

CITY COUNCIL MEETING

MUNICIPAL COMPLEX, EILEEN DONDERO FOLEY COUNCIL CHAMBERS, PORTSMOUTH, NH
DATE: MONDAY, AUGUST 21, 2023 TIME: 7:00PM

Members of the public also have the option to join the meeting over Zoom, a unique meeting ID and password will be provided once you register. To register, click on the link below or copy and paste this into your web browser

[https://us06web.zoom.us/webinar/register/WN B kgQVYfTturd7PM-nBy6A](https://us06web.zoom.us/webinar/register/WN_B_kgQVYfTturd7PM-nBy6A)

AGENDA

**Regular portion of City Council meeting to begin at 7:00 p.m.*

- I. WORK SESSION – THERE IS NO WORK SESSION THIS EVENING
- II. PUBLIC DIALOGUE SESSION [when applicable – every other regularly scheduled meeting] – **N/A**
- III. CALL TO ORDER [7:00 p.m. or thereafter]
- IV. ROLL CALL
- V. INVOCATION
- VI. PLEDGE OF ALLEGIANCE
- VII. ACCEPTANCE OF MINUTES – JULY 17, 2023 AND AUGUST 7, 2023
- VIII. RECOGNITIONS AND VOLUNTEER COMMITTEE REPORTS
 1. Peirce Island Wastewater Facility Plant of the Year Award
- IX. PUBLIC COMMENT SESSION (*This session shall not exceed 45 minutes*) – (*participation may be in person or via Zoom*)
- X. PUBLIC HEARING AND VOTE ON ORDINANCES AND/OR RESOLUTIONS

First Reading of Ordinances:

- A. First reading of Ordinance amending Chapter 1, Article IV, addition of new section – Section 1.413 – ARTS AND CULTURAL COMMISSION (***Sample motion – move to pass first reading and schedule a public hearing and second reading at the September 5, 2023 City Council meeting***)
- B. First reading of Ordinance amending Chapter 1, Article IV, Section 1.402 – ECONOMIC DEVELOPMENT COMMISSION – Subsections A, B and C (***Sample motion – move to pass first reading and schedule a public hearing and second reading at the September 5, 2023 City Council meeting***)
- C. First reading of Ordinance amending Chapter 1, Article VIII – CODE OF ETHICS – Preliminary, Section 1.801 – Definitions, and Section 1.802 – Conflicts of Interest (***Sample motion – move to pass first reading and schedule a public hearing and second reading at the September 5, 2023 City Council meeting***)

Public Hearing/Adoption of Resolution:

- D. PUBLIC HEARING/ADOPTION of Resolution Appropriating One Million Nine Hundred Thousand (\$1,900,000.00) Dollars from American Rescue Plan Act (ARPA) Grant to pay costs associated with Community Resource Network, Transportation Facilitation, Mobile Library Resources, Community Health Needs Assessment Recommendation, Community Campus Capital Improvements, and IT Infrastructure (Items listed in Exhibit A) and for the Payment of Costs Incidental and Related Thereto (**Sample motion – move to adopt the Resolution as presented**)
- PRESENTATION
 - CITY COUNCIL QUESTIONS
 - PUBLIC HEARING SPEAKERS
 - ADDITIONAL COUNCIL QUESTIONS AND DELIBERATIONS

XI. CITY MANAGER'S ITEMS WHICH REQUIRE ACTION

A. CITY MANAGER CONARD

City Manager's Items Which Require Action:

1. Request to Establish Public Hearing for Supplemental Appropriation regarding Collective Bargaining
2. Memorandum of Agreement Regarding McNabb Project at 1 Congress Street
3. *Public Art Trust Fund Update and Request for Referral

XII. CONSENT AGENDA

(Proper Motion for Adoption of Consent Agenda – move to adopt the Consent Agenda)

(There are no items under this section of the agenda)

XIII. PRESENTATIONS AND WRITTEN COMMUNICATIONS

- A. Presentation Regarding Capital Improvement Plan Kickoff FY25 – Peter Britz, Director of Planning and Sustainability
- B. Letter from Valerie Rochon, Portsmouth NH 400th, Inc., requesting permission to hold a Community Picnic on Sunday, October 1, 2023 from 12:00 p.m. to 3:00 p.m. at Leary and Central Fields
- C. Email Correspondence (**Sample motion – move to accept and place on file**)

XIV. MAYOR McEACHERN

1. *Appointments to be Voted:
 - Paul Messier to the Building Code Board of Appeals
 - Meganne Fabrega to the Library Board of Trustees
 - Jennifer Mandelbaum to the Library Board of Trustees
 - William Bowen to the Planning Board as an Alternate
 - Ivy Robichaud to the Sustainable Practices Blue Ribbon Committee

2. Acceptance of Resignations:
 - Johanna Landis from the Historic District Commission
 - *Harold Whitehouse from the Parking and Traffic Safety Committee

XV. CITY COUNCIL MEMBERS

A. COUNCILOR BAGLEY

1. Parking & Traffic Safety Committee Action Sheet and Minutes of the August 3, 2023 meeting (***Sample motion – move to accept and approve the action sheet and minutes of the August 3, 2023 Parking & Traffic Safety Committee***)

XVI. APPROVAL OF GRANTS/DONATIONS

- A. Acceptance of Donation to the Fire Department from Lloyd Woodruff for the department's discretion - \$200.00 (***Sample motion – move to approve and accept the donation for the Fire Department as presented***)
- B. Acceptance of Donation to the Recreation Department from BRGR Bar for Skatepark Fundraising - \$1,049.00 (***Sample motion – move to approve and accept the donation for the Recreation Department as presented***)

XVII. CITY MANAGER'S INFORMATIONAL ITEMS

1. *Pease Development Authority Update
2. *Update on Coakley Executive Committee

XVIII. MISCELLANEOUS BUSINESS INCLUDING BUSINESS REMAINING UNFINISHED AT PREVIOUS MEETING

XIX. ADJOURNMENT [at 10:30 p.m. or earlier]

**Indicates verbal report*

**KELLI L. BARNABY, MMC/CNHMC
CITY CLERK**

SPECIAL CITY COUNCIL MEETING

MUNICIPAL COMPLEX
DATE: MONDAY, JULY 17, 2023

PORTSMOUTH, NH
TIME: 6:00 PM

CALL TO ORDER

Mayor McEachern called the special meeting to order at 6:00 p.m.

ROLL CALL

PRESENT: Mayor McEachern, Assistant Mayor Kelley, Councilors Tabor, Denton, Moreau, Bagley, Lombardi, Blalock and Cook

Mayor McEachern asked City Attorney Morrell for an update.

City Attorney Morrell explained that we have received a letter from Holland and Knight LLP after having been engaged by Ted Jankowski to review the terms of Section 408 of Title IV of the Consolidated Appropriations Act of 2004 to determine its enforceability. She continued reviewing the history of the mandated process for the GSA to convey the McIntyre Federal Building to the City of Portsmouth under SB 1598. She stated that some of the requirements occurred, including relocation of the federal employees and purchase of property to build a new federal building. She stated that the GSA remains stalwart in their position despite many efforts by city officials and members of our delegation to get them to convey the property pursuant to that law. She stated that Holland and Knight believe they have enough contacts in the GSA and Congress that they can be persuasive to have GSA halt the current auction process and convey the property to the city. She stated the city held a non-public with Holland and Knight who recommended pursuing lobbying instead of a civil suit. She stated they provided a scope of work which include milestones with the first order of business to be getting the GSA to stop the auction of the property to have time to lobby the appropriate people. She concluded they are looking for Council approval for Holland and Knight to make this effort on behalf of the city.

Councilor Tabor asked if these funds will be unbudgeted monies that need an appropriation.

City Manager Conard stated that there are remaining funds available in the McIntyre Design account so it will not need an appropriation.

Councilor Moreau stated we had already requested the GSA to transfer the property based on this law but their response was "No" in June.

City Attorney Morrell explained that the Mayor had sent a letter in May to Flavio Perez of the GSA requesting that the property be conveyed based on the law which was rejected and similar to the types of response that has occurred going back to 2013. She stated that because they didn't build the new building, they maintain that all of the conditions were not met and therefore not obligated to convey the property.

Councilor Cook asked if we have ever had anyone try to lobby on our behalf.

City Attorney Morrell stated she found a letter from 2014 inquiring about lobbying but doesn't know how far those efforts went.

Mayor McEachern stated that Holland and Knight mention in their letter that the city needs to reach consensus on the engagement to seek the conveyance of the McIntyre building and to develop a concrete plan for the economic development purposes for acquiring the McIntyre Building asking if that is correct.

City Attorney Morrell stated that their advice is to engage the community and get a clear voice of what the community wants and to put together a plan for municipal use of the property. She stated they feel the lobbying process would be more successful if that was done.

Councilor Cook asked what the general carrying cost is of the McIntyre Building currently and are there any big ticket items coming up.

City Manager Conard stated that it is \$310,637.00 for operation and maintenance costs to date. She stated that currently we are maintaining the property in a moth-ball status but there could be unanticipated expenses.

Councilor Cook asked what is the parking revenue currently for a year and does that offset the carrying costs.

City Manager Conard stated that parking revenue collected to date is around the same amount as the operating/maintenance costs to date.

Councilor Cook asked about the scenario of putting public housing in the McIntyre where previously it wasn't feasible when the purchase price was \$25 million and would it change under this scenario.

City Manager Conard stated that it would change the scenario considerably by removing the \$25 million purchase price.

Councilor Cook asked if there is any scenario in which the existing federal building becomes affordable public housing.

City Manager Conard stated that would be an answer that an affordable housing developer could give as we have done an estimate on renovating the building, but may not be relevant to that purpose.

Councilor Cook stated that the estimate to renovate the building for a city hall use was \$36,000,000.00.

City Manager Conard stated that those were the estimates in April and were conservative so they may be different now.

Councilor Bagley asked if the city was to acquire the building through this process, would the principal building be able to be taken down or not.

City Attorney Morrell stated it is unclear if the property is conveyed to us by the GSA if it would come with the same restrictions as it would have with the monument program.

Mayor McEachern opened the Public Comment:

Ted Jankowski – thanked the City Council for following up on his letter stating that this will be a great opportunity to go forward without a partnership. He stated that he feels this will be a great location for affordable housing as it could be comparable to a public housing building in Austria which is also a tourist attraction due to its architecture.

Sue Polidura - stated that workforce housing is not suitable for the McIntyre building due to the materials in the building. She stated the goal should be to get the building first. She stated that she has been following the Historic Archives Committee and a major concern is that there is no space for historical collections and feels that this would be a good use and could also be a museum. She feels that spending the \$30,000-\$40,000 for these attorneys is nothing in comparison to what has already been spent and wants to see our legislative delegation engaged in the process. She concluded by stating that possession is 9/10th of the law.

Bill Downey - stated that this is a unicorn opportunity and we have been deprived of all other options so should explore this one. He thanked Mr. Jankowski for bringing this opportunity forward and was impressed with the attorneys when he spoke with them and they are confident in proceeding with this. He stated to not explore this would be a mistake.

Peter Whelan – stated he applauds Ted Jankowski and feels it is a no-brainer to spend the \$30,000.00 on Holland & Knight. He stated that the \$22,000,000.00 allocated to relocate the federal building was reallocated to a project in Alabama and the GSA owes us. He stated that the Mayor should go to Washington D.C. and get the congressional delegation involved and to have a photo op with our Senators and Congressman in front of the McIntyre.

Jim Lee – stated that as a realtor, he feels that the GSA will have a tough time selling the property to someone else because this law is on the books so it will not have a clear title.

Petra Huda – stated it is not clear if we are here to support the decision or asking for an opinion. She stated her opinion is to go forward with this but it isn't clear if we are mixing what happened before with this opportunity. She stated we need to take the first step to get the building and let the citizens know if we can get it in accordance with the law that was not repealed.

Paige Trace – stated doing what they perceived to be the best decision for the city at that time, a Senator signed off for the GSA to take the money and buy another building. She stated the rest of the story is that the government agencies moved into a building owned by Kane Company. She stated the GSA chose something else on their own accord. She stated that regarding Senator Gregg, he intended in the law for the building to be demolished and then go to the 1/3, 1/3, 1/3 disposition. She stated the city deserves one last try at this building.

Seeing no one else wishing to speak, Mayor McEachern closed the Public Comment.

Mayor McEachern passed the gavel to Assistant Mayor Kelley.

Mayor McEachern began by stating that he has spent a lot of time thinking about the McIntyre Building. He stated there are currently 2 camps regarding this issue; the first are those that are tired of the whole thing and the second are those that feel if we can get the building for \$1.00, then we should do it.

He continued that the City Councilors did not sign up to be Councilors to not do hard things but understands that people are tired of the issue. He referred to a letter that was distributed in 1986 outlining issues that are similar to today. He stated that the letter he wrote once the path with the GSA had ended, was that the mission for the building had ended and that had never happened previously because we were tied to a developer. He stated it wasn't possible back in 2013 because the GSA was slow-walking the process and were never going to move the agencies out of there. He stated now there are no tenants there now so we can go forward. He stated that people are saying that we don't need a plan to go forward with this process, but he feels we do. He listed various uses that have been considered and the question before us now is even before we consider spending the \$15,000.00 for the next two months, is what to do with the building. He stated the risks are too high to spend \$25,000,000.00 on the building, but for \$1.00 it is worth pursuing. He stated that people are concerned with all of the condos that are going up in the city but that is on private property, and we have the opportunity to pursue something on city property. He stated he hopes he has a strong amount of support of the Council to give a strong message that this is something we have a responsibility to pursue.

Assistant Mayor Kelley returned the gavel to Mayor McEachern.

Assistant Mayor Kelley asked if we have engaged with the other legislative delegation since receiving this letter.

City Manager Conard stated yes, we had previously been talking primarily with Senator Shaheens' office but have moved forward with Senator Hassen and Congressman Pappas.

Councilor Tabor moved that staff seek enforcement of the transfer of the McIntyre property to the city at no cost under Senate Bill 1589, and retain appropriate counsel for such purpose, so the city can use the property for the public benefit of the community with a report back on status at the September 18, 2023 Council meeting, seconded by Assistant Mayor Kelley.

Councilor Tabor stated that the return of investment of \$30,000.00 for the property is one thing, but we aren't in the property business. He stated we have an extensive Capital Improvements Plan for the city but we have land constraints for the various projects that need to be done. He stated that this property could be the missing piece for long-term municipal needs. He continued that in terms of the rest of the property, it would be great to do a legacy project if the property was free. He referred to surveys that had been done in the past with consistent opinions that the McIntyre property be a gathering place and not a 4-story building. He concluded that he agrees with the Mayor that people are tired of this subject, but the Council is elected to fight for the citizens.

Councilor Denton stated he was previously involved with this process as the representative of Congresswoman Shea-Porter back in 2014. He stated the City Council at the time was frustrated after 10 years of dealing with this and it was palpable. He stated all of the legislative delegation was represented and they put their full weight on the issue which resulted in the National

Monuments process. He stated that members of Congress do not have any obligation to respond to a law firm and feels the time to hire a lobbyist was in 2004 to have had Senator Gregg and Acting City Manager Jankowski clarify the intent of the legislation. He stated that since then, in 2016, the City Council voted to do a public/private partnership, of which he was one of two dissenting votes, and since then there have been at least 2 robust discussions with the public for what they want to see the land used for. He stated if we move forward with this tonight, we will have to decide quickly what we want to do with the property. He stated that we know that it is going to take a lot of money to rehabilitate this building and we may end up holding the bag. He stated that will mean tough decisions on what other city projects won't get done.

Councilor Lombardi stated that the community has been divided over this project but he feels that no matter what happens, our opportunity to unify the community is to have it under the control of the city.

Councilor Blalock thanked Mr. Jankowski for introducing the city to Holland and Knight. He stated he feels it is important to explore all of our options and we are in a different situation than we had been previously as we are no longer in a development agreement. He stated that spending \$30,000.00 is not lost on him, but the opportunity for more space when we are in need of it and he supports this effort.

Councilor Cook stated she promised her constituents that she would ask all of the questions before deciding on the issue based on reality. She stated that the parking costs are currently offsetting the carrying cost of the building and if we have this firm working for us to see if they can get something accomplished, it isn't going to change that situation. She stated it will change if we acquire the building, but not right off. She stated there will be a remediation cost of \$4,000,000.00 which isn't a huge cost until it then is redeveloped. She stated that the decision of what to do with the building can be made later, but we should pursue this opportunity. She stated we need workforce housing and have very little land to build it, so she would like to see it there.

Councilor Bagley stated that the millions of dollars that have been spent on this issue already could have gone to other pressing issues and feels that it has caused division of the citizens. He listed various projects and issues that need to be addressed and feels that this should not go forward. He stated that this is the time to re-address our priorities. He stated that if the Council decides to move forward, we should engage on a contingency basis.

Assistant Mayor Kelley stated that the takeaway for her is the opportunity and a chance to do something that we haven't done before. She stated we owe it to our residents and the future of our community and loves the idea of a gathering space and less mass at the site. She stated she couldn't justify the cost but now she feels we need to try and get the correct result and hopes the community will rally to get this done.

Councilor Moreau stated she had asked a lot of questions of staff over the last week and was undecided coming to this meeting. She stated that there needs to be positive movement at the end of the 2 months, but with the covered costs at this time, she is willing to go forward and see what comes of it.

Mayor McEachern stated he understands the consternation that this has brought to the city. He stated that it is difficult when trying to figure out how to develop a parcel for public benefit as well as public gain all at once. He stated he agrees with Councilor Denton voting in 2016 to go into a public benefit only, but he is hopeful that this vote will spark some unity now that the private element is out of it.

Motion passed on a 7-2 roll call vote. Councilor Denton and Bagley voted opposed.

Assistant Mayor Kelley moved to adjourn at 7:15 p.m. Seconded by Councilor Blalock and voted unanimously.

Respectfully submitted:

Valerie A. French
Deputy City Clerk

CITY COUNCIL MEETING

MUNICIPAL COMPLEX
DATE: AUGUST 7, 2023

PORTSMOUTH, NH
TIME: 7:00PM

On a unanimous voice vote 9-0, Assistant Mayor Kelley moved to close the Non-Public Session and seal the minutes. Seconded by Councilor Lombardi and voted.

III. CALL TO ORDER

Mayor McEachern called the meeting to order at 7:10 p.m.

IV. ROLL CALL

PRESENT: Mayor McEachern, Assistant Mayor Kelley, Councilors Tabor, Denton, Moreau, Bagley, Lombardi, Blalock, and Cook

V. INVOCATION

Mayor McEachern asked for a moment of silent prayer.

VI. PLEDGE OF ALLEGIANCE

Mayor McEachern led in the Pledge of Allegiance to the Flag.

VII. ACCEPTANCE OF MINUTES – JULY 10, 2023 & JULY 24, 2023

Councilor Denton moved to accept and approve the minutes of the July 10, 2023 and July 24, 2023 City Council meetings. Seconded by Assistant Mayor Kelley and voted.

VIII. RECOGNITIONS AND VOLUNTEER COMMITTEE REPORTS

Mayor McEachern recognized Portsmouth Little League for their outstanding season.

Mayor McEachern recognized William Shaheen for his selection to USA Baseball's Northeast Team.

Mayor McEachern, City Council, City Manager Conard recognized Assistant City Attorney Kathleen Dwyer for her 37 years of service to the City of Portsmouth in the Legal Department. Former City Attorney Robert Sullivan recognized Kathleen's career with the city and her work with the School Department throughout the years.

IX. PUBLIC COMMENT SESSION

Frank Dasper spoke in support of having Keno in Portsmouth. He spoke to the many organizations that the American Legion support and said that children are our future and Keno will assist them in their ability to continue to support various children's sports and other activities. He requested that the City Council support placing the Keno question on the Municipal Ballot.

David Fine spoke opposed to removing the locks from the fence at Prescott Park. He said he has a petition with over 6,500 signatures in support of the locks remaining on the fence. He asked what the plan for the removal of the locks is and where would they be placed.

James Johnston said he would like to see the field lights extended for an extra 30 minutes in the evening to better accommodate the needs of the community.

Francis Cormier spoke regarding the impact inflation is having on all of us.

Herb Lloyd spoke regarding having SolSmart in the City of Portsmouth which is a federally funded program. He spoke about the benefits of the program and how it is used to educate the community on the use of solar.

John Carty spoke in support of the SolSmart program. He said the cost to the city is zero and it will benefit the community. He spoke to the different levels within the program and asked the city to approve the motion under Councilors Denton and Cook names.

Christina Lusky said she is concerned with committing to obtaining the McIntyre building. She stated she does not feel that the workforce housing could be located at McIntyre site. She also expressed her opposition to the McNabb proposal.

Irish Mike spoke regarding politics and how it affects communities.

Paige Trace spoke regarding fiduciary responsibilities. She also addressed workforce housing at the McIntyre site which is the most valuable piece of land in the city. She said McIntyre should be used for economic development and you must put out an RFQ and RFP for the site.

Petra Huda asked what the motion regarding workforce housing under the mayor's name does and whether there is important information that the mayor is going to be sharing with the public regarding McIntyre. She also asked what the motion regarding the McNabb proposal means. She said you need to remember the construction at the parking garage.

Thomas Beaudoin spoke in support of placing the Keno question on the Municipal ballot. He spoke to the various funds provided to organizations within the community by the Elks which would increase in the funds raised by having Keno at their facility.

Lonnie Cherry spoke in support of placing the Keno question on the Municipal ballot.

Peter Somssich spoke in support of the future for Spinnaker Point Center. He said that this is the primary fitness center in the city and the Citywide Neighborhood Group would like to see the city invest monies towards necessary improvements at the center.

Larry Cataldo spoke regarding the Spinnaker Point facility and said there are issues that need addressing such as mold. He stated he would like to have this matter considered at a future City Council meeting and have the Citywide Neighborhood Group provide a presentation regarding the facility and its needs for improvements to be made.

Jennifer Mandelbaum thanked the City Council for their service to the community.

Ted Jankowski urged the City Council to vote in support of Mayor McEachern's motion regarding McIntyre.

Cliff Doyle said his property on Ladd Street will be greatly impacted by the McNabb proposal. He asked the City Council to consider those surrounding properties that will be impacted by the proposal before making a decision on this request.

Peter Loughlin spoke to the transformation of Market Square would have on the city. He requested the city to consider those impacts and effects when transforming the square.

Gary Epler spoke to the need for level three electrical vehicle charges in the city. He said he would like to see level three charges put in place throughout the city for those individuals with electrical vehicles.

Mark from the Park, Eliot, Maine played the song "I'm Proud to be an American" by Lee Greenwood.

Rick Becksted (via Zoom) spoke regarding the McNabb proposal and said none of the land use boards have given their approval for this proposal. He requested that a public forum separate from the City Council meeting be held regarding the proposal. He asked that the public comment session be extended to allow comments following the presentation on the proposal.

X. PUBLIC HEARINGS AND VOTE ON ORDINANCES AND/OR RESOLUTIONS

Public Hearings/Second Reading of Ordinances:

- A. PUBLIC HEARING/SECOND READING of Ordinance amending Chapter 1, Article III – BOARDS and Article IV – COMMISSIONS AND AUTHORITIES
- **PRESENTATION**
 - **CITY COUNCIL QUESTIONS**
 - **PUBLIC HEARING SPEAKERS**
 - **ADDITIONAL COUNCIL QUESTIONS AND DELIBERATIONS**

Councilor Cook moved to pass second reading of the ordinance and hold third and final reading at the August 21, 2023 City Council meeting and further amend Section 1.302 D third line to change his or her to *his/her or their*. Seconded by Assistant Mayor Kelley.

Councilor Cook said the ordinance changes are bringing language up to date.

Mayor McEachern read the legal notice, declared the public hearing open and called for speakers. With no speakers, Mayor McEachern closed the public hearing.

Motion passed.

Councilor Denton moved to suspend the rules to bring forward third and final reading of the ordinance this evening. Seconded by Councilor Cook and voted.

Councilor Denton moved to pass third and final reading of the ordinance. Seconded by Councilor Cook and voted.

B. PUBLIC HEARING/SECOND READING of Omnibus Ordinance amending Chapter 7, VEHICLES, TRAFFIC AND PARKING:

- Amend Chapter 7, Article III – TRAFFIC ORDINANCE, Section 7.336, A: One-Way Streets:
 - 24. Raynes Avenue: westerly from Vaughan Street to Maplewood Avenue
 - 35. Vaughan Street: northerly from Maplewood Avenue to Raynes Avenue
- Amend Chapter 7, Article IVA – BUS STOPS AND TAXICAB STANDS, Section 7A.408: Taxi Stands Designated

The following areas are hereby designated as Taxi stands:

- A. Pleasant Street: easterly side, first parallel parking space north of State Street
- Amend Chapter 7, Article XI – SPEED LIMITS, Section 7.1100, E: Speed Limits: 25 MPH

Section 7.1100: SPEED LIMITS:

E. Speed Limits: 25 MPH

- 7. Islington Street
- 10. Middle Road, from Peverly Hill Road to Middle Street
- 12. Parrott Avenue
- 17. Summit Avenue

- **PRESENTATION**
- **CITY COUNCIL QUESTIONS**
- **PUBLIC HEARING SPEAKERS**
- **ADDITIONAL COUNCIL QUESTIONS AND DELIBERATIONS**

Traffic Engineer Eby provided a brief presentation on the omnibus ordinance and requested changes. He spoke about the recommended changes coming forward from the Parking and Traffic Safety Committee and that the changes have been in effect for one year and are before you for approval this evening.

