



City of Portland  
**Bureau of Development Services**  
Land Use Services Division

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**Date:** May 5, 2008  
**To:** Interested Person  
**From:** Rachael Hoy, Land Use Services  
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## **NOTICE OF A TYPE II<sub>x</sub> 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 and request a public hearing. Information on how to appeal this decision is listed at the end of this notice.

### **CASE FILE NUMBER: LU 07-172215 LDP**

#### **GENERAL INFORMATION**

**Applicant:** Magdalena & Ionut Pisica,  
6248 SW Hamilton Ave  
Portland OR, 97221

Joe Bec,  
12545 SE Clinton Court  
Portland, OR 97236

**Site Address:** 6248 SW Hamilton St  
**Legal Description:** TL 2100 LOT 4&13 BLOCK 1, RALEIGH HILLS  
**Tax Account No.:** R685300080; **State ID No.:** 1S1E18BB 02100  
**Quarter Section:** 3423  
**Neighborhood:** Bridlemile, contact Karen Tabata at 503-292-4377.  
**Business District:** None  
**District Coalition:** Southwest Neighborhoods Inc., contact Leonard Gard at 503-823-4592.  
**Zoning:** R10 – Residential 10,000  
**Case Type:** LDP – Land Division Partition  
**Procedure:** Type IIX, an administrative decision with appeal to the Hearings Officer.

#### **Proposal:**

The applicant is proposing to divide the existing 21,180 square foot property into two parcels. Parcel 1 is proposed to be 11,674 square feet and will retain the existing residence. Parcel 2 is proposed to be 9,350 square feet and will be available for construction of a detached house.

This partition proposal is reviewed through a Type IIX procedure because: (1) the site is in a residential zone; (2) two or three lots are proposed; and (3) the site is located within a Potential Landslide Hazard or Flood Hazard Area (see 33.660.110). 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).

**Relevant Approval Criteria:**

The relevant criteria are found in Section **33.660.120, Approval Criteria for Land Divisions in Open Space and Residential Zones.**

**ANALYSIS**

**Site and Vicinity:** The site is located on the south side of SW Hamilton Street, a two lane neighborhood collector street that is improved with center strip paving and gravel shoulders. Development in the surrounding area consists of single dwelling homes. The site generally slopes gently to the southeast, though portions have the site have steeper grades.

The site was originally developed with a single family home built in 1924. The house was converted to an adult foster home in 2005 (permit 05-123834 ET). The applicant then applied for and received a permit to add a two-story addition to the existing house (permit 06-170153 RS). In the course of construction of the addition, the remainder of the existing house was demolished, therefore requiring a permit for new single family construction. The applicant has since obtained a permit for new single family home construction on the site (permit 08-105522 RS), which is currently under inspection.

**Zoning:** The R10 designation is one of the City's single-dwelling zones which is intended to preserve land for housing and to promote housing opportunities for individual households. The zone implements the comprehensive plan policies and designations for single-dwelling housing.

**Land Use History:** City records indicate there are no prior land use reviews for this site.

**Agency and Neighborhood Review:** A Notice of Proposal in your Neighborhood was mailed on January 23, 2008.

**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:** A total of four written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal. Issues raised by neighbors and the neighborhood association include:

- Concerns that the applicant intends to develop Parcel 2 with an additional adult foster home.
- The use of adult foster homes in single dwelling zones and the affect on property values and neighborhood character.
- Increased on-street parking and traffic, associated with adult foster homes, along SW Hamilton Street.
- Concerns that stormwater from the new lots will affect adjacent lots.
- Setback requirements for new development being met.
- The demolition of the existing house without the proper permits.

**Staff Response:** The neighborhood concerns about the number of residents living in the adult foster homes in addition to visitors and caretakers are understood, however, this use is allowed in residential zones if it meets the requirements for household living under the Portland Zoning Code. Section 33.910 defines household living as "one or more persons related by blood, marriage, legal adoption or guardianship, plus not more than 5 additional persons, who live together in one dwelling unit."

The Portland Department of Transportation has indicated that adding one additional lot should not have a significant impact on transportation in the area. If adjacent neighbors are concerned about increased parking in the area PDOT has suggested contacting the City's Permit Parking

Program at 503-823-5412 or Transportation's Parking Control office at 503-823-5226 to discuss permit parking possibilities or parking enforcement issues along SW Hamilton Street.

