

BOSEN & ASSOCIATES, P.L.L.C.
ATTORNEYS AT LAW

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February 26, 2019

Mr. Dexter Legg, Chair
City of Portsmouth Planning Board
One Junkins Ave
Portsmouth, NH 03801

Re: 428 US Route 1 Development
Submittal for Conditional Use Permit

Dear Mr. Legg and Planning Board Members,

This office represents Cate Street Development, LLC with respect to its plans to redevelop the property known as the Frank Jones Center. The project is called, "West End Yards". This plan involves four separate parcels of real estate identified as follows:

- A. Map 172, Lot 1
- B. Map 173, Lot 2
- C. Map 165, Lot 2
- D. Map 163, Lots 33 & 34

The properties are located in the Gateway Corridor, Mixed Residential District, (the, "Ordinance"). This project is the first development under the Ordinance and while we have found some sections to be challenging, we are working closely with City staff to come up with a plan that meets its purpose.

As you know, Cate St Development, LLC has been working on plans for this site for over a year now. During that time we have met with the Planning Board for three (3) conceptual review hearings, had multiple meetings with abutters, the neighborhood, City staff, the Technical Advisory Committee and the Conservation Commission. We have attempted to incorporate the majority of comments we have received in the development plan.

As requested by the City, Cate St. Development, LLC has completed a Workforce Housing Analysis. Attached as Exhibit A is the report prepared by Simchik/RKG.

Our proposed development plan provides for 250 residential rental apartments and 23 individually owned Townhouse Condominiums with 360 parking spaces and 44,000 square feet of retail and office space with 175 parking spaces.

This plan includes a proposed land swap to enable the City to construct a public road in order to connect Cate Street with Borthwick Ave as shown in more detail on the land swap plan included herewith as Exhibit B. The land swap involves conveying to the City, for no consideration, approximately three acres of land in exchange for approximately one acre from the City. This proposed land swap will require City Council approval.

Our proposed development plan provides 27 Workforce Housing units that will be rented at 80% area median income. This plan also provides significant Public Realm benefits to the City that includes the following:

- Land for a multipurpose path.
- Land preserved for the city's construction of a new City street. This will require a land swap with the City.
- Significant stormwater improvements will be made throughout the site, including stormwater that currently flows to Hodgson Brook
- Public dog park.
- Significant increase in tax revenues to the City currently estimated at 10x the current assessment.

In order to provide the City with the land it needs to create the public road, we would need relief from the Ordinance under Section 10.5B25 for building length and number of units per building.

In addition, under Section 10.5B71.20, 20 dwelling units are allowed as of right with the ability to construct up to 36 dwelling units per acre with a conditional use permit. Our project provides for 22 dwelling units per acre.

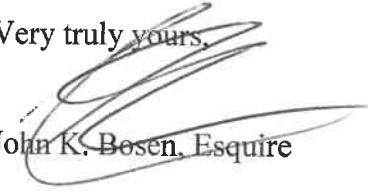
Under Section 10.5B74.30, the Planning Board has authority to modify the standards when it comes to granting a conditional use permit provided the Planning Board finds such modification will promote design flexibility and overall project quality.

At our last Planning Board work session held on January 24, 2018, we presented two (2) plans to the Planning Board, a By Right plan and the enclosed preferred Development plan. Our takeaway from the meeting was that the attached Development Plan is the preferred layout and is in keeping with the City's intent for this new ordinance.

BOSEN & ASSOCIATES, P.L.L.C.
ATTORNEYS AT LAW

For the forgoing reasons, we respectfully request the Board grant the conditional use permit. Thank you for your attention.

