



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

Amanda Fritz, Commissioner
Paul L. Scarlett, Director
Phone: (503) 823-7300
Fax: (503) 823-5630
TTY: (503) 823-6868
www.portlandoregon.gov/bds

STAFF REPORT AND RECOMMENDATION TO THE HEARINGS OFFICER

CASE FILE: LU 13-181212 CU AD
PC # 12-151418
REVIEW BY: Hearings Officer
WHEN: February 12, 2014 at 9:00 AM
WHERE: 1900 SW Fourth Ave., Suite 3000
Portland, OR 97201

It is important to submit all evidence to the Hearings Officer. City Council will not accept additional evidence if there is an appeal of this proposal.

BUREAU OF DEVELOPMENT SERVICES STAFF: SHEILA FRUGOLI / SHEILA.FRUGOLI@PORTLANDOREGON.GOV

GENERAL INFORMATION

Representative: Cheryl Ebsworth or Geoffrey P Sherwin, Consultants
Apex Engineering, PLLC / (253) 473-4494 ext. 1328
2601 South 35th St Suite 200 / Tacoma, WA 98409

Applicant: Marty Diklich / NW Cascade Inc.
P.O. Box 73399 / Puyallup, WA 98373

Property Owner: Port Of Portland / PJ Christopher
7200 NE Airport Way / Portland, OR 97218

Site Address: 9619 N RIVERGATE BLVD

Legal Description: BLOCK 16 LOT 2 TL 100, RIVERGATE INDUSTRIAL DIS; CANCEL ACCOUNT, RIVERGATE INDUSTRIAL DIS; TL 100 LOT 2 BLOCK 16; ALSO SEE -3800, CANCEL ACCOUNT/ RIVERGATE INDUSTRIAL DIS; TL 100 LOT 2 BLOCK 16; ALSO SEE -3800, CANCEL ACCOUNT/ RIVERGATE INDUSTRIAL DIS; BLOCK 16, CANCEL ACCOUNT / RIVERGATE INDUSTRIAL DIS, BLOCK 16, LOT 2 TL 100; TL 100 LOT 2 BLOCK 16; ALSO SEE MAIN ACCT -3800, RIVERGATE INDUSTRIAL DIS; BLOCK 16 LOT 2 TL 103, RIVERGATE INDUSTRIAL DIS

Tax Account No.: R708883800, R708883801, R708883802, R708883803, R708883804, R708883805, R708883840

State ID No.: 2N1W35 00100, 2N1W35 00100A1, 2N1W35 00100A2, 2N1W35 00100A3, 2N1W35 00100A4, 2N1W35 00100A5, 2N1W35 00103 1719

Quarter Section: 1719

Neighborhood: St. Johns, contact Jennifer Levy at jenniferlevy@stjohnspdx.org.

Business District: Columbia Corridor Association, Peter Livingston at 503-796-2892.

District Coalition: North Portland Neighborhood Serv, Mary Jaron Kelley at 503-823-4099.

Plan District: None

Zoning: IHh, Heavy Industrial zone with the "h" Aircraft Landing overlay zone

Case Type: CU AD, Conditional Use Review and Adjustment Review
Procedure: Type III, with a public hearing before the Hearings Officer. The decision of the Hearings Officer can be appealed to City Council.

Proposal: The applicant is proposing to establish a Waste-Related use on the site, within a lease area on Port of Portland property. The business will involve bringing waste (effluent/sewage) that is removed from portable toilets (aka honey buckets) in vacuum pump trucks and emptying the waste from the trucks into a dump station that catches/filters non-sewage items then sends the sewage to a sanitary sewer connection. The Portland Zoning Code allows on industrially-zoned sites, if approved as a Conditional Use, uses that receive, transfer or dispose of sanitary waste.

Currently, the business operation includes cleaning both the interior and exterior and storage of the empty honey buckets. The proposed transfer and disposal of waste on-site requires a **Conditional Use Review**. Before the effluent is piped to the sanitary sewer it will be emptied into a dump station. The dump station will be located under a canopy cover that has curbing to prevent the effluent from mixing with stormwater runoff. At the dump station, grates will separate out non-sewage items. The non-sewage items will be raked into a garbage bag and placed in an on-site dumpster which will be emptied weekly. The business is expected to generate 50 daily vehicle trips during the off-peak season and 92 trips during the peak summer season.

The applicant is requesting the following two **Adjustments** to development standards that apply to Waste-Related Uses, as follows:

1. Waive the setback, landscaping and screening requirement that requires landscaping-- ground cover and trees within a 100-foot wide setback area as well as a 6 foot tall fence and a tall landscape hedge that screens the fence from the property boundary and streets (Zoning Code Section 33.254.080).
2. Waive the requirement that the transfer and processing of waste must take place entirely within an enclosed structure (Zoning Code Section 33.254.040.B). The waste-related activities will occur under a canopy cover but will not be within a structure with walls and doors.

Approval Criteria:

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

- 33.815.202, A-I, Conditional Use Review for Waste-Related Use
- 33.805.040, A-F, Adjustment Review

ANALYSIS

Site and Vicinity: The subject property is a 3.49-acre lease area, located in the “Rivergate Industrial Yard” a Port of Portland owned facility. The lease site has vehicle access from a wide shared driveway off NE Rivergate Boulevard. The subject property is comprised of an asphalt-paved surface with a portable building, an elevated/separate barrier with aluminum cover, exterior storage area with numerous portable toilets and other associated equipment. The property is enclosed by a tall chain link fence on the west, north and a portion of the east boundary. The remaining east perimeter and southern boundary are enclosed by an 8-foot tall concrete wall. The wall is separated from NE Rivergate Boulevard by a 30 foot-wide landscape strip which includes lawn, evergreen trees and evergreen shrubs. The northern abutting site, which shares the access driveway, is a cargo container distributor. There are numerous cargo containers and container trucks located on the site. A rail line corridor that is approximately 65 feet wide separates the subject property from the properties to the east. Properties to the east are large sites with warehouse and distribution, manufacturing and other heavy industrial uses. The

western abutting lot is 14.85 acres in size, contains a large warehouse-like building and large exterior storage area. The building is currently vacant. Further west, there are large heavy industrial uses with Columbia River frontage and shipping terminals.

Zoning: The site is zoned IH, Heavy Industrial with the “h”, Aircraft Landing overlay zone.

The Heavy Industrial zone is one of three zones that implement the Industrial Sanctuary Comprehensive Plan Map designation. The zone provides areas where industrial uses may locate, including those uses that are not desirable in other zones due to their objectionable impacts or appearance. Waste-Related facilities are permitted in the IH zone only through an approved Conditional Use review.

The “h” overlay limits the height of structures and vegetation in order to provide safer operating conditions for aircraft in the vicinity of the Portland International Airport. The subject property is just south of edge of the mapped height limit. Therefore, no additional height restrictions apply.

Land Use History: City records indicate there is land use review history for this site. In 1991, the Portland Hearings Officer granted Conditional Use approval for a Waste-Related Use, a contaminated soil treatment facility (LUR 91-00576 CU, AD). An Adjustment to reduce the required setback from 100 to 20 feet and allow exterior processing was approved. The Hearings Officer denied a request to waive required landscape screening along the edge of the site.

Staff Comment: The proposed soil treatment facility was never constructed.

Summary of Applicant’s Statement: The applicant describes the proposed on-site operations and impact mitigation actions, as follows:

A truck will enter the site and offload the empty dirty portable toilets, it will then load prepped and clean portable toilets and will then be queued to empty the effluent from the tank. The trucks are emptied with a vacuum hose. This works by sucking air into the tank and together with gravity the effluent is emptied into the dump station. The dump station has grates to collect non-sewage items which are raked off after each truck has been emptied. The dump station has a hook to allow a garbage bag to be attached to the side of the dump station. The non-sewage items are raked into the garbage bag and carried to the on-site dumpster, which is emptied weekly.