Mayor McEachern read the legal notice, declared the public hearing open and called for speakers.

Roy Helsel said the speed limits should be enforced on Middle Road. He feels that the entire city should be at 25-mph speed limit.

Paige Trace said that Sagamore Avenue is posted as 30 mph and should be regulated for 25 mph.

Jim Lee spoke to the need for Sagamore Avenue to be listed as a 25-mph zone. He also indicated that the police department needs to provide more enforcement of the area.

With no further speakers, Mayor McEachern declared the public hearing closed.

Mayor McEachern reminded the public that Sagamore Avenue is a state road that we cannot regulate.

Councilor Bagley said the state will not let you change the speed limit without having an engineering study done.

Assistant Mayor Kelley moved to pass second reading and hold third and final reading at the August 21, 2023 City Council meeting. Seconded by Councilor Lombardi and voted.

Councilor Lombardi moved to suspend the rules to bring forward third and final reading of the ordinance this evening. Seconded by Councilor Bagley and voted.

Councilor Lombardi moved to pass third and final reading of the ordinance. Seconded by Councilor Bagley and voted.

- C. PUBLIC HEARING/SECOND READING of Ordinance amending Chapter 7, Article VI – LOADING ZONES, Section 7.601- LIMITED HOURS LOADING ZONES
- **PRESENTATION**
 - **CITY COUNCIL QUESTIONS**
 - **PUBLIC HEARING SPEAKERS**
 - **ADDITIONAL COUNCIL QUESTIONS AND DELIBERATIONS**

Public Works Director Rice advised the City Council that loading zones are not used after 3:00 p.m. and this would free up 38 spaces in the downtown area.

Councilor Cook thanked the Public Works Department, Engineer Eby and Parking and Traffic Safety for adding parking to the downtown during this busy time of day.

Mayor McEachern read the legal notice, declared the public hearing open and called for speakers. With no speakers, Mayor McEachern declared the public hearing closed.

Assistant Mayor Kelley moved to pass second reading of the ordinance and hold third and final reading at the August 21, 2023 City Council meeting. Seconded by Councilor Tabor and voted.

Councilor Lombardi moved to suspend the rules and bring forward third and final reading of the ordinance. Seconded by Councilor Cook and voted.

Councilor Lombardi moved to pass third and final reading of the ordinance. Seconded by Councilor Cook and voted.

- D. PUBLIC HEARING/SECOND READING of Ordinance amending Chapter 7, Article X – TOWING, Section 7.1004 – TOWING OR IMMOBILIZATION OF MOTOR VEHICLES FOR NON-PAYMENT OF PARKING FINES:

ILLEGALLY PARKED: accumulated unpaid parking violations in an amount in excess of two hundred fifty dollars (\$250.00) on any or all vehicles at any time registered to the owners of said vehicle as shown on the records maintained by the Parking Clerk.

NOTICE: At any time subsequent to the accumulation of unpaid parking fines in excess of two hundred fifty dollars (\$250.00) on any or all vehicles at the time registered to the owner of any vehicle on the records maintained by the Parking Clerk, the Parking Clerk may send a Notice by certified mail to the registered owner of said vehicle or vehicles at the address on the registration.

- **PRESENTATION**
- **CITY COUNCIL QUESTIONS**
- **PUBLIC HEARING SPEAKERS**
- **ADDITIONAL COUNCIL QUESTIONS AND DELIBERATIONS**

Mayor McEachern read the legal notice, declared the public hearing open and called for speakers. With no speakers, Mayor McEachern declared the public hearing closed.

Councilor Blalock moved to pass second reading and hold third and final reading of the ordinance at the August 21, 2023 City Council meeting. Seconded by Councilor Lombard and voted.

Councilor Tabor moved to suspend the rules to bring forward third and final reading of the ordinance. Seconded by Councilor Blalock and voted.

Councilor Moreau moved to pass third and final reading of the ordinance. Seconded by Councilor Tabor and voted.

- E. PUBLIC HEARING/SECOND READING of Ordinance amending Chapter 10 – Article 5A – CHARACTER-BASED ZONING, Section 10.5A20, **Regulating Plan**, Subsection 10.5A21.10 Contents of Regulating Plan, Map 10.5A21B – Building Height Standards, Section 100.5A43.30 = **Building and Story Heights**, Subsection 10.5A43.33, Section 10.5A43.40 – **Maximum building footprint**, Subsections 10.5A43.41-44, and Section 10.5A45 – **Community Spaces**, Subsection Figures 10.5A45.10 Community Spaces, Section 10.5A46.20 – **Requirements to Receive Incentives to the Development Standards**, Subsections 10.5A46.21-22, and Article 15 – DEFINITIONS, Section 10.1530 – **Terms of General Applicability**, of the Ordinances of the City of Portsmouth
- **PRESENTATION**
 - **CITY COUNCIL QUESTIONS**
 - **PUBLIC HEARING SPEAKERS**
 - **ADDITIONAL COUNCIL QUESTIONS AND DELIBERATIONS**

Planning Manager Stith provided a summary of amendments and addressed conditional use permits. He spoke to the West End and Overlay Districts which would require conditional use permits from the Planning Board. He addressed the four new community space types with the City Council.

Mayor McEachern read the legal notice, declared the public hearing open and called for speakers.

Paige Trace spoke to workforce housing within this ordinance and asked what happens to the property after thirty years and whether it would remain workforce housing.

With no further speakers, Mayor McEachern declared the public hearing closed.

Councilor Moreau moved to pass second reading and hold third and final reading of the ordinance at the August 21, 2023 City Council meeting. Seconded by Assistant Mayor Kelley and voted.

Councilor Moreau moved to amend the first two lines of Section 10.5A43 (e) to strike the words *the development shall have at least 10% of*. The sentence will now read: For development with more than five (5) dwelling units, the dwelling units within a building shall be workforce housing units in compliance with state law for either. Seconded by Councilor Blalock and voted.

Councilor Moreau moved to suspend the rules to bring forward third and final reading of the ordinance. Seconded by Councilor Lombardi and voted.

Councilor Moreau moved to pass third and final reading of the ordinance. Seconded by Councilor Blalock and voted.

Councilor Denton moved to suspend the rules to bring forward item XV. A.1. – SolSmart Application. Seconded by Councilor Cook and voted.

XV. CITY COUNCIL MEMBERS

A. COUNCILOR DENTON & COUNCILOR COOK

1. SolSmart Application

Councilor Denton moved that the City of Portsmouth submit a SolSmart application, engage with SolSmart consultants, and build a designation plan. Seconded by Councilor Cook and voted.

At 9:00 p.m., Mayor McEachern declared a brief recess. At 9:15 p.m., Mayor McEachern called the meeting back to order.

XI. CITY MANAGER'S ITEMS WHICH REQUIRE ACTION

A. CITY MANAGER CONARD

1. Amendment to Lease Agreement for AIDS Response of the Seacoast

City Manager Conard requested approval to amend the lease which terminates in September 2023 and go forth on a month-by-month basis.

Councilor Moreau moved to finalize and execute the Amendment to the Lease Agreement as proposed in the agenda packet. Seconded by Assistant Mayor Kelley and voted.

2. Bicycle Pedestrian Easement for Property Located at 293 Pevery Hill Road

City Manager Conard said the Legal, Planning and Sustainability, and Public Works Departments recommend the City accept an easement in substantially similar form to the attached easement in the packet. She stated this easement will facilitate the City's planned construction of a Bicycle and Pedestrian Path extending along Pevery Hill Road.

Assistant Mayor Kelley moved to authorize the City Manager to accept and record a Bicycle and Pedestrian Path Easement Deed in substantially similar form to the easement deed from Pevery Hill Estates Condominium, Inc. contained in the agenda packet. Seconded by Councilor Moreau and voted.

3. Drainage Easement and Public Access/Community Space Easement for 70 Maplewood Avenue

City Manager Conard said the Planning Board approved the site plan for 70 Maplewood Avenue which requires that the owner grant the City a drainage easement on its property located at 163 Deer Street. She stated the purpose of the easement is to extend an existing 20' drainage easement along the full length of the property.

Councilor Moreau moved to grant authority for the City Manager to negotiate, execute, accept, and record the Easement for Public Access and Use of Community Space in a form substantially similar to the attached and to further authorize the City Manager to negotiate, execute, accept, and record any amendment to the Easement to add metes and bounds description of the community space after as built plans are completed. Seconded by Assistant Mayor Kelley and voted.

Councilor Moreau moved to grant authority for the City Manager to negotiate, execute, accept, and record the Drainage Easement Deed in form similar to the document contained in the agenda packet. Seconded by Councilor Bagley and voted.

Councilor Denton moved to suspend the rules to bring forward item XVII. 1. – Report Back Re: Ruth Street Property Release. Seconded by Councilor Tabor and voted.

City Manager Conard reported that this matter was reviewed by the Legal Department. She stated that the Legal Department has indicated that a release of the turnaround easement is not appropriate at this time, unless and until a survey plan is prepared by a licensed surveyor which details the extent of the City's right of way interest. She stated Ms. Sensiba wishes to maintain the landscaping she has installed within the City's turnaround easement. She indicated that Ms. Sensiba could request a landscaping license from the City Council, however she declined this suggestion.

XII. CONSENT AGENDA

- A. Request from Sophie Gee, Janegge, to install a Projecting Sign at 107 Congress Street ***(Anticipated action – move to approve the aforementioned Projecting Sign License as recommended by the Planning & Sustainability 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 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. Request from Thomas Michael, TD Bank, N.A., to install two Projecting Signs at 333 State Street (***Anticipated action – move to approve the aforementioned Projecting Sign License as recommended by the Planning & Sustainability 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 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***

- C. Letter from Arlon Chaffee, Granite State Wheelers, requesting permission to hold the Seacoast Century Bicycle Ride on September 23, 2023 (***Anticipated action – move to refer to the City Manager with Authority to Act***)

Councilor Cook requested to take action on Item C. the Grant State Wheelers request separately.

Councilor Moreau moved to adopt the Consent Agenda Items A. & B. – Projecting Signs for 107 Congress Street and 333 State Street. Seconded by Assistant Mayor Kelley and voted.

Councilor Cook said she needs to recuse from voting on the Granite State Wheelers request because an organization she works with is having their event the same day.

Councilor Moreau moved to refer to the City Manager with Authority to Act. Seconded by Assistant Mayor Kelley and voted. Councilor Cook recused from voting on the request from Granite State Wheelers.

XIII. PRESENTATIONS AND WRITTEN COMMUNICATIONS

- A. Presentation from Mark McNabb, McNabb Properties, Ltd., regarding Improvements Plans for High Street, Ladd Street and Haven Court as part of the 1 Congress Street Project

Marie Bodi provided a presentation regarding the McNabb proposal. She stated that Mr. McNabb would like to provide these improvements as a gift to the city. She reviewed the area on Ladd Street and spoke about the connectivity this proposal provides to the area. She said the existing sidewalks on High and Ladd Street vary in size and there is no ADA accessibility in that area.

Tracey Kozak spoke to the connectivity and said it is inclusive of accessibility in the area. She said that this would be in collaboration with the city and Mr. McNabb. She addressed the complete rebuilding of the infrastructure of the underground utilities. She said that these improvements will make the area more vibrant in addition to the accessibility to the areas.

Assistant Mayor Kelley asked about the trash receptacles moving into the High Hanover Garage and if there are other options available. Ms. Kozak said as an urban city there would need to be a more collective approach to find collective ways for placing trash underground.

Councilor Bagley spoke to the five spaces and the parking revenue that is generated for this location. He reported that the revenues were over \$20,000.00 in the last year. He said the improvements are not a revenue loss with the gains we received with infrastructure improvements.

Councilor Tabor said it is unclear regarding the road improvements and who would be accountable if the sewer does not work.

Mr. McNabb said, like with all projects, they are bonded and it is reviewed by the Public Works Department. He said if the project does not meet the expectations of the Public Works Department the city will not return the bond.

Councilor Blalock asked how long the project would take. Tracey responded approximately 18 months.

Councilor Blalock moved to approve the work proposed in concept, subject to the staff reporting back with a Memorandum of Agreement between the City and the Developer that identifies the rough scope of work and the needed legal documents to proceed with that work, to be approved by the City Council and executed by the City Manager. Seconded by Councilor Lombardi.

Ms. Bodi reviewed the memorandum provided by McNabb Properties Ltd. this evening to the Council outlining the 13 salient points and conditions of the project. She said that the doorway to the High Hanover Parking Garage will be added to this request and will be paid for by the developer.

Assistant Mayor Kelley asked about provision #6 – The City of Portsmouth will waive any and all fees, including license agreements to encumber the public way during construction. She said she is concerned that the project would happen during the 1 Congress Street project. Ms. Bodi said the engineer design and infrastructure far exceeds any license fees for the project. Mr. McNabb said we are not looking to waive fees for building permits, just the license fees for encumbrances of the sidewalk.

Councilor Cook spoke to there being a way to back out of the agreement if it becomes necessary.

Mayor McEachern asked City Attorney Morrell if we have the authority to get a recommendation from Parking and Traffic Safety Committee to eliminate parking spaces. City Attorney Morrell said we would refer this to the Parking and Traffic Safety Committee for a referral back. Councilor Cook said we would not need to go to Parking and Traffic Safety Committee if this is part of the planning process. City Attorney Morrell said referring to the Parking and Traffic Safety Committee is part of our process but not a requirement. She said in the Memorandum of Agreement we would need to get owners to agree with changes on Haven Court.

City Manager Conard said we all received the document this evening from Mr. McNabb and said we do not agree with all 13 items outlined in the memorandum.

Mayor McEachern said he wants to hear from Parking and Traffic Safety first.

Councilor Bagley moved to amend the motion to refer to Parking and Traffic Safety Committee to review with a report back to the City Council. Seconded by Tabor and voted. Councilor Cook voted opposed.

Main motion passed as amended.

C. Email Correspondence

Assistant Mayor Kelley moved to accept and place on file. Seconded by Councilor Moreau and voted.

- D. Letter from JerriAnne Boggis, Black Heritage Trail, 60th Anniversary of Dr. Martin Luther King's March on Washington, requesting permission to use public spaces for a March from Memorial Bridge and a ceremony at the African Burying Ground Memorial on Saturday, August 26, 2023

Councilor Moreau moved to refer to the City Manager with Authority to Act. Seconded by Assistant Mayor Kelley and voted.

- E. Letter from Paul Timmerman, Raid on Fort William & Mary, requesting permission to hold an event on December 14, 2023 and December 15, 2023 in recognition of the 250th Revolutionary War anniversary

Assistant Mayor Kelley moved to refer to the City Manager with Authority to Act. Seconded by Councilor Blalock and voted.

- F. Letter from Kara Sweeney, Betty's Dream, requesting to enter into a Payment in Lieu of Taxes (PILOT) Agreement regarding 75 Longmeadow Lane

Assistant Mayor Kelley moved to refer to Legal & Assessing Departments for report back. Seconded by Councilor Bagley.

Councilor Cook requested a report back from the Assessor on the requirements a non-profit has for providing proof of non-profit status in the city.

Motion passed.

- G. Letter from Rene Sullivan, Friends of Lafayette House, requesting to enter into a Payment in Lieu of Taxes (PILOT) Agreement for Friends of Lafayette House

Assistant Mayor Kelley moved to refer to Legal & Assessing Departments for report back. Seconded by Councilor Moreau and voted.

- H. Letter from Gary Beaulieu requesting a landscape license for 232 South Street

Assistant Mayor Kelley moved to authorize the City Manager to negotiate and grant a landscape license to property owners at 232 South Street to construct and maintain landscaping at 232 South Street, as described in the City Council agenda packet. Seconded by Councilor Blalock and voted.

XIV. MAYOR McEACHERN

1. McIntyre Status Update

Mayor McEachern passed the gavel to Assistant Mayor Kelley.

Mayor McEachern moved to direct our city staff to pursue the transfer of the McIntyre Property for the purpose of converting the commercial space into workforce housing. Seconded by Councilor Moreau.

Mayor McEachern said that 20 years of the building is hard to go through at this late hour. He said he does not want a conversation about our past. He said we were approached by a lobbyist to look at this again. He said in trying to figure out what to do, the changes we just approved to the zoning ordinance would deliver 5% of units at the site. He stated it is not about whether we are wealthy people, we need a balance. He stated the Biden administration feels that workforce housing would be an economic development champion from a business perspective. He said in order to keep Portsmouth the type of place he grew up in we model the McIntyre after the Ruth Lewin Griffin building. He said we need to send a message to the federal government. He stated the housing market has failed us with affordability.

Councilor Tabor spoke in support of the motion. He said the Ruth Lewin Griffin building is the model to follow. He said workforce housing is the biggest concern and this is a triple win if we can pull this off. He stated we set a policy objective to engage Holland & Knight to get the property. He said he would like unanimous approval for this tonight.

Councilor Denton said if we had received the building through this back in 2017 there was one potential builder that wanted to turn the building into affordable housing.

Councilor Moreau said she only voted to lobby to have affordable housing such as workforce housing go into the McIntyre. She said she does not expect the city to pay for affordable housing, however.

Mayor McEachern said it is not the intent for the City to be a property developer, Portsmouth Housing Authority is an authority of the state that receives tax credits.

Councilor Bagley said he struggles with this but wants to support the motion. He said he does not feel we should spend more time chasing the project.

Mayor McEachern said we would like to see affordable housing and the motion would not hold them back from doing so.

Discussion followed regarding the need for affordable housing in the city.

On a roll call vote 8-1, motion passed. Mayor McEachern, Councilors Tabor, Denton, Moreau, Lombardi, Blalock, Cook and Assistant Mayor Kelley voted in favor. Councilor Bagley voted opposed.

Assistant Mayor returned the gavel to Mayor McEachern.

Assistant Mayor Kelley moved to suspend the rules to continue the meeting beyond 10:30 p.m. Seconded by Councilor Moreau and voted.

2. Appointments to be Considered:
 - Paul Messier to the Building Code Board of Appeals
 - Meganne Fabrega to the Library Board of Trustees
 - Jennifer Mandelbaum to the Library Board of Trustees
 - William Bowen to the Planning Board as an Alternate
 - Ivy Robichaud to the Sustainable Practices Blue Ribbon Committee

The City Council considered the appointments which will be voted on at the August 21, 2023 City Council meeting.

3. Acceptance of Resignation:
 - Alan Gold from the Economic Development Commission

Councilor Moreau moved to accept with regret and that a letter be sent to Mr. Gold thanking him for his service to the city. Seconded by Assistant Mayor Kelley and voted.

4. KENO Question on Municipal Ballot

Mayor McEachern passed the gavel to Assistant Mayor Kelley.

Mayor McEachern moved to place the Keno Question “Shall we allow the operation of Keno games within the City of Portsmouth” on the November 7, 2023 Municipal Ballot and hold a public hearing at the October 16, 2023 City Council meeting. Seconded by Councilor Tabor.

Mayor McEachern said it is important to hear from the public on this question.

Councilor Moreau said the money from these funds goes back to the community.

Councilor Blalock said this creates more charity funds.

Councilor Cook said she supports the motion because she feels the residents should decide regarding this matter.

Councilor Denton said he wants to ensure if the Lottery Commission is required to present to the City Council regarding having Keno in the community, that it is done during the public hearing.

Motion passed.

Assistant Mayor Kelley returned the gavel to Mayor McEachern.

B. COUNCILOR MOREAU

1. Study of South Bound Route One Traffic Pattern

Councilor Moreau moved to request a report back from the Parking and Traffic Safety Committee and the state on the progress of this project. Seconded by Councilor Cook and voted.

C. COUNCILOR BAGLEY

1. Parking & Traffic Safety Committee Action Sheet and Minutes of the July 6, 2023 meeting.

Councilor Bagley moved to accept and approve the action sheet and minutes of the July 6, 2023 Parking & Traffic Safety Committee meeting. Seconded by Councilor Moreau.

Councilor Bagley reported that Aldrich Road will be receiving speed pillows to slow the traffic flow.

Motion passed.

D. COUNCILOR LOMBARDI

1. Request for First Reading regarding Economic Development Ordinance Proposed Amendments

Councilor Lombardi moved to schedule first reading on the proposed changes to the Economic Development Ordinance at the August 21, 2023 City Council meeting. Seconded by Assistant Mayor Kelley and voted.

E. COUNCILOR COOK

Councilor Cook moved to suspend the rules to bring forward Item 3 – Mid-year Report on the Work of the Governance Committee. Seconded by Councilor Moreau and voted.

3. Mid-year Report on the work of the Governance Committee

Councilor Cook provided a review of the work conducted by the Governance Committee this year. She spoke regarding various ordinance changes. She reported that an ordinance establishing an Arts and Cultural Commission and changes to the Ethics Ordinance around conflict of interest are being presented. She reported that the election changes to ethics would become effective in 2025.

1. Request for First Reading establishing an Arts and Cultural Commission

Councilor Cook moved to schedule first reading of the draft ordinance at the August 21, 2023 City Council meeting establishing an Arts and Cultural Commission to replace the Arts and Nonprofits Blue Ribbon Committee. Seconded by Councilor Moreau and voted.

2. Request for First Reading with Presentation from the Governance Committee regarding proposed changes to the Ethics Ordinance

Councilor Cook moved to schedule first reading with a formal presentation from the Governance Committee at the August 21, 2023 City Council meeting on their proposed changes to the Ethics Ordinance around conflict of interest. Seconded by Councilor Blalock and voted.

XVI. APPROVAL OF GRANTS/DONATIONS

(There are no items under this section of the agenda this evening)

XVII. CITY MANAGER'S INFORMATIONAL ITEMS

2. Community Campus Wetlands Delineation

City Manager Conard reported the total acreage of land outside of the wetland and the buffer as determined by the wetland delineation is 5.15 acres. She also stated that there is 14.74 acres of upland, much of which is wetland buffer.

3. Prescott Park Master Plan Implementation

City Manager Conard reported that additional funding is needed to complete the revised scope which will be requested in the Fiscal Year 2025 CIP. She stated the additional cost for the revised scope of work is \$335,845.00.

XVIII. MISCELLANEOUS BUSINESS INCLUDING BUSINESS REMAINING UNFINISHED AT PREVIOUS MEETING

XIX. ADJOURNMENT

At 11:15 p.m., Councilor Lombardi moved to adjourn. Seconded by Councilor Moreau and voted.

A handwritten signature in black ink that reads "Kelli L. Barnaby". The signature is written in a cursive, flowing style.

KELLI L. BARNABY, MMC/CNHMC
CITY CLERK



PEIRCE ISLAND WWTF UPGRADE PROJECT



The Peirce Island Wastewater Treatment Facility (WWTF) is a key piece of an overall strategy to improve water quality in New Hampshire's Great Bay Estuary. The WWTF was recently upgraded within the limits of the existing 3.7 acre WWTF site and incorporates numerous sustainable features.

Following a multiyear planning and piloting process, the City initiated the design of the upgrade of the existing Peirce Island WWTF to provide secondary treatment and nitrogen removal and to increase the WWTF design average daily flow capacity to 6.1 million gallons per day (MGD) and a peak wet weather flow of 22 MGD. The scope of the upgrade included the following major elements:

- Construction of a Headworks Building for preliminary treatment
- Rehabilitation and upgrade of the existing Grit Building and Aerated Grit Chambers
- Rehabilitation of the existing primary clarifiers
- Construction of a two-stage Biological Aerated Filter (BAF) to provide secondary and nitrogen treatment
- Rehabilitation and upgrade of the chlorine contact tanks
- Rehabilitation of the existing gravity sludge thickener, and construction of a new gravity thickener
- Construction of the Solids Building for solids handling and dewatering
- Reconstruction and retrofit of the existing Sludge Processing Building to become the WWTF Operations/Laboratory Building
- Construction of a new Electrical Building and a standby generator
- Demolition of the existing Control Building and Filter Building
- Construction of two carbon adsorber odor control systems

The upgrade was designed to accommodate expected future sea level rise based on the City's climate resilience strategy. The permitting effort for construction was extensive and addressed the following programs:



- NHDES Wetlands Permit
- NHDES Alteration of Terrain Permit
- US Army Corps of Engineers Programmatic General Permit
- Section 106 of the National Historic Preservation Act
- National Pollutant Discharge Elimination System (NPDES) Construction General Permit
- City of Portsmouth boards and commissions

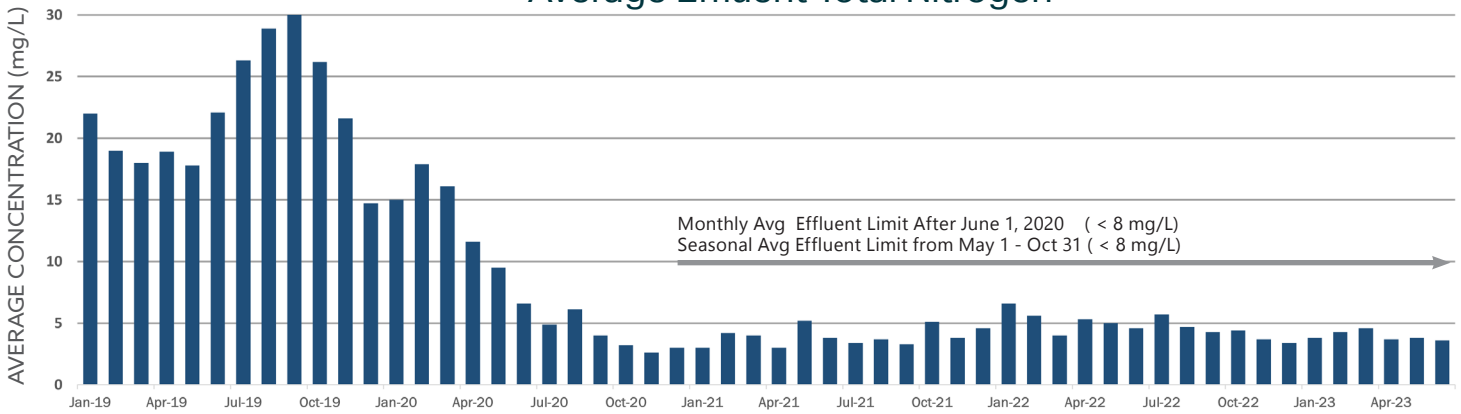
Construction was completed over a 4.5 year period, and the upgraded facility was put into service in early 2020. All Consent Decree milestone dates were met, the plant effluent met all NPDES permit requirements during the construction period, and the plant effluent has met all NPDES permit requirements since being put into operation.

