

ELIZABETH DURFEE HENGEN
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CONCORD, NEW HAMPSHIRE 03301
603-724-4118
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August 6, 2024

City Council
City Hall
Concord, NH 03301

Re: Proposed Amendment to City Zoning Ordinance to grant CUPs for Central Business Performance District projects

Dear Members of the City Council:

I have carefully read through the draft ordinance pertaining to the above topic which will be presented for your consideration on August 12th. I have grave concerns about this ordinance amendment and its implications for the future of our downtown. There are major omissions in the draft, and it lacks clarity and guidance for the Planning Board, which will be tasked with reviewing and rendering decisions for any Conditional Use Permits under this ordinance. I am attaching a chart that offers my specific concerns regarding its language.

I understand that the genesis for this amendment is to address a need for extra height to support an upcoming downtown revitalization project: Mark Ciborowski's plan to redevelop Phenix Hall and the former CVS building. However, if the amendment is passed, it could easily have major repercussions for future projects that do not have such positive outcomes.

As drafted, this amendment could easily change downtown's pedestrian and very relatable scale. It could also incentivize demolition, including demolition of any and all of the historic buildings—the very structures that define downtown's unique character and provided the framework for the recent redesign of Main Street.

Despite stated goals in the city's current (2008) Master Plan to protect historic buildings and districts, there is not a single mention of said goals in this document. Nor is there any mention that downtown is part of a National Register Historic District. Nor is there a reference to our Main Street Design Guide, passed only six years ago, which offers guidelines for rehabilitating historic buildings (p. 14) and for designing new buildings (p. 15). Nor is there any reference to the 1997 Downtown Master Plan which recommended zoning policies to protect the historic character of downtown, specifically by providing “disincentives to demolition” and incentives to redevelop “the older and historic buildings for viable economic reuse.” (See pp. 12-13 of that document)

Instead, this proposed amendment treats all buildings equally, whether it is a one-story, mid-20th century, non-descript building or a four-story, late 19th century, architecturally distinctive building. It allows any building to be razed in order to build a new 90' (typically eight stories) building in its place. It cannot be ignored that a taller, new building could be capable of being economically more attractive than a smaller historic building, putting the latter at risk. There is nothing in place to avoid or mitigate their demolition. There is also nothing in the draft ordinance that would preclude the redevelopment of several adjacent lots with a single building whose overall scale and height would dwarf those around it and be out of character with the street. This is not to mean that replacement buildings should mimic the historic buildings, but they should be of high-quality design and make some reference to the scale and character of those around them.

I urge all of you on the City Council to table this ordinance. It needs further review and refinement to make this CUP tool effective for both applicants and decision-makers, and it needs to provide definitions and criteria that align with municipal goals. As drafted, it leaves far too much up to interpretation.

Sincerely,



Elizabeth Durfee Hengen

By way of background, I am a 40+ year resident of Concord and a design professional who serves on the city's Architectural Design Review Committee (although the views expressed in this letter are mine alone). I was also on the design team for the Main Street project in the mid-2010s and a founding member of the Heritage Commission.

