



# City of Portland, Oregon Bureau of Development Services Land Use Services

1900 SW 4th Avenue, Suite 5000 Portland, Oregon 97201 503-823-7300 Fax 503-823-5630 TTY 503-823-6868 www.portlandonline.com/bds

**Date:** Thursday, April 30, 2009

**To:** Interested Person

From: Kate Marcello, Land Use Services

503-823-9162 / kate.marcello@ci.portland.or.us

# NOTICE OF A TYPE II DECISION ON A PROPOSAL IN YOUR NEIGHBORHOOD

The Bureau of Development Services has approved a proposal in your neighborhood. The reasons for the decision are included in this notice. If you disagree with the decision, you can appeal it and request a public hearing. Information on how to appeal this decision is listed at the end of this notice.

CASE FILE NUMBER: LU 09-109950 DZ

**NEW GENERATOR ON ROOFTOP** 

# **GENERAL INFORMATION**

**Applicant:** Thomas Sears, RCM Construction, (503) 257-9168

8401 NE Halsey St #202 | Portland, OR 97220

**Owners:** Gerald L and Margaret Warnock

133 NE 102nd Ave | Portland, OR 97220-4167

**Tenant:** East Portland Epic Imaging Center, (503) 253-1105

(Contact: William R. Dunlap, Corporate Secretary)

233 NE 102nd Ave | Portland, OR 97220

**Site Address:** 233 NE 102<sup>nd</sup> Avenue

**Legal Description:** LOT 16 TL 700, HUDSON AC

**Tax Account No.:** R407401300 **State ID No.:** 1N2E33DA 00700

Quarter Section: 3040

**Neighborhood:** Hazelwood, contact Arlene Kimura at 503-252-9429.

Business District: Gateway Area Business Association, contact Fred Sanchez at 503-256-

3910.

**District Coalition:** East Portland Neighborhood Office, contact Richard Bixby at 503-823-

4550.

**Plan District:** Gateway

**Zoning:** Central Commercial base zone (CX), Design overlay zone (d)

Case Type: Design Review (DZ)

**Procedure:** Type II, an administrative decision with appeal to the Design

Commission.

**Proposal:** The applicant requests Design Review approval to install a new generator on the rooftop of an existing building.

- The generator would be about 8'-11" long x 3'-4" wide x 4'-4" tall.
- The generator would be located in the east portion of the rooftop, which is flat.
- The generator would sit atop a 0'-8"-tall curb. Thus the total height of the curb and the generator together would be 5'-0".
- A metal screen would be installed around the north, south, and east sides of the generator, to conceal it from view. To the west, the generator would be fully concealed from view by the taller, gabled portion of the building.
- The screen would be about 14'-6" to 15'-0" long x 7'-0" wide x 6'-0" tall.
- The east portion of the rooftop has a 2'-0"-tall parapet, so the height of the generator above the parapet would be about 3'-0" and the height of the screen above the parapet would be about 4'-0".
- The screen would be made of pre-painted, standing-seam metal to match the existing roof on the building and existing mechanical-equipment screens on the rooftop.

Because the proposal is for non-exempt exterior alterations to an existing building on a site with design overlay zoning in the Gateway Plan District, Design Review is required prior to the issuance of building permits.

# Relevant Approval Criteria:

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

- 33.825 Design Review, and
- Gateway Regional Center Design Guidelines.

# **ANALYSIS**

I. **Site and Vicinity:** The site is located on the block bounded by NE 102<sup>nd</sup> Avenue, E Burnside Street, NE 100<sup>th</sup> Avenue, and NE Glisan Street in Hazelwood neighborhood. The existing one-story building 15,405-square-foot building was constructed in 1990. There is a surface parking lot located along the south edge of the site. The primary tenant in the building is a medical imaging facility. The northerly abutting property contains a three-story office building with a parking lot. The southerly abutting property contains a one-story office building with a parking lot. One-story single-family houses are located across NE 102<sup>nd</sup> from the site.