This facility is one of the most advanced wastewater treatment facilities in New England. The graphics on the next page show evidence of its successful operation achieving a 88% reduction in Total Suspended Solids, a 90% reduction in Biochemical Oxygen Demand, and a 83% reduction in Total Nitrogen.

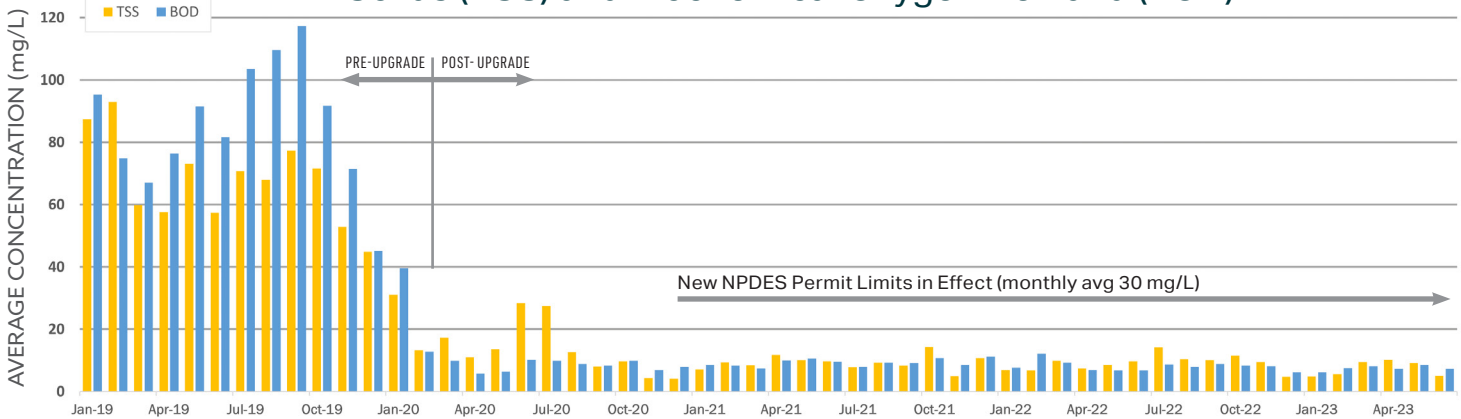
PROJECT FACTS

- Largest Capital Improvement Project in the City's history
- Construction completed in April 2021
- Total Project Cost: \$92 M
 - NH State Revolving Fund Loan: \$81.9 M
 - NH State Aid Grant Award: \$35 M

Average Effluent Total Nitrogen



Pre- and Post Construction Average Effluent Suspended Solids (TSS) and Biochemical Oxygen Demand (BOD)



AWARD-WINNING PROJECT

The Peirce Island WWTF project won a number of projects for its success:

- ✓ Water Environment Foundation Project Excellence Award
- ✓ Environmental Protection Agency Pisces Award Honorable Mention
- ✓ American Council of Engineering Companies National – National Recognition Award
- ✓ American Council of Engineering Companies MA – Silver Award
- ✓ American Society of Civil Engineers-NH - Outstanding Civil Engineering Achievement Award
- ✓ Associated Builders & Contractors of NH – Excellence in Construction
- ✓ Associated Builders & Contractors of NH – Chairman’s Award
- ✓ Associated Builders & Contractors National – Pyramid Award
- ✓ Engineering News Record New England 2021 Best Project: Water/Environment
- ✓ Engineering News Record New England 2021 Best Project: Excellence in Safety
- ✓ New Hampshire Water Pollution Control Association 2022 Plant of the Year



AWARD WINNING OPERATIONS

The upgraded Peirce Island WWTF was recently awarded the 2022 New Hampshire Plant of the Year by the New Hampshire Water Pollution Control Association. This award recognizes the City’s Operations staff for their efforts in the following categories:

- ✓ Permit compliance
- ✓ Safety
- ✓ Employee education
- ✓ Public outreach
- ✓ Professional participation



VIRTUAL TOUR OF PEIRCE ISLAND WWTF

Scan the QR code with your mobile device to view video.



ORDINANCE #

THE CITY OF PORTSMOUTH ORDAINS

That Chapter 1, Article IV, adding a new section – Section 1.413 – **ARTS AND CULTURAL COMMISSION** – of the Ordinances of the City of Portsmouth as follows:

ARTICLE IV: BOARD AND COMMISSIONS

Section 1.413: ARTS AND CULTURAL COMMISSION

- A. Membership and Term: The Arts and Cultural Commission shall consist of 14 qualified regular members and one alternate member. Of those 14 members, 4 members shall represent the arts and cultural institutions in Portsmouth, both for-profit and non-profit in nature, and their membership on the committee shall be on behalf of their institutions, rather than as an individual membership. Those institutional members shall not serve consecutive terms, but their membership shall rotate among those arts and cultural institutions to foster participation on the part of various institutions. An additional 4 members shall be appointed from the community of artists within the City of Portsmouth. Four members shall be individuals with appreciation for community arts and cultural programming. One City Councilor shall serve in a term corresponding with his/her/their respective tenure of office. The City Manager or his/her/their representative shall serve as an ex-officio member of the commission.

The Mayor shall make initial appointments as follows: 4 members for 3 year terms, 4 members for 2 year terms, and 4 members for 1 year terms. Thereafter, in order to maintain a stagger in appointments, incomplete terms must be made for the remaining unfulfilled portion of a term before a full term appointment is made. A full term shall be three (3) years. All members shall be appointed by the Mayor, subject to the approval of the City Council. The commission shall meet no less than quarterly.

- B. Definitions: Arts and Cultural Institutions should be defined as those institutions engaging primarily in direct community work in visual arts, musical arts, theater arts, literary and performance arts, cultural community events, and historical preservation and education.
- C. Powers and Duties: The Commission shall encourage support for arts and culture within the wider Portsmouth community, including, but not limited to the following.
1. The Commission shall foster the implementation of the Cultural Plan of the City of Portsmouth, and shall conduct other studies and planning processes, as necessary, focusing on the arts and cultural community.
 2. The Commission shall support the establishment of arts and cultural institutions in Portsmouth and the surrounding area,

promote the welfare of existing arts and cultural institutions, and support coordination and communication among local artists, arts and cultural institutions.

3. The Commission shall make recommendations to the City Council concerning arts and cultural needs within the City, and shall create a plan for attracting and retaining artists and arts and cultural institutions.
4. The Commission shall work to increase and sustain the arts and cultural appreciation of all residents while protecting and maintaining the quality of our arts institutions and historic and cultural assets. This process should consist of the encouragement of a broad, productive community effort to coordinate and enhance the utilization of all community resources involved in any respect with arts and culture.
5. The Commission shall identify governmental funding sources, including state and federal funding resources designated for Municipalities, to support its work. The Commission shall not raise funds in direct competition with arts and cultural organizations within the City of Portsmouth.
6. The Arts and Cultural Commission shall work in coordination with, and in support of the Public Art Review Committee to promote Public Art in the City of Portsmouth.

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:

Deaglan McEachern, Mayor

ADOPTED BY COUNCIL:

Kelli L. Barnaby, City Clerk

ORDINANCE #

THE CITY OF PORTSMOUTH ORDAINS

That Chapter 1, Article IV, Section 1.402 – **ECONOMIC DEVELOPMENT COMMISSION**, subsections A, B and C, 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 IV: COMMISSIONS AND AUTHORITIES

Section 1.402: ECONOMIC DEVELOPMENT COMMISSION

- A. Membership and Term: The Economic Development Commission shall consist of nine (9) qualified regular members and one alternate member. They shall be appointed by the Mayor subject to the approval of the City Council for a term of four years, **except that the first two (2) appointments made by the Mayor for members whose terms expire in 2025 shall each be for a term of two (2) years. Thereafter, all appointments shall be for a term of four (4) years from the end date of any expiring term. Vacancies shall be filled for the remainder of the term of the member whose departure from the Commission created the vacancy.** The Mayor and City Manager shall also serve as ex-officio members of the Economic Development Commission whose terms shall correspond to their respective tenure of office. (Amended 9/22/97)
- B. Powers and Duties: ~~The Commission shall encourage the establishment of business and industry in Portsmouth and the surrounding area and promote the welfare of local industry and general business. (Adopted as amended 12/03/90)~~ **The Commission shall develop and recommend to the City Council, City Manager, and boards, committees, and commissions of the City policies, procedures, regulations, and ordinances and take such other actions that encourage and promote economic and business development, including business recruitment, retention, and growth, and the creation and maintenance of a healthy, diversified, and sustainable business community in the City and broad prosperity in the community.**
- C. **Functions: In furtherance of its duties set out in Subsection B, the Commission may perform one or more of the following functions:**
- ~~The Commission shall make recommendations to the City Council concerning the acquisition, bonding, developing, building, leasing and mortgaging of commercial and industrial land and buildings and~~

~~other matters incidental to attracting business and industry to Portsmouth. (Adopted as amended 12/03/90)~~ **Assist the City Council and City Manager in the formulation of economic development goals for the City.**

2. ~~It shall be the general responsibility of the Economic Development Commission to increase and sustain the business and personal prosperity of all residents of this community while protecting and maintaining the quality of our natural environment and historic and cultural assets. This process should consist of the encouragement of a broad, productive community effort to coordinate and enhance the utilization of all community resources involved in any respect with economic development. The process should further ensure that adequate financing sources are available to those qualified enterprises, which desire to start up, expand, and/or locate in our Community. (Adopted as amended 12/03/90)~~ **Assess existing economic development policies of the City for the purpose of recommending such modifications as may be appropriate to promote the economic development goals of the City.**
3. **Formulate or assist in the formulation of new economic development strategies, policies, regulations, and ordinances for the purpose of achieving the economic development goals of the City in collaboration with the Assistant City Manager for Economic Development or as designated by the City Manager.**
4. **Prepare and submit recommendations to the City Council, the City Manager and other boards, committees, and commissions on a broad range of matters related to economic development, including, business development, public-private partnerships, maintenance and development of commercial, industrial, and business districts, and business retention and attraction programs.**
5. **Make recommendations to the City Council regarding the acquisition, bonding, developing, building, leasing, financing and mortgaging of commercial and industrial land and buildings and other matters incidental to retaining and attracting business and industry to the City.**
6. **Respond to inquiries of the City Council on matters relating to economic development.**
7. **Conduct research into the economic conditions and trends of the community and the greater regional economy.**

- 8. Survey, meet and confer with businesses, civic organizations, developers, educational institutions, landowners, and citizens to promote the merits of economic development and to understand better the resources and needs of the community to support its continued health, success, and growth.**
- 9. Provide leadership and guidance to the City Manager in the areas of planning, economic development and redevelopment.**
- 10. Perform such other duties and provide such other information, assistance, and advice to the City Council, City Manager, and other boards, committees and commissions and as is consistent with Subsection B herein.**

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:

Deaglan McEachern, Mayor

ADOPTED BY COUNCIL:

Kelli L. Barnaby, City Clerk

ORDINANCE #

THE CITY OF PORTSMOUTH ORDAINS

That Chapter 1, Article VIII – **CODE OF ETHICS**, Preliminary, Section 1.801 – DEFINITIONS, and Section 1.802 – CONFLICTS OF INTEREST 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 VIII: CODE OF ETHICS

PRELIMINARY

The citizens of Portsmouth are entitled to a fair, ethical, and accountable City government. The effective functioning of democratic government requires that all of its officials, whether elected or appointed, comply with both the letter and the spirit of the laws and be independent, impartial, and fair in their judgment and actions. Public Office is to be used for the public good, not for personal gains. Public deliberations and processes must be conducted in an atmosphere of respect and civility and openly, unless legally confidential. To this end, the City Council adopts this Code of Ethics for all of its officers and officials, whether elected or appointed.

Section 1.801: DEFINITIONS

For purpose of this Article, the following terms shall be defined in the following manner:

- A. Charged Party: That Officer or Employee alleged to have violated this Ordinance and is the subject of the Complaint.
- B. Complaint: Any written communication meeting the requirements of Section 1.806 (A).
- C. Complainant: The person making the Complaint.
- D. Employee: The term "Employee" shall include all employees of the City including the Police, School and Fire Departments whose salary is paid in whole or in part from the City Treasury.
- E. Ethics Investigation Officer (EIO): That person serving in the capacity as described in Section 1.805.
- F. Governing Body: The term "Governing Body" shall mean the City Council, School Board, Police Commission, or Fire Commission.

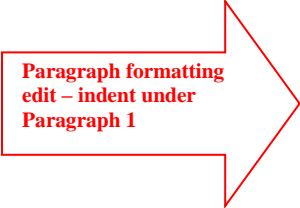
G. Officer: The term "Officer" shall be defined to include every person who serves the City of Portsmouth in any official position which is established by state law, the Municipal Charter, the Ordinances of the City or by appointment of the City Council.

H. Official Duties: The term "Official Duties" shall mean the following:

1. In the case of members of the City Council, School Board, Fire Commission, Police Commission and the City Manager, those duties and responsibilities set forth in the City Charter and/or established by State law.

In the case of all other Officers, those duties and responsibilities set forth in the legislation or vote which establishes the position held by the Officer or the job description for that position.

2. In the case of the Chief of Police, the Superintendent of Schools, the Fire Chief, and all employees, those duties and responsibilities set forth in the respective job description for each party or employee.



Paragraph formatting
edit – indent under
Paragraph 1

I. Quasi-Judicial: Those City employees or officers who are required by state or municipal law to act in a neutral and impartial manner in making judicial-type decisions in the performance of any particular function, while performing that function.

J. Family: Any group of people closely related by blood, ~~or~~ marriage or choice, as parents, children, and members of one's household.

K. Direct Personal Interest: An interest in real estate created by the City employee or official or their family member being an owner or abutter of real estate being considered by a public body, or likewise, an interest in a business for which any action in their official capacity could result in personal or familial financial gain.

L. Direct Pecuniary Interest: A gain or loss in the form of money, property, or any other item of measurable value provided to or taken from a person.

Section 1.802: CONFLICTS OF INTEREST

A. No Officer or employee shall engage in any business or transaction or shall have a financial or other private interest, direct or indirect, which is in conflict with the proper discharge of his/or her official duties.

- B. Representing Private Interests Before City Agencies: No Officer or employee shall appear in behalf of private interests before any governing body or land use regulatory board of which the officer or employee is a member or membership on which is subject to approval by the officer or employee.

Officers and employees, however, may appear without compensation in behalf of constituents or in the performance of public or civic obligations. This section shall not prohibit appearances upon matters only incidentally requiring official action which do not develop into a substantial part of the employment, provided, that the retainer is not for the purpose of appearing before the governing body or land use regulatory board.

- C. Representing Private Interests Before Courts: No officer or employee shall represent private interests in any action or proceeding against the interests of the land use regulatory board or governing body of which the officer or employee is a member, or membership on which is subject to approval by the officer or employee in any litigation to which the City is a party.

- D. Disclosures of Interest in Legislation: A Councilor who has a direct or indirect financial or other private interest in any proposed legislation shall publicly disclose, on the official records of the Council, the nature and extent of such interest. **Reference is made to the separate and distinct disclosure obligations of municipal officials under Chapter 1, Article IX, Section 1.901 and election candidates under Article IX, Section 1.902.**

- E. Disclosures by Officer or Employee of Interest in Legislation: An officer or employee who has a direct or indirect financial interest or other private interest in any legislation and who participates in discussion before or gives official opinion to the Council, shall publicly disclose on the official record the nature and extent of such interest.

- F. Gifts and Favors: No officer or employee shall accept any gift, over over ~~\$100.00~~ **\$350.00 per calendar year**, whether in the form of service, loan, thing or promise, **travel and lodging, or** any other form from any person, firm or corporation which to his/or her knowledge is interested directly or indirectly in any manner whatsoever, in business dealings with the City. This provision shall not apply to campaign contributions **of \$100.00 or less. (See Section 1.901 of this ordinance.)**

- G. Disclosures of Confidential Information: Any officer or employee, who holds any investment direct or indirect in any financial, business, commercial or other private entity which creates a conflict with his/her

official duties shall publicly disclose on the official record the nature and extent of such interest.

- H. Investments in Conflict with Official Duties: Any officer or employee, who holds any investment direct or indirect in any financial, business, commercial or other private entity which creates a conflict with his/her official duties shall publicly disclose on the official record the nature and extent of such interest.
- I. Incompatible Employment: No officer or employee shall engage in or accept private employment or render or seek services or goods for private interests when such employment or service creates a conflict with his/her official duties.
- J. **Actions in a Quasi-Judicial Capacity: City employee or official acting in a quasi-judicial capacity must abide by all provisions of state law with regard to conflict of interest and ethics. This shall include:**
 - (a) **Compliance with all statutes and governing case law.**
 - (b) **Avoiding any involvement in an application when a family member is participating in any way in connection with the application presented to the City employee or official, inclusive of when that family member speaks at public comment or in a public hearing.**
 - (c) **Officials acting in a quasi-judicial capacity shall not speak publicly as members of the public at hearings on matters or issues that are pending before any public body of which they are a member, except when the official has a direct personal interest as defined herein.**
 - (d) **City employees or officials acting in a quasi-judicial capacity shall not participate as a party to any litigation which involves a person, property, or issue which might reasonably come before that employee or official when acting in a quasi-judicial capacity, except when the City employee or official has a direct personal interest as defined herein.**

Section 1.803: CONSEQUENCES OF VIOLATION

Any violation of any provisions of this ordinance shall constitute cause for public censure, suspension or removal from office or, in the case of Employees disciplinary action as may be set forth in any collective bargaining or employment agreement up to and including termination from employment.

Section 1.804: BOARD OF ETHICS

- A. A Board of Ethics (“BOE”) is hereby created. This BOE shall consist of five (5) persons: two members shall be selected from the City Council and one member each from the School Board, Police Commission and Fire Commission. All members shall be selected by lot to maintain a full board as necessary. The City Attorney (ex officio) or such other legal counsel (ex officio) shall provide legal advice and support for the BOE. The BOE members shall be selected by lot and drawn at the first meeting of the calendar year of the governing bodies.
- B. Each BOE Member selected is required to serve unless the BOE Member is the subject of the Complaint, has a conflict of interest, or is excused due to unavailability or exceptional causes (such as a health issue).
- C. The BOE Members shall elect a chairperson and the BOE may adopt such rules for the conduct of its business as it sees fit. The BOE shall have the power to draw upon City departments for reports and information and stenographic and clerical help. They shall have all subpoena powers as may be available to them under State law.

Section 1.805: ETHICS INVESTIGATION OFFICER

- A. The position of Ethics Investigation Officer (EIO) is hereby created. The City Manager shall have the power to identify and retain an EIO, with approval from the Board of Ethics, to assist with the investigation and prosecution of any Complaint which has been referred for investigation. The EIO, with approval from the Board of Ethics, shall have sufficient experience and training to conduct the investigation.
- B. In the event the Complaint is against the City Manager, the responsibility to identify and retain an EIO shall reside with the City Attorney in agreement with the Mayor and with the approval of the Board of Ethics.

Section 1.806: COMPLAINTS, INVESTIGATIONS AND HEARING

- A. Complaint Requirements. Any person may submit a written complaint alleging one or more violations of Section 1:802. Such complaint must be based on personal knowledge, and set forth facts with enough specificity and detail for a determination of sufficiency for investigation. The Written Complaint must be signed under oath and include contact information, including: home address, phone number and email address (such personal contact information to be treated as

confidential upon request). The Complaint shall be delivered to the City Attorney with a copy to the Mayor and City Clerk. The City Attorney shall promptly provide a copy of the Complaint to the Charged Party.

B. Review for Sufficiency.

1. A Review for Sufficiency of the Complaint will be completed within thirty (30) days of receipt. This review will be based on the allegations contained in the Complaint and the immediately available record of any public meetings or records referenced in the Complaint.
2. The City Attorney and the Mayor shall conduct the Review for Sufficiency except in cases in which either is the subject of the Complaint. Complaints against the City Attorney shall be reviewed by the City Manager and Mayor. Complaints against the Mayor shall be reviewed by the City Attorney and the Assistant Mayor.
3. If the Complaint is deemed insufficient, the Complainant will be notified in writing of that decision with a copy provided to the Charged Party. A Complaint will be deemed sufficient if it is determined that the Complaint establishes some reasonable possibility that a violation of the Code of Ethics may have occurred.
4. If the Complaint is deemed to be sufficient for further investigation, it shall be referred to the EIO for further action and all parties will be notified of this step through a communication in writing. That communication in writing will contain the following:

This Determination of Sufficient does not determine the truth or falsity of any of the allegations contained in the Complaint or constitute any finding or conclusion that a violation occurred.

- C. Investigation Phase. The EIO shall be provided the full cooperation of the City government to conduct such investigation as may be necessary to determine whether any violation may have occurred and next steps. The EIO shall have all subpoena powers as may be available under State law. The Charged Party shall have an opportunity to provide a response to the Complaint.

The EIO's investigation shall be completed within forty-five (45) days of the date of referral unless the Charged Party and the City's representative (City Manager or City Attorney) mutually agree to a longer period.

The EIO shall provide a written report with the conclusions reached in the completed investigation to the BOE. The EIO shall provide a non-binding recommendation as to the disposition of the Complaint to the BOE. Thereafter, all action with regard to the Complaint shall be taken by the BOE.

D. Board of Ethics Hearings.

1. The BOE shall take no further evidence on any Complaint, but shall make its determination based upon the report received from the EIO. However, the BOE shall hold at least one (1) public hearing at which the EIO, the Complainant, and the Charged Party shall be afforded an opportunity to present oral and written argument to the BOE. The BOE may hear from such other and further parties as it determines appropriate.
2. Any party may be represented by legal counsel at his or her own expense at any stage of an ethics proceeding.
3. The BOE shall issue a written decision within thirty (30) days of the final public hearing with findings and a disposition, dismissal or referral for further action if a violation has been found. If a violation has been found, the BOE shall recommend a sanction or penalty, and refer the matter to the City Council (if an Officer or the City Manager) or to the City Manager (if an Employee) for disposition, sanction or other action as set forth in Section 1:807.

- E. If the employee is a member of a bargaining unit covered by the terms of a collective bargaining agreement, the investigation will comply with those provisions of the applicable collective bargaining agreement; this may include, but is not limited to the employee having Union representation at any investigative interview that may lead to discipline.

Section 1.807: DISPOSITION AND SANCTION

- A. In the event that the BOE determines that any Officer or the City Manager committed a violation of this Ordinance, the City Council may take any of the following actions:
- a. Vote for removal pursuant to the City Charter as amended;
 - b. Vote to publicly censure or admonish the offending member;
 - c. Vote to place the matter on file; or
 - d. Vote to overturn the finding of a violation.
- B. In the case of Employees, the City Manager shall have all rights available under any employment agreement or collective bargaining

agreement to discipline or terminate the employee and the City Manager shall make such report to the City Council as it determines necessary, in public or non-public session as may be determined at the time, as to the action taken.

- C. Criminal Sanctions: In addition to the civil sanctions imposed by this ordinance violation of any provision of this ordinance shall constitute a criminal offense and the City Council may authorize the City Attorney or any other attorney approved by it to prosecute such a violation in the Portsmouth District Court.

The penalty for violation of any provision of this Ordinance upon conviction in the Portsmouth District Court shall be \$1,000 for each offense.

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:

Deaglan McEachern, Mayor

ADOPTED BY COUNCIL:

Kelli L. Barnaby, City Clerk

LEGAL NOTICE

NOTICE IS HEREBY GIVEN that a Public Hearing will be held by the Portsmouth City Council on Monday, August 21, 2023 at 7:00 p.m., at the Portsmouth Municipal Complex in the Eileen Dondero Foley Council Chambers, Portsmouth, NH, on a proposed Resolution Appropriating One Million Nine Hundred Thousand (\$1,900,000.00) Dollars from American Rescue Plan Act (ARPA) Grant to pay costs associated with Community Resource Network, Transportation Facilitation, Mobile Library Resources, Community Health Needs Assessment Recommendation, Community Campus Capital Improvements, and IT Infrastructure (Items listed in Exhibit A) and for the Payment of Costs Incidental and Related Thereto. The complete Resolution and Exhibit A are available for review in the Office of the City Clerk and Portsmouth Public Library, during regular business hours.

