

MINUTES

**PLANNING BOARD
PORTSMOUTH, NEW HAMPSHIRE**

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

7:00 PM

JUNE 21, 2018

MEMBERS PRESENT: Dexter Legg, Chairman; Elizabeth Moreau, Vice Chairman; Nancy Colbert-Puff, Deputy City Manager; David Moore, Assistant City Manager; Rebecca Perkins, City Council Representative; Colby Gamester; and Corey Clark, Alternate

ALSO PRESENT: Juliet Walker, Planner Director

MEMBERS ABSENT: Jay Leduc; Jody Record; Jeffrey Kisiel; Jane Begala, Alternate;

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I. APPROVAL OF MINUTES

A. Approval of Minutes from the May 17, 2018 Planning Board Meeting;

Mr. Gamester moved to approve the Minutes from the May 17, 2018 Planning Board Meeting, seconded by Assistant City Manager Moore. The motion passed unanimously.

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II. 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 **175 Gosport Road, LLC, Owner, and Michael Clark, Applicant,** for property located at **175 Gosport Road**, requesting Conditional Use Permit approval under Section 10.1017 of the Zoning Ordinance for work within the tidal and inland wetland buffer to demolish an existing pool house and pool area and construct a new pool house, pool, garage, dock and driveway expansion, with 11,075 ± s.f. of impact to the wetland buffer. Said property is shown on Assessor Map 224 as Lot 1 and lies within the Single Residence A (SRA) District. (This application was postponed at the May 17 Planning Board Meeting).

Chairman Legg read the notice into the record.

SPEAKING TO THE APPLICATION

Corey Colwell from MSC Engineers spoke to the application. The applicants own a 4.06-acre lot in the Tucker's Cove subdivision. The lot has 478 feet of frontage on Sagamore Creek. Sheet C1 shows the existing features. The lot is adjacent to the creek and is in the 100-foot tidal buffer zone. There is a small pond on the lot that is adjacent to and part of a large wetland complex with a 100-foot buffer zone. There is also a 250-foot shore land protection zone. Most of the lot is subject to permitting. Anything in the 100-foot buffer needs a Conditional Use Permit (CUP) and a State Wetlands Bureau Permit. There is an access easement south of the property that is for pedestrians only. Sheet C2 shows the proposed plans. There are several improvements shown, but only a few require a CUP. The south side dwelling has a proposed deck. The proposal is to expand the existing deck and access to the driveway. A small mudroom supported by posts is also on the plans. There is a proposed driveway expansion. Half of the expansion area will be paved. The pervious driveway will be wide enough for six spaces. There is an existing bait shed on the property. That will need to be rebuilt. Only 10% of the shed is in the buffer. The permanent and temporary construction impacts are shown in the plans. The proposed grading will improve drainage on the property. The rest of the proposed improvements are subject to shore land or DES permitting. The proposed improvements and permits required are outlined on sheet C3. There is a grading and erosion sediment control plan. Runoff goes down the driveway and across the site into Sagamore Creek. Most runoff is going to Sagamore Creek. There is a small pond and catch basin that catches runoff from the pond. A bio-swale will be constructed to improve drainage. The runoff will get treatment in the swale and then sheet flow across the property to get more treatment. Then it will discharge into Sagamore Creek. In addition to the swale there will be 12 new trees, 89 shrubs, and 800 square feet of ground plants added. The plantings are outlined on the landscaping plan. These improvements do improve the storm water quality. The storm water will be treated and contained and it was designed to control erosion. The Conservation Commission gave unanimous support of the project with no conditions.

Mr. Clark questioned if they had gotten feedback from the DES and Shore land applications. Mr. Colwell responded that the shore land permit was issued and there was one outstanding comment from DES. It will be addressed and then the permit will be issued. Mr. Clark questioned why the swale was not expanded. Mr. Colwell responded that it was a matter of grade. They would have to get deeper as the land slopes. Where it stops in the plans is on grade and will allow sheet flow. It would cause more impact to the site to expand it. The sheet flow gives the same level of treatment. Mr. Clark questioned if the pool deck was impervious. Mr. Colwell confirmed that it would probably be a concrete deck.

Mr. Clark questioned if there was a detail for the pervious pavers. Mr. Colwell responded that it should be in the upper right hand corner. Mr. Clark did not have it on his copy of the plans. Mr. Colwell responded that he might not have the most recent revision, but that it has been updated. Mr. Clark requested clarification on the organic fertilizer plan details. Mr. Colwell responded the ordinance states that you have to use organic fertilizer in the buffer zone. The fertilizer has no nitrogen and is less phosphorus. It is designed to reduce the effect on water.

