



# CITY OF CONCORD

## REPORT TO MAYOR AND CITY COUNCIL

FROM: Matthew R. Walsh, Deputy City Manager – Development

DATE: June 27, 2024

SUBJECT: Proposed Amendment to City Zoning Ordinance Article 28-4-1(g)(2), Development Design Standards and Applicability in Performance Standards (State House Dome Obstructions in the Downtown Central Business and Opportunity Corridor Performance Districts; 80' Height Limit in the “Downtown” Central Business Performance District)

### **Recommendation:**

1. Accept this report; and,
2. Set the attached ordinance amending the Code of Ordinance, Title IV, Zoning Code; Chapter 28, Zoning Ordinance for public hearing on August 12, 2024 to establish provisions to create the opportunity for property owners to secure Conditional Use Permits from the Planning Board relative to maximum height within the Central Business District, as well as obstruction of the State House Dome for properties located within the “Downtown” Central Business and Opportunity Corridor Performance Districts.

### **Background:**

1. Zoning Ordinance & Central Business Performance District (“CBP”) and Opportunity Corridor Performance District (“OCP”): The current zoning ordinance was adopted in 2001, and served to implement the goals and recommendations in the 1993 City Master Plan, 1996 Garvins Falls Study, 1997 Downtown Master Plan, 1997 South Concord Rail Yard Redevelopment Small Area Master Plan, and 1998 Economic Development Strategy and Implementation Plan.

The downtown area of the City is located within the “Central Business Performance” zoning district (or “CBP”). Per Article 28-2-2(b)(10) of the Zoning Ordinance, the CBP District was established to “*encompass the traditional downtowns of Concord and Penacook, incorporating a wide range of uses including retail, restaurant, service, entertainment, cultural, lodging, office, governmental, and high density residential uses as well as mixed use developments. The majority of uses are housed within architecturally significant 19th century structures in a pedestrian-oriented area, with little or no on-site parking, and parking is generally provided in structures and on the street. New buildings and additions to existing buildings in downtown Concord shall be designed in such a manner as to not obstruct views of the State House Dome.*” This provision has existed since at least 2001.

The Opportunity Corridor is an area of the City targeted for redevelopment. Per Article 28-2-2(b)(10) of the Zoning Ordinance, the CBP District was “*established for the economic redevelopment of under utilized urban properties located between downtown Concord's Central Business Performance (CBP) District and Interstate 93, as well as in other former brownfield locations in the City. The range of permissible uses, including retail, restaurant, service, and office, are intended to reinforce, but not compete with the CBP District as a retail, office, and government center. High density residential uses may be allowed immediately adjacent to the CBP Districts in downtown Concord and Penacook. Development design standards for buildings and signs in the District should improve the visual character of the City as seen from the highway, provide an inviting entryway to the City's historic downtowns, and incorporate screening for adjacent neighborhoods. New buildings and additions to existing buildings in the OCP District adjacent to downtown Concord shall be designed in such a manner as to not obstruct views of the State House Dome.” This provision has also existed since at least 2001.*

In accordance with Article 28-4-1(h) of the Zoning Ordinance, the maximum height of a building within the CBP District is 80’; however, in accordance with Article 28-4-1(f)(3) of the Zoning Ordinance, a conditional use permit may be issued by the Planning Board for non-habitable spaces such as elevator shafts, steeples, mechanical enclosures, that exceed the 80’ limit. This provision has also existed since at least 2001.

Article 28-4-1(g)(5) of the Ordinance allows for properties located in that portion of the OCP District on Storrs Street, between Hills Avenue and Loudon Road, may apply for a conditional use permit to exceed the 45’ height limit in this location up to a height of 80’ (which is the current maximum height of the CBP District). This provision has also existed since at least 2001.

