

AGENDA
REGULAR CITY COUNCIL MEETING
SEPTEMBER 17, 2018

1. City Council Meeting Agenda

Documents:

[CITY COUNCIL MEETING AGENDA 2018-09-17.PDF](#)

2. City Council Meeting Agenda And Packet

Documents:

[CITY COUNCIL MEETING AGENDA AND PACKET 2018-09-17.PDF](#)

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER THIBODEAU (2)
BRIAN E. BATSON (3)
JUSTIN COSTA (4)

KIMBERLY COOK (5)
JILL C. DUSON (A/L)
PIOUS ALI (A/L)
NICHOLAS M. MAVODONES, JR. (A/L)

AGENDA
REGULAR CITY COUNCIL MEETING
SEPTEMBER 17, 2018

The Portland City Council will hold a regular City Council Meeting at 5:30 p.m. in City Council Chambers, City Hall. The Honorable Ethan K. Strimling, Mayor, will preside.

PLEDGE OF ALLEGIANCE:

ROLL CALL:

ANNOUNCEMENTS:

RECOGNITIONS:

Arts in the Chamber, Portland Laureate Linda Aldrich

APPROVAL OF MINUTES OF PREVIOUS MEETING:

(Tab 1) September 5, 2018 Draft 5:30 P.M. Regular City Council Meeting Minutes

PROCLAMATIONS:

Proc 7-18/19 (Tab 2)	Proclamation Honoring Linda Aldrich as Portland's Poet Laureate – Sponsored by Mayor Ethan K. Strimling.
Proc 8-18/19 (Tab 3)	Proclamation Recognizing Childhood Cancer Awareness Month - Sponsored by Mayor Ethan K. Strimling.
Proc 9-18/19 (Tab 4)	Proclamation Recognizing the 75th Anniversary of the Portland Housing Authority – Sponsored by Mayor Ethan K. Strimling.
Proc 10-18/19 (Tab 5)	Proclamation Honoring the Portland Community Free Clinic – Co-Sponsored by Councilor Belinda Ray, Councilor Justin Costa, Councilor Kim Cook, Councilor Spencer Thibodeau, Councilor Jill C. Duson, Councilor Nicholas M. Mavodones, Jr., Councilor Pious Ali, and Mayor Ethan K. Strimling.
Proc 11-18/19 (Tab 6)	Proclamation Honoring Jason Chan, Health and Human Services Department, Social Services Division, as Employee of the Month for September 2018 – Sponsored by Mayor Ethan K. Strimling.

APPOINTMENTS:

CONSENT ITEMS:

LICENSES:

BUDGET ITEMS:

COMMUNICATIONS:

RESOLUTIONS:

**Resolve 1-18/19
(Tab 7)**

Resolution Opposing Federal Preemption of Local Pesticide Ordinances – Co-Sponsored by Councilor Spencer Thibodeau, Councilor Nicholas M. Mavodones, Jr., Councilor Jill C. Duson, Councilor Justin Costa, Councilor Belinda Ray, Councilor Pious Ali, and Mayor Ethan K. Strimling.

The United States House of Representatives and the United States Senate have passed farm bills with differing language and are reconciling them in a conference committee. Language in the House version of the bill contains language that would restrict the ability of local jurisdictions to pass regulations on pesticides that are stricter than Federal rules. This resolution expresses opposition to preemption of local ordinances and authorizes the Mayor and Chair of the Sustainability and Transportation Committee to send a letter to the Chairs and ranking members of the Reconciliation Committee, as well as the Maine Legislative Delegation.

Five affirmative votes are required for passage after public comment.

UNFINISHED BUSINESS:

**Order 67-18/19
(Tab 8)**

Amendment to Portland City Code Chapter 6 Re: Short Term Rentals – Sponsored by the Housing Committee, Councilor Jill C. Duson, Chair.

The Housing Committee met on July 31, 2018 and voted unanimously (2-0, Cook absent) to forward this item to the City Council with a recommendation for passage.

Chapter 6, Article VI of the City Code governs the registration of both long term and short term rentals, and § 6-151(a)(1) requires that rental units must be registered and renewed annually.

The ordinance imposes a cap on mainland, non-owner occupied short term rental units, limiting the number of registered units in the City to 300. Section 6-154 describes the allocation of registrations for non-owner

occupied mainland short-term rental units as on a “first come, first registered basis,” but also provides that “The City Manager or his or her designee may institute a lottery process at his or her discretion.”

The proposed amendment to § 6-154 adds an “automatic right to renew” for registered mainland, non-owner occupied short term rental units that renew prior to January 1. It also clarifies that the lottery process will only be used to choose applicants off a waitlist once the 300 cap is met. If an existing registration is not renewed by January 1, the applicant would forfeit his or her automatic right to renew. However, registration would still be available if the 300 cap had not been met or if the application was chosen off the waitlist.

If the non-owner occupied mainland short-term rental unit registrations are not automatically renewed, there is the possibility, as the short-term rental industry grows, that valid registered units may not receive renewal under the current first-come, first-registered process or under the lottery process. This change gives owners certainty about their ability to continue operating, so long as they renew in a timely fashion.

This item must be read on two separate days. It was given a first reading on September 5, 2018. Five affirmative votes are required for passage after public comment.

**Order 68-18/19
(Tab 9)**

Amendment to Zoning Map, B-6 Building Height Overlay and Building Envelopes Map Re: 100 Fore Street – Sponsored by the Planning Board, Sean Dundon, Chair.

The Planning Board met on August 14, 2018 and voted 5-0 (Austin Smith absent, Lisa Whited recused) to forward this item to the City Council with a recommendation for passage.

The applicant, 100 Fore Street LLC, has applied for a zoning map amendment to allow for building heights up to 55 feet in order to support a mixed-use site containing structured parking wrapped by office and retail uses. On August 14, 2018, the Planning Board voted to recommend a zoning map amendment to the *B-6 Building Height Overlay & Building Envelopes* map (Height Overlay), changing maximum heights for 100 Fore Street, as well as additional changes for clarity and in response to changed conditions in the area since the Overlay has been implemented. Changes proposed to the Height Overlay include the following, limited to the building envelope where 100 Fore Street is located: a proposal to allow building heights of 45 feet with extensions to 55 feet; height to be measured from average grade rather than from the floodplain; height limits of 35’ for a depth of 40’ near Fore Street (currently 35’ for a depth of 100’); change to the remainder of the single parcel with the floodplain measurement requirement to 45ft maximum height from average grade.

Changes that impact the full Height Overlay include: removal of the westernmost building envelope, which is now superseded by the India Street Form Based Code; no-build areas replaced with view protection splays and street extension areas; and reduction of a 65 ft. maximum height building envelope with 35 ft. maximum height.

This item must be read on two separate days. It was given a first reading on September 5, 2018. Five affirmative votes are required for passage after public comment.

**Order 69-18/19
(Tab 10)**

Amendment to the Portland City Code Chapter 17 Re: Moratorium on Medical Marijuana Retail Stores, Medical Marijuana Testing Facilities, and Medical Marijuana Manufacturing Facilities - Sponsored by Jon P. Jennings, City Manager.

This agenda item proposes a temporary moratorium on new marijuana caregiver retail stores, manufacturing facilities, and testing facilities to give the City time to implement zoning, licensing, and other regulatory ordinances to minimize any potential adverse impacts from their operation in the City. This moratorium will not impact legally existing caregiver operations in the City.

This item must be read on two separate days. It was given a first reading on September 5, 2018. Five affirmative votes are required for passage after public comment.

ORDERS:

AMENDMENTS:

6:00 P.M. PUBLIC COMMENT PERIOD ON NON-AGENDA ITEMS:

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER THIBODEAU (2)
BRIAN E. BATSON (3)
JUSTIN COSTA (4)

KIMBERLY COOK (5)
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AMENDMENTS:

6:00 P.M. PUBLIC COMMENT PERIOD ON NON-AGENDA ITEMS:

IN COUNCIL A REGULAR MEETING SEPTEMBER 5, 2018 VOL.134 PAGE 21

ROLL CALL: Mayor Strimling called the meeting to order at 5:30 P.M. (Councilor Ali absent, Councilor arrived during announcements and Councilor Batson arrived after proclamations).

ANNOUNCEMENTS: Councilor Ray announced that there will be a Community Forum on the Homeless Shelter on September 8, 2018 from 11:00 AM to 1:00 P.M.at Hannaford Hall at the University of Southern Maine.

RECOGNITIONS:

APPROVAL OF MINUTES OF PREVIOUS MEETING:

Motion was made by Councilor Ray and seconded by Councilor Duson to approve the minutes of August 13, 2018 4:00 P.M. Special City Council Meeting and August 13, 2018 6:00 P.M. Regular City Council Meeting. Passage 7-0.

PROCLAMATIONS:

Proc 6-18/19 Proclamation Honoring Officer Zachery Grass as Officer of the Month for July 2018 – Sponsored by Mayor Ethan K. Strimling.

APPOINTMENTS:

Order 55-18/19 Order Appointing Constables for 2018 Re: Department of Public Safety - Sponsored by Jon P. Jennings, City Manager.

Motion was made by Councilor Ray and seconded by Councilor Batson for passage. Passage 8-0.

CONSENT ITEMS

Order 56-18/19 Order Approving Transfer of Funds Under 15 M.R.S. §§5824(3) and 5826(6) Re: Vincent Teruel– Sponsored by Jon P. Jennings, City Manager.

Order 57-18/19 Order Approving Transfer of Funds Under 15 M.R.S. §§5824(3) and 5826(6) Re: Dwayne Sanborn– Sponsored by Jon P. Jennings, City Manager.

Motion was made by Councilor Costa and seconded by Councilor Ray for passage. Passage 8-0.

LICENSES:

Order 58-18/19 Order Granting Municipal Officers' Approval of The Public Works, LLC dba The Public Works. Application for a Class III & IV FSE with Entertainment with Dance and Outdoor Dining on Private Property at 52 Alder Street – Sponsored by Michael Russell, Director of Permitting and Inspections Department.

Motion was made by Councilor Batson and seconded by Councilor Mavodones for passage. Passage 8-0.

Order 59-18/19 Order Granting Municipal Officers' Approval of Portland Donuts, Inc. dba Dunkin Donuts. Application for a Food Service Establishment with Preparation at 325 St. John Street for 24-Hour Service – Sponsored by Michael Russell, Director of Permitting and Inspections Department.

Motion was made by Councilor Ray and seconded by Councilor Batson for passage. Passage 8-0.

Order 60-18/19 Order Granting Definitive Brewing Company LLC dba dba Definitive Brewing Company. Application for Entertainment with Dance at 35 Industrial Way.

Motion was made by Councilor Batson and seconded by Councilor Costa for passage. Passage 8-0.

BUDGET ITEMS:

COMMUNICATIONS:

Com 3-18/19 Communication Re: Selection of Architectural/Engineering Firm for Lyseth School – Sponsored by Councilor Justin Costa.

RESOLUTIONS:

UNFINISHED BUSINESS:

Mayor Strimling took order 26, 52, 53 and 66 out of order.

Order 27-18/19 Order Appropriating Home Investment Partnership Program Funds in the Amount of \$580,174 to the Portland Housing Development Corporation Re: Front Street – Sponsored by the Housing Committee, Councilor Jill C. Duson, Chair.

It was given a first reading on July 16, 2018. At the August 13, 2018 Council meeting this item was postponed to this meeting.

Motion was made by Councilor Duson and seconded by Councilor Costa to amend Order 27 by reducing the amount Appropriating Home Investment Partnership Program Funds from \$580,174 to \$510,174. Passage 8-0.

Motion was made by Councilor Duson and seconded by Councilor Cook for passage as amended. Passage 8-0.

Order 52-18/19 Order Approving the Allocation and Appropriation of \$300,000 from the Housing Trust Fund Re: Avesta Housing Development Corporation 977 Brighton Avenue Apartments – Sponsored by the Housing Committee, Councilor Jill C. Duson, Chair.

It was given a first reading on August 13, 2018.

Motion was made by Councilor Duson and seconded by Councilor Batson for passage. Passage 8-0.

Order 53-18/19 Order Approving the Allocation and Appropriation of \$925,000 from the Housing Trust Fund Re: Portland Housing Development Corporation Front Street – Sponsored by the Housing Committee, Councilor Jill Duson, Chair.

It was given a first reading on August 13, 2018.

Motion was made by Councilor Cook and seconded by Councilor Batson for passage. Passage 8-0.

Order 66-18/19 Order Appropriating Home Investment Partnerships Program Funds in the Amount of \$370,000 to Maine Workforce Housing Re: 178 Kennebec Street – Sponsored by Councilor Jill C. Duson.

Motion was made by Councilor Thibodeau and seconded by Councilor Duson to waive the second reading. Passage 8-0.

Motion was made by Councilor Duson and seconded by Councilor Ray for passage. Passage 7-1 (Cook).

Order 26-18/19 Order Appropriating Home Investment Partnerships Program Funds in the Amount of \$300,000 to the Avesta Housing Development Corporation Re: 977 Brighton Avenue Apartments - Sponsored by the Housing Committee, Jill C. Duson, Chair.

It was given a first reading on July 16, 2018. At the August 13, 2018 Council meeting this item was postponed to this meeting.

Motion was made by Councilor Duson and seconded by Councilor Thibodeau to postpone Order 26 indefinitely. Passage 8-0.

Order 50-18/19 Order Approving Collective the Bargaining Agreement with the Firefighters Local 740, International Association of Firefighters – Sponsored by Jon P. Jennings, City Manager.

It was given a first reading on August 13, 2018

Motion was made by Councilor Batson and seconded by Councilor Ray for passage. Passage 7-0 (Mavodones out).

Order 51-18/19 Order Approving a Three-Party Partnership Agreement between the City of Portland, Maine Department of Transportation, and Portland Area Comprehensive Transportation System Re: Brighton Avenue (Route 25) Multi-Modal Project – Sponsored by Jon P. Jennings, City Manager.

It was given a first reading on August 13, 2018.

Motion was made by Councilor Ray and seconded by Councilor Costa for passage. Passage 7-0 (Batson out).

Order 54-18/19 Amendment to Portland City Code Re: Housekeeping Amendments in Chapters 2 and 30 – Sponsored by Jon P. Jennings, City Manager.

It was given a first reading on August 13, 2018.

Motion was made by Councilor Ray and seconded by Councilor Thibodeau for passage. Passage 8-0.

ORDERS:

Order 61-18/19 Order of Discontinuance of a Public Way along a Portion of Portland Pier – Sponsored by the Economic Development Committee, Councilor Justin Costa, Chair.

Motion was made by Councilor Costa and seconded by Councilor Thibodeau for passage. Passage 8-0

Order 62-18/19 Order Authorizing Purchase and Sale Agreement with Stephen Robbins for Property in Oat Nuts Park and Placing that Land in the Portland Land Bank – Sponsored by the Landbank Commission, Patrizia Bailey, Chair.

Motion was made by Councilor Batson and seconded by Councilor Thibodeau for passage. Passage 8-0.

Order 63-18/19 Order Approving Purchase and Sale Agreement with Robert Cott for Property in Redlon Area and Placing that Land in the Portland Land Bank – Sponsored by the Land Bank Commission – Patrizia Bailey, Chair.

Motion was made by Councilor Batson and seconded by Councilor Ray for passage. Passage 8-0.

Order 64-18/19 Order Accepting Ice Pond Drive as a City Way – Sponsored by Jon P. Jennings, City Manager.

Motion was made by Councilor Batson and seconded by Councilor Thibodeau for passage. Passage 8-0.

Order 65-18/19 Order Accepting and Appropriating the Federal Emergency Management Agency Grant of \$681,819.00 for a New Fire Truck – Sponsored by Jon P. Jennings, City Manager.

Motion was made by Councilor Costa and seconded by Councilor Mavodones to waive the second reading. Passage 8-0.

Motion was made by Councilor Costa and seconded by Councilor Thibodeau for passage as an emergency. Passage 8-0.

AMENDMENTS:

Order 67-18/19 Amendment to Portland City Code Chapter 6 Re: Short Terms Rentals – Sponsored by the Housing Committee, Councilor Jill C. Duson, Chair.

This is its first reading.

Order 68-18/19 Amendment to Zoning Map, B-6 Building Height Overlay and Building Envelopes Map Re: 100 Fore Street – Sponsored by the Planning Board, Sean Dundon, Chair.

This is its first reading.

Order 69-18/19 Amendment to the Portland City Code Chapter 17 Re: Moratorium on Medical Marijuana Retail Stores, Medical Marijuana Testing Facilities, and Medical Marijuana Manufacturing Facilities - Sponsored by Jon P. Jennings, City Manager.

This is its first reading.

Motion was made by Councilor Ray and seconded by Councilor Costa to adjourn. Passage 8-0, 8:05 P.M.

A TRUE COPY.

Katherine L. Jones, City Clerk

*Dec 7-18/19
Tab 2 9-17-18*

PROCLAMATION

HONORING

Linda Aldrich

As

PORTLAND'S POET LAUREATE

WHEREAS, The city of Portland has a long, rich history of excellence in the art of poetry, dating from the days of Henry Wadsworth Longfellow, to the national success of Portland's 1995 slam poetry team, to the national renown of the locally published Cafe Review and its inclusion in Best American Poetry 1999, to the many published and award-winning poets who call this place their home; and

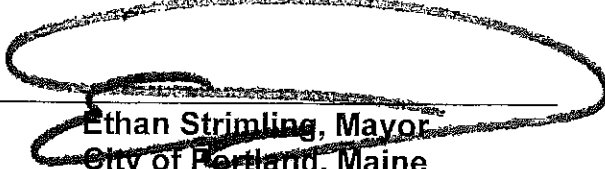
WHEREAS, Portland continues to be a place where poetry is written, recited, and appreciated by citizens of all ages and backgrounds at numerous weekly poetry readings and in the pages of both locally and internationally published journals; and

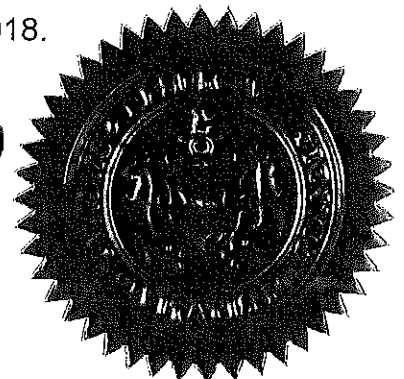
WHEREAS, the Portland Public Library, has entered into a partnership with the Portland Poet Laureate Program, which was established in 2007 and celebrates Portland's diverse poetry culture and which spreads the art of poetry among the people of Portland through public readings, publications, and educational activities; and

WHEREAS, Portland poet Linda Aldrich has been chosen by her peers to serve as Portland's sixth Poet Laureate for a two or three year term, in recognition of her long-term and ongoing contributions to the poetry community via her own poetry, publishing, teaching, and promotion of fellow poets and writers

NOW, THEREFORE, BE IT RESOLVED, THAT I, **Ethan Strimling, Mayor** of the City of Portland, Maine, and the members of the Portland City Council do hereby proclaim and honor Linda Aldrich as Portland, Maine's sixth Poet Laureate.

Signed and sealed this 17th day of September, 2018.


Ethan Strimling, Mayor
City of Portland, Maine



Doc 8- 18/19
Tab 3 9-17-18

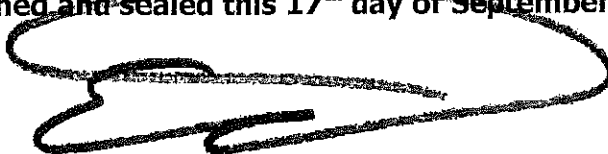
PROCLAMATION

Childhood Cancer Awareness Month

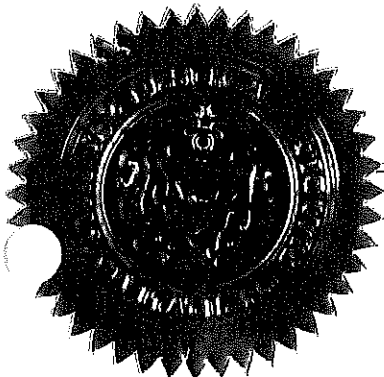
- WHEREAS,** Cancer is the leading cause of death by disease among U.S. Children and is detected in more than 15,000 of our country's sons and daughters every year; and
- WHEREAS,** In the State of Maine cancer affects more than 50 new children and families annually, where more than 400 children are undergoing treatment currently and where we are ranked in the top range of incidence of all cancers at 468.3 per 100,000 people; and
- WHEREAS,** September is nationally recognized as Childhood Cancer Awareness Month; and
- WHEREAS,** Thanks to ongoing advances in research and treatment, the five year survival rate for all childhood cancers has climbed from less than 50 percent to 80 percent over the last several decades; and
- WHEREAS,** Innovative studies are leading to real breakthroughs reminding us of the importance of supporting scientific discovery and moving closer to finding cures, though much work remains to be done; and
- WHEREAS,** One in five children diagnosed will not survive. During National Childhood Cancer Awareness Month, we remember the many children who have been taken from us too soon and we extend our support to all those who continue to battle this illness with incredible strength and courage.

NOW, THEREFORE, BE IT RESOLVED, THAT I, Ethan Strimling, Mayor of the City of Portland and members of the City Council do hereby proclaim **the month of September** as **Childhood Cancer Awareness Month** in the City of Portland.

Signed and sealed this 17th day of September, 2018



Mayor Ethan Strimling
City of Portland, Maine



PROCLAMATION

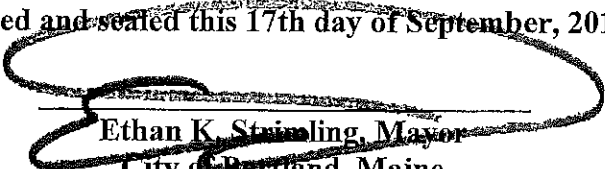
*Proc 9-18/19
Tab 4 9-17-18*

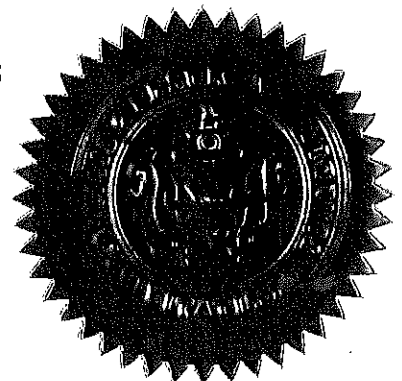
RECOGNIZING The 75TH ANNIVERSARY OF THE PORTLAND HOUSING AUTHORITY

- WHEREAS:** The Portland Housing Authority was established 75 years ago on September 20, 1943 by vote of the Portland City Council pursuant to Maine law. The resolution stated, "there exists and impends an acute shortage of housing in the City of Portland, Maine for persons engaged in and to be engaged in the war industries and activities." This led to the development of Sagamore Village built to provide housing for workers building the Liberty Ships in South Portland; and
- WHEREAS:** Following World War II, in June 1950, after much debate, the Portland City Council voted to accept the plan to take over ownership of Sagamore Village to be operated for as housing for low income Portland residents, making Sagamore Village the City's first Public Housing neighborhood; and
- WHEREAS,** Since that first development, the Portland Housing Authority has gone on to develop and manage over 1,000 apartments in Portland, including Kennedy Park, Riverton Park, Franklin Towers, Harbor Terrace and Washington Gardens, to name a few; and
- WHEREAS,** The Portland Housing Authority also administers over 1,900 HUD rental housing vouchers for lower income families and individuals throughout greater Portland, working with over 600 private landlords on this critically needed assistance; and
- WHEREAS,** Resident services are a critical part of the Agency's mission, the Portland Housing Authority provides a wide range of youth and adult programming that improve the quality of life and provide a greater opportunity for success and self-sufficiency; and
- WHEREAS,** Since 1943, the Portland Housing Authority has assisted thousands of families and individuals with affordable housing, including the elderly and persons with disabilities, with great skill and compassion, providing them with the stability and comfort everyone needs;

NOW, THEREFORE, BE IT RESOLVED, THAT I Ethan K. Strimling, Mayor of the City of Portland and members of the City Council, do hereby recognize and honor all that Portland Housing Authority has accomplished, and congratulate them on 75 years of important service to our community.

Signed and sealed this 17th day of September, 2018


Ethan K. Strimling, Mayor
City of Portland, Maine



*Proc 10 - 18/19
Tab .5. 9-17-18*

PROCLAMATION

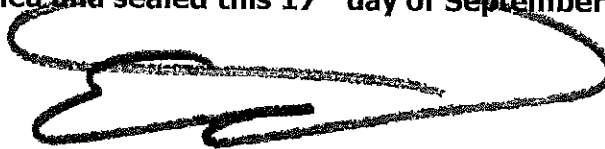
HONORING THE PORTLAND COMMUNITY FREE CLINIC

September 17th, 2018

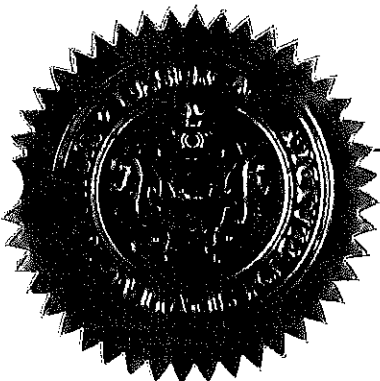
- WHEREAS,** The health and well-being of our citizens is of primary concern for the City of Portland; and
- WHEREAS,** The Portland Community Free Clinic is committed to making healthcare accessible and low barrier to all; and
- WHEREAS,** The Portland Community Free Clinic provides healthcare at no cost to uninsured adults; and
- WHEREAS,** The Portland Community Free Clinic works collaboratively with healthcare providers and local hospitals in the community; and
- WHEREAS,** All care at the Portland Community Free Clinic is provided by volunteer physicians, nurse practitioners, nurses, and receptionists; and
- WHEREAS,** The Portland Community Free Clinic is celebrating its 25th Anniversary in 2018; and
- WHEREAS,** In this 25th anniversary year, the Portland Community Free Clinic is celebrating five years of success of the Friends of the Portland Community Free Clinic.

NOW, THEREFORE, BE IT RESOLVED, THAT I, Ethan Strimling, Mayor of the City of Portland and members of the City Council do hereby proclaim **September 17, 2018** as **Portland Community Free Clinic Day** in the City of Portland.

Signed and sealed this 17th day of September, 2018



Mayor Ethan Strimling
City of Portland, Maine



Doc 11-18/19
Tab 6 9-17-18

PROCLAMATION

Honoring

Jason Chan
Employee of the Month

August 2018

WHEREAS: **Jason Chan** of the Health & Human Services Department, Social Services Division, has been named the City of Portland Employee of the Month by a committee of his peers and selected for this distinct honor from a workforce of over 1,300; and

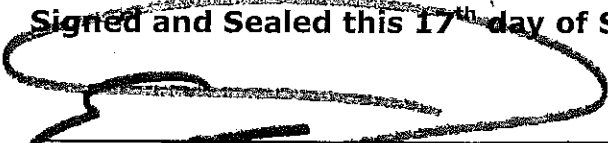
WHEREAS: This award is presented in recognition of **Jason's** work as a Shelter Attendant with five years of service. **Jason** has proven himself to be an example of what a "go to guy" is. **Jason** is able to assist in numerous ways; and

WHEREAS: **Jason** goes beyond the expectations of his job by helping with small repairs for the building (plumbing issues, changing lights bulbs). **Jason** is exceptional in his interaction with the guests at the shelter, whether it is handling a crisis or just having a simple conversation about what might be bothering them that day; and

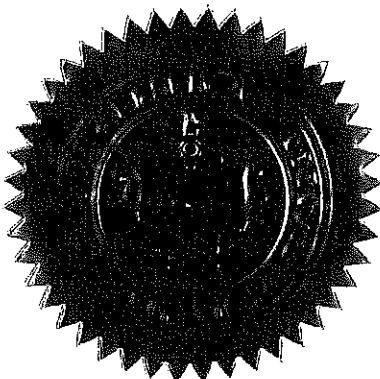
WHEREAS: **Jason** is a leader for the shelter attendants. **Jason** helps train new staff and is there to back up his co-workers during stressful situations. **Jason** has a great relationship with the local Police Department, which is shown when they come to the shelter for a situation and ask for his help first. **Jason** has been recognized for his outstanding work receiving the Employee of the Year award for the Oxford Street Shelter last September.

