

**REGULAR MEETING
PLANNING BOARD WORK SESSION
PORTSMOUTH, NEW HAMPSHIRE**

**EILEEN DONDERO FOLEY COUNCIL CHAMBERS
CITY HALL, MUNICIPAL COMPLEX, 1 JUNKINS AVENUE**

6:00 PM

SEPTEMBER 26, 2024

AGENDA

- I.** Co-Living Use
- II.** Hanover Street zoning
- III.** Downtown Overlay District
- IV.** Parking
- V.** Other Items
- VI.** Adjournment

**Members of the public also have the option to join this meeting over Zoom, a unique meeting ID and password will be provided once you register. To register, click on the link below or copy and paste this into your web browser:*

https://us06web.zoom.us/webinar/register/WN_N6Bi8HuUSdaKI1Szo5hkDw



City of Portsmouth
Planning Department
1 Junkins Ave, 3rd Floor
Portsmouth, NH
(603)610-7216

Memorandum

To: Planning Board

From: Peter Stith, AICP
Planning Manager

Date: September 26, 2024

Re: September 26, 2024 Planning Board Work Session on Zoning Amendments

I. Co-Living

The applicant for 21 Congress Street proposed a zoning amendment for consideration at their Preliminary Conceptual Consultation at the August Planning Board meeting. The proposal is below from their application:

PROPOSED ZONING CHANGE:

One Market Square, LLC respectfully requests the Planning Board provide a recommendation to the City Council to change the Zoning Ordinances to permit a residential Co-Living Use in the CD4 and CD5 Zones with the following Sections of the Zoning Ordinances modified:

Modify **Section 10.440 Table of Uses** by addition the following use and associated definition:

Co-Living Units:

Residential use providing a private or shared sleeping unit and access to communal areas for cooking (kitchen), bathroom, laundry, living, working, arts, recreation, and wellness spaces. The sleeping unit may or may not include a private bathroom or cooking facilities. There are no defined rental periods thereby allowing people the ability to rent daily, weekly, monthly, or longer.

Modify **Section 10.1110 Off-Street Parking**:

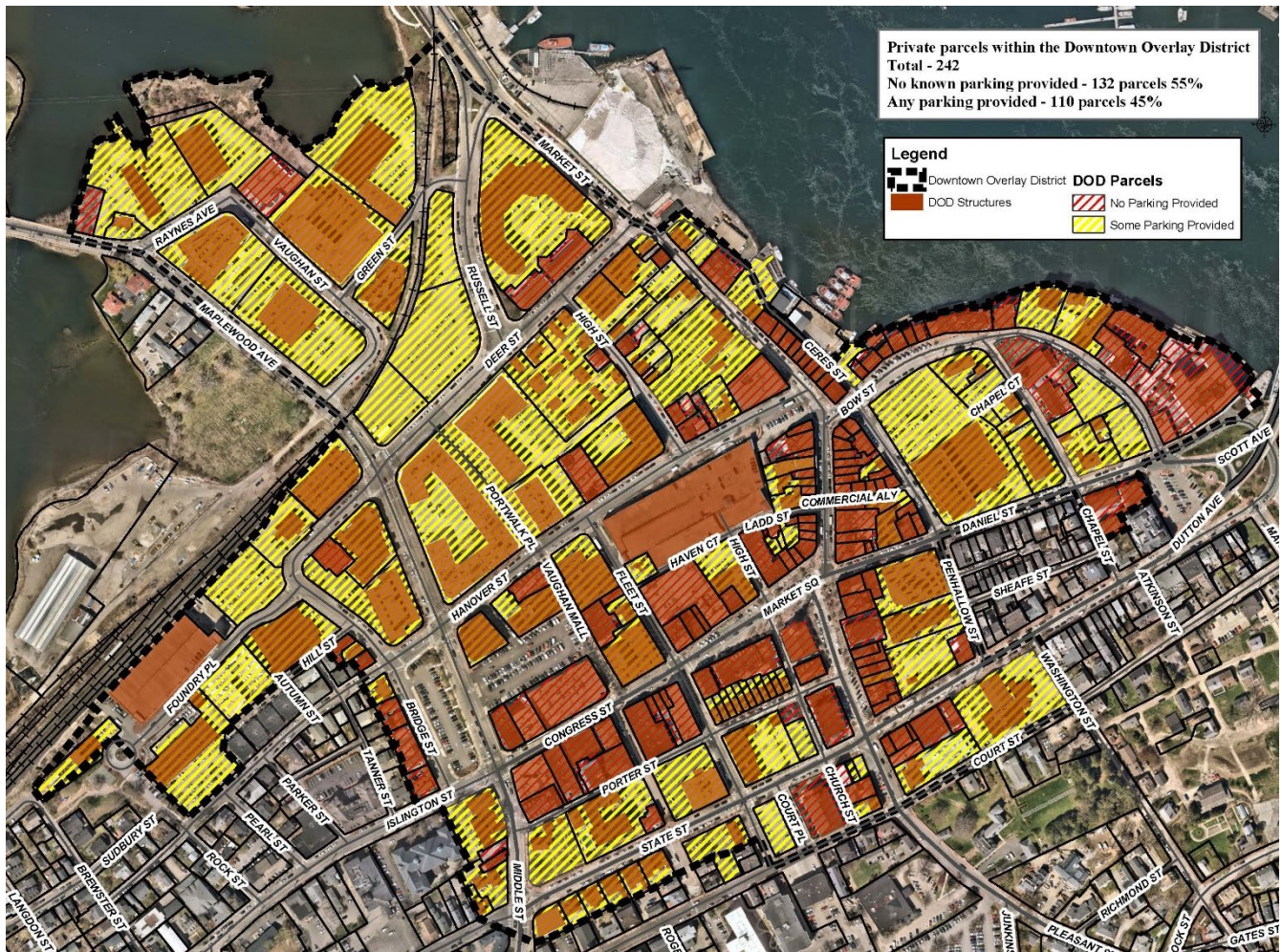
Eliminate parking requirement for residential uses in the CD4 and CD5 Zones

At the preliminary conceptual meeting, there was concern for short term rental use with the proposed definition. Staff would suggest revising the proposed definition as follows:

Co-Living Units:

Residential use providing a private or shared sleeping unit and access to communal areas for cooking (kitchen), bathroom, laundry, living, working, arts, recreation, and wellness spaces. The sleeping unit may or may not include a private bathroom or cooking facilities. **Co-living units shall be rented no less than 30 days.** There are no defined rental periods thereby allowing people the ability to rent daily, weekly, monthly, or longer.

Below is Section 10.1115.20 for parking requirements in the Downtown Overlay District (DOD). The request is to remove parking requirements for residential in the DOD. Staff did a preliminary analysis of parcels in the DOD that currently provide parking on site, however staff did not confirm that the parking meets the minimum requirements for the existing uses on a particular parcel. Of the 242 parcels in the DOD (excluding municipally owned parcels), 55% do not have space to provide any parking. 45% of the parcels were identified to have some parking on the lot, either surface or covered.



10.1115.20 Number of Required Off-Street Parking Spaces

10.1115.21 The following requirements shall apply in the Downtown Overlay District in lieu of the requirements in Section 10.1112.30:

Use	Required Parking Spaces
Residential use (dwelling)	Same as Section 10.1112.30
Hotel or motel	0.75 space per guest room, plus 1 space per 25 sf of conference or banquet facilities
Other nonresidential use	No requirement

10.1115.22 The requirements in Section 10.1115.21 shall be applied to all **uses** on a **lot**, and not to individual **uses**.

10.1115.23 For any **lot**, the number of **off-street parking** spaces that would be required by applying the ratios in Section 10.1115.21 shall be reduced by 4 spaces. (Therefore, any **lot** that would be required to provide 4 or fewer **off-street parking** spaces shall not be required to provide any spaces.)

10.1115.24 The provisions of Section 10.1112.50, Maximum Number of Parking Facilities, shall not apply to **buildings** and **uses** within the Downtown Overlay District.

DOD Background

The Downtown Overlay District (DOD) was adopted by the City Council on October 25, 2004 to “promote continuing economic vitality in the Central Business District by preserving and promoting active street-level retail and commercial uses, while continuing to encourage residential uses to occupy the upper floors”.


In 2012, the Planning Board recommended expanding the DOD to include areas zoned Central Business B that were not originally part of the 2004 DOD proposal. Included in the packet is a memo from the Planning Director with a map of the area under consideration. This change was recommended by the Planning Board to City Council in 2012, however the Council only changed the Connie Bean parcel in the DOD and did not include the others recommended by the Planning Board.

Since 2017, there have been 6 parking conditional use permits granted in the DOD, one of which has expired. See table below:

Address	Record Status	Detailed Description of Proposed Work
238 DEER ST	Active	0 parking where 11 are required
1 RAYNES AVE	Active	shared parking CUP for parking on separate lots. 138 spaces req. 138 provided
121 BOW ST, Unit C1	Expired	0 parking where 3 are required
2 RUSSELL ST	Active	Shared parking CUP on separate lots 334 where 334 are required
111 STATE ST	Active	0 spaces where 48 are required
165 DEER ST	Active	78 spaces where 83 are required

II. 361 Hanover Street

On January 23, 2020, the Planning Board held a public hearing on zoning amendments related to properties along Hanover, Foundry Place, and Bridge Street. Below is a memo from the former Planning Director for that meeting.



CITY OF PORTSMOUTH
PLANNING DEPARTMENT

MEMORANDUM

To: Planning Board
From: Juliet T.H. Walker, Planning Director *JTW*
 Jillian Harris, Planner 1
Subject: Staff Recommendations for the January 23, 2020 Planning Board Meeting
Date: 01/17/20

I. PUBLIC HEARING – ZONING AMENDMENT

A. Proposed Zoning Ordinance Amendments to Article 4 and the Zoning Map for certain properties located along **Hanover Street and Foundry Place** to modify the location and boundaries of the North End Incentive Overlay District and the Downtown Overlay District, modify Building Height area requirements, and re-zone from Character District 5 to Character District 4 and Character District 4-L1. Properties directly impacted by these proposed amendments are 361 Hanover Street (Tax Map 138, Lot 63), 89-99 Foundry Place (Tax Map 138, Lot 62), 126 Bridge Street (Tax Map 125, Lot 16), 66 Rock Street (Tax Map 138, Lot 61) and Foundry Place property at Tax Map 125, Lot 17-1. Amendments are also proposed to Article 5A Incentive Overlay District requirements to require granting of a conditional use permit by the Planning Board.

Description
 The owner of 361 Hanover Street (current Heinemann Property) previously submitted a request supporting zoning amendments related to the property. The request was to remove a portion of 361 Hanover Street from the Downtown Overlay District boundary to add a maximum building height of 4 stories (50') for properties located along Foundry Place.

The Planning Board held a public hearing on these proposed changes on August 22, 2019. At that time, the Board voted to refer the proposed zoning back to the Planning Department to review the potential impact on surrounding properties of the proposed increase in allowed building height and to also consider some of the feedback received from neighbors who spoke at the public hearing.

Following the public hearing, Planning staff have had follow-up conversations with some of the residents of the surrounding neighborhood who have prepared a list of additional amendments for consideration. A copy of their requests (dated 12/3/2019) is included in the Planning Board packet.

The proposed amendments advertised for this meeting include some additional revisions that address some (but not all) of the concerns raised by the neighborhood residents. Specifically, down-zoning the property fronting on Hanover Street from CD5 to CD4-L1 and down-zoning the properties on the southeast side of Foundry Place to CD4. In addition, the proposed height area for Foundry Place has been reduced to 3 stories (40')

Planning Dept. Staff Recommendations for the January 23, 2020 Planning Board Meeting

and the maximum height along Hill Street is proposed to be reduced from 4 stories (50') to 3 stories (40').

Another amendment proposed is to require that the additional height and building coverage allowed in the Incentive Overlay Districts be subject to a conditional use permit by the Planning Board. This would allow the Planning Board to evaluate each project on its merits to determine if the application of the additional incentives is appropriate for the location and whether the benefits to the community are adequate.

The Planning staff will make a presentation at the meeting to provide more detail on the proposed amendments.

At the conclusion of the public hearing, the Planning Board voted to schedule a public meeting and work session to discuss further revisions. That meeting was scheduled for March 26, 2020, however due to the pandemic, it was cancelled and never rescheduled.

