

MINUTES

**PLANNING BOARD
PORTSMOUTH, NEW HAMPSHIRE**

**EILEEN DONDARO FOLEY COUNCIL CHAMBERS
CITY HALL, MUNICIPAL COMPLEX, 1 JUNKINS AVENUE**

7:00 PM

AUGUST 16, 2018

MEMBERS PRESENT: Dexter Legg, Chairman; Elizabeth Moreau, Vice Chairman; Rebecca Perkins, City Council Representative; Colby Gamester; Jody Record; Jeffrey Kisiel; Jane Begala, Alternate; and Corey Clark, Alternate

ALSO PRESENT: Juliet Walker, Planner Director; Jillian Harris, Planner 1

MEMBERS ABSENT: Nancy Colbert-Puff, Deputy City Manager; David Moore, Assistant City Manager; Jay Leduc;

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I. APPROVAL OF MINUTES

A. Approval of Minutes from the July 19, 2018 Planning Board Meeting;

Mr. Gamester moved to approve the Minutes from the July 19, 2018 Planning Board Meeting, seconded by Vice Chairman Moreau. The motion passed unanimously.

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II. DETERMINATIONS OF COMPLETENESS

A. Site Plan Review

1. The application of **Foundry Place, LLC, Owner**, for property located at **Deer Street ("Lot 2")**

Mr. Gamester moved to postpone to the next regularly scheduled Planning Board Meeting on September 20, 2018, seconded by Ms. Record. The motion passed unanimously.

2. The application of **Dorothy Kiersted and Theresa Sessions, Owners**, for property located at **50 Lovell Street**.

Mr. Gamester moved to determine that the application for site plan approval is complete according to the Site Plan Review Regulations and to accept it for consideration, seconded by Ms. Record. The motion passed unanimously.

- 3. The application of **Portsmouth Housing Authority, Owner**, for property located at **140 Court Street**, and **Ed Pac, LLC, Owner**, for property located at **152 Court Street**.

Mr. Gamester moved to determine that the application for site plan approval is complete according to the Site Plan Review Regulations and to accept it for consideration, seconded by Ms. Record. The motion passed unanimously.

- 4. The application of **Salema Realty Trust, Owner**, for property located at **199 Constitution Avenue**.

Mr. Gamester moved to determine that the application for site plan approval is complete according to the Site Plan Review Regulations and to accept it for consideration, seconded by Ms. Record. The motion passed unanimously.

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III. PUBLIC HEARINGS – OLD BUSINESS

The Board’s action in these matters has been deemed to be quasi-judicial in nature. If any person believes any member of the Board has a conflict of interest, that issue should be raised at this point or it will be deemed waived.

A. The application of **Carolyn McCombe, Trustee; Elizabeth Barker Berdge, Trustee; and Tim Barker, Owners**, for property located on **Martine Cottage Road**, requesting Conditional Use Permit approval under Section 10.1017 of the Zoning Ordinance for work within the inland wetland buffer to construct a 1,152 ± s.f. single family home with associated garage, septic system and driveway, with 15,157 ± s.f. of impact to the wetland buffer. Said property is shown on Assessor Map 202 as Lot 14 and lies within the Rural (R) District. (This application was postponed at the July 19, 2018 Planning Board Meeting.)

Chairman Legg read the notice into the record.

SPEAKING TO THE APPLICATION

Applicant Tim Barker spoke to the application on behalf of himself and his sisters’ Elizabeth and Carolyn. The situation went beyond their control and was the cause of frustration. Mr. Barker apologized for the situation. Mr. Ross and his team have achieved their goal. The goal was to keep the buffer impact to the bare minimum. It was impossible to avoid a small impact. Mr. Barker knew there would be challenges when they decided to put the property on the market. This fresh approach has made it possible for the Conservation Commission to recommend

approval. The Commission's primary concern was water quality. The driveway was moved uphill so there would be no impact to the vernal pools and minimal impact to the lower wetland. Mr. Barker would not want to sell to anyone who would not appreciate being a steward for a unique property. The family has owned land on Martine Cottage Road for 125 years. Mr. Barker did not want to do anything that would unduly impact the land. The City has always categorized it as a buildable lot. The wetland rules have changed over the years and Mr. Barker understood that. Mr. Barker humbly asked for the Planning Board for their support.

Alex Ross from Ross Engineering, Soil Scientist Mark Jacobs, Architect Brendan McNamara, and Attorney Tim Phoenix spoke to the application. Mr. Ross prepared the site plans and the team worked closely with the Conservation Commission to come up with the best design. They had a work session in July that was very productive. Last week the application was presented to the Conservation Commission and they voted unanimously to recommend approval. A lot of time was spent walking and surveying the site to come up with the best design with the least possible impact. The prior feedback was reviewed and the team tried to address the concerns. The first sheet of the plan set shows the existing conditions. The parcel is a little over 5 acres and slopes slightly to the southeast. There are only three areas that meet the 100-foot setbacks. One area is close to the road, the other is in the northwest and the last is in the center. The center area triangle is about 1,500 square feet. That was the guideline for the house footprint. There is also the start of an existing driveway on the site. That location makes the most sense for the driveway to remain where it is. Sheet 2 shows the relative distance of the proposed house compared to abutting structures. The proposed house is about the same distance off the road. Sheet 3 shows a zoomed in version of the buildable area. The proposed house is highlighted in yellow. The house footprint is less than 1,200 square feet. It is tucked against a ledge outcrop, so it sits nicely in the landscape. The driveway is extended up to the proposed house. This site has a little finger of wetlands that comes out and there is a natural drainage swale. An open box culvert will be installed in the driveway. This will promote amphibian migration. The majority of the driveway will be gravel. The driveway area by the house will be pervious paver. Those pavers and the stone infiltration area will properly control the storm water runoff. The septic area is highlighted in blue and includes pretreatment. It reduces the leech field size. The system will go a long way to protect the surrounding environment. It requires the owner to agree to inspection and maintenance agreement to ensure upkeep. The Conservation Commission had a lot of input on the landscaping. This plan highlights eco-grass around the perimeter. That will act as a treatment. Natural wood chip mulch will line the sides of the driveway and it will come directly from the timber on the site. That product works well for woodland borders and helps to retain moisture. The wood chips will help to stabilize the area and protect buffers. This plan keeps the actual mowed grass areas very small. The area reserved for snow disposal is just upslope from the stone infiltration. The gutters lead to a stone drip apron and then a stone infiltration area. There is 1,300 square feet of pervious pavers that will help with infiltration as well. This plan includes all of the stipulations of approval from the Conservation Commission. They are listed under note 5. The next sheet shows an elevation cross-section. The drainage patterns and flows are directed away from the vernal pools. The house is 9 feet below the ledge. The bottom of the sheet shows the different surfaces of the gravel driveway with the wood chips and eco-grass. Sheet 5 shows the storm water management plan. The plan also included the stone infiltration details, the pervious paver cross-section and the gutter drip aprons. The last sheet shows the cross-section of the proposed driveway. The team worked closely with the

Conservation Commission to cover all of the items discussed. This is a low impact site plan with the proper protections in place.

Residential Designer, Brendan McNamara, spoke to the application. The hope was to use the existing driveway. It seemed a shame to not utilize it. Because the footprint of the house had to be minimal it was important that a functional house was designed. The design is for a three-story stacked house with a garage on the basement level. The second floor would be the main living space. The ledge outcrop was utilized to have a second level entrance and basement level car access. There is a woods trail that comes through the ledge outcrop. That will continue to exist and be a walkway to the front of the house. The design includes a shaft for a possible elevator in the future. This way someone could age in place.

Soil Scientist, Mark Jacobs, spoke to the application. Mr. Jacobs worked collaboratively with the design team and City Staff to achieve an environmentally friendly design. The box culvert would provide a four-foot wide and two-feet high opening to allow light to pass through. This will accommodate the amphibians' migration from the vernal pool to the wetlands and back. Culverts have been proposed for migrations in the past, but sometimes they are too low and dark that critters don't use it. Mr. Jacobs was pretty confident this would be used by wildlife.