KELLI L. BARNABY, MMC/CNHMC
CITY CLERK

LEGAL NOTICE

NOTICE IS HEREBY GIVEN that a Public Hearing will be held by the Portsmouth City Council on Monday, August 21, 2023 at 7:00 p.m., at the Portsmouth Municipal Complex in the Eileen Dondero Foley Council Chambers, Portsmouth, NH, on a proposed Resolution Appropriating One Million Nine Hundred Thousand (\$1,900,000.00) Dollars from American Rescue Plan Act (ARPA) Grant to pay costs associated with Community Resource Network, Transportation Facilitation, Mobile Library Resources, Community Health Needs Assessment Recommendation, Community Campus Capital Improvements, and IT Infrastructure (Items listed in Exhibit A) and for the Payment of Costs Incidental and Related Thereto. The complete Resolution and Exhibit A are available for review in the Office of the City Clerk and Portsmouth Public Library, during regular business hours.

KELLI L. BARNABY,
MMC/CNHMC
CITY CLERK

CITY OF PORTSMOUTH
TWO THOUSAND TWENTY-THREE
PORTSMOUTH, NEW HAMPSHIRE

RESOLUTION # _____

A RESOLUTION APPROPRIATING ONE MILLION NINE HUNDRED THOUSAND (\$1,900,000) DOLLARS FROM AMERICAN RESCUE PLAN ACT (ARPA) GRANT TO PAY COSTS ASSOCIATED WITH COMMUNITY RESOURCE NETWORK, TRANSPORTATION FACILITATION, MOBILE LIBRARY RESOURCES, COMMUNITY HEALTH NEEDS ASSESSMENT RECOMMENDATIONS, COMMUNITY CAMPUS CAPITAL IMPROVEMENTS, AND IT INFRASTRUCTURE (ITEMS LISTED IN EXHIBIT A) AND FOR THE PAYMENT OF COSTS INCIDENTAL AND RELATED THERETO.

BE IT RESOLVED:

- 1) THAT One Million Nine Hundred Thousand (\$1,900,000) Dollars is appropriated to pay costs associated with Community Resource Network, Transportation Facilitation, Mobile Library Resources, Community Health Needs Assessment Recommendations, Community Campus Capital Improvements, and IT Infrastructure (Items Listed in Exhibit A) and for the payment of all costs incidental and related thereto. That to meet this appropriation of up to \$1,900,000 shall be utilized from the ARPA Grant.
- 2) THAT this resolution shall take effect upon its passage.

APPROVED:

DEAGLAN MCEACHERN, MAYOR

**ADOPTED BY CITY COUNCIL:
AUGUST 21, 2023**

**KELLI L. BARNABY, MMC/CNHMC
CITY CLERK**

EXHIBIT A

American Rescue Plan Act (ARPA)
Appropriation August 21, 2023

To be Appropriated:

| | | | |
|-----------|---|-------------|--------------------|
| 8/21/2023 | Community Resource Network | \$20,000 | |
| 8/21/2023 | Transportation Facilitation | \$10,000 | |
| 8/21/2023 | Mobile Library Resources | \$80,000 | |
| 8/21/2023 | Community Health Needs Assessment Recommendations | \$250,000 | |
| 8/21/2023 | Community Campus Capital Improvements | \$1,500,000 | |
| 8/21/2023 | Community Campus IT Infrastructure | \$40,000 | |
| | Total to be Appropriated 08/21/23 | | <u>\$1,900,000</u> |



CITY OF PORTSMOUTH

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

Karen S. Conard
City Manager

Date: August 17, 2023

To: Honorable Mayor McEachern and City Council Members

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

Re: City Manager's Comments on City Council Agenda of August 21, 2023

VIII. Recognitions and Volunteer Committee Reports:

1. Peirce Island Wastewater Treatment Facility – Plant of the Year Award:

I am pleased to report that the NH Department of Environmental Services (NHDES) recently awarded its Wastewater Plant of the Year Award to the City of Portsmouth's Peirce Island Wastewater Treatment Facility (WWTF). This award recognizes outstanding excellence in wastewater treatment facility operations, compliance with both the US Environmental Protection Agency and NHDES treatment regulations, safety, employee education, public outreach, and professional participation.

The attached document provides additional detail with respect to the success of the City's Peirce Island Wastewater Treatment Facility since the completion of its \$92 million upgrade in 2021.

This award will be officially presented to the City, Peirce Island WWTF Chief Plant Operator Peter Conroy and his staff at this evening's City Council meeting. Rene Pelletier, NHDES Water Division Director and John Adie, NHDES Wastewater Engineering Bureau, Operations Technical Specialist will attend on behalf of the NHDES. Michael Theriault, Vice President of the New Hampshire Water Pollution Control Association will attend on behalf of his association.

City staff are planning a "Wastewater 101" presentation to the community on Wednesday, September 13th at 6:30 p.m. at the Levenson Room of the Public Library, which will include an overview of basic wastewater concepts and definitions, the City's current wastewater system, status of current regulations, system performance, current challenges and upcoming projects.

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

A. First Reading of Ordinance Amending Chapter 1, Article IV, Addition of New Section – Section 1.413 – Arts and Cultural Commission:

Attached please find an ordinance amendment to Chapter 1, Article IV, Addition of New Section – Section 1.413 – Arts and Cultural Commission.

I recommend that the City Council move to schedule a public hearing and second reading at the September 5th City Council meeting.

B. First Reading of Ordinance Amending Chapter 1, Article IV, Section 1.402 – Economic Development Commission – Subsections A, B, and C:

Attached please find an ordinance amendment to Chapter 1, Article IV, Section 1.402 – Economic Development Commission – Subsections A, B, and C.

I recommend that the City Council move to schedule a public hearing and second reading at the September 5th City Council meeting.

C. First Reading of Ordinance Amending Chapter 1, Article VIII – Code of Ethics – Preliminary Section 1.801 – Definitions and Section 1.802 – Conflicts of Interest:

Attached please find an ordinance amendment to Chapter 1, Article VIII – Code of Ethics – Preliminary Section 1.801 – Definitions, and Section 1.802 – Conflicts of Interest.

I recommend that the City Council move to schedule a public hearing and second reading at the September 5th City Council meeting.

D. Public Hearing and Adoption of Resolution Appropriating One Million and Nine Hundred Thousand Dollars (\$1,900,000) from the American Rescue Plan Act (ARPA) Grant to Pay Costs Associated with Community Resource Network, Transportation Facilitation, Mobile Library Resources, Community Health Needs Assessment Recommendation, Community Campus Capital Improvements, and IT Infrastructure (Items Lists in Exhibit A) and for the Payment of Costs Incidental and Related Thereto:

As initially brought forth in the July 10th City Council Agenda and discussed at the continuation meeting on July 24th, I recommend the use of ARPA monies to fund six (6) projects described below:

- **\$20,000** for Community Resource Network - to improve the existing website and to explore using technology tools to help the non-profits that already exist.
- **\$10,000** for Gas and Uber/Lyft gift cards (or similar) - to facilitate transportation to and from after school programs, medical appointments, jobs, childcare, other essential trips.

- **\$80,000** for Mobile Library Resources – to offer mobile library resources for community outreach, at parks, centers and local events. Library Director Christine Friese shares an example from the Grandview Heights Public Library (in Columbus, OH); a small, storable electric vehicle referred to as a pop up library <https://www.ghpl.org/services/#toggle-id-18>. This amount would cover acquisition, operation & maintenance for two years.
- **\$250,000** for implementation of recommendations included in the Community Health Needs Assessment Recommendations (due for completion by end of 2023) that are time-sensitive, have a defined scope/project within the budget; and are supported by the partner agency (ies).
- **\$1,500,000** for Community Campus Non-Profit Tenant Space Realignment and Improvements – to fund critical building needs for all tenants that include the provision of security and access solutions unique to each tenant and maximization of organizational flow, space planning and energy efficiency.
- **\$40,000** in IT infrastructure to Community Campus – to build capacity and provide individual, secure needs for all users/tenants.

As part of the presentation at this evening's meeting, I will provide an update on the status of our ARPA funding which will include both assigned and unassigned funds.

I recommend that the City Council move to adopt the Resolution as presented.

XI. City Manager's Items Which Require Action:

1. Request to Establish Public Hearing for Supplemental Appropriation Regarding Collective Bargaining:

Attached please find a memorandum from Tom Closson, the City's Labor Negotiator, regarding Tentative Agreements (TA) with the Fire Department and Police Department Unions.

Finance Director Judie Belanger has calculated the total first year cost for all five (5) TAs at \$1,464,660. As you know, collective bargaining contingency funds were included in the FY24 adopted City budget. However, the amount was insufficient to cover the total cost and therefore I recommend that we use \$890,000 from Unassigned Fund Balance.

I recommend that the City Council move to schedule a public hearing to appropriate \$890,000 from Unassigned Fund Balance to fund these agreements at the September 5th City Council.

2. **Memorandum of Agreement Regarding McNabb Project at One Congress Street:**

Please find attached a memorandum from Deputy City Attorney McCourt regarding public realm improvements for property located at One Congress Street, along with a proposed Memorandum of Agreement.

Proposed Motions:

- *Authorize the City Manager to execute and deliver a Memorandum of Agreement in substantially similar form to the document contained in the agenda packet.*
- *Request a report back from the Parking Traffic and Safety Committee with a recommendation regarding the elimination of parking and the loading zone from High Street.*

3. **Public Art Trust Fund Update and Request for Referral:**

This will advise that the City of Portsmouth will transfer \$150,000 to the Public Art Trust Fund to fulfill the City's percent for art obligation related to the Peirce Island Wastewater Treatment Facility upgrade. These funds have been deposited and I would recommend the City Council make a referral to the Public Arts Review Committee for next steps.

I recommend that the City Council move to refer this to the Public Art Review Committee for consideration of the development of art for Peirce Island.

XIII. Presentations and Written Communications:

A. **Presentation Regarding Capital Improvement Plan Kickoff FY25:**

Attached please find a memorandum from the City's Director of Planning and Sustainability, Peter Britz, regarding the Capital Improvement Plan (CIP) for FY2025 through FY2030.

Director Britz will be prepared to share a presentation with the Council and the public at this evening's meeting.

XVI. Approval of Grants/Donations:

A. **Acceptance of Donation to the Fire Department from Lloyd Woodruff - \$200:**

Attached please find a donation form from the Fire Department regarding Lloyd Woodruff's donation of \$200.

I recommend that the City Council move to approve and accept the donation for the Fire Department as presented.

B. Acceptance of Donation for the Recreation Department - \$1,049:

Attached please find a donation form from the Recreation Department regarding a Skateboard Park Fundraising event which raised \$1,049 for the Skateboard Park.

I recommend that the City Council move to approve and accept the donation for the Recreation Department as presented.

XVII. City Manager's Informational Items:

1. Pease Development Authority Update:

I will plan to provide a verbal update regarding the Pease Development Authority following their most recent Board meeting on August 17th.

2. Update on Coakley Executive Committee:

Following Eric Spear's resignation as the Chairman of the Executive Committee of the Coakley Landfill Group, I have appointed Glenn Normandeau as the new Chairman. Mr. Normandeau is the former Executive Director of New Hampshire Fish and Game and will begin his role immediately. The City appreciates and thanks former Mayor Spear for his five years of important service on this Committee.

THOMAS M. CLOSSON
ATTORNEY AT LAW, PLLC

To: City Manager Conard, Mayor McEachern, and Members of the
 Portsmouth City Council

From: Tom Closson

Re: Tentative Agreements With Fire Department And Police Department
 Unions

Date: August 15, 2023

I am pleased to report that negotiating teams for the Portsmouth Fire Commission and the Portsmouth Police Commission have reached tentative agreements (“TAs”) on new collective bargaining agreements with the Firefighters Association of Portsmouth, New Hampshire (“Firefighters”); the Portsmouth Professional Fire Officers Association (“Fire Officers”); the Portsmouth Police Patrolman’s Union (“Police Officers”); the Portsmouth Police Ranking Officers Association (“Police Ranking”); and the Portsmouth Police Civilian Employees’ Association (“Police Civilians”). The Unions have all voted to ratify these TAs.

HIGHLIGHTS OF THE FIRE DEPARTMENT TAs

Both Fire Department TAs are for 3-year CBAs, covering from July 1, 2023 to June 30, 2026. Both Fire Department TAs include robust but competitive compensation increases in year 1, followed by more modest compensation increases in year 2 and year 3. Both Fire Department TAs implement new, expanded wage schedules that will make future contractual wage adjustments more steady and more predictable for the City. Both Fire Department TAs include annual increases in the percentage of premium cost sharing that employees will pay for their health insurance, ultimately resulting in a split of 82% City/18% employee by the end of the CBAs. Finally, both Fire Department TAs reintroduce the stipend related to training for water rescue and related job functions.

HIGHLIGHTS OF THE POLICE DEPARTMENT TAs

All 3 Police Department TAs are for 4-year CBAs, covering from July 1, 2023 to June 30, 2027. Like the Fire Department TAs, the Police Department TAs also include robust but competitive compensation increases in year 1, followed by more modest increases in year 2, year 3, and year 4. The Police Department TAs also

include annual increases in the percentage of premium cost sharing that employees will pay for their health insurance, ultimately resulting in a split of 82% City/18% employee by the end of the CBAs. The Police Officers TA and the Police Civilians TA include new, expanded wage schedules that will make future contractual wage adjustments more steady and more predictable for the City. The Police Officers TA and the Police Civilians TA also provide management with increased flexibility in slotting transfers from other departments onto the new wage schedules, significantly aiding recruiting efforts. All 3 Police Department TAs also introduce a parental leave policy to the Department. Finally, all 3 Police Department TAs include comprehensive language governing the implementation of body-worn cameras and in-car video for all relevant personnel.

SUMMARY OF RECOMMENDATION

Those of us who participated on the City's side of these negotiations (myself, Police Chief Newport, Deputy Police Chief Maloney, Fire Chief McQuillen, Police Commissioner Shaheen, Police Commissioner Scherr, and Fire Commissioner Gamester) recognize that this is a significant financial commitment. However, we all agree that these TAs are necessary for the City's Police Department and the City's Fire Department to attract and to retain top talent in a uniquely competitive, once-in-a-generation market for quality public safety personnel. In the same vein, the TAs also include significant workplace improvements that the Chiefs and the Commissioners all feel are necessary to keep their respective Departments running at the highest level of professionalism and excellence.

I recommend these TAs to you for your ratification. I will be prepared to address your specific questions on September 5, 2023. I have asked Police Chief Newport, Fire Chief McQuillen, Police Commissioner Shaheen, Police Commissioner Scherr, Fire Commissioner Gamester, and Finance Director Judie Belanger to join me.

**CITY OF PORTSMOUTH
TWO THOUSAND TWENTY-THREE
PORTSMOUTH, NEW HAMPSHIRE**

RESOLUTION # -

A RESOLUTION AUTHORIZING A SUPPLEMENTAL APPROPRIATION FROM UNASSIGNED FUND BALANCE FOR NECESSARY EXPENDITURES RELATED TO CONTRACTUAL OBLIGATIONS.

RESOLVED:

BY THE CITY COUNCIL OF THE CITY OF PORTSMOUTH, NEW HAMPSHIRE ASSEMBLED AS FOLLOWS:

THAT, the City Council has determined that the sum of up to **Eight Hundred Ninety Thousand (\$890,000.00) Dollars** is to be appropriated from Unassigned Fund Balance to defray the expenditures related to contractual obligations for the Fiscal Year ending in June 30, 2024.

THAT, to meet this appropriation, the City Manager is authorized to transfer these funds from Unassigned Fund Balance.

APPROVED BY:

DEAGLAN MCEACHERN, MAYOR

**ADOPTED BY CITY COUNCIL
DATE**

**KELLI BARNABY, CMC/CNHMC
CITY CLERK**

SECTION 7.14-AMENDMENTS TO BUDGET AFTER ADOPTION

No appropriation shall be made for any purpose not included in the annual budget as adopted unless voted by a two-thirds (2/3) majority of the Council after a public hearing held to discuss said appropriation. The Council shall, by resolution, designate the source of any money so appropriated.

CITY OF PORTSMOUTH**LEGAL DEPARTMENT****MEMORANDUM**

DATE: AUGUST 16, 2023

TO: KAREN S. CONARD, CITY MANAGER

FROM: TREVOR P. MCCOURT, DEPUTY CITY ATTORNEY

RE: AGENDA ITEM – PUBLIC REALM IMPROVEMENTS MEMORANDUM OF AGREEMENT FOR PROPERTY LOCATED AT 1 CONGRESS STREET

At the August 7, 2023 City Council meeting, the City Council voted as follows regarding improvements plans for High Street, Ladd Street and Haven Court: to “approve the work proposed in concept, subject to the staff reporting back with a Memorandum of Agreement between the City and the Developer that identifies the rough scope of work and the needed legal documents to proceed with that work, to be approved by the City Council and executed by the City Manager”.

Since that meeting, City staff have worked with the Developer to produce the attached Memorandum of Agreement with an associated exhibit for consideration by the City Council. City staff worked to produce this document based upon the representations made by the Developer at the August 7, 2023 and July 10, 2023 City Council meetings and the statements made by the City Council. City staff and the Developer agree that the attached documents memorialize those expectations and the City’s ordinary practices for work by private parties on City property.

Finally, it is worth noting that any permanent elimination of the five parking spaces and the loading zone on High Street would require an ordinance change. Therefore, should the City Council wish to pursue this ordinance change, the City Council should refer this ordinance change to the Parking Traffic and Safety Committee.

Proposed Motions:

1. Authorize the City Manager to execute and deliver a Memorandum of Agreement in substantially similar form to the document contained in the agenda packet.
2. Request a report back from the Parking Traffic and Safety Committee with a recommendation regarding the elimination of parking and the loading zone from High Street.

Attachment (1)

cc: Suzanne M. Woodland, Deputy City Manager
Peter Rice, Director of Public Works
Susan G. Morrell, City Attorney

DRAFT FOR CITY COUNCIL CONSIDERATION AT AUGUST 21, 2023 MEETING

MEMORANDUM OF AGREEMENT

THIS AGREEMENT (“Agreement”) is entered into this ___ day of August, 2023, between the One Market Square, LLC, a New Hampshire limited liability company, with an address of 3 Pleasant Street, Suite 400, Portsmouth, NH 03801 (the “Developer”) and the City of Portsmouth, a New Hampshire municipality, with an address of 1 Junkins Avenue, Portsmouth, NH 03801 (the “City”). The Developer and the City may be collectively referred to herein as “the Parties”.

WITNESSETH:

WHEREAS, the Developer is the owner of certain real property located at 1 Congress Street in the city of Portsmouth, located at Tax Map/Lot 117/14 (the “Property”);

WHEREAS, the City is the owner of certain rights of way abutting the Property known as High Street and Ladd Street;

WHEREAS, the City and the Developer claim interest to portions of the abutting way known as Haven Court (together with High and Ladd Streets the “Rights of Way”);

WHEREAS, the City owns a parking garage known as the High Hanover Garage, located on parcels at 34 Hanover Street and 44 High Street, Map/Lots 117/1 and 117/16, respectively (collectively the “High Hanover Garage”);

WHEREAS, Wenberry Associates, LLC owns the abutting parcel located at 15 Congress Street, Tax Map/Lot 117/12 (the “Wenberry Parcel”);

WHEREAS, the Developer has obtained certain approvals from the City’s land use boards to construct a 3-story mixed-use building with associated on-site and off-site improvements (see generally City permit number LU-22-12) (the “Developer’s Project”);

WHEREAS, as a part of the Developer’s Project, the Developer plans to conduct substantial utility work within High Street, Ladd Street and Haven Court;

WHEREAS, the Parties recognize the public benefit to be derived from beautifying the Rights of Way and creating greater pedestrian connectivity from Penhallow Street through to Fleet Street;

WHEREAS, the Parties desire for the Developer, at its sole cost, to design, engineer and construct certain public realm improvements within the Rights of Way (collectively, and as further defined herein, the “Public Realm Improvements”).

NOW, THEREFORE, the Parties agree as follows:

Part I: The Developer's Obligations.

A. The Public Realm Improvements

The Developer shall, at its sole cost and obligation design, engineer and install the following Public Realm Improvements in accordance with the drawing set attached as Exhibit A within the Rights of Way:

1. Repave the Rights of Way using decorative pavers as a pedestrian-vehicular shared space;
2. Install catenary lights over Haven Court, affixed to the High Hanover garage and the Developer's Property;
 - a. The Developer shall attempt to negotiate the rights necessary to install catenary lights affixed to abutting private buildings, but failure to secure such rights shall not affect the validity of this Agreement nor prevent the Developer from installing the catenary lights affixed to the City Property and the Developer's Property, as shown in Exhibit A.
3. Install public fences, benches, railings, and other infrastructure within the Rights of Way.
4. Install an additional pedestrian entrance to the High Hanover Garage at the high point of Haven Court.
5. Install a stairway connecting Haven Court to Fleet Street.
6. All Public Realm Improvements on High Street and Ladd Street shall be compliant with the Americans with Disabilities Act (ADA), including but not limited to making the sidewalks flush with the streets.
7. All changes to the Public Realm Improvements from what is depicted in Exhibit A shall be submitted to the City Manager in writing and reviewed and approved by the Director of Public Works. If the City Manager, at her sole discretion, determines that any change is a material change to the aesthetics of the Public Realm Improvements, such change shall be reviewed and approved by the City's Public Art Review Committee (PARC).

B. Construction Obligations

The Developer shall complete at its sole cost and obligation the following tasks to secure the construction of the infrastructure described in Section I, A:

1. Prior to commencing any construction, the Developer shall submit construction plans to the City (the "Construction Plans"). The construction plans must be reviewed and approved by the Director of Public Works for consistency with City standards. The City may, at its sole discretion, employ a third-party engineer to conduct a peer review of the construction plans, and the cost of any third-party review shall be borne by the Developer.
2. The Developer shall secure the construction of the items above via a security instrument, such as a bond or letter of credit, in a form acceptable to the City Attorney. The value of the security instrument shall be estimated by the Developer and set by the Director of Public Works. Upon acceptance of the Public Realm Improvements by the City, the City shall release the security instrument.

3. The Developer shall enter into a Construction Management Mitigation Agreement (CMMP) with the City sufficient to describe the Developer's construction plan for the Public Realm Improvements and the Developer's Project. The CMMP shall reasonably ensure vehicular and pedestrian public access to abutting properties, including but not limited to businesses and residences with entrances on the Rights of Way, the High Hanover Garage and other adjacent parking facilities. This shall also include access for police, fire, and trash pickup by the City. The Parties understand there will be times access is limited or interrupted to parking, traffic flow and sidewalks and the Developer is responsible for coordinating those interruptions with the City and abutters prior to making any interruption of normal vehicular and pedestrian access.
4. The Developer shall provide written notice to abutters and their tenants, as may be reasonably identified, at the construction stages, to be established by the CMMP. These notices shall be in any event no less than once per month.
5. As a part of the CMMP, the Developer shall designate a Project Manager, who shall serve as the point of contact for all public inquiries regarding the Public Realm Improvements, the Developer's Project, and the related impacts on vehicular travel. This point of contact shall be available to respond to public inquiries and respond to requests within 24 hours.
6. The Developer shall provide the City with proof of insurance at the City's customary levels for the period of construction of the Public Realm Improvements. The proof of insurance shall list the City as an additional insured.
7. The Developer shall secure the legal rights necessary to construct the anticipated Public Realm Improvements over the Wenberry Parcel. The Developer shall provide evidence of sufficient legal rights to the City prior to the commencement of the construction of any Public Realm Improvements.
8. Following construction of the Public Realm Improvements, the Developer shall provide the City with as-built drawings depicting the Public Realm Improvements.

Part II: The City's Obligations

1. The City shall employ a third-party engineer to oversee the construction of the Public Realm Improvements. The cost of the third-party engineer shall be paid by the Developer, subject to the reasonable approval by the Developer of the company to be employed, the scope of work and cost.
2. The City or the Developer may procure a third-party study of the feasibility of a shared trash and recycling area within the High Hanover Garage.
3. The City or the Developer may procure a third-party study by an experienced land use firm and Parking/traffic engineer for the three entrances to the High Hanover Garage so the City may consider any changes to those entrances.
4. The City hereby waives all license fees applicable to the construction of the Public Realm Improvements. This provision shall not apply to any permit fees required pursuant to the Developer's Project.
5. The City shall designate a Project Manager for the Public Realm Improvements. All communications regarding the Public Realm Improvements from the Developer shall be addressed to the Project Manager, with a copy to the City Attorney.

6. Following approval of the Public Realm Improvements by the City's third-party engineer and the Director of Public Works, the City shall accept ownership in writing of all Public Realm Improvements, excepting the catenary lights. If review by the City's third-party engineer or the City's Public Works Department reveal the Public Realm Improvements are not constructed to City standards or the Construction Plans, the Developer shall cause the insufficiencies to be remedied to the City's satisfaction.
7. The City and Developer shall negotiate, execute and record as necessary any and all easements, licenses, joint use agreements or other documents reasonably necessary to complete the obligations set forth herein. The City Council, by vote of August 21, 2023 expressly delegates authority to the City Manager to negotiate, convey and/or accept land interests reasonably necessary for the purposes of this paragraph.
8. The City shall eliminate or otherwise relocate a parking space within the High Hanover Garage to facilitate the construction of the additional pedestrian entrance to the High Hanover Garage.
9. The Parties agree the improvements being made to High Street and Ladd Street reflected in Exhibit A will become City property upon acceptance of the Public Realm Improvements by the City, and nothing in this Agreement shall be construed to prohibit the City from making any changes to High Street and Ladd Street, including their use, in the future.

