



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

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Date: May 3, 2013
To: Interested Person
From: Mark Bello, Land Use Services
 503-823-7810 / Mark.Bello@portlandoregon.gov

NOTICE OF AN AMENDED TYPE II DECISION ON A PROPOSAL IN YOUR NEIGHBORHOOD

On April 25, 2013 you were mailed a decision of approval for a proposal at the address/site listed below. Subsequent to mailing the decision, the applicant suggested that instead of providing a 42" tall, masonry wall along the west side of the parking area (as required by Condition of Approval C), that they instead provide a 42" tall, fully sight-obscuring wood fence along the west side of the parking area. This Amended Decision allows that change as reflected in Approval Criterion A and the modified Condition of Approval C. Also changed is the appeal period, which has been extended to end two weeks from the effective date of this Amended Decision. Otherwise, everything else about the proposal and decision remains the same.

The Bureau of Development Services has approved a proposal in your neighborhood. 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 13-107727 AD

GENERAL INFORMATION

Applicant:	Owner:
Peter Fry 2153 SW Main St #105 Portland OR 97205 Don Francis Eco Tech LLC Po Box 11630 Portland, OR 97211	David V. Wolfe 41216 SW 54 th Place Portland, OR 97221

Site Address: 7302 N RICHMOND AVE

Legal Description: BLOCK 3 LOT 11-14, SEVERANCE ADD
Tax Account No.: R756201030
State ID No.: 1N1W12AB 02800
Quarter Section: 2122
Neighborhood: St. Johns, contact Jennifer Levy at jenniferlevy@stjohnspdx.org.
Business District: St. Johns Business Boosters, contact John Englund at 503-247-9113.
District Coalition: North Portland Neighborhood Serv, Mary Jaron Kelley at 503-823-4099.
Plan District: St. Johns
Zoning: CSd, Commercial Storefront zoning with "d" design overlay
Case Type: AD Adjustment review

Procedure: Type II, an administrative decision with appeal to the Adjustment Committee.

Proposal:

The applicant proposes to use this site for environmental services (industrial services). Interior work would occupy a 5,766 square foot building at the southwest corner of the lot. Service trucks would be parked in a parking lot on the east half of the 26,000 sq. ft. site.

Eco Tech now uses five medium duty trucks and anticipates adding two more in the next few years. (Medium trucks have a single rear axle and dual rear wheels.) The medium duty trucks are used to transfer materials and tools to the job site. An adjustment is required to allow these seven medium trucks on site as the zoning code does not otherwise allow these trucks in the CS, Commercial Storefront zone (Section 33.130.255).

The applicant proposes no exterior alterations and does not request design review approval.

Relevant Approval Criteria:

In order to be approved, this proposal must comply with the approval criteria of Title 33. The relevant approval criteria are listed in Section 33.805.040.

Site and Vicinity: The site was built in 1962 as a lumber yard.

The site is bounded by N. Richmond Avenue to the west, N. Jersey to the north, and N. Ivanhoe to the south. The CSd-zoned site abuts R1d-zoned single dwelling and multi-dwelling development to the east. To the west, across N. Richmond Avenue, are commercial buildings, in the CS d zone. To the north, across N. Jersey, is a mini-warehouse, in the CG zone. To the south is a funeral home, in the CSd zone.

At the northwest intersection of this site, N. Lombard Street turns south and becomes N. Richmond Avenue. North Lombard/North Richmond is a major traffic arterial and North Richmond is classified as a Transit Access Street, District Collector Traffic Street, and Bikeway. N. Jersey and N. Ivanhoe are local service streets.

The site is located within the St. Johns Plan District and the St. Johns Pedestrian District extends from St. Louis Avenue to Richman and from Willamette Boulevard to N Central Street

Zoning: The Storefront Commercial (CS) zone is intended to preserve and enhance older commercial areas that have a storefront character. The zone intends that new development in these areas will be compatible with this desired character. The zone allows a full range of retail, service and business uses with a local and regional market area. Industrial uses are allowed but are limited in size to avoid adverse effects different in kind or amount than commercial uses and to ensure that they do not dominate the character of the commercial area. The desired character includes areas which are predominately built-up, with buildings close to and oriented towards the sidewalk especially at corners. Development is intended to be pedestrian-oriented and buildings with a storefront character are encouraged.

Land Use History: City records indicate that a variance to reduce the front yard from 15 ft. to zero was granted in 1990 (VZ 061-90). The current CS zoning does not require a setback along Richmond and this proposal is not affected by the approval of the variance request in 1990.

