



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

Carmen Rubio, Commissioner
Rebecca Esau, Director
Phone: (503) 823-7310
TTY: (503) 823-6868
www.portland.gov/bds

Date: April 13, 2023
To: Interested Person
From: Grace Jeffreys, Land Use Services
503-865-6521 / Grace.Jeffreys@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 22-185874 DZ –
5640 N INTERSTATE, LOADING & TRANSFORMER**

GENERAL INFORMATION

Applicant: Jagira Hane, Tricia Doolin-McIntosh, and Joshua Scott, Koz Development
1830 Bickford Ave Ste. 201, Snohomish Wa 98290
jagira@kozdevelopment.com, 425-268-1487

Owner: Koz On N Killingsworth 2 LLC
1830 Bickford Ave Suite 201, Snohomish Wa 98290

Site Address: 1430 N KILLINGSWORTH ST

Legal Description: SUB N 1/2 TRACT B LOT 1&2 SUB N 1/2 TRACT B LOT 3-5 EXC PT IN ST SUB N 1/2 TRACT B LOT 6 EXC PT IN STS, M PATTONS & SUB

Tax Account No.: R520700030
State ID No.: 1N1E22BB 08500
Quarter Section: 2529

Neighborhood: Overlook NA, contact Brian Yarne at landuse@overlookneighborhood.org

Business District: None
District Coalition: North Portland Neighborhood Services, contact Mary Jaron Kelley at 503-823-8877.

Plan District: North Interstate
Zoning: CM3 (MU-U)d, m - Commercial/Mixed Use 3 Zone (CM3) with design (d) and Centers Main Streets (m) overlays

Case Type: DZ, Design Review
Procedure: Type II, an administrative decision with appeal to the Design Commission.

Proposal:

The applicant proposes changes to an approved Design Review (LU 19-187024 DZM) which was for a new 6-story, mixed-use development located in the North Interstate Plan District. The proposed changes include:

- Change the on-site loading from one (1) Type A space to two (2) Type B spaces, parked in tandem,
- Re-locate the transformer from a below-grade vault in the Right of Way to an above-grade pad mounted transformer at the south side of the building with a fence surround; and,
- Change the balcony balusters and railings design.

Design review is required because the proposal is for non-exempt exterior alterations that do not match the prior approval.

Relevant Approval Criteria:

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

- *Portland Citywide Design Guidelines*

ANALYSIS

Site and Vicinity: The project site is a half city block at the intersection of North Interstate Avenue and North Killingsworth Street, adjacent to a major transit station, North Killingsworth Street Max Station, and bounded to the east by North Maryland Street. The arterial intersection of North Killingsworth and North Interstate is a transit-oriented node of zoning density and height, and the site and surrounding lots are zoned CM3dm (MU-U), which is a large-scale zone intended for sites in high-capacity transit station areas.

According to the North Interstate Corridor Plan:

- **Killingsworth Station:** At the station platforms new development reflects the significance of the transit facilities and creates visually prominent markers that help to differentiate the station platform areas from the surrounding community. There are six station areas along the Interstate Corridor, each with a different development theme. The theme for Killingsworth Station is Killingsworth Main Street.
- **Killingsworth Main Street:** Considered the corridor's most vital educational, cultural and recreational link, connecting the station platform to Portland Community College, Jefferson High School and the Killingsworth Conservation District to the east. New development also strengthens the "main street" character west of Interstate Avenue to the commercial cluster at Denver Avenue. New development at this station area includes a variety of mixed uses, commercial uses and new cultural facilities to augment existing focal points like the Interstate Firehouse Cultural Center (IFCC) and Patton Park.
- **N Interstate Avenue** serves as the corridor's primary framework street. It is the major connector for arterials, collectors and local streets for the plan area and will be the focus of more intense land uses, particularly where Interstate intersects a primary east west street. Interstate Avenue is the backbone for all new development and services within the corridor.
- **N Killingsworth Street** is considered a primary east-west street which serves as an important route for pedestrian, bicycle and vehicular activity across the plan area and between neighborhoods. These streets may be the focus of more intense land use activity as well as enhanced pedestrian improvements, such as curb extensions, wide sidewalks, street furnishings, street trees, pedestrian refuges, stormwater treatment facilities and the creation of new attractions or focal points.