Some changes have been adopted through other zoning amendments, including revising the definition of building height, changing the height for properties along Foundry Place (October 2022) and requiring a Conditional Use Permit for all incentives in the overlay districts (August 2023). Included in the packet is the original rezoning request from the Islington Creek Neighborhood, the legal notice for the proposed zoning changes for the Planning Board hearing in 2020, and a response from the owner of 361 Hanover. There is also a link to the meeting webpage for the January 2020 meeting [here](#) where you can find the related materials and minutes from the meeting.

July 10, 2024

Dear Councilor,

We are residents of Islington Creek asking for your help with a matter of concern to our neighborhood involving 361 Hanover Street, formerly the site of Heinemann Publishing.

We and our neighbors are an eclectic but organized group, ranging from young families recently settled here, to longtime residents who were part of the City's first wave of historic preservation nearly half a century ago. It is also important for you to know who we are not: we are not anti-development, anti-housing or NIMBY naysayers. In a recent private meeting, a City staffer mischaracterized the concern we briefly outline below as just another manifestation of "old Portsmouth vs. new Portsmouth." That is inaccurate.

Instead, we are concerned about promises made and broken by City officials regarding the CD5 Character-based Zoning with the Downtown Overlay designation of 361 Hanover Street. CD5 is the densest designation available and permits, for example, development of a 500-person hotel or a nightclub in the center of our historic neighborhood comprised predominantly by 1-2 story single family homes.

For years, residents of our neighborhood worked with City staff to develop and advance a zoning amendment to align the 361 Hanover property with the City's asserted commitment to transitional character zoning. In January 2020, the Planning Board unanimously voted to hold a public hearing on our requested amendment to rezone 361 Hanover to a more appropriate transitional zoning of CD4-L1 or CD4-L2. When COVID delayed that meeting, City staff assured us that our amendment would be advanced when the moment was right. When City business resumed, the Planning Board stated on the record that our proposal was a top priority. We were persistent; City staff said we should be patient. So, we waited for the public meeting to appear on the Planning Board Meeting Agenda. When it didn't appear on the list after many months, we reached out to ask if it would be on the list soon. City staff told us to wait. We waited and waited.

Then, in April 2024, it was too late. At the April 26 Planning Board meeting, former City planner Nick Cracknell, acting on behalf of Hampshire Development Corp., presented a design plan for development of 361 Hanover. Mr. Cracknell began his presentation by acknowledging that the City got the zoning for that lot "wrong." He then described the proposed development, implying that it was the best our neighborhood can hope for given the CD5/Downtown zoning. The Planning Board accepted the application for design review in May 2024, vesting the zoning.

At that May 2024 Planning Board meeting, we questioned why our request to be heard on our zoning amendment proposal never happened, despite a unanimous vote by the Planning Board for a public meeting. A Planning Board member responded by suggesting that we sat on our right to petition the City Council for a zoning change.

We did not sit on our rights. We relied, to our detriment, on promises made to us by the City. Now, City staff tell us that they are sorry, but “there really isn’t anything more [they] can do regarding this failed zoning amendment.” To be clear: Our zoning amendment did not “fail” -- it never saw the light of day. We were placated and the proposal was buried. And now, our legitimate concerns about this have been mischaracterized as NIMBYism.

We need your help holding the City to its promise of an appropriate transition between historic neighborhoods like ours and the encroaching urban landscape. To that end, we seek your advocacy for our neighborhood, including but not limited to defending our interests in connection with various agreements the City may enter into with the developer such as potential license agreements, land swaps, or easements which could impact the public’s right to access public portions of this property.

Thank you,

Sean Caughran & Marcie Vaughan, 407 Hanover Street

Robin Husslage, 27 Rock Street

Karina Quintans, 51 McDonough Street

Nicole LaPierre, 44 Rock Street

PORTSMOUTH STEAM FACTORY PROJECT

*AN ASSESSMENT OF THE RECENTLY APPROVED DESIGN
REVIEW PLAN, THE ALTERNATIVE CUP PLAN, AND THE
2019 PROPOSED ZONING AMENDMENTS*



361 HANOVER STREET, PORTSMOUTH, NH
HAMPSHIRE DEVELOPMENT CORPORATION

Sept. 23rd 2024

September 23, 2024

To: Rick Chellman, Chairman of the Portsmouth Planning Board

Re: **An assessment of the recently approved Design Review Plan, Alternative CUP Plan, and the 2019 proposed Zoning Amendments**

Dear Mr. Chellman,

In response to the recent letter submitted to the City Council from residents of Islington Creek, dated August 15th, 2024, we offer the following information to clarify our continued efforts to develop a building and site plan that addresses the concerns expressed by Board members and members of the public that participated in the informal review of this project in April and May of this year. To that end, we believe the *Alternative CUP Plan* that we presented to the Board on July 18th, and our pending application for zoning relief to the Downtown Overlay District (DOD) requirements and the permitted Building Types in the CD5, meets the overall goals and objectives outlined in resident's letter to the City Council and the general substance of what we understand was presented in the proposed 2019 amendments. In summary, our response is intended to assess and illustrate how our *Alternative CUP Plan* addresses and meets those shared concerns, goals, and objectives.

In contrast to the recently approved *Design Review Plan* for 361 Hanover Street, the proposed *Alternative CUP Plan* is fundamentally consistent with the stated Board and neighborhood design objectives for smaller buildings, reduced building heights, greater open space, removal of commercial businesses on the ground-floor, and design of a context-sensitive building and site plan that is respectful and consistent with the historic character of the surrounding neighborhood. The proposed *Alternative CUP Plan* is designed to not only address these concerns but to replace the large 57-space surface parking lot along Hanover Street with four (4) detached buildings that will enhance property values, activate the street edge, preserve the street wall, and provide a transition from the large developments along Hill Street and Foundry Place to the existing land use pattern of smaller 19th century residential structures along Hanover and Rock Streets.

Proposed 2019 Zoning Amendments

According to the former Planning Director, Juliet Walker's, Memo, in August of 2019, several residents in the Islington Creek neighborhood submitted a set of draft zoning amendments for consideration by the Planning Board.¹ According to the Director Walker's Memo, the Planning Board held a Public Hearing to review the draft amendments. Apparently, at the Public Hearing, the Planning Board received and provided comment and voted to continue the Public Hearing and to refer the amendments to the Planning Department for further review and to requested they provide a formal recommendation.

Subsequently, Director Walker's January 2020 Memo provided the Planning Board with a summary of the amendments. Apparently, the Board voted in January to schedule another public meeting to review the amendments.² However, this public meeting was apparently not held due to the pandemic and was

¹ It is unclear from the Planning Director's memo whether these amendments were properly filed with the City Council in order to be referred to the Planning Board for a Public Hearing or whether the Director was only seeking informal review from the Planning Board.

² Other than a comment in the Planning Director's report that suggests making some changes to the underlying character-districts and a reduction in building height, it is difficult to fully understand and assess the substance and

never rescheduled.³ At that time, it is evident from the high level of permitting activity in the North End in 2019-2020 that several potentially impacted properties were either before the city's land use boards and commissions or they were working to prepare their construction documents to commence construction on their previously approved projects.⁴

Recent Zoning Amendments Effecting the North End

Although the City adopted no zoning amendments through much of 2019 to 2022 period, in late 2022, the City's Land Use Committee and Planning Board proposed an amendment to the definition of how building height was measured in order to prevent backfilling from artificially elevating the height of new buildings. Once adopted, the building height change had the net effect of lowering the overall height of all new buildings, including in the North End. In 2023, the street-based Building Height Standards Map was amended for several streets in downtown Portsmouth, including but not limited to the recently completed Foundry Place. Although originally proposed to be consistent with the allowed height of 4 stories or 50' already assigned to other properties fronting on Foundry Place, the building height for 361 Hanover Street along Foundry Place was assigned a maximum height of 3 stories or 40' due to citizen concern for a potential 5-story /60' building which could be permitted using the density bonus associated with the North End Incentive Overlay District (NEIOD).⁵ The intention of the lower height was to afford the city and public additional time to study and revisit all the *Development Standards* for the North End.

In March of 2023, the definition of a penthouse was amended to encourage pitch-roofed penthouses on the upper level of new buildings.⁶ Additionally, other 2023 amendments included new requirements for the NEIOD and the incentives for the redevelopment of large parcels (greater than one acre in lot area). The adopted amendments also included new residential "building types", "community space" types, a

scope of the revised amendments recommended by the Planning Department as they are not included in the August 15th, 2024, letter from residents to the City Council. However, support for reducing the scale and volume of new buildings was recommended in the draft amendments.

³ It is unclear why, if these amendments were correctly filed with the City Council in advance of the Planning Board hearing, that the hearing was closed in January if subsequent review of the amendments was required. Nor is it clear why the informal review process was not reinitiated after the restrictions of the pandemic were lifted in 2022. Although many amendments were adopted in a variety of zoning changes over 2022-2023, some aspects of the 2019 amendments – like a removal of the DOD requirements from Hanover Street - were not yet fully evaluated.

⁴ For example, in February of 2020, new prospective owners of 361 Hanover Street submitted a conceptual design of a mixed-use project for Design Review at the Planning Board. The owners of 89 Foundry Place were also working to finalize their plans for a large 51-unit mixed-use project. The city was also constructing its new 5-story/ 60' municipal parking structure along Foundry Place. Given the ongoing construction projects and pending applications, the prospect of substantially downzoning this area using the lower residential density requirements of the CD4-L1 zoning demanded a careful analysis of impacts on the buildout of this larger neighborhood given the design, land use, and economic goals laid out in the 2014 North End Vision Plan and the 2015 Character-Based Zoning amendments adopted by the City for the North End

⁵ Note that 361 Hanover Street also has frontage on Hanover Street and the building height on Hanover Street is limited to 3 stories or 40'.

⁶ As discussed during the Design Review process for 361 Hanover St., although the intent of the penthouse amendment was to encourage penthouses to have sloped roofs, it was not evident at the time that the setback and size limitations for penthouses continued to act as significant disincentive as compared to other roof types like mansard or gambrel roofs. Unlike penthouses, mansards and gambrel roof forms have no setbacks from the roof edge nor any gross floor limitations.

new requirement for “workforce housing”, and a new Conditional Use Permit (CUP) for the density bonus in the incentive overlay districts.

In summary, these zoning amendments impacted both the development rights and the building design of many properties in the Downtown Portsmouth, including, 361 Hanover Street. Moreover, these amendments addressed many of the goals and objectives raised in the proposed 2019 zoning amendments. However, some changes, such as eliminating the DOD requirements along Hanover Street or the desire to change the character districts in the North End were not yet studied or formally addressed the issue.⁷