Part III: Miscellaneous

1. Compliance with other laws: The Developer acknowledges that their obligations under this contract are subject to full compliance with all applicable state, federal, and local laws, and failure to adhere to such laws shall constitute a material breach of this contract.
2. Costs: Following acceptance of the Public Realm Improvements by the City, the City shall assume maintenance of the Rights of Way. The City's maintenance obligations shall not exceed the ordinary maintenance responsibilities for any other right of way in the City. For the purposes of this paragraph, the catenary lights are specifically exempted and maintenance for the catenary lights shall be the responsibility of the Developer.
3. Entire Agreement. This Agreement and the attachments hereto, each of which is hereby incorporated herein, sets forth all the agreements, promises, covenants conditions and undertakings between the parties with respect to the subject matter hereof, and supersedes all prior and contemporaneous agreements and understandings, inducements, or conditions, express or implied, oral or written.
4. Amendment. No waiver or modification of any of the terms of this Agreement shall be valid unless in writing and signed by each of the parties hereto. Failure by any party to enforce any rights under this Agreement shall not be construed as a waiver of such rights, and a waiver by any party of a default hereunder in one or more

instances shall not be construed as constituting a continuing waiver or as a waiver of other instances of default.

5. Waiver of Breach: The failure of either party to enforce any provision of this contract shall not be construed as a waiver of subsequent breaches or as a relinquishment of the right to enforce such provisions. No waiver by either party of any breach of this contract shall be deemed to be a waiver of any other or subsequent breach.
6. Governing Law. The construction and effect of the terms of this Agreement shall be determined in accordance with the laws of the State of New Hampshire.

For the City of Portsmouth

Karen S. Conard, City Manager
Dated: _____
Pursuant to vote of the City Council
On _____.

For the Developer: One Market Square, LLC

Signature: _____
Dated: _____
Printed Name: Mark A. McNabb, Manager

IMPROVEMENT PLANS

HIGH STREET, LADD STREET & HAVEN COURT

PORTSMOUTH, NEW HAMPSHIRE

CITY COUNCIL APPROVAL SET

EXHIBIT A

PROJECT PROPONENT:
 ONE MARKET SQUARE LLC
 3 PLEASANT STREET
 SUITE #400
 PORTSMOUTH, NH 03801
 TEL. (603) 427-0725

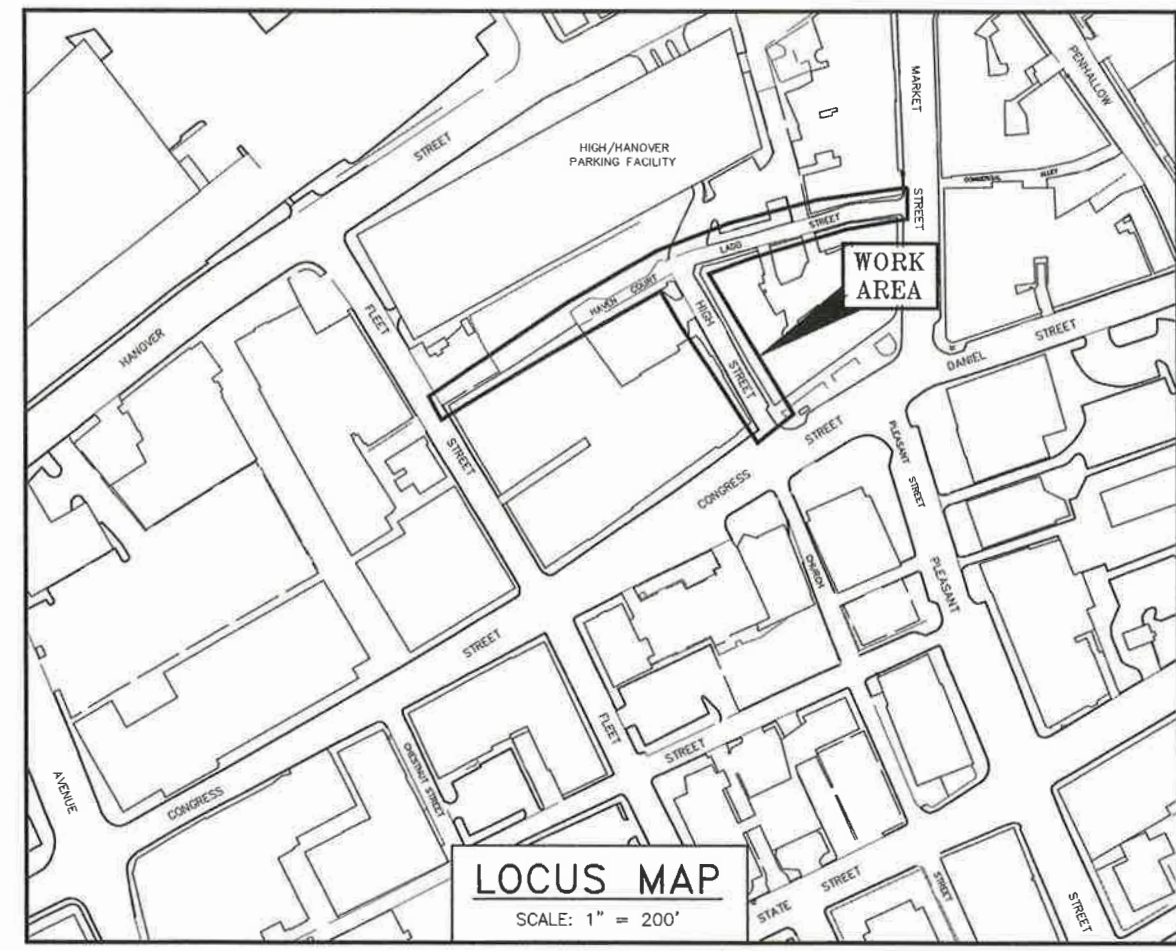
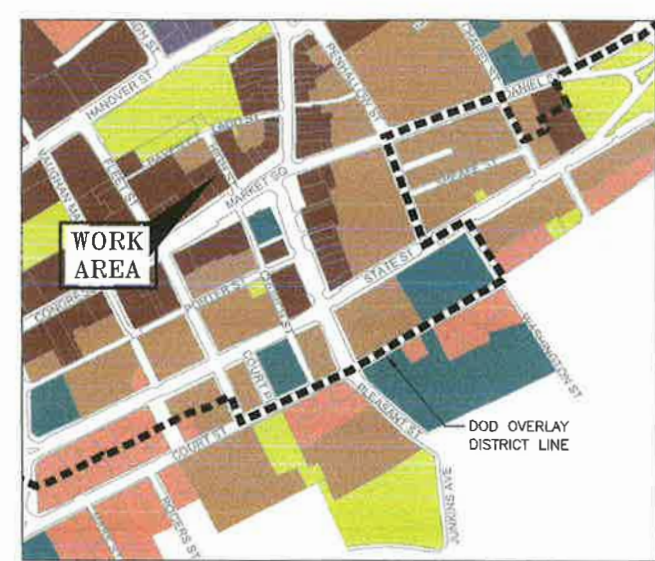
LANDSCAPE ARCHITECT:
 TERRA FIRMA LANDSCAPE
 ARCHITECTURE
 163A COURT STREET
 PORTSMOUTH, NH 03801
 TEL. (603) 430-8388

**LAND SURVEYOR & CIVIL
 ENGINEER:**
 AMBIT ENGINEERING, INC.
 200 GRIFFIN ROAD, UNIT 3
 PORTSMOUTH, N.H. 03801
 Tel. (603) 430-9282
 Fax (603) 436-2315

GEOTECHNICAL:
 GEOTECHNICAL SERVICES INC.
 18 COTE AVENUE, UNIT 11
 GOFFSTOWN, N.H. 03045
 Tel. (603) 624-2722

ARCHITECT:
 ARCOVE LLC
 3 CONGRESS STREET
 SUITE 1
 PORTSMOUTH, NH 03801
 TEL. (603) 731-5187

LAND USE ATTORNEY:
 BRUTON & BERUBE, PLLC
 601 CENTRAL AVENUE
 DOVER, N.H. 03820
 Tel. (603) 749-4529



LEGEND:

| EXISTING | PROPOSED | |
|----------|----------|------------------------------|
| --- | --- | PROPERTY LINE |
| --- | --- | SETBACK |
| S | S | SEWER PIPE |
| SL | SL | SEWER LATERAL |
| G | G | GAS LINE |
| D | D | STORM DRAIN |
| W | W | WATER LINE |
| WS | WS | WATER SERVICE |
| UGE | UGE | UNDERGROUND ELECTRIC |
| OHW | OHW | OVERHEAD ELECTRIC/WIRES |
| --- | --- | FOUNDATION DRAIN |
| --- | --- | EDGE OF PAVEMENT (EP) |
| 100 | 100 | CONTOUR |
| 97x3 | 96x0 | SPOT ELEVATION |
| ○ | ○ | UTILITY POLE |
| ⊙ | ⊙ | WALL MOUNTED EXTERIOR LIGHTS |
| ⊙ | ⊙ | TRANSFORMER ON CONCRETE PAD |
| ⊙ | ⊙ | ELECTRIC HANDHOLD |
| ⊙ | ⊙ | SHUT OFFS (WATER/GAS) |
| ⊙ | ⊙ | GATE VALVE |
| ⊙ | ⊙ | HYDRANT |
| ⊙ | ⊙ | CATCH BASIN |
| ⊙ | ⊙ | SEWER MANHOLE |
| ⊙ | ⊙ | DRAIN MANHOLE |
| ⊙ | ⊙ | TELEPHONE MANHOLE |
| ⊙ | ⊙ | PARKING SPACE COUNT |
| ⊙ | ⊙ | PARKING METER |
| LSA | LSA | LANDSCAPED AREA |
| TBD | TBD | TO BE DETERMINED |
| CI | CI | CAST IRON PIPE |
| COP | COP | COPPER PIPE |
| DI | DI | DUCTILE IRON PIPE |
| PVC | PVC | POLYVINYL CHLORIDE PIPE |
| RCP | RCP | REINFORCED CONCRETE PIPE |
| AC | AC | ASBESTOS CEMENT PIPE |
| VC | VC | VITRIFIED CLAY PIPE |
| EP | EP | EDGE OF PAVEMENT |
| EL | EL | ELEVATION |
| FF | FF | FINISHED FLOOR |
| INV | INV | INVERT |
| S = | S = | SLOPE FT/FT |
| TBM | TBM | TEMPORARY BENCH MARK |
| TYP | TYP | TYPICAL |



INDEX OF SHEETS

- EXISTING CONDITIONS / WORK AREA
- PEDESTRIAN CONNECTIONS
- LANDSCAPE PLAN-HAVEN COURT
- LANDSCAPE PLAN-HIGH STREET
- LANDSCAPE PLAN-LADD STREET
- LANDSCAPE PLAN-PLANTING
- LANDSCAPE DETAILS
- LANDSCAPE PERSPECTIVES
- PROPOSED UTILITIES-WORK AREA

UTILITY CONTACTS

- ELECTRIC:**
 EVERSOURCE
 1700 LAFAYETTE ROAD
 PORTSMOUTH, N.H. 03801
 Tel. (603) 436-7708, Ext. 555.5678
 ATTN: MICHAEL BUSBY, P.E. (MANAGER)
- NATURAL GAS:**
 UNITIL
 325 WEST ROAD
 PORTSMOUTH, N.H. 03801
 Tel. (603) 294-5144
 ATTN: DAVE BEAULIEU
- CABLE:**
 COMCAST
 155 COMMERCE WAY
 PORTSMOUTH, N.H. 03801
 Tel. (603) 679-5695 (X1037)
 ATTN: MIKE COLLINS
- SEWER & WATER:**
 PORTSMOUTH DEPARTMENT OF PUBLIC WORKS
 680 PEVERLY HILL ROAD
 PORTSMOUTH, N.H. 03801
 Tel. (603) 427-1530
 ATTN: JIM TOW
- COMMUNICATIONS:**
 FAIRPOINT COMMUNICATIONS
 JOE CONSIDINE
 1575 GREENLAND ROAD
 GREENLAND, N.H. 03840
 Tel. (603) 427-5525

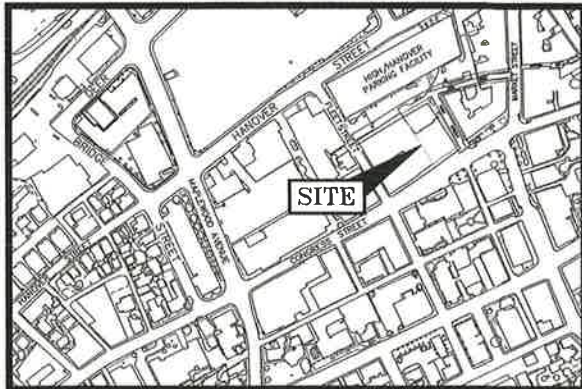
CITY COUNCIL APPROVAL PLAN SET
 IMPROVEMENT PLANS
 HIGH STREET, LADD STREET & HAVEN COURT
 PORTSMOUTH, N.H.



200 Griffin Road, Unit 3
 Portsmouth, NH 03801
 603.430.9282

WWW.HALEYWARD.COM

PLAN SET SUBMITTAL DATE: 3 JULY 2023

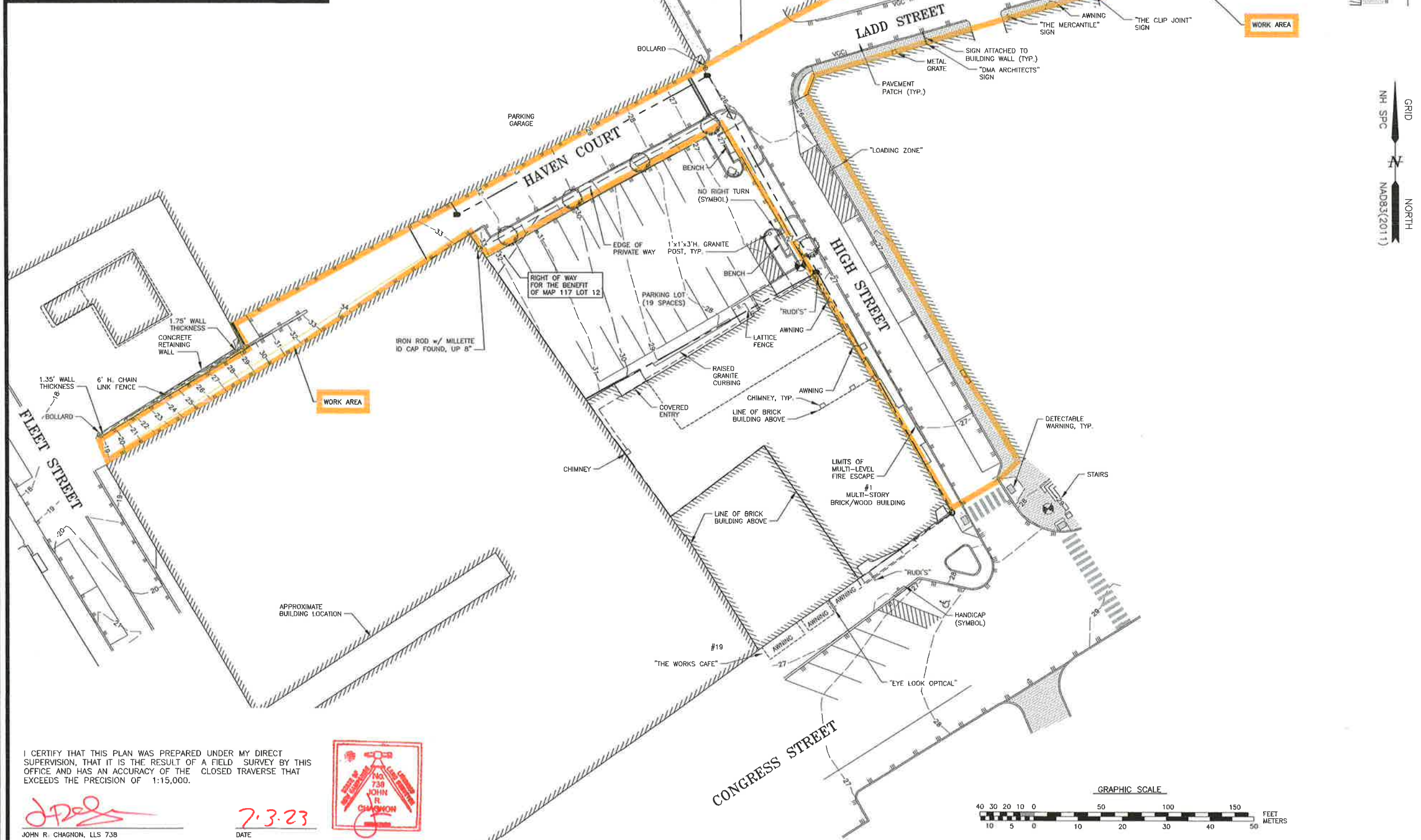


PLAN REFERENCE:
 STANDARD BOUNDARY SURVEY, TAX MAP 117, LOTS 14 & 15, FOR PETER H. JARVIS & SONS, LLC, 1 CONGRESS STREET & HIGH STREET, CITY OF PORTSMOUTH, COUNTY OF ROCKINGHAM, STATE OF NEW HAMPSHIRE, PREPARED BY AMBIT ENGINEERING, INC. DATED NOVEMBER 2021, ISSUED FOR RECORDING 12/8/21, R.C.R.D. PLAN D-43095.

NOTES:

- 1) 1 CONGRESS DEVELOPMENT PARCEL IS SHOWN ON THE CITY OF PORTSMOUTH ASSESSORS MAP 117 AS LOT 14.
- 2) OWNER OF RECORD (MAP 117 LOT 14):
 ONE MARKET SQUARE, LLC
 3 PLEASANT STREET, SUITE 400
 PORTSMOUTH, NH 03801
 6363/31 PARCEL 1 & PARCEL 2
- 3) THE PURPOSE OF THIS PLAN IS TO SHOW THE AREA OF WORK ASSOCIATED WITH THE IMPROVEMENT PLANS.

LOCATION MAP SCALE: 1" = 300'



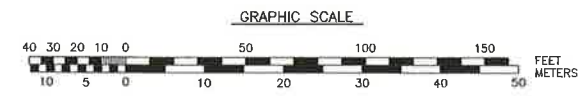
| NO. | DESCRIPTION | DATE |
|-----------|--------------------|--------|
| 0 | ISSUED FOR COMMENT | 7/3/23 |
| REVISIONS | | |

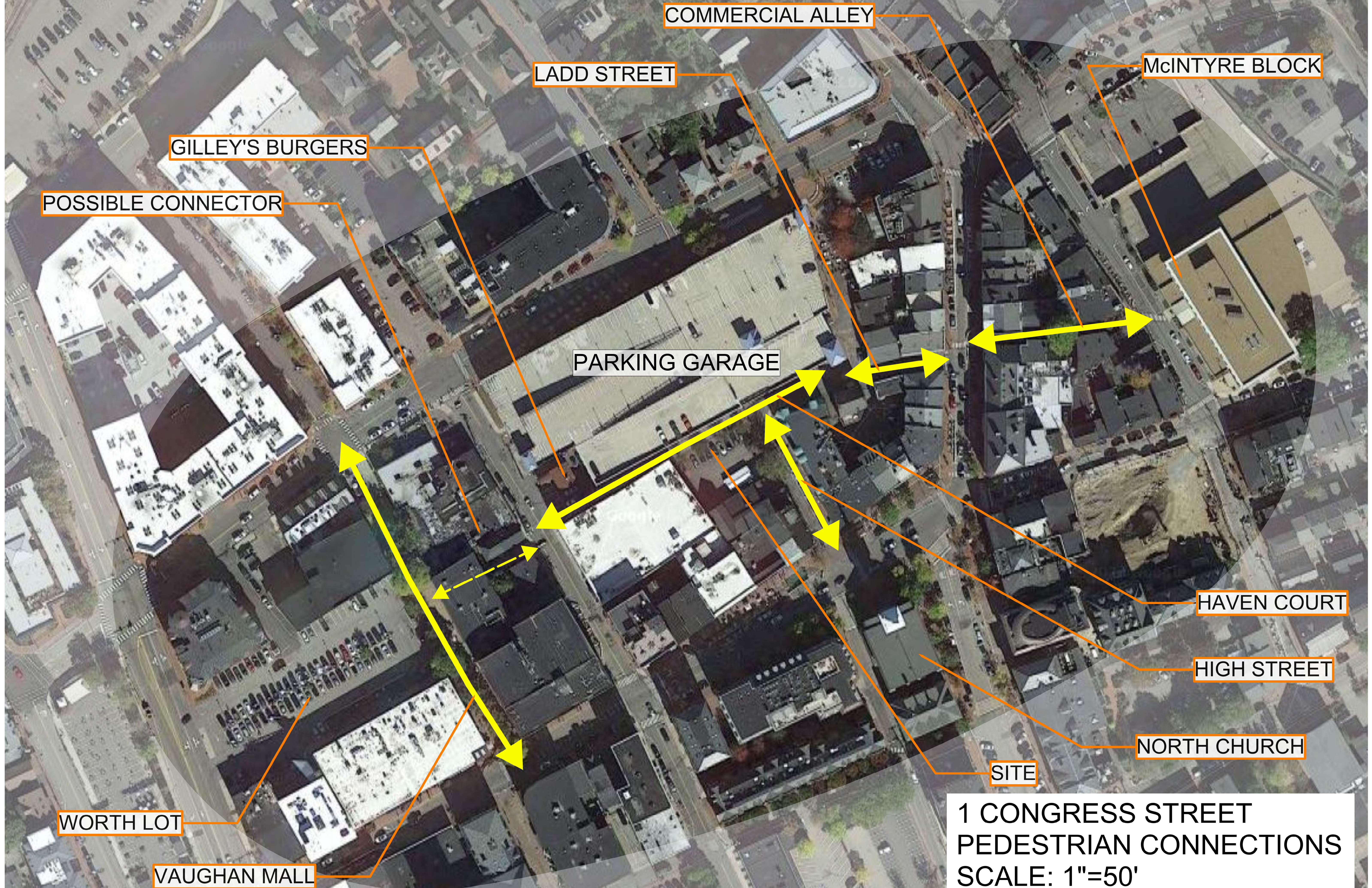
**EXISTING CONDITIONS
 WORK AREA**
 OWNER OF RECORD:
THE CITY OF PORTSMOUTH
 HIGH STREET, LADD STREET &
 HAVEN COURT
 CITY OF PORTSMOUTH
 COUNTY OF ROCKINGHAM
 STATE OF NEW HAMPSHIRE

I CERTIFY THAT THIS PLAN WAS PREPARED UNDER MY DIRECT SUPERVISION, THAT IT IS THE RESULT OF A FIELD SURVEY BY THIS OFFICE AND HAS AN ACCURACY OF THE CLOSED TRAVERSE THAT EXCEEDS THE PRECISION OF 1:15,000.