The applicant has proposed to manage stormwater on the site with flow-through planters that outfall to the public storm sewer in SW Hamilton Street. The planters have been approved by Site Development and BES. Further discussion of stormwater management is found below under criterion L.

The site plans submitted show that the existing and proposed development will be able to meet the setback requirements of the R10 zone. Setback requirements must be met at the time of building permit.

Though the demolition of the existing house was not carried out through the proper permitting process, the applicant was issued a stop work order and has since obtained the proper permits for new single dwelling development on the site. Inspections will be carried out throughout the project for the new home.

## ZONING CODE 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	33.610	Lots	<b>Applicable - See findings below</b>
B	33.630	Trees	Not applicable - No significant trees or trees in excess of 6 inches in diameter located fully 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	<b>Applicable - See findings below.</b>
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	<b>Applicable - See findings below.</b>
G	33.635 .200	Land Suitability	<b>Applicable - See findings below.</b>
H	33.636	Tracts and Easements	<b>Applicable - See findings below.</b>

Criterion	Code Chapter	Topic	Applicability Findings
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	<b>Applicable - See findings below</b>
L	33.651 - 33.654	Services and Utilities	<b>Applicable - See findings below</b>

**Applicable Approval Criteria are:**

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

**Findings:** Chapter 33.610 contains the density and lot standards applicable in the RF through R5 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.

The method used to calculate density depends on whether a street is created as part of the land division, and whether the site is subject to certain environmental constraints.

In this case, a street is not proposed or required, but the site is within the potential landslide hazard area. Therefore, the maximum and minimum density for this site is as follows:

Minimum =  $(21,180 \text{ square feet} \text{ minus entire site area if in landslide hazard area} * .80) \div 10,000 \text{ square feet} = 0$

Maximum =  $21,180 \text{ square feet} \div 10,000 \text{ square feet} = 2.11$  (which rounds down to a maximum of 2 lots, per 33.930.020.B)

The applicant is proposing 2 lots. The density standards are therefore met.

Lot Dimensions

The lot dimension standards ensure that: (1) each lot has enough room for a reasonably-sized house and garage; (2) lots are of a size and shape that development on each lot can meet the development standards of the Zoning Code; (3) lots are not too large relative to the planned density; (4) each lot has room for at least a small, private outdoor area; (5) lots are compatible with existing lots; (6) lots are wide enough to allow development to orient toward the street; (7) lots don't narrow to an unbuildable width close to the street; (8) each lot has adequate access from the street; (9) each lot has access for utilities and services; and (10) lots are not landlocked.

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 610-2 of the Zoning Code):

	<b>R10 Zone Requirement</b>	<b>Proposed Lot 1</b>	<b>Proposed Lot 2</b>
Minimum Lot Area	6,000 sq. ft.	11,674 sq. ft.	9350 sq. ft.
Maximum Lot Area	17,000 sq. ft.		
Minimum Lot Width*	50 ft.	90 ft.	74 ft.
Minimum Lot Depth	60 ft.	130 ft.	125 ft.
Minimum Front Lot Line	30 ft.	90 ft.	74 ft.

\* Width is measured at the minimum front building setback line

The findings above describe how the applicable lot standards are met. With the conditions of approval described above, this criterion is therefore met.

### **33.632.100 Landslide Hazard Area Approval Criterion**

**The following approval criterion must be met: Locate the lots, buildings, services and utilities on the safest part of the site so that the risk of a landslide affecting the site, adjacent sites, and sites directly across a street or alley from the site, is reasonably limited.**

**Determination of whether the proposed layout and design reasonably limits the risk of a landslide will include evaluation of the Landslide Hazard Study and will take into consideration accepted industry standards for factor of safety. Alternative development options including alternative housing types and reduced density may be required in order to limit the risk to a reasonable level.**

**Findings:** A portion of this site is located within the Potential Landslide Hazard Area. The approval criteria state that the lots, buildings, services, and utilities must be located on the safest part of the site so that the risk of a landslide affecting the site, adjacent sites, and sites directly across a street or alley from the site is reasonably limited. In order to evaluate the proposal against this criteria, the applicant has submitted a geotechnical evaluation of the site and proposed land division, prepared by a Certified Engineering Geologist and a Geotechnical Engineer (Exhibit A-2). That report was evaluated by the Site Development Division of the Bureau of Development Services, the City agency that makes determinations regarding soil stability.