The immediately surrounding area contains a mixture of commercial zoning and high-density residential zoning. The last phase of the Russellville development is currently under construction about 650 feet southeast of the site, at E Burnside Street and NE  $102^{\rm nd}$  Avenue. It will contain independent and assisted living for seniors. About 800 feet south of the site, there is a convenience store and an automobile junkyard. The area across NE  $102^{\rm nd}$  Avenue, stretching east to NE  $122^{\rm nd}$  Avenue, is solidly residential, with mostly one- and two-story single-family houses and some multi-family housing developments.

In regard to transportation, the Metropolitan Area Express (MAX) Blue Line light-rail train operates along E Burnside Street, about 520 feet south of the site. There is a westbound stop located at E Burnside Street and  $102^{nd}$  Avenue. The #15 busline provides north- and southbound service on  $102^{nd}$  Avenue. The #20 busline provides southbound service on  $102^{nd}$  Avenue. Interstate 205 is located about 1,500 feet west of the site. According to Portland's Transportation System Plan, E Burnside Street is a designated Neighborhood Collector Street, Regional Transitway/Major Transit Priority Street, City Bikeway, and Community Main Street. NE/SE  $102^{nd}$  Avenue is classified as a District Collector Street,

- Major Transit Priority Street, City Bikeway, and Community Main Street. The site is located in the Gateway Pedestrian District.
- **II. Zoning:** The <u>Central Commercial (CX) zone</u> is intended to provide for commercial development within Portland's most urban and intense areas. A broad range of uses is allowed to reflect Portland's role as a commercial, cultural and governmental center. Development is intended to be very intense with high building coverage, large buildings, and buildings placed close together.

The <u>Design (d) overlay zone</u> promotes the conservation, enhancement, and continued vitality of areas of the City with special scenic, architectural, or cultural value. 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.

- **III. Land Use History:** City records indicate one prior land-use review for the site. It was an "SRZ" review for the construction of the building, in 1990.
- IV. Agency Review: A Notice of Proposal in Your Neighborhood was mailed on April 6, 2009.
  - Five bureaus responded with no comments:
    - Portland Fire & Rescue;
    - Urban Forestry Division of Portland Parks & Recreation;
    - Development Review Section of the Bureau of Transportation;
    - Site Development Section of the Bureau of Development Services; and
    - Life Safety/Building Code Section of the Bureau of Development Services.
  - Two bureaus responded with comments and with no objections to the proposal:
    - The Bureau of Environmental Services responded with comments regarding stormwater management requirements that would apply if the site were further developed in the future (Exhibit E-1).
    - The Portland Water Bureau responded to say that the water main serving the site is located in NE 102<sup>nd</sup> Avenue (Exhibit E-2).
- V. Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on April 6, 2009. One written comment in response to the proposal has been received (Exhibit F-1). It was a letter, submitted via electronic mail on April 27, 2009. The letter is from Arlene Kimura, President/Chair of the Land Use Committee of the Hazelwood Neighborhood Association. The letter states that the Land Use Committee "has not heard from any neighbors on this proposal." It also states that the Neighborhood Association has "no issues with the proposal."

# ZONING CODE APPROVAL CRITERIA

# Chapter 33.825 Design Review Section 33.825.010 Purpose of Design Review

Design review ensures that development conserves and enhances the recognized special design values of a site or area. Design review is used to ensure the conservation, enhancement, and continued vitality of the identified scenic, architectural, and cultural values of each design district or area. Design review ensures that certain types of infill development will be compatible with the neighborhood and enhance the area. Design review is also used in certain cases to review public and private projects to ensure that they are of a high design quality.

#### Section 33.825.055 Design Review Approval Criteria

A design review application will be approved if the review body finds the applicant to have shown that the proposal complies with the design guidelines for the area.

**Findings:** The site is designated with design overlay zoning (d). Therefore the proposal requires Design Review approval. Because of the site's location, the applicable design

guidelines are the Gateway Regional Center Design Guidelines.

# Gateway Regional Center Design Guidelines

The Gateway Regional Center is the City of Portland's only designated regional center. The area is envisioned to redevelop into a highly urbanized, pedestrian-oriented center, with an overall built size and scale second only to Portland's Central City.

The purpose of design review is to carry out the urban design vision for the District by emphasizing unique district assets in a manner that is respectful, creative, supportive, and compatible with all its areas. Although the District is a complex urban environment, it can become a cohesive whole with the use of these design principles.

