

HOW DEVELOPERS NEGOTIATE ZONING AND PUBLIC BENEFITS
WITH THE CITY: TWO CASES IN DOWNTOWN BOSTON

by

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A.B., Economics
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Submitted to the Department of Urban Studies and Planning
in Partial Fulfillment of the Requirements for the Degree of

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Master of Science in Real Estate Development

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Abstract:

Large-scale real estate developments present unique challenges for planners to determine the optimal provision of public benefits. Because of the scale and scope of these projects, substantial negotiation is involved between the city and the private developer in order to issue the development agreement. This thesis seeks to unpack how developers and city planning officials negotiate zoning amendments and determine how much public benefits matter throughout the approvals process. Given the differing viewpoints between planners and developers, I hope to provide clarity on the considerations of both sides. My thesis recognizes that the negotiation between the city and developers to reach the development agreements and determine public benefits is a complex, crucial planning process which lacks sufficient scholarly attention to bridge theory and practice.

I look to two case studies in Boston's downtown: the Ritz-Carlton Complex and One Lincoln Street. Both projects received initial approvals but encountered market downturns that forced the developments to stall. The projects restarted again a decade later, successfully completed approvals and construction, and became catalytic projects for the city. I found that despite substantial risk and other obstacles, both development teams showed willingness and commitment to embrace the public benefit obligations. The projects resulted in significant public benefits provided to the city; furthermore, to the developer, the quantified price tag of those public benefits had more influence on the success of the project than the numbers might suggest. I argue that although public benefits are often treated as project costs, they create long term value to both the developer and the city. Developers and planners who can understand the full spectrum of issues will likely be more successful in negotiating future agreements for zoning reliefs and public benefits.

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Introduction

Large-scale real estate development projects, which span multiple parcels and are in development over extended periods of time, present unique challenges for both public officials and private developers. Due to the complexity of a project, which may substantially change the condition of the existing site and context, the approvals process must consider the appropriate amount of zoning relief that is consistent with the city's long-term visions for growth. Conversely, the process must also consider the impact of the project and require mitigation and public benefit payments from the developer.

I am interested in the nature of differing viewpoints between planners and developers, how these are communicated in the narratives they offer to each other, and how these shape each side's understanding of the development opportunity during key negotiations. Building on these questions, my thesis recognizes that the negotiation between the city and developers to reach the development agreements is a complex and crucial process which lacks sufficient scholarly attention to bridge theory and practice.

There is much interest in using private development to fund public resources, as cities face limited budgets and increasing demands on the urban environment. As the topic of public/private partnerships (PPPs) has become a popular topic in planning discourse, there exists a gap between theory and practice of public and private interests working together on developments. Little literature exists on the systematic evaluation of actual practice or summaries of common implementation challenges¹. My research focuses on Boston, whose development review process and neighborhood planning context are highly specific to the city.

The large-scale development projects that require a zoning change are regulated by Article 80, a public review process to determine whether and how exceptions and changes to the zoning code should be made. The public review process can add value to real estate projects by allowing developers to build denser and higher than what the zoning allows for. As the public and private sectors increasingly work together on developments that shape the city, the city utilizes its control

¹ Lynn Sagalyn. "Public Private Development." *Journal of the American Planning Association* 73, no. 1 (2007).

over land use to attain public benefits and shift the burden of cost to the developer for the provision of public goods and services².

Furthermore, the scale of Boston's public benefits achieved are likely to be substantial because of the existing zoning code; the density and height limits that exist as-of-right are generally much lower than the limits that developers would want to build and maximize their profits³. This low "baseline" means that the zoning relief is usually substantial, and therefore the public benefits required would be equally demanding.

This thesis starts with the most basic questions, which turn out to be not so basic: How do developers and city planning officials negotiate zoning amendments, and how much do public benefits matter during the approvals process? Later, the thesis moves onto questions to both sides: What makes public benefits so difficult for developers to understand— and to embrace? And: How can city planners be a partner in development and achieve more valuable public benefits? I hope to contribute to the conversation by addressing the role of planning to guide development outcomes to contribute to the city's goals, and, crucially, include the developer's perspective to understand the financial considerations behind such projects.



Source: Handel Architects

² Minjee Kim. "Negotiated Developments: Exploring the Trends, Efficacy, and Politics of Negotiating Zoning on a Project-by-Project Basis." Dissertation, MIT, 2019.

³ Ibid.

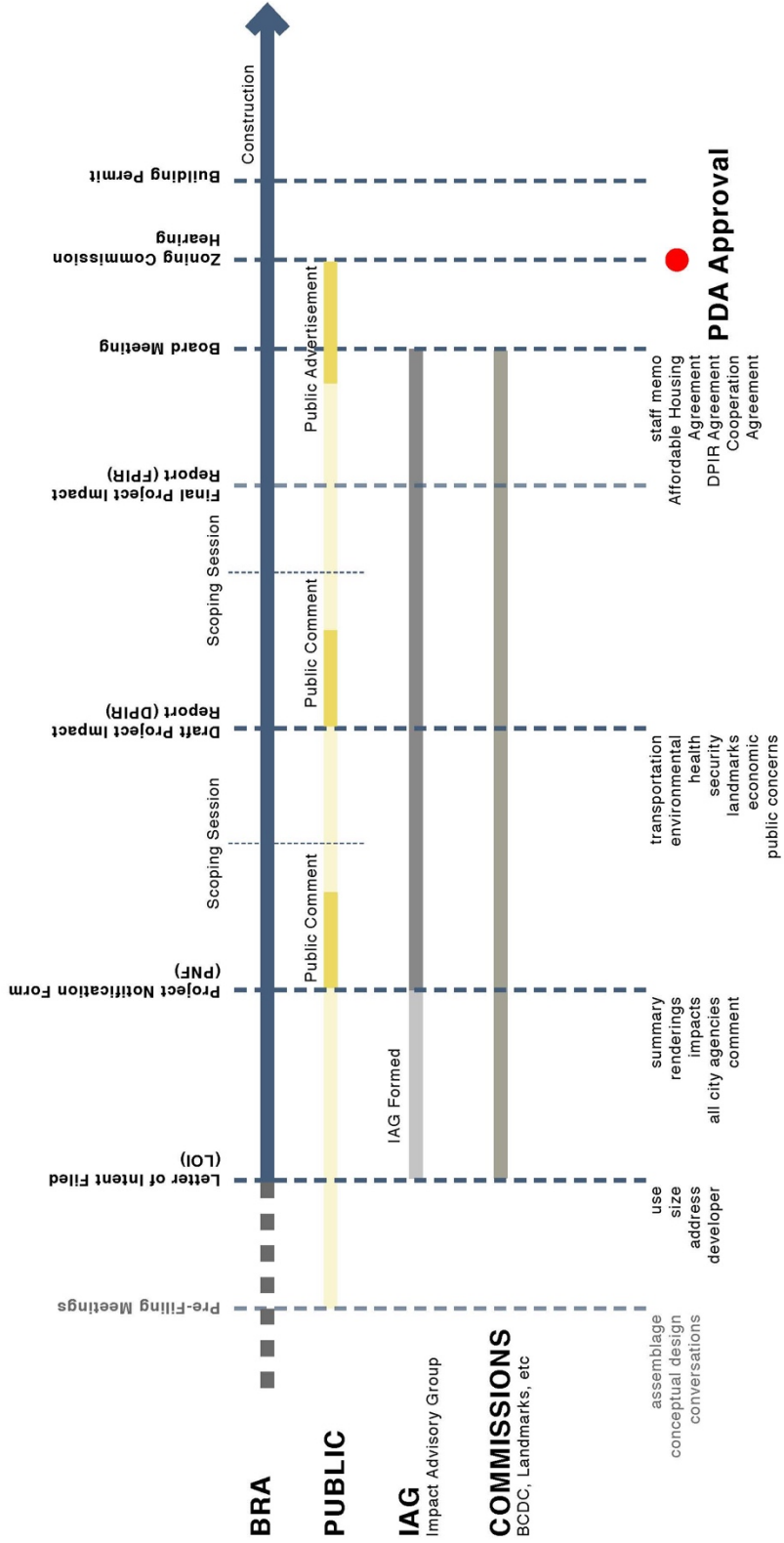
Zoning Relief

In 1996, Boston adopted Article 80 to provide clear guidelines for development review, citing that the parameters of unique projects “rarely fit neatly within the existing zoning code and a more predictable review process was needed.”⁴ The large-scale development projects that require a change to the zoning, or zoning relief, must go through an extensive public review process to determine whether and how exceptions and changes to the zoning code should be made. The public review process identifies the potential impacts of a proposed project and determines the appropriate mitigations or public benefits. The majority of the effort within the Article 80 process happens after the Project Notification Form (PNF) is filed, and the reviews, project impact analyses, and public meetings take place before the final hearing in front of the BRA (now the BPDA) Board. The project then goes on to the Zoning Commission.

The case study analysis in Chapters 2 and 3 focus on a few key documents in the Article 80 process. The Planned Development Area (PDA) agreement is approved by the BRA Board and the Zoning Commission, which constitute the final “approvals”. The Development Impact Project (DIP) agreement is tied to the PDA since it is required for any project that requires zoning relief and includes one or more Development Impact Uses⁵. Other supporting documents such as Board Memos, Cooperation Agreements, and Purchase and Sale Agreements are analyzed as secondary information that reveals how terms could have changed throughout the negotiation process. When a project site is upzoned, the value of the potential project increases substantially. Even if the developer does not build the project, the site now has a higher opportunity value for future development.

⁴ “What is Article 80?” bostonplans.org. <http://www.bostonplans.org/projects/development-review/what-is-article-80> [accessed 12 Feb 2019]

⁵ Office, retail business, service, public service, institutional, educational, hotel, or other uses that result in the reduction in the supply of low and moderate income housing. From <http://www.bostonplans.org/about-us/glossary>



Boston's Article 80 Review Process

Thus, when developers seek to increase the zoning through a zoning relief, the city mandates that the developer must determine the mitigations necessary and provide mitigation efforts. Mitigation efforts address adverse effects of the project, defined as mitigation of environmental impacts through physical enhancements or mitigation of social impacts through the provision of community and public benefits⁶. An Impact Advisory Group (IAG) and the City determine the mitigation efforts for each project, which culminates in a Cooperation Agreement⁷. However, this thesis focuses on the public benefits found within the DIP agreement, which outlines the public benefits that are a result of the zoning relief. The DIP Agreement outlines payments into the linkage funds, determined by the amount of gross floor area (GFA) exceeding 100,000 square feet. It also includes the negotiated benefits, which can be anything that the city and/or the community asks for, and that the developer agrees to.

Linkage is a statutory program that requires developers seeking zoning relief to pay an exaction schedule. The justification behind linkage is to mitigate rising housing prices caused by economic and job growth⁸. Thus, there are two linkage funds: affordable housing and jobs training. The exaction schedule requires a dollar amount per square footage over 100,000 square feet, and since the program was established in 1984, the housing exaction schedule has risen from \$5 per square foot for housing to \$8.34 per square foot⁹. For jobs, the exaction schedule was established in 1986 as \$1 per square foot and is now \$1.67 per square foot¹⁰. Payments can be scheduled on either a 7-year or 12-year schedule depending on the location, usually at the issuance of the building permit: some projects that are more financially secure have been encouraged to present value their contributions upfront, giving the developers a lower discount rate by averaging the city's rate (yield on city bonds) and the developer's cost of capital¹¹, and giving the city more upfront funds and more certainty.

⁶ Office of the Mayor. "Executive Order of Mayor Thomas M. Menino: An Order Relative to the Provision of Mitigation by Development Projects in Boston," 2000.

⁷ Ibid.

⁸ Boston Redevelopment Authority. "Survey of Linkage Programs in Other U.S. Cities." City of Boston, 2000.

⁹ Karl F. Seidman Consulting Services, ConsultEcon, "Linkage Nexus Study Final Report," 2016.

¹⁰ Ibid.

¹¹ Boston Redevelopment Authority. "Survey of Linkage Programs in Other U.S. Cities." City of Boston, 2000.

PUBLIC BENEFITS

A thoughtful development project can deliver civic value while enhancing its own economic value of the project, and there have been several famous examples throughout Boston's history have proved this assumption to be true. Louisburg Square on Beacon Hill is a prime example— Charles Bulfinch created the square as the central area around the new townhomes, creating an identity for the neighborhood rather using the square as developable property¹². On a larger scale, Norman Leventhal used a similar strategy with Post Office Square, leading a public/private effort to create a park over an underground parking garage, greatly increasing the value of the surrounding office buildings.

Despite the common use of the term, the definition of public benefit can be vague. One approach is to consider it as contributing to the city's essential functions, such as quality housing or sufficient office space. It can be argued this way as a correction for the market, where the development patterns of a capitalist economy lead to unjust outcomes for city residents that the city must address. Another is to consider it as contributing to civic value, where buildings and spaces can create delight and enjoyment for citizens through the years. Urban design or architectural considerations are notable public benefits that are less tangible than the economic concerns of the city.

Other public benefits can encourage more equitable economic development. Requirements for MBE (minority-owned business enterprise) or WBE (women-owned business enterprise) can be included in the construction requirements or in the tenant mix percentage. Further, public benefits can include specific programs, grants, or uses that target economically disadvantaged groups. For example, square footage in the project building can be designated for childcare or for non-profit use, or small business programs or challenge grants can be included as part of a development proposal.

The public benefit can be argued for something as basic as an allowed use that may be beneficial in a certain context-- residential in the downtown area to provide a livelier neighborhood, or retail on the ground floor to activate the street. Public benefits are often defined through a community engagement process to create neighborhood plans that outline objectives that the city seeks to

¹² Gary Hack, Lynn B. Sagalyn, "Value Creation Through Urban Design," in *Urban Design in the Real Estate Development Process*, 1st ed. (Blackwell Publishing Ltd, 2011).

achieve. Furthermore, as part of the approvals process—and in fact, before that in the planning stages and after that in the design review—the city can press for a variety of public goods. The requirements may be integrated into the design itself, specifying the facade in terms of the street wall or urban design guidelines, or in the project requirements to build an amenity that is needed for the area. Often the aesthetic impact of a development will be given some value, particularly if the design is by a famous architect.

However, one of the criticisms is that through obtaining public goods through private development, there is no free lunch. In other words, the public will still ultimately pay for what it benefits from, whether through lower land values, tax concessions, or future cost burdens on infrastructure and/or maintenance¹³. Furthermore, the buildings may be more costly if the real costs are hidden from view since developers will need to cover their increased costs for risk as well as the higher cost of capital¹⁴. In effect, these costs borne by the public act as subsidies for development.

DEFINITIONS

In this thesis, I define public benefits to the specific requirements stated in the Development Impact Project (DIP) Agreement. To avoid blurring the line between a “public benefit” and a positive feature of the project with public value, I choose to use only the contributions that are clearly stated as a requirement for the developer to include in order to receive the PDA approval¹⁵.

It should be noted that I do not seek to provide an evaluation or comparison of the actual impact of the public benefits—the benefits may not have been equal in terms of the timing, maintenance, or permanence—these fall beyond the scope of this paper. In a general sense, both cases were “successful” in that they resulted in substantial public benefits to be provided by the developer, and they resulted in a completed project. However, I include a discussion on the nature of the public benefits, in monetary and non-monetary terms, in order to provide context to the “success” of the final PDA.

¹³ Gary Hack, Lynn B. Sagalyn, “Value Creation Through Urban Design,” in *Urban Design in the Real Estate Development Process*, 1st ed. (Blackwell Publishing Ltd, 2011).

¹⁴ Ibid.

¹⁵ However, for reference I also include the negotiated payments to community groups after the PDA is approved and the project is built, as data permits.

It should also be noted that the “public official” and the “private developer” are named in a general sense and do not fully represent that diversity of players within those groupings. The public officials are the regulators: planners and staff members acting to ensure public services and accordance with neighborhood plans of the City of Boston. The private developers are more straightforward: they are composed of the members of the development team, the general partner and the local development partners. Although they are obvious simplifications, I do not address the complicated issue of community participation and representation, nor do I delve deeply into community meetings or the task forces that are responsible for negotiating the DIP Agreement.

METHODOLOGY AND STRUCTURE

To present a narrative account of the two case studies, I focus on the numerous considerations that led to the Planned Development Area (PDA) agreement and Development Impact Project (DIP) agreement, which helps to frame my analysis of resulting agreements. Through an extended review process, these agreements lay out the tradeoffs between zoning reliefs, public benefits, project mitigations, incentives, and other variables. In order to provide a more nuanced narrative account of these two Boston case studies, I draw upon the perspective of several disciplines, including urban planning, real estate finance, economic development, negotiation theory, and public policy. My study uncovers the narrative of each study using a combination of qualitative (interviews, public records, media coverage) and quantitative sources (development budgets, pro forma analysis).

The two case studies are both located in Boston’s downtown, Millennium Place I (PDA No. 33) and One Lincoln (PDA No. 35). The choice to use these cases is due to a few factors: Both PDAs were negotiated in the period of the late 1980s in a strong market, which allowed for rigorous negotiations between developers and the City. This was also a period when the procedure to use value capture for community benefits was being “tested”¹⁶. After a market downturn resulting in both projects stalling for a decade, both were renegotiated and fully delivered in the early 2000s, allowing for the opportunity to observe a new market dynamic as well as a new development team. Finally, after almost 20 years, we can observe the effect of these projects as catalysts for subsequent development, as well as the extent to which the development teams were successful in later projects.

¹⁶ However, it should be noted that before the Inclusionary Development Policy (IDP) was formally established in 2000 to require developers to contribute to housing affordability, the city was already applying many of those principles informally.

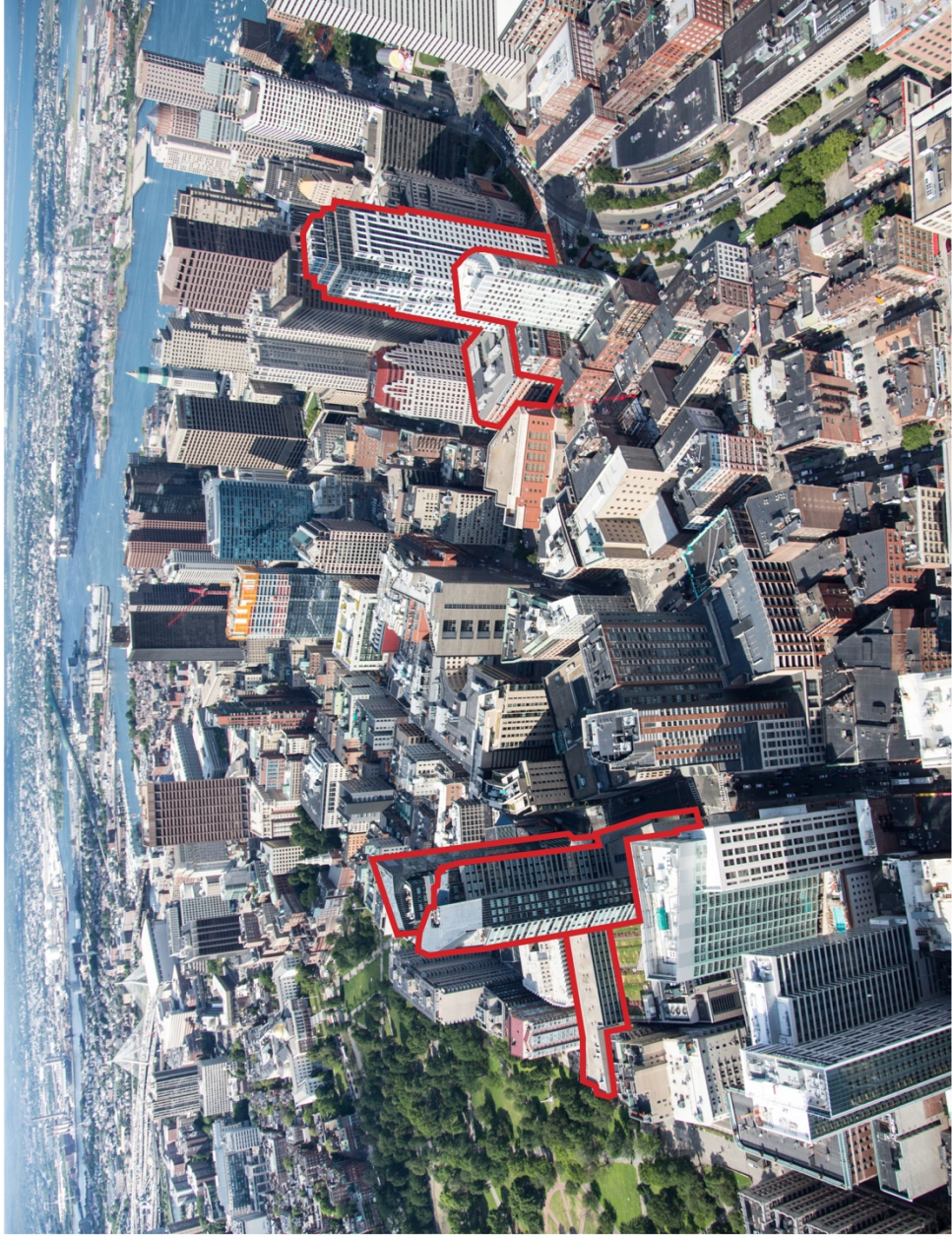
The first chapter of the thesis is an overview of zoning practices that seek to capture value from private development for the public good. Next, Chapters 2 and 3 dive into the Ritz-Carlton Complex and the One Lincoln St Tower as case studies, carefully recounting the dynamics and complexity of the development process. Chapter 4 then presents a summary of the zoning amendment and public benefits that were negotiated from each project and discusses the qualitative and quantitative significance relating to the overall success of the project. The final chapter concludes with takeaways and provides recommendations to both the private developer and public official for the purpose of practice.



