



City of Portland, Oregon
Bureau of Development Services
Land Use Services

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Date: April 22, 2009
To: Interested Person
From: Justin Fallon Dollard, Land Use Services
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NOTICE OF A TYPE I DECISION ON A PROPOSAL IN YOUR NEIGHBORHOOD

The Bureau of Development Services has approved a proposal in your neighborhood. The reasons for the decision are included in this notice. If you disagree with the decision, you can appeal it to the Oregon Land Use Board of Appeals (LUBA) at 550 Capitol St. NE, Suite 235, Salem, OR 97301. The phone number for LUBA is 1-503-373-1265. Information on how to appeal this decision is listed at the end of this notice.

CASE FILE NUMBER: LU 09-104946 LDP

GENERAL INFORMATION

Applicant: Frederick G Shervey,
Po Box 86320
Portland, OR 97286

Representative: Steve Buckles, 503-408-1507
Repetto And Associates Inc
12730 SE Stark St
Portland OR 97233

Site Address: Vacant lot near East Burnside and SE 119th Ave

Legal Description: EXC S 120' LOT 21&22 BLOCK 27, VENTURA PK
Tax Account No.: R858712840
State ID No.: 1N2E34DD 01200
Quarter Section: 3042

Neighborhood: Hazelwood, contact Arlene Kimura at 503-252-9429.
Business District: Gateway Area Business Association, contact Fred Sanchez at 503-256-3910.
District Coalition: East Portland Neighborhood Office, contact Richard Bixby at 503-823-4550.

Plan District: East Corridor

Zoning: R1d, Residential 1,000 with Design Overlay Zone
Case Type: LDP, Land Division Partition
Procedure: Type I, an administrative decision with appeal to the Oregon Land Use Board of Appeals (LUBA).

This partition is reviewed through a Type I land use review because: (1) fewer than four lots are proposed; (2) none of the lots, utilities, or services are proposed within a Potential Landslide Hazard or Flood Hazard Area; (3) no other concurrent Type I, II, or IIX land use

reviews, except Environmental Review, are requested or required; and (4) an Environmental Review is not required (see 33.660.662). For purposes of State Law, this land division is considered a partition. To partition land is to divide an area or tract of land into two or three parcels within a calendar year (See ORS 92.010).

Proposal:

The applicant proposes to divide the existing 3,984 square feet lot into two parcels. Parcel 1 will measure approximately 1,997 square feet in size. Parcel 2 will measure approximately 1,987 square feet.

Relevant Approval Criteria:

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

- 33.660.120 Approval Criteria for Land Divisions in Open Space and Residential Zones.

ANALYSIS

Site and Vicinity: The site is a 3,984 square feet lot located on the south side of East Burnside Street, and approximately 50 feet west of SE 119th Avenue. The lot is currently vacant. Existing development in the immediate area is generally characterized by a mix of single-dwelling residences and multi-dwelling apartment complexes, on lots ranging from 1,600 square feet in area to more than 10,000 square feet in area. The site is located in the Ventura Park Pedestrian District. Burnside is classified in the Transportation System Plan as a Neighborhood Collector traffic street, Regional Transitway, Bikeway/Walkway, Truck Access, and Community Corridor.

Zoning: R1 zone. The R1 zone is a medium density multi-dwelling zone. It allows approximately 43 units per acre. Density may be as high as 65 units per acre if amenity bonus provisions are used. Allowed housing is characterized by one to four story buildings and a higher percentage of building coverage than in the R2 zone. The major type of new housing development will be multi-dwelling structures (condominiums and apartments), duplexes, townhouses, and rowhouses. Generally, R1 zoning will be applied near Neighborhood Collector and District collector streets, and local streets adjacent to commercial areas and transit streets.

The Design Overlay Zone [d] promotes the conservation, enhancement, and continued vitality of areas of the City with special scenic, architectural, or cultural value. This is achieved through the creation of design districts and applying the Design Overlay Zone as part of community planning projects, development of design guidelines for each district, and by requiring design review or compliance with the Community Design Standards. In addition, design review or compliance with the Community Design Standards ensures that certain types of infill development will be compatible with the neighborhood and enhance the area.

Land Use History: City records indicate no prior land use reviews.

Agency and Neighborhood Review: A Notice of Proposal in your Neighborhood was mailed on February 17, 2009.

1. Agency Review: Several Bureaus and agencies have responded to this proposal. Please see Exhibits E for details. The comments are addressed under the appropriate criteria for review of the proposal.

2. Neighborhood Review: No written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal.

APPROVAL CRITERIA

APPROVAL CRITERIA FOR LAND DIVISIONS IN OPEN SPACE AND RESIDENTIAL ZONES

33.660.120 The Preliminary Plan for a land division will be approved if the review body finds that the applicant has shown that all of the following approval criteria have been met.

The relevant criteria are found in Section **33.660.120 [A-L], Approval Criteria for Land Divisions in Open Space and Residential Zones**. Due to the specific location of this site, and the nature of the proposal, some of the criteria are not applicable. The following table summarizes the applicability of each criterion.

Criterion	Code Chapter	Topic	Applicability Findings
A	33.612	Lots	Applicable - See findings below
B	33.630	Trees	Not applicable - No significant trees or trees in excess of 6 inches in diameter located fully on the site/outside of the environmental zone on the site.
C	33.631	Flood Hazard Area	Not applicable - The site is not within the flood hazard area.
D	33.632	Potential Landslide Hazard Area	Not applicable - The site is not within the potential landslide hazard area.
E	33.633	Phased Land Division or Staged Final Plat	Not applicable - A phased land division or staged final plat has not been proposed.
F	33.634	Recreation Area	Not applicable - This is not required where the proposed density is less than 40 units.
G	33.635 .100	Clearing and Grading	Applicable - See findings below.
G	33.635 .200	Land Suitability	Applicable - See findings below.
H	33.636	Tracts and Easements	Applicable - See findings below.
I	33.639	Solar Access	Not Applicable - All of the proposed parcels are interior lots (not on a corner). In this context, solar access standards express no lot configuration preference.
J	33.640	Streams, Springs, and Seeps	Not applicable - No streams, springs, or seeps are evident on the site.
K	33.641	Transportation Impacts	Applicable - See findings below
L	33.651 - 33.654	Services and Utilities	Applicable - See findings below

Applicable Approval Criteria are:

A. Lots. The standards and approval criteria of Chapters 33.605 through 33.612 must be met.

Findings: Chapter 33.612 contains the lot standards applicable in the Multi-dwelling zones. These density and lot dimension standards ensure that lots are consistent with the desired character of each zone while allowing lots to vary in size and shape provided the planned intensity of each zone is respected.

