

April 25, 2017

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bostonpreservation.org

Councilor Michael Flaherty, Chairman
Committee on Government Operations
Via email: MICHAEL.F.FLAHERTY@BOSTON.GOV

Re: Docket #0566, “An Act Protecting Sunlight and Promoting Economic Development in the City of Boston”

Dear Councilor Flaherty,

The Boston Preservation Alliance is Boston’s primary, non-profit advocacy organization that protects and promotes the use of historic buildings and landscapes in all of the city’s neighborhoods. With 40 Organizational Members, 98 Corporate Members, and a reach of 35,000 friends and supporters we represent a diverse constituency advocating for the thoughtful evolution of the city and celebration of its unique character. We appreciate the opportunity to offer comments on projects that impact the historic character of the city.

Thank you for the opportunity to present testimony at yesterday’s hearing. My testimony is attached for your reference.

The Alliance has been consistent and clear in our previous comments on the Winthrop Square project, submitting letters to the BPDA in January and February and the Massachusetts Executive Office of Energy and Environmental Affairs last December in anticipation of their Scoping determinations for environmental review. We remain adamant that any effort to facilitate this project through legal maneuvers is inappropriate given the impact of the project has not yet been determined.

As I noted in our testimony, The Boston Preservation Alliance is strongly opposed to the Home Rule Petition. The proposal weakens rather than provides further protection for the city’s resources by setting a very bad precedent that protective laws and regulations can be changed to facilitate one project if enough money is put on the table. It offers, in exchange for allowing the project, planning that should be occurring regardless of the agreement and limited strengthening of shadow protections for Copley Square that have not been discussed and evaluated. It also eliminates the small remainder of the shadow bank for which there is no consensus that this is the most advantageous utilization of this limited resource. It certainly does not, as some believe, mean that no future project can cast shadow on the Landmarked Boston Common and Public Garden.

The Boston Preservation Alliance urges City Council as well as others whose action is required to pass the petition to oppose it.

Sincerely,



Greg Galer
Executive Director

Enc.

Cc:

Governor Charlie Baker
Senator William Brownsberger
Senator Joseph Boncore
Representative Jay Livingstone
Representative Aaron Michlewitz
Representative Byron Rushing
Brona Simon, Massachusetts Historical Commission
Mayor Martin J. Walsh
City Councilor Frank Baker
City Councilor Andrea Campbell
City Councilor Mark Ciommo
City Councilor Anissa Essaibi George
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City Councilor Salvatore LaMattina
City Councilor Bill Linehan
City Councilor Timothy McCarthy
City Councilor Matt O'Malley
City Councilor Ayanna Pressley
City Councilor Michelle Wu
City Councilor Josh Zakim
Kathleen MacNeil, Millennium Partners
Cindy Schlessinger, Epsilon Associates
David Carlson, Boston Planning and Development Agency/BCDC
Rosanne Foley, Boston Landmarks Commission
Elizabeth Vizza, Friends of the Public Garden
Wendy Landman, Walk Boston
Vicki Smith, Neighborhood Association of the Back Bay
Patricia Tully, Beacon Hill Civic Association
Jim Igoe, Preservation Massachusetts

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Testimony of Greg Galer, Executive Director – 4/24/17

City Council Hearing on Home Rule Petition re Shadow Laws/Winthrop Square

- The Boston Preservation Alliance is considered a voice of conscience for the city's unique character. We promote thoughtful change. We warn about unintended consequences when decisions are rushed before all facts are at hand
- We've had many near-misses – the Old South Meeting House and the Old State House, and the Southwest Corridor - that were saved by citizens demanding we rethink flawed plans that threatened the essence of Boston. And those, too, were argued as necessary, once-in-a-lifetime opportunities. Today we are there once again
- The Alliance is adamant that this home rule petition is both premature and ill-conceived. I will focus on five points:
 - First - it is premature to clear a path for the project when its impact has not yet been evaluated. The BPDA just issued their Article 80 Scoping Determination on April 11. The Massachusetts Executive Office of Energy and Environmental Affairs has yet to issue the scope of its required analysis and alternatives. There are many questions to answer about the effects of the Winthrop Square proposal – above and beyond shadow on the Common and Public Garden.
 - Second, the Petition sets a terribly bad precedent. (And I have heard this from a wide range of people in the design and development community, many unwilling to say it publicly). The proposal condones, if not promotes, a system of rules that can be changed if enough money is offered to the City as compensation. It is a slippery slope. What is to stop, in 5-10- 20 years, another proposal to offer millions of dollars to change this or yet another law? What about \$1billion to build on the Common itself? Maybe that over-shadowed corner of Tremont and Boylston? When will it stop?

Winthrop Square is not a one-off case. Once this Pandora's box is opened the temptation will be too great when "outrageously compelling" funds are placed within reach. Maybe not with this administration, but one down the road.

Our concern isn't just shadow protections but all regulations and laws that protect the neighborhoods of Boston. To support this petition is to say that Boston's playing rules are up for sale. More offers will be made -- offers that

“benefit” the city, but at what cost?

- Third - It is shocking to see planning for the Midtown Cultural and Financial Districts part of this deal. Why do the citizens of Boston have to give up something for the city’s planning agency to do what is a primary reason for its existence? Comprehensive planning before -- and to potentially justify efforts to change existing regulations makes sense. Planning after the horse has left the barn does not.

The Petition privileges one project with what I’ve heard described as “the ultimate form of spot zoning.”

We welcome, in fact have been asking for, planning for Downtown. We need it, but not as a quid pro quo.

- Fourth - The Shadow Bank only contains a ¼ acre. A relatively small amount in the scheme of things and if carefully managed could allow small, incremental opportunities for a variety of projects as the Midtown Cultural District evolves. How does one measure the lost community benefit of that use vs. the benefits of the singular Winthrop Square project?
- Fifth - The protections promised for Copley Square provide only minor incremental enhancement. To elevate the current limited zoning protection to state law without discussion of its effectiveness makes little sense. This law provides no protection, for example for several National Landmark buildings there and it’s important to note that shadows have real, negative, physical impacts on the health of historic buildings – not just on parks. And what happens when a beautiful, energizing, and economically beneficial project is proposed that would shadow Copley Square? How much money is enough to change this state law again?
- The Alliance greatly respects the Millennium Team. In fact they are Members of the Alliance, and we awarded their Burnham Building project last year. And of course we support the redevelopment of the Winthrop Garage site but this is a false dichotomy – this project as it stands or no project.
- The City has been blinded by a pot of gold. As in fairy-tales, chasing it, always leads to bad, unintended consequences. Don’t be taken in.
- Boston voters overwhelmingly demonstrated that money isn’t the only measure of value when they voted themselves a tax increase with CPA. City Council should be equally as wise when considering this proposal and reject the Home Rule Petition.