Non sewage items are screened from the effluent prior to release into the sewer system. The water in a NW Cascade Honey Bucket is treated with a biodegradable toilet deodorizer. This deodorizer also covers the non-sewage items. The non-sewage items are bagged separately and placed inside a closed metal dumpster. Between the deodorizer, the bagging, the metal dumpster and the weekly dumpster pickup there is no off site odor detected.

All the portable toilets are pumped into the vacuum/tanker truck at the event site and transported to the site empty. When the effluent is emptied out of the vacuum/tanker truck onsite it is done so with vacuum/gravity hose, no odor is released at the site.

The existing use generates 50 daily trips during the off-peak season and 92 daily trips during the peak summer season. The proposed conditional use (*to allow waste disposal*) will result in a slight decrease in traffic, since sewage hauler trucks will now be emptied at the same site they are parked.

The applicant has a current Spill Prevention and Response Plan (SPAR) and well as Safety Program. These two documents describe vehicular maintenance and spill prevention and response tactics. The SPAR is reviewed and updated every (5) five years and distributed to the Oregon Department of Environmental Quality, the Portland fire Department and the City of Portland Environmental Services Bureau. Please refer to these documents for complete details. Spill prevention is the primary goal, trucks and cars are parked in designated areas and vehicles are inspected daily for leaks. Equipment is repaired immediately, off site. All vehicles receive scheduled preventative maintenance. The tanks on the trucks

are vacuum so the vacuum would still empty the tank even in the case of a leak. If the tank is not structurally sound the vacuum would collapse the tanks, so keeping the tanks in prime operating condition is an integral component of NW Cascade's business.

Personnel training for all drivers and yard workers occurs each year covering leak and spill prevention training and spill response. The spill prevention and response training and on site protocols and maintenance reduce the likelihood of spills and the impact of any spills in the area. The success of this approach is proven by the fact that NW Cascade has operated for 30 years and has never had a spill in the case of vehicle accidents, the past 15 years NW cascade has operated near the Portland Airport.

NW Cascade is not associated with the Railroad service and is not proposing to utilize the railroad to transport any materials. NW Cascade has ample room for vehicles to queue on site, proximity to the crossing allows vehicles to leave the site when the roadway is not blocked. Vehicles returning to the site will likely also do their best to time their arrival with the train schedule to avoid delays. (Exhibits A.1 and A.9).

Agency Review: A "Request for Response" was mailed **December 30, 2013**. The following Bureaus/Sections have responded with "no issues or concerns" regarding the Conditional Use Review and/or Adjustments:

- Fire Bureau (Exhibit E.5)
- Site Development Section of BDS (Exhibit E.4)
- Bureau of Parks-Forestry Division (Exhibit E.5)

The Portland **Bureau of Transportation** submitted a detailed response. The information is inserted as findings under approval criterion 33.815.220.F and G, below. (Exhibit E.2)

The **Water Bureau** response states, "Adequate water is available to this site through a special "one-time" agreement with the Port of Portland. At 9699 N Rivergate Blvd, there is an existing 3" metered service (Serial #20023006, Account #2989676900) and a 10" Fire service (Serial #C1373, Account #2989676900) which provide water to the Port of Portland properties located at this area from the existing 12" DI water main in N Rivergate Blvd. The estimated static water pressure range at this location is 81 psi to 102 psi at the existing service elevation of 35 ft". (Exhibit E.3)

The **Bureau of Environmental Services** submitted the following information:

A. RESPONSE SUMMARY

BES has no objection to the requested conditional use or the adjustments. Note that the proposed development will be subject to BES standards and requirements during the permit review process.

B. SANITARY SERVICE

1. *Existing Sanitary Infrastructure:*

- a. There is an 8-inch CSP public sanitary-only sewer located in N Rivergate (BES project #4237) at the western edge of the property. The 8-inch line runs to the west where it discharges to the BES pump station at the intersection of N Rivergate and Time Oil Road. The sewer is available to the subject lot.
 - b. The applicant has provided adequate information regarding approximate volumes of sanitary waste that will be trucked onsite and rates of discharge to the City system relative to the available sewer capacity. The sewer has adequate capacity for the proposed use.
2. This industry will be regulated under the BES Pretreatment Program for process waste discharges to the sanitary sewer system. BES will need additional information to evaluate the dump station waste water discharge at the time of building permit submittal. BES will evaluate

this information to determine the appropriate discharge permit or authorization and to assess appropriate user fees.

C. STORMWATER MANAGEMENT

1. *Existing Stormwater Infrastructure:*
 - a. There is no public storm-only sewer available to this property.
 - b. There is a 36-inch private storm-only sewer that crosses N Rivergate and discharges to a private outfall. The system appears to be built (see 1985 COP plumbing records for 9699 N Rivergate) and maintained by the Port of Portland.
 - 1) There is an existing revocable permit for the Port's stormwater system to cross N Rivergate (Ordinance 157800).
 - 2) There is an existing City of Portland Sewer Easement (Tracking #297) on the subject site that was established in 1993. The easement includes a 20 x 25 foot block on the south property line. The easement is over a sampling manhole located on property.
2. *Stormwater Management Manual:* All development and redevelopment proposals are subject to the requirements of the City of Portland Stormwater Management Manual (SWMM). The SWMM is periodically updated; projects must comply with the version that is adopted when permit applications are submitted. **Note that a new version was adopted on January 2nd, 2014. Through April 1, 2014 project designers have the option to use either the 2008 or 2014 versions of the SWMM; beginning on April 2, 2014 project designers must use the 2014 SWMM.** The SWMM is available at: www.portlandoregon.gov/bes/SWMM.
3. The applicant has received permits for the construction of a modular office building (12-197703 CO and a wash area (13-120440 CO) on property as parts of Phase I and II on the subject property. A covered trash enclosure is included with the first permit. These permits are still under construction.
 - a. The improvements have not triggered the stormwater management requirements since the new structures are under 500 square feet of redeveloped area and the covered wash area is over existing asphalt.
4. The applicant has not provided information regarding the proposed covered dump station and whether the SWMM will be triggered. It is unclear if the dump station can be constructed using the existing asphalt, similar to the wash area.
 - a. If redevelopment of the entire project results in greater than 500 square feet of redeveloped area then BES can require stormwater management for that redeveloped area. There is adequate space on property for a vegetated storm system. If onsite infiltration is not feasible then there is an available offsite discharge point. The applicant will need to be specific in the method of foundation construction at time of building permit submittal and a storm report may be required.
5. *Nonconforming Parking Lot and Landscape Requirements:* If this project will bring existing parking areas into compliance with current landscaping requirements per Chapter 33.258.070, then [Section 1.5](#) of the SWMM requires that new landscaped areas must also be utilized as vegetated stormwater facilities where feasible. Section 1.5 includes examples of criteria that will be considered to determine feasibility. Note that if a stormwater facility is determined feasible the facility must be sized using the appropriate methodology from [Chapter 2](#) of the SWMM, and should therefore be included in the required stormwater report. Plans submitted for land use review must be revised to show all required parking lot landscaping upgrades.

D. ADDITIONAL COMMENTS

1. The covered trash area was to be constructed in conjunction with the new modular office building. The permit has not been finalized. Since there will be solid waste sorted from the dump area, the trash area will need to be completed and available for dump station activity.

2. The applicant has noted that there are no changes to the existing stormwater system and thus the wetlands to the south and across N Rivergate are not impacted by the proposed development. BES recommends that the site maintain best management practices across the site to avoid accidental or incidental flows or releases that can affect the existing wetland.
3. BES does not object to the adjustment allowing the dump station to not be enclosed. The dump station will be required to be covered and hydraulically isolated similar to the wash area that is under r. A berm or curb around the perimeter of the building to prevent run-on and run-off will be necessary, at minimum, and will be enforced at time of building permit review.
4. BES does not object to the waiving the landscaping and screening requirement since the purpose of the landscaping appears to be intended more for separation of land uses rather than for environmental benefits. BES encourages and recommends additional landscaping where feasible for multiple benefits including habitat enhancement, reduction of offsite stormwater flow, and decreased urban-heat-island affect, among others.
 - a. Landscaping, especially in an area that is located directly across the street from the Willamette River to Columbia Slough wildlife corridor at the base of Rivergate has wildlife enhancement potential. We recommend that the applicant select trees and shrubs from Portland's Native Plant list and improve the landscaping function.

