

CITY COUNCIL MEETING

Remote Meeting Via Zoom Conference Call

To register in advance for this meeting, click on the link below or copy and paste it into your web browser: https://zoom.us/webinar/register/WN_vQnG_Yo0T1iLXPHNn1Sx_g. You are required to register in advance to join the meeting over Zoom, a unique meeting ID and password will be provided once you register. Please note, this meeting will also be broadcast on the City's YouTube Channel. Public comments for the Council's consideration can be emailed in advance via the City's web site: <https://www.cityofportsmouth.com/citycouncil/contact-all-city-councilors>.

Per NH RSA 91-A:2 III (b) the Chair has declared COVID-19 Outbreak an emergency and has waived the requirement that a quorum be physically present at the meeting pursuant to the Governor's Executive Order 2020-04, Section 8, as extended by Executive Order 2020-8, and Emergency Order #12, Section 3. Members will be participating remotely and will identify their location and any person present with them at that location. All votes will be by roll call.

DATE: MONDAY, MAY 18, 2020

TIME: 7:00PM

AGENDA

- I. **6:00PM WORK SESSION – THERE IS NO WORK SESSION THIS EVENING**
- II. **PUBLIC DIALOGUE SESSION [when applicable – every other regularly scheduled meeting] – **POSTPONED****
- III. **CALL TO ORDER [7:00 p.m. or thereafter]**
- IV. **ROLL CALL**
- V. **INVOCATION**
- VI. **PLEDGE OF ALLEGIANCE**
- VII. **ACCEPTANCE OF MINUTES** (*There are no minutes on for acceptance*)
- VIII. **RECOGNITIONS AND VOLUNTEER COMMITTEE REPORTS**
- IX. **PUBLIC COMMENT SESSION – (Via Zoom)**
- X. **PUBLIC DIALOGUE SUMMARY [when applicable] – **POSTPONED****
- XI. **PUBLIC HEARINGS AND VOTES ON ORDINANCES AND/OR RESOLUTIONS**
 - A. Public Hearing and Second Reading of Ordinance amending Chapter 7, Article I, Section 7.105 C – Designated Motorcycle Parking Area
 - **PRESENTATION**
 - **CITY COUNCIL QUESTIONS**
 - **PUBLIC HEARING SPEAKERS**
 - **ADDITIONAL COUNCIL QUESTIONS AND DELIBERATIONS**
- XII. **MAYOR BECKSTED**
 1. Appointment to be Voted:
 - Robert W. Bogardus appointment to the Recreation Board Senior Subcommittee

XIII. CITY COUNCIL MEMBERS

A. ASSISTANT MAYOR SPLAINE & COUNCILOR McEACHERN

1. ***Portsmouth Citizen Response Task Force (Sample motion – move that the City Council directs the assemblage of a Portsmouth Citizen Response Task Force that will include representatives of our business community, restaurant owners and managers, non-profit organizations from the arts community and health services, citizens, members of the Economic Development Commission, health care professionals, and city staff member.***

The nineteen members of the group will include the City Manager, the Health Care Director, the Police Chief or designee, the Fire Chief or designee, the Economic Development Program Manager, two members of the Economic Development Commission selected by the Chair of the Economic Development Commission, the President of the Chamber Collaborative of Greater Portsmouth or designee, two members of non-profit organizations representing the arts community, appointed by the Mayor; two members of non-profit organizations representing health care organizations, appointed by the Mayor; two other health care professionals, appointed by the Mayor; three individuals representing restaurants appointed by the Mayor; and two additional residents to represent citizens-at-large, appointed by the Mayor.

The Chair of the Portsmouth Citizen Response Task Force shall be chosen from among the members who have been appointed by the Mayor. To keep the Portsmouth Citizen Response Task Force as non-political as possible, no elected official may be a member. The group will remain in operation until December 31, 2020, and may be reestablished prior to that time. All the Mayor's appointments will be Portsmouth residents. The participation of city staff is dependent upon the approval of the City Manager.

Tasks (TO BE CONSIDERED AS PART OF THE MOTION):

To recommend to the City Management and City Council on decisions related to COVID-19 that affect the business community and organizations in addressing the needs of re-opening within the confines of health care advisories.

To discuss, identify, and then educate Portsmouth businesses and the public about “best practices” and approaches as they re-open, based on health care advisories.

To consider further recommendations for the business community for addressing the needs of health care safety.

To consider guidelines and enforcement for the wearing of masks by all who work in and visit our businesses.

To include and work with citizen and business interest in an inclusive way as possible to provide recommendations and schedules for addressing the needs for protecting the health of our citizens, visitors, and employees.

To review the financial impact of the pandemic on businesses in Portsmouth, and provide recommendations for response.

The Portsmouth Citizen Response Task Force may call on other Portsmouth City Government staff members for assistance and advice.

The Portsmouth Citizen Response Task Force may hold public meetings to hear from members of the community.

The Portsmouth Citizen Response Task Force may meet with agencies or boards of neighboring communities and the state for advice.

All meetings of the Portsmouth Citizen Response Task Force shall be public at all times)

B. COUNCILOR WHELAN

1. *Parking Traffic and Safety Valet Request

C. COUNCILOR LAZENBY

1. *Permit Fees for Outdoor Service (**Sample motion – move the City waive any municipal fees, such as building permit fees, which are determined to be directly associated with the reopening of restaurants for outdoor service in accordance with the Governor’s Emergency Order #40, Exhibit C)**

D. COUNCILOR KENNEDY

1. *Commitment by the City of Portsmouth to use local business as a Priority when buying products and services for the city (**Sample motion – move to have all city government departments investigate local businesses for products and services that the city uses for its everyday needs. If a local business can provide the same service or product at a market value that is competitive: then the city should give priority to purchase from that local business. For this motion, local is a product and/or service with a fifty mile radius of Portsmouth)**)

E. COUNCILOR HUDA

1. Revenues, Federal & State Aid (**Sample motion – move to request the City Manager and Finance Director provide an update to the residents & City Council of the latest data available on incoming (revenues) Federal & State Aid: Both COVID related & all other to include the following:**
 - A. **All known incoming funds related to the Government Programs that the City is to receive for all departments such as:**
 - **Police – COVID related funds of \$300 week hazard pay for COVID related activities**
 - **Fire - \$32,000**
 - **School – State & Federal Aid: School Building Aid, SPED Aid, Grants for IDEA, Medicaid, Special Revenue Food Service Municipal Aid for COVID related Federal Funds, part of the \$1.25M - \$523,000**

B. Status on the April 2020 Month End Reporting (1st Full Month of Pandemic Effect)

F. COUNCILOR TABOR

1. *Zero-Increase Budget (*Sample motion – move that the Council request of the School Board, Police and Fire Commissions, and of the City Manager, a “what if” exercise for a zero increase budget for their respective FY21 including an explanation of actions to be taken and impact on services. Work to be completed by June 1. Includes further public presentation and discussion with the Council if needed.*

This exercise would be designed to inform final budget decisions with the best data. It would 1) allow school, fire and police to work with their boards and commissions at their May meetings, and the City Manager and Finance Director to work with department heads, to figure out specific actions needed for each unit to achieve a zero increase budget; 2) in the process, develop specificity so the Council’s final budget decisions in June are well informed and we protect services as much as possible)

G. COUNCILOR TRACE

1. *Little League and further Recreation this Summer (*Sample motion – move to create a task force to oversee this in a transparent manner allowing resident to better understand & help with the decisions that affect their children in the ever evolving world of COVID 19*)
2. *Report Back from City Officials/Staff Committee Re: Restaurants to open with outside dining on May 18th

XIV. APPROVAL OF GRANTS/DONATIONS

There are no Grants/Donations for approval this evening)

XV. CITY MANAGER’S ITEMS WHICH REQUIRE ACTION

A. CITY MANAGER CONARD

City Manager’s Items Which Require Action:

1. The One Hundred Club Valet Parking License Renewal
2. Sidewalk Café License for AC Hotel, 299 Vaughan Street
3. *CARES Act Funds
4. Approval of Election Support Letter
5. Recommended Modifications to Middle Street / Lafayette Road Bike Lanes for 2020 Season
6. Bluestone Properties of Rye, LLC Request for 135 Congress Street Parking Lease

XVI. CONSENT AGENDA

- A. Request for License to Install 3 Projecting Signs for owners of Laura Cote & Melanie Bisson, True East Realty, LLC; Melanie Bisson, Generations Home Inc.; and Jason Mills, BCM Advisory Group for property located at 400 Deer Street (400 The Hill) ***(Anticipated action - move to approve the aforementioned Projecting Sign Licenses as recommended by the Planning Director, and further, authorize the City Manager to execute the License Agreement for this request)***

Planning Director's Stipulations

- ***The license shall be approved by the Legal Department as to content and form;***
 - ***Any removal or relocation of projecting sign, for any reason, shall be done at no cost to the City; and***
 - ***Any disturbance of a sidewalk, street or other public infrastructure resulting from the installation, relocation or removal of the projecting sign, for any reason shall be restored at no cost to the City and shall be subject to review and acceptance by the Department of Public Works***
- B. Letter from Maria Stephanou, Alzheimer's Association, requesting permission to hold the 2020 Annual Seacoast Walk to End Alzheimer's on September 27, 2020 ***(Anticipated action – move to authorize the City Manager to act)***

XVII. PRESENTATIONS & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS

- A. *Presentation by Health Officer Kim McNamara regarding COVID-19 Update
- B. Email Correspondence ***(Sample motion – move to accept and place on file)***
- C. Letter from Jeff Goss and Sean Sullivan, the Clipper Tavern, requesting permission for outdoor dining in front of the Clipper Tavern and closure of road

XVIII. CITY MANAGER'S INFORMATIONAL ITEMS

1. Draft Great Bay Total Nitrogen General Permit Comments to EPA
2. Outdoor Dining Requests – Public Realm Venues Work Group
3. *Status Update on Report Back on Impact Fees

XIX. MISCELLANEOUS BUSINESS INCLUDING BUSINESS REMAINING UNFINISHED AT PREVIOUS MEETING

XX. ADJOURNMENT [at 10:00 p.m. or earlier]

KELLI L. BARNABY, MMC/CNHMC
CITY CLERK

* Indicates verbal report

LEGAL NOTICE

NOTICE IS HEREBY GIVEN that a Public Hearing will be held by the Portsmouth City Council on Monday, May 18, 2020 at 7:00 p.m., at the Portsmouth Municipal Complex in the Eileen Dondero Foley Council Chambers, Portsmouth, NH, on the proposed Ordinance amending Chapter 7, Article I, Section 7.105 C – Designated Motorcycle Parking Area. The Complete Ordinance will be available for review on the City's website. Due to the current State of Emergency related to COVID-19, the public hearing on May 18, 2020 will be conducted remotely via zoom conference call. Details regarding how to access the zoom meeting will be published on the Agenda.

KELLI L. BARNABY, MMC/CNHMC
CITY CLERK

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KELLI L. BARNABY, MMC/CNHMC
CITY CLERK

PH-00486727

ORDINANCE #

THE CITY OF PORTSMOUTH ORDAINS

That Chapter 7, Article I, Section 7.105 – **PARKING** of the Ordinances of the City of Portsmouth be amended as follows (deletions from existing language **stricken**; additions to existing language **bolded**; remaining language unchanged from existing):

ARTICLE I: PARKING METERS

Section 7.105: PARKING

C. MOTORCYCLE PARKING

A. Designated Motorcycle Parking Area.

The following location is established as an exclusive "Designated Motorcycle Parking Area" for the months of April 1st through November 30th only:

1. Pleasant Street: On the easterly side of Pleasant Street, beginning at a point 24 feet South of the extension of the southerly curb line of Market Square running southerly the distance of 24 feet.

~~Motorcycles are subject to reduced parking meter fees for the hours of enforcement as set forth in this Chapter in this Designated Motorcycle Parking Area. When more than one Motorcycle parks in a regular parking space only one of the Motorcycles occupying the space shall be required to pay for the parking space at the regular parking rate as set forth in this Chapter.~~

Motorcycles parking in the Designated Motorcycle Parking Area shall pay the "Designated Motorcycle Parking Area Rate" which is \$0.50 less than the Downtown High Occupancy Rate. Parking for verified Portsmouth residents shall be \$0.50 less than the Designated Motorcycle Parking Area Rate. Payment of the reduced rate is achieved through the use of a mobile phone application.

B. Motorcycle Parking.

Motorcycles parking in parking spaces other than the Designated Motorcycle Parking Area shall pay the rate of the

parking meter zone in which the parking space is located less the verified Portsmouth resident reduction of \$0.50 per hour if applicable. One or more motorcycles may park in a single parking space. When more than one motorcycle parks in a single parking space, payment is required from only one of the motorcycles occupying the parking space.

Motorcycles are subject to reduced parking meter fees for the posted hourly time limits within the hours of enforcement as set forth in this Chapter.

The City Clerk shall properly alphabetize and/or re-number the ordinances as necessary in accordance with this amendment.

All ordinances or parts of ordinances inconsistent herewith are hereby deleted.

This ordinance shall take effect upon its passage.

APPROVED:

Rick Becksted, Mayor

ADOPTED BY COUNCIL:

Kelli L. Barnaby, City Clerk

The City of Portsmouth is currently facing an unprecedented challenge with no collaborative roadmap for navigation that involves our business community and our residents, who have to live with the decisions made during the next few months. As we continue to battle a virus that has taken the lives of members of our community, we must begin to navigate how to re-open safely by providing our businesses a chance to achieve financial stability. This all must be done while balancing concern for safety of our residents, visitors, and workers.

Our city staff is investing countless hours responding to this crisis and we commend their efforts. We do, however, think that given the emergent nature of this crisis, the steps that have been taken have not included enough interactive input from residents and business owners. Bringing them "to the table" is important, and mutually beneficial. As we begin to navigate what the foreseeable future looks like for our city, perhaps years, we believe it is vital that we include more of our Portsmouth residents and business owners in the discussions going forward. We believe it will strengthen the ongoing efforts in three ways: 1. Expand the information available to City Staff; 2. Improve the adoption and adherence of proposed policies, and; 3. De-politicize what should be a factual-based discussion.

Expanding the ability of city staff and the City Council to hear directly from our residents will improve the guidelines created because those directly impacted will be able to weigh in -- and will have participated in the decisions. This is not an "either/or" for the work already done by city staff that has been meeting in working groups -- it is supplemental to that good work. For example a restaurant owner would quickly be able to know whether and how staff is able to comply with regulations given their direct experience. Shop owners will be able to highlight how the market is reacting to provide a safer shopping experience. This type of input is vital to the success of the re-opening plan. And through this process, they can help one another, and learn from each other -- as well as teach all of us.

Stringent adoption of policies is critical to preventing a second surge of COVID-19 in the late summer or fall, or if it returns next year, and we cannot compromise on the health and safety of our residents, workers, and visitors. We believe involving more of our business community and residents in this process will give them a voice and assure that policies are adopted by the greater population. This is crucial as we look to our residents to help us maintain a low rate of COVID-19 cases.

Finally, It is disappointing to watch how the discussion on COVID-19 has devolved nationally, and at times on the state level to a partisan discussion, instead of a review of the facts. By limiting this task force to only non-elected officials we put Portsmouth in the best position to seek public input and buy-in.

As we continue to navigate an unknown path, we believe together we have the best chance of creating a way forward. Assembling a Portsmouth Citizen Response Task Force that includes different voices from the community is a crucial step in forming our path. It is with that positive intent that our motion is offered.

Thank You,
Jim Splaine & Deaglan McEachern

DATE: MAY 13,2020

TO: CITY CLERK KELLI BARNABY
MAYOR BECKSTED
CITY MANAGER CONARD

FROM: CITY COUNCILOR HUDA

SUBJECT: MAY 18TH CITY COUNCIL MEETING AGENDA REQUEST (ZOOM MEETING)
PLEASE PUT THIS UNDER MY NAME. THANK YOU

I MAKE A MOTION TO REQUEST THE CITY MANAGER/FINANCE DIRECTOR PROVIDE AN UPDATE TO THE RESIDENTS & CITY COUNCIL OF THE LATEST DATA AVAILABLE ON INCOMING (REVENUES) FEDERAL & STATE AID : BOTH COVID RELATED & ALL OTHER TO INCLUDED THE FOLLOWING:

- 1) ALL KNOWN INCOMING FUNDS RELATED TO THE GOVERNMENT PROGRAMS THAT THE CITY IS TO RECEIVE FOR ALL DEPARTMENTS SUCH AS:
 - > POLICE - COVID RELATED FUNDS OF \$300 WK HAZARD PAY FOR COVID RELATED ACTIVITIES
 - > FIRE - \$32,000
 - > SCHOOL : STATE & FEDERAL AID: SCHOOL BUILDING AID, SPED AID, GRANTS FOR IDEA, MEDICAID,SPECIAL REVENUE FOOD SERVICE
 - > MUNICIPAL AID FOR COVID RELATED EXPENSES SUCH AS-
NH STATE DISTRIBUTION OF COVID RELATED FEDERAL FUNDS, PART OF THE \$1.25M- \$523,000
- 2) PLEASE GIVE A STATUS ON THE APRIL 2020 MONTH END REPORTING. (1ST FULL MONTH OF PANDEMIC EFFECT)

IN THIS UNCERTAIN TIME I AM REQUESTING THAT THE COUNCIL BE PROVIDED WITH THE MOST UP-TO-DATE DATA TO HELP US IN MAKING THE CRITICAL FY21 BUDGET DECISIONS AHEAD OF US.
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CITY OF PORTSMOUTH

City Hall, One Junkins Avenue
Portsmouth, New Hampshire 03801
kconard@cityofportsmouth.com
(603) 610-7201

Karen S. Conard
City Manager

Date: May 14, 2020

To: Honorable Mayor Rick Becksted and City Council Members

From: Karen S. Conard, City Manager *KSC*

Re: City Manager's Comments on City Council Agenda of May 18, 2020

XI. Public Hearings and Votes on Ordinances and/or Resolutions:

A. Public Hearing and Second Reading of Ordinance Amending Chapter 7, Article I, Section 7.105 C – Designated Motorcycle Parking Area:

In June 2019, the Parking and Traffic Safety Committee approved an amendment to the Designated Motorcycle Parking Area Ordinance (Chapter 7, Article I, Section 7.105 C). A citizen raised concerns regarding the amendment, and in August 2019 the Committee rescinded its approval and requested a report back from City staff. Upon review, the Committee voted to request a revised amendment in September 2019. On February 6, 2020, the Parking and Traffic Safety Committee voted to approve the [attached](#) amendment to Chapter 7, Article I, Section 7.105 C and to refer it to the City Council to request first reading.

At the March 16th Council meeting, Ben Fletcher, Director of Parking, provided a brief presentation on the amended ordinance and at the May 4th Council meeting, the Council voted to pass the first reading and have it return for a second reading at this evening's meeting.

The ordinance in question is [attached](#).

I recommend that the City Council move to approve the second reading of an amendment to Chapter 7, Article I, Section 7.105 C, the Designated Motorcycle Parking Area Ordinance, and schedule a third and final reading at the June 1, 2020 Council meeting.

XV. City Manager's Items which Require Action:

1. The One Hundred Club Valet Parking License Renewal:

The One Hundred Club currently has a license agreement with the City to operate a valet parking operation in the loading zone on Hanover Street adjacent to their site at 100 Market Street. The hours of the operation are 5:00 p.m. to 12:00 a.m., Monday through Sunday. Vehicles are not parked in municipal spaces.

A copy of the [current agreement](#) and [map](#) of the location are attached. The license term is for one year, expiring on June 30, 2020. As specified in the agreement, if they wish to renew the license for another term, they must obtain approval from the Parking and Traffic Safety Committee (PTSC) and the City Manager. In an email dated April 24, 2020 from Dana Wergen, Managing Director of The One Hundred Club, they have requested renewal of the license agreement for another year.

Typically, the PTSC reviews and approves the request, and then their meeting minutes are accepted by the City Council to officially approve the PTSC action. This year, however, the renewal request would be the only action item on the PTSC agenda at their next meeting. In light of the current pandemic and difficulty in holding meetings, it is recommended that the matter be brought to the City Council directly for their approval, rather than first obtaining PTSC approval. There have been no complaints regarding the valet parking operations and City staff have had no issues with the use of the loading zone for valet parking during the licensed hours of operation. It is therefore City staff’s recommendation that the valet parking license agreement with The One Hundred Club be renewed for another one year term under the current terms and conditions of the agreement.

I recommend that the City Council move to authorize the City Manager to execute the Valet Parking License Agreement with The One Hundred Club in a form similar to those attached for another year term.

2. Sidewalk Café License for AC Hotel, 299 Vaughan Street:

The City has received an [application from the AC Hotel at 299 Vaughan Street](#) for a Sidewalk Café providing alcohol service on a private sidewalk. City staff representatives from Police, Fire, Public Works, Building Inspection, Health, and Code Enforcement have reviewed the application and found it complete, and recommend issuance of the Area Service Agreements in accordance with [City Council Policy 2012-02](#).

While this proposed location is completely contained on private property, it is adjacent to the sidewalk area that the City has an easement over. Because the operation occurs on private property and not on City property, as the other Sidewalk Café licenses, there is no associated fee with this action.

Record #	Establishment	Location	Area	Tables	# of Chairs
20-8	AC Hotel	299 Vaughan	520	7	24

I recommend the City Council move to authorize the City Manager to enter into an Area Service Agreement with the AC Hotel for outdoor alcohol service on City land for the 2020 season subject to City Council Policy No. 2012-02, and further subject to all Governor’s orders relating to the COVID-19 pandemic.

3. **CARES Act Funds:**

The City has begun the process of applying for and receiving federal funds made available through the Coronavirus Aid, Relief and Economic Security (CARES) Act to assist municipalities in addressing costs associated with responding to COVID-19. This will address several different funds under the CARES Act which require the City Council to vote to authorize the City Manager to apply, accept and expend those funds related to the City's emergency response to COVID-19.

CARES ACT FLEX FUNDS

Last week the Governor announced that \$32 million of the \$1.25 billion the State received in CARES Act Flex Funds would be used to create two funds to assist municipalities.

The first fund is the Municipal Relief Fund. The \$32 million in the fund will be distributed to municipalities based on population. Portsmouth is eligible to apply for up to \$522,989, the maximum amount the City could receive, for reimbursement for certain necessary expenditures incurred due to COVID-19 between March 1, 2020 and December 30, 2020. Reimbursement is only allowed for funds that were not accounted for in the regular municipal budget, not FEMA or other federal grant eligible and not for revenue shortfalls. This is not an outright grant and will require completion of several grant award applications with associated documents.

The purpose of the Municipal Relief Fund is for emergency management and the first of three deadlines to apply to the fund is June 1, 2020.

If the City Council chooses to apply to the fund, I recommend that they authorize the City Manager to apply for, accept and expend any funds received by gift, grant or loan from state, federal or other governmental units that become available to the City through CARES Act Flex Funds.

The second fund is the First Responder COVID-19 Stipend Fund. This fund will distribute \$25 million to qualified first responders by way of a stipend for hazard pay of \$300 a week for full time employees and \$150 a week for part-time employees for eight weeks. The Fire Department and Police Department have submitted applications for the hazard pay stipend, pending City Council approval. The guidance documents published by the State provide that the stipend will be paid by the City in the first instance and the City will be reimbursed by the First Responder COVID-19 Stipend Fund. The stipend is subject to payroll tax deductions and will not be compensable as earnings for the New Hampshire Retirement System. The City must pay the costs associated with the payroll deduction but may request reimbursement for those costs from the Municipal Relief Fund. The City may pay the stipend in one lump sum, bi-weekly or weekly. It is optional for the City to participate in the stipend program and all funds received will be subject to audit.

The cost for the stipend program for the Fire Department will be as follows:

8 weeks stipend = \$151,200
Medicare = \$2,240
FLSA = \$4,000
Retirement = \$0
FIRE TOTAL = \$157,440

The cost for the stipend program for the Police Department will be as follows:

8 weeks stipend = \$181,985
Medicare = \$2,790
Social Security = \$1,156
FLSA = \$10,985
Retirement = \$0
POLICE TOTAL = \$196,916

If the City Council chooses to participate in the stipend program, *I recommend that they authorize the City Manager to pay the City's qualified first responders a stipend consistent with the terms, conditions and guidance documents of the First Responder COVID-19 Stipend Fund and to apply for, accept and expend any reimbursement for the stipend and payroll taxes received from the First Responder COVID-19 Stipend Fund and the Municipal Relief Fund.*

CARES ACT PROVIDER RELIEF FUNDS

The City received \$31,698.87 from the CARES Act Provider Relief Funds ("Relief Funds"). The Relief Funds were deposited in the City's ambulance account by Health and Human Services on April 17, 2020. The Relief Funds reimburse Healthcare providers for healthcare related expenses or lost revenues that are attributable to coronavirus that are not reimbursed from other sources. The \$31,698.87 was calculated based on the City's share of Medicare fees for ambulance service reimbursement in 2019.

The City would like to use these funds for lost revenue attributed to the reduction in ambulance services due to COVID-19. Although the guidance documents provide that the Relief Funds can be used for lost revenue, the guidance documents were drafted for private healthcare providers, and as a result, it is unclear whether municipalities can use these funds for lost revenue because all other CARES Act funds prohibit municipalities from using federal funds for lost revenue. Further guidance on this issue is being sought by the New Hampshire Municipal Association and the Attorney General's office.

The Relief Funds must be accepted or rejected within 45 days of receipt. The City's deadline is May 30, 2020, one day before the next City Council meeting.

Because further guidance is expected after this meeting, *I recommend that the City Council authorize the City Manager to accept or reject CARES Act Provider Relief Funds in the amount of \$31,698.87 pending further guidance on use of funds.*

CARES ACT EMERGENCY RELIEF FUNDS

CARES Act Emergency Relief Funds provided funding to numerous federal programs, including but not limited to CDBG and FEMA. The City is in the process of making application to some of those Care Act Emergency Relief Funds, including FEMA, and exploring other sources of funding available to the City.

If the City Council supports the City’s application for FEMA funds or other funds available through the CARES Act Emergency Relief Funds or any other federal or state funds, I recommend that they authorize the City Manager to apply for, accept and expend any funds, including but not limited to FEMA funds, through the CARES Act Emergency Relief Fund or any other state or federal funds received by gift, grant or loan that become available to the City.

4. Approval of Election Support Letter:

On May 4, 2020 the City Council voted to have Assistant City Attorney Ferrini draft an election support letter based on the City’s Legislative Principle of encouraging citizens to vote and to support eliminating barriers to voting. [Attached](#) is the letter for submission to the Council for their review and approval at this evening’s Council meeting.

I recommend that the City Council approve and execute the attached election support letter.

5. Recommended Modifications to Middle Street / Lafayette Road Bike Lanes for 2020 Season:

Please find [attached](#) a memorandum outlining the City’s recommended modifications to the Middle Street Bike Lanes, including the proposal to install the bollards in a limited number along the corridor. While the Council had expressed interest in holding a work session on this topic, I recommend postponing that to the fall given the current state of emergency and need to focus on other time sensitive priorities.

I recommend that the City Council move to refer the recommended modifications to the bollard locations, parking spaces, and reduced speed limit to the Parking and Traffic Safety Committee.

6. Bluestone Properties of Rye, LLC Request for 135 Congress Street Parking Lease:

By [letter addressed to the Mayor and Council](#) dated May 13, 2020, Bluestone Properties of Rye, LLC has requested that the City Council, “...authorize the City Manager to negotiate a twenty-year lease” for five parking spaces in the Worth Parking Lot. The parking spaces are requested on a 24/7 basis.

The request is based upon a complex historical analysis of the history of the Worth Lot and abutting businesses as well as City actions going back in time to the early 1970s. The municipal policy implications of making any 20 year agreement which would allow a private party to have exclusive use of public parking spaces for the next two decades are significant.

The lease, license or other form of agreement requested by Bluestone would need to deal with the numerous types of issues that might arise in twenty years, such as changes in parking fees, changes in municipal use of the Worth Lot, assignability of the spaces and sale or transfer of the Bluestone property.

For these reasons, City staff needs time to study the Bluestone request and prepare a recommendation for the City Council.

I recommend that the Bluestone Properties of Rye, LLC parking lease request be referred to the City Manager for a report back at a future Council meeting.

XVI. Consent Agenda:

A. Projecting Sign License – 400 Deer Street (The Hill):

Permission is being sought to install projecting signs that extend over the public right of way, as follows:

Sign 1: Business Name: True East Realty, LLC
Business Owner: Laura Cote & Melanie Bisson
Sign dimensions: 16” x 40”
Sign area: 4.4 sq. ft.

Sign 2: Business Name: Generations Home Inc.
Business Owner: Melanie Bisson
Sign dimensions: 16” x 40”
Sign area: 4.4 sq. ft.

Sign 3: Business Name: BCM Advisory Group
Business Owner: Jason Mills
Sign dimensions: 16” x 40”
Sign area: 4.4 sq. ft.

The proposed signs comply with zoning requirements. If a license is granted by the City Council, no other municipal approvals are needed. Therefore, *I recommend approval of a revocable municipal license, subject to the following conditions:*

- 1) The license shall be approved by the Legal Department as to content and form;*
- 2) Any removal or relocation of the sign, for any reason, shall be done at no cost to the City; and*

- 3) *Any disturbance of a sidewalk, street or other public infrastructure resulting from the installation, relocation or removal of the signs, for any reason, shall be restored at no cost to the City and shall be subject to review and acceptance by the Department of Public Works.*

XVIII. City Manager's Informational Items:

1. Draft Great Bay Total Nitrogen General Permit Comments to EPA:

On May 8, 2020 the City of Portsmouth filed its comments to the EPA's draft Great Bay Total Nitrogen General Permit. [Attached](#) are the City's comments on the draft Permit along with the [briefing sheet](#) previously distributed to the City Council in February 2020.

In addition to the City of Portsmouth, several other impacted communities also filed comments along with various stakeholder organizations. Given the anticipated extent of the comments received, it will likely be at least several months before the EPA communicates next steps on this draft General Permit.

2. Outdoor Dining Requests - Public Realm Venues Work Group:

The City has received [requests](#) from downtown business owners related to temporary closure of streets, sidewalks, and public parking spaces to provide outdoor space for use by businesses that allows adequate space for social distancing. These requests should be considered as part of an overall program for the downtown and not on a block by block (or business by business) basis. City staff from Health, Police, Fire, Planning, DPW, and Economic Development are reviewing these requests and will be prepared to report back at the June 1, 2020 Council meeting.

3. Status Update on Report Back on Impact Fees:

At the March 16, 2020 City Council meeting, the Council voted to request that the City Manager, Legal Department, Fees Committee and Planning Board review and report back regarding suggested development impact fees proposed by Councilor Kennedy and any other feedback related to impact fees. Councilor Kennedy has proposed the following for consideration in this review:


For projects over two units the following impact fees would apply:

- 1-Bedroom or 1,000 sq. ft. or less \$25,000/unit
- 2-Bedrooms or 1,500 sq. ft. or less \$50,000/unit
- 3-Bedrooms or 2,000 sq. ft. or less \$75,000/unit
- 4-Bedrooms or 2,500 sq. ft. or less \$100,000/unit
- 5-Bedrooms or 3,000 sq. ft. or less \$125,000/unit

At the April 23, 2020 Planning Board meeting, the Board voted to request that the Planning and Legal department staff prepare a report back to the Planning Board on the legal process for establishing impact fees and any additional studies that would be required in order to incorporate them into the City's local land use regulations. This

report back is anticipated to be provided to the Board at the May 21st Planning Board meeting, in which case staff would anticipate being able to provide a report back to Council in June.

**CITY OF PORTSMOUTH
LEGAL DEPARTMENT
MEMORANDUM**

DATE: November 26, 2019
TO: KELLI BARNABY, CITY CLERK
FROM: JANE FERRINI, ASSISTANT CITY ATTORNEY 
RE: VALET LICENSE AGREEMENTS

Attached please find for permanent filing the original, fully-executed **License Agreement as signed by Neil Gibb**. This agreement amends its License Agreement for valet service time from 6:00 PM to 12:00 AM Monday through Sunday to 5:00 PM to 12:00 AM Monday through Sunday.

Attachment

cc: Benjamin M. Fletcher, Director, Parking
Thomas Cocchiaro, Parking Enforcement Manager
Eric B. Eby, Parking and Transportation Engineer
Ruth E. Bowen, Parking Clerk
Neil Gibb, President, The One Hundred Club

**LICENSE AGREEMENT
FOR THE ONE HUNDRED CLUB**

The City of Portsmouth (hereinafter "City"), a municipal corporation with a principal place of business of 1 Junkins Avenue, Portsmouth, New Hampshire 03801, for good and valuable consideration as set forth herein, hereby grants this non-exclusive, revocable license to The One Hundred Club with a principal place of business at 100 Market Street, Portsmouth, NH 03801 (hereinafter "Licensee") pursuant to the following terms and conditions:

1. **Area of License:** The City authorizes Licensee to use the loading zone on Hanover Street as shown on the attached Exhibit 1.
2. **Use:** Licensee may make use of the Licensed Area for the purpose of Licensee's parking valet service activities. Such activities are subject to the following conditions:
 - The hours of operation of the valet service are 5:00 p.m. to 12:00 a.m. Monday through Sunday.
 - No vehicles receiving valet services may be parked in municipal spaces (metered, garage or otherwise).
 - There shall be no stacking of vehicles in adjacent parking spaces.
 - This license is non-exclusive and the loading zone will remain available for commercial loading purposes and for such additional purposes as the City may authorize or license.
 - Licensee will represent clearly and consistently that it is a private company and that the municipality is not responsible for any damage or loss to vehicles or property.
3. **Signage:** This License Agreement also authorizes Licensee's use of the existing signage in place on Hanover Street as shown in Exhibit 1.
4. **Term:** This license shall commence upon the execution of this Agreement and terminate on June 30, 2020. This License may be renewed for an additional term upon the joint approval of the Parking and Traffic Safety Committee and the City Manager.
5. **Payment Terms:** Licensee will make payment of an annual fee to the City in the amount of \$500.00 which represents the cost of the valet parking permit fee. No other payment is required. Payment is due upon the execution of this Agreement and shall be made to the City of

Portsmouth and directed to the City Parking Clerk at 1 Junkins Avenue, Portsmouth, NH. Failure to make the required payment when due may result in the termination of this Agreement at the City's option.

6. **Indemnification:** Licensee agrees to indemnify and hold harmless the City of Portsmouth for any and all property damage, bodily injury or personal injury which arises as a result of its use of the Licensed Area. This obligation survives termination or revocation of this Agreement.
7. **Insurance:** At all times during the use and exercise of this license, Licensee agrees to maintain comprehensive general liability insurance covering its operation under this license in an amount not less than \$1,000,000 per occurrence and \$2,000,000 general aggregate. Such insurance shall name the City of Portsmouth as an additional insured. Licensee agrees to maintain Garage Keepers insurance in the amount of \$100,000 per occurrence for the term of this Agreement. Certificates indicating the existence of these insurances shall be maintained on file at all times during the license period with the Parking and Transportation Division of the City of Portsmouth Public Works Department.
8. **Maintenance of Area:** Licensee will maintain the Licensed Area in neat and orderly fashion during Licensee's hours of use. The Licensee shall take such measures as may be necessary to maintain pedestrian and vehicular safety during use of the Licensed Areas for its valet service.
9. **Damage:** Licensee agrees to take reasonable steps to remedy promptly any damage to the Licensed Area caused by the Licensee's activities. The City may elect to accept reasonable reimbursement from the Licensee in lieu of remedy.
10. **Compliance With Other Laws:** This Agreement does not relieve Licensee from compliance with any other local, state or federal laws or regulations or conditions imposed by any local board. Failure to abide by any local, state or federal laws or regulations may, at the City's discretion, result in revocation.
11. **Revocation:** The City may terminate this Agreement or any provision contained in this Agreement on 72 hours written notice provided to Licensee if the public interest requires such termination, in which case all fees paid by Licensee shall be returned on a pro-rata basis. This Agreement may be revoked or suspended immediately without notice by the City for cause, e.g. violation of the terms of this license, in which case, all fees paid by Licensee shall remain the property of the City

Dated this 25th day of November, 2019

City of Portsmouth

By: 
John P. Bohenko
City Manager

Pursuant to vote of the City Council
of October ~~7~~²⁸, 2019.

Dated this 12 day of November, 2019.