In accordance with Article 28-4-1(g)(2) of the Zoning Ordinance, a building, structure, or sign located within a performance zoning district (i.e. Central Business Performance District or the Opportunity Corridor Performance District) shall not obstruct the views of the State House Dome as can be seen from a passenger vehicle in the northbound lanes of Interstate 93 between Exit 12 at South Main Street and Exit 14 at Loudon Road, in the southbound lanes of Interstate 93 between the bridge over the Merrimack River south of Exit 16 and Exit 14 at Loudon Road, and in the westbound lanes of Interstate 393 between Exit 1 at Fort Eddy Road and the interchange of Interstates 93 and 393. This provision has also existed since at least 2001.

2. Ciborowski Associates Phenix Hall Project & Petition to Amend Zoning Ordinance:

Ciborowski Associates is a third-generation commercial real estate company based in Concord which owns approximately a dozen buildings in the Downtown, including 34-42 North Main Street (Phenix Hall), 44-52 North Main Street (former CVS / Phenix Hotel), and 54-56 North Main Street (former E&P Hotel; currently Hilltop Consignment). Collectively, these are known as the “Phenix Block”. The Phenix Block is located in the City’s Central Business Performance zoning district.

For years, Ciborowski Associates has aspired to redevelop the Phenix Block into a signature real estate development for the community. Ciborowski Associates’ current vision for these properties is a high quality, mixed use development. Specifically, Phenix Hall would be renovated into a performing arts venue with lounge, as well as ground floor commercial uses. The former CVS and E&P Hotel would be demolished and replaced with a new mixed-use building featuring ground floor commercial spaces, office

space, market rate residential units, and rooftop restaurant. In accordance with design concepts set forth in the City's 1997 Downtown Master Plan, this new building would be connected via "sky bridge" over Phenix Avenue to Phenix Hall to provide code compliant access (elevator, stair towers) to support redevelopment of Phenix Hall. **Please see the attached information for more details about the project.**

Ciborowski Associates intends to make application to the City Council for RSA 79-E Community Revitalization Tax Relief Incentives to support this project. However, because the project involves demolition and replacement of the former CVS and E&P Hotel structures, Ciborowski Associates was required to secure findings from the City's Heritage Commission to show that: 1) former CVS and E&P Hotel does not possess significant historical, cultural, or architectural value, 2) that the proposed demolition of the CVS and E&P structures as part of the redevelopment will achieve one or more of the public benefits identified in RSA 79-E:7 to a greater degree than the renovation of the underutilized structure, and 3) the historical, cultural, or architectural resources in the community will not be adversely affected by the demolition and replacement of the existing buildings.

The Heritage Commission met with Ciborowski Associates on October 5, 2023 and October 19, 2023. On October 19, 2023, the Heritage Commission unanimously found that the Phenix Hall Project satisfied these criteria. As of the date of this report, Ciborowski Associates has not formally applied to the City Council for RSA 79-E program for this development.

Following its discussion with the Heritage Commission, Ciborowski Associates filed applications with the Zoning Board of Adjustment (ZBA) seeking variances to: A) exceed the 80' height limit in the Central Business Performance District as established in Article 28-4-1(h) and B) to obscure portions of the State House Dome as established in Article 28-4-1(g)(2) of the Zoning Ordinance.

Specifically, Article 28-4-1(g)(2) of the Zoning Ordinance, states:

*"Within Performance Districts (i.e. the Central Business and Opportunity Corridor Districts), a building, structure, or sign shall not obstruct the views of the State House Dome as can be seen from a passenger vehicle in the northbound lanes of Interstate 93 between Exit 12 at South Main Street and Exit 14 at Loudon Road, in the southbound lanes of Interstate 93 between the bridge over the Merrimack River south of Exit 16 and Exit 14 at Loudon Road, and in the westbound lanes of Interstate 393 between Exit 1 at Fort Eddy Road and the interchange of Interstates 93 and 393."*

On December 3, 2023, the ZBA heard and denied both these applications (vote was 3 to 2 for each). Ciborowski Associates subsequently applied to the ZBA for a rehearing on both items. The application for rehearing was also denied. **Copies of the Zoning Board Application and Minutes of the December 3, 2023 meeting are attached.**