Very truly yours,


John K. Bosen, Esquire

cc: Cate Street Development, LLC
Gregg Mikolaities, P.E.
Prellwitz Chilinski Associates
Fuss & O'Neil

BOSEN & ASSOCIATES, P.L.L.C.
ATTORNEYS AT LAW

CITY OF PORTSMOUTH
New Hampshire

CONDITIONAL USE PERMIT APPLICATION

Department Use Only

Assessor Plan # _____	Lot # _____	Date _____
Zone _____	Lot area _____	Fee _____
		By _____

Applicant Cate Street Development, LLC Owner of Record Cate Street Development, LLC

Applicant Street Address 60 K Street Owner Street Address 60 K Street

Applicant City / State / Zip Boston, MA 02127 Owner City / State / Zip Boston, MA 02127

Applicant phone (978) 490-5278 Owner phone (978) 490-5278

Applicant e-mail jb@torprops.com

Location (street address) of proposed work: 428 Route 1 By-Pass

Existing Use: Frank Jones Center (dormant)

All applications must file an online building permit application (<https://portsmouthnh.viewpointcloud.com/#/1071>) or reference an existing one on file.

Building Permit Application # _____

Requesting a Conditional Use Permit Per Section 10.5B25;10.5B71.20 of the Zoning Ordinance.

Provide a detailed description of the project, including reference to the relevant Zoning Sections and how the criteria of the Zoning Ordinance are met (Attach additional sheets as necessary):

See Attached

The undersigned certifies that all the required conditions exist for granting of this request according to the terms of the Zoning Ordinance as demonstrated in the attached submittals.

Only complete applications will be accepted by the deadline date. A complete application shall consist of: a completely filled out application form with original signatures, the application fee, twelve (12) packets of required plans and any supporting documents or photos, and an electronic file in PDF format of application and all submissions. Incomplete applications will not be accepted. Applications received after the deadline will be scheduled for the following month. The owner or his/her representative is required to attend the Planning Board Public Hearing for the above Conditional Use Permit.

Signature of Property Owner (if not owner, authorization to file on owner's behalf is required)

02/26/2019

Date

Please PRINT name here John K. Bosen, Duly Authorized

February 26, 2019 February 25, 2019

Juliet Walker
Planning Director
Portsmouth City Hall
1 Junkins Avenue, 3rd Floor
Portsmouth, NH 03801

RE: West End Yards: Evaluating the Financial Feasibility of Workforce Housing

Ms. Walker:

Cate Street Development, LLC (Proponent) engaged Simchik Planning & Development, LLC and RKG Associates, Inc. to evaluate the financial feasibility of creating workforce housing units at the proposed West End Yards development along the proposed Cate Street realignment in Portsmouth's West End.

An "As of Right" Plan development for West End Yards would allow for 20 residential units per acre on the 12.2-acre site, resulting in the construction of 242 (of the maximum allowed 244 residential units), all of which would be rental market-rate units (no workforce housing). However, the City's new Gateway Neighborhood Mixed Use District zoning allows for certain density bonuses if there is a workforce housing component to the project. The proposed Site Plan provides 250 rental units and 23 for-sale townhouse condos. The Site Plans are provided in Exhibit A.

Article 5B of the City of Portsmouth Zoning Ordinance was adopted in December 2017 and West End Yards is one of the first Gateway Neighborhood Mixed Use District projects to incorporate the new housing policies. In summary, this zoning district allows a Density Bonus of up to 80 percent (from 20 units per acre to 36 units per acre) if 20 percent of the total residential units are workforce housing units. Highlights of the Workforce Housing Bonus Incentive Requirements are documented in Exhibit B.

Under the new housing policies for the Gateway Neighborhood Mixed Use District, the preferred Plan for West End Yards would need to provide 20 percent or 50 rental workforce housing units out of the total 250 residential rental units, with rents set at rates based on 60 percent of Area Median Income (AMI). Based on the Proponent's forecast of revenues and expenditures for the project, this would result in a projected annual loss of revenue of \$284,260. As a comparison, even at 10 percent, or 27 rental workforce housing units at 60 percent of AMI, there would still be a projected annual loss of revenue of \$24,762. The assumptions for this calculation are documented in Exhibit C. The 20 Percent Rental Workforce Housing at 60 Percent AMI Pro Forma is documented in Exhibit D. The 10 Percent Rental Workforce Housing at 60 Percent AMI Pro Forma is documented in Exhibit E.

