

**Memorandum**  
**Department of Planning and Urban Development**  
**Planning Division**



To: Sean Dundon, Chair and Members of the Portland Planning Board  
 From: Matthew Grooms, Planner  
 Date: August 10, 2018  
 Re: o Hope Avenue, Estelle Estates, LLC  
 Project: ZN-000208-2018 CBL: 390-A-001, 448-A-001, 449-A-002  
 Meeting Date: August 14, 2018

**I. INTRODUCTION**

Estelle Estates, LLC has submitted a request to rezone a previously unzoned 14-acre tract of land, located at o Hope Avenue in the North Deering neighborhood to R-3 Residential. This property entered into the City of Portland in 2001 as part of a land conveyance from the Town of Falmouth. Negotiations at that time between then property owners (Lloyd Wolf and Robert Adam) and the City of Portland and Portland Trails, resulted in the creation of the Presumpscot River Preserve and the formalization of multiple land development agreements. The proposal before the Planning Board is derived from one such agreement, wherein the City agreed to assist the developer in establishing a new contract zone to permit fifty-five (55) clustered and age-restricted residential units. While the written agreement specified a contract zone, the City in recent years has discouraged the creation of new contract zones, and in discussions with the applicant, instead recommended that they pursue a zoning map amendment to R-3 Residential. This zone permits Planned Residential Unit Developments (PRUDs) as well as a unit-density in line with the development outlined in the written agreement.



Figure 1: Proposed Development Site

Notices were sent to sixty (60) residents and the interested citizen list. The notice also appeared in the Portland Press Herald on August 3<sup>rd</sup> and August 6<sup>th</sup> 2018.

**Applicant and Property Owner:** Peter Bouchard, Estelle Estates, LLC  
**Agents:** Chris DiMatteo, Gorrill Palmer; Doug Reynolds, P.E., Gorrill Palmer

**II. PROJECT DATA**

Existing Zoning	Not Zoned
Proposed Zoning	Residential R-3
Existing Use	Undeveloped, primarily woodlands
Proposed Use	PRUD w/ 54 age-restricted residential units arrayed in 27 duplex buildings
Parcel Size	14 acres , 12.2 acres (net land area)

### III. BACKGROUND

In 2002, the City of Portland purchased a 48-acre parcel along the Presumpscot River from Lloyd Wolf and Bob Adam. Commonly known as the Presumpscot River Preserve, it was purchased for open space and land conservation purposes. As part of the property agreement, the City Council agreed to rezone (at a later date) an abutting 23-acre parcel as a conditional zone for residential development. It is the conditional zoning agreement for the 14 acre Adam parcel that is the subject of the proposed map amendment. This parcel was previously located in the town of Falmouth, but was annexed by Portland through state legislature action in 2002.



Figure 2: Zoning map. Property outlined in blue represents land conveyed to and developed by Lloyd Wolf and Robert Adam. Presumpscot River Preserve is outlined in green, subject property in red.

The annexation of the land from Falmouth, the protection of sensitive land along the Presumpscot River and the conditional zone are interrelated. The Wolf-Adam property was landlocked from Falmouth (Presumpscot River and I-295) with no practical roadway access except through Portland. Annexation of the property to Portland was the only feasible manner to develop the property and provide municipal services. Conservation of upland shore frontage along the Presumpscot River was an important resource to protect and public ownership was viewed as critical. A conditional zone for the development parcel would allow the property to be developed within reasonable limits and address the developers’ goals of developing age-restricted housing for those fifty-five (55) years of age or older.