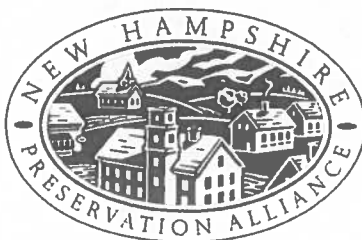
CONCORD ZONING ORDINANCE AMENDMENT

Questions and comments posed by Elizabeth Durfee Hengen, August 6, 2024

Section II 28-4-1: Dimensional Standards		
28-4-1(g)(2)(a)	<i>"Buildings or structures shall only obstruct the view of the State House Dome to the minimum extent necessary to accomplish the development program as approved by the Planning Board"</i>	<p>What is the definition of "the program," which is referenced throughout the document?</p> <p>What are the criteria that the PB would use to approve the program?</p>
28-4-1(g)(2)(b) & 28-4-1(g)(6)(c)	<i>"The design of buildings or structures which obstruct the view of the State House Dome shall provide a positive contribution to the architectural character of the Downtown Central Business District and Opportunity Corridor, as well as to the visual image of the city's skyline"</i>	<p>This is an appropriate place to reference the Main Street Design Guide, such as: <i>"shall follow the applicable recommendations set forth in the 2018 Main Street Design Guide."</i></p> <p>A definition of "visual image" needs to be created and provided, including the sightline(s) to that visual image, such as "as seen from Main St and/or Merrimack Street," etc.</p>
28-4-1(g)(2)(e)(i)	<i>"Results in the use or reuse of real estate which will enhance the vitality or vibrancy of the Downtown Central Business District...was not obstructed; or"</i>	Definitions of "vitality" and "vibrancy" (also used elsewhere in the document) need to be created and provided
28-4-1(g)(5)(c)	<i>"The design of buildings or structures which exceed the height limit shall respect the surrounding vernacular architecture [and] views of the State House dome unless a CUP permitting obstruction of the view of the State House Dome has otherwise been approved by the Planning Board in accordance with Article 28-4-1(g)(2), and the City's skyline;...and the city's skyline"</i>	<p>This section implies that if a CUP allowing obstruction of the dome has already been granted, then it is no longer necessary to respect the surrounding architecture.</p> <p>A reference to the 2018 Main Street Design Guide would be better than the adjective "vernacular."</p>
28-4-1(g)(6)(h)	<i>"That the buildings or structures which exceed the height limit shall not be located at properties that have more than 15' of frontage on North State Street or South State Street, or be in those portions of the Central Business</i>	This is unclear: does the CUP include parcels on North or South State Street that have under 15' of frontage? At the April Planning Board meeting, it was stated that the CUP was limited to Main Street.

	<i>Performance District located westerly of North State Street."</i>	Also, the CUP area could benefit currently excluded properties south of the existing boundary at Hills Avenue.
Section III 28-4-1: Dimensional Standards		
28-4-1(g)(6)(j)	<i>"For applications involving the demolition and replacement of existing structures, that the applicant has sufficiently demonstrated, and the Planning Board has determined: [continues with i.1-4 and ii]"</i>	<p>This entire section does not offer a distinction between an existing and a historic building, nor does it offer a strong mechanism to preclude using this CUP to demolish historic, architectural, or culturally significant structures.</p> <p>A suggested revision for this section:</p> <p><i>j. For applications involving the demolition and replacement of existing structures, the applicant has sufficiently demonstrated, and the Planning Board has determined:</i></p> <p><i>i. The structure(s) to be demolished is not eligible for, or listed on, the State or National Register of Historic Places, either individually or as a contributing property within a historic district, as determined by a qualified preservation consultant; or</i></p> <p><i>ii. Rehabilitation of the structure to be demolished constitutes a financial hardship for the applicant due to its condition, as demonstrated in a written report prepared by a qualified structural engineer accompanied by the project's pro forma; and</i></p> <p><i>iii. The project results in the use or reuse of real estate...</i> [continue with existing text i. 1</p>

		<i>through i.4, renumbered as iv through vii].</i>
28-4-1(g)(6)(j)(ii)	<i>"That 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."</i>	This section has been incorporated into (j)(i) above and can be deleted.
final para	<i>"In issuing a conditional use permit, the Planning Board may attach conditions to the permit including but not limited to requirements related to location, mass, height, color, and materials of a building or structure which will exceed the height limit."</i>	Suggested revision: <i>"In issuing a conditional use permit, the Planning Board may attach conditions, including but not limited to requirements related to location, mass, height, color, materials, and architectural details. The Planning Board shall make reference to the Main Street Design Guide."</i>



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August 9, 2024

The Honorable Byron Champlin and City Council members
City of Concord
41 Green Street
Concord, NH 03301

Re: August 12, 2014 Agenda item, Conditional Use Permit Ordinance

Dear Mayor Champlin and members of the City Council

The N.H. Preservation Alliance urges your consideration of substantive updates and refinements to the proposed ordinance before you vote on it.

- Give both applicants and decision-makers clearer guidance in applying this discretionary tool. There are terms like "vitality or vibrancy," "skyline," "public benefit," and "development program" that need further definition.
- Add criteria to encourage investment in Concord's Main Street area while avoiding unnecessary demolitions of historic buildings. In addition to the public benefit guidelines currently offered as i1-i4 in 28-4-1(g)(6)(j), we strongly advise that for applications involving the demolition and replacement of existing structures, the applicant must sufficiently demonstrate that the structure is not eligible for, or listed on, the state or national register of historic places, or the rehabilitation of the structures constitute a financial hardship for the applicant. We have model hardship language that we're happy to share.