NOW, THEREFORE, BE IT RESOLVED, THAT I, Ethan K. Strimling, Mayor of the City of Portland, Maine, and the members of the Portland City Council do hereby proclaim honor and recognition to **Jason Chan** as **City Employee of the Month, August 2018**.

Signed and Sealed this 17th day of September, 2018



Ethan K. Strimling, Mayor
City of Portland, Maine



Resolve 1-18/19
Tab 7 9-17-18

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
BRIAN E. BATSON (3)
JUSTIN COSTA (4)

**CITY OF PORTLAND
IN THE CITY COUNCIL**

KIMBERLY COOK (5)
JILL C. DUSON (A/L)
PIOUS ALI (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

**RESOLUTION OPPOSING FEDERAL PREEMPTION OF LOCAL PESTICIDE
ORDINANCES**

WHEREAS, the Portland City Council takes seriously its obligation to protect the health and welfare of City residents and visitors; and

WHEREAS, the City of Portland wishes to protect the quality of Casco Bay and other waterways that support the economic vitality of local fisheries and the working waterfront; and

WHEREAS, water testing has identified toxic pesticides in Portland's coastal waters; and

WHEREAS, the City of Portland wishes to promote land care practices that promote the development of healthy soils to minimize the need to apply pesticides to control unwanted pests; and

WHEREAS, on January 3, 2018, the Portland City Council passed the City of Portland Pesticide Use Ordinance in order to protect the public and the environment from harm that can be caused by the use of some pesticides; and

WHEREAS, municipal governments are well positioned to respond quickly to threats that may exist in their community; and

WHEREAS, more than 150 local governments across the United States have adopted local ordinances to restrict the use of certain pesticides in response to growing evidence they can harm human health and the local environment;

WHEREAS, the Farm Bill passed by the United States House of Representatives (H.R. 2) contains language that would limit the ability of local governments to protect their communities from potentially harmful pesticides by tailoring regulations to fit local environmental conditions;

NOW, THEREFORE, BE IT RESOLVED, that the Portland City Council and Mayor hereby oppose the language in the Farm Bill as passed by the United States House of Representatives (H.R. 2) that would prevent local governments from implementing pesticide ordinances that are more strict than Federal rules; and

BE IT FURTHER RESOLVED that the Portland City Council authorize the Mayor and the Chair of the City Council Sustainability and Transportation Committee to sign the letter attached hereto on behalf of the Council and to send copies to the Maine Congressional Delegation as well as the Chair and Ranking Members of the United States Congressional Conference Committee.

MEMORANDUM
City Council Agenda Item

DISTRIBUTE TO: City Manager, Mayor, Anita LaChance, Sonia Bean, Danielle West-Chuhta, Nancy English, Julianne Sullivan

FROM: Troy Moon, Sustainability Coordinator

DATE: 9/7/2018

SUBJECT: Resolution Opposing Federal Preemption of Local Pesticide Ordinances

SPONSOR: Councilor Thibodeau

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st reading _____ Final Action X

Can action be taken at a later date: Yes X No (If no why not?)

The House and Senate Conference Committee is beginning deliberations. If the Council does not take up the resolution now it will no longer be timely.

PRESENTATION: (List the presenter(s), type and length of presentation)

I. ONE SENTENCE SUMMARY

The resolution expresses the City Council's opposition to language in the House version of the Farm Bill (H.R. 2) and urges the Conference Committee not to include this provision in the final bill.

II. AGENDA DESCRIPTION

The US House of Representatives and the US Senate have passed farm bills with differing language and are reconciling them in a conference committee. Language in the House version of the bill contains language that would restrict the ability of local jurisdictions to pass regulations on pesticides that are stricter than Federal rules. This resolution expresses opposition to preemption of local ordinances and authorizes the Mayor and the Chair of the Sustainability and Transportation Committee to send a letter to the Chairs and ranking members of the Reconciliation Committee as well as the Maine legislative delegation.

III. BACKGROUND

The City Council enacted the City of Portland Pesticide Use Ordinance in January 2018 that restricts the use of synthetic pesticides on public and private property. Language in the House version of the Farm Bill (H.R. 2) would preempt this ordinance by preventing local governments

from enacting regulations on pesticides that are stricter than Federal regulations. The Senate version of the Farm Bill does not include this language. The resolution urges the Conference Committee not to include the preemption language in the final bill.

IV. INTENDED RESULT AND OR COUNCIL GOAL ADDRESSED

The resolution opposes inclusion of language in the Federal Farm Bill that would preempt the pesticide ordinance adopted in January 2018.

V. FINANCIAL IMPACT

None

VI. STAFF ANALYSIS AND BACKGROUND THAT WILL NOT APPEAR IN THE AGENDA DESCRIPTION

VII. RECOMMENDATION

Recommend passage

VIII. LIST ATTACHMENTS

1. Resolution opposing Federal preemption of local pesticide ordinances
2. Draft letter to the Chairs and Ranking Members of the House/Senate Conference Committee

Prepared by: Troy Moon

Date: 9/7/2018

September 5, 2018

The Honorable Pat Roberts
Chairman
109 Hart Senate Office Building
Washington, DC 20510

The Honorable Debbie Stabenow
Ranking Member
731 Hart Senate Office Building
Washington, DC 20510

The Honorable K. Michael Conaway
Chairman
1301 Longworth House Office Building
Washington, DC 20510

The Honorable Collin C. Peterson
Ranking Member
1010 Longworth House Office Building
Washington, DC 20510

Dear Chairman Roberts, Ranking Members Stabenow, Chairman Conaway, and Ranking Member Peterson,

On behalf of the undersigned cities, counties and local governments, we write to oppose a provision in the House Farm bill that would preempt local pesticide protections. As House and Senate conferees negotiate a final agreement, we urge you to reject this provision.

While we may have differing views on pesticides, we take very seriously our duty to protect our constituents. Section 9101 of the House measure is a direct assault on this authority. This provision prohibits local governments from adopting pesticide laws that are more protective than federal rules. It overturns decades of precedent and Supreme Court rulings and could prevent local governments from tailoring laws to the specific needs of the community. To date, over 150 communities across the country have passed policies to restrict the use of pesticides in response to emerging evidence about potential human and environment impacts. The exact concerns differ by pesticide, but include links to cancer, developmental challenges, lower IQ, and delayed motor development. Many of these laws work to protect the most vulnerable among us, such as children, who take in more pesticides relative to their body weight than adults and have developing organ systems. Others focus on the safeguarding precious water resources, or the protection of wildlife like declining pollinator species critical to our environment and food supply.

Local governments have responded to the scientific evidence, their residents' concerns, and their area's unique ecological conditions through prudent measures to reduce exposure to hazardous pesticides.

This includes actions such as creating a list of approved or prohibited pesticides, restricting toxic pesticide use around parks and playgrounds, negotiating commodity contracts and service agreements that prevent suppliers from offering products that contain pesticides harmful to pollinators, and keeping habitat along rights-of-way and other areas of management property free of pesticides harmful to pollinators. In states that have passed preemption laws, local governments must bend over backwards to pass local legislation that fits our community's needs. These restrictions keep us from doing our job as policymakers. We urge you not to strengthen these already-harmful laws.

While not every city has taken these actions, we strongly support our right to do so and oppose forfeiting this right for the indefinite future. In fact, Section 9101 undermines the key role that local governments play across the country. As local officials, we are highly attuned to the needs of our constituents and adept at calibrating our protections accordingly. Local governments are also nimbler than their state or federal counterparts and can quickly respond to emerging health hazards when federal protections may take years to achieve. Finally, we are concerned that Section 9101 will set a precedent to upend local autonomy on other important issues.

We urge you to oppose the pesticide preemption provision in the House Farm Bill to protect public health and the environment and reach agreement on a final 2018 Farm Bill that does not include this provision.

Sincerely,

Ethan Strimling
Mayor

Spencer Thibodeau
Chair, Sustainability and Transportation Committee

September 5, 2018

The Honorable Pat Roberts
Chairman
109 Hart Senate Office Building
Washington, DC 20510

The Honorable Debbie Stabenow
Ranking Member
731 Hart Senate Office Building
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We urge you to oppose the pesticide preemption provision in the House Farm Bill to protect public health and the environment and reach agreement on a final 2018 Farm Bill that does not include this provision.

Sincerely,

Ethan Strimling
Mayor

Spencer Thibodeau
Chair, Sustainability and Transportation Committee

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
BRIAN E. BATSON (3)
JUSTIN COSTA (4)

**CITY OF PORTLAND
IN THE CITY COUNCIL**

KIMBERLY COOK (5)
JILL C. DUSON (A/L)
PIOUS ALI (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

Order 67-18/19
Tab 23-95-18
Tab 8 9-11-18

**AMENDMENT TO PORTLAND CITY CODE
CHAPTER 6
Re: SHORT TERM RENTALS**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PORTLAND,
MAINE IN CITY COUNCIL ASSEMBLED AS FOLLOWS:**

1. That Chapter 6, Article VI., Section 6-154 of the Portland City Code is hereby amended to read as follows:

Sec. 6-154. Allocation of Short Term Rentals.

~~The limitations on the allocation of~~ Non-owner occupied mainland short term rental ~~units identified in registrations,~~ which are limited by section 6-153(b), shall be allocated ~~each year~~ on a first come, first registered basis. Once the total number of units identified in section 6-153(b) has been reached, a waitlist will be formed to help gauge market demand. The City Manager or his or her designee, may institute a lottery process at his or her discretion, to allocate any registration that becomes available after the formation of the waitlist.

Valid non-owner occupied mainland registrations may be automatically renewed each year upon application and payment of the registration fee, so long as the renewal is complete by January 1 of that year. Failure to renew by January 1 shall result in the forfeiture of the automatic right to renew the registration of a unit, and re-registration shall be available only if the limitations in 6-153(b) have not been reached, or if the applicant is chosen off of the waitlist.

MEMORANDUM
City Council Agenda Item

DISTRIBUTE TO: Jon Jennings, Ethan Strimling, Michael Sauschuck, Sonia Bean, Nancy English, Danielle West-Chuhta, Deivy Periana

FROM: Planning and Urban Development and Housing and Community Development

DATE: August 17, 2018

SUBJECT: Amendment to Chapter 6 section 6-154, Allocation of Short Term Rentals

SPONSOR: Housing Committee, Councilor Jill Duson, Chair

The Housing Committee met on July 31, 2018 and voted unanimously (2-0, Cook absent) to forward this item to the City Council with a recommendation for passage.

COUNCIL MEETING DATE ACTION IS REQUESTED:
1st reading September 5, 2018 Final Action September 17, 2018

Can action be taken at a later date: X Yes ___ No (If no why not?)

PRESENTATION: Staff will be available for presentation

I. ONE SENTENCE SUMMARY

The Housing Committee voted to recommend changes to clarify the ordinances with respect to the renewal of non-owner occupied, mainland short term rental units, which are subject to the 300 unit city-wide cap, to ensure an automatic renewal process and clarify that the lottery process is only available if there is a waitlist for registrations.

II. AGENDA DESCRIPTION

Chapter 6, Article VI of the City Code governs the registration of both long term and short term rentals, and § 6-151(a)(1) requires that rental units must be registered and renewed annually. The ordinance imposes a cap on mainland, non-owner occupied short term rental units, limiting the number of registered units in the City to 300. Section 6-154 describes the allocation of registrations for non-owner occupied mainland short-term rental units as on a “first come, first registered basis,” but also provides that “The City Manager or his or her designee may institute a lottery process at his or her discretion.”

The proposed amendment to § 6-154 adds an “automatic right to renew” for registered mainland, non-owner occupied short term rental units that renew prior to January 1. It also clarifies that the lottery process will only be used to choose applicants off a waitlist once the 300 cap is met. If an existing registration is not renewed by January 1, the applicant would forfeit his or her automatic right to renew. However, registration would still be available if the 300 cap had not been met or if the application was chosen off the waitlist.

If the non-owner occupied mainland short-term rental unit registrations are not automatically renewed, there is the possibility, as the short-term rental industry grows, that valid registered units may not receive renewal under the current first-come, first-registered process or under the lottery process. This change gives owners certainty about their ability to continue operating, so long as they renew in a timely fashion.

III. BACKGROUND

Housing Committee Chair Duson introduced this amendment to the Housing Committee on July 31, to add an “automatic right to renew” for registered mainland, non-owner occupied short term rental units that renew prior to January 1, and to clarify that the lottery process is only available if there is a waitlist for registrations.

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

The intended result is to amend the existing ordinance to ensure an automatic renewal process for non-owner occupied mainland short-term rental units.

V. FINANCIAL IMPACT

Not applicable

VI. STAFF ANALYSIS AND BACKGROUND THAT WILL NOT APPEAR IN THE AGENDA DESCRIPTION

VII. RECOMMENDATION

On July 31, 2018 the Housing Committee voted unanimously (2-0, Cook absent) to forward this item to the City Council with a recommendation for passage.

VIII. LIST ATTACHMENTS

Red lined version of current and proposed changes to Chapter 6, Article VI, section 6-154

PLEASE REMEMBER THAT BACKUP ITEMS HAVE TO BE SINGLE SIDED.

Prepared by: Victoria Volent

Date: August 17, 2018

Current Ordinance; Section 6-154

Sec. 6-154. Allocation of Short Term Rentals.

The limitations on the allocation of short term rental units identified in section 6-153(b) shall be allocated each year on a first come, first registered basis. Once the total number of units identified in section 6-153(b) has been reached, a waitlist will be formed to help gauge market demand. The City Manager or his or her designee may institute a lottery process at his or her discretion.

Proposed Amendment to Section 6-154

~~The limitations on the allocation of~~Non-owner occupied mainland short term rental units registrations, which are limited identified in~~by~~ section 6-153(b), shall be allocated each year on a first come, first registered basis. Once the total number of units identified in section 6-153(b) has been reached, a waitlist will be formed to help gauge market demand. The City Manager or his or her designee may institute a lottery process at his or her discretion to allocate any registration that becomes available after the formation of the waitlist.

Valid non-owner occupied mainland registrations may be automatically renewed each year upon application and payment of the registration fee, so long as the renewal is complete by January 1 of that year. Failure to renew by January 1 shall result in the forfeiture of the automatic right to renew the registration of a unit, and re-registration shall only be available if the limitations in 6-153 (b) have not been reached, or if the applicant is chosen off of the waitlist.

*Order 68-18/19
Tab 24-9-5-18
Tab 9 9-17-18*

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
BRIAN E. BATSON (3)
JUSTIN COSTA (4)

**CITY OF PORTLAND
IN THE CITY COUNCIL**

KIMBERLY COOK (5)
JILL C. DUSON (A/L)
PIOUS ALI (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

**AMENDMENT TO ZONING MAP,
B-6 BUILDING HEIGHT OVERLAY AND BUILDING ENVELOPES MAP
RE: 100 FORE STREET**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PORTLAND, MAINE
IN CITY COUNCIL ASSEMBLED AS FOLLOWS:**

That the B-6 Building Height Overlay and Building Envelopes Map of the Zoning Map of the City of Portland, dated December 2000, as amended and on file in the Department of Planning and Urban Development, and incorporated by reference into the Zoning Ordinance by §14-49, be and hereby is amended by adopting the following map change amendment and specifically rezoning property at 100 Fore Street to allow building heights of up to fifty-five (55) feet and other revisions, as shown in the attached.

B-6 Building Height Overlay & Building Envelopes

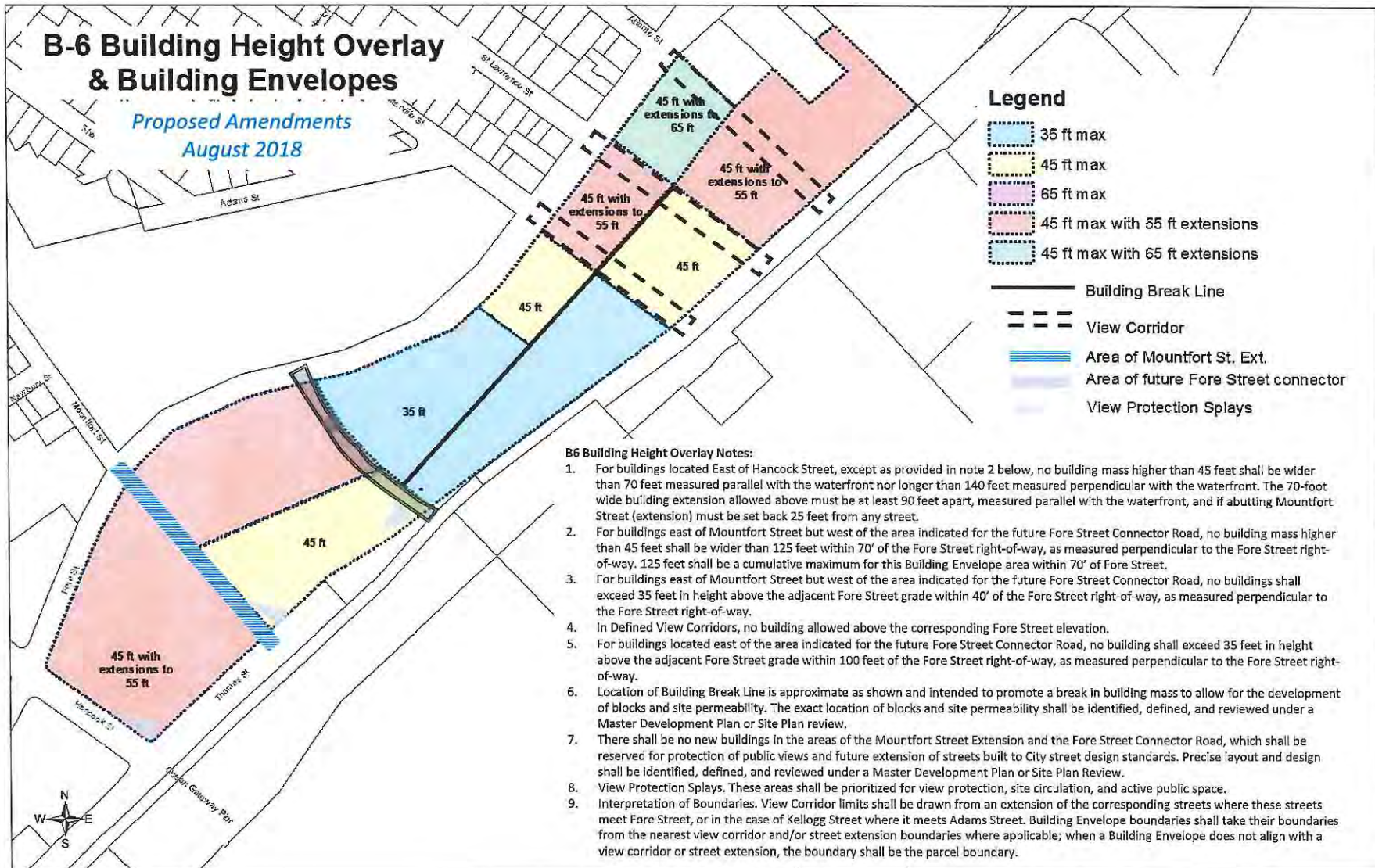
Proposed Amendments
August 2018

Legend

- 35 ft max
- 45 ft max
- 65 ft max
- 45 ft max with 55 ft extensions
- 45 ft max with 65 ft extensions
- Building Break Line
- View Corridor
- Area of Mountfort St. Ext.
- Area of future Fore Street connector
- View Protection Splays

B6 Building Height Overlay Notes:

1. For buildings located East of Hancock Street, except as provided in note 2 below, 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. For buildings east of Mountfort Street but west of the area indicated for the future Fore Street Connector Road, no building mass higher than 45 feet shall be wider than 125 feet within 70' of the Fore Street right-of-way, as measured perpendicular to the Fore Street right-of-way. 125 feet shall be a cumulative maximum for this Building Envelope area within 70' of Fore Street.
3. For buildings east of Mountfort Street but west of the area indicated for the future Fore Street Connector Road, no buildings shall exceed 35 feet in height above the adjacent Fore Street grade within 40' of the Fore Street right-of-way, as measured perpendicular to the Fore Street right-of-way.
4. In Defined View Corridors, no building allowed above the corresponding Fore Street elevation.
5. For buildings located east of the area indicated for the future Fore Street Connector Road, no building shall exceed 35 feet in height above the adjacent Fore Street grade within 100 feet of the Fore Street right-of-way, as measured perpendicular to the Fore Street right-of-way.
6. Location of Building Break Line is approximate as shown and intended to promote a break in building mass to allow for the development of blocks and site permeability. The exact location of blocks and site permeability shall be identified, defined, and reviewed under a Master Development Plan or Site Plan review.
7. There shall be no new buildings in the areas of the Mountfort Street Extension and the Fore Street Connector Road, which shall be reserved for protection of public views and future extension of streets built to City street design standards. Precise layout and design shall be identified, defined, and reviewed under a Master Development Plan or Site Plan Review.
8. View Protection Splays. These areas shall be prioritized for view protection, site circulation, and active public space.
9. Interpretation of Boundaries. View Corridor limits shall be drawn from an extension of the corresponding streets where these streets meet Fore Street, or in the case of Kellogg Street where it meets Adams Street. Building Envelope boundaries shall take their boundaries from the nearest view corridor and/or street extension boundaries where applicable; when a Building Envelope does not align with a view corridor or street extension, the boundary shall be the parcel boundary.



MEMORANDUM
City Council Agenda Item

DISTRIBUTE TO: City Manager, Mayor, Sonia Bean, Nancy English, Danielle West-Chuhta, Deivy Periana, Michael Sauschuck

FROM: Jeff Levine, Director, Planning and Urban Development Department

DATE: August 17, 2018

SUBJECT: Application for zoning map amendment at 100 Fore Street

SPONSOR: Sean Dundon, Chair, Planning Board

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st reading 9/5/2018 **Final Action** 9/17/2018

Can action be taken at a later date: ____ Yes ____ **X** No (If no why not?) Public Notices will have been mailed for the first reading and public hearing.

PRESENTATION: Sean Dundon, Planning Board Chairman, and/or Stuart O'Brien, City Planning Director, will make a five minute presentation and be available for questions.

I. ONE SENTENCE SUMMARY

On August 14, 2018, the Planning Board voted to recommend a zoning map amendment to the *B-6 Building Height Overlay & Building Envelopes* map for changes maximum heights for 100 Fore Street, as well as additional changes for clarity and in response to changed conditions since the Overlay has been implemented.

II. AGENDA DESCRIPTION

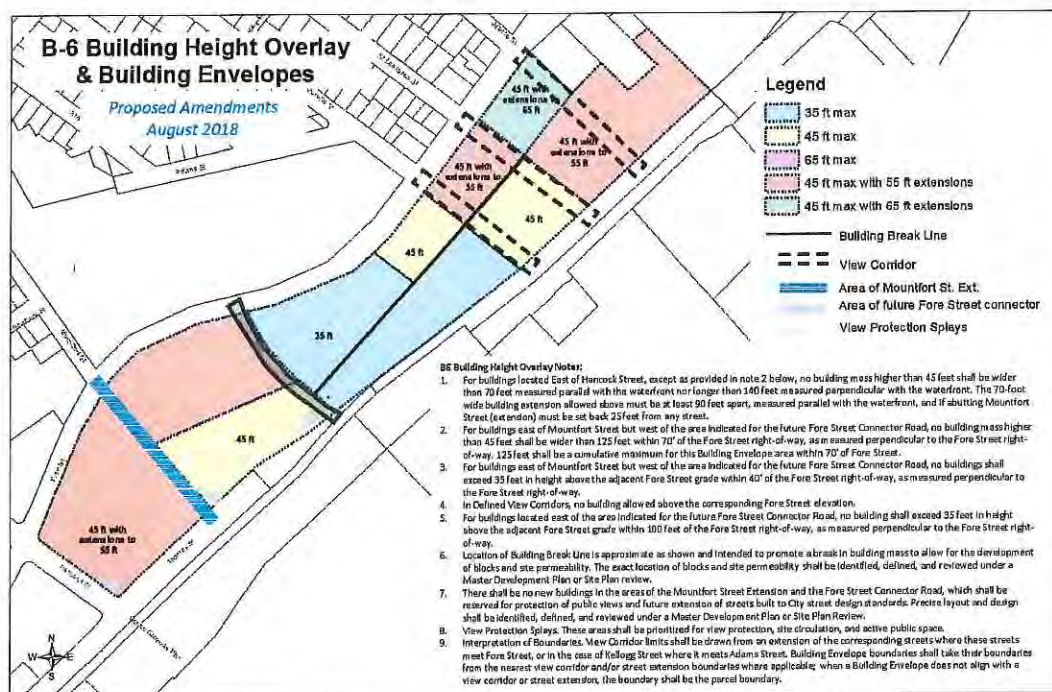
The applicant, 100 Fore Street LLC, has applied for a zoning map amendment to allow for building heights up to 55 feet in order to support a mixed-use site containing structured parking wrapped by office and retail uses. On August 14, 2018, the Planning Board voted to recommend a zoning map amendment to the *B-6 Building Height Overlay & Building Envelopes* map (Height Overlay), changing maximum heights for 100 Fore Street, as well as additional changes for clarity and in response to changed conditions in the area since the Overlay has been implemented. Changes proposed to the Height Overlay include the following, limited to the building envelope where 100 Fore Street is located: a proposal to allow building heights of 45 feet with extensions to 55 feet; height to be measured from average grade rather than from the floodplain; height limits of 35' for a depth of 40' near Fore Street (currently 35' for a depth of 100'); change to the remainder of the single parcel with the floodplain measurement requirement to 45ft maximum height from average grade. Changes that impact the full Height Overlay include: removal of the westernmost building envelope, which is now superseded by the India Street Form Based Code; no-build areas replaced with view protection splays and street extension areas; and reduction of a 65 ft. maximum height building envelope with 35 ft. maximum height.

III. BACKGROUND

The Height Overlay emerged from the Height Study component of the *Eastern Waterfront Masterplan*. The *Eastern Waterfront Masterplan* contains recommended uses, design principles, heights, and goals for the area, many of which have been implemented in the approximately 15 years since the study was

adopted. It was originally implemented in 2004 to include land in the B-6 zone east of India Street to the western edge of the Portland Company site, and in 2015 was extended eastward to include the Portland Company site. The Height Overlay regulates heights in multiple ways: it includes Building Envelopes with base heights and height extensions that range from 35-65 feet; since 2015 an additional measure has been in place limiting buildings to 35 feet within the first 100 horizontal feet of Fore Street from Mountfort Street eastward; within identified view corridors the height may not exceed the grade of Fore Street; currently, there are several areas within the Height Overlay, outside of the Building Envelopes, where no building is permitted; and on one of the Building Envelopes height must be measured from flood plain rather than from the standard measurement method of measuring height from average grade. The Eastern Waterfront Masterplan

The heights proposed in this Height Overlay amendment fall within those originally recommended for the area. The proposal also supports other City policy goals for the Eastern Waterfront, including: elimination of surface parking, provision of parking with mixed-use structures, active street frontages, and encouraging positive economic development. The Planning Board considered the broad policy goals and the proposed changes to the allowed heights when considering the application. It also evaluated the changes within the context of the Height Overlay, considering practical considerations for administering it (language to aid determination of boundaries, elimination of no-build areas, consistent measurement methods) and changing conditions (completion of Hancock Street extension, obsolescence of the 65 foot envelope where Thames Street is anticipated to enter the 58 Fore Street site, removal of western Building Envelope) while maintaining consistency with the early/mid 2000s vision for the Eastern Waterfront.



IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

The proposed zoning Height Overlay map change will enable a mixed-use parking, office and retail structure, will enable the elimination of surface parking, and will provide practical updates for the Height Overlay going forward.

V. FINANCIAL IMPACT

The map amendment will allow for the redevelopment of 100 Fore Street, which has the potential to generate positive economic development, contribute to a mixed-use neighborhood, and support the provision of new infrastructure in the Eastern Waterfront.

VII. RECOMMENDATION

On August 14, 2018, the Planning Board voted to recommend a zoning map amendment to the *B-6 Building Height Overlay & Building Envelopes* map, voting 5-0 in favor (Austin Smith absent, Lisa Whited recused) to the City Council. The motion reads: *On the basis of the material provided in this report for of Project # ZN-000114-2018, public testimony, a review of applicable policies, and other information, the Planning Board finds that the proposed amendments to the B6 Building Height Overlay & Building Envelopes map are consistent with the Comprehensive Plan and recommends adoption of the proposed amendment to the City Council.*

VIII. LIST ATTACHMENTS

1. Planning Board Report to City Council
2. Recommended amended B-6 Building Height Overlay & Building Envelopes map
3. Council Order

Prepared by: Christine Grimando

Date: August 20, 2018

CITY COUNCIL REPORT
from
PLANNING BOARD
PORTLAND, MAINE



100 Fore Street
Application for a map amendment at 100 Fore Street
100 Fore Street LLC

Submitted to: Portland City Council First Reading: September 5, 2018 Second Reading: September 17, 2018	Prepared by: Portland Planning Board Date: August 21, 2018 CBLs: 019 AO10001 Project #: ZN-000114-2018
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I. INTRODUCTION

On August 14, 2018, the Planning Board voted to recommend a zoning map amendment to the *B-6 Building Height Overlay & Building Envelopes* map to the City Council. 100 Fore Street LLC has applied for an amendment of the B6 Building Height Overlay & Building Overlays Map (Height Overlay) where it applies to 100 Fore Street. The property, in the Eastern Waterfront, fronts exclusively on Fore Street and is abutted by an extensive mix of uses, including residential, office, hotels, a brewery, and retail uses. The parcel is in the B-6 zone and abuts the IS-FBC and R-6 zones.

The application requested to amend the Height Overlay for the 100 Fore Street parcel, which currently allows a maximum of 45ft, except that maximum height is 35 feet within 100 feet horizontal distance from Fore Street, as measured from floodplain. The application requested heights of 45 and 55 feet, with an area limited to 35 feet within 40 feet horizontal distance of Fore Street, measured from average grade. Additional changes including in the Planning Board's recommendation include change to the remainder of the single parcel with the floodplain measurement requirement to 45ft maximum height from average grade; removal of the westernmost building envelope, which is now superseded by the India Street Form Based Code; no-build areas replaced with view protection splays and street extension areas; and reduction of a 65 ft. maximum height building envelope with 35 ft. maximum height.



Figures 1 & 2. Top Image, 100 Fore Street from Fore looking east. Bottom image, 100 Fore St. from Fore looking south.

The amendment is requested in order to support a mixed-use site containing structured parking wrapped by office and retail uses, with additional changes recommended for clarity and to reflect changing conditions in the area since implementation of the map o. If the amendment to the height overlay is approved, the subsequent application would be reviewed as a Level III site plan by the Planning Board.

Public notice of the public hearing will be posted to the City's webpage and appear in the Portland Press Herald on September 3rd and 10th. Notices will also be sent to 150 property owners within 500 feet of the site and to the interested citizen list.

II. PROPOSED MAP AMENDMENT

Current Zoning:	B-6 (Eastern Waterfront Mixed Zone)
Proposed Zoning:	B-6 (Eastern Waterfront Mixed Zone), with changes to the B6 Height Overlay from 45 feet to a combination of 45' and 55', a change in the distance from Fore Street heights cannot exceed 35', and a change to the height measurement method.
Current Uses:	Surface parking, single-story warehouse building occupied by a mix of uses, including marine supply, copy shop and other office and service uses.
Proposed Uses:	Parking garage with approximately 600 spaces, retail, and office space.
Parcel Area:	129,000 SF (approximate)
Area to be Rezoned:	Changes to the Height Overlay sought for portion of parcel on the Building Envelope east of Mountfort Street

Additional Height Overlay amendments (see VII, Discussion), including:

- Removal of the westernmost building envelope (now in IS-FBC).
- No-build areas replaced with view protection splays and street extension areas, final layout to be determined in the course of Site Plan or Master Development Plan Review. Street extension areas are preserved.
- Removal of a 65 ft. Building Envelope, since it is anticipated that the extension of Thames Street will cross through enough of this area to make it impractical. Replaced with a maximum of 35ft.
- Change to the remainder of the parcel with the floodplain measurement requirement to the height measurement taken from average grade.
- New notes 7, 8, and 9, including notes on measurements and interpretation.

III. CONTEXT

Currently the parcel is occupied by surface parking and a single-story warehouse building occupied by a mix of uses, including Hamilton Marine, Xpress Copy, and other office and service uses.

The property fronts Fore Street and sits perpendicular to Mountfort Street, bounded to the east by the Portland Company site, to the north by the residences of Munjoy South, and portions of the Shipyard Brewery and the Marriot Residence Inn properties, to the south offices and surface parking followed by the Eastern Promenade Trail and Ocean Gateway, and to the west the varied uses - office, hotel, retail, and residential - of the India Street neighborhood.



Figure 4. Aerial view, 100 Fore Street and surroundings

Zoning Context

The parcel is in the B-6 zone. Part of the Eastern Waterfront, the area is comprised of two zoning districts, the EWPZ and the B-6. The EWPZ is intended to foster marine passenger services and supporting infrastructure, such as piers and circulation areas and supporting services; recreational boating such as marinas; and a host of marine commercial uses such as storage, seafood processing, and ship repair. The B-6, encompassing 100 Fore Street, occupies the upland, mixed-use portion of the Eastern Waterfront, and has no marine-dedicated requirements, though it allows for supportive services, such as fuel storage and marine supply stores. The Eastern Waterfront includes the Ocean Gateway Marine Passenger Terminal; 58 Fore Street/Portland Company site, recently approved for a master development plan and the site of a new historic district; a marina; and a sail school. The area is the locus of significant planning initiatives, public investment, and private development. Examples of public initiatives to support the Eastern Waterfront and surrounding area include: a road and utility extension of Thames Street, new public open space and waterfront access in the location of the Amethyst Lot, and a study to improve transportation and circulation for the Commercial Street corridor. 100 Fore Street is also abutted by the R-6 and IS-FBC zones and is separated by one B-6 parcel from the Eastern Waterfront Port Zone (EWPZ). Several of the abutting properties are also in the Shoreland Zone and within Flood zones, though 100 Fore Street is not in either of these overlay zones.

All of the B-6 zone is subject to the Height Overlay (Figure 6, Attachment 1).

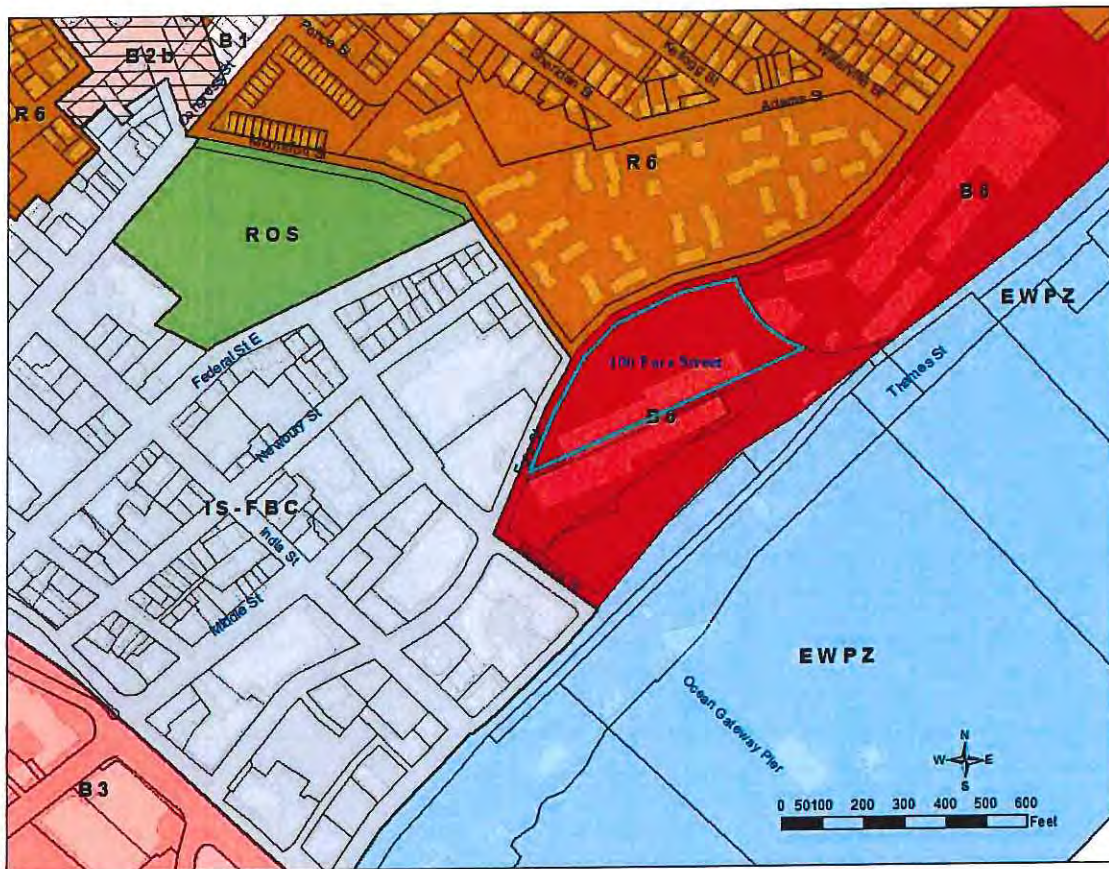


Figure 5, Zoning Context

IV. ZONING ANALYSIS

Purpose Statement

The B-6 was created to be a mixed-use upland zone that abuts and is compatible with a waterfront zone, though unlike the three primary waterfront zones (EWPZ, WCZ, WPDZ) is not required or expected to support marine-dependent or marine-related uses. The purpose of the B-6 Eastern Waterfront Mixed Zone (sec. 14-268) 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 urban vitality and shared use of parking infrastructure as recommended in the eastern waterfront master plan for redevelopment.* The purpose further states that the regulatory framework of the zone promotes a mixed-use development pattern envisioned for urban land on Portland's peninsula and that specific development criteria, including building height overlays and design standards, may be established for this district to supplement the provisions of this section.

B-6 Use Table

Reflecting its location as a zone that spans waterfront zones to one side and residential and mixed-use zones on the other, the B-6 zone allows a truly diverse range of uses such as galleries, brew pubs, hotels, biotechnology, multi-family residential buildings, fuel storage and carpentry shops. Parking as a principal use is permitted as a conditional use only, with conditions directed at not having the urban form of this area visually dominated by

either surface parking or single use parking structures. New surface parking is permitted so long as it is accompanied by time constraints, and won't prohibit future construction, and new structured parking is permitted so long as it includes retail or other uses along street frontages. The following table contains a summary of permitted and conditional uses for the B-6 zone (see Sec. 14- 269 & 14-270 for full text). The zone also includes a short list of specified prohibited uses (14-271), including ground-mounted telecommunication towers; waste, scrap, and/or byproduct storage and processing; auto service stations; drive-up facilities, except as permitted as a conditional use.

B-6 Permitted and Conditional Uses		
Permitted Uses	Commercial	Professional, business and general offices Restaurants and other eating and drinking establishments (restrictions on hours and location east of Waterville Street) 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 Telecommunication and broadcast and receiving facilities (height limits for roof-mounted) Brew pubs and microbreweries without associated bottling facilities; and brewpubs and microbreweries with associated bottling facilities up to 5,000 bottles per year 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. Underground marine fuel storage provided that fuel storage structures shall be used solely for the purpose of fueling vessels 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 Private Clubs or non-profit social and recreational facilities Educational Facilities Temporary events (with size and frequency limits) Museums and art galleries Wind energy systems
Conditional Uses	Commercial	Meeting and exhibition facilities up to 20,000 sf of interior floor area Wholesaling up to 15,000 sf, associated with a retail establishment Drive-up Banking, subject to conditions Research and development and related production facilities, including but not limited to biotechnology, with conditions.
	Parking	Surface parking, provided it includes lease limits and provisions to not inhibit future building, including structured parking Structured parking, provided it incorporates first floor retail or other mixed use along all street frontages.
	Energy	Temporary Wind Anemometer Towers

B-6 Dimensional Standards

The B-6 dimensional standards direct new development toward continuous strong building lines along street frontages, including maximum setbacks. Many of these standards are superseded by the Height Overlay. Below is a summary table of the dimensional requirements for the B-6 zone (see Sec. 14- 272 for full text):

B-6 Dimensional Requirements	
Min. Lot Size	None
Min. Street Frontage	None
Min. Front Yard Setback	None, except
Min. Rear Yard Setback	None
Min. Side Yard Setback	None
Max Setback from Street Line (not applicable to the easternmost envelope (not applicable to 58 Fore Street/Portland Co.))	10 feet, except: setback may be increased for lots fronting on more than one street if: the increase occurs at the intersection of two streets; the increased setback area is the primary pedestrian entrance to the building; 75% of the building wall facing the streets is setback a maximum of 10 ft, cumulative for all building wall segments; for new construction abutting three or more streets, the max. setback applies to the two most major streets; buildings in have no max. setback.
View Corridors & Street Walls within the B-6 Height Overlay (not applicable to 58 Fore Street/Portland Co.)	New Structures to build to key building envelopes, except: parking structures and public transportation facilities have no max. setback.
Min. Length of Building Wall Along Frontage (not applicable to 58 Fore Street/Portland Co.)	70% of street frontage or 25% of building perimeter, except that for buildings fronting two or more streets, min. building wall may be decreased so long as it is proportionately increased on other frontage for not less than 25 feet of building wall.
Max. Lot Coverage	100%
Max Building Height	65 ft or as indicated in the B-6 Height Overlay
Min. Building Height (not applicable to 58 Fore Street/Portland Co.)	3 floors of habitable space above average adjacent grade within 25 ft of a public street for new construction, except for: kiosks and ticketing booths; parking attendant booths; parking garages; public transportation facilities; additions on buildings in existence as of 2004, up to 25% of total footprint; buildings or additions <2,000 sf; buildings on lots or available building sites <2,000 sf; utility substations; additions on historic structures.

B-6 Height Overlay

The Height Overlay emerged from recommendations of the Eastern Waterfront Height Study. Originally adopted in 2004 to include land in the B-6 zone east of India Street to the western edge of the Portland Company site, it was extended to include the Portland Company in 2015. The Height Overlay regulates heights in multiple ways: it includes Building Envelopes with base heights and height extensions that range from 35-65 feet; since 2015 an additional measure has been in place limiting buildings to 35 feet within the first 100 horizontal feet of Fore Street from Mountfort Street eastward; within identified view corridors the height may not exceed the grade of Fore Street; there are several areas within the height overlay, outside of the Building Envelopes, where no building is permitted; and, on one of the Building Envelopes height must be measured from flood plain rather than from the standard measurement method of measuring height from average grade. In addition to including these various height regulations, the Building Envelopes have associated setback and building placement language in the Land Use Code.

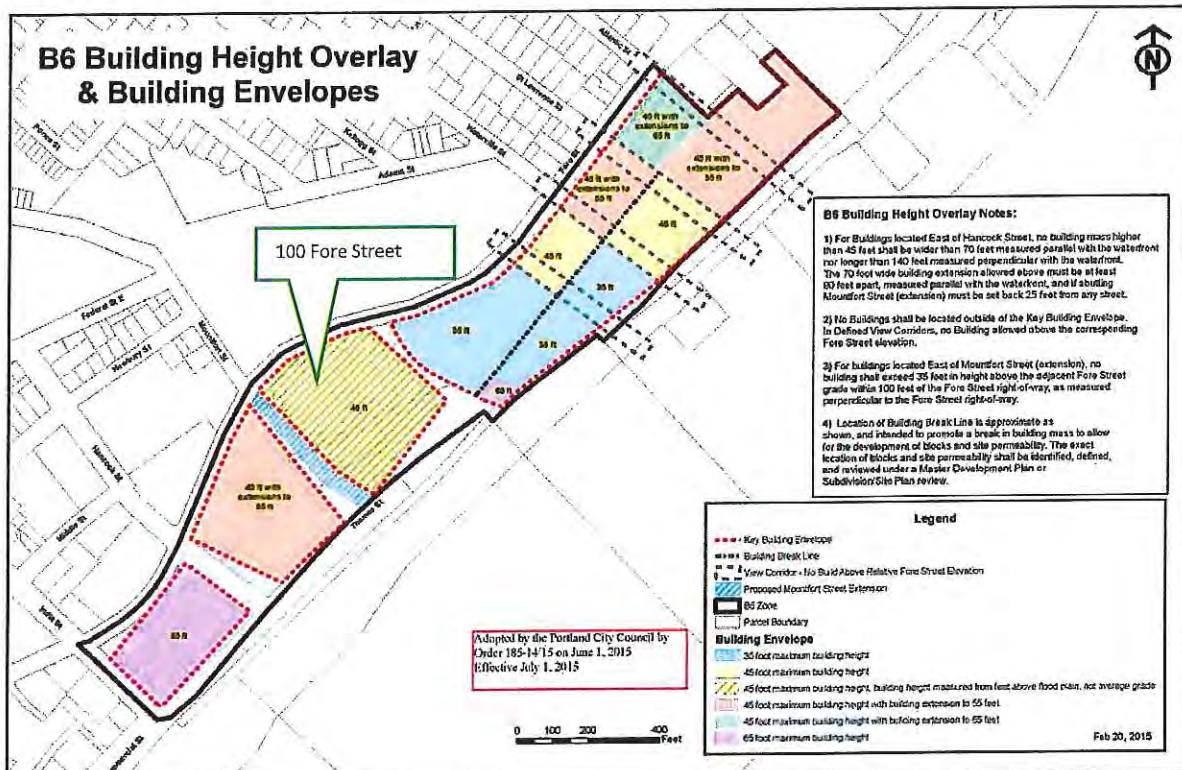


Figure 6, Current B-6 Height Overlay, with 100 Fore Street

V. POLICY ANALYSIS

The applicant has provided a detailed analysis (Attachment B) of the impact of the current Height Overlay on prospective build-out of the site. This document addresses the application's request in light of City policies, including the Comprehensive Plan and plans specific to the Eastern Waterfront. The applicant maintains that the development potential under current zoning in regard to allowed heights at 100 Fore Street does not promote a built form or mix of uses consistent with City policy for the Eastern Waterfront. The analysis includes cross sections of potential heights and masses on the site in relation to the surrounding streetscape, development patterns and grade changes, including illustrations of the site in relation to the residences at Munjoy South and more recent developments such as the new Wex building. The application addresses consistency with City policies through analysis of a Height Study for this area and of additional goals for the Eastern Waterfront, such as those for mixed use development, economic development, and parking that is not surface parking or single use structures.



Figure 7, Eastern, Central, Western Waterfronts

Policy background and elements of both Eastern Waterfront Masterplan documents and the Comprehensive Plan with relevance to this application follows.

The B-6 zone, though not a zone that directly abuts the waterfront, emerged out of the planning process for Portland's Eastern Waterfront. Thirty years of planning and policy have reinforced distinct policy directions for several subdistricts of the waterfront based on historic patterns, environmental conditions (such as water depths) and existing infrastructure. A 1992 *Waterfront Alliance Report* initially identified four areas which were later simplified into three subdistricts – the Eastern, Central, and Western Waterfronts – and which now have respective zoning districts and policy directions. Each of these areas has been revisited over the years to craft policy that helps them meet their intended purposes, and each may need to be revisited in the future to respond to changing conditions, but the overall intentions for them has not changed. Likewise, the overall use hierarchy of marine-dependent, marine-related, and marine-compatible uses in the City's waterfront zones remains in the requirements of each of the waterfront zones. *Portland's Plan 2030* also supports continuing to approach these three recognized waterfront areas through this policy framework in its

Waterfront Goals (p. 34, *Recognize and reinforce the respective roles of the Eastern, Central, and Western Waterfronts*), and in Future Land Use (p. 86), where it identifies this area as one of multiple priority areas, categorized as *Enhance*, so that the area can continue to build on past planning initiatives.

In the early 2000s a multi-year planning process resulted in *A Masterplan for Redevelopment of the Eastern Waterfront* (Eastern Waterfront Masterplan) comprised of three parts: the original masterplan document establishing goals and recommendations for the areas, *Design Guidelines for the Eastern Waterfront*, and the *Eastern Waterfront Building Height Study* (the full text of these combined documents is on the City's website here: <http://www.portlandmaine.gov/DocumentCenter/View/3391/Eastern-Waterfront--Master-Plan>). The Eastern Waterfront Masterplan is a central policy document for new development in this area. The study anticipates and encourages new development in the Eastern Waterfront, and emphasizes the importance of site permeability, quality design, traffic management, the retention of view corridors and sensitivity to surrounding neighborhoods as new and re-development unfolds. To date, many of the recommendations of the Eastern Waterfront Masterplan have been implemented in some form. A sample of significant initiatives in the vicinity of 100 Fore Street since adoption of the plan:

- Adoption of zoning, including the creation of the B-6 zone



Figure 8, Future Land Use

- Adoption of a B-6 Height Overlay map (2004), patterned on recommendations from the height study portion of the Eastern Waterfront Masterplan
- Rezoning of 58 Fore Street in 2015 to a combination of the EWPZ and the B-6, including an expansion of the B-6 Height Overlay
- Portions of the study area blended with the India Street neighborhood, eventually being included in the IS-FBC zone
- Hancock Street was extended
- Thames Street and associated utilities to be extended to the Portland Company site
- The construction of Ocean Gateway Marine Passenger Terminal
- The Amethyst Lot, a waterfront parking lot between the Portland Company site and Ocean Gateway, is slated to be redesigned into a new public open space
- Significant new developments in the immediate vicinity including the new Wex site, the AC Hotel, and anticipated new development at 58 Fore Street

100 Fore Street falls into what the Eastern Waterfront Masterplan identifies as the Central Redevelopment Area (pg. 6) and identifies the following development considerations (pg. 7):

- *Currently home to poorly organized public and private surface parking lots.*
- *New streets to be extended from existing street grid.*
- *Provides significant opportunity for large-scale development of both City controlled and private properties.*
- *Promote consolidation of surface parking into shared parking structures.*
- *Integrate new streets serving the marine passenger terminal with redevelopment of lands north of an extended Commercial Street.*

It also identifies a series of principles for redevelopment of the Eastern Waterfront (pgs. 15, 18), under the headings of Character and Impact of Development, Mixed Use, Maritime Resources, and Economically Responsible Development. Several of the statements associated with these principles have direct implications for this application and subsequent development of the property:

- *Development within the eastern waterfront will be compatible with the surrounding areas, neighborhoods, natural environment and maritime uses (Character and Impact of Development).*
- *Development within the eastern waterfront will create a vital and active mixed-use urban area that generates life and use every day of the year and all hours of the day (Mixed Use).*
- *Development in the eastern waterfront will provide a significant benefit to the City and regional economy. (Economically Responsible Development. Broad in scope, this principle includes priorities such as water-related tourism, positive economic return, multi-modal transportation opportunities).*

The Design Guidelines section of the Eastern Waterfront Masterplan focuses on building design for new proposals, but also public spaces, view corridors, building orientation, height, and parking. It calls for buildings to be placed at the sidewalk edge with primary entrances to the street, and for building heights to be compatible with surrounding development and neighborhoods. It states that *above-grade parking structures should include usable retail, commercial, and/or residential uses along street frontages to create a high quality urban environment* (pg. 6) and that *the areas devoted to surface parking and vehicle queuing should be minimized as much as possible and visual impact of such areas should be mitigated through buffering and landscaping. Land devote to surface parking lots should be reduced over time through redevelopment and construction of structured parking facilities* (pg. 12).

The creation of Design Guidelines was followed by a Height Study in 2004 which recommended heights of 3-6 stories in this area (and some inclusion of 7 stories outside of the current B-6 zone), and avoidance of monolithic building heights and designs. It concluded that heights could not be divorced from the alignment of roads and open spaces in the Eastern Waterfront, and included recommendations for each of these things. A graphic of height recommendations, Illustration 33, included the India Street neighborhood, the Portland Company site and several other parcels, including 100 Fore Street. Illustration 33 informed many of the elements in the current Height Overlay, though implementation has required variations from the study through neighborhood concerns, property owner needs, and public deliberation.

Current differences between the Height Study vision and initial implementation of zoning include:

- The inclusion of flood plain measurement for one of the key building envelopes
- Reduction of heights on the 100 Street Building Envelope from 4 and 5 stories to 45 ft
- Reductions to 35 ft for new construction within 100 ft. of Fore Street
- Reduction of heights on the Building Envelope occupied by Wex from 4 and 6 storeis ft to 45/55 ft
- No inclusion of the India Street neighborhood (with the exception of the western-most Building Envelope, now superseded by the IS-FBC).
- Changing of the no-build corridor running west to east through the Portland Co. site to a building break line, exact locations to be determined in the course of Planning Board review.
- Conversion of building stories to feet

Each of these variations from Illustration 33 resulted in zoning consistent with the overarching conclusions of the Height Study, including preservation of view corridors, promoting street extensions, and varying heights throughout the study area.