Lloyd Wolf’s property was zoned through the C-40 contract agreement in 2005, and then later amended in 2012 to remove the age-restriction clause. This contract zone only applied to property owned by Mr. Wolf and not the property owned by Mr. Adam. The remaining section controlled by Adam (multi-family) was to be processed as a separate conditional zone but Mr. Adam never submitted a rezoning application for his section. Mr. Wolf and Mr. Adam also developed the 30-lot Presumpscot River Place subdivision, which constitutes lots located along Hope Avenue east of Basket Lane. These lots were developed under the R-2 zone

For development purposes, the Wolf property was split into three phases. Phase one consisted of one lot (#17) on Hope Avenue while phase two consisted of 6 lots (lot 18 to lot 23) which included the creation of a new public street, Basket Lane. The final phase, consisting of 16 lots, was approved by the Planning Board in February of 2018, and resulted in the creation of another new street, Brandy Lane (See Figure 2).

Robert Bouchard, of Estelle Estates, LLC, has entered into a purchase and sale agreement with AJS Family Limited Partnership (Robert Adam Estate), to purchase a 14-acre parcel located just west of the Basket Lane subdivision. In discussions with City staff, the applicant indicated that they would pursue development of fifty-four (54) age-restricted residential units, housed in twenty-seven (27) duplex buildings as outlined under the 2001 agreement. In recent years, the City has pushed to reduce the number of new contract zones and staff suggested instead that the applicant pursue a zoning map amendment to rezone the parcel to R-3 Residential. This zone permits PRUD style developments, necessary for the completion of this project, and permits a lot area per dwelling unit of 6,500 square feet of the net land area, necessary to achieve the density required. In the event that the standards of the R-3 Residential zone prove prohibitive to the development outlined in the 2001 agreement, the applicant reserves the right to pursue a contract zoning agreement.

#### IV. EXISTING CONDITIONS

The subject property consists of three separate parcels totaling fourteen (14) acres of undeveloped woodlands that is bounded by the Presumpscot River Preserve to the north, east and west, the Basket Lane Subdivision to the southeast, and Hope Avenue to the south. The property has a high degree of relief in topography due to a transecting stream running approximately east-west along the southerly property boundary, and a consistent slope towards the Presumpscot River. Other property constraints include extensive wetlands, located throughout the site. Of the fourteen (14) total acres, just over twelve (12.2) acres are suitable for development.



Figure 3: Existing condition of the property

In looking at the surrounding context, this area of the North Deering neighborhood is predominantly low-density single-family housing, with the majority of properties being zoned R-2 Residential. Under the 2001 agreement between the City of Portland and both Lloyd Wolf and Robert Adam, certain properties conveyed to Mr. Wolf and Mr. Adam became subject to the C-40 Contract Zone. This zone, encompassing the Brandy and Basket Lane subdivisions, permits smaller lot sizes and increased density when compared with the R-2 Residential zone, as well as additional requirements intended to facilitate access to the Presumpscot River Preserve, such as requirements for trail parking. Immediately to the west of the proposed development site is a property zoned RPZ Resource Protection zone, which contains a 135' wide easement held by Central Maine Power.



Figure 4: View of the property in its existing condition. Note the house visible is located in the Basket Lane Subdivision, and the utility line is located within the 135' foot CMP easement described.

#### V. PROPOSED DEVELOPMENT

The applicant is proposing to develop a compact residential development consisting of twenty-seven (27) duplexes accessed by a private loop road with extensive open space designated at the center and along the riparian area to the southeast. This site will be well-screened from the public view, with proposed buildings being no closer than 350' feet from Hope Avenue, and approximately 200' feet from the nearest residential lots (located within the Brandy Lane Subdivision). The private loop road, measuring just 20' feet in width, would be privately maintained, and is not proposed to be built to city standards. The preliminary site plan shows a 5' foot sidewalk and 5' foot esplanade along both sides

of the private street and eleven additional on-street parking spaces. The duplex units themselves will each contain two parking spaces, with a one car garage, and driveway space for one car.

**VI. REVIEW OF PRELIMINARY PROPOSAL**

Although the request submitted by the applicant does not include a site plan or subdivision review, city staff reviewed the preliminary proposal against existing utility and traffic information in an effort to flag clearly visible concerns. Based upon this level of review, the staff offer the following comments.