# Gateway Regional Center Design Goals

Ten goals for design review in the Gateway Regional Center have been established to enhance the area's design quality, support its livability, and guide its transition to a pedestrian-oriented, active, urban regional center. They are:

- 1. Encourage urban design excellence.
- 2. Ensure that new development is at a human scale and that it relates to the scale and desired character of its setting and the Gateway Regional Center as a whole.
- 3. Provide for a pleasant, rich, and diverse experience for pedestrians.
- 4. Assist in creating a regional center that emphasizes a mix of active uses and experiences and is safe, lively, and prosperous.
- 5. Provide for the humanization of the Gateway Regional Center through the promotion of parks, plazas, open spaces, public art, and trees.
- 6. Integrate and honor the diversity and history of Gateway.
- 7. Integrate sustainable principles into the development process.
- 8. Encourage the development of a distinctive character for sub-districts within the regional center, and link them.
- 9. Encourage and incorporate transit orientation and usage.
- 10. Enhance the physical and visual linkages between the Gateway Regional Center and adjacent neighborhoods.

Staff has considered all guidelines and has addressed only those guidelines considered applicable to this project.

# A3. Integrate Building Mechanical Equipment and Service Areas.

Incorporate building mechanical equipment and/or service areas in a manner that does not detract from the pedestrian environment.

**Findings for A3:** The proposal calls for the location of a new radiator on the east portion of the rooftop. The total height of the radiator and its mounting curb is 5'-0". A 6'-0"-tall metal screen will conceal the radiator from view on the east, north, and south sides, and the west side will be concealed by the taller, gabled portion of the building. Because the east portion of the rooftop where the generator will be located has a 2'-0"-tall parapet, the total height of the generator and the screen above the parapet will be 3'-0" and 4'-0", respectively. The radiator's location on the rooftop and its screening will limit its impact on the pedestrian environment. The radiator will not result in any visual obtrusion for pedestrians on the adjacent public sidewalks of NE 102<sup>nd</sup> Avenue.

*Therefore, this guideline is met.* 

# B1. Convey Design Quality and Building Permanence.

Use design principles and building materials that convey quality and permanence.

B3. Design for Coherency.

Integrate the different parts of a building to achieve a coherent design.

B5. Integrate Roofs, Rooftop Lighting, and Signs.

Integrate rooftop components, functions and related screening elements with the building's architecture. Integrate exterior lighting, signs and any related structural equipment at or near the roof with the building's architecture. Orient lighting to highlight the building's architecture.

Findings for B1, B3, B5: The addition of one generator with a screen around it will not significantly detract from the building's original character or overall architectural integrity. The generator will be difficult to view due to the screen. The screen itself will be minimally visible as well, as it will be located about 12'-0" above the pedestrian environment. The screen will also be set back from the edges of the rooftop. It will be located about 7'-0", 11'-6", and 14'-6" away from the east, north, and south roof edges, respectively. To mitigate visual impacts of the screen, it will be painted the same color and be made of the same standing-seam metal as the existing roof on the building. Visual impacts will also be mitigated by the screen's location. An existing circular louvered opening on the gabled portion of the building façade will be centered directly above the screen. This location for the screen, corresponding to an existing design element on the building, lessens its visual impact by integrating it with the building's design. Additionally, the screen will be rectangular in shape, which will correspond to the shape of the east portion of the building and its rooftop. Lastly, the generator and the screen will be no larger than existing generators and associated screens, which are located in the northern portion of the rooftop.

The concealment of the generator and the location, material, color, shape, and size of the screen ensure that neither the generator nor the screen will detract from the design coherency of the subject building.

Therefore, this guideline is met.

#### **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 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 proposed generator will not detract from the architectural integrity of the building, nor will it adversely affect views of the building. The proposed screen will conceal the generator from view. The screen's location, material, color, shape, and size ensure that it will not detract from the design coherency of the subject building. The proposal meets the applicable design guidelines and therefore warrants approval.

