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3. 58 Fore Street

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**LEGAL ADVERTISEMENT
PORTLAND PLANNING BOARD MEETING**

The Portland Planning Board will hold a SITE VISIT FOLLOWED BY A WORKSHOP MEETING, Tuesday, November 18, 2014, Council Chambers, 2nd Floor, City Hall, 389 Congress Street. **Public comments will be taken at the workshop, but not at the Site Walk.**

The agenda includes the following item:

Site Visit – 58 Fore Street – 3:30 p.m.

- i. The Planning Board will conduct a site walk of 58 Fore Street (known as the Portland Company Complex), which will convene on the sidewalk at the entrance to the site. The applicants, CPBE, LLC and CPB2 Management, have proposed zoning map amendments to B-6 and EWPZ, expansion of the B-6 height overlay map, and zoning text amendments. The primary focus of the site visit is to consider the proposed height overlay amendments.

Workshop Meeting – 4:30 p.m. – City Council Chambers

- ii. 58 Fore Street; Zoning Map Amendment; CPB2, LLC. and CPB2 Management, LLC., Applicants. The Board will consider a zoning map amendment to rezone the Waterfront Special Use Zone (WSUZ) which includes the property at 58 Fore Street (known as the Portland Company Complex) and adjoining parcels along the waterfront, to the B-6 Eastern Waterfront Mixed Zone and the Eastern Waterfront Port Zone (EWPZ). The proposal includes extending the B-6 Height Overlay Map over the site. The proposed map amendments would eliminate the WSUZ zone. The application includes proposed text amendments to the Shoreland regulations and to add permitted uses in both the B-6 and EWPZ zones.

STUART O'BRIEN, CHAIR - PORTLAND PLANNING BOARD

CITY OF PORTLAND, MAINE
PLANNING BOARD

Stuart G. O'Brien, Chair
Timothy Dean, Vice Chair
Elizabeth Boepple
Sean Dundon
Bill Hall
Carol Morrisette
Jack Soley

AGENDA
PORTLAND PLANNING BOARD

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There is no Public Hearing portion of this meeting.

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STUART O'BRIEN, CHAIR - PORTLAND PLANNING BOARD



Memorandum

Planning and Urban Development Department

Planning Division

To: Chair O'Brien and Members of the Portland Planning Board

From: Christine Grimando, Senior Planner

Date: November 12, 2014

Project #: PEZ.2014-153

CBLs: 018 A001001, 018 A002, 018 A003, 018 A013, 019 A014, 446 A001, 446 A003, 446 A004, 002 X001, 002 A018

Re: Zoning Map and Text Amendments for 58 Fore Street

Meeting Date: November 18, 2014

I. INTRODUCTION

The applicant, CPB2 LLC, is requesting zoning map and text amendments for property at 58 Fore Street, the site of the Portland Company complex. Established in 1846 for the manufacture of railroad equipment, it continued and evolved as an industrial complex, manufacturing steel through 1978. It is now occupied by a variety of tenants. The property is currently zoned Waterfront Special Use Zone (WSUZ), and includes warehouses, storage buildings, and a marina with associated parking and laydown areas. The request for a zoning map amendment also encompasses State of Maine Property, two City-owned parking areas, and submerged lands. The zones being requested in place of WSUZ are the B-6 Eastern Waterfront Mixed Zone, and the Eastern Waterfront Port Zone (EWPZ). There are also proposed text amendments for the B-6, EWPZ and Shoreland Overlay zones, and an amendment to the B-6 Building Height Overlay & Building Envelopes map.

Applicant: CPB2 LLC

Property Owner: CPB2 LLC

Consultants: Woodard & Curran & Bernstein Shur

Public Notice: Public notice of the workshop appeared in the Portland Press Herald on November 10, 2014 on November 11, 2014 was posted on the web site and was sent by mail or e-mail to 264 property owners and interested citizens.

A neighborhood meeting was held on September 16, and notes and documentation from that meeting were attached as part of the October workshop packet and can be referenced here: <http://www.portlandmaine.gov/AgendaCenter/ViewFile/Agenda/10212014-649?html=true> . Written public comment is included in the packet (Public Comment PC1 through 3).

II. Background

Current Uses. The property is currently occupied by a range of uses, including a full service marina,

parking, warehouses, boat storage, a blacksmith facility and some accessory office space. The property is also bisected by a 50' wide strip of Maine State property land that encompasses both the Maine Narrow Gauge Railway and a public, multi-use trail that is an extension of the Eastern Promenade, maintained by Portland Trails and the City of Portland. The application also includes two adjacent City-owned lots.

Surrounding Uses. The property is contiguous with active waterfront uses to the west, bordered by the Ocean Gateway Terminal, and east of that, at the foot of Commercial and Franklin Streets, the Maine State Pier, both serving deep water dependent large vessels, including cruise ships. To the east is the Eastern Promenade. The neighborhood to the immediate north is residential, with Waterville, St. Lawrence and Atlantic Streets perpendicular to the Fore Street-side boundary of the property, and abutted by Munjoy South apartments. Also to the north but immediately west of this residential area is the India Street neighborhood, which contains residential uses and a diverse mix of commercial uses – Shipyard Brewery, parking garages, the shops of India Street, a Marriot Residence Inn, and the Eastern Cemetery.

Zoning Context. The immediately adjacent zones to 58 Fore Street are R-6 (Residential) to the east and north, ROS (Recreation and Open Space) to the east, B-6 to the west, and EWPZ to the west and south. The property is also partially in the Shoreland Zone, and partially in a flood zone.



Figure 1

III. PROPOSED DEVELOPMENT

The applicant is requesting that the zoning map and text changes be evaluated independent of a development proposal. The applicant has submitted an existing conditions plan to accompany the application in lieu of a development plan.

IV. PROPOSED MAP AMENDMENT

Current Zoning:	Waterfront Special Use Zone (WSUZ), Shoreland Overlay
Proposed Zoning:	B-6, Eastern Waterfront Port Zone (EWPZ), Shoreland Overlay
Current Uses:	Warehouses, storage buildings, marina, associated parking. State of Maine Property, currently utilized by the Maine Narrow Gauge

Railroad and a section of the paved, public Eastern Promenade Trail maintained by Portland Trails/City of Portland. The City Property includes gravel and paved parking areas.

Proposed Uses: None proposed at this time
Total Parcel Area: Approximately 12 acres, + submerged lands
Area to be Rezoned: Approximately 12 acres, + submerged lands

V. PROPOSED TEXT AMENDMENTS

The application includes text amendments to the following sections of the Land Use Code:

- **Sec. 14-48. Establishment of Zones (Division 1)**

Reference to WSUZ is struck.

- **B-6 Eastern Waterfront Mixed Zone (Division 15.1)**

The following permitted uses are proposed to be added to the B-6 zone:

- Private clubs or nonprofit social and recreational facilities, as defined in 14-47.
- Educational facilities.
- Temporary events, provided that all such events on a lot do not exceed a combined total of (60) days per year and that the total floor area utilized for such uses does not exceed seventy thousand (70,000) square feet at any one (1) time.
- Museums and art galleries.
- A new use of underground fuel storage in B-6

A reduced setback from pier line east of Ocean Gateway

An exemption from the noise standard has been modified to include temporary activities, festivals, events and concerts.

Mediation is proposed to be changed to *Meditation* – staff and the applicant view this as correction of an existing typo.

- **Eastern Waterfront Port Zone (Division 17.5)**

The following changes to the use standards are proposed:

- A permitted marine use that references a maximum fuel storage of 20,000 gallons has been substituted with similar language that appears in other zones, and provides for similar functions, except that the maximum of 20,000 gallons has been removed.
- Marinas are proposed as a permitted use east of the Ocean Gateway facility (referenced by deed). Marinas are currently a conditional use – the application proposes they remain conditional west of Ocean Gateway.
- To be added: Marine office, including but not limited to offices of owners of marinas, wharves or their agents, and naval architects, and seafood brokers.
- To be added: A facility for non-profit organizations whose facility may include offices, classrooms, equipment, equipment rentals, storage, and bathrooms for the public.

- **Waterfront Special Use Zone (Division 18.7)**

The body of section is struck, replaced by *Reserved*.

- **Signs (Division 22)**

References to WSUZ are struck.

- **Shoreland Regulations (Division 26)**

References to WSUZ are struck, and references to B-6 are inserted. These changes to the Shoreland zone reduce minimum setbacks for the B-6 zone from 75ft to 25 ft for structures, roads and driveways.

VI. ZONING ANALYSIS

Purpose of WSUZ, B6, EWPZ. The purpose of the WSUZ is defined by its constraints, as a zone sandwiched between high density residential to the north, parkland to the east, and industrial uses to the west, and the need to be compatible between these diverse land uses. It sets minimum expectations for development in the zone to be compatible with water-related and water-dependent uses, and that uses be compelled to contribute to maintenance and improvement of waterfront infrastructure.

The purpose of the B-6, eastern waterfront mixed zone is to establish a zoning district for the upland portion of the eastern waterfront area. The B-6 zone encourages this district to acquire a distinctly urban form through development that emphasizes a quality pedestrian experience, promotes public transit, and demonstrates exemplary urban design. The zone promotes a range of uses to achieve twenty-four hour urban vitality and shared use of parking infrastructure as recommended in the Eastern Waterfront Master plan for redevelopment. The B-6 is described as a zone that abuts a waterfront zone, not as having a water-dependent purpose itself.

The purpose of the EWPZ is more explicit in its purpose as a waterfront zone than the WSUZ, and quite detailed. It exists to nurture a wide range of deepwater-dependent industry and commerce. Piers, uplands, and circulation patterns consistent with the transportation needs of marine facilities are mentioned, as well as the encouragement of non-marine uses that support deepwater activities, provided that they do not conflict or compete for limited space with existing or anticipated deepwater-dependent needs. It's primary emphasis, however, is on the berthing and support of large vessels. The purpose statement ends on a recognized hierarchy of uses:

- (a) *The first priority of this zone is to protect and nurture existing and potential deepwater dependent uses (those uses requiring a minimum of 15 feet of water depth);*
- (b) *The second priority is to allow shallow water-dependent and other permitted marine uses, so long as they do not interfere with deepwater dependent uses, either directly by displacement or indirectly by placing incompatible demands on the zone's infrastructure; and*
- (c) *Other uses specified herein are allowed only if they do not interfere with and are not incompatible with higher priority uses.*

Comparison of Allowed Uses. Both the WSUZ and the EWPZ contain a prohibition on uses that have adverse impacts on marine uses (Sec. 14-320.5.5 & Sec. 14-300.1), including uses that will displace an existing water-dependent use; uses that will reduce existing commercial vessel berthing space; uses, structures or activities that will unreasonably interfere with the activities and operation of existing water-dependent uses or significantly impede access to vessel berthing or other access to the water by water-dependent uses; or the siting of uses that will substantially reduce or inhibit existing public access to marine or tidal waters. B-6, being an upland zone, does not contain a parallel section.

The WSUZ distinguishes allowed uses according to their location north and south of the railway tracks. The marine-related and marine-dependent uses allowed on both sides of the tracks in the WSUZ include a full slate of uses:

Marine	Marine products, wholesaling, distribution and retailing
	Marine repair services and machine shops

	Tugboat, fireboat, pilot boat and similar services
	Harbor and marine supplies and services, chandleries, and ship supply such as fueling and bunkering of vessels
	Marine industrial welding and fabricating
	Shipbuilding and facilities for construction, maintenance and repair of vessels
	Commercial marine transport and excursion services, including ferries, captained charter services, sport fishing and water taxis
	Cargo handling facilities, including docking, loading and related storage
	Boat repair yards
	Boat storage facilities, including rack storage facilities
	Seafood processing
	Seafood packing and packaging
	Seafood loading and seafood distribution
	Fabrication, storage and repair of fishing equipment
	Ice-making services
	Facilities for marine construction and salvage
	Facilities for marine pollution control, oil spill cleanup, and servicing of marine sanitation devices
	Fabrication of marine-related goods
	Fishing and commercial vessel berthing
	Noncommercial berthing
	Marine office, including but not limited to offices of owners of wharves or their agents, and naval architects, and seafood brokers
	Public landings
	Marinas
	Intermodal transportation facilities
Public	Pedestrian and bicycle trails
Industrial	Industrial uses which meet the performance standards of the I-2 zone

The uses permitted north of those tracks fall under the following conditions: in (a) buildings in existence on January 4, 1993, or (b) one (1) new structure per parcel, which parcel was in existence on January 4, 1993, of up to five thousand (5,000) square feet in total floor area. No construction of a new structure of more than five thousand (5,000) square feet in total floor area or in excess of one (1) per parcel for uses other than those specified in subsections (1) through (3) above is allowed without approval of a conditional use ...No residential construction is allowed either as a permitted use or as a conditional use.

Commercial	Professional, business, and general offices;
	Business service establishments
	Restaurants, provided that food service and consumption shall be the primary function of the restaurant
	Cabinet and carpentry shops
	Cold storage facilities
	Museums and art galleries
Other	Accessory uses customarily incidental and subordinate to the location, function and operation of permitted uses or temporary exhibition uses, provided that all such exhibition uses on a lot do not exceed a combined total of sixty (60) days per year and that the total floor area utilized for such uses does not exceed seventy thousand (70,000) square feet at any one (1) time;

	Parking: Parking shall be permitted as long as it does not impede access to water by existing or potential marine uses
	Institutional uses including marine research, education and laboratory facilities. Such uses shall not include any type of overnight accommodations.
Public	Wind energy systems, as defined and allowed in Article X, Alternative Energy.
	Utility substations, including sewage collection and pumping stations, water pumping stations, transformer stations, telephone electronic equipment enclosures and other similar structures, provided that such structures are located more than one hundred (100) feet from the water
	Municipal uses
Industrial	Landscaped pedestrian parks, plazas and similar outdoor pedestrian spaces, including without limitation pedestrian and bicycle trails.

Conditional Uses are as follows:

Conditional Uses	Warehousing and wholesaling
	Any use permitted in section 14-320.6(d)2, 4, 5 or 6, (e), (f) or (g), in one (1) new structure of more than five thousand (5,000) square feet, but not more than ten thousand (10,000) square feet in total floor area per parcel.*
	Temporary wind anemometer towers
	Wind energy systems, as defined and allowed in Article X, Alternative Energy.

EWPZ permits the following uses:

Marine Passenger	Intermodal marine passenger facilities
	Cruise ship home port and port of call berthing and support
	International and domestic ferries
Marine Commercial	Transient and long-term commercial berthing
	Marine-related warehousing
	Marine related construction, manufacturing, fabrication, salvage and repair
	Storage and repair of fishing equipment
	Ship and other marine vessel construction, building, servicing, and repair
	Boat and marine equipment storage
	Marine fuel storage and dispensing provided that on-site fuel storage structures shall be used solely for the purpose of fueling vessels and shall be limited, cumulatively, to 20,000 gallons of storage capacity within the zone
	Public, non-profit, or commercial marine transportation and excursion services, including captained charter services, sport fishing and water taxis
	Ship and off-shore support services, including but not limited to tug boats, pilot boats, and chandleries
merci al	Facilities for marine pollution control, oil spill cleanup, and servicing of marine sanitation devices
	Professional, business, government, and general office located in upper floors of structures existing as of September 18, 2006.

	Temporary events, except festivals as otherwise governed under section 14-301I3 below.
	Buildings, piers and lands within the EWPZ may be used for temporary public and private events including but not limited to exhibitions, conferences, meetings, and trade shows under the following conditions:
	a. Temporary events occupying more than 10,000 square feet of building or outdoor space shall not exceed a combined total of sixty (60) days between May 1st to October 31st;
	b. No temporary event may continue for more than 14 days of continuous operation;
	c. Any temporary event that anticipates more than 5,000 people in attendance on any single day must provide and be subject to a parking management plan. The parking management plan must be submitted for the review and approval of the public works authority at least 60 days prior to the first day of the event.
	Festivals subject to City license
	Street vendors licensed pursuant to Chapter 19 as a result of a competitive bid process conducted pursuant to Chapter 2 of the City Code
Public	Fire, police and emergency services
	Governmental agency emergency operations/crisis centers;
	Research, military and visiting attraction vessel berthing
	Landscaped pedestrian parks, plazas and other similar outdoor pedestrian spaces, including without limitation pedestrian and/or bicycle trails
Other	Wind energy systems, as defined and allowed in Article X, Alternative Energy.