The site is not located within a Pedestrian District. The City's Transportation System Plan (TSP) classifies the abutting rights-of-way (ROWS) as follows:

- **N Interstate Ave and N Killingsworth** are both classified as a Regional Transitway/Major Transit Priority Street, a City Bikeway and a City Walkway.
- **N Maryland** is classified as a Local Service Street for all modes.

The site is currently occupied by an existing one-story bank structure on the west side of the site, and adjoining surface parking on the left half of the site, both of which will be demolished for this proposal.

Zoning: The Commercial/Mixed Use 2 (CM2) zone is a medium-scale zone intended for sites in a variety of centers, along corridors, and in other mixed-use areas that have frequent transit service. The zone allows a wide range and mix of commercial and residential uses, as well as employment uses that have limited off-site impacts. Buildings in this zone will generally be up to four stories tall unless height and floor area bonuses are used, or plan district provisions specify other height limits. Development is intended to be pedestrian-oriented, provide a strong relationship between buildings and sidewalks, and complement the scale of surrounding residentially zoned areas.

The Design overlay zone ensures that Portland is both a city designed for people and a city in harmony with nature. The Design overlay zone supports the city's evolution within current and emerging centers of civic life. The overlay promotes design excellence in the built environment through the application of additional design standards and design guidelines that:

- Build on context by enhancing the distinctive physical, natural, historic and cultural qualities of the location while accommodating growth and change;
- Contribute to a public realm that encourages social interaction and fosters inclusivity in people's daily experience; and
- Promotes quality and long-term resilience in the face of changing demographics, climate and economy.

The Centers Main Street "m" overlay zone encourages a mix of commercial, residential and employment uses on the key main streets within town centers and neighborhood centers identified in the Comprehensive Plan. The regulations are intended to encourage a continuous area of shops and services, create a safe and pleasant pedestrian environment, minimize conflicts between vehicles and pedestrians, support hubs of community activity, and foster a dense, urban environment with development intensities that are supportive of transit.

The North Interstate Plan District provides for an urban level of mixed-use development to support the MAX line and the surrounding neighborhoods by encouraging development that increases neighborhood economic vitality, amenities, and services and successfully accommodates additional density. These standards: implement urban design concepts of the North Interstate Corridor Plan; help ease transitions between new high-density development and the existing, low-density neighborhoods; and enhance the pedestrian experience.

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

- LU 19-187024 DZM – Design Review approval for a new 6-story, mixed-use development, with one Modification: Bike parking (PZC Section 33.266.220): To reduce the spacing of vertically mounted staggered racks from 24" to 17" on center spacing, and to use two-tier bike racks.

Agency Review: A "Notice of Proposal in Your Neighborhood" was mailed **March 10, 2023**. The following Bureaus have responded with no issues or concerns:

- Bureau of Environmental Services (Exhibit E-1) April 3, 2023
- Bureau of Transportation Engineering (Exhibit E-2) March 27, 2023
- Fire Bureau (Exhibit E-3) March 29, 2023
- Life Safety Section of BDS (Exhibit E-4) March 16, 2023

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on March 10, 2023. 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 Portland Citywide Design Guidelines.

Portland Citywide Design Guidelines

The Portland Citywide Design Guidelines consist of a set of guidelines for design cases in community planning areas outside of the Central City. The Portland Community Design Guidelines focus on three tenets: **Context**, balancing the aspirations of the future desired character with today's setting; **Public Realm**, strengthening a building and site's relationship with the public rights-of-way and open spaces; and **Quality And Resilience**, underscoring holistic site and building designs that benefit people and climate.

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

02: Create Positive Relationship with surroundings.