PDA No. 33
Ritz-Carlton Towers
Source: Handel Architects



PDA No. 35
One Lincoln Street
Source: Gale & Wentworth



Base Picture Source: BPDA

CH 1: Negotiated Zoning and Development Considerations

VALUE CAPTURE

Incentive Zoning

The practice of incentive zoning encourages developers, usually through additional density bonuses, to provide community benefits or amenities. The first instances of incentive zoning in the early 1960s emphasized public realm improvements funded by developers, such as public plazas or theaters¹⁷. With the end of federal urban renewal policies in the 1970s, cities such as Boston embraced a new strategy that brought them into close negotiations with developers as “cities become co-investors in private development projects”¹⁸. One such method, value capture, seeks to “recapture” a portion of the value created when land is upzoned for the provision of public goods and services, thus shifting the burden of cost to the private sector. Calavita defines value capture as a term that includes several different mechanisms such as public benefit zoning, amenity bonus programs, and community benefit programs, all which seek to capture some of the value increases—both land and development value—resulting from entitlements¹⁹.

Value capture, or “recapturing” a portion of the land value increase from government action, is the theory behind this practice. Although the phrase is used widely (and perhaps inaccurately), it includes many regulatory policies such as impact fees, development agreement conditions, and density bargaining²⁰. The first major study on land value capture included public financing tools based on value capture, as well as regulatory methods, such as impact fees, development conditions, and density bargaining. Hagman and Misczynski describe windfalls as the increase in value from public action (e.g. through rezoning) that cause wipeouts for others. As such, they argue that windfalls that are conferred to private property owners should be partially recaptured to reduce inequities—citing the typical state’s constitutional provision prohibiting gifts of public funds to private entities²¹.

¹⁷ Nico Calavita. “Value Capture and Community Benefits.” *Zoning Practice*, 2015.

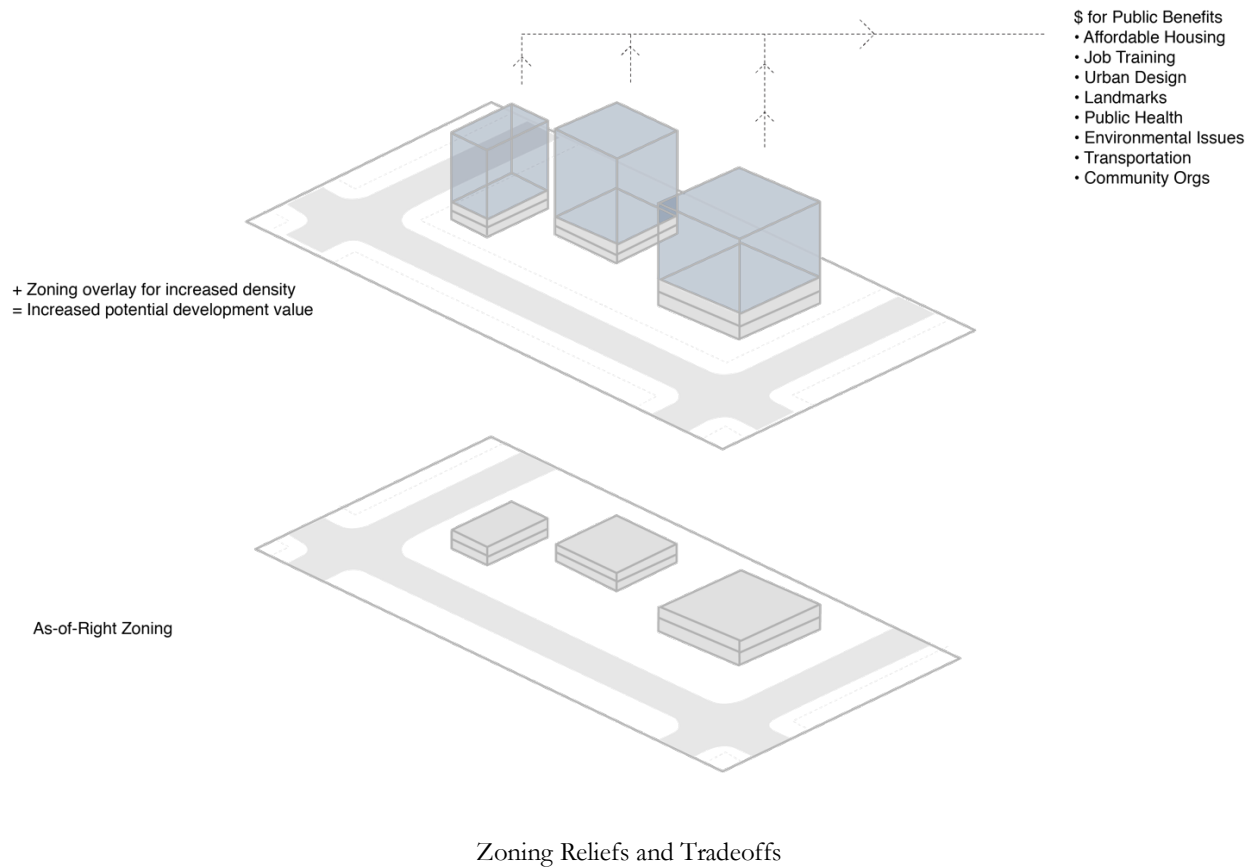
¹⁸ Lynn B. Sagalyn. “Measuring Financial Returns When the City Acts As an Investor: Boston and Faneuil Hall Marketplace.” *Real Estate Issues* 14, no. 2 (1989).

¹⁹ Nico Calavita. “Value Capture and Community Benefits.” *Zoning Practice*, 2015.

²⁰ Minjee Kim. “Negotiated Developments: Exploring the Trends, Efficacy, and Politics of Negotiating Zoning on a Project-by-Project Basis.” Dissertation, MIT, 2019. p.17

²¹ Donald G. Hagman, and Dean J. Misczynski, eds. *Windfalls for Wipeouts*. Chicago: American Society of Planning Officials, 1978.

In the 2015 issue of *Zoning Practice*, the American Planning Association’s monthly publication, Calavita defines value capture as a term that includes several different mechanisms such as public benefit zoning, FAR acquisition programs, amenity bonus programs and community benefit programs, all which seek to capture some of the value increases—both land and development value—resulting from entitlements.²² Around the country, cities are using these value capture tools that can be applied as mandatory incentives as well as additional project-specific negotiations.²³



Exactions Vs Case-By-Case Negotiation

Value capture by zoning has two primary methods: predetermined exaction schedule and case-by-case negotiations. The first method of predetermined exaction schedules, such as incentive zoning, impact fees, and inclusionary zoning has been researched extensively by planning and land use scholars. Studies have shown that the benefits and costs of incentive zoning benefit developers disproportionately. Kayden’s work on publicly owned private spaces in New York City as a result of

²² Nico Calavita. “Value Capture and Community Benefits.” *Zoning Practice*, 2015.

²³ Ibid, p.2-3.

incentive zoning discusses the substantial windfall of developers to build public amenity spaces in exchange for greater density, given that developers will weigh the costs and benefits rationally in their decision to take advantage of the IZ policies. He finds that the policies increased in *number* of amenity spaces throughout the city, but has been insufficient in guaranteeing the *quality* of the space.²⁴ A summary table of the general land use exaction types are below²⁵:

	Schedule-based	Negotiated
Legislative	Impact fees, special taxes, incentive zoning, and inclusionary housing programs that are adopted legislatively but applied administratively	Exactions associated with zoning amendments and development agreements
Administrative		Conditions attached to special permits and variances

Source: Minjee Kim, 2019.

Value capture through case-by-case negotiations, however, can be argued to run counter to the core idea of zoning as a land use regulation that is enforced in a uniform manner. If the planning rationale has established the maximum density through zoning, it is difficult to justify fairly the specific nature of certain community benefits to prevail over others. Similarly, it is difficult to justify why these community benefits should not be included in the existing zoning in the first place, rather than negotiate it on a one-off basis²⁶. Taken to the extreme, it can be argued that it is illegal; the practice of singling out a small parcel of land for a use classification totally different from that of the surrounding area, for the benefit of the owner and detriment to other owners, is commonly known as spot zoning. In several court cases debating the legality of land use changes, it is stated that “spot zoning is the very antithesis of planned zoning”; therefore, an ordinance that is in accordance with a comprehensive zoning plan would not spot zoning²⁷.

The formula-based approach eliminates the need for negotiation— for a city with a predetermined exaction schedule, additional development capacity is granted in exchange for a range of public benefits that are prescribed by the zoning code²⁸. Rather than decide a priori the level of public benefit to be expected proportional to the benefit received, Boston has utilized a case-by-case

²⁴ Jerold S. Kayden. *Privately Owned Public Space: The New York City Experience*. John Wiley & Sons, 2000.

²⁵ Minjee Kim. “Negotiated Developments: Exploring the Trends, Efficacy, and Politics of Negotiating Zoning on a Project-by-Project Basis.” Dissertation, MIT, 2019.

²⁶ Nico Calavita. “Value Capture and Community Benefits.” *Zoning Practice*, 2015.

²⁷ Jones v. Zoning Bd. of Adjustment, Long Beach Tp. (Superior Court of New Jersey October 1954).

²⁸ Minjee Kim. “Negotiated Developments: Exploring the Trends, Efficacy, and Politics of Negotiating Zoning on a Project-by-Project Basis.” Dissertation, MIT, 2019.

negotiation process that is adaptable to the unique circumstances of each project, with neither the scale of zoning or the amount of public benefits as pre-determined. A study of the two methods, using the cities of Seattle and Boston respectively, analyzed twenty of the largest development agreements over the last ten years and empirically demonstrated that case-by-case negotiations (Boston) acquired greater affordable housing contributions, secured more open space amenities, avoided administrative challenges and secured faster approvals²⁹.

DEVELOPMENT CONSIDERATIONS

The Market

Although the review process is well-established in practice, there is actually little guidance on the appropriate amount of negotiated public benefits. Several factors may influence this. To start, the city's bargaining power relies heavily on the strength of the market, which influences posturing and what the city can ask for to acquire greater public benefits³⁰. In a strong market, the city can essentially determine the value of a development opportunity and its feasibility by controlling what could be built on a site, when it can be built, and in what form³¹. This suggests that this opportunistic view of development presents difficulties for prioritizing communities in need. In a struggling market, the city can offer tax abatements, subsidies, and even land to encourage developers to take on a project that is otherwise infeasible.

The market condition also becomes an essential component when coming to a value assessment of the development opportunity. The question of valuation and how it is defined is extremely important in the development process. The highest and best use (HBU), or the most profitable use of a site³², is constantly analyzed by developers to identify opportunities to build. If the land value is greater than the HBU then the site is not yet "ripe" for development. The process in which the entrepreneurial developer envisions, designs, and brings feasibility (land assembly, permitting) to a project that is more valuable than the existing purpose is the 'value creation' of the development

²⁹ Minjee Kim. "Negotiated Developments: Exploring the Trends, Efficacy, and Politics of Negotiating Zoning on a Project-by-Project Basis." Dissertation, MIT, 2019.

³⁰ This is not to say that a weak market necessarily means there is less bargaining power. When market conditions are not ideal, developers may be more concerned about expediency of public processes or minimizing their losses.

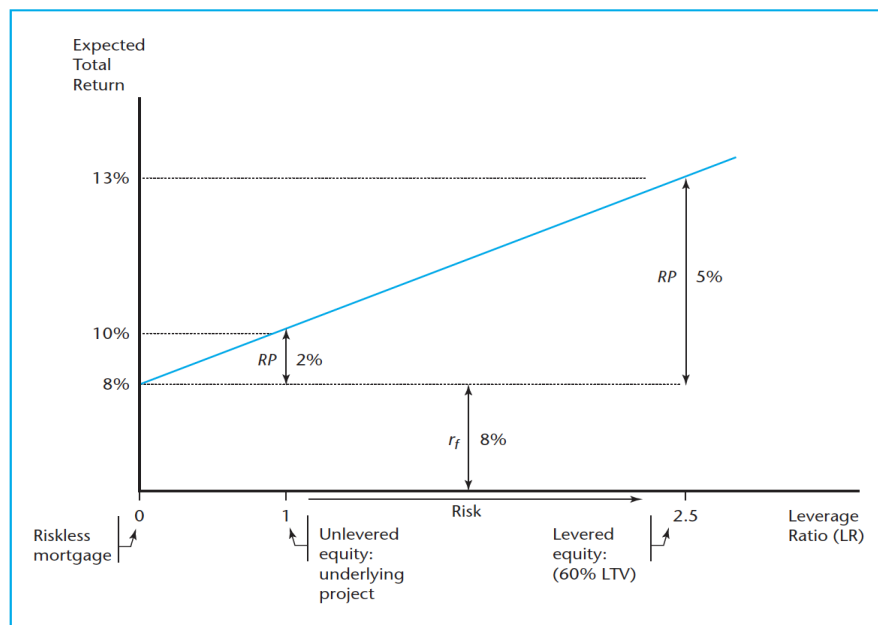
³¹ Lynn Sagalyn. "Public Private Development." *Journal of the American Planning Association* 73, no. 1 (2007).

³² This is the commonly used definition of HBU; however, we should also question whether 'highest' financial use of the land can be lumped in with the 'best' use of the land as one comprehensive term.

process³³. Thus, the negotiation of the development feasibility is a key determinant of the HBU, and thus the profitability, of the site. The value of the development is the very thing being negotiated (in terms of much density the zoning will allow for), and thus must be considered as a dynamic assumption. For mutual gains, the goal is to not only allocate that value but create additional “value” in other ways that can be mutually beneficial for both sides. Public benefits, for example, adds both value as a tangible line item and as an intangible goodwill item.

Development Risk

Furthermore, there is implicitly less desire to take on the amount of risk associated with development projects, as “...even small risks to the public loom larger than potential gains for proponents or the broader community”³⁴. On the other hand, developers are well-accustomed to the risk that comes with development and adjust projections accordingly to know how much return they will need to compensate for that risk. As fundamental finance principle, for a greater amount of risk, developers will require a greater amount of return³⁵.



Source: Geltner, Miller, Clayton, Eichholtz

³³ David M. Geltner, Norman G. Miller, Jim Clayton, and Piet Eichholtz. *Commercial Real Estate: Analysis and Investments*. Third. Mason, OH: OnCourse Learning, 2014, p.762.

³⁴ Lynn Sagalyn. “Public Private Development.” *Journal of the American Planning Association* 73, no. 1 (2007).

³⁵ David M. Geltner, Norman G. Miller, Jim Clayton, and Piet Eichholtz, *Commercial Real Estate: Analysis and Investments*.

But in addition to risk, there is uncertainty: the possibility of the occurrence of unexpected upswings and downswings in building values³⁶. The key difference is that risk can be priced and compensated for as a cost. On the other hand, uncertainty by definition cannot be known and therefore is much more difficult to assign a cost value to. When uncertainty is present in calculating value (in all development), investors and developers should hedge their decisions, or in other words, err on the side of caution³⁷.

PUBLIC-PRIVATE DYNAMIC

Considerations for Both Sides

Considering the divergent considerations of both public officials and private developers, we expect to see different strategies. The public official, with interests in the public good of the city, hopes to encourage development that can help to bring economic development benefits and provide resources for other needed resources, such as affordable housing, safety, education, public space. As regulators, public officials should be expected to be motivated to apply regulation with consistency, think of all decisions as precedents, and avoid risk³⁸.

On the other hand, the private developer, choosing his/her options carefully from different sites around the city, seeks to create a development project that will generate profit and improve the company's track record. On the other hand, developers who are profit-seeking should be expected to seek the highest and best use (HBU) of the site, avoid uncertainty, and count public benefits as line items in the total development cost. Popular understanding and perception of the real estate development industry also include corruption and greed³⁹, and I hope to openly discuss the validity of this stereotype and its usefulness in evaluating the motivations of developers.

The importance of expertise cannot be underestimated in this process. Through education and experience, the capability of either side to understand the other often is an influential component in coming to a successful deal. However, public officials may not have the knowledge or expertise to

³⁶ David M. Geltner, Norman G. Miller, Jim Clayton, and Piet Eichholtz. *Commercial Real Estate: Analysis and Investments*. Third. Mason, OH: OnCourse Learning, 2014.

³⁷ *Ibid*, p. 267.

³⁸ Lawrence Susskind. *Good For You, Great For Me: Finding The Trading Zone and Winning at Win-Win Negotiation*. First edition. New York, NY: PublicAffairs, 2014.

³⁹ Martin H. Krieger. "Corruption and the Culture of Real Estate Development." *Business & Professional Ethics Journal* 13, no. 3 (1994): 19–32.

conduct financial analysis needed in these transactions – in order for cities to manage their public resources, cities need to understand how to price deals. The interdisciplinary knowledge needed to build a city is extensive: understanding markets and financial models, acquiring knowledge of legal arrangement for parceling rights to land and facilities, learning about innovative precedents, mastering the skills of negotiation to reach successful agreements⁴⁰. Developers may not have a full understanding of the intricacies of the public process. It is also possible that they undervalue the importance of public participation.

Back Tables

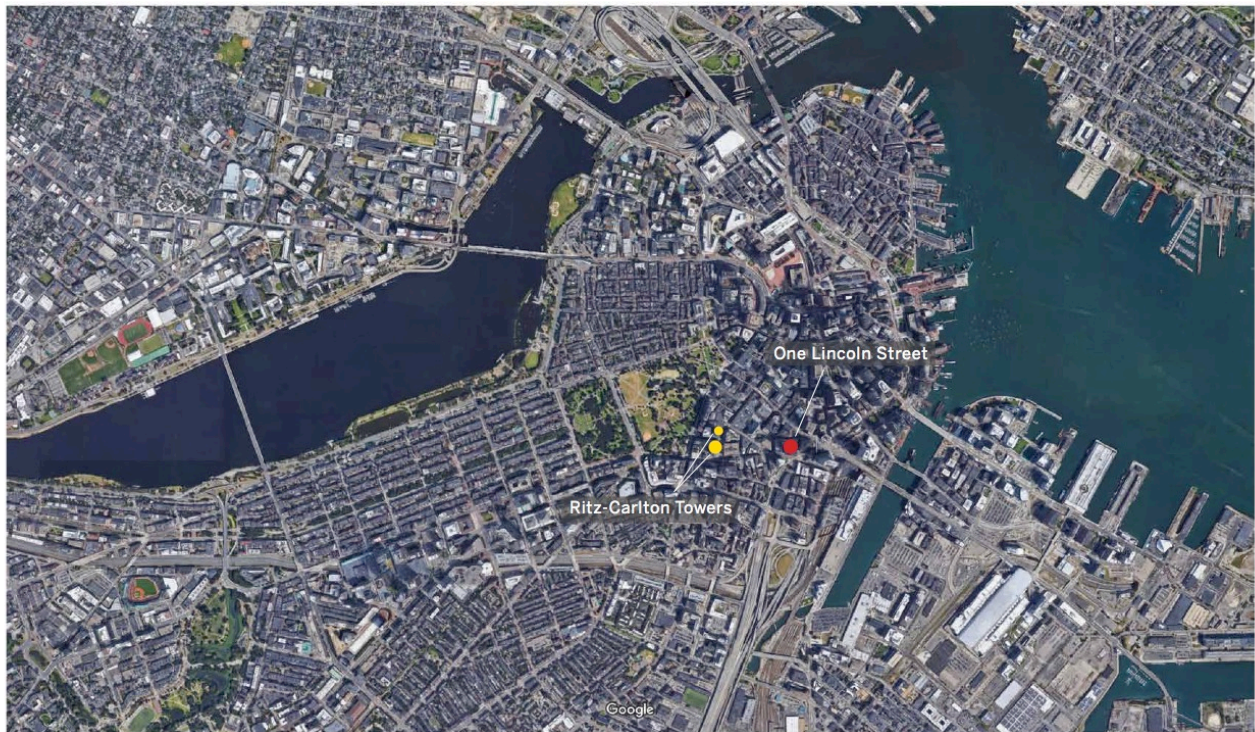
There are also back tables to each side, who can strongly influence the negotiation process through the main players. For the private developers, the most important is the money partners: Institutional investors and the banks who are providing the majority of funding for the project. The development team money may only put in around 10% of the equity, with the rest funded through a combination of equity and debt. The structure of each project team is complicated and difficult to comprehend (often intentionally so), with companies hiding behind specific LLC's created specifically for the project. Because of this, each case study includes an organizational table that clearly lays out the multiple stakeholders from the development side.

For the public officials, the most important back tables are the political bodies of all kinds: the Mayor, City Council, and the numerous Commissions that govern everything from zoning to public health to landmarks. Finally, the media and public eye must be considered as back tables, but especially to the City. In effect, the media can channel opinions to the general public and shape popular perception, and it impacts every political decision that influences the BRA's actions. And not only does it affect each side individually, but the media portrayal also extends to the *interaction* between the two, at key moments when planners and developers must work closely to shape development projects for the city.

The thesis starts with an in-depth narrative of the two case studies. Both located in Downtown, the projects were market-driven developments that the city supported to bring new economic development into the neighborhood. Thus, the zoning amendment for each required a host of

⁴⁰ Gary Hack, Lynn B. Sagalyn, "Value Creation Through Urban Design," in *Urban Design in the Real Estate Development Process*, 1st ed. (Blackwell Publishing Ltd, 2011).

public benefits. Both projects were also directly adjacent to Chinatown, a neighborhood that would disproportionately feel the effects of development, but who also had strong community organizations who would voice their needs; thus, the projects had very clear reasons to contribute to public benefits to the surrounding neighborhood. Overall, the purpose of recounting the details of the development review process with the BRA, the actual costs of the public benefits can be contextualized. Although a relatively small percentage of the overall project benefit, the importance of the public benefits will become quite clear.



