



Memorandum
Planning and Urban Development Department

To: Mayor Brennan and Members of the City Council
From: Christine Grimando, Senior Planner
Date: March 27, 2015
Re: Zoning Map and Text Amendments for 58 Fore Street

To assist the discussion at the March 30th Workshop a detailed timeline of policy, zoning and application timelines pertinent to the application for map and text amendments for 58 Fore Street follows.

COMPREHENSIVE PLAN & ZONING IMPLEMENTATION TIMELINE

The planning process that led to the adoption of the *Master Plan for Redevelopment of the Eastern Waterfront*, *Eastern Waterfront Building Height Study*, and *Design Guidelines for Development of the Eastern Waterfront*, and associating zoning changes, began in early 2000.

- **January 2000.** The eastern waterfront planning process began, kicking off a series of community forums and design workshops, and the formation of a Waterfront Development and Master Planning Committee.
- **June 3, 2002.** A first phase of the Master Plan was accepted in 2002, focused on the uplands of Ocean Gateway.
- **January 2004 to September 2004.** Two Planning Board workshops and a neighborhood meeting were held on the Waterfront Building Height Study.
- **September 10, 2004**
 - The Planning Board voted to recommend the *Master Plan for Redevelopment of the Eastern Waterfront*, *Eastern Waterfront Building Height Study*, and *Design Guidelines for Development of the Eastern Waterfront*.
 - The Planning Board voted to recommend the adoption of the B-6 zone and the B-6 Building Height Overlay. Between January 2003 and September 2004, the Planning Board held 15 meetings reviewing iterations of Eastern Waterfront Zoning.
- **October 4, 2004**
 - Order 79-04/05. Order Amending City's Comprehensive Plan Re: Eastern Waterfront Master Plan, Including Eastern Waterfront Height Study. Postponed to 10/18/2004

- Order 80-04/05 Amendment to Zoning Map Re: Rezoning From WPD, WSU, B-5 and B-2b to B-6 (Waterfront Port Development, Waterfront Special Use, Business – 5 and B-2b to Business -6) and from WSUZ to ROS and Adoption of Zoning Text Change Vicinity: Eastern Waterfront. First reading.
- **October 18, 2004**
 - Order 79-04/05. Order Amending City's Comprehensive Plan. Postponed to 11/1.
 - Order 80-04/05. Amendment to Zoning Map. Postponed to 11/1.
- **November 1, 2014**
 - Order 79-04/05. Order Amending City's Comprehensive Plan. Postponed to 11/29.
 - Order 80-04/05. Amendment to Zoning Map. Postponed to 11/29.
- **November 29, 2004**
 - Order 79-04/05. Order Amending City's Comprehensive Plan. *No action taken on the Comprehensive Plan on November 29.*
 - Order 80-04/05. Amendment to Zoning Map. *Seven amendments were proposed to the zoning amendment, (six passing), including changes to the extent of the new B-6 zone; to amend the order to keep the height limit consistent at 45 feet in the B-6 Zone; to amend the amendment to exclude the area bounded by Fore Street, India Street, Hancock Street and the new Commercial Street Ext., leaving the height in this area at 65 feet; to amend the amendment to reduce the height to 55 feet in the area bounded by Fore Street, Hancock Street, Mountfort Street and the new Commercial Street Ext.; and for the addition of tower setbacks.*
- **December 8, 2004**
 - Order 79-04/05. Amending City's Comprehensive Plan Re: Eastern Waterfront Master Plan, Including Eastern Waterfront Height Study - Sponsored by Joseph E. Gray, Jr., City Manager. Motion was made by Councilor Cloutier and seconded by Councilor Gorham for passage. Passage 9-0.
 - Order 80-04/05. Amendment to Zoning Map Re: Rezoning From WPD, WSU, B-5 and B-2b to B-6 (Waterfront Port Development, Waterfront Special Use, Business – 5 and B-2b to Business -6) and from WSUZ to ROS and Adoption of Zoning Text Change Vicinity: Eastern Waterfront. Motion for passage already on the floor and amended at the 11/29/04 meeting when this item was postponed. Passage of amendment, as amended, 9-0. Passage of order, as amended, 9-0.

- **September 2006**

- Master Plan for Redevelopment of the Eastern Waterfront Amended to include IX., Policy Statement for Maine State Pier.
- The Waterfront Port Development Zone was rezoned to the Eastern Waterfront Port Zone in September 2006.

APPLICATION BY CPB2 LLC

- August 22, 2014. Application submitted to Department of Planning & Urban Development
- September 17, 2014. Neighborhood Meeting
- October 21, 2014. Planning Board Workshop
- November 18, 2014. Planning Board Workshop and Site Walk
- February 10, 2015. Planning Board Workshop
- February 24, 2015. Planning Board Public Hearing

DISCUSSION

These twin planning processes, the creation of three Comprehensive Plan documents and implementation of associated zoning for the same area, occurred on concurrent timelines. The initiation of the Comprehensive Plan process preceded zoning implementation, but there was significant overlap, until the fall of 2004 when they were voted on by the City Council on the same dates.