Existing Conditions – 361 Hanover Street Project

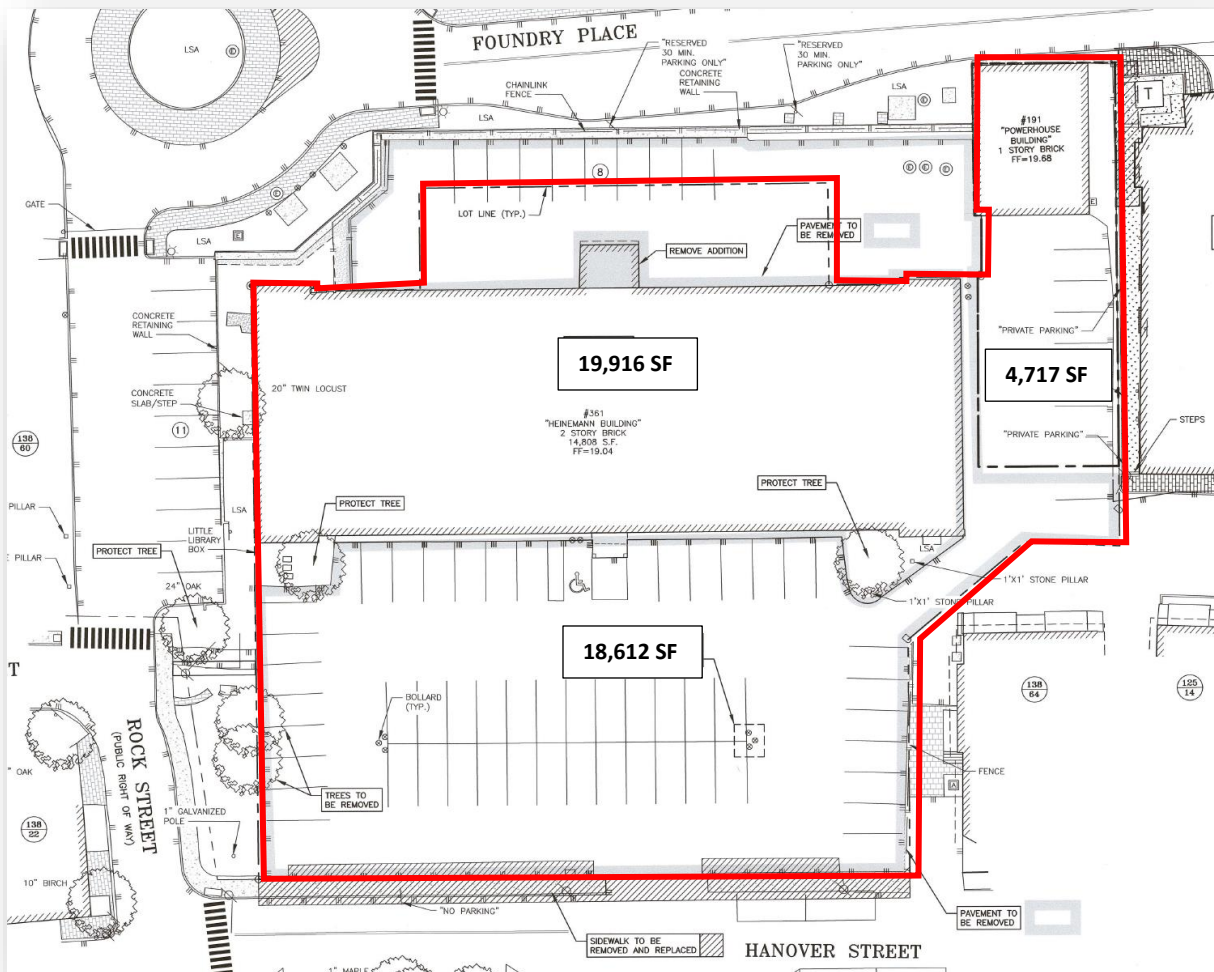


Figure 1 – Existing Conditions showing the 361 Hanover Street Property

⁷ For properties located outside the city’s Historic District (like 361 Hanover Street), the community concern about the quality and design character of any proposed buildings remains unaddressed as the Historic District boundary has not been changed and no design review standards are currently required under either the Site Plan Regulations or the Character-Based Zoning.

As presented during the review and approval of the recently approved *Design Review Plan*, after approval of a subdivision of the former Powerhouse Lot (4,717 SF), the remaining property being considered for redevelopment is 38,528 SF in lot area. As shown in figure 1, the property has 188' of frontage along Hanover Street and the lot also abuts city-owned property along Rock Street and Foundry Place. The existing 57-space surface parking lot fronting along Hanover Street is approximately 18,612 SF in lot area whereas, the rear or remaining portion of the site fronting on Foundry Place is approximately 19,916 SF in lot area.

Neighborhood Context – Building Height, Volume, and Density

The surrounding neighborhood context within the North End is characterized by a mix of land uses, building heights, volumes, and densities. By design, topography, and the adopted zoning requirements, new buildings are intended to step up in intensity and size (footprint, volume, and height) from Foundry Place to Hanover Street. The mixed-use buildings fronting along Foundry Place are typically 5 stories and up to 60' while those fronting along Hill Street are 2-4 stories and up to 50', and those fronting on Hanover Street are typically between 2-3 stories and up to 40' in height. Similarly, the density of residential units (measured in units per acre) is highest along Foundry Place to Hanover Street. Buildings fronting along Foundry Place have typically 80-100+ units per acre whereas those fronting on Hill Street have 30-40 units per acre and those fronting on Hanover Street have 30-35 units per acre.⁸ Similarly, most lots along Foundry Place have a building coverage averaging 85% while those on Hill Street are 60%-80% and those located on Hanover Street are 60-85%.⁹

Existing Zoning

Consistent with the parcel-based Character-Based Zoning District Map adopted in 2015 for the North End, Figure 2 shows the entire property included within a single Character District.¹⁰ The CD5 Character District was designed for the property due to the proximity of the existing structure along the future right of way of Foundry Place and the recommendations of the *North End Vision Plan* for more intensive, high-density, mixed-use development along Foundry Place transitioning to lower density development moving toward Hanover Street. Importantly, the *North End Vision Plan* Identified Foundry Place as an opportunity for the city to construct a multi-story municipal parking facility immediately surrounded with supporting high-density, multi-storied, mixed-use developments.

⁸ Note that, unlike the CD4 or CD5 Character Districts, the CD4-L1 requirements only allow for 15 units per acre making nearly all existing lots within the CD4-L1 non-conforming.

⁹ Again, the CD4-L1, unlike the CD4 or CD5 Character Districts, limits building coverage to 60% of the lot making most lots within the CD4-L1 non-conforming. Similarly, while the zoning requirements increase the open space on a lot from Foundry Place to Hanover Street nearly all lots within the CD4-L1 are non-conforming for open space.

¹⁰ Also note that at the time of adoption in 2015, Foundry Place was not yet laid out as a right-of-way or constructed, thus, 361 Hanover Street only had frontage on Hanover Street.

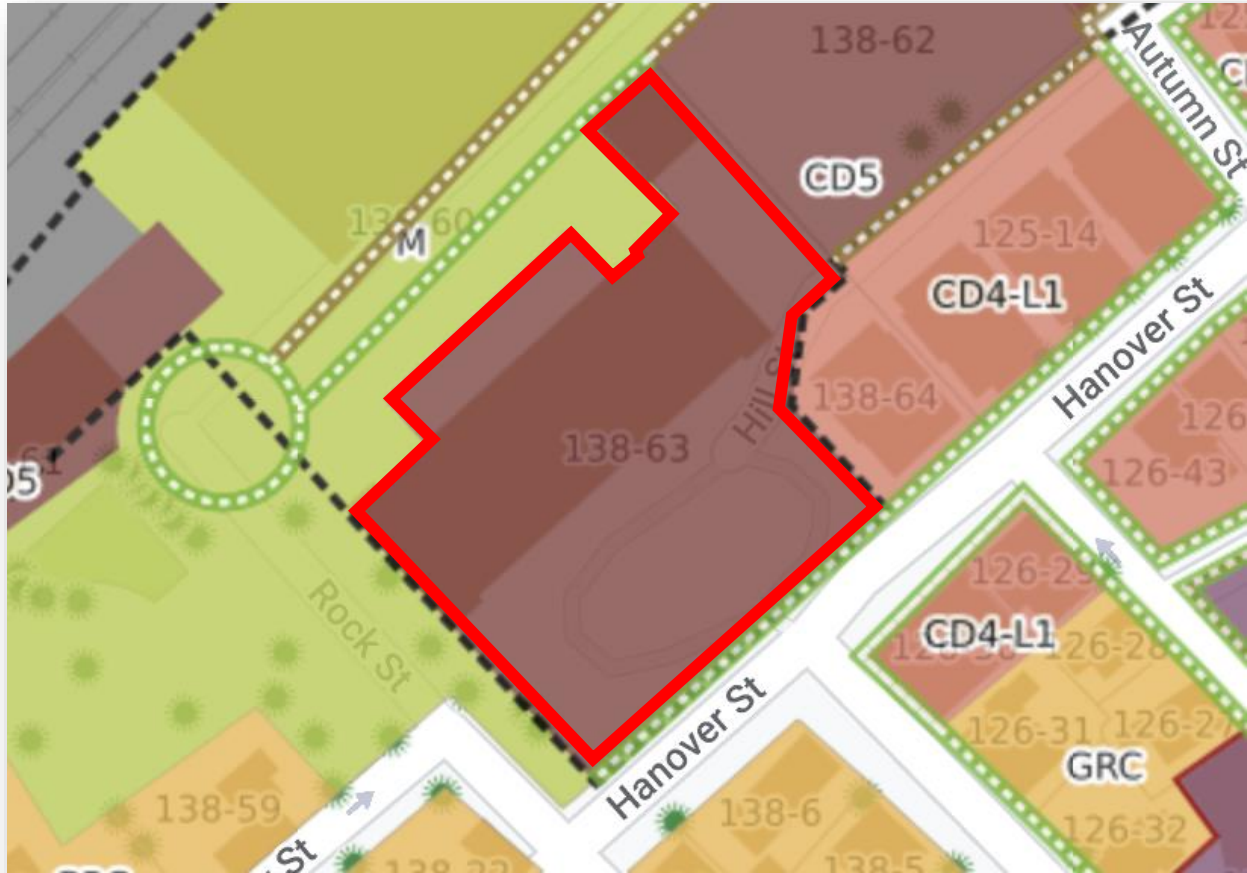


Figure 2 – Existing CD5 Zoning for 361 Hanover Street

As shown in Figure 2, 361 Hanover Street is also located within the Downtown Overlay District (DOD) and the existing buildings along Foundry Place are also located within the North End Incentive Overlay District (NEIOD). The NEIOD allows for taller buildings in exchange for public benefits like Community Space and Workforce Housing.¹¹ Figure 2 also shows the *Building Height Standards* for the lot. As of 2023, the standards are defined by the frontage along Foundry Place and Hanover Streets. As shown on Figure 2, the maximum building height of any new building on the lot is limited to 3 stories or 40' (shown as a green line on Figure 2).

Recently Approved Design Review Plan

Shown in Figures 3 and 4, the recently approved *Design Review Plan* for 361 Hanover Street proposes a 3 ½ story / 40' mansard building along Hanover Street and a similar roofline design with upward extension on the existing building. As listed in Table 1, the proposed building footprint for the new building on Hanover Street is 11,037 SF and it has a front lot buildout along Hanover Street of 188 feet or 95% of the total street frontage. Given the requirements of the DOD, the ground-floor of all the buildings have commercial uses along the street edge and structured parking on the ground-floor to

¹¹ In 2023, the Zoning Ordinance was amended to require both Community Space & Workforce Housing in the NEIOD.

support up to 36, upper-floor, residential units. Being fully compliant with the CD5 and DOD requirements, the recently approved *Design Review Plan* was approved on April 18th, 2024.¹²

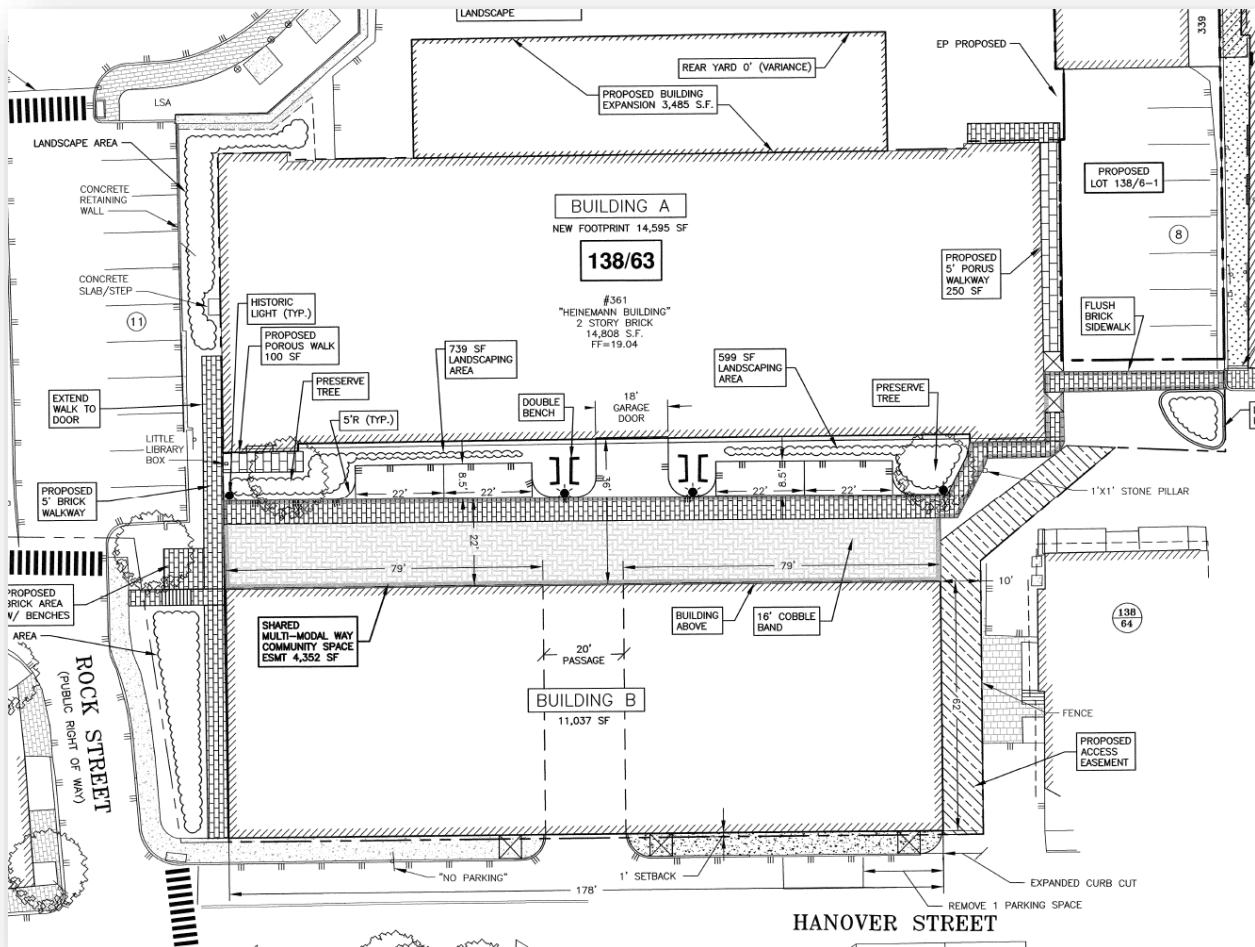


Figure 3 – Site Plan of the Recently-Approved Design Review Plan (May, 2024)

¹² Understanding that the development of an *Alternative CUP Plan* would likely involve significant time and expense as well as the need for zoning relief from the Board of Adjustment, the *recently approved Design Review Plan* was submitted for approval to vest or “freeze” the current zoning while we explored alternative designed that would address the shared concerns of getting the building and site design to better “fit” the neighborhood context.