Density Standards

Density standards match housing density with the availability of services and with the carrying capacity of the land in order to promote efficient use of land, and maximize the benefits to the public from investment in infrastructure and services. These standards promote development opportunities for housing and promote urban densities in less developed areas. Maximum densities ensure that the number of lots created does not exceed the intensity planned for the area, given the base zone, overlay zone, and plan district regulations. Minimum densities ensure that enough dwelling units can be developed to accommodate the projected need for housing.

When single-dwelling or duplex development is proposed for some or all of the site, the applicant must show how the proposed lots can meet minimum density and not exceed the maximum density stated in Table 120-3. When development other than single-dwelling or duplex development is proposed, minimum and maximum density must be met at the time of development

The total site area shown on the applicant's survey is 3,984 square feet. Site area devoted to streets is subtracted from the total site area in order to calculate the minimum and maximum density. No new streets or public street dedications are proposed with this land division.

In the R1 zone, if the site is less than 10,000 square feet in area, the minimum density is 1 unit per 2,000 square feet. Therefore, the density requirements for this site are calculated as follows:

Minimum = 3,984 sf. (site area) ÷ 2,000 sf. (minimum density from 33.120.205.C.2.) = 1.992 (which rounds up to a minimum of 2 units, per 33.930.020.A).

Maximum = 3,984 sf. (site area) ÷ 1,000 (maximum density from Table 120-3) = 3.984 (which rounds up to a maximum of 4 units, per 33.930.020.B).

In this case, Parcels 1 and 2 are proposed for single dwelling development. *The minimum and maximum density standards are therefore met.*

In this zone, there are no minimum lot area requirements for lots designated for attached houses, detached houses, or duplexes. *For this reason, it is necessary to condition the minimum and maximum density allowance on each lot in the land division, to avoid further division of lots in the future that could result in non-compliance with the overall density requirements of the site as it exists in this proposal.*

Lot Dimensions

The lot dimensional standards ensure that: (1) Each lot has enough room for development that meets all the requirements of the zoning code; (2) Lots are an appropriate size and shape so that development on each lot can be oriented toward the street as much as possible; (3) The multi-dwelling zones can be developed to full potential; and (4) Housing goals for the City are met.

The dimensions of the proposed lots as compared to the required lot dimension standards is shown in the following table (this information is found in Table 612-1/ Chapter 33.612 of the Zoning Code):

	R1 Zone Requirement	Proposed Parcel 1	Proposed Parcel 2
Lots for Detached Houses			
Minimum Lot Area	none	1997 sf.	1987 sf.
Minimum Lot Width*	25 ft.	25 ft.	25 ft.
Minimum Lot Depth	none	79.88 ft.	79.48 ft.

Minimum Front Lot Line	25 ft.	25 ft.	25 ft.
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*Width is measured from the midpoints of opposite lot lines.

With the conditions of approval described above, this criterion is therefore met.

G. Clearing, Grading and Land Suitability. The approval criteria of Chapter 33.635, Clearing, Grading and Land Suitability must be met.

The approval criteria of Chapter 33.635 are found in two groups – clearing and grading, and land suitability.

33.635.100 – Clearing and Grading

- A. Existing contours and drainage patterns of the site must be left intact wherever practicable. Where alteration to existing drainage patterns is proposed, it must not adversely impact adjacent properties by significantly increasing volume of runoff or erosion;**
- B. Clearing and grading should be sufficient for construction of development shown on the Preliminary Clearing and Grading Plan;**
- C. Clearing and grading should be limited to areas of the site that are reasonably necessary for construction of development shown on the Preliminary Clearing and Grading Plan;**
- D. Topsoil must be preserved on site to the extent practicable for use on the site after grading is complete; and**
- E. Soil stockpiles must be kept on the site and located in areas designated for clearing and grading as much as is practicable.**

Findings: The regulations of Chapter 33.635 ensure that the proposed clearing and grading is reasonable given the infrastructure needs, site conditions, tree preservation requirements, and limit the impacts of erosion and sedimentation to help protect water quality and aquatic habitat. In this case the site is primarily flat, and is not located within a Potential Landslide Hazard Area. Therefore, no significant clearing or grading will be required on the site to make the new lots developable. In addition, there are no trees required to be preserved in the areas where new development on the site is anticipated. *This criteria is met.*

33.635.200 – Land Suitability

Where geologic conditions or historic uses of the site indicate a hazard may exist, the applicant must show that the proposed land division will result in lots that are suitable for development. The applicant may be required to make specific improvements in order to make the lots suitable for their intended uses and the provision of services and utilities.

The site is currently vacant, and there is no record of any other use in the past. As indicated above, the site is relatively flat and contains no known geological hazards. Therefore, there are no anticipated land suitability issues and the new lots can be considered suitable for new development. *This criterion is met.*

H. Tracts and easements. The standards of Chapter 33.636, Tracts and Easements must be met;

33.636.100 Requirements for Tracts and Easements

A. Ownership of tracts. Tracts must be owned as follows unless otherwise specified in this Title or the land use decision:

- 1. The owners of property served by the tract, or by any other individual or group of people. When the tract is owned by more than one person it must be held in common with an undivided interest;**

2. **The Homeowners' Association for the area served by the tract;**
3. **A public or private non-profit organization; or**
4. **The City or other jurisdiction.**

Findings: No tracts are proposed or required for this land division. *Therefore, Criterion A does not apply.*

B. Maintenance agreement. The applicant must record with the County Recorder a maintenance agreement that commits the owners or owners' designee to maintain all elements of the tract or easement; however, facilities within the tract or easement that will be maintained by a specified City agency may be recorded in a separate maintenance agreement. The maintenance agreement must be approved by BDS and the City Attorney in advance of Final Plat approval and must be submitted to the County Recorder to be recorded with the Final Plat. For a Planned Development not done in conjunction with a land division, the maintenance agreement must be submitted to the County Recorder to be recorded prior to issuance of the first building permit related to the development.

