



**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](http://www.portland.gov/bds)

**Date:** August 27, 2021  
**To:** Interested Person  
**From:** Hillary Adam, Land Use Services  
503-823-8953 / [Hillary.Adam@portlandoregon.gov](mailto:Hillary.Adam@portlandoregon.gov)

**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 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 21-062778 DZ – NEW GENERATOR**

**GENERAL INFORMATION**

**Applicant:** Lee Lizama  
Petersen Staggs Architects  
5200 W State Street  
Boise, ID 83703

**Owner:** TJS Inc  
Po Box 990  
Minneapolis, MN 55440-0990

**Site Address:** 1222 NE 102ND AVE

**Legal Description:** TL 4300 5.42 ACRES, SECTION 34 1N 2E  
**Tax Account No.:** R942340910  
**State ID No.:** 1N2E34BB 04300  
**Quarter Section:** 2941

**Neighborhood:** Hazelwood, contact Arlene Kimura at [arlene.kimura@gmail.com](mailto:arlene.kimura@gmail.com)  
**Business District:** Gateway Area Business Association, contact at [gabapdxboard@gmail.com](mailto:gabapdxboard@gmail.com)  
**District Coalition:** East Portland Community Office, contact at 503-823-4550.

**Plan District:** Gateway  
**Zoning:** CXd – Central Employment with Design overlay  
**Case Type:** DZ – Design Review  
**Procedure:** Type II, an administrative decision with appeal to the Design Commission.

**Proposal:**

The applicant proposes a new exterior backup generator to be located at the east side of the property adjacent to an existing exterior transformer. The new equipment is located more than 60' from the east property line and more than 190' from the south property line. It is proposed

to be screened by a new chain link and vinyl slat fence that meets the F1 fence standard of 33.248 immediately adjacent to the equipment as well as an existing masonry wall that meets the F2 standard and existing landscaping that meets the L2 landscape standard of 33.248 at the east property line as well as the building wall and L2 landscaping to the south.

Design Review is required because the proposal is for non-exempt exterior alterations in a Design overlay zone.

**Relevant Approval Criteria:**

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

- Gateway Regional Center Design Guidelines

## ANALYSIS

**Site and Vicinity:** The subject property is a large grocery store, oriented west with a large surface parking lot at the west and north and back-of-house services at the rear (east). West of the site, across NE 102<sup>nd</sup> Avenue is the Gateway Shopping Center which includes another large grocery store with smaller strip mall style buildings and restaurants dotted across the surrounding surface parking lot. To the north, across NE Wasco Street are a smaller 2-story commercial building and 1-story commercial building with surface parking and undeveloped green space. To the northeast is Gateway Discovery Park. To the east and south, across NE 104<sup>th</sup> Avenue and NE Hassalo Street, are single and multi-dwelling structures. NE 104<sup>th</sup> Avenue dead ends at a residential development just beyond the project area. NE Hassalo also dead ends at a single dwelling house in this location. The broader context consists of residential development extending from the southwest, to the south, west, and north, across the commercial couplet of NE Halsey and NE Weidler. To the west and northwest is the I-205/I-84 interchange.

**Zoning:** The Central Commercial (CX) zone 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. Development is intended to be pedestrian-oriented with a strong emphasis on a safe and attractive streetscape.

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 Gateway Plan District regulations encourage the development of an urban level of housing, employment, open space, public facilities, and pedestrian amenities that will strengthen the role of Gateway as a regional center. The regulations also ensure that future development will provide for greater connectivity of streets throughout the plan district. This development will implement the Gateway Regional Policy of the Outer Southeast Community Plan. Together, the use and development regulations of the Gateway plan district: promote compatibility between private and public investments through building design and site layout standards; promote new development and expansions of existing development that create attractive and convenient facilities for pedestrians and transit patrons to visit, live, work, and shop; ensure that new development moves the large sites in the plan district closer to the open space and connectivity goals of the Gateway Regional Center; create a clear distinction and attractive transitions between properties within the regional center and the more suburban neighborhood outside;

and provide opportunities for more intense mixed-use development around the light rail stations.

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

- LU76-100059: Approval of a conditional variance that a paved driveway and two paved off- street parking spaces be provided from the street to each house. Each parking space shall be exclusive of required yards
- LU82-019983: Approval of a modification of side landscape buffer from 10 feet to 6feet.
- LU82-019984: Approval of a land division.
- LU82-019985: Approval of expansion of existing use.
- LU82-020471: Approval of a temporary permit for a bingo game operation.
- LU85-021068: Approval of a newrestaurant.
- LU86-019824: Approval of a zoning change from MR-4, medium density residential district to EC, extensive commercial district, subject to conditions.
- LU16-167067: Approval of two (2) roof top mechanical units.
- LU 17-121680 DZ: Approval of four new replacement rooftop mechanical units and new metal doors on the south elevation.