As the statewide historic preservation non-profit organization, the Preservation Alliance helps civic leaders and other investors across the state with a wide variety of historic preservation projects and activities. Other cities and towns look to Concord as a model for its leadership in protecting and marketing the character of its Downtown Concord National Register Historic District with investments like the Main Street redesign to attract and retain businesses, visitors and residents, and use of tools like RSA 79E and the demolition delay ordinance that recognize the irreplaceable nature of historic structures as well as their environmental and cultural benefits.

Please let me know how I can be of assistance.

Sincerely,


Jennifer Goodman, Executive Director

NEW HAMPSHIRE PRESERVATION ALLIANCE

P.O. BOX 268 • CONCORD, N.H. 03302-0268

TELEPHONE 603 224 2281 • www.nhpreservation.org

Bonenfant, Janice

From: Ray Fournier <rayafournier@comcast.net>
Sent: Friday, August 9, 2024 10:46 AM
To: * City Clerk
Subject: Proposed Ordinance

[CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe]

I am writing to express my feelings and concern about a proposed ordinance that would seem to allow unrestricted demolition of older buildings, and the construction of structures up to ninety feet in height.

I favor the renovation of Phenix Hall and the construction of a seven story apartment building next to it, but I strongly believe that projects in this downtown area should be considered on a case by case basis. Proceeding this way would allow input from the community about how the community wants to preserve the historic "flavor" of our downtown.....or not.

It seems to me that the proposed ordinance makes it far too easy for developers, without meaningful restriction, to change the face our historic city.

Raymond Fournier
184 Oak Hill Rd
Concord, NH 03301

Bonenfant, Janice

From: Nicole Fox <nicole@concordgreenspace.com>
Sent: Sunday, August 11, 2024 3:56 PM
To: * City Clerk
Cc: chamby@comcast.net; Fennessy, Nathan; Sexton, Amanda; Keach, Fred; Kurtz, Judith; brenttoddconcord@gmail.com; Horne, Michele; Kretovic, Jennifer; kmcnamaraward4@gmail.com; Brown, Stacey; pwmclaughlin24@gmail.com; jim4concord@gmail.com; Ali Sekou; Schultz, Kris; Jeff Foote
Subject: Zoning Ordinance Amendment re: CBD building heights and obstruction of the State House Dome

[CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe]

Mr. Mayor and Members of City Council,

Concord Greenspace supports amending the Code of Ordinances to allow for development to obstruct views of the State House Dome from the interstate and increase height of buildings in the Central Business District to allow for increased density in downtown. Our organization promotes smart growth and sustainable development and we feel that this amendment works toward those goals. We believe that views of our State House Dome are a valuable asset that should be focused on those who reside, work, shop, and visit in Concord. Our downtown should not be limited to benefit those driving past our community at high speed.

Allowing for building heights of up to 80 feet, with facia set back 10 feet from the other edges of the building will allow for an incremental increase in density while preserving sunlight and views within our community. This is a reasonable limit to the scale of new buildings on Main Street. The ability to smartly and economically add density to downtown relies on the ability for developers to build in underutilized or brownfield sites.

We note that the amended ordinance does not appear to distinguish between Main Street and Village Street in Penacook. These areas have different neighborhood characteristics and building heights of 80 feet seem like they would be out of scale in Penacook. We encourage densification and infill in both areas, but it is important to make changes incrementally to maintain the unique character of each.

Susan Woods
Nicole Fox
Aaron Fracht-Monroe
Tim Robson
Meredith Cooley
Concord Greenspace Board Members

Bonenfant, Janice

From: Althea <althea9999@gmail.com>
Sent: Monday, August 12, 2024 12:11 PM
To: Byron Champlin; Fennessy, Nathan; Sexton, Amanda; Keach, Fred; Kurtz, Judith; Brent Todd; Horne, Michele; Kretovic, Jennifer; kmcnamaraward4@gmail.com; Brown, Stacey; pwmclaughlin24@gmail.com; jim4concord@gmail.com; Ali Sekou; Schultz, Kris; Jeff Foote
Cc: * City Clerk; Bonenfant, Janice
Subject: Zoning ordinance - Downtown Conditional Use Permits
Attachments: MAPS CBP OCD Historic.jpg; MAP Downtown Concord National Register Historic District.jpeg

[CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe]

Dear Honorable Mayor and members of the City Council,

I appreciate how this Council works hard to balance competing goals and find the best path forward. And I support the intent of this proposed ordinance change: to "enhance the vitality or vibrancy" of downtown Concord. Well-planned new construction and adaptive re-use projects like Phenix Hall can help make that happen.