The amount of workforce housing units required by the existing Zoning Ordinance does not allow the preferred Plan to be financially feasible. The returns on investment are not high enough to satisfy typical mortgage financing requirements. As such, the project team has requested that the Planning Board take into consideration a reduction in the workforce housing requirement from 50 to 27 rental workforce housing units, or 10 percent rental workforce housing at 80 percent Area Median Income, as allowed through the Modification of Standards, since West End Yards is not requesting the entire 80 percent Density Bonus. The 10 Percent Rental Workforce Housing at 80 Percent AMI Pro Forma is documented in Exhibit F.

At the 10 percent level, the project just meets the threshold return requirements, while 20 percent scenario results in a reduction in revenue of approximately \$300,000, making the project infeasible. In addition, it is important to point out that this project also carries significant market risk, since it is being developed in an unproven neighborhood outside of downtown, which may result in potential:

- lower market-rate rents,
- longer market-rate absorption,
- higher vacancy rates and
- less resilience to market downturns.

Moreover, the current workforce housing requirements which were crafted in 2015 and codified in 2017 appear to assume that the current real estate boom will continue indefinitely in supporting high and increasing rent levels across the City. There are signs that both the local and regional rental markets are beginning to cool, and the predictions that the end of the nearly 10-year economic boom is near are becoming stronger.

The difference between the provision of 10 and 20 percent workforce housing is due in large part to the rents that a residential unit can command in any given market. This is because while it costs the same to construct and operate a market-rate unit as a workforce housing unit, it requires the developer to rent the market rate units at a premium to make up for the loss of revenue from the workforce housing unit. On average, a workforce housing unit brings in 46 percent less revenue than a market-rate unit, a difference of over \$980 per unit per month.

In comparison, the monthly rent per square foot for existing apartments in Portsmouth averages approximately \$1.75 to \$2.50, or about \$1,300 per month for one-bedroom units and \$2,000 for two-bedroom units, while in Somerville, MA and Cambridge, MA monthly rents are averaging \$3.50 to \$4.00+ per square foot. Recent data for Somerville indicates one-bedroom rents averaging over \$2,500 per month and two-bedroom units averaging nearly \$3,200 per month (and increasing at 4-6 percent annually). Similarly, in Cambridge, one-bedroom units are averaging nearly \$2,700 per month and two-bedroom units are \$3,400, increasing at about 3 percent annually. These higher rent levels allow for a higher percentage of subsidization of below-market-rate units. Both Cambridge and Somerville (which RKG helped develop) have inclusionary zoning policies that require affordable and workforce housing units to be included in developments over a certain number of units, ranging from about 10 percent to 20 percent depending on the size of the project, the location within the city and other factors. The Rental Rate Comparison is documented in Exhibit G.

As another example, the Norwalk (CT) Redevelopment Agency engaged RKG Associates, Inc. in 2017 to analyze the potential impacts of changes in the inclusionary zoning requirements on housing development in the South Norwalk Transit Oriented Development (TOD) area, a rapidly developing mixed-use district near downtown. This analysis specifically explored the effects on the development of affordable housing if the requirement for the number of subsidized units in new housing development was changed from the existing 10 percent requirement to 20 percent. Much like the discussion regarding West End Yards, a high affordable housing percentage requirement has the potential to deter development due to too low a return or, even worse, projects not being financially feasible in the first place. RKG developed a sophisticated financing model based on input from several local developers that indicated that the proposed change would result in less overall development and, as a result, less affordable housing being created. Given that most economists agree that that we are coming to the end of an economic cycle, a market downturn would further exacerbate the ability to provide a cushion that would encourage developers to provide workforce housing.

It is also worth noting that the definition of "workforce housing" in the City of Portsmouth Zoning Ordinance, which is taken from the NH Housing Finance Authority's work, pegging rents at 60 percent of AML, is on the very low end of the range of other communities that are attempting to create more workforce housing. According to HUD, the 60 percent AML is considered "low income". In many communities, particularly those with higher median income levels, workforce housing is defined as that available to those at 80 to 120 percent of AML. RKG's current work on the Michigan Statewide Workforce Housing Strategy is an example where this range is being applied, with the 80 percent level applicable to more rural areas of that state and the 120 percent level to the urban areas.