The applicant's geotechnical evaluation indicates that the risk of potential landslide hazard at the site is relatively low, given the soil composition, topography, and other risk factors. The proposed land division will result in one new lot and an existing single family home on the other lot. This two lot partition will not significantly increase the risk of landslide potential on the site or other properties in the vicinity of the site. The applicant's proposed method of stormwater disposal is flow through planters with overflow to the public storm sewer as discussed later in this report under the findings for "Stormwater Management Approval Criteria."

Site Development and BES have concurred with the findings of the applicant's geotechnical report, but notes that further geotechnical evaluation may be required for specific building plans at the time of construction plan review. This criterion is 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 has gradual sloping throughout the site, and is located in the Potential Landslide Hazard area. Therefore, the clearing and grading associated with preparation of the lots must occur in a way that will limit erosion concerns.

A Preliminary Clearing and Grading Plan was not submitted with the land division application however, the applicant did submit a Landslide Hazard Report (Exhibit A-2) that describes that the site has very low slope stability hazard due to the gently sloping grades across the site. This report generally recommends that the site is suitable for development and exhibits a low stability hazard.

It is anticipated that the grading will primarily involve excavating for the foundations of the new houses and trenching for the utilities, but will not include mass grading of the site to alter the existing contours. Stormwater runoff from the lots will be appropriately managed by flow-through planters with outfall to the public storm sewer in SW Hamilton Street to assure that the runoff will not adversely impact adjacent properties (see detailed discussion of stormwater management later in this report). Site Development and BES find this acceptable. They have reviewed and approved a detailed grade analysis produced by the applicant that shows that the proper connections to the storm sewer in SW Hamilton can be made and still maintain sufficient cover for utility lines (Exhibit C-2). BES recommends that all disturbed areas be planted with native shrubs to help stabilize soils to minimize erosion and to protect slope stability.

As shown above the clearing and grading anticipated to occur on the site can meet the approval criteria. At the time of building permit submittal on the individual lots a clearing, grading and erosion control plan will be submitted to the Site Development Section of the Bureau of Development Services. Site Development will review the grading plan against the applicant's Landslide Hazard Study as well as any additional geotechnical information required at the time of permit submittal to assure that the grading will not create any erosion risks. 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 in residential use, and there is no record of any other use in the past. As indicated above, the site generally slopes gently 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, so 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 easements are proposed and/or required for this land division:

- A Private Storm Sewer Easement is required across the relevant portions of Parcel 2 for the benefit of Parcel 1, for flow-through planter located on Parcel 1 to connect to the public storm sewer in SW Hamilton Street.

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(s) is prepared and recorded with the final plat. In addition, the plat must reference the recorded maintenance agreement(s) with a recording block, substantially similar to the following example:

*"A Declaration of Maintenance agreement for a storm sewer 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 163 feet of frontage on SW Hamilton Street. SW Hamilton Street is classified as Neighborhood Collector, Community Transit street, City Walkway, City Bikeway and a Local Service street for all other transportation modes in the Transportation Element of the Comprehensive Plan. Tri-Met provides transit service adjacent to the site on SW Hamilton Street via bus 55. While there are some pull off areas along SW Hamilton for parking, for the most part parking along the narrow shoulder would be difficult. However, there is a pull off area in front of the subject site which is wide enough for 2-3 cars to park. There is one driveway entering the site that provides access to off-street parking for the existing house.

SW Hamilton Street is improved with a paved roadway. There are no curbs, planter strips, or sidewalks along the frontage of the site. 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. Because none of the other frontages have been improved on this street, Portland Transportation has determined that an isolated improvement at this location would not be meaningful. If the street is to be improved, it would be more appropriate to complete the improvements as one LID project. Therefore, the applicant will be required to sign street and storm sewer waivers of remonstrance (for participation in future street and storm sewer improvements) prior to final plat approval.