Findings: The following easement is proposed for this land division:

- A Reciprocal Access Easement is proposed to allow shared use of a driveway that will straddle a proposed lot line.

As stated in Section 33.636.100 of the Zoning Code, a maintenance agreement will be required describing maintenance responsibilities for the easement described above and facilities within those areas. This criterion can be met with the condition that a maintenance agreement is prepared and recorded with the final plat. In addition, the plat must reference the recorded maintenance agreement with a recording block for each agreement, substantially similar to the following example:

"A Declaration of Maintenance agreement for a Reciprocal Access Easement has been recorded as document no. _____, Multnomah County Deed Records."

With the conditions of approval discussed above, this criterion is met.

K. Transportation impacts. The approval criteria of Chapter 33.641, Transportation Impacts, must be met; and,

The relevant approval criteria of Chapter 33.641 are found in the two paragraphs below.

33.641.020. The transportation system must be capable of safely supporting the proposed development in addition to the existing uses in the area. Evaluation factors include: street capacity and level-of-service; vehicle access and loading; on-street parking impacts; the availability of transit service and facilities and connections to transit; impacts on the immediate and adjacent neighborhoods; and safety for all modes.

33.641.030. The applicant may meet the criterion in Section 33.641.020, above, by including mitigation measures as part of the land division proposal. Mitigation measures must be acceptable to the City Engineer and may include providing transportation demand management measures, an access management plan, constructing streets or bicycle, pedestrian, or transit facilities on or off the site or other capital improvement projects such as traffic calming devices.

Findings: The regulations of Chapter 33.641 allow the traffic impacts caused by dividing and then developing land to be identified, evaluated, and mitigated for if necessary. Small land divisions involving only a few dwelling units may not require a formal transportation

impact study, while it might be required for larger projects (Title 17 includes technical standards describing when a more formal study is required).

The site has approximately 50 feet of frontage on East Burnside Street and is located approximately 50 feet west of SE 119th Avenue. The site is located in the Ventura Park Pedestrian District. Burnside is classified in the Transportation System Plan as a Neighborhood Collector traffic street, Regional Transitway, Bikeway/Walkway, Truck Access, and Community Corridor. Light rail divides the roadway, one travel lane each way with striped bike lanes. Tri-Met provides peak-hour transit service via the Blue Line Max light rail directly adjacent the site. The site is therefore considered well served by mass transit and no off-street parking is required at the time of development. No on-street parking is currently allowed on either side of East Burnside. The site is vacant and there are no existing off-street parking spaces on the site or available access via a curb cut.

East Burnside is fully improved with a paved roadway, curbs, planting strips, and sidewalks. In reviewing this land division, Portland Transportation relies on accepted civil and traffic engineering standards and specifications to determine if existing street improvements for motor vehicles, pedestrians and bicyclists can safely and efficiently serve the proposed new development. Portland Transportation has made the following comments in response to the proposed partition:

- A 15 feet wide pedestrian corridor with a 4 feet wide planting strip and a 8 feet wide sidewalk is the recommended section. There appears to be very close to 15 feet currently from the face of the curb to the property line, so little if any dedication would be required. A survey will be necessary to determine exactly what the dimension is from face of curb to property line. The survey at final plat must show any dedication needed to provide 15 feet of right-of-way from the face of the curb to the property line. As a condition of building permit approval, the applicant will be required to construct an 8 feet wide sidewalk separated from the curb by a 4 feet planting strip.
- In order to prevent vehicles accessing the site from backing out onto Burnside, the applicant is proposing a shared 10 feet wide reciprocal easement to allow parking spaces to be provided behind the new residences. At building permit submittal, the site plan must show a parking plan that allows vehicles to enter and exit the site in a forward manner.
- The addition of two detached residential units will result in approximately 20 daily vehicle trips with 2 of those trips occurring in the AM and PM peak hours. These peak hour trips are insignificant and not expected to create any Loss of Capacity issues. The transportation system will be capable of safely serving the proposed development in addition to existing uses in the area.

This criterion is met, with the condition that curb and sidewalk improvements are made at the time of building permit, and any required right-of-way dedication is shown on the Final Plat.

L. Services and utilities. The regulations and criteria of Chapters 33.651 through 33.654, which address services and utilities, must be met.

Findings: Chapters 33.651 through 33.654 address water service standards, sanitary sewer disposal standards, stormwater management, utilities and rights of way.

- The water standards of 33.651 have been verified. An existing 6 inch water main is available in East Burnside Street. Water is available to serve the proposed development from the water main in East Burnside Street. See Exhibit E-3 for more details.
- The sanitary sewer standards of 33.652 have been verified. There is an existing capped lateral 119 feet east of a manhole that is west of the property in East Burnside Street. The line is in front of proposed Parcel 2 and is approximately 8.5 feet deep and 73 feet

long. Proposed Parcel 1 will be allowed to make its sanitary connection via a newly constructed wye to the existing sanitary branch in front of the proposed Parcel 2 at the time of development. See Exhibit E-1 for more details.

- The technical standards of Chapter 33.653 related to stormwater management have been verified. The findings below for the Stormwater Management Approval Criteria of 33.653.020 incorporate a discussion of how the technical standards have been satisfied by the applicant's stormwater proposal.