Two Case Studies in Downtown Boston

CH 2: Commonwealth Center / Ritz-Carlton Complex

SETTING THE SCENE

Downtown Boston and the Combat Zone

The mid-1980s in Boston did not look like the Boston we know today. Downtown, once a popular shopping area in the early 1900s, developed into a vibrant theater district by the 1950s. By the 1970s the area had changed dramatically. Centered around Washington St, approximately bordered by Boylston/Essex St to the north and Kneeland to the south, was then notoriously known as the Combat Zone. The Combat Zone was a remnant of Scollay Square, which the BRA tore down in an attempt to remove the illicit activities from the city. It was an area for crime, prostitution, and for adult entertainment that was unregulated at that time. The Combat Zone that formed afterward was “sleazier, probably more dangerous, more problematic, more raw [than Scollay Square was]⁴¹. In response, the BRA created an official designation of the adult entertainment district within the zoning code in 1974. The purpose was to define clear boundaries and thus contain the district as to “protect the rest of the city”⁴² surrounding areas from its influence, primarily the Financial District to the east and Chinatown to the south.



Washington St, 1906

Source: Library of Congress, Detroit Publishing Company Collection



Theater District, circa 1950

Source: Handel Architects

⁴¹ Stephanie Schorow, *Inside the Combat Zone: The Stripped Down Story of Boston's Most Notorious Neighborhood* (Union Park Press, 2017).

⁴² Paul McCann, Interview on the Ritz-Carlton and One Lincoln St, February 25, 2019.

It was an issue for the city, but was particularly difficult for Chinatown, the neighborhood most directly suffering from its proximity. Throughout its history, and particularly beginning in the 1950's and 60's with urban renewal, Chinatown's growing population coincided with highway construction and institutional development projects. The Central Artery was built to alleviate traffic congestion in downtown Boston, with alternatives that would have completely demolished most of Chinatown. The expansion of Tufts New England Medical Center (TNEMC) and the accompanying master plan targeted Chinatown as a potential development site. In 1956 the Urban Renewal Division of the Housing Authority described the Chinatown's South Cove as one of "death, disease, poverty and loneliness" to justify the clearing of Chinatown's residential district⁴³. From 1950 to 1987, the population of Chinatown more than tripled while the neighborhood lost over half of its land to new roads and medical institutions. Last but not least, the nearby Combat Zone was a significant detriment to neighborhood life. Frank Chin, the neighborhood patriarch known as Uncle Frank, put it bluntly in an interview "... later on, there were drugs and houses of prostitution. It was bad. It hurt the businesses of Chinatown. People didn't want to go to Chinatown."⁴⁴



Boundaries of Combat Zone, 1972
 Source: *Chinatown Atlas*



Combat Zone on Washington St, circa 1960
 Source: *Handel Architects*

In 1987, the BRA began a Community Plan process as a direct response to neighborhood opposition for a 600-car structured parking garage on a Chinatown site a year prior. The 1990 Report described it as "the city's decision to support the neighborhood in rejecting the garage

⁴³ Lee, Tunney et al. *Chinatown Atlas* [Online]. Available at: <http://chinatownatlas.org/era/wvii-1970s/>

⁴⁴ Stephanie Schorow, *Inside the Combat Zone: The Stripped Down Story of Boston's Most Notorious Neighborhood* (Union Park Press, 2017).

proposal set the course for a community-based master planning effort to guide future land use in Chinatown.”⁴⁵ The plan included preserving affordable housing, supporting community services, expanding economic development, and preserving land use control. Three PDA areas were established: PDA I in residential Chinatown, PDA II for Turnpike Air-rights, and PDA III in the Chinatown Gateway/South Bay Interchange to allow growth that would benefit the Chinatown community⁴⁶. These areas signified a recognition from the city that Chinatown was underserved and in need of direct support. Later on, this would be important for Chinatown in order to claim public benefits from surrounding commercial development.

A New Administration and Master Plan

The political context at the time was changing considerably. Mayor Flynn came into office in 1983 following an outgoing mayor, Kevin White, who had been popular but had a penchant for showy public events. Amidst racial tensions from integrated education and school busing, along with devastating effects of wholesale demolition, Flynn ran on a commitment to create racial harmony within the city and pledged a city open to all. In his inauguration speech, he claimed, “This will be an administration that listens... the full weight of city government will be brought down, on all those who seek, because of race or color, to deny anyone from any street, any school, any park, any home, any job, in any neighborhood in the city.”⁴⁷ When Stephen Coyle became the new director of the BRA in 1984, he was lauded as someone who could lead the agency to create concrete guidelines and plans at the neighborhood scale; the Boston Globe enthusiastically described “morale at the BRA under Coyle... skyrocketing after several years of hovering at about the level of the local morgue”.⁴⁸ Described by many as experienced and progressive, Mr. Coyle led the BRA to work more closely with private developers to encourage new building. In particular, the Downtown area struggled to attract shoppers and visitors, despite several retailers and the city’s rebranding of “Downtown Crossing” as a pedestrian-oriented shopping street.

⁴⁵ Boston Redevelopment Authority, “Chinatown Community Plan 1990: A Plan to Manage Growth,” 1990.

⁴⁶ Ibid. p.6.

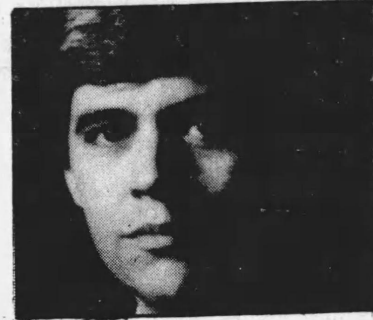
⁴⁷ Andrew Buni and Alan Rogers, *Boston: City On A Hill* (Windsor Publications Inc, 1984).

⁴⁸ Robert Campbell, “Coyle Makes Fast Start at BRA,” *The Boston Globe*, October 16, 1984.

Coyle makes fast start at BRA

Stephen F. Coyle, the new director (since July) of the Boston Redevelopment Authority, differs from virtually all his predecessors by not wearing the kind of stiff, pinstriped suits that seem to shout "Boardroom" at you. Instead he can be found in Hush Puppies and a sport jacket, his tie pulled slightly open, looking rather small in his immense corner office at City Hall. Because of a bad back, Coyle tends not to sit very long in one place but instead pads informally back and forth between a grandmotherly sofa and one of those new Swedish chairs made

Coyle has set his staff to work with a vengeance, demanding near-impossible deadlines, and what they're working on is policy, not trivia.



DIRECTOR STEPHEN F. COYLE

Source: The Boston Globe, 1984

In 1989, the BRA released the Midtown Cultural District Plan as the first component of a detailed plan for the city as a whole. The Plan laid out the goals and objectives for new development in the area, set forth to “provide for the balanced growth of a vital mixed-use community within the Midtown Cultural District”⁴⁹. The major elements of the Plan included the needs of Chinatown to preserve affordable housing and neighborhood space, the preservation of historic buildings, the improvement of transportation systems, and urban design guidelines to ensure the district’s character. In conjunction with KPF, the urban design guidelines replaced the “High Spine” of towers from Financial District to Back Bay with a “Skyline Concept” consisting of clusters of towers separated by traditional smaller structures⁵⁰. The plan hoped to prevent overdevelopment of the Financial District and Back Bay and direct it toward the midtown/downtown area. In addition, the plan described mixed-use development while also envisioning the creation of a new residential neighborhood, encouraging residential development that would be affordable to all segments of the community.

In the pipeline were two main projects that the city hoped would transform Downtown, by bringing new energy into the neighborhood. One was Boston Crossing, a \$750 million retail project

⁴⁹ Boston Redevelopment Authority, “Midtown Cultural District Plan,” 1989.

⁵⁰ Ibid.

rebuilding the troubled Jordan Marsh/Lafayette Place retail complex. The other was Commonwealth Center, a \$550 million, bold, mixed-use project that would include office, retail, and hotel.

DEVELOPMENT CONSIDERATIONS (1989)

F.D. Rich and the Three Ring Circus

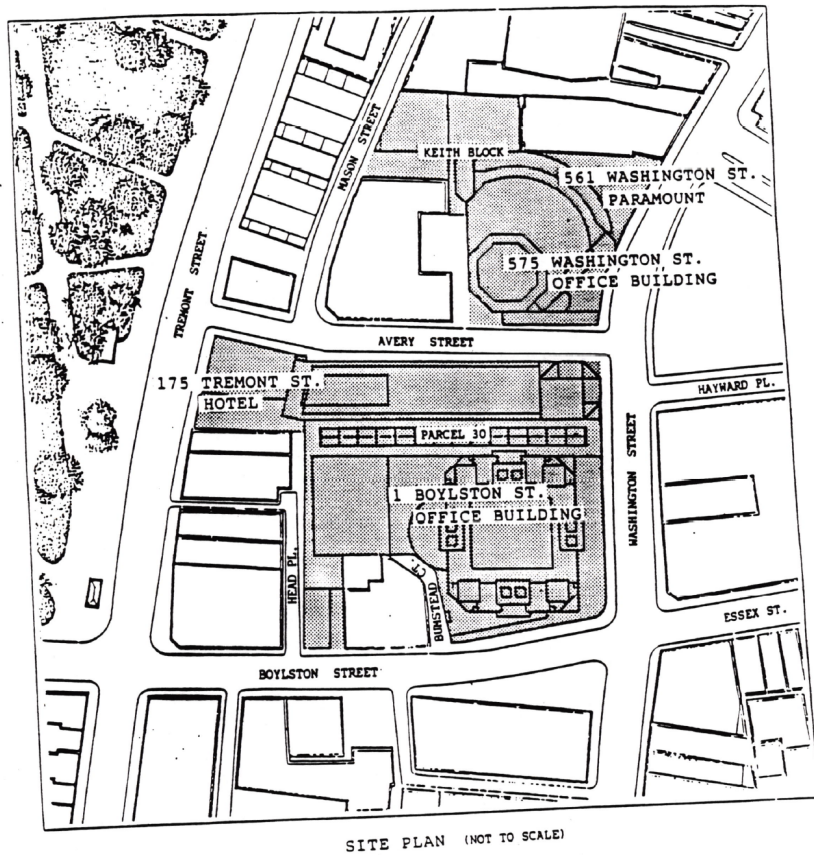
In the late 1980s, the Commonwealth Center project made a flurry of news headlines for its plans to revitalize the Combat Zone and inject new life into the neighborhood with a mixed-use project of office towers, ground-floor retail and a hotel. The initial undertaking began in 1983 when Tom Rich of F.D. Rich acquired some of the parcels that would comprise of the final project site. From the beginning, the concept composed of two office towers and two residential towers at a scale needed to bring back Downtown as the epicenter of Boston⁵¹. Alex Twining was the project manager working for F.D. Rich at the time and remembers the difficulties of the Combat Zone, but notes that this site used to be at the center of the city- in fact, it was at the epicenter of the master plan that KPF had laid out. At that time, the purple line was being planned (preceding the silver line), and the site was a mixed-use, transit-oriented site benefitting from the proximity of the park. The original design was an office-driven project, with two office towers and two residential towers. Later, the residential towers were taken out of the scheme when the shadows of the towers in proximity to the park became an issue.

The proposed project was to be approximately 1.7 million square feet across two major sites divided by Avery Street. On the south parcel (known as Parcel 30) bounded by Tremont, Avery, Washington, and Boylston, there was to be a 32-story office building, a 13-story hotel incorporating the historic Evans House, a multi-level retail galleria and a 1000 car underground parking garage⁵². These comprised of Phase I and included a renovation of the iconic Paramount Theater. For Phase II, the north parcel (known as Keith Block) on the other side of Avery St was another 32-story office building with ground floor retail. The retail shop fronts would enliven Washington Street, and office lobbies would be oriented towards Boylston and Washington Streets. Along Tremont Street and across from the Common, the historic Evans House would welcome hotel guests and visitors⁵³.

⁵¹ Alex Twining. Interview on Commonwealth Center, February 21, 2019.

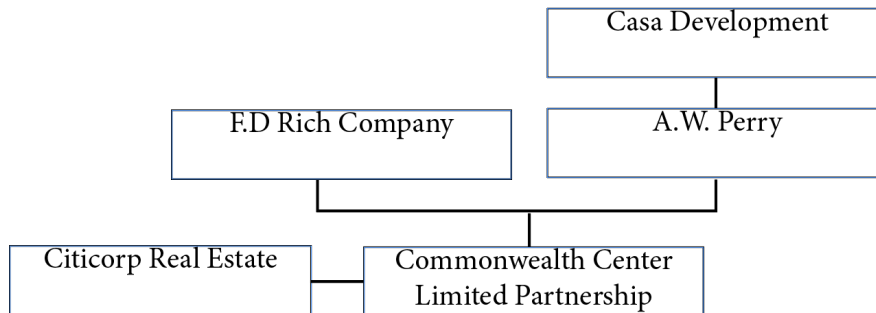
⁵² Boston Redevelopment Authority, "Development Plan and Development Impact Project Plan for Planned Development Area No. 33," 1989

⁵³ Ibid..



Source: Boston Redevelopment Authority PDA No. 33, 1989

The developer, Commonwealth Center Limited Partnership (CCLP), was a partnership formed by F.D. Rich, a developer with massive success in Stamford CT, and Casa Development under A.W. Perry, Inc, a Boston-based developer. Alex Twining was the lead on the project as the Senior Vice President for F.D. Rich. Citicorp Real Estate of Citibank was the main lender for the project⁵⁴.

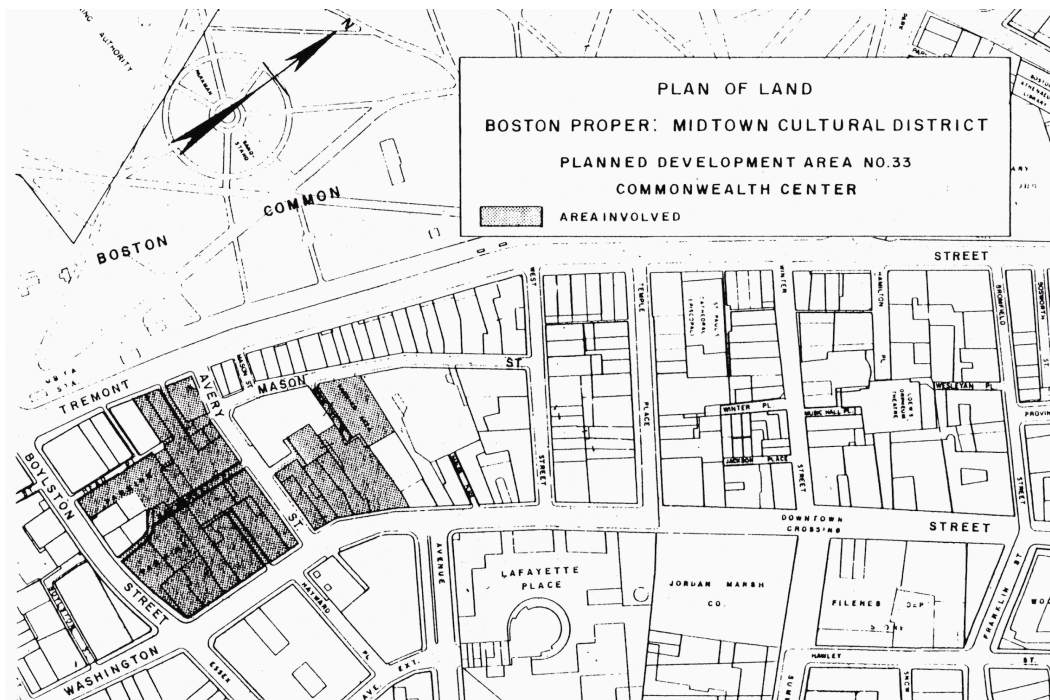


Commonwealth Center Team Organizational Structure (1989)

⁵⁴ Boston Redevelopment Authority, "Development Plan and Development Impact Project Plan for Planned Development Area No. 33," 1989

Getting to the PDA: Juggling Assemblage and Design Review

From Mr. Twining’s point of view, there were several difficult and uncertain processes that he needed to juggle at once—the assemblage and negotiation of each of the 19 parcels to combine into the site, the extensive internal design review process, extensive reviews and studies needed to receive the approval, and of course, all the community meetings— all happening simultaneously and as a continuous process. Over the course of five or so years, it took over 300 community meetings to secure the approvals of the project⁵⁵. Many of the community meetings were also meetings to orchestrate the final assemblage involving a total of 19 parcels over the two city blocks.



Source: Boston Redevelopment Authority, Map Amendment for PDA No. 33

The assemblage of the site itself was complex, each of the 19 parcels with its unique demands from the owner and other interested groups. There was the key parcel of the Evans House, a historic brownstone on Tremont facing the Common. Because of the poor condition, the Boston Preservation Alliance would not even allow them to recreate the structure, because the extent it needed to be repaired would require new construction. Later on, upon discovery of a relationship to “The Dandy Farmer Cookbook”, a well-known cookbook, inside the building, they ended up reversing the decision to repair the building (eventually, that decision was reversed again)⁵⁶. The 15

⁵⁵ Alex Twining. Interview on Commonwealth Center, February 21, 2019.

⁵⁶ Alex Twining. Interview on Commonwealth Center, February 21, 2019.

existing residential units needed to be offered full relocation assistance in finding new homes, responsibility of the development team⁵⁷. Because the site sat on the edge of the Combat Zone, the highest acquisition cost came from the Liberty Bookstore, a bookstore that sold adult entertainment that they bought out. A soup kitchen had their gas tank sitting in the middle of the block, which they also bought out.

Mr. Twining recounts other details of the long and sometimes frustrating process of working with the BRA and design review leading up to the approvals. Many months of working on the design with the internal design team at the BRA had resulted in a whittling-down of the original design of KPF into something that was “pretty dysfunctional, and not very attractive”.⁵⁸ After this extended process, at one of the first few meetings with the Boston Civic Design Commission⁵⁹, upon seeing the ~30 different models laid out on the table, asked why the development team had not gone with one of the original designs. The development team ended up moving forward with the original design. Mr. Whitney, then the head of the Urban Design and Development group at the BRA, recalls one morning at 8:30AM, seeing Mr. Twining sitting on the reception sofa, waiting to intercept Steve Coyle for an unscheduled meeting when he arrived into the office that day⁶⁰.

Mr. Twining had a distinct view of the BRA’s position and organizational structure. He described the BRA as having created a “three ring circus” with the BRA, the developer, and the community. This is in large part due to the public’s erosion of trust in the BRA after decades of slum clearance and no planning department to represent what the community wanted. Thus, by keeping all three rings of the circus separate, the BRA left the developer and community to figure it out together before coming back to them with a proposal⁶¹.

The BRA’s Bargaining Power and Public Benefits

From the city’s perspective, the bottom line was that for a site at the edge of the Combat Zone, this would be an important project to revitalize the area. As the agency charged with ensuring long-term economic growth, the negotiation of this project could be seen as a launching point for future development. Paul McCann, one of the key figures of the BRA, serving nearly 50 years there and at

⁵⁷ Boston Redevelopment Authority. “Development Plan and Development Impact Project Plan for Planned Development Area No. 33,” 1989.

⁵⁸ Alex Twining. Interview on Commonwealth Center, February 21, 2019.

⁵⁹ Made up of leading design professionals around Boston, and newly established at the time.

⁶⁰ William Whitney. Interview on the BRA and Urban Design and Development Group, April 23, 2019.

⁶¹ Alex Twining. Interview on Commonwealth Center, February 21, 2019.

multiple points as Acting Director, points to this project as an example of tipping the scale for the feasibility of many more projects to come. He describes the strategy of the BRA to use a host of planning and redevelopment tools to help the city of Boston and, simply, make projects possible⁶².

The master plan and key planning principles were in place with the Midtown Cultural Overlay District, but the negotiation of the PDA itself was another issue. For the project to work, the density relief increased the underlying FAR of 8.0 to a composite FAR for the entire site of around 12.1⁶³. The height limits also changed to accommodate the maximum height of the office towers at 403 feet tall⁶⁴.

Despite the fact that the BRA wanted this deal to go through, they had some bargaining power. With the momentum of other projects in the works, such as Lafayette City Center and Boston Crossing, the public benefits they achieved with PDA No. 33 were significant. The linkage payment alone was staggering, coming to a total cost of \$19.7 million for both phases⁶⁵, with \$8 million from housing and \$1.6 million for jobs⁶⁶. The developers opted to satisfy the linkage obligation through the housing payment option rather than the housing creation option. The payments were to be paid in two installations for each phase, with the first installation payment for each phase would be an amount equal to if the linkage payment were to be paid in seven equal annual installations, and the second installation payment would be for the Net Present Value (NPV) of the remainder. The initial payment would be due on the same day the building permit is issued for the entirety of Phases I and II. The developers also agreed to use good faith efforts to meet the Boston Residents Construction Employment Standards⁶⁷ and the Employment Opportunity Plan⁶⁸.

The most visible public benefit was the full renovation and of the Paramount Theater, to be redeveloped into two performance centers⁶⁹. The interior, exterior, and marquee of the bright electric sign would be a symbol of the revitalized theater district along Washington. However, a

⁶² Paul McCann, Interview on the Ritz-Carlton and One Lincoln Street, February 25, 2019.

⁶³ Boston Redevelopment Authority. "Development Plan and Development Impact Project Plan for Planned Development Area No. 33," 1989.

⁶⁴ Ibid.

⁶⁵ Ibid.

⁶⁶ Housing Linkage payment is at the rate of \$5.00 for each square foot of gross floor area (GFA) over 100,000 square feet. Job Linkage payment is at the rate of \$1.00 for each square foot of GFA over 100,000 square feet.

