

CITY OF PORTLAND, MAINE

PLANNING BOARD

Sean Dundon, Chair
Brandon Mazer, Vice Chair
Elizabeth Boepple
David Eaton
Carol Morrissette
Maggie Stanley
Lisa Whited

March 2, 2018

Lloyd B. Wolf
LBW, LLC
PO Box 1382
Portland, ME 04104

Douglas Reynolds, P.E.
Gorrill Palmer
707 Sable Oaks Drive, Suite 30
South Portland, ME 04106

Project Name: Brandy Lane Subdivision
Address: 22 Hope Lane
Applicant: LBW, LLC
Planner: Matthew Grooms

Project ID: 2017-117
CBL: 448-A-004

Dear Mr. Wolf and Mr. Reynolds:

On February 27, 2018, the Planning Board considered the proposal by LBW, LLC to subdivide a 6.46-acre tract of land in the North Deering Neighborhood to create 16 new single-family lots, to be known as Brandy Lane Subdivision. The site is located within the C-40 Contract Zone, which requires the development of site features that promote access to the adjacent 48-acre Presumpscot River Preserve, namely the construction of an off-street parking area and dedication of easements for trail access. In accordance with city standards for inclusionary zoning, one lot of the development is to be income restricted and set aside as a workforce housing unit. The Planning Board reviewed the proposal for conformance with Subdivision, Stormwater and Conditional Use for Inclusionary Zoning standards. The Planning Board voted 6-o (Whited absent) to approve the application with the following waiver(s) and condition(s) as presented below:

Waivers

The Planning Board voted 6-o (Whited absent) to waive the Subdivision Standard (Section 14-498(b)(8)) which requires that sidewalks be located on each side of a street, to permit no sidewalk along the north side of Brandy Lane between lot 16 and Hope Lane.

Storm Water Management Permit

Based upon the City of Portland's Delegated Review Authority, the Planning Board voted 6-0 to approve the Stormwater Management Permit application, as submitted, subject to the following condition:

1. Storm Water Management Condition of Approval

The developer/contractor/subcontractor must comply with conditions of the construction storm water management plan and sediment and erosion control plan based on City standards and state guidelines.

The owner/operator of the approved stormwater management system, and all assigns, shall comply with the conditions of Chapter 32 Storm water including Article III, Post Construction Stormwater Management, which specifies the annual inspections and reporting requirements.

A maintenance agreement for the stormwater drainage system, as attached, or in substantially the same form, shall be submitted for review by Corporation Counsel. Once approved, the document shall be signed and recorded at the Cumberland County Registry of Deeds prior to the issuance of a building permit. Please submit final copies to both the Department of Planning and Urban Development and the Department of Public Works.

Subdivision Review

The Planning Board voted 6-0 that the plan is in conformance with the subdivision standards of the Land Use Code, subject to the following conditions of approval:

1. The applicant shall submit homeowner association documents for review and approval by corporation counsel that address:
 - a. The deed for lot 13, which shall include provisions that the public turn-around will not be used for parking or as a driveway for lot 13 and the turn-around will remain open for public and emergency vehicle use at all times; and
 - b. Maintenance of those stormwater BMPs which the Department of Public Works is not claiming responsibility for.
2. The applicant shall submit a stormwater maintenance agreement for review and approval by the Department of Public Works and Corporation Counsel.
3. The applicant shall address review comments of the City Engineer dated February 23, 2018, pertaining to the maintenance of stormwater BMP's within the public right-of-way, location of utility connections, stormwater systems design and erosion control measures on the applicant's site.

4. The applicant shall submit a revised landscape plan showing the location of required street trees and tree save protection measures to be reviewed and approved by the City Arborist.
5. A copy of the trail parking easement and subdivision drainage easements with associated exhibits identifying locations shall be provided for review and approval by Corporation Counsel and the Planning Authority, prior to being recorded.
6. The applicant shall provide an updated subdivision plan showing off-street trail parking designed in accordance with Standard 8 under the Subdivision Requirements section of the C-40 Contract Zone document.
7. The subdivision plat shall be finalized to the satisfaction of the Planning Authority, Department of Public Works and Corporation Counsel and to include references to stormwater management and the emergency turnaround on lot 13.
8. Prior to issuance of any building permits, the applicant shall submit a copy of the Tier II NRPA permit for wetland impacts from Maine DEP.
9. Confirmation of ability to serve water and sewer from PWD and DPW shall be submitted to the Planning Authority prior to issuance of any building permits.

The approval is based on the submitted plans and the findings related to subdivision review standards as contained in Planning Report for application 2017-117 which is attached.

Conditional Use for Ensuring Workforce Housing

The Planning Board voted 6-0 (Whited absent) that the plan is in conformance with the conditional use standards of the Land Use Code, subject to the following conditions of approval:

1. The recording plat shall be updated to include the following notes:
 - a. A total of one (1) housing lot/unit consisting of four bedrooms shall be reserved as workforce housing. Lot 7 is proposed as the workforce housing lot/unit; and
 - b. The workforce housing lot/unit shall be constructed and completed at least concurrently with the remainder of the project. In development where the applicant or its agents, or its successors as assigned shall construct at least fifty percent (50%) of the units, the approved workforce housing unit shall be constructed in proportion to the market rate units. Proportionality shall be determined by multiplying the total number of units in the development by fifty percent (50%). No additional building permits shall be issued for a market rate unit in excess of the proportion of housing units for which a permit has been issued until the workforce unit is built and a certificate of occupancy for that unit is issued. An additional eight (8) building permits may then be issued.

2. The applicant shall enter into an Affordable Housing Agreement (AHA) with the City. This agreement shall outline the details of the affordability restrictions placed on Workforce Units and will be filed as covenant to the property's deed with the Cumberland County Registry of Deeds before a Certificate of Occupancy shall be issued.

