

OFFERED BY COUNCILOR LINEHAN



**CITY OF BOSTON
IN CITY COUNCIL**

IN THE YEAR TWO THOUSAND SEVENTEEN

**A HOME RULE PETITION FOR A SPECIAL LAW RE: "AN ACT PROTECTING
SUNLIGHT AND PROMOTING ECONOMIC DEVELOPMENT IN THE CITY OF
BOSTON"**

WHEREAS: this Home Rule Petition strengthens the City of Boston's commitment to the future of Boston Common and further protects sunlight on America's first park by eliminating the remainder of the 1-acre shadow bank, established by state law to allow certain projects to cast shadow otherwise not in compliance with that law, and instead allowing a limited amount of new shadow to be cast on the Common and the Public Garden from new construction at 115 Winthrop Square; and

WHEREAS: this proposal codifies Article 48 of the Boston Zoning Code, which is modeled after the Boston Common shadow protections and limits new shadow on Copley Square Park cast from future structures built within the Stuart Street District; and

WHEREAS: this petition requires the Boston Planning and Development Agency (BPDA) to conduct a planning initiative for downtown Boston, including but not limited to the Midtown Cultural District and the Financial District, to define a transparent and predictable future for the area, including recommendations regarding sunlight; and

WHEREAS: in 2015, the City Council conducted a robust process to ensure that the BPDA would secure the most value for the 115 Winthrop Square site and that any proceeds would come back to the City to directly benefit the residents of Boston; and

WHEREAS: the selected project proposed by Millennium Partners will provide over \$150 million in one-time revenue, an estimated \$12 million in annual property tax

payments, thousands to our Neighborhood Housing and Neighborhood Jobs Trusts, new affordable housing units to Chinatown, public realm improvements in the Financial District, and thousands of new construction jobs and permanent jobs that will be an economic driver for the entire city; and

WHEREAS: Millennium Partners' proposal will replace a blighted garage with a mixed-use tower containing more than 1 million square feet of residential, office, retail, restaurant, parking and other commercial space, using Passive House building principles to achieve LEED Platinum Certification; and

WHEREAS: to ensure economic inclusion, the City has signed a Memorandum of Understanding with Millennium Partners regarding professional services, building services and consulting contracts with women-owned businesses and minority-owned businesses, participation in our Summer Jobs Program, hiring a construction workforce of 51% City of Boston residents, 40% persons of color, and 12% women, and increasing apprenticeship and mentoring opportunities and training programs; and

WHEREAS: the City is increasingly reliant on property taxes, has limited ability to generate new revenue, and faces increasing uncertainty about future state and federal funding. Developing the Winthrop Square garage presents a unique opportunity to deliver significant positive benefits to our residents and impactful resources for our open spaces, affordable housing developments, and neighborhoods; *NOW,*

THEREFORE BE IT ORDERED,

That a petition to the General Court, accompanied by a bill for a special law relating to the City of Boston to be filed with an attested copy of this Order be, and hereby is, approved under Clause One (1) of Section Eight (8) of Article Two (2), as amended, of the Amendments to the Constitution of the Commonwealth of Massachusetts, to the end that legislation be adopted precisely as follows, except for clerical or editorial changes of form only:

PETITION FOR A SPECIAL LAW RE: AN ACT PROTECTING SUNLIGHT AND PROMOTING ECONOMIC DEVELOPMENT IN THE CITY OF BOSTON.

SECTION 1. Subsection (b) of section 2 of chapter 362 of the Acts of 1990 is hereby amended by striking out the words “, subject to the one acre exclusion set forth in the second sentence of subsection (c).”

SECTION 2. Subsection (c) of section 2 of chapter 362 of the Acts of 1990 is hereby amended

by striking out the second sentence thereof.