On March 4, 2024, Attorney Ari Pollack, on behalf of Ciborowski Associates, submitted a proposed amendment to Article 28-4-1(g), of the Zoning Ordinance. Specifically, Mr. Pollack's proposal called for:

- 1) Deleting 28-4-1(g)(2), of the Ordinance, which prohibits structures located within the Central Business and Opportunity Corridor Performance Districts from obstructing

the view of the State House Dome from specific viewsheds on Interstate 93 and 393; and,

- 2) Creation of a new provision whereby the Planning Board may approve Conditional Use Permits to exceed the 80' height limit in the Central Business Performance District.

**A copy of Attorney Pollack's request and suggested zoning amendment are attached.**

As noted above, in addition to provisions currently existing the Zoning Ordinance which allow for exceedance of the height limit for "uninhabitable" building appurtenances, it is important to reiterate that that the concept of a Conditional Use Permit to exceed height limitations in limited areas of the Opportunity Corridor Performance District *for habitable space* have existed for more than two decades in the Zoning Ordinance as well. Specifically, Article 28-4-1(g)(5), of the Ordinance. Recognizing this, much of the language included in Ciborowski Associates' suggested zoning amendment to establish of a Conditional Use Permit to exceed height in the Central Business Performance (CBP) District is identical to this existing provision. To date, no development project has attempted to use this provision for the subject properties within the Opportunity Corridor Performance District.

### **Discussion:**

1. **Planning Board Review:** On April 17, 2024, the Planning Board held a public hearing on Ciborowski Associates' zoning petition. The public hearing was well attended. **Minutes of the Board's meeting are attached.**

Upon completion of its public hearing, the Planning Board unanimously directed the Community Development Department to prepare the attached ordinance amendments for the City Council's consideration. As part of its directive to staff, the Planning Board expressed a strong desire to provide for reasonable flexibility concerning obstructing views of the State House Dome within the Central Business and Opportunity Corridor Performance Districts, as well as for affording the potential for additional 10' of height in the Central Business District, for the purposes of fostering economic development. However, the Board also made clear that any such amendments should simultaneously safeguard community interests regarding aesthetics, architectural character, as well as public health and safety.

With this in mind, the Board directed staff to proceed with modifications to proposed Ciborowski Ordinance as discussed therein, and to forward final proposed ordinance amendments directly to the City Council for consideration.

2. **Proposed Ordinance Amendments:**
  - a. **Introduction:** Based upon the Board's direction, the Community Development Department has prepared the attached Ordinance amendments for the City Council's consideration.

Rather than fully repealing and terminating the existing the dome obstruction provisions as proposed by Ciborowski Associates, staff proposes that the existing

obstruction provisions be modified to create a Conditional Use Permit to provide some flexibility to better regulate this issue within the Central Business and Opportunity Corridor Performance zoning districts (which are the only districts subject to this requirement).

Similarly, the proposed amendment creates a second Conditional Use Permit to provide flexibility concerning the maximum building height in the Central Business Performance District.

- b. Overview of Proposed Amendments: The proposed amendment modifies four distinct sections of the Zoning Ordinance.

First, it clarifies Article 28-2-2, (10) and (12) which establishes the vision and purpose of the Central Business Performance District and Opportunity Corridor District, respectively, by modifying language associated with obstruction of the State House Dome within each district, respectively. **A map of these districts is attached.**

Secondly, it modifies Article 28-4-1, by establishing a new provision whereby property owners in the Central Business Performance District and Opportunity Corridor Performance District (between Storrs Street, Hills Avenue, I-93 and Loudon Road) may apply to the Planning Board to secure special permission via a Conditional Use Permit (CUP) to obscure views of the State House Dome within aforementioned viewsheds from Interstate 93 and 393. In order to secure a Conditional Use Permit, the applicant will need to demonstrate – and the Planning Board will need to determine - that a development project satisfies a variety of conditions set forth in the Ordinance amendment. Please see the attached Ordinance for more details.