Attorney Tim Phoenix spoke to the proposed memo draft that was handed out at the meeting. It was discussed at the Conservation Commission last week that language should be included in the deed. Mr. Phoenix was not asking the Board to approve the language today, but wanted to address the Conservation Commission's concern about the future owners not respecting the approvals. The note would be included in all deeds going forward. Mr. Phoenix read the proposed language out loud to the Planning Board. Mr. Phoenix asked the Board to grant approval with the condition that the team would reach final approval about the deed language with the City.

Mr. Clark thought the culvert was a great idea. Mr. Clark noted that it looked like there was a lot of ledge along the entrance of the house and asked that the plan was for the removal of the ledge. Mr. Ross responded that some of the ledge would be cut into to make the foundation sit in there. It will just be chipped away. Mr. Clark requested clarification about the note about the ice pond on the existing conditions plan. Mr. Ross responded that they were trying to get all the features. In the wetland finger there is a concrete structure. Mr. Ross believed that decades ago it was used as a control lever for an ice pond.

Ms. Begala commented that there was still over 15,000 square feet of buffer impact around the structure. Shortening the driveway might reduce the impact to the buffer. Mr. Ross responded that was a valid concern. When looking at the site originally they thought about moving the driveway further down the slope. The contours are all coming down so putting the driveway lower would create a damn. A culvert would need to be added. This driveway works well with the slope. Ms. Begala commented that it impacts more of the land. Mr. Ross confirmed that it was a longer run, but putting a driveway down slope would have a more intense impact. Mr. McNamara added that there was concern about linking the vernal pool and drainage swale with the wetlands on the other side. Bringing the house closer to the road would not allow that. The house is in the area outside of the waterfront. Ms. Begala questioned what amphibians would be

impacted. Mr. Jacobs responded that the primary amphibian in the vernal pools was wood frogs. Ms. Begala requested clarification about the wood frog migration. Ms. Begala commented that the limited cut area was a rather large swath and asked how many trees would be taken down with the project. Mr. Jacobs responded that wood frogs have been known to travel as far as 1,500 feet to and from their pool of origin. Wood frogs tend to imprint on a pool and to return to it every year. The migration would be an annual activity. The driveway will encourage them to use the culvert. Another reason why the house is there is because the ledge outcrop is a natural impediment to the migration, so they will go around the outcrop. This proposal has the lowest amount of trees the will be taken down. Some of the original proposals for the site had as many as 170 trees to be removed. This plan has 97 trees. Another reason for the location of the driveway, is that it can snake in a manner that avoids as many big trees as possible. Ms. Begala commented that the edge of the limited cut area goes well to the northwest of the house and asked if there will be cutting there. Mr. Jacobs responded that the plan shows the City wetland buffers of where cutting could occur, but no cutting was proposed in the area referenced by Ms. Begala.

Vice Chairman Moreau questioned how much digging would be required for where the basement was going. Mr. McNamara responded that the area where the slab is a 34-foot contour, so it will go 3 feet below at that point. The lower side of the house and the north side of the house will be the conventional 8-foot wall and they wont need frost protections. The south side would require minimal excavation because it's sloping away. Vice Chairman Moreau requested that the language for the deed include more information. The homeowners won't read a site plan and know what is on it. The daily requirements should be in the deed. Mr. Phoenix confirmed that would be updated.

Mr. Gamester questioned if the Conservation Commission stipulation about no salting and sanding included liquid de-icing or was it just hard sand and hard salt. Mr. Ross responded that the Conservation Commission wanted that on the plan. There are a lot of different alternatives to de-icing agents. Ms. Walker responded that the intent of the stipulation was for an alternate to be allowed.

PUBLIC HEARING

Chairman Legg asked if anyone was present from the public wishing to speak to, for, or against the application. Seeing no one rise, the Chair closed the public hearing.

DISCUSSION AND DECISION OF THE BOARD

Mr. Gamester moved to **grant** Conditional Use Permit approval, seconded by Vice Chairman Moreau with the following stipulations:

1. The woodchips for the driveway shall be made from the trees that are cut down on the site.
2. The box culvert maintenance details shall be added to the maintenance plan.
3. There will be no sand or salt used on the driveway in the winter as part of snow removal and alternative de-icing used shall be environmentally friendly.

- 4. The Martine Cottage Road legal team shall work with the City’s Planning and Legal Departments to develop language for the record to recognize the natural resource constraints of the wetland and vernal pools on the property. The final recorded document shall include stipulations 1 through 3.
- 5. Placards shall be put on the property to mark the no-cut area.

Mr. Gamester commented that the Board has seen this property more than once with different iterations. It is a buildable lot that needed certain concessions. Concessions were made and this is a better design.

Vice Chairman Moreau added that there have always been small buildable areas and she appreciated that the house is in one of those areas and the footprint is smaller.

The motion passed unanimously.

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IV. PUBLIC HEARINGS – ZONING AMENDMENTS

*The Board’s action in these matters has been deemed to be legislative in nature.
If any person believes any member of the Board has a conflict of interest,
that issue should be raised at this point or it will be deemed waived.*

Mr. Gamester moved to consider Items A & B together and vote on as one item, seconded by Vice Chairman Moreau. The motion passed unanimously.

A. Proposed amendments to the Zoning Ordinance to implement a Highway Noise Overlay Ordinance. The proposed amendments include inserting new sections 10.613.60 and 10.670 – Highway Noise Overlay Ordinance, consisting of proposed ordinance text and tables; and making conforming amendments to other sections of the Zoning Ordinance, including Article 15.

B. Proposed amendment to the Zoning Map to add a Highway Noise Overlay District as shown on the document “Highway Noise Overlay District” Map dated 7/17/2018.

Chairman Legg read the notice into the record.

SPEAKING TO THE AMENDMENTS

Consultant Rick Taintor spoke to the amendments. The first item was the highway noise overlay district. The new overlay district follows the alignment of I-95 and the Spaulding. This would make the City eligible for the Noise Abatement Program from the state of NH. The program helps to fund sound barriers along highways. The City needs to put an ordinance in place to be able to participate in the program. Mr. Taintor showed a map of the corridor. The distance was changed from the centerline to edge of the pavement because the interchanges get very wide. The northern part of district catches the edge of Atlantic Heights, but it does not catch Spinnaker Point. The New Franklin School is within the district and would be a noise sensitive use. The south part of the district includes Hideaway Manor and part of Portsmouth Hospital. The district

includes Exit 3 with Route 33. The purpose is to regulate as little as possible, while still enabling the the City to be eligible for the program. The ordinance proposes standards for noise levels for certain types of land uses. One is for the noise in the interior of residential or lodging property at the loudest traffic area. That is not necessarily the heaviest traffic because it could be based on trucks. This will require a noise study. The second is interior of other land uses and the last is for outdoor activity like yards or playgrounds. These proposed standards are drawn from regulations across the country and model regulations. It is very unusual to retroactively apply regulations for an area that is so densely developed. It is usually for areas that are proposing a new highway. A CUP will be required for expansion of most noise-sensitive land uses in the corridor. There are very few things that this ordinance will regulate. In order to apply for a CUP a noise analysis by a qualified engineer or analyst will be needed. If the analysis shows that there would be noise impacts that would exceed the limit, then the applicant would need to provide noise mitigation.

Ms. Walker commented that this is part of an effort by the City to protect some of the older neighborhoods on the highway corridor. Sound barriers are very expensive to install. This Federal Type 2 Program would help to get some additional protections. The Planning Department was sensitive to not overly regulate the existing properties in the area. Ms. Walker felt comfortable with the overlay district as presented. The City has been in communication with the neighborhood associations interested in this.

Mr. Gamester questioned if there was an acceptable time of year to do a noise analysis. Mr. Taintor responded that would go back to the highest noise hour policy. An analyst would look at that.

Mr. Clark questioned why the Route 1 Bypass was not included in this. Mr. Taintor responded that this area has not been identified as needing sound protections. Ms. Walker added that the City sees the Bypass and that portion of the Bypass in particular as having potential for change in the future, perhaps becoming less of a limited highway and more of a local road. Mr. Clark questioned that if a car dealership went in on the Spaulding, then how would they deal with ordinance. Mr. Taintor responded that car dealerships are exempt because they are not a noise sensitive use.