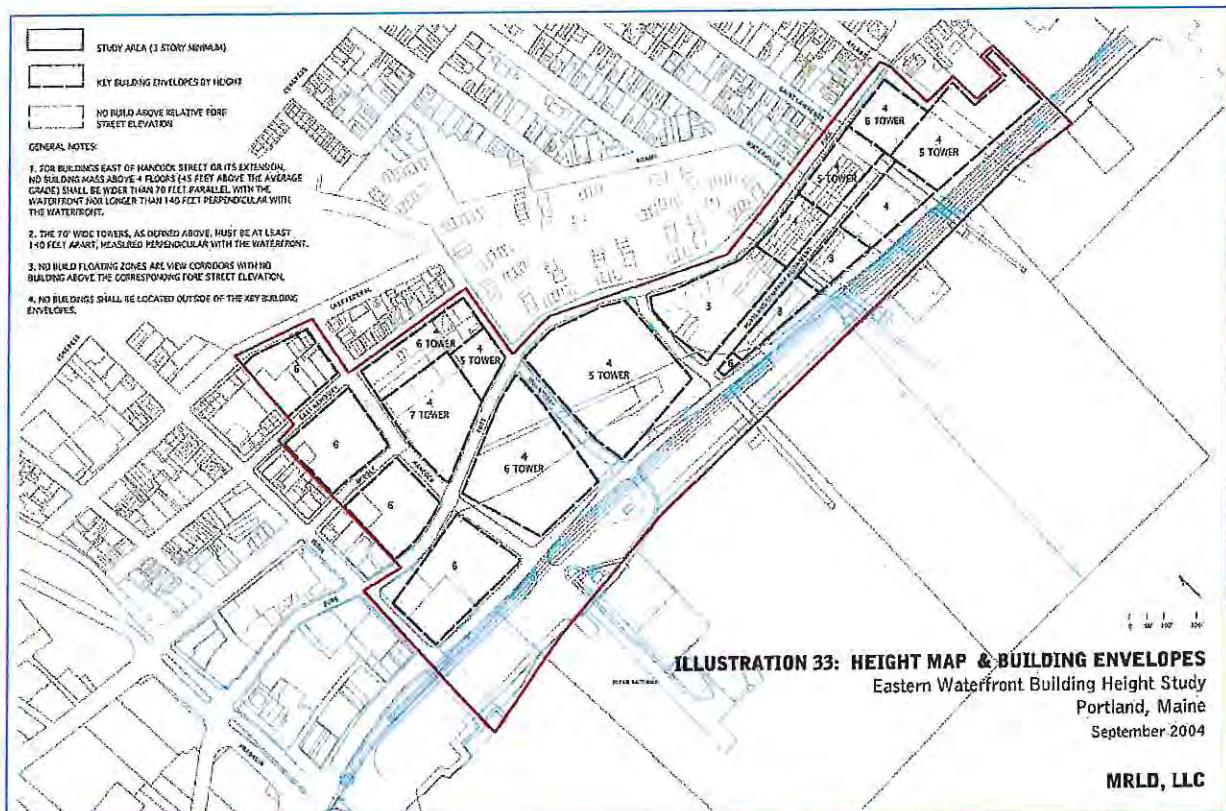


Figure 9, Illustration 33, Eastern Waterfront Height Study

The Eastern Waterfront Masterplan (the original masterplan, the design guidelines, and the height study), is a multi-faceted document. For the purposes of this application for a change to allowable heights, its pertinent elements have to do with the priorities of the height study as well as the additional recommendations of the Eastern Waterfront Masterplan such as fostering mixed-uses, multistory redevelopment, elimination of surface parking, provision of parking within a mixed-use structure, and maintaining view corridors and the potential for future street extensions.

The proposed heights for 100 Fore Street do not exceed the maximums envisioned in the Eastern Waterfront Masterplan, and the uses proposed to accompany those heights explicitly meet the stated goals of elimination of surface parking, structured and mixed-use parking when parking is proposed, and creation of a defined building edge at the street.

VI. PUBLIC COMMENT

Fifteen written comments were submitted to the Planning Board, in addition to the testimony given at the July 10th workshop and August 14th public hearing. Concerns and topics raised include:

- Traffic congestion and its potential for increased air pollution, climate change
- Traffic congestion as it will impact Portland's streets, including impact on Franklin Street, 295, Commercial Street, and the streets of Munjoy Hill
- Traffic congestion's negative impacts on the fishing industry in the Central Waterfront
- Parking impacts on the surrounding streets and on Munjoy Hill in particular
- Increased heights – concern with and/or objection to increased heights and the resulting change in views and visual character of the Eastern Waterfront

- Rising housing costs
- The need for open space
- Suggestions for alternative, sustainable approaches to off-set traffic and parking demand, such as: encouraging public transportation, required developer contributions to Metro Bus, shuttle service to the Eastern Waterfront and downtown areas, completion of a transportation Commercial Street study before any decision on the application
- Site Plan review – a request the map amendment be reviewed concurrently with the Site Plan review, out of a concern that the map amendment could result in a poor presence at street level, little pedestrian activity, negative historic district impacts (see below), and a lack of commodiousness for pedestrians at the entrances
- Historic preservation impacts, particularly in regard to Building 12, 58 Fore Street, which abuts 100 Fore Street

The neighborhood meeting was not attended by any abutters (Attachments E and F).

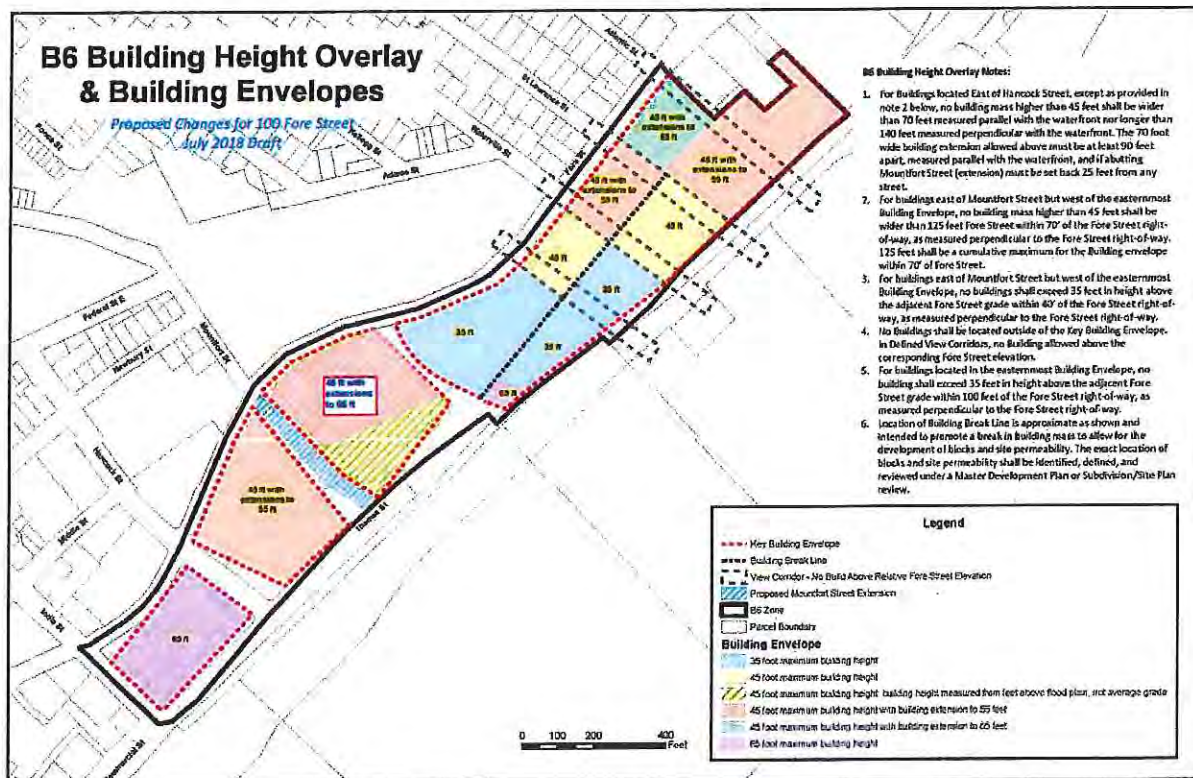


Figure 10, 100 Fore Street Map amendment with modifications to plan notes.

VII. DISCUSSION

100 Fore Street Overlay Edits

The applicant's modified map showing the portion of the Building Envelope for which the height increase was proposed isolated half the envelope area and included two new notes for the Height Overlay in addition to the four existing plan notes (Figure 3, Attachment D). This change necessitated edits to other plan notes for

consistency. Below are the changes to the Height Overlay notes in Figure 10 (applicant's language is underlined; staff changes include new text in blue and struck-through text):

- 1) For Buildings located East of Hancock Street, except as provided in note 2 below, 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) For buildings east of Mountfort Street but west of the easternmost Building Envelope, no building mass higher than 45 feet shall be wider than 125 feet measured parallel with Fore Street within 70' of the Fore Street right-of-way, as measured perpendicular to the Fore Street right-of-way. 125 feet shall be a cumulative maximum for the Building envelope within 70' of Fore Street.
- 3) For buildings east of Mountfort Street but west of the easternmost Building Envelope, no buildings shall exceed 35 feet in height above the adjacent Fore Street grade within 40' of the Fore Street right-of-way, as measured perpendicular to the Fore Street right-of-way.
- 2) 4) No Buildings shall be located outside of the Key Building Envelope. In Defined View Corridors, no Building allowed above the corresponding Fore Street elevation.
- 3) 5) For buildings located in the easternmost Building Envelope East of Mountfort Street (extension), no building shall exceed 35 feet in height above the adjacent Fore Street grade within 100 feet of the Fore Street right-of-way, as measured perpendicular to the Fore Street right-of-way.
- 4) 6) Location of Building Break Line is approximate as shown, and intended to promote a break in building mass to allow for the development of blocks and site permeability. The exact location of blocks and site permeability shall be identified, defined, and reviewed under a Master Development Plan or Subdivision/Site Plan review.

Complete Overlay Amendment

This application provided an opportunity to make additional changes to the Height Overlay to make it more practical to administer and up to date with changing conditions in the Eastern Waterfront since the Overlay was first implemented. The Height Overlay was originally patterned on visuals that were helpful in the context of the Eastern Waterfront Height Study but that are unwieldy to administer in the form of a zoning map. Many of the boundary lines in the map – view corridors, no-build zones, Building Envelopes, and breaks between height blocks - do not follow parcel or ROW lines and are consequently difficult to interpret. The creation of the IS-FBC means that the westernmost building envelope has now been superseded, but still exists in both the IS-FBC and the Height Overlay and should be removed from the latter. Changes that have occurred since the Height Study, such as the alignment of the Thames Street Extension and the future connection between Thames and Fore Street, have implications for the Building Envelopes and the white no-build areas - the final design of both the connection between Fore Street and the Thames Street Extension, as well as any future design of Mountfort Street Extension, will be determined by engineering requirements, access requirements and the challenges of the Eastern Waterfront's grade changes as well as the policy direction established by the Height Study. Lastly, the application for 100 Fore Street splits an existing Building Envelope, the remainder of which is City-owned land. The Board recommends the following changes in addition to the narrower changes of the application (Figure 11/Attachment 3):

- Removal of the westernmost building envelope (now in IS-FBC).

- No-build areas replaced with view protection splays and street extension areas, final layout to be determined in the course of Site Plan or Master Development Plan Review. Street extension areas are preserved.
- Removal of a 65 ft. Building Envelope, since it is anticipated that the extension of Thames Street will cross through enough of this area to make it impractical. Replaced with a maximum of 35ft.
- Change to the remainder of the parcel with the floodplain measurement requirement to measurement taken from average grade.
- New notes 7, 8, and 9, including notes on measurements and interpretation:
 - 7) *There shall be no new buildings in the areas of the Mountfort Street Extension and the Fore Street Connector Road, which shall be reserved for protection of public views and future extension of streets built to City street design standards. Precise layout and design shall be identified, defined, and reviewed under a Master Development Plan or Site Plan Review.*
 - 8) *View Protection Splays. These areas shall be prioritized for view protection, site circulation, and active public space.*
 - 9) *Interpretation of Boundaries. View Corridor limits shall be drawn from an extension of the corresponding streets where these streets meet Fore Street, or in the case of Kellogg Street where it meets Adams Street. Building Envelope boundaries shall take their boundaries from the nearest view corridor and/or street extension boundaries where applicable; when a Building Envelope does not align with a view corridor or street extension, the boundary shall be the parcel boundary.*

Mountfort Street Extension

The no-build area on included in the area of Mountfort Street shows a retaining wall and plantings to support the conceptual site plan (Plan 2). Though no new buildings are proposed here, and there would be fewer obstructions in this corridor than under existing conditions, any future site plan for this application will need to include insure that no new development precludes a future street extension.

Connector Road

The conceptual site plan (Plan 2) included with this application shows a cul-de-sac off Fore Street in the vicinity of one of the current site entrances. This depiction of a cul-de-sac on this conceptual site plan should be eliminated and the entrance extended to integrate with the design for the Thames Street extension in any future submission, and should address the interface of this parcel with circulation for the Portland Company site. Depiction of the connector road on the conceptual site plan is not an indication of support for this configuration in any future design.

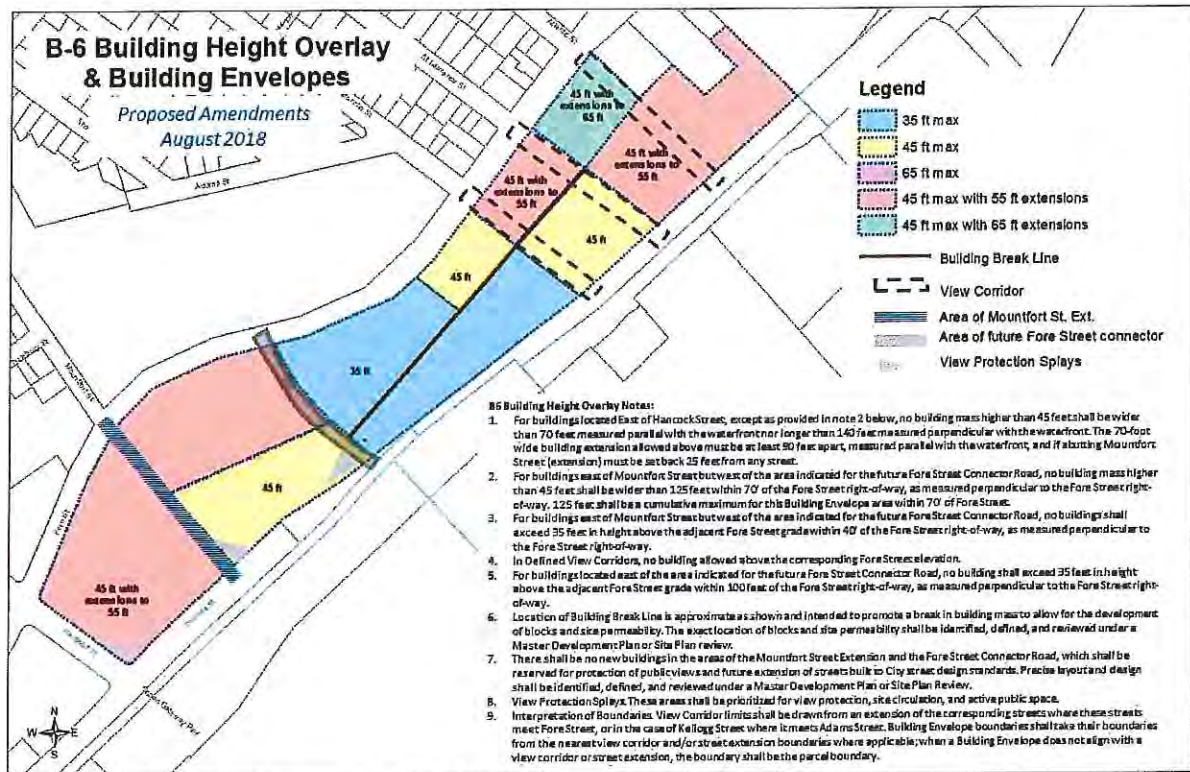


Figure 11, B-6 Height Overlay with proposed additional changes

VIII. BOARD DELIBERATION AND RECOMMENDATION

As is customary for zoning amendment applications, the Planning Board considered whether broader changes beyond the application for 100 Fore Street amendment would make for a more holistic amendment. Consideration of the amendment requested for 100 Fore Street presented an opportunity to make additional changes to the B-6 Height Overlay that remain consistent with the Eastern Waterfront Masterplan and the Comprehensive Plan, but result in a more internally consistent and practical to administer document. In regard to concerns raised in public comments, there was agreement among members that many of the issues raised were topics that would be addressed in the course of a site plan review. Ultimately, the Planning Board found that the proposed amendment was consistent with the City's Comprehensive Plan and City plans, specifically the Eastern Waterfront Masterplan, and voted (5-0 in favor, Austin Smith absent, Lisa Whited recused) as follows:

On the basis of the material provided in this report for of Project # ZN-000114-2018, public testimony, a review of applicable policies, and other information, the Planning Board finds that the proposed amendments to the B-6 Building Height Overlay & Building Envelopes map consistent with the Comprehensive Plan and recommends adoption of the proposed amendment to the City Council.

IX. ATTACHMENTS

1. Adopted B-6 Building Height Overlay
2. B-6 Building Height Overlay w/ 100 Fore Street proposed changes
3. B-6 Building Height Overlay w/full changes (Planning Board recommended)

Applicant's Submittal

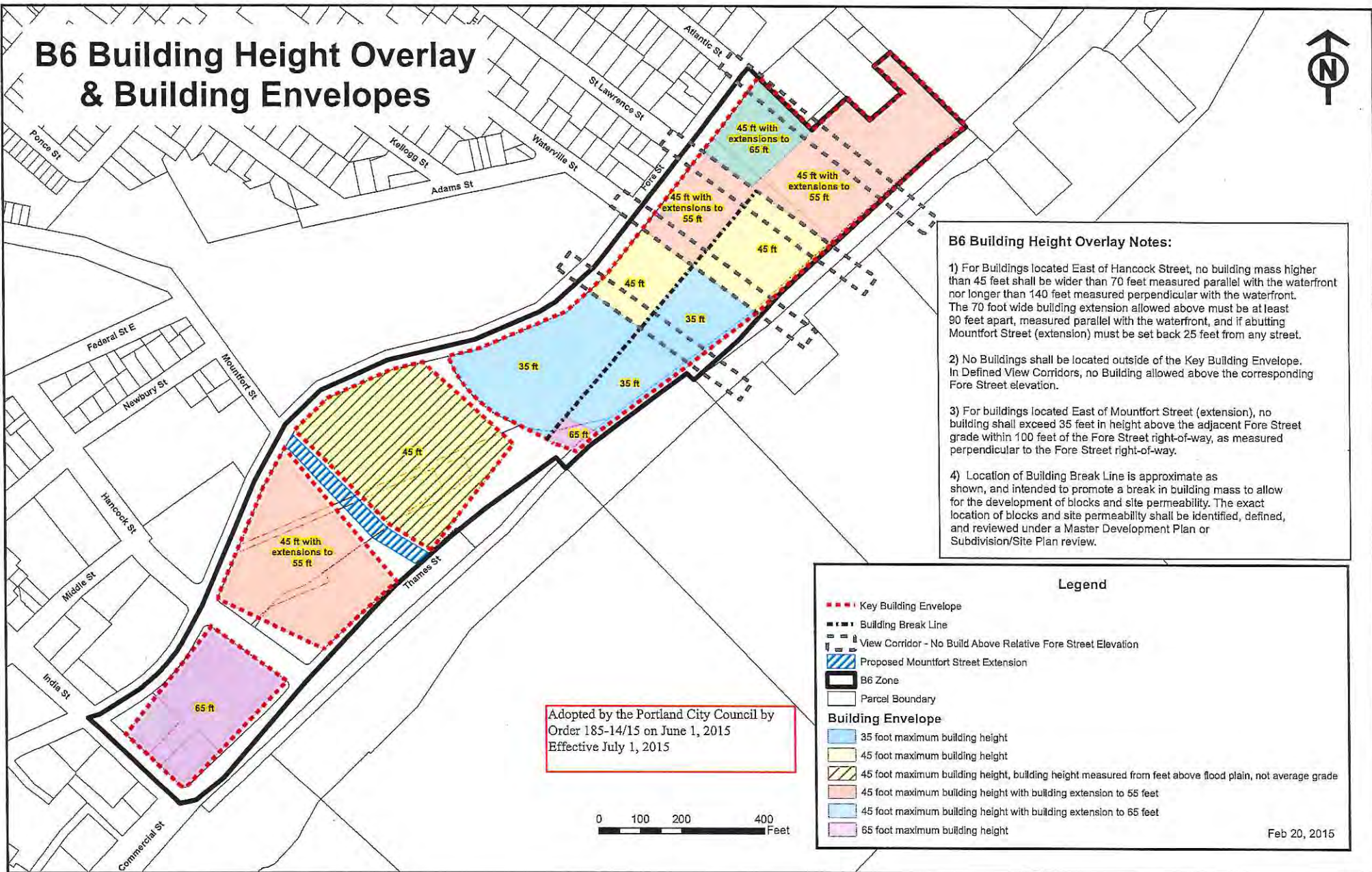
- A. Zoning Request Summary

- B. 100 Fore Street Policy Narrative
- C. Quitclaim Deed
- D. Proposed B-6 Height Overlay Amendments
- E. Neighborhood Meeting Notice
- F. Neighborhood Meeting Certification
- Plan 1. Existing Conditions Plan
- Plan 2. 100 Fore Street Concept Plan
- Plan 3. Contextual Massing
- Plan 4. Massing under current zoning w/maximum sf
- Plan 5. Massing under proposed zoning w/ maximum sf
- Plan 6. Massing with office overlay w/anticipated maximum sf
- Plan 7. Site lines w/setbacks
- Plan 8. Massing looking up For Street

Public Comment

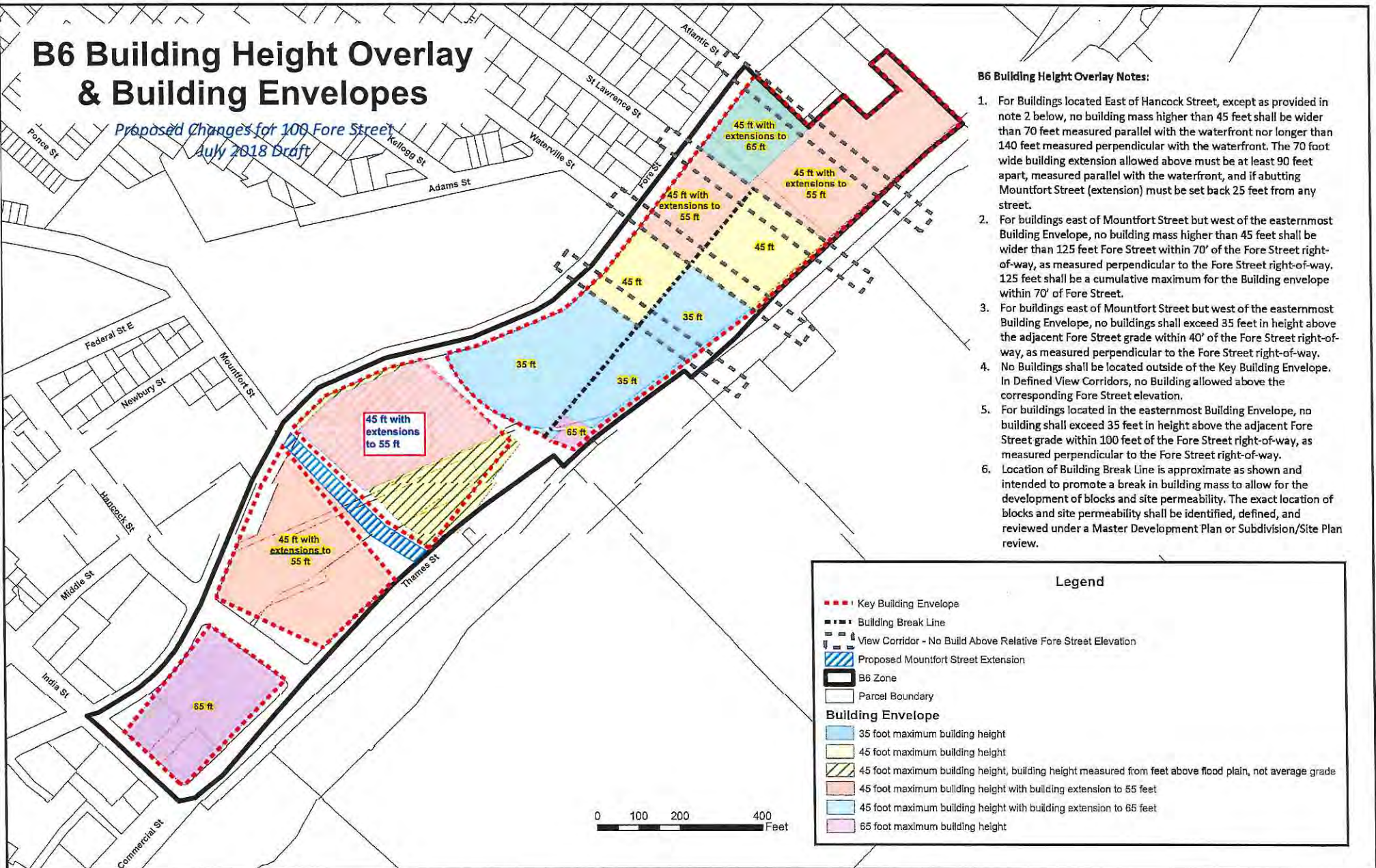
- PC1. Murray 6-25-2018
- PC2. Wolf 7-3-2018
- PC3. Snyder 7-6-2018
- PC4. Medina 7-6-2018
- PC5. Day Petit 7-6-2018
- PC6. Ryan 7-9-2018
- PC7. Lawson 7-9-2018
- PC8. Gaal 7-10-2018
- PC9. Holden 7-10-2018
- PC10. Cousins 7-10-2018
- PC11. Guay 7-10-2018
- PC12. Berkow 7-11-2018
- PC13. Greater Portland Landmarks 7-25-2018
- PC14. Marle 7-30-2018
- PC15. Wright 8-2-18

B6 Building Height Overlay & Building Envelopes



B6 Building Height Overlay & Building Envelopes

Proposed Changes for 100 Fore Street
July 2018 Draft



B6 Building Height Overlay Notes:

1. For Buildings located East of Hancock Street, except as provided in note 2 below, 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. For buildings east of Mountfort Street but west of the easternmost Building Envelope, no building mass higher than 45 feet shall be wider than 125 feet Fore Street within 70' of the Fore Street right-of-way, as measured perpendicular to the Fore Street right-of-way. 125 feet shall be a cumulative maximum for the Building envelope within 70' of Fore Street.
3. For buildings east of Mountfort Street but west of the easternmost Building Envelope, no buildings shall exceed 35 feet in height above the adjacent Fore Street grade within 40' of the Fore Street right-of-way, as measured perpendicular to the Fore Street right-of-way.
4. No Buildings shall be located outside of the Key Building Envelope. In Defined View Corridors, no Building allowed above the corresponding Fore Street elevation.
5. For buildings located in the easternmost Building Envelope, no building shall exceed 35 feet in height above the adjacent Fore Street grade within 100 feet of the Fore Street right-of-way, as measured perpendicular to the Fore Street right-of-way.
6. Location of Building Break Line is approximate as shown and intended to promote a break in building mass to allow for the development of blocks and site permeability. The exact location of blocks and site permeability shall be identified, defined, and reviewed under a Master Development Plan or Subdivision/Site Plan review.