Third, the attached Ordinance amends Article 28-4-1 by establishing a new provision whereby property owners in that portion of the Central Business Performance District in the downtown area may apply to the Planning Board to secure special permission via a Conditional Use Permit to exceed the 80’ height limit for habitable space within a building within the Central Business Performance District. Similar to the proposed provisions regarding the “State House Dome Obstruction” CUP, the applicant will need to demonstrate – and the Planning Board will need to determine - that a development project satisfies a variety of conditions set forth in the Ordinance amendment. Please see the attached Ordinance for more details.

Fourth, the attached Ordinance amends Article 28-4-1(g)(5), which currently allows a property owner to apply for a Conditional Use Permit from the Planning Board to exceed the 45’ height limit in the Opportunity Corridor Performance District by modifying existing provisions pertaining to the obstruction of the State House Dome, as well as adding new language which ensures that exterior walls of buildings that have secured a Conditional Use Permit to exceed the 45’ height limit in the OCP District, and which are also taller than 65’, shall be recessed inboard into the building footprint by at least 10’ for all floors about 65’. This new language mirrors language in the proposed amendments pertaining to the Central Business Performance District, and will help preserve views of

Downtown from Interstate 93, as well as views of the Merrimack River across the Opportunity Corridor and I-93 from Downtown.

Staff notes that these proposed amendments are similar in concept to Ciborowski Associates' proposal. However, these amendments have been expanded upon to comply with the Planning Board's direction to staff.

3. Analysis of Proposed Amendments: Article 28-10-4 of the Zoning Ordinance establishes criteria for Planning Board Review of Proposed Amendments. The same Article stipulates that the Planning Board shall provide to the City Council a report on each proposed ordinance amendment which is referred to the Board by the City Council, which summarizes Planning Board's findings and recommendations regarding various items, as summarized below.

- a) The consistency of the proposed amendment with the Master Plan:

- i. Discussion: There are multiple Master Plans and studies which pertain to development within the Downtown Central Business District and the Opportunity Corridor. These include the 1997 Downtown Master Plan, 2020 Vision Plan, 2005 Economic Development Master Plan, 2005 Opportunity Corridor Master Plan, and the 2008 "2030" Master Plan. These documents are available on the City's website at <https://www.concordnh.gov/879/Concord-Master-Plans>.

Broadly speaking, these plans encourage development within the City's Downtown, call for redevelopment of blighted and underutilized properties in Downtown areas, encourage development inside the Urban Growth Boundary to help preserve and protect and rural areas of the City, encourage the establishment of mixed-use development (specifically housing, arts and cultural uses, and other uses creating vitality) in the Central Business and Opportunity Corridor Districts while simultaneously preserving Concord's historic buildings, community character, and sense of place.

Regarding the Central Business Performance District, there are some interesting components of the 1997 Downtown Master Plan, which are germane when reviewing the proposed zoning amendment and proposed Phenix Block project.

Specifically, Task #6 of the 1997 Plan also included an in-depth, detailed, conceptual 20-page redevelopment plan and financial analysis for Phenix Hall and the former CVS and E&P Hotel properties, complete with preliminary floor plans and multiple financial pro formas associated therewith which modeled various development proposals. This level of analysis for a privately-owned property is highly unusual in a municipal Master Plan, and demonstrates the City's long-standing desire to see the Phenix Block redeveloped into a high quality, mixed use project featuring the elements proposed by Ciborowski Associates.

Similarly, a detailed redevelopment and phasing plan was also included in the 1997 Downtown Master Plan for the Capitol Shopping Plaza (then called the NET Plaza) located on Storrs Street, which, in part, was the genesis for Article 28-4-1, g, 5, of the Ordinance, which allows for properties located in the Opportunity Corridor Performance District on Storrs Street, between Hills Avenue and Loudon

Road, to apply for a Conditional Use Permit to exceed the 45' height limit in this location up to a height of 80'.