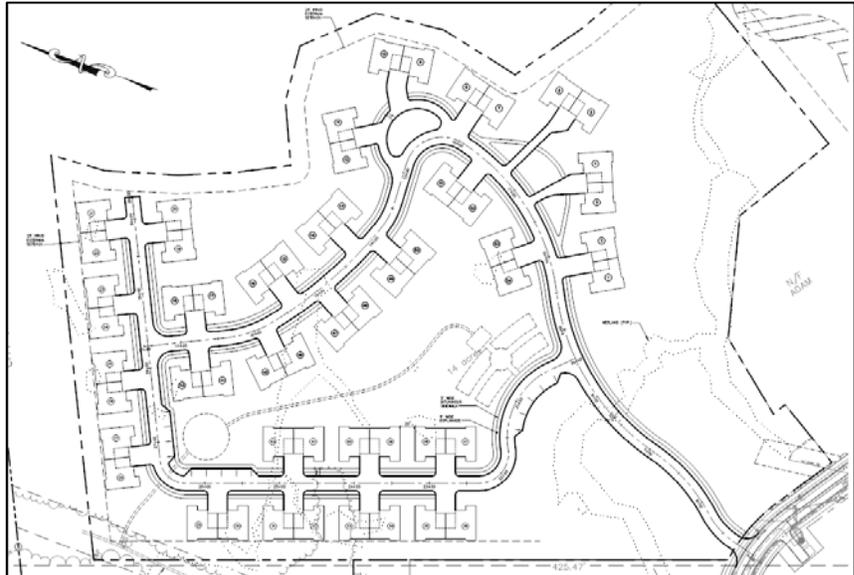


Figure 5: Proposed site layout

Traffic

- I have reviewed the application materials as it relates to the Zoning Map Amendment and do not expect the change will have a significant impact on traffic mobility and safety in the project area. I would note that a full review of site plan standards will be required and the concept plan provided will need a comprehensive review (this zoning review should not be considered an approval for the concept site plan).

Life Safety

- The site plan does not include a hammerhead turn around within the dead end. The technical manual requires that every dead-end roadway more than one hundred fifty (150') feet in length provide a turnaround at the closed end. Turnarounds shall be designed to facilitate future street connectivity and shall always be designed to the right (refer to Figure I-5 of the Technical Manual).
- No inside turning radius shall be less than twenty-five (25') feet, and no outside turning radius shall be less than one hundred (100') feet.
- Two fire hydrants will need to be installed within the complex.

Utility Capacity

- There is an existing sewer and stormdrain, however the Alice Street pump station is not sized adequately to accommodate the new development, which provides less than half of the required capacity. The City would seek an investment by the developer to bring this facility up to sufficient capacity.

**VII. PUBLIC COMMENT & NEIGHBORHOOD MEETING**

As of the writing of this report, no written public comments have been submitted to the Planning Division. The applicant held their required neighborhood meeting on August 7<sup>th</sup> at Lyman Moore Middle School, which was attended by two members of the public and the District 5 City Councillor. At the meeting, those in attendance asked general questions regarding the difference between the R-2 and R-3 Residential districts, and a specific question about use of an easement for access between this site and nearby Alice Street.

**VIII. POLICY CONSIDERATIONS**

**A. Proposed Development Under Residential R-2 and R-3 Zone:**

The following chart illustrates the comparison between the current R-2 zone and R-3 zones, showing the purpose statements, permitted uses, and dimensional requirements of each zone. The minimum lot size varies in the R-2 and R-3 zones with R-2 having the largest minimum lot size of 10,000 square feet. Generally, the R-3 has more flexible

dimensional requirements than the R-2, and permits increased residential unit density. The intent of the rezone is to provide the proposed project a medium density residential development, which can be accomplished with the R-3 zone.

