



**Board of Adjustments
Meeting Agenda
May 8, 2024
Bentonville City Hall
Meeting Time: 4:00 PM**

Registration Link: <https://us06web.zoom.us/j/82197477176>

- I. Call to Order**
- II. Approval of Minutes**
 - 1. April 10th Meeting Minutes** **Approval of Meeting Minutes**
- III. New Business**
 - 1. Otis Corley Development** **Variance***
 - OTIS CORLEY DR ([VAR24-0004](#))
 - Section 401.09 (c) of Zoning Code*
- IV. Old Business**
- V. Other Business**
- VI. Adjournment**



**Board of Adjustments
Meeting Minutes
April 10, 2024
Bentonville City Hall
Meeting Time: 4:00 PM**

Meeting Recording: <https://us06web.zoom.us/rec/share/wLuLn-u2lW8EyOK7mT1xmhV1CPhnYhbnexZU3VYtbAW3i9MEVByJRsm9S81iiVS.wnGAfMHxA7coTer9>

I. Call to Order

- Meeting called to order at 4:00 PM by Chairman Kruithof.
- Members present: BJ Phillips, Celia Swanson, Dean Kruithof, Sam Pearson, Joe Haynie
- Members absent: N/A
- Staff present: Tom Adler, Bradley Gavrielides, Brittany Chue

II. Approval of Minutes

1. February 28th Meeting Minutes Approval of Meeting Minutes

- Ms. Swanson has two requested corrections to the minutes.
- Motion to approve as amended by Swanson, second by Haynie.
- Minutes are approved 5-0.

III. New Business

1. Milligan

Variance*

105 Northwest 6th Street ([VAR24-0003](#))

Request for setback variance of 3.5' from the minimum 7' interior side setback required by Zoning Code, Section 401.07 Residential (R) Districts Regulations.

- Mr. Gavrielides provides an overview of the staff report.
- Chris Milligan, the applicant, provides details on the request for an enclosed carport.
- Discussion between the Board and the applicant on the reasoning behind the request and why it is needed.
- Motion to approve by Phillips, second by Pearson.
- Variance is approved 5-0 with all the conditions stated in the staff report.

IV. Old Business

V. Other Business

VI. Adjournment

- Meeting is adjourned by Chairman Kruithof at 4:11PM.



Otis Corley Development

OTIS CORLEY DR

BOA Date: 5/8/2024

Staff Report Details

Project Number	VAR24-0004
Applicant / Current Owner	Ecological Design Group / 2303 SOUTHEAST J STREET LLC
Site Area	+/- 3.56 Acres
Current Zoning	I-2, Heavy Industrial
Variance Request	<i>Section 401.09 (c) of Zoning Code</i>
Related projects	

Property Description

The subject property is located at the existing terminus of Southeast Otis Corley Drive. The property is zoned I-2, Heavy Industrial with a future land use designation of Office. The property has direct access to Southeast Otis Corley Drive, and is located within the Bentonville Industrial Park subdivision, formerly known as the Bertschy Industrial Park.

Regulation

The applicant is requesting a variance from Sec. 401.09 Industrial (I) District Regulations, (c) Industrial (I) districts setback requirements, (1) Standards.

Variance Request

The applicant is requesting a variance of 50' from the rear setback requirement of 75', and a variance of 25' from the front yard setback of 50'.

Background

Background

The applicant states in their narrative that they are seeking the variance request in order to develop a warehousing use with accompanying parking. By the applicant's calculations, if full conformance of setbacks were to be followed, roughly 50' of depth on the lot would be left as buildable area where the lot is only 200' deep total. It should be noted that the applicant did use the wrong front setback in their request - per the proposal, parking is not located in the front of the building, so the front yard setback would be only 50' per code, rather than 75'. With that correction, the depth of buildable area would be 75' rather than 50'.

The applicant identifies at 50' drainage and utility easement located between the subject property and the single-family homes to the north. This easement was platted as part of the subdivision to the north.

This report will consider and analyze this request based upon the six conditions of approval from the Zoning Code. Said conditions of approval will be bolded to differentiate from staff commentary.

