



City of Cambridge

Consent Communication #19

IN CITY COUNCIL

April 26, 1999

COUNCILLOR TRIANTAFILLOU

ORDERED: That the City Manager be and hereby is requested to report back to the City Council on the Rules of the Planning Board governing hearings and decisions.

In City Council April 26, 1999.

Adopted by the affirmative vote of nine members.

Attest:- D. Margaret Drury, City Clerk.

A true copy;

ATTEST:-

A handwritten signature in cursive script, reading "D. Margaret Drury".

D. Margaret Drury
City Clerk

Statement from Elie Yarden, addressing Consent Communication #19, April 26, 1999

Mr Mayor, Honorable Councillors,

I wish to speak on current status of the first IPOP application for a Special Permit, submitted by Spaulding & Slye for 784 Memorial Drive LLC.

Please note that:

1. "Application for Special Permit" refers to *Special Permit Application PB #143* and accompanying documents submitted to Lester Barber, Land Use and Zoning Director, Community Development Department (CDD), on November 13, 1998
2. "Presentation to Planning Board" refers to both the document entitled *770/790 Memorial Drive, Project Summary with Residential*, and also to the official transcript of the presentation to the Planning Board at a public hearing at the Kennedy School in East Cambridge, on March 2, 1999

The public hearing of March 2 was continued to April 6 at 57 Inman Street. This included additional presentations by city officials, Barry Pell of Rizzo Associates, traffic consultant to the city, Stephen Kaiser, traffic consultant to CNI (Cambridgeport Neighborhood Initiative), Stash Horowitz and Elie Yarden for CNI, followed by general testimony from abutters, near neighbors and other members of the public. Members of the Board were free to ask questions of those who were testifying and did so. The discussion seemed sufficiently complete, so that as many as five members of the Planning Board expressed themselves as prepared to vote denial of the Special Permit there and then. Out of respect for the stated desire of two members of the Planning Board to study the matter further, the vote was delayed to the following meeting. In response to requests from those present, the chair of the Planning Board, Mr. Paul Dietrich, stated that additional written statements would be accepted until April 13.

The transcript of the April 6 meeting of the Planning Board is not available as of this writing. It will offer confirmation of the above statement as well as a filling in of details. Meanwhile I have studied copies of three communications addressed to the Planning Board which met its deadline for written submissions.

The first, April 11, 1999, from Stephen Kaiser, fulfills a request made at the Planning Board to present the *Calculation of Peak Hour Queues*. . . . This was accompanied by computer disk making the calculations available to the city's and the proponent's traffic consultants.

The second, April 12, 1999, from Elie Yarden, compares the project presentation with special permit application in the light of the criteria established in the Interim Planning Overlay Ordinance of September 28, 1989. This letter explains the difficulty of studying the project in the manner intended by the ordinance (especially in the matter of traffic impacts), given the practice of granting building permits for parking garages independently of projects for which they might be intended.

The third written communication to the Planning Board, April 12, 1999, from Robert D Vanasse, of VAI, Transportation Engineers & Planners, is interesting in more than one respect to citizens who walk. It reiterates the high degree of concurrence between "...the proponent and the City Staff and its Consultants ...100 percent agreement on the technical issues regarding the five traffic parameters contained in the IPOP regulations." This letter to the Planning Board also offers "...to clear-up several misconceptions and basically inaccurate statements made by some of the neighbors." Nowhere in the body of the letter do we discover the neighbors' "misconceptions" or "basically inaccurate statements." We will have to await the transcript of the April 6th meeting. The chief interest lies in the suggestion of new mitigations which could be considered by the Planning Board in making its decision at its April 13 meeting. These would be examined presumably without public hearing. As a pedestrian familiar with the habits of motorists driving in and passing through Cambridge, I am deeply offended at the subterfuge of making "concurrent pedestrian phasing" of traffic signals including an implied signal, lacking a permit, at the intersection of Memorial Drive & Pleasant Street, the basis for a needed traffic impact mitigation.

The introduction of concurrent pedestrian phasing without continuous policing and guiding of traffic is not only hazardous but acts as a disincentive to pedestrian use of public ways. The idea that the Planning Board would consider this a traffic mitigation without the necessary permits having been given, or without a public hearing, suggests the degree to which commercial real estate corporations are dismissive of public processes mandated by city ordinances and state laws.

The agenda for the April 13 meeting made no mention of the 784 Memorial Drive LLC Special Permit application. On inquiry, it was discovered, that CDD had postponed discussion of this matter until April 27. To my knowledge, at least two members of the public who were not informed of the 'postponement' appeared at the intended hearing. No explanation of the reason for the postponement from April 13 to April 27 was given other than the fact that one person from the CDD had not been in the room when the Planning Board decided on the one-week postponement of decision.

Anticipating the April 27 meeting, I was surprised to discover that discussion of decision on the 784 Memorial Drive LLC Special Permit application was again absent from the announced agenda. I did succeed in reaching Lester Barber of CDD who explained that the proponent had requested an extension of the expiration of the statutory time limit from May 31 to June 30. The reason for this request was that the proponent was making a serious alteration of the proposal to allow primary access and egress directly onto Memorial Drive. In my telephone conversation with Mr. Barber on the afternoon of Thursday, April 22, he agreed that the changes would require a new public hearing. It is clear that a new traffic study and additional permits will be needed. I do not see how all this can be completed in six weeks. Mr. Barber, with his usual courtesy and correctness in dealing with the public, saw to it that I received copies of all communications.