Task #7 of the 1997 Downtown Master Plan also included suggestions about City Zoning. In 1997, the City Zoning Ordinance permitted 100' tall (or 10 storey) buildings. The 1997 Downtown Master Plan recommended a maximum height of 65' in the Downtown Central Business District. The 1997 Master Plan's height recommendations were rooted in concerns about historic preservation, community character, and the concern that large buildings might be out of scale with surrounding properties. The Kennedy Apartment Building was specifically cited in this regard (which is reportedly 85'-10" +/- tall on its South Main Street frontage per information submitted by Ciborowski Associates to the Zoning Board of Adjustment).

The 1997 Downtown Master Plan also recommended that special consideration be given to properties fronting on Low Avenue in the Central Business District to achieve an additional 10' (or 75') to account for topographical challenges on the easterly side of Main Street. **This is the exact challenge which the Phenix Block is currently experiencing, and part of the basis of Ciborowski Associates' argument to the Zoning Board regarding its 80' height variance request.**

**The aforementioned provisions of the 1997 Downtown Master Plan are attached.** All City Master Plans are available at <https://www.concordnh.gov/879/Concord-Master-Plans>

As previously stated, the City's current zoning ordinance was adopted in 2021. Contrary to the recommendation of the 1997 Downtown Master Plan, the zoning ordinance provides for a maximum height of 80', measured from average grade, in the Central Business Performance (CBP) District. Prior to the adoption of the 2021 Zoning Ordinance, the maximum height in the Downtown Central Business District was 100'.

Per the recommendations of the 1997 Downtown Master Plan, Article 25-5-48, h, of the current Zoning Ordinance stipulates that any building in the central business performance district must be stepped back 10' within the building footprint at an elevation at or above 65' to help preserve the pedestrian scale of Downtown Concord. The Hotel Concord building is an excellent example of this concept in practice. The purpose of this provision is to help maintain pedestrian scale of the community. **This concept has been included as a requirement in order to secure either of the new Conditional Use Permits pertaining to Dome Obstruction or Height.**

Lastly, Recommendation e, iv of the Economic Development Chapter of the 2023 Master Plan (which was adopted in 2008, or 7 years after the current Zoning Ordinance recommended the following:

*“Re-evaluate the City's building height limitation in the Downtown and Opportunity Corridor by performing a “viewshed” analysis, employing computer modeling to determine what building heights could be achieved on a new*

*structure without conflicting with the truly valued views of the State House Dome within the Opportunity Corridor” and along I-93.”*

**The attached ordinance amendment implements this recommendation by requiring applicants for the Dome Obstruction Conditional Use permit to complete viewshed analyses as part of the application process.**

Over the past two decades, Downtown has evolved significantly. Enactment of the Sears Block TIF District in 2003, and associated development of the Storrs Street Parking Garage (CIP #529), led to significant redevelopment downtown. New development included the Hotel Concord Building (11 South Main Street; 6 stories, 80’ / 91’ to top of mechanical enclosure / elevator shaft), the Smile Building (49 South Main Street; 5 stories), Mennino Place (50 Storrs Street, 5 stories), the Bindery Building (45 South Main Street; 4 stories), and redevelopment of the former NH Employment Security Property into the Isabella Apartment Building, (32 South Main Street; 6 Stories; 65’). With the advent of these buildings, the Kennedy Apartment building no longer appears out of place. Staff also notes that the new buildings associated with redevelopment projects Downtown were all associated with a public-private partnership. The City’s involvement in those arrangements provided it with unique influence over the design and aesthetics of those developments beyond the City’s customary development regulations.

The forthcoming new Friendly Toast building, currently under construction at 20 South Main Street, will be two stories, although a 4-5 storey building was previously proposed for the property.

- ii. Analysis of Proposed Ordinance Amendments: With all of this in mind, the attached proposed Ordinance amendments establishes a conditional use permit to allow for a building to exceed the 80’ height limit by an additional 10’, as well as a separate conditional use permit to obstruct the view of the State House Dome. The proposed Ordinance also establishes specific criteria which the applicant must satisfy to be receive conditional use permits (CUP) from the Planning Board for each item. Both amendments have been crafted to respect the goals and objectives of the aforementioned master plans, as well as community character, while simultaneously allowing for expanded development within the Central Business and Opportunity Corridor Performance Districts. The proposed ordinances also establish specific criteria to safeguard community character and public safety.