⁶⁷ For the total employee worker hours in each trade: 50% by Boston residents, 25% by minorities, 10% by women.

⁶⁸ For the employment opportunities created by the project, 50% made available to Boston residents, and using the "Boston for Boston" placement office before general recruitment effort.

⁶⁹ Another piece of the Paramount was owned by another developer, who later came back to sue F.D. Rich after they had sold it.

significant but less visible process included a Relocation Assistance Plan, clearing the site of existing tenants and providing relocation assistance for each of the tenants living in the 18 units of the rent-controlled Evans House⁷⁰.

For the BRA, approving both projects was a huge win for the Midtown Cultural District. The Boston Crossing project contained two department stores, a mall, and two office towers. Commonwealth Center would contribute two office stores and a hotel. By the time that the PDA designation was passed, another significant project was in the pipeline: One Lincoln, a massive office complex a few blocks east. The mixed-use nature of Midtown was on track to becoming a reality.

All the tenants were moved out and the existing buildings were demolished between 1990-1992. Then there was, of course, the market risk that no one could have predicted. Commonwealth Center, although fully permitted and ready to go, was stalled. The projected demand and return rates they had projected had fallen off completely, and the deals in process with Hyatt and other office tenants had not gone forward. F.D. Rich decided it had to walk away from the project and sold the site to Citibank, and in 1991 Citibank foreclosed on the property⁷¹. After the demolition of the structures, a 1991 Notice of Project Change approved the interim use of project site as a surface parking lot. The site sat significantly underutilized and underdeveloped as parking until the opportunity for redevelopment. Furthermore, since it was under a lease with an independent operator, it returned little to the city in terms of tax revenue, employment, or other public benefits despite its proximity to aspirational Midtown Cultural District.

⁷⁰ The plan would either pay for the physical move and payment of related expenses of claim a payment in lieu of moving expenses.

⁷¹ Alex Twining. Interview on Commonwealth Center, February 21, 2019.

DEVELOPMENT OPPORTUNITY (1998)

A New Vision: Round Two

Upon taking office in 1993, Mayor Menino established the redevelopment of lower Washington Street as one of his highest priorities. In particular, he was committed to the revival of Washington Street and the restoration of the theaters as a way to celebrate the historic Theater District⁷².



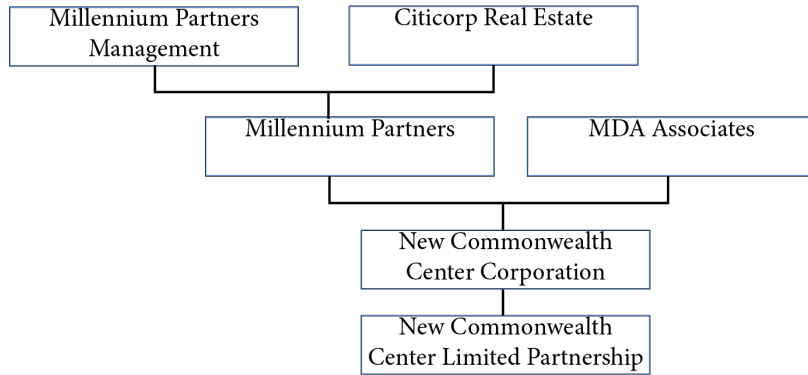
The vacant project site in 1995.

Source: Handel Architects

By the time Millennium Partners came along in 1997, the site was ready for another chance. The city was eager to make a deal with Millennium Partners, a New York-based development company with experience in developing large mixed-use developments. Millennium Partners acquired the controlling interest in New Commonwealth Center LP and teamed up with local development partner Macomber Development Associates (MDA)⁷³.

⁷² Thomas O'Brien. Interview on the Ritz-Carlton and One Lincoln St, March 21, 2019.

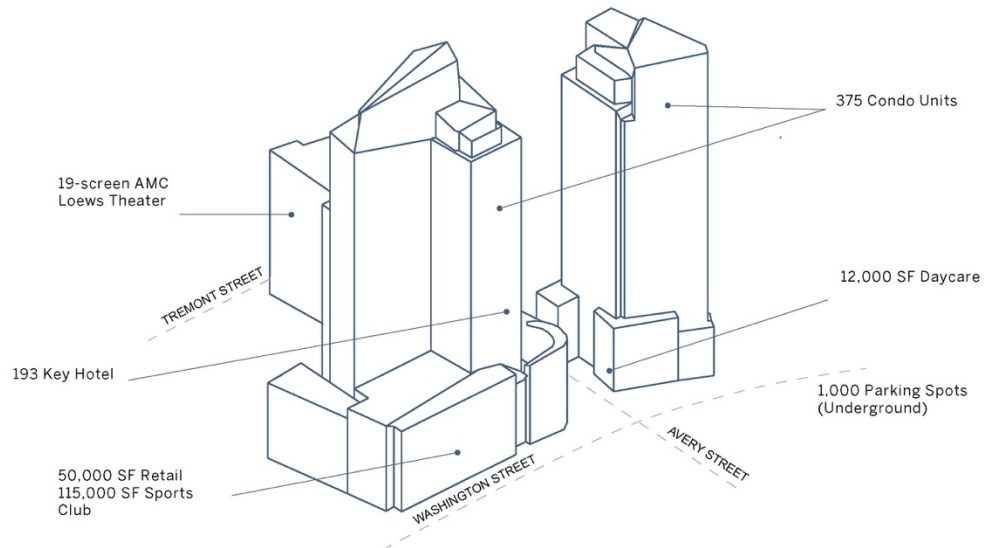
⁷³ Boston Redevelopment Authority. "Memorandum to Thomas O'Brien on 'Millennium Place', PDA No. 33," 1998.



Ritz-Carlton Team Organizational Structure (1998)

The new project was also comprised of two buildings, but at a smaller scale, for a total of 1.3 million square feet⁷⁴. The project comprised of a larger building on the south parcel, 400 feet tall, with hotel below and residential above. There would also be a health and sports club, a 19-screen movie theater and entertainment complex, and retail. On the north block, the second building would be 375 feet tall including residential on top and retail on the bottom⁷⁵. The residential was planned for luxury condominiums or rental units depending on the market. The project also included an 8-level below grade parking garage for 1400 parking spots.

TOTAL: 1,410,000 SF



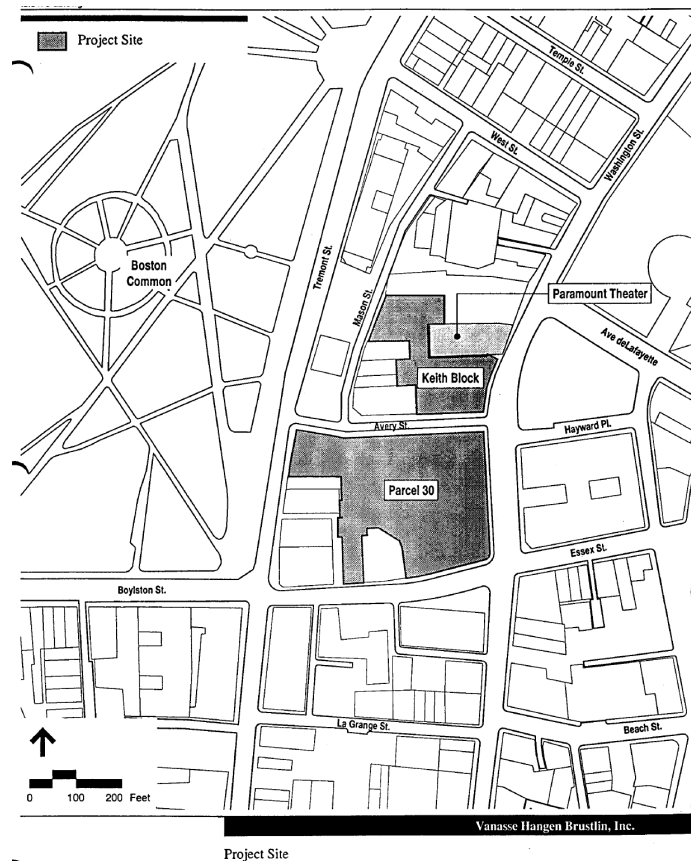
Total SF and Uses for the Ritz-Carlton Complex

⁷⁴ BRA. "Amended and Restated Development Plan and Development Impact Project Plan for Planned Development Area No. 33 Millennium Place," February 1998.

⁷⁵ Ibid.

MDA and Millennium: A Three-Legged Stool

The development team from New York was unafraid to take on such a difficult site. Initially, they had pursued another potential development site around the Massachusetts Turnpike, but later they found it too difficult to undertake. In comparison, the Commonwealth Center site had fewer constraints and more opportunity. Perhaps because they were not personally familiar with the long and troubled history of the Combat Zone, the Chris Jeffries, a principal at Millennium Partners, was optimistic about changing the perception of the place. Mr. Pangaro notes that “it was on nobody’s mental map... but coming from NYC they saw an opportunity”⁷⁶. Others in Boston looked on skeptically, with a Boston Globe article putting it bluntly: “The transformation of the weird world between Tremont and Chinatown is the most interesting play in town. Millennium went where no one else dared go...there are bets to be made...”⁷⁷.



Source: Boston Redevelopment Authority, Amended PDA No. 33

⁷⁶ Anthony Pangaro, Interview on Millennium Place I, February 20, 2019.

⁷⁷ Sam Allis. “Sizing Up The Ritz.” *The Boston Globe*, March 11, 2001.

Despite the risk, there were a few key considerations that helped the development team move forward. The Millennium team in NYC had specific experience with mixed-use projects with a luxury hotel component. Their flagship project was Lincoln Square, a 1.7 million mixed-use development including a theater complex, sports club, flagship retail, and residential condominiums, and in close proximity to the cultural destination of Lincoln Center⁷⁸. In addition, Mr. Pangaro and MDA Associates had strong connections in Boston, particularly with luxury hotel flags such as Four Seasons, Hyatt, and the Ritz-Carlton. When the Ritz-Carlton signed onto the project as the anchor hotel tenant, it was an important signal of confidence -- “it eliminated the need for explanation after hearing that the Ritz was coming here”, Mr. Pangaro said⁷⁹. Furthermore, Ritz-Carlton had experience building residential condos using their brand as a value-add sign of luxury, which helped with estimates for development costs and revenue projections. Millennium and MDA were also able to leverage their relationship with Loews to sign on as a tenant for the theater complex from the Lincoln Center project⁸⁰. The movie theater entrance on Tremont was a big draw from Boston Common and added energy to the project.

"THE TRANSFORMATION OF THE WEIRD WORLD BETWEEN TREMONT AND CHINATOWN IS THE MOST INTERESTING PLAY IN TOWN. MILLENNIUM WENT WHERE NO ONE ELSE DARED GO...THERE ARE BETS TO BE MADE..."

-Boston Globe, 2001

The development team was willing to take on significant risk. A key move by Chris Jeffries, the project manager from Millennium, was to build the project in a single phase, rather than two separate phases as Commonwealth Center had. They had the confidence to deliver 188 units of condos at once, effectively doubling the existing housing in the entire neighborhood. Furthermore, they had the support and trust of their financial partners from

previous projects. They were willing to put up 50% of equity for a project that was relatively early in the cycle, which helped them secure the bank loan on the debt side. When the project ran into litigation during the building process, their financial partners did not pull back their funds, trusting them to avoid delays⁸¹.

⁷⁸ BRA. “Amended and Restated Development Plan and Development Impact Project Plan for Planned Development Area No. 33 Millennium Place,” February 1998.

⁷⁹ Anthony Pangaro, Interview on the Ritz-Carlton, February 20, 2019.

⁸⁰ Ibid.

⁸¹ Ibid.

Last but not least, the team had the expertise and patience to work with the stakeholders involved in the project from the beginning. Rather than working with the various landowners for site assemblage⁸², the JV team now had to work out how to be a good neighbor to the surrounding community. There were approximately 48 community meetings alone before the amended PDA of the project.⁸³ Without hiring a local political team as many Boston developers would have, the BRA even helped in the effort by writing letters to community organizations, asking them to support the project. Mr. Pangaro saw the metaphor for working with the city differently; rather than a “three-ring circus”, it was a “three-legged stool”, with the BRA, the developer, and the community each representing one leg of the stool. If one was too short, the stool would topple over⁸⁴.

The City as a Partner

There was pressure on the city to have development projects start up again. Tom O’Brien, the BRA Director at the time, remembers that coming out of the recession, “the press was pressuring us every day, [and] there was a lot of pressure trying to get things going”⁸⁵. Above all, the city wanted

"IT WAS A FULL BLOWN EFFORT TO GET THIS OFF THE GROUND — WE WERE WRITING LETTERS, GETTING ORGANIZATIONS TO SUPPORT...."

-Tom O'Brien, BRA Director

something to happen, and they would help the approvals through as expeditiously as possible. They were not in a powerful position to bargain. It took 10-11 months to amend the PDA, one of the fastest approvals process in Boston’s history.

The main mechanism they used to speed up the approvals process was a Scoping Determination waiving further review. The original Commonwealth Center PDA from 1989 had received approval of the combined Project Impact Report (PIR) and Environmental Impact Report (EIR). Upon the new Project Notification Form (PNF) submitted to the BRA in 1997, the development team presented evidence that the project would have a reduced environmental impact than the previously approved Commonwealth Center through: generating less traffic through a primarily residential, rather than office use, reducing the overall buildout, and eliminating the cantilever construction over

⁸² Although the original assemblage included a publicly owned parcel that was bought for \$2,030,000 and had a \$230,000 balance left on the payment, which Millennium/MDA had to complete.

⁸³ Boston Redevelopment Authority, “Memorandum of Understanding, New Commonwealth Center Limited Partnership, Boston Redevelopment Authority, Chinatown/South Cove Neighborhood Council,” 1998.

⁸⁴ Anthony Pangaro, Interview on the Ritz-Carlton, February 20, 2019.

⁸⁵ Thomas O’Brien, Interview on the Ritz-Carlton and One Lincoln St, March 21, 2019.

the Paramount Theater⁸⁶. After the scoping session, it was determined that the change in project would cause no significant change in environmental impacts and, therefore, no further review was necessary⁸⁷. Thus, the arduous process of Project Impact Review and Environmental Review were successfully avoided, given the project's smaller scope than the original approvals.

The city was proactive in helping the development not only reduce review (and thus, potential delays) but reduce costs as well. This also included using the 121A tax incentive agreement to waive tax payments⁸⁸. By 1998, the city had committed 8 million dollars overall to public realm improvements in downtown, with two Main Streets districts - one in Chinatown and one on Washington Street to help small businesses⁸⁹. The city also included a \$50,000 matching grant to conduct the Chinatown Transportation Study outlined in the DIP Agreement⁹⁰.

Being a Good Neighbor

The total cost of the project was estimated to be around \$400 million at the time of the amended PDA in 1998⁹¹. Compared to the previously approved plans of 1989, the project was designed for a smaller, less intrusive use. Whereas the original plan was dominated by office towers “with little thought or encouragement to the type of eighteen hours a day, seven days a week vitality that makes Boston so unique among American cities”⁹², the new plan had residential units as the centerpiece and establishing the Common as a premier residential address⁹³. Therefore, the total commercial GFA of the project decreased significantly from 1.7 million square feet to 630k square feet. The city had not yet adopted the Inclusionary Housing Development Policy (adopted in 2001), which requires linkage payments for residential uses. The linkage payment comprised of \$2.65 million from housing and \$530,000 for jobs for a total cost of \$3.18 million, compared to Commonwealth Center's \$9.7 million linkage obligation total⁹⁴.

⁸⁶ Boston Redevelopment Authority. “Memorandum to Thomas O'Brien on 'Millennium Place', PDA No. 33,” 1998.

⁸⁷ BRA. “Amended and Restated Development Plan and Development Impact Project Plan for Planned Development Area No. 33 Millennium Place,” February 1998.

⁸⁸ Thomas O'Brien, Interview on the Ritz-Carlton and One Lincoln St, March 21, 2019.

⁸⁹ “Remarks of Mayor Menino at Millennium Place Groundbreaking” (Boston City Record, May 27, 1998).

⁹⁰ Boston Redevelopment Authority, “Memorandum of Understanding, New Commonwealth Center Limited Partnership, Boston Redevelopment Authority, Chinatown/South Cove Neighborhood Council,” 1998.

⁹¹ BRA. “Amended and Restated Development Plan and Development Impact Project Plan for Planned Development Area No. 33 Millennium Place,” February 1998.

⁹² Boston Redevelopment Authority. “Memorandum to Thomas O'Brien on 'Millennium Place', PDA No. 33,” 1998.

⁹³ Anthony Pangaro, Interview on the Ritz-Carlton, February 20, 2019.

⁹⁴ BRA. “Amended and Restated Development Plan and Development Impact Project Plan for Planned Development Area No. 33 Millennium Place,” February 1998.

The concern of the aggregate effect might have upon Chinatown was noted throughout the official documents. The housing linkage fees were specifically directed toward money used to support a Chinatown affordable housing development (which later would become Parcel C)⁹⁵. The developers agreed to provide up to 12,000 square feet of child care facilities for the Chinatown neighborhood. They also agreed to implement a Neighborhood Business Opportunity Plan for bringing Chinatown-based businesses into the leasing mix, and paid \$260k for off-site traffic improvements and \$50k for a transportation study for Chinatown⁹⁶. In shaping a community benefits package that truly met the needs of the Chinatown neighborhood, the Chinatown/South Cove Neighborhood Council (C/SCNC) acted as the primary point of contact while creating a separate subcommittee including members from local organizations.

The neighborhood as a historic theater district was another concern for the development team to work through, and one of the biggest points of contention was the renovation of the Paramount Theater. Mr. Pangaro noted that after extensive discussions about how much to restore, the kind of programming, and the maintenance of the theater, the conclusion was that the cost was still unknown for a full renovation; therefore, it was agreed that the renovation would only include the restoring the facade and the electronic sign⁹⁷ (in the end, the price tag was still a substantial \$1.75 million)⁹⁸. The historic Opera House further down the street was also specified to benefit from support for future reuse as a cultural facility, but without specific details⁹⁹.

Finally, there were also significant general neighborhood improvement contributions. The development team committed to contributions up to \$50k for fifteen years, deriving from the hotel profit, to Boston Common's maintenance and security¹⁰⁰. They committed to fund improvements and install a new elevator and for the nearby Chinatown/Essex St Orange Line station¹⁰¹. They contributed \$15k as a charter member to form a neighborhood Business Improvement District (BID), with \$112k annual contributions¹⁰², which later became the Downtown BID which continues

⁹⁵ Boston Redevelopment Authority. "Memorandum to Thomas O'Brien on 'Millennium Place', PDA No. 33," 1998.

⁹⁶ Ibid, p. 9.

⁹⁷ Anthony Pangaro, Interview on the Ritz-Carlton, February 20, 2019.

⁹⁸ Ibid.

⁹⁹ BRA. "Amended and Restated Development Plan and Development Impact Project Plan for Planned Development Area No. 33 Millennium Place," February 1998.

¹⁰⁰ Ibid.

¹⁰¹ Ibid.

¹⁰² Ibid.

to be operational today. \$100,000 of the linkage fees were directed toward St. Francis House, the neighboring homeless shelter, to build a central atrium for people experiencing homelessness¹⁰³.



Ritz-Carlton Complex Neighborhood and Neighbors

Many of these public benefits that were complementary to the project. Not only were the public benefits in the developer’s interest to pay for it as a “price of entry”, but those that can actually improve the project¹⁰⁴. The donation to St. Francis would provide a place for people visiting the shelter to wait inside- and so, not wait outside and disrupt the new, high-end condos coming in next door. The payments to the Boston Common were mandated as a result of the shadows cast upon the Common¹⁰⁵, but also could be considered as adding long-term value to the project. The project relied on the value of Boston Common to generate traffic and a sense of place, establishing Tremont Street as the entertainment “front door” and Avery Street as the residential “front door” of the development¹⁰⁶; with proper maintenance and upkeep of the Common, the project would also benefit.

¹⁰³ Bombardieri, Marcella. “Going Up.” *The Boston Globe*, January 26, 2003.
¹⁰⁴ Anthony Pangaro, Interview on the Ritz-Carlton, February 20, 2019.
¹⁰⁵ BRA. “Amended and Restated Development Plan and Development Impact Project Plan for Planned Development Area No. 33 Millennium Place,” February 1998.
¹⁰⁶ Boston Redevelopment Authority. “Memorandum to Thomas O’Brien on ‘Millennium Place’, PDA No. 33,” 1998.



View from Washington St with restored theater facades
Source: Handel Architects

Urbane and Successful

At the groundbreaking ceremony, Mr. Pangaro announced: “We, imagine a new kind of real estate that compliments the City’s best features; it is urbane, diverse, and interesting.”¹⁰⁷ The “urbane” was perhaps alluding to the challenge and reward of building in the heart of Downtown. The project came with its risks, but the vision and attitude of the development team, along with the help of the BRA, kept the project moving forward and ultimately arriving at a successful delivery.

Construction was completed in 2001, and the Ritz-Carlton Hotel opened in late 2001. The entire complex ultimately included: a 19-screen AMC Loews Theater, 193 hotel rooms in Ritz, 375 condos at The Residences at the Ritz-Carlton, 115,000 square feet of sports facilities, and 50,000 square feet

¹⁰⁷ “Remarks of Mayor Menino at Millennium Place Groundbreaking” (Boston City Record, May 27, 1998).

of street retail^{108 109}. Upon completion, the project won several awards, including ULI's Award for Excellence and the Congress for New Urbanism's Charter Award¹¹⁰.