Legend

- Key Building Envelope
 - Building Break 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

B-6 Building Height Overlay & Building Envelopes

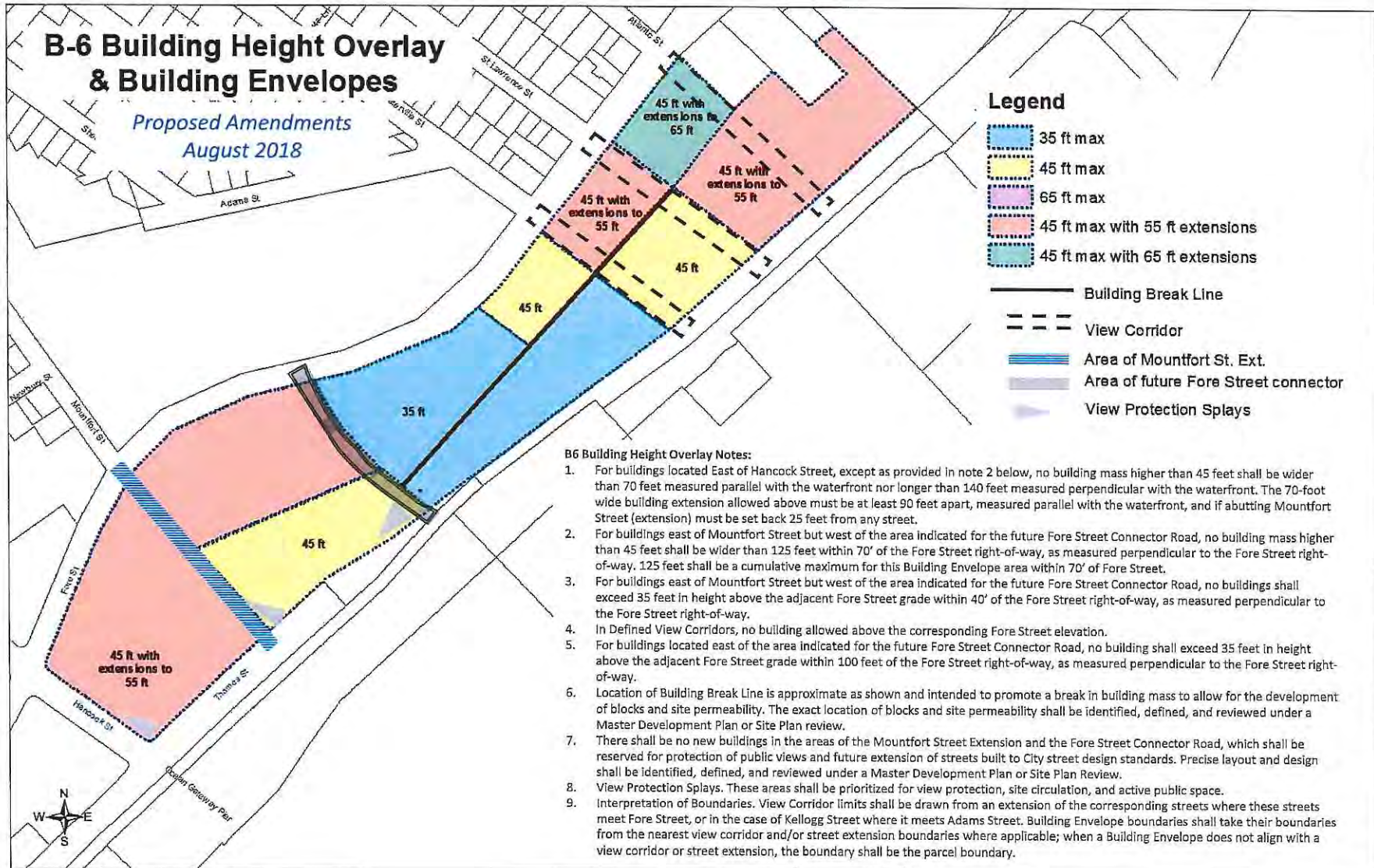
Proposed Amendments
August 2018

Legend

-  35 ft max
-  45 ft max
-  65 ft max
-  45 ft max with 55 ft extensions
-  45 ft max with 65 ft extensions
-  Building Break Line
-  View Corridor
-  Area of Mountfort St. Ext.
-  Area of future Fore Street connector
-  View Protection Splays

B6 Building Height Overlay Notes:

- For buildings located East of Hancock Street, except as provided in note 2 below, 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.
- For buildings east of Mountfort Street but west of the area indicated for the future Fore Street Connector Road, no building mass higher than 45 feet shall be wider than 125 feet within 70' of the Fore Street right-of-way, as measured perpendicular to the Fore Street right-of-way. 125 feet shall be a cumulative maximum for this Building Envelope area within 70' of Fore Street.
- For buildings east of Mountfort Street but west of the area indicated for the future Fore Street Connector Road, no buildings shall exceed 35 feet in height above the adjacent Fore Street grade within 40' of the Fore Street right-of-way, as measured perpendicular to the Fore Street right-of-way.
- In Defined View Corridors, no building allowed above the corresponding Fore Street elevation.
- For buildings located east of the area indicated for the future Fore Street Connector Road, no building shall exceed 35 feet in height above the adjacent Fore Street grade within 100 feet of the Fore Street right-of-way, as measured perpendicular to the Fore Street right-of-way.
- Location of Building Break Line is approximate as shown and intended to promote a break in building mass to allow for the development of blocks and site permeability. The exact location of blocks and site permeability shall be identified, defined, and reviewed under a Master Development Plan or Site Plan review.
- There shall be no new buildings in the areas of the Mountfort Street Extension and the Fore Street Connector Road, which shall be reserved for protection of public views and future extension of streets built to City street design standards. Precise layout and design shall be identified, defined, and reviewed under a Master Development Plan or Site Plan Review.
- View Protection Splays. These areas shall be prioritized for view protection, site circulation, and active public space.
- Interpretation of Boundaries. View Corridor limits shall be drawn from an extension of the corresponding streets where these streets meet Fore Street, or in the case of Kellogg Street where it meets Adams Street. Building Envelope boundaries shall take their boundaries from the nearest view corridor and/or street extension boundaries where applicable; when a Building Envelope does not align with a view corridor or street extension, the boundary shall be the parcel boundary.



5-22-2018

100 Fore Street

Application for zoning map and text amendment

Project Summary

After thorough analysis of the Eastern Waterfront Master Plan, we have come to the conclusion the B6 Building Height Overlay & Building Envelopes does not match the intent of the plan as related to our site located at 100 Fore Street to the east of Mountfort Extension. The overlay does not appropriately account for existing site conditions so the desired relationship to Fore Street and the surrounding neighborhoods differs from the intentions set up both in section and plan by the master plan.

The current zoning allows for 45' from flood plain on the area we are looking to have re-zoned. This is the only parcel on the B6 overlay that measures from flood plain and when flood plain is examined at this location, it is actually below existing grade. Our proposal asks for the height measurement to be taken from average grade, just as all of the other sites on the B6 height overlay are. When the sections along Fore Street are studied in the EWMP, a relationship between Fore Street and it's existing buildings across the street from our parcel are set up that require a sensitivity in height and show massing approximately 3 stories high along the street. Because of the grade change that occurs at our site, the existing zoning would only allow us to be about 1.5 stories at Fore Street whereas our proposal will allow for 2.5 with the top level setback from the road.

We are proposing revised zoning on the B6 map for our site that we believe allows development to respond better to the major principles of the EWMP including character and impact of development, mixed-use and economically responsible development. A revised map with text amendments is included with this submission and it shows that we are asking for the site to be 45' from average grade with extensions to 55' based on the development's relationship to Fore Street. There is also a height restriction put in place as to how high the building can be within 40' of the Fore Street right-of-way. This edits the existing zoning which has a setback to 100' from Fore Street.

A R C H I T E C T Y P E

100 Fore Street Zoning Map and Text Amendment Narrative

Page | 1

The parcel located at 100 Fore Street is a piece of the urban landscape that has the opportunity to provide Portland with multiple uses encouraged by Portland's Comprehensive Plan and the Eastern Waterfront Master Plan. The proposed development has the potential to help relieve the need for parking through a design that would stack and conceal the parking rather than adding to the unwelcome standard surface level parking in the area. It would also add mixed-uses that would be activated throughout the year. Following an analysis of zoning and the existing conditions of the site and surrounding properties, we discovered that a modification to the existing height overlay map is necessary for all aspects of the proposed development to succeed. The requested map amendment would provide consistency in the overlay map by bringing this parcel in line with all other parcels in terms of height measurement and would allow a development that is more compatible with the surrounding uses, all while keeping with the goals of the Eastern Waterfront Master Plan and the Comprehensive Plan.

Zoning and Master Planning Pertaining to the Site

The Goals of the B-6 Zone

- Eastern Waterfront mixed zone
- Distinctly urban form
 - Quality pedestrian experience
 - Promotion of public transit
 - Exemplary urban design
 - Multiple uses to achieve activity throughout the day and week
 - Shared parking infrastructure

The Key Principles of the Eastern Waterfront Master Plan

-Character and impact of development

-Mixed-Use

-Maritime Resources

-Economically Responsible Development

(The three highlighted principles relate directly to the site)

Major Related Goals of Portland's Comprehensive Plan

- Growth for Portland's economy
 - Buy local
 - Strengthen neighborhoods
- Improve upon and expand street system
 - Connectivity for people, cars and bikes
 - Through both public and private investment
 - Expand access to the waterfront

A R C H I T E C T U R E

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- Include well-lit crosswalks, sidewalk and bike lanes
- Improve sidewalks and streetscapes
- Reduce Impervious surfaces
- Plan and **zone** for parking needs
- Create inviting environment for current and future employers both large and small
 - attract and create a workforce with the skills needed in today's economy
 - in response to low household income, low population growth, rising housing costs
- Support job creation and business growth through public initiatives and private partnerships
 - Modify ordinances to do so**
- Density by design
 - If well designed, density can add to the quality of life
 - Density can be environmentally friendly
 - It promotes transit use
 - provides customers for local businesses – during non-tourist season as well

Existing Site Uses

The structures currently on site are single story warehouse buildings that are being used for mixed-use purposes including office space, retail and other services. Despite the uses, the building siting is not pedestrian friendly nor does it provide the density that would make the site truly beneficial to the developing eastern waterfront. The site also has a surface parking lot and a moderate grade change of approximately fourteen feet from Fore Street to the buildings



The Problem

As shown on the B6 Building Height Overlay map, the block between a future extension of Mountfort Street and a future Connector Road is labeled as allowing maximum heights of 45 feet measured from flood plain. The block contains the 100 Fore Street parcel and the city-owned dirt

48 Union Wharf, Portland, Maine 04101 (207) 772-6022 • Fax (207) 772-4056

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parking lot parcel. This is the only block on which heights are measured from flood plain; all other parcels in the B6 are measured from average grade. The 100 Fore Street parcel extends across the future Mountfort Street extension onto the block to the west that does not contain the flood plan restriction. There is no current rationale for measuring building height from flood plain on this parcel, particularly in light of the development that has occurred in the area since the initial adoption of the overlay in 2004. .

When the Portland Company property was added to the Building Height Overlay in 2015, there was a lot of discussion and research as to the origin of the flood plain measurement. It is important to note that the flood plain measurement for that block was adopted as part of the zoning and not adopted into the Eastern Waterfront Master Plan. The attached Illustration 33 is from the Eastern Waterfront Master Plan and does not mention the measurement from flood plain. Thus, amending the overlay to allow measurement from average grade for all property in the B6 is consistent with the Eastern Waterfront Master Plan.

The following limitations on building height currently apply to 100 Fore Street:

- 45 foot maximum building height measured from feet above flood plain, not average grade
- For buildings located east of Mountfort Street (extension), no building shall exceed 35 feet in height above the adjacent Fore Street grade within 100 feet of the Fore Street right-of-way, as measured perpendicular to the Fore Street right-of-way.
- For buildings located east of Hancock 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.

When all of the above restrictions from the overlay map are used to layout massing on our site with the existing topography, it limits the massing to that which is smaller in scale in relation to Fore Street and the neighboring development. Using a flood plain measurement results in a building that is four stories total and only two stories above Fore Street. If the height were to be amended to match the neighboring parcel and allow buildings of 45' in height measured from average grade, with 55' extensions, we could have a building that is 5 stories total and is 30' above Fore Street for a depth of 40' from Fore Street, where the 5th story will begin and rise to a total of 42' above the grade of Fore Street. Allowing the 5th story and the few extra feet above Fore Street will allow for three levels of parking and two levels of office space. It will also allow for the parking garage to be wrapped in retail. Measurement from flood plain would require elimination of one level of parking or office space and could result in office, rather than retail on

A R C H E T Y P E

the ground level perimeter. Amending the height overlay would create consistency in height measurement for the entire zone and would result in a more desirable development pattern, as the parcel relates to the surrounding development. It will further allow for more parking in an area in great need of off street parking.

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How Does the Project Respond to the Principles of the Eastern Waterfront Master Plan

How the Proposed Development is Economically Responsible

- The intention is to balance the need for good architectural planning with financial viability
- The architecture should present a mixed-use project, particularly when dealing with a garage – we are aiming for a 600+/- car garage
 - This fulfills our obligations to other projects around us, taking care of new uses and providing a substantial increase in public parking
- Our experience in commercial development tells us that the preferred target for office size is about 70,000 SF satisfying the need of larger uses as well as generating enough revenue to help the garage's viability
- The balance will produce a project that helps alleviate parking problems in the neighborhood, produces much needed tax revenue and jobs and blends in to the city at the pedestrian scale

How the Development is Compatible with its Surroundings in Character and Impact of Development

The Evolution of the Eastern Waterfront Master Plan as Related to our Site

- Looking back to the early plans proposed for the EWMP in 2002, you will see that the area in question was originally designated to be from 3-5 stories with the taller structure wrapping around structured parking that is topped with a plaza
- At a neighborhood meeting, the height of buildings proposed for the initial Master Plan were discussed and there was concern with how the new development approached Fore Street and it was recommended that they not be higher than those across the street
- A new height and building envelope map was released in 2004 that called out for 4 stories with towers to 5 on our lot

- There were specific width restrictions put in place on the tower elements and the restrictions were set up in relation to Hancock Street and the waterfront
- Because of our specific location, it is more important to address how it relates to Fore Street than to Hancock and the waterfront.

A R C H I T E C T U R E

-There was sectional analysis included in the Master Plan analysis that gives better guidance on massing goals for our site and surrounding sites in terms of their relationship to Fore Street

-Hancock Street section – The buildings look to be 3-5 stories at Fore Street



EASTERN WATERFRONT HEIGHT STUDY

Portland, Maine

Scale: 1" = 40'



-Mountfort Street section – The buildings look to be at least 3 stories at Fore Street, and are taller than the existing buildings across the street



EASTERN WATERFRONT HEIGHT STUDY

Portland, Maine

Scale: 1" = 40'



- As noted above, when the B6 Height overlay map was adopted in 2004, it allowed for 45' building height as measured from flood plain on the 100 Fore Street parcel – it is the only block on the map that is measured from flood plain

-In 2015 the map was amended to add a 100' setback from Fore Street for any structure that is more than 35' above the Fore Street grade

How Does our Site Actually Relate to Fore Street?

A R C H E T Y P E

-There is a steep grade change at the Fore Street border of our site – a steeply banked slope ranging from 12'-15' in height from the Mountfort Extension to the corner of what would be the extension road.

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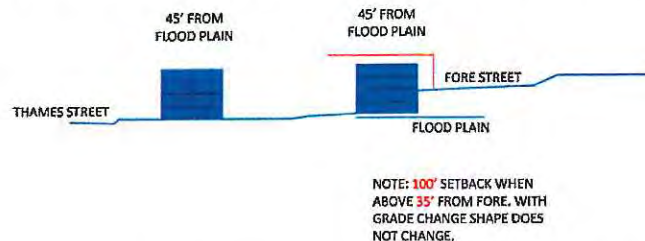


-The grade on the other side of Fore Street immediately goes up with a retaining wall and continues up the East End from there.



-The flood plain actually sits several feet below our existing grade, dropping our height in relation to Fore Street even more.

What Does this Mean for the Structure Based on the Zoning that is Currently Allowed?

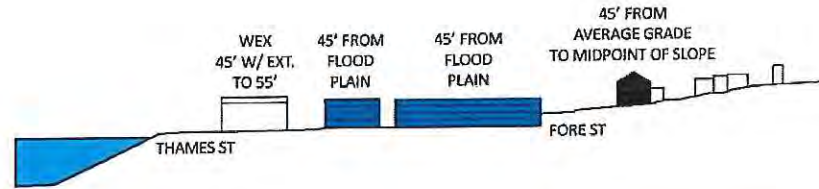


-With the allowable zoning our building would site almost 2 stories below grade at Fore Street allowing for only 2 stories at the street level.

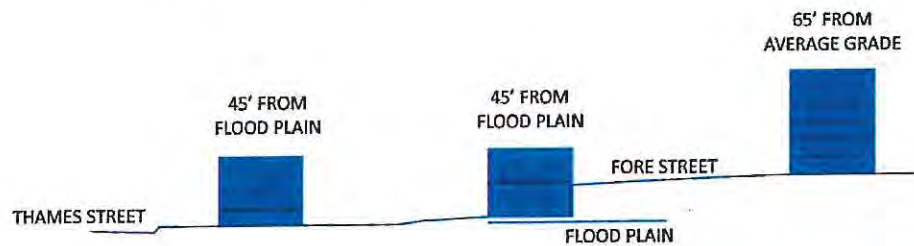
-The building allowed across the street by zoning can potentially be 20' higher.

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-The zoning for property located diagonally across Fore, on the other side of Mountfort, allows building heights 45' higher than what is allowed on our site.

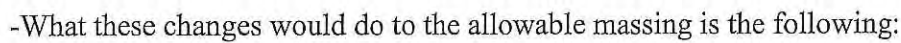


What are the Zoning Text and Map Amendments we are asking for?

-The proposed amendments to the height overlay map are as follows:

- 45' with extensions to 55' from average grade as measured from average grade.
- No building mass higher than 45 feet shall be wider than 125 feet measured parallel with Fore Street within 85' of the Fore Street right-of-way
- No building mass higher than 45 feet shall be wider than 125 feet measured parallel with Mountfort Extension within 150' of the Mountfort Extension right-of-way.
- No buildings shall exceed 35 feet in height above the adjacent Fore Street grade within 40' of the Fore Street right-of-way, as measured perpendicular to the Fore Street right-of-way.

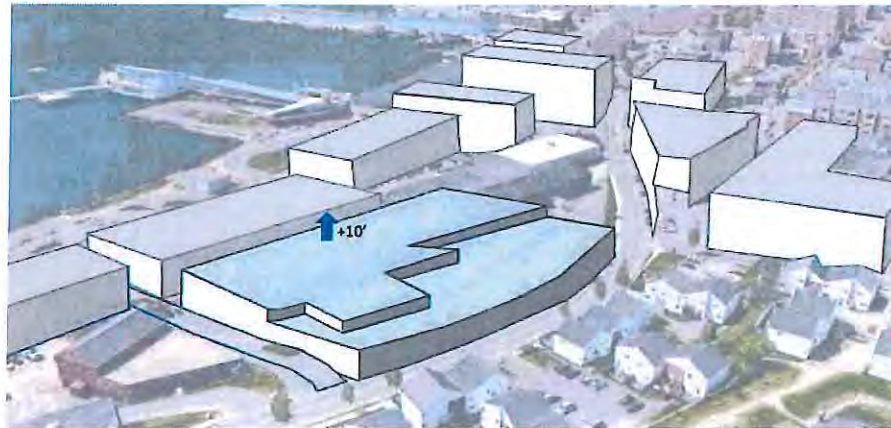
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-
- Diagram illustrating building setbacks and height restrictions. The building footprint is shown with setbacks from the front and side property lines (red shaded areas) and from the rear property line (blue shaded area). The setbacks are dimensioned as 125' for the front and side setbacks, and 55' for the rear setback. A legend indicates that the blue shaded area represents the building mass allowed to 55' height.

A R C H E T Y P E

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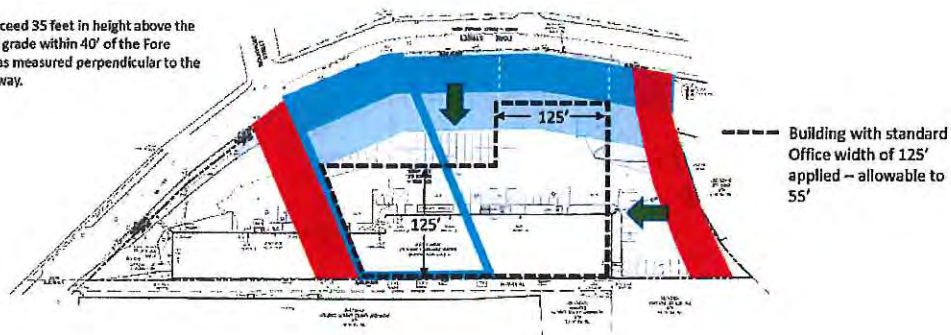
PROPOSED ZONING

- At Fore Street, the building would approach the street as slightly above two stories.
- Once 40' back from Fore Street, an additional story could be added to the overall massing in comparison to what is currently allowed making the building slightly higher than 3 stories above Fore Street with the 3rd story stepped back from the street.
- when the proposed height is analyzed in section in relation to development up the hill, it is in keeping with sight lines allowed by the surrounding zoning?

What happens when office levels are applied to the two upper stories of this massing?

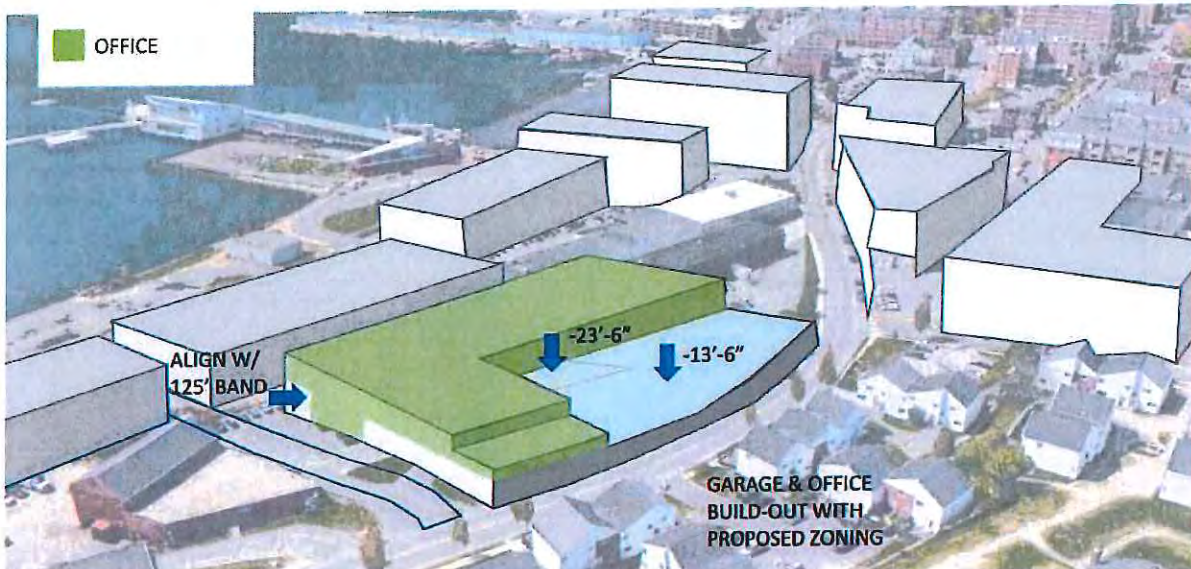
Standard office space would be maximum 125' wide creating a building shape such as is shown in this diagram.

-  No building mass higher than 45 feet shall be wider than 125 feet measured parallel with Fore Street within 85' of the Fore Street right-of-way nor wider than 125 feet measured parallel with the Mountfort Extension within 150' of Mountfort Extension.
-  No buildings shall exceed 35 feet in height above the adjacent Fore Street grade within 40' of the Fore Street right-of-way, as measured perpendicular to the Fore Street right-of-way.



A R C H E T Y P E

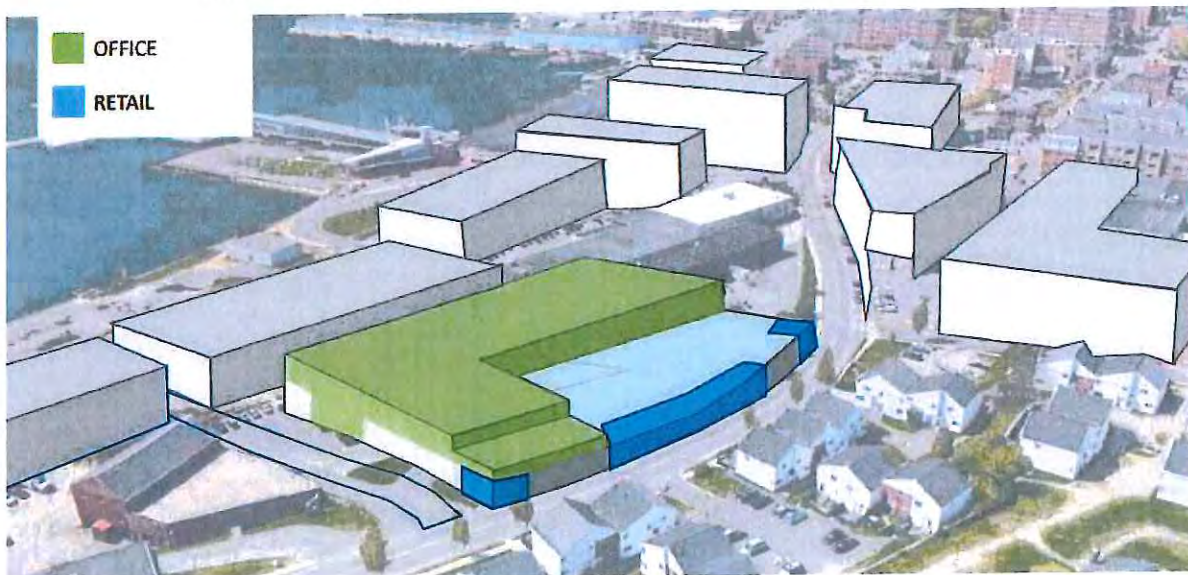
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How Does the Development Lend itself to Mixed-Use?

What the Master Plan is looking for with mixed-use development?

- The development should encourage life and use throughout the day and year
- Development should work to eliminate surface level parking while addressing short and long-term parking needs in the city
- It should include a mix of compatible uses
- It should encourage a walkable city with an enjoyable pedestrian environment
 - Blank walls should be avoided and there should be frequent street level entries



A R C H I T E C T U R E

How does the amendment to the height overlay map allow us to better meet these goals?

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- Rather than having 4 stories – 2 parking and 2 office as is possible with the current zoning, there can now be an additional level of parking.
 - This minimizes the need for surface level parking in the area.
 - This allows the level that meets Fore Street to be one of the parking levels which means we can wrap the garage level in retail opportunities (an office use will want to use as much of the perimeter of its levels as possible for its own users).
 - This increases public use of the project.
 - This masks the parking with a more interesting/interactive use.
 - It increases the opportunity for entrances on Fore Street.

How Does the Project Meet the Goals of Portland's Comprehensive Plan **How the Proposed Development is Economically Responsible?**

- Please refer to economic section in response to EWMP.
- Within Comp Plan
 - Snapshot: Waterfront – Invest in Infrastructure p 35
 - Public Private Partnerships – Approach Funding Strategically p 58

How Does the Project Alleviate Issues with Impervious Surfaces and the need for Parking in the Area?

- Within Comp Plan
 - Policy Guide: Environment p. 20
 - Policy Guide: Transportation, Manage Parking Strategically p. 75
- We are hoping to have 3 levels of parking beneath 2 levels of office. This would provide 600+/- parking spaces with a building footprint of approximately 66,500 SF.
- By stacking parking, and being able to have three levels, we address both the need to decrease impervious surface and the need for more parking in the area as that gives us enough to feed both our building and additional needs in the area.
- The Comprehensive Plan suggests that the city zones for the ability to create the necessary parking.

How Does the Project Invite Current and Future Employers, Attract a New Workforce and Create New Jobs?

- Within Comp Plan
 - Policy Guide: Economy - A Vibrant City p. 39 & 40

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- Policy Guide: Economy – Support Local Business Retention & Recruitment p. 44
- Target Areas for Job Growth, Modify Ordinances to do so p. 44
- We are proposing two levels of office space coming out to almost 80,000 SF that would provide many jobs.
- The site is in a very opportunistic location to attract businesses.
 - It is located in close proximity to a residential neighborhood and to the Old Port.
 - Wex has already set a precedent for offices moving to this area of the waterfront.
 - The location provides water views and views into the Old Port for the office space.
 - The site is easily accessible by foot and bike paths that extend to many residential areas and it is near bus stops.
- The project would provide parking for the offices which is a current issue for companies trying to move downtown.