The One Hundred Club

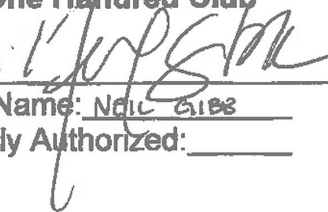
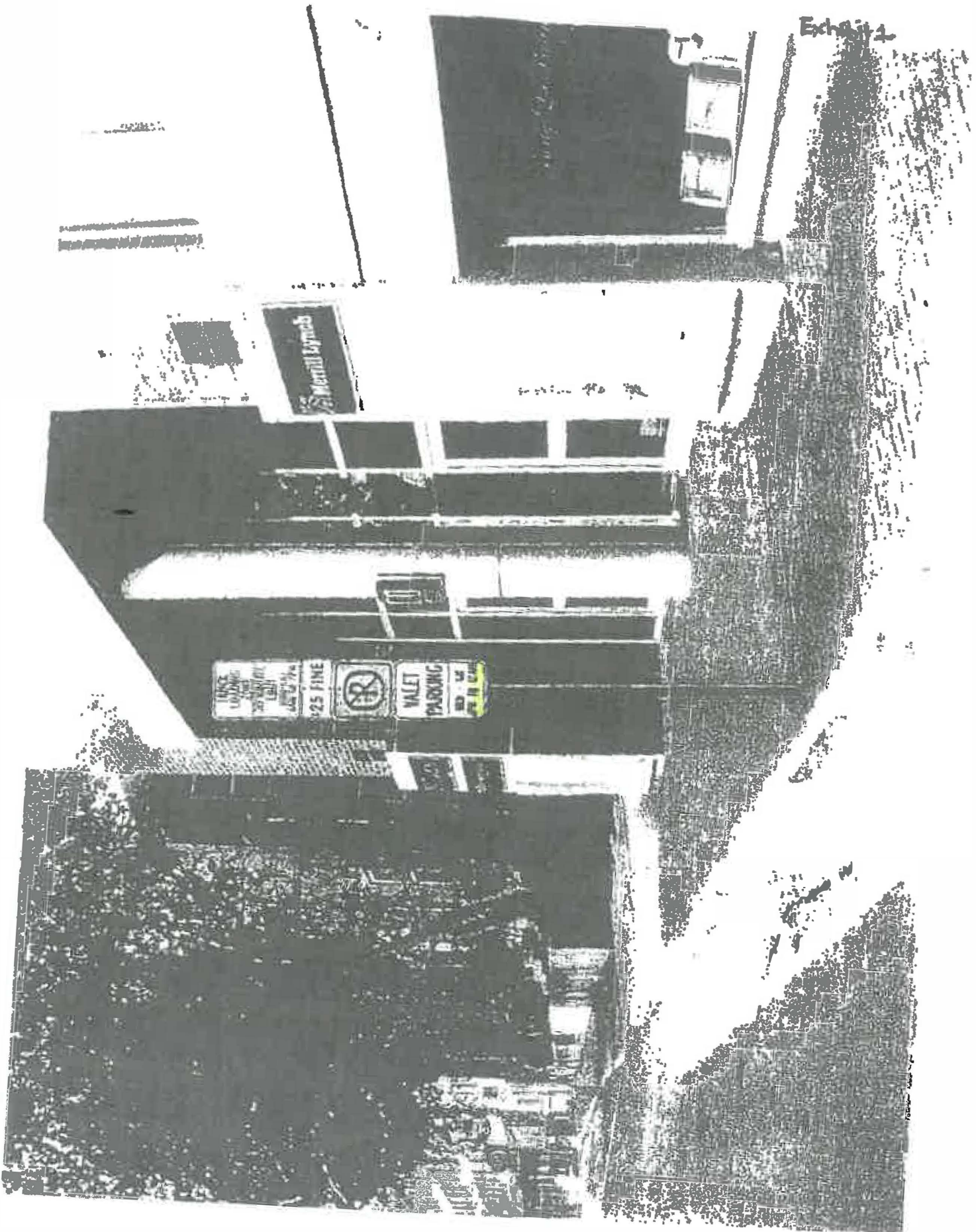
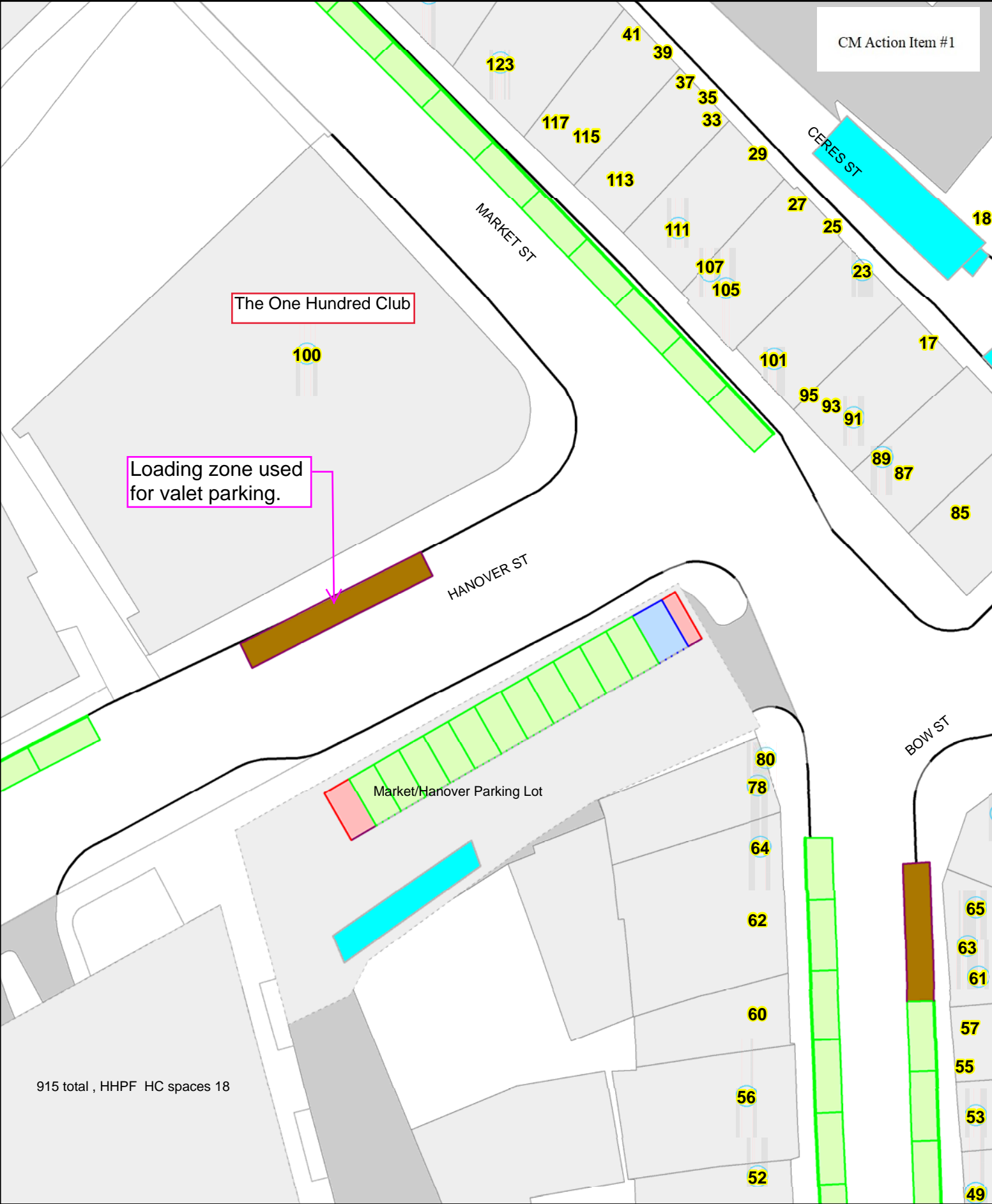
By: 
Print Name: NDIC GIBS
Its Duly Authorized: _____

Exhibit 4



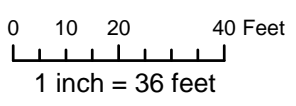


Loading zone used for valet parking.

The One Hundred Club

Market/Hanover Parking Lot

915 total , HHPF HC spaces 18






Sidewalk Cafe Application

Applicant

Location

CAFE-20-8

 Eben Tormey
 603-518-2132
 etormey@xsshoteles.com

299 VAUGHAN ST
Portsmouth, NH 03801

Status: Active

Submitted: May 01, 2020

Cafe Information

Restaurant Name

AC Hotel by Marriott

Restaurant Address

299 Vaughan Street

of Tables

7

of Chairs

24

Cafe Area (s.f.)

520

Additional information

The sidewalk cafe area is entirely on the Vaughan Street Hotel LLC property.

Acknowledgement & Authorization

Policy Adherence: I hereby certify that I have read and agree to comply with City Council Policy No. 2012-02 pertaining to sidewalk cafes.

true

Signature: I hereby agree that my electronic signature (indicated by checking this box) is equivalent to a handwritten signature and is binding for all purposes related to this transaction.

true

Internal Approvals

Date of City Council Approval

--

Fee Paid

--

2020 Opening Date

--

Attachments (6)

pdf Dimensioned site plan showing existing conditions, including:

May 01, 2020

pdf Site Details (tables and chairs, enclosure system, lighting, trash receptacles)

May 01, 2020

pdf AC Portsmouth Sidewalk Table.pdf

May 01, 2020

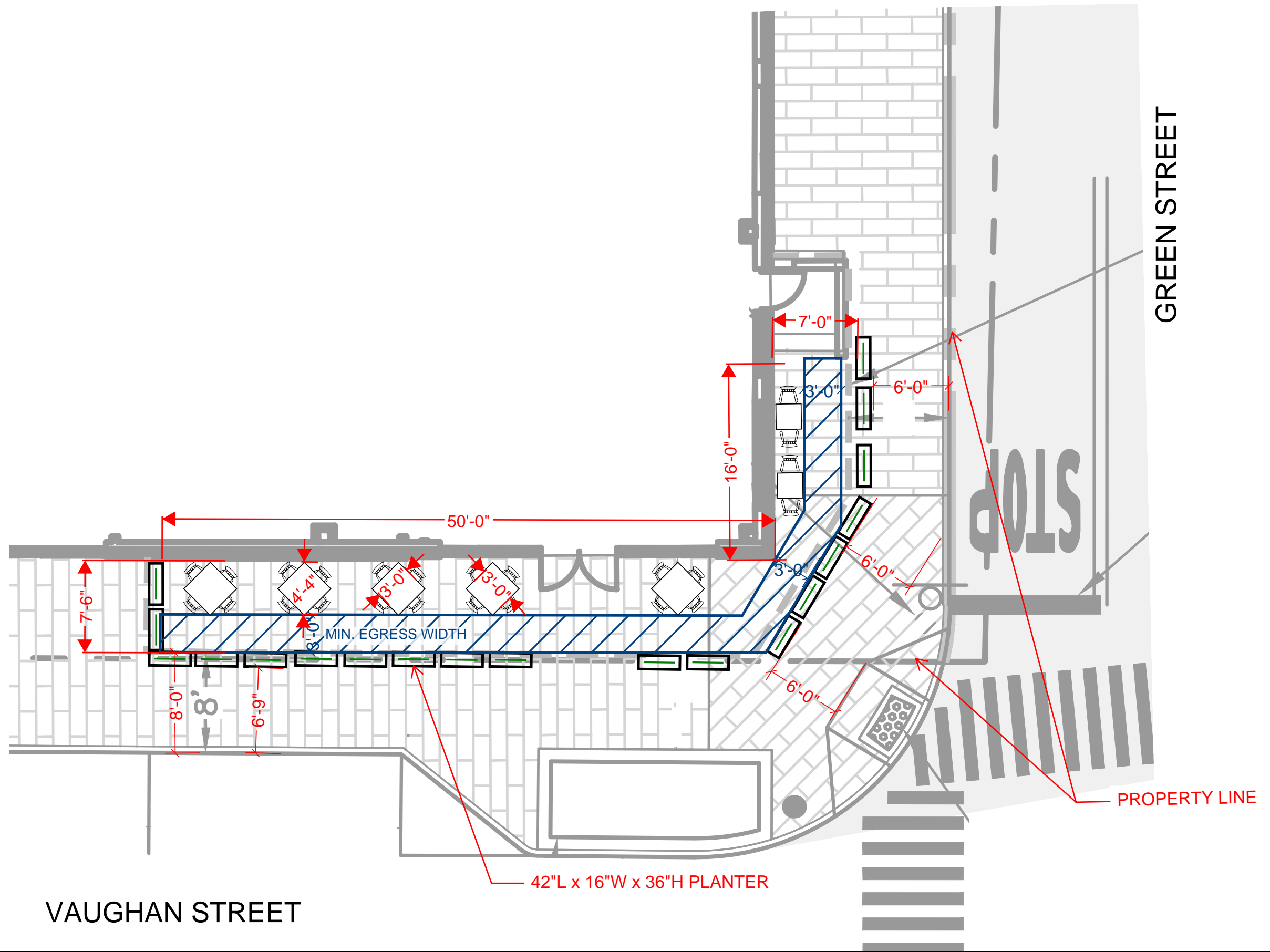
pdf AC Portsmouth Sidewalk Dining Chair.pdf

May 01, 2020

pdf AC Portsmouth - Cafe Seating Plan_2.1 Additional Dimensions.pdf

May 04, 2020

pdf Governor's Stay at Home 2.0 Guidance for Restaurants.pdf



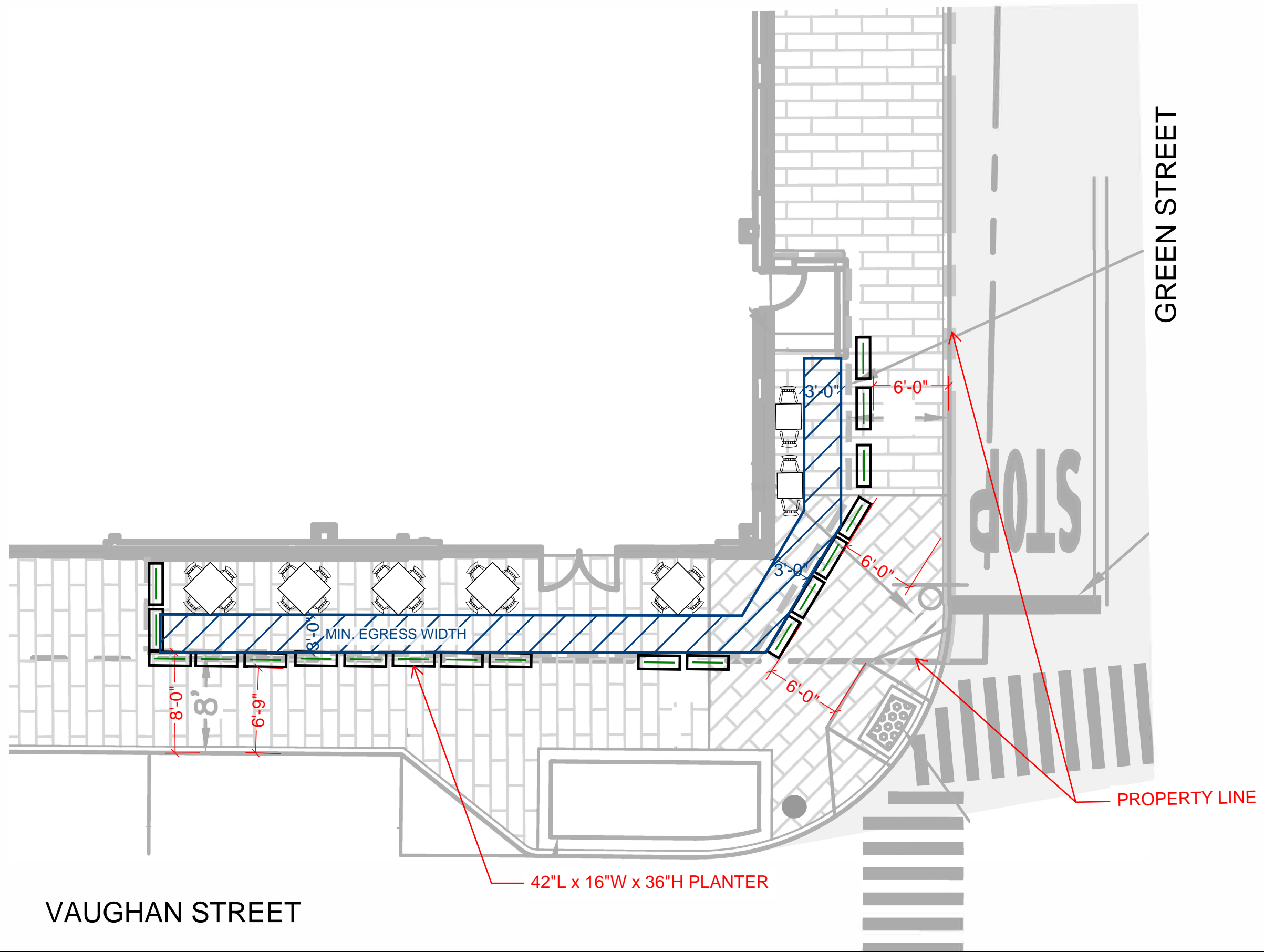
VAUGHAN STREET

GREEN STREET

AC PORTSMOUTH
 299 VAUGHAN STREET
 PORTSMOUTH, NH

4/30/2020

SCALE: 1/8"=1'-0"



AC PORTSMOUTH
 299 VAUGHAN STREET
 PORTSMOUTH, NH

4/30/2020

SCALE: 1/8"=1'-0"

KANNOA

MARTINIQUE

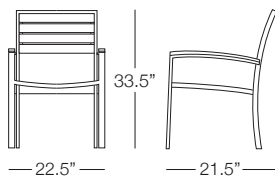


Shown in Slate Gray Aluminum and Walnut Faux Wood
(Pieces may be available in different finishes. Please refer to the Materials section)

Dining Chair w/ Arms

MRT302

SPECS & DIMENSIONS



Overall: w:22.5" d:21.5" h:33.5"
Seat Height: 17.75" Arm Height: 24"
Weight: N/A

Notes:

MATERIALS & CERTIFICATIONS

- Aluminum: Powder Coated / Welded Joint
- Wicker: High Density Polymers
- Fabric: 100% Acrylic **sunbrella**
- Sling: PVC Sling **Serge Ferrari**
- Faux Wood: Polypropylene Slats
- Cement: Fiber Reinforced Cement
- Glass: Tempered Glass
- Plastic: Polypropylene & Polyethylene



Outdoor Safe



100% Recyclable



Fire CA-117



Water Resistant



Stackable



COLWEN
DESIGN | PURCHASING



ITEM: Span Large Planter - Black @ Exterior Patio

PROJECT: Portsmouth AC

ITEM #: EXT-AC-96

PROJECT #: 30-POAC

AREA #: EXT

KANNOA

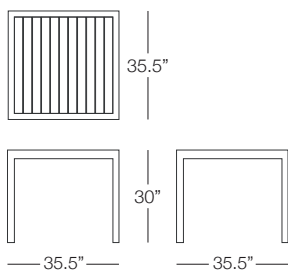
MARTINIQUE



Shown in Slate Gray Aluminum and Walnut Faux Wood
(Pieces may be available in different finishes. Please refer to the Materials section)

Square Dining Table

MRT304





SPECS & DIMENSIONS

Overall: w:35.5" d:35.5" h:30"
Seat Height: N/A Arm Height: N/A
Weight: N/A

Notes:

MATERIALS & CERTIFICATIONS

- Aluminum: Powder Coated / Welded Joint
- Wicker: High Density Polymers
- Fabric: 100% Acrylic 
- Sling: PVC Sling 
- Faux Wood: Polypropylene Slats
- Cement: Fiber Reinforced Cement
- Glass: Tempered Glass
- Plastic: Polypropylene & Polyethylene



Outdoor Safe



100% Recyclable



Fire CA-117



Water Resistant

May 19, 2020

Chair Melanie Levesque
Senate Election Law and Municipal Affairs Committee
107 North Main Street
Concord, NH 03301

Chair David Cote
House Election Law Committee
107 North Maine Street
Concord, NH 03301

Chair Bradley Cook
Select Committee on 2020 Emergency Election Support
NH Department of State
107 North Main Street
Concord, NH 03301

RE: City of Portsmouth's Testimony encouraging citizens to vote and to support eliminating barriers to voting

Chairs Levesque, Cote and Cook:

The Mayor and City Council of Portsmouth would first like to thank all of you for your past, present and future work in ensuring that the State of New Hampshire has safe and fair elections. The City of Portsmouth has adopted Legislative Principles that encourage citizens to vote and support eliminating barriers to voting. In light of the unprecedented challenges that Covid-19 poses to our federal elections this fall, we present this letter as general testimony in support of all pending legislation that supports these Legislative Principles. This letter also serves as testimony in support of any recommendations made by the Select Committee to the Department of State that will provide financial assistance to the City to address unforeseen election costs and new safety protocols needed to protect the health and safety of all those who vote and work in the next election.

We understand that the House and Senate are unable to meet due to the current State of Emergency and the present status of pending legislation on voter registration and absentee ballots is unknown. If legislative committee meetings are to resume, the City provides testimony in support of the following bills:

House bills.

HB 556- Is a bill that would allow municipalities to process absentee ballots prior to election day. This bill has been referred to interim study. However, the ability to allow municipalities to process absentee ballots prior to election day is an issue that has been addressed by the testimony of city and town clerks before the Select Committee. The Secretary of State's recent memorandum on absentee ballots provides that citizens may use the disability justification for

absentee ballots. This will create a substantial increase in the use of absentee ballots at the next election. The City supports the use of absentee ballots because it makes it easier and safer for voters to participate in the election. The current law (RSA 659:49-55) provides that absentee ballots can only be processed two hours after the polls open. Processing absentee ballots is very labor intensive during a regular election but given the substantial increase anticipated in the use of absentee ballots at the next election, the Select Committee could recommend to the Governor that an Emergency Order, or to the Legislature if it is back in session, to temporarily suspend the law as it is currently written to permit processing absentee ballots in advance of the election to allow sufficient time to process ballots and protect the health and safety of voters and poll workers.

Absentee ballots are also addressed in HB 1672- A bill that would allow “no excuse” absentee ballots. This bill passed the House and should be headed to the Senate. Some voters are not comfortable listing reasons for the need for an absentee ballot. This bill would remove the requirement to list a reason for voting absentee and as such, the City supports this bill because it encourage citizens to vote and remove barriers to voting.

Senate bills.

SB 631- Is a bill that would support online voter registration with technological security measures to be established by the Secretary of State. SB 7 would permit voter registration by motor vehicle registration through the Secure Modern Accurate Registration Technology Act (SMART ACT). As we have seen with the Covid-19 pandemic, online access and technological means of connecting and accessing information has been necessary for government to function. As much as we are learning about Covid-19 as the days and months pass, there is so much we do not know. Covid-19’s impact will be felt for months, if not years to come. The City supports SB 631 and SB 7 because the ability to register to vote online, or through motor vehicle registration with appropriate security measures, supports the City’s Legislative Principle of encouraging citizens to vote and removing barriers to voting.

The Select Committee will make recommendations to the Department of State on how the \$3.2 million In CARE Act funds will be paid to municipalities to prepare for and respond to Covid-19 for the 2020 federal elections. These funds may be used for various Covid-19 related election costs, including but not limited to costs associated with changes to and support of the voting process, equipment and supplies, staffing needs, security and training and communication. All municipalities will need these funds to ensure a fair and safe election for voters and workers. No two municipalities needs will be identical, so the City encourages the Select Committee to permit municipalities the flexible financial assistance they need to create new procedures to address the challenges that Covid-19 presents and to ensure the safety of all involved in the next election.

“We do not have government by the majority. We have government by the majority who participate.” Thomas Jefferson. Thank you for distributing the City’s testimony to your respective Committees and for your hard work in helping all New Hampshire voters participate in the upcoming election during these most difficult times.

Sincerely,

Mayor Becksted and the Portsmouth City Council

c: Mayor Becksted
City Council Members
Karen Conard, City Manager
Portsmouth Legislative Delegation

T/2020Legislature/Election/testimony

DRAFT



CITY OF PORTSMOUTH
PLANNING DEPARTMENT

MEMORANDUM

TO: KAREN S. CONARD
FROM: JULIET WALKER, PLANNING DIRECTOR *JW*
CC: TODD GERMAIN, FIRE CHIEF
 MARK NEWPORT, POLICE CAPTAIN
 PETER RICE, PUBLIC WORKS DIRECTOR
 ERIC EBY, PARKING AND TRAFFIC ENGINEER
SUBJECT: REPORT BACK ON MIDDLE STREET / LAFAYETTE ROAD BIKE LANES
DATE: 5/5/2020

On March 12th, City staff held a public meeting in City Council Chambers on the Middle Street / Lafayette Road bicycle lanes. The purpose of the public meeting was to provide opportunity for members of the public to share comments, concerns, and suggestions for improvement. Meeting notices were mailed to all property owners along the section of roadway where the bike lanes have been installed.

A follow-up work session with Council was originally scheduled for March 23rd, but due to the COVID-19 emergency, this work session was postponed indefinitely. Enclosed with this memo are City staff responses to some of the feedback provided by members of the public in March.

The City typically re-installs our removable on-street bike facilities (e.g. bicycle corrals, flex post bollards, and bike share stations) starting in early May with the arrival of warmer weather and increased bicycling activity.¹ We anticipate there will continue to be demand for bicycle facilities in the City, and we are also anticipating that the social distancing and suspension of many organized sports, as well as ongoing closure of indoor exercise facilities will likely continue for some time. With that in mind, staff is recommending that the City continue to support the ability for residents to partake in passive localized recreation (i.e. bicycling and walking) along our city streets and sidewalks safely and comfortably. This could also help to reduce congestion in our area parks and off-road trails.

After the meeting in March, Public Works Director Peter Rice, Planning Director Juliet Walker, Fire Chief Todd Germain, Police Captain Mark Newport, and Parking and Traffic Engineer Eric Eby met to discuss possible modifications to the bike lanes. Given the current context of the COVID-19 emergency and the anticipated freeze on capital

¹ The City has temporarily suspended the bike share program due to the COVID-19 emergency.

projects, we unanimously agree that substantial changes to the bike lane design should not be a City priority at this time, and we have jointly agreed to recommend the following low cost modifications to the bike lanes for the coming season. We have also included some longer term (and higher cost) considerations for the future.

We would also recommend holding a work session with Council in the fall to review the impact of the interim modifications and to discuss any future courses of action.

Staff Recommendations

Spring of 2020

- Re-install a limited number of flex post bollards (about 40 along the entire corridor, which is a reduction of 30 from last year). The bollards helps to delineate the bike lanes and parking areas, which improves safety for bicyclists and motorists.
 - Keep bollards at all intersections and at start of on-street parking areas.
- Remove on-street parking at intersections to improve sight lines
 - 1 space south of Aldrich and 1 space north of Aldrich
 - 1 space south of Cass and 4 spaces north of Cass
- Reduce posted speed limit to 25 mph.

Summer of 2020

- Restriping -- adjust center line in locations to align with road crown, this will widen travel lanes and straighten out curves and help prevent cars crossing center line
 - Between Union Street and Park Street, and Middle Road and Mendum Avenue.

Longer-Term Changes

- Full re-pave of Middle Street will provide consistent pavement color and eliminate scarring in pavement that creates visual confusion at night and in low visibility conditions.
- Research more aesthetic alternatives to flex post bollards.
- Evaluate locations for additional pedestrian crossings.
- Implement intersection improvements at Greenleaf Avenue and Lafayette Road.
- Continue to work on completing connections to city-wide bicycle network.

Ongoing Data Collection

- Collect additional data on traffic speeds, accident reports, and bike lane usage – to compare impact of design modifications
- Survey students and families at Middle School and High School regarding usage of bike lanes

Staff Responses to Public Comments about Bike Lanes (from March 2020 public meeting and correspondence submitted to Planning Department)

- **Comment:** Middle Street is a principal arterial roadway intended to serve high traffic volumes. 30-35 mph speed limit based on 85th percentile is not unreasonable.
Staff Response: We agree. That is why a protected bike lane using parked vehicles or flex posts, or a separated bicycle facility is appropriate for this roadway where speeds regularly exceed 30 miles per hour.
- **Comment:** Although the design meets most minimum bike lane standards, minimums are rarely enough for the public to feel comfortable.
Staff Response: We agree that increasing the bike lane widths above the minimum standards would likely increase comfort for bicyclists, however minimums could only be exceeded by removing parking or reconstructing the sidewalk. There is a desire to retain as much on-street parking as possible and the reconstruction of the sidewalk would be a substantial expense. This is also an argument for keeping the striped buffer, flexible bollards, and parking wherever possible.
- **Comment:** Return Middle Street and Lafayette Road back to wide and bike-friendly roadway it once was.
Staff Response: Based on the volume and speed of traffic on Middle and Lafayette, with parking on both sides, this corridor was not considered a bike-friendly roadway previously which is why it was identified in both the 2010 Safe Routes to School Action Plan and the 2014 Bicycle and Pedestrian Plan.
- **Comment:** This project has not increased the number of cyclists using the roadway and there is minimal bike lane utilization.
Staff Response: Cyclists will be more likely to use a bicycle facility, separated or otherwise, if it is part of a comprehensive bicycle network. The City is working on completion of the bicycle network, but that will take time and additional funding. While we have not seen substantial increases in bicycle usage along this corridor, these lanes have not been in place for very long and changes in commuting patterns and behaviors can take time.
- **Comment:** Sight line concerns for traffic entering from intersecting streets
Staff Response: City and state standards allow for on-street parking within 20 feet of an intersection with another street, and right up to the edge of private driveways. This rule allows for the maximum amount of on-street parking but can limit sight lines. It should be noted that poor sight lines existed in many locations along this corridor prior to the construction of the new bike lanes. To strike a balance between retaining as much parking as possible and providing improved sight lines at intersections and driveways, for this project parking was restricted within 20 feet of private driveways and within 40-65 feet of intersections. In some locations, the bike lane project has eliminated parking altogether and greatly improved sight lines as a result. Providing the minimum recommended sight lines for the observed speed of traffic on Middle Street, would require the removal of some the remaining on-street parking spaces.
- **Comments:** The road has long pedestrian crossings and few areas for refuge.
Staff Response: Pedestrian crossing distances were not lengthened by this project. In fact, the crossing distances are shorter when measured between the edge of the parking spaces and the bike lane on the opposite side of the road.

There are just as many areas for pedestrian refuge as before the bike lanes, that has not changed.

- **Comments:** Poor aesthetic due to paint and bollards.
Staff Response: Striping and bollards comply with the latest nationally accepted design guidance for protected bike lanes.
- **Comments:** Catch basins and dips in pavement along bike lane are hazardous.
Staff Response: The majority of catch basins were raised before installing the bike lane. The roadway is in need of resurfacing, which will resolve the unevenness of the pavement. Paving was not part of the budget for this project.
- **Comments:** Concerns about hazards such as car doors swinging into bike lane and travel lanes, drainage, and debris.
Staff Response: A striped buffer was provided where the bike lanes are next to parked cars to safeguard against car doors swinging into the bike lane. City maintenance staff are making adjustments to improve removal of leaves and debris in the bike lanes.
- **Comments:** The design increased the points of conflict at intersections due to parking between lanes.
Staff Response: Removing parking spaces to improve sight lines would help to alleviate this concern.
- **Comments:** Vehicles must block bike lanes at intersections in order to see beyond parked cars.
Staff Response: This is not uncommon for many types of urban bike lanes where there are intersecting streets and on-street parking. Removing parking spaces to improve sight lines would help to alleviate this concern.
- **Comments:** Narrower, shifting lanes cause vehicles to cross parking lane, center line, bike lane buffer.
Staff Response: High vehicle speeds can be a factor in why this is occurring, but there are places that the center line and bike lane buffer could be adjusted. Reducing the posted speed limit can also be considered.
- **Comments:** Concern about congestion and conflicts due to buses and turning vehicles.
Staff Response: This is normal on a City street, and helps to slow traffic, a desirable effect.
- **Comments:** Concern about driver frustration and aggression due to traffic calming impact.
Staff Response: Bike lane design is meant to provide for safer cycling, not to calm traffic. Data indicate that speeds have only lowered slightly. Increase in travel time on corridor is negligible. It is normal for there to be a period of adjustment when traffic patterns are changed.
- **Comments:** On-street ADA parking has been sacrificed
Staff Response: City is not required to provide ADA parking on-street. Individual property owners are required to provide off-street ADA parking for their customers or residents. The City did make an adjustment after the bike lanes were installed to add an ADA drop off space in front of the chiropractic office.
- **Comments:** Cars are parking in bike lane buffer due to minimum travel lane widths.
Staff Response: Removing parking spaces to improve sight lines would help to address this concern. Removing all parking spaces would allow lanes to be

widened, but this project was intended to balance on-street parking demand with improved bicycle safety.

- **Comments:** Parking is unprotected from lane shifts or wide turns at intersections.
Staff Response: When bollards are in place, they help to better delineate the parking lanes from travel lanes.
- **Comments:** Parking on one side of street creates extra pedestrian crossings.
Staff Response: Eliminating on-street parking would address this concern, but this project was intended to balance on-street parking demand with improved bicycle safety. Primary purpose of arterial roadways is for moving higher volumes of traffic. Providing on-street parking is a secondary use, and only when sufficient room exists.
- **Comments:** Vehicles are stopping less for pedestrian crossings.
Staff Response: This observation is anecdotal and not backed up by data. However, video observations by the City of pedestrian crossings along the entire corridor reveal that there are a low volume of pedestrian crossings, typically less than 10 per hour at all crosswalks during the peak hour. This is true before and after the bike lanes were installed. Studies have shown that driver yield rates are very low when pedestrian crossings are less than 20 per hour.
- **Comments:** Consider alternative options such as reverting back to prior design (no bike lanes), placing bike lanes on the outside of the parking lanes (next to vehicular travel ways), or total roadway redesign that includes a raised buffer between bicycles and parking.
Staff Response: Original design is not appropriate for a roadway with this level of traffic and speeds and, furthermore, reverting to prior condition would require returning the federal funding received for this project. Separated bike lane is the appropriate design. High impact alternative (total roadway design) is a good solution, but as noted, expensive.
- **Comments:** Install traffic signal at Middle and Cass
Staff Response: Middle at Cass did not meet any signal warrants in 2018. It might have in 2019 due to Islington detour, but no detour in 2020.

**BLUESTONE PROPERTIES OF RYE, LLC
135 CONGRESS STREET
PORTSMOUTH, NH 03801**

Mayor Becksted
Councilor McEachern
Councilor Lazenby
Councilor Huda
Councilor Trace

Asst. Mayor Splaine
Councilor Whelan
Councilor Kennedy
Councilor Tabor

May 13, 2019

Ladies and Gentlemen;

We are providing you with a packet of information regarding the issue of parking History at 135 Congress Street, Portsmouth, NH

INCLUDED IN OUR PRESENTATION ARE THE FOLLOWING SECTIONS

1. Land taking by Urban Renewal
2. City Council vote of December 18, 1972 RE lot and 5 spaces
3. Lease agreement on the Worth Lot
4. Historical data and photographs re 135 Congress Street
5. Conclusions and lease proposal for parking spaces

We will be present at the City Council Meeting on Monday May 18th to answer any questions you may have on the history of this issue

We would request that the City Council authorize the City Manager to negotiate a twenty-year lease based on the lease proposal we have requested under section 5.

Thanks for your consideration.

Warm Regards,



Michael Labrie

Cc City Manager Conard, City Attorney Sullivan, City Clerk Barnaby

PARKING HISTORY

AT



135 CONGRESS STREET

PORTSMOUTH, NEW HAMPSHIRE

1

**LAND TAKING
BY
URBAN RENEWAL**

2

**CITY COUNCIL VOTE
12/18/1972
RE LOT 5 SPACES**

3

**LEASE AGREEMENT
WORTH LOT**

4

**HISTORICAL DATA
AND
PHOTOGRAPHS**

5

**CONCLUSIONS
AND
LEASE PROPOSAL**

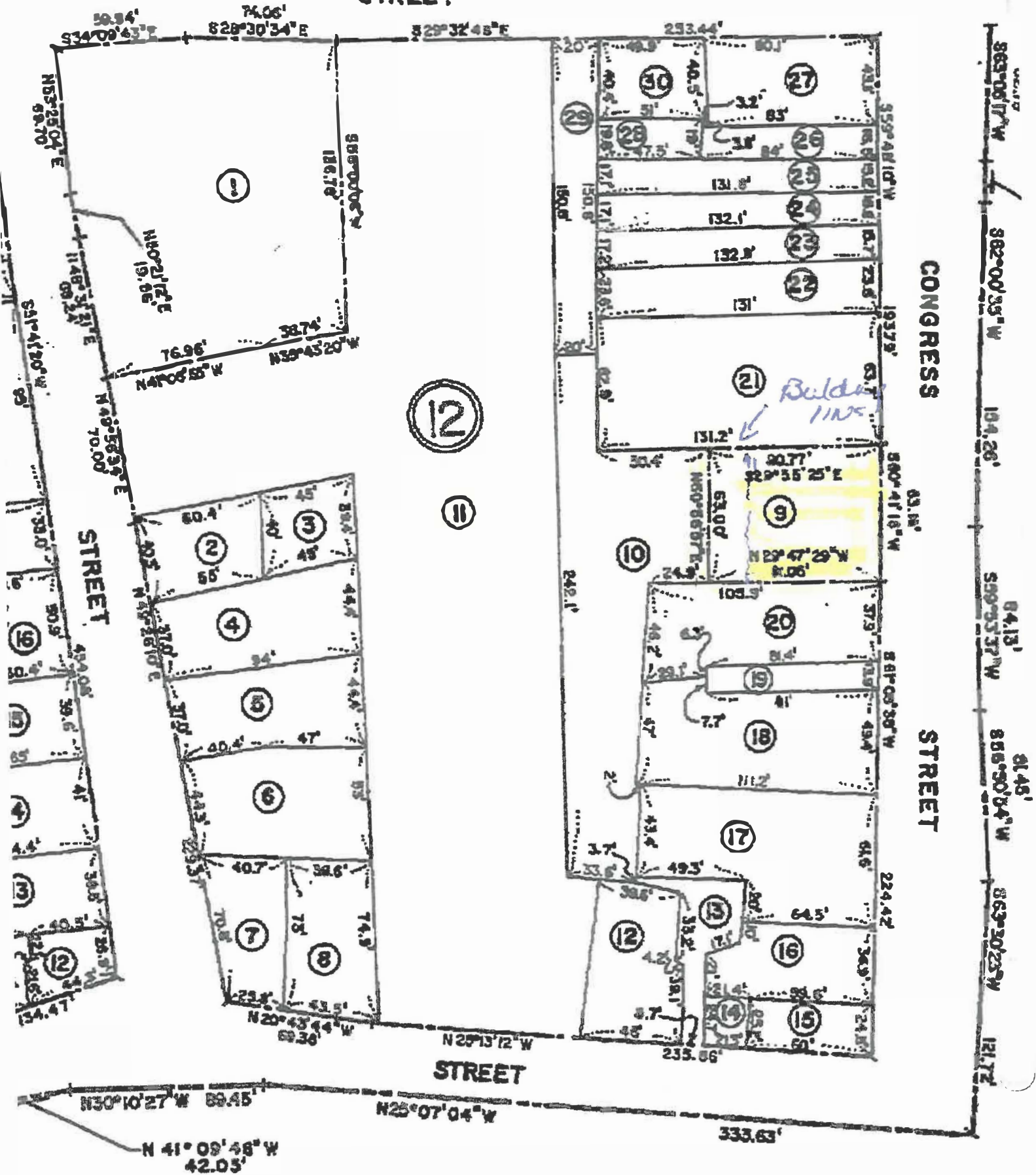
N20°45'10"W 73.9' S28°31'26"E 95.12' S28°39'15"E 103.96' S31°08'12"E 172.70'

STREET

CONGRESS STREET

STREET

STREET



12

11

Build 11x

BLOCK ⑫

PARCEL	OWNER	AREA(SQ.FT.)
# 1	RIRADO REALTIES INC.	19,803
2	PORTSMOUTH HOUSING AUTHORITY	2,321
3	GEORGE E. & PAULINE J. FRISBEE	1,800
4	PORTSMOUTH HOUSING AUTHORITY	3,957
5	HELEN COUSSOULIS	3,350
6	S. GERTRUDE KNOTT	4,270
7	GEORGE & OURANIA KACOYANIS	2,370
8	PORTSMOUTH HOUSING AUTHORITY	3,100
* 9	MELVIN H. GOODMAN	8,180
10	MELVIN H. GOODMAN	16,342
11	CITY OF PORTSMOUTH	52,200
12	PORTSMOUTH HOUSING AUTHORITY	3,160
13	IDA SILVERMAN	3,160
14	IDA SILVERMAN	533
15	POTA A. ULAKOS	1,490
16	MORRIS SILVERMAN	2,752
17	LILLIAN COHEN	6,035
18	IDA SILVERMAN	5,280
19	DAVID A. TOBER ESTATE	1,082
20	DAVID A. TOBER ESTATE	3,120
21	JOHN C. SWEETSER	8,182
22	FRANCES H. HASSETT	3,125
23	FRANCES H. HASSETT	2,137
24	ALICE SANFORD	2,160
25	ANNA HACKECHNIE	1,300
26	HELEN W. WALDRON	1,300
27	JAMES & EDWARD M. DUANE	3,520
28	C.E. WALKER ESTATE	875
29	CAROLYN B. SEYBOLT	3,050
30	ANGELA ZACHARIAS	2,034
* PROPERTY NOT TO BE ACQUIRED		

APPRAISAL REPORT
AND
VALUATION ANALYSIS

PROPERTY

PARCEL 12-9
135-145 CONGRESS STREET
PORTSMOUTH, NEW HAMPSHIRE

PREPARED FOR

PORTSMOUTH HOUSING AUTHORITY
N.H. R-10 - VAUGHAN STREET PROJECT
PORTSMOUTH, NEW HAMPSHIRE



RALPH S. FOSTER AND SONS
REAL ESTATE APPRAISERS AND CONSULTANTS
FITCHBURG, MASSACHUSETTS

SUMMARY OF SALIENT FACTS

Parcel No. 12-9

City/Town Portsmouth, N.H.
Project No. Vaughan Street Project, N.H. R - 10
Owner Melvin H. Goodman
Address 135-145 Congress Street
Type of Property Retail commercial

OWNERSHIP DATA

Purchased 3/14/57 Price \$ 1.00 IRS \$ 71.50
Grantor YMCA
Recorded Rockingham County Registry of Deeds Book 1427 Page 255
Mortgagee Unknown Mortgage \$ Unknown
Five Year Sales History: Not Applicable

Assessed Value: Entire Property

Land	-	Improvements \$	-	Total \$	50,000
Tax Rate \$	55.50	per M		Current Taxes \$	2,775.00
Other Assessments	None				

Zoning Central Business

Highest and Best Use Present use

Recent Improvements 1st floor interior and entire exterior remodeled 1961-1962

Structural Repairs Needed None

Easements or Restrictions Abutters have 15 foot right of way along rear lot line

Neighborhood Commercial

Surrounded by Commercial

PARTIAL TAKING

Subject parcel consists of a partial taking of land, located to the rear of property fronting on 135-145 Congress Street.