1. The applicant demonstrates that:

a. Special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structure or buildings in the same district;

The applicant identifies the depth of the lot as a special condition. This property is part of an identified industrial park, and despite the land use of Office, has been intended to be industrial for many years. For a property zoned I-2 and intended for industrial use, this is a rather narrow lot to accommodate many industrial uses permitted in the I-2 district. While other lots in this subdivision have similar dimensions, typically, the short end of the lot fronts the street, so the setbacks are running the along the shorter side of the lot rather than the longer side of the lot, allowing for greater buildable area on these other lots.

b. That literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this chapter;

As stated under the previous criterion, narrower industrial lots that do exist even in this same subdivision, typically have the short side of the lot along the street frontage. When calculating setbacks, these other lots do then have greater buildable area as the setbacks are along the shorter side of the lots. The strict interpretation of the setback provisions has the effect of limiting the buildable area of the subject property relative to similar industrial properties, particularly due to the orientation of the subject property.

c. That special conditions and circumstances do not result from the actions of the applicant; and

The applicant has not taken action to cause the need for this variance request.

d. That granting the variance requested will not confer on the applicant any special privilege that is denied by this chapter to other lands, structures, or buildings in the same district.

The applicant is seeking a variance that would allow for a larger buildable area on the subject

Background

property which would allow this area to have a buildable area of similar scale to those of other industrial properties.

2. No nonconforming use of neighboring lands, structures, or buildings in the same district, and no permitted or nonconforming use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.

The applicant makes no reference to any nonconformities or properties not zoned I-2, Heavy Industrial.

3. The board of adjustment shall further make a finding that the reasons set forth in the application justify the granting of the variance and that the variance is the minimum variance that will make possible the reasonable use of land, building or structure.

The applicant has provided a site plan showing a proposed site layout for the subject property. The proposed building appears to be of similar scale and size to other industrial buildings nearby. The proposed site plan shows potential development should the variance request be approved.

4. The board of adjustment shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this chapter, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

The variance to the front setback will likely have little impact as this street and subdivision are almost exclusively industrial uses and industrial zones. The rear setback would likely have little impact on the residences to the north as, inclusive of the existing 50' easement plus 25' rear setback, the building would be a minimum of 75' from these single-family lots, which is effectively the same separation that could be expected if the properties were directly abutting.

5. Conditions. In granting any variance, the board of adjustment may prescribe appropriate conditions and safeguards that it deems necessary or desirable. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this chapter.

The Board has the authority to attach any conditions to a variance request that it deems appropriate. Any conditions proposed with a variance approval should be clearly stated into the record in the approval motion.

6. Uses. Under no circumstances shall the board of adjustment grant a variance to allow a use not permissible under the terms of this chapter in the district involved, or any use expressly or by implication prohibited by the terms of this chapter in said district.

The applicant's request does not include a variance to use.

Conclusion

The applicant's variance request comes from Sec. 401.09 of the Zoning Code, which houses the lot regulations for Industrial lots. In I-2, where a property is adjacent to a residential district, the

Background

minimum rear setback is 75'. Where the industrial property is adjacent to either a non-residential district or right-of-way, the minimum rear setback is 50'. The code has established 50' as the minimum setback for I-2 in any circumstance. The applicant is also seeking a variance of 25' from the minimum front yard setback of 50'. As previously mentioned, the applicant misidentified which setback would pertain to this development. There is no parking in front of the building, so the minimum setback would be 50' in the front rather than the 75' identified in the applicant's narrative.

This variance request seems to indicate a number of unique features affecting this property. First, the lot in question is relatively narrow for industrial uses. This narrowness is exacerbated by the orientation of the lot, as the setbacks run the long side of the lot rather than the short side as seems to be more common in narrow industrial lots, including in this subdivision. The affect of this is that the subject lot will have a much smaller buildable area relative to the lots whose short side are along the street frontage.

Further, the subdivision to the north has a built in 50' easement for drainage and utilities that provides additional separation than would typically be seen between industrial and residential property. This, along with a 25' rear setback, seems to effectively assist the property in meeting the intent of the ordinance in still being able to provide a 75' minimum separation between an industrial building and a residential lot.