How Does the Project Successfully Create Density by Design?

- Within Comp Plan
 - Density by Design p. 49
- This sight aims to use height, while appropriately scaled to its surroundings, to add a mixed-use concept that benefits users in multiple ways.
- It provides much needed parking with a smaller footprint.
- It creates office space for many new jobs.
- It creates retail opportunities that create jobs, opportunities for local businesses and enhance the pedestrian opportunity and interaction with the public.
- The parking can be utilized by both the tenants, nearby businesses and the public
- Stacking development is more environmentally friendly.

By analyzing the intent of the Eastern Waterfront Master Plan and its height analysis and design guidelines and Portland's Comprehensive Plan, not only are the proposed amendments consistent with the Comprehensive Plan, but the proposed development can best meet the goals laid out by the city if the current overlay map is amended. Because of the existing site conditions and because of the limits of height being measured from flood plain, which is particular to only this site, the development would not currently be able to approach Fore Street in a way that allows for the desired uses and appropriately scaled massing in relation to its surroundings. The amended zoning would allow for a building that would meet the needs of the city and remain contextually appropriate for the newly developing waterfront growing northeast of the old port.

SHORT FORM QUITCLAIM DEED WITH COVENANT

HOPE 1, LLC, a Maine limited liability company with a place of business in Portland, Maine ("Grantor") FOR CONSIDERATION PAID, grants to **100 FORE STREET, LLC**, a Maine limited liability company with a mailing address of P.O. Box 910, Westbrook, Maine 04098-0910 ("Grantee") with QUITCLAIM COVENANT, certain real property, with any improvements thereon and all rights and easements appurtenant thereto, located at or near 100 Fore Street, Portland, Cumberland County, Maine, and more particularly described on **Exhibit A** attached hereto and made a part hereof.

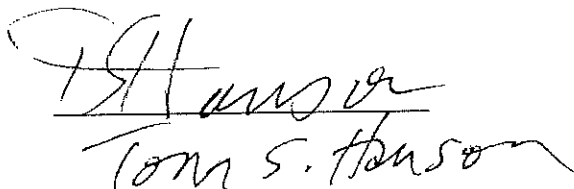
The conveyance herein is made subject to all easements, covenants, restrictions and agreements of record, to the extent in effect and applicable, to leases and licenses disclosed to Grantee, and to real estate taxes not yet due and payable.

Being the same premises conveyed to the Grantor by Quitclaim Deed with Covenant from Avidity Partners, LLC, Trustee of the FOL Liquidation Trust, dated January 19, 2005, and recorded in the Cumberland County Registry of Deeds in Book 22261, Page 50.

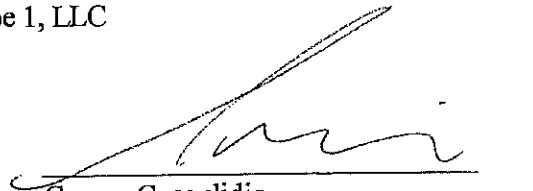
IN WITNESS WHEREOF, Grantor has caused this instrument to be executed and delivered by its duly-authorized Chief Operating Officer below this 6th day of January, 2017.

WITNESS:

Hope 1, LLC


Tom S. Hanson

By:

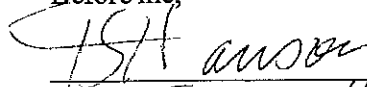

George Cacoulidis
Duly authorized Chief Operating Officer

State of Maine
County of Cumberland

January 6, 2017

PERSONALLY APPEARED before me the above-named George Cacoulidis, Chief Operating Officer of Hope 1, LLC, and acknowledged the foregoing instrument to be his free act and deed in his said capacity and the free act and deed of said limited liability company.

Before me,



Name: Tom S. Hanson
Notary Public/Attorney at Law

Commission Expires N/A

EXHIBIT A

A certain lot or parcel of land with the buildings thereon situated on the Southerly side of Fore Street in the City of Portland, County of Cumberland and State of Maine, bounded and described as follows:

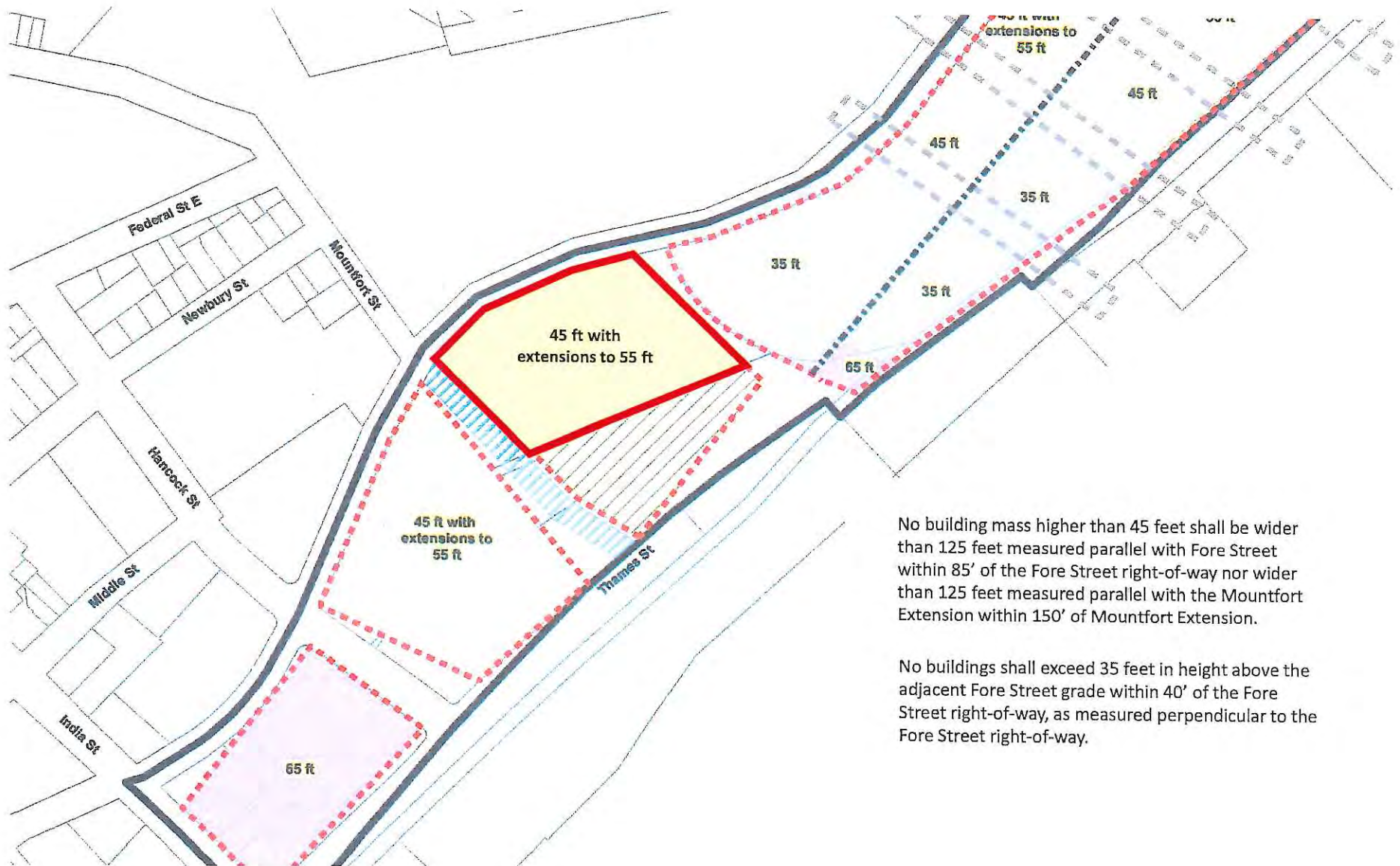
Beginning on the Southerly side line of Fore Street at the Northwest corner of the premises conveyed to Frank J. Gaziano et al. by Canadian National Railway Company by deed dated November 1, 1973 and recorded in the Cumberland County Registry of Deeds in Book 3502, Page 247;

Thence N 79°-46' E along said premises conveyed to Frank J. Gaziano, et al. and along land now or formerly of Canadian National Railway 742.42 feet to an iron pipe on the Westerly boundary of land now or formerly of The Portland Company;

Thence Northwesterly along land of The Portland Company, on a curve to the right whose radius is 274.33 feet, 248.66 feet to an iron pipe on the Southerly side line of Fore Street, said iron pipe being distant 240.23 feet to a bearing of N 32°-18' W from the iron pipe at the terminus of the last described line;

Thence by the following courses and distances along the Southerly side line of Fore Street;

S 89°-32'-30" W	143.31 feet to an iron pipe;
S 78°-29'-30" W	172.03 feet to an iron pipe;
S 58°-36'-30" W	109.63 feet to an iron pipe;
S 42°-27' W	157.24 feet to an iron pipe;
S 35°-40' W	155.46 feet to the point of beginning.



No building mass higher than 45 feet shall be wider than 125 feet measured parallel with Fore Street within 85' of the Fore Street right-of-way nor wider than 125 feet measured parallel with the Mountfort Extension within 150' of Mountfort Extension.

No buildings shall exceed 35 feet in height above the adjacent Fore Street grade within 40' of the Fore Street right-of-way, as measured perpendicular to the Fore Street right-of-way.



Stantec Consulting Services Inc.
482 Payne Road Scarborough Court, Scarborough ME 04074-8929

July 23, 2018

Dear Neighbor:

Please join us for a Neighborhood Meeting to discuss our request for Zoning Text and Map Amendments related to Building Heights within the B-6 Zoning District at 100 Fore Street (Tax Map 019, Lot A010) in Portland, Maine. The text amendments will be considered during a Public Hearing by the Portland Planning Board, which exact date is undetermined, but may be in August or September 2018 at which time the Board will make a recommendation to the City Council. The City Council is expected to take action in September, 2018.

Meeting Location: Project Site*
100 Fore Street
Portland, Maine
(park in the large onsite lot)

Meeting Date: Thursday, August 2, 2018

Meeting Time: 5:00 PM

*** In the event of inclement weather, the meeting will be held at the same time across the street at the Gateway Garage**

The City Code requires that property owners within 500 feet (except notices must be sent to property owners within 1,000 feet for industrial zoning map amendments and industrial subdivisions) of the proposed development and residents on an "interested parties list", be invited to participate in a neighborhood meeting. A sign-in sheet will be circulated and minutes of the meeting will be taken. Both the sign-in sheet and minutes will be submitted to the Planning Board. The meeting will last no more than 30-45 minutes.

If you have any questions, please feel free to contact Steve Bushey, P.E. at 207-883-3355.

Sincerely,

STANTEC CONSULTING SERVICES, INC.

Stephen R. Bushey, P.E.
Associate

V:\2108\active\210801622\civil\admin\permitting\local\neighborhood meeting\notice_neighborhood-meeting.docx

Note: Under Section 14-32(C) and 14-525 of the City Code of Ordinances, an applicant for a Level III development, subdivision of over five lots/units, or zone change is required to hold a neighborhood meeting within three weeks of submitting a preliminary application or two weeks of submitting a final site plan application, if a preliminary plan was not submitted. The neighborhood meeting must be held at least seven days prior to the Planning Board public hearing on the proposal. Should you wish to offer additional comments on this proposed development, you may contact the Planning Division at 874-8721 or send written correspondence to the Planning and Urban Development Department, Planning Division 4th Floor, 389 Congress Street, Portland, ME 04101 or by email to: bab@portlandmaine.gov



Stantec Consulting Services Inc.
482 Payne Road Scarborough Court, Scarborough ME 04074-8929

Neighborhood Meeting Certification

I, Stephen R. Bushey, P.E. of Stantec, hereby certify that a Neighborhood Meeting was held on Thursday, August 2, 2018 at 5:00 P.M. at the development site at 100 Fore Street, Portland, Maine for the proposed project located at 100 Fore Street, Portland, Maine.

I also certify that on Monday, July 23, 2018 (which is at least ten (10) days prior to the Neighborhood Meeting) invitations were mailed to the following:

1. All addresses on the mailing list provided by the Planning Division which includes property owners within 500 feet of the proposed development or within 1,000 feet of a proposed industrial subdivision or industrial zone change.
2. Residents on the "interested parties" list.

Signed,

A handwritten signature in blue ink, appearing to read "Stephen Bushey", written over a horizontal line.

Stephen Bushey, P.E.

August 3, 2018

Date

Attached to this certification are:

1. Copy of the invitation sent
2. Sign-in sheet
3. Meeting minutes



Stantec Consulting Services Inc.
482 Payne Road Scarborough Court, Scarborough ME 04074-8929

July 23, 2018

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Sincerely,

STANTEC CONSULTING SERVICES, INC.

Stephen R. Bushey, P.E.
Associate

V:\2108\active\210801622\civil\admin\permitting\local\neighborhood meeting\notice_neighborhood-meeting.docx

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Neighborhood Meeting Sign-In Sheet
Project: 100 Fore Street, Portland, Maine

Date: August 2, 2018
Time: 5:00 PM
Location: 100 Fore Street, Portland, Maine

[illegible]



Stantec Consulting Services Inc.
482 Payne Road Scarborough Court, Scarborough ME 04074-8929

MEETING MINUTES

Project: 100 Fore Street, Portland, Maine
Job #: 210801622
Date: August 2, 2018 at 5:00 PM
Location: Project Development Site, 100 Fore Street, Maine
Subject: Neighborhood Meeting
Attendees: See attached sign-in sheet

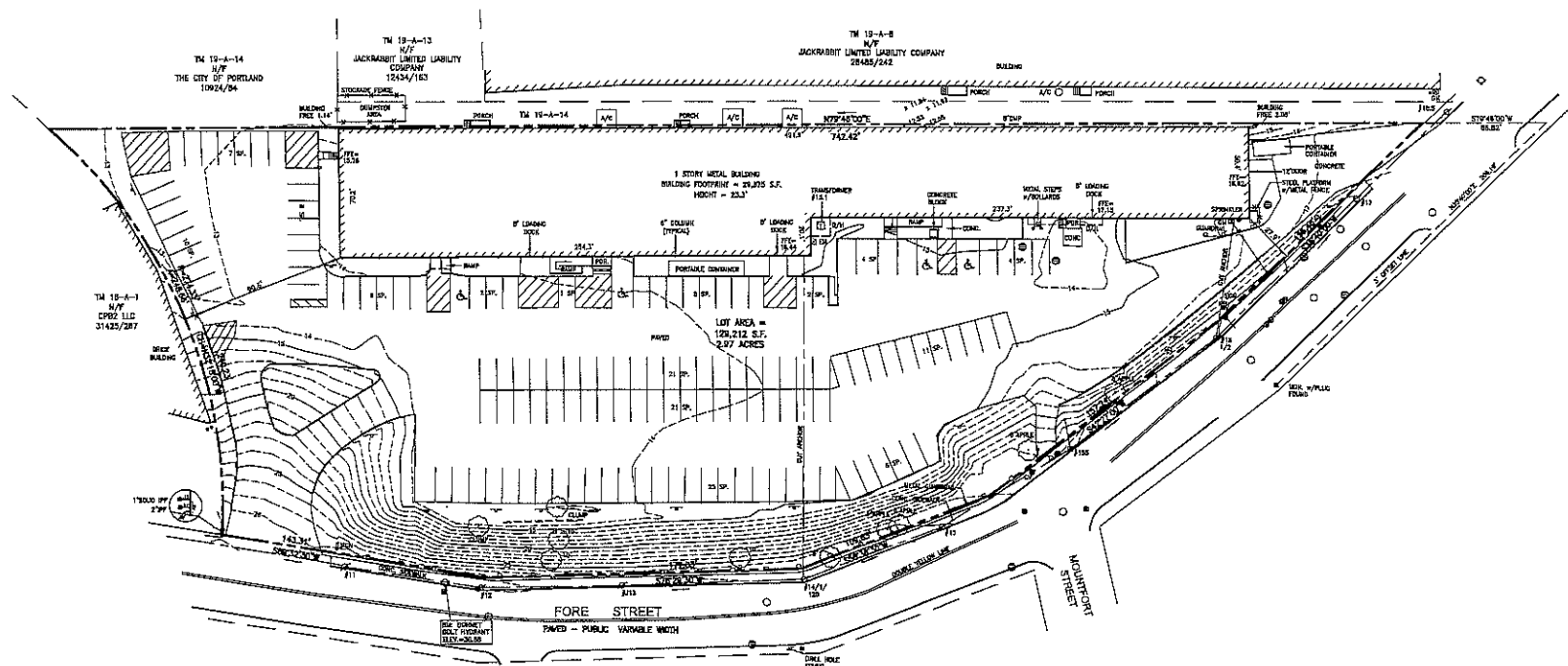
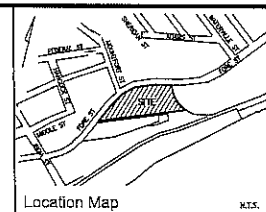
In accordance with the City of Portland Planning Board Requirements, a Neighborhood Meeting was scheduled to discuss the request for Zoning Text and Map Amendments related to the Building Heights within the B-6 Zoning District at 100 Fore Street, Portland, Maine.

The meeting was held on Thursday, August 2, 2018 at 5:00 P.M. and Steve Bushey, representative from Stantec, was present on site from 4:45 PM–5:30 PM. Zero (0) members of the public attended the meeting.



Legend

M	MONUMENT FOUND	CL	CLUB
W	WATER PIPE OR ROAD FOUND	CL	CLUBHOUSE
G	GAS VALVE	CL	CLUBHOUSE WIRE
W	WATER VALVE	CL	CLUBHOUSE WIRE
W	WATER VALVE	CL	CLUBHOUSE WIRE
W	WATER VALVE	CL	CLUBHOUSE WIRE
W	WATER VALVE	CL	CLUBHOUSE WIRE
W	WATER VALVE	CL	CLUBHOUSE WIRE
W	WATER VALVE	CL	CLUBHOUSE WIRE
W	WATER VALVE	CL	CLUBHOUSE WIRE



Utility Note:

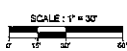
THE UNDERGROUND UTILITIES SHOWN HAVE BEEN LOCATED FROM FIELD SURVEY INFORMATION AND EXISTING RECORDS. THE SURVEYOR MAKES NO GUARANTEE THAT THE UNDERGROUND UTILITIES SHOWN COMPRISE ALL SUCH UTILITIES IN THE AREA, EITHER IN SERVICE OR ABANDONED. THE SURVEYOR PROVIDES THIS INFORMATION AS A SERVICE TO THE CLIENT AND DOES NOT WARRANT THAT THE UNDERGROUND UTILITIES SHOWN ARE IN THE EXACT LOCATION INDICATED. IT IS THE CLIENT'S RESPONSIBILITY TO VERIFY THE LOCATION OF ANY UTILITIES PRIOR TO CONSTRUCTION. THE SURVEYOR HAS NOT PHYSICALLY LOCATED THE UNDERGROUND UTILITIES SHOWN. AT LEAST THREE BUSINESS DAYS BEFORE PERFORMING ANY CONSTRUCTION.

Plan References:

1. "ALTA/ACSM LAND TITLE SURVEY, 28 FORE STREET, PORTLAND, CLARIBAND COUNTY, MAINE MADE FOR CMR LLC" MAY 22, 2013 BY OWEN HASKELL, INC.
2. "PLAN OF LAND IN PORTLAND, MAINE FOR CROSSY CROFT" AUGUST 6, 1976 BY OWEN HASKELL, INC.
3. "ALTA/ACSM LAND TITLE SURVEY, 100 FORE STREET, PORTLAND, CLARIBAND COUNTY, MAINE MADE FOR N/A THE DAWSON GROUP" SEPTEMBER 2, 2010 BY OWEN HASKELL, INC.
4. "ALTA/ACSM LAND TITLE SURVEY, 100 FORE STREET, PORTLAND, CLARIBAND COUNTY, MAINE MADE FOR JONATHAN COHEN" OCTOBER 23, 2010 BY OWEN HASKELL, INC.

Notes:

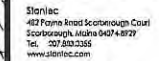
1. OWNER OF RECORD: 100 FORE STREET LLC, P.O. BOX 910, WESTBROOK, MAINE, CLARIBAND COUNTY, REGISTRY OF DEEDS BOOK 33746, PAGE 1.
2. PROPERTY IS SHOWN AS LOT 10 BEARING A ON CITY OF PORTLAND'S ASSESSORS MAP 13.
3. BEARINGS ARE BASED ON LOCUS BESS 22281/80 AND PLAN REFERENCE #2, MARCH 1955.
4. UTILITIES SHOWN ARE OBSERVED EXCEPTED ONLY.
5. THERE ARE 136 REGULAR PARKING SPACES AND 4 HANDICAP SPACES.
6. BEARINGS LABELED ARE BASED ON LOCUS BESS. COORDINATES BASED ON CITY POINTS BORN INDIVIDUALLY 12281/22222 N 3023 14301/14333 12281/14333 OCEAN GARDEN PROJECT, BEARINGS: 372/9 MONUMENT CORNER OF HANCOCK STREET AND THAMES STREET ELEVATION 1310' CITY DATUM.



Topographic Survey
100 Fore Street
100 Fore Street, Portland, Maine
made for
Jonathan Cohen
P.O. Box 910, 865 Spring Street
Westbrook, Maine 04092

OWEN HASKELL, INC.
PROFESSIONAL LAND SURVEYORS
390 U.S. ROUTE ONE, UNIT 10, PALMOUTH, MAINE 04105

DRAWN BY: RFL/JW DATE: DEC. 4, 2017 JOB NO.: 2016-226 P
CHECKED BY: ENG/REL SCALE: 1"=30' DRAWING NO.: 1



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The Copyrights to all designs and drawings are the property of Sterling, reproduction or use for any purpose other than that authorized by Sterling is forbidden.

Consultants

Notes

OWNER OF RECORD:

100 FORE STREET LLC
P.O. BOX 910
WESTBROOK, ME 04093
CCRD BOOK 33748, PAGE 001

File Name: CQ2JobA.htm	CDO	URL	SEP	19/05/22
	DATA	CNID	CNID4	DATE

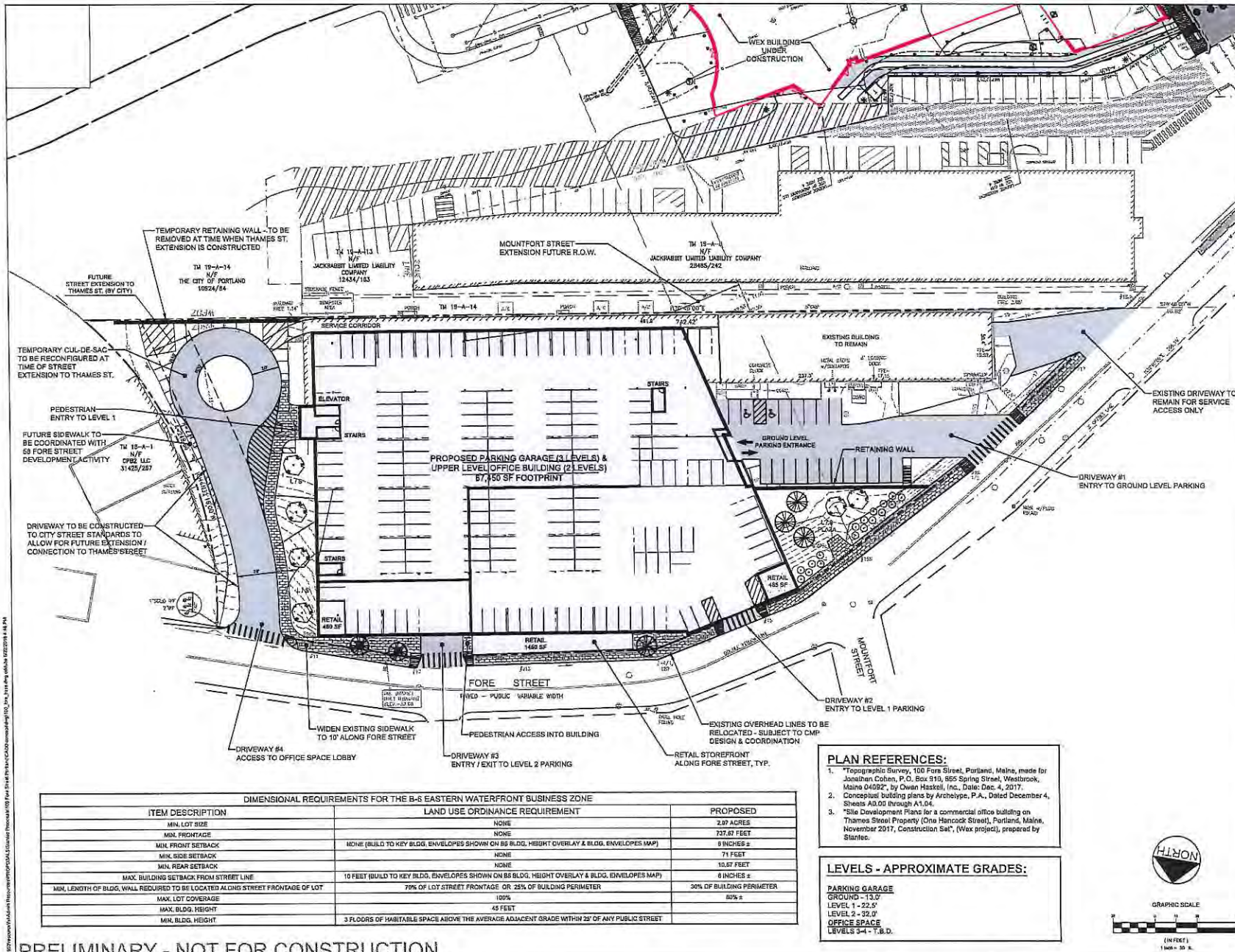
Permit-Seed

Client/Project
ARCHETYPE ARCHITECTS
48 UNION WHARF, PORTLAND, ME
100 FORE STREET
PORTLAND, MAINE

Title
CONCEPT PLAN - IN SUPPORT OF
ZONING APPLICATION

Project No.	Scale
-	1" = 30'
Sheet	

C-1

[illegible]