Mr. Clark questioned if the bio-swale could catch runoff the north side. Mr. Colwell responded that the grading plan shows the contours are shaped to direct the runoff toward the end of the swale to sheet flow for treatment. Mr. Clark had trouble seeing how that runoff would be captured. The bio-swale ends at the end of the pool house. Everything to the east of the pool deck will just sheet flow onto that. Mr. Colwell responded that 11 new plants are going in that area and those shrubs would intercept and help treat that runoff. Seven gray dogwoods are going in that area as well.

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** the Conditional Use Permit as presented, seconded by Deputy City Manager Colbert-Puff. The motion passed in a 6-1 vote.

Mr. Clark voted against the motion because the north side could have some sort of treatment. Mr. Clark had a tough time seeing how the bio-swale would capture east side of pool deck.

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B. The application of **Islington Commons, LLC, Owner, for** property located at **410, 420, and 430 Islington Street**, requesting Site Plan Review to remodel three existing buildings into 4 units (Building #1 with 1,315 ± s.f. footprint and 1,906± s.f. gross floor area, Building #2 with 999± s.f. footprint and 1,894± s.f. gross floor area, Building #3 with 1,964 ± s.f. footprint and 5,429 ± s.f. gross floor area); and construct 3 duplex buildings and a single dwelling unit for 11 proposed units (Building #4 with 1,799± s.f. footprint and 4,375± s.f. gross floor area, Building #5 with 1,280 ± s.f. footprint and 2,752 ± s.f. gross floor area, Building #6 with 1,997 ± s.f. footprint and 5,054 ± s.f. gross floor area, Building #7 with 2,014 ± s.f. footprint and 4,725± s.f. gross floor area), with related paving, lighting, utilities, landscaping, drainage and associated site improvements. Said properties are shown on Assessor Map 145 as Lots 34, 35 and 36 and lie within the Character District 4-Limited2 (CD4-L2) and the Historic District. (This application was postponed at the May 17, 2018 Planning Board Meetings).

Chairman Legg read the notice into the record.

SPEAKING TO THE APPLICATION

John Chagnon spoke to the application. The Planning Board went over project in past meetings in great detail. In February the Board asked them to look at additional storm events. Mr. Chagnon has worked with DPW and the third party consultant to refine the plan. Mr. Chagnon was in agreement with the staff recommendations.

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

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

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

1. The water maintenance access easement to the City 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. The applicant shall prepare a Construction Management and Mitigation Plan (CMMP) for review and approval by the City’s Legal and Planning Departments.

Conditions Subsequent (to be completed prior to the issuance of a Certificate of Occupancy):

4. A third party inspection shall be required on water main, sewer and drainage system construction and repairs to City streets.
5. The sewer shall be replaced and manhole updated in the area along State Street fronting the proposed development. Improvements shall be done in coordination with DPW.

Mr. Clark noted that the Board did the right thing at the last meeting, but what he brought up in February has been addressed above and beyond.

Chairman Legg agreed with Mr. Clark’s comments and appreciated the applicants worked to address the concerns.

The motion passed unanimously.

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C. 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 10.101 of the Zoning Ordinance, for work within the inland wetland buffer to construct a 1,840 ± s.f. single family home with associated garage, septic system and driveway, with 14,022 ± 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 May 17, 2018 Planning Board Meetings)

Chairman Legg read the notice into the record.

Assistant City Manager Moore moved to **postpone** to the next Planning Board Meeting on July 19, 2018, seconded by Mr. Gamester. The motion passed unanimously.

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III. 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.

A. The application of **Peter G. Morin Trust, Owner**, for property located at **49 Pickering Street**, and **Hunking Holdings, LLC, Owner**, for property located at **170 Mechanic Street**, requesting Preliminary and Final Subdivision Approval (Lot Line Revision) as follows:

- 1. Proposed lot #1 increasing from 2,296 ±s.f. to 2,777 ±s.f. , with no change in street frontage.
 - 2. Proposed lot #2 decreasing from 9,161 ±s.f. to 8,680± s.f., with no change in street frontage.
- Said properties are shown on Assessor Map 102 as Lots 6 & 7 and are located in the General Residence B (GRB) District.