Agency Review: A "Notice of Proposal in Your Neighborhood" was mailed **January 31, 2013**. No city bureaus, including Transportation, have expressed concerns regarding this proposal.

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on January 31, 2013. The St. Johns Neighborhood Association supports the proposal provided that there is a requirement for additional landscaping. Five neighbors have also written. One neighbor is in support, four are opposed. Concerns include operations – trucks using N. Ivanhoe, idling in the parking lot, contamination or exterior storage/operations in the parking lot. Also, lack of screening or barbed wire surrounding the parking lot is a concern. There was one concern that

the building is not proposed to be altered to be more pedestrian friendly and that an industrial use is inappropriate.

Staff comment: The applicant has amended the application to include a Medium Truck Mitigation Plan and will provide landscaping now around the parking lot and will continue to work with the neighborhood on site improvements adjacent to N. Richmond Avenue. The use is allowed by the zoning code and the adjustment required approval criteria do not give the City latitude to require exterior alterations to the building.

ZONING CODE APPROVAL CRITERIA

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

A. Purpose. The parking and storage of trucks and equipment is regulated to ensure that it will be consistent with the desired character of the commercial zones and to limit adverse effects on adjacent residential lands. (Section 33.130.255)

Desired Character of the CS zone:

The Storefront Commercial (CS) zone is intended to preserve and enhance older commercial areas that have a storefront character. The zone intends that new development in these areas will be compatible with this desired character. The zone allows a full range of retail, service and business uses with a local and regional market area. Industrial uses are allowed but are limited in size to avoid adverse effects different in kind or amount than commercial uses and to ensure that they do not dominate the character of the commercial area. The desired character includes areas which are predominantly built-up, with buildings close to and oriented towards the sidewalk especially at corners. Development is intended to be pedestrian-oriented and buildings with a storefront character are encouraged. (Section 33.130.030)

Findings: EcoTech is an Industrial Service use, and the company will occupy a 5,766 sq. ft. building, less space than the maximum 10,000 sq. ft. allowed in the CS zone. The building is located at the corner, with parking to the east and northeast. The parking lot is approximately 50 ft. back from N. Richmond. The area between the parking lot and N. Richmond is grassed and is large enough (approximately 50 ft. by 115 ft.) to provide a site for a future building. Such a building would change the character of this stretch of North Richmond by filling in a gap and compensating for the prevalence of surface lots and industrial uses to the north, west, and southwest. In the meantime, the parking area can be screened on the west by a low, totally sight-obscuring wood fence and landscaping that will allow trucks to park on the west edge of the parking lot, yet will prevent headlights from directly shining toward the N. Richmond sidewalk. In the interim, this unimproved area can be landscaped to serve as an amenity for the community.

The parking area is currently screened by vegetation on the east perimeter. The landscaping is mature and exceeds typical parking lot landscaping. This landscaping can provide a buffer and limit noise and views of future trucks on-site. This landscaping should remain in order to limit adverse impacts in the future.

Therefore, this criterion is met with conditions that the lot is properly screened to the west and east.

- B. If in an OS, C, E, or I zone, the proposal will be consistent with the classifications of the adjacent streets and the desired character of the area; and

Street Classifications

- North Richmond is classified as a Transit Access Street, District Collector Traffic Street, and Bikeway, North Richmond is the eastern perimeter of the St. Johns Pedestrian District.

- *N. Jersey and N. Ivanhoe are local service streets.*

Findings: The parking lot is accessed from N. Ivanhoe only. Residents have expressed concerns that EcoTech trucks would use N. Ivanhoe. In response, the applicant has submitted a Truck Impact Mitigation Plan that disallows using N. Ivanhoe (beyond the site to the east). As N. Richmond leads to both N. Lombard and the St. Johns Bridge, this restriction will work for both the company and local residents. *Therefore, this approval criterion is met with a condition of approval requiring the truck mitigation plan.*

E. Any impacts resulting from the adjustment are mitigated to the extent practical.

Findings: Impacts can be mitigating by requiring the trucks to park and point away from the residential area to the east, by constraining operations, and maintaining screening around the lot.

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

One of the ways that the zoning code allows, but limits, the impact of industrial services in the CS, Commercial Storefront Zone, is to disallow medium trucks. However, the adjustment review process provides a mechanism by which the regulations in the zoning code may be modified if the proposed development continues to meet the intended purpose(s) of those regulations. This decision finds that these purposes (which address potential negative impacts both to surrounding residential areas and to the commercial pedestrian realm) can be met with conditions of approval.

