and Dishes”.
- LUR 92-00159 – Type 2 Design Review approval for alterations to the exterior ground level northeast corner, replacing infill between windows and doors.
- LUR 92-00626 – Type 2 Design Review approval for alterations to the exterior northwest corner.
- LUR 94-00483 – Type 3 Design Review approval to construct a new parking structure.
- LUR 96-00331 – Design Review approval with conditions to install an unmanned cellular communications facility consisting of three antenna arrays: two wall mounted to the roof parapet of the office building and one array mounted on the support structure of the existing Montgomery Park sign.
- LUR 96-00448 – Design Review approval with conditions to install an unmanned cellular telecommunications facility consisting of three "whip-style" antennas mounted on the support structure of the existing Montgomery Park sign.
- LUR 98-00163 – Design Review approval with conditions to install three 2 inch by 10 feet tall "whip-style" antennas mounted to the roof of the existing mechanical penthouse.
- LUR 00-00770 HDZ – Historic Design Review approval with conditions to install eleven antennas on three metal pole masts attached to two penthouses on the roof.
- LU 02-126847 HDZ – Historic Design Review approval to install two new antennas mounted below the top of the sign structure.
- LU 05-105768 HDZ – Historic Design Review approval to install three antennas within the “Montgomery Park” rooftop sign structure.
- LU 06-100938 HDZ and LU 06-101398 HDZ – Historic Design Review approvals to install 3 new antennas and to replace 3 existing antennas (for a total of 6 antennas) under each review.

- LU 06-106833 – Historic Design Review approval for a new ADA ramp, penthouse louvers, and a 3” gas line.
- LU 07-145772 HDZ – Historic Design Review approval to install new antennas.
- LU 09-126115 HDZAD – Historic Design Review with Adjustment for parking lot improvements.
- LU 10-116139 HDZ – Historic Design Review for a new monument sign.
- LU 11-135616 HDZ – Historic Design Review approval with conditions to replace 3 antennas on the Montgomery Park sign.
- LU 13-167062 HR – Historic Resource Review approval for new antennas.
- LU 14-138147 HR – Historic Resource Review approval for new antennas.
- LU 14-230793 HR – Historic Resource Review approval for new antennas.
- LU 16-110994 HR – Historic Resource Review approval for a new rooftop solar array.
- LU 16-169053 HR – Historic Resource Review for new solar arrays atop the parking garage and two new electric vehicle charging stations.
- LU 16-273445 HR – Historic Resource Review approval for new antennas.
- LU 16-276934 HR – Historic Resource Review approval for new signage, and new vents, exit, and expansion of a fire door on the east façade.
- LU 18-178435 HR – Historic Resource Review approval for removal of glazing and installation of new louvers behind some of the historic steel sash windows.
- LU 18-270955 HR – Historic Resource Review approval for replacement of radio frequency antennas.

Agency Review: A Notice of Proposal in your Neighborhood was mailed on December 8, 2021. The following Bureaus have responded with no issues or concerns about the proposal:

- Fire Bureau
- Site Development Section of BDS

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on December 8, 2021. No written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal.

ZONING CODE APPROVAL CRITERIA

Chapter 33.846.060 - Historic Resource Review

Purpose of Historic Resource Review

Historic Resource Review ensures the conservation and enhancement of the special characteristics of historic resources.

Historic Resource Review Approval Criteria

Requests for Historic Resource Review will be approved if the review body finds the applicant has shown that all of the approval criteria have been met.

Findings: The site is a designated Historic Landmark outside the Central City Plan District and not within in a Historic or Conservation District, and the proposal is for non-exempt treatments. Therefore the proposal requires Historic Resource Review approval. The approval criteria are those listed in *33.846.060 G – Other Approval Criteria*.

Staff has considered all of the approval criteria and addressed only those applicable to this proposal.

(1) 33.846.060 G - Other Approval Criteria

1. Historic character. The historic character of the property will be retained and preserved. Removal of historic materials or alteration of features and spaces that contribute to the property's historic significance will be avoided.

