



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

Dan Ryan, Commissioner  
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[www.portland.gov/bds](http://www.portland.gov/bds)

**Date:** November 30, 2021  
**To:** Interested Person  
**From:** Andrew Gulizia, Land Use Services  
503-865-6714 / [Andrew.Gulizia@portlandoregon.gov](mailto:Andrew.Gulizia@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 21-096315 AD**

**GENERAL INFORMATION**

**Applicant's Representative:** Frank Angelo  
Angelo Planning Group  
921 SW Washington St., Ste. 468  
Portland, OR 97205  
(503) 227-3664  
[fangelo@angeloplanning.com](mailto:fangelo@angeloplanning.com)

**Applicant:** Jennifer Santhouse  
Portland General Electric Co.  
121 SW Salmon St., 1WT1302  
Portland, OR 97204

**Property Owner:** Portland General Electric Co.  
121 SW Salmon St.  
Portland, OR 97204-2901

**Site Address:** 6616 N Lombard St.

**Legal Description:** BLOCK 10 LOT 1 EXC PT IN ST LOT 2-9, DEPT OF REVENUE, NORTHERN HILL ADD; BLOCK 10 LOT 10-17 DEPT OF REVENUE, NORTHERN HILL ADD; BLOCK 10 LOT 18&19 DEPT OF REVENUE, NORTHERN HILL ADD; BLOCK 10 LOT 26-29 DEPT OF REVENUE, NORTHERN HILL ADD; BLOCK 10 LOT 30-32 EXC PT IN ST DEPT OF REVENUE, NORTHERN HILL ADD; BLOCK 10 LOT 33 EXC PT IN ST DEPT OF REVENUE, NORTHERN HILL ADD; BLOCK 10 LOT 34-38 TL 2500 DEPT OF REVENUE, NORTHERN HILL ADD

**Tax Account No.:** R615102270, R615102360, R615102440, R615102520, R615102560, R615102590, R615102600

**State ID No.:** 1N1E07BD 03200, 1N1E07BD 03100, 1N1E07BD 03000, 1N1E07BD 02800, 1N1E07BD 02700, 1N1E07BD 02600, 1N1E07BD 02500

**Quarter Section:** 2123

<b>Neighborhood:</b>	University Park, contact Tom Karwaki at karwaki@gmail.com
<b>Business District:</b>	University Park Business District, contact at <a href="https://www.facebook.com/UPBizDist/">https://www.facebook.com/UPBizDist/</a>
<b>District Coalition:</b>	North Portland Neighborhood Services, contact Mary Jaron Kelley at 503-823-8877
<b>Plan District:</b>	Lombard Street - Subdistrict A
<b>Zoning:</b>	CE (Commercial Employment), RM2 (Multi-Dwelling Residential 2), R2.5 (Single-Dwelling Residential 2,500)
<b>Case Type:</b>	AD – Adjustment Review
<b>Procedure:</b>	Type II, an administrative decision with appeal to the Adjustment Committee

**Proposal:** The subject site is developed with a Portland General Electric (PGE) electrical substation. Recently, PGE obtained building permit approval for improvements to the substation including a new control enclosure, a new equipment enclosure, and a new driveway from N Macrum Avenue (permit numbers 21-059493 CO and 21-059496 CO). The applicant also proposes new security fencing along the eastern perimeter of the site. The northern 100 feet of the site is within the CE zone, where fence height within 10 feet of street lot lines is limited to 8 feet (Zoning Code Section 33.130.270.C.1). Since the new fence is proposed to be 9 feet tall (8 feet of chain link with 1 foot of barbed wire on top), the applicant requests an Adjustment to increase the maximum height for the CE-zoned portion of the new fence from 8 feet to 9 feet. No Adjustment is necessary for the new fencing within the RM2-zoned and R2.5-zoned portions of the site.

**Relevant Approval Criteria:** To be approved, this proposal must comply with the Adjustment Review approval criteria in Zoning Code Section 33.805.040.A-F.