Standard Conditions of Approval

Please Note: The following standard conditions of approval and requirements apply to all approved site plans:

1. Subdivision Recording Plat A revised recording plat, listing all conditions of subdivision approval, must be submitted to the Planning and Urban Development Department for review. Once approved, the plat shall be signed by the Planning Board prior to the issuance of a performance guarantee. The performance guarantee must be issued, prior to the release of the recording plat, for recording at the Cumberland County Registry of Deeds.
2. Subdivision Waivers Pursuant to 30-A MRSA section 4406(B)(1), any waiver must be specified on the subdivision plan or outlined in a notice. The plan or notice must be recorded in the Cumberland County Registry of Deeds within 90 days of the final subdivision approval.
3. Develop Site According to Plan The site shall be developed and maintained as depicted on the site plan and in the written submission of the applicant. Modification of any approved site plan or alteration of a parcel which was the subject of site plan approval after May 20, 1974, shall require the prior approval of a revised site plan by the Planning Board or Planning Authority pursuant to the terms of Chapter 14, Land Use, of the Portland City Code.
4. Separate Building Permits Are Required This approval does not constitute approval of building plans, which must be reviewed and approved by the City of Portland's Permitting and Inspections Department.
5. Subdivision Expiration The subdivision approval is valid for up to three (3) years from the date of the approval.
6. Performance Guarantee and Inspection Fees A performance guarantee covering the site improvements, inspection fee payment of 2.0% of the guarantee amount and seven (7) final sets of plans must be submitted to and approved by the Planning and Urban Development Department and Public Works Department prior to the release of a building permit, street opening permit or certificate of occupancy for site plans. If you need to

make any modifications to the approved plans, you must submit a revised site plan application for staff review and approval.

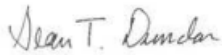
7. Defect Guarantee A defect guarantee, consisting of 10% of the performance guarantee, must be posted before the performance guarantee will be released.
8. Preconstruction Meeting Prior to the release of a building permit or site construction, a pre-construction meeting shall be held at the project site. This meeting will be held with the contractor, Development Review Coordinator, Public Works representative and owner to review the construction schedule and critical aspects of the site work. At that time, the Development Review Coordinator will confirm that the contractor is working from the approved site plan. The site/building contractor shall provide three (3) copies of a detailed construction schedule to the attending City representatives. It shall be the contractor's responsibility to arrange a mutually agreeable time for the pre-construction meeting.
9. Construction Management Plans The applicant, contractor and subcontractors are required to conform to the approved Construction Management Plan, and all conditions contained within the project's approval, for the entire duration of the project. Any amendments to the approved Construction Management Plan shall be reviewed and approved by the Department of Public Works prior to the execution. The Planning Authority and the Department of Public Works have the right to seek revisions to an approved Construction Management Plan. The applicant shall coordinate the project's construction schedule with the timing of nearby construction activities to avoid cumulative impacts on a neighborhood and prevent unsafe vehicle and pedestrian movements. Accordingly, nearby construction activities could involve a delay in the commencement of construction.
10. Department of Public Works Permits If work or obstructions will occur within the public right-of-way, such as utilities, curb, sidewalk, driveway construction, site deliveries and equipment siting, a Street Opening and/or Occupancy Permit (s) is required for your site. Please contact the Department of Public Works Permit Clerk at 874-8300, ext. 8828. (Only excavators licensed by the City of Portland are eligible.)
11. As-Built Final Plans Final sets of as-built plans shall be submitted digitally to the Planning and Urban Development Department, on a CD or DVD, in AutoCAD format (*.dwg), release AutoCAD 2005 or greater.
12. Mylar Copies Mylar copies of the as-built drawings for the public streets and other public infrastructure in the subdivision must be submitted to Public Works prior to the issuance of a certificate of occupancy.

The Development Review Coordinator must be notified five (5) working days prior to the date

required for final site inspection. The Development Review Coordinator can be reached at the Planning and Urban Development Department at 874-8632. All site plan requirements must be completed and approved by the Development Review Coordinator prior to issuance of a Certificate of Occupancy. Please schedule any property closing with these requirements in mind.

If there are any questions, please contact Matthew Grooms at (207) 874-8725

Sincerely,



Sean Dundon, Chair
Portland Planning Board

Attachments:

1. Planning Board Report
2. Portland City Code: Chapter 32
3. Sample Stormwater Maintenance Agreement
4. Performance Guarantee Packet

Electronic Distribution:

cc: Jeff Levine, AICP, Director of Planning and Urban Development
Stuart G. O'Brien, City Planning Director, Planning and Urban Development
Barbara Barhydt, Development Review Services Manager, Planning and Urban Development
Matthew Grooms, Planner, Planning and Urban Development
Philip DiPierro, DRC, Planning and Urban Development
Mike Russell, Director of Permitting and Inspections
Ann Machado, Zoning Administrator, Permitting and Inspections
Jonathan Rioux, Deputy Director, Permitting and Inspections
Jeanie Bourke, Plan Reviewer/CEO, Permitting and Inspections
Chris Branch, Director of Public Works
Keith Gray, Senior Engineer, Public Works
Doug Roncarati, Stormwater Coordinator, Public Works
Jane Ward, Engineering, Public Works
Rhonda Zazzara, Construction Engineering Coordinator, Public Works
Jeff Tarling, City Arborist, Public Works
Jeremiah Bartlett, Transportation Systems Engineer, Public Works
William Scott, Chief Surveyor, Public Works
Mike Thompson, Fire
Danielle West-Chuhta, Corporation Counsel
Jennifer Thompson, Corporation Counsel
Victoria Volent, Housing Program Manager, Housing and Community Development
Thomas Errico, P.E., TY Lin Associates
Lauren Swett, P.E., Woodard and Curran
Christopher Huff, Assessor