E. CONDITIONS OF APPROVAL

BES has no recommended conditions of approval. (Exhibit E.1)

Neighborhood Review: A "Notice of a Public Hearing" was mailed on January 16, 2014. Two written responses have been received from notified property owners in response to the proposal. A nearby business owner who operates a wholesale food service distribution warehouse at 9333 N Rivergate Blvd that is located near the subject site raised the following concerns/objections:

- In the unlikely event of an accident resulting in human waste being spilled, there is concern about the possibility of contamination of food-related products that are distributed from neighboring industrial sites.
- Regarding the transportation system, at the present time the Port of Portland and the Portland Bureau of Transportation have acknowledged that the UP/BN railroad crossing blocks N. Rivergate traffic which can disrupt neighboring businesses up to 4 hours on a daily basis.
- The current transportation system is not capable of supporting the proposed use due to the access restrictions and railroad crossing blockages, and lack of transit service. There is limited EMS (police and fire service) access to the area in the event of an industrial accident.
- Heavy truck traffic at times back up traffic for miles on N. Rivergate, Lombard and Columbia Blvd when daily rail crossing blockages occur. Increased traffic will only add to the existing problem. (Exhibit F.1)

A representative of another nearby food distribution company, located at 9243 N Rivergate, stated the following:

- There is concern about the tracking of human waste (on tires) off site and its potential transmittal to food distribution vehicles/sites.
- Storage of debris on site for up to 7 days may create malodors that will impact nearby businesses. (Exhibit F.2)

Staff Comment: These issues are addressed later in this report in response to the Conditional Use approval criteria.

ZONING CODE APPROVAL CRITERIA**CONDITIONAL USES**

33.815.220 Mining and Waste Related These approval criteria allow these uses in locations where their large size and potential nuisance and environmental impacts will not harm surrounding land uses. The approval criteria are as follows:

- A.** There are adequate nearby lands available for the development of more intense industrial uses;

Findings: The site is in an IH, Heavy Industrial zone, which allows a mix of uses with a strong industrial orientation. The North Portland Harbor, also known as the Rivergate area, is comprised of many very large industrial properties that are currently used and available for intense industrial use. According to a Portland Development Commission report 2004 Industrial Districts Atlas, there is over 4,000 acres of industrial land in the Rivergate area.

The proposed use requires a large exterior area for the storage of portable toilets (aka honey buckets), truck parking, a wash area and an inlet/connection to the City's sanitary sewer system for disposal of the human waste that is pumped from vacuum pump trucks into the underground sanitary connection.

The processing and disposal of sanitary waste is classified as a Waste-Related use. The amount of land area used for the "dump station" is minimal. The development that is associated with the waste processing and disposal operation will not result in permanent impacts to the site or surrounding development. Operations will take place in an existing paved site. There will not be any re-contouring, excavation, or fill, unlike a Mining Use. When the activity is removed, the land will be available for other industrial use. The waste-related dump station will be confined to a specific area of the site. The rest of the site will continue to be used for exterior storage and distribution functions, which are industrial activities, allowed in conformance with the base zone.

In both the short and long term, there are adequate nearby lands available for development of more intense industrial uses. This criterion is met.

- B.** The proposed use will not significantly alter the overall industrial character of the area, based on the existing proportion and type of industrial uses;

Findings: As noted above, there is a significant amount of industrial development in the immediate vicinity. The NW Cascade facility and other nearby properties are relatively large lots. Most are over 3 acres in size. Hence, the industrial buildings and exterior activities are spaced apart. The proposed waste dump station will be set back at least 140 feet from the public street. The garbage collection area, truck parking and portable toilets storage will be stored in different areas of the site. The applicant's site plan identifies "dirty" portable toilets being stored in the southeastern corner of the site within approximately 10 feet of the south side of the lease boundary. The trash enclosure is located in approximately the center of the site at least 125 feet from the closest edge of the lease area. It is approximately 200 feet from the western abutting property and over 400 feet from the food distribution use that is located on the east side of the railroad corridor. The exterior activities will be screened from street view by an existing 8-foot tall concrete wall, trees, evergreen shrubs and 30-foot deep lawn covered area. A 7-foot tall chain link fence surrounds the remaining boundary of the site. Because the facility lacks landscaping along the entire perimeter, the applicant is

proposing to waive the required 100 foot landscape setback. Also the applicant is requesting to waive the requirement that the waste-related processing activities must be confined within an entirely enclosed structure. The Adjustment requests and their individual and cumulative impacts to the desired character of the area will be analyzed later in this report.

According to the submitted traffic impact study, prepared by Lancaster Engineering (Exhibit A.5), vehicle trips to the site are limited to employees who work on-site and the truck trips that are necessary to deliver/pick-up the portable toilets and to empty/store the vacuum trucks. The applicant anticipates 92 trips on a typical day during peak summer season. Based on the trip generation estimates and the distribution/assignment information, all intersections are forecast to continue to operate acceptably.

As identified on page 6 of this report, a nearby business owner raised concerns about additional traffic that would cause further back-ups during the use of the railroad crossing that is located between his business and the NW Cascade facility. The PBOT staff reviewed the detailed Lancaster traffic study. That report did not identify capacity or safety issues on N. Rivergate at or near the railroad crossing. Hence, PBOT finds that the impact to nearby intersections resulting from the proposed Conditional Use will be minimal. New site trips are not expected to significantly alter the operation or safety of the existing facilities, and on-street parking in the area will not be impacted. The transportation system is capable of supporting the proposed use in addition to the existing uses in the area. (Exhibit E.2 and G.5)

In summary, this proposal will not alter the overall industrial character of the area or change the current level of service at the nearby intersections. As stated above, most of the site will continue to be available for industrial uses.

- C. There will be no significant health or safety risk to nearby uses;

Findings: Generally, Waste-Related uses have operational and physical features that could create potential health or safety risks to nearby uses, such as noxious odors, excessive noise, the attraction of disease-carrying organisms, air and water pollution and traffic issues. A response to the possible impacts is provided below.

Disease Transmission: Human waste is known to carry bacteria. It may attract insects such as flies. However, the risks are minimal given that the effluent waste will be flushed through the dump station and immediately drained into the sanitary sewer. Debris (non-sewage) that is screened in the dump station will be placed in plastic bags before being placed in a garbage dumpster. Dirty portable toilets will be cleaned in a designated area that drains into the sanitary sewer.

The two letters received from nearby food distribution companies raised concerns about the sanitary waste spilling on the roadway or at the site or on the streets that serve the industrial area. The application includes a "Spill Prevention Plan"(Exhibit A.7) and a document that describes the company's safety program (Exhibit A.6). Staff finds the applicant's safety and spill prevention actions, as explained in their response (Exhibit A.9), are sufficient for minimizing risks to nearby uses.

Stormwater/Water Pollution: The Bureau of Environmental Services (BES) has determined that the proposed improvements have been designed or can be designed to meet Stormwater Management Manual (SWMM) requirements. The waste and garbage areas will be hydraulically separated from the other surfaces so that stormwater runoff is not impacted by sewage or other pollutants. (Exhibit E.1)

Noise: The truck off-loading and other distribution activities will be the only noise-generating activities. Hence, the noise level at this facility will not differ or exceed other truck and material loading activities that are located in the Rivergate industrial area.

Dust/Air Pollution: The screening and disposal of sanitary waste or any other associated activities on the site will not generate dust or air pollution.

Traffic Impacts and Safety: The application addressed possible traffic capacity and safety issues. The applicant's traffic consultant reports that N. Rivergate Blvd and N. Lombard can support the additional traffic generated from a capacity, safety and access standpoint. See findings under criterion 33.815.220.F.

In summary, potential health and safety impacts from the NW Cascade facility are expected to be negligible. This criterion is met.