## ANALYSIS

**Site and Vicinity:** The site is approximately 1.75 acres in area and is developed with a PGE electrical substation. The site has frontage on three streets: N Lombard Street to the north, N Macrum Avenue to the east, and N Oberlin Street to the south. Railroad right-of-way abuts the site to the west. Neighboring properties are developed with a mix of commercial and residential uses. The Willamette River and the University of Portland campus are both about a half-mile to the south.

**Zoning:** The Commercial Employment (CE) zone is a medium-scale commercial/mixed use zone intended for sites along corridors with a Neighborhood Collector or higher traffic classification, especially along Civic Corridors that are also Major Truck Streets or Priority Truck Streets. The zone allows a mix of commercial uses, including auto-accommodating development and drive-through facilities, as well as some light manufacturing and distribution uses that have few off-site impacts.

The RM2 (Multi-Dwelling Residential 2) zone is a medium-scale multi-dwelling zone that allows residential development up to a maximum FAR of 1.5 to 1 and requires a minimum density of 1 unit per 1,450 square feet of site area. Institutional uses such as electrical substations are classified as Conditional Uses in the RM2 zone.

The R2.5 (Single-Dwelling Residential 2,500) zone is intended to preserve land for housing and to promote housing opportunities for individual households. The development standards work together to promote desirable residential areas by addressing aesthetically pleasing environments, safety, privacy, energy conservation, and recreational opportunities. Institutional uses such as electrical substations are classified as Conditional Uses in the R2.5 zone.

The Lombard Street Plan District implements the Lombard Street nodes and corridors elements of the St. Johns/Lombard Plan by promoting development that fosters a pedestrian- and transit-oriented main street in key places and supports enhanced design for multi-dwelling residential developments.

**Land Use Review History:** City records indicate there are no prior land use reviews for this site.

**Agency Review:** A “Notice of Proposal” was sent November 1, 2021. The following Bureaus responded with no concerns about the proposed Adjustment:

- Bureau of Environmental Services (Exhibit E-1);
- Portland Bureau of Transportation (Exhibit E-2);
- Water Bureau (Exhibit E-3);
- Fire Bureau (Exhibit E-4);
- Site Development Section of the Bureau of Development Services (BDS) (Exhibit E-5); and
- Life Safety Review Section of BDS (Exhibit E-6).

**Neighborhood Review:** No written responses to the mailed “Notice of Proposal” were received from either the Neighborhood Association or notified neighbors.

## ZONING CODE APPROVAL CRITERIA

### 33.805.040 Approval Criteria

Adjustment requests will be approved if the applicant has demonstrated that approval criteria A through F, below, have been met.

- A.** Granting the Adjustment will equally or better meet the purpose of the regulation to be modified; and

**Findings:** The applicant requests an Adjustment to increase the maximum height for the CE-zoned portion of the new fence from 8 feet to 9 feet. The purpose of the fence regulations in the CE zone is stated in Zoning Code Section 33.130.270.A:

*The fence regulations promote the positive benefits of fences without negatively impacting the community or endangering public or vehicle safety. Fences near streets are kept low in order to allow visibility into and out of the site and to ensure visibility for motorists. Fences in any required side or rear setback are limited in height so as to not conflict with the purpose for the setback.*

Since the fence subject to the Adjustment request will be chain link, the fence will not block visibility into or out of the site and will not create a hazard for motorists. While the fence will be 1 foot (12.5%) taller than the 8-foot maximum height for fences near street lot lines, the increased height will support public safety by preventing intentional or inadvertent access to potentially dangerous equipment. The new fence will also be set back 5 feet from the street lot line, even though no minimum setback is required for fences. Compared with the existing fence abutting the sidewalk, the proposal reduces community impacts from the fence. For these reasons, staff finds the proposal equally meets the intent of the fence regulations. This criterion is met.