PLANNING BOARD REPORT PORTLAND, MAINE

16-Unit Single-Family Subdivision – Brandy Lane
22 Hope Lane
Level III Subdivision and Conditional Use Application

Submitted to: Portland Planning Board Date: February 23, 2018 Public Hearing Date: February 27, 2018	Prepared by: Matthew Grooms, Planner Project #: 2017-117
--	---

I. INTRODUCTION

LBW, LLC is proposing a sixteen-lot single-family subdivision on a 6.46 acre parcel of land in the North Deering Neighborhood. The site is currently undeveloped woodland and features an existing trail within the Presumpscot River Preserve and parking area for approximately five vehicles. As part of the development, a street will be constructed, with a 50' right-of-way (ROW), to the City standards including the installation of underground utility services, granite curbs, lighting, sidewalks and street trees. The Planning Board is being requested to review the application under Portland's Subdivision Ordinance and for compliance with Division 30 of the City's Land Use Code to ensure adequate affordable housing per the city's inclusionary zoning requirements. The entire development is located within the C-40 Contract Zone.



Figure 1: Proposed Development Site

A total of 78 notices were sent out to neighbors and interested parties within Portland, and the public notice appeared in the February 19th and 20th, 2018 editions of the *Portland Press-Herald*.

Applicant: Lloyd B. Wolf, LBW, LLC
Consultants: Doug Reynolds, Gorrill Palmer

II. REQUIRED REVIEWS

<i>Waiver Requests</i>	<i>Applicable Standards</i>
Sidewalk Waiver to allow for development of sidewalks along westerly side of Brandy Lane and only a portion of the easterly side due to wetland constraints.	Section 14-498 8a requires that sidewalks be constructed on each side of each street in accordance with article III of Chapter 25.

Staff Recommendation: The City is supportive of this waiver request, citing wetland impacts arising from a paved sidewalk.	
Preservation of Significant Natural Features waiver to allow for the filling of on-site wetland features	<i>Section 14-526(b)</i> requires that significant natural features be preserved and protected by incorporating them into site design.
Staff Recommendation: No waiver is required as the applicant is seeking to minimize impacts to the greatest extent possible and the filling falls within the purview of the MDEP, which required a Tier II NRPA permit. A copy of this permit shall be provided to the city.	
Review	Applicable Standards
Subdivision (creation of 3 or lots)	<i>Section 14-497</i>

III. PROJECT DATA

Existing Zoning	C-40 Contract Zone		
Existing Use	Undeveloped Woodlands		
Proposed Use	Sixteen single-family lots		
Parcel Size	6.46 acres		
	<i>Existing</i>	<i>Proposed</i>	<i>Net Change</i>
Impervious Surface Area	0 SF	70,051 SF	70,051 SF
Building Footprint	0 SF	0 SF (Buildings are not proposed at this time)	0 SF
Number of Residential Units	0	16 New Lots	16 Lots
Proposed Bedroom Mix	Homes are to be constructed by separate developer and are likely to be three and four-bedroom structures.		

IV. EXISTING CONDITIONS

This 6.46-acre tract of undeveloped woodlands is located off of Hope Lane in the North Deering Neighborhood and is abutted by single-family residential uses to the south and west, the Falmouth Spur roadway to the north and a Central Maine Power Company Easement and undeveloped woodlands including a portion of the Presumpscot River Preserve to the east of this site. A Presumpscot River Preserve parking area with space for six



Figure 2: View of Site from Hope Lane with Existing Trail Parking

vehicles is located off of the property's frontage on Hope Lane, providing access to one of the Preserve's trail heads, which traverses the southeast corner of the property. The property contains several areas of existing wetlands and exhibits a predominantly gentle slope, with the exception of two steeper inclines located at the north and south ends of the site. Residential land uses in the vicinity are predominantly zoned R-2 Residential with the exception of eight parcels to the southeast of this site which fall within the

C-40 Contract Zone. The area of land encompassed by the CMP easement is zoned RPZ Resource Protection Zone.

V. PROPOSED DEVELOPMENT

This subdivision would consist of sixteen lots measuring between 6,054 sf and 17,006 sf, compliant with the standards of the C-40 Contract Zone which requires lots to be a minimum of 6,000 sf. The applicant intends to construct a new public street with a 50-foot right-of-way, measuring 950 feet in length to be named Brandy Lane. This street would access all sixteen lots and connect with Hope Lane at the existing curb cut where the trailhead parking area is currently located. This parking area would subsequently be relocated approximately 250 feet further north within the site, with the trailhead similarly being relocated.

Along the entire west side of Brandy Lane, a sidewalk and esplanade feature, measuring 5 feet and 6 feet respectively, is proposed and is continued along the east side of the street across the frontage of proposed lots 13 through 16, with a sidewalk waiver being sought for the remaining portion due to wetland disturbance. Crosswalks will be constructed at two locations; between proposed lots 7 and 16, and at the Brandy Lane and Hope Lane intersection. A total of nine Town and Country street lamps, spaced approximately 115-feet apart are proposed along the west side of Brandy Lane within the proposed esplanade and two street trees are being provided per lot.