In conjunction with the standard conditions of approval for all conditional uses (Section 14-474), conditional uses in the EWPZ are allowed provided the uses impede or preclude existing or potential water-dependent development within the zone, will allow for adequate right-of-way access to the water, are compatible with marine uses, in addition to the following additional conditional use standards:

- a. *Marine compatibility:* The proposed use shall be compatible with existing and potential marine uses in the vicinity, as required by section 14-304(n) and (o) (compatibility of non-marine uses with marine uses and functional utility of piers and access to the water's edge); and
- b. *Parking and traffic circulation:*
 - i. *Parking and traffic circulation plan:* All applications for conditional use in the EWPZ shall submit a parking and circulation plan for review and approval by the planning board. The parking and circulation plan shall show the location of all existing and proposed structures, travel ways and parking under the common ownership and/or control of the subject pier or property. The plan shall demonstrate that the parking and circulation of the conditional use does not interfere with the functional marine utility of the property and otherwise meets the standards and conditions of the EWPZ.

Marine	Marine products, wholesaling and retailing
	Ice-making services
	Marine freight facilities providing service for, and/or intermodal transfer of, container and breakbulk freight
	Marine educational facilities
	Seafood retailing, wholesaling, packaging and shipping

	Seafood processing for human consumption, subject to the performance standards of the IL zone set forth in section 14-236 in addition to the performance standards of section 14-304
	Commercial marinas serving commercial and recreation boats, provided that such facilities are located in areas that do not conflict with the navigation and handling of deepwater dependent vessels accessing existing or potential deepwater berthing
	Fish byproducts processing, provided that:
	a. Any fish byproducts processing facility has a valid rendering facility license under chapter 12 of the Portland city code; and
	b. Any fish byproducts facility shall employ current and appropriate odor control technology to eliminate or minimize detectable odors from such a process, and in no case shall odors exceed the odor limitation performance standards of the IM zone (section 14-252); and
	c. The processing other material wastes or byproducts shall not be deemed a lawful accessory use Permitted herein.
Commercial	Structured parking available to the general public
	Professional, business, government and general offices uses in upper floors of structures constructed after September 18, 2006
	Passenger support services supporting a marine passenger use listed under 14- 301(a)(marine passenger). Total ground floor area occupied by any combination of the following uses (regardless of ownership) shall not exceed 35% of the gross floor area of the principle associated marine passenger use and no more than 35,000 sf cumulative within the EWPZ:
	i. Retail;
	ii. Restaurants/food service other than street vendors;
	iii. Retail service;
	iv. Passenger information services.
Industrial (subject to IM performance standards)	Non-marine related warehousing in structures existing as of September 18, 2006
	Facilities for combined marine and general construction
	Low impact industrial uses as permitted in the IL zone in structures existing as of September 18, 2006, excluding all auto repair service facilities
Public	Utility substations: Public utility substations, including but not limited to electrical transformers, sewage and stormwater pumps and telecommunication switching stations, are permitted under the following conditions:
	a. The facility is located more than 100 feet from the water's edge;
	b. The facility occupies no more than 50 square feet of structure above ground;
	c. The facility provides no dedicated on-site parking and all subsurface elements of the facility are installed and operated such that land occupied by the facility is otherwise useable and made available for marine related uses, including but not limited to parking, travel ways, and/or storage; and
	d. The facility shall be sized, sited and screened to minimize visual impact and prominence from public ways.
	Maritime museums, limited to 5,000 square feet of ground floor footprint.

Parking for non-marine uses	No parking shall be allowed in this zone for non-marine uses unless the applicant can demonstrate that the number of parking spaces on-site exceeds the number of parking spaces needed to accommodate the demand for marine and water-dependent uses that are permitted as permitted and conditional marine uses which are or may be located on the subject property. The remainder of parking required, if any, for such non-marine uses shall be provided off-site.
Other	Temporary wind anemometer towers
	Wind energy systems, as defined and allowed in Article X, Alternative Energy

As with other zones, uses not enumerated are not permitted. Additionally, the following uses are specified as prohibited: residential uses, amusement/theme parks, bulk freight facilities, on-site gambling casinos not accessory to and located aboard either a ferry or inter-port cruise ship.

The B-6 zone allows the following uses:

Commercial	Professional, business and general offices
	Restaurants and other eating and drinking establishments
	Hotels and inns limited to no more than 150 rooms
	Craft and specialty shops, including the on-premises production of handcrafted goods
	Retail and retail service establishments, excluding those with gas pumps
	Theatres
	Banking services, excluding vehicular drive-up services*
	Cabinet and carpentry shops
	Personal services
	Business services
	Offices of business trades people
	Miscellaneous repair services, excluding all types of automotive repair except for automobile repair and service establishments
	Telecommunication and broadcast and receiving facilities*
	Brew pubs and microbreweries without associated bottling facilities; and brewpubs and microbreweries with associated bottling facilities limited to 5,000 bottles per year output.
	Electronic data storage
	Marine products wholesaling and retailing
	Harbor and marine supplies and services, chandlery and ship supply
	Bakeries, coffee roasters, and commercial kitchens with building footprints limited to fifteen thousand (15,000) square feet of contiguous building space.
	Printing establishments.
Residential	Attached dwellings including row houses, two-family and multifamily dwellings
	Handicapped family units
	Combined living/working spaces, including but not limited to artist residences with studio space
	Mixed use residential and commercial structures
Public	Utility substations, including sewage collection and pumping stations, water pumping stations, transformer stations, telephone electronic equipment enclosures and other similar structures
	Landscaped pedestrian parks, plazas and other similar outdoor pedestrian spaces
	Pedestrian and multi-use trails

Other	Studios for artists, photographers and craftspeople including but not limited to, painters, sculptors, dancers, graphic artists and musicians
	Accessory uses customarily incidental and subordinate to the location, function and operation of permitted uses*
	Health clubs, martial arts and mediation facilities
	Intermodal transportation facilities
	Nursery schools, kindergartens, and daycare facilities or home babysitting services
	Wind energy systems, as defined and allowed in Article X, Alternative Energy

B-6 conditional uses include meeting and exhibition facilities up to a total of 20,000 gross sf; wholesaling, providing the wholesale operation is associated with an onsite retail establishment and that the wholesaling component of the facility occupies a building footprint of less than 15,000 square feet; drive-up banking facilities located in the interior of parking structures, subject to multiple criteria; surface and structured parking, subject to multiple criteria, including ground floor commercial requirements for structured lots; and temporary wind anemometer towers.

As with other zones, uses not enumerated are not permitted. Additionally, the B-6 use requirements specifically prohibit ground mounted telecommunication towers; waste, scrap, and/or byproduct storage and processing facilities; auto service stations; and drive-up facilities, excepting bank drive-ups in interior parking structures.

In sum, neither the WSUZ nor the EWPZ allow residential uses or anything but ancillary non-residential, non-marine uses. They tackle this issue through different tools – the WSUZ allowing a greater range of non-marine-dependent uses north of the rail line that splits the zone and through limits on new construction, and EWPZ through a narrower list of combined possible uses and strong language regarding the necessary marine compatibility of non-marine uses. The emphasis in the list of permitted uses for EWPZ is on marine-dependent uses, with most marine-related uses being conditionally allowed. The allowed uses of the B-6 zone read like many other mixed-use urban zones, with no particular marine emphasis, except for its noted adjacency, and upland-intended application.

Dimensional Requirements Summary:

	WSUZ	EWPZ	B-6
Min. Lot Size	None	None	None
Min. Street Frontage	None	None	
Min. Front Yard	None	None	
Min. Rear Yard	None required unless adjacent to a residential zone; if adjacent to a residential zone, twenty-five (25) feet.	None	None
Min. Side Yard	None required unless adjacent to a residential zone; if adjacent to a residential zone, twenty-five (25) feet.	None	
Max. Setback from Street Line			10 ft., excepting parking garages, public trans. facilities, and subject to the building height envelopes of Eastern Waterfront Building Height Overlay Map. See Sec. 14-272 c.2 for exemptions.
Min. Length of Building Wall required to be located along street frontage of lot			70% of lot street frontage or 25% of building perimeter. For buildings fronting on 2+ streets, building wall on one street may be decreased so long as it is proportionally increased on others and the building wall on the secondary street is not reduced to less than 25 ft.
Min. Setback from Pier Line	5 feet from the edge of any pier, wharf or bulkhead. The setback may be utilized for activities related to the principal uses carried on in the structure, subject to 14-313/14-314, but shall not be utilized for off-street parking. The edge of any pier, wharf or bulkhead shall include any attached apron(s).	5 feet from the edge of any pier, wharf or bulkhead. The setback may be utilized for activities related to the principal uses carried on in the structure, subject to 14-313/14-314, but shall not be utilized for off-street parking. The edge of any pier, wharf or bulkhead shall include any attached apron(s).	
Max. Structure Height	45-100 ft. (see Sec. 14-320.9.e)	45 ft, except for cranes and gantries, rooftop appurtenances (see Sec. 14-303.e for full exemptions)	65 ft. or as otherwise governed by a Building Height Overlay Map
Minimum Building Height for New Construction			3 floors of habitable space above the average adjacent grade within 25 ft. of any public street. See Sec. 14-272 c.3.g for exemptions.
Max. Lot Coverage			100%
Max. Impervious Surface		100%	

VII. POLICY ANALYSIS

Comprehensive Plan Volume 1 (2002/2004) gives an overview of the years of waterfront planning efforts of the City, and addresses redevelopment of Waterfront East specifically. It outlines four redevelopment principles for development in this area (these four principles are restated in the Eastern Waterfront Masterplan): Character and Impact of Development, with particular emphasis on compatibility with surrounding areas – residential, maritime, and natural environment; Mixed-use as a component of an active, vibrant urban area; maintaining Maritime Resources; and Economically Responsible Development that benefits the city and the region. Volume 1 references the Eastern Waterfront Masterplan (adopted 2002 and amended 2004 & 2006). The study boundary is shown in red in Figure 2 below which is the specific policy

document for this area, which also consists, by reference, of two other documents: the Eastern Waterfront Design Guidelines and the Eastern Waterfront Building Height Study.

The Eastern Waterfront Masterplan makes specific reference to the Portland Company property:

The Portland Company complex, a mid-nineteenth century manufacturing facility, occupies the easterly end of the Eastern Waterfront. As an early manufacturing center, the site is home to several large brick and granite industrial buildings of architectural significance with potential for adaptive reuse. The Portland Company property is currently designated as eligible for inclusion in the National Register of Historic Places.

The property is highly developed, but in need of significant structural and cosmetic repair. Importantly, the complex is the only private property in the study area with direct water access. Currently, the Portland Company houses a variety of commercial uses, including a marina, boatyard, boat repair, general office, exhibition space, and the Narrow Gauge Railroad Museum.

Future parking enhancements and better vehicular and pedestrian access to the central redevelopment area will better integrate the Portland Company complex with the Eastern Waterfront and the Commercial Street business district, spurring the adaptive reuse and restoration of the historic structures.

Development Considerations

- *Historic 19th Century industrial complex.*
- *Promote the continuation of boat yard and yacht support services.*
- *Encourage the adaptive reuse and sensitive rehabilitation of historic structures.*
- *Increase connections to Commercial Street and promote shared parking with abutting uses.*
- *Expand recreational boating and active public use of the water.*

The applicant provides a summary of the alignment of their project with the Eastern Waterfront Masterplan in section 2.4 of their application. The application accurately cites support in that document for zoning changes that foster upland mixed use development as well as water dependent and marine uses within 75 feet of the shore line. Rezoning of this area was not only anticipated but called for, and the zone changes proposed reflect the specific policy guidance of the Eastern Waterfront Masterplan.

The October 21st memo regarding this application highlighted a Comprehensive Plan discrepancy with the application – the first volume of the Comprehensive Plan, and the Eastern Waterfront Masterplan (a component of the Comprehensive Plan by reference) indicated that land within 75 feet of mean high water should be given priority to water-dependent and marine uses. The location of the B-6/EWPZ boundary as originally submitted carried the B-6 zone to less than 75 feet of mean high water, thereby reducing the availability of land for intended marine-dependent uses. At the October workshop the applicant incorporated into their presentation a revised zoning map showing an adjusted B-6 boundary line no closer than 75 feet – the zone boundaries between B-6 and EWPZ are now consistent with Comprehensive Plan recommendations.

The Eastern Waterfront Design Guidelines will be a pertinent policy document when a development proposal is brought forward, but doesn't have bearing on the zoning application. The Eastern Waterfront Building Height Study (Height Study), however, has implications for the proposed zone change. The Height Study not only includes maximum height recommendations, but incorporates other tools for preserving and enhancing view corridors for a topographically varied area of Portland. It includes recommendations for street extensions and greater connectivity with the surrounding neighborhoods, maintaining view corridors through the delineation of building envelopes, as well as areas where "towers" could be built – areas where the maximum height could be exceeded – provided that those towers met particular spacing and dimensional requirements.

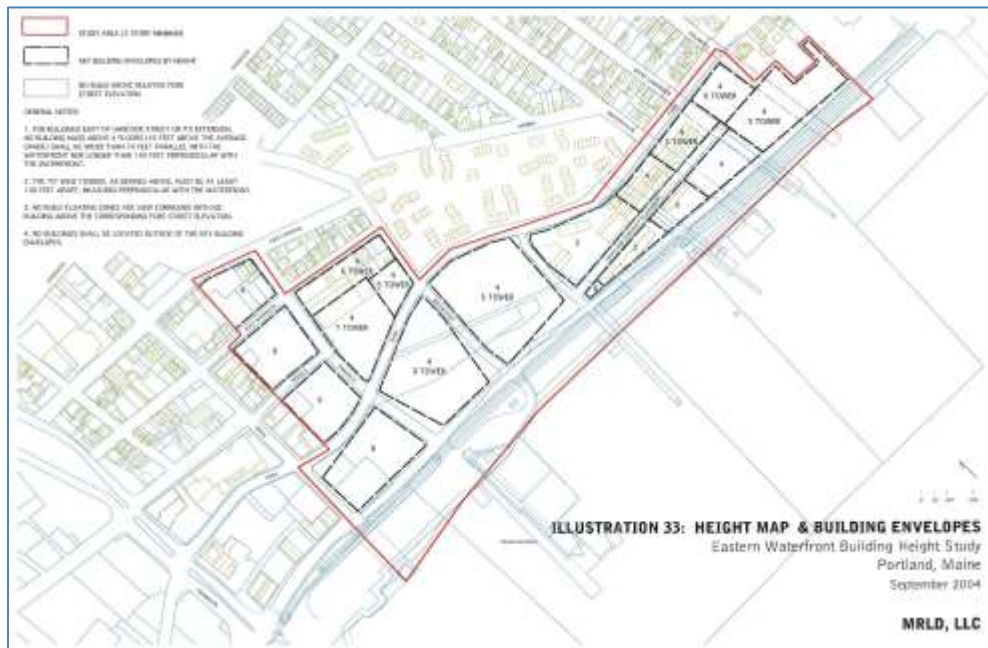


Figure 2, Eastern Waterfront Building Height Study, Illustration 33.

The B-6 Building Height Overlay & Building Envelopes map was adopted in 2004 as a direct outgrowth of the policy recommendations of the Height Study, and regulates heights and building areas within the current B-6 boundaries (Figure 4 and [Attachment 2](#)). The B-6 Height Overlay and the Height Study are currently in alignment, although the implemented height overlay took a somewhat more conservative approach to maximum heights than the Height Study recommended. A simultaneously amended B-6 Building Height Overlay and B-6 zone boundary would maintain Comprehensive Plan consistency. The applicant presented a proposal for amending the map at the previous meeting, and has included it as a primary discussion item for the November 18th workshop.