- 2. Record of its time.** The historic resource will remain a physical record of its time, place, and use. Changes that create a false sense of historic development, such as adding conjectural features or architectural elements from other buildings will be avoided.
- 3. Historic changes.** Most properties change over time. Those changes that have acquired historic significance will be preserved.
- 4. Historic features.** Generally, deteriorated historic features will be repaired rather than replaced. Where the severity of deterioration requires replacement, the new feature will match the old in design, color, texture, and other visual qualities and, where practical, in materials. Replacement of missing features must be substantiated by documentary, physical, or pictorial evidence.
- 5. Historic materials.** Historic materials will be protected. Chemical or physical treatments, such as sandblasting, that cause damage to historic materials will not be used.
- 6. Archaeological resources.** Significant archaeological resources affected by a proposal will be protected and preserved to the extent practical. When such resources are disturbed, mitigation measures will be undertaken.
- 7. Differentiate new from old.** New additions, exterior alterations, or related new construction will not destroy historic materials that characterize a property. New work will be differentiated from the old.
- 8. Architectural compatibility.** New additions, exterior alterations, or related new construction will be compatible with the resource's massing, size, scale, and architectural features. When retrofitting buildings or sites to improve accessibility for persons with disabilities, design solutions will not compromise the architectural integrity of the historic resource.
- 9. Preserve the form and integrity of historic resources.** New additions and adjacent or related new construction will be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic resource and its environment would be unimpaired.
- 10. Hierarchy of compatibility.** Exterior alterations and additions will be designed to be compatible primarily with the original resource, secondarily with adjacent properties, and finally, if located within a Historic or Conservation District, with the rest of the district. Where practical, compatibility will be pursued on all three levels.

Findings for 1, 2, 3, 4, 5, 6, 7, 8, 9, and 10: The essential form and integrity, as well as historic materials, features, and characteristics that contribute to the significance of this landmark will remain intact and unaffected by the current proposal. No changes that have acquired historic significance will be affected as part of this proposal. No chemical treatments or excavation which could result in archaeological disturbance is proposed as part of this proposal. The proposed generator is a nondescript utilitarian piece of equipment set atop the roof of what is the tallest building for several blocks. The generator will not be visible to those near to the building, and will likely only be visible to those who may be able to view the rooftop from nearby higher elevations in the west hills. The generator's relative invisibility, even to those at higher elevations, and its modest utilitarian appearance will ensure its compatibility with the historic resource, particularly due to its rooftop location and the presence of other rooftop elements such as a solar array and a massive historic rooftop sign. *These criteria are met.*

(2) 33.846.070 Modifications Considered During Historic Resource Review

The review body may consider modification of site-related development standards, including the sign standards of Chapters 32.32 and 32.34 of the Sign Code, as part of the historic resource review process. These modifications are done as part of historic resource review and are not required to go through the adjustment process. Adjustments to use-related development standards (such as floor area ratios, intensity of use, size of the use, number of units, or concentration of uses) are required to go through the adjustment process. Modifications that are denied through historic resource review may be requested as an adjustment through the adjustment process. The review body will approve requested modifications if it finds that the applicant has shown that the following approval criteria are met:

- A. **Better meets historic resource review approval criteria.** The resulting development will better meet the approval criteria for historic resource review than would a design that meets the standard being modified; and
- B. **Purpose of the standard.**
1. The resulting development will meet the purpose of the standard being modified; or
 2. The preservation of the character of the historic resource is more important than meeting the purpose of the standard for which a modification has been requested.

Modification to 33.140.210.B.3 to exceed the maximum height limit of 65’ and the 10’ exception (to 75’) for rooftop mechanical equipment.

Purpose Statement: “The height standards work with the FAR, building setback, and building coverage standards to control the overall bulk and intensity of an area. The EG1 zone height limit is the same as the General Commercial zone because the EG1 zone often functions as a transition zone between industrial and residential or commercial zones. The EX zone height limit reflects its use in intense urban areas and the range of uses that are allowed. The other zones do not have height limits because tall buildings in these areas have traditionally not been a problem.”