# **ADMINISTRATIVE DECISION**

Approval of the following elements located in the east portion of the rooftop at 233 NE 102<sup>nd</sup> Avenue in the Gateway Plan District:

- one generator about 8'-11" long x 3'-4" wide x 4'-4" tall, atop an 0'-8"-tall curb; and
- a metal screen about 14'-6" to 15'-0" long x 7'-0" wide x 6'-0" tall, composed of pre-painted standing-seam metal, and located around the north, south, and east sides of the generator.

Approval per the approved plans and drawings, Exhibits C-1 through C-7, signed and dated April 28, 2009, subject to the following conditions:

A. As part of the building permit application submittal, each of the 4 required site plans and any additional drawings must reflect the information and design approved by this land use

review as indicated in Exhibits C-1 through C-7. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 09-109950 DZ. No field changes allowed."

Staff Planner: Kate Marcello

Decision rendered by: on April 28, 2009

By authority of the Director of the Bureau of Development Services

Decision mailed: April 30, 2009

**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 February 23, 2009, and was determined to be complete on March 31, 2009.

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 February 23, 2009.

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.

### 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.

**Appealing this decision.** This decision may be appealed to the Design Commission, which will hold a public hearing. Appeals must be filed **by 4:30 PM on Thursday, May 14, 2009** at 1900 SW Fourth Ave. Appeals can be filed on the first floor in the Development Services Center until 3 p.m. After 3 p.m., appeals must be submitted to the receptionist at the front desk on the fifth floor. **An appeal fee of \$250 will be charged**. The appeal fee will be refunded if the appellant

prevails. There is no fee for ONI recognized organizations appealing a land use decision for property within the organization's boundaries. The vote to appeal must be in accordance with the organization's bylaws. Low-income individuals appealing a decision for their personal residence that they own in whole or in part may qualify for an appeal fee waiver. In addition, an appeal fee may be waived for a low income individual if the individual resides within the required notification area for the review, and the individual has resided at that address for at least 60 days. Assistance in filing the appeal and information on fee waivers is available from BDS in the Development Services Center. Fee waivers for low-income individuals must be approved prior to filing the appeal; please allow 3 working days for fee waiver approval. Please see the appeal form for additional information.

The file and all evidence on this case are available for your review by appointment only. Please contact the receptionist at 503-823-7967 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 <a href="https://www.portlandonline.com">www.portlandonline.com</a>.

**Attending the hearing.** If this decision is appealed, a hearing will be scheduled, and you will be notified of the date and time of the hearing. The decision of the Design Commission is final; any further appeal must be made to the Oregon Land Use Board of Appeals (LUBA) within 21 days of the date of mailing the decision, pursuant to ORS 197.620 and 197.830. Contact LUBA at 550 Capitol St. NE, Suite 235, Salem, Oregon 97301, or phone 1-503-373-1265 for further information.

Failure to raise an issue by the close of the record at or following the final hearing on this case, in person or by letter, may preclude an appeal to the Land Use Board of Appeals (LUBA) on that issue. Also, if you do not raise an issue with enough specificity to give the Design Commission an opportunity to respond to it, that also may preclude an appeal to LUBA on that issue.

#### Recording the final decision.

If this Land Use Review is approved the final decision must be recorded with the Multnomah County Recorder. A few days prior to the last day to appeal, the City will mail instructions to the applicant for recording the documents associated with their final land use decision.

- Unless appealed, The final decision may be recorded on or after Friday, May 15, 2009 (the day following the last day to appeal).
- A building or zoning permit will be issued only after the final decision is recorded.

The applicant, builder, or a representative may record the final decision as follows:

- By Mail: Send the two recording sheets (sent in separate mailing) and the final Land Use Review decision with a check made payable to the Multnomah County Recorder to: Multnomah County Recorder, P.O. Box 5007, Portland OR 97208. The recording fee is identified on the recording sheet. Please include a self-addressed, stamped envelope.
- In Person: Bring the two recording sheets (sent in separate mailing) and the final Land Use Review decision with a check made payable to the Multnomah County Recorder to the County Recorder's office located at 501 SE Hawthorne Boulevard, #158, Portland OR 97214. The recording fee is identified on the recording sheet.

For further information on recording, please call the County Recorder at 503-988-3034 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.

Zone Change and Comprehensive Plan Map Amendment approvals do not expire.