J. R. Chagnon
 JOHN R. CHAGNON, LLS 738

7.3.23
 DATE





COMMERCIAL ALLEY

LADD STREET

McINTYRE BLOCK

GILLEY'S BURGERS

POSSIBLE CONNECTOR

PARKING GARAGE

HAVEN COURT

HIGH STREET

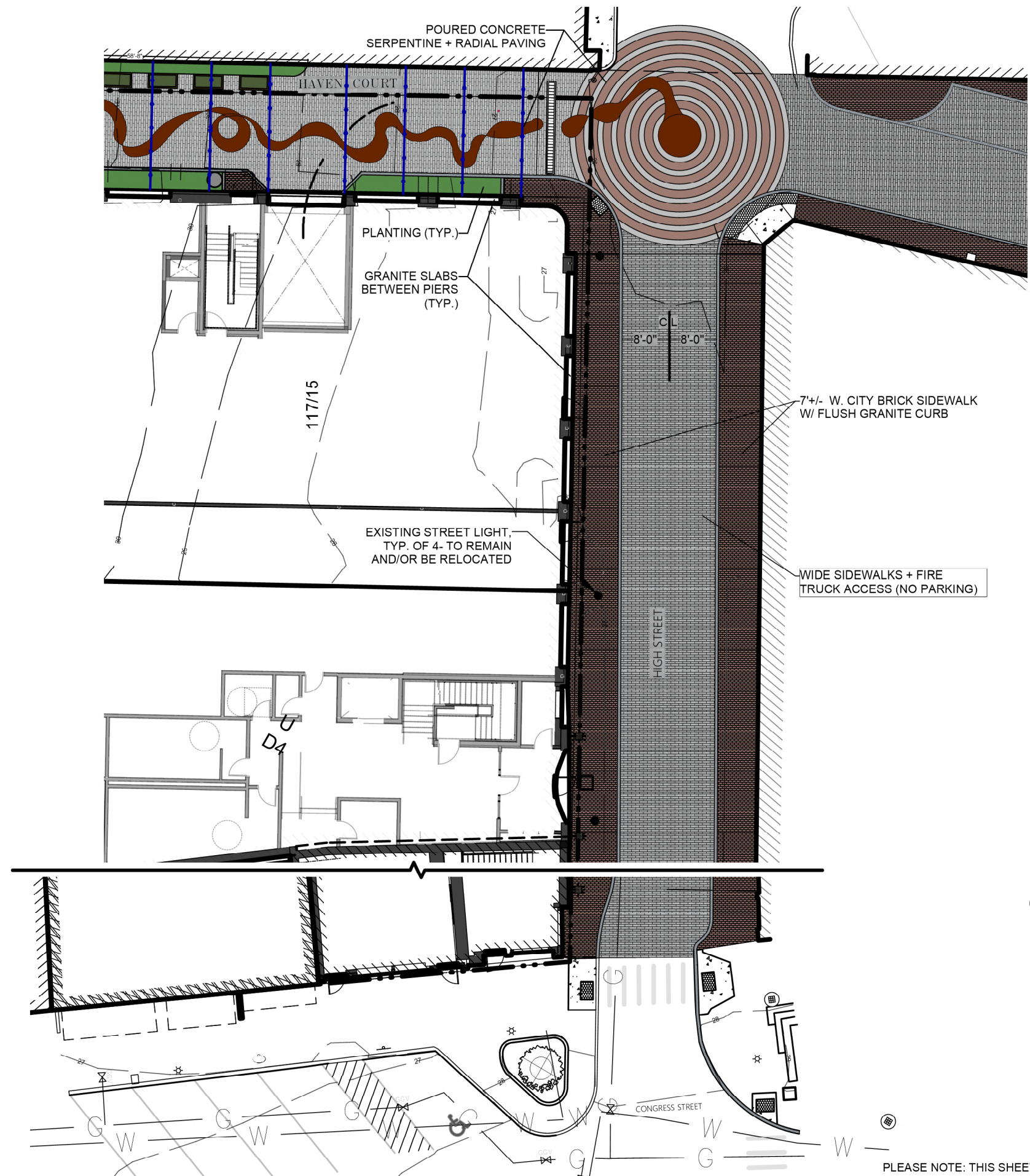
NORTH CHURCH

SITE

WORTH LOT

VAUGHAN MALL

1 CONGRESS STREET
PEDESTRIAN CONNECTIONS
SCALE: 1"=50'



| No. | Date | By | Revision Notes |
|-----|-----------|----|--------------------------------|
| D | 7/5/2023 | | CITY COUNSEL APPROVAL SET |
| C | 2/17/2023 | | POROUS PAVER DETAIL |
| B | 2/14/2023 | | POROUS PAVER NOTE |
| A | 2/2/2023 | | NOTE ADDED: WALL-MOUNTED LIGHT |

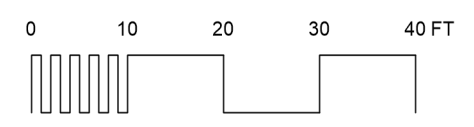
| No. | Date | Issue Notes |
|-----|------|-------------|
| | | |

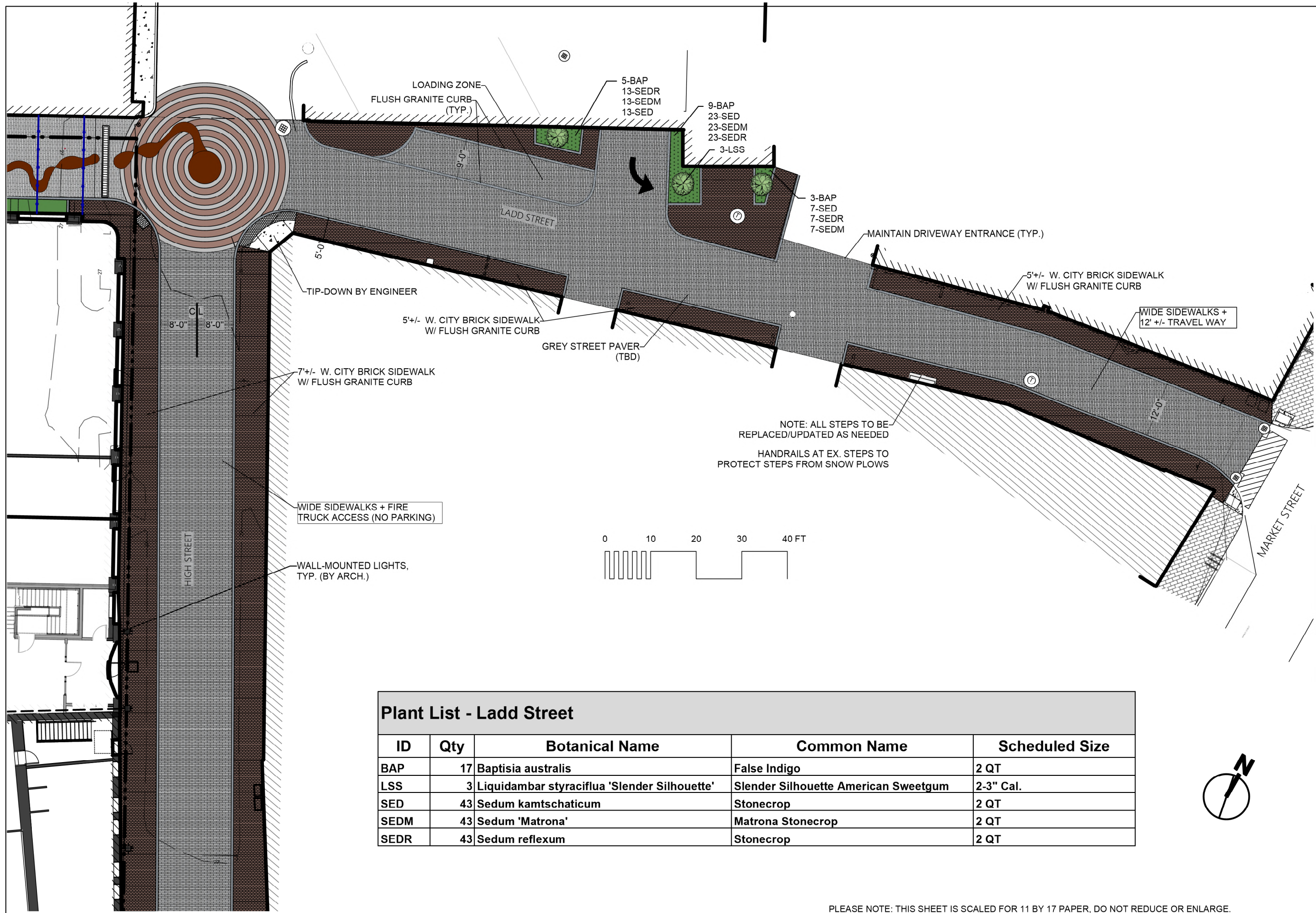
terra firma landscape architecture
163 a Court Street
Portsmouth, NH 03801

ONE CONGRESS STREET

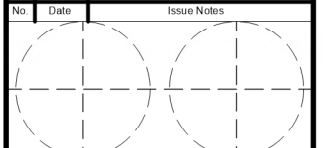
LANDSCAPE PLAN - HIGH STREET

| | |
|-----------------|---------------------|
| Project Manager | ONE CONGRESS STREET |
| Drawn By | TP |
| Scale | 1" = 20'-0" |
| Date | 1/11/2023 |
| Sheet No. | L-1B |
| Sheet Title | CONGRESS STREET |
| Sheet No. | 8 |





| No. | Date | By | Revision Notes |
|-----|-----------|----|--------------------------------|
| D | 7/5/2023 | | CITY COUNSEL APPROVAL SET |
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terra firma landscape architecture
163.a Court Street
Portsmouth, NH 03801

ONE CONGRESS STREET

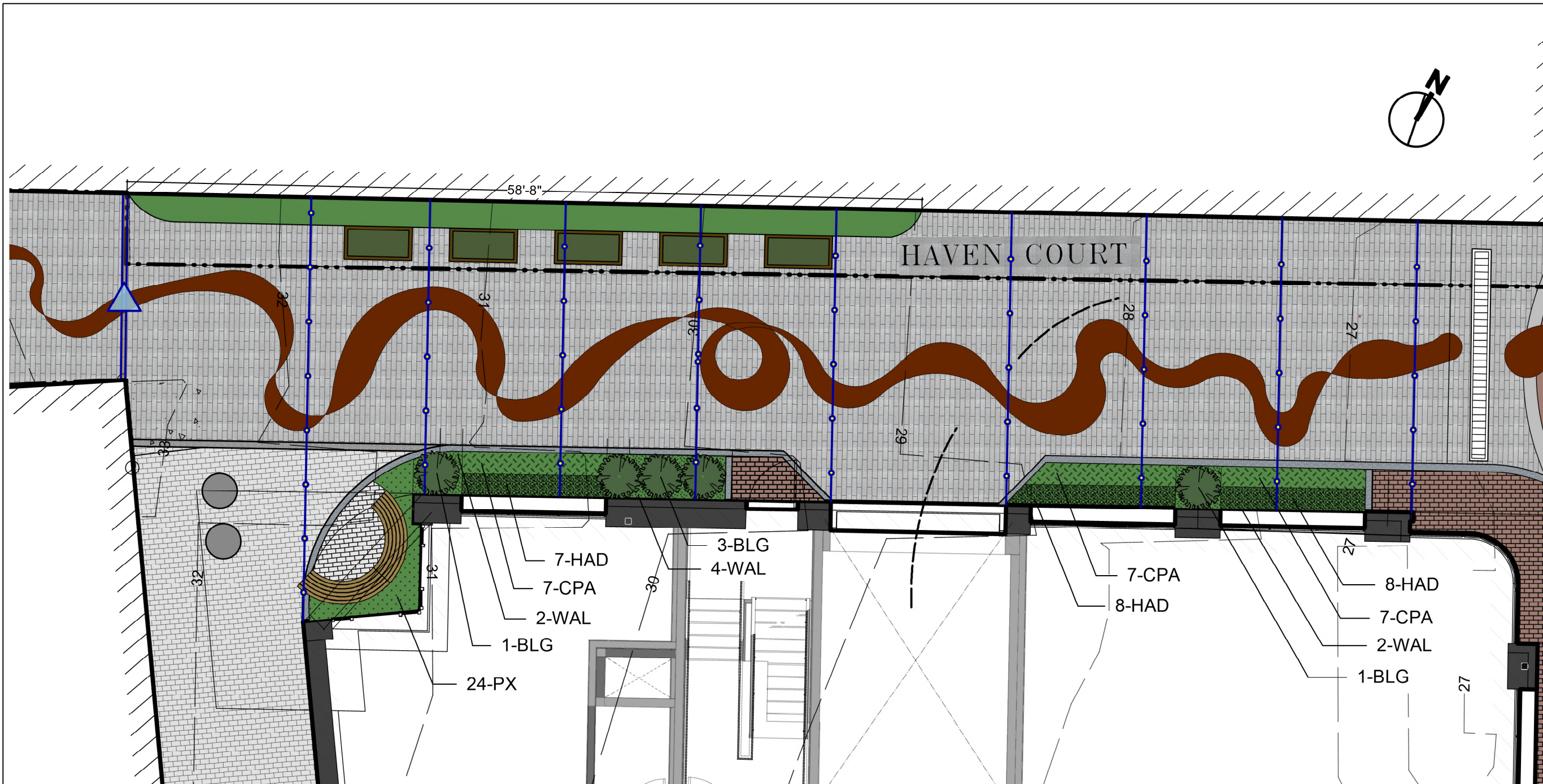
LANDSCAPE PLAN - LADD STREET

| | |
|-----------------|---------------------|
| Project Manager | ONE CONGRESS STREET |
| Drawn By | TP |
| Scale | 1" = 20'-0" |
| Date | 1/11/2023 |
| Sheet No. | L-1C |
| Sheet Title | CONGRESS62823.vw |
| | 8 |

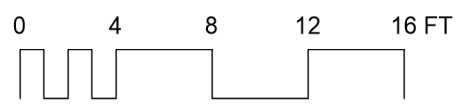
Plant List - Ladd Street

| ID | Qty | Botanical Name | Common Name | Scheduled Size |
|------|-----|--|--------------------------------------|----------------|
| BAP | 17 | Baptisia australis | False Indigo | 2 QT |
| LSS | 3 | Liquidambar styraciflua 'Slender Silhouette' | Slender Silhouette American Sweetgum | 2-3" Cal. |
| SED | 43 | Sedum kamtschaticum | Stonecrop | 2 QT |
| SEDM | 43 | Sedum 'Matrona' | Matrona Stonecrop | 2 QT |
| SEDR | 43 | Sedum reflexum | Stonecrop | 2 QT |

PLEASE NOTE: THIS SHEET IS SCALED FOR 11 BY 17 PAPER, DO NOT REDUCE OR ENLARGE.



| Plant List | | | | |
|------------|-----|----------------------------|----------------------------|----------------|
| ID | Qty | Botanical Name | Common Name | Scheduled Size |
| BLG | 5 | Buxus m. 'Little Gem' | Little Gem Boxwood | 3 Gal. |
| CPA | 21 | Carex appalachia | Appalachian Sedge | 2 QT |
| HAD | 23 | Heuchera americana 'Dale' | Dale's Strain Coral Bells | 2 QT |
| PX | 24 | Polystichum acrostichoides | Christmas Fern | 2 QT |
| WAL | 8 | Waldsteinia ternata | Siberian Barren Strawberry | 2 QT |



PLEASE NOTE: THIS SHEET IS SCALED FOR 11 BY 17 PAPER, DO NOT REDUCE OR ENLARGE.

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|-----|-----------|----|--------------------------------|
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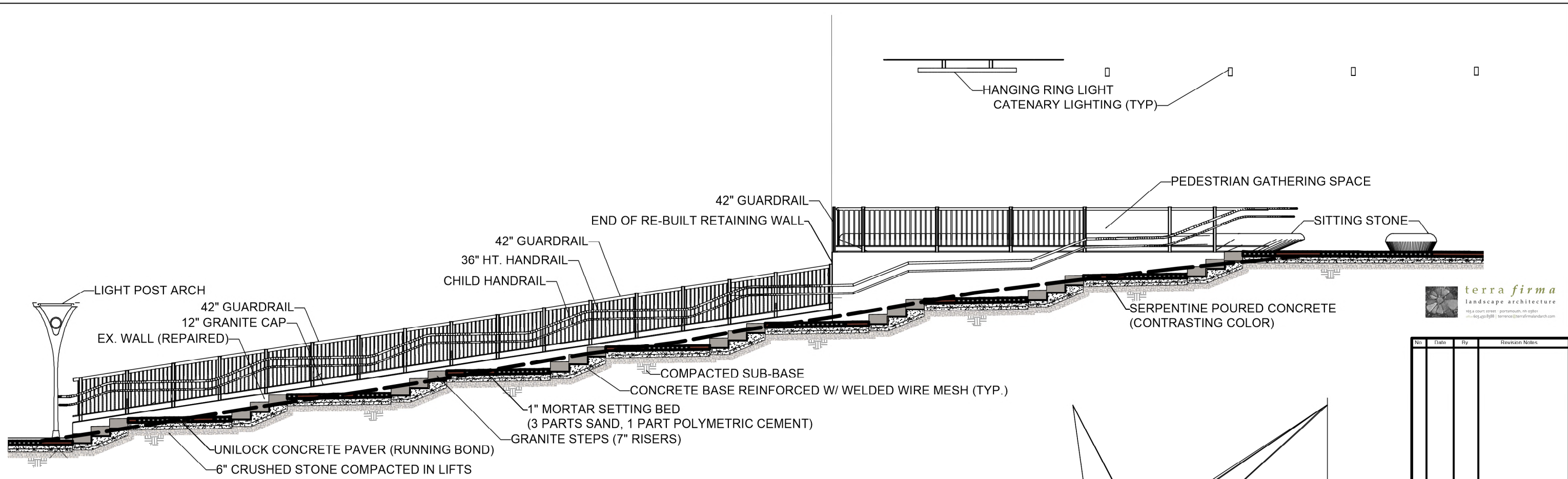
| No. | Date | Issue Notes |
|-----|------|-------------|
| | | |

terra firma landscape architecture
 163 a Court Street
 Portsmouth, NH 03801

ONE CONGRESS STREET

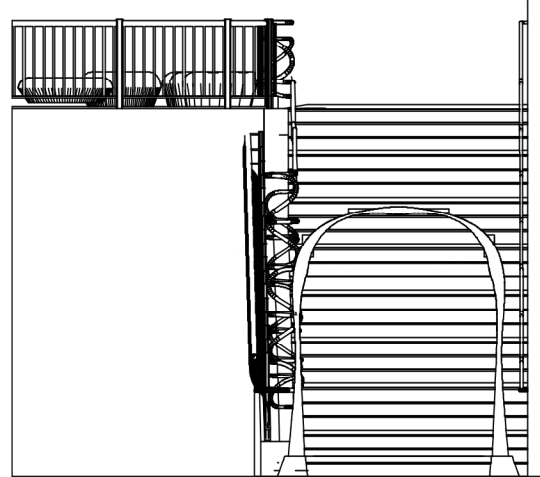
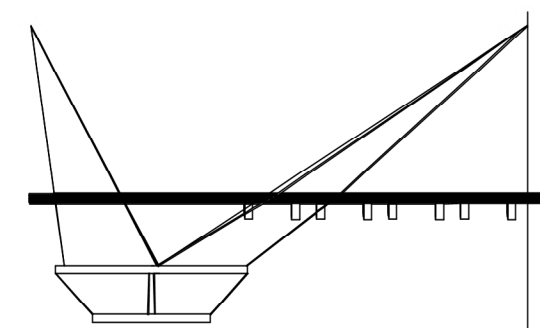
LANDSCAPE PLAN - PLANTING

| | |
|-----------------|---------------------|
| Project Manager | ONE CONGRESS STREET |
| Drawn By | TC |
| Checked By | TP |
| Date | 1/11/2023 |
| Scale | 1/8" = 1'-0" |
| Sheet No. | L-2 |
| Sheet Total | 8 |



1
L-3

HAVEN COURT STEP DETAIL
SCALE: 1/8"=1'-0"



2
L-3

HAVEN COURT ARCH DETAIL
SCALE: 1/8"=1'-0"

PLEASE NOTE: THIS SHEET IS SCALED FOR 11 BY 17 PAPER, DO NOT REDUCE OR ENLARGE.

| No. | Date | By | Revision Notes |
|-----|-----------|----|--------------------------------|
| D | 7/5/2023 | | CITY COUNSEL APPROVAL SET |
| C | 2/17/2023 | | POROUS PAVER DETAIL |
| B | 2/14/2023 | | POROUS PAVER NOTE |
| A | 2/2/2023 | | NOTE ADDED: WALL-MOUNTED LIGHT |

| No. | Date | Issue Notes |
|-----|------|-------------|
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| | |
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| terra firma landscape architecture 163 a Court Street Portsmouth, NH 03801 | |
| ONE CONGRESS STREET | |
| LANDSCAPE DETAILS | |
| Project Manager | ONE CONGRESS STREET |
| Drawn By | TC |
| Checked By | TP |
| Date | 1/11/2023 |
| Sheet No. | L-3 |
| Sheet Title | CONGRESS62823.vw |



terra firma
landscape architecture
163 a court street - portsmouth, nh 03801
phone: 603.430.8988 | terrance@terrafirmalandscape.com

| No. | Date | By | Revision Notes |
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terra firma landscape architecture
163 a Court Street
Portsmouth, NH 03801

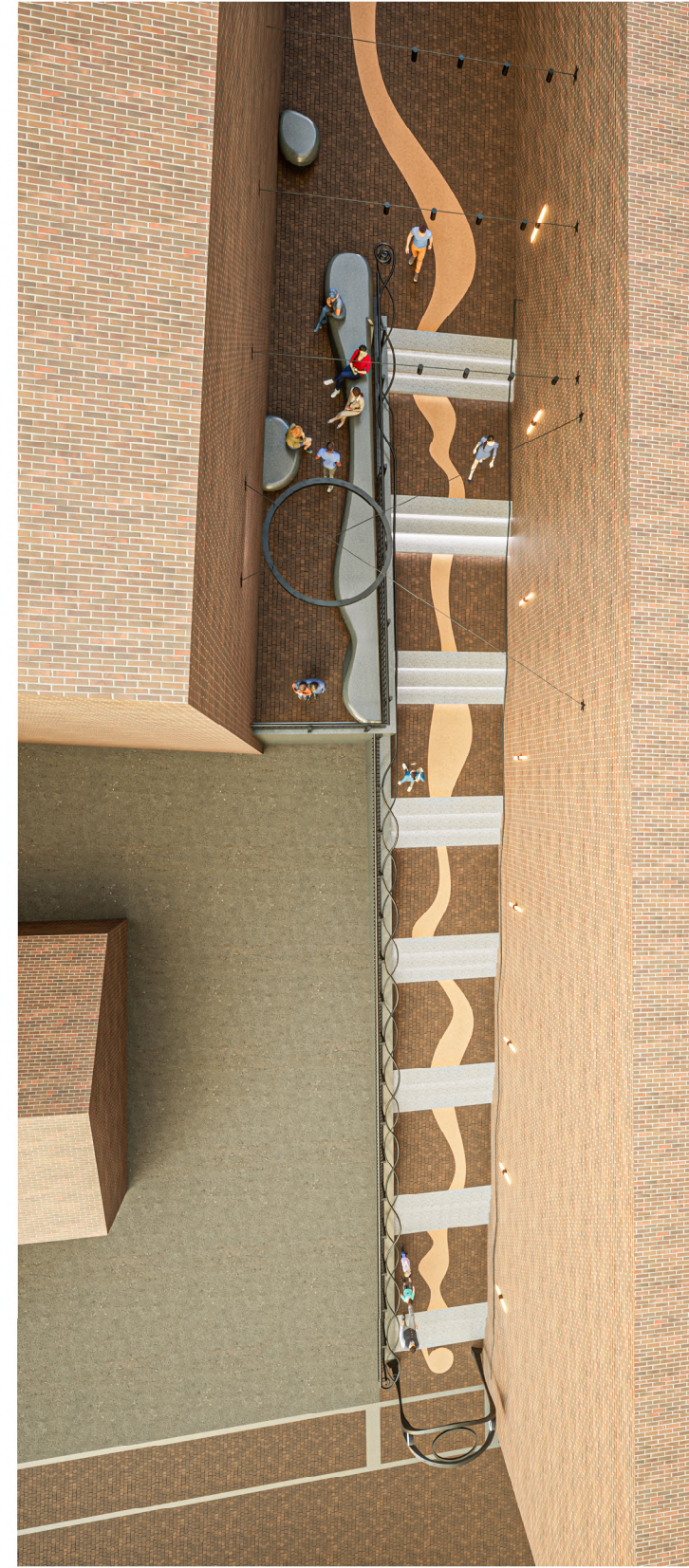
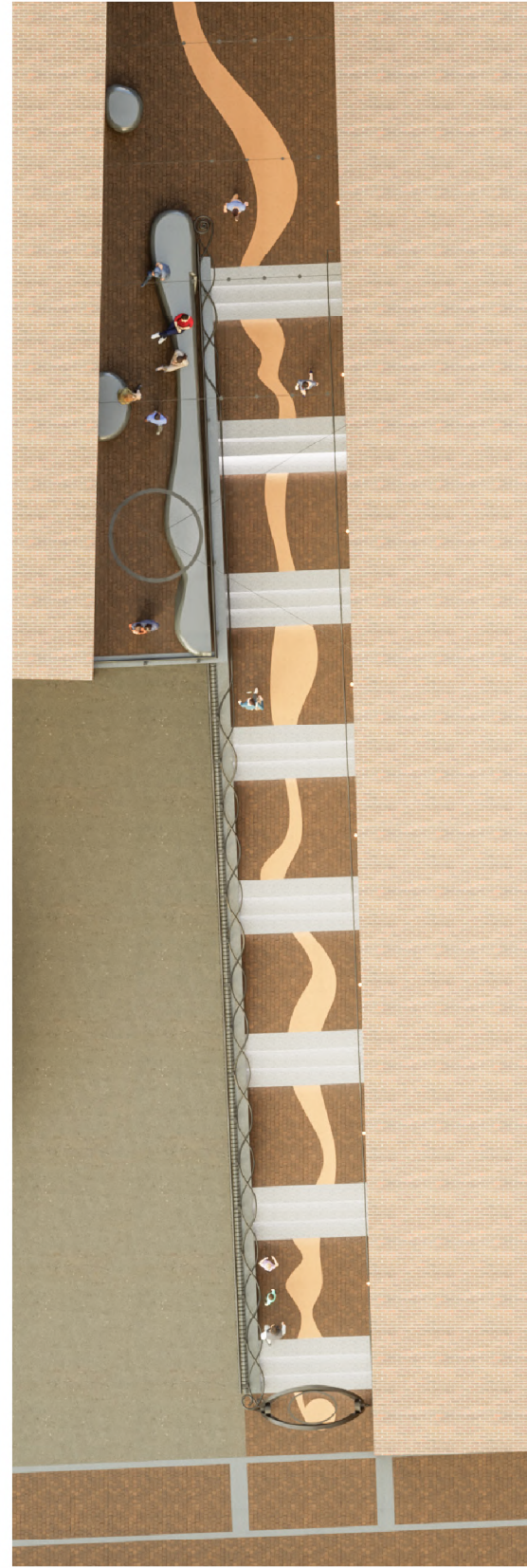
ONE CONGRESS STREET

LANDSCAPE PERSPECTIVES

| | |
|-----------------|---------------------|
| Project Manager | ONE CONGRESS STREET |
| Drawn By | AS NOTED |
| Checked By | TP |
| Date | 1/11/2023 |
| Sheet No. | L-4 |
| Sheet Name | CONGRESS62823.vw |
| | 8 |

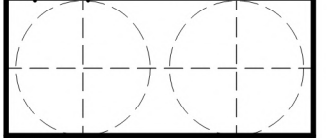
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L-4 STEPS FROM FLEET STREET
SCALE: NTS

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terra firma
 landscape architecture
163 a court street | portsmouth, nh 03801
 phone: 603.430.8988 | terrace@terrafirmalandscape.com

| No. | Date | By | Revision Notes |
|-----|-----------|----|--------------------------------|
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| C | 2/17/2023 | | POROUS PAVER DETAIL |
| B | 2/14/2023 | | POROUS PAVER NOTE |
| A | 2/2/2023 | | NOTE ADDED: WALL-MOUNTED LIGHT |

| No. | Date | Issue Notes |
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terra firma landscape architecture
 163 a Court Street
 Portsmouth, NH 03801