However, I want to make sure you're aware that the proposed ordinance **applies to nearly all of the Downtown Concord National Register Historic District** and beyond, not just Phenix Hall. And that, as written, it **incentivizes and would likely accelerate demolition** of any or all of the historic buildings in the downtown core. **See attached maps.**

I know the current housing crisis and need for tax revenue make economic development a pressing concern. But I hope we **don't repeat 1950s-style Urban Renewal** when "blighted" areas of cities were indiscriminately demolished to make way for new housing, gentrifying once-affordable districts and diluting cultural and architectural vitality and community. That's when Concord lost its iconic train station and other relevant architecture, replaced by uninspired new construction and parking lots.

Historic preservation is not just about quaintness or nostalgia. It can be a powerful, positive **DEIJB initiative** if we tell a more complete story of our city's diverse past in and around the buildings where that history happened. William Penn "Billy" Thompson, for example, lived in the building just south of Revelstoke and owned a poolroom downtown. Thompson was an African American baseball player highlighted by the Black Heritage Trail who played for the Cuban Giants and Philadelphia Colored Giants teams about a hundred years ago.

Our historic downtown holds relevant stories about slavery, immigration, unions, politics, celebration, and much more. Let's factor in the vitality and vibrancy they hold. Let's make sure we add careful language to this ordinance to not incentivize or accelerate their demolition before we know who lived in, staffed, built, owned or visited our favorite coffee shop or our kids' favorite ice cream place.

We spent years and millions of dollars on the Main Street redesign. With more than fifty public meetings and robust community input, the city created an award-winning design to complement the scale and character of the Historic District. Can we take our time to craft the language in this ordinance in a way that facilitates new development while protecting Historic District buildings?

Please consider delaying approval for further discussion and public input. Thanks for your consideration. Please reach out if you have any questions.

Sincerely,

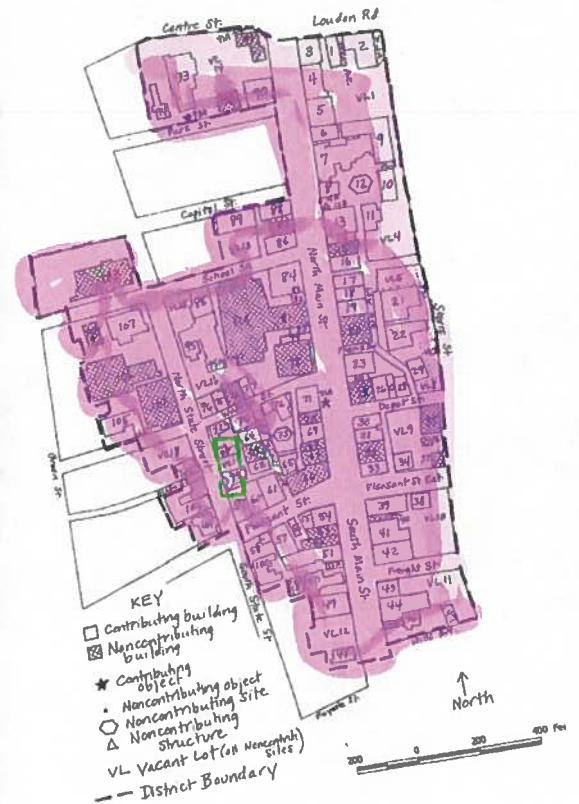
Althea Barton

Concord

I am a 24-year resident of Concord and a preservation professional. I serve on the city's Heritage Commission. The views expressed here are my own.



Downtown Concord
National Register
Historic District



RIGHT: Map of the
Downtown Concord
National Register
Historic District.