SECTION 3. Section 2 of chapter 362 of the Acts of 1990 is hereby further amended by inserting after subsection (c) the following subsection:-

(d) Any structure located on property owned by the City of Boston on January first, two thousand and sixteen and located west of Federal Street, south of Franklin Street, east of Devonshire Street, and north of the intersection of High Street and Summer Street, which structure casts a new shadow upon the Boston Common for not more than two hours after the later of seven o'clock in the morning or the first hour after sunrise.

SECTION 4. Section 2 of chapter 384 of the Acts of 1992 is hereby amended by striking out the word "or" in the last line of subsection (b).

SECTION 5. Section 2 of chapter 384 of the Acts of 1992 is hereby further amended by striking out the period in the last line of subsection (c) and inserting in place thereof a semicolon and the word "or."

SECTION 6. Section 2 of chapter 384 of the Acts of 1992 is hereby further amended by inserting after subsection (c) the following subsection:-

(d) Any structure located on property owned by the City of Boston on January first, two thousand and sixteen and located west of Federal Street, south of Franklin Street, east of Devonshire Street, and north of the intersection of High Street and Summer Street, which structure casts a new shadow upon the Public Garden for not more than forty-five minutes after the later of seven o'clock in the morning or the first hour after sunrise.

SECTION 7. As used in section 7 and section 8 of this act the following words shall have the following meanings:

"Article 48," Article 48 of the Boston Zoning Code as it existed on March first, two thousand and seventeen.

"New shadow," the casting of a shadow at any time on an area which is not cast in shadow at such time by a structure which exists or for which a building permit has been granted on the date upon which application is made to the permit-granting authority for a proposed structure and which would not be cast in shadow by a structure conforming to as-of-right height limits allowed by the Boston Zoning Code as in force on March first, two thousand and seventeen. New shadow shall not include a de minimis shadow cast by an antenna, fence, flagpole, sign or other similar structure.

“Permit granting authority,” the Boston Zoning Board of Appeal, the Boston Zoning Commission, the Boston Redevelopment Authority or other public body authorized to grant permits or approvals pursuant to chapter 121A or chapter 121B of the General Laws, chapter 665 of the acts of 1956, as amended, of the Boston Zoning Code. Permit granting authority shall not include the Boston Inspectional Services Department, or any body or department succeeding in the duties thereof.

“Copley Square Park,” the land in the City of Boston bounded by Boylston Street, Clarendon Street, St. James Avenue, and Dartmouth Street, excluding land occupied by Trinity Church, and under the care, custody management and control of the city Parks and Recreation Commission.

“Structure,” a structure, as defined in the Massachusetts state building code, which is: (i) intended to be permanent; and (ii) not located within the boundaries of Copley Square Park.

SECTION 8. Notwithstanding any provisions of chapter 121A or chapter 121B of the General Laws, or chapter 665 of the acts of 1956, or any other general or special law to the contrary, no permit granting authority shall take any action which would authorize the construction of any structure within the Stuart Street District established by Article 48 which would cast a new shadow for more than two hours from eight o’clock in the morning through two-thirty in the afternoon on any day from March twenty-first to October twenty-first, inclusive, in any calendar year, on any area of Copley Square Park.

SECTION 9. The Boston Redevelopment Authority shall conduct a planning initiative for downtown Boston for an area including, but not limited to, the Midtown Cultural District established by Article 38 of the Boston Zoning Code and that area of the city known as the Financial District. The initiative shall be conducted in partnership with the community to examine the preservation, enhancement and growth of downtown Boston in order to balance growth with livability while respecting the importance of sunlight, walkability, and a dynamic mix of uses. The initiative shall culminate in a report that must include, but need not be limited to, recommendations concerning: development guidelines to facilitate predictable and appropriate development and community benefits; balancing area enhancement with the needs of existing residents, businesses and property owners; historic preservation; impacts of development on the environment, open space, and public realm, specifically including shadow impacts; and adaptability to the risks associated with climate change. The planning initiative shall commence within six months of the date of the passage of this act, and the Boston Redevelopment Authority shall publish the report on the planning initiative within three years from the passage of this act.

SECTION 10. This act shall take effect upon its passage.