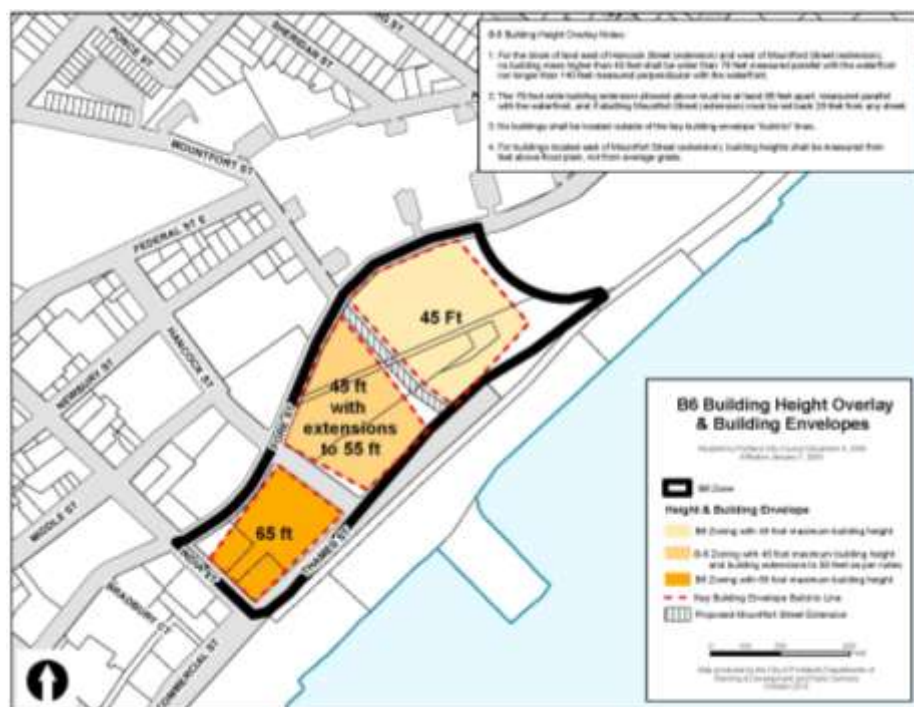


Figure 3

VIII. DISCUSSION

As the November 18th site walk is concerned primarily with illustrating the height implications of the proposed zoning changes, it would be ideal to focus the workshop that immediately follows the site walk with a focus on the pertinent building height issues of this application. An overview of staff and applicant discussions of building heights follows. Also included is a short list of other topics that could be discussed on Nov. 18th if time allowed, or at a subsequent meeting.

Height. The B-6 Building Height Overlay & Building Envelopes map is the regulatory fulfillment of one geographic area, just the west of the Portland Company land, of Illustration 33 (Figure 3 above and Attachment 1). An extension of the B-6 zone will require a continuation of the B-6 Building Height Overlay & Building Envelopes map in order for an expansion of B-6 to be compliant with Comprehensive Plan policy. Planning staff has had discussion about the height/building envelopes component of this proposal, and the applicant has submitted a Height Overlay map amendment as part of their application. B-6 currently allows for 65 ft. maximum feet, except that the zone (Sec. 14-272) currently states that *Notwithstanding sections 1. and 2. above, new structures located in the blocks located south of Fore Street and north of Commercial Street and its extension, shall build to the key building envelopes shown on the Eastern Waterfront Building Height Overlay Map.* An extension of the zone outside the boundary of the Height Overlay map would default to the maximum allowed height of 65 feet because the map stops before 58 Fore Street, creating a gap between the Height Study (which as an adopted component of the Eastern Waterfront Masterplan is an element of the Comprehensive Plan), and enacted Zoning. Staff recommends that the B-6 Building Height Overlay & Building Envelopes map be amended concurrently with an amendment to the zoning map, so that Comprehensive Plan consistency is maintained, and so that a 65 foot building height is not the resulting default maximum for this area.

The conversion of the Height Study recommendations to the B-6 Building Height Overlay involved some interpreting of terms used in the Height Study. The Height Study makes recommendations for # of stories, and elsewhere in the document defines a story as 11 feet. Zoning does not regulate height by stories, and so the B-6 Building height Overlay reflects this as maximum number of feet. A recommendation for 4 stories (or floors) was implemented as 45 feet. The Height Study uses the term “towers” to describe areas where the maximum height can be exceeded. These towers have both dimensional and locational limits, so as to avoid blocking identified view corridors and monolithic, uniform building heights. Towers were recommended to be no wider than 70’ parallel with the waterfront nor longer than 140’ perpendicular, and no closer than 140 feet apart.

The B-6 Building Height Overlay does not employ the tower terminology, but adopts the recommended dimensional and spacing standards, as well as building envelopes and view corridors. The building envelopes east of Hancock Street were implemented with more conservative heights than recommended in the Height Study. Another divergence from the Height Study is that the building envelope east of Mountfort Street utilizes a different means of calculating height than the others – maximum building height is calculated from feet above floodplain in deference to the steep grades of this eastern section of the study area, rather than the standard measurement from average surrounding grade. The topography of the site includes significant grade changes (Figure 5), and the difference in resulting building heights when measured from average grade versus feet above flood plain could be significant.

The City’s measurement of height is defined in Sec. 14-47 of the Land Use Code: ***Building, height of:*** *The vertical measurement from grade, or the predevelopment grade on the islands, to the highest point of the roof beams in flat roofs; to the highest point of the roof beams or the highest point on the deck of mansard roofs; to a level midway between the level of the eaves and highest point of pitched roofs or hip roofs; or to a level two-thirds of the distance from the level of the eaves to the highest point of gambrel roofs. For this purpose the level of the eaves shall be taken to mean the highest level where the plane of the roof intersects the plane of the outside wall on a side containing the eaves.*

This is the standard measurement city-wide, and the B-6 Height Overlay is the only instance of height being measured from floodplain. The Eastern Waterfront Building Height Study itself references height measurement from average grade (see Figure 3, Illustration 33, General Note 1). When the B-6 height Overlay map was adopted, two very different methods of calculating height were implemented, with the flood plain measurement being adopted as a way to control for unexpected visual impact due to the marked change in elevation in this area. In reviewing the application to amend the B-6 Height Overlay map the implications of the two methods have to be discussed.

Since the October workshop, staff and the applicant have had extensive discussions regarding the implications of both measurement methods, and they have included effective visuals in their most recent submission that demonstrate the implications of both (Attachment E and excerpted in Figure 5).



Figure 4, Height Measurement Comparison Examples

In the context of these visuals, and a more thorough picture of the implications of measuring from floodplain, Planning staff does not believe that the floodplain measurement would produce the intended development patterns outlined in the Eastern Waterfront Building Height Study. The Height Study anticipated building above the grade of Fore Street, as well as strongly supporting greater physical connectivity and continuity of the waterfront with the surrounding neighborhoods. At the October 21st workshop there were several public comments made regarding the wish for the grade of Fore Street not being broken by new construction, or for current views to be any further obscured. These opinions are understandable and a valuable part of the rezoning discussion, but in the interest of avoiding any future confusion in regard to City policy in this area, the Comprehensive Plan itself anticipates construction above Fore Street. The protected street projection view corridors recommended by the height study were recommended precisely because greater height was anticipated elsewhere. The Height Study also encourages a varied, punctuated, not-monolithic skyline in this area, which would not be a result of measuring from floodplain. The recommendations for variable stories and tower allowances attest to this. Allowing maximum building heights measured from adjacent grade is consistent with Comprehensive Plan policy for this area, and consistent with standard practice for calculating building height.

Consistency with the Comprehensive Plan established, concern for viewsheds in this area, and the overall aesthetic impact of the site's redevelopment has been stated by the public repeatedly, and we anticipate it will continue to be a source of great concern. In addition to the maximum building height, and the method of measuring height, the other tools available to govern the overall visual impact of eventual building heights at 58 Fore Street are the view corridors, building envelopes, and location and dimensional requirements for the height extensions (sometimes referred to as towers). A new dimensional standard has been introduced in the

building height overlay map that has been submitted by the applicant, as well – a maximum height at Fore Street (Figure 6). The specific wording of the proposed Note 3 reads: *For buildings located East of Mountfort Street (extension), no building that has frontage on Fore Street shall exceed 35 feet in height above the adjacent Fore Street right-of-way grade within 35 feet of the Fore Street right-of-way.* This proposal has been made in response to staff and the public’s concerns that the significant variation in elevations on the site, particularly in the eastern portion, could lead to surprising and undesirable building heights along Fore Street. This height maximum adjacent to Fore Street would supersede the more generous height allowances of the remainder of the Height Overlay, as well as be more limited than the adjacent R-6 residential neighborhood, which has a maximum building height of 45 feet. The addition of this standard would add a considerable degree of predictability to future redevelopment possibilities.

The November 18th site walk will afford the opportunity to consider the suitability of this proposal, and the Height Overlay as a whole, in the context of the existing conditions and the surrounding neighborhoods.



Figure 5, Proposed Amended B-6 Height Overlay

A question was raised at the October workshop regarding the Planning Board’s ability to amend the entire B-6 Height Overlay map so that all heights are measured from average grade. This is something the Board could chose to do as part of a map edit, though it is not the applicant’s interest or place to request this themselves.

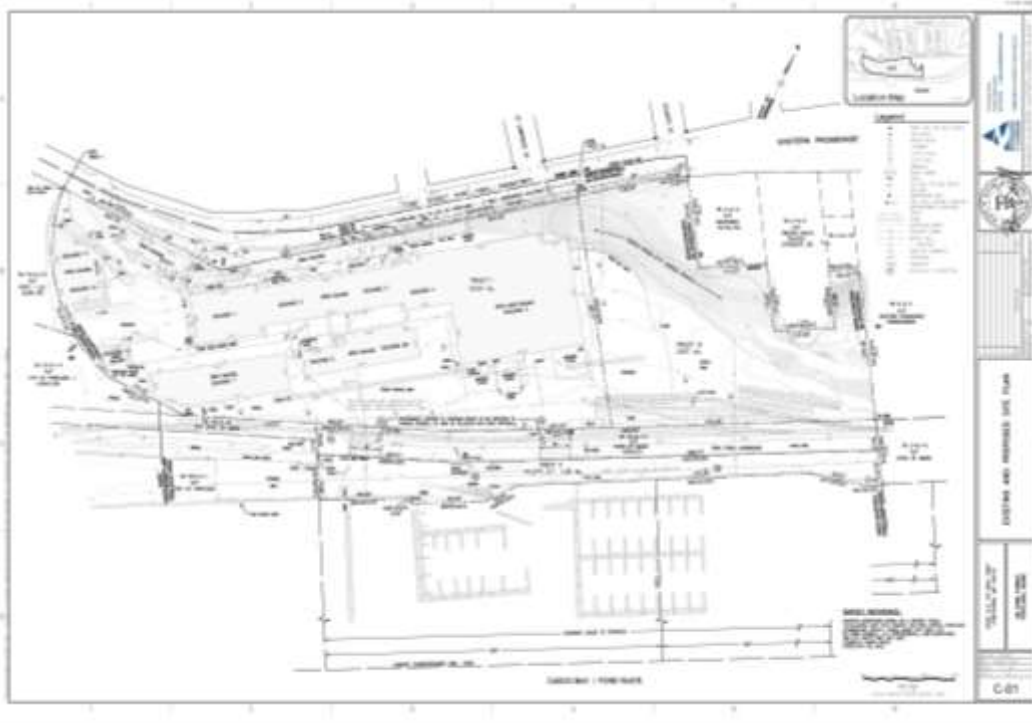


Figure 6

Marine Compatibility. Several issues have been raised in regard to the marine compatibility of the proposed changes. These were 1) the proposed boundary between B-6 and EWPZ, and the adequacy of the remaining upland, 2) marinas as a permitted use as opposed to a conditional use, and 3) setbacks from piers. The B-6 boundary has been moved northward, to 75 feet from the shore line. The proposal to allow marinas as a permitted use has been satisfactorily contained by limiting it as an allowed use only in the eastern portion of this zone, where there is currently a marina – this boundary line is shown as a dotted line perpendicular to the shoreline on the zoning map, as well as being tied by reference to a deed in the body of the proposed text amendments (Figure 8). A reduction in the required setback from pier line is also proposed to be limited to the eastern side of the depicted dotted line. Currently 25 feet in the B-6 zone, but 5 feet in the WSUZ, the proposed reduction east of roughly Ocean Gateway from 25 ft to 5 ft maintains current conditions in this area. As a standard that is cross-referenced in Shoreland Zone changes, this, like any other changes to Shoreland Zoning will require Maine DEP concurrence before enactment. Staff is satisfied with how each of these items is currently proposed.

Miscellaneous Dimensional Requirements. At the October workshop it was noted that the B-6 zone contains several provisions, including setback maximums, height minimums, and length of building wall minimum that might be problematic as applied to this location. Staff will assess these issues for discussion at a subsequent Board meeting.

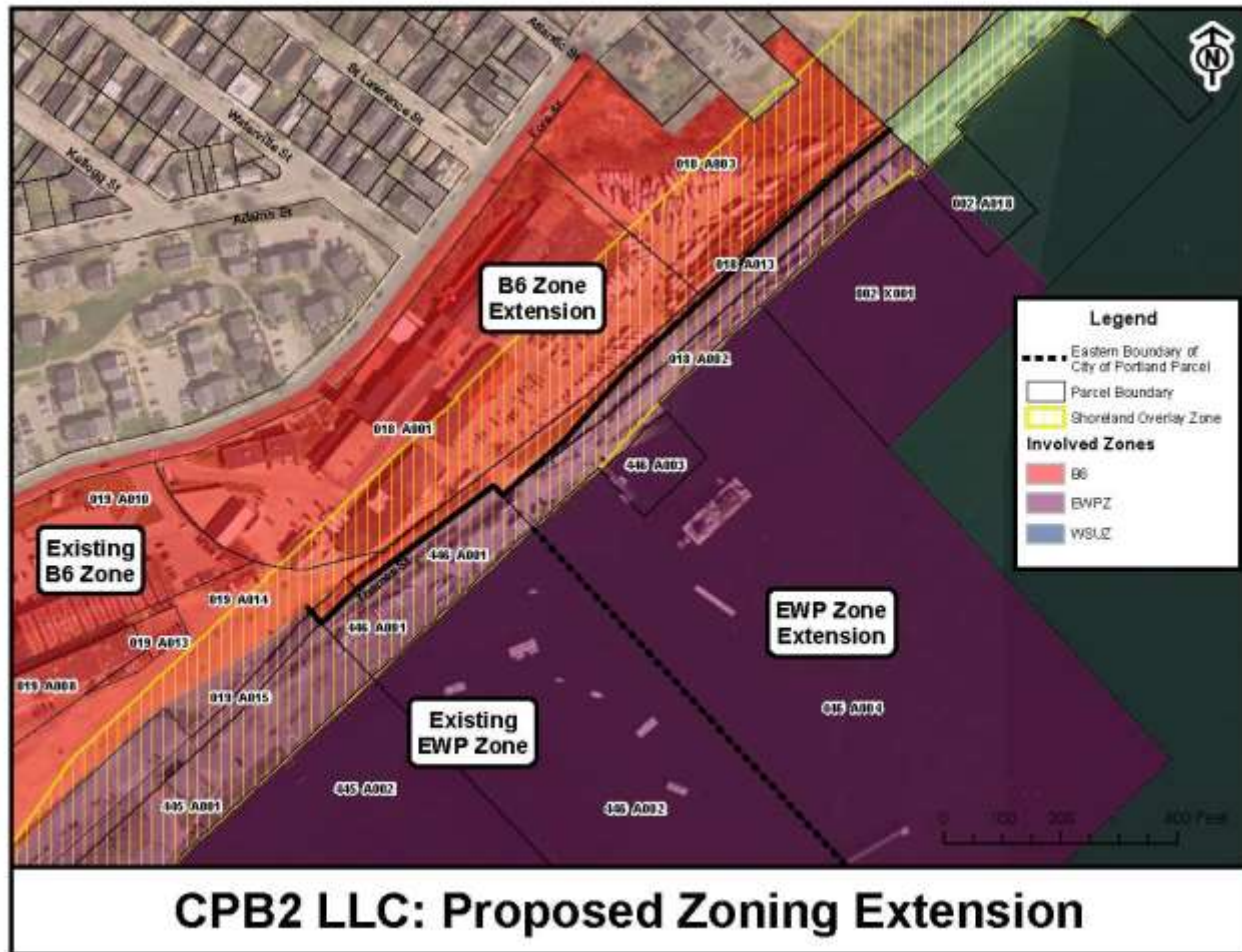


Figure 7, Proposed Zoning Map Amendment

IX. NEXT STEPS

- Provide feedback on zoning map, building height and text amendment requests.
- Schedule a public hearing or additional workshop if needed.