Chapter 33.654 includes technical standards related to proposed public and private rights of way, including improvements within streets, pedestrian connections, common greens, and alleys. However, no new streets, pedestrian connections, common greens, or alleys are proposed or required within the land division site. *As result, the remaining standards and approval criteria related to street connectivity, location, and design are met or not applicable.*

33.653.020 Stormwater Management Approval Criteria

- A. If a stormwater tract is proposed or required, an adequate amount of land and an appropriate location must be designated on the Preliminary Plan; and**
- B. The application must show that a stormwater management system can be designed that will provide adequate capacity for the expected amount of stormwater.**

Findings: No stormwater tract is proposed or required. *Therefore, criterion A is not applicable.*

The City of Portland requires that stormwater from development be cleaned and disposed of in a manner that meets the requirements of the City's Stormwater Management Manual. In order to meet this approval criterion, land division proposals must demonstrate an approved method of cleaning (water quality treatment), detention (delayed release), and an approved disposal point.

The Stormwater Management Manual contains a hierarchy of acceptable methods of stormwater treatment and disposal. The hierarchy requires that applicants first explore the use of methods that have a lower potential impact on groundwater, such as on-site surface infiltration swales and infiltration planters. If these methods are not feasible on a site, applicants may move lower on the hierarchy, to methods that inject water deeper into the ground through mechanical devices such as drywells or sumps, or carry it off of the site into storm sewers, drainageways, or other approved disposal points.

In addition to determining appropriate treatment and disposal methods by working through the hierarchy in the Stormwater Management Manual, stormwater facilities must be sized, through engineering calculations, to accommodate the expected amounts of stormwater. In some cases, sizing a stormwater facility necessitates testing the infiltration rate of the soil at the site.

The applicant has proposed the following stormwater management methods (Exhibit C-1), and the Bureaus have responded as follows (Exhibits E-1 and E-5):

- **Public Street Improvements:** As a condition of this land use approval, the Office of Transportation will require the applicant to improve the frontage of the site to City standards (discussed earlier in this report) at the time of development. A new sidewalk and planting strip will be required, but the curb already exists. BES has indicated that the sidewalk must be constructed so that it will slope towards the planter strip, allowing the stormwater runoff from the sidewalk to be deposited in a vegetated area, which meets the requirements of the Stormwater Management Manual.

- Parcels 1 & 2:** Stormwater from these lots will be directed to individual drywells that will treat the water and slowly infiltrate it into the ground. Each of these lots has sufficient area for a stormwater facility that can be adequately sized and located to meet setback standards, and accommodate water from a reasonably-sized home. Site Development has indicated conceptual approval of the drywells. A stormwater management facility was not indicated for the proposed shared driveway. Therefore, to ensure that the size and setback requirements of the Stormwater Management Manual can be met, specific information regarding the existing building locations, future building footprints and the location for stormwater facilities, including the stormwater facility required for the proposed shared driveway, shall be provided on the supplemental site plan prior to final plat approval.

With the conditions of approval described above, the stormwater management criteria are met. As shown by the findings above, the Services and Utilities criteria are met.

DEVELOPMENT STANDARDS

General Information about Development Standards and Approval Criteria. The Zoning Code contains two types of regulations: Development standards and Approval criteria.

Approval criteria, such as those listed earlier in this report, are administered through a land use review process. Approval criteria are regulations where the decision-maker must exercise discretion to determine if the regulation is met. Public notice is provided and public comments received that address the approval criteria are addressed in the decision.

Development Standards: Development standards are clear and objective regulations (for example: building setbacks; number of required parking spaces; and maximum floor area). Compliance with development standards is reviewed as part of the administrative permitting process and are not considered to be discretionary reviews. Development standards that are not relevant to the land division review, have not been addressed in the review, but will have to be met at the time that each of the proposed lots is developed.

Section 33.120.270.D of the Zoning Code allows reduced side setbacks (3 feet from property lines) for detached houses in the multi-dwelling zones on lots that are at least 25 feet wide. This allowance only applies to the setbacks that are interior to the site. The setbacks around the perimeter of the land division site are that of the base zone. This proposal is eligible to use these provisions. The applicant's proposed improvements plan indicates 5 feet setbacks on the interior lot line (C-2). **If the applicant intends to use the reduced setback allowance stated in Section 33.120.270.D., then this allowance must occur at the time of final plat approval and a supplemental survey is required that shows the proposed building footprints, the reduced side setbacks, the shared driveway; and required stormwater management facilities.** The minimum width for a shared driveway is 9 feet. The maximum setback in the R2 zone is 20 feet for a site adjacent a Transit Street or located in a Pedestrian District.

Note: No off-street parking is required per 33.266.110.B.3. Exceptions for sites well served by mass transit.

With the conditions noted above, this land division proposal can meet the requirements of 33.700.015.

OTHER TECHNICAL REQUIREMENTS

Technical decisions have been made as part of this review process. These decisions have been made based on other City Titles, adopted technical manuals, and the technical expertise of appropriate service agencies. These related technical decisions are not considered land use actions. If future technical decisions result in changes that bring the project out of conformance with this land use decision, a new land use review may be

required. The following is a summary of technical service standards applicable to this preliminary partition proposal.

Bureau	Code Authority	Topic	Contact Information
Water Works	Title 21	Water availability	503-823-7404 http://www.water.ci.portland.or.us/
Environmental Services	Title 17; 2002 Stormwater Manual	Sewer availability Stormwater Management	503-823-7740 http://www.bes.ci.portland.or.us/
Fire Bureau	Title 31 Policy B-1	Emergency Access	503-823-3700 http://www.fire.ci.portland.or.us/
Transportation	Title 17, Transportation System Plan	Design of public street	503-823-5185 http://www.trans.ci.portland.or.us/
Development Services	Titles 24 –27, Admin Rules for Private Rights of Way	Building Code, Erosion Control, Flood plain, Site Development & Private Streets	503-823-7300 http://www.bds.ci.portland.or.us.

As authorized in Section 33.800.070 of the Zoning Code conditions of approval related to these technical standards have been included in the Administrative Decision on this proposal.