The project, formally called Millennium Place I but colloquially known as the Ritz-Carlton Complex, depended on the residential condominiums as a revenue driver for the project, priced at around \$900 per square foot¹¹¹. In a New York Times article, Millennium Partner Chris Jeffries describes the model as “to make most of the money in housing, a solid return in the sports clubs and theaters and do reasonably well on the hotel business”¹¹², whereupon the Ritz-Carlton calculated the brand gave an average premium of 20-25% in apartment prices. In a Boston Globe article, Mr. Pangaro was quoted as being happy with the results so far, and pointing out that it takes a while for the market to absorb the new supply of luxury residential units¹¹³. Out of the total condominiums in the Ritz-Carlton towers, by 2002 close to 50% were sold and 15% rented. By 2004, all residential units were sold out¹¹⁴. In the years since, the ground floor retail has been successful with luxury tenants, such as an Equinox Gym and a high-end furniture store Roche-Bobois.

TAKEAWAYS

Commonwealth Center was an office-driven development off the Boston Common, and was meant to bring new development and activity to the Combat Zone. The biggest difficulty of the project was the complicated assemblage. The success in achieving a significant zoning relief was due to the team's tenacity and the momentum of other concurrent projects in the neighborhood. The project was approved but ultimately failed due to an intense market downturn.

When Millennium Partners took over, the market was in early stages of recovery, and the Combat Zone location was still a tremendously risky site. The development team brought the essential experience, tenant relationships, and confidence to execute the vision for the Ritz-Carlton Towers. The city helped move the process along expeditiously by waiving the scoping review and providing

¹⁰⁸BRA. “Amended and Restated Development Plan and Development Impact Project Plan for Planned Development Area No. 33 Millennium Place,” February 1998.

¹⁰⁹ Boston Redevelopment Authority. “Memorandum to Thomas O'Brien on ‘Millennium Place’, PDA No. 33,” 1998.

¹¹⁰ Handel Architects. “Transformation of Boston's Midtown Cultural District,” 2014.

¹¹¹ Marcella Bombardieri, “Going Up,” *The Boston Globe*, January 26, 2003.

¹¹² David W. Dunlap, “Commercial Real Estate; What's in a Name? For Ritz-Carlton, About 25%,” *New York Times*, 2002.

¹¹³ Marcella Bombardieri, “Going Up,” *The Boston Globe*, January 26, 2003.

¹¹⁴ The Ritz-Carlton, “The Residences at the Ritz-Carlton Towers, Boston Common.”

121A tax abatements. The negotiation of public benefits was driven largely by the approach of the development team, who knew the long-term value of having good relationships in the neighborhood. Furthermore, they viewed the benefits as complementary to the project, rather than a short-term cost item.

Development Considerations

+ Risk

Location of Combat Zone, no existing residential market, building in one complete phase.

+ Tenant

Getting Ritz-Carlton and Loews to sign as anchors, granting credibility.

+ Funding

Relying on Strong trust of equity partners despite risk and litigation.

+ Relationships

Building long term relationships with community organizations.

City Considerations

+ Pressure

Stigma around Combat Zone, pressure coming out of a recession to start new development.

+ Community

Earmarking funds for Chinatown, keeping St. Francis House, theaters.

+ Support

Helping development team to gain support through community outreach.

+ Catalyst

Future projects and restoration along Washington Street.

CH 3: Kingston-Bedford Garage / One Lincoln Street

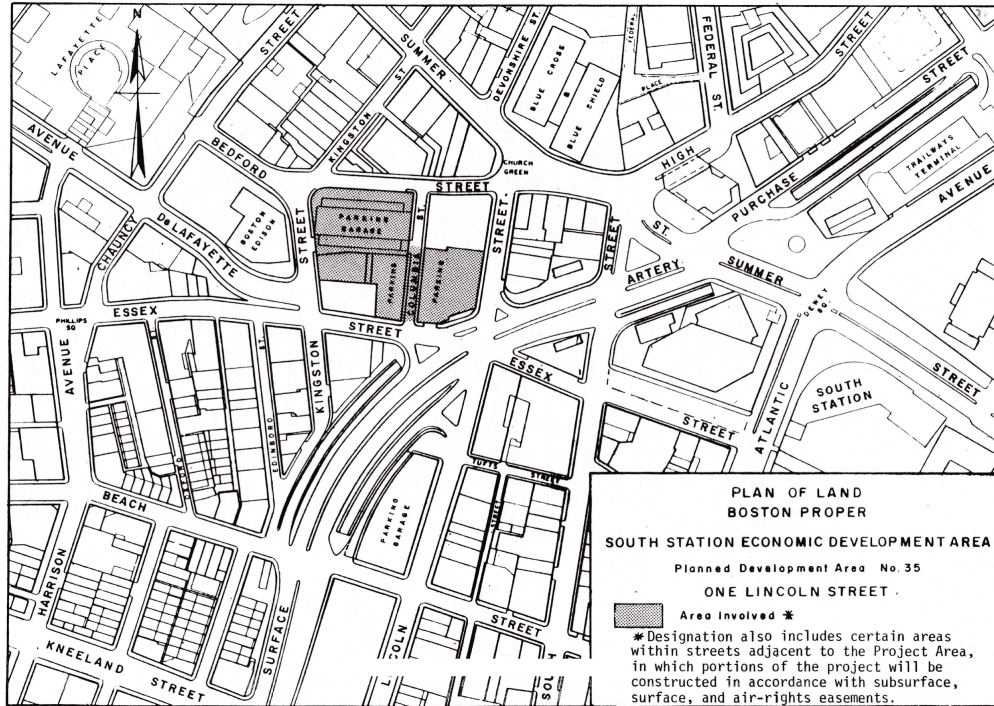
SETTING THE SCENE

Sale of City-Owned Garages

A few blocks to the east, at the same time of the original PDA with Commonwealth Center, there was another ambitious project in the works. The BRA had identified the Kingston-Bedford parking garage as a developable site owned by the city. Located in the financial district, the site is bordered by Lincoln, Bedford, Kingston, and Essex Streets with strong transit accessibility due to two major T locations nearby: Chinatown to the immediate south and South Station to the immediate east. With its downtown location and transit accessibility, the site had great potential as a valuable development project. The parking garage was originally built as a way to revitalize the downtown area by providing parking to the office workers. But at a time of growth and a strong market in the mid-1980s, the parking garage was certainly not achieving the site's Highest and Best Use (HBU).

To understand the motivations of the City is to rewind several years to before the Kingston-Bedford site was even put out for development. At the time, the city had several garage sites across the city that they were looking to sell for redevelopment purposes. In the prior years, the city was sued for overtaxing parcels, causing a “trigger” legislation to reimburse the business owners who were affected¹¹⁵. With the pressure to raise money for the city, the fix was to sell five of these city garages, of which the Kingston Bedford Garage was the last one. This process of public land disposition was an opportunity for the city to shape the development that would take place on these sites, especially given the desirable location. Since the majority of the development site was owned by the city, the BRA had much more control over the terms of development. Thus, the site was an experiment in the type and amount of public benefits the development could achieve from the very beginning.

¹¹⁵ Paul McCann, Interview on Millennium Place I and One Lincoln St, February 25, 2019.



Source: Boston Redevelopment Authority, PDA No. 35 (1989)

Parcel to Parcel Linkage

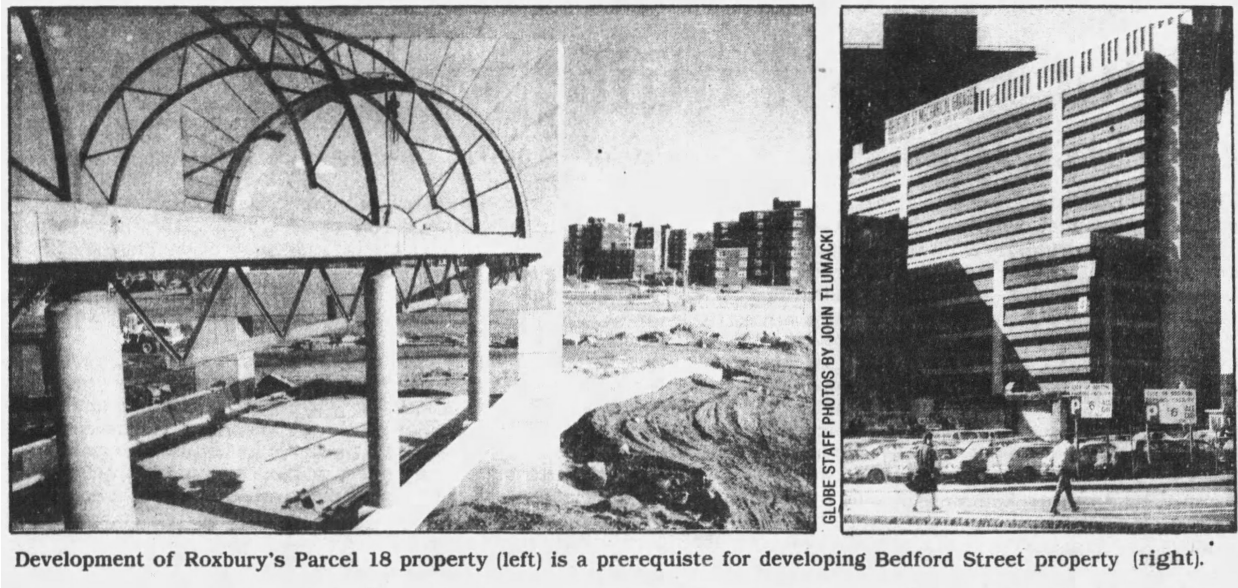
The BRA saw this development as an opportunity to redistribute downtown Boston wealth to historically disinvested local communities. In 1985, a new kind of land disposition policy was introduced with the legislation for parcel-to-parcel linkage, which formally “links” two publicly owned sites, one ‘desirable’ and one ‘less desirable’ to be developed as an interdependent project¹¹⁶. The developer that was designated to build on the desirable downtown site was then required to develop the other project as a means to redirect private investment and share in the growth of the city. In a 1986 report from the BRA, parcel to parcel linkage is described as “a pioneering effort to capture the economic power of a city-owned downtown site by linking it with a neighborhood site to assure community ownership, and involvement, and ultimately achieve dramatic new neighborhood growth in both Roxbury and Chinatown”¹¹⁷.

The Kingston-Bedford project was linked to Parcel 18 in Roxbury. The development was named Ruggles Center, an office/retail building with a structured parking garage and public plaza, to help revitalize the neighborhood economy by providing office space and jobs. In the midst of Boston’s

¹¹⁶ Tarry Hum, “Parcel To Parcel Linkage: Who Benefits From the Redistribution Of Wealth?” (Masters Thesis, MIT, 1987).

¹¹⁷ Boston Redevelopment Authority. “Parcel to Parcel Linkage Program: Interim Report.”, 1986.

economic growth, the office space in Roxbury was meant to offer competitively priced back-office space to companies being displaced from downtown Boston. The financing of the project was subsidized by the Kingston-Bedford development- a portion of the disposition price of the BRA parcel, along with 5% of net operating income (NOI) for a twenty-year period, would be channeled toward Ruggles Center. There were other unique obligations baked into the development vision, such as a business incubator program that provided existing or start-up local businesses to explore new ideas, with developer contributions for buildout and future operating costs¹¹⁸.



Source: The Boston Globe, 1986

Designating Minority Investment

In addition, the parcel to parcel linkage program had another stipulation- to give the respective minority communities an opportunity to be involved, and “create opportunities for minority developers and individuals to be equity participants in both downtown and neighborhood development”¹¹⁹. BRA director Stephen Coyle pushed the BRA board to make a formal designation that the Black, Hispanic, and Asian community in Boston that had been excluded from the city’s construction boom would be minority partners for the new development¹²⁰. Mayor Flynn praised the initiative to designate minority developers, announcing that “for decades, minority developers and

¹¹⁸ Boston Redevelopment Authority, “Development Plan For Phase I of Master Plan for Planned Development Area No. 34, Ruggles Center,” 1989.

¹¹⁹ Melvin B. Miller, ed. *Boston's Banner Years: 1965-2015: A Saga of Black Success*. Bloomington, IN: Archway Publishing, 2018.

¹²⁰ Ibid.

residents have been denied a place at the table of economic opportunity... for too long, neighborhood people have been denied full participation in a growth economy.”¹²¹ The specific terms were that the developer designation would have to carve out 30% of equity to a minority development entity¹²².

Paul Chan remembers getting a call from Ron Homer and Ken Guscott, prominent real estate developers in Roxbury, in the summer of 1986. They informed him that they had been working with the BRA on developing an empty site in front of Ruggles Station, to stimulate development in Roxbury. To offer the developers an incentive for this project, they would give the opportunity to develop One Lincoln with the parcel to parcel linkage program. At the time, they had already created an entity called the Ruggles-Bedford Associates (RBA) that also included Hispanic investors, but the BRA’s designation required that the minority development team must be “truly minority”- in other words, including more than one minority community. With other investors from Chinatown, organized as a limited partnership called Chinese Investment Group (CIG) capitalized at \$1.25 million, CIG and RBA spent the summer negotiating a joint venture which they called Columbia Plaza Associates (CPA), with 60/40 equity split between RBA and CIG and a decision-making being 50/50¹²³.

Despite being a minority developer, CPA was still under pressure from the BRA to get the maximum amount of public benefits. After CPA was informally announced as the designated developer of both the One Lincoln site and the Ruggles Center site, the city decided to put out a public RFP asking for minority developers to submit proposals for this opportunity. In the end, the five respondents who applied were eliminated back down to two. At that point, CPA offered 10% of the developer profit to sweeten the deal further. By 1988, they were finally formally designated as the developer. Both the BRA and CPA toured the country in order to select its majority development partner, Metropolitan Structures of Chicago, and Metropolitan/Columbia Venture (MPCV) was formed as the joint venture¹²⁴. Within MPCV, Metropolitan Structures was the

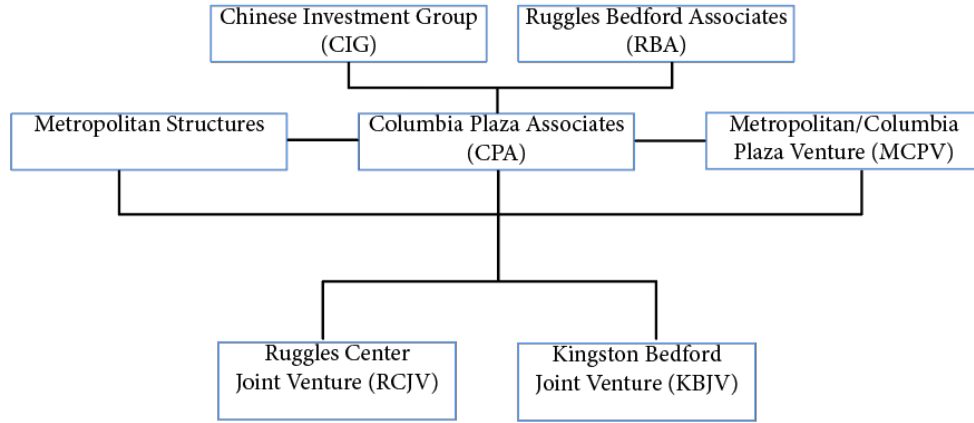
¹²¹ Globe City Hall Bureau, “Minority Developers’ Bid Receives Praise from Flynn,” *The Boston Globe*, 1986.

¹²² Paul Chan, Interview on One Lincoln, February 21, 2019.

¹²³ Ibid.

¹²⁴ Ibid.

Managing Partner, with 70/30 equity split with CPA as the Limited Partner. Ruggles Center Joint Venture (RCJV) was also formed for the development of Parcel 18 in Roxbury¹²⁵.



One Lincoln Team Organizational Structure, 1989

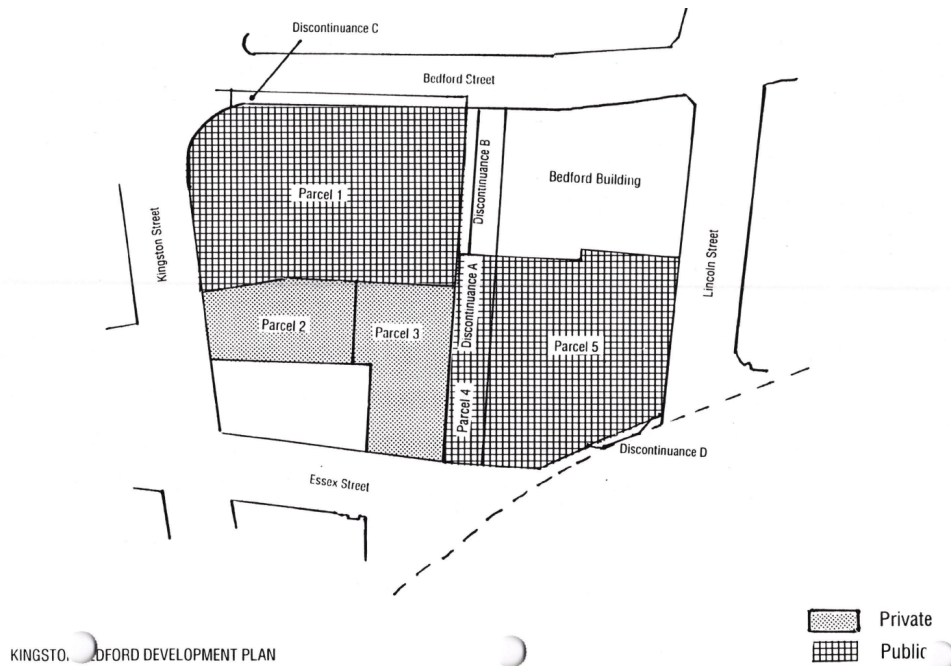
DEVELOPMENT CONSIDERATIONS (1989)

Getting to the PDA: Requirements and Assemblage

The block bound by Bedford, Lincoln, Essex, and Kingston Streets was not an easy site. In the middle of the parcel ran Columbia Street, which had been discontinued as a street. The city-owned most of the project site which totaled approximately 70,000 square feet, occupied by the public parking garage and a public parking lot. However, to complete the full project, the privately-owned portion added up to an additional 16,136 square feet and was composed of two parcels, 126-130 Essex St, 80-86 Kingston St, and a portion of Columbia Street¹²⁶. These privately-owned parcels were collectively known as the “Resha Parcels”, after one of the previous owners. The development opportunity went forward despite the fact that these privately-owned parcels were not yet acquired—later on, this would come back as a problem.

¹²⁵ Boston Redevelopment Authority. “Development Plan/Development Impact Project Plan for Planned Development Area No. 35,” September 13, 1989.

¹²⁶ Boston Redevelopment Authority. “Development Plan/Development Impact Project Plan for Planned Development Area No. 35,” September 13, 1989.



Source: Boston Redevelopment Authority Board Memo, 1999

KBJV had considered acquiring the two private parcels to complete the land assemblage. However, Mr. Chan noted that “the last parcel in the land assemblage is always the most expensive”¹²⁷, implying that the private landowners were holding out for a higher price, given the plans for development¹²⁸. Because of this, KBJV decided to abandon the purchase of the Essex and Kingston parcel because it was prohibitively expensive.

A few other things proved difficult for the development team. There was also talk of an underground tunnel from Washington St that connected to South Station, the purple line originally planned in conjunction with Commonwealth Center. The tunnel would run through Essex St and the site, and complicated both the pre-construction engineering and scheduling.

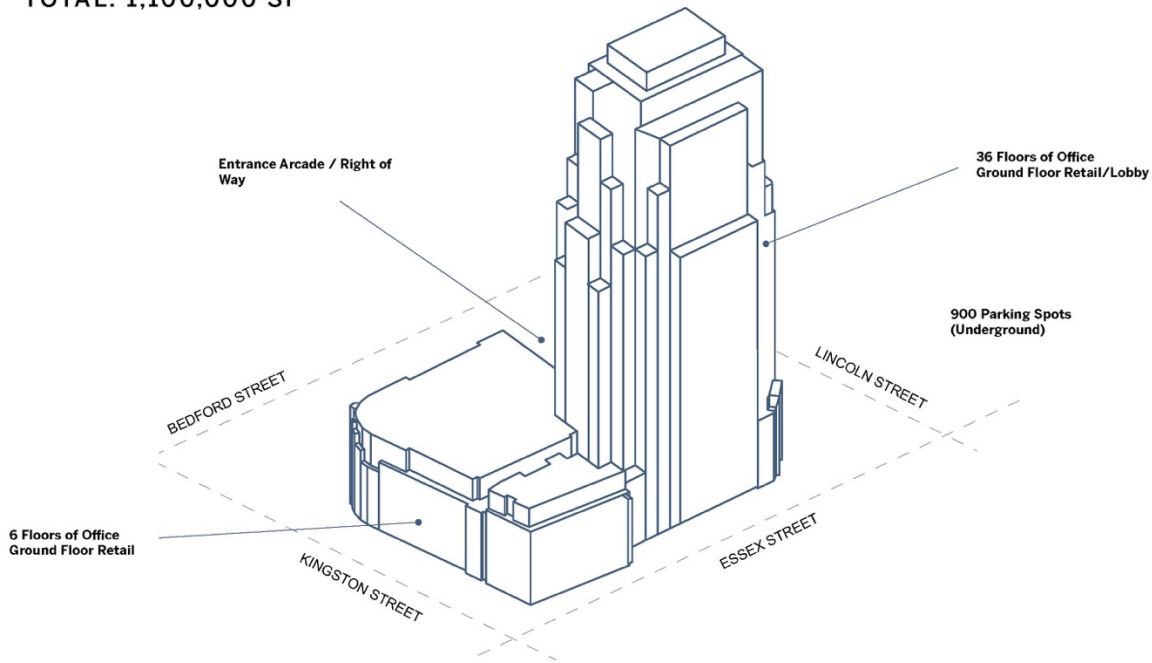
In 1989, the PDA and DIP were approved by the BRA and Zoning Commission. The project required the demolition of the existing parking garage and office building to construct a new mixed-use development consisting of an office building with both a tower and low-rise element, ground floor retail, and a new underground parking garage. The design was meant to

¹²⁷ Paul Chan, Interview on One Lincoln, February 21, 2019.

