



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

Dan Saltzman, Commissioner
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Date: April 12, 2016
To: Interested Person
From: Mike Gushard, Land Use Services
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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 16-110994 HR – PHOTOVOLTAIC PANELS ON MONTGOMERY PARK ROOF MOUNTED BEHIND PARAPET.

GENERAL INFORMATION

Applicant: Randy Feldhaus / Imagine Energy
2409 N Kerby Ave / Portland, OR 97227

Tim Hendricks / Bill Naito Company
2701 NW Vaughn #390 / Portland OR 97210

Site Address: 2701 NW VAUGHN ST

Legal Description: TL 200 11.06 ACRES ALSO SEE SUBS -0291 -0292, SECTION 29 1N 1E
Tax Account No.: R941290290
State ID No.: 1N1E29D 00200
Quarter Section: 2826
Neighborhood: Northwest District, contact John Bradley at 503-313-7574.
Business District: None
District Coalition: Neighbors West/Northwest, contact Mark Sieber at 503-823-4212.
Other Designations: Historic Landmark – Listed on the National Register of Historic Places
Zoning: EXd – Employment zone with design overlay and historic resource protection

Case Type: HR – Historic Resource Review
Procedure: Type II, an administrative decision with appeal to the Landmarks Commission.

Proposal:

The applicant is proposing the installation of ballast mounted photovoltaic (PV) panels 14" off of the roof deck of the historic Montgomery Park Building and another small array of panels on that building's non-historic atrium structure. The majority of the panels will be hidden behind

the building's 5' tall parapet. None of the proposed panels are expected to be visible from the public right of way.

Historic Resource review is required for this project because Montgomery Park is listed on the National Register of Historic Places.

Relevant Approval Criteria:

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

- 33.848.060G: *Other Approval Criteria*

ANALYSIS

Site and Vicinity: The Montgomery Ward Warehouse building, now Montgomery Park, is located between NW 27th and NW 29th extending from NW Vaughan to NW Nicolai. It is in the eastern portion of an irregularly shaped plot. The portion of the building formed an L-shaped plan and was completed in 1920. Upon completion it was the largest concrete building west of the continental divide. It was the largest building in Portland until the First National Bank Tower was completed in 1970. In 1935 a new wing was completed to create a U shape. In the 1980s the courtyard of the U was filled with an atrium and the iconic Montgomery Ward sign was changed to read Montgomery Park.

The building was listed on the National Register of Historic Places in 1985 for its association with the growth of Montgomery Ward and Company in Portland and across the west. This company was the nation's first mail-order store. The company provided the far out reaches of the west with relatively easy access to the consumer goods that were common in the urban east and changed life in the region. The Montgomery Ward Warehouse building was the point of assembly and distribution for these goods before they were shipped to Oregon, Washington, Idaho, Nevada, Alaska, Hawai'i and the Pacific Rim. The building still illustrates this use through its massive open floors and the large windows used to efficiently light the warehouse spaces.

Zoning:

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

The Design Overlay Zone promotes the conservation, enhancement, and continued vitality of areas of the City with special scenic, architectural, or cultural value. The Design Overlay Zone also promotes quality high-density development adjacent to transit facilities. 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 or compliance with the Community Design Standards. In addition, design review or compliance with the Community Design Standards ensures that certain types of infill development will be compatible with the neighborhood and enhance the area.

The Historic Resource Overlay Zone protects certain historic resources in the region and preserves significant parts of the region's heritage. The regulations foster pride among the region's citizens in their city and its heritage. Historic preservation beautifies the city, promotes the city's economic health, and helps to preserve and enhance the value of historic properties