Ms. Begala asked how the boundary of the district is measured. Mr. Taintor responded that it was 500 feet from the edge of the road. Ms. Begala noted that this was based on various noise standards in the national regulations and asked if it was also in sync with the NH Department of Transportation. Mr. Taintor responded yes. Existing noise regulations were looked at to see if the City already had enough to qualify, but it didn't, so these regulations were added. Ms. Begala questioned if this would be State or Federal funds. Mr. Taintor responded that it would be Federal funds funneled through the State. Ms. Begala clarified that they don't need to comply with NH DOT at all. Mr. Taintor confirmed that the City had conferred with NHDOT. Ms. Begala asked about provisions for the -hospital. Mr. Taintor responded that this ordinance would make the City eligible to participate in the Type 2 Noise Program, which could result in noise abatement for existing uses. The hospital is a noise sensitive uses ~~o~~ if the - hospital proposes es to expand within the boundaries of the district, then they would have to apply for a CUP.

PUBLIC HEARING

Chairman Legg asked if anyone was present from the public wishing to speak to, for, or against the application. Seeing no one rise, the Chair closed the public hearing.

DISCUSSION AND DECISION OF THE BOARD

City Council Representative Perkins thanked the staff for being diligent to move it along and many residents will be appreciative.

Mr. Gamester moved to **recommend** that the City Council approve the proposed amendments to Articles 6 and 15 and to the Zoning Map, seconded by City Council Representative Perkins. The motion passed unanimously.

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C. Proposed Amendments to Article 12 of the Zoning Ordinance – Signs. The proposed amendments include deleting the existing Article 12 – Signs, and inserting in its place a new Article 12 – Signs as presented in the document titled “Proposed Amendments to the Portsmouth Zoning Ordinance: Article 12 – Signs”, dated June 21, 2018.

Chairman Legg read the notice into the record.

SPEAKING TO THE AMENDMENT

Ms. Walker commented that consultant Rick Taintor is working with the Planning Department on a list of zoning amendments. He will be presenting on these at future Planning Board Meetings. Rick Taintor spoke to the sign zoning amendments. The proposal is to replace the existing Article 12 with the proposed Article 12. It is not a complete revision of the section, but there are so many small revisions it is easier to delete the article and replace it. The comparison document is on the Planning site. Mr. Taintor talked about the key changes. The biggest change addressed the US Supreme Court case that ruled a town cannot regulate a sign based on content because it is a violation of the first amendment. The City looked at the regulations to find places where there was non-neutral content and resolved them. The City can regulate the location, size, illumination, height and setback. The City cannot regulate what the sign says. For example the existing ordinance says that a real estate sign can provide information on the availability of a property for sale or for lease. That is content regulation. The new ordinance says that while a property is for sale or lease it can have a sign on it. The regulation doesn’t control what it says. Right now development signs can identify people involved. The proposed ordinance says that developments can have temporary signs on the site. The proposed ordinance for election signs says that there can temporary signs 30 days prior to an election and 7 days after as long as the candidate is in the district. Other changes include prohibiting signs that are projected by illumination. The ordinance also changes the way that temporary signs are regulated by categories. Some signs won’t need a permit for sale or lease signs and election signs. A sign permit will be needed for sale or lease signs that are out for more than 60 days and properties

under active development. One key thing that was added is a maximum number of temporary signs allowed. One temporary sign is allowed for every 50 feet of frontage. There are a number of housekeeping changes recognizing the new Gateway Zoning District as well as clean up some other details.

Ms. Walker added that one clarification is that this zoning is for private property. It doesn't regulate signs in the public right of way, except for projected signs.

Vice Chairman Moreau questioned if lots without 50 feet of frontage could never have a sign. Mr. Taintor responded that would need to be clarified. It would only be one sign allowed. Ms. Walker added that they would look at that more. It could be one per lot or one per 50 feet. City Council Representative Perkins raised concern about the fact that people put signs up for multiple candidates in their yard. Election signs go out earlier than 30 days prior. City Council Representative Perkins proposed the ordinance should allow 60 days. There has been a lot of confusion with private parking companies and their signs and asked if that is addressed in this. Ms. Walker responded that the way the City currently manages that situation is that there is a separate permit process. Those companies have to go through DPW. They have to comply with a certain template for those signs. Mr. Taintor clarified that this provision was carried forward from the existing ordinance. The signs that require a permit are outlined in there already.

Ms. Begala questioned if there was a fee structure for the permits. Mr. Taintor confirmed that there was. It is set by the City Council every year as part of the budget process.

Mr. Gamester commented that it was common for a corner lot to have two real estate signs. Mr. Taintor noted that these were important points that should be looked at. The 50-foot frontage rule could be removed or edited if it was a problem. Mr. Gamester noted that the time period for election signs could be restricting. Mr. Taintor confirmed that could be looked at more.

Vice Chairman Moreau noted that the ordinance talked about flags. There are a lot of "open" flags in the downtown. Mr. Taintor responded that any flags or signs in the downtown in the public right of way would not be regulated by this Ordinance.

PUBLIC HEARING

Chairman Legg asked if anyone was present from the public wishing to speak to, for, or against the application.

Esther Kennedy, 41 Pickering Ave, echoed the concerns about the political signs timeline. Ms. Kennedy asked the City to think about allowing illuminated signs. It can be a nice addition. A lot of people have Christmas and Halloween illuminated signs. Technology allows us to put signs out there in a more creative way. Ms. Kennedy thought that the realtor regulations time period should be longer.

Chairman Legg asked if anyone else was present from the public wishing to speak to, for, or against the application. Seeing no one rise, the Chairman closed the public hearing.

Ms. Walker expected this would need some work. Based on the feedback, the Board can send this back to the Planning Department to address some revisions.

V. PUBLIC HEARINGS – NEW BUSINESS

The Board’s action in these matters has been deemed to be quasi-judicial in nature. If any person believes any member of the Board has a conflict of interest, that issue should be raised at this point or it will be deemed waived.

Arthur Clough, 431 Pleasant St., commented that this was a quasi-judicial board. Mr. Clough had concerns about people who may have made decisions before coming here, and weighing the workforce housing information differently. A number of members have been part of the workforce-housing huddle. City Council Representative Perkins has recused herself from the Portsmouth Housing Authority application at the last meeting. However, Chairman Legg and Vice Chairman Moreau did not. They have clearly stated their opinions and lobbied for workforce housing. They will not be able to meet the juror standards. Chairman Legg said that he weighed housing more than other issues like parking in the last meeting.

Mark Brighton, 285 Union St., agreed with Mr. Clough’s remarks. Mr. Brighton brought up an example of a case that was thrown out because of one disqualified member. It was impossible to estimate how much one member influenced Board.

City Council Perkins notified the Board that she would be recusing herself from the vote on the Portsmouth Housing Authority application. Chairman Legg chose not to recuse himself. The Chairman felt strongly the he could look at it in an objective manner. Vice Chairman Moreau also chose not to recuse herself. The Vice Chairman felt that she could objectively review the application.

A. The application of **Foundry Place, LLC, Owner**, for property located at **Deer Street (“Lot 2”)**, requesting Site Plan Review approval for the creation of a community space meeting the requirements of Article 5A of the Zoning Ordinance with related landscaping, utilities, easements, and other site improvements. Said property is shown on Assessor Map 125 as Lot 17-1 and lies within the CD5 and Downtown Overlay (DOD) District.

Chairman Legg read the notice into the record.

Mr. Gamester moved to **postpone** to the next regularly scheduled Planning Board meeting on September 20, 2018, seconded by City Council Representative Perkins. The motion passed unanimously.

B. The application of **Dorothy Kiersted and Theresa Sessions, Owners**, for property located at **50 Lovell Street**, requesting Site Plan Review approval to demolish the rear deck on the existing house and the existing garage; to retain the existing building as a single family residence with a footprint of 1,001 s.f. and Gross Floor Area 3,095; to construct a three story, two unit residence with a footprint of 1,660 and Gross Floor Area of 4,634 s.f.; to construct a three story single residence with a footprint of 1,165 and Gross Floor Area of 3,360; with related paving, lighting, utilities, landscaping, drainage and associated site improvements. Said property is shown on Assessor Map 147 as Lot 2 and lies within the General Residential C (GRC) District.

Chairman Legg read the notice into the record.