¹²⁸ One of the private parcel owners of 99 Bedford St later sued the BRA and zoning commission in 1999 for “exceeding their authority” to grant a zoning relief for the project. They lost.

“...harmonize with the surrounding neighborhood in scale and architectural elements and preserve the City’s history and character through the use of scale-giving elements in the facade design, carefully planned massing, materials and ornamentation characteristic of landmark buildings in the City”¹²⁹.

TOTAL: 1,100,000 SF



Total SF and Uses for One Lincoln Street

The development plan proposed a 952,000 square foot, 37-story mixed-use building with a total project land area of 74,082 square feet, and a maximum of 12.85 FAR¹³⁰. Rather than specifying the square footage of each use, the agreement specified the total square footage and a table of allowable uses, mostly office and retail related. The building height and density were both within the allowed as-of-right zoning, of 465 feet and 14.0 FAR, respectively¹³¹. The agreement specifies a few key elements: a public atrium area and a “vital pedestrian link” into access points of the building, integrating retail shops whenever possible, and offering a variety of interior streets, passages, and lobbies. A landscaped pedestrian plaza on the remaining portions of Columbia Street adjacent to the building was also required. The new underground parking garage, offering up to 950 spots, would

¹²⁹ Boston Redevelopment Authority. “Development Plan/Development Impact Project Plan for Planned Development Area No. 35,” September 13, 1989.

¹³⁰ Ibid.

¹³¹ Ibid.

replace the above-grade facility, and Essex St would be widened to allow for improved traffic circulation¹³².

The PDA anticipated that construction would commence in the first half of 1990 and be completed at the end of 1993. In 1991, the BRA entered into a Sale and Construction Agreement with KBJV to transfer the 70,000 square feet of publicly owned parcels for the development of the One Lincoln St proposed project. The price tag: \$15 million, to be paid with \$3 million upfront and four subsequent annual payments of \$3 million each¹³³.

Public Benefits

The DIP, or community benefit agreement to the project, was complex and extensive. To start, the linkage payment totaled \$4.3 million for the housing Creation Option and \$900,000 for the Jobs Contribution Grant¹³⁴. The housing linkage payment was designated for Oak Terrace, an affordable housing project in Chinatown. More specifically, the DIP agreement stated that KBJV was required to make an advance payment of \$1 million thirty days after the execution of the Sale and Construction Agreement. The remainder was to be paid as a lump sum on the building permit date¹³⁵.

The community development fund was a statutory requirement, or required by State law, and was formed from an MOU between BRA, the neighborhood council (Chinatown/South Cove Neighborhood Council), the task force (Parcel 18+ Development Task Force), and the developers. KBJV and RCJV were obligated to contribute a total of \$10 million to the Community Development Trust. The funds were earmarked for Chinatown and Roxbury, with 1/3 going to the Chinatown community, 1/3 to the Roxbury community, and 1/3 to be allocated on a competitive basis throughout the city. \$2 million of the total was to be paid upfront at the date of building permits for One Lincoln, with the remaining \$8 million as \$800,000 annual payments for the next 10 years¹³⁶. If

¹³² Boston Redevelopment Authority. "Development Plan/Development Impact Project Plan for Planned Development Area No. 35," September 13, 1989.

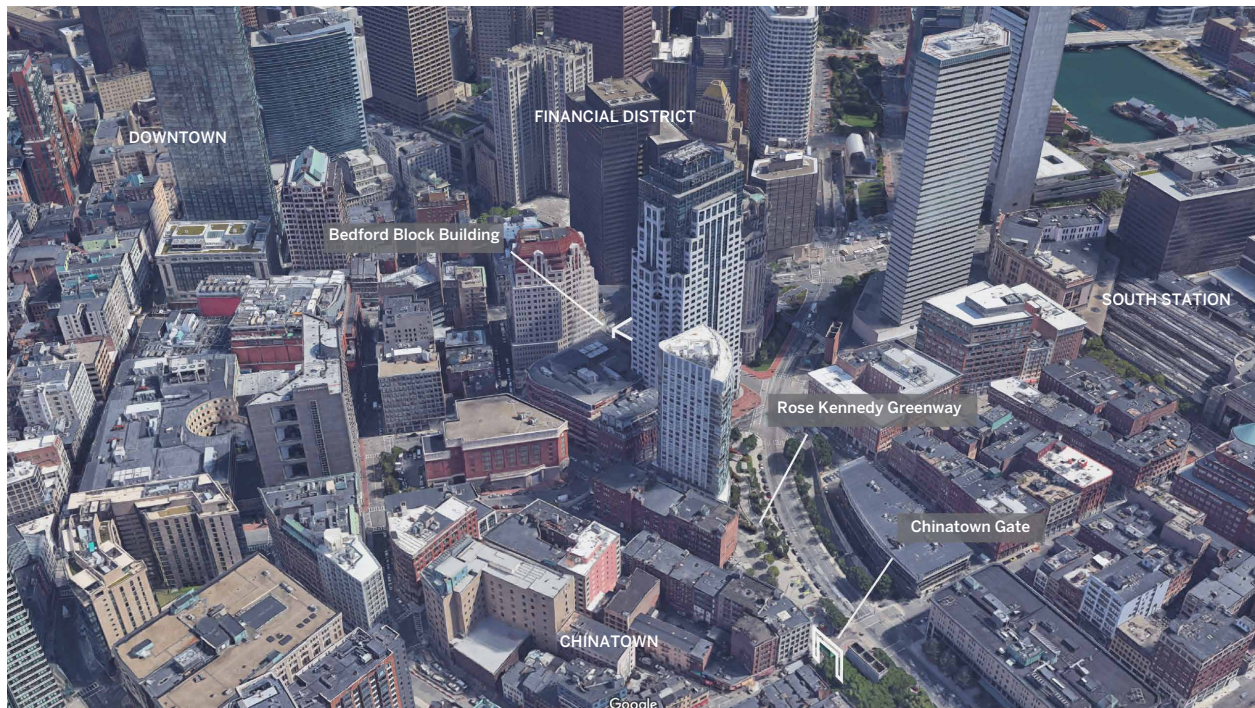
¹³³ Boston Redevelopment Authority, "Memorandum to Paul McCann, Acting Director," November 10, 1999.

¹³⁴ Boston Redevelopment Authority. "Development Plan/Development Impact Project Plan for Planned Development Area No. 35," September 13, 1989.

¹³⁵ Community Benefits Memorandum of Understanding," June 29, 1989.

¹³⁶ Boston Redevelopment Authority, "Memorandum to Paul McCann, Acting Director," November 10, 1999.

the project was sold within 10 years, the remaining balance would be discounted at an 8.5% rate to present value¹³⁷.



One Lincoln Street Neighborhood and Neighbors

Finally, as part of the initial negotiations when CPA was competing for the minority designation, RBA and CIG each had committed to giving 10% of the development profit for community benefits. Mr. Chan describes it as a way to “buy the hearts and minds of the people” to be selected as the developer¹³⁸. In addition to 10% of the developer's fee, 5% of the NOI and 10% of the net refinancing proceeds were to be paid as part of the community benefits.

There were a few miscellaneous items that were also included. One was a \$400,000 challenge grant for developing minority capacity to obtain management level positions in the real estate, and another \$100,000 challenge grant as a planning grant. Another was the provision of childcare facilities in Chinatown for a total of 100 children¹³⁹. There were also several stipulations regarding the utilization of minority business enterprises (MBEs): there was a 30% MBE retail designation for the ground

¹³⁷ Boston Redevelopment Authority. “Development Plan/Development Impact Project Plan for Planned Development Area No. 35,” September 13, 1989.

¹³⁸ Paul Chan, Interview on One Lincoln, February 21, 2019.

¹³⁹ “Community Benefits Memorandum of Understanding,” June 29, 1989.

floor retail use of the building, and employment goals of 30% minorities on both the construction workforce and permanent workforce¹⁴⁰.

Additional Stipulations

There were definite benefits to having minority development partners. Given the involvement of CIG in the development, many of the public benefits were earmarked for Chinatown and used for specific projects that had lasting significance on the neighborhood, such as Oak Terrace. The development team was able to fulfill the MBE construction employment goals at a time when construction jobs were controlled by majority white building trade unions- David Lopes, a foreman at One Lincoln who had strong relationships with minority subcontractors, helped the developers maintain a workforce that was 32 percent people of color¹⁴¹. The excavation for the building and the 900-spot below-grade parking garage was handled by Webster Engineering, a black-owned firm. Ken Guscott, one of the partners of CPA, told the Banner, “When you have equity in a project, you sit at the table when decisions are made... It makes a difference.”¹⁴² The minority development team was in clear alignment with the public benefits to the surrounding communities.

However, it is clear that there were additional stipulations required of the minority development partners as a result of the unique opportunity to develop such a project. Perhaps the most obvious is the payment of 10% of the developer profit, added by CPA while they were competing to win the original designation. Considering the initial effort was to include communities who had been excluded from Boston’s growth, by allowing “minority developers to get a piece of the pie, at a table where they have never been asked to sit down”¹⁴³, it certainly seems like the piece of the pie became smaller. In fact, it was directly reduced by 10% in order to even be chosen to participate and sit at the decision-making table. Furthermore, the two partners involved in CPA, Ruggles-Bedford Associates (RBA) and Chinese Investment Group (CIG), were required to include the investment of non-profit community-based organizations. By the time the PDA was passed, CIG had already satisfied the requirement that at least 10% of the interest of CIG in CPA be held by non-profit

¹⁴⁰ “Community Benefits Memorandum of Understanding,” June 29, 1989.

¹⁴¹ Melvin B. Miller, ed. *Boston’s Banner Years: 1965-2015: A Saga of Black Success*. Bloomington, IN: Archway Publishing, 2018.

¹⁴² Ibid.

¹⁴³ Globe City Hall Bureau, “Minority Developers’ Bid Receives Praise from Flynn,” *The Boston Globe*, 1986.

community-based organizations, in this case by donating it to the Chinese Consolidated Benevolent Association of New England¹⁴⁴.



CIG at One Lincoln Opening
Source: Paul Chan

Market Conditions and Cycles

The connected site of the parcel-to-parcel linkage, Ruggles Center, was built in 1991, although only one building out of the intended four-building complex was constructed. The 165,000 square foot office building was the home for the Massachusetts Registry of Motor Vehicles before running into troubles with environmental and air quality issues. With these difficulties, plus the market crash, the building was foreclosed and auctioned to Northeastern University in 1996¹⁴⁵. The failed Ruggles Center Project caused RCJV to dissolve as well as partners of CPA to dissolve¹⁴⁶.

However, due to the real estate downturn of the early 1990s, KBJV was unable to proceed with the development of the proposed One Lincoln project. From 1991 to 1998, there were no new office buildings put under construction in the city of Boston. In 1992-1993 office vacancy was at 30% in Downtown Boston, while rents went down from \$50 to \$25 dollars per square foot¹⁴⁷. In short, it

¹⁴⁴ Boston Redevelopment Authority. "Development Plan/Development Impact Project Plan for Planned Development Area No. 35," September 13, 1989.

¹⁴⁵ Paul Chan, Personal email correspondence.

¹⁴⁶ Ibid.

¹⁴⁷ John Hynes, Interview on One Lincoln St, March 19, 2019.

was a dismal time for the real estate market. Metropolitan Structures had trouble not only in Boston but with its investments back in Chicago, and they decided to exit out of their projects in Boston. A few years later, they would restructure the company and be acquired by Cushman and Wakefield, and “like many of their peers, were a victim of the 1990 real estate depression”¹⁴⁸.

This was devastating for the minority investors, who had put \$3 million of equity into the joint venture for both projects, Ruggles Center and for One Lincoln, and there were two overcalls to RBA and CIG for more capital before the projects were stalled¹⁴⁹. However, many of the obligations from the public benefits were not paid out. The \$10 million Community Development Fund, for example, had the upfront \$2 million to be paid upon issuance of the building permit-- and the building permit was not to be issued until 2000, ten years later.

In 1997, CPA purchased all development interests from Metropolitan Structures in cash for \$1.25 million¹⁵⁰. Later that year, CPA and the BRA initiated a second process to solicit developers by issuing an RFQ, seeking proposals from development firms willing to form a joint venture partnership for the development of the project. At the conclusion of the review, analysis and interview process, CPA chose Boston developer Don Chiofaro to pursue a joint venture agreement with. However, from the beginning of the negotiations, Chiofaro took the stance that the public benefits were far too costly and sought to waive many of the fees, and as a new development partner, he did not seek to maintain a good relationship with the community that he was working with¹⁵¹. For the next two years, Chiofaro would delay the project, citing difficulties with financing and difficulties with finding a tenant to pre-lease the building. Ultimately, he did not meet the deadline, and the agreement with CPA and the BRA expired in October 1999.

DEVELOPMENT OPPORTUNITY (1999)

Making A Move

After the expiration of the agreement with Chiofaro, there was a new joint venture partnership on the table. John Hynes, who had been looking for a development opportunity for months, was the

¹⁴⁸ Betsy Wangenstein, “Cushman To Buy Met Spinoff; Sale Ends Era for Illinois Center Developer,” *Crain's Chicago Business*, 1996.

¹⁴⁹ Paul Chan, Personal email correspondence.

¹⁵⁰ Ibid.

¹⁵¹ Paul Chan, Interview on One Lincoln, February 21, 2019.

head of development at Gale & Wentworth and was looking for suitable properties that could provide enough return for its institutional investors, Morgan Stanley Real Estate. Their latest fund, MSGW III, required an investment return of 25%, and only ground-up development, not investment opportunities, would make enough of a return to reach that target¹⁵².

The original problem of 1989 and the private land assemblage had not progressed. The privately-owned parcels, 80-86 Kingston Street (7,018 square feet), and 126-130 Essex Street (9,118 square feet)¹⁵³ were still privately owned. Mr. Hynes recalls that Joe O'Connor had bought it from Joe Resha, and anticipated the development from the BRA earn a profit through the sale of the parcel-- but never had never gotten around to selling it¹⁵⁴. CPA and Met Structures never bought it, and Chiofaro never bought it, even though he had the option agreement in writing. Mr. Hynes had been watching the Chiofaro debacle from afar, reading the news in the paper. He knew that Chiofaro had another project in the Seaport, 601 Congress, that Chiofaro was moving State Street Bank into- and he found it peculiar that Chiofaro was not trying to move State Street Bank into One Lincoln, instead.

Interestingly, John Hynes was very familiar with the site from previous work. In 1987, Mr. Hynes worked at Lincoln Property Company, they had actually negotiated a transaction with Joe Resha on one of the private parcels, with an option on it while waiting for the city's RFP to come out. They ended up never closed on the option since Lincoln was having trouble with its other properties when the market started to falter. Now, twelve years later, Mr. Hynes was looking reached out to O'Connor to inquire about the parcel agreement with Chiofaro. O'Connor informed him that although the option agreement was in writing, Chiofaro was preoccupied with the 601 Congress and would not be able to handle both projects at once. However, O'Connor was unwilling to sell the parcel to Mr. Hynes instead unless he was the designated developer with CPA and the BRA. Mr. Hynes called this a "chicken and egg problem" because in his mind, having the parcel was key to securing G&W as the development partner on the project, while being the development partner would have secured the acquisition of the parcel¹⁵⁵.

¹⁵² Tod McGrath. "One Lincoln Street Case Study," 2003.

¹⁵³ Boston Redevelopment Authority. "Memorandum to Paul McCann, Acting Director," November 10, 1999.

¹⁵⁴ John Hynes, Interview on One Lincoln St, March 19, 2019.

¹⁵⁵ John Hynes, Interview on One Lincoln St, March 19, 2019.



From L to R: Paul Chan, John Hynes, Ken Guscott
Source: Don West, Fotografiks

After the Chiofaro agreement expired, Mr. Hynes called CPA and asked to be invited into the joint venture. Using the private parcel as the main selling point, he convinced them that with his strong financial sources they could fund the equity needed for the private parcel acquisition to move forward with the project. Mr. Hynes then moved forward with getting the Resha parcels under agreement. The price tag: \$2 million upfront, with the remaining \$20 million upon receiving project approvals¹⁵⁶.

The city was frustrated with the process as well. The project had been stalled for two years with time and resources devoted to the project, first in the form of the RFQ, next with the revised and extended agreements with Chiofaro. Crucially, MSGW and Mr. Hynes demonstrated that they would be able to attain the estimated \$100 million of equity that was needed for the project (estimated at a total of \$350 million for total development costs). They had secured the involvement of another institutional investor, the State Teachers Retirement System of Ohio (STRS Ohio), who was willing

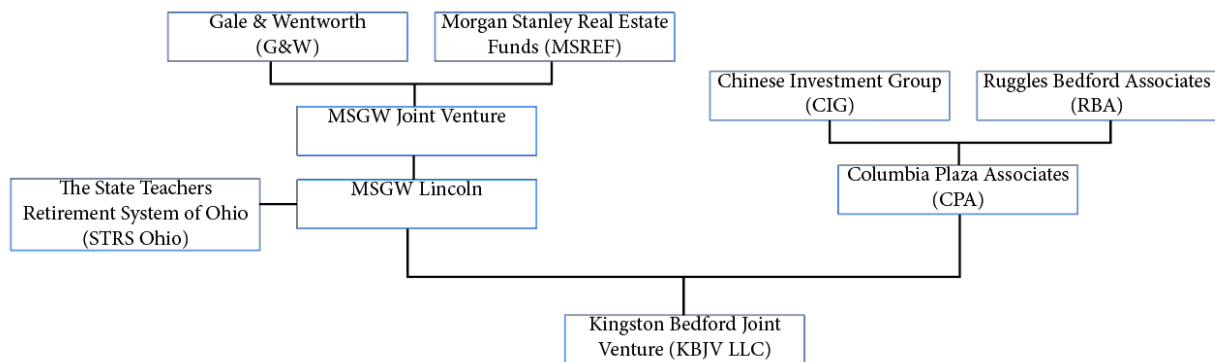
¹⁵⁶ Tod McGrath. "One Lincoln Street Case Study," 2003.

to put in the majority of the equity. The remaining \$250 million of debt was through a construction loan from GMAC¹⁵⁷.

The funding and land acquisition were clear commitments to the project. But critically, MSGW made it very clear that they were willing to cooperate with CPA, the BRA and community groups to follow through on the public benefits. Unlike Chiofaro, MGSW saw the obligations as necessary and important, rather than items to be negotiated away. In fact, MSGW agreed to accelerate payment of the \$15 million to the city, thus increasing the present value of the payment. In a memo to the BRA, the team “reaffirm[s] in the strongest possible terms the commitment of our development tea to all of the public benefits to be provided by the Project...among the numerous public benefits to be provided, the development team is committed to the utilization of minority business enterprises in connection with development and operation of the Project”¹⁵⁸.

The project already possessed many of the approvals that it needed, allowing it to move ahead quickly. Thus, the largest hurdle for MSGW was to convince the BRA of their capability as the new joint venture partner instead of putting out another RFQ process.

Mr. O’Brien and the BRA, CPA, and MSGW came to an agreement, and a new joint venture composed of MSGW (composed of Gale & Wentworth and Morgan Stanley Real Estate Funds (MSREF)) and CPA was formed. CPA retained 15% of ownership and participated in 1/3 of development fee, and received \$5 million of project expenses reimbursed¹⁵⁹.



Organizational chart for PDA 35, One Lincoln St, 1999

¹⁵⁷ John Hynes, Interview on One Lincoln St, March 19, 2019.

¹⁵⁸ Boston Redevelopment Authority. “Memorandum to Paul McCann, Acting Director,” November 10, 1999.

¹⁵⁹ That \$5 million of reimbursement was then credited back into the development project in exchange for their 15% of ownership.

BRA Pressure for Execution

The stagnant real estate market of the recession had been slowly coming back. Office vacancy in downtown, before at 30%, crept downward back to 10% through the late 1990s. By 1999, the vacancy rate was under 5% and rental rates were starting to hit \$50 per square foot again¹⁶⁰. With the strengthening of the market, the BRA was juggling several projects at once and having difficulty keeping up. Concurrently, there were several large planning efforts by the city, including the planning of the Seaport District.

The BRA also had its own internal struggles when an incident involving an employee buying a condo that was designated affordable blew up in the newspapers, “right when the BRA was in the public eye and trying to make things happen in the wake of the recession”¹⁶¹. This led to an abrupt leadership change in the summer of 1999 when Tom O’Brien stepped down as Director, with Paul McCann filling in as Acting Director. The city was anxious to see the One Lincoln project start after so many false attempts, and finally redevelop the old, dilapidated garage. In the end, the BRA gave the team only six months (starting October 1999) to execute the purchase and sale agreement of the public garage site and the private parcel and secure financing. Mr. Hynes jokes, “we got shafted... CPA and Met Structures got ten years, Chiofaro got two years, and we got six months”¹⁶². However, on their end, the BRA promised to do everything in their power to help the project through the approvals and permits to commence construction for the “Closing Date”¹⁶³.

Finally, since the main scope and use of the project had not changed, the PDA did not need to be amended and a major public review process was thus avoided. To MSGW’s benefit, the housing linkage payment from 1989 had been obligated to pay \$1 million upfront, so although the overall requirement did not change, the outstanding balance was substantially reduced¹⁶⁴. There were a few subtle changes from the initial DIP obligations, outlined in an MOU from the Chinatown/South Cove Neighborhood Council and the Parcel 18 task force: the 10% development fee and the \$400,000 challenge grant payment were waived, and the \$10 million Community Development Fund payments were postponed to four years from the issuance of the building permit¹⁶⁵.