This land is used for customer parking in conjunction with retail store operations. Total land area is 15,492 square feet. Taking area is 10,342 square feet leaving a remainder of 5,150 square feet on which the building is located.

In the opinion of the appraisers, the taking will result in no damage to the remainder for the following reasons:

1. Taking area is currently used as parking and loading for retail store. This area is adjacent to a 157 car municipal parking lot.
2. Provisions will be made for an additional 28,250 square feet parking lot (Tract 10) within 100 feet of subject remainder.
3. Provisions will be made for off street loading facilities at the rear of subject property.
4. A portion of the taking area and additional adjacent areas will be made available for repurchase.

Therefore, this appraisal is for only that portion of the property which is to be acquired. However, the appraisers reserve the right to review and reconsider this appraisal after the taking has been made and proposed reuse has been completed.

PROPERTY DESCRIPTION

Parcel No. 12-9

PORTION TO BE ACQUIRED

LAND

Frontage 242.1' on Municipal Average Depth 30' to 70' Area 10,342 sq. ft.
 Parking Lot
 Topography Level Street Grade Level
 Utilities — Electricity x Telephone x Gas x Water x Sewer x
 Landscaping Blacktop Surfacing

IMPROVEMENTS

LAND ONLY

Type No. of Stories Age

Ground Floor Area Dimensions

Exterior Type/Material Condition

Foundation

Walls

Windows

Storms/Screen

Gutters/Leaders

Roof

Porches

Dormers

Interior

Basement

Heat

Hot Water

Plumbing

Wiring

Rooms Each Floor

Floors

Walls

Ceilings

Kitchen

Bathroom

Fireplace

Other Buildings

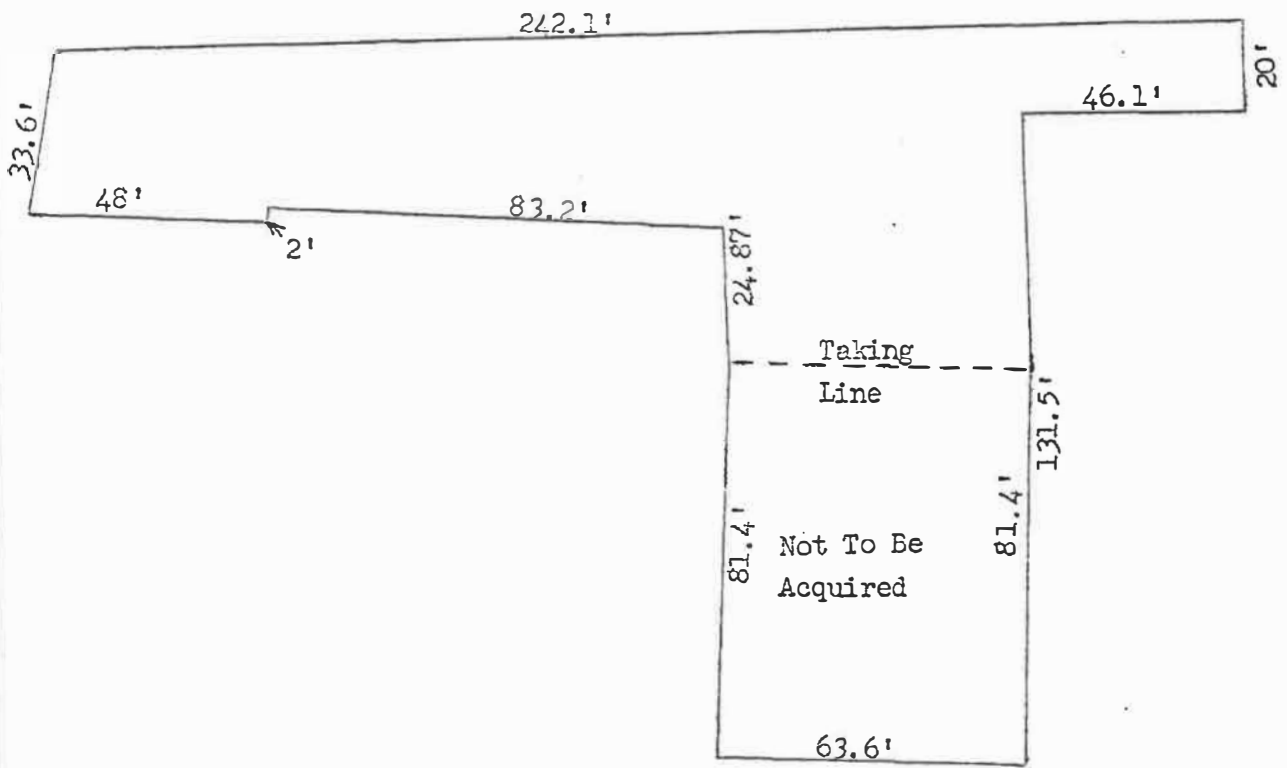
Investment Property

Gross Annual Income \$

Annual Expenses \$

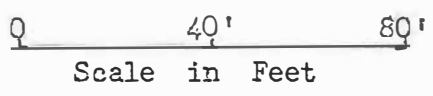
PLOT PLAN

Parcel 12-9



C o n g r e s s S t r e e t

Total Land Area	15,492 sq. ft.
Taking Area	10,342 sq. ft.
Remainder Area	5,150 sq. ft.



MARKET DATA APPROACH TO VALUE - LAND

Subject taking consists of a level lot containing 10,342 square feet of land. It is irregular in shape, has a frontage of 242.1 feet on the Vaughan Street Municipal Parking Lot with access to Vaughan Street over this lot. The land is used for private parking and loading.

The estimated square foot value of land in this location ranges from .50¢ per square foot on Hanover Street, to \$2.00 per square foot on Vaughan Street, to \$5.00 per square foot on Congress Street.

Considering the proximity to Congress Street, accessibility and use, the estimated price per square foot for subject taking is \$1.75 per square foot for 10,342 square feet of land or \$18,098 to which is added the value of blacktop paving at an estimated depreciated cost of .25¢ per square foot for a total value of \$20,683 rounded to

TWENTY-ONE THOUSAND DOLLARS (\$21,000)

CORRELATION AND FINAL VALUE ESTIMATE

The estimated market value of Parcel 12-9 is:

By the Cost Approach	Not Applicable
By the Income Approach	Not Applicable
By the Market Data Approach	\$21,000

Subject taking consists of land only, therefore, the Cost Approach and Income Approaches to Value are not applicable and have not been used in this appraisal.

The Market Data Approach is based on an analysis of actual sales of land in Portsmouth giving a good indication of value by this approach.

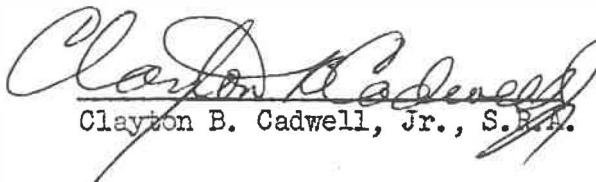
In our opinion, the estimated market value of the portion to be acquired of Parcel 12-9 as of March 17, 1967 is

TWENTY-ONE THOUSAND DOLLARS (\$21,000)

This appraisal report is prepared for use only in conjunction with Master Appraisal Data Report dated March 17, 1967, prepared for the Portsmouth Housing Authority, Project N.H. R-10.

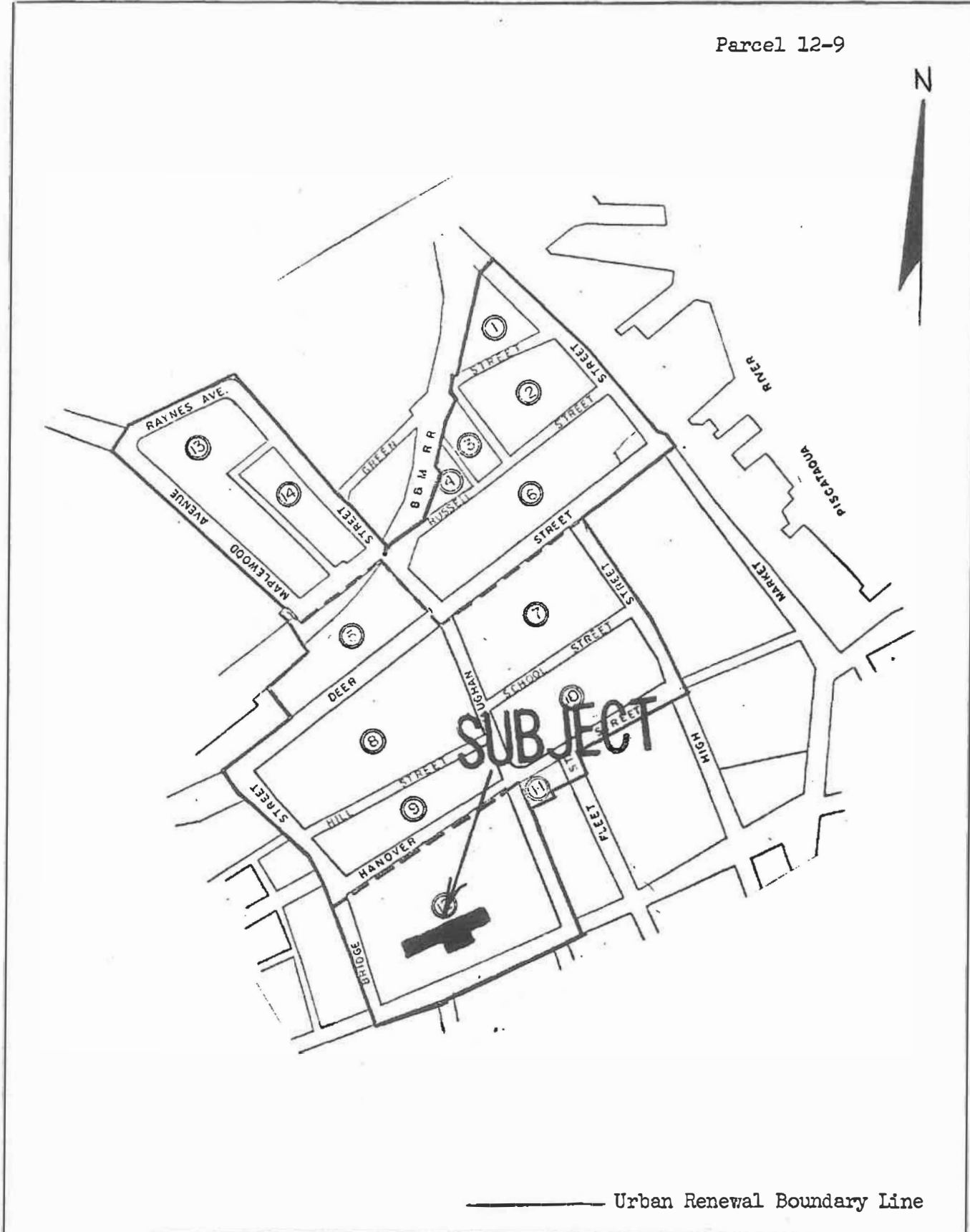
RALPH S. FOSTER & SONS
Appraisers - Consultants


Robert N. Foster


Clayton B. Cadwell, Jr., S.R.A.

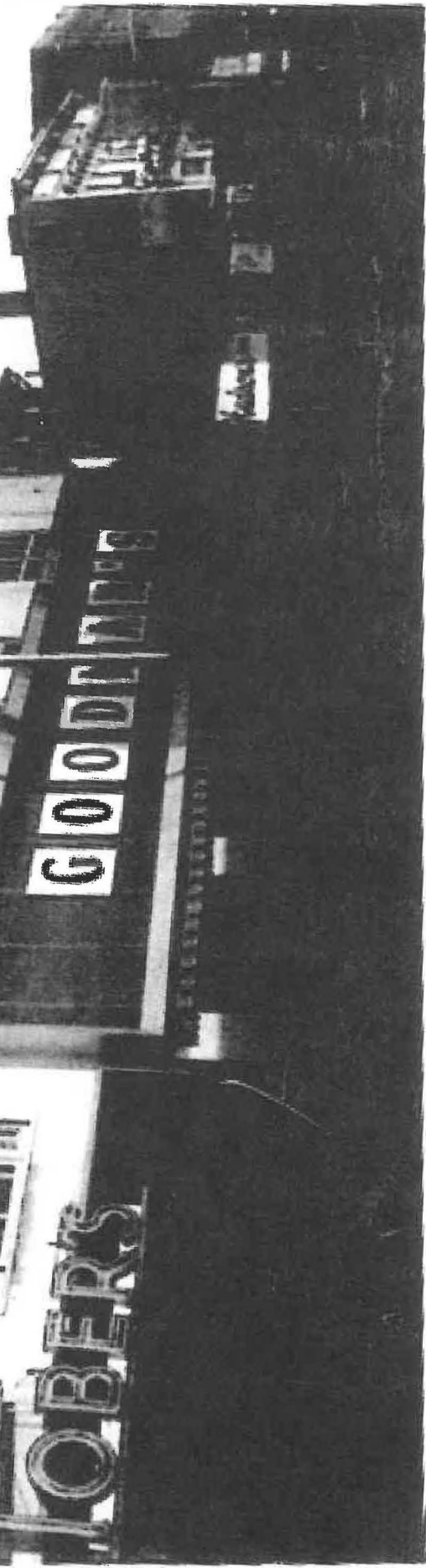
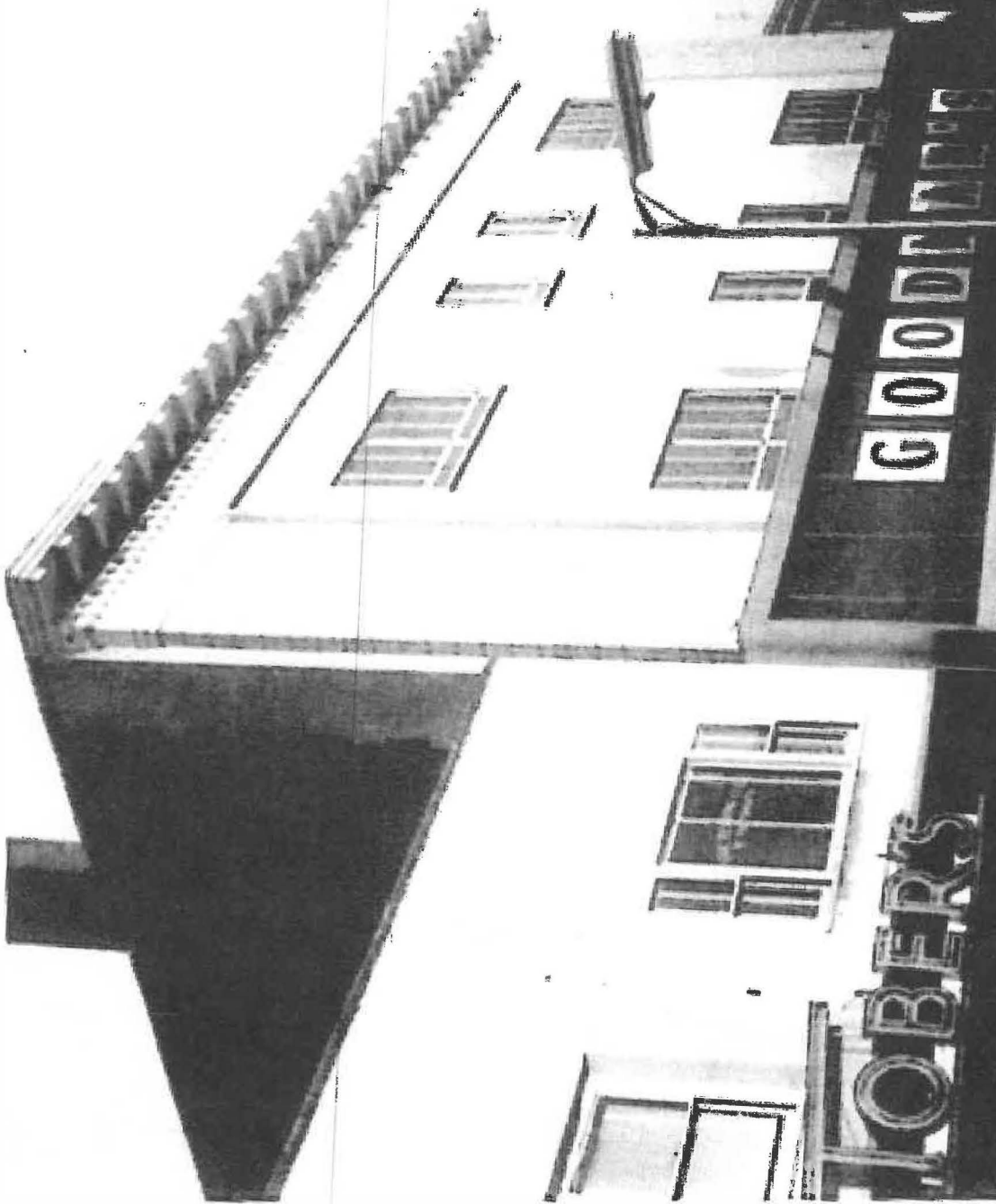
AREA MAP SHOWING LOCATION OF SUBJECT

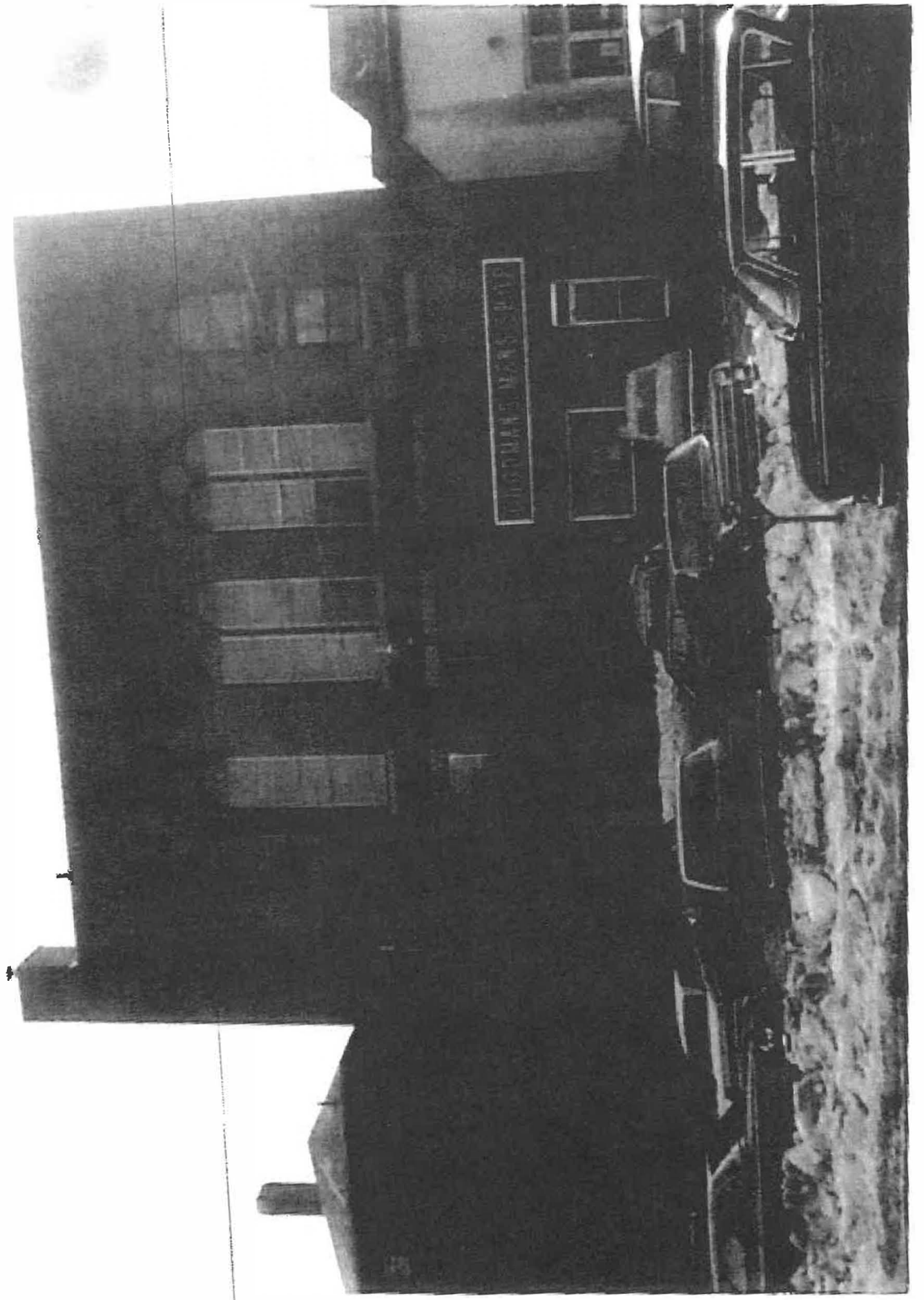
Parcel 12-9



Urban Renewal Boundary Line

AMERICAN
FINAN
LOA





REGULAR SEMI-MONTHLY MEETING - PUBLIC HEARING

VIOLETTE MEETING ROOM
DATE: DECEMBER 18, 1972

PORTSMOUTH, N.H.
TIME: 7:00 P.M.

I. CALL TO ORDER

The Portsmouth City Council met in its regular semi-monthly meeting on December 18, 1972 with his honor Mayor Arthur F. Brady, Jr, presiding."

II. ROLL CALL

PRESENT: Mayor Brady, Councilman Wholey, Thomson, McMaster, Chaisson, Fransoso, Graves and Keefe.

ABSENT; Councilman Levy

III. INVOCATION

The Chair called for a moment of silent prayer

IV. PLEDGE OF ALLEGIANCE

Councilman Graves led in the Pledge of Allegiance

V. ACCEPTANCE OF MINUTES OF OCTOBER 20 and NOVEMBER 30.

Upon motion by Councilman Keefe it was voted to accept the minutes as received.

PUBLIC HEARING

Lease of Worth Plaza Parking Lot to the City.

Before opening the Public Hearing the Chair read a communication from the Chamber of Commerce favoring the parking lot reverting back to the City.

The Mayor said he received a telephone call from Mary Mahoney, a storeowner in the area, saying she was in favor of the City taking it over.

The Chair called for all those who wished to speak in favor or opposed to the Ordinance.

Attorneys Thomas E. Flynn and Douglas Gray representing Goodman's Clothing Store favored a non-revocable clause in the lease.

Flynn said that Goodman was being denied access to land he owns, depriving him of five parking spaces.

Attorney Paul McEachern said he was not in favor or against the Lease but it was Worth's position that the Council either approve or disapprove it.

Norman Freedman, representing Winebaum Realty said he was in favor of the City retaining the lot, but felt that his tenants should be included in matters that others are, such as parking privileges.

Arthur Bean expressed doubt in reserving the proposed 23 spaces for the Worth tenants which would provide parking for merchants and their employees.

Ralph Margeson of Margeson's Furniture Store said the Parking Lot should be controlled and maintained by the City.

Dick Bettcher of the Little Book Store said he was in favor of the City taking over the parking lot.

George Hovonesian, owner of Hovey's Camera Store said the lot belongs to Portsmouth people and the businesses deserve it.

After several calls from the Chair no one else appeared to speak and the Chair declared the public hearing closed.

Councilman Wholey moved that the Lease be approved subject to the following amendment: "that the non-cancellable provision be inserted subject to the approval of the Worth Corporation, that five parking spaces be provided for the Goodman's and that there be "No Parking" in the rear of the present Goodman's store."

The motion received a second and the Chair called for a roll call vote.

Voting in the affirmative- Mayor Brady, Councilman Wholey, Chaisson McMaster, Fransoso, Graves and Keefe.

Voting in the negative-Councilman Thomson.

VI. PRESENTATION AND CONSIDERATION OF WRITTEN COMMUNICATIONS

A. Letter from Attorney Thomas E. Flynn requesting permission for the Arlen Realty and Development Company to enter the sewer on Gosling Road.

Mr. Canney in his report to the Council asked that the Council direct him to notify Attorney Flynn that Portsmouth will not enter into any contract for sewerage treatment with any private concern.

Flynn, speaking for the developer, said they would give the City a \$100,000. capital contribution plus a fee of \$10,000. for use of the sewer. Flynn said if the City accepted the proposition it would increase the base for federal funding for sewer work.

Mr. CanNEY and most Councilmen disagreed with Flynn.

It was finally voted on a motion by Councilman Graves to accept the City Manager's recommendation and deny the request.

Councilman McMaster and Keefe were recorded in opposition.

B. Letter from RCCAP that they will no longer assist in the Commodity Food Program, specifically--certification, distribution and other aspects of the program.

Mr. Canney addressing the Council said that the Community Action Program does offer assistance to poor people and he personally wouldn't like to see them move from the City.

Mr. Canney recommended that the lease with GAP be signed and the Co-Op Food Plan remain at the school for only those certified as recipients of commodity foods.

Councilman Wholey said he would support the Co-Op Plan as long as it was for the poor and elderly.

Wholey moved and it was voted to adopt the City Manager's recommendation .

C. Letter from James Splaine urging the Council to permit the Community Action Program to maintain residence at the Haven School and continue its food co-op program.

Upon motion by Councilman Keefe it was voted to accept the letter and place it on file.

D. Letter from Arthur Bean protesting smoke pollution from Public Service Company plant on Bow Street.

Upon motion by Councilman Keefe it was voted to accept the letter and place it on file.

E. Letter from Seacrest Tenants Union protesting the Housing Moratorium.

Upon motion by Councilman Keefe it was voted to accept the letter and place it on file.

F. Letter from Martha Hamilton, Community Relations Director of RCCAP offering informational booklet on food co-ops to Council.

Upon motion by Councilman Keefe it was voted to accept the letter and place it on file.

G. Letter from Mrs. Kimball Knowlton complaining of Housing conditions at Seacrest Village and pleading for better housing for service personnel.

Upon motion by Councilman Keefe it was voted to accept the letter and place it on file.

VII. REPORTS AND COMMUNICATIONS FROM CITY OFFICIALS

A. Resolution approving of new water rates. (see permanent records for complete Resolution and new rates)

Mr. Canney speaking for the approval said the Water Department has a \$200,000. deficit last year.

He said money was also vital for searching for new sources of supply.

Councilman Fransoso spoke against the increase, he said 10% was enough.

Councilman Wholey moved and it was voted that the rates be increased according to the recommendations of the City Manager.

Councilman Fransoso voted in opposition.

B. City Marshal's approval of taxi licenses.

Upon motion by Councilman McMaster it was voted to accept the City Marshal's recommendation and grant 65 taxi renewal licenses for 1973.

VIII. MISCELLANEOUS

A. Councilman Thomson asked Mr. Canney why the snow plow skipped the driveway at the JFK Center.

Councilman Keefe suggested that city crews plow out behind the Creek AC so area residents could park their cars off the street.

Councilman McMaster offered an Ordinance dealing with the Board of Adjustment.

Upon motion by Councilman Wholey it was referred to the Planning Board.

Upon motion by Councilman Wholey the meeting adjourned at 10 P.M.

P. E. O'DONNELL
CITY CLERK

21
5

File #
14-45

LEASE

THIS INDENTURE made this 17th day of January 1973, by and between the City of Portsmouth, a municipal corporation organized and existing under the laws of the State of New Hampshire and having its usual place of business at 126 Daniel Street, Portsmouth, County of Rockingham, State of New Hampshire, hereinafter called Lessee and the Worth Development Corporation, a corporation duly organized by law and having a place of business in Portsmouth, New Hampshire, hereinafter called the Lessor.

WITNESSETH:

That in consideration of One (\$1.00) DOLLAR, hereby duly acknowledged to have been received by the Lessor, the Lessor does hereby lease to the Lessee those premises in said City as shown on the accompanying plan which is part of this document.

TO HAVE AND TO HOLD the same to said Lessee for the term ending on July 11, 2006 after which time said property shall be transferred in fee simple at no cost to the Lessee by the Lessor.

It being further agreed that:

- 1) The Lessee shall operate this lot in a manner consistent with its policies affecting all public parking facilities;
- 2) The Lot shall be metered, signed and striped by the Lessee and shall be designated as the "WORTH PLAZA MUNICIPAL PARKING LOT".

WORTH DEVELOPMENT CORPORATION LEASE

Page 2

- 3) The Lessee accepts the lease with the knowledge that the Public Service Company transformers and one trash compactor will be located on this Lot;
- 4) The Lessor reserves twenty-three (23) parking spaces for private, unmetered use;
- 5) The Lease is subject to an existing mortgage;
- 6) The Lease is subject to any condition of settlement of legal actions presently pending against the Lessor;
- 7) The Lessee will provide snowplowing for this Lot in the same manner it does other parking lots operated by the City, and if snow plowing does not occur within 48 hours after the termination of the snow storm, the Lessor may have said Lot plowed and the cost of said plowing will be paid by the City of Portsmouth. This does not pertain to the removal of snow from said parking lot;
- 8) The Lessee agrees that it shall provide snow sidewalk plowing for the sidewalk adjacent to the parking Lot as part of the overall downtown sidewalk plowing program;
- 9) The Lessee agrees to hold the WORTH DEVELOPMENT CORPORATION harmless from any liability which may result in any suit against WORTH DEVELOPMENT CORPORATION arising out of activity of the City of Portsmouth in its capacity as operator of the parking lot;
- 10) The Lessee agrees to designate those unmetered areas which are reserved to the Lessor so as to distinguish them from general public parking use; said spaces to be marked as follows:

"These spaces reserved, not for public use,
subject to towing";
- 11) The Lessee agrees to assume the utility charges for lighting the parking lot;

WORTH DEVELOPMENT CORPORATION LEASE

Page 3

- 12) The Lessee agrees to assume the obligation for any real estate tax assessed upon the land leased to the City;
- 13) The Lessee agrees that the parking lot will be open at least from 7:00 a.m., to 11:00 p.m., except in extraordinary circumstances;
- 14) The Lessee agrees that in the event the Lessor desires to build upon this Lot, the Lessor shall have air-rights over the Lot for this purpose. However, such rights shall not permit any construction which is detrimental to the operation of the parking facility;
- 15) The Lessee agrees to continue to use this Lot for parking purposes after the termination of this lease;
- 16) The Lessor acknowledges the right of the Lessee to enter into a third party agreement which may assign up to five parking spaces to other private users, however, all non-metered spaces shall be located with approval of the Lessor;

It is further understood by both parties, and agreed to, that this lease shall become effective only upon the completion of all physical improvements as proposed by the Worth Development Corporation and their acceptance by the City of Portsmouth. If such improvements are not completed and approved by May 1, 1973, this lease is void and the Worth Development Corporation is liable for all expenses incurred by the City for operation and maintenance of said Lot to that date.

It is agreed by the Lessor and the Lessee that all covenants, agreements, undertakings and other obligations herein contained, shall be binding upon legal representation, successors and assigns of the Lessor and Lessee and shall be non-cancellable during the term of this Lease.

WORTH DEVELOPMENT CORPORATION LEASE

Page 4

In Witness Whereof the parties hereto have hereunto set their hands and seals the day and year first above written.

In the Presence of:

CITY OF PORTSMOUTH, NEW HAMPSHIRE

[Handwritten Signature]

BY: *[Handwritten Signature]*
Calvin A. Canney, City Manager
Lessee

[Handwritten Signature]

WORTH DEVELOPMENT CORPORATION

BY: *[Handwritten Signature]*
LESSOR

(Open Above This Line For Recording Info)

NK2773 P2379

MORTGAGE

THIS MORTGAGE ("Security Instrument") is given on December 19
1988. The mortgagor is Melvin H. Goodman of 1121 South Street, Portsmouth,
New Hampshire 03801 ("Borrower"). This Security Instrument is given to
PRICATONIA SAVINGS BANK, which is organized and existing
 under the laws of the State of New Hampshire, and whose address is
18 Pleasant Street, Portsmouth, New Hampshire 03801 ("Lender").
 Borrower owes Lender the principal sum of FIFTY THOUSAND
Dollars (U.S. \$50,000.00). This debt is evidenced by Borrower's note
 dated the same date as this Security Instrument ("Note"), which provides for monthly payments, with the full debt, if not
 paid earlier, due and payable on DECEMBER 19, 2007. This Security Instrument
 secures to Lender: (a) the repayment of the debt evidenced by the Note, with interest, and all renewals, extensions and
 modifications; (b) the payment of all other sums, with interest, advanced under paragraph 7 to protect the security of this
 Security Instrument; and (c) the performance of Borrower's covenants and agreements under this Security Instrument and
 the Note. For this purpose, Borrower does hereby mortgage, grant and convey to Lender, with power of sale, the following
 described property located in ROCKINGHAM County, New Hampshire:

61864
1988 DEC 19 10 23 AM '88

ROCKINGHAM COUNTY
REGISTRY OF DEEDS

See Description Attached.

which has the address of 135-145 Congress Street PORTSMOUTH
(Street) (City)
 New Hampshire 03801 ("Property Address");
(to Case)

TOGETHER WITH all the improvements now or hereafter erected on the property, and all easements, rights,
 appurtenances, rents, royalties, mineral, oil and gas rights and profits, water rights and stock and all fixtures now or
 hereafter a part of the property. All replacements and additions shall also be covered by this Security Instrument. All of the
 foregoing is referred to in this Security Instrument as the "Property."

BORROWER COVENANTS that Borrower is lawfully seized of the estate hereby conveyed and has the right in
 mortgage, grant and convey the Property and that the Property is unencumbered, except for encumbrances of record.
 Borrower warrants and will defend generally the title to the Property against all claims and demands, subject to any
 encumbrances of record.

THIS SECURITY INSTRUMENT combines uniform covenants for national use and non-uniform covenants with
 limited variations by jurisdiction to constitute a uniform security instrument covering real property.

RK2773 P2383

A certain tract or parcel of land with the buildings thereon, situated in Portsmouth, County of Rockingham and State of New Hampshire, more particularly bounded and described as follows:

Beginning in the northerly side of Congress Street at the southwesterly corner of the premises herein conveyed at the southeasterly corner of land formerly of the Piscataqua Savings Bank, now of Worth Development; thence:

1. Northerly by and along the easterly boundary line of the land formerly of the Piscataqua Savings Bank and land formerly of Tober, now of Worth Development, 131.15 feet more or less, to a point at land now occupied by the City of Portsmouth, and used as a parking lot.
2. Easterly by land now occupied by the City of Portsmouth as a parking lot, 63 feet more or less to a point at land formerly of John C. Sweetser, now of Worth Development.
3. Southerly by land formerly of Sweetser now of Worth Development, 131.15 feet more or less, to Congress Street;
4. Westerly by Congress Street, 63 feet more or less, to land formerly of Piscataqua Savings Bank now of Worth Development, and the point of beginning.

Together with the right to occupy five (5) spaces in the City of Portsmouth parking lot located adjacent to the property in the rear as authorized by vote of the Portsmouth City Council.

Together with all rights of access and egress over property now occupied by the City of Portsmouth as a parking lot, to Maplewood Avenue.

Being a portion of the premises conveyed to Melvin H. Goodman by deed of The Young Men's Christian Association of Portsmouth, dated March 14, 1957, and recorded in the Rockingham County Registry of Deeds at Book 1427, Page 255.

This is not homestead property.

Honorable Ruth Griffin
479 Richards Avenue
Portsmouth, NH 03801

February 20, 2020

TO WHOM IT MAY CONCERN:

I am so pleased, along with many other Portsmouth old timers, to see the YMCA building coming back to life in downtown Portsmouth. The yellow brick and the bay windows are reminders of the wonderful architecture that graced the city center. As a child growing up in Portsmouth during the Second World War, I have fond memories of the YMCA building where I attended events while the community center housed the USO. I rode my bicycle to Girl Scout meetings and tap dancing lessons held there, and I always left my bike in the rear of the building among the other vehicles parked in an area designated for YMCA use.

In fact, as far back as I can remember (and I have an excellent memory), there were spaces behind the YMCA building for the expressed use of that building.

Later, all throughout the 70's and 80's, I again relied on those same spaces, now signed and reserved for shopping at Goodman's Men's Store, only by then I was driving a car!

I am looking forward to enjoying the revitalized and repurposed YMCA building and to seeing an important part of Portsmouth's history restored.

Respectfully,


Ruth L Griffin

PETER LOUGHLIN
336 THAXTER ROAD
PORTSMOUTH, NH 03801

February 20, 2020

LADIES AND GENTLEMEN

Although I have never been accused of anything even remotely resembling satorial splendor, as a boy my father would take me into Goodman's Mens store and I continued to shop there into the mid 1970's. I did not have my own car until I was 25 and after that my principle mode of downtown transportaion was bicycle, however, I distinctly remember rotinely parkng in the store's parking spaces behind the store through out the period that I shopped at Goodman's.

Sincerely,


Peter Loughlin

City Manager Karen Conard

February 19, 2020

City Attorney Bob Sullivan

RE: Worth parking/Goodman's parking

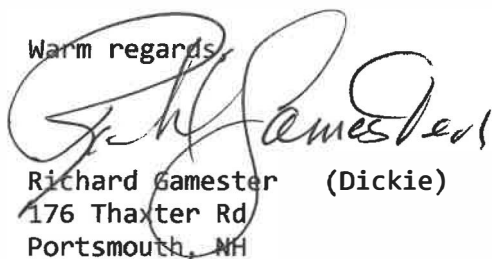
Prior to 1968, the configuration of the parking behind the Goodman's building was two spaces deep and the width of the building. Signs posted on the building stated "private parking only"!

When I returned from a 3-4 year hiatus in Southeast Asia, the parking lot had gotten larger and the space behind the Goodman property was now one space deep and continued along the width of the building! The signs had changed to "reserved parking for Goodman's men's store".

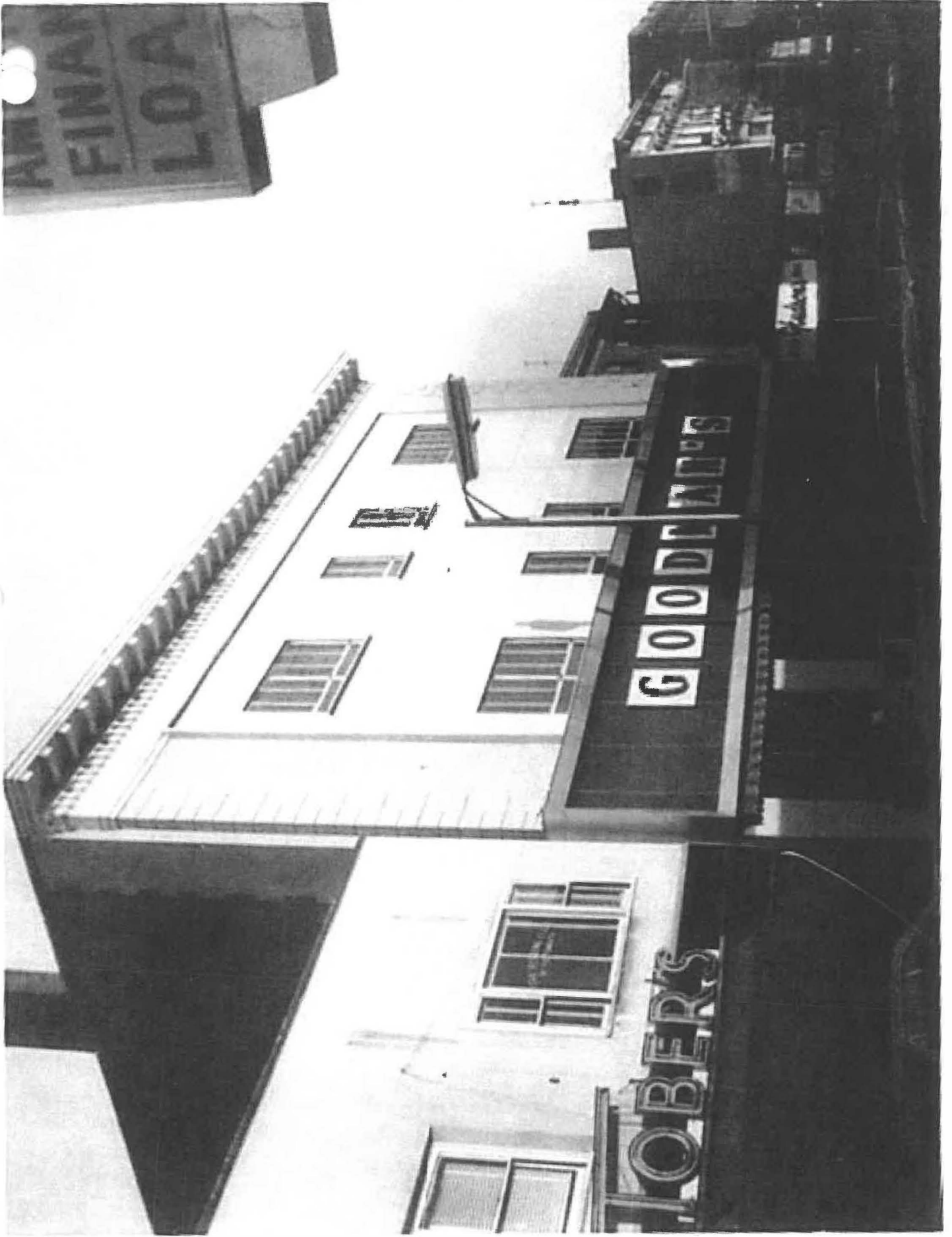
My dates could be off, but my memory of those spaces being present are not!