SPEAKING TO THE APPLICATION

John Chagnon and Doug Larosa from Ambit Engineering spoke to the application. Mr. Chagnon noted that they were here before the Board in March for a workshop on the property. This application has been through TAC and received a recommendation for approval from them at the July 31st meeting. This project will involve the redevelopment of 50 Lovell St. There is currently a garage on the lot that will be removed. The existing single-family house will remain. There is a proposed two-unit building and a proposed single-family unit to be built in the back. The driveway will have porous pavement to help with storm water infiltration. The utility connections will come from Lovell St. to the lot. There is a proposed new pole to span over the street. This requires a waiver. An infiltration basin in the back will be provided for drainage. A lot of the runoff from the site comes from the surrounding lots. The infiltration basin will allow the water on the lot to soak in the ground and out to Lovell St. The drainage was peer reviewed. A professional landscape plan was included. The lighting plan shows two lights to assist with the driveway lighting and a motion light at the garage door. The proposed stipulations are acceptable to the applicant.

Mr. Clark thanked the applicant for taking the initiative to add 15% of flow based on the recommendation from the NH Coastal Risk and Hazard Commission. Mr. Clark noticed that they called out inverts for the outlet structure for the infiltration basin don't match the detail sheet. That should be corrected. Mr. Chagnon confirmed that it would be updated.

Ms. Begala commented that there were nine parking spaces with only one visitor parking space. Mr. Chagnon confirmed each unit had a garage. The parking is at the first level. Ms. Begala commented that there were seven mature trees on the current site and the plan is to put in two red maples. Ms. Begala requested clarification on the landscaping. Mr. Chagnon responded that there were some existing clusters and the plan includes planting two trees. The area is a pretty open lot. There will be a fair number of tall bushes planted along the property line.

Vice Chairman Moreau requested clarification on the Fire Department's ability to get water to the back of the lot. Mr. Chagnon responded that the building will be sprinkled and the Fire Department reviewed the lot access at the TAC meeting.

Mr. Gamester questioned if the 20-inch ash to be removed was diseased. Mr. Chagnon responded that the tree was being removed to provide drainage.

Ms. Begala noted that the existing conditions plan has seven mature trees and some are 10-inch maples. The landscape plan is only adding two maples and asked if some of the trees could be saved. Mr. Chagnon responded that they had hired a landscape professional to prepare the plan.

PUBLIC HEARING

Chairman Legg asked if anyone was present from the public wishing to speak to, for, or against the application. Seeing no one rise; the Chair closed the public hearing.

DISCUSSION AND DECISION OF THE BOARD

A. Mr. Gamester moved to find that a waiver will not have the effect of nullifying the spirit and intent of the City's Master Plan or the Site Plan Review Regulations, and to waive the following regulation:

1. Section 8.1 2) Underground utilities – All new and relocated wires, conduits, and cables shall be located underground.

Seconded by City Council Representative Perkins. The motion passed unanimously.

Vice Chairman Moreau commented that the only reason she would vote positively was because all the remaining utilities within the lot would be underground.

B. Mr. Gamester moved to **grant** Site Plan Approval, seconded by City Council Representative Perkins with the following stipulations:

Conditions Precedent (to be completed prior to the issuance of a building permit):

1. The provision of an Access easement to the City for access to water meters, valves and pipes shall be reviewed and approved by the Planning and Legal Department and approved by City Council.
2. The Site Plans and any easement deeds and plans shall be recorded at the Registry of Deeds by the City or as deemed appropriate by the Planning Department.
3. Applicant shall review the drainage analysis and update as applicable for consistency with the details and layout for the outlet control structure for the infiltration basin.

Conditions Subsequent:

4. A third party inspection shall be required on water main, sewer and drainage system construction and repairs.
5. Applicant shall apply for any required stormwater, sewer, and water connection permits from the City

The motion passed unanimously.

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C. The application of **Portsmouth Housing Authority, Owner**, for property located at **140 Court Street**, and **Ed Pac, LLC, Owner**, for property located at **152 Court Street**, requesting Site Plan Review approval to demolish a portion of the existing building on 152 Court Street and to construct a 4-story, 64 unit workforce housing building with a footprint of 12,361 ± s.f. and Gross Floor Area of 58,975 ± s.f., with related paving, lighting, utilities, landscaping, drainage and associated site improvements. Said property is shown on Assessor Map 116 as Lots 37 & 38 and lie within the Character District 4 (CD4) and the Historic District.

Chairman Legg read the notice into the record.

SPEAKING TO THE APPLICATION

Mr. Bosen represented the Portsmouth Housing Authority (PHA) in the request for the final site plan approval and introduced the team. Craig Welch the Executive Director from Portsmouth Housing Authority, John Chagnon from Ambit Engineering, Carla Goodknight and Scott Donovan from CJ Architects were all present to speak to the application.

Craig Welch the Executive Director of the PHA commented that this was the 10th time this application was in front of a public board in the City. Mr. Welch welcomed some of the residents from the Feaster Apartments who were there tonight. The PHA was founded in 1953 and completed their first development in 1959. The PHA manages 184 units and house 5% of the City. The PHA has a combined annual budget of 11 million and runs an after school program. The City’s Master Plan acknowledges the fact that there is a shortage of work force housing in the City. It has been well documented and talked about for a couple of decades. The PHA’s role is to do something to address that need. An assessment of the current portfolio was performed and the PHA studied where they already own land. It was hard to ignore that there was a parking lot on Court St. that had development potential. The location is walk-able to thousands of jobs. There have been 10 public hearings and presentations. There have been information sessions to groups around the City. The application has gone in front of the BOA, TAC and HDC and received approvals from all of them. The application has been in front of the Planning Board for approval once before. There has been extensive architectural review, environmental review as well as traffic and drainage studies. The PHA has applied for a tax credit from the NH Finance Authority. Some local businesses are stepping up to purchase those tax credits. The PHA has filed an application and secured a financing and equity partner. Usually it is a huge bank that invests. In this case the PHA will be working with a local bank. The PHA has done a lot and hopes that this will be the last approval in the process. The project has evolved to have a total of 64 units that are a mix of 1 bedroom and 2 bedroom apartments. The proposal is doing a lot to promote alternate transportation options like the COAST bus stop and providing bike storage on the property. The project will build a public park and include a fire museum space. Almost all of the building is housing. There will be 1,100 square feet of public space. This will provide a resident services program and will be more work-force focused. The PHA has coordinated with local businesses to provide resources. Mr. Welch handed out the annual report for 2018 and gave a sheet to make it clear about what this means in terms of affordability. One page has the median income limits, which is a little over \$34,700.

To qualify to live in 160 Court St. under the tax credit rules the resident has to be under 80% of that threshold, but the target is 60%. The PHA is still serving the same target population, but instead it will use different income bands. The net rent for a 1-bedroom unit for people who make 50% or below the median income will be \$853 a month. 60% below the median income would be \$926 and 80% would be \$1,050 a month. It is a small sliding income. 48 units of the building will be 1 bedroom. 16 units of the building will be 2 bedrooms. 100% of the property's rent will be trailing the market. These rents won't have an additional voucher. They are all below market and that was the goal. There will be a permanent deed restriction on the property. The goal is to create permanent affordable housing for people in Portsmouth.

Chairman Legg commented that there have been some concerns in this proposal that the PHA has misrepresented work force housing and are misleading potential financiers, the public and the Board. Mr. Welch responded that there were a lot of different terms used when developing affordable housing such as low income, section 8, affordable housing etc. The PHA used the term work force housing for this project because the goal was to communicate that it's a different program than the rest of the portfolio. The rest of the portfolio comes with a subsidy, so it is attractive for low-income residents because they pay 1/3 of their income for rent. This is a different product because there is no additional subsidy. If the rent is \$850 a month, then the resident will pay that without a subsidy. In order to do that people will need to have some sort of income; people will have to be in the work force. This term predates Federal and City definitions to regulate it. Work force housing needed a legislative response because it's in crisis. Some state legislation passed to include that zoning, so the state needed a definition for work force housing. The City did the same to incentivize work force housing. The City did that relative to the Gateway Zones to incentivize it. It's not incorrect to say that per the Gateway Zone definition this application does not meet that definition. That is not relevant.