	R-2 Zone	R-3 Zone
<b>Purpose Statements</b>	To provide for low-density residential development characterized by single-family homes on individual lots in outlying areas of the city and along traffic corridors with limited additional traffic capacity.	To provide for medium-density residential development characterized by single-family homes on individual lots and also to provide for planned residential unit developments on substantially sized parcels. Such development shall respond to the physical qualities of a site and complement the scale, character and style of the surrounding neighborhood.
<b>Permitted Uses</b>	<b>Residential:</b> Single family; Handicapped family unit; Single-family, multiple-component manufactured housing; Single-family single-component manufactured housing; <b>Other:</b> Parks; Agriculture; Accessory uses; Home occupation; Municipal uses; Wind energy systems	<b>Residential:</b> Single family; PRUD; Handicapped family unit; Single-family, multiple-component manufactured housing; Single-family single-component manufactured housing; <b>Other:</b> Parks; Accessory uses; Home occupation; Municipal uses; Wind energy systems
<b>Conditional Uses</b>	<b>Residential:</b> Sheltered Care group homes; adding one accessory dwelling unit; <b>Institutional:</b> Schools; Long term and extended care facilities; places of assembly; College, university, trade school <b>Other:</b> Utility substations; Cemeteries; Raising of domestic animals for noncommercial; day care or home babysitting services; temporary wind anemometer towers; wind energy systems.	<b>Residential:</b> Sheltered Care group homes; adding one accessory dwelling unit; <b>Institutional:</b> Schools; Long term and extended care facilities; intermediate care facilities; places of assembly; hospital; <b>Other:</b> Off-street parking; utility substations; day care or home babysitting services; temporary wind anemometer towers; wind energy systems.
<b>Dimensional Requirements</b>		
<b>Minimum Lot Size</b>	10,000 SF	6,500 SF, 3 acres (PRUD)
<b>Street Frontage</b>	50 feet	50 feet
<b>Front Yard (Min)</b>	25 feet	25 feet
<b>Rear Yard</b>	25 feet	25 feet
<b>Side Yard</b>	14 feet for 2-story building	14 feet for 2-story building
<b>Structure Height</b>	35 feet	35 feet
<b>Lot Coverage (max)</b>	20%	35%
<b>Parking</b>	Two parking spaces for each dwelling unit.	Two parking spaces for each dwelling unit.
<b>Maximum # of Units in Building (PRUD)</b>	N/A	5 acres or more = 6 units Less than 5 acres = 5 units
<b>Max Building Length (PRUD)</b>	N/A	Buildings w/o garages = 100 feet Building w/ garages = 140 feet
<b>Min Building Setback from External Subdivision Line (PRUD)</b>	N/A	3 or fewer units in building = 25 feet 4 or more units in building = 35 feet
<b>Minimum distance</b>	N/A	16 feet

between detached PRUD dwelling unit		
Min Recreation Open Space Per Unit (PRUD)	N/A	300 square feet, with minimum contiguous area of 6,000 square feet, and minimum width of 50 feet, not to be located closer than 25 feet from dwelling unit.
Habitable Space (PRUD)	N/A	No habitable space to be located below grade, except basements in units with above ground space

As indicated in the narrative provided with this application, the proposed development could not meet the dimensional requirements of the R-2 district, given that the minimum lot area per dwelling unit is 10,000 square feet, as compared with the 9,846 square feet associated with the proposed plan, and that the R-2 does not permit PRUD style developments nor duplexes. Given that PRUDs are not permitted within the R-2 district, it is difficult to compare the proposed development against the R-2 standards, as they are explicitly intended for single-family homes on individual lots. Based upon these parameters and when only considering non-contract zoning districts within the city, the R-3 is best-suited for this proposed development.

An alternative to either the R-2 or R-3 zone would be a contract zone based upon the 2001 land conveyance agreement. As indicated previously, the City is not in favor of this approach, and has discouraged property owners from pursuing contract zones to the extent practicable. The rationale for this is that it is more difficult to administer, with 62 contract zones now in existence. they limit the consistency with which the city can review like uses, and are being particularly discouraged in situations where an existing zoning district can feasibly accommodate a use and development proposal. The City is also undertaking a project to rewrite the land-use code for the City of Portland, and one of the primary goals for this effort is to increase transparency, predictability and clarity for future development. A new contract zone undermines this effort.