Additionally, per the attached proposed ordinance developed by the Community Development Department, applicants seeking this Conditional Use Permit to provide a view shed analysis, together with architectural renderings and photo simulations, demonstrating the impacts on the City sky line and view of the State House Dome for proposed building at both 80’ and 90’. This will help the Board determine if there is a material impact to the community due to the additional 10’ height increase.

Lastly, to qualify for either a height or dome obstruction conditional use permit, any building taller than 65’ shall be required to be stepped back at least 10’ at an



elevation at or above 65' to help preserve the pedestrian scale of Downtown Concord.

- b) The consistency of the proposed amendment with other plans, studies, or technical reports prepared by or for the Board and the City;

Please see discussion under Master Plan analysis above.

- c) The effect of the proposed amendment on the City's municipal services, capital facilities, and planned facilities as described in the Capital Improvements Program;

- i. Discussion: The Board noted that Ciborowski Associates' proposal would allow development projects to exceed the maximum building height in the CBP District by 10', thus allowing for buildings up to 90' in height (excluding other appurtenances).

Increased height will create additional density in the Central Business Performance District, which is in the Urban Growth Boundary (UGB). Allowing additional development in the Urban Growth Boundary could reduce development pressure on greenfield areas outside of the UGB, and thus the need to provide significant public infrastructure improvements outside of the UGB.

Additionally, the Board noted that there is no minimum on-site parking requirement in the Central Business Performance District. Creating additional density will likely increase parking demand in Downtown. Management strategies for reserved parking located in the City's three existing garages could be modified to accommodate increased demand by transitioning from historic "assigned space / lease" model to a permit management system. Per the recommendations of the City's 2017 Parking Strategic Plan, negotiations with long-term lease holders to make this transition are currently underway.

No significant public infrastructure improvements will be expressly required due to these specific zoning amendments.

- ii. Analysis of Proposed Ordinance Amendments: Recognizing that taller buildings in the CBP District could present some life safety concerns, the proposed Ordinance requires the following:
- Demonstrate to the satisfaction of the City Engineer that buildings or structures exceeding the height limit shall have adequate potable water pressure for fire suppression and domestic use;
  - Demonstrate to the satisfaction of the Fire Chief that buildings or structures exceeding the height limit can be served by the City's tower ladder fire apparatus.

- d) The effect of the proposed amendment on the natural, environmental, and historic resources of the City;

- i. Discussion: The Board noted that additional building height afforded by the proposed ordinance amendments could result in some modest additional density in Downtown which could not otherwise be achieved with the 80' height limit.

This could serve to modestly reduce development pressures in areas outside of the Urban Growth Boundary, which is generally beneficial, as such areas tend to have more natural, ecological, and environmental resources of importance to the community.

The Board also noted that the impact to historic buildings is difficult to predict. It is anticipated that the proposed Ordinance amendments would likely be used for redevelopment / new construction in the CBP and OCP Districts; however, it is also plausible that these provisions could be used to vertically expand some existing structures.

During the public hearing, some members of the community expressed concerns that the proposed amendments may incentivize demolition of buildings which should otherwise be preserved.