Ms. Begala questioned if someone was looking to live in the building, then the main criteria for whether they can live in the building would be their income level. Mr. Welch confirmed that was correct. Ms. Begala questioned if this was a 4-story or 5-story building. Mr. Welch responded that it would be 4 stories of residential units. There is a 9-foot slope from Court St. to the back of the lot, so there will be parking spaces under the building in the back of the lot. Then there will be 4 stories of building above that. Ms. Begala questioned if the PHA would be asking people their place of work on the application and would working downtown be part of the criteria. Mr. Welch responded that all of the criteria would be outlined very specifically in the tenant selection plan. That outlines exactly how the admission process and waitlist would work and who gets in. If the PHA does get the tax credit award, then they will need to have that tenant selection plan by October. It will have a weighted preference for Portsmouth residents. Another preference would be for people working in Portsmouth and for veterans. The PHA has not done a project like this before, so Mr. Welch did not know how qualifying people based on their ability to pay would go. Right now the PHA does not do a credit check when people move in. They probably will do that for this property. The goal is to not to cost burden people.

Mr. Chagnon walked the Board through the technical aspects of the site plan. Last month the Board approved the lot line relocation plan to allow for the existing 152 Court St. to be partially demolished. This will make room for the development of the site. There is a demo plan that details the removal of part of 152 Court St., the existing parking lot and some existing pavement.

The site layout is for a new four story building on the east side of the property. It will face to the street and come down the back where there is parking and a drive aisle that will access the lower level. Feaster Apartments and the new building will have a new park with a serpentine public walkway off Court St. The fire fighter memorial is in the northeast corner of the lot. There will be a dedicated 1-story addition that will house the fire fighter vehicle adjacent to the memorial. A new driveway would be constructed around the back of the Feaster Apartments. A speed hump will be installed to slow down traffic. This will not allow through traffic and signage will be installed. The sidewalk on the east side will be replaced. Sheet C4 in the plan shows the basement parking area. It will be accessed at grade to accommodate other modes of transportation like mopeds and bike storage. The plan shows the community space. The 20% community space includes the park, walkway, memorial and frontage. The utilities will come from Court St. The water, gas, and sewer run in the back. The electrical will come from an existing pole. It will be replaced in same location and run underground around the site to the district court and branch back to the pole where the current service is located. Drainage has been a big concern for the project. The drainage plan will provide storm water chambers to take in roof runoff from both buildings and put them in an area to store and meter out at a slower rate. The goal is to separate the water, which will require them to slow down the flow. A small detention area is proposed in the southwest area to address abutter concerns. Under the pavement there is a system that connects to a series of pipes that drain the other areas of the lot. A drain line will be installed connecting to the city storm drain system on Roger St. The system will need to be upgraded to handle the separate runoff. Because of the size of the site and additional flow to the system the pipes will be upgraded to the offsite pipeline. It will be difficult because the area has low cover so Mr. Chagnon looked at pipes that would accommodate that. The 12-inch pipe will be replaced with twin 15-inch pipes. The plan set has a professional landscape plan. There will be an enhancement to the entrance at Court St. The plans showed some improvements in the area of the existing fire station. The plan includes benches and a potential flagpole. The plan includes replanting some trees along the eastern boundary. The large ash trees will be replaced with trees that are more appropriate to the environment. The application has obtained the other approvals needed. This is the last step in the process.

Mr. Clark pointed out that on page 154 in the drainage study there were quite a few oscillations in the model, which can give errors in the results. Sometimes it does and sometimes it doesn't. It would be good to look at it again. Comment 148 looks like the catch basin volume is being set at the grate, which could cause ponding at the grate. Backflow could cause other issues in the model and he asked if Mr. Chagnon will work with City staff to finalize the model. It won't change the design in a drastic way. Mr. Chagnon confirmed that he would work with the City. The oscillations could be a result of the boundary conditions in the model. Mr. Chagnon was tasked to look at how much existing runoff ponds in the adjacent lot. This project and off site are designed for a 2-3 year storm. The goal was to ensure that the water back up on the property was not worse than what is there now.

Vice Chairman Moreau commented that not much was changing in front of Feaster it will just get slightly better and asked if there is a way to give the small building in the front the ability to park there and turn around. Mr. Chagnon responded that unfortunately there is no room to do that. Vice Chairman Moreau responded that it appeared that the Feaster entrance was not

changing. It is just a throughway now. Mr. Chagnon confirmed that was correct as far as the driveway and access went. The team was asked to provide better radiuses at the entrances, which is shown in the plan. Vice Chairman Moreau questioned how the trash removal would go. Mr. Chagnon responded that it is currently accumulated in the Feaster Building and taken away in containers. The new building will have a trash compacter room. It will be a small truck that does frequent pick-ups. Delivery trucks would park out front. Vice Chairman Moreau questioned how it would work for the new building. Mr. Chagnon responded that there would be three parking spaces there that would provide the opportunity for drop offs. Vice Chairman Moreau questioned if there would be signage to guide people where to go. Mr. Chagnon confirmed that could be included in the plans.

Ms. Begala asked for clarification regarding the destination of the new 5-foot wide concrete sidewalk. Mr. Chagnon confirmed that it was for foot traffic going to the Parrot Ave. Lot. Ms. Walker added that there have been ongoing discussions as a result of the TAC meeting about extending the sidewalk all the way to Parrot Ave. That's one of the recommendations in the staff memo. The applicants will continue to work with the abutter and City to see if there's a solution. Ms. Begala requested clarification about the pedestrian access point. Mr. Chagnon responded that it would be closed. The abutters have asked that to be closed because the parking lot is going to be rearranged. Ms. Begala questioned if there would be parking permits and what's to prevent non-residents from parking there. Mr. Welch responded that they have dedicated parking now that does require a permit. All of the Feaster residents who currently have parking passes will still have parking on the site. It will be disrupted during construction, but they will work to accommodate that. Ms. Begala questioned how the emergency vehicle access would work. Mr. Chagnon responded that there is access from Parrot Ave. to the back. It services the fire station but is not shown on the plan because it is offsite.

Mr. Gamester asked to clarify the comments in a letter from Eric Weinreib requesting that the sewer/water separation be moved and whether the existing tree could be saved. Mr. Chagnon responded that the comment was regarding an existing tree at the westerly driveway and that they explored an alternative route for the utility line, but they ended up with the location where there is an existing easement. Mr. Chagnon said the tree will be disturbed by digging to put in the two pipes. Mr. Gamester questioned if the replacement trees could be a 3-5 inch caliber tree. Mr. Chagnon responded that the 2 -2.5 inch trees in the memo would match the tree that was on the recently approved site plan for 127 Parrot Ave. to be planted at the other intersection.

Mr. Clark questioned if any traffic came by the courthouse to access the back lot and if that would stay open. Mr. Chagnon responded that currently the City owns up to the courthouse in the Parrot Ave lot. The courthouse driveway that services the fire department will remain. That's the City property. Mr. Clark questioned if residents would be able to use that. Mr. Chagnon responded that it would be open to the residents.

Mr. Bosen noted that this project would be financed using Federal Housing Tax Credits. They are limited and competitive and only given out once a year. The deadline for this is next Friday. This project has been through a lot of boards and is in line with the 2025 Master Plan. This project has been publically vetted for over a year. There has been an overwhelming amount of

support and less than a dozen people coming to the public meetings in opposition. This is the right location the, right proposal, and the right development.

PUBLIC HEARING

Sandra Ghent from the Feaster Building was against the whole project. Ms. Ghent was worried about the Feaster residents' safety. There will be a new road. Ms. Ghent uses a walker and there are people with wheel chairs. There is currently a beautiful yard where the residents can sit out and socialize. Ms. Ghent does not work or drive, but she does like to sit out in the yard with her friends.

Mike Kennedy, 267 Marcy St., is the Commissioner of the PHA. Mr. Kennedy supported the project. The PHA has seen study after study, and the City needs more housing for people at a lower pay scale. All projects are priced out of the market they are trying to serve. This is the time to allow this project to go forward. The PHA houses about 1,000 families and has a steady waiting list. It is a unique situation that the PHA already owns most of the land required for the project. The PHA has expertise in managing the project and the type of residents.

Kevin McCloud, the President of the PHA Board, said that the development has been working on this project for well over a year. The team came up with ideas on what to do and tried to play devil's advocate to create the perfect project. Everyone is entitled to his or her opinion and whether this project is needed. He believes it does. The apartment building offers a good mix and diversity. It is unique and in the downtown within walking distance to most people's needs. This is a positive impact to the downtown. It will support businesses and the hospitality industry especially.