- D.** There will not be significant detrimental environmental impacts to any nearby environmentally sensitive areas;

Findings: On the south side of N. Rivergate is property that is designated with the Environmental Conservation overlay zone. The property, owned by the Port of Portland, is a utility (electricity) corridor and appears to have meadow/wetland features. As noted under criterion C above, environmental impacts in the way of noise, dust, and stormwater runoff will be minimal or nonexistent. The waste-related activities will occur within a fully fenced facility and, according to the Bureau of Environmental Services, can meet sanitary sewer disposal requirements. BES states that they anticipate the facilities "best management practices" will continue to be followed so that accidental or incidental flows or releases that can affect the existing wetland to the south will not occur. (Exhibit E.1) Therefore, this criterion is met.

- E.** The proposed use adequately addresses potential nuisance-related impacts such as litter;

Findings: Noise, vibration, glare, litter, and odor are impacts that have historically been associated with mining and waste-related uses. These impacts are addressed under this criterion as well as criterion G, below.

Potential nuisances created by litter, noise and vibration are expected to be negligible. However, if not managed properly, odor could negatively impact the nearby uses. A representative from a nearby industrial business raised concerns about the storage of garbage that has had contact with effluent and then stored on-site in a trash enclosure for up to 7 days. This approval criterion is broadly applied and is not limited to impacts to livability and residential character. Therefore, the adverse impacts of odor to nearby industrial must be considered.

The applicant states that because the portable toilets are treated with a deodorizer both the effluent waste and the "non-sewage" items, that are bagged and placed in a covered garbage dumpster, will not create odors that will be detected off-site (Exhibit A.9).

Staff finds that the application has not sufficiently responded to the possibility of unique circumstances or unanticipated events/operations that create off-site odor impacts. To fully address this and other approval criterion, staff recommends a condition that requires the applicant to incorporate into its Nuisance Mitigation Plan actions that will be taken if nearby businesses report odor impacts. The mitigation plan could include actions such as increasing the frequency of garbage pick-ups during the peak business cycle or limiting the hours when the effluent may be pumped out of the tanks. So that nearby property owners/business operators may report odor or other issues, a condition will require a sign be posted at the entry

gate to the facility that identifies an emergency or after hours contact person and phone number. Compliance with these conditions will satisfy this approval criterion.

F. Public services.

1. The proposed use is in conformance with either the street designations shown in the Transportation Element of the Comprehensive Plan;
2. The transportation system is capable of supporting the proposed use in addition to the existing uses in the area. Evaluation factors include street capacity, level of service or other performance measures; access to arterials; connectivity; transit availability; on-street parking impacts; access requirements; neighborhood impacts; impacts on pedestrian, bicycle, and transit circulation; and safety for all modes; and

Findings: The PBOT staff finds the following:

The proposed use takes access via N Rivergate Blvd and N Lombard St. At this location, the City's Transportation System Plan (TSP) classifies N Rivergate Blvd as a Local Service street for all modes except one. It is also classified as a Freight District Street. N Lombard St is classified as a Major City Traffic street, Transit Access street, City Bikeway, City Walkway, Priority Truck street and an Urban Road. Both streets will be used for access to/from the subject site and are designated to accommodate truck trips. Accordingly, the proposed use is in conformance with the street classifications shown in the TSP.

F.2 The transportation system is capable of supporting the proposed use in addition to the existing uses in the area. Evaluation factors include street capacity, level of service, or other performance measures; access to arterials; connectivity; transit availability; on-street parking impacts; access restrictions; neighborhood impacts; impacts on pedestrian, bicycle, and transit circulation; and safety for all modes;

Intersection capacity/level of service

Findings: Per Portland Policy Document TRN-10.27 - Traffic Capacity Analysis for Land Use Review Cases: For traffic impact studies required in the course of land use review or development, the following standards apply:

1. For signalized intersections, adequate level of service is LOS D, based on a weighted average of vehicle delay for the intersection.
2. For stop-controlled intersections, adequate level of service is LOS E, based on individual vehicle movement.

The industry standard is to measure street capacity and level-of-service (LOS) only at intersections during the critical time period, such as AM or PM peak hour. Although capacity is a part of the LOS, the City of Portland's performance standards are defined only by LOS, which is defined by average vehicle delay. The City does not have performance standards for any of the other evaluation factors.

In relation to this project and to address the transportation-related approval criteria, the applicant has had a Traffic Impact Study (TIS) prepared by a professional traffic consultant. The TIS addresses the above referenced approval criteria/evaluation factors and the analysis below reflects the data, methodology and acceptable industry standards that the applicant's traffic consultant has applied to the proposed project.

NW Cascade has proposed to modify the operation of the existing facility located on the subject site, which is currently used for the storage of clean Honey Bucket portable restroom facilities as well as related trucks and equipment. The proposed expansion of the use would include cleaning and servicing of the Honey Bucket portable units and trucks within the site. The proposed use is considered a waste-related use, which requires a Type III Conditional Use review.

To estimate the number of site trips that will be generated by the proposed site use, trip data for the existing site use was obtained both from Cascade NW and by observing traffic between the hours of 7:00 AM and 7:00 PM on a typical mid-week day in June. The proposed change in site use was then examined in order to determine likely future traffic levels with the proposed Conditional Use at the site.

Since site traffic volumes vary seasonally, data was also obtained from Cascade NW for peak conditions in July/ August. Since the count data was collected in June, it is expected that the traffic volumes will correlate more closely to the peak-season data provided by Cascade NW for July/August than the March data representative of off-peak season traffic levels. Based on the traffic count data, there were a total of 59 site trips on a typical day in June between the hours of 7:00 AM and 7:00 PM. The volumes entering and exiting do not match due primarily to the early arrival time of employees (4:00 to 6:00 AM). Site traffic volumes were not directly observed during the period before 7:00 AM and after 7:00 PM since background traffic volumes during these times are very low. Accordingly, no operational or safety concerns are anticipated during these off-peak periods. Based on the Cascade NW trip data, the average daily trip generation for the site is 50 trips during the off-peak season and 92 daily trips during the peak summer season.

Even during the peak season, there were only 10 AM peak hour trips and 8 PM peak hour trips associated with the current use on the site. The proposed Conditional Use will not result in increases in site trips to/from the subject site. The proposed expanded use would result in a very slight decrease in site trip generation, since sewage haulers will need to exit the site less frequently if on-site disposal becomes available, as proposed. No change in peak-hour site trips is anticipated. The projected trip increases described in the submitted TIS represent seasonal variations that will occur regardless of whether the proposed Conditional Use is approved.

To determine the level of service at the study intersections, a capacity analysis was conducted. The analysis was conducted according to the signalized and unsignalized intersection analysis methodologies in the 2000 *HIGHWAY CAPACITY MANUAL* (HCM) published by the Transportation Research Board.

The studied intersections at N Lombard St/N Rivergate Blvd and at N Rivergate/site access currently operate at level of service (LOS) B during the morning and evening peak hours. The intersections are projected to continue to operate at LOS B during the peak hours through 2015 even under peak season traffic conditions. The proposed Conditional Use will not change traffic volumes at these intersections during the peak hours, but will result in a slight decrease in traffic in the site vicinity on a daily basis. The studied intersections currently operate acceptably during the morning and evening peak hours and will continue to operate acceptably either with or without the proposed Conditional Use.

Access to arterials

Findings: As mentioned previously, the proposed use will take access via N Rivergate Blvd and N Lombard St. At this location, the City's Transportation System Plan (TSP) classifies N Rivergate Blvd as a Local Service street for all modes except one. It is also classified as a Freight District Street. N Lombard St is an arterial roadway. The proposed expansion of the existing use on the site will not impact access to nearby arterial streets.

Connectivity

Findings: The City's spacing requirements for public through streets and public pedestrian connections is a maximum of 530-ft and 330-ft, respectively. No street connections have been identified in the vicinity of this property in the Portland Master Street Plan document. The above referenced connectivity goals are not met in the area. Said connectivity goals are generally applied to residentially zoned areas of the City or within the Central City where high pedestrian use is expected and desired. Applying the above referenced connectivity goals to the subject site or broader larger lot size and industrial area is not feasible given the types of uses and scale of properties. Further, and specific to this case, it would be challenging for PBOT to require any physical construction of a new public street or pedestrian connection due to a lack of legal nexus to do so. PBOT has no concerns relative to furthering the City's connectivity goals through the subject site.