Figure 4 – Streetscape Rendering along Hanover St. of the Recently Approved Design Review Plan (May 2024)

Alternative CUP Plan

In direct response to Planning Board and public feedback received during the review and approval of the recently approved *Design Review Plan*, on July 18th, 2024, an *Alternative CUP Plan* was presented to the Planning Board and public for informal consideration. As shown in Figures 5 & 6, the *Alternative CUP Plan* seeks to address the shared concerns expressed by members of the neighborhood to better reflect the land use patterns and historic architectural character of the surrounding neighborhood through reductions in the building massing, volume, height, scale, and the use of traditional building design principles.



Figure 5 – Streetscape Rendering along Hanover St. of the Proposed Alternative CUP Plan (July 2024)

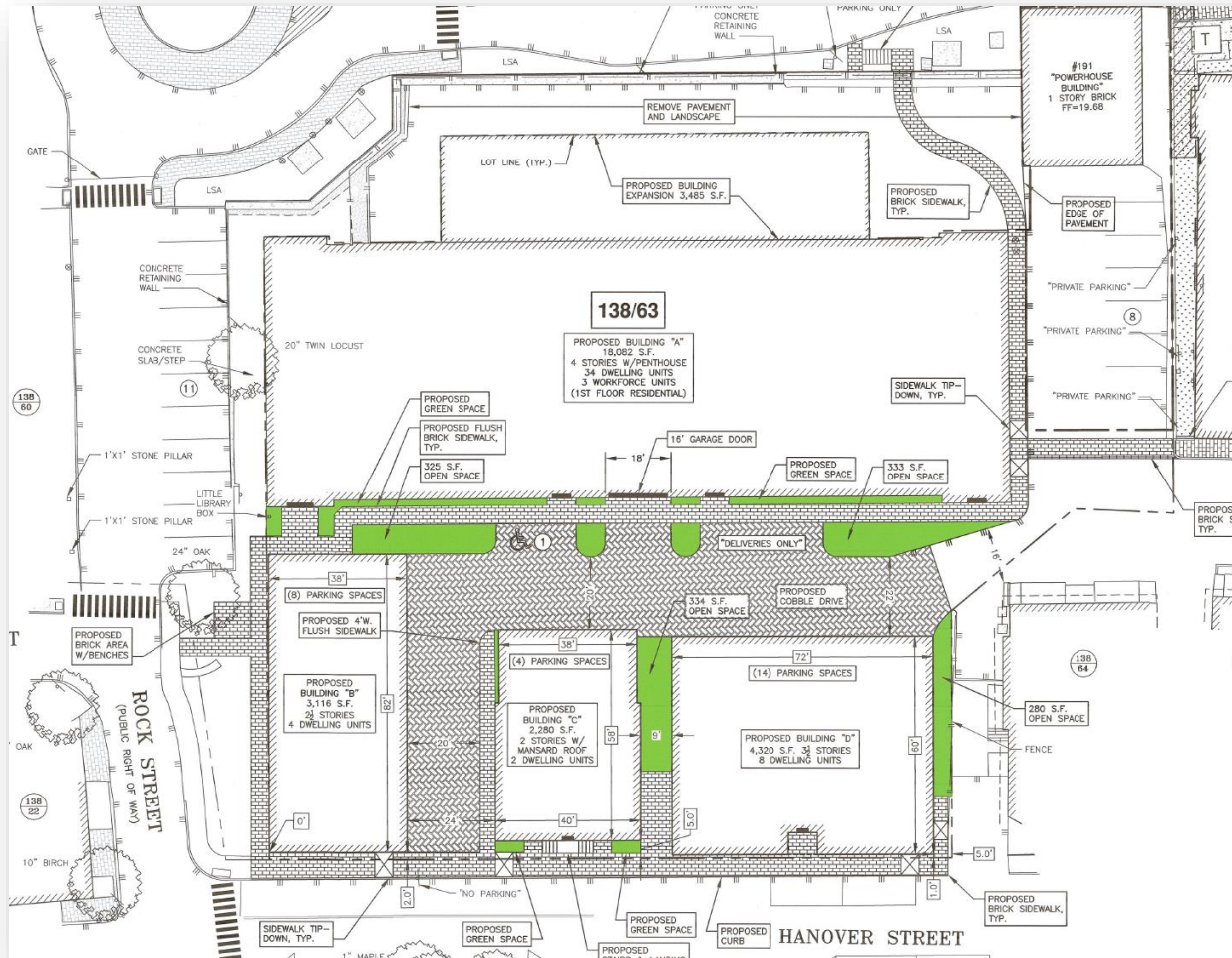


Figure 6 – A Site Plan of the Proposed Alternative CUP Plan (July 2024)

As listed in Table 1, in comparison to the recently approved *Design Review Plan*, the *Alternative CUP Plan* reduces the:

- 1) Front lot line buildout by 33 feet or 16%;
- 2) Total building length by 116 feet or 60%;
- 3) Total building coverage by 1,688 SF or 15%;
- 4) Average building height by nearly 3 feet or 8%;
- 5) Total building volume by nearly 12,000 SF or 25%;
- 6) Total building footprints by over 2,300 or 20%.

As illustrated in Figure 5, the architectural style and character of the proposed buildings along Hanover Street is consistent with the historic quality and character of this predominantly 19th century neighborhood. Importantly, in comparison to the surrounding neighborhood context along Hanover and Rock Streets, Table 1 also shows how the *Alternative CUP Plan* is consistent with the building footprints, building block lengths, volumes, heights, open spaces, residential density, and the ground-floor uses in the immediate neighborhood. Similar to the reductions in building coverage and volume, the proposed

open space shown on the Alternative CUP Plan is increased by nearly 2.5 times the amount shown on the recently approved *Design Review Plan*.

Table 1: Approved Recently Approved Design Review Plan & the Alternative CUP Plan - A Comparison of Building Massing, Volume, Height, and Residential Density for the 57-space Surface Parking Lot

Development Standard	Approved Design Review Plan	Alternative CUP Plan	Hanover St. Neighborhood
Front Lot Line Buildout	178' (95%)	150' (80%)	Hanover St. (75-80%)
Building Block Length	178'	38' – 40' – 72'	26' – 42' – 62'
Building Coverage	11,037 SF (60%)	9,348 SF (50%)	50-80%
Building Height	3 Stories /40' (average of 40')	3 Stories /40' (average of 37')	2 – 3 stories (average of 35')
Building Volume (FAR) ¹³	2.35	1.75	1.1-1.5
Building Footprints	11,036 SF	2,740, 2,280, and 4,320 SF	700 – 2,400 SF
Open Space	1,200 SF (6.5%)	4,180 SF (23%)	5- 20%
Residential Dwelling Units	1,550 SF/dwelling unit (28 Units/ Acre)	1,329 SF/dwelling unit (32 Units/ Acre)	1,565 SF/dwelling unit (27 Units / Acre)
Ground Floor Uses	Commercial and Covered Parking	Residential and Covered Parking	Residential and Surface Parking

After assessing the differences between the recently approved *Design Review Plan*, the *Alternative CUP Plan*, and the Hanover Street neighborhood, the *Alternative CUP Plan* represents a building and site plan that is not only consistent with the goals, objectives, and strategies of the 2014 North End Vision Plan but it also addresses the shared concerns expressed during the design review hearing seeking to redeveloping this site at a scale, volume, height, and residential density more consistent with the surrounding neighborhood context.¹⁴

Comparing the CD4-L1 and CD4 Character Districts with the CD5 Zoning

In review of the proposed 2019 Zoning Amendments outlined in the former Planning Director’s August 2019 Memo, the Character District changes requested by residents in 2019 appear to have requested rezoning the rear portion of the property – which includes the existing building fronting on Foundry Place - from CD5 to CD4 and the 57-space surface parking lot portion of the property fronting along Hanover Street changed from CD5 to CD4-L1 (see Figure 7).

Understanding that there are no significant differences in the *Development Standards* between the CD4 and CD5, the primary difference relates to the intensity of land uses permitted under the Zoning Ordinance. As such, other than a reduction in the size of the rear addition to the existing structure, the proposed multi-family residential use shown in *Alternative CUP Plan* essentially conforms with the *Development Standards* and land uses allowed in both the CD5 and CD4 Character Districts.

¹³ Floor Area Ratio is a measurement of the volume of the building on the lot where the gross floor area of the building is divided by the lot area. For example, a 10,000 SF (Gross Floor Area) building on a 5,000 SF lot would yield an FAR of 2.0).

¹⁴ As stated earlier, the existing neighborhood context is characterized by the transition within the Character Districts from larger, 5 story mixed-use buildings along Foundry Place and the north side of Hill Street to the lower, 2-3 story, single-use buildings along the south side of Hill Street and Hanover Street.

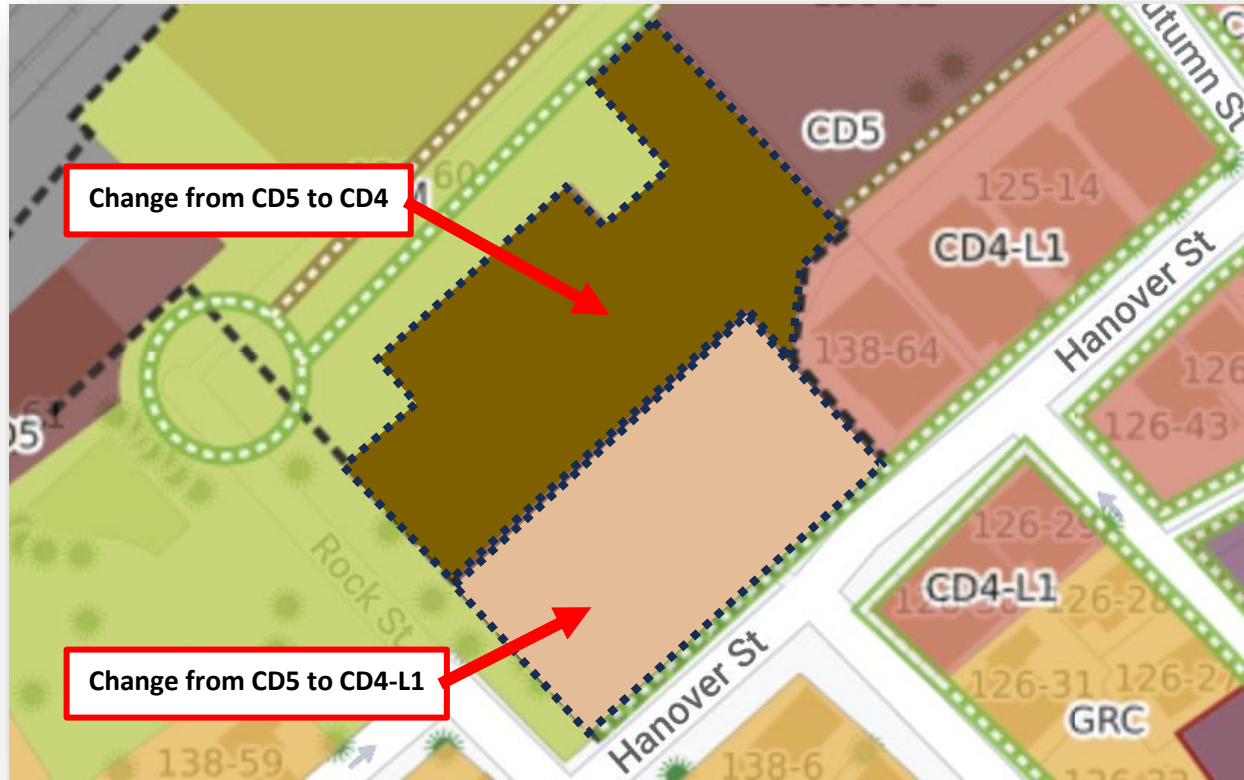


Figure 7 – Resident’s Proposed 2019 Character District Amendments to 361 Hanover Street