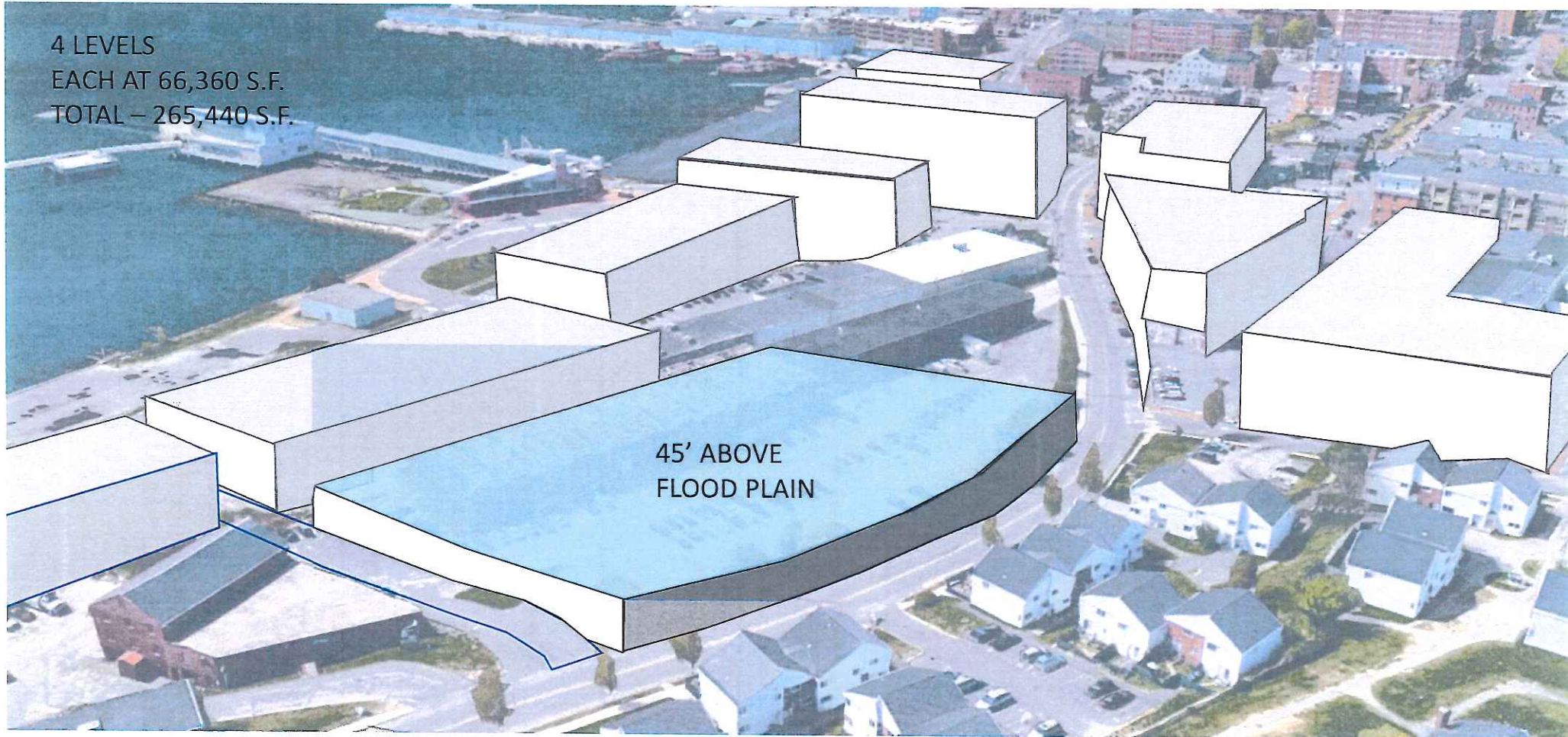
PRELIMINARY - NOT FOR CONSTRUCTION



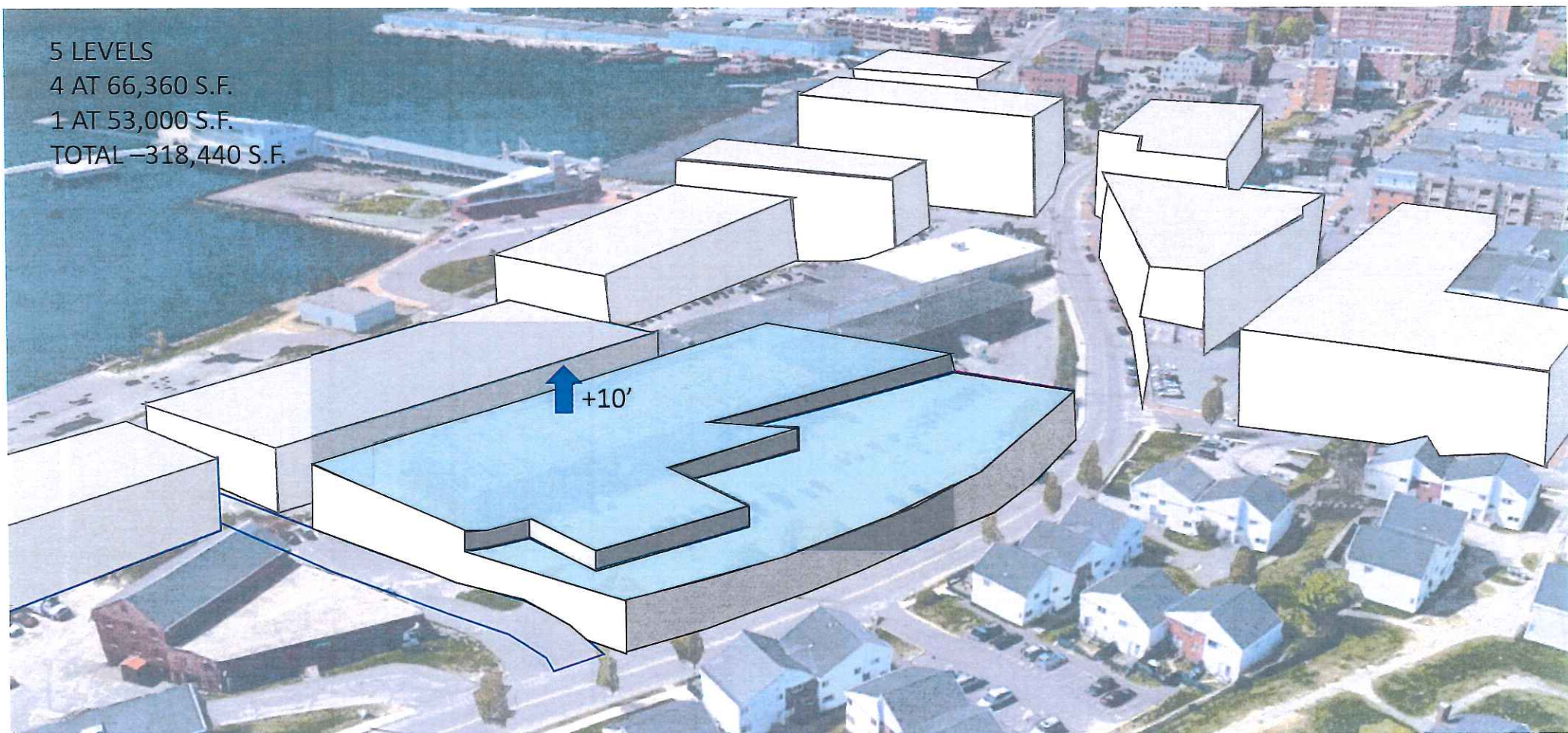
4 LEVELS
EACH AT 66,360 S.F.
TOTAL – 265,440 S.F.

45' ABOVE
FLOOD PLAIN

MASSING ALLOWED WITH EXISTING ZONING



5 LEVELS
4 AT 66,360 S.F.
1 AT 53,000 S.F.
TOTAL -318,440 S.F.



PROPOSED ZONING

 OFFICE

5 LEVELS

3 AT 66,360 S.F.

1 AT 48,000 S.F.

1 AT 43,000 S.F.

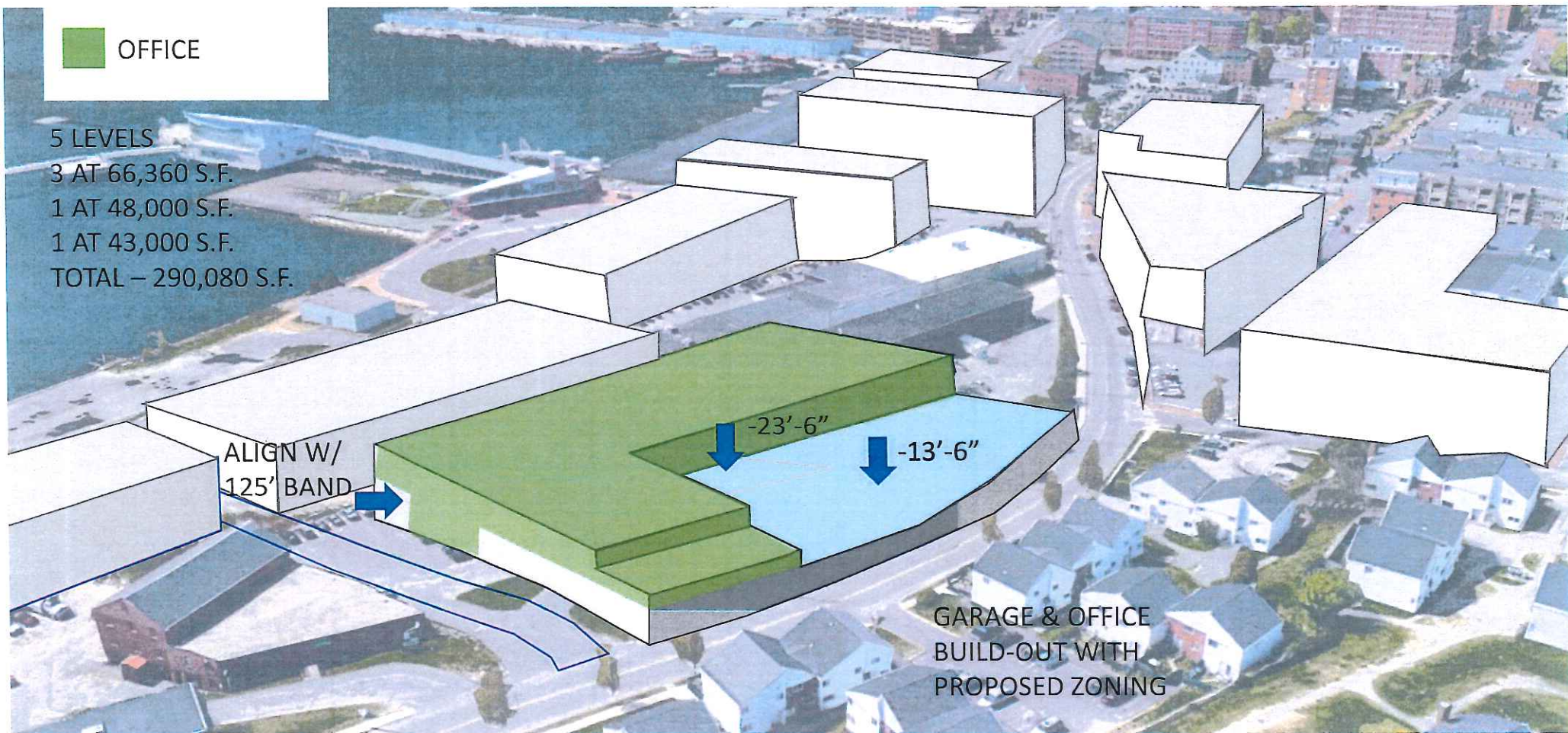
TOTAL – 290,080 S.F.

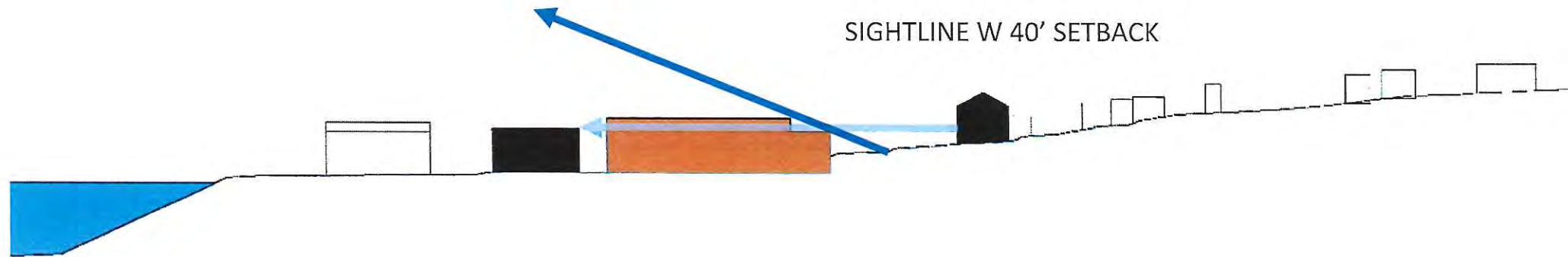
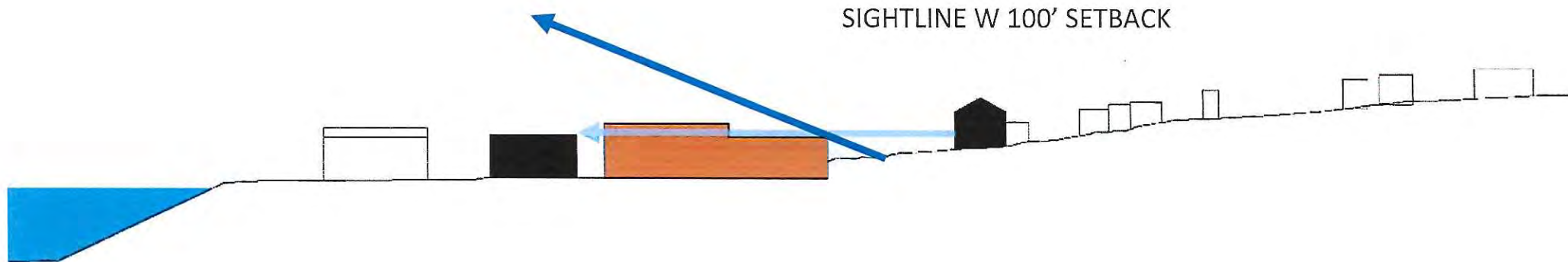
ALIGN W/
125' BAND

-23'-6"

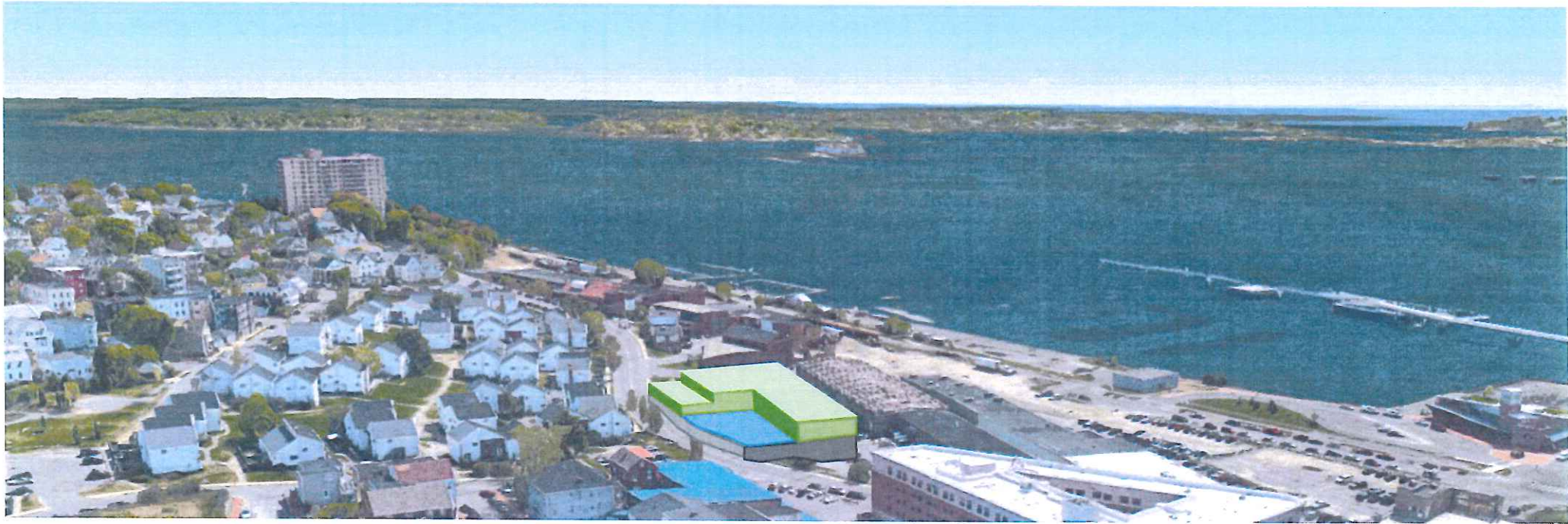
-13'-6"

GARAGE & OFFICE
BUILD-OUT WITH
PROPOSED ZONING





OFFICE



100 Fore St, 86 Newbury St,

Debby Murray <debbym@zwi.net>

Jun 25, 2018 5:12 PM

Posted in group: **Planning and Urban Development**

I am lumping these two issues I'd like to protest together because they make me want to scream. WHERE ARE WE PUTTING ALL THE CARS? What's the traffic plan? HELP! No one lives or works in these glass monstrosities down by the Wex etc project and the driving is already horrendous. WHAT HAPPENS WHEN THEY ALL LEAVE FOR WORK?

And height. Think about places you love to visit or live, like Brooklyn or Charleston....the sky is not cluttered with high rise buildings. It's like a game of dominoes right now- one developer blocks residents- a new developer blocks that one and soon the richest developer wins. His buyers get the view AND NO ONE ELSE DOES.

These are Two huge things to consider when you vote on these projects. Cars, parking, pollution, noise, safety all come under one umbrella - beauty, accessibility, and sensitivity come under the other.

Debby Murray

Debby Murray ☯
104 North St.
Portland. ME 04101

86 Newbury and 100 Fore Street

Maggy W <mswnola@gmail.com>

Jul 3, 2018 4:03 PM

Posted in group: **Planning Board**

TO members of the Planning Board:

I was recently so pre-occupied with the zoning on Munjoy Hill that I failed to keep abreast of the 100 Fore Street and 86 Newbury Street proposed site plan applications. I understand that both of these projects are requesting zoning variances to allow increased height. Also I have read that 100 Fore Street seeks to use the average grade of Fore Street to calculate the height even though there is a sharp slope and no buildable square footage on Fore Street.

Please do not allow any variance to the current zoning for either site. We need to rely on zoning laws being enforced and we do NOT want a high wall shutting all of the India Street and East End residents off from the Old Port and the waterfront, especially if that high wall is to be used for parking spaces. The streets servicing these areas cannot handle the number of cars planned for these developments - the traffic is already congested and with 600-900 more cars per day on Franklin, India, Mountfort, Fore St, Commercial Street and the Eastern Prom, we are looking at a major problem, and this number does not even include the projected parking spaces included in the site plan for 58 Fore Street, for which I still have not seen the "pending" traffic study which was not available at the time the master site plan was approved. This huge increase in car traffic will further erode the quality of life to the East of Franklin Street.

As a citizen who is deeply concerned about climate change, I am asking the city to implement policies and infrastructure which encourage public transportation. We need to implement more satellite parking and work with WEX and other employers who wanted to bring more employees downtown to create a state of the art shuttle system from satellite locations. We should be keeping cars and their pollution away from the waterfront, not building walls of parking garages.

Furthermore, the Newbury Street site currently includes a beautiful historic brick building on Mountfort Street and another multi-family house on Newbury which should be preserved if Portland is to retain any residences of character in the India Street neighborhood. The poor Abyssinian Meeting House will be facing a huge modern structure which will further undermine its context.

Thank you for considering my point of view.

Maggy Wolf
28 Saint Lawrence

100 Fore St Planning Board Workshop - 7/10/2018

Karen Snyder <karsny@yahoo.com>

Jul 6, 2018 8:39 AM

Posted in group: **Planning Board**

Friday, 7/6/2018

Portland Planning Board:
Sean Dundon, Chairperson
Brandon Mazer, Vice Chairperson
David Eaton
David Silk
Austin Smith
Maggie Stanley
Lisa Whited

Re: 100 Fore St

Dear Chairperson Dundon and Portland Planning Board Members,

I am requesting that the Planning Board to NOT give 100 Fore Street a zoning height waiver change just to support more parking spaces.

I am very concerned about the 100 Fore St. at the base of Munjoy Hill. As you are well aware, we all ready have parking issues of downtown Portland workers, tourists, city employees parking on Munjoy Hill and it will only get worse. Also, there is great traffic congestion during rush hours on Franklin Arterial and Washington Avenue which will only get worse as well.

It was also reported in the Portland Press Herald that I-295 traffic is bad now. How can it not only exacerbate the current traffic and parking issues?

<https://www.pressherald.com/2018/06/26/state-study-calls-for-traffic-flow-and-safety-improvements-along-congested-i-295/>

Just simply adding 600 parking spaces to this site is a very short sighted and "car-centric" mind set. This will create further traffic congestion and pollution on Franklin Arterial and Washington Avenue during the rush hours which are all ready cause for avoidance for Munjoy Hill residence, India St residence, and the fisherman on the working waterfront on Commercial street. Please note the commuter park and ride parking lot at I-295 and Marginal Way is currently under-utilized.

If Portland government and developers are chanting Portland as wanting to be a "world" class city, just creating a massive amount of more parking spaces to create even more gridlock and pollution in the city is NOT a world class solution for this day and age. Mass transit should be pursued to push as much parking and traffic congestion off the peninsula rather than the City encouraging it.

Potential Solutions to Portland's Parking and Traffic Congestion Issues:

Short-Term Solutions:

- 1) Use satellite parking to shuttle in the top employers employees in town from the satellite parking lots.
- 2) Set staggered hours for the largest employers for employees to ease traffic congestion on I-295.

Long-Term Solutions:

- 1) **Obtain funding to build up on the commuter park and ride right off of I-295 on Marginal Way.** This parking lot is extremely under-utilized.
 - Have city investigate getting funding to build this by either Federal grants, DOT, Dept of Energy, developers, etc.
 - Make it 4 to 5 stories to move the parking off to the highway (800-1,000 parking spaces).
 - Have City enforce that companies > 50 employees start using this park and ridge garage off of I-295 that work in town.

- Why can't WEX help fund this? Their employees will have the biggest impact on the city of over 600 employees.

2) Obtain funding to create a solar/electric street cars/tram/light rail going from this garage, up Franklin Arterial with a turn about at Middle street.

-Have city investigate getting funding to build this by either Federal grants, DOT, Dept of Energy.

3) I am sure there are great other ideas out there....

I urge the Planning Board to find more progressive and environmental sustainable solutions for the Portland residents and fishermen affected by this development rather than thinking that creating more parking spaces will solve current traffic/parking problems because it won't. It will only further exasperate the traffic congestion/parking problems besides increased pollution that we currently have in Portland.

Regards,

Karen Snyder

Munjoy Hill Resident and Property owner

100 Fore Street - Hamilton Marina/Xpress Copy Building NO zoning height change please

Anna Medina <fruity.gemini@gmail.com>

Fri, Jul 6, 2018 at 11:39 AM

To: planningboard@portlandmaine.gov, jlevine@portlandmaine.gov, planning@portlandmaine.gov, cdg@portlandmaine.gov, bsr@portlandmaine.gov, jpj@portlandmaine.gov

Good afternoon,

I write with a plea concerning 100 Fore St - Hamilton Marina/Xpress Copy building. I would like to encourage you to not give a zoning height change. Please help remove congestion off of the peninsula. Consider mass transit capability to remove the traffic congestion.

This development will add additional traffic, pollution, and more potential parking issues going up Munjoy Hill. Please help preserve this precious place in our great city.

Thank you for your time.

Anna Medina

App 6-19-18 ZN-000114-2018

Pamela Day <pday2304@gmail.com>

Fri, Jul 6, 2018 at 11:42 AM

To: planningboard@portlandmaine.gov, Jeff Levine <jlevine@portlandmaine.gov>, planning@portlandmaine.gov, cdg@portlandmaine.gov, Belinda Ray <bsr@portlandmaine.gov>, jpj@portlandmaine.gov

Planning Board Members:

We oppose this proposed development because it further degrades the waterfront near our home on Waterville Street. The India Street corridor has already become a dark, faceless area that is increasingly congested and unfriendly to pedestrians and others who seek to enjoy east end access to the water.

We find it ironic that the city would even contemplate locating a 600 car garage in such a potentially lovely space. Developers should be challenged to create a building with green space that complements the pedestrian friendly Old Port waterfront, Eastern Prom and Ft. Williams Park areas.

Please do NOT grant this project a zoning height change or approval to add the 600 car parking structure.

Respectfully,

Pamela Day & Michael Petit

Pamela Day
207-461-1461

100 Fore St, 86 Newberry Street, Hancock - WEX

Patricia Ryan <pryan2@maine.rr.com>

Jul 9, 2018 4:05 PM

Posted in group: **Planning and Urban Development**

These development projects present serious issues for Munjoy Hill's viability as a unique neighborhood and historic district. Because of traffic congestion, pollution, greater parking issues on the Hill, and the slimmer and slimmer chances of affordable housing on the Hill, I am requesting that you do not grant the zoning height waivers to 100 Fore Street and 86 Newberry St., and that WEX provide a shuttle service for it employees, thereby lessening congestion on Franklin Arterial by elimination of 600cars commuting on Franklin Arterial. Please help preserve Munjoy Hill's unique historic significance.

Patricia Ryan LCSW
60 Montreal St.
Portland, Me 04101
207-749-8385

100 Fore St/ Wex building

Kristin Lawson <klaws18@gmail.com>

Jul 9, 2018 10:40 PM

Posted in group: **Planning and Urban Development**

To Whom It May Concern:

I am a Munjoy Hill resident and home owner. I am taking the time to write and sincerely voice my concerns about the proposed plans for 100 Fore St.-Hamilton Marina/Xpress Copy Building. The roads and layout of Portland given that it is a peninsula and there are very limited ways on and off the peninsula is reason alone to seriously think about before allowing another 600 cars commuting to and from that area on Fore St. every day. I am a working professional who witnesses first hand how congested the Franklin St. area is everyday during work commuting hours. It would be a disaster and commercial street is even more congested than Franklin St. that time of day. Mass transit options should be utilized instead of adding to congestion and traffic downtown. Additional cars also add to unnecessary air pollution and green house gases since most of those cars will be sitting in traffic.

I am also strongly against allowing a zoning height waiver on this project.

Sincerely,

Kristin M. Lawson

100 Fore Street 86 Newbury WEX

Stephen Gaal <steve@gaal.com>

Jul 10, 2018 9:47 AM

Posted in group: **Planning and Urban Development**

Dear Planning Board members, City Council members and staff,

The requested zoning changes to waive or revise height limits and add nearly 1,000 parking spaces in the India Street area defy description. Why do we have zoning rules that protect us all and make it possible to live in close proximity and in relative harmony when they can be easily circumvented? These property owners knew what the rules were when they purchased and planned their developments. Hold them accountable to the rules. Please, DO NOT grant the waivers.

The idea of adding 950 parking spaces is astonishing. Just 3-4 years ago, when the planning board was considering the contract zone for the new 400 seat theater at the St. Lawrence, neighbors objected saying the additional 200 cars per performance would be an issue without additional parking and the project was approved anyway saying the city's strategy is to NOT make parking more available and to encourage public transportation. What is good for the goose is good for the gander. Please do not approve these waivers. Let them take public transportation. Perhaps they can "subsidize" the Metro like the St. Lawrence promised to do.

Respectfully,

Stephen Gaal
Portland ME
steve@gaal.com
(603) 651-9183 mobile

The Russian dissident and chess grandmaster Garry Kasparov drew upon long familiarity with that process when he tweeted: "The point of modern propaganda isn't only to misinform or push an agenda. It is to exhaust your critical thinking, to annihilate truth."

100 Fore Street - Hamilton Marina/Xpress Copy Building

Mark Holden <mark.k.holden@gmail.com>

Jul 10, 2018 8:33 AM

Posted in group: **Planning Board**

Dear Members of the Planning Board and staff of the Portland Government:

Please do not permit a variance in the ordinance to allow a 600 unit garage next to the Wex development.

Emphasis should be placed on limiting traffic congestion and getting the new companies to develop more thoughtful plans for helping their employees and visitors to arrive via commuter vans, and other forms of mass transit.

This will then provide a less polluted, less congested Portland waterfront and city in general with less air pollution and stress.