ONE CONGRESS STREET

LANDSCAPE PERSPECTIVES

| | |
|-----------------|---------------------|
| Project Manager | ONE CONGRESS STREET |
| Drawn By | TC |
| Checked By | TP |
| Date | 1/11/2023 |
| Sheet No. | L-5 |
| Sheet Name | CONGRESS62823.vw |
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L-5

STEPS FROM FLEET STREET
SCALE: NTS

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| No. | Date | By | Revision Notes |
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| D | 7/5/2023 | | CITY COUNSEL APPROVAL SET |
| C | 2/17/2023 | | POROUS PAVER DETAIL |
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| A | 2/2/2023 | | NOTE ADDED: WALL-MOUNTED LIGHT |

| No. | Date | Issue Notes |
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terra firma landscape architecture
 163 a Court Street
 Portsmouth, NH 03801

Project Name
 ONE CONGRESS STREET

Drawing Title
 LANDSCAPE PERSPECTIVES

| | |
|-----------------|---------------------|
| Project Manager | ONE CONGRESS STREET |
| Drawn By | AS NOTED |
| Reviewed By | TP |
| Date | 1/11/2023 |
| Sheet No. | L-6 |
| Sheet Name | CONGRESS062823.vw |
| | 8 |

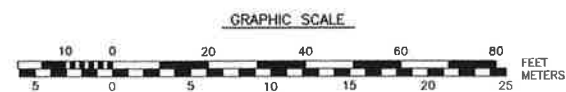
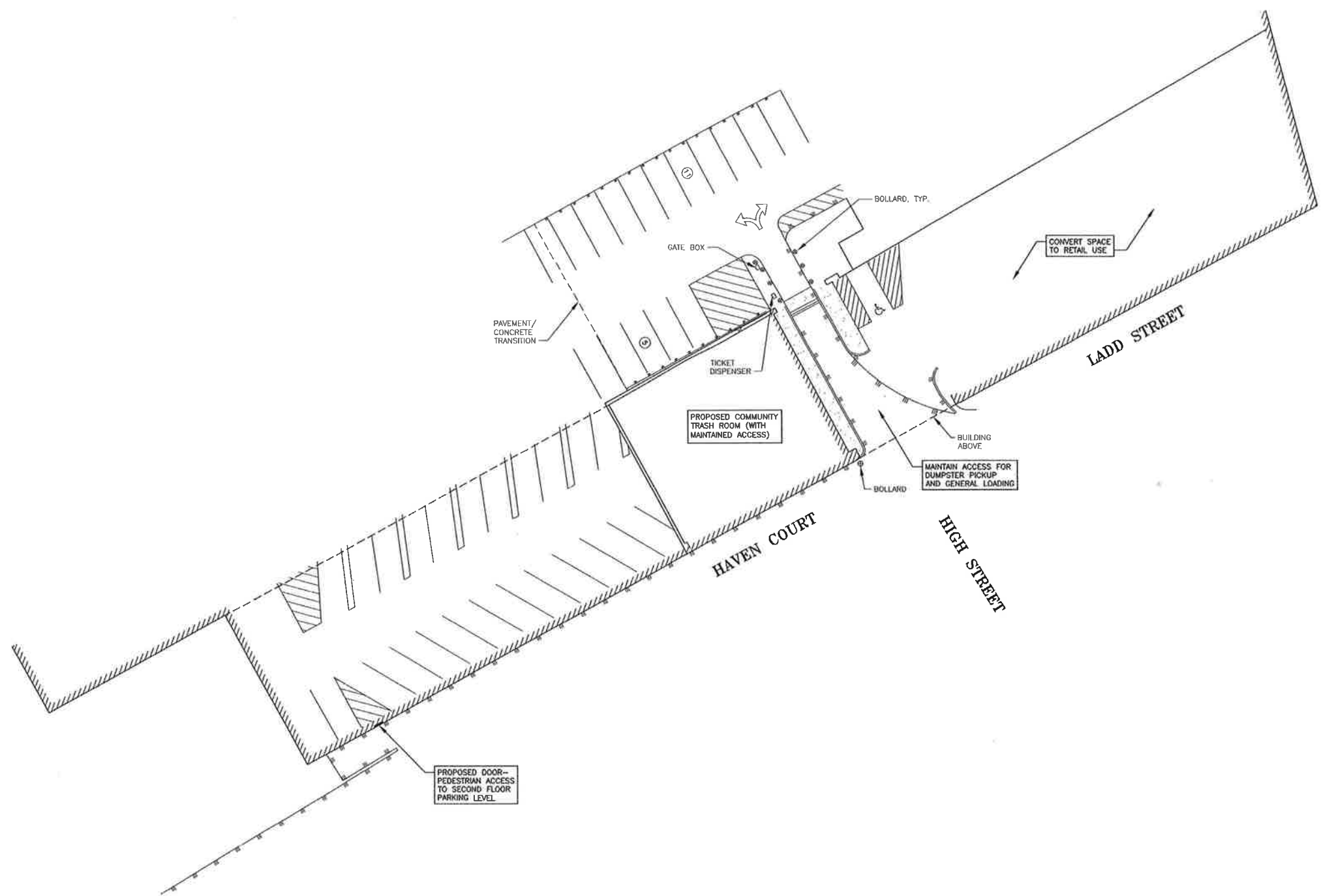
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 L-6

STONE SEATING NEAR FLEET STREET STEPS
 SCALE: NTS

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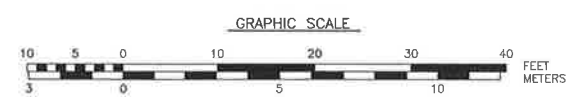
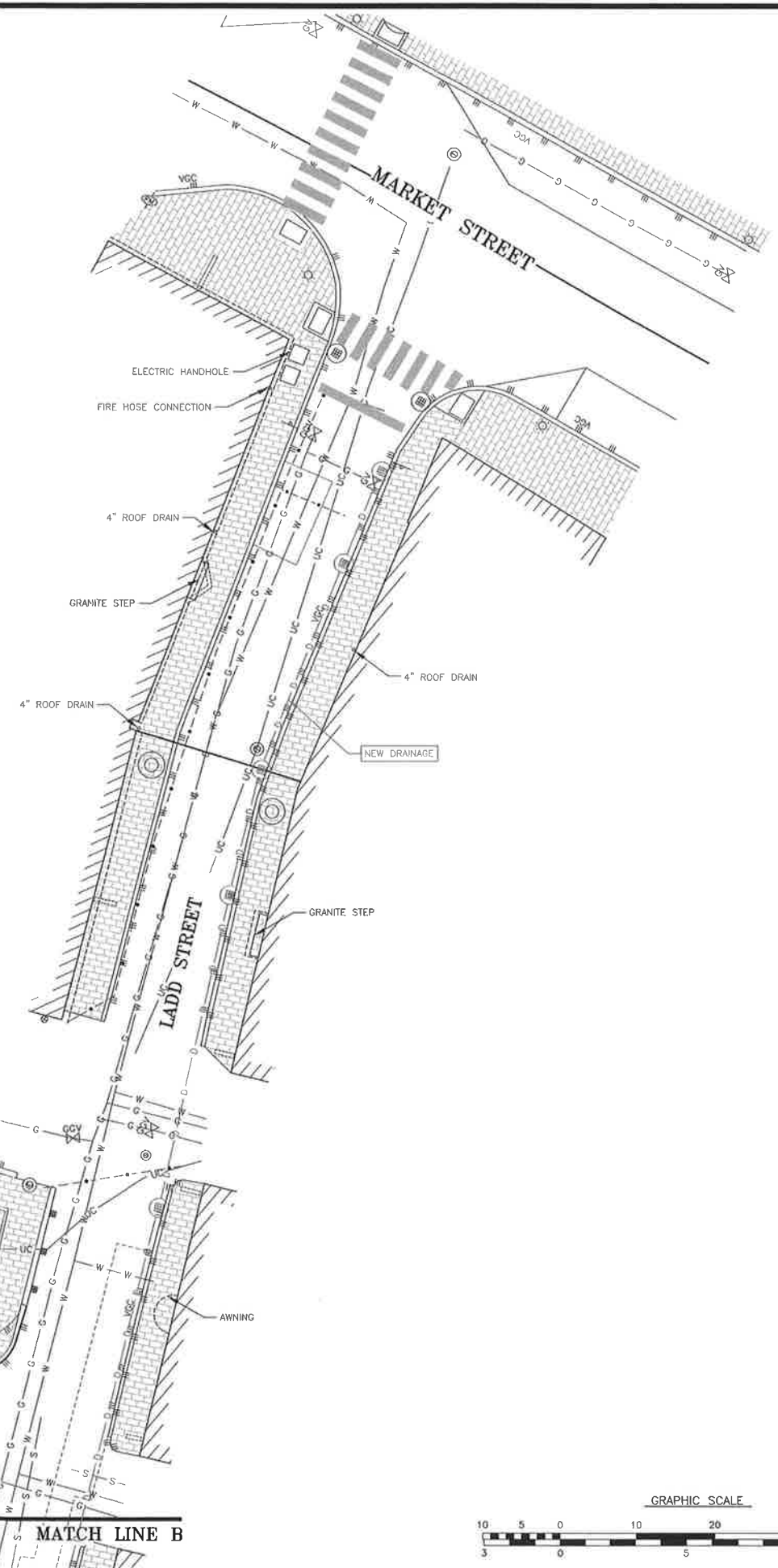
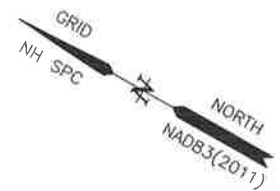


GRID
NH SPC
NAD83(2011)
NORTH

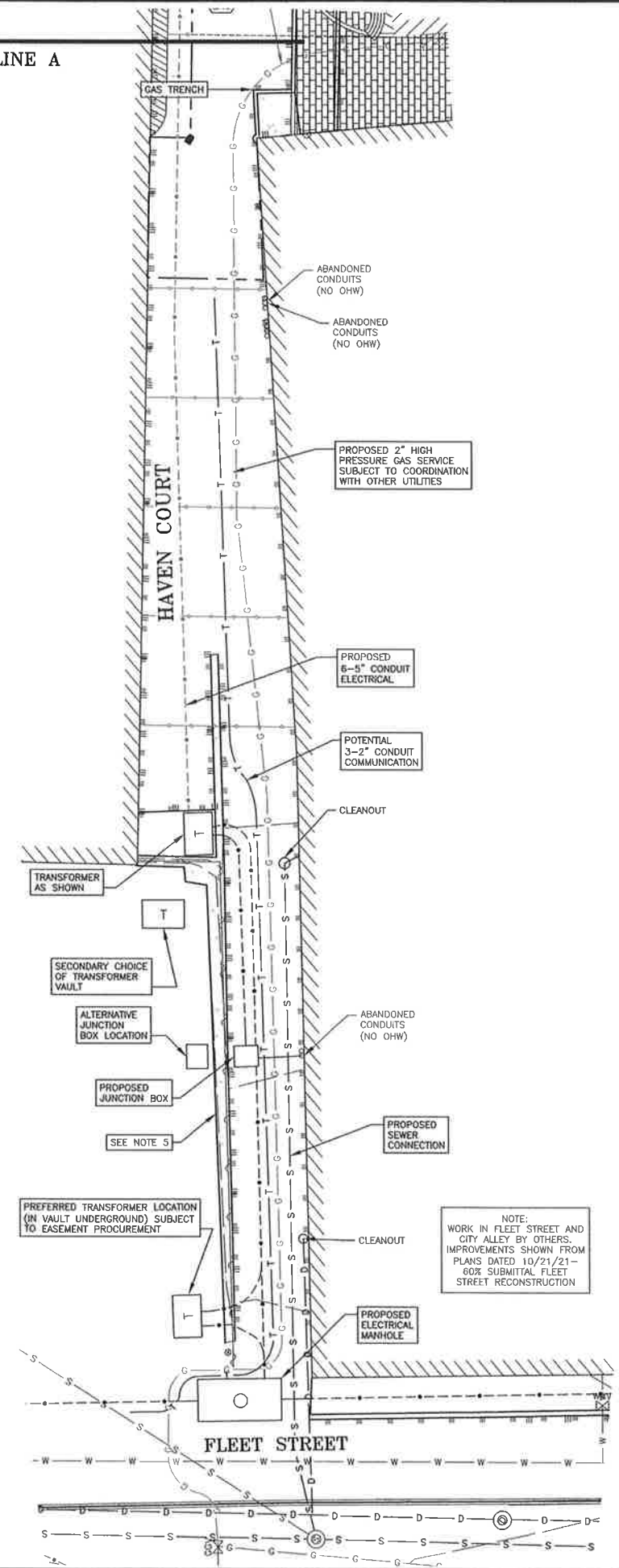


| NO. | DESCRIPTION | DATE |
|-----------|--------------------|--------|
| 0 | ISSUED FOR COMMENT | 7/3/23 |
| REVISIONS | | |

**PROPOSED CHANGES TO
HIGH HANOVER
PARKING GARAGE
THE CITY OF PORTSMOUTH
HIGH STREET, LADD STREET &
HAVEN COURT
CITY OF PORTSMOUTH
COUNTY OF ROCKINGHAM
STATE OF NEW HAMPSHIRE**



MATCH LINE A

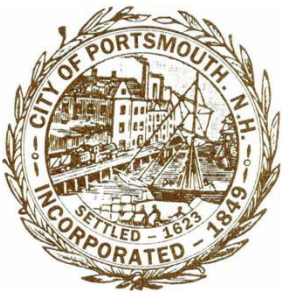


- NOTES:**
- 1) CONGRESS DEVELOPMENT PARCEL IS SHOWN ON THE CITY OF PORTSMOUTH ASSESSORS MAP 117 AS LOT 14.
 - 2) OWNER OF RECORD (MAP 117 LOT 14):
ONE MARKET SQUARE, LLC
3 PLEASANT STREET, SUITE 400
PORTSMOUTH, NH 03801
6363/31 PARCEL 1 & PARCEL 2
 - 3) THE PURPOSE OF THIS PLAN IS TO SHOW CONCEPTUAL UTILITY IMPROVEMENTS ASSOCIATED WITH THE IMPROVEMENT PLANS.
 - 4) WORK IN FLEET STREET AND CITY ALLEY BY OTHERS. IMPROVEMENTS SHOWN FROM PLANS DATED 10/21/21 - 60% SUBMITTAL FLEET STREET RECONSTRUCTION.
 - 5) RETAINING WALL TO BE REBUILT IF NEEDED, COORDINATE WITH ABUTTING LANDOWNER.

LADD STREET & HAVEN COURT

| NO. | DESCRIPTION | DATE |
|-----------|--------------------|--------|
| 0 | ISSUED FOR COMMENT | 7/3/23 |
| REVISIONS | | |

PROPOSED UTILITIES WORK AREA
THE CITY OF PORTSMOUTH
HIGH STREET, LADD STREET & HAVEN COURT
CITY OF PORTSMOUTH
COUNTY OF ROCKINGHAM
STATE OF NEW HAMPSHIRE



CITY OF PORTSMOUTH

Planning and Sustainability Department
(603) 610-7216

MEMORANDUM

TO: KAREN S. CONARD, CITY MANAGER
FROM: PETER BRITZ, DIRECTOR OF PLANNING AND SUSTAINABILITY
SUBJECT: 2025-2030 CAPITAL IMPROVEMENT PLAN (CIP) PROCESS
DATE: AUGUST 15, 2023

Background

The Capital Improvement Plan (CIP) is both a financial and infrastructure planning tool that sets forth a multi-year schedule and financing strategies for accomplishing public capital projects that both maintain safe quality city infrastructure and assist in the achievement of Citywide Goals. Careful development of and adherence to the CIP ensures that needed capital projects are accomplished within the City's financial capability. In combination with the annual City budget, the Capital Improvement Plan has a significant impact on the planned allocation of fiscal resources and is thus one of the most important documents considered by the City Council.

State/Local Regulatory Context

RSA 674.5: Capital Improvement Program

"674:5 Authorization. – In a municipality where the planning board has adopted a master plan, the local legislative body may authorize the planning board to prepare and amend a recommended program of municipal capital improvement projects projected over a period of at least 6 years.

...

The capital improvements program may encompass major projects being currently undertaken or future projects to be undertaken with federal, state, county and other public funds. The sole purpose and effect of the capital improvements program shall be to aid the mayor or selectmen and the budget committee in their consideration of the annual budget."

City Charter

City Charter Section 7.6 - Capital Program:

The Manager shall prepare and submit to the Council a six (6) year capital program at least three (3) months prior to the final date for submission of the budget. The program shall include:

- *A general summary of its content;*
- *A list of all capital improvements proposed during the next six (6) fiscal years;*

- *Cost estimates, methods of financing, recommended time schedules for each improvement; and*
- *Estimating annual operating and maintenance costs.*

The purpose of the CIP is to:

1. Implement needed improvements on a scheduled basis
 - Provides a complete picture of the City's major development needs
 - Coordinates activities of various City departments and agencies
 - Assists in implementing recommendations of the City's Master Plan
2. Forecast future allocation of fiscal resources
 - Establishes fiscal priorities for projects
 - Aids in the proper utilization of funding sources
3. Help plan for future City expenditures
 - Discourages piecemeal improvements and duplication of expenditures
4. Ensure capital project needs are provided within the City's financial capability
 - Informs the taxpayers of anticipated future improvements,
 - Helps to schedule major projects to avoid large fluctuations in the tax rate.

As used in the CIP, a capital improvement project is defined as a major fiscal expenditure that falls into one or more of the following categories:

- ✓ Land acquisition,
- ✓ Construction or expansion of a public facility, street, utility or public infrastructure,
- ✓ Rehabilitation of a public facility or public infrastructure provided the cost is \$50,000 or more,
- ✓ Design work or planning study related to a capital project or implementation of the Master Plan,
- ✓ Any item or piece of equipment, non-vehicular in nature, that costs more than \$50,000 and has a life expectancy of 5 or more years, or
- ✓ Replacement and purchase of vehicles which have a life expectancy of more than 5 years or cost more than \$50,000.

Plan Development Process

The capital planning process is coordinated by the Finance and Planning Departments under the direction of the City Manager. Capital project requests are initially formulated by City department heads and submitted to the Finance Department. Members of the public may also submit project requests, which are reviewed by City departments and incorporated into the departmental project submissions as appropriate.

CIP projects originate from three sources.

- ✓ Capital Improvement Plan from the Prior Fiscal Year
- ✓ City Staff
- ✓ Residents

Staff works to update the prior year's CIP projects to reflect the current status, project needs and costing. After city departments and residents submit their new requests for capital project, staff works with the City Manager to prioritize them by utilizing the following:

- **Project requirements** – Is the project required to meet legal, compliance, or regulatory requirements?
- **Timing** – How soon does the project need to be implemented to address the needs identified?
- **Strategic alignment** – To what extent is the project aligned with other city projects, policies, processes?
- **Public value** – How much value does the outcome of this project provide to the general public? How much public support is there for implementing this project?
- **Finance planning** – Is the project fundable in the time frame identified, are there available funding sources for this project?

Although the factors above are consistently utilized in the prioritization process, other factors, such as urgent community needs or public health and safety, may also contribute to the final project placement, allowing the process to be nimble and responsive to emerging community needs.

Planning Board Advisory Committee and City Council Adoption

The Planning Board appoints a three member Advisory Committee to review the projects in the initial draft CIP. The Finance Department incorporates the Advisory Committee's recommendations into a revised form of the CIP which is then reviewed by the Planning Board. The Planning Board holds a public hearing and votes to recommend the adoption of the document to the City Council. The City Council holds a public hearing and adopts the CIP in accordance with City Charter requirements. Once adopted, the CIP is utilized in the development of the annual budget in accordance with RSA 674.5.

Financing

Capital improvement projects are funded from a variety of sources. These funding sources include: General Fund (GF) Capital Outlay; Federal/State Grants; Bond or Lease; Revenues (Parking, Water and Sewer); State Revolving Loan Fund (SRF) and Public Private Partnerships (PPP).

General Fund – Capital Outlay – The most commonly used method of financing capital projects is through the use of the General Fund – Capital Outlay. The General Fund includes the money raised by the local property tax for a given year. When a project is funded with General Fund revenues, its entire cost is paid off within the year. The intent is to budget annually a certain amount from the General Fund (approximately 2% of previous Fiscal Year General Fund total Budget) to address City priorities.

Grants – One source of grants is from other levels of government, for example, the Environmental Protection Agency, the NH Department of Health and Human Services, U.S. Housing and Urban Development, NH Department of Environmental Services, and the NH Department of Transportation. Generally, these Federal and State sources provide an outright grant or matching funds to go with locally raised funds. The City also pursues non-governmental private grants when applicable.

General Obligation Bonds – Bonds are used to finance major municipal capital projects. These are issued for a period of time generally extending from ten to thirty years during which time principal and interest payments are made. They are secured by the raising of property taxes. This type of payment has the advantage of allowing the costs to be amortized over the life of the project and of allowing taxpayers to pay a smaller amount of the project's cost at a time. However, they do commit the City's resources over a long period of time and decrease the flexibility of how yearly revenues can be utilized. The City's bonding capacity is a limited resource. All projects that are to be bonded should meet minimum eligibility criteria and must have a life span at least equal to the bond life. **Projects that are funded through bonds must go through a separate process provided under the local and state regulations.**

Revenues – The City has two established Enterprise Funds (Water and Sewer). The needs for these two divisions are met through the revenues raised from providing that particular service. Therefore, there is no impact on the City's tax rate. Additionally, the City has established a Parking and Transportation Fund (Special Revenue Fund). Revenues derived from the City's parking functions are transferred to this fund in order to operate the City's parking and traffic related activities.

State Revolving Loan Fund – This is a program offered through the NH Department of Environmental Services for the purpose of providing low interest rate funding for approved water pollution control projects. State approval of applications does not bind the City to any of the individual projects but does lock into a low interest rate loan. Upon completion of projects, the loan becomes a serial bond payable by the City of Portsmouth Sewer or Water Fund to the State of NH. In addition, the City applies for State Aid Grant funding to assist in repaying SRF loans up to 30% of the total project cost.

Public Private Partnership – This method of financing involves joint funding of a particular project between the City and one or more private sector or non-governmental partners. This

method is used for projects that will benefit the partners and help to minimize costs to local taxpayers.

Deciding on which method of financing should be selected for a given project is dependent on a number of factors. These include the cost of the project, its useful life, the eligibility of the project to receive funds from other than local taxes, long-term and short-term financial obligations of the City and a project's relative priority in terms of implementation. The Capital Improvement Plan seeks to maximize the potential benefits from all revenue sources.

Timeline

- August 17, Process Kick Off – Planning Board Presentation
- October - Citizen requests and City department project requests reviewed/ financials prepared
- December- Planning Board CIP Subcommittee meets with departments to review draft CIP
- December – Planning Board holds a public hearing votes to submit CIP to the City Council
- January/February/March – City Council holds a public hearing and adopts CIP.



THE CAPITAL IMPROVEMENT PLAN (CIP)

- What is a CIP?
- FY2025-FY2030 CIP Timeline
- Public Input Opportunities



What is the CIP?

- **The CIP is a PLAN**
The CIP is a six-year plan for establishing upcoming capital projects such as roadway paving or building improvements.

- **The CIP is a Budgeting Tool**
The CIP does not spend or commit any money but instead, identifies projects for various upcoming years and its planned budget source. Some projects move forward to become part of the later budget process.

- **The CIP is an Informational Tool**
The Public can utilize the CIP to learn more about upcoming capital projects, the timeline in which they are planned, project details, evaluation criteria, costs, links to relevant documents, and identification of project funding.

- **The CIP is a Citizen Input Opportunity**
Citizens have numerous public input avenues throughout the process from the ability to request a project to public hearings throughout the document cycle.

WHAT QUALIFIES AS A CAPITAL IMPROVEMENT PROJECT?

- Land acquisition
- Construction or expansion of a public facility, street, utility or public infrastructure
- Rehabilitation of a public facility or public infrastructure, provided the cost is \$50,000 or more
- Design work or planning study related to a capital project or implementation of the Master plan
- Any item or piece of equipment, non-vehicular in nature, that costs more than \$50,000 and has a life expectancy of 5 or more years; or
- Replacement and purchase of vehicles which have a life expectancy of more than 5 years or cost more than \$50,000



How are projects evaluated and prioritized?