- B.** If in a residential, CI1, or IR zone, the proposal will not significantly detract from the livability or appearance of the residential area, or if in an OS, C, E, I, or CI2 zone, the proposal will be consistent with the classifications of the adjacent streets and the desired character of the area; and

**Findings:** Since the Adjustment request is for the CE-zoned portion of the site, the proposal must be consistent with the classifications of the adjacent streets and the desired character of the CE-zoned area.

Street classifications

The two streets adjacent to the CE-zoned portion of the site are classified as follows by the City's Comprehensive Plan:

	Traffic	Transit	Bikeway	Pedestrian	Freight
N Macrum Ave.	Local Service	Local Service	City Bikeway	Local Service	Local Service
N Lombard St.	District Collector	Major Transit Priority Street	Major City Bikeway	Major City Walkway	Truck Access Street

The increased fence height will have no impact on traffic levels or demand for transit, bike, pedestrian, or freight infrastructure. Therefore, the proposal is consistent with the adjacent street classifications.

Desired character of area

"Desired character" is defined in Zoning Code Chapter 33.910. Pursuant to this definition, the desired character of the CE-zoned portion of this site is determined by:

- the character statement of the CE zone;
- the purpose statement for the Lombard Street plan district; and
- relevant statements from the St. Johns/Lombard Plan;

CE zone

The character statement for the CE zone is in Zoning Code Section 33.130.030.E:

*The Commercial Employment (CE) zone is a medium-scale zone intended for sites along corridors with a Neighborhood Collector or higher traffic classification, especially along civic corridors that are also Major Truck Streets or Priority Truck Streets. This zone is generally not appropriate in designated centers, except on a site that is currently developed in an auto-oriented manner and where more urban development is not yet economically feasible. The zone allows a mix of commercial uses, including auto-accommodating development and drive-through facilities, as well as some light manufacturing and distribution uses that have few off-site impacts. The emphasis of this zone is on commercial and employment uses, but residential uses are also allowed. Buildings in this zone will generally be up to four stories tall. This zone is intended to allow for development with auto-accommodating configurations, while also including pedestrian-oriented design features that support transit and pedestrian access.*

The existing development of the site as an electrical substation does not directly support the commercial activity and employment intended for the CE zone. However, this use is allowed outright in the CE zone (Zoning Code Section 33.130.100.B.7.c), and the current proposal does not change the existing use. The proposed 5-foot setback for the new fence promotes a more open pedestrian environment compared with the existing fence to be replaced, which abuts the street lot line and the sidewalk. For these reasons, staff finds the proposed Adjustment is consistent with the character statement for the CE zone.

Lombard Street plan district

The purpose statement for the Lombard Street plan district is in Zoning Code Section 33.545.010:

*The Lombard Street Plan District implements the Lombard Street nodes and corridors elements of the St Johns/ Lombard Plan by promoting development that fosters a pedestrian- and transit-oriented main street in key places, and supports enhanced design for multi-dwelling residential developments.*

The site is an existing electrical substation, and no “main street”-type development is proposed. However, the substation use is allowed outright, and the Adjustment proposal is only for a new fence in the CE-zoned portion of the site. The proposed 5-foot setback for the fence promotes a more open pedestrian environment compared with the existing fence to be replaced, which abuts the street lot line and the sidewalk. For these reasons, staff finds the proposal is consistent with the purpose statement for the Lombard Street plan district.

#### St. Johns/Lombard Plan

The following statements from the St. Johns/Lombard Plan are found to be relevant:

*Policy 1: Land Use and Placemaking. Accommodate growth and change in a manner that fosters the area’s sense of place as a small town and main street within the city. Take advantage of its unique setting near the Willamette River, and support development of vital commercial areas.*

*Policy 4: Economic Development. Built vital commercial areas in St. Johns and on Lombard Street by strengthening existing businesses, attracting new businesses that foster a positive identity for the areas, and encouraging housing to support retail and other community amenities.*

The existing substation does not directly contribute to the plan area’s goals for new housing or main street commercial areas. However, the substation use is permitted outright by the Zoning Code, and reliable electrical service does support these goals indirectly. In any case, the Adjustment request is only to increase the allowable height of a chain link fence intended to secure the site. For these reasons, staff finds the proposal is consistent with the St. Johns/Lombard Plan.