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

- LUR 96-00448 CU DZ, Approved [with conditions] an unmanned cellular telecommunications facility consisting of 3 “whip-style” antennas mounted on the support structure of the existing rooftop sign
- LUR 98-00163 DZ, Approved [with conditions] 3 additional whip-style antennas mounted to the roof of the existing mechanical penthouse, 2 GPS antennas, 1 diagnostic antenna, and a future expansion of up to a maximum of 12 panel style antennas flush mounted to the sides of the existing mechanical penthouse
- LUR 00-00770 HDZ, Approval of eleven antennas on three metal pole masts
- LU 02-126847 HDZ, Approval two new antennas to the rooftop sign structure
- LU 05-105768 HDZ, Approval to install three (3) new PCS antennas within the “Montgomery Park” rooftop sign structure
- LU 06-100938 HDZ, Approval of one new antenna to be mounted on an existing rooftop storage tank
- LU 07-145772 HDZ, Approval of new antennas, dishes and mechanical room
- LU 09-126115 HDZ, AD, Approval of upgrades to the perimeter and interior parking lot landscaping on the site
- LU 10-116139 HDZ, Approval of monument sign
- LU 11-135616 HDZ, Approval to replace antennas on the “Montgomery Park” sign
- LUR 96-00331 DZ, Approval [with conditions] of an unmanned cellular communications facility consisting of three antenna arrays: two wall-mounted to the roof parapet and one mounted on the support structure of the existing rooftop sign

Agency Review: A “Notice of Proposal in Your Neighborhood” was mailed **February 26, 2016**. The following Bureaus have responded with no issues or concerns:

- Bureau of Environmental Services
- Water Bureau
- Fire Bureau
- Site Development Section of BDS
- Bureau of Parks-Forestry Division
- Bureau of Transportation Engineering

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on February 26, 2016. No written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal.

ZONING CODE APPROVAL CRITERIA

Title 33.846.060G Historic Resource Review – Other Approval Criteria

Staff considered all criteria and requirements and addressed only those applicable to this project.

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

Findings: The applicant does not propose removing any material from historic property. There will be no change to the building that is visible to the public therefore *this criterion is met.*

2. **Record of its time.** The historic resource will remain a physical record of its time, place, and use. Changes that create a false sense of historic development, such as adding conjectural features or architectural elements from other buildings will be avoided.

The applicant does not propose removing any material from historic property. There will be no change to the building that is visible to the public therefore *this criterion is met.*

3. Historic changes. Most properties change over time. Those changes that have acquired historic significance will be preserved.

Findings: The 1980s atrium addition will be impacted by the project but the addition does not possess the historic significance to be considered a contributing character defining feature of the building. *Therefore this criterion is met.*

4. Historic features. Generally, deteriorated historic features will be repaired rather than replaced. Where the severity of deterioration requires replacement, the new feature will match the old in design, color, texture, and other visual qualities and, where practical, in materials. Replacement of missing features must be substantiated by documentary, physical, or pictorial evidence.

Findings: No repairs or replacement of historic materials is proposed. *This criterion is not applicable to the project.*

5. Historic materials. Historic materials will be protected. Chemical or physical treatments, such as sandblasting, that cause damage to historic materials will not be used.

Findings: The application does not propose any changes to visible or historic materials. The work is limited to placing ballasted photovoltaic panels on the roof of the structure out of view from the public. This will not cause damage to any historic surface or material therefore *this criterion is met.*

6. Archaeological resources. Significant archaeological resources affected by a proposal will be protected and preserved to the extent practical. When such resources are disturbed, mitigation measures will be undertaken.

Findings: No significant digging or grading is proposed making the discovery of archaeological resources unlikely. Therefore, *this criterion is not applicable to the project.*

7. Differentiate new from old. New additions, exterior alterations, or related new construction will not destroy historic materials that characterize a property. New work will be differentiated from the old.

Findings: No work is proposed that is visible from a public right of way. The project does not make use of or destroy historic materials that characterize the property. The changes do not affect the qualities that communicate Montgomery Park's historic significance therefore *this criterion is met.*

8. Architectural compatibility. New additions, exterior alterations, or related new construction will be compatible with the resource's massing, size, scale, and architectural features. When retrofitting buildings or sites to improve accessibility for persons with disabilities, design solutions will not compromise the architectural integrity of the historic resource.

& 10. Hierarchy of compatibility. Exterior alterations and additions will be designed to be compatible primarily with the original resource, secondarily with adjacent properties, and finally, if located within a Historic or Conservation District, with the rest of the district. Where practical, compatibility will be pursued on all three levels.