ADMINISTRATIVE DECISION

Approval of an Adjustment to Section 33.130.255 to allow parking of seven "Medium Trucks" on site per the approved site plan, Exhibit C-1, signed and dated April 22, 2013, subject to the following conditions:

- A. As part of the zoning permit application submittal, the following development-related conditions (B through E) 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 13-107727 AD." All requirements must be graphically represented on the site plan, landscape, or other required plan and must be labeled "REQUIRED."
- B. Use of Medium Trucks requires adherence to the applicant's Medium Truck Mitigation Plan (Exhibit A-3).
- C. The western perimeter of the parking lot shall be landscaped to the L2 standard, Section 33.248.020 B., including a 42 inch high totally sight-obscuring wood fence, ground cover, and trees within five feet of the parking area.
- D. Existing landscaping must be retained along the eastern perimeter of the parking area.
- E. A zoning permit must be obtained prior to parking.

Staff Planner: Mark Bello

Decision rendered by:  **on May 1, 2013**
By authority of the Director of the Bureau of Development Services

Decision mailed: May 3, 2013

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 22, 2013, and was determined to be complete on January 28, 2013.

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 22, 2013.

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 extended the 120-day review period. Unless further extended by the applicant, **the review will expire on: July 5, 2013.**

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, which will hold a public hearing. Appeals must be filed **by 4:30 PM on May 17, 2013** at 1900 SW Fourth Ave. Appeals can be filed Tuesday through Friday on the first floor of the Development Services Center until 3 p.m. After 3 p.m. and Mondays, appeals must be submitted to the receptionist at the front desk on the fifth floor. **An appeal fee of \$250 will be charged.** The appeal fee will be refunded if the appellant prevails. There is no fee for ONI recognized organizations appealing a land use decision for property within the organization's boundaries. The vote to appeal must be in accordance with the organization's bylaws. 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 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 550 Capitol St. NE, Suite 235, Salem, Oregon 97301, or phone 1-503-373-1265 for further information.

Failure to raise an issue by the close of the record at or following the final hearing on this case, in person or by letter, may preclude an appeal to the Land Use Board of Appeals (LUBA) on that issue. Also, if you do not raise an issue with enough specificity to give the 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 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 **May 20, 2013**.
- 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

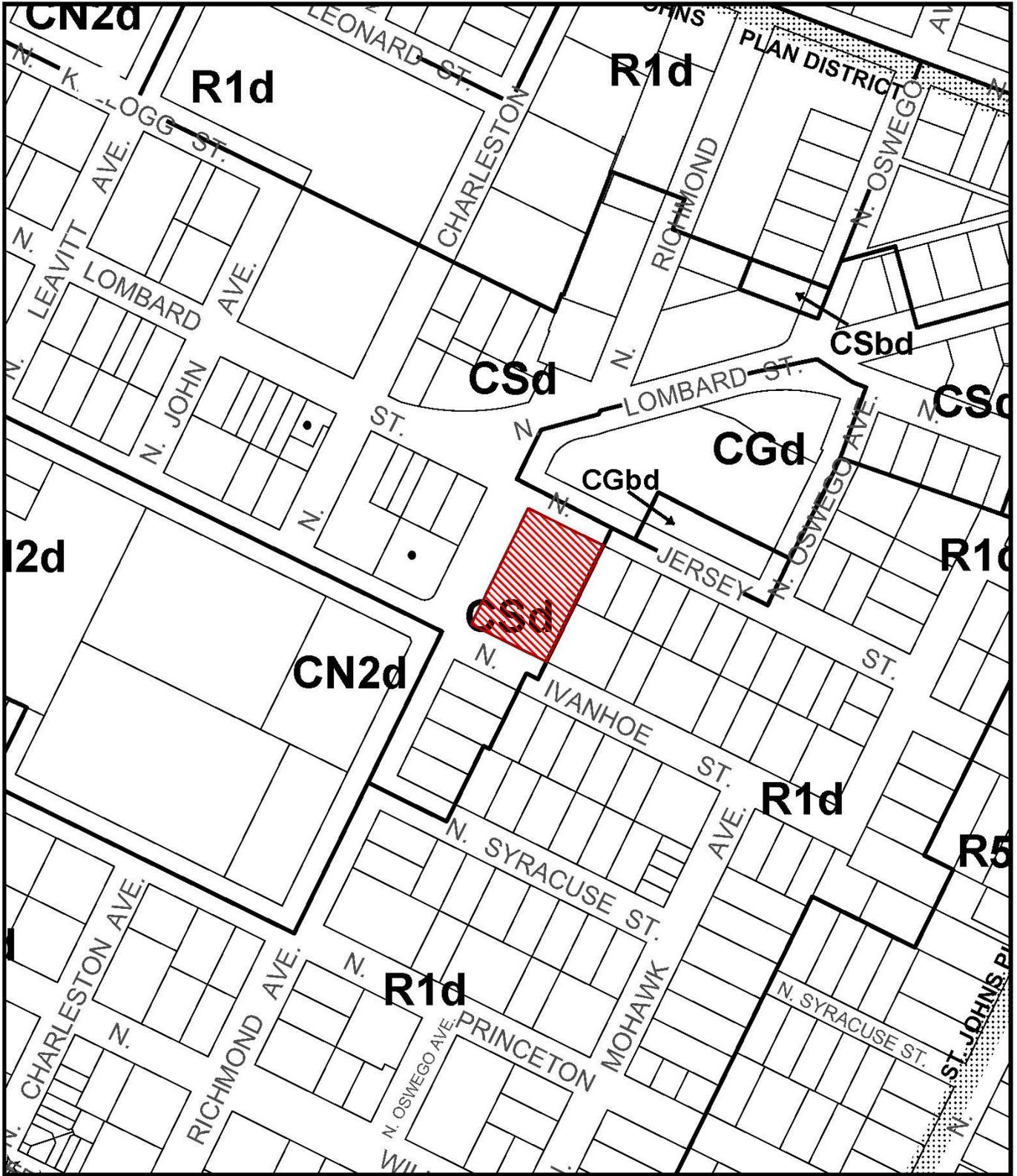
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations of the City.