¹⁶⁰ John Hynes, Interview on One Lincoln St, March 19, 2019.

¹⁶¹ Thomas O’Brien, Interview on Millennium Place I and One Lincoln St, March 21, 2019.

¹⁶² John Hynes, Interview on One Lincoln St, March 19, 2019.

¹⁶³ Boston Redevelopment Authority. “Memorandum to Paul McCann, Acting Director,” November 10, 1999.

¹⁶⁴ Paul Chan, Personal email correspondence.

¹⁶⁵ Boston Redevelopment Authority. “Memorandum of Understanding, New Commonwealth Center Limited Partnership, Boston Redevelopment Authority, Chinatown/South Cove Neighborhood Council,” 1998.

"THE PROJECT IS AN EXAMPLE OF A SET OF BUILT-IN PUBLIC OBJECTIVES THAT PAVED THE WAY FOR FUTURE DEVELOPMENT."

-Tom O'Brien, BRA Director

The biggest public benefit the development team offered was an accelerated payment schedule for the public parcel. The Sale and Construction Agreement of the 70,000 square feet of the publicly owned land had not been executed yet, and the prior agreement called for an initial payment of \$3 million on the closing date with four subsequent payments of \$3 million, for a total of \$15 million¹⁶⁶. The proposal

was to accelerate the payment schedule by making an initial payment of \$7.5 million within 45 days of the closing date and the remaining \$7.5 million upon Certificate of Occupancy or four years from the closing date¹⁶⁷. Although the accelerated payment was preferable due to lower risk, the disposition price had not changed in ten years. Mr. Hynes suggests that the price was fair, given the market crash brought the value of the parcel down to an estimated \$5 million, so that getting back up to the original price was already a win for the city¹⁶⁸. Mr. O'Brien reflects that there may have been some money left on the table, but with so much going on, the motivation was "simply to get this building built"¹⁶⁹.

The Most Valuable Office Tower in Boston

On the development side, Mr. Hynes faced pressures on multiple sides within the six-month time frame. On one hand, STRS Ohio was putting in the majority of the equity needed for the project, around \$85 million¹⁷⁰. This equity was subject to two main stipulations: 1) refreshing all the city approvals and building permits, and 2) getting the building 25% pre-leased. The first stipulation was doable since the city had promised to help as much as possible. The second stipulation was much harder, as this was another "chicken and egg situation". Without any leverage, Mr. Hynes could not get a tenant to sign the pre-lease before the building was under construction. In the end, he convinced his investors to go forward with the project by convincing them that even if they only

¹⁶⁶ Boston Redevelopment Authority. "Memorandum to Paul McCann, Acting Director," November 10, 1999.

¹⁶⁷ Ibid.

¹⁶⁸ John Hynes, Interview on One Lincoln St, March 19, 2019.

¹⁶⁹ Thomas O'Brien, Interview on Millennium Place I and One Lincoln St, March 21, 2019.

¹⁷⁰ Tod McGrath. "One Lincoln Street Case Study," 2003.

built the underground parking garage alone, with development opportunity above, it could be a profitable exit even if they could not find a tenant in time¹⁷¹.

Demolition and construction commenced in early 2001 and the building was delivered in summer of 2003. The finished project was an office tower 1.1 million square feet of office and ground floor retail space, with a tower and low-rise component. In addition, there was underground parking for 900 cars. The total development cost stayed around \$350 million and the construction was delivered on time.

**"THERE WERE MULTIPLE
REAL CHICKEN AND EGG
SITUATIONS GOING ON
HERE... I DIED A THOUSAND
DEATHS."**

-John Hynes, MSGW

The building stands at 503 feet tall, increased from the approved 465 feet height¹⁷².

In the end, the development team managed to find a tenant to pre-lease. In 2001, State Street Bank signed the lease after 26 versions of the lease documents, specifying floor heights, double height spaces, premium fit-outs, and lease length. Ultimately, they signed a 20-year lease, averaging \$62 per square foot, for the entire building¹⁷³. And with that, one year later, CPA-MSGW sold the building for \$705 million. When the project successfully sold, CIG was able to honor its profit share agreement and contribute \$1.7 million to nonprofits in the Chinatown community.

TAKEAWAYS

The Kingston-Bedford Garage was a city-owned and initiated development site in a desirable Downtown area. As part of the development opportunity, the first parcel-to-parcel linkage program connected the site to Parcel 18 in Roxbury. Furthermore, the BRA designated CPA, a minority development team, to share in the equity which aligning incentives with the community needs of Chinatown. Despite heavy public benefit requirements, One Lincoln Street received its approvals and Parcel 18 was built, but the market downturn forced the project to stall and the development team to dissolve.

¹⁷¹ John Hynes, Interview on One Lincoln St, March 19, 2019.

¹⁷² Boston Global Investors, "State Street Financial Center."

¹⁷³ John Hynes, Interview on One Lincoln St, March 19, 2019.

A decade later, G&W was designated as the new development partner to CPA. The city, wanting the development to move forward, put pressure on the team at the start but later helped the review process through smoothly. The success of the development team was due to the willingness to acquire the private parcels upfront and secure project financing, but equally so the willingness to embrace the public benefit obligations in full.

Development Considerations

+ Market

Beginning of the market cycle, lenders and investors are wary.

+ Risk

Convincing the MS and Ohio STRS to commit funding without a tenant relying on the development potential.

+ Tenant

Getting State Street to sign on as the largest tenant with a 20-year lease.

+ Relationships

Working with the city to refresh all approvals.

City Considerations

+ Pressure

A dilapidated garage onsite, failure of Chiofaro to move forward with CPA.

+ Bypassing an RFQ

Development partner who is committed to the site, including public benefits.

+ Community

Community Development Fund, earmarking Chinatown funds.

+ In Good Faith

Helping move the project along without delay.

CH 4: Public Benefits Analysis

PROJECT OUTCOMES

The following is a summary of the total zoning reliefs and the public benefits that were negotiated from each project. The summaries include both the initial approvals in 1989 and the subsequent approvals that were completed in 2001 for Ritz-Carlton and 2003 for One Lincoln, respectively. Although the initial approvals are included for reference, the focus is on the outcomes of the completed projects.

The amount of zoning reliefs and the summary of public benefits are paired together to understand the trade-off between the two. However, I do not make a claim to estimate the value of each and whether the trade-off was equal. Rather, this is a quantitative summary of the project outcomes which situates the significance of the public benefits. Following that, I summarize both the total development costs and the valuation of the project and explain the significance of the amount of public benefits with respect to each.

Ritz-Carlton Complex

The original zoning from the Midtown Cultural District Plan in 1989 had created a PDA-II zone which included the project site, with an allowable height of 155 feet and a FAR of 8-10¹⁷⁴. The PDA No. 33 that was passed for the Commonwealth Center created a significant zoning relief, adding 250 feet to the allowable height and adding to the density by 2-4 FAR units. Part of the site falls within the 100-foot radius of the Boston Common protection area, where the building heights are limited to 155 feet¹⁷⁵. The contentious issue about the shadow cast by the tall buildings was resolved through mitigation payments contributing to maintenance and improvements to Boston Common, although they were not specified in the PDA agreement¹⁷⁶. Finally, since the 2001 Ritz-Carlton proposal did not reach the maximum height or density that Commonwealth Center had already approved, there was no zoning relief necessary.

¹⁷⁴ Boston Redevelopment Authority, "Midtown Cultural District Plan."

¹⁷⁵ Ibid.

¹⁷⁶ Boston Redevelopment Authority, "Development Plan and Development Impact Project Plan for Planned Development Area No. 33," 1989.

ZONING RELIEF	Allowable Height	Proposed GFA	Project Area	FAR	Max FAR
Original	155	-	-	10	8-10
Approved (1989)	403	1,700,000	144,361	12.16	10-14
Approved (1999)	400	1,335,000- 1,410,000	10,670	10.5	10.5

Zoning Relief of Ritz-Carlton Complex¹⁷⁷

The public benefits specified in the 1999 DIP Agreement are summarized below. Although each line item is shown on the table, it is important to note that each has a different payment schedule which changes the net present value of the amount owed. These numbers are not adjusted for inflation.

COSTS (1999)	Total Cost	Cost per SF	% Total Cost
Total Development Cost	\$400,000,000	\$283.69	100%
Housing Linkage	\$2,650,000	\$1.88	0.66%
Jobs Linkage	\$530,000	\$0.38	0.13%
Paramount Repair	\$1,750,000	\$1.24	0.44%
Chinatown Transportation Impact Study	\$50,000	\$0.04	0.01%
Off-Site Traffic Improvement	\$260,000	\$0.18	0.07%
Boston Common Contribution	\$750,000	\$0.53	0.19%
Boston Common Sidewalks and Landscaping	\$1,000,000	\$0.71	0.25%
Downtown BID establishment	\$15,000	\$0.01	0.00%
Spruce St Nursery School (Daycare)	\$2,500,000	\$1.77	0.63%
MBTA Elevator for Orange Line	\$2,000,000	\$1.42	0.50%
Arts and Humanities Office Donation	\$200,000	\$0.14	0.05%
Opera House Donation	\$1,000,000	\$0.71	0.25%
Total Public Benefits (Approved)	\$12,705,000	\$9.01	3.18%

Construction Jobs 2,000
Permanent Jobs 750

Percentage of Public Benefits of TDC, Ritz-Carlton¹⁷⁸

¹⁷⁷ Numbers compiled from PDA No. 33, Amended PDA No. 33 and Midtown Cultural District Plan.

¹⁷⁸ Numbers compiled from Amended PDA No. 33 and personal email correspondence with Anthony Pangaro.

The total development cost for the project was very high since the buildings were so complex: an estimated \$400 million, or \$284 per square foot. This includes acquisition costs (land, legal fees, etc), hard costs (construction, materials equipment, infrastructure, etc) and soft costs (services, permits, taxes, etc). Despite the project downsizing from the original Commonwealth Center scheme of 1.7 million square feet to 1.4 million square feet, the mix of uses became much more complex. To put a hotel, apartments, sports club, theater, and garage together, the costs were estimated to be 50% more than conventional residential construction¹⁷⁹.

As noted previously, the linkage contributions decreased significantly, since the project moved from an office-driven project to a residential-driven project, which reduced the commercial square footage total to be included in the linkage payment. However, the provision of 400,000 square feet of new retail, health club, restaurant and entertainment space in Downtown was considered a public benefit in itself. This would provide a wide variety of activities to attract residents and visitors to the neighborhood, furthering the objectives of the Midtown Cultural District Plan¹⁸⁰.

Important to note is that the City granted Millennium 121A tax abatements to move forward with the project so the team benefitted from a reduction in real estate taxes. Without the abatements, the project would have had a higher TDC and the public benefits as a percentage would have been relatively lower. In addition, the expedited time frame of the approvals process almost certainly was cost savings to the development team. The waived requirement of the PIR and EIR, typically required for any new development, saved a significant amount of time, effort, and consultant fees.

¹⁷⁹ David W. Dunlap, "Commercial Real Estate; What's in a Name? For Ritz-Carlton, About 25%," *New York Times*, 2002.

¹⁸⁰ Boston Redevelopment Authority. "Amended and Restated Development Plan and Development Impact Project Plan for Planned Development Area No. 33 Millennium Place," February 1998.

2001 COMPLETED

COSTS (2001)	Total Cost	Cost per SF	% of Total Cost
Total Development Cost	\$600,000,000	\$425.53	100%
Total Public Benefits (Approved)	\$12,705,000	\$9.01	2.12%
Donation of Paramount Theater to Emerson	\$10,000,000	\$7.09	1.67%
Boston Common Irrigation	\$100,000	\$0.07	0.02%
Streets, Sidewalks and Traffic Signals	\$5,000,000	\$3.55	0.83%
St. Francis House Contribution	\$250,000	\$0.18	0.04%
Scholarship Fund for ABCD	\$150,000	\$0.11	0.03%
Emerson College Restoration	\$100,000	\$0.07	0.02%
Mini Park for Elderly Housing	\$100,000	\$0.07	0.02%
Total Public Benefits (Actual)	\$28,405,000	\$20.15	4.73%

Construction Jobs 2,000
Permanent Jobs 750

1999 PDA

COSTS (1999)	Total Cost	Cost per SF	% Total Cost
Total Development Cost	\$400,000,000	\$283.69	100%
Housing Linkage	\$2,650,000	\$1.88	0.66%
Jobs Linkage	\$530,000	\$0.38	0.13%
Paramount Repair	\$1,750,000	\$1.24	0.44%
Chinatown Transportation Impact Study	\$50,000	\$0.04	0.01%
Off-Site Traffic Improvement	\$260,000	\$0.18	0.07%
Boston Common Contribution	\$750,000	\$0.53	0.19%
Boston Common Sidewalks and Landscaping	\$1,000,000	\$0.71	0.25%
Downtown BID establishment	\$15,000	\$0.01	0.00%
Spruce St Nursery School (Daycare)	\$2,500,000	\$1.77	0.63%
MBTA Elevator for Orange Line	\$2,000,000	\$1.42	0.50%
Arts and Humanities Office Donation	\$200,000	\$0.14	0.05%
Opera House Donation	\$1,000,000	\$0.71	0.25%
Total Public Benefits (Approved)	\$12,705,000	\$9.01	3.18%

Construction Jobs 2,000
Permanent Jobs 750

1989 PDA

COSTS (1989)	Total Cost	Cost per SF	% Total Cost
Total Development Cost	\$550,000,000	\$323.53	100%
Housing Linkage	\$8,083,230	\$4.75	1.47%
Jobs Linkage	\$1,616,646	\$0.95	0.29%
Full Paramount Renovation*	\$4,000,000	\$2.35	0.73%
Renovation of Evans House*	\$1,500,000	\$0.88	0.27%
Retail Market Study for Chinatown*	\$50,000	\$0.03	0.01%
Parking Provisions*	\$300,000	\$0.18	0.05%
Off-Site Traffic Improvements	260,000	\$0.15	0.05%
Space for Day Care*	\$2,000,000	\$1.18	0.36%
Space for Non Profit*	\$600,000	\$0.35	0.07%
Tenant Relocation*	\$400,000	\$0.24	0.18%
Boston Common Fund	\$1,000,000	\$0.59	0.00%
Total Public Benefits	\$19,809,876	\$11.65	3.60%

Construction Jobs 3,500
Permanent Jobs 6,350

*estimated

Comparison of Public Benefits over Ritz-Carlton Iterations¹⁸¹

¹⁸¹ Numbers compiled from PDA No. 33, Amended PDA No. 33 and personal email correspondence with Anthony Pangaro.

Upon completion in 2001, the public benefits changed significantly for the project due to various one-off payments to neighborhood organizations. But the biggest line item was due to the partnerships between Millennium and the theaters-- Millennium ended up donating the land rights to the Paramount Theater to operate, an estimated \$10 million of value¹⁸². The built TDC was even higher than estimated, roughly \$500 million for 1.4 million square feet¹⁸³. Of that total cost, the actual public benefits for the project totaled over \$28 million, or 5.7% of the total cost, much higher than the approved. Per gross square foot of the completed project, the public benefits costs were approximately \$20.15 per square foot.

One Lincoln Street

The original zoning of the site was the city-owned Kingston-Bedford Garage, which was approximately 12 floors, and roughly 150 feet tall¹⁸⁴. Upon the establishment of Article 27 in the Zoning Code, Downtown Interim Planning Overlay District (IPOD) in 1987, the garage was located in subdistrict O, labeled as an Economic Development Area Subdistrict¹⁸⁵. The allowable height was 300 and the FAR was 12¹⁸⁶. The PDA No. 35 for the One Lincoln Site specified an allowable height of 465 feet and project FAR of 12.85, with a maximum up to 14¹⁸⁷.

ZONING RELIEF	Allowable Height	Proposed GFA	Project Area	FAR	Max GFA
Original	300	-	-	13	-
Approved (1989)	465	952,000	74,082	12.85	969,444

Zoning Relief of One Lincoln Street

¹⁸² Anthony Pangaro, Personal email correspondence.

¹⁸³ Ibid.

¹⁸⁴ Specific dimensions could not be found; these are estimations based on archival photos.

¹⁸⁵ Boston Redevelopment Authority. "Article 27D, Downtown Interim Planning Overlay District," 1987.

¹⁸⁶ Ibid.

¹⁸⁷ Boston Redevelopment Authority. "Development Plan/Development Impact Project Plan for Planned Development Area No. 35," September 13, 1989.

COSTS (2001)	Total Cost	Cost per SF	% Total Cost
Total Development Cost	\$330,500,000	\$347.16	100.00%
Housing Linkage	\$3,300,000	\$3.47	1.00%
Jobs Linkage	\$852,000	\$0.89	0.26%
Chinatown Childcare	\$1,250,000	\$1.31	0.38%
Dudley Street Initiative	\$100,000	\$0.11	0.03%
Chinatown Neighborhood Council	\$100,000	\$0.11	0.03%
Community Development Fund	\$10,000,000	\$10.50	3.03%
Essex St Improvements	\$1,000,000	\$1.05	0.30%
Total Public Benefits (Approved)	\$16,602,000	\$17.44	5.02%

Construction Jobs 2,000
Permanent Jobs 4,000

Percentage of Public Benefits of TDC, One Lincoln Street¹⁸⁸

The public benefits accompanying the PDA zoning relief as specified in the 1999 DIP Agreement are summarized above. For One Lincoln, the total development cost included the demolition of the garage, acquisition of the public and private parcels, and the construction of the underground garage and tower. The total development cost was a little over \$330 million¹⁸⁹, an increase of \$5 million from the original estimate of \$325 million¹⁹⁰. Of that total cost, the public benefits for the project totaled over \$16 million, or 5.02% of the total cost. Per gross square foot of the completed project, the cost of public benefits was approximately \$17.44 per square foot.

¹⁸⁸ Numbers compiled from PDA No. 35 and personal email correspondence with Paul Chan.

¹⁸⁹ Tod McGrath, "One Lincoln Street Case Study," 2003.

¹⁹⁰ Kingston Bedford JV, "Fact Sheet One Lincoln Street," 1989.

1989 PDA

COSTS (1989)	Total Cost	Cost per SF	% Total Cost
Total Development Cost	\$325,000,000	\$341.39	100.00%
Housing Linkage	\$4,300,000	\$4.52	1.32%
Jobs Linkage	\$900,000	\$0.95	0.28%
Chinatown Childcare	\$1,250,000	\$1.31	0.38%
100k Challenge Grant	\$24,000	\$0.03	0.01%
Community Development Fund	\$10,000,000	\$10.50	3.08%
10% Development Fee	\$150,000	\$0.16	0.05%
400k Challenge Grant	\$400,000	\$0.42	0.12%
Essex St Improvements	\$1,000,000	\$1.05	0.31%
Total Public Benefits	\$18,024,000	\$18.93	5.55%

2001 APPROVED

COSTS (2001)	Total Cost	Cost per SF	% Total Cost
Total Development Cost	\$330,500,000	\$347.16	100.00%
Housing Linkage	\$3,300,000	\$3.47	1.00%
Jobs Linkage	\$852,000	\$0.89	0.26%
Chinatown Childcare	\$1,250,000	\$1.31	0.38%
Dudley Street Initiative	\$100,000	\$0.11	0.03%
Chinatown Neighborhood Council	\$100,000	\$0.11	0.03%
Community Development Fund	\$10,000,000	\$10.50	3.03%
Essex St Improvements	\$1,000,000	\$1.05	0.30%
Total Public Benefits (Approved)	\$16,602,000	\$17.44	5.02%

Construction Jobs 2,000
Permanent Jobs 4,000

Construction Jobs 2,000
Permanent Jobs 4,000

Comparison of Public Benefits over One Lincoln Iterations¹⁹¹

Comparing the original 1989 approval and the 2001 final approval, of note is the change in linkage payments between the two tables¹⁹². Although the PDA remained the same, the linkage contribution decreased from the original \$5.2 million contribution due to a partial upfront payment of \$1 million upon the original approvals. The final contribution of the housing and jobs linkage was as a lump sum, discounted to the net present value at an agreed rate¹⁹³. In addition, the two challenge grant payments, which were part of the original package, were waived by the Parcel 18 Task Force¹⁹⁴.

There was also the \$10 million contribution to the Community Development Fund. In reality, Mr. Hynes opted to pay the entire \$10 million upfront in a lump sum payment. Thus, the net present

¹⁹¹ Numbers compiled from PDA No. 35 and personal email correspondence with Paul Chan.

¹⁹² Unlike the Ritz-Carlton, where we can see the difference between Actual and Approved, there were no additional public benefits beyond the DIP agreements that I discovered during my research for One Lincoln.

¹⁹³ Paul Chan, Personal email correspondence.

¹⁹⁴ Boston Redevelopment Authority, "Memorandum of Understanding, New Commonwealth Center Limited Partnership, Boston Redevelopment Authority, Chinatown/South Cove Neighborhood Council," 1998.

value (NPV) was less than the full \$10 million and discounted at a 6.3% value the actual payment would be \$9.4 million¹⁹⁵. As mentioned in Chapter 4, the community development funds were earmarked to be distributed one third to the benefit of the Chinatown community, one third for the benefit of the Roxbury community, and one third citywide on a competitive basis.

Another cost that could be argued as a public benefit, but omitted from the table is the \$1.7 million payment to the Chinatown community. As part of the original 1986 RFQ requirement for the minority partners to share 10% of the project profit, the Chinese investors (CIG) contributed \$1.7 million to community non-profit organizations¹⁹⁶. Although not a direct project cost, it is certainly an outcome that is true to the original intent of the compensation to the Chinatown community.