**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:

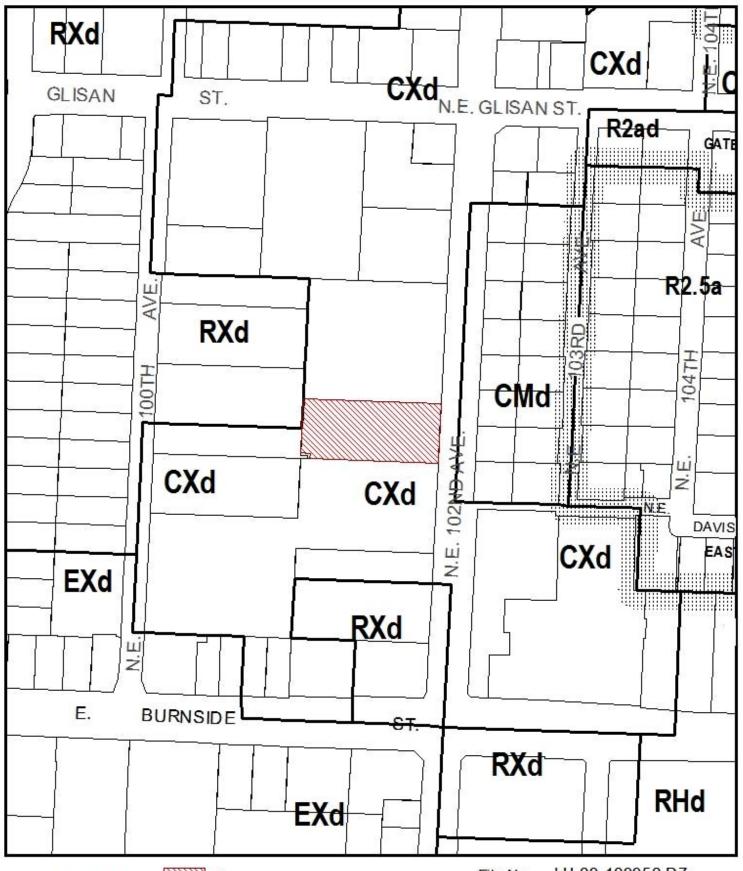
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

#### **EXHIBITS**

#### NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
- B. Zoning Map (attached)
- C. Plans and Drawings:
  - 1. Site Plan (attached)
  - 2. Roof Plan
  - 3. Enlarged Roof Plan (attached)
  - 4. East Elevation (attached)
  - 5. South Elevation (attached)
  - 6. Section Drawing
  - 7. Cutsheet for Generator
- D. Notification information:
  - 1. Mailing list
  - 2. Mailed notice
- E. Agency Responses:
  - 1. Bureau of Environmental Services
  - 2. Portland Water Bureau
- F. Correspondence:
  - 1. Arlene Kimura, President/Chair of the Land Use Committee of Hazelwood Neighborhood Association, April 27, 2009; no objections to the proposal.
- G. Other:
  - 1. Original LU Application
  - 2. Site History Research
  - 3. Site Visit Photographs