In contrast to the rear portion of the property, changing the front portion of the lot (the 57-space surface parking lot) from CD5 to CD4-L1 would substantially impact the program or use of the site as the number of residential dwelling units permitted on the lot would be limited to 3,000 SF of land area per unit (whereas, the CD5 has no such density requirement). Similarly, the maximum building coverage would be reduced from 95% in the CD5 to 60% in the CD4-L1 while the required open space would be increased from 5% in the CD5 to 25% in the CD4-L1. Similarly, the allowed building footprints would be reduced from 20,000 SF in the CD5 to just 2,500 SF in the CD4-L1 (an 87% reduction). Table 2 compares the Alternative CUP Plan with the 2019 proposal to change the zoning to the CD4-L1 Character District.

Table 2 - Alternative CUP Plan & the 2019 CD4-L1 Zoning Proposal for Hanover St.: A Comparison of Building Massing, Volume, Height, and Residential Density for the 57-space Surface Parking Lot

Development Standard	Alternative CUP Plan	2019 CD4-L1 Zoning Proposal	Hanover St. Neighborhood
Front Lot Line Buildout	150' (80%)	150' (80%)	Rock St. (60%), Hanover St. (80%)
Building Block Length	38' – 40' – 72' (3 buildings)	38' – 38' – 38' – 38' (4 buildings)	26' – 42' – 62' (range of buildings)
Building Coverage	9,348 SF (50%)	9,424 SF (50%)	50-805%
Building Height	3 Stories /40' (average of 37')	3 Stories / 40' (average of 40')	2 – 3 stories (average of 35')
Building Volume (FAR)	1.75	1.93	1.1-1.5
Building Footprints	2,740, 2,280, and 4,320 SF	2,356 SF (all four buildings)	700 – 2,400 SF
Open Space	4,180 SF (23%)	4,653 SF (25%)	5- 20%
Residential Dwelling Units	1,329 SF/dwelling unit (28 Units/Acre)	3,102 SF/dwelling unit (15 Units/Acre)	1,565 SF/dwelling unit (27 Units/Acre)
Ground Floor Uses	Residential and Covered Parking	Residential and Covered Parking	Residential and Surface Parking

As expected, the recently approved *Design Review Plan*, would not be consistent with most of the CD4-L1 zoning requirements. However, as Table 2 illustrates, the *Alternative CUP Plan* meets nearly all of the CD4-L1 requirements. Thus, other than the 3,000 SF lot area per dwelling unit requirement of the CD4-L1, the *Alternative CUP Plan* is, by design, consistent with most of the CD4-L1 Development Standards. The setbacks and the front lot line maximum of the *Alternative CUP Plan* meet the CD4-L1 requirements as does the building block length, building coverage, façade glazing, roof, building, and facade types. In fact, the average building height for the proposed *Alternative CUP Plan* is actually lower than the maximum height the CD4-L1 would allow.¹⁵

In summary, other than the reduction in the number of dwelling units in the proposed buildings along Hanover Street (from 14 to 6 units), the *Alternative CUP Plan* is consistent with the density, architectural style, and land use pattern of the surrounding neighborhood.¹⁶ Moreover, as shown in Table 2, the proposed residential density is also consistent with the other existing properties in the surrounding neighborhood along Hanover Street.

Findings & Summary

Many of the proposed 2019 amendments were adopted well in advance of filing either the recently approved *Design Review Plan* or the proposed *Alternative CUP Plan*. In fact, other than removal of the mandatory ground-floor commercial requirements in the DOD along Hanover Street – a shared objective with broad support - the only substantive issue not addressed from the resident’s August 15th letter to the City Council is the potential change of the 57-space surface parking lot from the CD5 Character District to CD4-L1. However, while changing to the CD4-L1 would significantly lower the number of residential dwelling units allowed in the front building(s) it would not necessarily improving the streetscape or resulting in a reduction in building volume, design, height, or placement of the buildings along Hanover Street.¹⁷

Thus, we believe the proposed buildings and site design shown in the *Alternative CUP Plan* clearly demonstrates that the proposed *Alternative CUP Plan* is well-aligned with the goals and objectives of the *2014 North End Vision Plan*, the existing *Character-Based Zoning*, the intent of the proposed 2019 zoning amendments, and the recently stated comments and concerns of the Planning Board and participating members of the public.¹⁸ Moreover, we believe the proposed *Alternative CUP Plan* illustrates a unique opportunity to redevelop this property – and the unsightly 57-space surface parking lot fronting on

¹⁵ Although the building footprint of the mansard shown in the *Alternative CUP Plan* is nearly double the maximum footprint allowed in the CD4-L1, the building could be separated into two equal sections with as little as 5 feet of separation between the building sections for fire separation. Such a change would not discernibly change the street wall (or edge) along Hanover Street.

¹⁶ However, it is important to note that any reduction in the overall number of dwelling units may not necessarily result in a smaller overall project design as the dwelling units may be significantly increased in size.

¹⁶ However, it is important to note that any reduction in the overall number of dwelling units may not necessarily result in a smaller overall project design as the dwelling units may be significantly increased in size.

¹⁷ As an example, using the CD4-L1 zoning, up to four (4) structures similar in footprint, height, and volume of the Pearl Street Church (located at 45 Pearl Street) would be permitted on the 57-space surface parking lot fronting along Hanover Street.

¹⁸ Moving forward, if the needed variances are granted for the *Alternative CUP Plan*, the city’s Technical Review Committee will assess the traffic and parking impacts on the surrounding neighborhood, and, if necessary, require adjustments to the parking layout and/or the number of residential dwelling units to mitigate any adverse on- or off-site impacts.

Hanover Street - with a building and site design that is architecturally (and voluntarily) consistent with the surrounding historic character, while also providing covered parking within the buildings for all the required parking for the proposed residential dwelling units, community space in the form of a multi-modal way, and much-needed, workforce housing. Taken together, we believe these substantial public benefits to the city and neighborhood address the primary concerns shared by the Board and members of the surrounding neighborhood.

In closing, we believe the *Alternative CUP Plan* represents, context-sensitive design that provides an incremental but well-balanced, transition from the high-density, mixed-use developments located along Foundry Place and Hill Street to the lower-density neighborhoods along Hanover and Rock Streets. However, in order to make the *Alternative CUP Plan* a viable redevelopment option, it will be imperative for members of the city's land use boards and committees and the surrounding neighbors to actively support the needed zoning relief from the Board of Adjustment to eliminate the DOD requirements and allow residential building types along Hanover Street in order to make this collaborative project design a success for Portsmouth, the North End and the Islington Creek Neighborhood.



Figure 8 – Context-Sensitive Building and Site Design in the Proposed Alternative CUP Plan (July 2024)

**Proposed Zoning Amendments
City of Portsmouth, NH**

The following amendments are proposed to the City of Portsmouth Zoning Ordinance relating to Article 4, Article 5A, and the Zoning Map. The amendments to Article 4 and the Zoning Map include modifying the location and boundaries of the North End Incentive Overlay District and the Downtown Overlay District, modify Building Height area requirements, and re-zoning selected properties from Character District 5 to Character District 4 and Character District 4-L1. In addition, amendments are proposed to Article 5A Incentive Overlay District requirements to require granting of a conditional use permit by the Planning Board.

The proposed Zoning Map amendments are as follows:

- A. Article 4, Section 10.421.10 – DISTRICT LOCATION AND BOUNDARIES of the Zoning Ordinance of the City of Portsmouth and the City of Portsmouth Zoning Map be amended to remove a portion of the property located at 361 Hanover Street at Assessors Tax Map 138, Lot 63 that fronts on Hanover Street from the Downtown Overlay District, re-zone this same portion from Character District 5 to Character District 4-L1, and re-zone the remaining portion that fronts on Foundry Place to Character District 4.
- B. Article 4, Section 10.421.10 – DISTRICT LOCATION AND BOUNDARIES of the Zoning Ordinance of the City of Portsmouth and the City of Portsmouth Zoning Map be amended to re-zone the property at 89-99 Foundry Place at Assessors Tax Map 138, Lot 62 and the property at 126 Bridge Street at Assessors Tax Map 125, Lot 16 from Character District 5 to Character District 4.
- C. Article 4, Section 10.421.10 – DISTRICT LOCATION AND BOUNDARIES of the Zoning Ordinance of the City of Portsmouth, the City of Portsmouth Zoning Map 10.5A21B – BUILDING HEIGHT STANDARDS be amended to remove the property located at 66 Rock Street at Assessors Tax Map 138, Lot 61 from the Downtown Overlay District and the North End Incentive Overlay District.
- D. Article 5A, Section 10.5A21.10 – CONTENTS OF REGULATING PLAN and the City of Portsmouth Zoning Map 10.5A21B – BUILDING HEIGHT STANDARDS MAP be amended to add a building height area of 2-3 stories (40' max) along the entirety of Foundry Place.
- E. Article 5A, Section 10.5A21.10 – CONTENTS OF REGULATING PLAN and the City of Portsmouth Zoning Map 10.5A21B – BUILDING HEIGHT STANDARDS MAP be amended to change the building height area along the entirety of Hill Street from 2-4 stories (50' max) to 2-3 stories (40' max).

The proposed amendments to Article 5A, Section 5A46 are as follows (deletions from existing language ~~stricken~~; additions to existing language **bolded**; remaining language unchanged from existing):

F. In Section 5A46 – INCENTIVE OVERLAY DISTRICTS amend as follows:

The Incentive Overlay Districts are designated on Map 10.5A21B. In such areas, **a conditional use permit may be granted by the Planning Board for** certain specified development standards ~~to~~ **may** be modified as set forth in Section 10.5A46.10 below, if the development provides community space or workforce housing in accordance with Section 10.5A46.20, as applicable. **In granting a conditional use permit, the Planning Board may modify specific standards set forth in Sections 10.5A46.10 and requirements listed in 10.5A46.20.**