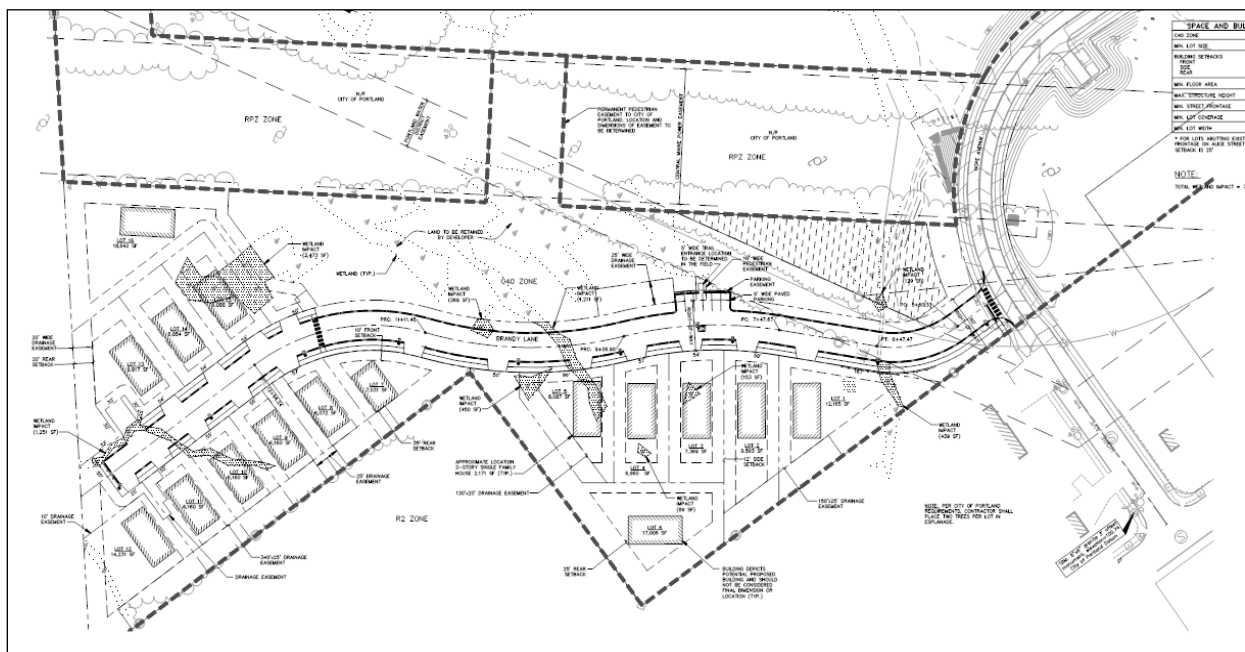


Figure 3: Proposed Subdivision Plan

Prior to development of the street, underground electric, telephone and cable lines are to be installed beneath proposed esplanades, with a new water main and sanitary sewer line being constructed beneath Brandy Lane itself. In regards to stormwater management control, the development will utilize 4 filtertraps, 3 systems of StormTech chambers, 5 Grassed underdrained soil filters, and 16 roof dripline filters to provide water quality treatment and storage. Certain features of this system have been proposed within the public right-of-way, and the Department of Public Works has coordinated with the applicant to assume responsibility for approximately half of this infrastructure. This agreement shall be finalized in the applicant's stormwater maintenance agreement, which has been drafted as a condition of approval.

This site contains a number of wetland areas which are predominantly clustered along the easterly property boundary. The applicant intends to fill 7,920 sf of wetland in order to complete this subdivision. The

applicant has completed previous work in the vicinity of this project, and prior to this application, a total of 27,159 square feet of wetland impacts had been approved by Maine DEP. These projects combined create a new wetland impact of 35,079 square feet and for this reason, the applicant is seeking a Tier II NRPA permit from Maine DEP, which is required for impacts of between 15,000 square feet and 43,560 square feet.

VI. PUBLIC COMMENT

The Planning Division received three written public comments for this project (*Attachment 11*). These comments discuss utilizing the development parcel for recreational purposes, concerns regarding traffic in the vicinity of the development and requests for additional information regarding relocation of the trail parking area.

The City's consulting traffic engineer, Tom Errico, in reviewing the applicant's traffic evaluation report, determined that the existing street network has sufficient capacity to accommodate trips associated with this development and further that the development will not result in safety deficiencies.

The proposed single-family development is an allowable use under the C-40 Contract Zone and the property is not owned by the city and as such, the applicant is not obliged to alter their proposal.

A. Planning Board Workshop

The Planning Board held a workshop to discuss this proposed subdivision on October 10, 2017. At that meeting members of the Board were primarily interested in further reducing wetland impacts arising from site development and determining ownership and maintenance responsibilities of the parking area and trail on the applicant's site. At this meeting, two members of the public spoke, who discussed the opportunity of reducing the right-of-way width of Brandy Lane and requested additional information regarding the Tier I NRPA permit. In response to these comments, the staff and the applicant clarified that site conditions required the proposed configuration and that the impact of wetlands had been carefully considered in the design of this subdivision. Language regarding the off-street parking easement has been provided which designates the City as the easement holder in accordance with the C40 contract zone. Corporation Counsel is currently reviewing this documentation, and acceptance of this easement shall be made a condition of approval. Lastly, in regards to the DEP NRPA permit, the applicant has supplied a Tier II NRPA permit application to the city, due to there being greater than 15,000 square feet of freshwater wetlands on-site. Approval of this application is also being made a condition of approval.

B. Neighborhood Meeting

The applicant held a neighborhood meeting on Tuesday November 28th at the Lyman Moore Middle School. This meeting was attended by 10 members of the public who asked questions regarding review process, wetland impacts, stormwater treatment systems, relocation of the existing trail parking, tree clearances and design of the new street (*Attachment U*).

VII. RIGHT, TITLE, & INTEREST AND FINANCIAL & TECHNICAL CAPACITY

a. The owner of the property is Lloyd B. Wolf of LBW, LLC. The applicant has provided a copy of a quitclaim deed, recorded at the Cumberland County Registry of Deeds (Book 23889 Page 327), which demonstrates their right, title and interest in the property (*Attachment J*).

b. The applicant has submitted a letter from Gorham Savings Bank, dated January 5, 2017, as demonstration of their financial and technical capacity to complete the proposed development (*Attachment K*).