Industrial uses, by their nature, are often larger in scale from a lot or building coverage standpoint rather than height. The setbacks as written in the code do not allow for as much breadth in building scale as would be needed for many of the allowed industrial uses such as warehousing or laboratory uses. This would seem to have the intent of further restricting the types of uses, based solely on buildable area, that are already allowed in I-2.

Ultimately, all six standards of approval in the Zoning Code must be met in order for the Board to grant approval of the variance. This request appears to affirm several of the standards of approval.

Public Comment

Has Staff received Public Comment at the time of this report?: **No**

Conditions of Approval

Section 301.10.c, Standards of Approval, of the Zoning Code

Standards for approval. A variance from the terms of this chapter shall not be granted by the board of adjustment unless and until:

(1) The applicant demonstrates that:

- a. special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same district;
- b. that literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this chapter;
- c. that special conditions and circumstances do not result from the actions of the applicant; and,
- d. that granting the variance requested will not confer on the applicant any special privilege that is denied by this chapter to other lands, structures, or buildings in the same district.

(2) No nonconforming use of neighboring lands, structures, or buildings in the same district, and no permitted or nonconforming use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.

(3) The board of adjustment shall further make a finding that the reasons set forth in the application justify the granting of the variance and that the variance is the minimum variance that will make possible the reasonable use of land, building or structure.

(4) The board of adjustment shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this chapter, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

(5) *Conditions.* In granting any variance, the board of adjustment may prescribe appropriate conditions and safeguards that it deems necessary or desirable. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this chapter.

(6) *Uses.* Under no circumstances shall the board of adjustment grant a variance to allow a use not permissible under the terms of this chapter in the district involved, or any use expressly or by implication prohibited by the terms of this chapter in said district.

 Pending PC Item

SE N ST

SE 21ST ST

SE 22ND ST

Savant Real
Estate and
Development

SE OTIS CORLEY DR



VAR24-0004
Savant Real Estate and Development
SE Otis Corley Dr





Ecological Design Group, Inc
216 W Birch Street
Rogers, AR 72756

Variance Request

To: City of Bentonville
From: Ecological Design Group, Inc – on behalf of Savant Real Estate and Development
Date: April 5th, 2024
Re: Otis Corley Development, Bentonville, AR

On behalf of Savant Real Estate and Development, Ecological Design Group, Inc. (EDG) is submitting this Variance.

Project Description: Proposed development of a 49,500 sf ft warehouse and parking for employees. This site will also feature a detention pond for storm water mitigation. The property is zoned I-2 (Heavy Industrial).

Variance to Setback Requirements in Section 401.09, c of the Zoning Code

- We are requesting 25’ setback instead of the required 75’ setback, in other words a 50’ variance of the 75’ setback requirement.

Special Conditions and Circumstances:

- The current plot of land has a 50’ Drainage and Utility Easement on the north side if the property per the plat included in this submittal. We are proposing to reduce the setback requirement to 25’ as the current 50’ Drainage and Utility Easement is acting as the required buffer, creating the required 75’ buffer between this development and the R-3 properties.

(c) *Industrial (I) districts setback requirements.*

(1) *Standards.* The table below establishes the minimum setback standards for all development in the industrial (I) districts.

INDUSTRIAL (I) DISTRICTS MINIMUM SETBACK REQUIREMENTS

District	Building type	Front		Side		Rear		
		With parking in front	Without parking in front	Adjacent to nonresidential district and/or ROW	Adjacent to residential district	Adjacent to ROW	Adjacent to nonresidential district	Adjacent to residential district
I-1	All	75'	30'	30'	75'	30'	50'	75'
I-2	All	75'	50'	50'	75'	50'	50'	75'

Hardship:

- Per the information above, if the developer conforms to the setback requirements of 75’ from the front property line as well as 75’ from the back property line, there will only be ~50’ of usable space of the 200’ that is available. This poses a hardship for projects attempting to develop in this industrial zoning district. By allowing the setback in the rear to be only 25’, this would open the lot to have ~100’ of developable area.

Existing Special Conditions and Circumstances:

- The 50' Drainage and Utility Easement is an existing condition that cannot be removed or developed. This provides the required buffer zone between the two properties and acts as an opportunity to allow for greater use of this site.