X. ATTACHMENTS

Report Attachments

1. Illustration 33
2. B-6 Building Height Overlay & Building Envelopes Map
3. Corporation Counsel Comments Re: Site Walks

Applicant's Submittal (Supplemental materials for the November 18th Workshop)

- A. Applicant's Cover Letter – 2014.11.07
- B. Proposed Zoning Extension
- C. Proposed B-6 Height Overlay with Aerial
- D. Proposed B-6 Height Overlay
- E. Height Overlay Plans and Sections

Public Comment

- PC 1. Preisser 11-11-14

PC 2 Macomber 11-14-2014

PC 3. Burwell 11-14-2014

-  STUDY AREA (3 STORY MINIMUM)
-  KEY BUILDING ENVELOPES BY HEIGHT
-  NO BUILD ABOVE RELATIVE FORE STREET ELEVATION

- GENERAL NOTES:
1. FOR BUILDINGS EAST OF HANCOCK STREET OR ITS EXTENSION, NO BUILDING MASS ABOVE 4 FLOORS (45 FEET ABOVE THE AVERAGE GRADE) SHALL BE WIDER THAN 70 FEET PARALLEL WITH THE WATERFRONT NOR LONGER THAN 140 FEET PERPENDICULAR WITH THE WATERFRONT.
 2. THE 70' WIDE TOWERS, AS DEFINED ABOVE, MUST BE AT LEAST 140 FEET APART, MEASURED PERPENDICULAR WITH THE WATERFRONT.
 3. NO BUILD FLOATING ZONES ARE VIEW CORRIDORS WITH NO BUILDING ABOVE THE CORRESPONDING FORE STREET ELEVATION.
 4. NO BUILDINGS SHALL BE LOCATED OUTSIDE OF THE KEY BUILDING ENVELOPES.

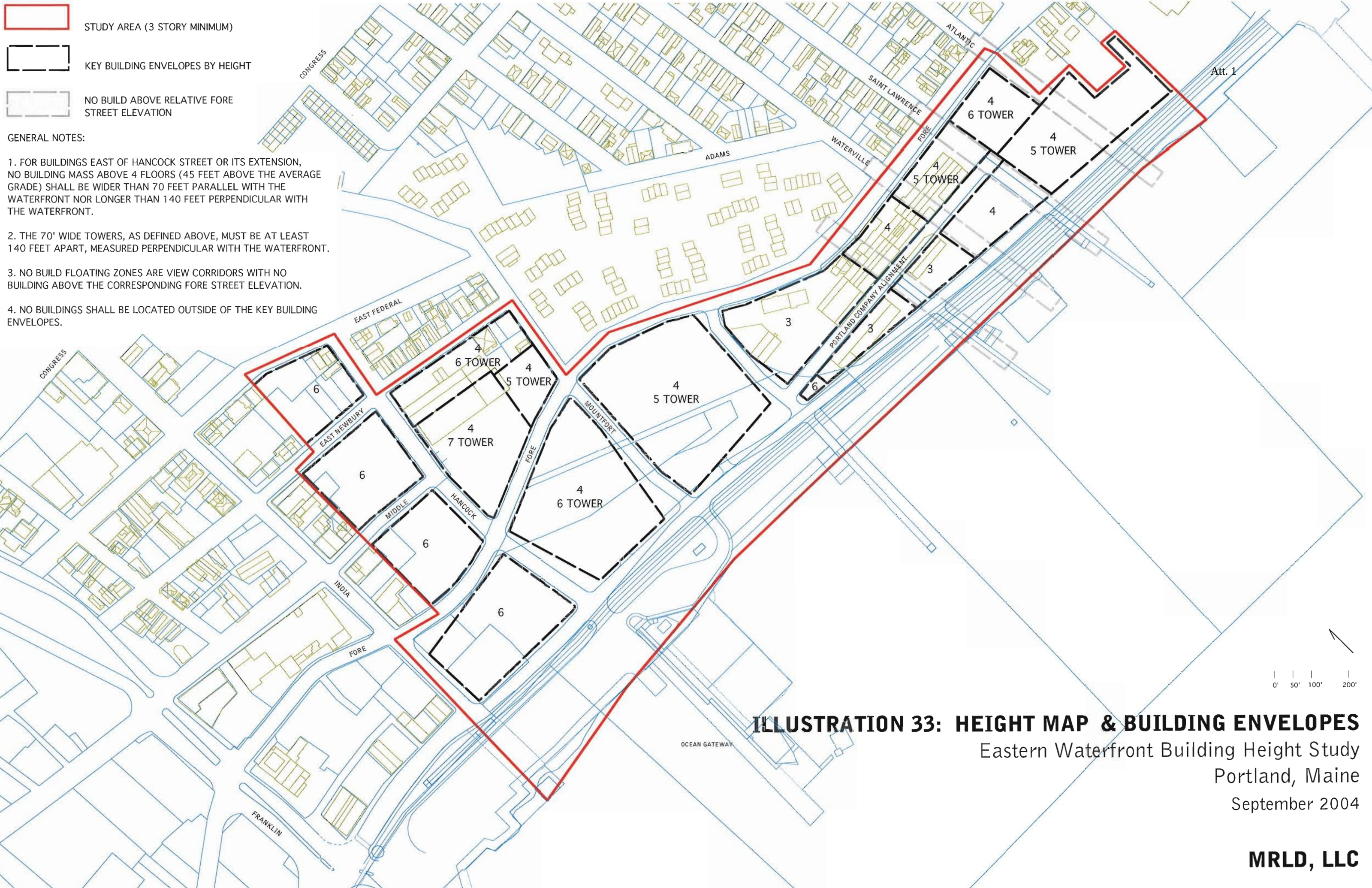
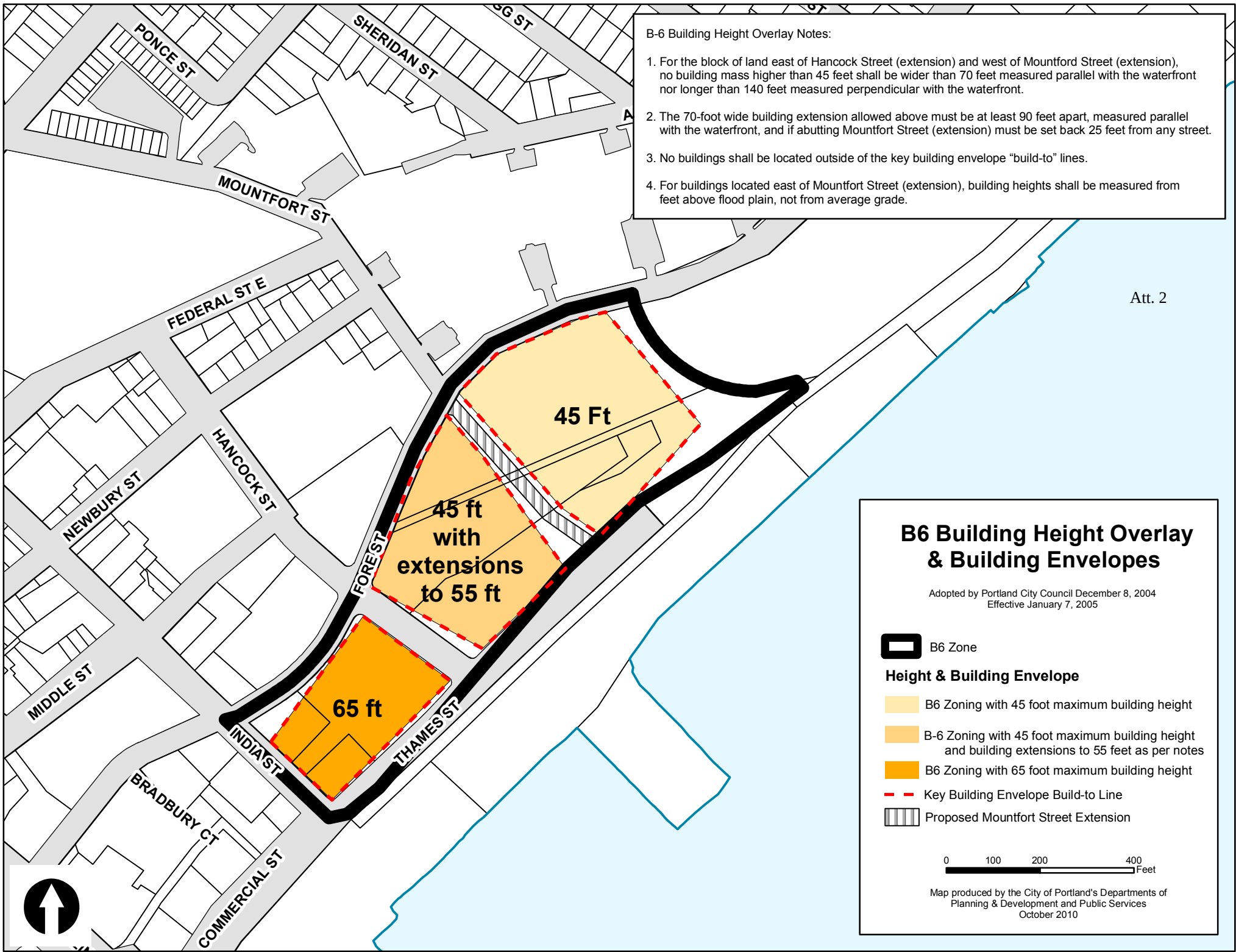


ILLUSTRATION 33: HEIGHT MAP & BUILDING ENVELOPES
 Eastern Waterfront Building Height Study
 Portland, Maine
 September 2004



B-6 Building Height Overlay Notes:

1. For the block of land east of Hancock Street (extension) and west of Mountford Street (extension), no building mass higher than 45 feet shall be wider than 70 feet measured parallel with the waterfront nor longer than 140 feet measured perpendicular with the waterfront.
2. The 70-foot wide building extension allowed above must be at least 90 feet apart, measured parallel with the waterfront, and if abutting Mountford Street (extension) must be set back 25 feet from any street.
3. No buildings shall be located outside of the key building envelope "build-to" lines.
4. For buildings located east of Mountford Street (extension), building heights shall be measured from feet above flood plain, not from average grade.

Att. 2

**B6 Building Height Overlay
& Building Envelopes**

Adopted by Portland City Council December 8, 2004
Effective January 7, 2005



B6 Zone

Height & Building Envelope

 B6 Zoning with 45 foot maximum building height

 B-6 Zoning with 45 foot maximum building height
and building extensions to 55 feet as per notes

 B6 Zoning with 65 foot maximum building height

 Key Building Envelope Build-to Line

 Proposed Mountfort Street Extension

0 100 200 400
Feet

Map produced by the City of Portland's Departments of
Planning & Development and Public Services
October 2010



November 7, 2014

Christine Grimando, Senior Planner
Department of Planning and Development
City of Portland
389 Congress Street
Portland, Maine 04101

Re: 58 Fore Street Zoning Map/Text Amendment Application
Additional Material Submittal

Dear Christine:

On behalf of CPB2 LLC, we are pleased to submit additional information in support of our application for a Zoning Map/Text Amendment at the 58 Fore Street site. Enclosed, please find one paper copy and one PDF copy (via email) of the additional information described herein:

1. Proposed Zoning Extension figure – Replaces the figure in Appendix B of the Application. **Revised to depict a 75' setback from the water's edge for the line between the B6 and Eastern Waterfront Port Zone (EWPZ) to maintain consistency with the recommendations of the Master Plan for Redevelopment of the Eastern Waterfront.**
2. Proposed B6 Building Height Overlay & Building Envelopes figures (2 figures, one with and one without aerial photo) – Replaces the previously submitted B6 Building Height Overlay & Building Envelope figures. **Revised to include a note to restrict maximum building height along the Fore Street frontage; also depicts the revised B6 zone line as described in Item 1.**
3. Height measurement package, total of 11 sheets – New submittal that includes a description of how height is measured in Portland; includes an example of how Average Grade is measured; includes cross section graphics of the B6 Building Height Overlay at the 58 Fore Street site and abutting upland areas along Fore Street.

We look forward to a site walk and workshop with the Planning Board on November 18th. If you have any questions or require additional information, please contact me at any time at (207) 774-2112, or by email dsenus@woodardcurran.com.

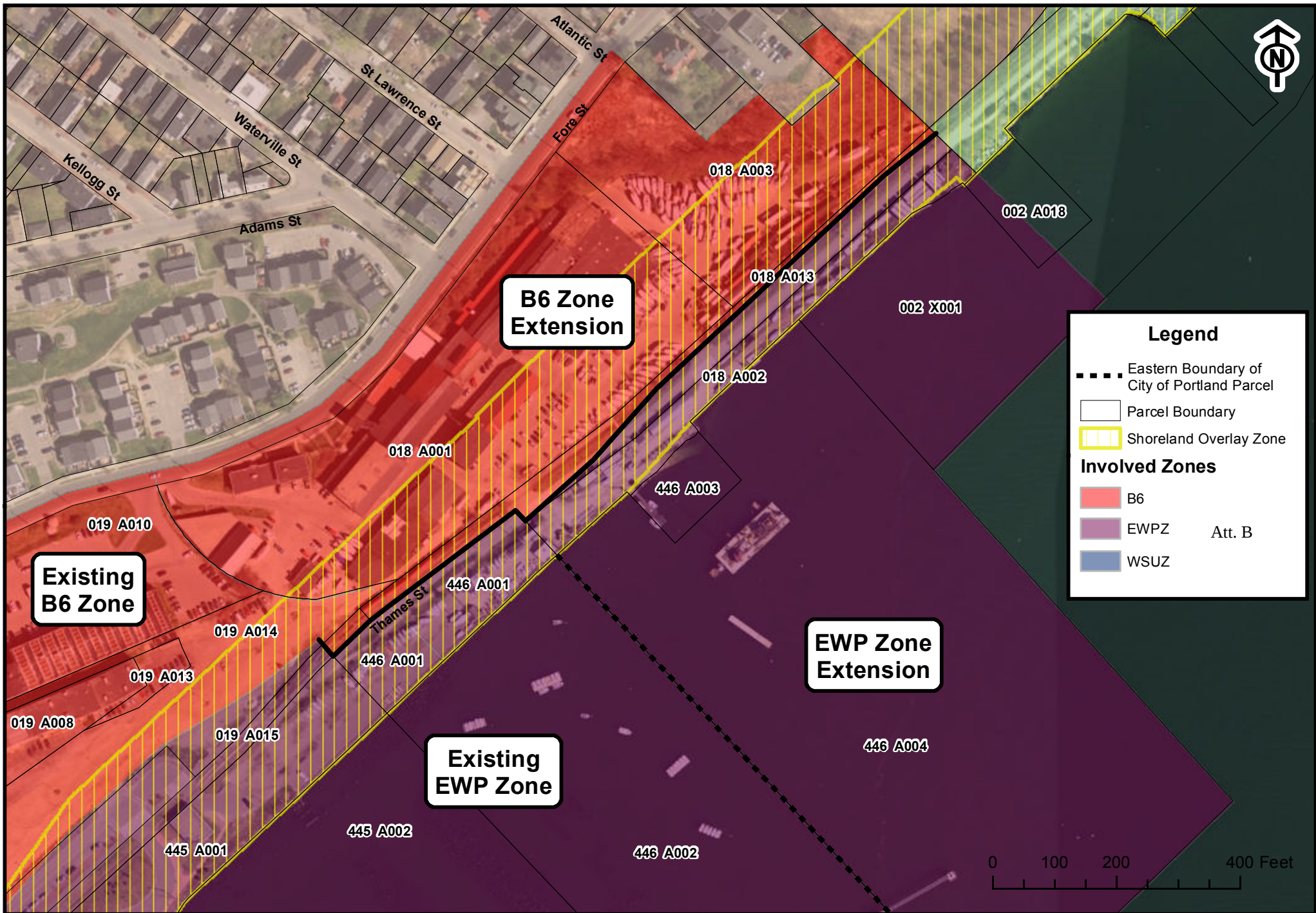
Sincerely,

WOODARD & CURRAN INC.