SPACE AND BULK STANDARDS	
C40 ZONE	REQUIRED
MIN. LOT SIZE	6,000 S.F.
BUILDING SETBACKS FRONT SIDE REAR	10' 12' 20'*
MIN. FLOOR AREA	1,000 S.F.
MAX. STRUCTURE HEIGHT	35 FT.
MIN. STREET FRONTAGE	50 FT.
MIN. LOT COVERAGE	40%
MIN. LOT WIDTH	50 FT.
* FOR LOTS ABUTTING EXISTING RESIDENTIAL LOTS WITH FRONTAGE ON ALICE STREET AND ALICE COURT, REAR SETBACK IS 25'	

Figure 4: Zoning Compliance Table

VIII. ZONING ANALYSIS

The proposed subdivision is within the C-40 Contract Zone. This is considered a sixteen-lot subdivision, all lots intended for development of single-family residential structures. The lots as proposed meet the minimum lot size, minimum street frontage, and lot width. Each lot has the potential to meet all of the other setback requirements, parking requirements, lot coverage requirements, and building height. When a building permit comes in for the construction on the individual lots, it must meet all the zone requirements.

Initially, the C-40 Contract Zone contained an age restriction clause, which stipulated that at least 80% of the total occupied units be reserved for owner-occupied individuals of at least fifty-five

years of age. In 2012, this requirement was removed with the first amendment to the C-40 Contract Zone. All other subdivision requirements of the zone are being met.

The C-40 contract zone also contains a clause which requires the construction of off-street trail parking for six vehicles to be constructed within a period of two years following recording of the subdivision plat. Specifically, it states, “The public parking lot shall be designed and constructed by APPLICANT to accommodate up to six (6) vehicles. The public lot shall consist of a graded gravel surface, and bordered by a wooden split-rail fence and APPLICANT shall have no obligation to pave or otherwise improve the public parking lot to comply with CITY standards for streets.” Based upon this requirement, the staff is recommending a condition of approval which would slightly modify design of the trail parking to be entirely situated on the applicant’s property, and to be a gravel surface.

IX. SUBDIVISION PLAT AND RECORDING PLAT REQUIREMENTS (Section 14-496)

The final plat will need to be revised to reflect any waivers and conditions of approval that relate to the subdivision plan. Any waivers granted must be recorded at the Registry of Deeds within 90 days of a Planning Board decision.

X. SUBDIVISION REVIEW (14-497(a). Review Criteria; 14-198. Technical and Design Standards; & 14-499. Required Improvements)

1. Will Not Result in Undue Water and Air Pollution (Section 14-497 (a) 1), and Will Not Result in Undue Soil Erosion (Section 14-497 (a) 4)

The site is currently undeveloped and contains no impervious surface area. In regards to stormwater management control, the development will utilize 4 filterras, 3 systems of StormTech chambers, 5 grassed underdrained soil filters, and 16 roof dripline filters to provide water quality treatment and storage. No undue air pollution or soil erosion is anticipated as a result of this development. The applicant intends to fill 7,764 sf of wetlands, which requires a Tier II NRPA permit from MDEP.

2. Sufficient Water Available (Section 14-497 (a) 2 and 3)

The applicant has not provided a letter from the Portland Water District confirming the district’s ability to serve the proposed project. This has been incorporated as a condition of approval.

3. Will Not Cause Unreasonable Traffic Congestion (Section 14-497 (a) 5)

The proposal includes a proposed street that starts at a new intersection with Hope Lane and dead ends with a turnaround near the boundary to the north. The Fire Department has reviewed the layout of the turnaround and states “[t]he proposed turnaround appears to be able to accommodate a Fire Dept. ladder truck. The access drive has been designed to meet City of Portland standards with a paved travel way of 28 feet in width. The Fire Department has indicated that 28 feet is needed for emergency access.

The applicant submitted a Traffic Generation Assessment (*Attachment L*) which projects 152 weekday and 159 Saturday vehicle trips, 12 AM peak hour trips, and 16 PM peak hour trips from the proposed subdivision. The City’s Traffic Engineering Reviewer Tom Errico has commented (*Attachment 2*):

1. *I have reviewed the Traffic Evaluation prepared by the applicant. I find the contents and conclusions to be acceptable. The project does not require a Traffic Movement permit and is not expected to cause unreasonable traffic congestion or safety deficiencies.*

Sidewalk Requirement

The applicant is proposing a sidewalk and esplanade feature as required per the city’s subdivision ordinance along the west side of Brandy Lane and along a portion of the east side of the street in front of proposed lots 13 through 16. Section 14-498(b)(8) of the Subdivision Ordinance requires that a sidewalk be constructed on each side of newly proposed streets. Tom Errico, in reviewing the applicant’s plans provided the following comment (*Attachment 2*):

1. *Given wetland impacts from the paved sidewalk, I support a waiver from the City’s Technical Standards for providing a sidewalk on both sides of Brandy Lane. I find the plans to be acceptable.*

4. Will Provide for Adequate Sanitary Sewer and Stormwater Disposal (Section 14-497 (a) 6), and Will Not Cause an Unreasonable Burden on Municipal Solid Waste and Sewage (Section 14-497 (a) 7)

The applicant has submitted a wastewater capacity application to the Department of Public Works requesting confirmation of adequate sewer capacity. A letter from DPW confirming sewer capacity has been included as a condition of approval. Since the road will be built to City standards and accepted by the City Council, solid waste and snow removal will then be handled by the City.