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
 - 1. Narrative
 - 2. Correspondence
 - 3. Truck Mitigation Plan (attached)
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
 - 2. Landscape Plan
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Environmental Services
 - 2. Bureau of Transportation Engineering and Development Review
 - 3. Water Bureau
 - 4. Fire Bureau
 - 5. Site Development Review Section of BDS
 - 6. Bureau of Parks, Forestry Division
- F. Correspondence:
 - 1. St. Johns Neighborhood Association, February 21, 2013
 - 2. Hall Schmelzer, Linda Schmelzer, 8123 N. Ivanhoe, Portland, OR 97203, February 19, 2013
 - 3. R. Sandstrom, February 19, 2013
 - 4. Joseph Purkey, 7433 N. Leavitt Street, Portland, OR 97203, February 14, 2103
 - 5. Patrick Schutte, 8072 N Ivanhoe Street, Portland, OR 97203 received February 21, 2013
 - 6. Michael Sisler, March 8, 2013
- G. Other:
 - 1. Original LU Application
 - 2. Applicant Request for Extension, March 8, 2013

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



Historic Landmark



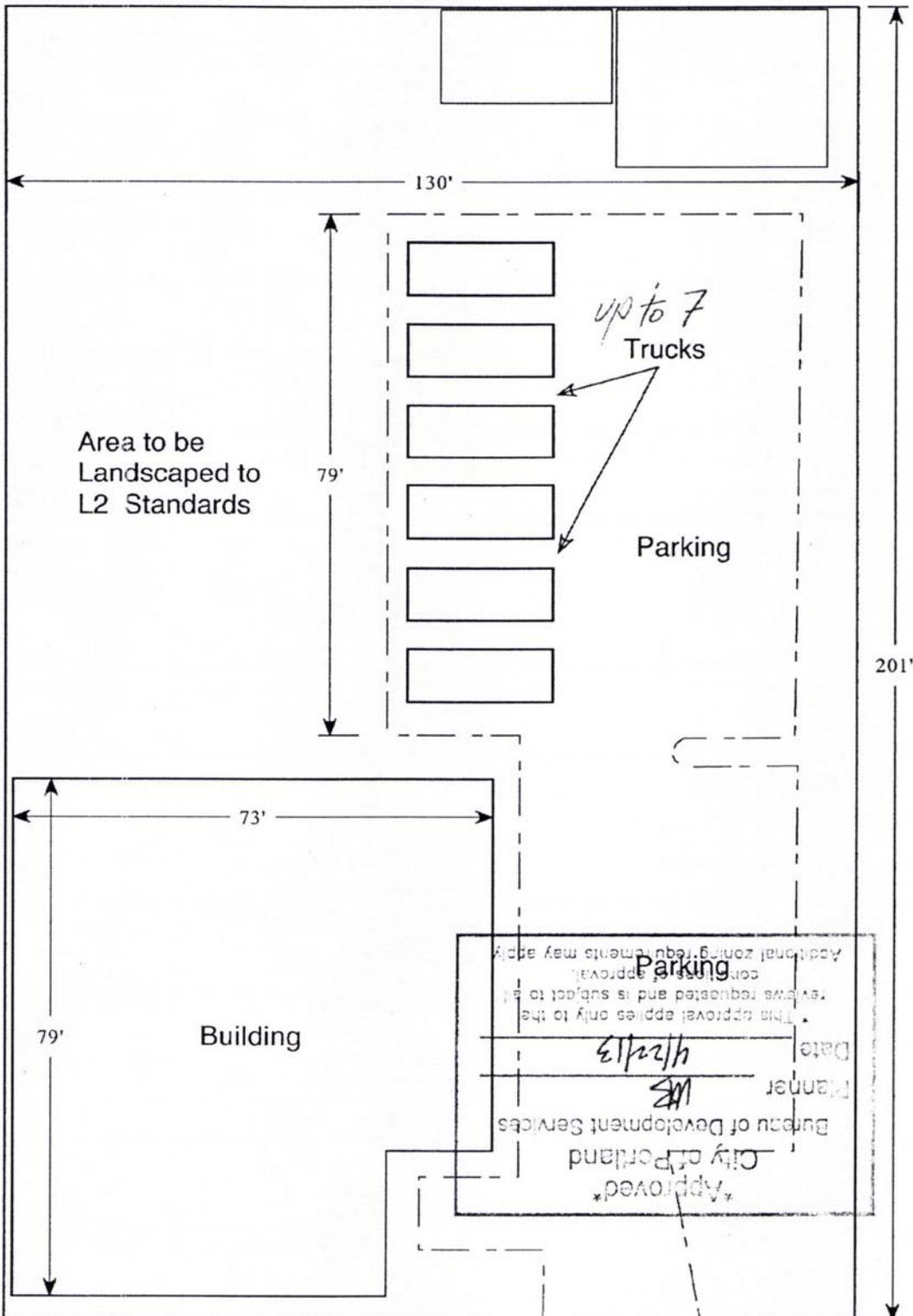
NORTH

This site lies within the:
ST. JOHNS PLAN DISTRICT

File No.	<u>LU 13-107727 AD</u>
1/4 Section	<u>2122</u>
Scale	<u>1 inch = 200 feet</u>
State_Id	<u>1N1W12AB 2800</u>
Exhibit	<u>B (Jan 23, 2013)</u>

N Jersey Street

N Richmond Avenue



5 0 5 10 15 20 25



scale 1" = 25'

CASE NO. *14-107727*

EXHIBIT *CI*

N Ivanhoe Street



Site Plan

7302 N Richmond Avenue
Portland, OR 97203



ECO TECH
environmental services

503.493.1040 • fax 503.493.1042 • PO Box 11630 • Portland, OR 97211 • WWW.ECOTECHLLC.COM

Medium Size Truck Mitigation Plan for 7302 N. Richmond Avenue