Amy Schwartz lives at 55 Sunset Road and is the Commissioner and Vice Chair of the PHA Board. Northern New England struggles to attract and retain residents. Students attend college out of state and stay out of state. It is hard to attract people to the market. Ms. Schwartz has a house full of young adults and they are leaving to other cities because it's expensive. The PHA can begin to build affordable housing. It would give young adults a place to live in the City.

Barbara Wiseman from the Feaster Building has worked for the City. One of the reasons Ms. Wiseman moved to the Feaster Apartments was because of its accessibility and the designated parking spot. The new building is a good idea, but Ms. Wiseman was concerned about the safety for the people in Feaster with the road. The road needs more speed bumps in it especially around the corner. People go out the back door with their dogs. This plan is taking away the seating area. This plan brings about fire safety concerns. There are two entrances at Feaster. Residents were told they could get them out on a ladder truck. A lot of people can't walk the stairs. Ms. Wiseman supported the project, but requested that the applicants consider the Feaster residents.

Brenda Fuller lives at the Feaster Apartments on the fourth floor. Ms. Fuller understood the need for more housing, but was worried and concerned about the Feaster Residents. Ms. Fuller has a little dog and this plan will limit the backyard. Safety is a big concern for residents and pets. Fire safety is also a big concern. The Feaster residents' concerns should be addressed first before anything else takes place.

Arthur Clough, 431 Pleasant St., commented that workforce housing has a clear definition. The public did not know the make up of the residences until very recently. How could this organization, which has provided for disabled, senior citizens, and families turn its' back on families. The law says that 50% of work force housing has to be for families. This is discriminatory housing. PHA has admitted that it's not work force housing. It is a detriment to senior and disabled citizens. This City needs to care about laws and rules.

Bob Pendergast from the Feaster Building was totally against the project. Mr. Pendergast lives on the fifth floor of the Feaster Building and was concerned about how he would get out if there were a fire. He asked where residents will go to socialize and smoke once the area in the back is taken away. The new courtyard will be in the middle where the fire lane used to be. Residents can't smoke in there because it would be less than 25 feet away from the building. The PHA is pushing residents around as they see fit and not giving them a choice.

Katherine Kane is on the Board of the Portsmouth Housing Authority. Ms. Kane was in favor of the project. This type of housing is needed, and if the PHA does not do it then no one will. The PHA will manage the residents and not make a profit. There is no land investment because they already own it. No tax program will award project credits to a project that is not doing exactly ~~it~~ what it says it's doing.

Mark Brighton, 285 Union St., commented that this was going to pass no matter what. Ms. Kane noted that tax credits have to vet the project. The public just heard what the numbers for this project were. He asked what the tax program saw. The numbers seem different tonight. Even their lawyer says it is work force housing. That housing is supposed to be for families. There are no three-bedroom units in this plan. Mr. Brighton was in favor of work force housing, but was not in favor of apparent deception. This project was based on work force housing, but it does not meet the definition. The residents just said their concerns.

T. Steven McCarthy, 1253 South St., spoke in full and complete support. This project for Portsmouth needs to pass. The PHA is a non-profit that has been here for 60 plus years. It exists to provide help for those who need it. This project fits into the Portsmouth landscape and it will be a legacy for all of us to appreciate when it is done. The PHA owns the land already. They are local people helping local people. They are not a predatory developer building condos. This project is being built as a community to help a community. There is no mystery here. Everything is on the table. Derailing the project now would be devastating, and would leave a permanent stain on what Portsmouth is and what it stands for.

Robin Rousseau, 90 Fleet St., has over 30 years experience in real estate. Ms. Rousseau has just moved back to a condo in Market Square. It is a parking nightmare in Market Square. The Board knows about the parking issues, but they have not lived it. Residents are dealing with Planning Board decisions of the past with buildings that don't have deeded parking. The choices are the Parrot Ave. lot, the garage, or residents have to move their car every three days. It can be difficult when you have an illness. Ms. Rousseau has gotten a ticket for double parking to unload groceries. The bank lots have always been kind to residents post hours, but now they are ticketing. Ms. Rousseau was in shock when the Planning Board allowed the project to not have

appropriate parking. This will add to the existing parking issues. It is a shock that this application was allowed to move forward when they misrepresented it. The application does not meet the work force housing criteria.

Nancy Pearson, 104 Lincoln Ave., thanked the Planning Board for their service. Ms. Pearson spoke in support of the project and asked the Planning Board to vote in favor. This is a huge opportunity for Portsmouth to send a message to other developers to come in and build other affordable housing projects. Portsmouth has not had an opportunity like this before. Mr. Welch should elaborate how this project will help the Feaster tenants. Ms. Pearson was sure the PHA had a plan to address their concerns. This project will put Portsmouth on the map and do the right thing for the region and the state.

Rick Becksted, 1395 Islington St., stated that he was speaking as a resident. Mr. Becksted talked to Mr. Welch before the meeting and advised they remove the term work force housing. The public is talking about the RSA definition. That word is misunderstood because it has many meanings to people. Portsmouth Housing Authority is doing something completely different than the NH state law definition of work force housing.

Tom Ferrini, 69 Taft Road, sat on both Portsmouth Housing Authority Boards. Mr. Ferrini thanked the Planning Board for their public service. This is going to be an under market rental property. The goal is to help the city of Portsmouth to have the economic opportunities it needs to get people here who can't get here now. There is no reason why this project can't fit into the City in an appropriate way. Tax credits will be applied for in the appropriate way and heavily vetted. This has been talked about for a long time. Finally all of the pieces of the puzzle have come together. This is a local non-profit building on land they already own.

Adam Ruedig sat on the Portsmouth Housing Authority Board. Mr. Ruedig spoke in favor of the project. It has been through a long detailed review process and speaks to the need of the housing. It is incredibly difficult to get this. It has come so far because it is a non-profit organization that allows them to do things that a for profit can't do.

Lilly Byer, 218 Rockland St., spoke in favor of the project. There has been a lot of talk about affordable housing and how to get it. This is how we do it. It is done in a downtown location with a non-profit that cares about housing people. Downtown can't have parking for every resident. This development is not possible with a developer who needs to make a profit. If we care about making new affordable housing for people that make reasonable incomes this is how it is done.

Barbara DiStefano, 90 Brewery Lane, agreed with all of the supporters who spoke in favor of the project. Mr. Welch will address the Feaster rResidents concerns. Ms. Distefano used to live at Portwalk Place, but moved to the Brewery Lane to save \$600 a month. A lot of people in the service industry need to live in units that have affordable rents and are accessible to downtown. Please support this project and help people that need lower rents live in Portsmouth.

Esther Kennedy, 41 Pickering Ave., commented that there would not be enough parking for all of the people. Ms. Kennedy was concerned that there would not be enough parking for the

people who might need it. Safety was another concern. The PHA should meet with the Feaster residents to talk about safety. The work force housing is still not clear. She asked whether it would include families or be affordable for people who make \$34,000 a year. Most of the workers downtown in the kitchen are not making \$34,000. The public transportation should be figured out and the PHA needs to talk to the Feaster residents before this moves forward.

Paige Trace, 27 Hancock St., was one of the first people at the HDC meeting that asked about number and makeup of units. Ms. Trace was for work force housing, but had a problem with the use of the word work force housing in the PHA application. The building must have a majority of the units go to those that fall below the median income. Mr. Bosen said they were here to serve the middle. That was a great idea in theory, but Ms. Trace was concerned about the fire safety of the Feaster residents. There are still a lot of questions. First and foremost with safety. That needs to be looked at. The parking is also an issue. The bottom line is that there are 64 units. Portsmouth dictates that the building should provide 124 parking spaces. It was approved to only provide 60 spaces. The Board neglected to take into account the number of parking spaces taken away from the Feaster Building.

Sandra Ghent, Feaster Resident, lives on the 4th floor on the corner. Cars will be running by all day. Ms. Ghent has health issues and won't be able to open the windows because of the fumes. The AC units don't work. The bedroom is 90 degrees. There are at least 100 people in the Feaster Building, but the PHA is worried about the new one. The PHA should take care of the Feaster residents.