PDOT has indicated that adding one additional lot should not have a significant impact on on-street parking in the area. If adjacent neighbors are concerned about increased parking in the area PDOT has suggested contacting the City's Permit Parking Program at 503-823-5412 or Transportation's Parking Control office at 503-823-5226 to discuss permit parking possibilities or parking enforcement issues along SW Hamilton Street.

This criterion is met, with the condition that the required waivers are signed prior to final plat approval.

**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 12-inch water main is available in SW Hamilton Street. Water is available to serve the proposed development



from the water main in SW Hamilton Street. Parcel 1 has an existing water service from that main.

As a result of the proposed land division, the water line that provides service to the existing home on Parcel 1 will no longer be located entirely on the same lot as the home. Title 21 requires that the water service connection be located along the frontage of the parcel to be served. Water service connections are not allowed by means of an easement. Therefore, prior to final plat, the water service for the existing home must be relocated, so that the service connection will be located along the frontage of the Parcel 1. See Exhibit E-3 for more details.

- The sanitary sewer standards of 33.652 have been verified. There is an existing 8-inch CSP public sanitary sewer located in SW Hamilton Street that can serve the sanitary needs of the proposed lots. Parcel 1 has an existing sewer service from that main that crosses Parcel 2. Plumbing permit 07-166795 PT to replace the existing sewer connection so that it is entirely on Parcel 1 is under inspection. Site Development has noted that the existing sewer line must be capped and that sewer cap inspection must be added to the plumbing permit. Prior to final plat approval, the permit for replacing and capping the existing sanitary sewer connection must be finalized. See Exhibit E-1 and E-3 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.

### **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 C1-2), and the Bureaus have responded as follows (Exhibits E-1 and E-5):

- **Parcel 2:** Stormwater from this parcel will be directed into a flow-through planter that remove pollutants and suspended solids. The water will drain from the planters to the existing storm sewer in SW Hamilton Street. Site Development indicated that although Westside soakage trenches or stormwater chamber systems are potentially acceptable on this site, limited available area due to site modifications and existing development may make on-site infiltration infeasible. BES has confirmed that the proposed flow-through planter with overflow to the public storm system in SW Hamilton Street is acceptable.
- **Parcel 1 (the lot with the existing house):** The applicant's site plan shows stormwater for this parcel will be directed into a flow-through planter that remove pollutants and suspended solids. The water will drain from the planter to the existing storm sewer in SW Hamilton Street. The parcel has sufficient size for an individual planter box, and the Bureau of Environmental Services has indicated that the treated water can be directed to the existing storm sewer in SW Hamilton Street at the frontage of the site. As mentioned above, this storm drain will cross Parcel 2 in an easement to connect to the public storm sewer in SW Hamilton. This planter is to be installed with the construction of the new house (refer to permit #08-105522 RS and permit #06-170153 RS). Site Development and BES have approved of the stormwater system under the new permit.

The stormwater management criteria are met.

### Right of Way Approval Criteria

Chapter 33.654 contains standards and approval criteria for rights of way. Due to the location of this site, and the type of street that is proposed, some of the criteria are not applicable. The following table summarizes the applicability of each criterion.

Code Section	Topic	Applicability Findings
33.654.110.B.1	Through streets and pedestrian connections	Applicable - See findings below
33.654.110.B.2	Dead end streets	Not applicable - No dead end streets are proposed.
33.654.110.B.3	Pedestrian connections in the I zones	Not applicable - The site is not located within an I zone.
33.654.110.B.4	Alleys in all zones	Not applicable - No alleys are proposed or required.
33.654.120.C.1	Width of the street right-of-way	Not applicable - The proposal does not include any new streets.
33.654.120.C.3.c	Turnarounds	Not applicable - No turnarounds are proposed or required.
33.654.120.D	Common Greens	Not applicable - No common greens are proposed or required.
33.654.120.E	Pedestrian Connections	Not applicable - There are no pedestrian connections proposed or required.
33.654.120.F	Alleys	Not applicable - No alleys are proposed or required.
33.654.120.G	Shared Courts	Not applicable - No shared courts are proposed or required.
33.654.130.A	Utilities	Applicable - See findings below.