David Senus, P.E.
Project Manager

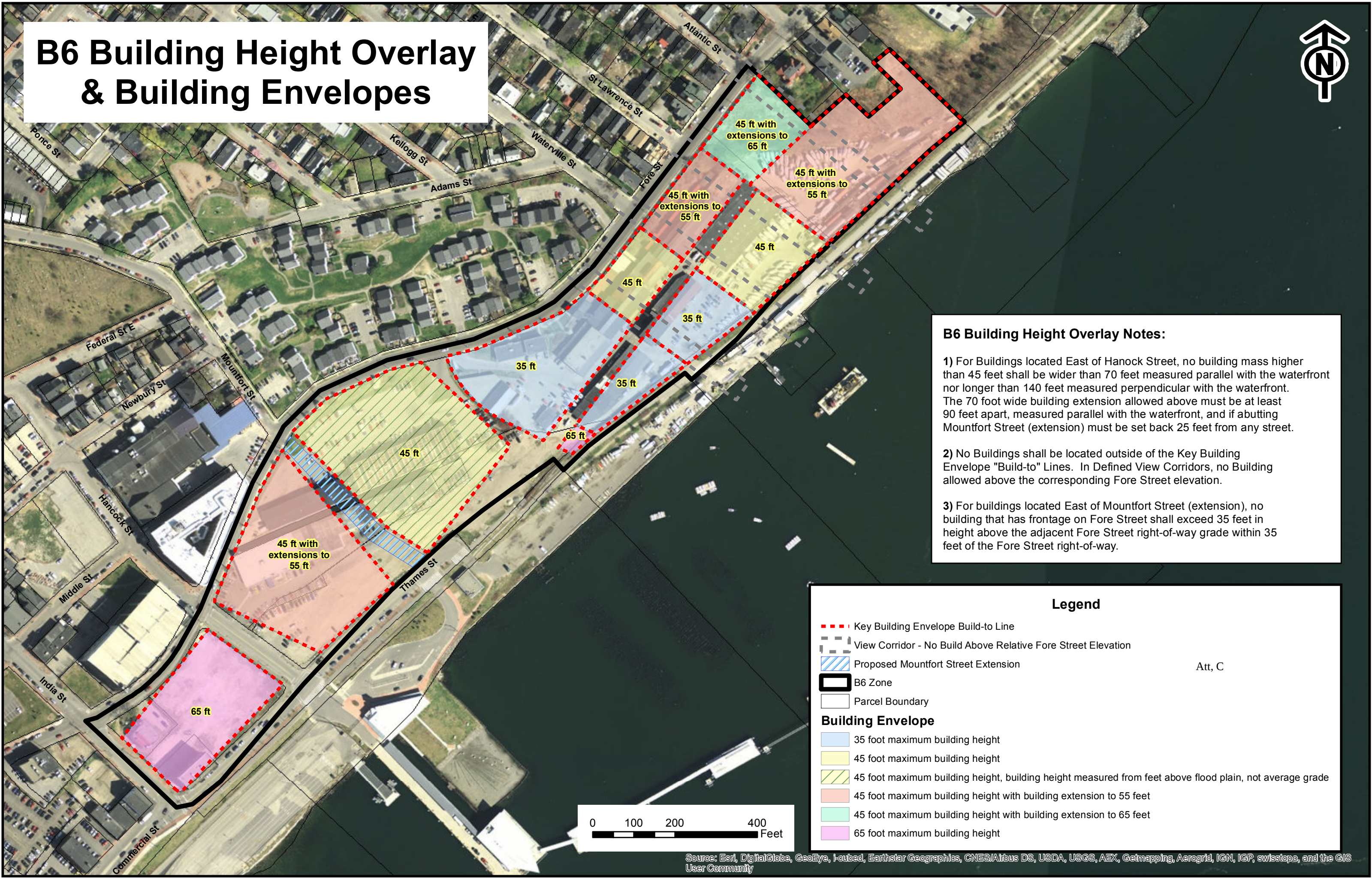
227007

cc: CPB2 LLC (via email)
Mary E. Costigan, Bernstein Shur (via email)



CPB2 LLC: Proposed Zoning Extension

B6 Building Height Overlay & Building Envelopes



B6 Building Height Overlay Notes:

- 1) For Buildings located East of Hanock Street, no building mass higher than 45 feet shall be wider than 70 feet measured parallel with the waterfront nor longer than 140 feet measured perpendicular with the waterfront. The 70 foot wide building extension allowed above must be at least 90 feet apart, measured parallel with the waterfront, and if abutting Mountfort Street (extension) must be set back 25 feet from any street.
- 2) No Buildings shall be located outside of the Key Building Envelope "Build-to" Lines. In Defined View Corridors, no Building allowed above the corresponding Fore Street elevation.
- 3) For buildings located East of Mountfort Street (extension), no building that has frontage on Fore Street shall exceed 35 feet in height above the adjacent Fore Street right-of-way grade within 35 feet of the Fore Street right-of-way.

Legend

- Key Building Envelope Build-to Line
- - - View Corridor - No Build Above Relative Fore Street Elevation
- ▨ Proposed Mountfort Street Extension
- ▬ B6 Zone
- ▭ Parcel Boundary
- Building Envelope**
 - 35 foot maximum building height
 - 45 foot maximum building height
 - 45 foot maximum building height, building height measured from feet above flood plain, not average grade
 - 45 foot maximum building height with building extension to 55 feet
 - 45 foot maximum building height with building extension to 65 feet
 - 65 foot maximum building height

Att, C

B6 Building Height Overlay & Building Envelopes



Att. D

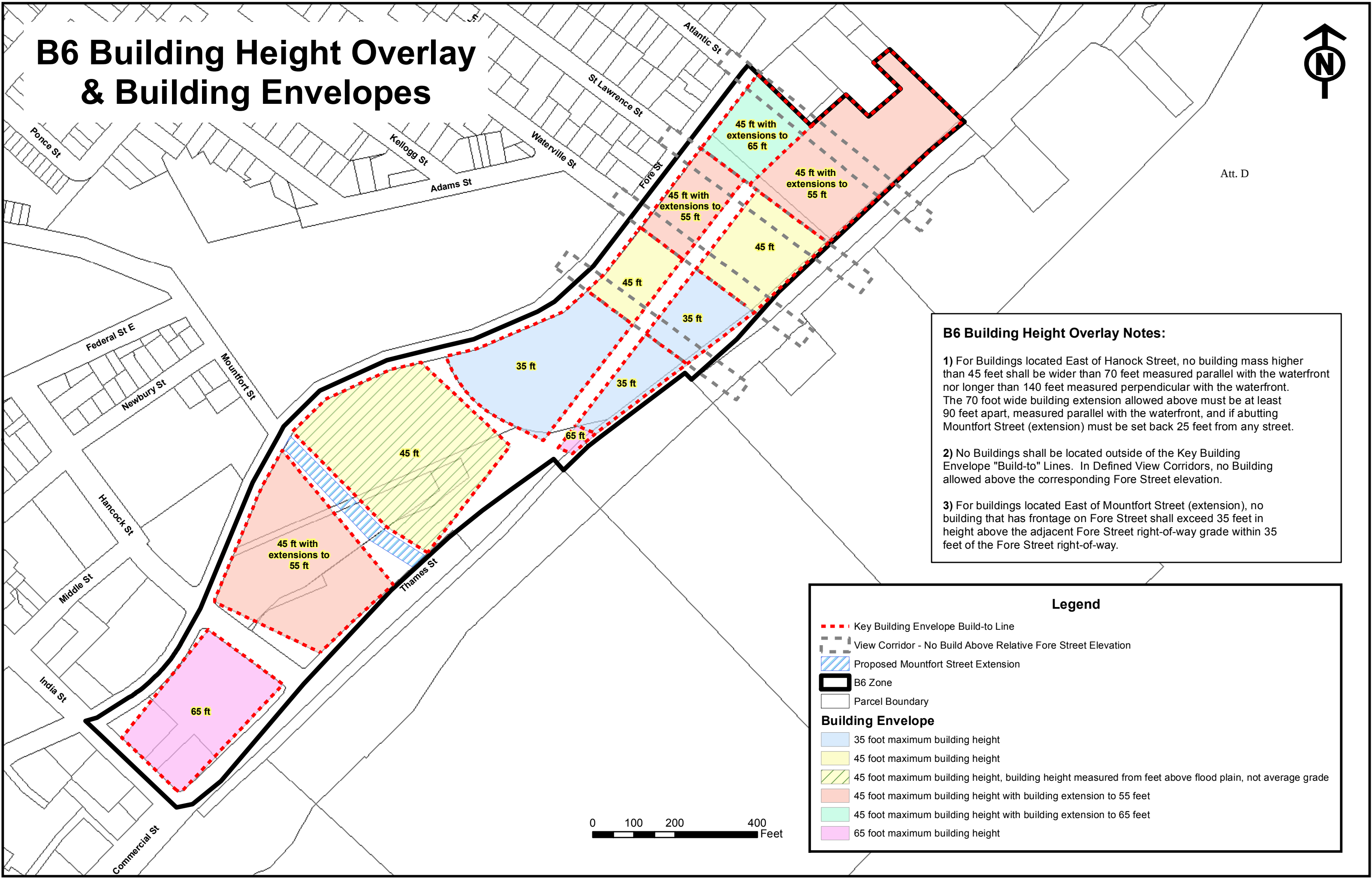
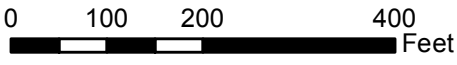
- B6 Building Height Overlay Notes:**
- 1) For Buildings located East of Hanock Street, no building mass higher than 45 feet shall be wider than 70 feet measured parallel with the waterfront nor longer than 140 feet measured perpendicular with the waterfront. The 70 foot wide building extension allowed above must be at least 90 feet apart, measured parallel with the waterfront, and if abutting Mountfort Street (extension) must be set back 25 feet from any street.
 - 2) No Buildings shall be located outside of the Key Building Envelope "Build-to" Lines. In Defined View Corridors, no Building allowed above the corresponding Fore Street elevation.
 - 3) For buildings located East of Mountfort Street (extension), no building that has frontage on Fore Street shall exceed 35 feet in height above the adjacent Fore Street right-of-way grade within 35 feet of the Fore Street right-of-way.

Legend

- Key Building Envelope Build-to Line
- View Corridor - No Build Above Relative Fore Street Elevation
- Proposed Mountfort Street Extension
- B6 Zone
- Parcel Boundary

Building Envelope

- 35 foot maximum building height
- 45 foot maximum building height
- 45 foot maximum building height, building height measured from feet above flood plain, not average grade
- 45 foot maximum building height with building extension to 55 feet
- 45 foot maximum building height with building extension to 65 feet
- 65 foot maximum building height



Measuring Building Height from Average Grade

Att. E

In Portland, building height is measured as follows:

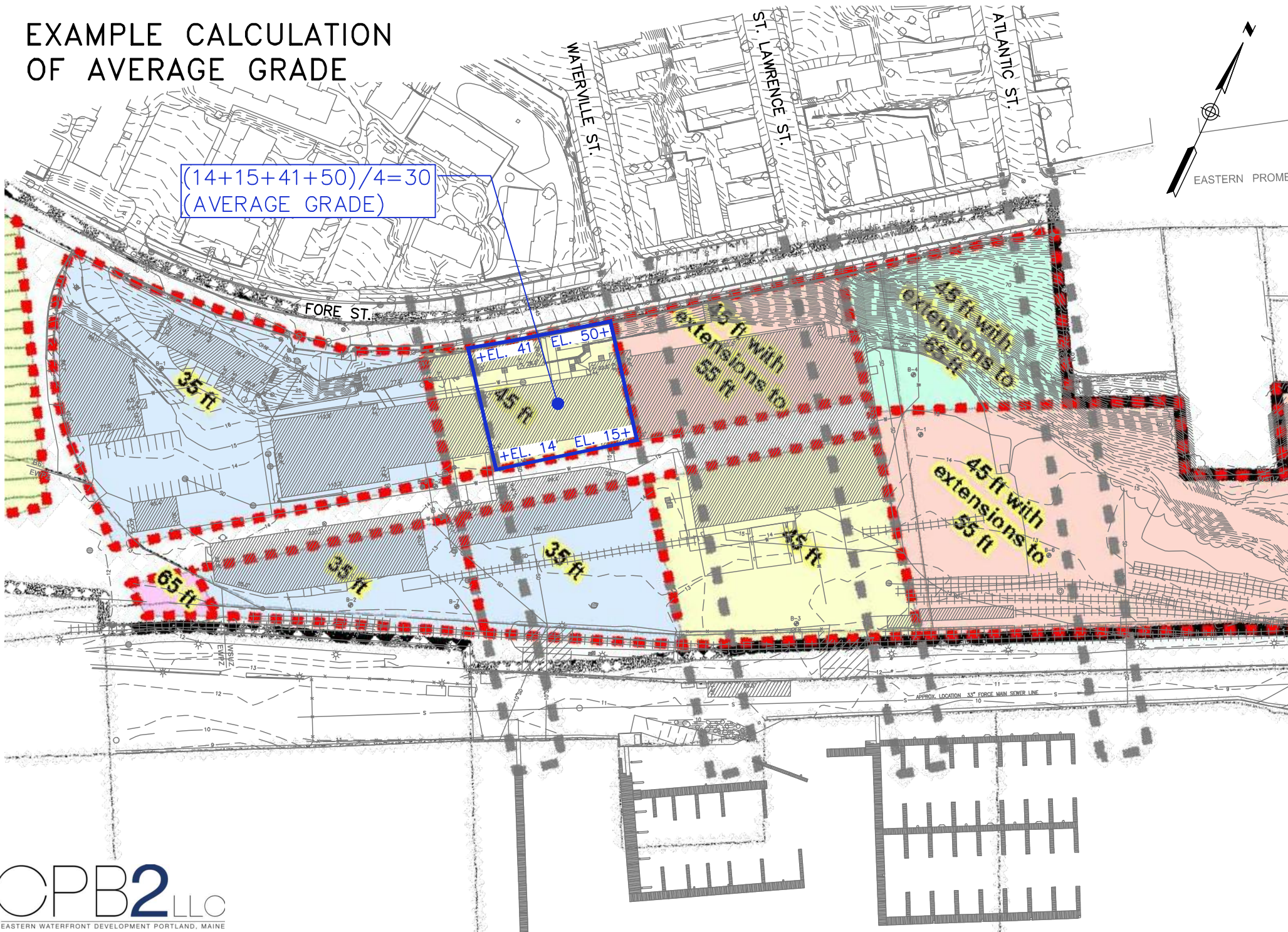
- Per City of Portland Code of Ordinances, Sec. 14-47. Definitions: Building, height of: The vertical measurement from grade, or the predevelopment grade on the islands, to the highest point of the roof beams in flat roofs; to the highest point of the roof beams or the highest point on the deck of mansard roofs; to a level midway between the level of the eaves and highest point of pitched roofs or hip roofs; or to a level two-thirds of the distance from the level of the eaves to the highest point of gambrel roofs. For this purpose the level of the eaves shall be taken to mean the highest level where the plane of the roof intersects the plane of the outside wall on a side containing the eaves.
- Establishing grade is done either by averaging the elevation of the proposed abutting ground surface at the building corners or by averaging the elevation of the abutting ground surface at the building walls at some interval around the perimeter of the building (i.e., every 2 feet). The interval must remain consistent (i.e., grade can't be determined from numerous points along the front side of a building and only a few on the back side; there must be equal spacing between points used to calculate grade).
- Multiple buildings that share walls or are connected, not counting enclosed catwalks or walkways, are considered a single building when calculating building height. Building structures that cross lot lines or condominium unit boundaries are counted as a single buildings for the purposes of calculating height.