Possible design approaches may include, but are not limited to:

- **Building Massing** - Developing effective placement and proportion of building massing toward adjacent lower-scale development and residential uses.
- **Street Wall** - Maintaining a vibrant street wall with continuous storefronts along historic main streets.
- **Connectivity** - Creating visual and physical links to adjacent pedestrian pathways and neighboring open spaces.
- **Adjacent Historic Landmarks** - Deferring to the neighboring historic landmark through massing and urban form.

Findings: These proposed minor changes to approved Design Review LU 19-187024 DZM for a new 6-story, mixed-use development will continue to create positive relationships to the surrounding area in the following ways:

- **Loading:** The change of on-site loading from one Type A, ten-foot wide space to a pair of tandem Type B, nine-foot wide spaces will reduce the width of the driveway apron and curb cut at the sidewalk by one foot, supporting pedestrian travel along the adjacent sidewalk.
- **Transformer:** The re-location of the transformer from a below-grade vault in the right-of-way to an above-grade pad mounted transformer with a fence surround at the south side of the building will reduce the impact of the development on the right-of-way. While it is preferable for mechanical equipment to not be pad-mounted, the proposed screening improves the relationship of the building's service with a pedestrian path and adjacent residential units.
- **Balconies:** The balcony balusters and railing design will be less ornate than originally designed, but the numerous balconies will remain, and the new simple picket design will maintain visual connections to pedestrian areas below. The stacks of balconies will continue to break up the larger massing of the development, activate the adjacent streets and add eyes onto the pedestrian areas.

This criterion is met.

04: Design the sidewalk level of buildings to be active and human-scaled.

Possible design approaches may include, but are not limited to:

- Ground Floor Heights - Designing buildings with taller, more adaptable ground floors.
- Multiple Entries and Windows - Offering more than one entrance along the ground floors of buildings to provide “eyes on the street” and avoid blank expanses of walls.
- Weather Protection - Providing protection from wind, rain, and sun.
- Lighting - Enhancing safety and visibility for pedestrians and highlighting special building features.
- Residential Setbacks - Creating soft transitions while separating private spaces from public spaces.

Findings: The proposed changes to the approved review will include external path lighting along the south walkway and landscape screening, which will enhance safety, visibility and comfort for residents.

This criterion is met.

06: Integrate and minimize the impact of parking and building services.

Possible design approaches may include, but are not limited to:

- Vehicles and Parking - Screening and buffering vehicle areas from pedestrians and integrating parking into the building design.
- Utilities, Trash and Recycling - Siting and screening utilities, trash, and recycling enclosures away from public realm.
- Vaults - Integrating and concealing vaults within open areas.
- Stormwater Planters - Integrating stormwater with multiple uses, such as buffering, placemaking, and seating opportunities.
- Long-Term Bicycle Parking - Designing bicycle parking to encourage use by adding bike lobbies and bike repair amenities.

Findings: The proposed changes to the approved review will continue to integrate and minimize the impact of parking and building services:

- **Building Services:** The key back-of-house building services will remain at the rear of the site, can be located while simultaneously maintaining residents’ pleasant, safe and direct path from private courtyards to both North Maryland and North Interstate Avenues. The building services consolidated in this location include garbage collection, electrical transformer, gas meter, and access to recycling for residents.
- **Loading:** The change of on-site loading from one (1) 10-foot wide Type A space to a pair of tandem two (2) 9-foot wide Type B spaces will reduce the width of the driveway apron and curb cut at the sidewalk by 1 foot, supporting pedestrian travel along the sidewalk.
- **Transformer:** The re-location of the transformer from a below-grade vault in the right-of-way to an above-grade pad mounted transformer with a fence surround at the south side of the building will reduce the impact of the development on the right-of-way. While it is preferable for mechanical equipment to not be pad-mounted, the proposed screening integrates and minimizes the impact of above-ground building services.

This criterion is met.

07: Support the comfort, safety, and dignity of residents, workers, and visitors through thoughtful site and building design.