<b>Code Section</b>	<b>Topic</b>	<b>Applicability Findings</b>
33.654.130.B	Extension of existing public dead-end streets and pedestrian connections	Not applicable – There are no existing public dead-end street or pedestrian connections adjacent to the site.
33.654.130.C	Future extension of proposed dead-end streets and pedestrian connections	Not applicable – No street extensions are required to serve abutting sites that are further dividable.
33.654.130.D	Partial rights-of-way	Not applicable – No partial public streets are proposed or required.

**Applicable Approval Criteria are:**

**33.654.110.B.1 Approval criterion for through streets and pedestrian connections in OS, R, C, and E Zones. In OS, R, C, and E zones, through streets and pedestrian connections are required where appropriate and practicable, taking the following into consideration:**

- a. **Through streets should generally be provided no more than 530 feet apart, and pedestrian connections should generally be provided no more than 330 feet apart. Through street and pedestrian connections should generally be at least 200 feet apart;**
- b. **Where the street pattern in the area immediately surrounding the site meets the spacing of subparagraph a., above, the existing street pattern should be extended onto the site;**
- c. **Characteristics of the site, adjacent sites, and vicinity, such as: (1) Terrain; (2) Whether adjacent sites may be further divided; (3) The location of existing streets and pedestrian connections; (4) Whether narrow frontages will constrain creation of a through street or pedestrian connection; (5) Whether environmental overlay zones interrupt the expected path of a through street or pedestrian connection; and (6) Whether existing dwelling units on- or off-site obstruct the expected path of a through street or pedestrian connection. Alternative locations or designs of rights-of-way should be considered that avoid existing dwelling units. However, provision of through streets or pedestrian connections should take precedence over protection of existing dwelling units where the surrounding transportation system will be significantly affected if a new through street or pedestrian connection is not created;**
- d. **Master street plans for the area identified in Goal 11B of the Comprehensive Plan;**
- e. **Pedestrian connections should take the most direct route practicable. Users should be able to see the ending of the connection from the entrance point, if possible.**

**Findings:** The site is located on the south side of SW Hamilton Street between SW Scholl's Ferry Road (709 feet to the west) and SW 60<sup>th</sup> Place (396 feet to the east). If the distance between these existing streets is evaluated against the optimum spacing requirement of 530 feet, one can conclude that there should be a north-south through street provided in the vicinity of the site. The site contains sufficient width to allow the creation of a public north-south through street. However, the properties adjacent to the portion of the site where the street would terminate are already developed, and not configured in a manner that would easily allow the further extension of a street from the site. So, although the optimum spacing criteria would indicate the need for a north-south through street or pedestrian connection at this site, there is no practicable opportunity to provide them in this land division.

The site is within the Portland Master Street Plan for the Southwest Portland District. In this case, the Master Plan does not indicate the need for further connections at this location. Therefore, the proposal is consistent with the Master Street Plan.

For the reasons described above, this criterion is met.

### **Utility Location, Extension of Streets, Partial Rights of Way**

#### **33.654.130 Additional Approval Criteria for Rights-of-Way**

**A. Utilities. Utilities must be located within rights-of-way or utility easements that are adjacent to rights-of-way to the maximum extent practicable. Utility easements up to 15 feet in width may be required adjacent to rights-of-way.**

Findings: Any easements that may be needed for private utilities that cannot be accommodated within the right-of-way can be provided on the final plat. At this time no specific utility easements adjacent to the right-of-way have been identified as being necessary. Therefore, this criterion is met.

As shown by the findings above, the Services and Utilities can be met with conditions of approval noted above. This 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.

**Existing development that will remain after the land division.** The existing development on the site will remain and be located on Parcel 1. The division of the property may not cause the structures to move out of conformance or further out of conformance to any development standard applicable in the R10 zone (Please see section on Other Technical Standards for Building Code standards.)