EcoTech is an environmental contracting company serving primarily residential properties. EcoTech's primary service lines are radon mitigation, seismic upgrades, oil tank decommissioning and weatherization. EcoTech currently has five medium duty trucks and anticipates adding two more in the next few years. The remainder of EcoTech's vehicles are cars and small trucks (vans and pickup trucks).

Mitigation Actions:

- The use of the parking lot will be restricted to vehicle parking, e.g. no pre-construction, etc.
- EcoTech will maintain a no idle policy for all vehicles in the lot (except as may be needed for defrosters to clear windshields of condensation, etc. for safe operation).
- EcoTech will set a company policy and display reminder signs for employees to remind and reprimand (if necessary) that we have residential neighbors and that all loading and unloading of supplies and personnel will be done as quietly as possible, e.g. no loud voices, door slamming, etc.
- EcoTech will set a company policy where (excepting street blockage/restriction) all company vehicles will leave the parking lot at 7302 N. Richmond by turning right and immediately exiting the neighborhood via the intersection of N. Richmond and N Ivanhoe. When returning to 7302 N Richmond, company vehicles will enter the property via the intersection of N. Richmond and N. Ivanhoe to keep company vehicles from causing congestion on neighborhood side streets.
- Medium size trucks will be parked in the lot at the furthest point from the adjacent residential properties, i.e. western side of lot, to reduce noise at adjacent residential properties.

Respectfully Submitted,

Donald J. Francis

President

April 16, 2013

CASE NO. 13-107727
EXHIBIT A3

OR CCB #155915, WA ECOTEL*963LJ