Assuming the map amendment being sought is approved, the applicant would not be beholden to the 2001 agreement, and could develop their site to the maximum extent permitted under the R-3 zone, which includes single-family uses. Based upon the net land area of 12.2 acres, which subtracts watercourses, streets and areas of extreme topography, the total number of units possible at this location would be eighty-one (81), as compared with fifty-four (54) being proposed. Were a single-family development to be proposed instead, it would not be required to base density upon the total net land area of 12.2 acres, but on the total area, which is 14 acres. That said, when taking into account street infrastructure, minimum lot size, individual lot dimensional requirements and existing topography and watercourses, the likelihood of any development exceeding eighty-one (81) units is very low.

**IX. Comprehensive Plan Analysis**

The City’s ordinance states that any rezoning must be consistent with the City’s Comprehensive Plan. In forming its recommendation to the City Council, the Board will need to make a finding on whether the proposal is consistent with the Comprehensive Plan. The applicant has included an analysis of how the proposed rezone to R-3 zone is consistent with Portland’s Comprehensive Plan. In addition to the applicant’s assessment, staff have identified below a number of the specific Comprehensive Plan goals and policies which are suggested as being relevant to the proposed conditional rezoning.

The central vision of Portland’s Plan 2030 is represented by the venn diagram demonstrating the integral interrelation of the community’s core belief that Portland is equitable, sustainable, connected, dynamic, authentic and secure. The vision conveys the message of the City’s need to balance many competing needs to assure the advance of the vision as a unified concept. In this instance, that the City’s goals for job growth and transforming Portland through orderly growth and development be balanced with needs for connectivity of the street grid, sustainability of infrastructure and the ability to maintain that infrastructure, and security in the sense of public safety.



The applicant has submitted their analysis of the projects conformance with the Comprehensive Plan (refer to Attachment A). The staff has identified the additional goals and policies which are relevant to the proposed housing development and finds the proposal in conformance with the Comprehensive Plan. As stated the purpose of the R-3 Residential Zone is:

*To provide for medium-density residential development characterized by single-family homes on individual lots and also to provide for planned residential unit developments on substantially sized parcels. Such development shall respond to the physical qualities of a site and complement the scale, character and style of the surrounding neighborhood.*

**Portland’s Plan 2030:** Below are a list of state and local goals, as well as future strategies that are being met under this proposal.

A. Environment: A Healthy City

State Goals:

- To protect the quality and manage the quantity of the State’s water resources, including lakes, aquifers, great ponds, estuaries, rivers and coastal areas
- To protect the State’s other critical natural resources, including without limitation: wetlands, wildlife and fisheries habitat, sand dunes, shorelands, scenic vistas, and unique natural areas.

Local Goals:

- Identify and protect Portland’s critical natural resources
- Restore impaired waterbodies through local efforts in collaboration with regional partners.
- Support agricultural, forest, and scenic resources appropriate to our urban context

Goals from Future Strategies:

1. Improve Water Quality
  - Collaborate with local non-profits, research organizations, private property owners, and surrounding communities to achieve cleaner waters
2. Support Agricultural and Forest Resources
  - Increase the urban tree canopy by 15% above current canopy coverage to benefit air quality, local climate, CO2 absorption and aesthetics

Staff Discussion: In looking at this proposal, it is important to discuss the 2001 land conveyance agreement, that brought this property into the City of Portland, and formalized protection of 48 acres of undeveloped woodlands and riparian ways along the Presumpscot River. This agreement has provided essential buffer along the river which helps to maintain water quality of the Presumpscot River, and protects one of Portland’s most significant tracts of

remaining undeveloped land. This is an important resource for both local wildlife and Portland’s residents. In exchange for this land, the City granted the applicant increased development rights for their property.