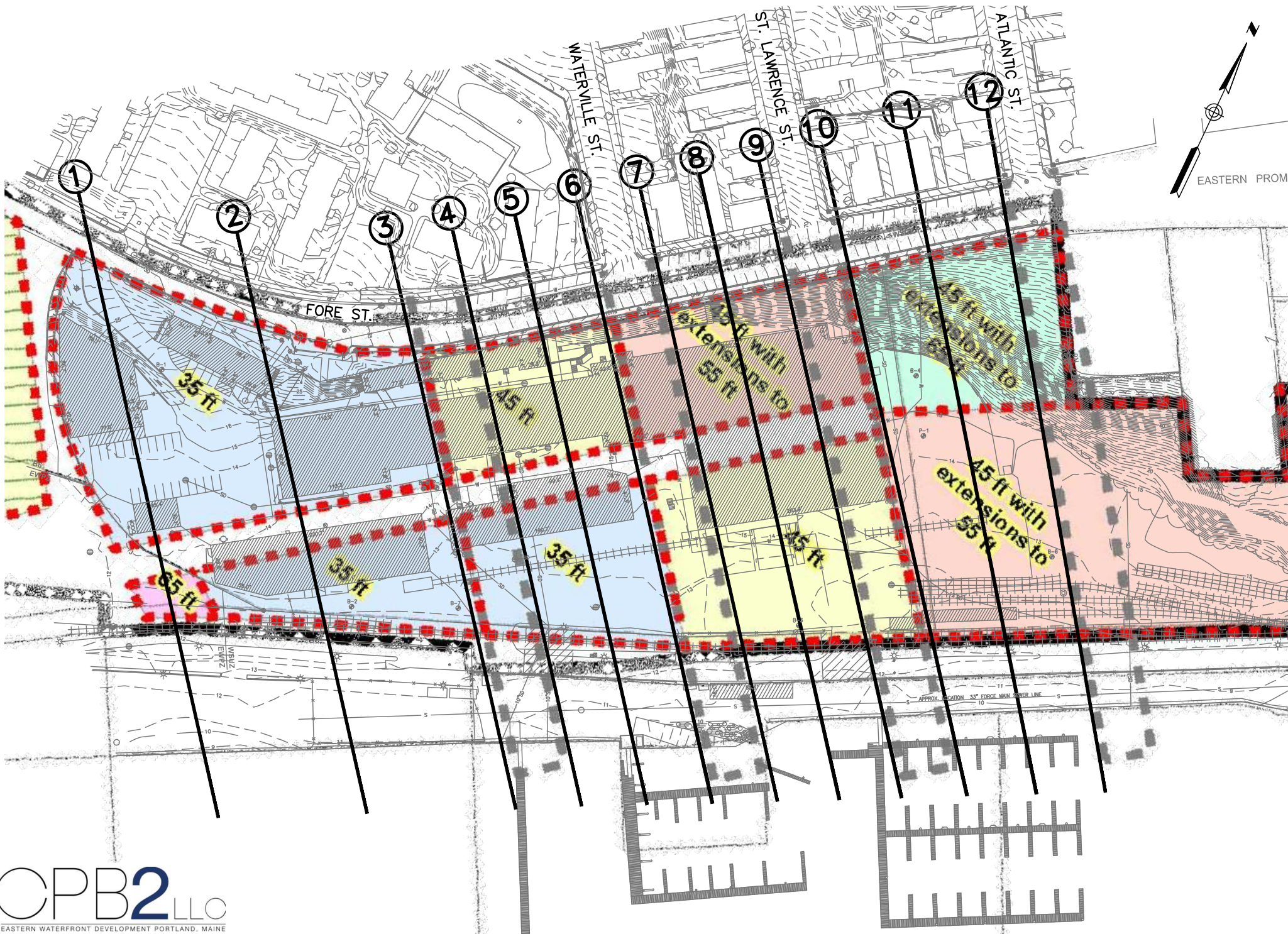
The "B6 Building Height Overlay & Building Envelopes" map submitted as part of the Zone Amendment application is directly based on the Height Map from the Eastern Waterfront Building Height Study. The maximum heights depicted on the Height Study Map were developed using the City's standard practice of measuring height from Average Grade. This submittal demonstrates how the maximum heights set forth in the height study and proposed height overlay map impact the 58 Fore Street site. We have included examples of building height envelopes measured from Average Grade and measured from flood plain (EI = 10). These examples demonstrate that the maximum heights depicted on the height study were intended to be measured from average grade. As depicted in the examples, measuring heights from flood plain often results in buildings at or below the adjacent Fore Street grade. Because the height study includes view corridors where no buildings above Fore Street are permitted, it is clear that the height study anticipated that buildings would be built above Fore Street.

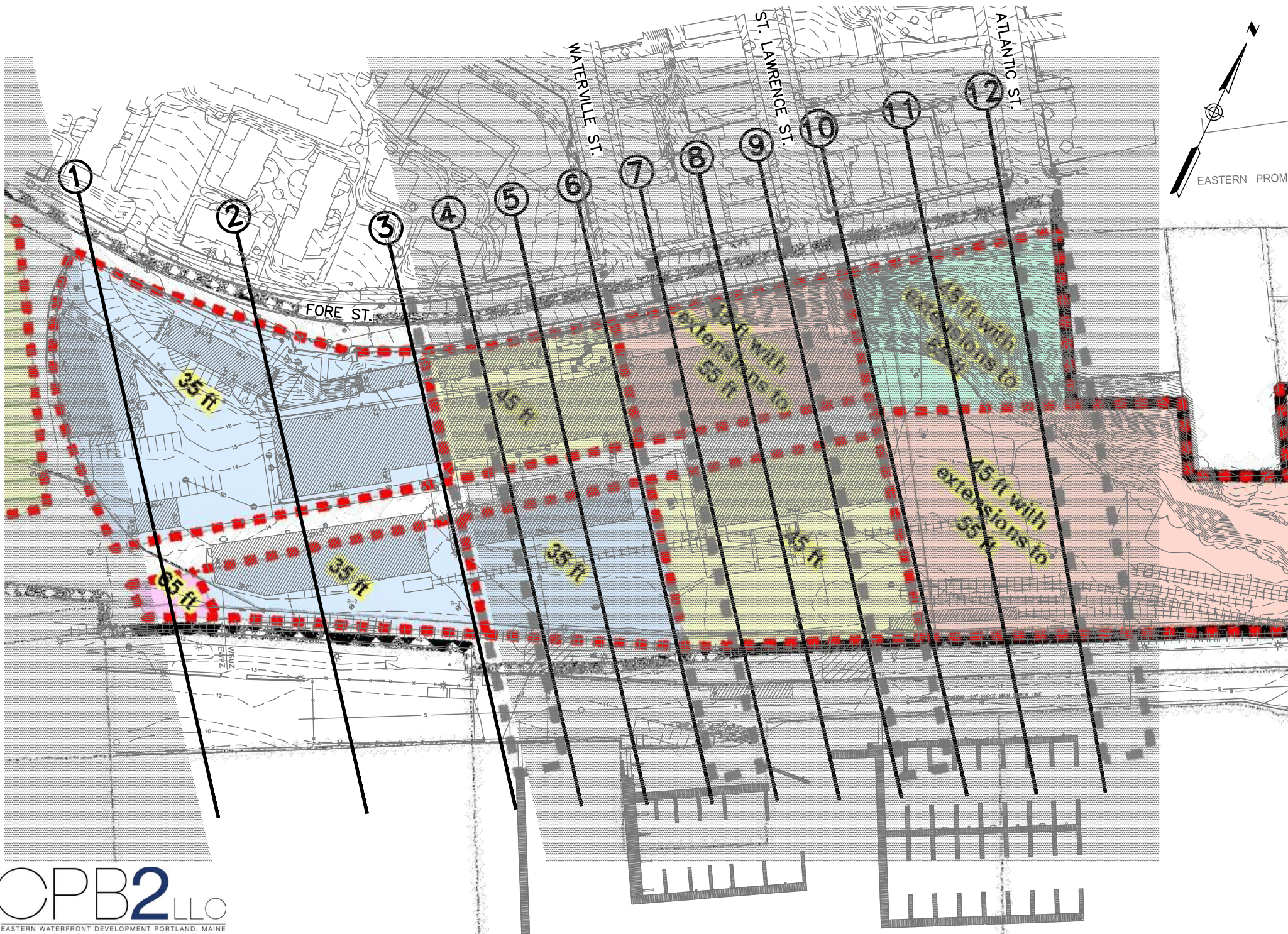
EXAMPLE CALCULATION OF AVERAGE GRADE

$$(14+15+41+50)/4=30$$

(AVERAGE GRADE)





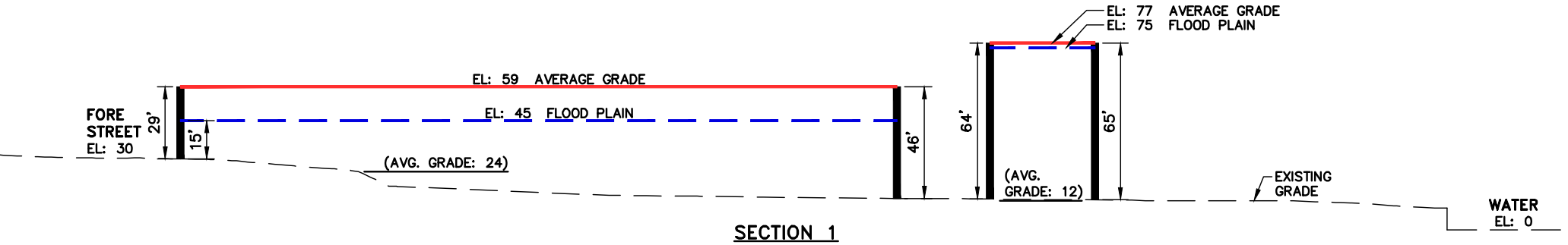
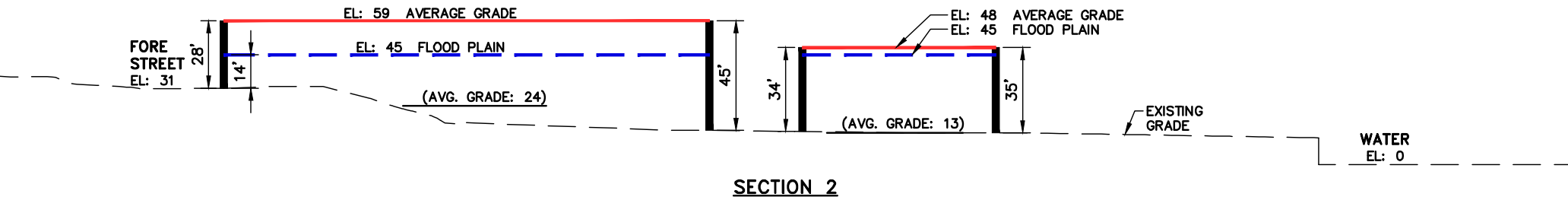
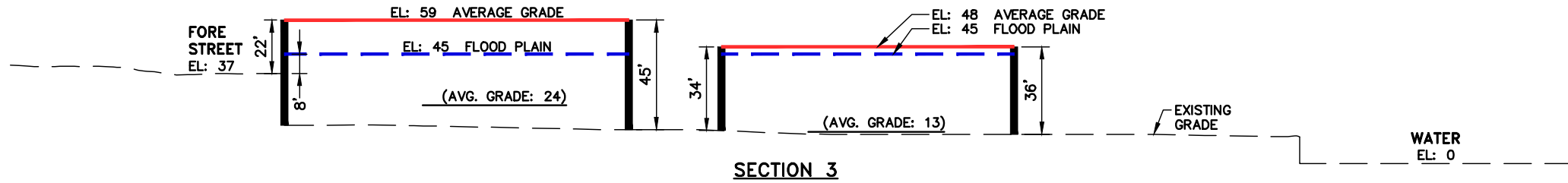


CPB2 LLC
EASTERN WATERFRONT DEVELOPMENT PORTLAND, MAINE

WOODARD & CURRAN
41 Hutchins Drive | Portland, Maine 04102
800.426.4262 | www.woodardcurran.com
COMMITMENT & INTEGRITY DRIVE RESULTS

SOURCE DATA: B6 BUILDING HEIGHT OVERLAY & BUILDING ENVELOPES MAP; TOPOGRAPHIC/ BOUNDARY SURVEY FOR 58 FORE ST.; CITY OF PORTLAND GIS DATA

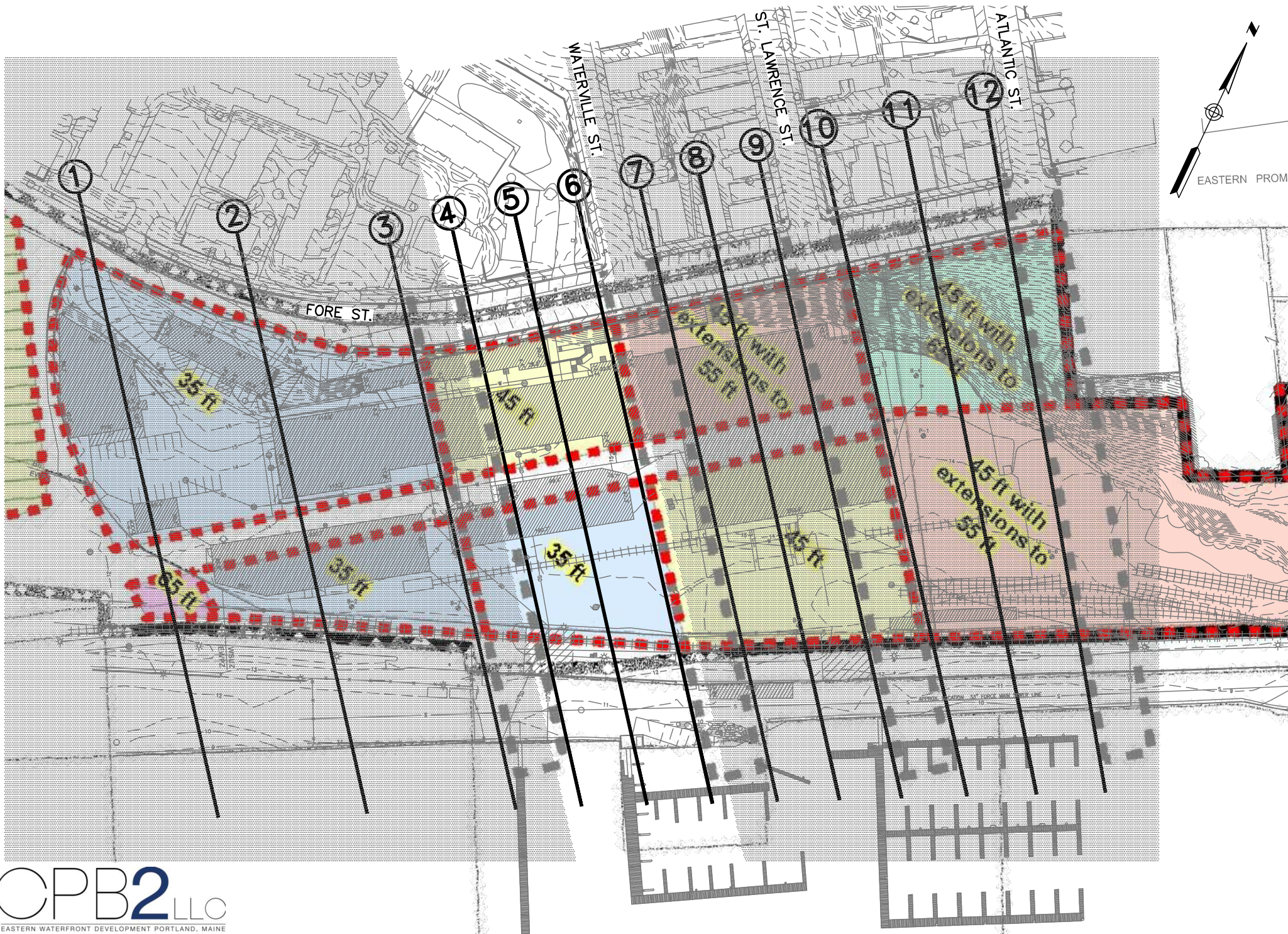
58 FORE STREET – B6 HEIGHT OVERLAY



LEGEND

- MEASURED FROM AVERAGE GRADE
- MEASURED FROM FLOOD PLAIN (EL. 10)
- EXISTING GRADE

NOTE: SECTIONS DO NOT REPRESENT ACTUAL BUILDING STRUCTURES.