Chairman Legg read the notice into the record.

SPEAKING TO THE APPLICATION

Peter Morin spoke to the application. Last month Mr. Morin went in front of the zoning board to get a lot line adjustment. Mr. Morin owns both properties. In the past they have stored snow on the east and north side of the property. The reason for the lot line adjustment is to continue to have a snow storage space and a small garden.

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

Vice Chairman Moreau moved to **grant** Preliminary and Final Subdivision approval, seconded by Mr. Gamester with the following stipulations:

- 1. Property monuments shall be set as required by the Department of Public Works prior to the filing of the plat.
- 3. GIS data shall be provided to the Department of Public Works in the form as required by the City.
- 4. The final plat shall be recorded at the Registry of Deeds by the City or as deemed appropriate by the Planning Department.

The motion passed unanimously.

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B. The application of **393 New Castle Avenue, LLC, Owner**, for property located at **390 New Castle Avenue**, requesting Conditional Use Permit approval under Section 10.1017 of the Zoning Ordinance for work within the tidal wetland buffer to convert an existing 1,260 s.f. gravel driveway and parking area to porous pavement, with 1,395 ± s.f. of impact to the wetland buffer. Said property is shown on Assessor Map 207 as Lot 6 and lies within the Single Residence B (SRB) District.

Chairman Legg read the notice into the record.

SPEAKING TO THE APPLICATION

Steve Riker spoke to the application. The application is for a CUP for work within 100-foot wetland buffer. It is a small lot. There is a small residential structure and a small-detached garage. The lot is bounded to the south and west by the back channel and to the north by New Castle Ave. There is a gravel driveway and the application is to convert it to porous pavement. The application went to the Conservation Commission on June 13, 2018 and the Commission recommended approval with stipulations. The packet includes storm water inspection and maintenance designs. The plan has been revised to include the Commission's comments. This is an improvement to the lot because it reduces the impervious surface from 52.7% to 6.8%.

Chairman Legg questioned why this was not included before? Mr. Riker responded it was a matter of cost. It is not a cheap endeavor. The owner wanted to see what the gravel driveway maintenance would be like. After one winter he decided it was too much.

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

Vice Chairman Moreau moved to **grant** Conditional Use Permit approval, seconded by City Council Representative Perkins with the following stipulations that shall be added to the notes on the final plan set:

1. That no de-icer be applied to the new porous driveway
2. That the porous driveway surface be vacuumed twice per year
3. That the northeast corner of the driveway be constructed at a lower elevation to prevent road runoff from getting over the entire porous parking.
4. An annual report indicating when scheduled maintenance on the porous pavement has occurred and confirming that the proposed maintenance schedule is being followed shall be submitted to the Planning Director for a period of 3 years beginning in September 2019 or 1-year after the porous pavement is installed, whichever is later.

Mr. Gamester questioned how they ensure the pervious pavement maintenance condition happens. Mr. Riker noted that some of the larger landscaping companies have a large machine that looks like a street sweeper. This technology is being used pretty heavily. There was concern about storm water flow that would have sediment. Vacuuming two times a year would ensure it works. Mr. Gamester questioned if there should be a check on it? Ms. Walker responded that they could consider an annual report back for a certain number of years. Mr. Gamester requested to amend the motion to include that for a period of 3 years there would be an annual report back to the Planning Department. Vice Chairman Moreau and City Council Representative Perkins both agreed to the amendment.

Assistant City Manager Moore noted that Mr. Gamester made a good point and in the future this could be handled at the TAC level. Ms. Walker agreed to work with TAC on this.

The motion passed unanimously.

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C. The application of **Jon and Joan Dickinson, Owners**, for property located at **220 Walker Bungalow Road**, requesting Conditional Use Permit approval under Section 10.1017 of the Zoning Ordinance for work within the tidal wetland buffer to demolish the existing home and detached garage, construct a new 1,968 s.f. single family residence with attached 756 s.f. garage, a new septic system and the relocation of the driveway, with 8,990 ± s.f. of impact to the wetland buffer. Said property is shown on Assessor Map 223 as Lot 21 and lies within the Single Residence B (SRB) District.

Chairman Legg read the notice into the record.

Mr. Gamester moved to **postpone** to the next Planning Board Meeting on July 19, 2018, seconded by Vice Chairman Moreau. The motion passed unanimously.