CONCLUSIONS

The applicant has proposed a 2-lot partition, as shown on the attached preliminary plan (Exhibit C-1). As discussed in this report, the relevant standards and approval criteria have been met, or can be met with conditions.

With conditions of approval that address these requirements this proposal can be approved.

ADMINISTRATIVE DECISION

Approval of a Preliminary Plan for a 2 parcel partition, that will result in 2 lots for detached housing as illustrated with Exhibit C-1, subject to the following conditions:

A. Supplemental Plan. Three copies of an additional supplemental plan shall be submitted with the final plat survey for Land Use Review, BES, and PDOT review and approval. That plan must portray how the conditions of approval listed below are met. In addition, the supplemental plan must show the surveyed location of the following:

- Any buildings or accessory structures on the site at the time of the final plat application;
- Any driveways and off-street vehicle parking areas on the site at the time of the final plat application;
- The proposed interior side setbacks for all of the lots if the reduced setback provisions of Section 33.120.270.D.1 are intended to be used.
- The proposed general location of future building footprints, shared driveway and stormwater facilities for each of the lots and the share driveway.
- Any other information specifically noted in the conditions listed below.

B. The final plat must show the following:

1. The applicant shall meet the street dedication requirements of the City Engineer for East Burnside Street. The required right-of-way dedication must be shown on the final plat.
2. A 10-foot wide Reciprocal Access Easement shall be shown and labeled on the final plat, centered on the common property line between Parcel 1 and Parcel 2. The easement

shall allow shared use of this area for all of the purposes that a driveway would be typically used for.

- 3. A recording block for each of the legal documents such as maintenance agreement as required by Condition C-2 below. The recording block shall, at a minimum, include language substantially similar to the following example: *“A Declaration of Maintenance Agreement for a Shared Access Easement” has been recorded as document no. _____, Multnomah County Deed Records.”*

C. The following must occur prior to Final Plat approval:

Streets

- 1. The applicant shall meet the requirements of the City Engineer for right of way improvements along the frontage of East Burnside Avenue. The applicant must obtain an approved Right Of Way permit from the Bureau of Transportation Engineering and Development Review to install the required sidewalk and planter strip.

Required Legal Documents

- 2. A Maintenance Agreement shall be executed for the Reciprocal Access Easement area described in Condition B-2 above. The agreement shall include provisions assigning maintenance responsibilities for the easement area and any shared facilities within that area, consistent with the purpose of the easement, and all applicable City Code standards. The agreement must be reviewed by the City Attorney and the Bureau of Development Services, and approved as to form, prior to final plat approval.

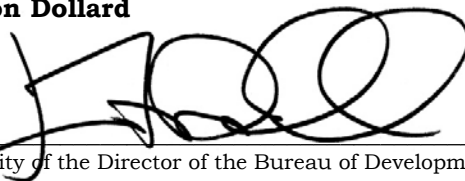
D. The following conditions are applicable to site preparation and the development of individual lots:

- 1. The minimum and maximum density for the lots in this land division are as follows:

Parcel	Minimum Density	Maximum Density
1	1	2
2	1	2

- 2. If the applicant intends to use the reduced setback allowance stated in Section 33.120.270.D., then this allowance must occur at the time of final plat approval and a supplemental survey is required that shows the proposed building footprints, the reduced side setbacks, the shared driveway; and required stormwater management facilities.

Staff Planner: Justin Fallon Dollard



Decision rendered by: _____ **on April 17, 2009**

By authority of the Director of the Bureau of Development Services

Decision mailed: April 22, 2009

About this Decision. This land use decision is **not a permit** for development. A Final Plat must be completed and recorded before the proposed lots can be sold or developed. Permits may be required prior to any work. Contact the Development Services Center at 503-823-7310 for information about permits.

Procedural Information. The application for this land use review was submitted on January 27, 2009, and was determined to be complete on February 12, 2009.

Zoning Code Section 33.700.080 states that Land Use Review applications are reviewed under the regulations in effect at the time the application was submitted, provided that the application is complete at the time of submittal, or complete within 180 days. Therefore this application was reviewed against the Zoning Code in effect on January 27, 2009.

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.

Some of the information contained in this report was provided by the applicant.

As required by Section 33.800.060 of the Portland Zoning Code, the burden of proof is on the applicant to show that the approval criteria are met. The Bureau of Development Services has independently reviewed the information submitted by the applicant and has included this information only where the Bureau of Development Services has determined the information satisfactorily demonstrates compliance with the applicable approval criteria. This report is the decision of the Bureau of Development Services with input from other City and public agencies.

Conditions of Approval. If approved, this project may be subject to a number of specific conditions, listed above. Compliance with the applicable conditions of approval must be documented in all related permit applications. Plans and drawings submitted during the permitting process must illustrate how applicable conditions of approval are met. Any project elements that are specifically required by conditions of approval must be shown on the plans, and labeled as such.

These conditions of approval run with the land, unless modified by future land use reviews. As used in the conditions, the term “applicant” includes the applicant for this land use review, any person undertaking development pursuant to this land use review, the proprietor of the use or development approved by this land use review, and the current owner and future owners of the property subject to this land use review.

This decision, and any conditions associated with it, is final. It may be appealed to the Oregon Land Use Board of Appeals (LUBA), within 21 days of the date the decision is mailed, as specified in the Oregon Revised Statute (ORS) 197.830. Among other things, ORS 197.830 requires that a petitioner at LUBA must have submitted written testimony during the comment period for this land use review. You may call LUBA at 1-503-373-1265 for further information on filing an appeal.

The file and all evidence on this case is available for your review by appointment. Please contact the receptionist at 503-823-7967 to schedule an appointment. Copies of all information in the file can be obtained for a fee equal to the cost for such services. You may also find additional information about the City of Portland and City Bureaus, as well as a digital copy of the Portland Zoning Code, by visiting the City’s homepage on the Internet at www.portlandonline.com.