As consultants who live in the Seacoast and work for municipalities as well as developers, we truly believe in the spirit of the City's workforce housing policy and what it is trying to achieve. We commend the City for incentivizing the development community to provide housing that is affordable for all. However, the specifics of this policy greatly limit a developer's desire to seek the Density Bonus, especially for smaller projects that do not have the floor-to-area ratio to "build" themselves into profitability. And for large projects, as with the case with West End Yards, it creates a large reduction in revenue resulting in lower returns compared to what is allowed "as of right". It is suggested that the City consider a stepped approach based on how much of the Density Bonus is used, such as being requested for West End Yards. Additionally, the City could consider the creation of a fund to provide subsidies to developers, which would further incentivize the development of additional workforce housing. (An example of this would be the City of Boston's Community Preservation Fund, which is funded by 1 percent surcharge tax on real estate and can only be used for affordable housing as well as historic preservation, open space and public recreation.) Unfortunately, with the current high and rapidly rising cost of land and construction, as well as the potential of an economic downturn and therefore a possible

reduction in rents, developers' appetites for taking on workforce housing units are greatly diminished as they seek a reasonable projected return.

In summary, the provision of 20 percent workforce housing at 60 percent AMI does not allow the preferred Proposed Site Plan to be financially feasible. Since West End Yards is only seeking a Density Bonus of 12.8 percent (versus the 80 percent potentially available), the project team is seeking a reduction in the workforce housing requirement to 10 percent rental workforce housing at 80 percent AMI, as allowed through the Modification of Standards. This request is the result of a lower achievable rent per square foot in Portsmouth compared with other high growth areas such as Somerville and Cambridge that have inclusionary affordable housing requirements. And, as Norwalk, CT discovered based on RKG's work there, an increase from 10 to 20 percent affordable housing would have a negative impact on the net amount of all housing provided by developers. Unfortunately, it is not easy given the current economics and lack of subsidy for developers to take on aggressive amounts of workforce housing at this point in the economic cycle.

We hope that this letter has brought a better understanding to the issue of workforce housing and the proposal that is in front of you now.

Sincerely,

Simchik Planning & Development, LLC



Jamie Simchik, AICP
Principal

RKG Associates, Inc.