Under Section 5 of the City of Portland Technical Manual, a Level III development project is required to submit a stormwater management plan pursuant to the regulations of MaineDEP Chapter 500 Stormwater Management Rules, including conformance with the Basic, General, and Flooding Standards. The MDEP Chapter 500 rules describe stormwater management requirements for new development projects. The City’s Peer Engineering Review (*Attachment 6*) notes:

1. *The Applicant has noted that a MDEP NRPA Tier II wetland permit and approval from the ACOE are required, copies of all permit approvals should be forwarded to the City upon receipt. Applicant has acknowledged, and will be providing the permits when available.*
2. *In accordance with Section 5 of the City of Portland Technical Manual, a Subdivision is required to submit a stormwater management plan pursuant to the regulations of MaineDEP Chapter 500 Stormwater Management Rules, including conformance with the Basic, General, and Flooding Standards. We offer the following comments:*
 - a. *Basic Standard: Plans, notes, and details have been provided to address erosion and sediment control requirements, inspection and maintenance requirements, and good*

housekeeping practices in accordance with Appendix A, B, & C of MaineDEP Chapter 500.

- b. General Standard: The project will result in an increase in impervious area of approximately 70,000 square feet. As such, the project is required to include stormwater management features for stormwater quality control. Please see below for additional stormwater management comments.*
 - c. Flooding Standard: The project will result in an increase in impervious area of approximately 70,000 square feet. As such, the project is required to include specific stormwater management features to control the rate or quantity of stormwater runoff from the site. The Applicant has indicated that there will be minor increases in flow in the 2-year storm, 10-year storm and 25-year storm. We are in agreement that the increases will be insignificant. The underdrain soil filters have not been modeled in HydroCAD, and these may provide a small amount of flow attenuation as well. Please see below for additional stormwater management comments.*
- 3. We have the following comments on the proposed stormwater management system for the site:*
- a. Maintenance of the stormwater management features has been described in the Erosion & Sedimentation Control Report. A stormwater maintenance agreement will be required from the Applicant. Additional information should be provided on the ownership and maintenance of the stormwater treatment systems throughout the subdivision, i.e., will a homeowners association be put into place to pay for and manage the maintenance throughout the site. The Applicant has included a Post-Construction Stormwater Management Plan document as their Maintenance Agreement. The Applicant should note that a recorded agreement with the City is required in accordance with Chapter 32.*

The proposed stormwater management system involves extensive infrastructure located within the public right-of-way. As the Board may recall, a similar infrastructure design was proposed for the Stroudwater Reserve subdivision, recently approved, and was approved under the condition that DPW would assume responsibility for approximately half of the stormwater BMPs and that the applicant would be responsible for the remaining portion. This same structure of maintenance is being proposed by DPW for this subdivision as well. Keith Gray, City Engineer has reviewed the applicant's plans and has provided the following comments (*Attachment 1*):

- 1. The Department of Public Works will take ownership of the BMP's proposed for treatment of the ROW. The plans indicate that Focalpoint 1 provides treatment for only the ROW and the remaining three (3) Focalpoints provide treatment to both the ROW and the individual lots. We suggest the tributary to Focalpoint 2 be revised to include only the front lawn areas of Lots 1 through 5. If the area to Focalpoint 2 is revised, DPW will take ownership of Focalpoint 1 and 2, with the remaining treatment BMP's being the responsibility of the applicant to own and maintain. The storage chambers shall be moved back in the ROW for Focalpoint 1 and 2.*
- 2. Focalpoint 4 storage chambers should be relocated further away from the proposed structure.*
- 3. Utility manholes shall be located outside of the vehicle tire tracking to the extent possible (locate near middle of travel lane).*
- 4. Current maintenance procedures suggest that high flow filtration BMP's require less maintenance if they are located away from the curb line. The Focalpoints should be placed at*

the edge of the ROW. Where needed, curb inlets can be extended utilizing the Rain Guardian Foxhole structure.

5. The low-pressure sewer forcemain shall be located in the esplanade or sidewalk area

5. Scenic Beauty, Natural, Historic, Habitat and other Resources (Section 14-497 (a) 8)

At present, the proposed development site is undeveloped consisting of woodland and borders portions of the Presumpscot River Preserve, a 48-acre public nature preserve that includes 2.5 miles of trails and is host to a variety of activities including mountain biking, snowshoeing, hiking, cross country-skiing and birding. This subdivision is located outside of the preserve, and is not protected. Vehicular and pedestrian access to the trail network are being relocated within the development to allow for the construction of Brandy Lane.

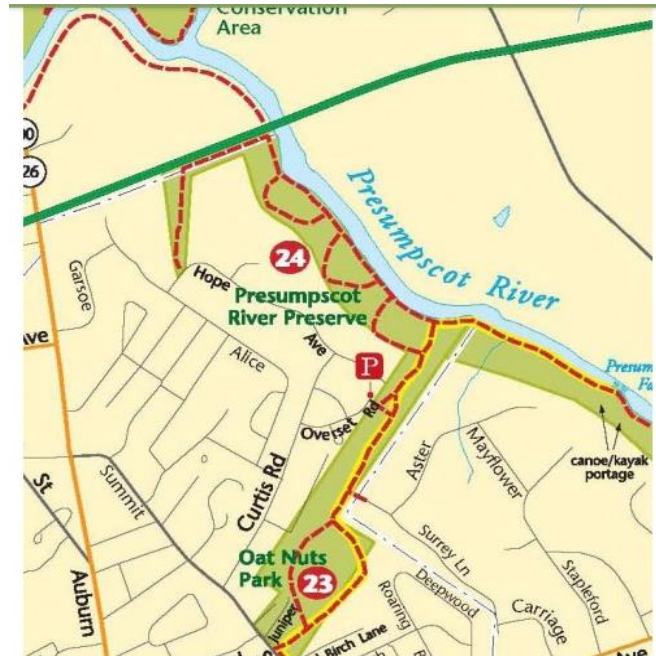


Figure 5: Map of Presumpscot River Preserve

This property includes sizeable wetland areas as previously described, and shall be partially filled so as to develop the road and buildable lots. In support of this proposal, the applicant supplied a wetlands report from TRC Environmental Corporation, which indicate that no existing wetland features are considered to be “Significant Vernal Pools” as defined by the Maine Natural Resources Protection Act and are not subject to protection. Vernal pools and isolated vernal pools may be filled if a Tier II NRPA permit is obtained from MDEP. The applicant has also supplied letters from the Maine Department of Agriculture, Conservation and Forestry as well as the Maine Ecological Services Field Office of the US Department of the Interior, Fish and Wildlife Service, which state that this site is not known to contain rare or unique botanical features or endangered wildlife habitat.