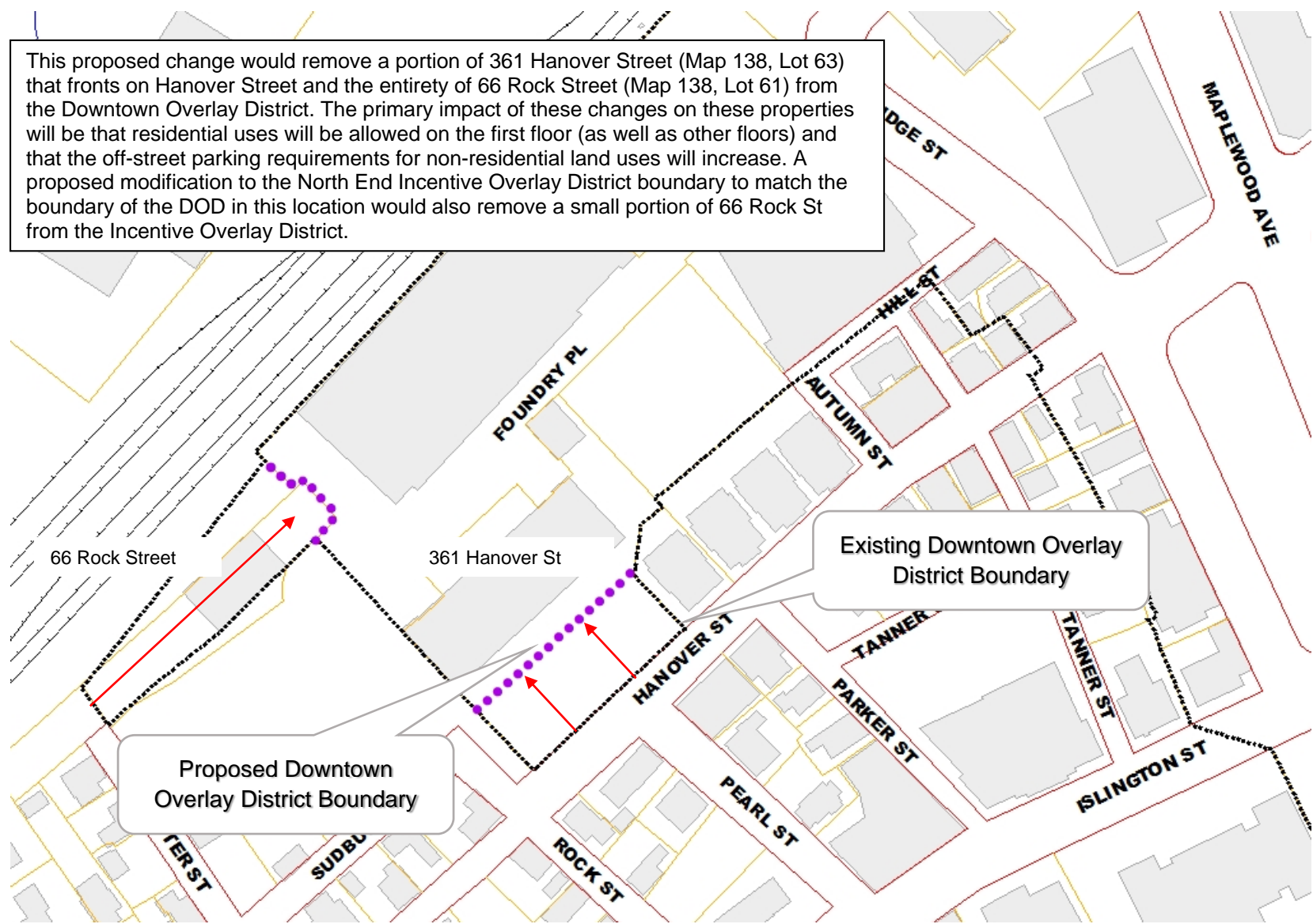
G. In Section 5A46 – INCENTIVE OVERLAY DISTRICTS, insert a new subsection as follows:

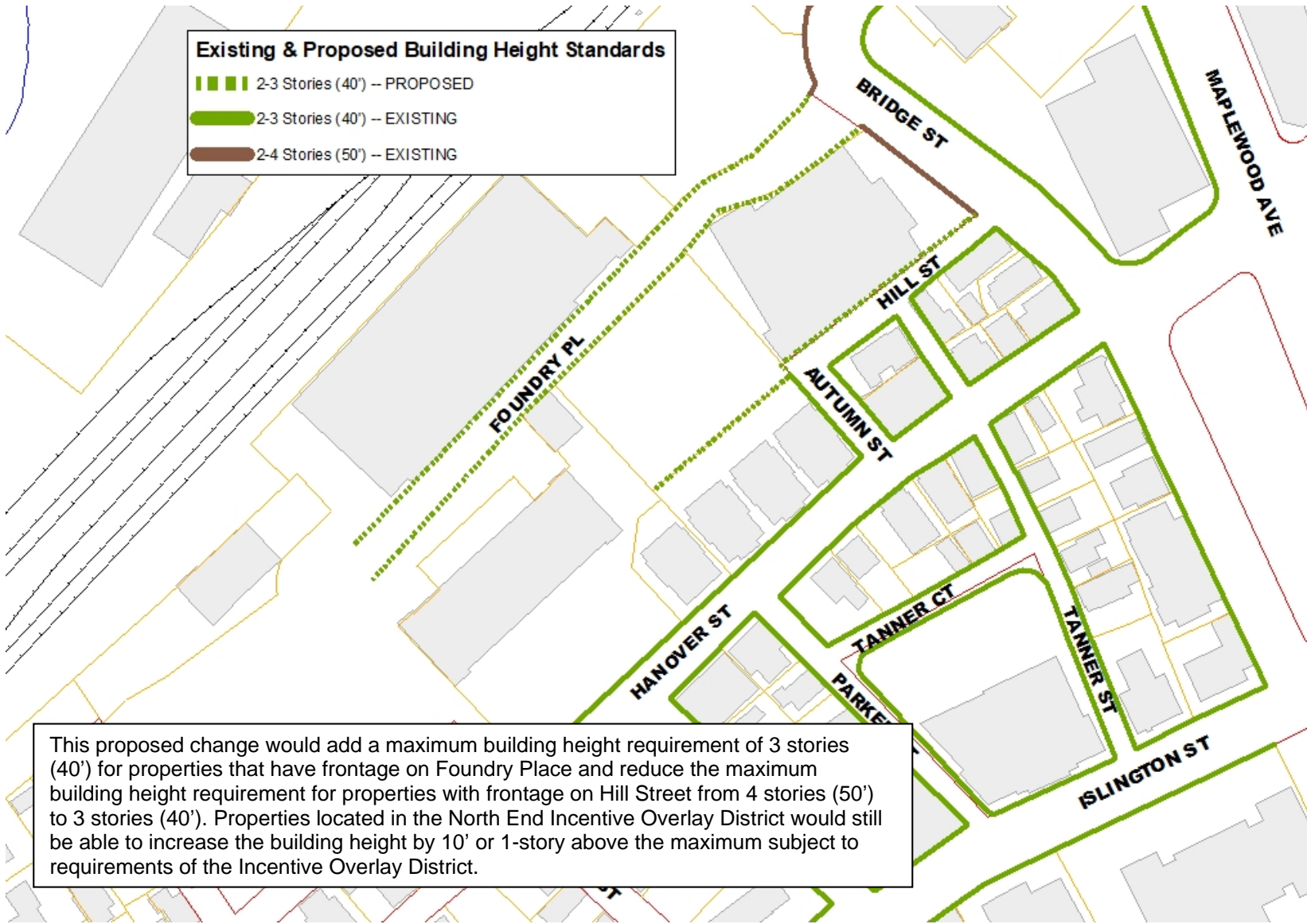
10.5A46.30 Planning Board Findings for Granting of a Conditional Use Permit for Incentives:

10.5A46.31 The proposed project (and any conditions of approval) satisfies the requirements in 10.5A46.20;

10.5A46.32 The proposed project is consistent with the purpose and intent set forth in 10.5A11.

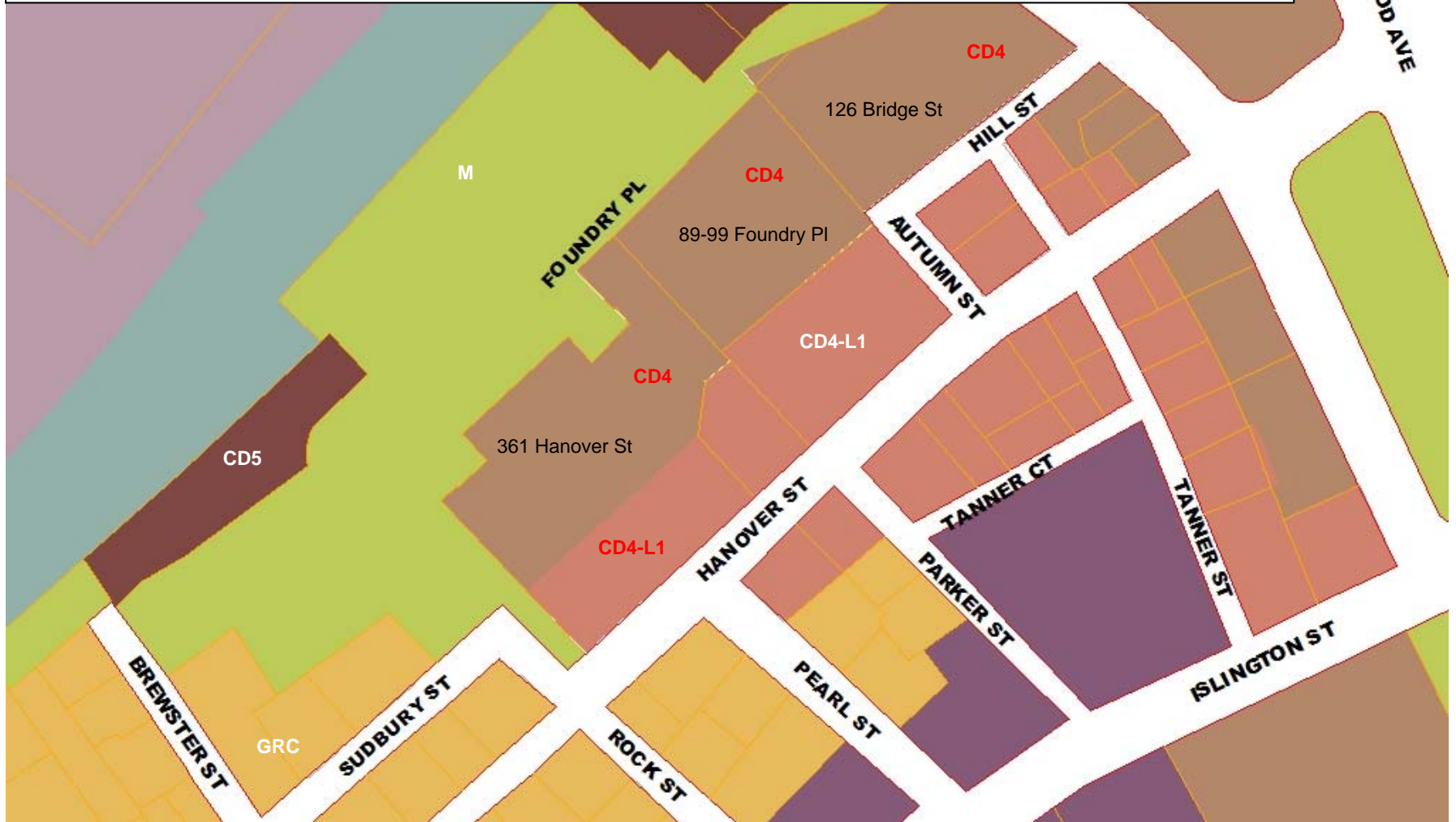
This proposed change would remove a portion of 361 Hanover Street (Map 138, Lot 63) that fronts on Hanover Street and the entirety of 66 Rock Street (Map 138, Lot 61) from the Downtown Overlay District. The primary impact of these changes on these properties will be that residential uses will be allowed on the first floor (as well as other floors) and that the off-street parking requirements for non-residential land uses will increase. A proposed modification to the North End Incentive Overlay District boundary to match the boundary of the DOD in this location would also remove a small portion of 66 Rock St from the Incentive Overlay District.





This proposed change would add a maximum building height requirement of 3 stories (40') for properties that have frontage on Foundry Place and reduce the maximum building height requirement for properties with frontage on Hill Street from 4 stories (50') to 3 stories (40'). Properties located in the North End Incentive Overlay District would still be able to increase the building height by 10' or 1-story above the maximum subject to requirements of the Incentive Overlay District.

This proposed change would re-zone the properties at 126 Bridge St, 89-99 Foundry Pl, and the portion of 361 Hanover St that fronts on Foundry Pl from CD-5 to CD4 and the portion of 361 Hanover St that fronts on Hanover St from CD-5 to CD4-L1. The primary impact of these changes would be a reduction in the maximum building footprint/coverage for the properties in the proposed CD-4 and a significant reduction in building footprint/coverage requirements and limiting of land uses to office and residential only for the portion in the CD4-L1. All of the properties proposed to be re-zoned to CD4 are located in the North End Incentive Overlay District and would still be able to increase the building coverage up to 30,000 sf subject to the requirements of the Incentive Overlay District. Properties labeled in red are the proposed properties for re-zoning.