Findings: With the exception of the array proposed to be mounted to the atrium. The proposed photovoltaic installation is compatible in that they will not be visible from any public vantage. The array proposed panels on the atrium is visible from higher elevations and detracts from the historic character and is therefore incompatible. *With the condition of approval that the array proposed on the atrium is removed from the proposal these criteria are met.*

9. Preserve the form and integrity of historic resources. New additions and adjacent or related new construction will be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic resource and its environment would be unimpaired.

Findings: The proposed photovoltaic installation will be ballasted (meaning held by weight) and not installed ensuring that it can be removed without major damage to the historic building *therefore 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 purpose of the Historic Resource Review process is to ensure that additions, new construction, and exterior alterations to historic resources do not compromise their ability to convey historic significance. As noted in the findings above, the proposed alterations will not visually impact any character defining feature or view of the Montgomery Ward Warehouse, a historic landmark. For this reason the project is warrants approval.

ADMINISTRATIVE DECISION

Approval of installation of photovoltaic panels on the Montgomery Ward Warehouse building, a historic landmark, where the panels are not visible from the ground nearby or in the surrounding area.

This approval is per the approved site plans, Exhibits C-1 through C-4, signed and dated March 31, 2016 and 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-C.4. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 16-110994 HR . No field changes allowed."
- B. The array proposed on the atrium shall be removed from the proposal.

Staff Planner: Mike Gushard



Decision rendered by:

on (March 22, 2016.)

By authority of the Director of the Bureau of Development Services

Decision mailed: April 12, 2016

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 January 26, 2016, and was determined to be complete on February 18, 2016.

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 January 26, 2016.

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. If not extended by the applicant the 120 days will expire on June 25, 2016.

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 Landmarks Commission, which will hold a public hearing. Appeals must be filed **by 4:30 PM on April 26, 2016** at 1900 SW Fourth Ave. Appeals can be filed at the Development Services Center Monday through Wednesday and Fridays between 8:00 am to 3:00 pm and on Thursdays between 8:00 am to 12:00 pm. After 3:00 pm Monday through Wednesday and Fridays, and after 12:00 pm on Thursdays, appeals must be submitted at the reception desk on the 5th 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. Assistance in filing the appeal and information on fee waivers is available from BDS in the Development Services Center. 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 call the Request Line at our office, 1900 SW Fourth Avenue, Suite 5000, phone 503-823-7617, to schedule an appointment. I can provide some information over the phone. Copies of all information in the file can be obtained for a fee equal to the cost of services. Additional information about the City of Portland, city bureaus, and a digital copy of the Portland Zoning Code is available on the internet at www.portlandonline.com.

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 Landmarks 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 Landmarks 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 **April 27, 2016**.

- 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.

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.