Recording the land division. The final land division plat **must** be submitted to the City **within three years** of the date of the City’s final approval of the preliminary plan. This final plat must be recorded with the County Recorder and Assessors Office after it is signed by the Planning Director or delegate, the City Engineer, and the City Land Use Hearings Officer, and approved by the County Surveyor. **The approved preliminary plan will expire unless a final plat is submitted within three years of the date of the City’s approval of the preliminary plan.**

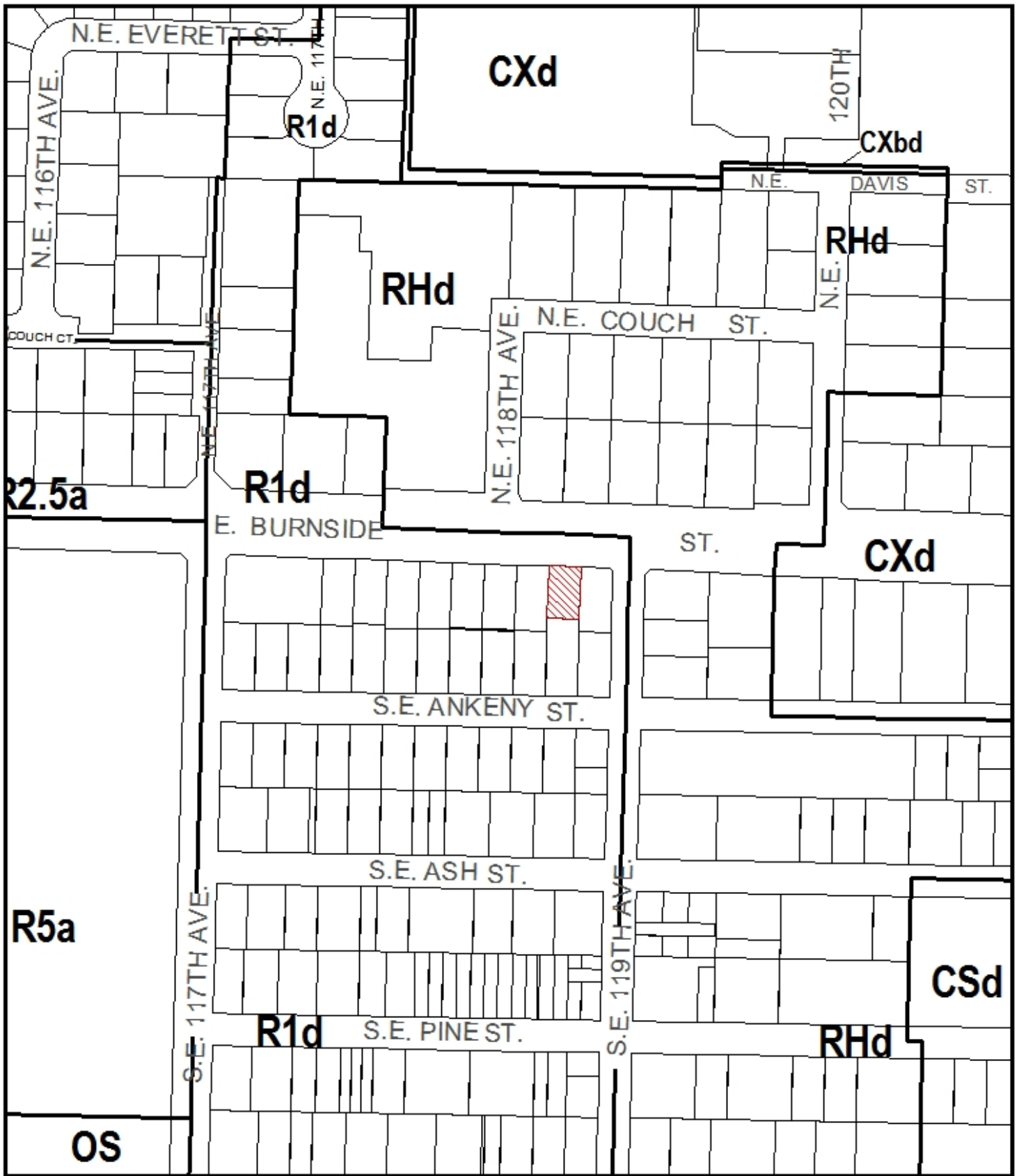
EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant’s Statement
- B. Zoning Map (attached)

- C. Plans/Drawings:
 - 1. Preliminary Plan (attached)
 - 2. Development Plan (attached)
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Environmental Services
 - 2. Bureau of Transportation Engineering and Development Review
 - 3. Water Bureau
 - 4. Fire Bureau
 - 5. Site Development Review Section of BDS
 - 6. Bureau of Parks, Forestry Division
- F. Correspondence: None.
- G. Other:
 - 1. Original LU Application
 - 2. Site History Research

The Bureau of Development Services is committed to providing equal access to information and hearings. If you need special accommodations, please call 503-823-7300 (TTY 503-823-6868).



ZONING

 Site

File No. LU 09-104946 LDP

1/4 Section 3042

Scale 1 inch = 200 feet

State_Id 1N2E34DD 1200

Exhibit B (Jan 28,2009)