This site is not known to be a site of historic or archaeological significance. The applicant requested a determination from the State Historic Preservation Officer regarding the presence of historic or archaeological features. No response was included as part of this submission.

The ordinance requires submission to include a preliminary landscape plan, and staff have advised the applicant that tree saves are generally sought for subdivisions. A more detailed landscape and tree save plan will need to be prepared for the final submission. The applicant is proposing 32 street trees. Tree save proposals should address the need for buffering between the subdivision and the surrounding existing homes.

6. Comprehensive Plan (Section 14-497 (a) 9)

The staff has identified goals and policies which are relevant to the proposed housing development and finds the proposal in conformance with the adapted Comprehensive Plan.

Housing: A Livable City

State Goals: To encourage and promote affordable decent, housing opportunities for all Maine citizens

Local Goals:

- Increase, preserve, and modify the overall supply of housing City-wide to meet the needs, preferences and financial capabilities of all Portland households.
- Encourage additional contextually-appropriate housing density in and proximate to neighborhood centers, concentrations of services, and transit nodes and corridors as a means of supporting complete neighborhoods.
- Pursue policies to enable people who work in Portland to have the option to live in Portland.
- Encourage quality, sustainable design in new housing development.

Goals from Future Strategies:

9. Adopt Affordable Housing

- Pursue new opportunities for increased energy efficiency, increased densities, mixed incomes, and greater connectivity to surrounding neighborhoods.

7. *Financial Capability (Section 14-497 (a) 10)*

As noted above, the applicant has submitted a letter from Gorham Savings Bank indicating the intent to finance the project.

8. *Wetland and Groundwater Impacts, Flood-Prone Area*

This development will include filling of 7,920 sf of wetlands which shall require a Tier II NRPA permit. The applicant has submitted a waiver request asking that the Planning Board waive Section 14-526.b for the preservation of significant natural features contingent upon issuance of the Tier II NRPA permit from MDEP. This approval will be required with the final plan submittal.

XI. INCLUSIONARY ZONING CONDITIONAL USE

All developments of ten (10) units or more are conditional uses subject to Planning Board review on the condition that they comply with the requirements set forth in Division 30, Section 14-487 of the Zoning Ordinance.

Division 30, Section 14-487, Ensuring Workforce Housing, requires at least ten percent (10%) of the dwelling units in the development shall meet the definition of Workforce Housing units for sale or for rent. The ordinance under Section 14-487 e 3 also requires the number of bedrooms in the Workforce units shall be at least 10% of the total number of bedrooms made available as part of the development.

The development located at 22 Hope Avenue proposes the creation of 16 dwelling units of owner occupied housing consisting of sixteen (16) four-bedroom units. As dwelling units for sale, the designated Workforce Unit will be restricted to households earning up to 120% of Area Median Income (AMI). Based on the requirements outlined in Section 14-487, the development is required to provide a minimum of one (1) workforce unit with four (4) bedrooms. The Applicant has elected to provide one (1) Workforce Unit, on-site, consisting of four (4) bedrooms to satisfy the ordinance's minimum requirements. As such, the project has met the minimum requirements set forth in Section 14-487.

To ensure the creation of the Workforce Unit, staff recommends the applicant add the following notes to the approved plat:

1. A total of one (1) housing lot/unit consisting of four bedrooms shall be reserved as workforce housing. Lot 7 is proposed as the workforce housing lot/unit.
2. The workforce housing lot/unit shall be constructed and completed at least concurrently with the remainder of the project. In development where the applicant or its agents, or its successors or

assign shall construct at least fifty percent (50%) of the units, the approved workforce housing unit shall be constructed in proportion to the market rate units. Proportionality shall be determined by multiplying the total number of units in the development by fifty percent (50%). No additional building permits shall be issued for a market rate unit in excess of the proportion of housing units for which a permit has been issued until the workforce unit is built and a certificate of occupancy for that unit is issued. An additional eight (8) building permits may then be issued.

Staff recommends the Board Approve this Conditional Use provided the Applicant and the City enter into an agreed upon Affordable Housing Agreement (AHA) before any Building Permits may be issued. The Affordable Housing Agreement will outline the details of the affordability restrictions placed on the Workforce Unit and will be filed as covenant to the property's deed with the Cumberland County Registry of Deeds (*Attachment 4*).

XI. STAFF RECOMMENDATION

Subject to the proposed motions and conditions of approval listed below, planning division staff recommends that the planning board approve the proposed development.