I was a customer at their establishment, there was no parking in the front of the building and the Goodman family were friends and neighbors on South Street.

Warm regards,

A handwritten signature in black ink, appearing to read "Richard Gamester". The signature is fluid and cursive, with a large initial "R" and "G".

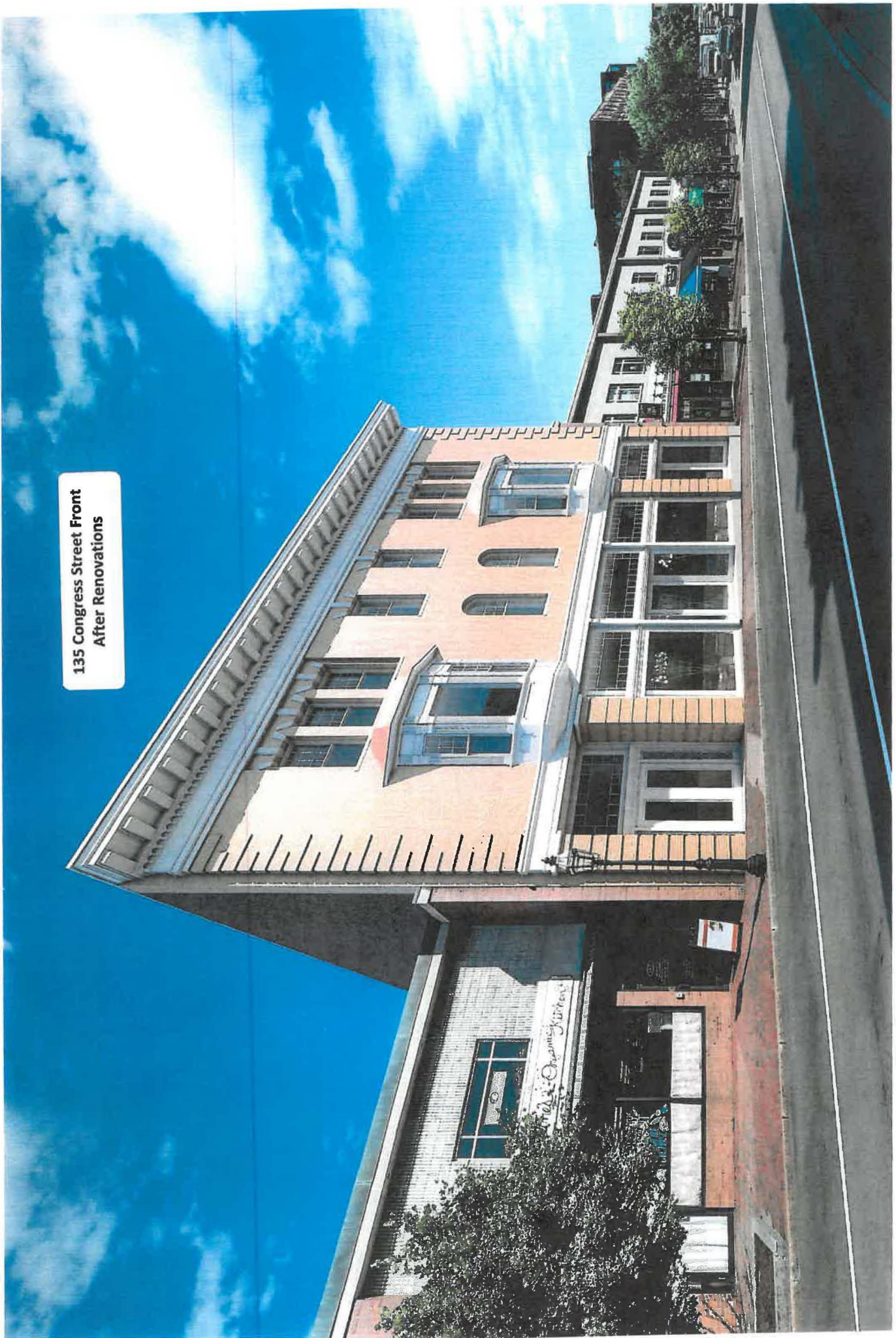
Richard Gamester (Dickie)
176 Thaxter Rd
Portsmouth, NH



GOODMAN'S MENS SHOP



135 Congress Street Front
After Renovations



**135 Congress Street Rear
After Renovations**



CONCLUSIONS

- 1. PART OF THE PROPERTY AT THE REAR OF 135 CONGRESS STREET WAS TAKEN DURING URBAN RENEWAL. THE AREA TAKEN WAS NEARLY ¼ ACRE AND USED FOR CUSTOMER PARKING.**
- 2. THE PORTSMOUTH CITY COUNCIL AFTER A PUBLIC HEARING ON 12-19-72 VOTED TO APPROVE THE LEASE OF THE WORTH LOT WITH THE AMENDMENT TO PROVIDE 5 IRREVOCABLE PARKING SPACES FOR THE GOODMAN'S IN THE REAR OF THE BUILDING. A SIGN POSTED NO PARKING IN THE REAR OF THE STORE.**
- 3. JANUARY 17, 1973 A LEASE WAS EXECUTED BETWEEN THE CITY OF PORTSMOUTH AND WORTH DEVELOPMENT FOR THE WORTH PARKING LOT UNTIL JULY 11, 2006**
- 4. ON PAGE 3, NUMBER 16 OF THE ABOVE LEASE THE CITY HAD THE RIGHT TO ENTER A THIRD-PARTY AGREEMENT THAT THE CITY MAY ASSIGN UP TO FIVE PARKING SPACES TO OTHER PRIVATE USERS**
- 5. ITEM 4 ABOVE PAGE 3 HAS NOT BEEN LOCATED GIVING THE SPACES TO THE "GOODMAN'S" HOWEVER, EVIDENCE CONFIRMS THAT THIS DID OCCUR AND THAT THESE 5 SPACES WERE AVAILABLE TO GOODMAN'S CUSTOMERS FOR MORE THAN TWO DECADES.**

LEASE PROPOSAL

- 1. THE CITY OF PORTSMOUTH SHALL ENTER A LEASE OR A LICENSE AGREEMENT WITH THE OWNERS OF THE PROPERTY AT 135 CONGRESS STREET FOR FIVE (5) PARKING SPACES IN THE WORTH LOT DIRECTLY BEHIND THE BUILDING AT 135 CONGRESS STREET. THE MONEY PAID TO THE CITY OF PORTSMOUTH FOR PARKING LICENSES ON THESE SPACES DURING THE 2019-2021 CONSTRUCTION PROJECT SHOULD BE CONSIDERED A PRE-PAYMENT OF SAID LEASE.**
- 2. TERM OF THE LEASE OR LICENSE AGREEMENT SHALL BE FOR TWENTY (20) YEARS FROM THE DATE OF EXECUTION.**
- 3. SIGNAGE TO BE PLACED ON THE FIVE SPACES RESERVED 24 HOURS PER DAY FOR THE EXCLUSIVE USE BY THE OWNERS OF 135 CONGRESS STREET.**

MEMORANDUM

TO: Karen Conard, City Manager

FROM: Juliet T. H. Walker, Planning Director *JTW*

DATE: May 1, 2020

RE: City Council Referral – Projecting Sign
Address: 400 Deer Street (400 The Hill)

Permission is being sought to install projecting signs that extend over the public right of way, as follows:

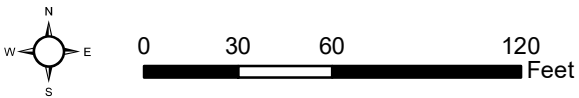
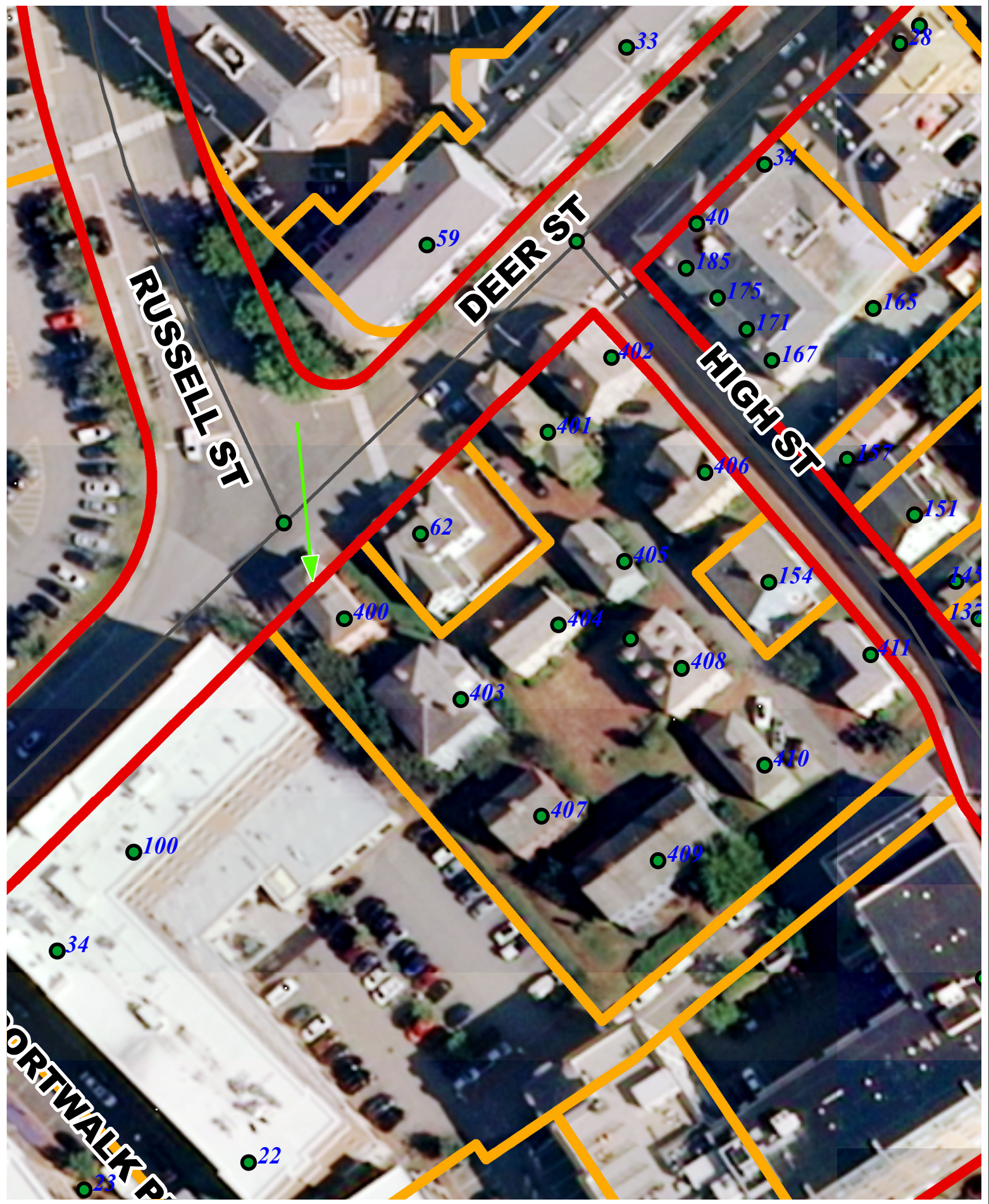
Sign 1: Business Name: True East Realty, LLC
Business Owner: Laura Cote & Melanie Bisson
Sign dimensions: 16" x 40"
Sign area: 4.4 sq. ft.

Sign 2: Business Name: Generations Home Inc.
Business Owner: Melanie Bisson
Sign dimensions: 16" x 40"
Sign area: 4.4 sq. ft.

Sign 3: Business Name: BCM Advisory Group
Business Owner: Jason Mills
Sign dimensions: 16" x 40"
Sign area: 4.4 sq. ft.

The proposed signs comply with zoning requirements. If a license is granted by the City Council, no other municipal approvals are needed. Therefore, I recommend approval of a revocable municipal license, subject to the following conditions:

1. The license shall be approved by the Legal Department as to content and form;
2. Any removal or relocation of the sign, for any reason, shall be done at no cost to the City; and
3. Any disturbance of a sidewalk, street or other public infrastructure resulting from the installation, relocation or removal of the signs, for any reason, shall be restored at no cost to the City and shall be subject to review and acceptance by the Department of Public Works.



**Request for license
406 Deer Street (400 The Hill)**

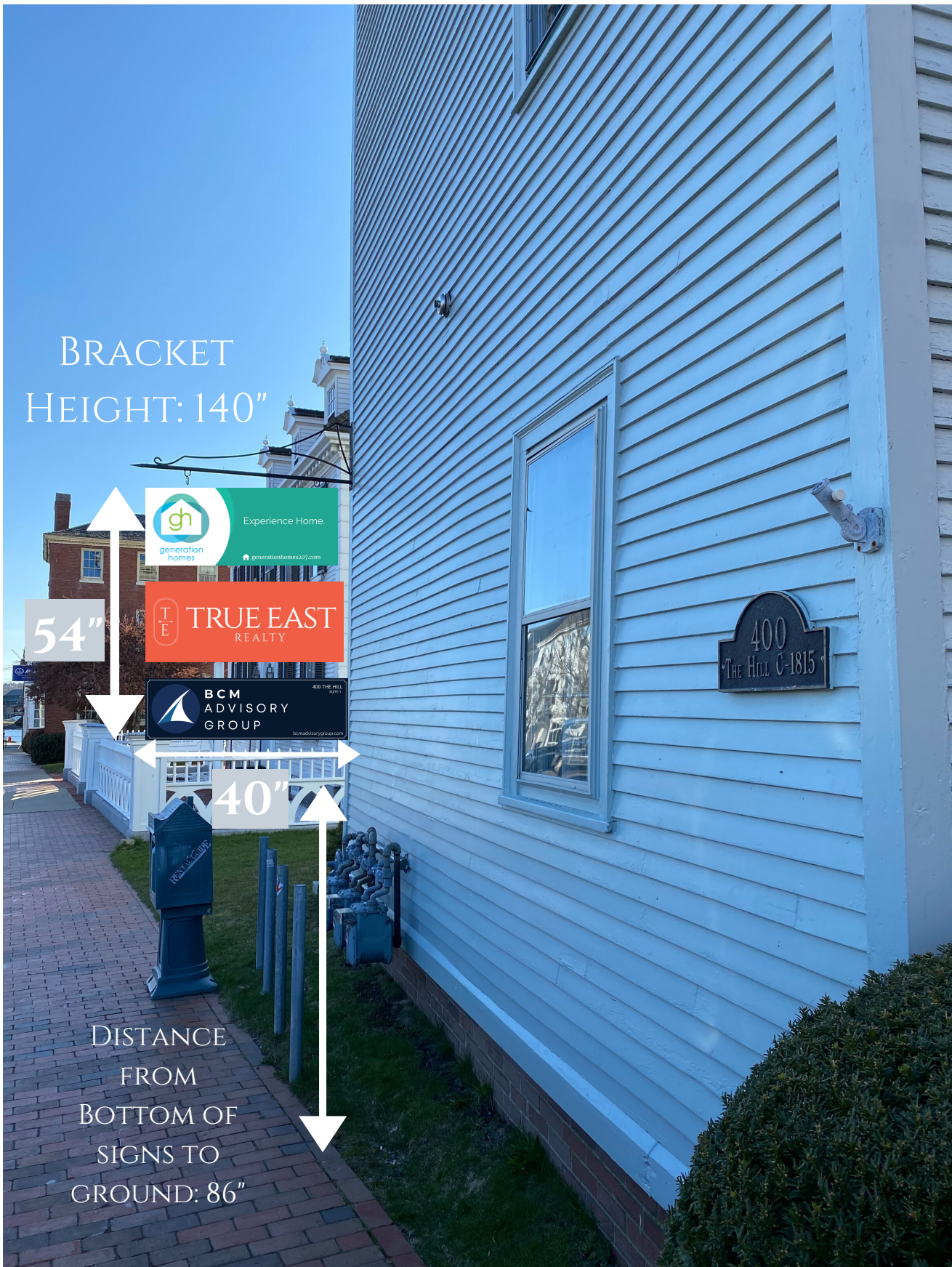
BRACKET
HEIGHT: 140"

54"



40"

DISTANCE
FROM
BOTTOM OF
SIGNS TO
GROUND: 86"



April 15th, 2020

The Honorable Rick Becksted, Mayor of Portsmouth
and Members of the Portsmouth City Council.

1 Junkins Ave
Portsmouth NH, 03810

Dear Mayor Becksted and the Members of the City Council,
On behalf on the Alzheimer's Association, I would like to re-submit for the Agenda, a proposed date for the 2020 Annual Seacoast Walk to End Alzheimer's. Last September's Walk began and ended at The Little Harbour School on September 22nd, 2019. This year we would like to hold the event on September 27th, 2020 at The Little Harbour School. The route and the agenda of the day will be the same as last year. We understand the stress that such events can have on the surrounding community and assure you that The Alzheimer's Association is cognizant of your concerns, and is committed to upholding the standards of years past.

We offer three route options for participants. Attached, please find the three route options drawn out for your review. We are planning to use the same routes as last year, but are flexible pending any construction changes or issues that may arise. We will plan on engaging the help of the Portsmouth Police, as last year we hired a police detail to be both on-site and also at any busy intersections to assist in route crossing. The Walk will take place on the sidewalks through the city to minimize the impact on traffic. We understand what it means to be a good neighbor in the community and will be mindful of the residents of the City of Portsmouth as we raise awareness and funds for a critical cause.

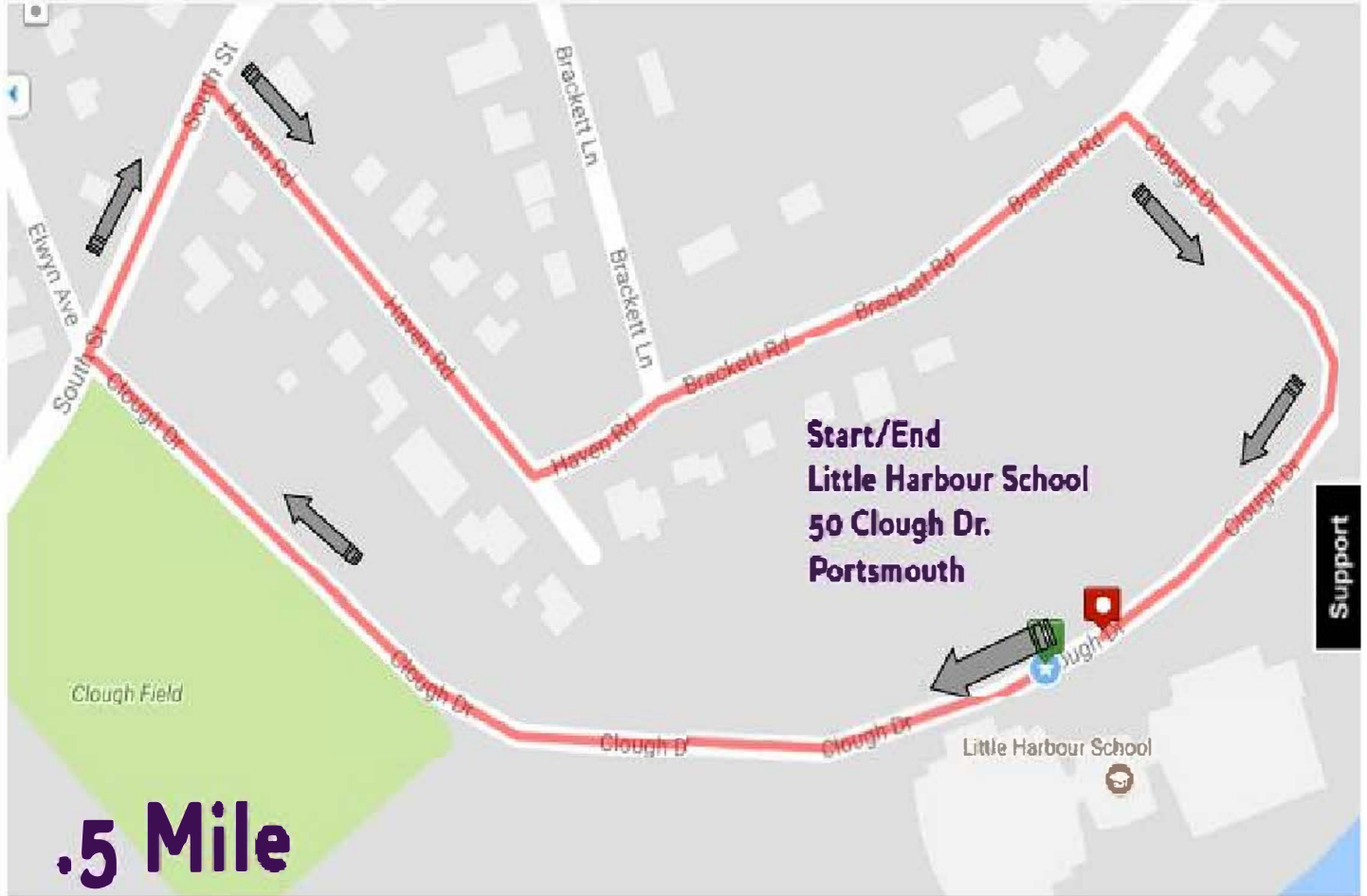
We are expecting approximately 1,000 participants at this event, our premier fundraising and awareness event for the Alzheimer's Association in the seacoast Area. Additionally, we will have approximately 60 combined volunteer and staff on site.

The Walk site opens up at 8:30am for registration, the Walk itself kicks off at 10 and we are cleaned up and off the premises by 1pm.

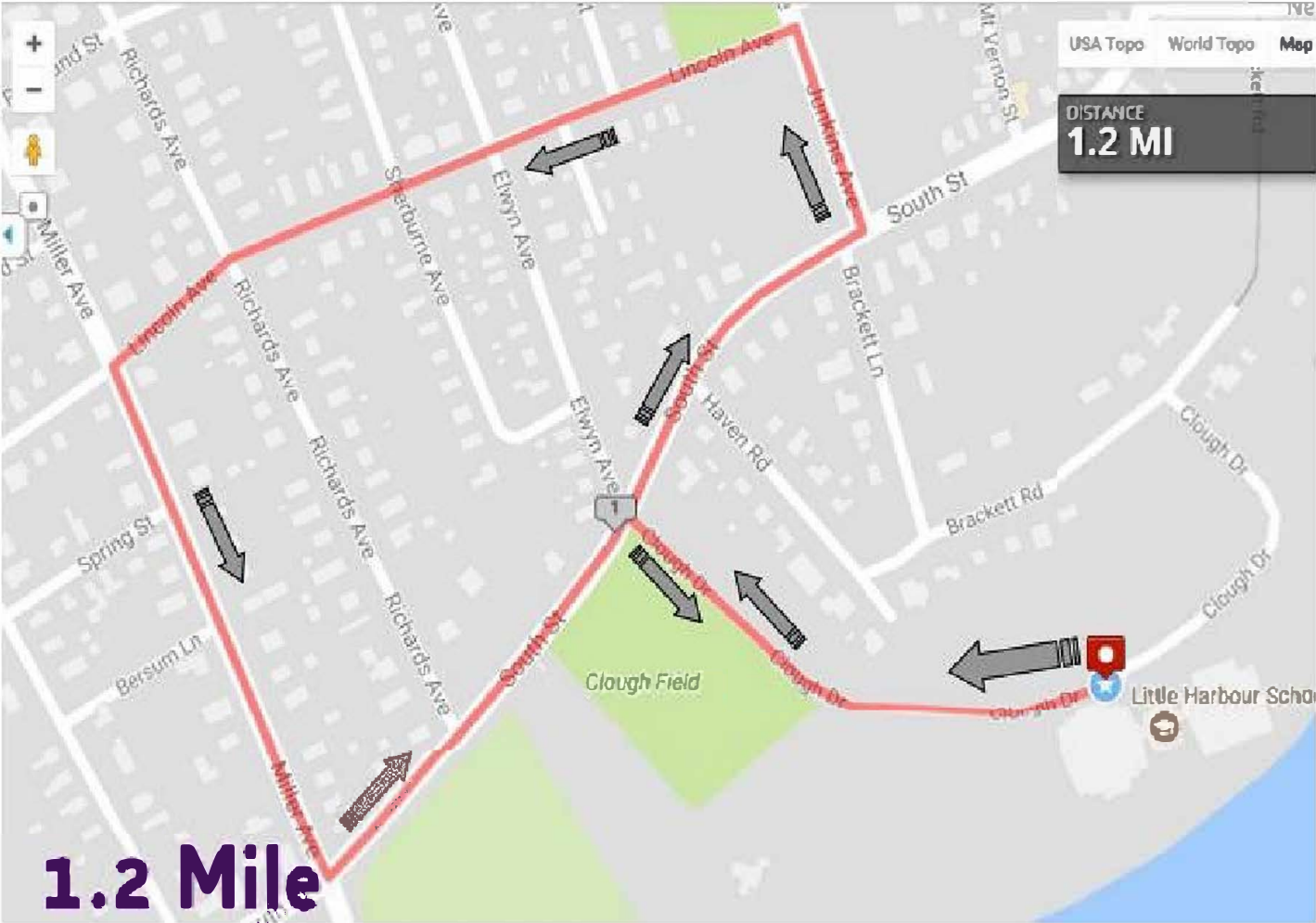
We look forward to working with you, please reach out with any questions.

Sincerely,
Maria Stephanou
NH Walk Manager - Alzheimer's Association
mmstephanou@alz.org
508-887-5025

.5 Mile Route



1.2 Mile Route

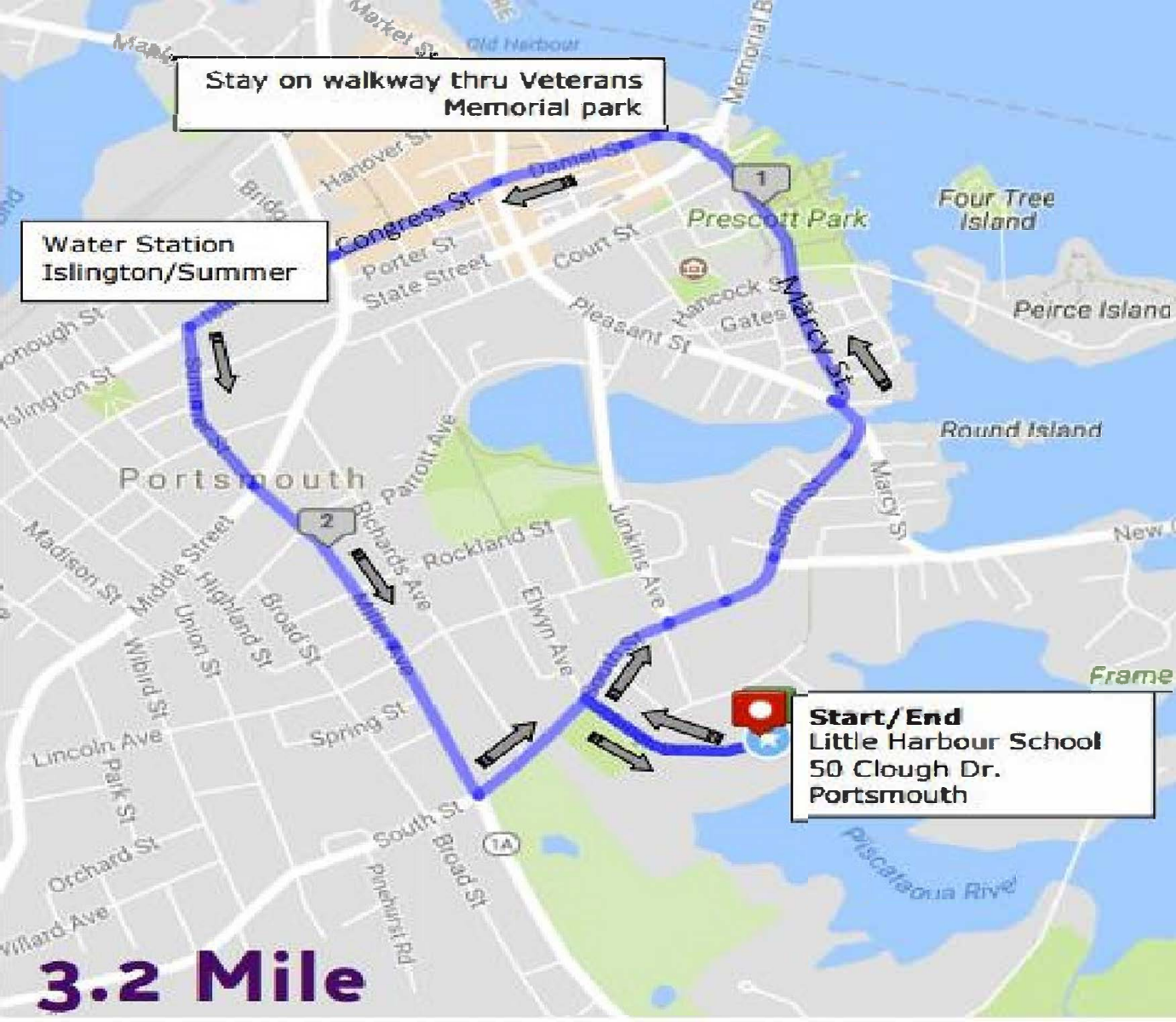


Stay on walkway thru Veterans Memorial park

Water Station
Islington/Summer

Start/End
Little Harbour School
50 Clough Dr.
Portsmouth

3.2 Mile



CITY COUNCIL E-MAILS

May 4, 2020 (after 1:00 p.m. – May 15, 2020 (9:00 a.m.)

May 18, 2020 Council Meeting

Below is the result of your feedback form. It was submitted by Elizabeth George (Eciesluk@yahoo.com) on Monday, May 4, 2020 at 18:36:28

address: 134 Lincoln Ave Portsmouth NH

comments: Hello,

I wanted to express my support of the foreign language program expanding into the elementary schools. Foreign languages are important for all children and I believe should be taught at the earliest ages possible.

I hope any budget cuts do not eliminate these vital language programs.

Thank you,
Elizabeth George

includeInRecords: on
Engage: Submit

Below is the result of your feedback form. It was submitted by Judy Miller (jamiller37@gmail.com) on Tuesday, May 5, 2020 at 09:24:34

address: 77 Hanover Street, Unit #7

comments: Hello, Please stop wasting tax payer money on litigation! This City has a history of costing tax payers money in legal costs. These legal costs are a waste of my fixed income. This money is wasted and could be used to employ city workers that have been laid off due to COVID. Thank you.

includeInRecords: on
Engage: Submit

Below is the result of your feedback form. It was submitted by Jane Zill (janezill@comcast.net) on Wednesday, May 6, 2020 at 09:08:41

address: 27 Shaw Road

comments:
Thanks for all of your hard work and service to the community.

This is a follow-up to an earlier email about testing our wastewater for COVID-19 to guide our plan to re-open. This in NYTimes on May 1st: <https://www.nytimes.com/2020/05/01/science/coronavirus-sewage-monitoring-lockdown.html>

Best, Jane

includeInRecords: on
Engage: Submit

Below is the result of your feedback form. It was submitted by Erik Anderson (andy42152@aol.com) on Friday, May 8, 2020 at 07:43:12

address: 38 Georges Terrace

comments: Dear Councilors,

I would not be responsible to myself if I did not make comment on the upcoming budget and process but do not perform well in participation with new format of the COVID 19 crisis.. I watched the presentation by the city manager, finance director, the public hearing and council discussion on 5/6/20.

I commend the city manager in her 1st budget presentation and what she is trying to achieve. With no malice to her effort three words keep coming to mind as one digested the content. Reality, Magic and Illusion prompted me to go to Webster's for clarity of definition.

"Reality - the quality or state of being actual or true"

"Magic - One definition "Possessing distinctive qualities that produce unaccountable or baffling effects"

"Illusion - The erroneous perception of reality."

I think these words have there place in these budget discussions.

1) Reality - Revenue shortfalls in many categories are going to take place under the current crisis conditions.

2)Reality - These shortfalls placed against the budget requests will fall to the taxpayer.

3)Reality - Deferring or delaying expenditures in the budget in reality means they will appear again but creates the illusion that the budget has achieved a goal without consequences.

One could go on with many examples but the hard reality truth is not going to be replaced with the illusions or magic that is being played in the discussion.

I find it hard to fathom that each departments budget is a lean as it could be and when they offer any improvement it usually entails cutting very tender or sensitive subjects.

I question the ability of the school dept. to find it incapable of reducing some portion of a \$52+ million dollar budget.

That also goes for administrative, municipal, police and fire depts. Their budgets are presented as "bare to the bone" but I feel is an illusion of the process.

The hard cold reality is that any illusion of a no tax rate increase by deferring / delaying eventual costs to the next or future budget cycles provides little solution, and doesn't even factor in reductions in state or other revenue. Operating expenses across the board continue to be the major factor in escalating yearly budgets and until changes are made there is no prospect of relief to the taxpayer.

While your responsibility as a Council is to accept or reject the current proposed budget I would hope that you ask for further reductions so as to show respect to your constituents who are or have had revenue downturns in these unique times.

Be well and safe and thanks for your time and any reply.

Erik Anderson

includeInRecords: on

Engage: Submit

Below is the result of your feedback form. It was submitted by Ted Jankowski (thaddeusjj@gmail.com) on Saturday, May 9, 2020 at 13:53:33

address: 27 Franklin Street

comments: Do you remember the City Council meeting when Weston & Sampson, the ultimate salespeople for plastic playing fields, assured everyone that they could procure a PFAS "free" playing field? Please see out post - the bid's are out and they are NOT PFAS free! We had recommended that the city separate out the bid on the storm water treatment work , which is time sensitive, from the fields to avoid this problem.

<https://www.facebook.com/nontoxicportsmouth/photos/a.336039763581264/879748459210389/?type=3&theater>

includeInRecords: on

Below is the result of your feedback form. It was submitted by Simon Lampert (slampert31@gmail.com) on Saturday, May 9, 2020 at 15:18:19

address: 7 Central Ave

comments: Closing the fields for the summer and subsequently canceling all organized sports is premature and troubling. To say the kids cannot play outside in the city for the entire summer is shortsighted and borderline unconstitutional. This needs to be reevaluated and reconsidered.

includeInRecords: on
Engage: Submit

Below is the result of your feedback form. It was submitted by Adam Hooper (ahooper33@hotmail.com) on Saturday, May 9, 2020 at 15:30:07

address: 36 laurel ct

comments: Let the kids play, it's for the best!!

includeInRecords: on
Engage: Submit

Below is the result of your feedback form. It was submitted by Chris Schwidder (crschwidder@gmail.com) on Sunday, May 10, 2020 at 11:17:20

address: 137 Daniel Street unit 302D

comments: Close up the downtown area to traffic and allow the restaurants and shops to expand into the streets. Other cities have done this successfully. Portsmouth has the means to have a circle for traffic to move around the city and it has the new parking garage. Help the downtown and the merchants and make changes due to the unusual circumstances.

includeInRecords: on
Engage: Submit

Below is the result of your feedback form. It was submitted by Judith Clark (judith@theatregirl.com) on Sunday, May 10, 2020 at 12:01:50

address: 33 Hunters Hill Ave.

comments: Dear Portsmouth City Council,

As you enter into decisions regarding the City budget, I would implore you to make your choices very carefully. I understand that this budget season is particularly challenging, and that the Portsmouth City Schools budget is a large percentage of the overall operating budget, but I would contend that is also one of our most essential services, and the schools will need every budget dollar possible in order to continue to provide the excellent educational opportunities that Portsmouth residents expect for their children. In fact, given the adversity our students have faced this spring, it would be unconscionable to limit the ability of the schools to provide the best possible education, which a cut in budget, staff, and services would do.

During this pandemic, our teachers and school staff were put in the impossible situation of continuing to educate our children from their homes. They stepped up and within days, distance learning was in place. The programming has been engaging and high quality, but despite their valiant efforts, it does not replace the

in-class experience. As a result of a variety of factors out of the control of families and school faculty and staff, our students will inevitably need remediation and extra programs put in place to catch them up.

This remediation is not something that can realistically happen within a few weeks. It will take at least a full school year for many students to catch up, and our most needy students will likely need more than one school year due to the traumatic emotional tolls of the stay-at-home order and its effects on family dynamics.

“Summer slide” is already an issue with students where they forget some of what was learned in the previous year and need review at the beginning of the next school year (approximately 1 month’s schooling). The Tennessee Department of Education has already done the research using data from the Brookings Institute to estimate that the students affected by the missed school this year will be approximately 4-5 months behind. (<https://www.tn.gov/content/dam/tn/education/health-&-safety/TNDOE%20COVID-19%20Response%20Presentation.pdf>)

Even allowing for the fact that the Portsmouth School District has been amazing, and most of our students are engaged in distance learning, due to the necessary adjustments to the rigor of the curriculum, it is not unrealistic to estimate that all of our students could be 2-3 months behind in the standard curriculum. This is not a slight on the district, it is simply the hard truth. And we owe it to these students to allow them the best possible opportunity to gain that knowledge.

Small class sizes, educational aides, and para-educator access are all integral parts of helping our students receive the quality instruction that they will need and deserve. Teaching positions need to be filled, and perhaps even expanded on. And while I am fully in support of fiscal responsibility, now is not the time to stop providing our children the educational support that they need in order to become productive members of our society.

As our school leaders make plans for several possible contingencies moving into the 2020-2021 school year (hybrid online/in-person classes, split sessions, full return, etc...), they will need to have the flexibility to make any one of those contingencies feasible. The reality is that all of our students will need extra attention to get back on track academically and socially and emotionally. This extra attention will require more adults than are currently available. Cutting the budget and removing accessibility to the most robust and effective educational and emotional support that can be provided will hamstring an entire generation.

Thinking long term, any educational deficits created by not remediating any lost skills now could also result in the need for even greater expenses down the line as these students fall more and more behind and require more and more educational support. It truly is best to attack the issue now and get these students re-immersed in the curriculum as quickly as possible.

Once more, please do not cut the Portsmouth City School budget. We owe our children the best education that we can possibly provide.