NORTH

This site lies within the:
EAST CORRIDOR PLAN DISTRICT

PRELIMINARY PLAN

EXISTING CONDITIONS AND UTILITY PLAN

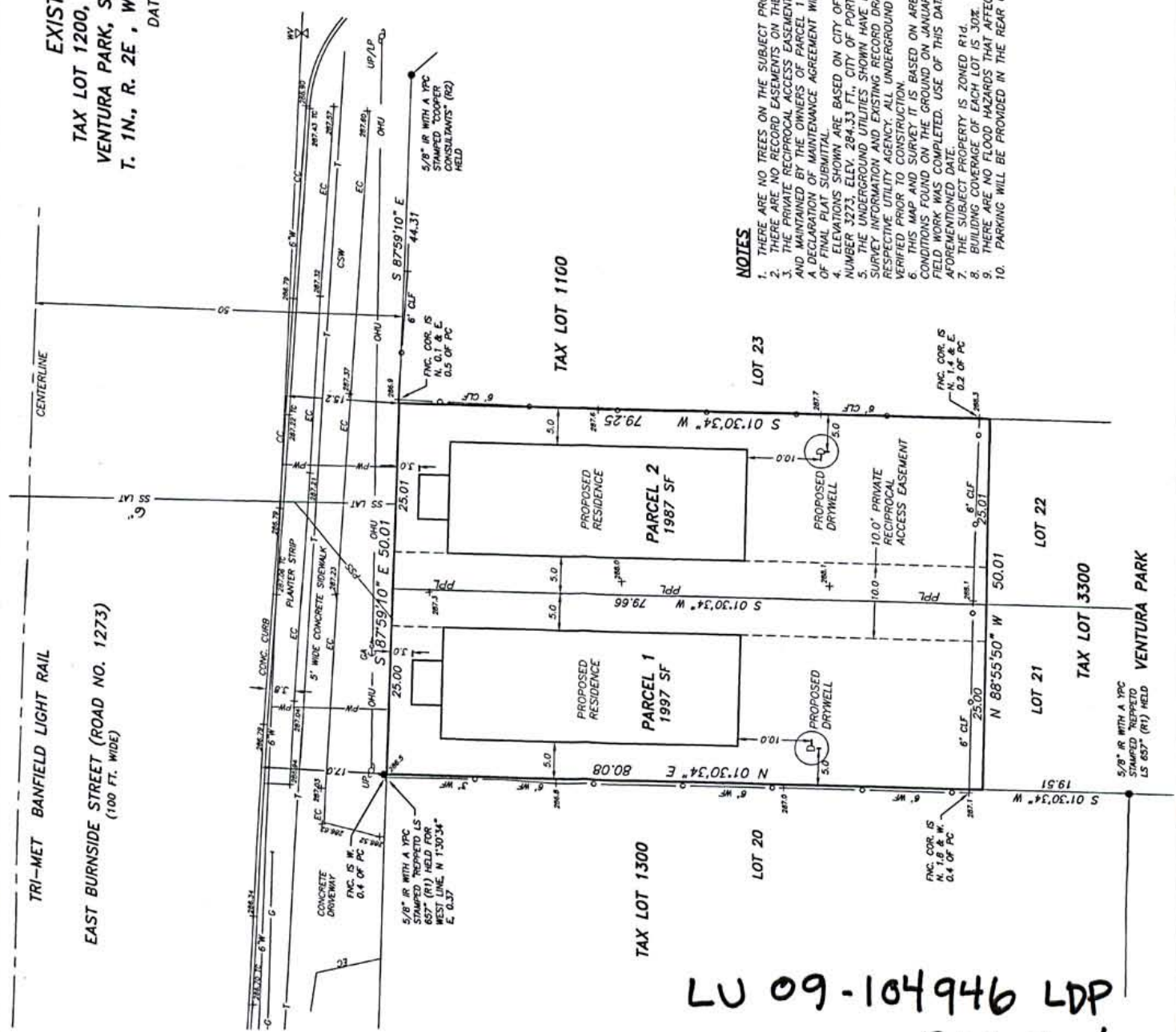
TAX LOT 1200, BEING A PORTION OF LOTS 21 AND 22, BLOCK 27, VENTURA PARK, SITUATED IN THE SOUTHEAST QUARTER OF SECTION 34, T. 1N., R. 2E., W.M., CITY OF PORTLAND, MULTNOMAH COUNTY, OREGON

DATE: JANUARY 27, 2009 SCALE: 1"=10'
FOR: RICK SHERVEY



LEGEND

- = MONUMENT FOUND AS NOTED.
- CC = CONCRETE CURB
- CLF = CHAIN LINK FENCE
- CSW = CONCRETE SIDEWALK
- EC = EDGE OF CONCRETE
- G = GAS LINE
- GA = GUY ANCHOR
- IP = IRON PIPE
- IR = IRON ROD
- M.C.D.R. = MULTNOMAH COUNTY DEED RECORDS
- OHU = LIGHT POLE UTILITY LINES
- OU = ORIGIN UNKNOWN
- P1 = PLAT OF VENTURA PARK
- PC = PROPERTY CORNER
- PPL = PROPOSED PROPERTY LINE
- PSS = PROPOSED SANITARY SERVICE
- PW = PROPOSED WATER SERVICE
- R1 = SN 44584
- R2 = SN 49826
- R3 = SN 17677
- R4 = SN 40076
- R5 = SN 47473
- R6 = SN 59440
- R7 = SN 14490
- SF = SQUARE FEET
- SN = SURVEY NUMBER, MULTNOMAH COUNTY SURVEY RECORDS
- SS LAT = SANITARY SEWER SERVICE LATERAL
- T = UNDERGROUND TELEPHONE LINE
- TSP = TIED SPIN POINT
- UP = UTILITY POLE
- WF = WOOD FENCE
- WV = WATER VALVE
- YPC = YELLOW PLASTIC CAP
- () = RECORD INFORMATION