Robin Rosseau, 90 Fleet St., commented that people who make \$34,000 a year would most likely have a car to drive to the store etc. It is not easy to take the bus to get groceries in the winter, especially for disabled or older people. Most of the public who are for this project are people who are employed by the PHA. The people who are against it are the residents of Market Square who have experienced the parking issues. Ms. Rousseau proposed that this project should be moved and be part of redeveloping the Route 1 Bypass area. Tax credits and financing is always available. This is pretty much already being rejected from the residents that are already there. Getting land in the Route 1 Bypass area would not be difficult.

Brenda Fuller lives in the Feaster Building and has lived in the City when they built the Feaster Apartments. Now she is a resident there. Ms. Fuller thanked the PHA for all they do for them and the community. Ms. Fuller understood wanting to bring more people into Portsmouth, but asked that the PHA take the Feaster residents into consideration. Many have worked here and struggled. They were low income then and now. Their wages would not allow them to live in the City if not for the PHA. Please consider the Feaster residents.

Bob Pendergast lives in the Feaster Building and was for work force housing. Mr. Pendergast thought that the PHA should put it in another location. Mr. Pendergsat understood that it was needed, but did not think it should be in the middle of the City taking away from parking. Why hurt the people in Feaster when there are other places to put it.

Arthur Clough, 431 Pleasant St., read the Portsmouth City ordinance and definition of work force housing. This is more than just a conversation about work force housing. It's a

conversation about whether all residents of Portsmouth will be treated equally. Work force housing is an important issue. Mr. Clough was not criticizing a work force housing project, but was there to insist on work force housing. Let's not get up here and say there's a sense of urgency. This project will likely push City Council to build another garage. This has been rushed through so quickly that these Feaster residents are not confident in any way that their needs have been addressed. This project will be an inconvenience during construction and after it. The gathering area in the back of the building goes away. The activities residents do now will be restricted. Mr. Clough did not believe that the project had to pass tonight or it would never happen. It needs to go back to the drawing board. Then next time it needs to have full disclosure. The tax credit application had a lot more information than the Board had here. This has not been a transparent process.

Nancy Pearson, 104 Lincoln Ave., reemphasized her request for the Board's unanimous support of this project. Ms. Pearson had not been confused by the definition that Mr. Welch has been using. Ms. Pearson did not know what was confusing about under market housing that was deeded forever. Please send a message that Portsmouth is open for business and affordable. This application has been going through the process for over a year and has been presented in 10 different meetings. This is not rushed.

Rick Becksted, 1395 Islington St., noted that last month a project was approved that had 24 units. 2 units were reserved for work force housing under the City Ordinance and State RSA definition. It took longer than expected with legal, but they did it. This project has given different work force housing definitions and numbers every single time. Mr. Welch had talked about a limited partnership, Mr. Becksted asked what that meant and whether it would be accredited. It's not clear, so that is why there is confusion. If the PHA said the definition of work force housing was below market housing that would eliminate confusion. The Feaster residents are here to ask that if nothing else the Board push this to a meeting next week to continue the discussion. Give the PHA the time and ability to meet with the Feaster residents. The walkway only has a connecting sidewalk that goes to the new building. The Feaster is not part of it. The simple request would enable access to the Feaster Building and make it more inviting to the public areas. Take that into consideration.

Mark Brighton, 285 Union St., agreed with Mr. Becksted's comments about the confusion.

Barabra Wiseman who lives in the Feaster Building commented that one of the speakers brought up lighting. She asked about the access at the entrances and exits. That is part of the safety issue. They need to know how that will be handled. There will be people coming into the park to sleep. That's another safety issue. She asked if the park will be open to general public.

Paige Trace, 27 Hancock St., agreed with Mr. Becksted. There is time for communication to continue before a decision is made. People who live in the Feaster Building may be older or have disabilities. Ms. Trace had the overwhelming feeling that they have been disenfranchised. Ms. Trace was concerned that this project was only focusing on the new and the young. It is at the expense of the Feaster residents. They deserve the same amount of commitment and caring as everyone else. Ms. Trace thanked the PHA for the amount of time and commitment spent on this application thus far.

Brenda Fuller lives in the Feaster Building and clarified an earlier statement. Mr. Welch has been to the Feaster Building on a few occasions to talk about the project with residents. Ms. Fuller was concerned for the safety of the Feaster residents. A lot of them are older this may be their last apartment. The residents need to know exactly what is going to take place. Then they will feel a little more comfortable. The residents deserve to be comfortable. That should be addressed.

Arthur Clough, 431 Pleasant St., commented that during the parking discussion it was clear there was really no plan on how to divide up the parking. There are a lot of things that are not thought through. Mr. Clough noticed that the target renters were for Strawberry Banke, Prescott Park and Seacoast Rep. employees. There are a number of flaws. This program is discriminatory. They cannot discriminate against the elderly and handicapped. Mr. Clough wanted Portsmouth to grow, asked the Board to apply good judgment.

Chairman Legg asked if anyone else was present from the public wishing to speak to, for, or against the application. Seeing no one rise, the Chair closed the public hearing.

DISCUSSION AND DECISION OF THE BOARD

Chairman Legg requested that Ms. Walker elaborate on the process because of the life safety issues raised during the public hearing. Ms. Walker responded that this all goes through TAC. Ms. Walker chairs that meeting and it is comprised of City staff including the Fire Department and DPW. The Fire Department has reviewed the plan and was not shy about making sure it was consistent with fire code. Deputy Chief Roediger speaks right up if there is an issue. The City's Traffic Engineer, Eric Eby, also reviewed the traffic and pedestrian safety at TAC. If the Board wants to consider more traffic calming measures, those should be reviewed with Mr. Eby. It is a short distance from the street to around the corner. It is not enough distance to get up to a high speed, but it could be further reviewed.

Vice Chairman Moreau commented that the park should be connected to the Feaster Building. The park safety should be considered as well. They could post public times to help dissuade people from being in there late at night. Ms. Walker noted that this would be City Council jurisdiction because it's a public park. The Planning Board could make that recommendation. Vice Chairman Moreau commented that as part of this approval the PHA should make sure they work to accommodate the neighbors. Efforts should be taken to make it the least painful during construction. There should be plans to work with the Feaster residents to ensure they are accommodated.

Mr. Gamester commented that there has been a lot of discussion for this project, and the plan has been tweaked by comments from the various City Boards. Mr. Gamester was comfortable with the plan and where the new building was. Mr. Gamester would be voting yes to the project. Regarding the work force housing, the PHA knows what they are doing and how to do it. The property will be designated as such in perpetuity. This is something that is needed in the right spot. One comment was made that this project should be completed elsewhere. The whole point is that they can do it here because it's affordable. It is probably the only place downtown to do

it. The PHA is following the tax credits definition in terms of work force housing and how they are represented. It could be called millionaire lane on the site plan and still be what it is. If the work force housing was tied to the incentives in the zoning, then the Board could comment on that. The term work force housing does not have bearing to the project because it is not tied to the City Ordinance.

Vice Chairman Moreau commented that she would also be supporting the project and agreed with Mr. Gamester. This is affordable housing for the work force. The PHA was not asking the Board to look at it from the work force ordinance. The building fits into the area. If Portsmouth wants to be a bikeable and walkable City, then it needs to have housing that accommodates that. People might want to live downtown and not have a car. Vice Chairman Moreau thought that the parking would work. The PHA will make sure all people who currently have assigned parking will continue to have that. The Board has the opportunity to monitor the parking, and mitigate it if necessary. It is a great project for the site and it works.

Ms. Record noted that this was a project that was going to work and will allow people to live in Portsmouth. Ms. Record supported it.

Mr. Kisiel commented that he would also be supporting it. In his time on the Board he has not seen a work force housing project like this. Mr. Kisiel appreciated the PHA's efforts.

Mr. Clark appreciated what the other staff said and agreed with a lot of their thoughts. Mr. Clark requested they add a stipulation to keep the abutters in the loop. There could be pre-meetings before the construction kicks off, so that no one feels left out and everyone understands what's going on. There was a lot of concern about fire safety, but it's been vetted at the TAC level. There could be meetings set up with City staff, so that any questions can be asked directly. Mr. Gamester noted that right now the stipulation was that the applicant would meet for the CMMP. Ms. Walker suggested adding an additional condition prior to permitting that the PHA would work with staff to hold meetings for the Feaster residents about the project. Mr. Gamester added that there could be 3 meetings, one meeting with the CMMP, one in the interim and one pre-construction.