B. 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:

1. Remove Housing Barriers
  - Evaluate whether current zoning allows for new development consistent with historic patterns of form, density and/or use, as well as whether it allows for priority growth areas.
  - Allow for a range of housing models in City codes, whether small units, co-housing, or others that may suit changing needs and demographics.
2. Adopt Affordable Housing
  - Pursue new opportunities for increased energy efficiency, increased densities, mixed incomes, and greater connectivity to surrounding neighborhoods.
3. Support Age Friendly Housing Options
  - Create, promote, and facilitate safe, affordable and practical housing solutions that will meet the evolving needs of Portland residents as they age.

Staff Discussion: This project is unique in its ability to provide increased housing density, and alternative housing forms in a location proximate to relatively low-density single-family housing, while still being contextually sensitive. The site is sufficiently sized to provide extensive vegetated buffers around the exterior, which better integrates the proposed development into the neighborhood. This development also provides increased housing opportunities for Portland’s residents as they age.

C. Recreation & Open Space: An Active City

State Goals: To promote and protect the availability of outdoor recreation opportunities for all Maine citizens, including access to surface waters.

Local Goals: Portland commits to sustain and build our system of parks, trails, and open spaces to enhance our quality of life, protect our environment, and promote the economic well-being of our remarkable city by the sea.

We will:

- Provide high quality, well-designed, well-maintained, safe and integrated parks, trails, public open spaces, and recreational opportunities to all residents.
- Strengthen connections between open spaces
- Preserve the intrinsic values of the park and open space system, including historic resources, vistas, healthy ecosystem functions and biological diversity

Goals from Future Strategies

1. Maintain Existing Facilities
  - Maintain trails, sports fields, courts and playgrounds and other amenities such as seating and landscaping, in good condition.

2. Ensure Equity
  - Pursue opportunities, in collaboration with partners, to create new open spaces in areas that are currently underserved
  - Pursue opportunities for new and enhanced walking and biking trails as a means of filling existing gaps, and investigate paper streets, vacant land, medians, and other often overlooked areas for the potential for park linkages, trails and other improvements to the urban landscape.
  
3. Connect to the Waterfront
  - Encourage physical and visual access to Portland’s waterfront – Casco Bay, Back Cove, and the Stroudwater, Presumpscot, and Fore Rivers – as a “blueway” network and an extension of public space for local and regional recreation and transportation needs.

Staff Discussion: As previously stated, the proposed map amendment is integrally connected to the 2001 land conveyance agreement that formalized the creation of the Presumpscot River Preserve, a 48-acre public preserve with extensive opportunities for outdoor recreation, including hiking trails with vistas of the Presumpscot River and portage for canoes and kayaks. This system provides connections to other publicly accessible open spaces in the vicinity, including Oat Nuts Park and Presumpscot Falls Park.

**D. Future Land Use**

The future land use map, identifies this area of Portland as continuing to be residential in nature, though does not go into greater detail regarding the specific future of this site or neighborhood. Generally speaking, the comprehensive plan recommends increased residential density to accommodate Portland’s changing demographics, household characteristics and growing population. The proposed development speaks to all of these points by providing increased housing density in a contextually sensitive manner that targets a growing sector of Portland’s population, those who would seek age restricted housing.

**X. NEXT STEPS**

1. Address any additional information requested by the Planning Board.
2. Address and finalize all staff comments before the public hearing.

**XI. ATTACHMENTS**

**PLANNING BOARD REPORT ATTACHMENTS**

1. Traffic Review (Tom Errico)
2. Utility Capacity Review
3. Life Safety Review

**APPLICANT’S SUBMITTALS**

- A. Zoning Map Amendment Narrative
- B. Neighborhood Meeting Certification

**PLANS**

- Plan 1 Zoning Map Amendment Plan
- Plan 2 Preliminary Site Layout Plan