Transit availability

Tri-Met has bus stops along both Rivergate Blvd and Lombard St in the site vicinity. Route 11, *Rivergate/Marine Drive* provides hourly weekday service between St. Johns and Marine Dr during peak commute hours.

On-street parking impacts

The proposed development will not impact the availability of on-street parking, which is restricted in the site vicinity. Adequate parking is available within the subject property for the proposed use in addition to storage of required equipment.

Access restrictions

The site enjoys excellent access to N Lombard St, which connects to Marine Dr, Interstate 5, Columbia Blvd and other major transportation facilities in the site vicinity. There are no access restrictions in the site vicinity, and none will be necessary upon development of the proposed conditional use within the site.

Neighborhood impacts

The surrounding neighborhood is industrial in character, and site trips from the subject property match closely the characteristics of surrounding uses. The proposed Conditional Use will not result in additional traffic volumes (a slight decrease in daily traffic levels is projected, as previously described). Accordingly, there are no significant transportation-related neighborhood impacts anticipated from the proposed use.

Impacts on pedestrian, bicycle, and transit circulation

Pedestrian, bicycle and transit access to the subject property and the site vicinity will not be impacted by the proposed development. Adequate facilities for safe travel by these modes are available and will remain available with the proposed Conditional Use. N Lombard (east of the subject site) is identified as a "Multi-Use Paved Path" in the City's Official Bike/Walk Map and accommodates bicyclists.

Safety for all modes

A detailed safety analysis including measurements of sight distance, evaluation of turn-lane warrants, discussion of pedestrian and bicycle facilities and examination of crash history was included in the submitted TIS.

Required intersection sight distance was calculated from the equations given in *A POLICY ON GEOMETRIC DESIGN OF HIGHWAYS AND STREETS*, published in 2011 by the American Association of State Highway and Transportation Officials (AASHTO). The available intersection sight distance is in excess of the minimum required in each direction. No sight distance mitigations are recommended.

A center two-way left-turn lane is in place along N Rivergate Blvd at the site access. Since providing a left-turn refuge is primarily a safety measure to remove left-turning vehicles that may stop prior to entering the driveway to wait outside the through traffic lane, a detailed evaluation of left-turn lane warrant is not necessary. Also, since site traffic travels almost exclusively to and from the east, it is clear that the volume of traffic that would be served by a dedicated left-turn lane is minimal. Accordingly, no left-turn lane improvements are recommended.

In order to identify any existing safety hazards in the site vicinity, a five-year crash history was obtained from ODOT's Crash Analysis and Reporting Unit. The data covered the period from January, 2007 through December 2011.

In addition to the crash descriptions found in the TIS, a calculated crash rate was determined for the intersection of N Lombard St/N Rivergate Blvd. Examination of the crash rate, expressed as the number of crashes per million entering vehicles, allows intersections with widely different traffic volumes to be compared on the basis of relative crash risk. Typically, crash rates greater than 1.0 require further investigation into the type and causes of the crashes to determine whether patterns indicative of specific safety hazards exist. The crash rate for the N Lombard St/N Rivergate Blvd intersection was calculated to be 0.22 crashes per million entering vehicles. Based on the crash data and crash rate, no significant safety hazards were identified. No safety mitigation is recommended.

In conclusion, the impact to nearby intersections resulting from the proposed Conditional Use will be minimal. New site trips are not expected to significantly alter the operation or safety of the existing facilities, and on-street parking in the area is will not be impacted. The transportation impact approval criterion is met for the proposed Conditional Use as the transportation system is capable of supporting the proposed use in addition to the existing uses in the area. (Exhibit E.2)

For the reasons stated above, this approval criterion is met.

3. Public services for water supply, police and fire protection are capable of serving the proposed use, and proposed sanitary waste disposal and stormwater disposal systems are acceptable to the Bureau of Environmental Services.

Findings: As described on page 4 of this report, the site has water service, a 3-inch metered service and a 10-inch Fire service which provide water to the Port of Portland properties located at this area from the existing 12-inch water main in N Rivergate Blvd. The Fire Bureau has no concerns (Exhibit E.5) and the Police Bureau did not identify any issues or requirements.

BES reports that there is an 8-inch public sanitary-only sewer located in N Rivergate at the western edge of the property. The applicant has provided adequate information regarding approximate volumes of sanitary waste that will be trucked onsite and rates of discharge to the City system relative to the available sewer capacity. The sewer has adequate capacity for the proposed use. This industry will be regulated under the BES Pretreatment Program for process waste discharges to the sanitary sewer system. Lastly, there is a 36-inch private storm-only sewer that crosses N Rivergate and discharges to a private outfall. If development requires stormwater management pre-treatment, there is ample area on the site to construction a vegetative storm system. (Exhibit E.1)

For these reasons, this criterion is met.

- G. The proposal complies with the regulations of Chapter 33.254, Mining and Waste-Related Uses;

Findings: The regulations of Chapter 33.254 and discussion of how the proposal addresses the requirements are as follows:

33.254.020 Limitations

- A. **Accessory uses.** Concrete batching, asphalt mixing, rock crushing, or clay bulking in connection with a Mining use are prohibited except in IH and IG zones.
- B. **Hazardous wastes.** The disposal of hazardous wastes, as defined by OAR 340.100 to 340.110, is prohibited.

Findings: The proposed use involves the processing and disposal of sanitary waste. The proposal does not involve mining activity or disposal of hazardous waste, as identified under Oregon statute. Therefore, this standard will be met.

33.254.030 Location and Vehicle Access Uses must be located so that vehicle access is restricted to Major City Traffic Streets or to streets in Freight Districts, as designated in the Transportation Element of the Comprehensive Plan.

Findings: At the site, N Rivergate is classified as a Local Service street, but is within a designated Freight District. Therefore, this standard is met.

33.254.040 Operations

- A. On-site queuing.** The site layout must include adequate areas to accommodate the peak number of vehicles expected to come to the site at any one time.

Findings: The applicant prepared a traffic impact study to assess the adequacy of transportation services. The PBOT staff finds:

Based on the traffic count data collected by the applicant's traffic consultant as well as the schedule data provided by NW Cascade, the peak arrival rate for the site was determined to be 6-10 vehicles per hour. During the peak summer season, the arrival rate may be as high as 8-12 vehicles per hour. Based on these arrival rates, no queues are projected to occur at the site entrance.

According to NW Cascade, the subject property serves 10 employee passenger vehicles, 6 Honey Bucket F250 trucks, 10 International 4300 Series (single-axle) route trucks, 2 sewage hauler trucks (double-axle plus drop axle) and 1 semi-unit hauler (double-axle). These 29 vehicles in addition to on site offices and equipment can easily be accommodated within the 3.49-acre site. (Exhibit E.2)

Therefore, this standard is met.

- B. Processing of waste products.** In the case of Waste-Related uses other than landfills and composting operations, all activities relating to the receiving, sorting, processing, storage, transfer, and shipping of wastes must take place entirely within enclosed structures. The transfer of waste products from one vehicle or container to another vehicle or container and the cleaning of such vehicles or containers must be done within a containment area designed to ensure that waste materials will be confined so as to not enter the groundwater or any water body.

Findings: As already discussed under numerous approval criteria, the applicant is requesting an Adjustment to waive this requirement. See the findings under the Adjustment criteria, below.

- C. Liquid waste pretreatment.** The use, if other than a sewage treatment facility, must provide pretreatment of any liquids being discharged into the City's stormwater or sanitary disposal system. The pretreatment must meet the standards of the Bureau of Environmental Services.

Findings: As stated above, the Bureau of Environmental Services had determined that the pre-treatment requirements can be met. This standard is therefore addressed.

- D. Posted information.** A sign must be posted near the entrance to the site, stating the telephone number(s) where a representative of the use may be reached at all times.

Findings: Staff is recommending a condition that requires a sign, with the necessary emergency contact information, be posted at the entrance gate. Compliance with this condition will satisfy this requirement.