Possible design approaches may include, but are not limited to:

- Internal Open Spaces - Offering a variety of multi-functional spaces such as balconies, stoops, plazas, play areas, and passive sitting areas.
- Internal Connections - Creating safe and visible pedestrian circulation through sites.
- Vehicles Areas - Ensuring that vehicle areas do not impair the usability and enjoyment of the site.
- Solar Access - Providing solar access to open areas.

- Windows and Entries - Orienting windows and entries toward on-site circulation and open areas.

Findings: The proposed changes to the approved review will continue to support the comfort, safety, and dignity of residents, workers, and visitors in the following ways:

- **Balconies:** The numerous balconies will remain, and the simple picket railing design will maintain visual connections to adjacent pedestrian areas.
- **Pedestrian Connections:** The internal on-site pedestrian connections will be maintained, and will be strengthened with landscape and lighting.

This criterion is met.

08: Design for quality, using enduring materials and strategies with a coherent approach. Possible design approaches may include, but are not limited to:

- Unity - Expressing a clear and coherent design approach to unify building.
- Articulation - Highlighting function, hierarchy, or spaces through small breaks in form.
- Application of Exterior Materials - Expressing the building design with hierarchy, shifts or repetition.
- Quality of Materials - Providing quality, resilience, and durability in construction and execution of details.
- Building Openings - Offering permeability, depth, and texture.

Findings: The proposed changes to the approved review will use enduring materials and strategies with a coherent approach:

- **Loading:** The loading spaces will be screened from the south property line by 5 feet of L2 landscape screening.
- **Transformer:** The new 6 feet high F2 screening fence for the pad mounted transformer will be constructed of steel posts with 22 gauge painted corrugated metal panels that match cladding on the adjacent building. Anti-graffiti paint will be added to the fencing for increased durability since it is at the ground level.
- **Balconies:** The revised balcony design will be a bolted aluminum powder coated system with handrails, a long-lasting and durable system.

This criterion 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 design review process 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. The proposal meets the applicable design guidelines and therefore warrants approval.

ADMINISTRATIVE DECISION

Approval of changes to an approved Design Review (LU 19-187024 DZM) including:

- Change the on-site loading from one (1) Type A space to two (2) Type B spaces, parked in tandem,
- Re-locate the transformer from a below-grade vault in the Right of Way to an above-grade pad mounted transformer at the south side of the building with a fence surround; and,

- Change the balcony balusters and railings design.

Approval per the approved site plans, Exhibits C-1 through C-7, signed and dated April 10, 2023, 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 22-185874 DZ AD." 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: Grace Jeffreys

Decision rendered by:  **on April 10, 2023**

By authority of the Director of the Bureau of Development Services

Decision mailed: April 13, 2023

About this Decision. This land use decision is **not a permit** for development. A Final Plat must be completed and recorded before the proposed lots can be sold or developed. 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 September 22, 2022, and was determined to be complete on March 7, 2023.

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 September 22, 2022.

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: July 5, 2023**

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 April 27, 2023. The completed appeal application form must be emailed to 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 after **April 27, 2023** 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 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. Original Submittal – Site plan
 2. Original Submittal – Narrative
 3. Revised Drawings 2-24-23
 4. Revised Narrative 2-24-23
 5. Revised Site Plan 2-28-23
 6. Fence and balcony details 3-29-23
 7. Revised drawing set 4-4-23
- B. Zoning Map (attached)
- C. Plans/Drawings:
 1. Site Plan (attached)
 2. Enlarged Site Plan (attached)
 3. Perspective (attached)
 4. Main Distribution panel
 5. Balcony Railings
 6. Fence
 7. Balcony details
- D. Notification information:
 1. Mailing list
 2. Mailed notice, 3-10-2023
- E. Agency Responses:
 1. Bureau of Environmental Services
 2. Bureau of Transportation Engineering and Development Review
 3. Fire Bureau
 4. Life Safety Review Section of BDS
- F. Correspondence: None received
- G. Other:
 1. Original LU Application
 2. Incomplete Letter, 10-6-2022
 3. 180-day letter, 2-21-2023

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).