Responds to a Federal or State Requirement



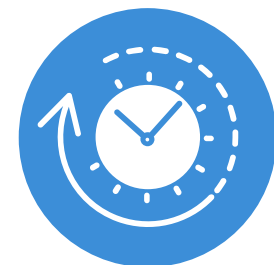
Address Public Health or Safety Need



Alleviates Substandard Conditions or Deficiencies



Eligible for Matching Funds with Limited Availability



Timing or Location Coordinate with Synergistic Project



Identified in a Planning Document or Study



Improves Quality of or Provides Added Capacity to Existing Services



Reduces Long-Term Operating Costs



Provides Incentive to Economic Development

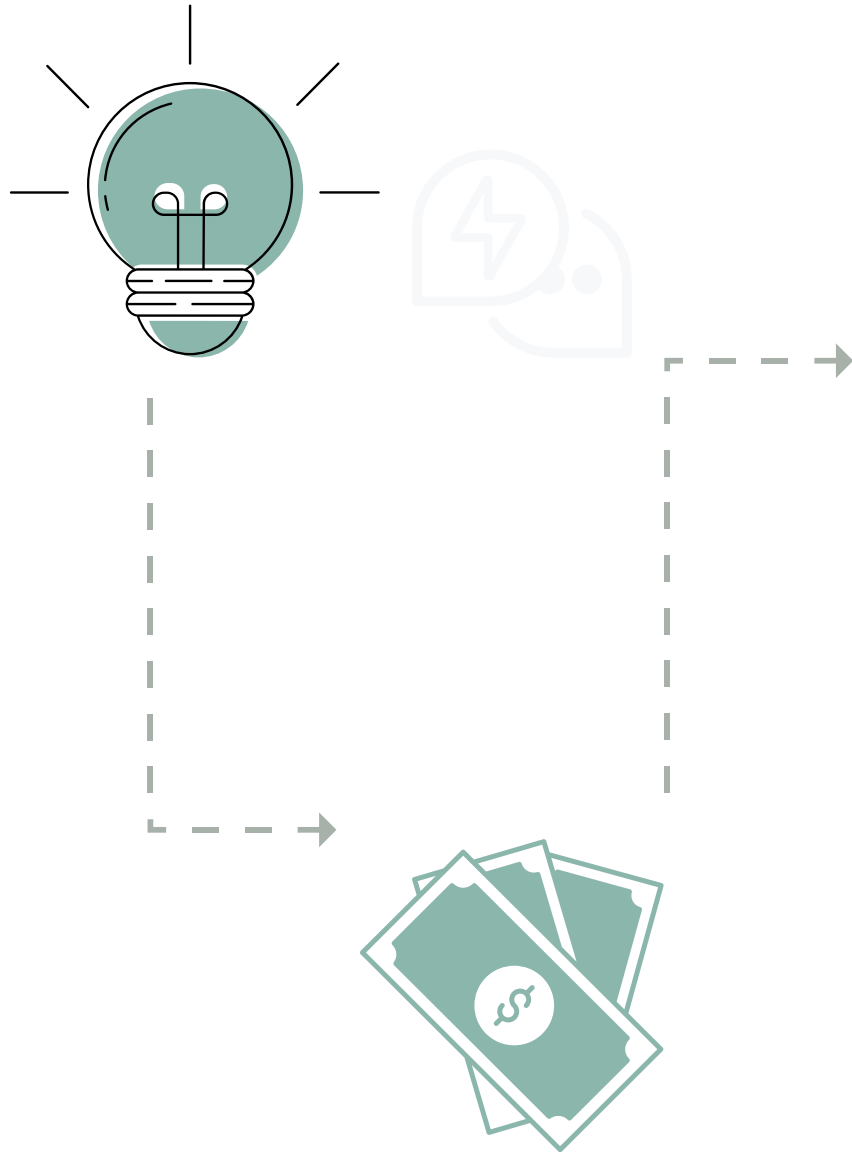


Responds to a Citywide Goal or Submitted Resident Request

Projects are evaluated both financially and based on the 10 Evaluation Criteria above. Items that Respond to Federal or State Requirements or address Public Health or Safety needs take priority. Other criteria are utilized by the Planning Board and City Council to best prioritize projects.

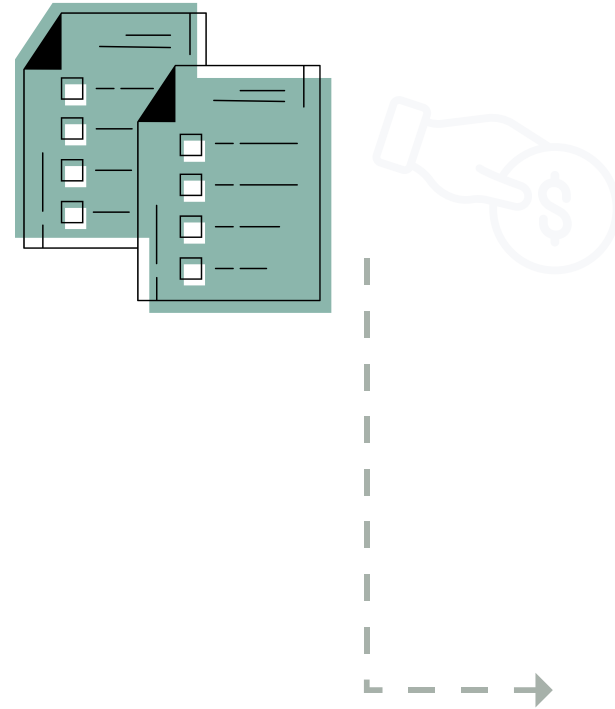
Project Submission

Projects are submitted from City Departments based on Infrastructure needs and/or Master Plan/Department Study goals or through Citizen Requested Project Submissions.



Projects are Prioritized

Projects are reviewed by City Staff and prioritized to ensure compliance with Financial Debt Margins. Life safety, legal requirements and public health need projects take priority.



City Council

City Council reviews projects with City Staff and discusses financial implications and project priorities. The City Council can change project priorities during the CIP or Budget Process.



City Budget

The City Council Adopts the CIP in March. After adoption all General Fund projects slated for the upcoming Fiscal Year are placed into the City's Budget. Project funding and priorities can be altered at anytime until the budget is passed.



Financials Established

The City's Finance Department documents and illustrates the City's Legal Debt Margin, current debt obligations and financial needs of the CIP based on the current project requests.



Planning Board

The Planning Board reviews all projects with City Staff in conjunction to the City's Master Plan.



Citizen Input

Citizens weigh in their opinions on the projects costs, priorities and details.





PUBLIC INPUT OPPORTUNITIES

Project Submission

Have a project that meets the CIP Project criteria? Submit it to the City Online or in the Planning Department at City Hall
DEADLINE: September 15th



Planning Board CIP Public Hearing

The Planning Board holds a public hearing following the CIP Presentation in December.



City Council CIP Public Hearing

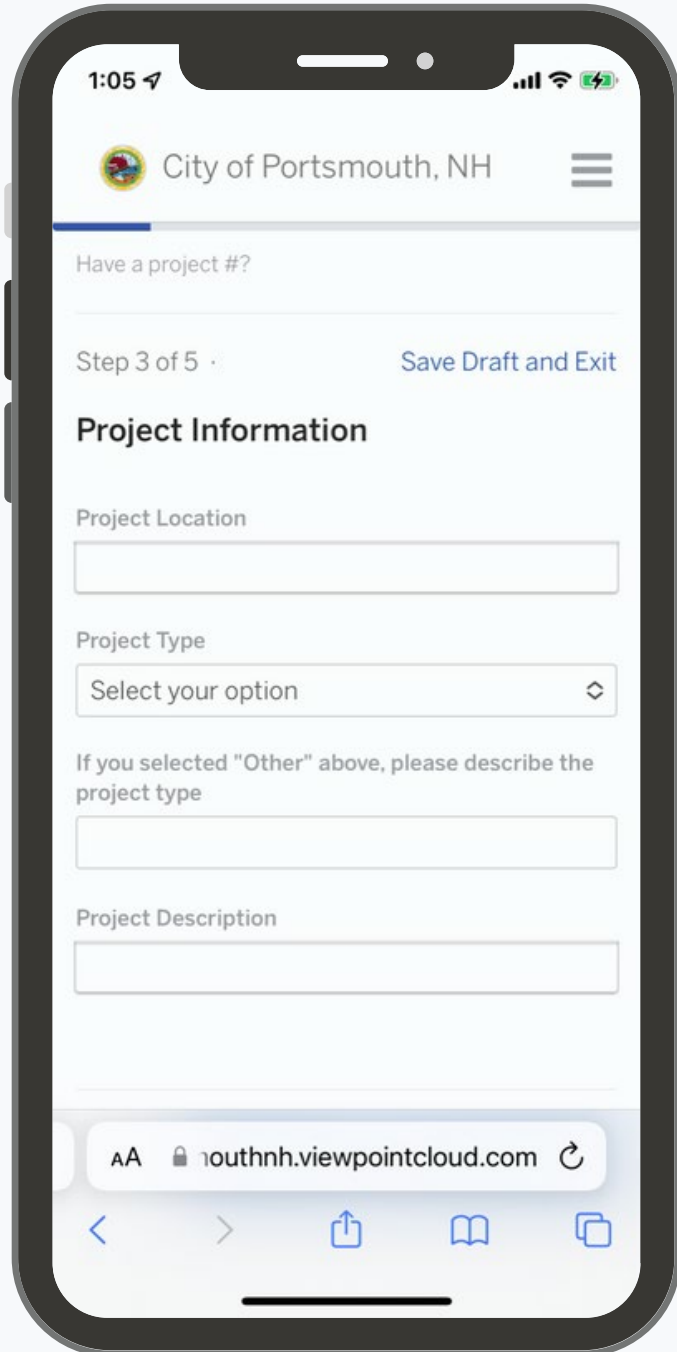
The City Council holds a Public Hearing on the Capital Improvement Plan in February



City Council Budget Public Hearing

The City Council Holds at least one Public Hearing on the City's Budget which will include relevant projects from the CIP.





How to Submit a Project

[CityofPortsmouth.com/planportsmouth/capital-improvement-plan](https://cityofportsmouth.com/planportsmouth/capital-improvement-plan)

Review your project suggestion. Does it meet one or more of the CIP Project Qualifications?

- 1) If YES Submit your project idea through the ViewPoint online Portal(<https://portsnh.co/2023citizencip>).
- 2) If NO - This project does not qualify for the CIP.

What is the next step?

- Projects are reviewed by the appropriate department.
- Projects are then either moved forward to the main document as its own unique project, combined with an existing project, placed in a year outside of the CIP or deemed unqualified as a CIP project.
- All Citizen requests are listed (including Department Comments) in the CIP in Appendix I.



August/ September

- Process kickoff
- Citizen Request forms accepted (DUE September 15th)



November/ December

- City Council Citizens Request Subcommittee meets to review Citizen Projects
- Planning Board CIP Subcommittee reviews projects
- Planning Board reviews, holds a public hearing, and votes to recommend the adoption of the CIP by the City Council

CIP PROCESS TIMELINE

HOW THE CIP GOES FROM PROJECTS TO THE BUDGET....



October

- Citizen Requests are reviewed by appropriate departments
- City Departments submit project requests
- The CIP financials are prepared and the document is assembled



January/ February/ March

- City Council reviews, holds a public hearing, and adopts the CIP



April/ May/ June

- Capital Projects for the upcoming Fiscal Year are utilized as part of the non-operating budget.
- The City Council considers funding projects as part of the passage of the annual budget.





August 10, 2023

City Manager Karen Conard
City Hall
1 Junkins Ave
Portsmouth, NH 03801

RE: Portsmouth NH 400th, Inc. Signature Event, The Great Portsmouth NH 400 Community Picnic

Dear City Manager Conard:

I am writing to request permission to hold The Great Portsmouth NH 400 Community Picnic, to take place on Sunday, October 1st, from 12:00 – 3:00 pm at Leary and Central Fields. This will be a free event, where we will provide food, entertainment, and fun for the whole community.

Festivities would include lawn games and activities for kids and families on the field. We would have two bands play with amplification on the infield of Leary. The use of Central Field would be for a pickup wiffle-ball game organized by Councilor Blalock. PNH400 would also request to sell merchandise on site that day.

We seek to provide grilled food – while supplies last - contingent upon approval from the Health Department. We would like to invite the entire City Council to participate in grilling and serving food. Additionally, we will work with Health to bring several food trucks to give away food and ice cream. Based on recommendations, we would put food trucks and grills on the gravel path in front of the grandstands at Leary.

We do not see the need to shut down any City streets, though reserving several parking spaces along Parrot Avenue near Leary Field would be helpful. We also seek recommendations from the City regarding securing additional ADA accessible parking for this event.

In consultation with City staff, we believe the existing port-a-potties at Leary and South Mill Pond will suffice for the needs of this event.

We would ask to use the parking lot behind Leary Field as a staging area.

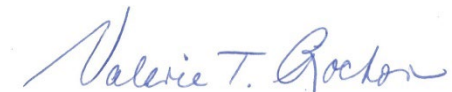
We will have volunteers to help with street crossings, parking, and event management.

We expect 800 – 1000 people in attendance over the course of the event.

We will, of course, carry the usual insurance that is required, and provide a COI to the City as additional insured. Further, we would work with the Police and Fire Departments to ensure a safe and entertaining picnic, and to whom we are very grateful for all their planning and assistance.

We look forward to your response. Thank you.

Respectfully,

A handwritten signature in blue ink that reads "Valerie T. Rocker". The signature is written in a cursive style with a large initial 'V'.

Managing Director, Portsmouth NH 400th, Inc.

CITY COUNCIL E-MAILS

Received: August 7, 2023 (after 5:00 p.m.) –August 13, 2023 (before 9:00 a.m.)

August 21, 2023 Council Meeting

Submitted on Tue, 08/08/2023 - 08:46

Full Name

Robert Corash

Email

rmcorash@gmail.com

Subject

Police Station- status of current facility and planning for improvement and. or replacement.

Address

45 Haven Road, Portsmouth, NH 03801

Message

How can I become informed on the subject of our Police station, such as the need for improvement to or replacement of the current Junkins Ave. facility? Is there a working group on this topic?

Thank you, Robert Corash, rmcorash@gmail.com

Please indicate if you would like your comment to be part of the public record for the upcoming City Council meeting. Yes

Submitted on Mon, 08/14/2023 - 03:57

Full Name

Donna Westbrook

Email

dmwestbrook@comcast.net

Subject

Portsmouth Housing Authority

Address

76D Manor Drive

Message

To the city council members, the mayor, and city manager,

These are some concerns of mine in the present day and also for the future... because I am a resident of Portsmouth and also a tenant of public housing under The Portsmouth Housing Authority...

1). Which Portsmouth Housing Authority infringements go against city codes such as those infringements having to do with heating, electrical, plumbing, structural issues, safety issues? Who in the city can take a complaint? The building inspector, the health department? Who else? Should this information be readily available to The Portsmouth Housing Authority, public housing tenants? Because so far I have not gotten a clear and consistent answer and I have asked for help before.

2). There are no longer consistent protocols in place in The Portsmouth Housing Authority for grievance hearings except for matters of eviction (per Craig Welch) and that is usually too late. Matters that are important but don't pertain to eviction have always been included in the grievance process, but (per Craig Welch) they are no longer. Paraphrasing Craig Welch, " emails are as formal as we get around here". Should I remind everyone, people who are complaining about lack of maintenance or neglect of property should not be punished or retaliated against. Retaliation is against the law.

3). Lack of protocols are a major issue with The Portsmouth Housing Authority. How? They tell you that you can call them but many times they don't answer. They tell you to write a letter but then many times do not respond. They mostly like you to email them and then yet again many times do not respond. If there are no protocols in place that are truly honored in a consistent manner, that makes communication with The Portsmouth Housing Authority ineffective and doesn't allow for tenants to have their issues solved.

4). Partnership with The Portsmouth Housing Authority should only be after The Portsmouth Housing Authority takes care of the needs of current tenants.

So when asking the city to consider holding off on future partnership with The Portsmouth Housing Authority, of course I consider that The Portsmouth Housing Authority will always be in some sort of updating process of properties as many properties are very old.

But, I am talking about ongoing neglect, those things that are not finished, or have never been looked at.

There have always been some issues with lack of maintenance employees to do work in a timely manner, for instance I have been told many many many times that there aren't enough maintenance people, so when The Portsmouth Housing Authority takes on new housing projects and then needs to maintain them, that will use up resources that the already existing properties need in the present moment. If we can't get our present issues solved, why should future projects take precedence over present day issues in public housing. Then again, after we get more housing completed we have been more tenants who will need more maintenance, etc etc etc ..

These are things that the City of Portsmouth should consider when moving forward with partnership with The Portsmouth Housing Authority under the executive director Craig Welch. Because the 'integrity' of the partner should be first and foremost. I have provided the city council much documentation on the neglect that has gone on in and around my building, in the form of photos and other written documentation.

There is also pending documentation that I am gathering together. I have an appointment with the city manager to this week to discuss, as well

I would also be willing to give any one of you a tour of my building, apartment, and surrounding grounds with notice of course.

Sincerely,

Donna Westbrook

Please indicate if you would like your comment to be part of the public record for the upcoming City Council meeting. Yes

August 4, 2023

To whom it may concern:

This email will serve as official notice of my resignation from the Portsmouth Historic District Commission effective July 2023.
It has been an honor to serve the city of Portsmouth.

Sincerely,
Johanna Landis

PARKING and TRAFFIC SAFETY COMMITTEE

ACTION SHEET

8:30 A.M. – August 3, 2023
Conference Room A

PRESENT: **Members:** Chairman Andrew Bagley; Public Works Director Peter Rice; Erica Wygonik; Mary Lou McElwain; Steve Pesci; Mark Syracuse; Stefanie Casella, Planning Department; Deputy Police Chief Mike Maloney

City Staff: City Engineer Eric Eby, Parking Director Ben Fletcher, Associate Engineer Tyler Reese

| ACTION ITEMS FOR CITY COUNCIL |
|--|
| <ul style="list-style-type: none">• None |

- None

- **Roll Call**
- **Financial Report:** **Voted** to accept and place on file Financial Report dated June 30, 2023.
- **Public Comment Session:** There were seven speakers: Francesca Marconi Fernald spoke regarding parking concerns in the South End, as well as overnight camping on Peirce Island. Justin Richardson provided feedback on the speed bumps on Woodbury Avenue. Liza Hewitt expressed concern regarding the removal of the flashing speed indicator sign on Middle Road. Kathleen Boduch expressed concern about RV overnight camping and space for emergency vehicles on Pickering and Mechanic Streets. Paige Trace spoke regarding several topics, including the flashing speed indicator on Middle Road, overnight camping, and parking at the McIntyre Building. She requested that this revenue be listed separately in the Parking revenue report. Kelly Shaw (Z) expressed concern regarding trucks on Banfield Road. Denise Todd (Z) requested a flashing light for pedestrian crossing at Lafayette Road and Greenleaf Avenue.
- **Sagamore Avenue, request for bicycle lane markings and No Parking signs on both sides, from Shaw Road to Wentworth House Road, by Seacoast Area Bicycle Riders:** **Voted** to refer to staff and report back for evaluation.
- **Marcy Street, concerns regarding speeding between State Street and Pleasant Street, and crosswalk and intersection safety at Court Street:** **Voted** to continue discussion at next month's meeting.
- **Lafayette Road, request for rectangular rapid flashing beacon (RRFB) at crosswalk near Greenleaf Avenue, by resident:** **Voted** to table the discussion and reevaluate when school year data is available.
- **Pickering Street/Pickering Avenue/Mechanic Street parking restrictions update:** Informational; No action required.

- **Woodbury Avenue temporary speed cushions update**: Informational; No action required.
- **Aldrich Road speed bump update**: Informational; No action required.
- **Suzanne Drive speed bumps update**: Informational; No action required.
- **Middle Road traffic calming program update**: Informational; No action required.
- **Monthly Accident Report from Police**: Informational; No action required.
- **Downtown Parking Utilization Study Update**: Informational; No action required.

Respectfully submitted by: Leila Birr

PARKING and TRAFFIC SAFETY COMMITTEE
PORTSMOUTH, NEW HAMPSHIRE

CONFERENCE ROOM A
CITY HALL, MUNICIPAL COMPLEX, 1 JUNKINS AVENUE

Members of the public also had the option to join the meeting over Zoom.

8:30 AM

August 3, 2023

MINUTES

I. CALL TO ORDER

Chairman Andrew Bagley called the meeting to order at 8:32 a.m.

II. ATTENDANCE

Members Present:

Chairman Andrew Bagley
Vice Chairman Steve Pesci
Public Works Director Peter Rice
Stefanie Casella, Planning Department
Deputy Police Chief Mike Maloney
Erica Wygonik (Alternate)
Mary Lou McElwain
Mark Syracuse

Absent

Harold Whitehouse
Fire Chief William McQuillen

City Staff Present:

Parking Director Ben Fletcher
City Engineer – Parking, Transportation and Planning Eric Eby
Associate Engineer Tyler Reece

III. FINANCIAL REPORT

[00:05:41] Peter Rice moved to accept the Financial Report dated June 30, 2023, and place it on file, seconded by Mark Syracuse. Chairman Bagley commented that this is the first time that Parking revenues have exceeded \$10 million on an annual basis.

IV. PUBLIC COMMENT (15 MINUTES)

This is the time for all comments on any of the agenda items or non-agenda items.

[00:06:06] There were seven speakers: Francesca Marconi Fernald spoke regarding parking concerns in the South End, as well as overnight camping on Peirce Island. Justin Richardson provided feedback on the speed bumps on Woodbury Avenue. Liza Hewitt expressed concern regarding the removal of the flashing speed indicator sign on Middle Road. Kathleen Boduch expressed concern about RV overnight camping and space for emergency vehicles on Pickering and Mechanic Streets. Paige Trace spoke regarding several topics, including the flashing speed indicator on Middle Road, overnight camping, and parking at the McIntyre Building. She requested that this revenue be listed separately in the Parking revenue report. Kelly Shaw (Z) expressed concern regarding trucks on Banfield Road. Denise Todd (Z) requested a flashing light for pedestrian crossing at Lafayette Road and Greenleaf Avenue.

V. PRESENTATIONS

None

VI. NEW BUSINESS

(No public comment during Committee discussion without Committee approval.)

- A. [00:30:57] Sagamore Avenue, request for bicycle lane markings and No Parking signs on both sides, from Shaw Road to Wentworth House Road, by Seacoast Area Bicycle Riders. Erica Wygonik moved to refer to staff for evaluation and report back, seconded by Mark Syracuse. **Motion passed 8-0.**

VII. OLD BUSINESS

- A. [00:31:39] Marcy Street, concerns regarding speeding between State Street and Pleasant Street and crosswalk and intersection safety at Court Street, by residents. Mary Lou McElwain moved to continue discussion at next month's meeting, seconded by Mark Syracuse. **Motion carried 8-0.**
- B. [00:43:12] Lafayette Road, request for rectangular rapid flashing beacon (RRFB) at crosswalk near Greenleaf Avenue, by resident. Erica Wygonik moved to table the discussion and reevaluate when school year data is available, seconded by Peter Rice. **Motion passed 8-0.** Reconstruction of this intersection will be included in the CIP.

VIII. INFORMATIONAL

- A. [00:51:57] Pickering Street/Pickering Avenue/Mechanic Street parking restrictions. Signs will be posted.
- B. [00:53:46] Woodbury Avenue temporary speed cushions update. Speed cushions will be moved to a new location on Monday.

- C. [00:57:56] Aldrich Road speed bump update. Locations have been marked for two more speed bumps.
- D. [00:59:48] Suzanne Drive speed bumps update.
- E. [01:00:30] Middle Road traffic calming program update. The speed limit has been lowered permanently. Staff will collect speed data since the flashing speed sign was removed.
- F. [01:07:46] Monthly Accident Report from Police. The police department will be enforcing no overnight camping on Peirce Island.
- G. [01:12:37] Downtown Parking Utilization Study update.

IX. MISCELLANEOUS

[01:13:40] Discussion whether police officers would direct Peirce Island campers to another location.

X. ADJOURNMENT

Chairman Bagley adjourned the meeting at 9:45 a.m.

Respectfully submitted,

Leila Birr
Administrative Assistant
Department of Public Works

Gift and Donation Submission Form

Donations received by the City of Portsmouth must be accepted by the City Council. Please complete this form and submit it to the City Manager for inclusion on an upcoming agenda.

| | |
|--------------------------------|--|
| Date: | 8.7.2023 |
| Department/ Contact Person: | Portsmouth Fire Department Fire Chief William McQuillen |
| Donation Amount: | \$200.00 |

Are Funds to be directed to a particular department, program or fund? – If yes, please provide detail below:

Yes. Portsmouth Fire Department

Is there a particular purpose intended with this donation:

No. At Department Discretion

Other Information/Special Conditions:

Donation received in appreciation of EMS care received by department

Donor Information

| | |
|--------------------|-------------------------------|
| First & Last Name: | Lloyd Woodruff |
| Business Name: | |
| Address*: | 195 Edmund Ave, Portsmouth NH |
| Phone*: | |
| Email*: | |

Please note that gifts/donations to individual employees with a value of \$100 or more are not permitted. Information with an asterisk () indicates it will not be publicly distributed.*

Gift and Donation Submission Form

Donations received by the City of Portsmouth must be accepted by the City Council. Please complete this form and submit it to the City Manager for inclusion on an upcoming agenda.

| | |
|--------------------------------|--------------------------|
| Date: | 8/10/23 |
| Department/ Contact Person: | Recreation – Todd Henley |
| Donation Amount: | \$1,049.00 |

Are Funds to be directed to a particular department, program or fund? – If yes, please provide detail below:

| |
|-------------------------------|
| Skatepark Fundraising Account |
|-------------------------------|

Is there a particular purpose intended with this donation:

| |
|--|
| |
|--|

Other Information/Special Conditions:

| |
|---|
| Portion of proceeds from a charity food night at BRGR Bar. |
|---|

Donor Information

| | |
|--------------------|-------------------|
| First & Last Name: | BRGR World, LLC |
| Business Name: | BRGR Bar |
| Address*: | 34 Portwalk Place |
| Phone*: | 603-294-0902 |
| Email*: | info@brgr-bar.com |

Please note that gifts/donations to individual employees with a value of \$100 or more are not permitted. Information with an asterisk () indicates it will not be publicly distributed.*