Ms. Begala noted that this project was being constructed as one and two bedroom units only. There is no space for children. Ms. Begala was concerned about approving something discriminatory. This was not in compliance with the work force housing ordinance, so Ms. Begala did not support it.

Chairman Legg commented that you can't let the perfect get in the way of the good. One project can't solve all the problems for work force housing. This project is the right project at the right time. The PHA knows the financing and how to get it. If they are wrong, then they will not get the financing. The PHA is not applying work force housing as the city defines it for approval of the project. It is irrelevant how the ordinance defines work force housing when the applicant is not using that definition in any way to advance the project.

Mr. Gamester moved to **grant** Site Plan Approval, seconded by Vice Chairman Moreau with the following stipulations:

Conditions Precedent (to be completed prior to the issuance of a building permit):

1. Applicant shall provide an update to the drainage easement on 127 Parrott Avenue property including Portsmouth Housing Authority as a benefitting party to be reviewed and approved by both the 127 Parrott Avenue property owner and the Legal Department. The Drainage Easement update shall clarify the intent of the Stormwater O&M Plan as the responsibility of the 160 Court Street property owner, Portsmouth Housing Authority.
2. Plans to show relocation of the emergency signal head to a location approved by the Fire Department and addition of the required Emergency Signal sign.
3. Applicant shall coordinate with Homeland Security for relocation of the emergency siren.
4. Portsmouth Housing Authority shall coordinate at least two meetings with Feaster Apartment residents to review the project plans in detail and allow opportunity for concerns to be raised and addressed as possible. The Planning Department shall be notified and invited to the meetings and additional City Staff shall be invited if appropriate.
5. Plans shall be updated to include notes regarding conditions subsequent listed below.
6. The applicant shall prepare a Construction Management and Mitigation Plan (CMMP) for review and approval by the City's Legal and Planning Departments. Particular attention shall be paid to the needs and safety of the Feaster Apartment residents during construction. Applicant shall hold at least one meeting regarding the construction process with Feaster residents prior to construction and shall provide regular updates throughout the construction process.
7. Any easement deeds and plans involving the City shall be reviewed and approved by the Planning and Legal Departments and accepted by City Council.
8. The Site Plans and any easement deeds and plans to or from the City shall be recorded at the Registry of Deeds by the City or as deemed appropriate by the Planning Department.
9. Applicant shall verify the location of the catch basins with the DPW staff and revise the drainage model if appropriate to reflect any changes in location.
10. Applicant shall provide directional signage for delivery vehicles and guests accessing the site by motor vehicle to designated parking, loading areas, and building entrances. Any signage shall be reviewed and approved by the City's Transportation and Parking Engineer.
11. Applicant shall consult with the City's Transportation and Parking Engineer to evaluate additional traffic calming measures in the driveway areas around Feaster to alleviate Feaster resident concerns regarding pedestrian safety in those areas.
12. Applicant shall add a pedestrian path connection from the Feaster Apartments to the community space located between the Feaster Apartments and the new multi-unit residential building.

Conditions Subsequent:

- 13. Applicant shall work with the Planning Department to propose limited hours for public access to the park or other mechanisms to address safety concerns regarding the public access to the park raised by Feaster residents. Any proposed regulations shall be reviewed with the Police Department prior to submission to the City Manager for consideration and potential referral to the City Council.
- 14. Prior to construction, the terminal drain manhole located across Rogers Street shall be evaluated by the project engineer to verify if the structure can accommodate two 15” pipes or whether the structure will need to be replaced.
- 15. Applicant shall apply for a stormwater connection permit and excavation permit prior to construction. Limits of restoration (road, sidewalk, curb, etc) will be determined at the time of permit issuance.
- 16. Applicant shall continue to work with City staff and property owner at 127 Parrott Avenue in good faith to evaluate and develop a mutually acceptable publicly accessible pedestrian connection on and across 127 Parrott Avenue to and from the Portsmouth Housing Authority property and Parrott Avenue.

The motion passed in a 6-1-1 vote. City Council Representative Perkins recused herself. Ms. Begala voted against the project.

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Mr. Gamester moved to continue the meeting past 10 p.m., seconded by Vice Chairman Moreau. The motion passed unanimously.

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D. The application of **Salema Realty Trust, Owner**, for property located at **199 Constitution Avenue**, requesting Site Plan Review approval for the construction of a 2-story industrial building, with a footprint of 12,800 s.f. and a Gross Floor Area of 12,800 s.f., with 24 parking spaces and proposed stormtech infiltration system, with related paving, lighting, utilities, landscaping, drainage and associated site improvements. Said property is shown on Assessor Map 285 as Lot 16-301 and lies within the Industrial (I) District.

Chairman Legg read the notice into the record.

SPEAKING TO THE APPLICATION

Chris Tymula from MHF Design Consultants spoke to the application. The site has a total of 8.5 acres. Development was permitted in the late 90s at that time there were three buildings. There are a lot of existing easements with water, access and storm water retention. The proposal is for a 12,800 square foot industrial building. It would be 2 stories with rear access from the Wal Mart parking lot in an existing access easement. The building and parking and loading areas are oriented for tractor-trailer movements. The four units there may be one large unit. There are 24 parking spaces on the side and front. There is a fenced in dumpster. The comments from TAC

were to reduce the impervious coverage and add green space. Those comments have been incorporated. There is a 500 square foot reduction in pavement from the original plan. There will be freestanding lighting around the perimeter. There will be snow storage around the site. There is a guardrail and an above ground infiltration basin. The grading and drainage plan meets the storm water standards submitted to AOT. It consists of an above storm water infiltration basin and various catch basins throughout site. It is designed to meet the City and AOT standards. The entire site will drain out to the west where it is draining today. There are existing stubs for gas, sewer and water. Initially the plan had the water connecting to the stub, but TAC requested to have a new water line connection and a new hydrant. The site line surrounds the roof drain for underground and above ground infiltration system. The entire site will be fenced and all catch basins will have protection. The landscape includes added trees on the edge of the infiltration basin. The planned trees in the water line easement were removed. The perimeter was loamed and seeded.

Vice Chairman Moreau questioned if the truck access to the property would be off Route 1. Mr. Tymula pointed out the truck turn plan. It would go down the Wal Mart driveway, circle around and back in to load. There are agreements with Wal Mart on how to get there. Vice Chairman Moreau requested the applicants use silt socks instead of fencing. Mr. Tymula confirmed that would be updated.

PUBLIC HEARING

Chairman Legg asked if anyone was present from the public wishing to speak to, for, or against the application. Seeing no one rise, the Chair closed the public hearing.

DISCUSSION AND DECISION OF THE BOARD

Mr. Gamester moved to **grant** Site Plan Approval, seconded by Vice Chairman Moreau with the following stipulations:

Conditions Precedent (to be completed prior to the issuance of a building permit):

1. The water utility access easement shall be reviewed and approved by the Planning and Legal Department and approved by City Council.
2. Plans shall note that the sewer utility corridor must be kept free of woody growth and shall be mowed yearly.
3. Plans shall be updated to include notes regarding conditions subsequent listed below.
4. The Site Plans and any easement deeds and plans shall be recorded at the Registry of Deeds by the City or as deemed appropriate by the Planning Department.

Conditions Subsequent

5. If the future use requires an Industrial Discharge Permit or is subject to the Fats, Oil, and Grease (FOG) program (ie: grease trap) for the wastewater, appropriate documentation and permitting shall be provided to the DPW.

- 6. The force main connection detail shall be updated to match the required detail provided by DPW .
- 7. Applicant shall apply for a sewer connection permit at which time the sewer line shall be videoed and inspected and the adequacy of the pump station tank shall be confirmed by DPW. Additional work by applicant may be required at that time.
- 8. Stormwater infiltration areas shall be inspected and approved by DPW during construction and a soil scientist shall be onsite at that time to review and approve soils and construction methods.
- 9. Silt socks shall be used instead of silt fences for erosion control during construction.

The motion passed unanimously.

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City Council Representative Perkins requested a correction to the July minutes. Item 4B should reflect the City Council Representative Perkins recused herself.

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VII. ADJOURNMENT

It was moved, seconded, and passed unanimously to adjourn the meeting at 11:36 p.m.

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Respectfully Submitted,

Becky Frey,
Acting Secretary for the Planning Board

These minutes were approved at the September 20, 2018 Planning Board Meeting.