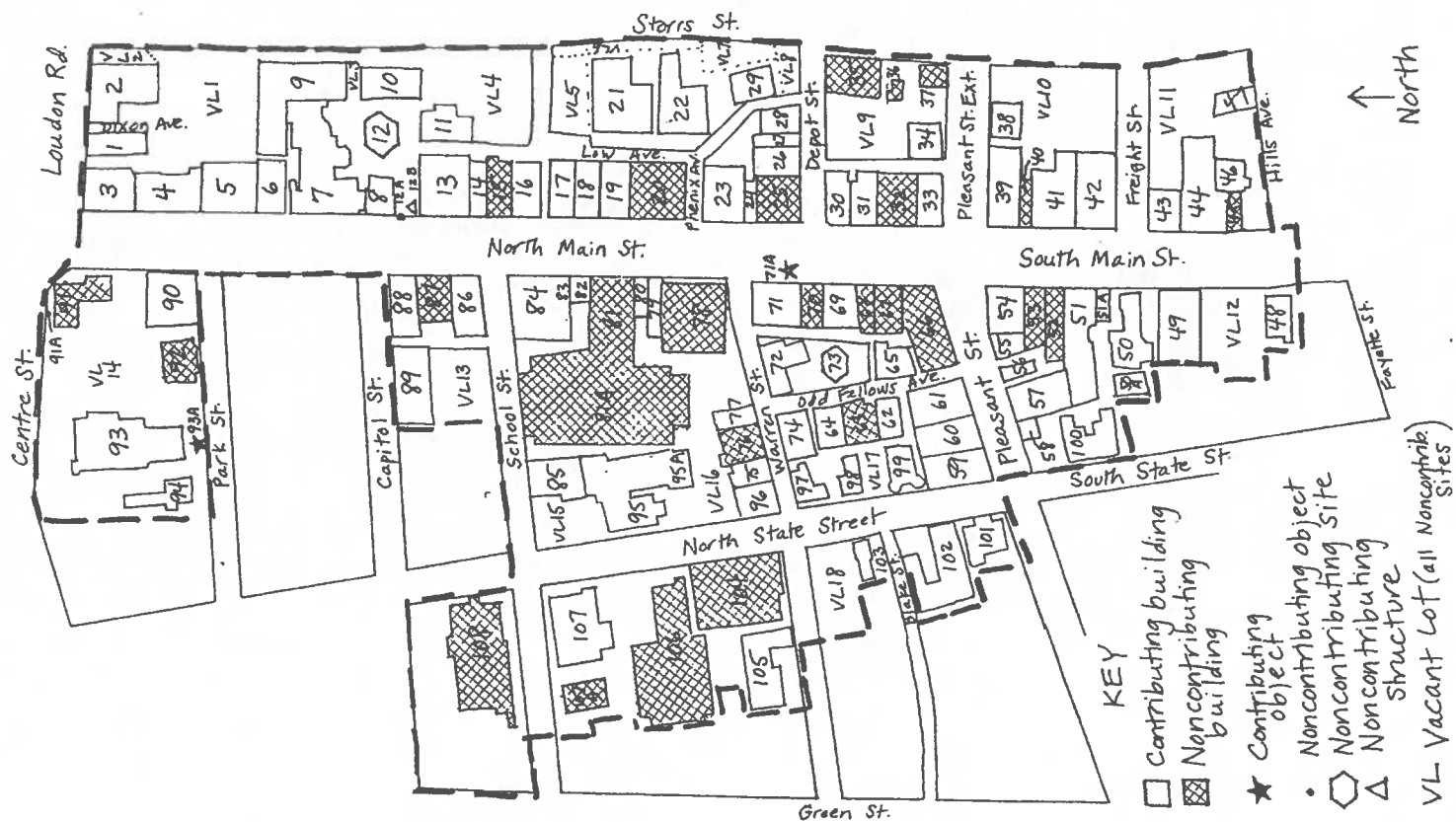
LEFT: Map provided by staff with the proposal

Black outline: area impacted by this ordinance according to staff

Red outline: Historic District

Purple highlight: CBP (Central Business Performance district)

Green highlight: OCD (Opportunity Corridor)





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August 12, 2024

City of Concord
41 Green Street
Concord, NH 03301

To Whom it May Concern,

The Intown Concord Board of Directors and staff consistently work to fulfill our vision "to sustain vibrancy and promote the growth of the Concord community." As such, Intown Concord is providing this letter in support of amending the CODE OF ORDINANCES, Title IV, Zoning Code, Chapter 28, Zoning Ordinance, Article 28-2 Zoning Districts and Allowable Uses, Section 28-2-2, Zoning Districts Established as per the revised ordinance provided in the August 12, 2024, City of Concord City Council Meeting agenda.