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D. The application of **Robert and Whitney Westhelle, Owners**, for property located at **198 Essex Avenue**, requesting Conditional Use Permit approval under Section 10.1017 of the Zoning Ordinance for work within the tidal wetland buffer to construct a wood 12' X 18' garden shed, on cement blocks, with 216 ± s.f. of impact to the wetland buffer. Said property is shown on Assessor Map 232 as Lot 128 and lies within the Single Residence B (SRB) District.

Chairman Legg read the notice into the record.

Mr. Clark recused himself from the vote.

Mr. Gamester moved to **postpone** to the next Planning Board Meeting on July 19, 2018, seconded by Assistant City Manager Moore. The motion passed unanimously.

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E. The application of **Pease Development Authority, Owner, and Lonza Biologics, Inc., Applicant**, for property located at **70 and 80 Corporate Drive**, requesting Conditional Use Permit approval, under Chapter 300 of the Pease Land Use Controls, Part 304-A Pease Wetlands Protection, for work within the inland wetland buffer for the construction of three proposed industrial buildings: Proposed Building #1 with a 132,000 s.f. footprint; Proposed Building #2: 150,000 s.f. footprint; Proposed Building #3 with a 62,000 s.f. footprint, and two **Request to Postpone** parking garages, with 55,555± s.f. of impact to the wetland, 66,852 ± s.f. of impact to the wetland buffer and a 1,000 l.f. stream restoration for Hodgson Brook resulting in 42,500 s.f. of wetland creation. Said property is shown on Assessor Map 305 as Lots 1 & 2 and lies within the Pease Airport Business Commercial (ABC) district.

Chairman Legg read the notice into the record.

Mr. Gamester moved to **postpone** to the next Planning Board Meeting on July 19, 2018, seconded by City Council Representative Perkins. The motion passed unanimously.

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F. The application of **Richard P. Fusegni, Owner**, for property located at **201 Kearsarge Way**, requesting Preliminary and Final Subdivision Approval to subdivide one lot into two lots as follows:

1. Proposed lot #1 having an area of 7,834 ± s.f. (0.1799 acres) and 97' of continuous street frontage on Mangrove Street and 75' of continuous street frontage on Kearsarge Way; and
2. Proposed lot #2 having an area of 47,062 ± s.f. (1.0804 acres) and 131' of continuous street frontage on Kearsarge Way;

Said property is shown on Assessors Map 218 as Lot 5 and is located in the Single Residence B (SRB) District where the minimum lot area is 15,000 s.f. and minimum continuous street frontage is 100'.

Chairman Legg read the notice into the record.

SPEAKING TO THE APPLICATION

John Chagnon spoke to the application. The application is to subdivide the lot into two lots. The subsequent lot is a little short, but a variance was granted for the lot size. A setback variance was granted to allow for building a little closer to Mangrove St. This came before the Board with a three-lot subdivision proposal, but that would have a line through a house. The plan was revised to a two-lot subdivision. Waivers were granted for a corner lot and a driveway that was not perpendicular to the road. The plans have accounted for all of TAC's request, and they agree with the staff memo.

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

1. Vice Chairman Moreau to find that granting of waivers 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, seconded by Mr. Gamester:

- 1) Section VI.2.A – Lot Arrangement – In all quadrangular lots, and so far as practicable all other lots, the side lines shall be at right angles to straight street lines.
- 2) Section VI.2.B - Lot Sizes – Corner lots shall have at least 10% extra width to permit appropriate building setback from the orientation to both streets.

The motion passed unanimously.

2. Vice Chairman Moreau moved to **grant** Preliminary and Final Subdivision Approval, seconded by Mr. Clark with the following stipulations:

- 1) Lot numbers as determined by the Assessor shall be added to the final plat.
- 2) Property monuments shall be set as required by the Department of Public Works prior to the filing of the plat.
- 3) GIS data shall be provided to the Department of Public Works in the form as required by the City.
- 4) The final plat shall be recorded at the Registry of Deeds by the City or as deemed appropriate by the Planning Department.

The motion passed unanimously.

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G. The application of **Jon and Diana Guilbert, Owners**, for property located at **15 Thornton Street**, requesting Preliminary and Final Subdivision Approval to subdivide one lot into two lots as follows:

- 1. Proposed lot #1 having an area of 9,074 s.f. (0.2083 acres) and 144.17’ of continuous street frontage on Thornton Street; and
- 2. Proposed lot #2 having an area of 7,762 s.f. (0.1782 acres) and 101.50’ of continuous street frontage on Thornton Street;

Said property is shown on Assessors Map 160 as Lot 1 and is located in the General Residence A (GRA) district where the minimum lot area is 7,500 s.f. and minimum continuous street frontage is 100’.