NOTES

1. THERE ARE NO TREES ON THE SUBJECT PROPERTY.
2. THERE ARE NO RECORD EASEMENTS ON THE SUBJECT PROPERTY.
3. THE PRIVATE RECIPROCAL ACCESS EASEMENT SHALL BE EQUALLY OWNED AND MAINTAINED BY THE OWNERS OF PARCEL 1 AND PARCEL 2.
4. A DECLARATION OF MAINTENANCE AGREEMENT WILL BE PROVIDED AT THE TIME OF FINAL PLAT SUBMITTAL.
5. ELEVATIONS SHOWN ARE BASED ON CITY OF PORTLAND BENCH MARK NUMBER 3273, ELEV. 284.33 FT., CITY OF PORTLAND DATUM.
6. THE UNDERGROUND UTILITIES SHOWN HAVE BEEN LOCATED FROM FIELD SURVEY INFORMATION AND EXISTING RECORD DRAWINGS PROVIDED BY THE RESPECTIVE UTILITY AGENCY. ALL UNDERGROUND UTILITY LINES MUST BE VERIFIED PRIOR TO CONSTRUCTION.
7. THIS MAP AND SURVEY IT IS BASED ON ARE REPRESENTATIVE OF THE CONDITIONS FOUND ON THE GROUND ON JANUARY 23, 2009 THE DATE THE FIELD WORK WAS COMPLETED. USE OF THIS DATA IS LIMITED TO THE AFOREMENTIONED DATE.
8. THE SUBJECT PROPERTY IS ZONED R1d.
9. BUILDING COVERAGE OF EACH LOT IS 30%.
10. THERE ARE NO FLOOD HAZARDS THAT AFFECT THE SUBJECT PROPERTY. PAVING WILL BE PROVIDED IN THE REAR OF EACH PARCEL.

REGISTERED PROFESSIONAL LAND SURVEYOR

 OREGON
 JULY 11, 1993
 STEVEN P. BUCKLES
 2231
 RENEWABLE: 12/31/09

REVISED:

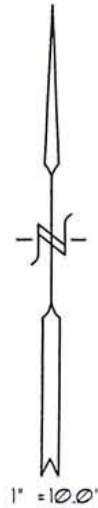
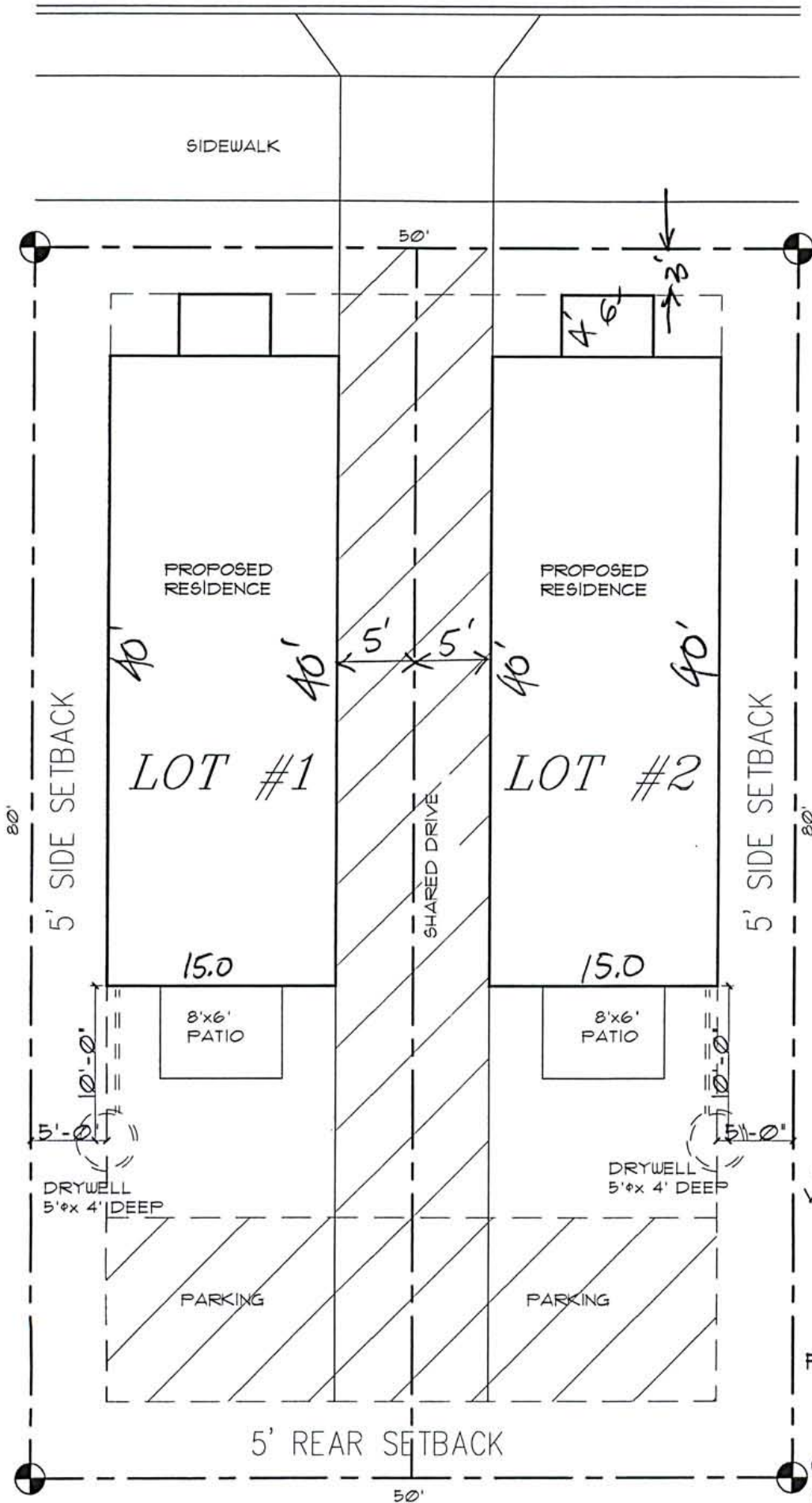
REPPETO & ASSOCIATES, INC.
 LAND SURVEYORS

Plaza 125, Building G
 12730 SE Stark Street
 Portland, Oregon 97233
 Phone: (503) 408-1507
 Fax: (503) 408-2370

DATE: JAN. 27, 2009 FILE: S09001.DWG
 DRAWN BY: CJH/SFB JOB NO. 09001

LU 09-104946 LDP
EX C-1

E BURNSIDE



VENTURA PARK
CITY OF PORTLAND
VACANT LOT R293T15

FREDERICK G SHERVEY
PO BOX 86320
PORTKAND, OR 97286

CASE NO. LU09-104946LDP
EXHIBIT C-2