The communication requesting the extension is addressed to the Planning Board Members "Via Hand and Fax" and is dated April 20, the date of a Planning Board meeting

see attached

one week before the scheduled April 27 discussion and presumed decision on Special Permit Application PB#143, and one week after the deadline set for additional written communications. We are left to presume that the members of the Planning Board had sufficient time to review this request for "an extension," arrive at the conclusion that it did not constitute a "leave to withdraw" the petition under the terms of the Zoning Ordinance (Cf. 10.50 REPETITIVE PETITIONS 10.51), and to wonder whether there had been collusion (viz., consultation) to subvert the intent of the Ordinance on the part of the proponent and any official of the city or any member of any public board. We will have to await the official transcript of the April 20 meeting of the Planning Board to find out.

Meanwhile allow me to close by repeating my contention that under Plan E, executive as well as legislative function is vested in a single democratically elected authority, the City Council. This implies a division of labor requiring that the City Manager, employed by the City Council, serving at its pleasure, is protected by law from undue interference in his selection of personnel and those members of public boards that the city authorizes as in his purview. That mandated division of labor does not relieve the City Council of its executive power, its power to see to it that its legislated intentions are executed. Otherwise, Plan E is used to subvert the will of the citizenry and the electorate. When the Council fails use its executive authority to have its decisions carried out, the public is forced to the conclusion that the Council's declarations, ordinances, and orders are a ruse to conceal from the public its actual policies, as revealed in what happens, as revealed in the actions of its appointed employees.

Glenn Yarden

SPAULDING & SLYE

COLLIERS
INTERNATIONAL

April 20, 1999

Via Hand and Fax

Paul Dietrich, Chairman
Planning Board
City of Cambridge
57 Inman Street
Cambridge, MA 02139

Re: Interim Planning Overlay Special Permit (#143)
770-797 Memorial Drive / 385 Putnam Avenue

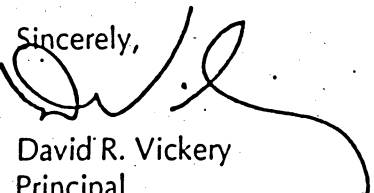
Dear Planning Board Members:

On behalf of 784 Memorial Drive LLC, we respectfully request the Planning Board postpone its decision on our application for an Interim Planning Overlay Special Permit (# 143) for a development at 770-797 Memorial Drive / 385 Putnam Avenue. We request an extension of the expiration of the statutory time limit from May 31, 1999 to June 30, 1999.

The reason for this request is that we have clearly heard the concerns expressed by our neighbors, the planning board staff, and the planning board. We believe there may be alternative means of access and egress from this parcel from Memorial Drive that will have little or no impact on any abutting residential streets. This postponement will allow sufficient time for us to explore these alternatives with our neighbors and the city.

We appreciate your consideration of this request and would be glad to answer any questions it may raise.

Sincerely,



David R. Vickery
Principal

cc: Ralph M. Norwood
Robert M. Dickey
Beth Rubenstein
Sue Clippinger

Integrated Real Estate Services

255 State Street
Boston, MA 02109
617-523-8000
Fax: 617-531-4280
www.SpauldSlye.com

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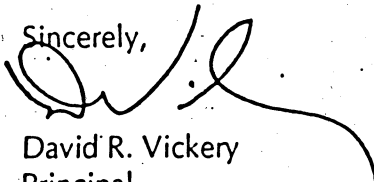
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Sincerely,


David R. Vickery
Principal

cc: Ralph M. Norwood
Robert M. Dickey
Beth Rubenstein
Sue Clippinger

Integrated Real Estate Services

255 State Street
Boston, MA 02109
617-523-8000
Fax: 617-531-4280
www.SpauldSlye.com

To : The Honorable, the City Councillors

From : The Co-Chairs of the Cambridgeport Neighborhood Initiative (CNI) : Daphne Abeel, Gordie Fellman, Stash Horowitz, Anastasia Leotsakos, Maureen Van Stry, Elie Yarden.

For : Council Meeting of Monday, April 26, 1999

Re : 'Postponement' of the first IPOP to be considered by The Planning Board (Spaulding & Slye / 784 Memorial Drive LLC Public hearings on March 2 and April 6, 1999).

1999 APR 22 P 31
OFFICE OF THE CITY CLERK
CAMBRIDGE, MASSACHUSETTS

On April 20, Spaulding & Slye wrote a letter to the Planning Board requesting a delay on their IPOP decision until the end of June.

At the April 6 meeting, 5 of 7 Planning Board members said they were inclined to vote "no" on this IPOP special permit, and the other two requested an additional week and were granted it. Written comments were also extended one week to April 13.

CNI Co-Chairs would like the opportunity to inform the Council of recent events in this IPOP special permit, and would like to ask the Council to obtain input from the City's Law Dept. about these events.

Consent Communication #19

291 5
A communicationw as received
from the Co-Chairs of the Cambridge-
port Neighborhood Initiative (CNI)
regarding the postponement of the
first IPOP to be considered by the
PB public hearings on 3/2/99 and
4/6/99.

IN CITY COUNCIL April 26, 1999
OFFICE OF THE CITY CLERK
CAMBRIDGE, MASSACHUSETTS

1999 APR 22 P 2:31

**PLACED ON FILE
ORDER ADOPTED**