The Comprehensive Plan amendments are referenced as Order 79-04/05. The *Eastern Waterfront Building Height Study* includes a map, Illustration 33 (Figure 1), which is the guiding policy document for building heights in the Eastern Waterfront. City records show there was a great deal of debate as to the appropriate heights in this area, and there are numerous iterations of Illustration 33 that were discussed at public forums, Planning Board meetings, and Council meetings, through the fall of 2004. Not-adopted versions include maps with heights as high as eight stories, and maps with recommendations for heights measured from flood plain, among others. Ultimately, a map with more moderate heights than earlier versions, making no mention of flood plain, was adopted in December 2004. The version of Illustration 33 that was forwarded to the Council in their packets for the October 4, 2004 meeting, and that was adopted at the December 8, 2004 meeting, was dated September 2004. The item appeared on three agendas between October and December, and there is no record of the September version of Illustration 33 being amended before adoption.

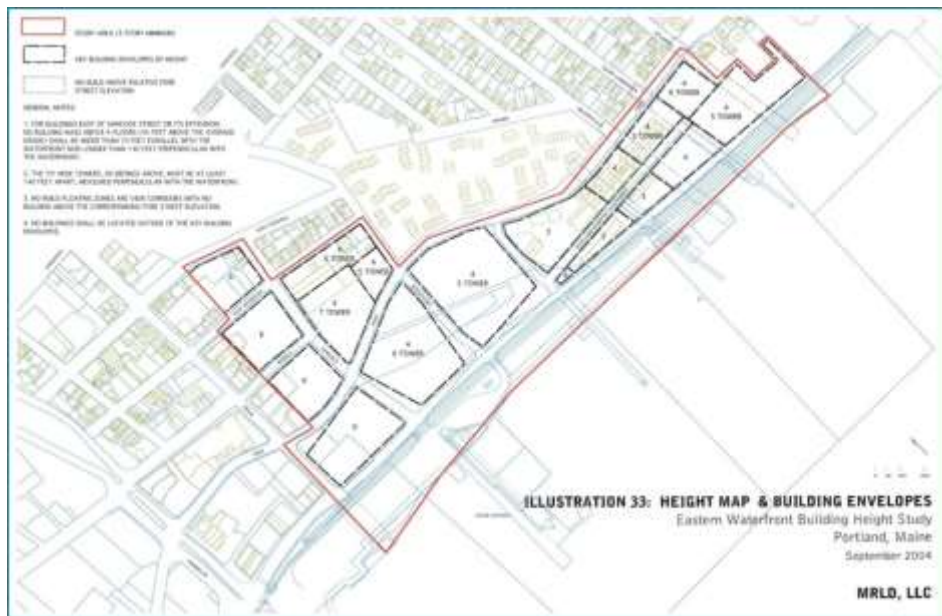


Figure 1, Illustration 33 as the record shows it was adopted, dated September 2004

Regarding the implementation of the associated Eastern Waterfront zoning, each of the five meetings that took place through October, November, and December 2004 included review of a map of the B-6 zone and the accompanying height overlay (*B-6 Building Height Overlay & Building Envelopes*, Figure 2), referenced as Order 80-04/05. The creation of the B-6 zone and the B-6 Height Overlay map were the first steps in implementation of the Eastern Waterfront Comprehensive Plan documents. Both the extent of the B-6 zone and the height parameters of the B-6 zone were amended by the Council in November 2004, resulting in a height overlay zoning map that included a reference to flood plain for one of the building envelopes, east of Mountfort Street.



Figure 2, Current B-6 Height Overlay Zoning Map

In sum, the only amendments to the various Eastern Waterfront documents approved in December 2004 are to Order 80-04/05, the B-6 zoning map amendment. Order 79-04/05 and Order 80-04/05 both pertain to the Eastern Waterfront but they are distinct, the former being a policy document, the latter zoning, and each were subject to discreet actions by the Council. Because these were reviewed on the same evenings, as part of an overlapping planning process, it is essential to distinguish between the two. Staff has reviewed recordings of meetings, paper files, and digital files, and has found no discrepancy between what the Council adopted in 2004 and the versions that have been reviewed in the course of the 58 Fore Street application as the basis for staff and Planning Board assessments of Comprehensive Plan consistency. The Council may ultimately make different findings on the proposed map and text amendments than the Planning Board has recommended that are also in general harmony with the Comprehensive Plan, but concern for a discrepancy in the adopted policy documents need not be the basis for that Council's decisions on this application.