33.254.050 Traffic Impact Study A traffic impact study must be submitted for the proposed use. As part of the study, measures must be proposed for mitigating traffic impacts resulting from vehicles going to and from the site. The study must also include a plan and mechanisms to ensure that traffic, especially trucks, travel primarily on truck routes or major City traffic streets when near the site. The traffic study must include information of proposed access points, types of vehicles, and frequency of trips.

Findings: As discussed under criterion F, the applicant's consultant—Lancaster Engineering--submitted a traffic impact study to assess the adequacy of transportation

services. The Bureau of Transportation has reviewed the analysis and concluded that the “proposed project will not result in any traffic-related impacts. Accordingly, mitigation measures were unnecessary. The study did not need to include a plan or mechanisms to ensure that traffic, especially trucks, travel primarily on truck streets or Major City Traffic Streets when near the site, since the site is directly accessed by these types of streets. The TIS contains information on proposed access points, hours of operation, types of vehicles, and number of trips”. (Exhibit E.2)

33.254.060 Nuisance Mitigation Plan The applicant must submit a mitigation plan that addresses potential nuisance impacts which might be created by the proposed use. The plan must include the following components:

- A. Off-site impacts.** The plan must document that the use will comply with the off-site impact standards stated in Chapter 33.262;

Findings: Below are the regulations of 33.262 and discussion of how the proposal addresses them:

33.262.050 Noise The City noise standards are stated in Title 18, Nuisance Abatement and Noise Control. In addition, the Department of Environmental Quality has regulations which apply to firms adjacent to or near noise sensitive uses such as dwellings, religious institutions, schools, and hospitals.

Findings: Noise generated by the facility will be primarily in the form of trucks and vehicles used for the delivery and storage of portable toilets. The trucks and equipment are similar to that used by many nearby industrial uses. The City’s noise standards will be met.

33.262.060 Vibration

- A. Vibration standard.** Continuous, frequent, or repetitive vibrations which exceed 0.002g peak may not be produced. In general, this means that a person of normal sensitivities should not be able to feel any vibrations.
- B. Exceptions.** Vibrations from temporary construction and vehicles which leave the site (such as trucks, trains, airplanes and helicopters) are exempt. Vibrations lasting less than 5 minutes per day are also exempt. Vibrations from primarily on-site vehicles and equipment are not exempt.
- C. Measurement.** Seismic or electronic vibration measuring equipment may be used for measurements when there are doubts about the level of vibration.

Findings: This proposal does not involve activities such as manufacturing or demolition that requires heavy pounding or breaking of materials and therefore will not create vibrations. The proposal will comply with this standard.

33.262.070 Odor

- A. Odor standard.** Continuous, frequent, or repetitive odors may not be produced. The odor threshold is the point at which an odor may just be detected
- B. Exception.** An odor detected for less than 15 minutes per day is exempt.

Findings: As discussed under criterion 33.815.220.E, staff finds that the applicant’s required Nuisance Mitigation Plan is deficient in addressing unanticipated odor impacts. Staff recommends a condition that requires the applicant to incorporate into its Nuisance Mitigation Plan actions that will be taken if nearby businesses report odor impacts. And a condition will require the placement of a sign at the entrance gate. The sign must identify a NW Cascade representative, with phone number, who may be reached after hours or in case of an emergency. With compliance, this standard will be addressed.

33.262.080 Glare

A. Glare standard. Glare is illumination caused by all types of lighting and from high temperature processes such as welding or metallurgical refining. Glare may not directly, or indirectly from reflection, cause illumination on other properties in excess of a measurement of 0.5 foot candles of light.

B. Strobe lights. Strobe lights visible from another property are not allowed.

Findings: The proposal will not require excessively bright or special lighting such as strobe lights. This standard will be met.

B. Litter. For Waste-Related uses, the plan must address litter generated on the site and litter along roadways leading to the use that is generated by vehicles coming to the site. The plan must also address illegally dumped waste products near the site. The plan must provide for regular litter removal. The plan must also include means to limit litter from vehicles coming to site; and

Findings: Unlike other Waste-Related uses such as recycling centers and landfills, this use does not process garbage. Trash will be removed from the portable toilets and separated from the effluent waste and disposed of in a covered garbage dumpster. The site is fully fenced which will serve to protect the facility from trespass and unauthorized dumping. Therefore, this standard will be met.

C. Dust, mud, and vector control. The plan must provide mechanisms to limit impacts from dust, mud, and disease carrying organisms such as rats and mosquitoes.

Findings: Because the sewage effluent is flushed through the dump station to the sanitary sewer connection and garbage will be bagged and placed in a covered dumpster, staff does not anticipate the operation to attract vector or insects. The applicant's submitted Nuisance Mitigation Plan states that the site will remain efficient and clean. This standard will be met.

33.254.070 Reclamation Plan for Landfills The applicant for a landfill use in the Waste-Related use category must submit a reclamation plan. The Bureaus of Buildings and Environmental Services will provide a technical review of the plan. Mining uses are subject to State requirements for reclamation plans.

A. Contents of the reclamation plan. The reclamation plan must include the following:

1. Phasing and schedule of work to be conducted;
2. Phasing and schedule of reclamation to be conducted;
3. Materials to be used in the reclamation;
4. The effect of the reclamation on surface and subsurface drainage patterns;
5. Plans for future use of the land; and
6. A discussion of how the proposed reclamation plan is consistent with the future potential uses of the land, according to the zoning and the Comprehensive Plan designation.

B. Performance guarantee. The review body as part of the conditional use review may require the applicant to post a bond or other security with the City to ensure the completion of the reclamation plan. The security must comply with the regulations for performance guarantees stated in 33.700.050.

Findings: The proposal does not include a landfill. Therefore, this requirement does not apply.

33.254.080 Setbacks, Landscaping, and Screening Waste-Related uses are subject to the following setback, landscaping, and screening requirements. Mining uses are subject to State requirements for setbacks, landscaping, and screening.

- A. Setback distance.** Waste-Related uses must be set back 100 feet from all property and street lot lines that abut C, E, or I zones. A 200 foot setback is required along all property and street lot lines that abut OS or R zones.

Findings: The proposed dump station and trash enclosure that will be used for the processing/disposal of the waste will be located approximately 125 feet to the closest lease boundary line. However, the use which includes accessory structures, parking areas and truck will be located within 10 feet of the nearest lease area boundary. An Adjustment to this standard has been requested. See the related findings below.

- B. Landscaping and screening requirements.** The setback must be landscaped to at least the L1 standard. A fence at least 6 feet high must be provided on the interior side of the setback. The fence must be screened by a high hedge meeting the L3 standard. The landscaping standards are stated in Chapter 33.248, Landscaping and Screening. In addition, gates with fencing at least 6 feet high must be provided across all entrances. The property owner must maintain the fencing and gates in good repair.

Findings: The applicant is requesting an Adjustment to waive the landscaping standard and to allow the fence to be located on the outside of the required setback area. See Adjustment findings below.

33.254.090 Activities in Required Setbacks Extraction, movement, or stockpiling of mineral and aggregate resources or the disposal or storage of waste products within a required setback is prohibited. The tops and toes of cut and fill slopes must remain outside the required setback. Structures, exterior storage, and parking areas for trucks or equipment are not allowed within the required setbacks. Required setbacks includes all setbacks approved by the State for Mining uses.

Findings: As stated above, an Adjustment is requested to allow structures and exterior storage within 10 feet of the lease boundary. See the related findings below.

33.254.100 Underground Utilities All underground lines and conduits on a mining or landfill site and within 50 feet of the site must be protected from damage from the use. This includes storm and sanitary sewers, and water, gas, and electric lines.

Findings: The proposed activity is for sewage disposal and not mining or excavation. This requirement does not apply.

- H.** There is a reclamation or redevelopment plan which will ensure that the site will be suitable for an allowed use when the mining or landfill use is finished; and

Findings: This is not a mining or landfill project. This requirement does not apply.

- I.** Public benefits of the use outweigh any impacts which cannot be mitigated.