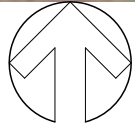
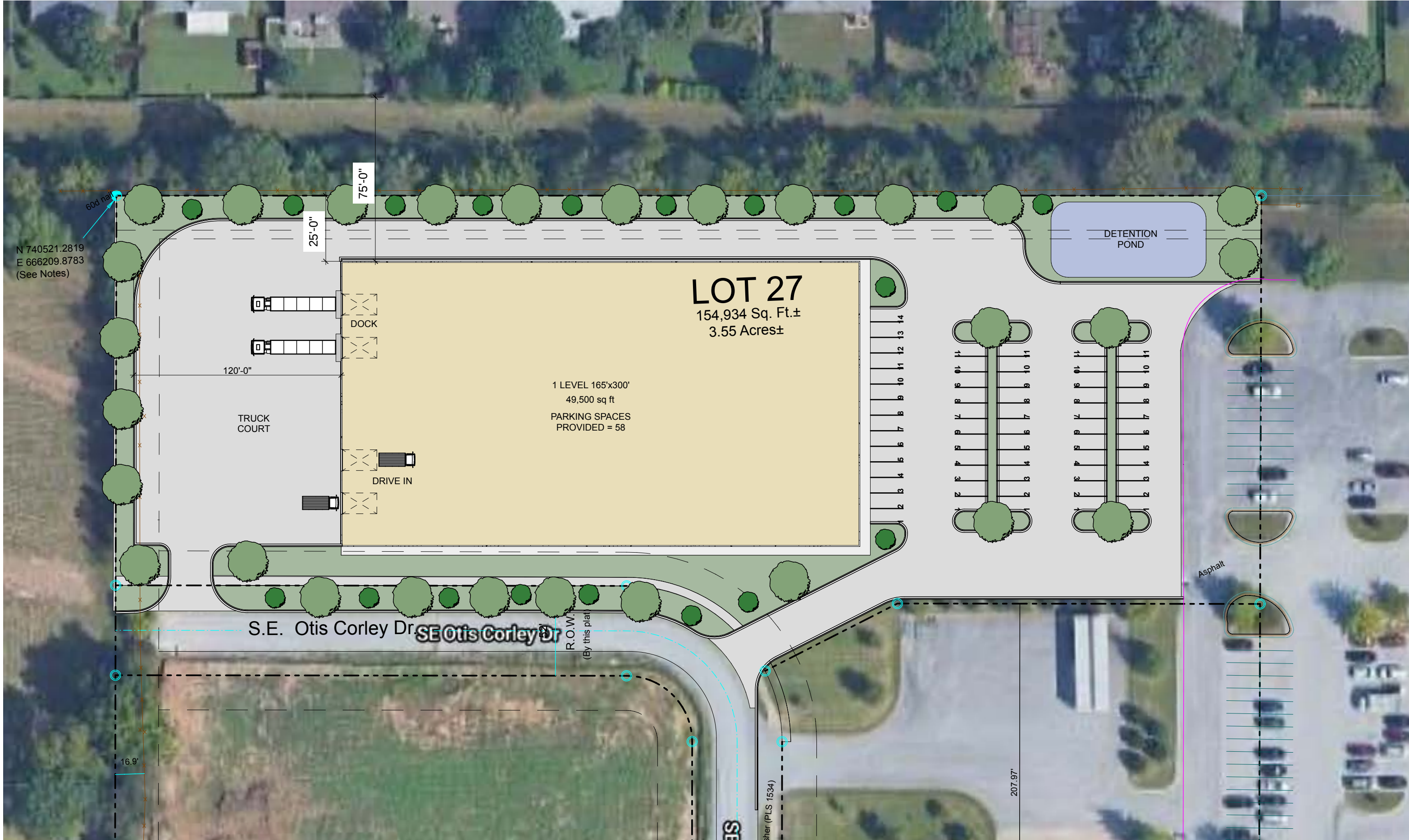
This request is made in good faith on behalf of ownership and design team. This request meets the intent of the code.

If you have any further questions or concerns, please contact me at jbirke@ecologicaldg.com or 479.799.7620.

Sincerely,

A handwritten signature in black ink, appearing to read 'JBirke'.

James Birke
Landscape Designer
Ecological Design Group, Inc.



SITE PLAN

SCALE: 1" = 50'