MEMORANDUM

TO: John P. Bohenko, City Manager
FROM: Rick Taintor, Planning Director
DATE: June 27, 2012
RE: Proposed expansion of Downtown Overlay District

The Downtown Overlay District (DOD) is an overlay district that is applied to most of the Central Business A (CBA) and Central Business B (CBB) zoning districts. The purpose of the overlay district is to promote the economic vitality of the downtown core by ensuring continuity of pedestrian-oriented businesses along streets. To this end, the Zoning Ordinance contains special regulations regarding ground-floor uses and parking standards in the DOD:

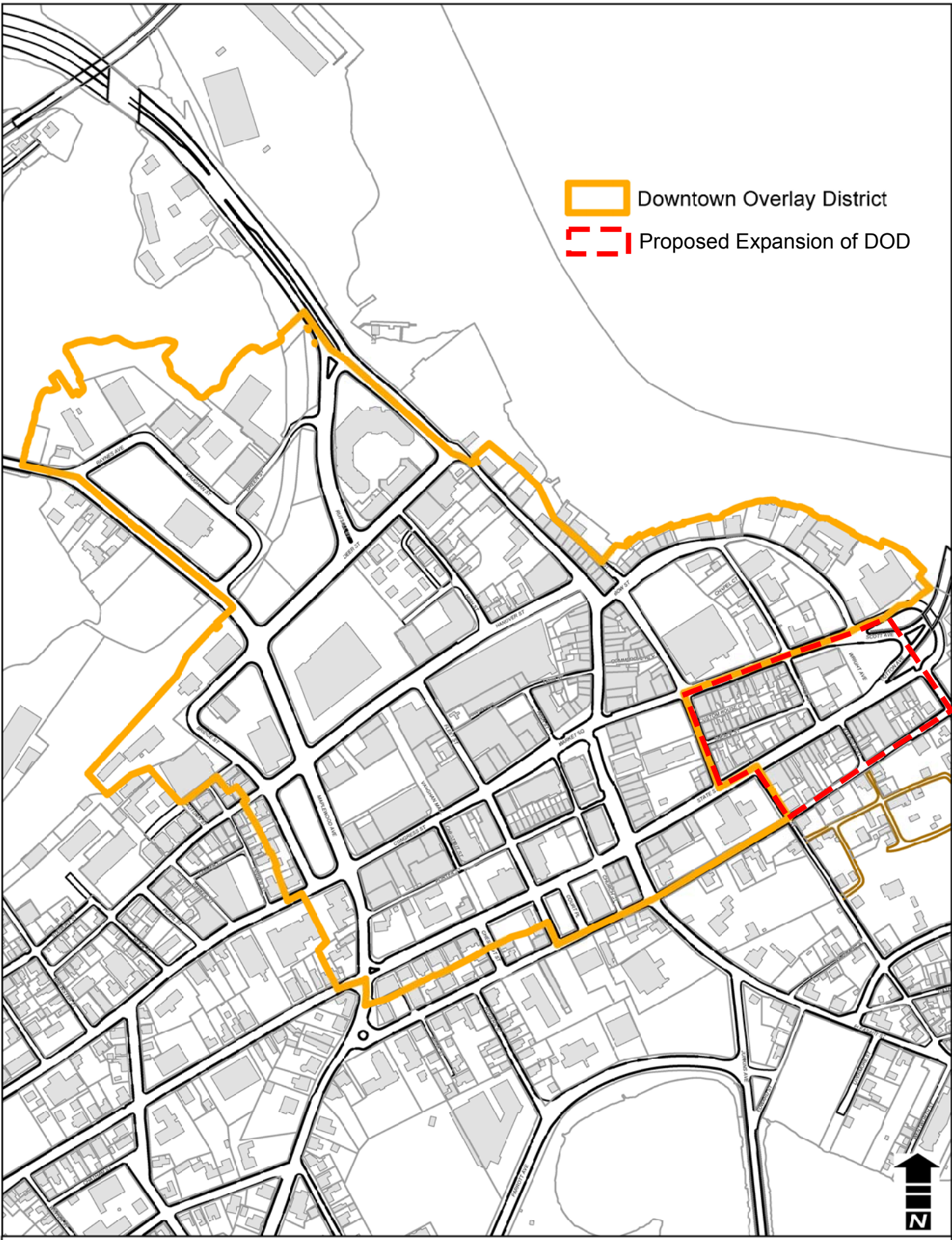
- In the DOD the ground floors of buildings are primarily limited to nonresidential uses such as retail stores, restaurants and offices. Secondary uses allowed at ground level include access to upper-floor residential uses and accessory off-street parking.
- Off-street parking requirements in the DOD are lower than in other areas of the City.

One area of the Central Business B district that is not currently included within the Downtown Overlay District is shown on the two attached maps. This area includes:

- State Street from Penhallow and Washington Streets to the Memorial Bridge,
- the south side of Daniel Street from Penhallow Street to the Memorial Bridge,
- the north side of Court Street from Washington Street to Marcy Street,
- the east sides of Penhallow and Washington Streets between Daniel and State Streets,
- Chapel Street between Daniel and State Streets, and
- Sheafe and Atkinson Streets and Custom House Court.

Extending the DOD to this area will help ensure the continuity of ground-floor, pedestrian-oriented businesses as the area redevelops over time.

At its meeting on June 21, 2012, the Planning Board voted unanimously to recommend that the Downtown Overlay District be extended as described above and as shown on the attached maps.

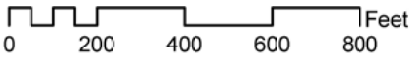


Downtown Overlay District

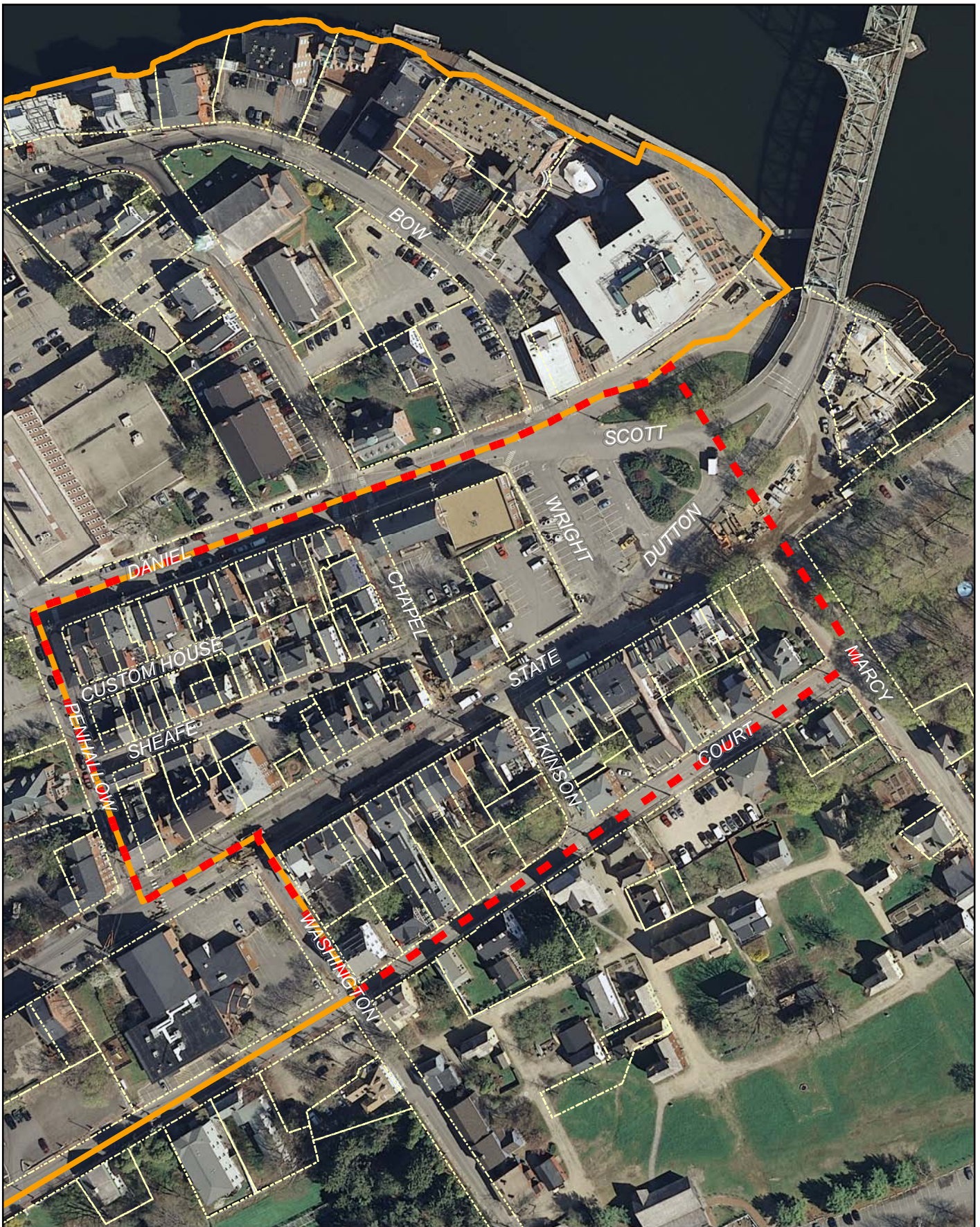


Proposed Expansion of DOD



Downtown Overlay District

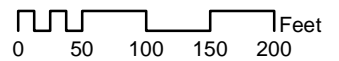


Portsmouth Planning Department - June 2012



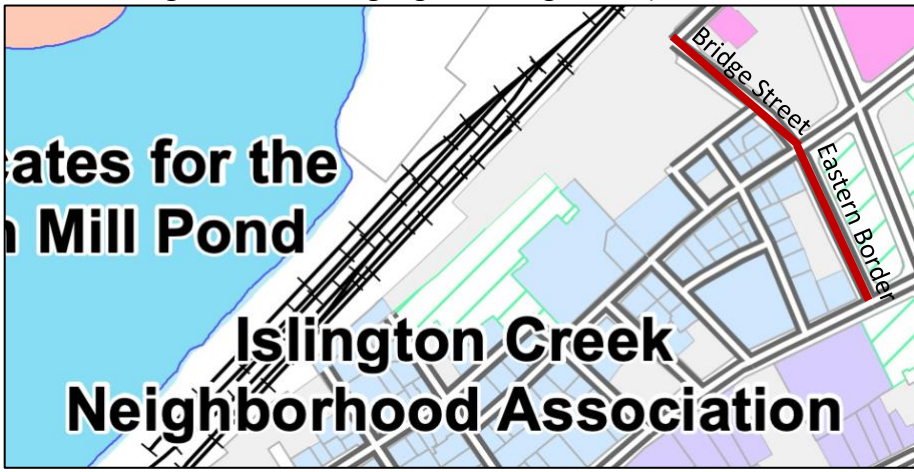
Downtown Overlay District
Proposed Expansion