Findings: Because of concerns about noxious odors leaving the site and negatively impacting nearby industrial businesses, staff is recommending conditions that will address problems, if they arise. However, as there will be no impacts that cannot be mitigated, this criterion does not apply.

ADJUSTMENT REVIEW

33.805.040 Approval Criteria The adjustment requests will be approved if the review body finds that the applicant has shown that either approval criteria A. through F. or approval criteria G. through I., below, have been met.

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

Findings: The purpose of the Mining and Waste-Related Development standard, as stated in Section 33.254.010 of the Zoning Code is as follows:

These regulations:

- *Reduce the impacts and nuisances resulting from mining and waste-related uses on surrounding land uses;*
- *Reduce the transportation impacts from these uses;*
- *Ensure that land used for these purposes is restored so that it may be reused; and*
- *Provide security measures so that these land uses are not a safety hazard to other land uses or to nearby residents.*

Exterior Processing/Activities Outside of a Fully Enclosed Structure: Because the sanitary waste that is pumped from truck tanks is immediately processed and disposed of either into the sanitary sewer and the trash enclosure (for non-effluent materials), the applicant has provided sufficient information showing that a fully enclosed structure is not needed to contain the materials, address health and safety concerns and control off-site impacts. Staff is recommending conditions that will address unanticipated odor impacts. With mitigation actions identified for implementation, a fully enclosed structure is not essential for addressing odor problems. With conditions, this criterion can be met.

Setback Distance and Landscaping and Screening: The facility is not visible from the public street. An 8-foot tall concrete wall and 30 foot deep landscaped area substantially reduces visual impacts to the public street. Although additional landscaping would soften the appearance of the paved area and reduce the impacts of vehicle parking, this area is developed with heavy industrial uses where the undesirable appearance and impacts are generally not an issue. The waste-related equipment—pump station and trash enclosure are located over 125 feet from the nearest boundary. Lastly, the site is fully enclosed within a tall fence to provide security. Therefore, the request to waive the setback, landscaping and fence location requirement meet the approval criteria.

- B.** If in a residential zone, the proposal will not significantly detract from the livability or appearance of the residential area, or if in a 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

Findings: As discussed under approval criterion 33.815.220.F.1, the proposal does not conflict with the street classifications and PBOT has no concerns. The site is in an IH zone. The Heavy Industrial zone is characterized as a zone that “provides areas where all kinds of industries may locate including those not desirable in other zones due to their objectionable impacts or appearance.”

The NW Cascade facility consists primarily of exterior storage and exterior work activity areas. The proposed improvements are intended to address BES stormwater management requirements—cover and curbing—to hydraulically isolate the waste from stormwater runoff. The facility will not be dissimilar in character to many industrial sites found in the IH zone. This approval criterion is met for all the Adjustments.

- 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: The applicant is requesting Adjustments to two distinct development standards. The purpose of the industrial and employment zones is found in 33.140.010, which states:

33.140.010 General Purpose of the Zones *The employment and industrial zones are for areas of the City that are reserved for industrial uses and for areas that have a mix of uses with a strong industrial orientation. The zones reflect the diversity of industrial and business areas in the City. The zones differ in the mix of allowed uses, the allowed intensity of development, and the development standards. The regulations promote areas which consist of uses and developments which will support the economic viability of the specific zoning district and of the City. The regulations protect the health, safety and welfare of the public, address area character, and address environmental concerns. In addition, the regulations provide certainty to property owners, developers, and neighbors about the limits of what is allowed.*

Heavy Industrial. *This zone is one of the three zones that implement the Industrial Sanctuary map designation of the Comprehensive Plan. The zone provides areas where all kinds of industries may locate including those not desirable in other zones due to their objectionable impacts or appearance. The development standards are the minimum necessary to assure safe, functional, efficient, and environmentally sound development.*

The effects, both individually and cumulatively, of the Adjustments will not adversely impact an area that is designated for uses that may be deemed undesirable or having an objectionable appearance. Waiving the requirement will still ensure that the development is safe, functional and environmentally sound. This criterion is met.

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

Findings: City designated scenic resources are shown on the zoning map by the “s” overlay zone. Historic resources are designated by a large dot. There are no such resources present this site. This criterion does not apply.

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

Findings: There are no discernable impacts that would result from granting the requested adjustments. 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. The site is not within an environmental zone, which is designated on the zoning map by either the “c” or “p” overlay zones. Therefore, this criterion is not applicable.

CONCLUSIONS

The applicant is requesting Conditional Use approval to establish a Waste-Related use for the purpose of processing (screening) and disposing of sanitary waste. This will allow the facility to pump from trucks the effluent waste that is removed from portable toilets. Currently, the business cleans and stores the empty portable toilets. The applicant is also requesting Adjustments to waive the required setback, landscaping and fencing standard that applies to Waste-Related Uses and to waive the requirement that the waste-reprocessing must occur in a fully enclosed structure.

Staff recommends approval of the Conditional Use with conditions that are intended to address unanticipated odor impacts. A condition will require the applicant to identify Nuisance Mitigation actions that will be taken if there are off-site odor impacts. And, a condition will require the posting of a sign that gives contact information. This is intended to give nearby industrial users and others the ability to immediately report problems or off-site impacts, even when the business is closed.

TENTATIVE STAFF RECOMMENDATION

(May be revised upon receipt of new information at any time prior to the Hearings Officer decision)

Approval of a Conditional Use to establish a Waste-Related use that processes (screens) and disposes of sanitary (effluent) waste for a company that supplies portable toilets to events and other sites, as described in Exhibits A.1.- A.10, and

Approval of an Adjustment to waive the requirement that the activities relating to the receiving, sorting, processing, storage and transfer of wastes take place entirely within an enclosed structure (Section 33.254.040.B); and

Approval of an Adjustment to waive the: (1) 100-foot setback, (2) L1, General Landscaping requirement within the required setback, and (3) requirement of a fence being installed on the interior side of the required setback (Section 33.254.080), subject to the following conditions:

- A. As part of the building permit application submittal, the following development-related conditions (B and 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 13-181212 CU AD." All requirements must be graphically represented on the site plan, landscape, or other required plan and must be labeled "REQUIRED."
- B. A sign, which identifies the business, a business representative with a phone number, must be installed on the entrance gate to the facility. The sign must include 24-hour emergency contact information.
- C. Prior to building permit application approval from the Bureau of Development Services, the applicant must revise the Nuisance Mitigation Plan (identified as Exhibit A.4) to include actions that will be taken if nearby businesses report odor impacts. The revised plan must be submitted to the Bureau of Development Services, Land Use Services Division.

Procedural Information. The application for this land use review was submitted on July 17, 2013, and was determined to be complete on Dec 26, 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 July 17, 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 did not waive or extend the 120-day review period. Unless further extended by the applicant, **the 120 days will expire on April 22, 2014.**

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 recommendation 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.

This report is not a decision. The review body for this proposal is the Hearings Officer who will make the decision on this case. This report is a recommendation to the Hearings Officer by the Bureau of Development Services. The review body may adopt, modify, or reject this recommendation. The Hearings Officer will make a decision about this proposal within 17 days of the close of the record. Your comments to the Hearings Officer can be mailed c/o the Hearings Officer, 1900 SW Fourth Ave., Suite 3100, Portland, OR 97201 or faxed to 503-823-4347. You will receive mailed notice of the decision if you write a letter received before the hearing or testify at the hearing, or if you are the property owner or applicant. This Staff Report will be posted on the Bureau of Development Services website. Look at www.portlandonline.com. On the left side of the page use the search box to find Development Services, then click on the Zoning/Land Use section, select Notices and Hearings. Land use review notices are listed by the District Coalition shown at the beginning of this document. You may review the file on this case at the Development Services Building at 1900 SW Fourth Ave., Suite 5000, Portland, OR 97201.

Appeal of the decision. The decision of the Hearings Officer may be appealed to City Council, who will hold a public hearing. If you or anyone else appeals the decision of the Hearings Officer, only evidence previously presented to the Hearings Officer will be considered by the City Council.