#### Summary

The Adjustment request is consistent with the classifications of the adjacent streets and with the desired character of the area. This criterion is met.

- C.** If more than one Adjustment is being requested, the cumulative effect of the Adjustments results in a project which is still consistent with the overall purpose of the zone; and

**Findings:** Since only one Adjustment is requested, this criterion is not applicable.

- D.** City-designated scenic resources and historic resources are preserved; and

**Findings:** City-designated scenic resources are identified on the official zoning maps with a lower case “s,” and historic resources are identified either with a dot or as being within the boundaries of a Historic or Conservation district. As there are no scenic resources or historic resources mapped on the subject site, this criterion is not applicable.

- E.** Any impacts resulting from the Adjustment are mitigated to the extent practical; and

**Findings:** The one-foot increase in fence height will be mitigated by setting the new fence 5 feet back from the street lot line. Staff finds an outright-permitted, 8-foot-tall fence directly on the street lot line would not have fewer impacts than the proposed fence. The 5-foot setback will accommodate a ground grid near the sidewalk to minimize the risk of electric shock (Exhibit A-1, page 17) and will create a more open feeling along the sidewalk. This criterion is met.

- F.** If in an environmental zone, the proposal has as few significant detrimental environmental impacts on the resource and resource values as is practicable;

**Findings:** Environmental overlay zones are designated on the official zoning maps with either a lowercase “p” (Environmental Protection overlay zone) or a “c” (Environmental

Conservation overlay zone). As there are no environmental overlay zones mapped on the site, this criterion is not applicable.

## 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

Staff finds the Adjustment request for a one-foot increase in the allowable fence height is consistent with the purpose of the requirement to be modified and with the character intended for the area. The new fence will not block visibility, and the increased fence height will be mitigated by a greater setback from the street lot line. Since the approval criteria are found to be met, the Adjustment request must be approved.

## ADMINISTRATIVE DECISION

Approval of an Adjustment to increase the maximum fence height within the CE zone from 8 feet to 9 feet (Zoning Code Section 33.130.270.C.1) per the approved plans, Exhibits C-1 and C-2, signed and dated November 23, 2021, subject to the following condition:

- A. As part of the building permit application submittal, each of the 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 and C-2. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 21-096315 AD."

**Staff Planner: Andrew Gulizia**

**Decision rendered by:**  **on November 23, 2021.**  
By authority of the Director of the Bureau of Development Services

**Decision mailed: November 30, 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 October 14, 2021 and was determined to be complete on October 27, 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 October 14, 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 February 24, 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.

**Appealing this decision.** This decision may be appealed to the Adjustment Committee, and if appealed a hearing will be held. The appeal application form can be accessed at [https://www.portland.gov/sites/default/files/2020/lu\\_type2\\_2x\\_appeal\\_form\\_071116.pdf](https://www.portland.gov/sites/default/files/2020/lu_type2_2x_appeal_form_071116.pdf). Appeals must be received **by 4:30 PM on December 14, 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 email, 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 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 Adjustment Committee 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 Adjustment Committee 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 after **December 14, 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 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 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. Addendum to narrative, received October 27, 2021
  - 3. Zoning review checksheet from building permit 21-059493/496 CO
  - 4. Plan set
- B. Zoning Map (attached)
- C. Plans/Drawings:
  - 1. Site plan (attached)
  - 2. Fence elevation (attached)
- D. Notification Information:
  - 1. Mailing list
  - 2. Mailed notice
- E. Agency Responses:
  - 1. Bureau of Environmental Services
  - 2. Portland Bureau of Transportation
  - 3. Water Bureau
  - 4. Fire Bureau
  - 5. Site Development Review Section of BDS
  - 6. Life Safety Review Section of BDS
- F. Correspondence – none received
- G. Other:
  - 1. Land use application form
  - 2. Incompleteness determination letter, dated October 21, 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).**