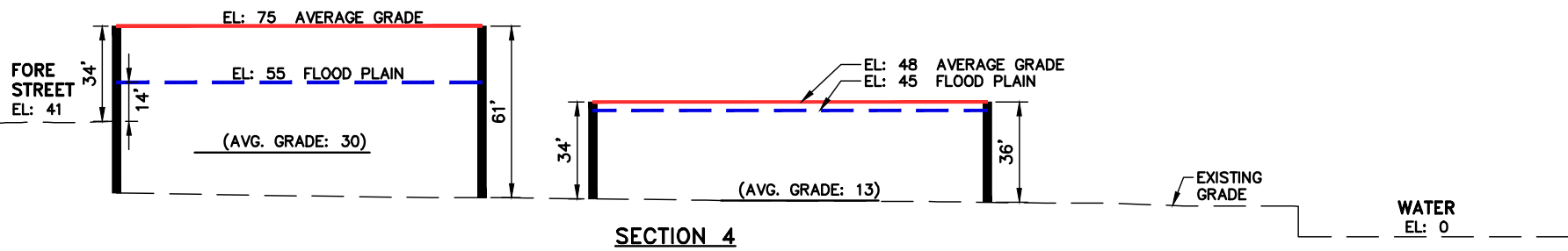
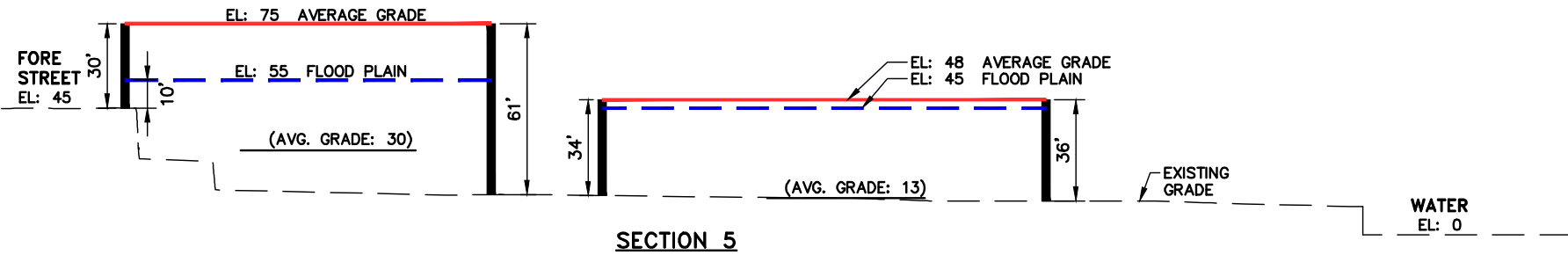
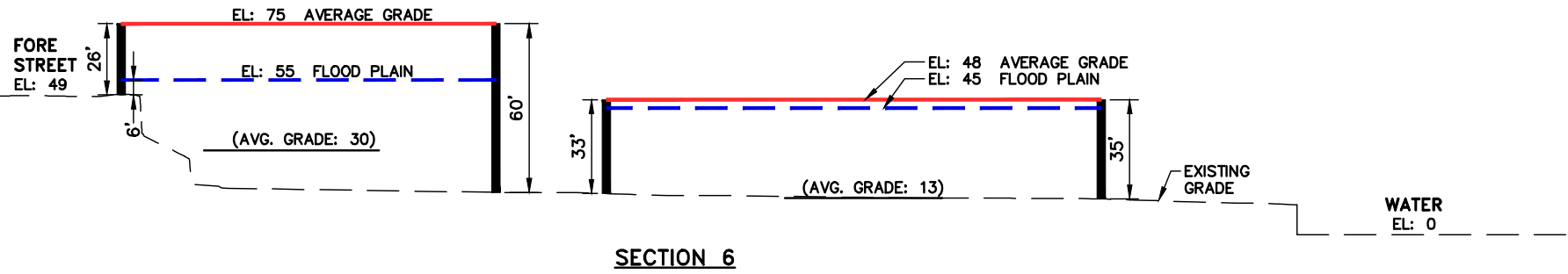


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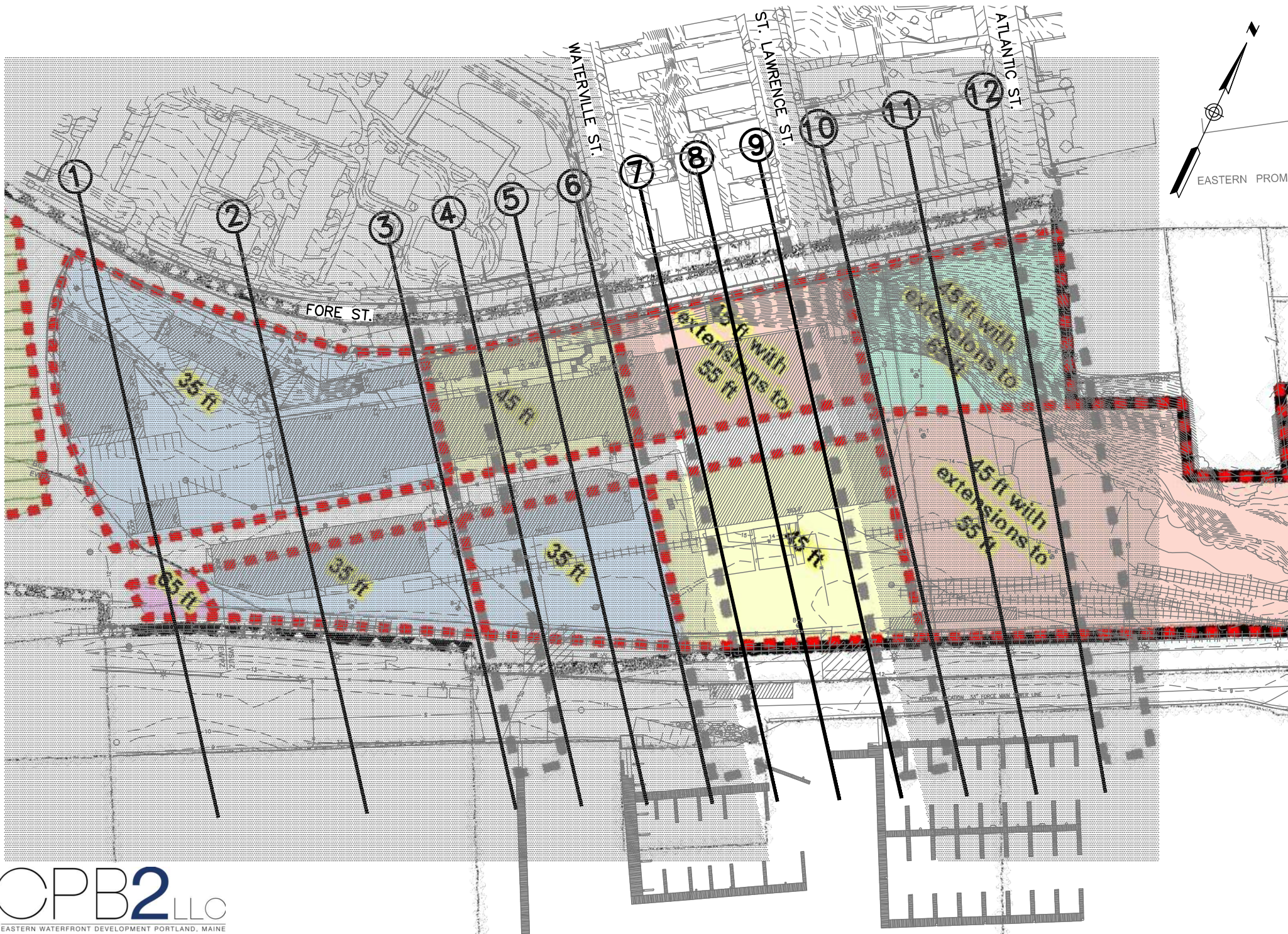
58 FORE STREET – B6 HEIGHT OVERLAY



LEGEND

- MEASURED FROM AVERAGE GRADE
- MEASURED FROM FLOOD PLAIN (EL. 10)
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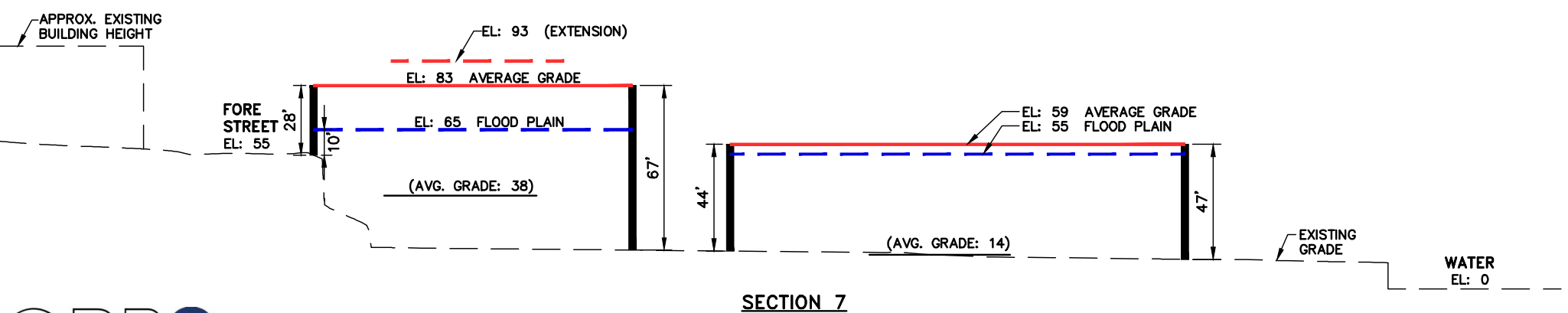
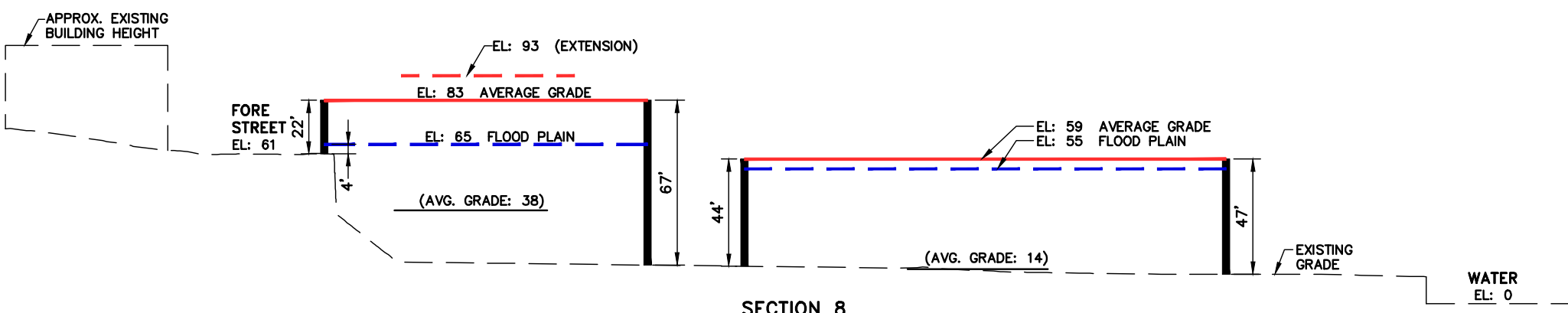
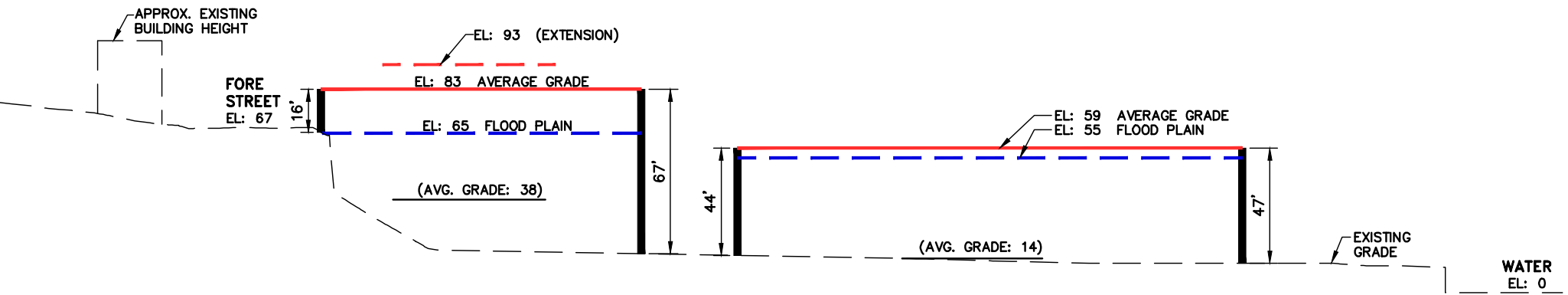


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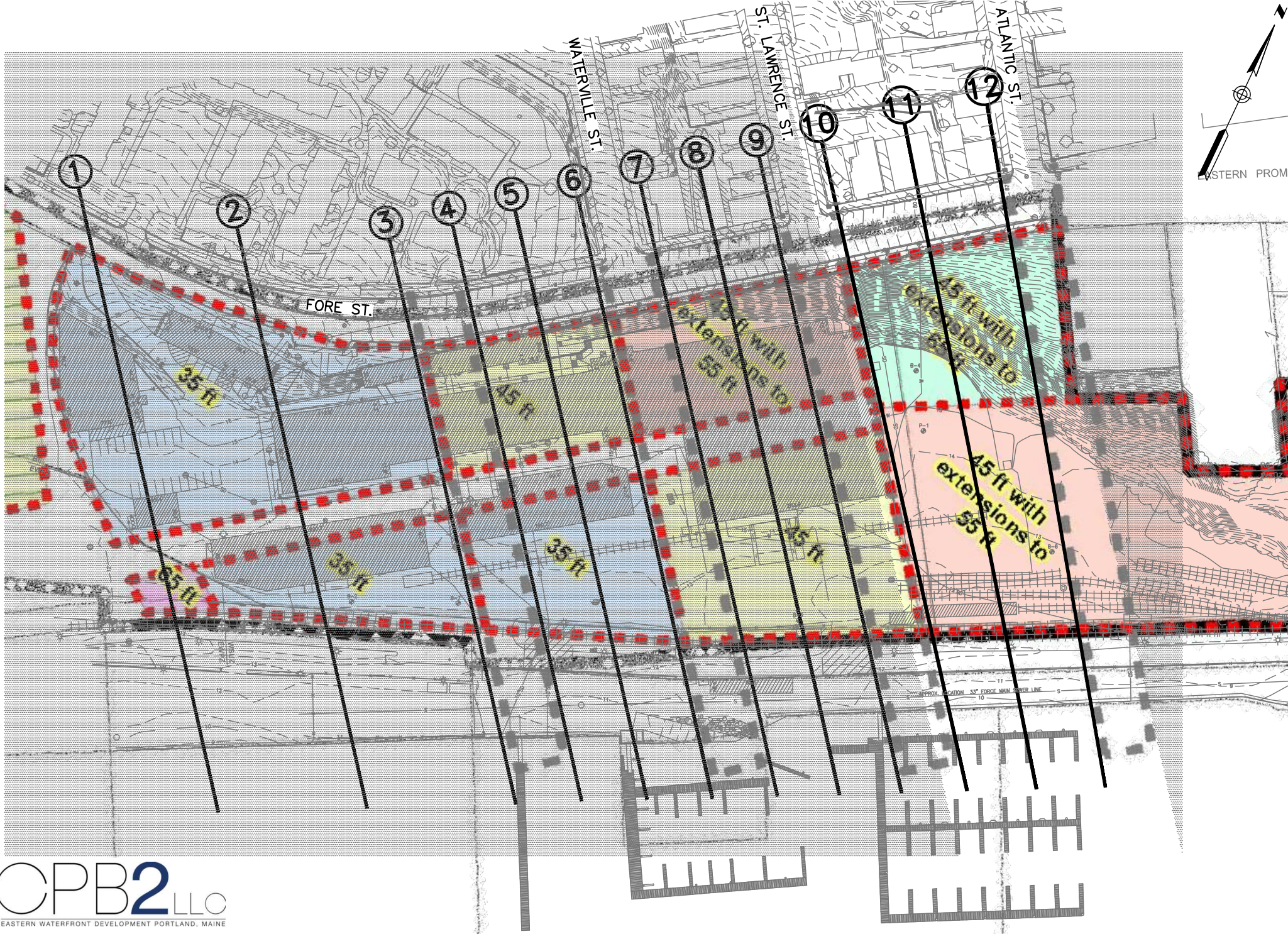
SOURCE DATA: B6 BUILDING HEIGHT OVERLAY & BUILDING ENVELOPES MAP; TOPOGRAPHIC/ BOUNDARY SURVEY FOR 58 FORE ST.; CITY OF PORTLAND GIS DATA