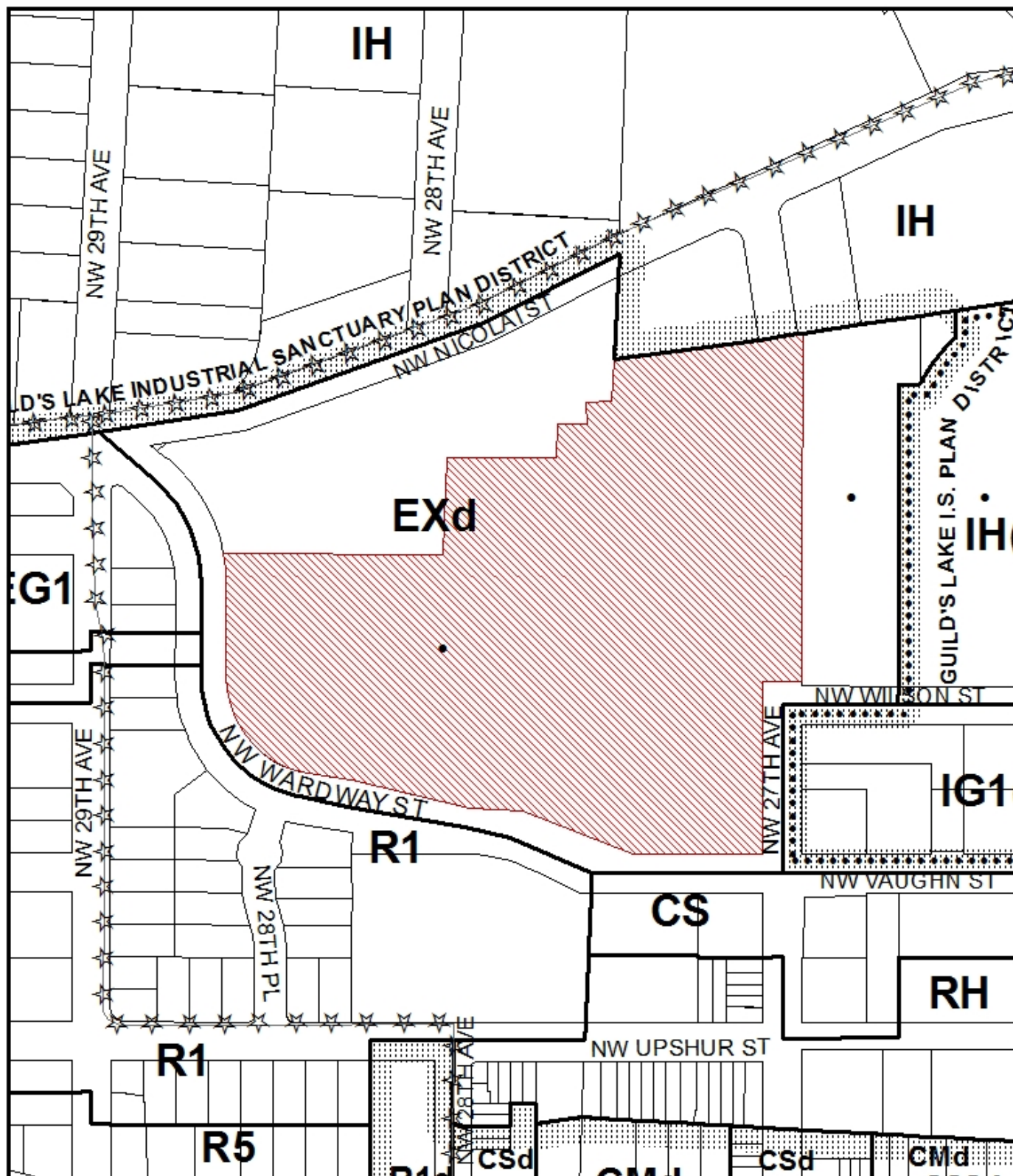
EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Roof plan (attached)
 - 2. Existing and proposed elevations
 - 3. Existing and proposed elevations (attached)

4. Parapet and roof section view (attached)
- D. Notification information:
1. Mailing list
 2. Mailed notice
- E. Agency Responses: No agencies responded with concerns
- F. Correspondence: No responses were received.
- 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).