Thank you for your consideration,

Judith Clark
Parent of New Franklin School students in grades 3 and 5.

includeInRecords: on
Engage: Submit

Below is the result of your feedback form. It was submitted by Eva Marino (evabvictoria@gmail.com) on Sunday, May 10, 2020 at 13:47:15

address: 114 Pine Street

comments: Hello there,

I am a mother of two children in the Portsmouth School system, and a member of the New Franklin School PTO Board. I am imploring the city council to please refrain from making cuts to the school budget. It appears that the schools are already underfunded, and right now, in this unprecedented time, the children and staff of the school district need to be supported more than ever. Please consider keeping the budget as it is or even adding funding. The taxes we pay help shape the future of the children of Portsmouth, and we need all the funding possible to make it the best it can be.

All my best,
Eva Marino

includeInRecords: on
Engage: Submit

Below is the result of your feedback form. It was submitted by Jennifer Chapnick (jennifer.chapnick@gmail.com) on Sunday, May 10, 2020 at 18:46:09

address: 97 Meredith Way

comments: Dear City Council,

As a NFS mom of three, I strongly urge you not to cut the school budget for this upcoming year. Education is such a pivotal part of our young community and we need to do the best for our littlest community members and empower them to be the best they can. Cutting the budget will cause the schools to lose much needed funding to make our kids the best they can be, and we need to support that as a community and be proud to do so! Thank you for your time and consideration.

includeInRecords: on
Engage: Submit

Below is the result of your feedback form. It was submitted by Joshua Cyr (jcyr@joshuacyr.com) on Sunday, May 10, 2020 at 19:14:41

address: 990 Maplewood Ave

comments: I see that you will be reviewing the school budget this Wednesday. I know this is a stressful time for all of us and you naturally want to reduce pressure on taxpayers.

I request that we not cut funding, positions, or programs to our city school department.

The schools are in tremendously difficult positions and doing their very best. I might add given the circumstances they are doing it very well.

They need our fiscal and verbal support in this tough time rather cuts that will have significant consequences across the board.

This is when our kids need us. They need you as their advocate. They can't advocate for themselves.

Please don't hurt the most vulnerable when they need your support the most.

Joshua

includeInRecords: on
Engage: Submit

Below is the result of your feedback form. It was submitted by Kendra Ford (fordk10@yahoo.com) on Sunday, May 10, 2020 at 19:23:51

address: 30 Pine Street

comments: It is vital that the city maintain school funding during this pandemic time. Supporting our children now gives them skills and resilience in an uncertain future. Reducing funding for teachers, afterschool programs, support staff or food services means that lower income students in particular will be disadvantaged for the rest of their lives. Mahatma Gandhi said, "the true measure of any society can be found in how it treats its most vulnerable members." Children are immensely vulnerable, especially in this time of economic downturn. Support everyone's future; fund schools.

includeInRecords: on
Engage: Submit

Below is the result of your feedback form. It was submitted by Jodi Gould (czajkowskij@yahoo.com) on Sunday, May 10, 2020 at 19:24:03

address: 248 Thornton st

comments: To Whom It May Concern,
On behalf of the students at New Franklin School and Portsmouth Middle School, which includes my kindergartner my 6th grader, I implore you to consider their needs when discussing the budget for next year. My son finished New Franklin School last year and if it were not for the amazing professionals in that building, and the resources he had available to him, he would have been another case of a kid with ADHD and Sensory Processing falling through the cracks. He had extra help when he needed it, was able to talk things out with other staff when he was feeling overwhelmed, and had multiple tools at his disposal for help with attention during class time. I consider Portsmouth to be an affluent town, with much to offer the lucky students who live here. Why would we deprive children of resources they rely on, such as tablets, chrome books, outdoor classrooms, playground equipment, free food for those who need it, staff to help with behavioral issues, etc., when we can afford to offer them? Investing in our children is the most important thing to do for the future of this city. Please don't let them down. My children and so many others are relying on you to do the right thing.

Thank you,

Jodi Gould

includeInRecords: on
Engage: Submit

Below is the result of your feedback form. It was submitted by Rep. David Meuse (David.Meuse@leg.state.nh.us) on Sunday, May 10, 2020 at 20:07:27

address: 579 Sagamore Avenue, Unit 97

comments: Starting on Monday May 11, downtown businesses that have been shuttered since the pandemic started in March will cautiously begin reopening for business.

Under the governor's guidelines, hair salons and barbershops will require both customers and staff to wear masks. Restaurant and retail service staff will be required to wear masks, but they will be voluntary for customers.

Unfortunately, while both Maine and Massachusetts have decided to enact emergency orders requiring the wearing of masks in public—and are backing them up with fines for violators—our governor has thus far declined to do so.

On Monday night, Selectmen in Salem, a border town and shopping hub that also sees a large seasonal influx of summer visitors, will vote on an ordinance that sets a \$200 fine for not wearing a mask in public.

I urge the council in the strongest possible terms to pass a similar ordinance in Portsmouth.

As the death toll increases and cases of COVID-19 continue to climb, it's becoming apparent that the only way to truly end our economic crisis will be to end our public health crisis. As our state's economy cautiously begins to reopen in the absence of a vaccine, each of us is faced with a critical choice: Will we take personal responsibility to do everything we can as individuals to prevent the spread of the virus in our community? Or will we surrender to the sort of selfishness and magic-thinking that has caused some people to believe that irresponsible behavior in the height of a pandemic is somehow an acceptable exercise of their personal freedom?

The bottom line is that Portsmouth and communities across the state have a huge amount at stake in the success of the reopening process. If we succeed, we can save jobs, businesses, and livelihoods. But economic success won't come unless we're also saving lives and minimizing the spread of the virus. This means that as we cautiously begin to restart our economic lives, we must do everything in our power as a community and as individuals to avoid a catastrophic second wave of outbreaks.

Reopening isn't the end of the crisis. It's the start of an experiment to see if enough of us can be responsible enough to make reopening work so the pandemic doesn't destroy us economically. This means 1) business owners rigorously complying with—and even going above and beyond—the governor's guidelines; 2) members of the public wearing a mask whenever they go out into public, and 3) all of us realizing that the more people we see gathered in any one place, the less safe it is for us to be there.

Unfortunately, when it comes to wearing masks voluntarily, the early returns are less than promising. On Sunday afternoon I saw seven customers standing in line shoulder-to-shoulder waiting to be served inside a popular downtown market/cafe. Although the clerk was wearing a mask, none of the customers were. Mask wearers were also a minority on downtown sidewalks and benches.

Like many people, I'm at a loss to understand why, with so much at stake for both public health and our business community, so many people can't seem bring themselves to do one simple thing to protect others and to give business owners who have invested a lifetime of effort in growing their shops and restaurants a chance to succeed.

A mandatory mask ordinance would send a strong message that Portsmouth is serious about containing the virus and about reviving our economy. Older residents and visitors would also feel more confident about venturing out of their homes to visit reopened businesses. Another consideration in light of Portsmouth's close proximity to Maine and Massachusetts is whether people from those states will come to regard Portsmouth as some sort of a mask-free zone.

In addition to fines, something worth considering would be warning people as a first step and handing them a disposable mask to wear.

The bottom line isn't to be heavy-handed or unfriendly. It's to protect public health and minimize the risk of a second outbreak wave that would drive many in our business community out of business and devastate our community for years to come.

Thank you for your consideration.

includeInRecords: on

Below is the result of your feedback form. It was submitted by John Benford (jbmail@myfairpoint.net) on Sunday, May 10, 2020 at 21:59:18

address: 30 Pine St, Portsmouth

comments: Dear Portsmouth City Councilors:

I'm writing as a Portsmouth voter and parent of a New Franklin School 1st grader, to urge you to fund the 2020-21 Portsmouth School District budget as proposed by the school board. I understand there are pressures from some members of our community to cut funding, but the education of our children is one of the essential purposes of government, one of our most important shared responsibilities as a community, and one of the pillars of a functioning democratic society. Especially in times of crisis, like the current pandemic, we need strong schools. Please provide full funding for the 2020-21 school program.

Best regards,
John Benford

includeInRecords: on
Engage: Submit

Below is the result of your feedback form. It was submitted by David Chapnick (david.chapnick@gmail.com) on Sunday, May 10, 2020 at 22:07:06

address: 97 Meredith Way
comments: Dear City Council,

At this particular moment our teachers and administrators have given everything to create the best experience our young people could have in this challenging time. I couldn't be more proud of what they have tirelessly accomplished. What our schools need today is more budget, not less. The research and data is clear: more money for schools is directly linked to more positive student outcomes - this effect is even greater for students from disadvantaged backgrounds. Just a few facts from recent research:

"21.7% increase in per-pupil spending throughout all 12 school-age years for children from low-income families is large enough to eliminate the education attainment gap between children from low-income and non-poor families."

Even smaller levels of spending made a significant difference in educational outcomes, including test scores and graduation rates.

"Increasing per-pupil spending by 10% in all 12 school-age years increases probability of high school graduation by 7 percentage points for all students, and by roughly 10 percentage points for non-poor children."

As much as I think it is worth every penny to be considering these sort of increases, what we should not at all be doing is considering reducing current education spending. Frankly, I'm disappointed in the City of Portsmouth that I need to even be writing this letter at this time. Sacrificing our children's futures should not be on the table.

Now our kids need us more than ever, please ensure we deliver the critical funds our schools need, and look to make up shortfalls in other ways.

Best regards and thank you for your thoughtful consideration of our children's futures.

David Chapnick
New Franklin School dad
includeInRecords: on

Below is the result of your feedback form. It was submitted by Tracy George (tracyelizwhite@yahoo.com) on Monday, May 11, 2020 at 06:52:37

address: 41 Topaz Place

comments: It is essential that the budget not be cut, especially given the educational challenges that will be seen in years to come from the loss of time in school due to Covid. The schools cannot provide adequate teaching in larger classrooms. Special Education workers are underpaid and under staffed as it is. This is no time to cut the budget.

includeInRecords: on

Engage: Submit

Below is the result of your feedback form. It was submitted by Tim Malinowski (timmalinowski@yahoo.com) on Monday, May 11, 2020 at 07:19:31

address: 91 Lafayette Road

comments: Good Morning,

I am disappointed that a committee has already made the decision to close all city fields to team sports until after Labor Day. I feel that the committee should have spent more time with the heads of the different leagues to hear out the steps the leagues would have taken to keep the players safe. To me it seems that the committee took the quick and easy path to simply shut everything down. There is a tremendous amount of salaries (tax dollars) on that committee and with that I would expect more from them in terms of exploring all possibilities.

I am still hopeful that once that Governor Sununu makes a decision on team sports, that the Portsmouth City Council will support the decision of the Governor.

Thank you.

Tim Malinowski

includeInRecords: on

Engage: Submit

Below is the result of your feedback form. It was submitted by Eric Beidleman (ebeidlem@hotmail.com) on Monday, May 11, 2020 at 07:51:30

address: 810 McGee Drive Portsmouth, NH 03801

comments: Dear councilors and city staff,

I am writing to you as a citizen of Portsmouth, a taxpayer, and a volunteer for Portsmouth Little League.

It has come to my attention that the city administration has made the unilateral decision to ban all team sports from city fields through Labor Day. I am writing to ask that this disappointing decision be reconsidered.

We know that the governor is working on a phased reopening of the state, and that baseball and team sports are on his agenda. I would urge the city to wait for the state guidelines to be announced before making such a rash and long-lasting decision.

Additionally, with cancellation of schools and camps kids will be starved for activities this summer. I understand the urge to simply reject all city field use and keep people trapped in their homes as it would be "safest", however the benefit of participating in team sports outweighs the low risk to kids. At a minimum please consider a Portsmouth Little League's social distancing and mitigation strategies before shutting things down through Labor Day.

Thank you for your time and consideration.

Sincerely,
Eric Beidleman

includeInRecords: on
Engage: Submit

Below is the result of your feedback form. It was submitted by Kelly Cioe (kelly@whalenpr.com) on Monday, May 11, 2020 at 07:56:07

address: 44 Melbourne Street

comments: Good morning,
I know on Wednesday you will be reviewing the school budget for the upcoming year. With the impact not yet known from the COVID-19 pandemic, I understand why you would consider cutting next year's budget across the board. However, I am writing you today to PLEASE consider NOT cutting any budget items from the 2020-2021 School Budget. It is imperative that we keep the budget intact to serve our students. They have endured, as well as our teachers and staff, a difficult end of year. And with the new school year yet undetermined, our schools will need all of the resources available and more to be able to serve ALL students. We have seen the impact on students that do not have the resources and support systems at home and we need to ensure they are not left behind. We cannot take money away from the school budget when we need to keep our kids engaged and eager to learn. As a Portsmouth resident, I am willing to accept higher taxes or cuts in other budgets. I am not willing to accept cuts to our school system.

Please consider keeping the 2020-2021 School Budget as recommended by our School Board. Thank you.

Kelly Cioe
NFS Mom of a 3rd and 4th grader

includeInRecords: on
Engage: Submit

Below is the result of your feedback form. It was submitted by Ben Goss (bensailing@comcast.net) on Monday, May 11, 2020 at 08:54:27

address: 6 Pine St

comments: With 1/3 of the '19/'20 school year being spent at home, it is absolutely critical for the development and education of our children to maintain school funding at the recommended level. The diversity of home schooling experiences is going to result in a wide range of student capabilities next year, requiring even more individualized attention and programming. That kind of effort takes a lot of resources. If we are to get our children back on track and to develop strong, independent, responsible, healthy, and smart adults, we need to invest in our children RIGHT NOW. Please invest in the health and education of Portsmouth's children.

includeInRecords: on

Below is the result of your feedback form. It was submitted by Brian Driscoll (brian.driscoll@pernod-ricard.com) on Monday, May 11, 2020 at 09:30:06

address: 76 Summit Ave.

comments: I was blown away the other day when I heard the Rec Dept. had declared all fields closed through LABOR DAY.....in my opinion the Covid issue is something we should be watching on a month to month basis to gauge progress. If golf courses are open for play, then having fewer than 10 people on a large field or baseball diamond is really not much different. People get it at this point. They understand social distancing and nobody more than the kids. I agree with having benchmarks like "We will re-evaluate on June 1". A blanket statement that shuts all fields through Labor Day sounds like detachment from reality and/or laziness. Kids need to get outside and move and playing ball with your kids on a city field should be encouraged at this juncture.

includeInRecords: on

Engage: Submit

Below is the result of your feedback form. It was submitted by Margaret Flaherty (maggie.flaherty@gmail.com) on Monday, May 11, 2020 at 12:01:32

address: 860 Maplewood Avenue

comments: To Portsmouth City Council:

I am writing to support a fully funded school budget and express my deep concern regarding any proposed budget cuts.

While Portsmouth teachers and staff have made herculean efforts to educate our students remotely, it is widely acknowledged that there will be regression of skills due to the current health crisis. Understandably, teachers are not able to replicate the richness of learning that takes place in a classroom environment on a daily basis. Our children's health and education should be the highest priority for our city's elected officials. A fully funded school budget demonstrates the commitment of the city council to overcome the educational losses caused by Covid-19 and support academic and social emotional growth of our students.

Now more than ever, parents and caregivers are aware of the educational needs of their children. We have interacted frequently, sometimes daily, with teachers and have seen our children engage in instruction. We have cheered on their progress and tried our best to support them in their struggles. We are better able to recognize the gaps in their learning as well as the skills they have mastered with confidence. Our children's education will be further impacted by budget cuts that result in a loss of programs and/or teaching staff. At the elementary level, our children already have limited access to 21st century skills without a world language program, robust STEAM instruction, and inquiry-based learning. Further, small class sizes are essential to allow teachers to adequately provide differentiated instruction to meet the diverse needs of students. Our most vulnerable student populations, including special education students, who are already under-served, would suffer disproportionately from cuts to the special education budget.

I would like to thank the administration and faculty of Portsmouth Public Schools for all of their hard work and innovative thinking during remote learning. The Portsmouth City Council must not detract from their formidable efforts by making costly cuts to the school budget.

Sincerely,
Margaret Flaherty

includeInRecords: on

Engage: Submit

Below is the result of your feedback form. It was submitted by Joanne C Foster (jocfoster@outlook.com) on Monday, May 11, 2020 at 12:32:56

address: 7 Hancock St

comments: Dear Council Members,

I am writing to request that the City Council consider drafting and adopting an ordinance to require the wearing of cloth masks by all residents and visitors to the city during the course of the Covid-19 pandemic. In the absence of a federal or state level mandate, these decisions, unfortunately, fall to our local municipal government.

As we all struggle to find ways to balance the need for protecting the health of our families and communities with the desire and need to get our economy up and running, I believe that the institution of a community practice of mask-wearing will ease the fear that many people, myself included, share about going out in public before the incident of Covid-19 cases in NH are in sharp decline or a vaccine is available. With the warm weather upon us, people are out and about in town in large numbers. The lack of mask-wearing is causing tension and debate – one only needs to take a cursory look at the city Facebook pages to witness the division being sewn in town between those who wear a mask and those who don't. I believe the City Council with direction from the Health Officer, need to address this issue, rather than leave it to the often toxic social media environment that has already led to physical and verbal confrontations – see today's Seacoast Online, 'Police called for grocery class over wearing masks'.

I understand that even the consideration of such a mandate will result in a lot of pushback to the Council from those who believe that such an ordinance will infringe on their rights, as well as those who question the efficacy of the mask in preventing the spread of the coronavirus. To address the former, I would invite us to consider an incentive – a carrot rather than a stick – to encourage people to wear masks. Perhaps those who wear masks in public spaces can be celebrated by the Council, the press, the public – think of the 7 p.m. clapping/ovation. Maybe a shout-out in the newspaper or social media? Or, perhaps the city sets a goal of 85% public mask wearing for 2 weeks will result in the opening of beaches and other public recreation spaces that people are so longing to enjoy, especially as the nice weather is upon us. Obviously, the evaluation of such a goal would have to be random and not scientific – but it gives people something to work towards. I am sure there are people more creative than me on the council and in our community, who could design an effective incentive program.

While there is much debate in the science world on the efficacy of the mask in preventing the spread of SARS Cov-2, the virus that causes Covid-19, it is still a fact that the CDC recommends wearing cloth face coverings in public when the 6 feet recommended social distance cannot be obtained. The truth is we do not know that masks are not effective in preventing the spread of this deadly disease, so we really have nothing to lose in trying, with the exception of the minor inconvenience imposed on the wearer.

Lastly, as to availability and funding for masks. While I have zero skill at sewing, I am willing to organize an effort to raise funds and invite our creative community to make masks for distribution to those who need them.

Wearing a mask will not substitute for continued social distancing, testing, contact tracing, etc., but it could help in easing the community into a new routine as we navigate the re-opening of our economy.

Thank you for your time and consideration.

Sincerely,
Joanne Foster
7 Hancock St
Portsmouth

includeInRecords: on

Below is the result of your feedback form. It was submitted by Mallory Parkington (malloryparkington@gmail.com) on Monday, May 11, 2020 at 12:42:11

address: 592 DENNETT ST

comments: Dear Councilors,
Thank you for your service.

With all due respect, and as a city tax payer, I request the City of Portsmouth continue to support our schools and the programs WITHOUT cutting the budget. I have 3 children in 2 different schools and the consideration of hurting the growth of our students and staff should not be tolerated. Thank you.

includeInRecords: on
Engage: Submit

Below is the result of your feedback form. It was submitted by Ashley Parsons (Ashley@parsonsnh.com) on Monday, May 11, 2020 at 12:47:37

address: 95 Nathaniel Drive

comments: I ask that you do not cut the budget for the 2020/21 school year. Cutting the budget will negatively impact programs that children deserve and love. Next year every single student and teacher deserves to have every resource available to them. This is necessary more than ever due to our current school year being thrown to at home/remote learning. Thank you for reading and your time.

includeInRecords: on
Engage: Submit

Below is the result of your feedback form. It was submitted by Jen Carsen (jcarsen@gmail.com) on Monday, May 11, 2020 at 14:17:45

address: 890 Woodbury Ave. Portsmouth 03801

comments: It has been an unprecedented and difficult year on many fronts. For our family personally, one of the most direct impacts of the pandemic has been in the area of our kids' schooling.

Their teachers (and school administration) have been absolutely amazing with facilitating remote learning and keeping them engaged and involved. I was impressed with them before, but even more so now.

Our school teachers and administrators are heroes, and we need their full funding for next year to ensure all of Portsmouth's kids continue to get the resources they need to keep on track, especially if some or all of the 2020-21 school year winds up being taught remotely.

School is a lifeline in so many ways for our most vulnerable learners and families, and now is not the time to pull back when the help is needed most.

I know budgets are tight and difficult choices are necessary, but I am adding my voice to the chorus of others asking for our school budget to be maintained, please, for the sake of Portsmouth's kids and their long-term well-being (educational and otherwise).

Thanks very much.

includeInRecords: on
Engage: Submit

Below is the result of your feedback form. It was submitted by Thomas Nies (tnies@aol.com) on Monday, May 11, 2020 at 14:30:48

address: 419 Richards Avenue

comments: City Councilors:

As you review the proposed budget submitted by the Police Commission, I urge you to watch out for the "Washington Monument Defense." This term refers to the tactic used by federal agencies when facing budget reductions: warn that budget cuts will result in the loss of a popular program. As an example: "If you reduce the Park Service budget, we will have to close the Washington Monument."

That is how I view the Police Commission's argument that a flat budget means eliminating school resource officers. Clearly, no one will support that. They are using the Washington Monument Defense.

I urge you to scrub the budget carefully and question the increases in stipends, computer maintenance, full-time animal control officer, training, travel and conference costs, books and periodicals, pagers (in this era of cell phones?), etc. Individually, these are small amounts; collectively they add up.

includeInRecords: on
Engage: Submit

Below is the result of your feedback form. It was submitted by Mollie Mulligan (mmulligan@gmail.com) on Monday, May 11, 2020 at 15:58:33

address: 130 Thornton St

comments: Dear City Councillors and City Manager Conrad,

Thank you so much for all you are doing to manage the City through an unprecedented time. We are so grateful for all of the essential workers that are working tirelessly to support our community.

I write to you as the parent of a 4th grader at New Franklin Elementary School and as a resident. I have always been proud and amazed by our schools. Each school in Portsmouth has such a unique and vibrant culture with top notch staff, endlessness creativity and quality instruction. As a librarian, I am lucky enough to visit and collaborate with all of the schools and can attest to these strengths held from PEEP all the way through RJLA and PHS.

I have been even more in awe of our teachers, principals, and leadership since the remote learning was implemented in March 2020. The school district was proactive about making sure no child was left behind. To be a parent witnessing remote teaching, it is such a gift to hear the compassionate and dedicated teaching staff at work over Zoom in our living room. They are truly masters. We should all be proud of the skill and energy our School District staff are putting into this effort. I hope they feel adequately appreciated and supported by the community at large!

Moving forward, I urge you to fully support the School Districts proposed budget for FY21. In order to maintain our city's goals for educational equity, support all learners, and continue the growth of our community's educational leadership we need full funding. There are no "additional" staff members or programs in Portsmouth. Each staff member plays a vital role in making sure every child is seen, supported and stretched to her full potential. To make drastic cuts to staffing and programming now would have a trickle down effect in our community that we cannot afford.

Please consider carefully how you assess the Portsmouth School District's budget and support it fully to the best of your ability.

Thank you of your time, consideration and service to Portsmouth.

Sincerely,
Mollie Mulligan

includeInRecords: on
Engage: Submit

Below is the result of your feedback form. It was submitted by Cathy Baker (catherinejbaker@yahoo.com) on Monday, May 11, 2020 at 16:29:42

address: 127 Gates St. Portsmouth NH 03801

comments: The city manager claims the goal of the budget is no increase in taxes. But the budget does not call for a decrease in revenues, and it is impossible that we will not have a significant decrease in the current environment.

Because we are not dependent on sales and income tax revenue we are not seeing the immediate drop that many states are seeing, but the same factors will filter through to our property tax revenues as well. People aren't allowed to work and you can't get blood from a stone. In the nearer term, the state will have no rooms and meals to send us, ambulance revenues are down, no one is parking etc.

We need to be on top of cutting spending NOW, not just in the budget, but NOW!! Why is the new parking garage still open and incurring operating expenses? Obviously it has not been needed for 9 weeks and is an example of an utter lack of attention on the part of city management. Which city employees are not working full time because the demands on their job currently do not exist? We need to cut positions or to a % of pay commensurate with actual work performed.

Operating losses now and after the budget is passed before the next property tax bills come due will leave a financial hole that must be filled. That fantasy 'no property tax increase' budget is just that, a fantasy. The city will end up increasing taxes not just to fund budget year expenses but to fill that hole. We must cut all fat and every bit of possible operating expense immediately. If a miracle occurs and our city comes alive again with the taxpayer able to work again, we can bring employees back from furlough but we can't 'unspend' money that is already spent.

includeInRecords: on
Engage: Submit

Below is the result of your feedback form. It was submitted by Judith Castle (judcastle@comcast.net) on Monday, May 11, 2020 at 16:56:49

address: 229 Pleasant Street, Unit 1, Portsmouth

comments: I am concerned that while social distancing has slowed down the number of cases of covid-19, if we open up too quickly, the numbers will go back up. According to an article in the May 8 NY Times, New Hampshire is among the states which are failing to meet the White House guidelines for reopening. I would therefore urge you to scrutinize carefully the governor's schedule for reopening and consider slowing it down. We have been fortunate in having relatively few cases compared to some other places. Lets not blow it now!

includeInRecords: on
Engage: Submit

Below is the result of your feedback form. It was submitted by Breegan Johnson (bjohnson0705@outlook.com) on Monday, May 11, 2020 at 20:19:57

address: 92 Coakley Rd, Portsmouth

comments: Dear Council Members,

I write to you today in support of our Portsmouth schools and the roughly 2,400 students and their families. We moved to Portsmouth in 2015, due to my husband's job and we are eternally grateful for the opportunity to send our children, ages 10 and 7, to New Franklin School. When our oldest started kindergarten, I made a point of volunteering, getting involved in PTO, and spending as much time around the school as could reasonably be managed. I fell in love with the school and the opportunities the school provides to all of its students.

Coming from California and having family and friends in various school districts across the country, I am uniquely aware of the impact classroom size has on students. I hear from family and friends about the struggles their kids face, having such large classes. Their kids struggle to keep up and get less support from their teachers. Our classes are of a reasonable size, allowing teachers to provide additional support to students who need it. At New Franklin, we have a large population of students on free or reduced lunch. Sadly, this often translates to less support at home, requiring more attention and support at school. Cutting the school budget will directly impact these students most in need of support and services. Students requiring services cannot be expected to succeed if we cannot provide proper support. A lack of support will result in higher dropout rates, which has a direct correlation to homelessness and drug and alcohol abuse.

We are also blessed to have exceptional programs that help provide our students with additional social-emotional learning and enrichment. These programs will make our students more well-rounded and prepared for life outside of their elementary, middle and high schools. Colleges and universities are becoming increasingly competitive. It is our job to provide as many opportunities for future success as we can.

I implore you to consider the future of our kids, of your kids, and the future of this incredible town. Please approve the FY21 Budget, as proposed by the School Board. Any decrease in funding will most certainly have a negative impact on our most vulnerable citizens. We have a duty to our children to prepare them for their future.

Thank you for your time and consideration, Breegan Johnson

includeInRecords: on

Engage: Submit

Below is the result of your feedback form. It was submitted by Mark Gianniny (Bunch01@yahoo.com) on Monday, May 11, 2020 at 21:25:40

address: 860 Maplewood Ave

comments: To Portsmouth City Council:

I am writing to support a fully funded school budget and express my deep concern regarding any proposed budget cuts.

While Portsmouth teachers and staff have made herculean efforts to educate our students remotely, it is widely acknowledged that there will be regression of skills due to the current health crisis. Understandably, teachers are not able to replicate the richness of learning that takes place in a classroom environment on a daily basis. Our children's health and education should be the highest priority for our city's elected officials. A fully funded school budget demonstrates the commitment of the city council to overcome the educational losses caused by Covid-19 and support academic and social emotional growth of our students.

Now more than ever, parents and caregivers are aware of the educational needs of their children. We have interacted frequently, sometimes daily, with teachers and have seen our children engage in instruction. We

have cheered on their progress and tried our best to support them in their struggles. We are better able to recognize the gaps in their learning as well as the skills they have mastered with confidence. Our children's education will be further impacted by budget cuts that result in a loss of programs and/or teaching staff. At the elementary level, our children already have limited access to 21st century skills without a world language program, robust STEAM instruction, and inquiry-based learning. Further, small class sizes are essential to allow teachers to adequately provide differentiated instruction to meet the diverse needs of students. Our most vulnerable student populations, including special education students, who are already under-served, would suffer disproportionately from cuts to the special education budget.

I would like to thank the administration and faculty of Portsmouth Public Schools for all of their hard work and innovative thinking during remote learning. The Portsmouth City Council must not detract from their formidable efforts by making costly cuts to the school budget.

Sincerely,
Mark Gianniny

includeInRecords: on
Engage: Submit

Below is the result of your feedback form. It was submitted by Dixie Tarbell (dixiemcleantarbell@gmail.com) on Tuesday, May 12, 2020 at 11:41:05

address: 25 Driftwood Lane 03801

comments: Dear City Council,
It would be good for public safety/health and our local economy if mask wearing in public were mandated. Unfortunately many people are acting like potential Typhoid Marys mingling with their fellow human beings downtown and in stores outside downtown, so we need leadership to incentivize them into social responsibility with fines as we do via parking tickets.
All stores should post Masks Mandatory at their entrances too, or also be fined. They can sell masks at the door or offer them for free to keep their staff and customers safe. Thank you for your consideration. Safety First!

includeInRecords: on
Engage: Submit

Below is the result of your feedback form. It was submitted by David Young (dyoung20@gmail.com) on Wednesday, May 13, 2020 at 08:11:07

address: 470 Cutts Ave., Portsmouth, NH 03801

comments: Dear Portsmouth City Council,

Given the economic stress caused by the current covid-19 pandemic the City Council will no doubt be under pressure to make many budget cuts. I know that budget decisions are often difficult, and I am sure the ones you will be making during the current budget process will be particularly hard. That said, I would ask you to please NOT include cuts to the Portsmouth School Budget in your final budget.

The Portsmouth school system and its teachers have done an outstanding job of continuing to educate our city's students this spring despite the stay at home guidelines that were put in place due to the pandemic. However, I would argue that the curriculum for online learning cannot match that of in-person learning and because of this, it is likely that a majority of our students will return to school this fall at lower proficiency levels than they would return had schools not been closed. Given this, it would be extremely short-sighted of Portsmouth to reduce the budget for the upcoming school year when the teachers and staff will be faced with the challenge of catching the students up on the material missed this year while also completing the curriculum for next year.

Please, don't compound the harmful effect that the current pandemic is having on the education of our city's students by cutting our school budget.

Thank you for your time.

Sincerely,

David Young
470 Cutts Ave.
Portsmouth, NH 03801

includeInRecords: on
Engage: Submit

Below is the result of your feedback form. It was submitted by Cara Oconnor Collymore (caracollymore@yahoo.com) on Wednesday, May 13, 2020 at 09:32:13

address: 450 Cutts Ave

comments: Public education system is the cornerstone of providing the grounding for a productive workforce and informed citizenry. All of us, no matter our profession or station in life, benefit from strong public schools.

In this time of great uncertainty, our Portsmouth community needs to keep its schools as strong as possible. Cuts to school budgets would devastate educational opportunities. Schools will need to be more creative about delivering effective instruction both in-person and online. We will need to provide smaller class size. Additional school safety and cleaning will take more resources.

It is at this time that we as a community must prioritize our spending. Education is absolutely KEY to a healthy and prosperous society. Put our priority where it counts!

includeInRecords: on
Engage: Submit

Below is the result of your feedback form. It was submitted by Carol Clark (carol.clark1@comcast.net) on Wednesday, May 13, 2020 at 18:13:56

address: 28 Rockingham St

comments: I am responding to an article in the May13 issue re: ideas for 'creating new models on the fly'

I think the city should reconsider the idea of blocking Market St from Bow St to Congress St to parking and traffic - creating a pedestrian walkway. This would provide - social distancing-an opportunity for merchants to set up outdoor sales displays - and outdoor seating for restaurants and coffee shops Deliveries to the stores on Market St could be scheduled before 8:00 AM There is plenty of available parking at the new garage - so that should not be reason to throw out the idea

This is the time for Ports to think outside the box - The idea was successful on Church St in Burlington VT

What have we got to lose ? I think there is more to gain !

includeInRecords: on
Engage: Submit

Below is the result of your feedback form. It was submitted by Amber and Ken Buttermore (amberpeacock@hotmail.com) on Wednesday, May 13, 2020 at 18:21:36

address: 545 FW Hartford Drive Portsmouth NH

comments: Dear City Council Members and City Manager, We have lived in Portsmouth for many years. Both of us moved here as young professionals and we felt this was home right away. We got married here and had our children here. We are extremely involved in our community and we are proud to live here.

We urge you to please remember the importance of our Public Schools, our resources within those schools, our teachers and our administrators at this time... They are our community's LIFE LINE now more than ever. I urge you to keep our Children near and dear to your hearts as you make decisions about our city during Covid 19. We want public school representatives to help the city make decisions. Moving forward after this difficult time we will need our schools to be more robust than ever. Closing educational gaps, providing support for related traumas caused by Covid and rebuilding for a strong future for our city and state will be what our children need.

Respectfully Submitted,

Amber and Ken Buttermore

includeInRecords: on

Engage: Submit

Below is the result of your feedback form. It was submitted by Brian Porter (bsporter99@gmail.com) on Wednesday, May 13, 2020 at 20:32:21

address: 319 Lincoln Ave

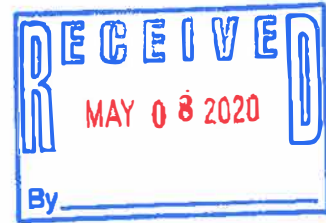
comments: I listened with interest to tonight's school budget meeting but regrettably I was unable to participate directly via Zoom. I wish to voice my opinion that the school budget be adopted as proposed. As a Portsmouth taxpayer, I strongly believe that lowering our property taxes, while an otherwise admirable goal, must not be our top priority this year. Rather, protecting the health and well being of our most vulnerable citizens — our children and elders — takes that role. Our children need to have access to an excellent education that will prepare them to be good stewards of our city, state, and nation. Our children will be caring for us in our hospital beds in 30 years. They will be the teachers of our grandchildren. They will be the builders of homes and bridges that will be used by our descendants long after we have left the scene.

Despite the challenge presented to us by this pandemic, we want our children to excel. We steal from future generations if we shortchange the education of kids now. Please protect the well being of our community by maintaining full funding for the Portsmouth school system.

includeInRecords: on

Engage: Submit

The Clipper Tavern
75 Pleasant St
Portsmouth, NH 03801



The City Of Portsmouth, City Manager Karen Conard,
Mayor Rick Becksted, Asst. Mayor Jim Splaine,
Portsmouth City Council Members,

My name is Jeff Goss, Co-Owner of the Clipper Tavern at 75 Pleasant St. in Downtown Portsmouth. I am writing to request some assistance from the City to provide outdoor dining in front of the Clipper Tavern. I have drawn up (very roughly) a possible scenario to redirect traffic to make this happen. Scenario 1- Block off one lane of traffic on Pleasant St from the intersection (STOP Sign) of Court and Pleasant Streets and the intersection (LIGHTS) of State and Pleasant Streets. Some sort of barrier (possibly jersey barrier) would be installed to separate the dining from the open lane. At the Stop sign on Court and Pleasant vehicles heading into town would be directed, via proper signage, to proceed either right or left. A "Do Not Enter" sign will be placed at the dining lane placed in front of an extension of the barrier. Very little, if any, inconvenience is caused to the redirected vehicles as just one block in either direction and you can get right back on to State Street. Vehicles entering Pleasant St from State St can still make that right hand turn and use the open lane, parking spaces can still be utilized, and loading zone can still be utilized. Sidewalks on either side of road can still be open with proper signage on restaurant sidewalk.

We ask that you give this careful consideration. Look at what other States, towns have done or have planned. You have closed Pleasant St from the corner of State and Pleasant to the corner of Pleasant and Congress on many occasions and with much success. During these unimaginable times some restrictions would have to be loosened or you will see many more businesses close. Some places will be put at a disadvantage if some find a way to open and others, like the Clipper Tavern, can't. "Take Out" has been "OK" at best, and that is with most of our staff having to file for unemployment. Take out business will drop drastically. Would you choose "Take Out" again! Over a chance to dine outside for the first time in 2 months, get a meal served hot to your table, have a cold draft beer or glass of wine? I think the outdoor dining is the choice almost all the time. And good for those restaurants that are allowed to perform that service, I want all of us to succeed. I come from a fifth generation Portsmouth family, my business partner, Sean Sullivan, has lived and raised his family in Portsmouth most of his adult life. We are very hopeful to be able to stay open and succeed in our hometown.

I can be reached at the Clipper Tavern, phone #603-501-0109, Thank You for your attention to this request.

Jeff Goss, the Clipper Tavern
Sean Sullivan, the Clipper Tavern

State Street

State Street Lot

Lowies

Handicap

Loading zone

Parking

Retail

Barrier

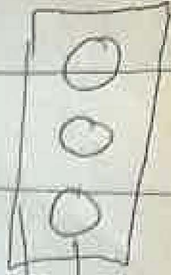
Dining

SIDE WALK

Clipper Tavern

Newburyport Bank

Austin House



Do Not enter

Court St





PUBLIC WORKS DEPARTMENT

CITY OF PORTSMOUTH

680 Peeverly Hill Road
Portsmouth N.H. 03801
(603) 427-1530 FAX (603) 427-1539

May 8, 2020

VIA EMAIL Cobb.Michael@epa.gov

Michael Cobb
U.S. EPA, Region 1
5 Post Office Square, Suite -100(06-1)
Boston, MA 02109-3912

**Subject: Comments on NH NPDES GP NHG58A000
City of Portsmouth, New Hampshire**

Dear Mr. Cobb:

The City of Portsmouth New Hampshire ("Portsmouth" or "City") submits these comments on the Draft National Pollutant Discharge Elimination System (NPDES) Great Bay Total Nitrogen General Permit for Wastewater Treatment Facilities in New Hampshire, NPDES General Permit NHG58A000, ("Draft Permit") issued by the United States Environmental Protection Agency ("EPA"). Portsmouth appreciates the innovative structure of the Draft Permit and the opportunities it presents. By submitting these comments Portsmouth hopes to inform the final version of the permit for the benefit of not only Portsmouth but also other permittees. Portsmouth is committed to undertaking necessary improvements to protect the health of the Great Bay Estuary, but is concerned about the allocation of the responsibility within some elements the structure of the Draft Permit.

Sections of the Draft Permit upon which Portsmouth has commented, are bolded below. The comments include both a section identifying the issue(s) of concern with the Draft Permit language or structure, and, where appropriate, proposed recommendations for improvement. The New Hampshire Department of Environmental Services is referred to throughout as "NHDES." Additional abbreviations used in this comment include:

BOD – Five day biochemical oxygen demand
C – Celsius
CDOM – Colored dissolved organic matter
CLF – Conservation Law Foundation
Kg/ha-yr – kilogram per hectare per year
NCP – Nitrogen Control Plan
NOP – Nitrogen Optimization Plan
NPDES – National Pollutant Discharge Elimination System

NPS – Non-point source
PS- Point source
SAB – Science Advisory Board
TN – Total Nitrogen
TSS – Total suspended solids
WWTF – Wastewater treatment facility

It was not in Portsmouth's interest to request an extension of time to the comment period. Consequently, Portsmouth has, like other communities, prepared these comments in the midst of the state of emergency and stay at home order issued by the governor of New Hampshire. To the extent there are errors or inconsistencies, or items for further investigation or input, Portsmouth welcomes any request for clarification or dialogue.

