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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

<p>Section II 28-4-1: Dimensional Standards</p>		
<p>28-4-1(g)(2)(a)</p>	<p><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>	<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>
<p>28-4-1(g)(2)(b) & 28-4-1(g)(6)(c)</p>	<p><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>	<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>
<p>28-4-1(g)(2)(e)(i)</p>	<p><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></p>	<p>Definitions of "vitality" and "vibrancy" (also used elsewhere in the document) need to be created and provided</p>
<p>28-4-1(g)(5)(c)</p>	<p><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>	<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>
<p>28-4-1(g)(6)(h)</p>	<p><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></p>	<p>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.</p>

	<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>