



BOSTON CITY COUNCIL

Committee on Government Operations
Gabriela Coletta Zapata, Chair

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REPORT OF COMMITTEE CHAIR

November 6, 2024

Dear Councilors,

The Committee on Government Operations was referred the following docket for consideration:

Docket #1197, Ordinance Amending the City of Boston Code Ordinances Chapter VII Section 7 Regulating Restrictions on Park Frontages.

This matter was sponsored by Councilor Sharon Durkan and referred to the Committee on August 7, 2024.

Summary of Legislation

Docket #1197 is an Ordinance that would amend *City of Boston Code 7-4.10 Restrictions on Park Frontages* by inserting additional language regarding certain lots located at the intersection of Boylston Street, Ipswich Street, and Private Alley 938 to be known and numbered as 1161 Boylston Street, 2 Charlesgate West, and 6 Charlesgate West. The Ordinance codifies specific parameters related to building height and setback that would apply to new development on said lots.

The Ordinance establishes an additional setback restriction within the current Park Frontages Ordinance that would restrict the development or placement of a building within fifteen (15) feet of the easterly boundary of said lots where such property line abuts the Fens. Further, the Ordinance establishes building height requirements for said lots as follows: Any building located in that portion of the lots that is within sixty-seven and one-half (67.5) feet from the sideline of Ipswich Street may be built to a height not exceeding two hundred eighty (280) feet; Any buildings located in that portion of the lots that is greater than sixty-seven and one-half (67.5) feet from the sideline of Ipswich Street and greater than fifty (50) feet from the easterly boundary of said lots where such property line abuts the Fens may be built to a height not exceeding one hundred eighty (180) feet; Any buildings located in the remaining portion of said lots may be built to a height not exceeding seventy (70) feet.

The Ordinance further proposes that the height of any building developed on the aforementioned lots be measured from the mean grade of the edgestone or sidewalk on the easterly property line where such property line abuts the Fens (excluding Steeples, towers, domes, railings/guardrails, balustrades, parapets, sculptured ornaments, chimneys, flues, roofs, aeriels, antennae, elevator and mechanical penthouses, water tanks, screen walls, monitors or other structures normally built above the roof and not devoted to human occupancy in the computation of building height.) Finally, the Ordinance requires the written approval of the Boston Redevelopment Authority prior to the development or altering of any building or



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structure on said lots. When reviewing plans for development or alteration on said lots, the Ordinance declares that the Authority's review of such exterior design shall be concerned with such matters as the exterior facade, exterior materials, signs, the location of rooftop structures, building mass and its placement on the site, the relation of the building to architectural characteristics of the Fenway, and adequacy of vehicular ingress and egress, if any.

The City's current height and setback requirements apply only to properties within 100 feet of certain park frontages and were designed to protect Boston's green spaces from adverse effects, such as shadowing and visual intrusion from nearby high-rise developments. True to spirit and form, this Ordinance bolsters those protections by establishing specific restrictions and requirements for the aforementioned lots as they also border park frontage but are excluded from adherence to the current provisions. Additionally, the language of the Ordinance is designed to ensure that new buildings shall, without limiting the dimensions and building volume permitted herein and under applicable zoning regulations, be of outstanding architectural character and harmonious with the Fenway area.

Information Received at Hearing

The Committee held a hearing on October 28, 2024, and heard testimony from Liza Meyer, Chief Landscape Architect of the Boston Parks Department; Diana Fernandez Bibeau, Deputy Chief of Urban Design of the Boston Planning Department; and Brett Bentson, Principal of Utile.

Brett Benson from Utile presented details related to intended development at the location described in the Ordinance. Benson provided details related to environmental impacts, community benefits, and affordability. Following presentation of the project, the Administration testified in favor of the proposed Ordinance, explaining that the outlined setback and height restrictions are the result of a compromise between the developer, the City, and the community, reflecting unique community and planning goals. It was explained that pursuant to *City of Boston Code 7-4.11 Permission for Construction Near Parks or Parkways*, the City requires the approval of the Boston Parks and Recreation Commission (the Commission) for all buildings and structures that are constructed or altered within 100 feet of a park or parkway, the purpose of which is to ensure that projects which are adjacent to open space are designed so that they do not negatively impact the protected open space or public realm.

It was explained that amending the City's current restrictions on park frontages, to include requirements for the lots located at the intersection of Boylston Street, Ipswich Street, and Private Alley 938, would create standards that the Commission may rely on when issuing their approval and would allow the developer here to build, incentivizing adherence to a plan that was designed as a result of a compromise. Without the proposed ordinance amendment, the Commission emphasized the precedent this very process could set, explaining that if the Commission were to deny the developer's plans without working towards a compromise, the developer could seek to subdivide the premises and circumvent the Commission's



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approval. The Commission explained that codifying this compromise could encourage other developers in the future to seek approval from the Commission via the same route.

Councilors raised concerns with the approval process that would allow a developer to pursue a subdivision to build in line with their goals rather than the Commission's. Councilors asked if this Ordinance should consider closing what was referred to as the 'subdivision loophole.' In advocating for the Ordinance's language as written, the Administration explained that, in practice, closing such a loophole could prove consequential, potentially stifling much-needed development in the middle of a housing crisis. In consultation with the Parks and Planning Departments, the Council could consider additional legislation to address this in the future.

The proposed Ordinance is an effective way to safeguard the intent of park protections while allowing a carefully considered project to move forward. Further, passage of the Ordinance will help set a precedent that prevents the exploitation of zoning loopholes under the current ordinance and underscore the importance of a transparent legislative process for similar projects within 100 feet of certain park frontages in the future.

Committee Chair Recommended Action

As Chair of the Committee on Government Operations, I recommend moving the listed docket from the Committee to the full Council for discussion and formal action. At this time, my recommendation to the full Council will be that this matter **OUGHT TO PASS**.

Gabriela Coletta Zapata, Chair
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