In this case, there are several Zoning Code standards that relate to existing development on the site:

- Minimum Setbacks – The existing house identified to remain on the site must meet the required Zoning Code setbacks from the proposed new lot lines. Alternatively, existing buildings must be set back from the new lot lines in conformance with an approved Adjustment or other Land Use Review decision that specifically approves alternative setbacks. The existing house will be 10 feet from the new property line. Therefore, the required setbacks are being met. To ensure this standard continues to be met at the final plat stage, the final plat must be accompanied by a supplemental survey showing the location of the existing building relative to the adjacent new lot lines.
- Driveway Paving – No more than 40% of the land area between the front lot line and the front building line may be paved or used for vehicle areas. All driveways and

parking areas must be paved. The site plan shows a 30-foot wide gravel driveway on Parcel 1. Permit 08-105522 RS has been approved to issue with a paved driveway which does not exceed the allowed percentage of paving for parcel 1. The applicant must show the new paved driveway, approved under permit 08-105522 on the supplemental plan.

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 <a href="http://www.water.ci.portland.or.us/">http://www.water.ci.portland.or.us/</a>
Environmental Services	Title 17; 2002 Stormwater Manual	Sewer availability Stormwater Management	503-823-7740 <a href="http://www.bes.ci.portland.or.us/">http://www.bes.ci.portland.or.us/</a>
Fire Bureau	Title 31 Policy B-1	Emergency Access	503-823-3700 <a href="http://www.fire.ci.portland.or.us/">http://www.fire.ci.portland.or.us/</a>
Transportation	Title 17, Transportation System Plan	Design of public street	503-823-5185 <a href="http://www.trans.ci.portland.or.us/">http://www.trans.ci.portland.or.us/</a>
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 <a href="http://www.bds.ci.portland.or.us.">http://www.bds.ci.portland.or.us.</a>

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. The primary issues identified with this proposal are:

- Site Development Stormwater management
- Private storm sewer easement
- Water Bureau requirements
- Street Waivers
- Building and plumbing permit revisions

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

## ADMINISTRATIVE DECISION

**Approval** of a Preliminary Plan for a 2-lot partition, that will result in two standard lots 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. 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; including the new paved driveway configuration approved under permit 08-105522 RS
- Any other information specifically noted in the conditions listed below.

**B. The final plat must show the following:**

1. A private storm sewer easement, for the benefit of Parcel 1, shall be shown and labeled over the relevant portions of Parcel 2.
2. A recording block for each of the legal documents such as maintenance agreement(s), acknowledgement of special land use conditions, or Declarations of Covenants, Conditions, and Restrictions (CC&Rs) as required by Condition C.4 below. The recording block(s) shall, at a minimum, include language substantially similar to the following example: "A Declaration of Maintenance Agreement for the storm sewer easement has been recorded as document no. \_\_\_\_\_, Multnomah County Deed Records."

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

**Streets**

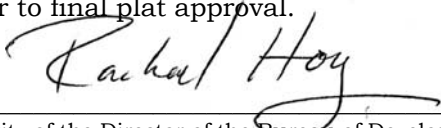
1. The applicant shall sign street and storm sewer waivers of remonstrance (for future street and storm sewer improvements) as required by the City Engineer. Waiver forms will be provided to the applicant during the final plat review process.

**Utilities**

2. The applicant shall meet the requirements of the Water Bureau concerning relocation of the water service connection to the existing home to remain on parcel 1.
3. Prior to final plat approval, sewer cap inspection must be added to plumbing permit 07-166195-PT for sewer and waterline replacement for the existing house to remain on Parcel 1 and the permit must be finalized.

**Required Legal Documents**

4. A Maintenance Agreement shall be executed for the Storm Sewer Easement area described in Condition B.1 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.

Decision rendered by:  on 5/1/08

By authority of the Director of the Bureau of Development Services

Decision mailed 5/5/08

Staff Planner: Rachael Hoy

**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 October 25, 2007, and was determined to be complete on January 17, 2008.

*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 October 25, 2007.

*ORS 227.178* states the City must issue a final decision on Land Use Review applications within 120-days of the application being deemed complete. The 120-day review period may be waived or extended at the request of the applicant. In this case, the applicant extended the 120-day review period for 28 days, therefore, the 120<sup>th</sup> day is June 13, 2008.