- ii. Analysis of Proposed Ordinance Amendments: Recognizing the public's concerns about the loss of existing building stock, the attached Ordinance amendment pertaining to Conditional Use Permit for additional 10' of height within the Central Business Performance District requires the applicant to demonstrate:
- The *existing* building or structure is not a viable candidate for preservation and adaptive reuse due to the building or structure's condition, characteristics, or circumstances.
  - The new replacement building will achieve all of the following public benefits:
    1. Result in the use or reuse of real estate which will enhance the vitality or vibrancy of the Downtown Central Business District or Opportunity Corridor to an extent greater than what would otherwise be achieved within the maximum height limitation; and,
    2. The vitality or vibrancy resulting from the replacement building or structure will be to a greater degree than if the existing building or structure was otherwise preserved and renovated; and,
    3. Results in the removal of slums, or blight, or the cleanup and redevelopment of a property contaminated with hazardous materials (i.e. brownfield site), or results in the economically viable redevelopment of an underutilized property which could not otherwise be achieved; and,
  - That the new replacement building will expand the supply of housing units within the Downtown Central Business District or Opportunity Corridor by at least 10 additional units.

e) The effect of the proposed amendment on neighborhoods, including the extent to which nonconformities will be created or eliminated;

- i. Discussion: The Planning Board noted that westerly portions of the Downtown Central Business Performance District along North and South State Streets directly abuts a historic neighborhood which is characterized by 1-2.5 story structures. Therefore, the impact of potential 90' tall building would be significant.

Additionally, the Planning Board that noted that several shorter buildings (less than 3 stories) exist throughout the Downtown Central Business District, and that placement of a potentially 90' tall building near such structures would appear out of place.

The Board does not anticipate that the proposed amendment will result in the creation of nonconformities. Rather, the proposed Conditional Use Permit may serve to help some pre-existing taller structures in the CBP District, such as the Kennedy Apartments at 40 South Main Street and Capitol Center for the Arts at 44 South Main Street, to become more conforming.

- ii. Analysis of Proposed Ordinance Amendments: To address these concerns, the attached Ordinance prohibits applicants seeking Conditional Use Permits to exceed the 80' height limit for those properties located in the Central Business Performance District which have more than 15' of frontage on North and South Main Street. The intention of the 15' provision is to protect the impacts on the adjacent neighborhood, while providing flexibility for the Eagles Club site which has primary frontage at 32 South Main Street but also has approximately 10' of frontage on South State Street, as well as the Capitol Center for the Arts which has primary frontage at 44 South Main Street, but also has 12'+/- of frontage on South State Street. Both de minimis frontages on State Street are for driveways.

Properties within the CBP District located west of North State Street are also ineligible for this Conditional Use Permit to protect the character of the surrounding neighborhood.

Additionally, to be eligible for the height Conditional Use Permit, the subject property or building must be directly adjacent to another building which is at least 3 stories tall along the same street frontage as the subject property.

f) The effect of the proposed amendment on the City's economy and fiscal resources;

- i. Discussion: The proposed amendment will expand the development potential of properties located in the Central Business and Opportunity Corridor Performance Districts, and density associated therewith, which could lead to higher assessed values of real estate in the Central Business District and, in turn, property tax revenues.

Additional density may result in stronger demand for municipal water, sewer, and parking facilities, thus increasing revenues associated therewith. More density will likely result in more activity in these areas, which is positive for the City's economy.

- ii. Analysis of Proposed Ordinance Amendments: Additional density afforded by this provision may result in modest increases in demand for public services; however, such demand is likely a de-minimis increase over those of an 80' tall building (which is already permitted). Expanded economic activity in these areas will likely result in additional revenues to the City in the form of increased property taxes, water and sewer fees, and parking fees.
  
- g) The recommendation of the Planning Board relative to whether the proposed amendment should be adopted or rejected, and any recommendations for conditions of adoption or modifications to the proposed amendment.
  
- i. Discussion: Upon completion of its public hearing on April 17, 2024, the Planning Board unanimously directed the Community Development Department to prepare the attached ordinance amendments for the City Council's consideration.

The Board concurred with City staff's assessment that the proposed Conditional Use Permits will likely not be extensively pursued or used in the Central Business or Opportunity Corridor Performance Districts, nor will the proposed Conditional Use Permits result in widespread obstruction of the State House Dome. Moreover, to the extent any obstructions of the view of the State House Dome are permitted, said obstructions will be extremely temporary when viewed by passenger vehicles travelling on prescribed sections of I-93 or I-393 set forth in the Zoning Ordinance at highway speeds.