Craig Seymour
President & Managing Principal

"AS OF RIGHT" PLAN



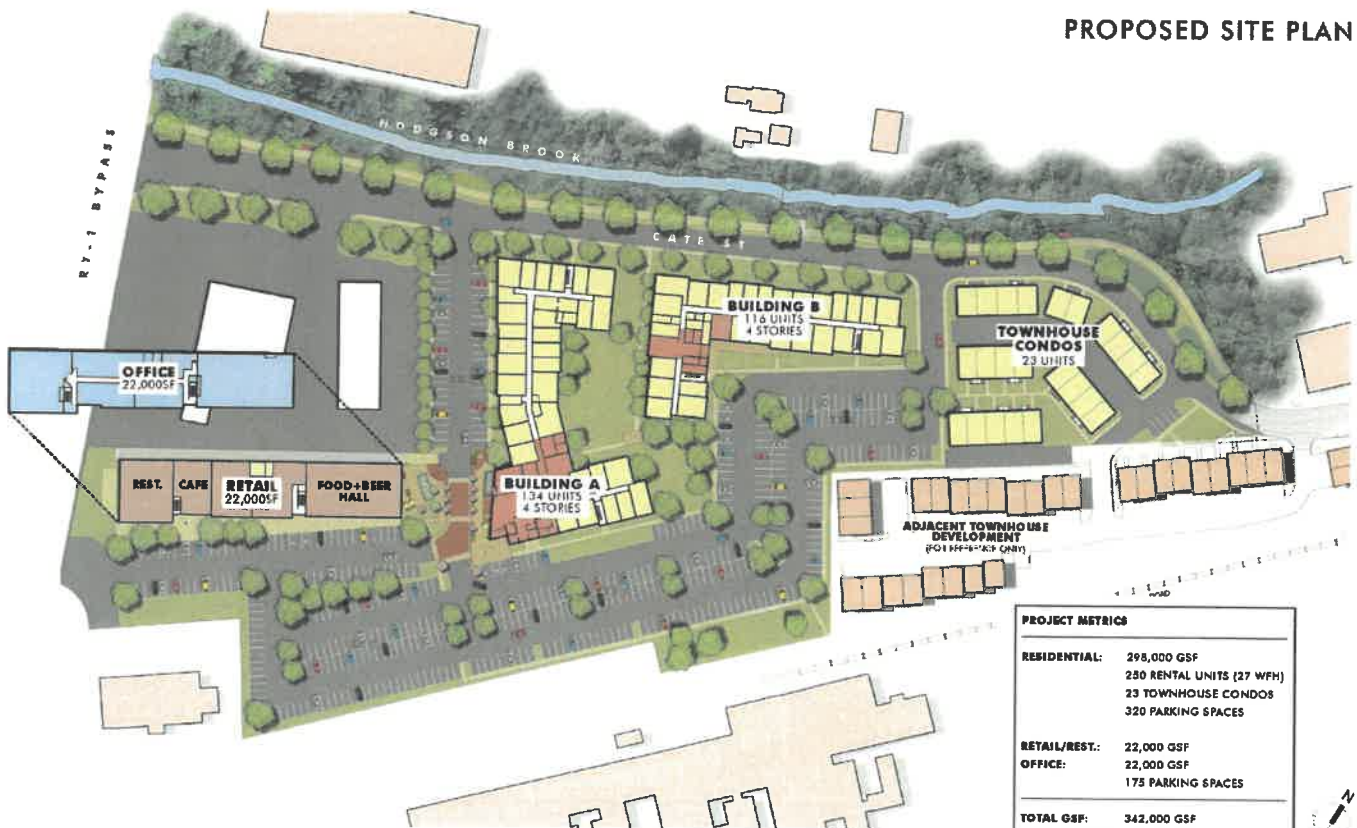
PROJECT METRICS	
RESIDENTIAL:	237,000 GSF 242 RENTAL UNITS 255 PARKING SPACES
RETAIL/REST:	20,000 GSF
OFFICE:	20,000 GSF 143 PARKING SPACES
TOTAL GSF:	277,000 GSF
TOTAL PARKING:	400 SPACES



PCA | TORRINGTON PROPERTIES + WATERSTONE PROPERTIES GROUP

WEST END YARDS - PORTSMOUTH

PROPOSED SITE PLAN



PROJECT METRICS	
RESIDENTIAL:	298,000 GSF 250 RENTAL UNITS (27 WPH) 23 TOWNHOUSE CONDOS 320 PARKING SPACES
RETAIL/REST:	22,000 GSF
OFFICE:	22,000 GSF 175 PARKING SPACES
TOTAL GSF:	342,000 GSF
TOTAL PARKING:	495 SPACES



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WEST END YARDS - PORTSMOUTH

Exhibit B: Workforce Housing Bonus Incentive Requirements

- A "Workforce Housing Unit" is defined in the Portsmouth, NH Zoning Ordinance as:

A housing unit which qualifies as "workforce housing" under RSA 674:58, IV, including:

- a) housing which is intended for sale and which is affordable to a household with an income of no more than 100 percent of the median income for a 4-person household for the Portsmouth-Rochester HUD Metropolitan Fair Market Rent Area (HMFA) as published annually by the United States Department of Housing and Urban Development (HUD), or*
 - b) rental housing which is affordable to a household with an income of no more than 60 percent of the median income for a 3-person household for the Portsmouth-Rochester HMFA as published annually by HUD. To qualify as a workforce housing unit under this Ordinance, the unit must be subject to enforceable restrictions as to price and occupancy, such as a recorded land lease or deed restriction, as determined by the Planning Board, in order to ensure its long-term availability and affordability. A workforce housing unit is a specific type of affordable unit as defined in this Ordinance (See also: affordable unit.)*
- The New Hampshire Housing Finance Authority published an updated "2018 Workforce Housing Purchase and Rent Limits, RSA 674:58 – 61" on April 5, 2018, which states that at 60 percent of 2018 HUD median area income adjusted for a family of three for the Portsmouth-Rochester HMFA:
 - **income of \$53,570, and**
 - **estimated maximum affordable monthly gross rent is \$1,340.**
 - This is calculated by taking the annual income of \$53,570, multiplying by an estimated maximum gross monthly rental cost (rent and utilities) of 30 percent of income and dividing by 12 months. This rent applies to a family of three that typically rents a two-bedroom unit
 - The New Hampshire Housing Finance Authority published an updated "Comparison of Area Rent Limits" on September 28, 2018, which states that at the 60 percent area rent limit for in the Portsmouth-Rochester HMFA:
 - **monthly rent for an efficiency rental unit is \$1,042,**
 - **monthly rent for a one-bedroom rental unit is \$1,116, and**
 - **monthly rent for a two-bedroom rental unit is \$1,339.**

NOTE: These reported HUD rent levels are considered Gross Rent and include both rent and a utility allowance. Depending on the type, location and age of a unit, actual contract rent may be 10 to 30 percent less.

Exhibit C: Assumptions

Development Cost of Rental Portion	\$ 77,608,452
Loan-to-Value	85%
Financing	\$ 65,967,184
Interest Rate	5.00%
Ammortization (years)	30.00
Monthly Payment	\$ 354,126
Annual Debt Service	\$ 4,249,513
Debt Service Coverage Ratio (Required by Lender)	1.20
Annual Net Operating Income	\$ 5,099,416
Annual Operating Expenses	+ \$ 1,853,388
Gross Revenue (Required)	\$ 6,952,804

Exhibit D: 20 Percent Rental Workforce Housing at 60 Percent AMI Pro Forma

Residential Units - Rental	% of Units	# of Units	Monthly Rent / Unit	Total Monthly Rent	Total Annual Rent	SQFT	Total SQFT	Monthly \$/SF
Market-Rate	80.00%	200						
Studio	21.20%	53	\$ 1,850.00	\$ 98,050	\$ 1,176,600	580	30,740	\$ 3.19
1 Bedroom	26.00%	65	\$ 2,050.00	\$ 133,250	\$ 1,599,000	690	44,850	\$ 2.97
1 Bed/Den	20.00%	50	\$ 2,300.00	\$ 115,000	\$ 1,380,000	750	37,500	\$ 3.07
2 Bed	12.80%	32	\$ 2,600.00	\$ 83,200	\$ 998,400	950	30,400	\$ 2.74
60% AMI	20.00%	50						
Studio	6.80%	17.00	\$ 1,042.00	\$ 17,714	\$ 212,568	580	9,860	\$ 1.80
1 Bedroom	6.80%	17.00	\$ 1,116.00	\$ 18,972	\$ 227,664	690	11,730	\$ 1.62
2 Bedroom	6.40%	16.00	\$ 1,339.00	\$ 21,424	\$ 257,088	950	15,200	\$ 1.41
Total		250		\$ 487,610	\$ 5,851,320		180,280	
Retail/Office Space - Lease			Annual Lease / SQFT		Total Annual Lease		Total SQFT	
First Floor - Retail			\$ 33.10		\$ 728,200		22,000	
Second Floor - Office			\$ 20.00		\$ 440,000		22,000	
Total					\$ 1,168,200		44,000	
Gross Rental Income					\$ 7,019,520			
Vacancy					\$ 350,976			
Gross Revenue					\$ 6,668,544			
Gross Revenue (Required)					\$ 6,952,804			
Additional Revenue					\$ (284,260)			