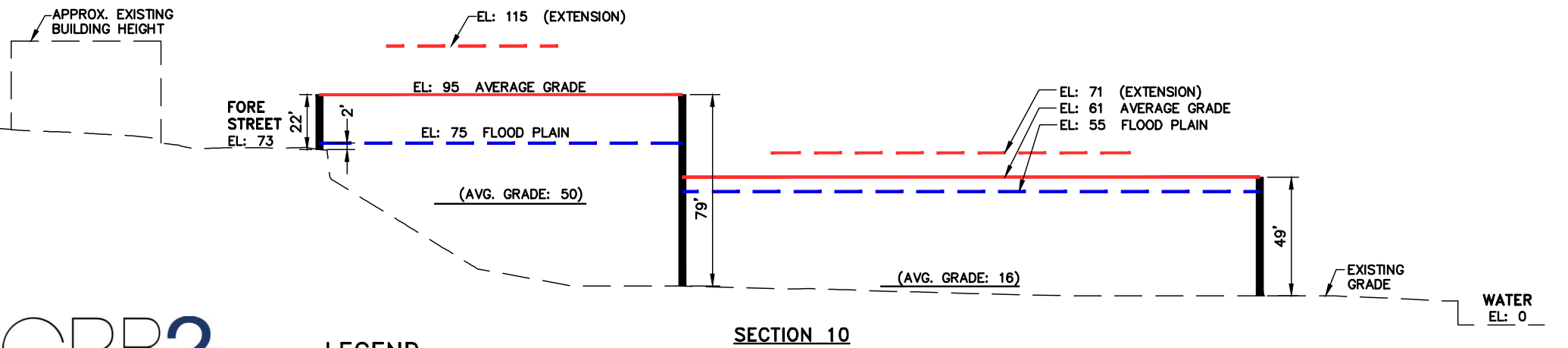
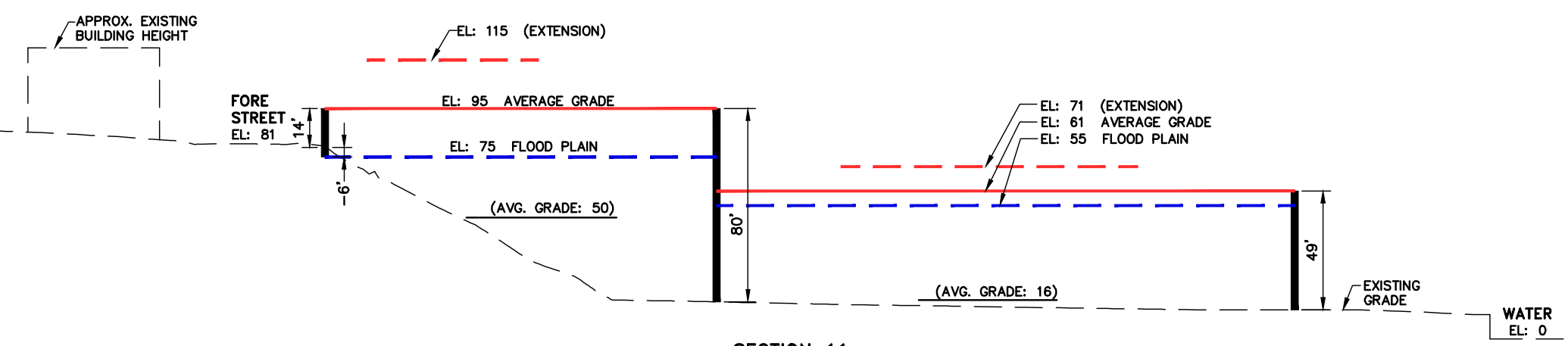
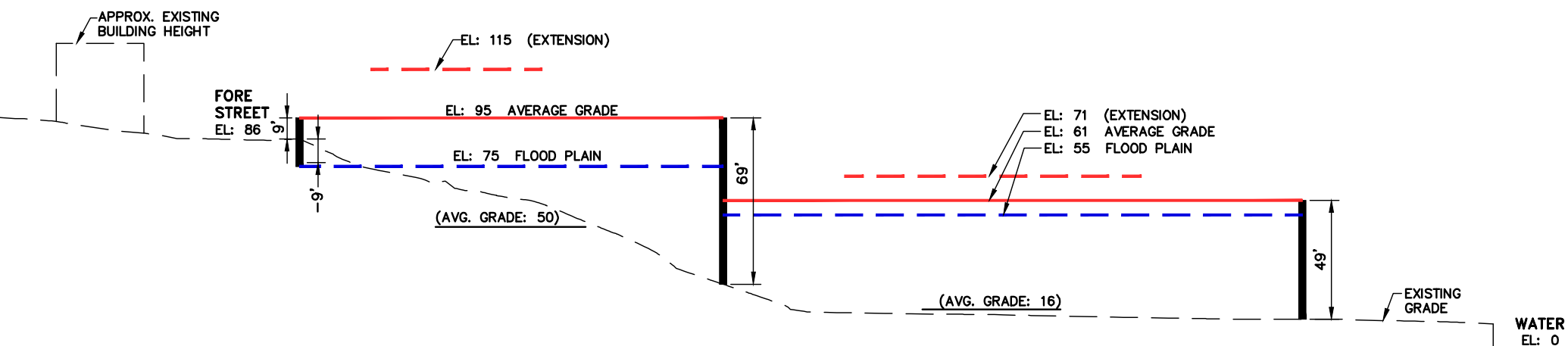
58 FORE STREET – B6 HEIGHT OVERLAY



- LEGEND**
- MEASURED FROM AVERAGE GRADE
 - MEASURED FROM FLOOD PLAIN (EL. 10)
 - EXISTING GRADE

NOTE: SECTIONS DO NOT REPRESENT ACTUAL BUILDING STRUCTURES.





LEGEND

- MEASURED FROM AVERAGE GRADE
- MEASURED FROM FLOOD PLAIN (EL. 10)
- EXISTING GRADE

NOTE: SECTIONS DO NOT REPRESENT ACTUAL BUILDING STRUCTURES.

From: <dpreisse@maine.rr.com>
To: <cdg@portlandmaine.gov>
Date: 11/11/2014 11:43 AM
Subject: 58 Fore Street
Attachments: photo-19 copy.JPG; photo-19.JPG; SO2.JPG; Cruise ship.JPG

Dear Christine,

I am emailing you to share my thoughts in regards to the 58 Fore Street zoning change and in particular the site plan that has not yet been seen. I have attended the open forum with the developer as well as the city hall meeting for public comment. It is hard for me to support a zoning change without seeing the site plan that demonstrates the building heights above Fore Street. I can not attend the site walk or the public comment meeting on the 18th so wanted to share my thoughts with you to share with Council and Developers.

I do live on Munjoy Hill and each day I am in awe of the panoramic active harbor view that is seen now freely from the overlook driving/walking/biking on Fore Street between Waterville and St. Lawrence. I have observed hundreds of people and the tour/trolly buses as they stop for a short glance traveling this street. I know there are many who appreciate the unique beauty yet do not take part in civic action to save what could be lost.

Development of the property and all the ideas generally presented by the developers sound interesting to me and others I have spoken to. I am very concerned with the zoning approval of the height and the height overlay plans. It is so confusing to me even after all the dialogue. I believe at one time I heard in a presentation by the developer that the buildings could be 14-22 feet ABOVE Fore Street. That scares me to death and I can vision another mass half the height of the Portland House blocking the suns warmth and birds eye views so breathtakingly wonderful now. I am well aware of snake oil sales pitches and asking for zoning changes and getting something that was not wanted or expected but is allowed with these changes. I strongly support saving all the historical buildings (the Flower Show building was not marked in the developers presentation to save) and promoting this site as a historical district with the guidance and expertise of Portland Landmarks and the Historical Society.

The scaffolding view from the water to the residential area to the Observatory are just as vital as those looking down the hill to the vitality on the water. I have included a couple of pictures to express this greatness that occurs in Casco Bay that some may not have seen. Preserving this one last bit of scenic overview is vital and not to be lost for myself, my neighbors, Portlanders, tourists or for future generations. Please keep this point in mind as you make recommendations to the City Council.

I would encourage the City Council to not only walk the actual site but also take a stroll up the hill on Fore Street to experience this feeling of being on top of the world, a stop to catch one's breath, and savor the breathtaking beauty of the working/recreational waters of Casco Bay.

Best,
Denise Preisser







From: Barbara Barhydt
To: Grimando, Christine; Jaegerman, Alex; Munson, Jennifer
Date: 11/14/2014 7:58 AM
Subject: Fwd: 58 Fore Street site visit and workshop

public comment

>>> Peter Macomber <pbm@macomber.com> Friday, November 14, 2014 7:16 AM >>>

Dear Chair O'Brien, Planning Board members, Planning Director Jaegerman and staff:

My name is Peter Macomber and my wife, Pam, and I live on Munjoy Hill. We have been residents of Portland since 1979, the last two on the Hill. I will be out of town next week during the scheduled site visit and the hearing, so I am sending this lieu of attending and commenting.

The purpose of your site visit and workshop is to review the building height overlay as it applies to the proposed zoning change. Because it also relates to building heights, it is also very important that you take into consideration the breathtaking pedestrian viewshed of Portland harbor from Fore Street between Atlantic and Waterville streets. This is to my knowledge the only publicly-accessible elevated viewpoint in the entire city that encompasses such a magnificent panorama of the inner working harbor, including the Gateway terminal and visiting cruise ships, the South Portland waterfront and the never-ending ship traffic.

This viewpoint has always been there throughout the history of the city, never blocked by any buildings and always freely accessible to all who walk by.

As a property owner in this area, I can attest to the surprising number of people who abruptly stop as they walk up or down Fore Street and are mesmerized by the view, sometimes for minutes at a time. Or to the cars that suddenly pull over to the side of the street, people piling out and excitedly taking pictures of the panorama or of the cruise ships.

And when the sun is low and illuminates the entire harbor with a quality of light that's unique to Maine, the scene is nothing short of magical.

This awesome landscape and seascape is part of the soul of Munjoy Hill and truly belongs to all of Portland. It must be preserved by ensuring that any development does not impinge on that entire view. Keeping the maximum building height of any development at or below the grade of Fore Street would do it.

(A thought about the so-called "view corridors" that are part of the Eastern Waterfront Height Study: they're a ridiculous sop to the public and are tantamount to telling people to look through the wrong end of a telescope with blinders on; those corridors only compartmentalize and minimize the view and conceal more than they reveal. The only real "view corridor" is the one that fully encompasses the entire viewshed, not tiny slivers of it!)

—

The B-6 zone as it currently exists requires that the minimum new building height within 25 feet of a street is 3 stories. This requirement is quite appropriate in the current B-6 zone, but obviously not appropriate in the proposed development. The developer's refrain is that they merely want to "drag over the existing B-6 zone" to the Portland Company property, but to "drag over" all requirements of that zone without closely examining how they'd impact the unique conditions of the property would be inappropriate.

But there's at least one aspect that would be appropriate: at the last public meeting, some questions were asked about the current B-6 Height Overlay map and the phrase "feet above the flood plain, not from average grade" as it applied to building heights on one particular lot of land. But it actually makes a lot of sense if you think about it. Fore Street begins to climb steeply as it passes to the east of Mounfort Street, so calculating the building heights from the flood plain instead of the average grade takes that steep climb into consideration. Because otherwise an envisioned 45-foot maximum building height could translate into 55 or even 65 feet if the average grade was used instead.

It is very important to follow the same reasoning as you consider building heights in the proposed development. Fore Street climbs even more steeply beyond Waterville Street while the Portland Company property is primarily on that same flood plain. Average grade calculations could result in buildings that ludicrously not only tower over Fore Street, but are the equivalent of 80-90 feet

above the flood plain. Using average grade calculations on what is basically a cliff edge is highly inappropriate, and would be a flawed methodology for this zoning. And since about 85-90% of the Portland Company land is at the flood plain level, using that as a basis for building heights makes far more sense.

I humbly suggest that during the site visit next week you include a short walk up Fore Street between Waterville and Atlantic streets so you can see for yourselves what I'm writing about. Enjoy that view!

—

The Planning Board's work will be very difficult in the weeks ahead. I thank you for your time and energy as you consider this zoning change. Please know that Pam and I are both very much in favor of a vibrant, yet thoughtful development of the property. But surely there is a way to keep this very special public viewshed forever open as well as provide the developers an opportunity to maximize their returns. I ask that you keep in mind these comments as you preserve this precious asset for the future of the city and its inhabitants and visitors.

Respectfully,
Peter & Pam Macomber
Saint Lawrence St.

From: Brian Burwell <burwell@maine.edu>
To: <cdg@portlandmaine.gov>
Date: 11/14/2014 8:56 AM
Subject: Planning Board, 58 Fore Street, Protecting Pedestrian Views

Dear Planning Board members,

I am writing to defend existing pedestrian "key views of the harbor....a community resource to be preserved and protected...." ("Design Guidelines for the Eastern Waterfront", p.12, Adopted by Comprehensive Plan, 2002)

I appreciate the wonderful views along Adams and elsewhere, but am most familiar with the two blocks of Fore Street sidewalks between Waterville and Atlantic Streets.

While working on a three family residence at the corner of Waterville and Fore, I observe large numbers of neighborhood people walking these sidewalks to and from downtown and "around the block". In nice weather multiple small groups of downtown office workers walk up and down the Fore Street sidewalks during their lunch breaks. Many visiting tourist often stop in wonder and take pictures of the sailing schooners, ferries etc. and of themselves in front of the wire fence.

The existing four story Portland Company buildings situated along these two blocks do not interfere with sidewalk views because of the high elevation of Fore Street relative to the level land below. The cover and last page illustration (Section E Existing and Proposed East/West with Congress Street and Fore Street Elevations) of the "Eastern Waterfront Building Height Study" (adopted by the Comprehensive Plan in 2004) show how existing and anticipated four story structures preserve those sidewalk views.

The "Eastern Waterfront Building Height Study" allows for 70 foot wide towers separated by 140 feet. Such a tower in front of the Waterville to St. Lawrence Street block would interfere with the existing wonderful view of harbor activities. During the decade since this detailed height study was adopted, significant changes have occurred and continue to trend which strongly argue for preservation of unobstructed views and therefore against towers which would depreciate these views:

- * Increasing resident population in the neighborhood as a result of "infill" development and additions.
- * People walking and jogging more for healthy exercise.
- * Increasing numbers of tourists.
- * Increasing recognition of the value of pedestrian views of important natural elements. Many cities including Seattle, San Diego, Austin and Portland, Oregon incorporate preservation of such views into their development design criteria.
- * Blockage of pedestrian views by new construction to the west of Mountfort St.

To what extent these views, unique to Portland, are to be forever lost by a large public to be replaced by private structures (residences?) for a relatively few, is before you. I request that you consider the developers' opportunities for substantial development on these ten acres with little or no obstruction of current views.

Lastly, resident evaluations of developer plans for the site could provide valuable inputs to Planning Board and City Council members tasked with melding CPBE's rights and citizen interests. Award of B-6 zoning would provide substantial value to CPBE and could follow, not precede, resident vetting. Lack of a site plan for the "Neighborhood Meeting" of September left residents frustrated and distrustful. Without a site plan, residents are left jousting windmills like Don Quixote. I request that the Planning Board require a site plan from CPBE and obtain public input, both positive and negative, before deciding whether or not to recommend a zoning change from Waterfront Special Use Zone to B-6.

Thank you.

Brian Burwell
 Owner, 31 Fore Street

burwell@maine.edu