ZONING

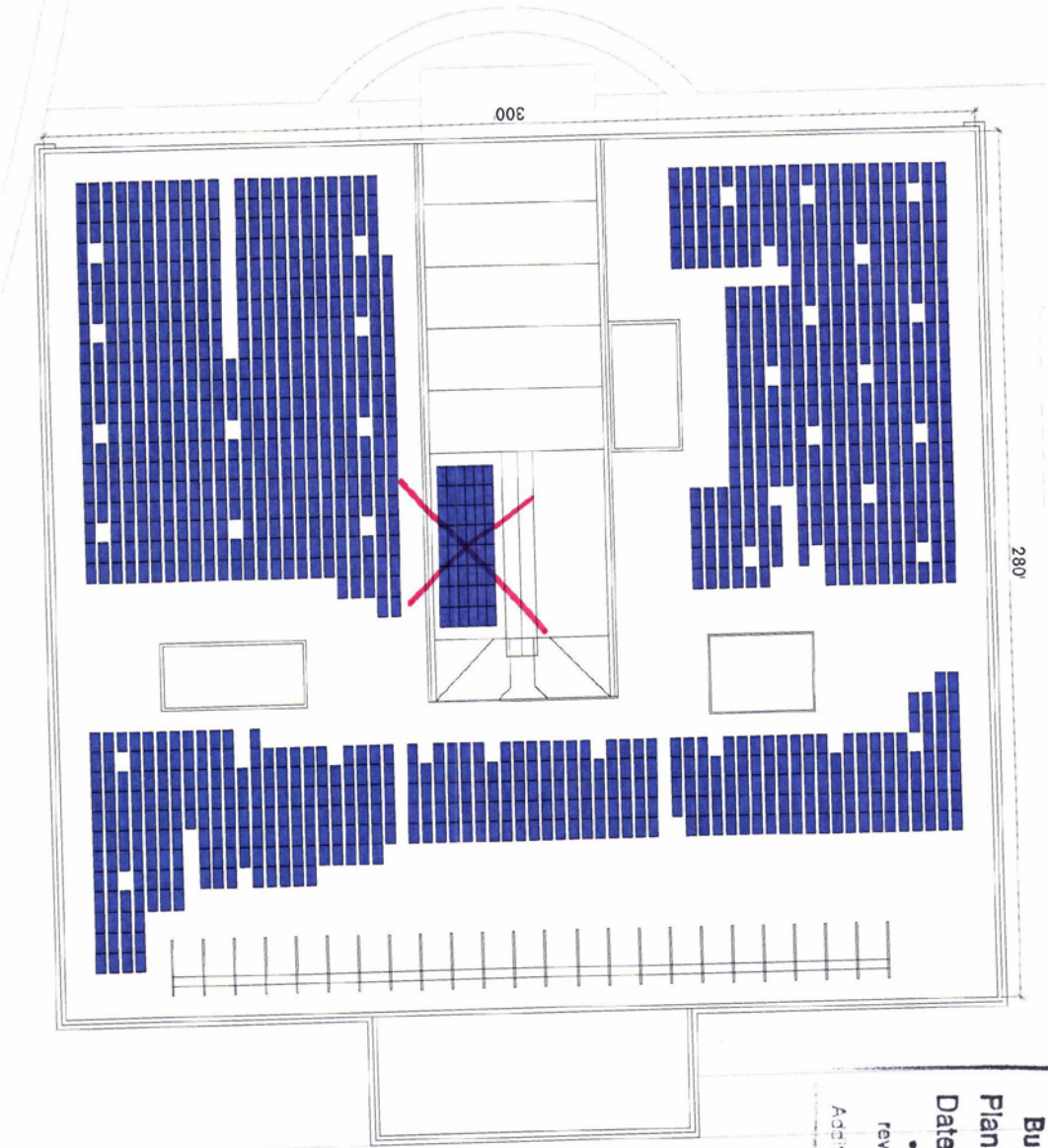
- Site
- Recreational Trails
- Historic Landmark



NORTH

File No.	LU 16-110994 HR
1/4 Section	2826
Scale	1 inch = 200 feet
State_Id	1N1E29D 200
Exhibit	B (Jan 28, 2016)

C1



280

300

Approved
City of Portland

Bureau of Development Services

Planner

Date

3/22/16

*** This approval applies only to the characteristics requested and is subject to all reviews requested and is subject to all conditions of approval.**

Additional zoning requirements may apply.

ON SOUTH FACE OF ATRIUM

- SOUTH FACE OF THE ATRIUM IS A MINIMUM OF 100' FROM THE EDGE OF THE MONTGOMERY PARK BUILDING IN ANY DIRECTION. MODULES ARE NOT VISIBLE FROM STREET LEVEL DUE TO THE HEIGHT OF BUILDING COMPARED WITH THE STREET LEVEL OF THE ATRIUM FROM THE BUILDING'S EDGE.

- MODULES ARE MOUNTED IN PLANE WITH THE ROOF AND ARE WITHIN 5.75 INCHES OF THE ROOF SURFACE. MODULES AND RACKING ATTACHED WITH STANDING SEAM CLAWS TO EXISTING STANDING SEAM METAL ROOF. ZERO PENETRATIONS OF ATRIUM ROOF.

405.35 KW FLAT ROOF SOLAR

- 1210 335 WATT SILVER SOLAR MODULES MOUNTED IN LANDSCAPE ORIENTATION ON FLAT ROOF.