Exhibit E: 10 Percent Rental Workforce Housing at 60 Percent AMI Pro Forma

Residential Units - Rental	% of Units	# of Units	Monthly Rent / Unit	Total Monthly Rent	Total Annual Rent	SQFT	Total SQFT	Monthly \$/SF
Market-Rate	89.20%	223						
Studio	24.40%	61	\$ 1,850.00	\$ 112,850	\$ 1,354,200	580	35,380	\$ 3.19
1 Bedroom	29.20%	73	\$ 2,050.00	\$ 149,650	\$ 1,795,800	690	50,370	\$ 2.97
1 Bed/Den	20.00%	50	\$ 2,300.00	\$ 115,000	\$ 1,380,000	750	37,500	\$ 3.07
2 Bed	15.60%	39	\$ 2,600.00	\$ 101,400	\$ 1,216,800	950	37,050	\$ 2.74
60% AMI	10.80%	27						
Studio	3.60%	9	\$ 1,042.00	\$ 9,378	\$ 112,536	580	5,220	\$ 1.80
1 Bedroom	3.60%	9	\$ 1,116.00	\$ 10,044	\$ 120,528	690	6,210	\$ 1.62
2 Bedroom	3.60%	9	\$ 1,339.00	\$ 12,051	\$ 144,612	950	8,550	\$ 1.41
Total		250		\$ 510,373	\$ 6,124,476		180,280	
Retail/Office Space - Lease			Annual Lease / SQFT		Total Annual Lease		Total SQFT	
First Floor - Retail			\$ 33.10		\$ 728,200		22,000	
Second Floor - Office			\$ 20.00		\$ 440,000		22,000	
Total					\$ 1,168,200		44,000	
Gross Rental Income					\$ 7,292,676			
Vacancy					\$ 364,634			
Gross Revenue					\$ 6,928,042			
Gross Revenue (Required)					\$ 6,952,804			
Additional Revenue					\$ (24,762)			

Exhibit F: 10 Percent Rental Workforce Housing at 80 Percent AMI Pro Forma

Residential Units - Rental	% of Units	# of Units	Monthly Rent / Unit	Total Monthly Rent	Total Annual Rent	SQFT	Total SQFT	Monthly \$/SF
Market-Rate	89.20%	223						
Studio	24.40%	61	\$ 1,850.00	\$ 112,850	\$ 1,354,200	580	35,380	\$ 3.19
1 Bedroom	29.20%	73	\$ 2,050.00	\$ 149,650	\$ 1,795,800	690	50,370	\$ 2.97
1 Bed/Den	20.00%	50	\$ 2,300.00	\$ 115,000	\$ 1,380,000	750	37,500	\$ 3.07
2 Bed	15.60%	39	\$ 2,600.00	\$ 101,400	\$ 1,216,800	950	37,050	\$ 2.74
80% AMI	10.80%	27						
Studio	3.60%	9	\$ 1,258.00	\$ 11,322	\$ 135,864	580	5,220	\$ 2.17
1 Bedroom	3.60%	9	\$ 1,348.00	\$ 12,132	\$ 145,584	690	6,210	\$ 1.95
2 Bedroom	3.60%	9	\$ 1,618.00	\$ 14,562	\$ 174,744	950	8,550	\$ 1.70
Total		250		\$ 516,916	\$ 6,202,992		180,280	
Retail/Office Space - Lease			Annual Lease / SQFT		Total Annual Lease		Total SQFT	
First Floor - Retail			\$ 33.10		\$ 728,200		22,000	
Second Floor - Office			\$ 20.00		\$ 440,000		22,000	
Total					\$ 1,168,200		44,000	
Gross Rental Income					\$ 7,371,192			
Vacancy					\$ 368,560			
Gross Revenue					\$ 7,002,632			
Gross Revenue (Required)					\$ 6,952,804			
Additional Revenue					\$ 49,828			

Exhibit G: Rental Rate Comparison

	Monthly \$/SF		Monthly Rent		Annual Increase
	Low	High	1 Bed	2 Bed	
Portsmouth, NH	\$1.75	\$2.50	\$1,300	\$2,000	
Somerville, MA	\$3.50	\$4.00+	\$2,500	\$3,200	4-6 %
Cambridge, MA	\$3.50	\$4.00+	\$2,700	\$2,400	3 %