EXECUTIVE SUMMARY

Portsmouth's comments are focused not merely on trying to mitigate technical challenges of the Draft Permit but also to address the inherent inequities of regulating only 12 communities to solve a watershed wide issue.

Portsmouth has identified the following specific issues of concern with the Draft Permit:

- The use of 2012 - 2016 flow data to calculate WWTF effluent TN limits;
- The use of annual average effluent TN limits;
- Delegation of responsibility and costs of ambient water quality monitoring; and
- The uncertainty surrounding the value of investing in non-point source and stormwater point source reductions.

Portsmouth has provided recommendations relating to using design flows for load basis; omitting unnecessary monitoring for ammonia; adding flexibility to required sampling; and adjusting the calculation of rolling and monthly average loads.

Other significant issues of concern relate to the NOP given that most WWTFs will have to upgrade and will need to operate at maximum performance to achieve the proposed TN limits; the concept and design of the ambient monitoring program and the lack of clarity relating to justification necessary to secure individual NPDES permits. The optional stormwater pathway in Appendix II presents significant challenges in meeting the intended goals given that some sources of the NPS and stormwater point source nitrogen cannot be affected by Portsmouth. Portsmouth further provides details in the comments and in the exhibits to these comments. As noted above, Portsmouth has provided recommendations which address these areas of concern.

Although Portsmouth has concerns with certain elements of the Draft Permit, Portsmouth looks forward to working within this innovative structure.

General Permit NHG58A000:

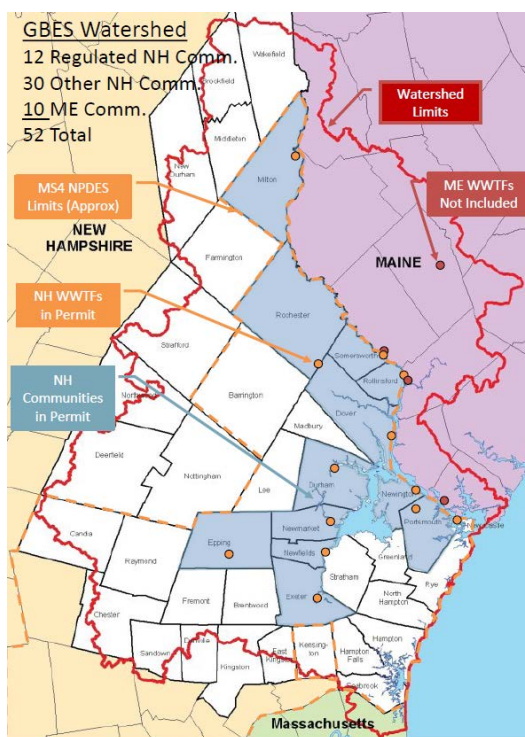
Comments specific to the General Permit are further supported by Exhibit A Proposed Adjusted Loads and Concentration Calculations and Exhibit B Letter from AECOM to City of Portsmouth Regarding Comments on the Draft Great Bay Total Nitrogen General Permit.

Part 1, Item 1.1 – Regarding Subject Discharges

Comment: One of the more significant concerns relative to the proposed structure of the Draft Permit is that it disproportionately burdens those communities with wastewater treatment facilities. The permit focuses on discharges from WWTFs clearly covered by the Clean Water Act and the NPDES permitting program, yet it establishes an aggregate load target that requires watershed wide participation to achieve. The nitrogen reduction requirements should apply, in some form or another, and not necessarily through this General Permit, to all towns and municipalities in Maine and New Hampshire that have discharges into the Great Bay Estuary. As a long term strategy, all watershed stakeholders must eventually be incorporated into the nitrogen reduction strategy.

Below for reference is a watershed map showing the scope of the regulated watershed. Of the 52 communities impacting the watershed, only 12 communities are regulated under this permit.

Figure A Great Bay Estuary Watershed Map



Part 2, Item 2.1, Table 2 – Calculation of Limits Based on 2012-2016 Flow Data

Comment: The Draft Permit falls short in its attempt to implement an adaptive management structure that allows municipalities the flexibility to maximize recent investments in wastewater treatment facilities and to leverage non-point source and stormwater activities that have the ability to reduce nitrogen as well as other pollutants entering the Estuary. One of the key areas that needs to be revisited if the goal is to be achieved is Table 2 and the underlying decision to set WWTF effluent TN limits based on 2012-2016 flow data.

To provide context, requiring WWTFs in the northeast to meet annual average effluent TN limits results in facilities that are larger than needed to achieve TN reductions during the warmer,

aquatic plant-growing season. By forcing compliance with an annual average limit, the defining design parameter becomes wastewater temperature in the coldest months of the year. The biological reaction rates for microorganisms that accomplish nitrogen removal drop exponentially with temperature below 20 degrees C; therefore when sizing WWTF tanks, processes, and systems for nitrogen removal for low wastewater temperatures in the winter months (e.g. 10 degrees C) the tanks get significantly larger. The unintended consequence of this is not only additional cost for tanks and systems that are only needed in cold weather, but it can also lead to operational difficulties in the other time periods of the year.

Given that a number of WWTFs in the region have been upgraded utilizing the capacity of existing tanks in order to maximize TN treatment, it is Portsmouth's observation that at least several of the WWTFs are likely unable to meet a TN annual average even when operating well below their design flow capacity. This will require, even under the approach of the Draft Permit, those facilities to upgrade in the near term.

Portsmouth will need to achieve even lower effluent TN loads from the City's WWTFs to offset the stormwater TN reduction (identified in Appendix II) that cannot be significantly reduced using stormwater controls (BMPs, structural/non-structural, etc.). Again, this will require Portsmouth's WWTFs to treat to even lower load limits than shown in Table 2 of the Draft Permit. This is complicated (for all permittees) by the annual average TN limit (compared to seasonal) and the fact that the TN loads were established using WWTF flow data from 2012 to 2016 (see Fact Sheet Table 3 – 2012-2016 WWTF Nitrogen Load to the Great Bay Estuary). These conditions may result in the need for a comprehensive WWTF upgrade or a self-induced moratorium on flow increases to the WWTF in the later years as flows to the WWTFs increase to the design capacity. This can be demonstrated by calculating the equivalent TN effluent concentration required to meet the proposed load limit for the WWTFs at their design flow using the load allocations in Table 2 in the Draft Permit. See Table A prepared by Portsmouth below.

Table A WWTF Concentrations at Design Flow

City/Town	Table 2 DRAFT Permit: TN Load (lbs/day)	Design Flow (mgd)	Calculated Equivalent Annual Average Concentration (mg/L)
Rochester	198	5.03	4.7
Portsmouth	269	6.13	5.3
Dover	164	4.7	4.2
Exeter	108	3	4.3
Durham	60	2.5	2.9
Somersworth	96	2.4	4.8
Pease ITP	87	1.2	8.7
Newmarket	35	0.85	4.9
Epping	37	0.5	8.9
Newington	16	0.29	6.6
Rollinsford	12	0.15	9.6
Newfields	16	0.117	16.4
Milton	11	0.1	13.2

For a typical WWTF in the northeast designed based on a seasonal TN permit limit at limit of technology for TN of 3 mg/L April through October and achieving 10 mg/L in the off season, the annual average TN would be expected to be around 5.5 to 6 mg/L. Evident from Table A above is that many of these facilities' equivalent effluent TN concentrations at design flows are well below 6 mg/L. Therefore, as the flows increase from the 2012-2016 basis used in the Draft Permit, the facilities will need to be upgraded in many cases to meet the nitrogen mass limits in the permit.

It is also clear from Table A above that the Draft Permit effluent TN loads are more stringent than a 3 mg/L TN (limit of technology) rolling seasonal average concentration for the majority of WWTFs since many of these facilities' equivalent effluent TN concentrations at design flows are well below 6 mg/L. If adaptive management was truly intended, the limits would not have been set so low in the first permit 5 year term. This approach results in no opportunity to achieve lower limits in future permit terms, if determined to be scientifically necessary.

Portsmouth points out that within Region 1, most WWTF effluent TN limits that have been imposed are on a seasonal average basis or rolling seasonal average basis. This is the approach used in the permits with total nitrogen limits for the Massachusetts WWTFs discharging to the Taunton River Basin and Buzzards Bay, the Rhode Island WWTFs discharging to Mount Hope Bay, the Blackstone River, and the Pawtuxet River, as well as the Newmarket and Exeter NH permits that have been issued. Using an annual average approach burdens the 12 communities (13 WWTFs) with additional treatment costs during the colder months of the year; a burden which is at odds with the established view that TN discharges are of most concern during the eelgrass growing season.

Recommendation: The City of Portsmouth recommends that the loads be proportionally

readjusted based on the target concentrations used to develop the loads (either 8 mg/L for the 7 WWTFs larger than 2 MGD, and “hold the load” for the 10 other WWTFs) at design flows. Portsmouth acknowledges that this will increase the permitted WWTF point source TN load and require additional overall reductions in non-point source and stormwater point source TN loads to achieve the 100 kg/ha-yr target established in the Draft Permit. See calculation in Exhibit A. This will, however, require fewer municipalities, including Portsmouth, to conduct upgrades in the first half of the Draft Permit 5 year term, and allow for the full use of the design capacity of the WWTFs. It will self-correct as a result of the structure of this permit; either by the municipality electing to conduct upgrades to reduce TN discharge at the WWTF (to meet TN loads as flows increase or to offset the required NPS and stormwater TN reduction) or through the EPA re-opening the permit and reducing the loads at the WWTFs (refer to last paragraph of Appendix II). Additional self-correcting measures are also suggested in these comments. Lastly this will prevent the EPA from issuing individual permit TN limits for the WWTFs that are overly restrictive but cannot be changed due to anti-backsliding and anti-degradation provisions of the Clean Water Act. This is demonstrated in Table B below and in the larger spreadsheet attached as Exhibit A:

Table B Proposed Adjusted Loads

City/Town	Table 2 DRAFT Permit: TN Load (lbs/day)	Table 3 Fact Sheet: 2012-2016 Flow (MGD)	Calculated Equivalent Concentration (mg/L)	Design Flow (MGD)	Adjusted Load Based on Design Flow (lbs/day)
Rochester	198	2.97	8.0	5.03	335.3
Portsmouth	269	4.03	8.0	6.13	409.2
Dover	164	2.46	8.0	4.70	313.3
Exeter	108	1.61	8.0	3.00	201.2
Durham	60	0.9	8.0	2.50	166.7
Somersworth	96	1.44	8.0	2.40	160.0
Pease ITP	87	0.64	16.3	1.20	163.1
Newmarket	35	0.52	8.1	0.85	57.2
Epping	37	0.25	17.7	0.50	74.0
Newington	16	0.11	17.4	0.29	42.2
Rollinsford	12	0.08	18.0	0.15	22.5
Newfields	16	0.09	21.3	0.12	20.8
Milton	11	0.07	18.8	0.10	15.7
Total NH (lbs/d)	1109.0				1981.3

To be consistent with the overall purpose of this Draft Permit, this WWTF revised TN load could be coupled with a rolling seasonal average concentration limit (based on concentrations in the third column of Table B above) April 1 to October 31, to prevent facilities from discharging excessive nitrogen when flow rates are less than their design flows. The two City of Portsmouth WWTFs would be bubbled as footnoted in Table 2 of the Draft Permit for load and concentration and a seasonal rolling average concentration would be a weighted average concentration based on the design flows and concentrations of each facility, or 9.4 mg/L effluent TN.

The City of Portsmouth further points out the following potential opportunities for readjustment.

Adjustment for Location and Proportional Influence:

The Peirce Island WWTF and Pease WWTF are situated the closest to the ocean of all the WWTFs discharging to the Estuary. The discharge of the WWTFs is directly to the Piscataqua River which has been well documented to have a significantly higher flushing rate (lower retention time) than Great Bay proper. Given the location of the discharge and the hydrodynamics at the discharge point, these WWTFs have a lesser fraction of the WWTF effluent entering and staying in Great Bay proper, have a significantly higher dilution as a result of the hydrodynamics and a much longer travel distance from the discharge point to areas of the Estuary where nitrogen has been perceived to be of greatest concern. The EPA and NHDES could consider a geographic adjustment based on an accepted hydrodynamic model. This work could be done if the higher loads were initially provided (shown in Table B above) and readjusted as part of the second cycle of the permit.

Adjustment for Wet Weather at WWTFs

In the Fact Sheet page 28, paragraph 3, the EPA describes the methodology to normalize nonpoint sources and stormwater loads for rainfall. Yet, there was no consideration given in the permit for normalizing the WWTF load for rainfall. The impact of rainfall is typically seen at WWTFs as a function of the condition of the wastewater collection system as infiltration and inflow (I/I). This is more pronounced for WWTFs that have a tributary wastewater collection system that is combined with directly connected stormwater features such as catch basins, roof and yard drains, and other fixtures.

The amount of I/I treated at a WWTF is specific to that facility and its collection system condition. When extraneous groundwater and stormwater enters the collection system it is seen as an increase in flow at the WWTF and a reduction of the influent nitrogen concentration due to dilution. Having a lower concentration of nitrogen in the influent does not necessarily result in a corresponding decrease in effluent concentration at the outfall of the WWTF due to the treatment functions inside the unit processes. Therefore, increased flow, even if due to extraneous stormwater and groundwater, typically results in a higher overall mass of nitrogen released. Portsmouth suggests, at a minimum, that the rainfall normalization ratio ($45.2 \text{ in/yr} \div 40.9 \text{ in/yr} = 1.11$) be applied to the nitrogen load values provided in the permit. This is a critical adjustment for the Peirce Island WWTF, which is the only facility in the watershed with a truly combined wastewater collection system. Acknowledging this would allow the WWTFs to incorporate, into their nitrogen control plan or overall strategy, an infiltration and inflow reduction goal.

Part 2, Item 2.1, Table 2 – Regarding Measuring, Monitoring and Reporting Ammonia

Comment: Permit compliance is based on TN. Table 2 in the Draft Permit requires the permitted entity to measure, monitor and report the effluent concentration of a number of forms of nitrogen. Ammonia nitrogen is one parameter that must be monitored weekly and reported, but the determination of ammonia is not needed to calculate the total nitrogen in the effluent. It will add to the cost for compliance with the permit without providing meaningful additional data for determining effluent total nitrogen.

Recommendation: The requirement for reporting ammonia should be deleted.

Part 2, Table 2, Footnote 1 – Regarding Sampling, Location and Timing

Comment: Footnote 1 notes that a routine sampling program is to be developed in which samples are taken at the same location, at the same time, and on the same days of the week each month. The footnote 1 language offers Portsmouth no flexibility to address site specific conditions at each WWTF. In addition, the requirement to sample at the same time each week is unrealistic from an operational perspective and may not yield the best data for measuring overall performance given fluctuations in dosing, sudden changes in influent characteristics due to collection system changes or breaks and other temporary events.

Recommendation: The permit should allow sampling to be conducted weekly within the same 72 hour time frame each week (example between 7:00 am Tuesday and 7:00 am Friday each week).

Part 2, Table 2, Footnote 3 – Regarding Rolling Average

Comment: Footnote 3 notes “The limit is an annual load limit (in units of average pounds per day) and shall be reported as a rolling average. The value will be calculated as the arithmetic mean of the monthly average load (in lb/day) for the reporting month and the monthly average loads (in lb/day) of the previous eleven months.” This approach results in a value that is an average of averages. This adds inaccuracy to the calculations, since averaging averages does not account for how many data points comprise each month average. Since the required WWTF sampling is one composite per week, some months will have five samples, some months will have four. A bad four sample month will be weighted the same as a good five sample month which is not representative of actual conditions.

Recommendation: The limit should be an annual load limit (in units of average pounds per day) and should be reported as a 52-week rolling average.

Part 2, Table 2, Footnote 4 – Regarding Monthly Average

Comment: Footnote 4 notes “The total nitrogen monthly average mass loading reported each month shall be calculated as follows: Total Nitrogen (lb/day) = average monthly total nitrogen concentration (mg/L) * average monthly flow (MGD) * 8.345”. To arrive at the monthly average, the 4 or 5 monthly samples are averaged and the average flow over the entire month is used. This methodology is not representative of the actual conditions, as averaging the concentrations and flow could skew the result.

Recommendation: The mass loading should be calculated using the sample concentration and flow on the day the sample is collected, and the mass loading for the 4 or 5 sample days each month should be averaged to determine the TN monthly average. (There is precedent for this as this is the approach used in the Connecticut Nitrogen General Permit.)

Part 2, Item 2.2 – Regarding Nitrogen Optimization Plan

Comment 1: From Portsmouth’s perspective, the role of the Nitrogen Optimization Plan within the permit structure would vary depending on the limits set under Table 2 in the Draft Permit.

If the limits set forth in Table 2 remain as currently presented in the Draft Permit, there is little role for a nitrogen optimization plan as the limits imposed on most of the wastewater treatment facilities will require them to be significantly upgraded and otherwise optimized for nitrogen removal in the near term to meet the permit requirements. For a community such as Portsmouth, the new Peirce Island WWTF will be under manufacturer performance obligations for another year relative to nitrogen removal capability and if an upgraded facility is constructed at Pease it too will likely be subject to certain warranties and contractual obligations as to performance. A further engineering effort to try to find additional nitrogen optimization opportunities would be a poor allocation of resources in most scenarios. In addition, it is generally understood that the operator's obligation is to make sure the effluent limits at the end of the pipe are achieved. How the operator achieves that is not within the realm of traditional EPA oversight.

If Table 2 is adjusted as Portsmouth has set forth in Table B above to take into account WWTF design flows, a Nitrogen Optimization Plan for the current facility is a more reasonable investment in resources provided that language in the current draft is adjusted for clarity and scope. Under Paragraph 1 in the Draft Permit, the NOP appears intended to identify nitrogen optimization that can be achieved using operational adjustments. Under Paragraph 2, however, the NOP notes the optimization should "...reduce the discharge of nitrogen to the extent practicable." This language is vague, undefined, and subjective and it is not clear from this requirement what is being asked of the permittee. It suggests that capital improvements may be required. In addition, it is not clear whether Portsmouth for example would be required to operate its Peirce Island WWTF to the fullest extent of its capabilities at all times (which means adding carbon, increasing costs and consuming additional energy).

Recommendation 1: If Table 2 is not adjusted, the Nitrogen Optimization Plan requirement should be deleted in its entirety. If Table 2 is adjusted, Paragraph 2 of the Draft Permit should be revised to indicate that the NOP requirement is for reasonable operational changes only, in the growing season, and does not require the permittee to undertake capital improvements.

Comment 2: Under Paragraph 3, the permittee is required to re-evaluate and notify the EPA as a result of changes "...in design, construction, operation, or maintenance of the facility, which have a significant effect on the potential for the discharge of nitrogen...". The term "significant" must be better defined for the benefit of the operators and managers of the WWTFs. The need to notify the EPA of any changes at the facility, especially related to operations and maintenance of the facility, could become burdensome and put presumed limitations on WWTF operations related to overall treatment plant optimization efforts.

Recommendation 2: Portsmouth recommends that in place of the word "significant," a clearly objective measure of performance be used instead.

Part 2, Item 2.3 – Regarding Adaptive Management Ambient Monitoring Program

Comment: Part 2.3 of the Draft Permit requires that permittees "shall all participate in the annual ambient monitoring program." The elements of the monitoring program are set out in detail in Part 2.3. As noted in the Draft Permit, each permittee is responsible for a percentage of the overall ambient monitoring cost equivalent to the percentage of the design flow of their wastewater treatment facility divided by the total design flow of all the WWTFs covered by the Draft Permit. The term "permittee" is not defined and as a result it is not clear whether

permittees listed in Table 1 who are excluded from coverage of the Draft Permit under Section 3.2 are responsible for ambient monitoring costs.

It is estimated that the ambient monitoring program, as set out in Part 2.3, would cost upwards of \$1.5 million per year. The Draft Permit will be in effect 5 years from the effective date, but it is understood that the Draft Permit will be reissued for several 5-year terms as evidenced by Appendix II of the Draft Permit, which allows the option of developing and implementing long-term nitrogen control plans. These plans may extend well beyond 18 years utilizing adaptive management approaches, which in turn, must be guided by the ambient monitoring program.

There are legal, technical, and practical objections to the ambient monitoring program. The overarching objection is that, for the reasons provided below, the ambient monitoring program should not be part of the Draft Permit. First, the scale of this discharger-funded ambient monitoring program is without a known precedent. Second, it is antithetical to the Clean Water Act and to state water quality laws. Third, it is not fair or equitable to require the listed point source permittees to bear the entire cost of the ambient monitoring program. Finally, the allocation of fees among the permittees is not related to the impacts that each discharger has on water quality.

Aside from these fatal flaws, the design of the proposed annual ambient monitoring program may not be appropriate to achieve the goal of adaptive management. Critically important is that any monitoring program used for adaptive management, (1) be dynamic rather than static; (2) be of predictable and reasonable cost; (3) involve enough permittees and other watershed stakeholders to create an effective pool of funds; and (4) have clear goals. To ensure that there is enough permittee and other watershed stakeholder involvement and to ensure that there are requisite funds for such a long-term monitoring program, there would need to be an intermunicipal agreement amongst the permittees and other stakeholders. Intermunicipal agreements are covered by RSA Chapter 53-A, and require the approval of the New Hampshire Attorney General as well as approval by the governing body of each community. The development of an intermunicipal agreement to accomplish this task does not preclude a role for the Piscataqua Region Estuary Partnership (PREP). However, establishment of these agreements and developing sufficient funding to undertake the monitoring takes time which is not provided for in this permit.

Other specific legal, technical, and practical objections to the ambient monitoring program are set out below.

The Proposed Ambient Monitoring Program is Without Known Regulatory Precedent

The State of Connecticut recently reissued its General Permit for nitrogen discharges effective January 1, 2019. The General Permit authorizes the discharge of total nitrogen from 79 municipal WWTFs. The General Permit does not require any of the 79 municipal WWTFs to conduct ambient monitoring. The Long Island Sound monitoring program is conducted by the State of Connecticut in cooperation with the State of New York and other members of the Long Island Sound Study (LISS) group which includes EPA and other governmental and nongovernmental organizations. The LISS group conducts extensive ambient monitoring in Long Island Sound. This is a better, and more sustainable, approach than placing the burden of long-term ambient monitoring program on a group of relatively small municipal WWTFs.

Similarly, the State of Virginia has issued a nitrogen General Permit which authorizes the discharge of total nitrogen and total phosphorus from facilities in the Chesapeake Bay watershed in Virginia. The Virginia General Permit does not require any permitted facility to undertake ambient monitoring. Further, EPA and New Hampshire have developed several other general permits authorizing wastewater or stormwater discharges (e.g., N.H. Small MS4 General Permit and N.H. Multi-Sector General Permit). None of these other general permits require ambient monitoring. In summary, aside from ambient monitoring adjacent to outfalls for specific purposes, Portsmouth is not aware of any general or individual permits that require the type and extent of ambient monitoring required in the Draft Permit.

The Proposed Ambient Monitoring Program is Contrary to the Clean Water Act and State Water Quality Laws

It is clear, based on several Clean Water Act provisions, that the responsibility for ambient water quality monitoring is a state and/or federal obligation. Section 104 of the Clean Water Act established, early on, that water quality surveillance and investigation systems for the purpose of monitoring the quality of the navigable waters, groundwater and waters of the contiguous zones and oceans was to be conducted by states, their political subdivisions and other federal agencies. More specifically, Congress specified that the development of water quality standards and identification of areas that needed additional water quality controls was the responsibility of each state. Section 303(d) requires states to identify those waters that are not meeting water quality standards and to develop total maximum daily loads for pollutants causing water quality standard violations. It is the state's responsibility to submit, to the EPA, reports on the status of the state's water quality. These reports require the regular monitoring of the condition of waterbodies within the state's boundaries.

In addition to the Clean Water Act provisions listed above, EPA's own regulations consistently interpret the NPDES permitting scheme to require permittees to monitor only at the outfall and not in the ambient water. These regulations at 40 CFR Section 122 are all focused on determining what is coming out of the point source rather than the quality of the ambient water. The determination as to whether the quality of the ambient water is sufficient to meet water quality standards has always been left to the state (or EPA if the agency felt that the state was not properly adopting and applying water quality standards).

Obviously, EPA and the State can utilize and encourage other parties to voluntarily participate in water quality data collection. EPA has developed several guidance documents that make it clear that NPDES permit holders may be encouraged to voluntarily provide ambient water quality data. Should dischargers voluntarily provide data, the dischargers could be granted benefits for doing so. For example, permittees could enjoy reduced compliance, reporting and monitoring in their permits. See, e.g., *EPA's 1996 Interim Guidance for Performance-Based Reductions of NPDES Permit Monitoring Frequencies* and *EPA's 2007 Watershed-based National Pollutant Discharge Elimination System (NPDES) Permitting Technical Guidance*. In addition, the State of New Hampshire has developed guidance for submittal of surface water data information in order to assist the State in developing its water quality reports under Section 305(b) and its list of impaired waters under Section 303(d). However, encouraging other parties, including other nongovernmental agencies and dischargers, to assist in collecting ambient water quality data is not the same thing as **requiring** that permittees obtain data and submit reports in order to be eligible for a permit.

In short, the ambient monitoring program, as set out in the Draft Permit, is antithetical to the provisions of the Clean Water Act and to New Hampshire water quality laws.

It Is Arbitrary and Inequitable for Thirteen Point Source Dischargers to Bear the Entire Cost of the Ambient Monitoring Program

The mechanism for funding the ambient monitoring program makes no sense. The entire cost of the ambient monitoring program is to be borne by 13 municipal treatment facilities. Note, that four municipal treatment facilities in Maine are not included in the funding allocation. Any ambient monitoring program should be deferred until there is a mechanism for all of the communities in the Great Bay watershed to participate in and fund the ambient monitoring program. This is consistent with the findings of the Great Bay Nitrogen Non-Point Source Study (2014), where it was estimated that sixty-eight percent (68%) of the nitrogen that enters the Great Bay Estuary originated from sources other than municipal wastewater treatment facilities (Pg. 1, citing DES, 2010; PREP, 2013). Other sources included atmospheric deposition, fertilizers, septic systems and animal wastes.

No one disputes that these 2014 estimates generally represented nitrogen loads to the Great Bay Estuary. However, since 2014, the contribution of nitrogen from municipal WWTFs has declined significantly and now represents an even smaller percentage of the nitrogen load to the Estuary. EPA acknowledges this declining contribution from point sources on page 16 of the Fact Sheet citing the 2018 State of the Estuary Report. When nitrogen loads are dominated by diffuse sources, including sources from out of state, monitoring costs must be allocated to public agencies.

The Allocation of Cost for the Ambient Monitoring Program Does Not Make Sense

Given that the proposed nitrogen general permit is based on land area derived nitrogen loads, wouldn't it be more equitable to develop a fee apportionment schedule based on land area? There is a wide disparity in land area sizes between the municipalities and the resulting impact from point and nonpoint source runoff. Allocating cost on the basis of wastewater treatment plant point source loadings is not equitable. Nitrogen loads from wastewater treatment plants may have significantly different impacts on actual water quality. For example, dischargers into riverine portions of Great Bay may have less impact not only in the riverine portion but in the upper reaches of the Bay. EPA acknowledges this fact on page 13 of the Fact Sheet and states that free-flowing rivers "tend to flush out sediments and pollutants relatively quickly." It does not make sense to base the ambient monitoring program cost on wastewater plant loadings unless additional detailed analysis is conducted to support that allocation.

Recommendation:

The ambient monitoring program contained in Section 2.3 of the Draft Permit should be eliminated from the permit. If an ambient monitoring program of this scope and complexity is to be conducted it should be managed and funded by state and federal agencies as provided in the Clean Water Act, its implementing regulations and state water quality laws. This has been the past practice of both EPA and the NHDES and that past practice conforms with state and federal law. If municipalities are asked to voluntarily assist in the ambient monitoring program there should be a defined procedure and protocol which sets out the parameters for their involvement. For these reasons, the ambient monitoring program should be removed from the

Draft Permit.

Regardless of who conducts an ambient monitoring program, any such program should be deferred for at least two years to enable Great Bay water quality to readjust with the significant changes that have occurred in nitrogen loading as a result of efforts by municipal treatment facilities and MS4 permittees. This would allow time to ensure that public funding is available to undertake the monitoring program, to reevaluate the testing required and to understand how the data will be processed and interpreted. A delay of two years before initiating the ambient monitoring program will also allow municipalities to enter into the necessary agreements along with the organization of a science advisory panel for the specific purpose of reviewing, updating and modifying the monitoring program to best ensure that state water quality standards are being achieved and will enable municipalities to determine whether they can contribute funding for the ambient monitoring program. Given the economic hardships that municipalities will be facing as a result of the COVID-19 pandemic, it is appropriate to defer imposition of additional costs on Great Bay municipalities.

More importantly, deferring the ambient monitoring program for two or more years will allow the State to develop legislation which will help municipalities in the Great Bay watershed reduce nitrogen levels. For example, state legislation could further strengthen shoreland and wetland protection ordinances in Great Bay municipalities to minimize point and nonpoint source nitrogen runoff. The State should pass legislation restricting fertilizer use. The State could develop septic system regulations similar to Title V in Massachusetts which would require upgrading of septic systems adjacent to waterbodies upon sale of the property. All of these legislative initiatives would help reduce the large percentage of nitrogen loading which is not attributable to wastewater treatment facilities and much of which is currently unregulated.

Part 3, Item 3.2 – Regarding When an Individual NPDES Permit for Nitrogen Discharges May be Requested

Comment: This paragraph states that any request for an individual permit shall be provided “...with reasons supporting the request...”. There is no further definition of what reasons would need to be described in this request and there is no reference in 40 C.F.R. Section 122.28(b)(3)(iii) supplying a justification for this type of request. This item is of particular importance to Portsmouth due to the burden of cost sharing that Portsmouth is obligated to pay under the Draft Permit, if, in spite of no legal authority to do so, EPA retains the mandatory Adaptive Management Ambient Monitoring Program described in 2.3. Although it is not clear from permit language, Portsmouth’s share of the cost of that program would likely be proportionally higher each time a municipality was granted an exclusion from the Draft Permit.

In addition, Portsmouth points out that if a permittee elects to proceed under an individual permit, the development of a permit application typically takes longer than 90 days to accomplish. So, while the 90-day window for submitting an NOI after the effective date is reasonable, it is not reasonable to assume that a complete permit application can be developed and submitted in that time frame particularly if the municipality needs to obtain the assistance from an engineering firm selected by competitive means.

Recommendation: Provide a summary of the major categories of reasons that would need to be addressed as part of any request for an individual permit or additional narrative on this item. Consider inserting a longer time frame, such as 120 days, pursuant to which an individual

permit application could be submitted.

General Permit NHG58A000 Appendix II: Optional Non-Point Source and Stormwater Point Source Nitrogen Reduction Summary

Comments specific to the General Permit are further supported by Exhibit C Memo from VHB to City of Portsmouth Regarding Preliminary Assessment of NPS Controls Needed to Meet EPA's Draft GBTN GP.

Comment: Appendix II sets forth an optional pathway in which permittees could elect to participate to meet water quality goals without additional costly upgrades to the WWTFs. Under the terms of this section permittees would be required to develop a Nitrogen Control Plan (NCP) that would outline a phased approach of implementing various NPS and stormwater control measures to ultimately reduce their existing baseline nonpoint source and stormwater nitrogen load by 45% over a 23-year period. That implementation would be tracked and adjusted as needed over time to meet the target.

Portsmouth has extensively reviewed opportunities within the municipal boundaries to reduce overall nitrogen loads from non-point sources and stormwater point sources. The Portsmouth study concluded that the goals as set forth in the Draft Permit are highly unlikely to be achieved. In order to get close, Portsmouth would have to require significant regulation of private property, treat stormwater from nearly all of the directly connected impervious area in Portsmouth, and install advanced septic treatment technologies, structural and non-structural technology application as well as significantly expand Best Management Practices (BMPs). The initial calculations show that when factoring in the loads that cannot be effectively managed (atmospheric deposition, etc.) Portsmouth needs to reduce the manageable load by 53%, a value higher than the 45% listed in the Draft Permit. This will require Portsmouth to offset its loads using the WWTFs as part of its NCP. While this offsetting of the loads using Portsmouth's Peirce Island WWTF, and particularly its new Biological Aerated Filter (BAF) is manageable, Portsmouth is at risk of needing to impose a moratorium on development in the latter years of the NCP as flows to the WWTF increase toward the design capacity and/or implementing stringent controls on dischargers with high nitrogen. This is especially important when certain types of nitrogen from industrial dischargers cannot be removed in a municipal wastewater treatment facility. This is referred to in the wastewater industry as recalcitrant nitrogen and generally believed to be not bioavailable in the natural environment (i.e. Piscataqua River/Ocean).

Portsmouth's stormwater consultant, VHB, prepared an analysis for Portsmouth that explains the difficulty of achieving the target load reduction described in the Draft Permit. Despite EPA's claims that they believe much of the load reduction target could be achieved through nonstructural measures, the VHB analysis clearly shows that this is not the case given the known current performance curves which indicate that nonstructural measures would produce limited load reduction credits. The maximum load reduction credit associated with good housekeeping measures including street sweeping, catch basin cleaning, and leaf litter control was estimated to be 3,100 lbs N/yr but that assumes that 60% of the impervious connected area is Portsmouth owned.

EPA has also suggested communities could impose local fertilizer bans. As discussed elsewhere in this comment, eliminating the use of lawn fertilizer is highly unrealistic unless a

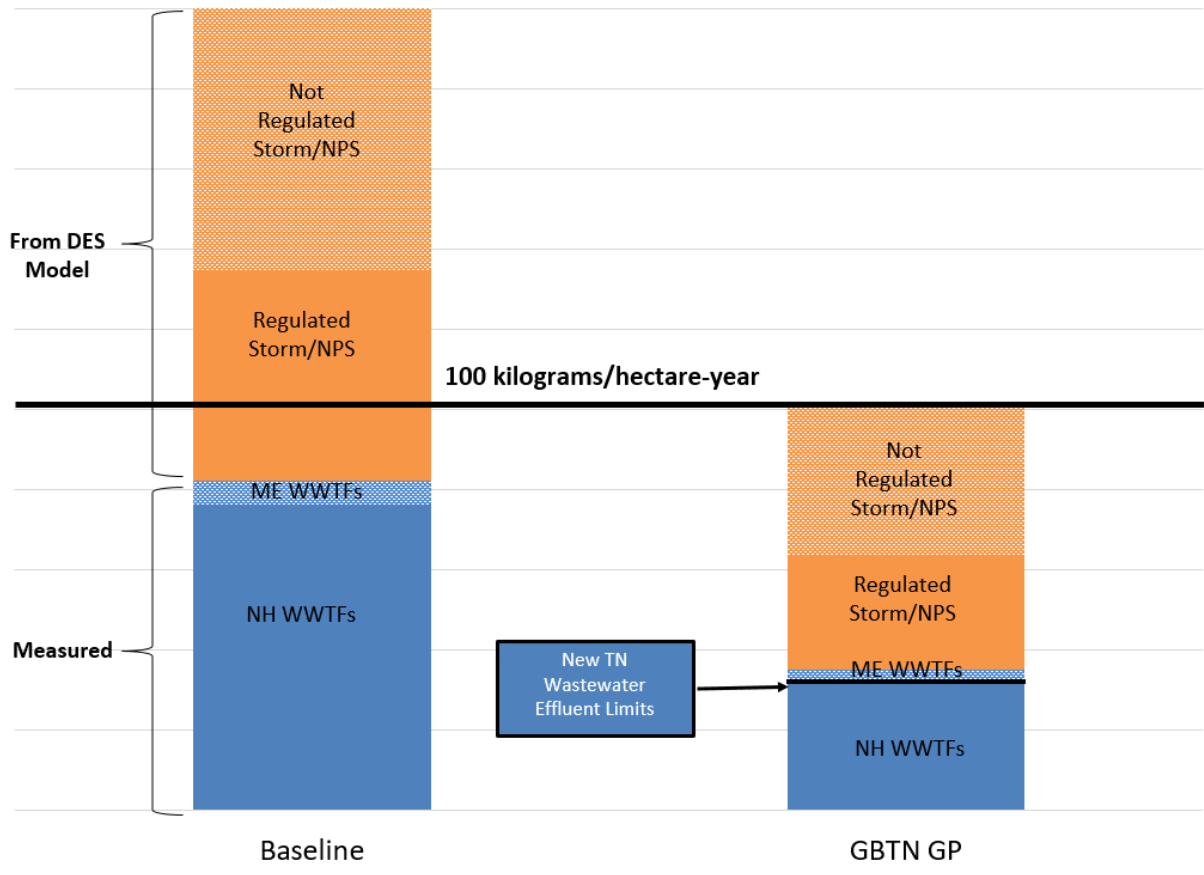
statewide or regional legislation limits fertilizer use. But even if Portsmouth could somehow eliminate the estimated nitrogen load associated with lawn fertilizer use (~16,200 lbs N/yr), Portsmouth would still need to come up with approximately 5,200 lbs N/yr of additional load reduction. In order to achieve this additional load reduction Portsmouth would still need to implement stormwater retrofits for most of the existing impervious area, including privately-owned land. Retrofits for privately owned land is problematic because while it can be done through land controls on development and redevelopment, it assumes that such private activity is taking place.

Other permittees have reached similar conclusions regarding the difficulties and costs achieving the applicable target load reductions. See City of Dover and City of Rochester comments.

Representatives of the Conservation Law Foundation (CLF) who attended the public hearing on this Draft Permit described a report being prepared by their expert Dr. Rob Roseen relative to stormwater and NPS measures that could be undertaken to achieve the target. Portsmouth requested that the report be shared when available so that the City could evaluate opportunities and data that it may have overlooked in evaluating the potential effect of the target set in the Draft Permit. CLF indicated that the report would not be available for third party review until submitted as part of the public comment. Portsmouth looks forward to reviewing the report and any additional information which might suggest a route to compliance.

Based on the information currently available to Portsmouth it seems apparent that the ultimate goal of achieving 100 kg/ha-yr loading stands little likelihood of being achieved without the participation of all municipalities in the watershed and huge investments on the part of permittees. This is most apparent when reviewing the non-point source and stormwater point source loads that are not regulated under this permit. The graph below demonstrates the currently proposed split of regulated and unregulated point and non-point source loads to the estuary. Nearly half of the non-point source and stormwater point source nitrogen loads are not regulated under the permit structure. Further within the regulated NPS and stormwater TN loads there are categories of loads that cannot be directly impacted by the municipality such as the atmospheric deposition TN load. It has been communicated by DES and EPA that the atmospheric deposition TN load trends are likely downward and that the appropriate credit will be given, but the permittees have no control over regulations or other factors affecting the atmospheric loads.

Figure B Loads Regulated Under the Draft Permit



By forcing stormwater improvements to center around those structural and non-structural technologies that are optimized for nitrogen removal there is a loss in the greater benefit that may be achieved by lesser cost technologies that would help to eliminate suspended sediments, colored dissolved organic matter (CDOM), and other pollutants. As has been pointed out by Portsmouth and some of the other communities to EPA and NHDES over the years, excessive suspended solids and CDOM appear to be a significant contributor to Estuary health as is evident by historical high rain events. Permit compliance is at the forefront of municipal infrastructure planning and the emphasis on nitrogen removal is likely to be impactful in the design of stormwater and non-point source features. Portsmouth points out by way of example that in Long Creek, South Portland, ME where very specific well-designed structural and non-structural stormwater improvements were implemented over a five-year period, some nutrient reduction has been achieved, but Long Creek remains in noncompliance as a result of other compounding issues such as metals and chlorides.