Standard: The height limit is 65’ Exception 33.130.210.B.3 states: “Rooftop mechanical equipment and stairwell enclosures that provide rooftop access may extend above the height limit as follows, provided that the equipment and enclosures are set back at least 15 feet from all roof edges on street facing facades: a. Elevator mechanical equipment may extend up to 16 feet above the height limit; and b. Other mechanical equipment and stairwell enclosures that cumulatively cover no more than 10 percent of the roof area may extend up to 10 feet above the height limit.”

- A. **Better meets historic resource review approval criteria.** *The resulting development will better meet the approval criteria for historic resource review than would a design that meets the standard being modified; and*

Findings: The modification to increase the height of mechanical better meets historic resource review approval criteria, particularly #1, #8, and #10 because locating this modern equipment at the roof, rather than at the ground level, allows visitors to the building to better appreciate the historic character of this historic landmark. While the building is relatively utilitarian itself, locating the generator at the rooftop ensures that contemporary equipment such as these, which are designed to be functional rather than beautiful, will allow the historic character to not be diminished by objects that cannot be manufactured in a “compatible” manner.

- B. **Purpose of the standard.** *The resulting development will meet the purpose of the standard being modified or the preservation of the character of the historic resource is more important than meeting the purpose of the standard for which a modification has been requested.*

Findings: The area of the overall landmark roof is significantly larger than the footprint of the generator to be placed on top of it. Likewise, the height of the building is significantly taller than anything around it, so that the addition of a 7’-1” tall generator on a 2’-6” platform on top of the building to be located behind a taller penthouse and sign and away from parapet edges has very little, if any, impact to the overall height of the building. The addition of this generator has essentially no impact the overall mass and bulk of the existing building within its context.

The proposal better meets the approval criteria and the purpose of the standard is met. *Therefore, this Modification merits approval.*

DEVELOPMENT STANDARDS

Unless specifically required in the approval criteria listed above, this proposal does not have to meet the development standards in order to be approved during this review process. The plans submitted for a building or zoning permit must demonstrate that all requirements of Title 11 can be met, and that all development standards of Title 33 can be met or have received an Adjustment or Modification via a land use review, prior to the approval of a building or zoning permit.

CONCLUSIONS

The purpose of the Historic Resource Review process is to ensure that additions, new construction, and exterior alterations to historic resources do not compromise their ability to convey historic significance. This proposal meets the applicable Historic Resource Review criteria and modification criteria and therefore warrants approval.

ADMINISTRATIVE DECISION


Approval of a new rooftop generator, measuring 7'-1" (h) x 5'-0" (w) x 13'-3" (l), to be installed on a 2'-6" high platform behind the existing MONTGOMERY PARK sign on the Landmark building.

Approval of a Modification to 33.140.210.B.3 to exceed the maximum height limit of 65' and the 10' exception (to 75') for rooftop mechanical equipment.

This approval is per the approved site plans, Exhibits C-1 through C-13, signed and dated January 10, 2022, subject to the following conditions:

- A. As part of the building permit application submittal, the following development-related conditions (B through C) must be noted on each of the four required site plans or included as a sheet in the numbered set of plans. The sheet on which this information appears must be labeled "ZONING COMPLIANCE PAGE- Case File LU 21-105478 HRM." All requirements must be graphically represented on the site plan, landscape, or other required plan and must be labeled "REQUIRED."
- B. At the time of building permit submittal, a signed Certificate of Compliance form (<https://www.portlandoregon.gov/bds/article/623658>) must be submitted to ensure the permit plans comply with the Design/Historic Resource Review decision and approved exhibits.
- C. No field changes allowed.

Staff Planner: Hillary Adam

Decision rendered by:  on January 10, 2022
By authority of the Director of the Bureau of Development Services

Decision mailed: January 12, 2022

About this Decision. This land use decision is **not a permit** for development. Permits may be required prior to any work. Contact the Development Services Center at 503-823-7310 for information about permits.

Procedural Information. The application for this land use review was submitted on November 12, 2021, and was determined to be complete on December 6, 2021.

Zoning Code Section 33.700.080 states that Land Use Review applications are reviewed under the regulations in effect at the time the application was submitted, provided that the

application is complete at the time of submittal, or complete within 180 days. Therefore this application was reviewed against the Zoning Code in effect on November 12, 2021.