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

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

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

**Appealing this decision.** This decision may be appealed to the Hearings Officer, which will hold a public hearing. Appeals must be filed **by 4:30 PM on 5/19/08** at 1900 SW Fourth Ave. Appeals may be filed on the first floor in the Development Services Center until 3 p.m. After 3 p.m., appeals must be submitted to the receptionist at the front desk on the fifth floor. **An appeal fee of \$250 will be charged.** The appeal fee will be refunded if the appellant prevails. Recognized neighborhood associations are not subject to the appeal fee. Low-income individuals appealing a decision for their personal residence that they own in whole or in part may qualify for an appeal fee waiver. In addition, an appeal fee may be waived for a low income individual if the individual resides within the required notification area for the review, and the individual has resided at that address for at least 60 days. Assistance in filing the appeal and information on fee waivers is available from BDS in the Development Services Center. Fee waivers for low-income individuals must be approved prior to filing the appeal; please allow 3 working days for fee waiver approval. Please see the appeal form for additional information.

The file and all evidence on this case are available for your review by appointment only. Please contact the receptionist at 503-823-0625 to schedule an appointment. I can provide some information over the phone. Copies of all information in the file can be obtained for a fee equal to the cost of services. Additional information about the City of Portland, city bureaus, and a digital copy of the Portland Zoning Code is available on the internet at [www.ci.portland.or.us](http://www.ci.portland.or.us) .

**Attending the hearing.** If this decision is appealed, a hearing will be scheduled, and you will be notified of the date and time of the hearing. The decision of the Hearings Officer is final; any further appeal must be made to the Oregon Land Use Board of Appeals (LUBA) within 21 days of the date of mailing the decision, pursuant to ORS 197.620 and 197.830. Contact LUBA at 550 Capitol St. NE, Suite 235, Salem, Oregon 97301 or phone 1-503-373-1265 for further information.

Failure to raise an issue by the close of the record at or following the final hearing on this case, in person or by letter, may preclude an appeal to the Land Use Board of Appeals (LUBA) on that issue. Also, if you do not raise an issue with enough specificity to give the Hearings Officer an opportunity to respond to it, that also may preclude an appeal to LUBA on that issue.

**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 Submittal
  - 1. Applicant's statements
  - 2. Geotechnical report
  - 3. 14 day Extension to 120 days – 3/26/08
  - 4. 14 day Extension to 120 days – 4/14/08
- B. Zoning Map (attached)
- C. Plans/Drawings:
  - 1. Site Plan (attached)
  - 2. Site plan showing storm sewer lines and grade changes to street.
- 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
  - 7. Life Safety
- F. Correspondence:
  - 1. William and Joan Evans, February 18, 2008, concerned about increased traffic and parking and opposed to use of adult foster home(s) on site.
  - 2. Karen Tabate, Bridlemile Neighborhood Association, February 22, 2008, concerned with increased traffic and, size of new structures and setbacks, stormwater management.
  - 3. Claire Evans, February 22, 2008, concerned about the process demolition of existing house and construction of new house, traffic and parking, and opposed to the use of adult foster care on site.
  - 4. Evelyn, Andra, and Daniel Gorges, Emily Gottfried, Joan and Bill Evans, Stanley and Susan Marcus, Lionel and Zana Johnson, Claire and Scott Evans, Jane Campbell, Kuro and Nicki Kurisaki, Stuart and Marcia Weiss, the Bridlemile Neighborhood Association, February 22, 2008, concerned about the process demolition of existing house and



construction of new house, traffic and parking, and opposed to the use of adult foster care on site.

G. Other:

1. Original LU Application
2. Site History Research
3. Incomplete Letter
4. Neighborhood Contact

**The Bureau of Development Services is committed to providing equal access to information and hearings. If you need special accommodations, please call 503-823-0625 (TTY 503-823-6868).**