In the earlier part of these comments, the City of Portsmouth has advocated for higher effluent TN loadings for the WWTFs in this permit. As a result of that request, and in order to achieve the targeted 100 kg/ha-yr watershed TN loading, Portsmouth calculated (See Exhibit A) that the 45% reduction in NPS and stormwater point source loads would need to increase to 74%. This may appear contradictory to the overall approach because a number of communities, including Portsmouth, believe it will be hard to even achieve a 45% reduction so suggesting more would be that much harder to achieve. The approach here, however, is to provide flexibility to the

community to electively choose how to manage the overall reductions in TN from both the point source WWTFs and the NPS and stormwater TN loads as a whole as part of the NCP. This acknowledges that in a number of cases, communities will likely have to use their WWTF as a means to achieve the NCP by taking credit for nitrogen removed at the WWTF. In some cases, this may require the community to upgrade their WWTF in order to remove enough nitrogen to accomplish their TN removal goals because not all TN removal can be achieved through NPS and stormwater PS. In this way, the loads originally established by the EPA for the WWTFs will eventually be achieved. In the near term, however, the higher loadings proposed by the City of Portsmouth will prevent communities from having to upgrade their WWTFs in the near term, avoid unintended consequences of triggering anti-backsliding provisions of the Clean Water Act, allow for state wide legislation to be put in place to help NPS and stormwater PS reduction, permit development of better science on stormwater TN treatment, and provide the communities the flexibility to select their own approach to meet the overall TN reductions.

The last paragraph of Appendix II is a reopener clause indicating that if the NPS and stormwater efforts are not satisfactory "...more stringent nitrogen effluent limits for the WWTFs..." will be necessary. Portsmouth believes it is critical to the success of this permit that the WWTF limits would only be reduced after all contributors to the watershed were appropriately engaged, through regulation or otherwise, in the effort to reduce nitrogen discharges to the estuary. Please refer back to Figure B demonstrating that the goal cannot be achieved without all municipalities in the watershed (in New Hampshire and Maine) taking part. It is an unfair burden for these twelve municipalities to have in addition to the WWTF TN limit reductions. This would result in additional capital costs and economic impact to a small fraction of the overall problem, further encourage sprawl by shifting growth to communities that are not regulated by the Draft Permit and essentially undermine the environmental goal for the Great Bay Estuary.

The EPA has many regulatory options at its disposal. For example, EPA could invoke its residual designation authority pursuant to 40 CFR 122.26 to regulate otherwise unregulated point source discharges of stormwater into Great Bay. These discharges could be regulated based on land area contributing to the stormwater flow or some other metric. This would help to reduce nitrogen inputs that are otherwise unregulated and require those municipalities to begin implementing controls that are within their authority. Without reducing these currently unregulated point source discharges of stormwater it is placing an undue and continuing burden on municipal wastewater treatment facilities who only contribute a small portion of the total load.

Portsmouth is not advocating for EPA to exercise its residual designation authority at this time. Portsmouth has long expressed its view that residual designation authority would wrest land use control from local communities, a proposition that is generally antithetical to traditional New Hampshire values. In addition, residual designation authority would likely strictly limit growth opportunities within the watershed as a whole. That being stated, given the target and what the permittees currently anticipate relative to the challenge of achieving the 100 kg/ha-yr target, it is not unreasonable to assume that such a step is in the mid-to-long term forecast. Portsmouth further points out that stakeholders have the authority under the Clean Water Act to trigger such residual designation authority under appropriate circumstances.

Recommendation: Hold, Measure and Evaluate

As EPA is well aware, there have been upgrades to multiple wastewater treatment facilities within the Great Bay Estuary in the last five years. Those upgrades have reduced the amount of nitrogen discharged into the system. In addition, the Portsmouth Peirce Island Wastewater Treatment Facility's new Biological Aerated Filter (BAF) system is in operation and nitrogen removal is occurring and is expected to improve as the temperatures warm and the system matures. The effect of these wastewater facilities' improvements throughout the Estuary should have an opportunity to be realized before significant effort is undertaken to sample, plan, and undertake additional non-point source and stormwater nitrogen control measures beyond what is already required by each of the permittee's MS4 obligations. This hold, measure, and evaluate approach is step one in a true adaptive management framework.

Under this hold, measure, and evaluate step, the best-management practices that are already underway in each MS4 regulated community will continue. Meanwhile, NHDES, EPA, and PREP can elect to continue their baseline water quality monitoring work, and the permittees could begin to recreate a voluntary collaborative structure with NHDES and EPA to establish a robust sampling and monitoring program and to evaluate the nitrogen load target and other estuary stressors as well as to engage other stakeholders in the Estuary both in New Hampshire and Maine. This hold, measure, and evaluate period will also provide time for the permittees to advocate for state legislative changes to improve water quality in the watershed.

Among the one legislative change that would likely benefit the watershed is greater oversight and regulation of septic systems. The NHDES could, at a minimum, be authorized to require the inspections of existing septic systems, at the time the property is sold. This would reduce the number of perceived functional systems that are either short circuiting to the groundwater or have otherwise failed unknowingly so that they are required to be replaced or reconstructed. A statewide ban on the use and sale of high nitrogen fertilizers would also be a potential vehicle for meaningful change. Local ordinances banning fertilizer are unlikely to be successful as residents would still be able to purchase lawn fertilizer from retailers in neighboring towns and states, and thus, the effectiveness of such of an ordinance would be limited. Moreover, a statewide ban would send a more significant and meaningful signal to users than a local ordinance.

During the second five year permit term, the commencement of NCP efforts by each permittee is more appropriately taken. Undertaking this effort at a later date after a hold, measure, and evaluate period brings the permit structure into better alignment with a true adaptive management effort. It will also allow for further review and development of nitrogen removal technologies and more thorough vetting and evolution of the performance curves of the technologies.

As part of the hold, measure, and evaluation process, the scope of work for the ambient water quality monitoring plan could be revisited and adjusted as necessary. As written, the scope of work is set for the duration of the permit. It is unlikely that EPA would reopen the five-year general permit to change or adjust the water quality monitoring plan. It is common in this type of analytical work that the scope and limits of the work get adjusted as data is obtained, conditions in the water body change over time, or data is needed to answer new or different scientific questions. Without the ability to change and modify the water quality monitoring program, opportunities are lost for efficiencies (e.g. no longer testing parameters that do not change) and

for adding parameters that might be important as a result of changed conditions determined through previous observation and measurement. Portsmouth refers to and incorporates Brown & Caldwell's Technical Memorandum: Great Bay Total Ambient Monitoring Program Comments and Recommendations which is attachment 20 to the City of Rochester Comments to support this statement.

The City of Portsmouth believes establishing a Science Advisory Board (SAB) would allow for adjustments to the ambient water quality plan and that this could be done during the term of an active or administratively extended permit if properly structured in the General Permit. The SAB would also provide the communities an opportunity to request consideration of other water quality and estuary health test parameters or reduction in the water quality parameters to be measured but only if such requests are based on scientific data and subject to close scientific scrutiny.

Portsmouth strongly recommends that one primary charge of an SAB be to identify a model(s) that could be calibrated to the collected water quality data and to hydrodynamic data. The calibrated model could be used to predict water quality under different future scenarios. This approach would help direct the communities' efforts to achieve the overall goals most efficiently.

There are likely many examples where a model could be used for this Draft Permit. One example is the Massachusetts Water Resource Authority Permit where collected water quality data is reviewed annually by the EPA and state agency and new studies and monitoring parameters are added. The permittee is able to request adjustments to the parameters and the required studies. Obviously, the permittee needs to justify those requests with scientific data, literature, etc. The permittees' requests are further subject to public comment. This back and forth is done under the consultancy of a SAB that conducts peer reviews, evaluates monitoring data and advises the agencies on the implications of data, and proposed modifications to the monitoring plan. The science advisory panel identifies warning levels, and the potential causes. Portsmouth believes this type of model, modified for the Great Bay Estuary and this Draft Permit, would be beneficial if the participation and the allocation of costs is distributed across all stakeholders.

The timeline for the NCP planning and implementation effort should be redrafted to reflect the Hold, Measure, and Evaluate period.

Recommendation: Additional Specific Items

If a mandatory water quality monitoring program is included in the permit, over objection, it should include an SAB as described above to adjust the monitoring plan and develop models to efficiently reach the management goal.

Include Additional Supporting Baseline Load Data.

Comment: Appendix II contains the Optional Non-Point Source and Stormwater Point Source Nitrogen Reduction Pathway and sets targets based on the original municipality specific baseline, which is defined based on the NHDES 2014 Great Bay Nitrogen Non-Point Source Study. The municipality specific baseline data is not included in the Draft Permit or Fact Sheet.

Recommendation: Please include the baseline NPS and stormwater TN load for each community normalized for rainfall and broken down into the major load categories (human waste, animal waste, atmospheric deposition, fertilizer) with the date that baseline was established. This data will be useful and further inform the specific numeric reduction that needs to be achieved as part of the NCP.

Clarify Credits for BMPs and other MS4 Nitrogen Removing efforts

Credit should be provided under the Draft Permit for nitrogen removal efforts conducted by the municipalities under the NPDES MS4 Permit.

Clarify Credits for Communities with Combined Sewer Overflows (CSO)

The methodology for addressing stormwater does not appear to account for CSO communities like Portsmouth and Exeter (the only 2 of the 12 affected NH communities). Please clarify how CSO nitrogen inputs are addressed in the permit and how compliance towards a Long Term Control Plan (i.e. sewer separation, illicit connection removal, etc.) is accounted for under the optional pathway.

Clarify That Credit Is Available for Work Performed Outside of Municipal Boundaries

A number of communities have already determined that achieving the proposed non-point source and stormwater point source nitrogen reductions will not be feasible within the confines of their communities without significant reductions in the uncontrolled loadings (e.g. atmospheric deposition, fertilizer, etc.). Outlining additional options to those municipalities would be beneficial for the municipalities. These options may include constructing projects in another community in the watershed, a program of nitrogen credits and trading and/or establishing a watershed wide bank where communities can buy-in to credits.

The general permit should describe and confirm that opportunities and options for stormwater management exist for work undertaken by a community outside its municipal boundaries.

Clarify Process for Updating TN Performance Curves

The optional pathway relies heavily on the TN removal performance curves in Appendix F, Attachment 2 to the NPDES MS4 Permit for NH. EPA, NHDES and UNH Stormwater Center personnel have stated on multiple occasions that the removal credits for NPS and stormwater TN reduction controls will change over time as additional research is conducted, new technologies are added, and as nonstructural and BMP type measures are better understood.

Portsmouth requests that EPA clarify the mechanism to include updated TN removal performance curves in this permit or the MS4 permit. Please define the process by which updated performance curves will be developed, validated, accepted and available for applying credits under the confines of the optional pathway for the GBTN GP.

Confirm New Hampshire Department of Transportation Coordination

Portsmouth's land area is made up of the following: 6% NHDOT roadway right-of-way, 7%

Portsmouth roadway right-of-way, 16% Portsmouth owned parcels and 71% private land area. These ratios are generally consistent with a number of other communities in the watershed.

Please confirm whether Portsmouth and other communities can take credit for NPS and stormwater PS improvements completed by the NHDOT. Also, please confirm that the NHDOT will be regulated as part of the Draft Permit so as to not be able to increase TN loads as part of projects under current rules.

Develop a Credit for the Extension of Public Sewer Service

One of the major pathways to achieve non-point source nitrogen reduction is by lowering the human category contribution through septic system conversion or septic system elimination by extending sewer systems. Conversion of conventional septic systems to nitrifying septic systems may be an option for some municipalities, but for Portsmouth, it is more attractive to extend the sewer system due to the housing density, proximity to water bodies and extent of the existing system. In addition, bringing all wastewater flows to a single point for treatment allows flexibility to adjust to evolving regulatory changes. The Draft Permit structure, however, with a set annual load does not encourage adding flow to the WWTFs. For instance, Portsmouth is able to extend its sewer system into Rye and Greenland under franchise agreements, but this would increase the flow to the WWTF which would not be desirable under this permit structure. Increasing the flow requires the treatment facility to achieve more nitrogen reduction each day of operation. The unintended consequence of this particular scenario is that sewer system extensions are unlikely to occur from Portsmouth and these extensions would be into areas that are immediately adjacent to the estuary (many w/in 200 meters). There should be an offset built into the permit structure that encourages sewer system extensions.

Evaluate the Opportunity to Develop a Credit for the Conservation of Land

Portsmouth recommends that consideration be given for the acquisition in fee or easement for land that is held in conservation.

Clarify Reopener Clause for Compliant Permittees

Please clarify that if a permittee is meeting its NCP targets and WWTF limits that the reopener clause will not be used by EPA to impose further limits and lower targets for the compliant permittee if/ when other permittees or watershed contributors fail to meet their limits, targets or goals.

General Permit NHG58A000 Fact Sheet:

EPA and NHDES have posited that the overall nitrogen load to the Great Bay should be no more than 100 kg/ha-year in order to restore eelgrass beds within the Estuary. This determination is preceded by over 10 years of dispute between regulators and the Great Bay Municipal Coalition, which included Portsmouth, regarding the role of Nitrogen in the system, the cause of eelgrass and other losses in the Estuary, and the means to achieve recovery, or at least resiliency, in the face of stressors such as climate change. Portsmouth remains concerned that EPA and NHDES have failed to invest in the scientific effort needed to best regulate pollutants in the Estuary and disagrees, based on the evidence to date, that 100 kg/ha-year is the appropriate target. Portsmouth expressly reserves its right to rely on any and

all arguments and data set forth in the comments submitted by Dover and Rochester.

That stated, Portsmouth anticipates deferring to the agency's decision on the appropriate target if it appears in the best interest of Portsmouth to do so.

Request for Compliance Schedule

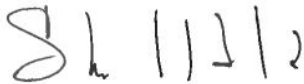
If the effluent load limits for Table 2 are not adjusted in the final permit, the Pease WWTF will very likely be unable to meet the annual average effluent total nitrogen limit at the potential future projected flow of 1.77 mgd without an upgrade and Portsmouth will require a compliance schedule for that facility. EPA should explicitly provide for such compliance schedule in the general permit as provided in ENV-Wq 1701.03.

Reservation of Rights

There are several documents noted in these comments that were not available prior to the comment deadline or are in the process of being completed. The City of Portsmouth reserves its rights to supplement its comments based on documents that were not available.

The City of Portsmouth appreciates the thought EPA and NHDES have put into providing this innovative total nitrogen general permit and reiterate Portsmouth's commitment to the health of the Great Bay Estuary.

Sincerely,



Suzanne Woodland
Deputy City Attorney



Terry Desmarais, P.E.
City Engineer

ec: Karen Conard, City Manager
Peter Rice, Director of Public Works

Exhibit A Proposed Adjusted Loads and Concentration Calculations

Table A1: Proposed Loadings

City/Town	Table 2 DRAFT Permit: TN Load (lbs/day)	Table 3 Fact Sheet: 2012-2016 Flow (MGD)	Calculated Equivalent Concentration (mg/L)	Design Flow (MGD)	Adjusted Load Based on Design Flow (lbs/day)	Table 4 Fact Sheet: Delivery Factor (%)	Proposed Actual Load to GBE (lbs/day)
Rochester	198	2.97	8.0	5.03	335.3	75.56	253.4
Portsmouth	269	4.03	8.0	6.13	409.2	100	409.2
Dover	164	2.46	8.0	4.70	313.3	100	313.3
Exeter	108	1.61	8.0	3.00	201.2	100	201.2
Durham	60	0.9	8.0	2.50	166.7	100	166.7
Somersworth	96	1.44	8.0	2.40	160.0	100	160.0
Pease ITP	87	0.64	16.3	1.20	163.1	94.94	154.9
Newmarket	35	0.52	8.1	0.85	57.2	100.00	57.2
Epping	37	0.25	17.7	0.50	74.0	58.20	43.1
Newington	16	0.11	17.4	0.29	42.2	100.00	42.2
Rollinsford	12	0.08	18.0	0.15	22.5	98.96	22.3
Newfields	16	0.09	21.3	0.12	20.8	100.00	20.8
Milton	11	0.07	18.8	0.10	15.7	65.70	10.3
Total NH (lbs/d)	1109.0				1981.3		1854.5
Total NH (kg/ha-yr)	33.8				60.3		56.5
Communities below this line are not regulated in this permit but are needed to calculate total estuary load							
Kittery	60	0.9	8.0	2.5	166.7	100.00	166.7
Berwick	29	0.21	16.6	1.1	151.9	94.55	143.6
North Berwick	47	0.31	18.2	1	151.6	51.56	78.2
South Berwick	14	0.28	6.0	0.567	28.4	100.00	28.4
Total ME	150.0				498.5		416.8
Total ME (kg/ha-yr)	4.6				15.2		12.7
Total (lbs/d)	1259.0				2479.8		2271.3
Total (kg/ha-yr)	38.3				75.5		69.1

Table 1a Notes:

1. Calculated concentration varies marginally from those shown in Fact Sheet Table 3 due to rounding

Table A2: Proposed Reductions in Estuary Wide TN Load by Source

	Fact Sheet p 28: Baseline Loads 2012-2016 ¹	Draft GBTN GP Loads (kg/ha-yr) ²	Draft GBTN GP Reduction (%)	Proposed Loads (kg/ha-yr)	Proposed Reduction (%)
Total Estuary	199.71	100	50%	100	50%
WWTF	82.71	35.4	57%	69.1	16%
NPS and Storm	117.00	64.6	45%	30.9	74%

Table 1b Notes:

1. Fact sheet p. 26, first paragraph, references the total load to the estuary as 189.3 kg/ha-yr with NPS and PS stormwater contributing 106.6 kg/ha-yr. The NPS and PS storm is later normalized to inches rainfall (p 28, para 3) at a ratio of $45.2/40.9=1.1051$ to 117 kg/ha-yr. The total of 199.71 shown above is not found in the Fact Sheet.
2. WWTF loads after applying delivery factor - represents load delivered to estuary not at the end of pipe.

Exhibit A Proposed Adjusted Loads and Concentration Calculations

Table B1: Annual Average Concentration Equivalent for Seasonal TN 3 mg/L

Month ¹	Typical Effluent TN Concentration (mg/L)
J	10
F	10
M	5.5
A	3.5
M	3.5
J	3
J	3
A	2.5
S	2.5
O	3
N	10
D	10
Ave	5.5

Table B1 Notes:

1. Growing season in yellow

Table B2: Facilities At Or Below 5.5 mg/L (Equivalent Seasonal TN 3 Mg/L) With Design Q and DRAFT GBTN GP TN Load

City/Town	Table 2 DRAFT Permit: TN Load (lbs/day)	Design Flow (mgd)	Calculated Equivalent Annual Average Concentration (mg/L) ³
Rochester	198	5.03	4.7
Portsmouth ¹	269	6.13	5.3
Dover	164	4.7	4.2
Exeter	108	3	4.3
Durham	60	2.5	2.9
Somersworth	96	2.4	4.8
Pease ITP ¹	87	1.2	8.7
Newmarket	35	0.85	4.9
Epping	37	0.5	8.9
Newington	16	0.29	6.6
Rollinsford	12	0.15	9.6
Newfields	16	0.117	16.4
Milton	11	0.1	13.2
Portsmouth/Pease ¹	356	7.33	5.8
Portsmouth/Pease @ 1.77 MGD ²	356	7.9	5.4

Table B2 Notes:

1. Portsmouth and Pease are bubbled for a total of 356 lbs/d. Calc shown at bottom of table
2. Pease NPDES request for increase in capacity from 1.2 MGD to 1.77 MGD in process
3. Green highlight indicates that with DRAFT GBTN load and at design flows, the concentration that needs to be achieved on annual basis is equal to or less than a typical seasonal TN 3 mg/L permit



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**Exhibit B Letter from AECOM to City of
Portsmouth Regarding Comments on the
Draft Great Bay Total Nitrogen General
Permit**

J-60323328

February 25, 2020

Mr. Terry Desmarais, P.E.
City Engineer
Department of Public Works
680 Peverly Hill Road
Portsmouth, NH 03801

Subject: Review of Draft NPDES Great Bay Total Nitrogen General Permit for Wastewater Treatment Facilities in New Hampshire

Dear Mr. Desmarais:

In response to your request, we have reviewed the Draft NPDES Great Bay Total Nitrogen General Permit for Wastewater Treatment Facilities in New Hampshire and associated documents that were issued by the EPA on January 7, 2020 and provide the following background, comments and questions for your consideration.

Existing Portsmouth NPDES Permits Nitrogen Limits Overview

EPA has been discussing imposing effluent total nitrogen limits for wastewater treatment facilities (WWTFs) discharging to Great Bay for a number of years. Typically, total nitrogen limits have been added to each WWTF's NPDES permit, as was done in 2012 with Exeter and Newmarket where each WWTF received an effluent monthly average total nitrogen limit of 3.0 mg/l, required from April 1 – October 31.

EPA issued the current NPDES permit for the Peirce Island WWTF in 2007, and it expired in 2012, but it has been administratively continued as no new permit has been issued. As recently as July 2012, EPA had notified the City that a monthly average total nitrogen limit of 8 mg/l should be expected in the next NPDES permit that was being drafted. No draft individual permit has been issued for the Peirce Island WWTF to date.

Current nitrogen limits for the Peirce Island WWTF are contained in the second Consent Decree Modification that was executed by the City and EPA in the Fall of 2016. The Second Modification requires, for a five-year period beginning June 1, 2020, that "a seasonal average total nitrogen effluent concentration level no greater than 8 mg/l from May 1st through October 31st of each year, and a monthly average total nitrogen effluent concentration level no greater than 8 mg/l from June 1st through October 31st of each year" be achieved.

The Pease WWTF NPDES permit was issued in 2000, and it expired in 2005 but it has been administratively continued as no new permit has been issued. There are no effluent total nitrogen limits in the current permit for the Pease WWTF.



Mr. Terry Desmarais, P.E.
February 25, 2020
Page 2

2020 DRAFT General Permit Overview

The Draft NPDES Great Bay Total Nitrogen General Permit for Wastewater Treatment Facilities in New Hampshire that was issued on January 7, 2020 imposes effluent limits for the 13 WWTFs in NH discharging to the Great Bay Estuary but does not include the 4 Maine WWTFs that discharge to the bay. The limits are mass based, with an annual load limit in pounds per day that is based on a 12-month rolling average reported monthly. Portsmouth is unique among the 13 WWTFs in that it is the only community covered by the draft General Permit with 2 WWTFs. The draft permit does appear to offer the City some additional flexibility in that compliance with the permit limits for Portsmouth is based on the sum of the discharges from both WWTFs compared to the total load allocation for both WWTFs of 356 pounds per day of total nitrogen. This combined limit for both WWTFs would provide an opportunity to consider the ability of the Peirce Island WWTF to potentially achieve a higher level of nitrogen removal than at the Pease WWTF and offset the required level of nitrogen reduction at the Pease WWTF, since the Peirce Island WWTF has the greater ability to remove nitrogen. This is more significant when the difference in size of the two WWTFs is considered.

The draft permit however has several other aspects that are significant. For each WWTF, within 12 months of permit issuance, a Nitrogen Optimization Plan (NOP) is to be prepared and implemented to optimize the nitrogen removal capability of each WWTF. The NOP requires reducing the discharge of nitrogen to the extent practicable. The City would be required to certify annually that both WWTFs are in compliance with the NOP and update the NOP if any changes are made to each facility affecting nitrogen removal.

The draft permit also requires the permittees covered by the permit to participate in a significant ambient receiving water and benthic monitoring program that includes Head of Tide monitoring at 8 locations twice monthly to characterize nitrogen loads to the Great Bay estuary; monthly water quality sampling and monitoring during 9 months of the year at 17 stations in the estuary; annual Sediment Profile Imaging and benthic sampling at 100 stations in the salt water portion of tributaries and the estuary; and aerial mapping of eelgrass and biological data collection in 22 Assessment Zones in tributaries and the estuary. An annual report on the monitoring program results is also required. The cost for this monitoring program is to be shared among the 12 communities included in the permit, with the cost for each community proportional to the design flow of the affected WWTFs as a percentage of the total design flow of all WWTFs covered by the permit. The design flow for all 13 WWTFs is not presented in the draft permit or in the associated Fact Sheet but using the 2012-2016 average daily flows for all affected WWTFs that are included in the draft permit Fact Sheet, Portsmouth's two WWTFs represent 4.94 mgd out of the total 15.17 mgd, or approximately 33 percent. Using the WWTF design flow data that was provided to the City previously by EPA, Portsmouth's two WWTFs represent approximately 27 percent of the total. Regardless of the final percentage, the City would have the largest share of the monitoring program cost out of all the affected communities.

Lastly, and probably most significantly, the draft permit includes an appendix with an Optional Non-Point Source and Stormwater Point Source Nitrogen Reduction Pathway. This is being offered by EPA in response to feedback from the Great Bay municipalities which "expressed a preference to invest in non-point source and stormwater point source nitrogen reductions before significant additional WWTF upgrades" according to the permit. If the City elects to follow this optional

approach, then a stormwater pollution database program called Pollution Tracking and Accounting Program (PTAPP) developed and maintained by the UNH Stormwater Center will be used to track changes implemented in the City that affect stormwater management and the nitrogen mass loading to the bay. Changes can be reductions realized by implementation of improved stormwater management of existing systems to reduce nitrogen mass loading, or changes could be additional stormwater that results from additional development over time which could increase the nitrogen mass loading from stormwater.

By electing to follow this optional pathway, the City would also agree to developing and implementing a Nitrogen Non-Point Source and Stormwater Point Source Control Plan in phases: a 1 year near term plan, a 3-year plan, an 8-year plan, a 13-year plan, and an 18-year plan. Each phase has a detailed list of required information for each plan and an assigned required level of non-point source control that is tied to the NHDES 2014 *Great Bay Nitrogen Non-Point Source Study* and the estimated non-point source total nitrogen mass loading presented. In that report, the City's total nitrogen baseline mass loading from stormwater and non-point sources was listed as 55,899 pounds per year, or approximately 153 pounds per day. As described in the Fact Sheet, the nitrogen baseline mass loading was then normalized to the average annual rainfall from 1988 - 2017. The required reduction in nitrogen loading in the draft permit is expressed in percent reduction of the normalized baseline nitrogen mass loading, with a 45 percent reduction required to be achieved 18 years after permit issuance. Although not stated in the draft permit, based on data previously provided to the City by EPA, the 45 percent reduction appears to translate to a requirement to remove 58 pounds per day of nitrogen from stormwater and non-point sources.

The intent of the inclusion of the optional approach appears to be that it may be less costly to address non-point and stormwater sources of nitrogen than to upgrade (and operate) the WWTFs to remove additional nitrogen from the wastewater carried in the treated effluent. EPA notes that if a municipality follows the optional approach and nitrogen reductions do not allow the current water quality standards to be achieved in the specified timeframes, then further, more stringent, nitrogen reductions will be required.

The draft permit also states that a municipality can request to be excluded from the coverage of this general permit by applying for an individual permit which would include limits on total nitrogen. The draft permit does not indicate what the criteria for exclusion is, and only notes that exclusion shall be granted if the reasons cited are adequate to support the request. It is not clear what nitrogen limits would be imposed by EPA if such a request were submitted and granted.

The optional Non-Point Source and Stormwater Point Source Nitrogen Reduction Pathway presented in Appendix II does not appear to really be optional. Attached is the handout from the February 19, 2020 Public Hearing held by EPA and NHDES on the draft permit. As the chart in the lower left corner of the first page of the handout shows, the target total nitrogen load reduction for the General Permit is comprised of the WWTF loads and the non-point source and stormwater loads. Reductions in both sources of nitrogen are required to meet the 100 kg/ha-yr areal loading target level. If the City was to forgo taking any action on the "optional" non-point source and stormwater loads, it is clear from the chart in the handout that the WWTFs would then need to further reduce effluent total nitrogen to offset the shortfall. The draft permit and fact sheet do not clearly state if the "optional" Non-Point Source and Stormwater Point Source Nitrogen Reduction Pathway is not followed, that the WWTFs

will be required to reduce additional total nitrogen to offset the shortfall, only noting on page 31 of the Fact Sheet that if the “activities described above are not carried out and water quality standards are not achieved, EPA may reopen the General Permit....and incorporate any more stringent nitrogen effluent limits for the WWTFs necessary to ensure compliance with water quality standards”. EPA should clarify that if the City did not follow the “optional” Non-Point Source and Stormwater Point Source Nitrogen Reduction Pathway, whether the WWTF allowable level of total nitrogen would be further reduced to offset the shortfall. This would allow the City to make an informed decision on the right strategy for the City on compliance with the General Permit.

The approach for the optional Non-Point Source and Stormwater Point Source Nitrogen Reduction Pathway presented in Appendix II to the Draft Permit relies heavily on the PTAPP database developed and supported by UNH. PTAPP is a tracking and accounting model for pollutant load reductions achieved through various non-point source (NPS) control projects. On page 11 of the 2014 NHDES Great Bay Nitrogen Non-Point Source Study, it is noted that the PTAPP model was validated as follows:

“The model output was validated using measurements of nitrogen loads from the eight major tributaries to the Great Bay Estuary. PREP (2012) used the most recent monthly data (2009-2011) on nitrogen concentrations at the head-of-tide to calculate the total nitrogen load from nonpoint sources in each of the eight major watersheds. These three years had yearly rainfall between 53.1-64.8 inches per year. The NLM was run for these same watersheds. The model predictions were then compared to the measured loads to determine the accuracy of the model.”

However, the model validation comparisons are not presented in the report, providing no definition of the accuracy of the model. Typically, in reports such as this, the model validation data and correlation with measured data are presented to allow the user to understand the accuracy of model. On page 14, it is again noted that the model input data “chosen values were validated by comparisons to other studies to ensure accuracy”. No information on the validation comparison is presented.

The lack of validations documentation is of importance here as according to the Draft permit, this PTAPP model is to be used to determine the City’s level of compliance with the non-point source and stormwater load reductions, which will dictate future capital expenditures. NHDES and UNH should provide clear model validation data showing the model correlates highly with measured data to gain confidence in the model. As it is presented, if the City follows the Optional Pathway, the City has significant financial commitments decided by a model with undocumented accuracy.

Comments and Questions on Specific Items in the Draft Permit

1. On page 4 in footnote 1 it is noted that a routine sampling program is to be developed in which samples are taken at the same location, at the same time, and on the same days of the week each month. This language is different than the language in the City’s existing NPDES permit which notes that sampling for BOD and TSS is to be conducted twice weekly. The note 1 language offers the City no flexibility to address site specific conditions at each WWTF, and the

requirement to sample at the same time each week is likely unrealistic. Can the same language for sampling in the existing NPDES permit be used rather than the language in draft permit?

2. In Table 2 on page 4 of the draft permit, it is noted that the City must monitor and report the effluent concentration of a number of forms of nitrogen. Ammonia nitrogen is one parameter that must be monitored weekly and reported, but the determination of ammonia is not needed to determine the total nitrogen in the effluent. Why is monitoring and reporting of effluent ammonia being required for permit compliance? It will add to the cost for compliance with the permit without providing meaningful additional data.
3. On page 5, in footnote 3 to Table 2 it is noted "The limit is an annual load limit (in units of average pounds per day) and shall be reported as a rolling average. The value will be calculated as the arithmetic mean of the monthly average load (in lb/day) for the reporting month and the monthly average loads (in lb/day) of the previous eleven months." This approach results in a value that is an average of averages. This adds inaccuracy to the calculations, since averaging averages does not account for how many data points comprise each month average. Since the required WWTF sampling is one composite per week, some months will have five samples, some months will have four. A bad four sample month will be weighted the same as a good five sample month which is not representative of actual conditions. We suggest the basis for the Total Nitrogen mass limit should just be a 52-week rolling average.
4. On page 5, in footnote 4 to Table 2 it is noted "The total nitrogen monthly average mass loading reported each month shall be calculated as follows: Total Nitrogen (lb/day) = average monthly total nitrogen concentration (mg/L) * average monthly flow (MGD) * 8.345". To arrive at the monthly average, the 4 or 5 monthly samples are averaged and the average flow over the entire month is used. This methodology is not representative of the actual conditions, as averaging the concentrations and flow could skew the result. The mass loading should be calculated using the sample concentration and flow on the day the sample is collected, and the mass loading for the 4 or 5 sample days each month should then be averaged to determine the total nitrogen monthly average. There is precedent for this as this is the approach used in the Connecticut Nitrogen General Permit.
5. On page 5, it is noted that the permit basis is an annual 12-month rolling average. If the concern in the bay is impacts to eelgrass, why is an annual limit being imposed, and not a seasonal limit during the growing season? This would avoid burdening the 13 communities with additional treatment costs during the colder months of the year. This is the approach used in the permits with total nitrogen limits for the Massachusetts WWTFs discharging to the Taunton River Basin and Buzzards Bay, the Rhode Island WWTFs discharging to Mount Hope Bay, the Blackstone River, and the Pawtuxet River, and the Newmarket and Exeter NH permits that have been issued.
6. On Page 5, under Item 2 of the required Nitrogen Optimization Plan (NOP), the NOP is required to "reduce the discharge of nitrogen to the extent practicable". This is vague, undefined, and subjective. It is not clear from this requirement what is being asked of the permittee. In other permits in EPA Region 1, the requirement for the NOP is worded as follows (*italics added*):

Within one year of the effective date of the permit, the permittee shall complete an evaluation of alternative methods of *operating* the existing wastewater treatment facility to optimize the removal of nitrogen and submit a report to EPA documenting this evaluation and presenting a description of recommended *operational* changes. The methods to be evaluated include, but are not limited to, *operational* changes designed to enhance nitrification (seasonal and year-round), incorporation of anoxic zones, septage receiving policies and procedures, and side stream management.

This wording makes it clear that the intent is to implement operational changes to the existing WWTF to optimize nitrogen removal, and not to require capital improvements to optimize nitrogen removal. Why is this wording not used as it has been used in numerous other Region 1 Permits?

For the Peirce Island WWTF, the requirement to “reduce the discharge of nitrogen to the extent practicable” may be interpreted to mean that since the secondary treatment process can increase the level of nitrogen removal from the 8 mg/l level called for in the Second Consent Decree Modification to 3 mg/l, achieving the 3 mg/l level is now required. The NOP language could be interpreted to require achieving the 3 mg/l level on an annual basis since the process has this capability. The Consent Decree also addresses this, noting that if a more stringent limit than the 8 mg/l seasonal limit is imposed through a subsequent NPDES permit, that the lower limit must be achieved. While this would remove the flexibility the City currently has to decide to lower the effluent total nitrogen at the Peirce Island WWTF, the City would receive “credit” for the nitrogen removed towards the total mass limit on total nitrogen for both WWTFs.

5. On page 6, paragraph 2.3 has the title of Adaptive Management Ambient Monitoring Program. On page 28 of the Fact Sheet, it is noted that “NHDES highlights the importance of restoring the Great Bay estuary through an adaptive management approach designed to address both point sources and non-point sources of nitrogen”. However, the Adaptive Management approach in the draft permit only applies to the non-point sources and stormwater points sources of nitrogen and not to the WWTF effluent limits. The permit effluent limits on total nitrogen for each of the 13 WWTFs take effect (as noted on page 2 of the draft permit) on the first day of the calendar month immediately following 60 days after signature of the final permit, and are not deferred or phased in to allow time for data collection and evaluation to tailor the WWTF effluent limits to the conditions monitored in Great Bay. It appears that the “adaptive management” terms discussed in the permit and Fact Sheet are misleading since the WWTF limits would take effect immediately, putting the City in a position of potentially being in violation of the effluent nitrogen limits for the Pease WWTF as it was not designed to provide nitrogen removal.
6. On page 6, under paragraph 2.3, the requirement for each community to participate in the Adaptive Management Ambient Monitoring Program is discussed. The requirements of the sampling and monitoring program are outlined and represent a significant financial undertaking, which will be incurred annually perpetually going forward. This type of monitoring and data collection program has traditionally been conducted by state and federal regulatory agencies, funded by those agencies, and often supported by academia such as UNH. It appears that this permit is transferring the obligation for those costly monitoring programs to the 12 communities affected by the permit. What prompted this change in responsibility for funding monitoring programs?

While the technical requirements of what is to be monitored and how and when are defined in this section of the draft permit, it lacks definition on a number of important elements of the monitoring program such as:

- What entity is responsible for coordinating and implementing the program?
- Who funds the costs for coordinating and implementing the program?
- What happens if one or more communities do not fund their share of the program cost, who funds the shortfall?

The last portion of Paragraph 2.3 requires each community to certify annually that they have participated in the ambient monitoring program and submitted the required data to EPA and NHDES. No indication is provided on what entity is coordinating this program, and what the ramifications are of not participating in the ambient monitoring program.

Section 2.3 notes that each community will pay a percentage of the ambient monitoring program cost based on the percentage of the total WWTF flow their WWTF design flow represents. The design flows for the 13 WWTFs covered by the draft permit are not presented but should be to allow a community to understand what its commitment would be.

6. Appendix II contains the Optional Non-Point Source and Stormwater Point Source Nitrogen Reduction Pathway. It sets targets based on the original municipality specific baseline, which is defined based on the NHDES 2014 *Great Bay Nitrogen Non-Point Source Study*. The municipality specific baseline data however are not included in the permit or Fact Sheet, and rather than require the City to hunt for this information and make the needed calculations, this data should be included in this draft permit so the baseline is clearly defined.

Specific Comments and Questions on Fact Sheet

1. The Fact Sheet allows 60 days for the public comment period on the draft permit, with a public hearing scheduled for February 19, 2020. Comments are currently due to EPA by March 9, 2020. Given the complexities in this permit, and some of the missing information, 60 days appears to be insufficient to allow the City time to evaluate the proposed draft permit. Requesting an extension of the comment period and postponement of the public hearing should be considered.
2. The Fact Sheet and the Draft Permit note that this is a “watershed” permit. However, 4 of the 13 WWTFs located within the Great Bay Watershed (Kittery, Berwick, North Berwick, and South Berwick) are not required to participate in this “watershed” General Permit. The footnote to Table 4 on page 27 of the Fact Sheet notes that “EPA expects the Maine Department of Environmental Management (sic) to regulate nitrogen from these facilities”. There does not appear to be any requirement for these facilities to control effluent total nitrogen, and no details of the requirements or schedule for when these facilities will reduce their effluent total nitrogen is discussed. Referring to this draft permit as a “watershed” permit is misleading as it does not address all nitrogen point sources to Great Bay. Why are these facilities not included? EPA and the Maine DEP should be coordinating efforts to include these facilities – the cited reason

presented in Footnote 1 to Table 4 that “Because EPA is not the permitting authority in the State of Maine, these facilities are not subject to this General Permit” appears to be an administrative excuse for not addressing all nitrogen inputs to Great Bay. If nitrogen loading is the cause of the alleged water quality impacts on eelgrass and not meeting water quality standards, then EPA should require the 4 Maine WWTFs to participate in the General Permit. They will benefit from the ambient monitoring program and should be required to fund their share. The need for control of nitrogen from all sources tributary to the bay is reinforced by EPA’s own statement on page 19 of the Fact Sheet, where it is stated that “Given the tidal nature of the estuary, all significant sources of nitrogen throughout the watershed...are clearly contributing to this excessive load”. EPA should explain why all sources are not addressed now.