	RITZ CARLTON	ONE LINCOLN
Total Development Cost:	\$600,000,000	\$330,500,000
Total Public Benefits:	\$28,405,000	\$16,602,000
As % of TDC:	4.73%	5.02%
As \$ per SF:	\$20.15	\$17.44

Comparison between Ritz-Carlton and One Lincoln

Comparing the outcomes using the tables provided above, the projects do differ in the total cost of public benefits from a numerical standpoint. For the Ritz-Carlton complex, the approved public benefits totaled over \$12 million, or 3.2% of the total cost. For the One Lincoln St tower, the approved public benefits for the project totaled over \$16 million, or 5% of the total cost. As another point of comparison, the rule of thumb for architecture and engineering costs is typically around 5-7% of total hard costs¹⁹⁷. From this, we can say that the One Lincoln Street project had a larger obligation in terms of its total cost than the Ritz-Carlton.

¹⁹⁵ The advantage of present valuing is the higher financial value that is obtained for housing by calculating the present value at the low discount rate prescribed by Boston's linkage ordinance. The rule requires that a cash out discount rate shall be the average of the city's rate (in 2000, a 4.1% yield on city bonds) and the private developer's rate (in 2000, about 8.55%). The average of the above would be 6.325%.

¹⁹⁶ Paul Chan, Personal email correspondence.

¹⁹⁷ Also provided as a ballpark estimate. Depending on the project complexity or fame of the architect, the range can be much greater.

Limitations to Quantifying Public Benefits

The stories of the development process and the public benefits of each project cannot be fully summarized in final numbers; the reality is that public benefits are difficult to quantify completely. The challenge of the quantitative analysis of these two projects is indicative of the real-life challenges of sharing information in a negotiation setting. Many of the details of private projects are not publicly available, nor are they willingly shared by the development team. Metrics such as the preferred return rate or the cost of capital are unique to the funding structure and the development strategy. As developers and public officials work together, there is a limit on both sides on how much information to share with the other. Mr. Pangaro notes that there can be suspicion about how much costs the development team can take on when the entire financials of the project cannot be shared, causing mistrust and inefficiency when things are “already hard”¹⁹⁸. Mr. Whitney characterizes this situation as being quite common: the developer claims to not be able to afford the public benefit obligation, and the BRA asks, ‘why not?’ — whereupon the developer would answer: ‘well, we cannot share our financial info with you’, and thus a stalemate would occur.

Since the tables only include requirements in the DIP Agreement, many of the other public benefits that are important in later stages of the project review, such as the changes to the design in order to receive the building permit. There is also the possibility that the payment may not be specified with enough detail to estimate an accurate or complete cost from the PDA and DIP Agreements. For instance, the PDA for Commonwealth Center outlines the requirement for the developer to complete a full renovation of the Paramount Theater and its two interior stages within, but does not go into detail, or provide a cost estimate¹⁹⁹.

There are other values that are not included, but these projects could point to as justifications for the success of the public-private development partnership, and as a win-win for the city. Importantly, the tables do not include the creation of jobs as a benefit, although it is an important component of the DIP Agreement and a figure that carries political weight. The Ritz-Carlton was estimated to generate 2,000 construction jobs and 750 permanent jobs²⁰⁰. One Lincoln was estimated to generate approximately 2,000 construction jobs and 4,000 permanent jobs²⁰¹. Although

¹⁹⁸ Anthony Pangaro, Interview on the Ritz-Carlton, February 20, 2019.

¹⁹⁹ Boston Redevelopment Authority, “Development Plan and Development Impact Project Plan for Planned Development Area No. 33,” 1989.

²⁰⁰ Boston Redevelopment Authority, “Amended and Restated Development Plan for Planned Development Area No. 33 Millennium Place,” February 1998.

²⁰¹ Boston Redevelopment Authority, “Development Plan and Development Impact Project Plan for Planned Development Area No. 35,” 1989.

the construction jobs are estimated to be the same, the permanent jobs vary significantly due to the use of One Lincoln as an office building.

DISCUSSION

Negotiating Dynamics

One of the biggest differences in the two cases is the initiation of the project as private or public. In Ritz-Carlton, the site was privately acquired by the developer, and the public benefits were solely from the zoning relief from the PDA approval. But in One Lincoln, the project's overarching public benefit was the project *itself*, through the parcel-to-parcel linkage program. When the land is publicly owned, the city has much greater agency in shaping the obligations and responsibilities of the development opportunity²⁰². Thus, the negotiating dynamic favors the city. The development team was mandated to create both KBJV and RCJV to take on the initial development of Ruggles Center before proceeding with One Lincoln. Although Ruggles Center was built, the building was foreclosed and caused the JV to dissolve.

Another consideration is the project uses in relation to its future context. The Ritz-Carlton complex proposing a majority residential use was an extreme win for the city. Not only did the project contain high-end residential in an economically struggling neighborhood, but also contained a mix of uses, including a significant amount of ground floor retail. The idea of activating the ground floor has long been a goal for city planners to encourage vibrant neighborhoods, and in particular the project's movie theater and retail areas would create more active pedestrian and street life in the area²⁰³. This certainly contributed to the BRA providing tax abatements and expediting approvals, making the process a lot easier for the development team.

In contrast, the office use proposed by One Lincoln was to be expected, and therefore not remarkable, given its location next to Downtown and the Financial District. Although the city wanted the project to get off the ground, it did not go through the same lengths to expedite the process as it did with the Ritz-Carlton. The BRA's deadline of six months for MSGW to close was

²⁰² Gary Hack, Lynn B. Sagalyn, "Value Creation Through Urban Design," in *Urban Design in the Real Estate Development Process*, 1st ed. (Blackwell Publishing Ltd, 2011).

²⁰³ Boston Redevelopment Authority. "Memorandum to Thomas O'Brien on 'Millennium Place', PDA No. 33," 1998.

telling— instead of making the process easier, they made the process more challenging by imposing a time constraint in order to push the project forward.

Decision-Making Process

The way in which developers think about accounting for public benefits can vary. The two main developers of these case studies, Mr. Pangaro and Mr. Hynes, each described their thought process differently but shared a common reliance on judgment and experience. Mr. Pangaro described public benefits falling into three buckets: 1) Being prescribed by the city (linkage), 2) As Contingency, and 3) Situations that come along and are Complementary to the project. In order to decide if something is enough in your interest to pay for it, beyond the obligations that are the “the price of entry”, such as linkages mandated by the city, it should be something that can improve the project in some way.

The range of public benefits also differs in risk and uncertainty levels. Public benefits that are predictable, such as housing and jobs linkage, can be planned for and thus more palatable than unforeseen costs. Mr. Twining notes that in this sense, many of his firm’s developments in NYC are easier because the regulations are laid out clearly instead of being negotiated as in Boston²⁰⁴.

In particular, the parcel to parcel linkage program was a considerable amount of both risk and uncertainty on the developer’s side. Mr. Hynes noted that he had actually known about the original development opportunity of the Kingston-Bedford Garage from 1991. At the time, he had underwritten the deal when he was a principal at Lincoln Property Company, but the leadership passed on it, thinking that the entire packaged obligation— to develop an additional project, partner with a minority development team, contribute to Challenge Grants, and so on— was far too complicated for them to handle. Thus, not only was there additional risk to take on the Ruggles Center, but since this was the first project of its kind, there was too much uncertainty surrounding the policies and obligations.

Furthermore, the process of breaking out the measurement of public benefits as line items may only be realistic for post-project analysis. In practice, many developers often budget their costs by including a contingency percentage in the budget that covers everything from delays, change orders, changes in the market, mitigation payments, and of course, public benefit requirements. This

²⁰⁴ Alex Twining. Interview on Commonwealth Center, February 21, 2019.

contingency number may range from 10-20% of the total cost, depending on the preferences and experience of the development team²⁰⁵. As another point of comparison, the rule of thumb for architecture and engineering costs is typically around 5-7% of total hard costs²⁰⁶. Furthermore, developers must report back to their investment committee for their equity funding, who have the defined return expectations for the project. Even though the cost may be low, the investment committee will care about every decision that affects their costs and their bottom line²⁰⁷.

Although this thesis' definition of the term public benefit is clear, each developer may have her own definition that includes other considerations or cost items that are essential for a development project to pass the review process, but not necessarily corresponding exactly to the DIP requirements. For example, a design change to the facade could be a large cost to the developer, with no clear gain in value, but is required by the city to ensure the urban design character fits with the master plan. A host of decisions, from where the entrances are located, to the setbacks from the street, could all be considered having benefits to the public— these costs will not show up as specific line items, but be embedded in other hard costs. Other significant costs, such as road or sidewalk improvements, will be embedded in the hard costs, although they are negotiated in the development review process as a public benefit for the city. Thus, the final cost as a percentage of total costs is lower than they could be if using a broadened definition.

Success

Stepping back to consider the entire success of the projects, it is limiting to only measure the amount of public benefits provided by the zoning reliefs as a sum of line item costs. The success of these two cases in terms of public benefits are not only limited to the public benefits themselves but the entire project as a precedent. For both the Ritz-Carlton and One Lincoln, the City wanted both projects to be expedited and completed quickly to encourage further development in the area. Both projects are cited as key developments that ushered in the opportunity for future projects nearby. Ritz-Carlton was the beginning of two decades of residential development in the Downtown area; One Lincoln was the catalyst for significant developments along the Greenway such as the Dainty Dot and many of the office towers along the Greenway²⁰⁸.

²⁰⁵ Provided as a ballpark estimate.

²⁰⁶ Also provided as a ballpark estimate. Depending on the project complexity or fame of the architect, the range can be much greater.

²⁰⁷ William Whitney, Interview on the BRA and Urban Design and Development Group, April 23, 2019.

²⁰⁸ Thomas O'Brien, Interview on the Ritz-Carlton and One Lincoln St, March 21, 2019.

In media coverage of development projects, the total development cost is also characterized as the total investment into the city. Using the Ritz-Carlton as a prime example, the (then estimated) TDC of \$400 million was also considered a \$400 million investment in the downtown area. Mr. O'Brien praised Millennium for "ma[king] a big investment in a site that a lot of other people overlooked... they made something big happen that completely changed that section of Washington Street".²⁰⁹ This speaks to the fuzzy boundary between development decisions made for the public or private good.

If we attempt to distill it to a single number, in terms of public benefit cost per square foot, One Lincoln had a larger public benefit obligation than the Ritz-Carlton Towers. However, the recounting of each case study should have by now given context to the numerous reasons why the two cases differ in terms of how the public benefits were negotiated. But to learn from the outcomes of each project, we should consider both the numbers and look for the significance of what those numbers mean-- the initiation of the development opportunity and the motivations behind the obligations. We should also pay careful attention to the factors such as other less obvious public benefits embedded in the costs, negotiation dynamic, and risk/uncertainty around the negotiation process.

²⁰⁹ Casey Ross. "Developer's Golden Touch Put To The Test." *The Boston Globe*, February 14, 2012.

Conclusion

The story of these two Boston case studies requires the understanding of numerous dynamics—zoning review, urban development, uncertainty and risk, political priorities, and even the informal cultural attitudes of each side. Furthermore, it requires the perspective of several disciplines, including urban planning, economic development, real estate finance, negotiation, and public policy. The Ritz-Carlton and One Lincoln were similar in many ways: both geographically located in Downtown, both with an initial vision starting in the 1980s but not realized until a decade later, both with substantial risk and even more substantial success. But although we should not generalize given the unique considerations of each scenario, it is possible to learn from these case studies for the purpose of practice. These are stories of the difficult space between theory and practice, where Boston's policies for negotiated development were sometimes experimental, and developers were weighing their tolerances for development risk while anticipating market cycles.

The development review process to secure approvals for the project and the resulting trade-off between zoning relief and public benefits are as complex as they are nuanced. And although the review process is an essential part of city planning, the issues cannot be explained by only looking at requirements in the city's zoning code, or only through the cost items in the development proforma.

My research questions initially circled around basic questions: How do developers and city planning officials negotiate zoning amendments, and how does the city secure public benefits? I expanded my research to attempt to capture the dynamic between stakeholders, and what went into the decision-making criteria of each side. Ultimately, I found that the negotiations were stretched out over a long period of time, with innumerable factors that influence the project. These factors are as dynamic as they are complex, covering financial considerations, to political motivations, to market risk, to precedent-setting. Thus, the purpose of my thesis serves to point to these factors as real considerations that must be taken seriously, and often are only addressed through a one-sided perspective.

Several aspects of the negotiation have an effect on the bargaining dynamic between the private developer and public official. The cyclic nature of the market, beyond either side's control, is the driving force behind land price, development potential, and risk/uncertainty. The initiation of the project as a public or private opportunity changes the dynamic considerably. So does the proposed uses in relation to the neighborhood context, and whether that helps the city achieve its planning goals. Finally, the strategic approach of each side in working together is essential. In both cases, much of the success of the project can be attributed to the attitude of the development team—proven by the fact that both development teams had enormous success in future projects around Boston.

For large and complex projects, developers may put a large percentage of the total development cost aside as a contingency for circumstances that are hard to predict. This includes large cost items such as change orders to construction or project delays. Both mandated linkage payments and negotiated outcomes can be anticipated as part of the contingency necessary to go through the large scale development review process. But if the actual amount of public benefits paid by the Ritz-Carlton complex was 5.7% of the total cost, then almost developers may need to reconsider how much contingency is needed. Understanding the negotiation as an essential part of the development process, rather than an additional burden, may help developers anticipate costs and improve the total development cost estimate.

In both theory and practice, the definition of public benefits is extremely difficult to grasp. There are limitations to summarizing public benefits in terms of cost or in terms of value. First, the quantifiable amount of public benefits that are calculated may not be reflective of the numerous negotiated items that would be considered public benefits. The list is extensive and significant, such as design considerations, streetscape improvements, tenants and uses, jobs created, and many more, but are not included in these calculations for the sake of usefulness. One can argue from several different perspectives on which benefits to include and omit, and how to decide the frame of comparison, whether through the zoning amendment agreement or the final built result.

Secondly, the numerical cost of public benefits may not reflect the *impact* of the negotiated public benefits. Mr. Whitney, a former BRA official, notes that these public benefits are what may carry a

project forward, despite everything else in the development review process²¹⁰. Ultimately, the human aspect of development and building these projects may go beyond the numbers and affect whether a project can be built or not. The need to be both quantitative and qualitative underlines a key difficulty in the entire thesis: the negotiation between zoning relief and public benefits include a much more plural set of requirements and stakeholders. The negotiations were not all monetary. The difficulty to represent the decision-making process is indicative of the complexity of what each side is trying to accomplish. Public benefits may incur project costs, but they create long term value to both the city and to the developer.

In a city where development opportunity is scarce, the culture of both planners and developers should consider the review process as a way to improve the project as a whole. Enough education on both sides is critical to understand what motivates the other party, and developers and planners who can understand the full spectrum of issues will likely be more successful in negotiating zoning reliefs and public benefits.

A NOTE TO DEVELOPERS

What makes public benefits so difficult for developers to understand— and to embrace?

First, there is the complexity of even quantifying the total public benefits of a project, depending on the very definition of a public benefit as well as the timing of when the cost is incurred in the approvals process. Second, once quantified, there are multiple ways to situate and justify the number. In practice, developers tend to lump it into a large, amorphous contingency fund.

To argue for the importance of public benefits, it must be acknowledged that they have a tangible cost, but they have far more intangible value to add. I leave developers with the following insights, extrapolated from the case study narratives, that rationalize the cost of public benefit obligations:

- **Anticipate public benefits as a significant component of the review process.**
 - Instead of lumping under contingency, developers should consider public benefits as essential components of the project.

²¹⁰ William Whitney, Interview on BRA and Urban Design and Development Group, April 23, 2019.

- Signaling commitment to public needs is important, particularly when popular conception and media representation often pit the developer against the community. Reputation is earned, meeting by meeting, project by project.
- **Relationship building has value.**
 - Building relationships can bring partnerships and alignment with community organizations in the neighborhood. A development team committed to public benefits differentiates themselves from any competitors.
 - The Millennium team was intentional about building partnerships with neighbors. The contribution to St. Francis House homeless shelter on Boylston Street was an act of goodwill for the neighborhood and resulted in positive press for the project: Ira Greiff, director of the St. Francis House, is quoted in the Boston Globe saying: “We couldn’t have asked for a better relationship,”²¹¹.
- **Projects cannot go through without city and community support.**
 - In a market with high barriers to entry and scarce land such as Boston, the support of the city and community is essential. Mr. Pangaro notes that the city will not say yes when the community is saying no, or at least, “not in this town”²¹².
 - The Millennium team’s subsequent completed projects in the Downtown area (Millennium Place in 2010, Millennium Tower in 2015, and Winthrop Square currently under construction) are clear indicators of strong city and community relationships.
 - Mr. Hynes and G&W also went on to larger scales and success, acquiring and creating the master plan for the 23-acre Seaport District, and developing One Seaport Square.²¹³
- **Numbers are not a replacement for judgement.**
 - Developers should recognize that something may improve the project and add value, whether tangible or intangible.
 - Mr. Pangaro notes that the calculation of how much risk a developer takes on is not a number, but is ultimately a judgment²¹⁴.

²¹¹ Marcella Bombardieri, “Going Up,” *The Boston Globe*, January 26, 2003.

²¹² Anthony Pangaro. Interview on the Ritz-Carlton, February 20, 2019.

²¹³ Michael Hoban. “The Creation of a Neighborhood: Boston’s Seaport.” *Urban Land/ULI* (blog), 2018.

²¹⁴ Anthony Pangaro. Interview on the Ritz-Carlton, February 20, 2019.

A NOTE TO CITY PLANNERS

How can city planners be a partner in development and achieve more valuable public benefits? City officials who are tasked to negotiate to attain public benefits should understand the complexity of the development considerations for projects to have development and civic value. I leave city planners with the following insights to improve relationships with developers and negotiate for more public benefit obligations:

- **Present public benefits as long term value.**
 - As stated in A Note to the Developers above, helping the development team to see the public benefits as a long-term investment in the neighborhood, rather than a cost, can change the conversation and align incentives.
- **Assert authority, but seek resolution.**
 - Planners have the responsibility to assert authority and know when to reject certain asks from the developer. On the other hand, planners should work with developers to understand objectives and avoid being tied to one solution.
 - A common sentiment across developers interviewed was giving credit to city officials who worked with developers to resolve issues. They knew when to push, and they knew when they had gone too far. Mr. Twining referred to former BRA Director Steve Coyle as a great strategist, skilled and respected, but even so jokingly described the process like “how you cook a frog”²¹⁵, slowly turning the heat up.
- **Understand real estate financing and development risk.**
 - Knowledge of real estate finance and market dynamics can lead to more informed conversations about the opportunities and constraints within the development budget, as well as awareness of market cycles and bargaining power.
 - Both projects were originally failed attempts which resulted in foreclosure and dissolution of the development teams. Failure is a real concern to developers throughout the process. Mr. Hynes notes that the city does not always appreciate the risk developers take on, and that “everyone forgets [the risk] in times of feast, but there are also times of famine”²¹⁶.

²¹⁵ Alex Twining, Interview on Commonwealth Center, February 21, 2019.

²¹⁶ John Hynes, Interview on One Lincoln St, March 19, 2019.

- **Look at projects as catalysts and precedents for future development.**
 - Each project serves as a precedent for future projects. When looking back on the development of the times, Mr. McCann reminds us that “each project couldn’t have happened without the others”²¹⁷.
 - The Ritz-Carlton was a signal of confidence for future development in the Downtown area; media accounts describe the transformation as “Downtown Crossing’s rebirth”²¹⁸. Mr. O’Brien notes that One Lincoln led to the development of a residential building across the way, the Dainty Dot building, and later on, much of the development along the Greenway²¹⁹.

FUTURE RESEARCH

Further studies that calculate the costs of public benefits of several comparable case studies could be helpful to situate these two cases in comparison. The public benefits as a percentage of total costs may be helpful to put into perspective for each case, but considering the complexity and uniqueness of the two projects, should only serve as data points of note. A valuable follow-on would have been to choose ten cases in the same time period and compute the public benefits and thus be able to point to a range with more certainty.

Following this, a worthy topic that would benefit from more research is the ways in which developers anticipate the negotiation for public benefits. There was seemingly no consensus in the general benchmark for public benefits as a percentage of soft costs. However, other items, such as architecture and engineering fees, have “rules of thumb” that the development industry can generally point to.

Whether or not the development industry would also benefit from an understanding of how public benefits can contribute to the value of the project could be researched further, and if a more nuanced understanding would allow developers to assign more money to public benefits.

²¹⁷ Paul McCann. Interview on the Ritz-Carlton and One Lincoln St, February 25, 2019.

²¹⁸ Thomas Farragher, “From Desolate Streets to Boston’s Hottest Destination,” *The Boston Globe*, 2017.

²¹⁹ Thomas O’Brien. Interview on the Ritz-Carlton and One Lincoln St, March 21, 2019.

Accordingly, another question would be whether greater public benefit costs lead to better performance and profits in the long run, and how (or even whether) that could be quantified.

Further research can also better understand the implementation and impact of public benefits. Upon asking several BRA officials about the follow-through of these negotiated agreements, it was evident that the focus was much more on defining them payments rather than implementing them. It was unclear where the money went, when it was spent, and for what purpose. Following where each sum of money went and how it was used would be extremely important in understanding how effective the outcomes of the public benefit negotiations truly were. Furthermore, when asked about assessing the impact of the public benefits, there was not a clear sense that the agency looks back upon each process, identifying areas of improvement for the future. Without institutional structure, the knowledge from each deal can only be built upon by the staff at the time, without continuity.

Finally, further research to include the community organizations as a third party of the negotiation would include an essential aspect of the negotiation that this thesis did not directly address. However, that would require extending the scope to include later rounds of community engagement. Additionally, the topic of community participation and how they influence the meeting would require a tremendous amount of access and insight into these meetings.

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