Intown Concord has been following this process and the proposal as well as had the opportunity to speak with Matt Walsh in advance of the August 12, 2024, City of Concord City Council Meeting. The Board of Directors is also very encouraged by the unanimous approval of this proposed amendment at the April 17, 2024, City of Concord Planning Board Meeting.

Therefore, on behalf of Intown Concord's Board of Directors and staff, we provide this letter of support to continue the growth of downtown Concord, where it has been our mission "to amplify and celebrate connections" and to build upon all the impactful investments that have been made on Main Street in recent years.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Simchik", written over a light blue horizontal line.

Jamie Simchik
President

August 12, 2024

Mayor Byron Champlin and Members of the City Council
City Hall
41 Green Street
Concord, NH 03301

RE: Proposed Height Zoning Change
Delivered via hard copy and via email

Dear Mayor Champlin and Members of the City Council:

I am writing in support of the proposed zoning change to accommodate further redevelopment on Main Street. I regret I cannot be there in person because I am out of state but would like to share some information and history with you about the dome, the lighting, and why this proposed change makes sense.

In 1975 I was chairman of the Legislative committee with authority over the state house dome, so I have had a long interest in protecting and preserving this important symbol. In one of the most recent renovations of the dome the gold leaf was restored. At that time, and until the second redo which I believe occurred during the Shaheen or Lynch years, the dome had either four or five protruding pipes from the base of the gold leaf cupola, at the top of the dentil molding. The pipes were about an inch in diameter and were each about 10 feet long. At the end of each pipe was a light. The purpose was to ensure the dome was bright, visible, and attractive from I-93. The downside is that, in unretouched photos (not the post card ones) the pipes made the dome look like the lunar landing module, not visible from 93 but ugly as heck from the neighborhood.

During the last renovation of the dome and cupola structure, these lights were removed and the lighting for the dome was placed on the roof. I was asked to advise the legislative team on the lighting of the state house and the dome, and we spent a few nights on top of the state house annex as lighting contractors worked their best to light the dome. However, as can be seen today, with roof mounted lights, even with the few that were added on extender poles, you cannot get the lighting to shine over the wood structure. The result is that it always looks like we put dimmers on the dome or that the state cannot afford to pay its electric bill.

I mention this history simply because anyone who has been around for a while knows that decades ago the dome was bright, shining, and a real attraction. Regrettably, while still special to those of us who love it, it is less of a visual draw to I-93 traffic.


I would also point out that the back of the railroad land and the shopping center along 93 is an unsightly detractor from any driver being enticed to get off the highway and to venture downtown at night, especially because most of the buildings on the east side of Main Street have their rear ends facing the highway. There is a dearth of light. Frankly, the downtown looks dangerous and lifeless from the highway save for the Hotel Concord sign and lighting. Main Street needs more light.

The proposed zoning change will allow for a modern building with lots of windows, lighting and rooftop activity. Yes, it will impede the view of the dusky dome for a few seconds to a passerby traveling at 55mph, but only briefly. It is also noteworthy that the topography of the east side of Main Street drops sharply and that if the measurements were made at the average, instead of the highest point, no zoning change would be needed. When this was before the planning board for consideration, I provided a detailed analysis that demonstrates that a car traveling at 55mph, in the driving southbound lane would have their view of the dome impeded for 6/10th of one second. That small intrusion would have no substantial negative impact on views of the dome. Further, given that there are only a few possible sites on the east side of Main Street where this kind of redevelopment could occur, there is essentially no risk that there would be very many requests for this kind of height in any redeveloped properties.

Finally, a word about taxes that is relevant to this zoning change. Absent a large annual increase in building, property taxes in Concord will likely have to increase substantially over the next few years. We do not have any large manufacturing or large office users who are interested in moving into our market. That means that other than commercial redevelopment on the Heights, downtown redevelopment is going to play a key role in creating tax base surplus- properties that generate substantially more in revenue than they utilize in services. Buildings that could be created under this zoning change are essential in my view to see this kind of development occur.

For those reasons I would urge the Council to adopt the proposed change. It will benefit Concord.

Sincerely,



Stephen Duprey