3. On page 28 of the Fact Sheet , it is noted that 18 municipalities within Great Bay are subject to the recently issued MS4 stormwater General Permit (it is not clear if this is both NH and Maine), and that EPA expects “ in the next reissuance of the MS4 General Permit will contain updated nitrogen control requirements for all communities covered under the MS4 General Permit based on data gather through the Adaptive Management Ambient Monitoring program”. If the current total nitrogen levels in Great Bay are so high that (as noted on page 17 of the Fact Sheet) the water are “approaching or have reached their assimilative capacity for nitrogen and are suffering from the adverse effects of excessive nutrients”, then why are the other 9 communities covered by the MS4 General permit not covered by this Draft Permit, as well as the other upstream communities with stormwater discharges to the Great Bay watershed in both Maine and New Hampshire not covered by the MS4 General Permit, not being required to implement the same 45 percent reduction in stormwater and non-point source discharges of nitrogen now?
4. On page 23 of the Fact Sheet, EPA notes that the adaptive management approach is iterative. On page 3 of Appendix II to the Draft Permit, it is stated that “In the event the activities described above are not carried out and water quality standards are not achieved, EPA may reopen the General Permit within the timeframe of the permit (5 years) or reissue the General Permit beyond the timeframe of the permit (5 years) and incorporate more stringent nitrogen effluent limits for the WWTFs necessary to assure compliance with water quality standards”. This implies that further reductions in effluent total nitrogen to the bay beyond what is stated in the draft permit will likely be required in the future. There are several other references throughout the Fact Sheet that make it clear these initial nitrogen limits are expected to get more stringent over time and may be reduced even during the life of the draft permit requirements. How can the City plan for future nitrogen control efforts if the target is likely to continue to move?

Much of the focus for the need for nitrogen control has been tied to the state of eelgrass in Great Bay, and page 24 notes that eelgrass monitoring is part of the ambient monitoring program. The discussion notes that an assumption is made the nitrogen loads do not increase because of other changes in land use, weather, atmospheric deposition or other reasons. Climate change has the strong potential to change rainfall patterns and temperatures, both of which could affect nitrogen loads. How are these climate change related affects accounted for so that the communities are not penalized for these effects?

5. In Table 3 on page 25, the average flows and total nitrogen concentrations for 2012 to 2016 are presented and used as the basis for the nitrogen load allocations. These years were fairly dry

Mr. Terry Desmarais, P.E.
February 25, 2020
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years. These data may underestimate the historical levels of nitrogen discharged for the 2 Portsmouth WWTFs. Why was a period that is more representative of typical or average conditions not used for this analysis? Furthermore, since a number of the affected communities, including Portsmouth, have recently completed WWTF upgrade projects that were sized to accommodate planned growth, why are the nitrogen load allocations not based on the WWTF design flows rather than limited historical data?

6. On page 26, the methodology for adjusting the 2009-2011 non-point source and stormwater data to the 2012-2016 period by applying a ratio based on annual rainfall to the loading rate. This approach is a very rough approximation at best, and given the magnitude of financial expenditures being considered to address nitrogen, this methodology does not seem sufficiently accurate and should be revised.
7. On page 28, it is noted that EPA is soliciting comments on the need for a compliance schedule for any WWTFs that may need to implement more significant process improvements and/or upgrades to comply with the annual average effluent total nitrogen limit. The Pease WWTF will very likely be unable to meet the annual average effluent total nitrogen limit at the potential future projected flow of 1.77 mgd without an upgrade, and we recommend it be identified as such to EPA.
8. The methodology for addressing stormwater does not appear to account for CSO communities like Portsmouth and Exeter (the only 2 of the 12 affected NH communities). How are CSO nitrogen inputs addressed in the permit? If the City continues to implement the targeted sewer separation program, how does the City receive credit for these improvements?
9. Since most of the land in the City is privately owned, and City property accounts for only a small fraction of the City's total land area, controlling nitrogen in the stormwater generated on private property will likely involve conducting work on private property. The City does not have a right to conduct work on private property, so it is unclear how the City could commit to making a reduction in nitrogen from stormwater generated on property it does not own. EPA should clarify their intent on this requirement.

We would be pleased to meet with you to discuss the comments at your convenience. If we can provide any further information on this matter, please feel free to contact us.

Very truly yours,



Jon R. Pearson
Vice President
AECOM

Encl.

JRP/jrp

Draft Great Bay Total Nitrogen General Permit

What is a General Permit?

A National Pollutant Discharge Elimination System (NPDES) individual permit is written to reflect site-specific conditions of a single discharger and is unique to that discharger whereas a NPDES general permit is written to cover multiple dischargers with similar operations and types of discharges.

What is the purpose of the Public Notice Period?

The public notice period is a time for the public to review and comment on the Draft Permit. After the public notice period ends on March 9, 2020, EPA will consider the comments, and if warranted, revise the permit based on those comments before issuing the final permit. Along with the Final Permit, EPA will issue written responses to comments received during the public notice period. Information about the Draft Permit and how to submit comments is provided at: <https://www.epa.gov/npdes-permits/draft-great-bay-total-nitrogen-general-permit>.

Why is this permit only for Total Nitrogen?

Given the scope of the impact of excess nutrient enrichment throughout the Great Bay estuary, this permit is designed to establish equitable total nitrogen limits for all New Hampshire publicly-owned treatment works (POTWs) in the Great Bay watershed to protect and restore the entire estuary more efficiently and expeditiously than the issuances of multiple individual permits. Each POTW will maintain coverage under an individual permit for the discharge of all other pollutants.

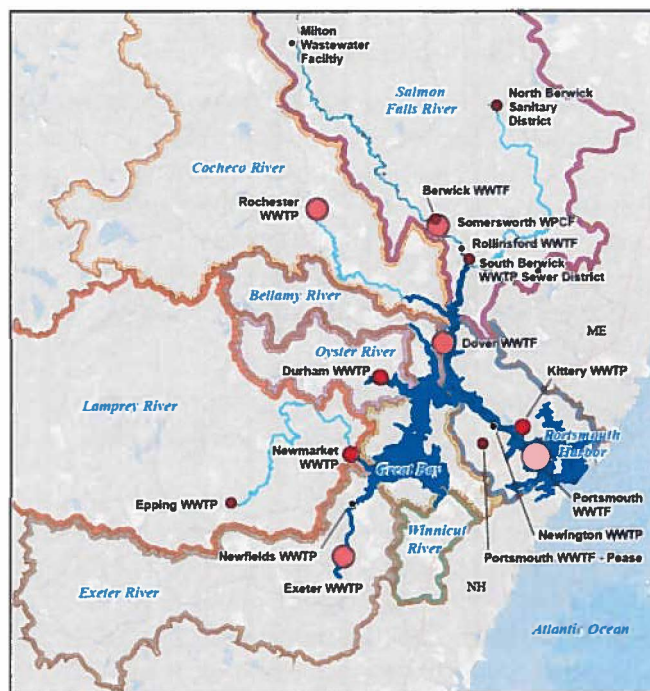
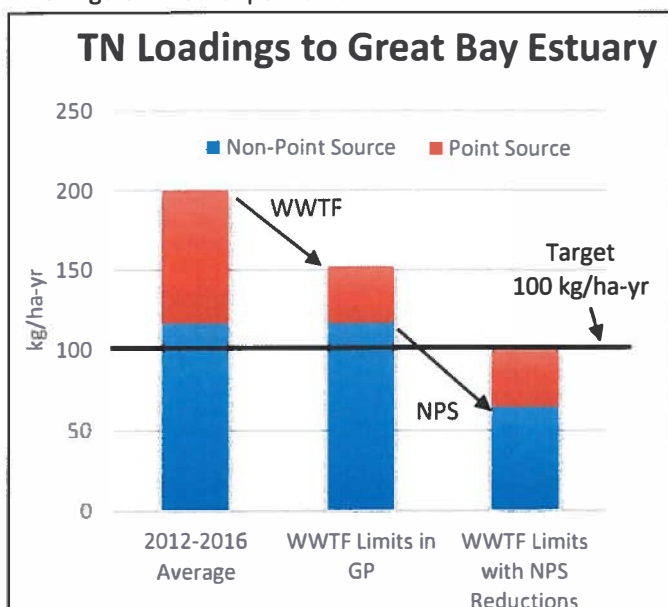


Figure 1 – Location of POTWs discharging to the Great Bay watershed. Circles indicate the relative average daily discharge from POTWs between 2012-2016.

What is “Adaptive Management” and how does it work?

In recent years, some of the Great Bay communities have expressed a preference for their permits to be based on an adaptive management approach. Adaptive management is an approach to natural resource management that emphasizes learning and adapting plans over time, allowing policymakers to take action to address problems despite the uncertainty inherent in our understanding of complex ecological systems. The process is iterative and allows course corrections as knowledge of the system increases. In support of this approach, the Draft Permit proposes the following:

- a target (100 kilograms per hectare per year, or kg/ha-yr) for total nitrogen loading, based on a range of total nitrogen loadings drawn from the scientific literature that are demonstrated to impact similar estuaries (100 kg/ha-yr is at the high end of that range—in other words, the highest loading that might support a healthy estuary)
- effluent limits and optimization requirements to reduce total nitrogen loads from all POTWs

- incentives that consider optional reductions in total nitrogen loading from other sources (e.g., stormwater runoff)
- an ambient monitoring program to track progress and build knowledge

As total nitrogen loads are reduced in the coming years, the EPA and New Hampshire Department of Environmental Services (NHDES) will evaluate the ambient monitoring data to track the response throughout the estuary. This information, along with other scientific information that may be available in the future, will inform future regulatory decisions with the goal of restoring water quality in the Great Bay estuary.

What is the *Optional Non-Point Source and Stormwater Point Source Nitrogen Reduction Pathway*?

In recent years, the State of New Hampshire and some of the Great Bay communities have expressed a preference to invest in non-point source and stormwater load reductions before significant additional investments in POTW upgrades. The Draft Permit was designed in large part to accommodate this preference and sets forth an optional pathway to achieve non-POTW load reductions at the scale necessary to meet the overall total nitrogen target. Participation in this pathway is not a requirement of the general permit but is strongly encouraged and comes with the incentive that meaningful progress on this pathway by a municipality may forestall more stringent effluent limits that may otherwise be necessary in the future.

What about total nitrogen reductions from the rest of the watershed?

The Great Bay watershed has 52 municipalities, 16 of which have POTWs that discharge to a surface water (12 in New Hampshire and four in Maine) and the other 36 do not. The Draft Permit covers the 12 municipalities in NH that have POTWs, including one municipality, Portsmouth that has two POTWs. EPA is not the permitting authority in the state of Maine, so the Maine Department of Environmental Management (MEDEP) will regulate nitrogen discharges from those four facilities. Additionally, EPA anticipates that the next reissuance of the Municipal Separate Storm Sewer System (MS4) general permit will contain updated nitrogen control requirements for all communities covered under the MS4. The MS4 general permit covers many additional communities that are not included in the Draft Great Bay Total Nitrogen General Permit. These permitting actions will allow the nitrogen reductions to be spread throughout the watershed.

What is the Adaptive Management Ambient Monitoring Program?

The Draft Permit proposes that all 12 permittees will contribute equitably (based on percentage of total design flow) to the overall cost of annual monitoring throughout the estuary. EPA and NHDES anticipate that the permittees will contract with a single entity to perform the monitoring each year. The program consists of the following.

- Head of tide monitoring
 - 2 monitoring events per month
- Estuarine monitoring
 - 16 datasondes
 - 1 monitoring event per month
- Eelgrass monitoring
 - aerial mapping
 - ground-truthing
- Sediment monitoring
 - sediment profile imaging
 - benthic grab samples

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1-888-EPA-7341

Learn More at:

<https://www.epa.gov/npdes-permits/draft-great-bay-total-nitrogen-general-permit>

Exhibit C - Memo from VHB to City of Portsmouth
Regarding Preliminary Assessment of NPS
Controls Needed to Meet EPA's Draft GBTN GP



To: Brian Goetz, Deputy Director DPW,
Terry Desmarais, PE City Engineer

Date: May 7, 2020

Project #: 52542.02

From: Bill Arcieri

Re: Preliminary Assessment of NPS Controls Needed
to meet EPA's Proposed GBTN General Permit

The memo provides a summary as well as an assessment of the potential impacts of the proposed permit requirements contained in the Environmental Protection Agency's (EPA's) Draft Great Bay Total Nitrogen General Permit (GBTN GP) released on January 7, 2020. The DRAFT GBTN GP establishes average daily total nitrogen load limits for wastewater treatment facilities in twelve municipalities located in the Great Bay watershed in New Hampshire. The Draft GBTN GP also establishes an optional pathway that municipalities can consider in order to achieve additional nitrogen load reductions through nonpoint source (NPS) and stormwater treatment controls for purposes of possibly avoiding even lower daily N load limits at the wastewater treatment facilities (WWTF) future permits. EPA believes the additional load reductions included in this proposed Draft GBTN GP are needed to meet state water quality standards. Under the optional pathway, municipalities would be required to develop a Nitrogen Control Plan (NCP) that would outline a phased approach of implementing various NPS and stormwater control measures to ultimately reduce their existing baseline nonpoint source and stormwater nitrogen load by 45% over a 23-year period.

EPA suggests the maximum nitrogen (N) load to the Great Bay should be no more than 100 kilograms per hectare per year (kg/ha/year) based on the aerial size of the estuary in order to restore eelgrass beds within the Bay. Various technical experts and local officials have raised concerns as to whether the research used by EPA to set this maximum load is applicable to the Great Bay given the physical differences (e.g., flushing rate, size, water depth, etc.) between the Great Bay and the estuaries included the research. Although this is a critical issue with respect to underlying premise of this Draft Permit, we are not addressing this issue in this memo but instead focus on assessing what the potential ramifications may be for Portsmouth if it were to select the "optional" pathway of the Draft GBTN GP, particularly with respect to the various nonpoint source and stormwater control measures that may be needed to meet the proposed N load reductions included in this Draft Permit. In the future, these proposed load reductions and NPS/stormwater control requirements may no longer be optional given that EPA states on pages 28-29 of the fact sheet, that these NPS/stormwater control requirements could be rolled into the next MS4 permit scheduled for renewal in 2022.

EPA estimates the current average total annual N load to the Bay is approximately 189.3 kg/ha/yr. based on PREP's water quality monitoring data and discharge monitoring reports submitted by various WWTFs during the 2012-2016 period. EPA estimates that if the 7 largest WWTFs (incl. Peirce Island WWTF) were to achieve an average annual nitrogen concentration of 8 mg/L. then the total annual WWTF N load would be reduced to approximately 35 kg/ha/yr. based on average annual flow volumes recorded during the 2012-2016 period. Given these assumptions, approximately 65 kg/ha/yr. of the assumed theoretical maximum N load would be left for NPS and stormwater contributions. After normalizing for average annual rainfall, EPA estimates that the current watershed N load from NPS/stormwater sources is 117 kg/ha/yr. and to get to 65 kg/ha/yr., the "regulated" communities would need to reduce their baseline load by 45% through the NPS/stormwater control pathway.

The following provides a preliminary assessment of the types and extent of control measures that the City's would likely be needed in order to meet EPA's proposed 45% load reduction target for nonpoint sources. For purpose of this memo, the City's baseline NPS nitrogen load is based on the Great Bay



Nonpoint Nitrogen Source Study (GBNNPSS) completed by the New Hampshire Department of Environmental Services' (NHDES) in 2014. This Study estimated that the City's average annual baseline NPS load is approximately 48,073 lbs. N/year after normalizing for average annual rainfall and accounts for various land use and activities as outlined below. VHB recommends that the estimates of developed land and impervious areas used to develop the GBNNPSS load estimates be updated before the City moves forward with any more detailed planning efforts or assessments.

Estimated NPS Nitrogen Loads

Table 1.0 presents the estimated average annual baseline N loads by land use and/or land use activity within City boundaries based on the GBNNPSS results. Nitrogen originates from four major sources including atmospheric deposition, fertilizers, animal waste (based on estimated numbers of livestock, dogs and cats) and human waste (septic systems). Atmospheric deposition contributes 39% of the estimated total load and represents the largest N source followed by chemical fertilizer and animal waste at 34% and 18%, respectively.

Table 1.0 Estimated Delivered NPS Loads by Land Use/Activity in Portsmouth based on GBNNPSS

Land use /Activity	Original N Source	Area	Average Annual Load ¹ (lbs./yr.)	% of Baseline Load	Potential Control Measure
Unmanageable or Non-Development Related Activities					
Natural Vegetation	atmosphere	4,826	3,830		
Water Surfaces	atmosphere	1,540	2,917		
	Subtotal	6,366	6,747	14%	
Agriculture	atmosphere	134	109		
	chem fertilizer	134	202		Fertilizer Ban/ Education
	animal waste	horses	356		
	Subtotal	134	666	1%	
Manageable or Development Related Land Use Activities					
Lawns	atmosphere	1,400	1,230		
	chem fertilizer	1,400	15,453		Education/ Outreach
	Pet waste	1,400	1,045		
	Subtotal	1,400	17,727	37%	
Managed Turf	atmosphere	118	50		
	chem fertilizer	118	781		
	Subtotal	118	830	2%	
Impervious Area					
Directly Connected (DCIA)	atmosphere	2,252	7,623		
	Pet waste ²	na	5,355		
	DCIA Subtotal	2,252	12,978	27%	SW treatment
Disconnected (DIA)	atmosphere	1,256	2,860		
	Pet waste ²	na	2,024		
	DIA Subtotal	1,256	4,884	10%	
Septic Systems					
Within 200m water body	human waste	84	1,380		Sewer ext.
Outside 200m buffer	human waste	398	2,799		Adv. treatment
	Pet waste	na	60		
	Subtotal	482 systems	4,239	9%	
	Total	11,526 ac	48,073	100%	
Total N by Source	Atmosphere	--	18,618	39%	
	Chem. Fertilizer	--	16,436	34%	
	Animal waste	--	8,840	18%	
	Human waste	--	4,179	9%	
	Total		48,073	100%	

Notes: ¹Average annual load represents the delivered load estimated by GBNNPSS adjusted or normalized to average annual rainfall consistent with EPA Fact sheet. ²The GBNNPS estimated approximately 6,500 dogs and 7,300 cats within the City in 2012

Potential N Control Measures and Implications

To meet EPA's proposed 45% load reduction target for NPS and stormwater contributions, the City would need to reduce the average annual baseline NPS load of 48,073 lbs. N/yr. to 21,484 lbs. N/yr. If we exclude the 15% of the baseline load attributed to atmospheric deposition on natural vegetated areas and from agricultural areas, the manageable portion of the baseline load is approximately 40,660 lbs. N/yr. and the actual percent reduction needed from manageable sources would be 53%.

Achieving this proposed load reduction would require extensive participation and willingness by private landowners and residents to adopt various measures for all manageable sources or activities including lawn fertilizer use, stormwater treatment of nearly all of the directly connected impervious area (DCIA) within the City as well as advanced treatment for septic systems. The following provides a general analysis of the type of measures that could be used, their likely effectiveness and the potential load reductions that may result based on various assumptions and existing data expressed in the literature.

Lawn Fertilizer

According to state statute RSA 431, municipalities are preempted from regulating the sale of fertilizers but could potentially regulate the "use" of fertilizer. Regulating the use of fertilizer at the municipal level would be challenging politically and logistically. Politically, residents are likely to find a fertilizer ban to be unreasonable and arbitrary given that residents in surrounding towns in the same watershed would not be subject to the same restrictions. Logistically, if the City did adopt such a ban, it would be extremely difficult to enforce effectively since homeowners would still be able to purchase fertilizer and apply it discreetly during off-hours such as at night, early morning hours or weekend. The only way to effectively implement a fertilizer ban is at the state or regional level.

Fertilizer usage can be reduced voluntarily through intensive education campaigns. The Chesapeake Bay Network estimated that education programs targeting residents and commercial applicators could reduce lawn fertilizer usage by as much as 5 to 17% depending on the intensity and type of education program.¹ The most effective programs involved the use of social science professionals to facilitate focus groups to modify resident behavior through effective messaging and monitor change through public opinion surveys. Using a similar approach, the City might reduce lawn fertilizer usage by as much as 17% or approximately 2,600 lbs. N/yr. which is approximately 12% of the target load reduction.

Non-Structural Good Housekeeping Measures

The City's ongoing good housekeeping measures including catch basin cleaning, street-sweeping and leaf litter pickup provide limited N load removal. Based on removal credit information contained in Appendix F, Attachment 2 of the MS4 permit, the estimated N load credits associated with catch basin cleaning (2x year), monthly street sweeping with a regenerative air sweeper and an annual leaf litter control program are as high as 6%, 8% and 5%, respectively. Using a combined N removal credit of 19%, these measures would reduce the baseline N load by as much as 5,151 lbs. N/yr., assuming all 3,508 acres of the estimated directly connected and disconnected impervious area were treated. Only a portion of the total estimated impervious area is City-owned property. If we assume 60% of the total impervious area is under City jurisdiction this would result in a potential load reduction of approximately 3,100 lbs. N/yr., which is approximately 14% of the target load reduction.

Based on the assumptions discussed above, the combined estimated N load reduction for nonstructural measures and a lawn fertilizer education program would be approximately 5,700 lbs. N/yr., which would achieve 26% of the load reduction target. The City would still need to achieve another 15,700 lbs. N/yr. of load reduction to get to the proposed 45% reduction target of 21,484 lbs. N/yr.

¹Schueler, T and C. Lane. 2013. Recommendations of the Expert Panel to Define Removal Rates for Urban Nutrient Management. CBP Approved Report

Stormwater Structural Treatment Measures

The GBNNPS study estimated that nitrogen accumulating on directly connected impervious area (DCIA) consisting of approximately 2,250 acres accounts for approximately 12,978 lbs. N/yr. of the City's total baseline load. It is difficult to estimate how much of the DCIA could be practically and feasibly treated using stormwater BMP retrofits given the potential physical constraints and limited space that is likely to be encountered, especially in the densely developed commercial and downtown areas. The DCIA that consists of City roadways will have limited right-of-way space to implement stormwater treatment BMPs. The City does not have the legal authority to require commercial property owners to retrofit their properties with stormwater BMPs except through site plan approval for redevelopment projects. And even with stringent redevelopment standards, requiring or expecting 100% of the existing DCIA to be treated is technologically infeasible and economically impractical.

For purposes of this analysis, if we optimistically assumed that 80% of the total DCIA could be treated with stormwater BMPs that have an average TN removal efficiency of 50%, (consistent with EPA's MS4 permit), this would result in an overall load reduction of approximately 5,200 lbs. N/yr., which is about 24% of EPA's proposed load reduction target. Realistically, retrofitting 80% of the existing DCIA with adequately sized BMPs is unlikely given the limited space and potential site constraints in the highly urbanized downtown area, which is a large portion of the DCIA area. Nonetheless, even if we assume this level of stormwater BMP retrofitting could be achieved along with the nonstructural measures, described above, this would potentially result in an estimated total load reduction of approximately 10,900 lbs. N/yr. or approximately 51% of the reduction target. The City would still need to achieve another 10,584 lbs. N/yr. of load reduction to get to EPA's proposed load reduction target of 21,484 lbs. N/yr.

There may be opportunities to reduce some of the nitrogen load contributed from pet waste through increased education and outreach efforts, particularly that estimated to be linked to the disconnected impervious areas (DIA). The pet waste associated with the DCIA would be treated as part of the structural BMPs discussed above. DIA generally refers to paved and roofed areas that drain to vegetated areas and are not directly connected to an engineered storm drain system. Even with a highly effective education program, the maximum amount of nitrogen reduction resulting from an enhanced pet waste management program is likely to be no more than 2,000 lbs. N/yr., based on the GBNNPSS estimates.

Septic Systems

The only other potentially manageable source of nitrogen is associated with septic systems. The GBNNPS study estimated that there were just under 500 septic systems in the City that contribute a total average annual N load of approximately 4,200 lbs. N/yr. Even if the City could somehow eliminate this entire estimated nitrogen load through sewer extensions or onsite advanced treatment systems, the City would still not be able to meet the 45% overall nitrogen load reduction target. Realistically, even if the City could connect all the septic systems to the wastewater treatment system and/or could retrofit systems with advanced onsite treatment, this would not eliminate 100% of the nitrogen load from septic systems. Connecting systems through sewer extensions would result in some additional nitrogen output from the wastewater facility and onsite advanced treatment systems promoting denitrification are not 100% effective. Thus, only a portion of the septic system load could likely be reduced or eliminated. The potential costs to connect the septic systems or to retrofit with advanced treatment would be substantial.

Summary of Findings

The results of the analysis indicate that achieving the proposed 45% nitrogen load reduction target would be extremely challenging, if not impossible. Even with overly optimistic assumptions of the potential treatment benefits for various control measures, the City, at best, might be able to reduce the estimated



average annual N load by approximately 12,000 to 16,000 lbs. N/yr. or approximately 55 to 75% of the proposed reduction target. These estimates assume that most of the existing directly connected impervious area would be treated by stormwater BMPs and to get to the higher load reduction estimate, much of the estimated septic system load would have to be eliminated through sewer extensions or advanced onsite treatment. Achieving these load reductions would require substantial capital investment and added operations and maintenance costs and possibly multiple decades to implement. For the stormwater retrofits alone, the potential order of magnitude cost to install BMP retrofits in approximately 1,800 acres of DCIA could total \$54 million or more assuming an average BMP installation cost of \$30,000 per acre. This does not include land acquisition costs, design and permitting costs or annual O&M costs to maintain the BMPs

Private landowners and developers could bear some of the future stormwater BMP costs through future redevelopment projects that adopt enhanced stormwater treatment per City Site Plan Regulations. The City is currently in the process of updating its regulations to include and perhaps go beyond the standards included in the current MS4 Permit. The City is considering a lower disturbance threshold that will capture more redevelopment projects than would otherwise be captured if the 40,000 square foot disturbance threshold included in the MS4 Permit was used. The recent proposed changes to the MS4 Permit released by EPA defer to Section D of the 2012 SWA Model Regulations, which require redevelopment projects to treat 30% of the existing impervious area and 50% of any new impervious area.

Even with full adoption of the post-construction stormwater regulations that are included in the MS4 Permit, it will take several decades to retrofit much of the existing impervious area in Portsmouth. Much of the developable area in the City is already developed, such that most new development activity is in the form of redevelopment. Even we assumed that 100 acres of developed area is typically redeveloped each year (this is believed to be a high estimate) and all this area was impervious, this would result in approximately 30 acres existing impervious area being treated with stormwater retrofits each year. At this rate, it would take approximately 60 years to achieve the underlying assumption used in this analysis of treating 1,800 acres (80%) of the estimated existing directly connected impervious area. The amount of redevelopment each year greatly depends on economic conditions, and in some years, there may be very little activity. Unfortunately, given that only a subset of communities within the Great Bay watershed would be subject to this proposed Permit and to the current MS4 Permit, any proactive steps that the City may take to treat impervious area could be offset by development activity in neighboring towns that are not subject to the same permit or have not adopted similar requirements.

EPA has stated they believe much of the load reduction target can be achieved through nonstructural measures, however, this results of analysis show that the load reduction credits associated with good housekeeping measures including street sweeping, catch basin cleaning and leaf litter control are only estimated to be 3,100 lbs. N/yr. and that assumes that 60% of the IC area is City owned, which is a high estimate. EPA personnel have also stated that the N removal credits included in the MS4 permit for nonstructural and good housekeeping measures are likely to increase in the future based on additional research. This would certainly be helpful, but again based on the results of this analysis, the anticipated credit increases for the non-structural measures would need to double, if not, triple or quadruple, in order for there to be any meaningful change in future treatment scenarios where the City could rely more on nonstructural measures and less on the costly structural measures to achieve EPA's target N load reduction.



In closing, it is important to note that the data and assumptions used in the GBNNPS to develop the N loads and the data and assumptions used in this memo to estimate the potential treatment effects need be revisited and updated before any potential treatment credits for mitigation measures can be finalized.

BRIEFING SHEET**February 12, 2020****DRAFT NPDES Great Bay Total Nitrogen General Permit****By: Suzanne Woodland, Deputy City Attorney
Terry Desmarais, City Engineer****Issuance and Public Comment Opportunity**

On January 7, 2020, the U.S. Environmental Protection Agency (EPA) published for public comment a draft Clean Water Act permit which proposes to regulate the discharge of nitrogen from 13 New Hampshire wastewater treatment facilities (WWTFs) within the Great Bay Estuary including the City's two wastewater treatment facilities at Peirce Island and Pease. In addition to regulating the discharge of nitrogen, the draft permit requires the municipalities to undertake a significant water quality monitoring obligation for the whole Estuary. The draft permit includes an optional component to undertake stormwater point source and non-point source controls of nitrogen.

The 12 communities that would be covered by the general permit are: Portsmouth (two facilities), Newington, Durham, Newmarket, Epping, Exeter, Newfields, Dover, Rochester, Rollinsford, Somersworth, and Milton. Maine communities that discharge to the Estuary and Maine and New Hampshire communities that discharge stormwater but do not have a wastewater facility are not covered by this draft permit.

The draft permit, issued under the Clean Water Act's National Pollutant Discharge Elimination System (NPDES), is open for a 60-day public comment period with comments currently due March 9, 2020. A public hearing will be held at 6:00 PM on February 19, 2020 at the NH DES Pease Regional Office at the Pease International Tradeport, 222 International Drive, Suite 175.

The draft permit, fact sheet and instructions on how to submit comments can be found on EPA's website at: <https://www.epa.gov/npdes-permits/draft-great-bay-total-nitrogen-general-permit>

City staff will be attending the public hearing at which it hopes to obtain information clarifying certain elements of the draft permit. Staff also anticipates submitting written comments on or before March 9, 2020. City staff will be requesting an extension on the comments deadline. The City staff will be prepared to brief the City Council further on March 2, 2020 and discuss the opportunities and risks this draft permit presents for Portsmouth and costs associated with compliance.

Structure of the Permit

This draft general nitrogen permit for the whole of the Great Bay Estuary proposes a fundamentally different structure than past permitting for New Hampshire's regulated communities. Historically, total nitrogen limits have been added to each WWTFs' NPDES permit, as was done in 2012 with Exeter and Newmarket where each WWTF received an effluent monthly average total nitrogen limit of 3.0 mg/l, required from April 1 – October 31. By contrast, this draft permits adopts an annual nitrogen loading approach applicable to the whole of the estuary and without seasonal variation instead of a single concentration limit at the end of

a WWTF discharge pipe. This change in permitting approach provides opportunities and presents risks.

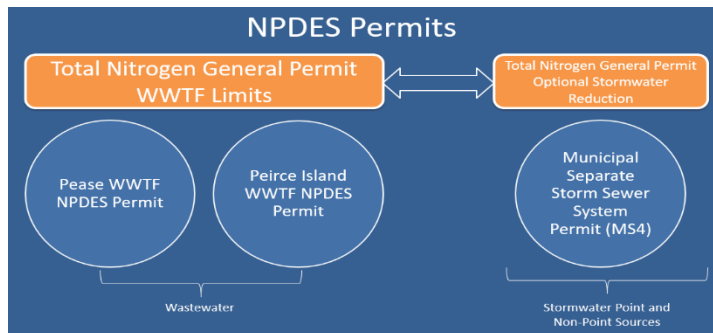
The State of New Hampshire, through the New Hampshire Department of Environmental Services (DES), sets water quality standards for state water bodies, including the Great Bay Estuary. DES and EPA have identified within this draft permit an estuary wide nitrogen loading target of 100 kilograms per hectare per year (kg/ha-yr) to meet water quality standards. In order to achieve this target, reductions in nitrogen loading will be needed from all sources, WWTFs, stormwater point and non-point sources estuary wide.

The draft permit document consists of four separate and distinct sections: the permit, two appendices, and a Fact Sheet. These are summarized below.

1. The Permit

This portion of the permit establishes the applicability of the permit, effluent limitations, monitoring and reporting requirements and other administrative logistics.

Each of the 13 New Hampshire WWTFs is assigned an annual nitrogen loading limit to be achieved. This limit is set in pounds of nitrogen discharged on an annual average daily basis which is measured and calculated based on the specific testing requirements in the permit. The permit only covers nitrogen and the conventional wastewater permit parameters such as total suspended solids and biochemical oxygen demand remain regulated under the existing individual NPDES permits. The schematic below provides a visual for the regulatory structure of the City's NPDES permits for wastewater and stormwater.



Portsmouth is unique in this permit because the City is the only community that has two wastewater treatment facilities. As such the City has been provided with a combined (total for both facilities) nitrogen permit limit that would need to be achieved. This provides the City flexibility to adjust operations at either of its facilities to meet the permit limits. The City's Peirce Island WWTF is the largest of all the WWTFs in

the permit and is also the only WWTF that has intentional wet weather treatment capacity.

This portion of the permit also imposes a number of additional requirements on the regulated communities including a Nitrogen Optimization Plan and an Adaptive Management Ambient Monitoring Program described below.

Nitrogen Optimization Plan (NOP): This requires the City to provide and certify to completion of an annual plan that optimizes operations of the WWTFs for nitrogen removal. This would require the City to develop and implement any alternative approach(es) to operating the facility that would maximize the reduction of nitrogen. The City will be seeking clarification on the specifics of this requirement; in particular to clarify that optimization does not require capital type improvements for optimization efforts.

Adaptive Management Ambient Monitoring Program: This program is a requirement for all the communities to share in the cost of an extensive annual water quality monitoring effort that

requires the purchase of equipment, intermittent sampling and other testing. This will include data from data sondes throughout the estuary, surveys to measure changes in aquatic life, surveys to map eelgrass, and water chemistry measurements throughout the estuary and at the head of tide for each stream. The program is to be administered and reported by the collective communities and the data will be analyzed by the regulators. Costs for the work are not provided, but are anticipated to be on the order of over one million dollars per year with the first year being more for the purchase of the equipment. As currently drafted, the City of Portsmouth would pay the majority of the costs for this work each year because the proposed cost sharing metric is on design flows of the treatment facilities. With the City having two treatment facilities and the single largest of the group, the City is responsible for approximately 29% of the total costs. There is no end date to the monitoring and the scope does not appear to adjust based on the results of previously collected data. If certain facilities do not end up ultimately covered under this permit the City of Portsmouth's cost burden would increase. The City anticipates commenting on this program as an inappropriate downshifting of the cost of water quality testing on the municipality.

2. Appendix I

This section of the permit provides all the standard terms and definitions associated with the permit and the overlying need to comply with the Clean Water Act. The duties and responsibilities inherent on the municipality for meeting compliance with the permit and ramifications of non-compliance are summarized therein. The City is obligated through the permit to monitoring effluent as stipulated and maintain records for such monitoring. The specific terms used in the permit are further defined in Appendix I. The City intends to request clarification to some of the items in this section.

3. Appendix II

The draft permit includes in Appendix II an Optional NonPoint Source and Stormwater Point Source Nitrogen Reduction Pathway. In theory, this is supposed to be a path for communities to invest further in stormwater projects and gain credit for those environment investments so as to allow more flexibility with regard to WWTF discharges of nitrogen. Communities can elect or not to participate in this program and we understand the regulators anticipate all communities to participate. Communities that do not elect to participate in the stormwater program are likely to receive a lower nitrogen load limit or will need to request an individual NPDES permit for their WWTF (thereby electing to not be part of the General Permit).

If participating, the community will need to reduce its stormwater nitrogen loading by 45% from the municipality's baseline as defined in the NH DES Great Bay Non-point Source Study (2014). This section of the permit provides the framework the regulated municipality would need to follow to demonstrate its approach to meeting that stormwater nitrogen reduction over the stipulated time period (approximately 23 years). It is important to note that in order to achieve the target (100 kg/ha-yr), all communities in the watershed and the four WWTFs in Maine would need to achieve similar nitrogen controls as those regulated under the draft General Permit. The permit does not, however, include the WWTFs in Maine or any of the communities in the watershed that do not have WWTFs (approximately 36).

Should the City elect to take part in the stormwater reduction plan, in Appendix II details the municipalities' obligation to develop plans to meet the overall nitrogen reduction target. Each plan would stipulate the proposed project, specific nitrogen control measure (e.g. rain garden, gravel wetland, etc.), anticipated costs, and associated operation and maintenance plan with the

proposed control measures. Coupled closely with this effort is a requirement to track changes in land use that can impact nitrogen discharge using the Pollution Tracking and Accounting Program (PTAP). These changes can include modifications such as septic system conversion to sewer or modifications to the amount of impervious cover as part of development. Tracking would include both increases as well as decreases in the amount of nitrogen discharged based on the change in land use(s).

This section indicates that failure to conduct the proposed reductions in nitrogen non-point and stormwater point source loads as defined in the plans outlined above will result in water quality standards not being met and will allow EPA to reopen the permit to reduce the nitrogen discharges at the WWTFs.

4. Fact Sheet

The Fact Sheet sets forth the basis for the EPA's decision to regulate and establishes the specific effluent parameters for the WWTFs stipulated in the General Permit. This section of the permit provides detailed history of the science that in EPA's view supports the need to reduce the nitrogen loading to the Great Bay Estuary.

This section of the permit asserts that the estuary is impaired for nitrogen regardless of a number of de-listings officially submitted by the NH DES through the 303(d) Impaired Water Bodies Listing in the years of 2014, 2016 and 2018. This item is significant to the City because it will have implications on future MS4 permit requirements for nitrogen. Requiring nitrogen treatment in stormwater is difficult (and expensive) and will impact long term land use in the City.

Communication with Other Affected Communities

The City Managers of Rochester and Dover invited representatives of all 12 impacted communities to attend a meeting to discuss the draft General Permit. That meeting was held on February 4, 2020 in Dover, and it was attended by city managers/town administrators, public works staff, and consulting engineers. No outside counsel attended. City Manager Conard, City Engineer Desmarais and Deputy City Attorney Woodland attended on behalf of Portsmouth. Communities discussed their understanding of the workings of the draft Permit, identified questions, shared concerns, and discussed whether to request a peer review of the basis for the annual nitrogen load target.

The Clipper Tavern
75 Pleasant St
Portsmouth, NH 03801

The City Of Portsmouth, City Manager Karen Conard,
Mayor Rick Becksted, Asst. Mayor Jim Splaine,
Portsmouth City Council Members,

My name is Jeff Goss, Co-Owner of the Clipper Tavern at 75 Pleasant St. in Downtown Portsmouth. I am writing to request some assistance from the City to provide outdoor dining in front of the Clipper Tavern. I have drawn up (very roughly) a possible scenario to redirect traffic to make this happen. Scenario 1- Block off one lane of traffic on Pleasant St from the intersection (STOP Sign) of Court and Pleasant Streets and the intersection (LIGHTS) of State and Pleasant Streets. Some sort of barrier (possibly jersey barrier) would be installed to separate the dining from the open lane. At the Stop sign on Court and Pleasant vehicles heading into town would be directed, via proper signage, to proceed either right or left. A "Do Not Enter" sign will be placed at the dining lane placed in front of an extension of the barrier. Very little, if any, inconvenience is caused to the redirected vehicles as just one block in either direction and you can get right back on to State Street. Vehicles entering Pleasant St from State St can still make that right hand turn and use the open lane, parking spaces can still be utilized, and loading zone can still be utilized. Sidewalks on either side of road can still be open with proper signage on restaurant sidewalk.

We ask that you give this careful consideration. Look at what other States, towns have done or have planned. You have closed Pleasant St from the corner of State and Pleasant to the corner of Pleasant and Congress on many occasions and with much success. During these unimaginable times some restrictions would have to be loosened or you will see many more businesses close. Some places will be put at a disadvantage if some find a way to open and others, like the Clipper Tavern, can't. "Take Out" has been "OK" at best, and that is with most of our staff having to file for unemployment. Take out business will drop drastically. Would you choose "Take Out" again! Over a chance to dine outside for the first time in 2 months, get a meal served hot to your table, have a cold draft beer or glass of wine? I think the outdoor dining is the choice almost all the time. And good for those restaurants that are allowed to perform that service, I want all of us to succeed. I come from a fifth generation Portsmouth family, my business partner, Sean Sullivan, has lived and raised his family in Portsmouth most of his adult life. We are very hopeful to be able to stay open and succeed in our hometown.

I can be reached at the Clipper Tavern, phone #603-501-0109, Thank You for your attention to this request.

Jeff Goss, the Clipper Tavern
Sean Sullivan, the Clipper Tavern

State Street

State Street Lot

Loading Zone

Handicap

Louies

Parking

Retail

Barrier

Dining

SIDE WALK

Newburyport Bank

Clipper Tavern

Austin House

Stop

Do Not enter

Court St