Who can appeal: You may appeal the decision only if you write a letter which is received before the close of the record for the hearing, if you testify at the hearing, or if you are the property owner/applicant. Appeals must be filed within 14 days of the decision. **Appeals must be filed within 14 days of the decision. An appeal fee of \$5,000.00 will be charged (one-half of the BDS application fee, up to a maximum of \$5,000).**

Appeal Fee Waivers: Neighborhood associations recognized by the Office of Neighborhood Involvement may qualify for a waiver of the appeal fee provided that the association has standing to appeal. The appeal must contain the signature of the Chair person or other person authorized by the association, confirming the vote to appeal was done in accordance with the organization’s bylaws.

Neighborhood associations, who wish to qualify for a fee waiver, must complete the Type III Appeal Fee Waiver Request for Organizations Form and submit it prior to the appeal deadline. The Type

III Appeal Fee Waiver Request for Organizations Form contains instructions on how to apply for a fee waiver, including the required vote to appeal.

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.

- 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.

Planner's Name: Sheila Frugoli

Date: January 31, 2014

EXHIBITS

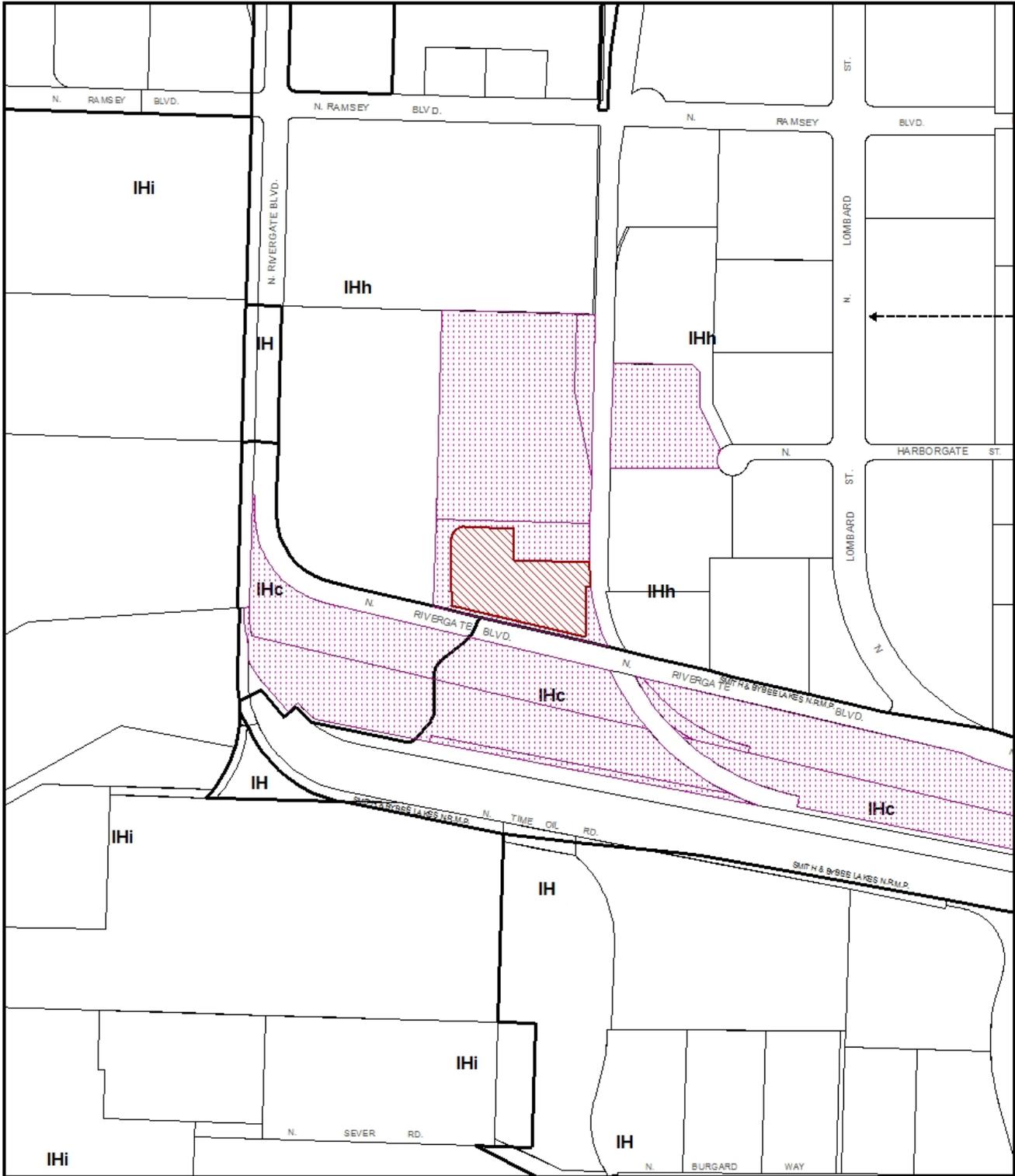
NOT ATTACHED UNLESS INDICATED

A. Applicant's Statement:

1. Northwest Cascade, Honey Bucket Project Description, Revised, Submitted Dec. 19, 2013
2. Written Response to CU Approval Criteria, Submitted Nov. 25, 2013

3. Written Response to AD Approval Criteria, with Drawings and Photos, Submitted Dec. 19, 2013
 4. Nuisance Mitigation Plan, Dated January 8, 2013
 5. Traffic Impact Study, Prepared by Lancaster Engineering
 6. Safety Program for NW Cascades
 7. Spill Prevention and Response (SPAR) Plan
 8. E-Mail from Applicant, Clarifying Proposal, dated Jan. 28, 2014
 9. Applicant's Response to Public Comments, submitted Jan. 29, 2014
 10. E-Mail from Applicant, Clarifying Proposal, dated Dec. 24, 2013
 11. Cascade, Honey Bucket Project Description, Submitted Nov. 25, 2013
 12. Written Response to AD Approval Criteria for Landscaping AD, Submitted Nov. 25, 2013
 13. Original Application Submittal
- B. Zoning Map (attached)
- C. Plans & Drawings:
1. Site Plan, Revised, Submitted Nov. 25, 20123 (attached)
 2. Plans of Proposed Structure to Cover Dump Station, Submitted Dec. 12, 2013
 3. Dump Station (Container) Plans and Photos of Similar Facility, Submitted Dec. 12, 2013
 4. Photos of Adjacent Sites and Exterior Fencing, Adjustment Exhibit
 5. Port of Portland Landscaping Plan for Street Frontages in Rivergate Industrial Area
 6. Lease Area Boundary Map
 7. Original Site Plan
 8. Plans Identifying Phase I -Wash Area, Covered Trash Enclosure
- D. Notification information:
1. Request for Response
 2. Posting Letter Sent to Applicant
 3. Notice to be posted
 4. Applicant's statement certifying posting
 5. Mailing list
 6. Mailed notice
- E. Agency Responses:
1. Bureau of Environmental Services
 2. Bureau of Transportation Engineering and Development Review
 3. Water Bureau
 4. Site Development Review Section of Bureau of Development Services
 5. TRACS Print-Out Showing "No Concerns" from Fire Bureau and Bureau of Parks, Forestry Division
- F. Letters:
1. Mr. Keith K. Lee, Chin's Import Export Co., E-Mail Letter dated Jan. 18, 2014, Opposes project
 2. John Brown, Del Monte Fresh Produce Co., E-Mail Letter sent Jan. 23, 2014, Raised Concerns
- G. Other:
1. Original LUR Application
 2. Pre-Application Conference Summary Report
 3. Incomplete Application Letter to Applicant from Staff
 4. Previous Land Use Review Decision LUR 91-00576 CU AD
 5. E-Mail from Fabio de Freitas, PBOT to Mr. Keith Lee, dated Jan. 29, 2014

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
-  Also Owned



File No.	<u>LU 13-181212 CU,AD</u>
1/4 Section	<u>1719,1720</u>
Scale	<u>1 inch = 500 feet</u>
State_Id	<u>2N1W35 103</u>
Exhibit	<u>B (Jul 19,2013)</u>