-  Downtown Overlay District
-  Proposed Expansion of DOD



Re-Zoning Requests Affecting the Islington Creek Neighborhood - January 2020 -

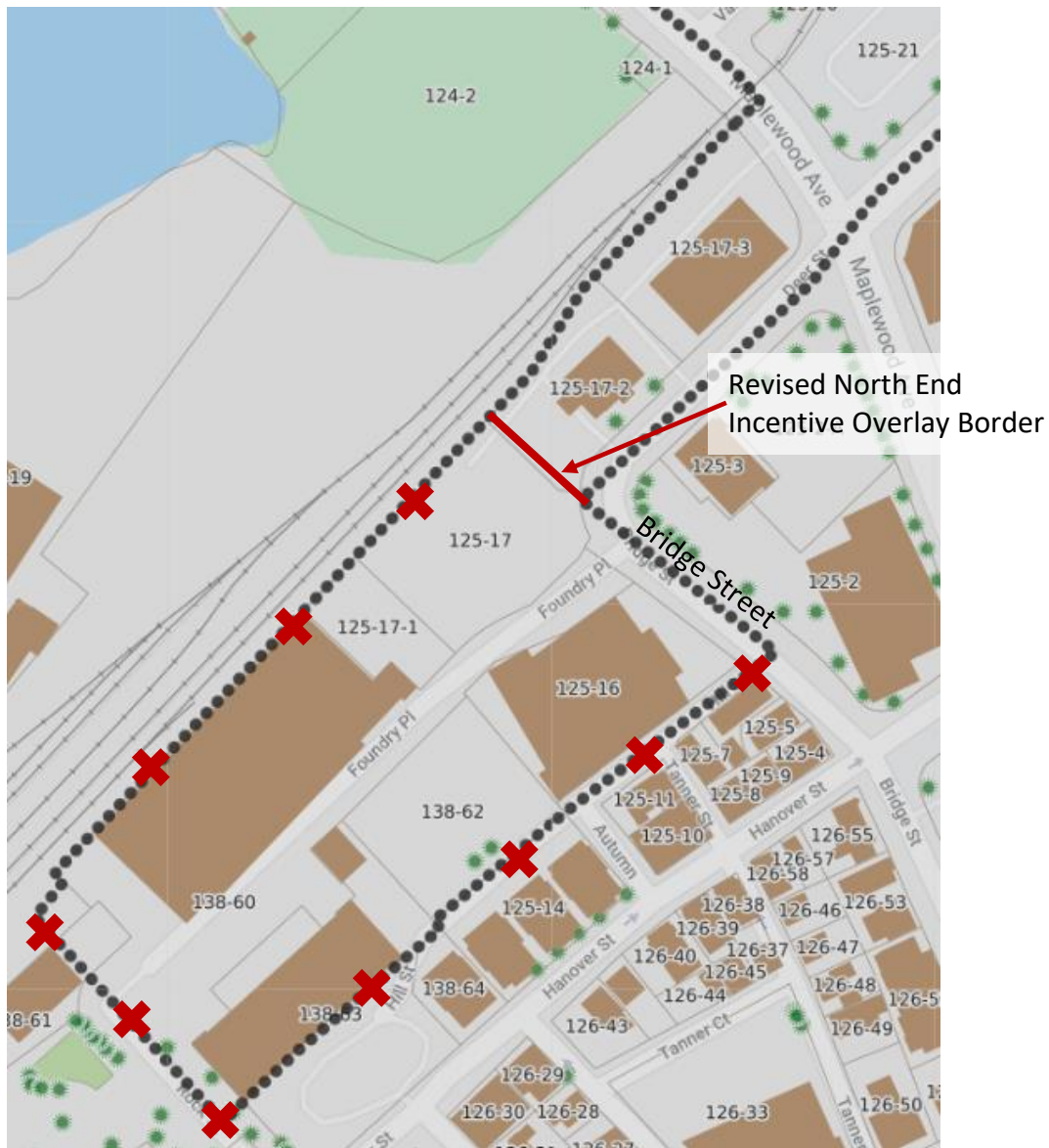
Point of Clarification: Bridge Street defines the Eastern Border of the Islington Creek Neighborhood (the Islington Creek Neighborhood is highlighted in light blue):



- I. Currently, the **North End Incentive Overlay District** extends down into the Islington Creek Neighborhood, encompassing the parking garage as well numerous commercial properties which are directly across the street from 2 and 3 story residential homes:



We ask the City of Portsmouth to remove the North End Incentive Overlay District from the Islington Creek Neighborhood. Keeping this North End Incentive Overlay District in the Islington Creek Neighborhood negatively impacts our residential neighborhood by encouraging the doubling of the maximum building footprints (up to 30,000 sf), adding up to 10 more feet in building height, and requiring less parking by developers (which is already a critical problem in this part of our neighborhood)-see “notes” page 6 of this document details. We therefore ask that the Islington Creek Neighborhood portion from Rock Street to Bridge Street be excluded from the North End Incentive Overlay District as shown below in red with the revised border ending at Bridge Street (the border of the Islington Creek Neighborhood) rather than extending down into the Islington Creek Neighborhood as shown with the black dotted line:



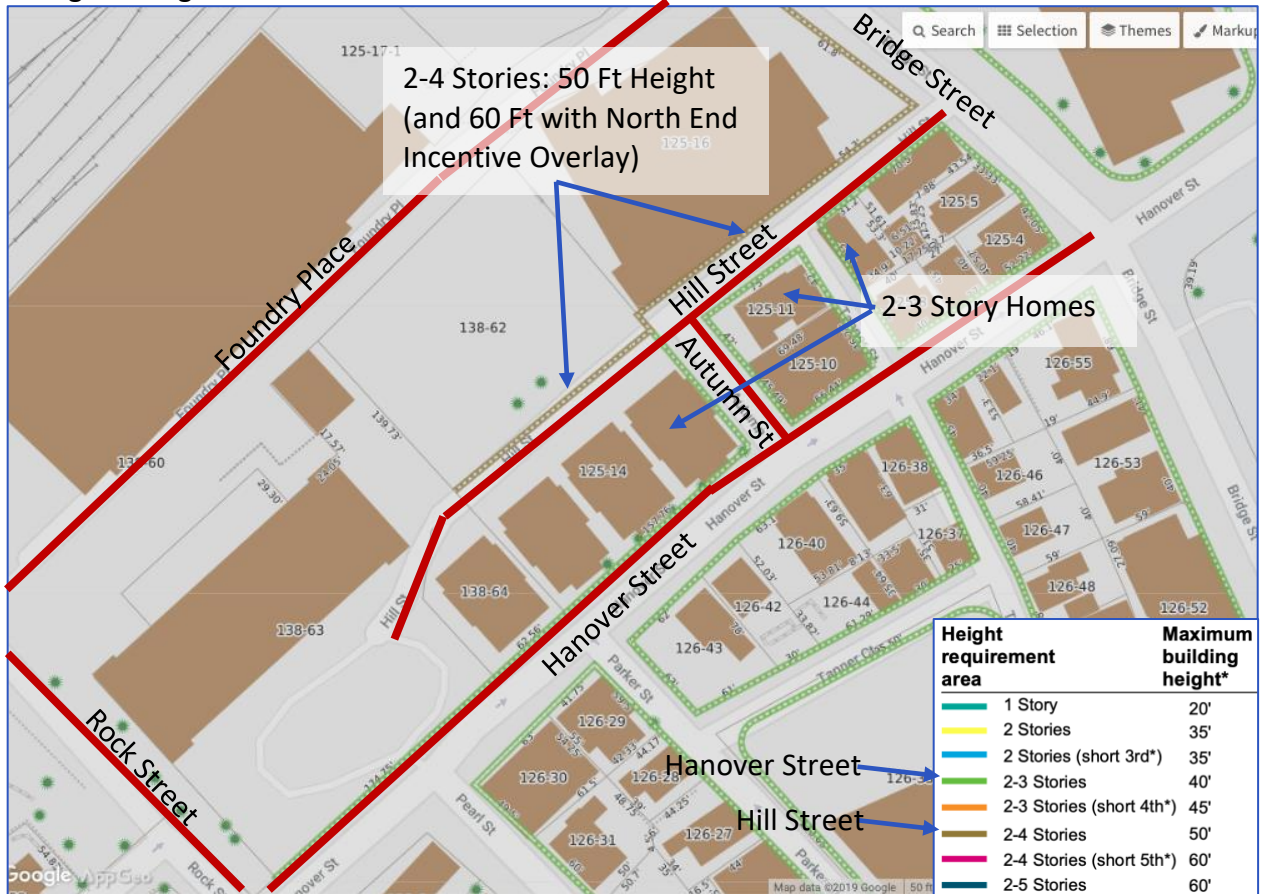
- II. Currently, the **Downtown Overlay District** extends down into the Islington Creek Neighborhood, encompassing the parking garage, commercial buildings, and building lots.



We ask the City of Portsmouth to remove the Downtown Overlay District from the Islington Creek Neighborhood. Keeping this Downtown Overlay in the Islington Creek Neighborhood negatively impacts our residential neighborhood by disallowing residential uses on the first floor – see “notes” page 6 of this document details. We ask that the portion from Rock St to Bridge St be excluded from the Downtown Overlay District as shown below in red below:



III. We ask the City of Portsmouth to change the Height Requirement Code for building heights for all non-GRC zoned buildings on both sides of all streets from Rock Street to Bridge Street to a maximum of 35 feet—see “notes” on page 7 of this document for details. Maintaining the current Height Requirement Codes of 40 feet (green) and 50 feet (brown) for the non-GRC zoned buildings on streets in the Islington Creek Neighborhood will negatively impact our residential neighborhood by encouraging new development inconsistent with the character of our neighborhood. The streets we are requesting a Height Requirement Code change in height to a maximum of 35 feet are shown in red below.



IV. We ask the City of Portsmouth to revise the allowed uses for properties on the following streets:

- a. **Foundry Place** (all properties with entrances on Foundry Place): Single family dwelling, 2 family dwelling, townhouses, multi-family up to 8 dwellings, historic preservation building, museum, city park and related activities, professional office, business office, financial services, family day care, convenience store with maximum hours from 6AM-11PM, drop off and pick up of laundry/dry cleaning, retail sales-non marine, restaurant or public function building for less than 50 guests, concessions in principal building, indoor storage of vehicles and boats.
- b. **Hanover Street** (all properties with entrances on Hanover Street): Single family dwelling, 2 family dwelling, townhouses, multi-family up to 4 dwellings, historic preservation building, museum, city park and related activities, professional office, business office, financial services, and family day care.

- c. **Hill Street** (all properties with entrances on Hill Street): Single family dwelling, 2 family dwelling, townhouses, multi-family up to 8 dwellings, historic preservation building, museum, city park and related activities, professional office, business office, financial services, and family day care.

- d. **Rock Street** (all properties with entrances on Hanover Street): Single family dwelling, 2 family dwelling, townhouses, multi-family up to 3 dwellings, historic preservation building, museum, city park and related activities, professional office, business office, financial services, and family day care.

See Pages 6 and 7 for Notes...

Notes: (1) Detail from the Portsmouth Zoning Ordinance (Page 5A-34) regarding the **North End Incentive Overlay District** – this allows the building footprint to expand up to 30,000 sf, building height to increase by 10 feet (1 story), and reduces the parking requirement to 1 parking space/unit (or .5 parking space/microunit):

10.5A46 Incentive Overlay Districts

The Incentive Overlay Districts are designated on Map 10.5A21B. In such areas, certain specified **development** standards may be modified as set forth in Section 10.5A46.10 below, if the **development** provides **community space** or **workforce housing** in accordance with Section 10.5A46.20, as applicable:

10.5A46.10 Incentives to Development Standards

DEVELOPMENT STANDARDS	INCENTIVES	
	North End Incentive Overlay District	West End Incentive Overlay District
Maximum building coverage	No Change	80%
Maximum building footprint	30,000 sf	30,000 sf
Minimum lot area	No Change	2,000 sf
Minimum lot area per dwelling unit	No Change	No minimum
Maximum building height	Plus 1 story up to 10 ft ¹	Plus 1 story up to 10 ft ^{1,2}
Minimum off-street parking	Residential: 1 space per dwelling unit 0.5 space per micro-unit	Residential: 1 space per dwelling unit 0.5 space per micro-unit Non-residential: 25% reduction from underlying standard

¹ In order to receive the **building height** incentive, the **sidewalk** width in front of any **façade** shall be at least 10 feet plus two feet for each story of **building height** above three stories. Any property area needed to comply with this requirement shall count as **open space** as listed in Figures 10.5A41.10A-D (Development Standards) as **community space**; even if less than 15 feet in width.

² For parcels over 80,000 sq. ft. in area that are located south of Islington Street, up to two stories or 20 feet may be added to the maximum **building height** provided both requirements listed under Section 10.5A46.22 (1) and (2) are met.

(2) Detail from the Portsmouth Zoning Ordinance District (Page 6-23) regarding the **Downtown Overlay District**-this disallows residences to be located on the 1st floor:

Section 10.640 Downtown Overlay District

10.641 Establishment and Purpose

10.641.10 The Downtown Overlay District (DOD) is an overlay district applied to portions of the Character Districts. All properties located in the DOD must satisfy the requirements of both the DOD and the underlying districts.

10.641.20 The purpose of the DOD is to promote the economic vitality of the downtown by ensuring continuity of pedestrian-oriented business uses along streets.

10.642 Ground Floor Uses

Within the DOD, the ground floor of any building shall consist entirely of the following uses:

1. Nonresidential principal uses permitted in the underlying zoning district;
2. Entries, lobbies, stairs, and elevators providing pedestrian access to permitted upper-floor residential uses, not exceeding 20 percent of the ground floor area.

(3) Building & Story Heights detail from the Portsmouth Zoning Ordinance (Page 5A-24 and 5A-25):

10.5A43.31 Specific height requirement areas are designated on Map 10.5A21B. The maximum **building height** in each height requirement area shall be as follows:

Height Requirement Area	Minimum Height in Stories	Maximum Height in Stories	Maximum Height in Feet
1 story	1	1	20
2 stories	2	2	35
2 stories (short 3 rd)	2	2 + short 3 rd	35
2-3 stories	2	3	40
2-3 stories (short 4 th)	2	3 + short 4 th	45
2-4 stories	2	4	50
2-4 stories (short 5 th)	2	4 + short 5 th	60
2-5 stories	2	5	60