- SOLTEGA LOW/MONILE BALLASTED RACKING MAINTAINS MODULE HEIGHT AT 4" MINIMUM. RACKING IS 12" HIGH. PARAPET WALLS ARE A MINIMUM OF 32" INCHES HIGH ON ALL FOUR SIDES OF MONTGOMERY PARK BUILDING.

- ZERO VISIBILITY FROM STREET LEVEL DUE TO HEIGHT OF BUILDING AND EXISTING PARAPET.

- ACCESS TO ALL DRAINS AND PATHWAYS MAINTAINED.

- SHEETS USED UNDER RACKING TO FURTHER PROTECT EXISTING ROOF.

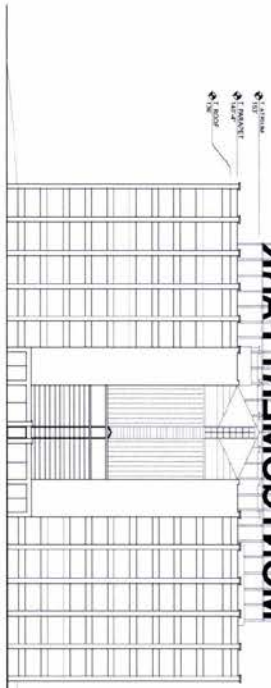


SITE PLAN
HISTORIC DESIGN REVIEW
JANUARY 22, 2016
A0.1

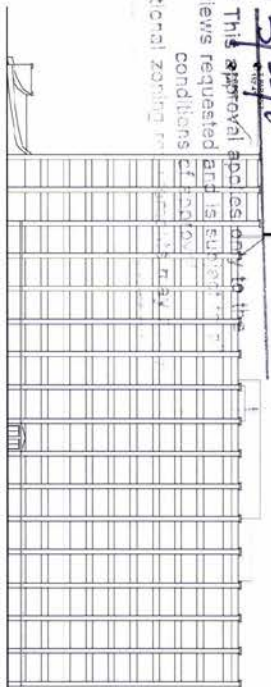
IMAGINENERGY

LU 16-110994 HK

КРАУ УРАМОДНОМ



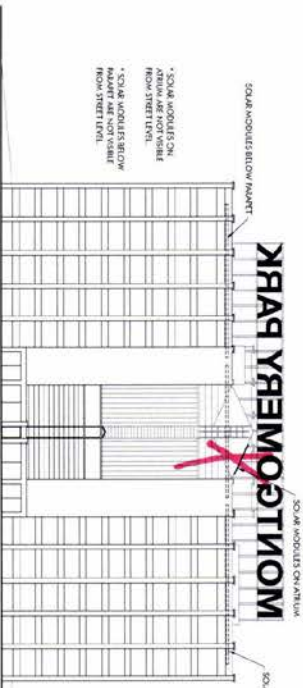
EXISTING ELEVATION - WEST
1/32" = 1'-0"



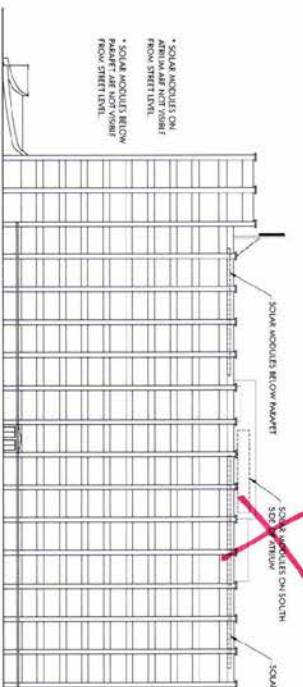
EXISTING ELEVATION - NORTH
1/32" = 1'-0"

Approved
City of Portland
Bureau of Development Services
Planner
Date 3/22/16
* This approval applies only to the reviews requested and is subject to conditions of record.
Additional zoning re...