XII. PROPOSED MOTIONS

A. WAIVERS

On the basis of the application, plans, reports and other information submitted by the applicant; findings and recommendations contained in the planning board report for the public hearing on February 27, 2018 for application 2017-117 relevant to portland's technical and design standards and other regulations; and the testimony presented at the planning board hearing:

1. Sidewalks

The planning board finds that two of the following criteria do/do not apply, (namely 1 and 6, as per applicant's request) and therefore waives/does not waive the requirement for a sidewalk along the north side of the new street between Hope Lane and Lot 16 of the subdivision

B. CONDITIONAL USE – INCLUSIONARY ZONING

1. On the basis of the application, plans, reports and other information submitted by the applicant; findings and recommendations contained in the planning board report for the public hearing on February 27, 2018 for application 2017-117 relevant to the conditional use as authorized by division 30, section 14-487 ensuring workforce housing; and the testimony presented at the planning board hearing, the planning board finds the proposed conditional use for workforce housing [does or does not] meet the standards of section 14-484 with the following conditions:

A. The recording plat shall be updated to include the following notes:

- I. A total of one (1) housing lot/unit consisting of four bedrooms shall be reserved as workforce housing. Lot 7 is proposed as the workforce housing lot/unit; and
- II. The workforce housing lot/unit shall be constructed and completed at least concurrently with the remainder of the project. In development where the applicant or its agents, or its successors as assigned shall construct at least fifty percent (50%) of the units, the approved workforce housing unit shall be constructed in proportion to the market rate units. Proportionality shall be determined by multiplying the total number of units in the development by fifty percent (50%). No additional building permits shall be issued for a market rate unit in excess of the proportion of housing units for which a permit has been

issued until the workforce unit is built and a certificate of occupancy for that unit is issued. An additional eight (8) building permits may then be issued.

- B. The applicant shall enter into an Affordable Housing Agreement (AHA) with the City. This agreement shall outline the details of the affordability restrictions placed on Workforce Units and will be filed as covenant to the property's deed with the Cumberland Country Registry of Deeds before a Certificate of Occupancy shall be issued.

C. SUBDIVISION

On the basis of the application, plans, reports and other information submitted by the applicant; findings and recommendations contained in the planning board report for the public hearing on February 27, 2018 for application 2017-117 relevant to the subdivision regulations; and the testimony presented at the planning board hearing, the planning board finds that the plan [is/is not] in conformance with the subdivision standards of the land use code, subject to the following conditions of approval, which must be met prior to the signing of the plat:

1. The applicant shall submit homeowner association documents for review and approval by corporation counsel that address:
 - A. The deed for lot 13, which shall include provisions that the public turn-around will not be used for parking or as a driveway for lot 13 and the turn-around will remain open for public and emergency vehicle use at all times; AND
 - B. Maintenance of those stormwater BMPs which the Department of Public Works is not claiming responsibility for.
2. The applicant shall submit a stormwater maintenance agreement for review and approval by the Department of Public Works and Corporation Counsel.
3. The applicant shall address review comments of the City Engineer dated February 23, 2018 (Attachment 1), pertaining to the maintenance of stormwater BMP's within the public right-of-way, location of utility connections, stormwater systems design and erosion control measures on the applicant's site.
4. The applicant shall submit a revised landscape plan showing the location of required street trees and tree save protection measures to be reviewed and approved by the City Arborist.
5. A copy of the trail parking easement and subdivision drainage easements with associated exhibits identifying locations shall be provided for review and approval by Corporation Counsel and the Planning Authority, prior to being recorded.
6. The applicant shall provide an updated subdivision plan showing off-street trail parking designed in accordance with Standard 8 under the Subdivision Requirements section of the C-40 contract zone document.
7. The subdivision plat shall be finalized to the satisfaction of the planning authority, department of public works and corporation counsel and to include references to stormwater management and the emergency turnaround on lot 13.

8. Prior to the issuance of any building permits, the applicant shall submit a copy of the Tier II NRPA permit for wetland impacts from Maine DEP.
9. Confirmation of ability to serve water and sewer from pwd and dpw shall be submitted to the planning division prior to the issuance of any building permits.

ATTACHMENTS:

Attachments to Memorandum

1. DPW Final Review Comments
2. Traffic Engineering Final Review Comments
3. City Arborist Final Review Comments
4. Housing Program Manager Final Review Comments
5. Planning and Fire Final Review Comments
6. Peer Engineering Review Comments
7. DPW Preliminary Review Comments
8. Housing Program Manager Preliminary Review Comments
9. Peer Engineering Preliminary Review Comments
10. Traffic Engineering Preliminary Review Comments
11. Public Comment
 - PC1 – Julie Armstrong (07.29.2017)
 - PC2 – Steven Smalley (09.09.2017)
 - PC3 – Jaime Parker (10.02.2017)

Applicant's Submittal

- A. Conditional Use Cover Letter
- B. Cover Letter
- C. Conditional Use IZ Application
- D. Table of Contents
- E. Workforce Housing Standards
- F. Cover Letter
- G. Agent Authorization
- H. Subdivision Application Form
- I. Project Narrative
- J. Right, Title and Interest
- K. Financial Capacity
- L. Traffic Evaluation
- M. Wetland Report
- N. Erosion and Sedimentation Control Report
- O. Stormwater Management Report
- P. Ability to Serve Letter Requests
- Q. Resource Letters
- R. Stormwater Maintenance Agreement
- S. Stormwater Management Plan
- T. Stormwater Package
- U. Neighborhood Meeting Minutes
- V. Applicant Response Letter I
- W. Applicant Response Letter II
- X. C-40 Contract Zone Amendment
- Y. C-40 Contract Zone

Plans

1. Cover Page
2. Subdivision Plat
3. Overall Subdivision Plan
4. Layout and Utility Plan and Profile
5. Existing Water Main Plan and Profile
6. Layout and Utility Plan and Profile
7. Overall Grading, Drainage and Erosion Control Plan
8. Grading and Drainage Plan and Profile
9. Grading and Drainage Plan and Profile
10. Site Details
11. Site, Utility and Erosion Control Details
12. Drainage and Utility Details
13. Sewer and Water Details
14. Drainage Details
15. Soil Filter Plan and Details
16. Filterra Details
17. Erosion Control notes
18. Water Quality Plan
19. Pre-Development Watershed Map
20. Post-Development Watershed Map
21. Construction Management Plan Map
22. Construction Management Plan Document