

Creedon, Paul

From: Lopez, Donna
Sent: Tuesday, January 06, 2015 9:06 AM
To: Creedon, Paul
Subject: FW: RECONSIDERATION #1: Teague Petition Part 2 needs Law Dept opinion in writing

From: Charles Teague [<mailto:charles.d.teague@gmail.com>]
Sent: Sunday, January 04, 2015 11:42 PM
To: City Council
Cc: Lopez, Donna
Subject: RECONSIDERATION #1: Teague Petition Part 2 needs Law Dept opinion in writing

Please enter this communication into the council record.

Councillors,

Please have the Law Department publish its opinion with citations on the Planning Board's discretion to deny Special Permits as ordered by the council on November 14 2014.

Please ensure that the opinion addresses Attorney Costa's opinion letter, specifically this sentence: *Stating that a special permit "may be," instead of "will normally be," granted is consistent with and underscores the holding in Humble Oil v. Board of Appeals of Amherst, 360 Mass. 604, 605 (1971): "The mere fact that the standards set forth [in a bylaw or ordinance] are complied with does not compel the granting of a special permit. . ."*

Charles Teague
23 Edmunds St
North Cambridge

Charles Teague, 23 Edmunds St, Thank you Mayor Maher.

Please vote tonight to advance Part 2 of the Teague Petition to a second reading. This will provide full public debate by the entire council, not just a committee. The council needs to tell the Planning Board how it expects the Board to use its discretion to deny Special Permits. This is not inappropriate guidance by the council because The Planning Board's Chairman Russell at a Teague Petition hearing asked the council for direction on the courthouse Special Permit.

Catherine Preston Connolly, a member of the Planning Board, said that she needs to hear from the council if the board should change from examining each Special Permit without any consideration to any other development in the city.

The missing step to get to the end of this debate is getting the Law Dept opinion on the Planning Board's discretion to deny Special Permits. The council requested it last November. ~~This opinion must be posted on line for everyone.~~ It must respond to my attorney's opinion letter which ~~said:~~ *Quote: The M172 LANGUAGE!* Stating that a special permit "may be," instead of "will normally be," granted is consistent with and underscores the holding in Humble Oil v. Board of Appeals of Amherst, ... "The mere fact that the standards set forth [~~in a bylaw or ordinance~~] are complied with does not compel the granting of a special permit. . ."

So for council roundtable with the Planning Board, please get the Law Dept opinion and please tell the board:

- yes they have to consider the impacts of all development in the city
- yes they have discretion ^{to deny} some Special Permits
- ~~yes, the city should take burden of a lawsuit and not require the neighbors to appeal Special Permits~~

~~I agree that Part 2 is largely symbolic but tonight the council is voting on whether or not the council supports of "business as usual" at the Planning Board.~~

*PART 2 IS SENDING A MESSAGE
THE PB EVEN ASKED THE COUNCIL TO SEND
A MESSAGE*

THE MESSAGE IS A YES OR NO TO ^{THE QUESTION} "IS BUSINESS AS USUAL OK AT THE PB"