ORS 227.178 states the City must issue a final decision on Land Use Review applications within 120-days of the application being deemed complete. The 120-day review period may be waived or extended at the request of the applicant. In this case, the applicant did not waive or extend the 120-day review period. Unless further extended by the applicant, **the 120 days will expire on: April 5, 2022.**

Some of the information contained in this report was provided by the applicant.

As required by Section 33.800.060 of the Portland Zoning Code, the burden of proof is on the applicant to show that the approval criteria are met. The Bureau of Development Services has independently reviewed the information submitted by the applicant and has included this information only where the Bureau of Development Services has determined the information satisfactorily demonstrates compliance with the applicable approval criteria. This report is the decision of the Bureau of Development Services with input from other City and public agencies.

Conditions of Approval. If approved, this project may be subject to a number of specific conditions, listed above. Compliance with the applicable conditions of approval must be documented in all related permit applications. Plans and drawings submitted during the permitting process must illustrate how applicable conditions of approval are met. Any project elements that are specifically required by conditions of approval must be shown on the plans, and labeled as such.

These conditions of approval run with the land, unless modified by future land use reviews. As used in the conditions, the term “applicant” includes the applicant for this land use review, any person undertaking development pursuant to this land use review, the proprietor of the use or development approved by this land use review, and the current owner and future owners of the property subject to this land use review.

This decision, and any conditions associated with it, is final. It may be appealed to the Oregon Land Use Board of Appeals (LUBA), within 21 days of the date the decision is mailed, as specified in the Oregon Revised Statute (ORS) 197.830. Among other things, ORS 197.830 requires that a petitioner at LUBA must have submitted written testimony during the comment period for this land use review. Contact LUBA at 775 Summer St NE Suite 330, Salem, OR 97301-1283 or phone 1-503-373-1265 for further information.

The file and all evidence on this case are available for your review by appointment only. Please call the Request Line at our office, 1900 SW Fourth Avenue, Suite 5000, phone 503-823-7617, to schedule an appointment. I can provide some information over the phone. Copies of all information in the file can be obtained for a fee equal to the cost of services. Additional information about the City of Portland, city bureaus, and a digital copy of the Portland Zoning Code is available on the internet at www.portlandonline.com.

Recording the final decision.

If this Land Use Review is approved the final decision will be recorded with the Multnomah County Recorder.

- *Unless appealed*, the final decision will be recorded after **January 12, 2022** by the Bureau of Development Services.

The applicant, builder, or a representative does not need to record the final decision with the Multnomah County Recorder.

For further information on your recording documents please call the Bureau of Development Services Land Use Services Division at 503-823-0625.

Expiration of this approval. An approval expires three years from the date the final decision is rendered unless a building permit has been issued, or the approved activity has begun.

Where a site has received approval for multiple developments, and a building permit is not issued for all of the approved development within three years of the date of the final decision, a new land use review will be required before a permit will be issued for the remaining development, subject to the Zoning Code in effect at that time.

Applying for your permits. A building permit, occupancy permit, or development permit may be required before carrying out an approved project. At the time they apply for a permit, permittees must demonstrate compliance with:

- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code for the City of Portland, and all other applicable ordinances, provisions and regulations of the City.

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Original Submittal
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan
 - 2. Existing Roof Plan (attached)
 - 3. Generator Massing Sketch (attached)
 - 4. Existing East Elevation
 - 5. Existing North Elevation (attached)
 - 6. Existing West Elevation
 - 7. Existing South Elevation
 - 8. Building Section
 - 9. Sightlines: Penthouse Terrace
 - 10. Cut Sheet: Generator Enclosure
 - 11. Cut Sheet: Generator
 - 12. Roof Mechanical Plan
 - 13. Roof Power Plan
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Fire Bureau
- F. Correspondence: none
- G. Other:
 - 1. Original LU Application
 - 2. Incomplete Letter, dated December 2, 2021

The Bureau of Development Services is committed to providing equal access to information and hearings. Please notify us no less than five business days prior to the event if you need special accommodations. Call 503-823-7300 (TTY 503-823-6868).