**Agency Review:** A “Notice of Proposal in Your Neighborhood” was mailed July 23, 2021. The following Bureaus have responded with no issues or concerns:

- Life Safety Division of BDS (Exhibit E-1)
- Fire Bureau
- Site Development Section of BDS

**Neighborhood Review:** A Notice of Proposal in Your Neighborhood was mailed on . 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 33.825 Design Review

#### Section 33.825.010 Purpose of Design Review

Design review implements the Design overlay zone, strengthening these areas as places designed for people. Design review supports development that builds on context, contributes to the public realm, and provides high quality and resilient buildings and public spaces.

#### 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 subdistricts 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.*

#### **A Pedestrian Emphasis**

**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:** The proposed generator is located at the rear of the building, adjacent to other large exterior pieces of mechanical equipment such as a trash compactor and electrical transformer. The equipment is located in an area away from pedestrian traffic and will only be visible to employees of the site and those contracted to be at the site. While the proposed fence is not considered an F2 or full-screen fence, it will partially screen the equipment from the surrounding parking lot, while a 6' high masonry wall meeting the F2 standard and landscaping that complies with the L2 or L3 standard will fully screen the equipment from the residences across NE 104<sup>th</sup> Avenue to the east. The building itself and additional landscaping screens the enclosure from the south. Furthermore, the screened enclosure is located more than 60' from the east property line and more than 190' from the south property line, thus providing significant distance between itself and the nearby residences. The proposal is modest against the scale of the existing development and adequately screened for its location. *This guideline is met.*

#### **B Development Design**

**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.

**Findings for B1 and B3:** The proposal is for a new generator and a modest enclosure intended to screen the new generator. While a masonry wall would provide a greater sense of permanence, the proposed solution of a chain link fence with vinyl slats provides the desired level of screening from a parking lot with the flexibility for potential future alterations to the enclosure when the proposed generator needs to be replaced. The vinyl slats are noted as the same color as the building's accent band which will provide coherency with the existing building so that the enclosure does not call attention to itself. *These guidelines are 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 design review process exists to promote the conservation, enhancement, and continued vitality of areas of the City with special scenic, architectural, or cultural value. The proposal meets the applicable design guidelines and therefore warrants approval.


## ADMINISTRATIVE DECISION

Approval of a new exterior backup generator in the Gateway Plan District to be located at the east side of the subject property, adjacent to an existing exterior transformer, and screened by an F1 standard fence.

This approval is per the approved site plans, Exhibits C-1 through C-3, signed and dated August 24, 2021, 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 4 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 21-062778 DZ." 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 August 24, 2021**

By authority of the Director of the Bureau of Development Services

**Decision mailed: August 27, 2021**

**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 July 6, 2021, and was determined to be complete on July 23, 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 July 6, 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: November 20, 2021.**

**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, and if appealed a hearing will be held. The appeal application form can be accessed at <https://www.portlandoregon.gov/bds/45477>. Appeals must be received **by 4:30 PM on September 10, 2021.** **The completed appeal application form must be emailed to [LandUseIntake@portlandoregon.gov](mailto:LandUseIntake@portlandoregon.gov) and to the planner listed on the first page of this decision.** If you do not have access to e-mail, please telephone the planner listed on the front page of this notice about submitting the appeal application. **An appeal fee of \$250 will be charged.** Once the completed appeal application form is received, Bureau of Development Services staff will contact you regarding paying the appeal fee. The appeal fee will be refunded if the appellant prevails. There is no fee for Office of Community and Civic Life recognized organizations for the appeal of Type II and IIX decisions on property within the organization’s boundaries. The vote to appeal must be in accordance with the organization’s bylaws. Please contact the planner listed on the front page of this decision for assistance in filing the appeal and information on fee waivers. Please see the appeal form for additional information.

If you are interested in viewing information in this file, please contact the planner listed on the front of this notice. The planner can email you documents from the file. A fee would be required for all requests for paper copies of file documents. Additional information about the City of Portland, and city bureaus is available online at <https://www.portland.gov>. A digital copy of the Portland Zoning Code is available online at <https://www.portlandoregon.gov/zoningcode>.

**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 775 Summer St NE, Suite 330, Salem, Oregon 97301-1283, 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 will be recorded with the Multnomah County Recorder.

- *Unless appealed*, the final decision will be recorded on or after **September 13, 2021** 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.

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
  - 1. Narrative
  - 2. Plans
- B. Zoning Map (attached)
- C. Plans/Drawings:
  - 1. Site Plan (attached)
  - 2. Enlarged Plan (attached)
  - 3. Elevations (attached)
- D. Notification information:
  - 1. Mailing list
  - 2. Mailed notice
- E. Agency Responses:
  - 1. Life Safety Division of BDS
- F. Correspondence: none
- G. Other:
  - 1. Original LU Application

**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).**