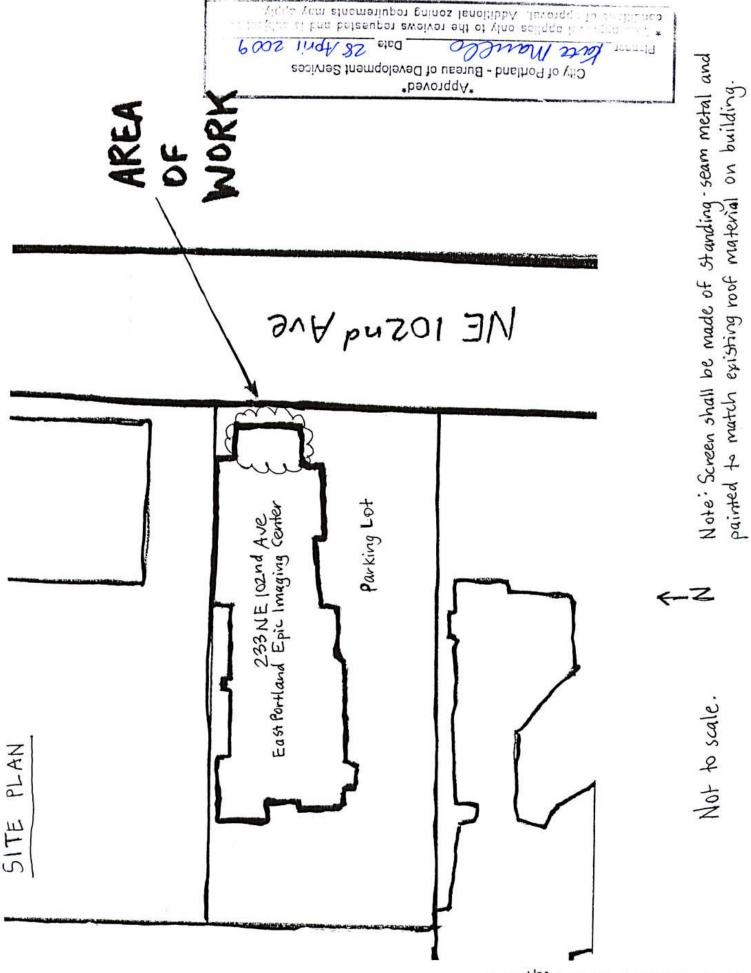
The Bureau of Development Services is committed to providing equal access to information and hearings. If you need special accommodations, please call 503-823-7300 (TTY 503-823-6868).



ZONING Site



LU 09-109950 DZ File No. \_ 3040,3041 1/4 Section \_\_ 1 inch = 200 feet Scale \_ 1N2E33DA 700 State Id . (Feb 24,2009) Exhibit ..



case#: Ly 09-109950 DZ Exhibit C-1

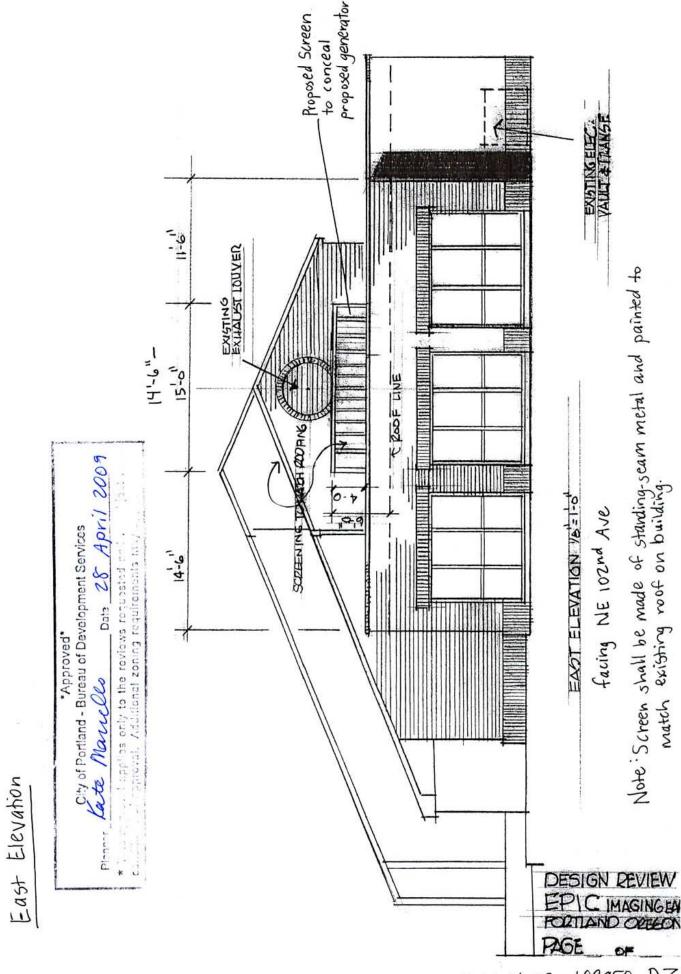
Note: Screen shall be

Scale: 1/8" = 1'-0"

Made of standing-seam metal and painted to match existing roof on building.

Case #: LU 09-109950 DZ

Fxhibit C-3



Case #: LU 09-109950 DZ Exhibit C-4