КРАУ УРАМОДНОМ



PROPOSED ELEVATION - WEST
1/32" = 1'-0"

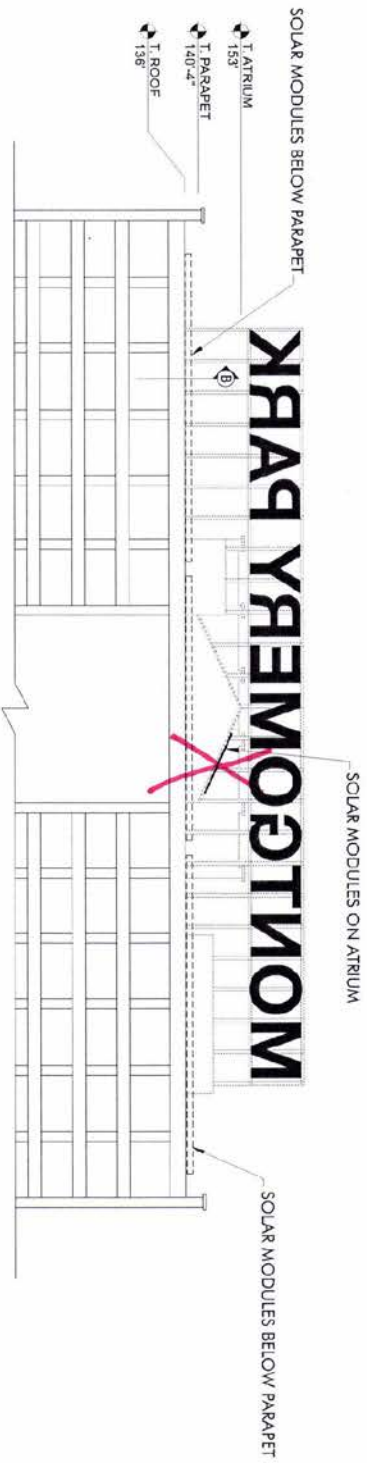


PROPOSED ELEVATION - NORTH
1/32" = 1'-0"

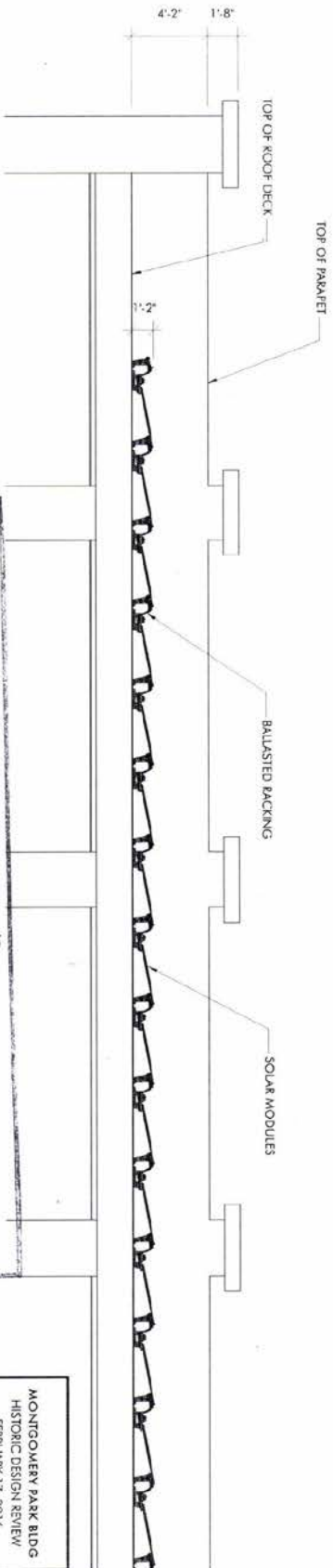
WEST & NORTH ELEVATIONS
HISTORIC DESIGN REVIEW
JANUARY 22, 2016
A0.3
IMAGINENERGY

C3

LU 16-110994 HK



A MONTGOMERY PARK SECTION - EAST
1/125" = 1'-0"



B MONTGOMERY PARK ARRAY - SECTION B
3/16" = 1'-0"

Approved
 City of Portland - Bureau of Development Services
 Planner W. Brown Date 3/2/16
 * This approval applies only to the conditions requested and is subject to all conditions of approval. Additional zoning rules may apply.



C4