# ZONING

 Site

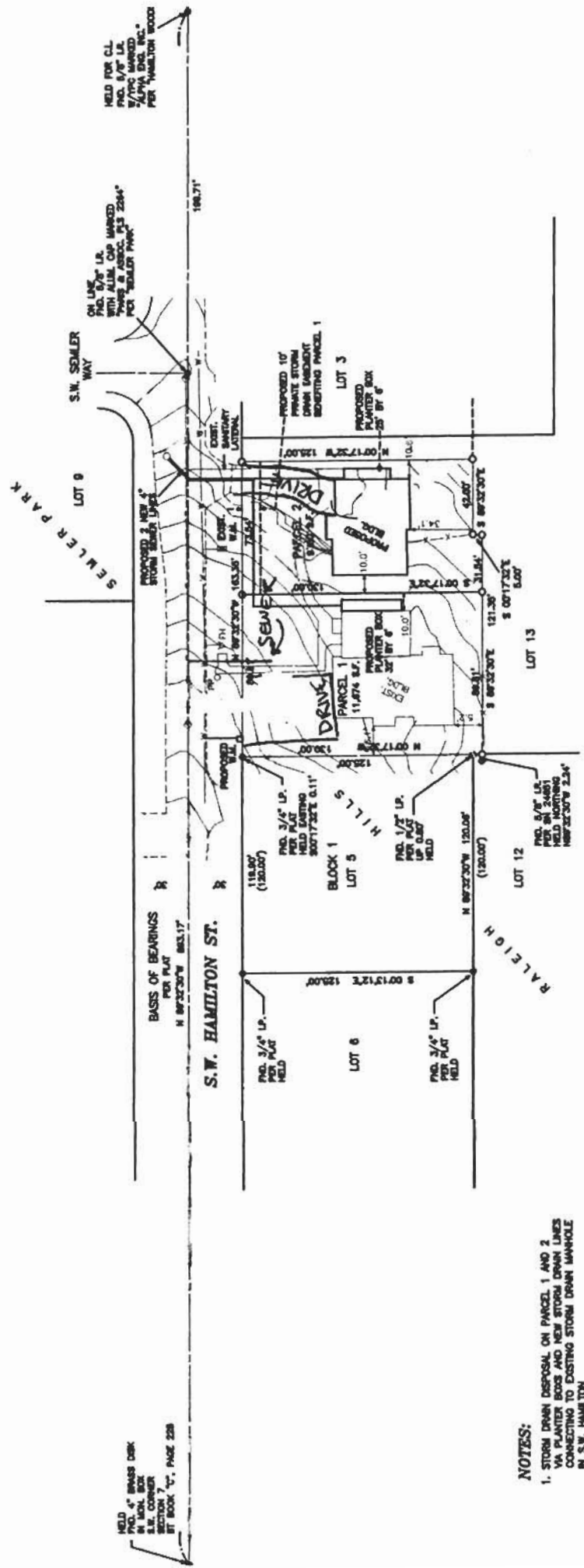


File No.	<u>LU 07-172215 LDP</u>
1/4 Section	<u>3423</u>
Scale	<u>1 inch = 200 feet</u>
State_Id	<u>1S1E18BB 2100</u>
Exhibit	<u>B</u> (Oct 30, 2007)

**TENTATIVE PARTITION PLAT**

PORTIONS OF LOTS 4 AND 13, BLOCK 1  
 "RALEIGH HILLS"  
 SITUATED IN THE NW 1/4 OF SECTION 18,  
 TOWNSHIP 1 SOUTH, RANGE 1 EAST, W.M.,  
 CITY OF PORTLAND, MULTNOMAH COUNTY, OREGON

JULY 12, 2007 SCALE: 1" = 40'



**LEGEND**

- FND. MONUMENT AS NOTED
- TO BE SET 8/8" X 30" IRON ROD WITH ORANGE PLASTIC CAP INSCRIBED "MANWELL LS 57418"
- SN SURVEY NUMBER MULTNOMAH COUNTY SURVEY RECORDS
- FND. FOUND
- LP. IRON PIPE
- LR. IRON ROD
- PLAT DATA PER PLAT OF RALEIGH HILLS

**NOTES:**

1. STORM DRAIN DISPOSAL ON PARCEL 1 AND 2 VIA PLANTER BOXES AND NEW STORM DRAIN LINES CONNECTING TO EXISTING STORM DRAIN MANHOLE IN S.W. HAMILTON
2. THERE AREN'T ANY TREES ON THE SITE 6' DIA. OR ABOVE.

REGISTERED  
 LAND SURVEYOR  
 OREGON  
 MICHAEL LEE MANWELL  
 57418  
 EXPIRES 12-31-08

**MICHAEL LEE MANWELL**  
 Professional Land Surveyor  
 2847 SE 18TH CIRCLE  
 GRESHAM, OREGON 97030  
 (503) 661-5270  
 Email: mmanw@pood.com

CASE NO. 07-172215  
 EXHIBIT C-1