Chairman Legg read the notice into the record.

SPEAKING TO THE APPLICATION

John Chagnon from Ambit Engineering spoke to the application. The project is to subdivide one lot into two lots on Thornton St., Thornton Extension and Dennet St. The railroad that crosses the property will be abandoned as part of this application. The carriage house will be removed. Variances

were granted to allow the existing building to remain with the non-conforming setbacks. The plan shows the development proposal for that lot. There is a buyer already fully able to put a house on the lot. The plans have gone through TAC.

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

1. Vice Chairman Moreau moved to find that granting of waivers 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 regulations, seconded by Mr. Gamester:

- 1) Section VI.2.B - Lot Sizes – Corner lots shall have at least 10% extra width to permit appropriate building setback from the orientation to both streets.

The motion passed unanimously.

2. Vice Chariman Moreau moved to **grant** Preliminary and Final Subdivision Approval, seconded by Mr. Gamester with the following stipulations:

- 1) Lot numbers as determined by the Assessor shall be added to the final plat.
- 2) Property monuments shall be set as required by the Department of Public Works prior to the filing of the plat.
- 3) GIS data shall be provided to the Department of Public Works in the form as required by the City.
- 4) The final plat shall be recorded at the Registry of Deeds by the City or as deemed appropriate by the Planning Board.

The motion passed unanimously.

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H. The application of **Westwind Townhomes of Portsmouth, Owner**, for property located at **1177 Sagamore Avenue**, requesting Preliminary and Final Subdivision Approval to subdivide one lot into two lots as follows:

- 1. Proposed lot #1 having an area of 33,378 s.f. (0.7663 acres) and 121.75’ of continuous street frontage on Sagamore Avenue; and
- 2. Proposed lot #2 having an area of 22,628 s.f. (0.5194 acres) and 102’ of continuous street frontage on Sagamore Avenue;

Said property is shown on Assessors Map 224 as Lot 13 and is located in the Mixed Residential Office (MRO) district where the minimum lot area is 7,500 s.f. and minimum continuous street frontage is 100’.

Chairman Legg read the notice into the record.

Vice Chairman Moreau moved to **postpone** to the next Planning Board Meeting on July 19, 2018, seconded by Mr. Gamester. The motion passed unanimously.

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IV. CITY COUNCIL REFERRALS

A. Proposed Lease between the City and the Portsmouth Historical Society.

Assistant City Manager Moore provided a background on this item. This is a referral from City Council regarding a transfer or acquisition of property. The lease is a 50-year term and qualifies as a significant transaction. It was referred to the Planning Board to report back to City Council. Hopefully the Board will see fit to recommend favorably. This building known as the Library Building is made up of two historic buildings and known today as the Discover Portsmouth Center. The City initially entered into a 3-year lease in 2008. The City began the program for Discover Portsmouth Center. It is a jumping off point for attractions in the downtown and gallery space. The City is also subletting to two non-profit tenants. The arrangement was successful. In 2011 the City entered a 25-year lease with a 10-year renewal clause. They are currently 7 years into that lease. The benefits to the City’s arrangement with the Historical Society is good programming and care for the historical buildings in the downtown. This is done at a great expense to the Historical Society. It allows the City to leverage the non-profit mission. A significant amount of funds were raised to maintain this. A lot of work has gone into making the property perform. It has had a track record of success because the buildings did not have a lot of options for alternative uses. The City is pursuing the lease agreement to underline the point that not much is changing in the lease other than the proposed term. The new term would begin in 2018 and last 50 years. It is a successful use of the site.

Vice Chairman Moreau commented that it’s been so successful. If this helps them be more successful, then they should do it.

Chairman Legg noted that it was good for them and the City.

Mr. Gamester moved to recommend that the City Council move forward with the proposed lease between the City and the Portsmouth Historical Society, seconded by City Council Representative Perkins. The motion passed unanimously.

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V. ADJOURNMENT

It was moved, seconded, and passed unanimously to adjourn the meeting at 7:55 p.m.

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Respectfully Submitted,

Becky Frey,
Acting Secretary for the Planning Board

These minutes were approved at the July 19, 2018 Planning Board Meeting.