There is a lot going on and a lot of pressure on all of you to give in to the interests of these large developments. But sensible decisions now will make for a better city for everyone in future years.

Yes of course there should be provisions for parking but it doesn't have to be over the top. It is OK for you to set some limits and let the developing company figure out options for reducing congestion and pollution.

Please also consider limiting the height of these developments for the sake of everyone's viewspace including you very proximal neighbor's on the edge of Munjoy Hill.

Sincerely

Mark Holden
37 Saint Lawrence Street
Portland Maine 04101
207-522-0944

100 Fore Street - Hamilton Marina/Xpress Copy Building

R Cousins <rcousins@hotmail.com>

Jul 10, 2018 11:49 AM

Posted in group: **Planning and Urban Development**

My vote is that the Zoning height waiver be NOT given.

We have zoning rules and regulations for reasons. One is to maintain some sort of cohesiveness to the surrounding area. Also to maintain similar height and mass restrictions.

I think it's time to reassess the need or desire to clog some of our most desirable land areas with parking garages. I would suggest this parking garage and future parking garages be located nearer to the 'gateways' to our city and then public transportation used to move about the city. This could do a lot to alleviate congestion in the city overall and in this case the immediate neighborhood and Munjoy Hill. When BIW was operating there were certain times of day when getting through nearby intersections, Congress-Mountford in particular, was next to impossible. Many vehicles ignored the lights and continued through the intersections as a train might. When the rush was over then back to normal. I fear that if we continue to add to the number of vehicles rushing through our neighborhood it will only get worse. It really is time to give the 'locals' safety concerns a priority over providing 'dead zones' when there could be more suitable alternatives if you applied some logical thought processes about what kind of city we really want. Haven't we done many studies about transportation viabilities in Portland. Why do we spend money on these studies if we don't learn anything or enact some of the recommendations?

Sincerely,
Rae Cousins
Munjoy Hill resident

July 10, 2018 Workshop - 100 Fore Street

Sandra Guay <slg@woodedlaw.com>

Jul 10, 2018 2:12 PM

Posted in group: **Planning Board**

Dear Planning Board Members:

Please review and circulate to all Planning Board Members the attached letter concerning the zoning amendment proposal for 100 Fore Street.

Thank you for your assistance and for your attention to this very important issue.

Sandra Guay

SANDRA L. GUAY, ESQUIRE

Partner

WOODMAN EDMANDS DANYLIK

AUSTIN SMITH & JACQUES, P.A.

234 MAIN ST., P. O. BOX 468

BIDDEFORD, ME 04005

T: (207) 284-4581 F: (207)284-2078

slg@woodedlaw.com

www.woodedlaw.com

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WOODMAN EDMANDS DANYLIK AUSTIN
SMITH & JACQUES, P.A.

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July 10, 2018

Via Email

Portland Planning Board
Sean Dundan, Chair
City of Portland
Planning Division
389 Congress Street
Portland, ME 04101

Re: 100 Fore Street LLC
Zoning Map Amendment

Dear Mr. Dundan and Planning Board Members:

This law firm represents a large group of Portland fishermen and merchants who call themselves the Portland Working Water Front Group ("PWWG"). This letter addresses the apparent purpose of the zoning amendment proposed by 100 Fore Street LLC, to enable 100 Fore Street LLC to increase occupancy and parking at the 100 Fore Street location. The PWWG opposes this zoning amendment request for several reasons.

First and foremost, there should be no consideration of any zoning amendments in the Commercial Street area without the applicant first submitting a peer reviewed traffic study addressing the additional impact on Commercial Street from the increased development made possible by the amendment. As the City's recent *West Commercial Street Multi-Model Corridor Study* (the "Study") and other recent studies report, the present traffic on Commercial Street is already having a significant and negative impact on the fishermen, fisheries and marine related businesses that are dependent on the Commercial Street docks and wharves. While parking garages, condominiums, hotels and retail outlets can locate anywhere on the peninsula, "[t]he fisheries and other marine

WOODMAN EDMANDS DANYLIK AUSTIN SMITH & JACQUES, P.A.

Portland Planning Board
Sean Dundan, Chair
July 10, 2018
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businesses that dominate the waterside of Commercial Street have no alternative locations within which to operate.” *Study* at 6.

As an example of the existing and ongoing issues caused by the ever increasing traffic on Commercial Street, just this past month, fishermen and others on a wharf were trapped *for over an hour* while a semitrailer truck unloaded produce to a restaurant causing significant public safety issues, in addition to blocking access to the wharf. Trucks loaded with fresh fish, lobster and bait are consistently held up for prolonged periods of time in traffic while attempting to access 295. The *Study* predicts that the already proposed Commercial Street area development/redevelopment “would be expected to generate 3,300 weekday PM peak hour trips” within the next 10 years. See Memo from Christine Grimando to Portland Planning Board (July 6, 2018).

As adopted in Portland’s recent Comprehensive Plan, the State goal is to “protect the State’s marine industry, ports and harbors from incompatible development.” The City’s goal is to “celebrate, promote, and protect Portland’s lobster and fishing industry as a foundation of the region’s economy and a feature of civic pride.” The City of Portland is blessed with the country’s oldest fishing community. Today, these fishermen and lobstermen bring in a catch worth over \$750 million annually to contribute to the local economy. In addition to the fishermen and lobstermen, the many businesses that support this fishery must be located on the wharves and piers along Commercial Street – they cannot relocate to any other location and still function in their industry service capacities. The City cannot have it both ways – unrestricted continued development, which daily increases inaccessibility to the wharves, and deteriorating transportation facilities and access for the fishing community, will destroy the fishing industry in Portland unless the City takes action to slow (rather than allow for zoning amendments to increase) development.

In addition to the above traffic and access related concerns, the PWWG views the continued and piecemeal zoning amendment and relaxation requests for development in the Commercial Street area as a slippery slope that can only result in creating an ever-increasing logjam of congestion on Commercial Street, and decreased accessibility to the wharves. Bending to a developer’s vision of how to maximize his or her property in this fashion is the antithesis of good planning and the PWWG respectfully asks this Board to put the brakes on and as provided for in the Comprehensive Plan, to consider further study of the effects and impact of traffic on the marine industry from the plethora of proposed, nonstop Commercial Street development.

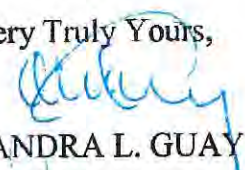
WOODMAN EDMANDS DANYLIK AUSTIN SMITH & JACQUES, P.A.

Portland Planning Board
Sean Dundan, Chair
July 10, 2018
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Commercial Street has reached a tipping point. It simply cannot accommodate continued increased traffic – and provide safe and reliable access to support the marine industry. The Planning Board, as the guardians of public safety, health and welfare, must begin to more closely scrutinize development in the Commercial Street area, and especially on development proposals that seek relaxation or amendment of the present zoning requirements.

Thank you for your consideration of these very important issues.

Very Truly Yours,



SANDRA L. GUAY

SLG/lb

Copy to:
Members of the Portland Working Water Front Group

Google Groups

100 Fore Street - Hamilton Marina/Xpress Copy Building

Stan Berkow <stan.berkow@gmail.com>

Jul 11, 2018 2:59 PM

Posted in group: **Planning Board**

To whom it may concern:

As residents of Munjoy Hill, we ask that this project NOT receive a zoning height change, include affordable housing, and encourage mass transit options vs. extensive parking which will bring significant traffic to the area.

Thank you,
Stan and Christina Berkow

Fwd: Comments regarding 100 Fore Street Proposed Rezoning and Map Amendments

Jeff Levine <jlevine@portlandmaine.gov>

Wed, Jul 25, 2018 at 6:41 PM

To: Jennifer Munson <jmy@portlandmaine.gov>, Planning Board <planningboard@portlandmaine.gov>, Stuart O'Brien <sgo@portlandmaine.gov>

----- Forwarded message -----

From: Hilary Bassett <hbassett@portlandlandmarks.org>

Date: Tue, Jul 24, 2018 at 12:29 PM

Subject: Comments regarding 100 Fore Street Proposed Rezoning and Map Amendments

To: Christine Grimando <cdg@portlandmaine.gov>, Jeff Levine <jlevine@portlandmaine.gov>, Deb Andrews <DGA@portlandmaine.gov>

Hi Christine, Jeff and Deb – Attached please find Landmarks' comments regarding the proposed rezoning and map amendments for 100 Fore Street. I have not sent directly to Sean Dundon and Julia Sheridan, assuming that they will receive this as part of their information packets. Thanks very much for considering our views.

Hilary

Hilary Bassett

Executive Director

Greater Portland Landmarks

207 774-5561 ext 101

hbassett@portlandlandmarks.org

www.portlandlandmarks.org

--

Jeff Levine, AICP

Director

Planning & Urban Development Department

389 Congress Street 4th Floor

Portland, Maine 04101

Phone (207)874-8720

Fax (207)756-8258

<http://www.portlandmaine.gov/planning>

@portlandplan



Greater Portland Landmarks_100 Fore Street_Public Comment_pre-Public Hearing_07242018 - FINAL.pdf
437K



24 July 2018

Sean Dundon, Chair, Planning Board
City of Portland
389 Congress Street
Portland, ME 04101

RE: 100 Fore Street Proposed Zoning and Map Amendments

Dear Chair Dundon and members of the Planning Board:

Greater Portland Landmarks has two concerns about the impact of the proposed zoning and map changes.

One concern is the potentially adverse impact of the proposed development at 100 Fore Street on Building 12 on the 58 Fore Street parcel, which is a contributing building in the Portland Company Historic District. During the 58 Fore Street master development planning process, the impact of the future Thames Street extension on the building was a serious concern that led the Historic Preservation Board to agree to its future relocation. In its current location, much of the new street extension would be above the ground floor level of the historic building, which could potentially damage it. We believe it is essential that the planning board and the applicant address how this historic building will be protected from adverse impacts if the temporary driveway is built before Building 12 is relocated.

Our other concern is that the application is not consistent with goals in the City's new Comprehensive Plan. The Plan envisions Portland as an authentic city and states "we will maintain our character thorough preservation, innovation, and excellence in design for the built environment." The Transportation Policy Guide further states that the city will "enhance the pedestrian realm through investment," in among other elements, "strong urban design."

The proposed zoning and map changes are for a project, incorporating a specific use and building form on one parcel, that is not yet under site plan review. Landmarks is very concerned that evaluating the proposed text and map amendments without simultaneous consideration of the site application will not result in strong urban design or design excellence as envisioned in the Comprehensive Plan.

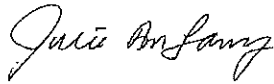
The applicant has requested additional height to accommodate a third parking deck accessible from Fore Street and to maximize development on the upper floors of the water/service alley side of the building while providing very limited enhancements to the public realm. There is a very small retail frontage at Fore Street shown on the massing plan along with three garage entrances and five proposed curb cuts on Fore Street. The three levels of parking will generate very little pedestrian activity on the future Thames Street and Mountfort Street streetscapes. There is no commodious public pedestrian entrance to the building on Fore Street or to the garage. As depicted in the massing plan the proposed building does not even meet the sidewalk on

Thames Street Extension or Fore Street, which is uncharacteristic of the strong urban character that has been encouraged in other new construction in this neighborhood.

Although the plan details are not yet under consideration, we believe that the zoning requests will in effect dictate a very specific building form, which will have negative impacts on the pedestrian realm that are inconsistent with the goals of the Comprehensive Plan.

Overall, we encourage the Board to demand excellence in design before accommodating a request for additional height from any applicant. We believe that discussing design during the zoning process is essential, as zoning parameters determine a building's form. The Comprehensive Plan recognizes that "our unique quality of place is key to our current and future economic success," and we should demand that new construction projects enhance quality of place and improve the public realm for all users.

Thank you for considering our views,

A handwritten signature in cursive script, reading "Julie Ann Larry".

Julie Ann Larry
Director of Advocacy

cc: Christine Grimando
Jeff Levine
Deborah Andrews
Julia Sheridan, Chair of the Historic Preservation Board

100 Fore Street zoning height change

Amy Marie <amymari333@gmail.com>

Jul 30, 2018 3:34 PM

Posted in group: **Planning Board**

Good afternoon,

As a resident of Munjoy Hill, specifically Waterville Street, I am writing to strongly urge you **NOT** give a zoning height change to 100 Fore Street. Instead, I urge you to include affordable housing. I am lucky that my landlord, who lives on site at our Waterville Street location, cares about living wages and livable rents. My rent is affordable for my Portland salary. Across the street, an apartment smaller than mine is on the market for a rent of nearly \$3,000. I don't even make \$3,000 a month after taxes and I have a well paying hourly job. I don't know how anyone starting out in Portland, with dreams of making this their home, would be able to pay a \$3,000 rent, with **nothing** included.

I also urge you to **encourage** the use of mass transit and work to increase the capability of the Metro to remove traffic congestion off the peninsula instead. Again, as a Waterville Street resident, these days I'm often parking a block or two away from my apartment, as the proverbial cat is out of the bag regarding the free parking available on my street and the streets surrounding. It's sad to plan my days on the weekends around whether I feel I'll be able to find a parking spot to get back home. I tend to plan my evenings after work rushing home to get a spot as well, and agree to plans that allow me to walk or someone to pick me up. It's gotten that bad on our street. Aside from urging public transportation and lots for parking off the peninsula with direct runs of public transportation in, please consider resident only parking stickers, similar to that of the West End. I lived in the West End for 8 years, had my parking sticker, and never had such an issue with parking for my home. I realize we want the money in Portland - I want my city to prosper and be the tourist destination that it is. However, there's a way to do so and not have it displace residents, who live here year round and spend all of their paycheck in this zip code.

Thank you.

Best,
Amy

Munjoy Hill Planning

Miss M <missmasina@gmail.com>

Aug 2, 2018 1:11 PM

Posted in group: **Planning Board**

As a Munjoy Hill and Saint Lawrence Street resident, I have seen our street changing drastically. Some buildings have been upgraded by the owners, and kept the lovely charm that is our seaside town. Others have been torn down and replaced by the blocky-modern buildings that are all the rage on the hill. Please consider that part of the charm and desirability of our neighborhood IS the old seaport nature it holds, and dont allow every single investor to come in and tear down the buildings to make a profit with the highest possible-building that can contain the smallest possible condos for a single person to inhabit.

This neighborhood needs to become a historic district to preserve what is left.

Sincerely,
Masina Wright

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
BRIAN E. BATSON (3)
JUSTIN COSTA (4)

**CITY OF PORTLAND
IN THE CITY COUNCIL**

KIMBERLY COOK (5)
JILL C. DUSON (A/L)
PIOUS ALI (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

Order 69-18/19
~~Tab 25~~ 9-5-18
Tab 10 9-17-18

**AMENDMENT TO THE PORTLAND CITY CODE CHAPTER 17 RE:
MORATORIUM ON MEDICAL MARIJUANA RETAIL STORES, MEDICAL MARIJUANA
TESTING FACILITIES, AND MEDICAL MARIJUANA MANUFACTURING
FACILITIES**

WHEREAS, the Maine Medical Use of Marijuana Act (the "Act"),
codified in the Maine Revised Statutes in Title 22,
Chapter 558-C, authorizes registered caregivers to
possess, cultivate, and transfer medical marijuana to
qualifying patients, as those terms are defined by 22
M.R.S. § 2422; and

WHEREAS, on July 9, 2018 the Maine Legislature enacted as
emergency legislation PL 2017, c. 447 (LD 239), An Act
to Amend the Maine Medical Marijuana Law, which
expressly recognizes municipal home rule authority to
regulate registered caregiver operations; and

WHEREAS, on July 9, 2018, the Maine Legislature also enacted PL
2017, c. 452 (LD 1539), An Act to Amend Maine's
Medical Marijuana Law ("LD 1539"); and

WHEREAS, LD 1539 includes express authorization for registered
caregivers to 1) operate retail stores for the sale of
harvested medical marijuana to qualifying patients, 2)
conduct marijuana testing for research and development
purposes, and 3) manufacture marijuana products and
marijuana concentrates for distribution to patients;
and

WHEREAS, the unregulated location and operation of medical
marijuana retail stores, testing facilities, and
manufacturing facilities within the City of Portland
(the "City") raises legitimate and substantial
questions about the impact of such activity on the
City, including questions as to compatibility with
existing land uses and developments in the City; the
sufficiency of municipal infrastructure to accommodate

such activity; and the possibility of unlawful sale of medical marijuana and medical marijuana products; and

WHEREAS, as a result of the foregoing issues, the location and operation of medical marijuana retail stores, testing facilities, and manufacturing facilities within the City have potentially serious implications for the health, safety and welfare of the City and its residents; and

WHEREAS, existing ordinances are insufficient to prevent serious public harm that could result from the unregulated development of medical marijuana retail stores; and

WHEREAS, the City needs time to understand the impact of the amendments to the Act on the City's existing rules and ordinances regarding, among other things, zoning, land use, and fire and life safety requirements; and

WHEREAS, in the judgment of the City Council, the foregoing findings and conclusions constitute an emergency within the meaning of 30-A M.R.S. § 4356 requiring immediate legislative action; and

WHEREAS, a temporary prohibition on medical marijuana retail stores, testing facilities, and manufacturing facilities is therefore appropriate in order to determine what regulations, if any, are necessary within the City as a result of the amendments to the Act:

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PORTLAND, that the Portland City Code is hereby amended by adding an Article, to be numbered X, which said Article reads as follows:

**ARTICLE X. MORATORIUM ON MARIJUANA CAREGIVER RETAIL STORES,
TESTING FACILITIES, AND MANUFACTURING FACILITIES**

Sec. 17-124. Necessity.

Municipalities are authorized by 30-A M.R.S. § 4356(1)(a) and (b) to enact moratoria for the following reasons:

a. To prevent a shortage or an overburden of public facilities that would otherwise occur during the effective

period of the moratorium or that is reasonably foreseeable as a result of any proposed or anticipated development; or

b. Because the application of existing comprehensive plans, land use ordinances or regulations or other applicable laws, if any, is inadequate to prevent public harm from residential, commercial or industrial development in the affected geographic area.

In accordance with 30-A M.R.S. § 4356(1)(a) and (b) and for the reasons stated above, the Portland City Council hereby finds that a moratorium on medical marijuana retail stores, medical marijuana testing facilities, and medical marijuana manufacturing facilities is necessary and warranted in the City of Portland.

Sec. 17-125. Definitions.

Except as otherwise provided, the following definitions shall apply to this Article:

Marijuana extraction means the process of extracting marijuana concentrate from harvested marijuana using water, lipids, gases, solvents or other chemicals or chemical processes.

Manufacturing or manufacture means the production, drying, blending, infusing, compounding or other preparation of marijuana and marijuana products, including the preparation of food, drink, or similar products from marijuana or marijuana products. Manufacturing includes, but is not limited to, marijuana extraction or preparation by means of chemical synthesis.

Medical marijuana manufacturing facility means an establishment that manufactures marijuana and marijuana products produced by a registered caregiver. Medical marijuana manufacturing facility does not include a single registered caregiver who solely manufactures marijuana and marijuana products out of marijuana legally grown by that caregiver for distribution to that caregiver's own patients.

Medical marijuana retail store means an establishment having the attributes of a typical retail establishment, such as, but not limited to, signage, regular business hours, accessibility to the public, regular sales to more than five individual qualifying patients in any one week, and sales

directly to the consumer of the product. This includes, but is not limited to, an establishment meeting the definition of a retail establishment in Sec. 14-47 of this Code that is used by a registered caregiver to offer harvested medical marijuana or marijuana products for sale to qualifying patients.

Medical marijuana testing facility means an establishment that tests marijuana produced by a registered caregiver. Medical marijuana testing facility does not include a single registered caregiver who solely tests the marijuana legally grown by that caregiver for distribution to that caregiver's own patients.

Sec. 17-126. Conflicts/Savings Clause.

Any provisions of this Code that are inconsistent or conflicting with the provisions of this Article are hereby repealed to the extent applicable for the duration of this moratorium. If any section or provision of this Code is declared by any court of competent jurisdiction to be invalid, such a declaration shall not invalidate any other section or provision.

Section 17-127. Violations.

If any medical marijuana retail store, medical marijuana testing facility, or medical marijuana manufacturing facility is established in violation of this Article, it shall be subject to the penalties provided for in Sec. 1-15 of this Code.

Sec. 17-128. Term.

This moratorium shall continue for 180 days from July 9, 2018 to January 5, 2019. It may be extended for additional 180 day periods by the City of Portland in accordance with 30-A M.R.S. § 4356(2).

Sec. 17-129. Applicability.

Notwithstanding the provisions of 1 M.R.S. § 302, this moratorium shall apply retroactively and include any and all actions and proceedings pending on July 9, 2018 or thereafter, including any proposed medical marijuana retail store, medical marijuana testing facility, or medical marijuana manufacturing

facility for which an application for a building permit,
certificate of occupancy, site plan or any other required
approval has been submitted to the City.

BE IT FURTHER ORDERED, that this Moratorium shall go into effect and be applicable as of July 9, 2018, and remain in effect for one hundred and eighty (180) days thereafter, unless extended, repealed, or modified by the Portland City Council; and

BE IT FURTHER ORDERED, that this amendment is enacted as an Emergency, pursuant to Article II, Section 11 of the Portland City Charter, to make it effective immediately in order to protect the public safety and welfare of the City of Portland.

MEMORANDUM
City Council Agenda Item

DISTRIBUTE TO: City Manager, Mayor, Michael Sauschuck, Sonia Bean, Danielle West-Chuhta, Nancy English, Deivy Periana

FROM: Jon P. Jennings, City Manager

DATE: August 16, 2018

SUBJECT: Caregiver Facility Moratorium

SPONSOR: Jon P. Jennings, City Manager
(If sponsored by a Council committee, include the date the committee met, the results of the vote, and the meeting minutes.)

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st reading X Final Action

Can action be taken at a later date: Yes No (If no why not?)

PRESENTATION: (List the presenter(s), type and length of presentation)

Acting Police Chief, Vern Malloch, and Associate Corporation Counsel, Anne Torregrossa, will provide an overview of recent changes in state law with respect to medical marijuana, as well as the need for a moratorium to give the City time to put in place rules and regulations governing caregiver medical retail stores, manufacturing facilities, and testing facilities.

I. ONE SENTENCE SUMMARY

The agenda item proposes a moratorium on registered marijuana caregiver retail stores, manufacturing facilities, and testing facilities.

II. AGENDA DESCRIPTION

Proposal to place a temporary moratorium on new marijuana caregiver retail stores, manufacturing facilities, and testing facilities to give the City time to implement zoning, licensing, and other regulatory ordinances to minimize any potential adverse impacts from their operation in the City. This moratorium will not impact legally existing caregiver operations in the City.

III. BACKGROUND

In July of this year, the state legislature enacted two statutes that impacted medical marijuana caregivers. The statutes allow medical marijuana caregiver retail stores, manufacturing and testing. They also changed the rules for the number of plants a caregiver can grow and eliminated the cap of five patients. The new statutes also expressly gives municipalities the right to regulate caregivers under their home rule authority.

Without a moratorium in place to allow the City to adopt zoning and performance standards, these facilities may be able to open under current regulations that are not designed to address marijuana caregiver facilities. The moratorium will give the City time to consider the potential impacts on the community and craft ordinances to mitigate any potential negative impacts.

This moratorium does not impact caregivers who are not operating a retail store, manufacturing facility, or a testing facility.

IV. INTENDED RESULT AND OR COUNCIL GOAL ADDRESSED

Moratorium to allow for the development of ordinances to govern the location and operation of medical marijuana caregiver retail stores, manufacturing facilities, and testing facilities.

V. FINANCIAL IMPACT

None anticipated.

VI. STAFF ANALYSIS AND BACKGROUND THAT WILL NOT APPEAR IN THE AGENDA DESCRIPTION

City staff has an internal working group that has been meeting for several months to work towards regulating the recreational marijuana industry when it is eventually licensed by the state. Because of this work, staff anticipates being able to present proposals to the Council with respect to the medical industry within the next several months. The moratorium will give staff the time needed to ensure that its recommendations are thoughtful and complete to facilitate Council decision making.

VII. RECOMMENDATION

Staff recommends that this moratorium be approved.

VIII. LIST ATTACHMENTS

Draft moratorium.

Prepared by: Anne Torregrossa, Associate Corporation Counsel
Date: August 16, 2018

MORATORIUM

RE: MEDICAL MARIJUANA RETAIL STORES, MEDICAL MARIJUANA TESTING FACILITIES, AND MEDICAL MARIJUANA MANUFACTURING FACILITIES

WHEREAS, The Maine Medical Use of Marijuana Act (the "Act"), codified in the Maine Revised Statutes in Title 22, Chapter 558-C, authorizes registered caregivers to possess, cultivate, and transfer medical marijuana to qualifying patients, as those terms are defined by 22 M.R.S. § 2422; and

WHEREAS, On July 9, 2018 the Maine Legislature enacted as emergency legislation PL 2017, c. 447 (LD 239), An Act to Amend the Maine Medical Marijuana Law, which expressly recognizes municipal home rule authority to regulate registered caregiver operations; and

WHEREAS, On July 9, 2018, the Maine Legislature also enacted PL 2017, c. 452 (LD 1539), An Act to Amend Maine's Medical Marijuana Law ("LD 1539"); and

WHEREAS, LD 1539 includes express authorization for registered caregivers to 1) operate retail stores for the sale of harvested medical marijuana to qualifying patients, 2) conduct marijuana testing for research and development purposes, and 3) manufacture marijuana products and marijuana concentrates for distribution to patients; and

WHEREAS, the unregulated location and operation of medical marijuana retail stores, testing facilities, and manufacturing facilities within the City of Portland (the "City") raises legitimate and substantial questions about the impact of such activity on the City, including questions as to compatibility with existing land uses and developments in the City; the sufficiency of municipal infrastructure to accommodate such activity; and the possibility of unlawful sale of medical marijuana and medical marijuana products; and

WHEREAS, as a result of the foregoing issues, the location and operation of medical marijuana retail stores, testing facilities, and manufacturing facilities within the City have potentially serious implications for the health, safety and welfare of the City and its residents; and

WHEREAS, existing ordinances are insufficient to prevent serious public harm that could result from the unregulated development of medical marijuana retail stores; and

WHEREAS, the City needs time to understand the impact of the amendments to the Act on the City's existing rules and ordinances regarding, among other things, zoning, land use, and fire and life safety requirements; and

WHEREAS, in the judgment of the City Council, the foregoing findings and conclusions constitute an emergency within the meaning of 30-A M.R.S. § 4356 requiring immediate legislative action.

WHEREAS, a temporary prohibition on medical marijuana retail stores, testing facilities, and manufacturing facilities is therefore appropriate in order to determine what regulations, if any, are necessary within the City as a result of the amendments to the Act;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PORTLAND AS FOLLOWS, that a moratorium on medical marijuana retail stores, medical marijuana testing facilities, and medical marijuana manufacturing facilities is hereby enacted as follows:

**ARTICLE X. MORATORIUM ON MARIJUANA CAREGIVER RETAIL STORES,
TESTING FACILITIES, AND MANUFACTURING FACILITIES**

Sec. 17-124. Necessity.

Municipalities are authorized by 30-A M.R.S. § 4356(1)(a) and (b) to enact moratoria for the following reasons:

a. To prevent a shortage or an overburden of public facilities that would otherwise occur during the effective period of the moratorium or that is reasonably foreseeable as a result of any proposed or anticipated development; or

b. Because the application of existing comprehensive plans, land use ordinances or regulations or other applicable laws, if any, is inadequate to prevent public harm from